VOLUME I OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED
Feb 13 2025
SC Court of Appeals

Appeal from Jasper County
Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BENJAMIN WALTER DUBOIS III,

APPELLANT

APPELLATE CASE NO. 2023-001307

RECORD ON APPEAL

KATHRINE H. HUDGINS
Senior Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

KAYLEE C. KEMP
Assistant Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

ISAAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

PO Box 1880
Bluffton, SC 29910

ATTORNEYS FOR RESPONDENT

PAGES 1 - 500

INDEX

INDEX i

PRE-TRIAL HEARING TRANSCRIPT DATED OCTOBER 31, 2019 1

PRE-TRIAL MOTIONS HEARING TRANSCRIPT DATED JULY 13, 2023 9

TESTIMONY

WILLIAM GARVIN (IN CAMERA)
Direct Examination by Ms. Carmody 19
Cross Examination by Mr. Evans 41
Redirect Examination by Ms. Carmody 54

HEATHER PRICE (IN CAMERA)
Direct Examination by Ms. Carmody 57
Cross Examination by Mr. Evans 59

LEANARD WILLIAMS (IN CAMERA)
Direct Examination by Ms. Carmody 67
Cross Examination by Mr. Evans 78
Redirect Examination by Ms. Carmody 82

CLARENCE LOWERY (IN CAMERA)
Direct Examination by Mr. Evans 85
Cross Examination by Ms. Carmody 88

MOTION TO DISMISS FOR A SPEEDY TRIAL VIOLATION 119

RULING OF THE COURT DENYING MOTION TO DISMISS FOR A SPEEDY TRIAL VIOLATION 136

TRIAL TRANSCRIPT (VOLUME I) DATED JULY 31, 2023 138

TESTIMONY

WILLIAM GARVIN (IN CAMERA)
Direct Examination by Mr. Evans 155
Cross Examination by Ms. Carmody 173
Redirect Examination by Mr. Evans 186

JACKLYNN MCCAY (IN CAMERA)
Direct Examination by Mr. Evans 189
Cross Examination by Ms. Carmody 197

BENJAMIN DUBOIS, III (IN CAMERA)
Direct Examination by Ms. Carmody 200
Cross Examination by Mr. Evans 204
Redirect Examination by Ms. Carmody....210

OPENING STATEMENT BY MR. EVANS 232

OPENING STATEMENT BY MS. CARMODY 241

TESTIMONY

GEORGE SMITH
Direct Examination by Mr. Evans 246
Cross Examination by Ms. Carmody 267
Redirect Examination by Mr. Evans....274
Re-Cross Examination by Ms. Carmody 276

JAMES S. WILLIAMS
Direct Examination by Mr. Evans 278
Cross Examination by Ms. Carmody 299

TRIAL TRANSCRIPT (VOLUME II) DATED AUGUST 1, 2023 320

TESTIMONY

JAMES WILLIAMS
Continued Cross Examination by Ms. Carmody 330
Redirect Examination by Mr. Evans....364
Re-Cross Examination by Ms. Carmody 371

JACKLYNN MCCAY
Direct Examination by Mr. Evans 375
Cross Examination by Ms. Carmody 448
Redirect Examination by Mr. Evans....497

MORRIS WHITE
Direct Examination by Mr. Evans 500
Cross Examination by Ms. Carmody 511
Redirect Examination by Mr. Evans....524

CASEY CHAPPELL
Direct Examination by Mr. Evans 528
Cross Examination by Ms. Carmody 573

TRIAL TRANSCRIPT (VOLUME III) DATED AUGUST 2, 2023....582

TESTIMONY

CASEY CHAPPELL
Continued Cross Examination by Ms. Carmody 588
Redirect Examination by Mr. Evans 660

BRANDON AUMAN
Direct Examination by Mr. Evans 676
Cross Examination by Ms. Carmody 716
Redirect Examination by Mr. Evans 725

SHANNON MIXON
Direct Examination by Mr. Evans 729

JANICE ROSS
Direct Examination by Mr. Evans 764
Cross Examination by Ms. Carmody 778
Redirect Examination by Mr. Evans 783
Re-Cross Examination by Ms. Carmody 784

WILLIAM GARVIN
Direct Examination by Mr. Evans 787
Cross Examination by Ms. Carmody 836
Redirect Examination by Mr. Evans 868

TRIAL TRANSCRIPT (VOLUME IV) DATED AUGUST 3, 2023 877

TESTIMONY

ALYSHA BRELAND
Direct Examination by Mr. Evans 881
Cross Examination by Ms. Carmody 937
Redirect Examination by Mr. Evans 956

SARA GOODMAN
Direct Examination by Mr. Evans 959
Cross Examination by Ms. Carmody 987
Redirect Examination by Mr. Evans 994
Re-Cross Examination by Ms. Carmody 995

THE STATE RESTS 996

MOTION FOR A DIRECTED VERDICT 997

RENEWAL OF SPEEDY TRIAL MOTION 998

MOTION TO DISMISS BASED ON DESTRUCTION OF EVIDENCE.....1004

RULING OF THE COURT DENYING MOTION FOR DIRECTED VERDICT.....1012

RULING OF THE COURT DENYING SPEEDY TRIAL MOTION.....1014

RULING OF THE COURT DENYING MOTION TO DISMISS.....1016

COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY.....1023

TESTIMONY

WILLIAM GARVIN
Direct Examination by Ms. Carmody.....1026
Cross Examination by Mr. Evans.....1037

TRENTON SMITH
Direct Examination by Ms. Carmody.....1038
Cross Examination by Mr. Evans.....1053
Redirect Examination by Ms. Carmody.....1061

TRIAL TRANSCRIPT (VOLUME V) DATED AUGUST 4, 2023.....1074

CLOSING ARGUMENT BY MR. EVANS.....1079

CLOSING ARGUMENT BY MS. CARMODY.....1102

REBUTTAL CLOSING ARGUMENT BY MR. EVANS.....1137

CHARGE ON THE LAW.....1148

VERDICT.....1168

SENTENCING.....1179

INDICTMENT AND SENTENCE SHEET.....1185

LETTER TO CLERK OF COURT FILED SEPTEMBER 13, 2017.....1189

LETTER FROM CLERK OF COURT MAILED SEPTEMBER 18, 2017.....1190

LETTER TO CLERK OF COURT FILED SEPTEMBER 13, 2019.....1191

NOTICE OF MOTION TO DISMISS – SPEEDY TRIAL.....1192

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS – SPEEDY TRIAL.....1194

ORDER DENYING DEFENDANT'S MOTION TO DISMISS FOR ALLEGED SPEEDY TRIAL VIOLATION 1201

CERTIFICATE OF COUNSEL 1207

In the Court of General Sessions for the
State of South Carolina, County of Jasper

Case No.: 2017GS2700582

State of South Carolina,

Plaintiff(s),

vs. Transcript of Record

Benjamin Dubois,

Defendant(s).

October 31, 2019

Ridgeland, South Carolina

BEFORE:

The Honorable Ferrell Cothran, Jr.

2

APPEARANCES

REPRESENTING PLAINTIFF(S):

Patrick Hall,. Esquire
Assistant Solicitor
14th Circuit Solicitor's Office
108 Traders Cross
Okatie, South Carolina 29909

REPRESENTING DEFENDANT(S):

Carolyn Carmody, Esquire
Assistant Public Defender
14th Circuit Public Defender's Office
PO Box 525
1905 Duke Street, Room 210
Beaufort, South Carolina 29901

PROCEEDINGS

MR. HALL: Your Honor, entering the courtroom is Benjamin Dubois. This is Case No 2017GS2700582. Mr. Dubois is charged with murder while he was in SCDC. This was alleged to have happened while he was an inmate at the Ridgeland Correctional Institution here in Jasper County.

He had sent a letter to the Clerk of Court, which I believe that you have a copy of that letter. In that letter he's talking about making a speedy trial demand, about how he has not met his public defender, about how he has not received his discovery.

This case is assigned to the deputy solicitor. And so I am covering it on his behalf today. I wanted to have him brought, first of all, so that he could meet his public defender, and also to address the situation of Mr. Dubois filing motions on his own when he's represented by an attorney, which he clearly cannot do. It creates a situation of hyper-representation. He has an attorney to file these motions on his behalf.

I also wanted to make sure that Mr. Dubois is aware of the fact that, due to turnover here in the Public Defender's Office,

4

Ms. Carmody could very well likely be the fourth public defender that he's been assigned to since this incident took place.

Ms. Carmody is now his attorney. She has some of the discovery. I know discovery has been sent to the prior attorneys, so we are working on getting the remainder of what she doesn't have to Ms. Carmody so that she can get that information to Mr. Dubois.

But, simply, this was an opportunity for Ms. Carmody to meet Mr. Dubois, and also hopefully for the Court to instruct Mr. Dubois in regard to him filing his own motions when he is represented by counsel.

THE COURT: Okay. Yes, ma'am.

MS. CARMODY: Like I said, I just started at the Public Defender's Office a little over a month ago. And I did review what discovery that I have on Mr. Dubois' case. I do have the initial package; however, this case is from 2017. What we are missing is an autopsy report, DNA evidence that was collected from my client. Statements that my client made. And we haven't received any of that information.

I haven't -- I heard that it will be

coming, so with the age of the case I'm asking that we can set a deadline for like, if it was previously sent, they could send it to me within the next 30 days so I can review it. If I don't have it in 30 days, or if they don't send it within the 30 days, we could exclude it as evidence in trial.

THE COURT: What is your position?

MR. HALL: Your Honor, this case predates when we started doing electronic discovery. So, the fact that MS. Carmody has access to certain things made available by electronic discovery doesn't mean that they have been fully turned over to one of the three previous attorneys. I understand her concern.

I have also explained to her that anything that she does not have will be forthcoming.

THE COURT: Who is the previous attorneys?

THE CLERK: There was only one, Bob Hughes.

THE COURT: Does she have access to him?

MR. HALL: Well, Madam Clerk is informing me that Mr. Hughes was his only prior attorney, which causes me some concern because Mr.

6

Hughes hasn't done work in general sessions in quite some time. And we have had two other public defenders in place since that time that were doing Mr. Hughes' cases.

THE DEFENDANT: I wrote him a million times, never got one letter back. Never got to meet him or nothing. I couldn't even walk when they charged me. I went through cancer surgery. I couldn't even walk to get my food from the cafeteria. I wanted to get this done because I'm supposed to go home in two years, and I want to get this done. I have wrote him a lot of letters.

THE COURT: Okay. Well, since she nor he has access to his prior attorney's file, I need you to re-send the discovery, and 30 days seems be reasonable to me to have everything in 30 days. And then I assume that it is a 2017 case. When are you going to try it?

MR. HALL: It is my understanding, in speaking with the deputy solicitor, that the plan was to try the case within the first six months of next year.

THE COURT: Okay. If it hasn't been, then they can make a motion in front of whatever judge is here, you know, for a speedy trial, and

they can go back under Judge Newman's cases and see what kind of relief they can get. Okay?

MR. HALL: Yes, sir.

THE COURT: So, you are going to stay in contact with him?

MS. CARMODY: Yes, absolutely.

THE COURT: Okay. Where are you currently housed?

THE DEFENDANT: I am at Perry Correctional Facility in Pelzer, South Carolina, Greenville.

THE COURT: That is a long ride.

THE DEFENDANT: Yes, it took us about three and a half hours this morning.

THE COURT: Okay.

MS. CARMODY: I'll make it happily. Thank you.

(Hearing concluded.)

8

CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF OCONEE:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this October day of 18th, 2021.

Mona L. Manley /s/

MONA L. MANLEY
Official South Carolina Court Reporter
Circuit Reporter for the 10th Circuit
(850) 893-6662
mmanley@sccourts.org

STATE OF SOUTH CAROLINA
IN GENERAL SESSIONS
COUNTY OF JASPER

State of South Carolina,

vs. Transcript of Record
2017-GS-27-00582

Benjamin Walter Dubois, III,

Defendant.

July 13, 2023
Jasper, South Carolina

B E F O R E:

The HONORABLE ROBERT BONDS

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

Reed Evans, Solicitor

Carolyn Carmody, Representing the defendant

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

INDEX

Witness Name		Page	Line
William Garvin			
	Examination By Ms. Carmody	11	22
	Cross By Mr. Evans	33	21
	Re-Direct By Ms. Carmody	46	16
Heather Price			
	Examination By Ms. Carmody	49	7
	Cross By Mr. Evans	51	10
Leanard Williams			
	Examination By Ms. Carmody	59	1
	Examination By Mr. Evans	70	9
	Re-Direct By Ms. Carmody	74	15
Clarence Lowery			
	Examination By Mr. Evans	77	7
	Cross By Ms. Carmody	80	8
Certificate of Reporter		129	1

EXHIBITS

Exhibit	Description	Page	Line
COURT EXH. 1,	Log	13	23
COURT EXH. 2,	Warrant	14	22
COURT EXH. 3,	Warrant	14	24
COURT EXH. 4,	Warrant	19	20
COURT EXH. 5,	Warrant	19	22
COURT. EXH. 6,	Evidence Receipt	20	24
COURT EXH. 7,	Photo; Croc Shoes	22	1
COURT EXH. 8,	Incident Report; Torez	23	9
COURT EXH. 9,	Warrant; Dubois	24	12
COURT EXH. 10,	Photo; Homemade Weapons	25	2
COURT EXH. 11,	Photo; Croc	26	11
COURT EXH. 12,	Statement; Smith	28	6
COURT EXH. 14,	Statement; Mason	30	17
COURT EXH. 15,	Video	31	14

THE BAILIFF: All rise.

THE COURT: Yes, sir.

MR. EVANS: Your Honor, this is Benjamin Walter Dubois or Dubois, III.

D-u-b-o-i-s, Madame Court reporter.

He is here on indictment 2017-GS-27-00582. He is represented by Caroline Carmody of the public defender's office. Miss Carmody has filed two motions to dismiss this case; one for an alleged speedy trial violation and one for an alleged due process violation. Judge, that's what we're here to argue today.

Judge, obviously, they are her motions. I suppose I should turn it over to her. I just ask that we take them one at a time. I notice that some of the issues are going to come up in each, but if Your Honor is inclined to grant whichever one we hear first, there should be no need to proceed to the second.

Having said that, I'll turn it over to defense.

THE COURT: Let me ask you this, and you may have said it and I was writing and not paying attention, I apologize, what is Mr. -- is it Dubois, or Dubois?

THE BAILIFF: Dubois.

THE COURT: What is Mr. Dubois charged with?

MS. CARMODY: He's charged with murder, Your Honor.

THE COURT: All right. Miss Carmody, yes, ma'am. I'm happy to hear from you.

MS. CARMODY: Your Honor. I'm Caroline Carmody. I represent Mr. Benjamin Dubois with regards to case number 2017-GS-27-00582. Your Honor, we do have two motions equally strong in their own individual rights, but I will take up the due process clause first. This is a motion to dismiss as Mr. Dubois was denied his right to a fair trial under the due process clause, Your Honor, then I'll take the speedy trial second.

THE COURT: Yes, ma'am.

MS. CARMODY: I do have two witnesses for -- actually three witness for the due process clause issue. Your Honor, so Mr. Dubois is asserting a violation of his federal and State constitutional rights. The due process clause of the 14th Amendment in the State Constitution and Article I, Section 3 of the South Carolina Constitution, in addition to a violation of his

right to prepare a defense due to the destruction of evidence.

Your Honor, let me give you a brief factual history of the case. So, this incident occurred at Ridgeland Correctional Institute on June 21st or June 22nd of 2017. And at the time at Ridgeland Correctional, there were 150 or 151 inmates on Savannah B wing of Ridgeland Correctional. There was a sole guard who was assigned. That was Tyreece Griffin. Tyreece Griffin was assigned to guard and take care of those 150 to 151 inmates.

On the night of June 21st of 2017, the evidence will show that Tyreece Griffin, you know, made his logs indicating that he had done rounds on the unit. He had a supervisor sign off on his logs that he had done his count. He secured the cells. He made sure the doors were secured and proceeded to go about his shift.

At 3:00 a.m., he reports that there was a death of an inmate, Mr. Jerry Holmes. It was later learned that Mr. Tyreece Griffin actually abandoned his post for at least six to eight hours of his shift and essentially left numerous cells unlocked. By my count, well over 10 cells were

left unlocked, maybe 15. And, essentially, left the unit as the sole guard and left the prison to run itself.

And when he returned after 3:00 a.m., he was informed by an inmate named Casey Chappel that his roommate, his cell mate, Mr. Jerry Holmes was deceased. That Mr. Jerry Holmes had been stabbed. He had been stabbed numerous times. He was -- it was learned that Mr. Jerry Holmes was deceased in his cell.

So what happens is, you know, Griffin, calls his supervisor, which is Agent Garvin to investigate. Agent Garvin -- I'm sorry. Agent Garvin is the investigator. He calls his supervisor. They call Agent Garvin to come in and investigate. They call in SLED.

At the time that SLED is doing their initial investigation, they are informed and believe that Mr. Griffin was on the unit all night, had left to go to lunch and came back and found the inmate deceased. That was not, in fact, true.

Then SLED comes in. They locate blood in the cell of Mr. Holmes. They find a pair of blood -- well, what they believe to be blood on

crocs, shoes, of another inmate by the name of Julian Highland. It's reported that they found blood on a cylinder of a cell door of Mr. Sims and Mr. Cane that was there also. They also found numerous weapons located in the common area bathroom. They found clothing on the side of the toilet in the common area bathroom, and proceeded with their investigation.

The victim in the case, Mr. Jerry Holmes, was taken by inmates to medical. Once he got him to medical, they cut off his clothing. They put his clothing out in the rain to dry, Your Honor.

THE COURT: To where?

MS. CARMODY: Yes, Your Honor.

THE COURT: Put the clothing where?

MS. CARMODY: In the rain to dry, Your Honor.

THE COURT: In the rain to dry?

MS. CARMODY: That is correct, Your Honor. Yes.

THE COURT: I thought rain gets stuff wet.

MS. CARMODY: Yes, Your Honor. I understand.

The clothing was left outside. It rained

not once, but twice. Then they decided, well, we don't need the clothes so we're going to throw them out.

Then they decided to wash Mr. Holmes's body, wrap it in a shroud, and somehow it got to autopsy the following day.

THE COURT: Who's "they?" You keep saying "they" threw it out outside, "they" cut the clothes off.

MS. CARMODY: The officers will testify, Your Honor. That's a very good question. The officers hopefully will answer that for us.

THE COURT: All right.

MS. CARMODY: So I have statements as well as Court's exhibits for that. So, anyways, Your Honor -- so about maybe a month later, Mr. Dubois is charged with murder. Mr. Nadia is charged with murder and Mr. Julius Highland is charged with an with accessory. Also charged was the guard, Mr. Tyreece Griffin. He was charged with obstruction of justice and misconduct in office because he lied and doctored his reports, which, you know, they were using to base their investigation.

Also fired and charged was James Walker,

who was the supervisor. And Earl T. Scott, the supervisor, was also fired and charged with misconduct in office. So the three officers who were involved, the correctional officers, all three were charged with misconduct in office and Tyreece Griffin, the sole guard on the unit, was also charged with obstruction of justice.

My position is that obstruction of justice, you know, existed at the beginning of this case and still exists now.

Later, in the case, they also recovered cell phones that they believe would show the murder on video. That did not happen. The murder was not on video on those cell phones. But the evidence log on the cell phone says, possible employee involvement, which goes to Mr. Tyreece Griffin who they thought was actually involved in Mr. Holmes's murder.

Your Honor, then -- so I got to the officers were fired and charged. My client was charged, as well as two co-defendants.

Then, Your Honor, in -- let's see. Let me get the exact date. The co-defendant, the guy with the bloody Crocs in his cell, Mr. Julius Highland passed away while this case has been

pending. Mr. Julius Highland died on November 6th of 2021. So he is no longer available as a witness in this case, no longer available for cross-examination, or to ask about evidence that had been destroyed, the Crocs in the cell were destroyed. So the Crocs in his cell had been destroyed.

The homemade weapons that were located in the common bathroom that they're alleging that my client killed this man with homemade sharp-edge weapon, all those weapons, have been destroyed. They were never sent to SLED for testing. Just destroyed.

The victim's clothing, as I mentioned, was destroyed, as well as any evidence that existed on the victim because they had washed his body before they sent it for autopsy. We also have -- there was also a pair of Crocs in the victim's cell that were also destroyed, never sent to SLED. And we never got Highland's DNA and he's now decease. So those are all the issues that I want to address.

And, Your Honor, if I could call the case agent which is Mr. Garvin?

THE COURT: Sure.

MS. CARMODY: Thank you, Your Honor.

THE CLERK: Raise your right hand. Place your left hand on the Bible, sir. The testimony you give the Court will be the truth so help you God?

THE WITNESS: Yes.

THE CLERK: Come right around and have a seat in the witness chair.

THE COURT: Hey, Mr. Garvin.

THE WITNESS: Hi, Your Honor.

THE CLERK: You can adjust that mic.

WHEREUPON:

WILLIAM GARVIN,

after having been sworn, testified as follows:

MS. CARMODY: Your Honor, the documents that I handed you have color photographs. The only difference in the ones that I have show the witness they're black and white. I don't have two color photographs, so that's the only difference in the items that I'm going to show the witness.

THE COURT: All right.

DIRECT EXAMINATION

BY MS. CARMODY:

Q Mr. Garvin, could you please state your name for the record?

A William A. Garvin.
Q Could you spell it, sir?
A First name William, W-i-l-l-i-a-m. Last name Garvin, G-a-r-v-i-n.
Q All right. And, Mr. Garvin, where do you work?
A Presently work for the South Carolina Department of Probation Parole Pardon services.
Q Back in June 21st and 22nd of 2017, where were you working?
A I was working for the department of correction -- South Carolina Department of Corrections.
Q Thank you, sir. And do you know when you left the South Carolina Department of Corrections?
A Yes. I left in 2018, March.
Q Okay. And sir, Mr. Garvin, did you have an opportunity to investigate the death of an inmate Jerry Holmes?
A Yes.
Q All right. And, sir, do you remember when you arrived -- well, do you remember when you arrived at SCDC to investigate Mr. Holmes's death?
A Yes, I arrived at -- I don't know what time it was. Yes, I did at the institution. I was called by my supervisor to go up to the

institution to investigate a possible death. That was on June 22nd.

Q Thank you, sir. Is the reason that you were called to go to the institution because you don't generally work in the institution itself?

A Right. That was part of a team that we worked. We worked in the -- in the region, and our CI encompassed that region which we worked. So our responsibility with one of those was that institution as well as several other ones in the area.

Q And when you arrived at the institution, did you have the opportunity to speak with a one Tyreece Griffin?

A Yes.

Q And who is Tyreece Griffin was?

A Tyreece Griffin was the assigned correction officer to that wing which was Savannah B on the night of this incident.

Q Does Tyreece Griffin keep a log of his activities around his shift?

A Yes, he did.

(COURT EXH. 1, Log, was marked for identification.)

BY MS. CARMODY:

Q And if I show you what's been premarked as Court's 1, could you please identify?

A Yes, that looks like a copy of the log.

Q This would have been the log that Tyreece Griffin provided for the Savannah B wing?

A Yes.

Q Okay. For the June 21st and 22nd overnight shift?

A Yes.

Q And at some point in your investigation, did you learn that this log was false?

A Yes.

Q Okay. Did you learn that Tyreece Griffin doctored the log to make it look like he had done count and had been watching inmates?

A Correct.

Q Thank you.

All right. And then as a result of the information provided to you by Tyreece Griffin, did you take out some arrest warrants?

A Yes, I did.

(COURT EXH. 2, Warrant, was marked for identification.)

(COURT EXH. 3, Warrant, was marked for identification.)

BY MS. CARMODY:

Q And if I show what's been premarked as Court's 2 and Court's 3, could you identify, please?

A Yes.

Q Okay. And just to clarify, Tyreece Griffin was the sole guard on the unit that night?

A He was the sole guard on the Savannah B side.

Q Would you mind, sir, just read into the record the basis for the warrant? If you could read the warrant number. This is your affidavit, is it not, sir?

A That's correct.

Q And that's your signature?

A That's correct.

Q You could read the affidavit for the warrant?

A "As it relates to 2017A2720200169, description of the offense, misconduct, misconduct in office, malfeasance, misfeasance, or nonfeasance. I further state that therein there's probable cause the defendant named above did commit the crime set forth and that probable cause is based on the following facts: That between the date of June 21, 2017, and June 22, 2017, in the county of Jasper, town of Ridgeland, one Tyreece P. Griffin did commit the offense of misconduct in

office, malfeasance, misfeasance, or nonfeasance. Defendant was employed as a corrections officer at Richland Correctional Institution located at 5 Correctional Road in Ridgeland, South Carolina, 29936. On the date in question, defendant was charged with the supervision, care, and protection of inmates being housed in Savannah B unit. Defendant failed to properly discharge his duties in that he was absent without just cause from the unit for the majority of his shift schedule work hours. These actions by the defendant did willfully and unlawfully commit misfeasance, misconduct in office and that he failed to properly secure the safety of inmates in Savannah B unit that resulted in the homicide of an inmate."

Q And the date for the arrest warrant, sir?

A The date is 6/21/2017.

Q That would be the date that the incident occurred, but what's the date that the judge signed the arrest warrant?

A 8/7/2017.

Q Okay.

A Second warrant --

THE COURT: Hold on one second. Let me

ask you something, Miss Carmody.

MS. CARMODY: Yes.

THE COURT: Can't we just enter all these.

MR. EVANS: I'm happy to stipulate.

THE COURT: Hold on one second.

Can't we just enter all these documents that you put -- I see on your second page of the information you provided me it says, "Defense exhibit submitted in support..." As it relates to these six things under -- I mean, you can call it bad faith, but under A and B, can't we just stipulate and then you can ask specific questions? I mean, I don't think he's going to object to any of these documents being included as part of this record, and then if there's certain things you need to zero in on, rather than have him read each arrest warrant --

MS. CARMODY: Oh, I wasn't going to have him read each one, Your Honor.

THE COURT: Okay.

MS. CARMODY: Just --

THE COURT: I'm not trying to -- I'll allow you to do whatever you need to do for the record, but it just seems to me that -- I mean,

I'm assuming the State has no objection to any of these being made exhibits or entered into evidence as it relates to your argument.

MR. EVANS: The only one I may have a question on is 11. Everything else, absolutely not.

MS. CARMODY: Your Honor, I just think that, you know, in order to set it up, the defense has to show bad faith. And in order to show bad faith, I need to show why I believe that the evidence was destroyed in bad faith, so that's why I'm asking him to read it into the record to give you some context, Your Honor. It's very short. It's not as long as the first one.

THE COURT: That's fine. Go ahead. Yes, ma'am.

MS. CARMODY: I'll try to go as fast as possible.

THE COURT: No problem.

THE WITNESS: As it relates to warrant 2017A2720200170, description of event, Obstruction of Justice. "I therefore state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on June 22, 2017, in the county of Jasper, town of Ridgeland, one Tyreece P. Griffin did commit to the obstruction of justice. The defendant while employed as a correctional officer for Ridgeland Correctional Institution located at 5 Correctional Road in Ridgeland, South Carolina, 29936 did knowingly and willfully provide false information to SCDC agent concerning his actions and they related to a criminal investigation. These actions by the defendant were in an attempt to conceal his truth in action during an interview concerning a homicide investigation."

BY MS. CARMODY:

Q Thank you, sir. And the date of the warrant was same, correct?

A The same.

Q Yes. Thank you, sir.

MS. CARMODY: That was Court's 2 and 3.

THE COURT: All right.

(COURT EXH. 4, Warrant, was marked for identification.)

(COURT EXH. 5, Warrant, was marked for identification.)

BY MS. CARMODY:

Q Mr. Garvin, as it relates to Court's 4 and 5.

These are both arrest warrants. Let me hand them to you just so you can identify them. They are arrest warrants. I'm not going to have you read each one. Those are the arrest warrants for whom?

A One for James E. Walker and the other one is for Earl T. Scott, Jr.

Q And they are both charged with misconduct in office, sir?

A That's correct.

Q And who are these two individuals?

A One was a sergeant, a yard sergeant, which was Earl Scott, and James D. Walker was the lieutenant on shift.

Q Okay. And, sir, these arrest warrants were all taken out on August 7, 2017. These officers were present at the time SCDC was conducting their investigation?

A Yes, they were.

Q And they were also present during the time SLED was coming in to collect evidence?

A Yes, I believe they were.

Q All right.

A They would have worked that night shift.

(COURT. EXH. 6, Evidence Receipt, was marked for identification.)

BY MS. CARMODY:

Q And, sir, I'm going to show you Court's 6. And only identify it if you know. It may be Mr. Williams, but do you recognize this document?

A It looks like an evidence receipt. It says one flip phone.

Q Do you recall as part of your investigation being advised that there was possible employee involvement in the death of Mr. Holmes?

A Say that again.

Q Do you recall during the course of your investigation learning that there was possible employee involvement in the death of Mr. Holmes?

A I didn't find that to be true.

Q I'm asking you, did you learn during the course of your investigation that there was possible employee involvement --

A Yes.

Q -- in the death of Mr. Holmes?

A Yes.

Q Okay. And -- all right.

And that employee involvement would have been Mr. Tyreece Griffin?

A That's correct.

Q Thank you.

(COURT EXH. 7, Photo; Crocs Shoes, was marked for identification.)

BY MR. EVANS:

Q Sir, I'm going to the show you Court's 7. Do you recognize that?

A There just a pair of shoes, or Crocs.

Q Do you recall there being a pair of Crocs in inmate Highland's cell?

A I don't remember the ones being in his cell.

Q Okay. Do you recall -- I failed to mention earlier, do you recall during the course of your investigation learning that numerous cells in the Savannah B wing had been either left open, unlocked, or purposely left open?

A During my investigation, I found out that several of those cell doors were inoperable.

Q And, approximately, how many cell doors?

A I don't remember.

Q Would it be fair to say that at least 10 cell doors were open that night?

A I don't remember the exact number.

Q Okay. When you say the cell doors don't lock -- how many inmates in each cell?

A Normally, there's about two per cell.

Q Okay. Did you learn through the course of your investigation that numerous inmates had been seen out on the rock that night? The rock meaning the common area.

A Yes.

Q All right. And numerous inmates would have access to common area bathrooms?

A Yes.

(COURT EXH. 8, Incident Report; Torres, was marked for identification.)

BY MS. CARMODY:

Q All right. Now, I'd like to show you what has been marked as Court's 8 for identification. Could you please tell me what that is?

A This is an incident report that is used by the department of corrections, Officer Torres.

Q And who is Officer Torres?

A He was a correction officer.

Q Did you learn from Officer Torres that it was reported that they had located blood on the cylinder of cell door that was identified as being unsecured during the night of 6/21/2017?

A Not without looking at the report.

Q I can show it to you to refresh your recollection.

A I don't recognize this report.

Q Do you recall being told that they located blood on the cylinder of cell 18?
A No, I don't.
Q This was your investigation, was it not?
A Yes.
Q This was a report, though, from SCDC, correct?
A That is correct.
Q Okay. Was Officer Torres fired?
A Excuse me?
Q Was Officer Torres fired?
A During my investigation, no.
(COURT EXH. 9, Warrant; Dubois, was marked for identification.)
BY MS. CARMODY:
Q All right. I'd like to show you what has been marked as Court's 9. Is this an arrest warrant that you obtained for Mr. Benjamin Dubois?
A Yes.
Q And without reading the whole arrest warrant, how does it allege that you believe that Mr. Dubois had killed Mr. Holmes, using what?
A He made a -- had used a homemade edge weapon to stab Mr. Holmes multiple times.
Q Did you ever locate the murder weapon in this case?

A No.

(COURT EXH. 10, Photo; Homemade Weapons, was marked for identification.)

BY MS. CARMODY:

Q I'd like to show you court's 10. Do you recognize those?

A It appears to be a bunch of homemade weapons.

Q And do you recall that these weapons were located in the common area bathroom?

A Yes.

Q Do you recall whether these weapons were preserved as evidence?

A They were collected and they were examined for blood, and what have you. But there wasn't any.

Q Examined by whom for blood?

A SLED.

Q SLED examined these weapons here?

A Yeah. If I remember correctly, yes. We looked at them to see if there were any blood stains on them.

Q So these weapons were sent up to SLED?

A I'm not sure if they were sent to SLED. They were just on scene that night -- that day we

looked at them to see if there were.
Q Okay. So it's your testimony, though, that SLED examined these weapons in Court's 10 for blood, to your knowledge?
A I'm not -- I'm not positive. If they did, they were warranted, or it was just the contraband unit from Ridgeland Correctional that also looked at them as well, some of the ones that were involved in finding some of those weapons when they did a complete search of the whole wing.
(COURT EXH. 11, Photo; Crocs, was marked for identification.)
BY MS. CARMODY:
Q Okay. Sir, do you recognize Court's 11 as being a Croc that came from the victim's cell?
A It looks like a blood stain.
Q Okay. Do you know if this items was collected and sent to SLED?
A I believe so. I can look at the report and see what all went to SLED. If it was in his cell, it would have been sent up to SLED.
Q Okay.
A Excuse me.
Q Sure.
A It's listed as a pair of -- one pair of Crocs

from Benjamin Dubois.

Q Okay. But that's not these Crocs. These Crocs are from Mr. Holmes's cell.

MR. EVANS: I'm going to object to leading.

BY MS. CARMODY:

Q If you know.

THE COURT: I'm going to overrule you.

THE WITNESS: I don't know that.

BY MS. CARMODY:

Q That's fine.

And then as it relates to the victim, Mr. Jerry Holmes, are you -- could you explain to the Court what happened with Mr. Holmes's clothing?

A According to what happened is, once his -- Mr. Holmes was removed from his cell and brought -- it was the policy of SCDC to bring the body over to the medical unit. Once SLED was done with all of the collection of evidence, taking of pictures, and what have you, then the body was moved over there. The medical staff then would prepare the body to be collected by Dunbar Funeral Home to be transported to Newberry for autopsy.

The clothing and his other belongings were then taken. And, because they were blood soaked, they

had to sit in the dryer. I think it was the shower area, which was not on. The shower wasn't on, but it was there to dry. So once they dried, they were collected, and put it in a bag similar to an evidence bag and sent to SLED.

(COURT EXH. 12, Statement; Smith, was marked for identification.)

BY MS. CARMODY:

Q Okay. So let me show you Court's 12, and do you recognize Tonya Smith? Am I pronouncing that correctly?

A Tonya Smith.

Q And Court's 12, what is -- do you recall Miss Smith giving you this statement?

A Yes.

Q Okay. And according to Miss Smith, what happened to that clothing?

A They were cut off -- taken off and cut off, as she wrote in the report. "We cut them off the deceased."

Q And placed into a biohazard bag?

A Yes.

Q All right. And then, sir, do you recall receiving a phone call from Mr. Jamie Johnson who worked with SLED regarding the clothing?

A I don't remember the conversation for that.
Q Okay. If you could, please, read from the log of 7/5/2017. First, do you recognize that conversation?
A That's -- that's what they said -- she said, that we had a conversation about the clothes.
Q What happened with the clothes?
A In that conversation -- what happened to the clothes, the medical staff, once they did cut them off, they took them and put them -- which I thought was in that drying room -- I mean, in the shower room, but they're saying in there that -- I found out that they did. They put them outside to dry and it got rained on.

To tell you the truth, I don't recall that happening even after reading that report. I don't remember that as exactly what she said in that regard. But if that's what happened, then that's what happened.
Q Okay. So is it your testimony that the clothing was sent to SLED still or is it your testimony that the clothing was put out in the rain twice and destroyed?
A I don't know if the clothes were destroyed. I know I could not put them back together, but

they were cut up in pieces. I couldn't send them to SLED. But once they dried, I sent them to -- if I remember correctly, I did send them to SLED after they were dry.

Q Do you recall sending the clothing to SLED?

A I believe I do.

Q Do you recall that, at the time, you didn't know how many hands the clothing had passed through, that there was no chain of custody on them?

A That's true.

Q Okay. It's your testimony that they were put outside to dry. What are we talking about, like a picnic table?

A I'm not sure.

Q Would that be reasonable?

A I don't know.

(COURT EXH. 14, Statement; Mason, was marked for identification.)

BY MS. CARMODY:

Q Okay. Then that was Court's 13 (sic). On Court's 14, this is a statement from Marie Mason. And did you instruct Marie Mason to write that statement?

A Yes.

Q And why did you ask Marie Mason to write that statement?

A She's one of the medical staffs. All the staff members that had any involvement one way or another to have them write some statement as to what part did they play in the handling of the body or any evidence that was there.

Q And was Marie Mason telling you that she washed Mr. Holmes's body, the decedent, Mr. Holmes?

A It says she -- yes, she did.

THE COURT: Who's Marie Mason?

THE WITNESS: She is medical staff, a nurse, that was at SCDC?

THE COURT: Yes, sir. Thank you. Go ahead.

(STATE EXH. 15, Video, was marked for identification.)

BY THE BAILIFF:

Q And lastly, I'm referring to Court's 15, are you aware of a man named Julius Highland?

A He was one of the inmates.

Q He was one of the inmates that his cell was unlocked that evening?

A I believe so.

Q And, to your knowledge, is Mr. Julius Highland now deceased?

A Excuse me?

Q Is Mr. Highland deceased? Have you been informed Mr. Highland is deceased?
A Yes, I believe so.
Q Not related to this incident.
A No.
Q All right.

Okay. Sir, we had a telephone conversation yesterday. Do you recall that phone conversation?
A Excuse me?
Q Do you recall our phone conversation yesterday?
A Yes.
Q Do you recall talking to me about a video that you watched of Mr. Tyreece Griffin?
A Yes.
Q And where is that video now?
A That equipment is in the possession of SCDC, Ridgeland Correctional Institution.
Q This is a video of I believe that we're talking -- a video showing you the whereabouts of Mr. Tyreece Griffin?
A That's correct.
Q And were there any video surveillance equipment on the SCDC Savannah B wing where this incident occurred?
A If memory serves me right, there were some

video cameras, but not adequate. They were preparing to put some. I can't remember if they were there then during that time or they were going to put some in.

Q Okay. Has the SCDC videos been preserved?

A The ones for Tyreece Griffin? I don't recall.

Q Okay. You conducted several interviews in this case?

A Yes, I did.

Q Were any of those interviews audio or video recorded?

A Not to my knowledge.

MS. CARMODY: I believe that's all the questions I have for you, sir. Thank you very much. If you could please answer any questions that the State has.

THE COURT: Mr. Evans.

MR. EVANS: Thank you, Your Honor.

THE COURT: Yes, sir. Your Honor.

CROSS-EXAMINATION

BY MR. EVANS:

Q Agent Garvin, you did not collect any evidence in this case personally, did you?

A No.

Q Not the physical evidence that was sent to SLED and analysis?
A No.
Q That was done by SLED crime scene agents; is that correct?
A That's correct.
Q And when Miss Carmody was asking you a moment ago, I think there was a little bit of confusion about -- you said SLED looked at the knives which are depicted in one of her Court's exhibits, the homemade knives?
A I'm not sure whether they actually looked at them or not, but I know that the correction officers collected those instruments.
Q You weren't saying, I take it, in your direct that those knives were submitted to some kind of analysis. They were given a visual inspection for the blood; is that right?
A That's correct.
Q Now, before SLED crime scene arrived, did you have the opportunity to review cell number 5 where the body was found?
A Yes.
Q All right. What did you find there?
A What I saw was the decedent laying -- or partially laying on the floor and on the bed and

the room that was in, the cell, was just full of blood.

Q Full of blood. Most blood you ever seen at a scene before?

A To really paint a picture, it looked the room was painted with blood.

Q So there were dozens, if not more, items that could have been collected that had some amount of blood on them, were there not?

A That's correct.

Q What was the condition of the victim?

A He was --

Q Obviously deceased.

THE COURT: Hold on. Allow him to answer and then go ahead, Solicitor.

THE WITNESS: It was obvious he was deceased. He was just laying there -- I mean, kind of, hanging off the bed. Half on the bed, half partially on the floor. Not moving. There was no real sign of life, so we kind of assumed.

BY MR. EVANS:

Q In fact, blood was still dripping from the wound in his upper body, was it not?

A Yes, it was.

Q But this incident had taken place many hours

earlier, had it not?
A That's correct.
Q And you're familiar with the autopsy in this case?
A I didn't attend the autopsy.
Q But you're familiar with the report?
A Yes.
Q And he was killed as a result of a wound to his jugular vein; is that right?
A That's correct.
Q And that's an injury that bleeds substantially, is it not?
A Yes.
Q She showed you Court's Exhibit Number 6, you didn't fill that out, did you?
A No, I did not.
Q Who is that signed by?
A Signed by -- it looks like James Williams.
Q Are you familiar with Mr. Williams?
A Yes, I am.
Q Who is he?
A He is a contraband officer for the Department of Corrections, Ridgeland.
Q All right. At the time, you and he both worked in the department of corrections?
A Yes.

Q But you were in investigations and he was a contraband officer.
A That's correct.
Q Okay. What's the difference between that, quickly?
A My job was to investigate from the crimes that would be referred to the court. Their function was to -- they're like the internal police. They really just handle inmate complaints and complaints from just minor incidents that happen within the prison. Anything that was major, they would turn it over to us.
Q Right. They don't make charging decisions?
A Not statutory charges.
Q But they may do internal disciplinary things, but you're the ones that make decisions about cases that come to the court to general sessions?
A That's correct.
Q Okay. You didn't charge Tyreece Griffin with murder, did you?
A Who?
Q Tyreece Griffin.
A Yes.
Q With murder?
A Did I charge him with murder?

Q Uh-huh.
A I think --
Q I believe you charged him with obstruction of justice and misconduct in office; is that correct?
A Right, right.
Q And a couple of other guards with misconduct in office?
A Yes, Sergeant Scott and Lieutenant Walker.
Q And Miss Carmody was asking you if you developed information during the course of your investigation that there was officer involvement in the murder. Do you recall that question?
A Yes.
Q And you said, *Yes, but that's all we heard about it*; is that right?
A That's correct.
Q What was the officer involvement?
A The only officer involvement was his misconduct.
Q The failure to supervise the wing.
A That's correct.
Q Leaving the cell doors unlocked.
A That's correct.
Q And then lying to you about what he had or had not done; is that correct?

A That's correct.
Q So it's not your testimony today that you have any evidence that any of these officers organized, participated in, or covered up anything about who killed the victim in this matter?
A That's correct.
Q How big is Savannah B, ballpark?
A I would say it's about 50 yards long.
Q And how many cells, roughly?
A Oh, I would -- I'm not sure. I think it's 60, 70 cells, something like that.
Q When you did an investigation of this nature, how do you -- how do you get SLED into the cells? How do you determine what you want them to search and collect and photograph?
A Well, we put it in a primary when you have crime this serious. We would call. And so we wouldn't do anything except leave things. Protect the scene, preserve it, until they come in and conduct their investigation. All the inmates are either -- they're locked in their cells or moved out of the area. We can't lock them down.
Q In this case, did you lock them in their cells or did you move them into another wing?
A Well, the ones that we could lock in their

cells, we did.
Q Okay. And who could you not lock in?
A The ones that had the doors that were compromised or broken.
Q So there were some doors that were not functioning on that night?
A That's correct.
Q So some of the doors -- is it your testimony then that some of the doors which were left open by Officer Griffin, that was something he couldn't do anything about because they were not functioning properly?
A That's correct.
Q Getting back to when SLED arrives, what cells did you direct them to search and catalog?
A The cell that the victim was in. I believe it was cell 5.
Q Any others?
A There was Mr. Dubois, his cell mate with him.
Q So he was a suspect already?
A Yes.
Q Did you have any other suspects at that time?
A There was Mr. Narnia. If I remember correctly, I think it was Mr. Highland.
Q All right. And those are the three people you

ended up charging in some form or fashion; is that right?

A That's correct.

Q You charged Mr. Narnia with murder as well?

A Yes, sir.

Q Did you have any evidence that he was the stabber?

A No, I didn't have any evidence that he was, in fact, the stabber.

Q Did you develop any evidence over the course of the subsequent six years that he had actually stabbed Mr. Holmes, Mr. Narnia that is?

A No, I did not.

Q Did you have evidence that Mr. Dubois had stabbed Mr. Holmes?

A Yes.

Q And that came from eyewitnesses?

A That came from eyewitnesses as well as testimony of all those witnesses that were there.

Q Before SLED's arrival?

A Yes.

Q How about Mr. Highland, you charged him with something different?

A I believe we charged -- I'm not sure what it

was.
Q I believe you charged him with accessory after the fact.
A Accessory after the fact, yes.
Q Okay. And why did you charge him with accessory after the fact as opposed to murder?
A It was believed that he had some involvement in the planning or directing of this situation that occurred with Mr. Holmes.
Q Is that Mr. Narnia or Mr. Highland?
A Mr. Highland and Mr. Narnia.
Q Mr. Highland, you had evidence from some of these witnesses that he had participated in the clean-up; is that correct?
A That's correct.
Q Okay. But none of the witnesses told you that anybody could have stabbed Mr. Holmes other than Mr. Dubois; is that correct?
A That is correct.
Q Was anybody bleeding in Savannah B that night or at the time when you arrived to begin your investigation?
A No one other than Mr. Holmes.
Q How about Mr. Dubois, did he not have an injury?
A Mr. Dubois who was at medical. Supposedly

had an injury to his leg, I believe it was.
Q Okay. He was bleeding from that leg?
A Yes.
Q Was Mr. Narnia bleeding?
A No, sir.
Q Was Mr. Highland bleeding?
A No, sir.
Q And she asked you about some video that exists showing the whereabouts of Mr. Griffin, the guard?
A Yes.
Q Okay. And you reviewed that?
A Yes, I did.
Q Prior to making your charging decision on him?
A Yes, I did.
Q Okay. Did it show him killing anybody?
A No, it did not.
Q Did it show him meeting with Mr. Narnia or Mr. Highland?
A No, it did not.
Q What did it show?
A It showed Mr. Griffin leaving the institution at the time that he said he was at his station in Savannah B.
Q Leaving the actual building?
A Leaving the institution completely.

Q The entire complex?
A That's correct.
Q All right. Going out the security. I mean, I've been through that security. It's serious. He, like, went out there all the way to the front parking lot?
A That's correct.
Q All right. But it doesn't show anything about who killed Mr. Holmes, does it?
A No, it does not.
Q Did you direct SLED about what to collect and what not to collect at the crime scene?
A I just directed them to where the incident took place and allowed them to do just what they do, as far as collecting evidence, what they saw, pictures they took.
Q You put your -- I'm sorry.
A Some of the things -- some areas might have made them -- you know, showed them something to pay attention to.
Q Okay.
A Pretty much, they knew what to do.
Q Because you'd been there a while before they arrived?
A Yes.
Q And so you told them, I assume, the cells that you

wanted them to check out in particular?
A That's correct.
Q How long -- withdrawn.
Would it have been possible for them to search and catalog every cell in that unit?
A It would have been, if they saw it necessary. But we did not suspect that it would be all the cells, just certain ones.
Q All right. Did you direct them to not collect Mr. Highland's Crocs?
A No, I did not.
Q Did you direct them to destroy any evidence or to engage in some kind of a cover up?
A No, I did not.
Q And you didn't do that with any of the staff who actually worked at the prison, did you?
A No, I did not.
Q So the clothes from Mr. Holmes going missing between the scene and his autopsy, it's your testimony that that was inadvertent?
A That's correct.
Q Would you have liked to have preserved those clothes?
A Yes, I would have.
Q In hindsight, would you have told the medical

staff, *Do not take him until SLED is done with him*?
A That's correct.
Q What was the visual condition of his clothing?
A They were in tatters.
Q How about when you arrived and he was still in the cell?
A No, they were bloodied. Some holes were in it from the stabbing wounds that were on his body.
MR. EVANS: Thank you, Your Honor. Those are the questions.
THE COURT: All right. Anything else of this witness?
MS. CARMODY: Yes. Briefly, Your Honor.
THE COURT: Please.

REDIRECT EXAMINATION

BY MS. CARMODY:
Q Agent Garvin, I just wanted to clarify. So on June 21st and 22nd, you weren't working at the institution you had told us earlier. When you arrived at the institution that morning, isn't it true that you're getting your knowledge about what happened from Officer Griffin?
A Partially, yes.
Q Okay. And, at the time, you trusted the

information he was telling you was truthful?
A Yes.
Q Okay. The supervisors as well? Is that fair to say?
A That's correct.
Q All right. And did you ever direct SLED to recover the blood on the cell of door 18 -- cell 18?
A I don't recall that.
Q No? All right.
MS. CARMODY: I don't believe I have any further questions. Thank you, sir.
THE COURT: All right. We're going to take a break for lunch. We will back two o'clock. Thank you.
MR. EVANS: Thank you, Your Honor.
(A break was taken from 1:04 p.m. to 2:07 p.m.)
THE BAILIFF: All rise.
All right. So, Miss Carmody, are we ready? Oh, are we getting your client?
MS. CARMODY: Agent Williams from SCDC is under subpoena. He was here this morning. And I think he left for lunch, so my investigator went to go look for him downstairs.
THE COURT: All right. Well, do you have another witness? You said you had three.

MS. CARMODY: I also have Miss Price.

THE COURT: Can we just go ahead?

MS. CARMODY: She went to go look for --

THE COURT: Well, let's get one of them up here and we'll just, kind of, go out of order.

MS. CARMODY: Yes, Your Honor. The defense will call Miss Price.

THE COURT: Come on around, Miss Price.

MS. CARMODY: Your Honor, this is -- it's still related to his right to a fair trial, but it is a separate issue, other than the destruction of evidence that we raised earlier.

THE COURT: So this is still under your first argument.

MS. CARMODY: Yes.

THE COURT: The due process argument. Because there's a due process argument and there's an argument about the speedy trial, right?

MS. CARMODY: Yes. This is not for the speedy trial. This is for due process.

THE COURT: Okay.

MR. EVANS: It's fine, Your Honor. Whatever makes it go faster.

THE CLERK: Raise your right hand. Place your left hand on the Bible. The testimony you

give the Court will be the truth so help you God?

THE WITNESS: Yes, ma'am.

WHEREUPON:

HEATHER PRICE,

after having been sworn to tell the truth, testified as follows:

DIRECT EXAMINATION

BY MS. CARMODY:

Q All right. Miss Price, could you state your name for the record?

A Heather Nicole Price.

Q And, Miss Price, where do you work?

A 14th Circuit Public Defender's Office.

Q And what do you do at the public defender's office?

A Mitigation, sentencing specialist, and investigations.

Q Okay. Did you have an opportunity to do an investigation, or assist with the investigation on the case of Benjamin W. Dubois?

A I did.

Q And did you have the opportunity to attempt to contact any witnesses in the case?

A I did.

Q And which witnesses did you attempt to contact?

A Mr. Brown, Mr. Casey Chappel, and Mr. Finkbeiner.

Q Okay. And were these telephone conversations?

A They were.

Q Okay. And during are these telephone conversations, did the witnesses indicate to you in any way whatsoever that they were either instructed or -- specifically instructed, or told in some way, shape, or form that they were not allowed to speak to the defense?

A They did.

Q Could you please tell the Court what the witnesses said?

A Mr. Brown instructed -- or related to me that the guys told him that he was not to talk to anyone. And I reinterated that I was the defense. And he said, *Yeah, I was told I was not supposed to talk to you.*

Mr. Casey Chappel, on October 17th I spoke with him, and he told me more than once he was not allowed to talk to me. I reiterated to him again that I was with the public defender's office. I asked him what that meant, and he said he was not allowed to talk about this case. I asked him who told him that, and he said it was the detectives and the solicitor.

And Mr. Finkbeiner told me he was not allowed to talk to me. When I asked who told him that, he said the State or solicitor's office and someone he thought by the name of CJ.

Q Okay, thank you. I don't have any further questions. If you could, answer any questions from the solicitor.

THE COURT: Mr. Solicitor Evans, yes, sir.

CROSS-EXAMINATION

BY MR. EVANS:

Q Miss Price, could you tell me those dates again?

A I wrote down the one was October 17th with Mr. Casey Chappel.

THE COURT: Of what year?

THE WITNESS: I'm sorry. 2022.

THE COURT: Thank you.

BY MR. EVANS:

Q Have you made any further efforts to contact Mr. Chappel?

A I had called for some follow-up and he completely didn't wish to speak to me at all.

Q Uh-huh. You're an attorney, correct?

A No.

Q I'm sorry.

So, October 17th, you're aware that this case was scheduled for trial in November of 2022?

A Correct.

Q And you're aware that this case was scheduled for trial -- actually in October before that; is that right?

A Correct.

Q And it was scheduled again in January of 2023?

A Correct.

Q And we now have a trial date scheduled for July 31st, 18 days from now?

A Correct.

Q You have made one further attempt to speak with Mr. Chappel?

A When he told me he had nothing further to say, I'm not going to badger a witness.

Q And did you ever contact myself or Mr. Lowery, my investigator in this matter, to alert us to this situation?

A I alerted Miss Carmody.

Q And are you aware if she ever contacted either of us?

A I am not.

Q Are you aware that we reached out to Mr. Chappel and told him that whatever idea he had that he was not

allowed talk to you was wrong and that he should talk to you?

A I'm not aware of that.

Q Are you aware that every witness in every case is allowed to refuse to communicate with a representative of either party?

A Correct.

Q You've run into that before, I assume?

A I have. I make it very clear that I work for the defense, and I do always say that they do not have to discuss with me but that I would appreciate it if they did.

Q Are you aware that Mr. Finkbeiner has ongoing litigation of his own, ongoing criminal charges?

A Yes.

Q Have you made any efforts to contact his attorney?

A No.

Q Are you aware that Mr. Brown is homeless and living in South Florida?

A Yes, I am.

Q Have you ever asked us how to get in touch with him? I mean, you got in touch with him somehow.

A I spoke with his probation officer.

Q Have you ever gone down there to try to interview

in person?

A No, sir.

Q Have you ever tried to interview Mr. Chappel in person?

A No, sir.

Q Mr. Finkbeiner?

A No, sir.

Q And, again, when is the last time you tried to reach out to any of these individuals?

A After they told me they did not wish to speak to me any further. It was in October of 2022.

Q In October of 2022?

A Yes.

Q So, in essence, you didn't give our office the chance to correct them because you had the answer you wanted, which was that you thought they had something --

MS. CARMODY: Objection, Your Honor.

THE COURT: I'll sustain that.

MR. EVANS: That's fine, Your Honor.

BY MR. EVANS:

Q This motion was filed in May of this year?

A Correct.

MR. EVANS: Those are all the questions I have, Your Honor.

THE COURT: All right. Thank you. Anything else, Miss Carmody.

MS. CARMODY: No, Your Honor.

THE COURT: All right. Thank you, Miss Price. Yes, ma'am, Miss Carmody.

MS. CARMODY: Your Honor, I have Agent Williams the contraband officer from SCDC. He was here this morning. He is under subpoena. He is not here. I don't want to ask for a bench warrant for a SCDC employee, so I would ask for the Court's indulgence to try and reach him.

THE COURT: You know --

MS. CARMODY: He was here, so I'm not sure where he is. We've been trying to contact him.

THE COURT: Well --

MS. CARMODY: I mean, I don't know. He works for SCDC. He is the contraband officer.

THE COURT: What are you trying to get him to say?

MS. CARMODY: Sure, Your Honor. Yes, absolutely.

So, Your Honor, it's my understanding that SCDC, Agent Williams, a contraband officer, will testify to the Court that the cell of the victim in

this case, Mr. Holmes, was intentionally left unlocked. There was nothing wrong with the locking mechanism on that door. The cell was intentionally left unlocked by the guard, which would have been Tyreece Griffin. There were also additional cells that were intentionally left open by Tyreece Griffin, that there was nothing wrong with --

THE COURT: Let me ask you: Are you telling me he's going to say that, or you're going to ask him questions under oath about whether that's the case?

MS. CARMODY: Well, Your Honor, it's in his report so I would imagine, if he testified to anything different --

THE COURT: Well, Miss Carmody, he's your most important witness, isn't he?

MS. CARMODY: Yes, Your Honor.

THE COURT: Well, Miss Carmody, how did you let him escape? I mean --

MS. CARMODY: We have another witness on the stand.

THE COURT: But we broke for lunch. Did you talk to him before we left for lunch?

MS. CARMODY: No, Your Honor. As an SCDC employee, I would have hoped he would have come

back.

THE COURT: No, ma'am, Miss Carmody. That is not --

MS. CARMODY: He's an officer.

THE COURT: You check with your witnesses. Come on.

MS. CARMODY: Your Honor --

THE COURT: So do you have a number for him? Do you have a cell number?

MS. CARMODY: Yes, Your Honor.

THE COURT: Well, why don't you call the cell number.

MS. CARMODY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

(Miss Carmody exits the courtroom.)

THE COURT: Can somebody go and see where Miss Carmody is? It doesn't take that long to dial the gentleman's number.

MS. CARMODY: Your Honor, he will be here in 30 minutes. I thought I called his cell this morning, but he said no it wasn't. I could have sworn it was him. He will be here.

THE COURT: Stand down. Stand down and we'll go with our next hearing.

MS. CARMODY: Thank you. Your Honor, do

you want me to do the speedy trial motion?

THE COURT: No.

MS. CARMODY: Okay.

THE COURT: You-all can stand down.

(Case stood down for other matters; no omissions or deletions.)

THE COURT: Yes, ma'am.

MS. CARMODY: Thank you, Your Honor. This is continuing with the case of Benjamin Dubois. The defense calls Agent Williams.

THE CLERK: Raise your right hand. Place your 1eft hand on the Bib1e, sir. The testimony you give the Court wi11 be the truth so help you God?

THE WITNESS: I do.

THE CLERK: Come right around and have a seat in the witness chair.

THE COURT: Hey, Agent.

THE WITNESS: Hi. How are you?

THE COURT: Good.

THE CLERK: You can adjust that mic, sir.

WHEREUPON:

LEANARD WILLIAMS,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. CARMODY:

Q Good afternoon, Agent Williams. Agent Williams, could you please state your full name for the record and spell it for the court reporter?

A James Leanard Williams, J-a-m-e-s, L-e-a-n-a-r-d, W-i-l-l-i-a-m-s.

Q And Agent Williams, where do you work?

A South Carolina Department of Corrections.

Q And where were you working in June of 2017?

A At the South Carolina Department of Corrections.

Q All right. And what is your job title at the South Carolina Department of Corrections?

A I am the contraband lieutenant and the STG assistant.

Q Okay. And back in June of 2017, did you have an opportunity to investigate the death of Mr. Holmes?

A I did.

Q And Mr. Holmes was housed in cell 5 at the Ridgeland Correctional Institute?

A That is correct.

Q And that was Savannah B wing.

A Savannah B wing, number 5.

Q Yes, okay.

Now, are you aware during the course of your investigation that the sole officer assigned to that unit was Mr. Tyreece Griffin?

A That is correct.

Q All right. Now, I'd like to show you what's premarked as Court's Number 6. Agent Williams, could you identify that document, please?

A This is an evidence card written out by myself for evidence that was collected during that particular investigation.

Q And what did you notate on the evidence as it pertained -- those are for cell phones, correct?

A That's correct.

Q And what did you notate on that evidence?

A On that the cell phone, the flip phone that was collected, it says on my evidence form, "Possible employee involvement."

Q Thank you, sir.

Sir, if you could please look at Court's 7. And do you recognize those as a pair of Crocs?

A Those are state-issued Crocs by the South Carolina Department of Corrections for inmates.

Q And is it your understanding that those Crocs were located in the cell of Mr. Julius Highland?

A That is correct.

Q And is it your understanding that Mr. Julius Highland's cell was one of the cells that was left unlocked on the night of June 20 to the 21st -- June 21st to 22nd. I'm sorry.

A Yeah, I can't corroborate that to be exact. For cell number 3, I think that he was located in, to be unlocked.

Q That cell was unlocked when you got there?

A That morning that's -- actually, that morning that cell was locked.

Q Julius Highland's cell was locked that morning?

A Uh-huh. To my recollection.

Q Had somebody gone around and locked the cells?

A At the time that this incident took place, to my recollection, they had went through the building and secured all the doors that could be secured in that building at that time.

Q All right.

A So upon my arrival, to my recollection, those cells were secured.

Q Do you recall securing cell 5?

A Cell 5 was left the way it was. It was not touched. It was actually roped off until the SLED agent came to begin their investigation. Nothing was touched in that cell.

Q Right. You locked the cell to secure the scene, right?

A That door should have been locked, correct.

Q Okay. And now my question to you is -- I'll take that back from you.

So on the cell doors that were unlocked that night -- you investigated the case, correct?

A That's correct.

Q All right. On cell doors that were left unlocked that night, do you have -- was there any reports that there was damage to the cell door that it could not be locked?

A At that particular time in that particular building, as a matter of fact, in the majority of the buildings that were in the South Carolina Department of Corrections at Ridgeland, the inmates were able to kick the door open. So there were many doors in that building at that time that were unsecured or was broken. There were reports that turned into the institution. I can't tell you exactly where they are.

But after that, those incidents began happening, we then began to triple cell all the inmates at that particular time.

Q Okay. So the -- all right. So the cell door that

had been tripled celled with inmates, would have been locked?

A Yes, they would have been locked.

Q Through your investigation, did you learn that Mr. Dubois's cell was locked all night?

A No, we did learn through that investigation that his door was unsecured.

Q Okay. And there was nothing wrong with the locking mechanism, correct?

A That is correct.

Q All right. And Tyreece Griffin was the sole guard on the unit that night?

A That is correct.

Q Did you also learn through your investigation that Jerry Holmes's cell was unlocked that night?

A That is correct. It was also unsecured.

Q Was there anything wrong with the locking mechanism?

A There was not.

Q Okay. There was approximately, I believe -- we go through all the numbers in the report. Were there approximately 10 to 12 cells of a similar nature that were left unlocked or unsecured?

A I could not give you the exact number of cells that were discovered to be unlocked.

Because, like I said, we did -- when I arrived that morning to begin going through the jail, the majority of the doors known to be were then secured.

Q Were you informed through the course of your investigation that there were several inmates that were out on the rock that night?

A That's correct.

Q And in order for the inmates to be out on the rock, their cell door would have to be unlocked, correct?

A That is correct.

Q All right. And you had no problem in the morning going around and securing all the cell doors?

A The doors that were able to be secured, we did not encounter any problem.

Q All right. I just want to go through a couple more things here.

All right. Do you recognize Court's 10?

A Yes, I do.

Q And what is in Court's 10?

A Those are pictures of weapons that were discovered in the bathroom of the Savannah B wing.

Q Okay.

A On morning of the 15th.
Q Okay. And, to your knowledge, were those items sent toe SLED?
A I cannot say with a definite yes that there was evidence wherever -- part of their investigation -- anything that was evidentiary value was collected by SLED and deemed to be appropriate. But I can't tell you that these actual evidence was turned over to them as evidence.
Q Okay.
A Because they were not located at the scene of the crime. They were found in the restroom.
Q Okay. And it's your understanding that Mr. Holmes had died of a -- you know, of essentially a stabbing, correct?
A That is correct.
Q And could -- you know, those weapons are sharp, homemade objects?
A Yes.
Q All right. And they were located in the common area bathroom?
A Common area bathroom, that's correct.
Q Now, if these items were not turned over to SLED, then would you still have these in your possession at

SCDC?
A We would not because they were not part of our evidence, part of that particular crime, or had blood stains that were turned over to the agent, we would not still be in possession of it.
Q What about those Crocs from Mr. Highland's cell that I asked you earlier? Do you have those in your possession at SCDC?
A We did not, because they were not deemed to be of evidentiary value. They were voluntarily offered to SLED agent, but they didn't deem that it was of any evidentiary value and they were not kept as evidence.
Q Do you recall writing an incident report where you said that the items were sent to SLED for analysis?
A No, I would not -- SLED -- I don't think I wrote in my report that they were sent, that they were offered.
Q I'll grab the report in a second.

Do you recognize these shoes here as Crocs?
A Yes, I do.
Q Those are Crocs from the victim's cell?
A Okay.
Q What happened to the items in the victim's cell?
A All those items were collected by the SLED

agent and the police service agent for SCDC and should have booked as evidence.

Q Okay. And if that Croc right there had not been received by SCDC into evidence, would you still have that in your possession?

A First of all, I would have never collected it because it would have been the duty of the SLED agent and the police service agent to do that collection.

Q Okay.

A That came out of that particular cell.

Q And if that item of evidence there is not in SLED's possession or was not collected by SLED, would you still have it?

A I would not have it, because I would have never collected it.

Q Okay. All right.

Now, pertaining to Jerry Holmes's clothing, were you involved in the removal of his clothing?

A I was not.

Q Were you involved in putting his clothing out to dry in the rain?

A His clothing was collected and also turned over to the police service agent, to my recollection.

Q Okay. You don't recall his clothes being put outside to dry?
A His clothes was, I recall, was put out to dry. That is correct.
Q Do you know who did that?
A Either myself or Lieutenant Mobil.
Q Where would the clothes be put out to dry?
A As I recall, it was in the medical area.
Q Outside in the medical area?
A Right.
Q Were they put down on the ground, a picnic table, hung on a clothes line?
A I can't recall.
Q No?
All right. And then do you recall it ended up raining on the clothes a second time?
A I do recall that.
Q All right. And then after that, were they just disposed of?
A I do not know. Those clothes were collected and put back in the bag and eventually still turned over to the police serving agent. Now, whether it was destroyed, I don't recall.
Q All right. Do you have any items of evidence related to the death of Jerry Holmes in your evidence

locker at SCDC?
A We do not.
Q And anything that was related to the case that you worked on, which would have been the contraband case --
A That's correct.
Q -- those items were all destroyed, correct?
A That would have been after when we had a hearing for the charges we brought against inmate Dubois at that time. And once a determination would have been made, then that evidence, at that time, would have been not deemed necessary.
Q And by not deemed necessary, you mean destroyed?
A That is correct.
Q Do you have any record of when they were destroyed?
A I would have to go back and look in the log and see exactly when they were, but it's not very far after the evidence determination would have been made. We're only required to keep certain evidence for a particular period of time.
Q Okay. Do you have any video cameras from that night?
A At that particular time in that year, there were no video footage available.

MS. CARMODY: I don't believe I have any further questions, Your Honor.

THE COURT: Thank you.

MS. CARMODY: Please answer any questions for Mr. Evans.

THE COURT: Solicitor Evans.

MR. EVANS: Thank you, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. EVANS:

Q Agent Williams, when you arrived at Savannah B that morning, you saw the scene? You saw cell number 5, correct?

A That is correct.

Q You saw the homemade knives? Those are sometimes called shanks, correct?

A That's correct.

Q Or shivs maybe, is that a more old fashioned way --

A It would be shank.

Q So you saw the shanks in the shower?

A Yes, sir.

Q Were they wet?

A They were not. I believe we checked all of it. What we were mainly looking for is to see if

they contained any blood, if they were part of the scene. And I believe, to my recollection, they were deemed to not necessarily be part of the scene because they didn't have any blood on them.

Q They did not have any blood on them.

A They did not.

Q Okay. Do you check that yourself?

A Yes, I do.

Q Did the SLED crime scene agents check that as well, or did they go off of your word?

A I don't -- because -- since it was away from the part of the actual scene, we just informed them of what we found.

Q All right. So nobody collected those?

A No.

Q And they were eventually -- they didn't just give them back to the inmates?

A Exactly.

Q So you, in your experience as a South Carolina Department of Corrections officer did not find any evidentiary value when you examined them?

A That's correct.

Q You collected some cell phones?

A That's correct.

Q All right. That was after the fact?

A That was after the fact.
Q In fact, that was after SLED had done their search and left?
A Yes.
Q Was it the same day or the following day?
A I think that some of it was the same day and some of it was the next day because they were there quite a few days.
Q So the few days to search --
A To search the whole building.
Q All right. And you collected every phone that you found in Savannah B?
A That's correct.
Q And why did you feel that there was possible officer involvement that you wrote on there?
A We had one cell phone that was actually -- to my recollection, were unlocked where there was a conversation between an inmate and an outside individual as to what was taking place. And that is the reason why we made a notation to send it to police service agent to check that particular phone out to see if there was anything in there that could be helpful.
Q And did you -- either before collecting that cell phone or any time after, develop any evidence of any

officers being involved in killing Mr. Holmes?
A No, definitely not.
Q Okay. There was some officers doing some bad things that night, right?
A That's correct.
Q And they were charged and fired because of it, right?
A Right, that's correct.
Q But they weren't part of the killing?
A No, they were not.
Q After SLED crime scene comes down in cases like this and they process the scene, do you ever collect any evidence?
A No, we do not. The SLED agent and the police service agent are the first investigating agent that comes in and makes that determination.
Q And you're not responsible for coming up with criminal charges. You do disciplinary charges.
A That's right.
Q In the prison?
A That is correct.
Q Okay. And so you help -- I take it, you help SLED and police services and whatever they need for their investigation but you don't make decisions about what to collect, charging decisions, anything like that?

A That is correct. We only tell them what we see.
Q Before they got there?
A Exactly.
Q Okay.
A That could be helpful in making any decisions along that way.
Q Thank you.
MR. EVANS: Those are all the questions I have.
THE COURT: Miss Carmody, anything else?
MS. CARMODY: Yes, Your Honor. Beg the Court's indulgence, Your Honor.
THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

BY MS. CARMODY:
Q Agent Williams, could I just ask you to read your report here and refresh your recollection real quick?
A (Complies.)
Q Okay. Agent Williams, the Crocs that were located in Highland's cell, those Crocs contained blood?
A They did.
Q Okay. And what did you indicate in your report happened with those Crocs?
A I indicated that they -- in my report during

the DHO hearing for inmate Dubois that those Crocs should have been sent for analysis by SLED.

Q And, to your knowledge, were those Crocs sent to SLED?

A Like I say, they were deemed not to be necessary.

Q Okay.

A And just to -- just to reiterate on what I was saying, we work on a value of -- for investigations for South Carolina Department of Corrections, we have 21 days to investigate an incident and make a report. It does not necessarily mean that all evidence had been sent to the appropriate agency and they deem it necessary to be used. So we can only go on the evidence -- the information that we have at that particular time.

Q And just one last question, Agent Williams. Tyreece Griffin, the guard that was working at the Savannah B unit, he was also present for the investigation? He hadn't been fired at that time, correct?

A Part of that investigation. Not all of it. That's correct.

Q Okay. At the time SLED was there, he was

involved?
A (Witness nods head up and down.)
Q Yes?
A Yes.
MR. EVANS: No further questions, Your Honor.
THE COURT: Anything else, Mr. Evans?
MR. EVANS: No, Your Honor.
THE COURT: Thank you, sir. You can step down. Have a great day.
All right. Miss Carmody, what else?
MS. CARMODY: That is my last witness, Your Honor.
THE COURT: Anything else you want to tell me about the due process argument, ma'am?
MS. CARMODY: Oh, yes, Your Honor. Absolutely.
MR. EVANS: Your Honor, are we preparing to argue? I have one witness, very brief.
THE COURT: Oh, okay. So he's got a witness. Go right ahead, yes, sir.
MR. EVANS: The State calls CJ Lowery.
THE CLERK: Raise your right hand. Place your left hand on the Bible, sir. The testimony you give the Court will be the truth so help you

God?

THE WITNESS: I do.

THE CLERK: Go right around.

WHEREUPON:

CLARENCE LOWERY,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MR. EVANS:

Q Please give your name and your title to the court reporter, sir?

A I'm Investigator, first name is Clarence, last name Lowery, L-o-w-e-r-y.

Q And Mr. Lowery, are you employed with the 14th Circuit Solicitor's Office?

A I am.

Q Are you assigned as my investigator?

A I am.

Q And have we been working together on this case for roughly a year?

A At least.

Q Have you been in contact with Casey Chappel?

A I have.

Q With Mr. Finkbeiner, his first name I'm forgetting at the moment?

A Yes.

Q Craig. And with Jacob Lee Reynold?
A Yes.
Q You've been in contact with all three of them over the last year, roughly?
A Yes, sir.
Q Have you ever told any of them that they are not to speak to any members of the defense team?
A No, sir.
Q Have you ever told any witness that in your tenure with the 14th Circuit Solicitor's Office?
A Absolutely not.
Q Or in your prior career as a law enforcement officer?
A No, sir.
Q Did you have any occasion to call Mr. Chappel today?
A I did.
Q And did you address with him the allegations that were being made in this courtroom earlier today?
A I did.
Q What did he say?
A He advised me that the only time that he had spoke with anyone with the defense was the time that he advised us, when we met with him back in October, I believe, of last year, getting ready

for trial. And he advised me that he told them that he did not wish to talk to them. That he was a witness for the State. And further details in regards to the guilt of the defendant that I don't feel is appropriate to say at this time.

Q And did you reiterate to him that it is appropriate for them to ask, but it's his decision?

A Of course.

Q How about Mr. Brown, did you have any occasion to talk to him today?

A I did.

Q Did you inform him of the allegations that are being made in this court?

A I did not inform him of the allegations. I just asked him a couple questions.

Q Concerning whether or not we had ever told him something like that?

A Actually, I asked him if anybody from the defense has ever reached out to him to talk to him about this case.

Q And what did he tell you?

A No.

Q And just to reiterate one more time: With any of these three witnesses, have you ever told any of them anything other than it is their option whether to

speak to the defense or not?
A That's exactly what I told them.
MR. EVANS: That's all the questions I have.
THE COURT: All right. Cross-examination.
MS. CARMODY: Thank you.

CROSS-EXAMINATION

BY MS. CARMODY:
Q Mr. Lowery, with regard to Mr. Brown, he's the man that's homeless?
A Yes, sir.
Q And who picked him up in Florida?
A It would have been our office. I believe the pick up was with Investigator Hightower and Phillips.
Q Okay. So you are not the only person at the solicitor's office who has ever had communication with the witnesses in this case?
A No, ma'am.
Q Thank you.
MS. CARMODY: No further questions, Your Honor.
THE COURT: All right. Thank you very much. I'm assuming you don't have any other

questions.

MR. EVANS: No, sir.

THE COURT: All right. Miss Carmody, anything else you want to tell me about the due process matter?

MS. CARMODY: Yes, Your Honor. Thank you.

So, Your Honor, starting with -- let me start with the issue of the witnesses first. Your Honor, it is the defense's position that one witness telling my investigator that, you know, they don't want to talk to the defense, or, you know, they don't feel comfortable talking to the defense, or they're instructed not to speak with the defense, within an isolated incident, two or more is a pattern. There is no doubt in my mind that the consistency in three witnesses now is that they were instructed not to speak with the defense. Three separate people. And to me, Your Honor, it doesn't have to be -- and I'm not suggesting it's Mr. Evans by any means, but I am suggesting that this message is coming across from the solicitor's office in some way, shape, or form where these, you know, witnesses feel like they cannot speak with the defense.

Your Honor, the issue in this case is heightened even further as these witnesses were all inmates at the South Carolina Department of Corrections and are intimidated by the solicitor's office in that they don't want to go back to prison. So they are not as happy to speak with the defense when they feel intimidated that they could potentially get in trouble for speaking with us. And I believe that's what these witnesses are conveying, is that they don't want to get in trouble. They don't want to talk with the defense.

Like I said, Miss Price has never had any problems with speaking with any of our witnesses, so this is odd that we have three separate witnesses in this case now. And, as I said, one would be, kind of, a coincidence but now we've got three, and I believe that's a pattern, Your Honor. That's for that issue on the statements.

The bigger issue is that, I said at the beginning of this hearing that my client is asserting a due process violation both under the federal test and under the State test.

So under the federal test, Your Honor -- let me just grab my case law here real quick. One

second, Your Honor.

So now we now talk about the *Youngblood* test, Your Honor, from the United States Supreme Court. And the United States Supreme Court under the federal test requires that a defendant show bad faith. And I believe that we have met that burden in this case because, Your Honor, this is not a case where we see, you know, neglect destruction of evidence, or, you know, evidence that was destroyed after it had been tested, or evidence that was lost after it had been tested, or marijuana that had been tested and that had been lost prior to trial.

In this case, we have Officer Griffin, the sole guard who was assigned to the SCDC, Savannah B wing, he provided information.that led the investigation, he was employed at SCDC and not charged with obstruction of justice and misconduct in office until August. He was ultimately fired. He was fired and charged with obstruction, for not only neglecting the inmates and not -- and leaving his post for a 6- to 8-hour period, leaving the cell doors purposely unlocked and allowing the prison to run itself, but he also doctored -- specifically doctored his logs to show that he had done his job that night, that he had checked on

the inmates, and that he had, in fact, been there when later, when initially confronted with this information, he lied. And he told SCDC that he had, in fact, been there. It wasn't until they determined that he -- they saw him on video and they determined that he was lying that he was fired. Unlike the other two supervisors who also penciled with the log. And the log is in -- actually, it's -- falsified log of Tyreece Griffin is number 1 on the list, Your Honor, for Court's exhibits.

So James Walker and Earl Scott were fired because they assisted in that. They penciled up the log. It was actually Tyreece Griffin who made the conscious, deliberate effort to create the log. You also heard testimony from Agent Williams who told you that the cell phone in the case had possible employee involvement. You heard from Agent Garvin who told you that the person that they were investigating for employee involvement was the same, Tyreece Griffin. Additionally, you heard testimony from Agent Williams that those cell doors weren't -- there was nothing wrong with the cell doors that they couldn't be locked. They had to have been intentionally left open by the

guard.

Additionally, you also heard testimony from him that there was, like, a text message conversation which led them to believe that there was possible guard involvement.

Your Honor, as I stated at the beginning, you know, he was charged with obstruction of justice. Obstruction of justice under -- you know, essentially, was the floor of this investigation. So SLED was basing the information in this case on information that was provided to Tyreece Griffin. Tyreece Griffin helped lead this investigation. That's the bad faith in this case that I believe far exceeds any case --

THE COURT: What's the bad faith?

MS. CARMODY: I'm sorry?

THE COURT: What's the -- you said you leave --

MS. CARMODY: The bad faith is because --

THE COURT: Hold on. You said you believe that's the bad faith. What is the bad faith?

MS. CARMODY: The bad faith is because the officer who was fired and lying and doctoring records and purposely leaving cell doors open.

THE COURT: The guy was derelict in his duty.

MS. CARMODY: Your Honor, he did more than that. He also -- he also doctored his logs.

THE COURT: Sure.

MS. CARMODY: Your Honor, he left the cell doors open. Cell doors that could have been locked, he left the doors open and let the prison run itself.

And there is no doubt in my mind that all of these guards are all aware of the weapons.

THE COURT: I thought the bath faith -- Miss Carmody, I thought the bad faith was dealing with law enforcement's investigation --

MS. CARMODY: It is.

THE COURT: -- and what they were turning over and what they failed to turn over, not what this --

MS. CARMODY: No, no.

THE COURT: Hold on. Not what this bad jailer did that led to this event.

MS. CARMODY: Your Honor, because what happened was, is that Griffin is still employed at SCDC at the time SLED is investigating this case.

THE COURT: Right.

MS. CARMODY: We have Crocs from the cell of Julius Highland. Julius Highland's cell was left unlocked. We have the Crocs from his cell. Those Crocs were never sent up to SCDC -- no. SLED.

THE COURT: Isn't that just sloppy police work?

MS. CARMODY: I'm sorry?

THE COURT: Isn't that sloppy police work?

MS. CARMODY: No, Your Honor, because the officer who lied and who has been charged with obstruction -- he's not only charged with, like the other officers, for neglecting his duties.

THE COURT: Right.

MS. CARMODY: Which is -- you know, he's charged with obstruction of justice because he was lying and doctoring his records and, you know, creating a false narrative that SLED was using to base their investigation.

Additionally, the Crocs that were in Julius Highland's cell, nobody knows what happened to them. No one know what happened to those Crocs.

We have the blood on the cell door for cell 18, no one knows whatever happened to that.

We have numerous weapons that were in the bathroom. No one can say whatever happened to those.

We have the victim's clothing, as I mentioned, Your Honor, which I would concede that I believe that the issue with the victim's clothing may have been more negligent. That I would say is more negligent.

But the issue of bloody Crocs that were supposed to be turned over to SLED and, all of a sudden, they're gone, SLED doesn't have them. We never received a report.

We also have the blood on the cell door that was never collected.

So this officer is involved in a SLED investigation while SLED is on scene. He's still involved. He's the one who's providing the information. As they say, they direct SLED as to where to look for evidence. Look for evidence over here, or look for evidence over here. This is involved and this isn't. This officer, who is involved in this, what I believe is actually a cover-up, is directing SLED investigation.

THE COURT: I thought these witnesses were.

MS. CARMODY: Your Honor, they weren't present. The guard wasn't present.

THE COURT: But they were telling -- he just said he was telling SLED where to look, where the shivs were. He said he told him.

MS. CARMODY: Because the sole officer who is assigned to that unit was Garvin.

THE COURT: Was what?

MS. CARMODY: I'm sorry. It wasn't Garvin. I'm sorry. Griffin. Too many G's. Griffin was the sole guard who was assigned to that unit.

THE COURT: I understand that.

MS. CARMODY: They are relying on information from Griffin as to what happened. Griffin is the first one that was on the unit that night.

THE COURT: There's been no testimony that Griffin was the one who told them where to find the shivs in the bathroom.

MS. CARMODY: No, Your Honor. That was --

THE COURT: He was telling SLED where

this information was.

MS. CARMODY: Yes, Your Honor.

THE COURT: Not that fellow. Not the derelict.

MS. CARMODY: Your Honor, so the items of evidence that aren't collected by SLED, there's a reason that they were not collected by SLED.

THE COURT: What's that reason?

MS. CARMODY: It exceeds negligence, Your Honor, because this officer who's trying to cover himself and cover his tracks, and who is potentially involved in an employee-involvement murder is trying to cover for himself. And he is the one who is giving the information to the contraband -- giving the information to the investigators. They are trusting what this officer tells them is true. And it wasn't until later that they found out the information is false.

And because they are basing their investigation on a false narrative from an officer who works for the institution and who is providing information that's driving this investigation and their making decisions on what to collect and what not to collect based on that information, I

believe that that far exceeds any negligence. You know, *We lost a firearm that had already been tested. We accidentally destroyed drug evidence.*

I believe the defendant in this case can meet standard for bad faith.

If the Court is not inclined --

THE COURT: Is there a definition as to the standard of bad faith? What is the definition of standard of bad faith? What is it?

MS. CARMODY: Your Honor, it says -- hold on one minute, Your Honor. I'll pull it up right here. I'll pull up the case, Your Honor. The act of bad faith and failing to preserve potentially useful evidence.

THE COURT: You're talking about *Youngblood*.

MS. CARMODY: Yes, Your Honor, *Youngblood*. I'm talking about the federal test right now.

THE COURT: Yeah, I'm looking at the federal test and doesn't define bad faith.

MS. CARMODY: Well, it says our State Supreme Court actually defined what's not bad faith in *Reeves*, where they said that, you know, they tried to equate negligence to bad faith, or

recklessness, and the Court said no.

THE COURT: What's the relationship between gross negligence and bad faith?

MS. CARMODY: Your Honor, bad faith is misconduct in office and obstruction of justice.

THE COURT: Okay.

MS. CARMODY: That is bad faith. Bad faith is when you have a guard whose purpose is to doctor records.

THE COURT: Would that be dishonesty of belief, purpose, or motive? Would that be a good definition for bad faith?

MS. CARMODY: For what now?

THE COURT: Dishonesty of belief, purpose, or motive.

MS. CARMODY: Yes, Your Honor.

THE COURT: All right. That's Black's Law. Go ahead.

MS. CARMODY: Thank you, Your Honor.

All right. Your Honor, so I believe that the defendant has met the federal test for bad faith. Now, our state actually expands on the federal test and allows for an alternative means of showing a due process violation.

THE COURT: Right.

MS. CARMODY: Beg your indulgence, one second.

Your Honor, so the *Cheeseboro*, our court actually says we can use bad faith or we can show that the evidence possessed an exculpatory value prior to being destroyed and the evidence cannot -- comparable evidence cannot be obtained by other means.

All right. So if we start with Mr. Julius Highland's Crocs that were in his cell. Those Crocs are shown on Court's Exhibit 7. The Crocs from Julius Highland's cell, according to Agent Williams, had blood on the Crocs. They were located in another inmates cell, not Mr. Dubois and not Mr. Holmes. That cell door was unlocked.

Having a bloody crime scene and then finding blood in another inmate's cell is most certainly exculpatory. Agent Williams knew it was exculpatory.

THE COURT: Tell me why is it exculpatory. You're saying it obviously is.

MS. CARMODY: Yes.

THE COURT: Tell me why that's exculpatory.

MS. CARMODY: Your Honor, because that

means that -- let me back up for a second.

My client's DNA was not located in Jerry Holmes's cell. Jerry Holmes's DNA was not located in my client's cell. My client had none of Mr. Holmes's DNA under his nails. Mr. Holmes had none of my client's DNA under his nails. There is no evidence linking these two cells together. If the evidence on those shoes, which I believe to be blood, had been tested by SLED and came back with the victim's blood on it, that would certainly have been exculpatory for my client. That cell door was left unlocked and he had the motive, means, and opportunity to have killed Mr. Holmes.

Your Honor, and secondly, the second part of that test is that the evidence of comparable value can't be obtained by other means. The significant problem we have in this case, I can't even question Mr. Highland about those Crocs because the man is dead. He passed away while this case has been pending. He died --

THE COURT: When?

MS. CARMODY: And I believe that's number 16. He died on November 6th of 2021. Prior to him dying, not a single person took his DNA. DNA was never collected. We have -- I wasn't able to

contact him. I have no means whatsoever of even asking him about the Crocs that were destroyed. That goes to the --

THE COURT: Well, what do you mean? Why did you have no means? You've been representing this guy since '17.

MS. CARMODY: Your Honor, he's dead.

THE COURT: Well, he died in -- when did he die?

MS. CARMODY: Your Honor, I got this case in 2019.

THE COURT: When did he die?

MS. CARMODY: And, actually that's a whole other issue.

THE COURT: When did he die?

MS. CARMODY: He died on -- hold on. I have the date. November 6th of 2021.

THE COURT: So you've been representing him for over two years.

MS. CARMODY: Your Honor --

THE COURT: You couldn't find the guy?

MS. CARMODY: -- actually --

THE COURT: Hold on. Hold on. You couldn't find the guy? You couldn't ask him to take a swab? You didn't have a chance to do any

of that?

MS. CARMODY: Your Honor, I'll get there. There's actually two issues that are connected with that question. It's a very, very good question, Your Honor.

THE COURT: Thank you.

MS. CARMODY: I'll answer it.

So the report that Agent Williams actually testified about was suppressed by SCDC. We just received that report in October. This past October is when I received that report, and a disciplinary report that they say was misfiled because my client's name was spelled incorrectly on the report. That's number 1. So I didn't even have access to the information that those Crocs were even in his cell.

Number 2 is that the -- I just lost my train of thought. You asked me another question. Oh, the DNA. The DNA report that I received in this case, the State had in their possession -- and this kind of goes to my speedy trial argument for over two years before it was produced to the defense. And in those two years that the State had that DNA report in their possession, Mr. Highland died. So I have no idea where to

even look for this information or even ask for it. The man is not available for cross-examination. I have no other way of obtaining comparable evidence by other means.

THE COURT: All right.

MS. CARMODY: That satisfies the second part of that test, Your Honor.

THE COURT: Okay.

MS. CARMODY: So, Your Honor, then we go --

THE COURT: Let me just ask you this.

MS. CARMODY: Yes.

THE COURT: For the sake of trying to move things along. What items of evidence are not available that you contend would be exculpatory? Because that really is the question.

MS. CARMODY: It is, Your Honor.

THE COURT: You told me the Crocs. So what else?

MS. CARMODY: Highland's DNA, the Crocs from Highland's cell, the blood on the cell door for cell 18, the weapons which they are alleging that my client committed this heinous crime with a sharp-edge weapon, homemade-edge weapon.

THE COURT: All right.

MS. CARMODY: You saw a photograph of several of them. None of those weapons were collected. Those would have been exculpatory as well.

Victim's clothing, Your Honor, I will admit that that, to me, screams negligence. Who cuts off clothing and puts it outside in the rain to dry? I don't understand that, Your Honor. Not once, but twice. The same thing. That -- this was -- this fight in this cell, Your Honor, was an absolute death match. One person was coming out of this cell alive. And the perpetrator's DNA would most certainly be located on that victim's clothing. We have no idea what's on the victim's clothing.

THE COURT: All right. What else? Let's move things along on this one.

MS. CARMODY: The body. Your Honor, the body as well. Washing the body prior to autopsy.

THE COURT: Okay.

MS. CARMODY: They destroyed any type of evidence that would have been on it. How do we obtain that by other means?

As I said, Your Honor, I believe that, you know, we met the bad faith requirement in the

federal test. And, if Your Honor doesn't agree, I believe that we have certainly satisfied prong 1 and 2 of the test in *Cheeseboro*.

THE COURT: All right.

MS. CARMODY: I believe that is it.

THE COURT: Let me hear from you, Mr. Evans. She can check her notes if she's left anything out.

MR. EVANS: Thank you, Your Honor. I'm going to try to keep it brief. This, to me, is a motion without merit. She is conflating her jury arguments about the quality of the investigation with a due process standard that essentially she's asking this Court to impose a new rule that says, if law enforcement fails to collect anything that the defense might later want, not only is it an argument for the jury, in fact it shouldn't even see a jury. That is essentially what she's asking you here for, Judge.

First of all, the standard for exculpatory evidence is that it has to establish the defendant's -- it has to tend to establish the defendant's -- at least a reasonable doubt as to his guilt. The shoes that she showed you from Highland's cell -- I believe you have a color

copy -- you can see, Judge, she didn't hand up any pictures from the victim's cell. But you heard it described today as -- I don't know exactly what words, but essentially a blood bath. There is more blood than Mr. Garvin had ever seen in any case he worked before in that cell, versus the Crocs that were in Mr. Highland's room, which were photographed by SLED documented in that fashion, they have the tiniest spec of what might possibly be blood.

And the allegations against Mr. Highland that are going to come out through the witnesses, whom she says that she's having trouble communicating with, that testimony is going to be that Mr. Highland participated after the fact in cleaning up the scene that her client caused. So victim blood on Mr. Highland's shoes would not tend to create a reasonable doubt on the part of her client, who is the only one who's going to be alleged by any witness to have participated in the actual killing, the stabbing the victim, Mr. Holmes in this case.

She had knowledge, or she, at least, was on notice of those Crocs way back in November of 2019. That's when she received the case file from

our file, which included the crime scene photographs. She downloaded it the same day, based on my notes.

So she's been on notice that there are these shoes that she, you know, now wants to turn into the smoking gun, if will you, in this case.

Here we are, 2023. Now, she's going to get into, you know, I'm sure in just a few minutes how she thinks this case should be thrown out if you don't grant this motion for a speedy trial violation. Well, she's had this evidence in her possession for more than three years.

THE COURT: All right.

MR. EVANS: She's also -- I mean, the whole idea that she's going to -- she would be able to use Mr. Highland to prove his own guilt somehow and disprove her client's guilt at trial, she would not be able to call him. I mean, she can call him, I suppose, as a witness, but he would be able to plead the 5th. He wouldn't have to speak to her at any juncture if she communicated him while he was still alive. As Your Honor indicated, she got the case in 2019. The public defender's office had it essentially from the beginning when Miss Carmody got it in

2019. Mr. Highland died in late 2021. So there were opportunities to interview him, but he wouldn't have had to say -- he wouldn't have had to cooperate. Obviously, he was charged with his own very serious offense, accessory after the fact to this murder.

So, in my view, he wouldn't have been able to testify here -- I mean, he wouldn't have elected to testify. He would have pled the 5th if he had survived and been called by Miss Carmody as a witness. But at any rate, Your Honor, she did have plenty of time in which to reach out to him.

I do want to protect the record. I'm going to try to sit down soon, Judge, but just, as far as all this business about Mr. Griffin and his -- she's trying to say that it's his crimes which he was charged for and fired because of, that's the bad faith as if he -- the dirty guard is the investigator in this case. It's her motion. It's her burden. She's shown nothing to say that this man, William Garvin, who was in charge of the investigation used any bad faith. None. Her allegation is that Mr. Griffin, by committing his own crimes, covering up his own misdeeds, his failure -- and I'll agree with her

on the fact that he did a terrible job that night in keeping the prisoners safe from each other, but he didn't stab Mr. Holmes.

And it's not on her motion, Judge, that she filed in May and that we attempted to argue last month before we ran out of time on that non-jury day.

THE COURT: All right.

MR. EVANS: She hasn't revised it, and neither of the allegations -- and I apologized to Miss Price off the record, and I want to apologize to her on the record for being short with her on my cross, but when Miss Carmody -- and I appreciate her saying that she doesn't think I had anything to do with witnesses being told not to talk to her, but when she accuses my investigators of doing that, Your Honor knows that they are under the lawyer's supervision and that's tantamount to saying the same thing about me, and that wasn't on her motion. I was lucky to be able to get Mr. Lowery down here from Walterboro in time to testify. But that is just a spurious allegation.

THE COURT: Well, I'll tell you, I've heard enough as it relates to this matter.

MS. CARMODY: Your Honor, may I reply?

THE COURT: No, ma'am. No, ma'am. I've -- no ma'am. I've heard enough as it relates to this issue. We've been going on for over an hour on this. Actually, way longer than an hour. We started this morning on this matter -- or before lunch. And so, I've heard plenty.

What I will say is this: You know, I practiced law for a long time and there are people who want to talk to you and there are people who don't want to talk to you. And people who don't want to talk to you, they're going to use any excuse or say what they think they heard. I call it water cooler talk. I mean, you know, they just *Well, you know, you don't have to talk them. Well, they told me I can't talk to you.* I mean, it just flips back and forth. People say things that they think they hear. They pick it up on *Law & Order*. You know, as far as that goes and the conversation, I'm just not going to put a lot of weight on that.

What I will say on this: I do not believe that they have shown bad faith in this matter. I believe that what has been shown is there was truly some, what I would call, serious

disorganization in what obviously was a very difficult situation that arose and certainly could have been handled better. I believe that there was a -- potentially a criminal element from the guard that was on duty. But that criminal element, I don't believe, is what is giving rise to what the Supreme Court is talking about in bad faith.

They start talking about -- they're talking about the police and talking about investigation and talking about turning things over. Had they not turned over -- had they not turned over the photograph of the shoe, I think that that goes to show some real bad faith. But they're going and they're showing these things even though they don't have it. Okay? It's not like -- they're saying, *We put the shirt out in the rain*. That was dumb. Okay? But they tell you that and that's what they did. I think that that is a matter of, perhaps, a very grossly negligent investigation.

And I'm not casting dispersions on the investigation that anyone made. I am just saying that certainly there are things in retrospect could have been a whole lot better. But as we got

-- you know, looking back with rose-colored glasses, it's easy for me to say, as I'm sitting in the air conditioning, relaxed after a big lunch. So I just don't think that they've shown bad faith.

Now, my question is, and what I do have concern about, is the "or" section as it relates to the South Carolina law. The federal, I'm sorry. I just don't think, when you look -- and I think it's easy to craft -- when you look on the page you've given me, Miss Carmody, on section 1 -- and I'm referring to *Arizona vs. Youngblood.* It talks about the due process. It talks about exculpatory. We think that requiring the defendant to show bad faith on the part of the police limits both the extent of the police's obligation to preserve evidence to reasonable bounds -- I mean, it goes on and on. And I just think that's there. I think that -- you know, they didn't photograph. They saw that the knives and the shivs were somewhere else, and so it wasn't -- they didn't assume it was related to what took place in another section. Maybe within the same unit, but it's over here in a common bathroom, or somewhere else, and the murder took

place over here, you know, some distance away. So I think, again, maybe in retrospect looking back, they should have done that. But the testimony here today, I just don't think there's bad faith.

My concern is the "or" section in *Cheeseboro* which says, "To establish a due process violation, a defendant must demonstrate, 1, that the State destroyed the evidence in bad faith." I don't think that -- I do not think -- and, to me, the burden is on the defendant to establish that as set forth in the federal case. This other case and the *Cheeseboro* case. I think that the burden is on the defense. They haven't reached that level of bad faith.

And I think bad faith, while, 1, you think of -- really you think it's more of a civil matter, but still, when I think of gross negligence and bad faith, I, kind of, almost think you could -- gross negligence, your intent -- you be can grossly negligent, but, to me, bad faith, it's an intentional doing. I'm intentionally putting this outside so it will wash away. I'm intentionally leaving these Crocs because I don't -- and I don't think there's any evidence at all that these investigators had any bad faith as

it relates to this.

My concern is on the *Cheeseboro* case, and I'm going to wrap that up so we can get to Miss Carmody's other argument. "Or," not "and", but "Or, 2, the evidence possesses and exculpatory value apparent before the evidence was destroyed ...," maybe substitute "lost" in this case, "... and the defendant cannot obtain other evidence of value by comparable means." That concerns me.

I hear you, Mr. Evans, but the shoe, if that ends of being -- I could see if there was blood, if it was tested, that that could be potentially very exculpatory evidence. But I also understand your position and the State's position that then if there's something that's -- I mean, you could be opening a box that anything they say that doesn't get tested could be now exculpatory and this matter should be dismissed.

So as it relates to that issue, I'm going to have to have some additional work. Sorry. I need something. A memo, or maybe a proposed order. However you want to present it to me. I've just got to have, and I got to do some more thinking, about the second part of the argument.

I'm uncommitted.

Let me ask you this: Do you understand the concern? You may agree with my reasoning, but you understand the concern that I'm raising as it relates to the issue, Solicitor?

MR. EVANS: I understand what you're getting at, Judge. I do have a case.

THE COURT: What I want to do is, I want you to submit that for me.

Miss Carmody, do you understand? I know you may not agree as it relates to my finding about the bad faith. But my concern concerning section 2 in the Cheeseboro case, do you understand what I'm looking to get some clarity one?

MS. CARMODY: Absolutely, Your Honor.

THE COURT: You-all get me that.

MS. CARMODY: Yes, Your Honor.

THE COURT: You-all get me that.

MR. EVANS: If I may, Your Honor, we're scheduled to go to trial in 18 days, so would you care to impose a deadline on us.

THE COURT: Well, yeah. Can you get it to me by the end of next week?

MS. CARMODY: Yes, Your Honor.

MR. EVANS: I'd like to be sooner, Judge.

We need to know, if you're going to -- you know, if you're going to grant her motion and dismiss this case, then we need to move on to the next one. First of all, we got witnesses coming from multiple other states. We'd like to do that before we start making those travel plans.

THE COURT: Well, just try to get that to me as soon as you can.

MS. CARMODY: Yes, Your Honor.

THE COURT: The sooner, the better. How's that?

MS. CARMODY: Yes, Your Honor. Absolutely.

THE COURT: So let's move on because we got to get back to another matter. I'll tell you, let's take a brief break so we can stretch, use the restroom, whatever you need to do. Then I want to come back and I want to address the speedy trial matter.

MS. CARMODY: It will be much quicker.

THE COURT: I know it will be. And then we're going to go back and I'm going to listen to some more phone conversations real quickly. Okay?

We'll be at ease for a couple minutes.

(A break was taken from 4:28 p.m. to 4:37 p.m.)

THE BAILIFF: All rise.

THE COURT: Thank you. Be seated.

All right. So I want to go back and I would like to, as quickly as possible, but making sure that everybody has an opportunity to state their case, address the speedy trial motion.

MS. CARMODY: Yes, Your Honor.

THE COURT: Yes, ma'am.

MS. CARMODY: All right. Thank you, Your Honor. Your Honor, this is in regards to, for the record, Benjamin Walter Dubois, case number 2017-GS-27-00582. This is the defendant's motion to dismiss for a speedy trial violation.

Your Honor, I, kind of, incorporated by reference a little bit part of my process argument. I indicated to the Court that on August 15th of 2017, Mr. Dubous was arrested and charged with murder in violation of South Carolina code. The warrant alleges that on June 22nd of 2017 that he, with malice of forethought, caused the death of Jerry Holmes with some type of homemade edged weapon. He was indicted on this case on May 31st of 2018.

On September 13th of 2017, prior to

Mr. Dubois being represented by counsel, he filed a motion on his own behalf for asserting his right to a speedy trial. That motion was docketed with the clerk's office in the form of a letter, but asserting his right to a speedy trial.

THE COURT: Yes, ma'am.

MS. CARMODY: Your Honor, then he also sent numerous letters to the Court. However, a hearing was not held on this matter until October 31st of 2019. And the reason that's significant is that at some point during that time, he was actually appointed to -- Robert Hughes was appointed to represent him. And the issue with that was that Robert Hughes didn't work in general sessions court. He only worked in magistrate court.

So for a significant portion of this case, from 2017 to 2019, until I started at the public defender's office, Mr. Dubois was, in effect, unrepresented by anyone. That is the issue that was before the Court on October 31st of 2019.

Judge Cochran at that time, I believe -- and I presented the transcript of that hearing to the Court --

THE COURT: Right.

MS. CARMODY: -- that addressed this speedy trial issue. The State at that time had 30 days to give me the discovery in this case, and also had to try the case within at first six months of 2020.

THE COURT: Right.

MS. CARMODY: Since that time, at every single time we had gone up for a bond hearing or any hearing in this matter, I've always told the Court that my client has asserted his speedy trial. And, you know, reminded the solicitor's office on numerous occasions by email, which are also part of the record, that Mr. Dubois had asserted his right to a speedy trial, that we are ready to go to trial on this case. And so that's a little bit of back history.

Your Honor, so under the 6th Amendment to the United State's Constitution, and all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. That's imposed on the State by the due process clause. The United States Supreme Court outlined the controlling factors to consider. Number 1 is the length of delay, Number 2 is the reason for the delay,

Number 3 is the defendant's assertion of the right, and number 4 is prejudice to the defendant.

So, the sole remedy for a speedy trial violation is dismissal of charges, and our Supreme Court in *Langford* outlined that.

Your Honor, the number one factor is the length of delay. So length of delay is what triggers the remaining factors in this analysis. And it's measured from the time that he arrested, indicted, or otherwise charged.

The Court in other cases has held that -- I believe it was two years and four months triggered additional review of the other factors.

In this case we have almost six years; 5 years, 10 months, and 28 days have passed since he's been charged. To me, that is absolutely astounding. But he asserted -- his right was triggered on August 15th of 2017 when he was arrested. So we're at 5 years, 10 months, and 28 days now.

The next factor, Your Honor, which I believe that we've met the burden for the length of delay in order to get to the remaining factors is the reason for the delay. And what the Court says is that, this is closely related to the

length of the delay, is the reason the State provides to justify the delay. So I believe this is the State's burden to show why the case has been delayed so long.

I will say, and I provided the Court in the Court's exhibits to this, that I have been on the solicitor's office for several years now to get this case tried.

The defendant has not consented to a delay. Back in November, this case was scheduled for trial, Your Honor. And, at that point, I had the flu and then COVID-19, and was unable to represent my client in this trial at that particular time. I don't believe that should be held against my client. It wasn't anything that I caused. It wasn't anything that, you know, anybody manufactured. It was the flu with COVID-19. So that was for November.

In December, the case was scheduled and Mr. Evans asked for a continuance because, ironically, that was the first time that the State actually looked at the physical evidence in this case, was back in the end of last year. And low and behold in the bottom of the evidence box, we find 10 cell phones. And on the cell phones it

says "possible employee involvement." We believe that, you know, the murder may have been committed (sic) on the cell phones. Maybe there's a video. So Mr. Evans asked that all those cell phones be extracted and moved the Court for a continuance. Judge Mullen, at that time, granted a continuance in the case, and I stress, Your Honor, that is the first time since 2017 that anyone from the solicitor's office has looked at the physical evidence in this case, which to me indicates their intent and willingness to try the case.

So the third factor, Your Honor, is the defendant's assertion of his right. And, as I outlined in the beginning, Mr. Dubois had filed a motion for a speedy trial back a month after he was arrested. This was September 13th of 2017. Despite numerous letters being sent to the clerk's office, that motion was not actually heard until October 31st of 2019. So he asserts his right and he's got to wait two years for a hearing on his request for a speedy trial, which I'm not sure what was going on at the time. As I indicated to the Court, you know, the record seems to reflect that Robert Hughes was representing him. Robert Hughes didn't even work in general sessions. He

was in magistrate court. So I don't believe that he had a lawyer at the time, Your Honor, that was actually looking at his case.

So, on October 31st of 2019, I was before Judge Cothran and the State, as I mentioned, had 30 days to produce discovery and try this case within the first six months of 2020. In the exhibits, Your Honor, that I presented as Court's exhibits it indicates that emails that I sent to the solicitor's office, *We're ready to go to trial. What are we doing with this case?*

Your Honor, ironically too, prior to Mary Jones, all his emails were ignored. I never got a single response from anyone's office. Nothing. I mean, the case was kicked around to five different solicitors. We had, Sean Thornton was on there, Patrick Hall represented the State in one hearing, Dustin Wexwell, then we had Mary Jones, then we had Reed Evans, and I believe there was actually another one. It might have even been six. It's just bounced around that office. And the Court has said, an upheaval at the solicitor's is not the defendant's fault. They have the obligation to bring the defendant to trial.

The prejudice that Mr. Dubois has

suffered in this case is so substantial and it's probably the most significant factor in this case and I want to incorporate everything that I brought up during my argument on the due process violation because that goes to the significant prejudice that he has suffered in this case. The three types of prejudice are oppressive pretrial incarceration, anxiety and concern of the accused, and the possibility the defense will be impaired.

Your Honor, I actually provided to the Court my memorandum so I'm not going to go through all -- just repeat what I put in writing, but I do want to hit on that third factor because our State Supreme Court held that that last factor is the most serious of these interests. The possibility the defense will be impaired. That is exactly what has happened in this case. As I mentioned, we have evidence that's been destroyed. We have a brand new DNA report that was produced to the defense at the end of 2022 that was in the State's possession for over two years that only compared the DNA of Mr. Jerry Holmes and my client. There are at least a minimum of four other DNA profiles on those articles that were tested and not a single other DNA profile was submitted for

comparison. Not the other cells that were unlocked, not Julius Highland, not Sims, not any of the other cells that were unlocked. Not even the guard.

THE COURT: Right.

MS. CARMODY: No one collected anybody else's DNA.

How in SCDC this can happen, I don't know. But that report now, I can't get his DNA. The man is dead. I did not have access to that DNA report until they sent it to me at the end of 2022. They had the report in their possession for over two years. I believe that, you know, the admissibility of that DNA is a whole other issue that will be reserved if this case goes to trial, but that is a significant prejudice to my client.

I believe that the -- you know, that the destruction of evidence in this case, and, like I said, I'm incorporating everything that I raised at the prior hearing. And the Court in *Reeves* called that an extremely close case. And I believe that the facts of this case are far outweighed than the factors the Court considered in *Reeves*.

You know, it's not like we can go back

and undo things. We can't do anything about Mr. Highland. We can't do anything about evidence that's gone. And, like I said, Your Honor, I didn't have knowledge about the DNA issue until -- I don't believe the State did either. The State didn't look at the evidence.

THE COURT: All right.

MS. CARMODY: I want Mr. Evans to look at the evidence.

THE COURT: Thank you. Mr. Evans, yes, sir.

MR. EVANS: Thank you, Your Honor.

Going through the *Barker* v. *Wingo* factors, I agree with Miss Carmody that the length of delay is sufficient to trigger the rest of the analysis. That is the procedure that they lay out. I mean, you don't even get to the next step, essentially, what they're saying, if you don't have a significant enough delay.

But it's important to remember, Judge, that the delay that Mr. Dubois has been experiencing is significant, but the cases always say that speedy trial depends on the facts and circumstances of each individual case.

So the assertion of his right -- I've

heard a lot, Judge, since I've been on this case from Miss Carmody at various bond hearings about this October 31, 2019, so-called order from Judge Griffin -- no, Cothran. I'm glad that she handed up the transcript. And I suspected that she might. Because when I asked for the transcript from the court reporter, it came to me in about five minutes, so I knew that Miss Carmody had already gotten it. I would urge you to read that transcript, Judge.

The Court: "When are you going to trial?"

Mr. Hall, Mr. Patrick Hall was still with our office at that point. "It is my understanding in speaking with the deputy solicitor that the plan was to try the case within the first six months of next year."

The Court: "Okay. If it hasn't been, then they can make a motion in front of whatever judge is here for a speedy trial."

It's not an order, Judge. It was a check-in. It was -- essentially it came to a status conference of the type that you often have us do on Webex. We didn't have Webex back then. We got Webex because of what happened within the

six months that the deputy solicitor laid as his plan for trying the case. Again, this is Halloween of 2019. In early 2020, we got the mother of trial delays, as Your Honor is acutely aware. So that is a significant, a substantial cause of the delay. The backlog here in Jasper County and in the 14th Circuit, which our Supreme Court has expressed concern over but never held to be an invalid reason on its face, on its own for a delay.

We also -- Judge, I mean, we don't often have speedy trial motions in cases with a trial date. In cases that have had three previous trial dates. I would never suggest to Miss Carmody that her continuance back in November of last year was inappropriate in any way. In fact, I encouraged her to move for it because I could tell in talking to her on the phone how sick she was.

THE COURT: There's no doubt she was sick.

MR. EVANS: There's no question she was sick. It was entirely appropriate. But the fact of the matter remains, she hadn't made this motion yet. So she was ready to go. She thought the trial date was appropriate then. She was ready to

go, and now she wants the case dismissed.

We had a second continuance. That was State's motion. I will freely, readily admit to that. That was a hearing on Webex with Judge Mullen and that was due to discovery of potential exculpatory evidence. So we were doing everything she accuses us of not doing in her first motion by saying, hey, we got this evidence. We need to take a look at it and we don't have enough time because we're discovering this -- I believe it was the Wednesday before Thanksgiving and the case was supposed to be the Monday after Thanksgiving. So we moved to continue that, and Miss Carmody did not object to that continuance. She tells us now that her client doesn't consent to any delay, but she didn't object at that time.

Finally, the third continuance, Judge, was granted by Your Honor, and that was also a defense motion.

So those are some of the reasons for the delay. I don't understand --

THE COURT: Who was that one? Is this the gentleman who had the medication problem?

MR. EVANS: Yes, sir.

MS. CARMODY: Yes, Your Honor.

MR. EVANS: Yes, sir.

THE COURT: Yeah, okay. Sure. Sure.

MR. EVANS: You granted that continuance back in January of this year. And, at that time --

THE COURT: I remember. I remember.

MR. EVANS: -- we had set serious murder cases, some of which we were talking about here today -- I think Miss Shirling's case is one of them -- for the second half -- or for the remainder of the first half of the year.

THE COURT: Right, right.

MR. EVANS: This term coming up is the next available term. July 31st, 18 days from today. The State is ready to go.

Then getting into the prejudice. That's only one of the four factors that is not a be-all and end-all, based on the way I read things.

Oppressive incarceration, Judge, you have to take into account that he was in prison when this event occurred. He remained in prison until December 1st of last year after his first two trial dates in which we attempted to get this case done. The reason he was in prison is for a conviction of voluntary manslaughter. So he

experienced no additional incarceration as a result of this case until December 1st, and that was voluntarily --

THE COURT: Of '20 --

MR. EVANS: 22.

THE COURT: '2, okay.

MR. EVANS: Yes, sir. I think that's a relevant factor for you to consider.

The anxiety of being accused of a serious crime is not credible for somebody who has a voluntarily manslaughter conviction, Judge, in my opinion.

Finally, damage to her defense, I mean, all of her arguments here go against her arguments in the first motion, if you ask me, Judge. She wouldn't have been able to get Mr. Highland on the stand. She -- you know, she has witnesses to cross-examine and ask if any of the co-defendants were responsible. I don't see it, Judge. I mean, you got cases, and I'll hand up a few.

THE COURT: I'll tell you --

MR. EVANS: Will you take them by email, Judge?

THE COURT: Yeah, that's fine.

MR. EVANS: If you prefer. But they

are --

THE COURT: All right.

MR. EVANS: Anyway, Judge, you heard a case yesterday in Colleton with a much more substantial delay between the incident and trial, which is ready to go for next week. And there are a number of cases in the actual reported cases, not just pending cases which were pending for far longer than Mr. Dubois's.

THE COURT: All right.

MR. EVANS: We got all the key witnesses and we're ready to go.

THE COURT: Let me say this: As it relates to the case in Colleton that's much older, I'm not aware of any -- speedy trial motions haven't been made in that. So, I mean, I think that's different. I'm not going to go with -- I just can't put any weight on something where there's not a speedy trial motion. So I got to look too.

Now, what I do see is, the motion was filed on -- it looks like filed on May 15, 2023.

MS. CARMODY: That was this motion.

THE COURT: The motion to dismiss on speedy trial.

MS. CARMODY: Yes.

THE COURT: May of '23. And, of course, that is two months ago, a month ago. And so I do hear you that, basically -- you know, I don't understand why this motion wasn't filed a year ago, or two years ago, or 18 months ago, and, now, that does resonate with me. And I think you were making a reference to that, Mr. Evans.

I do -- all right. What I do believe is this: I do believe that a lot of the things that she makes reference to in paragraph 5 on the second page of her motion, I believe that whether this case had been heard in 2019, or '20, '21, that almost everything would have been the same. The Crocs are gone. The door wasn't swabbed. The clothes are still missing. All of the things that we start talking about, the bathroom weapons, none of that was going to change. None of that is going to change whether this case was tried in '19 or '23, Miss Carmody. Because, I mean, you've made that abundantly clear in your first motion, and that's what you listed as some of your main -- and now maybe the DNA issued from one man, or Crocs examined by one man --

MS. CARMODY: Your Honor, he passed

away.

THE COURT: Yeah. So I'm saying maybe that one issue. But these others, whether this case was tried in 2018 or 2023, these items are gone and were never going to be here.

MS. CARMODY: Except for the new DNA report.

THE COURT: I understand that. What I'm saying is, the vast majority of what you've got in number 5 as it relates to prejudice was going to be here. That was going to be there.

With all due respect, I'm going to deny your motion on your speedy trial. I want Mr. Evans to write an order as it relates to speedy trial. And by the middle of next week, I want you-all to have something to me defining the question -- the second question, the "or" portion in the Cheeseboro case.

MS. CARMODY: Thank you, Your Honor.

THE COURT: So get that to me and I'll let you know something certainly by the end of next week. Okay?

MR. EVANS: Thank you, Your Honor.

(The hearing was concluded.)

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions Court for Jasper County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

December 10, 2023



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

IN GENERAL SESSIONS COURT
FOR THE 14TH JUDICIAL CIRCUIT
2017-GS-27-00582

STATE OF SOUTH CAROLINA,

Plaintiff,

vs.

BENJAMIN DUBOIS, III,

Defendant.

TRANSCRIPT OF JURY TRIAL
VOLUME I
(PAGES 1 - 235)

July 31, 2023
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P E A R A N C E S

Appearing for the State of South Carolina

Reed Evans, Esq.
14th Circuit Solicitor's Office
P.O. Box 11449
Beaufort, South Carolina 29211

Appearing for the Defendant

Carolyn Carmody, Esquire
Deputy Public Defender
Fourteenth Circuit Public Defender's Office
P.O. Box 545
Beaufort, South Carolina 29901

INDEX

PROCEEDINGS	6
JURY SELECTION	18
OPENING STATEMENT BY MR. EVANS	148
OPENING STATEMENT BY MS. CARMODY	148
WITNESS: WILLIAM GARVIN	
Direct Examination	66
Cross Examination	83
Redirect Examination	97
WITNESS: JACKLYNN MCKAY	
Direct Examination	100
Cross Examination	108
WITNESS: BENJAMIN DUBOIS, III	
Direct Examination	111
Cross Examination	115
Redirect Examination	120
WITNESS: GEORGE SMITH	
Direct Examination	162
Cross Examination	183
Redirect Examination	190
Recross-Examination	192

INDEX - CONTINUED

WITNESS: JAMES S. WILLIAMS

Direct Examination	193
Cross Examination	214
PROCEEDINGS CONTINUED	234
CERTIFICATE OF REPORTER	235

EXHIBIT LIST

**

ITEM NUMBER	DESCRIPTION	PAGE
S-04	Photo	212
S-35	Photo	212
S-36	Photo	212
C-01	Incident Report	83
C-02	Report of Interview	83
C-03	Miranda Warning	83
C-04	Photo lineup	83
C-05	Photo lineup	83
C-06	Photo lineup	83
C-07	Photo lineup	83
C-08	Photo lineup	83
C-09	Photo lineup	83
C-10	SLED Crime Scene Notes	107
C-11	Consent to Search	17
C-12	Defendant's Voir Dire	17
C-13	Notice of motion	17
C-14	Memo for Speedy Trial	17
C-15	Exhibits for motion	17

PROCEEDINGS

***

MONDAY JULY 31, 2023

RIDGELAND, SOUTH CAROLINA

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

THE COURT: My understanding is that the jury panel is coming in at approximately 10:00.

MS. CARMODY: That's correct. They have to bring the defendant out.

MR. EVANS: That's correct, Your Honor. I would like to put one or two things on the record. We did have, just recently in front of Judge Bonds, a few motions filed by Ms. Carmody. One to dismiss the case for a speedy trial violation and another for alleged due process violation.

Judge Bonds has ruled on both, denied both. He has filed his written order in the speedy trial motion. He has not yet signed or clocked an order in the due process motion. He did inform Mrs. Carmody and I of his ruling by email. I think that is sufficient for us to get started here.

Obviously, we will be in touch with Mr.

Cordera to make sure that that does get signed so that it can be clocked. I don't think there is any mistake about the fact that he did rule and that we can proceed here today. I just wanted to put it on the record, obviously, since we don't have an actual clocked order yet.

The other issue, Judge, unless Ms. Carmody needs to be heard on that.

MS. CARMODY: I just haven't received a copy of the order on the speedy trial violation.

MR. EVANS: I have a copy here that was in the clerk's file. I would be happy to give it to her.

THE COURT: On the witness list, anyone from the state we are talking off?

MR. EVANS: Yes, Your Honor. We can strike from our list Number 3, Jacob Lee Brown and Number 12, Courtney Thompson, formerly of SLED. She is available to testify by WebEx, but she is on vacation.

Ms. Carmody indicated she will not consent to that, so we will not be calling Ms. Thompson or Mr. Brown.

The other matter of law, Judge, is that this is an LWOP case, just to put it on the

record. We have served Mr. Finkbeiner. Not Mr. Finkbeiner, Mr. Dubois when he was still at the Department of Corrections. There is a proof of service that I will be happy to hand up. I think it's in the clerk's file already.

We also served Mrs. Carmody by email. She acknowledged service of that. That was last fall. In an abundance of caution, I re-served reserved them through George Erdel the last time that we were here in Court, that was about 18 days ago. We have served them twice. I don't think there is any question about that, but just to put that on the record before we get started.

THE COURT: What is Mr. DuBois doing his sentence for at SCDC?

MR. EVANS: That was for voluntary manslaughter, Judge, and I have a certified copy of that conviction, if you need to see it now or at a later point.

THE COURT: My question is, how are you dealing with that, and why he was there. Because, obviously, you will have to explain this happened in SCDC tell the whole story. Obviously, this occurred in SCDC, correct?

MR. EVANS: Yes, Judge.

THE COURT: Okay.

MR. EVANS: It was not my plan to -- certainly, I'm gonna address to the jury the fact that this occurred in SCDC, and the witnesses that they'll hear from on the State side are, you know, several of them are gonna have criminal records.

I was not planning to address, certainly, a reason why Mr. DuBois was there, unless we get to the point where he --

THE COURT: And this is --

MR. EVANS: -- testifies, but I don't think there's any way of getting around this, it happened at the Department of Corrections.

THE COURT: Right, but this in Ridgeland Correctional; am I correct?

MR. EVANS: Yes, ma'am.

THE COURT: Okay. So I think that's just how we handle it is, that, you know, it happened at SCDC Correctional, you know, and this is where it occurred.

The deceased in this case, Jerry Douglas Holmes, what was he doing his sentence for?

MR. EVANS: PWID meth, and I think the probation revocation as well, although I will

double-check that.

THE COURT: Okay.

MS. CARMODY: Also, I'd like to put on the record that several months ago I had initially filed a motion for immunity.

As of June, that motion -- I was informed that there was no basis to go forward on that motion; that the Defendant did not kill Jerry Holmes, as a required element, or the motion for immunity, and that's why I didn't serve it, so I just want to make sure that's on the record for appeal purposes or whatever, if there's any questions as to why that motion was withdrawn.

MR. EVANS: And getting back to Mr. Holmes' record, Judge, the sentences he was serving were for distribution of meth first, two counts, ten years each, receiving stolen goods less than two to 10,000, two counts, three years each, criminal conspiracy, two counts, five years each, and one count of grand larceny, all to run concurrent. That was out of Greenville.

THE COURT: And the deceased, what did he die from, a stab wound?

MR. EVANS: Yes, ma'am.

THE COURT: All right.

Where on his body?

MR. EVANS: His neck -- the right side of his neck.

THE COURT: Okay, so --

MR. EVANS: Dr. Ross will be testifying most likely Wednesday morning --

THE COURT: Okay.

MR. EVANS: -- to that offense. Since it was an SCDC case, he went to Newberry like we do for most Allendale cases. That's why it went to Dr. Ross and not to MUSC.

THE COURT: Okay. And I appreciate you forwarding me that.

MR. EVANS: Yes, ma'am.

THE COURT: Is there anything else we can do with those before the jury comes in?

MR. EVANS: Not that I see yet. We'll have our case Officer William Garvin. I think we told him 1 o'clock, Judge, and I apologize, but he's in Hampton, so we may be able to get him sooner.

THE COURT: Okay.

MR. EVANS: I -- he'll also be the witness for one of the Jackson v. Denno statements. I know you were expecting recordings, but there

are no recordings --

THE COURT: Right.

MR. EVANS: -- of any kind in the case, but I did forward to your Law Clerk the portions of the reports, both Mr. Garvin's and SLED's, in which Mr. DuBois made statements.

The one statement to Mr. Garvin that is under Miranda, and, you know, recorded, sort of as an ordinary statement. The other statement is a spontaneous statement to Ms. McCay, who is driving down from Raleigh.

I will take her testimony as soon as we can, but that was not in the Miranda to speak, as they were taking pictures of him, and -- and her testimony, essentially, is going to be, "He just started talking."

Those are the statements from him. The lineups, one is for Mr. Chapell, who is the victim's cellmate, not -- those were the people who were -- I'm saying they were presented to you, but they were submitted by Mr. Garland, so only he can testify about those. Those are the only -- other than -- well, we, I guess, what time is it now?

We do have crime scene photographs, Judge,

which I want to give Ms. Carmody. Obviously, she has them in her discovery, but just to give her a chance to see the group that we've selected to put in and see if she has any issue with those. We can take up the autopsy later, since that won't be until Wednesday.

THE COURT: Okay.

MR. EVANS: And then give Your Honor the chance to take a look at them in advance, in case you have any issues with them. I think they're all -- obviously, I'm going to argue for them all to come in in color, but we'll take that up as it goes.

THE COURT: Do you want to give me the ones you've chosen, so --

MR. EVANS: I'll be happy to. We were gonna let her take a look first, but --

THE COURT: Sure.

MR. EVANS: -- if you' like to just --

THE COURT: Just let her take a look, and then let me look, okay? All right, Miss Margaret, I assume all the people are here?

CLERK: Yes.

THE COURT: And we just need to --

MS. CARMODY: There is just one more

issue --

THE COURT: Sure.

MS. CARMODY: -- for the record. At the prior hearing before Judge Bond, I raised the issue of my client's competency at that hearing, because the Jasper County Detention Center did not have him on medication, so I don't know what happened. So once you -- I want to put on the record that he is taking medication now. I've spoken with him this morning; he knows what's going on. I believe that he is able to assist in his defense today.

THE COURT: What is his diagnosis?

MS. CARMODY: He has schizophrenia, Your Honor, and diabetes, ADHD, anxiety, and --

COURT REPORTER: Say that last -- oh, anxiety, okay, and what else?

MS. CARMODY: And he was off his meds at the time, and now he's back on his medication.

THE COURT: Okay.

**

EXAMINATION BY THE COURT

BY THE COURT:

Q. Good morning, Mr. Dubois.

A. Good morning.

Q. How are you feeling?

A. I'm feeling all right today.

Q. Are you okay?

A. Yes, ma'am.

Q. You understand what's going on; is that correct?

A. Yes, ma'am.

Q. All right, and you had been most recently in Jasper County Detention Center; is that correct?

A. Yes, ma'am.

Q. And you do receive your medication; is that correct?

A. Yes, ma'am, took it this morning.

Q. Very good. And you understand the conversations you've had with both Ms. Carmody and Ms. Price; is that correct?

A. Yes, ma'am.

Q. All right, and you know that we're here for your trial; do you understand that?

A. (Indicates affirmative response.)

Q. Is that a yes for the record?

A. Yes, ma'am.

Q. All right, I appreciate that, sir.

How old are you?

A. I'm 38.

Q. All right, sir. Where were you born and raised?

A. Charleston.

Q. Charleston? Okay.

A. Yes, ma'am.

Q. Okay, very good. All right, well, I just want to make sure we all know what's going on today, and it sounds like everyone is ready to go. I will tell you I look at -- I looked at the requested charge -- I'm sorry, the request for a voir dire.

From Ms. Carmody I am not asking if they are members of the NRA, and I'm also not asking number seven, if they're familiar with CSI and all the rest of it. I'm not asking number eight; I'm not asking number nine.

And then for the State's voir dire I am not asking number three, and I am not asking number six, I think that's more of a general question, and we already go through that, okay?

So that's just to let you all know, and then I'll ask my standard voir dire as well. And you're just putting forward on one charge of murder, correct?

MR. EVANS: Yes, ma'am.

THE COURT: Okay.

MR. EVANS: There's no other than that.

THE COURT: Okay.

MS. CARMODY: Your Honor, I believe you said number six and what was the other number?

THE COURT: For the State's?

MS. CARMODY: For defense.

THE COURT: What I'm not asking?

MS. CARMODY: Yes.

THE COURT: Yes, I'm not asking number six, number seven, number eight and number nine. Okay?

MS. CARMODY: For the motions, the Miranda and the exhibits, and the notice of motion for speedy trial, and motion to dismiss for the due process violation, I'd like to enter those as Courts exhibits.

THE COURT: Yes. Anything else?

MS. CARMODY: No, Your Honor.

(Court's Exhibits 11 - 15 admitted into evidence.)

All right, well, I'm gonna step down, and Margaret's gonna let the jury panel in.

(RECESS)

THE COURT: All right, do you guys want to turn around?

Let's go ahead and handle whatever you have left before the jury comes back in.

MR. EVANS: Yes, ma'am.

THE COURT: Okay?

MR. EVANS: The State calls William Garvin.

***

WILLIAM GARVIN,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

**

DIRECT EXAMINATION

MR. EVANS: Thank you, Your Honor, I'm glad we had a dress rehearsal before the jury comes back.

BY MR. EVANS:

Q. Mr. Garvin, where do you work, sir?

A. Right presently I work for the South Carolina Department of Probation and Parole Partner Services.

Q. All right. And how much longer will you be working there?

A. About another four days.

Q. Where did you work before that?

A. I worked for the Department of

Corrections.

Q. And were you with Police Services at SCDC?

A. Yes.

Q. Are you the case officer in this case?

A. Yes.

MR. EVANS: Your Honor, would you like us to take the testimony for both Jackson v. Denno?

THE COURT: Absolutely, you can do both at the same time.

MR. EVANS: Thank you.

THE COURT: You said your last day of work is on Thursday?

WITNESS: Friday.

MR. EVANS: Friday.

THE COURT: Friday?

WITNESS: Yes, ma'am.

MR. EVANS: Okay.

THE COURT: I just want to make sure I get you out of there, and not having to have you work for free.

WITNESS: We've got to turn in equipment.

THE COURT: Okay.

BY MR. EVANS:

Q. Mr. Garvin, did you have the occasion,

during your investigation of this matter back in June of 2017, did you meet Mr. Benjamin DuBois?

A. Yes.

Q. How did you come in contact with him?

A. As I was the investigator on call, and I got a call from my supervisor, stating that there had been an incident at the Ridgeland Correctional Institution, where it involved Mr. DuBois, and that it was a -- a person was killed.

Q. Someone was killed and Mr. DuBois was injured, were you saying?

A. No, not Mr. DuBois, but Mr. DuBois was the person that they said that had committed this crime.

Q. You were notified by RCI staff that he was a person you should look at before you got there?

A. Yes.

Q. All right. And did you have the occasion to speak with him as part of your investigation?

A. Yes.

Q. Tell us about that. Where was he? What were the circumstances, time of day, his

condition, all that stuff.

A. I came in contact with Mr. DuBois at the Ridgeland Correctional Institution Medical Facility, which is on-site. Mr. DuBois was being examined by the medical staff there.

Q. All right, and did you take him out of the medical area before you interviewed him?

A. At that point I just got him in -- if I remember correctly, I just talked to him there briefly.

Q. All right, was that under Miranda?

A. Yes.

Q. Okay. How do you advise somebody of Miranda, or did you, back when you were an investigator?

A. Usually I'll read Miranda warning to them.

Q. Do you present them with a form, generally?

A. Yes.

Q. All right, and did you do that with Mr. DuBois in this case?

A. I believe so.

Q. All right.

A. I believe I did, yes, sir.

MR. EVANS: May I approach the witness?

THE COURT: You may.

BY MR. EVANS:

Q. I'm going to hand you some documents, and we'll be moving them in as a Court's exhibit in just a moment. Can you tell me what those are?

A. The first one is SCDC form 23-3, which is the Miranda rights for Mr. DuBois, signed by myself and Mr. DuBois.

Q. Okay, and, Mr. DuBois, is he in the courtroom today?

A. Yes, he is.

Q. Is he sitting with Ms. Carmody?

A. Yes, he is.

Q. So you went over his rights with him using that form?

A. Yes, sir.

Q. And you signed it?

A. Yes, sir.

Q. And he signed it?

A. Yes, sir.

Q. Did he initial by every spot, every part of that form?

A. Yes, sir.

Q. All right. Did he give you any indication that he did not understand his rights?

A. No, he did not.

Q. Was he under arrest at that time? Obviously, he's in custody, because this is a prison, but had you charged him?

A. No, I did not at that time.

Q. All right. Did you consider him to be in custody, because of the nature of the location?

A. I did not think he was. At that point, I was still doing my preliminary investigation.

Q. Okay, but you did mirandize him, regardless?

A. Yes.

Q. And what's that other document that I handed you?

A. This other document is a Division of Police Services interview form, where I took Mr. DuBois' statement.

Q. All right, and at that time was SCDC Police Services, were you making video recordings or audio recordings of these interviews?

A. Not to my knowledge.

Q. Do you know if it's changed since you left the Department?

A. I believe so.

Q. All right, but at that time it was just making notes, and then type a document such as this?

A. Yes, sir.

Q. Okay, and did this document that I've presented you, and we're about to move in as a Court's exhibit, did it accurately reflect the notes of your conversation with Mr. DuBois?

A. Yes.

Q. All right. Did he ask for counsel, or any kind of help, or did he speak to you freely and voluntarily, as far as you could tell?

A. No, he did not ask for counsel.

Q. All right, so he spoke to you?

A. Yes.

Q. What did he tell you?

A. I'm referring to the report. It was brief, this is while I was talking to Mr. Holmes, and they went back to cell 5 to get some supplies, in regard to something about tattooing. And according to Mr. DuBois'

statement, he and Mr. Holmes spoke K2, and according to his statement he said that Mr. Holmes twisted his head into the wall, and tried to force his legs open to have intercourse with him.

Mr. DuBois then physically -- the physical altercation and was able to fight his way out of the room. He stated that the stab wound on his leg came from a homemade knife that Holmes had when he left the cell.

Holmes was cleaned up -- cleaning up his items off the floor from the fight, and that they left -- left the stabbed -- left Mr. Holmes stabbing himself.

Q. Mr. Holmes was still in the cell when Mr. DuBois left it, according to this statement?

A. Yes.

Q. And that he denied being the person responsible for killing Mr. Holmes; is that how you took this statement?

A. According to his statement, like I said, he was -- there was a fight, and he said that he was stabbed in the leg with a homemade knife by Mr. Holmes.

I'm not sure whether he was referring to

himself being stabbed or Mr. Holmes -- him stabbing Mr. Holmes at that point.

Q. Okay. The last few words of that, he never stabbed Mr. Holmes; is that correct?

A. Right.

Q. All right. What is K2?

A. It's a drug that they had on the -- that they were using in the yard at the prison.

Q. Okay, did Mr. DuBois state that he had been smoking that, or was that Mr. Holmes only?

A. No, he said that -- in his statement he said that he and Mr. Holmes were smoking K2.

Q. Did you get any indication that he was, at the time of this statement, impaired in any way?

A. No, I did not.

Q. All right, and it's your statement that this statement was freely and voluntarily given under Miranda; is that correct?

A. That's correct.

Q. Do you have -- how long did it go? I mean it's a pretty short statement. How long did you talk to him?

A. Mr. Holmes, if I can remember --

Q. Mr. Holmes is the victim.

A. I mean, I'm sorry, Mr. DuBois, sorry, Mr. DuBois didn't want to go into any more detail, other than what he was just gave us at that point. He really -- if I can remember correctly, he was kind of evasive.

Q. Okay, did you talk to him for a long time, or a short time?

A. It was, if I remember, maybe a short -- not really a long period of time, because, like I said, he was kind of evasive. So as much as I could get out of him is what I've gotten on -- what we've gotten on this statement.

Q. All right. Did he indicate any need to use a bathroom, or get any food, or anything like that?

A. If he did that, it was not to myself or my partner at the time.

Q. All right. Let's move onto the identification issues. Did you speak with any other inmates at the prison, during the course of your investigation?

A. Yes.

Q. Did you speak to Casey Chapell and Craig Finkbeiner?

A. Yes.

Q. Do they know Mr. DuBois and Mr. Holmes?
A. Yes.
Q. How do they know them?
A. They all lived in the same housing unit.
Q. All right. Did they use legal names, like Benjamin DuBois and Jerry Holmes, or did they use nicknames? How did that go?
A. Yes. Mr. Holmes was called Country, and Mr. DuBois was called Animal.
Q. All right, is that how these gentlemen referred to those folks?
A. Yes.
Q. How about anybody else? Did you ask anybody else who had nicknames?
A. I can't remember right offhand what --
Q. All right.
A. -- those nicknames were.
Q. Did you present either of those gentlemen with any photo lineups, photo arrays?
A. Yes.
Q. Which ones?
A. Mr. Chappell, I believe was presented with one.
Q. And Mr. Finkbeiner?

A. And Mr. Finkbeiner as well.

Q. Okay.

MR. EVANS: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'm gonna pass you some more documents, and ask if you recognize these?

A. Whoop.

Q. Not that one, I'm sorry.

A. Yes.

Q. What are those, sir?

A. They are photo lineups of Mr. DuBois and other individuals that may have been involved in the assault of Mr. Holmes.

Q. And how did you obtain those photo arrays?

A. What we do, we contact SLED, and SLED will put together a photo lineup of individuals that were like in appearance of the suspects.

Q. How do you -- well, when did you get those in this particular case?

A. I can't remember exactly the date.

Q. Does it have a date that you presented it?

A. I has a date that I presented to the individuals, which is July 26th, and August 21st.

Q. So that'd be some time after this actual incident, correct?

A. That's correct.

Q. Okay. When you make a request for a lineup from SLED, what do you do? What do you ask for?

A. We would actually give them the information in regard to who we may suspect to give us a photo lineup of individuals that would look similar to that individual, and they would present that to us, and send it back to us.

Q. All right, did they use prisoner photos? In most cases they use DMV photos; is that right?

A. These are all prisoner photos.

Q. Okay, but everybody you were asking about was a prisoner --

A. Yes.

Q. -- at that time? All right, who were the people that you were presenting to them?

A. It was Mr. DuBois, Mr. Nania, and it says Squeaky, the name escapes me right now, the

individuals.

Q. Could that be Mr. Highland?

A. Mr. Highland.

Q. All right, were Mr. Nania and Mr. Highland also charged in this incident, eventually?

A. Yes, they were.

Q. Okay. Any other -- there's one more individual on there, isn't there, in one of the sets?

A. Junetown. That was the prisoner's name.

Q. Is that Mr. Nania?

A. Mr. Nania.

Q. All right.

Now, when you present a photo lineup to a witness, do you have a common practice, a special way that you do it? The way you were trained to do it, or anything like that?

A. Yes.

Q. How do you do it?

A. We just -- again, we just hand them the photos, ask them to look at them, and to circle a name, and put the name of the individual, what they know them by, they would sign it, they

would date it, and give it a timestamp, a time -- write the time down.

Q. All right, and you did that?

Did you hand this to them in a manilla folder, or facedown, or anything like that?

A. They will be, if I remember correctly, we usually just put them down facedown, and ask them to turn the over and look at them.

Q. Okay. Did either Mr. Finkbeiner or Mr. Chappell have any trouble, anything that you recall during this procedure?

A. No, not that I remember.

Q. They were able to identify the folks who you've been talking about?

A. Yes.

Q. Mr. DuBois and Mr. Nania and Mr. Highland?

A. Yes.

Q. And had they -- had you interviewed them and gotten names from them before presenting this lineup, or is it all sort of part of the same thing?

A. I can't remember -- recall if I had that information, I talked to them prior to, or we went to them, and they gave us this

information prior to giving them the photo lineup.

Q. Would it help you to take a look at your report, I see --

A. Yes.

Q. -- you don't have it? All right, I'll pass it to you.

A. Mr. Nania, I spoke to on the 21st --

Q. The 21st or 22nd?

A. I'm sorry, 22nd, sorry.

Q. Okay. And did he identify either Mr. DuBois, Mr. Nania or Mr. Highland to you by legal name or nickname, at that time, in that first interview?

A. Yes, he identified Mr. DuBois.

Q. By legal name?

A. Legal name.

Q. Okay. How about the others?

A. Nania, he knew him as Junetown, and Highland, he knew him as Squeak. And there was another person called Puppet, but he wasn't able to identify him by name.

Q. Okay. So you had that information, the one legal name, and the two nicknames before you sought these lineups from SLED?

A. Right.
Q. And that was courtesy of Mr. Chappell?
A. Yes.
Q. How about Mr. Finkbeiner, did he know any of these men by legal or nickname?
A. I spoke to Mr. Finkbeiner on August 2nd, and he identified Mr. DuBois and Highland and Nania.
Q. By name?
A. By name.
Q. Legal or nickname?
A. Legal name.
Q. All legal names?
A. Legal names, yes.
Q. Okay. So he knew them before you presented the lineups as well?
A. Right.
Q. All right. And, again, did either of them pick somebody other than you expected them to?
A. No.
Q. In either case?
A. No.
MR. EVANS: I beg the Court's indulgence.
BY MR. EVANS:

Q. All right, Mr. Garvin, those are all the questions I have for this hearing, please answer any --

MR. EVANS: Oh, Judge, I would move all of those in as a Court's Exhibit. I don't know the number. We had a number of Court's exhibits in the hearing with Judge Bond, so our Court Reporter has advised me that's gonna be a little --

COURT REPORTER: We're gonna start --

MR. EVANS: 50?

COURT REPORTER: -- over, so this will be --

MR. EVANS: Very good, okay.

COURT REPORTER: This will be 1 and how --

MR. EVANS: One though nine I think that is.

COURT REPORTER: Yes, sir.

MR. EVANS: Photo lineups. Thank you, Judge.

(Court's Exhibit 1 through 9 were admitted into evidence.)

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon, Mr. Garvin.

A. Good afternoon.

Q. How are you?

A. Good.

Q. All right. So let's go -- let's start with the statement hearing, the statement first. So first did Mr. Evans hand you a document that looks like this?

A. Yes.

Q. Okay, all right. And, sir, can you let me know whose document that is?

A. That's --

Q. Who wrote that?

A. Well --

Q. Who wrote the document?

A. Perry Logan, who was also present during the -- he was an investigator helping us out.

Q. Okay, and did you take any notes yourself about what you believed Mr. DuBois said?

A. You mean handwritten notes?

Q. Uh-huh.

A. Yes, ma'am. Most of that I think it was Mr. Logan, Terry Logan who took the notes.

Q. So we can agree that Mr. Terry Logan is the one that took the notes and wrote what Mr. DuBois said, so this is Mr. Terry Logan's account of what Mr. DuBois said, correct?

A. Well, we interviewed him together, but Mr. Logan took the report.

Q. Okay, so there was no audio or video recording of this interview?

A. No, not to my recollection, no, there wasn't.

Q. And I'm sure more occurred than just what's on the typed report, right?

A. I wouldn't say that.

Q. So -- well, there's no questions here, so are you telling me that -- is it your testimony that Mr. DuBois just said everything, and nobody asked him a question? Because there are no questions listed here, what was the communication between you and Mr. DuBois?

A. The questions were what we basically asked, did he know -- the report is the way Police Services asked us to write our interview reports, and they don't have the standard

question, answer, question, answer, it just asks the questions, and let the individual give a statement.

Q. So would you agree that this report of interview is Mr. Terry Logan's recollection or summary really, a summary, of what Mr. DuBois said?

A. It's the account for Mr. DuBois, Mr. Logan and I at the time of the interview.

Q. Okay, so -- but if you could just answer my question, is this Terry Logan?

A. Yes.

Q. Okay, thank you. All right, you have no independent report of what Mr. DuBois said?

A. No. No, I don't.

Q. All right. You have no independent notes of what Mr. DuBois said?

A. No, I don't.

Q. No recording?

A. Yeah. No -- excuse me?

Q. No recording?

A. No, ma'am.

Q. All right. Now, was Mr. DuBois brought to an office to be interviewed?

A. I don't recall whether he was actually

at the medical facility. I know we talked to him there.

Q. Uh-huh.

A. I'm not sure whether they brought him into an interview room, because he was injured or not.

Q. All right, and I know -- the report that Mr. Evans handed you that's not your incident report, right? The incident report?

A. Mr. Logan wrote that report.

Q. All right, so do you have, with regards to this case, any notes whatsoever about what you did in your report?

A. With Mr. DuBois?

Q. Uh-huh.

A. I don't have anything, other than that report.

Q. Okay, so you're relying on Mr. Logan's recollection as to what transpired in this case; is that fair to say?

A. I'm relying on the fact that Mr. Logan and I were there, and I can attest that he wrote that report.

Q. But you didn't sign the report, or anything like that?

A. Not that report.

Q. No? All right. And you testified earlier that Mr. DuBois wasn't taken to the bathroom, he wasn't provided any food or water?

A. I don't know that.

Q. Do you recall that Mr. DuBois had told -- I don't know if you -- maybe you don't remember, maybe you told Agent Logan that he had been sexually assaulted?

A. Do I remember him saying that? Yes.

Q. Okay, and did -- who told him?

Was it you or Logan that told him he couldn't go to medical for treatment until he spoke with you?

A. I don't recall that.

Q. You don't recall saying that?

A. No.

Q. Was he bleeding?

A. He had an injury to his leg.

Q. And he was actively bleeding while you're taking -- while somebody's talking to him about what happened?

A. Yes.

Q. All right, and he was not taken to Medical yet?

A. He was in Medical at Ridgeland Correctional.

Q. He was in Medical at the time this happened? This didn't happen in an office?

A. Excuse me?

Q. You didn't take his statement -- well, Agent Logan didn't take the statement in an office?

A. I don't recall.

Q. All right. What about -- do you remember Mr. DuBois asking for an attorney when the interview ended?

A. No, I don't recall that.

Q. But we don't have any notes of what happened, right? You don't have any notes?

A. No, I don't.

Q. All right, and it's fair to say that we don't have any notes from Agent Logan either? All right. Okay, so you're unable to testify, as to whether this is everything that occurred in the meeting with Agent Logan; would you agree with that?

A. Can you repeat that?

Q. This isn't everything that occurred in the meeting with Agent Logan?

A. What was asked of Mr. DuBois is in that report, and that was the only thing that we were concerned with.

After that he didn't speak anymore or wouldn't speak. There was nothing else that he would say that was either pertinent to what we were trying to -- information that we were trying to obtain.

Q. And then after he stopped speaking, although you don't recall him asking for an attorney, there's a reason he stopped speaking, but after he stopped speaking, then his injuries were treated, and he was taken to a hospital?

A. While we were there, I recall them -- they were either treating him once we got there, and had kind of, I guess, put some, you know, helped him like put -- the wound that he had on his leg they was doing something to it, and then he was saying he was sexually assaulted, so they had to take him to the hospital to be examined for that reason.

Q. Okay, so just -- there was no medical treatment for Mr. DuBois until after he said, "I'm not talking to you no more," right?

A. I don't understand what you're saying,

when you said --

Q. Did he receive medical treatment prior to you or Agent Logan trying to speak with him?

A. He was at Medical when we got there.

Q. But you said --

A. He was receiving medical treatment once we got there for his wound.

Q. Wasn't he actively bleeding?

A. From that wound on his leg.

Q. All right. All right, let's move over to the identification, these pictures here.

All right, now, do you have your own notes, your own notes, or your own report of your interactions with Mr. Casey Chappell, 7/26 of 2017?

A. There is a statement by Mr. Chappell.

Q. Okay.

A. That's a handwritten statement.

Q. Do you, yourself, have any notes, or any reports that are of your interactions and your conversations with Mr. Casey Chappell on July 26th of 2017?

A. I don't recall, unless it's my report -- my overall report.

Q. Whose overall report, the --

A. My overall report.
Q. Where is your report?
A. That was part of the -- what Mr. Evans gave me.
Q. What Mr. Evans handed you?
A. Yeah, it's --
Q. Right here?
A. Yeah.
Q. Whose report is that?
A. I guess it's mine. I spoke to Mr. Chappell.
Q. Whose report is that though?
A. Mine.
Q. That's your report?
A. Yes.
Q. Your name's on it?
A. Mine, yes.
Q. Sir, whose report is it? Who wrote the report?
A. This report?
Q. Yes.
A. I did.
Q. So --
A. He is a supervisor that reviews it, and that's how they -- at the time that's how they

document the reports, but I wrote the report as to say it's mine.

Q. But whose name is on the top of the report, as to who it's from?

A. Trey Carter.

Q. Trey Carter?

A. Yeah, right here.

Q. Did you sign that report? How do we know that's your report? Because I actually have another report too that doesn't have Trey Carter's name on it, it --

A. Well --

Q. -- has --

MR. EVANS: Can he answer the question?

BY MS. CARMODY:

Q. Oh, I'm sorry. How do we know that it's your report?

A. Usually, my signature will be on the report.

Q. Is your signate on it?

A. No, not on this one.

Q. Okay. Sir, the reason I'm asking is, I actually have another report with the same language and information, but it has a different person's name on the top of this one. We have

Roosevelt Jenkins, sir.

A. Excuse me?

Q. Roosevelt Jenkins?

A. Roosevelt?

Q. Uh-huh. The report that you have, sir, how many pages is that?

A. I'm not sure. Twelve pages.

Q. Okay, and is there a signature at the end of page 12?

A. There's a signature block.

Q. And is there anybody's signature on there?

A. No.

Q. Well, sir, I have a report here, whose name is on this report? It's highlighted, but that's my copy, but whose name is on that report?

A. That's Roosevelt Jenkins.

Q. And whose signature is on the back of that report? On that page, no, the other way, right there. Very good, yeah.

A. Oh. It's Agent Roosevelt and Jenkins.

Q. Okay. We have two reports in this case from two different people, Agent Roosevelt Jenkins, and the other one is from Agent Cole

Carter.

Agent Roosevelt Jenkins' report is also 12 pages, and you're indicating to the Court that you wrote this report that was signed by Agent Jenkins. So my question is, where is your report as to what you recollect happened with the witnesses?

A. This is the report.

Q. But, sir, that --

A. I understand that this is a synopsis of the interviews, that once we put in the statement from any witnesses, and any agents that might take a statement from someone --

Q. Uh-huh.

A. -- being that I was the case agent, they would give it to me, and I would put it in a synopsis or a report and such.

Q. Okay, do you have any independent notes though of any of your work? I understand the report is part of this report, but do you have any notes of your actual work, what you did, and what you recollect happened?

A. In this report, and if it says June 22, Investigator Garvin interviewed, that's my in field, that's the interview I did on Tyree

Griffin. And then as you go down, you can see where I interviewed Correction Officer Smith.

Q. And we can agree that your investigative report -- well, Roosevelt Jenkins' investigative report, or investigative reports are summaries, correct?

A. Yes.

Q. Okay, all right. Now, there's a lot more that occurred in the interview with Casey Chappell, then just him circling a couple pictures, right?

A. If I can remember correctly, we had two interviews with Mr. Chappell. One was done at the Ridgeland Correctional Institute, and the other one was done at MacDougall Correctional Institution.

Q. You didn't recall how you got these photographs?

A. (No response.)

Q. You don't recall where you got the photographs, or when you got them?

A. Which ones, the lineups?

Q. Uh-huh.

A. I got them from SLED.

Q. From SLED? All right. All right,

let's see --

MS. CARMODY: all right, I don't have any further questions, Your Honor, with -- I'm sorry, these two.

BY MS. CARMODY:

Q. I'm sorry, Agent Garvin, I just wanted to make sure that the -- you indicated -- you testified that you turned them down, and you don't show them, or you don't give any indication as to who to identify, but there's no video recording, like -- or audio recording of that encounter?

A. No, ma'am.

Q. Okay. All right, and you don't have any notes -- handwritten notes of that encounter?

A. No, ma'am.

Q. Okay. All right, thank you.

MS. CARMODY: No further questions, Your Honor.

MR. EVANS: Briefly, Your Honor.

THE COURT: Yes.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. All right, you were the case officer?
A. Yes, sir.
Q. You were there at the prison?
A. Yes, sir.
Q. You interviewed Mr. Chappell?
A. Yes, sir.
Q. You and Agent Roosevelt?
A. Yes, sir.
Q. All right, and is this your report, this big, you know, more than a hundred-page report that you submitted?
A. Yes, sir.
Q. You wrote that?
A. Yes, sir.
Q. All right, are there portions within that report that were not actually written by you, but incorporated into your report?
A. They -- individuals, my supervisor as well, and any agent that assists me, if they're taking an interview, they would do an interview form with whoever they spoke to. I would get that interview and bring it in -- put it in a synopsis as part of my report total.
Q. All right, this is a team effort?
A. Yes.

Q. Okay, but you were in the interview with Mr. DuBois?

A. Yes.

Q. All right, and the Court's exhibit, that's accurate, as far as you remember?

A. Yes, it is.

Q. You remember being part of that interview?

A. Yes.

Q. And the things that Mr. DuBois said?

A. Yes.

Q. All right. And Mr. DuBois terminated the interview at his request?

A. He did.

MR. EVANS: Nothing else, Judge.

MS. CARMODY: All right, Your Honor, just for the purposes of the Jackson v. Denno hearing, solely for the Jackson v. Denno hearing, I do want to call Mr. DuBois.

THE COURT: Okay. So nothing further?

MS. CARMODY: Oh, I'm so sorry, no.

THE COURT: Thank you, you may step down.

MS. CARMODY: I'm sorry.

MR. EVANS: There is another statement, Judge, and you might want to hear from the

State's second witness for Jackson v. Denno, which that's what she intends to do.

MS. CARMODY: Yes.

MR. EVANS: I just assumed she would rather the State put up all the witnesses in both statements before she presented a response.

THE COURT: Okay.

MR. EVANS: Thank you. The State calls Jacklynn McKay.

***

JACKLYNN MCKAY,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Would you please introduce yourself for our Court Reporter?

A. My name is Jacklynn McKay, last name is spelled M-C-I-A-Y.

Q. And, Ms. McKay, you used to work at SLED; is that right?

A. That's correct.

Q. As a Crime Scene Analyst or Investigator? What's the --

A. I was a Special Agent in the Crime

Scene Department.

Q. Special Agent in the Crime Scene Department. We're gonna get into your work with the scene in the actual trial itself, but for these purposes we're gonna talk about what Mr. Dubois said to you, okay?

Do you recall being asked to come down to Jasper County on June 22nd, 2017?

A. I do.

Q. And that was in your capacity as a Special Agent in the Crime Scene Unit?

A. That's correct.

Q. Did you do all the usual stuff, you know, that we expect out of the Crime Scene Unit in this case?

A. Yes.

Q. All right, and how was it you were able to come into contact with Mr. DuBois directly?

A. When we were processing the crime scene at the Correctional Institution, we were told that Mr. DuBois was in a medical facility area of the prison, and we went there to collect evidence from his person.

Q. Did you have an understanding that some of that evidence might be necessary, and that he

was a suspect in this matter?

A. I think -- I can't recall at that point if he was a suspect or not, but he was definitely a subject that we felt may have been involved to some degree in this case.

Q. All right, and who's we? There's somebody else, correct?

A. Yes. So at a SLED crime scene we usually respond to crime scenes in a team of two, and in this case, I responded with Special Agent Jamie Johnson, so --

Q. All right.

A. -- we worked the scene as a duo.

Q. Who was the lead? Is there usually one agent who is in charge, and one who's assisting?

A. So, normally, there is one that runs primary. In this case, I was still in training, but I performed all the duties of the lead crime scene investigator, so Jamie was technically the lead, because she was officially signed off as a competent crime scene investigator, but I performed all the duties, such as taking notes, and she took those.

Q. Who wrote the report?

A. Technically, I did in training, but

Jamie's name is on the report.

Q. Her signature? Okay.

A. Uh-huh.

Q. That's the standard operating protocol when somebody's in training?

A. Yes. Normally, you get hands-on experience with how we do the job, the trainees can make documentation, and the lead or the competent crime scene investigator will sign off on it.

Q. When -- and when you came into contact with Mr. DuBois, did you say that was in the medical area of the prison?

A. Yes.

Q. All right. Can you tell us about what happened during that contact?

A. We entered the room, we introduced ourselves, and we took -- Jamie took photos of Mr. DuBois, and we asked him to sign a voluntary consent to search form, explained what that form was, and that we were going to collect a DNA sample or a buccal swab, and also get fingernail scrapings.

Q. All right, and did you ask him any questions, other than what you've just gone

over?

A. We did not ask him any questions other than what pertained to what we were there to do, as far as evidence collecting.

Q. Was anybody else in the room with you'all?

A. Not that I can recall.

Q. Okay. Could you tell if he had been treated for any injuries, or --

A. I don't believe so. His wounds were actively bleeding, and it didn't appear that he had any bandaging.

Q. Did he indicate any discomfort to the two of you'all? Any, you know, request for a break to go to the bathroom, or get some food, or anything like that?

A. No request to go to the bathroom, or take a break, but he did appear that he was possibly in pain.

Q. All right. And did he say anything to you?

A. While we were performing the evidence collection, he did make a few comments pertaining to the fact that he was in the victim's cell, and the victim stabbed him in the

leg, and he was trying to escape, because the victim was trying to rape him. And then he also mentioned that he had recently had testicular surgery, and I believe that was it.

Q. Did you memorialize those statements in the crime scene report?

A. Yes, sir, it's --

Q. Is that something --

A. -- in the report.

Q. Oh, I'm sorry, I cut you off. They are in your report?

A. Yes.

Q. Is that something that happens often?

A. So we try to document any sort of statements that are made in our presence, but some people are more forthcoming with information than other people.

Q. So you didn't mirandize him?

A. I did not.

Q. Because you're not investigating the overall crime, just the scene?

A. That's correct.

Q. Had you ever mirandized anybody in your work with SLED to that point?

A. No.

Q. All right. That's not something that Crime Scene normally does?

A. No, we do not.

Q. And you didn't ask him any questions about what had happened, just told him what the sort of samples you were gonna take?

A. That's correct.

MR. EVANS: May I approach, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'm gonna pass you a document, and ask you if you can recognize this?

A. Yes, I do recognize this document. It is page three of our -- well, page eight, excuse me, page eight of the crime scene notes -- the crime scene report --

Q. All right.

A. -- that was created.

Q. And have I highlighted a portion of that?

A. Yes, you did.

Q. Is that the portion concerning the statements that Mr. DuBois made?

A. That's correct.

Q. And is that -- as best you can

remember, I know this was six plus years ago, but does that, to the best of your memory, reflect the things that he said to you, and you were able to memorialize in that report?

A. Yes. The only thing that I left out in regard to his statements were, that he mentioned that the victim was not bleeding when he left the cell.

Q. Okay, the victim, Mr. Holmes?

A. That's correct.

Q. Did you know the victim's name at that point, or --

A. Yes, we learned of it, yes, sir.

Q. You learned that on the way there?

A. Uh-huh.

Q. Okay, so that part he didn't name him necessarily, or did he?

A. No, he didn't name him.

Q. Just the person, or the victim, or something --

A. Uh-huh.

Q. -- like that? Okay.

A. That's correct.

MR. EVANS: Your Honor, the State moves into evidence as Court's Exhibit 10 for purposes

of this hearing, and I think those are all the question I have for you, again, for this hearing.

THE COURT: All right.

(Court's Exhibit Number 10 was admitted into evidence.

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon. So you have documentation and notes of your work on the crime scene?

A. That's correct.

Q. Yes? Okay. And you memorialized all that in writing, all right. And now do you recall asking Mr. Dubois, if Country was bleeding?

A. We didn't -- I don't believe we asked that question.

Q. Okay. And are you aware that prior to the voluntary consent to search for his DNA, he had asked for an attorney?

A. I was unaware of that.

Q. Okay. Were you in the room when Agent Logan was speaking with Mr. DuBois?

A. I was not.

Q. Okay. So the conversation with Mr. Logan did not occur in Medical?

Did the conversation with Mr. Logan occur in Medical?

A. As far as what conversation?

Q. When you were there, had Mr. DuBois given any statements to Agent Logan?

A. I was not there when Mr. DuBois was speaking with Agent Logan.

Q. Okay, thank you, all right. And you were in Medical?

A. That's correct.

Q. All right. And do you know when Mr. DuBois was in Medical, he was bleeding from his leg?

A. That's correct.

Q. All right, and you indicated earlier he appeared to be in pain?

A. That's correct.

Q. Did anyone offer to take him to a hospital?

A. I am not sure.

Q. All right. You do recall him reporting being sexually assaulted as well?

A. He reported that it was an attempted.

Q. That's what he said to you, attempted --

A. Uh-huh.

Q. -- sexual assault? Okay.

A. Yes.

Q. All right. Do you when he was taken to Medical?

A. I do not.

Q. When you do the voluntary consent to search form, you don't do any type of Miranda?

A. We do not.

Q. You tell people that they are able -- that they can refuse to consent?

A. Yes, that's part of the -- that's in the document that they sign, that we typically read the document to them as they sign it and ask them if they have any questions.

Q. Okay.

A. It's I believe the document indicates that they hereby freely, without coercion, give their consent.

Q. All right.

MS. CARMODY: Your Honor, I don't have any other questions.

THE COURT: Mr. Evans, any redirect?

MR. EVANS: No redirect, thank you, Your Honor.

THE COURT: Okay. Do you need her to testify any further or no?

MR. EVANS: I will for the actual case, yes.

THE COURT: All right, I understand that.

MR. EVANS: Yes, ma'am.

THE COURT: Okay.

MR. EVANS: But not for this hearing, no.

THE COURT: Okay.

MR. EVANS: That's all from the State.

THE COURT: Okay. Ms. Carmody?

MS. CARMODY: Your Honor, the defense will call Mr. Dubois, for the limited purpose of his testimony about the alleged statement he gave.

***

BENJAMIN DUBOIS, III,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MS. CARMODY:

Q. All right, Mr. DuBois, do you recall Agent Logan speaking with you?

A. Yes, ma'am.

Q. Okay, and where did that conversation take place?

A. By the medical intake in the medical examination room.

Q. So outside of the medical area?

A. Yeah.

Q. Okay, all right. And did you see any recording devices?

A. No.

Q. Okay, and was anybody -- did anybody ask you if you wanted anything to drink?

A. No.

Q. Did anybody ask you, if you needed anything to eat?

A. No.

Q. Did anybody ask you, if you needed medical attention for your injuries?

A. Yes.

Q. Okay, and what did they say?

A. They told me I had to wait; people had to come and talk to me.

Q. Okay, so you did ask for medical help, and you had to wait, and you were bleeding?

A. Yes.

Q. Okay, and then at some point did you ask for an attorney?

A. Yes.

Q. Okay, can you describe how that came about?

A. They were asking me questions, and they were like -- they were asking me about what happened to me, so I was letting them know I had been assaulted. And I had no idea. As soon as they told me the man was dead, I said, "Oh," I said, "what?" I said, "I didn't do -- I want an attorney."

Q. Okay.

A. And then I quit talking to him.

Q. And you quit talking to him?

A. Yeah.

Q. Okay, all right, so it was a clear unequivocal, "I want an attorney?"

A. Yeah.

Q. And then the conversation stopped, right?

A. Yeah.

Q. Okay, and then they brought you over into --

A. A medical examination room.

Q. -- medical examination. Is that where somebody started treating you for your injuries?

A. No, the ladies came and scraped my fingernails, and did all the pictures and stuff, and my injuries.

Q. Okay. And you heard Agent McKay talk about that she didn't ask you anything. Do you recall Agent McKay asking you anything?

A. Yes, she asked me if -- the guy's name, I forget his name, the guy that was deceased, they asked me if he was bleeding, whenever I left the room, and I said, "No, he wasn't bleeding." I said, "He stabbed me," but they got the rooms and everything wrong, I told them, "He stabbed me in my room."

Q. Okay, so my point is, is that -- so it was more of a conversation between you and her, like you weren't just talking, she was just listening?

A. Yeah.

Q. Okay.

A. She was talking.

Q. Right, so she's having a conversation with you, while they're doing your nails, scraping and all that?

A. Uh-huh.

Q. And all during this time you're still bleeding, you've still been -- told them you were sexually assaulted, and needed medical attention, right?

A. Yes, ma'am.

Q. All right, and you were eventually that night taken to a hospital?

A. Yeah, that afternoon they finally took me to the hospital.

Q. The afternoon of the following -- well -- so --

A. Yes.

Q. -- the 22nd?

A. Yeah.

Q. It was the 22nd?

A. Yeah, it was like late in the afternoon that day.

Q. Okay, all right, thank you.

MS. CARMODY: I don't have anything further, Judge.

**

CROSS-EXAMINATION

BY MR. EVANS:

Q. Mr. DuBois, how far did you get in

school?

A. I did some college.

Q. Okay, and where'd you work before you wound up in SCDC?

A. I had my own business of tattooing and body piercings.

Q. So when you were asked those questions and handed that form, do you understand -- you understood what was going on?

A. I wasn't given a form.

Q. You weren't given a form?

A. No.

MR. EVANS: The Court's exhibit, ma'am. Thank you.

BY MR. EVANS:

Q. I'm gonna hand you what's been marked as Court's Exhibit Number 3. You weren't handed a copy -- the original of that form?

A. And this isn't my initials or my signature.

Q. Okay, so you're testifying today that you did not sign --

A. I --

Q. -- any Miranda waiver?

A. No, I did not sign that.

Q. Okay.

A. That's not my signature or my initials.

Q. Thank you. But you've been mirandarized before?

A. Yeah.

Q. On prior occasions?

A. I can't remember.

Q. You can't remember any of the times that you were arrested and being --

A. Sometimes, but I've never been mirandarized, they just put you in a jail, put you in there.

Q. No, I'm asking about other times.

A. Yeah.

Q. Prior in your past.

A. I wasn't mirandized every time in the jail.

Q. Okay, but you had on some of those occasions?

A. Uh-huh

Q. Going all the way back to 2002?

A. Yeah.

Q. Okay. You were mirandized in a case that led you to SCDC for this particular --

MS. CARMODY: Objection, Your Honor,

relevance.

THE COURT: Overruled.

BY MR. EVANS:

Q. Were you mirandized when you were charged in Berkeley County with murder?

A. I can't remember, that was a long time ago, I got a bad injury -- head injury from that, but I do remember -- I mean I didn't even kill that dude.

Q. Well, and that's not what I asked you, sir.

A. The man broke into my house and beat me up with a golf club. So I remember some stuff. I don't remember if they mirandarized me or not.

Q. All right.

A. I really don't.

Q. But you're saying they did not in this case?

A. I know for sure they didn't, because that ain't even my signature or my initials. I've got a million signatures and initials for medical forms all the time at the hospital from having seizures. They have my initials and stuff on it, and it's always the same, that's forgery.

Q. That's forgery?

A. Yeah, that's definitely forgery.

Q. Okay. Do you recall being convicted for giving false information in 2003?

A. No.

Q. Do you recall being convicted of forgery in 2006?

A. Yeah, I printed some stuff off the Internet, and I got forgery for it.

Q. Do you recall being convicted of giving false information in 2010?

A. The false information was when I was drunk.

Q. Do you recall being convicted of forgery in 2011?

A. I can't remember.

Q. Do you recall being convicted of financial identity fraud --

A. I do remember that.

Q. -- receiving stolen goods --

A. Yeah, I remember that.

Q. -- in 2013? You asked for medical attention?

A. I sure did.

Q. And you were brought to the medical

area for attention?

A. Yeah, supposedly.

Q. Supposedly. And when they -- when you asked to terminate the interview, it's your testimony that the interview stopped; is that right?

A. Yeah, they quit asking questions. They got mad, because another investigator was coming in, and told -- because they just told me about the guy being dead. I said, "I didn't kill anybody." Another guy walked in, yelling at me, saying, "I don't believe you." I said, "What?" I said, "Man, I don't -- man, I want a lawyer," and that's exactly how I said it, "I want a lawyer," I quit talking to them.

Q. Okay, and they stopped talking to you?

A. Yeah, then the lovely lady said they had to get my swab and my fingernail scraping.

Q. All I'm asking about is Mr. Garvin and his partner.

A. Oh, yeah, he quit talking to me after that.

Q. All right.

MR. EVANS: That's all, Your Honor.

THE COURT: Redirect?

MS. CARMODY: Briefly, Your Honor.

**

REDIRCT EXAMINATION

BY MS. CARMODY:

Q. Did you actually sign a consent to search for your DNA? You signed that form, right?

A. Yeah.

MR. EVANS: Object to relevance.

BY WITNESS:

A. I did.

Q. Okay, that's -- you admit that you did sign the consent to search?

A. That's what it says right here.

Q. Okay, and I want to show you now this signature on here, and do those signatures look anything alike?

A. Not at all.

MS. CARMODY: And I would like to mark the voluntary consent to search, which does contain my client's signature, as Court's Exhibit --

COURT REPORTER: Eleven.

MS. CARMODY: And for comparison with State's Court's 3, which does not contain my client's signature.

THE COURT: If you could just hand it up to me.

MS. CARMODY: Thank you, Your Honor.

MR. EVANS: No objection to the entry, but I'm going to object to her testimony.

THE COURT: Anything further?

MS. CARMODY: No, Your Honor.

THE COURT: All right, you can step down, sir.

Mr. Evans?

MR. EVANS: Thank you, Your Honor. As to the admissibility of these statements. I understand Ms. Carmody's client is saying that this a complete and total fabrication, and that he was not mirandized, but, Your Honor, respectfully, once he put himself on the stand his credibility became an issue, and his credibility is not nearly as strong as Mr. Garvin's.

His testimony was that Mr. DuBois was mirandized by Mr. Garvin, that he was not yet in legal custody, though, of course, he was in defacto custody. His testimony was that it was a very brief interview, which was terminated when he asked for it to, and that's the one

thing that Mr. DuBois agrees with, was that when he asked for the interview to end, it ended.

I think Ms. Carmody thinks that that's evidence of malice, or something, but that's what Miranda says we're supposed to do. So I think that is evidence that things were conducted responsibly and properly. We have a signed Miranda form.

There's testimony that it was filled out from, you know, Mr. Garvin testified that Mr. Dubois filled it out. He's saying now that that's not true.

I submit to Your Honor that it is true. There's no indication that this was the sort of lengthy, oppressive interview that needs bathroom breaks and food even necessary. It would be nice if everybody were asked at the outset, I suppose, but, again, that's not a requirement of the law, that's just an inuendo that we ask about and look for.

There was no need for him to get a bathroom, food or water break, because this was a brief interview by everybody, I think everybody agrees, and he terminated it, when he was asked to. The other statement I think,

candidly, Your Honor, I don't think there's any question that Miranda wasn't even necessary. This is an officer who's responsible for something quite different from gathering defendant statements, although, of course, it can happen, and the law anticipates that.

You know, it's not required if the defendant initiates his own statements. That's what happened here, based on all the credible evidence before you, and I think that statement is inadmissible as well. Would you care to hear our argument on Neill v. Biggers now or --

THE COURT: No, go ahead.

MR. EVANS: Yes, ma'am, thank you.

MS. CARMODY: Thank you, Your Honor, may it please the Court? Your Honor, first and foremost, my first argument is, that this is hearsay.

The statement from Agent Logan's report is a hearsay exception. And the reason is, Your Honor, first of all, this is not a statement of a defendant, this is a summary of what Agent Logan recalls what Mr. DuBois said. So first of all, that's not a statement of the Defendant, it's a summary of what Logan recollects

occurred.

And the statement is defined as a defendant's oral or written assertion. That's not his oral or written assertion, it is Agent Logan's summary. Number two, Your Honor, is it's also hearsay, because Logan wrote the memorandum and not Agent Garvin.

So this is not Agent Garvin's notes, this is not Agent Garvin's own independent recollection, this is Agent Logan's report that is signed by Agent Logan, that Agent Garvin is now trying to testify to. Your Honor, so that falls under hearsay.

THE COURT: I thought Agent Garvin was there during the first interview?

MS. CARMODY: These aren't his notes of what occurred, this is not his own independent recollection of what occurred. These notes are specifically from Agent Logan's report, he --

THE COURT: I understand that.

MS. CARMODY: I'm sorry?

THE COURT: I understand that.

MS. CARMODY: Okay, so it's hearsay exception. That's why our argument is hearsay; because Agent Logan can't come in and testify

and be subject to cross-examination is the issue. If Agent Logan can come in and testify as to what he recollects Mr. DuBois said, but for Agent Garvin to get up here on the stand and say, "Okay, I'm referring to Agent Logan's report, and this is what, you know, Agent Logan recollects of what Mr. Dubois said," he's not even subject to cross-examination.

So the State can call Agent Logan, I think that would be completely appropriate under this fact. I think that Agent Garvin is not the correct witness to testify as to a recorded statement from my client.

Third, Your Honor, I think that's number four, also, if this is a 403 argument, that it is misleading to the jury, that it's not exactly what he said. It's not his own statement, it's Logan's statement of what he recollects DuBois said. There's no recording, there's no audio, there's no video, there's not even any notes.

Also, Your Honor, the burden is on the State to show that Mr. DuBois' rights were voluntarily waived, and they must show the preponderance of the evidence that his Miranda rights were waived.

Your Honor, I've handed up the form to the Court, I believe that it's clear that the signature he admits to signing the DNA form, but the signature on the Miranda form is not even close to anything that represents his signature.

Also, Your Honor, he was in custody, there's no doubt he was in custody, he's currently in prison. He was interrogated about what happened, which is clearly mean to elicit an incriminating response. This statement to law enforcement was his response to those interrogations, so I believe that the requirements for Miranda are triggered. And the Miranda form was issued -- well, not the Miranda form, the agent wrote -- that it was at 10:11 a.m. That was prior to him receiving any medical attention for his injuries. They actually had found him in a fetal position, actually.

He was bleeding from his leg. He said he had been sexually assaulted. He was requesting medical attention and could not receive medical attention until after he spoke to law enforcement.

If that's not the definition of coercion,

Your Honor, I don't know what is. It's our position that his consent would be invalid, even if he did give voluntary consent, and that his statement was involuntary.

The correct thing to do would have been to take him to a hospital first, and then try to ask him questions, but they didn't do that here. They elicited a response, or actually Agent Logan elicited a response from him, while he was seeking medical attention.

THE COURT: Response.

MR. EVANS: Judge, first, everything she said goes to weight, not admissibility. The hearsay aspect I don't even -- I'm rather confused as to how she gets there, because, frankly, first and foremost, this is not how the statement is going to come in in the trial. The reason we made it a Court's exhibit is to hand it up for Your Honor's benefit.

THE COURT: Right, it's --

MR. EVANS: Mr. Garvin's going to testify, based on his own memory, and he's more than welcome to look at any document.

THE COURT: To refresh his recollection.

MR. EVANS: He can look at the document if

it helps him refresh his recollection. I mean that's the --

THE COURT: He also is the lead investigating officer, and he can rely on other things told to him by other investigating officers in the case.

MR. EVANS: That's correct, and he was a participant, and he was in the room, as Your Honor mentioned, with Mr. DuBois during this interview, so I'm not planning on making the written document that's a Court's exhibit, I'm not planning on making that a State's exhibit once the jury's here.

THE COURT: Okay.

MR. EVANS: So I think the statement comes in -- I mean the hearsay part of the objection, that just completely overlooks the fact that someone, other than the speaker of the phrase has to be the sponsoring witness for that statement, as an admission by a party opponent, or a statement against interest, however you want to take it.

THE COURT: Okay.

MR. EVANS: At any rate --

THE COURT: But as far as the statement is

concerned, I do find it is voluntary, and by his own admission, when he stated he didn't want to talk anymore, they stopped, so I think certainly should come in, and that's for the jury to determine.

What else?

MR. EVANS: The second statement.

THE COURT: So as to the second statement, correct me if I'm wrong, when the Agent testified that her and Jamie Johnson were in there, they went to get the buccal swab, was that statement after or before this, correct?

MR. EVANS: It's the second time, yes, ma'am.

Because they didn't intend to interrogate him, and that's not part and parcel of their duty at the scene.

THE COURT: And my understanding and my recollection of the statement was reiterated in the first statement was, is that he was also sexually assaulted, correct?

MR. EVANS: Its' very consistent, yes.

THE COURT: And he got stabbed as a result of that.

MR. EVANS: Yes, ma'am.

THE COURT: Then I don't think there's anything else. There was no other admission in it, was there?

MR. EVANS: I'll just double-check, Judge, but no, not -- there's no admission in either statement saying, I'm the one responsible.

THE COURT: Right.

MR. EVANS: He never says that.

THE COURT: Right.

MR. EVANS: I'll certainly agree with him that he denied it at all points.

THE COURT: And just so I'm clear because I think there was some confusion, and it was something that the Defendant brought up was, this occurred in, correct me if I'm wrong, Mr. DuBois' cell; is that correct?

Where did this occur?

MR. EVANS: No, ma'am, the murder occurred in cell number five, which was Mr. Holmes'.

Mr. DuBois was a resident of cell, I believe it's 22, where there was blood found on the floor, but as --

THE COURT: You believe it's Mr. DuBois' then, correct?

MR. EVANS: It's -- SLED will testify when

we get there, it was Mr. DuBois' blood on his own floor.

THE COURT: Okay, so you're telling me that it occurred in cell --

MR. EVANS: Five, the victim's cell.

THE COURT: Okay.

MS. CARMODY: Your Honor, the statement that SLED -- well, the statement that's written down is inaccurate, because Mr. DuBois is stating that the assault occurred in his cell.

THE COURT: That's what I heard him testify to.

MR. EVANS: I'm assuming he means the attack that he's saying -- testifying here for the purposes of this hearing only, occurred, in which he was a victim of Holmes.

THE COURT: Okay.

MR. EVANS: But the murder of Mr. Holmes was found, along with pints of his own blood in his own cell.

MS. CARMODY: Your Honor, so SLED took a statement, which is -- actually, the statement is inaccurate.

THE COURT: What else?

MR. EVANS: Judge, as far as Neill v.

Biggers is concerned, you know, if you need to hear from either of the potential witnesses, I mean Mr. Chappell is on his way, he lives in the Upstate.

Mr. Finkbeiner, as you know, we've asked for a bench warrant for, so I can't tell this Court with great confidence if he will even testify.

THE COURT: Okay.

MR. EVANS: And, certainly, we won't get into, you know, our sequence with - he will be after anyway, so we wouldn't get into his ID, if he can actually testify. But as far as Mr. Chappell goes, I don't think you need to hear from him. I think you have everything you need. Mr. Garvin testified that all of these pictures were provided by SLED, based on, you know, the usual -- their algorithm, their computer. I think you can see in the copies that we've given you, and we have color as well, Judge, if you need them.

THE COURT: Excellent.

MR. EVANS: The fact that he's in the prison, this might be one where it makes it even more fair, Judge, because of the underlying

issues, and the uniformity of the clothing. Obviously, just like everything else in this case, they're gonna, you know, identify all the parties as prisoners, but I think, based on the unique nature of this case, that's not an issue.

THE COURT: Okay.

MR. EVANS: I think that the --

THE COURT: So when is Mr. Chappell going to testify?

MR. EVANS: When, Your Honor?

THE COURT: Yes.

MR. EVANS: We hope for tomorrow. He's supposed to be arriving today, and checking in, and if Your Honor wants to hear from him on this issue --

THE COURT: And before we go into that, do we need to have him testify? I think you should. When Mr. Chappell testifies make sure that no one suggested anything, and it was -- right?

CLERK: Yes, your Honor.

MR. EVANS: I'm happy to do that, Your Honor. We can, you know, break it off and take it up later, but it just -- for the record now, there was already testimony that he identified

all three individuals, Mr. Nania and Mr. Highland and, of course, Mr. DuBois by name.

So we'll take that up in, you know, in camera hearing maybe at lunch, or whenever we get to him tomorrow, but we'll certainly wait, and look forward to your ruling then, but I think we're well on our way, as far as that goes.

THE COURT: Okay.

MR. EVANS: But certainly, if she wants to argue now, or wait until then, it's up to her.

THE COURT: Wait until then.

MR. EVANS: Yes, ma'am.

THE COURT: That's fine, let me give this back to you.

COURT REPROTER: Thank you.

MR. EVANS: All right, Your Honor, the only other housekeeping matter, I think, and I'm going to check with him after I'm done, was the admissibility of the scene pictures, since we may get to that today with Ms. McKay.

I've given Ms. Carmody a copy of all the scene pictures that we intend to introduce, as I said before jury selection. She obviously already had a copy of them all in discovery. I

don't know whether she intends to ask Your Honor to keep any of them out, for graphic nature.

THE COURT: Are you objecting to any of those, Ms. Carmody?

MS. CARMODY: I haven't had a chance to look at them.

MR. EVANS: She said -- she told me she hasn't had a chance, but she will over lunch, so --

THE COURT: Do you have a separate set for me to look at as well?

MR. EVANS: I can make sure that you get --

THE COURT: Or just give me the ones you intend on introducing, whichever it is.

MR. EVANS: Yes, ma'am.

MS. CARMDOY: Your Honor, I do need to look at them. I will do so, but I do need to look at them.

THE COURT: Okay.

MS. CARMODY: At least some of the ones he intends to introduce.

THE COURT: All right, well, if you can look at them right now, I can look at them as well. The jury's gonna be back in about ten or 15 minutes, so --

MR. EVANS: Yes, ma'am.

THE COURT: -- then I'll go through those, okay?

MR. EVANS: Okay.

(RECESS)

MR. EVANS: Thank you, Judge.

THE COURT: Okay, I'm going to allow it. And then here's the number two that we're not putting in, because it's --

MR. EVANS: Correct.

THE COURT: -- to be done later.

MR. EVANS: Yes, ma'am.

THE COURT: All right, just make sure it doesn't -- let me tell you how I do that, to make sure that happens.

MR. EVANS: Thank you. I'm gonna go further than that.

COURT REPROTER: No, no, no, let me see it.

MS. CARMODY: Your Honor, with regards to autopsy pictures --

THE COURT: We're not gonna get into those until Dr. Ross testifies, so as I told you, he's gonna go ahead and take care of them, get his copies to those as well.

MR. EVANS: Yes, ma'am, that'll --

THE COURT: All right.

MR. EVANS: -- be overnight at some point, but before Dr. Ross gets here.

THE COURT: Okay. Also, could I see the Sharpie on the number 21 that you did? What I want you to do, can you make it more of like a little bit of a square? I know what you're trying to show, but I think it'll be, you know, less facial.

MR. EVANS: Yeah.

THE COURT: And I want to do the same thing on the autopsy photos, when we take the eyes out, kind of do, if you don't mind. The autopsy photos will be facing this way, just do something like this, okay?

MR. EVANS: Yes, ma'am.

THE COURT: Thank you'all. Okay. But I want to be as clear that he actually did something to them. Like, I want the jury to understand that we have Sharpied out, you know, a portion of it.

MS. CARMODY: Again, we have another one of just the issue of blood that's on the floor, it's cumulative. On the other pictures there's blood in the room. I believe it is just

cumulative to this one here.

THE COURT: Yeah, I don't think you need that one. What number is that one? Let's take that one out.

MR. EVANS: I have an argument for this one, Judge.

THE COURT: What is it?

MR. EVANS: If I may? As you can see, Judge, this is taken -- and this is State's 14, proposed 14 --

THE COURT: Uh-huh.

MR. EVANS: -- for the record, and I'll hold it up, Judge. You can see that the blood stops at the doorframe.

THE COURT: Okay.

MR. EVANS: And part of the evidence from Mr. Chappell is gonna be the door was closed by Mr. -- I believe by Mr. Nania and Mr. Highland.

THE COURT: Uh-huh.

MR. EVANS: And then they cleaned up afterwards, and I think this is proof of all of it, Judge.

THE COURT: Okay. Well, I think --

MR. EVANS: That's my argument. If you want to pull it --

THE COURT: That's relevant then, if that's what you're using it for.

MR. EVANS: I appreciate it.

THE COURT: Sure.

MR. EVANS: All right. May I approach, Your Honor?

THE COURT: Yes.

THE COURT: Yeah, that's fine.

MR. EVANS: That's satisfying?

THE COURT: That's fine.

MR. EVANS: Satisfactory? Thank you, Your Honor.

THE COURT: All right, anything else?

MR. EVANS: Not from the State.

THE COURT: All right, can we go ahead and bring the jury in? Are you'all ready to go? Does anyone need a comfort break before we bring the jury in?

MS. CARMODY: My client does, Your Honor.

THE COURT: We're not going to address those --

MS. CARMODY: Okay.

THE COURT: -- until Dr. Ross is here.

MR. EVANS: We'll have another chance

without the jury present.

THE COURT: Okay. So he needs a restroom break. Someone take him out, and you guys can take one minute, and then get back, okay? Thank you.

(RECESS)

THE COURT: You ready to go?

MR. EVANS: Yes, ma'am, the State's ready.

THE COURT: Ms. Carmody?

MS. CARMODY: Yes, Your Honor.

THE COURT: All right, bring them out.

(Jury enters the courtroom.)

THE COURT: All right.

Ladies and gentlemen, what we're going to do to begin this trial is, Ms. Bostick, the Clerk of Court, is going to swear you in as the trial jury in this case. I'm gonna make a few opening comments, just about procedure we're going to follow, and then each of the lawyers are going to give an opening statement, okay?

CLERK: Would you please stand and raise your right hand? Do you swear or affirm that you shall well and truly try the case 2017-GS-27-582, the State of South Carolina v. the Defendant, Benjamin DeBois, and render a true

verdict, according to the evidence and the law, so help you God?

JURORS: Yes, ma'am.

CLERK: If you took the oath, you may be seated. Thank you.

THE COURT: Thank you. Ladies and gentlemen, what I'm now going to say to you is intended to serve as an introduction to the trial of this case. These remarks are not a charge on the law. I'm going to instruct you on the law that has to do with this case at the very end of all the evidence. This is simply a roadmap, so you can better understand what's happening.

Now, ladies and gentlemen, in this case the Defendant has filed, I'm sorry, is charged by an indictment filed in this Court with the events of a murder, the elements of which I will explain to you at the end of this case. Now, the indictment is simply a charge by which the case is brought into the courtroom, and it is not, in any sense, evidence of any of the allegations that it contains.

Now, in this case the Defendant has pled not guilty to this indictment, therefore, the

State?

MR. EVANS: Not from the State.

THE COURT: From the defense?

MS. CARMODY: No, Your Honor.

THE COURT: Ladies and gentlemen, we're going to go ahead and begin the trial of this case.

Mr. Evans, whenever you're ready, sir.

MR. EVANS: Thank you, Your Honor, may it please the Court?

THE COURT: Yes, sir.

**

OPENING STATEMENT BY MR. EVANS

MR. EVANS: Ms. Carmody, ladies and gentlemen of the jury, a lot of people come to the Low Country, Jasper County, for the weather. A lot of people come for the beautiful scenery. A lot of people come to play golf, hunt or fish.

When they get here, they find it's a friendly, beautiful, welcoming place, but there's some places in Jasper County that aren't so beautiful, aren't so friendly, and there's some people that come here not because they chose to, but they were forced to.

One of these not so friendly and not so

beautiful places is the Ridgeland Correctional Institution. You probably hear it referred to as RCI throughout this trial, and that's a state prison. It's located not quite a mile and a half as the crow flies from this courtroom, on the other side of 95 at Exit 22.

And the people that come to the Low Country to stay at RCI are not there by choice, they're there because they do crimes. And on June 21st and 22nd, that night, 2017, Ridgeland Correctional Institution, the Savannah wing, B side, cell 5, that changed from the place that Jerry Holmes had to go, and probably couldn't wait to leave, to a place he'd never leave, because that's where Benjamin DuBois killed him, by stabbing him in the neck.

Jerry Holmes was 45 when he died. He was, like I already told you, in prison. He'd been convicted of selling drugs, he was a drug user, he made serious mistakes, committed crimes.

And it's an interesting thing about this trial, because unlike most every case that we try here in this courtroom, you're gonna hear a lot about criminal records, because several of the people that the State is going to call as

witnesses to this horrible death were, of course, inmates at the prison.

There's no sugarcoating it, there's no getting around it. Several of the people who sit on that witness stand and talk to you over the course of this week about what they know, have, like Mr. Holmes, been convicted of significant crimes, that's why they're in prison, it sort of goes with the territory, who might have seen what happened in the murder that happened in the prison.

So that's something you'all are going to have to get used to, but back on June 21st and 22nd, 2017, Jerry Holmes is living in cell 5, as I said, Savannah wing B. Each wing of the prison has an A side and a B side, and he was I wing B, and he was actually going to leave the prison the next day for a court date.

He was gonna go to a courthouse much like this one. He was looking over some papers in his cell, his cellmate, Casey Chappell, was in there, you'll hear from him, and in came Benjamin DuBois, the Defendant in this case.

Mr. DuBois told Mr. Chappell he and Mr. Holmes had business to discuss, and Mr. Chappell

needed to leave. Mr. Chappell did leave, he saw the door close behind him, leaving only Mr. DuBois and Mr. Holmes in the cell.

A few moments later he could hear his cellmate, Jerry Holmes, crying out for help, screaming in agony, and shortly after that he saw Benjamin DuBois exit cell 5 covered in blood. He later saw Mr. Holmes also covered in blood, but he didn't leave.

Mr. DuBois walked down the main common area of the wing, it's usually called the rock, you might hear it referred to that way. He walked down the rock to one of the showers. He rinsed off the clothing he was wearing, covered again in blood, disposed of that clothing, and went to his own cell, cell 22. And he, Mr. DuBois had also been injured, he wasn't dead, he had been injured in this incident, and he bled all over his cell's floor.

There are two other names you're gonna hear a lot about this week, that you're not gonna see in this courtroom, and those names are Joshua Nania and Julius Frank Highland. You're gonna hear them referred to as Junetown and Squeak. And you'll hear Mr. DuBois referred to as

Animal. You might hear Mr. Holmes referred to as Country.

So just about everybody's got a nickname in prison. So you may hear a lot about Mr. Nania and Mr. Highland, and why is that? Well, they were also charged in this incident. And Mr. Chappell we believe is going to testify that he saw Mr. Nania and Mr. Highland assisting Mr. DuBois, by helping to clean up after him, because there was blood that came out of cell five, and was tracked all the way to the showers, and there was bloody clothing, which was -- they attempted to dispose of, it was later found.

So you're gonna hear about those names. This is not their day in Court, and that's important to understand. They were charged in this incident, they were not alleged to have stabbed Mr. Holmes, as Mr. DuBois is alleged to have done, but they were charged.

Mr. Nania his day in Court will come. It's not today, it's not this week, this is Mr. DuBois' day. Your job, as the jury, is to examine whether we can prove to you, beyond a reasonable doubt, that he is guilty of his

crime, the crime of murder.

Mr. Nania will have his own day in Court. Mr. Highland has to wait, his day won't come, he's not available to be tried by a jury like yourself.

That's important to keep in mind. Your job is not to determine whether they are guilty, your job is to determine whether Mr. DuBois, Animal, is guilty.

Now, there's another name you'll probably hear a lot of, that's Tyrese Griffin. Mr. Griffin was the Guare in charge of Savannah wing B on that night, and Mr. Griffin did not do his job.

He shirked his duties, he was lazy, he later lied to the police about it, and for that he was terminated, and he himself was charged. As I said, you may hear a lot about him, and what he did or did not do, but this isn't a case about whether he committed misconduct in office, or obstruction of justice, there's only one person killed, Country, Jerry Holmes, that's the person who was in the cell, cell number 5, with him, when he died, when he bled to death.

During the course of this week you're gonna

hear about how that is the one and only person, Benjamin DuBois.

In just a little while you're gonna hear from a witness by the name of George Smith. George Smith was in charge of Savannah Wing A that night, he was doing his job. He wasn't in charge of this side of the wing, he was sort of like the flipside of the coin from Mr. Griffin. Mr. Smith is going to be our first witness today, and he's going to tell you about how this wasn't discovered, this disgraceful act, until hours later, around 3:00 in the morning, when inmates started banging on the window to get their attention.

He's going to tell you how he went into Savannah wing B, discovered that Mr. DuBois was injured, and discovered that Mr. Holmes was dead in his cell. You're gonna hear from William Garvin, the gentleman to my left, he was the investigator at SCDC. They have their own police force to look at crimes, obviously, only that occur within SCDC prisons. He's going to tell you about all the steps he took, his investigation, how he interviewed as many people as he could that would talk to him, how he asked

for SLED to come and assist with the collection of evidence, and he's going to tell you how he charged Mr. DuBois with murder.

You're gonna hear from Jacklynn McKay, as an investigator, a Special Agent in the Crime Scene Unit of SLED. She's going to tell you about how she was asked to come down from Columbia, document the scene, collect physical evidence to take it back to Columbia for analysis. As I already told you, you're gonna hear from Casey Chappell, Mr. Holmes' the victim's roommate, or cellmate. He was in the cell just before Mr. Dubois entered, left and could hear the ordeal from outside.

You're gonna hear from a doctor, Dr. Susan Ross, she's a pathologist, that's a type of physician that examines, in this case, dead people, her patients are dead people; and she's going to tell you in her expert opinion how exactly Mr. Holmes died on that fateful night.

Now, in just a moment -- well, I should also say you're not only going to hear all of those people, but you'll be able to see with your own eyes the clothing that Mr. DuBois was wearing when he stabbed Mr. Holmes in the neck.

That's going to be right here in front of you in this courtroom.

In just a moment Ms. Carmody's gonna have a chance to speak to you just as I have, and I imagine she might say that Mr. DuBois, her client, is entitled to a fair trial by an impartial jury of his peers, you folks. Now, she and I might not agree on very much through the course of this week, but this is one thing where we agree completely, he is absolutely entitled to his day in Court to a fair trial, for you to listen closely, to pay attention, even when the testimony seems like it's going nowhere, it all has a point, it's all going to come together like a puzzle, and Mr. DuBois is entitled to ask you to listen very closely all week long, even when it's tedious.

He is entitled to a fair trial. Judge Mullens is going to make sure it's a fair trial, but the State of South Carolina is entitled to the exact same thing. Before he died, he was charged, Jerry Holmes was entitled to all those rights, and he was entitled to more. He was entitled to be kept safe by his government, even as he's being punished by his government, so

give him a fair trial.

When all the evidence is before you and later on this week, I'll have another chance to come back, speak with you again, and at that time I'm going to look at you just as I'm doing now, and ask you to find Benjamin DuBois guilty of murder. Thank you.

THE COURT: Thank you. Ms. Carmody?

MS. CARMODY: Thank you, may it please the Court?

THE COURT: Yes, ma'am.

**

OPENING STATEMENT BY MS. CARMODY

MS. CARMODY: Good afternoon, everybody. First and foremost, before I even get into my opening statement, I want to thank all of you for being here. On behalf of myself and my client, we recognize the sacrifice that each and every one of you is making and sitting here and listening to the evidence in this case, and we thank you for it. And what the State has told you are not the facts of this case. The facts of this case will be determined by you, the jury.

You, the jury, determine what the actual

facts are, so everything Mr. Evans just told you is merely his version of what he believes the evidence will show, but it's not the facts of the case. Your job, and your job alone is to determine the facts. So he already gave you a little bit of history about RCI.

So RCI is Ridgeland Correctional Institute, and it's here in Jasper County. It is a prison within the South Carolina Department of Corrections, and on June 21st of 2017, several years ago now, Tyrese Griffin was the sole Guard in charge of the Savannah B wing at Ridgeland Correctional Institute.

Tyrese Griffin was charged with securing and maintaining 151 inmates on that unit. There were cells within that unit that had no running water, some cells had no lights, some cells had broken windows, none of those things are being taken care of, and the Institution put one guard in charge, and said your job is to watch all these people.

Well, that guard decided, for whatever reason, maybe lack of work ethic, I don't know, maybe it was more nefarious than that, he left approximately ten to 12 cells unlocked, left the

Institution, and left the prisoners by themselves, and came back at 3 o'clock in the morning, and found Mr. Holmes deceased.

What did he think was gonna happen? You do not leave. So you've got to figure there's at least two -- the evidence will show there's at least two to three inmates per cell. So if we're looking at a minimum of 10 cells, we're talking about 30 people that are out doing whatever. Contraband also wasn't doing their job. Contraband was not looking for weapons.

After Mr. Holmes was dead, they found over 20 to 30 weapons on that unit. Several weapons, all of the units, in the common area and bathrooms, in trashcans, in people's cells, all over the place.

So we have cell doors that aren't being locked, we have a guard that just takes off, and I don't know if he went home or what, but he left the prison to run itself. When they come back, they find a man dead, and they find weapons all over the place. Cell phones, I mean cell phones are not, you know, in some of the pods in the prison, cell phones in there, numerous drugs all over the place. There was,

you know, a party on the rock that night, everybody's partying, doing their own thing.

So Tyrese Griffin is not on the State's witness list, you're not gonna hear from him. He was charged, and his charged was dismissed. He was not charged with murder; he was just charged with misconduct in office and obstruction of justice. So there are several pieces of evidence in this case that ironically went missing. There were Crocs with blood on them from another inmate's cell, they're gone, you're never gonna see them in the trial, because they don't exist anymore, they were destroyed.

You're gonna see, approximately, 20 weapons that were recovered from the common area and bathroom, none of those weapons, not a single one, was tested for blood, sent out for DNA, nothing. They have not recovered the murder weapon in this case.

This is a prison; the murder weapon didn't just disappear. It was there, but nobody bothered to collect it.

You'll hear from witnesses in this case, and your job is to determine their credibility.

And the witness may get up here on the witness stand now, and have on a shirt and tie, but he was in SCDC at the time. Back in 2017 a lot of these witnesses were former drug addicts, they were using drugs in the prison, and you'll have to judge their credibility.

Is this witness credible? Did they perceive what they believe they perceived, or were other factors at play? Was narcotic use at play? Was this a crazy night in a crazy institution, where it was complete chaos? Well, how was the lighting in the institution? Was it dark? Things like that, those are the things that you'll have to consider.

Also, you'll have to consider the witness' recollection. This is a 2017 case, and their ability to remember the events, as they occurred at the time. So is their statement that they're making now more credible than their statement that they made closer in time? Those are certain things that will weigh into your credibility and determination as jurors.

I will tell you, by the end of this case it will be clear that Mr. Benjamin DuBois did not kill Mr. Jerry Holmes, and I'm going to ask you

to return a verdict of not guilty.

And I thank you very much for your time and your attention to the evidence in this case. Thank you.

THE COURT: Thank you. Call your first witness.

MR. EVANS: George Smith.

GEORGE SMITH,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Good afternoon, Mr. Smith.

A. Good afternoon.

Q. Would you please introduce yourself, and spell your last name for our Court Reporter?

A. My last name is Smith, S-M-I-T-H.

Q. And your first name is George?

A. George.

Q. All right. What do you do for a living, Mr. Smith?

A. Now?

Q. Uh-huh.

A. I'm retired.

Q. What did you do back in 2017?

A. I worked for Ridgeland Correctional Institution.

Q. All right, is that here in Jasper County?

A. Yes, sir.

Q. How long did you work at Ridgeland Correctional Institution?

A. (No response).

Q. How long did you --

A. Basically, about 16, 17 years.

Q. A long time.

A. Yes, sir.

Q. Did you work anywhere else in SCDC?

A. Well, also I was in the National Guard --

Q. Okay.

A. -- for 30 years.

Q. Thank you for your service.

A. Yes, sir.

Q. Do you recall the events of June 21st, 2017, and June 22nd?

A. Yes, sir.

Q. All right. Were you working at Ridgeland Correctional that night?

A. Yes, sir.

Q. Can you tell us about your general duties as a guard at RCI?

A. My general duties was, as an officer, to make sure the inmates are secured in their cells, basically, that's it.

Q. Okay, that's for an overnight shift?

A. For an overnight shift, yes, sir.

Q. Okay, is that a little different from the daytime?

A. Yes, sir.

Q. How is the daytime different?

A. Well, the shift that I was on B2 shift, they -- I'd been on that shift ever since I started there --

Q. Oh, okay.

A. -- in 2000.

Q. So you were working nights all that time?

A. All that time.

Q. 17 years?

A. Yes, sir.

Q. Tell us about what goes into an overnight shift. How do you make sure that everybody's secure and safe? What do you do?

A. First of all, we have formation, and the Lieutenant or the Captain will be in charge of us, they send us to our post.

Q. Would that post change regularly?

A. No.

Q. You stayed in the same spot in prison?

A. Well, it fluctuated, sometimes I would go up to other units --

Q. Okay.

A. -- you know.

Q. Tell us more, what happens after you get sent to your post for that night?

A. I greet the officer, the outgoing officer, and explain -- he explain what's going on, what happened, and they fill me in with what --

Q. What's the news?

A. Yes, sir.

Q. Okay.

A. What to look for, or what to be doing like the logbooks. They'd explain events and stuff like that what I would --

Q. Okay.

A. Yes, sir.

Q. And what time do you come on for a nightshift, like the one you're working?

A. 6:00 p.m., sir.

Q. Okay.

A. In the evening.

Q. All right. Is that -- when do they have

dinner, all the inmates?

A. They have -- most of them have dinner before we come -- during -- or during shift change.

Q. Okay.

A. Yeah. As best that I recall. Some of them wouldn't eat sometime, they ate late.

Q. Okay.

A. Yes, sir.

Q. Once you'd been filled in on what the news is, what you need to look for, what do you start doing then?

A. Basically, you have the logbook. The officer -- the outgoing officer fill you in, that's what's going on, what happened, what he filled me in on, what's going on, sir.

Q. Okay. After they fill you in, how do you start your shift? What do you do next?

A. Taking a count.

Q. Okay, what does that mean, taking a count?

A. I take my log -- I take the inmate sheets with their name on it --

Q. Okay.

A. -- and go around, and make sure everybody's in their cell. And I also make sure they're secured, and I also do a count.

Q. Okay, so you actually count up the number of people that you're supervising for that night?

A. Yes, sir, but you -- imagine you go around, and make a count.

Q. Making sure that everybody who's supposed to be there --

A. Yes, sir.

Q. -- is there?

A. And everybody -- I want to make sure --

Q. All right.

A. -- they're physical, make sure -- yeah, make sure they're accounted for.

Q. Okay. Mr. Smith, are you nervous today?

A. No, sir.

Q. Okay, I just want to make sure.

A. Yes, sir.

Q. All right. You feeling good?

A. Yes, sir.

Q. Okay. So after you do your count, what do you do?

A. Well, basically, after I do my count, I make sure -- I make rounds about every 15 -- you're supposed to make them every 15 and 30 minutes.

Q. Okay, and what goes into making a round? What is that?

A. Well, you have your count sheet, the inmate. It's a roster.

Q. A list of names?

A. Yes, sir.

Q. Okay.

A. And it tells who in what room, and so on and so forth.

Q. And so making a round, is that checking to make sure everybody's still where they're supposed to be on that list?

A. Yes, sir, and make sure that the doors are secured.

Q. All right, now, let's talk about the doors. When did they get closed? Are they closed all the time? The doors to each cell I mean.

A. Yes, sir, they're supposed to be closed all the time.

Q. They're supposed to be closed the whole nightshift?

A. The whole nightshift.

Q. What time does that start, that lockdown?

A. Basically, they start around about 6:30 to 7 o'clock.

Q. Okay. Does that take a while to get everybody in the cell, and get them all locked?

A. Does it take a while?

Q. Yeah.

A. No, sir.

Q. No, it doesn't take that long?

A. It don't take that long, sir.

Q. All right. Back in 2017, were all those cell locks working in the Savannah wings?

A. As I can recall, yes, sir.

Q. Okay, is there any reason why a cell might be legitimately unlocked overnight?

A. No, sir.

Q. Okay, what if somebody has a plumbing problem?

A. I call the Captain or Lieutenant and notify them, and they'll come over there and fix the situation.

Q. Okay. How about if people were gonna leave the next day?

A. Excuse me?

Q. How about if people were gonna be transferred out the next day?

A. Okay, if they're gonna be transferred onto another yard, or something like that, you inventory them, make sure there are no weapons. We don't want to, but he's supposed to make sure that they're

secured, yes, sir.

Q. Okay. Were you responsible for handling Savannah wing A on June 21st and 22nd?

A. Yes, sir.

Q. Who was in charge Savannah wing B?

A. I did know his name, he's a young guy, a young officer.

Q. Tyrese Griffin?

A. Yes, sir, Mr. Griffin.

Q. All right. Mr. Griffin, he was in charge of Savannah wing B, as opposed to A, where you were?

A. Yes, sir, he was assigned to B then.

Q. All right, when two guards, like you and Mr. Griffin, are assigned to A and B, do you'all see each other over the course of the night?

A. Yes. Yes, sir.

Q. Tell us about that.

A. Okay, to start with, after I take care of my rounds, every three or four, five hours, whatever. Okay, we have -- we also have a break room.

Q. Okay.

A. And we've got people coming down to the break room, and just -- so what it is, so it's just a genuine break room --

Q. Okay.

A. -- with an officer.

Q. So in between your rounds, you see each other in the break room?

A. Yes, sir.

Q. And that's one break room for both A and B?

A. Yes, sir.

Q. Okay. Did you see Mr. Griffin that night June 21st and 22nd, 2017?

A. Yes, sir.

Q. All right. Could you tell whether he was making his rounds?

A. Well, people were coming down to eat. He had two people to ship out to another yard.

Q. Okay.

A. That's from my understanding.

Q. Another yard within RCI?

A. No, sir, another -- he had two people ship out of there. I don't know where they was going, but, yeah, he told me --

Q. Okay.

A. -- that he had two people he had to ship out.

Q. Okay.

A. I'm assuming that it's another -- maybe another yard, but that's -- from my understanding that's what he told me.

Q. Okay, but, again, did you see him doing his rounds, or were you busy doing your own rounds?

A. I was busy doing my rounds, and we were -- every so often we'd come together.

Q. Okay.

A. Yeah.

Q. Just bump into each other in the break room?

A. Yes, sir.

Q. All right. And how long did that go on for, before it became unusual?

A. It went on for a while, sir.

Q. When did you notice that this night was not gonna be like every other night you'd worked there?

A. Well, when I'd seen those two inmates heading towards our break room, I asked Officer Griffin, I said, "What," but I knew he had two people he had to ship out. He had a couple new ones he had to ship out.

Q. Okay.

A. And he came and it was unusual to see that, you know, because when you're in a correctional environment, you know, as long as I've worked there, you know, why are these inmates out? But I knew he had the two that were shipping out, so I figured that he was managing that professionally.

Q. I see. You're saying that when you saw the two inmates out, you thought maybe this was part of his overall plan for the night --

A. Yes, sir.

Q. -- Officer Griffin?

A. Yes, sir.

Q. Okay. And that wouldn't be something you'd see normally on a shift?

A. No.

Q. All right. Describe for us in a little more detail what you saw these men doing?

A. They came outside the horseshoe.

Q. Okay.

A. That's where --

Q. Careful of that mic.

A. Excuse me, excuse me, that's where the horseshoe is -- that's where it is at.

Q. Is the whole wing shaped -- like you've got two wings on either side --

A. Yes.

Q. -- and a breakroom at the bottom?

A. And --

Q. And they're calling it a horseshoe?

A. Yes, sir.

Q. Okay. So they came and approached the

breakroom?

A. Yes, sir.

Q. All right.

A. To my understanding, I thought those were the two guys that was being relieved, that was being shipped out.

Q. That's what you thought?

A. That's what I thought.

Q. Okay. What did you and/or Mr. Griffin do, when you saw those two men? And --

MR. EVANS: Well, actually, withdrawn.

BY MR. EVANS:

Q. They came up to the window, what else did they do?

A. They came up to the window and they was saying something to Mr. Griffin, and then they turned around and went back on the wing, and I kind of had a feeling that something was going wrong, you know.

And we went down to -- it was like room 22.

Q. You went into Savannah wing B?

A. Yes, sir.

Q. You and Mr. Griffin?

A. Yes, sir.

Q. Did anybody else come with you'all?

A. No, sir.

Q. Okay.

A. And after we got down there, I noticed one of the inmates his head was -- something wasn't right.

Q. He was injured?

A. Yeah, he was injured at that point.

Q. And that was in cell 22?

A. Yes, sir.

Q. Do you remember what time this was?

A. I can't recall the time; it was late though.

Q. Middle of the night?

A. Some later, yes, sir.

Q. Okay.

MR. EVANS: I beg the Court's indulgence. May I approach the witness, Your Honor.

THE COURT: Okay.

BY MR. EVANS:

Q. Mr. Smith, do you remember speaking to law enforcement in this matter?

A. Yes.

Q. Do you remember speaking to police in this case after all this happened?

A. Yes.

Q. Do you remember writing a statement?

A. Yes, sir.

Q. All right, is this your statement? One of

them?

A. Yes, that's my -- yes, sir, that's my statement.

MS. CARMODY: Is this -- I don't believe that the witness is having a problem remembering what happened. I believe that if Mr. Evans lets the witness testify, rather than reading off the statement.

MR. EVANS: I'm not asking him to read this.

MS. CARMODY: Okay.

BY WITNESS:

A. This is my statement.

THE COURT: Overruled. If he needs to look at it, he can to refresh his recollection, just don't read it out loud, sir.

BY MR. EVANS:

Q. Exactly as the Judge said, sir.

Does that help you refresh your recollection?

A. Yes, sir.

Q. All right, what time was this?

A. This was around about 3 o'clock that morning.

Q. All right. So you went into Savannah wing B with Mr. Griffin, that's where we left off?

A. Yes, sir.

Q. And you saw an inmate with some injuries to his head?

A. Yes, sir.

Q. All right. What did you do after you saw the inmate with the injuries to his head?

A. I told Officer Griffin that something's wrong, he's -- something isn't right. It looked like he got into a fight, you know, the top of his head was like there was scratches, and -- and me and him we decided to call the yard guard, the yard -- Sergeant -- I forgot his name.

Q. A supervisor of yours?

A. He's the yard sergeant, he's the one that comes --

Q. Yard Sergeant?

A. -- around and make sure things are secured and no doors are open. Because the yard sergeant went over to the unit, and he came, so he decided to do a search.

Q. Okay.

A. So me, Officer Griffin, and the sergeant, we decided to walk around, go to the bathroom, walk around. When we got to the bathroom there was clothes, and they was -- it was bloody, bloody clothes.

Q. Okay.

A. So they redecided to -- we kept searching.

Q. Looking for more unusual things?

A. Yes, sir.

Q. Okay. Let me take it down real quick. What's the lighting situation overnight?

Are there lights on in just the breakroom, in the cells, in the common areas? What's that all about?

A. In the breakroom -- there's lights in the bathroom.

Q. In the bathroom, but not in the --

A. Yes.

Q. But not on the rock as they say, not the --

A. No.

Q. Okay. How about the cells? Do the inmates control their own lights overnight?

A. Yes, sir.

Q. They do?

A. Yes, sir.

Q. So they can leave it on all night if they want to?

A. Well, they do have -- my recollection, they do have a switch --

Q. Yeah.

A. -- if they get caught with the light on, yes, sir.

Q. Okay. In cell 22, when you saw the man with

the head that didn't look right, were the lights on in there?

A. Right.

Q. And --

A. It didn't look right though.

Q. No, I'm asking about the lights, just about the lights.

Were the lights on in cell 22?

A. Yes, sir. Yes, sir, the light was on.

Q. When you went to visit?

A. Yes, sir.

Q. And you say they're always on in the bathroom overnight?

A. Yes, sir.

Q. Okay. Were there any other lights on that you recall?

A. That's basically it. There's not too much light. Basically, lights in the bathroom, there's some lights -- that's basically --

Q. All right, now, I interrupted you, so I apologize.

A. Yes, sir.

Q. We had just talked about the bloody clothes in the bathroom.

A. Yes, sir.

Q. And you kept looking, tell us more about that.

A. When we'd seen the clothes, we started searching to see what we could find evidence, and maybe -- number one, the clothes was, you know, there was bloody clothes, okay?

So we continued to search and look around, and see if someone was hurt, because our first instinct is someone hurt? Because of what we'd seen in the bathroom, okay?

Q. Okay.

A. So we continued to search, and we searched, and we got to room number five, I think it was room number five, that's when we'd seen the inmate --

Q. Tell us what you saw in room five.

A. There was an inmate, he was all bledded (sic) out.

COURT REPORTER: I'm sorry, sir, the inmate what?

BY WITNESS:

A. He bledded out.

COURT REPORTER: He bledded to death?

BY WITNESS: He was bleeding.

COURT REPORTER: Okay.

BY WITNESS:

A. And we looked and rigor mortis was done

setting in, you could tell he was --

Q. Try not to --

A. Excuse me, he was there, and he -- there was no movement, so the yard operator took it from there, he called EMS.

He attempted to call EMS, or he called the Captain of the shift to let him know what's going on and what we found.

Q. All right. You reported it --

A. And he called Medical.

Q. Okay.

A. He called Medical, and all this was going on, you know, simultaneously, while this was going on.

Q. Was it chaotic?

A. Yes, it was chaotic, because I know over the years I worked for the Corrections, I'd never seen a situation like that.

Q. Have you ever seen anybody else die in the prison?

A. Yes, sir.

Q. Did it ever look like that?

A. No, sir.

MR. EVANS: I beg the Court's indulgence.

BY MR. EVANS:

Q. Was cell five unlocked?

A. Yes.

Q. Were any cells, other than five and 22 unlocked?

A. No, I couldn't -- I don't remember, sir.

Q. Okay. The man who had he head injury, what was his demeanor? What was he acting like?

A. He was acting nervous, and that's the best I can describe it, sir.

Q. Okay.

A. He was acting nervous, and that's the best I can describe that situation, sir. Excuse me, okay, he was acting nervously, and I could sense something was gonna happen.

Q. Okay.

A. The way -- how he was acting.

Q. Mr. Smith --

A. Yes.

Q. -- we talked a little bit earlier about the lights, and you said that they were off, other than cell 22 when you came in?

A. Yes, sir.

Q. Okay, when do those lights go off? Because surely, they're not off all day.

A. Well, like, well, the bathroom lights stays on, and the lights stays --

Q. The bathroom lights and exit doors stay on 24/7?

A. Yes, sir.

Q. Cells are by inmates' choice, even after lockdown?

A. If I can recall, they have a switch inside their rooms, sir.

Q. Okay. How about the main -- the big area in the middle in between all the cells, when do those lights go off?

A. They don't go on or off.

Q. They don't go on and off? They're always off?

A. Well, you can -- no, there's a switch, yes, sir.

Q. Okay.

A. There's a switch, yes, sir.

Q. All right. Thank you, Mr. Smith, those are all the questions I have for you. Please answer any questions Ms. Carmody may have.

A. Okay.

**

CROSS EXAMINATION

BY MS. CARMODY:

Q. Okay, Mr. Smith, I understand that, you know,

this incident occurred back in 2017, a --

A. Yes.

Q. -- long time ago, right?

A. Yes, ma'am.

Q. All right. Would you agree that while you're performing your duties, that it's very important to be accurate, and correct?

A. Yes, ma'am.

Q. Okay, and you have to doublecheck and make sure doors are locked, and things like that?

A. Yes, ma'am.

Q. All right. And you're supposed to make your rounds every 30 minutes, correct?

A. Yes, ma'am.

Q. Okay. And in order to do that, you have to keep up with what time it is, right?

A. Yes, ma'am.

Q. And you have to keep a log?

A. Yes, ma'am.

Q. Okay. We talked about the log, right?

A. Yes.

Q. All right. And you have to put in the log the time that it takes you to do your rounds?

A. Yes, ma'am.

Q. Okay. And didn't you report to Agent Garvin

that at approximately 3:10 in the morning you decided to take a break in the officers' breakroom.

COURT REPORTER: 3:10?

MS. CARMODY: Uh-huh.

BY MS. CARMODY:

Q. 3:10 a.m.

A. If I can recall, yes, ma'am.

Q. All right. And you stayed for approximately 20 to 25 minutes in the breakroom?

A. I can't recall.

Q. Okay, I'm gonna give you a copy of your statement. Will that refresh your recollection?

A. Yes, ma'am, this is my statement.

Q. I think the question was, you stayed in the breakroom for approximately 20 to 25 minutes, correct?

A. If I can recall, ma'am.

Q. From your statement?

A. It's been a while. If I can recall, ma'am.

Q. Is that -- okay, what date did you give that statement?

A. The same date that it happened.

Q. Okay. Were you being truthful when you wrote this statement?

A. Yes, ma'am.

Q. Okay. Does that refresh your recollection

that you were in the breakroom for 20 to 25 minutes?

A. I can't recall, ma'am.

Q. In your statement, can you read your statement that you told --

A. Well, I'd say -- what I told in my statement that's from my recollection, that's -- it's true.

Q. Okay, all right, you stayed in the breakroom for 20, 25 minutes?

A. I'm not -- I can't --

Q. Is that what the statement says, sir?

A. Yes. Yes, ma'am.

Q. Thank you. And you were with CO Griffin, correct?

A. Yes, ma'am.

Q. All right. And you and CO Griffin decided that you were going to walk to the B wing, correct?

A. Yes, ma'am.

Q. All right, and isn't it true that Sergeant Scott reported to the B wing to investigate a report of an assault on an inmate in cell five?

A. Yes, ma'am.

Q. All right. You didn't respond then, did you?

A. Excuse me?

Q. You didn't respond then.

A. At first, I did. At first, I responded. I

went over there -- I went over to the B wing with Officer Griffin, at first, I did.

Q. Okay, so my prior question was, isn't it true that Sergeant Scott responded to the B wing to investigate a report of an assault in cell five?

A. Yes, ma'am.

Q. Okay. You didn't go with Sergeant Scott, did you?

A. I went over there at the -- I went over there prior to that, and then we called him over to the B wing, because of the incident.

Q. Okay. So you did not respond with Sergeant Scott?

A. I was with Sergeant Scott. He came over there and we called him. He told me, "I was a witness," to Sergeant Scott and Officer Griffin. Yeah, I was a witness.

Q. Didn't you tell Agent Garvin that you did?

A. Yeah, I was responded, ma'am, I respond.

Q. Didn't you tell Agent Garvin that you were with Sergeant Scott?

A. Yes, ma'am.

Q. Okay, so --

A. We -- I went over there and then -- I went over with Sergeant Scott --

Q. Uh-huh.

A. -- and Officer Griffin after we found out what had happened on the B wing.

Q. Okay. In your security log, you performed a security check at 3 o'clock in the morning, right?

A. That's what I can recall, ma'am.

Q. Okay. And you reported that between 3:00 a.m. and 3:45 you performed a count, and a count clear, correct?

A. Yes.

Q. All right. So at 3:45 you performed a security check?

A. Yes, ma'am.

Q. All right, but according to your statement with Agent Garvin, you were in the breakroom from 3 o'clock to 3:35 -- 3:10 to 3:35, correct?

A. Yes, ma'am.

Q. So you said that CO Griffin was with you during that time, correct?

A. Yes, ma'am.

Q. Well, wouldn't you agree that you can't be in two places at once?

A. I agree.

Q. So Griffin could not have been with you and Sergeant Scott at the same time, could he?

A. Excuse me. When the incident happened, me and -- when we found those clothes in the restroom, that's when we called Sergeant Scott's location.

Q. Sir, we just went through your log and you testified and you agreed that you were performing a security count at the time that you're saying you're in the breakroom. And earlier you also testified that it's very important to be accurate in your logs.

A. Yes, ma'am.

Q. So it would not be possible for you to be with -- for you and Sergeant Scott and Griffin to all be together.

A. You know, when we made that call for the yard sergeant to come over to our location, that's when we'd been together.

Q. Okay. And are you aware that there are -- well, actually, let me back up for a second. You testified on direct exam that the lights were on in cell 22.

A. Yes, they was.

Q. Are you aware there are no lightbulbs in that cell?

A. Excuse me?

Q. Are you aware there are no lightbulbs in that cell?

A. It seemed to me there was lightbulbs.

Q. I'm sorry?

COURT REPORTER: Say it again, sir, I'm sorry.

BY MS. CARMODY:

Q. Say that again?

A. It seemed that there was light.

COURT REPORTER: Oh.

BY WITNESS:

A. -- if I can recall, ma'am, the best of my knowledge, it seemed to me that there was lights.

MS. CARMODY: No further questions.

THE COURT: All right.

Mr. Evans, anything further from this witness?

MR. EVANS: Very briefly, Your Honor.

THE COURT: Okay.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. Mr. Smith, when you're doing counts, those are for A; is that right, Savannah wing A?

A. Yes, sir.

Q. Is that the side you were responsible for?

A. Yes, sir.

Q. Were you watching Mr. Griffin all night to see whether he was doing his job?

A. From my wing to the breakroom that's the only time I would see him.

Q. You weren't concerned with B until you saw those gentlemen at the wing?

A. Yeah, I was concerned. Yes, sir, I was concerned.

Q. With Savannah wing B I'm asking.

A. Yes, sir.

Q. You were concerned with B?

A. Yes, sir.

Q. Why? Was that part of your job for that night, or were you in charge of A?

A. I was in charge of A, but Officer Griffin was coming on to the shift.

Q. Okay.

A. Okay, yes, I was concerned about it.

Q. Were you his supervisor?

A. I wasn't his supervisor because he had been -- he was a trained officer --

Q. Okay.

A. -- so to my impression he was qualified to perform --

Q. Okay.

A. -- his job, his duty.

Q. Who was in charge of Savannah wing B, is that

you or Mr. Griffin?

A. Mr. Griffin.

Q. Okay. And were you watching to make sure he did his rounds, or were you busy with your own rounds?

A. I was busy with my rounds, and then I had my wing too.

Q. Okay, because you weren't a superior, but you were an elder?

A. Right.

Q. Okay.

MR. EVANS: Those are all the questions I have, Your Honor.

THE COURT: Anything further?

MR. EVANS: Nothing from the State.

MS. CARMODY: Briefly, Your Honor.

THE COURT: Yes, ma'am.

**

RECROSS-EXAMINATION

BY MS. CARMODY:

Q. Just one question for you, sir. You indicated earlier that you had seen, you know, Officer Griffin throughout that night in the breakroom?

A. Yes.

Q. Okay. And if another witness were to testify that they actually saw him leave the Institution that

night --

MR. EVANS: Objection.

THE COURT: That's sustained.

BY MS. CARMODY:

Q. If someone was --

THE COURT: Ma'am, that's not an appropriate question.

BY MS. CARMODY:

Q. If Officer Griffin was on security camera leaving the Institution that night --

MR. EVANS: Objection.

BY MS. CARMODY:

Q. -- would there be a reason for that?

A. No, ma'am.

Q. Thank you.

THE COURT: Anything further from this witness?

MR. EVANS: Not from the State.

THE COURT: All right, you may step down, Mr. Smith.

MR. EVANS: May we approach, Your Honor?

THE COURT: You may

(Bench conference.)

MR. EVANS: James Williams.

***

JAMES WILLIAMS,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Good afternoon, Mr. Williams.

A. Good afternoon.

Q. Would you please introduce yourself and spell your last name for our Court Reporter?

A. James Williams, W-I-L-L-I-A-M-S.

Q. And, Mr. Williams, where do you work, sir?

A. South Carolina Department of Corrections.

Q. Where specifically?

A. I work in the Contraband SCU Department.

Q. At which prison?

A. Ridgeland, I'm sorry.

Q. That's okay. Right here in Ridgeland?

A. That's correct.

Q. Okay, and you live in Jasper County?

A. Yes, I do.

Q. All right. How long have you been working at RCI?

A. 16 years.

Q. Did you work anywhere else in SCDC before that, or --

A. No, I have not.

Q. Okay. What did you do before that?
A. I was in the United States Navy, I retired.
Q. Congratulations.
A. Thank you.
Q. What does a Contraband Officer do? What's your job?
A. We are responsible for the safety of all the inmates, as well as keeping contraband outside from entering into the prison.
Q. What does contraband mean?
A. Contraband is any item that is not sold inside of our canteen, or anything that's not allowed is designated as contraband.
Q. So they're allowed to have certain --
A. Certain items, yes, sir.
Q. -- items, like food?
A. That's correct.
Q. Okay, what else? Anything besides food?
A. Food, potato chips, snacks, things of that nature.
Q. Mostly food.
A. Nothing that would be deemed dangerous.
Q. All right, no cell phones?
A. No cell phones.
Q. No weapons?

A. No weapons, no drugs.

Q. Okay, no pornography?

A. No knives, no pornography, that's correct.

Q. All right. And is that a foolproof job?

A. No, it is not.

Q. Okay.

A. It isn't.

Q. How often are you collecting contraband?

A. We collect contraband on a daily basis.

Q. Okay. Do you also do investigations in the prison?

A. That is correct.

Q. What does that entail?

A. It entails -- it all -- dealing with trying to determine the situation, what happened, what, when and where, and how to solve the issue at-hand.

Q. Okay. Now, do you make criminal charging decisions?

A. We do not. We only charge when it comes down to SCDC. All criminal charges are referred to what we call Police Services, they are the branch that covers any criminal charges.

Q. Mr. Garvin?

A. That is correct.

Q. Okay. Had you met him before this incident?

A. Yes, I have, we have worked together.

Q. All right. So your investigations are a little bit different. Tell us about --

A. Yes, sir. Our investigations only deal with matters dealing with SCDC.

Q. Prison rules?

A. Prison rules and regulation.

Q. Like, if they have contraband?

A. That is correct.

Q. Okay, so you might write a report, you might discipline them, but you don't arrest them?

A. That's correct.

Q. Okay. Do you supervise Police Services, or vice versa?

A. We do not. Police Services and other -- we assist them, and they pretty much supervise us.

Q. Okay.

A. Right.

Q. How did you come to be involved in the incident that we're having this trial about?

A. I happened to -- I was reporting to work that morning. I think I probably was the first officer that arrived --

Q. Okay, is that --

A. -- during that time.

Q. -- June 22nd --

A. That's correct.

Q. -- 2017?

A. Right.

Q. You weren't there the night before?

A. No, I was not there the night before.

Q. Was --

A. Well, actually, normally, I normally leave about 6:30, 6:30, 7 o'clock in the afternoon. I normally get there about 5:30, 6 o'clock in the morning.

Q. So you have a long day --

A. Yes.

Q. -- but not an overnight shift.

A. No.

Q. And that's pretty standard?

A. There's no overnight shift, it's normally from 6:00 to 6:00.

Q. That's a long day.

A. Right.

Q. And that's about when you were arriving on June 22nd?

A. That's correct.

Q. Did you already know anything about what had happened, or did you find out when you got there?

A. I think I'd gotten a call, as to the incident that took place, and then I kind of got there pretty quickly, and kind of went straight into the scene exactly over that -- over in the Savannah wing to determine, or to take a look at what was going on.

Q. Do you recall which part of Savannah it was in?

A. This was in Savannah B unit, cell number five.

Q. Could you describe the layout? Give us just a little bit of a description of how this whole Savannah wing, sides A and B were laid out?

A. Right. Savannah unit has two sides. It has Savannah A, Savannah B, it has a horseshoe that sits in the middle that separate each unit.

We've got the doors on both sides that are used to prevent inmates from going from side-to-side, and the unit itself houses about 136 on each side.

Q. 236?

A. 136.

Q. 136 on each side?

A. That's correct.

Q. So 272 total. So they're not allowed to go back and forth between A and B?

A. They are not. They're not allowed.

Q. Is that only at lockdown, or is that all day?

A. That's normally all day.

Q. How --

A. If it does happen, I'm not gonna tell you that it doesn't, because sometimes it does, but people do have the opportunity where they do go back and forth.

Q. Okay. How about within A and B, during the day are they allowed to move about?

A. Move from A to B?

Q. No, no, within A or within B?

A. Right.

Q. Are they allowed to get out of their cells?

A. Yeah. Oh, yeah, definitely.

Q. Okay. So during -- what hours are these cells unlocked, and they can move about freely?

A. We -- after the 5 o'clock count, so, normally, somewhere between 3 o'clock they wake up, the food service personnel, they go to the cafeteria to start beginning --

Q. Okay.

A. -- preparing for breakfast. After the 5 o'clock count we're normally ready to start feeding the whole Institution itself, every unit. So, normally, about 5 o'clock every one of them is

normally getting ready to get up and move around.

Q. That's when the cell doors become --

A. That becomes open --

Q. Okay.

A. -- after the 5 o'clock -- after we have cleared --

Q. And that --

A. -- the 5 o'clock.

Q. That's 5:00 a.m.?

A. That's correct.

Q. All right. So you said something about kitchen staff?

A. Right.

Q. Tell me about that.

A. The kitchen staff, normally, are the inmates that are going to assist the food service supervisor, that help prepare the daily meal for the inmates inside the Institution. So they have certain inmates that will go and -- that work in the cafeteria, that go and assist.

And you have the morning shift, the midday and the afternoon shift. And the morning shifts normally get waked up -- waken up at about 3:00, and they get released at 3:30.

Q. How do they get woken up?

A. They -- it has to be the officer that supervises that particular unit, that goes around. He has a list of the inmates that are supposed to be woken up and released to the cafeteria.

Q. And that starts around 3:00?

A. About 3:00.

Q. So their cell doors would be opened, or --

A. Yes, that is correct.

Q. Are there other legitimate reasons why a cell door might be open or unlocked overnight?

A. Should not be.

Q. Should not be.

A. All cell doors at that particular time, it was the 11 o'clock time, all doors should have been locked and closed --

Q. Okay.

A. -- and secured.

Q. What if there's a malfunction? Does that ever happen?

A. That has happened. We did, at one particular point in time, where we had the doors that were able to be kicked open by the inmate, and when that did happen, we began to triple cell all inmates behind the secured doors --

Q. Okay.

A. -- until the other doors were able to be repaired.

Q. Were any cells in Savannah wing B, in June of 2017, known to be functioning improperly?

A. We did have some. I think when I went back to go take a look at it, I think at that particular time we had about ten -- nine or ten doors that were not operating properly.

Q. Just not working?

A. That's correct.

Q. Okay. How about the lights? What can you tell us about the lights in Savannah wing B, in particular, but just, in general, overnight, how does all that work?

A. Normally, all the lights are normally working. You may have some lights that are --

Q. Are they on or off, I guess?

A. Yeah, that was on 24 hours.

Q. Which lights?

A. All lights.

Q. All lights?

A. The lights are lights that are in the unit itself. The only lights that may be off may be the lights that are in the cell.

Q. Okay, so in the main area, the rock?

A. Yeah, the main area, the rock itself, the light is on 24 hours.

Q. All day and all night?

A. All day and all night.

Q. I see, and was that the case -- well, you weren't there, but when you got there in the morning, were they --

A. Yes.

Q. Okay. What did you find when you arrived on-scene? Just tell us about what you observed.

A. When I first arrived on-the-scene, I think at that time inmate DuBois was already in the holding cell area. I think I reported to my office before I actually went to the Savannah unit. He had made some comments during that time.

Q. Yeah, let's not talk about specifically what he said, but you encountered him?

A. That is correct.

Q. Could you describe his physical appearance?

A. I would say he was -- he did have blood on him. He looked like he was pretty much upset. Those are some of the things I observed.

Q. Okay. He was himself bleeding? Where was he bleeding?

A. That I -- well, actually, I could tell that

his clothes still had blood on it.

Q. Okay. Did you look around the rest of Savannah wing B?

A. We did.

Q. What did you find?

A. We -- after we had actually went in the building and looked around in the Savannah B area, we discovered some weapons that were up in the bathroom area, which we did confiscate it. There were some other things that were in the trashcan I think we collected, but we just kind of looked around the area to make sure there weren't any weapons, or anything out of the ordinary that, you know, had anything to do with that particular situation.

Q. All right, and speaking of the situation, did you look in cell five?

A. Yes, we did.

Q. What did you see there?

A. When we approached cell five, we had noticed -- as a matter of fact, we did not enter the cell. When we approached cell five, we could see Mr. Holmes, as if he was hanging on the foot ledge of -- like a footstool that you use to move up to the next bed.

Q. Okay.

A. His shirt was hanging, and his body was

suspended.

Q. Okay. Could you tell if he was alive or dead?

A. We couldn't actually tell from that, just by looking in the room that he was deceased.

Q. And you say you did not go inside?

A. Did not.

Q. Was the cell door open or closed as you approached, if you remember?

A. I can't say 100 percent. I have to say that it probably would be closed.

Q. How about the rest of the inmates? Where were they? Was everybody out by this time? Because on a normal day --

A. No.

Q. -- they would have been.

A. No. On a normal day they would have been, but on that particular day everything was secured, and no one was moving around at that time. I think we waited for SLED to arrive, Police Services to arrive, and --

Q. Okay.

A. -- for everybody else to get in place.

Q. And who made the call to -- I mean to get Police Services there?

A. Normally, what happens is, depending on who discovered the scene first, it would normally be the shift Captain, the Contraband Department, whoever got notification of that scene first, but, normally, it starts with the Contraband Department and the shift Captain.

Q. Okay. And you said you'd worked with Mr. Garvin before?

A. Yes, I have.

Q. And this gentleman back here, that's Mr. Garvin?

A. That is correct.

Q. And did he arrive that morning?

A. As I recall, I think, yeah.

Q. Okay. Did he take over the investigation at that point?

A. He would then be the supervisor of Police Services at that particular time.

Q. Did you continue to assist him?

A. Yes, we did.

Q. How did you do that?

A. Basically, what we do is, we go in where there's an incident. We, normally, just secure the crime scene, put up the crime scene tape, and just leave everything where it is until everyone arrived.

Q. And what did you consider to be the crime scene?

A. It would be cell number five and cell number 22.

Q. Did you find any other evidence, anything else out of place while you were looking all over Savannah wing B?

A. Not that I can recall.

Q. Okay, and you said SLED arrived?

A. That is correct.

Q. What do you mean by SLED? Did they take over, or --

A. They -- SLED was the agency that came in and took all the crime scene photos --

Q. Okay.

A. -- collected all the evidence, and so forth.

Q. SLED Crime Scene Unit?

A. That is correct.

Q. Now, is that something that you've experienced before, SLED Crime Scene coming to the prison?

A. Yes.

Q. What have you done in the past to help them, and what did you do this time?

A. Normally, we just assist in whatever way

possible for them to do their job. We don't do any, you know, tell them exactly what to do, because they pretty much have specifics in how they go about getting it done. We just kind of lend a hand in helping them, assisting in getting their job done.

Q. Okay, maybe point the in the --

A. Exactly.

Q. -- direction or something that looked --

A. Right.

Q. -- weird to you?

A. That's right.

Q. Stuff like that? Okay. Did you look in any other cells over the course of that day?

A. We did. As a matter of fact, we did some searches in the building, at that particular time, and I think we collected some contraband in those particular areas.

Q. Did you -- how about after SLED left, did you collect anything then?

A. My recollection we probably did because that building was not open for a while. That unit was secured for quite a while before any inmate was able to move around, so I'm pretty sure we did.

Q. Does the name Mr. Highland mean anything to you?

A. Yes, I do.

Q. Okay, do you recall what you did with his cell?

A. We did conduct a search in Mr. Highland's cell. I think it was cell either two or three, the cell that we was in. We did go into that cell. I did mention that we -- actually, we found some Crocs in his cell that looked like -- it appeared to have blood on it.

Q. Okay.

A. We did notify SLED, but they never deemed that particular piece of evidence to -- something that they needed -- that they wanted to use.

Q. Do you recall what you did, if anything?

A. I did. Actually, I offered it to SLED, to have them go and send it for analysis, but they didn't deem that it was necessary.

Q. Did you collect those shoes?

A. We did collect those shoes, but after they were deemed not necessary, we did not keep it as evidence, because we didn't really need them.

Q. I see. Is that something you had done in the past?

A. Yes.

Q. Okay.

MR. EVANS: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. Mr. Williams, I'm gonna pass you some photographs that have been previously marked as State's Exhibits 4, 35, 34 and 36.

Do you recognize that first one, Number 4?

A. Yeah, Number 4, that would be Mr. Holmes in cell number five. This one would be Mr. DuBois' cell, number two. And those would be the pictures of the Crocs in Mr. Highland's cell.

Q. All right, so those are 35 and 36 --

A. 35 and 36.

Q. -- for the shoes?

A. That is correct.

Q. All right, I'm gonna take those back. Do these fairly and accurately depict the way that these scenes appeared --

A. Yes, sir.

Q. -- on June 22nd --

A. Yes, sir.

Q. -- 2017? All right, you didn't take these, did you?

A. No, I did not.

Q. Did you see all of these things?

A. I did see all of it.

Q. And, again, fairly and accurately depicted?

A. Yes, sir.

MR. EVANS: Your Honor, the State's gonna move, at this time, State's Exhibits 4, 35 and 36 into evidence. I believe there may be an objection.

THE COURT: Have I seen all those?

MR. EVANS: Yes, ma'am.

THE COURT: And subject to the prior objection; is that, right, Ms. Carmody?

MS. CARMODY: Yes, Your Honor.

THE COURT: Admitted over objection.

(State's Exhibits 4, 35 - 36 admitted into evidence.)

MR. EVANS: May we publish?

THE COURT: You may.

COURT REPORTER: Sir, do you have stickers on them, or do you need that?

MR. EVANS: They're on there.

COURT REPORTER: Okay.

BY MR. EVANS:

Q. All right, Mr. White, I'm going to put on State's Exhibit 35.

What is that, sir? Just describe that, if you

can see.

A. Yes.

Q. Okay.

A. Those are depicting the Crocs that were collected out of cell number two, Mr. Highland's cell.

Q. Mr. Highland's cell, number two?

A. That is correct.

Q. Okay, and Number 36?

A. Number 36 is, again, the pictures of the Crocs that came out of cell number two, of Mr. Highland's cell.

Q. I'm gonna try to put this on the overhead. What's that on the front?

A. It appears to be blood on shoes. This is why we had collected those particular shoes and offered them to SLED --

Q. Okay.

A. -- to see if they needed it for any analysis whatsoever.

Q. Okay, but you didn't keep them until today?

A. No, we did not.

Q. And you didn't -- did you subject these to any analysis?

A. No, we did not.

Q. Do you know whether this is blood?

A. It appeared to be, that's one of the reasons why we offered it.

Q. It appeared to be because it's red?

A. That's correct.

Q. All right, but you don't know anything else about it?

A. No.

Q. All right, and that's in Mr. Highland's cell?

A. That's correct.

Q. How about State's Exhibit 4?

A. This is cell number five, the cell that belonged to Mr. Holmes.

Q. All right, this is how it appeared when you got there?

A. Yes, sir.

Q. And you didn't go inside this cell?

A. Did not.

Q. Is that Mr. Holmes depicted?

A. That is correct.

MR. EVANS: Beg the Court's indulgence.

BY MR. EVANS:

Q. Thank you, Mr. Williams, those are all the questions that I have. Please answer any questions Ms. Carmody may have.

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon, sir.

A. Good afternoon.

Q. I believe that some of the pictures that Mr. Evans just showed you, you had indicated, oh, one of those pictures is from cell 22.

Were any of those pictures from cell 22?

A. I think one of those pictures.

Q. Which one? Let's see. Which one of those pictures is from cell 22? Cell 22 is Mr. DuBois' cell, correct?

A. That's correct. It's not in here.

Q. Are any of those pictures from cell 22?

A. Not any of those.

Q. Okay, or that we saw on the Croc, that was not from Mr. DuBois' cell, right?

A. No, that was from cell two.

Q. Cell number two, okay. And where is cell number two in relation to cell five?

A. Cell number two is in the hall leading to the -- toward the side door, cell number five is at the front door.

Q. All right, are they opposite each other?

A. No, they're not.

Q. Side-by-side?

A. No, they're not side-by-side, they're around the corner.

Q. Okay, is it a straight unit?

A. No, it's not.

Q. So can you describe it a little bit for us?

A. It's an L-shape. Five is on the L, and two is in the hall.

Q. Okay, so how many cells are between five and two?

A. Two.

Q. Two cells?

A. Yeah.

Q. Between five and two? All right, okay. So 22 is way on the other end, correct?

A. That is correct.

Q. All right then. Now, you and I had previously talked about this case, and do you recall talking about gangs that were on the unit?

A. Yes.

Q. You actually do a lot of work with gangs --

A. Yes.

Q. -- at the Institution?

A. That's right.

Q. All right, you have a whole board set up with

the gangs?

A. Yes.

Q. All right, so your job is also to collect information on gang members and --

A. That is true.

Q. -- what gangs are on what unit?

A. That's correct.

Q. All right. Now, what gangs were on the Savannah B unit?

A. Well, actually, since we do not segregate gang members by unit, they are throughout the whole Institution, so you may have different groups, different organizations in every -- Crips, Blood, -- they all may be in the same unit together.

Q. Okay. Do all those gangs get along?

A. No, they do not.

Q. All right. Now, are any of those gangs affiliated with white supremacy?

A. Yes.

Q. All right. So on the Savannah unit we would have had Crips, Bloods, etc.?

A. Crips, G's.

Q. G's? I forgot them, G's. What are G's?

A. G's are the same that deal with white supremacy. They're pretty much the same probably.

Q. Okay.

A. It's just a different set.

Q. All right, you could have upwards to six, seven gangs on the same unit?

A. Yes.

Q. Okay. Now, you had talked about earlier you -- weapons in the unit.

A. That's correct.

Q. All right. So could you please describe for the jury, what are you talking about, when you talk about weapons?

A. When you say weapons, weapons are anything that can be used to hurt, injure, kill, harm an individual with weapons that are made out of anything that an inmate may find to be used, such as a light fixture, steel piece of metal, anything that they use that comes in.

Q. Okay, and how do they become a weapon?

A. A weapon is anything that's sharpened to a point, with a jagged edge. It could be a cover that goes to a grill, a cover that goes to a drain. It could be, like I said, a light fixture, a piece of wire that goes around a light fixture.

Anything that can be used to construct as a weapon.

Q. Now, how many sharp-edge homemade weapons did you recover on the Savannah wing?

A. We did not count them. I know we didn't.

Q. Too many to count?

A. Yeah, there was quite a bit.

Q. Okay, and where were those weapons located?

A. A majority of weapons that we did find were up in the upstairs restroom area.

Q. Okay. Did you find weapons in the trashcans?

A. Some in the trash.

Q. In the drain to the shower drains?

A. The shower drains. I think I recall we did find some in the restroom shower drain.

Q. Okay. What about in people's cells?

A. That's always.

Q. Always?

A. That's a given. I'm pretty sure when we did shakedowns in the unit, we did discover some weapons in there.

Q. Okay, and were any of those -- after you did the shakedown after this incident happened, were any of the locations of those weapons documented?

A. They were -- they would be documented separately, of course, dealing with individuals, depending on whose cleaning on the shifts at those

particular type of weapons, they would do that.

Q. They would have been documented? Okay. Were any of those weapons sent to SLED for analysis?

A. No. No, because none of them -- I don't think any of the weapons that we did discover appear to have anything to do with that particular area.

Q. Okay, but isn't it SCDC policy that when somebody dies at the Institution, that the weapons have to go with the body, in order for the pathologist to determine whether any of those could have been used to kill the victim?

A. And not having to deal with the severity of the crime, because wouldn't take a person in cell 68, and connect it to the person in cell five, because that's a long reach.

Q. Okay, so I'm talking about weapons that were recovered on the same unit as Mr. Holmes.

A. Right.

Q. Okay. Were any of those weapons taken, collected and sent with Mr. Holmes' body, to determine if any of those weapons was the weapon that was used to kill him?

A. That would have been determined by SLED, and not by SCDC.

Q. So you're not aware of the SCDC policy that

requires the weapons to go with the body for --

A. No.

Q. -- autopsy?

A. I'm not familiar with that.

MS. CARMODY: I beg the Court's indulgence, Your Honor. May I approach, Your Honor?

THE COURT: Yes.

BY MS. CARMODY:

Q. Can you read SCDC Policy Number 6, to see if that refreshes your recollection?

A. Which one, 6.1 or 6.2? Okay.

Q. Okay, and does SCDC policy require that the weapons go with the body for autopsy, the pathologist.

A. Okay, that's if there's any weapon, or anything that is designated at that particular scene, that you can verify that was used in that particular incident, and it would be the responsibility of Police Services to make that determination, and SLED. That determination would not be made by SCDC staff.

Q. Okay, so I'm referring to Number 6.1, the first, second, third, fourth line all the way -- and it starts with, "Unless --

A. Yes, it says, "Unless the Coroner wishes to retain the device, or weapon, knives, etcetera, used to cause the death, the investigator assigned to

Division Investigations, that would be Police Services, will be responsible for securing the device, weapon and ensuring that it's taken to the designated pathologist." That is if there's any weapons --

Q. Thank you.

A. -- located or found at that particular time.

Q. Thank you. Okay, you had indicated earlier there were numerous weapons located on the unit, correct?

A. That's correct.

Q. All right. None were taken --

A. No, I didn't say any unit, I said they were located in the restroom upstairs.

Q. Are we talking about a different unit that is not --

A. No, we're talking about the same unit, but we're not talking about the same location.

Q. We're not talking about inside cell five? There were no --

A. Right.

Q. -- weapons located --

A. There were no weapons --

Q. -- in cell five?

COURT REPORTER: Wait one --

BY WITNESS:

A. -- that were located inside cell five that were discovered.

Q. But weapons were located on the same unit --

A. In the same unit.

Q. -- that Jerry Holmes passed away?

A. That's correct.

Q. Okay. And that's the weapons that you were referring to, when you said there were too many to count?

A. Right.

Q. All right, when is the last time you had run contraband, to look for contraband on that unit prior to Holmes' death?

A. I can't recall.

Q. A week, a month?

A. We, normally, on a daily -- on a basis we go through a unit at least once a week. We have five -- we have four different units, and we normally try to go through one of them at least once a week.

Q. Do you recall when the last time you went through this unit was?

A. I cannot.

Q. All right. Other things that you may find in the unit? What about drugs?

A. Yes.

Q. All right, are those sold at the commissary?

A. No, they are not.

Q. How do they --

A. So --

Q. -- come in? I'm sorry. How do they come into the Institution?

A. There's various ways of getting inside the Institution. These days the biggest way they get into the Institution is by drones. Before that, it could come in by -- when the delivery is made to the cafeteria, food-wise, they come in on trucks, so there's a lot of different ways they can come in.

Q. What about guards, do they bring in contraband?

A. Sometimes that do happen, that's correct.

Q. So when we're talking about drugs in the unit, we're talking about methamphetamines?

A. We're talking about meth, cocaine, methamphetamines.

Q. Fentanyl?

A. Fentanyl, marijuana, cocaine, K2.

Q. When's the last time you did a sweep of the weapon and located drugs prior to Holmes' death?

A. I can't name a particular day.

Q. Did you find drugs on the unit after Holmes'

death?

A. We -- I think we located two syringes that particular day that I recall.

Q. Are those documented anywhere?

A. I'm not quite sure, because they were searches that were conducted. I don't know if it was that day or during that week that they would have been doing the search.

Q. Okay. What about cell phones?

A. We did locate cell phones, that's correct.

Q. How many cell phones did you locate?

A. I don't remember exactly the number count that we collected, but everything that we collected had been turned over.

Q. On the cell phones that were collected in this case, that you collected yourself, did you notate any of those cell phones, notating anything in particular?

A. I did.

Q. And what did you put on the cell phones?

A. There was one particular cell phone that we had collected, I think it had come out of the cell from the top side of the unit, where we had heard a conversation between an inmate and a civilian, talking about the murder of Jerry Holmes in cell five.

And so we did mark that cell phone for them to take a look at it, so see if there was any information on there that would be beneficial during their investigation.

Q. What did you, yourself, write on the outside of the evidence tag?

A. I can't remember exactly, but I think it's tagged on the card that I used -- the evidence card that I used, I think I put something on there to the fact that --

Q. If I found it --

A. -- it could be involved with that, that's correct.

Q. Let me find it real quick. Sir, is that the evidence tag that you wrote on one of the cell phones recovered from the same unit that Mr. Holmes passed away?

A. That is correct.

Q. And what did you log on there?

A. On the evidence card it shows the place where the evidence was found, which was -- and I did notate on there, it said, "Possibly an employee involvement," and the date that it was found and the time.

Q. Possibly employee involvement?

A. That's correct.

Q. Thank you. And when you refer to possible employee involvement, you were referring to the guard, Tyrese Griffin?

A. No, I was not, it was referring to the cell phone, and the conversation that was on that particular cell phone, that would be -- I thought that would be helpful.

Q. Do you believe there was more than one guard that could potentially be involved in Holmes' death?

A. No, I did not say that.

Q. This is a different guard you're talking about, right, a different employee?

A. All that says on that card is there's a possible employee involvement, I did not designate anyone.

Q. Okay. All right. You also indicted that you put crime scene tape up.

A. That's correct.

Q. Where was the crime scene tape in this case?

A. It should have been in cell five and cell 22.

Q. Okay. Are you sure crime scene tape was put up?

A. I'm trying -- it's been seven years, but I'm pretty sure before SLED was there, if we didn't -- it should have been five and 22.

Q. It should have been, right?

A. Yeah, it should have been five and 22.

Q. You agree that it should have been, okay. And if it wasn't?

A. And if it wasn't, the area was secured, and no inmates were out at that time anyway.

Q. All right. And you'd indicated that you located blood on the Crocs of Julius Highland located in cell number two.

A. That is correct.

Q. All right, cell number two was within, what, you said two cells --

A. Two cells --

Q. -- away from --

A. -- from cell five.

Q. -- Mr. Holmes' cell, okay, all right. And then you had said -- I believe you testified on direct that you had offered it to SLED, what do you mean by that?

A. In other words, we do not -- since we are not the supervisor when the agent comes down for the collection of evidence, and SLED is, we can only offer them that particular piece of information, and they can decide whether it's evidentiary for them or not.

Q. Who specifically at SLED did you offer it to?

A. I think it was the two young ladies that were doing the collection at that time.

Q. McKay that was here?

A. That's correct.

Q. Okay, so you offered it to McKay. And how did you -- what did you do to preserve the shoes? What did you do with them?

A. Once they decided that the evidence was not necessary, we did not preserve those shoes. It was because they were not something that I would need.

Q. Prior to -- okay, let me back up for a second. So you find the shoes in cell number two?

A. That's correct.

Q. Okay, what happened? You said, "Hey, like, look, there's blood on the shoes?"

A. Right.

Q. Okay. Did you touch the shoes?

A. I think we collected the shoes, took it out of the cell, and put it outside the door.

Q. Who did that?

A. I don't remember exactly who was searching with me at that time. I think it was probably Lieutenant Logan and myself.

Q. Okay. So you would agree though that you picked up evidence within a cell, and you moved it to

a different location?

A. Right, they would move it out of the cell, that's correct.

Q. All right, what else did you move in this case?

A. There could be quite a few things.

Q. Quite a few things, all right. You also, just to clarify, did not know whether the cell five door as open or closed --

A. That's --

Q. -- correct?

A. -- correct.

Q. Did you search every one of the cells that was left unlocked that night?

A. I can't tell you with 100 percent certainty that we did.

Q. Okay. Do you have a list of the cells that were unlocated that night?

A. I do not.

Q. Okay, so Agent Garvin would have had a list of the cells that were unlocked that night?

A. He would probably be able to tell you exactly.

Q. He didn't send you around to search the cells that were left unlocked that night?

A. Not to my recollection, no.

Q. Okay, and you also testified that you discovered weapons in the bathroom, trashcan, and other things. What do you mean by other things?

A. Weapons that were found in the bathroom, trash in the trashcan. There were some weapons that were found in the trashcan as well.

Q. Right outside of the victim's cell --

A. No.

Q. -- Mr. Holmes' cell?

A. As I recall, it was around cell 55 on the top row and the restroom to the side coming down from cell 49.

Q. Is it your testimony that no weapons were located in the trash outside of the victim's cell?

A. Not to my recollection.

Q. Is that -- do you need something to refresh your recollection?

A. That would be good.

Q. All right.

THE COURT: Ms. Carmody, how much longer do you have with him?

MS. CARMODY: About ten or 15 minutes, Your Honor.

THE COURT: Can I speak to the attorneys for a

minute?

(Bench conference.)

THE COURT: Ladies and gentlemen, I'd intended on working until 4:45 today, and we've gone a little bit past that.

With permission of Mr. Williams, are you okay to come back in the morning?

MR. WILLIAMS: Yes, ,ma'am.

THE COURT: Thank you, sir.

All right, ladies and gentlemen, it is up to you, Mr. Foreperson, and the jury, we can start at 9:30 or 10:00 tomorrow. What do you want to do?

Does anybody have a preference, or is 9:30 really difficult for everybody? Is that a hardship for anyone? No?

FOREPERSON: 9:30 is fine, Your Honor.

THE COURT: Very good, I appreciate that.

Ladies and gentlemen, we are going to go ahead and break for the evening. Again, do not discuss this case, don't do any independent research, don't put anything on social media.

Go home, get a good night's rest, ladies and gentlemen. You can expect to be here tomorrow from 9:30 to, roughly, 4:45 again tomorrow. For some reason we finish a little earlier, sometimes we have

witnesses who are traveling, and they can't get here by a certain time, so it may be earlier or later.

I just tell you'all that, just so you can expect to be here for the day.

Also, if anyone had any prearranged engagements, things you had to be at, like 6 o'clock games, or school functions, or anything along those lines, I need you to tell your Foreperson, and have him report it back to me, so I know what time we need to break. For instance, if someone had to get a child at daycare by 5:00, let me know, all right, or if you have to be somewhere, I just need to know what your drive time is, just to make sure you can make it, okay?

Anyone else? You good? Ladies and gentlemen, get a good night's rest, we'll see you all back in the morning, okay? And, again, do not discuss this case when you go home. The only thing you can say is that you've been chosen as a juror in the trial of a criminal case, that's it, okay? Good night, you'll.

CLERK: Good night.

(Jury exits the courtroom.)

THE COURT: Okay, just a couple of quick housekeeping matters.

I just need you'all to be here by about 9:15 tomorrow morning. I also want to make sure Mr. DuBois

is diabetic, and somebody's planned to have food here for him.

Can't bring you out to Wendy's or wherever, it needs to be ready to go, okay? So -- and correct me if I'm wrong, he's coming back and forth from Allendale; is that correct everyone?

MR. EVANS: From Hampton, Your Honor.

THE COURT: Oh, from Hampton. Thank you, okay. So I just want to make sure he's taken care of, and that you better arrange what you needed to, and I also understand that maybe he needs a pair of shoes, other than the slides, if I'm correct.

So let's make sure you take care of that as well, and then we'll see you tomorrow morning dressed out by 9:15, okay?

And thank you for bringing him, I appreciate it very much. Okay, thank you, sir, and I apologize I had to break right in the middle. I was hoping to get you done, but thank you, sir.

WITNESS: No problem.

THE COURT: All right, we'll see everyone in the morning.

(At 4:20 p.m. the proceedings were continued to the following day without interruption.)

END OF VOLUME I

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 Jasper County, South Carolina on the 31st Day of July, 2023.

I do further certify that I am not related, counsel, or interest to any party hereto.

This, the 24th day of January 2024.

[redacted]

_____

Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA	IN GENERAL SESSIONS COURT FOR THE 14TH JUDICIAL CIRCUIT
COUNTY OF JASPER	2017-GS-27-00582
----------)	
STATE OF SOUTH CAROLINA)	
)	
)	
Plaintiff,)	
vs.)	TRANSCRIPT OF JURY TRIAL
)	VOLUME II
BENJAMIN DUBOIS, III,)	(PAGES 236 - 497)
)	
Defendant.)	

August 1, 2023
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

Kymberlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P E A R A N C E S

Appearing for the State of South Carolina

Reed Evans, Esq.
14th Circuit Solicitor's Office
P.O. Box 11449
Beaufort, South Carolina 29211

Appearing for the Defendant

Carolyn Carmody, Esquire
Deputy Public Defender
Fourteenth Circuit Public Defender's Office
P.O. Box 545
Beaufort, South Carolina 29901

INDEX

PROCEEDINGS	242
WITNESS: JAMES WILLIAMS	
Cross-Examination	246
Redirect Examination	280
Recross-Examination	287
WITNESS: JACKLYNN MCKAY	
Direct Examination	291
Cross-Examination	364
Redirect Examination	413
WITNESS: MORRIS WHITE	
Direct Examination	415
Cross Examination	427
Redirect Examination	440
WITNESS: CASEY CHAPPELL	
Direct Examination	444
Cross Examination	489
PROCEEDINGS CONTINUED	496
CERTIFICATE OF REPORTER	497

EXHIBIT LIST

**

ITEM NUMBER	DESCRIPTION	PAGE
S-01	Photo	299
S-03	Photo	299
S-04	Photo	299
S-05	Photo	299
S-06	Photo	299
S-07	Photo	299
S-08	Photo	299
S-09	Photo	299
S-10	Photo	299
S-11	Photo	299
S-12	Photo	299
S-13	Photo	299
S-14	Photo	299
S-15	Photo	299
S-16	Photo	299
S-17	Photo	299
S-18	Photo	299
S-19	Photo	299
S-20	Photo	299
S-21	Photo	299
S-22	Photo	299
S-23	Photo	299
S-24	Photo	299
S-25	Photo	299
S-26	Photo	299
S-27	Photo	299
S-28	Photo	299
S-29	Photo	299
S-30	Photo	299

EXHIBIT LIST - CONTINUED

**

ITEM NUMBER	DESCRIPTION	PAGE
S-31	Photo	299
S-32	Photo	299
S-33	Photo	299
S-37	Photo	299
S-38	Photo	299
S-39	Photo	299
S-50	Photo	299
S-41	Photo	299
S-42	Photo	299
S-43	Photo	299
S-44	Photo	299
S-45	Photo	299
S-46	Photo	299
S-47	Photo	299
S-48	Photo	299
S-49	Diagram	301
S-72	Bag/Towel	337
S-73, 73.1, 73.2	Pants/Shirt/Paper	341
S-74	Blood shoeprint	353
S-75	Crocs	355
S-76	Buccal swab	360

EXHIBIT LIST - CONTINUED

**

ITEM NUMBER	DESCRIPTION	PAGE
D-01	Photo	371
D-02	Photo	371
D-03	Photo	371
D-04	Photo	371
D-05	Photo	371
D-06	Photo	371
D-10	Photo	380
D-11	Photo	381
D-12	Photo	382
D-13	Photo	385
D-14	Photo	387
D-15	Photo	387
D-16	Photo	387
D-17	Photo	387
D-18	Photo	387
D-19	Photo	390
D-20	Photo	392
D-21	Photo	392
D-22	Photo	392
D-23	Photo	392
D-24	Photo	392
D-25	Photo	392
D-26	Photo	392

PROCEEDINGS CONTINUED

***

TUESDAY, AUGUST 1, 2023

RIDGELAND, SOUTH CAROLINA

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

THE COURT: At this time, let me make sure there's no housekeeping matters that we need to take up before we start this morning. If there isn't, we will have Ms. Bostick bring the jury back up.

MS. CARMODY: Briefly, Your Honor?

THE COURT: Yes.

MS. CARMODY: Yesterday when we did the Jackson v. Denno hearing, I raised several objections, but I don't think we got a clear ruling on each of them; and just for the record, I just wanted to make sure that each of them was ruled on for the record.

I think you ruled that the -- you found that the statement was voluntarily given, and the Miranda was voluntary, but I also raised the confrontation clause, hearsay, and 403.

If Your Honor could do a ruling on the record for those?

THE COURT: Well, I know I clearly did the 403 ruling, that I felt it was more probative than prejudicial.

As far as the confrontation clause, I think the officer can testify as to what she learned in her investigation.

MS. CARMODY: Yes.

THE COURT: He was present during the conversation. While I understand that the actual reports of the conversation was done by a different officer, they both were in the presence of the Defendant when they gave it. And, again, the only thing he's allowed to testify to is his recollection of the interview, not the actual statements specifically coming in that the other officer wrote.

That would be a confrontation clause problem. This is not, because it was simply that he used it to refresh his recollection, which he can do as the lead investigator, and, again, he's testifying as to him having been there and heard it, that's not hearsay, okay?

MS. CARMODY: Okay, all right, thank you.

THE COURT: Okay.

MS. CARMODY: And also I spoke to Mr.

Evans, and I believed we agreed that any former SCDC inmates be sequestered. You know, I don't have any problems with the officers themselves, just the warrant inmates.

MR. EVANS: Yeah, of course.

THE COURT: Without objection, okay.

MR. EVANS: Mr. Finkbeiner may arrive today, Judge.

THE COURT: Is he arriving in handcuffs or --

MR. EVANS: No, he's supposedly arriving of his own freewill.

THE COURT: My second question is, there's probably two bench warrants out for that, so at that point --

MR. EVANS: Well --

THE COURT: -- is he going to be put in handcuffs?

MR. EVANS: One is your bench warrant; the other is actually a probation violation warrant. We have heard from his probation agent that they are just gonna ask, again, assuming he arrives today, that he just turn himself in after he testifies; so, obviously, believe it or not, Judge, so, no, he won't be arrested on the

premises today. And, obviously, if he does arrive to testify I'll ask you to lift it, but seeing as how he, you know, he says he's coming from Greenville today, I may need, you know, five, ten minutes, depending on when he arrives, where we are at at trial, and try to time that, you know, in conjunction with a normal jury break.

THE COURT: All right, just let me know where you are when we --

MR. EVANS: Yes, ma'am, of course.

THE COURT: Okay, all right. Anything else for this morning?

MR. EVANS: Not from the State.

THE COURT: All right, anything more from the Defense before we bring the jury in this morning?

MS. CARMODY: No, Your Honor.

THE COURT: Okay.

Mr. Williams, come on up, sir. Thank you for coming back, I apologize. I'm just very happy you were able to come back today. Let's start with him on the stand.

MS. CARMODY: Yes, Your Honor.

THE COURT: And what I'm going to do, Mr.

Williams, just for the jury, I'm gonna remind them, and have you sworn under oath again, just because it's a new day.

MR. WILLIAMS: Yes, ma'am.

THE COURT: So I'll just let you know that, so you can go ahead and take your seat right now, and then after the jury comes in, then I'll have Ms. Bostick swear you in, okay?

All right, bring the jury in.

(Jury enters the courtroom.)

THE COURT: Good morning, ladies and gentlemen. I appreciate you'all being here so promptly this morning.

We're gonna go ahead and continue with Mr. Williams' testimony, and just out of an abundance of caution, because it is a new day, I'm asking our Clerk to swear him in once again under oath.

So if you don't mind, Ms. Bostick?

JAMES WILLIAMS,

BEING PREVIOUSLY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MS. CARMODY:

Q. Good morning, sir.

A. Good morning.

Q. Welcome back.

All right, so continuing from where we were yesterday, I just want to recap a little bit, just from the overnight break.

A. Yes, ma'am.

Q. So, sir, how long have you been working for SCDC?

A. 16 years.

Q. And you're still employed there now?

A. That is correct.

Q. And would you agree that a major part of contraband control -- and your job you do contraband, right?

A. That's correct.

Q. A major part of contraband control is not only looking for weapons, and drugs, and cell phones, but you're also keeping track of the gangs within the prison?

A. Yes.

Q. Okay. And you've been actually studying prison gangs for a long time, correct?

A. That's correct.

Q. All right. And so a prison gang is not like a street gang, so, you know, in coming into

this case, I'm thinking like, you know, this is not like a neighborhood posse, a prison gang.

A. It pretty much starts that way, because it starts in the streets and ends up in the prison, because sometimes it crosses over.

Q. Okay, so like, you know, this isn't a group of teenagers who were just saying, hey, these are actually organized gangs?

A. These are organized -- these are organization groups of three or more --

Q. Okay.

A. -- with the same common cause.

Q. Would you consider that prison gang to be a serious threat to the organization?

A. It is.

Q. Okay, and why is that?

A. Because they have the ability to affect the situation, movement, personnel, as well as the establishment.

Q. Okay, and so would it be fair to say that if you're not monitoring a prison gang, things could --

A. They could quickly get out of control.

Q. Okay, very good, all right. And so you and Lieutenant Mull?

A. That is correct.

Q. And we had sat down and went over the prison gangs in this particular case?

A. That's correct.

Q. Okay, and I want to talk to you too. So when I showed up at the prison to go to the Savannah yard with you --

A. Right.

Q. -- when we were walking through the yard, do you remember we saw people looking out the windows --

A. Right.

Q. -- and out the doors?

A. Right.

Q. So why were they doing that?

A. A lot of time when there are visitors on the yard, everybody's kind of interested in seeing what's going on, so a lot of times they are in the building, so they kind of just look out the window to see who's out there.

Q. Okay. Would the gangs have people looking out to see who's coming?

A. Constantly.

Q. All right, and why are they doing that?

A. Because that way they can tell where

everyone is, what the movement is --

Q. Okay.

A. -- where we're headed. Every time we come out the back door, they detail our movement as to where we're going, where we're headed, whether we're coming in their direction or not.

Q. Okay, so you're watching the prison gangs and they're watching you?

A. That is correct.

Q. All right. A lot of eyes on you?

A. Yes.

Q. All right. And on the evening of June 21st there has been reports that people were at the door when Griffin came back to the unit, so that would be consistent with what we saw that day?

A. You're talking about the morning of --

Q. Uh-huh.

A. -- the --

Q. The morning, yes. So Griffin came back on the unit I believe it was after 3 o'clock in the morning, and there were people at the door, would that be consistent with --

A. That should not have been consistent, because we're talking 3 o'clock in the morning.

The only movement that we should have had, at that particular time, would be the cafeteria workers getting ready to go to the cafeteria. Everyone else should have been secured --

Q. Okay.

A. -- in their cells.

Q. But with two people out the door, people are not secured in their cells.

A. Not necessarily.

Q. All right. Well -- but there were -- let's see, now, we have -- we went over the gangs, you know, gangs, so you actually have a database at the prison for gangs, right?

A. That is correct.

Q. Okay. And you identify within the prison certain people that are -- have been -- SCDC has confirmed are affiliated with a gang?

A. That's correct.

Q. All right. And isn't it true that Mr. Holmes, Jerry Holmes, the decedent in this case, of cell five was known to SCDC to be a member of the Folk Nation prison gang?

A. That could be very well true, I have not went back and looked at that record as of yet, but I -- to my recollection that is true.

Q. Okay. Also, in cell one, which housed man by the name of Bowlegs; do you know that?

COURT REPORTER: Did you say Bowlegs?

MS. CARMODY: Bowlegs.

Q. Now, in some of these cells -- and also you have some of these cells are housing three people in a cell?

A. That's when we went into the problem, where we had inmates that were kicking the door open, and we ended up triple celling inmates, which means you had more than two inmates in a cell at one time.

Q. Okay. Now, do you, from your recollection, recall any cells on this unit that had more than two inmates?

A. We did.

Q. Which ones?

A. Cell 40 and cell 22.

Q. That's three?

A. Right. Cell 40 was a three-man cell.

Q. Where's that?

A. 42 -- that's upstairs.

Q. Okay.

A. I don't remember exactly all the rooms downstairs, but I do remember that.

Q. All right. Now, I had asked you earlier about -- that we were talking about the gangs on the unit, right?

A. Yes.

Q. All right. Tyrese Griffin the sole guard assigned to this unit was also an African-American, correct?

A. That is correct.

Q. All right. And did you ever ask Tyrese Griffin if he was a member of the Bloods?

A. Never had an occasion to do that.

Q. Okay. You never had the chance to ask him?

A. No, I've never had an occasion. He was never under investigation for anything in that matter. And, normally, we would pretty much check the majority of the employees that come through the Department, that works at Ridgeland that we felt were affiliated or on the radar, someone that we would look into, but he was never one of those employees that we had had an opportunity to ask the question.

Q. At the time that you're also believe he's being truthful with the Institution, correct?

A. Yes.

Q. Okay, all right, and he was ultimately fired for obstruction of justice, correct, to your knowledge?

A. I know he was fired. I don't know exactly the particular reason.

Q. He was charged with obstruction of justice.

A. Yes.

Q. All right. Now, you never asked him if he was a member of the Bloods?

A. Never.

Q. All right. Now, when you arrived -- what time did you actually get on the unit?

A. Like I said, as my recollection, I think I got there about 5:30, 6 o'clock that morning, and I may have arrived on the unit about 6:30.

Q. Okay. We're talking about over three and a half hours after Tyrese Griffin went back on the unit, and found Mr. Holmes deceased?

A. That is correct.

Q. Okay, so you show up three and a half hours later, all right, but you weren't working nightshift, right?

A. No, I was not.

Q. Okay. All right, now, I want to talk to you about what the crime scene actually is, okay? At the time when you show up at 5:30 or 6 o'clock in the morning, I believe you just testified you were not informed that all these cells were unlocked?

A. That is correct.

Q. All right, so you're only going based off the information that you had at the time?

A. Yes.

Q. Okay, all right. So the information at the time, you have no information that cell one was left unlocked that night?

A. No.

Q. Okay, all right. Now, you know cell five must have been unlocked, because we have somebody deceased in the cell?

A. That's correct.

Q. All right. Then you had no knowledge that -- I'll go through these with Mr. Garvin, specifically, but you had no knowledge that there were at least ten other cells on this unit that had been unlocked that night?

A. That's correct.

Q. All right, so somehow these cells got relocked again before you punched in?

A. Right.

Q. All right, okay, fair enough.

Now, you searched cell five, did you locate any weapons at the time?

A. We -- I'm sorry, we did not search cell five.

Q. You did not search the cell?

A. We did not search cell five. Cell five was secured until the SLED team came, and began conducting their analysis, investigation and evidence collection, that cell was never searched.

Q. Okay. Now -- all right, so when you say the cell is secured, let's talk about that for a little bit. You don't know when the cell was secured?

A. No, I can't say definitively exactly when the cell was secured. I do know that when I arrived, that it was secured.

Q. Okay. So if we were gonna assume for a second that Tyrese Griffin left the unit at 10:00 p.m. or earlier, and returned at 3 o'clock in the morning, was that this -- who would have

locked the cells?

A. It would have been the officer that had access to the keys.

Q. Who had access to the keys?

A. It would be the officer assigned to that unit, which I suspect would be Officer Griffin.

Q. So he would have had to have unlocked the cells himself?

A. Exactly.

Q. All right. Now, you also searched cell 22?

A. That is correct.

Q. Okay. You did not locate any weapons within cell 22?

A. To my recollection, I think I -- if I'm not -- it might be in my report --

Q. Uh-huh.

A. -- that I wrote whether we discovered any weapons in that cell or not.

Q. If you had -- so -- all right, if you had recovered any weapons in that cell, it would have been documented?

A. It would have been documented in my report, that's correct.

Q. Okay, and there's no weapons documented in your report? The --

A. I can't recall at the moment. If I could -- I don't know if you have a copy of it still?

Q. Did you write an incident report in this case?

A. Yes.

Q. You did?

A. I did.

Q. So you don't recall from your recollection whether or not --

A. No, I can't.

Q. You would have a photograph of them, correct?

A. I should have, yes.

Q. Okay, all right. That would be of interest, right?

A. Yes.

Q. All right. Similarly, if you located any items of evidentiary value from cell five, you would have photographed that?

A. That's correct.

Q. All right. Now, when you did locate items throughout the unit, like towel, and

weapons, and things like that, you laid these towels and weapons out for SLED to photograph?

A. That is correct.

Q. Okay. And so it's your testimony that you manipulated the evidence, correct?

A. When you say manipulated --

Q. Well, you moved it --

A. No --

Q. -- from its location to lay it out for SLED?

A. No, I think the pictures were actually taken where they were located --

Q. Okay.

A. -- in the restroom.

Q. So you're saying that if weapons were located in the trashcan, you left them there?

A. If the weapons -- the weapons that were in the trashcan, if I'm not mistaken, they were taken out -- they did not contain any blood, or anything like that, because you have to remember, that this is a unit that housed 136 inmates, so which means there could be weapons anywhere --

Q. Okay.

A. -- in that institution, it does not

mean that those weapons were there during the scene of the crime, they could have been there days before.

Q. Wait, wait, hold on, you just said 136 again.

A. Right.

Q. In 2017 this actually housed 151 inmates.

A. Okay.

Q. All right? Okay. All right, and so you're admitting that you take the weapons out, and lay them out for SLED to photograph?

A. That particular day the weapons were -- pictures were taken where the weapons were found.

Q. In their exact location?

A. So --

Q. You didn't take the weapons out?

A. To my recollection, the weapons that were found in the restroom were photographed in the restroom. And the one that may have been found in the trashcan may have been moved out of the trashcan, that is correct.

Q. Okay, so the weapons that were found in the bathroom are all laying all over the floor

like that?

A. Exactly.

Q. They weren't in a drain? They were just laying out?

A. Some were beside the toilet, some were in cubby holes that were in the restroom.

Q. Okay, well, they weren't photographed in cubby holes?

A. No, I -- to my recollection, either when they were found they were put all in one place when the photograph was taken.

Q. All right. Well, your job is contraband, your job is not the integrity of the evidence, right?

A. That's correct.

Q. All right. You're not concerned about this case going to a courtroom correct?

A. That's correct.

Q. All right, and how many units are you assigned to?

A. We are assigned to all the units in the Correctional Institution.

Q. Wow. Just the three of you?

A. That's correct.

Q. All right, so would it be fair to say

that each unit has 150 inmates at the time?

A. At that time, roughly, give or take.

Q. All right, so let's do the math. You have 150 estimated inmates on each unit, that's Savannah A. How about Savannah B another 150, right?

A. Right.

Q. Okay, what other units are there?

A. You have Georgetown Unit, A and B.

COURT REPORTER: I'm sorry, say that one again.

BY WITNESS:

A. I'm sorry, Georgetown Unit.

COURT REPORTER: Oh, Georgetown Unit.

BY WITNESS:

A. -- A and B, Charleston unit A and B, and Beaufort unit A and B. They both had both sides, A and a B side.

Q. So we have Savannah, Georgetown, Charleston and Beaufort?

A. That's correct.

Q. Okay. So 300, because 150 --

A. Right.

Q. -- on each side?

A. Uh-huh.

Q. 300 times four.

A. Right.

Q. You are responsible for 12 maintaining gangs, drugs, cell phones and weapons for 1,200 inmates?

A. Roughly. But at the same time keep in mind we also get assistance from the housing unit also, as well as the shift that are on that particular day, depending on what we have -- what we -- our planned movement for that day, we always get assistance from the shift in getting any job completed that we need to get done.

Q. You don't have the time or the resources to go and search all the cells on Savannah B unit, do you?

A. The way we do that, back in 2016, we had --

Q. '17.

A. -- what we call a red team.

Q. '17? I'm sorry.

A. 2017, I'm sorry. A red team or the burgundy team, they would come in, roughly, with about 30 extra officers, and we would search a whole unit.

Q. Oh, so on June 21st and 22nd you came

with 30 officers and searched the unit?

A. No, we did not, that's only when it's a planned situation.

Q. All right. Now, it's also fair to say that in this case you concentrated your efforts on solely Mr. DuBois' cell, correct?

A. No.

Q. Oh, you looked at other cells that night? You said --

A. We did.

Q. -- other cells?

A. We did look at other cells. Well, cell number two was one of them, cell number 22 was one, cell --

Q. -- you said which cell?

A. Cell number five.

Q. Let me get my marker. Cell number two?

A. Cell number two.

Q. Who lives in cell number two?

A. That -- to my recollection, that should have been the cell 5.

Q. It should have been?

A. That's right.

Q. But you don't --

A. But --

Q. -- remember correctly?

A. I don't -- I couldn't recall if that was --

Q. No?

A. -- the correct cell, but cell was one.

Q. Who else is in that cell with him?

A. I don't recall who his roommate is at this particular time.

Q. You don't have any of this information in any report?

A. It should be.

Q. It should be.

A. Right.

Q. Okay, it should be. So we don't know who was in the cell with him. What did you recover from the cell?

A. We talked about the shoes.

Q. Well, now, the shoes were actually from Mr. Highland's cell.

A. That's why I thought Highland and Nania were roommates together --

Q. Now --

A. -- to my recollection.

Q. To your recollection, roommates?

A. Right. It could have been, like, you

know, it's been seven years.

Q. Right, yup, it has.

A. Yes.

Q. All right, so you searched cell two you're saying?

A. Right.

Q. What did you recover from cell two?

A. To my recollection, it should have been the shoes out of cell two.

Q. And you're testifying that's cell 2, to you recollection?

A. To my recollection, uh-huh.

Q. All right, you said that you searched another cell, which one was that?

A. Cell number 22.

Q. Okay, whose cell is that?

A. That's inmate DuBois' cell.

Q. Okay, all right. Did you recover anything from his cell?

A. Not that I recall.

Q. What other cells did you search?

A. Cell number 40.

Q. 40, where's 40?

A. 40 is upstairs.

Q. Okay.

A. 42.

Q. 40 -- where's pictures from those?

A. We didn't take any pictures --

Q. No?

A. -- of a particular cell.

Q. All right, where's the reports from those cells?

A. That if there were anything that was recovered from those cells, there should have been a report generated for anything that was found in those cells.

Q. So we have 40, 42, what else?

A. 63.

Q. Okay, so --

A. And the reason why 63 was searched is, because 63 looked directly down at cell five. So we kind of -- pretty much as we go through the unit, the cell, get an opportunity to talk to the inmates that were located in those cells, to ascertain from those particular inmates whether they had an opportunity to see anything that happened during that particular time.

Q. Can you write the cell numbers down actually that --

A. Cell two --

Q. -- you said you searched.

A. Yep, two.

Throughout the week, all the cells in that building were eventually searched.

Q. Right, a week later?

A. Yes.

Q. But -- okay, on the June 21st and 22nd though --

A. Right.

Q. -- when SLED is doing their investigation, and Police Services are doing their investigation, these are the ones that you are testifying that you, yourself, searched, okay. So in cell 22, who lives there?

A. To my recollection, it was inmate DuBois, I can't remember exactly who is cellmates were, but there should have been two other inmates in that cell.

Q. What about cell 40, who lives there?

A. I can't recall.

Q. Do you recall anything recovered from there?

A. No, ma'am.

Q. All right, what about cell 42, who lives there?

A. Cell 42, there were three inmates in that cell. In that particular cell I believe it was 40 or 42 is where we had an opportunity to recover a cell phone that had some information, which we had presented to SLED, to decide if there was any evidentiary value on that cell phone that they would be able to use.

Q. All right, so let's go back for a second, you're not sure if it's 40 or 42?

A. Exactly, I -- but I know --

Q. You're not sure of the inmates --

A. -- in that vicinity.

Q. Okay. You're not sure which inmates actually even live there?

A. Right.

Q. All right.

A. Not at this time.

Q. Okay.

A. You know, if I had an opportunity to go back and look at my reports, I could probably tell you exactly who lived at that -- going back seven years.

Q. Okay, and so in cell 40 or 42, we're not sure. Now, is that -- what do you mean you sent cell phones to SLED?

A. No, I said the cell phone that we recovered out of either cell, I said 40 or 42, were offered to SLED, to see if there was any information on there that would be helpful to them during this investigation.

Q. Okay.

A. And there was -- actually, the cell phone was turned over to Police Services, and they sent -- it was supposedly sent out.

Q. All right, so we don't know which cell phone that cell phone was recovered from. What about cell 63, who lives there?

A. I couldn't tell you.

Q. What was recovered from cell 63?

A. I couldn't tell you.

Q. All right, what about --

A. Yeah.

Q. -- cell 64? 64?

A. I couldn't tell you,

Q. Oh, all right, thank you.

All right. Now, Mr. Holmes was found deceased in cell five.

A. That's correct, right.

Q. Okay. All right, now, you looked into that cell?

A. Right.

Q. All-right. Now, as a contraband officer, you're involved in, I would imagine, are some pretty serious altercations on that unit --

A. That's correct.

Q. -- in that prison, right? They're calling you.

A. Yes.

Q. All right. All right, so would you agree that the amount of blood that you saw in that cell would be consistent with blood of a murder?

A. I would -- I -- there was so much blood in that particular room, I couldn't tell you exactly what I would call it.

Q. All right, but there was so much blood everywhere?

A. Right.

Q. Okay. Now, did the -- are you aware that inmates carried Mr. Holmes' body to Medical?

A. No, I'm not aware of that.

Q. No? Okay. And when Mr. Holmes' body arrived in Medical, are you aware that his

clothing was cut off his body?

A. I'm not aware of that as well.

Q. You're not?

A. Because to my recollection, I thought -- and I could very well be wrong, but I thought that the Medical Department came, and retrieved the body of inmate Holmes, and was taken over to Medical --

Q. So Medical --

A. -- by Medical staff.

Q. Medical would have carried him theirselves (sic)?

A. Yes.

Q. Okay, so they didn't have any assistance from inmates?

A. But I don't know, they could have -- well, they have Medical workers that are inmates --

Q. Uh-huh.

A. -- that do assist them in that process, but it would have been taken care of by the Medical Department itself.

Q. Now, you're also aware that Medical, ultimately, cut the clothing from Mr. Holmes, the decedent's body?

A. This is what I understood, yes.

Q. All right, and when the clothing was cut from the decedent's body, you put the clothing outside to dry?

A. Not eventually, that was after the clothing was stored in a brown paper bag, and then we were told to put the clothes outside to dry.

Q. Who told you to put the clothes outside to dry?

A. Police Services.

Q. Police Services told you?

A. Right.

Q. Would that be Agent Garvin?

A. That is correct.

Q. Where did you put them outside to dry? Were they on a picnic table?

A. No, they weren't, they were --

Q. The grass?

A. -- outside in the back of Medical.

Q. All right, so when we're talking about outside, you're actually talking about being exposed to the elements?

A. Right.

Q. All right.

A. That's correct.

Q. And isn't it true that it had rained not once, but twice?

A. At that particular time, it did not rain, it was a clear day. I think the rain came unexpectedly that day, and we weren't -- at that time we were unaware.

Q. All right, and Mr. Holmes' clothes were left outside in the rain twice?

A. That I do not know.

Q. No?

A. I know they were out there once; I don't know about twice.

Q. They were out in the rain once?

A. Yes.

Q. All right.

A. Because the -- it seems as if the weather came up unexpectedly, and we realized that they were still out there to dry.

Q. Is that how you normally typically handle evidence?

A. It all depends on the request of the agent.

Q. All right, fair enough. Now, what ultimately happened to decedent's, Jerry Holmes'

clothing? What ultimately happened to them?

A. Ultimately, they were after the clothes were completely dry, they were turned over to Police Services. To my understanding, they were actually sent to SLED for analysis. Whether the analysis was ever done, I don't know, because that's not my part of the Department.

Q. So to your knowledge the clothes were not thrown away.

A. No, they were not.

Q. Okay. But you only do contrabands, you're not in charge of clothing.

A. That's not --

Q. -- of the criminal aspect of the case, right?

A. Yes

Q. All right, you don't really -- you're not concerned with the clothing?

A. I wouldn't say I'm not concerned, that is just not my particular avenue --

Q. Uh-huh.

A. -- that I'm privy to. Normally, that is left up to Police Services to take care of those particular areas, we only assist.

Q. The collection of DNA and things like

that aren't really within your wheelhouse though, right?

A. That's definitely not, that is --

Q. All right.

A. -- that would be Medical.

Q. Now, throwing away the clothing -- well, sorry, leaving the clothing out to dry is a little bit different than you saying that SLED told you that they didn't want the Crocs from inmate Highland's cell?

A. Right, they did not need them for any evidentiary reason.

Q. Okay. And just to confirm, Tyrese Griffin's actually still working at the Institution at this time, he hasn't --

A. That is incorrect.

Q. -- been fired yet, right? Sorry?

A. He is not.

Q. No, no, no, not right now, but at the time that --

A. Oh.

Q. -- this is all happening --

A. Yes.

Q. -- Tyrese Griffin's still working there --

A. He was.
Q. -- because nobody knows --
A. That --
Q. -- the man's lying yet, right?
A. That is correct.
Q. Okay, all right. Do you recall Jerry Holmes talking with you on June 21st?
A. I briefly had a discussion with Mr. Holmes, when he returned back from -- I think it was a transportation run. It was a brief chitchat, but that's about it.
Q. Okay. You don't recall Mr. Holmes being assaulted on June 21st?
A. Like I said, it was a brief conversation. What that conversation was about I can't recall at this time, but I do remember speaking with him when he came back from the transportation run.
Q. Okay, and, you know, if anybody's assaulted in the Institution, they're gonna call you, right?
A. Right.
Q. All right. How many times had you spoken with Mr. Holmes previous to his death?
A. Maybe once or twice from --

Q. One to two times?

A. -- my recollection, yes.

Q. Would there be any reason that you would be going to see Mr. Holmes?

A. Not to my recollection.

Q. No? All right.

A. I know Mr. Holmes worked in the Maintenance Department --

Q. Uh-huh.

A. -- at that time for Mr. Hall. I don't recall at this particular point in time us having any particular confrontation, or anything that we had dealing with him.

Q. Well, okay, so you don't recall --

A. Right.

Q. -- but it doesn't mean it didn't happen?

A. No, it doesn't.

Q. All right, thank you.

A. You know, a lot of times things happen, and we are unaware that they do happen.

Q. What do you mean?

A. In other words, sometimes things take place, it doesn't mean that the information is gonna come forward, or someone's gonna tell you

that something happened.

Sometimes you'll hear it through the grapevine.

Q. Oh, okay.

A. In other words, some people may pass you that information on the side --

Q. Uh-huh.

A. -- you know.

Q. Right, right, okay. Hold on one second, sir. Now, yesterday we had talked about you've had instances, where officers will bring contraband into the facility.

A. That's correct.

Q. All right. Isn't it true you've also had instances where officers bring things out of the facility?

A. When you say bring things out --

Q. Well, it would be reasonable if an officer brings in contraband, that they also bring stuff out, right?

A. I would imagine, but we've never -- I -- to my recollection, I've never caught anyone bringing anything out of the facility --

Q. You've caught them bringing it in?

A. -- that they shouldn't have. I've

caught them bringing it in, but I've never caught anyone taking anything out.

Q. But you don't have any recollection of that?

A. No.

Q. But, again, doesn't mean it doesn't happen, right?

A. Right.

Q. Okay. Thank you.

MS. CARMODY: No further questions, Your Honor.

THE COURT: Anything further?

MR. EVANS: Very briefly, Judge.

THE COURT: Okay.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. Mr. Williams --

A. Yes, sir.

Q. Yesterday were you asked about a shakedown?

A. Yes.

Q. Okay. Was that after SLED had left?

A. That is correct.

Q. Okay. So you recovered a bunch of

weapons and cell phones --

A. Yes.

Q. -- in that shakedown?

A. We did.

Q. Okay. Those were recovered from cells?

A. Yes.

Q. Were most of the cells in Savannah B locked properly, as far as you know?

A. As far -- to my recollection, like I say, when I reported to that unit that morning, everything was secured. There was no inmate movement whatsoever. The only people that were there were the officers, and the people that were trying to discover what had taken place.

Q. So you had a bunch of weapons in the shower?

A. Yes.

Q. And then later in the shakedown you found a bunch more weapons?

A. That is correct.

Q. He had a whole host -- a ton of weapons?

A. Yes.

Q. All right.

MR. EVANS: May I approach, Your Honor?

THE COURT: Yes.

BY MR. EVANS:

Q. I'm gonna pass you what's been previously marked as State's Exhibit 16, and ask if you can identify that, sir?

A. This is a shower on the bottom floor of it looks like Savannah B.

Q. Okay. Are those the weapons that were --

A. It is.

Q. Go ahead.

A. And these are the weapons that were on the floor or found in the drain.

Q. Found before SLED arrived and Police Services?

A. Yes.

Q. On June 22nd?

A. That is correct.

Q. Not the shakedown one?

A. No, not during the shakedown --

Q. Is it fairly --

A. -- because --

Q. Oh, go ahead,

A. Because once we actually entered the unit itself, the first thing we do is to take

around, to see if there's anything visible that we could find right away.

Q. Okay.

A. And these are some of the things that we were able to locate, as we did a walkthrough.

Q. Does it fairly and accurately, this picture, depict the way that those weapons in that shower appeared on June 27th, 2017?

A. That is correct.

MR. EVANS: Your Honor, the State would move this into evidence as State's Exhibit 16.

THE COURT: Any objection?

MS. CARMDOY: Without objection to that one.

MR. EVANS: And I'll publish it to the jury.

THE COURT: thank you.

(State's Exhibit 16 was admitted into evidence.)

BY MR. EVANS:

Q. And so, again, these are not the shakedown weapons?

A. No.

Q. You found those later?

A. That's correct.

Q. Okay. Those were found in cells, which were locked and secured upon your arrival?

A. That's correct.

Q. You were asked if Mr. Holmes was in a gang; do you recall that?

A. Yes.

Q. And you said that he wasn't?

A. As far -- to my recollection, I think -- I'm pretty sure he was Folk Nation.

Q. Okay. Was Mr. DuBois in a gang?

A. I can't recall at this particular time.

Q. All right. You were asked about the large number of prisoners, and the various different wings --

A. Yes.

Q. -- you've got a span out of Charleston, Beaufort --

A. Right.

Q. There's hundreds of prisoners that are there at any given time; is that right?

A. That's correct.

Q. Could you use more help?

A. Constantly.

Q. Okay. Do you'all get enough money?

A. Sometimes.

Q. Sometimes. Well, I didn't mean you personally, I meant the prison.

A. Yes.

Q. Could you use more money to --

A. Oh, yes.

Q. -- hire people?

A. Definitely.

Q. All right. Any prisoners moving about between Savannah to Charleston, Beaufort to Georgia overnight -- over that night, or any other night?

A. No.

Q. Okay.

A. We do not have any -- once we are secured for the night, there are no movements from dorm-to-dorm, wing-to-wing. Everything is supposed to be secured, locked down, and no movement should take place.

Q. Okay.

A. The only thing that should be moving should be the officer in the housing unit conducting security checks and counts during those particular times.

Q. And we know the cell doors sometimes aren't working.

A. That's correct.

Q. But have you ever run in your -- 16 years?

A. Yes.

Q. In your 16 years of experience at RCI, have you ever run into a situation, in which the outer doors, like the door to get from Savannah to Charleston, or from Beaufort to -- I forget the fourth one, have those ever been malfunctioning --

A. Never.

Q. -- over time?

A. Never. Those doors are your safety devices that keep you safe in or out.

Q. So if something's going wrong with one of them, you --

A. You're in trouble.

Q. All right. You were asked about whether you would describe the scene in cell five as a death match; do you --

A. That's right.

Q. I'm asking you; 39do you remember that?

A. Yes.

Q. Do you recall that testimony?

A. Yes.

Q. Were any prisoners in Savannah B injured on June 22nd, 2017, other than Mr. DuBois and Mr. Holmes?

A. No other inmates at that time.

MR. EVANS: thanks, Your Honor.

THE COURT: You okay?

**

RECROSS-EXAMINATION

BY MS. CARMODY:

Q. All right, Mr. Williams, I'd like to go to State's Exhibit 16.

All right, Mr. Williams --

A. Uh-huh.

Q. -- items located right where they are right now in the photograph?

A. Right.

Q. Sorry?

A. Go ahead.

Q. Were these items located where they were photographed?

A. To my recollection, yes.

Q. Okay. So all of these were right there?

A. Right.

Q. There weren't any?

A. There may have been some, but to my recollection they were all out.

Q. All right, did you open them to find out?

A. I would imagine we did.

Q. But you don't remember doing it?

A. I don't recall.

Q. All right, are any of these sharp homemade weapons?

A. Oh, yeah, they all are --

Q. Okay.

A. -- the majority of them.

Q. All right, and these were found in the first-floor bathroom?

A. Right.

Q. All right. The same bathroom that all the inmates use?

A. That's correct.

Q. Okay. Also, Mr. Evans asked you about the movement of prisoners. Now, you had indicated that prisoners should not be moving from Savannah A to Savannah B, right?

A. That's correct.

Q. Okay, and -- but if the doors are left unlocked, would they be able to?

A. No.

Q. They wouldn't be able to access another unit?

A. No, they will not.

Q. How about going outside?

A. They cannot.

Q. They cannot go outside if the doors are unlocked?

A. The doors would not be unlocked.

Q. Why not?

A. It is a violation to have those doors unlocked at night.

Q. Is it a violation to leave the unit for six hours unattended with the doors open?

A. Yes, it is.

Q. Thank you.

MS. CARMODY: No further questions.

THE COURT: Anything further?

MR. EVANS: No, ma'am.

THE COURT: All right.

MR. EVANS: I'd ask that he be excused.

THE COURT: You may step down, Mr. Williams.

We're gonna take a very short recess, ladies and gentlemen. Again, do not discuss the

case, it would not be appropriate to do so.

Mr. Foreperson, when the jury's all refreshed themselves, if you'd please knock on the door and let us know you're ready to come back into the courtroom, okay?

FOREPERSON: Sure.

THE COURT: Thank you.

(Jury exits the courtroom.)

THE COURT: All right, just for planning purposes, who's your next witness?

MR. EVANS: Will be Ms. McKay.

THE COURT: Okay, let's go ahead and take a quick break. And if Mr. DuBois needs a break, if you'all will tell him, let's go ahead and do that, and we'll be back. Once he goes back, come and see me, okay?

(RECESS)

**

PROCEEDINGS CONTINUE

THE COURT: There wasn't anything else we needed to take up before Ms. McKay testifies, do we?

MR. EVANS: Not that I can think of.

THE COURT: Okay. Would you just knock and tell them -- yeah, Ms. Bostick, that we're ready

when we're ready.

(Jury enters the courtroom.)

THE COURT: All right, the State can call its next witness.

MR. EVANS: The State calls Jacklynn McKay.

***

JACKLYNN MCKAY,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Would you please introduce yourself, and spell your last name for our Court Reporter, ma'am?

A. My name is Jacklynn McKay, my last name is spelled M-C-K-A-Y.

Q. And, Ms. McKay, where do you work?

A. Currently I work at RCI International in Durham, North Carolina.

Q. All right. Where did you used to work before you moved up to Durham?

A. Prior to my employment at RTI, I worked at the South Carolina Law Enforcement Division, which is commonly referred to as SLED.

Q. And what were the sort of jobs you had

at SLED?

A. While at SLED I was a Forensic Serologist for two years, and then I switched over to be a Special Agent in the Crime Scene Department for the last four and a half years of my employment.

Q. What sort of training did you have to go through to get each of those jobs?

A. So as a Forensic Serologist, I participated in SLED's in-house training program.

That included shadowing fellow court qualified forensic serologists, performing, testing, and performing supervisory case work, in which I performed testing on actual case work under the supervision of court qualified forensic serologists. And then that whole process culminated into a competency test. Once I passed that, I was deemed competent in the field of body fluid identification as a Forensic Serologist for a crime scene.

I participated in SLED's in-house training program, which was about a year. That included independent studies, written exams, and on-the-job training, where I responded to crime scenes,

and performed duties on-scene under other competent crime scene investigators. And that training also culminated in a competency test, which included a mock court, a mock scene, a written exam, and once I passed all of that, I was deemed competent in crime scene investigation, and could perform duties on-scene without supervision.

Q. All right, have you ever testified in a courtroom like this one for either of those subjects before?

A. I have.

Q. Have you ever been qualified as an expert in forensic serology?

A. Yes, I have.

Q. Approximately, how many times?

A. Approximately, eleven times.

Q. All right.

MR. EVANS: Your Honor the Court would tender -- the State would tender Ms. McKay to the Court as an expert in forensic serology.

THE COURT: Okay, you can step back. I qualify her as an expert in forensic serology. That allows her to give her opinion, and the reasons for her opinion, and that's to use as

you see appropriate as compared to other evidence in this case.

MR. EVANS: Thank you, Your Honor.

BY MR. EVANS:

Q. All right, Ms. McKay, how did you become involved in this case that we're here about today?

A. So when a request for a crime scene comes out, our operation desk is notified, and then they contact the On-Scene Crime Scene Team. So I was notified by a phone call from our operations desk that the South Carolina Department of Corrections Police Services requested SLED crime scene assistance with an inmate at Ridgeland Correctional Institution.

Q. All right, and that's here in Jasper County?

A. That's correct.

Q. Where do you'all live and work out of generally?

A. We are based out of Columbia, South Carolina.

Q. Okay, but you go all over the State when requested?

A. That's correct.

Q. And who else came with you on June 22nd, 2017?

A. I responded to the scene with Special Agent Jamie Johnson.

Q. All right, why do you have more than one person?

A. So SLED Crime Scene normally responds to requests for crime scene assistance with two team members. We usually just work the crime scenes as a duo. Sometimes there might be more, but, generally, we operate as a team of two.

Q. What's the purpose, what's the reason behind that?

A. It allows for the division of duties on-scene, so, normally, there is one person that takes the lead role, and in that instance, they are the one that are writing notes, taking photographs, making the diagram of the scene.

They are the ones mostly talking to investigators, and then the secondary person helps with photography, and they work in tandem for any processing that needs to be done, and it's just to kind of help. So you have multiple sets of equipment, multiple sets of eyes and a division of labor so to speak.

Q. Is there anything that she observed that you didn't observe, or vice versa?

A. No. We work the same in tandem. We're normally showing each other anything that we'd find that's of interest, and everything is always routed through the lead investigator, so we're always on the same page about everything involved with the scene.

Q. In this case, who was the lead, and who was assisting?

A. So in this case I was, technically, in training, however, I performed the duties of the lead investigator. So like I previously said, I was the one taking notes, and doing the diagram, and did a lot of the work for the final report that was created; however, Special Agent Johnson she was the competent Crime Scene Unit investigator on-the-scene, so we both -- I heavily relied on her, and we worked very closely to perform the investigation.

Q. All right. When you say she was the competent one, does that mean you were incompetent?

A. No. So when I say competent, I mean she had passed her competency test that,

essentially, once you pass that, you are deemed competent in the area of crime scene investigations, and you can perform duties without supervision of other crime scene investigators.

Q. Did you eventually pass that test?

A. I did, uh-huh.

Q. How much longer after this specific scene?

A. I believe -- so the scene occurred in June, and I believe I passed it in January of the following year, so January of 2018.

Q. Did you'all generate a written report of your work at the scene?

A. Yes, we did.

Q. Who wrote that report?

A. I did most of the work for the report, but Jamie's signature is --

Q. But it's a team effort?

A. Correct, this report generation was a team effort.

Q. When you work a scene like this one, how do you document it?

A. So whenever we respond to a crime scene, we are documenting the scene, by

photographs, we take a rough sketch, and we also document by written notes.

Q. Do you take any photographs?

A. We do.

Q. All right. Who took the photographs in this case?

A. Special Agent Johnson took the photographs.

Q. But did you observe everything that she was photographing?

A. Yes.

Q. All right, and have you reviewed those photographs prior to testifying today?

A. I have.

MR. EVANS: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'm gonna pass you a large stack of photos, and I'm not gonna ask you to identify each one, but if you could just quickly go through that stack. All right, you reviewed all those prior to testifying today?

A. I have.

Q. Do they fairly and accurately depict

the way that Savannah wing B, the area that you documented on June 22nd, 2017, do they fairly and accurately depict the way it looked then?

A. Yes.

MR. EVANS: Your Honor, the State would move these photographs into evidence. I'll call out the numbers, I've already shown them to Ms. Carmody, as one, three, five, six, seven, eight, nine, ten, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48.

THE COURT: Any objection?

MS. CARMODY: Over previous objection, Your Honor.

THE COURT: Okay, noted for the record.

(State's Exhibits 1, 3, 5 - 15, 17 - 33, 37 - 48 were moved into evidence.)

MR. EVANS: Thank you.

BY MR. EVANS:

Q. I'm gonna post these in just a moment, Ms. McKay, but I'm gonna ask you to look at one more thing before we do that, and I'll pass you the document, and see if you can recognize that.

A. I do recognize it.

Q. All right, what is that? It's been marked as Number 49.

A. It's an image of page one of the final diagram that was created.

Q. All right, was that created in 2017, or did you have an occasion to come back?

A. So a few years after the event occurred, we were requested to go back, and take additional measurements of the scene, and create a diagram of the entire Savannah B wing, and so this diagram is from the follow-up that we did in the secondary crime scene report.

Q. And was that you and Ms. Johnson, or you and somebody else?

A. So for the follow-up, myself and Special Agent Gabriel responded.

Q. Were you the lead at that time?

A. I was.

Q. All right, and did you create this actual document?

A. I did.

Q. How do you'all do that? What do you use to create these diagrams?

A. So we have a -- it's kind of a -- it's laser, but it does measuring, and that's what we

use to create our measurements. And then I just recreate this, and Microsoft Visio, and based on the photographs and what I saw on-scene.

Q. Okay, and this is a copy of the same one that you created back in 2019 was it?

A. Yes.

MR. EVANS: Your Honor, the State would move the diagram into evidence as State's Exhibit 49, Your Honor.

THE COURT: Admitted.

(State's Exhibit Number 49 was moved into evidence.)

MR. EVANS: Thank you, Your Honor.

BY MR. EVANS:

Q. Ms. McKay, I'm gonna ask you to step down. Let's use the ELMO to go through these pictures. I'll grab a few more that have already been entered into evidence as well.

MR. EVANS: And, Your Honor, we have a larger copy of State's 49 to use.

THE COURT: Okay.

MR. EVANS: I'll make sure that Ms. Carmody's has had a chance to see. All right. I'll hand it up.

BY MR. EVANS:

Q. All right, Ms. McKay, we have State's Exhibit

Number 1 here, and I'm gonna go through each of these, and ask if you can describe what we're seeing, what is Exhibit 1.

A. State's Exhibit 1 is the entrance that we took into Savannah B wing, and that is looking at cell five, six and seven on the bottom row, and cell five is where we were told that the victim was located at.

Q. All right. State's Exhibit Number 3?

A. State's Exhibit Number 3 is a midrange photo of the exterior door of cell five.

Q. State's Exhibit Number 4?

A. State's Exhibit Number 4 is looking into cell five.

Q. Did you'all take that from outside the actual door?

A. I believe this photo was taken as we were kind of standing in the doorway area of the scene.

Q. What did you note when you got there?

A. We noticed significant blood staining.

Q. Had you'all been advised of exactly what to expect, when you got to the scene?

A. When I received my call from the operations desk, I was just told that there had been an inmate death; however, Special Agent Johnson was taking the photographs.

Q. All right, was this -- this particular image was it surprising to you?

A. Yes, it was.

Q. All right, State's Exhibit Number 5, what do we see here?

A. State's Exhibit Number 5 is a closeup of the back of the victim's shirt, the back of his shirt and kind of the back of his right shoulder area.

Q. Is that from a different angle of State's Exhibit 4?

A. That's correct, it's a different angle.

Q. And State's Exhibit 6?

A. In State's Exhibit 6 you're seeing the victim's shoes.

Q. Is that also from cell five?

A. That's correct.

Q. State's Exhibit Number 7?

A. State's Exhibit Number 7 is a blood smear on the wall.

Q. Of course, yes, please.

A. So if you're looking at cell five, this is the entrance, the smear is going to be on the back wall.

Q. And I'm gonna go back quickly to four. Where in relation to four did Exhibit Number 7 occur?

A. So in State's Exhibit 4 the smear that was in State's Exhibit 7 is not viewable, but as you see in the top left corner, there's a stack of books, the smear is just to the right and a little bit higher than the frame of that.

Q. So just above the frame?

A. Yes.

Q. Like here?

A. That's correct.

Q. All right. That was 7, how about 8?

A. Eight -- State's Exhibit 8 is a blood smear as well, and that's in the relative same area as State's Exhibit 7.

Q. On that back wall?

A. That's correct.

Q. How about State's Exhibit 9, do you know what that is?

A. State's Exhibit 9 is blood spatter on the interior side of the door of cell five. So when we open the door, it's blood spatter half of the interior side of the door.

Q. You're not a blood spatter expert, right?

A. I'm not.

Q. But yet in your training and experience have encountered it before?

A. I have, and --

Q. Can you describe, using a crime scene definition, what it is?

A. So blood spatter is, essentially, just small blood droplets in motion.

Q. And you took a picture of what, in your training experience, appeared to be that in Number 9?

A. That's correct.

Q. All right, number 10?

A. State's Exhibit Number 10 is a closeup of some of those droplets that were found on the interior side of cell five.

Q. All right, a closeup of 9, essentially?

A. That's correct.

Q. And that's the cell door to number 5, which we saw a picture of the other side of earlier?

A. That's correct. So this side we're, essentially, facing the inside of the cell.

Q. What about State's Exhibit 11?

A. State's Exhibit 11 is a blood smear on the wall inside the cell, but, essentially, from this viewpoint my -- the photographer is facing out the cell towards the Savannah wing; so you can kind of see the door hinge in the middle of the picture.

Q. So Ms. Johnson, as she's taking it, she's

standing in cell five looking out to the wing?

A. That's correct.

Q. Okay. What about State's Exhibit Number 12?

A. State's Exhibit Number 12 is a black and white version of a photo of the Defendant that was in cell five.

Q. Okay, is that were Mr. Holmes is located?

A. He was located --

Q. Do you want to point over here?

A. So he was kind of located off side.

Q. Okay. Other than it being black and white, that's the only difference when it was taken?

A. I believe so.

Q. All right. State's Exhibit 13, what is that?

A. State's Exhibit 13 is a paper document we found inside the cell five, that appeared to have a -- what look liked a foot impression in suspected blood.

Q. Okay, a foot impression? Like what kind of a foot impression?

MS. CARMODY: Objection, Your Honor.

THE COURT: Basis.

MS. CARMODY: A proper foundation, she's not qualified as an expert in feet impressions, just a serologist.

THE COURT: I think --

MR. EVANS: Well --

THE COURT: If you could rephrase that question.

BY MR. EVANS:

Q. Can you describe the location?

A. Sure, so the pattern of the blood in that position looks similar to that of a right foot.

MS. CARMODY: Objection, Your Honor.

THE COURT: Basis.

MS. CARMODY: Improper foundation. She's not qualified as any type of qualifications in footwear impressions, or what she'll say that is on the door. I mean --

THE COURT: Okay, I'm going to sustain that, just move forward.

BY MR. EVANS:

Q. I'm gonna turn back to State's Exhibit 6, what's --

A. State's Exhibit 6 is the shoes that the victim was wearing.

Q. All right. What about State's Exhibit 14?

A. State's Exhibit 14 is suspected blood on the floor of cell five, and there is a crease in the floor towards the bottom of this photo, that is about where the door would swing close, so --

Q. So we're standing in the doorframe again?

A. Looking into the cell, that's right.
Q. And down at the floor?
A. That's correct.
Q. All right, leaving cell five, what about State's Exhibit 15?
A. State's Exhibit 15 is a common room bathroom that was found in the Savannah B wing.
Q. Can you point that out on the demonstrative -- yeah, where would we find State's Exhibit -- where would she be standing to get a view?
a. Indicating.
Q. Okay. And while we're at it, why don't you point to cell five?
A. Cell five is here, and the common room bathrooms.
Q. All right. And State's Exhibit 16 this was in evidence before you took the stand, but is it another one of the photos that Ms. Johnson took?
A. That's correct.
Q. Okay, what is this one?
A. So State's Exhibit 16 is a photo of the shower area in the common room bathroom, which is where you see 5, so it's this portion of the common room bathroom.
Q. What about State's Exhibit 17?

A. State's Exhibit 17 is the closer up photograph of some of the weapons that were recovered in the bathroom.

Q. Now, these weapons, did you'all eventually collect them, or anything like that?

A. We did not collect those weapons.

Q. Why is that?

A. There was so many weapons recovered in this case, it was hard to determine -- we didn't deem that they were applicable. None of them had any suspected blood staining, and they were just found in the shower.

Q. None of the weapons in 17 had any blood that you could see?

A. That's correct.

Q. And you checked?

A. Yes, we visually looked at the weapons.

Q. What about State's Exhibit 18?

A. State's Exhibit 18 is a photo of the shower stall side of the common area bathroom. It's gonna be on the left-hand side of the common area bathroom, and this photo was taken a little bit further, so the last two stalls.

Q. State's Exhibit 19, what do we have here?

A. State's Exhibit 19 is the last toilet stall,

so the furthest one into the common area bathroom, and to the right of the toilet is a bag of clothing, as well as clothing found on top of the bag and suspected blood mixed with what we assumed to be water.

Q. Okay. Did you'all eventually collect that?

A. We did.

Q. What about State's Exhibit 20?

A. State's Exhibit 20 is a closer up photo of where that bag was. We had removed that clear plastic bag and picked it up, so this is to kind of demonstrate all of the liquid that was underneath the bag.

Q. Did you'all eventually get into that bag?

A. We did.

Q. All right. What about State's Exhibit 21?

A. State's Exhibit 21 was a shirt found within that clear plastic bag.

Q. What about State's Exhibit 22?

A. State's Exhibit 22 is a towel with suspected blood staining, and that also --

Q. If I turn it that way?

A. I believe it's SV-5.

Q. And that was also found within the bag?

A. That's correct.

Q. What about State's Exhibit 23?

A. State's Exhibit 23 are the two pairs of socks that were found with blood staining inside the clear plastic bag.

Q. State's Exhibit 24?

A. State's Exhibit 24 is a pair of pants that was found within the clear plastic bag, and on them is written on the TIP5B-22.

Q. And State's Exhibit 25?

A. State's Exhibit 25 is another photograph of the pair of pants that was found within the clear plastic bag.

Q. Now, where and when and how and why was this photo taken, -- what's the difference in the condition of the pants here? What are they laying on?

A. They appear to be laying on butcher paper, I'm not sure.

Q. All right. And tell us the purpose of the butcher paper.

A. So when we get the evidence back to the lab, normally, when you have evidence that's been saturated, in order to store it and make it shelf stable, you have to dry it.

Q. All right, so was this taken back to the lab for testing?

A. Yes..

Q. I'll move onto Number 26. State's Exhibit 26, what is that?

A. State's Exhibit 26 is a tee-shirt, or the shirt that was found within the clear plastic bag.

Q. And we see butcher paper again?

A. We do.

Q. All right, and State's 27?

A. State's Exhibit 27 is a closeup of the inscription that was found on the shirt.

Q. Same as 26?

A. That's right.

Q. A closeup of that, okay. What about State's Exhibit 28?

A. State's Exhibit 28 is a pair of boxers that was found near the clear bag, containing the clothing, and on it was an inmate number 295690.

Q. All right. Is that also from that plastic bag?

A. I believe the boxers were found on top of the plastic bag, but, yes, the same general area.

Q. And the shirt from State's 26 we saw earlier, was that also from the bag?

A. Yes, that was found in the bag.

Q. All right, State's 29?

A. State's Exhibit 29 is a closer-up photo of

the numbers that was imprinted on the pair of white boxers.

Q. A closer-up of 28?

A. That's correct.

Q. What about State's Exhibit 30?

A. State's Exhibit 30 is another photo of what was also found in the clear plastic bag.

Q. All right. What about State's Exhibit 31? What do we have here?

A. State's Exhibit 31 is the exterior side of the door to cell 22, so that is right here in relation to this.

Q. Okay. And why did you take a look at cell 22?

A. We were informed by SCDC Police Services Division that there was suspected blood.

Q. Okay. State's Exhibit 32?

A. State's Exhibit 32 is a picture of the floor in cell 22. The photographer is looking into the cell, kind of more so down at the floor, and there's a variety of suspected blood staining.

Q. When Ms. Johnson was taking these pictures, were you'all aware of who was in cell 22?

A. Oh, we were told that this was the cell of the defendant.

Q. State's Exhibit 33 is another cell door, right?

A. That's correct. State's Exhibit 33 is the exterior side of cell two.

Q. Okay. And State's 35, this was already in evidence, I believe, but can you tell us what that is?

A. State's Exhibit 35 is a pair of Croc shoes in the corner of cell two. And so this photo is kind of almost facing out, so if you're standing in the cell.

Q. All right, so these were in cell number two?

A. That's correct.

Q. Not in 22 or five?

A. That's correct.

Q. Okay.

A. They were found in cell two.

Q. And State's 36?

A. State's Exhibit 36 is a closeup photograph of the pants, and there appeared to be a reddish stain.

Q. All right. Now, there's already been some discussion about this. Did you'all collect these shoes?

A. We did not.

Q. Why is that?

A. On-scene, when we were able to rotate the item and see it in-person, we deemed that it was most

likely not blood.

Q. You and Ms. Johnson both took a look at that?

A. That's correct.

Q. Anything physically collected from cell number two?

A. No.

Q. Just briefly back to cells one and two, did you'all collect anything in State's Exhibit 32? Did you'all collect anything from this cell?

A. In cell 22, which is depicted in State's Exhibit 32, we did collect a swab of suspected blood from the floor.

Q. Okay. All right, State's Exhibit 37, what do we have here?

A. State's Exhibit 37 depicts various handmade weapons, as well as a towel with suspected blood staining.

Q. Were they in this condition laid out on the floor when you'all arrived?

A. Yes, they were.

Q. That's how you found them, and that's how you photographed them?

A. That's correct.

Q. State's Exhibit 38?

A. State's Exhibit 38 is a closeup image of one

of the handmade weapons that was found in the trashcan.

Q. All right. What about State's Exhibit 39?

A. State's Exhibit 39 is another closeup of the weapon that was found in the trashcan.

Q. State's Exhibit Number 40?

A. I believe State's Exhibit 40 is another one of the weapons that was found in the trashcan.

Q. And State's Exhibit 41?

A. State's Exhibit 41 are the additional two, so there was a total of five, so these are the last two that were found in the trashcan, and we did collect these.

Q. Okay. Why wouldn't you have collected everything that we saw in that earlier photograph, those weapons from the trashcan?

A. So the --

Q. Was there anything else notable found there?

A. So the items that were laid out for us they were wet, and they smelled of bleach, and so we collected these items, because they had blood stains. So on the left-hand side of the photograph you see the actual weapon, and then on the right side is essentially a cover that was over the blade, so we collected these, because we thought if at all

possible, they could contain some biological evidence. We also saw some on some of the wrapping around the weapons.

Q. But they -- all five are the ones you did collect, and the ones you didn't collect, they all smelled of bleach?

A. That's correct.

Q. Did you collect that towel that we saw in the other photograph?

A. Yes, we did.

Q. All right. State's Exhibit 42, what's that?

A. State's Exhibit 42 is the right profile.

Q. Now, tell us about how you encountered that? Where was that, and just tell us the circumstances.

A. We were informed that he was in a medical unit of the prison, and based on the information that SCDC Police Services had given -- received, and also based on the clues that we found from the clothing that was found in the bathroom, we thought that he could have been involved in the altercation that occurred; so we went to document him, and collect DNA evidence as well as collect his buccal swab for DNA and fingernail scrapings.

Q. What's a buccal swab?

A. So a buccal swab is just like a Q-tip that

was swabbed on the inside of the cheek, and that is, essentially, a known DNA standard per person.

Q. Okay, and you took one from Mr. DuBois?

A. We did.

Q. What else do we see?

A. We see some scratches on his head, as well as arms.

Q. What about State's Exhibit 43?

A. State's Exhibit 43 is a picture of Mr. DuBois' hands.

Q. State's Exhibit 44?

A. State's Exhibit 44 is an additional photograph of Mr. DuBois' hands.

Q. Okay. All taken in Medical?

A. Yes.

Q. By you and Ms. Johnson?

A. That's correct.

Q. What about State's Exhibit 45?

A. State's Exhibit 45 is a picture of Mr. DuBois' left forearm, depicting some scratches.

Q. And State's Exhibit 46?

A. State's Exhibit 46 is a picture of Mr. DuBois' lower left leg. We were informed that he had an injury to his left shin, and so this is some blood staining that we observed on his clothing, there's

blood on his shoe.

Q. State's Exhibit 47?

A. State's Exhibit 47 is a photograph of the injury to Mr. DuBois' left shin.

Q. State's Exhibit 48, the last one.

A. State's Exhibit 48 depicts a scar and scratching near his mid-drift area, as well as scratches on his left forearm.

Q. All right. Now, did you learn anything -- well, let me back up, did you ask Mr. DuBois any questions?

A. So we are not trained interviewers, we are primarily there to collect forensic evidence, so we don't ask any questions, unless it's relevant to the evidence gathering.

Q. And so as non-interrogators, did you mirandize him?

A. We did not.

Q. Okay. But did he start to speak, while you'all were taking these photos?

A. He did.

Q. What, if anything, did he tell you?

A. He told us that he had recently had testicular surgery. He told us that he was in --

Q. And if you want to refer to your report to

refresh, that's fine, we can go over it later. I guess what's the -- given what you've already told us he said, what why were you'all taking photograph State's 46.

A. So he -- we were taking this photograph just to document, because he had said that he had testicular surgery, and we -- also with the amount of blood letting that occurred, it seemed we wanted to document the person. And he had informed us that he was leaving the cell, because the victim was trying -- attempting to rape him, and that when he left, the victim was not bleeding.

Q. And that's why you took a picture of that scar?

A. Correct.

Q. Okay.

I may use some of these again later. All right.

We've gone over some things that you collected from Mr. DuBois himself, was that all in that medical room?

A. That's correct.

Q. And what were those items, again, that you collected?

A. We collected all of his clothing. We collected a DNA swab, or a buccal swab, and we also

collected fingernail scrapings.

Q. Did you get his consent before you collected those? I mean that's a little invasive.

A. We did. He signed a voluntary consent to search form prior to us collecting the buccal swab, or the fingernail scrapings. And as you have already seen, we also documented it by photographs.

Q. Okay, and those are the things that you took from his person, like his cheek and his fingernails?

A. That's correct.

Q. Okay. Did you collect anything from Mr. Holmes' person?

A. Yes. We -- Mr. Holmes -- we collected a buccal swab, a -- his fingernail scrapings, and I believe that is all we collected from his person.

Q. The same things as from Mr. DuBois?

A. Yes, I did forget to mention, we also collected what we call postmortem major case prints, so, essentially, we take fingerprint impressions of his entire hands, so that's the only difference.

Q. Okay. All right, we're gonna start entering some of the things that you collected.

MR. EVANS: Your Honor, I apologize in advance.

BY MR. EVANS:

Q. Can you tell us what was item 17?

A. Those are the weapons.

Q. Yeah.

A. So item 17 was the two handmade weapons that were collected from the trashcan.

Q. All right. The ones we saw just a moment ago in the photograph?

A. That's correct.

Q. All right, Ms. McKay, can you tell us what this box is that I'm handing you?

A. Yes, this box is container D for this case.

Q. Now, what does container mean in SLED, you know, terminology.

A. So, essentially, a container just means when we have items of evidence that are packaged separately, but let's say they're all going to the same department for analysis, we can put them all in the same outer packaging, and label it as a container; so instead of having every item in its own little heat sealed pouch, we can just kind of put it all in the box, and send it to one department for analysis for storage.

Q. What's the purpose of all that tape I've been cutting through?

A. So all the tape is to make sure that the container is properly sealed, and the evidence tape,

which is the yellow tape, in particular, is to ensure that it is not tampered with or opened once it leaves the custody of one person, and enters the custody of another person.

Q. Okay, so when you collect it at the scene, do you box it up and tape it up?

A. It depends what that item of evidence is. Sometimes if it's wet, we won't, because we're gonna have to take it back to the lab to dry it, but everything is properly packaged, it just may not be in this final form, as we're transporting it from the scene to the lab.

Q. Okay, what's inside container D?

A. Inside container D we have the plastic bag that all the clothing was found in next to the toilet in the bathroom. And then we also have the two handmade metal weapons that were found in the trashcan.

Q. Okay, and each of those I see are in a smaller paper bag?

A. That's correct.

Q. How can you tell that they are what you just described?

A. So our standard operating procedures is to write the description of the item on the packaging, as

well as the lab number, item number, our initials and the date in which it was collected.

Q. Okay, is that what you and Ms. Johnson did in this case?

A. That's correct.

Q. All right. What about the L17, what's that?

A. So L1709614 is, essentially, the number that the SLED Forensic Services laboratory assigns any specific case -- well, assigned this -- the evidence associated with this specific case, but we refer to that number as our lab number, and all the evidence affiliated with a certain case that falls under a respective lab number.

Q. Okay, are these two bags in container D contain the weapons and the towel, are they still sealed at this point?

A. So containing the weapons and the plastic bag?

Q. I'm sorry --

A. Yes, they are.

Q. I'm gonna take those back and unseal them, and give them back to you, to double check once you get a visual of it. Ms. McKay whose handwriting is on the bags?

A. The handwriting is Special Agent Johnson's.

Q. Is that out of the ordinary?

A. No. Since she was the lead crime scene investigator, ultimately, her name was on the report, so her initials must be on the items in evidence.

Q. Were you there for the packaging as she collected all this evidence?

A. I was.

Q. You observed her writing on the bags?

A. I don't distinctly remember it, but I know I was in her presence when we collected the items from the Correctional Institution.

Q. I'll pass you this one, and ask you to take a look at that, inside and out. I mean you've already seen the outside.

A. Do you want me to pull it out?

Q. Not yet. Can you tell us if that's what you expect it to be?

A. Yes.

Q. And what is that?

A. So this is the plastic bag that the clothing was found in by the toilet.

Q. All right, the same that we see in the photographs?

A. That's correct.

Q. It's the same one you guys saw in the first

place item 17?

A. I believe so, yes.

Q. And the same as the description on the outside of the bag?

A. That's correct.

Q. All right.

MR. EVANS: Your Honor, the State would move the bag and its contents in as State's 70.

MS. CARMODY: Objection.

THE COURT: Basis.

MR. EVANS: Your Honor, she has identified it as the same, we've laid the foundation. The item was sealed, she was there for the collection.

MS. CARMODY: We already established the items were found in the bag.

MR. EVANS: Judge, the question is where they came from when she saw them to when they got into SLED custody? I mean whatever happened before that is admissible.

THE COURT: Okay, we're gonna take that up in just a moment, just keep going.

MR. EVANS: Yes, ma'am.

THE COURT: We'll put this one aside.

MR. EVANS: Yes, ma'am.

BY MR. EVANS:

Q. All right, it's been marked. It's in this second bag, which we're gonna mark in just a moment as 71.

A. The second bag is the two handmade weapons that we collected from the trashcan.

Q. All right, do you recognize those --

A. I do.

Q. -- from the scene?

A. I do.

Q. From the photos we saw earlier?

A. I do.

Q. Do they have Ms. Johnson's handwriting on them?

A. Yes, they do.

Q. Okay, they have the SLED lab number on them?

A. Yes.

Q. Is this the way that they were sealed up and taken back to Columbia?

A. Yes.

Q. All right, and you'all put those in the chain of custody once you got to Columbia?

A. That's correct.

Q. Tell us about how you put evidence in once you get back from a scene to Columbia.

A. So when we collect evidence on-scene, we take

custody of it. We transport it back to the SLED Crime Scene -- or, I'm sorry, the SLED Forensic Services laboratory in our personal Crime Scene vehicles, and then we store it in a secured location, until at which point we can then either -- we dry it, or we put it in a final packaging.

We enter it into the Forensic Services laboratory's computer system, and then at which point we take it down to Evidence Control. Either we hand it to an Evidence Control Technician, or we can put it in a secured locker, and then Evidence Control will then take it and disseminate it throughout the laboratory to where it's to go.

Q. Is that what you did with all of these items?

A. Yes.

Q. All right. Were they out of view, or Ms. Johnson's custody at any point between seeing them on the floor, taking them to Columbia?

A. Other than when they were in a secured storage location, no.

Q. Okay, is that a locked place --

A. Yes.

Q. -- up in Columbia?

A. Yes.

Q. All right, and did you and/or Ms. Johnson

physically pick up these knives and put them in this brown paper bag?

A. Yes.

Q. After you saw them on the floor, as we've seen in the photographs?

A. That's correct.

MR. EVANS: Your Honor, the State would move this bag and its contents in as State's Exhibit 71.

MS. CARMODY: Objection.

THE COURT: All right, let's do this.

MR. EVANS: Thank you, Your Honor.

THE COURT: Ladies and gentlemen of the jury, we're gonna take a brief recess. I'm gonna remind you to not discuss this case, it wouldn't be appropriate to do so, and we'll be right back with you as soon as we can.

We will go until the lunch hour and see how that goes? We're gonna excuse you back to the jury room, sir, and we'll be right back with you.

(Jury exits the courtroom.)

MR. EVANS: Your Honor, it's been in their chain of custody ever since. Now, of course, it's a continuing chain, once it gets to Columbia that we'll have to prove before we get into the DNA, but that's not I don't think for this witness.

They're, you know --

THE COURT: Can I see --

MR. EVANS: -- these are the items that they collected.

THE COURT: 71 was the bag, correct me if I'm wrong --

MR. EVANS: Yes, ma'am.

THE COURT: -- that is beside the toilet?

MR. EVANS: That's actually 70 and 71 are the knives.

THE COURT: So 70 is -- okay, so 70 is the bag that was to the side of the toilet, and my understanding is, that's where it was found, correct?

MR. EVANS: Yes, ma'am.

THE COURT: Okay, and that was testified to by Williams?

MR. EVANS: I believe so, yes, ma'am. And I mean I'll go back and ask Ms. McKay again, but we've already seen it in the photo.

THE COURT: He testified that that's where he was?

MR. EVANS: Yes, ma'am.

THE COURT: Okay.

MS. CARMODY: Again --

MR. EVANS: The Court Reporter's indicating yes.

THE COURT: And then your partner took the photo of it, correct? And then that's what -- correct? Okay, so that's 70, so that is not a problem, as far as chain of custody is concerned. Now, let's talk about what was 71?

MS. CARMODY: On 71?

THE COURT: What was 71, Mr. Evans?

MR. EVANS: It's --

THE COURT: I want to know what it is.

MS. CARMODY: Your Honor --

THE COURT: Don't talk over him for a second. What was 71?

MR. EVANS: Knives which were laid out on the floor when they arrived.

THE COURT: And just so I understand, were those the knives that were in the trashcan, or were those the knives in the drain?

MR. EVANS: They were the knives in the trashcan. The knives in the drain were not collected by SLED, and we are not entering them.

THE COURT: So my question is this, who went and pulled the knives out of the trashcan?

MR. EVANS: It sounds like Mr. Williams or other people in the staff, but, in any event, they were on -- I mean the chain from when SLED arrived is, they

were already on the floor.

THE COURT: I understand that.

MR. EVANS: Yes, ma'am, okay.

THE COURT: I understand. Okay, so what's your objection?

MS. CARMODY: For the knives -- put them on the floor, I believe that establishes the chain of custody for the knives. It was different, I do not believe there's testimony that what -- we've also heard testimony that the clothing was on the outside of the bag, or the inside of the bag.

THE COURT: The testimony that I heard was that that was where he found the bag, it was laying to the side of the toilets, that was his testimony when they came in.

MS. CARMODY: Until 3 o'clock in the morning.

THE COURT: Well, you can speculate all you want, but he said that's where it was laying, so that's where --

MR. EVANS: We can't do a chain from back before law enforcement started documenting. I mean the murder's gonna be alleged when the eyewitnesses start testifying, it'll be sometime between 9:00 and 11:00.

THE COURT: Okay.

MR. EVANS: And we're gonna -- can we make this a

continuing objection for everything else --

THE COURT: Absolutely.

MR. EVANS: -- found in the bag? Thank you, just so we don't --

THE COURT: Sure.

MR. EVANS: I mean, obviously, if she has an objection of a different substance, I don't mind that, I just want the record clear.

THE COURT: All right.

MS. CARMODY: Okay.

THE COURT: Let's take five minutes. And you are welcome to step down. I'm trying to figure out, I'm just asking scheduling-wise, where are we with Ms. McKay?

MR. EVANS: She needs to be back in Raleigh tomorrow. She has to testify in another case.

THE COURT: And that's what I need. Did she drive or fly? Okay.

MR. EVANS: She drove.

THE COURT: Okay, so --

MR. EVANS: We're gonna try to get her home today.

THE COURT: Okay, I just want to make sure that she can stay, even if she's here and has to wait through lunch. Yes, you're okay with that?

MS. MC KAY: Yes.

THE COURT: Are you sure?

MS. MC KAY: Yes.

THE COURT: Okay, thank you, I appreciate it.

MR. EVANS: Thank you, Judge.

THE COURT: I just want to make sure that I didn't need to get her out of here --

MR. EVANS: Thank you for checking.

THE COURT: Okay. Okay. You know, Ms. McKay, you can't talk about your testimony, okay?

(RECESS)

THE COURT: Are you ready?

MS. CARMODY: Yes, Your Honor.

MR. EVANS: The State's ready.

THE COURT: All right, let's bring the jury in. Let's bring them in.

(Jury enters the courtroom.)

THE COURT: All right.

MR. EVANS: Thank you, Your Honor.

THE COURT: Continue.

MR. EVANS: Once again, the State would move Exhibit 70 and 71 into evidence, those are the bags containing the plastic bag, and the bag containing the knives, and I ask that Ms. McKay be allowed to publish those to the jury.

BY MR. EVANS:

Q. Let's start with 70 and take them in order.

A. This is State's Exhibit 70.

Q. That's the plastic bag that you found in the bathroom?

A. That's correct.

Q. Containing other items which we're gonna get to?

A. That's correct.

Q. Okay. You can return it to the paper bag. I'll take that one back while you're getting the other one.

A. These are State's Exhibit 71.

Q. And those are the two knives that you fund --

A. That is correct.

Q. -- near a trashcan?

A. That's correct.

Q. Okay.

A. And I believe these are the sheets, but if I take them off, I don't know if they're gonna go back on, so --

Q. Fair enough.

A. So --

Q. We've got photos.

A. Yeah.

Q. All right, you can return that to the bag. And I'll take that sticker. All right.

MR. EVANS: May I approach, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'm gonna pass you another container, Ms. McKay, and ask you if you can identify that and the contents inside?

A. Yes, I do identify this. This is the towel with suspected blood that was collected from the trashcan.

Q. All right, and how can you tell that?

A. I can tell that, based on the lab number, the item number, Special Agent Johnson's initials, and the description that's written on the packaging.

Q. Okay, and same as with the other items, were you present when that was collected, and documented with photographs?

A. I was.

Q. All right.

A. Yeah.

Q. Okay, would you take a look inside, and see if that matches the description on the outside of that paper bag?

A. So it appears it's wrapped in butcher paper --

Q. Okay.

A. -- after processing. Do you -- would you like to --

Q. Do you need scissors for that? Can you take a look without publishing first?

A. Yes, I do recognize that.

Q. Okay, is that the same towel that we see in State's Exhibit 37?

A. It is.

Q. All right, and this is where you found it --

A. That's correct.

Q. -- and collected it?

A. That's correct.

Q. Okay.

MR. EVANS: Your Honor, the State would move this brown paper bag and the towel inside as evidence as State's Exhibit 72.

MS. CARMODY: Without objection.

MR. EVANS: Subject to --

THE COURT: Sure.

(State's Exhibit Number 72 was admitted into evidence.)

MR. EVANS: Okay, may she publish it, Your Honor?

THE COURT: She may.

A. So when we send items of evidence and request that they be tested for biological fluids, it goes to the Serology Department, and they test the item, if they find any spots that are relevant; and then if they get any presumptive positives for a certain body fluid, they'll take a cutting of the area, and then forward that smaller cutting onto the DNA Department for further analysis, versus the larger item, will go back to Evidence Control for storage.

Q. Okay, and you used to be a serologist.

A. I was.

Q. Is that what you did when you were a serologist?

A. I did.

Q. You didn't do that in this case?

A. I didn't.

Q. All right, somebody else was assigned as the serologist?

A. That's correct.

Q. All right. Now, what happens as far as SLED documentation and recordkeeping once a cutting is made? Can you describe that?

A. Yes, so once a cutting is made, that item is packaged in a similar fashion to the way the other

items are. It's in its own exterior packaging, and that goes to the DNA Department. The Forensic Serologist will write a report, based on everything that they did, and that gets published as well.

Q. Okay. Are there any other initials or indicators on that paper bag that this was in?

A. Yes, there are.

Q. Can you tell us -- well, just read it.

A. So L17961418CDT 10/19/17.

Q. Okay, do you know who CDT is?

A. Yes, that's Courtney Thompson.

Q. And what did she do at SLED?

A. She was a Forensic Serologist at this time.

Q. Okay, you can return that one to the bag, all right? All right.

MR. EVANS: May I approach the witness, Your Honor?

THE COURT: Yes.

BY MR. EVANS:

Q. All right, I'm gonna pass you another container, if you can tell us what that is? Thank you.

A. So this is container C which houses all of the clothing that was in that plastic bag that we saw earlier.

Q. Okay, how can you tell that?

A. Based on -- so in my report I have what's inside of this container.

Q. Containers were designated as part of the collection process?

A. That's correct.

Q. Okay. Yeah, pull each one out, and I'll start marking these. It's 73, marked. What is State's Exhibit 73?

A. So State's Exhibit 73 contains SLED item 21 and 23, which are the -- a pair of pants and a shirt that was found in a plastic bag.

Q. All right. Are these the same as you found in the plastic bag in the bathroom at Ridgeland Correctional?

A. Yes.

Q. Okay, and, again, I know a broken record there, but how can you tell that?

A. Based on the description that's written on the outside of the packaging, the correct lab number, the current item numbers, and Jamie Johnson's initials.

Q. Okay, and would you take a look inside to see if that matches those descriptions?

A. Yeah.

Q. Is there butcher paper?

A. Bear with me.

MR. EVANS: I'm gonna mark that butcher paper as State's 73.1 for reference. Yes.

BY MR. EVANS:

Q. And I'll take the other one to pre-mark that, while you're doing that.

A. Yes, I do recognize this.

Q. Okay, what is 73.1?

A. 73.1 is the butcher paper packet that contains the SCDC shirt that says Animal 5B-22, and a pair of SCDC pants that say TIP5B-22.

Q. Okay. It contains both of those in the same butcher paper?

A. It does.

Q. All right.

MR. EVANS: Your Honor, the State would move the contents of this butcher paper in as State's Exhibit 73.1.

THE COURT: Subject to your prior objection?

MS. CARMODY: Yes.

THE COURT: Admitted over objection.

(State's Exhibits 73 and 73.1 were admitted into evidence.)

MR. EVANS: Your Honor, may she publish that?

THE COURT: Yes.

BY WITNESS:

A. So on the pants and on the interior you can see the TIP5B-22.

Q. Okay. That's what we saw in those photos?

A. That's correct.

Q. Do we have another cutting, another hole?

A. Yes. I believe it appears one cutting was made in this area.

Q. Okay.

A. The back area.

Q. All right. There's some writing on there?

A. That's correct.

Q. Okay, what is -- is that part of the serology process?

A. That's correct. So a lot of the times on the larger items of evidence, it is marked what our test results were, and the same item that was created from -- and a subitem is, essentially, just -- so the pair of pants themselves would be the item, and then the cutting is from the pants, so we call that like a sub item.

Q. How do you designate a sub item?

A. So, for example, item one, if we took a cutting from item one, the cutting would then be

labeled item 1.1.

Q. Okay, just like we're doing with some of these exhibit numbers?

A. That's correct.

Q. Okay. All right, so that's the pants, and then what's the other part of 73.1, State's Exhibit not item?

A. State's Exhibit 73.1 also contains the SCDC shirt, and along the bottom is writing. Can you see that okay?

Q. Well, let me try to help you out. Is there a cutting from this item, the second half of 73.1?

A. Yes, there's a cutting taken from the left sleeve area.

Q. In your experience, when -- not that you did this serology, but when you were a serologist at the scene, how would you decide where to make a cutting?

A. It would depend, based on the case circumstances, but, normally, we would try to look for the areas that had the most staining present.

Q. Okay, that's generally how you -- because what does a serologist -- I mean I don't know if we've really talked about this. What does a serologist do?

A. Yeah, so all forensic serology is, is the identification or detection of body fluids.

So forensic serologists are just at SLED, we primarily look for blood, semen, and saliva. And then we have testing that we can run, to see if it's presumptively that body fluid. And, essentially, it just kind of helps us narrow down what we're looking for, and what items are getting actually sent to DNA and tested. And sometimes it is helpful to know what the DNA actually comes from, what type of body fluid it is.

So we're just looking for the body fluids, and then if they're found, the smaller items are the cuttings that get forwarded for actual DNA analysis.

Q. Okay, so even if it's the pipeline, like we think there might be DNA, the serologist doesn't find the body fluid, it doesn't go to that next step?

A. So it kind of depends on case circumstances in some of the cases that we get, so it might, even if the serology is negative.

Q. What are the body fluids that the serologist looks for?

A. At SLED, the serologists look for blood, semen and saliva.

Q. Okay, just those three, not urine, or --

A. No.

Q. -- whatever else there might be?

A. No, just those three.

Q. Blood, semen and saliva?

A. That's correct.

Q. And so that's what you and Ms. Johnson sent this into the chain for, to be analyzed by a serologist first?

A. Yes, and for blood.

Q. And then potentially passed on, depending on what that person found?

A. Yes. And I believe we also requested DNA ownership, which, essentially, they try to figure out like who was wearing the item.

So in order to do that, they'll look for areas of the clothing that kind of touch areas of your body, where you tend to sweat a lot, so like the armpit areas, or the collar of your shirt, and we'll scrape that, and swab that, and send that to DNA as well, so kind of looking for two separate things.

Q. I see. Are there any initials or indicators of who took that cutting?

A. There are, CD.

Q. What's -- I'll rephrase, what's written on the shirt by the cutting?

MS. CARMODY: Objection.

MR. EVANS: She's testifying to the condition of

the shirt.

THE COURT: Specifically, what is the condition?

MR. EVANS: Is anything written on it?

THE COURT: Well, she can read it, if it's there.

MS. CARMODY: Your Honor, she's already testifying that another person examined the shirt and analyzed it, and, you know, she's getting it after that. Now she's trying to testify as to what the shirt said, which is testifying the results of somebody else's work. They were sent to the serologist, Your Honor.

MR. EVANS: I disagree, she's reading from a shirt that's already in evidence.

THE COURT: And the writing on it is written by whom?

MR. EVANS: Well, I'm not gonna ask her that. I think that's the subject of her objection.

THE COURT: That would be the objection?

MR. EVANS: Yeah.

THE COURT: Okay. Okay.

MR. EVANS: I'm trying to leave it one step before that.

THE COURT: Okay. So ask the question again.

BY MR. EVANS:

Q. Is there anything written on the shirt?

A. Yes, there is.

Q. What, if anything, is written on the shirt?

A. So by the area, where a cutting was removed, it says 73.1.

THE COURT: Okay, so --

MR. EVANS: I'll move --

THE COURT: Just move on and strike that testimony.

MR. EVANS: That's fine.

BY MR. EVANS:

Q. Let's return that to the butcher paper, and move onto the second set from 73, which is marked prior to 73.1. I'll take those from you. Thank you.

A. Uh-huh.

Q. All right. We've got paper there?

A. I recognize State's 73.2.

Q. Wait, what's in 73.2?

A. The remaining items of clothing that were found in the clear plastic bag by the toilet.

Q. Is it all clothing, or is there something else in it?

A. Oh, I'm sorry, the clothing and a towel.

Q. Okay. And you can see -- you've already visually examined it, or are you going based on the writing?

A. No, I've opened it.

Q. You've opened the butcher paper?

A. Correct.

Q. Okay. And so that's -- what -- let's take them one-by-one.

A. Sure. So it's gonna be the garment, the towel, two pairs of socks.

Q. Well, a pair, because two pairs would be four socks.

A. Correct.

Q. All right.

A. Two socks, correct. A tee-shirt, and two boxers.

Q. All right, and you recognize all these items as those which you collected in 2017?

A. Yes, I do.

Q. Collected by you and Ms. Johnson?

A. That's correct.

Q. Sealed up, marked by her with the lab number, and the item number, and the container number?

A. That's correct.

Q. And it was taken up to Columbia, and put in a secure location?

A. That's correct.

Q. And put into the chain of custody for further

analysis?

A. That's correct.

MR. EVANS: Your Honor, the State would move these items in as State's Exhibit 73.2.

THE COURT: Except as to prior objection?

MS. CARMODY: Yes.

THE COURT: It's in evidence.

(State's Exhibit Number 73.2 was admitted into evidence.)

MR. EVANS: May she publish, Judge?

THE COURT: Yes.

BY WITNESS:

A. Okay, this is one set of boxers that has 295690 imprinted on them.

Q. Okay. Was there a cutting made from those?

A. There was.

Q. Okay.

A. This is the secondary pair of boxers.

Q. Okay. And let's -- since we can't get these individual exhibit numbers, what's the distinction between the first and the second pair, just to protect the record?

A. The way that they were distinguished was based on the number that was imprinted. So this one looks like it has 167, and then -- and the 167 was

SLED item 24.

Q. That was my next question.

A. And then this pair was designated by the number that was imprinted on it, which was 295690, and that was designated as SLED number 25.

Q. Okay. Sorry to interrupt you.

A. All right, so this is SLED item 26, this is the tee-shirt that was found in the bag next to the toilet.

Q. Okay.

A. This is the support garment, which is designated as SLED number 19.

Q. And was there a cutting made from that?

A. I believe so, yes. These are the two socks that were found, SLED item 20.

Q. Okay.

A. And then last is the towel designated SLED item 22.

Q. And other than the writing, which has been added and the cutting, are these all, you know, in, essentially, the same condition --

A. Yes.

Q. All right, those are all admitted, so let's package those back up as best we can, and I'll put them back in the bag. All right. All right, I'll

take the scissors back.

MR. EVANS: Actually, may I approach, Your Honor? May I approach, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'll pass you another -- a different sort of container, what is that?

A. So this is SLED item 12, which is a piece of paper that was collected from cell five, which is the victim's cell, with what appeared to be a barefoot impression in suspected blood.

Q. Okay. Is that the same, you know, that we saw in the photo earlier?

A. I believe so.

Q. Okay. Obviously, it's sealed up in an envelope; is that right?

A. Uh-huh.

Q. But it's got the same indicators as all the other stuff we've been looking at?

A. Yes.

Q. Sealed up by you and Ms. Johnson before he left RCI, or at some point?

A. Yes.

Q. Okay. Would you mind opening that up, and seeing if that matches what is indicated on the

outside? You've got the scissors there.

A. My initials are on this. I don't know.

Q. Well, go ahead and tell us, so --

A. Yeah.

Q. -- your initials are on that one --

A. Yeah, so --

Q. -- plus hers?

A. So my initials JIM are on this packaging, as well as Special Agent Johnson's.

Q. Okay, so you sealed that up?

A. Yes.

Q. Okay.

A. Please bear with me. Yes, I do recognize that item.

Q. Is that the same piece of paper that you saw on the floor in 2017 --

A. It is.

Q. -- in cell five? And I think we have a picture of it in evidence?

A. We do.

Q. Was it out of your custody or Ms. Johnson's custody at any point, between your discovery of it in cell five and getting it into secured custody in Columbia?

A. It was not.

Q. And it looks like it's been sealed since then.

A. Yes. I don't believe this was ever processed.

Q. Okay.

MR. EVANS: Your Honor, the State would move this into evidence.

BY WITNESS:

A. It's State's Exhibit 74

Q. As State's Exhibit 74.

THE COURT: Subject to prior objection?

MS. CARMODY: Yes, Your Honor.

(State's Exhibit Number 74 was admitted into evidence.)

MR. EVANS: Thank you, Your Honor, may she publish?

THE COURT: Yes.

MR. EVANS: May I approach the witness, Your Honor?

THE COURT: Yes.

BY MR. EVANS:

Q. I'm gonna pass you another bag, this is from container D, and I've unsealed it for you, but can you tell us what that appears to be?

A. Yes. So this appears to be the Crocs, or the

shoes that were collected from Mr. DuBois.

Q. Okay. And did we see those in a photo earlier?

A. Yes, we did, they were on his person in the photo.

Q. Okay, and when did you collect them? Well, did you collect them?

A. Yes.

Q. When did you collect them? Well, did you collect them?

A. Yes.

Q. And you and Ms. Johnson?

A. Yes.

Q. When did you do that?

A. I -- when we were with Mr. DuBois in the medical facility.

Q. In the same process of taking those photos?

A. That's correct.

Q. Right from his feet to you?

A. That's correct. We -- if I remember correctly, we took his clothes while we were there.

Q. Okay, and then how did you'all seal these up, in that same bag, or to leave the out to dry, or what?

A. So they were all placed into the bags, and then I believe the pants and the shoes had suspected

blood staining, so when we got them to the lab we dry them in a secure drying area, and then put them back in the respective bag and seal and package them.

Q. Okay, that's what you did for these shoes?

A. I'm sorry?

Q. That's what you did with these -- with this pair of shoes?

A. Yes.

Q. Okay, and were they out of yours and Ms. Johnson's custody, as same as all the others, until you got them secured and logged in, in Columbia?

A. They were not.

Q. And you've taken a look inside, are they in the same butcher paper?

A. They are in butcher paper.

Q. Do you want to take a look --

A. Yes.

Q. -- inside the butcher paper?

A. They do appear to be the Crocs that were collected at the scene.

Q. Okay.

MR. EVANS: Your Honor, the State would move this pair of Crocs in as State's Exhibit 75.

MS. CARMODY: Without objection.

(State's Exhibit Number 75 was admitted into

evidence.

BY WITNESS:

A. Butcher paper or bag?

Q. Put it in the bag.

MR. EVANS: And may she publish, Your Honor?

THE COURT: Yes.

BY MR. EVANS:

Q. Did you'all collect those, or did you do any processing on them?

A. We did not do any processing, but we did collect these.

Q. That's the Serology Department as well?

A. That's correct.

Q. Okay. Can you return that too?

MR. EVANS: Beg the Court's indulgence.

BY MR. EVANS:

Q. Every single one of these items that we've put into evidence, they all have an item number that's --

MR. EVANS: I'm leading a bit, so I apologize.

BY MR. EVANS:

Q. How do you distinguish between all of these items, other than a description?

A. So on-scene, we write on the outside what's in the bag, so a description of what's in the bag.

And then once we get it to the lab and log it into the lab's laboratory management system, every item gets assigned a number, and then that is how the packaging is identified moving forward.

Q. Okay. And who creates the -- when there are cuttings, who creates the item numbers for those?

A. So the system automatically assigns the items a number, depending on the order of items that they're admitted into evidence at the lab; but when an examiner creates a sub item, so to speak, they physically create the sub item.

Q. Okay. The last thing before I turn you over to Ms. Carmody, you mentioned some statements that -- I'll take that back. You mentioned some statements Mr. DuBois made to you, but you didn't have your report to refresh you; so I just want you to take another look at that, and if you need it, and remind us of what he told you.

I'm sorry, actually, I'm gonna have a few more items after that, I apologize, but go ahead.

A. So while in Mr. DuBois' presence, he told us that the victim, essentially, stabbed him in the left leg, as he was trying to escape from the victim attempting to rape him. He told us that when he left the victim's cell, the victim was not bleeding, and

then he had recently had testicular surgery.

MR. EVANS: May I approach the witness, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I want to pass you four more items, and ask if you can identify each of those? I'll call the first one 76.

A. Would you like me to go in order of --

Q. Yes --

A. -- the SLED number?

Q. I think that's actually probably the best way, we'll call it whatever SLED number as Exhibit 76.

A. State's Exhibit 76 is SLED item six. It is the two buccal swabs that were collected from Mr. DuBois, and I recognize it, based on the unique lab number, item number, my initials and my name and date.

Q. Okay. State's 77, that's gonna be item seven. What is item seven?

A. State's Exhibit 77 is SLED item seven, and that is the fingernails scrapings collected from Mr. DuBois.

Q. Okay. How about item 14?

A. SLED item 14 is fingernail scrapings collected from Jerry Holmes, which is the victim.

Q. All right, and we'll call that State's 78. And how about SLED Exhibit 16, we'll call it State's 79.

A. State's Exhibit 79 or SLED item number 16 is two swabs of suspected blood from the floor of cell 22.

Q. Mr. Dubois' floor?

A. That's correct.

Q. All right, and did you and Ms. Johnson collect all of these?

A. Yes, we did.

Q. And they're all indicated with your names and the lab number?

A. Yes.

Q. And the item number?

A. Yes.

Q. And what's that outer packaging? What is significant about that?

A. So this plastic outer packaging is what we refer to as a heat seal pouch, and to maintain integrity of evidence we always have an interior packaging. So, for example, in this case the coin envelope, and then we place it into an outer packaging to try to maintain the integrity of the evidence.

Q. Okay, it's sealed up, before you turn it in?

A. Yes.

Q. And then eventually unsealed by someone else?

A. Yes.

Q. Is it sealed now?

A. Yes, it is sealed.

Q. Okay, all four? All four items in Exhibits --

A. Oh, okay.

Q. Four sides.

A. Yes, they -- yes, all four items are sealed.

MR. EVANS: Your Honor, the State would move these in as State's Exhibit 76 into evidence.

THE COURT: Okay.

MS. CARMODY: Without object.

THE COURT: Without objection.

(State's Exhibit Number 76 was admitted into evidence.)

MR. EVANS: Beg the Court's indulgence.

THE COURT: Okay.

BY MR. EVANS:

Q. We've got -- let me take a look, the one that's marked DNA known standard, who's that from? This is Exhibit 76, item six.

A. State's Exhibit 70 -- can you repeat the --

Q. State's 76, item six.

A. Is buccal swabs from Mr. DuBois.

Q. Okay, and it's the coin envelope, as you said inside the outer packaging; does that indicate that?

A. It does, yes.

Q. Okay. And that was for the purpose of DNA analysis later on?

A. That's correct.

Q. How about for Mr. Holmes, how did you'all get his -- or did you?

A. We got his known standard the same way. We used a buccal swab, and swabbed the inside of his cheek.

Q. And you turned that into evidence as well in Columbia?

A. We did.

Q. Okay, sent it up. What item number was that just for the record? The Holmes' known standard.

A. I'm sorry, I think I misspoke, it appears to be only collected fingernail scrapings and postmortem major case prints from the victim.

Q. Okay. All right, but we do have a buccal swab from the Defendant, Mr. DuBois?

A. Yes, and normally at autopsy they do collect -- or they should collect a known standard from victims.

Q. Okay.

MR. EVANS: Thank you, Your Honor, I appreciate the Court's patience.

BY MR. EVANDS:

Q. Ms. McKay, those are all the questions I have. Please answer any questions Ms. Carmody may have.

THE COURT: Approach.

MR. EVANS: Yes, ma'am.

(Bench conference.)

THE COURT: All right, ladies and gentlemen, now is a good time to take a lunch break. I'm going to ask you to be back in your jury room at 2:15, where we'll go ahead and continue with this case.

I know yesterday we were a little delayed in getting you back in the courtroom while you were back there. Today will be much more efficient, we just worked the entire lunch break yesterday. So, again, do not discuss the case, it wouldn't be appropriate to do so. Mr. Foreperson, I need you to let me know after the lunch break how late you all can work today. You just need to tell me what is acceptable to you'all.

I know you're tired, I know it's long, and it was the first full day, so you just let me know. We can

work as late as you want, okay? So I just want to make sure, it's completely up to you'all. The lawyers tell me we're pretty much running on schedule, so we're okay for right now, all right?

So, again, don't discuss the case, have a good lunch everyone.

(Jury exits the courtroom.)

THE COURT: All right, Ms. McKay, feel free to step down and have lunch, just don't discuss your testimony, you're still on the stand. Anything else we need to take up as far as housekeeping is concerned before we come back?

MR. EVANS: No.

THE COURT: Okay, and I will find out as soon as the Foreperson comes back after lunch, to let you know how late they're willing to work, to see if maybe we can get this witness in, the other two you were hoping to get up today, okay, so we'll see how it goes, okay? Thank you.

(LUNCH BREAK)

**

PROCEEDINGS CONTINUED

BAILIFF: All rise.

THE COURT: You ready?

COURT REPORTER: Yes, ma'am.

THE COURT: All right, let's bring the jury in.

(Jury enters the courtroom.)

THE COURT: Ms. Carmody, whenever you're ready for this witness.

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon. Ma'am, what time did you actually arrive at Ridgeland Correctional?

A. I arrived at Ridgeland Correctional Institution at 6:49 in the morning.

Q. At 6:49, all right. And when were you notified?

A. The call came in from our operations desk at 4:19 in the morning.

Q. When you arrived at Ridgeland Correctional, did you have any idea what was going on in the Savannah B unit at that time?

A. We were provided with very limited information. I don't think there was -- SCDC Police Services Department didn't arrive much earlier than we did, so they were still trying to gather information.

Q. Okay. And when you arrived at Ridgeland Correctional, was there any crime scene tape anywhere on the Savannah unit?

A. I don't believe so.

Q. You took several photographs in this case. If there was crime scene tape up, you would have documented it in the photograph?

A. That's correct.

Q. Okay. And to your knowledge, no photographs were taken prior to your arrival?

A. I'm unaware of what was done prior to when I arrive, with regards to photographs, I'm not sure.

Q. All right, fair enough. You actually did do a very good job of taking a lot of photographs.

It's the only photographs we have in evidence, correct? You haven't seen any other photographs in this case, right?

A. No.

Q. No? Okay. When you arrived on-scene at Ridgeland Correctional, was there any indication that the scene had been secured?

A. We were told that the scene was secured.

Q. Okay, you were told that, but what independent information do you have that actually the scene was secured?

A. They removed -- I guess I don't have any.

Q. Okay. Now, when you had arrived at Ridgeland Correctional, you didn't actually see the Coroner, did you?

A. I did not.

Q. All right, what's a Coroner do?

A. So a Coroner -- the South Carolina operates under the Coroner system for the medical/legal community, and, essentially, they respond to scenes, and take inventory of a death scene, and then they're responsible for signing the death certificates of individuals who have passed.

Q. Okay. And so prior to your arrival, you were informed that the Coroner had come and left, right?

A. That's correct.

Q. All right, and he wasn't coming back, correct?

A. That's correct.

Q. And you were informed that the victim, well, Mr. Jerry Holmes, inmate Holmes was deceased around 3 o'clock in the morning? Well, they found him deceased at 3:00 a.m.?

A. That's correct.

Q. All right. And you had arrived at almost 7:00, so we're talking about four hours had passed between the time they found him deceased, and the time that you arrived?

A. That's correct.

Q. All right. Now, when you arrive at Ridgeland

Correctional, you had no idea where to go, right?

A. That's correct.

Q. Okay. All right, it is a prison, right? Several wings in the prison, and you have Beaufort and things like that, all right. Who directed you to the Savannah unit?

A. I don't remember exactly, but it was one of the agents with SCDC Police Services.

Q. All right, potentially, Agent Garvin?

A. Possibly.

Q. All right. And when you came onto the unit, did he direct you to a specific cell?

A. He directed us to cell five, which is where the incident occurred.

Q. All right, and were you informed who resided in cell five?

A. We were told that Jerry Holmes and Casey Chappell was the -- those were the two individuals assigned to cell five.

Q. Okay. Were you informed at this time that other cell doors were left unlocked during the nighttime hours of June 21st to 22nd?

A. I believe during the early course of our investigation the only information we were given was that cell five remained unlocked, because it was

having water issues, and that enabled the occupants to be able to use the common room bathroom, because they could not use the toilet within their cell.

So we were only aware of one cell that was unlocked at the time.

Q. Okay, so to clarify, we're talking about Mr. Jerry Holmes and Mr. Casey Chappell would have had to have used the bathroom -- the common area bathroom of the unit, right?

A. That's the information we were given, yes.

Q. All right, so the State had admitted these photographs here. These aren't the only photographs taken, right?

A. That's correct.

Q. All right. Let's start with State's Exhibit 3.

Now, State's Exhibit 3 state -- I assume that this was a fair and accurate representation of the door on cell five, but this isn't how the door was when you arrived though, is it? Well, the room I mean.

A. I mean that's what it looked like when we arrived on-scene.

Q. Do you recall there being a covering on the window, blocking the light coming into the cell?

A. I don't recall, but there could have been.

Q. Okay, hold on. All right. I'd like to show you what's been pre-marked as Defense 1 for identification. Do you recognize that photograph?

A. Yes, I do.

Q. And, ma'am, does that photograph fairly and accurately depict the scene of cell five when you arrived?

A. Yes.

Q. Okay. Ma'am, is there something covering the window to that cell?

A. There's something covering the window that's inside the cell.

Q. Okay. And what is that that's covering the window inside the cell?

A. I don't recall exactly what it is, but it's some sort of cloth material.

Q. All right, and, ma'am, did you need to remove that cloth material at some point, in order to gain light into the room?

A. Yes, we did remove it, in order to help visualize the scene.

Q. When you arrived, ma'am, the door was closed?

A. That's correct.

Q. I'd also like to show you what's pre-marked

as Defense 2 for identification. Is that a fair and accurate representation of the window in cell five when you arrived?

A. It's a pretty pixilated version, but it appears to be, correct.

Q. Okay, and the cover on the window in cell five is a cover across the entire window?

A. Yes.

Q. All right. Also do you remember if there was any light in cell five?

A. I can't recall.

Q. All right. I'd like to show you what's been pre-marked as Defense 3 for identification. Is that a fair and accurate representation of the light in cell five when you arrived?

A. Yes.

Q. Okay, and is the light in cell five been covered?

A. There appears to be magazine pages that are on the light, yes.

MS. CARMODY: Your Honor, the Defense moves for admission of Defense 1, 2 and 3.

MR. EVANS: Without objection.

THE COURT: Without objection, 1, 2 and 3 are in evidence.

(Defense Exhibits 1, 2 and 3 were admitted into evidence.)

MS. CARMODY: May I publish, Your Honor?

THE COURT: You may.

BY MS. CARMODY:

Q. This is the photograph that the State put in, correct?

A. That's correct.

Q. Okay. All right, when you arrived, this is Defense 1, and that's a fair and accurate representation of the room?

A. Yes, after we had opened the door.

Q. Right, and the lighting in the room?

A. I mean because of the walls were white on the outside, the flashes that bounce off, but, yes, the inside of the cell was fairly dark.

Q. All right. And I'd like to show you what's been admitted as Defense Exhibit 2. Is this the covering that was over the window in that cell?

A. Yes, it is.

Q. Okay, and this covering had to be removed, so you could take pictures and examine the scene?

A. We removed it, in order to help allow more light to come in, yes.

Q. And I would like to show you what's been

marked as Defense Exhibit 3. Is this the light in cell five?

A. Yes, it is.

Q. Okay. And the light's blocked by magazines; is that it?

A. It appears to be, yes.

Q. Okay. And going back to State's 3, this was after the covering had been removed from the window?

A. I'm not sure.

Q. Well, you just looked at --

A. What -- the photograph you're showing me is what the door to the cell closed, so I don't know if the covering inside the cell was removed at the time that photo was taken.

Q. All right, and -- okay, so when you photograph a scene, do you start at like -- do you walk into the room and start taking photographs from the inside first? How do you do that?

A. So, typically, we arrive on-scene. We try to document the scene as it is, as it appears prior to us moving anything. I typically take my photos in a clockwise direction, and so I'm not exactly sure what system Jamie used, but typically photographers try to stick with the same flow when they photograph.

Q. All right, so let's start, you open the door

to the cell. I'd like to show you what's been marked as Defense 4 for identification.

Do you recognize it? Is that a fair and accurate representation of the picture you took --

A. Yes.

Q. -- in cell five?

A. Yes.

Q. And, ma'am, do you recognize anything on the door, etched into the door of cell five?

A. There is carvings into the door from this picture.

Q. Sure, let's see. I'll show you what's been pre-marked as Defense 5 for identification. Is this a clearer picture, ma'am?

Is that a fair and accurate representation of the door of cell five, when you got on-scene?

A. Yes, it's a clearer photo, and, yes, it's a fair and accurate depiction of the photo that we took.

Q. Okay, and, ma'am, what is etched into the top of that door?

A. It appears it says, "Strike 3."

Q. Okay.

MS. CARMODY: Your Honor, may I publish?

THE COURT: You may.

MR. EVANS: No objection, Your Honor.

MS. CARMODY: I'd like to show the jury what's been pre-marked as Defendant's Exhibit 4.

BY MS. CARMODY:

Q. Okay, all right, that is cell five --

A. Yes.

Q. The covering is still on?

A. Yes, it is.

Q. And this is the etching that we're talking about here?

A. That's correct.

Q. All right.

MS. CARMODY: And I'd also like to publish Defense Exhibit 5.

BY MS. CARMODY:

Q. And, ma'am, what does it say right here?

A. It appears to say, "Strike 3,"

Q. So there's a S-T-R-I-K-E, and then the 3 is right here?

A. Correct.

Q. And that's etched into the very top of the door?

A. Yes.

Q. How high are these doors, ma'am; do you know?

A. I'm not exactly sure, but I would say at least five feet, about five, six feet.

Q. I'm five feet tall.

A. So six feet.

Q. Okay, all right, so they're not five feet, right? I mean that would be --

A. So at least six feet.

Q. At least six feet, okay, all right. And, ma'am, the covering, this is Defense Exhibit 4, the covering on this door right here, did you put that there?

A. No.

Q. Okay. I'll show you what's been pre-marked as Defense Exhibit 6 for identification. Ma'am, is that a fair and accurate representation of the door of cell five when you arrived?

A. Yes, it is.

Q. Okay, and is there anything depicted on the door?

A. There's some blood spatter on the door.

Q. Okay.

MS. CARMODY: Your Honor, may I publish?

THE COURT: You may.

BY MS. CARMODY:

Q. Okay, and, ma'am, this area that we're looking at right here is inside cell five?

A. That's correct.

Q. Okay, and this is prior to removing the covering on the window?

A. I believe so, yes.

Q. All right, and this is the inside of the door of cell five?

A. That's correct.

Q. The door opens out?

A. Correct.

Q. Okay. This part of the door right here would be facing the interior of the room when the door was closed?

A. That's correct.

Q. Okay. And this is the blood spatter that you were referring to?

A. Yes.

Q. All right.

MS. CARMODY: The Court's indulgence, Your Honor. Your Honor, I thought I had admitted all of these into evidence, so Defense 1, 2, 3, 4, 5 and 6, Your Honor, just to make sure they are admitted.

MR. EVANS: Without objection.

THE COURT: Without objection, they're in evidence.

(Defense Exhibits 1, 2, 3, 4, 5 and 6 were admitted into evidence.)

MS. CARMODY: Thank you.

BY MS. CARMODY:

Q. And, ma'am, when you walk into the room, immediately to your left is the lamp that I showed you, this is Defense Exhibit 3. This is the wall immediately to the left of the door?

A. Yes, I believe so.

Q. Okay, so you walk into the room, and then we're going from left, around the room, to the right, so this would be on the left?

A. Yes.

Q. Okay, all right. All right, I'd like to show you what's been pre-marked as Defense 7 and 8.

Do you recognize those photos, ma'am? Are they a fair and accurate representation of the room cell five when you arrived?

A. Yes.

Q. Okay.

MS. CARMODY: Your Honor, may I publish?

THE COURT: You may.

MS. CARMODY: Your Honor?

THE COURT: Yes.

MS. CARMODY: thank you.

BY MS. CARMODY:

Q. This is Defense 7, all right, ma'am, where is

this table located?

A. So when you're looking into the cell, the table is gonna be along the left wall right next to the toilet, so like when -- so the toilet's gonna come -- is the closest to the door, and then the table is right on the other side of it.

Q. Okay, and what is this item that's on the table?

A. I'm not sure.

Q. Did you collect it?

A. I don't believe so.

Q. No? Okay. What about right here behind the table, what's that?

A. It appears to be a cup.

Q. All right. Now, I'd like to show you what's been marked as Defense Exhibit 8, and what's that?

A. So this is a picture of the bench just on the other side of the table, so, again, along -- if you're looking into the cell, along the left wall.

Q. Okay. And, ma'am, this is, you know, depicting items that are all over the floor?

A. That's correct.

Q. Okay, and whose items are those?

A. I'm not sure who they belong to, but the white bag has the name Cassie Chappell on it.

Q. Okay, and did you collect this glass over here?

A. We did not.

Q. All right. And I believe from the other photographs that the State has shown you, this was -- the whole room is a mess, right, ma'am?

A. Yes.

Q. Would you agree? Okay. And things have been knocked off the ledge here, ma'am?

A. It's possible.

Q. Okay, and the cup, you didn't do any testing on that? Didn't collect it, didn't --

A. We did not.

Q. No? All right. And the same thing with this item here?

A. We did not.

Q. Okay. Is that a fair and accurate representation of the scene when you arrived at cell five?

A. Yes.

Q. Okay.

MS. CARMODY: Your Honor, the Defense moves State's Exhibit --

MR. EVANS: No objection.

MS. CARMODY: -- 10.

THE COURT: Without objection.

(Defense Exhibit Number 10 was moved into evidence.)

MS. EVANS: May I publish?

THE COURT: You may.

BY MS. EVANS:

Q. Ma'am, where is this located?

A. So after we removed the covering on the window, which is at the far wall, so if you're looking into the cell, it's the wall that you're looking at essentially, and it's a note that says, "No toilet, no water," and it was on the window ledge.

Q. Okay. And this is cell five, correct?

A. That's correct.

Q. All right. And as you testified earlier, the occupants in cell five would have had to have used the common area bathroom?

A. That's what we were told.

Q. Ma'am, I'd like to show you what has been pre-marked as Defense Exhibit 11. Is that a fair and accurate representation of a photograph you took from cell five?

A. Yes.

Q. Okay. And the -- okay.

MS. CARMODY: Your Honor, Defense moves for the

admission of Defense 11.

MR. EVANS: No objection.

THE COURT: Admitted.

(Defense Exhibit Number 11 was admitted into evidence.)

MS. CARMODY: Thank you, may I publish?

THE COURT: Yes.

MS. CARMODY: All right.

BY MS. CARMODY:

Q. Ma'am, now, this was located in cell five, correct?

A. That's correct.

Q. And cell five is the cell of the decedent, Jerry Holmes?

A. That's correct.

Q. Okay, and, ma'am, why did you photograph -- why did you take a photograph of this?

A. We documented it, because we thought that it could be relevant, when we found it when we were searching the cell.

Q. Okay. And have you had an opportunity to review the letter, ma'am?

A. We -- I read it on-scene and photo'd it, but I don't recall what it says.

Q. Can you read it now, ma'am?

A. No.

Q. Do you want me to take it back?

A. That would probably be helpful, if you don't mind.

Q. Sure.

A. Thank you. So the handwritten wording says, "I pledge allegiance to the advancement of my white race." Would you like me to continue?

Q. No, that's it, ma'am. Is there a signature on it?

A. It doesn't appear that there's a signature.

Q. Whose information is behind that?

A. There's a document that has Jerry Holmes' name on it.

Q. Jerry Holmes, the decedent in this case?

A. Yes.

Q. Thank you. I'd like to show you what's been pre-marked as Defense Exhibit 11.

Do you recognize that photograph?

A. I do.

Q. Okay, and is that a fair and accurate representation of the scene after Mr. Holmes' body was removed?

A. Yes, but also during our search process of the scene.

Q. Okay.

MS. CARMODY: Your Honor, may I publish?

THE COURT: You may.

MS. CARMODY: And admit, Your Honor?

MR. EVANS: No objection.

THE COURT: All right, admission as well.

(Defense Exhibit Number 12 was admitted into evidence.)

MS. CARMODY: Thank you.

BY MS. CARMODY:

Q. Defense 12. All right, ma'am, what is this area right here?

A. It appears to be a voided area, a blood stain on the bed.

Q. Now, can you explain what's a voided area?

A. It just means that there's an area in which blood was not deposited, and it could be because something was there and later removed.

Q. Okay, and Mr. Holmes wasn't there though, Mr. Holmes was over here, correct?

A. That's correct.

Q. All right. So this area here when Mr. Holmes was bleeding, there was something covering this area?

A. It's possible that there was -- when the blood around that area was deposited, it's possible

that there was something there, which is why there's blood around it, but not in that same area.

Q. Right. So if we look at the smears on the bed, we talked a lot about smears earlier, right? If you look at the smearing patterns on the bed, there -- it's -- there's a gap in this white area here where there's no blood deposited.

A. That is correct.

Q. Okay. Now, when you came into the room, you did not remove what was on the bed?

A. I don't recall. Oh, obviously, we didn't remove anything off of the bed when we were taking our initial photographs and documenting the scene as we saw it; but I don't recall removing anything from that specific area.

Q. And I believe you testified earlier that you don't know what occurred prior to you getting on-scene.

A. That's correct.

Q. And, ma'am, what is this right here?

A. I believe that's the mattress from the top.

MS. CARMODY: Your Honor, may I approach?

THE COURT: Yes.

BY MS. CARMODY:

Q. Ma'am, I'd like to show you Defense 13 for

identification.

A. I recognize this photograph, but I can't recall where it was taken.

Q. Would you like to refer to your notes?

A. I don't think this is gonna be in my notes.

Q. What is that a picture of, ma'am?

A. It's a picture of a light-colored Croc shoe --

Q. Okay, and --

A. -- with blood staining on it.

Q. And you took the photograph?

A. Special Agent Johnson took the photograph.

Q. And this was during the time you were on the Savannah unit at SCDC, ma'am?

A. Yes.

Q. Okay, it --

A. It's possible that it was in cell five, but it's --

Q. You don't know?

A. Not for certain.

MS. CARMODY: Your Honor, Defense moves for admission of 13.

THE COURT: Any objection?

MR. EVANS: No objection.

(Defense Exhibit Number 13 was admitted into

evidence.)

BY MS. CARMODY:

Q. And, ma'am, is this a Croc that you collected?

A. I don't believe so, no.

Q. No? Do you know what happened to it?

A. I assume it stayed in the cell.

Q. Well, you don't know what cell it came from.

A. I -- based on my recollection of all the work that we did on-scene, I'm pretty sure it was in cell five, because the other two cells that we documented I don't recall seeing anything like that in there, but since it's such a closeup photograph.

Q. Okay. So this item would have had to have been removed from cell five, in order to be photographed, no?

A. Well, it could have been photographed within cell five.

Q. Okay, do you recognize any blood, or anything like that on the floor?

A. Not distinctly in this photograph, but --

Q. All right, and this would appear to be a corner?

A. I'm not sure, it could just be a shot of the cell.

Q. But you did not collect this, or send it for any type of analysis?

A. No.

Q. Ma'am, I'd like to show you what has been pre-marked as Defense 14 through 18. Are those a fair and accurate representation of photographs you took from cell five?

A. Yes.

Q. Okay.

MS. CARMODY: Your Honor, Defense moves for admission of 14 through 18.

MR. EVANS: No objection.

THE COURT: Without objection.

(Defense Exhibit Numbers 14, 15, 16, 17, 18 were admitted into evidence.)

MS. CARMODY: May I publish, Your Honor?

THE COURT: Yes.

BY MS. CARMODY:

Q. All right, Defense Exhibit 17, ma'am, is this a photograph that you took?

A. Photographs made by Agent Johnson, but, yes.

Q. And, ma'am, this is of the trash from cell five?

A. That's correct.

Q. All right. Ma'am, and this is Defense

Exhibit 16, and is this also the trash within cell five?

A. Yes.

Q. Okay. And, ma'am, would this appear to be blood on these tissues?

A. It could be, yes, a suspected blood stain.

Q. Okay, is this something, ma'am, that you would collect?

A. So in this case we did not collect it, because we were told that the victim and his cellmate had gotten into a physical altercation the week prior, and due to the type of blood staining, we felt that it was probably not related to the scene.

Q. Okay, so, ma'am, on-scene when you arrive at I believe you said 6:49 in the morning, you are obtaining information from SCDC to direct your investigation, correct?

A. Correct.

Q. All right, and based on the information that's being provided to you by SCDC, you formed your decision not to collect this evidence?

A. Yes, it helped.

Q. Otherwise, ma'am, there's blood that's consistent with blood staining, correct?

A. It appears to be suspected blood.

Q. Okay. We don't know whose blood it is though, do we?

A. We do not.

Q. All right. It was never collected, sent to a lab?

A. No.

Q. All right. Is this tissues with -- that came from that trashcan?

A. Yes.

Q. That's Defense 15, Defense 14, and Defense 18, are those all tissues from the trashcan?

A. That's correct.

Q. Cell five of the decedent, correct?

A. Correct.

Q. All right. When you went into the cell five, the decedent didn't appear to have been -- these weren't used by the decedent at that time, right? He didn't have injuries consistent with needing those tissues, correct?

A. The victim's injuries were so significant that he needed more than --

Q. Right.

A. -- the tissues.

Q. All right, ma'am. I'd like to show you what's been pre-marked as Defense 19.

A. This is a picture we took on-scene.

Q. Okay. Thank you. It's a fair and accurate representation, ma'am?

A. Yes.

Q. Okay.

MS. CARMODY: Your Honor, Defense moves --

MR. EVANS: No objection.

MS. CARMODY: -- for the admission of 19.

THE COURT: He says no objection.

(Defense Exhibit Number 19 was admitted into evidence.)

MS. CARMODY: Thank you. May I publish, Your Honor?

THE COURT: You may. How many more do you have after that? How many more of those.

Can we not just show them all the one time, and let's just all get them in?

MS. CARMODY: Well --

MR. EVANS: I'm confident I'll have no objection.

THE COURT: All right.

MS. CARMODY: Okay.

THE COURT: How many are there?

MS. CARMODY: I'm not sure yet, Your Honor.

BY MS. CARMODY:

Q. Ma'am, what is this a picture of?

A. It's a shirt that appears to have suspected blood.

Q. Okay. Ma'am, what is the background of this picture?

A. It's the concrete floor of the prison.

Q. Of the prison?

A. Uh-huh.

Q. Okay. And, ma'am, is evidence usually photographed, collected and tested from a concrete floor?

A. If that's where it was found, then, yes, we'll collect it off of the floor.

Q. Ma'am, was the tee-shirt laid out like this when you found it?

A. I believe we laid it out, but I can't recall exactly where we found it. Obviously, it was cell five, but I can't recall.

Q. Okay, so you believe that you took the evidence from cell five, and laid it out for this photograph?

A. I believe so, yes.

Q. Okay. And the same thing with the prior pictures that I showed you, the tissues, and the like, and the trash, you also took those out of cell five and laid them out on the prison floor?

A. We did.

Q. All right. Was this shirt sent for any type of analysis?

A. No.

Q. And does this appear to have blood staining on the front?

A. It appears to be suspected blood.

Q. I'd like to show you what's been pre-marked as Defense 20 through 24. Are those a fair and accurate representation of weapons you collected inside cell five?

A. Defense Exhibit 24 and 23 are the weapons that we collected from the trashcan. I don't believe we had collected the weapon depicted in Defense Exhibit 22. And then State's -- Defense Exhibit 20 and 21 depict the trashcan in which the two handmade weapons and towel with suspected blood stain were collected from.

Q. Okay.

MS. CARMODY: So, Your Honor, Defense moves for admission of Defense 20 through 24, 25 and 24, Your Honor.

MR. EVANS: No objection.

THE COURT: In evidence.

(Defense Exhibit Number 20, 21, 22, 23, 24, and

25 were admitted into evidence.)

MS. CARMODY: May I publish?

THE COURT: Yes.

BY MS. CARMODY:

Q. All right, ma'am, this is the trashcan right here that you're referring to, right?

A. That's correct.

Q. Okay. Now, when you arrived on-scene, were these weapons already out on the floor?

A. I don't believe so. I believe they found them while we were conducting our team investigation.

Q. Okay, and whose decision was it to take evidence out of the trashcan and put it on the floor of the prison?

A. I'm not exactly sure.

Q. All right, and Defense 21, and is that the same trashcan, ma'am?

A. Yes.

Q. Okay, and then Defense 22, this is a closeup of one of the weapons?

A. Yes.

Q. Ma'am, I believe that you indicated earlier that you did not collect this weapon right here?

A. That's correct.

Q. And what was the reason that you didn't

collect that weapon?

A. Oh, we collected out of -- there was five that were found, and we collected the two that had sheaths, so they had coverings over the blade, because everything smelled like bleach and was wet, so we felt that the sheathed weapons would probably have -- if any of the weapons had any viable evidence, those would probably be our best bet.

Q. Ma'am, I understand that you say you smelled bleach, but you didn't actually collect, or see any bleach in this case, did you?

A. We didn't collect any bleach, and I don't recall actually seeing like a bottled label bleach --

Q. Okay.

A. -- but it smelled like your typical household bleach cleaner to me.

Q. Ma'am, based on your common experience, I'm sure you've handled bleach before --

A. Yes.

Q. -- right? And if you would have dripped bleach on your shirt, ma'am, would it put a white spot on your shirt?

A. It will after some time, yes.

Q. And, ma'am, is this here bleached white?

A. It is not.

Q. What about these weapons, ma'am, are those bleached white?

A. They are not.

Q. And are these bleached white?

A. The cloth wrappings are not, no.

Q. Okay. So although you smelt bleach, we don't know that it actually was bleach?

A. Not 100 percent certain, no.

Q. And the bleach scenario, again, is coming from SCDC?

A. Well, I smelt the bleach myself.

Q. Okay, are there other things that smell like bleach?

A. I'm not sure.

Q. All right. I'll show you what has been pre-marked as Defense 21. Is that a photograph that you recognize from cell 22?

A. Yes, it is.

MS. CARMODY: Your Honor, may I publish and admit?

THE COURT: Yes.

MR. EVANS: No objection.

(Defense Exhibit Number 21 was admitted into evidence.)

BY MS. CARMODY:

Q. Ma'am, this is from cell 22, correct?

A. Yes.

Q. All right, and are these a pair of SCDC pants that are lying on the floor of cell 22?

A. Yes.

Q. Okay, and -- all right, these weren't collected?

A. No.

Q. All right. You indicated you also had the opportunity to photograph Mr. DuBois; is that correct?

A. That's correct.

Q. Did you photograph anyone else within the unit?

A. No one else that was alive.

Q. Okay, what about Mr. Jerry Holmes, did you take any pictures of him?

A. Yes.

Q. You did take pictures of Jerry Holmes? Okay, I'm sorry, not Jerry Holmes, Julius Highland, did you take pictures of Julius Highland?

A. We did not.

Q. What about Mr. Nania, did you take pictures of him?

A. We did not.

Q. Okay, or Bolex?

A. No.

Q. No? Any other inmate at all within 151 inmates on the Savannah B unit, did you take any pictures of them?

A. No.

Q. Okay. Now -- all right. Okay, ma'am, you actually took several photographs of Mr. DuBois, correct?

A. That's correct.

Q. Ma'am, are these a fair and accurate representation of additional photographs that you took of Mr. DuBois on the morning of June 22nd, 2017?

A. Yes.

Q. Okay.

MS. CARMODY: Defense moves for its admission, Your Honor of Defense 22 through 26.

MR. EVANS: Without objection.

THE COURT: Without objection.

(Defense Exhibit Number 22, 23, 24, 25 and 26 were admitted into evidence.)

MS. CARMODY: May I publish, Your Honor?

THE COURT: You may.

BY MS. CARMODY:

Q. All right, Mr. DuBois that morning?

A. That's correct, yes.

Q. Okay. This one as well?

A. That's correct.

Q. Okay. What about this one?

A. That's correct.

Q. Okay. And this man has a scar from like recent, this was like a surgical incision?

A. I can't see where you're pointing.

Q. Right here.

A. It's not coming up on here.

Q. Oh, I'm sorry.

A. Can you please ask the question again?

Q. Oh, this is a surgical incision, right?

A. It's possible.

Q. Okay. Are you aware Mr. DuBois had a kidney removed?

A. I was not aware.

Q. Okay. And this --

A. Yes, that's Mr. DuBois.

Q. Okay, and this as well?

A. Yes.

Q. All right. Not a very big man, right?

A. That's correct.

Q. All right. And you also indicated that you took scrapings from under Mr. DuBois nails?

A. Yes, we did.

Q. All right. And those were submitted for analysis?

A. They were.

Q. And this would be State's 43?

A. Yes, that's a picture of Mr. DuBois' hands.

Q. Okay. And, ma'am, under the nails, the nails aren't clean under the nails, correct?

A. That is correct.

Q. Okay. And how do you do a DNA scraping under the nails?

A. Yeah, so -- for when we collect fingernail scrapings, essentially, we have -- we do one scraping for the right hand, and then one scraping for the left hand. And it's kind of like a little plastic pick, it looks like an arrow, and so we put a piece of clean white paper under his hands, use the pick to scrape under the nails, and then anything that would fall off of the nail, or out of the nailbed would fall onto the paper.

And then we put the pick in the paper, fold it up, put it in an envelope and seal it, and we keep the left hand and right hand separate.

Q. Okay, and the -- under the nails was sent for DNA analysis?

A. Yes, it was.

Q. Okay. And, ma'am, did you also collect DNA from under the victim, Mr. Jerry Holmes' nails?

A. Yes, we did.

Q. Okay, and was that sent for DNA analysis?

A. Yes, it was.

Q. All right. Now, ma'am, going back to Mr. Holmes for a moment here, in your report, ma'am, well, you went to the room and you observed Mr. Holmes?

A. Right.

Q. You photographed him, you looked for his injuries, and in your report, ma'am, you indicate two injuries to Mr. Holmes, correct?

A. We observed two injuries, yes.

Q. And you saw two wounds on him that are small circular punctures?

A. That's correct, yes.

Q. And that was on his right hands, and the right side of his face? Page seven.

A. Yes.

Q. Okay. Ma'am, did you cut off the victim's clothing?

A. I did not.

Q. Would it be helpful, if you had the victim's clothing?

A. We -- it could be.

Q. Now, in your collection you do crime scene collection of evidence, correct?

A. That's correct.

Q. And I understand when you have photographs -- evidence taken on the floor of the prison, but how do you dry evidence?

A. So we put it in, essentially, a drying chamber. It looks like just a big cabinet, and we hang it up on clean hangers, that we dispose of them after every use, and let it dry. And then once it's dry, we take it out and package it.

Q. Okay, and you wouldn't put it outside to dry in the sun?

A. That is not our policy, no.

Q. No? Okay.

A. I think it would -- I think it depends.

Q. You would still submit that?

A. I believe so.

Q. So you would submit evidence for DNA that had been left out in the rain twice, and put outside, ma'am?

A. I mean I wouldn't.

Q. Okay. All right, I showed you earlier Defense Exhibit 4. Ma'am, you had talked earlier about where the blood stops at the door?

A. As far as the blood in the cell does not come out into the hallway.

Q. Okay, right here. So the blood inside the cell does not come out in the hallway?

A. Correct.

Q. And then you also indicated you also have blood spatter here, correct?

A. That's correct, yes.

Q. All right, and I believe on direct examination, you said something about somebody from the prison had said there had been a potential cleanup?

A. Yes, that's information we were given.

Q. All right, so SCDC provided you quite a bit of information in this case, no?

A. Yes, they gave us information as they got it throughout their investigation as well.

Q. But while you're collecting evidence on-scene, SCDC is providing you the information to direct your investigation?

A. Yes.

Q. All right, and, ma'am, so if there had been blood on this floor, as a crime scene agent, what can you use to detect the presence of blood?

A. We have a few chemical that we can use to try

to help illuminate if there's any blood stain there.

Q. All right, and did you use any chemicals in this area here to look for the presence of blood?

A. We did not.

Q. Okay. Did you use any chemicals in the bathroom area, to look for the presence of blood?

A. We did not.

Q. What about the weapons that weren't collected, and you said there appeared to be no blood on them. Did you use any chemicals on those to look for the presence of blood?

A. We did not.

Q. For any evidence in this case?

A. No.

Q. Now, I'm going to show you 27.

THE COURT: Why doesn't everyone stand up and take a stretch.

Thank you. You okay, everyone? You okay?

BY MS. CARMODY:

Q. All right, ma'am, I'm gonna hand you what has been pre-marked as Defense Exhibit 27, for identification. Do you need a pair of gloves?

A. I recognize Defense Exhibit 27 as SLED container B, which contained the clothing we collected off of Mr. DuBois' person.

Q. Ma'am, would this be when you took the photographs of him?

A. It would have been after the photographs, but in the same general timespan.

Q. Okay. And then --

A. Yes, ma'am.

Q. -- is that a fair and accurate representation of the items depicted in that bag, ma'am?

A. So the items are in butcher paper, but I recognize it as the SLED item number 11, which is the green SCDC pants, SLED item nine, which is the white boxers, and SLED item ten, which is the -- a pair of SCDC khaki shorts, so they were collected off of Mr. DuBois' person.

Q. Thank you, ma'am.

MS. CARMODY: Your Honor, the Defense moves for the admission of Defense Exhibit 27.

MR. EVANS: No objection.

THE COURT: Without objection.

(State's Exhibit Number 27 was admitted into evidence.)

BY MR. CARMODY:

Q. Except for the Crocs that we saw, the black Crocs, that were -- Mr. DuBois was wearing, these are the other clothes he was wearing as well?

A. That's correct, yes.

Q. Okay, and these are in this entire case that you've collected evidence, or you've assisted in the collection of evidence, these are the only items that were actually taken from Mr. DuBois' person, correct?

A. That's correct.

Q. Okay, the Crocs, his pants, the items in that bag, and his DNA from his person?

A. Yes.

Q. All right. Ma'am, these were collected and put in some paper right away?

A. They would have been put in a paper bag.

Q. Uh-huh.

A. Yes.

Q. Okay.

A. Does anyone have a pair of scissors? And I do recognize the items as the clothing we took off of Mr. DuBois' person.

Q. Okay, ma'am, and were those items also -- well, are there three items?

A. Yes. There's cuttings taken from the items.

Q. Okay, could you put up the items?

A. Yes. So this is a pair of khaki shorts, this is SLED item 10.

Q. And, ma'am, the hole in the front would have

been, as you testified earlier, consistent with serology?

A. I believe it's in the back, but, yes.

Q. Okay, and serology would be for what?

A. So serology is the identification or detection of body fluids.

Q. Okay, and -- all right, thank you.

A. Good.

Q. And these items were sent to the serologist, in order to have DNA testing?

A. Yes.

Q. Okay.

A. They -- for blood, but also DNA.

Q. Uh-huh.

A. And these are SLED item nine, which is a pair of boxers. It doesn't appear that a cutting was removed from these.

Q. Okay.

A. And then this is SLED item 11, which is the green SCDC pants that were depicted in the photographs.

Q. Okay. And, ma'am, those -- the pants that it has blood on one leg?

A. I would say there's blood on both legs, but more heavily saturated on one than the other.

Q. Okay. Mr. DuBois has a bruise on his shin?
A. I know he had an injury to the shin.
Q. Okay.
A. Yes, it was bleeding.
Q. All right, and that's the same leg?
A. Yes.
Q. All right, and those were also taken and sent for DNA analysis?
A. Yes, they were.
Q. All right, thank you. Ma'am, the Crocs located in the cell of Mr. Julius Highlands, that Officer Williams believed contains suspected blood, those Crocs were not collected and sent for analysis?
A. No, they were not.
Q. Okay, and you had indicated on direct that you didn't believe that there was blood on the shoes; is that it?
A. Yeah, based on my training and experience, once we got up close and were able to rotate the item in real-time, it didn't appear to be blood.
Q. All right, and, ma'am, did you use anything at all, any substance, to look for the presence of blood?
A. We did not.
Q. What is the purpose of sending items to

Serology?

A. So when you send the items to Serology, essentially, to try to help pinpoint where would have the most DNA present, or you need to know what the DNA is from, so what biological fluid the DNA is coming from.

Q. When items are sent to Serology, isn't it the serologist who determines the presumptive presence of blood?

A. They do, yes.

Q. Okay. But they don't do that just by the naked eye, correct?

A. They do. If there's vivid reddish, brown staining, that's how they look for blood, and then they test those areas.

Q. And they also use chemicals, correct?

A. Yes, to actually do the presumptive testing.

Q. Right. Now, on the side of the toilet in the common area bathroom -- I'd like to show you event -- I mean, sorry, State's Exhibit 20.

A. Uh-huh.

Q. Okay, ma'am, this here -- well, it appears to be a red color, correct?

A. Yes.

Q. Okay. Did you collect any of the substance

yet to determine, number one, whether it was blood, or send it to DNA to determine whose blood it was?

A. No, we did not, because the clothing was sitting in the blood. We extrapolated that the blood more than likely came from clothing, and the clothing was submitted for DNA.

Q. I mean you're assuming it's blood, correct?

A. It's -- yes, it's suspected blood at the moment.

Q. Okay, and -- but -- so no testing was done to determine whose blood this was?

A. That's correct.

Q. Okay. And what about these clothes here on the outside of the bag?

A. I believe those were the two sets of boxers that were found with the bag of clothes.

Q. Two sets of boxers, okay. Now, when you arrive on-scene, SCDC is telling you that they have clothing in the bathroom they believe to be Mr. DuBois', correct?

A. No, they just told us that they found a bag of clothing. It wasn't until we opened up the clothing and found Mr. DuBois nickname, and room number on the clothing.

Q. All right. Let's see, so let's look at

pictures. Ma'am, so I'd like to show you State's Exhibit 24, right?

A. Yes, that's a pair of pants that was found in the bag, that was on top of the blood we just saw in th previous photo --

Q. Okay --

A. -- or the suspected blood on the previous photo.

Q. Ma'am, did you write the TIB?

A. No.

Q. Did you cross out what's below the TIB?

A. I did not know.

Q. Did you --

A. It doesn't --

Q. Did you add in SV22?

A. I did not.

Q. Okay.

A. It's like how we found it. Yes.

Q. Ma'am, and that's the pants that were located?

A. That's correct, yes.

Q. This one here?

A. Yes.

Q. All right. Ma'am, and the shirt that was located in the bag --

A. Yes.
Q. -- did you write this name here?
A. I did not.
Q. Did you cross out this name?
A. I did not.
Q. Did you write this name here?
A. I did not.
Q. It was like this when you found it?
A. Yes, it was.
Q. Ma'am, could you pull out these pants right here, State's 25? It's a photograph.
Can you pull out these pants here from the bag?
A. These are the Crocs.
Q. Okay.
A. All right.
Q. That's the pants, ma'am, referring to -- it's 25.
A. This is State's Exhibit 73.1, and it's SLED item 21.
Q. Okay. And, ma'am, looking at those pants, is there the staining that we saw on the pants that were taken from Mr. DuBois? One leg, ma'am?
A. Can you ask your question again?
Q. Yeah, ma'am. These pants aren't stained like the green pants you had from Mr. DuBois that you took

from his person, correct?

A. So the staining on these is a little bit different, because they appear to also be wet, so the blood's -- or the suspected reddish brown staining would dry differently than blood not mixed with water.

Q. Which pant leg is that?

A. This appears to be the left if it's worn correctly.

Q. Okay, and there's no cut in the left leg of those pants, is there, that went through, that would cut somebody's skin?

A. There doesn't appear to be any punctures in the fabric.

Q. And, ma'am, do those pants have blood spatter that was consistent with what you saw in cell five?

A. As it stands, no, they don't appear to have blood spatter on them.

Q. Okay. And, ma'am, was that consistent with the shirt as well? If you could take out the shirt, ma'am? Ma'am, does the shirt appear to have blood spatter that you saw in cell five?

A. It doesn't appear, but like I said, both items were also wet, so that doesn't -- they could have at one time.

Q. Okay, but that would require you to

speculate, right?

A. So as they stand, no, it doesn't look like there is blood spatter on the items.

Q. Okay. Ma'am, I have no further questions.

MR. EVANS: Very briefly.

THE COURT: Thank you.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. All the items from the plastic bag, which was previously entered, that's State's 75, 72, all that stuff, the stuff in the plastic bag, do you remember that?

A. Yes.

Q. That was all found together --

A. Yes.

Q. -- in the shower, or the --

A. Next to the toilet.

Q. Next to the toilet?

A. Yes.

Q. And wet?

A. Yes.

Q. All comingled together?

A. Yes.

Q. All right, and the green pants she just

entered as Defense Exhibit -- it's in the 20s, the green pants?

A. Yes.

Q. Do you still have those up there?

A. I believe so, yes.

Q. Okay, let's get the bag, so we can get it in evidence. Those that you just helped Ms. Carmody as a Defense exhibit?

A. Yes.

Q. Okay, those were taken from Mr. DuBois?

A. Yes.

Q. This gentleman in the courtroom here?

A. Yes.

Q. While he was actively bleeding?

A. Yes.

Q. That's all, ma'am.

THE COURT: Anything further? No?

MR. EVANS: Not from the State.

THE COURT: Anything further?

MS. CARMODY: No, Your Honor.

THE COURT: Any objection to this witness being excused?

MR. EVANS: I'd like to ask that she go back to North Carolina.

THE COURT: Any objection?

MS. CARMODY: No objection.

THE COURT: All right, you are excused. If you'll just put that back in whatever last container it came in.

There's a lot back here. Does anyone need five minutes before our next witness?

Are you okay?

COURT REPORTER; Yes.

THE COURT: Okay. All right, ladies and gentlemen, we're gonna take a fast five-minute break. Do not discuss this case, it wouldn't be appropriate to do so. Let's let her get out, and then you'all can go back, and as soon as you're ready to come back, tell us, and come back in, okay?

FOREPERSON: Yes, Your Honor.

THE COURT: Thank you. All right, you're welcome to go back to the jury room for just a brief minute, thank you.

(Jury exits the courtroom.)

THE COURT: All right, we'll be at ease for five minutes, okay? Thank you.

(RECESS)

THE COURT: All right, call your next witness.

MR. EVANS: The State calls Morris White.

***

MORRIS WHITE,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Please introduce yourself and spell your last name for our Court Reporter.

A. Morris White, W-H-I-T-E.

Q. All right, Mr. White, where are you from?

A. Florence, South Carolina.

Q. Have you ever been in prison, Mr. White?

A. Yes, sir.

Q. Okay, so you've been convicted of some crimes?

A. Yes, sir.

Q. Do you mind if we go over those real quick?

A. Yes, you can.

Q. Were you convicted in 2013 of burglary?

A. Yes.

Q. About 2014 shoplifting, third offense, and burglary, third degree, second offense?

A. Yeah.

Q. Okay. 2016 shoplifting, third offense?

A. Yeah.

Q. 2020 burglary, second degree, violent?