VOLUME II OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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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

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PAGES 501 - 1000

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

A. Yeah.
Q. And were you convicted earlier this year of domestic violence, second degree?
A. Yeah.
Q. Are you on probation for that right now?
A. Yes, sir.
Q. Okay. You've been out of jail for a little while?
A. Uh-huh.
Q. Okay, you're not in jail right now?
A. No.
Q. Were you in prison in 2017?
A. Yes, sir.
Q. Where?
A. At Ridgeland.
Q. Ridgeland right here in County?
A. Yes, sir.
Q. Ridgeland Correctional Institution?
A. Yes, sir.
Q. Do you remember what your cell number was --
A. No.
Q. -- or what wing you were in?
A. It's been six years, so I -- I can't remember that exactly.
Q. Did you stay in a wing B?

A. Yeah, it was Savannah B, but I can't remember the number.

Q. You don't remember the number? Okay. Do you remember the name of any of your cellmates?

A. Yeah, Benjamin DuBois, and William -- Wayne Williams.

Q. Wayne Williams?

A. Yes, sir.

Q. Okay, three of you'all in a cell?

A. A three-man cell, yes, sir.

Q. Okay. Do you remember the night of June 21st and 22nd, 2017?

A. Vivid parts, but --

Q. All right, tell us about those vivid parts.

A. Okay. I remember I was on the bed, on the top bunk, writing songs or whatever. And later on that night I kept -- I was writing songs all that night, and two of the guys came in the room like, "Yo, can you get some clothes for your roommate? He just did something."

And I looked, and I'm like, "No, I ain't got nothing to do with what he got going on, or what you'all got going on. You'all come get his stuff."

Q. Okay, and did --

A. I didn't want nothing to do with it.

Q. Did those gentlemen get anything from your cell?

A. Yes.

Q. What did they collect?

A. They collected some more clothes for him.

Q. Clothes?

A. Yeah.

Q. Did you know which -- was it -- where was Mr. Williams -- Mr. Wayne Williams at this time?

A. I think he was out too.

Q. Okay, did you know which of your cellmates these men were referring to?

A. Yeah, they called him Animal, but --

Q. Animal? I'm gonna ask you to -- and I know the Court Reporter will appreciate it, speak loudly, but slow.

A. Okay.

Q. Okay?

A. Yes, sir.

Q. You're doing pretty good.

A. Okay.

Q. All right. They came and got some clothes for Animal?

A. Yes, sir.

Q. Whose nickname was animal?

A. Benjamin DuBois.

Q. Okay.

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

THE COURT: You may.

BY MR. EVANS:

Q. Mr. White, this has been previously entered into evidence as State's Exhibit 32.

Do you recognize that?

A. Uh-uh.

Q. No? Okay. What happened after the men came in --

A. After they came in --

Q. -- to your cell?

A. After they came in, and I actually found out what was going on, then Animal came back in, so I was like, "No, I'm not staying there."

Q. So --

A. So --

Q. Can you say that again a little slower?

A. When he came back in the room, me and Wayne, we walked out, because we didn't want to be in there with him.

Q. Why was that?

A. Because we just found out that he had stabbed

somebody.

Q. What did he look like?

A. Are you talking about the guy he had stabbed?

Q. Well, you can tell me that later, but right now tell me --

A. I don't remember how he looked.

Q. Did you ever look at that man?

A. No.

Q. Okay, that's fine, but you looked at Animal?

A. He was out of it.

Q. He was out of it?

A. He was out of it, like --

Q. Can you describe -- slow down, it's okay. Can you describe his physical appearance?

A. He was just high.

Q. High? Okay.

A. Yeah.

Q. Did he have any injuries?

A. Like his leg was bleeding?

Q. His leg was bleeding?

A. Yeah, after he had changed his clothes.

Q. Do you remember what time this was? Ballpark?

A. It had to have been probably about 2:00 in the morning or something, because the CO didn't come

back to do the check until like 4:00.

Q. Well, tell us about that. How often do COs do checks?

A. They -- after they do count at 9:00, they lock down. And see then most of the windows and the doors were broken off, and one of the guys had a key made out of -- I didn't find out until later on, that one of the guys had a key made out of a food tray and went back around and popped open the back door.

MR. EVANS: Are you okay, Madam Court Reporter?

COURT REPORTER: Yes.

MR. EVANS: Yeah? Okay.

BY MR. EVANS:

Q. So people were able to open their own cells?

A. It was one guy that went around popping the doors open from my -- from what they said.

Q. Okay. On a normal night would COs being doing rounds regularly?

A. After 9:00 they don't come back around, and he didn't even come back until 4:00 in the morning.

Q. The guard who was in charge?

A. Yeah, the young guy, he had got fired too.

Q. Okay. And you did not see him --

A. No.

Q. -- over the course of that night?

A. After that night everybody stayed out until 4:00 in the morning.

Q. Tell us about when people started coming in, like guards and stuff?

A. Guards came in and --

Q. Tell us how that happened.

A. Like where our room was at, we call that the hole. So like the hole it will lead you to the end of the door, like the door is like with the windows, and you can look out.

Q. Okay.

A. And we was just standing there, and me and Wayne was like, "Why are you going in there?" And it was like he was going off, "Why everybody out? Why everybody out?" When he went around the room, when he finally got to the cell, and he looked, he was just like, "Oh, Lord."

Q. This was the guard?

A. Yeah.

Q. Okay.

A. The dude was still in the room, they said he was slumped over. He said, "Come here," so when the other guy came, told everybody to go in their room. So once they came out of our room, Animal was already in the room, but me and Wayne was like, "We ain't

going in there." They're like, "Why aren't you'all in your room?" All we did was point, like, "We ain't going in there."

Q. You pointed at Animal?

A. Yeah, like we pointed at the room like, "We ain't going in there."

MR. EVANS: May I approach, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'm gonna show you what's been marked and entered as State's Exhibit 42.

Do you recognize that person?

A. Uh-huh.

Q. Who is that?

A. Animal.

Q. This is your cellmate?

A. Uh-huh.

COURT REPORTER: Is that yes, sir?

BY WITNESS:

A. Yes, I'm sorry.

COURT REPORTER: Thank you.

BY MR. EVANS:

Q. Yeah, that's one of the things I didn't tell you, she can't take down uh-huh, and uh-uh.

A. Yes, sir.

Q. Try to go yes or no.

A. Okay.

Q. I think we're about finished. Do you know who killed Mr. Holmes?

A. Whose Mr. Holmes? The one that got killed that night?

Q. Yes. Do you know who killed the guy who --

A. Well, I --

Q. -- you didn't look at?

A. I didn't see nothing in there because I stayed in the room, but what was said, they said Animal did it.

Q. Okay, not what was said, just what you know.

A. Just from what I know.

MR. EVANS: It's fine to strike that.

THE COURT: Ladies and gentlemen, disregard that last comment.

BY MR. EVANS:

Q. I'm just talking about what --

THE COURT: Thank you.

MR. EVANS: Thank you, Your Honor.

BY MR. EVANS:

Q. I'm just talking about what you know, not what you've heard.

A. Well --

Q. Do you know who killed him?

A. No.

Q. Okay, but you saw your cellmate, Animal?

A. Yes.

Q. And he was hurt?

A. Yeah, his leg was bleeding, like --

Q. His leg was bleeding?

A. Yeah, but I really didn't pay him no attention, because I'm like I ain't never seen him act like this before, so I ain't gonna get into it.

MR. EVANS: Beg the Court's indulgence.

BY MR. EVANS:

Q. What did you think about Animal when you saw his leg bleeding?

A. I already knew something's wrong. I just didn't -- because I'd only been there two weeks from another prison, you know, and see I was ready to go home, so I stayed on my bunk until he came in. When he came in, I exited the cell.

Q. Okay. Did you think he'd been in a scuffle?

A. I could tell he had.

Q. You could tell he had?

A. Yeah.

Q. Okay. All right, Mr. White, those are all the questions I have. Please answer any questions the

defense may have.

A. Okay.

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon, sir, how are you?

A. Hi, I'm doing good.

Q. Sorry?

A. I said I'm doing good.

Q. Okay, all right, okay. I want to ask you some questions about SCDC, Ridgeland Correctional, specifically. So you said -- you testified you had been in other prisons before, right?

A. Yeah.

Q. All right, anything quite like Savannah B?

A. Nothing like it.

Q. Nothing like --

A. That's the first time I'd ever been on the level two yard.

Q. What do you mean --

A. Like --

Q. -- by that?

A. -- when I had left the yard I was on, I was like an open camp, but it was still a level two. It was MacDougall.

Q. You were at McDougall before?

A. Yeah, and that was the only level two I've been at, besides --

Q. All right.

A. Besides --

Q. So --

A. - Leiber.

Q. How were the conditions in the prison? Was it nice?

A. No.

Q. Like what do you mean?

A. Showers had mold. There was a lot of mold there. DHEC needs to come, so --

Q. DHEC needs to come?

A. I'm talking about like the showers, like, when you took a shower and you're smelling something like mold. It's so cold. Like we was washing in cold conditions and all. It was -- yeah.

Q. Would you consider it to be a safe unit? Did you feel safe?

A. Not at the time. I mean I fell asleep, because I didn't have myself around certain people. You know, I always like to draw and stuff like that, so I keep myself away from certain things that.

Q. Okay. Do you use drugs?

A. No, I don't use drugs anymore.
Q. Never?
A. I used to.
Q. When did you -- what -- so were you a drug addict at one point?
A. I used to do marijuana, that's it.
Q. Just marijuana?
A. Yeah.
Q. What about K2?
A. Yeah, that's a synthetic drug, but yeah.
Q. K2?
A. Yeah.
Q. All right, and so while you were in Savannah you smoked K2?
A. Yes, ma'am.
Q. And where would you smoke the K2?
A. In the room.
Q. In the room?
A. Yes, ma'am.
Q. What about in the -- what's a truck stop?
A. The truck stop is like the old stall, where you had the stalls used to be at in the bathrooms. Since they put it in the room, they took all the toilets out, and we would go in there and chill and smoke.

Q. All right, so how many -- what do you mean they took all the toilets out?

A. Like the toilet the standup toilets.

Q. Uh-huh.

A. That kind, and then some of the toilets are still in there.

Q. Okay. Now?

A. Yeah. There's certain ones, and then some of them call them truck stop.

Q. You what?

COURT REPORTER: I'm sorry, say that again.

BY WITNESS:

A. In some of the truck stops we -- because we've got the walls, and, you know, we just call it a truck stop, because you stop right here when you're walking around. And then you can stop there, that's why it's called a truck stop.

Q. Okay, all right. How many -- there's only one guard on the unit, huh?

A. Only one, and then you've got the --

Q. Uh-huh.

A. -- when you walk through the door, and there's supposed to be one right there.

Q. There's supposed to be --

A. Like a Lieutenant.

Q. There's supposed to be?
A. Yeah.
Q. What about other prisons, is there just one guard in the unit?
A. Yeah.
Q. How many prisons have you been in?
A. It was four or five.
Q. Wow, how old are you?
A. I'll be 38 next month.
COURT REPORTER: 38?
BY MS. CARMODY:
Q. 38?
A. Yeah, I'll be 38 next month.
Q. Four to five prisons?
A. Yeah.
Q. All right. And now a lot of the information -- let me just do this, do you remember speaking with anybody in this case, initially?
A. Anybody in this case?
Q. Uh-huh.
A. No.
Q. You didn't give any statements while you were in SCDC?
A. Well, the room that we had to go in lockup, they asked me what happened, and I told them. Animal

came in, and I'd seen his leg bleeding or whatever. But see it's done been six years ago, everything flew past my mind. I haven't even thought about it at all.

Q. I'm sorry?

A. I'm saying that it's been six years --

Q. Uh-huh.

A. -- I didn't even think about it no more, until like last year they served me with a subpoena for the first time, and I'm like I don't know, you know what I'm saying? I'm thinking it'd done been over with.

Q. Okay, and so who served you with a subpoena last year?

A. I was at Effingham County Jail.

COURT REPORTER: In prison at Effingham?

BY WITNESS:

A. No, the County Jail.

Q. You were in the County Jail?

A. Yeah.

COURT REPORTER: At Effingham?

BY WITNESS:

A. Yeah, Effingham.

COURT REPORTER: Effingham.

BY WITNESS:

A. It's in Florence County, but it's the County,

yeah.

Q. So when you were served with a subpoena last year, you were also in Effingham County Jail?

A. Yeah.

Q. Okay.

A. That's in --

Q. Where's that?

A. That's in Florence, but it's called Effingham-Florence, but it's Florence County Detention Center really, but the name of it is Effingham.

Q. Okay.

A. But it's Florence County Detention Center.

Q. All right, and that was when they served you with a subpoena?

A. The first one.

Q. Okay, and you're not in jail or prison now?

A. Uh-uh.

Q. So where are you living now?

A. I'm living back with my wife or whatever, we're staying at the room, whatever.

Q. What do you mean whatever?

A. Because both of us had it out with each other. We just got back together. That's the one I had a domestic violence charge with, my wife, or whatever, until I came home, and we worked things out,

and we want to get back and try to work together, whatever, so --

Q. Okay. So that's my question though, where are you living now though?

A. Both of us, me and my wife, are living at the room.

Q. What's the room though?

A. The hotel room.

Q. You live in a hotel room?

A. Yes, ma'am.

Q. Where's that?

A. Over in Florence.

Q. In Florence?

A. Yes, ma'am.

Q. All right. So how did you get here today?

A. One of the investigators had came and got me yesterday morning.

Q. The State's investigator came and got you?

A. Yes. To Jasper County.

Q. Oh.

A. Yeah.

Q. They came and got you. So where did you sleep last night?

A. The hotel room over there is called the Quality Inn.

Q. The Quality Inn?

A. Yeah.

Q. Did you pay for that room?

A. They paid for it for me.

Q. How'd they pay for it?

A. I don't know, they just said somebody paid for it for me.

Q. The State paid for your room?

A. Yeah, I guess so.

Q. And they picked you up too, huh?

A. Yeah.

Q. All right, good deal, is it a nice room?

A. Yeah, it's pretty good.

Q. Okay. All right. A lot of the things that you testified to today, you had never previously told anyone; isn't that true?

A. Pretty much, besides the ones that I was on the phone with.

Q. So back in 2017 isn't it true that the only information that you had provided to investigators at the time was, that you and Mr. DuBois were roommates --

A. Uh-huh.

Q. -- right? That he came in with his leg bleeding, like he had been in a scuffle?

A. Yes, ma'am.

Q. And that he stayed in the room and waited for the COs --

A. Uh-huh.

Q. -- right?

A. Yes, ma'am.

Q. And that Animal had come in the room at 9:30?

A. Yes, ma'am.

Q. That was the only information you provided, right?

A. Right.

Q. Okay, so we got a much more elaborate statement today.

A. But like I said it's been six years, it --

Q. It's been six years,

A. -- it's been six years, so I really just -- I wasn't even thinking about it no more, so -- because it didn't involve me.

Q. So it's been six years and your memory got better over the course of six years, that now we have inmates coming in and requesting clothes.

What's all that about?

A. That's what happened when I was on the top bunk.

Q. But you didn't report any of that to SCDC

back in 2017.

A. Because I was thinking we were just in lockup, and I was just ready to get back to my cell.

Q. Sorry?

A. We was in lockup, and I was ready to get back to my cell, because we stayed in there like 12 hours, so I just wanted to go ahead and give them a statement, because I thought we was gonna be back in an amount of minutes, and then, "Oh, we're just gonna go ahead and take your statement, then you can go back," and it took over 12 hours.

Q. Well, it took 12 hours for you to give a statement?

A. We went like as soon as -- they were supposed to do a count at 4 o'clock --

Q. Right.

A. -- that's when they took all of us to -- well, me, Animal and Wayne to lockup at 4:00, so by the time we came back it was 4 o'clock in the afternoon.

Q. 4:00 a.m. to 4:00 in the afternoon --

A. Yep.

Q. -- they held you in lockup?

A. Yep.

Q. And did they let you leave after you gave

your statement?

A. No. No, we had to all make a statement, because they had to investigate or room too.

Q. Okay. So you were held up in lockup for 12 hours prior to giving your statement?

A. After, yeah.

Q. Wow, all right. So all this information about, you know, people coming in the room for clothes, who were the people that came for clothes?

A. I don't -- I don't even --

Q. You don't even know?

A. -- know. I hadn't been there but two weeks.

Q. Huh?

A. I had only been there two weeks.

Q. Okay.

A. I'd just got transferred from MacDougall there.

Q. All right, can we --

A. So I didn't really know nobody.

Q. Can we agree though the whole story about somebody coming to get clothes you never provided to anyone until today?

A. I guess so.

Q. Brand new information --

A. I mean --

Q. -- right?

A. -- I guess so.

Q. All right.

A. I don't know too much remember what I said then.

Q. All right. And -- all right. Hold on one second. One last question.

A. Yes, ma'am.

Q. When you were testifying on direct, did you testify that you knew Holmes was slumped over?

A. Yeah, because I heard someone say it on the wing --

Q. Okay.

A. -- when we was on route.

Q. Somebody else said it.

A. Yeah, when we went on route, they went in the room, we heard them talking.

Q. But you heard somebody, you didn't actually see Holmes slumped over?

A. We didn't see -- I didn't see him. I didn't even --

Q. Okay.

A. -- see him go past the room.

Q. You don't have any idea, or any independent personal information about what occurred in cell

five --

A. Inside it, yeah.

Q. -- on June 21st of 2017, right?

A. Right. All I knew is he said, she said.

Q. All you knew is he said, she said?

A. Yep.

Q. I gotcha. Thank you very much. Enjoy your evening.

A. All right, you too. That's it?

MR. EVANS: Briefly.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. I'm gonna keep it real short, I know you want to get going. Do you have any independent knowledge about how Animal got hurt?

A. No, not at all.

Q. Did you see that happen?

A. No.

Q. Where were you all night?

A. All night I was in the room on my top bunk writing music.

Q. Okay, so you didn't get attacked in your cell?

A. No.

Q. When you were answering questions to SCDC, I know they locked you up.

A. Uh-huh.

Q. Oh, I'm sorry.

A. Yeah.

Q. Were you frustrated?

A. I was more than frustrated.

Q. Hungry?

A. Hungry.

Q. Okay.

A. Tired, because I didn't get no sleep.

Q. Did you feel pressured to write a statement?

A. Kind of, because I still got charged. I got charged with more of the night that went on, contraband, and all of that, and it took seven months to get off it.

Q. Okay, charged as a prison discipline thing?

A. As a prison discipline thing.

Q. Not a criminal case?

A. No, not a criminal case.

Q. Okay, you didn't have to go to General Sessions?

A. No. No, sir.

Q. So you felt pressured to write a statement?

A. Yeah.

Q. Did you feel pressured to give a particular answer?

A. No.

Q. Okay, so were your answers truthful?

A. Yes, sir.

Q. Has your testimony today been truthful?

A. Yes, sir.

Q. You understood the oath you took a little while ago?

A. Yes, sir.

Q. Ms. Carmody asked you about how you got here?

A. Uh-huh.

Q. Do you remember her asking you just a moment ago?

A. Uh-huh.

Q. And it's our --

A. I guess.

Q. Our office transported you?

A. Right.

Q. We put you in a hotel room last night?

A. Right.

Q. Gave you some money for food?

A. Right.

Q. Did we give you anything else other than that?

A. Nothing.

Q. Okay. Are you getting rich off this?

A. No.

Q. What were you telling me before you took the stand?

A. Before we was in the room?

Q. Yeah.

A. I asked, because I'm missing out on work, is there anything with me doing my testimony, is anything coming out of this?

Q. Uh-huh.

A. And you said, "No, all you getting is transportation, hotel expenses and money for food."

Q. Would you rather be working or here?

A. I'd rather be working.

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

THE COURT: Anything further?

MS. CARMODY: No, Your Honor.

THE COURT: You are excused, sir, thank you.

WITNESS: Thank you, too.

THE COURT: So we're releasing him, correct?

MR. EVANS: Yes, ma'am.

THE COURT: Thank you. Call your next witness.

MR. EVANS: May we approach, Your Honor?

THE COURT: You may.

(Bench conference.)

THE COURT: Ladies and gentlemen, you all told me that you could go until 6 o'clock tonight, and I'd really appreciate it, if we can. I think we need to get up at least the next witness' testimony, or at least part of it, so thank you.

And I'm also gonna ask you to maybe consider if there's a possibility we can start at 9:00 a.m. tomorrow. If it's too much of a hardship, I understand, but there's some other things I can work on as well, so just think about it, but if that's too difficult, I understand, okay? All right.

MR. EVANS: The State calls Casey Chappell.

***

CASEY CHAPPELL,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Would you please introduce yourself, and give your -- spell your last name for our Court Reporter?

A. Uh-huh. Casey Chappell, C-H-A-P-E-L-L.

Q. All right, Mr. Chappell, where do you live, sir?

A. I live in Pickens County, South Carolina.

Q. Have you ever been in Jasper County before?

A. Yes, sir.

Q. All right. Were you formerly an inmate at RCI?

A. Yes, sir.

Q. All right. Tell us about how you ended up there. Tell us about your criminal record, if you would.

A. Well, I have an extended -- I've had a drug issue for a long time. I've been clean for three years now, but I did have a bad drug issue for a long time, so I had a lot of criminal stuff that had to deal with the drugs.

Q. All right. Did you end up in prison as a result of the 2010 case?

A. Yeah.

Q. You were convicted of a sawed-off shotgun --

A. Yeah.

Q. -- dealing with marijuana?

A. Yeah.

Q. Possession of meth?

A. Yeah.

Q. Possession of some other drugs?

A. Yeah.

Q. Okay. Tell us about that case briefly.

A. The case how it happened?

Q. Sure.

A. They came to my house. Actually, I got a call, and they came to my house and got a warrant and came inside and saw me with a sawed-off shotgun and found me with the drugs. You know, I was guilty as charged, you know what I mean?

Like I did my time, you know, and now I live a completely different life. I'm not that person anymore, so --

Q. Do you remember what your sentence was, initially?

A. Well, it was ten, suspended -- or early --

Q. Ten suspended to four?

A. With probation, and then I did the probation as of like a month out and being off of probation, they violated me.

Q. Your --

A. Sent me down the road for five non-violent, I did three of that, so --

Q. Is that why you were in prison in 2017?

A. Yeah.

Q. So you were like real close to being done?

A. About a month.

Q. Okay.

A. They changed my probation officer the last -- like in the last couple months, so my probation, you know, she violated me.

Q. Why did she violate you?

A. She violated me for a marijuana charge.

Q. A simple possession?

A. A simple possession.

Q. Just a little bag, like --

A. Yeah.

Q. -- a joint or something?

A. Yeah.

Q. And that got you in prison for how long?

A. I did five -- well, I did three years, five --

Q. You got five and did three?

A. Yeah.

Q. Okay. And that's -- and I think you said, sorry, but that's why you were in RCI in 2017?

A. Uh-huh. Yes, sir.

Q. All right.

A. Well, I was in RCI because of -- I got shipped from there, but yeah.

Q. Is that common to move around during a prison sentence?

A. Yeah.

Q. Is that the only time you moved?

A. Yeah. Well, no, I got moved from RCI to --

Q. After --

A. -- yes.

Q. Yeah, well, we're gonna get into that.

A. Yeah.

Q. All right. Did you know Benjamin DuBois when you were in prison?

A. Yeah.

Q. How'd you know him?

A. Just from being in the pod -- or being in the same unit.

Q. Do you remember what unit that was?

A. We were in Savannah B.

Q. Savannah B?

A. Uh-huh.

Q. Do you remember what your cell number was?

A. I think we were in five.

Q. Okay, who's we?

A. Me and Country.

Q. Who's Country?

A. Country is the guy that actually passed away that --

Q. Do you remember his legal name?

A. Oh, man, you're gonna make me draw a blank

now. I was trying to remember earlier.

That's the part about being in there is nicknames, and Country -- Jerry Holmes.

Q. Jerry Holmes?

A. Yeah.

Q. That's --

A. He was actually from the Upstate, he was from Greenville right beside Pickens.

Q. Not far from you?

A. Not far at all.

Q. Did you'all bond over that?

A. Yeah, of course, I mean you do. You know, that's one of the things that kind of happens when you're in there, it's -- you kind of click up with people around, you know, where you're from.

Q. So Jerry Holmes was Country?

A. Yeah.

Q. And he was your cellmate?

A. Yes, sir.

Q. Do you know Mr. DuBois' nickname?

A. Yeah, Animal.

Q. Okay. Is Mr. DuBois or Animal in the courtroom today?

A. Yeah.

Q. Okay, you see him here today?

A. Yes, sir.

Q. Can you point him out by something he's wearing and where he's sitting?

A. I can point him out right there.

MR. EVANS: Your Honor, may the record reflect he's identified the Defendant?

THE COURT: Yes.

BY MR. EVANS:

Q. All right, that's the man you knew as Animal?

A. Yeah. He had the name prior to, it wasn't -- he had the name --

Q. Oh, sure.

A. -- prior to, you know what I'm saying? They didn't call him Animal for what happened, they just -- his name was Animal prior to that.

Q. Okay. Tell us about prison life in general, and tell us about Savannah B, in particular, what's it like?

A. First of all, the prison is a war zone. When I got there, I thought they were just kidding, but the guard when he was searching my bags, he was like, "Have you got any guns, knives, hand grenades?" And I was like, "No, sir."

He was like, "You'd better get some, they do," literally.

Q. You were told that when you got there?

A. Yeah, that's what the Lieutenant told me when I got there.

Q. Okay.

A. And literally that place almost every room has a knife in it. I know a dude got stabbed over a card game, over a honey bun many times.

Q. Okay.

A. It's that crazy in there.

Q. Was this before this, or after this?

A. That was before the incident.

Q. Okay.

A. Actually, he was in there when it happened, and he knows what I'm talking about.

Q. And where -- what prison did you come from?

A. I came from, originally, Walden.

COURT REPORTER: Walden?

BY WITNESS:

A. Walden is a day camp. I mean Walden's known as very violent. I think they got another place in Columbia, they all can join them, I'm not 100 percent.

Q. Okay, and you found that one to be better run, safer, or less scary than Ridgeland?

A. Ridgeland is -- excuse my language, Ridgeland is hell, I mean literally. When I was going there and

I got there, and I came in late at night, because they usually shift later in the night and bring them in at night; and when I got there I went into Beaufort, originally, and it looked like a scary movie when we walked in. Y

ou know, it was dark, flashing lights, people sleeping out on the rock, which is the common area. And it's -- on the ride down they told me, you know, he was like, "You know, we're going to a war zone, you know, for real, like be prepared for that." And I just came from a place with no fence, you know, so I was scared to death going into that, because I'd never experienced like that. You know, I'd never been to prison but that one time, don't want to ever go back.

Q. That was your only -- that stint, I mean you were in two different prisons, but that was you only time, your only sentence in prison?

A. Yeah.

Q. Have you been in trouble since you got out?

A. I've been good. I've been good.

Q. Okay. Are you still on probation?

A. No, sir.

Q. No?

A. I'm off probation.

Q. All right.

A. Yeah, that I actually got off early. I got off six months early.

Q. Tell us about prison clothing.

A. Talk about prison clothing?

Q. Uh-huh.

A. They all give you some jumpsuits. They give you -- they issue you a couple -- well, pants and a shirt, you know, for your cell, and it's kind of crazy how the laundry works in there, because the prison runs itself.

Honestly, like you would think there would be people running the prison, but they let the prisoners run the prison. So like when laundry's being done, it gets -- I mean, you know, you start off with I think four or five jumpsuits, but by the time we get done, I mean it's just wild.

Q. Okay. Does everybody's clothing look the same?

A. Yeah, pretty much. I mean some people cut their shorts off, they cut them off into shorts, which if they see you, they will take that from you, but, you know, they call it contraband if you do that, but, yeah.

Q. And --

A. They said even the white tee-shirts and stuff

like that, so -- and they're not issued, but, you know, you can buy them.

Q. Okay. How do people keep track of what's theirs, as opposed to what somebody --

A. Name in it, write your number in it, cell number, name.

Q. Okay. Does the prison do any of that too, like an official stamp, or something like that?

A. No. No, not that I know of. Mine didn't come stamped.

Q. Okay. But people -- it was pretty common for people to write their name and their cell number?

A. Oh, yeah, for sure, if you want to get your clothes back I mean --

Q. What about -- yeah. What about other items like towels?

A. Towels? I'm not so sure. I'm pretty sure towels just came -- I don't even know if you got the same towel back every time, honestly. Well, the way you did it is, you put it in your bag, in your laundry bag, you send your laundry bag, and then you get it back, you know, that way, but I mean I'm not sure about towels.

Q. Okay.

A. I never put my number on my towel.

Q. Okay. Did you with your clothes?

A. Yeah.

Q. And you saw other people do that with their clothes?

A. Yeah.

Q. Name and number?

A. Yeah.

Q. What did you think about Animal before June 21st, 2017?

A. Animal was what we considered a friend, and that's what so crazy about this incident.

Q. Okay.

A. It's because this -- the only reason it was possible to happen was because Country considered him his friend.

Q. How long had you been there before this happened?

A. How long had I been at Ridgeland?

Q. Yeah.

A. I'd say a little over a year.

Q. A little over a year?

A. Yeah.

Q. Had Country been your cellmate the whole time?

A. I mean I was in Beaufort to start with. I

moved -- when I moved to Savannah, yeah, they moved me in with Country, yeah.

Q. Roughly, how long had you been in Savannah before this happened?

A. It's been over five years, it's been a long time.

Q. That's fair.

A. I'm not sure.

Q. Was Country your cellmate the whole time in Savannah?

A. Oh, yeah, yeah.

Q. How'd you'all get along? I mean you told us you bonded over the Upstate thing, but tell us --

A. I mean --

Q. -- a little bit more about you'all's relationship.

A. Honestly, if you want to know the truth, if you were in the cell with somebody. I mean it's a pretty small area, you know, so I mean you butt heads.

Q. You've got to go to the bathroom with the other guy --

A. Yeah.

Q. -- in the same room?

A. Well, he had done federal time before I think, and I think he thought that he was just kind of

entitled to just kind of run the show a little bit, so that's the reason that me and him butt heads.

Q. Okay.

A. He was just kind of like, you know, I was -- and he knew more about the prison life than me, so you know what I'm saying, he tried to play -- I guess tried to play my dad, tried to play -- you know what I'm saying, telling me how things work in there or whatever, you know.

But actually we bonded about that too, because he did know, he knew too well, and that's kind of what got him in the predicament that got him in, you know.

Q. So you'all got along well sometimes when he gave you advice, not so well at times when he tried to run the show?

A. Yeah. Well, I mean he was a good guy, but I mean he had his issues, just like everybody does though, you know, but he didn't deserve what happened at all.

Q. All right. Did you'all get in a physical fight ever?

A. Uh-huh.

Q. Tell us about that, if you can.

A. Well, I wish he wouldn't have told me about that. He was -- actually, he worked outside on the

ground crew like -- so he could get in and out of our pod, or in and out of our unit. And he had been telling me that they were trying to score on the side of -- well, trying to score contraband on this side of the yard.

Q. Like drugs?

A. Yeah. Well, I don't know what the contraband was, obviously, I never found that out, but he hit me in the face with a glass of water, and I mean that's all, and we --

Q. Okay.

A. -- were swinging on each other, and they come and pull us apart, put us back in the room together, and, you know, just hate to say where it come from, a fight isn't that big of a deal, you know what I'm saying, but -- and so like with Country it wasn't that big of a deal, and they put us back in the room together and we were just fine.

I was kind of surprised that they put us back in the room together, but they did.

Q. Where did the fight take place?

A. In the middle of the yard. And the reason was, because -- I found this out later, because they were scoring on the other side of the yard, and Country was trying to cause a diversion to -- or was

trying to cause a diversion, so that's why he hit me with a glass of water, he knew I'd swing on him.

Q. Okay, but you'all did get into a physical fight. Was this the same day that he was killed?

A. No.

Q. All right.

A. I mean it was weeks before.

Q. Weeks before?

A. Yeah.

Q. Okay.

A. Yeah.

Q. Do you ever have a knife?

A. No.

Q. A knife, or any other kind of weapon?

A. Well, when I first got there, when I -- in Beaufort, when I got to my room, the -- my roommate told me my room came stalked with a knife.

Q. I see.

A. And --

Q. In Beaufort?

A. Yeah, in Beaufort. So that's the way it really is there. It's ridiculous.

Q. Uh-huh.

A. And I thought he was just kidding, but he wasn't, there was a knife in Beaufort.

Q. But did you ever have one, especially when you went to Savannah?

A. It wasn't mine. I mean it was in the room for me to use. He was affiliated, so --

Q. When you say he, you mean Country?

A. No, well, Country was affiliated --

Q. We'll get --

A. -- with.

Q. -- into that, but okay.

A. But, yeah, I'm talking about in Beaufort when I was originally there --

Q. Okay.

A. -- so --

Q. Did you ever have one in Savannah?

A. No.

Q. Okay, did Country ever have one in Savannah?

A. Yeah.

Q. And you said he was affiliated?

A. Yeah.

Q. What does that mean?

A. It means that he represented a gang of some kind, or some kind of -- well, the gang that he represented was the one that wasn't prevalent in the prison.

Q. Okay.

A. That's the thing, it's like he was a loner there, you know. It's kind of hard for me to do this, because where I'm from this is considered snitching, but --

Q. Well, I understand. Nobody in here is from where you're from.

A. Yeah, I know --

Q. Okay.

A. -- but he -- okay, well, Country was --

Q. Okay.

A. -- and the only way he could have been, if he did that prior, so that's where he got affiliated with that. I didn't see any other people affiliated with any white supremacy groups in Ridgeland, honestly.

Q. All right. And -- but he was a white supremist.

A. Yeah.

Q. Okay.

A. He was.

Q. Did he talk about that a lot?

A. I don't think to too many people, but some, yeah. He just let everybody know that he was close to, like, you know, I knew. I'm sure Animal knew.

Q. And you said he and Animal were close?

A. Yeah, uh-huh.

Q. Did you see them interact a lot?

A. Very much so, yeah.

Q. Okay, doing favors for each other?

A. Yeah. Animal was actually a good friend to all of us. Like he -- never expected this around here, honestly.

Q. What sort of favors do people do for each other in prison?

A. Well, I mean they're just looking out for each other, like if somebody's lacking something that they're, you know, sharing.

Maybe let somebody hold something until they can get it. You know, some people -- a lot of people -- well, you know, drugs are more in there than they are on the street. They share drugs, you know, they share clothes, share just whatever, you know, you share whatever you can get from the canteen, you know, doing favors like that, letting people borrow stuff like that.

Q. How about tattoos? People get tattoos in prison?

A. Yeah, they did tattoos. Country did tattoos.

Q. Country would give tattoos.

A. Okay. And that's one -- another thing that got him in the predicament he was in is, he got

himself in a lot of trouble in there by making promises that he couldn't keep up with.

Q. Okay. Before June 21st, 2017, were you concerned for his safety, Country's?

A. Country?

Q. Uh-huh.

A. Yeah, actually, I was.

Q. Why was that?

A. Because it was stated -- it was known that there was a hit out for him, because of him not coming through with his promises.

Q. Okay. Did he know that?

A. Yeah, he knew that.

Q. All right. What happened on June 21st, 2017?

A. On June the 21st, 2017, and hopefully this is the last time I ever have to think or talk about this.

Q. Let me start you with this, who was in charge of the wing that night?

A. I don't remember the officer's name, but I heard he got fired, and that's the best thing for him, because he wasn't an officer, he was more of a homeboy with some of the people in there.

Some of the officers there are very violent, and a lot of them aren't there for the sake of being correctional officers I'll say, you know?

Q. And was that --

A. Well, this guy --

Q. -- pretty common every night?

A. For -- with him, yeah. With him, when he was working, he was very -- yeah, and that's what happened that night. That's the reason that Country laid so long as he did --

Q. Let me --

A. -- after that happened to him.

Q. Let me ask you a little bit about yourself. Do you remember the number? I think you said maybe five?

A. I think it's five.

Q. Okay.

A. I think it was. I know exactly where it was at, like when you come out of the hole, as soon as you're at the front door, it was like almost directly in line with the door straight ahead.

Q. Well, let's go ahead and have you step down, and I'm gonna ask you to take a look at something that's in evidence already.

Mr. Chappell, can you tell what that is? And I'm gonna ask you to turn around, I'll stand over there so the jury can see, okay?

A. Yeah, but I mean --

Q. This is Wing B?

A. Well, this is -- yeah, I mean you showed -- it shows like right here that's our room.

Q. Okay.

A. And that's the front door, and this is where the CO would be in the middle of wing A and B. And that's the reason why -- they don't -- there's not a CO to cover all of this. There's not a police officer that was here or whatever, and they take care of stuff.

Q. Okay.

A. So --

Q. Can you point to your cell, please?

A. Five.

Q. And that's where you -- right here, number five, is where you and Country lived?

A. Yeah.

Q. Okay, where did Animal live?

A. I think it's over right here.

Q. Okay, pointing to 22?

A. Yeah.

Q. All right. So you were in here right across from the entrance?

A. Uh-huh.

Q. Okay. Tell us about what happened, and point

to locations, if you need to.

A. And so Animal came over --

Q. And speak extra loudly because you're not by that mic.

A. Animal came into the room. Now, mind you Country knew about it. He knew he had a hit on him, and he was not supposed to go out on the rock. He -- we had spoke about it.

Q. What's the rock?

A. All this common area.

Q. The area in between the cells?

A. Yeah.

Q. Okay.

A. Anything that's not behind the doors are considered -- so I mean Animal came into the room, which our door was unlocked, because of the fact our bathroom didn't work.

Our toilet didn't work, so we had to have access to the toilets on the right.

Q. You'd go to the bathrooms out here, the main common ones?

A. Well, it was right here.

Q. Okay.

A. So we -- so the door's unlocked and Animal came up to the room. He had already said he --

Country said he wasn't going out on the rock, he wasn't letting anybody in. Animal being the friend that he was, he got his way into the door, but he had something to smoke.

Q. Okay, so Animal said that they were gonna have some drugs together?

A. Uh-huh.

Q. Okay, what happened after Animal got inside cell number five?

A. Whenever he looked at me, like I said, I thought we were buddies, and he went like this right here, lifted his shirt up and showed me the knife --

Q. Okay --

A. -- it wasn't a knife; it was an ice pick.

COURT REPORTER: It was an ice pick?

BY WITNESS:

Q. Yes.

Q. That's what you said?

A. Yeah.

Q. Okay.

A. Yes.

Q. Okay. He showed you that?

A. He did.

Q. Tucked into the waistband of his pants?

A. Yes, sir.

Q. All right, what did that mean to you?

A. That meant that I need to get out of there, or I would get what was about to happen. I knew what was about to happen.

Q. Did you --

A. I'm sorry.

Q. -- warn -- sorry.

A. Honestly, no, I didn't, for the sake of just getting out of dodge, because he showed it to me for a reason you know what I'm saying?

He would have gave it to me, just like he gave it to Country, if I wouldn't have got out of there.

Q. So what happened after you saw that?

A. After I saw it too about right here --

Q. Okay.

A. -- and as soon as I walked out the door, and I turned my back and I started walking away, I started hearing the sound of like a thudding noise and gurgling, and Country trying to yell. And it still bothers me to this day that I didn't turn around and go back in there, and try to help him, but I had no idea.

I know that the sound haunts me to this day, of him screaming for help and the gurgling, because maybe there was like blood in his lungs. And there were

other people that knew what was going on, and they just kind of sat there and I didn't know what to do, and I thought he was -- you know what I'm saying? Everybody was scared to death of what was going on --

Q. Was the --

A. -- and --

Q. Sorry, was the cell door opened or closed while this was happening?

A. The cell door was closed --

Q. Who closed the door?

A. I'm not sure how the door got closed.

Q. Do you know where -- do you remember where you were standing while this was happening?

A. I was standing there.

Q. Around this area here in the corner?

A. Yeah, like right, you know, right here on -- and like, you know, that's the reason I could hear it so clearly, because it was directly from my front door. And as bad as I wanted to go back in there and try to help, after hearing the gurgling, that was enough to let me know that I didn't want to

Q. We you scared?

A. Yeah, very much so.

Q. Yeah.

A. I didn't go back in the room after that. At

that point I realized what had happened. I watched Animal come walking out from my room.

Q. Out of number five?

A. Yes, and --

Q. Where did he go then?

A. When he first came out it seemed like something out of a scary movie. He was, literally, standing there covered in blood from head to toe, and, you know, it looked -- like I'll never forget the image either, and it looked like he got off on it.

I hate to say it, but it looked like he got off. And he came out and he went this way, and he went --

Q. It's probably easier, if you can, to use your left, so, you know, instead of a hand gesture.

A. He came out -- he came down this way, and when he came down this way there was other people that were helping him. And the reason the other people were helping him to try to clean -- which I still don't understand the situation of why they would try to clean the mess up, because there was --

Q. Let's take it slow. First, let's take a deep breath. You okay?

A. Yeah, I mean I'm a little nervous, but --

Q. I know.

A. -- it's hard.

Q. I know, so you saw him walking this way?
A. Yes.
Q. You saw other people?
A. Well --
Q. And what were they --
A. One other person for sure tried to help him clean up the mess.
Q. Do you recall that person's name offhand?
A. Nickname.
Q. What's that?
A. Junetown.
Q. Junetown? All right.
A. I don't his real name.
Q. Okay.
A. -- and that's his nickname.
Q. What was Junetown doing as Mr. DuBois was walking this way?
A. He was trying to wipe the blood up from the trail of blood that he was literally -- I mean my room looked like something -- after they told me that, I walked around and I went to every gang-banger that was in there, because I was outside of the cell I couldn't go back in the cell.
Q. Uh-huh.
A. And I said, "Well, this just happened, what

should I do?" Certain ones said, "Keep your mouth shut." Certain one said, "You'd better go tell the CO, if not, you're gonna be paying for it," and I was going around trying to figure out to do.

I didn't know what to do. I couldn't go back to my room. I hung out on the rock. There were some empty rooms, but --

Q. Oh really?

A. So I hung out in those rooms, waiting for the CO to come back.

Q. How long did that take?

A. They came at 3:45 in the morning, which he missed the count. He missed around the midnight count. I don't know exactly what time it was, but he didn't come back for that. He came back to let out the people that go to breakfast each morning.

Q. Is that about the normal time --

A. Around 3:45.

Q. -- the other people would go? All right, and --

A. That's when --

Q. I haven't told you this yet, but say -- for a yes, say yes, and for a no, say no; is that okay?

A. Uh-huh.

Q. Not the uh-huh or uh-huh, okay?

A. Okay.

Q. That's for the Court Reporter.

A. Okay.

Q. All right, so back to what Mr. DuBois was doing; do you remember where we left off?

A. Yeah.

Q. What else did you see him do? You said he was walking this way, and --

A. Well --

Q. -- making a trail of blood.

A. Somewhere along the way I lost sight of all that, and I didn't -- like I said I was trying to figure out what I should do.

Q. Okay.

A. I didn't know whether I should go -- but, of course, the first thing that comes to mind is, to get to the CO, you'd have to make a whole lot -- I mean you would have to be beaten and screaming out this door here to get his attention, and that's not something you do that, you know, has something to do with the count when this happened.

Q. I see.

A. So I had to hang around the rock until 3:45 in the morning, and while I was Animal actually got paid in drugs.

Q. You saw that with your own eyes?

A. Well, I didn't see him actually get paid, but I saw him with the drugs after.

Q. I see, and what did he look like when he had drugs later?

A. He looked like -- well, I was told by somebody with some sense --

MS. CARMODY: Objection.

THE COURT: Okay, hold on a second.

MS. CARMODY: That's hearsay.

THE COURT: Thank you.

MR. EVANS: Yeah, I'll --

THE COURT: Sustained, you can't say what someone told you.

BY MR. EVANS:

Q. Mr. Chappell, don't say what other people said, okay?

A. Okay, well --

Q. Just what you observed.

A. -- what they told -- what they told me.

Q. No, no, no, Mr. Chappell, you can't say that. You can't say what other people said, okay? Just said what you observed --

A. I can't say what they told me to do?

Q. No, sir. Don't talk about what other people

said, just talk about what you saw, especially involving Mr. DuBois, okay?

A. Okay. Well, I don't know how to explain the next part then, because I went to his room, but when I got to his room they were sitting there, and there were needles in that yard, and he was sitting there with a needle, with a needle bent crooked like this, and I had a thought that, you know, him being paid at the time he was sick with cancer or something.

And I was worried about him overdosing and dying. So I went to his room and he looked like -- he was sitting on the floor, still had blood on him, with a syringe full of heroine, trying to get a vein with a needle that wouldn't set because if it would have, he wouldn't be here.

Q. He was still covered in blood at that point?

A. Yes, at that point.

Q. Okay.

A. Yeah.

Q. Did you ever see him at any other time?

A. Yeah, I'd seen -- I saw him, he wasn't in the clothes still covered in blood, but he still had blood on him.

Q. I see, okay.

A. But he had a change of clothes --

Q. He changed --

A. -- but he still had blood on him.

Q. You could see it?

A. Right.

Q. Did you see him change clothes, or did you just see that he had changed clothes?

A. I hadn't seen him change clothes, but he wasn't the bloody mess that he was when he came out of my room, but he still had blood on him.

Q. All right, and that was in cell 22?

A. That was in the cell, yes.

Q. Okay.

A. And he was sitting on the floor of the cell when I came in he was sitting there, and had already got his shot ready to go, and I barely got there in time, honestly, but luckily for me.

Q. Okay.

A. Yeah.

Q. After you went to that room and saw him in that condition, what else did you do before the guards eventually came in?

A. Before --

Q. How did the rest of the night go until, finally --

A. There --

Q. -- the guards started arriving.

A. There was only -- there was one guard that arrived. Oh, well, the rest of the night went as me, a couple people telling -- I don't know how to go about saying it without hearsay, but --

Q. Take your time.

A. Because I hung out scared to death like in the bathroom, the truck stop.

Q. Okay.

A. Because -- you know what I mean? I was really just waiting on the CO to come to the rock. I was waiting on the 12 o'clock count, or the late night count, and I figured he would come in, and I'd be able to tell him then, but he didn't show up then.

A couple people told me that I need to check --

MS. CARMODY: Objection.

THE COURT: Hearsay.

BY MR. EVANS:

Q. Just don't do it. Don't say what someone told you.

A. I thought that I needed to go check to see if he was okay we'll say that.

Q. And you're talking about Animal?

A. No, Country.

Q. Country?

A. Yeah, at the point that -- I mean he's my roommate, he's in my room, and, you know, I opened the door up, stuck my head inside the door. I didn't go inside the room, because there was no way I was going in there.

There was blood on the floor, there was blood on the walls. I couldn't get anything of mine back, because even I had the top bunk, and even my stuff was covered in blood, so --

Q. You had a lot of personal items in there?

A. Yeah, I did. So I mean everything -- and that's because of the fact that the whole room had blood spatter all over it.

And Country was slumped on the -- on his bed, kind of on his knees and looked like he was slumped over onto his mat and onto the top of the sheet and was deceased. That's when, you know, I wasn't going in there.

Q. Did you ever go back in that cell ever?

A. No.

Q. Did they move you somewhere else?

A. They did. Well, for my safety they moved me to Charleston, which is like the opposite one.

Q. Okay.

A. They moved me to Charleston for a day. I

thought they would keep me on guard, because I didn't do it, and everybody knew that, you know.

Everybody knew that he was supposed to take a hit. If you take a hit, and you get paid for it, the whole point is so you can take the blame afterwards. He wants to take a hit and then say, "Oh, I don't know what happened," you know what I mean? So I --

Q. Now, when you say it was a hit, what does that mean?

A. That means that he was paid to do it. He was paid to kill Country.

Q. Do you know by whom?

A. Well, he owed the bloods.

Q. That's Animal?

A. No, Country owed the Bloods some money.

Q. You see Country --

A. Bloods was the one that did it, so I'm -- I assume that that was probably worked out in the deal, but, you know, I'm not sure --

MS. CARMODY: Your Honor, calls for speculation, objection.

THE COURT: Okay, you can rephrase the question.

MR. EVANS: We'll move on, okay?

BY MR. EVANS:

Q. Who was the Bloods --

A. Oh Junetown's roommate.

Q. Junetown's roommate?

A. That's the reason Junetown did it?

Q. Okay. Who was -- do you remember that person's name?

A. No.

Q. Okay.

A. -- but his nickname.

Q. And Junetown was one of the people, or the person you talked about cleaning up?

A. Yeah. The name, that went to go clean it up.

Q. Okay.

A. And they -- I -- somehow miraculously they did a fairly good job of cleaning it up, in comparison to how much blood there was, but that was like -- it's like -- and I know that they found his blood, you know, saturated in blood, and -- but they didn't -- I guess they didn't clean any of that up, they just cleaned up what was visible from, you know, for the CO to be able to see anything.

Q. Blood on the floor of the rock?

A. Yeah.

Q. Okay, they didn't clean -- try to clean your cell, right?

A. No. I do not know. I don't think anybody

did.

Q. Did you see anybody else in the cell with Country, other than Animal?

A. No. Nobody went in there. I mean there were no footprints. I mean there was so much blood that that would have been proof that somebody else was in there.

Q. Okay. Tell us about the lights in Savannah wing B. What's the lighting situation?

A. Well, the lights had been turned off.

Q. Okay, I guess I'm asking more about how were you able to see these things, since it was in the middle of the night, or late at night?

A. Oh, they don't turn -- there's no turning the lights either all the way on or off.

Q. The lights on or off stay on all night?

A. Yeah, some light at all times.

Q. How about --

A. Yes, sir, that way the CO can see what's going on.

Q. Okay, how about within the cells?

A. Well, within the cells there's -- we have lights out, but it's not so dark that you can't see; do you know what I mean? They dim -- it's not completely light cell, you know, it's never --

Q. But definitely never -- not like the outside?
A. Uh-uh.
Q. Okay.
A. I wouldn't say. How about the window that's in the cell doors? What did you'all do with that window?
A. The window in my room?
Q. Uh-huh. Do you remember?
A. Well, I remember the windows having big concrete columns in them.
Q. Okay.
A. And I remember of either like three -- of the three or four columns -- the little window there's --
Q. Okay.
A. Yeah.
Q. Did you'all ever put up anything to block out any window light?
A. Oh, yes.
Q. Okay, why would you do that?
A. To be able to sleep during the day, you know what I'm saying, so sunlight wouldn't be able to come in.
Q. Okay, it sounds pretty common for the window near the cell door to be blocked?
A. Yes, well, the cell door for sure.

Q. Okay.

A. Because he did that too.

Q. Okay.

A. He didn't want the CO to be able to be walking around to be able to check, or just randomly walked up on the door. It's not -- you can get a charge for that.

Q. It's not allowed?

A. No.

Q. But it's done all the time.

A. But if you've got the right CO, they don't care.

Q. Like the guy who was --

A. He, literally, would avoid coming around for counts, when - he was cool with a lot of the guys in there, like I said, I don't know that he --

Q. So there's a number of reasons why that window would be blocked?

A. Uh-huh.

Q. Okay. And you're not saying, correct me if I'm wrong, but you didn't see what happened, you heard it?

A. I didn't see it, I heard it.

Q. The door was closed?

A. But I heard it well enough to --

THE COURT: Stop leading him, please.

BY MR. EVANS:

Q. Did you see anything?

A. I saw what happened and I heard it --

THE COURT: Mr. Evans, can we have also have him sit back on the stand?

MR. EVANS: Yes, ma'am.

BY MR. EVANS:

Q. Can you take the stand again.

MR. EVANS: I beg the Court's indulgence.

BY MR. EVANS:

Q. Did Animal ever speak to you after or since then?

A. After that night?

Q. Uh-huh.

A. Yeah, I mean we spoke. I don't remember direct -- I do remember telling him that he -- that he -- to go turn himself in. You know, I remember I literally told him that, and I wasn't the only one that told him that. And to my knowledge, I thought that he had turned himself in, until I was summonsed to Court to trial. I had no idea that -- I had thought that he had admitted to doing it.

Q. Okay.

A. Like I said, it's been years ago, and I

figured by now we would have already been to trial, but I thought he admitted to doing it, but, obviously, something different happened.

Q. Do you remember speaking to SCDC Police Services about this incident?

A. Yes, sir.

Q. Okay, you talked to them a couple times?

A. Yeah, I did.

Q. Did you ever write down what you were telling them?

A. Yes, sir.

Q. I'm gonna pass you a few pieces of paper. Can you recognize that?

A. Yes, sir, that's my handwriting, that's mine, yeah.

Q. Okay, can you tell us the date on that? It should be at the bottom.

A. The date is 6/23/17, 6:41 p.m.

Q. And you wrote that?

A. Yeah, that's my handwriting.

Q. Your signature and handwriting?

A. Yes, sir.

Q. All right. I'm gonna direct you to -- I'm gonna ask you to read from where my thumb is. Just -- don't read it out loud, just --

THE COURT: Okay, so it's not admitted.

MR. EVANS: I was about to tell him don't read it out loud.

THE COURT: What's he reading?

MR. EVANS: His statement, Judge, which he identified.

THE COURT: Okay, give him statement to refresh. What --

MS. CARMODY: Okay.

MR. EVANS: It's on page four, I'll show you, if you'd like, Carolyn.

MS. CARMODY: Thank you.

THE COURT: He can review the statement given at the time. Did he say he didn't remember?

MR. EVANS: I asked him about his conversations with the Defendant after the incident, and there's more on this statement.

THE COURT: Okay.

BY MR. EVANS:

Q. All right, just read from there to refresh your memory, okay, Casey?

A. This one?

Q. No, sir.

A. Okay.

Q. Just read it silently, okay?

A. Yeah.
Q. And let me know when you're ready.
A. Oh, yeah, no --
Q. Silently.
A. Yeah.
Q. Read it silently for now, okay?
A. I totally know --
Q. You -- okay, you know where --
A. I know where it's going.
Q. Your recollection is refreshed?
A. Yeah, yeah, no, for sure, 100 percent.
Q. All right, did you have a conversation with Mr. DuBois after the incident?
A. Yeah, and it wasn't accurate at all. He had tried to tell me he did -- my roommate raped him, or was trying to rape him, and he was defending himself.
And my roommate, like I said, I'd been in the room with him for long enough to know -- I would have known he was bi or homosexual, or whatever.
Q. Did you -- were you in Country's presence all along that whole night?
A. The daytime?
Q. Yeah, before the incident?
A. Yes. We had -- we were roommates, so, yeah.
Q. Did you see him and Mr. DuBois interact that

night, before Mr. DuBois came into your room?

A. Interacted every day, yeah.

Q. Did you see Country try to rape Mr. DuBois?

A. No. I mean it didn't happen.

Q. It didn't happen?

A. I can -- I wasn't in the room for maybe ten seconds, you know, that's about how long I had been out of the room, when I started hearing the sounds.

So, you know, like I don't know how much raping that -- no, it didn't happen.

Q. In that conversation that you had, when Mr. DuBois said that Country tried to rape him --

A. He tried to get me to go along with that. He tried me to say, "Hey, listen, man, go tell them that he tried to rape me, and it was self-defense, and I'll get off," but I wouldn't go along with it. I knew it wasn't true.

Q. So he admitted to you in that -- Mr. DuBois admitted to you in that conversation that he had stabbed Country?

A. Yeah.

Q. Okay. Now, Mr. Chappell, just before you left the room, when Animal, Mr. DuBois, came inside cell five, who was in the room?

A. Just me and Country.

Q. Just you and Country, and then Mr. DuBois?

A. Uh-huh.

Q. And then you left?

A. Yes, ma'am -- I mean yes, sir.

Q. Okay, and so what happened after that?

A. As soon as I walked out of the room I got maybe, like I said, ten paces, and I started hearing the stabs, and the screaming for help.

And I couldn't get my own self together, I can't -- now I wish that I -- I still to this day it still bothers me. I'm literally on medication now over it, and this is part of the reason.

Q. Mr. Chappell, did you kill Jerry Holmes?

A. No, sir.

Q. Thank you. Those are all the questions I have, Mr. Chappell.

THE COURT: Ms. Carmody?

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon.

A. Good afternoon.

Q. You talked briefly about -- you had gone through some of the conditions on the unit that night, right, about how Ridgeland Correctional was?

A. Yeah.

Q. Okay.

A. Yes.

Q. And --

A. It's rough there.

Q. Sorry?

A. It's really rough there.

Q. Really rough?

A. They compare it to a level three. It's a level two, but it's compared to a level three, as far as violence.

Q. It's a very violent place?

A. Yes, ma'am.

Q. All right. And when you say very violent, you mean the people, or is it just the weapons, the drugs, or what?

A. It's a combination of the three.

Q. Okay. And are the COs complicit?

A. Definitely.

Q. Do the COs allow this to happen?

A. It's according to the CO you're speaking of, ma'am.

Q. I'm sorry?

A. It's according to the CO you're speaking of.

Q. Okay.

A. Directly afterwards, after this account, a couple of the COs were actually fired from Ridgeland, due to the fact of the investigation, it had been brought up. Yeah, there was some good ones there.

Q. There were some good COs?

A. There were some good ones there.

Q. All right. Prior to going to Ridgeland Correctional, where were you at?

A. I was at McDougall.

Q. McDougall prior to Ridgeland?

A. Yeah.

Q. Where's McDougall at?

A. I mean -- no, no, I was at -- I went to McDougall after this, I was at the one I said earlier that's not there anymore, Walden.

Q. What's it called?

A. Walden?

Q. Walden.

COURT REPORTER: Walden?

BY WITNESS:

A. Yeah, Walden Correctional.

Q. Where's that?

A. It was on Broad River Road in Columbia.

Q. All right, and how long were you there?

A. For not long, maybe six months.

Q. Six months?

A. Or five months.

Q. All right. And did you have any problems at Walden?

A. Uh-uh, yeah. It's hard to have problems at Walden, like I said, it's pretty much a day camp.

Q. Oh, I see.

A. There's no knives at Walden.

Q. Okay.

A. There were no knives at McDougall either.

Q. There were no knives at McDougall either, but you weren't at McDougall prior to Ridgeland, right? McDougall is after?

A. I went to McDougall afterwards. Yeah, they sent people there, you know, for their protection. Maybe there was a yard that is very, you know --

Q. So --

A. -- it's a safe yard.

Q. Is McDougall like state-wide protective custody?

A. Yeah -- well, I'm not sure. I don't know. Not everyone there is under protective custody.

Q. Okay, all right.

And now, I want to talk specifically about CO Griffin.

I believe on direct you had said you're not sure if he's connected, what do you mean by that?

A. I mean that he was awful chummy with some of the people that were affiliated.

Q. What people?

A. With the gang-bangers, with the, you know, you don't normally see a CO going by and beating people up, and, you know what I'm saying?

Like you don't normally see that, you know, and you don't normally have a CO that you can tell, "Hey, look, now I'll being a tattoo on this next come around, could you not count?" You know --

Q. Okay.

A. -- you don't get away with that, you know.

MS. CARMODY: Your Honor, can we approach, briefly, please?

THE COURT: You certainly can.

(Bench conference.)

THE COURT: All right, ladies and gentlemen, let's go ahead and break for the evening, okay?

It's about 5:30, or so. Mr. Foreperson, what do you'all think about starting at 9 o'clock, or is that very difficult? Is that okay?

FOREPERSON: Yes, ma'am.

THE COURT: Please speak up, don't be afraid.

I assure you, if it's a real hardship, you've got kids, you've got problems to get them there, let me know. I'm doing everything I can to shorten our lunch tomorrow a little bit, so we're just gonna keep pushing through, okay?

As I told you before, we're gonna finish this case on Friday, so we're just gonna keep going, all right? Mr. Foreperson, I also will need tomorrow night how late you're able to work, okay? And just let me know that, if you don't mind, letting Ms. Bostick know that before you leave tonight, okay?

Ladies and gentlemen, I have to remind you, do not discuss this case, it wouldn't be appropriate to do so. Don't do any independent research.

As you can see, being in court a long day, and it's hard, you'all are sitting there, you don't get to ask questions, and you don't get to do anything, but you've got to listen, and so it's difficult work. Get a good night's sleep, have a good breakfast in the morning, come back, I'll see you'all tomorrow morning at 9:00 a.m.

If for any reason, someone falls ill over the evening, or you have issues, call the Clerk's Office, because I'm gonna be looking for all 15 of you, okay? I appreciate it. Thank you.

(Jury exits the courtroom.)

THE COURT: All right, sir, we're gonna go ahead and break for the evening, and I'm gonna allow you to step down. The only thing I need to tell you is, that you are not permitted to talk about your testimony to anyone; do you understand that?

WITNESS: Yeah.

THE COURT: Is that a yes for the record for me?

WITNESS: Yes.

THE COURT: Thank you, sir, I appreciate that. And I want to see the attorneys just up here for a quick moment.

WITNESS: Oh.

THE COURT: It's okay. You're -- everyone's done it.

WITNESS: I have to be here before 9:00, right?

SS

(Bench conference.)

THE COURT: And you can anticipate everyone having a shorter lunchbreak tomorrow.

MR. EVANS: Okay.

THE COURT: So if you need to bring granola bars, or something along those lines, that are -- pack yourself lunch or something. All right.

MR. EVANS: Thank you, Judge.

THE COURT: Thank you. All right, I will see everyone at 9 o'clock, okay?

MR. EVANS: Thank you.

(At 5:42 p.m. the proceedings were continued to the following day without interruption.)

**

END OF VOLUME II

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 Beaufort County, South Carolina on the 1st Day of August 2023.

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

This, the 23rd day of January 2023.

[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. BENJAMIN DUBOIS, III, Defendant.	TRANSCRIPT OF JURY TRIAL VOLUME III (PAGES 498 - 792)

August 2, 2023
Ridgeland, South Carolina

B E F O R E:

The Honorable Carmen T. Mullen, Judge Presiding

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INDEX

PROCEEDINGS	502
WITNESS: CASEY CHAPPELL	
Cross-Examination (Cont.)	504
Redirect Examination	576
WITNESS: BRANDON AUMAN	
Direct Examination	592
Cross-Examination	632
Redirect Examination	641
WITNESS: SHANNON MIXON	
Direct Examination	645
WITNESS: JANICE ROSS, M.D.	
Direct Examination	688
Cross-Examination	694
Redirect Examination	699
Recross-Examination	700
WITNESS: WILLIAM GARVIN	
Direct Examination	703
Cross-Examination	752
Redirect Examination	784
PROCEEDINGS CONTINUED	791
CERTIFICATE OF REPORTER	792

EXHIBIT LIST

**

ITEM NUMBER	DESCRIPTION	PAGE
S-50	Photo	689
S-51	Photo	685
S-52	Photo	685
S-53	Photo	685
S-54	Photo	685
S-55	Photo	685
S-56	Photo	685
S-57	Photo	685
S-65	Photo	693
S-66	Photo	693
S-67	Photo	693
S-68	Photo	693
S-80	Miranda Warning	732
S-81	Inmate Search	736
S-82	Inmate Search	736

**

ITEM NUMBER	DESCRIPTION	PAGE
D-28	Photo	752
S-29	Diagram	740

PROCEEDINGS CONTINUED

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WEDNESDAY, AUGUST 2, 2023

RIDGELAND, SOUTH CAROLINA

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

BAILIFF: All rise.

THE COURT: Please be seated. All right, thank you.

All right, well, good morning, are we ready to go? Good morning.

MR. EVANS: The State's ready.

THE COURT: And Margaret?

CLERK: Yes, ma'am.

THE COURT: Okay, for the record.

Kymberlee, thank you. It's okay.

THE COURT: No, no, no, yeah, you're fine. You stand right where you're seated. You're gonna keep your seat, and you're gonna go to the witness stand. And she's just gonna walk up to you, okay? Let's bring the jury in.

And my last juror came, correct?

CLERK: Ma'am?

THE COURT: The last juror showed up?

CLERK: Yes.

THE COURT: Okay.

CLERK: He's getting dressed out.

THE COURT: Okay, let's go.

(Defendant enters proceedings.)

THE COURT: Hold on a second. And your witness that's gonna be back up again, he needs to be in here.

MR. EVANS: I believe my investigator is getting him now.

THE COURT: Okay, she needs to bring him in now, so we don't need to wait for him to walk up here.

(Jury enters the courtroom.)

THE COURT: Good morning.

JURORS: Good morning.

THE COURT: It's a pleasure to see you all. Thank you so much.

Ladies and gentlemen, we're gonna go ahead and continue with Mr. Chappell's testimony, or Chappell; and because it's a new day, I'm gonna have Ms. Bostick swear him in again just for the record, all right?

CASEY CHAPPELL,

BEING PREVIOUSLY SWORN TESTIFIED AS FOLLOWS:

***

THE COURT: All right, thank you, sir. And, again, if you would just speak up. Whenever you're ready, Ms. Carmody.

**

CROSS-EXAMINATION CONTINUES

BY MS. CARMODY:

Q. Good morning.

A. Good morning.

Q. Now, I just want to backtrack a little bit from yesterday. Now, I want to talk to you about what it was like to live at Ridgeland Correctional. So how long had you been actually living on the Savannah unit?

A. I did five years, ma'am, I'm not exactly sure, but somewhere in there, not over a year, but less than a year, between six months to a year. Somewhere around six months, I think.

Q. Okay, six months to one year on the Savannah unit?

A. No, less than a year. Less than six months, I think.

Q. I'm sorry?

A. Less than six months, than a year, I'm not --

Q. So --

A. -- sure exactly.

Q. -- six months or so, ballpark, right, on the Savannah unit. And so just to clarify you were roommates with Mr. Holmes for six months?

A. The whole time I was in the Savannah unit.

Q. Okay, all right. And when you arrived to the Savannah unit, what was your impression upon coming on the unit?

A. Well, the Savannah unit was better than Beaufort.

Q. It was? Okay, and why is that?

A. Well, it was -- half of it was disciplinary, and the other half had a riot, and that's the reason I had to move to Savannah unit, because I was one of the ones that they couldn't prove was involved in the riot, so a lot of people got shipped because of the riot. You know, it was a very big deal throughout the facility --

Q. Okay.

A. -- they moved a lot of us there.

Q. All right, so they couldn't prove you were in a riot, so they moved you to the Savannah unit?

A. Uh-huh.

Q. Okay.

COURT REPROTER: Yes?

BY WITNESS:

A. Yes, ma'am.

Q. Okay. When they moved you to the Savannah unit, I believe you testified yesterday that there was numerous weapons on the unit?

A. That's in every unit, yes, ma'am.

Q. Every unit, right? Okay. Did you have a weapon?

A. No, ma'am.

Q. No? No weapon in your cell?

A. Not that I know, when I moved into the Savannah unit.

Q. Well, previously, you've given, you know, numerous statements in this case, and previously you had indicated to Agent Garvin that Mr. Holmes had a weapon.

A. Uh-huh.

Q. Do you remember that?

A. Yes, sir, Mr. Holmes had a weapon, yes.

Q. Okay.

A. But not -- that wasn't originally when I first came to the unit, no.

Q. Oh, so Mr. Holmes obtained a weapon over the course of the six months that you were with him?

A. He was informed that he had a price on his head, yes, ma'am.

Q. But he obtained that weapon for protection, right?

A. I believe so, yeah.

Q. Okay, and so back to my question, while you were in the Savannah unit with Mr. Holmes, there was a weapon in your cell?

A. No, not there. There are hiding places all over the outside of the cell, the rock, where people stash their weapons.

Q. Okay, let me back up, maybe, I'm sorry, maybe you're misunderstanding my question, and I'll rephrase it. Okay, when you went to live on the Savannah unit you are roommates with Mr. Holmes?

A. Yes, ma'am.

Q. Mr. Holmes is the decedent in this case, right?

A. Yes, ma'am.

Q. Okay. You gave prior statements to law enforcement, Agent Garvin, that Mr. Holmes was your cellmate?

A. Yes, ma'am.

Q. Okay. You gave prior statements to Agent Garvin that your cellmate had a weapon in the cell?

A. Yeah, he did.

Q. Okay, so back to my question, you and your

cellmate are in the same cell; is there a weapon in your cell?

A. You're asking me when I came into the unit. Are you talking about when I originally came in? No.

Q. Okay, that's -- okay, fair enough. When Mr. Holmes died, was there a weapon in the cell?

A. I think so.

Q. Did he get rid of the weapon?

A. No, he -- I mean I didn't know where he kept his weapon. It's kind of like, you know --

Q. You don't know where he kept his weapon; is that what you're saying?

A. No.

Q. Okay. Did you give prior statements to Agent Garvin that Mr. Holmes kept the weapon in his light?

A. That's where all the weapons were, ma'am, if you remember my statement yesterday, that's where the hiding places were inside of the rooms.

It was -- the only place to hide anything is inside of the light, but some people will hide their stuff on -- in the common area, so I'm not exactly sure where Jerry kept his.

Q. Okay. You've seen it, right?

A. I have seen it, yes.

Q. All right, and you described it to law

enforcement?

A. Yes.

Q. And how did you describe it?

A. It's not the blade that he was killed with. It was a flat -- it was a flat iron, not an ice pick.

Q. Wait, hold on, so if you can just answer the question that I'm asking, I think that might help. What did the weapon look like that Mr. Holmes' had?

A. It was a flat piece of metal that had been sharpened, that had came off of one of the lights.

Q. Okay.

A. The weapon that I saw Mr. DuBois with --

Q. And, sir --

A. -- was the knife that --

Q. I just asked -- we're only talking about -- all right. You're here on behalf of the State, right?

A. I'm here on behalf of what's right.

Q. I understand, but you are testifying for the State, right?

A. Testifying for the truth, ma'am.

Q. Are you here as a State's witness?

A. Yes.

Q. Okay. Did you stay in a hotel last night in Jasper County?

A. Yes.

Q. Okay, and you're here as a State's witness to testify for the State? All right.

A. Yeah.

Q. Okay. You know that Mr. DuBois' attorney, okay, and we are all here to seek the truth, can we agree to that?

A. I would hope so, yes.

Q. Okay, all right. I'm not trying to trip you up.

A. Okay.

Q. Okay? All right. Just -- all right, so you said there were normal -- I mean it was normal to have several weapons on the unit, right?

A. When they come through, and they do a sweep of the unit. You could ask -- and, yeah, they -- when they go through and they do a sweep of the unit, it's ridiculous how many weapons that they find in the unit.

Q. Oh, okay. When's the last time they had done a sweep on the unit?

A. In Savannah?

Q. Uh-huh.

A. That I'm not sure. They usually would go to Beaufort first, and do a sweep of Beaufort, before Savannah, since it was the more prominently dangerous

one.

Q. Was it weekly, monthly?

A. Random.

Q. Random?

A. Random.

Q. I'm gonna ask -- I'm gonna ballpark it, did you see contraband come in once a month? Was it like on a weekly basis? Was it like --

A. I didn't see contraband, period, but when they did it was random, because they couldn't -- they can't plan something like that --

Q. Right.

A. -- there.

Q. Did you ever see contraband in the Savannah unit?

A. Contraband into the Savannah unit?

Q. Yeah.

A. Oh, contraband in the unit? Yeah, they did.

Q. Okay. Previous to Mr. Holmes dying, when was the last time they had been there?

A. I'm not sure, ma'am.

Q. Okay.

A. I can't remember that.

Q. You can't remember that? All right. Now, and I believe you testified yesterday there's numerous

gangs on the unit?

A. Of course, yes.

Q. All right, okay. And there -- you said there had been a riot in the prison?

A. Yes, ma'am.

Q. Okay. And do you know if was that a gang riot?

A. Not exactly, it was a -- everybody in the unit was upset with the way that they were being treated, and they refused just to go inside the building, so that turned into a riot, yeah. So it wasn't one gang in particular, no.

Q. Okay, right, because, you know, I mean they're not -- it's not the most humane place to live, right?

A. No, not at all.

Q. All right. How long had the bathroom not been working in your cell?

A. As long as Mr. Holmes didn't want it to work. He worked with Maintenance, so, honestly, it was a way to keep the door open -- the doors open.

Q. Mr. Holmes wanted the door open?

A. He had access to -- when you get around, everybody else's door would be locked, and, honestly, if he wouldn't have worked for maintenance, I'm told

it wouldn't be messed up, he'd probably still be alive today.

Q. Okay, well, Mr. Holmes wanted his door unlocked?

A. Yes, ma'am.

Q. All right, and when you had to use the bathroom, did you have to use the common area bathroom?

A. Yes, ma'am.

Q. All right, and how many toilets are in there?

A. Several, but I mean, I'm not sure.

Q. Let's talk about.

Do you ever recall them removing toilets on the unit, because they weren't being cleaned.

A. Because they weren't being cleaned?

Q. Uh-huh.

A. No, ma'am.

Q. No? All right. Was there only one toilet, so --

A. No, there was several toilets on the outside on the common area.

Q. Several toilets on the common area?

A. Not all of them were working either. Like it was various, like a couple would work, out of four maybe two would work. I mean, you know, just because

I guess prior to them including one in every unit, they had all of them, there was plenty of toilets out there.

Q. All right. Now, you lived on the unit for about six months, so you got to know people on the unit?

A. Uh-huh.

Q. All right, cool. All right, I'm gonna put up this diagram you see. The same one you saw yesterday. And if you don't mind --

MS. CARMODY: Your Honor, may the witness step down, please?

THE COURT: Yes.

BY MS. CARMODY:

Q. Okay. All right. There's been a little bit of confusion as to where exactly people lived, so I want you to help us out with that, okay?

A. Uh-huh.

Q. This is the Savannah unit, right? Okay, great. All right.

Would you mind using this sticky pad here, and write down who lives in, like so for instance, cell number one? Could you write down who lives in cell number one, and just put it with cell number one.

A. And you need to remember this has been a long

time ago, and the only reason I believe it was cell 22 is because of what happened.

Q. Okay. Could you write down their names for me?

A. I don't know how to spell it.

Q. Well, can you say what the name is, and I can probably help you try to spell it.

A. Well, Bowleg.

Q. Bowleg? That would be B-O-W --

A. That's the one they called Animal.

Q. Could you speak up, sir.

A. I'm trying. Ma'am, I'm trying to recollect --

Q. Okay.

A. -- his name. Junetown, and I don't know how it would be spelled, because it -- I never understood his name, you know.

Q. Just however you want to write Junetown is fine.

A. Okay.

THE COURT: Kymberlee, can you hear? Are you okay?

COURT REPORTER: Yes.

BY MS. CARMDOY:

Q. And how many people live -- where does

Junetown live?

A. Cell one.

Q. Cell one? Who lives in cell one with Junetown?

A. Bowleg.

COURT REPORTER: Ms. Carmody, could you -- I need to see him.

MS. CARMODY: Oh, I'm sorry.

COURT REPORTER: Thank you.

THE COURT: Who lives -- I'm sorry?

WITNESS: Bowleg

THE COURT: Bowleg?

WITNESS: Yeah.

THE COURT: Thank you.

BY MS. CARMODY:

Q. Thank you. Did you write his name down as well?

A. Yes, ma'am.

Q. Okay. Could you put just number one, and put it right here?

A. (Indicating.)

Q. All right, so who lives in cell number two?

A. I mean I didn't get to know every individual in there, obviously, there's a lot. There's two people per cell.

Q. All right, fair enough, so put number two with a question mark.

A. If you're wanting me to go through every one of these rooms, there's gonna be a lot of question marks.

Q. If you could put cell number two.

A. Do you want me to just -- it would be a lot easier for me to write down --

Q. How about --

A. -- the people that I did know their names, and put --

Q. Sure.

A. -- it in there.

Q. Sure, let's do that, and then you can assume that everybody else you don't know who they are lives there --

A. Well --

Q. -- that's fine.

A. -- essentially, we had one person right here that I remember.

Q. Okay, which number is that?

A. I think it was -- that's what I'm saying, I don't -- ma'am, this has been years and years ago, and I did my best to try to forget this.

Q. I understand.

A. I didn't want to relive this every day of my life.

Q. Well --

BY THE COURT:

Q. So, Mr. Chappell --

A. Yes.

Q. -- sir, I just need you to answer the questions as best you can. If you can't remember, you can say I can't remember.

A. Yes, ma'am.

Q. And that's fine, okay, but I just -- you just try, and if you can't, then we understand --

A. Okay.

Q. -- okay? Okay.

BY MS. CARMODY:

Q. Do you remember which cell Animal was in?

A. I think it was 28.

Q. Okay, you --

A. Not sure.

Q. Question mark, you're not sure, that's fine. Okay, that's fine. All right, who else?

A. I mean Country and I.

Q. Okay.

A. And how is this laid out as far as the ones above it, because it's double-deck?

Q. Well, this is only the first floor that we're looking at right here.

A. Okay,

Q. Okay.

A. You've pretty much got here what I have -- what I remember.

Q. This is all that you remember?

A. I remember a dude that stayed down a couple from me, that his nickname was Florida Boy, now --

Q. Okay.

A. And, you know, I talked to him a good bit. I don't remember -- I remember faces better than I remember names.

Q. Oh, okay, so --

A. And I can't --

Q. Well, Florida Boy, where does he live?

A. He was a couple down. We could hear each other through the vent, so I'm not sure. He was on this row.

Q. Okay, Florida Boy with a question mark, that's fine.

A. I think it was seven. Hang on, let's see if -- I can't remember the guy's name. And I remember -- I think that Mr. DuBois' roommate's name was Cowboy, but I'm not 100 percent sure of that.

Q. All right, where does he live?

A. 22. I'm trying to think of the other guys' names.

COURT REPORTER: I can't hear you and Ms. Carmody.

BY WITNESS:

A. I'm not -- I'm trying to thin of other people's names, but the only reason these names are relevant to me is because of the situation that occurred, you know?

A. Okay.

Q. Prior to the situation, did you know any of these people?

A. Did I know any of these people?

Q. Uh-huh.

A. Yeah.

Q. You guys lived on the unit for six months you said at least, right?

A. I saw them every day, yes, ma'am.

Q. All right. So right? Do you know anybody else's named who lived there?

A. I did at the time. This has been a long time ago.

Q. That's fair enough. This is what you remember?

A. Yeah.

Q. Anybody else?

A. I mean I knew people on the top there. I could tell you them, but you don't have a picture of the top deck here.

Q. Who do you know there?

A. There were a couple people on the top I knew.

Q. Do you know what cell number they lived in?

A. Well, I can't, because I don't know the cell numbers, so, no.

Q. Okay, what about this side, this side? How about that? Do you know where they lived at all on the top deck?

A. No, ma'am, I --

Q. All right. Thank you. All right. All right, now, I want to ask you some specifics about the night that Country died, okay? All right, do you remember what date it was?

A. No, only because of what -- I don't even remember from yesterday, but --

Q. You don't remember what you testified to yesterday?

A. No, I remember what I testified, yes, but I don't remember what the date was of the incident.

Q. Oh, okay. Do you -- you don't have any idea

what day of the week it was?

A. No.

Q. All right. What is the name of the guard that was on the unit on June 21st?

A. That I --

Q. You don't know?

A. No.

Q. Was he black or white?

A. He was black.

Q. Okay.

A. I hardly ever saw him. He came to count the least of any guard on the yard.

Q. Okay. What time did the guard come on the unit that night?

A. The last count is right around lights out, I'm not sure exactly what time it is, around 9:00, maybe.

Q. So the guard was last on the unit at 9:00 p.m.?

A. Yeah, somewhere around there I'm pretty sure.

Q. Was that the time that he came on, or is that the time he left? Sorry.

A. I don't know their schedule, ma'am.

Q. You don't know? Okay. All right, so you don't know what time the guard usually comes on the

unit every night?

A. I'm not -- we don't get to see the exchange of them coming in and out. Like you see them coming and going, but you don't know if they just clock in, or they just clock out or what, you know, when they come. I'm not sure of their schedule.

Q. All right, so after living on the unit for six months to a year, you don't know approximately what time the guards change shift?

A. No, ma'am.

Q. No? Okay. All right, do you -- are you -- do you know when's the last time you saw him that night, the guard?

A. Yeah, the last count of the night before everybody is put up off of the rock, off of the common area.

Q. What time is that?

A. I don't remember exactly, around 9 o'clock I'd say.

Q. 9:00 p.m., all right. Do you remember when's the next time you saw the guard?

A. Yeah.

Q. What time was that?

A. Like 3:30 in the morning, 3:45, something like that.

Q. 3:30 to 3:45 a.m.?

A. Yes, ma'am.

Q. All right. Now, you had indicated yesterday that Country was a member of a gang.

A. Yes, ma'am.

Q. All right, that he had done time in prison?

A. Yes, ma'am.

Q. Okay. Did he talk to you about that?

A. Yes, ma'am.

Q. All right, so you have -- you're aware of his gang affiliation?

A. Yes, ma'am.

Q. All right. And you had indicated that Country had issues. What do you mean by that?

A. Issues?

Q. Issues, yeah.

A. Well, I mean we all have issues, right?

Q. Right, so what issues did he have?

A. What issues did he have, besides -- I mean I don't know what kind of issues he had. Physically, mentally?

Q. Yeah, I know you said Country had issues, but what do you mean by that?

A. I mean we all have issues, you know. I don't know, Country had done a lot of time in prison.

He was known for -- when he was out in the streets, you know, I'm sure he was there on gun charges, and drug charges, and he'd just done a lot of -- he was institutionalized is pretty much the issue that he had, that he was institutionalized.

Q. Okay, so living with Country for six months you determined he had been institutionalized, right?

A. Yes, ma'am.

Q. Was your perception of him? Okay, all right, and Country, we're talking about Jerry Holmes your roommate, right?

A. Yes, ma'am.

Q. All right, and you had indicated that Country was in a gang, and that he was a white supremacist?

A. Yes, ma'am. Well --

Q. All right.

A. -- one of the white supremacist groups. I'm not sure that -- he was a part of -- I'm not sure if that's different from the other ones, or whatever, but he claimed to be AV, and that's what I remember.

Q. He claims AV?

A. Yeah, or he claimed that he is that.

Q. Okay. All right, now, I forgot to ask you earlier, Casey, how tall are you?

A. 6'1" probably.

Q. 6'1"?

A. Yes, ma'am.

Q. All right. Do you know about how much you weighed at the time?

A. How much I weighed at the time? I'd say 190, 180, 190 something.

Q. 180 to 190, and this is back in 2017, right?

A. Yeah.

Q. Okay, all right, 180 to 190, all right. And you indicated that Mr. DuBois was a friend of your cellmate?

A. Obviously not. He seemed to be a friend prior to the incident.

Q. Okay, fine. So did you see him often?

A. I saw him every day.

Q. All right. And do you recall him having any type of surgery, or anything like that?

A. He had a lot -- he was dealing with medical issues at the time, yes.

Q. What do you mean by that?

A. He -- that's the reason he was able to be outside of his cell --

Q. Okay. So that's speculated. I'm asking you just what medical issues he had.

A. He had cancer, ma'am.

Q. What other medical issues did he have?

A. I'm not sure. Oh, he did have surgery, like -- I don't remember what it was.

Q. Did he have icepacks in any particular location on his body?

A. Not that I remember?

Q. No? All right.

A. Mr. DuBois was out in Medical a lot.

Q. He was in Medical a lot? Okay.

A. Yes.

Q. All right.

A. That's why he was out that night.

MS. CARMODY: All right, again, sort of speculative, and move to strike that, Your Honor.

THE COURT: You asked the question and --

MS. CARMODY: I asked about his medical.

THE COURT: -- because you elicited it, then you can follow-up, and ask him about some, but you can redirect him.

It's your question.

MS. CARMODY: All right.

BY MS. CARMODY:

Q. All right, so the -- so DuBois was in a medical a lot, all right. Now, you had indicated yesterday that there were a lot of gangs on the unit.

Now, how do you know if someone's in a gang?

A. Because they click up, they all hang out together. You can tell who is in what gang by who they associate with, how -- I mean they're separated and clicked up.

Q. What -- but how do you know they're in a gang though? I mean they could just be hanging out, no?

A. Well, it's very much announced, and they throw gang signs, and very obvious, ma'am.

Q. So you're aware of the gang sign for the gangs on the unit?

A. Certain ones.

Q. Which ones?

A. Well, I mean I know the sign for Blood, I know the sign for the Gangsters. I know that the handshake with the Crips what they are partially. I know when they were doing it what, you know, what they were affiliated with. I couldn't do it with you right now, but, you know --

Q. Do you know --

A. -- I know when I saw it.

Q. Okay, so you're familiar with the gang signs for the Bloods?

A. Yes, ma'am.

Q. Okay. Now, I want to confirm the timeline

for Mr. Holmes' death, okay? All right?

So what time did -- what time are you saying that Mr. DuBois came to your cell? What time was that?

A. Whatever time it was --

COURT REPORTER: I'm sorry, repeat it.

BY WITNESS:

A. Right after that. I'm not exact -- exactly sure of the exact minute of the time, or hour.

I didn't go to Medical, but it was when Medical was released for the night, right after him returning from Medical.

Q. Okay, can you give us a ballpark?

A. After that count. Between that count and later the second -- the next count to come on.

Q. Okay.

A. I'm not exactly sure.

Q. That's all right. Are we talking about 3 o'clock in the afternoon, 7:00 p.m., 11:00 p.m., 2:00 a.m.? Like what -- give me a ballpark.

A. Sometime between 9:00 and 11:00 p.m. let's say.

Q. Between 9:00 and 11:00 p.m.?

A. I would think so, something like that.

Q. You think it's between 9:00 and 11:00?

A. Yeah, because I mean I didn't check the

clock, you know, I was a little worried about some of the issues going on, because it was very hectic.

Q. Okay, all right. And so sometime between 9:00 and 11:00 you say Mr. DuBois came to your cell, right? Is that correct?

A. Yes.

Q. Okay. Now -- and then -- one moment.

A. If I don't know, should I -- I don't want to throw you a number, and it not be right, because I don't know exactly, honestly. Then you're telling me ballpark range, but, you know, guess, and guessing is not giving you an accurate answer, honestly.

Q. If you don't know --

BY THE COURT:

Q. And I want you to do that, if you do not know, then you just say, "I do not know," and then she may follow-up and ask you, "Well, can you give me a guess?"

And if -- that's fine, if that's what she's asking for, but if she's asking you for something specific, and you can't answer it, you just need to say, "I don't know."

A. Yeah.

Q. "I can't be specific."

A. Yeah.

Q. And then she'll follow it up, okay?

BY MR. SMITH:

Q. Well, that's the case with that. I can't be specific as to exactly what time he came, 'cause it's been a while.

Q. Okay, all right. All right, yesterday you testified that you are not the same person that you were in 2017?

A. Yes, ma'am.

Q. Okay. And back in 2017 you were a drug addict?

A. Yes, ma'am.

Q. All right. What types of drugs were you using?

A. I've had my issue with all kinds of drug, ma'am. Everything but crack.

Q. How about heroin?

A. Yes, ma'am.

Q. Okay, methamphetamines?

A. Yes, ma'am.

Q. All right, you also testified yesterday there's more drugs in the prison than there are on the streets, correct?

A. There was a lot of drugs in prison. A lot easier to find in prison than on the streets.

Q. All right. And you also testified yesterday that you were with Holmes all night except for ten seconds, correct?

A. All night but ten seconds. No, I was -- I had left the room, and it hadn't been that very long after I left the room. When I said ten seconds, it was long enough to walk away from the room, turn away to walk out of the room and walk across the rock, I could hear the noises.

Q. Okay, so --

A. Yeah.

Q. All right, prior to the incident occurring, were you with Holmes all night?

A. All night? Yeah, and like I said, yes, ma'am, he never --

Q. Okay.

A. -- wanted to stay inside the room.

Q. Yes, okay. So then you and Holmes were actually using methamphetamines that night, correct?

A. No.

Q. No? Was Holmes using methamphetamines that night?

A. I'm trying to think, that night?

Q. Yes, sir.

A. I'm trying to think that night, ma'am, is, I

don't think, maybe earlier in the day, but not that night.

Q. Okay.

A. I'm not sure, but he got paid by people a lot of times with drugs.

Q. Sure. So, again, what I'm asking you is, during -- let me rephrase it then. On June 21st of 2017, the night that Holmes died, at any point during that day were you and Jerry Holmes using methamphetamines?

A. I'm not sure of that day, ma'am.

Q. You're not sure?

A. I had used with Jerry, I'm not sure if it was that day. There was one time that Jerry and I had got high together, and then -- and it was -- I'm not sure if it was that day or not, honestly, I don't remember.

Q. Didn't you just testify you were with him?

A. Yeah, but --

Q. Okay. If he used methamphetamines, he would have been in your presence, no?

A. Yeah, but they're very expensive, it's not like you just share methamphetamines in prison, it costs a lot of money.

Q. You just also testified that you were a drug addict and used meth, correct?

A. Not in prison. I didn't use meth in prison one time.

Q. Are you saying you didn't use methamphetamines in prison?

A. I said I only used it one time.

Q. Only one time in prison?

A. Yes, ma'am.

Q. All right. Have you ever said that the first thing you think about when you wake up in the morning is using drugs?

A. Of course, I was an addict for a long time.

Q. You were a very bad drug addict, right?

A. Yes, ma'am.

Q. All right. Do you recall seeing Nurse Trenton Smith that night?

A. No.

Q. No? Nurse Trenton Smith did not talk to Mr. Holmes that night?

A. Not that I remember.

Q. No? Well, you would have seen them because you were in the cell, correct?

A. Like I said, it's been a long time, but I don't remember that no. I didn't -- I don't remember every time that Jerry spoke to a nurse. I guess it's not something that I kept track of.

Q. Okay, but you did testify earlier you were both in the cell together?

A. Yeah, but I mean at the same time throughout that day -- that night, yeah, we were in the cell together, because after lights out they locked the doors, and, you know, we're not supposed to be out on the rock.

Q. Uh-huh.

A. So if the CO were to catch us out on the rock, you know, we'd be in trouble. The only reason I was on the rock was because I couldn't be in my room.

Q. Prior to Mr. Holmes' death on the same night did Nurse Trenton Smith visit your cell?

A. Not that I recall.

Q. Okay, so you weren't always a drug addict, were you?

A. No, ma'am.

Q. No, you weren't born a drug addict, right?

A. No.

Q. Do you recall being in a very, very serious altercation prior to going to prison?

A. When I was 18, yes, ma'am.

Q. All right. And as a result of that prior altercation, you were hit in the head?

A. Yes, ma'am.

Q. Okay. Do you recall being in a coma for several months, as a result of being hit in the head?

A. No, ma'am.

Q. You don't recall being in a coma?

A. No, I recall being in a coma, but not for several months.

Q. Months?

A. I was in a coma for two weeks.

Q. Two weeks?

A. I was in the hospital.

COURT REPORTER: I was in the hospital for what?

BY MS. CARMODY:

Q. You suffered a very serious head injury?

A. Yes, I had a TBI.

Q. I'm sorry?

A. Traumatic Brain Injury, yes, ma'am.

Q. Traumatic Brain Injury, okay.

A. And I was recovering, thank God.

Q. All right.

A. And I've also had three years clean.

Q. Sure, sure. Now, when you woke up from the coma, you needed pain medicine, correct?

A. I wasn't trying to get medicine. Yes.

Q. All right, and that is what actually led to the heroine use, right?

A. Yes.
Q. Okay.
A. Unfortunately, it's that way with a lot of addicts.
Q. It is, you're right, absolutely. All right. So at the time of Mr. Holmes' death, you had a traumatic brain injury and were a very bad drug addict?
A. At the time I hadn't recovered from the TBI. I had to have a full recovery by that point.
Q. You say you're fully recovered from the TBI?
A. I would say so, yes. Except maybe my -- I mean I wasn't supposed to walk or talk again, so I would call this a full recovery, yes.
Q. The injury was that severe that you couldn't walk or talk?
A. Yes, ma'am. I woke up out of the coma, you know, with bleeding on my brain, to the point of I had to walk and talk again.
Q. Wow, okay. All right, a very significant head injury, right?
A. Not significant enough for me not to know what happened that night if that's where you're leading.
Q. I'm just asking you a question, sir, only a

question.

A. Okay.

Q. All right. Now, you testified earlier that Country was in a gang, and he was a loner, right?

A. Well, I never used the word loner, what I said was that there was not a lot of people in that gang on that yard. It's more of a federal level thing than a state level thing.

Q. And Mr. Jerry Holmes had a lot of problems with people on the unit?

A. He created on his own, yes, ma'am.

Q. All right. Would you agree that Mr. Jerry Holmes not having any gang affiliation on the unit, I mean more of it being a prison gang, and having problems with people on the unit, that he wouldn't have been a good ally to you for protection?

A. Did I ever say I used him for protection?

Q. Would you consider Mr. Jerry Holmes a good ally for protection against the gangs on the unit?

A. I wasn't under threat by any gangs on the unit.

Q. Would you consider Mr. Jerry Holmes a good ally to you?

A. Yeah, he --

Q. Now, prior you testified in your own words,

that Ridgeland Correctional Institute is a warzone, right?

A. Yes, ma'am.

Q. All right, and there's a room full of killers?

A. Yeah.

Q. All right.

A. Yes, ma'am.

Q. And it's a terrifying place to live in?

A. Yes, ma'am.

Q. Okay. You have your cellmate who has issues with a lot of people on the unit?

A. Not just the unit, on the yard.

Q. On the entire yard?

A. Yes.

Q. A lot of people don't like Holmes, Jerry Holmes. When I say Holmes, I'm referring to your roommate, Country, right? Okay. A lot of people don't like him.

A. He made it hard to like him sometimes and --

Q. Made it hard to like him, all right. Now -- fine.

A. But this was the direct result of not his personality. People would dislike him because -- of him not coming through with promises made.

Q. So he owed people a lot of money?

A. He owed tattoos, he owed money.

Q. Tattoos and money?

A. Yep.

Q. All right.

A. Yes, ma'am.

Q. He's also selling contraband, is he not?

A. What do you mean by the tattoos?

Q. No, no, is he selling contraband?

A. No.

Q. Didn't you testify yesterday that he works outside, so he could get contraband?

A. I said that he went outside so he could keep them on the yard easily, yes, but I didn't say so he could get contraband. He knew somebody on the other side of the yard in another unit that was getting contraband in, it wasn't for him directly.

Q. Who was the contraband for?

A. I would imagine one of his people he was affiliated with on the yard, I'm not sure.

Q. All right. Now, would you agree with me -- you say that -- sorry, Country or Holmes owed money to people, and that's not only for the tattoos, right? He owed money to people, but it wasn't only for tattoos, right?

A. Yeah.

Q. What other things did he owe people money for?

A. Drugs. Drugs.

Q. Drugs?

A. Yeah.

Q. Okay. But drugs are not sold at the commissary, right?

A. Yeah, obviously not, no, ma'am.

Q. All right, so, again, I'm gonna ask you, is Jerry Holmes bringing -- involved in bringing contraband into the prison?

A. When I said that he was involved in having contraband, yes. Involved in bringing it into the prison, that one incident that I spoke about on the yard, whenever him and I got into that altercation, was the only time that I ever had any knowledge of it, other than the fact that he was in the middle of trying to help, but he neve did that I know of.

Q. All right, that's actually what I was going to talk to you about. So Country owed money for contraband to the Bloods, correct?

A. Yes, ma'am.

Q. Okay. And the reason that he owed money for contraband to the Bloods is because he was selling it

for them, correct?

A. No, he was using it.

Q. Well, he was supposed to sell it for all of them?

A. No.

Q. He wasn't supposed to be selling the contraband for the Bloods?

A. No, ma'am, he was a user, he wasn't a distributor.

Q. Okay, so he owed the Bloods money for the drugs that he was using?

A. Yes, ma'am.

Q. How often would he use?

A. Toward the end a good bit, yes.

Q. Every day?

A. You can't even afford to do it every day, no.

Q. No? What happened when he used methamphetamines?

A. You mean what happens when you use methamphetamines? You get -- it's an upper, so it's a stimulant. You don't sleep, you're paranoid, you get antsy.

Q. Oh, wow.

A. There's a lot of issues that come with it.

Q. All right.

A. Prison isn't the place that you want to be doing methamphetamine.

Q. With all those people, right? You've got all those gang members there, yeah, I can imagine, all right. Would you say it gives somebody a false sense of confidence maybe?

A. Yes, ma'am.

Q. All right. It heightens their senses?

A. No, ma'am, not at all.

Q. Doesn't it --

A. It may in the beginning as the initial rush, but in the long run, no, it -- no, the fall and the come down from it that is something that will put you in a stupor, and it's not your senses are heightened up again. So I mean it's a very, very short reward for, you know, a whole lot of downtime afterward.

Q. All right.

All right, now, isn't it true that you and the Bloods had a conversation about the money that Jerry Holmes owed the gang?

A. No.

Q. No?

A. No.

Q. Isn't it true that the fight that you had with Mr. Jerry Holmes was related to you speaking to

the Bloods about where their money was?

A. No.

Q. No? And you never had a conversation with the Bloods about what your cellmate was doing with the methamphetamines?

A. No.

Q. No? All right. And what was this fight with you and Mr. Holmes about?

A. To me, to my knowledge, it's about him hitting me in the face with a glass of water, until we got back to the unit, and he informed me why he hit me in the face with a glass of water.

Q. Mr. Holmes accused you of letting the Bloods know that he was using the drugs instead of selling it for the gang, correct?

A. No, ma'am. No, ma'am. He wasn't supposed to be selling the drugs. I told you, he was a user, not a distributor.

Q. He owed them money. The Bloods wanted to know where their money was, right?

A. Yes, ma'am.

Q. Now, you also testified yesterday that this glass of water incident -- now, you're talking about a glass, right?

A. I'm talking about a plastic cup, ma'am.

Q. A plastic cup now, it's not a glass? So --

A. Yes, ma'am.

Q. -- he hit you upside the head with a plastic cup now; is that your testimony now?

A. He doused me with a glass of water, with a plastic cup of water, ma'am. He --

Q. Okay.

A. -- took the water that was in his plastic cup, and he doused it in my face.

Q. Okay, so now it's your testimony, as we went from him hitting you with a glass of water, to now he -- now it's a plastic cup, and he just tossed it at you in your face, right?

A. To my knowledge, ma'am --

Q. All right.

A. -- yes.

Q. It's all the same thing, right?

A. I mean when I said he hit me with a glass of water, I -- that's what I meant was he threw a glass of water on me, not that he hit me over the head with a glass of water.

Q. And that resulted in a physical confrontation between you and Jerry Holmes?

A. Yes, ma'am.

Q. All right. A significant physical

confrontation, no?

A. Significant?

Q. Uh-huh.

A. For what?

Q. A physical confrontation?

A. No. I mean it was -- I had a black eye, he had a black eye, and I had a lip split.

Q. A busted lip, black eye, all right, great, so --

A. Significant out here maybe, in prison, no.

Q. You testified yesterday that this incident had occurred weeks prior, correct?

A. It was prior. I don't know exactly. Like I said, the time gets a little blurry, considering it's been years since this happened. And like I said, to my knowledge, this was all over with when Mr. DuBois had --

Q. So --

A. I didn't expect to have to remember this again.

Q. When did you and Jerry Holmes get into a physical altercation?

A. In the amount of time that we were roommates, sometime while we were roommates. I can't tell you a specific date.

Q. All right, and you had a black eye, right?
A. Yes, ma'am.
Q. Mr. Jerry Holmes had a busted lip?
A. No, I had a busted lip.
Q. You had a busted lip and a black eye?
A. Yes, ma'am.
Q. All right. Are you aware that on the night of Mr. Holmes' death you had a black eye?
A. That who had a black eye?
Q. You did.
A. Yes.
Q. And a busted lip?
A. No, that's not right.
Q. No? And I want to show you what's been pre-marked as -- I'm sorry, what's been admitted as Defense Exhibit 16. Do you recognize that, sir?
A. It just looks like a bloody mess to me, ma'am.
Q. All right. Did -- are those yours?
A. The papers?
Q. And -- so this plastic bag here was found in cell five, your cell and Mr. Holmes' cell.
A. No, I don't even know how they came up with a trash bag like that. We're not allowed to have trash bags in the room.

Q. You're not allowed to have a trash bag?

A. We didn't have a trash bag in there prior to the incident.

Q. So you're telling me that this trash bag is new?

A. I'm telling you that that trash bag was not in our room prior to the incident. I've never seen the trash bag.

Q. Okay, so if this was collected from cell five, where would it come from?

A. Your guess is as good as mine.

Q. All right. Do you know where these bloody tissues came from?

You know, we have had instances where evidence has been picked up and moved in this case, so what do you think about that? Do you think you had those bloody tissues in your cell maybe, and that somebody picked them up and put them in the trash?

A. I imagine there was a whole lot of bloody tissue by the end of the night, ma'am.

Q. Well, look at these right here.

A. And that one of them is not a tissue, that looks like a scrap of clothes, or something, or cardboard, or something right there.

Q. So let me show you a little bit closer up.

A. But if you're asking if the bloody tissues are mine? No. No. I didn't touch any blood that night. I stayed away from it.

Q. You weren't cleaning that night, is that what you're testifying to?

A. I didn't touch his blood, and I was not cleaning that night, yes, ma'am, I am testifying to that.

Q. All those are located within cell five. Do you know where they came from?

A. What is that?

Q. These were located within cell five --

MR. EVANS: Objection.

BY MS. CARMODY:

Q. -- where they came from?

MR. EVANS: I think she's testifying these questions. I'd like for her to make it a question to him.

THE COURT: You need to ask a question.

BY MS. CARMODY:

Q. Do you know --

A. No, ma'am.

Q. You don't recognize these?

A. What are they? What are they?

Q. Well --

A. Are they in evidence?

Q. So this is the trash bag here.

A. I don't recognize any of that from cell five, ma'am, because after the incident I didn't get to go back in cell five. Like I said, I opened the door, and I peeked in long enough to see that there was no help for him, and I closed it, and I hid on the rock until the CO came for me.

Q. Weren't you living in for six months?

A. I was living in the cell, yes, ma'am.

Q. All right.

A. But I mean I did ask you if you could tell me what that was that I was looking at.

Q. I did.

A. And you did tell me what it was?

Q. Yeah. These here are bloody tissues from cell five.

A. So you're asking me if -- are those my tissues? And I'm supposed to be able to differ those tissues from any other on the face of the earth? They're not mine, because they had blood on them, ma'am, no, ma'am.

Q. All right. You don't remember when the fight you got into with Mr. Holmes was?

A. Honestly, no, not the date.

Q. And what was the reason that you and Mr. Holmes had a physical altercation?

A. Because he hit me with a plastic cup of water. I don't know how to go about saying this any other way, ma'am. I was disrespected, I was hit in the face with a glass of water, doused, not hit over the head, doused.

Q. All right.

A. You know, kind of like a slap in the face, disrespected, but, yeah, I mean --

Q. All right, and what did you do as a result of that?

A. I swung on him.

Q. What?

A. I took a swing at him.

Q. Okay, and then --

A. And I honestly missed the first swing. He got in the first good shot, he swung at me, knocked me down to the ground. We got on the ground, got rolling around. So, apparently, somehow I got him, 'cause he ended up with a black eye too, you know, and that's -- they -- I mean you don't have very much time when you're on the yard to fight. It was very short-lived.

Q. And --

A. It was --

Q. -- you don't recall -- do you recall, or are you saying that it did not happen at or near the time of Holmes' death?

A. I'm saying it did not happen as -- it had no connection with Holmes' death.

Q. That's not what I'm asking you. I'm asking you --

A. It didn't happen at the time of Holmes' death.

Q. Did it happen on the day of Holmes' death?

A. No.

Q. Okay. And there's no reason, to your knowledge, that Nurse Smith would have been there to visit Holmes that night?

A. If she came, I don't know why, it wasn't in regard to our altercation.

Q. Okay. You became friendly with the Bloods, didn't you?

A. Nah.

Q. Huh?

A. Not exactly, no.

Q. Are you saying that you've never been --

A. Friends with a Blood? I'm sure I --

Q. Well --

A. I'm sure I have been friendly with a Blood,

yes, ma'am, when I did a stint in prison, I'm friendly to everyone, so --

Q. And you know the members of the Bloods, they were very -- one of the very few people that you could recognize on the yard, right?

A. That's because of the amount of time. If you would have been able to -- if this trial would have happened six months or a year after the incident, I could have told you a couple handfuls of those dudes names.

Q. All right. All right, because your recollection at the time back in 2017 would have been more accurate than it is now, right?

A. Yeah, of course.

Q. Fair enough. Yesterday you testified to the jury under oath that you left the room, because Ben had shown you an icepack, correct?

A. Yes, ma'am.

Q. In your prior statement, you've given several statements in this case, but in one of your prior statements do you recall giving a statement to Agent Garvin -- Griffin, I'm sorry, no, Agent Garvin, yes, on June 22nd?

A. Ma'am, I don't remember the names of the officers like that.

Q. Oh, yeah, sure. Do you recognize him?

A. I mean I don't remember giving a statement -- I don't remember the date. You're asking me a certain date, and I remember giving a statement on a certain day, a certain time.

Q. Do you remember having a conversation with this man?

A. I remember giving a statement.

Q. Sure, okay. You've given several statements, right?

A. I gave a statement in the original yard, if I remember correctly, and then I gave a statement because I was visited several times by SLED.

Q. Okay, so back to my question, yesterday you said the reason that you had left cell five was because Mr. DuBois had showed you an icepick, right?

A. He did and yes.

Q. Okay. In your very first statement to Agent Garvin, isn't it true that you told him the reason that you left cell five is because you went to go watch TV on the rock?

A. Ma'am, that first statement, if I may be very honest, I was scared to death. I had no idea what to say, and that's the reason I gave another statement that was truthful, that I could -- when I had my head

on straight. I was so -- I've never witnessed or been around anything like that.

Q. All right, your very first statement to law enforcement, your very first statement, is that you left the room to go watch TV, correct?

A. I don't know.

Q. Are you saying you never made the statement that you went to go watch TV?

A. I'm saying that if it's on paper with my signature, then I must have said it.

Q. I'll show you, let me show you. I'm showing you a copy of your statement you gave to Agent Garvin. Do you recognize that statement?

A. Yes, ma'am.

Q. Your signature's on the bottom?

A. Uh-huh.

Q. Okay. And in that statement isn't it true that you told Agent Garvin the reason you left cell five was to go watch television?

A. Yeah, it starts out that Country and Animal wanted to discuss some business, so I stepped out to watch TV.

Q. Thank you, sir. No reference at all of any icepick?

A. No, ma'am.

Q. Okay. You also testified yesterday that you had walked -- when you left the room you had walked maybe ten steps to the area of cell 127, right; is that right, 127?

A. Right.

Q. Could you step down for a moment, sir, and show the jury when you walked in?

A. This area here to around right here.

Q. Okay. You believe you were out for maybe ten seconds, right?

A. It'd been more than a minute.

Q. And in your prior statements -- you also gave another statement about 24 hours after you gave the first statement, right? Well, the first written statement.

A. You're making it sound as if I wrote more than two statements, ma'am.

Q. Sir, did you give another statement 24 hours after writing the first one?

A. Yes, ma'am.

Q. Okay. That would have been on June 23rd, right?

A. I guess so, yes.

Q. Okay. Do you recall on June 23rd telling Agent Garvin that ten to 15 minutes had gone by before

you heard Country screaming?

A. Ma'am, at the time -- that's -- the amount of time of me leaving the room is something that, like I said, is a little foggy.

I don't remember exactly how long, because I didn't have a stopwatch. I wasn't sitting there counting the seconds that I walked out of the room waiting to hear. I just know that I had made it out of my room long enough to make it over to the corner, and that I started hearing it.

Q. What about watching TV? Weren't you watching TV on the rock?

A. No, that --

Q. You weren't?

A. That first statement -- there's a reason that I wrote the second statement.

Q. Are you telling the jury that your first statement was a lie?

A. What I'm telling you, is the first statement was written out of straight fear, and that I didn't know what -- I was scared to death at the time.

Q. In your very first statement to Deputy Garvin --

A. The TVs are, yes, ma'am.

Q. Sir, in your very first statemen to Agent

Garvin, on the same day that Mr. Holmes is found dead, your very first statement you tell them you were watching television. Is it your testimony today that that statement was a lie?

A. That I stepped out on the rock to let them handle business and watch television? Yes, ma'am, I wouldn't -- I had stepped out on the rock so that I wouldn't be involved in the murder.

Q. What about --

A. No, ma'am.

Q. Sir, what about you -- the whole story about you watching the news?

A. Watching the news? The TV was one of the only things that I had to do after the incident happened.

Q. Well -- but didn't you tell Agent Garvin though that you left the cell to go watch TV, and that you were watching the news, and that you heard Country screaming when you were watching the news?

A. Agent Garvin's one of the ones that helped me to grasp my bearings, and to understand that I had to make my statement actually be the truth word-for-word, that I had to -- I would -- I had never written a statement prior to those statements, you know, and I didn't understand the importance of that statement at

the time.

Q. You didn't understand the importance of telling law enforcement the truth?

A. No, that's not what I meant. What I meant was, I didn't understand that it was gonna be drug out five years later, and that I would be sitting in front of a courtroom off of that one paragraph statement --

Q. You --

A. -- that I wrote the first time that I wrote it. I had to write it a lot more in detail, and --

Q. Well --

A. -- I had to let -- I just had to let it be known really what happened, and I was scared when I wrote that first statement. So, yes, ma'am, that first statement was inaccurate.

Q. A lie?

A. It was inaccurate, yes, ma'am.

Q. Okay. Now, you just testified that Agent Garvin helped you to develop your statement, right?

A. No.

Q. No?

A. He helped me to understand the importance of me telling the truth, and making it so that now I would be able to make sure that the right man --

Q. Well --

A. -- was --

Q. -- at the time you were concerned that you would be a suspect in this case; were you not?

A. Well, I was his roommate.

Q. Okay, and isn't that why you told him that you left the room to go watch TV?

A. No.

Q. No? All right. Well, also in your very first statement -- well, actually, you know what? This is in your second statement, you're indicating that your second statement's truthful, right?

A. Yes, to the best of my knowledge, ma'am.

Q. All right, the second statement that you gave to Agent Garvin on June 23rd, 2017, 24 hours after you wrote the first statement, so this is June 23rd statement is truthful; is that what you're saying?

A. The June 23rd statement is true, yes, ma'am.

Q. Right, okay. Now, on June 23rd you tell Agent Garvin that people are standing in front of your door, right?

A. That people were standing in front of the door?

Q. That's what you told Agent Garvin.

A. There were individuals there, yes. There was a group of individuals all kind of -- they were out on

the rock, and they saw it and heard it. Saw Animal come out of the room --

Q. Sir --

A. -- saw him go in, yeah.

Q. Sir, okay. On June 23rd you indicated that after ten to 15 minutes after leaving your room, you saw people standing in front of your door?

A. There were people trying to see what was going on inside the room.

Q. Sir, my question is, ten to 15 minutes after leaving the room you saw people standing in front of the door?

A. Yes, ma'am, they were --

Q. And --

A. -- people standing in front of my door.

Q. And, sir, who was standing in front of your door?

A. Junetown was one of them. I don't remember -- they were trying to see what was going on inside of the room.

Q. Well, that calls for speculation, sir. I'm asking you who was standing in front of your door?

A. I know Junetown.

Q. Just Junetown?

A. I don't remember everybody's names, like I

said.

Q. What do they look like?

A. Ma'am, I don't remember everybody that was on the rock that night.

Q. Okay. You just remember Junetown, and that's it?

A. I remember Junetown, because he was the one that was the most involved in the incident.

Q. Sir, the person -- I'm not asking you about the incident, I'm asking you who's standing outside your door?

A. John -- Junetown was.

Q. Junetown? All right.

A. Yes.

Q. Do you recall giving specific names on June 21st?

A. No, I don't recall June 21st word-for-word, no, ma'am.

Q. Yesterday you testified under oath that you saw one person, Junetown, cleaning up blood in the -- which would have been the rock area?

A. It was more than one person; I just don't remember who they were. I mean more than one person helped clean up the mess, I just don't remember -- I mean I remember Junetown being one of the ones that --

Q. You keep saying Junetown, so I just want to confirm with you, where's -- you said Junetown does lived in cell one, correct?

A. Yes, I'm sure he --

Q. You're positive?

A. Yes.

Q. Sure, all right. Then you also testified that you saw Junetown using a mop to clean up, right?

A. He was -- yes.

Q. Do you remember in your second statement, the one that you're saying is truthful, that you told law enforcement that a man by the name of Squeak was cleaning up footprints with a towel?

A. Actually, Squeak is one of the individuals that I had forgotten his name.

Q. Oh, Squeak's one of those people now you don't remember?

A. No, but Squeak -- there's a -- there was a couple different people, ma'am, and I'm trying to remember everybody's name, because I know that it would be helpful for the Court to know everybody that was helping.

Q. Oh, very, we need to know who's involved in a murder, absolutely.

A. But I know that -- I know who committed the

murder, ma'am, I could tell you that.

Q. All right, you also testified yesterday that you saw Mr. Benjamin DuBois change his clothes, correct?

A. No, I didn't say that.

Q. You didn't say that?

A. I said I saw him after he had changed his clothes.

Q. After he had changed his clothes.

A. Which he had obviously changed, because when I saw him come out of my room, he was saturated with blood.

Q. Okay, so -- hold on. When you saw Benjamin DuBois later that night, it was not the same individual that you saw coming out of your cell, correct?

A. Yes, it was the same individual with different clothes on.

Q. Different? Okay, so the individual had different clothes on and what else?

A. What do you mean?

Q. What else was different?

A. He wasn't as covered in blood as he was when I first saw him.

Q. Okay, all right.

A. He had made some attempt to clean himself up.
Q. Sure, but you didn't actually see that.
A. I didn't see the attempt of him cleaning himself up, no, ma'am.
Q. Sure, okay. You also testified yesterday that your cell door was closed?
A. It was.
Q. All right. And you testified that the window to the cell was covered, because Holmes does tattoos?
A. I mean there's tons of reasons it's covered.
Q. That the lights in the cell were used to make weapons?
A. Yes.
Q. That the lights in the Savannah B unit are dim?
A. Yeah.
Q. And that you did not see who killed Holmes?
A. Yes, ma'am. I just saw Mr. DuBois go in and come out. Nobody else went in or came out.
Q. All right.
MS. CARMODY: Beg the Court's indulgence.
BY MS. CARMODY:
Q. All right, you testified yesterday that the gangs were wanting Mr. DuBois to take the blame for Holmes' death, correct?

A. Everyone knew that knew that he did it wanted him to take the blame for it, ma'am.

COURT REPORTER: I'm sorry, sir, repeat that.

BY MS. CARMODY:

Q. I'm sorry?

A. Everyone knew that he did it, wanted him to take the blame for it.

Q. All right, again, my question, you would agree then that the gangs want Mr. DuBois to take the blame for Holmes' death, right?

A. Yes, ma'am.

Q. Okay.

A. Because he did it.

Q. Sure, I understand. You just testified you didn't see who did it. Now, the --

A. Ma'am, I heard it, if I could visualize it good enough, I don't want -- I didn't want to see it.

Q. Okay.

A. I'm glad I didn't.

Q. Absolutely. Now, I want to talk to you about what you did that night. You testified that you left cell five now because you're scared, right?

A. Yes, ma'am.

Q. And the reason that you were scared is because you know that the Bloods have put out a hit on

your cellmate, Mr. Holmes?

A. Yeah.

Q. Okay.

A. No, the reason I was scared, because that person who had come to do the hit had just stepped into my room, and showed me the weapon that he was going to --

Q. Perfect.

A. -- perform --

Q. Fine, fine, fair enough. So your testimony is, is that you left the room now, because you're scared of Mr. DuBois?

A. I was scared about what was about to happen, yes, ma'am.

Q. Sure.

A. And I was afraid that I would get the same thing Jerry got.

Q. You were afraid you were gonna get the same thing that Jerry got? Okay, well, Jerry hadn't gotten anything at that time, had he?

A. He showed me what he was gonna give him though.

Q. All right. So you know there's a hit out on your cellmate, that there was?

A. Yes, and he knew too.

Q. Immediately upon leaving cell five didn't you go to see the Bloods?

A. No.

Q. You didn't testify that you went to go talk to the gang?

A. I went to go talk to the gangs, to the leader of every head of every gang in that unit, yes, ma'am, I did. I went from person-to-person, to tell them what had happened, because not everyone knew. Everyone was locked behind their door but a select few people.

Q. Okay.

A. And as I went around, I was asking the people that that had been in prison long enough to know what was going on, that had actually been around people who had been murdered. "What should I do?" Because I didn't know, I didn't know what to do.

Q. Sure. So, again, what I'm asking you is, you leave cell five, and you go talk to the gangs?

A. You said individually or more than one person at a time, ma'am. I went from door-to-door, speaking to people that had pull in the unit, trying to figure out what I should do about the situation, because I had no idea.

Q. Now, these are the same gangs that just put a

hit out on your cellmate?

A. Scared to death.

Q. You're scared, right?

A. The same gang -- when you say the same gangs, remember there were several different kinds it was. There were several different kinds of Crips, G's, white supremacist, there's several different kinds.

Q. You leave cell five, because the gang has put a hit out on your cellmate, and the very first people you go talk to are the people who put a hit out on your cellmate?

A. Ma'am, the gangs and the Bloods are two separate things. When you speak about me going to talk to the gangs, no, I didn't go directly to the Blood who put the hit out on Jerry Holmes door, and asked him what I should do, no, I didn't.

Q. You went to go talk to the gangs in the unit?

A. I went to go talk to people in the unit that I thought would know what it is I should do, yes, ma'am.

Q. What you should do, all right. That's right, you're asking them for advice, right?

A. Of course.

Q. Sure. And they tell you to go to Mr. DuBois' cell, correct?

A. Yesterday whenever I was trying to explain this to you, you kept saying that it wasn't relevant --

Q. I'm sorry?

A. -- because it was hearsay, because --

Q. You --

A. -- what they told me was hearsay.

Q. You cannot testify to hearsay. My question --

A. And you're asking me now what they said.

Q. I'm asking you if you went to, upon leaving the Bloods, did you go to Benjamin DuBois' cell?

A. After leaving the Bloods?

Q. Yes.

A. No, ma'am. No, ma'am, it wasn't the Bloods, informing me to go to his cell.

Q. I'm asking did -- after talking to the gang members, did you, or did you not testify yesterday that you went to Mr. DuBois' cell?

A. I was told yesterday that hearsay was speculation and that --

Q. I'm not asking you hearsay, sir, I'm asking you your movements. I'm not asking --

A. After I --

Q. -- you what you said.

A. -- went around and I spoke to everyone, eventually, yes, I ended up at Mr. DuBois' cell.

Q. Okay. All right. Now, from -- after speaking to the gangs you go to Mr. DuBois' cell. Mr. DuBois is the same person who you just said you left cell five, because you -- he showed you this --

A. Icepick that was about this long --

Q. -- ice pick.

A. -- and about this big around.

Q. Okay. So Mr. DuBois had just, what -- and how long is this? How much time has passed?

A. Oh, I'm talking about hours later.

Q. Oh, this is hours later now?

A. Maybe, yeah. It had been hours since I went -- when I ended up at Mr. DuBois' room --

Q. Uh-huh.

A. -- it was at least an hour later. I didn't go straight to his room. If I would have, I would be able to tell you how he cleaned up, who helped him, and all that. Like I don't -- I didn't see all that. And the time that he was cleaning up is the time that I was going around, trying to figure out if I should go to the CO, or --

Q. Sir?

A. -- if I should --

Q. Sir --

A. What I should do.

Q. -- you did not see Mr. DuBois cleaning up, did you?

A. No, ma'am.

Q. Thank you. Now, after leaving talking to the gang, you go to Mr. DuBois' cell and --

A. And he was cleaned up.

Q. Sir, I'm just asking you movements, that's it. Movements, just where you went to. After talking to the Bloods, you went to Mr. DuBois' cell?

A. No, ma'am. After talking to everyone that I spoke to, not Bloods intentionally. No, the person I'm speaking about that put the hit out on Mr. Holmes, I never spoke to him, not one time after the incident. I never --

Q. Sir, I can rephrase the question. After speaking to the gangs, you went to Mr. DuBois' cell, did you not?

A. Yes, ma'am.

Q. All right.

A. Because I was enlightened to the fact that he had enough drugs to overdose, and that I'd better make sure he didn't overdose to kill himself, because I would be pinned with the murder.

Q. Sir --

A. Is that speculation, ma'am?

Q. Sir, I'm just asking your movements, that's it. I'm only asking your movements.

A. And I'm telling you, ma'am.

Q. After you spoke with the gangs, you went to Mr. DuBois' cell. Did you go to his cell alone?

A. Yes. Yes, ma'am.

Q. Okay. Now, after you left Mr. DuBois' cell, you went to cell five to check on Mr. Holmes, correct?

A. I actually checked on Mr. Holmes prior to going to Mr. DuBois cell. And all I did was open up the door and peek my head inside and see a picture that I'll never be able to forget of someone I thought a friend slumped over dead from something that was not necessary.

Q. Sir --

A. Yes, ma'am?

Q. -- did you or did you not go to cell five after you left Mr. DuBois' cell?

A. I never went in cell five, no, ma'am.

Q. Did you go to cell five after you left Mr. DuBois' cell?

A. That was my cell, ma'am, where else would I be?

Q. Thank you. After leaving cell five you went to the bathroom, where you waited for several hours, correct?

A. After leaving cell five, I went to the bathroom, I went to the truck stop, I went to the spare rooms that were -- the doors were unlocked, that there were nobody staying in. I went wherever I could to stay off the rock until the -- somebody came that I could tell what happened.

Q. Okay. After you went to the bathroom, or wherever you say now, because earlier in your prior statement you said you waited in the bathroom.

A. It was all night, ma'am, I was all over the rock that night.

Q. Okay, all right. But you do admit going into the bathroom, right? Yes, at some point?

A. Going into the restroom? Which restroom are you talking about? Because the -- what we call restrooms are truck stops.

Q. That's a truck stop, okay. And you --

A. And --

Q. -- waited -- you end up waiting for several hours for the guard to come back, right?

A. If you -- yeah, all night, several hours, yeah, from the time of the incident until 3:45 in the

morning, yes, ma'am.

THE COURT: Anything further, Ms. Carmody?

MS. CARMODY: Yes, Your Honor, beg the Court's indulgence, Your Honor.

BY MS. CARMODY:

Q. Sir, on the -- this Savannah B, there's a, you know, the guard's not there, so there were a lot of people out in the unit, right?

A. Not a lot. I mean there was a handful, yes, ma'am.

Q. There was only a handful of people out?

A. More than should have been.

Q. All right.

A. I mean at that point it's supposed to be lights out, all the doors are supposed to be locked; but you had individuals who were able to because of -- like Mr. DuBois, you had individuals whose restrooms don't work, like ours, that those doors are unlocked.

Q. Uh-huh.

A. And then you had individuals who the CO just doesn't care, and is cool enough with, that he leaves their doors unlocked.

Q. All right, now, would you say that it's quiet on the unit? You know, is there people talking, or TVs on, things like that, right?

A. It's quiet enough for me to have heard --

Q. That's not what I'm asking you, sir. I'm just asking you if it's quiet?

A. You know, I don't even remember if we could hear the TVs. If I remember correctly, we had to have a radio to tune into the TV. Yeah, the TVs didn't --

Q. Okay.

A. -- have sound.

Q. That's all I'm asking you, sir. Okay, all right.

MS. CARMODY: I have no further questions, Your Honor.

MR. EVANS: Thank you, Your Honor.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. All right, Mr. Chappell, I'm gonna try to keep it brief. Are you eager to get back to the Upstate?

A. Yes, sir.

Q. You look forward to being done with this?

A. Yes, sir.

Q. All right. And you stayed in a hotel last night?

A. Yes, sir.

Q. Ms. Carmody asked you about that?
A. Yes.
Q. Did my office pay for that hotel?
A. Yeah.
Q. Did we give you some food money?
A. Yes, sir.
Q. Are we gonna pay for your gas when you get back?
A. Yes, sir.
Q. Are we paying you anything else to testify here?
A. No, sir.
Q. Are you getting rich off this?
A. No, sir, I'm actually losing money.
Q. Okay.
A. I had to lay out of work to come down here.
Q. Some other obligations at home?
A. Yeah, very much so. I've got a 89-year-old grandmother I've got to take care of, and I have pets, and I have -- I've got obligations in the Upstate that I need to be looking after right now.
Q. All right.
MR. EVANS: May I approach the witness, Your Honor
THE COURT: You may.

BY MR. EVANS:

Q. Ms. Carmody asked you a lot of questions about a second statement, do you remember those?

A. Uh-huh, yes, sir.

Q. Did you have a chance to review that statement during that questioning?

A. During the questioning? No.

Q. Is that your second statement right there that I've handed to you?

A. It looks to be it, sir, yes, sir.

Q. Would it refresh your recollection to review that statement before we go further?

A. Yeah. Yes, sir.

Q. I'm gonna ask you to do that. Don't read it out loud.

A. Okay.

Q. Review it silently for a bit.

THE COURT: While he's doing that, if you'all want to stand up and take a stretch, you're welcome to.

THE COURT: All right, Mr. Chappell, let us know when you're finished, sir.

WITNESS: Yes, ma'am.

BY MR. EVANS:

Q. Are you finished, Mr. Chappell? All right,

I'm gonna take that. Who's standing in front of the door?

A. That's Squeak and Junetown and Pockets. I remember Pockets now actually, as a matter of fact.

COURT REPORTER: Did you say Pockets?

BY WITNESS:

A. Pockets, yes, ma'am.

Q. Squeak and Junetown were standing in front of the cell five door?

A. Trying to see inside, what had happened.

Q. As you were -- I'm sorry.

A. Not everyone knew what had happened, originally, so, yeah, they were trying to get a look at it, I guess.

MR. EVANS: Moving on, Judge.

BY MR. EVANS:

Q. What did Squeak and Junetown do after Mr. DuBois came out of your cell?

A. They just started to try to help him clean up the bloody footprints from my room to the bathroom downstairs.

Q. How about Junetown, did he do anything else other than clean the footprints?

A. He actually gave Mr. DuBois the clothes to change into, yeah.

Q. You saw him do that?

A. Yeah.

Q. Did you see him carrying anything else?

A. Well, he carried a bag. I think it's something like he had a bag, I don't know, but, yeah.

Q. You saw Junetown do that?

A. Yeah.

Q. Okay. And did you know which rooms Animal, Junetown and Squeak lived in back then?

A. Animal and Junetown and Squeak, yes.

Q. Okay. Do you --

A. I'm trying --

Q. I know you just refreshed, but --

A. -- to picture it in my head.

Q. Okay, do you remember those numbers right now?

A. Yeah.

Q. What were those numbers?

A. One, two and 20 -- I think Animal was in 22, but Squeak was in one.

Q. Okay.

A. And I was directly across from Bowleg and Junetown.

Q. Okay. Do you want to refresh one more time?

A. I guess, so --

Q. Don't read, just refresh.
A. Oh, yeah, yeah.
Q. Okay.
A. Yeah.
Q. Which room was Junetown in?
A. Junetown was in one.
Q. And Squeak?
A. And Squeak was in two.
Q. Okay.
A. It's the opposite, they're turned, you know, one across from the other.
Q. And Junetown and Squeak were the people who were helping clean up?
A. Yes, sir.
Q. Junetown carried a bag --
A. Yes, sir.
Q. -- and he carried some fresh clothes?
A. Right.
Q. You actually saw that with your own eyes?
A. I saw Junetown helping them to clean up.
Q. You were asked some questions by Ms. Carmody, and I think you also testified with me yesterday about the lights in Savannah B?
A. Uh-huh.
Q. And I think she asked you if they were dimmed

this morning?

A. Yes.

Q. Okay. What about the lights on the rock?

A. They never go off.

Q. They never go out?

A. No.

Q. Okay. So you're able to see all these things?

A. Yeah, you can see everything on the rock.

Q. You were asked some questions about Country's drug use?

A. Yes.

Q. Do you recall when he last used drugs?

A. Yeah, it was -- when she said, "Was it that night," I wasn't thinking of, you know, 6 o'clock that night, it was around 6:00 or 7:00, yeah.

Q. Okay.

A. Yeah.

Q. So maybe the evening?

A. Yeah.

Q. All right, it was late night?

A. Yeah.

Q. Okay, but the same 24-hour period?

A. Yeah, when I think of the night, I think of -- that, you know, it being dark out, and it being

after lockdown, and, you know, that's what I would imagine night as being.

Q. Okay, you were asked some questions about Animal's injuries; do you recall that line of questioning?

A. Yeah.

Q. And do you recall where, specifically, he was injured when you saw him in cell two?

A. He had scratches on his face, and he had a pretty deep wound to his leg.

Q. Which leg?

A. I don't remember. I do know that -- I don't want to say it the wrong way.

Q. Would it refresh you --

A. Yeah.

Q. Okay.

A. Yeah.

Q. Which leg was it?

A. Left leg.

Q. Left leg?

A. I was gonna say that I didn't want to get it and then next thing I know --

Q. I know. Tell us a little bit more about when and where and how you made this second statement, and how you felt when you made it.

A. The first -- I felt a lot more calm, a lot more relaxed, that I wasn't on the yard that I was on previously. I had a lot more time to actually think, because at the time I was so scatterbrained as to what happened when I wrote the first statement, that, you know, I was nervous, and I was -- and, honestly, he looks a lot different with a beard. I don't remember the officer with the beard, that's --

Q. Do you think it might be this man here?

A. It may be.

Q. Okay.

A. I don't remember the beard though, that's the one thing different.

Q. Yeah.

A. Yeah.

Q. And you -- I think you testified on cross that he helped you understand the importance of the statement?

A. Yeah, I do. It was him and another officer, there were two officers there.

Q. Did they pressure you to write a particular answer?

A. No.

Q. Okay, these were your own answers?

A. Right.

Q. And you had been moved? Did I hear you say that right?

A. Yeah, I had been moved from -- originally, they -- I thought they were moving me immediately, and they moved me to the Charleston dorm, but only for a day, and the next shift came on.

Q. A totally different prison?

A. Uh-huh.

Q. Where's that --

A. Yes.

Q. -- ballpark, because, you know, originally it's Town of McDougall.

A. I want to say Charleston. I want to say it's closer to Charleston.

Q. All right, so you were out at Ridgeland pretty soon after this?

A. Yeah.

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

THE COURT: Yes.

BY MR. EVANS:

Q. I'm gonna pass you some documents, Mr. Chappell, and ask you if you can recognize those? They've been previously marked as State's Exhibit 62 and 63. Do you recognize those documents? If you

would look at both.

A. Yes, sir.

Q. All right.

A. Yes, sir.

Q. Were you handed these, or the original copy of these back in 2017?

A. Yeah, I was asked just kind of a lineup kind of thing, you know --

Q. Okay.

A. -- just to make sure that I had the right face to the right name, that I wasn't just making this up.

Q. All right, and did you make an identification on these?

A. Yeah, I actually did.

Q. Who did you identify on these documents?

A. Squeak and Junetown.

Q. All right, by seeing their face?

A. Yes. Yes, sir.

Q. All right, do you recall who handed those to you?

A. I imagine one of the officers.

Q. Did you, again, just like with the writing of the statement, did you feel pressured to pick a particular photo, or did you make your own judgment?

A. I made my own judgment. Yeah, I was pressured to get the correct one --

Q. All right.

A. -- by myself.

Q. And you identified Junetown and Squeak on these lineups?

A. Yeah.

Q. All right, this was your handwriting and your signature?

A. Yes, sir.

Q. Okay.

MR. EVANS: Your Honor, the State would move these in as State's Exhibit 62 and 63. May I publish those?

THE COURT: You may.

BY MR. EVANS?

Q. Mr. Chappell, I want to put these up on the ELMO. I don't think you need to get down, can you see okay?

A. Yeah.

Q. All right, this is State's Exhibit 62.

Which lineup is this? Who are you looking for here?

A. Junetown.

Q. All right, and is this gentleman that I'm

pointing to, with a circle around it, that's Junetown?

A. And they all look kind of similar, but, yeah, you can tell --

Q. Okay.

A. -- it's him.

Q. Same question, this is State's 63, who are you looking for here?

A. Squeak. And like I said, they do a good job of making sure that you know exactly who it is that you're pointing out, because they look similar, but that's definitely Squeak --

Q. Okay.

A. -- the one that's circled.

Q. When you -- the way you phrase that I want to clarify, did the officer tell you to pick, or did you --

A. No.

Q. You're just saying that these look similar, but --

A. Yeah.

Q. -- you could check which one it was?

A. Yeah.

Q. All right. I see up here in the upper right where you circled and wrote the word Squeak?

A. Yes, sir.

Q. Okay. And those are the two gentlemen that were helping Mr. DuBois that night?

A. Yes, sir. Yes, sir.

Q. Okay. You were asked some questions about Mr. Griffin, the CO, the guy who was in charge of the unit that night? You didn't see him that night?

A. No, he didn't come on the rock that night, except for, like I said, after count, and count was a little bit earlier than what I originally said.

Q. Okay.

A. But, yeah, he didn't come up around for the nighttime count the way that he was supposed to, so, you know --

Q. You previously described this incident as a hit?

A. Yes.

Q. Did Mr. Griffin order the hit?

A. No.

Q. I'm gonna show you what's been previously -- well, let me ask you this, you said that there was an image of, when you went up to the cell door, there was something you'll never forget seeing?

A. Yes, sir.

Q. I'm gonna show you what's been previously entered as State's Exhibit 4.

A. That's engrained in my brain, I --

Q. Is that what you saw?

A. Yes, sir.

Q. Who's that?

A. That's Country.

Q. Who killed Country?

A. Mr. Dubois, Animal as I know him.

MR. EVANS: Thank you, Your Honor.

THE COURT: Ms. Carmody?

MS. CARMODY: No, nothing further.

THE COURT: Okay, any objection to this witness excused?

MR. EVANS: And I ask that he be released from the subpoena and return to the Upstate.

THE COURT: Any objection? Ms. Carmody?

MS. CARMODY: Subject to being called by Defendant.

THE COURT: Is he under subpoena from you?

MR. EVANS: From her -- she -- yes, from our subpoena.

THE COURT: Have you subpoenaed him?

MS. CARMODY: No, Your Honor.

THE COURT: You may step down, sir.

WITNESS: Thank you, ma'am.

THE COURT: All right, ladies and gentlemen,

we're gonna take a break. Do not discuss this case, it wouldn't be appropriate to do so.

Go refresh yourselves, and we'll bring you right back, all right? Thank you.

(Jury exits the courtroom.)

(RECESS)

PROCEEDINGS CONTINUED

BAILIFF: All rise.

THE COURT: Please be seated. All right, so we're gonna keep going. I do have a juror that needs to pick up a child, but then come back, so I will tell you we will run and then break for lunch at 2:00, so that's just to let you all know, okay?

So make sure you have witnesses ready to go, that's the game plan. So who's your next witness?

MR. EVANS: Brandon Auman.

THE COURT: All right.

MR. EVANS: Come on up.

CLERK: Wait for me to get the jury back.

THE COURT: Tell him, he can sit right there, that's perfect.

Just take a seat right here, sir, if you would, just wait a moment.

CLERK: Bring the jury.

THE COURT: Bring the jury in, please.

(Jury enters the courtroom.)

THE COURT: All right, will the State call their next witness, please?

MR. EVANS: Thank you, Your Honor, the State calls Brandon Auman.

THE COURT: Come on forward, sir, to be sworn.

***

BRANDON AUMAN,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MR. EVANS:

Q. Would you please introduce yourself, and spell your last name for our Court Reporter, sir?

A. Brandon Auman, A-U-M-A-N.

Q. All right, Mr. Auman, have we met in-person before?

A. No.

Q. We've talked on the phone; is that right?

A. Yes.

Q. Okay. Do you live in South Carolina?

A. No.

Q. You live in another state?

A. Yeah.

Q. All right, somewhere in the southeast?

A. Yes.

Q. Okay. Have you been to South Carolina before?

A. Yes, I was incarcerated in South Carolina for nine years for a crime that I committed.

Q. All right. Let's go over a little bit of your record, if that's okay?

A. Okay.

Q. Were you convicted in North Carolina for obtaining property under false pretenses?

A. Yes.

Q. In 2012?

A. Yes.

Q. And then the one you mentioned was that an attempted armed robbery?

A. Yes.

Q. What part of the state was that?

A. That was in Rock Hill, South Carolina.

Q. Okay, and that was in 2014?

A. Yes.

Q. And you said you were incarcerated because of that?

A. Yes.

Q. Where were you incarcerated?

A. I was incarcerated to the Department of South

Carolina. I was in multiple prisons over my prison sentence process. I went to Wateree, I went to Evans, I went to Turbeville. I think I was at a work camp a couple days one time, I can't remember the name of it, but I was in multiple different institutions.

Q. For about how long?

A. Different amounts of times. I was at Wateree, I think for two years. I was at Evans for, I think, two, maybe three years. It was at the different times they ship you.

Q. Okay.

A. I really didn't keep track, because when you're in there you don't really focus on the time and dates, you just focus on the day-to-day.

Q. All right. Do you recall when you got out?

A. I got out September 1st, 2022.

Q. Okay, so about eight years total?

A. Yeah.

Q. Did you ever meet Benjamin DuBois during your time in prison?

A. Yes.

Q. Okay, how did you meet him?

A. I was sent to lockup for getting in trouble, and we were placed in a cell together. We were placed in a cell, and we spent some time in the cell

together.

I don't remember how long, like I said, it was day-to-day, but it was some months. We were in there together for some months, it was a better part of the year I think, or like six -- between six and nine months, maybe, or four and six months, something like that.

Q. All right. Do you see Mr. DuBois in the courtroom today?

A. Yeah, he's right there.

MR. EVANS: Your Honor, may the record reflect he's identifying the Defendant.

THE COURT: Yes.

MR. EVANS: Thank you, Your Honor.

BY MR. EVANS:

Q. When -- do you remember ballpark when it was that you were his cellmate?

A. It was right after -- I think it was before COVID, it was right after the Lee County accident, so maybe 2018 or '19 --

Q. Okay.

A. -- something like that.

Q. And did he tell you anything that led to you being here to testify today?

A. So we discussed my case and his case, as

cellmates do, we discussed them.

Q. Okay.

A. And he told me some facts on his case, and I read some of his paperwork and stuff, and we discussed that, and then that led to me being here.

Q. Tell us what he told you about his case.

A. Like in a summary, or --

Q. Well, let me ask you this, did you ever write a statement?

A. Yes.

Q. Okay.

A. Yes, okay, so --

Q. Well, hang on --

A. Okay, my bad.

Q. -- we're gonna get to the circumstances of that --

A. Okay.

Q. -- but would it help refresh your recollection to take a look at that, before you continue testifying?

A. Yes.

Q. All right. I'm gonna ask you not to read it aloud, just review it to yourself, okay?

A. Okay.

Q. And give me a look when you're done.

A. Okay. Yeah, that's my statement.

Q. Okay. Do you recall when you spoke to him about his own case?

A. So it was just like during the period we were in the cell together. We were just discussing why we were both in there, and we were both in there for different reasons.

And he was telling me about his case, pulled out his paperwork, told me what had happened from the standpoint of what they were saying happened, and then we spoke about what had actually went down, and it just went from there.

It was probably -- I don't remember, I can't even remember what was on the TV outside the door back then, because I went through a lot during my prison incarceration, and so like there's -- there comes a point where you just block it out, and you just focus on -- you don't focus on dates, you don't get mail from family, so you just focus on what's in front of you.

Q. Okay.

A. And so I can't remember dates and times, but we were in there at Evans, and we spoke about it --

Q. Okay.

A. -- so -- like in detail.

Q. All right. I want to hear what he said, and I want to ask you not to say if you knew anything about what he did before the events that we're talking about.

A. Yes.

Q. Do you understand what I'm getting at?

A. You have to explain what you mean, like if the events happened before we talked about it, so I don't know what you mean.

Q. It's a strange question. Don't talk about his record prior to the incident in Jasper County.

A. Oh, I don't know anything about Jasper County.

Q. Fair enough, I just want to make sure.

A. I don't even know what -- I don't know nothing about it.

Q. That's fine, then you can't say.

A. Okay.

Q. All right, so tell us about what you know what happened here in Jasper County.

A. So he was incarcerated, and he had a situation where he was -- it was a Catch 22.

You had a situation where he owed money, somebody else owed him money, and he was trying to take care of what he had to do for him to be okay and in good

standing, and he couldn't do that, and it involved anger that got into an altercation.

He went into the cell -- the doors had popped, he went into his cell, a fight ensued, and whenever the fight happened, it resulted with that man dying, he said he stabbed him, that was it.

I think the guy was supposed to be getting released, and there's other versions, but that's the version -- like the paperwork that he showed me didn't show that version, that's the version that he told me.

Q. Gotcha.

A. And that was it, he went into the cell, the doors were popped, the staff had the doors popped when they weren't supposed to be popped. There was stuff going on with gang members and stuff on the rock.

He went into the cell, got the cellmate to leave the room. He was trying to get his money, a fight ensued, and he stabbed him. And then he went to the truck stop, got rid of the knife, he, like, overreacted, he didn't know what to do.

He said that he left a bloody footprint in the room, or something like that, and --

Q. Okay.

A. -- then that's --

Q. Will you slow it down?

A. Oh, my bad.

Q. You're good.

A. I'm just --

COURT REPROTER: Yes.

BY WITNESS:

A. My bad.

Q. All right, you see this nice lady --

A. Yeah.

Q. -- she's writing down every word --

A. Oh.

Q. -- you say.

A. I'm sorry.

Q. Okay?

A. Yeah.

Q. When you say he, you used a lot of he's.

A. Yeah.

Q. -- in there --

A. Uh-huh.

Q. -- okay? Was that story told to you by Benjamin DuBois?

A. Yes.

Q. And when you're saying he went in the room, is that who you meant?

A. Yes.

Q. All right, can you try to say that, again, a

little bit slower --

A. Oh, yeah.

Q. -- a little bit more piece-by-piece, and use people's names, if you know them?

A. His is the only name that I know.

Q. Sure.

A. Like I said, this is a story that he told me while we was in the cell, so I -- his name I don't really -- it's Benjamin DuBois, because I know him as Animal.

Q. You can use Animal, that's fine.

A. Okay, cool. So he was in there -- I mean Animal was -- he had owed money -- the way it was told to me, he had owed money to somebody, and this guy owed him money, and this guy was going home, and he was trying to get his money that he was owed, and he was trying to settle things that was going on. And so the door --

Q. Animal was trying to settle things?

A. Yeah, Animal. Animal was trying to settle things, and so he went to try to collect his money. And he got the victim's cellmate to leave the room. The staff knew what was -- like the doors was open when they wasn't supposed to be.

Q. Okay.

A. And there was like people out on the rock when they wasn't supposed to be, and he went in there, and he told me he tried to get his money. The guy -- him and the guy got into a fight.

The fight happened, he got a knife, he stabbed him like -- I don't know, he made it sound like he was trying to defend himself whenever he did it, but also there was conflicting stories from what he told me. So it just sounded like he was in a position where he was trying to pay a debt he owed, this guy owed him, he went to go get the money, and the guy didn't have the money, and this happened.

Q. All right, and Animal told you that he stabbed this man?

A. Yeah, Animal said that he stabbed him, yes.

Q. In the man's room?

A. Yes.

Q. And that the roommate had been sent out?

A. Yes.

Q. Did he tell you how many times he stabbed him?

A. No, he didn't tell me, it was multiple, I think.

Q. Multiple?

A. Yeah, it was multiple.

Q. Did he tell you what he did after that?

A. He left -- Animal left the room; he didn't know what to do.

He had blood on him, he wanted to get the blood off of him, and he wanted to get away from there, because he -- I don't think he think -- expected things to go the way that they went when he went into the cell, so he was overreacting trying to get rid of things.

He was trying to get -- cover his -- excuse my language, cover his butt. He was trying to make sure he was okay.

Q. All right.

A. Right.

Q. Did he tell you anything else about his future plans?

A. Was there like a direct -- what do you mean, like trying -- what he was gonna do to try to get out of it; is that what you're saying?

Q. Yeah, did he talk about that?

A. It was defense, because the guy -- like we spoke about how it would be hard to say that it was self-defense, because he went into the man's cell --

COURT REPORTER: Slow down.

BY WITNESS:

A. Oh, sorry.

Q. Yeah, slow down.

A. Sorry. He told me that -- like I told him that it would be hard to say it was self-defense, because he went into the man's cell, which is a restricted area, it wasn't in the common area, the cellmate left the room. He spoke about trying to make it self-defense, and saying that he was pressured into doing it, and stuff like that.

And we spoke about how it would look in court, because when you go into another person's cell, that's automatically you're in the wrong. You went in there with the intention to do something that was against prison rules. So whether it was a fight, and that guy swung on him first, or whether he swung first and get madder, because he's in that room, and that was it, so nothing would happen like that.

So he was like trying to find ways to get out of it, because of the situation he didn't expect to happen.

Q. All right. Did he say what time of day this took place?

A. No, I just know that it was supposed to be during lockdown, if I recall, so I don't know what time that would have been. I just know the staff had

doors open, when they weren't supposed to, so it would have been after 10:00 -- maybe after 9:00 or 10:00 at night.

Q. At night?

A. Yeah.

Q. Okay.

A. It would have happened at night, yeah.

Q. Did he tell you anything else about the context in which he was gonna say his victim attacked him?

A. That he tried to sexually assault, I think is what he was gonna go with, like sexual assault, he was trying to rape him.

Q. And he was telling you that as his future trial strategy, or as what actually happened?

A. He was telling me that that's what he was gonna say had happened.

Q. I see.

A. So I don't know how this -- I don't know how to say that, because I don't know how to answer that, because I don't know -- people are very manipulative in prison. I'm very manipulative --

Q. Uh-huh.

A. -- and I'll be honest with you about that --

Q. Sure.

A. -- so I'm very manipulative. So I don't know, there's always the chance, I wouldn't want to lie on the stand, so there's always the chance that it did happen, and he was to shameful to admit it --

Q. Okay.

A. -- you know what I'm saying? So he acted like he was trying to be macho and say, "I'm just gonna say it happened."

Q. I see.

A. Where it might have happened, and it might have not, but that was going to be his strategy. So I think that would deal with Medical maybe, if they did a rape kit on him, and seen if it was true or not --

Q. Okay.

A. -- but other than that, I think it was a strategy.

Q. You've never been to Jasper County before today?

A. No.

Q. Okay. So you weren't in Ridgeland Correctional when all this happened?

A. No.

Q. You --

A. All I have is his story.

Q. You learned all this from him at Evans?

A. Yes.

Q. Tell us about how you reacted when you heard all this, this story.

A. I mean at that time me and him -- I'm not gonna lie, me and him were close. We were close and -- because we were in this -- before we were in the cell together, I asked to be moved to his cell, because we had passed notes and kite and hung out, and we were close, you know.

Q. Notes and what?

A. Notes and kite. Because you've got to talk to each other, because we're so far away, that we would get on the door and holler at each other to talk and stuff.

Q. Okay, so K-I-T-E, like the kites you fly?

A. Yeah, kite.

Q. Okay.

A. So whenever he told me that, in the mind frame that I was in, I'm not gonna sit here and act like I'm innocent, so the mind frame that I was in, I really didn't care at the moment. I didn't care.

And I was just -- me and him were in a situation, we were in a cell together, so this is what it is. But then a situation occurred that I had to face myself, I had to face what I was doing, I had to face

what was going on, and --

Q. Yeah, I'm gonna ask you about that.

A. Okay, so --

Q. So how long before -- you eventually reported this to the police, right?

A. Yes.

Q. To SCDC Police Services?

A. Yes.

Q. About how long before you did that, roughly?

A. I went from Evans to Turbiville, I think, so I think it would have been a span of maybe anywhere from three to six months after I left Evans Correctional, maybe.

Q. Okay, we'll take a look at the date on your statement.

A. Yes, but that statement I think is -- actually was done at Kershaw.

Q. Okay.

A. So this was the second statement.

Q. Well, let's take a look.

A. 2019, that's two years --

Q. Okay.

A. -- I think. So I think we were in Evans together in 2018.

Q. Okay, and you --

A. So --

Q. -- came forward in 2019?

A. Yeah. So the first statement that I wrote was a part -- it was something that mentioned this, and it mentioned it in a broader statement.

Q. I see.

A. And so then I was -- Agent Mixon came to talk to me, I requested to talk to him, and I was asked to recount just the events dealing with this situation, and that's where that statement came from.

Q. I see.

A. Yeah.

Q. In 2019 were you in some fresh legal trouble?

A. Yes.

Q. Can you tell us about that, you know, kind of slowly, what happened that, you know, took place between you learning this information, and you making this statement?

A. I was involved in gang activity throughout my whole gig. I'm not gonna try to drag this out, but just to give some context, like once you catch your time, you make your own decisions as a person, and I caught ten years, so prison become my home.

I forgot about the streets, I wasn't gonna stay where I was around my family, so it's become my home.

Q. So you're originally from North Carolina?

A. Yeah.

Q. All right.

A. Originally from North Carolina, so I had brothers, we were doing things. I got involved in contraband. I got involved with a lot of stuff that was going on, and I got really high up in it.

And then situations happened, to where one of my family members on the street caught street charges. It was dealing with fentanyl and methamphetamine. I was dealing with methamphetamine and fentanyl within inside the prison system, and cell phones, and tobacco.

Q. You were bringing contraband in?

A. Yeah.

Q. How do you get it in?

A. There's multiple avenues. So there's multiple avenues to get it in, and if you -- I don't think you want me to sit here and list them all.

Q. No.

A. Yeah, there's multiple avenues to bring it in, so -- routes, that I was throwing it over the fence, so --

Q. Okay.

A. -- that's mostly how I was dealing with it,

and then dealing with Correctional Officers.

Q. Were you selling drugs in prison?

A. Yes.

Q. Tell us briefly about that.

A. I was selling methamphetamine, I was selling fentanyl, I was selling cell phones, I was selling tobacco. I was selling anything that would be worth money, because you couldn't get -- anything I could get my hands on, you know what I'm saying?

Anything that made me feel like I was in control, that made me feel like I could manipulate my situation, you know, like --

Q. Uh-huh.

A. I felt like providing for my family on the streets and my son and stuff, where it's an --

Q. Were you able to get --

A. -- excuse to --

Q. Sorry.

A. Yeah, it was the excuse to do something that I should haven't been doing.

Q. You --

A. But I've made my own decisions.

Q. You were able to get money out --

A. Yeah.

Q. -- to your family?

A. Yes.

Q. I see. How long did you sell methamphetamine and fentanyl in the prison for?

A. My whole gig, man, except for the last probably three -- probably the last two-and-a-half years of it --

Q. Okay.

A. -- I stopped.

Q. Why did you stop? Take your time, I know.

A. I overdosed somebody that was -- I overdosed somebody, that I was just so gone in my mind that I was thinking when you give somebody free drugs, it's a lookout, like I'm looking out for you my homeboy, you're going in a room locking down, you don't have money, so I'm gonna shoot you something, and I gave somebody something that killed them, and --

Q. Somebody close to you?

A. Yeah, he was like the old head in the dorm, and he was just -- he was a good dude, but he didn't get no money. And he was like -- he reminded me of my uncle a lot, and so I used to look out for him when I got some stuff that was strong, and fentanyl started coming in, and I didn't realize what I had gave him, and the next morning he was dead.

Q. Can you test these drugs when you're selling

them in prison?

A. You do them yourself. I was doing methamphetamine, I was doing fentanyl, I was --

Q. You don't have a chem set?

A. No, no.

Q. So did you know exactly what was in the stuff you were giving out?

A. Not exactly. I knew that I was -- when I was getting it, I was cutting it, I knew that I was cutting it on the street, so I was cutting it with Benefiber.

COURT REPROTER: Benefiber?

BY WITNESS:

A. Benefiber, like, it's sort of like Metamusil, yeah.

Q. Okay.

A. So I would get like nine ounces, and put five ounces of Benefiber on it, but then when it came in people would use stuff like coffee creamer and other things to cut it, so --

Q. Okay, and so this gentleman passed away after using --

A. Yeah.

Q. -- some drugs that you gave him?

A. Yeah.

Q. You didn't sell it; you actually just gave it to this gentleman?

A. Yeah, I just gave it to him for free, I didn't even sell it to him, because he didn't have money.

Like he had a little wind up, where he -- like I said, I was in a real bad place, and I'm not making excuses for what I did, I'm just saying from the minds -- from the toxic mindset that I was in, I was looking out for him, just like giving somebody a cigarette on the street, I was like, "I know you can't afford this, here you go, pops," boom, because we're about to lock down for the weekend, here you go, enjoy yourself." That's what that is, and it was a wakeup call. It was a wakeup call.

Q. What did you -- what happened after you got the wakeup call in the form of his passing?

A. So when he passed, a lot of people was worried about the heat that was coming down off of it.

So somebody snitched and told them that I had got it from -- told them that he got it from me.

Q. By the heat you mean detention from Police Services?

A. Yeah, pops, yeah, pops had got it from me, so he come in, and I think SLED is what they're called,

they came in and searched my cell. And the day that they searched my cell, they found my cell phone, and they had actually pulled me out of the cell, and I had a lot of fentanyl on me, on my person, and they never searched me, and they found though.

Then Agent Mixon came and questioned me, which I got around that. I spoke to my attorney, I knew that they couldn't pull prints off of the bag, I knew that everything was okay, and so I went in there and I took a CO with me for the interview, so the CO could go back to the dorm, and let him verify with everybody that I didn't say anything.

Q. All right.

A. And so I had gotten past that part, and then after I got away with it, there was -- if there's a food chain in prison, and so once that happened then everybody was worried about the heat, the Red Team coming in and stuff.

Like people started snitching on me, and then when people started snitching on me, then people was trying to test me for --

COURT REPORTER: Slow down.

BY WITNESS:

A. Oh, sorry.

COURT REPORTER: Trying to test me.

BY WITNESS:

A. Yeah.

Q. People were trying to test you?

A. Yeah, test me from other areas. They saw weakness, they saw blood.

Q. Okay.

A. So --

Q. How did you react to that?

A. I reacted to that by stopping everything I had going on, like I was trying to affirm -- like reminding them of the pipeline that they were using to get the stuff.

So, basically, if I stopped doing everything, then they're gonna be like, "Well, maybe we need him," because there was violence being threatened on me. I was trying -- they were trying to extort me at this point.

Q. Were you afraid for your life?

A. Yes --

Q. And --

A. -- I was.

Q. -- this was back in 2019?

A. Yes.

Q. Okay. What did you do after you became afraid for your life, and --

A. After I became afraid for my life, I took the rest of the fentanyl that I had, which was about an ounce and a half, and in 14 days I did it.

And then after it was gone, I started going through withdrawals and everything, and I -- it was a turning point in my life. Like I came up, I admitted to what was going on. I had a threat on my life, so I went to --

Q. Slow down.

A. Oh.

Q. Did you approach law enforcement?

A. Yeah, that's what I was about to say.

Q. You actually went to them?

A. Yes, I approached them.

Q. Then?

A. Yes.

Q. Okay.

A. So the same agent that had questioned me, and I had got away with it, I went back and approached him and admitted to it.

So I had requested to speak to him, I admitted to it, told him my situation, told him what I had going on, told him how much time I had left, and I wanted to get home.

Q. Okay.

A. And then I just want to make it clear, because I know I'm sitting here telling, so there was multiple things that I had knowledge of that I could have used as a bargaining chip to get somebody's attention.

There was multiple things I could have used in that, but after I realized after sitting in lockup, I had to go through my mind and find out which one I could live with, because even if I got out of prison, which was not a good chance at this point, I had to be able to live with what I did.

Q. So you --

A. So --

Q. Are you saying you had a guilty conscious about --

A. Yes.

Q. -- what happened to Pops --

A. Yes.

Q. - you felt guilty that he died?

A. Yeah.

Q. Are you comfortable with giving his legal name?

A. I don't know his legal name and stuff.

Q. You don't know.

A. We -- like in prison you don't know

everybody's legal names.

Q. Okay.

A. So you go by your nickname, because it's sort of like the Army, and that sounds crazy, but it's sort of -- you give yourself an alias, and that alias is what you go by; that way the person you are when you go back to your family, like you don't have to be that person.

It's sort of like a game of tag online, or in the military, when you go kill all these people it's your alias doing it. Like it gives your -- it's a psychology thing, in my opinion, like it gives your mind a way to hold onto who you are and do what you have to do in the moment --

Q. Yes.

A. -- go get through what you're doing. Like nobody -- a lot of people didn't know my real name, they just knew me as SDOT.

Q. Okay. Do you have any --

COURT REPORTER: S -- I'm sorry?

BY WITNESS:

A. SDOT, S-D-O-T.

COURT REPORTER: Oh.

BY WITNESS:

A. You had to know -- you had to know me very

closely to know my real name.

Q. I gotcha.

A. Yeah, so --

Q. So -- but, again, back to when you're starting to approach Agent Mixon, you're feeling --

A. I'm feeling --

Q. -- afraid for your life --

A. Yeah.

Q. -- and guilty?

A. And guilt at the same time.

Q. Okay.

A. So that's the --

Q. What was your goal when you approached him? Did you get something you wanted?

A. Yes, I wanted to clear my conscience, and I also wanted to be able to like survive the next -- to get out of prison.

Q. All right.

A. So --

Q. Did you think there was a way that he -- that Agent Mixon could help you?

A. Yes.

Q. And what was your understanding of that?

A. So my understanding of that was, I approached him, and I offered to admit to giving him the

fentanyl, which was the first thing that I did. And there -- and so this was a process, that's why I said that was the second statement.

So South Carolina prisons is very corrupt, and the people won't even acknowledge that they're not. And so I -- the first thing I did was offer to admit to the --

Q. Right.

A. -- involuntary manslaughter in exchange to get put on lockup, and to receive statewide protective custody.

Q. Okay, what is statewide protective custody?

A. So that is a cell that is moved every three to six months. They're supposed to be moved every three to six months, the officers change every six months.

It's relocated on level three prisons, and it's one section of lockup that is just that, nobody has contact, only staff. Nobody comes in there unless we're all locked down. It's like a -- it's a safe house.

Q. So it's not getting out of prison --

A. No.

Q. -- it's just staying in a different part of prison?

A. Yeah, just another part of prison --

Q. Right.

A. -- to be able to survive.

Q. Okay, and that's what you wanted --

A. Yes.

Q. -- because you were afraid for your life?

A. I was afraid for my life, so this -- he had not even came into the situation -- had not even come into the situation yet. I offered to admit to the involuntary manslaughter.

Q. To Agent Mixon?

A. Yeah, to Agent Mixon.

Q. He was investigating you still?

A. Yes.

Q. All right.

A. So I offered to admit to that, and this hadn't even come into it yet.

Q. Okay.

A. So I tried --

Q. How did this story that I've asked you about earlier come about?

A. That's -- so I tried to leave nobody else in my situation, but even after he got me on lockup to seek statewide protective custody, I got sent to Kershaw.

Q. Okay.

A. And while I was at Kershaw, there was six different attempts to attack COs, to get the keys, to get into the -- like they were trying to pop the doors in lockup, they were trying to get to me. And there were multiple attempts, and one was a woman that I was really -- she was a CO, she was an older woman, and I was really fond of her.

Q. Okay.

A. And she got attacked during showers, because somebody tried to get the keys. And so I knew I had to press the issue, and that's when I knew I needed guardsmanship (sic), more than just getting involuntary manslaughter on me.

So I reached out again, and Agent Mixon come in, and I told him that I would be willing to tell him this information, if they could just put my statewide through and get me out of there.

Q. I see.

A. And at that point --

Q. You were still in a more general --

A. Yeah, I was just on lockup. I was just on lockup --

Q. Uh-huh.

A. -- and with other people that were on lockup,

and they were trying to get to me, but at that point, when I made that decision, I didn't make it for me, I had already offered to admit to involuntary manslaughter, just to get out of there, so --

Q. Have you been charged or arrested for that yet?

A. Not yet, I haven't.

Q. Will you eventually?

A. Yes.

Q. All right, by --

A. I was charged with involuntary manslaughter.

Q. -- Agent Mixon?

A. Yes.

Q. Okay.

A. And put under a $20,000 bond.

Q. Okay, and that would have been -- what county was that; do you remember?

A. It was Turbeville Correctional, so I don't know what county Turbeville's in, but it was Turbeville Correctional, where I admitted to it, and that's where the man died, and so that would have -- Clarendon County maybe.

Q. Okay.

A. I think it's Clarendon County.

Q. Again, that's Jasper County?

A. Yeah, no.
Q. And you were charged with that?
A. Yes.
Q. What happened with that case?
A. That case got dismissed.
Q. Okay, do you know why?
A. No.
Q. Okay.
A. I don't know why. I tried to find out, but I asked -- I told them that I would admit to it, and I think maybe it had something to do with me being so forthcoming about it, and telling them what was going on, but I just know that it was dismissed.
Q. All right. What brought you here today? How'd you get here?
A. For -- I had to -- an airplane.
Q. Okay.
A. An airplane.
Q. I want that second answer that you're giving too, but, literally, in airplanes?
A. Yeah, oh --
Q. And who paid for that?
A. So the State did.
Q. Our office did?
A. Yes.

Q. Okay. Are we paying you for anything, other than your flight and hotel and food?

A. No, nothing else.

Q. Okay.

A. What brought me here today is fulfilling an obligation. Like I knew that -- like I said, when I made this decision, I had to choose a bargaining chip that I could live with, and this is one that I could live with.

The man was about to go home, he was about to get out. They could have let this go, whether it was money debts or not.

Q. You're saying the victim that Mr. DuBois --

A. Yeah, the victim.

Q. -- told you about?

A. Yes.

Q. Okay, but you don't know his name?

A. No.

Q. Okay.

A. I don't know his name, but I knew that it had happened, and I knew that it was a situation that, after I was put into the same situation with this, and that's why I said in the moment he told me about it, I didn't care.

I was strung out on drugs; I didn't care about

nothing. I didn't even care about myself. I was cutting myself just to go to the hospital to get a bag of chips, to come back and be able to trade for something.

Q. Right.

A. I was in a cell with him, I didn't care about -- I didn't care. All I cared about was not being where I was, and that's -- South Carolina prison is no place to be. I -- and I put myself there, I'm not making excuses, I made my choices, and so whenever this all come about, like that's what I decided on.

And why I'm here today is to fulfill my obligation, because the man that I asked to keep me alive, and get me home did, and so that's --

Q. That's Agent Mixon?

A. Yes.

Q. You said South Carolina prisons were corrupt?

A. Yes.

Q. Do you think he was corrupt?

A. No, and that's rare to find in the middle of that going on, it's rare to find people that are not corrupt in that place, and when you find them that's why I felt like I had to honor my word to him, because he honored his word to me, when nobody else was. Everybody else was trying to throw me back to the

sharks, trying to feed me to people, you know what I'm saying?

So he told me if I was honest with him, that he could do what he could, and then I got out, so --

Q. Did he get out of prison?

A. No, he just kept me safe until my --

Q. Into that --

A. -- release date.

Q. -- protective custody?

A. Yeah, he got me into protective custody. I didn't -- he -- I didn't -- he didn't make any promises that he couldn't keep.

Q. You served your normal sentence?

A. Yeah, I served my normal sentence, I served my time, and I admitted to the involuntary manslaughter, and he charged me with that like he said he would. Like I said, he didn't make me no false promises, so --

Q. You're out now?

A. Yes.

Q. Are you working?

A. Yes.

Q. Are you in recovery?

A. Yes.

Q. Are you going through the steps?

A. Yeah, I'm on step four right now, it's --

Q. Which one is that?

A. -- resentments. I have a sponsor.

Q. Resentments.

Q. Okay.

A. Step four is resentments. You make a list of your resentments, and I'm having a bad time with it, but I'm doing a lot better. I'm about to get my CDL. I've stayed sober since I got out. I've gotten into a relationship.

I'm actually -- like I left everything. I didn't go back home to my son. I didn't go back home to my mom. I knew what I had to do, so I did that. I went somewhere where I've never been before and --

Q. And I know you don't want to say where, but you're living somewhere else?

A. Yeah, I'm living somewhere else, and I've started new. I've had to burn a lot of bridges with a lot of close family, and it's not easy work, so I'm doing therapy sessions for PTSD from prison and trying to work through my shit and -- excuse my language.

Q. That's all right. Is making amends one of those steps?

A. Yes.

Q. Have you gone through that yet?

A. No, I haven't gone -- huh?

Q. What are the other steps?

A. Making amends is one of the 12 steps, and I haven't gotten to it yet. I've had a chance to make amends to one person, and then my sponsor recommended that I wait on my amends until I did my fourth, fifth and sixth step.

Q. I see.

A. So I haven't even learned all the 12 steps yet, and I haven't -- like I'm not a professional in recovery, I don't think nobody is, but you do the steps as you go, and the steps never end, so I go to meetings.

I got to four meetings a week in-person, and I see my sponsor once a week, and I haven't began making amends yet, and that's actually one that I'm kind of scared of, because I've done a lot of damage. Like I'm not any better than the person that's sitting right there today, and I -- like I'm just fulfilling an obligation for somebody, that I keep my word, and Animal knows that about me.

So like I'm keeping my word today, because that man got me home, so --

Q. Okay. You had a pretty bad drug problem?

A. Yeah.

Q. When's the last time you used?

A. Outside of -- in recovery I have ten going on 11 months in recovery, and sobriety I have going on 19 months now.

Q. All right. So --

A. I didn't do recovery because there was no program offered to us in prison. Like there's -- some prisons say they have recovery programs and stuff, but it's just on paper.

Like when you want to go, they won't let you out the door, and when you -- they want movement, they'll shut down the yards, so you can't work an active recovery program in prison and try to get clean --

Q. A hard place to get --

A. -- in my opinion. Yeah.

Q. Is it a hard place to get better?

A. Yes, so that's why I differentiate my sobriety between my recovery, because I got sober in prison, but --

Q. I see.

A. Yeah, I got recovery when I got out.

Q. You got out when?

A. I got out September 1st, 2022.

Q. When's the last time you used? I'm sorry, did I already ask you that?

A. You asked me that.

Q. All right, I'm sorry.

A. Yeah. That's okay.

Q. So I think you then -- what I meant to say, and I think you've just answered the next question, but are you high today?

A. No.

Q. Do you understand what is going on?

A. Yes.

Q. Have all your answers been truthful?

A. Yes.

MR. EVANS: Beg the Court's indulgence.

BY MR. EVANS:

Q. Mr. Auman, those are all the questions I have, please answer any questions Ms. Carmody may have.

A. Okay.

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon, sir.

A. Hey, how you doing?

Q. I didn't catch your answer to that. When is the last time that you used?

A. The last time I used? I couldn't give you an

exact date, but it's somewhere between 22 and 24 months, I think.

Q. It's an important date for you, no, to stop using drugs after all that time?

A. The only dates that have been important to me is since I got released, and that was something that happened to me in prison, like no dates matter but your release date while you're in prison, so it's not something I can remember, but I can tell you my recovery date in the program, and that's September 1st, 2022.

Q. If you were asked to take a drug test right now, would you pass it?

A. Yes.

Q. You would?

A. Yes.

Q. Okay. Now, I have a question for you. When you talked about, you know, he showed me his papers, what are you -- let's talk about what papers are. First of all, you had pending charges at the time, right?

A. Uh-huh.

Q. Okay, and --

COURT REPORTER: Yes?

BY MS. CARMODY:

Q. All right.

A. At the time of what?

Q. This alleged conversation between you and Mr. DuBois you had pending charges?

A. No.

Q. You did not have pending --

A. No.

Q. -- charges? All right, but you had pending charges at some point to get put into prison?

A. To get put into prison?

Q. Uh-huh.

A. No, I had convicted charges.

Q. Were pending --

A. I was convicted of robbing a pharmacy and sent to prison for ten years.

Q. Okay, all right.

A. Yeah.

Q. Now --

A. Nine years and six months.

Q. When you had pending charges, you had an attorney?

A. When I had pending charges?

Q. You had an attorney?

A. Before I went to prison? Before I went to prison, yes, I had an attorney.

Q. You had pending charges?

A. Yeah.

Q. Okay, you had an attorney. And what is a Rule 5?

A. Rule 5?

Q. Uh-huh.

A. I don't -- I'm not a lawyer.

Q. It's a request for discovery.

A. Okay, well, I'm from North Carolina, so --

Q. Okay.

A. -- I had already admitted to my crime and took a plea. I didn't ever get a Rule 5, and so what we call that is a motion of discovery in North Carolina.

Q. What is that?

A. Motion of discovery is where you see all the evidence that the State has against you.

Q. An incident report?

A. Incident report, yeah, that would -- the ones from the -- like from whatever crime you committed. It's different if you catch a crime in prison.

So if you mean an incident report in his case, yes, because it would have been in prison, there would have been an incident report done from the staff; but in my case since it was North Carolina I didn't have -

- I had charges what I was charged with, I had victims' statements, I had pictures of evidence, I had all of those things, yes.

Q. Okay. When you were in the cell with Mr. DuBois, you and he -- I mean you're in the cell together, right?

A. Yeah.

Q. And you admitted, I believe, on direct that you had gone over his papers.

A. We did, yes.

Q. Okay. And in those papers was the incident report for this case, correct?

A. The incident report of -- are you saying of like what happened by what the staff said, or are you saying --

Q. What the statements alleged occurred.

A. What the staff said, yeah, we'd seen that.

Q. Okay, and witness statements?

A. Witness statements --

Q. Okay.

A. I don't know if he had witness statements or not. I know he had what the COs were saying happened, and he had like some kind of test that had to go to the lab, or something like that, and he had some stuff like that, yeah.

Q. In his -- so it's a motion for discovery, right?

A. Yeah.

Q. So what you would see in a motion for discovery?

A. Yeah, I think it was -- I don't know if it was his actual motion for discovery, because I don't know how far you'all had gone in this case, or if it was just his copy of what the State -- what the prisoners had on him.

I think it was because I didn't actually know what it was, I just knew it was a brown folder, like a manilla envelope, and all it had was stuff from SCDC, so it didn't have actually like charges and mugshots, and stuff like my motion of discovery would have had. Like if you're going to DHO, or already in prison, if you're going to DHO, or if you're going -- you ask them for copies of their stuff, they -- that's what I was looking at.

I didn't see anything -- I might -- I think I'd seen something from SLED in there.

Q. Uh-huh.

A. I'd seen something from SLED in there, so --

Q. All right, so, again, you had access to his evidence in his case?

A. Yeah.

Q. All right, and at the time, when you wrote your statement, you had a pending manslaughter charge, correct?

A. No.

Q. You did not have a pending manslaughter charge?

A. No.

Q. Were you being accused of manslaughter?

A. At the time that I wrote it, no, I was not being accused of it, I had admitted to it.

Q. Okay.

A. I had admitted to giving it to them already, that was first. The first time that I approached them I had already -- my deal was, if you get me on statewide, I will admit to the involuntary manslaughter, so I had already admitted to that before his name came up.

It was once I got to Kershaw, and the woman got attacked that I reached back out, and asked what was taking so long. And I told them that if they would push me through to statewide and get me out of there before I got hurt, that I would do this.

So this wasn't in ties to the --

Q. Okay.

A. -- manslaughter that I'm aware of.

Q. So just to clarify, you are offering information about other inmates --

A. Yes.

Q. -- who are in the prison, in exchange for you being put on statewide protection?

A. Yes.

Q. Okay.

A. Yes, there was leverage involved, there was a bargaining chip.

Q. And it was a bargaining chip, right?

A. Yes.

Q. Okay. And you had access to the allegations in the case; is that right?

A. Yes.

Q. All right, and when you wrote the statement you had indicated that Mr. Holmes died at 3 o'clock in the morning, right?

A. When I wrote what statement?

Q. When you wrote your statement --

A. The statement to when I wrote --

Q. -- didn't you say that --

A. -- the statement?

Q. -- the incident had occurred at 3:00 a.m.?

A. I may have. It's been a while since I wrote

that statement, but I just read it today, I know it happened at night, so I may have put it then, yes, you're correct.

Q. Okay.

A. If that's what the statement says, then you're correct, because that is my handwriting.

Q. All right, and you're providing information that you received -- that you read in the incident report, correct?

A. Yes, but I haven't studied it to recite it like it's a script, I'm going off of my knowledge right now, so I haven't seen that statement until he just handed it to me. I haven't seen it in a while.

Q. You didn't have time to study the incident report, right?

A. I don't have to study it.

Q. Yeah.

A. That's what I'm telling you. I'm telling you from my memory. And when I wrote that statement, these were fresh things in my mind. Since then I've went through attacks, I've been stabbed, I have went through PTSD, like I'm not gonna be able to recount it.

I'm not going to be able to read it word-for-word to you, because that's not what I'm here to do. I'm

here to tell you what I know to be my knowledge, so --

Q. That's all.

MS. CARMODY: No further questions, Your Honor.

THE COURT: All right.

WITNESS: Thank you.

MR. EVANS: Briefly.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. Did you frame Animal?

A. Huh?

Q. Did you frame him?

A. Did I frame him?

Q. Yeah.

A. I wasn't even -- how could I frame him; I wasn't even there.

Q. I understand. Did you -- everything that you put in that statement that you gave to Mixon, did you get that from Animal's incident report, or did you hear about it?

A. Yes, we got it together, him telling me what happened and me reading it.

Q. That's exactly what I wanted to know.

A. Yeah.

Q. Thank you. Okay. And how long between

roughly the conversation with Animal and when you told Mixon?

A. Two years probably. Two years, but I'm not --

Q. A while?

A. -- sure about the time, that's just because I just read that paper, so I saw the date, so I know that it was two years when I wrote that statement, but I'm not like -- I don't know how else to say this, except for circumstances.

Like whenever I -- whenever this happened it was fresh in my mind, and I was fighting for my survival, and I was threatened with my life, and I was going through things, where I was locked in a cell. I had to fake suicide attempts, so I had to do a lot of stuff that nobody in this courtroom will ever understand, except for Animal.

And whether he wants to admit it or not, because he knows, he lives in it every day. And I had to do a lot of stuff just to survive, and so there's a lot of stuff that I'm trying to process, and there's a lot of stuff that led to me even having to do this today, and I have to live with it.

So trust if I was just setting somebody up, that was never the code that I lived by. This is something

I had to do, because SCDC was not gonna help me any other way, and I was, literally, gonna die. So --

Q. Okay. Do you feel bad about what you're saying about him?

A. I do. It happened, but I do feel bad about it, because we were close, and I had no other way to turn. And I know he knows that feeling, and whether he forgives me later on or what happens, I do feel bad about being here today though. I'm sorry, man, I was just trying to survive, and you know what that place is like. I'm sorry, man.

Q. Have you told the truth?

A. Yes, I have.

Q. Thank you.

A. And I didn't want to, but I did. I wanted to get out of it, I wanted to not do this, and -- but I came, and I kept my word, because Mixon kept his word to me, and I was subpoenaed here, and I'm not gonna get up here and lie, and paint a picture like I said the exact truth, like every step of it.

If I was here trying to frame him, and trying to throw him under the bus, I wouldn't have said maybe he was right, and he didn't have the pride to admit it to me. I wouldn't have said things that he went into the room, I would have said he told me he was going into

the room to kill the man, not that he went in there and a fight ensued.

I don't know what happened in that room, he just said they got into a fight, and the man ended up getting stabbed. Like I'm not here to frame anybody. I would have made it a direct attack to put him away if this was an attack on him. I did what I had to do for me to survive.

Q. Okay.

A. And I've got to live with that for the rest of my life, and I am sorry, whether you believe me or not, bro, I am, man.

Q. Have we asked you to do anything other than to tell the truth?

A. No.

Q. And the truth is what you told?

A. Yes.

Q. Thank you.

THE COURT: Any follow-up?

MS. CARMODY: Oh, no, Your Honor.

THE COURT: All right. Any objection to this witness being excused?

MR. EVANS: Not from the State.

MS. CARMODY: No.

THE COURT: You're excused sir, thank you.

Does anyone need a break? You'all okay? Let's call the next witness then. Are you okay?

COURT REPORTER: Uh-huh.

THE COURT: Kymberlee, thank you. Call your next witness.

MR. EVANS: Shannon Mixon.

THE COURT: All right.

SHANNON MIXON,

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?

A. Yes. My name is Shannon Mixon, last name M, as in Mike, I-X-O-N. I serve as the Region II Assistant Chief for the South Carolina Department of Corrections, Office of Inspector General.

Q. All right, and what is that?

A. So the Office of Inspector General handles any criminal or complex investigative duties for the law enforcement wing.

And by law enforcement meaning the Criminal Investigative Division for the South Carolina Department of Corrections.

Q. And do you investigate crimes that happen in prison?

A. Whether it's on state property or statewide and the community, or actually in a prison that has a criminal tied to SCDC, then that would fall through us.

Q. How long have you been doing that?

A. I've been with SCDC since 2019.

Q. All right. Do you have any prior law enforcement experience before that?

A. Yes, I do. I was a police officer here in South Carolina, and I was also with North Carolina Probation Parole for several years.

Q. Okay. What part of the city do you live in?

A. I live in Florence, South Carolina.

Q. All right. Have you ever been to Jasper County before?

A. Yes, sir.

Q. All right, were you part of the initial investigation in this case?

A. No, sir, I was not.

Q. Were you even with SCDC at that point?

A. No, sir, I was not.

Q. All right. How did you become involved in this case?

A. So in this case -- and on August 2nd, 2019, at Turbeville Correctional, which is what -- within what we would consider Region I.

Region I reaches from Clarendon County all the way down through here in Jasper County.

Q. Jasper is part of your territory?

A. Yes, sir.

Q. Okay.

A. I responded to an inmate death. Anytime there's an inmate who's deceased, our agency usually responds. During the course of that investigation, we initially suspected that it was an inmate overdose, which, unfortunately, happens from time-to-time. However, through the course of the investigation, we received an incident report, referencing that an individual, or an inmate by the name of Brandon Auman was overheard through a vent, essentially, saying that had given narcotics to the deceased, in my case, and didn't mean for him to die, which, obviously, led to us interviewing Mr. Auman I believe three times.

Q. Okay.

A. During the course of the investigation, I believe Mr. Auman expressed some sincere remorse for the fact that the deceased, you know, did overdose and die; and he did eventually admit to us that he was the

person who, in fact, supplied the narcotics to that individual.

Q. Was that helpful in your investigation?

A. Absolutely.

Q. Did it change it fundamentally?

A. It did, because we went initially from just believing there was a random person who overdosed and died, to actually having someone who was admitting to supplying the narcotics to the individual.

Q. Could you have charged him without his statement that he made to you?

A. No.

Q. Okay.

A. No, sir.

Q. And did you charge him?

A. I did.

Q. With what?

A. We charged him with involuntary manslaughter.

Q. All right.

What else happened between you and Mr. Auman?

A. So during the course of that case, like I said earlier, Mr. Auman decided that he no longer wanted to provide narcotics to individuals within the prison. And most people don't realize that within a prison setting, if you're an individual who's been

regularly doing so, to say that you're gonna stop doing that, is just -- plainly is just not gonna happen, without risk of serious bodily injury or death.

Q. You're putting yourself into --

A. Absolutely. Once you have an individual who's established him or herself as being able to get narcotics into a prison, if that -- that individual is going to deal with multiple gangs, regardless of any affiliation.

If that individual decides that he or she is no longer going to do that, that individual will suffer serious bodily injury or death.

Q. Were you concerned for his safety?

A. I absolutely was.

Q. Okay, and what did you do about it, or --

A. So at the time, if my recollection's correct, Mr. Auman, since he no longer wanted to do this, had remorse for his actions, submitted his own paperwork for protective custody.

There's a means and an avenue for an inmate to do so, which falls kind of to the operation side of the house, not our side.

Q. Okay, and you -- and I know it's not your side, but can you give us a layman's understanding

what that is, protective custody?

A. In brief, what would happen is an individual would submit that protective custody paperwork. It would be reviewed by, I believe, initially, the Warden or Command Staff of that person's prison, and, eventually, it would make its way up to different tiers, and they would actually have a hearing to determine the validity.

On our side of the house, if we believe than an inmate does have concern for his or her safety -- inmates are considered wards of the State of South Carolina --

Q. Uh-huh.

A. -- and as such, if we believe that their safety is at risk or in jeopardy, we are obligated to at least pass it up our chain of command that this person's safety may be in jeopardy.

Q. Is that what you did with Mr. Auman?

A. I did pass up my concern.

Q. Okay. What happened after that?

A. At some point, Mr. Auman was transferred from Turbeville Correctional to Kershaw Correctional Institution located in Jasper County -- I mean in Lancaster County --

Q. Okay.

A. -- South Carolina. I did follow-up and speak with him at Kershaw Correctional. At that point, he declined any written statement, and advised me that he did want statewide protective custody in exchange for information, which I told him our office does not make any of those promises or do a quid pro quo.

Q. I see.

A. I told him that I would make his, you know, make his request known, which I did, and I was in turn advised by our chain of command that he could provide all of his information to us; however, there was no promise in any way, shape or form that he would obtain the statewide protective custody.

Q. Did you convey that offer -- is it -- I mean would you call it that?

A. I certainly did. I went back a second time to Kershaw Correctional Institution, sat down with Mr. Auman and interviewed him, and I did explain that very clearly.

I do remember that he paused and did think about it for several moments, and then decided to provide his information. Some of the information that he provided me was helpful in my case.

Q. Uh-huh.

A. In addition to that, I remember he made a

specific statement referencing a homicide that took place at Ridgeland Correctional Institution here in Jasper County.

Q. Did you have any knowledge of that investigation before he made that comment?

A. No, sir.

Q. Okay, did you ask him to give information about any particular case, other than your own?

A. At that point in time I asked him, you know, is that something he cared to elaborate in a voluntary written statement, and he did provide that information.

Q. All right. What did you do when he gave you that information?

A. Normally, what would happen is, normally, most of us are aware of one another's investigations to an extent, and usually we would ask follow-up questions.

In this particular incident, I was not aware of the, you know, the homicide investigation. I believe it took place a couple years before I came to SCDC. So once I obtained the statement, I passed that to my Assistant Chief, who was Craig Carter at the time.

I passed that original copy to him, and left that up to him, that if he deemed it appropriate, of if

there was validity to it, that since that case had been reassigned to himself, he could follow-up and interview Mr. Auman further.

Q. I see. And what happened to Mr. Auman, as far as the protective custody, after he cooperated with you on that case, and gave that other statement?

A. So I did not have any further contact face-to-face with Mr. Auman. I believe, if memory serves me correctly, he may or may not have been moved to McCormick Correctional.

That would be where statewide protective custody inmates are typically held. As far as -- were you asking me anything regarding my case?

Q. Yeah, well, that was my next question, what happened in your case?

A. So my case, I received a call from the Clarendon County Solicitor maybe around July or August of 2020.

Q. Okay.

A. And at that time I was advised that the case would be -- was going to be nolle prossed. I was told that, you know, the case was done very well, but just due to the involuntary manslaughter charge, versus I think the intent, if you will --

Q. I see.

A. -- then the case was nolle prossed because of that, and that decision was solely made at the Solicitor's discretion.

The Solicitor and I had not had a conversation prior to this about any of Mr. Auman's cooperation in any other matter.

Q. Okay. As I that Solicitor?

A. No, sir.

Q. Was it the Fourteenth Circuit's Solicitor's Office, or another Circuit?

A. This would be Clarendon County, and that would be -- I can't remember if it was Phillip Long, but you were not the Solicitor.

Q. Not this --

A. No.

Q. The bottom corner of the Low County?

A. Correct.

Q. Okay.

MR. EVANS: I beg the Court's indulgence.

BY MR. EVANS:

Q. Mr. Mixon, those are all the questions I have.

Please answer any questions from Ms. Carmody.

MS. CARMODY: No questions.

THE COURT: All right, any objection to Mr. Mixon

being excused?

MR. EVANS: None.

THE COURT: None? Thank you. You're excused.

WITNESS: Thank you, Your Honor.

MR. EVANS: Judge, I think before the next witness. I know we're working until 2:00, but this might be a good time.

THE COURT: All right, ladies and gentlemen of the jury, I'm gonna send you back to your jury room. I understand that we need to break around 2 o'clock for someone to grab a child for the time period.

Ladies and gentlemen, don't discuss this case, it wouldn't be appropriate to do so.

We'll be right back out with you, and we intend on working until 2:00, that's what I understand, correct?

CLERK: Yes, ma'am.

THE COURT: Thank you.

(Jury exits the courtroom.)

THE COURT: Yes, sir.

MR. EVANS: Judge, the next witness is Dr. Ross, so we need to finalize autopsy photos with you.

We have them, and we have done sort of the same thing as we did with that scene picture. I'll take a Sharpie here.

THE COURT: Show me.

MR. EVANS: I'm about to. There was one other matter.

THE COURT: What's the other one?

MR. EVANS: The other one, Judge, is we've got to start with the known DNA standard for the victim, Jerry Holmes, started at autopsy. That started as a blood -- a liquid blood sample, which was put -- given to SCDC by Dr. Ross and put in the chain that way.

THE COURT: Okay.

MR. EVANS: That eventually gets converted to a dried blood sample. The wet liquid blood sample. It's here, Judge, they kept it in refrigeration for six years.

THE COURT: Okay.

MR. EVANS: And I asked Ms. Carmody if the Doctor could put in some photographs of the same sample. She indicated that would not be satisfactory to her to initiate the chain for the blood itself.

My proposal is that Dr. Ross -- I -- and my main concern here is for the Clerk of Court, because anything that goes into evidence is, obviously, gonna be in her custody after --

THE COURT: Right.

MR. EVANS: -- today. So my proposal -- my

hypothetical is that Dr. Ross could identify the liquid sample on the stand, and then be presented with some photographs.

They are black and white, because that's the only picture we have here, but some photographs of the sample itself. I think Ms. Williams has them right now.

THE COURT: So what you --

MR. EVANS: Those would be in evidence.

THE COURT: So what you want to put into evidence is just the photograph of it?

MR. EVANS: Testimony on --

THE COURT: But you do have it here, correct?

MR. EVANS: Testimony on the record that it's --

THE COURT: Yeah.

MR. EVANS: -- in the courtroom --

THE COURT: Right.

MR. EVANS: -- and it's just not going into evidence, so then it can be returned to SCDC, put back in the refrigeration for safekeeping. You know, I don't think they'll need it after this week, but it's just a little bit unusual.

THE COURT: Okay.

MR. EVANS: I just want to make sure our chain is clean, and that Ms. Carmody is protected on the

record.

THE COURT: Uh-huh.

MR. EVANS: I know she has concerns, but I thought this was a reasonable workaround, and just wanted to bring that to the Court's attention --

THE COURT: Okay.

MR. EVANS: -- before she came up.

THE COURT: Ms. Carmody?

MS. CARMODY: Yes. I'm looking for -- so the -- number one, I don't think there's any identification of Mr. Holmes' at autopsy.

They say that's Mr. Holmes, but there was actually no identification with him --

THE COURT: I'm assuming Ms. Ross is going to do that -- Dr. Ross.

MS. CARMODY: We'll see, we'll see. Then --

THE COURT: Did she not do the autopsy?

MR. EVANS: She did the autopsy.

MS. CARMODY: She did. So on the items that were taken from Mr. Holmes, they went in two separate directions. We have his toxicology that went one way, and his actual blood that went another way.

In looking for the name of the person who actually handled his blood, because it's my understanding that person was never available, is not

available to testify, that would be my issue.

MR. EVANS: So I guess she's raising a, you know, complete chain later on down the road issue. The technician who took the liquid blood sample converted it to a dried blood sample.

That person is not available to testify, that is correct. Her name is in the chain of custody reports, which the DNA Analyst, Alysha Breland, who is in the courthouse, prepared to testify later today, she's gonna go over those chain of custody reports on the stand.

As Your Honor know, the case -- I'm sure Your Honor knows the name, I can't remember it, but plan to do this as a reasonable -- as far as is practical.

THE COURT: Uh-huh.

MR. EVANS: We have the chain reports.

THE COURT: Was there methamphetamine in his system?

MR. EVANS: There was, yes, ma'am, and the --

THE COURT: And any --

MR. EVANS: -- samples that we took toxicology results, that Ms. Carmody is interested in, they're in the same sealed package from autopsy, as the blood which led to the blood standard for the DNA.

THE COURT: Okay.

MR. EVANS: And there's also -- I mean she's -- I assume she's gonna want to get it into evidence that the victim's fingernail scrapings were consist with his own DNA profile, so his DNA profile is going to be necessary for that testimony as well, at any rate.

THE COURT: What does the DNA on the victim show? Whose DNA is it?

MR. EVANS: For his fingernails?

THE COURT: Yes.

MR. EVANS: His own.

THE COURT: Okay.

MR. EVANS: The Defendant's fingernails are his own as well. The items which have been moved into evidence already, that's where it's gonna be a mix.

THE COURT: A mix of both of theirs; is that what you're saying?

MR. EVANS: Yes, ma'am, on two items.

MS. CARMODY: So --

THE COURT: Which two items?

MS. CARMODY: was beside the toilet. And there's actually a contamination issue. They actually took the boxers that were outside of the bag, and put them in the bag, and sent all of that to Serology and tested it for DNA.

MR. EVANS: Those items are in evidence already,

Judge, and all that is waiting on is admissibility. The physical items themselves are in evidence.

MS. CARMODY: Your Honor, the jury, I honestly do not. It's just confusing, it's misleading. I mean this goes right to -- what is it, State v. Phillips?

THE COURT: All right, well, go ahead and provide me a copy of State v. Phillips, and let's first talk about the autopsy photos.

So how many do you intend on moving in, Mr. Evans?

MR. EVANS: Let me look.

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

THE COURT: I asked him a question, just give them to him. I want to know which ones he intends on putting in.

MS. CARMODY: Let's see --

MR. EVANS: I have one, two, three, four -- three, four, five, six, seven, Judge, plus the diagram.

THE COURT: Okay, so I'm gonna -- so -- okay, so State's Exhibit Number 54 what are you using it for?

MR. EVANS: Judge, that's to show that particular wound --

THE COURT: Okay.

MR. EVANS: Yes.

THE COURT: What do you believe it to be?

MR. EVANS: Juge, I think it's a slash wound, Judge, from this attack.

THE COURT: Okay. And then why do you want to use Number 52?

MR. EVANS: 52, this is the --

THE COURT: Is this the other side of the face?

MR. EVANS: Yes, ma'am.

THE COURT: Okay.

MR. EVANS: You can see this is his left, 54.

THE COURT: All right.

MR. EVANS: And 52 is his right.

THE COURT: Okay.

MR. EVANS: This is the injury that Dr. Ross is going to testify is the mortal wound.

THE COURT: Okay, okay.

MR. EVANS: I think a closeup of that.

THE COURT: Okay. What about Number 57?

MR. EVANS: Those are defensive wounds from his left hand.

THE COURT: Okay.

MR. EVANS: Number 55, those are obviously of his head. You can see his head shaved. Those are not the mortal wounds, but I think they are important, evidence of malice.

THE COURT: Okay.
MR. EVANS: 56 --
THE COURT: 56?
MR. EVANS: -- that's the -- yeah, that's the right hand.
THE COURT: Okay.
MR. EVANS: So 57 is the left hand, 56 is the right.
THE COURT: Because you were saying these --
MR. EVANS: Yes.
THE COURT: And then 51 and 53 seem to be very close up, correct?
MR. EVANS: Yes.
THE COURT: All right, so Ms. Carmody, starting over here, what's your objection to Number 54?
MS. CARMODY: Your Honor, actually, I don't have an objection to that one.
THE COURT: Okay, which one do you have an objection to? Just give me the numbers.
MS. CARMODY: 51 and 53.
THE COURT: Okay, and what's your objection?
MS. CARMODY: My objection would be --
THE COURT: So your objection is 51 and 53. State what's your objection.
MS. CARMODY: Cumulative to other evidence that

they already have, which is Number 54 and 52.

THE COURT: Okay, well, the pictures can be --

MS. CARMODY: It's more prejudicial than probative.

THE COURT: Okay.

MS. CARMODY: Yes.

THE COURT: Actually, I would prefer -- if you took out the whole -- this portion of the face.

MR. EVANS: We can do that.

THE COURT: Just do that portion of the face is the same, both of these, is what I would propose to do.

MR. EVANS: We can do that.

THE COURT: Okay, from here down, and from here. I also don't like that it's being done with a Sharpie. I would prefer that we just do a piece of tape, and just have it go down, or something that is not -- because you can still see his eye.

MS. CARMODY: So I don't know what the probative value of the blood behind his neck would be right now. This is probably 12 minutes -- 12 hours -- actually, 24 hours after he was deceased.

MR. EVANS: That's when autopsies are conducted.

THE COURT: Okay, and that's where he was bleeding, so I believe based off of what we've heard.

So I'm gonna allow it, allow Number 51 and Number 53 to somehow do a whole paper -- something --

MR. EVANS: Yes, ma'am.

THE COURT: -- to cover them from where right now we have blacked out.

MR. EVANS: Same for Number 52, a Sharpie.

THE COURT: The same thing, okay? Okay. I also do think that it's more probative than prejudicial, so --

Okay. All right, so I'm still not understanding clearly, tell me exactly what Dr. Ross is going to testify to.

MR. EVANS: Yes, Judge, the -- you might recall yesterday Ms. McKay thought that they had taken a buccal swab from Mr. Holmes on-scene.

THE COURT: Right.

MR. EVANS: And that that was where the known standard came from. And I understand she corrected herself, and I understand it actually came from autopsy.

THE COURT: Okay.

MR. EVANS: So the known standard change begins with Dr. Ross.

THE COURT: Okay.

MR. EVANS: Thee is an actual potential, physical

exhibit which contains samples of his blood, his gastric liquid, his ocular fluid and his urine. Those all go to SLED for different purposes, including, one, a known standard for DNA, and, two, blood for a toxicology result.

THE COURT: Okay.

MR. EVANS: The toxicologist is on Ms. Carmody's witness list, and I understand she may be interested in calling that person. The chain starts there with Dr. Ross.

Dr. Ross is prepared to testify about which SCDC person she provided that to, because she, obviously, doesn't drive it, you know, herself. That is going to match the chain of custody reports which Alysha Breland is going to testify about.

THE COURT: Okay, who is Alysha Breland?

MR. EVANS: She is the initial DNA analyst. We have two in this case, because they used the old method in 2018, and then STRmix in 2020, after it was adapted. I know Your Honor's familiar with that by name.

THE COURT: Yes.

MR. EVANS: So Ms. Breland creates -- this is getting a little bit ahead, but Ms. Breland creates the profiles, which are then used in the STRmix, and

that's why we have to have both, because we weren't able to stipulate to that.

THE COURT: Okay.

MR. EVANS: But the chain begins with Dr. Ross taking the blood, it becomes -- there's a point in which that blood is converted into a dried standard, which is what Alysha Breland uses, to create the profiles, just like she has a buccal swab.

THE COURT: Okay.

MR. EVANS: Judge, I don't believe there is one. The person who created the dried standard, which is a process Ms. Breland is familiar with, and can testify about. Her initials and date are on the dried blood standard, which is in the courtroom ready to be entered into evidence by Ms. Breland, as, yes, this is the standard I received.

It's labeled Mr. Holmes, obviously, I didn't autopsy Mr. Holmes, but this is the standard I received, in which I used in creating the profiles. So I don't believe under our case law, that there is a missing link, because we have to prove it, as far as practical.

We don't have to present every witness at every stage of the chain, as you know. As I said, I'm glad we're getting all of this out, but my chief concern

was, what are we gonna do if Ms. Carmody is going to insist, as she indicated to me yesterday, on the original sample being entered as an exhibit, as opposed to a photograph the Doctor --

THE COURT: I'm not worried about that.

MR. EVANS: Yes, ma'am.

THE COURT: You can do that, that's not my concern.

MR. EVANS: Oh.

THE COURT; We can absolutely do a photograph --

MR. EVANS: Okay.

THE COURT: -- and I've done many cases.

MR. EVANS: Very good.

THE COURT: That is not the issue. So what is the next --

MR. EVANS: I don't believe there is another issue.

MS. CARMODY: Your Honor, so the person that apparently takes the blood from a vile and dries it down and creates the slides and all the information, in order for a DNA analysis, is not here to testify. They're not here to testify as --

THE COURT: So --

MS. CARMODY: -- as to this.

THE COURT: -- your witness was who? She is

the --

MR. EVANS: She is a former SLED DNA Analyst. She now --

THE COURT: Okay, so she took the swabs, correct?

MR. EVANS: No, ma'am, Jasmine Ruiz-Yi did. We made an attempt to contact her.

THE COURT: She took the blood, and then who put it from wet to dry?

MR. EVANS: Jasmine Smith Ruiz-Yi, who we have attempted to contact. She is no longer at SLED, and she is unavailable.

We've made our best efforts, and I think the chain is complete, because she's identifiable, and Ms. Breland can talk about that process.

THE COURT: And Ms. Breland then --

MR. EVANS: Takes the dried blood standard --

THE COURT: Yes, and then just --

MR. EVANS: -- along with all the other samples.

THE COURT: Is she the one who tested it?

MR. EVANS: Yes.

THE COURT: She did?

MR. EVANS: She created the profile. She tested the DNA under the old system, then two years later when they had STRmix and they were -- I take it, if just sending many, many pending cases, where they had

mixtures back into analysis, they take the same profiles, they don't redo all that with the samples. They take that and they analyze it again with the new computer system STRmix, that was Sara Goodman, she is also coming to testify, and that is going to be the State's final witness.

THE COURT: Okay. Ms. Carmody, now tell me your argument.

MS. CARMODY: Your Honor, DNA is expungable, so the standard of expungable evidence is different than the standard for non-expungable evidence, no question at all, as to whether the DNA is, you know, to be contaminated, Your Honor.

We've had all these issues in this case with the collection, significant issues in this case, with the collection of evidence, everything being photographed on the floor. I believe that the person who took the blood and dried it down, in order for another person to do a DNA analysis has to be subject to cross-examination on what procedure she used in the drying down of blood.

Whether there's a reason she's not there anymore, and nobody knows why. Was she fired? What training did she have, in order to be able to do this? All of those things. She needs to be subject to cross-

examination, and I believe that that's why the chain is not complete, Your Honor. I believe there's also a contradiction issue.

MR. EVANS: It's definitely not a contradiction if she is a civilian. She's a technician, not an expert.

I found a case, Judge, State v. Williams, 297SC290, the chain of custody may not eliminate all possible tampering, but must establish a complete chain of evidence, as far as practicable. I know Your Honor knows that, I've seen that case many times, but just to protect the record --

THE COURT: Yes.

MR. EVANS: -- that case involves a DUI, and a blood sample. Judge, this is the standard under our case law in this State.

THE COURT: I don't think you have to give every person that is on the chain. I think it has to be established, you know, in as much as practical, so I'm going to assume to exclude any testimony of record to that.

MS. CARMODY: I'm sorry?

THE COURT: Your motion is to exclude any testimony in reference to that, correct?

MS. CARMODY: To the DNA sample, the DNA for Mr.

Holmes, yes.

THE COURT: And who is going to ultimately testify to that, Mr. Evans?

MR. EVANS: Both --

THE COURT: Okay.

MR. EVANS: -- and Sara Goodman.

THE COURT: Okay, all right. So, respectfully, I'm denying that motion.

MR. EVANS: Thank you, Your Honor.

THE COURT: And explain to me, again, just so I'm 100 percent clear, what DNA was found? Why is it important?

MR. EVANS: Thank you, Your Honor. When Ms. Breland tested the DNA in 2018 --

THE COURT: On what?

MR. EVANS: On a lot of items, Judge, so I'm gonna give you the one --

THE COURT: What was found with something with the Defendant? So I'm assuming the only reason why you're trying to get this in is --

MR. EVANS: That's correct.

THE COURT: -- that the Defendant's DNA was where?

MR. EVANS: His -- the Defendant's DNA was under his fingernails.

THE COURT: Was under whose?

MR. EVANS: Was under the Defendant's fingernails.

THE COURT: So the victim's DNA was under the Defendant's fingernails?

MR. EVANS: No, ma'am. No, ma'am. The Defendant's DNA was founder under the Defendant's fingernails, the victim's DNA was not.

THE COURT: Okay, I'm sorry, say that one more time.

MR. EVANS: I'm gonna give you every opportunity -- I'm gonna try to take it slow.

THE COURT: Okay. Listen, there should be Defendant's DNA under his own fingernails, so that's --

MR. EVANS: Yes, ma'am.

THE COURT: -- that makes no sense, so keep going.

MR. EVANS: There was not the victim's DNA under the Defendant's nails. There was not the Defendant's DNA under the victim's fingernails.

THE COURT: Okay, so there's no scratching marks for either one of them?

MR. EVANS: No, ma'am.

THE COURT: Of each other? Okay.

MR. EVANS: Of each other. The Defendant's own DNA was found on his own Crocs.

THE COURT: The Defendant's own DNA was found on his own Crocs?

MR. EVANS: Yes, ma'am.

THE COURT: As it should be.

MR. EVANS: Yes, ma'am, I'm getting there. All the items which he was wearing were -- when they searched him, and they took those photographs, the green pants, which were defense exhibits.

THE COURT: All Defendants.

MR. EVANS: Those are all Defendant. The scrotal support garment, Judge, the jock strap --

THE COURT: Yes.

MR. EVANS: -- that has only under STRmix, which this is why we had to do two analysts --

THE COURT: Okay.

MR. EVANS: -- under STRmix, that's gonna come back as a mix. The reports say it right, the DNA profile is approximately 150 decillion times more likely if Jerry Holmes and Benjamin DuBois contributed to the mixture than two unidentified, unrelated individuals contributed to.

THE COURT: So both of their DNA was on --

MR. EVANS: On the job strap.

THE COURT: Okay.

MR. EVANS: That's also the case for the collared shirt with the word Animal written on it.

THE COURT: So both the Defendant and the victim's DNA were on the Defendant's shirt that was found, correct me if I'm wrong, where?

MR. EVANS: In the bag --

THE COURT: In --

MR. EVANS: -- by the toilet.

THE COURT: In the bag by the toilet, and it had the name Animal written in it?

MR. EVANS: That's correct.

THE COURT: Okay.

MR. EVANS: The boxers with 295690, at which will later, through Mr. Garvin, come in as the Defendant's SCDC number, those were positive under both as only Jerry Holmes probability of a random, unrelated individual having a profile matching this, one in 130 septillion.

So that's not a mixture, but it is an item with a number associated with Mr. DuBois, and also has Mr. Holmes' DNA on it. There are a number of other items, Judge, but those are the big ones --

THE COURT: Okay.

MR. EVANS: -- for the State's purposes.

THE COURT: Okay.

MR. EVANS: That's what we're driving towards.

THE COURT: Okay.

MS. CARMODY: Your Honor, thank you. Look at the photographs, the boxer shorts are on the outside of the bag on the side of that toilet.

THE COURT: Uh-huh.

MS. CARMODY: The common area on the boxer shorts and support item. When the boxer shorts end up going to Serology and DNA, all of a sudden, they're on the inside of the bag now.

So like all the evidence in this case --

THE COURT: -- is not admissibility though. I think you can argue all day long, this is a common bathroom, it could have --

MS. CARMODY: Well, Your Honor --

THE COURT: -- everyone's DNA.

MS. CARMODY: -- but the problem though is that the juries often misinterpret DNA evidence, and I don't believe that it's helpful to the jury. It would confuse the jury to believe that, well, you know, both of their DNAs are there, so that means that, you know, Mr. DuBois did this, and that's not true.

THE COURT: That's what your cross-examination --

MS. CARMODY: But --

THE COURT: -- is for. I expect you to be able to answer --

MS. CARMODY: But --

THE COURT: -- to the DNA analysis, that it's very possible that he could have picked up the DNA from anyone else that was in the bathroom.

MS. CARMODY: But, Your Honor, but also the issue is, is that the boxer shorts in their photograph, the boxer shorts are on the outside of the bag.

When the items go to SLED, the boxer shorts are thrown into the bag with the rest of the items that is tested for DNA.

THE COURT: Right.

MS. CARMODY: So now we just took the DNA from the floor, and those two boxer shorts, and contaminated the entire bag. We have no idea whose DNA --

THE COURT: But that goes to your cross-examination.

MS. CARMODY: Your Honor --

The COURT: That's what cross-examination is for.

MR. EVANS: And, Judge, that's not true. We've seen how they were packaged when they were admitted by Ms. McKay yesterday, and they are in evidence. All of these items are now in evidence.

THE COURT: I know.

MR. EVANS: SLED is not responsible for the chain of custody before they arrived. They can't control that.

THE COURT: The point is this, I think they can testify to it. Obviously, you're gonna have to do cross-examination to ask them how it wasn't cross-contaminated.

MS. CARMODY: Your Honor, I believe that the probative value is substantially outweighed by the appearance of unfair prejudice, because it will confuse the jury, and may misinterpret it, and juries rely heavily on DNA evidence.

MR. EVANS: Judge, the standard is substantially outweighed.

MS. CARMODY: Your Honor, I mean like I said, it's --

THE COURT: All right, well, I'm gonna read State v. Phillips, but is Dr. Ross here right now ready to go?

MR. EVANS: Yes, she's in the building. So given your other ruling --

THE COURT: Do you have Phillips?

MR. EVANS: Ms. Carmody has handed me a copy.

THE COURT: Just let me have it.

Let me ask you this, why can't we take this up at lunch, because we're not --

MR. EVANS: You can, Judge, yes.

THE COURT: Okay.

MR. EVANS: Because we're gonna do Dr. Ross --

THE COURT: And DNA?

MR. EVANS: Yes. Yes, ma'am.

THE COURT: Let's take about five, all right?

MR. EVANS: Thank you, Your Honor.

(RECESS)

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PROCEEDINGS CONTINUED

BAILIFF: All rise.

THE COURT: Are you ready to go? Are you ready to bring the jury out?

MR. EVANS: Thank you, Your Honor, may I approach the bench?

THE COURT: And, Dr. Ross, is she here?

MS. CARMODY: Yes, Your Honor, I just wanted to put on the record that while Dr. Ross is testifying, I'm not going to object while she's -- the final ruling, correct, Your Honor?

THE COURT: Yes.

MS. CARMODY: Thank you, Your Honor.

THE COURT: Okay.

MS. CARMODY: Is the DNA chain an issue for us?

THE COURT: Yes, it is.

MS. CARMODY: Thank you, Your Honor.

MR. EVANS: Thank you, Your Honor.

THE COURT: Okay. All right, where is Dr. Ross?

MR. EVANS: She's in the building.

THE COURT: Okay.

COURT REPORTER: She is, she's sitting right over there.

THE COURT: Good morning, Dr. Ross, if you don't mind just having a quick seat for a moment, I will bring the jury out.

I'm gonna call you, I just wanted to make sure you were here. Thank you. All right.

let's bring the jury out.

(Jury enters the courtroom.)

THE COURT: Call your next witness.

MR. EVANS: The State calls Janice Ross.

THE COURT: Come on forward, Dr. Ross.

JANICE ROSS, M.D.

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MR. EVANS:

Q. Hi, good afternoon, Dr. Ross.

A. Good afternoon.

Q. Can you please identify yourself, and spell your last name for our Court Reporter.

A. Yes, Janice Edwards Ross, R-O-S-S.

Q. And what are you a doctor of, ma'am?

A. Forensic pathology.

Q. Can you identify that for us?

A. Yes. First, I'm a doctor, so I went through four years of college, four years in medical school, another five years of training in the field of pathology, where we identify diseases by using the microscope, the laboratory work.

We also learn how to do an autopsy to find the cause of death. Forensic pathologist does extra work in identifying patterns of injury to identify a cause of death, which is what it means, cause of death, and a manner of deaths, which is how that cause of death came about.

So whether it's a natural death, a suicide, accident, and sometimes you can't determine, and you just call it undetermined.

Q. Okay, so manner like homicide, that's a medical evaluation, not a legal?

A. Correct. Well, it's both.

Q. Oh, okay. So how long have you been doing

this?

A. 47 years.

Q. All right. Approximately, how many autopsies have you performed?

A. Over 15,000.

Q. And how many times have you testified in a courtroom like this?

A. In South Carolina over 300.

Q. Okay. As an expert in the field of forensic pathology?

A. Yes.

MR. EVANS: Your Honor, the State would tender Dr. Ross as an expert in the field of forensic pathology.

THE COURT: Any objection?

MS. CARMODY: No objection.

THE COURT: All right, ladies and gentlemen, in this case Dr. Ross is being qualified as an expert witness in the area of forensic pathology.

That allows her to give her opinion, and the reasons for her opinion, and that's for you to use as you see appropriate, as it is compared to other evidence in this case.

MR. EVANS: Thank you, Your Honor.

BY MR. EVANS:

Q. Doctor, how did you become involved in this case that we're here about today?

A. Yes, until late 2008 -- from 2000 to 2018 I worked at Newberry Pathology Associates in Newberry, South Carolina, where we did autopsies for most of the cases from the Correctional facilities --

Q. Okay.

A. -- correctional facilities.

Q. Regardless of where they occurred in the State?

A. Yes. Some, excuse me, some counties did their own, but most of them came to us.

Q. Okay. And were you presented with the remains of Jerry Holmes?

A. Yes.

Q. Were you asked to do an autopsy?

A. Yes.

Q. When did you do that?

A. June 23rd, 2017.

Q. Would you take us briefly through the results of your autopsy?

A. Yes. We had, obviously, multiple sharp force injuries. A sharp force injury includes what we call a slash wound, which is maybe a -- is a wound in the skin, it doesn't go very deep. And there was one stab

wound, however, a stab wound is defined as that it is longer than it is wide.

So we had one stab wound in the right neck, which went in, and transected some blood vessels that had caused him to bleed out.

Q. Okay. Did you document your findings anywhere?

A. Yes.

Q. How do you do that?

A. With an autopsy report.

Q. Okay. Do you also take pictures?

A. Yes.

Q. Did you take pictures of Mr. Holmes in this case?

A. Yes, I did.

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 Exhibits 51, 52, 53, 54, 55, 56 and 57, and ask if you can identify those, please?

A. These are photographs from the autopsy of Jerry Holmes that I took, with the autopsy number

FA17, which means Forensic Autopsy, the year 2017, and the autopsy number 571.

Q. That's indicated on some of these photos?

A. Yes.

Q. All right. You took these yourself?

A. Yes.

Q. Do they fairly and accurately, other than the parts we've covered up, depict the way Mr. Holmes looked when you were examining him?

A. Yes.

MR. EVANS: Your Honor, the State would move these photographs into evidence at this time.

THE COURT: Okay, subject to prior objection.

(State's Exhibits 51, 52, 53, 54, 55, 56 and 57 were admitted into evidence.)

BY MR. EVANS:

Q. Doctor, would it help your testimony to put these up on the ELMO, and explain what each of the injuries depicted are?

A. Yes.

Q. Do you want to come on down?

COURT REPORTER: Sir -- Solicitor, could you repeat the numbers for me?

MR. EVANS: I will be happy to. It's one, two, three, four, five, six and seven.

COURT REPORTER: Thank you.

BY MR. EVANS:

Q. All right, Doctor, I'm going to hand you a pointer. This is State's Exhibit 51.

Can you tell us about what we see here?

A. Yes, the -- can you see the right side of the victim's head, we always place the number so that the head is above it, but this is the stab wound that was lethal, that was the cause of death.

It went into the neck, it went downward, and towards the midline, and it cut through multiple blood vessels. This other wound here, here and here were just superficial wounds. For instance, like the tip of a knife, like it being made by the tip of a knife, or a sharp tip.

Q. So there's more to this injury below the surface?

A. Yes.

Q. All right. And State's 52?

A. It's just a closeup of the right. This is the stab wound that went in and transected some blood vessels.

Q. Okay.

A. These were very superficial.

Q. What does superficial mean?

A. Just went through the skin surface, maybe through the thickness of the skin, some of them.

Q. All right, State's Exhibit 53?

A. This is the left side of the victim. You see more the superficial in size wounds, the ear, the head, some on the chest.

Q. Okay. Can you tell anything about how old those -- all these were?

A. No.

Q. All right. What about State's Exhibit 54?

A. And, again, the left side of the head, and the left ear, wounds here, the size wounds are just like a dragging wound of the tip of the sharpest knife.

Q. Okay. State's Exhibit 55?

A. That's from the back of the had that we identified for his slash wounds, which were the skin.

Q. Were those stabs or slashes or how would you describe those?

A. I'm sorry, those would be the size wounds.

Q. Okay.

A. Because they would just go to the skull and did not break his skull.

Q. The skull stopped whatever, you know, caused those?

A. Yes.

Q. Was his head shaved when he arrived, or --

A. No, we shaved his head to take a better picture of the sounds.

Q. I see, and this is that same autopsy that you've been referring to?

A. Yes.

Q. All right. State's Exhibit 56?

A. That is the palmer aspect of his right hand. You see excised wounds here, here, here. I'm not sure about that one, but some stab wounds.

Q. Okay. Do those appear to be consistent with the other ones we've seen?

A. Yes.

Q. All right. State's Exhibit Number 57?

A. So this is the palmer aspect of the left hand, again, with multiple little wounds on it.

Q. And, Doctor, did you do a diagram in this case as well?

A. Yes.

Q. All right. I'm showing you what's previously been marked as State's Exhibit 50; is that the same diagram?

A. Yes.

Q. All right. You did this yourself?

A. Yes.

Q. All right. Your Honor, the State would move the diagram in as State's Exhibit 50 at this time.

THE COURT: Admitted.

(State's Exhibit Number 50 was admitted into evidence.)

BY MR. EVANS:

Q. All right, Doctor, tell us what else we need to know.

A. It's probably confusing, because I take my notes like he had brown hair, blue eyes, natural teeth, but these little marks depict where some wounds were, the neck, the head, the chest, the left abdomen, the right arm and hand, or left hand on the front.

Then on the back of the left hand, the left arm, the back right arm. Some on the shoulder and a few on the legs found here, you know, on the thighs. Some of these other notes are -- have to do with tattoos.

Q. I see. What about these words on his chest and his back?

A. Those are tattoos.

Q. And what do they say?

A. Across the front, upper abdomen, Holmes, and back it was an upside down cross and the word Country, spelled, C-O-U-N-T-R-E-Y.

Q. Okay. So all these little ticks and marks all over his body, other than the words and the upside down cross, are those all injuries?

A. Yes. I think I counted 81 little in size, except for the stab wound.

Q. 81 distinct injuries. Is that including the stab wound, or --

A. Outside of the stab wound.

Q. All right, so at least 81, plus the stab wound. Thank you, I think you can return to the stand. Did you find any other injuries, other than the incisions and the stab wound? Any bruising? Anything else?

A. There was a bruise of the left eyelids, and there was bruising under the stab wounds of the right chest --

Q. Okay.

A. -- that was caused by the stab wounds.

Q. Okay. Did you find any other -- well, let me back up. What else goes into an autopsy, other than determining the case and manner of death?

Are there any other steps you take?

A. Certainly. We look at each organ, to see if there's any natural disease that might have contributed to the death, which I did not see.

Q. You didn't see any on Mr. Holmes?

A. No, the heart was fine, there was no cancer, no other natural problems.

Q. Did you take anything from his remains?

A. Yes. We routinely take blood, and we take vitreous, which is fluid from the eye.

We take urine if there is any. We take -- sometimes we take tissue, blood, brain and liver. And we also take -- at that time we were taking vile fluid.

Q. All right, Doctor. Did you collect blood from Mr. Holmes then?

A. Yes.

Q. I'll pass you something which has not been marked, and I will ask you if you can identify that, Dr. Ross.

A. These are some tubes of blood and fluid that we had retrieved from Jerry Holmes at the time of autopsy.

Q. Okay.

A. They're put in plastic bags and sealed and initialed.

Q. And who did you give them to?

A. Marshall Bryson.

Q. Do you know where he works?

A. A SLED agent, or SCDC -- I'm sorry.

Q. SCDC in this case?

A. A SCDC agent.

Q. Okay. But those were the samples you collected in 2017?

A. Yes.

Q. All right, do they have the same autopsy number on them?

A. Yes.

Q. Okay. Now, Doctor, I'm going to pass you some more photographs.

MR. EVANS: May I approach, Your Honor?

BY MR. EVANS:

Q. These have been marked as State's Exhibit 65, 66, 67 and 68. Can you tell what those are?

A. So these are photographs of tubes of blood, and it looks like a bottle of urine, and a bottle of gastric fluid that are sealed inside of our evidence bags.

Q. They're the same -- photos of the same that you just -- the actual samples that you just reviewed?

A. Correct.

Q. Okay.

MR. EVANS: Your Honor, the State would move these photographs into evidence as Exhibits 68, 60 --

I'm sorry, in order, 65, 66, 67 and 68.

THE COURT: Yes.

(State's Exhibits 65, 66, 67 and 68 were admitted into evidence.

BY MR. EVANS:

Q. All right, Doctor, and you said you gave those to Marshall Kirkland of SCDC?

A. Marshall Bryson.

Q. Bryson, I'm sorry.

All right, Doctor, after you finished examining Mr. Holmes, taking pictures of him, making the diagram that we saw, what were your conclusions?

A. That he died from exsanguination, which is to bleed out, due to the excised wounds, the blood vessels, due to the stab wound of the neck.

Q. Could he have survived the other 81, were it not for that one in the neck?

A. Yes.

Q. So that was the one that took his life?

A. Correct.

Q. So the cause is exsanguination?

A. Yes, which means to bleed out.

Q. To bleed out. What was the manner of death in your opinion?

A. Homicide.

Q. All right, and those are both your expert opinions as an forensic pathologist for 40-something years?

A. Yes.

MR. EVANS: Beg the Court's indulgence, Your Honor.

BY MR. EVANS:

Q. Those are all the questions I have, Doctor, please answer any questions that Ms. Carmody has.

A. Thank you.

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon, ma'am.

A. Good afternoon.

Q. Ma'am, how did you -- how did Mr. Holmes present for autopsy? Well, the man you examined, how did he present at autopsy?

A. He -- we worked out of the morgue in Newberry County Memorial Hospital, and he was transported to our morgue in a body bag.

Q. Who transported him to your morgue?

A. Whoever worked for Jasper County. I don't have that name.

Q. You don't know how he got there?

A. Whoever Jasper County would use for transportation.

Q. You didn't see the Coroner?

A. The Coroner's the one that called me to schedule the autopsy. The transport documentation is in a logbook in the morgue at Newberry County Memorial Hospital, which I don't have.

Q. And who provided you with the identification that this person that you did an autopsy on was Mr. Holmes?

A. Well, the SCDC agent was there, and --

Q. And what documentation were you provided?

A. I don't have that noted on whether or not he had a name on him. He was received nude.

Q. He was also received nude, right? He had no clothing?

A. Correct.

Q. He had no identification with him?

A. No, not that I have documented.

Q. Okay. And so really -- I mean, you don't know who the person is you're doing an autopsy on, correct?

A. Well, I knew. I -- the SCDC agent was there to identify him.

Q. But you don't know who that is?

A. Marshall Bryson.

Q. Marshall Bryson identified him? How did he identify him?

A. I don't know.

Q. You don't know? Okay, fair enough. And, normally, you have photographs of like a toe tag, or something like that, right?

A. I don't have those.

Q. There's no toe tags attached to his body, or any, you know, like the -- so, normally, when somebody dies like in a hospital or something, they'll prepare the body, and they'll attach like a toe tag, and --

A. Yes.

Q. So -- okay.

A. Correct.

Q. You don't have any toe tags in this case though?

A. No.

Q. All right. And he showed up just as is, naked, no clothing you said at all?

A. That's correct.

Q. All right. Now, this person that you did an autopsy on, how long do you think it would have taken him to die?

A. Once that stab wound was made, he'd be

probably unconscious from loss of blood within a minute, and then irreversibly dead in four or five minutes.

I don't -- I can't tell you in what order those stab -- those wounds were made.

Q. You said a minute to be unconscious, and then dead in how many minutes?

A. Four or five minutes.

Q. Do you know when this person died?

A. They documented that -- the Coroner documented it was June 22nd, 2017.

Q. On June 22nd? Now, are you aware of a SCDC policy that requires an investigator to bring you weapons to look at?

A. They -- if they have them, sometimes they will bring them with the body.

Q. Did anyone from SCDC provide you with any weapons to look at, to determine if one of those weapons were used in the stabbings?

A. No.

Q. You had indicated that you don't know how these -- when these injuries occurred, right?

A. Correct.

Q. You can't definitively state that these injuries were even caused by the same weapon, correct?

A. Correct.

Q. And when you collected the blood from Mr. Holmes, did you send it off to toxicology?

A. Yes.

Q. What's the purpose of sending it off to Toxicology?

A. To identify any drugs that may be -- the patient may have taken.

Q. And you didn't receive those results?

A. I did, yes.

Q. You did receive the results?

A. Yes.

Q. And were those results considered in your autopsy?

A. Yes.

Q. And what --

A. Well --

Q. I'm sorry?

A. Yes.

Q. And what were the results?

A. There was methadone, and some methamphetamine, I think.

Q. Methamphetamine?

A. Yes.

Q. Okay. You don't know how long

methamphetamines stay in your system, do you?

A. It's -- that's not my expertise.

Q. I understand that.

A. There was some breakdown product.

Q. Oh, the methamphetamine is the substance, and then the amphetamine was the breakdown from it?

A. Yes.

Q. Okay, all right, and there was the breakdown substance?

A. Yes.

Q. Okay. Do you know how much -- I mean do you know how tall this man is?

A. We measured him at 69 and 1/2 inches in height, and we didn't have a scale in the morgue, so we estimated him to weigh about 165 pounds.

Q. All right, so this isn't -- when it says 165 pounds on this form here, it isn't actually accurate, it's just a ballpark estimate?

A. Yes.

Q. All right. Ma'am, I don't have any more questions.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. How many feet and inches is 69 and 1/2

inches?

A. It's 5'9 1/2 inches.

Q. And you measured that with an actual -- what, a tape measure?

A. Yes.

Q. Okay. I know you said it's not your field, but you were asked questions about the difference between methamphetamines and amphetamines? Can you describe that a little bit more?

A. Yes. Methamphetamine will break down in the body, even metabolized partially by the liver.

Q. And the results that you received from an outside source and incorporated into your report indicated the presence of both?

A. Yes.

Q. All right, so it was starting to break down in this system?

A. Yes.

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

THE COURT: Anything further?

MS. CARMODY: Just briefly, Your Honor.

**

RECROSS-EXAMINATION

BY MS. CARMODY:

Q. Ma'am, what do you know about rigor mortis?

MR. EVANS: Objection, beyond the scope.

THE COURT: It is beyond the scope, but I'm gonna allow her to ask it, go ahead.

MS. CARMODY: Thank you, Your Honor.

BY MS. CARMODY:

Q. Ma'am, what's rigor mortis?

A. Rigor mortis is a stiffening of muscles, and it starts when all the energy inside the muscle cell has been used up.

So if you're running, or fighting, or running, or using your muscles a lot, you will go into rigor mortis a lot faster than if you just die in bed from a heart attack.

So I think you can go into rigor -- full rigor mortis within five minutes, depending on the circumstances, but, usually, if you die from a natural death, for instance, overnight, then you go into rigor mortis over -- in full rigor mortis in about 12 hours, and then the rigor mortis dissipates.

Q. Okay, ma'am, so rigor mortis is like this, the stiffening of the body?

A. Yes.

Q. All right, and if rigor mortis is present, how long prior to rigor mortis would this person have died?

A. It depends on your use -- if you're running, if you're fighting, if you're using your muscles, you use up the energy faster.

And if you have a high temperature, you use up your energy faster. There's a case in the literature of somebody going into full rigor mortis in five minutes.

Q. Oh, wow, okay, all right. All right, and after -- how many hours would -- later would somebody be still dropping blood from a wound like this?

A. It depends on gravity, but I mean it -- with this type of wound, there were some arteries cut, and there was some veins; but the arteries would spurt blood until the volume got so low that there wasn't anything to spurt, the heart stopped.

Q. Okay, how long would that take?

A. It depends how big the -- this -- these vessels were a little -- weren't the main artery, there were branches, so it wouldn't be as big; but also it depends on gravity. If the blood was only to escape through that stab wound, and there was some blood around the structures of the internal neck too

Q. All right. I think you said earlier he'd be unconscious within a minute?

A. Yes.

Q. Dead within four to five?

A. Yes.

Q. All right. Thank you, ma'am.

MS. CARMODY: No further questions.

THE COURT: Anything further for Dr. Ross?

MR. EVANS: No, Your Honor.

THE COURT: Any objection to Dr. Ross being excused?

MR. EVANS: Not from the State.

MS. CARMODY: Nothing further.

THE COURT: Thank you.

WITNESS: Thank you.

THE COURT: Call your next witness.

MR. EVANS: The State calls Mr. Garvin.

THE COURT: All right, come on forward, sir.

***

WILLIAM GARVIN,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Good afternoon.

A. Good afternoon.

Q. Would you please identify yourself, and spell your last name for our Court Reporter?

A. William Garvin.

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

A. I didn't spell my name.

Q. Oh, I forgot to have you spell it, I'm sorry.

A. G-A-R-V-I-N.

Q. Where do you work, Mr. Garvin?

A. Presently I work for South Carolina Probation, Parole, and Pardon Services.

Q. All right. Where did you work before PPP?

A. I worked at South Carolina Department of Corrections.

Q. All right, is that where you were working in June of 2017?

A. That's correct.

Q. Are you the primary investigator case officer, as we sometimes say for this case?

A. Yes.

Q. Can you tell us how you became involved in the case, and, of course, your investigation?

A. On June 21st I got a call from my Assistant Chief, which he got a call from the Institution that there was a incident involving an inmate that was unresponsive, that was stabbed.

Q. Before June 21st, 2017, how long had you worked for SCDC?

A. I had two -- actually, two stents with SCDC. My first, when I first got to South Carolina, I was actually a Police Officer and retired from New Jersey.

I moved down in 2008. My first employment was with SCDC as a Correctional Officer. I stayed with them about eight, nine months as a Correctional Officer, and then I went onto police work with Beaufort County Police Department, then I left there and came to SCDC as an investigator.

Q. When you were in, you know, a regular prison role, where were you working at?

A. I worked at Ridgeland Correction Institution.

Q. Okay, for that whole time?

A. Yes.

Q. Okay, so when you were alerted there in 2017, you were familiar with the place?

A. Yes.

Q. Okay. What can you tell us about RCI, plus some of the other prisons you've been to?

A. RCI is -- has four dormitories. Each dorm has two wings, which has two tiers. They also have a second -- well, a lockup called Beaufort, where there's like a 24/7 lockup, where you would put inmates that were disciplined or in protective custody, they would go in there; or we would even use

that area for -- it would -- like in this case we had individuals that we wanted to separate some other inmates to keep the integrity of the investigation, and put them in that unit.

There's an open area, which is called the yard, it's open, it has a -- like sidewalks that go from one unit to the other. There's a cafeteria, has a factory that does -- like that one time they did chairs, they would -- Prison Industry, that's what it was called. And it had an area where inmates would work outside, would work on plants, and they would grow plants, and do not real farm work, but do some stuff with plants.

It had an administrative building, which we'd call the Medical Building, that's where our office was, and medical staff -- a medical room, which if inmates got sick, or whatever, would go to.

Q. Okay. Is it more dangerous than other prisons? Less dangerous?

A. Ridgeland was a -- considered a Level II. There was three different levels, one, two and three, and then you had death row; but Ridgeland was an extremely dangerous institution.

It was said that it was more of a level three, which is the highest level, and you keep the most violent offenders there, but it was a level two, and

it was pretty dangerous.

Q. Okay. What can you tell us about prison life, generally? Like we've heard a lot of talk about locking windows and the sharing of clothes.

Can you tell us --

A. Well --

Q. -- in your training and experience what was prison life like at SCDC Ridgeland?

A. While I was there, I was a Correction Officer, you would be assigned a unit. You would go into a specific unit every day, you go to briefing, and they would assign you to a specific unit.

At the time I was there, there were two officers per unit, and it was supervised. You would get that -- the yard officer or the supervisor that had the yard, would let you in your unit, and let the other officer out to go home. You'd get a set of keys, and your keys went to whatever wing you were, the A wing or the B wing, and you would go into that unit, and you would conduct your business, or do your job.

You did not have the key to get out into the yard, you had to call someone to put you -- to come out into the main courtyard or the yard, but you had the key to get in your unit, into the horseshoe, but not your -- you didn't have the key to get into the

opposite unit, or B wing, or say A didn't have B's keys, and B didn't have A's keys, to go back and forth. That was done for security reasons.

Q. Okay, but A and B, the COs in charge they can meet in the middle?

A. They can meet in the middle, yes, but A did not have B wing's keys, and B didn't have A's keys.

Q. How -- when they're on an overnight shift -- like the one we've been hearing about -- how often are they supposed to walk around to check things out during the shift?

A. When I was there you had to do a security check at least once -- about every hour. Try to get up from your desk, 'cause there was a desk that's located in the middle of the wing, and the officer will sit there.

There's a phone there, there's a logbook and all that -- all different things that he had for the night. And he would do his security checks, go walk around, make sure the doors were either closed or locked, that he could see inside.

Inside there's like a very thin window about four inches wide.

Q. Do you mean -- sorry to interrupt, when you say look inside, does that mean into a cell?

A. Into a cell, yes.

Q. I see, all right.

A. Look into the cell, make sure that if you -- your count sheet says two, there's two, if it says three, there's three individuals in there.

You'd look inside to see if they were the right amount noted.

You would also manage -- they would have some individuals that would walk around, that would be out, that would do chores outside, like maybe sweeping, or cleaning the bathroom, or something of that nature; but those people only came out the early part of the evening when everybody was down.

Q. All right.

A. Then you had the -- either hospital workers that you'd let out early, or the cafeteria workers, they were let out early.

Q. So people who are getting out unusual times, the inmates, are they allowed to have their cells left open, or is that supposed to be through the CO saying, "I'm coming through, I'm doing my round, and now it's time for you to get out of here, even though it's not time for everybody else."

A. That's only done -- or the CO does that to those inmates that are supposed to be out.

Q. Gotcha.

A. That are assigned to go to the cafeteria, maybe assigned to go to the Medical, or some kind of transportation run, where they've got to go to court, and they have to leave early in the morning, they could get up and leave.

Q. Are there any legitimate reasons for a cell to be left open overnight?

A. No, not necessarily. They should not just leave them unlocked arbitrarily, without good reason.

Q. In June of 2017 were there any cells that were malfunctioning?

A. Yes.

Q. Okay, what, if anything, were they doing about that?

A. Well, there were ten -- I believe it was ten cells that were left -- not left, that were malfunctioning.

Q. In RCI or --

A. In RCI and the Savannah B wing. What has -- what happens is that the COs, that's the part of their duties, to go around and make sure these doors were not -- could be secured.

If they're not, they've got to make a report, send it up, as one of those doors, a door that has to

be fixed. Then they put in a requisition for the State to come out and fix the doors.

Q. Does it happen overnight?

A. No, it doesn't happen overnight, it takes some time. Of course, things take time to get through the system.

Q. Sure. How about, again, those windows that the CO is supposed to be looking through in each cell?

A. They're supposed to look -- the windows are supposed to be clear. They're not supposed to have anything they call flaps.

Sometimes guys have -- because they have a toilet there, and they want some privacy, so they may put something up, and when they hear the knock on the door, someone would say, "Hey, take the flap down." They might say, "I'm going to the bathroom," and he might come back and say, "Okay, take the flap down." You shouldn't be on -- using the bathroom all night, but they, you know, sometimes they do.

You open the door, you take the flap, you take it down and close the door back. If they continue to do that, then you are to write them up.

Q. Okay, so there's a little bend, but don't break aspect to it?

A. Exactly.

Q. Like speeding maybe?

A. Right.

Q. Okay. What about when somebody has bad plumbing in the cell? How do they handle that?

A. Well, that plumbing is -- again, is reported to the CO. The CO then sends it up to the Maintenance Department.

The Maintenance Department will take -- come out and take a look at it. They should have did a -- a report should be done -- generated to take care of that situation.

Q. Okay. In your duties as a SCDC Police Services Investigator, do you ever investigate employees of SCDC, as opposed to inmates?

A. Yes. We were kind of like Internal Affairs, and we did do a lot of -- when I'm saying do a lot of -- not that we did a lot, lot, but that was one of our main focus, to make sure that the officers, as well as some of the inmates were doing what they're supposed to do.

Q. And in this case that we're having a trial here, were there guards charged?

A. Yes.

Q. Can you tell us about that side of the investigation?

A. Yes. During my investigation, one of the first things I wanted to find out I had to look at was, where was the officer? Because the officer is the one that's -- is given the responsibility of the inmates' safety.

I know there are 150, 151 inmates, he still has the responsibility. They do train you how to handle yourselves in these wings, even if there's just one of you, and most inmates will not have a problem with you doing your job.

If you're doing your job, you're really not gonna have a problem; but if you go out there and try to be chummy and friendly with them, they're gonna really take advantage of you.

So in this investigation, that's the first person we're gonna look at, "Did you do what you were supposed to do by policy."

Q. And we're talking about Tyrese Griffin?

A. Tyrese Griffin, the yard officer, Earl Scott, and Lieutenant Walker.

Q. Okay, you were --

A. Those three people.

Q. -- investigating all of them, and their actions at the same time you were investigating what happened to Mr. Holmes?

A. Correct.

Q. All right, so what were these three gentlemen supposed to be doing on the night of June 21st and 22nd?

A. Well, Mr. Griffin was in charge of the wing, Savannah B. And as I stated earlier, he's really supposed to be in the wing, and when he comes, if he has to go out, he has to call out on his radio, call his Lieutenant -- his Sergeant, or the yard Sergeant, which is Earl Scott, to -- "Hey, I've got to go -- I want to go to lunch," or, "I'm sick, I can't finish my shift," or whatever.

And then Earl Scott is responsible for getting someone filling that position, while Griffin would have been doing whatever he was gonna do.

Lieutenant Walker, his responsibility is overall, I mean there's a Captain as well, but he's kind of like the walking around doing -- checking the units, making sure the Sergeant's doing what he's doing.

It's kind of a -- the chain runs up the, you know, runs up and down the hill.

So I looked at all of the individuals to see exactly what they were doing, where they were, and if they were doing what they were supposed to be doing by policy.

Q. And what did you use to make those determinations? What kind of evidence?

A. Well, look at their logbooks. I got statements from all three of those individuals.

Q. Were the logbooks accurate?

A. No.

Q. How were they inaccurate?

A. They were actually just making entries. Let's say that if at 8:30 I was doing my check, they were just penciling it in to say 8:30 I did a check, 9:30 I did a check, and then blah, blah, blah, just kept going.

Earl Scott, he did not make an entry, or found out when I asked him questions regarding Mr. Griffin's whereabouts and what he was doing, he could not give me a -- the right information as to why he was not where he was supposed to be.

A Lieutenant Walker I saw where he made an entry in the logbook, that he went in, did a check and left. He did not, he just went there, penciled it in and left. He didn't go and do the check as he said he had -- said he was supposed to do.

Q. And how were you able to confirm that? Did you speak to inmates?

A. Yes.

Q. Okay, were Mr. Holmes and Mr. DuBois, were they some of the inmates?

A. Yes, there were two inmates that I did talk to.

Q. All right. And did you review any -- I mean are there any videos in a place like this?

A. Well, they -- the camera system was sketchy at best in some of the wings. They have since improved it, but I mean even after this incident, and I'm no longer there, there was one video in the administrative building that I reviewed, because my information, as I was going along, told me that -- I found out that Mr. Griffin left the wing, and I knew he left the wing, and he said he was -- went one place, and I found out he went somewhere else, and it was on video.

Q. So you concluded after watching the video that Mr. Griffin was not where he was supposed to be over the course of his nightshift?

A. That's correct.

Q. Do you know where he was?

A. Yeah, he left. He said he was -- in his first statement he gave me, he said he was doing these checks, but I later found out that he had left, and left the Institution completely, said he went to have

lunch, and gave his keys to Sergeant Scott.

But after speaking to Sergeant Scott, and reviewing the video, and talking to some other officers, I found out that that was not true. He did not give Sergeant Scott the keys, he didn't -- he left the unit, and left the Institution completely, and I saw that on video.

Q. All right. Did you charge him --

A. Yes, I did.

Q. -- with the results of your findings?

A. Yes.

Q. With what?

A. For lying to me, which was an obstruction --

Q. Uh-huh.

A. -- and misconduct unbecoming.

Q. How about the other gentlemen, what did you charge them with?

A. I charged them with misconduct.

Q. Okay, were they terminated?

A. Two of them were terminated, and they have since did get their job back.

I understand that SCDC is kind of short-handed, so they kind of just let them back in to do their job; but Mr. Griffin was eventually completely terminated. He has not gotten his job back.

Q. Are those charges that you've made on other people in other prisons at other times before?

A. Oh, yes.

Q. Did you develop any evidence that Mr. Griffin knew anything about what was going to happen?

A. No.

Q. All right. Did you charge him with murder, or accessory to murder?

A. No.

Q. You charged him to begin with misconduct, and the basis of that was?

A. The basis of the misconduct was that he lied to me.

Q. Okay, that's the obstruction?

A. Obstruction, I'm sorry.

Q. Okay.

A. Obstruction, but the misconduct was that he was -- his conduct, which should have been him being inside the wing, he was not, and in violation of one of their policies.

Q. When did you arrive at approximately?

A. I can't exactly say what time it was. I'm gonna give somewhere in the area of 5 o'clock -- before 5 o'clock in the morning.

Q. A.M.?

A. Yes.

Q. Okay. So within a few hours of the discovery?

A. Yes. When I got the call, and then I had, you know, got myself together and got ready to -- because it was in the middle of the night, get up, get myself together, and got out by the time I arrived at the Institution, it was -- that was the time.

Q. All right, did you speak to Mr. Griffin --

A. Yeah, he was --

Q. -- early on?

A. Well, he -- when I got to the Institution, like I said, the first person, other than the Lieutenant and Captain, those were the supervisors, I wanted to talk to him, Mr. Griffin, he was the -- because I wanted to find out who was the officer that was in charge of the wing, where this incident took place.

Q. That's step one?

A. That's step one.

Q. Is that for every prison homicide you've ever done?

A. Yes.

Q. Okay.

A. So I got him, and started -- asked him, "Take

me to where the incident, and what happened."

Q. Okay. What's his demeanor?

A. He -- if I can remember correctly, he was kind of a matter of fact about it.

Q. Okay, and did he guide you to the scene?

A. Yes.

Q. All right. What did you find when you got there?

A. Well, when I got there, the door to room five in Savannah B was closed. And I opened the door, asked him, "Did anybody else go in there, and did they touch anything?"

That, you know, because I wanted to make sure that any evidence was preserved in pristine as could be for analysis. So I told -- I asked them, and they said, "No, no one went in," they closed it. They kind of knew that, so --

Q. Is that -- when you're saying they, is that --

A. They were, of course, his supervisor, Sergeant Scott. There was a couple other officers there.

Q. Did you see Mr. Williams who we heard from earlier?

A. Not at that time.

Q. No? Potentially later on?

A. Yeah, later on.

Q. How about Mr. Smith that we heard from yesterday?

A. He was there.

Q. Yeah.

A. Because he was the A wing -- he was the A wing officer.

Q. Did you charge Mr. Smith?

A. No, I did not.

Q. Was SLED Crime Scene, Ms. McKay and her partner, Ms. Johnson -- were they already on the way by the time you arrived?

A. If I can remember correctly, my supervisor -- once I got there, and I called him, I said, "Listen," I called him back and said, "I'm gonna need everything you can send me down here.

Q. Was that a reaction to you seeing the scene yourself?

A. Yes.

Q. Were you prepared for what you saw?

A. I've been a police officer for almost 40 years, and I've got to say that this scene, and I've seen a lot of scenes, these eyes have seen a lot.

On 9/11 when I was in New York, 9/11 was the

worst, this was the second.

Q. So that's when you knew you needed SLED?

A. That's when I knew I needed a lot of resources.

THE COURT: I understand -- is now good to take a break?

MR. EVANS: That's fine by the State.

THE COURT: All right. I'll remind you, do not discuss this case, it wouldn't be appropriate to do so.

You haven't heard all the evidence. You haven't heard their arguments, or my charging of the law. Grab a bite to eat.

Mr. Foreperson, would you knock on the door when you'all have refreshed yourselves? And we'll come back in and continue, all right? Stay right where you are, sir. Thank you.

(Jury exits the courtroom.)

THE COURT: All right, let's go ahead and just break for 20 minutes, 30 minutes or so.

Mr. Garvin, you're more than welcome to step down, sir. I just ask you don't discuss your testimony with anyone. Thank you.

(RECESS)

PROCEEDINGS CONTINUED

THE COURT: All right, well, are there any other matters, some housekeeping matters we can take up?

MR. EVANS: I believe Ms. Carmody has one.

THE COURT: Yes.

MS. CARMODY: Yes, Your Honor.

THE COURT: Okay.

MS. CARMODY: Okay, in regards to the DNA, any testimony regarding the DNA from Jerry Holmes, the victim, Dr. Ross, the pathologist, could not definitively say that the person she actually did the autopsy on was actually Jerry Holmes.

There is no indication, there were not toe tags, no indication to indicate that that was actually the man she did the autopsy on.

Therefore, the blood that she extracted from that body, I have no idea whose blood it was. Also, the serologist, who would have taken that blood and dried it down and prepared it to send it off for DNA is not even here to testify. So we do not have -- we have no identification on the body itself, no chain of custody on the body itself, because I don't even know how the man got to autopsy.

No identification with the man, no toe tags, and then we have blood taken from an unknown person now, and then transferred his DNA to the serologist, who is

not here to testify.

Your Honor, that's not -- as far as probable, with the State trying to say that the chain was probable, I believe that's misleading. I would ask that no testimony regarding the DNA, reported DNA from Jerry Holmes.

THE COURT: All right.

THE COURT: Oh, you mean -- okay. Then what she testified do. All right, well, what about the fact that we have an inverted cross on the back of the man? What about the word Country being tattooed across his wherever it is?

What about everyone identifying him as Country and Mr. Holmes? And I'm assuming Mr. Holmes is gone, and not still sitting in the Department of Corrections somewhere.

MR. EVANS: Your Honor, it's in the autopsy report. He was questioned on these very subjects, but Your Honor is correct, the diagram which Dr. Ross entered without objection does have the tattoo Holmes across his midsection, Country across his back. I could have tried to --

THE COURT: The inverted cross on his back.

MR. EVANS: Yes, ma'am, I could have attempted to put those autopsy pictures in there, and shown them

to the witnesses, and I could have attempted to put more scene pictures where his face is completely covered in blood, but, Your Honor, I anticipate that those would be too shocking, and wouldn't rise to your standards, but Mr. Garvin I think can certainly testify that he's reviewed the autopsy, and I anticipate asking him, "Is that the person that you saw with your own eyes at the Ridgeland Correctional Institution?"

THE COURT: That was dead?

MR. EVANS: That was dead.

THE COURT: In the cell?

MR. EVANS: In the cell.

MR. EVANS: You've already made a ruling, Judge, on it.

THE COURT: Thank you, I appreciate it.

MS. CARMODY: In addition to --

MR. EVANS: I'm happy to put it - I understand she needs to preserve the record, but as I understand it, you've made a ruling --

THE COURT: I have.

MR. EVANS: -- and we're gonna go forward with our DNA analysis.

MS. CARMODY: Is that your final ruling?

THE COURT: It is my final ruling.

MS. CARMODY: Thank you.

THE COURT: What else?

MS. CARMODY: Oh, Your Honor. You've already ruled on the admissibility of the statement that he's going to give, so I'm asking for a final ruling on that.

THE COURT: You don't need a final ruling, that was my final ruling. You just need to bring it up at the time he begins to give the statement, and I will say, "Subject to my prior ruling," and do that.

MR. EVANS: And, again, the documents that I think she's concerned about, I'm not going to offer that as an exhibit. I may hand it to him to refresh his recollection --

THE COURT: Not an exhibit?

MR. EVANS: I am gonna submit the Miranda form as an exhibit. I don't think -- she doesn't have an objection to that.

THE COURT: All right. All right, so I guess we're just gonna have to sit here and wait until -- anything else for the record?

MS. CARMODY: Oh, did you look at State v. Phillips?

THE COURT: I did. It has absolutely no bearing in this case.

MS. CARMODY: Well, State v. Phillips talks about 403.

THE COURT: I already gave you my 403 analysis on it.

MS. CARMODY: On the evidence on the side of the toilet?

THE COURT: I think it goes to weight, not as to admissibility. I think that the Rule 403 analysis it's more probative than prejudicial.

You can argue all day long that those boxers could have had DNA from other people, because it was found in the bathroom, but I do not see any reason that the expert not testify as to what they believe is the STRmix in this case.

MS. CARMODY: Your Honor, the serologist is the one who actually received the evidence --

THE COURT: I know she did.

MS. CARMODY: -- these cuttings, and they were -- what happened was, the boxers are now all inside one bag, so they --

THE COURT: And, again, you can say that they missed the evidence like they do all the time in crime scenes, so it's an argument for you, but it doesn't go as to whether or not it's a valid DNA profile.

MR. EVANS: And the physical exhibits are all in

there.

THE COURT: Anything else?

MR. EVANS: Not from the State.

THE COURT: Okay. Are they ready, Margaret?

THE CLERK: Yes.

(Jury enters the courtroom.)

THE COURT: All right, welcome back, ladies and gentlemen. Sorry, we're just talking about other business we've got going on.

Go ahead and begin.

MR. EVANS: Thank you, Your Honor.

BY MR. EVANS:

Q. Mr. Garvin, when we left off for lunch, I'm gonna ask you to refresh my memory on where we were. Were we talking about the scene?

A. Yes.

Q. Okay, so what did you find when you arrived at Savannah wing B and started checking out the scene?

A. Well, I got -- when I got there I was directed by the SCDC staff and -- to room five. And I opened the door, and -- which wasn't locked, and looked inside and saw what I saw, what I described to you all, as one of the worst scenes, my second worse scene.

Q. That's right.

A. At that point I called my supervisor and told him that -- to send me more agents, because I knew with all those people, we're gonna have to interview as many of the people and staff that we could, and to have SLED start this way.

Q. All right, and did you end up interviewing a lot of people?

A. Oh, yes.

Q. About both the guard and the actual murder?

A. Yes.

Q. When did you meet Mr. DuBois.

A. Mr. DuBois?

Q. Yes, sir.

A. When did I meet him? He -- I'm not exactly sure what time it was that we wound up getting to him, he was at Medical.

Q. Okay. Is the gentleman who you met in the Medical area is he in the courtroom today?

A. Yes, he is.

Q. Would you point him out, please?

A. He's got on the purple shirt --

Q. All right.

A. -- with the yellow tie and an arm in a sling.

Q. Okay.

MR. EVANS: Your Honor, let the record reflect

he's identified the Defendant.

BY MR. EVANS:

Q. What did you do when you met him?

A. Well, we wanted to interview him, of course, and --

Q. Had you been advised that he was somebody you should talk to?

A. Yes. So we Mirandized him, because we kind of gotten a sense that he was the one that was possibly in there, in the cell.

So I mirandized him, and we started to ask him the questions, and --

Q. Well, explain what mirandizing somebody is, for those of us who might not know.

A. The Miranda warning is a warning given to an individual, of course, prior to an interview, when we're gonna ask that person some questions that may incriminate them in an act -- in a criminal act, and this at least gives them a warning, so if they want to answer the questions, they answer, if they don't, then they don't -- they can request an attorney, or what have you, so --

Q. And how were you trained to do that?

A. Well, that was one of the first things I learned in the Police Academy.

Q. And even before SCDC?

A. Oh, yeah.

Q. All right.

A. Long before.

Q. Do you give them a form?

A. Yes. We have a form, I'm not sure what the number of the form is, but it's the -- a Miranda warning, where if they want to give up their rights, they sign that, it's in the middle -- I think in the middle of the form, if they refuse.

And there's a witness spot where we sign off, as well as a second officer that are there, they sign it as well. And the person also initials each and every one of the bullets that we read to them.

Q. Okay. Did you conduct your interview with Mr. DuBois with anybody else?

A. Yes, that was another agent, Agent Terry Long -- Terry Logan, excuse me.

Q. Okay.

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

BY MR. EVANS:

Q. I'm gonna pass you what's been previously marked as State's Exhibit 80, can you recognize that document?

A. This is SCDC form 23-3, which is a South Carolina Department of Correction, Office of Inspector General Police Services, Miranda rights form.

Q. All right, is that the one we -- that concerned Mr. DuBois?

A. Yes.

Q. Does it have his signature?

A. Yes.

Q. Does it have your signature?

A. Yes.

Q. Does it have his initials on those bullet points?

A. Yes.

Q. All right.

MR. EVANS: Your Honor, the State would move it in as State's Exhibit 80.

THE COURT: Admitted.

(State's Exhibit Number 80 was admitted into evidence.)

BY MR. EVANS:

Q. So did you ask him if he understood the questions that you were asking him?

A. Yes.

Q. All right. Did he indicate that he understood?

A. I believe he did, yes.

Q. And that he wished to speak to you?

A. He didn't really want to speak to us, he kind of cut it off.

Q. Okay, but --

A. Yeah.

Q. -- for somebody to cut something off, means something started.

A. Yeah.

Q. Okay, so how did it start? Did you have a conversation with him?

A. Yeah, we asked him was he -- did he have anything to do with what happened, or did he know what happened, or was he in the cell five?

Q. Okay. What else did he say?

A. Well, can I look at my --

Q. Would you like to --

A. Yes.

Q. -- take a look at something to refresh your recollection?

A. Yeah, he said that he was in the cell that Mr. Holmes was in to get a tattoo, and that's what he was there to do; but things turned -- didn't turn out to be that way, and Mr. Holmes tried to rape him, or have intercourse with him and a fight ensued.

Q. Okay. Did he say that he stabbed Mr. Holmes?

A. No, he said he didn't.

Q. What did he say about Mr. Holmes, when he, Mr. DuBois, left the cell?

A. When -- say that again?

Q. What -- did he say anything about the condition of Mr. Holmes, when he, Mr. DuBois, left cell five?

A. No, he didn't say that anything was wrong with Mr. Holmes. He just said he left him, and from what I can remember he just said he just left and went to his cell.

Q. Okay, so he denied --

A. Right.

Q. -- committing the act?

MR. EVANS: May I approach, Your Honor?

THE COURT: You may.

BY MR. EVANS:

Q. I'm gonna pass you two more documents, they've been marked as State's Exhibit 81 and 82.

Do you recognize those?

A. Yes, they're internal inmate search on our system, where we would put in inmates' ID number, it's a unique ID number that they have. You put it in the system, and it would generate or identify a picture

and particulars about height, weight, that kind of stuff.

Q. This is basic information about each prisoner at SCDC?

A. Yes.

Q. Is it made in the ordinary course of business by SCDC employees?

A. Is it -- you said made?

Q. And so people put the information in somewhere?

A. Oh, yeah, yeah, this is done prior to -- well, when they get to what's called a R&E, which is where they register, where they come into the system, and up in Columbia.

Then they get this specific number that goes with them, it's like a Social Security Number, but it's unique to that individual. Under that number, which is generated by a computer, it's given to them, where they can have different Social Security Numbers, everything about this individual will come up in the system.

Q. All right, and I've handed you two?

A. Yeah.

Q. Do they say which is which?

A. One is Mr. DuBois, it says Benjamin Walter

DuBois, III, SC -- and it's a SCDC number, which is 00295690.

Q. And the other --

A. And the other one is Jerry Douglas Holmes, SCDC number 00367687.

Q. All right, did you incorporate both of those documents into your report in this investigation?

A. Yes.

MR. EVANS: Your Honor, the State would move these documents in as Exhibits 81 and 82.

MS. CARMODY: No objection.

(State's Exhibits 81 and 82 were marked into evidence.)

BY MR. EVANS:

Q. All right. What again are those numbers? You can take a look at the exhibits.

A. Okay. Mr. DuBois' number, do you want me to read it again?

Q. Yes, please.

A. All right, Mr. DuBois' number is 00295690, and Mr. Holmes' number is 00367687.

Q. I'll show you State's Exhibit 29. Are you familiar with that photograph?

A. Yeah. Yes.

Q. What is that, sir?

A. That is Mr. DuBois' SCDC number, it's just 29, it looks like an error there.

Q. Do you want to take a look at this.

A. 29 -- yes, let me see it. 295690.

Q. Okay, that's the same as the inmate number for Mr. DuBois on State's Exhibit 82?

A. Yes.

Q. And each inmate has their own number did you say?

A. Yes. They have to have that number, it's usually stamped in all of their uniforms, because they all look the same. And when they have them cleaned, or if they lose them, or they use -- if, you know, something of that nature, then you can identify the -- who it belongs to. The one -- some of them the like towels and socks and tee-shirts and whatnot, it may go to the cleaners.

They put it in a mesh cloth bag with the number on it, and then they put it in the washing machine. The washing machines washes it within the bag itself, and then they bring the bag out, and put it in the dryer, and then the dryer. And once they do that, they'll take it back to the unit. Also on their clothes is their cell number, along with the unit that they live in, like Savannah B-SB, Beaufort B-BB, or

BA, Beaufort A or Beaufort B, Charleston same, Georgetown, and so on.

So that way you know where their belongings should be. They usually put that on everything that they own. Mail, when they get their mail it does the same thing. It has that -- those identifiers on it, so that they know where the mail goes. Because really, basically, they're living -- it's a community, that's what a prison is, it's really a community.

That's their neighborhood, that's where all the stuff goes, and that's their address, so that number is unique to each individual, and no one has the same number.

Q. Writing SCDC numbers, writing cell numbers on clothing that's not uncommon in your experience?

A. No, that's not uncommon, that's what they do.

Q. I shouldn't have asked --

A. That's what they have to do.

Q. I shouldn't have used a double negative, is common?

A. Yes, it is common.

Q. Okay. Did you see the bag of bloody clothes?

A. I saw that at one point, I think when SLED had it, though I didn't see exactly where it was --

Q. Okay.

A. -- but I saw it afterwards.

Q. Generally, once SLED arrived -- I mean you met Ms. McKay who testified earlier?

A. Yes.

Q. Once they arrived, did you -- were you directing them? How does your --

A. Well --

Q. -- relationship as a Police Services investigator relate their task as Scene Agents?

A. Well, I had a conversation with them, and they asked me, of course, he indicates that you didn't ask, you know, where you want us to concentrate.

Q. All right, sir.

A. And I directed them to those areas and let them go from there.

Q. Okay, so you're not stepping in to change what they're doing, or correct them, unless -- and you tell me.

A. No, I mean I did that, and then once there, I left them there, because the -- actually, the wing was secured, so they can work in peace, and didn't have any interference. I didn't want to get into the middle of what they were doing. I had other work, as far as more interviews, because I had a ton of people to interview.

MS. CARMODY: Move to admit Defendant's 29, Your Honor.

MR. EVANS: No objection.

THE COURT: Admitted.

(Defense Exhibit 29 was admitted into evidence.)

So I had left them alone, and if they had any other questions, then they would come, or someone would come and get me or whatever.

Q. Do you recall getting any questions from them?

A. No, not that I can remember.

Q. Were you familiar with the shoes in cell number two?

A. At some point -- I mean -- I don't remember that particular day about the shoes.

Q. Did you learn who was in cell number two, who lived there during your investigation?

A. Yes, yes.

Q. Who was that?

A. I believe that was Animal, and Bowleg, as they called them.

Q. The man in cell two or cell one?

A. Cell one. I may need to refresh my recollection.

Q. Sure.

A. Cell one.
Q. Who was in cell one?
A. Yes.
Q. Did you learn his nickname?
A. Yeah --
Q. Okay.
A. Yes, sir.
Q. What was that?
A. Junetown.
Q. All right. And how about Mr. Highland?
A. Squeak.
Q. Okay.
A. Squeaky.
Q. Did you charge them with anything as a result of your investigation?
A. Yes.
Q. What did you charge them on?
A. One was murder, and accessory.
Q. Who did you charge with murder?
A. Mr. DuBois.
Q. Why the distinction?
A. During my investigation, I was led to believe and had probable cause to believe that he facilitated -- helped facilitate this.
Q. On the front-end?

A. On the front-end.

Q. I see. And how about Highland?

A. Highland, after-the-fact, but once I got into my investigation of the evidence, he helped to destroy some of the evidence.

In particular, I was told that he mopped up the blood trail that went from room five all the way to the bathroom. When I got into the building that morning, I did smell a heavy scent of some kind of cleaner like bleach, or something like that --

Q. Okay.

A. -- that was --

Q. But as --

A. -- permeating the air.

Q. -- soon as you got on the rock you smelled it?

A. Yes.

Q. I'm putting State's Exhibit Number 30 on the ELMO. Are you familiar with that photo?

A. Yes.

Q. And that general part of the scene?

A. Yeah, it looks like the rock -- part of the rock.

Q. Okay. Is this the part where you smelled the odor of cleaning chemicals?

A. In relation to where this is, I believe that's -- if it's in front of in the proximity of the downstairs bathroom, between -- excuse me, between Mr. Holmes' room, yes.

Q. Okay, and I'll show you Defense Exhibit 20, a similar picture, slightly a different angle.

Is that the same area as State's 37, more or less?

A. Yes, that's kind of where -- what it looks like that's room ten and nine.

Q. Okay. And back here, what's this area?

A. Yes, that looks like -- behind that pillar looks like the bathroom.

Q. Okay, so is that the area you were referring to just --

A. Yes.

Q. -- a moment ago? You smelled the odor of cleaning chemicals there?

A. In that area -- well, going -- before going the opposite way towards room nine, and you keep going down, that's five, that's where we came in from the horseshoe into the B wing. And once I got in there, in that open area, I could smell it.

Q. We've heard a lot about gangs in the last two days.

A. Yes. The Institution is permeated with gangs.

Q. That's a longstanding problem?

A. Yes. You have a Blood gang, you have a Cryp gang, you have Gangster Disciples, you have the Folk Nation, you have MS13. At times there are more of Bloods, and there may not be as many Crips.

These gangs -- some of them, most of the black gangs, and even the whites that who are not affiliated with a gang like that, maybe on the street they might be affiliated, they will become allies.

And the reason for that is that they use the gangs for protection. And the reason they use these gangs for protection, because somebody is in the business, it's about making money, and the control of a certain set of gang controls the yard and controls that Institution area to make the money.

And when you have lesser, they may get together, some of them. The ones that I have not seen get together pretty much are Folk Nation, MS13 and Kings, they pretty much stay to themselves.

They stay within their own area, but you can have -- and the Crips and the Bloods may not, but the Gangster Disciples, Bloods, they may. And on the street, they're totally enemies, but behind the wall

in the prisons they may become allies for the purpose of making money.

Q. Okay, and Mr. Holmes was a member of -- did you learn that in your investigation?

A. Yes, he was in Folk Nation.

Q. Okay, and that's one of the ones you said?

A. Yeah, he was -- they have what's called SGT -- STG, which is a Security Threat Group, he was in the system as a STG. He was documented as an Aryan Nation, A-B.

Q. Let's talk a little bit more about Mr. Holmes.

Did you get a good look at him, while he was still on-scene?

A. Yes.

Q. Okay. Did you see when his body was removed from cell five?

A. I went -- eventually went to Medical and saw him laying on the stretcher.

Q. Okay, and did you get a good look at him then?

A. Yes.

Q. Did you become familiar with his appearance?

A. Yes.

Q. What did he look like?

A. Well, he was bruised up. I could see some of the tattoos he had on him.

Q. Okay.

A. Some of the tattoos that had his name on it on his -- a tattoo on his midpart because he was on his back when I saw him.

Q. Had he been cleaned at that point?

A. Yes, he had been cleaned.

Q. And tell us a little bit more of that process, about -- well, let's rewind a little bit further. Who and how was he taken out of cell five and taken to Medical?

A. Well, normally, what happens is the Medical staff, once they're called into the unit, or whatever it may be, and you have this type of -- or any type of death, and the body has to be removed from the unit, what they call the medical staff to come out.

And Medical staff is assisted by trustees or inmates.

Q. They are -- what are trustees?

A. Trustees are inmates who are -- don't have a disciplinary problem, have any disorderly problem, they pretty much will do what exactly they're told to do, when these -- they get these -- I don't want to call them the jobs that are really nice, you know,

privileged jobs.

They give them these jobs that -- if they don't have a discipline problem. You can kind of trust them and they are helpful.

Q. Hence the name?

A. Yes. So they had a couple of those guys come in, load the body onto a stretcher, and bring it back to Medical, where according to the Medical staff, I didn't quite agree with this, but this is what their policy said, they are to wash the body, cut off the uniform, get it ready for the Coroner to come pick it up.

Q. And did you try to stop them, explain that that wasn't --

A. I didn't --

Q. -- what you wanted?

A. I wasn't there at the time. Again, I've said that hindsight is 20/20, I probably should have been here --

Q. Okay.

A. -- because they're cutting off the clothes. The clothes -- his clothes were evidence, and for them to cut them off him, for me, made -- didn't make sense as my -- as an investigator, because you want to leave the clothes, leave it as pristine as you possibly can.

Cutting it disturbed it, made it -- may possibly have made it unusable.

So, again, it was at the end of June, and it was in the summer. His clothes were soaked with blood. I had wanted to pack those clothes up and give them to SLED to take -- want them to have the, but they were wet, they were filled with blood, so they had to dry, but since this is the State, they're not equipped with any kind of drying rooms, or things of that nature. This is a situation that doesn't happen often.

It happens, but it doesn't happen often, so it's a great expense to do something like that, but the clothes went outside. The sun was out, it was hot, pretty warm. Drying them naturally was probably the most expedient way to do it and get it ready to be packaged and put into a bag, and we sent, and we give them to SLED, but as we know down here it rains, and that day it rained on the clothes.

And as ihappens, it rained again, nothing we could do about that, that's just what happened.

Q. So with respect, Agent Garvin, was that a mistake, that whole sequence?

A. Like I said, hindsight is 20/20. I don't -- I probably wouldn't have taken them. Yes, it was a mistake to put them outside. Maybe I should have put

them in the -- have them put in the shower room or someplace, and try to dry them that way, but I felt -- I guess I felt like it was warm and there was sun out, and just a natural way of drying it, to be a quick way of getting it done.

Q. And afterwards they'd been compromised?

A. They'd been compromised.

Q. So you didn't send them out then?

A. I -- I'm not sure.

Q. Okay.

A. But if I did send them still, or not, I'm not sure, but I knew they were -- but no -- of no value at that point.

Q. Because of the --

A. Because of what happened.

Q. -- chain of custody?

A. Right.

Q. Rain, cutting --

A. Right.

Q. -- them off in the first place? Were you able to see the autopsy photos earlier?

A. The ones you presented today?

Q. When Dr. Ross was testifying. Were you able to see those?

A. Yes.

MR. EVANS: May I approach, Your Honor?

BY MR. EVANS:

Q. This is State's Exhibit 53, did you get a look at that earlier?

A. Yes.

Q. Who's that?

A. That's Mr. Holmes.

Q. The same gentleman you saw at the prison?

A. Yes.

Q. Did you develop any information, any evidence whatsoever that Agent Griffin was involved in the killing?

A. No. This is -- again, this is a prison. Inmates will do and say anything to curry favor. And, yeah, there was some talk of it, but it never proved to be concrete.

Q. Did you develop any evidence whatsoever that Mr. Highland, Squeak, as the person who stabbed Mr. Holmes?

A. No.

Q. Did you develop any evidence, have any information whatsoever that Joshua, Junetown, was the person who stabbed Mr. Holmes?

A. No.

Q. Okay, you developed information that he was

involved?

A. Yes.

Q. And is that why you charged him with murder?

A. Yes.

Q. Did you develop any evidence, any information whatsoever that anyone, other than Benjamin DuBois, stabbed Mr. Holmes?

A. No, I did not develop any other information, other than Mr. DuBois being the actual actor in this crime.

MR. EVANS: I beg the Court's indulgence.

BY MR. EVANS:

Q. I'm just gonna quickly refer you back to State's 81 and 82. I'm showing 81 on the ELMO.

Does this indicate where Mr. Holmes stayed --

A. Yes.

Q. -- where his cell room was?

A. Down at the bottom, it says door room bunk. Bunk is identified by the letter A or B. I think A is on the bottom and B would be on the top bunk. And it gives the SB, which is the -- stands for Savannah B wing, room five.

Q. All right, and this is Mr. Holmes here?

A. Yes.

Q. And State's Exhibit 82, is this Mr. DuBois?

A. Yes, and the same thing, dorm room and bunk. It's a dorm, Savannah B, room 22, bunk B, which is the top bunk I believe.

Q. Yeah. Those are all the questions I have Agent Garvin, please answer any questions from Ms. Carmody.

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good afternoon, sir.

A. Good afternoon.

Q. In the last two exhibits the State introduced. Actually, those weren't the only two internal inmate searches you did to Mr. DuBois and Mr. Holmes, right?

A. Those were the only two inmates that I --

Q. These aren't the only two that you have, there's more in your report?

A. Yes, there's more.

Q. Okay. Agent Garvin, would you please take a look at this document here?

And is this a fair and accurate representation of the information that you obtained in your investigation regarding Casey Chappell?

A. Yes.

Q. Okay, thank you, sir.

MS. CARMODY: Your Honor, defense moves for admission of Defense 28.

MR. EVANS: No objection.

THE COURT: Admitted.

(Defense Exhibit Number 28 was admitted into evidence.)

BY MS. CARMODY:

Q. All right, I'd like to show you this.

And I understand the State zeroed in on here to show you his body size.

All right, can you tell me how much Mr. Holmes weighs?

A. According to this document that's here on his identification and all his particulars, it says 198 pounds.

Q. And how high -- I mean what's his height?

A. It says -- and this is according to this picture which was taken on April 6th, 2016, and his height it says he's 5'11".

Q. So his height remains the same?

A. Until you get about 50-years-old, yes.

Q. Oh, okay, all right. Okay, and what does SCDC classify his build as?

A. His build it's on -- it's stocky.

Q. All right. I'd like to show you Defense

Exhibit 28, and who is this?

A. That is -- pull the picture down --

Q. All right.

A. -- Casey Chappell.

Q. Okay, and who is Casey Chappell?

A. He was -- one, he was Mr. Holmes' roommate and a witness -- one of my -- one of the witnesses in my -- this investigation.

Q. Okay. His height?

A. 6'1".

Q. And his weight?

A. His weight is 160 pounds, as of -- that picture was taken April -- I mean, excuse me, May 26th, 2016.

Q. And how does SCDC classify his build?

A. They classified his build as large.

Q. Right. Last the State showed you, this is State's 82. They showed you Benjamin DuBois.

What does SCDC calculate as Mr. DuBois' height?

A. 5'9".

Q. And his weight?

A. 130 pounds.

Q. And what's his build, sir?

A. His build is medium as of May 17th, 2016.

Q. Okay. Based on that information of Mr.

DuBois, Mr. Holmes, and Mr. Casey Chappell, would you agree that Mr. DuBois is the shortest out of the three of them?

A. According to that, yes.

Q. Would you agree that Mr. DuBois' weight is the least out of the three of them?

A. Again, according to the documentation, yes.

Q. Would you also agree that Mr. DuBois is a medium build compared to Holmes being stocky, and Chappell being large?

A. According to the document, yes.

Q. All right, in the scene that you saw was the most blood you've ever seen, right?

A. The most blood as I've ever --

Q. All right.

A. -- seen, like I said, other than 9/11.

Q. Other than 9/11, so would you agree with my characterization that a death match occurred in that room?

A. Your characterization that a death --

Q. Would you agree that a death match had taken place in that room? It was fight to the death with blood on all four walls, the ceiling the floor, the door?

A. There was quite a bit of blood. What happens

is violent, yes.

Q. A pretty vicious fight?

A. A vicious fight.

Q. Very vicious, okay. All right. Were you present when your officers are -- went to the unit? Were you present?

A. When -- which -- at what time?

Q. When Mr. Holmes' body was discovered, were you present then?

A. Initially, when Mr. Griffin and Mr. Smith and -- no, I was not.

Q. You were not present? Okay. And do you know about what time that was, that they discovered Mr. Holmes' body?

A. It was somewhere in the neighborhood of 3:00ish, 3:30, quarter to 4:00 in the morning.

Q. Do you remember what time you saw Mr. Tyrese Griffin leaving the Institution on video?

A. No, I don't remember exactly what time it was.

Q. But you definitely saw him leave the institution?

A. Yes, on the video, yes.

Q. Okay, ready to go to his car?

A. The video showed him leaving -- walking down

the hallway in the -- what you'd call the administrative building --

Q. Uh-huh.

A. -- which is at the beginning of the Institution, that's where you come in at.

Q. Right.

A. And out the door toward -- and down the walkway.

Q. Is that where the vehicles are located?

A. Well, if you -- Ridgeland and Turbeville, those are the two -- they call them the sisters, because they -- those Institutions are identical in the way they are set up, except for Ridgeland the front area, there's a very -- it's a very wide sidewalk, very wide.

I mean wide enough to drive a car there, and it's long before you get to the actual parking lot. It's long, and it's really, really wide.

Q. Did you some him coming into the Institution on video?

A. I'm not sure if I saw him coming -- definitely -- the equipment that they had is kind of primitive, that the Institution had at the time.

I think they were getting ready to buy some new -- put some new equipment in, so -- but I remember him

going out, and some other officers were with him.

Q. There were other officers with him leaving the Institution?

A. Yes.

Q. What officers were with him?

A. I think it was Officer Brown, if I'm not mistaken.

Q. What was he supposed to be doing?

A. He was supposed to be on lunch. I think he had permission to go out on lunch.

Q. Officer Brown did?

A. Yes, I believe it was Officer Brown.

Q. Okay, all right. Now, based on your investigation, what time do you believe Mr. Tyrese Griffin left the unit unattended?

A. I'm not quite sure what time exactly it was. I'll look at my report here and see. He actually went down to another unit that night as well.

Q. Oh, so Tyrese Griffin is actually on another unit as well that night?

A. Yes. He went to Beaufort, and down in the Beaufort unit there was Sergeant Smith (phonetic), who is part of the Contraband Unit. She was doing drug testing at that unit, which she was -- Officer Doe -- Eric Doe, he was also down there doing -- helping and

assisting her.

She was a female, so they didn't want her by herself down there in a male unit doing -- helping doing the drug testing. Sergeant Scott --

Q. Okay.

A. -- also was down there, and Officer Griffin.

Q. And Griffin? Okay. All right. So in addition to leaving the Institution, he's on the Beaufort wing; is that what you're saying?

A. He left his unit, which is Savannah, went down to the Beaufort unit, and then they came -- after they finished doing the drug testing, he was down there hanging out, and then they left --

Q. Uh-huh.

A. -- and came back up the sidewalk. Beaufort is at the farthest end of the Institution.

You come -- on the way back is the administrative building is on the beginning of the Institution, so it's a good walk.

Q. Wow, okay. All right. And -- okay, now, I want to show you, this is a photographic copy of State's Exhibit Number -- well --

MR. EVANS: 49.

BY MS. CARMODY:

Q. -- State's Exhibit Number 49. If you need to

refer to your report, you can. Could you please highlight which cells were left unlocked that night?

A. Okay.

THE COURT: Ms. Carmody, would you also mind having him call out the numbers.

MS. CARMODY: Oh, yes.

THE COURT: Thank you.

WITNESS: Yeah, I was gonna do that.

THE COURT: For the record.

WITNESS: I was gonna do that, Judge.

THE COURT: Thank you.

MS. CARMODY: Thank you, Your Honor.

BY WITNESS:

A. Cell two, now these are the -- these cells were supposed to be secured.

Q. So these are the cells that are --

A. That are broke.

Q. That are broken, okay.

A. Okay.

Q. All right.

A. Cell 18, cell 20, cell 22, cell 27, 28, 29, 30 and this doesn't depict the other two cells, which is cell 43 and 53.

Q. If you could just write those numbers above.

COURT REPORTER: I'm sorry, sir, cell 43 and --

BY WITNESS:

A. Cell 43 and cell 53.

COURT REPORTER: 53, thank you.

BY MS. CARMODY:

Q. Okay.

MS. CARMODY: And, Your Honor, can I mark this as a Defense exhibit for admission?

COURT REPORTER: This is 29.

MS. CARMODY: Defense 29.

BY MS. CARMODY:

Q. All right, okay. And this cell is which one?

A. Two. Is that two? I believe it's two.

Q. Yes. Where does Mr. Holmes live, Junetown?

A. One.

Q. Right here?

A. Yes.

Q. That cell was not unlocked that night, correct?

A. The cells that I identified are the cells that do not have -- are not able to be locked.

Now --

Q. In your report though you list the cells that were unsecured that night, which is the ones you've marked in yellow, correct?

A. Correct.

Q. Okay. And this year is the -- this would be --

A. Cell two.

Q. Cell two. This one?

A. 30, 29, 28, 27.

Q. Okay, and this here is the -- Mr. Holmes' cell.

A. Cell five, yes.

Q. Did you mark that?

A. No, I did not.

Q. Is that on your list?

A. No, it's not, and the --

Q. Did you --

A. -- reason that it's not on my list --

Q. Okay.

A. -- because it was able to be locked. They had it open.

Q. Okay, so this is on your list of cells that were unsecured that day?

A. They were unsecured because they were not able to secure them, not that they were just left unlocked.

Q. Oh, I see, because it was left open because of water, right?

A. Right.

Q. Okay, I understand, okay.
So this is Mr. Holmes' cell right here?
A. Right.
Q. The decedent, correct?
A. Right.
Q. And you have Mr. Dubois' cell right here?
A. Yes.
Q. Okay, and then what number is this?
A. 20.
Q. And this one?
A. 18.
Q. Okay. So is it fair to say that here we have Mr. Holmes, and then we have the four cells right across from -- well, right across down the hall right across right here from Mr. Holmes and cell two, which would be -- who lives in cell two?
A. Highland, I think it is.
Q. You believe it's Highland?
A. Yes, I believe it's Highland.
Q. Do you know who else lives in that cell with that man?
A. Not offhand.
Q. It's not in the report.
A. No, not offhand.
Q. Okay, and this is the cell here that you

found the Crocs, right? Earlier you --

A. That I found the Crocs?

Q. Yeah, the Crocs with what Agent Williams believed to be blood on the Crocs.

A. Okay, the ones that Agent Williams found, saying that they was -- that --the ones that he found?

Q. Yes.

A. Okay.

Q. I can -- all right, so I'm show you State's 35 and State's 36, these are in cell two, correct?

A. That's what he testified to, yes.

Q. Okay, and, again, to Defense 29, that's this cell right here?

A. That's correct.

Q. Okay. Cell one is the cell with Mr. Holmes, Junetown, correct?

A. Correct.

Q. And who else lives in that cell?

A. I believe his name is Bowleg, I'm not -- I keep referring to his nickname, but I've got his real name.

Q. When you -- are you gonna find out Mr. Bowleg's name?

A. Yes. I'll take a minute to look for it.

Q. Well, in the course of your investigation,

did you get his name?

A. Yes.

Q. All right. Did you interview Mr. Bowlegs?

A. No.

Q. No? Mr. Bowlegs' cell was not searched?

A. Not by me.

Q. Right. His cell was locked that night, according to your report.

A. It was a function cell.

Q. Okay, all right.

According to the report that you wrote in this case, cell number one is locked, that is and Bowlegs' cell, correct?

A. I didn't hear you.

Q. I'm sorry. According to your report cell number one housing Junetown and Bowlegs is locked?

A. It's locked.

Q. All right. Now, you testified earlier about, you know, there's not -- they don't allow, you know, covering all the windows in the cells --

A. Correct.

Q. -- right? And -- but when you went to cell five the room was dark, correct?

A. Yes, it was.

Q. Okay. You weren't able to see into the cell

just by standing outside the cell, correct?

A. Yes, I could.

Q. You could?

A. Because the lighting in the area, the common area is on, is bright.

Q. Okay.

A. And you can see into the cell, I mean --

Q. Out the door?

A. Say it again?

Q. You're at the door?

A. I'm in the doorway.

Q. Okay, all right. And so when you arrived, SLED was already on-scene?

A. No, they were not on-scene just yet.

Q. Okay, all right. And what time did SLED arrive?

A. I mean, 6:00ish or so, 6:00-something.

Q. 6 o'clock in the morning?

A. Because they had to come all the way from the Columbia area, and --

Q. All right.

A. -- we're kind of like two hours away from Columbia.

Q. And so around 6 o'clock in the morning when SLED shows up, the information that you have at the

time is coming from your COs, correct?

A. Regarding --

Q. Your Correction Officers.

A. Okay.

Q. Yeah.

A. So you're saying that information that I'm having to relate to SLED, is what I got from the officers, that's what you're saying?

Q. Right.

A. Yes.

Q. All right. And that's directing your investigation?

A. That's part of it, yes.

Q. Which is directing SLED's investigation?

A. Part of it, yes.

Q. Okay. Did SLED ask you to go into any cells that you did not specify?

A. No.

Q. Okay. What about issues -- what about maintenance issues?

So there's no water and no lights in cell five? Is there any lights -- well, let me ask you, there's no water and lights in cell five, right?

A. There's no -- the water was, according to the report that I received regarding the water, the toilet

was -- it wasn't running. They wasn't able to use the toilet.

Q. That's right, I'm sorry, sir. I was talking about the lights.

The light in cell five was being covered by the pictures, right?

A. The outside window that's in the back of the cell has got magazine pages -- pages taped onto the window cell into the window.

Q. All right. Just see if this refreshes your recollection. And while I'm looking for this, did you direct any of your Correction Officers to remove anything from cell five?

A. No.

Q. And if anything was removed from cell five, it would have occurred prior to your arrival?

A. You mean by would they have done that?

Q. Your guards or inmates, if anything was removed, it would have been prior to your arrival, right?

A. I wouldn't know that, but it could have happened --

Q. Okay.

A. -- but I doubt it.

Q. You doubt your guards?

A. I doubt if they would have done that, right.
Q. You doubt it?
A. I would doubt it.
Q. You don't doubt it?
A. I doubt it.
Q. Okay. Well, let me find the photograph. Let's see, we've got a stack of photographs.
MS. CARMODY: Beg the Court's indulgence.
BY MS. CARMODY:
Q. Did you teach your -- the COs there about the collection of evidence?
A. Well, teaching them about the collection of evidence?
Q. Are they trained in the collection of evidence?
A. They're not. I don't train them on the collection of evidence. It's whenever there's a scene to secure it.
Q. Secure it?
A. Secure it.
Q. How should a scene be secured?
A. Well, that depends.
Q. What about crime scene tape? Do you talk to them about crime scene tape?
A. If they have it, yes, if they --

Q. If they have it?

A. Yeah.

Q. All right.

A. Like I said, they're not trained police officers, not a level one State's by statute.

Q. Should they be removing evidence from the trash and laying it out on the prison floor?

Did you direct them to do that?

A. No.

Q. Is that something you would have directed them to do?

A. No. They -- the Department crew went out and done what's called just a search throughout the Institution, or throughout that area, and they come up with it, because when an incident like this might happen, what happens was these -- the inmates know that when something like that happened, and they use the term smack, which means locking it down, we lock the area down.

And then they're gonna get locked in their rooms. If they have anything that's contraband, weapons or not, just know that we're gonna go through and search. And when I say we, I mean SCDC staff will go through and search, and if they find it in there, then they're gonna wound up getting charged.

So what may happen is, they may just discard, throw it in the trash, throw it in the shower area, store it someplace where it doesn't reflect the item.

Q. Did you -- I'm sorry, I'm trying to find this photograph, I've got a lot of pictures here. I found one of the cell.

Do you remember the window to the cell being covered with a blanket?

A. You mean cell five?

Q. Five, cell five, I'm sorry.

A. Was covered with a blanket?

Q. Or -- yeah, a blanket, do you recall that?

A. It might have -- it could have been.

Q. Okay, you mentioned paper before, and I want to make sure that --

A. There was paper on that window, it was like a --

Q. All right.

A. -- magazine.

Q. I found it.

A. Like pages out of a magazine, I'm sorry.

Q. I'd like to show you what's been marked as Defense Exhibit 7. This window back here?

A. Yes, that's the window.

Q. That's not paper on the window?

A. No, that's a rag.

Q. And over the light in cell five?

A. Could have -- maybe -- I thought that was the window, and I thought paper was behind the cloth --

Q. What about --

A. -- what looks like a light, and it have the magazine on it. That's kind of typical because what they're doing is keeping the light dimmer --

Q. Okay.

A. -- in their room. You'll find that in -- a lot of rooms will have that, because they don't want all that intense light to be shining on them.

Q. They're doing things in the room they're not supposed to?

A. Exactly.

Q. Okay, all right, all right. They don't want the guards to be able to see, right?

A. Correct.

Q. All right.

A. If they're doing their jobs.

Q. Right. Well, if they're doing their jobs, absolutely, okay.

Now, I want to talk to you -- you talked about clothing, right?

Where do inmates typically keep their clothes in

their cell? Are they put in dressers?

A. Dressers?

Q. Yeah, in a dresser, or like a wardrobe?

A. No.

Q. Where do their clothes go?

A. They've got a -- some of them may have some type of box, or something like that they may keep stuff in. They may fold it and put it on. They have a -- it's not a dresser, it's a locker, it's a metal --

Q. They have a locker?

A. Yeah, it's a metal locker that --

Q. Where would that be located?

A. It can be in the front. If I can remember correctly, it was in the front of the cell. Not all of them have it, because they take -- a lot of them take them out, because what happens is, these guys get a hold of the metal, they'll tear it off, and they'll make shanks out of it.

Q. So --

A. So they take them out.

Q. Okay.

A. And once they take them out, they don't replace them.

Q. Okay. So you're saying there's a locker in

the cell to put clothing?

A. It's like -- yeah, it's like a -- it's made out of metal, and it's got a metal door, and they -- it's -- they can keep their belongings in it, their personal items and their clothes, they'll keep it in there. It's got a shelf. Not all the cells have them.

Q. All right. Sorry, I just had it and I moved it.

Did you request that SLED investigate any other person in this case, besides Mr. Benjamin DuBois?

A. When you say investigate, what do you mean?

Q. Well, take -- like investigate, right. So did you request that SLED collect DNA from any other person in this case besides Mr. Benjamin DuBois?

A. No.

Q. So Julius Highland, you never requested SLED to collect his DNA?

A. No.

Q. Mr. Dubois, you charged him with murder.

A. Yes, that's based on his activities, and what information I got from other individuals.

Q. Did you ask SLED to collect Mr. Highland's DNA?

A. No.

Q. No? All right.

Did you take any photographs in this case at all of Mr. Casey Chappell?

A. Did I take -- no, I didn't take a photograph of him.

Q. You didn't take any photographs of him?

A. No.

Q. Okay. What about -- did you take any photographs of Mr. Julius Highland?

A. No.

Q. Mr. Chappell?

A. No.

Q. No? The only photographs that were taken in this case were of Mr. DuBois, correct, and Mr. Holmes?

A. As far as -- yeah, doing it, yes.

Q. Is it fair to say we have no idea what any of the other inmates looked like that day, correct?

A. No, that's not true.

Q. Well, it's not in your report, is it?

A. No.

Q. All right. So this is the window covering, Defense Exhibit 2.

Is that the window covering?

A. Yes.

Q. Okay. And let me find the picture of Mr.

DuBois' cell. Sorry, we have a stack of pictures here and they're not in order.

Did you investigate an incident between Mr. Casey Chappell and Mr. Jerry Holmes?

A. What do you mean investigate what? Specifically, what --

Q. Mr. Jerry Holmes and Mr. Casey Chappell had been in a physical altercation, correct?

A. That's what he testified to, but I didn't investigate that.

Q. It's in your report.

A. Yeah.

Q. But there was a physical altercation, right?

A. That's what was reported, yes.

Q. Okay. And the physical altercation, do you recall if Mr. Casey Chappell had a black eye that night?

A. No, I don't recall.

Q. You don't remember?

A. No.

Q. You didn't take any photographs to document any of his injuries, right?

A. No.

Q. All right. And if he would have been bleeding from his lip, a busted lip, you wouldn't have

taken any photographs of that either?

A. If I would have saw that he was bleeding from his lip, that night I would have.

Q. All right. You testified earlier that Mr. DuBois had given you a statement, correct?

A. Myself and -- or Agent Logan.

Q. Yourself and who?

A. Agent Logan.

Q. Agent Logan? Okay, and was that statement recorded?

A. No.

Q. No? Did you take any notes of what actually was said?

A. I didn't take any notes.

Q. You did not? Do you still have a copy of the statement up there?

A. Statement?

Q. Statement that -- well, it's actually not a statement. It's -- do you still have a copy of your report up there, as to what Mr. DuBois said to you? Well, not to you, to Agent Logan.

A. No.

Q. So just to clarify --

A. Go ahead.

Q. -- because I think we're getting a little bit

confused here.

So Mr. DuBois you're saying gave a statement, or was speaking in a room with you and Mr. Logan, correct?

A. Correct.

Q. Okay. And you did not prepare your own incident report in this case, correct?

A. Incident report?

Q. The name on the incident report is not your name.

A. It's Terry Logan.

Q. Terry Logan, okay.

And you did not take any independent notes as to what Mr. DuBois said?

A. No.

Q. And in recalling what Mr. DuBois said, you are relying on the summary that Terry Logan put in his report?

A. That's correct.

Q. Okay. You don't have a verbatim account, as to what Mr. DuBois said?

A. No, I don't.

Q. All right. And if you could -- do you have that statement with you? Well, not even the statement, the summary really.

MS. CARMODY: A moment, Your Honor.

THE COURT: Yes.

BY MS. CARMODY:

Q. Mr. Evans was kind enough to give it to you us, sir.

Sir, where -- what cell does Mr. DuBois say he's in?

A. 22.

Q. Okay, and after that does Mr. DuBois say that he and Mr. Holmes actually go to cell five?

A. Okay, yes.

Q. He does? What does it say?

A. It says, "Holmes states, 'Let's go back to my cell."

Q. Okay, "Holmes states, 'Let's go back to my cell." Mr. DuBois is not telling Agent Logan or you that he actually went to cell five, correct?

A. That's correct.

Q. Okay. So he's saying this is why -- so would you agree that recordings are important, so we can hear the whole conversation?

So I believe that the statement's being misinterpreted. Would you agree that Mr. DuBois never says he went to cell 22 -- I'm sorry, cell five?

A. Mr. DuBois -- Mr. Holmes -- and he -- what

Terry Logan wrote was that Holmes stated, "Let's go," said that Holmes stated that, "Let's go back to cell five."

Q. Holmes states, "Let's go back to cell five," but there's no indication in that summary that Mr. DuBois and Holmes actually went to cell five, correct?

A. Not in the statement.

Q. Okay. Also in that statement Mr. DuBois -- he was stabbed in the leg; is that what it says, or received a cut in the leg?

A. Yes.

Q. Okay. And now I want to show you what's been marked as State's Exhibit 32. This is cell 22, correct?

A. Correct.

Q. This is Mr. DuBois' cell, right?

A. That's -- yes.

Q. Okay, and the blood on the floor in the cell, this had all been collected for DNA?

A. SLED took these photos and any evidence, or collection of blood, or whatever, they would have collected it.

Q. Okay, and if Mr. DuBois was cut on his leg in cell 22, and this was his blood, we would find that out through DNA?

A. Correct.

Q. Also did you receive information in the course of your investigation, that there was also blood located, suspected blood, located on the cylinder to cell 18?

A. Did I --

Q. The cylinder of the cell door it said -- I'll show you, so you can refresh your recollection, sir.

A. That's what Officer Torrez wrote, that he found some -- a little blood -- what he believed to be blood on the far cell way down in the back of the unit, on the cylinder or something, he --

Q. Okay, sir, could you point out for the jury where cell 18 is?

A. That is the -- that cell is so -- it's far -- cell 18 is here.

Q. Okay.

A. This is cell five here.

Q. Okay. Did you ever ask -- request SLED investigate anybody in cell 18?

A. No, I did not.

Q. All right. And was cell 18, in fact, one of the cells that was unsecured that night?

A. I think that was one. Yes.

Q. Yes, it was, all right.

MS. CARMODY: Your Honor, but I beg the Court's indulgence, please.

BY MS. CARMDOY:

Q. Have you -- were you informed of any reports of inmates' families calling the Institution that night?

A. They probably did.

Q. And how --

A. And to tell you that I knew of, or spoke to any of them, no.

Q. And would this have been inmates calling their families from inside the unit?

A. Probably.

Q. Okay. During the course of your investigation, were you informed that inmates were taking photographs of themselves with the victim?

A. Taking photographs of themselves with the victim?

Q. Yes, sir, and relaying that information to their families?

A. No, I didn't get -- no, that's not -- that wasn't something I came across. Not --

Q. What --

A. -- them taking photographs of themselves with the victim.

Q. What type of photographs were you receiving, or information you were receiving about photographs coming out of the Institution?

A. There was some indication that there was a cell phone that was -- one of the inmates had taken of the incident.

Q. Okay, did you recover that?

A. Never found any cell phones that we came across that had that information on it.

Q. Okay. You never recovered the cell phone?

A. Never recovered anything that had that information on it. That never surfaced.

If there was, I never saw it.

Q. Okay. Contraband would have had to find that phone, right?

A. We would have, yes.

Q. Okay.

A. And we tried.

Q. Oh, I understand, I understand.

MS. CARMODY: All right, I don't have any other questions, Your Honor.

THE COURT: Thank you, Ms. Carmody. Mr. Evans?

MR. EVANS: Yes, thank you, Your Honor.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. Agent Garvin, was Mr. Holmes beaten to death, or was he stabbed?

A. Stabbed.

Q. All right, and to those profiles, for lack of a better word, that we have three of in evidence now, one of Mr. Holmes, one of Mr. Chappell, one of Mr. DuBois, when did you say that information comes in?

A. That information on the profiles themselves should have came in the year before.

Q. Okay, so it's when they enter the system?

A. Enter the system, or when they update it.

Q. Are they doing regular weigh-ins?

A. Not -- no, not -- no.

Q. You were asked about a number of cells, and you highlighted a copy of a previous exhibit.

Do you recall doing that in cross-examination?

A. Yes.

Q. Am I to take your testimony that the stuff you highlighted were the ones where the doors could not, at that time, function properly?

A. That's correct.

Q. All right, were there other cells that were not closed that night?

A. We tried to find out whether there -- who -- what cells were left unlocked. Now, the officer that supposedly had been in there --

Q. Griffin?

A. Griffin.

Q. Okay.

A. Yeah, he could have left them unlocked.

Q. A corrupt guard could leave a cell unlocked, that otherwise functioned properly?

A. Yes, or there is -- and we didn't notice during this investigation, but these inmates have the ability to make a key out of trays or what -- or like plastic, that function, and will open doors.

Q. And I missed the first part of that answer, you said you learned that during this investigation, or you learned it after this investigation?

A. No, that's something that could -- that I knew -- that we knew about, and we kind of wondered if that's how --

Q. Okay.

A. -- or could somebody --

Q. But you don't know --

A. No.

Q. -- that that happened?

A. No, I don't know --

Q. Okay.

A. -- that that happened.

Q. You interviewed Mr. Chappell?

A. Yes.

Q. You interviewed Mr. DuBois?

A. Yes.

Q. Did you interview Mr. Highland?

A. Mr. Highland? Yes.

Q. And Ms. Carmody didn't ask you what did they look like, so what did they look like?

A. I do have them in photo lineups.

Q. Right, those lineups, two of which we saw earlier, and they're in evidence.

A. Yes.

Q. Are those -- were those recent photos, were they like day of photos, or were those Intake photos?

A. They -- I'm not sure when those photos were basically taken.

Q. I'm getting more at what did they look like to you --

A. Oh.

Q. -- when you interviewed them, if you remember?

A. I can't exactly remember.

Q. Okay.

A. I mean looking at the photos, I knew that those were the ones that, at the time, when I took -- had those photo -- that photo lineup made, I -- you could see that that's the same individual.

Q. All right. Did they look like they'd been involved in a fight --

A. Not that --

Q. -- that matched --

A. No, no, no, no.

Q. Any of those three?

A. No.

Q. Is a fist fight between cellmates the kind of thing that SCDC Police Services called out for, or is that more of an in-house thing?

A. No, that's an in-house.

Q. So --

A. We're not called out for fist fights and, you know, none of that, slaps and -- that's -- the crime -- it has to be something that rises to the level of where we would have to statutorily charge them, where they would go out to the street courts.

Q. Maybe more of something like Mr. William's territory?

A. Yes.

Q. So when you say you didn't investigate the

fight --

A. No, I didn't. I wouldn't because that's not -- I don't want to sound trivial, but that's not something I would do.

Q. Ms. Carmody handed you a document that she asked if that was part of your report.

Do you still have that up there?

A. This?

Q. Uh-huh. The one in your right hand is what I'm talking about.

A. Yes.

Q. Is that part of your report?

A. This is -- this report is done by Officer Torres. It's in the -- in my brief, yes.

Q. Okay. Are you sure about that?

What was the date on that?

A. That's 6/23/2017.

Q. Okay, were you there on 6/23, or were you there on 6/22?

A. 6/22.

Q. You were also handed, again, a copy of some notes that a fellow officer took?

A. That -- yes.

Q. Are you okay?

A. Yes.

Q. And which officer was that?

A. That was Agent Logan.

Q. Agent Logan, but were you in the room with Agent Logan during the course of that interview?

A. We were together when we interviewed Mr. DuBois over at the Medical unit.

Q. Okay, is that memorandum or those notes fairly and accurately reflect the substance of the interview, based on your memory of it?

A. No, what Ms. Carmody was referring to was, basically, a third party statement, where Terry was taking what he got from Mr. -- Agent Logan got from DuBois, and he's saying -- and it probably should have been in quotations.

Q. Okay. And she asked you to read quite a few portions of that directly into the record, didn't she?

A. That's correct.

Q. Would you read the last sentence?

A. "When he left the cell, Holmes was cleaning up items off the floor from the fight, and that he never stabbed Holmes."

MR. EVANS: Your Honor, I'm gonna move that statement, that whole document, as State's Exhibit 83. She had him read a substantial portions of it into the record. I understand her ongoing objection, but I'm

going to make that motion at this time.

Thank you, Your Honor.

BY MR. EVANS:

Q. All right, Mr. Garvin, those are all the questions I have.

THE COURT: Anything further?

MS. CARMODY: No, Your Honor.

THE COURT: All right, you may step down, sir. May I see the attorneys, please?

MR. EVANS: Yes, ma'am.

(Bench conference.)

THE COURT: All right, ladies and gentlemen, we're gonna go ahead and break for the evening.

Do not discuss this case, it wouldn't be appropriate to do so. 9:30 tomorrow, is that good? 9:30, yes?

Okay, we'll see you all at 9:30. Do not discuss this case, it wouldn't be appropriate to do so. Don't do any independent research, based on anything you've heard or seen.

Honestly, have a good night's rest, I'll see you all 9:30 in the jury room, okay? Thank you.

(Jury exits the courtroom.)

THE COURT: All right, just for the record, my understanding is you have two DNA people from SLED

coming tomorrow.

I want to make sure, Ms. Carmody, that -- well, there are motions, and then you have all your witnesses ready to go tomorrow, okay?

MS. CARMODY: Yes.

THE COURT: I just want to make sure we're gonna be ready to go, okay.

MR. EVANS: Yes, ma'am.

THE COURT: All right, I will see you all in the morning, unless there's anything else.

MR. EVANS: Not from the State.

THE COURT: All right, 9 o'clock, thank you. Thank you.

**

(At 6:15 p.m. the proceedings were continued until the following day without interruption.)

**

END OF VOLUME III

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 Beaufort County, South Carolina on the 2nd Day of August, 2023.

I do further certify that I am not related, of kin, counsel, or interest to any party hereto.

This, the 23rd day of January 28, 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. BENJAMIN DUBOIS, III, Defendant.	TRANSCRIPT OF JURY TRIAL VOLUME IV (PAGES 793 - 989)

August 3, 2023
Ridgeland, South Carolina

B E F O R E:

The Honorable **Carmen T. Mullen**, Judge Presiding

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INDEX

PROCEEDINGS	797
WITNESS: ALYSHA BRELAND	
Direct Examination	813
Cross-Examination	853
Redirect Examination	872
WITNESS: SARA GOODMAN	
Direct Examination	875
Cross-Examination	903
Redirect Examination	910
Recross-Examination	911
WITNESS: WILLIAM GARVIN	
Direct Examination	703
Cross-Examination	752
Redirect Examination	784
WITNESS: TRENTON SMITH	
Direct Examination	703
Cross-Examination	752
Redirect Examination	784
PROCEEDINGS CONTINUED	988
CERTIFICATE OF REPORTER	989

EXHIBIT LIST

**

ITEM NUMBER	DESCRIPTION	PAGE
S-83	Blood sample	835
S-84	Container/DNA items	841
S-85	Chain of custody	831
D-30 (A - E)	Photos	943
D-31	Logbook	947
C-17	LWOP email address	988
C-18	Affidavit	988
C-19	Spoilation of Evidence	988

PROCEEDINGS

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THURSDAY, AUGUST 3, 2023

RIDGELAND, SOUTH CAROLINA

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

BAILIFF: All rise.

THE COURT: Good morning, Ladies and Gentlemen. Thank you for being patient with us. We have been working through some legal issues, and we are now ready to proceed with you this morning.

Call your next witness, Sir.

MR. EVANS: The State calls Alysha Breland.

ALYSHA BRELAND,

being duly sworn testified as follows:

**

DIRECT EXAMINATION

BY MR. EVANS:

Q Good morning.

A Good morning.

Q Please tell the Court your name.

A My name is Alysha Breland. I am a former SLED -

Q Where do you work now?

A I am currently employed by the Anne Arundel Police Department in Maryland.

Q How did you get here from Maryland to testify here today.

A I was flown in.

Q How long have you been doing DNA analysis?

A I started at SLED in April of 2015.

Q Why did you go from SLED to Anne Arundel County?

A To be closer to family.

Q Tell us about what kind of training, education, experience you have to have to do this kind of work.

A I first received my bachelor's degree in biomedical science from Quinnipiac University in Connecticut. I then obtained a Master of Science in forensic science.

Upon being hired at SLED, I entered a training program with a court-qualified analyst that also worked at SLED.

During my one year and two months of that training, I did training samples of mock cases. Before becoming an independent DNA case work, analyst, I had to pass an oral exam, a written

exam, a mock testimony, and a competency.

Q About what time did you start doing your own cases?

A I was signed off to do independent case work, I believe, in June of 2016.

Q Have you ever been qualified as an expert in DNA analysis from SLED?

A Yes, I have.

Q Approximately how many times?

A Approximately 15 times between Maryland and here.

Q Were you qualified earlier this week in Maryland?

A Yes.

Q. Let's talk about matches.

A. - well, it's a different type of statistic.

Q. But you were -- so we're -- essentially, we have yours is completely type of statistics than the first one?

A. Yes.

Q. Okay, and -- all right, if you were given like other DNA profiles, it would change your results, right?

A. It could. I can't say for sure whether or not it would, but it's -- it could.

Q. Well, you'd be comparing more people to your analysis, right?

A. Correct, but it may or may not change the statistics that I have in my report.

Q. Right. All right, and the -- all right, so we have, I think you said, at least four contributors to the bag on the side of the toilet.

A. On one of the items, yes.

Q. All right. And you also had -- it was the -- you also had unusable samples, like the samples are degraded?

A. I would have to see the DNA profiles that Alysha developed to answer that, I don't recall.

Q. Okay, all right. But you would agree that you didn't do your own independent testing at all? You didn't take the cuttings and analyze them yourself?

A. I did not do any lab work. I did my own interpretation, as far as data interpretation.

Q. When did the State ask you to do this test?

A. If I can refer to my notes.

Q. Yes.

A. So it appears April 2nd of 2020 Patrick Hall with the Solicitor's Office called and asked for profiles to be re-evaluated.

Q. And this is -- the incident that you're evaluating was in 2017?

A. Yes.

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

THE COURT: Anything further for her?

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. The use of Starmix does not invalidate prior results?

A. It does not.

Q. And the purpose of the Starmix is --

COURT REPROTER: I'm sorry, I didn't hear that question.

BY MR. EVANS:

Q. The purpose of Starmix is to get new and more detailed analysis of the profiles that appear to be mixtures?

A. So it can be used for single source or mixtures. The reason we switched to Starmix is because we can use more information from the DNA profiles than we were previously were able to.

So while our previous results are not

invalidated, Starmix is just an upgrade in technology, to allow us to use more information from the profiles.

Q. Is this the only case in which the State of South Carolina has asked SLED to put more profiles into Starmix to take another look at them?

A. No.

Q. Okay, thank you.

THE COURT: Okay, you may step down.

WITNESS: Thank you.

THE COURT: All right, Ms. Carmody?

MS. CARMODY: Yes, Your Honor. Your Honor, I believe that first DNA report, you know, while I have, you know, issues with the question of evidence, I believe it's completely different than the situation with the second report.

Number one, the first report is this DNA testing is using -- like she said, it's using one test, and then she's using a completely different one. Your Honor, so in essence it's all bolstering this report.

So what she's doing, she's bolstering another person's work. She didn't do her own work. She didn't do her own work on any of the swabs in the test, she didn't do her own work on any of the cuttings. She's relying on another DNA analyst's work three years after a crime has been committed, and

she's bolstering that now with her own report, that's the first problem. The second problem, Your Honor, is that she was not given any other profiles in this case.

The second problem, Your Honor, is that she was not given any other profiles in this case. She testified she had over four people's contributing, these are mixtures, I believe it's misleading. It's confusing, because it's -- we have one report she's saying people are excluded or included, and then the jury's gonna hear another witness say, "Well, now, you know, we're comparing these two people," and that's inappropriate, Your Honor.

I think it's gonna be misleading to the jury, it's gonna be confusing, it's certainly not helpful. Also the issue is that the State requested this on April 2nd of 2020, and I literally received this report in the fall of last year of 2022. So the State had this report over two years, Mr. Holmes is, you know, deceased. We have the -- Mr. Highland -- I couldn't obtain his DNA. They're -- on-scene they didn't obtain DNA for a single other person in this case, and now the State wants to come in six years later and say, well, we just compared these two people, so you should just look at these two. Your

Honor, the second report is misleading, it's confusing, I don't believe it's helpful.

And like I said, I also believe it's technically improper bolstering, and she did not do her own work, and I'm asking that the second report be excluded.

THE COURT: Go ahead.

MR. EVANS: Thank you, Your Honor. There was abundant testimony that both methods are scientifically reliable, except in the broader community have been accepted by many prior Courts in the State of South Carolina and elsewhere. The entire purpose of using Starmix, Judge, is because it's newer, not new, but newer technology, which is useful in interpreting mixtures. We have several mixtures in the first results. Judge, the Starmix analysis doesn't even get into the items in which Ms. Breland was able to find a match.

And so I'm not gonna ask Ms. Goodman about those items, because she didn't analyze those. If you look at her report, there were some that are italicized, and have proposition tests. The items that are not italicized that's just the same as Ms. Breland's results, because it's just incorporating those prior results into the current findings.

She didn't even analyze those using Starmix, so I

was gonna ask Ms. Breland about her results, and not about any Starmix. I'm going to ask Ms. Goodman about Starmix, and not any of the prior results. So the jury's gonna be able to understand that these items here are Starmix, these items here are not. There's gonna be an explanation of why Starmix was brought in, when we have a perfectly, you know, useful and accepted scientific method that was used before that, so it's not bolstering at all, Judge. And there's also testimony that using the previously created DNA profiles, that's a step outside of the Starmix analysis, so it is accepted in the forensics community at SLED and in the Courts of South Carolina, are for that method to be used.

She's complaining about no additional profiles like from Mr. Highland or Mr. Chappell, that's weight, not admissibility. The analyst can only test what they've been presented with, and just because they don't have more information, it doesn't make their analysis valid.

This information is going to be extremely helpful, Judge, to this jury. I think that argument just has no credibility at all. She's complaining, again, about the lack of the profiles of Mr. Highland. She never asked for a DNA, she never asked for a

buccal swab.

She could have filed a request just like the State often does for Mr. Highland, certainly, but she's never asked for it. And she never complains about Mr. Dubois, who is still alive, she only complains about Mr. Highland, because he is dead. And, you know, Judge, just because Mr. Hall asked for additional analysis, and she's complaining about the discovery, the timing.

She's had these results for nearly a year. If we were at our original trial date, when I corrected the discovery flaw, where she hadn't had these results yet, I could see a little more weight to that complaint, but she's had them for a very long time, Judge, and had ample opportunity to talk to both of these witnesses. I'm gonna ask you to admit all of their testimony.

THE COURT: Anything further?

MS. CARMODY: Your Honor, so the -- I believe that when you take this report here, as I say, which is one set, and then we're having another panelist come in --

THE COURT: I don't want you to say what you've already argued once, it's coming in.

MS. CARMODY: Okay, Your Honor, so when we take

the -- but my point is, is that I believe that in and of itself is misleading to the jury, to have these two people go up there on two different tests with different results, Your Honor, I believe that's misleading as well. I just want to stress that point, and also that is not true that I had the results for a year. I got these results in October of 2022, so October and we're now --

THE COURT: In August of 2023.

MS. CARMODY: Yes, Your Honor. And these -- the State requested this back in 2020, when Mr. Highland was actually still alive.

I wasn't provided any of the reports. A lot of those people were still in the Department of Corrections at the time. They're -- I don't know where they are. They can't find a lot of these witnesses. I can't get DNA samples for these people. Your Honor, in doing tests on evidence three years later, piggybacking off another person's work is completely inappropriate.

THE COURT: Well, neither would you want to get the evidence, because then you'd lose your argument that they didn't do what they should have done.

Secondly, I think it's definitely scientifically accepted to use someone else's cuttings, drawing,

whatever they have, I don't think there's anything wrong with it, and they can rely on what the serologist took. Obviously, it has been peer reviewed, it's been accepted in Courts. I think it will assist the jury in understanding something about this, and you can argue all you want about the cross-contamination, and the way these items were collected, that's all for argument.

I think it goes to weight not admissibility, and I think it's valid, and I think they can testify. As far as your argument about you've only had it since October, I know I personally have continued this case once, because of these alleged cell phones that were all collected as contraband in this case, and there was a note stuck on the one from someone who I guess is now deceased, that said, "There might be information," so I know I continued this case two times to do that work. And you have not made a motion for a continuance this week based off any new evidence, or anything along those lines.

So with that said, I'm gonna allow it. Anything further? As to the DNA, just so I understand these are your last two witnesses; is that correct?

MR. EVANS: That is correct.

THE COURT: Okay.

MS. CARMODY: Your Honor?

THE COURT: Yes?

MS. CAMRODY: I just need a bathroom break prior to calling in the jury.

THE COURT: Sure, sure.

MS. CARMODY: Thank you, Your Honor.

THE COURT: All right, thank you. Let's go ahead and take five minutes before we bring the jury in, okay? Thank you.

(Recess)

PROCEEDINGS CONTINUED

THE COURT: Yes?

MS. CARMODY: I don't want to forget later, so I'm gonna ask for it now. When the evidence goes back to the jury, which I would imagine might even be today, hopefully, I'd ask that the -- because it's all clothing, you have clothing from a bathroom, you have clothing from his person, I would just ask that those items be separated, so they're not confused as to, wait, which one was recovered from the bathroom? Which one was recovered from his person?

Because I believe that they're gonna need to look at the clothing itself, and I don't want the jury confused as to where it came from. If you just throw all the clothes back there inside one, then they're

not gonna know what was from what.

MR. EVANS: I'm holding up State's Exhibit 70, as an example, one plastic bag previously contained clothing near the toilet. It's also all in testimony. She has a Defense exhibit, which was the clothes taken from the Defendant, and in any measure, they're all gonna be in their own, you know, packaging.

MR. CARMODY: I --

THE COURT: As long as each of them are identified. The problem is this, I do not emphasize by separating in any way to any specific evidence, it all has to go back as a group. I don't want the jury to draw from that if one is important or not, whether this evidence is more important than not.

So as long as that have identifiers on them, where they came from, I think that will be a solution.

MR. EVANS: Which we'll double-check, obviously.

THE COURT: We'll make sure before it goes back to the jury.

MR. EVANS: And I'm not gonna object, because she already brought up those issues.

THE COURT: Right.

MR. EVANS: Yes, ma'am.

THE COURT: Okay, okay.

Also, do we need to go ahead and just put on the

record, I understand that, Ms. Carmody, you called my Court Reporter last night?

MS. CARMODY: Yes, Your Honor.

THE COURT: And why don't you just -- you're going to have to talk into the record, which is pretty tough, but my understanding you called last night, and I heard too from Ms. Carmody, and she asked a question. I just want to make sure it's put on the record, so it's fully disclosed to everyone, including the State, so --

MS. CARMODY: She asked for fingernail clippings for --

THE COURT: Do you know whose fingernail clippings? Was it Mr. DeBois or Holmes?

THE COURT REPORTER: Both.

THE COURT: Both, okay. And how did she respond? And they were admitted into evidence; is that correct?

COURT REPORTER: Yes, I said they were admitted.

THE COURT: And you told her they were in evidence, and that was the extent of your conversation?

COURT REPROTER: Uh-huh.

THE COURT: At 9:15 last night, is that correct?

COURT REPORTER: Yes.

THE COURT: On a cell phone?

COURT REPORTER: Yes.

THE COURT: Okay.

MR. EVANS: And, Judge, I'm holding State's 77 and 78, which are fingernail scrapings.

THE COURT: And they were both in evidence?

MR. EVANS: They're both in evidence.

THE COURT: All right. I just needed to put that on the record.

MS. CARMODY: I didn't have the -- we didn't have the list of what was left in the courtroom yesterday, and I just wanted to make sure whether I needed to recall the witness from North Carolina, Your Honor, that was the reason.

THE COURT: Okay.

MS. CARMODY: Yes.

THE COURT: All right.

COURT REPORTER: I'm sorry, she did say that too, she left it at home and that's why.

THE COURT: All right, thank you. All right.

MR. EVANS: The State's ready.

THE COURT: You ready to go? Ready to go from the defense?

MS. CARMODY: Yes, Your Honor.

THE COURT: Ms. Carmody, yes?

MS. CARMODY: Yes.

THE COURT: Let's bring them in.

PROCEEDINGS CONTINUED

(Jury enters the courtroom.)

THE COURT: Good morning, ladies and gentlemen, thank you for being patient with us. We were just working through some legal issues, and we are now ready to proceed with you this morning. You can call your next witness, sir.

MR. EVANS: The State calls Alysha Breland.

***

ALYSHA BRELAND

BEING DULY SWORN TESTIFIED AS FOLLOWS:

***

DIRECT EXAMINATION

BY MR. EVANS:

Q. Good morning.

A. Good morning.

Q. Would you please introduce yourself to our jury.

A. My name is Alysha Breland. I am a former SLED Agent in the DNA Case Work Department.

Q. And you say former, where do you work now?

A. I am currently employed by the Anne Arundel County Police Department in Maryland.

Q. All right, how did you get from Maryland to Jasper County today?

A. I was flown in last night.

Q. Did we book you -- did my office book you that plane ticket?

A. That's correct.

Q. All right, are we paying you in any other way for your testimony?

A. No.

Q. Did we put you up in a hotel?

A. That's correct, yeah.

Q. And gave you some meal money?

A. Yes.

Q. Okay. How long have you been doing DNA analysis?

A. I started at SLED in April of 2015. I then resigned and jointed the Anne Arundel County in October of 2019.

COURT REPORTER: Could you spell --

WITNESS: Anne Arundel?

COURT REPORTER: Yes.

WITNESS: Two words, A-N-N-E, and then A-R-U-N-D-E-L.

BY MR. EVANS:

Q. Why did you go from SLED to Anne Arundel?

A. To be closer to family.

Q. That's where you're from, the Baltimore area?

A. Pennsylvania.

Q. Oh, okay. Tell us about what kind of training, education and experience you have to have to do the kind of work that you do.

A. So I first received my Bachelor of Science in Biomedical Science from Quinnipiac University in Connecticut. I then obtained a Master's of Science in Forensic Science from Arcadia University just outside Philadelphia. Upon being hired at SLED, I entered a training program with a court qualified analyst that also worked at SLED. During my one year and two months of that training program, I did training samples, mock cases. Before becoming an independent case work analyst, I had to pass an oral exam, a written exam, a mock testimony, and a competency test, and then I was finally deemed worthy of doing independent case work.

Q. All right, and about what time did you start doing your own case work?

A. I was signed off to do an independent case for, I believe, in June of 2016.

Q. Okay. Have you ever been qualified as an expert in DNA analysis before?

A. Yes, I have.

Q. Approximately, how many times?

A. Approximately, 16 times between South Carolina and Maryland.

Q. When was the most recent time?

A. I testified in Maryland in Anne Arundel County, Circuit Court on Tuesday of this week.

Q. All right.

MR. EVANS: Your Honor, the State would submit Ms. Breland is an expert in the field of DNA analysis; is that the best way to call it?

THE COURT: Forensic DNA analysis.

MR. EVANS: Forensic DNA analysis.

MS. CARMODY: Without objection.

THE COURT: All right, ladies and gentlemen, in this case Ms. Breland is being qualified as an expert in the area of forensic DNA analysis. That allows her to give her opinion, and her reasons for her opinion, and that's what you can use as you see appropriate as evidence in this case.

BY MR. EVANS:

Q. All right, Ms. Breland, I'm sure you've done this many times, but can you give this jury a crash course on what DNA is?

A. Right. So DNA stands for Deoxyribonucleic

acid. It's a component found in all cells of the body, with the exception of red blood cells. Half of your DNA would be inherited from your mother, and the other half is from your father, with the exception of identical sets of children, or twins, triplets, everyone has a unique DNA profile.

Specifically, in forensic DNA analysis, we're targeting areas of your DNA that are noncoding regions, called short tandem repeats or STRs. These STRs are highly variable among individuals, and essentially it just creates a string of numbers that we refer to as the DNA profile, that we would be creating from items of evidence, and known standards from individuals that could be associated with the case.

Q. What's a known standard? What does that mean?

A. A known standard is an item that's taken directly from a person to be used to create their DNA profile. Typically, it's gonna be a buccal swab, which is taking a cotton tip stick and sticking it in their mouth and rubbing it against their cheek. We also can do blood standards taken from deceased individuals, or even living individuals, but it's a more invasive process, so we try to just collect the

buccal swabs from people who are still alive.

Q. Okay. What's the process of your work at SLED? What are the steps, how does it work?

A. So SLED is assisting a law enforcement agency, so outside agencies will submit items of evidence and known standards to SLED, specifically, in DNA. Our items can go through what's first our Evidence Processing Unit or serologists, and -- still within the DNA Case Work Department. They will process larger items of evidence and do serology testing, which is testing for body fluids, such as blood, semen and saliva, and then they will forward samples from those items of evidence to the DNA Analyst, which I was, and I would perform DNA analysis on those items to create the DNA profiles.

Q. Are you trained in serology as well?

A. I was also trained to do serology testing as well, yes.

Q. Okay, what does a serologist do in this whole procedure?

A. Like I mentioned --

Q. Okay.

A. So, specifically, for this case, they would be looking at the items of clothing that were submitted, and looking at the staining, and doing the

serology testing for blood from -- on any article of clothing, or a towel, or anything like that, so that was mostly the focus I think --

Q. Okay.

A. -- for this case.

Q. Do you, as a DNA analyst -- do you get a paper bag like this, I'm holding up State's Exhibit 71, is this what you're working off of?

A. So, typically, anything submitted to SLED is gonna be put into a heat-sealed pouch with SLED's signa thing on it, and those bags or envelopes will be in those heat-sealed pouches.

Q. Okay. What comes to you as the DNA Analyst in the actual lab?

A. So if -- it first goes through the Evidence Processing Unit within the DNA Case Work Department. I may just get cuttings from those items directly. I wouldn't get the parent item, what we call it, I would get a sub-item, which is a cutting taken from the items.

Q. Okay, so a cutting is just a piece of another item that's been removed?

A. Yes, it would physically be taken off the item.

Q. Does it get its own number? Some kind of

identifier? How does that work?

A. So each item that gets entered into SLED's system gets its own unique lab number, as well as an item number. And any cuttings or swabbings taken of those parent items will get their own sub-items number.

Q. Okay.

A. So another unique number to identify it.

Q. All right, now, once you receive the cuttings, or whatever, you know, we're still generally, we're not in this case yet, once you receive the items that you've been asked to analyze, what do you? Can you give us the actual procedures in layman's terms of how you analyze things for DNA?

A. Right. So I could go and -- most the time the workflow would be to go to the Evidence Control Unit, and that would be where the long-term storage is of the evidence. I would request the specific items needed for each case that I worked. Once taking those items into my personal custody prior to myself taking a sample of cuttings or swabs, I just do a double-check that what is described as is actually what I'm looking at. And as long as those things are corresponding with each other, I'll go ahead and start the DNA process.

Q. So it sounds like you do a little bit of checking other people's work, you know, before it gets to you?

A. Right, any time something would enter my personal custody, I would just make sure that what I believed to be receiving is what it says it is.

Q. Okay, skipping ahead slightly ton this case, did you see anything unusual with any of the evidence you received??

A. Anything that would be out of the ordinary, I would definitely document in my evidence notes, but I do not believe that there was anything out of the ordinary in this case.

Q. All right, when you're receiving physical items you're up in Columbia, right, or now Anne Arundel?

A. Formerly, yes, in Columbia.

Q. You're receiving them into the lab, is there some kind of process that documents, you know, transfers of those items?

A. Yeah, so every item that gets moved to SLED, it will start what we refer to as a chain of custody, and this is just a list that is showing us the physical location of where that item is in our system, and as well as physically where it would be as well.

Q. It's an automatic -- automated process?

A. Using the barcodes, we place barcodes that are uniquely identifying each item onto the heat-sealed pouches, and those barcodes get scanned as they're moving from location to location.

Q. Okay, I'm holding up State's Exhibit 77, which is already in evidence, is this one of the barcodes I'm indicating with my thumb?

A. Yes, it is.

Q. And the item number up here?

A. That's correct.

Q. Okay. Is this one of the things you received?

A. I believe I see my initials on it, so, yes.

Q. We'll get to each and every one. So once you get all your items, what do you do with them?

A. So after doing that inspection and making sure that it still makes sense, I will then take smaller cuttings that go into tubes, and then I begin the DNA process. There's four basic steps that we use as DNA Analysts in the laboratory itself. The first step is called DNA extraction, where we're just trying to remove the DNA cell off of the item that it was on, and then we also purify that sample from other cellular components, like such as proteins, it's

something that we're not looking at. So once we have the sample purified with just the DNA in those tubes, we then have to do the second step, which is DNA quantification, where we use something called real-time PCR, or Preliminary Chain Reaction to estimate the amount of DNA in each sample. And this is important, because it allows us to target the ideal amount of DNA for the third step, which is DNA amplification. During amplification that's where we're targeting those highly variable regions within the DNA, and we make millions and millions of copies using PCR, Preliminary Chain Reaction, and that's amplified sample that moves onto the last step, which is DNA separation, using something called capillary electrophoresis. All it's doing is separating out those fragments that have been multiplied into a more readable situation, where we can then look at the DNA profiles itself. And essentially a DNA profile is just a string of numbers.

Q. Okay, once you have a profile, this is from a piece of evidence, right? We're still at that phase?

A. So --

Q. As just to a known standard?

A. Both items of evidence, as well as the known standards will be treated the same in the lab. We

just separate them by time and space, so that we aren't contaminating any of the DNA from the known standards onto the items of evidence.

Q. All right, so tell us a little bit more about cross-contamination, what kind of concerns does that raise for you, as an expert?

A. Right, so as a DNA analyst, I just want to make sure that the item that the item that came to me, I'm developing the DNA profile from that item itself, and I am not introducing any extra DNA from myself, or any of the other items onto other items.

So we just have safeguards in place, where I'm only going to be opening up one item at one time to process it. And then once I'm done with that item, I will seal it back up, before I move onto the next sample. Between processing I'm cleaning the tools and instruments that we use with bleach and ethanol, so that anything that touched the previous item is sterile before it touched another item.

Q. What does bleach do?

A. Bleach will actually break down the integrity of the DNA, and in order for us to develop a DNA profile, the DNA still needs to be intact, in order for that Preliminary Chain Reaction to work properly to develop the DNA profile.

So the bleach and the ethanol together is essentially destroying any DNA that would be on those tools that I use.

Q. So you said you separate the pieces of evidence from the known standards by -- you do it on different days; is that right?

A. It can be different days, it could also even be -- especially for a rush case, you know, they want all the evidence and known standards the results together, I will process the item of evidence first, and then once I'm done with all the items of evidence, then I will go to the known standards, again, individually, opening one at a time, and processing it the same way.

Q. Once you have the profiles, whether it, you know, be from a piece of evidence, or from the known standard, what do you do with those profiles?

A. So once I have that data, we do what's called a DNA interpretation, and that is the results that I put into my DNA reports.

Essentially, I will look at the DNA profiles I developed on the items of evidence, and based on our validated protocols and procedures, I will determine if the DNA profiles are suitable for interpretation, and if they are, I'll go ahead and try to determine a

number of contributors, and determine if I can pull what's called like a major contributor versus a minor contributor. And once all of the evidence is evaluated, I then go to the known standard DNA profiles, and will make direct comparisons of those known profiles to the evidence files.

Q. So you're looking at the evidence first to see if it's something you even can use; is that --

A. Correct.

Q. -- a simple way of putting it? Okay.

A. Right, I just -- I'm avoiding biasing myself by knowing a known individual -- a known individual's DNA profile, and then looking at the evidence profile to start putting them on the profile, essentially, so that's why I do it in a separate step.

Q. All right, and, again, the known standards are essentially -- well, you define that for us? I don't want to lead you.

A. Right, again, the known profile is just -- it's an item that was taken directly from that individual, so we know that the DNA profile belongs to them.

Q. The folks at law enforcement is interested in your opinion on that?

A. Right.

Q. Okay. We're getting close to getting into the specifics of this case, but how, just generally, in layman's terms, how does your method -- do your methods allow you to see, you know, whether there's something comparable?

A. Are you specifically talking about how do I interpret a profile?

Q. Yeah.

A. Excuse me. So going back to those STR, Short Tandem Repeats, and how DNA is inherited, so basically the first step in a DNA interpretation is to determine the number of contributors. So we typically -- if it is a profile from a single person, we'll call it a single source profile. Anything that shows that there's more than one individual appearing, we will call it DNA mixture. And DNA mixtures can be upwards of two, three, four plus individuals. Based on our protocols that were validated, if something is looking to be at least five individuals we're not even gonna go any further from that, because it can get very complicated with trying to do the comparisons. So our protocols at SLED allow us to look up to a four-person mixtures, and, specifically, with the mixtures, again, I'm looking to see if I can pull out a major contributor, and that would be an individual that

contributed more DNA in that profile, and it stands out enough, and is a high enough quality, that I can call that specific portion single source, and then make a direct comparison to that component. And; typically, in the mixtures we can identify the major contributor and do comparisons. The minor contributors we tend to not be able to interpret, 'cause I'm just not sure if I have full representation of an individual there, and it tends to be very partial, which is just low quality, so we tend to not interpret the minor components --

Q. Okay.

A. -- with the protocols that I used.

Q. When you do all this work, and you get results of whatever kind, do you acknowledge it in some kind of report that, you know, this is a major contributor, or this is a match, or do you acknowledge that there are differences in the results?

A. Yeah. Basically, I will mention if it is a mixture, and if -- how many people are at least present, and then I will do -- if it is suitable for comparisons, I will mention if someone could potentially be included or excluded.

Q. Okay. What was the lab number in this case that we came -- that we're here about today?

A. If I can refer to my report. So each case that comes to SLED gets a SLED lab number, and that number for this case is L17-09614.

Q. Okay.

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

THE COURT: Yes.

BY MR. EVANS:

Q. Ms. Breland, I'm gonna pass you an item, and I'm gonna ask if you can identify that? It's been previously marked as State's Exhibit 85.

Do you know what that is?

A. I do recognize this.

Q. What is that?

A. This is the chain of custody for L17-09614.

Q. Is that a report that SLED generates regularly for each case?

A. Yes, it will be prepared for each case.

Q. Does it come -- well, can you tell us, did you write that report? Did you create it?

A. As a whole I did not. There are gonna be parts of it that I contributed to. Any time I put an item into my personal custody, I would have updated physical location as me, and that would have been listed in this report for certain items, but not --

Q. Is that --

A. all of them.

Q. Is it the standard procedure for everybody who handles a particular piece of item that's in SLED's custody to do the same thing?

A. Correct. Any time the physical location of an item changes at SLED, we will update it through the chain of custody.

Q. Did you review that report at my request prior to your testimony today?

A. Yes, I did, I did look at it.

Q. Did you notice any concerns, any gaps in the chain of custody that came to your attention, either back in 2018 or today?

A. I didn't see anything concerning, no.

Q. All right, and, again, these -- this is a report that's generated by SLED every day in every case?

A. Right, as well as any laboratory, yes.

Q. Sure, with your current position in Anne Arundel County have a similar type of thing?

A. Yes, we also keep chains of custody for all of our items..

MR. EVANS: Your Honor, the State would move the chain of custody report into evidence as State's

Exhibit 85.

MS. CARMODY: Chain of custody objection.

THE COURT: Subject to objection.

MR. EVANS: Thank you, Your Honor.

(State's Exhibit Number 85 was marked into evidence.)

BY MR. EVANS:

Q. All right.

COURT REPORTER: Hold on just a minute.

MR. EVANS: You let me know, okay?

COURT REPORTER: Okay.

BY MR. EVANS:

Q. Ms. Breland, talk about this case in particular, tell us how you became involved, and what you received and what you analyzed.

A. So at SLED, as a DNA analyst, originally, when I first started, you were assigned cases by a case coordinator, and eventually we did move to a self-assigning method of obtaining a case to work. Just because it's been so long since I have been at SLED, I can't remember if this case was assigned to me from somebody else, or if I picked it myself, but, eventually, I did grab this case to analyze.

Q. Okay, what were the items that you received in the chain of custody; do you recall?

A. Any items that I received would have been listed on my official DNA report.

Q. Okay.

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

THE COURT: You may.

BY MR. EVANS:

Q. Ms. Breland, I'm gonna pass you State's Exhibits -- these are not in yet, but they've been pre-marked, State's Exhibit 83 and 84; do you recognize those items?

A. Yes, I do.

Q. What are the items? And if -- and, in fact, while you're describing them, could you refer to both the exhibit number and the item number, if you would, please, ma'am.

A. Okay. So for State's Exhibit 83 I have here the heat-sealed pouch -- one of the heat-sealed pouches that we would have had at SLED. Up here you can see the unique identifier that has the lab number, L17-0614, and then, specifically, this item number as 5.1.

Q. All right, and how did that particular item 5.1 get is number? What's that decimal indicate?

A. So the .1 is what we call a sub item, so this

physical item here actually came from another item, which was number 5, which was the blood standard of Jerry Holmes.

Q. Okay, and who created 5.1 from 5; does it indicate that?

A. Yes, so here is actually one of the serologists that worked at SLED at the time, and she, specifically, was the person that took item five, the blood standard of Jerry Holmes, and created what we called a dried blood standard. It's just a way to preserve the DNA, and it allows me, as a DNA analyst, to take the dried blood standard to create that DNA profile.

Q. I'm gonna approach you with one other exhibit. This is actually is evidence, this is State's Exhibit 68.

Can you tell what item number that is?

A. Yes, based on the barcode this is item five, which is the blood standard.

Q. Thank you. So Ms. Ruis-Yi took five and created 5.1 from it?

A. Yes, that's correct.

Q. All right, and is 5.1 what you received rather than five itself?

A. Yes, it is.

Q. Okay, and which exhibit number is that, I'm sorry?

A. 5.1 -- SLED 5.1 is State's Exhibit 83.

Q. All right, did it arrive in that sealed fashion that you have there? That's not leading, but how did it arrive?

A. So this envelope here is what the dried blood standard was put into, and then she would have put that envelope into this heat-sealed pouch, and then sealed it.

Q. Okay, and then what did you do when you got it?

A. So this would have gone back to our Evidence Collection -- or, I'm sorry, not Evidence Collection, Evidence Control Unit, which is the long-term storage for all of our items if evidence at SLED. And when it was time for me to work this case, I requested this item to be picked up by me to them. So then there was a physical exchange of me taking the items in this case, including this one.

Q. Okay, and before you can work on it, do you have to unseal it?

A. Yes, I would take a scalpel and cut the heat-sealed pouch open, in order to obtain the item.

Q. When you finish your work with the item, what

do you do with it?

A. So after I am finished, I will take a heat-sealer and reheat this heat-sealed pouch, as well as sealing the envelope inside that contains the physical item.

Q. Okay.

MR. EVANS: Your Honor, the State would move this exhibit in as State's Exhibit 83.

MS. CARMODY: Subject to prior objection.

THE COURT: Subject to your prior objection, in evidence.

(State's Exhibit Number 83 was entered into evidence.)

BY MR. EVANS:

Q. All right, how about 84, what is that item?

A. So 84 is slightly different, where it is called a container. And all a container is, it's just a heat-sealed pouch that contains multiple items. So when we scan this barcode L17-09514, container E, all the items that were assigned to container E will be moved at the same time simultaneously. So we're -- instead of scanning each item individually, we just get to scan the one barcode --

Q. All right, what is --

A. -- to move all these items.

Q. What are the items inside the container that is State's Exhibit 84?

A. I would have to refer to the chain of custody, that will list --

Q. Sure.

A. -- the container, and what items were there. Now, because it is a container, the items might be jumping. Based on the heat-sealed pouch the items in this were some items that Courtney Thompson, who was another serologist, who did the evidence processing on this case, they would be items -- some items that she created, just for ease of access for myself for future testing. She put her sub-items into container E.

Q. And how does a serologist, like Courtney Thompson, create a sub-item?

A. Physically, she would be looking at a parent item and taking a physical cutting off that parent item, and then she would create an electronic version of that item in our LIN system, which is how we were creating these barcodes, and tracking everything. She would simultaneously create it electronically, and then that's how we're tracking it.

Q. Okay, and you received this sub-item in those -- I think you'all call them coin envelopes that are in the container?

A. Yes, these smaller envelopes are called coin envelopes.

Q. Okay. Go ahead and just tell us using that chain of custody report, what were the sub-items that you received --

A. Right.

Q. -- in State's --

A. So because it does jump around, I believe the first item chronologically was item 8.1, which were swabs from interior heel area of right shoe. So, again, Courtney would have received item 8, which is the pair of -- one pair of Crocs from Benjamin DuBois, and then she swabbed a particular area on the shoe, and the swabs became item 8.1, and that's what gets forwarded to me.

Q. Okay.

A. So in similar fashion, she also 8.2, which were swabs from the exterior heel area of right shoe. We have item 10.1, which is a cutting from exterior right left pocket of shorts. So, again, item 10 was the shorts and 10.1 became the sub-item of a cutting from the shorts.

And then also we have in the envelope 11.1, which is described as a cutting from exterior rear right leg near waistband of pants. We have 18.1, as cutting

from towel, so 18 would be the towel, and then she took a cutting from the towel. We also have 19.1, which is described as a cutting from pouch of medical scrotal support garment. Item 20.1 is described as cutting from top edge of sock. The next one 21.1, cutting from exterior of rear left leg near waistband of pants. 22.1, cutting from edge of towel. 23.1 cutting from exterior left sleeve of shirt. 24.1 cutting from exterior rear left leg of boxers. 25.1 cutting from exterior rear left of -- right leg of boxers. 26.1 a cutting of exterior front collar area of tee-shirt. And that may -- that would be all the -- those sub-items are in this heat-sealed pouch here.

Q. All those -- is there any -- all those items are in State's Exhibit 84 inside that one heat-sealed bag?

A. Yes, that's correct, and you can see that there are multiple coin envelopes contained within this heat-sealed pouch.

Q. Is there anything else contained within that heat-sealed pouch?

A. Yes, there's also these tubes that I placed into this heat-sealed pouch after my analysis was complete.

Q. Okay.

A. And these tubes are just dried extracts of the DNA, so these were the tubes that I used in my lab process to retain the DNA for potential future testing. We dry them down so there's no liquid in the tube, because if we kept the liquid in the tube for long-term storage, eventually it would evaporate and DNA will not be preserved.

Q. Do you have your initials and date on those items, or on the exhibit?

A. All of the seals that I created have my initials, and the date that I would have made the seals.

Q. All right, is there a difference between AJA and AJB?

A. Yes, AJA from a seal that was made on 11/25/17, is just my -- using my maiden name. I got married a month before that, and officially didn't change my name until the next year, so the same envelope. I created the seal from March 14th of 2018 and it has my new initials of AJB.

Q. Are there any other descriptors for items in 24.1 and 25.1, either in the chain report, or in your eventual report?

A. If I refer to my report, so the item description is coming from what Courtney Thompson, the

serologist --

Q. Of course.

A. -- was the person who created the sub-item, it's taking that item description.

Q. And can you give us those descriptions?

A. For 24.1 and 25.1?

Q. 25.1.

A. 24.1 is on my report, cutting from exterior rear left leg of boxers (167) from plastic bag near toilet.

Q. Okay, and 25.1 does that have a different parentheses?

A. Yes, so 25.1 has cutting from exterior rear right leg of boxers (295690) from plastic bag near toilet.

Q. All right.

MR. EVANS: Your Honor, the State would move the contents of the plastic sealed bag into evidence as State's Exhibit 84.

THE COURT: Subject to your prior objection?

MS. CARMODY: Yes, Your Honor.

THE COURT: It's in evidence.

MR. EVANS: All right.

(State's Exhibit Number 84 was admitted into evidence.)

BY MR. EVANS:

Q. Okay, Ms. Breland, I'm gonna pass you four items, they've already been entered. Just remind the jury of what those are, and then we're gonna start getting into your results.

A. Okay. I'll try to do it chronologically with the -- not chronologically, subsequentially I should be saying --

Q. Okay.

A. I'm sorry. This is SLED lab number L17-09614, item number six.

Q. What is that number six?

A. This is two buccal swabs from Benjamin DuBois.

Q. And what exhibit number do we have on the other side.

A. It is State's Exhibit 76.

Q. Okay. Would that be a known standard of the type that you tend to use?

A. Yes, it is.

Q. Okay, and it's already in evidence, but did you use that in your work in this case?

A. Yes, and as you can see, again, I have the tube that was used during my DNA analysis, repackaged after it was dried down.

Q. Okay, so the next item?

A. The next one is L17-096147, item number seven, and this were the fingernail scrapings from Benjamin DuBois.

Q. Okay, does it have any sub-items?

A. So the answer is yes. Any time we had fingernail scrapings or cuttings, because you could potentially have up to ten different samples, one from each finger that could have been cut, or scaped, or swabbed, it was our procedure to split it just into left-hand and right-hand.

So during my analysis I created item 7.1, which would be left-hand fingernail scrapings from Benjamin DuBois, and then 7.2 would be the right-hand fingernail scrapings from Benjamin DuBois.

Q. Okay, you created those sub-items?

A. Yes, I was the one who created those two sub-items.

Q. All right, what other items do we have before you that you used in this case?

A. We also have SLED item number L17-09614, item 14, and this is fingernail scrapings.

Q. From?

A. From Jerry Holmes.

Q. Okay, and the same question, did that create

sub-items -- did that least to sub-items which you created?

A. Yes, it did. Again, the left-hand fingernail scrapings of Jerry Holmes became 14.1, and the right-hand fingernail scrapings became 14.2.

Q. All right, and I think this is the last item, is there one more for you?

A. Yes, SLED L17-09614 and 16, and this is two swabs of suspected blood from the floor of cell 22.

Q. Did you take all these items and subject them to the processes that you described to the jury in general terms earlier?

A. Yes, I did.

Q. Were you able to develop profiles for the -- each of the items of evidence?

A. Yes, I did.

Q. All right. Were you able to develop profiles eventually from the known standards?

A. Yes, I did.

Q. Were the -- and did you do analysis to compare them to each other?

A. Yes, I did.

Q. Were those results peer reviewed? Do you have a process at SLED where others check, you know, over what you've done?

A. Yes. So we have something called technical and administrative reviews. A technical review is done by another qualified analyst within the Department. And what they will do is look over all of my work, and evaluate it against our standard operating procedures, just to make sure that I followed our directions that we use, and then they also have to review my report, and agree with my findings.

Q. And they did that -- that process went through in this case?

A. Yes, it did.

Q. All right, and did you release those findings?

A. Yes, I did.

Q. Let's start with findings. Let's take it --

A. Okay.

Q. -- item-by-item, starting with 7.1. And, obviously, the item numbers are hard to keep track of, so I'll introduce it with an item number, and if you can give the description?

A. Okay. All right, 7.1, left-hand fingernail scrapings from Benjamin DuBois. My results were that the DNA profile is consistent with the profile of Benjamin DuBois. Item 7.2, right-hand fingernail

scrapings from Benjamin DuBois. The DNA profile is consistent with the DNA profile of Benjamin DuBois.

Q. Okay, so for the fingernail scrapings from Benjamin DuBois, that they matched the known standard?

A. Yes, that's correct.

Q. There was no --and you're -- it's okay to use the word match in this process, right?

A. Right. I just used -- I typically used the word is consistent with --

Q. Okay.

A. -- just when I knew I wouldn't be performing a statistical analysis --

Q. Okay.

A. -- because these items came from the person that they are matching DNA profile to.

Q. All right, if you hear me say match in a question, where it's not appropriate, you correct me, okay?

A. Right. Yeah, consistent with a match can be used interchangeably.

Q. All right. And no mixture from the fingernail scrapings of Benjamin DuBois?

A. That's correct.

Q. Okay, what about item 8.1, what's that descriptor?

A. 8.1, swabs from interior heel area of right shoe, Croc, from Benjamin DuBois.

Q. Okay. What were your results for 8.1?

A. The DNA profile is a mixture of at least two individuals. The partial DNA profile, the major contributor, matches the DNA profile of Benjamin DuBois. The probability of randomly selecting an unrelated individual having a DNA profile matching the major contributor to this mixture is approximately one in 330 septillion. The partial DNA profile of the minor contributor is insufficient for interpretation.

Q. Okay, so we have a mixture here?

A. Yes.

Q. And you were able to get a result of some kind?

A. Based on the protocols at the time, I was able to pool what we call the major contributor, which is just an individual that has a higher quality portion of the profile, and I was able to make the comparison to Benjamin DuBois' DNA profile. It's not stated, but I also would have compared Jerry Holmes' DNA profile to the same component. Any time we had a match, we just didn't list that. Any other individuals that we compared to would be excluded --

Q. Okay.

A. -- but he would be excluded.

Q. So item 8.1, it's your testimony that's a match for Benjamin DuBois?

A. That's correct.

Q. And that's the -- described as the Croc -- interior heel area of the Croc of Benjamin DuBois?

A. Of the right shoe, correct.

Q. Is 8.2 a similar result?

A. Yes, it is.

Q. Okay, and that's described as what?

A. 8.2 swabs from exterior heel area of right shoe Croc from Benjamin DuBois.

Q. Okay. Again -- well, is it a mixture?

A. It was a mixture of at least two individuals.

Q. Okay. So let's -- from here on out, let's focus on the non-mixtures, because there's -- as you're aware there's gonna be additional testimony later. Let's go to 10.1.

A. 10.1 was cutting from exterior rear left pocket of shorts from Benjamin DuBois. The DNA profile matches the DNA profile of Benjamin DuBois. The probability of randomly selecting an unrelated individual, having a DNA profile matching this item is approximately one in 12 octillion.

Q. Okay. Item 11.1?

A. 11.1 is a cutting from exterior rear right leg near waistband of pants from Benjamin DuBois. The DNA profile matches the DNA profile of Benjamin DuBois. The probability of randomly selecting an unrelated individual having a DNA profile matching this item is approximately one in 12 octillion.

Q. All right. So far we've got an item described as being from Benjamin DuBois, and they're a match for Benjamin DuBois.

A. The DNA profiles match, yes.

Q. All right, how about item 14.1?

A. 14.1 was the left-hand fingernails scrapings from Jerry Holmes.

Q. And what were the results on that?

A. The DNA profile is consistent with the DNA profile of Jerry Holmes.

Q. Is that the same for 14.2?

A. 14.2, right-hand fingernail scrapings were also consistent with the DNA profile of Jerry Holmes.

Q. So fingernails scrapings from Jerry Holmes are a match to Jerry Holmes?

A. Yes.

Q. No mixture?

A. No, it's a single-source profile.

Q. All right. For items 16 an 18.1 did you --

what were your results? Did -- I guess did you get mixtures from those?

A. Both 16 swabs from floor of cell 22 and 18.1, cutting from towel from garbage can in common area both generated DNA mixtures.

Q. So you had profiles, but they ended up being mixtures?

A. Correct.

Q. Is that the same answer for the next several items?

A. 19.1, 20.1, 21.1, 22.1, 23.1, 26.1 --

Q. Okay.

A. -- were also DNA mixtures.

Q. All right, and so you were able to create profiles --

A. Yes.

Q. -- but they ended up being mixtures?

A. They were mixtures, yes.

Q. All right, and the profiles were preserved?

A. Yeah, the DNA profiles are just computer-generated data at that point, and SLED does retain that data.

Q. Okay. You skipped over 24.

A. Correct.

Q. Okay.

A. 24.1 was a cutting from exterior rear leg -- left leg of boxers 167 from plastic bag near toilet. The DNA result for that particular item was the partial DNA profile is a possible mixture, and is not suitable for interpretation.

Q. Okay. So you couldn't -- that's one where you just can't really even look at it.

A. There wasn't enough data for me to discern the number of contributors, so, therefore, I just stopped my interpretation, and didn't do any further comparisons.

Q. All right. Tell us about 25.1, and please include that description.

A. 25.1 is cutting from exterior rear right leg of boxers (295690) from plastic bag near toilet.

Q. What were your results for item 25.1?

A. The DNA profile matches the DNA profile of Jerry Holmes. The probability of randomly selecting an unrelated individual having a DNA profile matching this item is approximately one in 130 septillion.

Q. The boxers marked 295690 are a match for Jerry Holmes?

A. The DNA profile matched the DNA profile of Jerry Holmes.

Q. Thank you for clarifying, because that's the

appropriate way to put it. The profile you developed from the item with that description?

A. Correct.

Q. Okay, but, again, it's a match for Jerry Holmes?

A. Correct.

Q. Can you tell us what 130 septillion even means?

A. It is kind of hard to fathom larger numbers. In this particular case, septillion would be a number that has 24 zeros behind it, or eight sets of three zeros.

Q. How many zeros follow a billion?

A. A billion would have nine.

Q. Okay, and just repeat that result for us one more time.

A. Well, let me just say this --

Q. Okay.

A. A billion would have nine zeros or three sets of three zeros.

Q. Three sets of three?

A. Correct. I just didn't want to misstate that.

Q. And 24 following a septillion?

A. 24 zeros follow a septillion.

Q. And the probability is what again, one more time?

A. What is a probability or --

Q. Oh, well, sure, it's probably helpful to know.

A. So in DNA analysis we use random match probability for when it's a single-source profile. Basically, what we're doing is using population statistics. There's a database of 1,036 known individuals that NIST has compiled, which is a federal agency, that has -- they gathered these DNA profiles from 1,036 people, and extrapolated that for population statistic purposes; but, basically, those probabilities are coming from the frequency of when we see each specific allele, or specific numbers within the profile. So even though certain individuals at random we might share some portions of the same numbers at the same locations in the DNA, once you start adding more locations that's where you become more and more unique, and you're actually getting to be able to identify individuals.

Q. Okay. So that's how we can come up with something that you're comfortable with describing as a match?

A. Correct. Any time anywhere with forensic DNA

analysis, when we're including somebody in an item, we need to put a weight to it, and that's what that statistic represents.

Q. All right, and 25.1, again, is a match to which known profile?

A. The DNA profile matches the DNA profile of Jerry Holmes.

MR. EVANS: Beg the Court's indulgence.

BY MR. EVANS:

Q. Ms. Breland, those are all the questions that I have for you. Please answer any questions Ms. Carmody may have.

A. Okay.

**

CROSS-EXAMINATION

BY MS. CARMODY:

Q. Good morning.

A. Good morning.

Q. All right, we've heard a lot about, you know, point ones, point ones, point ones. I actually want to direct you -- let me get you a pair of gloves.

A little bit abstract with reading out numbers. All right.

A. There should be the lab and item number on that paper, if that helps, on the paper -- I think I

did see some item numbers on that first set that you have.

Q. Okay. Ma'am, here's some gloves. All right, if you could, take out the items out of the bag, because, ma'am, you're not the serologist, correct?

A. I am -- I was not a serologist, no.

Q. And what would the serologist have done?

A. The serologist -- serology is referring to the body fluid testing. More generally, they would do evidence processing, which would be taking the items that were submitted to SLED and further analyzing them before bringing it up to the DNA laboratory.

Q. Okay, ma'am, and what is that item that you just pulled out of the bag?

A. It's State's Exhibit 73.1, which is labeled here as L17-9614. I see Courtney Thompson's initials, the numbers 21, 23 and her initials again, and then the date of October 19th, 2017.

Q. And, ma'am, what bag was that taken from? So where -- the item that you're gonna take out now, like what is that?

A. So out here on the exterior packaging we have -- it looks like I.21 and I.23. 21 has one pair of kaki SCDC pants, and 23 is one kaki SCDC shirt.

Q. And where were those located?

A. Just by looking -- oh, here you go, sorry. So both are saying that they are from plastic bag near toilet.

Q. Okay, all right, the plastic bag near the toilet, okay. If you could open that item then. I just want you to show the jury what serology does on an item.

A. I'm trying not to drop anything, or contaminate it. So here I believe it's the shirt.

Q. Ma'am, could you step down here?

A. Yeah.

Q. Just so they could see it.

A. What you've got here would be the front.

Q. This is the shirt on the side of the toilet, correct?

A. It said from plastic bag near toilet.

Q. Okay. And, ma'am, what is -- I'm sorry.

A. I'm sorry. Here is the sides.

Q. Okay, and, ma'am, the -- if there's -- so any cuts in this shirt, what are those?

A. Well, just to start here at the top, beginning at the lab -- SLED lab number L17-9614. Here we've got item number 23, and these are Courtney's initials of CBT. So she would have looked at this shirt, and here she marked an area that she

has a positive sign, and then PHEN, which is PHEN.

A. So she would have swabbed this area here, where she sees some discoloration, and that was positive.

Q. And how about on the side of the shirt, what's that?

A. Again, so you have plus PHEN, so positive A test was performed in this area, as she labeled it as 23.1, because this is where she took the cutting from this particular shirt. And then this cutting was placed into that coin envelope in that one heat-sealed pouch that had other cuttings as well, and that cutting is what came to me for DNA analysis.

Q. Okay, so when -- if we're looking at this evidence, anything that has these circles, these cutout marks, with the writing on the side of it like 23.1 or whatever numbers they are, are -- this is from the serologist?

A. This is -- yes.

Q. Okay, so this wasn't prior to the evidence being sent to SLED?

A. No, this was physically done after.

Q. And, ma'am, would that be consistent with the other items of clothing that were found in this case?

A. Yes, anything that Courtney labeled as a

cutting from, and gave the full description of the parent item, would be very similar to this.

Q. Okay, and she puts her initials, and so --

A. Yeah, so she's initialing the shirt overall as the lab number and the item number, and then specifically the socks where she had done testing or took physical cuttings for further testing.

Q. Okay, all right. And there's no other cuts in the shirt at all?

A. No. I believe there's no other cuttings. Down here there's also some writing, but that's -- I do not recognize -- I didn't see anything inconsistent with what SLED reported.

Q. Okay, all right, with these crossed out here, SLED didn't do all this?

A. No. Always what I would see as FTS-22, and then over here it's the word animal with SV-2.

Q. Okay, all right, ma'am, thank you so much, if you could put that back in there.

Ma'am, as we said, rather than pulling out each individual piece of clothing, it's all consistent with Courtney Thompson would have done?

A. Yes. Well, it's our standard procedure for any serologist.

Q. Great. And the items that were collected

from the side of the toilet are labeled on the outside of the bag collected from the side of the toilet.

A. I'm sorry, could you repeat that?

Q. The items that were collected from the side of the toilet are labeled on the outside of the bag collected from the side of the toilet, right?

A. Yeah, so there's this red pen, and then down here we have the SLED flab number with the set of initials, and the date that it was collected, which looks like 6/27/17. Yeah, so they're both being indicated as from the plastic bag by the toilet.

Q. And it has an item number there too as well?

A. Yeah, so it'd be item 21, item 22.

Q. Okay, all right. If I wanted to pull a shirt out of the box, then I would have to look at the outside to see where it came from, right?

A. I'm sorry, say that again?

Q. If I pull a shirt out of the box, I need to look at the description of where it came from?

A. Right, this would have been from the Crime Scene Technician that physically collected the item at the scene, and then here Courtney is just reiterating the SLED lab number and the SLED item number, there's her initials, and the date of when she received this item.

Q. Thank you so much. Thank you very much. All right.

A. Yes.

Q. Okay. You didn't actually go to the prison to collect any evidence, right?

A. No.

Q. Okay.

A. I did not.

Q. And you still work at SLED?

A. I used to work at SLED.

Q. Okay, and now when -- I have gone to SLED myself, I had to wear a gown, right, you have to wear gowns.

Anybody that goes into that lab needs to wear a gown?

A. Not gowns, we had --

Q. Oh.

A. -- lab coats --

Q. Yes.

A. -- that would be periodically taken and washed.

Q. Okay, and booties on the feet?

A. Not typically, I didn't wear booties, no.

Q. You didn't wear booties when you worked there?

A. No.

Q. Okay.

A. I did not routinely.

Q. What about like a facemask?

A. Facemask, typically, if something was particularly smelly, but routinely I was not wearing a facemask. Typically when I'm handling items, I'm in what's called a hood, and there's a piece of glass that's separating my face from the physical items.

Q. Okay, all right, so there is a barrier, so these things, if you're talking, you're not depositing your DNA onto any --

A. Correct.

Q. -- item?

A. Yeah, trying to avoid things like that. So using those physical barriers, like gloves, facemask, or the glass from the hood, as well as just not talking to anyone else while I'm processing evidence.

Q. Okay, all right. And when you're at SLED, you're -- so you didn't collect the evidence from the scene, you just receive it at SLED?

A. Correct.

Q. Okay, all right. And you wouldn't put evidence at SLED on the floor to test it for DNA, right?

A. No, I would not do that.

Q. And why not?

A. So anytime I'm handling items of evidence, I would be cleaning the surfaces that I'm using, so the tabletops and underneath the hood we were using the bleach and ethanol method to keep the area sterile. So the floor, again, not a sterile environment. I wouldn't put items of evidence there during my analysis.

Q. Okay, and if evidence was located, for instance, let me give you a hypothetical, evidence was located near a trashcan. Would it do anything to do the DNA to take items from the trashcan and put it on a -- on the floor?

A. So anytime two objects come into contact with each other, there is a possibility to have a transfer of DNA from one object to another.

Q. Okay. Actually, I meant to ask you just about that. So let me give you another hypothetical, if there is me and my daughter who live in the same house, or my son and my husband as well, the four of us in the same house, and we're all sharing the same bathroom. And if I have a -- I don't know, you know, a laundry basket on the side of my toilet full of dirty clothes, and it's just my clothes, so it's just

my clothes that are in the basket.

And my daughter comes in, she take a shower, she takes her towel -- her wet towel and she throws it on top of my laundry, what happens to the DNA in that container?

A. It's possible that any of the DNA on the towel would be transferred to the clothes.

Q. Okay.

A. And vice versa, the clothes -- DNA on the clothes could be transferred to the towel.

Q. Okay, especially if the towel's wet, you would expect a dripping, right?

A. The water could act as, you know, a vehicle to come into contact with the dry stuff.

Q. Okay, and it doesn't mean that anything in that container would belong to my daughter, correct?

A. It wouldn't change the ownership of the items, no.

Q. Okay, all right. And let's see, now, DNA doesn't tell us how it got there, right?

A. With forensic DNA testing I cannot discern how DNA was deposited onto an item that was tested, and I also cannot determine when DNA was deposited on that item.

Q. Okay. So -- all right, that's what I was

going to ask you. If you could elaborate on that a little bit more? So DNA can remain on -- if I touch this table right here, my DNA could remain on this table until when?

A. Indefinitely. Typically, possibly until either something else is touching that specific area, or if a cleaning service comes in and wipes it down, at that point it could be destroyed or just taken off.

Q. Okay, and if a cleaning service comes in and cleans this, is it possible to have my DNA and the cleaning people's DNA on it as well?

A. It could be a possibility.

Q. All right. All right, and would you -- would it be unusual to have my DNA in my bathroom?

A. I -- in my opinion it would be reasonable to assume that your DNA is in various areas where you live, or are just in.

Q. Okay. Now, DNA doesn't tell us that somebody wasn't there, right, or somebody didn't touch something, right?

A. As a scientists, I cannot prove a negative.

Q. Okay, All righty, and by DNA we only know that it was put there at some point in time, but we don't know when you said, right?

A. Right, I cannot tell you when DNA was left on

the object.

Q. All right, now, the evidence in this case, you know, it comes from an institution with 151 inmates. How may people's DNA did you receive in this case?

A. For this particular case I only received two known DNA standards.

Q. Okay, what about the guards, did you receive any of their DNA?

A. No DNA from any guards was submitted to the DNA lab.

Q. All right. What about CODIS? What's CODIS?

A. So CODIS is the combined DNA indexing system that is hosted by the FBI. It's a database where we put in forensic profiles, or evidence profiles, that we generate as a lab, and if they are shootable for entry into COTIS, because there are rules and regulations that the FBI mandates.

Only certain things are allowed to go in. It can be uploaded to that database, and then it will be searched against other samples that have been submitted, which also includes other forensic profiles from other labs both at the state level and the nationwide. There's also samples in there that contain convicted offenders and arrestees, depending

on the state-to-state, what laws are dictating what can and cannot go in.

Q. Okay, so could people in a prison be in CODIS?

A. Typically, a convicted offender, yes, would be entered into CODIS.

Q. In this particular case you have numerous unknown contributors to DNA, correct?

A. I do not believe I -- I have profiles where I was unable to interpret, therefore, because I can't interpret them, they would not be suitable for a CODIS entry, so no profiles from this case were entered into that database.

Q. Oh, I'm sorry, let me rephrase my question. In the items that you tested, you have mixtures of at least three people, if not more?

A. I believe there were some that -- yes, had a least three, and some had at least two.

Q. And so where the evidence in this case comes from a prison, and you have mixtures of people, and were you ever given or asked to compare the evidence in this case against a CODIS database?

A. So CODIS is kind of an automated system, we can't do direct comparisons to specific profiles within the system.

Again, it just has to get evaluated against a certain set of standards, and then be uploaded, and it's just gonna search everything that it's allowed to within the system. We aren't manually going in and doing any direct comparisons to that database.

Q. To your knowledge has any comparisons to CODIS been done in this case?

A. There were no profiles entered in the CODIS from this case.

Q. Now, I want to go back to some of your results for a moment here. So we heard a lot, like you said before, about in 5.1, in 6.1 and 7.1, I just want to break it down a little bit, simplify it, if we could a little bit, okay?

A. Okay.

Q. Now, you have a blood standard from Mr. Jerry Holmes?

A. Yes, that was submitted to the lab.

Q. And so we know you have Jerry Holmes' DNA profile?

A. I generated a DNA profile from the dried blood standard --

Q. Okay.

A. -- of Jerry Holmes.

Q. And you have buccal swabs, which you

developed a DNA profile for Mr. Benjamin DuBois?

A. Yes, that's correct.

Q. And you analyzed the DNA under Mr. Dubois' nails?

A. Yes. The scrapings from both the left and right hand were submitted for DNA analysis.

Q. Okay. And under Mr. DuBois' left-hand is Jerry Holmes' DNA under his left-hand fingernails?

A. There was just a single-source profile developed that matched Benjamin DuBois. So no DNA that matched Jerry Holmes' profile was present in that sample.

Q. Under Mr. DuBois' right hand, under his nails, was there any DNA from Mr. Jerry Holmes?

A. From the DNA profile developed it was consistent with the DNA profile of Benjamin DuBois, so, again, no, there is no DNA consistent with Jeremy Holmes.

Q. Okay. From the DNA under Mr. Jerry Holmes' fingernails, his left hand and his right hand?

A. Yeah, I believe you're referring to 14.1 and 14.2?

Q. Yes. Was Mr. DuBois' DNA under Mr. Jerry Holmes' nails?

A. The DNA profile was consistent with the DNA

profile of Jerry Holmes, not Benjamin DuBois.

Q. So Benjamin DuBois' DNA is not under Jerry Holmes' nails?

A. The -- correct, the DNA profile was not consistent with coming from Benjamin DuBois.

Q. Okay. The blood located on the floor of Mr. DuBois' cell, was not Jerry Holmes, it's only Mr. DuBois' DNA, and it's one other person, correct?

A. I'm not exactly sure what item you're referring to, when you say --

Q. 16.

A. 16?

Q. Yes.

A. Yeah, 16 was, again, a DNA profile that was a mixture of at least two individuals. And I pulled a major contributor of that mixture that matched the DNA profile of Benjamin DuBois.

Q. Okay, so his own DNA on floor of his own cell, right? Then let's go to -- all right, what about the items taken from Mr. DuBois' person? It is -- now, these would have been collected by SLED on-the-scene, right?

A. I presume so, yes.

Q. Okay. And the item number eight talks about his shoes, his Crocs, the shoes he was wearing.

A. Yes, I received swabs from two separate areas of the right shoe.

Q. Okay, so you have swabs from the interior and the exterior of the shoe?

A. That's correct.

Q. Okay. And is Jerry Holmes' DNA on the bottom or on the shoes of Mr. DuBois?

A. Both DNA profiles were mixtures of at least two individuals, and I was able to discern that the major contributor of that -- those mixtures matched Benjamin DuBois, and the minor components were just insufficient for interpretation.

Q. Okay, so by using your analysis, Mr. Jerry Holmes' DNA is -- under this analysis, is not present on Mr. DuBois' shoes?

A. The only part that I was able to interpret was a major contributor, so when referring to the major contributor it's correct that Jerry Holmes does not match the major contributor DNA profile.

Q. Okay. You also have the shorts that he was wearing. Whose DNA's on his shorts?

A. If we'll get item 10 --

Q. Item 10?

A. -- 10.1. Yeah, the DNA profile from this item matches the known DNA profile of Benjamin DuBois.

Q. Okay. And what about the item 11, which are his pants?

A. Again, the DNA profile developed matches the DNA profile of Benjamin DuBois.

Q. Okay. Now, the items from the bathroom are mixtures of at least two, if not three people?

A. That's correct.

Q. Okay.

A. And I believe there is one also that was a mixture of at least four.

Q. Of at least four --

A. Yes.

Q. -- DNA on the items in the bathroom?

A. Correct.

Q. All right, and -- now, on the boxers from the bathroom, which is number 20 -- I'm sorry, no, the tee-shirt from the bathroom, which is number 26.

A. Okay.

Q. How many DNA profiles were on the tee-shirt from the side of the toilet?

A. So I received one cutting, which was 26.1 from that item, and I developed one DNA profile, which was a mixture of at least four individuals.

Q. Okay, at least four people, it could be more?

A. It's possible.

Q. All right.

A. Yeah, I'm only going off of what I developed. It's possible that not all of the DNA on an item, you know, is captured. Over the years, you know, our kits have been more sensitive, and can get to lower levels of DNA, but I can only speak to the DNA profile that I developed, not the item itself.

Q. Would that be out of the ordinary for a bathroom shared by more than one person?

A. It's not surprising to me that a mixture -- that mixtures were developed in this case from the items.

Q. And part of the reason is, is the items being -- well, numerous people having access to the items, right?

A. Again, I'm not sure of the circumstances of -- around each item, but presumably, if multiple people are handling an item, or in the same area, it's possible that their DNA is present on those items.

Q. I believe you said earlier too, the same thing with items placed on the floor, right?

A. Right, it's possible that there's extraneous DNA on any surface that could be picked up by an item.

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

THE COURT: Thank you, ma'am.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. Ms. Breland, physical items like the kinds you get cuttings, in inanimate objects, they don't have their own DNA, right?

A. It would not be from the items themselves.

Q. All DNA that you find on cuttings and other things, not known standards, but pieces of evidence that's all transcribed, right?

A. Yes, I guess is the simple answer.

Q. Does it --

A. Again, because I can't determine where the DNA comes from, just kind of a quick example, to kind of hit the point home, in sexual assault cases where semen is identified on a set of vaginal swabs.

I, as a DNA analyst in forensics cannot say how the DNA found within the semen got to the vaginal swabs, that's just beyond our level of expertise, and the fact that we didn't witness the actual alleged event happening, so --

Q. Have you ever had a case -- well, let me ask you this, you don't go to the scene ever, do you?

A. No, I do not go to the scene.

Q. Okay. Have you ever worked on DNA in a case where you were informed that the scene was a sterile area?

A. I would say it's very uncommon for us to work cases where it's a sterile environment.

Q. Can you or the SLED Crime Scene Agents control what a piece of evidence goes through before they arrive?

A. Before they arrive, no. It's only after a Crime Scene Agent arrives to the scene, typically, there's gonna be law enforcement officers that are trying to contain and keep any extra people out of the area to just maintain the integrity of the scene as it was happened upon.

Q. Did you note from the descriptions on these items that several of them were found in the same place, from the same source?

A. Correct. Based on the item description it appears that many items did come from a similar area.

Q. Did that cause you to hesitate to do any analysis on those items?

A. It would not.

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

THE COURT: Anything from Ms. Carmody

MS. CARMODY: No, Your Honor.

THE COURT: All right, ladies and gentlemen, let's just take a quick five-minute break.

After you'all have refreshed yourself and come back out and keep working.

I'll remind you to not discuss this case, it wouldn't be appropriate to do so, and we'll be right back with you.

(Jury exits the courtroom.)

THE COURT: All right, I anticipated a request for a bathroom break, so let's go ahead and take it, okay?

(RECESS)

PROCEEDINGS CONTINUED

BAILIFF: All rise.

THE COURT: All right. Are you ready for your next witness?

MR. EVANS: The State's ready, Your Honor.

THE COURT: All right. Are they all here?

MS. BOSTICK: Yes, Your Honor.

THE COURT: All right, so let's bring the jury in.

(Jury enters the courtroom.)

THE COURT: Sir, call your next witness.

MR. EVANS: The State calls Sara Goodman.

THE COURT: Come forward, Ms. Goodman.

SARA GOODMAN,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

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DIRECT EXAMINATION

BY MR. EVANS:

Q. Would you please state your name and introduce yourself to our jury, ma'am?

A. Yes, my name is Sara Goodman, last name is G-O-O-D-M-A-N. I am a current DNA Analyst at the Greenville County Department of Public Safety, but formerly was a DNA Analyst at SLED.

Q. Okay, when did you move from SLED to Greenville?

A. In June of this year.

Q. All right, very recently?

A. Yes.

Q. Is that your home area?

A. I do have family in Greenville.

Q. Okay. And how long have you been doing DNA analysis?

A. Approximately, eight years.

Q. What kind of training, education and experience do you have in those eight years

A. Yeah, so I have a Bachelor's degree in biology from Erskine College, as well as a Master's of science and forensic science from Arcadia University in Pennsylvania. And then upon my employment at SLED, I underwent a training program with another qualified analyst that lasted approximately a year and a half.

So that included instruction in all of our laboratory processes, using all of our computer systems, writing reports, calculating statistics, and at the end of all of that training I successfully completed a series of competency tests to be certified to do individual DNA case work. And I am undergoing a similar training program at Greenville.

Q. Okay, so you continue to go through training all the time?

A. Yes, and we also are required to obtain at least eight hours of continuing education in our field every year.

Q. All right. When did you start doing your own case work?

A. I started doing my own case work I believe in October of 2016.

Q. All right, and have you been qualified as an expert in Courts in South Carolina on previous occasions?

A. I have, yes.

Q. Approximately how many times?

A. Approximately 33 times.

Q. In the field of forensic DNA analysis?

A. Yes.

MR. EVANS: Your Honor, the State would tender Ms. Goodman as an expert in forensic DNA analysis.

THE COURT: Ladies and gentlemen, Ms. Breland and Ms. Goodman are being qualified as an expert witness in the area of forensic DNA analysis. Again, that allows her to give her opinion, and the reasons for her opinion, and for you to use as you see appropriate.

Q. Okay. Thank you, Your Honor.

BY MR. EVANS:

Q. Ms. Goodman, you were in the courtroom for Ms. Breland's testimony?

A. I was, yeah.

Q. Okay, so why are we having you testify for more DNA? Tell us what happened.

A. So in this case we -- after Ms. Breland's report, we came online at SLED with a new statistics program called Starmix. It uses a different type of statistics than our previous methods. It was essentially just an update in technology, so the

previous methods are still completely valid, this is just a new technology that enhances our interpretation.

Q. And did you go through -- you went through training and education on the method she used; is that right?

A. Correct.

Q. Okay.

A. Correct.

Q. Did you go through some, you know, post-graduate, professional training for Starmix itself

A. Yes, so before we came online with Starmix at SLED, we were trained by the developers of the program, and then we also had an internal training program, and, again, had to successfully pass a competency test before we could use Starmix on casework.

Q. Okay, and how long have you been working with Starmix?

A. At SLED we came online in September of 2018, so approximately four and a half years.

Q. So the Starmix methods that Ms. Breland described, has that been accepted in Courts in South Carolina?

A. Yes.

Q. Have you testified about it in Courts of South Carolina on some of your prior appearances?

A. I have, yes.

Q. Okay. Tell us -- give us a little bit more in layman's terms, obviously, but what's the difference? Tell us a little bit more about that.

A. Sure. So our -- the previous type of statistics that Alysha testified to were what we call probability. So it is looking at the chance of that DNA profile that she got, the chances that it could match anybody else in the population, versus that one that she's saying it's matching.

Starmix is using a statistic called a likelihood ratio, so it's essentially looking at the DNA profile, it's comparing two different scenarios, so kind of calculating those probabilities for two different scenarios, and telling you which one is more likely. So to kind of break it down, we use likelihood ratios every day, so an example, or an analogy we like to give is, say that you're told that I just won a marathon, completed it, and placed first.

So given that I won a marathon, is it more likely that I trained for months and months, or that I saw on my couch and ate chips, and which one of those is more likely? So, for example, the probabilities is kind of

like when you would learn in like your math classes in high school of like flipping a coin, what are the chances that you're gonna get tails? So for Starmix it's kind of saying like given that you got 12 tails, is it more likely that I flipped this coin 15 times, or is it more likely that I flipped this coin six times?

So kind of just to break it down, it's just a different type of statistic, but the reason that we switched to it is that for the original methods we could only take into account certain information from the DNA profile.

So in order to calculate that statistic, we would have to be confident that each person that is in that profile -- so if it was a mixture of three, we'd have to be confident at every location that all three people are being represented on that profile to calculate a statistic.

Starmix can take more information into account, like at some locations that third person's information could be missing. Starmix uses mathematical equations to take that into account, so whereas beforehand if we thought that third person was missing, we just can't interpret or calculate a statistic for that.

Starmix has some mathematics that takes into

account that some of that information could be missing, and that is included in the mathematical equation. So it then allows us to interpret more from the DNA profile than we previously could.

Q. Is that especially if it's a mixture?

A. Yeah, so we can use Starmix for single-source or mixtures, but the main driving factor for switching to this type statistics throughout the country, is because it can aid us in interpreting mixtures better.

Q. Was the general nationwide DNA community finding a lot of mixtures, and running into problem with that, and that's what led to it?

A. Yes, mixtures are very common in DNA analysis, yes.

Q. And this has improved you'all's work?

A. Yes, in the sense that we have been able to interpret profiles that we previously could not calculate statistics on.

Q. Does it make the prior methods invalid?

A. No, it does not. Those methods are still valid, and are sometimes still used in the field, so it doesn't -- Starmix does not invalidate those.

Q. All right. Now, let's talk about this case, did you become involved in this case that we're here about today?

A. I did.

Q. How was that?

A. So in April of 2020 the Solicitor's Office requested that we go back and see if four of the profiles in this case, where there were components that could not be interpreted, so for the mixtures, if we could go back and see if we could interpret them with our Starmix protocols and see if we could get any additional results.

Q. Okay. So did you -- you know, you still have those items up there, those exhibits that Ms. Breland was looking at.

A. Un-huh.

Q. But did you actually physically handle any of those?

A. I did not, no.

Q. Why is that?

A. Because Ms. Breland had already analyzed the evidence, so at SLED and just in the field, generally, it's common for us to, you know, go through all of the laboratory processes, develop our DNA profiles.

Once we develop those profiles, that data is kept at the agency indefinitely usually, or at least for a certain amount of time. So if we need to go back and reinterpret something, that DNA profile has already

been developed, and that data's already been retained, so there's no reason for us to go -- need to go back and do all of the lab work again, because those profiles are -- like we would go through the same exact process, so there's no reason to take the time and resources to do that again --

Q. Okay.

A. -- when we already have the data.

Q. So using those same profiles again is that the generally accepted scientific method for Starmix?

A. Yes, yes.

Q. Okay. So I'll retrieve those from you since you didn't actually handle them. Tell us about how you use Starmix, using the profiles that Ms. Breland created?

A. So using Ms. Breland's profiles, I would so my own interpretation of the profile, so my -- I would look at them myself, determine how many individuals are contributing to that profile, and then once I determined that, I would input the DNA profile from that item of evidence into Starmix.

Tell it the number of contributors that I determined, and then Starmix would break that profile down into the different possibilities of -- like what each individual's DNA would look like that's

contributing to that item. So I would do that and interpret those results from Starmix, make sure that I agree with how it's breaking it down. And then I would look at the profiles that she generated from the known standards. I would input those profiles into Starmix, and then Starmix would make a comparison between the evidence profile and the known standard profile, and then give a likelihood ratio.

Q. All right, so when we get into your specific findings, they're gonna sound just linguistically quite a bit different from hers; is that right?

A. Correct, yeah.

Q. Okay. Let's -- well -- no, just before we get into them, did you analyze with Starmix every single item that you created a profile for?

A. I did not. It was -- at least in this case it was specifically requested just on the items that had uninterpretable profiles.

So there were a few mixtures that Ms. Breland mentioned that there were components she couldn't interpret, so they wanted us just to go back and look at those items.

Q. So let's start tackling those items.

A. Okay.

Q. What about item 8.1? And as with Ms.

Breland, I'm gonna ask you to remind the jury of what the descriptors were, if you would?

A. Okay. 8.1 is swabs from the interior heel area of right shoe, which is a Croc from Benjamin DuBois. So for this item a DNA profile suitable for comparison was developed, and likelihood ratios for this profile were calculated using Starmix.

So like I explained before, the likelihood ratio is comparing two different scenarios, so given the DNA profile, which scenario was more likely to explain this profile? So we break them down into what we call in my report a proposition set, and that's just laying out what the ideas are that you're comparing for your likelihood ratio, and then it's giving that result. And typically each proposition set aligns with us comparing a known standard. So each known standard we compare will have a different proposition set.

Q. And we don't use match, the word --

A. We do not.

Q. -- with Starmix? Why is that?

A. Correct. Because since it's comparing two different ideas and telling you which one is more likely, it's not just a binary, like does this match or does this not match? It's kind of looking at those probabilities, and saying is this probability more

likely, or is this probability more likely?

Q. And that gets expressed in some kind of a ratio, and --

A. Yes.

Q. - so --

A. Yes.

Q. Sometimes very high numbers?

A. Sometimes, yes.

Q. Sometimes very low numbers?

A. Yes.

Q. Okay. So back to item 8.1, we needed to define what, you know, that was gonna sound like, but let's go --

A. Right.

Q. -- with proposition set one for 8.1.

A. Okay. So for proposition set one, the DNA profile was interpreted as a mixture originating from two individuals. The first hypotheses that I'm comparing is that Benjamin DuBois and an unidentified unrelated individual contributed to the mixture, versus the second, which would be that two unidentified unrelated individuals contributed to the mixture.

So the result for that is that the DNA profile is approximately 120 septillion times more likely, if

Benjamin DuBois and an identified unrelated individual contributed to the mixture than if two unidentified unrelated individuals contributed.

Q. Okay, so when you say one in a 120 septillion, what does that mean? Do you have a breakdown for what these numbers mean?

A. Yes, so we used a tool in our reports that we call a verbal skill, and essentially it's just giving you a different way to state that result that might be -- make a little more sense than just hearing very large numbers.

So we give it, and as a level of support for whatever hypotheses is more likely. So in our table, our verbal scale, it ranges from very strong support to weak support, just to kind of explain what the weight of that number is.

Q. Okay, so would this be -- what phrase would you use for this?

A. This would fall in the very strong support range for that first hypothesis versus the second.

Q. Okay, very strong support for Benjamin DuBois contributing to the mixture on the Croc, described as being from Benjamin DuBois?

A. Correct, rather than if it were two unidentified --

Q. All right.

A. -- individuals.

Q. Is there a second proposition set for that same item?

A. Yes. So the second proposition set is similar to the first, but I'm comparing Jerry Holmes. So for proposition set two, I am also -- since I already established that Benjamin DuBois has a very strong likelihood of contributing to that item, and the item belongs to him, then I will then assume that he is contributing to that item.

So now I'm comparing whether the other person could be Jerry Holmes, or whether the other person is an unidentified, unrelated individual. And the result for that is that Jerry Holmes is excluded as a contributor to the mixture.

Q. Okay. So we can't match, but we can exclude?

A. Yes.

Q. All right, so Mr. Holmes' profile is not present on that Croc?

A. That's correct.

Q. All right. So 8.2, what's that?

A. That is swabs from the exterior heel area of the right shoe Croc from Benjamin DuBois.

Q. So we have the interior, now we're doing the

exterior?

A. Correct.

Q. Okay, and what were your results for those proposition sets?

A. So for proposition set one the DNA profile was interpreted as a mixture originating from two individuals, so this proposition set is the same as the previous item, comparing Benjamin DuBois and an unidentified individual versus two.

Excuse me. And the result, again, is that the DNA profile is approximately 120 septillion times more likely, if Benjamin DuBois and an unidentified individual contributed versus two unidentified individuals.

Q. And was Mr. Holmes again excluded in proposition set two?

A. That's correct.

Q. So the interior and exterior of that shoe, that item are the same?

A. The results are the same, correct.

Q. Or are substantially the same, because you approximate some of the situations, correct?

A. Uh-huh.

Q. Okay. So item 16, did you interpret that?

A. I did.

Q. And what is that descriptor?

A. Item 16 is swabs from the floor of cell 22.

Q. Okay, what were your results from the swabs from the floor of cell 22?

A. So for my proposition set one, again, this was a mixture originating from two individuals. For the first proposition set I'm comparing whether Jerry Holmes and an unidentified individual contributed versus two unidentified, and Jerry Holmes is excluded as a contributor to the mixture under the listed propositions.

Q. Okay, in the floor of cell 22?

A. Yes.

Q. What was the proposition set two?

A. Proposition set two similar set up, but comparing a similar set up, but comparing Benjamin DuBois, and the result is that the DNA profile is approximately 110 septillion times more likely, if Benjamin DuBois and an unidentified unrelated individual contributed versus two unidentified unrelated individuals.

Q. So for the floor of cell 22, again, very strong support for Mr. DuBois is that --

A. Yes, very strong support for that first hypothesis.

Q. How about item 18.1?

A. So that is a cutting from towel from garbage can in common area, this was interpreted as a mixture originating from four individuals. So for my first proposition set I'm comparing Jerry Holmes, so the first scenario would be Jerry Holmes and three unidentified individuals contributed to the mixture, versus if it were just four unidentified individuals. The result for that is that the DNA profile is approximately 150 times more likely, if Jerry Holmes and three unidentified unrelated individuals contributed versus four.

Q. What does the verbal scale say about 150 times more likely?

A. So 150 times falls in our moderate support range.

Q. All right. And what was proposition set two as a result?

A. For proposition set two, similar to the first one, but now comparing Benjamin DuBois, and the result is that Benjamin DuBois is excluded as a contributor to the mixture.

Q. Excluded as a contributor to the towel from the garbage can, that's --

A. Yes, to this cutting from the towel, yes.

Q. Okay. And -- right, you were still dealing with cuttings as Ms. Breland did?

A. Correct.

Q. Okay. Item '19.1 tell us about that.

A. So 19.1 is a cutting from a pouch of a medical scrotal support garment from plastic bag near toilet. This item was interpreted as a mixture originating from two individuals.

So my first proposition set is comparing Jerry Holmes and an unidentified individual versus two unidentified. The result is that the DNA profile is approximately 220 million times more likely, if Jerry Holmes and an unidentified individual contributed versus if two unidentified contributed.

Q. Is that very strong support?

A. That is very strong support.

Q. All right. Proposition set two?

A. Proposition set two, a similar setup, but comparing Benjamin DuBois, and the result is that the DNA profile is approximately 120 septillion times more likely, if Benjamin DuBois and an unidentified individual contributed versus two unidentified individuals.

Q. Okay, so we have a third proposition set for item 19.1?

A. Yes.

Q. Well, this is the first time you've had a third proposition set, why is that?

A. So for this item I have a third set, because any time that we have results that indicate that a person could potentially be included on that item, so anytime there's any kind of, you know, strong, weak, any kind of support for that first hypothesis versus the second, we then calculate a third one to see if it makes sense for them to be contributing together, both on the item at the same time, versus if it were just other unidentified individuals.

Q. So the first two you go known, plus a stranger versus two strangers?

A. Correct.

Q. I like stranger better than unidentified --

A. Yeah.

Q. Okay? All right, and the second one is the other known standard plus a stranger, versus two strangers?

A. Correct.

Q. Third is two known standards versus two strangers?

A. Correct.

Q. Okay. Tell us about proposition set three.

A. So for proposition set three I'm comparing whether Jerry Holmes and Benjamin DuBois contributed to the mixture together versus two unidentified individuals. The result is that the DNA profile is approximately 150 decillion times more likely, if Jerry Holmes and Benjamin DuBois contributed than if two unidentified individuals contributed.

Q. How many zeros are in a decillion?

A. A decillion is approximately 33 zeros.

Q. How about item 20.1?

A. Item 20.1 is a cutting from the top edge of a sock from a plastic bag near toilet. For this item it was interpreted as a mixture of three individuals. So my first proposition set is comparing Jerry Holmes, and as -- two strangers versus three strangers, so the result is that the DNA profile is approximately 1.3 septillion times more likely, if Jerry Holmes and two unidentified individuals contributed than if three unidentified contributed.

Q. So very strong support for Mr. Holmes contributing to the sock mixture?

A. Correct.

Q. How about proposition set two?

A. Proposition set two, a similar set-up aqain, but comparing Benjamin DuBois. The result is that the

DNA profile is approximately five times more likely if three unidentified unrelated individuals contributed, than if Benjamin DuBois and two unidentified unrelated contributed.

Q. All right, five times more likely, what kind of support is that?

A. Sorry, just let me double check my table. So five times more likely would be moderate support in this case for that second scenario of it being three unidentified, rather than Benjamin DuBois and two.

Q. Are you sure it's moderate, because I'm --

A. Yes, because for this item that falls into leaning towards HD, it would be that second table.

Q. I see.

A. So two to 99 would be moderate support for HD, which is the second --

Q. Got it.

A. -- scenario.

Q. All right. And is there a proposition set three for item 21.1, the socks?

A. There is not.

Q. Okay, and why is that?

A. That is because, like I said, we only calculate a third proposition set, if it's indicating that both of them could be included. In this

instance, for Benjamin DuBois' comparison, it's actually starting to lean towards him being excluded, but we have a set threshold to be able to say that someone is totally excluded. So it's not meeting that threshold, but it's starting a trend towards that threshold.

Q. It's five times more like that Mr. DuBois did not contribute to the sock mixture than if he did?

A. Essentially.

Q. Did I say that right?

A. Yes.

Q. Okay.

A. Essentially, yeah. It's five times more likely if it were other unidentified individuals.

Q. If it would have been flipped, would you have done a proposition set three then?

A. Yes.

Q. Okay. All right, a few more items, 21.1, what is that item?

A. That is a cutting from exterior rear left leg near waistband of pants from plastic bag near toilet.

Q. Okay, and what was the results of proposition set one for that one?

A. So for proposition set one this is being interpreted as a mixture originating from four

individuals. The first proposition set is comparing Jerry Holmes and three individuals versus four unidentified individuals. The result is that the DNA profile is approximately 1006 times more likely, if Jerry Holmes and three unidentified individuals contributed than if four unidentified contributed.

Q. Is that weak, moderate or strong support? What is that?

A. I believe that is moderate --

Q. Okay.

A. -- support.

Q. What about proposition set two?

A. Proposition set two, a similar setup, but comparing Benjamin DuBois. The result for this one is that an uninformative, statistical result was obtained. No conclusion can be made regarding Benjamin DuBois as a possible contributor to the profile.

Q. Okay, so Starmix just couldn't help us with this one?

A. Essentially, so sometimes we'll get a statistic that looks like either one could be equally likely, and so for us, that would be uninformative, because we can't tell you which one is more likely.

Q. All right. Item 22.1, what is that?

A. That is a cutting from the edge of towel from plastic bag near toilet.

Q. And what were the results of proposition set one for that?

A. So this item was interpreted as a mixture originating from four individuals. The first proposition set is comparing Jerry Holmes versus -- and three unidentified versus four unidentified. And similarly, this was an uninformative statistical result, so no conclusion could be made regarding Jerry Holmes as a possible contributor.

Q. Okay, similar to what we just heard about Mr. DuBois with the pants?

A. Correct.

Q. How about proposition set two for the towel?

A. So this proposition set was comparing Benjamin DuBois to this mixture. The result is that the DNA profile is approximately five times more likely, if four unidentified, unrelated individuals contributed than if Benjamin DuBois and three unidentified individuals contributed.

Q. Okay, so that's moderate support for Mr. DuBois not being in the mix?

A. Correct, that is starting to trend towards exclusion.

Q. And, again, that's the towel?

A. Yes.

Q. Okay. How about item 23.1?

A. That is a cutting from exterior left sleeve of shirt from plastic bag near toilet. This item was interpreted as a mixture originating from two individuals.

So my first proposition set is comparing Jerry Holmes and another individual versus two unknown individuals. And the DNA profile is approximately 960 quintillion times more likely, if Jerry Holmes and an unidentified individual contributed than two unidentified, excuse me, contributed.

Q. That's another one of those very large numbers. How many zeros in quintillion?

A. Quintillion has approximately 18 zeros.

Q. All right, and so we have 960 of those?

A. Correct.

Q. Okay. Proposition set two for the left sleeve of the shirt?

A. So this one was comparing Benjamin DuBois and another person versus two other people. And the DNA profile is approximately two times more likely, if Benjamin DuBois and an unidentified individual contributed than if two unidentified individuals.

Q. Is that weak support?

A. That is weak support.

Q. How about -- well, do we have a proposition set three for this particular item?

A. We do.

Q. Tell us about proposition set three.

A. So proposition set three is then comparing whether Jerry Holmes and Benjamin DuBois contributed to the mixture versus two unidentified individuals. The result is that the DNA profile is approximately 17 sextillion times more likely, if Jerry Holmes and Benjamin DuBois contributed than if two unidentified individuals contribute.

Q. And do you have to say anything else about that result in proposition set three?

A. I do. So I have a statement on my report under this result that reads, "The LR for proposition set three was calculated to confirm that the mixture could be explained by the contribution of DNA from all individuals listed under HP.

Due to the disparity in the individual LRs between the contributors for this item, it's recommended to put more weight on the results of proposition set two, rather than proposition set three, when considering Benjamin DuBois as a possible

contributor.

Q. Okay, so proposition set two has a little bit more, you know, strength or foundation? I don't know how you want to --

A. So essentially the reason that we put this statement in this instance is, because when I calculated the individual results for these individuals, Jerry Holmes' result was in the very strong likelihood range, and Benjamin DuBois' result was in the weak support range.

And so when we calculate these statistics, it's kind of -- they're kind of like multiplying probabilities.

So any time you're going to multiply two probabilities, the answer is going to be larger, but we put this statement, because we don't want to give the false idea that Benjamin DuBois, because this number is so large, that that now means he is strong support; so we're saying you should put more weight on that individual one saying there's weak support that he is potentially contributing, rather than this one, so that we're not falsely overstating our results.

Q. Okay. Does that have anything to do with proposition set one?

A. No, not in this case.

Q. So it's still very strong support that Mr. Holmes is a contributor to the shirt found near the toilet --

A. Correct.

Q. -- item 23.1?

A. Correct, that does --

Q. All right.

A. -- not change.

Q. I think this is our last item, item 24.1.

A. This was a cutting from exterior rear left leg of boxers, in parentheses (167) from plastic bag near toilet. For this item a partial DNA profile was developed, due to the limited information obtained and the inability to determine the number of contributors, no further interpretation will be offered.

Q. Okay, so we just couldn't get any results for the 167 boxers?

A. Yeah, I -- not enough to be able to make comparisons.

Q. Sure.

MR. EVANS: I beg the Court's indulgence.

BY MR. EVANS:

Q. Thank you, Ms. Goodman, those are all the questions I have for you, please answer any questions Ms. Carmody may have.

A. All right.

CROSS-EXAMINATION

BY MS. CARMODY:

Q. All right, ma'am, we've heard all kinds of numbers here. All right, so let's break this down again. You were here for Ms. Breland, so the same thing. In any of your testing did it change the results that Mr. Holmes' DNA is not under Benjamin DuBois' nails?

A. No. I did not reinterpret those profiles, so Ms. Breland's results stay the same.

Q. Correct. So we don't have Holmes' DNA under Ben's nails, Mr. DuBois. Did it change the results that Benjamin DuBois' DNA is not under Jerry Holmes' fingernails?

A. No. I also did not reinterpret those, so they're the same as Ms. Breland's results.

Q. Okay. Now, you were able to exclude Jerry Holmes as a contributor to the DNA on Mr. DuBois' Crocs, his shoes that he was wearing?

A. That's correct, from the right shoe, yes, he's excluded.

Q. And what about the left shoe?

A. I did not receive the left shoe.

Q. Oh, so you just -- okay, so you took an

internal on an external of the --

A. Yes. The serologist took swabs from the interior and exterior of the right shoe.

Q. Okay, so Jerry Holmes' DNA is not on Mr. DuBois' shoe?

A. Not on the right shoe, no.

Q. Okay. Then we have the shorts that Mr. DuBois was wearing, that were collected by SLED while he was wearing them. Those shorts still only have Mr. DuBois' DNA?

A. I'm sorry, are you referring to item --

Q. Ten --

A. -- 10.1?

Q. Uh-huh.

A. Yes. That, again, I did not reinterpret that profile, so it matches the DNA of Benjamin DuBois.

Q. Still no Mr. Jerry Holmes, right?

A. Correct.

Q. All right. What about the pants he was wearing on -- that's item 11; is that still Mr. Dubois' DNA?

A. Correct. I, again, did not reinterpret that, so it matches Benjamin DuBois.

Q. No Jerry Holmes now either, all right. Then -- let's see, the towel that was located in the

trashcan in the common area, you were able to interpret that four-person mixture?

A. Is this item 18.1? No?

Q. Let me check again, I believe so, I'll doublecheck. All right, I just think -- sometimes these are referred to the item itself instead of -- I'm sorry, ma'am, I'll put the numbers though.

A. It's okay, I just wanted to, you know --

Q. Right.

A. -- doublecheck.

Q. The cutting from the towel from the garbage can in the common area.

A. Okay. Yes, that was a mixture -- interpreted as a mixture originating from four individuals.

Q. So four people's DNA is on this towel, and not -- none of them is Mr. DuBois; is that correct? He was actually excluded.

A. He is excluded from this cutting, from the towel, yes.

Q. All right, then we go, I believe, all that's left is the stuff on the side of the toilet.

A. Yeah, there are several items that say from plastic bag near toilet.

Q. All right, now, on the stuff on the side of the toilet, when you say we have, you know, Mr. --

well, actually not even saying you have Benjamin DuBois' DNA, you're not saying that his DNA is there, correct?

A. I'm just telling you which of the scenarios I'm comparing as more likely. So I'm not saying like it matches this person, I'm saying it's more likely that he and individuals there, versus if it were unidentified individuals.

Q. So just to clarify, as I mentioned, this is important is that we have the clothing from Mr. DuBois, where Ms. Breland's report says the DNA matches Benjamin DuBois.

A. Uh-huh.

Q. Okay? Right? Would you agree with that?

A. I would have to look at her report, but potentially --

Q. Okay.

A. -- yes.

Q. Sure, right? Sure. Your tests though were different from that. You're not looking for matches, correct?

A. Correct, it's a different type of statistic, so hers were probabilities, mine are likelihood ratios.

Q. So in your analysis, you're not saying that

Benjamin DuBois' DNA is on the clothing on the side of the toilet?

A. No, I'm giving you a likelihood ratio.

Q. Okay. So now my next question to you is, is if you have two people's DNA that are contributing to a mixture, it does not mean that their DNA was placed there simultaneously, correct?

A. It does not. I can't tell you when or how the DNA got onto that item, just whether or not a person's DNA is contributing.

Q. Okay, now, if -- let me give you an example, if I have my dirty laundry in my laundry basket, and my daughter takes a shower and uses -- throws her dirty towel in my laundry basket, would you expect to see a mixture of our DNAs on any of those items?

A. It could be possible. I can't tell you how likely it is, but it's a possibility.

Q. Okay. And what about if -- now, it doesn't necessarily mean that the items that were in my laundry basket were placed there by me at any particular time, correct?

A. Not necessarily.

Q. Okay. I could have my -- be busy all week, and have my laundry sitting in my basket for a week, right?

A. Correct.

Q. Okay, and it doesn't -- my DNA's not going anywhere?

A. Correct.

Q. Okay, and my daughter could a week later get up and take shower, and throw her dirty towel into my basket, and now we could potentially have a mixture?

A. It's possible, yes.

Q. Especially if the towel was wet?

A. Yes, it's still possible.

Q. All right, okay. So now you did not receive anybody else's DNA for comparison in this case?

A. I did not. I still just had the profiles of Jerry Holmes and Benjamin DuBois.

Q. So you are essentially taking a yellow highlighter and a blue pen, and saying, well, it could either be blue or yellow?

A. For the likelihood ratios?

Q. Uh-huh.

A. Essentially, yes.

Q. Okay. What if we had more people's DNA? Say if we -- there's 151 people on the unit, what if they gave you more people's DNA, isn't that true that could change your results?

A. It could potentially change results, yes.

Q. Okay, because you're not saying that Benjamin DuBois' DNA is on the items in the bathroom?

A. I'm just giving a likelihood ratio of whether or not he could be contributing. So there could be additional likelihood ratios, if I had additional standards.

Q. Yep, and so I believe it's the -- let me look for the one here. Let's see, now, for instance, and this is a good example for you, the cutting from the exterior waistband of pants from the plastic bag on the side of the toilet, we have four people's DNA contributing to that mixture, right?

A. I'm sorry, I'm just finding the item. That's correct.

Q. Okay, and that certainly does not mean that four people all wore these shorts, or wore these pants, that's not what you're saying?

A. Not necessarily, no.

Q. You're not even saying that four people's DNA was done positive on there at the same time?

A. No, I can't say when or how the DNA got there.

Q. Okay, so it could be the case that if the people in the bathroom, or anyone of the 151 inmates on the unit?

A. It could be possible, yes.

Q. All right. And just to clarify, if you had more information, it would change the results?

A. It could. I can't say whether or not it would for sure, but it's possible that it could.

Q. Okay. And that's the big difference between your analysis and what Ms. Breland did, right? It matches? When she's saying it matches, that's completely different than what you're saying.

A. It is a different type of statistic, yes.

Q. Okay, because you're not doing matches?

A. I am not doing probabilities, no.

Q. All right, thank you so much.

**

REDIRECT EXAMINATION

BY MR. EVANS:

Q. You're only expressing probabilities?

A. I am expressing likelihood ratios.

Q. Likelihood ratios?

A. Yes.

Q. What, again, was the likelihood ratio in proposition set three, item 19.1?

A. Excuse me. That was -- the result was that the DNA profile is approximately 150 decillion times more likely, if Jerry Holmes and Benjamin DuBois

contributed to the mixture, than if two unidentified unrelated individuals contributed to the mixture.

Q. And what is item 19.1?

A. That is cutting from pouch of medical scrotal support garment from plastic bag near toilet.

MR. EVANS: Thank you, Your Honor.

THE COURT: Anything further?

**

RECROSS-EXAMINATION

BY MS. CARMODY:

Q. Ma'am, just because the Solicitor specifically asked you about the medical scrotal support, that does not mean that Mr. DuBois' DNA and Mr. Holmes' DNA was deposited at the exact same time, or even remotely close to one another, correct?

A. I can't say when or how the DNA got there.

Q. Okay. So you have no, because we're not saying -- we're not even saying that both those DNA profiles ae from blood, correct?

A. I can't say the source of the DNA, no.

Q. Okay, thank you.

THE COURT: Anything further?

MR. EVANS: No, ma'am.

THE COURT: Okay, any objection to this witness being excused?

MS. CARMODY: No, Your Honor.

THE COURT: No, and I'd ask that she be allowed to return to the Upstate.

THE COURT: All right, Ms. Goodman, you're excused, thank you.

WITNESS: Thank you.

MR. EVANS: The State rests, Your Honor.

**

STATE RESTS

THE COURT: All right, ladies and gentlemen, the State has rested their case. There's a matter of law I need to take up with the attorneys, and it's also lunch.

So, ladies and gentlemen, I'm gonna ask you to be back in your jury room at 2:15, where we'll continue this case. I need to remind you not to discuss this case, it would be inappropriate to do so. Go get a bite to eat, ladies and gentlemen, and come back at 2:15, okay? Thank you.

(Jury exits the courtroom.)

THE COURT: All right, any admissions?

MS. CARMODY: Yes, Your Honor, I beg the Court's indulgence.

THE COURT: All right.

MS. CARMODY: Thank you, Your Honor, may it

please the Court? Your Honor, the defense is moving for a motion for a directed verdict. This standard is to -- the Court's looking at the existence or the non-existence of evidence.

And, Your Honor, so the indictment in this case alleges that Mr. Holmes died on June 22nd. The State has presented zero evidence that he died on that day.

If anything, there's evidence it's consistent he died on the 21st, possibly.

The indictment also alleges that Mr. Dubois and Mr. Holmes, there's nothing in the record to how that Mr. DuBois actually killed Holmes. We do not have a murder weapon, we do not have a confession, and no one saw him kill Mr. Holmes.

Witness statements, Your Honor, that, you know, that he believed that he was covered in blood. They all say that they did not see into the cell, they did not see what was happening. Even if the Court thinks that the witness statements are some evidence, it's mere presence -- disciplinary presence, and there's nothing that shows the he actually killed Holmes. Nobody saw him -- nobody saw what happened to Jerry Holmes in that cell, that would be mere presence, and it would be speculation.

Your Honor, I'm also, at this time, reasserting

my motion to dismiss for a speedy trial by motion. Your Honor, the reason for the delay in this case was that the -- I sent numerous, numerous emails to the Solicitor's Office. This case was kicked around the Solicitor's Office for several years, Your Honor. Five different Solicitors, in fact, have been on this case. And Mr. DuBois has asserted his right to a speedy trial.

We need to try this case; we need to try this case. Most of those emails, Your Honor, and they're actually in the record for Judge Bonds had ruled on this motion. All those emails are marked as Court's exhibits, no response. They, you know, just in the fall of last year provided a DNA report that we hadn't seen, that this case, at that time, had been five-years-old.

Also, that they had first -- for the very first time looked at the physical evidence in the case. They located cell phones in the bottom of a box, and that's when the State had requested the continuance to extract the phones. Your Honor, the prejudice to Mr. DuBois is significant, because the clothing that was taken off of the victim in this case was destroyed. The evidentiary value of the victim's clothing was immediately apparent. This was a hands and knees

brutal fight from the crime scene photos, this is a death match. The victim's clothing would have contained DNA evidence, and it was destroyed and put outside. It rained on the clothes, and then they were destroyed.

Additionally, you know, also separate prejudice in this case, because the shoes from Julius Highland were destroyed. When they were investigating the death of Julius Highland, they determined that there was suspected blood on the shoes. They were supposed to send them to SLED, and they never did. They took photographs of them but shows the evidentiary value of the shoes. SLED also knew about the evidentiary value of those shoes, because they were photographed, and they destroyed them, Your Honor. Also, we were prejudiced by the delay in this case.

So the DNA of the co-defendant, Julius Highland, who was also charged in Holmes' murder. He was charged as well. We did not obtain the DNA report from the State until the fall. There was no opportunity to collect Mr. Highland's DNA, because the man has been deceased. He actually died while the State had this DNA report in their possession, and never turned it over to the defense.

So the State obtained a second DNA report, Your

Honor, that I objected to. The probabilities report, while Mr. Highland was still alive, I can't get his DNA now, because he's dead, and the State held onto the report until the fall of last year, which would have been 2022. Your Honor, so he was prejudiced by that as well. They also didn't collect evidence from cell doors.

You heard testimony in this case about evidence that wasn't provided. Your Honor, so we've been prejudiced by those things, because of the delay in this case as well. I also have to put on record for the very first two years of this case, he was assigned a different attorney.

Prior to Mr. Robert, he had no attorney working on his case for the first two years of this case. That was significantly prejudicial to him as well, because he wanted to file motions in the case. And at the -- I believe it was two months after he was arrested, he filed his own motion for a speedy trial.

That motion was not ruled on by Judge Cochran until October 31st of 2019, when I took the case. Judge Cochran wanted the case tried in six months, and this case was kicked around in the Solicitor's Office, Your Honor, until now. I understand that it's been scheduled a couple times recently, but I don't