

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of General Sessions

SC Court of Appeals

DeAndrea G. Benjamin, Circuit Court Judge

Case Nos. 2012GS1040032 and 2012GS1040033

The State, ... Respondent,

v.

Brett D. Parker, ... Appellant.

**RECORD ON APPEAL
VOLUME III**

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INDEX

Indictments	1
Sentencing Sheets	5
Defendant's Request to Charge #1	7
Pre-trial transcript	8
Joseph Ryan	
Direct	55
Cross	61
James Standin Smith	
Direct	64
Cross	85
James Standin Smith	
Direct	97
Cross	99
Trial Transcript	201
Opening Statements	221
Joseph Ryan	
Direct	265
Cross	277
Redirect	293
Recross	294
Joseph Johnson Odom	
Direct	297
Cross	319
Redirect	331
Recross	332
Austin Lee Harvel	
Direct	335
Cross	346
Redirect	365
Recross	366
Kenneth Brown	
Direct	367
Cross	370

Robin Haselden	
Direct	372
Cross	375
Matthew Ellis	
Direct	379
Cross	388
Redirect	396
Recross	398
Nina Ducate	
Direct	400
Cross	402
Maria Yturria	
Direct	409
Cross	425
Jane Powell	
Direct	434
Cross	439
Stan Richards	
Direct	457
Voir Dire	462
Direct	470
In Camera	755
Cross	757
Redirect	793
Recross	799
Trevor Holt	
Direct	804
Voir Dire	807
Direct	812
Cross	843
Redirect	854
Recross	855
Harold Bouknight	
Direct	885
Voir Dire	887
Direct	890
Cross	905
Redirect	909
Recross	910
Anna Elsey Cavanagh	
Direct	911
Voir Dire	915
Direct	916

Cross	932
Brian Metz	
Direct	943
Cross	960
William Cedarstaff	
Direct	963
Cross	966
Donald McRae	
Direct	969
Cross	975
John Barron	
Direct	977
Voir Dire	980
Direct	982
Cross	1008
Trisha Collins Odom	
Direct	1015
Voir Dire	1017
Direct	1018
In Camera	1040
Cross	1043
Redirect	1050
Recross	1052
John G. D. Roberts	
Direct	1054
Voir Dire	1056
Direct	1058
Cross	1082
Redirect	1093
Recross	1094
Gary Watts	
Direct	1096
Cross	1107
Redirect	1132
Recross	1134
Scott McDonald	
Direct	1136
In Camera	1197
Direct	1204
Cross	1225
Redirect	1299
Recross	1307

Lindsay Mullins	
Direct	1315
Cross	1327
Redirect	1331
Recross	1333
Theresa Mills-Floyd	
Direct	1336
Cross	1351
Betty Anne Webb	
Direct	1359
Cross	1372
Redirect	1376
John A. Lucas, Jr.	
Direct	1378
Cross	1382
Redirect	1385
Recross	1385
Jackie Warren	
Direct	1387
Cross	1406
Kristin Polis	
Direct	1421
Voir Dire	1425
Direct	1427
Cross	1445
Bradley J. Marcus	
Direct	1454
Voir Dire	1462
Direct	1464
In Camera	1554
Direct	1564
Cross	1568
Redirect	1586
Recross	1588
James Morgan	
Direct	1590
Cross	1614
Terri Gleason	
Direct	1656
Voir Dire	1659
Direct	1662
Cross	1750

Harry B. Benenhaley	
Direct	2029
Cross	2043
Redirect	2046
Recross	2047
Jerry Carswell	
Direct	2048
Cross	2053
Travis Holdorf	
Direct	2061
In Camera	2068
Direct	2072
Cross	2201
Redirect	2306
Recross	2309
Leon Lott	
Direct	2311
Cross	2335
Pat Pruitt	
Direct	2349
Cross	2353
Ben Staples	
Direct	2359
Cross	2387
James Standin Smith	
Direct	2403
Cross	2528
Redirect	2560
Recross	2564
Brad Spehl	
Direct	2598
Cross	2607
Redirect	2613
David Sojourner	
Direct	2615
Cross	2620
Redirect	2625
Fred Green	
Direct	2628
Cross	2631
Carol Haines	
Direct	2633
Cross	2636

Lanny Gunter	
Direct	1762
Cross	1789
Natasha Nadkarni	
Direct	1796
Cross	1805
Redirect	1807
Recross	1818
Jim Headly	
Direct	1820
Cross	1842
Britt Jordan	
Direct	1854
Cross	1858
L. Alvin Kelley, Jr.	
Direct	1860
Cross	1869
Britt Dove	
Direct	1876
Cross	1912
Chris Lindler	
Direct	1917
Cross	1932
Redirect	1937
Recross	1938
Cindy Capnerhurst	
Direct	1939
Cross	1955
Heyward Barnes	
Direct	1963
Cross	1982
Liz Myers	
Direct	1987
Cross	1994
Sandy Morgan	
Direct	1998
Cross	2006
Redirect	2013
Recross	2013
Al Muncey	
Direct	2017
Cross	2022

Redirect	2638
Recross	2639
Sheri Davis Armstrong	
Direct	2640
Cross	2643
Wendy Combs-Kiser	
Direct	2647
Cross	2652
Redirect	2674
Recross	2676
B.P.	
Direct	2686
Cross	2688
Redirect	2694
Lanny Gunter	
Direct	2695
Cross	2698
Richard Earnest	
Direct	2708
Cross	2722
Redirect	2727
Recross	2730
Further Redirect	2734
Further Recross	2735
Robert Bowers	
Direct	2737
Brett Parker	
Direct	2744
Cross	2785
Redirect	2892
Recross	2902
Allison Marie Foster	
Direct	2916
Cross	2940
Redirect	2941
Gary Watts	
Direct	2943
Cross	2946
Ila Simmons	
Direct	2950
Voir Dire	2952
Direct	2953
Cross	2957

Closing Statements	2998
Jury Charges	3151
Verdict	3177
Motions	3182
Sentence	3190

Certificate of Counsel	3192

Other Materials and Documents

State's Exhibits

2 - Statement of Defendant	on file with this Court
484 - X-ray of Bryan Capnerhurst	on file with this Court
486 - Diagrams	on file with this Court
487 - Diagrams	on file with this Court
490 - Diagram	on file with this Court

Defendant's Exhibits

4 - Transcript of Audio Call	on file with this Court

1 carrying it on their shoulder, I suppose, or in
2 their hands. I did develop DNA from that item.
3 The result indicated a mixture.

4 Now, when you have an object, obviously
5 multiple people can touch that object. And I will
6 get DNA from multiple individuals on that item.

7 In this case DNA was developed, and I was able
8 to identify at least -- well, I was able to get an
9 indication that at least three individuals were on
10 that bag, their DNA, at least three individuals
11 contributed DNA to that bag strap.

12 Bryan Capnerhurst was an individual that was
13 included in that mixture. As a matter of fact,
14 looking at the results this morning, I could see
15 that Bryan Capnerhurst is probably the major person
16 in that mixture.

17 Q And what do you mean -- let me stop you right
18 there. What do you mean by a major person in the
19 mixture, or contributor?

20 A Well, when we get the DNA profile from individuals
21 in a mixture, you can sometimes indicate whose DNA
22 is the most there. Okay. The most will be
23 indicated.

24 It's a readout with peaks that go up a scale.
25 The larger the peak, the more DNA is present. The

1 smaller the peak, the less DNA is present.

2 So I can see that Bryan Capnerhurst's DNA, his
3 peaks are, generally speaking, throughout the
4 profile the higher one.

5 Q Okay. And what determination was made with respect
6 to that?

7 A The statistical analysis or statistical statement
8 that can be made when we are dealing with a mixture
9 of this sort usually is what we call probability of
10 exclusion.

11 What we do is say, What is the probability of
12 excluding individuals in the population out there?
13 And with the DNA that I saw from Bryan Capnerhurst,
14 if we were to take a random individual, would that
15 DNA also be in that mixture?

16 99.997 percent of the time it would not be in
17 the mixture. So I could take a random individual
18 in the Caucasian population. 99.997 percent of the
19 time it would not -- I could determine that it is
20 not in that mixture.

21 I can say that Bryan Capnerhurst is in that
22 mixture. He cannot be excluded from that mixture.

23 And I can also say that the other two
24 individuals that I tested in this case are excluded
25 from that mixture. In other words, Tammy Parker

1 and Brett Parker are not in that DNA mixture from
2 those straps.

3 Q And the swab from the straps, this is not an area
4 where blood was indicated, correct?

5 A That's correct.

6 Q So is this more consistent with something such as
7 touch DNA or sweat, or something other than blood?

8 A Right. And you mentioned sweat. And that is an
9 excellent carrier of skin cells. So if you sweat
10 on an object, there is a likelihood that you will
11 transfer some skin cells as well. The sweat itself
12 is a salt solution, but it can carry skin cells.

13 Q And, again, just because I touch an item doesn't
14 necessarily mean that I am going to leave my DNA?

15 A No. You can actually touch an item and not leave
16 your DNA. I have examined thousands of touch
17 samples in our laboratory. The majority of work we
18 do is burglary cases, which involves breaking into
19 a house, leaving smudged fingerprints, rummaging
20 through objects, pulling wires apart to get the TV
21 out of the house, and things like that.

22 And the majority of the time I would say that
23 the perpetrator does not leave DNA. However, there
24 is a significant amount of time where he does where
25 it makes it worthwhile to test for it.

1 Q That kind of leads us into Item 51, the swab from
2 the bag zipper. Can you tell us about that?

3 A Yes. The swab from the bag zipper itself, again, I
4 guess the presumption is that any individual that
5 may have zipped and unzipped the bag, maybe we can
6 get their DNA on that object. However, on the bag
7 zipper, there was no DNA extracted.

8 Q So the testing at that point ended. No DNA was
9 collected from the zipper?

10 A That's correct.

11 Q And then Item 52, tell us what that is and what
12 your results were.

13 A All right, this is the swab from the inside of the
14 chamber of the 9-millimeter Smith & Wesson that our
15 firearms examiner brought to my laboratory. I
16 asked her to swab what looked like a reddish stain.

17 I tested that for blood since it was reddish.
18 And she indicated, and it looked like to me that it
19 could be blood based upon a visual examination. I
20 tested it and it was -- it did give a positive
21 result for our presumptive test for blood.

22 Just because it is positive doesn't mean it is
23 blood, but there is a strong likelihood that it is
24 blood. There are -- there is substances in the
25 world that can give you a false positive.

1 But it is very, very sensitive. So at times
2 it can actually pick up trace amounts of blood. It
3 is more sensitive than DNA extraction itself. So
4 in this case -- and when I extracted it for DNA, I
5 did not get any DNA from it.

6 Q And the purpose, or one of the reasons is not
7 necessarily the nitric acid as we have in the
8 swabs, correct?

9 A No. No, this was the gun itself. There was no
10 nitric acid applied to it as far as I'm concerned.

11 Q And were these all the items that you tested and
12 their conclusions?

13 A It was.

14 Q Okay.

15 (Witness returns to witness stand.)

16 Q If someone were to touch an item on a daily basis,
17 such as a gym bag, I carry it to and from work back
18 and forth, would it be likely that my DNA would be
19 on that item?

20 A Yes. I believe that the more times you handle an
21 object, touch an object repetitively, the greater
22 likelihood that your DNA is building up on that
23 object.

24 Q And the swab from the bag strap where the DNA was
25 extracted, Bryan Capnerhurst, that was a mixture of

1 three individuals?

2 A Yes, I could see that there were three individuals.
3 I could see that Bryan was the major individual.
4 So I would surmise that he is the one who was
5 handling this object most of the time.

6 Q And so -- you answered my question. So as far as
7 his DNA, presumably if he carried that often, you
8 would expect to find his DNA?

9 A That's correct. I'm sure you would find DNA on my
10 bag as well.

11 Q Tell the jury, can you time DNA with respect to how
12 long it's been on an item or when it was placed
13 there?

14 A Generally speaking, no. Especially skin cells, you
15 cannot tell how long it has been there. I mean, I
16 might could tell like a semen stain. You know,
17 someone can say that my gown was clean in the
18 morning and now it's got a stain on it.

19 So that would kind of limit the timeframe. Or
20 if blood was still wet, hadn't dried yet, that
21 might indicate it was fairly recent. But other
22 than that, no, you can't tell.

23 Q And if the DNA came from a blood source, is it fair
24 to say that that DNA got there when the blood
25 actually made contact with the item?

1 A Yes. I would say that is true most of the time.
2 There can be a secondary transfer, I guess you
3 might say, of blood to say I handled a bloody
4 object and then touched other objects. And I can
5 certainly transfer that blood.

6 Q And, again, just because someone touches something,
7 does that mean that they are going to leave DNA?

8 A If they just touch something without blood all over
9 their hands, that would be probably true, yes.

10 Q And if I were to wipe off a surface or clean it
11 with a cloth, or something of that nature, would
12 that affect your ability to collect DNA as well?

13 A Well, you would assume that if it's cleaning up
14 dirt, it's cleaning up any skin cells that might be
15 present as well.

16 Q And are your results -- are they peer reviewed or
17 does someone else, another analyst, check after
18 you?

19 A Yes. As part of our certification, we have to show
20 that it has been reviewed by another qualified DNA
21 analyst in the technology that we are using.

22 We have three DNA analysts, two more besides
23 myself, and one of those two reviewed the case and
24 agreed with my results.

25 MS. SIMPSON: Beg the Court's indulgence.

1 (Pause.)

2 MS. SIMPSON: Thank you.

3 THE COURT: Please answer any questions

4 Mr. Whitlark may have.

5 MR. WHITLARK: Yes. May it please the Court,

6 Your Honor?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. WHITLARK:

10 Q Mr. Barron, what was the date that you did the
11 analysis you have been talking to us about?

12 A I recorded the date that I reviewed the analysis.
13 Obviously, it's a long process. It can take
14 several days, sometimes weeks. But I began
15 processing Items 5 -- well, let's say the buccal
16 swab from Tammy Parker, the buccal swab from Bryan
17 Capnerhurst, the two GSR swabs from the
18 9-millimeter Smith & Wesson, the swabs from the bag
19 straps, the swabs from the bag zipper, and I began
20 those on April the 17th.

21 Q Okay. You did some subsequent testing sometime --
22 you issued your results when, in September, or
23 something like that?

24 A The date of the official report that had been
25 reviewed is September 19th, 2012.

1 Q All right. And what does that mean? Why is there
2 a gap there? I mean, can you explain that?

3 A Well, I'm working on hundreds of cases at the same
4 time. I am in the process of running -- starting
5 analyses on batches of material, picking up other
6 batches as well. And as they go through the
7 process, while one batch is in one level of the
8 process, I may be starting another.

9 I may be out for a while. I may be away for
10 education. The reviewer themselves has to find time
11 to review the case before the official report is
12 issued. So there can be weeks and months sometimes
13 before the actual report is officially released.

14 Q Okay. Now, I think you have mentioned something
15 about nitric is not a good thing as far as getting
16 as a result on DNA, is it?

17 A That is correct.

18 Q All right. Well, how did nitric acid get on what
19 you're talking about in this case?

20 A Nitric acid was from the gunshot -- the swabs were
21 intended to be run for the gunshot residue. There
22 is two types of samples collected from gunshot
23 residue.

24 One is nitric acid swabs, and the other is --
25 for swabs to be extracted in nitric acid. The

1 other is sticky disks that are dabbed on the hand
2 to pick up particles for gunshot residue.

3 Q What are we dealing with here?

4 A These were swabs that had been treated with nitric
5 acid.

6 Q And who had the nitric acid?

7 A Not me. They were --

8 Q CSI?

9 A Nitric acid I know is applied at SLED.

10 Q Okay. And you work at Richland County, though,
11 don't you?

12 A That's correct.

13 Q Do you know who took the samples for GSR in this
14 case?

15 A No.

16 Q Well, would it surprise you to hear that the
17 Richland County CSI did it?

18 A Who took the actual samples from individuals
19 themselves?

20 Q Yes, sir.

21 A No, I wouldn't be surprised, no.

22 Q And they have nitric -- they have the nitric acid,
23 right?

24 A They have GSR kits which include nitric acid.

25 Q Okay. Well, I guess my question to you is that:

1 Do you conclude that nitric acid destroyed your
2 ability to take a DNA sample in this case?

3 A That is correct. I researched that and it showed
4 that nitric acid is used to strip DNA apart for
5 various research reasons.

6 Q Okay. What can you use to wipe DNA off with?
7 What's a good substance to do that with?

8 A To collect DNA with?

9 Q No, to clean it off from a substance.

10 A In our laboratory we use -- well, you can use
11 bleach. We have something called Amphy1, which is
12 a disinfectant. It has various organic chemicals
13 in it that we clean the surfaces in our laboratory
14 to destroy any DNA residue that might be present so
15 they won't contaminate any other evidence.

16 Q As a matter of fact, that is a procedure you
17 follow, isn't it, that you regularly do that to
18 keep -- to cleanse your lab, right?

19 A That's correct.

20 Q Now, what about if I want to use a substance to
21 wipe something off with? I mean, can I use a
22 tissue? Can I use any household item there is? I
23 mean, what will lift it off? DNA, I'm saying,
24 touch DNA.

25 A Any type of friction applied to it may remove it,

1 any type of water, anything spilled on it and
2 cleaned up, anything like that.

3 Q Okay. Are you aware of how many Richland County
4 CSI personnel handled this bag in this case?

5 A Handled the duffel bag, or whatever it was, type of
6 bag?

7 Q Yes.

8 A I have no idea.

9 Q Are you aware that they had rubber gloves on when
10 they were opening and shutting it?

11 A They should have.

12 Q Okay. And that can wipe DNA off, can't it?

13 A Can it wipe it off?

14 Q Yes.

15 A It could. I mean, I don't know. The skin cells
16 are not visible. All I do is see if they are there
17 or not.

18 Q Okay. All right. You know that they -- that the
19 CSI in this case opened and closed this bag, right,
20 with gloves on?

21 A I do not know. I was not there when they -- if
22 they did that, and I did not observe anyone doing
23 that.

24 Q Well, that could be an explanation for why you
25 found none on that zipper, couldn't it?

1 A Well, if they did do that without gloves on, they
2 should have found their DNA.

3 Q No. They had gloves on. They have all stated
4 that.

5 A Could it have been wiped off by handling it?

6 Q Yes.

7 A It could have.

8 Q All right. They never brought you a UMC box of
9 shells, did they? Did you examine the DNA off of a
10 box of shells?

11 A No. None of the items that I tested are labeled,
12 swabs from box of shells.

13 Q Okay. And if you had a fingerprint, a fingerprint
14 would be a good source of DNA, wouldn't it?

15 A I have gotten DNA from smudged fingerprints.
16 Usually if a fingerprint is identifiable, they
17 don't bother with touch DNA.

18 Q Okay. Well, they didn't bring you a box of shells
19 here to try to do that in this case, did they, sir?

20 A No.

21 Q That's all the questions I have. Thank you.

22 THE COURT: All right, anything else from the
23 State?

24 MS. SIMPSON: Nothing further from the State,
25 Your Honor.

1 THE COURT: All right, sir. You may step
2 down.

3 (Witness steps down.)

4 MS. SIMPSON: Your Honor, may the witness be
5 excused?

6 THE COURT: Any objection to this witness
7 being excused?

8 MR. WHITLARK: No. No objection, Your Honor.
9 (Witness excused.)

10 THE COURT: Call your next witness.

11 MS. CAMPBELL: The State would call
12 Investigator Trish Odom.

13 (Witness approaches.)

14 THE BAILIFF: Place your left hand on the
15 Bible, and raise your right hand, please.

16 (Witness complies.)

17 THE CLERK: Do you swear or affirm the
18 testimony you are about to give in this case will
19 be the truth, the whole truth, and nothing but the
20 truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Have a seat in the witness box.

23 (Witness complies.)

24 THE CLERK: State your full name for the
25 record. Spell your last name, please.

1 THE WITNESS: Trisha Collins Odom. The
2 spelling on my last name is O-D-O-M.

3 TRISHA COLLINS ODOM
4 after being duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. CAMPBELL:

7 Q Investigator Odom, where are you employed?

8 A At the Richland County Sheriff's Department.

9 Q And what do you do there, ma'am?

10 A I am the senior latent analyst for the crime scene
11 latent print section.

12 Q And as a senior latent print examiner, what do your
13 duties include?

14 A My primary duty is to take a look at any of the
15 latent prints that have been collected from crime
16 scenes by our crime scene investigators, also by
17 our regular road deputies, and compare them to a
18 known source to see if I can determine where they
19 came from.

20 Q Can you tell the jury a little bit about your
21 education and your training in the field of latent
22 print comparison?

23 A Sure. I have a degree in criminal justice from the
24 University of South Carolina. I became a certified
25 law enforcement officer in 1995 with the City of

1 Forest Acres. I was a patrol officer for the City
2 of Forest Acres for four years and then came to the
3 Richland County Sheriff's Department as a patrol
4 officer.

5 In December of 1999, I got promoted to the
6 crime scene latent print section and began my
7 internal training. Along with the internal
8 training, I attended several classes.

9 That included the chemical development and
10 enhancement of latent prints, advanced palm print
11 identification, basic fingerprint training, ID
12 technician school, forensic ridgeology, the
13 recovery of fingerprint evidence from human skin,
14 and complex latent print examination.

15 Q And have you testified before as an expert in
16 latent print comparison?

17 A I have.

18 Q And approximately how many times have you been
19 qualified as an expert in that area?

20 A Twenty-four.

21 MS. CAMPBELL: Your Honor, at this time we
22 would offer her as an expert in latent print
23 comparison.

24 THE COURT: Yes, sir.

25 MR. WHITLARK: Voir dire the witness?

1 THE COURT: Yes, sir.

2 VOIR DIRE EXAMINATION

3 BY MR. WHITLARK:

4 Q Is it lieutenant?

5 A No, sir, it's investigator.

6 Q Hey, Investigator Odom. Are you related to any
7 Odoms that work at Richland County?

8 A I am. I'm married to one.

9 Q Who are you married to?

10 A Lieutenant Odom.

11 Q Okay. And you went to school for this and studied
12 for this?

13 A For latent prints specifically?

14 Q Yes.

15 A That's not what my degree is in, no. My degree is
16 in criminal justice. I started my on-the-job
17 training when I became promoted to an investigator
18 in 1999.

19 Q Okay. How long have you been doing what you're
20 talking about here today?

21 A Since 1999.

22 Q Okay. And have you been qualified as an expert
23 previously?

24 A Yes, sir.

25 Q How many times?

1 A Twenty-four.

2 MR. WHITLARK: No objection, Your Honor.

3 THE COURT: All right. Ladies and gentlemen
4 of the jury, Investigator Trisha Odom will be
5 qualified as an expert in the area of latent print
6 comparison.

7 Yes, ma'am.

8 MS. CAMPBELL: Thank you, Your Honor.

9 DIRECT EXAMINATION CONTINUES

10 BY MS. CAMPBELL:

11 Q Investigator, tell this jury, when you receive
12 evidence in a case such as a fingerprint collected
13 at a crime scene, what you need and how you go
14 about making comparisons.

15 A Well, the first thing I do is I try to determine
16 whether or not it is actually of value for
17 comparison.

18 If you think about fingerprints, if you look
19 at your fingers, the lower digits of your fingers
20 and the palms, you'll see they have all these lines
21 all over it.

22 We call these lines ridges. And what I'm
23 looking for to determine whether or not a
24 fingerprint is of good quality to compare is these
25 ridges and the small details that are on the

1 ridges.

2 As the ridges flow, they don't just flow in
3 continuous lines. They actually will stop and
4 start. They'll split off and some will be so tiny
5 that they look like just a dot.

6 So the specific things that I'm looking for
7 are the forefinger, which we call the bifurcation
8 where the ridges end, which we call either ending
9 ridges or ridge endings. And the ones that look
10 small, we just call those dots.

11 And I am looking for those specific
12 characteristics on the latent prints, and that is
13 what I'm looking for in the known prints too.

14 Q Okay. And with fingerprints and/or palm prints --
15 in this case we are talking about fingerprints --
16 are those unique to each individual?

17 A They are.

18 Q So is anyone else going to have the same
19 fingerprints I do?

20 A No. As a matter of fact, all ten of your fingers
21 are going to be different.

22 Q From each other?

23 A Yes, ma'am.

24 Q As well as from everyone else?

25 A Yes, ma'am.

1 Q And even with identical twins, do they have
2 different fingerprints?

3 A They do.

4 Q So a fingerprint is actually unique. And you
5 mentioned that each different finger has a
6 different print on it?

7 A That's correct.

8 Q And the print is comprised of a series of kind of a
9 pattern?

10 A Right.

11 Q And explain that again.

12 A There are -- on your fingers you have three basic
13 pattern types. You could have all three of them.
14 You could have only one pattern representing all
15 ten of your fingers. But the basic pattern types
16 are the looping formation.

17 And that is when you see the pattern start
18 from one side of the finger, goes upwards, and then
19 loops back around and exits out the same side of
20 the finger. That is called the wicking pattern.

21 We also have a pattern that is -- it is
22 circular, and we call that a whirl.

23 And then we have a pattern type that is called
24 an arch, which the pattern flow starts on one side
25 of the finger. It tends to go upward and it comes

1 back down and exits off the other side of the
2 finger. And those are the three basic pattern
3 types that each person has.

4 Q And in order to do a comparison in your laboratory,
5 do you need some known prints before you yourself
6 can do a comparison?

7 A That's correct.

8 Q And in this case I want to show you State's Exhibit
9 Number 407, 440, and 439 and just ask if you
10 recognize those.

11 (Pause.)

12 A Yes, I do.

13 Q And are those known prints that were provided to
14 you in this case?

15 A They are.

16 MS. CAMPBELL: Your Honor, at this time I
17 believe 407 is in evidence. We would offer 439 and
18 440, which are the known prints of Tammy Parker and
19 Bryan Capnerhurst?

20 THE COURT: Any objection?

21 MR. WHITLARK: No objection, Your Honor.

22 THE COURT: All right. Those will be entered
23 without objection.

24 (WHEREUPON, State's Exhibit No. 439 was
25 marked for identification and received

1 into evidence.)

2 (WHEREUPON, State's Exhibit No. 440 was
3 marked for identification and received
4 into evidence.)

5 BY MS. CAMPBELL:

6 Q State's Exhibit Number 407, what does it say that
7 you received in this case?

8 A It's one set of elimination prints from Brett
9 Parker.

10 Q And that's Brett Parker?

11 A Yes, ma'am.

12 Q And then in State's Exhibit Number 440, what does
13 it say that you received?

14 A One set of post-mortem fingerprints, T. Parker.

15 Q And, finally, 439, what does that indicate?

16 A That is post-mortem fingerprints, B. Capnerhurst,
17 and post-mortem palm prints, B. Capnerhurst.

18 Q Tell this jury, is it unusual for fingerprints to
19 be collected at an autopsy for purposes of
20 elimination or inclusion at a later time when you
21 do a comparison?

22 A Actually, collecting post-mortem fingerprints is
23 part of the autopsy protocol.

24 Q Because it can be used for identification?

25 A Sure.

1 Q As well as comparison in a criminal case?

2 A That's right.

3 Q And in this case you received certain cards which
4 had their prints? How are the prints actually
5 collected?

6 A The post-mortem prints are collected by inking the
7 actual fingerprint with an ink pad. And then there
8 is a piece of equipment that looks a lot like a
9 spoon, but there is a strip about this wide
10 (indicating), about that high (indicating), and it
11 is set into the spoon.

12 And as the fingerprint is inked, the finger is
13 actually put into the spoon, so it wraps around the
14 fingerprint to try to get as much of the ridge
15 detail as you can.

16 And then you move the piece of paper that you
17 are collecting it on as you go through each finger
18 and collect each finger, and then that strip of
19 post-mortem prints is adhered to a fingerprint
20 card.

21 Q And I show you what is coming out of State's
22 Exhibit Number 439, which are the known
23 fingerprints from Bryan Capnerhurst. Is that how
24 it's done?

25 A That's correct.

1 Q And then it's just transferred onto a piece of
2 paper such as this?

3 A Right. That's an applicant card, I believe -- I'm
4 sorry, an identification card.

5 Q And in each one of the little squares where you see
6 the separate fingerprint, does it identify which
7 finger that it comes from?

8 A It does.

9 Q And with a person who is still alive, how are the
10 prints collected?

11 A The way that we do them is typically we will use
12 our LiveScan system, which is just a system by
13 which we can electronically capture the
14 fingerprints, so there is no ink.

15 But it is the same process that you would use,
16 except for instead of putting the spoon in, you
17 would actually start on one end of the finger and
18 roll it to collect, in theory, everything from nail
19 to nail on each finger. And you're given a
20 specific place to put each finger on the
21 fingerprint card.

22 Q And I show you State's Exhibit Number 407. If you
23 can open that for me, which are the known prints
24 from whom?

25 A It is one set of elimination prints from Brett

- 1 Parker.
- 2 Q Here you go.
- 3 (Pause.)
- 4 Q And are those the prints that were provided to you
- 5 in this case?
- 6 A They are.
- 7 Q And that is the known set of prints from Brett
- 8 Parker?
- 9 A That's correct.
- 10 Q And, again, on the individual things, are those
- 11 identified depicting which finger the print was
- 12 collected on?
- 13 A That's correct.
- 14 Q And anyone as a crime scene investigator can
- 15 collect those?
- 16 A That's correct.
- 17 Q Once you had received certain known prints, did you
- 18 also receive additional, what is referred to as
- 19 latent prints?
- 20 A That's correct.
- 21 Q And what is the difference between what we are
- 22 calling a latent print and a known print such as a
- 23 fingerprint card?
- 24 A Well, latent prints that we get are really just the
- 25 unknown prints that are recovered from a crime

1 scene.

2 When you work a crime scene, you can get about
3 three different kinds of fingerprints, but we put
4 them under the umbrella of calling them latent
5 prints.

6 Now, there are latent prints. And latent
7 prints are just unseen. So you have to do
8 something to see them, like apply powder to them,
9 to be able to see them.

10 And then there are other prints that you can
11 see that are visible immediately, like they could
12 be in blood or mud, or something else like that.

13 And you have a plastic print, which is a 3D
14 impression in some sort of soft surface, like silly
15 putty or even cheese or chocolate. You can see it.
16 The next time you have a piece of chocolate, put
17 your finger on it, and you will see a 3D impression
18 of your fingerprint in it.

19 But all three of those types of fingerprints
20 are, for crime scene purposes, under the umbrella
21 of latent prints. So the latent prints that we
22 refer to are actually the unknown prints that we
23 are trying to identify; whereas, the known prints
24 are standards that have been taken for the purpose
25 of comparison.

1 Q And in a crime scene, is every surface necessarily
2 going to be able to retain a print?

3 A No.

4 Q And explain to the jury the reason for that.

5 A Well, there are a lot of different reasons that you
6 might not get a fingerprint on a particular
7 surface, like if you think about the dashboard of
8 your car, most of them have that kind of grainy
9 surface. Well, that is so you don't see
10 fingerprints.

11 So it can be harder to see a fingerprint or to
12 leave a fingerprint behind on a textured surface
13 like that. It doesn't mean it's impossible. It
14 just means that it's harder to do that.

15 If the surface is dirty, it's going to be
16 harder to leave a fingerprint behind, because there
17 is already a substance on there, so the fingerprint
18 is less likely to be left behind.

19 You also have to think about the condition of
20 your hands. Fingerprints are -- latent
21 fingerprints are primarily made up of oils and
22 moisture. But if your hands are typically cold,
23 like mine are, you're not going to be sweating as
24 much, so you are not going to be as likely to leave
25 a fingerprint behind.

1 I kind of describe fingerprints as one of
2 those ink things you get from a craft store. It
3 makes that same impression over and over again as
4 long as it's inked the same way every single time.
5 If you don't have any ink per se on it, you are not
6 going to leave a fingerprint behind.

7 Or, conversely, if you use it over and over
8 and over again on the same surface, what is going
9 to happen is all the area that doesn't have the ink
10 on it is going to get filled up subsequently as
11 that stamp comes down on the area and then fills it
12 with the ink.

13 Q So if an item is handled over and over, it may
14 obscure any possibility to be able to get what is
15 known as a known print?

16 A That's correct.

17 Q Does the surface itself -- you just mentioned if
18 someone -- say, if a surface is such as cloth or
19 that is pliable, it is harder or almost impossible
20 to get any kind of print from?

21 A It's a lot harder. I would never say that it was
22 impossible, but it's a lot harder.

23 Q In addition to that, say, if I walk up and even if
24 I put my finger down and touch a smooth surface, am
25 I necessarily going to leave a print there?

1 A No.

2 Q Why not?

3 A Well, it could be that there are other fingerprints
4 or it could be that you are not producing enough
5 oils or sweat to leave it behind.

6 Q In that same manner, if -- are you familiar with
7 the term of what is a smudge?

8 A Yes.

9 Q And is that a common occurrence in your business?

10 A Sure. Because you don't -- it is -- when we
11 collect known fingerprints, it is in a controlled
12 environment where we actually have control of the
13 person's hand, and we carefully roll them.

14 But when you touch something, you don't
15 always -- you don't put it down like that
16 (indicating) most of the time. It's going to be
17 with some sort of motion and pressure. So a lot of
18 times the detailing is going to get obscured.

19 Q And if a known print is gotten, you actually apply
20 ink in order to memorialize that, so there is at
21 least something you know that is on that?

22 A Well, in the case of these, these were actually
23 digitally taken on a LiveScan system, which takes a
24 photograph of the ridges, which it performs the
25 same function as the ink.

1 Q So, in theory, it performs the same function as the
2 ink?

3 A Yes.

4 Q And I want to hand you up State's Exhibit Number
5 406 and ask if you recognize that?

6 A Yes, I do.

7 Q What is that?

8 A These are latent fingerprints that Sergeant
9 Richards collected from 12 Tackeria Court, and he
10 submitted them on April the 16th, 2012.

11 Q And those were supplied to you?

12 A They were.

13 Q And how many total prints are there on there?

14 A There are a total of three latent fingerprints on
15 two cards.

16 Q And once you received that evidence, what, if
17 anything, did you do in this case?

18 A I try to determine whether or not any of the known
19 prints that we had were the same source as the
20 latent prints, or rather whether the latent prints
21 were made by the same source as any of the known
22 prints that we had.

23 Q Prior to making any kind of identifications, the
24 quality of the fingerprint that is collected, say,
25 from a crime scene, does it have to reach a certain

1 standard for you to be able to make a comparison?

2 A You have to be able to see a certain amount of
3 detail in order to be able to make a positive
4 identification.

5 Q And taking these two different cards that were
6 submitted to you, as collected by Sergeant
7 Richards, can you explain to the jury what you
8 found upon your initial examination?

9 A We have one that is of identifiable quality. We
10 have a second one that is -- you can see some bit
11 of ridge detail in it, but I don't believe it's
12 identifiable. It could possibly be used for
13 elimination purposes. And the third one was of no
14 value for any kind of comparison.

15 Q Okay. And taking those in the converse order, when
16 you say it is of no value for any kind of
17 comparison, what are you saying? What do you mean?

18 A There is not enough detail in there to even begin
19 trying to make a comparison.

20 Q And you actually have two cards that were
21 submitted?

22 A Yes, ma'am.

23 Q And can you point out to me on which card the one
24 of absolutely no value was taken in comparison?

25 A This (indicating) is the card. This card is

1 numbered L-2. And the latent prints are
2 Sub-numbered .1 and .2. It's L-2.2 that is of no
3 value.

4 Q L-2.2?

5 A Yes, ma'am.

6 Q And where is that located on this card
7 approximately?

8 A It is right there (indicating).

9 Q If I put my finger right there (indicating)?

10 A Yes.

11 Q And that one just simply did not have enough detail
12 of any sort for you to do anything with?

13 A That's right.

14 Q Is there a second fingerprint on this card that is
15 L-2, which is denoted with a .1?

16 A Yes, ma'am.

17 Q And an arrow here (indicating) above it?

18 A Well, actually the print is directly below the .1.
19 The arrow should be the direction or the
20 orientation arrow that Sergeant Richards put on it.

21 Q Okay.

22 A But where my finger is right there (indicating).

23 Q You have got to transfer my finger and put it where
24 you say.

25 A There (indicating). It would be a little bit

1 lower.

2 Q And this is the second fingerprint?

3 A Yes.

4 Q On that same card L-2?

5 A Yes.

6 Q And what was the condition of this when you did
7 your initial examination?

8 A I'm sorry? I don't understand your question.

9 Q What did you find when you looked at this
10 fingerprint?

11 A That particular fingerprint? There is some ridge
12 detail in there. You can see that there are
13 ridges, and you can see the approximate center of
14 the pattern, which is called the core.

15 And you can see another area called the delta,
16 which is where the pattern diverges, sort of on the
17 right-hand side of the fingerprint.

18 I can see that between those two areas there
19 are several ridges, but I can't see any ridge
20 detail on it beyond that.

21 Q And based on your expertise, are you able to come
22 to any conclusions when comparing this to the three
23 print cards provided to you?

24 A No, ma'am.

25 Q Why not?

- 1 A Because I can't -- I can neither identify nor can I
2 eliminate any of the folks that we looked at in
3 this case. I wouldn't be able to eliminate anybody
4 who had a core and a delta on the right-hand side
5 with several ridges in between those.
- 6 Q And of the three known fingerprint cards submitted
7 to you, they all have that characteristic within
8 them?
- 9 A On at least one finger, yes.
- 10 Q So you can't exclude anyone?
- 11 A No.
- 12 Q Tammy Parker, Brett Parker, or Bryan Capnerhurst?
- 13 A No, ma'am.
- 14 Q Nor include them?
- 15 A That's correct.
- 16 Q Simply, it is not a good enough print?
- 17 A That's right.
- 18 Q The second card that was provided to you, which has
19 been marked as L-1, how many prints did it have?
- 20 A It has one.
- 21 Q And do you have that card before you?
- 22 A I do.
- 23 Q And can you show me so I can show the jury where
24 that print is located?
- 25 A You see where the crease is? It's immediately to

1 the left of the crease.

2 Q So if I go like this (indicating), am I pointing to
3 it?

4 A Yes.

5 Q When you're doing these examinations, too, are you
6 doing them just like we are here in court, or are
7 you using certain machinery or something to help
8 you?

9 A Typically what I will do -- and in this case what I
10 did -- was I'll take the latent print card. You
11 see where the crease is. The crease is where I
12 folded the card so that I can put it up close to
13 the known print so that I could compare them
14 visually side-by-side.

15 Q Uh-huh.

16 A And that is what I did in this case. And began
17 looking for basic pattern types to see if it was in
18 agreement with any of the folks that we were
19 comparing it to. And then started looking for the
20 individual characteristics.

21 Q And in this case, how did you go about either
22 including or eliminating anyone's prints from being
23 the contributor on this card?

24 A I was able to determine that Ms. Parker did not
25 make it. I was able to determine that

1 Mr. Capnerhurst was not -- did not make it. And I
2 subsequently determined that the left finger on
3 Mr. Parker's -- I'm sorry -- the left thumb of
4 Mr. Parker was the source of that fingerprint.

5 Q And which thumb -- which print is that on here?

6 A That is the left thumb right there (indicating).

7 Q And, specifically, are there points of
8 identification that you were able to, in your
9 expertise, determine matched his known prints?

10 A Yes.

11 Q And do you know how many approximate points of
12 determination you were able to do?

13 A No, there is no standard number. There were no
14 points of dissimilarity that I could find in a
15 print. And there were enough points of similarity
16 that I was able to say that it was made by the same
17 source.

18 Q So it wasn't just one or two points of similarity?

19 A No, ma'am. We have at least 10 or 12, if not more.

20 Q And in your expert opinion, the latent print that
21 was submitted to you by Sergeant Richards -- which
22 is L-1, right?

23 A That's correct.

24 Q Whose print was that?

25 A It is Brett Parker's left thumb.

1 Q Left thumb?

2 A Yes, ma'am.

3 Q Once you made this determination, did you then

4 issue a report in this case?

5 A I did ultimately issue a report, yes.

6 Q With the findings you just shared with the jury?

7 A Yes.

8 Q And was that report reviewed and were your findings

9 reviewed, as well as the comparisons?

10 A Actually before we even start writing a report, we

11 have a second qualified latent examiner who goes

12 over all of our findings and makes sure that they

13 agree with us. And that happened in this case.

14 Q So she actually reviewed your print match?

15 A She did.

16 Q And she concurred with your conclusions?

17 A Yes.

18 Q Which eliminated Tammy Parker and Bryan

19 Capnerhurst?

20 A Yes.

21 Q But the print collected off that ammo box matched

22 Brett Parker's which finger?

23 A It was his left thumb.

24 Q If someone touches an item and it happens to be a

25 useable print, is it going to stay there forever

1 necessarily? What are the factors involved in
2 that?

3 A In a completely sterile environment, if you put a
4 fingerprint on an item and then put it in a plastic
5 box and put it on a shelf, it can remain there for
6 years.

7 We have had occasion to be involved in cases
8 that latent fingerprints were collected seven or
9 eight years after the crime occurred, and I have
10 seen research that there have been prints that have
11 been identified or developed 20-plus years after
12 they were left.

13 Q In a sterile environment?

14 A You know, in a completely controlled sterile
15 environment, yes.

16 Q But the reality of the world when things are
17 handled or moved around or touched again, what
18 happens to those fingerprints?

19 A Sure, they get destroyed.

20 Q And, in fact, is it hard at all to obscure what may
21 be a known print?

22 A No.

23 Q And if someone handles a box or and hands it to
24 someone else, they will be touching that box --

25 MR. WHITLARK: Your Honor, I object to the

1 leading of the witness.

2 THE COURT: Sustained.

3 BY MS. CAMPBELL:

4 Q What happens when multiple people handle an item?

5 A It's going to be very similar to when you have that
6 ink stamp. You move it a little and you move it a
7 little and you move it a little. Instead of you
8 seeing that pattern in there, what you are going to
9 see is essentially an ink blot. At some point it
10 becomes obscured.

11 Q And would you characterize -- or how would you
12 characterize fingerprint evidence, especially
13 latent evidence from a scene?

14 A I mean, it's fragile.

15 Q Thank you.

16 MS. CAMPBELL: I have nothing further.

17 MR. WHITLARK: Your Honor, we have a matter of
18 law to take up with the Court.

19 THE COURT: All right. Ladies and gentlemen
20 of the jury, I'm going to send you all back for a
21 moment. I'm not sure if we are going to take a
22 lunch break or not. I'll see how long this is
23 going to take.

24 If it's going to take some time, I will go
25 ahead and send you all to lunch. But I'll have the

1 bailiff come back and let you know in a second.

2 All right. Thank you.

3 (WHEREUPON, the jury retires to the jury
4 room at 1:03 p.m.)

5 MR. WHITLARK: May it please the Court, Your
6 Honor?

7 THE COURT: Yes, sir.

8 MR. WHITLARK: Your Honor, apparently I was
9 mistaken in listening to the testimony of the
10 witness in that she had a subsequent report other
11 than the report that is dated April 20th, 2012.

12 And I thought I misunderstood her because her
13 testimony didn't seem to be the same as the report.
14 And I thought I heard her say she did a
15 supplemental report.

16 THE COURT: All right. You can ask her.

17 THE WITNESS: No, sir.

18 MR. WHITLARK: Okay.

19 IN CAMERA EXAMINATION

20 BY MR. WHITLARK:

21 Q All right. I thought I heard you testify you did a
22 supplemental report that you had eliminated
23 Capnerhurst and Ms. Tammy Parker?

24 A If you are asking about why that is not reported on
25 the report, because you can see on my bench notes

1 where I first -- I first got the known prints of
2 Ms. Parker and Mr. Capnerhurst. We didn't get the
3 known prints from Mr. Parker until after I had
4 already completed that.

5 Q Do you have a subsequent report?

6 A No, sir.

7 Q Just this?

8 A Yes, sir.

9 Q But your testimony is varying from this?

10 A No, sir.

11 Q It's not?

12 A No, sir.

13 Q It says it's inconclusive as to Parker, Brett
14 Parker, Tammy Parker, and Bryan Capnerhurst?

15 A Yes, sir, that was L-2.1.

16 Q Right.

17 A Right.

18 Q Okay.

19 MR. WHITLARK: My mistake, Your Honor. I
20 thought she said she had a supplemental report.
21 I'm sorry.

22 THE COURT: All right. Are you done with this
23 witness?

24 MS. CAMPBELL: He has to cross.

25 THE COURT: No, are you done?

1 MS. CAMPBELL: I'm done.

2 THE COURT: All right.

3 MS. CAMPBELL: He can go ahead and finish her.

4 MR. WHITLARK: No, I'm not going to cross her
5 real quick, Your Honor. I have 30 minutes at least
6 of cross-examination.

7 MS. CAMPBELL: We can still go ahead.

8 MR. WHITLARK: That's fine. Whatever you want
9 to do.

10 THE COURT: We'll keep moving and then we will
11 take a break after this witness.

12 MR. WHITLARK: Okay.

13 THE COURT: I hate to stop in the middle of a
14 witness.

15 MR. WHITLARK: That's fine.

16 THE COURT: You can bring them back in.

17 (WHEREUPON, the jury came into open
18 court at 1:05 p.m.)

19 THE BAILIFF: The jury is seated, Your Honor.

20 THE COURT: Ladies and gentlemen of the jury,
21 we'll proceed with cross-examination of this
22 witness by Mr. Whitlark.

23 MR. WHITLARK: May it please the Court, Your
24 Honor?

25 THE COURT: Yes, sir.

CROSS-EXAMINATION

2 BY MR. WHITLARK:

3 Q Investigator Odom, is that correct?

4 A Yes, sir.

5 Q Are you related to the Officer Odom in this case?

6 A Yes.

7 Q All right. What is your relationship with him?

8 A We're married.

9 Q How long have you been married to him? How long
10 have you been married?

11 A Almost six years.

12 Q Okay. Did he discuss with you the fact that he had
13 moved the Smith & Wesson 9-millimeter handgun out
14 of Bryan Capnerhurst's hand?

15 A He told me that he had, yes.

16 Q Okay. Did he tell you anything else about it,
17 anything else he had done at the scene?

18 A I believe we discussed it, but I don't recall
19 specifically what he said.

20 Q Well, did you discuss it more than once?

21 A Yes.

22 Q Okay. You did a report in this case requested by
23 Major Smith, is that right?

24 A I don't know that it was specifically requested by
25 him. It's just our standard practice that whenever

1 we have a comparison, we'll do a report. And I
2 generally write it to whoever the case is assigned
3 to.

4 Q Okay. Now, you just testified that the results of
5 your test -- and you correct me if I'm wrong -- are
6 inconclusive as to Capnerhurst, Tammy Parker, and
7 Brett Parker on your sample L-2.1, is that correct?

8 A That's correct.

9 Q And do you agree with Sergeant Richards that based
10 on that, you can't eliminate Bryan Capnerhurst as
11 touching that box, can you?

12 A No, that's correct.

13 Q Right. You cannot -- you cannot eliminate him?

14 A Yes, that is exactly right. I'm agreeing with you.

15 Q All right. All right. And are you aware that
16 Brett Parker told the police, Yes, I gave him this
17 gun and this box of shells? Are you aware of that?

18 A Yes.

19 Q Okay. How do you know that?

20 A Discussion of the case.

21 Q With who?

22 A Within the crime scene unit.

23 Q Okay. Did y'all have a discussion in the case that
24 a gentleman from North Carolina named James Morgan
25 had called the investigators down there on the 13th

1 of April, 2012, and told them a number of things
2 about this case?

3 A I have never heard of that person.

4 Q Okay. Have you heard that they got a call from
5 somebody while they were out there that day?

6 A No, sir.

7 Q Okay. All right. Have you thought of how many
8 people have actually touched that box of
9 ammunition?

10 A No. I mean, I haven't given any specific thought
11 to it, no.

12 Q Let's think about it a little bit. The person who
13 sold it, right?

14 A Right.

15 Q The person who bought it we know, right? At least
16 we have got two right there. Based on what we know
17 about this case, there had to be at least maybe
18 three or four other people, right?

19 A Probably.

20 Q Well, you didn't see any other fingerprints on
21 there or find any other fingerprints on that box?

22 A Well, I didn't process the item for fingerprints.

23 Q I know. It was done by Richards?

24 A Sergeant Richards turned them in and then I got
25 them from evidence, yes.

- 1 Q That's right. And when you finished this -- this
2 was given to you. This was probably given to you
3 before the report was completed on the 20th, right?
- 4 A The items of evidence?
- 5 Q Yes.
- 6 A Oh, yes, sir.
- 7 Q It was a box of shells, wasn't it?
- 8 A No, sir. I got the two fingerprint cards. I've
9 never seen the item of evidence that you are
10 referring to.
- 11 Q Oh, okay. Well, do you know whether or not they
12 sent the box of shells over to see this scientist
13 we just -- did you see this gentleman testify
14 before you?
- 15 A Yes, sir.
- 16 Q Did y'all send that box over there so they could do
17 a DNA sample?
- 18 A I have never had custody of the item -- any items
19 other than the fingerprint evidence.
- 20 Q Okay. Do you have your report with you?
- 21 A Yes, sir.
- 22 Q What is the date of your report?
- 23 A April 20th.
- 24 Q Okay. What was the incident date?
- 25 A It was April the 13th.

1 Q Now, this is a typed report that's dated on the
2 20th. You probably -- do you think maybe you were
3 finished maybe a couple of days before or a day
4 before or something?

5 A Actually, if you look at my bench notes, you'll see
6 that I began the comparison on April the 17th, and
7 I ultimately concluded it on April the 18th.

8 Q How did you come to type this report? Where did
9 you get the information to type the report from?

10 A Specifically?

11 Q Yes, the stuff you filled in up there, like who it
12 is, who it came from, and all that stuff.

13 A I get all of the information off of the items of
14 evidence. I'm sorry, if you could specify what you
15 are referring to, I could answer that better.

16 Q Do you have your report in front of you?

17 A Yes, sir.

18 Q At the top left corner of the report it says, Major
19 Stan Smith, doesn't it?

20 A It does.

21 Q And the dated -- you dated it April 20th, 2012.
22 You dated it, right?

23 A That's correct.

24 Q The incident date was on the 13th?

25 A That's correct.

1 Q Okay. Now, down where it says report type,
2 initial, would you mind reading to the jury what is
3 on the left and right side of that exhibit?

4 A Victims are Bryan Capnerhurst and Tammy Parker; and
5 the subject is Brett Parker.

6 Q And you know because of your many years in law
7 enforcement that when they say subject, they mean
8 suspect, don't they?

9 A That is not necessarily true. Usually the subject
10 is whoever we're comparing to. Like, for example,
11 if we were to get a hit off of a law enforcement
12 officer, they would be listed as a subject as well,
13 but not necessarily a suspect.

14 Q Ma'am, you have Bryan Capnerhurst listed as a
15 victim in this case, don't you?

16 A I do.

17 Q And you have Tammy Parker as a victim?

18 A Yes.

19 Q And then you've got Brett Parker as the subject,
20 don't you?

21 A Yes.

22 Q And they didn't take that box over to the DNA lab
23 to have it tested?

24 A Sir, I have never had anything to do with anything
25 other than the fingerprint cards, the known

1 fingerprint cards, and the latent print cards. I
2 have no idea what else happened to anything else.

3 Q Did you talk to Major Stan Smith, sitting right
4 here, when you got the results back on this, when
5 you came back with your results?

6 A I do not recall.

7 Q Do you know whether or not he told you to give
8 him -- give you a rush back on it?

9 A No, I don't -- I don't recall him ever saying that
10 to me.

11 Q Okay. And the only fingerprint you got were two
12 off the side of the box, right? That is all you
13 got, right, what is on that report?

14 A That's right.

15 Q But there had to have been others. Wouldn't you
16 agree with that?

17 A I didn't work the crime scene.

18 Q Well, I'm just asking you just in your experience
19 in law enforcement, there had to be other
20 fingerprints on that box, didn't there?

21 A No, not necessarily.

22 Q Okay. But, again, you cannot exclude Bryan
23 Capnerhurst as being a person who touched that box
24 of ammunition, can you?

25 A No, sir.

1 MR. WHITLARK: That's all I have, Your Honor.

2 THE COURT: Redirect?

3 MS. CAMPBELL: Just a couple of questions,
4 Your Honor.

5 THE COURT: Yes, ma'am.

6 REDIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q You listed them as victims. Do you know who all
9 was shot and killed in this case?

10 A Yes, I knew that.

11 Q And are those the two listed as victims?

12 A Yes.

13 Q And then Brett Parker was listed as the subject?

14 A Yes.

15 Q He asked you specifically about eliminating Bryan
16 Capnerhurst from L-2.1, is that correct?

17 A That's right.

18 Q Were you able to eliminate Tammy Parker?

19 A Yes, ma'am.

20 Q It was inconclusive?

21 A Oh, that -- I'm sorry, yes. We were -- all three
22 of the subjects were inconclusive.

23 MR. WHITLARK: Your Honor, I object and ask
24 that that be stricken from the record, that last
25 exchange. She -- it was a leading question, and

1 she told her the answer to it. And I move to -- I
2 object to it on that grounds and move to have it
3 stricken from the record.

4 THE COURT: All right. The objection is
5 sustained. Please rephrase the question.

6 Ladies and gentlemen of the jury, please
7 disregard the last question and the last answer.

8 All right. Yes, ma'am.

9 BY MS. CAMPBELL:

10 Q Did the Defense counsel ask you questions about
11 Item L-2.1?

12 A He did.

13 Q And what were your conclusions?

14 A My conclusions were that -- well, I had the
15 conclusion it was inconclusive to Mr. Capnerhurst,
16 Ms. Parker, and Mr. Parker.

17 Q All three?

18 A Yes, ma'am.

19 Q Not just Mr. Capnerhurst?

20 A Yes, ma'am.

21 Q You simply don't have enough to make a conclusion?

22 A Yes, ma'am.

23 MS. CAMPBELL: Thank you, Your Honor.

24 THE COURT: Recross?

25 **RECROSS-EXAMINATION**

1 BY MR. WHITLARK:

2 Q Again, ma'am, you can't sit up here as an expert,
3 with the training, the background, and the
4 knowledge that you have, and say that Bryan
5 Capnerhurst didn't touch that box, can you?

6 A No, sir, I can't.

7 MR. WHITLARK: That's all I have, Your Honor.

8 THE COURT: All right. You may step down,
9 ma'am.

10 (Witness steps down.)

11 THE COURT: Any objection to this witness
12 being excused?

13 MS. CAMPBELL: Thank you, Your Honor.

14 MR. WHITLARK: No, none from the Defense, Your
15 Honor.

16 THE COURT: All right, ma'am, you are free to
17 leave.

18 THE WITNESS: Thank you.

19 (Witness excused.)

20 THE COURT: All right. Ladies and gentlemen
21 of the jury, this would be a good time to take a
22 lunch break. We will start back at 2:30. So it's
23 about an hour and 13 minutes, I think.

24 We'll start back at 2:30. I hope that you
25 have a great lunch.

1 Thank you.

2 Remember, keep those badges on while you're at
3 lunch.

4 Thank you.

5 THE BAILIFF: Remain seated until the jury
6 leaves, please.

7 (WHEREUPON, the jury is excused for
8 lunch at 1:17 p.m.)

9 THE COURT: All right, we'll start back at
10 2:30.

11 (WHEREUPON, a lunch break was taken.)

12 THE COURT: You can bring the jury.

13 (WHEREUPON, the jury came into open
14 court at 2:42 p.m.)

15 THE BAILIFF: The jury is seated, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury,
17 I hope you had a good lunch. At this time we will
18 continue with the State's case. I will ask
19 Ms. Campbell to call her next witness.

20 MS. CAMPBELL: Thank you, Your Honor. The
21 State calls John Roberts.

22 (Witness approaches.)

23 THE BAILIFF: Place your left hand on the
24 Bible, and raise your right hand, please.

25 (Witness complies.)

1 THE CLERK: Do you swear or affirm the
2 testimony you are about to give in this case will
3 be the truth, the whole truth, and nothing but the
4 truth, so help you God?

5 THE WITNESS: Yes, I do.

6 THE CLERK: Have a seat in the witness box.
7 (Witness complies.)

8 THE CLERK: State your full name for the
9 record, please.

10 THE WITNESS: My name is John Gray Dodd
11 Roberts, R-O-B-E-R-T-S.

12 JOHN G.D. ROBERTS,
13 after being duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q Agent Roberts, where are you employed?

17 A I work for the South Carolina Law Enforcement
18 Division, more commonly called SLED.

19 Q And what do you currently do there now?

20 A I'm an arson investigator.

21 Q And back in the spring and summer of last year,
22 where were you working at SLED?

23 A I was in the forensic services lab in the trace
24 evidence department.

25 Q And as part of the trace evidence department, what

1 do your duties include?

2 A My duties included the analysis of gunshot residue,
3 of arson fire debris. We do paint, fiber, glass,
4 explosives, bank dye packs, and duct tape.
5 Primarily what I did was gunshot residue.

6 Q Can you tell this jury a little bit about your
7 education and training in the field of trace
8 evidence?

9 A Yes, ma'am. I have a bachelor's of science degree
10 in chemistry from Texas A&M, Corpus Christi. When
11 I moved up here to South Carolina, I got my job at
12 SLED. I went through our in-house training program
13 in gunshot residue analysis first.

14 I studied under my lieutenant, who had been
15 doing gunshot residue for many years before me. I
16 helped him with his cases. I learned how to intake
17 evidence. I learned how to process evidence. I
18 learned how to set up the instrumentation that we
19 use to detect gunshot residue.

20 I learned how to pull data off those
21 instruments, and I learned how to generate
22 conclusions and reports based on the data that was
23 generated by that instrumentation.

24 Once I had done that for three or four or five
25 months, I was given an exam, a case to work on my

1 own, where I was questioned and tested by the other
2 analysts in the lab that had been previously
3 qualified in court as experts in gunshot residue.

4 Once I passed that test, I was given my own
5 cases to work. This was back in 2005 or 2006. So
6 basically from 2006 until late 2012, I did a lot of
7 gunshot residue, I did a little bit of arson work,
8 but mostly gunshot residue.

9 Q And have you been qualified before as an expert in
10 trace evidence, specifically as to the analysis of
11 gunshot residue?

12 A Yes, ma'am, I have.

13 Q And approximately how many times have you been
14 qualified in that area?

15 A Sixty-three times.

16 MS. CAMPBELL: Your Honor, at this time we
17 would offer him as an expert in trace evidence,
18 specifically as to gunshot residue.

19 MR. WHITLARK: Voir dire the witness, Your
20 Honor?

21 THE COURT: Yes, sir.

22 MR. WHITLARK: May it please the Court?

23 THE COURT: Yes, sir.

24 VOIR DIRE EXAMINATION

25 BY MR. WHITLARK:

- 1 Q I'm sorry, your name again?
- 2 A John Roberts.
- 3 Q What's your rank, Mr. Roberts?
- 4 A I'm a special agent.
- 5 Q Special agent. Okay. When did you stop doing
- 6 gunshot residue and move over to arson?
- 7 A November 2nd, 2012.
- 8 Q In 2012? Have you testified -- I believe you said
- 9 you have been qualified as an expert 63 times?
- 10 A Yes, sir.
- 11 Q Do you take routine courses and regular courses to
- 12 update your credentials? Do you have to take a
- 13 recertification or is there anything like that that
- 14 you are --
- 15 A As far as?
- 16 Q No, I'm just wondering. Do you get licensure on
- 17 this? Do you have any sort of -- every two years
- 18 you have to get recertified in it, or anything like
- 19 that?
- 20 A Recertified in what?
- 21 Q In gunshot residue.
- 22 A Every year in the trace evidence department, we
- 23 take proficiency tests in the analyses that we are
- 24 qualified to take.
- 25 Q Okay.

1 A I took mine back in 2012.

2 Q All right. And you're not doing that right now,
3 though?

4 A No, sir, I'm not.

5 Q Arson cases. You went to Texas A&M?

6 A Texas A&M, Corpus Christi. It's kind of like USC
7 Aiken, except it's Texas A&M.

8 Q Do you know who Richard Ernest is?

9 A No, sir, I do not.

10 Q Okay. Who did you study gunshot residue under
11 again?

12 A Joe Powell.

13 Q Oh, Joe Powell?

14 A Yes, sir.

15 MR. WHITLARK: I don't object to his
16 credentials, Your Honor.

17 THE COURT: All right, ladies and gentlemen of
18 the jury, Agent Roberts will be qualified in the
19 area of trace evidence, specifically as to gunshot
20 residue to give opinion testimony in that area.

21 Yes, ma'am.

22 MS. CAMPBELL: Thank you, Your Honor.

23 DIRECT EXAMINATION CONTINUES

24 BY MS. CAMPBELL:

25 Q Agent Roberts, first explain to the jury, when

1 you're looking for gunshot residue, what type of
2 testing y'all do at SLED.

3 A Okay. What we do at SLED is we analyze two
4 different types of sampling media for gunshot
5 residue.

6 Gunshot residue is the particles that come out
7 of the end of the barrel of the gun, the ejector
8 port if it's a semiautomatic, or the revolver gap
9 if it's a cylinder. And what we're looking for are
10 metals that are encased or contained in the primer.

11 Now, the primer, if you ever seen a bullet,
12 it's on the back end of the bullet, and it's the
13 little center, different-colored disk on the back
14 of a bullet.

15 That contains an explosive compound that
16 contains the metals that we look for in gunshot
17 residue.

18 Now, what we do is we give out gunshot residue
19 kits to any agency in the state who wants them.

20 And there are two different types of ways to
21 sample for gunshot residue.

22 The first is a particle lift. And the DNA
23 expert that was in here before lunch explained that
24 they are a silver disk with some sticky on them.
25 That is about what they are. They are an aluminum

1 disk with double-sided carbon sticky tape. And
2 they are applied like you would you bingo-dab
3 somebody's hands.

4 I would take the one that is labeled right
5 palm, and I would hold it in this hand. And it is
6 protected with a plastic cover. You peel the
7 plastic cover off and just dab it on the palm of
8 the hands. All right. Put the cover back on. Put
9 that one away.

10 And then I would take the one that is labeled
11 right back, and I'd go to the right back of the
12 hand. I would do it the same way. And then repeat
13 it two more times for the left palm and the left
14 back.

15 When I'm done with that, there are tubes and
16 cotton swabs also in the gunshot residue kit. The
17 tubes are just basic cotton swabs -- or the swabs
18 are just cotton swabs.

19 There is also a small vial with nitric acid.
20 And it is dilute nitric acid. You drip that on the
21 swabs and you apply them in the same areas that you
22 took the particle lifts from: Right palm, right
23 back, left palm, left back.

24 Then you just dribble a little nitric acid on
25 the swab and you rub it like that (indicating).

1 Those were also done. And Mr. Barron explained
2 what he did with the ones that were given to him.
3 What we do is completely different roles. That is
4 how we test for gunshot residue.

5 The instrumentation we use is a little
6 different. We use one set of instruments for the
7 swabs, and we use a second set of instruments for
8 the particle lifts.

9 In this case the only thing that I tested was
10 particle lifts. I did not test any swabs at all.
11 So my testimony is going to be just to what I
12 tested on the particle lifts.

13 Q And in this case you mentioned you just tested the
14 particle lifts. Is that pretty common?

15 A It is now. We're moving away from testing with
16 swabs. What we find when we test with swabs, if
17 there are metals that are from gunshot residue, we
18 find metals. We find lead and we find barium and
19 we find antimony. Those are the metals that are
20 present in that little explosive primer on the back
21 end of that bullet.

22 What we're doing now is we are just testing
23 particle lifts, because those are conclusive
24 results.

25 If I test a swab and it comes back with

1 X-amount of lead and X-amount of barium and
2 X-amount of antimony on it, my report would read:
3 Metals associated with gunshot residue were found.

4 If I test the corresponding particle lifts and
5 I found spherical, round particles that contain
6 lead, barium or antimony, then I can say gunshot
7 residue was found. And it's very conclusive as
8 opposed to the swabs.

9 Gunshot residue in a spherical,
10 three-component particle only comes from primer.
11 It doesn't come from anywhere else.

12 See, the difference between -- I found metals
13 associated with gunshot residue, and, I found
14 metals that were gunshot residue. That is the
15 difference. And that is what we're getting into
16 now in trace evidence is only testing the particle
17 lifts, which is what I did in this case.

18 Q Okay. And you were explaining to the jury
19 basically how gunshot residue can become positive on
20 a person's hands. In your experience of doing this
21 for the last six years or so --

22 A Yes, ma'am.

23 Q -- as far as the initial submissions in this case
24 of the gunshot residue kit -- and I want to show
25 you State's Exhibit Number 408. Do you recognize

1 that?

2 A Yes, ma'am. This is a manila envelope with my lab
3 number on it, labeled Container E.

4 What happens when evidence is submitted at
5 SLED is they take it downstairs and they put this
6 bright yellow label on it.

7 In this case, this was L-12 because it
8 happened in 2012. And it was case number 4,522.
9 See, it's just a container number. There is more
10 than one thing in here, so it's labeled as a
11 container, not as a specific item.

12 If I were to open this up, there should be
13 three gunshot residue kits in it. They will all
14 have labels on them that say L-12, 4,522, and the
15 different numbers that they were assigned when they
16 were submitted at SLED.

17 But each piece of evidence that comes in gets
18 this yellow label with its own specific case number
19 on it, and it stays with it throughout its
20 analysis.

21 It doesn't matter where it goes, whether it
22 goes to latent prints and then goes someplace else,
23 it keeps that same number so that we can track it
24 throughout the lab.

25 Q And in a homicide case, is it unusual for you to

1 receive gunshot residue kits from both the victim
2 and the shooter?

3 A No, ma'am, it is not.

4 Q And why is that, sir?

5 A We want to see who has gunshot residue on their
6 hands, whether they be victim or whether they be a
7 suspect or subject in the case.

8 Q There have been assertions in this case that the
9 only way you can get gunshot residue on your hands
10 is from shooting a gun. Is that true or not true?

11 A It is partially true. There are in general three
12 ways that you get gunshot residue on your hands.

13 You shoot a gun. That's simple. I go out and
14 I shoot at the range and you test me for gunshot
15 residue, and I'll probably come up positive.

16 One of the other ways that you can get it is
17 you pick up a gun that has been recently fired. If
18 I go out to the range and I shoot my wife's gun and
19 then I take it home and she picks it up because she
20 knows that I have gone and shot it and she is angry
21 with me because I went and shot a gun without
22 telling her, she is going to get gunshot residue on
23 her hands because I went and shot it first and I
24 didn't clean it.

25 The third way is to be near a gun when it goes

1 off. If I'm standing next to my wife and we're at
2 the shooting range, and she is just standing there,
3 she is not standing downrange from it, because that
4 is unsafe, she is standing next to me. If her
5 hands are in a position to get gunshot residue on
6 them, she will get gunshot residue on her hands.

7 In contrast to that, if I am shooting at
8 something, it is going to get gunshot residue on
9 it, because the majority of this material comes out
10 of the muzzle end of the barrel. Whatever you are
11 pointing at, that's where the most of it comes out,
12 and that's where it's going to go.

13 If I'm shooting at a 3D target, one of those
14 nice fancy ones that departments with a lot of
15 money have that look like a person and they put
16 clothes on it, and you shoot at it because you've
17 got to qualify eventually, there will be gunshot
18 residue on that target if it is within range of my
19 pistol, usually about eight to ten feet.

20 That is how you get gunshot residue on you in
21 general.

22 Q You mentioned gunshot residue. And I believe you
23 said the majority of it comes out of the end of the
24 barrel?

25 A Yes, ma'am, that's correct.

1 Q But there is also, when you're holding a gun, other
2 that comes out in and around the gun, is that
3 correct?

4 A Yes, ma'am, that's correct.

5 Q And can you kind of demonstrate or show the jury
6 generally when it comes out of the barrel how the
7 gunshot residue spreads out or comes out?

8 A Sure.

9 Q You can draw it right up there.

10 MS. CAMPBELL: Your Honor, may he stand?

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: Thank you.

13 BY MS. CAMPBELL:

14 Q Go ahead.

15 (Witness stands.)

16 A Now, I am an arson investigator, not an artist. So
17 you will have to forgive me.

18 (Pause.)

19 A Can y'all see that?

20 THE JURY: Yes.

21 A All right. You shoot a gun. In this case a really
22 ugly semi-automatic pistol. All right. Most
23 semi-automatic pistols have an ejector port on the
24 right-hand side, because most people are
25 right-handed, so it ejects away from their face.

1 The majority of gunshot residue, like I said,
2 is going to come out like this (indicating). It's
3 going to come out like a cone. If you put a really
4 orange DOT highway cone on the end of your pistol
5 and shot it, that is what it would look like. It
6 just comes out and it keeps spreading and spreading
7 and spreading till it stops.

8 It also comes out of this ejector port
9 (indicating), because that is an opening. We are
10 talking really high pressures here. This metal
11 gets pressurized and it gets formed into little
12 droplets, and it comes out of there (indicating).

13 It also comes out right here (indicating)
14 where the trigger goes into the mainframe of the
15 firearm. These two (indicating), not a lot. That
16 is why it's written like that. This (indicating),
17 a lot.

18 So if you're on the receiving end of the
19 firearm, you are going to get a lot of gunshot
20 residue on you. If you are on the receiving end of
21 the firearm and you're doing this (indicating), all
22 that gunshot residue is going to go on your hands.
23 A lot of it is going to go on your hands, more than
24 if you're sitting there just shooting it or even if
25 you're sitting there shooting two guns.

1 Q Okay. And you mentioned that that is a
2 semi-automatic you have drawn up there. Is it a
3 similar concept as far as the amount of gunshot
4 residue that comes out when firing a revolver?

5 A Similar. A revolver, cowboy guns, have a cylinder
6 that spins. There is a very tiny gap in between
7 that cylinder and the barrel right in here
8 (indicating).

9 I cannot draw a revolver. I can barely draw a
10 semi-automatic. But there is a very tiny gap that
11 let's loose gunshot residue when you shoot it. The
12 cylinder rotates when you shoot again, and it will
13 let out more out of that gap.

14 Q Thank you, sir. You can take the stand.
15 (Witness returns to witness stand.)

16 Q And I believe you mentioned that it goes out and
17 can go as far as eight to ten feet from the end of
18 the gun forward?

19 A Yes, ma'am, depending on the caliber.

20 Q And it rises. If a person is in the receiving end
21 of a -- say, a person who gets shot -- if they are
22 within that distance, is it unusual at all for a
23 victim, say, to have gunshot residue on their
24 hands?

25 A No, ma'am.

1 Q Such as Tammy Parker in this case?

2 A That's correct.

3 Q In this case when you received these three gunshot
4 residue kits, were they packaged properly for you
5 to do your testing?

6 A Yes, ma'am, they were.

7 Q And was there any evidence of any tampering or
8 altering to them, other than what was noted as far
9 as the particle lifts that you tested?

10 A The only other thing was that the gunshot residue
11 information sheets were stapled to the outside, but
12 the kits themselves were sealed and were fine.

13 Q And do you always look to make sure that there is
14 no evidence of any tampering prior to doing any
15 testing?

16 A Yes, ma'am, I do.

17 Q And in this case, taking first the -- let me back
18 up for a minute. As far as gunshot residue, once
19 it gets deposited, say, on a person's hands or
20 anywhere else it could be, is there a time period
21 in which the gunshot residue kit must be collected?

22 A On a living person there is.

23 Q On a living person?

24 A Yes, ma'am.

25 Q Versus a deceased person?

1 A Yes, ma'am.

2 Q Or another piece of evidence?

3 A An inanimate object, yes, ma'am.

4 Q Can you explain that to the jury?

5 A What we have found is that within six hours of a
6 shooting incident, the majority of these metals
7 will disappear to the point where we cannot
8 associate them with gunshot residue.

9 You may still have lead or barium or antimony
10 on your hands; however, you will not have it in
11 quantities that may be associated with gunfire.

12 And that is on a living person. And that is
13 because your body absorbs this material.

14 It's the same as anything that gets on your
15 skin that is in really small size, your body sucks
16 it in.

17 On a deceased person, however, they are not
18 breathing. Their body is not working. So the
19 material stays on whatever area that it was
20 deposited on until it is physically removed.

21 Q And even if a person, say, gets gunshot residue
22 having shot a gun or been near a gun as it was
23 fired, is there a way that you can remove that
24 evidence, other than just the passage of time?

25 A Yes, ma'am.

1 Q And how is that, sir?

2 A You can wash it off. You can wipe it off. You can
3 rub your hands on your pants and transfer it from
4 your hands to your pants. You can go shooting at
5 the shooting range, jump in your car, handle the
6 steering wheel, the shift lever, door handles,
7 whatever, and you transfer it off your hands and
8 onto whatever you have touched.

9 It's a lot like flour that you bake and you
10 get flour on your hands, and if you're like me, it
11 gets everywhere else, but you get it on your hands
12 and then you put your hands under running water and
13 it goes away fast.

14 Gunshot residue is a lot like that. It goes
15 away fast under running water or simply by touching
16 things.

17 Q And in this case two of the kits that you received,
18 one from Bryan Capnerhurst and one from Tammy
19 Parker, were collected at autopsy the next day. Is
20 that proper protocol?

21 A It is, depending on what agency does it. We
22 certainly don't have an issue with them collecting
23 them at protocol [sic] on a deceased person.

24 Q At the autopsy?

25 A At autopsy. I'm sorry.

1 Q And that is done, depending on the agency, on a
2 pretty normal basis?

3 A Yes, ma'am.

4 Q Also, when talking about these particle lifts
5 before you get into the results, they are taken
6 from different parts of the hand. Why is that?

7 A It is -- they are done on different parts of the
8 hand to tell what was exposed to any kind of gun
9 primer.

10 In general, if you have gunshot residue on the
11 back of your hands but not the palm of your hands,
12 in general that could be consistent with firing a
13 weapon, because the backs of your hands are exposed
14 to the gunfire.

15 If you have a lot of this material on the
16 palms of your hands and not very much on the backs
17 of your hands and you are deceased, then perhaps
18 you were downrange of the gun with your hands up in
19 the air. And the palms of your hands tell the
20 story that your hands were exposed to that gunshot
21 residue.

22 Q So the way in which a person's hand may be held
23 could be significant as to how much would get on
24 the hand or --

25 MR. WHITLARK: Your Honor, object to leading

1 the witness, Your Honor.

2 THE COURT: Sustained. Please rephrase.

3 BY MS. CAMPBELL:

4 Q What would be significant about how the hand was
5 held on the receiving end?

6 A Depending on how your hands are held when the
7 gunfire is directed towards you, you may get more,
8 you may get less, or you may get none.

9 If I'm standing there and somebody shoots at
10 me and I have my hands in my pocket, I'm not going
11 to get gunshot residue on my hands. I will get it
12 on whatever was exposed to the gunfire.

13 Q And if there is -- or could there be ever in your
14 opinion anything that could block it getting on the
15 hands?

16 A Yes, ma'am.

17 Q Depending?

18 A Depending on the position of the person and the
19 position of your hands. If they're hiding behind a
20 wall, chances are they are not going to get gunshot
21 residue on their hands.

22 Q And in your testing, do you also quantify the
23 amounts that you find on the hands on the gunshot
24 residue kits?

25 A We do.

1 Q And, again, where does the majority of gunshot
2 residue come out of?

3 A Out of the end of the barrel.

4 Q The end of the barrel?

5 A The muzzle end.

6 Q I want to first turn your attention to Tammy
7 Parker. Did you receive a gunshot residue kit
8 involved with her?

9 A Yes, ma'am, I did.

10 Q And what were the results of the gunshot residue
11 kit of Tammy Parker?

12 A On the right palm -- and remember there are four
13 areas. There are the right palm, the right back of
14 the hand, the left palm, and the left back of the
15 hand. On the right palm, I found gunshot residue.
16 That means that I found spherical or round
17 particles that contained the three elements that I
18 look for all in one. And I found several. So
19 gunshot residue was found on the right palm.

20 On the right back, I found round lead
21 particles. Round lead particles are a component of
22 gunshot residue. There are other places. There
23 are other producers of round lead particles than
24 gunshot residue -- or than gun primer.

25 So I cannot say that round lead is gunshot

1 residue. I can say that it's a component of
2 gunshot residue.

3 On the left palm, I also found round lead
4 particles.

5 And on the left back of the hand I found
6 gunshot residue.

7 Q Gunshot residue on the back of the hands?

8 A Yes, ma'am.

9 Q And that was on the left hand?

10 A The left hand, yes, ma'am.

11 Q In totaling up and looking at your findings as a
12 whole, would your findings be consistent with Tammy
13 Parker having been shot multiple times?

14 A If you will give me a chance to look at the
15 numbers.

16 Q Sure.

17 (Pause.)

18 A They could be consistent with that. I found
19 several of each of the different particles on the
20 palms and the backs of her hands. Given that she
21 is deceased, it is consistent with her either being
22 on the receiving end or at least being near a
23 firearm when it goes off.

24 Q I want to turn your attention to the gunshot
25 residue kit -- and am just taking these in the

1 order you list them.

2 A Yes, ma'am.

3 Q On Brett Parker, what were your findings there, sir?

4 A On the results from Brett Davis Parker, on the
5 right palm, I found gunshot residue. On the right
6 back, I found round lead particles. On the left
7 palm, I found gunshot residue. And on the left
8 back, I found gunshot residue.

9 Q And were those findings consistent with Brett
10 Parker having fired a gun?

11 A They could be, yes, ma'am.

12 Q And when you're looking at these and the quantities
13 and everything associated, depending on the
14 circumstances, can you tell how many times he would
15 have shot that gun?

16 A No, ma'am.

17 Q Is that possible?

18 A No, ma'am, not to my knowledge it's not.

19 Q But those findings were consistent with him having
20 fired a gun?

21 A They could be, yes, ma'am.

22 Q The final item that you analyzed was the gunshot
23 residue kit from Bryan Capnerhurst?

24 A Yes, ma'am.

25 Q And what were your findings there, sir?

1 A On all four areas -- the right palm, the right
2 back, left palm and left back -- I found gunshot
3 residue.

4 Q And were those findings consistent with him having
5 been on the receiving end of multiple gunshot
6 wounds?

7 MR. WHITLARK: Objection, Your Honor.

8 THE COURT: Sustained. Please rephrase the
9 question.

10 MS. CAMPBELL: Can we approach, Your Honor?

11 THE COURT: Yes, ma'am.

12 (WHEREUPON, a bench conference was held
13 in the presence of the jury but out of
14 the hearing of the jury.)

15 BY MS. CAMPBELL:

16 Q Let me back up. Were you aware that he had been
17 shot multiple times as well?

18 A Yes, ma'am, I believe I was.

19 Q And what were your findings consistent with?

20 A With him being near a gun when it goes off at the
21 very least.

22 Q In fact, I believe -- how would you characterize
23 the quantities you found on his hands?

24 A I believe I said a lot. A lot.

25 Q And what would that be most consistent with of the

1 three ways you can get it on your hands?

2 A Being on the receiving end of the firearm or the
3 muzzle end of the firearm.

4 Q In this case did you also receive additional
5 evidence as far as a gunshot residue kit that was
6 collected from several sets of blinds?

7 A I did.

8 Q I'm going to show you what has been marked as
9 State's Exhibit Number 433. Do you recognize that,
10 sir?

11 A Yes, ma'am, I do.

12 Q And is that the additional evidence you received in
13 this case?

14 A Yes, ma'am, it is.

15 Q And what, if any, requests were made as far as
16 processing that evidence?

17 A I was asked to check the particle lifts contained
18 in that package for gunshot residue. In this case,
19 and in this particular piece of evidence, they were
20 not from a person and they were not from a vehicle
21 and they were not from somebody's clothing. They
22 were from structures on the interior of the house.
23 And if I can -- I mean, I can tell you exactly
24 where they were from. I had --

25 Q That would be good.

1 A I had a particle lift that was labeled Top Slide
2 Handle, Number 1.

3 I had a particle lift labeled Side Slide
4 Handle, Number 2.

5 I had a particle lift labeled INT, I would
6 assume for Interior Door Handle, Number 3.

7 I had a particle lift labeled Blind String
8 Handle, Number 4.

9 I had a particle lift labeled blind string
10 handle, Number 5.

11 And I had a particle lift labeled -- excuse
12 me -- INT for Interior Blinds, Number 6.

13 So in total six particle lifts from the
14 interior of a house.

15 Q And were you able to do an analysis on those items?

16 A I was.

17 Q Taking the first three, what were your results?

18 A The first particle lift that I analyzed was Top
19 Slide Handle, Number 1, and the results were
20 inconclusive.

21 Q And when you say inconclusive, what does that mean?
22 What did you find?

23 A In this case --

24 Q Uh-huh.

25 A -- let me just take a moment.

- 1 (Pause.)
- 2 A In this case what I found on that particle lift was
- 3 one round lead particle. I cannot make a
- 4 conclusion with just one particle. I have to have
- 5 supportive particles or more of the same particle
- 6 to make a call.
- 7 So in this case I found one round lead
- 8 particle, which goes out as inconclusive.
- 9 Q And the round lead particle that you found, what is
- 10 the primary source of that particle, in your
- 11 experience?
- 12 A What I have seen is from gunfire.
- 13 Q From what?
- 14 A Gunfire, gun primer.
- 15 Q With gunshot residue, and specifically round lead,
- 16 is it possible to transfer that from, say, one
- 17 place to another?
- 18 A With gunshot residue in general, yes, ma'am.
- 19 Q On the particle lift labeled Side Slide Handle,
- 20 Number 2, did you find anything?
- 21 A No, ma'am, I did not.
- 22 Q And on particle Interior Door Handle, Number 3, did
- 23 you find anything?
- 24 A No, ma'am, I did not.
- 25 Q Moving on to the next three, which are 4, 5, and 6,

1 the Blind String Handle, Number 4, what were your
2 results?

3 A The results for the Blind String Handle, Number 4,
4 was in inconclusive. Once again, I found one round
5 lead particle.

6 Q Then on Blind String Handle, Number 5?

7 A It was negative.

8 Q But then you go to Interior Blinds, Number 6?

9 A And I found one round lead particle, so
10 inconclusive.

11 Q In your experience, the lead particles that you
12 found in the three different places, what are those
13 consistent with?

14 A Gun primer.

15 Q And would you expect to find that in a part of the
16 house where there was not gunfire?

17 A No, ma'am.

18 Q Would it be consistent with some type of transfer?

19 A It could be.

20 Q Thank you, sir.

21 MS. CAMPBELL: I don't have anything further.

22 THE COURT: Please answer any questions
23 Mr. Whitlark may have.

24 THE WITNESS: Yes, ma'am.

25 MR. WHITLARK: May it please the Court?

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. WHITLARK:

4 Q Mr. Roberts, you can't state to a reasonable degree
5 of certainty about any of this stuff you have been
6 talking about, can you?

7 A I absolutely can state with positive certainty that
8 I found gunshot residue.

9 Q Oh, yeah, I know that. I was talking about
10 transfer. The transfer can come from any source if
11 something is moved. And I can get something on my
12 arm and transfer it, couldn't I? I could get it on
13 fingers and transfer it, right?

14 A Yes, sir, but you would have to transfer it from
15 something that had it on there to begin with.

16 Q Right. Right. That's what I'm saying.

17 Do you know anything about this window blind
18 test that she was talking about?

19 A I just know that I got particle lifts, and I was
20 asked to analyze them for gunshot residue.

21 Q They told you what the -- they told you what it was
22 for? Did you know what it was for?

23 A With this case it was -- I was just told to analyze
24 these for gunshot residue.

25 Q Okay. And, again, the official report, do you have

- 1 it with you?
- 2 A I do.
- 3 Q Is it all right if I take a look at it?
- 4 A Sure.
- 5 Q You have six results?
- 6 A Yes, sir.
- 7 Q Okay. And if you need this back. But on the first
- 8 one you said the results were inconclusive?
- 9 A That's correct.
- 10 Q The second one, no gunshot, nothing, no gunshot
- 11 residue found?
- 12 A Yes, sir.
- 13 Q I mean, do you need to look? It sounds like -- I
- 14 think you have got a good memory.
- 15 A I have got a copy right here.
- 16 Q Okay. On the Item 14, the other one, they were
- 17 inconclusive. Then the blind string handle was --
- 18 where did you get that phrase from?
- 19 A Those were how the particle lifts were labeled.
- 20 Q Is that how it was labeled?
- 21 A Yes, sir.
- 22 Q Okay. And no gunshot residue was found?
- 23 A On Number 5?
- 24 Q Yes.
- 25 A Yes, sir, that's correct.

1 Q Then I guess on Number 6, the results were
2 inconclusive?

3 A That's correct.

4 Q And that is what I meant by -- I mean, I know that
5 lead, the round particles you're talking about?

6 A Yes, sir.

7 Q Because there are other sources for them though,
8 are there not?

9 A Yes, there are.

10 Q Okay. And what we're talking about here, I mean,
11 is this stuff big enough to see with the naked eye,
12 the human eye?

13 A No, sir, it's not. It's not even big enough to see
14 with like a regular light microscope you find in a
15 high school. You can't even see it with that.
16 This is -- we use an electron microscope to look at
17 these.

18 Q Right. Okay. And you had mentioned before, do
19 y'all have -- the electron microscope was used on
20 this, right?

21 A That's correct, on all the samples that I got.

22 Q And you know how to do that, right?

23 A I do.

24 Q Okay. Have you ever looked at anything else, other
25 than that? Other than that type stuff?

1 A There are a lot of things that I wished I could
2 have looked at on the electron microscope; however,
3 I was so busy with not only this case, but every
4 other gunfire resulting case in South Carolina.

5 Q I gotcha. Now, y'all take great pains in your
6 laboratory to make sure about cross-contamination,
7 about the stuff we are talking about, right?

8 A Yes, sir.

9 Q But that doesn't happen?

10 A Yes, sir.

11 Q Okay. And all you know is what you get, what you
12 are given, right?

13 A Pretty much, yes, sir.

14 Q Yeah. I mean, and you pick it up. I mean, you
15 don't actually go out in the parking lot and get
16 this from people?

17 A No, sir. They bring it in and it is checked in
18 according to our log-in protocol. And then I get
19 it and do what I need to do with it.

20 Q Okay. And so anything you got -- you know this
21 originated with the Richland County Sheriff's
22 Department, right?

23 A Yes, sir.

24 Q Okay. Now, you're an investigator, though. You
25 are a crime scene investigator also, are you not?

1 A I am transitioning into being a fire scene
2 examiner, yes, sir.

3 Q And, I mean, obviously you know that, you know, you
4 want to keep the place pristine when you first look
5 at it, right? I mean, if you can, ideally?

6 A Yes, sir.

7 Q But that doesn't happen a lot of the time?

8 A In an ideal world, it would be pristine when the
9 investigators got to it.

10 Q That's right. That's right. Now, if you have a
11 scene, let's say you had a two-story house, and in
12 that house two people were killed, and you had six
13 or seven officers that were coming in and looking
14 around, and they were sweeping. Do you know what
15 sweeping a house is?

16 A Yes, sir, I do.

17 Q When you first go in? Now, they're going back and
18 forth and they're going room to room like that.

19 Now, there is a possibility of transfer
20 occurring there with the kind of stuff we are
21 talking about, isn't there?

22 A If they had touched the blinds, there is a
23 possibility.

24 Q Okay. Now, you know no other blinds were tested in
25 the house? Do you know that?

- 1 A I would assume so since I didn't get any.
- 2 Q Okay. And there's a number of them in that house.
- 3 You would imagine that with a two-story house.
- 4 A I would imagine.
- 5 Q Have you seen this house? Have you seen the
- 6 pictures?
- 7 A No, sir, I haven't.
- 8 Q Okay. I know you're a busy man. You said you had
- 9 4,000-and-something cases?
- 10 A It seems like it.
- 11 Q Now, you had mentioned that you can get gunpowder
- 12 on you, either in a defensive move or if you're
- 13 using a gun, right?
- 14 A That's correct.
- 15 Q Now, Bryan Capnerhurst, the findings you have are
- 16 also consistent with firing a weapon, are they not?
- 17 A They could be.
- 18 Q Okay. And, again, the particles that are on there
- 19 on a living person, tell us again why within six
- 20 hours on a living person, tell us why you need to
- 21 get to it before six hours or so passes?
- 22 A What we found is that after six hours, they are not
- 23 there in quantity -- and this is more speaking to
- 24 swabs than particle lifts.
- 25 Q Yes.

1 A With particle lifts I would not expect to see any,
2 if at all, on somebody's hands after six hours.
3 Specifically with swabs, they would not be there in
4 an amount. Metals wouldn't be there in an amount
5 that I would associate with gunfire or gun primer.

6 Q Tell us why. Can you explain a little more about
7 that?

8 A Sure.

9 Q Why is that?

10 A The body absorbs this material as long as you're
11 breathing.

12 Q Okay.

13 A We have -- and I have done it. I have gone
14 downstairs to our range and taken the smallest gun
15 we have, which is a .22 long rifle, .22 pistol, and
16 shot it, and then gone upstairs and not done
17 anything -- not done very much. I won't say
18 nothing. Not done very much. Typed on my computer
19 maybe, answered the phone maybe, just sat there. I
20 didn't -- I didn't run out and touch stuff. I
21 didn't work evidence. I didn't handle my
22 instrumentation. I tried not to handle any paper,
23 because we wanted to see how long this stuff stayed
24 on your hands.

25 And after six hours there was not any on my

1 hands, just from sitting there not doing anything.
2 So my body absorbed the material. Your body
3 absorbs the material. It's just one of those
4 things that your body does.

5 Q Okay. And also you had mentioned something about
6 it can be -- it can be easily brushed off or washed
7 off also? Did you mention something about that?

8 A I did.

9 Q Tell us a little bit more about that.

10 A If you get gunshot residue on your hands and you
11 wipe it off or you wipe your hands with a towel,
12 that gunshot residue is going to be transferred off
13 your hands and onto the towel.

14 If you wipe your face, it will be transferred
15 off your hands and onto your face. If you put your
16 hands in your pockets, it will be transferred from
17 your hands to your pockets.

18 Q Okay. And, of course, if someone else was touching
19 your hands, they could transfer it, knock it off,
20 things of that nature? That could occur also?

21 A Yes, sir, that could occur.

22 Q Okay. Are you aware in this case that the gun was
23 removed from Bryan Capnerhurst's hand after the
24 officer got there?

25 A Just from being -- sitting in here during

1 testimony.

2 Q You didn't know that before?

3 A I did not.

4 Q And, again, you want to get a pristine scene if you
5 can, ideally, but that didn't happen in this case,
6 did it?

7 A I wasn't there and all I've heard is what I have
8 heard while I was sitting here.

9 Q Okay. Well, certainly having a gun removed before
10 the CSI gets there, it wouldn't be an ideal
11 situation, would it?

12 A You know, I don't know. That's -- when I get to a
13 scene, it's burned up. If I find a gun, something
14 horribly bad has gone wrong.

15 Q Okay. But, again, sir, you wouldn't feel
16 comfortable with a -- you wouldn't feel
17 comfortable, would you, let's say -- for example, I
18 will give you a hypothetical.

19 If you had a situation like the one you're
20 investigating with the blinds, okay, and they're
21 asking you to come in, if 40 days have passed, that
22 would make you feel less comfortable about things,
23 wouldn't it, sir?

24 Let's say this house was open and people were
25 coming in and out, moving around and, of course,

1 cleaning, and things of that nature, if 40 days
2 have passed, you would feel less comfortable with
3 that than you would if you had gotten there that
4 day, the day it happened?

5 A I've taken particle lifts or I have analyzed
6 particle lifts from vehicles that were taken weeks
7 later. And a vehicle, in my opinion, is a much
8 more mobile crime scene than a house is.

9 Q Okay.

10 A And I have found stuff, or gunshot residue in the
11 vehicles.

12 Q Sure. Sure.

13 A So.

14 Q And there was a lot of -- let's say that -- let me
15 give you another hypothetical. Let's say that
16 there were 11 shots fired, okay?

17 A Yes, sir.

18 Q In an upstairs area. Two rooms where officers were
19 coming in and out of the rooms after it happened,
20 and things of that nature. Now, that's a lot of
21 gunpowder, right?

22 A Yes, sir.

23 Q And depending on the caliber of the gun, and so
24 forth. But that's a lot of gunpowder, isn't it?

25 A It is.

1 Q Okay. And actually there is clouds of it. It
2 comes out in kind of a cloud?

3 A It does.

4 Q And it gets disbursed in different places? You
5 would expect to find -- you could find it on the
6 ceiling potentially, could you not?

7 A In those rooms I would expect to find a lot of
8 gunshot residue.

9 Q Okay. And people going in and out of them. I
10 mean, they can pick it up on their shoes, right?

11 A They could.

12 Q And on their hands if they touch anything or brush
13 against anything, coming in doors, and so forth?

14 A That's correct.

15 Q Okay. All right. But, again -- and I know that
16 you weren't there for the lifts that were done in
17 this case, that was done by Richland County?

18 A Yes, sir.

19 Q Okay. And, again, your findings were either
20 inconclusive or negative, weren't they?

21 A On the?

22 Q Blinds.

23 A On the blinds, yes, sir. They were either
24 inconclusive or negative.

25 Q Okay. And your findings were also consistent with

1 Bryan Capnerhurst firing a handgun?

2 A They could be consistent with him firing a handgun.
3 They could also be consistent with him being
4 downrange of it.

5 Q Well, you know he was shot in this case, right?

6 A Yes, sir.

7 Q Okay. And Mr. Brett Parker says he shot his wife,
8 that he shot his wife. So what you found wouldn't
9 be inconsistent with those two things, would it?

10 A No, sir, it would not.

11 Q That's all I have. Thank you, Mr. Roberts.

12 A Yes, sir.

13 THE COURT: Yes, ma'am?

14 MS. CAMPBELL: A couple of questions.

15 REDIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q He asked you about the gunshot residue in those
18 rooms upstairs. How long can it actually just
19 float through the air?

20 A Not long. These particles actually do have a
21 little bit of mass to them. So they will fly
22 through the air for a little bit, eight to ten
23 feet, and then they'll fall to the ground.

24 Q Are you talking about seconds, minutes, hours?

25 A Minutes at most.

1 Q At most?

2 A Yes, ma'am.

3 Q And he asked you about the source of the round lead
4 particles that you found on the blinds in three
5 different places. In your experience, what is the
6 most common source?

7 A Gun primer.

8 Q From gunfire?

9 A Yes, ma'am, from gunfire.

10 Q And he asked you about your conclusions on the
11 blinds. Where all did you find round lead
12 particles?

13 A On the particle lift labeled Top Slide Handle,
14 Number 1; on Blind String Handle, Number 4; and on
15 Interior Blinds, Number 6.

16 Q And he also asked you about deputies running
17 through the house and getting it on their shoes.
18 To transfer it, it would have to -- something would
19 have to actually touch it that had the GSR on it?

20 A Yes, ma'am.

21 Q Thank you.

22 MS. CAMPBELL: I don't have anything further.

23 MR. WHITLARK: Briefly, Your Honor.

24 THE COURT: Yes, sir.

25 **RECROSS-EXAMINATION**

1 BY MR. WHITLARK:

2 Q And, again, being an expert and being an
3 investigator with over 40 days passing and with no
4 other samples from any other blinds in the house,
5 you really couldn't be sure about anything, could
6 you, about that?

7 A I could be sure that there was one round lead
8 particle found on each of those samples.

9 Q Right. And, again, these are microscopic --

10 A Yes, sir, that's correct.

11 Q -- things we are talking about here?

12 A Yes, sir.

13 Q And, again, you're very comfortable with being --
14 the consistence of the results you found on Bryan
15 Capnerhurst, with him firing a handgun?

16 A Either firing it or being on the receiving end,
17 yes, sir.

18 Q Thank you, Mr. Roberts.

19 A Yes, sir.

20 THE COURT: All right, you may step down.

21 (Witness steps down.)

22 THE COURT: Any objection to this witness
23 being excused?

24 MS. CAMPBELL: Thank you, Your Honor.

25 (Witness excused.)

1 THE COURT: You can call your next witness.

2 MS. CAMPBELL: The State would call Gary
3 Watts.

4 (Witness approaches.)

5 THE BAILIFF: Place your left hand on the
6 Bible, and raise your right hand, please.

7 (Witness complies.)

8 THE CLERK: Do you swear or affirm the
9 testimony you are about to give in this case will
10 be the truth, the whole truth, and nothing but the
11 truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Have a seat in the witness box.

14 (Witness complies.)

15 THE CLERK: State your full name for the
16 record. And spell your last name, please.

17 THE WITNESS: Gary Watts, W-A-T-T-S.

18 GARY WATTS,
19 after being duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q Mr. Watts, where are you employed?

23 A Richland County Coroner's Office.

24 Q And are you the coroner for Richland County?

25 A I am the coroner.

1 Q And how long have you been the coroner for Richland
2 County?

3 A I was just elected to my fourth term last year. So
4 I've been serving now for almost 13 years.

5 Q As coroner for Richland County, what do your duties
6 include?

7 A Our office oversees the cause and manner of death
8 and makes determinations in cause and manner of
9 death in certain cases.

10 Our office handles traumatic death, accidental
11 deaths, certain deaths that occur outside of a
12 hospital, certain deaths that occur in a hospital.

13 And we, through investigation, either through
14 our office or through other agencies, make a
15 determination as to what the cause of death was and
16 what the manner of death was in those particular
17 agencies.

18 Q In the scope of your duties, do you also work kind
19 of with law enforcement in certain cases?

20 A Yes. Certain cases less than others. For
21 instance, in a case like this, our office has a
22 limited amount that we do because other agencies
23 are so heavily involved in it.

24 We probably spend more time on cases where
25 someone just wakes up in the morning dead with no

1 apparent cause. We don't spend a lot of time on
2 that because if there is no obvious signs of
3 injury, or anything like that, law enforcement is
4 generally not involved in it until we do our
5 investigation.

6 Now, if we find something suspicious during
7 that investigation, whether someone has been
8 poisoned or something like that, then we will bring
9 in the appropriate agencies.

10 But in a case like this, most of the
11 investigative work is done by the appropriate
12 agency. Our office coordinates certain parts of
13 that investigation as it relates to autopsy,
14 certain testing, toxicology testing, and things
15 like that.

16 Q And do you also sometimes participate in
17 notification when there has been a homicide?

18 A We do all the notifications for deaths that we
19 handle.

20 Q I want to turn your attention back to April the
21 13th of last year. Did you respond out to Tackeria
22 Court?

23 A I did.

24 Q And who all from your office was out there that
25 day?

1 A I actually received a call from Investigator
2 Powell, who is one of our deputies, and she had
3 received a call for a double shooting on Tackeria
4 Court.

5 She contacted me. I actually was probably
6 less than 15 minutes away from the scene. So I
7 responded over to the scene at that point in time.
8 No one from my office was there at the time when I
9 got there.

10 Q And when you first got there, had the crime scene
11 unit, had they actually made it there yet?

12 A No.

13 Q And when you got to the scene, tell the jury what
14 you observed.

15 A When I first arrived on the scene, there were quite
16 a few deputies outside of the residence. I went to
17 Major Stan Smith, who at the time was at the top of
18 the driveway at this residence, speaking to an
19 individual that I later learned was Brett Parker.
20 And I spoke to both Major Smith and Mr. Parker at
21 that time on the scene initially.

22 Q What was Mr. Parker's demeanor like when you got
23 there that day?

24 A He was drinking either -- some type of Gatorade,
25 water, or something. He was spitting, spitting a

1 lot. He had almost a gag reflex, like he was
2 (making sound). He didn't throw up. It was just
3 sort of a reflex action. And that was really
4 about -- as far as we knew, that was it.

5 Q And when you got there, are you aware of whether or
6 not investigators had already done their initial
7 interview with Mr. Parker?

8 A I think that he had given a story to the major, and
9 I'm not sure of any other investigators that he had
10 spoken to.

11 Q While you were there in proximity with the
12 Defendant in the driveway area, or wherever it was,
13 did you hear him say anything?

14 A A couple of different times different things were
15 said. Initially, when I first arrived and went to
16 the top of the driveway and he was drinking his
17 water and stuff, he was upset and said that he had
18 killed his best friend.

19 And then a short time later, maybe 30 minutes
20 later, I think, his father arrived on the scene. I
21 had gone out and spoken to his father. And we were
22 coordinating trying to locate next-of-kin for
23 Mr. Capnerhurst, for Tammy's family also, her
24 mother, and also trying to make arrangements for
25 the children.

1 They had two small children that were in
2 school. So we wanted to make sure that we could
3 have someone go pick them up, because I think they
4 normally rode the bus home. We certainly didn't
5 want them riding the bus back into the
6 neighborhood.

7 So as we were talking at sort of the end -- if
8 you have seen a diagram of how this house was, it
9 was on like a circular court or something, and
10 basically all the traffic had been stopped at the
11 top at the stop sign.

12 There were deputies' cars and stuff down near
13 the house, but all the traffic that would normally
14 flow in the neighborhood had been shut off at the
15 stop sign.

16 There were several cars along the side that
17 were parked. Mr. Parker, Brett's father, had been
18 stopped up there. We were talking to him a little
19 bit.

20 We found out that he actually had a heart
21 condition, and he was obviously very upset. I
22 actually called for an EMS crew to come back out to
23 the scene to monitor Mr. Parker.

24 Q And that would be Mr. Jack Parker?

25 A Yes. The Defendant's father, yes.

1 Q Okay.

2 A I spoke to him for a few minutes, and then, as I
3 said, we were trying to coordinate all these things
4 between victim advocates and family members and
5 where the kids were and had gone back up to where
6 Mr. Brett Parker was standing at that time.

7 And he said, What does my father think
8 happened?

9 And then shortly thereafter, I believe he left
10 with the major and went to headquarters or
11 somewhere to give a statement.

12 I then went back up to the top of the hill,
13 talking with Mr. Parker and there were other
14 friends of the family and stuff that showed up.
15 About that time Ms. Parker, Brett's mother, showed
16 up.

17 Q Uh-huh.

18 A And she was obviously very upset. I'm not sure who
19 called her originally to come to the scene.

20 When she arrived on the scene, Mr. Jack Parker
21 said, Tammy's dead.

22 And Ms. Parker, Brett's mother, said, Did
23 Brett kill Tammy?

24 And that was pretty much the only
25 conversations that I heard between them.

1 Q The initial conversation you heard from Brett
2 Parker when he was there in the driveway, sometime
3 after you arrived, who did he say -- what did he
4 say?

5 A He said, I killed my best friend.

6 Q Did he ever mention his wife in your presence?

7 A No.

8 Q Did he ever -- what, if any, emotions did he
9 express about Capnerhurst?

10 A Well, that is who he was talking about. He said --
11 you know, he was upset and said, I killed my best
12 friend. That was -- I never saw him cry. I don't
13 know if he cried before I got there, but he didn't
14 cry in my presence there. Also, later on at the
15 house I saw him -- went back to his parents' house
16 later on.

17 Q Later that evening?

18 A Later that evening. And I saw him there. He
19 was -- I would describe him as sort of stoic.

20 Q That afternoon did you have an occasion to call in
21 a pathologist in this case?

22 A Yes.

23 Q And who is that?

24 A Dr. Bradley Marcus, who is the medical examiner for
25 our county.

1 Q And that evening was he escorted to the house?

2 A It was that afternoon.

3 Q That afternoon. I'm sorry.

4 A We actually -- Dr. Marcus and I -- both went in
5 with the crime scene unit shortly after the search
6 warrant got there and just did a quick
7 walk-through.

8 Q That day did your office -- Deputy Powell,
9 specifically Jane Powell -- participate and
10 actually help in getting the bodies removed from
11 the scene after being processed, and things of that
12 nature?

13 A I had left, but I'm assuming so, yes.

14 Q And then the investigation was basically turned
15 over, for the most part, to the Richland County
16 Sheriff's Department?

17 A As far as the scene investigation, and things like
18 that. Our office handled -- we normally handled
19 personal properties, and things like that. In a
20 case where there is a homicide, we turn those
21 properties over to the investigative agency in case
22 there is some tie-in, you know, if it is a robbery,
23 or something like that, and we find money on
24 somebody, or we might find a phone number in
25 somebody's wallet. But we turn all that over to

1 law enforcement.

2 So in this case, all the personal property
3 that was taken at the scene was given directly to
4 the Sheriff's Office for chain of custody.

5 Q And that day, between you and law enforcement, were
6 the relatives of the two deceased, Mr. Capnerhurst
7 and Ms. Parker, notified?

8 A Yes. I had the Lexington County Coroner's
9 Office -- I believe both of the families actually
10 lived in Lexington County. I'm not exactly sure
11 how Tammy's mother was notified. I can't remember
12 exactly how that happened, but I do know that one
13 of deputy coroners for Lexington County went to the
14 Capnerhurst house, finally found Ms. Capnerhurst,
15 and made notification to her.

16 Q At a later -- was that pretty much a summary of
17 what you did there at the scene there that day?

18 A Pretty much.

19 Q Later were you asked to contact a pastor at your
20 church?

21 A Well, there was a pastor from my church at the
22 Parkers' residence that night when we arrived. The
23 Parkers -- Brett Parker and Tammy -- attended
24 church at the same church that I go to.

25 And so there was a pastor already at Jack

1 Parker's house when I arrived, Wayne Cole. He is a
2 reverend. So -- is that the incident you are
3 referring to or?

4 Q And later at the request of law enforcement, did
5 you contact another pastor?

6 A Yes. Yes. I received a call a few days later
7 from, I believe, Major Smith. He asked me to
8 contact -- he just said the pastor of the church in
9 reference to a statement that Brett Parker had made
10 concerning that a pastor had recommended or told
11 him to get a particular handgun or gun for
12 protection.

13 I initially went to Reverend Cole because I
14 knew he had a relationship with him, and he stated
15 that it wasn't he that had said it. He thought it
16 might have been Dr. Carney.

17 I spoke with Dr. Carney; and he, in fact, said
18 that he had recommended or he had said that the
19 Judge was a weapon that he had recommended several
20 times before to people for home protection, self-
21 protection.

22 MS. CAMPBELL: Beg the Court's indulgence.

23 (Pause.)

24 MS. CAMPBELL: Thank you. Nothing further.

25 THE COURT: Yes, sir, Mr. Fedor.

1 MR. FEDOR: May it please the Court, Your
2 Honor?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. FEDOR:

6 Q Good afternoon.

7 A Good afternoon, sir.

8 Q And you said you were a member of the Riverland
9 Baptist Church, is that correct, sir?

10 A Riverland Hills Baptist Church, yes, sir.

11 Q And the pastor is Ed Carney?

12 A Ed Carney is a senior pastor, yes.

13 Q Now, you talked with him, did you not, Mr. Watts?

14 A I did.

15 Q And you told us that Brett Parker, his wife, and
16 his two children were members of your church?

17 A That's correct.

18 Q All right. And if I can quote your exact words:
19 Gary Watts confirmed that Senior Pastor Ed Carney,
20 that he had recommended to Brett that he get the
21 Judge pistol for home protection.

22 A Yes, sir.

23 Q The recommendation came in lieu of the burglary
24 that Brett had suffered the year prior, is that
25 correct?

1 A I'm not sure why the recommendation came. I was
2 not aware of that. I just remember asking him if,
3 in fact, he talked to Brett Parker about that
4 weapon; and he did confirm that.

5 Q You did come to learn, did you not, sir, that Brett
6 Parker and his family were robbed a year before?

7 A I don't know that I had the knowledge of that, sir.

8 Q You don't know that?

9 A No, sir.

10 Q Okay, fine. The pastor recommended the type pistol
11 that Brett had, a Judge, is that right?

12 A He advised me that not only had he recommended it
13 to Brett, but I think he also had said that he had
14 recommended it to his daughter and some other
15 people. Our pastor also teaches self-defense
16 classes for women.

17 So not only does he teach hand-to-hand combat
18 for women, which is a little usual for a Baptist
19 church, but it's a little wild church, I guess.
20 But he also talks about other things that made
21 mention of that type pistol.

22 And because that pistol fires a shotgun shell
23 also, which means there's multiple pellets that
24 come out of it, he felt like that was a good thing
25 to have inside a home for home protection.

1 Q That was to protect Brett and his family members,
2 was it not, sir?

3 A That is what I would assume, yes.

4 Q You arrived at the scene at what time?

5 A I would have to look at the log to see. I know
6 that I was there probably a good hour or so before
7 anybody ever went into the residence. I can look
8 at it.

9 Q That is in evidence. See if you can find where you
10 checked in.

11 (Pause.)

12 A It is listed here as --

13 Q Fifteen hundred hours?

14 A Yes, 3:04 p.m. is when myself and Dr. Marcus
15 entered the residence. I had been at the location
16 probably for a good hour before that. But that is
17 the actual crime scene log that I signed going into
18 the residence.

19 Q So you logged in at 3:00 o'clock, but you had been
20 there since 2:00 o'clock?

21 A No, sir. I logged in when I actually walked into
22 the crime scene, which was the residence.

23 Q Okay. That is 3:00 o'clock?

24 A At 3:04.

25 Q Okay.

1 A But prior to that, I was in the general vicinity of
2 the home, which was in the driveway and the street,
3 And that.

4 Q While we have this document, I call your attention
5 to one of your employees, Kathy Rawl.

6 A Okay.

7 Q What time did she check in?

8 A It's not listed.

9 Q It's not listed?

10 A Huh-uh.

11 Q When you come to a crime scene, it's always listed
12 what time you arrive, is it not?

13 A Well -- and I think what happened here, sir --

14 Q Uh-huh.

15 A -- was just as I stated. When I arrived at the
16 location, I was in the driveway, I was in the
17 street, but I was not actually in the crime scene
18 itself until 3:04.

19 Ms. Rawl had actually brought some equipment
20 out to some of the other deputies. I don't think
21 she ever went into the crime scene. I think she
22 just was at the driveway location, and they wrote
23 her name down. To my knowledge, she never went
24 into the house.

25 Q Can you explain why her name is crossed off there?

- 1 Was she not there or was she there?
- 2 A It's not crossed off.
- 3 Q It says, Coroner. Look at the cross mark there.
- 4 A Yes, her name is here listed.
- 5 Q Right.
- 6 A And it says reason coroner crossed off, but then
- 7 right here it also says, No entry.
- 8 Q Okay. Now, since you have the log in your hands,
- 9 tell me if Officer Robinson and Officer Lindler
- 10 appeared on that date.
- 11 A It looks as though -- I'm assuming that is
- 12 Robinson. I can't really tell for sure. It's some
- 13 time below my name, and then Sergeant Lindler is
- 14 also on there. Both of those are the same as with
- 15 my deputy, Kathy Rawl. It's crossed through and
- 16 then there is a note that says, Did not enter.
- 17 Q So it says neither of those officers ever entered
- 18 that scene, is that correct?
- 19 A What I am assuming from that is what I know from my
- 20 deputy, is that she never went into the actual
- 21 crime scene, the house. She was in the driveway.
- 22 And so I don't know. I can't answer for them.
- 23 Q Fine, sir. Now, there was a 9-millimeter Smith &
- 24 Wesson pistol found in Capnerhurst's left hand, is
- 25 that correct, sir?

1 A I don't know.

2 Q It wasn't in his hand when you got there, was it?

3 A No, sir.

4 Q Officer Odom testified that he took it out of his
5 hand, is that correct? Did you hear that
6 yesterday?

7 A I was not in here when he testified.

8 Q Assuming I tell you that is the truth under oath --

9 A I'd assume you're telling me the truth, yes, sir.

10 Q Is it your recollection, coming to any murder
11 scene, where the weapon is removed from one of the
12 potential shooters before you get there?

13 A I have seen that happen quite a lot.

14 Q And it is not the proper procedure, is it, sir?

15 A Well, I can't speak to the agency's procedure. I
16 have heard reasons for it, but that is not
17 something that we set policy on from my office for
18 them. So I really can't answer that for you.

19 Q All right. Fine. Let's turn to this next document
20 here. This is the Richland County Coroner's case
21 report.

22 It says, Describe weapon and its location.
23 And the report says, The weapon was found in the
24 decedent's hand. That is Capnerhurst?

25 A Okay.

1 Q You take your officer's word for that, do you not,
2 sir?

3 A I would take their word for it, yes, sir.

4 Q And when they took the residue from Capnerhurst's
5 hands, in his left palm -- and he is left handed --
6 gunshot residue was found. That's your report,
7 true?

8 A That's -- no, this is --

9 Q Whose report is that?

10 A This is a report from SLED.

11 Q Okay.

12 A It may be this -- part of this may have been in our
13 case file, but this, as it's indicated on the log,
14 this is actually from the gentleman that just
15 testified, John Roberts, and also at the bottom of
16 it is a SLED seal on it. It's theirs. It may have
17 been in our report jacket, but that is their
18 report.

19 Q But the end result is the same, was it not, sir?
20 Gunshot residue -- and a bunch of it -- was found
21 in Capnerhurst's left hand?

22 A That's what I heard Mr. Roberts say, but I have no
23 way of testifying to that.

24 Q You work with an outfit called Professional
25 Pathology Service, do you not, sir?

1 A The Professional Pathology Service has pathologists
2 on staff. Two of those, a Dr. Bradley Marcus and a
3 Dr. Amy Durso, who are employed through that
4 service, also serve as the Richland County Medical
5 Examiner and the Deputy Medical Examiner.

6 Q And they do autopsies for your office, do they not?

7 A Yes, they do.

8 Q And they did the autopsy in this case, did they
9 not?

10 A They did.

11 Q Sir, when you arrived at the scene, the body had
12 been moved, had it not?

13 A I don't believe so.

14 Q Did you see the body in the position it was when
15 law enforcement came?

16 A Now, which body?

17 Q Capnerhurst?

18 A Capnerhurst?

19 Q Yes.

20 A When I went into the scene --

21 Q Right.

22 A -- which was 3:00 o'clock, which is right after the
23 search warrant had gotten there, I walked in with
24 Dr. Marcus. We walked in behind one of the CSI
25 units. And I don't even know what which one it

1 was.

2 And we walked into the room where Ms. Parker
3 was. We both saw her. We didn't touch her. We
4 didn't do anything at that point.

5 We stepped out, and we actually -- they
6 pointed and said, The other one is in this hall
7 closet or attic space, or whatever, off this main
8 room.

9 We didn't walk into that room because it was a
10 very congested area and didn't want to disturb
11 anything at that time. So we did not even go into
12 there. So I can't tell you how he was.

13 Q Well, you trust the results of the pathology group
14 that you hired, do you not, sir?

15 A Yes, sir.

16 Q Let's do a little analysis here, if you don't mind,
17 Mr. Watts.

18 Do you know the testimony of this case says
19 that Capnerhurst's body was approximately ten feet
20 from the safe?

21 A Okay.

22 Q Take that as a given. Now, suppose you step down
23 here, if you would, Mr. Watts, right here.

24 (Witness steps down.)

25 Q Let's assume that you are Mr. Capnerhurst and I am

1 Mr. Parker, all right?

2 A Okay.

3 Q Now, did you have the opportunity to read Brett
4 Parker's statement?

5 A I believe I did at some point in time, yes, sir.

6 Q Follow me, if you would here, Mr. Watts.

7 Bryan was standing behind me in the closet. I
8 knelt down and grabbed my pistol. I turned as
9 quick as I could and I shot him.

10 Now, assuming you are Mr. Capnerhurst and I am
11 Brett Parker, I'm at the safe and I'm down on my
12 knees, and I grab my pistol and I shoot and I hit
13 you four times. Okay?

14 Go back and take your seat again, if you
15 would.

16 (Witness returns to witness stand.)

17 Q Now, this sir, is the pathologist's report, and I
18 tell you this is his words. And you can have a
19 seat, if you would, please.

20 MS. CAMPBELL: Objection, Your Honor, just to
21 the form of the question. I think it's beyond this
22 witness's control. And if he would like to cross
23 the pathologist on it, I think that would be
24 appropriate.

25 MR. FEDOR: Your Honor, this is

1 cross-examination of a man who was there who is the
2 Richland County Coroner. I think it's appropriate.

3 MS. CAMPBELL: He just testified he didn't go
4 in the room where the body was.

5 THE COURT: All right. What is the question,
6 again?

7 MR. FEDOR: I'm going to read from his
8 pathologist report that his outfit hires in regard
9 to their results.

10 THE COURT: I think you can ask him a question
11 about the results --

12 MR. FEDOR: I'm going to ask him --

13 THE COURT: You can ask the pathologist when
14 he is on the stand, but he can't answer questions
15 if he doesn't know.

16 MR. FEDOR: If doesn't know, I'm certain he
17 will tell us.

18 THE COURT: All right.

19 BY MR. FEDOR:

20 Q Now, Mr. Watts, each one of the bullets that was
21 fired by Brett Parker entered the body of
22 Capnerhurst --

23 MS. CAMPBELL: Objection, Your Honor, if he
24 would first ask if he has any knowledge.

25 BY MR. FEDOR:

1 Q -- in an upward manner --

2 THE COURT: You need to ask him first if he
3 has any knowledge of where the bullets entered.

4 BY MR. FEDOR:

5 Q Gary, this report was given to your office. Take
6 it if you will.

7 A Uh-huh.

8 Q I have underlined certain areas, and I call your
9 attention to where the tags are.

10 Is it not true, sir, that every --

11 MS. CAMPBELL: Objection, Your Honor. If he
12 can just ask him first if he has any knowledge.

13 THE COURT: Lay the proper foundation.
14 Objection sustained. You have to lay the proper
15 foundation as to the document that you are giving
16 him.

17 BY MR. FEDOR:

18 Q Do you depend upon your pathologists and the
19 reports given in the business, sir?

20 A As part of our investigation, yes, sir, we do.

21 Q And you have relied upon them for years, have you
22 not?

23 A As part of our investigation, we do, yes, sir.

24 Q And as a result they send you their reports, do
25 they not?

1 A Yes, sir.

2 Q And is this one of their reports that was given to
3 your office?

4 A It is.

5 Q Now, looking at that report, sir, all four bullets
6 were fired in an upward trajectory, were they not?
7 Look at the readings of your own man.

8 A I think he has listed upward trajectory on these,
9 yes.

10 Q Each and every bullet. Each and every trajectory
11 of a bullet was upward, like I was on my knees and
12 you were standing there, is that not right, sir?

13 A I think that is what he has here, yes, sir.

14 Q Now, having read Brett Parker's statement, what he
15 says, it completely matches what happened that day,
16 does it not, sir?

17 A I don't know that I can answer that. I don't know.

18 Q All right. Fine. If you can't, you can't. But we
19 do know the four bullets that entered Capnerhurst's
20 body were at an upward angle, were they not?

21 A That's what the report says.

22 Q Now, you heard -- or did you hear, Mr. Watts, the
23 9-1-1 report that Brett Parker called in to the
24 Richland County Sheriff's Department?

25 A I did not hear that.

1 Q You did not hear that. In your opinion, sir -- and
2 you saw him -- his life was pretty much messed up
3 when you got to the scene, wasn't he?

4 A I would say that it was a bad situation for anyone,
5 yes.

6 Q And he was taken to the Richland County Sheriff's
7 Office about an hour or so after this terrible,
8 horrible experience occurred when he had shot his
9 best friend, isn't that true?

10 A Yes, sir, and that is what I was having some issues
11 with.

12 Q The statement was made about 2:00 o'clock that day.
13 And don't you think it's logical, Mr. Watts, that a
14 man that sees his wife dead and has to shoot his
15 best friend would have been in a terrible mental
16 state?

17 A You're asking what I think, sir?

18 Q Yes, sir.

19 A I think what probably disturbed me the most about
20 that, Mr. Fedor, is his wife was dead. He said his
21 best friend had done it. I think at that point in
22 time he is no longer your best friend, sir.

23 Q I tend --

24 MS. CAMPBELL: Objection, Your Honor, if he
25 can finish.

1 THE COURT: Please let him finish.

2 A I could understand anger. I could understand him
3 being mad at Mr. Capnerhurst. I couldn't
4 understand him being concerned about shooting him
5 if, in fact, he had killed his wife. That's what
6 disturbed me.

7 Q Well, of course you're an absolutely fine coroner,
8 probably the best we've had in a long time, and
9 you're also a friend of mine.

10 A Yes, sir.

11 Q You are not a psychologist?

12 A No, sir.

13 Q You're not a psychiatrist?

14 A No, sir.

15 Q And neither one of us know how a person is going to
16 react that is faced with this situation, do we?

17 A Again, are you asking me what I think, sir? I
18 mean, I don't want to --

19 Q Well, you don't think you would be "un-upset," do
20 you?

21 MS. CAMPBELL: Objection, Your Honor. I
22 believe he asked him what he thought, and he has a
23 right to answer.

24 MR. FEDOR: May I conduct my cross-examination
25 without help?

1 THE COURT: What is the question that you're
2 asking? I believe he answered the first question.
3 What was the last question?

4 THE BAILIFF: Quiet, please.

5 THE COURT: What is the second question?

6 MR. FEDOR: I don't know now.

7 THE COURT: All right. Let's move on.

8 MR. FEDOR: Let me move on then.

9 THE COURT: Yes, sir. Thank you.

10 BY MR. FEDOR:

11 Q Gary, I believe your deputy told us that she
12 removed the cellphone from Capnerhurst's pocket.
13 Do you recall that, or were you here for that?

14 A I was not here for that.

15 Q So if I say that is what she testified?

16 A I will take your word for that, sir.

17 Q And she gave it to one of the officers?

18 A Okay.

19 Q Law enforcement.

20 A Okay.

21 Q Let's assume Mr. Capnerhurst died at 12:45 or
22 12:50, whatever.

23 Now, taking that assumption, can we truthfully
24 state he wouldn't have made any more calls on that
25 cellphone, would he?

1 A I think it would be a pretty easy assumption to
2 make that if someone was dead they would not be
3 using their cellphone.

4 Q That's what I'm referring to, sir.

5 A Yes, sir, I would agree with you.

6 Q And if he is dead and his cellphone is in the
7 officer's, Police Department, whoever had the gun
8 and the cellphone, if calls were made on that phone
9 after he was dead, that would certainly bring a big
10 question mark into tampering with evidence,
11 wouldn't it?

12 A I don't -- I'm not an evidence expert, sir. I
13 mean, you know, I don't want to get into something
14 that I don't think I can give you an honest answer
15 in. And I just don't know what would be the
16 situation there.

17 Q That's fair enough. Now, Capnerhurst's car, when
18 he was parked that day, as you understand it, and
19 I'm sure you know, was backed into the parking
20 area, was it not?

21 A The vehicle that I saw in the driveway that was
22 identified as Mr. Capnerhurst's was backed into the
23 driveway -- backed into -- back off of the driveway
24 into the wood line.

25 Q And the keys were still in the ignition, were they

1 not?

2 A I don't know that I ever looked inside the vehicle.

3 Q All right. Fine. Now, when you were doing your
4 reports and your evidence, and so forth, did you
5 find marijuana in the system of Capnerhurst?

6 A Do you have the report? I don't have the report in
7 front of me. Do you have the toxicology report?

8 Q Toxicology, I don't believe I do have. But the
9 question is -- well, let me rephrase the question.
10 You certainly would look for that in an autopsy,
11 would you not, sir?

12 A On all autopsies we do standard drug screens. And
13 so marijuana would be a part of that screen that we
14 would look for, along with alcohol, or anything
15 else.

16 Q The time of the death was reported at 12:40 that
17 day.

18 A Okay.

19 Q Okay. And if telephone calls were made at
20 2:00 o'clock on Capnerhurst's phone, something is
21 wrong, isn't it?

22 A I would say that that would be unusual for him to
23 have made a call at 2:00 o'clock, yes, sir, to go
24 back to that.

25 Q What do you know about a person in North Carolina,

1 if you know, named James Morgan? Have you ever
2 heard of the word?

3 A Not to my knowledge.

4 Q All right. He is listed on the witness list for
5 the Prosecution, and I just happen to be curious if
6 you know anything about him.

7 A I do not.

8 Q All right. Now, the arrest warrant in this case
9 was issued 97 days after the shooting. Is that an
10 extraordinarily long time for an in-house shooting?

11 A That is so far out of what we do, sir, I don't
12 really --

13 Q And the arrest warrant says, It is believed --

14 MS. CAMPBELL: Objection, Your Honor. I just
15 don't believe he is the proper witness for this.
16 He can ask him if he's familiar with it.

17 THE COURT: All right. He said he is not
18 sure.

19 MR. FEDOR: Okay.

20 THE COURT: What is the next question?

21 MR. FEDOR: The next question is about the
22 wording on a warrant that says, It is believed --

23 MS. CAMPBELL: Objection, Your Honor. Can we
24 approach?

25 MR. FEDOR: -- that Brett Parker did commit.

1 THE COURT: Let me see you all one second.
2 (WHEREUPON, a bench conference was held
3 in the presence of the jury but out of
4 the hearing of the jury.)

5 THE COURT: The objection is sustained.

6 MR. FEDOR: Your Honor, we do request that
7 this be listed, this arrest warrant, as Exhibit
8 Number 2 for the Defense.

9 THE COURT: The only problem is you can't --
10 you will have to enter that through one of the
11 officers, probably the investigator.

12 MR. FEDOR: Okay. Fine, Your Honor.

13 THE COURT: Yes.

14 BY MR. FEDOR:

15 Q Mr. Watts, I will hand you a document. Can you
16 tell me what it is, sir?

17 A Now, we're getting to something I can talk about.

18 Q Good.

19 A This is a death certificate or a copy of death
20 certificate, and this happens to be on Bryan
21 Capnerhurst.

22 Q All right. And what time does it say the death
23 occurred?

24 A It looks like 12:40 p.m.

25 Q Thank you.

1 MR. FEDOR: We would like to introduce this as
2 Defense Exhibit 2, Your Honor.

3 THE COURT: Any objection?

4 MS. CAMPBELL: Your Honor, it is not
5 admissible. We would object on that basis. He can
6 testify about it, but the document itself is not
7 admissible.

8 THE COURT: Ladies and gentlemen of the jury,
9 there are some matters of law that I need to take
10 up outside your presence. I am going to send you
11 all out for a brief moment. It's probably time for
12 a break anyway.

13 THE BAILIFF: Remain seated until the jury
14 leaves.

15 (WHEREUPON, the jury retires to the jury
16 room at 4:07 p.m.)

17 THE COURT: What is the objection to the death
18 certificate?

19 MS. CAMPBELL: Your Honor, the document would
20 be hearsay evidence. It is simply not admissible.
21 The documents in cases, like incident reports,
22 aren't admissible. The warrant is not admissible.
23 All these documents aren't admissible.

24 Of course, he can cross-examine him on the
25 documents, as with any other document in this case;

1 but if what he is getting ready to do was possible,
2 we would put in all our reports as well, as well as
3 the death certificate. It simply is not
4 admissible.

5 Just like on the other statements that come in
6 aren't the statements of the witnesses, only the
7 statement that is admissible, because it's an
8 exception to the rule, is the statement of the
9 Defendant. So it is just documents in general are
10 not admissible.

11 MR. FEDOR: Your Honor, this is the death
12 certificate signed by the Coroner's Office, and he
13 identified it and knows what it is. I can't see
14 why we can't admit it.

15 MR. WHITLARK: I know the answer to this.

16 THE COURT: Please.

17 MR. WHITLARK: Yes, I do, Your Honor.

18 THE COURT: Mr. Whitlark, I would glad to
19 listen to it.

20 MR. WHITLARK: There is a specific rule for a
21 document such as a certificate of death, Your
22 Honor. I am thinking it's Rule 1004 of the Rules
23 of Evidence.

24 THE COURT: What rule did you say?

25 MR. WHITLARK: I think it's 1004, Your Honor,

1 Rule 1004. I'm not positive. I have to recollect.
2 But it's a public record, an official document. If
3 he can identify it -- I mean, there may be some
4 issue as to the copy versus the original, but I
5 don't think there is any question that the content
6 of this copy is accurate.

7 And he can -- the witness is -- does have the
8 knowledge so he can verify that this is an exact
9 copy of the original.

10 And under the South Carolina Rules of
11 Evidence -- and I believe it's Rule 1004, Your
12 Honor, I'm not sure if that is the exact rule -- I
13 think it allows it, I believe, Your Honor.

14 (Pause.)

15 MR. WHITLARK: Under the South Carolina Code,
16 it was Code Section 19-5-610 was the previous South
17 Carolina code section. I believe it was supplanted
18 by the adoption of the Federal Rules of Evidence;
19 however, 19-5, Subsection 610.

20 THE COURT: Under what rule are you stating,
21 Ms. Campbell, that it's not admissible?

22 MR. FEDOR: Whatever rule Mr. Whitlark stated.

23 THE COURT: No, no, Ms. Campbell.

24 MR. FEDOR: Oh, I'm sorry.

25 THE COURT: I'm asking Ms. Campbell why she is

1 saying -- under what rule is she saying it's not
2 admissible.

3 MS. CAMPBELL: Your Honor, any statements or
4 any documents are not admissible, such as
5 statements and documents and other work products
6 from police. I can go get you the case law that
7 says this if you give me five minutes.

8 THE COURT: All right, well, we'll take about
9 five or ten minutes. I am going to look it up.

10 MS. CAMPBELL: Your Honor, for the next
11 witness, too, we need to set up a couple of things.
12 Can we do this during the break so we don't have to
13 break immediately after this witness?

14 THE COURT: That would be fine.

15 MR. WHITLARK: Who is the witness?

16 MS. CAMPBELL: Scott McDonald. We are just
17 trying to expedite it.

18 MR. WHITLARK: Are we at ease, Your Honor?

19 THE COURT: Yes.

20 (WHEREUPON, a break was taken.)

21 THE COURT: I know it's admissible under
22 803(9) according to the hearsay rule. But if
23 anybody finds any case law, I'll be glad to look at
24 it, but I think under 803(9), a hearsay exception,
25 vital records can come in.

1 All right. Are we ready to bring them back
2 in? Are you withdrawing the objection?

3 MS. CAMPBELL: I am withdrawing the objection.

4 THE COURT: Okay.

5 MS. CAMPBELL: You can move it into evidence.

6 MR. FEDOR: See, the only reason I bring
7 Mr. Whitlark, he knows all the law. I add a little
8 age and flavor to the trial.

9 THE COURT: All right. Let's bring them in.

10 THE COURT REPORTER: Do you want me to go
11 ahead and mark it?

12 MR. WHITLARK: Yes, please.

13 THE COURT: All right, let her mark it.

14 MR. WHITLARK: That is Exhibit Number 2.

15 (WHEREUPON, Defendant's Exhibit No. 2
16 was marked for identification and
17 received into evidence.)

18 (WHEREUPON, the jury came into open
19 court at approximately 4:42 p.m.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: All right. Yes, sir, you may
22 continue.

23 MR. FEDOR: Thank you, Your Honor.

24 CROSS-EXAMINATION CONTINUES

25 BY MR. FEDOR:

1 Q Mr. Watts, Defense Exhibit 2 is the death
2 certificate of Capnerhurst. What was the time of
3 death as you recall, sir?

4 A It is listed here as 12:40 p.m. on April the 13th.

5 Q Thank you very much.

6 A Yes, sir.

7 THE COURT: All right, it will be entered
8 without objection as Defense Exhibit 2.

9 MR. FEDOR: No further questions.

10 THE COURT: Any other questions?

11 MR. FEDOR: No.

12 MS. CAMPBELL: Thank you, Your Honor. May it
13 please the Court?

14 REDIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q Mr. Fedor was asking you a few questions about when
17 you went over to the house and the Defendant, and
18 then he said something about not you being a
19 psychologist. What were you getting ready to say
20 to the jury when you were cut off?

21 A Just that I have been in this line of work for
22 30-some-odd plus years and probably been involved
23 in 20,000-plus death scenes, and reactions to
24 families and family members can be different. You
25 know, there is no set way that somebody is going to

1 react. I have seen it from, you know, one end of
2 the spectrum to the other.

3 But that day I was a little caught off by some
4 of the things that were said really more than
5 anything, not that he was acting in a particular
6 way, but a couple of comments that were made.

7 Q And those are the comments you've already related
8 to the jury?

9 A Yes.

10 Q He also asked you about the autopsy. And I will
11 show you a copy of Bryan Capnerhurst's autopsy. Do
12 you recognize that?

13 A I do.

14 Q And is that a copy of the autopsy?

15 A This is a copy of the autopsy as submitted.

16 Q And in that autopsy, the wound that is mentioned at
17 the top of the page -- I have it open for you --
18 where was that wound located?

19 A It says: Penetrating gunshot wound to the left
20 chest.

21 Q And down further in the same paragraph or that same
22 part talking about that wound, does it say what
23 angle that wound was?

24 A It says backward, downward, and to the right.

25 Q So it would not be true that they were all upward,

1 is that correct?

2 A That's correct.

3 Q Thank you, sir.

4 MS. CAMPBELL: I don't have anything further.

5 MR. FEDOR: A few further questions.

6 THE COURT: You said no further questions?

7 MR. FEDOR: I said a few.

8 THE COURT: All right. Yes, sir.

9 **RECROSS-EXAMINATION**

10 BY MR. FEDOR:

11 Q Mr. Watts, most of the gunshot wounds to
12 Capnerhurst were in an upward direction, right?

13 A If you read that report --

14 Q Yes.

15 A -- it shows what he is talking about on the body,
16 but my understanding -- and this is something that
17 you probably could clarify with Dr. Marcus -- he is
18 referring to the body basically in an upright
19 position. Okay?

20 Now, when I look at a report and when I talk
21 with them, you understand that the body may not
22 stand in this upright position the entire time as
23 it is being shot. Okay?

24 If someone is being shot, they may be standing
25 initially; and then they may bend over, they may

1 fall backwards, or whatever. So that would change
2 the wound pattern in the body. Okay?

3 So you may have -- if the body was standing
4 straight up and you looked at the wound pattern or
5 in our case where they do an autopsy where the body
6 is laid out, and they are using probes to show a
7 trajectory, and they all appear to go in that one
8 direction, but that can be changed around if you
9 know how the body was reacting to being shot.
10 Okay?

11 Q Assuming the body is in an upright position and he
12 was shot, those shots were in an upward direction,
13 were they not, sir?

14 A If you assume that the body was in a standing,
15 upright position when it was shot, then according
16 to that report, then they were all in an upward
17 angle.

18 Q Thank you.

19 MR. FEDOR: No further questions.

20 THE COURT: All right. You may step down,
21 sir.

22 THE WITNESS: Thank you. Your Honor, may I be
23 excused?

24 THE COURT: Yes, sir. Any objection to this
25 witness being excused?

1 MR. FEDOR: No.

2 MS. CAMPBELL: No. Thank you, Your Honor.

3 THE COURT: Thank you.

4 (Witness steps down and is excused.)

5 THE COURT: Call your next witness.

6 MS. WALKER: Thank you, Your Honor.

7 The State would call Scott McDonald.

8 (Witness approaches.)

9 THE BAILIFF: Place your left hand on the
10 Bible, and raise your right hand, please.

11 (Witness complies.)

12 THE CLERK: Do you swear or affirm the
13 testimony you are about to give in this case will
14 be the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 THE WITNESS: I do.

17 THE CLERK: Have a seat in the witness box.

18 (Witness complies.)

19 THE CLERK: State your full name for the
20 record, please.

21 THE WITNESS: Scott McDonald.

22 SCOTT McDONALD,
23 after being duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. WALKER:

- 1 Q Good afternoon, Lieutenant.
- 2 A Good afternoon.
- 3 Q Where are you currently employed?
- 4 A Richland County Sheriff's Department.
- 5 Q And what do you do at the Sheriff's Department?
- 6 A I'm a lieutenant in the major crimes division.
- 7 Q And what do your duties include?
- 8 A Supervising all assaults, crimes against persons,
- 9 armed robberies, every assault from simple assault,
- 10 all the way up to homicide, suicides, and armed
- 11 robberies, commercial robberies, individual
- 12 robberies.
- 13 Q And how long have you been with the Sheriff's
- 14 Department?
- 15 A Twenty-five years.
- 16 Q Twenty-five?
- 17 A Twenty-five years.
- 18 Q And how many in the major crimes unit?
- 19 A Probably the last 10 to 12.
- 20 Q Did you become involved in the investigation of the
- 21 murder that occurred at 12 Tackeria Court?
- 22 A Yes, I did. I had been in court that day here in
- 23 the courthouse on an unrelated homicide trial and
- 24 was clearing the courthouse a little after
- 25 1:00 o'clock.

1 As of my habit, I usually check in with my
2 major to see if there is anything was going on.
3 And he informed me that, in fact, we did have two
4 bodies.

5 Q And when you say major, you are referring to Major
6 Smith?

7 A Major Smith.

8 Q And where were those two bodies?

9 A He informed me there had been a shooting in the
10 Ascot Estates at Number 12 Tackeria Court.

11 Q And what was your initial involvement in this
12 investigation?

13 A My initial involvement, I was called back a little
14 while later, and Major Smith requested I get a
15 search warrant for the premises. So I responded
16 back to headquarters and began typing the search
17 warrant.

18 Q And did you get that search warrant signed off on?

19 A Yes, I did, to Judge Edmond.

20 Q Were there other warrants that you attempted to get
21 that day or other methods of search?

22 A Yes, I was. I had Investigator Boland do an
23 exigent search for me through Verizon for the
24 Verizon cellphone records of Brett Parker.

25 Q The Defendant?

1 A Yes.

2 Q Did you -- what did you do after obtaining the
3 search warrant?

4 A Once it was signed, I notified Sergeant Lindler
5 that the search warrant had been signed, and I was
6 en route to the incident location with it. I
7 instructed him to notify Lieutenant Cavanagh and
8 Sergeant Richards that the search warrant had been
9 signed and was on the way to their location so they
10 could begin to process the scene.

11 Q And did you make your way to the scene that day?

12 A Yes, I did.

13 Q What did you initially do upon arrival on the
14 scene?

15 A Initially, upon arrival, I met with Sergeant
16 Robinson, Sergeant Lindler, I remember Coroner
17 Watts was there, Ms. Powell from the Coroner's
18 Office as well, several other officers. And just
19 kind of got briefed on things to that point.

20 Q And what time did you arrive on the scene?

21 A Approximately 3:30.

22 Q 3:30 p.m.?

23 A Yes.

24 Q On April 13th?

25 A Yes.

1 Q Did you immediately enter into the crime scene or
2 were you outside for a period of time?

3 A No, I was outside for several hours. I don't
4 believe I actually went into the crime scene until
5 6:30, 7:00 o'clock, maybe a little after 7:00,
6 somewhere in that time frame.

7 Q And what did you observe on the outside of that
8 house?

9 A There was crime scene tape and the scene was
10 secure. We were basically kind of in a holding
11 pattern until we were invited in by the lab, CSI
12 folks, to take a look at the crime scene.

13 Q And were there a number of vehicles at the home
14 that day?

15 A There were. There were actually four vehicles up
16 in the driveway. There were three, one in front of
17 each garage, and one just behind them, kind of just
18 off the pavement.

19 Q And did you know -- the one that was not in the
20 driveway, did you learn whose vehicle that was?

21 A Yes, that was the vehicle that Bryan Capnerhurst
22 had driven to the location.

23 Q And where the vehicle was parked, did -- over the
24 course of your investigation, did you learn about
25 the parking habits of Mr. Capnerhurst?

1 A Yes, I did. While interviewing with the families
2 in this case, we learned that, you know, that is
3 where he would always park when he came to the
4 Parker residence.

5 In fact, Mr. Carswell, who did the landscaping
6 and the yardwork at the location, specifically cut
7 that little area out for him to back into. And his
8 reasoning was so that he wouldn't be in the way of
9 any vehicles trying to come or go.

10 Q And did you speak with Investigator Metz that day?

11 A Yes, I did.

12 Q And what were the two of you attempting to obtain
13 that day?

14 A We knew from a previous incident at the location --
15 there had been a burglary there, I believe, in
16 October of 2010 -- that there had been a
17 surveillance system installed.

18 So we were anxious to get in and see the
19 surveillance video, to see what it captured on it,
20 to see if there was anything relevant to the case.

21 Q And did you view the surveillance video?

22 A Yes, I did.

23 Q Was there anything significant on that video?

24 A Yes, there was.

25 Q Could you tell the jury what that was?

1 A When we viewed the video that night, after being
2 invited into the crime scene, we noticed -- and
3 notated the times. Mr. Parker came home first
4 earlier that morning, then Ms. Parker, and then a
5 short while later, 30 to 45 minutes later,
6 Mr. Capnerhurst showed up.

7 And the thing that struck us immediately when
8 Mr. Capnerhurst got out of the vehicle, he had a
9 duffel bag. And he slung it over his shoulder and
10 then came walking into the residence.

11 To this point we did not know anything about
12 this duffel bag or that it was in play. So that
13 became highly significant.

14 Q And did you advise the crime scene investigators of
15 that duffel bag?

16 A Yes, they were -- some of them were in the room
17 where we were reviewing the video, and they saw it.
18 And I believe Investigator Bouknight brought it to
19 our attention, he had seen that bag in the attic
20 area, and it was still there.

21 Q And did you later, over the course of the
22 investigation, view pictures of that bag as it was
23 opened?

24 A I was actually present when it was opened.

25 Q You were present when it was opened?

1 A I was present, yes.

2 Q And what did you observe when that bag was opened?

3 A Pristinely on top of the clothes and other items
4 that were in there was a box of ammunition and a
5 9-millimeter clip with no rounds in it right in the
6 middle on top of clothing, not where I would have
7 expected to have seen that.

8 MR. WHITLARK: Objection, Your Honor, to that
9 last answer. What he expects or not expects is not
10 relevant evidence in this case.

11 THE COURT: All right. Objection overruled.

12 MS. WALKER: Thank you, Your Honor.

13 BY MS. WALKER:

14 Q And how long were you at the residence, at Tackeria
15 Court that day?

16 A Probably six or seven hours. I would have to see
17 the crime scene log when I actually departed, but
18 it seemed like about six or seven hours.

19 Q And were you advised that day of Major Smith and
20 Investigator Holdorf actually interviewing the
21 Defendant in this case?

22 A Yes. Periodically I would talk to Major Smith
23 during that afternoon, I think once or twice
24 possibly, where I learned some of the things he was
25 saying in his statement, referring to Mr. Parker.

1 Also, later that afternoon we did get -- as
2 things were starting to get on the media, we were
3 starting to get calls at the Sheriff's Department.
4 And at that point Sergeant Lindler and Sergeant
5 Robinson were dispatched by myself to go interview
6 these people to see what information they may have
7 that could help this investigation.

8 Q When Major Smith and Investigator Holdorf were
9 interviewing the Defendant, did the Defendant tell
10 them how long the events that transpired in the
11 house had taken?

12 A I don't recall a specific time, how long it all
13 took, not off the top of my head, I don't.

14 Q Did you -- you said on that day that you viewed the
15 video, the surveillance video?

16 A Yes, a brief portion of it, from the arrival of the
17 vehicles back and also when Mr. Capnerhurst
18 arrived, up until the time of the incident.

19 Q Okay.

20 MS. WALKER: Your Honor, may the witness step
21 off the stand?

22 THE COURT: Yes, ma'am.

23 (Witness steps down.)

24 MS. WALKER: This should be visible. Give me
25 one moment.

1 (Pause.)

2 BY MS. WALKER:

3 Q Let me ask you an additional question. You said
4 that you were getting a search warrant for
5 Mr. Parker's cellphone?

6 A We did an exigent request through Verizon. Any
7 time you have a violent crime like this, we are
8 able to contact them and get an exigent request
9 done through Verizon for the cellphone records and
10 text messages.

11 Q And did you receive information back from Verizon
12 on it?

13 A Yes, we did.

14 Q And did that information become pertinent in this
15 investigation?

16 A Yes, it did, very much so.

17 Q After viewing the surveillance video, which we are
18 attempting to pull up now, did you make
19 arrangements to get a cellphone -- what is called a
20 cellphone dump?

21 A Yes.

22 Q Can you explain for the jury what a cellphone dump
23 is?

24 A It is basically where we download a cellphone, just
25 like you would similar to a computer. Phones

1 today, even the simple ones, are almost like mini
2 computers.

3 We have several machines at the Sheriff's
4 Department where we can hook the phone up to it and
5 download the contents off. It's very important
6 these days with modern communications -- text
7 messages, e-mails, pictures, videos, recent calls,
8 contacts -- all become very pertinent to these
9 investigations.

10 Q And whose cellphone did you initially dump?

11 A Not on that Friday, but that Saturday morning,
12 Brett Parker's.

13 Q And the information that you received from Brett
14 Parker's cellphone dump and the information that
15 you received from the actual -- from Verizon
16 Wireless -- were those records consistent?

17 A No, they weren't. The text messages from Lindsay
18 Mullins had been deleted. They did not appear when
19 we downloaded the cellphone.

20 Q When you say text messages from Lindsay Mullins,
21 who is Lindsay Mullins?

22 A She is a local bank teller that Mr. Parker had an
23 affair with.

24 Q Is that the young lady that is referenced on the
25 Executive Inn video?

1 A Yes.

2 Q Those records showed up in the Verizon records but
3 not on the cellphone?

4 A That's correct. Usually with Verizon we can get
5 back two, three, sometimes four days' worth of text
6 messages. And when we cross-referenced the phone
7 number, those particular messages came back to
8 Ms. Mullins, which is highly significant in this
9 case.

10 When we dumped the phone the following
11 morning, on that Saturday morning, the messages
12 were not there. Other messages were there that
13 were in the Verizon information that was provided
14 to us, but those particular messages were not.

15 Q Now, if you -- if I have a cellphone and I delete
16 something from my cellphone, is it going to delete
17 it from the Verizon network?

18 A No.

19 Q Just from the cellphone?

20 A Just from the cellphone.

21 MS. WALKER: Can y'all see that? If we can
22 turn the lights off.

23 THE COURT: Do you want the lights down?

24 MS. WALKER: Yes, please.

25 THE COURT: All right, let me see if I can do

1 it.

2 (Complies.)

3 (Video playing.)

4 BY MS. WALKER:

5 Q And, lieutenant, what are we looking at here?

6 A This is one of four angles captured by the
7 surveillance video at the Parker home at
8 12 Tackeria Court. This is the incident date,
9 April 13th, 2012.

10 This is going to begin at 11:38 a.m. This
11 time was verified by Investigator Metz as the
12 current time when we reviewed this. So this is an
13 accurate portrayal of the surveillance video from
14 that location.

15 MS. WALKER: Your Honor, for the record the
16 video is playing now. The time on the video is
17 11:38 and 24 seconds. The date is April 13th,
18 2012.

19 BY MS. WALKER:

20 Q And did you know if the Defendant -- are there --
21 how many cars are in the driveway right now?

22 A There is one black Mercedes right here
23 (indicating).

24 Q And did you, as part of kind of the notes that you
25 kept in this case, keep a timeline of what is on

1 this video?

2 A Yes, I did.

3 Q According to your timeline, what time does it say

4 the Defendant arrived?

5 A At 11:45 and 32 seconds.

6 Q Six minutes from now?

7 A Yes.

8 MS. WALKER: Do you mind if I fast-forward it?

9 MR. WHITLARK: Sure.

10 (Pause.)

11 BY MS. WALKER:

12 Q What is that?

13 A This is Mr. Parker pulling in in his GMC Acadia.

14 Q Is that the same GMC that is on the surveillance

15 video?

16 A Yes, it is.

17 Q And the direction towards -- what did Mr. Parker

18 walk towards?

19 A This is the garage right here (indicating). And

20 off the garage there is a door into the kitchen

21 hallway.

22 Q And what is the next event that is on here?

23 A Tammy arrives home at 11:57. This is Tammy

24 arriving in the burgundy Ford Fusion.

25 (Pause.)

1 Q Are there additional camera angles on this video?

2 A Yes, there's three other angles.

3 Q And not on this camera angle, but on a different
4 one, is there something of note that happens after
5 this?

6 A Yes.

7 MR. WHITLARK: Objection, Your Honor.

8 THE COURT: Your objection?

9 MR. WHITLARK: Yes. My objection is, again,
10 he is giving his own personal opinion. He said
11 there is something of note about this, and it's an
12 opinion, and I object to it.

13 MS. WALKER: Your Honor, he either noted it in
14 his report or he didn't. I'm asking if he noted it
15 in his report.

16 THE COURT: All right. The objection is
17 overruled.

18 MR. WHITLARK: Thank you, Your Honor.

19 BY MS. WALKER:

20 Q Go ahead.

21 A Yes, I did note something. At 12:24 and 58
22 seconds, one of the other camera angles, you can
23 see the blinds on the side door slide open and then
24 shut.

25 Q And we'll go to that camera angle momentarily, but

1 on this camera angle, what is the next event that
2 you note?

3 A On this particular angle, at 12:29:45 we see
4 Mr. Parker exit the garage, step right out here,
5 and kind of look down the driveway.

6 Q At 12:29?

7 A 12:29, yes. It will be very quick, but focus right
8 in here (indicating).

9 (Pause.)

10 A Any second now. There he is. In just over a
11 minute or so, Mr. Capnerhurst will arrive at the
12 residence, and you'll see him back in back by that
13 basketball goal.

14 Q Is that the cutaway that you're talking about?

15 A Yes, this area right in here (indicating). He was
16 always known to back right in there when he came to
17 visit.

18 Q And who cleared that out for Mr. Capnerhurst?

19 A Mr. Carswell, who is Tammy Parker's stepfather. He
20 did the landscaping and yard work.

21 (Video playing.)

22 A This is Mr. Capnerhurst's vehicle now. It's a
23 Dodge Stratus, I believe, beige. The key thing to
24 note when he steps out of this vehicle, he has a
25 duffel bag that is slung over --

1 MR. WHITLARK: Objection, Your Honor.

2 THE COURT: What is the objection?

3 MR. WHITLARK: Again, he is giving a running
4 commentary with his own opinions in there. The
5 jury can draw their own conclusions, Your Honor.

6 THE COURT: All right. You'll have to ask a
7 question, Ms. Walker.

8 BY MS. WALKER:

9 Q What is Mr. Capnerhurst doing now?

10 A He is slinging his duffel bag over his shoulder.

11 Q And what is he walking towards?

12 A He is walking towards the garage to make entry into
13 the residence to the kitchen area.

14 Q Okay. At 12:31?

15 A 12:31.

16 Q Okay. You can stand right there. We will keep it
17 rolling.

18 The home surveillance video, does it have
19 sound?

20 A No, it does not.

21 Q Were you in court when the 9-1-1 audio was played?

22 A I was.

23 Q And did you and Investigator Metz at some point in
24 time sync the 9-1-1 audio to this video?

25 A I did not. We did request Investigator Metz and I

1 believe Lieutenant Poole, one of them, to do that.

2 Q And did they do that?

3 A Yes, they did.

4 (Video playing.)

5 BY MS. WALKER:

6 Q How many minutes has passed since Capnerhurst
7 entered the residence?

8 A It has been a couple of minutes now. I believe he
9 entered at 12:31:55.

10 Q How long has he been in the house now?

11 A About four minutes.

12 MR. WHITLARK: Excuse me, Your Honor.

13 THE COURT: Yes, sir.

14 MR. WHITLARK: Yes, Your Honor. Apparently,
15 the Solicitor plans on playing the 9-1-1 tape
16 along, as in sync with it, if I'm looking at this
17 correctly. Is that it?

18 MS. WALKER: Yes.

19 MR. WHITLARK: We would object to that. That
20 has already been heard by the jury, Your Honor. I
21 don't understand, you know, about the cumulative
22 nature of, let's play it again for them. I mean,
23 it's in evidence.

24 THE COURT: All right.

25 MS. WALKER: Your Honor, it's already entered

1 into evidence.

2 THE COURT: I understand. Let me see y'all.

3 (WHEREUPON, a bench conference was held
4 in the presence of the jury but out of
5 the hearing of the jury.)

6 THE COURT: The objection will be overruled.

7 (Video continued.)

8 BY MS. WALKER:

9 Q How long has he been in the house now?

10 A Ten minutes. Over ten minutes.

11 MR. WHITLARK: Your Honor, I would like it
12 played at normal speed if we could. Is that normal
13 speed?

14 MS. WALKER: Yes, sir.

15 (Video continued.)

16 BY MS. WALKER:

17 Q What are we seeing now?

18 A This is our additional units arriving on the scene.
19 This is Deputy Ryan, who has got his weapon pulled,
20 holding it on Mr. Parker. He is awaiting backup to
21 arrive before approaching so he'll have a cover
22 officer.

23 Q You said there were additional cameras at the home?

24 A Yes, three other angles. That is the angle just
25 off the driveway. It would be over here

1 (indicating). That is the edge of the garage right
2 there (indicating), and the side access door.

3 Q Is this the -- you mentioned the blinds earlier at
4 this angle?

5 A Right. The blinds, if you look like right here
6 (indicating), kind of where the glare is from the
7 sun hitting the driveway, you'll see those blinds
8 open and then shut again.

9 Q What time?

10 A 12:24:58.

11 Q At this point on the other camera angle, has
12 Mr. Capnerhurst arrived yet?

13 A No, he hasn't. He doesn't arrive until 12:31:55.

14 Q Is this before or after we see Mr. Parker peek out
15 of the garage?

16 MR. WHITLARK: Objection to that, Your Honor.
17 It's a leading question and a presupposition.

18 THE COURT: Sustained.

19 BY MS. WALKER:

20 Q In terms of the sequence of events, can you kind of
21 explain that for the jury?

22 A These blinds get flipped open here in just a few
23 seconds. Several minutes later is when Mr. Parker
24 exits the garage and looks down the driveway.

25 Q Yes, sir.

1 A If you look right here (indicating), like I said,
2 you're fixing to see those blinds open and shut,
3 right there.

4 Q Return to the stand, please.

5 (Witness returns to witness stand.)

6 MS. WALKER: Your Honor, may we approach?

7 THE COURT: Yes, ma'am.

8 (WHEREUPON, a bench conference was held
9 in the presence of the jury but out of
10 the hearing of the jury.)

11 THE COURT: All right. Ladies and gentlemen
12 of the jury, it's about ten till 6:00. They tell
13 me it's going to probably be about another hour
14 approximately with this witness.

15 Do you all want to keep going or are you all
16 ready to break for the evening?

17 THE FOREMAN: It's your call, Your Honor.

18 THE COURT: Well, if y'all are tired, then
19 we'll stop, but, I mean, if everybody wants to keep
20 on going

21 (Pause.)

22 THE FOREMAN: We will stay, Your Honor.

23 JUROR: We need a bathroom break.

24 THE COURT: Y'all want to say? All right,
25 we'll let y'all take a stretch break and we'll take

1 about five minutes to use the restroom.

2 All right. Thank you.

3 THE BAILIFF: Remain seated until the jury
4 leaves the room, please, ma'am.

5 (WHEREUPON, the jury retires to the jury
6 room at 5:47 p.m.)

7 THE COURT: Let's take about five or ten
8 minutes.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Yes, ma'am.

11 MS. WALKER: I showed Mr. Whitlark the text
12 messages we will be seeking to introduce, the ones
13 from Lindsay Mullins.

14 THE COURT: And are these -- I'm just trying
15 to figure out, how are they relevant?

16 MS. WALKER: That's the communication he was
17 having -- I think Your Honor has already ruled.
18 That's the communication he was having with one of
19 his mistresses the morning right before these
20 murders occurred and that he then deleted off of
21 his phone and are only found through the search
22 warrant that Lieutenant McDonald obtained from
23 Verizon Wireless -- I'm sorry, the exigent search
24 that came from Verizon Wireless -- and that
25 Mr. Parker denied having any sort of relationship

1 just hours later.

2 THE COURT: All right. And I didn't rule on
3 it. I have my notes here. I ruled as to her --
4 that we would proffer her testimony at the
5 appropriate time, that we would take up the text
6 messages at the appropriate time. And I think I
7 had ruled that it was okay for you to say that he
8 was in contact with the -- I think her name is
9 Ms. Mullins -- that morning.

10 MS. WALKER: Yes, Your Honor.

11 THE COURT: But I'm just trying to figure out
12 why the content of the text messages is relevant.

13 MS. WALKER: Your Honor, it illustrates an
14 ongoing affair. They talk about getting together
15 the following week. He said it would be even
16 better the following week. They talk about the
17 fact that he went to go see her that morning and
18 that she said he was disappointed that she wasn't
19 available to see him that morning.

20 It goes to the motive in this case, Your
21 Honor, I think, which the State has a right to
22 prove the inconsistencies, Your Honor, in the
23 Defendant's statement, the fact that this was an
24 ongoing relationship, which Mr. Whitlark said in
25 his opening was not.

1 They were planning to meet -- and I think the
2 term, Your Honor -- and I don't have the text
3 messages in front of me, so excuse me if I misstate
4 it, is that they wanted to have more yummy
5 encounters.

6 And, Your Honor, that -- it is the morning of
7 the murders. It illustrates that it is an ongoing
8 affair, an ongoing relationship that he plans on
9 continuing after the events of April 13th.

10 MR. WHITLARK: To be honest with you, Your
11 Honor, my lawyer's sense is telling me to let them
12 put it in to prove that, you know, of course, he is
13 going to murder his wife and then go meet her two
14 days later or something.

15 THE COURT: Well, he says he's going to coach
16 baseball on Saturday and practice softball on
17 Sunday.

18 MS. WALKER: Your Honor, the ones that -- if
19 you keep reading there, she says, I thought you
20 were beginning to go away from our relationship.

21 THE COURT: She says, I think you're
22 completely irresistible, getting hotter, and I will
23 loose my boy toy to a 22-year-old bimbo.

24 He says, never.

25 MS. WALKER: Right, Your Honor. April 13th

1 Lindsay texts him saying, Tuesday was my highlight.
2 That's going to be the encounter they had at the
3 Executive Inn.

4 And then he says at 10:24, maybe next week
5 will be better, to illustrate the ongoing nature of
6 this relationship.

7 MR. WHITLARK: Your Honor, perhaps the Court
8 can hold that in abeyance until the young lady
9 takes the stand.

10 MS. WALKER: Your Honor, this is the witness
11 that obtained the text messages!

12 THE COURT: I just don't understand what the
13 text messages -- you've already got in that he was
14 at the hotel three days before, right?

15 MS. WALKER: Well, we got in testimony about
16 the video. We didn't get into the video. The
17 young lady hasn't testified to corroborate that,
18 but we got in testimony regarding the video.

19 THE COURT: That he was at the hotel. She
20 came in after him. So that testimony is in.

21 MS. WALKER: I don't think -- I can't recall
22 if it was illustrated who the young lady was. I
23 know Investigator Metz said that a young lady met
24 him.

25 THE COURT: Are y'all objecting to this?

1 MR. WHITLARK: We are objecting, Your Honor.
2 It may come up again when the young lady testifies.
3 Your Honor, but at this point, I mean, not only is
4 it going to be confusing to the jury, I think it is
5 highly and unduly prejudicial. It is the same
6 grounds we had previously, Your Honor.

7 MS. WALKER: Your Honor, if I may, in
8 Mr. Whitlark's opening, he said, this was not an
9 ongoing relationship. They didn't plan to see each
10 other anymore, and these text messages contradict
11 that.

12 I think the case that Ms. Campbell handed
13 up --

14 THE COURT: Did he say that they didn't plan
15 on seeing each other? I think he said it was just
16 sex.

17 MS. WALKER: He said it was not an ongoing
18 relationship. And perhaps if we can -- I know
19 we've been talking all day about things that Mr.
20 Whitlark said in his opening.

21 THE COURT: Well, I mean, I guess that is
22 going to depend on how you describe the
23 relationship. They said it's just sex. I think he
24 said it was just sex, if I remember correctly.

25 MS. WALKER: He said they didn't plan on

1 continuing --

2 THE COURT: That is what they were talking
3 about.

4 MS. WALKER: Right, just sex that they did
5 not --

6 THE COURT: Get together and have more sex.

7 MS. WALKER: Sex that they did not plan on
8 continuing, which is contradicted by the text
9 messages.

10 THE COURT: Did he say that it was sex they
11 didn't plan on continuing?

12 MS. WALKER: If we can go to the transcript, I
13 think we will be able to clarify all of that.

14 MR. WHITLARK: Well, didn't they already print
15 the transcript of my opening?

16 THE COURT: Do you have -- all right, we have
17 to stop talking so she can -- because Debbie can't
18 look it up.

19 (Partial opening played in open court.)

20 THE COURT: Unless I missed it, I didn't hear
21 anything in there about a continuing relationship.

22 MS. WALKER: I couldn't hear you, Your Honor.

23 THE COURT: I don't hear anything in there
24 about a continuing relationship.

25 MS. CAMPBELL: There is a part in there

1 somewhere -- I am just looking at our notes --
2 where it talks about tunnel vision, and right after
3 that it talks about --

4 (Partial opening played in open court.)

5 THE COURT: As far as this witness, we can
6 address that at a later time when Ms. Mullins
7 testifies; but for purposes of this witness and the
8 text messages, the objection is sustained. The
9 text messages will be excluded from this testimony
10 at this time.

11 MR. WHITLARK: Thank you, Your Honor.

12 THE COURT: On the grounds of relevancy. She
13 even calls it an arrangement. She doesn't even say
14 it's a relationship. In the text messages she
15 calls it an arrangement.

16 All right. Anything else?

17 MR. WHITLARK: Nothing from the Defense, Your
18 Honor.

19 THE COURT: Bring them in, please.

20 (WHEREUPON, the jury came into open
21 court at approximately 6:22 p.m.)

22 THE BAILIFF: The jury is seated, Your Honor.

23 THE COURT: Yes, ma'am, you may continue.

24 MS. WALKER: Thank you, Your Honor.

25 DIRECT EXAMINATION CONTINUES

1 BY MS. WALKER:

2 Q You viewed the video that we just saw before the
3 break on which date? Your initial viewing?

4 A My initial viewing was the date of the incident on
5 April 13th, 2012.

6 Q And on April 14th did your participation in this
7 investigation continue?

8 A Yes, it did.

9 Q And what did you do on the 14th?

10 A On the 14th I responded to the residence to obtain
11 Ms. Parker's two cellphones. Once the CSI team was
12 on the scene and I was allowed in, I signed in and
13 went in and retrieved those two cellphones, notated
14 those on the search warrant return, and returned to
15 my office to download those phones, along with
16 Mr. Parker's that I had been given.

17 Q And did you -- you, in fact, downloaded
18 Mr. Parker's cellphone?

19 A Yes, I did.

20 Q And you stated before the break that you received
21 information from Verizon Wireless as well?

22 A Yes, I did.

23 Q Before the break you stated that the information
24 between the download and the information from
25 Verizon did not match?

1 A No, it did not.

2 Q What was the difference, sir?

3 A There was a series of text messages from a
4 particular number -- when cross-referenced it was
5 Lindsay Mullins -- that were not on the download
6 when I downloaded the phone, but were present on
7 the Verizon records.

8 Q Did you also at that point in time look at a series
9 of phone calls the Defendant made that day?

10 A Yes, I did. He had called Mr. Capnerhurst and
11 called his father, and he called Tammy numerous
12 times throughout the morning.

13 Q The phone calls to Bryan Capnerhurst on April 13th,
14 2012?

15 A That's correct.

16 Q What time were those phone calls?

17 A The first one is at 7:40 a.m. The next one would
18 be 11:12 a.m., at 11:13 a.m., and 11:15 a.m., and
19 the final one at 14:29, which is 2:29 in the
20 afternoon.

21 Q A cellphone call from the Defendant to the victim
22 at what time?

23 A At 2:29 p.m. It was a one second call to
24 Mr. Capnerhurst's cellphone.

25 Q That was before or after the murders?

1 A After the murders.

2 Q The text messages that you were able to view
3 between the Defendant and Ms. Mullins, did you
4 relay that information to other investigators
5 involved in this case?

6 A Yes, I did. Upon reviewing those and downloading
7 the phones, I returned to the scene where
8 Mr. Parker was talking to Major Smith. I took
9 Major Smith aside and told him this information
10 that I had located.

11 Q And moving to the 16th, Lieutenant, did your
12 participation continue that day?

13 A Yes, it did. That Monday morning we had a -- we
14 traditionally have a morning briefing on a
15 homicide. We get all the investigators involved,
16 CSI, and have a meeting to kind of get input from
17 everyone involved as to where we're at and what we
18 need to do to move forward. That was the meeting.
19 It lasted for a while. We did come up with duties
20 and things that we needed to do and made
21 assignments to the various investigators.

22 Q Included -- did y'all at that point think it was
23 necessary for someone to speak with Ms. Mullins?

24 A Yes, definitely.

25 Q Did y'all think it was necessary for someone to set

1 up what is known as an ARC interview?

2 A Yes. We set up an ARC interview with both children
3 of Brett and Tammy Parker.

4 Q Can you explain to the jury what an ARC interview
5 is?

6 A An ARC interview is done by trained professionals
7 who interview children, especially in cases like
8 this, for any possible information they may have
9 that could help us in this investigation. They
10 also deal with the feelings and the emotions of the
11 children after such a traumatic event.

12 Q And would you later attend those ARC interviews?

13 A I would.

14 Q Did you continue to view the surveillance video to
15 look for additional information?

16 A I reviewed that video numerous times, probably 10
17 to 12 times. At one point several weeks later is
18 when I first discovered the blinds being moved. I
19 had asked Investigator Metz to provide me video
20 from, I believe, 7:00 a.m. that morning or 7:30
21 that a.m. forward to look for anything that may be
22 suspicious or out of character.

23 Q Are you familiar with the Defendant's statement in
24 this case?

25 A Yes, I am.

1 Q The video that we viewed, during the point in time
2 during which Mr. Parker is outside the garage --

3 A Yes.

4 Q -- and the blinds are opening and closing, what
5 according to the Defendant's statement was he
6 actually doing at that time?

7 A He was -- I'm not sure which time you're talking
8 about. When the blinds were opened?

9 Q According to the Defendant's timeline, what was he
10 doing before Bryan Capnerhurst got there?

11 A He was using the restroom, the downstairs restroom.

12 Q On the video what does it show him doing?

13 A Peeking out the garage.

14 MR. WHITLARK: Objection, Your Honor.

15 THE COURT: Your objection?

16 MR. WHITLARK: Well, they're presuming that it
17 is Brett Parker that looked out the window.

18 MS. WALKER: Your Honor, he just said peeking
19 out the garage. I think we all saw him step out of
20 the garage.

21 MR. WHITLARK: I think he just said he looked
22 out the window.

23 THE COURT: All right, ask the question again.

24 A Mr. Parker peeked out of the garage and looked down
25 the driveway at 12:29 when he would have been using

1 the restroom.

2 THE COURT: Objection overruled.

3 MR. WHITLARK: Yes, Your Honor.

4 THE COURT: You can continue.

5 BY MS. WALKER:

6 Q According to the Defendant's statement, had he ever
7 told investigators that he was outside at any point
8 before Bryan Capnerhurst arrived?

9 A No, he had not.

10 Q I want to turn your attention to April 18th. Did
11 you make contact with an Al Davis?

12 A Yes, I did. Mr. Davis was a delivery driver for
13 UPS. In the crime scene photos, it was brought to
14 our attention that there was a package that had
15 been delivered that day on the Parkers' front
16 porch.

17 Of course, we were very interested in trying
18 to establish a timeline in this investigation. So
19 I contacted UPS to determine the time that that
20 package was delivered by Mr. Davis.

21 Q And, once again, in the Defendant's statement to
22 investigators, did he mention what was his wife was
23 doing when he supposedly left her in the upstairs
24 office?

25 A She supposedly was making a phone call to a doctor

1 when he went downstairs.

2 Q And did you obtain the various phone records for
3 the home and cellphone?

4 A Yes. I got -- there was actually three landlines
5 to this residence. There was the home phone number
6 and two business bookie lines where the business of
7 the gambling was handled on. We got search
8 warrants on all three of those phones.

9 Q Were you able to substantiate the Defendant's
10 statement that Ms. Parker had been on the phone?

11 A No, I was not. There were no calls placed from the
12 residence on any of those three phones during that
13 time period.

14 Q And the cellphones?

15 A And the cellphones as well, no calls.

16 Q And on the 19th, six days after the murders?

17 A Yes, ma'am.

18 Q Did you, in fact, attend the ARC
19 interview that you set up for the Defendant's
20 children?

21 A Yes, I did. Myself and Sergeant Lindler attended
22 the interviews.

23 Q And were you able to observe those interviews?

24 A I observed B.P. [REDACTED]'s interview, along with
25 Sergeant Lindler.

1 Q Did that interview contain valuable information?

2 A Yes, it did. B.P. had indicated that her father
3 had shown her a gun that he kept in the office
4 area, also told her about a gun he kept in the
5 master bedroom closet, also revealed -- she
6 indicated to the woman that was interviewing her
7 that she had never seen Mr. Capnerhurst with a gun.

8 Q Did she indicate whether or not the family had
9 returned to the residence?

10 A They had not. They were staying with Mr. Parker's
11 parents.

12 Q Did you observe anything or did you note anything
13 else regarding that ARC interview?

14 A Only that B.P. indicated that neither she or her
15 dad had ever argued as far as she knew. She had
16 never seen them fight or argue. He was kind of
17 like a family member, and they would be over there
18 oftentimes on the weekend to have dinner with them,
19 kind of like an extended family member.

20 Q And that was Mr. Capnerhurst and the Defendant?

21 A Yes.

22 Q On May 2nd --

23 A Yes, ma'am.

24 Q -- did you -- did a toilet seat become significant
25 in this case?

1 A It did. As stated in Mr. Parker's statement, he
2 indicated he was downstairs defecating in the
3 downstairs restroom.

4 Q Yes, sir.

5 A On CSI's arrival, they documented that the seat was
6 up, which we thought was highly unusual.

7 MR. WHITLARK: Your Honor, objection to the
8 commentary by the officer regarding -- again, it's
9 his opinion about it, Your Honor. I mean, he can
10 testify to what he saw, Your Honor, but he is
11 giving commentary about it. It's suspicious. It's
12 unusual. I object to it.

13 THE COURT: I will overrule the objection in
14 line with my ruling earlier, I guess, last week at
15 the beginning of the trial.

16 MR. WHITLARK: Thank you, Your Honor.

17 THE COURT: As to the officer's testimony.

18 MR. WHITLARK: Thank you, Your Honor.

19 MS. WALKER: Thank you, Your Honor.

20 BY MS. WALKER:

21 Q Continue, Lieutenant.

22 A As I was saying, Mr. Parker indicated he was
23 downstairs defecating in the downstairs restroom.
24 Upon CSI's arrival and documentation of that
25 restroom, the seat was in the upright position.

1 This was inconsistent with the statement from
2 Mr. Parker.

3 Out of an abundance of caution, I got the
4 crime scene log and called every officer that had
5 entered that scene to clear the house and asked
6 them pointblank did they use utilize that restroom
7 for any reason, did they move that seat, or did
8 they see anyone else utilize the restroom or move
9 that seat.

10 The answer from all these deputies and other
11 officers was negative. They had not. They had not
12 seen anyone enter and they had not utilized that
13 restroom.

14 Q Did you continue with cross-referencing the
15 contacts that were found in the Defendant's phone?

16 A Yes. I believe there are some 240 contacts in his
17 phone, and I entered those into our computer
18 system. We have a computer software program called
19 ASUS. They were all entered into there so when we
20 import these cellphone records, it auto-populates
21 numbers that have been entered into the records so
22 we can identify who the subscribers are or who the
23 contacts are.

24 Q And did you attempt to make contact with the people
25 in the Defendant's phone?

1 A Yes. Myself, Major Smith, and Investigator Holdorf
2 split up this list. I think we got some additional
3 assistance as well, because there was well over 200
4 contacts.

5 And we made contact with each and every person
6 in his phone contacts to evaluate the relationship,
7 how they knew Mr. Parker, whether it was a friend
8 or a business relationship, or what exactly the
9 relationship was to Mr. Parker.

10 Q And did you, over the course of doing that, contact
11 Eddie?

12 A I did. One of the contacts in his phone was
13 someone listed as Eddie.

14 Q And who was Eddie?

15 A Eddie is actually a Lisa Camp. I called her number
16 and spoke with her. She lives in Alpharetta,
17 Georgia. She said she had known Brett since high
18 school, went to the prom with him, they had stayed
19 in contact over the years, and she had probably
20 last spoken to him six or seven months ago.

21 And I asked her if she, for any reason, would
22 know why he would have her as a contact of Eddie in
23 his contacts, and she couldn't think why her name
24 would be Eddie in his contacts.

25 Q Did you make contact with associates of

1 Mr. Capnerhurst as well?

2 A Yes, I did.

3 Q And who would those be?

4 A I called a Ray DeShazo. He returned the message, I
5 believe from his wife, a few days later. He was
6 actually in the hospital. I never actually talked
7 to him, but he had been in the hospital, and his
8 wife did call me several days later.

9 In addition, I talked to a David Veldman, who
10 is actually an accountant that works for the
11 Lexington County Recreation Commission, who knew
12 Bryan. Bryan had called him earlier the day on the
13 13th to say he was still sick, and Bryan
14 Capnerhurst was trying to make arrangements for his
15 paycheck to be picked up. And he informed
16 Mr. Veldman that he would be out sick that day and
17 to notate that on his time sheet.

18 Q And did you make contact with Alvin Kelley?

19 A I did. I also talked to Mr. Kelley, who is the
20 immediate supervisor of Mr. Capnerhurst at the
21 Lexington County Recreation Commission. Mr. Kelley
22 states he knew Bryan well, and he knew that Bryan
23 was supposed to go to lunch at Brett's house that
24 day to be paid for work in the bookie business.

25 And he thought there might be an issue or a

1 problem, that Brett may show him some doctored
2 books where he didn't have the money to pay him in
3 full and was expecting some kind of problem
4 possibly as a result.

5 Q Did Mr. Kelley mention the duffel bag that we saw
6 Mr. Capnerhurst sling over his shoulder?

7 A Yes. He indicated to me that Cap had told him --
8 that Mr. Capnerhurst had told him that Brett wanted
9 him to bring a duffel bag with him to place the
10 money in.

11 Q Is it unusual for you over the course of an
12 investigation to make contact with either
13 acquaintances of the victim and/or the Defendant?

14 A No. Before this incident happened, we didn't know
15 any of these people. We didn't know the
16 background. We didn't know the relationship. So
17 part of our job is to try to put ourselves into
18 their lives, learn the relationships, learn
19 friends, business relationships, anything else that
20 may be going on to try to figure out exactly what
21 may have happened and why.

22 Q And did you receive the victim's,
23 Mr. Capnerhurst's, cellphone records in this case?

24 A Yes, I did.

25 Q And on May 9th did you review those records?

1 A Yes, I did.

2 Q What, Lieutenant McDonald, if anything, stood out
3 about those records?

4 A The most noticeable thing to me was a very unique
5 series of digits dialed on his phone at 12:33
6 hours, which would be just a minute and a half or
7 so, close to two minutes, after his arrival.

8 There was a sequence of these numbers and
9 digits that when I looked down at a dial pad, it
10 immediately struck me that this could be someone
11 under stress attempting to call 9-1-1 --

12 MR. WHITLARK: Objection, Your Honor.

13 THE COURT: Your objection?

14 MR. WHITLARK: Yes. Your Honor, I have a
15 matter of law to take up with the Court about what
16 I believe this gentleman is getting ready to talk
17 about, or we could do a bench conference on it, but
18

19 THE COURT: Ladies and gentlemen, I'm going to
20 send you all out for one quick second.

21 THE BAILIFF: Please remain seated until the
22 jury leaves.

23 (WHEREUPON, the jury retires to the jury
24 room at 6:41 p.m.)

25 THE COURT: All right.

1 MR. WHITLARK: May it please the Court, Your
2 Honor? I anticipate that there is about to be some
3 testimony regarding some jumbled numbers that were
4 on the telephone of Mr. Capnerhurst.

5 What they're going to claim is that he is
6 trying to dial 9-1-1 or he is going to attempt to
7 give his interpretation that somebody had already
8 heard it under duress and was trying to dial 9-1-1,
9 and it was a misdial.

10 Your Honor, I mean, they can testify it was a
11 14-second call for whatever reason, but, I mean, he
12 is interpreting what that means. I mean --

13 MS. WALKER: Your Honor, I think he is
14 stating -- he is going to put on the record what
15 the numbers or the series of numbers dialed were.
16 He said why it was significant to him as an
17 investigator in this case.

18 Your Honor, I think investigators are allowed
19 to explain why they investigate certain things, why
20 they look further into certain things once they
21 become of note to them. That is all the lieutenant
22 is doing.

23 THE COURT: I think y'all are pushing it. I
24 mean, he can say what the numbers were. If the
25 jury wants to conclude -- I mean, what were the

1 numbers? I mean, unless he has evaluated
2 cellphones in the past before. I mean, you have to
3 lay some kind of foundation.

4 MS. WALKER: I can qualify him as a cellphone
5 expert -- as a cellphone expert. He has been
6 qualified before.

7 THE COURT: Well, you would have to qualify
8 him, I think, as more than a cellphone expert.

9 MS. WALKER: Phone records, cellphone
10 analysis.

11 THE COURT: A person under distress on the --
12 I mean, I just think y'all -- he can say what he
13 saw, but as far as him giving his opinion as to
14 what he was trying to do, I mean, the jury can
15 infer what they choose to. But I don't know if he
16 necessarily -- he hasn't been qualified as an
17 expert to do anything.

18 MS. WALKER: I can qualify him.

19 THE COURT: Unless he has had some experience
20 before with a similar issue, then I don't think he
21 can even get into his opinion as to what it was --

22 MS. WALKER: And, Your Honor, can I make a
23 proffer?

24 THE COURT: You want to proffer his testimony?

25 IN CAMERA DIRECT EXAMINATION

1 BY MS. WALKER:

2 Q Lieutenant, the digits that were dialed from
3 Mr. Capnerhurst's cellphone, what digits were
4 those?

5 A The Number 7, an asterisk, the Number 4, the Number
6 4, Number 0, Number 1, an asterisk, and the Number
7 5.

8 Q And did you -- once you saw that phone number, what
9 did you do?

10 A I contacted Verizon to see if they could explain.
11 It was showing as a 14-second call. Obviously it
12 was not a complete number, but I wanted to get an
13 explanation from Verizon themselves as to how to
14 they interpreted this particular call. I've done
15 this numerous times before on other investigations.

16 I talked to Ms. Paula Bartholomew with Verizon
17 who indicated that the calling sequence I just
18 mentioned did hit a tower and the tower tried to
19 connect the call for 14 seconds before realizing
20 that it was an incomplete phone number, and then it
21 was disconnected. It was unable to make a
22 connection due to being an incomplete call.

23 Q Did you then observe kind of the numeric keypad on
24 a cellphone in correlation with these?

25 A Yes.

1 Q And can you explain to the judge your observations
2 when you did that?

3 A When I look at this pattern, although obviously
4 it's not 9-1-1, the numbers, in relation to where
5 they are on the keypad, you can make a logical
6 assumption that the subject may have been
7 attempting to dial for assistance or dial 9-1-1.

8 Q And, Lieutenant, in terms of kind of your area of
9 expertise, do you spend a lot of time for the
10 Sheriff's Department analyzing cellphone records?

11 A Yes, I do. I've been doing cellphone records since
12 2001.

13 Q What kind of training do you have in analyzing
14 cellphone records?

15 A I've had on-the-job training since 2001. I have
16 attended numerous seminars, classes, beginning in
17 2007 a cellphone investigations class where we
18 discussed on how to interpret the records from the
19 phone companies, how to plot the locations, the
20 sectors that these phones are hitting on, and how
21 to display those for court purposes.

22 Following that, in May of 2008 I attended the
23 Mobile Forensics World Conference in Chicago where
24 leading authorities and researchers from around the
25 world were brought in as speakers for a week-long

1 seminar on the latest cutting edge trends in
2 forensic cellphone technology and how to assist law
3 enforcement with that.

4 Q When cellphone records become pertinent in a case
5 at the Richland County Sheriff's Department, are
6 you the person who analyzes those records?

7 A I do all the records, yes.

8 Q And what about for the Columbia Police Department,
9 do you analyze those records?

10 A Yes, I have done several Columbia Police Department
11 murder trials as well.

12 Q Have you been qualified as an expert in cellphone
13 analysis?

14 A I have on six occasions.

15 Q In this courthouse?

16 A Yes. Six on cellphone investigations, yes. I also
17 attended a class in November 2012 which was an
18 Advanced cellphone Forensics and Cellular Training
19 Technology Class and became court certified at the
20 conclusion of that seminar, that class, by passing
21 a written test and operating the equipment to
22 download the phones.

23 Q I want to show you what has been marked as State's
24 Exhibit Number 378. This is the victim's
25 cellphone. Can you describe that cellphone for the

1 judge so she understands. There are flip phones,
2 there are touch phones.

3 A It actually flips open, Your Honor, where you can
4 do text messaging. But to place a call, the
5 keyboard is on the outside. You simply just dial
6 the number and hit send.

7 Q And when you looked at that cellphone in
8 conjunction with the numbers that were attempted to
9 be dialed by Mr. Capnerhurst -- at what time?

10 A At 12:33. He arrived at 12:31 and 55 seconds. So
11 this would have been a minute and a half or so
12 after he arrived.

13 Q What -- describe what you observed to the judge
14 with the pad.

15 A Well, as I said, that pattern is very close to
16 possibly dialing 9-1-1. I can't say for sure, but
17 it appears someone attempted to call out on this
18 phone. It was an incomplete call. In my opinion I
19 would think it may have been 9-1-1 based on the
20 pattern and the close proximity of the keys to the
21 9-1-1 keys.

22 MS. WALKER: That's all I have, Your Honor.

23 MR. WHITLARK: Briefly, Your Honor. I mean, I
24 think I heard the word *guess* coming out of him
25 about this. I mean, you know, I object on that

1 basis.

2 I mean, there is really no science to what he
3 is saying, Your Honor. It is what he just said,
4 it's a guess.

5 And, Your Honor, I have a question for him.

6 IN CAMERA CROSS-EXAMINATION

7 BY MR. WHITLARK:

8 Q What is the main interchange number for Columbia,
9 South Carolina, after you get your first three,
10 8-0-3? Isn't it 7? Isn't 7 a widely used number?

11 A It's one of them.

12 Q Isn't that widely used?

13 A There's many. There's 2, there's --

14 Q Okay. I know. But 7 is one of them, isn't it,
15 though? We've got 2 and 7.

16 A That's correct.

17 MR. WHITLARK: Your Honor, he just said it was
18 a guess, Your Honor.

19 THE COURT: All right. I'm not going to allow
20 him to give his opinion as to -- first of all, he
21 hasn't been qualified. I'm guessing you're trying
22 to admit him as to cellphone analysis.

23 But based on his testimony here, it is
24 speculation. He can testify as to the numbers,
25 that when he called Verizon, they told them it was

1 an incomplete call, somebody was trying to make a
2 call and connect it, but the numbers -- he can
3 testify to all that. The only -- but, I mean, as
4 to his opinion as to what number they were trying
5 to call, I mean, it is just --

6 MS. WALKER: Okay, Your Honor.

7 THE COURT: It is speculation.

8 MS. WALKER: Okay.

9 MR. WHITLARK: Your Honor, I know I'm going to
10 hear -- I'm sure in the closing argument, they're
11 going to talk about that.

12 THE COURT: They can argue it all they want.

13 MR. WHITLARK: Absolutely.

14 THE COURT: I mean, they can argue that, but
15 he can't give that opinion testimony.

16 MR. WHITLARK: Thank you.

17 THE COURT: Are you ready to bring them back
18 in?

19 MS. WALKER: I am, Your Honor.

20 THE COURT: You can bring them in.

21 (WHEREUPON, the jury came into open
22 court at approximately 6:52 p.m.)

23 THE BAILIFF: The jury is seated, Your Honor.

24 THE COURT: All right. You may continue.

25 DIRECT EXAMINATION CONTINUES

1 BY MS. WALKER:

2 Q There were a series of numbers that were dialed
3 from the victim's phone?

4 A Yes, there were.

5 Q What numbers were dialed?

6 A The Number 7, an asterisk, the Numbers 4-4-0-1, and
7 an asterisk, and the Number 5.

8 Q Was that call completed?

9 A No, it was not. I contacted Verizon about that and
10 spoke to a Paula Bartholomew at Verizon to get a
11 better understanding of why -- what was going on
12 here.

13 And I was informed that for 14 seconds that
14 phone tried to connect, was connected to a tower
15 and was trying to complete the call, and it was
16 then dropped because it was an incomplete number.

17 Q And what pocket was that phone found in?

18 A The left pocket, the front pocket of
19 Mr. Capnerhurst.

20 Q And he attempted to make a phone call at what time?

21 A 12:33.

22 Q What time did he enter the house?

23 A 12:31 and 55 seconds.

24 Q I think earlier you stated that you obtained the
25 phone -- the phone records from the gambling lines

1 of the home?

2 A Yes, I did.

3 Q And do you recall those phone numbers that
4 correspond with those lines?

5 A Yes. It was (803)407-1351 and (803)407-1352.

6 Q Is there an additional phone line in the home?

7 A There was a residential line which is (803) --
8 correction -- (803)781-7905.

9 Q And the Defendant's phone number in this case?

10 A The Defendant's in this case was (803)530-9404.

11 Q And the victim, Mr. Capnerhurst?

12 A His phone number was (803) -- it was a Verizon
13 cellphone -- (803)622-2453.

14 Q And Ms. Parker?

15 A Ms. Parker had two cellphones, a personal phone and
16 a work phone. One of her numbers was
17 (803)391-6353, which was also Verizon, and
18 (803)360-6000.

19 Q And on May 11th did you again view the surveillance
20 video of this case?

21 A May 11th is when I did review it again. And that
22 would be when I noticed what appears to be the
23 blinds opening and shutting at 12:24 and 58 seconds
24 from the side entry door to the residence adjacent
25 to the garage.

1 Q And did you bring that to the attention of other
2 investigators?

3 A I looked at it two or three times myself and then
4 alerted Major Smith and other investigators
5 involved in the case for them to view it as well.

6 Q Did you receive what is called a closed incident
7 report from 9-1-1?

8 A I did.

9 Q Can you describe to the jury what a closed 9-1-1
10 incident report is?

11 A A closed incident report is a transcript of the
12 call, the 9-1-1 call, when the call came in, things
13 entered by the dispatchers as far as units that are
14 assigned or responding, their arrival times, their
15 dispatch times, things of that nature, and also a
16 recording of the 9-1-1 call.

17 Q And was dispatch able to tell you what phone number
18 dialed 9-1-1 on April 13th?

19 A Yes, it was the home residential line of
20 (803)781-7905. This 9-1-1 call did not show up on
21 those records from AT&T when I was examining them.
22 And I had a question as to why. Because normally I
23 would think I would see that 9-1-1 call being
24 placed.

25 I contacted dispatch to verify which number

1 had called 9-1-1, and they informed me. I then
2 called AT&T to see why that call wasn't reflected
3 on there. I was told that 9-1-1 calls are not
4 reflected on normal search warrants. You would
5 have to request that on an additional search
6 warrant for any 9-1-1 calls.

7 Q And after viewing the -- after seeing the blinds
8 move, did the investigators make certain requests
9 from the crime scene unit?

10 A Yes. We discussed our next move in this case. We
11 had regular updates on this case every two or three
12 days, probably with new assignments and us all
13 getting together to discuss what we had found.

14 Q Is that uncommon in a murder investigation?

15 A No. It's very common, especially with a large
16 amount of people working. It's hard to stay on top
17 of what each person is doing unless you have these
18 meetings to get input from everyone involved as to
19 what they are doing or what they have found, what
20 they have looked at.

21 Q Okay.

22 A So we did have a meeting and one of the -- of
23 course, one of the top topics was what would be our
24 next move in light of this new evidence we have
25 seen with the blinds being moved or what appeared

1 to be opening and closing.

2 We discussed going back with an additional
3 search warrant to try to recreate these events and
4 also to give our CSI team a chance to see if there
5 was any GSR or GPR located on those blinds, on that
6 door, or on the plantation blinds just adjacent to
7 this door which shown out onto the front of the
8 residence.

9 Q And did you participate in the execution of that
10 search warrant?

11 A Yes, I did.

12 Q And what day was that?

13 A That was on May 23rd. We were -- we had to plan
14 this and we tried to do it, to recreate this at the
15 same time of day as the original blinds when they
16 were -- appeared to be opened. And we needed a
17 bright sunny day, much like it was on April 13th.

18 So we had to look at weather reports and gauge
19 the next day that this would be appropriate, and we
20 came up with May 23rd. We had gotten a search
21 warrant previous to this and were ready to go first
22 thing that morning on the 23rd.

23 Q And did you respond to 12 Tackeria Court?

24 A I did. Myself and Investigator Holdorf were the
25 first two to arrive that morning.

1 Q And when you entered -- did you enter the residence
2 that day?

3 A We announced that we were on scene to Major Smith,
4 who I believe tried to telephone Mr. Parker. We
5 had noticed Mr. Parker's vehicle was in the
6 driveway and thought he may be in the residence.

7 We had Major Smith, who had his number, to
8 call him and let him know that we were on scene and
9 we had a search warrant and to come out -- you
10 know, that investigators were on the scene.

11 We initially entered through the garage area
12 and knocked on the door there and didn't get a
13 response. We then stepped out and started walking
14 around to the front door.

15 I believe Mr. Parker came out the side door
16 possibly at that time, and then we met him at the
17 front door. Major Smith, I guess, directed him to
18 come to the front door.

19 We explained our intentions, that we had a
20 search warrant and asked him to vacate the
21 premises. We would notify him when we were
22 complete.

23 Q Once you -- did you enter the home that day or did
24 you stay outside?

25 A No, I entered the home, along with several other

1 investigators and a CSI investigator.

2 Q Did you make your way to the office area?

3 A Yes, I did.

4 Q What did you find in the office area?

5 A We looked through additional paperwork. Some .410
6 shotgun rounds were found in the desk area at that
7 time. Investigator Metz had a DVR we had obtained
8 from ADT, separate from the DVR that was utilized
9 to record the incidents on April 13th.

10 Investigator Metz was tasked with setting up
11 that DVR to record, using the same cameras that
12 recorded the previous events, trying to recreate
13 this as close to possible as we could.

14 Q At that point in time had investigators made
15 contact with Ms. Mullins?

16 A Yes.

17 Q And had she indicated anything about possible guns
18 or ammunition in the office area?

19 A She had in a statement. She had indicated that
20 Mr. Parker had indicated that he kept a gun in the
21 office and pointed at his desk.

22 Q And where were the Winchester bullets found?

23 A In his desk drawer.

24 Q There has been testimony, I think, from Sergeant
25 Richards and a picture admitted about Gun Oil in

1 this case?

2 A Yes.

3 Q Gun Oil, please explain to the jury what that is.

4 A Gun Oil is a personal lubricant used for sexual
5 activity. It was found --

6 MR. WHITLARK: Objection, Your Honor.
7 Objection.

8 THE COURT: All right. What is your
9 objection?

10 MR. WHITLARK: Well, I don't know what it's
11 used for. Does it have that on the label? I don't
12 know.

13 MS. WALKER: I'll get the label.

14 MR. WHITLARK: Does it say that?

15 THE COURT: All right. Objection sustained.
16 Please refrain -- or move on to the next question.

17 MR. WHITLARK: Thank you, Your Honor.

18 BY MS. WALKER:

19 Q Is Gun Oil used to clean actual guns?

20 A That particular Gun Oil?

21 Q Yes, that Gun Oil.

22 A I don't believe so.

23 Q And during the execution of that search warrant, is
24 that when Sergeant Richards -- were you here for
25 Sergeant Richards' testimony?

1 A I was.

2 Q Is that when the swabbing of those blinds took
3 place as well?

4 A Right. I observed him do some of the swabbing down
5 there and directed him to also do the plantation
6 shutters and the washroom adjoining this area.

7 Upon arrival on the scene, I noticed that
8 those blinds, you could also see down the driveway
9 in the front of the house. So I wanted those
10 swabbed as well.

11 Q Okay. And I want to go back to May 14th. Did you
12 meet with Jack Parker?

13 A I did. Myself and Major Smith met him at his
14 residence.

15 Q And who is Jack Parker?

16 A He is the Defendant's father.

17 Q Were you able to gain certain information from him
18 about this case?

19 A We did. Yes, we did. We basically laid out the
20 case we had to this point with the evidence we had,
21 being open and honest with him about where this
22 case appeared to be heading.

23 Q Go ahead.

24 A We confronted him with some phone calls. We had
25 gotten phone call records. And we noticed a very

1 early phone call to his residence that morning. He
2 recollected that was Tammy calling him asking him
3 for an obituary out of the newspaper. He recalled
4 that. He didn't recall some of the other calls
5 that morning involving Brett or Capnerhurst.

6 Q Were there phone calls in the records between Jack
7 Parker and Bryan Capnerhurst?

8 A There were.

9 Q Go ahead.

10 A He did indicate, after talking with him, that at
11 about 7:43 that he did talk to Mr. Capnerhurst
12 about meeting Brett that day to get paid.

13 And Mr. Parker indicated he was going to loan
14 Capnerhurst some money if there was an issue or
15 problem, if Mr. Parker did not pay him.

16 Q And your involvement with the investigation of this
17 case was from basically the date of the incident
18 until when?

19 A Up until a week or so before trial.

20 Q Did you prepare a PowerPoint --

21 A I did.

22 Q -- presentation?

23 A I did.

24 Q And does that PowerPoint presentation encompass the
25 cellphone records that we've been discussing?

1 A They do.

2 THE COURT: Are you going to present that?

3 MS. WALKER: Yes, ma'am.

4 THE COURT: All right. Ladies and gentlemen
5 of the jury, this may be a good time for us to take
6 our evening break. It's about ten after 7:00. And
7 we'll go ahead -- Ms. Walker tells me that she has
8 quite a bit more direct testimony from Lieutenant
9 McDonald. And then, of course, we have
10 cross-examination from the Defense.

11 So at this point in time, before she brings up
12 the PowerPoint, we will go ahead and take our
13 evening break. We'll start tomorrow morning at
14 9:30.

15 I am thinking -- I don't know if any of you
16 bring your lunch, but I'm thinking that we'll
17 probably order lunch tomorrow. So the clerk will
18 have menus for you in the morning.

19 Thank you. Have a great evening.

20 (WHEREUPON, the jury was excused at 7:10 p.m.)

21 THE COURT: All right. So 9:30 in the
22 morning. I think we will order lunch. I've got to
23 go over to the State Grand Jury around lunchtime to
24 receive some indictments, I guess, probably about
25 12:30 or so.

1 So if you all want to order in, I'm going to
2 order lunch for them tomorrow. I will try not -- I
3 don't know if we'll work as late tomorrow night.
4 The younger people cannot hang.

5 (WHEREUPON, the proceedings concluded
6 for the evening.)

7 MAY 15, 2013

8 MR. WHITLARK: Your Honor, may it please the
9 Court?

10 THE COURT: Yes, sir.

11 MR. WHITLARK: Your Honor, it has been brought
12 to my attention by the Prosecution that they are
13 wanting to introduce certain phone records and the
14 telephones, and so forth. And I have a matter of
15 law to take up with the Court regarding that.

16 I would need to ask simply one question of the
17 witness regarding one thing, and I would have a
18 matter of law regarding the Fourth Amendment, Your
19 Honor.

20 THE COURT: All right. Yes, sir.

21 MR. WHITLARK: May I proceed?

22 THE COURT: Yes, sir.

23 IN CAMERA EXAMINATION

24 BY MR. WHITLARK:

25 Q Investigator McDonald, would you take a look at --

1 this is Defense Exhibit Number 1. Would you take a
2 look at the middle of that page there? Are you
3 looking at it, Investigator?

4 A Yes, I am.

5 Q Would you agree with me that there was no police
6 officer at the scene? There is no record of a
7 police officer being there from about 1:40 till
8 about 4:00 o'clock in the morning?

9 A I see Officer Wenzel, and I see that 4:13:12.
10 There is not a time associated next to that.

11 Q Right. Would you agree there is a gap in time that
12 there is no officer recorded being there in the
13 early morning hours of April 14th? Would you agree
14 with me? That the log -- that's what the log
15 shows?

16 A That's what the log shows. I know the scene was
17 guarded 24/7.

18 MR. WHITLARK: I have a matter of law to take
19 up, Your Honor.

20 THE COURT: I didn't hear. What was his last
21 response? You said?

22 THE WITNESS: I know the scene was guarded
23 24/7. I know the log may not indicate that, but I
24 know an officer was there.

25 MR. WHITLARK: Your Honor, if I may proceed

1 briefly?

2 THE COURT: Yes, sir.

3 MR. WHITLARK: Your Honor, we would object to
4 any evidence that was seized on the 14th on the
5 grounds that once they relinquished the house, it
6 appears, according to this log, it appears that
7 they did not have an officer there according to the
8 official log for about three hours on the 14th.

9 Once they relinquished control of it, the
10 warrant that they had is no longer valid. They had
11 to get a new warrant issued when they re-entered
12 the premises on the 14th in the early morning
13 hours.

14 And I would move to suppress for violation of
15 the Fourth Amendment everything that they seized
16 the next day, which would include all these
17 telephone records and all the other materials that
18 they gathered on the 14th. They didn't have a
19 warrant to do it. And I would move to suppress the
20 evidence.

21 THE COURT: All right. So you're saying there
22 was a warrant issued on the 13th, and there is a
23 time period you are saying on the log that it
24 appears that no one was there?

25 MR. WHITLARK: Yes, Your Honor. Unless they

1 can produce a witness who was actually there during
2 this gap that we show in this log, they would have
3 had to have gone and gotten a new warrant.

4 Because once they relinquish control of the
5 premises, they have to get a new warrant. I would
6 move to suppress every bit of evidence they
7 gathered on the 14th of April on that basis.

8 THE COURT: Are we getting into some of that
9 evidence at this time?

10 MR. WHITLARK: Yes, Your Honor. That's why I
11 did it at this time.

12 MS. WALKER: No, Your Honor, we're not.

13 THE COURT: You're not getting into
14 anything --

15 MS. WALKER: That was gathered. Evidence
16 taken from the house on the 14th?

17 MR. WHITLARK: Yes.

18 MS. WALKER: No.

19 MR. WHITLARK: I thought the cellphones --
20 weren't the cellphones seized?

21 MS. WALKER: It is his cellphone that he gave
22 them consent --

23 MR. WHITLARK: Well, that's fine.

24 MS. WALKER: And there are search warrants --
25 there are several search warrants for the landline

1 in the house.

2 MR. WHITLARK: I believe those were the ones
3 that were seized on the 14th, I think.

4 THE COURT: She is saying there is a separate
5 search warrant.

6 MR. WHITLARK: If they have the warrant. I
7 have never seen one, Your Honor. That's all.

8 MS. WALKER: Your Honor, the other record that
9 we are going to introduce would be Tammy Parker --
10 the cellphone records of Tammy Parker and Bryan
11 Capnerhurst, which Mr. Whitlark doesn't have a
12 standing.

13 MR. WHITLARK: That's right. I can't -- those
14 would be admissible if the Court allows them. But
15 anything else, Your Honor -- and I believe there is
16 a laundry list of stuff they got on the 14th that
17 my assistant is putting together what that is.

18 But at this time, if these are the telephone
19 records from the phones they got the day before,
20 then I have no objection to them getting into that.

21 THE COURT: She is saying there is a separate
22 search warrant, which would be what you are saying,
23 that there should be another search warrant issued.

24 MR. WHITLARK: That's right.

25 THE COURT: For the telephone records that

1 they issued, because I believe they have to get
2 separate warrants for those anyway.

3 MR. WHITLARK: Right. I agree with the Court.
4 I agree with that. I did want to alert the Court
5 to this.

6 THE COURT: But you're saying any other items
7 that would not have a new --

8 MR. WHITLARK: That there is no new warrant
9 issued for.

10 THE COURT: A new search warrant issued for?

11 MR. WHITLARK: Yes, ma'am.

12 MS. WALKER: Your Honor, what we are about to
13 get into are the cellphone records that don't have
14 anything to do with --

15 MR. WHITLARK: That's fine. We don't have any
16 objection.

17 THE COURT: In the interim, if -- y'all need
18 to find out if somebody was there or not. I
19 mean --

20 MS. WALKER: We'll bring a witness.

21 THE COURT: All right. Before we can
22 introduce any of that evidence.

23 MS. WALKER: We're bringing the -- we are not
24 introducing the evidence. We're introducing the
25 cellphone records.

1 THE COURT: No, no, no. I mean the witness
2 needs to testify that they were there or come in
3 and be able to testify that they were there during
4 those hours that he made his motion to. Not for
5 purposes -- we are going to go forward with him.

6 MS. WALKER: Right. And at the appropriate
7 time we will do that.

8 THE COURT: Okay. All right.

9 MR. WHITLARK: Thank you, Your Honor.

10 THE COURT: All right. Are we ready to bring
11 them in? You can bring them in.

12 (WHEREUPON, the jury came into open
13 court at 9:49 a.m.)

14 THE BAILIFF: All jurors are present, Your
15 Honor.

16 THE COURT: All right. Good morning, ladies
17 and gentlemen of the jury. I hope that you had a
18 restful evening.

19 I have a note from one of the jurors that they
20 have to leave by 6:30 today. We will be done
21 before 6:30 today. I won't make y'all stay late
22 two nights in a row.

23 (WHEREUPON, Court's Exhibit No. 3 was
24 marked for identification only.)

25 THE COURT: But I did order you all lunch, so

1 we will take a short lunch break and hopefully move
2 right along so we can get out of here a little bit
3 earlier today.

4 All right. Thank you.

5 We will continue with the direct examination
6 of Lieutenant Scott McDonald by Ms. Walker. Thank
7 you.

8 MS. WALKER: Thank you, Your Honor.

9 DIRECT EXAMINATION CONTINUES

10 BY MS. WALKER:

11 Q Good morning, Lieutenant.

12 A Good morning.

13 Q Your duties at the Richland County Sheriff's
14 Department, are some of them -- would that include
15 analyzing cellphone records?

16 A Yes, it would.

17 Q Have you had any specialized training or education
18 to aid you in that?

19 A Yes, I have. I have been doing these phone records
20 since 2001. I have had several classes, seminars,
21 ongoing education, most recently in November of
22 this past year where I was court certified by the
23 Public Agency Training Council that put on the
24 Advanced cellphone Technology and Forensics class,
25 which requires a proficiency test and a written

1 test.

2 Q When cellphones become pertinent in a case within
3 the Sheriff's Department, are you the person who
4 analyzes those records?

5 A I am.

6 Q What about the City of Columbia Police Department?
7 On occasion have cellphone records become
8 important? Do you analyze those records?

9 A I've been asked on several occasions to review
10 those, yes, and analyze them.

11 Q And when you review those records, can you kind of
12 explain to the jury what you do?

13 A Well, I need to know a little bit about the
14 incident, the time, the place that we believe this
15 whatever incident may have happened. I then
16 receive the cellphone records.

17 We request the cell tower locations that are
18 provided during the call, as well as a sector.
19 Each tower is, you know, broken up into three
20 sectors, each one approximately 120 degrees.

21 We can literally place you in a sector within
22 a two or three square mile area usually when that
23 call is in progress. Sometimes it transfers from
24 one tower to another, which could show that the
25 phone was in motion at the time of the call,

1 beginning and ending tower.

2 Q In conjunction with that, do you analyze records of
3 different individuals involved in cases to see if
4 they correlate at all?

5 A Yes, I do. In today's world with modern
6 communication, most people have a cellphone. They
7 are very prevalent. They also give us your
8 location when you're making calls to other parties.

9 Sometimes when we are trying to identify who
10 the party -- if we had a murder, let's say, and we
11 don't know who the suspect may be or a whodunit
12 type thing, the first thing we would look at
13 sometimes are the cellphone records of the victim
14 to see, well, who has he been in contact with most
15 recently. We kind of start working it back that
16 way, which oftentimes the first couple of calls has
17 led us to our suspect.

18 Q And have you been qualified as an expert in that
19 field before?

20 A I have on six occasions.

21 Q In this courthouse?

22 A In General Sessions, yes.

23 MS. WALKER: Your Honor, at this point in
24 time, the State offers Lieutenant McDonald as an
25 expert in cellphone analysis.

1 MR. WHITLARK: Your Honor, may it please the
2 Court, Your Honor?

3 THE COURT: Yes, sir.

4 MR. WHITLARK: Your Honor, we object to him
5 being qualified as an expert in this area. He was
6 an investigator on this case, and these are factual
7 findings that he is doing as part of his
8 investigation.

9 And I actually don't see any need for him to
10 be qualified as an expert to give an opinion.
11 These are objective findings he made, which, you
12 know, would go to the weight of it if I had
13 something about it. But I do not -- I object to
14 him being qualified as an expert. It's not
15 necessary.

16 MS. WALKER: But you don't -- well, you said
17 it's not necessary, but he can testify to the
18 cellphone records?

19 MR. WHITLARK: Well, that was part of his
20 investigation. Of course, if he was gathering
21 things like that --

22 MS. WALKER: We'll move forward, Your Honor,
23 if that is okay with the Court. I will move
24 forward without qualifying him as an expert.

25 THE COURT: I guess if he's going to give

1 opinion -- if he is going to give opinion
2 testimony -- if he is going to testify as to what
3 he saw, what he knows, I mean, if he is going to
4 give opinion testimony --

5 MS. WALKER: I'll avoid opinions, Your Honor.

6 THE COURT: All right.

7 MR. WHITLARK: Thank you, Your Honor.

8 BY MS. WALKER:

9 Q Investigator -- I'm sorry -- Lieutenant McDonald,
10 did you come into possession of certain cellphone
11 records that were important in this case?

12 A Yes, I did. I came into several sets of cellphone
13 records: Mr. Brett Parker's cellphone records,
14 Tammy Parker's cellphone records -- she had two, a
15 work cellphone and a personal cellphone -- and
16 Mr. Bryan Capnerhurst's cellphone.

17 MS. WALKER: Your Honor, beg the Court's
18 indulgence so I can mark these records for
19 identification purposes.

20 (WHEREUPON, State's Exhibit No. 441 was
21 marked for identification only.)

22 (WHEREUPON, State's Exhibit No. 442 was
23 marked for identification only.)

24 (WHEREUPON, State's Exhibit No. 443 was
25 marked for identification only.)

1 BY MS. WALKER:

2 Q I want to show you what is marked as State's 441
3 and ask if you recognize these.

4 A This is part of a cellphone download. These aren't
5 the actual phone records.

6 Q Is that part of the cellphone download that you
7 did?

8 A Yes.

9 Q Okay. Let me show you State's Exhibit Number 442
10 and ask you if you recognize those?

11 A These are the Verizon cellphone records of Tammy
12 Parker.

13 Q And State's Exhibit Number 443. And I ask if you
14 recognize these.

15 A These are the cellphone records of Bryan
16 Capnerhurst, Verizon.

17 MS. WALKER: Your Honor, the State seeks to
18 introduce State's Exhibit 441, the Defendant's
19 cellphone dump; State's 442, the cellphone records
20 of Tammy Parker; and State's Exhibit 443, the
21 cellphone records of Bryan Capnerhurst into
22 evidence.

23 MR. WHITLARK: No objection, Your Honor.

24 THE COURT: All right, those will be entered
25 without objection.

1 (WHEREUPON, State's Exhibit No. 441 was
2 admitted into evidence.)

3 (WHEREUPON, State's Exhibit No. 442 was
4 admitted into evidence.)

5 (WHEREUPON, State's Exhibit No. 443 was
6 admitted into evidence.)

7 BY MS. WALKER:

8 Q The cellphone dump that you did of the Defendant's
9 cellphone, is there a -- when you look at the times
10 on that, is there a parenthetical that says GMT?

11 A Yes, this says GMT after the time.

12 Q What does GMT mean?

13 A Greenwich Mean Time.

14 Q And as you are analyzing cellphone records, that
15 GMT, is that important?

16 A It is. GMT is actually four hours ahead of us over
17 in the England/UK area.

18 Q So whatever time is actually on that phone download
19 would be four hours ahead of that?

20 A That's correct.

21 Q For Eastern Standard Time?

22 A Right.

23 Q Did you use those cellphone records to create a
24 PowerPoint?

25 A I did.

1 Q And would that aid you in your testimony here
2 today?

3 A It would.

4 MS. WALKER: Your Honor, may the witness step
5 down?

6 THE COURT: Yes.

7 (Witness steps down.)

8 BY MS. WALKER:

9 Q Can you explain what we are looking at for the
10 jury, please?

11 A These are the three participants whose phone
12 numbers we looked at in this case in depth. Brett
13 Parker, the Defendant, this is his personal
14 cellphone, 530-9404. This is the home work number
15 or one of the bookie lines in the residence, that's
16 a landline, 407-1351, as well as 1352. And that is
17 the home landline, (803)781-7905.

18 For Tammy's, like I said, she had two
19 cellphones. She had a work cellphone, which is
20 actually going to be this one here, 391-6353, which
21 I believe is the Novartis cellphone. There's a
22 personal cellphone, 606-6000. And then, of course,
23 her home landline number is the same as
24 Mr. Parker's, 781-7905. And Mr. Bryan
25 Capnerhurst's cellphone number is (803)622-2453.

1 These are Mr. Parker's cellphone records. On
2 April 13th, beginning at 7:40 that morning would be
3 the first call. And this particular view takes it
4 up through 13:42, which would be 1:42 in the
5 afternoon, well after this incident had occurred.

6 As you can see, his first call that morning --
7 and let me just explain what this is. This is the
8 date. This is at the beginning time of the call,
9 the ending time of the call, the length of call in
10 seconds, 143 seconds.

11 "I" and the "O", that is an outbound call or
12 an inbound call. So what this first line shows is
13 Mr. Parker called Mr. Capnerhurst. Of course, this
14 is Mr. Parker's cellphone number, and that is the
15 number he called, which was Mr. Bryan Capnerhurst.

16 Q And that call was what time?

17 A That was at 7:40 a.m. that morning.

18 Q 7:42:31?

19 A And that's the completion of the call.

20 Q That's when it ended?

21 A Yes.

22 Q Okay. Who else did he call that morning?

23 A He called somebody named Casey. These contacts
24 came up through the investigation or were entered
25 into the software. That's how we were able to come

1 up with the subscriber information.

2 He called his father. Actually that is an
3 inbound call. His father called him at 8:47 that
4 morning for 33 seconds. Mr. Parker's phone, it was
5 an outbound call after that at 8:58 to his father.
6 Another inbound call from his father of 100 seconds
7 that began at 8:59 a.m.

8 He talks to his mother here. These are all
9 outbound calls beginning at 9:07, 9:08, 9:10 that
10 morning. At 9:17 he called his father again,
11 talked to him for 75 seconds. Do you want me to go
12 through each one of these?

13 Q No, well, let's move to the communications he had
14 with Tammy J. Parker. And that's the victim in
15 this case?

16 A Yes. Tammy -- this was an outbound call where he
17 called her at 9:48 a.m. It was a 43 second call he
18 placed to her. Once again, a few minutes later at
19 9:54, there is an inbound call from his father to
20 him 35 seconds in length.

21 Then we have a series of calls. Tammy calls
22 Brett at 9:55. It was a 32-second phone call.
23 Brett then calls back at 10:00 o'clock, a 78 second
24 phone call to Tammy. He calls again at 10:59, 31
25 seconds to Tammy. At 11:02 an inbound call from

1 Tammy with a length of 97 seconds.

2 Then he has several conversations with
3 Mr. Capnerhurst here. The first one, again, at
4 11:02 for 97 seconds -- I'm sorry, correction --
5 the first one was at 11:12. Another outbound call
6 from Mr. Capnerhurst at 11:13 for 50 seconds. And
7 another outbound call at 11:15 for 77 seconds.

8 Q And after those phone calls to Bryan Capnerhurst,
9 does he speak with his father again that day?

10 A There is a 28 second call, an inbound call, from
11 Mr. Parker Senior, Jack Parker, to the phone at
12 13:42 hours.

13 Q What time is that?

14 A At 1:42 p.m.

15 Q That is after the murders?

16 A That is after.

17 Q And the last phone call that we have on here, who
18 is that?

19 A It is an inbound phone call from Lanny Gunter to
20 Mr. Parker, a 33 second phone call.

21 Q And over the course of your investigation, did you
22 become familiar with Lanny Gunter?

23 A Yes, I did.

24 Q Who is he?

25 A He is Brett's bookie in the gambling business.

1 Q And can you explain this?

2 A These are the phone records for the day of the home
3 telephone, the landline, AT&T lines, at the
4 residence.

5 There was a call that morning at 7:06, an
6 outbound call for 66 seconds, their phone,
7 landline, to Mr. Jack Parker.

8 Q Let me go to the -- I'm sorry.

9 (Pause.)

10 A This is Tammy Parker's Novartis cellphone, work
11 cellphone for the day in question. These are the
12 only calls on that phone for that day.

13 There is an inbound call from Ben Staples to
14 her phone at 8:58 in the morning, a five second
15 call.

16 There is an outbound call from Tammy to
17 Mr. Staples at 9:05 a.m. It is 212 seconds.

18 There was another outbound call to Mr. Staples
19 at 11:41, which was 144 seconds.

20 Q And then the last one is an unknown?

21 A That's correct. That was an inbound call coming in
22 from an unknown number.

23 Q And this is the Novartis phone?

24 A The Novartis phone.

25 Q The phone calls that you show going back and forth

1 between Tammy Parker and the Defendant, were those
2 on her own different cellphone?

3 A Her personal cellphone.

4 Q Is this her personal cellphone?

5 A This was her personal cellphone. She calls this
6 number here -- which one do you want me to talk
7 about?

8 Q Let's start with the phone calls to Joe Stuart.
9 What time is that?

10 A Joe Stuart is a friend of hers. That's an outbound
11 call at 9:46 a.m. on the 13th, 47 seconds in length
12 to Mr. Joe Stuart. He is an interior designer.

13 Q And the others are the same -- the others are with
14 Brett Parker?

15 A Yes, the same records that coincide on his records.

16 Q Again, these times are all Eastern Standard?

17 A They are.

18 Q So that is the right time zone?

19 A Yes, it is.

20 Q And finally Bryan Capnerhurst's cellphone?

21 A This is his cellphone records for the day in
22 question, 4/13. His first call that morning was an
23 inbound call from Mr. Parker for 143 seconds.
24 Mr. Parker called him on his cellphone.

25 Q Let's go to the -- there is a phone call between

1 Bryan Capnerhurst and Jack Parker. What time is
2 that?

3 A The first one right here is 4/13 at 7:43 a.m., a 34
4 second call, outbound. Mr. Capnerhurst is calling
5 Mr. Jack Parker.

6 Q And then the next time he speaks with Jack Parker?

7 A 8:39 a.m. It is 176 seconds. And it is an inbound
8 phone call from Mr. Parker to Mr. Capnerhurst.

9 Q And there are a series of phone calls to a James
10 Morgan. What time were those phone calls?

11 A The first one was at 7:41 a.m., an inbound call
12 from Mr. Morgan to Mr. Capnerhurst that lasted 71
13 seconds.

14 At 7:43 Mr. Capnerhurst called Mr. Morgan,
15 1,037 seconds, an outbound call.

16 At 9:59, an outbound call from Mr. Capnerhurst
17 to Mr. Morgan that lasted 2,324 seconds.

18 There was an outbound call at 11:14 from
19 Mr. Capnerhurst to Mr. Morgan that lasted 127
20 seconds.

21 11:17, an outbound call from Mr. Capnerhurst
22 to Mr. Morgan, lasted nine seconds.

23 11:17, another outbound call that lasted seven
24 seconds from Mr. Capnerhurst to Mr. Morgan.

25 At 11:18 there was one for 731 seconds, an

1 outbound call from Mr. Capnerhurst to Mr. Morgan.

2 Q And over the course of your investigation, did you
3 become familiar with James Morgan?

4 A Yes, I did.

5 Q And I think he has been referred to as a bookie.
6 Has your investigation revealed that he is a
7 bookie?

8 A Not in any way, no.

9 Q What was the relationship between James Morgan and
10 Bryan Capnerhurst?

11 A They were friends, long friends. I believe they
12 played some fantasy baseball together. They had
13 been friends for a number of years.

14 Q And those -- the last phone call from Bryan
15 Capnerhurst's cellphone to James Morgan is at what
16 time?

17 A 11:18 that morning. He talks to him till 11:30
18 that morning.

19 Q And that is Eastern Standard Time?

20 A Eastern Standard Time.

21 Q Did those calls cease before Mr. Capnerhurst was
22 murdered?

23 A They do.

24 Q Will you retake the witness stand, Lieutenant?
25 (Witness returns to witness stand.)

1 BY MS. WALKER:

2 Q In terms of analyzing phone records, did you
3 receive certain phone records from the defense
4 attorney in this case?

5 A I did.

6 Q Those are Vonage phone records?

7 A They are, yes.

8 Q I want to show you what has been marked as State's
9 Exhibit 444 and 445.

10 MS. WALKER: I think these are admitted
11 without objection, Your Honor.

12 MR. WHITLARK: I have no objection to them.
13 Which one is which, though?

14 MS. WALKER: State's Exhibit 445 [sic] would
15 be the copy that the Defense turned over to us, and
16 State's Exhibit Number 445 would be the ones that
17 Vonage sent us.

18 THE COURT: You said 400 and what?

19 MS. WALKER: 445.

20 THE COURT: But you said --

21 MS. WALKER: Number 444 are the Defense
22 records.

23 THE COURT: Okay.

24 MS. WALKER: And 445 are the ones that Vonage
25 sent to us.

1 THE COURT: But you are entering those?

2 MR. WHITLARK: I would like to take a look, if
3 you don't mind, Your Honor.

4 (Pause.)

5 MR. WHITLARK: No objection, Your Honor.

6 (WHEREUPON, State's Exhibit No. 444 was
7 marked for identification and received
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 445 was
10 marked for identification and received
11 into evidence.)

12 BY MS. WALKER:

13 Q State's Exhibit 445 would be copies from the
14 Defense attorneys in this case?

15 A Yes, that's correct.

16 Q And have you been in here for some of the
17 testimony?

18 A I have.

19 Q There have been questions about phone calls made to
20 James Morgan after Mr. Capnerhurst died?

21 A That's correct.

22 Q Did they give you a -- did you receive a letter
23 that went with the Vonage records from the Defense
24 attorneys?

25 A I did. It was a cover letter indicating that the

1 records provided in this search were in Greenwich
2 Mean Time.

3 Q Greenwich Mean Time, which means what?

4 A It's a time zone over in the England/United Kingdom
5 area.

6 Q Okay.

7 A It's actually four hours ahead of us. So these
8 records were provided in Greenwich Mean Time, which
9 means all the records on here are four hours off
10 from Eastern Standard Time, meaning they are ahead
11 of us. So they are not in Eastern Standard Time.

12 Q Is it important to have the right time zone when
13 you are looking at phone records?

14 A Definitely.

15 Q I want to turn your attention to the phone records
16 on April 13th, I think Page 47.

17 A I've got it.

18 Q Does it show a series of phone calls from that
19 (803)622-2453 number to James Morgan?

20 A I see one at -- the time on here is 11:41.

21 Q Uh-huh.

22 A Which would be 7:41 Eastern Standard Time.

23 Q And the last one at 15:18?

24 A That would be at 11:18 a.m. Eastern Standard Time.

25 Q So would that be before Mr. Capnerhurst was

1 murdered?

2 A It was, yes.

3 Q So any insinuation that they are dead and making
4 phone calls or investigators making phone calls
5 from the cellphone would be in fact incorrect?

6 A That's correct.

7 Q Because it's misleading to talk about phone
8 calls --

9 MR. WHITLARK: Objection, Your Honor. That is
10 a leading question.

11 THE COURT: Sustained.

12 BY MS. WALKER:

13 Q In your experience, when talking to juries about
14 cellphone records, is it important to make sure
15 that we're in the right time zone?

16 A Yes, it is. It's very important. It could be an
17 hour or more off, which could be critical in a
18 case.

19 Q The last cellphone record -- the last cellphone
20 call in these Vonage records, does that correlate
21 with the last cellphone call that you had from
22 Bryan Capnerhurst's records?

23 A It does.

24 Q And the phone calls were before he was murdered?

25 A Yes, they were.

1 Q Continuing with your investigation in this case, at
2 some point in time, did you receive a cellphone
3 download -- an additional cellphone download?

4 A I did. After the arrest of Mr. Parker, the Secret
5 Service had obtained a search warrant to download
6 his cellphone upon his arrest. That was completed.
7 I was provided a copy of that download.

8 Q And did you view that -- did you view that
9 download?

10 A Yes, I did.

11 Q And does anything about that download stand out to
12 you?

13 A Yes, there were several things. The day prior to
14 Mr. Parker turning himself in at about 12:50 in the
15 afternoon, there was a video on there.

16 Q In terms of the internet history of the cellphone?

17 A The internet on the cellphone, yes. There was a --
18 that night at approximately 6:09 p.m., there was an
19 Orbitz search done for a flight to Memphis,
20 Tennessee.

21 Q Was there a search done for -- and was it just a
22 one-way flight to Memphis, Tennessee?

23 A It was a one-way flight to Memphis, Tennessee.

24 Q And that was the day before Mr. Parker was to turn
25 himself in?

1 A He had met with Sheriff Lott that day, and this was
2 shortly after meeting with Sheriff Lott that this
3 was found on his phone.

4 Q And I show you what is marked at State's Exhibit
5 Number 446.

6 (Pause.)

7 MR. WHITLARK: No objection, Your Honor.

8 THE COURT: It will be entered without
9 objection.

10 (WHEREUPON, State's Exhibit No. 446 was
11 marked for identification and received
12 into evidence.)

13 BY MS. WALKER:

14 Q This is from Mr. Parker's download?

15 A Yes, it is. I printed this off the download. This
16 shows the inquiry into Orbitz for a one-way ticket
17 to Memphis, Tennessee, on Thursday, July 19th.

18 MS. WALKER: Permission to publish to the
19 jury, Your Honor?

20 THE COURT: Yes.

21 (Complies.)

22 MS. WALKER: The State has no further
23 questions, Your Honor.

24 MR. WHITLARK: May it please the Court, Your
25 Honor.

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. WHITLARK:

4 Q Lieutenant McDonald, I'm going to ask you to take a
5 look at what has been marked as Defense Exhibit
6 Number 1. Take a look at Defendant's Exhibit
7 Number 1, please.

8 A Yes, sir. Any particular page?

9 Q Yes. Look at Page 5 and tell us what the date of
10 that is. While you're looking at it, Lieutenant,
11 could you -- you are very familiar with that log,
12 are you not, sir?

13 A I haven't seen this log in several months, no.

14 Q I want you to look --

15 A At the bottom you have the officers that were on
16 the scene that were guarding the scene.

17 Q Uh-huh.

18 A It begins on 4/13 and goes into 4/13 at 3:52 in the
19 morning.

20 Q Lieutenant McDonald, would you agree with me, sir,
21 that there was a gap? There wasn't an officer at
22 the scene there for about, what, two and a half,
23 three hours that night -- or the early morning
24 hours, I mean?

25 A I don't know that to be true, no.

1 Q I'm asking you, what does that log say?

2 A The log indicates the last officer that was there
3 was Deputy Wenzel, it appears. He doesn't have a
4 time next to his arrival time.

5 Q Do you agree with me and do you admit that there
6 was not an officer -- on the 14th of April in the
7 early morning hours, there was no Richland County
8 deputy at all at that house? Would you agree?

9 A I don't agree with that, no, sir.

10 Q All right. Fine. Show me a file that you have
11 regarding the Capnerhurst financial situation. Do
12 you have a file on that?

13 A No, I do not.

14 Q You don't have a file on what -- on their
15 financial, their debts, and so forth?

16 A No. I was assigned to look into the cellphone area
17 and the phones.

18 Q Do you have a file on Mr. Morgan? Do you have any
19 kind of investigative notes on what his situation
20 is?

21 A I have some notes from other investigators that
22 were provided to me during some of our meetings,
23 briefings on this case.

24 Q Do you have your investigative file with you?

25 A I do.

1 Q I direct your attention to April 13th, 2012.

2 A Okay.

3 Q Where it says, this subject, James Morgan, would
4 you mind reading that sentence to the jury?

5 A It states: This subject, James Morgan, was in the
6 gambling field as well and knew Cap well.

7 Q Okay. Well, he was in the gambling field, wasn't
8 he, sir?

9 A I believe the extent of that was he played fantasy
10 baseball with Mr. Capnerhurst.

11 Q Is that what they call it, fantasy baseball? But
12 you didn't get his cellphone records, did you?

13 A No, I did not.

14 Q But you were supposed to get his cellphone records,
15 right?

16 A Of Mr. Morgan?

17 Q Uh-huh.

18 A No.

19 Q Oh, you weren't. You have a laundry list of things
20 that you are supposed to do or things that y'all
21 feel like you have to do. Do you remember that in
22 your report?

23 A Yes. Periodically we have these morning briefings
24 and updates and new things need to be done. We do
25 make assignments..

1 Q Okay. Well, let's go ahead and take a look at what
2 you were doing, okay?

3 First of all, what was the date of that?

4 A The date of the?

5 Q The date of this laundry list was April 16th.

6 A April 16th, which would have been Monday morning,
7 we had a morning briefing on a homicide
8 investigation to that point. Everyone discussed
9 what information we had at that point.

10 And as we came across things that needed to be
11 accomplished, they were assigned to different
12 investigators.

13 Q Well, let's talk about the first thing y'all were
14 going to do. You were going to set up an interview
15 with the children to see if you could get anything
16 of use from them, right?

17 A We set up our interviews, yes, with B.P. and with
18 Z.P.

19 Q And then you -- let's see. You were going to
20 interview Jack Parker, his dad?

21 A Yes, sir.

22 Q You were going to talk to this young lady that
23 we've been hearing about, right?

24 A Yes, sir.

25 Q Get the GPR, the testing, and have an urgent

1 request for that gunpowder, right?

2 A That's right.

3 Q That's what it says, get an urgent request, right?

4 A That's right.

5 Q And you got those back too on, what, the 19th of
6 April, something like that?

7 A I'm not sure of the exact date. We got them back.

8 Q It wasn't much use to you in prosecuting Brett
9 Parker, was it, the GPR and the GSR?

10 A I wouldn't say that. Everyone in this case had GPR
11 on their hands.

12 Q Uh-huh. You don't have a single word in this
13 investigative file where you talk about the
14 gunpowder on Bryan Capnerhurst's hand, do you,
15 indicating that he may have shot a weapon? Y'all
16 never said that a single time in all these reports,
17 did you?

18 A I don't believe so.

19 Q As a matter of fact, this laundry list, which I'm
20 only a fourth of the way through, every single
21 thing in here that y'all were going to do was
22 directed against Brett Parker, was it not?

23 A It was.

24 Q And the whole time that y'all were doing all this,
25 he was cooperating fully with you, wasn't he?

1 A He was.

2 Q As a matter of fact, y'all had him sign his
3 constitutional rights away to y'all about 14, 15
4 times during this investigation, didn't you?

5 A I don't know if it was that many.

6 MS. WALKER: Your Honor, I'd object at this
7 point. We have a matter of law.

8 THE COURT: All right. Ladies and gentlemen,
9 I'm going to send you all out for a brief moment.

10 (WHEREUPON, the jury retires to the jury
11 room at 10:36 a.m.)

12 THE COURT: Yes, ma'am?

13 MS. WALKER: Thank you, Your Honor. We have
14 instructed this witness for Mr. Parker's sake to
15 stay away from the fact that Mr. Parker and his
16 attorneys did terminate certain interviews when it
17 got to points of things that they didn't want to
18 talk about.

19 So when the question is asked that he
20 cooperated fully the entire time, that would be
21 incorrect. I think Mr. Whitlark has now opened the
22 door to that.

23 We have instructed him to stay away from
24 Mr. Parker's two failed polygraphs. I think at
25 this point he has opened the door to that.

1 MR. WHITLARK: I don't see how it opens the
2 door, Your Honor -- if you're finished. I'm sorry.

3 MS. WALKER: When the question was asked, did
4 he cooperate fully. The termination of interviews
5 is not full cooperation, Your Honor.

6 THE COURT: He answered yes, didn't he?

7 MR. WHITLARK: Yes, ma'am.

8 MS. WALKER: Because we've instructed him that
9 he can't talk about the termination of interviews.
10 It is not a complete answer. We've instructed our
11 investigators to stay away from that sensitive
12 subject.

13 So when he asks that question, it pigeonholes
14 the lieutenant into not being able to give a full,
15 complete, and honest answer.

16 MR. WHITLARK: I can speak to this, Your
17 Honor. Your Honor, I got involved in this case
18 with Mr. Fedor sometime at the end of April. I
19 immediately terminated all communication. That was
20 my admonition.

21 I said I would be willing to listen to
22 anything they had to say. And that is actually in
23 their records as well when I came in and I said,
24 you are not talking to them. Afterwards I --

25 THE COURT: Are you going to ask him that?

1 MR. WHITLARK: No, I'm not, Your Honor. But
2 the point of the matter is this. Early on, without
3 an attorney present, they had him sign a consent to
4 search his house and grabbed his phone to do a lot
5 of things. Before he had an attorney, they had him
6 sign things.

7 Afterwards he also signed a number of consents
8 to waive his rights, his Miranda rights and his
9 Fourth Amendment rights, and so forth.

10 And the simple fact of the matter is, Your
11 Honor, it is not a big deal about the fact that he
12 cooperated. He said he did. And that is -- you
13 know, I don't see why it's a big deal.

14 MS. WALKER: The reason he said he did is
15 because he knows that prior to Mr. Whitlark's
16 questions, he can't go into the termination of the
17 interviews, which Mr. Whitlark was present for.

18 He was present for an interview at Mr. Fedor's
19 law office in which investigators attempted to
20 speak with Mr. Parker about the incident that
21 occurred that day. When they got to certain areas
22 that Mr. Parker didn't want to talk about, they
23 terminated the interview.

24 So for him to say was he was fully cooperative
25 and to elicit the response of yes from the

1 lieutenant, because the lieutenant knows there are
2 certain areas he can't go into, Your Honor, is
3 disingenuous and would mislead the jury.

4 THE COURT: Just so I'm clear, you want to go
5 back up on redirect and ask him, isn't it true, I
6 guess, that after he got an attorney, he asserted
7 his right not to speak?

8 MS. WALKER: Or, Your Honor, if he is allowed
9 to give a full and complete answer to
10 Mr. Whitlark's question.

11 THE COURT: But as to the polygraph, you are
12 saying that he didn't cooperate, that he took them?

13 MS. WALKER: Well, fully cooperative, Your
14 Honor, in terms of --

15 THE COURT: I mean, if he failed them --

16 MR. WHITLARK: I'm sorry, Your Honor?

17 THE COURT: I'm sorry. She is saying he
18 failed them.

19 MS. WALKER: I'm not saying he failed, the
20 polygraph examiners were saying he failed them.

21 MR. WHITLARK: That's a misnomer, Your Honor.
22 As a matter of fact, Your Honor, you do not fail or
23 pass a polygraph. Anybody who knows about
24 polygraphs knows one thing.

25 You either show some certain physiological

1 signs of deception or you don't. There is not a
2 passing or a failing score.

3 We dispute the findings that they had there,
4 but we know that it's inadmissible in a court in
5 South Carolina.

6 THE COURT: All right. I guess my point is,
7 she is saying that he did not cooperate. If he
8 took them, then he cooperated in taking them.

9 So I'm not sure how that makes it -- how he
10 opens the door to any conversations about that.

11 Regardless of what the findings of the
12 polygraph may have been, he took them.

13 MS. WALKER: Okay. Your Honor, in terms of
14 the interviews at the law office, can the
15 lieutenant then explain that he wasn't fully
16 cooperative? Because there were times when he
17 wanted to ask questions, and he would stop the
18 interviews. That is not being fully cooperative.

19 The lieutenant said yes, he was fully
20 cooperative, because he knew he couldn't go into
21 that at that point in time.

22 Your Honor, at this point in time,
23 Mr. Whitlark knowingly -- because he was there when
24 he invoked it and said he no longer wanted to
25 answer questions -- opened the door to that, and it

1 misleads the jury.

2 THE COURT: All right. But I think
3 Mr. Whitlark had moved on from that question at the
4 time. I'm not sure what his last question was.
5 But if you want to ask him that on redirect.

6 MS. WALKER: Okay.

7 THE COURT: With that narrow bit.

8 MS. WALKER: I will keep it very narrow, Your
9 Honor. Thank you.

10 MR. WHITLARK: Your Honor, I would like to
11 speak one moment to this.

12 THE COURT: Yes, sir.

13 MR. WHITLARK: To clarify some of the facts on
14 this thing. I was not present with Mr. Parker on
15 many occasions when he met with law enforcement.

16 It was against my advice, and I didn't even
17 know about it. And he went down there. I had no
18 idea he took -- that he was taking a polygraph
19 until after the fact. And I just want to point
20 that out to the Court.

21 We're not playing games here with this. He
22 had a lawyer. It wasn't him that terminated it.
23 It was me.

24 And if you look at the truth of this matter,
25 he -- because he wanted to cooperate, was going

1 behind my back anyway and was talking to the
2 police. Of course, he doesn't know them as well as
3 I do.

4 MS. WALKER: I don't know what that's supposed
5 to mean, Your Honor.

6 I will just keep it to the interview at
7 Mr. Fedor's office that he terminated.

8 THE COURT: All right.

9 MS. WALKER: Thank you.

10 THE COURT: Can we bring them back in?

11 MR. WHITLARK: I think it is irrelevant, Your
12 Honor, but I'll abide by the Court's ruling.

13 THE COURT: And then, of course, you have the
14 right to ask -- I think because you brought up that
15 he waived his constitutional rights -- I mean, he
16 has the constitutional right not to speak, which
17 apparently he decided to invoke. And they can say
18 he invoked it. I mean, because you got into that,
19 I'll allow that.

20 MR. WHITLARK: Well, Your Honor, if I could
21 for purposes of clarification of this issue, I'm
22 talking to him about what was going on the first
23 week or two of April of 2012.

24 And I believe at that time, I think he did --
25 he may have signed that many. I know it was a lot.

1 This is without a lawyer.

2 Now, I haven't gotten into -- this is a 97-day
3 investigation, Your Honor.

4 And I'm taking this guy, I am talking to him
5 right now about the first few days. This is like
6 the third day. And I discuss it, I guess, Your
7 Honor in a timeline, because this is extremely
8 lengthy.

9 THE COURT: But you have to qualify the
10 question. You can't just say he took 14 -- I don't
11 know if he took 14 statements in three days or
12 what.

13 MR. WHITLARK: Okay. Well, Your Honor, we'll
14 agree to withdraw it and strike the answer from the
15 record.

16 MS. WALKER: We're not agreeing to that.

17 THE COURT: All right.

18 MR. WHITLARK: Your Honor, there is one danger
19 here about the blurting out of this thing about
20 this truth-telling device.

21 I mean, if we hear one word of it, Your Honor,
22 I hope the Court will entertain a motion for a
23 mistrial, Your Honor, if they do it.

24 THE COURT: As to the polygraph?

25 MR. WHITLARK: Yes, Your Honor.

1 THE COURT: She's not going to get into that.

2 MR. WHITLARK: Well, I can tell you they are
3 chomping at the bit to say it, Your Honor.

4 THE COURT: Well, she is not going to get into
5 that.

6 MS. WALKER: I've said that three times just
7 now.

8 THE COURT: All right. You can bring them in.

9 MR. WHITLARK: I got you, Your Honor. Thank
10 you.

11 THE COURT: All right.

12 (WHEREUPON, the jury came into open
13 court at approximately 10:44 a.m.)

14 THE BAILIFF: All jurors are present, Judge,
15 Your Honor.

16 THE COURT: Yes, sir, Mr. Whitlark.

17 MR. WHITLARK: May it please the Court, Your
18 Honor?

19 THE COURT: Go ahead.

20 CROSS-EXAMINATION CONTINUES

21 BY MR. WHITLARK:

22 Q I direct your attention back to your list of things
23 that you were doing.

24 A Yes, sir.

25 Q You wanted to get a statement from Angela Leon,

1 right? You sent an investigator to do that, right?

2 A That's right.

3 Q You got an account for all the tax records of the
4 Parkers, right? You went and got that, right?

5 A Got a search warrant for that, yes.

6 Q Okay. Then you went to the pharmaceutical company
7 that Tammy Parker worked for, and you got all that
8 information, right?

9 A About her life insurance policies and work
10 schedules, and things like that, yes.

11 Q And then you got their computers. You found
12 some -- you found gambling paperwork at their
13 house, right?

14 A We looked over some of the gambling paperwork we
15 found at the residence, yes, sir.

16 Q You got the 9-1-1 tape?

17 A Right.

18 Q A statement from several friends of
19 Mr. Capnerhurst, right?

20 A A statement from Keith Lang, who is one of his best
21 friends. I also talked to Ms. Cindy Capnerhurst.

22 Q You got search warrants on their phone lines,
23 right? You actually and literally took their
24 phones out of their house, didn't you?

25 A No.

- 1 Q You did not?
- 2 A No.
- 3 Q Okay.
- 4 A We got a search warrant on the AT&T landlines.
- 5 There was three of them at the residence.
- 6 Q What about their computers?
- 7 A We did take the computers as part of the search
- 8 warrant and took them to SLED's Computer Crime
- 9 Center.
- 10 Q Okay. Then you went to the Palmetto Citizens and
- 11 got all their bank records. You did that, right?
- 12 A That's correct.
- 13 Q And you got a download of Mr. Capnerhurst's phone,
- 14 right?
- 15 A That's correct.
- 16 Q Okay. Now, you don't have a bit of anything in
- 17 your file from any of your investigators in this
- 18 case, from the Secret Service or anything else,
- 19 that shows that Brett Parker knew that Cindy
- 20 Capnerhurst and Bryan Capnerhurst were talking
- 21 about his safe and how much cash he had in it. You
- 22 don't have any evidence at all?
- 23 A About Bryan and Cindy talking about how much cash
- 24 may be in his safe?
- 25 Q Right, 80- to \$100,000. Do you remember that?

1 A I've never heard that amount, no.

2 Q You have not?

3 A No.

4 Q That's not in y'all's investigative files?

5 A I've never heard of 80- to \$100,000 being in the
6 safe.

7 Q Okay. Have you read the statement, the sworn
8 statement, of Cindy Capnerhurst?

9 A At some point I did.

10 Q Would you like to read it again?

11 A I can.

12 Q This has been written on, but I'm going to ask you
13 if you recognize this right here.

14 A Where? Right here?

15 Q Uh-huh. Right here.

16 MS. WALKER: Is that the sworn statement of
17 Cindy Capnerhurst you are referring to?

18 MR. WHITLARK: No.

19 MS. WALKER: May I see what the witness is
20 looking at?

21 THE COURT: Yes.

22 MR. WHITLARK: Oh, I'm sorry.

23 (Pause.)

24 BY MR. WHITLARK:

25 Q Do you recognize this document or not, sir?

1 A May I take a look at it?

2 Q Yes. I'm sorry for the writing on it.

3 (Pause.)

4 A I don't know that this is my follow-up here.

5 Q Do you recognize that as a Richland County
6 investigative note?

7 A It is someone's notes. I don't know whose.

8 Q Are you aware of the information contained in there
9 about Cindy Capnerhurst discussing with Bryan
10 Capnerhurst that they believed that there was 80-
11 to \$100,000 in cash in his safe?

12 A I've got someone's follow-up, it appears. I don't
13 know whose. And it does say that on there.

14 Q Are you aware of it or not, sir?

15 MS. WALKER: Your Honor, I would object. The
16 witness asked and answered. He doesn't know whose
17 that is. He can't testify to it. It's not his
18 follow-up. He said that repeatedly.

19 MR. WHITLARK: All right, Your Honor, I'll
20 rephrase the question.

21 THE COURT: Sustained.

22 MR. WHITLARK: I'll rephrase the question.

23 BY MR. WHITLARK:

24 Q Are you aware they were discussing how much money
25 Brett Parker had in his safe? Are you aware of

1 that?

2 A No.

3 Q You have never heard that before?

4 A No.

5 Q How long did you work on this case?

6 A A little over a year.

7 Q You're still working on it, aren't you?

8 A Not currently.

9 Q Well, I believe you told us you were investigating
10 till last week, correct?

11 A About a week before trial is when I ceased.

12 Q All right. Getting back to my question to you, do
13 you have any proof that Brett Parker knew they were
14 talking about his safe and how much money he had in
15 it? Do you have any evidence of that?

16 A I don't personally know of any evidence.

17 Q Okay. Do you have any evidence that he knew that
18 Bryan Capnerhurst was going to get physical with
19 him, was going to come over and possibly have a
20 fistfight with him?

21 A No.

22 Q You have never seen that?

23 A No.

24 Q I'm going to hand you this document and ask if you
25 can recognize it, sir.

1 A It is a statement of Cindy Capnerhurst taken by
2 Travis Holdorf.

3 Q Have you ever seen that before?

4 A I have probably reviewed this earlier in the case,
5 yes.

6 Q Well, it's true that she did discuss with her
7 husband that he could possibly -- he is going to go
8 over there and get in a fistfight with him, right?
9 Isn't that what she says?

10 A She indicates in her statement Bryan thought there
11 might be an argument and at most a fistfight, but
12 nothing like what happened.

13 Q Okay. And you worked on this case -- and you are
14 still -- you worked on it till last week. You
15 don't know about this?

16 A I didn't interview Ms. Capnerhurst.

17 Q Would you agree with me that every -- just about
18 every single thing you did in this case was to
19 gather information on Mr. Parker, wasn't it?

20 A I would disagree with that.

21 Q Okay. Well, who else did you investigate, other
22 than Mr. Parker?

23 A As I said, as we began this investigation, we
24 didn't know anything about anyone involved in this
25 case. So we learned all we could about

1 Mr. Capnerhurst. We talked to numerous co-workers
2 and friends and contacts of his that were in his
3 cellphone trying to gather information.

4 Q Uh-huh.

5 A Likewise we did with Mr. Parker, co-workers,
6 240-plus contacts in his cellphone, gathering all
7 the information we could on him.

8 Tammy Parker, the same thing, contacts and
9 co-workers, friends of hers.

10 So we didn't just focus on one person. We had
11 a broad investigation involved with everyone we
12 could identify and talking with them.

13 Q Okay. Well, I'm going to refer you back to this
14 Monday meeting list that you've got there. Okay?

15 A Yes, sir.

16 Q All right. You tell me where somebody other than
17 Brett Parker is discussed on that list, that y'all
18 are investigating everybody? Go ahead and tell us.
19 Show me anything in here not going after Brett
20 Parker.

21 A We've got a statement from Keith Lang, who is the
22 best friend of Mr. Capnerhurst. We talked to Cindy
23 Capnerhurst after the funeral. Investigator
24 Holdorf.

25 Q When you spoke with Cindy Capnerhurst, did she tell

1 you that she had been arrested for embezzlement?

2 Did she tell you that?

3 A I didn't speak with Ms. Capnerhurst.

4 Q Are you aware of that?

5 A I am aware of that.

6 Q Are you aware she pled guilty to it?

7 A I am aware of that.

8 Q Are you aware she took \$35,000 from BB&T Bank?

9 A I'm not aware of the amount.

10 Q You didn't verify that? That is not an important
11 part of your investigation?

12 A That is not one of the things I was tasked with in
13 this case. That information would have come up at
14 one of our meetings or briefings. I wasn't
15 specifically tasked with Ms. Capnerhurst.

16 Q Okay. You were at these meetings, weren't you?

17 A I was.

18 Q And don't you remember that coming up in one of
19 your meetings?

20 A I remember there was some amount of money. I don't
21 remember the exact amount.

22 Q Okay. Well, would you be surprised if it was
23 \$35,000?

24 A Like I said, I don't know what the amount was.

25 Q Would you be surprised to hear that Ms. Capnerhurst

1 stated when she pled guilty that the reason she did
2 it was to pay her husband's gambling debts?

3 A I did learn that.

4 Q Okay. Was that at one of your Monday meetings that
5 you learned that?

6 A At some point during the investigation. I can't
7 say when.

8 Q Well, did y'all go investigate that fact?

9 A I believe Major Smith looked into that further and
10 talked with Ms. Capnerhurst further about that.

11 Q Okay. And so y'all knew that Cindy and Bryan
12 Capnerhurst were discussing Brett Parker's safe?
13 Would you agree with that?

14 A According to the statement.

15 Q There was an estimate that they figured there was
16 80- to \$100,000 in there?

17 A I don't know that. That is from an unknown
18 person's follow-up apparently.

19 Q You may not have been there for that meeting then?

20 A I have never heard 80- to \$100,000 being in that
21 safe, no.

22 Q Okay. Well, that is what they thought. Do you
23 agree with that?

24 A I don't know what they thought, sir. I didn't talk
25 to Ms. Capnerhurst.

1 Q Okay. Did you know that they were in financial
2 debt and had a credit card debt of over \$20,000?

3 A I knew they had a credit card debt.

4 Q Okay. Do you have that in your file? Did you go
5 get those records?

6 A No.

7 Q Okay. Did you know that there was additional loans
8 to the father-in-law of \$3,000 to \$4,000?

9 A No. Part of the financials in this case were done
10 by one of the investigators at the Sheriff's
11 Department, who is also on the Secret Service Task
12 Force. They were tasked with looking further into
13 the financials and the gambling end of this case.

14 Q Okay. You're not very familiar at all with any of
15 those things I just told you, are you? Because you
16 were busy gathering information on Mr. Parker,
17 weren't you?

18 A By this point in the investigation on this Monday
19 morning, numerous inconsistencies had appeared in
20 Mr. Parker's statement. He was one of the prime
21 focuses of this investigation, yes, he was, due to
22 several inconsistencies.

23 He told us he had no marital problems. We
24 found these text messages alleging an affair.

25 He said he was using the restroom downstairs

1 defecating, and the toilet seat was found up.

2 The hole in Mr. Capnerhurst's arm was about
3 the size of a ping pong ball. Medical experts told
4 us there is no way a person could have held that
5 gun at that point.

6 And on and on and on.

7 Q Right.

8 A We had numerous inconsistencies that we had to try
9 to investigate further.

10 Q Right. Okay. And you also know that they found
11 enough gunpowder on Bryan Capnerhurst's hand that
12 he had fired a weapon too? You found that out,
13 right?

14 A Not on that morning of the 16th.

15 Q Well, you found out that the vent fan in that
16 bathroom was on, didn't you?

17 A Yes.

18 Q Okay. And you found out that Mr. Parker has a
19 five-year-old son and that he puts the toilet up so
20 his son doesn't tinkle on the seat? You found that
21 out, didn't you?

22 A I never heard that, no.

23 Q If it's good for Brett Parker, you haven't heard
24 it, have you? Anything good for Brett Parker you
25 haven't heard, right?

- 1 A Very little, sir.
- 2 Q Anything that proves he is innocent, you don't know
3 much about because you haven't heard, right?
- 4 A Have you got an example?
- 5 Q Yes, I do. He wrote a loving letter to his wife.
6 Do you remember that?
- 7 A They were seeking some marriage counseling, and
8 they wrote letters to each other, yes.
- 9 Q That's right. And they communicated all the time,
10 didn't they? You found that out? And by letter to
11 each other, didn't they?
- 12 A I wouldn't say all the time. The letter was
13 several years old, I believe.
- 14 Q Well, sir, in reading that letter, you know that
15 they were trying to work on things, weren't they?
- 16 A At one point.
- 17 Q Okay. Well, where is your file on that? Where is
18 that listed at, that they were working on things?
- 19 A It's not in my follow-up, sir.
- 20 Q Okay. Well, what about the information that Brett
21 Parker has no criminal record, does he?
- 22 A No, sir.
- 23 Q And that he has never done a violent act that y'all
24 could find ever, right?
- 25 A No.

1 Q And that you know that he had had some financial
2 debt from his gambling previously? You knew that,
3 right?

4 A I knew he had some substantial debt from a few
5 years previously, yes, sir.

6 Q Right. But he paid that off, didn't he?

7 A I believe his father paid that off.

8 Q Well, however it happened, it was paid, wasn't it?

9 A It was paid off.

10 Q Okay. And he admitted -- you know this -- he
11 admitted years before that he was a gambling
12 addict, didn't he?

13 A Yes. I saw that in one of the letters.

14 Q You did see that letter, didn't you?

15 A Yes.

16 Q And in that letter he lamented the fact and he
17 admitted it and he felt terrible about it, didn't
18 he?

19 A He did.

20 Q And he also wanted -- he said he was hurting his
21 family, who that was the most important thing in
22 his life was his wife and children? He said that
23 in that letter, didn't he?

24 A He did at that time. This was several years
25 previous.

1 Q Well, they were married for 15 years, weren't they?

2 A They were.

3 Q You know that. And they have a five-year-old son,
4 right?

5 A That's correct.

6 Q And they were working on things, right?

7 A At one point they were.

8 Q Okay. Lieutenant McDonald, again, you have no
9 evidence or information -- this is important --
10 that Brett Parker knew that the Capnerhursts were
11 talking about his safe and how much cash was in it.
12 There is no evidence in your file of this, is
13 there?

14 A Not in my follow-up.

15 Q Do you have any evidence that Brett Parker knew the
16 things I just said, that they were talking about
17 his safe and how much money was in it?

18 A Do I know if Brett knew that?

19 Q Do you have any evidence in your file that shows
20 Brett Parker knew they were talking about it?

21 A No. I don't know how anyone would know that they
22 were talking about that -- how Brett would know
23 that, no.

24 Q Right. Did you know that Mr. Capnerhurst had been
25 talking for about two weeks before this about he

1 needed -- he wanted his \$21,300. You know that,
2 right?

3 A I do know that.

4 Q I mean, he was getting obsessive about it, wasn't
5 he?

6 A My understanding he hadn't been paid since October
7 sometime.

8 Q Okay. Well, my question to you, sir, is based on
9 your investigation, he was telling people, I need
10 my \$21,300. He kept telling people that for about
11 14 days, at least 14 days before this, right?

12 A I don't know if it was 14 days. I know in the week
13 leading up to this incident, yes, he wanted to meet
14 with Brett and get his money. He also had several
15 conversations with Brett's father about the money.

16 Q Uh-huh. Well, he had more than a couple, didn't
17 he?

18 A He had several conversations.

19 Q He wrote it down on a piece of paper that he wanted
20 \$21,300 from Brett Parker, didn't he?

21 A From his estimation, that's what he was owed from
22 him.

23 Q You sought that document, right?

24 A Right.

25 MR. WHITLARK: Beg the Court's indulgence.

1 Your Honor.

2 THE COURT: Yes, sir.

3 (Pause.)

4 BY MR. WHITLARK:

5 Q You had mentioned that you talked with Mr. Morgan,
6 James Morgan. Have you ever spoken to him
7 yourself?

8 A I have never spoken to James Morgan, no, sir.

9 Q But you did put in your investigative file that he
10 was in the same -- he was in the gambling business
11 like they were, right?

12 A As I said, during one of our morning briefings --
13 and this was the first Monday in the case --
14 Mr. Morgan had been spoken to, I believe, the night
15 of this incident.

16 He did actually call the Sheriff's Department
17 and made contact with investigators -- I believe it
18 was Sergeant Robinson -- and relayed the
19 information that was very pertinent to this case to
20 Sergeant Robinson.

21 Investigator Holdorf on that Sunday would then
22 drive to North Carolina to interview Mr. Morgan in
23 depth and take a written statement from him at that
24 time.

25 Q Have you read that statement?

1 A I have read that statement.

2 Q I mean, do you know the content of it? If I ask
3 you some questions about it, would you remember?

4 A I would need to refer to it. I haven't read it
5 recently, no.

6 Q Did you have a -- let me ask you this. The things
7 I asked you about the Capnerhursts, do y'all have a
8 separate file, even a couple of pages about it in
9 y'all's investigation, this massive investigation
10 you have done?

11 A I'm not sure I follow your question.

12 Q Well, sir, what Monday meeting did y'all sit down
13 and look at each other when y'all found out about
14 that the Capnerhursts were talking about the safe,
15 about 80- to \$100,000 maybe in there, that there
16 was \$21,300 owed to Mr. Capnerhurst, that he wanted
17 his money and that he was going to get -- he was
18 going to do something about it. He was going to
19 get physical with it. When did y'all have a
20 meeting and say, you know, maybe we ought to go
21 look at this a little bit more?

22 A Like I said, I never heard the 80- to \$100,000.
23 When we're talking in these meetings and briefings,
24 the investigators are relaying the information they
25 found out. We're asking questions. We are

1 scratching notes. We're trying to develop things
2 to help further the investigation along.

3 Q Okay. So--

4 A During these meetings I never heard the 80- to
5 \$100,000 mentioned. I don't recall the part about
6 the fistfight. That was in her statement. At some
7 point in this investigation, I had looked at her
8 statement six, eight, nine months ago probably.

9 Q Okay. And you've been investigating this case up
10 until last week too, right?

11 A In other ways, yes, sir.

12 Q Well, tell me the other ways you were doing it last
13 week.

14 A I wasn't doing anything last week. I was in the
15 courtroom last week. It would be the week prior to
16 that when my investigation ceased.

17 Q Okay. But you're still investigating Brett Parker,
18 aren't you? Isn't that what you said? Right up
19 until about two weeks or so?

20 A Up until about two weeks ago. I was in charge of
21 monitoring the jail phone calls.

22 Q Okay. Now, certainly -- you're a phone expert, I
23 believe, or you say you're well trained in it,
24 right?

25 A I've been qualified six times, yes, sir.

1 Q Have you analyzed the phone records of James Morgan
2 and put them side by side with Bryan Capnerhurst?

3 A I have.

4 Q They were talking quite a bit, weren't they, sir?

5 A They were.

6 Q And would you agree with me that there are numerous
7 occasions where Mr. Morgan and Mr. Capnerhurst were
8 talking and then Mr. Morgan will call some 800 and
9 888 numbers immediately afterwards, doesn't he --
10 didn't he?

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

12 Q Have you done an investigation on the telephone
13 records that were in -- the Vonage records -- about
14 who James Morgan would call on many occasions right
15 after he spoke with Bryan Capnerhurst?

16 A No, I did not.

17 Q Okay. Would you agree that there were numerable
18 telephone conversations between Capnerhurst and
19 Morgan?

20 A Yes. We knew they were friends, had been friends
21 for years. They called each other several times.

22 Q Can you give us any indication, sir, of how many
23 phone calls were over 60 minutes at a time in the
24 review you did? That they were talking at one time
25 on the phone --

1 A I didn't look at how many phone calls may have been
2 over 60 minutes. I was provided with these records
3 and I glanced through them. The most obvious thing
4 I noticed on there was the difference in time.

5 Q Well, being a phone expert, would you agree with me
6 that if you have some people that are gambling and
7 are doing things like that, that when they are on
8 extended phone calls like that, that is bookmaking,
9 isn't it? That indicates bookmaking, doesn't it?

10 A I have no idea, sir.

11 Q Well, you had an idea about Brett Parker's phone
12 records, don't you?

13 A I can't tell you the content of those phone calls.
14 I can tell you the length of them. I don't have
15 any idea what he was talking about.

16 Q How many phone conversations of Mr. Parker were
17 over 60 minutes?

18 A I couldn't tell you, sir.

19 Q Okay. What is James Morgan's criminal record, sir?
20 Have you looked into that?

21 A I have not, no.

22 Q Okay. Do you have any idea what it is?

23 A No, I do not.

24 Q You know that Bryan Capnerhurst was going over
25 there because he was -- thought he was going to get

1 his \$21,300, didn't he?

2 A He believed he was going to be paid his money. He
3 was told to bring a large -- bring a duffel bag
4 with him so the money could be placed in that, yes.

5 Q Again, you are familiar with James Morgan's
6 statement, sworn statement in this case?

7 A I have seen it, like I said, probably six or eight
8 months ago. I did not take the statement. I
9 haven't reviewed it here as of late, no.

10 Q Well, do you recall that in this sworn statement of
11 Mr. Morgan that he said that Brett had just called
12 and told him, being Mr. Capnerhurst, he was eating
13 lunch with his wife at noon, and Brett wanted Cap
14 to come at around 12:30 or come at 12:30 and bring
15 a bag because Brett did not want his neighbors to
16 see Cap bringing money out. Do you remember that?

17 A I do remember that.

18 Q I asked Cap about taking a bank bag, and Cap
19 thought he was going to get paid mostly in \$10s and
20 \$20s and would need a bigger bag. Right?

21 A Yes.

22 Q He was the one that thought he needed a bigger bag,
23 isn't he? That is what his best friend you are
24 telling me said?

25 A That's what Mr. Morgan is relating. Other

1 information we have is he was told to bring the
2 duffel bag with him.

3 Q Well, who did he talk to more than anybody else
4 based on your analysis of these phone records?

5 A James Morgan.

6 Q So Mr. Morgan would probably be the one who would
7 know better than anybody, wouldn't he?

8 A Not necessarily.

9 Q Okay. Again, sir, a big part of your investigation
10 of this case -- I mean, a big part of it -- was you
11 were focused on anything you could find to prove
12 that Brett Parker was having affairs, right?

13 A I wouldn't say that, no, sir.

14 Q Okay.

15 A My investigation focused on trying to get to the
16 heart of the matter, who did what in this case.
17 Over and over and over, through numerous
18 inconsistencies, it kept coming back to Brett
19 Parker.

20 Q Uh-huh.

21 A We would ask him a question, he'd change his
22 answer. I mean, this continued for months.

23 Q Did you look up a name, Eddie, in the phone
24 records?

25 A I did.

1 Q Okay. Did you call Eddie?

2 A I did.

3 Q Who was Eddie?

4 A I believe it was a Lisa Camp, I believe.

5 Q Uh-huh. That was the girl he took to his high
6 school prom, right?

7 A That's what she relayed to me, that's correct.

8 Q And she told you she hadn't even seen him in how
9 long?

10 A I think it had been a number of years, had been in
11 contact with him --

12 Q Eleven years?

13 A -- periodically.

14 Q About 11 years?

15 A Right.

16 Q It was a friend of his?

17 A That's correct.

18 Q As a matter of fact, she told you they never had
19 sex, didn't she?

20 A That's right.

21 Q But you called her. As a matter of fact, sir, she
22 lives in Atlanta, doesn't she?

23 A She does.

24 Q And y'all have had extensive efforts to get her up
25 here to testify in this case, right?

1 A I don't know about that, sir.

2 MS. WALKER: Your Honor, we have another
3 matter of law.

4 THE COURT: All right, ladies and gentlemen of
5 the jury, I'm going to send you all out for a
6 moment.

7 (WHEREUPON, the jury retires to the jury
8 room at 11:11 a.m.)

9 THE COURT: Yes, ma'am.

10 MS. WALKER: Your Honor, I let it go the first
11 time. He talked about the loving relationship,
12 about them working things out. Then he comes back
13 again and asks a question about another woman.
14 Investigators were able to exclude that woman as
15 being someone that he had an adulterous
16 relationship with.

17 Once he starts bringing in the loving letters
18 that he wrote his wife, once he starts bringing in
19 excluding certain women as being people that
20 Mr. Parker had sex with, I think he opens the door
21 to the additional adulterous affairs.

22 MR. WHITLARK: May it please the Court, Your
23 Honor? Your Honor, this gentleman said that Mr.
24 Parker lied about having a good relationship with
25 his wife. And in response to that, I asked him

1 that question, had he read that letter.

2 MS. WALKER: Your Honor, the other women he
3 was sleeping with would probably be a hindrance on
4 him having a good relationship with his wife.

5 MR. WHITLARK: He wasn't sleeping with this
6 lady. The man just said so. He never had sex with
7 her before.

8 THE COURT: Didn't y'all ask about Eddie?
9 Somebody has asked about Eddie.

10 MS. WALKER: I did. I didn't mention -- I
11 asked if Eddie was in his contacts and who that
12 was. I didn't mention sex. I didn't mention that
13 they were having an adulterous relationship.
14 Mr. Whitlark just did that.

15 MR. WHITLARK: Well, I did it in response to
16 that. Your Honor is very astute. She did say it.
17 That's what I said it for.

18 MS. WALKER: You opened the door. I didn't.

19 THE COURT: All right. Mr. Whitlark, I'm
20 going to warn you to be careful not to open the
21 door. But, I mean, I think he said that they
22 were -- that he had lied to them about his
23 relationship with his wife, which you all have
24 already said y'all were going to present the other
25 lady too.

1 MS. WALKER: Then he went into the details of
2 that loving relationship, about the letters they
3 were writing about, them trying to work things out,
4 about how he cared for his wife.

5 Your Honor, at this point in time, he is doing
6 this because he knows he can get away with it, and
7 there will be no consequences for it.

8 At this point in time, Your Honor, he is
9 opening the door over and over and over again. And
10 it is hindering the State's ability to put forth a
11 full and complete case.

12 THE COURT: Well, I do believe you asked him
13 who was Eddie. They went to the prom together.

14 MS. WALKER: And that is why I left it at that
15 because I knew we couldn't get into who Mr. Parker
16 was or was not sleeping with.

17 THE COURT: I am trying to figure out why
18 y'all even asked about who Eddie was.

19 MS. WALKER: It was one of the contacts in his
20 phone. At that point in time, Lieutenant McDonald
21 went through all the people that he contacted that
22 day that were in his phone.

23 Eddie was one of the contacts. He talked with
24 about four other people that he contacted that day.
25 Mr. Whitlark just went into whether or not they

1 slept together, how long they had seen each other,
2 when was the last time they had communication.

3 I was very, very narrow and limited in my
4 direct examination for this reason, Your Honor,
5 because of Your Honor's previous ruling.

6 Mr. Whitlark is now using that to manipulate
7 the facts and manipulate the jury, and it's
8 misleading.

9 MR. WHITLARK: Excuse me, Your Honor. I
10 believe the Court recalls some of our pretrial
11 motions on this issue. I certainly am not trying
12 to bring in affairs of Brett Parker. I'm trying to
13 keep them out.

14 This is in response to her bringing that out
15 and then him saying that, well, he had
16 inconsistencies. He said he had a great
17 relationship with his wife and that turned out not
18 to be true.

19 I mean, Your Honor, you know, just because she
20 is saying that I'm trying to open the door doesn't
21 mean -- I believe the Court's history of the
22 pretrial motions in here knows I am not trying to
23 open that door.

24 THE COURT: Well, let me just say this. The
25 question that was asked by the State was -- and I

1 don't know the exact form of the question -- but it
2 was to the extent as to there is a name Eddie in
3 the phone, that it really isn't an Eddie, it's a
4 Lisa somebody.

5 MS. WALKER: Yes, Your Honor.

6 THE COURT: And that the person was his prom
7 date and that they talked from time to time.

8 I don't know -- he just said -- I don't know
9 if it is 11 years, but that didn't come out in the
10 State's case.

11 MS. WALKER: No, Your Honor. It had been six
12 months since they had last communicated. That's
13 what he said on direct examination. I did that in
14 the context of all of the individuals that he made
15 contact with. There were others, several other
16 individuals that the lieutenant testified to in
17 terms of going through the Defendant's call log or
18 his contact list and making contact with people to
19 see if they had any information about the case.

20 That is why I limited it to that to say, who
21 was this person. He went through and did that with
22 numerous individuals. I asked no further questions
23 about Lisa/Eddie because I understood the Court's
24 ruling.

25 At this point, Your Honor, Mr. Whitlark then

1 goes into and asks further questions about the
2 nature of their relationship to support his theory
3 of the questions that he asked about the loving
4 relationship, about the fact that they were not
5 having any sort of -- about the fact they weren't
6 having problems, about the fact that they were
7 working things out, about the fact that he writes
8 these loving letters to his wife, and it is
9 misleading because the lieutenant has refrained
10 from giving a full and complete answer to this
11 question, like he did the previous question,
12 because of the Court's ruling.

13 THE COURT: He didn't refrain. He answered
14 the question first that he had lied about the
15 relationship between him and his wife.

16 So then he comes back on cross-examination and
17 asked him, did you not -- you didn't put in your
18 report -- or you didn't say anything about finding
19 these letters, da-da-da, but the lieutenant had
20 said, at least on two to three occasions, that he
21 lied to them.

22 It wasn't consistent with what they found, the
23 texts. He has already gotten into the text
24 messages. I don't think he has opened the door.
25 I'm going to warn him, though, that he --

1 MR. WHITLARK: Yes, Your Honor, I hear you.

2 THE COURT: Do not open the door to any other
3 relationships. But I think he has answered the
4 question, and I don't think that he has been
5 hindered in answering the question by anything that
6 I have ruled.

7 He has answered the questions. He says that
8 there is text messages on the day of to this woman.
9 He has talked about the video from her.

10 I mean, so he has made it very clear that --
11 or he has refuted anything that, I guess, in his
12 investigation -- I mean, he did say that it's not
13 consistent with what we found. I mean, he has
14 answered that.

15 MS. WALKER: In terms of a complete answer --
16 I'm sorry, Your Honor -- in terms of a complete
17 answer, the lieutenant cannot -- can I ask him a
18 question?

19 THE COURT: You can ask him a question.

20 IN CAMERA EXAMINATION

21 BY MS. WALKER:

22 Q In terms of a complete answer, without limitations
23 that the Court has previously ruled on, in terms of
24 the loving nature and relationship of the Defendant
25 and the female victim, Ms. Tammy Parker's,

1 marriage, can you please talk about the loving
2 nature, if you discovered that.

3 A There was no loving nature at the point -- at the
4 point of this incident. The relationship had
5 deteriorated significantly. She had found text
6 messages from another female party in December,
7 flirty in nature, involving Mr. Parker.

8 Q And do you remember the name of that one?

9 A That was Natasha Nadkarni.

10 Q Go ahead.

11 A There was another affair with a female named Dana
12 Allpress, who would come to town a couple of times
13 a year. He would have an affair with her. I mean,
14 once we started stumbling on these multiple
15 affairs, we started looking at all the females in
16 this case to see what their relationship was.

17 As I said in my testimony, going through all
18 these contacts, we wanted to know how they knew the
19 Defendant, just as well as Mr. Capnerhurst and
20 Tammy, what the relationship was. And most people
21 were open and honest with us.

22 MS. WALKER: And, Your Honor, that is the
23 complete answer to the question. The lieutenant
24 has been limiting his answers to respect the ruling
25 of this Court, and Mr. Whitlark is then

1 manipulating that so that the jury doesn't have a
2 full -- hold on a second -- so that the jury does
3 not have a full and complete understanding of what
4 was going on in the course of this investigation.

5 MR. WHITLARK: I'd like to respond to that
6 right now, because I know for a fact that this man
7 here, he knows that Brett Parker -- what he has
8 found is that he slept with two different women.
9 That is all they've found.

10 He just said a woman's name that Mr. Parker
11 has never had sex with, and they know he didn't.
12 And yet he has just represented to the Court that
13 that was another affair. And they know for a fact
14 that that woman gave a sworn statement saying she
15 never slept with him. And he said the same thing.

16 MS. WALKER: He didn't say the same thing.

17 MR. WHITLARK: Your Honor, the truth of this
18 matter, of this adulterous stuff, is that Mr.
19 Parker made a mistake and he had stepped outside of
20 his marriage back in December or January and that
21 he met this other lady up here near in time to
22 this.

23 And other than that, I think they have
24 interviewed maybe 15 or 20 different women, and
25 they have all denied it.

1 So for him to represent to the Court and say
2 he had all these affairs, he had all these affairs,
3 is disingenuous, Your Honor.

4 So this is what I'm dealing with, is a witness
5 to a jury -- I mean, if he is disingenuous with the
6 Court, I don't even want him talking out here to
7 the jury.

8 MS. WALKER: He never said that there was an
9 affair. He said that Ms. Parker found text
10 messages of a flirty nature, which the witness in
11 question acknowledges in her statement. He never
12 said it was an affair. He said there were text
13 messages that were flirty in nature.

14 There has been a Ms. Mullins, who we have been
15 talking about, who is the bank teller, and the lady
16 from the Executive Inn. There is an additional
17 woman, who is Dana Allpress, who is the one that he
18 had an ongoing Facebook and sexual affair with.
19 She actually lived across the country, and they
20 would have sex when she came into town.

21 MR. WHITLARK: That is one, when she came
22 down, and then there was one more. Your Honor --

23 MS. WALKER: That is two.

24 MR. WHITLARK: Well, Your Honor, I can
25 question this man -- I don't know what he might say

1 about it -- but we know from this investigation
2 that Brett Parker stepped outside of his marriage
3 on two occasions, and that is what they found in
4 this massive hunt for women, two.

5 MS. WALKER: That is four cases with two
6 different women that we know about.

7 THE COURT: All right. Mr. Whitlark?

8 MR. WHITLARK: Yes, Your Honor?

9 THE COURT: I warn you not to go into anything
10 that may open the door as to the adultery with
11 these other women, or the other woman, or how
12 many -- one, two, or three, I don't know how many,
13 but do not open the door. I will bring the jury
14 back in. The objection is overruled.

15 MR. WHITLARK: Your Honor, may I say
16 something?

17 THE COURT: But if you get into something
18 else --

19 THE WITNESS: Your Honor, I have a question.

20 THE COURT: Yes, sir.

21 THE WITNESS: If he gets into the state of
22 their relationship, is that opening the door for me
23 to respond about these others?

24 THE COURT: Well --

25 THE WITNESS: He opened it once. I was

1 getting ready to go there.

2 MR. WHITLARK: I'd like to respond.

3 THE COURT: I am putting him on notice. I
4 have put you on notice, Mr. Whitlark.

5 MS. WALKER: Thank you, Your Honor.

6 MR. WHITLARK: Your Honor, I hear you loud and
7 clear on this. However, Your Honor -- may we
8 approach the bench, Your Honor?

9 THE COURT: Yes.

10 (WHEREUPON, a bench conference was held
11 off the record.)

12 MR. WHITLARK: Thank you, Your Honor.

13 THE COURT: All right. We are going to take
14 about a ten-minute break.

15 (WHEREUPON, a break was taken.)

16 THE COURT: You can bring them in.

17 (WHEREUPON, the jury came into open
18 court at approximately 11:56 a.m.)

19 THE BAILIFF: All jurors are present, Judge,
20 Your Honor.

21 THE COURT: All right. Yes, sir,
22 Mr. Whitlark.

23 MR. WHITLARK: May it please the Court, Your
24 Honor?

25 THE COURT: Yes, sir.

CROSS-EXAMINATION CONTINUES

BY MR. WHITLARK:

Q Lieutenant McDonald, when you got the GSR, the gunpowder results back in April and y'all had done some of your investigation, you didn't arrest Brett Parker then, did you?

A No.

Q And you continued looking at the things we've been talking about, right?

A Yes.

Q Looking hard at them?

A That and other things, yes, sir.

Q Okay. As a matter of fact, in May -- and you correct me if I'm wrong -- I believe you got an idea in your mind that you wanted to go back and look at the home security tape, didn't you?

A I had reviewed that tape probably three or four times up to that point. I wanted to go back and look at it again. I had actually requested from about, I believe, 7:00 a.m. onward, to sit and review that from my technical services man, Investigator Metz.

Q Okay.

A So I did that.

Q Well, would you agree with me that about a little

1 under a month after this happened, you were looking
2 at that tape and you wanted to go look at that tape
3 to see if you could find something suspicious
4 depicted on it that might assist in prosecuting
5 Brett Parker?

6 A I wanted to look at anything on there that may help
7 this case, and I did find something.

8 Q I want to quote something in your report and you
9 tell me if I am right or wrong about this. This is
10 on May 4th, 2012.

11 The investigating officer -- that is you --
12 would request the video from Brian Metz from
13 earlier on this date for the DVR.

14 The investigating officer -- you -- wanted to
15 review this to see if there was anything suspicious
16 depicted that might assist in this case.

17 A That's correct.

18 Q You wrote that, didn't you?

19 A I did.

20 Q And then you went and you saw these blinds open on
21 the tape?

22 A Yes, I did.

23 Q Okay. Now, Lieutenant McDonald, you presumed a lot
24 when you came up with this theory about the blinds,
25 didn't you?

1 A Not at all.

2 Q You presumed that that wasn't Tammy Parker, didn't
3 you?

4 A I don't know that.

5 Q Well, you said it was Brett Parker. But you can't
6 see who it is, can you?

7 A I can't see who it is, no.

8 Q Well, sir, would you agree with me you're presuming
9 it's Brett Parker, but it could be Tammy Parker,
10 couldn't it?

11 A I don't know that.

12 Q Well --

13 A I couldn't see who slid open the blinds.

14 Q In order for your theory -- and you started with a
15 lot of presumptions then with this blind test. You
16 presumed, number one, that Brett Parker opened
17 those blinds?

18 A I thought it was a great possibility, yes, I did.

19 Q And you presumed that Tammy Parker was dead, didn't
20 you?

21 A I thought there was a possibility she was dead,
22 yes.

23 Q But you don't have a shred of evidence proving that
24 she was dead at that time, do you?

25 A No.

1 Q You also, sir, talked a lot about discovering
2 things at the scene here, things that are on the
3 floor. But, I mean, if Mr. Parker was doing all
4 this stuff that y'all are saying, he would have
5 hidden these things, wouldn't he? I mean, these
6 gun boxes and this ammo and all this stuff, I mean,
7 he would -- he more or less just left it right out,
8 right? I mean, didn't you ever think that maybe
9 that might tend to indicate that, you know, he is
10 not guilty?

11 A I can't begin to understand what would be going
12 through his mind, why he would do something or not
13 do something. As I stated earlier, there were
14 numerous inconsistencies. I could give you 10 or
15 12 inconsistencies that led us down this path.

16 Q Well, have you ever thought that maybe there are
17 some inconsistencies from the way y'all are viewing
18 this?

19 A No, sir.

20 Q When you got the gunpowder back, instead of -- I
21 said, you know, Bryan Capnerhurst, it looks like he
22 shot a gun.

23 I don't see that in your reports, and I mean
24 any of them, but that is something that is very
25 distinctly probable, isn't it, sir?

1 A Possible. I don't know how probable. All three
2 victims had gunshot residue on their hands.

3 Q Well, again, sir, all this evidence you discovered,
4 he didn't secrete any of it, did he? Was it hidden
5 up under something or in a hole in the back yard or
6 something? It was right out in the open, wasn't
7 it?

8 A What are you referring to, sir?

9 Q The gun boxes, the gun bag, the ammunition, all of
10 it was right out in the open, wasn't it? You'd
11 just open the drawer and there it is?

12 A Yes, sir.

13 Q Okay. I mean, based on -- just based on this
14 little slice that we're talking about here, I mean,
15 you certainly can't say that Brett Parker was
16 trying to hide this stuff, was he?

17 A I don't know that, sir.

18 Q All right. Well, again, sir, his hands -- he
19 didn't wash his hands, did he? You heard the
20 experts?

21 A I don't know if he did or not. I'm not a GSR
22 expert.

23 Q Okay. All right. Well, you know he had gunpowder
24 on his hands, don't you?

25 A I know he had gunpowder on his hands.

1 Q All right. All right. Well, sir, I mean, I guess
2 my point is this, Lieutenant McDonald. Any time
3 you get some evidence, you know, especially
4 something that is like this, I mean, you can cut
5 one way or the other with it, can't you?

6 A You can.

7 Q Yeah. But you didn't -- you cut everything that he
8 was guilty from the get-go on this thing, didn't
9 you?

10 A As I stated earlier -- and I can go into all these
11 circumstantial and all these inconsistencies we
12 were coming across -- it became overwhelming that
13 Mr. Parker had committed this crime.

14 Q All right. Let's talk about this. Let's talk
15 about the inconsistencies. Now, we know that he is
16 a bookie, don't we?

17 A We know he is a bookie, but he denied having any
18 online gambling or any gambling debt.

19 Q Okay. All right. And I am going to let you -- I
20 am going to let you --

21 MS. WALKER: Objection, Your Honor.

22 MR. WHITLARK: I am going to let him say it.
23 I am going to let him say whatever he wants.

24 THE COURT: Let him answer the question.

25 BY MR. WHITLARK:

1 Q I just want you to answer my question. He told
2 y'all he was a bookie the first -- right when the
3 police got there. He said, look, I want to talk to
4 you, I'm a bookie.

5 A He told Major Smith he was a bookie, yes, sir.

6 Q Okay. He said he had a federal stamp, but it is
7 still illegal, right?

8 A That's correct.

9 Q All right. And y'all start asking him questions
10 right when this event happened. Y'all took -- he
11 was taken down and a written statement was taken
12 from him, right?

13 A He went to Region IV headquarters with Investigator
14 Holdorf and Major Smith voluntarily to give a
15 statement, yes, he did.

16 Q Okay. And he didn't go: I've had affairs and I've
17 got gambling debts? You know, he didn't tell y'all
18 that stuff?

19 A He was asked those questions specifically.

20 Q Okay. I know he was.

21 A And he denied them.

22 Q I know he did. But, sir, do you have any basic
23 understanding -- this man is a bookie, right?

24 A That's correct.

25 Q And he didn't want to reveal every single detail of

1 that and talk about affairs, especially in the
2 mindset he was in right then, right?

3 A I wasn't with him during this interview, sir.

4 Q Well, sir, you've been in law enforcement for how
5 long?

6 A Twenty-five years.

7 Q Sir, you've seen people that have been in this type
8 of circumstance before, haven't you?

9 A After an incident like this has occurred? Yes.

10 Q Yes. And they are in shock a lot of times, aren't
11 they?

12 A I don't know. Like I said, I wasn't with
13 Mr. Parker.

14 Q I understand that. I'm just saying in general,
15 though, sir, I mean, this was a shocking event, was
16 it not?

17 A Yes, it was.

18 Q And Brett Parker, they said he said out there on
19 the street and the coroner said, well, he said, my
20 God, I have killed my best friend.

21 Well, did you ever think that Mr. Parker has
22 never killed anybody before? Y'all didn't find
23 that he has ever killed anybody, have you?

24 A No.

25 Q Okay. And he said he killed best friend?

1 A Yes, sir.

2 Q Well, the man was in shock and thinking probably
3 about, you know, I just shot and killed somebody.
4 I mean, did you ever interpret it that way?

5 A I find it rather odd, as the coroner did, that he
6 would be referring to him as his best friend at
7 this point if he had just, in fact -- if
8 Mr. Capnerhurst had just killed his wife, how he
9 could be referring to him as a friend.

10 Q Oh. Well, let me ask you this, sir. Y'all took
11 him immediately, basically from this, after the
12 EMTs got his heart done, y'all took him immediately
13 down and started questioning him, didn't you?

14 A I did not, no.

15 Q Well, I know, you didn't, but you know that
16 happened, right?

17 A Major Smith and Investigator Holdorf did interview
18 him that afternoon.

19 Q I bet you wanted to go.

20 A I was on the scene.

21 Q Okay. I bet you wanted to ask him some questions,
22 didn't you?

23 A Yes, sir, I would have, but that had already been
24 handled.

25 Q Well, anyway, Lieutenant McDonald, you didn't

1 arrest him after you got the GSR back. You didn't
2 arrest him after you found out, well he didn't tell
3 us who all his -- you know, who he gambled with,
4 and stuff. He wasn't honest with us about that.
5 You didn't arrest him after that, did you?

6 A No. There was still a number of tests going on
7 ballistically and forensically going on. There was
8 an ongoing dialogue between Mr. Parker and the
9 Sheriff.

10 Q Right.

11 A Basically that continued on for a couple of months.

12 Q Well, I'm saying you went -- you didn't do it when
13 you got the blind test back. You still -- you
14 didn't arrest him then either, did you?

15 A No. It was an ongoing investigation. We were
16 still investigating. Investigations are made of
17 many up of many pieces, much like a puzzle, of
18 evidence. And as the evidence mounted and we
19 consulted with the Solicitor's Office, we then made
20 the arrest.

21 Q Ninety-seven days later. Sir, let me ask you
22 something. Do you remember when the Secret Service
23 got involved in this?

24 A I know they got involved. I can't remember the
25 exact date but, yes, they were called in early on.

1 Q Do you know that they went out to the Capnerhursts'
2 house? Did you know that?

3 A I believe that I did, yes.

4 Q Did you know they found a pile of burnt ashes out
5 there?

6 A No, I don't.

7 Q You've not heard this?

8 A I've never heard that.

9 Q Have you heard that those ashes were the remains of
10 gambling receipts that Bryan Capnerhurst had
11 burned?

12 A No, I've never heard that.

13 Q You have not looked at any of the Secret Service
14 reports in this case?

15 A Their investigation of this was on the gambling end
16 of things. Financials, that wasn't my concern in
17 this case. My concern was on the criminal end of
18 this thing, dealing with the two homicides.

19 Q Let's be honest about this, Lieutenant McDonald.
20 You were looking for anything you could to prove
21 Brett Parker murdered his wife, waited for Bryan
22 Capnerhurst to come over there, and then killed him
23 and put a gun in his hand. That's what you're
24 saying, isn't it?

25 A No, sir. As this investigation unfolded and the

1 evidence kept mounting and mounting and mounting on
2 Mr. Parker, we continued to go down those roads,
3 investigating this thing fully, exploring new
4 avenues, exploring discrepancies in his multiple
5 statements he gave to us.

6 Q Lieutenant McDonald, you don't have a shred of
7 evidence that Brett Parker killed Tammy Parker
8 before Bryan Capnerhurst got there, do you?

9 A There's no eyewitnesses to this effect.

10 Q Do you have any medical evidence it's true? No,
11 you don't. Do you have any --

12 THE COURT: Let him answer the question.

13 A Yes, sir, we do. The medical examiner and other
14 orthopedic doctors have viewed the autopsy photos
15 of Mr. Capnerhurst, and we were told there was no
16 way that an individual could hold a gun after being
17 shot with a hole in his arm.

18 MR. WHITLARK: Your Honor, I ask that that be
19 stricken from the record. That is non-responsive,
20 and I ask it be stricken from the record. That is
21 not responsive.

22 THE COURT: I'm going to overrule that
23 objection because in his response he is answering
24 the question that you asked specifically about
25 medical examiners and examination.

1 MR. WHITLARK: I said that -- all right.

2 BY MR. WHITLARK:

3 Q Let me ask you again. Do you have any medical
4 proof that Tammy Parker was dead before Bryan
5 Capnerhurst got there?

6 A Do I have any medical proof?

7 Q Yes.

8 A No.

9 Q Do you have any forensic proof -- anything you can
10 point to will be fine -- that he killed Tammy
11 Parker, that Brett Parker killed Tammy Parker,
12 before Bryan Capnerhurst got there?

13 A I believe his actions, actions -- we never see
14 Tammy Parker come out of the garage. We never see
15 Tammy -- we don't know who peeked out of the
16 blinds, but we know Brett was still alive at 12:29
17 when he peeked out of the garage.

18 Q Sir, did you recover the Subway or Firehouse Subs
19 receipt?

20 A Did I? No. CSI recovered that.

21 Q You know what it is, though, don't you?

22 A Yes.

23 Q It was the receipt for the food that he brought
24 home to eat with his wife, right?

25 A Yes, sir.

1 Q And the time was what on that? Do you know that?

2 A 11:42, somewhere around there, I believe.

3 Q Yes, sir. That's right. Did you also know that
4 Tammy Parker ate that food? You know that, don't
5 you?

6 A I do know that.

7 Q You also know that food was partially digested,
8 don't you?

9 A Yes.

10 Q And we know for a fact she didn't get there till
11 what time?

12 A Can I refer to my notes?

13 Q Sure. Sure.

14 A She arrived home at 11:57.

15 Q Right about 12:00, right?

16 A Right.

17 Q And Mr. Capnerhurst got there about 30, 31 minutes
18 later, right?

19 A That's correct.

20 Q All right. And you know that she sat down and ate,
21 right?

22 A That's correct.

23 Q You don't dispute that?

24 A No.

25 Q And her food was partially digested, wasn't it?

- 1 A Yes, it was.
- 2 Q Okay. How long did you -- did you swim when you
- 3 were a young man?
- 4 A Yes, sir.
- 5 Q How long did your mama tell you to wait before you
- 6 went in the water after you ate a big meal?
- 7 A Thirty minutes.
- 8 Q That's right. And can you tell us the reason?
- 9 Because your food hasn't been digested yet, right?
- 10 A That's correct.
- 11 Q You need about that long. And her food was
- 12 partially digested, wasn't it, sir?
- 13 A Yes, sir, it was partially digested. I don't know
- 14 how complete it was.
- 15 Q Just based on these last few questions me and you
- 16 have had back and forth, I mean, would you agree
- 17 with me that that would tend to indicate that she,
- 18 in fact, was not dead before Bryan Capnerhurst got
- 19 there?
- 20 A I can't say that.
- 21 Q All right. All right. Y'all seized Mr. Parker's
- 22 computers, didn't you?
- 23 A Yes, as part of the search warrant we did.
- 24 Q But you did not seize Bryan Capnerhurst's computers
- 25 in April when this happened, did you?

1 A I'm not aware of us seizing his computer, no.

2 Q Okay. Are you aware that he normally or regularly
3 carried a bag with him when he went over to Brett
4 Parker's house? Are you aware of that?

5 A No, I'm not.

6 Q Are you aware that he would carry receipts out of
7 the house, gambling receipts? Have you ever heard
8 that?

9 A No, sir.

10 Q And, like I said, the Secret Service found where he
11 burned them? Are you aware of this?

12 A No, sir.

13 Q All right.

14 MR. WHITLARK: Beg the Court's indulgence.

15 (Pause.)

16 BY MR. WHITLARK:

17 Q How many times did Bryan Capnerhurst speak with
18 James Morgan before he went over to Brett Parker
19 and Tammy Parker's house that day?

20 A (Pause.) It appears to be eight times.

21 Q Now, do you know anything about Bunco or gambling
22 investigations? I think you know something about
23 it, don't you?

24 A Very little. That's why we conferred with the
25 Secret Service. We had never heard of a federal

1 gaming stamp. We are not familiar with the
2 gambling operations. That's why we called the
3 Secret Service.

4 Q Okay. Did you run down any of those -- by the way,
5 you didn't subpoena Mr. Morgan's records, did you?
6 James Morgan?

7 A No.

8 Q I know we gave them to you, didn't we?

9 A That's correct.

10 Q And we also told you that you might want to look
11 into the Cindy Capnerhurst embezzlement of \$35,000
12 to pay Bryan Capnerhurst's prior gambling debts?
13 We told y'all that, didn't we?

14 A You never told me that. No one has ever told me
15 that, no.

16 Q Well, you know about it, don't you?

17 A I know about it, but no one has told me that you
18 directed us to look into that.

19 Q You also -- well, let's talk about what you know
20 about. You know about that. Do you know about
21 that Cindy Capnerhurst and Bryan Capnerhurst were
22 talking about the safe, his safe, weren't they?

23 A I do now.

24 Q Well, sir, sir, are you saying the information came
25 from me?

1 A Once reading the statement of whoever's follow-up
2 that was.

3 Q Well, I'm confused.

4 A You presented me a statement. You presented me a
5 typed narrative with no name on it. It wasn't my
6 follow-up. I don't know whose follow-up --

7 Q Forgive me. I was unfair. You went to a meeting
8 about once a week about this case, didn't you?
9 Something like that?

10 A Roughly once a week or --

11 Q Were they Monday meetings?

12 A Not necessarily.

13 Q All right. Well, I thought that's what you said.

14 A It just varied. It just depended on how things
15 were progressing in the case. We did have regular
16 updates, though.

17 Q All right. Tell the jury what ARC is, A-R-C?

18 A The Assessment Resource Center.

19 Q What is that for?

20 A It's to interview children after traumatic events.
21 We use it very often in our victim services to aid
22 children who have been a witness to a traumatic
23 event or been involved or around a traumatic event.

24 Q Okay.

25 A We use it also as a tool. In this case to see if

1 there is any further information that we could
2 learn.

3 Q Well, would you agree with me that you went down to
4 observe the children being counseled by the ARC
5 folks so that you could see if you could get some
6 information that would help prosecute Brett Parker?

7 A I went down and viewed the interview of B.P.
8 Parker to see if I could gain any information to
9 help this case.

10 Q What about his son? Did you see that one?

11 A No, I did not.

12 Q All right. The son is five years old, right?

13 A That's right. We made arrangements with other
14 personnel at the ARC, that if anything were
15 developing in that interview, that either myself or
16 Sergeant Lindler would then witness that interview.

17 Q Before Brett Parker was arrested -- and I believe
18 you stated this -- that you coordinate Geo
19 locations -- what do you call it when you use
20 somebody's phone to follow them around to find out
21 where they are? What do you call that?

22 A Cellphone, the tracking of the cellphone, the
23 location, approximate location of that cellphone.

24 Q And you know that y'all were tracking Brett Parker,
25 weren't you?

1 A I was not tracking Brett Parker, no, sir.

2 Q My question to you is: Do you know that the
3 Sheriff's Department was tracking him that way?

4 A I believe at one point the Fugitive Team was asked
5 to follow him, yes.

6 Q Well, I mean, do you believe it or do you know it?

7 A I know that at one point in this investigation, the
8 Fugitive Team was asked to follow him.

9 Q Okay. Were they listening to his phone calls?

10 A No.

11 Q They didn't have a warrant for his telephone?

12 A They didn't have a wiretap, no.

13 Q Followed him to his lawyer's office, though, right,
14 didn't they?

15 A I don't know that.

16 Q All right. Well, getting back to the ARC, you went
17 down and viewed that, and that is an interview of
18 his children, right?

19 A Yes, sir.

20 Q And law enforcement uses that to gather information
21 in cases, don't they, sir?

22 A Yes, sir.

23 Q Okay. But y'all kind of told him that, we'd like
24 to get them some counseling. That's basically what
25 was represented to Mr. Parker when y'all said, why

1 don't you bring the kids down here, bring them down
2 to the ARC.

3 A They do provide counseling services, yes.

4 Q I know, but y'all told him it was for counseling
5 purposes, didn't you?

6 A I didn't talk to him about it, sir. I don't know
7 what was expressed to him.

8 Q All right. All right. Fair enough. How many
9 hours do you think you've put in on this case? I
10 mean, just give me a guesstimate.

11 A I don't know, 6-, 7-, 800 hours maybe. I don't
12 know, just guessing.

13 Q You are one of 30, maybe, officers from Richland
14 County that had some involvement in this case?

15 A That is probably accurate.

16 Q And we also know the FBI was investigating, right?
17 The Secret Service?

18 A I don't know that the FBI was investigating. The
19 Secret Service was investigating.

20 Q The FBI was arresting people -- I'm sorry -- after
21 the Secret Service investigated, right?

22 A No, I believe the Secret Service was making those
23 arrests.

24 Q They made a lot of them too, didn't they?

25 A About a dozen, I believe.

1 MR. WHITLARK: Beg the Court's indulgence.

2 (Pause.)

3 MR. WHITLARK: I think I'm about done with
4 this witness, Your Honor. If you would please give
5 me one minute.

6 THE COURT: Yes, sir.

7 (Pause.)

8 BY MR. WHITLARK:

9 Q Can you tell me right now off the top of your head
10 how long were the phone conversations between Bryan
11 Capnerhurst and James Morgan on the morning this
12 happened, before this happened?

13 A I think in my earlier testimony I went over that,
14 but I will see if I've got a copy of it here.
15 (Pause.)

16 A There was one of 71 seconds at 7:41 that morning.

17 Q How many minutes was that?

18 A That would be one minute and 11 seconds.

19 Q All right.

20 A At 7:43 there was one of 1,037 seconds.

21 Q Okay.

22 A At 9:59 there was one of 2,324 seconds.

23 Q Okay.

24 A 11:14 there was one of 127 seconds.

25 At 11:17 there was one for nine seconds.

1 11:17 there was one for seven seconds.

2 11:18 there was one for 731 seconds.

3 Q Okay. He talked to him a lot, didn't he, that
4 morning?

5 A Yes, he did.

6 Q And he knew a great deal about the details of him
7 getting paid, didn't he? Or about him going over
8 there that day?

9 A Yes, he told him. He talked to him about this. He
10 was excited. He was hoping to finally be paid the
11 money that was owed to him.

12 Q Was he excited when he told James Morgan, if he
13 doesn't pay me this money, I'm going to make an
14 issue about it?

15 A Was he -- say that again.

16 Q I said was he excited, was he jubilant when he told
17 James Morgan, if he doesn't give me my money, I'm
18 going to make an issue about it?

19 A I don't know about that.

20 Q Was he excited when he told his wife he was going
21 to get in a fistfight with him?

22 A I don't know. I didn't interview Ms. Capnerhurst.
23 All I can tell is from the statement.

24 Q Okay. You did not arrest him after you did the
25 blind -- the window blind theory test, right?

1 A No. There was an ongoing investigation, as I said,
2 that was continuing. Your client had -- Mr. Parker
3 had numerous conversations with Sheriff Lott, and
4 the investigation was continuing on that avenue and
5 other avenues at this point. There was still
6 testing going on, forensically, ballistically. The
7 investigation was not complete at this time.

8 Q And we know the results of that test show that
9 Bryan Capnerhurst probably shot a gun, right?

10 A No.

11 Q All right.

12 A We know that that test showed he had GSR on his
13 hands, as the other two participants in this
14 incident also did.

15 Q Well, after the blind test you went and looked at a
16 videotape, didn't you, back in May, a videotape
17 called Murder By The Book, right? Is that the name
18 of it? Which one was it? Do you remember? You
19 said you watched one of them, right?

20 A There was a couple. What date are we referring to?

21 Q The middle of May, May 11th, May something. You
22 say that you went out and were e-mailing and trying
23 to subpoena Murder By The Book, a movie or
24 something about a bookie and his wife. So that is
25 what you were, in May, were looking at as part of

1 your investigation, a movie?

2 A We had -- it was a documentary. We had come across
3 information actually from one of the blogs on local
4 media where one of the people blogging had
5 suggested that this had some parallels to this
6 incident. So we did explore that.

7 Q You didn't just explore it. You went and hunted it
8 down and watched it, right?

9 A I watched it online, yes, sir.

10 Q Okay. So you did the blind theory test. Then you
11 watched this movie. But you didn't arrest him
12 after you watched the movie, though, did you?

13 A No, sir.

14 Q And you didn't arrest him after the test, the blind
15 test?

16 A No. As I stated, this was an ongoing
17 investigation. Mr. Parker was initiating contact
18 with Sheriff Lott. There was no reason to arrest
19 him at that point, as long as these dialogues were
20 continuing and further information was being
21 gathered.

22 Q Lieutenant McDonald, isn't it true, sir, that you
23 were investigating him as recently as two weeks
24 ago?

25 A I was listening to jail phone calls up until two

1 weeks ago, yes, I was.

2 Q And the reason that you were doing that, sir, is
3 because you know you don't have sufficient evidence
4 to convict him of this crime you're accusing him
5 of?

6 A That is incorrect.

7 Q I know it's incorrect in your mind.

8 MR. WHITLARK: That is all I have, Your Honor.

9 MS. WALKER: I object, Your Honor.

10 THE COURT: All right. Sustained. Ladies and
11 gentlemen of the jury, please disregard the last
12 comment by Mr. Whitlark.

13 MR. WHITLARK: Forgive me for that, Your
14 Honor.

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

16 MS. WALKER: May it please the Court, Your
17 Honor?

18 **REDIRECT EXAMINATION**

19 BY MS. WALKER:

20 Q There were a lot of questions about James Morgan.
21 He asked you if you looked at James Morgan's
22 criminal record, right?

23 A He asked me that, yes. I have never seen his
24 criminal record.

25 Q Let me show it to you. Does he have a criminal

1 record?

2 A He does not, no record found to disseminate.

3 Q He talked a lot about the Secret Service's
4 investigation into bookies and about James Morgan
5 being a bookie. Were bookies arrested in this
6 case?

7 A People --

8 Q As part of the Secret Service investigation?

9 A Yes.

10 Q Was Jack Parker indicted?

11 A Mr. Parker was indicted.

12 Q Lanny Gunter indicted?

13 A Lanny Gunter was indicted.

14 Q Was James Morgan indicted?

15 A No, he wasn't.

16 Q He went over and showed you a copy of James
17 Morgan's sworn written statement and asked you a
18 lot of questions about it, didn't he?

19 A Yes, he did.

20 Q I want to show it to you.

21 (Complies.)

22 Q That first question when he's asked how Bryan
23 Capnerhurst and James Morgan knew each other, did
24 he say that they knew each other through a fantasy
25 baseball league?

1 A He did. He said he had known him for at least 10
2 years, maybe even 15. He met him through a fantasy
3 baseball league.

4 Q Did he talk about conversations that he had with
5 Bryan Capnerhurst on April 13th?

6 A Yes. He indicated he did talk to him several times
7 that day.

8 He said Mr. Capnerhurst had called him and
9 said he just got off the phone with Brett, and that
10 Brett wanted to meet him today. Brett had a
11 wheelchair to deliver and something else, that he
12 wanted to meet with Cap that day to settle up. He
13 was due for football and basketball season.

14 Q Did he talk about conversations that Cap had with
15 Jack Parker, the father of the Defendant?

16 A He indicated Mr. Capnerhurst had told him that
17 Brett's dad had shorted Brett \$10,000 on his
18 payment to him when Brett was paid on Monday. He
19 said Brett's dad had told Cap that he learned that
20 he -- Brett's dad and his wife -- had both leant
21 Brett \$5,000 each before Brett went on a cruise the
22 previous week.

23 Q That Linda and Jack Parker had both leant Brett
24 \$5,000 --

25 A That's correct.

1 Q -- recently? Did he mention whether or not Jack
2 Parker was concerned about Brett giving back any
3 of --

4 MR. WHITLARK: Objection to the leading form
5 of the question, Your Honor.

6 THE COURT: Sustained.

7 BY MS. WALKER:

8 Q Is there any mention of -- what else does it say
9 about conversation with Jack Parker?

10 A This was about two weeks apart, and neither knew
11 that the other had given money until Brett was on
12 the cruise.

13 When they were on the cruise, Cap and Brett's
14 dad talked many times, and Brett's dad was
15 concerned that Brett was back to gambling because
16 he had asked him for \$5,000, and then his wife for
17 5 right after the season when there should have
18 been a profit.

19 Cap said that when Brett called him, he would
20 drive to Brett's and call Mr. Morgan from the
21 driveway of Brett's house. And that he gave him an
22 hour and if he didn't hear from him, he was to call
23 a number and ask for Mr. Capnerhurst.

24 Q Does it talk about Bryan's intentions when going
25 over -- I'm sorry -- Bryan's intentions of going

1 over to the house, about whether or not anything
2 physical was going to happen? It's the last line,
3 the first paragraph.

4 MR. WHITLARK: Your Honor, I object to the
5 leading.

6 MS. WALKER: Your Honor, I can direct him.

7 MR. WHITLARK: That's fine.

8 THE COURT: Overruled.

9 A Mr. Morgan indicated that since Cap had said
10 that -- he had said that he just did the same thing
11 with Cindy and she was going to call in an hour if
12 she had not heard from him.

13 And he was concerned there could be some kind
14 of confrontation. He had told numerous people that
15 he was going to get paid that morning and was
16 somewhat concerned about it. So he told several
17 people about his concerns.

18 Q Continue.

19 A I don't know if you want me to elaborate on that,
20 but --

21 Q Yes.

22 A That doesn't sound like the actions of a man who is
23 going over there to murder someone, telling three
24 people, to include the Defendant's father, I'm
25 going to get paid, I'm going to meet Brett for

1 payment.

2 Q If I can direct your attention to Page 2 of James
3 Morgan's statement. Does it say anything about a
4 possible physical confrontation that might happen
5 that day?

6 A He indicates here that he didn't think anything
7 physical was going to happen. He thought, if
8 anything, the reason for the 9-1-1 or for him to
9 call a number was to get him out of any kind of
10 argument that may have started.

11 Q And why didn't he think anything physical was going
12 to happen?

13 A He said Cap did not like confrontation.

14 Q Turn to Page 3 of the statement. Was there a
15 conversation in which Bryan was supposed to call
16 Jack Parker right after meeting with Brett?

17 A Yes. He says because -- the questions to Cap --
18 why Brett's father wanted him to call first thing
19 after the meeting?

20 The answer was: Because he was worried about
21 his son and knew how deep the hole he was in.

22 Cap and Brett's dad had been talking a lot.
23 He knew that based on how much Cap was paid would
24 show how much trouble Brett was in.

25 While Brett was on the cruise, Brett's dad

1 told Cap that he had paid \$100,000 to pay to Vegas
2 a year ago to get Brett out of debt.

3 Brett's dad had felt that something was wrong,
4 and he could not put his finger on it. He did not
5 know how bad it was.

6 As he and Cap were talking while Brett was on
7 the cruise, he learned how bad it was. And Brett's
8 dad had gotten sick and needed Brett's help in
9 running his books, so Cap and Brett helped with his
10 bets.

11 Q On Page 4, in terms of Bryan Capnerhurst ever
12 having a gun.

13 A Mr. Morgan was asked if Cap ever talked about
14 owning a gun.

15 His response was: No. If he would have had
16 one, he would have told me about it. We talked
17 about most things, and a gun is something he would
18 have told me about.

19 Q Did he mention anything about other -- continuing
20 on that -- anything about other conversations that
21 Jack Parker had with Bryan Capnerhurst about a
22 letter written by Tammy Parker?

23 A Would you ask that question again, please?

24 Q On Page 4 of the statement, does he mention
25 anything about a letter that was written from Tammy

1 Parker to Jack and Linda Parker?

2 MR. WHITLARK: Your Honor, I object to this.
3 It's beyond the scope of redirect.

4 MS. WALKER: Your Honor, he asked -- showed
5 him the statement and asked him all sorts of
6 questions about it.

7 THE COURT: All right. Objection overruled.

8 A I don't see anything about a letter here on Page 4.

9 Q Let me make sure we have the same page numbers,
10 Lieutenant.

11 A Yes, he indicates that Cap also told Mr. Morgan
12 that Brett's father had told him about a year ago
13 when he ran up \$100,000 to Vegas, that what he got
14 instead of thanks from his daughter-in-law was a
15 letter from her saying that Brett had no morals, he
16 did not know the difference between right and wrong
17 and had no remorse for any of his actions, that the
18 cause of this was the way his mother and father had
19 raised him.

20 Q I want to ask you some questions about Cindy
21 Capnerhurst. He talked about a guilty plea to some
22 sort of embezzlement?

23 A Yes.

24 Q Are you aware of how long ago that happened?

25 A I believe it was more than 10 or 12 years prior.

1 Q Prior to this incident?

2 A Yes.

3 Q And I want to show you -- I think -- did
4 Mr. Whitlark show you Ms. Capnerhurst's statement
5 in cross-examination?

6 A He did.

7 Q I show it to you again.

8 (Complies.)

9 Q Will you take a moment to review that?

10 (Pause.)

11 Q Anywhere in that statement -- take your time -- did
12 Cindy Capnerhurst ever say anything about talking
13 to Bryan, about 80- to \$100,000 being in the safe?

14 A I don't see anything in this statement about that,
15 no.

16 MS. WALKER: No further questions.

17 MR. WHITLARK: May it please the Court?

18 THE COURT: Yes, sir.

19 **RECROSS-EXAMINATION**

20 BY MR. WHITLARK:

21 Q Do you have Mr. Morgan's statement, sworn
22 statement?

23 A No, I don't.

24 Q Here. I'm going to hand you this one.

25 (Complies.)

1 Q Do you see that question and answer right there?
2 Do you see where I've marked it? Would you please
3 read that to the jury, what the question from law
4 enforcement was to him and what his answer was?

5 A The question was: Do you know about Cap's
6 financial situation?

7 Q Tell the jury who Cap is, please.

8 A That would be Bryan Capnerhurst.

9 Q Okay. Go ahead.

10 A The response was: I do. In the past year, Cap
11 told me that his wife Cindy has gotten them deeper
12 in financial debt. How far do you want me to go,
13 the whole thing?

14 Q All the way down where it's blocked there.

15 A Okay. I think the first time was five or six years
16 ago they tried to get a new second mortgage, but
17 Cindy's credit was too bad. Cindy had racked up
18 credit card debt. Cap had been telling Brett all
19 along about being in debt to show that he was not
20 just jerking Brett around but that he needed the
21 money to pay off his bills.

22 They owed Cindy's dad about \$3,000. Cindy had
23 said because it looked like they were not going to
24 get all their money from Brett, that they should
25 skip paying her dad, but Cap said that he was going

1 to pay her dad back first and personally give him
2 the money.

3 They owed 20- to \$25,000 to a credit card and
4 were going to pay that down with the rest of the
5 money he got from Brett. I know that they were
6 living off credit cards and that they were close to
7 being maxed out.

8 Q Thank you. That was James Morgan talking about
9 Capnerhurst, wasn't it and about his situation was
10 bad, wasn't it?

11 A He was in a little bit of debt, yes.

12 Q Well, I don't know how much you make a year, but
13 \$25,000 in debt is pretty big, don't you think?

14 A It's all comparative, I guess, to other people
15 involved in this case, the amount of debt they were
16 in.

17 Q It looks like they were having financial troubles
18 according to his best friend?

19 A They were struggling, yes.

20 Q Okay. And just one more time, just one more
21 sentence. This is Mr. Capnerhurst [sic], right,
22 and he is talking to law enforcement from Richland
23 County. I believe it was Investigator Holdorf.

24 A You mean Mr. Morgan or Mr. Capnerhurst?

25 Q Mr. Morgan, I'm sorry. Excuse me. And he is asked

1 a question about what is going to happen if he
2 doesn't get paid.

3 And what did Mr. Morgan, the best friend of
4 Mr. Capnerhurst, tell the investigator from
5 Richland County? I believe I put your name right
6 next to it, Lieutenant.

7 A Can I read the whole sentence of just the part of
8 the sentence you have highlighted?

9 Q Well, you know what? You don't have to read it.
10 That's fine. The point is he was going to make an
11 issue about it, wasn't he?

12 A I'd like to read the whole sentence, not just part
13 of it.

14 Q Sir, did y'all have information in your file that
15 Mr. Capnerhurst was going to -- first of all, was
16 going -- he says, you know, it could end up in a
17 fistfight or a beating or something. And that he
18 is going to take great issue with him if he does
19 not get paid.

20 I mean, do you agree with that or not?

21 A He was going to have an issue because he hadn't
22 been paid in several months, yes.

23 He felt better about things knowing that Tammy
24 was going to be there when the appointment was
25 rescheduled from 2:00 o'clock in the afternoon to

1 12:30.

2 Q Did you know that in your investigative files that
3 Mr. Capnerhurst knew that Tammy Parker was not
4 going to pay \$6,000 of that? Are you aware of
5 that? Mr. Capnerhurst knew that, she was not going
6 to pay \$6,000 of it. He knew that for a fact. Are
7 you aware of that?

8 A Did he know that Tammy Parker was not going to pay
9 him \$6,000?

10 Q That's right.

11 A No, I've never heard that.

12 Q That she would not pay -- that she thought it had
13 already been paid off, and she was not going to pay
14 him.

15 A I have never heard that, no, sir.

16 Q You have had several theories in this case, have
17 you not, sir -- you have, yourself, about the
18 blinds or you at least were the originator of the
19 blinds, right?

20 A Yes, sir.

21 Q Okay. And you went and you watched a movie?

22 A I watched a documentary, yes, sir.

23 Q Okay. And you know people are saying that
24 Mr. Capnerhurst didn't have a gun, he didn't tell
25 anybody he had a gun. Have you ever had a theory

1 in your mind that Mr. Capnerhurst -- of course, he
2 knew about Brett's half-hearted suicide attempt
3 previously when he was in financial trouble? You
4 know that, right?

5 A Yes.

6 Q Have you ever had the theory that he was going to
7 take that gun and not tell anybody he had it and go
8 over there and kill Tammy Parker and then kill
9 Brett Parker with the last bullet left in it and
10 say he found a murder/suicide, call 9-1-1, call
11 9-1-1. We've got a murder/suicide here. Have you
12 ever come up with that theory?

13 A Not in any way.

14 Q Well, maybe you ought to.

15 A The evidence did not support it.

16 Q It's as supportive as the one you've got.

17 MR. WHITLARK: That's all I have, Your Honor.

18 MS. WALKER: Your Honor, I would object to his
19 just random speaking.

20 THE COURT: Sustained. Please, ladies and
21 gentlemen of the jury, disregard the commentary of
22 Mr. Whitlark.

23 Mr. Whitlark, please refrain from comments.

24 MR. WHITLARK: Forgive me, Your Honor.

25 THE COURT: Thank you. You may step down.

1 (Witness steps down.)

2 THE COURT: Let me see y'all at the bench one
3 second.

4 (WHEREUPON, a bench conference was held
5 in the presence of the jury but out of
6 the hearing of the jury.)

7 THE COURT: All right. Ladies and gentlemen
8 of the jury, at this time they tell me that your
9 lunch is here. So we're going to take a -- go
10 ahead and take our lunch break.

11 You are not to discuss the case with anyone.
12 I have to -- I have got to run over and take care
13 of some of my responsibilities at the State Grand
14 Jury that is also meeting this week. So we will
15 start back in about an hour.

16 Once you all eat, if anyone, Mr. Bailiff,
17 needs to go out and take a smoke break or needs
18 some fresh air, I'll direct the bailiffs and
19 officers to take them out to get some fresh air.
20 All right. Thank you. But you can't go out by
21 yourself.

22 (WHEREUPON, the jury retires to the jury
23 room at 12:43 p.m.)

24 THE COURT: I will let them take their lunch.
25 It shouldn't take me long over there. I don't know

1 how long. I told them I would be there at 1:00.
2 Let's take about an hour or so, and then we can get
3 started back up.

4 All right, we'll take about an hour.

5 (WHEREUPON, a lunch break was taken.)

6 MR. FEDOR: Your Honor, before we begin, may
7 we approach?

8 THE COURT: Yes, sir.

9 (WHEREUPON, a bench conference was held
10 off the record.)

11 THE COURT: Are we ready to call the next
12 witness?

13 MS. CAMPBELL: The State is ready, Your Honor.

14 MR. WHITLARK: The Defense is ready, Your
15 Honor.

16 THE COURT: All right. Lets bring them in.

17 (WHEREUPON, the jury came into open
18 court at approximately 2:04 p.m.)

19 THE BAILIFF: The jury panel is present, Your
20 Honor.

21 MS. CAMPBELL: The State calls Lindsay
22 Mullins.

23 (Witness approaches.)

24 THE BAILIFF: Place your left hand on the
25 Bible, and raise your right hand, please.

1 (Witness complies.)

2 THE CLERK: Do you swear or affirm the
3 testimony you are about to give in this case will
4 be the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Have a seat in the witness box.

8 (Witness complies.)

9 THE CLERK: State your name for the record.
10 And spell your first and last name for us, please.

11 THE WITNESS: Lindsay Mullins, L-I-N-D-S-A-Y,
12 M-U-L-L-I-N-S.

13 LINDSAY MULLINS,
14 after being duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q Ms. Mullins, how old are you?

18 A Twenty-nine.

19 Q Do you live here in the Columbia area?

20 A Yes.

21 Q And what is your job? What do you do for a living?

22 A I was a bank teller.

23 Q Do you know Brett Parker?

24 A Yes.

25 Q And can you tell the jury how you met Brett Parker?

1 A At the bank.

2 Q And in what capacity was he coming into the bank
3 and how did y'all meet?

4 A He would come in to do transactions. I would work
5 behind the teller line.

6 Q Behind the teller line? So you actually worked as
7 a teller?

8 A Yes.

9 Q And would he frequent your teller position? And
10 y'all had face-to-face encounters?

11 A Yes.

12 Q And do you remember approximately how long before
13 this happened that you actually met Brett Parker in
14 your bank?

15 A About two years.

16 Q Three years?

17 A Two.

18 Q In the end of 2011, did your status change in life
19 a little bit?

20 A Yes.

21 Q And what happened in December of 2011?

22 A I was separated.

23 Q You separated from your husband?

24 A Yes.

25 Q And sometime after that, in January, did you have a

- 1 conversation about that with Brett Parker?
- 2 A Yes.
- 3 Q And what was that conversation?
- 4 A I had stopped wearing my rings and he noticed.
- 5 Q You had stopped wearing your -- which rings?
- 6 A My wedding rings.
- 7 Q Your wedding rings?
- 8 A Uh-huh.
- 9 Q And who brought up the fact that you had stopped
- 10 wearing your wedding ring?
- 11 A He did.
- 12 Q And at that point, did y'all have a conversation
- 13 about what was going on with your life?
- 14 A Yes.
- 15 Q And what was that conversation?
- 16 A That I was separated and that he may soon be as
- 17 well.
- 18 Q And what exactly did he tell you about how his
- 19 status was changing as far as his marriage?
- 20 A That they were looking to separate and that he had
- 21 been working on the financial status of their
- 22 relationship.
- 23 Q That they were planning on separating?
- 24 A Yes!
- 25 Q Did you know his wife?

1 A No.

2 Q It was -- he was the one that came in your bank, is
3 that correct?

4 A Yes.

5 Q And at that point, what did he tell you about the
6 status of what was going to be happening with his
7 marriage in January?

8 A That they were looking to separate.

9 Q Sometime in February did y'all start to have
10 conversations about possibly meeting up?

11 MR. WHITLARK: Objection, Your Honor. It's a
12 leading question.

13 THE COURT: Sustained. Please rephrase.

14 BY MS. CAMPBELL:

15 Q Sometime in February did your conversations change
16 somewhat?

17 A Yes.

18 Q And what happened?

19 A We did eventually talk about meeting for drinks
20 after work.

21 Q And did that happen at some point?

22 A Yes.

23 Q And do you know approximately when that was in the
24 spring of 2012?

25 A The beginning of March.

1 Q The beginning of March?

2 A I believe so.

3 Q And where did y'all meet? Do you remember?

4 A We met at a little sports bar off the side of the
5 road. I don't remember the name of it. It was in
6 West Columbia.

7 Q In West Columbia?

8 A Uh-huh.

9 Q And is that near where your bank was?

10 A Yes.

11 Q When y'all met at the restaurant or the bar in West
12 Columbia, did he again discuss with you his
13 marriage?

14 A No, not really. We didn't actually talk a whole
15 lot. He was on the phone a lot.

16 Q Did he ever talk to you anything about his status
17 being like yours?

18 A Several times, that they were separating.

19 Q After y'all had drinks on this one occasion, did
20 the relationship get more serious?

21 A I wouldn't necessarily call it a relationship.

22 Q I'm sorry. Did you all make plans to meet up
23 again?

24 A Yes.

25 Q And approximately when was that? When did that

1 take place in relation to these events?

2 A About two weeks later.

3 Q About two weeks before?

4 A A week or two after we met the first time.

5 Q Okay. So sometime towards the end of March?

6 A Yes.

7 Q And where did that encounter take place?

8 A At his home.

9 Q And who was present in his home when y'all met up
10 that day?

11 A Just he and I.

12 Q And are you sure about the exact date?

13 A I don't remember the exact date.

14 Q And was it a work day or a weekend, or do you
15 remember?

16 A It was a weekend.

17 Q And when you met up at the house, it was just the
18 two of you?

19 A Yes.

20 Q And do you remember where his house was?

21 A That neighborhood in Irmo.

22 Q A neighborhood in Irmo?

23 A (Nods affirmatively.)

24 Q And how did you know how to get to his house?

25 A I didn't drive to his house.

1 Q Did he pick you up?

2 A Yes.

3 Q And where did he pick you up from?

4 A At one of our locations, one of our bank locations.

5 Q Once you got to the house, once he picked you up,
6 where did you go?

7 A (No response.)

8 Q In the house?

9 A There was a living room in an upstairs and an
10 office.

11 Q And did y'all have a sexual encounter there at the
12 house that day?

13 A Yes.

14 Q And where did that take place?

15 A It was a room off an office.

16 Q A room off the office?

17 A (Nods affirmatively.)

18 Q And in the office, what kind of furniture was in
19 the office?

20 A A desk and a chair.

21 Q And was that upstairs or downstairs? Do you
22 remember?

23 A Upstairs.

24 Q While you were in the office, did he tell you
25 anything about certain weapons in the house?

- 1 A He did mention that he had a gun.
- 2 Q And while you were in the office, at some point,
- 3 did he indicate to you where the gun was?
- 4 A He indicated that there may have been a gun in the
- 5 desk.
- 6 Q And how did he indicate that to you?
- 7 A He patted on the desk.
- 8 Q Can you show the jury how he patted?
- 9 A Like this (indicating).
- 10 Q Can you show them up here?
- 11 A Like this (indicating). But he didn't show me the
- 12 gun.
- 13 Q But he said he had a gun and then he patted on the
- 14 desk?
- 15 A Yes.
- 16 Q Did y'all get together again for another sexual
- 17 encounter?
- 18 A Yes.
- 19 Q And when did that take place? Do you know?
- 20 A A few weeks later.
- 21 Q And where did that take place?
- 22 A In a hotel in West Columbia.
- 23 Q And is it near anything in West Columbia?
- 24 A I work in West Columbia.
- 25 Q You work in West Columbia?

- 1 A Yes.
- 2 Q Do you know where the hospital is in West Columbia?
- 3 A Yes.
- 4 Q Is it near there?
- 5 A Yes.
- 6 Q And what time of day was it when you met him that
- 7 time?
- 8 A It was in the afternoon.
- 9 Q How did you get to the motel that day?
- 10 A I drove.
- 11 Q Do you remember the name of the motel?
- 12 A No.
- 13 Q Once you drove to the motel, tell the jury, was he
- 14 already there?
- 15 A Yes.
- 16 Q And what did you do once you got to the motel?
- 17 A He told me there was a room, and I went there.
- 18 Q And was he in the room that he told you about?
- 19 A Yes.
- 20 Q And once inside, did y'all have a sexual encounter?
- 21 A Yes.
- 22 Q And, again, at this point, what was he telling you
- 23 about his marriage? Or what did you understand
- 24 about his marriage?
- 25 A That he was separating from his wife.

1 Q Did he ever talk to you about certain things that
2 might affect his ability to separate?

3 A Yes.

4 Q What was that?

5 A Financial.

6 Q What did he say about the financial?

7 A That it was going to be difficult to get it all
8 down on paper.

9 Q So there were financial issues?

10 A (No response.)

11 Q After you left that day from the motel, when is the
12 next time you saw him? Do you remember?

13 A I didn't see him again face-to-face after that.

14 Q And do you remember that Friday, the 13th of April,
15 him coming to your bank?

16 A I know he did come in, but I did not actually see
17 him.

18 Q Okay. But he did come by the bank that morning?

19 A Yes.

20 Q But you didn't see him?

21 A Right. Another teller helped him.

22 Q But after he left, did you become aware that he had
23 been in that morning?

24 A Yes.

25 Q And then did y'all send a series of test messages?

1 A Yes.

2 Q I am going to show you what has been marked -- and
3 this is on April the 13th?

4 A Yes.

5 Q Do you remember how many days this was after your
6 last encounter at the motel?

7 A Several.

8 Q Several? I show you State's Exhibit Number 447.
9 Have you had an opportunity to look at those?

10 A Yes.

11 Q And do these fairly and accurately represent text
12 messages from February 11th and then the morning of
13 the 13th?

14 A I suppose so.

15 Q And the first one on the morning of the 13th, do
16 you see what time that was?

17 A Yes.

18 Q And what time is that?

19 A 10:20.

20 Q In the morning?

21 A Yes.

22 Q And then the last one on the 13th was at what time?

23 A 11:18.

24 Q 11:18?

25 A Yes.

1 Q And that would have been that morning?

2 A Yes.

3 Q And there is a series of texts between the two of
4 you?

5 A Yes.

6 Q And what was the nature of these texts? What were
7 y'all talking about?

8 A They were just a little flirtatious, I guess,
9 but --

10 Q Flirtation?

11 A -- nothing serious.

12 Q At some point in there, do one of y'all talk about
13 getting together the next week?

14 A It was mentioned.

15 THE COURT REPORTER: I'm sorry? I didn't hear
16 it.

17 MS. CAMPBELL: It was mentioned.

18 BY MS. CAMPBELL:

19 Q And at that point did he indicate whether or not
20 y'all were going to be able to get together?

21 A It wasn't solidified that we would actually meet.

22 Q Do you remember your response to that?

23 A Yes.

24 Q And what was your response?

25 MR. WHITLARK: Objection. Your Honor, it's

1 leading the witness, first of all.

2 MS. CAMPBELL: I'm trying to abide by your
3 rulings, Your Honor, and get there --

4 THE COURT: The objection is overruled. But
5 ask the question again.

6 BY MS. CAMPBELL:

7 Q Do you remember your response when you asked about
8 getting together the next week?

9 A Yes.

10 Q And did he indicate whether or not y'all could?

11 A Yes.

12 Q And those texts were the morning of April 13th?

13 A Yes.

14 Q Of 2012?

15 A Yes.

16 Q Thank you.

17 MR. WHITLARK: May it please the Court, Your
18 Honor?

19 THE COURT: Please answer any questions Mr.
20 Whitlark may have.

21 CROSS-EXAMINATION

22 BY MR. WHITLARK:

23 Q Hello, Ms. Mullins. Sorry you got in this,
24 involved in this.

25 She was just asking you if you were to get

1 together with Brett Parker sometime that weekend or
2 sometime? Y'all were going to get together, right?

3 A Yes.

4 Q But he couldn't do it because he said he had to
5 coach his son's baseball team, didn't he?

6 A We had no plans to see each other that weekend.

7 Q Okay. He didn't tell you he couldn't come on a
8 Saturday because he was coaching or something?

9 A He did say he was coaching.

10 Q Okay. And what is your current status as an adult
11 lady? Are you married or...

12 A I'm divorced.

13 Q Were you trying to reconcile or anything during
14 that time with your ex?

15 A No.

16 Q Okay. So you were at a point where you had, you
17 know, said that that's it, it is over with between
18 y'all, and you were going to be a single lady
19 again, right?

20 A Yes.

21 Q And you're a mama too, aren't you?

22 A Yes.

23 Q Okay. He never told you anything about that he
24 hated his wife or he was going to kill his wife,
25 did he?

1 A No.

2 Q And when you talked to him about did he have a gun
3 or anything, he mentioned to you that his house had
4 been robbed, didn't he?

5 A Correct.

6 Q Okay. And I think he told you the only thing he
7 had at that point was a baseball bat or something,
8 right?

9 A Correct.

10 Q And you actually asked him, Where is your gun or
11 where do you keep your gun, or something? I mean,
12 were you asking him?

13 A I don't recall asking that question.

14 Q Right. That's right. Marriages have difficulties,
15 don't they?

16 A Yes.

17 Q And not only emotionally, but it's also financial,
18 isn't it?

19 A Yes.

20 Q Okay. All right. I mean, he was never mean to you
21 or he never showed any violent tendencies or any
22 rage, or anything, did he?

23 A No.

24 Q Okay. As a matter of fact, he is a pretty mellow
25 fellow, isn't he?

1 A He would be.

2 Q Okay. How long -- are you remarried or are you
3 engaged?

4 A I am seeing someone.

5 Q Okay. All right. You didn't have any plans to run
6 off with him or anything with Brett Parker, did
7 you?

8 A Not at all.

9 Q Okay. You knew he was in the medical supply
10 business as well, right?

11 A Yes.

12 MR. WHITLARK: Beg the Court's indulgence,
13 Your Honor.

14 THE COURT: Okay.

15 (Pause.)

16 BY MR. WHITLARK:

17 Q I'm almost done with you. A law enforcement
18 officer named Don Robinson came to see you, didn't
19 he?

20 A Yes.

21 Q Wasn't that his name?

22 A Yes.

23 Q And that was in April of 2012, right?

24 A Yes.

25 Q Okay. And at that time he was asking you questions

1 about things like, was he disgusted with his wife,
2 things like that, right?

3 A Yes.

4 Q And what was your answer?

5 A No.

6 Q Okay. He never said anything like that, did he?

7 A No.

8 Q And he didn't seem angry at all when he was talking
9 about it even? How did he seem to you, if you can
10 tell us?

11 A Nonchalant about it.

12 Q Okay. And he never mentioned anything to you about
13 a gun, did he? He never said anything about a gun?
14 He just talked about a robbery, didn't he?

15 A That he got other protection, yes.

16 Q Okay. And the only reason y'all were getting
17 together is because you were attracted to each
18 other? Would you say that?

19 A Briefly.

20 Q Thank you. That's all the questions I have. Thank
21 you.

22 THE COURT: Anything else from the State?

23 MS. CAMPBELL: Just a couple of questions.

24 REDIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q He asked you about the marriage and Tammy, his
2 wife, how he felt about her. Do you remember
3 giving a statement on April 15th to investigators?

4 A Yes.

5 Q Is this a copy?

6 A Yes.

7 Q And in those first set of questions at the top, did
8 he ever tell you anything about his wife and their
9 sleeping arrangements?

10 A He said that he slept upstairs and that she slept
11 downstairs.

12 Q That he slept upstairs?

13 A Uh-huh.

14 Q And where did she sleep?

15 A Downstairs.

16 Q Did he tell you anything else about the separation?

17 A No.

18 Q In the next line?

19 A He said that they were going to separate.

20 Q Uh-huh.

21 A But that the financial situation was a problem.

22 Q Okay. And then he asked you specifically just a
23 second ago, who mentioned that he had a gun? Who
24 said that?

25 A He mentioned he had other protection since the

1 robbery a few years earlier.

2 Q And he mentioned that he had one, is that correct?

3 A He mentioned --

4 MR. WHITLARK: That is a leading question,

5 Your Honor. I object to it.

6 THE COURT: Sustained.

7 BY MS. CAMPBELL:

8 Q What did he tell you about a weapon?

9 A That he had gotten a gun because all he had was a
10 bat.

11 Q Thank you.

12 MR. WHITLARK: Briefly, Your Honor.

13 **RECROSS-EXAMINATION**

14 BY MR. WHITLARK:

15 Q Did Mr. Parker tell you that he slept with his
16 five-year-old son every night upstairs?

17 A He did say that his son slept with him, yes.

18 Q Every night, right? Did he tell you that? He
19 said, My son sleeps with me every night, when he
20 told you that him and his wife slept --

21 A He said that he normally stayed up and they watched
22 Power Rangers.

23 Q And he didn't exhibit any anger at all about the
24 situation with his wife, did he?

25 A No.

1 Q Just a couple more questions, and that will be it.
2 The officer that was questioning you, Mr. Don
3 Robinson?

4 A (Nods affirmatively.)

5 Q I mean, they were asking you about, did he give you
6 any money, right?

7 A Correct.

8 Q Right. And then he mentioned that he was disgusted
9 with his wife, right?

10 A Right.

11 Q So they were interested in stuff like that. I
12 mean -- let's see. Did he tell you how he made his
13 money, things like that?

14 A They did ask.

15 Q And you were honest with them, weren't you?

16 A Yes.

17 Q You told them he takes bets and he works for a
18 medical supply business?

19 A Yes.

20 Q Thank you, Ms. Mullins.

21 THE COURT: All right, ma'am. You may step
22 down.

23 (Witness steps down.)

24 THE COURT: Any objection to this witness
25 being excused?

1 MS. CAMPBELL: Thank you, Your Honor.

2 MR. WHITLARK: Nothing from the Defense, Your
3 Honor.

4 THE COURT: Ma'am, you are free to leave.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 THE COURT: Call your next witness.

8 MS. SIMPSON: Your Honor, the State calls
9 Dr. Theresa Mills-Floyd.

10 (Witness approaches.)

11 THE BAILIFF: Place your left hand on the
12 Bible, and raise your right hand, please.

13 (Witness complies.)

14 THE CLERK: Do you swear or affirm the
15 testimony you are about to give in this case will
16 be the truth, the whole truth, and nothing but the
17 truth, so help you God?

18 THE WITNESS: Yes, I do.

19 THE CLERK: Have a seat in the witness box.

20 (Witness complies.)

21 THE CLERK: State your name for the record.
22 Spell your last name, please.

23 THE WITNESS: My name is Theresa Mills-Floyd,
24 T-H-E-R-E-S-A, Mills, M-I-L-L-S, hyphen Floyd,
25 F-L-O-Y-D.

1 THERESA MILLS-FLOYD,
2 after being duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. SIMPSON:

5 Q Doctor, how old are you?

6 A I am 43 years old.

7 Q And are you married?

8 A Yes, I am.

9 Q Do you have any children?

10 A I have a 13-year-old son and a 31-year-old
11 stepdaughter that I have raised since she was --
12 she lived with us from the time she was 13.

13 Q Okay. And do you live in Columbia?

14 A I live in Chapin.

15 Q In Chapin? Are you from around this area, the
16 Chapin or the Columbia area?

17 A Well, I'm from a small town called Summerville,
18 South Carolina. And I moved to Columbia when I
19 started medical school in 1995. So I have been in
20 this area since 1995.

21 Q And so where did you go to school?

22 A USC School of Medicine.

23 Q All right. And what type of medicine do you do?
24 Or tell us a little bit about your background.

25 A I'm board certified in internal medicine, and I

1 primarily, from an internal medicine standpoint,
2 have always practiced in hospital medicine, meaning
3 I would take care of patients when they were
4 admitted to the hospital. And I would be in the
5 hospital at night if there was any complications.
6 I assisted residents in training, worked in the
7 emergency room at the VA Hospital for a couple of
8 years.

9 And in 2006 I decided to open a cosmetic
10 practice, which was non-invasive cosmetic
11 procedures, called Palmetto Cosmetic Procedures.
12 And for several years I worked part-time as a
13 hospitalist and had my practice.

14 Q So you have had your practice since 2006?

15 A Yes, ma'am.

16 Q And is that here in Columbia as well?

17 A It's in Irmo, South Carolina.

18 Q And what type of procedures did you say you
19 performed?

20 A Strictly non-invasive, lots of laser procedures,
21 Botox, fillers, micro-dermabrasion, skin care.

22 Q And do you know the victim -- or did you know the
23 victim in this case, Tammy Parker?

24 A Yes, ma'am.

25 Q Can you tell the jury how you know Tammy?

1 A I met Tammy in 2008. She came to my practice. And
2 we bonded. And she became my patient and my
3 friend. And so we had a lot of things in common.

4 B.P. is a teenager. Jake is a teenager. Of
5 course, they were smaller when we first met.

6 You know, as the years progressed, we had a
7 lot in common. And Z.P. was her first son. And my
8 son was older, so I could give her a little advice.

9 And we just -- we became friends. She was
10 such an easy person to become friends with.

11 Q And so as friends did y'all discuss your families
12 with one another?

13 A Tammy Parker's life was her children. And so
14 whenever she was with me, that is what she talked
15 about, was her children. You know, B.P. is
16 cheerleading. You know, we discussed Z.P. had a
17 little spot on his nose, and as he got older, you
18 know, it bothered him. And, you know, she wanted
19 me to look at it. But she did not say very much at
20 all about her husband.

21 Q Okay. And did you know the Defendant, Brett
22 Parker?

23 A No, ma'am.

24 Q How often would you say -- and fast-tracking
25 forward a little bit, towards 2012, 2011

1 timeframe -- how often would Tammy come see you at
2 work?

3 A I mean, it would vary. And she would just pop in
4 the office at times. She was such a thoughtful
5 person. If she saw a Mark Roberts fairy that she
6 thought I liked, she would buy that, and she would
7 pop in the office just to say hey. Or buy a USC
8 baseball championship T-shirt, because she knows I
9 love the Gamecocks.

10 But as a patient, probably every month, couple
11 of months. It just varied. Because a lot of the
12 procedures, you kind of just decide when you think
13 you need it again.

14 Q And did your staff -- tell us a little bit about
15 your office. How many people worked there? Who
16 all is there?

17 A It's a very small practice. I do all of my
18 procedures myself. I have an assistant. Her name
19 is Gloria Derrick. She has been with me for at
20 least six years.

21 She started out as my patient -- similar
22 situation -- we became friends, and subsequently
23 she started working for me.

24 And my mother, who we call GiGi, helps me with
25 everything. And they were very close to Tammy as

1 well.

2 As a matter of fact, my mother was so tickled
3 because she saw a picture of Tammy and B.P. when
4 B.P. was small. And I think it was at Saluda
5 Shoals. They were doing some crafts. And it was
6 in a magazine. My mom found that, tore the page
7 out, and when Tammy came in the next time, she
8 wanted to show Tammy. We still have that picture.

9 Q And you still have that picture?

10 A Yes, ma'am.

11 Q And I know you said that Tammy and her children
12 were her life. Did she discuss some of her marital
13 issues with you?

14 A We had a very vague conversation -- and, again this
15 was probably in 2010 -- just about, you know,
16 marriage was hard and, you know, you kept trying.
17 But no specifics at all. And I don't remember ever
18 discussing her marriage again. And, again, that
19 was just a vague conversation.

20 Q And that was back in 2010?

21 A I would say around the 2010 timeframe.

22 Q So with respect to her marriage, she was fairly
23 private?

24 A She was very private.

25 Q Did you know about the Defendant's side business,

1 or that he was a bookie?

2 A Yes, ma'am, I did. When I first met Tammy, you
3 know, she was a drug rep. We were talking. I
4 said, What does your husband do?

5 And she told me. She said, He is in medical
6 sales and he's a bookie.

7 And when she told me that, she kind of, you
8 know, moved her head down.

9 And I just said, Well, Tammy, you know, you
10 are not a bookie.

11 And, you know, we really didn't discuss it
12 anymore until -- actually the only other time I
13 remember discussing it was Super Bowl 2012.

14 Probably the Thursday or Friday before the
15 Super Bowl, Tammy was in. And my son is a football
16 guru, and we like to predict games and things. And
17 so Tammy came in.

18 I had -- my son and I had seen online where
19 the line was like Patriots by three, or something
20 like that.

21 And I said, Tammy, I said, have you heard the
22 line on the game?

23 She said, Who is playing in the Super Bowl?

24 And I said, Tammy Parker, really?

25 And so we laughed. And she went home, and it

1 was maybe ten minutes later she called back and
2 told Gloria, my assistant, Tell Theresa Brett says,
3 That's right, Patriots by three.

4 Q And so that is pretty much the only interaction?

5 A That was the only time.

6 Q So the rest of the time, y'all talked about the
7 children?

8 A And we just laughed and had fun and...

9 Q How would you describe Tammy?

10 A Tammy was one of the most vivacious, giving,
11 wonderful people you could know. She didn't meet a
12 stranger. I mean, she would come in my office, she
13 would open the door and, I mean, this was her
14 standard greeting: Hey, y'all. I'm here.

15 She was very thoughtful. She loved her
16 children so much. Her whole life was her children.

17 Q I want to turn your attention to Friday the 13th of
18 April, 2012. Do you recall whether Tammy had an
19 appointment scheduled with you?

20 A Yes, ma'am, she did. She was to come to my office
21 at 2:00 o'clock that day. And I was really anxious
22 about seeing her because she was going to tell me
23 if she had gotten to keep her job.

24 Apparently, Novartis was having a layoff. You
25 know, she would know when she came to see me if she

1 had gotten to keep her job, which I had told her,
2 of course, you'll get to keep your job.

3 And so, you know, I was anxious to hear that.
4 And we had recently had a 60th birthday party for
5 my assistant, and Tammy was there, and we had had a
6 great time. So I knew we would be joking about
7 that. So I was really excited to see her.

8 That day I was running just about ten minutes
9 behind. And so when I came out of my procedure
10 room, I walked down the small hallway and I looked
11 on the couch. And I was like, Where is Tammy? I
12 looked at my staff and I said, Did Tammy call?

13 And they were like, No.

14 I said, Did she leave a message? We have an
15 answering machine so you can always leave a
16 message.

17 They were like, No.

18 And I was like, That is so weird.

19 And I actually picked up the phone and I was
20 going to call her on her cellphone and tease her
21 about just throwing me to the wolves, you know,
22 didn't even call me, joking. We were -- we could
23 joke like that.

24 But my 3:00 o'clock patient came in early and
25 so I thought, I'll see the 3:00 o'clock. That way

1 if Tammy is just running really late, she can
2 switch appointments, and it would work out fine for
3 both of my patients.

4 But as the patient -- the 3:00 o'clock patient
5 checked out -- I don't know if she got an alert on
6 her phone or something, but she looked at her phone
7 and she said, Guys, there has been a shooting at
8 Ascot.

9 Q And this is the patient that came in?

10 A Right, the 3:00 o'clock patient that was early,
11 after we finished with her.

12 And so Gloria and I looked at each other, and
13 we said, Well, that is probably why Tammy is not
14 here. The cops probably have it blocked off.

15 We were just so shocked that something like
16 that could happen in Ascot. I mean, it seemed like
17 it was a very protected neighborhood, never
18 dreaming that it was -- what had happened.

19 So we continued to work until about 7:30. And
20 I sent Gloria home and I stayed at the office to do
21 some paperwork. And I was waiting for my son to
22 come back from the Carolina baseball game.

23 And about 9:30, I was just tired and I was
24 going to just quit. But before I turned off my
25 computer, I remembered what the patient had said

1 about Ascot. And I said, Let me see what happened
2 at Ascot.

3 So I pulled up the State newspaper. And the
4 minute I saw the address, I just -- I couldn't
5 breathe. I was just hysterical.

6 And, you know, then the shock and then the
7 sadness of this world without Tammy would be a much
8 sadder world.

9 And so that is how I found out.

10 Q With respect to her 2:00 o'clock appointment, had
11 she received a reminder earlier in the week about
12 that?

13 A Yes, ma'am. We usually call the day before and
14 usually just leave messages on the phone, you know,
15 This is Palmetto Cosmetic Procedures calling to
16 remind you of your appointment at such-and-such
17 time, you know, call us if you can't make it.
18 We're very flexible. So she had received a
19 reminder call probably the afternoon before.

20 Q Okay. So the Thursday before --

21 A Yes, ma'am.

22 Q -- potentially. And as a result of that reminder
23 call, did you receive any calls from Tammy
24 canceling that appointment?

25 A No, ma'am.

1 Q And did you speak with your staff about that
2 appointment at some point?

3 A Yes, ma'am. When I came out of the procedure room,
4 she wasn't there. I was just surprised because
5 that is when I asked had Tammy called. I just --
6 it wasn't like Tammy just not to show up.

7 Q Okay. So this was out of character for Tammy?

8 A Absolutely. Tammy was extremely organized and she
9 was always on time. And that was just -- I thought
10 I was going to have to apologize to her for running
11 behind.

12 Q Uh-huh. So you just expected that something had
13 tied her up? Or were you just kind of continuing
14 about the day working?

15 A Well, no, we were very concerned. We thought maybe
16 one of the children, you know, had gotten ill until
17 we heard about the Ascot shooting. And, again, we
18 just assumed that, you know, the neighborhood was
19 probably on lockdown and she couldn't get out.

20 And I did say, I said, But she still would
21 have called, but, you know, just never thinking.

22 Q So she never called -- and she didn't call that day
23 either?

24 A No, she did not.

25 Q At any point?

1 A No, ma'am.

2 Q And you are certain about that?

3 A I'm certain about that.

4 Q Did you have the opportunity -- I guess I shouldn't
5 term it opportunity -- did you attend Tammy's
6 funeral?

7 A I attended Tammy's visitation and her funeral.

8 Q Can you tell the jury about that?

9 A Her visitation was in Batesburg-Leesville. And
10 myself and my mom and Gloria, my assistant, we
11 drove down there.

12 And when we got there, it was -- the funeral
13 home is an older home, and it has a big wrap-around
14 porch. And there was a line all the way around it.
15 So we got in the line. And, I mean, we waited at
16 least 45 minutes just to get in the door of the
17 funeral home.

18 Q So Tammy had a lot of people show up?

19 A Oh, my gracious. And so when we got in so that we
20 could see, I was -- to be honest, I was shocked
21 that she had an open casket. That -- that really
22 stunned me.

23 And so then you would walk around the edge of
24 the chapel, and then you would go around front to
25 where Tammy was, and then the family was to the

1 side. So we waited probably another 30 minutes to
2 get to that point.

3 And I had never met Brett before. When the
4 three of us walked up to him, I shook -- put my
5 hand out and said, I'm Theresa Mills-Floyd. I was
6 Tammy's face doctor and her friend, and I am so
7 sorry.

8 He said, Yes, she was supposed to come see you
9 that day before this happened.

10 And I said, you know, I know.

11 And he said to me, I might need to come see
12 you after all of this is over to do something about
13 this redness on my face from all of this crying.

14 For the first time in my life, I was just
15 absolutely speechless. But he turned to Ms. Libby,
16 Tammy's mom, who was right beside him, and said,
17 This was Tammy's face doctor.

18 And Ms. Libby remembered I had worked on
19 **Z.P.**'s spot. And she was, you know, saying, This
20 is who worked on **Z.P.**'s spot. And she turned to
21 Brett's mother and told Brett's mother who I was.

22 And, you know, then we just proceeded, you
23 know, down the family line. Tammy's sister was
24 sitting on the pew. She wasn't actually in line.
25 She was sitting down.

1 And so then we went out and just looked at
2 each other like, Did he really say that to you?

3 MR. WHITLARK: Objection, Your Honor.

4 THE COURT: What is the objection?

5 MR. WHITLARK: Your Honor, I mean, she
6 can't --

7 THE COURT: Let me see y'all.

8 (WHEREUPON, a bench conference was held
9 in the presence of the jury but out of
10 the hearing of the jury.)

11 THE COURT: Objection sustained.

12 BY MS. SIMPSON:

13 Q Backing up to your encounter with the Defendant at
14 the casket, when he was talking about his red face,
15 did you actually observe him crying at that point?

16 A He had a tissue in his hand and a bottle. I think
17 he had a bottle of water, kind of with a tissue and
18 the bottle of water. And there were no tears
19 falling at that time.

20 Q No tears? And did he mention anything else about
21 Tammy, except for that he knew you were supposed to
22 have an appointment with her?

23 A No, ma'am. No, ma'am.

24 Q And did you mention the appointment before he
25 brought it up?

1 A No.

2 Q So he knew about the appointment ahead of time?

3 A Right.

4 Q Did he seem to be -- was he shaken or physically
5 shaken to you, or how did he appear to you?

6 A He did not appear shaken at all to me.

7 MR. WHITLARK: Your Honor, object to that. I
8 object to that, Your Honor.

9 THE COURT: Overruled.

10 BY MS. SIMPSON:

11 Q And, Doctor, outside of that, was that your
12 interaction with the Defendant?

13 A Yes. We attended -- Gloria and I -- attended the
14 funeral as well. But the sight of Tammy in her
15 casket had upset me so that I just didn't want that
16 to be my last memory of Tammy.

17 And so I had printed up a picture of she and
18 her band with a green dress, and that was what I
19 wanted to remember her. So I did not go back up at
20 the funeral and say anything to anybody. Gloria
21 and I just sat down and stayed for the funeral.

22 Q And did you observe the Defendant during that time?

23 A I did.

24 Q What did you see?

25 A I saw the family lined up, you know. They had a

1 brief visitation, I guess for people who couldn't
2 come to Batesburg-Leesville. And so, you know, I
3 saw everybody kind of interacting.

4 I had a pretty good view where I was sitting.
5 We had gotten there pretty early. And then right
6 before the service started, you know, the members
7 of the family went to the casket, and whatever.

8 And Brett was the last person. And he walked
9 up there and he kind of put his hands on the side
10 and kind of leaned over a little bit for a few
11 seconds, and then just went and sat down. Then
12 they closed the casket after that.

13 Q After he sat back down?

14 A Yes, he was the last person.

15 Q And it was only a matter of seconds that he was up
16 there?

17 A That's what I saw.

18 Q And did you observe him crying at that point?

19 A From where I was sitting, no.

20 Q Thank you, Doctor.

21 MR. WHITLARK: May it please the Court, Your
22 Honor?

23 THE COURT: Yes, sir.

24 **CROSS-EXAMINATION**

25 BY MR. WHITLARK:

1 Q How many times have you met with law enforcement
2 about this, talked to them about this?

3 A Once.

4 Q You met them one time?

5 A I met the law enforcement once, and I was
6 interviewed by the Solicitors once.

7 Q So you drove from Chapin to here?

8 A No, sir.

9 Q They came out to see you?

10 A I drove to the law enforcement when I gave my
11 deposition. And then they came to me because of my
12 schedule when they interviewed me.

13 Q Okay. And did you talk to them on the phone?

14 A Did I talk to who on the phone?

15 Q Either the Solicitor or law enforcement?

16 A Only for like scheduling.

17 Q How many times?

18 A I don't remember how many times I talked to law
19 enforcement, but I think I only talked to
20 Ms. Walker one time after the subpoena was served
21 and then when she came to my office.

22 Q Okay. So the truth is you have met Ms. Walker more
23 times than you have met Brett Parker probably,
24 right?

25 A No.

1 Q Wasn't that the first time you ever saw him or met
2 him?

3 A I met her one time. I met him one time at
4 visitation.

5 Q Uh-huh. Okay. Now, you called Tammy Parker -- you
6 know this for a fact -- and left a message for her,
7 didn't you?

8 A I did not leave -- are you talking about her
9 appointment?

10 Q Yes.

11 A The day before I did not leave a message. My staff
12 left a message, and I confirmed that with my staff.

13 Q Okay. And so we know for a fact that y'all left a
14 message on her voice machine, didn't you?

15 A On one of her phones.

16 Q Okay.

17 A Yes, sir.

18 Q All right. And when you get voice messages, you
19 use your phone to get them, don't you? I mean,
20 that is how you get them, right? I mean, that's
21 how you get a voice message, right, on the phone?

22 A Well, I mean, my answering machine in my office,
23 you push the button and you listen.

24 Q Right.

25 A But if I have a voicemail on my phone, of course, I

1 listen to it, whether I put it on speaker or not.

2 Q All right. So whether or not -- but they were very
3 interested in knowing from you, right, whether he
4 had talked with -- or whether she had talked with
5 you, right?

6 A Yes.

7 Q They were interested in that, weren't they?

8 A Yes.

9 Q And they were also -- you told them you were at the
10 funeral. Did you know that Brett Parker was at the
11 funeral for over three hours standing where you saw
12 him?

13 A No, sir, I did not.

14 Q Okay. And you just mentioned a while back, I
15 believe, that there was -- the place was packed
16 with people, wasn't it?

17 A Yes.

18 Q Did you know that Brett Parker spoke and met with
19 every single one of them?

20 A No, sir.

21 Q That is a lot of people, isn't it?

22 A Tammy was a great person. She had a lot of friends
23 that loved her.

24 Q I know. Her husband knows that and so do we.

25 MS. SIMPSON: Objection, Your Honor.

1 THE COURT: Sustained. Please refrain from
2 making comments.

3 MR. WHITLARK: Yes, Your Honor.

4 BY MR. WHITLARK:

5 Q Doctor, I mean, what was the attitude of the
6 Solicitors and the police that talked to you about
7 it, about this subject that you are testifying to?

8 A They were just gathering information.

9 Q They were just gathering information?

10 A Yes, sir.

11 Q So much so that they brought you in for a written
12 statement deposition or they came to do it at your
13 office?

14 A Yes.

15 Q All right. Now, Brett's mother was with him,
16 right? Brett Parker's mom was there? Isn't that
17 what you said?

18 A At the visitation Brett was beside Tammy's casket.

19 Q Right.

20 A Then Ms. Libby, Tammy's mother, and then Brett's
21 mother. This was when I went through. I don't
22 know if they changed positions before or after.

23 Q Okay. And you took care of ZIP, the little boy?

24 A ZIP had a small dot on his nose, and Tammy said
25 that the pediatrician had said it needed to be

1 lasered.

2 And when I told Tammy that I didn't typically,
3 you know, work on children, she was like, I don't
4 trust anybody but you. Please do it.

5 And of course I trusted Tammy wholeheartedly,
6 so I said -- and I knew what to do, so I did it.

7 Q Well, I understand. Did you know that **Z.P.** slept
8 with Mr. Parker every night?

9 A No, sir.

10 Q Did Tammy ever tell you that?

11 A No, sir.

12 Q Okay. Well, you were good friends with her, and I
13 can tell you liked her a lot, didn't you?

14 A I did, and I do.

15 Q But you don't know Brett, do you?

16 A No.

17 Q Okay. And when the police were there talking to
18 you and the Solicitor --

19 A Yes.

20 Q -- you knew they were taking this statement to use
21 against him, right? I mean, that's what it means,
22 isn't it, Doctor?

23 A Well, I also knew that you could ask me questions
24 as well. So I assume it was for both sides.

25 Q You mean from the questions they were asking you,

1 you thought that they were trying to help Brett
2 Parker?

3 A They were trying to gather information and confirm
4 what I said in my deposition was accurate and that
5 I didn't have anything to change.

6 Q Well, you knew they were going to use it against
7 him, didn't you, ma'am?

8 A I didn't know what they were going to do with it.
9 I was on standby subpoena, so I did not even know
10 if I would testify.

11 Q Okay. Now, Brett Parker did have tissue in his
12 hand, didn't he?

13 A He did have a tissue.

14 Q And you are a medical doctor. Doctor, I mean, is
15 there a limit to the amount of crying a person can
16 do, or can you continuously cry?

17 A I can't speak to that.

18 Q I mean, you're a doctor.

19 A I am a doctor. But, you know, that is an
20 individual situation. When emotion hits you,
21 typically you can cry whenever.

22 Q And let me get straight on something. Is it your
23 testimony that from what they were asking you and
24 what you were telling them that you didn't know
25 they were going to try to use this against Brett

1 Parker? You didn't know that?

2 A I thought they were gathering information. I
3 have -- I'm not in the legal system. I had no idea
4 exactly how it would work.

5 Q Doctor, you had no idea that describing him
6 basically the way you have described him was just
7 gathering information? You didn't know they were
8 going to try to say he is a bad guy or he wasn't
9 upset? You knew that, didn't you?

10 A I just reported the facts, sir.

11 Q Okay. I see. All right. Thank you.

12 A Thank you.

13 MS. SIMPSON: No redirect, Your Honor.

14 THE COURT: All right, ma'am, you may step
15 down.

16 (Witness steps down.)

17 THE COURT: Any objection to this witness
18 being excused?

19 MS. SIMPSON: None from the State.

20 MR. WHITLARK: None from the Defense, Your
21 Honor.

22 (Witness excused.)

23 MS. WALKER: Your Honor, may Mr. Whitlark and
24 I approach?

25 THE COURT: Yes, ma'am.

1 (WHEREUPON, a bench conference was held
2 in the presence of the jury but out of
3 the hearing of the jury.)

4 MS. CAMPBELL: The State calls Betty Anne
5 Webb.

6 (Witness approaches.)

7 THE BAILIFF: Place your left hand on the
8 Bible, and raise your right hand, please.

9 (Witness complies.)

10 THE CLERK: Do you swear or affirm the
11 testimony you are about to give in this case will
12 be the truth, the whole truth, and nothing but the
13 truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Have a seat in the witness box.

16 (Witness complies.)

17 THE CLERK: State your full name for the
18 record, please.

19 THE WITNESS: Betty Anne Webb, B-E-T-T-Y,
20 A-N-N-E, W-E-B-B.

21 BETTY ANNE WEBB,
22 after being duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 BY MS. CAMPBELL:

25 Q Ms. Webb, where are you from?

1 A Batesburg-Leesville originally, but I am living in
2 Greenville.

3 Q In Greenville, South Carolina?

4 A Yes.

5 Q And where did you grow up?

6 A In Batesburg-Leesville. I lived next-door all my
7 life to Libby and Jerry Carswell and the family.

8 Q Okay. And when did you live next-door to Libby
9 Carswell and her family?

10 A All the way up until I got married.

11 Q And how long have you been married?

12 A 1972.

13 Q 1972? And when you were living next to them --
14 what is your relationship to Libby Carswell?

15 A I'm her cousin.

16 Q And what is Libby's relationship to Tammy Jo
17 Parker?

18 A That's Tammy's mother.

19 Q And you're Ms. Carswell's cousin?

20 A Yes.

21 Q And were you close with the family?

22 A Yes, very close.

23 Q And growing -- were you around when Tammy was born?

24 A I saw her come home from the hospital the first
25 day.

1 Q Were you close with Tammy when she grew up?

2 A Yes, I was. I would watch her. She took
3 everything to heart. Everything she wanted to do,
4 she would succeed at it. Her father, Jerry
5 Carswell, even built a tennis court. And he worked
6 with her playing tennis. And together the father
7 and mother both worked with her with softball. In
8 school she achieved. Out of school she achieved
9 with all tests. And then worked her way up to a
10 drug rep.

11 Tammy was like a light, that when you met her,
12 she just shined. And she helped you feel good.
13 And she loved her children.

14 Q How many children did Tammy have?

15 A Two. A boy and a girl.

16 Q And what are their names?

17 A **B.P.** and **Z.P.**

18 Q As Tammy grew up -- and you mentioned her growing
19 up -- eventually did she get married?

20 A Yes.

21 Q And did you meet the person she married?

22 A I've been knowing him ever since they got married.

23 Q And what kind of relationship did you have with
24 Tammy and her family after she got married?

25 A Tammy and Brett's family was just like one of the

1 most gorgeous families anywhere. They were
2 beautiful together. They just looked like the
3 perfect little family, you know. And luckily -- I
4 have three girls, but Tammy was able to have a boy
5 and girl, and they are just beautiful.

6 Q And did you get close to Brett after he married
7 Tammy?

8 A Oh, yes. Brett was like a dear friend.

9 Q When Tammy's children got older, did you still
10 participate in their lives? And did y'all see each
11 other on regular occasions?

12 A No, not as much. My husband was career Navy. And
13 then later on I started moving around with the
14 company I'm with, so I would have to move some, and
15 I was a traveler. But Tammy and I stayed close by
16 phone.

17 Q And did you stay close with her mother?

18 A Yes. She is like my sister.

19 Q Were you aware that in 2009 Tammy and Brett bought
20 a house?

21 A I watched them buy all three.

22 Q All three of their houses?

23 A (Nods affirmatively.)

24 Q And the last house, were you aware where that was
25 located?

1 A Yes.

2 Q And what neighborhood was that in, ma'am?

3 A Ascot.

4 Q And did you ever have an occasion to go over and
5 see that house prior to her death?

6 A Yes. But I guess the first time I really saw the
7 whole house was when she passed away. I had called
8 Brett -- or Brett called me the day before they
9 went on vacation, him and the kids, up in
10 Greenville. And he was crying.

11 And I loved him so much, it bothered me. And
12 I came back down here, and I called Brett and asked
13 him if I could come see the house.

14 Q Let me back up for a second before we get to that,
15 okay? Did you -- how did you find out about Tammy?
16 What happened?

17 A Tammy's sister called me about 3:00 o'clock that
18 afternoon.

19 Q That Friday the 13th?

20 A Yes.

21 Q And what information did you get at that point?

22 A I was told that somebody had killed Tammy.

23 Q What did you do in response to being given that
24 information?

25 A I was buying a car and I was sitting in the

1 showroom while they were finishing up the
2 paperwork. And when she told me, I just screamed
3 and ran out the door and fell down on the ground
4 and cried.

5 Q Did you go anywhere later that day or that weekend?

6 A Not that evening. My girls wouldn't let me drive
7 from Greenville, but I was down here the next
8 morning by 10:00 or 11:00 o'clock in the morning to
9 be with Libby and her family.

10 Q And over the course of the next several days, did
11 you stay with Libby to help with things?

12 A I stayed with her the whole week.

13 Q After you came down here -- and where were y'all
14 staying? Do you remember?

15 A At Libby's house.

16 Q In Batesburg-Leesville?

17 A Yes.

18 Q Did you have any interaction with Brett Parker
19 after all this happened?

20 A Yes, several -- several occasions. I went to the
21 funeral home with Libby to plan the funeral with
22 Brett and Libby. And then we were together the
23 night of the viewing, which took over three and a
24 half hours, or four. We were only about six or
25 eight minutes from the funeral home. We got there

1 at 5:30, and Libby and I got home at quarter after
2 10:00.

3 Q And there were a lot of people there?

4 A Seven hundred and fifty.

5 Q During that time did you ever have any
6 conversations with Brett Parker about what he said
7 happened?

8 A Yes. He called the beauty shop and I answered the
9 phone on Friday after Tammy had gotten killed and
10 asked me, Libby, Kim, and Jerry to meet him at
11 Libby's house.

12 Q And did he show up at Libby's house?

13 A Yes, he did.

14 Q And you were there?

15 A Yes, I was.

16 Q And what information did he give you at that point?

17 A Well, he told us at first how he had gotten a
18 lawyer and that he had paid a bunch of money down
19 to get a good lawyer; he may have to go to jail for
20 a day or two, but he would get out.

21 And then through us conversation-wise, he
22 started telling us that Bryan had asked him to
23 borrow money and asked his daddy, Jack, to borrow
24 money.

25 And Brett said he told Bryan that if he could

1 wait till his tax check came, he would help Bryan.

2 And undoubtedly that didn't satisfy Bryan because

3 he said he killed Tammy.

4 Q And this is what Brett is telling you happened?

5 A Yes. And the mother and father of Tammy.

6 Q What else did he say about what happened there at

7 the house that day, that Friday, the 13th?

8 A He told us the way it happened.

9 Q What did he say?

10 A He said he was -- that Bryan met him at the steps

11 when he ran upstairs and that he took him straight

12 back to the attic room and held a gun on Brett and

13 that Brett had a gun on top of the safe and that he

14 grabbed the gun and went like this (indicating).

15 Q Which hand did he say he had the gun in?

16 A Right.

17 Q And that's how he demonstrated it to you?

18 A Yes. He went under his left arm.

19 Q Can you just stand up so the jury can see it?

20 A (Witness complies.) Like this (indicating).

21 Q And what did he say he did once he did that?

22 A He went back and checked on Tammy.

23 Q Did he indicate whether or not he shot the gun?

24 A Oh, yes. He said he shot him several, several

25 times.

- 1 Q And when he said he did like this (indicating), did
2 he do just like you just demonstrated?
- 3 A Yes. But that is what he said he did.
- 4 Q But it was with his right hand?
- 5 A Right hand, yes.
- 6 Q And did he indicate where he was located?
- 7 A He was squatted in front of the safe, and he said
8 he had a gun hid up in papers above the safe.
- 9 Q And what did he -- how did he get the gun?
- 10 A He reached up and got the gun real fast and said
11 undoubtedly -- well, he just told us he did this
12 (indicating) at that time.
- 13 Q And that was something you remembered?
- 14 A Definitely.
- 15 Q And then did he indicate where he went?
- 16 A He said he went to check on Tammy and then that he
17 called 9-1-1.
- 18 Q Do you recall anything else he told you about the
19 events that took place in the house that day?
- 20 A Not that day.
- 21 Q And at that point did you believe him?
- 22 A Oh, yes. Oh, yes, we all did.
- 23 Q You mentioned at a later time that you actually
24 went over to the house in Ascot Estates?
- 25 A Yes. He had called me a day before he was -- well,

1 he told me he wasn't going to be able to take them,
2 but he called me like a day before they went -- him
3 and the kids -- went to the beach crying and upset.
4 This is like the end of June. And I still trusted
5 him and --

6 Q Was there a holiday about that time?

7 A Yes.

8 Q What holiday?

9 A July 4th.

10 Q July 4th?

11 A Right. And right before that he was crying and so
12 upset, he said, I hadn't talked to you since the
13 funeral and everything. And he cried.

14 And it upset me so bad and I loved him so
15 much, I jumped in the car and came to Leesville.

16 And when I got to Libby's house, I wanted to
17 let Brett know that I drove to Leesville so if he
18 saw me or heard that I was there, he wouldn't think
19 I was lying.

20 And I proceeded to talk to him on the phone,
21 and I asked him, I wanted to come over one more
22 time, and that there was a piece of china that I
23 had given Tammy from my mother's collection, and
24 I'd like to get it to pass it on to Tammy's sister,
25 Kim.

1 And so Libby, Tammy's mother, Jackie Warren,
2 and Kim, Tammy's sister, came with me.

3 Q And who is Jackie Warren?

4 A Jackie Warren worked for Libby Carswell at the
5 beauty shop and she was very close to the family.

6 Q And where did y'all go?

7 A We went over to Brett's, and he met us over there
8 and took us in the house. And eventually we landed
9 upstairs. And I noticed the large sitting family
10 room that he closed a door, which I figured was the
11 office.

12 And he showed us **B.P.'s** room and **Z.P.'s**
13 room, and then Libby proceeded to go through this
14 long closet herself and landed up in the office.

15 And she asked Brett, she said, I want to know
16 exactly what happened to my daughter.

17 And Brett did say, he said, I would never tell
18 you, but you did ask me, so I'll tell you.

19 And he proceeded to tell us that Tammy was
20 seated in Bryan's chair putting folders together
21 for some new doctors that she had been given, and
22 she was working on some paperwork and making
23 folders when he went downstairs.

24 And then he said he was downstairs and that he
25 heard the shots, and he came running back upstairs.

1 And Bryan had the gun on him.

2 And Bryan told him to, Go open the f'ing -- go
3 to the f'ing safe and get my f'ing money.

4 So Brett said he goes to the safe, and then
5 that is when he put his arm up and he said grabbed
6 the gun and shot Bryan.

7 But he also told us that it looked to him like
8 Tammy was running from whoever was shooting her,
9 you know. He showed us the two holes in the wall.
10 And he said she was halfway into the bathroom door
11 when she died.

12 Q You mentioned that he also took you into the attic
13 area where the shooting of Capnerhurst was?

14 A Uh-huh.

15 Q And you mentioned it earlier that he had
16 demonstrated to you how the shooting occurred. Did
17 he demonstrate again there in the attic how the
18 shooting occurred?

19 A Yes, he did.

20 Q Was it different from what he had told you before?

21 A Yes, it was.

22 Q And tell the jury what he showed you this time when
23 he was actually in the attic where the safe was.

24 A He went over to the safe and he squatted down. And
25 he said, I did this (indicating), I squatted down.

1 Then he said, I reached up and I grabbed the gun,
2 and I shot Bryan.

3 That's two different stories from a guy I
4 loved. Our family loved him. And it just started
5 changing our whole perspective of everything.

6 Q And you're sure of how he demonstrated it before.
7 Did he actually refer to it -- when he showed you
8 the move the first time right after it happened,
9 about how he pulled the gun with his right hand?

10 A Uh-huh.

11 Q Did he call this a move, a certain -- did he have a
12 name for it?

13 MR. WHITLARK: Objection, Your Honor. She is
14 leading the witness again.

15 MS. CAMPBELL: I'm asking if he had a name for
16 it.

17 BY MS. CAMPBELL:

18 Q What did he say about it?

19 A Well, he just said that he lifted up his arm the
20 way he killed him. He lifted up the arm. And the
21 night of the viewing -- really I almost seen him
22 three times, because I saw him at my daughter's.

23 Q Okay.

24 A The night of the viewing, after it was over, he was
25 talking to my daughters, and especially my middle

1 one, about getting her a date with a friend of
2 ours. I'm sorry. And he showed her the same
3 thing.

4 Q The same thing?

5 A Yes. And my daughter asked him, she said, Gosh,
6 you had to be Maverick to think that fast.

7 He said, (indicating nodding affirmatively).

8 Q But the last time you met with him was where, and
9 he showed you was where? Where were you?

10 A At the house with the girls, Libby and Jackie and
11 them, the week right before July the 4th.

12 Q And what he demonstrated to you about what he did
13 in that attic that day when he was doing the
14 shooting, was that different from what he had told
15 you before?

16 A Yes.

17 Q Thank you, ma'am.

18 MR. WHITLARK: May it please the Court, Your
19 Honor?

20 **CROSS-EXAMINATION**

21 BY MR. WHITLARK:

22 Q Hello, Ms. Webb.

23 A Hi.

24 Q Ms. Webb, Brett Parker called you a lot after this
25 happened, didn't he?

- 1 A No.
- 2 Q He didn't?
- 3 A He called me one time.
- 4 Q Now, your sister asked him to tell her what
- 5 happened, didn't she?
- 6 A My sister? I have one sister.
- 7 Q I'm saying, who asked Brett to tell them what
- 8 happened or show them what happened?
- 9 A He just told us.
- 10 Q All right. Now, did you ask him for a pillow that
- 11 Tammy slept on?
- 12 A Yes, I did, for his mother. Well, mainly it was
- 13 something for her to hold onto, sir.
- 14 Q And he gave it to you, didn't he?
- 15 A No, not at that time, later. He gave it to her
- 16 mother.
- 17 Q Okay. All right. He has helped you out in your
- 18 life, hasn't he, ma'am?
- 19 A No, he didn't. Tammy did one time. And she had
- 20 helped a lot of us. She was at someone's house one
- 21 day and they was fixing a vehicle, and he needed
- 22 some money to get it fixed. Two days later she
- 23 shows up and gives him \$300 and says, This is a
- 24 gift. You don't owe me back. Brett never helped
- 25 us.

1 Q Okay. You saw him crying after this, didn't you,
2 ma'am?

3 A One time. That's when we were at the funeral home
4 making plans.

5 Q And you knew about them. They were married for 15
6 years, weren't they?

7 A Yes.

8 Q And Brett is not a violent man and you know that,
9 don't you?

10 A He never showed it to me.

11 Q And you know he loved her, didn't you? Didn't it
12 appear that way, in 15 years, two children?

13 A The last several years Tammy never really talked to
14 me about Brett on the phone. We would talk about
15 football, the kids. Her mother had cancer the year
16 before she got killed and had not even gotten her
17 hair back from the cancer yet. So Tammy never got
18 to see her with her -- and she is still on
19 medication. Her mother missed two doctor's
20 appointments due to this, and her health is not
21 good at all. But --

22 Q There is no doubt in your mind that Brett Parker,
23 he loves both his children very much, doesn't he?

24 A Yes.

25 Q Did you ever know about that **Z.P.** sleeps with him

1 every night?

2 A No.

3 Q Did you ever hear about that?

4 A Tammy kept everything -- there's only two people
5 she really ever talked to that wasn't Libby and I.

6 Q Do you remember anyone asking Brett or telling
7 Brett that y'all needed closure on this, that y'all
8 wanted closure on this?

9 A I'm sure we probably all said that.

10 Q And now you know he has been locked up in the Alvin
11 S. Glenn Detention Center? You know that, right?

12 A Oh, yes.

13 Q And you haven't seen him or talked to him at all,
14 have you?

15 A I would love to.

16 Q But you have talked to them, right, the police?

17 A I didn't.

18 Q And the State?

19 A Yes, I did, and I didn't like them. I let them
20 know that. Both those guys know that I told them,
21 I don't like y'all, that I believe Brett, and that
22 none of that was true that they were saying.

23 MR. WHITLARK: No further questions, Your
24 Honor.

25 THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q Did something change your mind about what they were doing?

A Them? Yes.

Q And what was that?

A They proved to us that it was a very --

MR. WHITLARK: Objection, Your Honor.

THE COURT: Sustained. Please disregard that last part.

BY MS. CAMPBELL:

Q The demonstration in the attic?

A That was the biggest thing. It proved to me --

Q Thank you, ma'am.

A -- along with other things, that --

MR. WHITLARK: Your Honor?

THE COURT: I'm sorry?

MR. WHITLARK: Nothing, except that was a non-responsive answer, I believe, Your Honor.

MS. CAMPBELL: Very responsive. Nothing further.

THE COURT: All right, objection overruled.

Ma'am, you may step down.

(Witness steps down.)

THE COURT: All right, call your next witness.

1 MS. SIMPSON: The State calls Jackie Warren.

2 MR. WHITLARK: Your Honor, may we approach the
3 bench, please?

4 THE COURT: Yes, sir.

5 (WHEREUPON, a bench conference was held
6 in the presence of the jury but out of
7 the hearing of the jury.)

8 THE COURT: All right. Ladies and gentlemen
9 of the jury, at this time before we take this next
10 witness, we'll take a ten minute break.

11 (WHEREUPON, the jury came into open
12 court at approximately 3:16 p.m.)

13 THE COURT: All right, we'll take about ten
14 minutes.

15 (WHEREUPON, a break was taken.)

16 THE COURT: Are you ready? You can bring them
17 in.

18 (WHEREUPON, the jury came into open
19 court at approximately 3:48 p.m.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: I will ask the State to call their
22 next witness.

23 MS. WALKER: Thank you, Your Honor.

24 The State would call John Lucas.

25 (Witness approaches.)

1 THE BAILIFF: Place your left hand on the
2 Bible, and raise your right hand, please.

3 (Witness complies.)

4 THE CLERK: Do you swear or affirm the
5 testimony you are about to give in this case will
6 be the truth, the whole truth, and nothing but the
7 truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Have a seat in the witness box.
10 (Witness complies.)

11 THE CLERK: State your full name for the
12 record. Spell your last name, please.

13 THE WITNESS: My name is John A. Lucas, Jr.
14 J-O-H-N L-U-C-A-S.

15 JOHN A. LUCAS, JR.,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. WALKER:

19 Q Mr. Lucas, where do you live?

20 A I live on Fish Hatchery Road, 605 Williams Circle,
21 West Columbia.

22 Q How long have you lived there?

23 A Approximately 14 years.

24 Q Are you related to anybody in this case?

25 A Yes.

- 1 Q Who are you related to?
- 2 A Brett Parker is my nephew, and my wife is Linda
- 3 Parker's sister.
- 4 Q And we subpoenaed you to court?
- 5 A Yes.
- 6 Q Did there come a time before the murder of Tammy
- 7 Parker -- did you know Tammy?
- 8 A Did I know Tammy?
- 9 Q Yes.
- 10 A Yes.
- 11 Q Did you know Brett Parker pretty well?
- 12 A Yes, we babysat Brett when he was a small child.
- 13 Q Before these murders, did there come a time in
- 14 which you had a 9-millimeter Smith & Wesson in your
- 15 possession?
- 16 A Yes, after my brother-in-law passed away.
- 17 Q Yes, sir.
- 18 A He had several firearms, and the family thought
- 19 that it would be a good idea for me to take care of
- 20 those for the family, and they were in my
- 21 possession.
- 22 Q And when you -- how did you take care of those for
- 23 the family?
- 24 A I secured them in a locked area.
- 25 Q Did you disburse those several firearms to members

1 of the family?

2 A I did. Each adult male received a firearm. It was
3 in a case.

4 Q The gun came in a case?

5 A Yes, each firearm came in a case and ammunition.
6 And I wrote down all of the serial numbers, make,
7 models, and everything.

8 Q Do you remember the color of the case that the
9 9-millimeter was in?

10 A No, ma'am, I don't. There were many cases.

11 Q Well, let me ask you this, Mr. Lucas: Do you
12 remember giving a statement to law enforcement in
13 this case?

14 A Yes. It was either black or tan.

15 Q A black or tan case?

16 A Yes, that is what I told them. That was in my
17 statement.

18 Q Okay. Yes, sir. And you gave -- when you -- did
19 you give the 9-millimeter to -- you said a male
20 member of the family?

21 A No. I said I gave the 9-millimeter to the Parker
22 family.

23 Q You gave the 9-millimeter to the Parker family?

24 A Yes.

25 Q And when you gave the 9-millimeter to the Parker

1 family, do you remember which member of the family
2 you gave it to?

3 A They were at a birthday party at my son's -- or my
4 house for my 21st -- my son's 21st birthday.

5 Q Yes, sir.

6 A And they left with it that night. And it was in a
7 Victoria's Secret bag, so I would imagine that
8 Linda walked out the door with it. I don't think
9 Jack would have walked out with it.

10 Q And when you gave them the gun, did you give them
11 things that went along with the gun?

12 A Yes, ammunition was with the gun. The case was --
13 I mean, the gun was in a case with an extra clip.

14 Q And you gave them those things because all of those
15 things went together?

16 A That's exactly right.

17 Q Including the gun case?

18 A That's exactly right.

19 Q Was that the last time you saw that gun?

20 A That's exactly right.

21 Q Do you have...

22 A And I told that to the officers at Mr. Parker's
23 house that day. I told the two investigators that
24 are sitting behind you --

25 Q Yes, sir.

1 A -- that exact story that day.

2 Q Okay. Did you know what happened to that gun after
3 you gave it to Linda or Jack Parker?

4 A No, ma'am, I do not. I thought they still had it.
5 I didn't know Brett had actually received it, to
6 tell you the truth.

7 Q Okay. You gave it to them at your son's birthday
8 party?

9 A Yes, at my residence.

10 Q Do you remember the date of that?

11 A It was -- my son's birthday was December the 5th.
12 We had it that weekend, so it was either the 9th or
13 11th.

14 Q Of what year?

15 A 2011.

16 Q Thank you, Mr. Lucas.

17 MS. WALKER: No further questions.

18 THE COURT: Yes, sir, Mr. Fedor.

19 MR. FEDOR: May it please the Court?

20 THE COURT: Yes, sir.

21 **CROSS-EXAMINATION**

22 BY MR. FEDOR:

23 Q Good afternoon.

24 A Yes, sir.

25 Q How old are you?

- 1 A I'm 52 years old, sir.
- 2 Q Just a kid.
- 3 A I guess so.
- 4 Q You have been a member through marriage and through
5 blood relationships to the Parker family for a long
6 time, haven't you?
- 7 A Yes, sir.
- 8 Q Did you see Brett Parker grow up?
- 9 A I did, sir. I went to a lot of his baseball games
10 in high school.
- 11 Q Did you ever know Brett Parker to have a violent
12 bone in his body?
- 13 A No, sir.
- 14 Q In fact, to use an old-timey phrase, he was milk
15 toast, wasn't he?
- 16 A Yes, sir.
- 17 Q And when he married Tammy, what kind of
18 relationship did they have, that you saw, John?
- 19 A For instance, two weeks prior to the incident, we
20 were all playing baseball with the little boy in
21 the back yard, and everybody was happy, laughing,
22 and having a great time on Easter Sunday.
- 23 Q Okay. Now, you knew Brett's two children, did you
24 not?
- 25 A Yes, sir.

- 1 Q And you saw him in family situations?
- 2 A Yes, sir.
- 3 Q What kind of father was he, Mr. Lucas?
- 4 A He was a loving father, just like I was to my
- 5 children.
- 6 Q The same way?
- 7 A Uh-huh. He loved those children. Still does.
- 8 Q This incident happened April 13th, 2012. You
- 9 didn't know anything about it, did you?
- 10 A No, sir.
- 11 Q Except what you read in the papers?
- 12 A That's correct.
- 13 Q When you gave the pistol on December 5th, some four
- 14 or five months before this incident?
- 15 A Uh-huh.
- 16 Q Who did you give it to in the family?
- 17 A I gave it to Jack or Linda Parker.
- 18 Q Okay. And you don't know what they did with it
- 19 from that time on, do you?
- 20 A No, sir. They were responsible adults.
- 21 Q If the time comes and when the time comes that the
- 22 evidence shows that Bryan Capnerhurst killed Tammy,
- 23 would that surprise you?
- 24 A I don't know what to say about that, sir. Yeah,
- 25 because I didn't know he even had the firearm.

1 Q When they accused Brett of a violent act, did that
2 surprise you?

3 A Very much so.

4 Q Thank you very much, sir.

5 **REDIRECT EXAMINATION**

6 BY MS. WALKER:

7 Q He asked a lot of questions about things that
8 surprised you. Did Lindsay Mullins surprise you?

9 A Pardon me? I didn't understand a word you said,
10 ma'am. I'm sorry.

11 Q Did Lindsay Mullins surprise you? Her presence in
12 the courtroom and her testimony about her affair
13 with the Defendant, was that surprising to you?

14 A Yes.

15 Q Did you know about that?

16 A No.

17 Q So you knew about Brett Parker what Brett Parker
18 wanted you to know about Brett Parker?

19 A I can't judge anyone, ma'am, like that.

20 Q I understand. No further questions.

21 **RECROSS-EXAMINATION**

22 BY MR. FEDOR:

23 Q Sir, two young people have a physical attraction.
24 Being a man of the world, an older man, does that
25 surprise you?

1 A Not in the society we grew up in these days.

2 Q And you know not only from what Brett Parker wanted
3 you to know, you saw it with your own eyes when
4 Brett grew up in your presence, did you not, sir?

5 A Yes, sir.

6 Q Thank you.

7 THE COURT: All right, sir. You may step
8 down.

9 (Witness steps down.)

10 THE COURT: Any objection to this witness
11 being excused?

12 MR. FEDOR: None from the Defense.

13 MS. WALKER: None from the State, Your Honor.

14 THE COURT: You are free to leave, sir.

15 (Witness excused.)

16 THE COURT: All right, call your next witness.

17 MS. SIMPSON: The State calls Jackie Warren.

18 (Witness approaches.)

19 THE BAILIFF: Place your left hand on the
20 Bible, and raise your right hand, please.

21 (Witness complies.)

22 THE CLERK: Do you swear or affirm the
23 testimony you are about to give in this case will
24 be the truth, the whole truth, and nothing but the
25 truth, so help you God?

1 THE WITNESS: I do.

2 THE CLERK: Have a seat in the witness box.

3 (Witness complies.)

4 THE CLERK: State your name for the record.

5 Spell your last name, please.

6 THE WITNESS: Jackie Warren, W-A-R-R-E-N.

7 JACKIE WARREN,

8 after being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. SIMPSON:

11 Q Ms. Warren, how old are you?

12 A Sixty-two.

13 Q And are you married?

14 A Yes.

15 Q Do you have any children?

16 A One.

17 Q One? Do you live in Columbia?

18 A I live in Batesburg-Leesville.

19 Q Are you from Batesburg, or that area?

20 A I have always lived there.

21 Q And do you know the Defendant or Tammy Parker?

22 A Yes.

23 Q Can you tell the jury how you know them?

24 A I have been in business with Tammy's mother for

25 over 30 years. We work side-by-side. I have known

1 Tammy since she was about 12... So she grew up
2 around us.

3 Q And you said her mother is -- who is Tammy's
4 mother?

5 A Libby Carswell.

6 Q And what type of business or work --

7 A We have a beauty salon.

8 Q And y'all work there together?

9 A Yes, have for over 30 years.

10 Q So Tammy grew up --

11 A In and out, around about all the time, yes.

12 Q When did you meet Brett, the Defendant?

13 A Several months before they got married.

14 Q And can you describe your relationship with the
15 Defendant and Tammy?

16 A Well, we used to a lot -- Tammy played in a band.
17 We used to follow her around. She was such a good
18 singer. Brett would come and be with them. We
19 would all -- most of the time it would just be the
20 girls, as we call them. And Brett would come. He
21 would often sing with her, one or two songs, hang
22 around with us, dance with us women, because we
23 didn't take a man with us. And he was a very
24 likeable fellow.

25 Q And did you also know Bryan Capnerhurst?

1 A Yes, I did.

2 Q How did you know Bryan?

3 A He came into our beauty salon probably for once a
4 month probably for over 20 years.

5 Q And so you knew all the members?

6 A I know all the members involved.

7 Q And was your relationship with Bryan, was it just
8 in the nature of a customer or how would you
9 describe it?

10 A Well, he was a customer but he always -- he was a
11 very friendly person. You know, we always talked.
12 You know, our shop was very laid back, friendly,
13 you know. So, yes, after 20 years, it's just not a
14 hello, a haircut, and a goodbye. You know, we do
15 have conversations.

16 Q I want to take your attention to 2012 and 2011,
17 that timeframe. Did you see the Defendant very
18 often?

19 A In that timeframe, no.

20 Q Why not?

21 A As the years went by and we still -- like I say, we
22 still followed Tammy, you know, occasionally. And
23 Brett got to where he didn't come, you know. He
24 would come by, stay a few minutes, and then he
25 would leave. He had other business to attend to.

1 Q And did you know Tammy's children as well?

2 A Yes.

3 Q And would you say that she was pretty involved with
4 her children?

5 A She was very involved with her children. She took
6 them on -- especially with -- well, with **Z.P.** like
7 I say, he was coming along. But her daughter, she
8 absolutely adored. And anything that she wanted to
9 do, that is what Tammy wanted her to do. And she
10 would take her out of state, anywhere else for her
11 competitions, spend the weekend. She went to a lot
12 of expense for **B.P.**'s happiness.

13 Q And did you know Tammy to be a pretty hard worker?

14 A Very hard. She probably started to work at 14 in a
15 restaurant and never stopped working.

16 Q Did you know about the Defendant's side business as
17 a bookie?

18 A Yes.

19 Q Tell us how you knew that.

20 A It was just well known he was a bookie.

21 Q So everybody just kind of knew --

22 A Oh, yes, uh-huh.

23 Q -- that that is what he did. How did you find out
24 about what happened?

25 A About the afternoon, the day of -- Tammy's mother

1 and myself left our shop about 3:30 on Friday
2 afternoon on the 13th. I went to Batesburg, which
3 is two miles away. Libby went home, which is about
4 three miles away.

5 And I stopped to get gas. And my cellphone
6 rang. It was Libby. And she said, My daughter is
7 dead, and just screaming.

8 And I said, Libby, what are you talking about?

9 She said, My daughter is dead.

10 And with her having another daughter sick on
11 dialysis, I said, Well, my God, what happened to
12 Kim?

13 And she said -- Libby said -- No, it's Tammy.
14 Tammy has been shot and she's dead.

15 So I immediately -- so I was about three miles
16 away -- immediately got in my car, and got to
17 Libby's house.

18 She was there by herself, except for the --
19 whoever the law person was that came to tell her
20 that Tammy was dead. He was still there. And had
21 not been there but just a few minutes.

22 Q And let me back up just a little bit. Tammy has a
23 sister?

24 A Yes.

25 Q And what's her name?

1 A Kim.

2 Q And you stated that she was sick as well?

3 A Right. She has been on dialysis for about eight
4 years now.

5 Q And how is Libby's health, or how has it been?

6 A Well, she had cancer about two years ago. She went
7 through all the treatments. As I say, she lost her
8 hair. But she is like Tammy. She is a hard
9 worker. She worked. It's just...

10 Q And y'all were very close?

11 A Yes. We have been very close. We are best
12 friends, as well as partners.

13 Q So business partners, best friends, practically
14 like family?

15 A Yes. Yes.

16 Q Now, on that day when you went over there, what
17 happened next? Did you at some point go and meet
18 with the Defendant?

19 A When I got to Libby's house?

20 Q Yes, ma'am.

21 A When she gave me the call. I got there and whoever
22 it was that came out, I asked him what happened.

23 And he really, you know, wouldn't say anything
24 to me.

25 Q And who is *he*?

1 A He was a Lexington County deputy, because Richland
2 was so tied up.

3 Q Okay. So y'all were still at Libby's house?

4 A At Libby's house, yes.

5 Q Tell us what happened next.

6 A Then he asked me did I know Bryan Capnerhurst.

7 MR. FEDOR: Objection, Your Honor. We have no
8 concern with the hearsay evidence that is coming in
9 now.

10 THE COURT: All right. The objection is
11 sustained.

12 MS. SIMPSON: Your Honor, I'm not offering any
13 of this for the truth of the matter asserted. She
14 is merely talking about what -- essentially her
15 reaction, what went on, and how she responded in
16 the situation.

17 MR. FEDOR: Your Honor, that has nothing to do
18 with the murder.

19 THE COURT: All right.

20 MS. SIMPSON: I will be happy to move forward
21 to the point in which she meets up with the
22 Defendant and has that encounter.

23 THE COURT: All right. The objection is
24 sustained. You can ask her what happened, what she
25 did, or what the other people, whoever did, but not

1 as to what they said.

2 BY MS. SIMPSON:

3 Q Without telling me what the officer told you about
4 what happened and what was said, what did you all
5 do, or where did you go?

6 A The officer didn't tell me anything. I was just
7 there consoling Libby. He told me he couldn't say
8 anything. The only thing he wanted from me was if
9 I knew where Bryan Capnerhurst lived and how to get
10 to his home.

11 And of course, I said, What has that got to do
12 with it?

13 And he said, I can't tell you anything. I
14 just need to know.

15 Q And let's -- you know, we can't go into what he
16 said.

17 A Okay.

18 Q At some point, did you and Libby leave her house?

19 A No. It was several hours later because we kept --
20 they told us to stay there, that they would be
21 going to the school to get the children and they
22 would be bringing the children to Libby's home.

23 So we waited for hours and couldn't find out
24 anything.

25 Q So you all thought that --

1 A The children --

2 Q -- B.P. and Z.P. were being brought to her house?

3 A To Libby's house.

4 Q Is that, in fact, what happened?

5 A No.

6 Q What happened?

7 A After -- I think it was on maybe like 6:30 or so,
8 somebody finally said -- called and said that the
9 children --

10 MR. FEDOR: Objection, Your Honor. Hearsay
11 evidence.

12 THE COURT: Sustained.

13 MS. SIMPSON: I'll rephrase.

14 BY MS. SIMPSON:

15 Q In response to a call that you received?

16 A Right.

17 Q Regarding where the children were located?

18 A Uh-huh.

19 Q Where did you go or what did you do?

20 A We -- the children were at the Parkers', so I --

21 Q By the Parkers', who do you mean?

22 A Brett's parents.

23 Q Jack and Linda?

24 A Yes. We got in the car and we went to the Parkers'
25 home. Libby wanted to see her grandchildren.

1 Q Who all was with you?

2 A My sister, Libby, and myself.

3 Q And what happened when you arrived to the Parker
4 home?

5 MR. FEDOR: Your Honor, might we approach,
6 Your Honor?

7 THE COURT: Yes.

8 (WHEREUPON, a bench conference was held
9 in the presence of the jury but out of
10 the hearing of the jury.)

11 THE COURT: The objection is overruled.

12 BY MS. SIMPSON:

13 Q When you arrived at the home -- you, Libby, and
14 your sister?

15 A Right.

16 Q -- who was there when you got there?

17 A Brett was on the outside. I think it was an
18 officer or two outside. When Libby and my sister
19 and myself walked up, Brett was leaning up against
20 the car facing the front door.

21 So when they met up, they hugged each other.
22 Both of them started crying. My sister and myself
23 went on in the house so we could give them some
24 privacy.

25 Q And at some point -- did y'all remain there for a

1 period of time?

2 A Yes. After so long that they were outside, I told
3 myself I need to check on Libby to see if she is
4 all right.

5 Well, when I got outside, Libby and Brett were
6 standing and talking. They were composed.

7 And then it was several more people outside
8 that I don't know.

9 But then Brett came up on the little porch or
10 steps, or whatever, and I just said, What in the
11 world, you know?

12 And then he proceeded to tell me what had
13 happened.

14 Q And what did the Defendant tell you happened?

15 A He said that he was -- he had gone by Firehouse
16 Subs, picked up some subs to take home for lunch.
17 Bryan had called, and he told him to come on over,
18 you know, Tammy was there and that, you know, they
19 were home.

20 And he said that he was in the downstairs
21 bathroom. And when Bryan came, he just hollered at
22 him, Go on upstairs, Tammy is upstairs.

23 Then within just a short period of time, Brett
24 heard gunshots. He said he immediately ran
25 upstairs, and Tammy was laying on the floor, and

1 Bryan had a gun to his head. And this was at the
2 door of the office.

3 Q Okay. And what did he tell you happened next?

4 A He said that he told him to take him to the safe,
5 that he wanted his money. And so they proceeded
6 through the other rooms with a gun to Brett's head.
7 And Brett went to the safe, kneeled down like he
8 was opening the safe with a combination.

9 And as he knelt down, he put his hand on top
10 of the safe. He said there was a gun up there.
11 Bryan did not know the gun was there because it was
12 under a bunch of papers.

13 At that time he said that he directly picked
14 the gun up, turned and shot him square on.

15 Q Okay. So this is the first demonstration or the
16 second one?

17 A That was the second demonstration.

18 Q Okay. So let me back up just so the jury is clear
19 on that timeframe. The first demonstration --

20 MR. FEDOR: Your Honor, objection. Your
21 Honor, I think we have gone as much as we can go
22 with this witness. She wasn't there.

23 THE COURT: All right. Objection overruled.

24 BY MS. SIMPSON:

25 Q And are you kind of nervous about being here today?

1 A Yes. But I was at the house when Brett was there.

2 Q So you were at the house. And I want to direct
3 your attention to the first demonstration.

4 A Right.

5 Q Tell the jury about that incident.

6 A He just basically said, like I said, that he came
7 over, he was going to rob him. He was in the
8 bathroom. He heard the gunshots. Ran upstairs.

9 Q And did he demonstrate what happened once he got
10 into the attic at that point?

11 A No. This was the first time that he told me how he
12 shot him was at the Parkers' home.

13 Q Okay.

14 A And he told me the story about going up the stairs
15 and going to the safe. When he got to the safe, he
16 said that he threw his arm under and started
17 shooting.

18 He said, I unloaded the gun because I didn't
19 know if I was hitting him. I had my back to him.

20 Q Okay. And so he mentioned at that time that he
21 unloaded the gun but didn't know where he was
22 shooting?

23 A Where the -- yes, if it had hit Bryan or not.

24 MS. SIMPSON: Is it okay for the witness to
25 stand up and demonstrate, Your Honor?

1 THE COURT: Yes, ma'am.

2 BY MS. SIMPSON:

3 Q Just stand up so that the jury can see what he did
4 with his arm.

5 (Witness complies.)

6 A This is the first time?

7 Q The first time. The one we just talked about.

8 A The first time he said that Bryan had a gun to his
9 head, he knelt down in front of the safe, and he
10 picked the gun up, threw it under his arm, and shot
11 behind him.

12 Q Okay. So with his right hand he began to shoot?

13 A Yes.

14 Q Okay.

15 A He said at that point he could not tell if he had
16 shot him or not.

17 Q And did he tell you about what happened after
18 shooting Bryan, as far as what he did, whether he
19 checked on Tammy?

20 A He said that he jumped over Bryan to go check on
21 Tammy to see if she was still alive, and said she
22 was not. And then he went back to the attic to
23 check to see if Bryan was still alive.

24 Q And what did you think when the Defendant told you
25 this story about what happened?

1 MR. FEDOR: Your Honor, this is opinion
2 evidence that is going far beyond the scope.

3 MS. SIMPSON: I'll rephrase.

4 BY MS. SIMPSON:

5 Q Did you have any reason to doubt at that point what
6 the Defendant was telling you?

7 A No. I thought it was unusual, but no.

8 Q No. So you wanted to believe him?

9 A Oh, yes.

10 Q Moving to the second time -- and were there any
11 interactions that you had between that first
12 demonstration and when you met with the Defendant a
13 second time?

14 A Yes. Of course, it was at the funeral. I did
15 Tammy's hair. My daughter did her makeup. The
16 family usually comes and gives you their approval
17 once it is done to see if you need to change
18 anything.

19 We had a problem with her clothing. So
20 Brett's mother had to go get some more clothes for
21 her. Because of the autopsy, it was showing. So
22 we had to get some more clothes. And then they
23 didn't come anymore until the next night at
24 visitation. So I never knew if I needed to change
25 anything.

1 Q And after the funeral and after the visitation, did
2 you or Libby go over to the house?

3 A Yes.

4 Q Tell us about that and what happened.

5 A That was, I'd say, maybe towards the end of June.

6 Q Of 2012 after Tammy's death?

7 A Right. This was when they still had the house, you
8 know, open and all. And they had started moving
9 out some things. Betty Anne had gone to pick up a
10 dish that belonged to her mother, and I went with
11 them. We all left our shop together.

12 Q And when you say *y'all* and *them*, who are you
13 referring to?

14 A I'm talking about Tammy's sister, Kim; and Tammy's
15 mother, Libby; Betty Anne, her cousin; and myself.

16 Q So all of you all went to -- which house did you go
17 to?

18 A To the new house.

19 Q The new house. And that's in Ascot?

20 A Right.

21 Q And when you arrived, who was there?

22 A Brett was waiting on us. He knew we were coming.

23 Q Okay. And when you got there, what happened?

24 A He showed us through the downstairs part of the
25 house.

1 Q Had you seen the house before?

2 A No..

3 Q Or been in the house?

4 A No, huh-uh.

5 We got to the staircase and he said, Do y'all
6 want to go upstairs?

7 And Libby responded, Yes, I want to see where
8 my daughter died.

9 And that's when we went upstairs.

10 Q What happened once you got upstairs?

11 A We went through the rooms, ZIP and B.P.'s room
12 we went through, and we went into the office.

13 And when we got to the office, Brett turned
14 and pointed towards the bathroom door and said,
15 Tammy was laying there with her head in the
16 bathroom and her body in the office.

17 And then he proceeded to walk on to the
18 next...

19 Q So did he just point it out and say, She was here,
20 and then keep moving?

21 A Right.

22 Q And who all is with you at this time? Is it you
23 and Libby?

24 A No, it was all of us.

25 Q It's all of you --

- 1 A Uh-huh.
- 2 Q -- who you just named. So after you left the
3 office area and he pointed out where Tammy was
4 laying there --
- 5 A Right.
- 6 Q -- and walked on, what happened next?
- 7 A He took us to the attic, through a couple of rooms,
8 and we went to the attic, and then proceeded to
9 tell us how, like I say, how he shot Bryan.
- 10 Q And what did he tell you?
- 11 A Like I say, he leaned down on his knees like he was
12 opening the safe, his hand up here (indicating),
13 and the gun was hidden, Bryan did not know the gun
14 was there, and he turned and shot straight on.
- 15 Q Okay. So this time he used his right hand?
- 16 A Yes.
- 17 Q And turned and shot Bryan?
- 18 A Yes.
- 19 Q Did he indicate whether or not he was -- whether he
20 was standing or sitting?
- 21 A He was kneeled down.
- 22 Q He was kneeled down in front of the safe?
- 23 A Right.
- 24 Q Shooting with his right hand?
- 25 A Right.

1 Q After he demonstrated this to you, what did y'all
2 do?

3 A We then left the attic and went back downstairs,
4 sat down in the kitchen, and just had a
5 conversation about -- you know, just conversation
6 for a while.

7 Q And being good friends with Libby, were you kind of
8 there for her?

9 A Right.

10 Q At this point. At some point do you all leave?

11 A When we left, we put Kim out, and we were going
12 down the interstate. And all of a sudden it was
13 just Libby and Betty Anne and myself.

14 And I just said, Oh, my God. I said, That is
15 not the same story Brett told us.

16 And I realized at that point it was nothing
17 like the first story of how he shot Bryan. And
18 that is when I knew that there was something -- it
19 was not right.

20 Q And up until that point had you, again, had any
21 reason to doubt what Brett said happened?

22 A I had a little doubt, but I still couldn't believe
23 that he would have done that to Tammy.

24 Q And after the demonstration?

25 A After the demonstration and the completely two

1 different stories, there was no doubt.

2 Q And you said this was the end of June, somewhere
3 around the beginning of July?

4 A It was around the time -- because he was talking
5 about taking the children to the beach. And he had
6 called to get permission to leave town with his
7 children, because at that point he didn't know if
8 he could leave or go. And he said that was always
9 a time they took the children, and he wanted to
10 take them. So he called Lott and he told him he --

11 Q And you can't go into what --

12 A Okay.

13 Q -- was said to you or that he said.

14 A Okay.

15 Q But did you speak with the Defendant again after
16 this second demonstration?

17 A No.

18 MS. SIMPSON: Beg the Court's indulgence.

19 (Pause.)

20 Q Thank you, Ms. Warren.

21 THE COURT: Yes, sir, Mr. Fedor.

22 CROSS-EXAMINATION

23 BY MR. FEDOR:

24 Q Ms. Warren, since you are a lot younger than I am,
25 can I call you young lady?

- 1 A Yes. Thank you.
- 2 Q You have lived in Batesburg-Leesville all your
- 3 life?
- 4 A Yes.
- 5 Q And you have known Tammy all her life?
- 6 A Since she was about 12.
- 7 Q And you knew her children very well, didn't you?
- 8 A They lived in Columbia. I knew her children, but,
- 9 no, I did not know the children very well.
- 10 Q Tell me what you knew about **B.P. [REDACTED]**, the
- 11 young lady.
- 12 A **B.P. [REDACTED]**, I know that Tammy was very devoted to
- 13 **B.P. [REDACTED]** When she would come by our shop when she
- 14 would be in town calling on her doctors'
- 15 appointments, she would come in. She would bring
- 16 us pictures and tell us where they had been for her
- 17 competitions, that kind of stuff.
- 18 Q And Tammy was an excellent mother, was she not?
- 19 A No doubt.
- 20 Q And she raised her children right and proper,
- 21 didn't she?
- 22 A In church and very proper.
- 23 Q And you would absolutely believe **B.P. [REDACTED]** under oath,
- 24 would you not, ma'am?
- 25 MS. SIMPSON: Objection, Your Honor, with

1 respect --

2 THE COURT: Sustained.

3 MR. FEDOR: She can give her opinion.

4 THE COURT: Sustained.

5 MR. FEDOR: All right..

6 A At 14 years old and what she has been through, I

7 can't say that I could --

8 THE COURT: All right, the objection

9 sustained. Ask your next question.

10 MR. FEDOR: Okay.

11 BY MR. FEDOR:

12 Q Ma'am, you have known Bryan Capnerhurst for you say

13 20 years?

14 A Probably 20 years.

15 Q When he would come to your shop, what would you do

16 with him?

17 A We'd give him a haircut.

18 Q He was your -- you were his barber?

19 A No, Tammy's mother was his barber.

20 Q Okay. But that is how he came to the shop?

21 A Yes. But we worked side-by-side and we talked to

22 each other's customers, so, yes, I knew Bryan.

23 Q And you knew him very well, didn't you?

24 A I knew him from being around him at least once a

25 month getting a haircut.

- 1 Q And you knew he gambled a lot?
- 2 A No, I did not know.
- 3 Q You didn't know anything about his gambling?
- 4 A I knew that he worked for Brett.
- 5 Q You knew he was a bookie?
- 6 A I knew he worked for Brett, yes.
- 7 Q All right. And you must have known he would bet on
- 8 a lot of sporting events, didn't you?
- 9 A I wouldn't know that he did, no.
- 10 Q You didn't know that?
- 11 A No. But in the business, I mean, you know.
- 12 Q Well, you knew people were betting with Bryan,
- 13 didn't you?
- 14 A Of course.
- 15 Q Of course. And he had a lot of people betting with
- 16 him, did he not, in Batesburg-Leesville?
- 17 A In Batesburg-Leesville? That I don't know.
- 18 Q Okay. Where did you know he was taking bets from?
- 19 A Where did I know that --
- 20 Q Capnerhurst.
- 21 A Capnerhurst? I didn't know.
- 22 Q You didn't know. Okay.
- 23 A All I knew was that he worked for Brett.
- 24 Q But he had a reputation in your area for taking
- 25 bets, did he not, ma'am?

- 1 A No.
- 2 Q He did not? Well, how did you know he was a
- 3 bookie?
- 4 A I knew it from Brett.
- 5 Q You knew it from Brett?
- 6 A Yes, from him working for Brett.
- 7 Q Did Bryan ever talk to you about his booking?
- 8 A He worked -- he said he worked for Brett.
- 9 Q Let's go to the April 13th date, ma'am. Okay?
- 10 Now, you found out through friends and telephone
- 11 calls and other sources of information that Tammy
- 12 was killed?
- 13 A No, I heard it from her mother.
- 14 Q From her mother?
- 15 A She called me and I went straight to her house.
- 16 Q Okay.
- 17 A And the detective was still at her house when I got
- 18 there.
- 19 Q And you had known Brett since he married Tammy,
- 20 true?
- 21 A Yes.
- 22 Q What kind of fellow did you take him to be?
- 23 A Well, I'd say in the early years he was -- he was a
- 24 good fellow. He was enjoyable to be around. He
- 25 attended to other -- like I say, if we would go

1 out, he would come and entertain us ladies, that
2 kind of thing, yes.

3 Q He was a very soft-spoken, easy-going fellow, was
4 he not?

5 A Soft-spoken? He was just -- I mean, I never saw
6 him angry or upset.

7 Q All right. And he always was an excellent father
8 to his children, was he not?

9 A I was never around --

10 Q Never around. Okay.

11 A -- with the children.

12 Q Did he ever come to the shop with his son, **ZIP**?

13 A I take that back. They came by. They were going
14 to Shealy's Barbecue one night to eat, and they
15 brought the children by and stopped for a few
16 minutes, and then they went to eat.

17 Q Now, after you found out that Tammy had died, you
18 went over to the house at what period of time?

19 A I went to Tammy's mother's house, and we stayed
20 there for hours waiting to find out where the
21 children were.

22 Q And then you went to?

23 A Brett's parents' house.

24 Q Jack Parker and Linda Parker's house?

25 A Yes. We took Tammy's mother over there. She

1 wanted to see her grandchildren.

2 Q And when you got there, what was the condition of
3 Brett Parker?

4 A Well, when he first saw Libby they, of course, both
5 broke down and cried.

6 I went into the house and didn't see them for
7 a little while.

8 When I came back out, they had composed
9 themselves.

10 And that's the only time I saw him cry that
11 night.

12 Q Well, before you got there and sometime after the
13 death of Tammy, were you aware that he cried
14 constantly?

15 A No.

16 Q You weren't aware of it. You don't know anything
17 about what happened in the house that day when
18 Tammy passed away, do you?

19 A No.

20 Q And anything you heard is either from the
21 television or the media or from friends of yours,
22 isn't that true?

23 A The only -- well, I sat four hours on the first pew
24 of the chapel while the visitation was going on.
25 And I even took Brett water and Kleenex, and that

1 kind of thing. He excused himself several times,
2 but for him to be -- for his wife to be laying
3 right there, it was not a lot of tears.

4 Q Do you know for three hours before you got there,
5 ma'am, they couldn't keep him from crying?

6 A That could be true. I don't know that.

7 Q Could be true. If I told you people were going to
8 testify to that, would you believe them?

9 A Well, you know, that would have to be their words,
10 you know.

11 Q Okay. Now, would you mind stepping down just where
12 you were a few minutes ago back to the area there
13 (indicating)?

14 (Witness steps down.)

15 Q Just stand there, if you would, ma'am.

16 A Okay.

17 Q Now, how far did Brett tell you he was from -- the
18 distance he was from Capnerhurst when the shots
19 occurred?

20 A He didn't say the distance. There was a white mark
21 on the floor where they had marked off where Bryan
22 had been laying.

23 Q Right.

24 A I was standing at that place. Brett was at the
25 safe.

1 Q Now, how far was that place from the safe? Ten
2 feet?

3 A At least to the desk there.

4 Q Okay. Now, Brett was on his knees, was he not,
5 ma'am?

6 A He was crouched down.

7 Q In front of the safe?

8 A In front of the safe.

9 Q So he told you. Now, he fired the pistol, did he
10 not?

11 A He crouched, he turned to the safe, put his hand on
12 top of the safe, pulled the gun out, and turned and
13 fired.

14 Q All right. Now, let's assume you're Capnerhurst
15 and I'm Brett. The safe is right here
16 (indicating). I grab the pistol, whatever way he
17 does, but the shots that he shot with Capnerhurst
18 were in an upward angle, were they not, ma'am? If
19 the story is true that Brett told you?

20 A Well, that was the story he told us. Whether he
21 got up and shot or stayed down and shot, I don't
22 know.

23 Q Did he say he got up?

24 A No, he didn't say he got up.

25 Q He said he was on his knees --

1 A He did not say he was on his knees. He was
2 crouched down.

3 Q Okay. That is what you say. All right.

4 A That's what I say.

5 Q Okay, crouched down, kneeling, or whatever, the
6 shots were in an upward manner, were they not,
7 ma'am?

8 A Yes, I would say --

9 Q If the autopsy report showed the shots were fired
10 upward, would you believe the autopsy reports?

11 A Yes.

12 MS. SIMPSON: Objection, Your Honor.

13 THE COURT: All right. Sustained.

14 Mr. Fedor, may she take her seat?

15 BY MR. FEDOR:

16 Q I'm sorry, ma'am, please do.

17 (Witness returns to witness stand.)

18 Q Now, ma'am, do you know much about pistols or guns,
19 or anything like that?

20 A No.

21 Q Okay. I won't ask you any questions.

22 MR. FEDOR: **B.P.M.**, would you stand up,
23 please?

24 MS. SIMPSON: Objection, Your Honor.

25 THE COURT: Sustained. No witnesses.

1 BY MR. FEDOR:

2 Q Do you recognize B.P. ?

3 A Yes.

4 Q Is she sitting right behind me?

5 A Right behind you? No.

6 Q Sitting at that table?

7 A I see B.P. , yes. She is sitting beside her
8 grandmother.

9 Q If it comes to your attention -- and I have noticed
10 you have been sitting here the entire trial thus
11 far, have you not?

12 A (Nods affirmatively.)

13 Q If it comes to your attention, ma'am, the evidence
14 shows --

15 MS. SIMPSON: Objection, Your Honor.

16 THE COURT: Sustained.

17 MR. FEDOR: To what? I haven't asked a
18 question yet.

19 THE COURT: Let me see you all a second.
20 (WHEREUPON, a bench conference was held
21 in the presence of the jury but out of
22 the hearing of the jury.)

23 MR. FEDOR: Thank you, Your Honor.

24 THE COURT: The objection is sustained.
25 Please rephrase the question.

1 MR. FEDOR: I will.

2 THE COURT: Do you have anything else?

3 MR. FEDOR: Just one second.

4 THE COURT: Okay. Yes, sir.

5 (Pause.)

6 BY MR. FEDOR:

7 Q Ms. Warren, I too am sorry for your loss. Thank
8 you for coming.

9 THE COURT: Thank you, Mr. Fedor.

10 MS. SIMPSON: No redirect, Your Honor.

11 THE COURT: All right, ma'am. You may step
12 down.

13 (Witness steps down.)

14 THE COURT: Any objection to this witness
15 being excused?

16 MS. SIMPSON: None from the State.

17 MR. FEDOR: None from the Defense.

18 (Witness excused.)

19 THE COURT: And if I can see the attorneys one
20 second.

21 (WHEREUPON, a bench conference was held
22 in the presence of the jury but out of
23 the hearing of the jury.)

24 THE COURT: All right. Ladies and gentlemen
25 of the jury, we are going to go ahead and break.

1 It is about quarter till 5:00. We are going to go
2 ahead and take our evening break.

3 I believe one of the jurors sent me a note
4 earlier that they had some obligations at church.
5 So we'll go ahead and take a break. We don't want
6 to run over by calling the next witness. So I'll
7 go ahead and take a break. We'll start back at
8 9:30 in the morning.

9 (WHEREUPON, Court's Exhibit No. 4 was
10 marked for identification only.)

11 THE COURT: Remember that you are not to read,
12 watch, or listen to the news, TV, radio, or go on
13 the internet regarding this case. No social media,
14 no talking to anyone about the case, including
15 other jurors.

16 And it would also be improper for you to form
17 an opinion in your mind in this case until you have
18 received all of the evidence, the arguments of the
19 parties, and the charge on the law from the Court.

20 Have a wonderful evening, and we will see you
21 in the morning at 9:30.

22 (WHEREUPON, the jury is excused at 4:44
23 p.m.)

24 THE COURT: All right. Anything else before
25 we break for the evening?

1 MS. WALKER: Nothing from the State.

2 THE COURT: At some point when we take one of
3 the breaks, I think that Ms. McDuffie and the clerk
4 and also maybe your clerk, we need to get together
5 with Debbie on the exhibits that have to go to
6 Texas so we can -- so that we can get those and
7 make sure we have them because the list is quite
8 voluminous.

9 So I think Ms. McDuffie was saying she needs
10 to be able to know which exhibits are which. And
11 Debbie and the clerk will have to know which ones
12 are checked out and will be back to us on Monday
13 morning.

14 MS. WALKER: Yes, Your Honor. We will make
15 sure that is taken care of.

16 THE COURT: All right. So maybe during one of
17 our breaks or if we leave early one day, they can
18 work on that.

19 MS. WALKER: Okay.

20 THE COURT: All right. I will see you at 9:30
21 in the morning.

22 MS. WALKER: Thank you, Your Honor.

23 MR. WHITLARK: Thank you, Your Honor.

24 (WHEREUPON, the proceedings concluded at
25 4:46 p.m.)

1 MAY 16, 2013

2 MR. FEDOR: I would like the record to reflect
3 that I have given a check for \$390.50 made out to
4 David Cox to go to Fort Worth, Texas.

5 MS. CAMPBELL: I want to make sure he is not
6 giving me money.

7 THE COURT: All right. We can bring them in.
8 (WHEREUPON, the jury came into open
9 court at approximately 9:46 a.m.)

10 THE BAILIFF: The jury is all present, Your
11 Honor.

12 THE COURT: Good morning, ladies and gentlemen
13 of the jury.

14 THE JURY: Good morning.

15 THE COURT: At this time we are ready to
16 continue with the State's case.

17 And I will ask you to call your next witness.

18 MS. SIMPSON: The State calls Investigator
19 Kristen Polis.

20 (Witness approaches.)

21 THE BAILIFF: Place your left hand on the
22 Bible, and raise your right hand, please.

23 (Witness complies.)

24 THE CLERK: Do you swear or affirm the
25 testimony you are about to give in this case will

1 be the truth, the whole truth, and nothing but the
2 truth, so help you God?

3 THE WITNESS: Yes, ma'am.

4 THE CLERK: Have a seat in the witness box.

5 (Witness complies.)

6 THE CLERK: State your full name for the
7 record. Spell your last name, please.

8 THE WITNESS: My name is Kristen Polis,
9 P-O-L-I-S.

10 KRISTEN POLIS,
11 after being duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. SIMPSON:

14 Q Investigator Polis, where are you employed?

15 A With the Richland County Sheriff's Department in
16 the Crime Scene Division.

17 Q And how long have you been with the Sheriff's
18 Department?

19 A I have been with the Sheriff's Department for a
20 little over ten years.

21 Q And you're with the Crime Scene Division. What is
22 your position?

23 A I'm an investigator in the Crime Scene Unit. I am
24 one of the investigators that work on a rotational
25 basis. We are available 24/7 to cover any calls

1 where we are requested to assist in the county.

2 So on a rotational basis, I work 12-hour
3 shifts. And during a portion of that shift, I'm
4 the primary investigator that would be contacted
5 should there be a need for our services in the
6 field.

7 Q And we have heard from some other crime scene
8 investigators. Do you work alongside with Sergeant
9 Richards and Lieutenant Cavanagh?

10 A Yes, those are my supervisors.

11 Q As a crime scene investigator, what do your duties
12 include?

13 A As I said, we can respond to any type of crime
14 scene in Richland County that we are requested to.
15 And those can range from property crimes, such as
16 burglaries, all the way to homicides, suicides, or
17 other death investigations where there may be
18 suspicious circumstances.

19 When we respond to those crime scenes, our
20 duties are to document and photograph any evidence
21 that may be there, to search and try to locate
22 physical evidence, and then to preserve that
23 evidence in the condition that it is in so that we
24 can try to do further processing on it. And in
25 situations where it's appropriate, we'll try to

1 analyze the evidence as well.

2 Q Okay. So as far as processing evidence, what types
3 of things are included in that?

4 A That would include processing to try to develop
5 fingerprints. I also try to do some comparison
6 work, comparing to try to identify fingerprints.
7 It may be trajectory analysis. It may be
8 bloodstain analysis. It really just depends on the
9 type of incident that you have, what's required.

10 Q Can you tell the jury a little bit about your
11 educational background and training?

12 A I've got a bachelor's degree in criminal justice
13 and a bachelor's degree in psychology, and a
14 master's degree in social work.

15 When I joined the Crime Scene Division at the
16 Sheriff's Department, there is an in-house training
17 program that you've probably already heard about
18 that we all have to work through and complete.

19 It's fairly extensive and it covers all the
20 basic areas of processing that we are going to be
21 responsible for, both written material that we are
22 tested on, as well as practical exercises so that
23 we can demonstrate that we are competent in those
24 areas.

25 That training program itself took me 20 months

1 to complete from beginning to end. In addition to
2 doing that in-house training, we also do external
3 training, so different individuals in the field who
4 offer training in the different areas of crime
5 scene processing, we will go out and take those
6 courses.

7 So I've had courses in fundamentals of crime
8 scene investigation, basic and advanced
9 photography, basic and advanced fingerprint
10 comparison, bloodstain analysis, and numerous other
11 topics as well.

12 Q And in addition to your regular training, do you
13 participate in continuing educational courses and
14 training?

15 A We do. We train fairly often. I'm also certified
16 through the International Association for
17 Identification as a crime scene investigator. And
18 that is a certification that you have to retest on
19 every five years. And I obtained that
20 certification in 2010.

21 Q Have you ever been -- or testified as an expert
22 before?

23 A Yes, I have.

24 Q How many times?

25 A Eleven.

1 MS. SIMPSON: All right. Your Honor, at this
2 time I would like to qualify Investigator Kristen
3 Polis as an expert in crime scene investigation.

4 MR. WHITLARK: May I voir dire the witness,
5 please, Your Honor?

6 THE COURT: Yes, sir.

7 VOIR DIRE EXAMINATION

8 BY MR. WHITLARK:

9 Q Good morning, Investigator Polis.

10 A Good morning.

11 Q You took some pictures out there? Is that what
12 your testimony is about today, some photographs?

13 A I did take photographs at the autopsy, yes, sir.

14 Q Okay. What subjects are you going to be testifying
15 to today?

16 A Mainly today my testimony will be about the
17 documentation, and I don't know to what extent
18 about the photography, but I did photograph and
19 collect and submit evidence.

20 MR. WHITLARK: Okay. Your Honor, I don't see
21 why she has to be qualified as an expert to put
22 photographs in. We probably already have an
23 agreement on it.

24 MS. SIMPSON: Your Honor, if I may, in
25 addition to more than just photography, she is

1 going to testify to some of the processing. She is
2 going to testify about what goes into some of the
3 evidence that has been discussed throughout this
4 trial. So it's more than just, I took pictures.

5 MR. WHITLARK: Well, that is what I was asking
6 her. They are trying to get her qualified as an
7 expert in a certain subject. And I need to know
8 what she is giving an opinion about to see if it
9 matches up with her expertise, Your Honor.

10 MS. SIMPSON: Your Honor, she's going to
11 testify about what she observed as far as the
12 extensive injuries to Tammy Parker and Bryan
13 Capnerhurst, the process. She actually
14 collected -- while they are already in evidence --
15 the post-mortem prints and discuss about
16 fingerprints and why those are taken.

17 She is also going to discuss somewhat about
18 the gunshot residue kits, which have been an
19 extensive issue in this case. And Defense counsel
20 has extensively cross-examined on those subject
21 matters.

22 MR. WHITLARK: Your Honor, I mean, we are
23 prepared to stipulate to about 99 percent of what
24 they just stated. I don't understand why we need
25 an expert opinion about it.

1 THE COURT: All right. Well, do you have any
2 objection to her qualifications?

3 MR. WHITLARK: Not for the purposes of -- no,
4 I don't, Your Honor. For the purposes for which
5 they have stated, I do not.

6 THE COURT: All right. Ladies and gentlemen
7 of the jury, Investigator Polis will be qualified
8 as a crime scene investigator as an expert in crime
9 scene investigation to give her opinion in that
10 area.

11 Thank you.

12 MS. SIMPSON: Thank you, Your Honor.

13 DIRECT EXAMINATION CONTINUES

14 BY MS. SIMPSON:

15 Q Investigator Polis, did you become involved in this
16 case?

17 A I did. I was requested to attend the autopsies for
18 the victims in this case that was held on April the
19 14th, 2012.

20 Q And where did you respond to?

21 A To palmetto Health Richland, to their morgue.

22 Q And is it unusual for crime scene investigators to
23 attend the autopsy?

24 A No. As a matter of course, we attend any autopsies
25 in all suicides and homicides that we are

1 investigating, as well as there are times when we
2 will be requested to attend, you know, for other
3 suspicious circumstances when a cause of death
4 isn't apparent.

5 Q Who all was there with you in the autopsy room?

6 A Dr. Marcus performed the autopsy. There was a --
7 he has an assistant who was also there. There was
8 a representative from the Coroner's Office, myself,
9 and I believe there was an intern present that day.

10 Q Okay. And can you tell the jury about what you
11 observed?

12 A When I arrived, the first autopsy that Dr. Marcus
13 began was on Ms. Parker.

14 And as they bring the body out, we begin an
15 examination by taking photographs as we see it at
16 that point. So the body was photographed in that
17 condition.

18 At that time she was wearing black athletic
19 pants, a white tank top with a red zipper jacket
20 over it, socks and tennis shoes, and she had
21 earrings in her ears.

22 So I photographed everything at that time.
23 And then we go into a further examination when the
24 clothing is removed that we initially collected.
25 And we photograph at that time the body with the

1 injuries that we see.

2 Q Okay. And I'm going to show you -- you actually at
3 some point collect those items of clothing?

4 A That's correct. They were turned over to me by the
5 Richland County Coroner's Office.

6 Q And I'm going to show you what has been marked as
7 State's Exhibit 448.

8 (Attorneys confer.)

9 MR. WHITLARK: No objection, Your Honor.

10 THE COURT: That will be entered without
11 objection.

12 MS. SIMPSON: That is State's 448.

13 (WHEREUPON, State's Exhibit No. 448 was
14 marked for identification and received
15 into evidence.)

16 BY MS. SIMPSON:

17 Q Do you recognize this?

18 A This is the box that is labeled as containing the
19 black athletic pants, the white tank top, the
20 zippered jacket, socks, tennis shoes, and a hair
21 clip. And the label was prepared by me and
22 packaged as well.

23 Q And so once you collect it, it's properly sealed
24 and packaged, what do you do with the clothing?

25 A When I initially arrived back at headquarters, I

1 actually placed those items of clothing into what
2 we have called a drying chamber. And it's just a
3 sealed chamber that we can use where clothing is
4 wet. It has to be dried before we can package and
5 submit it because the degradation of those items
6 will begin immediately.

7 So initially those items were placed in the
8 drying chamber, allowed to dry for a period of
9 time, and then they were removed and photographed,
10 packaged, and submitted to our evidence section.

11 Q After the clothing was removed, tell the jury about
12 the injuries that you observed.

13 A Okay. Ms. Parker had an injury on the right side
14 of her head. It was in the hairline. And a second
15 injury behind the left ear. There was somewhat of
16 an abrasion in the forehead area.

17 There were two injuries on her left lower,
18 kind of the hip area, as well as two injuries on
19 the lower right side of her torso. There was an
20 injury on her right forearm, an injury on the left
21 side of her torso kind of in the rib cage area, as
22 well as an injury to the left breast. An injury on
23 the back of the left shoulder. And additional
24 injuries in the left -- kind of the skinfolds of
25 your armpit area.

1 I believe that is the extent of the injuries I
2 observed.

3 Q From those injuries, did you actually -- did
4 Dr. Marcus recover any projectiles or fragments?

5 A He did. He recovered a projectile from the right
6 forearm, which he collected. It was ultimately
7 turned over to me. There were also some metal
8 fragments that were collected from the injury
9 behind the right ear.

10 Q And what exactly is a projectile?

11 A When you fire a gun, the bullets, the portion of it
12 that comes out, would go into whatever surface the
13 gun was aimed at. That portion that we usually
14 call the bullet is actually the projectile.

15 The bullet will have a projectile. It will
16 have the casings. And the casing is what is either
17 ejected from the gun or what is maintained in the
18 cylinder if it's a revolver type of weapon.

19 Q I'm going to show you what has been marked as
20 State's Exhibit 451.

21 MR. WHITLARK: No objection, Your Honor.

22 THE COURT: It will be entered without
23 objection.

24 (WHEREUPON, State's Exhibit No. 451 was
25 marked for identification and received

1 into evidence.)

2 BY MS. SIMPSON:

3 Q Do you recognize these?

4 A This is the packaging for the projectile collected
5 from the right forearm and the two metal fragments
6 collected from the head behind the right ear.

7 Q How long did the autopsy for Ms. Parker last?

8 A Ms. Parker's lasted from approximately 8:00 a.m., I
9 believe that was our start time, and it was
10 completed around 11:00 o'clock.

11 Q Okay. Was that fairly lengthy for an autopsy?

12 A It is, yes.

13 Q What would be the cause of that?

14 A There was just a lot of examination that Dr. Marcus
15 had to do.

16 Q And how many injuries did you document?

17 A I have not done a count. I can do that for you
18 real quick.

19 (Pause.)

20 A If my count is correct, I believe 13 in total.

21 Q And those were just injuries or impacts -- or how
22 would you describe that?

23 A Just various injuries that are on the body that
24 Dr. Marcus would further examine and more
25 specifically identify exactly what they are.

1 Q In addition to collecting the items of evidence and
2 photographing, did you actually collect some
3 post-mortem prints?

4 A I did, yes, ma'am.

5 Q What is a post-mortem print?

6 A We take, typically, which is fairly routine for our
7 autopsies, we will collect a set of fingerprints
8 from the deceased so that we would have those for
9 any purposes that may come up, as well as a buccal
10 swab, which is a swab collected from the mouth that
11 will give us a sample of those, the victim's
12 fingerprints, and then we have the buccal swab,
13 which gives a sample of the victim's DNA.

14 Q I want to show you what has already been marked as
15 State's Exhibit 440 and entered. Do you recognize
16 that?

17 A This is the package from the post-mortem
18 fingerprints taken from Ms. Parker.

19 Q And how exactly are the post-mortem prints
20 collected at autopsy?

21 A We have a strip of paper that goes into a holder,
22 and it is labeled for each finger for the
23 impression from each finger. And we have an ink
24 pad that we use to roll the ink onto the fingers,
25 and then we press the fingers onto that paper, and

1 that would record the impression that that finger
2 would make.

3 And then we have one strip for the left hand
4 and one strip for the right hand, and we would
5 place those onto a fingerprint card.

6 Q And once that card is collected, what do you do
7 with it?

8 A Like the other evidence, it was properly packaged
9 and submitted to our evidence section.

10 Q And I believe you mentioned a buccal swab. Tell
11 the jury what a buccal swab is and how it is
12 collected.

13 A A buccal swab is -- we have a swab carton. And
14 inside that carton there would be a couple of
15 swabs, which are just long Q-tips, essentially.
16 And to collect a buccal swab, that is one collected
17 from the mouth, you just take the swab and rub it
18 kind of in between the cheek and the teeth.

19 And what you're trying to do is just moisten
20 that and get a sample of DNA on that swab.

21 Q I am going to show you what is marked as State's
22 Exhibit 452. Do you recognize that?

23 A This is the packaging for the buccal swab collected
24 from Ms. Parker.

25 Q And was it properly sealed and submitted into

1 evidence?

2 A It was.

3 Q Was it tampered or altered in any way?

4 A Not that I'm aware of.

5 MS. SIMPSON: Your Honor, at this time the
6 State would offer State's Exhibit 452 into
7 evidence.

8 MR. WHITLARK: No objection, Your Honor.

9 THE COURT: All right, Number 452 will be
10 entered without objection.

11 (WHEREUPON, State's Exhibit No. 452 was
12 marked for identification and received
13 into evidence.)

14 BY MS. SIMPSON:

15 Q We talked throughout the course of this trial about
16 a GSR kit. Tell the jury what a GSR kit is.

17 A A gunshot residue kit is used to collect any trace
18 evidence that may be left. Kits that we have are
19 specifically for the hands. And at the time of
20 this incident, it had two components.

21 One was little vials that have adhesive tabs
22 on the top of them. And you take the vials and use
23 that to press over the surface of the skin. You
24 would collect one from each palm and one from the
25 back of each hand.

1 And then after the collection of the vials,
2 then we go back with swabs that are moistened, and
3 those are also rubbed on the skin.

4 And what you are trying to do is collect any
5 trace evidence that may remain on the skin so that
6 it can be analyzed to see if it is consistent with
7 gunshot residue.

8 Q And in this case did you have any information about
9 whether a GSR kit had been done?

10 A Yes, I had been informed that the GSR kits had been
11 collected on both Ms. Parker and Mr. Capnerhurst at
12 the scene.

13 Q And are they sometimes collected at autopsy?

14 A They are. If we collect at autopsy, what we would
15 do is preserve the hands before the body is placed
16 into the bag. We'll put paper bags over the hands,
17 and we will secure those.

18 And that will just help to protect any trace
19 evidence that may be on the skin and allow us to
20 collect it, usually the next morning at autopsy,
21 but in this case that was already done.

22 Q And is it also typical that a GSR kit may be
23 collected at the scene as well?

24 A Yes. Yes.

25 Q In addition to Ms. Parker, I guess was that the

1 extent of the autopsy with respect to her and what
2 you did?

3 A There were a few other things that were collected,
4 some fingernail scrapings and some hair samples,
5 that we did not mention, and I believe that was the
6 extent.

7 Q And are all those standard protocol --

8 A Yes.

9 Q -- for you to collect?

10 A The fingernail scrapings are not always collected.
11 That is kind of dependent upon the case. And the
12 reason that we do these is if you have people who
13 may have engaged in a physical struggle, you could
14 potentially get some trace evidence from underneath
15 the fingernails.

16 So the way we collect those is we scrape any
17 material that may be underneath the fingernail and
18 try to collect anything that may be there.

19 And in this case it was more than anything
20 done out of an abundance of caution. You know, we
21 did not know what we would need, so we tried to
22 collect as much as we thought may become necessary
23 in the future.

24 Q And did you also later that day attend an autopsy
25 for Bryan Capnerhurst?

1 A Yes, I did.

2 Q And was that autopsy performed in the same way by
3 the same people?

4 A It was, yes, ma'am.

5 Q Tell us about when you arrived and what you
6 observed.

7 A The examination on Mr. Capnerhurst began about
8 11:30 that day. And at the time when we initially
9 photographed -- when I initially photographed him,
10 he was wearing blue shorts with a gray T-shirt and
11 a gray fleece pullover over that. He was wearing
12 white briefs, socks, and tennis shoes.

13 And just like before, there was a set of
14 photographs taken in that condition. Then the
15 clothing was removed and we take another set of
16 photographs of the body, as well as any injuries
17 that we see.

18 Q And I'm going to show you this. With respect to
19 this clothing, did you observe any defects in the
20 articles of clothing?

21 A Yes, there were several. Yes, there were several.

22 Q And by defect, what is meant by that?

23 A Just damage that would be in the shirt. It could
24 be caused by gunshot. It could be caused, you
25 know, really by anything that could have happened,

1 maybe that tore the fabric. It is just kind of a
2 general description of something that is in the
3 clothing that is not in pristine condition like you
4 would expect.

5 Q And were these articles of clothing processed in a
6 similar fashion that Tammy Parker's were?

7 A They were collected and ultimately turned over to
8 me. They were dried in a separate drying chamber
9 at our headquarters. And at that time they were --
10 when they completed the drying process, they were
11 photographed, packaged, and submitted to our
12 evidence section.

13 Q I want to show you what has been marked as State's
14 485.

15 (Attorneys confer.)

16 MR. WHITLARK: No objection, Your Honor.

17 THE COURT: Number 485 will be entered without
18 objection.

19 MS. SIMPSON: It is Bryan Capnerhurst's
20 clothes.

21 (WHEREUPON, State's Exhibit No. 485 was
22 marked for identification and received
23 into evidence.)

24 BY MS. SIMPSON:

25 Q And the box has been opened, but do you recognize

1 the packaging?

2 A This is the packaging that would have contained the
3 navy blue shorts, the gray T-shirt, gray fleece
4 pullover, one pair of white briefs, one pair of
5 socks, and a pair of white, black, and red tennis
6 shoes.

7 Q Okay. And those were all of his clothes that were
8 collected?

9 A That's correct.

10 Q And when you collected them, were they properly
11 sealed in a package at that time?

12 A Yes, ma'am.

13 Q And were they tampered or altered in any way while
14 they were in your custody?

15 A No.

16 Q Tell us about the nature and the injuries that you
17 observed.

18 A Mr. Capnerhurst had extensive injuries on his face,
19 both the forehead and the area above the right eye.
20 He also had injuries on his chest, one on the upper
21 side, left side of his chest; a second one slightly
22 lower, more on the torso area below the left
23 nipple.

24 He had an injury on the inner portion of his
25 left forearm. And then there was also an injury to

1 the left thigh and the left shin. And then an
2 injury to the left foot, the top and the bottom.

3 Q And were all those injuries documented by you in
4 some way?

5 A They were all photographed, as well as the injuries
6 were listed.

7 Q Were some items collected from the autopsy?

8 A Dr. Marcus collected several partial projectiles,
9 pellets, and also some, what I refer to as,
10 particles or disks from various locations on his
11 body during that autopsy.

12 Q And were those items also photographed?

13 A They were.

14 Q And were they collected by you?

15 A They were collected by Dr. Marcus. They were
16 ultimately turned over to me.

17 Q Okay. I want to show you what has been marked as
18 State's 450.

19 MR. WHITLARK: No objection, Your Honor.

20 THE COURT: Entered without objection.

21 (WHEREUPON, State's Exhibit No. 450 was
22 marked for identification and received
23 into evidence.)

24 BY MS. SIMPSON:

25 Q Tell the jury, do you recognize those. And what

1 those are.

2 A I do. These are the various items that were
3 collected and turned over to me. I documented four
4 pellets from the left foot, one metal fragment that
5 came actually from the sleeve of the outer fleece
6 jacket, three metal particles that were collected
7 in the left lower leg, four pellets from the left
8 thigh, three metal particles and one pellet from
9 the abdomen, five metal fragments collected from
10 the brain tissue, two pellets collected from the
11 chest, and two metal fragments, one pellet from the
12 left arm.

13 Q So that is a number of projectiles and fragments
14 that were actually collected from his body?

15 A That's correct.

16 Q And you said those were both from kind of pellet
17 type things as well as disks?

18 A Yes.

19 Q Did you also take some fingerprints or collect some
20 post-mortem prints from Bryan Capnerhurst?

21 A Yes, we did. Yes, I did.

22 Q I show you State's 439 which is already in
23 evidence. Are those the prints that you collected?

24 A Yes.

25 Q And were those collected in a similar fashion of

1 Ms. Parker's?

2 A They were.

3 Q Did you collect anything else with respect to
4 Mr. Capnerhurst?

5 A The only -- we collected hair samples that we did
6 not discuss. And then we also collected a swab
7 from his penis. That is done, you know, basically
8 because -- I think I actually failed to mention
9 when I testified about Ms. Parker's autopsy, there
10 were also some swabs that were collected from her
11 packaged in a sexual assault kit.

12 And, again, this is something that we did out
13 of an abundance of caution. It is one of those
14 things that you cannot go back and collect at a
15 different time. So even though there may not be an
16 indication that there was a sexual component to the
17 crime, sometimes we will still collect these things
18 just to have it available.

19 So in this case that was also collected from
20 him and packaged and submitted into evidence.

21 Q Okay. And I believe you said you took a buccal
22 swab?

23 A Yes.

24 Q I show you State's 449.

25 MR. WHITLARK: No objection, Your Honor.

1 THE COURT: 449 will be entered without
2 objection.

3 (WHEREUPON, State's Exhibit No. 449 was
4 marked for identification and received
5 into evidence.)

6 BY MS. SIMPSON:

7 Q Do you recognize that?

8 A Yes. This is packaging from the buccal swab
9 collected from Mr. Capnerhurst.

10 Q And, again, when it was collected by you, was it
11 properly sealed and packaged?

12 A It was.

13 Q And was it tampered or altered in any way?

14 A No.

15 Q And when you take these items of evidence, where do
16 you submit them?

17 A We have an evidence section at our headquarters on
18 Two Notch Road, and those items are either turned
19 in to an individual that works in that section or
20 they are secured in a locker or drop box to be
21 retrieved by them during business hours.

22 Q And do you actually determine what items will be
23 tested, or is that left for the investigators?

24 A That is handled by the investigators. We mainly
25 just do the collection.

1 Q And with respect to the GSR kit on Bryan
2 Capnerhurst, what information did you have?

3 A Just that it had already been completed.

4 Q And, again, that is typical or common?

5 A Yes, it's very common.

6 Q With respect to the length of Mr. Capnerhurst's
7 autopsy, can you tell us about that?

8 A I have it started approximately 11:30, and we were
9 done at 1550 hours, which would be 3:50 p.m.

10 Q And, again, is that a sufficient amount of time?

11 A It's fairly lengthy.

12 Q And what was the cause of that or the purpose of
13 that?

14 A Multiple injuries that Dr. Marcus had to examine.

15 Q And outside of attending and documenting the
16 autopsy in this case, was that the extent of your
17 involvement?

18 A Document, autopsy, and clothing, yes, that was it.

19 Q Thank you, Investigator.

20 THE COURT: Yes, sir?

21 MR. WHITLARK: May it please the Court, Your
22 Honor?

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. WHITLARK:

1 Q These boxes were all opened here this morning. Did
2 you open them?

3 A No, sir, I haven't opened any of those.

4 Q All right. What day was this that you did this
5 again?

6 A April the 14th, 2012.

7 Q Okay. Do you have a report with you?

8 A Yes, sir, I do.

9 Q Can I take a look at it?

10 A Yes. I can hand you my whole binder, or I can take
11 each page out.

12 Q Oh, you don't have to give me the exhibit. Are
13 those photographs?

14 A They are. They are attached.

15 Q I don't need those. I just wanted to see your
16 written report.

17 A That is one of them.

18 Q Is this what you just testified to?

19 A Yes, sir.

20 Q Oh, okay. Even though -- did you know the facts of
21 this case at all when you were doing this?

22 A No, sir. I had been briefed when they made contact
23 with me to let me know that I needed to attend the
24 autopsy the next morning. I had been given a brief
25 summary of the incident, but I did not know a lot

1 of specifics.

2 Q Did you know -- is this the next day or was it
3 the --

4 A This was -- the autopsy itself was the following
5 morning. They contacted me that evening.

6 Q The 14th of April?

7 A On April 13th about 5:30 p.m. I received a phone
8 call letting me know that this is what I needed to
9 do first thing the next morning when I got to work.

10 Q Did you -- you went out to the -- did you go to the
11 scene?

12 A No, sir, not at all.

13 Q Okay. What were you told during that briefing, or
14 whenever they called you, or whatever?

15 A Specifically, I don't remember. Obviously, I would
16 have been given the basic information about the
17 case, the case number, the names of the individuals
18 that were involved.

19 I know that I had been told there were
20 extensive injuries and that there had been guns
21 collected at the scene, as well as shell casings,
22 really just that type of basic information.

23 And of course they informed me that they had
24 already collected the gunshot residues, so I knew
25 that I did not need to do that at autopsy. It was

1 at that time that I was requested to get the sexual
2 assault kits and the swab of Mr. Capnerhurst's
3 penis collected.

4 Q Who told you to do that?

5 A I spoke to Investigator Holt on the telephone. And
6 he was in contact with Lieutenant Elsey and
7 Lieutenant Cavanagh and Sergeant Richards there at
8 the scene. So specifically which one of them that
9 came from, I'm not certain.

10 It may have been a request relayed to them
11 from one of our CID investigators. I just know
12 that I was requested to do it, so I got it taken
13 care of.

14 Q Okay. Did anybody there tell you that the
15 Defendant, Brett Parker, was a bookie?

16 A I don't recall at that time. Ultimately I learned
17 that information, but I don't remember if it was at
18 5:30 that night or not.

19 Q Okay. Well, when you were requested to do a sexual
20 protocol, for lack of a better word, did they tell
21 you: Well, we are suspicious about this guy. We
22 want to find out, you know, go check this too and
23 see if you can get something on that?

24 A No, I don't remember anything along those lines. I
25 mean, again, a lot of what we do is out of an

1 abundance and with knowledge that we won't be able
2 to go back and get this information at a later
3 time. So I don't recall anything specific.

4 Q But you were specifically asked to do that sexual
5 protocol, weren't you?

6 A To request it, yes, sir.

7 Q Okay. When you were in the -- over at -- was it
8 Palmetto Richland Hospital?

9 A Yes, sir.

10 Q Were y'all discussing that the investigators over
11 at Brett Parker's house were -- they were saying,
12 There is something fishy about this guy, there is
13 something, you know -- I mean, is that what y'all
14 talked about at all, the four of you that were
15 there?

16 A No, sir, not that I can recall. I think we were
17 specifically focused on our task, which was the
18 medical examination that Dr. Marcus was completing
19 and my role in documenting and collecting. And we
20 had plenty to do, so I don't know that there was a
21 lot of other conversation.

22 Q Okay. All right. But somebody did call you up and
23 ask for the special sexual protocol?

24 A They did ask me to make sure that was collected,
25 yes, sir.

1 Q You collected fingerprints off of Bryan
2 Capnerhurst?

3 A Yes, sir.

4 Q Do you know quite a bit about fingerprints?

5 A Yes, sir. I have had training in that area.

6 Q Okay. Do you know anything about looking for his
7 fingerprints in this case, Mr. Capnerhurst's?

8 A Looking for them where?

9 Q On any item of evidence in this case?

10 A I did not, no, sir.

11 Q Okay. Are you aware or do you know that you can
12 take material off of a fingerprint and get DNA
13 analysis of whose it is? You know that, don't you?

14 A Take material off of a fingerprint?

15 Q You can get DNA off of a fingerprint?

16 A Not specifically. A fingerprint is used for
17 identification, to look from one impression to
18 another. We have an unknown impression that we're
19 trying to identify; and, therefore, you know, we're
20 using the visuals that we see.

21 Now, an item that may have been touched and a
22 fingerprint left behind on, the item itself could
23 potentially still have DNA. So very often when we
24 process for fingerprints, we will also collect a
25 swab of DNA from the -- or a swab hoping to get DNA

1 from the same item.

2 Q Okay. Well, are you aware that there was a smudge
3 mark on a UMC ammunition box in this case?

4 A I have no firsthand knowledge of any ammunition
5 boxes processed in this case. My involvement was
6 limited to the autopsy.

7 Q All right. But you do agree with me that a
8 fingerprint on an item is a source for DNA, isn't
9 it, for identification on DNA?

10 A A fingerprint is a source of identification as a
11 fingerprint.

12 Q I understand. But material --

13 A But DNA --

14 MS. SIMPSON: Objection, Your Honor. If he
15 could let the witness finish.

16 MR. WHITLARK: All right, go ahead.

17 THE COURT: Sustained. Let her finish
18 answering your question.

19 MR. WHITLARK: I'm sorry, Your Honor.

20 BY MR. WHITLARK:

21 Q Go ahead.

22 A The fingerprint identification would come from the
23 fingerprint itself.

24 Q Right. That's what I mean. I mean, I'm not -- I'm
25 just saying if I --

- 1 A You can't take a fingerprint and have a DNA match
2 from a fingerprint.
- 3 Q Well, I know. I gotcha. I gotcha.
- 4 A Okay.
- 5 Q But I'm putting my hand on this right here, right?
- 6 A Right.
- 7 Q All right, now, you could come and potentially, if
8 you find -- you could go here and you could find a
9 fingerprint, you could identify me with this,
10 couldn't you?
- 11 A I --
- 12 Q Through DNA? You could get --
- 13 A I could not identify you through a fingerprint. I
14 cannot identify your DNA through a fingerprint. I
15 can potentially identify your fingerprint or your
16 DNA could potentially be identified.
- 17 Q Okay. Well -- all right. You're the expert, not
18 me. I'm just saying, I just touched this.
- 19 A Right.
- 20 Q And I've got my hand up here.
- 21 A Right.
- 22 Q And I am leaving it, you know, I'm holding it
23 there. What is the body temperature of a human,
24 98.6 or something?
- 25 A I think that is the average.

1 Q And I've got sweat and all that other stuff on my
2 hand, don't I?

3 A Right.

4 Q And when I move my hand like that (indicating),
5 okay, let's say later on you come by as a
6 fingerprint person and you find some fingerprints?

7 A Right.

8 Q As a matter of fact, I can see them. You could get
9 DNA material and identify it if you had something
10 to compare it to, right?

11 A If it was successfully deposited --

12 Q Right.

13 A -- I could potentially get a fingerprint, and I
14 could potentially swab that area, and then that
15 swab could be analyzed to locate your DNA.

16 Q Thank you.

17 MR. WHITLARK: No further questions, Your
18 Honor.

19 THE COURT: All right. Anything else from the
20 State?

21 MS. SIMPSON: No, Your Honor.

22 THE COURT: All right, ma'am, you make step
23 down.

24 (Witness steps down.)

25 THE COURT: Any objection to this witness

1 Q Dr. Marcus, where are you employed?

2 A I work at Professional Pathology Services, which is
3 a private practice pathology group here in
4 Columbia. And we serve Palmetto Health Richland,
5 Palmetto Health Baptist. We have a Kershaw Health
6 up in Camden. We have a private lab we own. And
7 we also serve two hospitals down in the Hilton Head
8 Island area.

9 Q And as a pathologist with Palmetto Pathology Group,
10 what do your duties include?

11 A My duties include basically all aspects of
12 anatomical pathology, which is looking at surgical
13 biopsies from people who have surgery, looking at
14 breast biopsies. I also look at a lot of women's
15 health things, pap smears, and so forth. I handle
16 clinical lab items, blood work, and so forth.

17 I also do autopsies, the medical autopsies
18 that families request, autopsies on people who die
19 in the hospital. Also, I handle all the forensic
20 autopsies. My colleague and I handle forensic
21 autopsies here in Richland County.

22 Q In addition to being employed by the pathology
23 group you just named, do you also have another
24 title?

25 A I also work as the Chief Medical Examiner here in

1 Richland County.

2 Q And as the Chief Medical Examiner for Richland
3 County, what do your duties include?

4 A Again, I basically do all the forensic autopsies
5 that Coroner Watts or his deputies order; and I
6 report my findings back to the Coroner's Office
7 here in Richland County.

8 Q And is there another person in your -- that works
9 for the Coroner's Office?

10 A Yes, there is. I have a colleague. She works some
11 sometimes also, Dr. Amy Durso. She is also a
12 forensic pathologist.

13 Q Can you tell this jury a little bit about your
14 education and your training in the medical field?

15 A Sure. I went to college at the University of North
16 Carolina at Chapel Hill. After that I went to
17 medical school. I got an MD degree.

18 Following that school in 2001, I started an
19 anatomic and clinical pathology training program
20 down at the Medical University of South Carolina in
21 Charleston.

22 There -- I spent six years there, from 2002
23 through 2008 working at the MUSC, learning all
24 aspects of anatomic pathology, clinical pathology,
25 forensic pathology, and, in addition to that,

1 cytopathology.

2 Q Okay. You said a lot of different areas about
3 pathology. Taking them one at a time, you
4 mentioned anatomical pathology. What is that?

5 A Okay. So let's break them down. Pathology is
6 basically the study of disease in humans, the study
7 of disease, what causes disease.

8 And the way a pathologist studies disease is
9 by looking at growth, looking at the organs, and
10 also dissecting the organs and then looking at them
11 under a microscope. And then you can tell whether
12 there is cancer present, what type of cancer.

13 So as an anatomic pathologist, basically
14 surgeons work in the OR, they remove tissues from
15 people's bodies, send it down to pathology, we
16 dissect them out, put them on slides.

17 If it's a tumor, for instance, it's very
18 important they show all that tumor is removed. We
19 can check the margins under the microscope and we
20 issue a report.

21 And basically a lot of -- really,
22 pathologists, one of the most important things is
23 staging of cancers, and so forth like that. That
24 is what the oncologist will use to treat a patient.

25 Clinical pathology is that part of the

1 hospital that the patients never see. Any time you
2 get a blood test, or so forth like that, that goes
3 to the lab. And thousands and thousands of, you
4 know, clinical lab tests are performed.

5 Well, a pathologist has actually got to run
6 that lab. He has got to be there to troubleshoot
7 if something goes wrong with the instruments, and
8 so forth. He interprets the smears, purple blood
9 smears, all sorts of different aspects.

10 There is the blood banking. That is a whole
11 other thing in itself. People get blood. You can
12 actually kill someone. So the blood banking is
13 another part of clinical pathology that we also
14 handle.

15 Forensic pathology -- let me back up. Let me
16 go back to my other specialty, cytopathology.
17 Cytopathology is the study of cells. Okay? What
18 basically is the most common thing that everybody,
19 I think, can relate to in this courtroom is the pap
20 smear. All right.

21 Women get pap spears. Basically that sample
22 is then given to a cytopathologist like myself, and
23 I will look at the pap smear to see if there's any
24 dead cells there, and so forth, whether a woman has
25 cervical cancer or not.

1 So that is basically what I also do,
2 cytopathology.

3 And then another thing I do is forensic
4 pathology. Forensic pathology is the study of
5 pathology in relation to the autopsy. So I do an
6 autopsy to determine the cause of death.

7 The cause of death is a disease or injury that
8 brings about death. That is what you see on a
9 death certificate. Okay? So a cause-of-death
10 statement could be for a natural process,
11 complications of metastatic breast cancer. That's
12 a cause of death. It's a disease and it brings
13 about someone's demise.

14 Other things are, you know, blunt head trauma.
15 Somebody is hit in the head or something. That
16 could be a cause-of-death statement that is related
17 to injury. Okay? So I make a distinction of the
18 two.

19 And in addition to that, we determine the
20 manner of death. Okay, manner of death in this
21 state is categorized into five categories:

22 Natural, which are deaths due exclusively to
23 disease.

24 Suicide, taking of your own life.

25 Accidental death, which everyone can relate

1 to, car wrecks, and so forth.

2 Homicide, death at the hands of another
3 person.

4 Or, the last one, undetermined, where you just
5 don't know the manner of the circumstances
6 surrounding death.

7 For instance, a body found out in the woods
8 once hunting season starts, and it's all
9 decomposed. You just don't know how that person
10 got there, and so forth like that.

11 That would be something that, if I can't find
12 anything at the autopsy, we probably have to call
13 it an indetermined thing, unless some information
14 comes out later I can change that. Okay?

15 So that is what forensic pathology is.

16 Q And you mentioned that after getting your medical
17 degree, you actually did some specialized training
18 for six years?

19 A Yes, six years. Basically what you do is you do
20 residency training. And then after residency is
21 over, if you want to subspecialize, for instance,
22 subspecialty for me would be forensic pathology and
23 cytopathology. You do an additional year of
24 training on each of those.

25 And then basically you have to learn all this

1 material and sit and take board examinations put
2 out by the American Board of Pathology. And you
3 have to take those exams and pass to become a board
4 certified specialist.

5 Q Okay. But to actually work as a pathologist, as
6 long as you have a medical degree and some degree
7 of training, you don't have to be board certified?

8 A No, you don't have to be board certified. You can
9 get a medical license without having a board
10 certification.

11 Q And practice medicine?

12 A And practice medicine, that is correct.

13 Q But in your case you did an additional six years of
14 training after getting your medical degree?

15 A Yes.

16 Q And did you choose to go the additional step of
17 getting board certified?

18 A I did.

19 Q And in pathology, how many areas are you actually
20 allowed to be board certified?

21 A There are up to, I believe, ten different ones you
22 can get board certified in. The board only allows
23 us -- only allows us -- the maximum board
24 certification you can get is four, because after
25 that they think you are -- it's just too many.

1 So I have four board certifications. I am
2 board certified in anatomic pathology, clinical
3 pathology, forensic pathology, and cytopathology.
4 I took my boards and passed them all on the first
5 try.

6 Q And specifically you are board certified in
7 forensic pathology?

8 A Yes, I'm board certified in forensic pathology.

9 Q And have you ever been qualified in court before as
10 an expert in forensic pathology?

11 A Yes, I have.

12 Q And approximately how many times have you been
13 qualified?

14 A Greater than 20.

15 MS. CAMPBELL: Your Honor, at this time I
16 would offer him as an expert in forensic pathology
17 or any of the other specialties for the purposes of
18 this.

19 MR. WHITLARK: May I voir dire the witness
20 please, Your Honor?

21 THE COURT: Yes, sir.

22 VOIR DIRE EXAMINATION

23 BY MR. WHITLARK:

24 Q Doctor, I didn't hear. Where did you go to medical
25 school?

1 A I went to the American University of the Caribbean.

2 Q Where is that at?

3 A It is in Saint Martin.

4 Q How did you get down there? How did you find this
5 place?

6 A I wanted to go to medical school. It was very
7 difficult to get in medical school at that time.
8 So what I decided to do is I wanted to get my
9 training done, and I went down to the American
10 University of the Caribbean, did my two years in
11 Saint Martin.

12 Then I flew to Ireland. I did -- I spent a
13 year over in Ireland doing medicine.

14 Then I came back to America in my fourth year.
15 I was in Chicago.

16 And then I took all my board exams, scored
17 higher than the average US citizen at a US medical
18 school. And that's why I was able to get my choice
19 of MUSC right near my family.

20 Q Okay. Are you from South Carolina?

21 A I'm from New York. My family -- at the time I was
22 single, and I had just my parents, my father was
23 ill, they were in Myrtle Beach, so I got close.

24 Q All right. Doctor, other than -- is there another
25 cause of death in this case other than gunshots?

1 A No, sir.

2 Q Okay. Is that what your expected testimony is?

3 A Yes, sir.

4 MR. WHITLARK: I don't have -- based on that,
5 I have no problem with him being qualified.

6 THE COURT: All right. Ladies and gentlemen
7 of the jury, Dr. Bradley Marcus will be offered as
8 an expert in forensic pathology. Is that it, just
9 forensic pathology?

10 MS. CAMPBELL: For purposes of what we are
11 here for today, Your Honor. He does have
12 additional certifications, again, in all those
13 other areas. But for what we need today, forensic
14 pathology is the cause and manner of death.

15 THE COURT: All right. And he will be
16 testifying and able to give opinion testimony in
17 that area.

18 Yes, ma'am.

19 MS. CAMPBELL: Thank you, Your Honor.

20 DIRECT EXAMINATION CONTINUES

21 BY MS. CAMPBELL:

22 Q Dr. Marcus, prior to doing an autopsy in any case,
23 is it important for you to get some type of history
24 about what may or may not have happened?

25 A Yes. Yes. I get the history, you know, sometimes

1 written in a report that gets back down to me at
2 the morgue.

3 Q And basically that history would just be basic
4 facts that may be known or alleged at that time?

5 A That's correct.

6 Q And in addition to that, in some cases do you also
7 actually go to a scene to observe things?

8 A Sometimes I do. If the coroner calls, yes.

9 Q And do you also sometimes get provided additional
10 information from, say, an investigative agency if
11 it's a homicide?

12 A Yes.

13 Q Would that include crime scene pictures?

14 A Yes.

15 Q And any testing that may be done by the agency
16 itself that may involve what happened?

17 A Yes.

18 Q I want to turn your attention to this case
19 specifically, sir. Back on April the 13th, did the
20 coroner for Richland County, Gary Watts, call you
21 up and ask you to go somewhere?

22 A I was in my office. It was a Friday. And I
23 remember I got a call. I believe it was from Jane
24 Powell, one of the deputy coroners.

25 Q I'm sorry, Jane Powell.

1 A Who notified me.

2 Q As a result of that phone call, where did you go?

3 A She requested or she said that Gary Watts requested
4 me to come out to the scene. So I packed up my
5 things and I went. I met Jane Powell near the
6 scene. I didn't know exactly where it was.

7 So I met her -- I believe it was near a
8 shopping center off of Broad River, I think. I
9 think it -- I'm not sure -- but it's the road that
10 goes past the South Carolina Law Enforcement
11 Division, because I-26 that day was a wreck and I
12 couldn't go I-26. That I remember.

13 Q And once you met up with Jane Powell, did she then
14 escort you to the scene?

15 A She did.

16 Q Once you got to the scene, sir, what did you do?

17 A I kind of just talked to Gary Watts, and I kind of
18 waited around in the driveway, until I -- until
19 they let me into the house.

20 Q And once you went into the house, what area of the
21 house did you go into? Do you remember?

22 A I went upstairs and I went to like an office area
23 where there was like a bathroom that was like
24 attached to the office. That's the only area I
25 went.

1 Q What were your observations that day when you went
2 into the office area?

3 A Well, the first thing I noticed was I noticed that
4 there were some shell casings on the ground. And
5 then I saw Ms. Parker laying down, kind of almost
6 halfway in the bathroom, halfway out of the
7 bathroom, with her feet kind of in the office area.

8 Q While you were there -- and were you aware they had
9 already photographed the evidence prior to you
10 getting there?

11 A I think so. I'm not sure. I don't really recall
12 or remember exactly what they were doing in there.
13 They were doing something. I just don't -- I don't
14 know. I'm not part of that.

15 I don't actually photograph stuff at the
16 scene. So I'm not sure. I'm assuming they must
17 have photographed first. That's why I wasn't
18 allowed in.

19 Q Once you were able to observe her body there at the
20 scene, did you go into any other parts of the house
21 and observe the second body?

22 A No, I did not.

23 Q And why did they not let you in to see the second
24 body?

25 A They told me that the area was too small and tight.

1 It was up in the attic. So they would not let me
2 go in. And there was really nothing more I could
3 do.

4 Q And were you able to come to any conclusions just
5 based on your observations there at the scene?

6 A Based on -- when I got to the scene, I was told
7 that Ms. Parker had sustained a gunshot wound to
8 the head. So -- but when I got into the room, I --
9 I got in the room, I saw her body; and I saw that
10 she had actually sustained multiple gunshot wounds.

11 So that is what I was told. I thought she
12 only had one gunshot wound; but then I went in and
13 when I saw her, I looked at her, I could see holes
14 in her clothing. I didn't see the actual gunshot
15 wounds on her body, but I saw holes in her clothing
16 that looked like a projectile had gone through her
17 clothing. And I saw multiple of them.

18 So I said right away to one of the
19 investigators, It looks like she has multiple
20 gunshot wounds, not just one to the head.

21 Q And did you do any of your examination there at the
22 scene?

23 A No, I did not. I did not.

24 Q And is it customary for your examination to take
25 place in the morgue?

1 A Yes, that is my controlled environment in the
2 morgue. I like to do everything in the morgue.
3 And that is what we do.

4 Q When did you actually perform the autopsy on Tammy
5 Parker?

6 A Before I left the scene, I let Gary Watts know that
7 we'll start the autopsies on Saturday morning,
8 April 14th, at 8:00 a.m. sharp. And I told him, We
9 will said start with Tammy's autopsy -- Ms.
10 Parker's autopsy, excuse me.

11 Q And that process began at 8:00 a.m. the next
12 morning?

13 A At 8:00 a.m., yes. Everyone was down in the
14 morgue, and we started Ms. Parker's autopsy.

15 Q And prior to doing an autopsy, do you do a basic
16 external examination?

17 A Yes. The body bag is opened and I do an external
18 exam, how the body arrives, just seeing what she
19 had. She still had her clothing. So they
20 photographed that.

21 And then, because I had seen multiple gunshot
22 wounds on her, it is customary for me to X-ray the
23 body. So after I had done my, you know, an exam
24 down in the autopsy room -- I just did a quick
25 brief exam when she had her clothes on. We removed

1 her clothes and then I could actually see exactly
2 where she had gunshots, because then I have to call
3 X-ray down, and sometimes they bring their old
4 X-ray machine with the old plates. Everyone knows
5 the plates that are associated with an X-ray
6 machine. And I had to let them know how many
7 plates to bring. I needed to see how many gunshots
8 she had. But I believe in this case they brought
9 the digital X-ray machine down and they took
10 digital shots so I can look at the X-rays right
11 when they are taking them. Otherwise, I have to
12 wait about 30 minutes to get the pictures
13 developed.

14 Q And did you make any conclusions as far as her
15 height and weight approximately?

16 A Yes, I measured that. I put her length at 69 and
17 weight about 140.

18 Q Sixty-nine inches?

19 A Sixty-nine inches, excuse me, at 69 inches. I have
20 a tape measurer I use.

21 Q And you mentioned that at first she was clothed,
22 and then you were able to remove her clothing?

23 A Yes, I removed her clothing.

24 Q And at that point were you able to observe the
25 wounds that corresponded to the holes you had seen

1 the night before?

2 A I saw the one in the back, yes, yes. And the one
3 on the side. Then I realized that she had a lot
4 more gunshots on the front that I hadn't really
5 seen from at the scene because I didn't roll the
6 body. The body was left there.

7 Q Tell the jury how you go about, once the clothing
8 is removed in an autopsy such as this with all the
9 gunshot wounds, how you actually do the autopsy.

10 A Then I believe the investigator goes and gets like
11 the fingernail clippings. I'm not -- I can't
12 remember whether she did it first before we did the
13 de-clothing. I can't remember that exactly. And
14 then they told me to do a rape kit. So I did a
15 rape kit. It doesn't take very long to do.

16 Q Was there any evidence of any sexual assault in
17 this case?

18 A I didn't -- no, I didn't see any evidence of sexual
19 assault in this case.

20 Then I just started -- they take photos, and I
21 do my diagram. I have a diagram, and I make a
22 diagram of everything.

23 Q And you mentioned they took some photos. Did you
24 have an opportunity to review those photos?

25 A Yes, I reviewed photos.

1 Q I want to show you what has been marked as State's
2 Exhibit 453 through 464 and first ask: Do you
3 recognize those?

4 A Yes, these are the photos that were taken. There's
5 two cameras going in there.

6 Q Uh-huh.

7 A The investigator, Richland County Sheriff's
8 Department investigator, takes photos with her
9 camera. And then we have a Coroner's Office
10 representative also in there taking photos also.

11 So there's lots of photos, you know, of
12 things. I don't know who took who and which case
13 is here, though.

14 Q But do those fairly and accurately depict some of
15 your findings at the autopsy?

16 A Yes, they do.

17 Q And do some of those actually have trajectory rods
18 where you can show the actual course of the bullet?

19 A Yes, they do.

20 Q And would those aid you in your attempt to explain
21 the injuries to this jury?

22 A I think they will, yes.

23 Q And, in fact, those are the photos you picked out
24 as being demonstrative of certain things in this
25 case?

1 A Yes.

2 MS. CAMPBELL: Your Honor, at this time we
3 would offer them into evidence.

4 THE COURT: Any objection?

5 MR. WHITLARK: Let me take a look please, Your
6 Honor.

7 (Pause.)

8 MR. WHITLARK: I object, Your Honor, to all of
9 them. Objection.

10 MS. CAMPBELL: Your Honor, the
11 cross-examination in this case, clearly the cause
12 of death and the manner of death in this case is
13 highly disputed by the Defense.

14 We feel like the doctor is testifying that
15 these were taken at autopsy. Yes, they are graphic
16 in nature; however, for this jury to get the full
17 picture of what is going on, the State would want
18 them to be able to observe the corresponding
19 injuries that the doctor is about to testify to.

20 THE COURT: All right. I'll take a look at
21 them.

22 MR. WHITLARK: Your Honor, I'd like to respond
23 to that.

24 THE COURT: All right, give me a second.

25 MR. WHITLARK: Yes, Your Honor.

1 (Pause.)

2 MS. CAMPBELL: Of course, Your Honor, if he is
3 not disputing the cause and manner of death that is
4 going to be testified to, we wouldn't need to use
5 these diagrams.

6 THE COURT: All right. Ladies and gentlemen
7 of the jury, there is a matter of law I need to
8 take up outside of your presence.

9 I'm going to send you all out for a short --
10 maybe about a five-minute break -- to refresh
11 yourselves. And then we will have you back in
12 shortly.

13 Thank you.

14 (WHEREUPON, the jury retires to the jury
15 room at 10:44 a.m.)

16 THE COURT: All right.

17 MR. WHITLARK: I think Your Honor knows what
18 my objection is on this, but we will state it.

19 THE COURT: Well, let me just ask you. She is
20 asking -- are you all objecting to -- she is saying
21 she doesn't need the photos if you all don't object
22 to the manner of death.

23 MS. CAMPBELL: Cause and manner of death. He
24 has a right to testify to -- in his expert opinion
25 as a forensic pathologist -- to cause and manner of

1 death and how that happened.

2 If he is not -- Your Honor, in some cases we
3 never offer autopsy. In this case, of course, the
4 manner of death on both of these two individuals,
5 in my opinion, has been disputed by the Defense.

6 That would be the only reason we would be
7 attempting to offer these, just to show certain
8 injuries to corroborate his explanation.

9 The jury has a right to make a determination,
10 or they are going to be asked to make a
11 determination as to what really happened in that
12 house that day.

13 And, of course, the forensic pathologist's
14 testimony is crucial to that.

15 THE COURT: All right. Do you want to proffer
16 the testimony to ask him so he can hear exactly
17 what it is you want to ask him regarding the manner
18 of death and see if he objects?

19 MR. WHITLARK: Your Honor?

20 MS. CAMPBELL: He has got the report that
21 includes that.

22 MR. WHITLARK: Your Honor, the undue prejudice
23 that this would cause, I think, is clear. He can
24 certainly testify they died from gunshot wounds,
25 and we are not contesting that. We know that.

1 I mean, this is nothing but to inflame the
2 jury or to sicken them. I don't know which one it
3 is.

4 But those are so graphic in nature, Your
5 Honor, that the danger of that inflaming a jury or
6 causing them to decide this case on an improper
7 basis is very great.

8 There is no need for it, Your Honor. He can
9 testify they died from gunshots. I mean, it's
10 certainly --

11 MS. CAMPBELL: Your Honor, we can offer them
12 for ID at this point, and then wait for
13 cross-examination to see what may come up, as long
14 as we can then be allowed, if it's an issue, to
15 reoffer them.

16 THE COURT: I want to hear what it is that you
17 want to ask him.

18 MS. CAMPBELL: That may be appropriate.

19 THE COURT: I know there is a case. I think
20 it is Torres, State versus Torres, that came out
21 specifically where the Court talked about autopsy
22 pictures.

23 MS. CAMPBELL: We handed up two other cases
24 that talk about autopsy pictures where the cause of
25 death is homicide by child abuse cases. There were

1 photographs of the essential injuries, Your Honor,
2 on young children that were admissible.

3 And the Defense objected on the same grounds
4 since that was in dispute.

5 And we handed up two cases earlier this week,
6 I believe, on that exact issue.

7 THE COURT: Yes.

8 MR. WHITLARK: There is no dispute here, Your
9 Honor, about how they died. I mean, certainly this
10 is obviously going to --

11 THE COURT: Yes, I think this is
12 distinguishable from a homicide by child abuse.

13 MS. CAMPBELL: And I will be glad to offer
14 them for ID at this point, Your Honor. And then
15 depending on what the cross-examination does, we
16 may reoffer them.

17 THE COURT: All right.

18 MR. WHITLARK: Your Honor, I will state for
19 the record, we don't dispute both of them died from
20 gunshot wounds.

21 MS. CAMPBELL: That is not the entire -- what
22 he is allowed to testify about, Your Honor. He is
23 a medical doctor with his expertise in forensic
24 pathology. He can talk about the cause and manner
25 of death. That is his job. That is what he does

1 for a living. He is the medical examiner for
2 Richland County; therefore, based on that he can
3 testify to the cause and manner of death and any
4 reasonable inferences therefrom.

5 MR. WHITLARK: And so they need to put in
6 pictures that are not only graphic, Your Honor --

7 THE COURT: Well, I'm not going to enter them
8 at this point. She can mark them for ID and show
9 them to him.

10 MR. WHITLARK: I don't want to see them,
11 again, please.

12 THE COURT: All right. You can show them to
13 him.

14 MS. CAMPBELL: We will mark them for ID and
15 see if it becomes an issue.

16 THE COURT: Very good.

17 MS. CAMPBELL: Thank you. And, Your Honor,
18 there are also additional photographs of Bryan
19 Capnerhurst. We would go -- I'm sorry, I didn't
20 meant to interrupt you.

21 THE COURT: Go ahead. Go ahead.

22 MS. CAMPBELL: There are additional
23 photographs of Bryan Capnerhurst that we will also
24 show him and mark for ID at that point if this is
25 your ruling, and then wait to see what the

1 cross-examination is.

2 THE COURT: All right. And then I will
3 determine at that point if they are admissible. I
4 will look at the case law and see what it says.
5 Because, I mean, like I said, there are some cases
6 pretty close to on point regarding autopsy photos.

7 One of them is that one case -- I'm saying
8 Torres -- but there is that one case where they
9 talk about the number of pictures and autopsy
10 pictures, and then there is the one that --

11 MR. WHITLARK: Your Honor, we would also state
12 as a general objection to this, evidence is
13 starting to get extremely cumulative in this case.
14 We are having duplicitous testimony.

15 I mean, we're having -- I mean, how many
16 witnesses do they need to say that he didn't have
17 any proper emotions? How many witnesses do we need
18 to bring in here to prove points? I mean, it is
19 getting --

20 THE COURT: He is the Chief Medical Examiner.

21 MR. WHITLARK: I understand that, Your Honor.
22 I'm sorry to interrupt you, Your Honor. They have
23 got another doctor they are going to bring in to
24 testify in this case also, as I understand it.

25 THE COURT: Who? An orthopedic doctor?

1 MR. WHITLARK: That's my understanding.

2 THE COURT: But I think that is based on
3 something that --

4 MR. WHITLARK: Yes, that would be right.
5 We're ready for that. We're ready for that one.
6 We are ready for that one.

7 THE COURT: Your doctor and your orthopedist,
8 I think.

9 MR. WHITLARK: That's right, Your Honor.

10 THE COURT: Okay. They will have to bring
11 them in.

12 MR. WHITLARK: Your Honor, just to alert the
13 Court to something here. And I understand the
14 State has got their job to do here, but there is a
15 great danger that this case could be decided by a
16 jury on an improper basis, and this is what I'm
17 talking about right there.

18 THE COURT: Well, these are not in evidence at
19 this point.

20 MS. CAMPBELL: And, again, Judge, this is just
21 in response to his cross-examination. And it
22 depends on -- I mean, I agree. But based on his
23 dispute of the facts -- I mean, the facts of what
24 happened in that house that day are in dispute.
25 This is a witness that can talk about what happened

1 that day based on his expertise.

2 At this point we are just marking them for ID,
3 and then would revisit it if appropriate.

4 THE COURT: All right.

5 MR. WHITLARK: Well, Your Honor, the Defense
6 does not dispute that both of these people died
7 from gunshot wounds.

8 MS. CAMPBELL: The Defense does dispute the
9 manner of death of both of these people.

10 THE COURT: All right. Well, we will mark
11 them for ID purposes. You can ask him about them.
12 They are not in evidence at this point. If you try
13 to enter them, we'll discuss it when we take
14 another break.

15 Are we ready to bring them in? You can bring
16 them in.

17 (WHEREUPON, the jury came into open
18 court at 10:54 a.m.)

19 THE COURT: You can continue. I received a
20 note. I'll get back with you all on it when we
21 take a break.

22 (WHEREUPON, Court's Exhibit No. 5 was
23 marked for identification only.)

24 DIRECT EXAMINATION CONTINUES

25 BY MS. CAMPBELL:

1 Q And, again, I show you State's Exhibits 453 through
2 464. Do you recognize those photos?

3 A Yes, I do. These are photos that were taken during
4 the autopsy examination of Ms. Parker.

5 Q And do those photographs corroborate or explain
6 some of the testimony you're getting ready to give
7 about the wounds, the cause of death and the manner
8 of death?

9 A Yes, ma'am.

10 MS. CAMPBELL: Your Honor, at this time we
11 would mark them for ID only.

12 MR. WHITLARK: Same objection, Your Honor.

13 THE COURT: All right. Objection overruled.

14 (WHEREUPON, State's Exhibit Nos. 453-464
15 were marked for identification only.)

16 BY MS. CAMPBELL:

17 Q Did you also prepare some diagrams in this case?

18 A Yes, I do. Yes, I did.

19 Q I am going to show you State's Exhibit Number 489
20 and 488. Do you recognize those?

21 A These are diagrams that I made during the autopsy
22 examination of Ms. Parker.

23 Q And do these diagrams basically document generally
24 the areas and the type of gunshot wounds we are
25 talking about?

1 A Yes, ma'am.

2 Q And would these aid you in your testimony to the
3 jury?

4 A Yes. Yes, ma'am.

5 MS. CAMPBELL: Your Honor, at this time we
6 would offer 488 and 489 into evidence.

7 MR. WHITLARK: May it please the Court?

8 (Pause.)

9 MR. WHITLARK: No objection, Your Honor.

10 THE COURT: They will be entered without
11 objection.

12 (WHEREUPON, State's Exhibit Nos. 488-499
13 were marked for identification and
14 received into evidence.)

15 BY MS. CAMPBELL:

16 Q Doctor, can you tell -- did you also take some
17 X-rays, I believe, you mentioned earlier?

18 A Yes. The X-rays were taken by one of the X-ray
19 technicians who works with Palmetto Health Richland
20 Hospital. And I was present when they took the
21 X-rays.

22 Q And I show you State's Exhibit 483. Do those
23 contain the X-rays that were taken of Tammy Parker
24 at autopsy?

25 A Yes, they do.

1 MS. CAMPBELL: Your Honor, at this time we'd
2 offer State's Exhibit 483 into evidence.

3 MR. WHITLARK: Your Honor, we would object on
4 the basis that this evidence is starting to get
5 cumulative.

6 THE COURT: All right. Can I see them?

7 MS. CAMPBELL: Sure.

8 (Hands to Court.)

9 THE COURT: And these are?

10 MS. CAMPBELL: The X-rays from autopsy. They
11 don't show any blood, or anything like that. They
12 just show the injuries.

13 THE COURT: The objection is overruled.

14 MS. CAMPBELL: Thank you, Your Honor.

15 MR. WHITLARK: Thank you, Your Honor.

16 THE COURT: They will be entered with the
17 objection of the Defendant.

18 MS. CAMPBELL: Thank you.

19 (WHEREUPON, State's Exhibit No. 483 was
20 marked for identification and received
21 into evidence.)

22 BY MS. CAMPBELL:

23 Q Once you started your autopsy on Ms. Parker,
24 basically how did you perform the autopsy?

25 A Well, the first thing after the clothing was

1 removed, I documented all of her basic general
2 things: Height, weight, hair color, eye color, and
3 so forth like that.

4 And then I went down on my diagram, and I
5 basically started drawing some of the injuries --
6 all the injuries that she had on her body. I
7 labeled them with letters, A, B, C, D, and so
8 forth.

9 And then I started measuring the distances,
10 you know, from the top of the head, right and left
11 at the midline, and so forth, of all the injuries.

12 And from that point onward, then I started
13 really looking at all the gunshot wounds in her.
14 And there were a lot of -- a lot of holes in her.
15 But some of them were entry and exit; some were
16 re-entry. So I then had to decipher which gunshots
17 were related to each other, and so forth like that.

18 And I aided my findings with the X-rays, if
19 there were any bullets or fragmented bullets inside
20 her. And then I started putting together what is
21 an entrance wound, what is an exit wound, and so
22 forth.

23 They look different. Entrance wounds of
24 gunshots look different than exits. Sometimes it's
25 not as easy, but in general they have a very

1 characteristic finding to them.

2 And then I can determine sometimes with the
3 range, the range of how far away a weapon was when
4 it was fired and when the bullet struck her. I can
5 see the range based on what my exam is on the body.

6 Q And in this case when you're determining range, as
7 far as when you mean range, what do you mean by
8 that?

9 A Okay. So range means how far away the gun was when
10 it was fired to the body. When you have --

11 Q That would be the end of the gun barrel?

12 A Yes. This is (indicating) the gun here and this
13 (indicating) is the body. How far the gun was from
14 the body. Because when a weapon is fired, not only
15 does the projectile come out, but gunpowder comes
16 out of the barrel also.

17 So if, for instance, you have a contact range
18 gunshot wound, sometimes you can actually see a
19 muzzle imprint on the body of the gun. Okay? And
20 that's real good for a contact range shot because
21 you have a muzzle and if you have the weapon, you
22 can kind of match it up and it is exact.

23 So that -- and also you can see soot, some of
24 the black carbonation material that comes out of
25 the end of a weapon.

1 If the weapon is close enough to the wound,
2 you're going to see that black carbonation
3 material, which is usually gunshot residue in the
4 wound itself. Because the wound bleeds, so it all
5 sticks to it. And sometimes you can even see it
6 inside the wound.

7 So, for instance, if you have a contact range
8 shot, you can usually see gun soot actually on the
9 wound itself. And I call those contact range
10 shots. All right?

11 If you move the gun away -- and, again, it
12 depends on the gun and the type of ammunition.
13 When I spoke about what comes out of the barrel,
14 the projectile comes out of the barrel; but also
15 you've got that gunpowder. Okay? And sometimes
16 you get this unburned gunpowder that comes out of
17 the barrel. All right? It comes out of the
18 barrel.

19 And that gunpowder is like little sand
20 particles. Okay? So if your gun is like this
21 (indicating) away from the body, you can get what
22 they call stippling. Another name for it is powder
23 tattooing around the wound. Where the projectile
24 goes in and hits the body, but then the powder
25 comes out and actually causes little abrasions,

1 little scratches, around the wound. Okay? And you
2 measure the horizontal, the spread of it, around
3 the wound, horizontal and vertical, like this
4 (indicating).

5 And therefore, then, if you have a weapon, you
6 can test fire the weapon and kind of get a range of
7 what -- how far away that gun was from the body.

8 In general with handguns you are talking
9 about, you can see powder stippling up to
10 18 inches; but, again, it all depends. It all
11 depends --

12 MR. WHITLARK: Objection, Your Honor.

13 THE COURT: What is the objection?

14 MR. WHITLARK: He is getting outside the scope
15 of what I understand his testimony is, and I don't
16 understand.

17 THE COURT: He is qualified as a forensic
18 pathologist.

19 MS. CAMPBELL: He is a pathologist.

20 THE COURT: The objection is overruled.

21 BY MS. CAMPBELL:

22 Q Go ahead.

23 A So you can tell. Again, you can tell. That is one
24 of my duties is to determine the range sometimes.

25 And then you get distant range shots where you

1 don't actually see any soot or stippling on a
2 wound. They just have a hole in the body. You
3 don't see any. I call them distant range shots.

4 But sometimes you get cases where the bullet
5 goes through clothing. Okay? So if the gun was
6 close, you are not going to see any soot, you are
7 not going to see any stippling, because the
8 clothing blocks it. All right?

9 And so for those cases I call them
10 indeterminate range. I just don't know. I just
11 can't tell. You have to have the clothing tested,
12 and so forth like that, and go from there.

13 And sometimes with head wounds, if there is
14 hair, again, if it is hair, that could take away
15 the stippling. You might not see stippling if you
16 have a head wound. So, again, I call those usually
17 indeterminate range.

18 If you have an intermediary target that the
19 bullet goes through before it strikes, you know,
20 the body, I call it an indeterminate range.

21 Q And in this case the multiple gunshot wounds, the
22 entrance wounds, were those to clothed areas of
23 Tammy Parker's body?

24 A They were. They were. The initial entrances, in
25 my opinion were. I can't...

1 Q Was there an additional one to her head area?

2 A There was.

3 Q And, again, explain about the hair may have
4 obscure --

5 A Right, the hair can obscure. So in cases like
6 that, I usually call them indeterminate range,
7 because you can always trim the hair and send it
8 off for gunshot residue testing.

9 Q In this case were any of these contact wounds?

10 A Not that I could tell, no. I don't think any of
11 them were contact wounds on her body, no.

12 Q And did you note any soot or stippling around any
13 of the wounds we are getting ready to talk about?

14 A No, I did not.

15 Q In addition to the gunshot wounds, the entrance and
16 the exit wounds that you observed, did you observe
17 any other injuries to Ms. Parker?

18 A I did. On her forehead, her forehead area, she had
19 what we call contusions, which is kind of like a
20 black and blue mark.

21 Everyone knows when you fall down when you're
22 a kid or something, you get little bruises on your
23 knees, and so forth.

24 It's just from like from blunt trauma. You
25 get a bruise and you get some slight bleeding that

1 goes into the skin. And then over a week or
2 two-week time, you can see that thing change from
3 red to yellow to red-brown, and so forth.

4 That is because you have blood underneath the
5 skin there that is just kind of breaking down. And
6 that is that color change you get.

7 She had some -- she had a bruise on her -- two
8 bruises on her head, which I call contusions, from
9 blunt trauma.

10 Q What part of her head were those on?

11 A They entered her forehead, her forehead area, and
12 then just above her right eyebrow there.

13 MS. CAMPBELL: Your Honor --

14 A And then -- oh, and then she also had another
15 bruise right near her eye. It was yellow in color.
16 And that is a post-mortem bruise because it was
17 yellow. That means that there was no blood. And I
18 believe that was from her sitting on the floor.
19 And it didn't bleed. It is yellow in color,
20 because her heart wasn't pumping.

21 Q And, Doctor, could you step --

22 MS. CAMPBELL: Your Honor, may the witness
23 have permission to step down?

24 THE COURT: Yes.

25 MS. CAMPBELL: Thank you.

1 (Witness steps down.)

2 BY MS. CAMPBELL:

3 Q Doctor, can you come on this side so the court
4 reporter can hear you better?

5 A Sure.

6 (Witness complies.)

7 Q And this is State's Exhibit 489. Can you go
8 through your findings as far as when you performed
9 the autopsy on Tammy Parker?

10 A Okay. Yes. All right, so this is what we -- this
11 is what we -- this is my diagram that I made during
12 the autopsy. Okay? I make this diagram. Okay?
13 You will label the name, a couple of basic things,
14 weight, length, head rigor, rigor, scalp hair
15 color, and eyes, and so forth like that, just basic
16 stuff.

17 And this is the diagram here. And these right
18 here (indicating), these are some of the gunshots
19 that I saw. These little circles here
20 (indicating), these are holes that I saw in her
21 body. They are over here (indicating). There is
22 one here (indicating). There is one in the back of
23 the head (indicating), one over here (indicating),
24 and so forth.

25 So those are gunshot wounds. This is what

1 they looked like to me. So therefore from that
2 point onward, I started going through and figuring
3 out which is an entrance and which is an exit.

4 There's lots of holes, and I wanted to see how
5 many times she was shot. And I go through this
6 thing here. I have a system I go through. I
7 usually start from the head down and work downward.

8 Q Then in whatever order you think appropriate, can
9 you explain to the jury what your findings were as
10 far as the gunshot wounds in this case?

11 A I sure can. Let me get my report.

12 Q Yes, sir.

13 A So I am just going to give you a brief overview.
14 So here (indicating) is a gunshot wound here and
15 the corresponding exit wound right here
16 (indicating).

17 Q Where is the entrance wound on that?

18 A The entrance wound here (indicating) is on the left
19 head.

20 Q The left head?

21 A Yes, right about -- I guess right about there
22 (indicating).

23 Q On the back of her head?

24 A On the back of her head right here (indicating).

25 And then there is a corresponding exit wound right

1 here (indicating), right near behind the right ear.
2 So this wound was related, right there
3 (indicating). That is a gunshot wound.

4 I'll just go through all of them in detail
5 with you. So that is a gunshot wound there
6 (indicating). That wound -- that wound, it goes
7 through the left scalp area and the left skull and
8 goes through the brain.

9 And I recovered some of the bullet in the
10 brain area, and then there was a partial exit wound
11 right here (indicating) where I recovered part of
12 the bullet. On this corresponding gunshot wound, I
13 labeled it P right over here (indicating).

14 There is a lot of, you know, hemorrhage in the
15 head from that gunshot. There's some skull
16 fractures, scalp hemorrhage, and a lot of soft
17 tissue hemorrhage.

18 So the approximate trajectory of that bullet's
19 pathway, it's forward. It's forward, going this
20 way (indicating). It's going to the right and it
21 is going slightly downward. So something similar
22 to like this (indicating). Okay? That is the
23 trajectory of that bullet pathway.

24 Q So it entered on the left side of the back of her
25 head?

1 A Yes. The bullet entered on the left side back of
2 her head, and then it made kind of a partial exit
3 right there (indicating) where part of the jacket
4 was recovered right there (indicating). So I
5 labeled that as Gunshot Wound Number P.

6 So that is just one gunshot right there, one,
7 with a projectile recovered.

8 Q And would that shot alone, would that have been
9 fatal?

10 A That is the fatal wound. That is the fatal wound.

11 Q And would she have been able to survive even if
12 medical assistance had been immediate, or anything
13 of that nature?

14 A Not with the extent of her injuries, in my opinion,
15 no. That is the fatal gunshot wound.

16 Q And how long would she have been able to survive,
17 breathe, move, or anything, having sustained that
18 injury?

19 A I don't think she would be able to move very, very
20 good because it went through her cerebellum. So I
21 don't think she would move much at all. I think
22 this -- she probably started bleeding. She is
23 unconscious. A few minutes.

24 Q At most?

25 A At most.

1 Q What is the next gunshot wound that you examined?

2 A She had a gunshot wound to her left scapula area on
3 the left back here (indicating). I labeled this as
4 Gunshot Wound B. All right?

5 Q Was that an entrance or an exit wound?

6 A That is an entrance wound. This is an entrance
7 gunshot wound right here (indicating).

8 And this bullet goes through the axilla here
9 (indicating) and exits at corresponding Gunshot
10 Wound C & D here (indicating) on the interior.

11 Now, there's two holes, but you've got to
12 remember, we're in the armpit area. Your skin kind
13 of gets folded, and so forth like that. So the
14 bullet made two holes on the exit.

15 You see, that's common when you have folded --
16 you know, in the axilla it is folded skin. So that
17 is very common.

18 So entrance gunshot (indicating) corresponding
19 exit there (indicating). And that bullet just went
20 through the skin, and just kind of through your
21 skin and subcutaneous tissue. It actually never
22 entered into the chest cavity per se where the
23 lungs are. It never entered. It was very
24 superficial and came out right there (indicating).
25 And I did not recover a projectile from that

1 gunshot.

2 Q So that was an entrance and exit wound with no
3 recovered projectile?

4 A Yes. So that's a gunshot wound there (indicating).

5 Q And the entrance and exit wound, you mentioned that
6 the entrance is in the back?

7 A Yes, the entrance is in the back of the shoulder
8 here (indicating), in the back.

9 Q And the exit would be on the same side or a
10 different side of the body?

11 A It's on the same side. You can see. Just flip
12 that just around and see it right here
13 (indicating).

14 Q Okay.

15 A Okay?

16 Q And would that have been fatal?

17 A That wound? That wound is not fatal, but then that
18 bullet then, that bullet that came out of the body
19 there, I believe from what my -- she had another
20 gunshot wound here (indicating) labeled as O.
21 Okay? So entrance (indicating); exit (indicating).

22 And then she had a mark right here
23 (indicating) on her forearm, right there
24 (indicating), another gunshot. It looked like a
25 graze. So what I think happened in that one is the

1 bullet came out.

2 I think she had her arm up like this
3 (indicating), because the bullet came out. I think
4 it hit right here (indicating) and made a little
5 mark on her arm, a graze shot. And the bullet, I
6 think -- I didn't recover a bullet there. So it
7 fell out.

8 So entrance (indicating); exit (indicating).
9 I think it hit the arm right here (indicating),
10 because her arm was like this (indicating), and it
11 fell out. So that is all interchanged.

12 So entrance, exit, corresponding graze wound
13 (indicating).

14 And the angle of that bullet, it goes forward,
15 slightly downward; and, again, it is going towards
16 the right, just right here (indicating), coming
17 this way (indicating). So it's going kind of down
18 like -- again, it's very hard for me to depict
19 exactly, but something similar like this
20 (indicating). Okay?

21 Q And that is traveling in which direction on her
22 body?

23 A It's going forward. The gunshot is going forward,
24 slightly downward, and to the right. So it's kind
25 of, I think, like this (indicating). Okay?

1 Q What is the next gunshot wound you examined?

2 A Okay. So she had -- right over here (indicating)
3 she had a small graze wound right here (indicating)
4 on the elbow, right there. Okay? Then she had a
5 gunshot wound here -- a hole here (indicating),
6 here (indicating), here (indicating), and here
7 (indicating) that went through -- and then went
8 through her left breast.

9 So looking at that wound again, this here
10 (indicating), the bullet went -- the bullet, it
11 either grazed part of her arm here (indicating),
12 here (indicating), the bullet entered, exited,
13 re-entered, and then exited at Gunshot Wound E.

14 So there is a slight graze wound right here
15 (indicating). I labeled that as Gunshot Wound N
16 here (indicating).

17 Now, whether the bullet struck her here
18 (indicating) and then came up, or whether her arm
19 was just so tight that it entered the body here
20 (indicating) and then just grazed right there
21 (indicating), I can't really tell.

22 That is just hard for me to make -- you know,
23 to say exactly. But I think it's a graze wound.
24 And I believe that wound there is associated with
25 these four (indicating): Entrance, exit, entrance,

1 exit.

2 So that bullet, again, just went through the
3 skin, subcutaneous tissue. It went through her
4 left breast. And she had an implant in her left
5 breast, and it popped the implant.

6 So that bullet, just skin, subcutaneous
7 tissue, that is not a fatal wound. That's not a
8 fatal wound right there.

9 That bullet was going -- actually that bullet
10 there is -- the trajectory of the pathway is,
11 again, the bullet was going slightly forward, it's
12 going upward into the right, that bullet.

13 Q And what is the next gunshot wound that you
14 observed?

15 A Okay. Then I focused down around her abdomen here
16 (indicating). I saw there was one, two, three,
17 four, and then on her right arm she had another
18 hole right there (indicating).

19 So I looked at these gunshots. And these two
20 gunshots, gunshots labeled L and K, they both
21 looked like entrance wounds to me. So those, I
22 labeled them individually. I believe those were
23 two entrance wounds.

24 So we'll start with the first one. Let's just
25 choose Number L. L is the entrance gunshot wound