

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Frank R. Addy, Circuit Court Judge

ORIGINAL

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SC Court of Appeals
RESPONDENT,

THE STATE,

V.

PHILLIP HEATH HOLLINGSWORTH,

APPELLANT

APPELLATE CASE NO. 2014-000903

RECORD ON APPEAL

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1 about, that's for a fingerprint person to do?

2 A. Yes, sir.

3 Q. And there was a fingerprint person who did work
4 on this case. You're aware of that, aren't you?

5 A. Yes, sir.

6 Q. And a DNA person who did work on the DNA,
7 correct?

8 A. Yes, sir.

9 Q. And a trace evidence person who did the gunshot
10 residue analysis, correct?

11 A. Yes, sir.

12 Q. And a firearms expert who actually analyzed or
13 looked at this shotgun?

14 A. That's correct.

15 Q. And that's part of what you do, is you do all of
16 that to turn over to them, correct?

17 A. Yes, sir.

18 Q. And in your experience in doing this, would it be
19 a fair statement that you're often asked to also gather
20 clothing to take to SLED headquarters in Columbia for
21 further analysis?

22 A. Typically if it's prevalent to the case or that
23 evidence is readily available at the time that we're
24 there.

25 Q. Right. And you were in Laurens County working on

1 this case from -- you had some notes earlier I remember
2 from your testimony, from what time until what time?

3 A. I believe -- I'll refer to my notes again. We
4 arrived on-scene it looks like approximately 5:25 in
5 the morning and when we were cleared from the scene it
6 appears to be on 16:48 or 4:48 in the afternoon, so
7 almost 5:00, so almost twelve hours.

8 Q. All right. And so that would be five something
9 in the morning on November the 8th until four something
10 in the afternoon on the same date, November 8th?

11 A. Yes, that's correct.

12 Q. All right. And despite being there for that
13 long, you weren't asked to take any clothing of any type
14 to Columbia for any type of analysis, correct?

15 A. Not that I'm aware of, no, sir.

16 Q. Well, you didn't do it when you say that, right?

17 A. That's correct.

18 Q. And if somebody had asked to you to do it, I know
19 you would have done it, wouldn't you?

20 A. Yes, sir.

21 Q. And you would have remembered?

22 A. Yes, sir. It should be documented in my report.

23 Q. Yes, sir. In the drawing that you did -- and I'm
24 not gonna put it back up. We can even refer to the one
25 here, which is already in evidence. You referred to the

1 -- Warren, I'm doing the same thing. I don't know how
2 to work that thing.

3 MR. MOWRY: Oh.

4 MR. HOWE: Okay. That's fine.

5 BY MR. HOWE:

6 Q. You pointed out where the shotgun was, Exhibit 3,
7 correct?

8 A. Correct.

9 Q. Did you measure the distance from where the
10 shotgun was lying to the recliner?

11 A. I don't believe I did, no, sir.

12 Q. Okay. Did you measure the distance from the
13 doorway to the recliner?

14 A. I don't believe I did, sir. We did take a
15 measurement, I believe, from the width and the
16 length of the actual room itself because it appeared
17 to be a square room, but as far as taking specific
18 measurements from door to door or furniture -- typically
19 for furniture or items that are adjacent along a wall,
20 it's not something that we usually or commonly refer to
21 or measure, but then they're only -- we would call that
22 a baseline, so they were on the baseline so we wouldn't
23 typically measure that.

24 Q. The recliner, I think there's a photograph or so
25 of that. It's a typical recliner, would you describe?

1 A. Yes, sir.

2 Q. I mean, is that a fair statement?

3 A. I would agree with that, yes, sir.

4 Q. Typical height, size?

5 A. Yes, sir, I agree with that.

6 Q. Okay. The -- and you would agree that -- and
7 you pointed out the kitchen area is back behind the
8 recliner, correct?

9 A. To the right behind --

10 Q. To the right and behind it?

11 A. Yes, sir.

12 Q. Okay. And, of course, you testified you took the
13 -- what you call the swab, the buccal swab, from the
14 front trigger of the shotgun, correct?

15 A. That wouldn't be the buccal swab, it would be the
16 trigger face.

17 Q. The trigger face. Like someone were firing the
18 trigger or touching --

19 A. Touching.

20 Q. -- the trigger? However, that's where you would
21 typically look for DNA if you -- if this is a case where
22 you're trying to find out who fired the shotgun or who
23 handled the shotgun?

24 A. In my training and ability, that's what I do. I
25 can't guarantee every agent that processes does that,

1 but for me, that type of gun, the trigger face and the
2 breach that would open on the shotgun are the most
3 interesting areas.

4 Q. All right. Now -- and we would agree that --
5 that based on what we saw in your testimony earlier,
6 there were photographs of two shells, one -- two shotgun
7 shells, one that had been fired, correct?

8 A. Correct.

9 Q. The one that was found, Marker, I think it was,
10 18, outside?

11 A. Yes, sir.

12 Q. Right?

13 A. (Nods head.)

14 Q. And then the one that was found right there at
15 the gun inside the home, correct?

16 A. That's correct, yes, sir.

17 Q. All right. And -- and based on everything that
18 at least you knew or assumed for the purposes of your
19 investigation or what you do, both of those shotgun
20 shells appeared to have been involved with that
21 particular gun, correct?

22 A. They had similar visible characteristics.
23 Whether or not they came from that gun, that's beyond my
24 level of expertise.

25 Q. All right. I understand. You did not take any

1 swabs from either one of the shotgun shells, correct?

2 A. I don't believe I did, no, sir.

3 Q. Would that have not be important in all fairness
4 to at least take a swab of the shotgun shells, each one
5 of them, to see if there would be evidence as to who
6 might have handled the shotgun shells?

7 A. I'd have to disagree, and there's a reason I
8 would. We've had instances where we've had cartridge
9 cases or shotgun shells and we've tried to swab them
10 to see if we can get a DNA sample from that and from
11 information given to me from our DNA department, unless
12 you have a lot of ammunition from a gun you would have
13 to have a substantial sample on there to even attempt
14 to try to swab anything. So they usually tell us that
15 we're more prevalent in certain cases to try and get
16 fingerprints or something of that nature than we would
17 be DNA off of on those type of things. I'm talking
18 about cartridges, sir.

19 Q. Did we attempt to get fingerprints from the
20 shells?

21 A. I don't believe they were processed. I don't
22 believe so.

23 Q. So, whatever, we didn't try either fingerprints
24 or DNA swabs on either one of them; is that what I'm
25 hearing, sir?

1 A. Let me refer to my notes to make sure, if you
2 don't mind.

3 Q. Okay.

4 A. Actually, I'm showing them in the submission
5 logs, so those items -- both the one collected from
6 Marker 18 and also the one collected from Marker 3 were
7 submitted for latent print analysis, as well as firearm
8 analysis.

9 Q. They were?

10 A. Yes, sir.

11 Q. But not for DNA?

12 A. Not for DNA, no, sir.

13 Q. All right. You were only in Laurens County this
14 one day, correct?

15 A. For this particular case?

16 Q. Yes, this particular case.

17 A. Yes, sir.

18 Q. A long day, I understand, but you were only here
19 for that one day?

20 A. Yes.

21 Q. You weren't asked to come back and retrieve any
22 other items to take back to Columbia for analysis,
23 correct?

24 A. Not that day.

25 Q. Okay.

1 **MR. HOWE:** That's all I have. Thank you.

2 REDIRECT EXAMINATION

3 BY MR. MOWRY:

4 Q. Just a couple of questions. Mr. Howe asked you
5 about your report being dated in March. Real quickly,
6 what is the process for one of your reports being
7 published or available? Isn't there a peer review of
8 it before it gets released?

9 A. Yes, sir. There's actually a peer review and
10 an admin review, so it gets reviewed one time for
11 grammatical errors and technical information to make
12 sure the things that were done were adequate and within
13 protocols and then it gets resubmitted again for a final
14 review to make sure that everything is good to go, then
15 it's ready to be published.

16 Q. Let me show you this five-page document here. Do
17 you recognize that?

18 A. Yes, sir, I do.

19 Q. Okay. What is that, please, sir?

20 A. This would be the final published crime scene
21 notes that would go out with my crime scene summary
22 report once it's been published.

23 Q. Okay. And your notes, I just wanted to point
24 this out for the jury, are dated what?

25 A. The date these were typed. December 3, 2012 is

1 when these were done.

2 Q. So about three weeks later?

3 A. Yes, sir.

4 Q. That's when your handwritten notes got reduced to
5 typing and were summarized; is that right?

6 A. That is correct. Yes, sir.

7 Q. You said that you did not come back that -- or
8 did not do anything more on that day, but you have been
9 back in Laurens County since then on this case; have you
10 not?

11 A. Yes, sir, I have.

12 Q. In fact, a couple of weeks ago you were up here;
13 is that right?

14 A. Yes, sir, I was.

15 Q. What was your purpose in coming here?

16 A. I met with the Solicitor's office personnel to
17 discuss -- a Solicitor's conference, if you will, in
18 preparation for court.

19 Q. And you met with me, you met with our
20 investigator, Walter Bentley, that's been sitting here?

21 A. That's correct.

22 Q. And we discussed the case; is that right?

23 A. Yes, sir.

24 Q. Did we discuss information that had just come to
25 our attention?

1 A. Yes, sir, we did.

2 Q. Can you go ahead and tell us what that
3 information was?

4 A. I was advised that there was clothing belonging
5 to -- I believe it's the co-defendant, I'm not sure, the
6 other subject, the female subject, Shayla Gaines, and
7 that clothing had never been collected and was still in
8 the possession of Ms. Gaines.

9 Q. Okay. And did you and Mr. Bentley do anything
10 about that?

11 A. Yes, we did. Mr. Bentley made the appropriate
12 notifications and we travelled to the residence she was
13 at in Honea Path and collected the items.

14 Q. Okay. What did you do with the items after it
15 was collected?

16 A. I immediately placed them into containers and
17 submitted them to our lab to have them analyzed for any,
18 you know, DNA examination or any blood examination.

19 Q. Okay. And Amanda Webb did that; did she not?

20 A. I believe she did.

21 **MR. MOWRY:** I believe that's all I have. Thank
22 you, sir.

23 **MR. HOWE:** No questions concerning that, Judge.

24 **THE COURT:** Agent, thank you very much for
25 coming. You may step down and you are free to go, sir.

1 **THE WITNESS:** Thank you, sir.

2 **THE COURT:** Thank you.

3 (Witness excused.)

4 **THE COURT:** Call your next witness, please,
5 Mr. Mowry.

6 **MR. MOWRY:** We call Dr. Ross..

7 JANICE ROSS, M.D.,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MOWRY:

11 Q. You are Janice Ross?

12 A. Yes.

13 Q. I believe you are a medical doctor; are you not?

14 A. Yes.

15 Q. Will you tell us about your training -- your
16 education and training as a medical doctor, please?

17 A. Yes, I received a bachelor's of science degree
18 from the University of South Carolina and my M.D. from
19 Upstate Medical Center in Syracuse, New York, where I
20 received further training in pathology. Pathology is a
21 part of medicine that the physician is trained how to
22 diagnose diseases in looking in the microscope and using
23 the laboratory. We are also trained to do autopsies and
24 find a cause of death. I was further trained in the
25 area of forensic pathology, which uses the knowledge of

1 pathology towards legal matters such as homicides,
2 accidents, suicides and rape cases. We are trained in
3 forensics to do a forensic autopsy wherein we identify
4 patterns of injury, document that for court, and we also
5 collect evidence of blood and tissue and bullets if
6 there are those.

7 Q. Okay. How long have you been a medical doctor?

8 A. Since 1972.

9 Q. And how long have you been a pathologist?

10 A. 1976.

11 Q. Okay. Where are you currently practicing?

12 A. In Newberry, South Carolina at Newberry Pathology
13 Associates.

14 Q. And as part of your practice, do you perform
15 pathologies for law enforcement agencies?

16 A. For the coroner, yes.

17 Q. Yes. Where there have been deaths that need,
18 particularly, determinations of cause of death and
19 manner of death?

20 A. Correct.

21 Q. Can you explain what the difference is between
22 cause of death and manner of death?

23 A. Yes. Cause of death is just what it says, how a
24 person died, if it's a heart attack or a bullet going
25 through the brain, et cetera. The manner of death is

1 how that cause of death came about. In other words,
2 there are five manners of death. It's natural, there's
3 suicide, accident, homicide, and then sometimes we can't
4 determine, so it's undetermined.

5 Q. Dr. Ross, about how many autopsies do you think
6 you've performed?

7 A. Over six thousand.

8 **MR. MOWRY:** Okay. Your Honor, I would offer
9 Dr. Ross as an expert in pathology --

10 **MS. McNEILL:** No objection.

11 **MR. MOWRY:** -- forensic pathology.

12 **THE COURT:** All right. No objection from the
13 defense, Ms. McNeill?

14 **MS. McNEILL:** No objection.

15 **THE COURT:** Ladies and gentleman, in this case,
16 Dr. Ross has been agreed to be an expert in the field
17 of forensic pathology, and as I said with Agent Brown
18 a moment ago, ordinarily witnesses can't testify to
19 opinions, they have to tell you about something that
20 they saw or observed with one of their senses.
21 Obviously because of the exception to that rule for
22 expert witnesses, Dr. Ross can give her opinion and
23 can give opinion testimony in her field of forensic
24 pathology. It doesn't mean you have to accept her
25 opinion, but it is evidence for you to use as you think

1 is appropriate. Go ahead, Mr. Mowry.

2 **MR. MOWRY:** Thank you, Your Honor.

3 BY MR. MOWRY:

4 Q. As part of your involvement in this case, did you
5 perform an autopsy on Mr. Bill Ardis?

6 A. Yes.

7 Q. When did you perform that autopsy, please, ma'am?

8 A. November 8, 2012.

9 Q. Okay. About what time of day did you perform it?

10 A. 10:45 AM we started.

11 Q. Okay. So just a matter of hours; is that right?

12 A. Correct.

13 Q. Okay. Describe what your process was, what you
14 observed and what your conclusions were for this man.

15 A. Yes. The body was brought to us in a body bag,
16 which we opened, and we identify and take tally of all
17 the clothing, take photographs of the clothed body and
18 the unclothed body. In this case, because of the nature
19 of the wound being a gunshot wound or a shotgun wound,
20 we did x-rays of the head to look for metal. We then
21 photograph all the wounds and we do an internal exam to
22 look at each organ to identify were there any kind of
23 injury or natural disease.

24 Q. Okay. What did you observe about Mr. Ardis?

25 A. He had a shotgun wound to the head.

1 Q. Can you describe it for us, please, ma'am?

2 A. Yes. It was such that we were able to find --
3 the entrance was in the top back of the -- top of the
4 head towards the back and just to the right midline and
5 it caused the top of the scalp and the top of the bone
6 we call the calvarium to be fractured and actually
7 avulsed along with part of the brain. The word avulsed
8 means it was fragmented and thrown out of the skull.

9 Q. I'm glad you told us that because I wasn't sure
10 myself. Thank you.

11 A. Yes, sir.

12 Q. What else did you observe about him?

13 A. That's about it. He had no evidence of injury
14 anywhere else. He had an old surgical scar on the
15 abdomen and he had fingerprint ink on his hands noting
16 that the law enforcement had already looked at the
17 hands.

18 Q. Okay. And, Dr. Ross, I want to hand you State's
19 Exhibit 33, and ask you if you could take a look at that
20 and tell me what that is, please.

21 A. Yes, that's a photograph of the x-ray we did of
22 the head of Bill Ardis at the time of the autopsy.

23 Q. Okay. So you took the x-ray?

24 A. Yes.

25 Q. And that is a photograph of that x-ray; is that

1 right?

2 A. Correct.

3 Q. Could you -- I'm going publish this for the jury,
4 Your Honor. Thank you, Mr. Bolt. Doctor, if you could
5 explain what that shows.

6 A. It shows a lot of little birdshot. They're like
7 little -- smaller than BB's. Little round metal parts
8 that's from birdshot from a shotgun and --

9 Q. And, Dr. Ross, I've got a laser pointer.

10 A. Great. Thank you.

11 Q. Press that forward button, if you'd like to use
12 that.

13 A. So all those little metal pieces are birdshot.
14 This is an ear, the left ear, so you can see that
15 there's a lot of evacuation of the head and skull from
16 this point up.

17 Q. Okay. Doctor, were you able to determine whether
18 or not the shot was up, down, anything about that?

19 A. It's difficult, but it's probably slightly
20 downward and from back to front.

21 Q. Okay. Slightly downward and from back to front?

22 A. Correct.

23 Q. Were you able to -- or do you have an opinion as
24 to how close the muzzle of the shotgun was when it was
25 fired?

1 A. I didn't see any evidence of soot or any powder,
2 so we call it a distant wound, which depending on the
3 gun, could be a couple of feet or beyond.

4 Q. Okay. Beyond how far do you think?

5 A. Oh, I don't know. Thirty, forty feet.

6 Q. Okay. So a matter of feet though; is that right?

7 A. Yes.

8 Q. And let me just ask you, you have in your report,
9 if I could get you to refer to that, in your case
10 summary there is a paragraph -- let me just refer you
11 to -- yes, this paragraph here. Would you read that,
12 please?

13 A. Yes. Sections of all organs demonstrates the
14 aforementioned findings. Sections of organs, meaning
15 we looked at tissues under the microscope which didn't
16 change any opinion of the results. Specimens are drawn
17 for toxicological analysis. If a positive analysis is
18 submitted to this prosector, an amended opinion may be
19 necessary.

20 Q. When you say that specimens were drawn for
21 toxicological analysis; how do you go about doing that?

22 A. We draw blood from blood vessels, fluid from the
23 eye, urine, if there's a spleen, as well as sometimes
24 brain and liver tissue if we don't have enough blood.

25 Q. And what -- how did you go about doing that in

1 this case?

2 A. We -- let me refer to my -- we were able to
3 collect blood from the iliac vein, which is found --
4 a vein coming from the leg. We did have urine and
5 gastric fluid available to us.

6 Q. Okay. Let me hand you what has been marked as
7 State's Exhibit 51 for identification. Do you recognize
8 that?

9 A. Yes, this is what we call a purple top tube of
10 blood that's labeled for serology for Bill Ardis.

11 Q. Okay. And what was done with this?

12 A. That was sealed and sent to SLED for the
13 toxicology.

14 Q. Okay. You write in your report if a positive
15 analysis is submitted to this prosecutor, an amended
16 opinion may be necessary. Did you receive a
17 toxicological report from SLED --

18 A. Yes.

19 Q. -- regarding Mr. Ardis?

20 A. Yes.

21 Q. And was it positive or negative?

22 A. Negative.

23 Q. So did that change your opinion at all?

24 A. No, it did not.

25 Q. Okay. Doctor, did you also -- we can see the

1 pellets there. Did you remove them as part of your
2 autopsy?

3 A. We collect a good sample for ballistics, yes.

4 Q. Okay. Let me hand you what's been -- well, what
5 is in evidence as State's Exhibit 32, and ask you if you
6 could identify that?

7 A. Yes, this is a photograph of the birdshot that we
8 collected from the brain tissue and head of Bill Ardis
9 at the time of autopsy.

10 Q. Okay. And let me hand you what's been marked as
11 State's Exhibit 50 for identification. Does that appear
12 to be the actual birdshot?

13 A. Yes.

14 Q. Okay. And that was submitted to SLED as well?

15 A. Correct.

16 Q. Okay. Dr. Ross, in conclusion, can you tell us
17 what your opinion is as to the manner of death of
18 Mr. Bill Ardis?

19 A. The manner of death was homicide.

20 Q. Homicide means killing of one person by another;
21 is that right?

22 A. Yes.

23 Q. What is the probable cause and mechanism of his
24 death?

25 A. The avulsion of the brain due to the shotgun

1 wound to the head.

2 Q. What was the interval between the shot and his
3 death?

4 A. Immediate.

5 MR. MOWRY: Thank you, ma'am. That's all I have.

6 THE COURT: Cross.

7 CROSS-EXAMINATION

8 BY MS. McNEILL:

9 Q. Just a couple of questions, Dr. Ross. You said
10 that it was a distant wound ranging from a couple of
11 feet or beyond, up to thirty or forty feet; is that
12 correct, ma'am?

13 A. Yes. It all depends on the gun, the calibre of
14 the ammunition.

15 Q. Right.

16 A. So to give an exact figure, you'd have to take
17 the gun and the same the type of ammunition and go
18 practice shoot.

19 Q. Okay. And you can't tell with medical certainty
20 how tall the shooter was?

21 A. No.

22 Q. And all you can tell us is that it was -- I
23 believe you testified it's difficult to tell the
24 entrance wound, you just said slightly downward and from
25 back to front?

1 A. Correct.

2 Q. Okay. And also just one other point of
3 clarification, ma'am. May I approach, Judge?

4 **THE COURT:** Please.

5 Q. In your report, ma'am, how tall did you say that
6 he was -- that Mr. Ardis was?

7 A. I have seventy-eight inches in height.

8 Q. Okay. And how tall would that be for a
9 layperson?

10 A. Six feet, six inches.

11 Q. And an estimated 220 pounds; is that correct?

12 A. Correct.

13 Q. Ma'am, I'm gonna show you what's been marked as
14 State's Exhibit 31. It's a picture of Mr. Ardis's
15 driver's license. How tall does it list that he is in
16 that license?

17 A. Six feet.

18 Q. Six feet. So are you sure, ma'am, that he's
19 six foot, six inches tall?

20 A. Well, it could be a typo. Actually, it is a typo
21 because on my worksheet I have seventy inches.

22 Q. So it's a typo?

23 A. Correct.

24 **MS. McNEILL:** Okay. Thank you. No further
25 questions.

1 **MR. MOWRY:** Thank you, Your Honor. That's all I
2 have.

3 **THE COURT:** Doctor, thank you very much for
4 coming. Ma'am, you're free to go.

5 (Witness excused.)

6 **THE COURT:** Solicitor, call your next witness,
7 please.

8 **MR. STUMBO:** Thank you. The State would call
9 Lieutenant Jennifer Stoner to the stand.

10 JENNIFER STONER,
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STUMBO:

14 Q. Good afternoon, Lieutenant Stoner.

15 A. Good afternoon.

16 Q. You work for SLED?

17 A. I do.

18 Q. And you're a lieutenant at SLED, that's your
19 rank, but what is your job responsibility?

20 A. I'm the supervisor of the trace evidence section
21 in the forensic lab. We are one of the many departments
22 in the forensic department.

23 Q. So you supervise that unit?

24 A. I supervise the unit and also do case work.

25 Q. Okay. And how long have you done trace work at

1 SLED?

2 A. I have been in the trace section since 1998.

3 Q. Could you give the jury just a brief background
4 of your education and training?

5 A. I graduated with a bachelor's of science degree
6 in chemistry in 1997 from a small state school in
7 Pennsylvania. It was California University of
8 Pennsylvania. After I graduated, I did an internship
9 at SLED in the trace evidence section and then I was
10 hired in the drug analysis department, and that was in
11 1997. I worked for one year in drug analysis and then
12 transferred to the trace evidence where I've been ever
13 since. When I transferred into trace evidence, I began
14 a three-year training program to be able to analyze
15 the different types of evidence that that department
16 receives. I received in-house training and training
17 from different universities and agencies throughout the
18 United States.

19 Q. Okay. So how many years have you been with SLED
20 in the trace department?

21 A. Fifteen years.

22 Q. And about how many cases have you worked during
23 that time doing trace evidence?

24 A. Well over a thousand.

25 Q. And is it part of the trace department to analyze

1 gunshot residue kits, otherwise known as GSR kits?

2 A. Gunshot residue analysis is one of the
3 examinations that we perform.

4 Q. Okay. And you've done -- how many gunshot
5 residue analyses have you done in your career?

6 A. When you train in gunshot residue, that's the
7 first area we receive training, so we work under the
8 supervisor of the department at that time and
9 exclusively did gunshot residue cases for about two
10 years and then branch out into other areas. Probably
11 at least five thousand.

12 Q. Okay. Have you ever been qualified as an expert
13 in trace evidence and gunshot residue examinations?

14 A. I have.

15 Q. In the courts of this state?

16 A. Yes, sir.

17 Q. About how many times?

18 A. Eighty.

19 **THE COURT REPORTER:** Eight or eighty?

20 **THE WITNESS:** Eighty.

21 **MR. STUMBO:** I think when the air-conditioning
22 comes on, it makes it a little difficult to hear. I'll
23 push this up a little bit. Judge, at this time we'd
24 over Lieutenant Stoner as an expert in the field of
25 trace evidence and gunshot residue analysis.

1 **MR. HOWE:** No objection, Judge.

2 **THE COURT:** Very good. Again, ladies and
3 gentlemen, in this case the parties agree that
4 Lieutenant Stoner is an expert in the field of trace
5 evidence and gunshot residue analysis; therefore, she
6 can give opinion testimony in that area, but you don't
7 have to accept it, it's evidence that you can use as
8 you deem is appropriate. Go ahead, Solicitor.

9 **MR. STUMBO:** Thank you, Judge.

10 BY MR. STUMBO:

11 Q. Now if you could tell the jury, Lieutenant
12 Stoner, just what are the first steps that you take in
13 the process of analyzing a GSR kit?

14 A. A gunshot residue kit is normally collected by
15 officers in the field. Once they collect it, they
16 submit it to SLED in our evidence control department
17 where it's assigned a unique lab number and each kit is
18 given an item number for that case. Once they log --
19 what they call it is they log in the case. Once they
20 log in the case, it goes into a secure evidence holding
21 area where either myself or someone else from the
22 department will then take custody of that evidence, take
23 it to our department, which is on the third floor, and
24 then it sits in an incoming bin waiting for analysis.

25 When we get to that case, we open it up, we look

1 at the gunshot residue collection information sheet.
2 There are certain parameters that have to be met in the
3 same time frame for us to analyze the evidence. The kit
4 had to have been collected within six hours of the
5 shooting for us to analyze it.

6 We check that to make sure that there is a
7 suspect or victim name on the kit and then we begin our
8 analysis. We prep the samples for what we analyze with
9 a scanning electron microscope. We call it SEM for
10 short. We place our samples on this instrument, set up
11 an automatic run, it searches for particles of interest
12 that are unique to gunshot residue or consistent with
13 gunshot residue. The instrument is set to certain
14 parameters, we let it run and then we review all the
15 data and come to our conclusion.

16 Q. And did you conduct an analysis on a GSR kit that
17 was submitted by a local agency in regards to this case
18 against Mr. Hollingsworth?

19 A. In this case, I did receive one gunshot residue
20 kit for analysis. Or, excuse me, I received two. I
21 performed analysis on one of them.

22 Q. You received two kits, but you only did an
23 examination on one?

24 A. That's correct.

25 Q. I'm gonna show you what's been marked for

1 identification purposes as State's Exhibit 55 and
2 State's Exhibit 56. If you could identify State's 55
3 for me, please, ma'am.

4 A. State's 55 is -- this is the bar code that the
5 log-in department puts on each piece of evidence that
6 comes in. This shows me what the lab number and the
7 item number, and it is L1213999, which is the case I
8 performed the analysis on, and then inside is the actual
9 gunshot residue kit that was collected and then on the
10 back we put an additional label that gives us the item
11 number, initials and date.

12 Q. Okay. And did you conduct an analysis on this
13 particular kit that's in State's 55?

14 A. Yes, I did.

15 Q. And what does it identify as, whose kit?

16 A. This is a kit from Shayla Jordan Gaines.

17 Q. Does it indicate on there who it was submitted
18 by?

19 A. The officer's name is Lieutenant Keith McIntosh
20 from Laurens County Sheriff's Office.

21 Q. Okay. I'm gonna show you State's 56. I don't
22 believe that one's actually been cut open. If you can
23 identify that for the jury, please.

24 A. This also has the lab number and the item number.
25 This is Item Number 27. This was a GSR kit from Bill

1 Ardis that was sent in for analysis that we did not
2 open.

3 Q. Okay. You didn't analyze that particular kit?

4 A. We did not.

5 Q. Okay. Was there a reason why you didn't analyze
6 Mr. Ardis's gunshot residue?

7 A. In the past, the laboratory had analyzed gunshot
8 residue kits from suspects, victims, witnesses, but we
9 are now concentrating more on witnesses and suspects.
10 We are trying to move away from performing analyses on
11 victims' GSR kits because you expect to find gunshot
12 residue on a victim because they have been shot. The
13 purpose of the gunshot residue kit is to see if a person
14 could have been near a weapon when it was discharged or
15 if they fired a weapon. You already know that a victim
16 was near a weapon when it was discharged, therefore,
17 we're not able to add any more to the case by analyzing
18 the victim's GSR kit.

19 Q. Okay. So based on other information that had
20 been given to you, it was not necessary to analyze that
21 GSR kit?

22 A. Right, there was a discussion with the
23 investigator and it was determined that we did not
24 need to analyze it.

25 Q. And the cause and manner of death in this case

1 was homicide and that's essentially why, that suicide
2 had been ruled out?

3 A. It has nothing to do with homicide or suicide,
4 just the fact that they had sustained a gunshot wound.

5 Q. Okay. But in your discussions with the
6 investigators, it was determined that this was not
7 necessary to the investigation at that point?

8 A. That's correct.

9 Q. Now as to State's 55, which is labeled as
10 Ms. Gaines' GSR kit, you did conduct an analysis on
11 that?

12 A. Yes, I did.

13 Q. Okay. And when you received the package there,
14 the State's 55 in the envelop, was it sealed up at that
15 point?

16 A. It was. Normally if something is not sealed, we
17 make notations of that and we have to put in a call to
18 the investigator, but in this case it was sealed.

19 Q. Okay. When you got it, it was sealed. It did
20 not -- did it appear to have been tampered with or
21 altered in any way?

22 A. No.

23 Q. Now when you cut open the kit and start your
24 analysis -- I believe the machine you said earlier. Can
25 you give me the name of the machine again?

1 A. It's a scanning electron microscope.

2 Q. Okay. And you used that machine to conduct your
3 analysis?

4 A. I did.

5 Q. Okay. And, Lieutenant Stoner, if you could --
6 just one other question before we get into your findings
7 on this. You said that you checked to see whether it
8 had been collected within a certain time frame?

9 A. That is correct.

10 Q. You indicated that six hours was the -- four to
11 six hours was the outside time period?

12 A. Normally our policy is we do not analyze gunshot
13 residue kits collected six hours after the incident, but
14 we've found through internal testing and research that
15 usually at four hours we don't see anything on a person
16 hands after they've fired a gun.

17 Q. And did you check the time frames here in regards
18 to this particular kit on Ms. Gaines?

19 A. Yes.

20 Q. Okay. And did you verify it was within the time
21 frame that you needed to conduct your examination?

22 A. I did.

23 Q. Now, Lieutenant Stoner, if you could -- do you
24 have your report with you on the stand?

25 A. I do.

1 Q. Okay. What were your findings in regards to
2 whether there was any gunshot residue present on the
3 hands of Ms. Gaines?

4 A. The gunshot residue kit is divided into four
5 parts. You have a particle lift, which is what you use
6 to collect from the hands. You collect one from the
7 right palm, one from the back of the right hand, one
8 from the left palm and one from the back of the left
9 hand. So in my results, the back of the hands I did
10 not find any gunshot residue. On the palms of the
11 hands, on the right palm, I found one round particle
12 that is associated with gunshot residue and on the left
13 palm, I found one round particle that is consistent with
14 gunshot residue.

15 Q. Okay. You say you looked at both of the palms
16 and the backs of the hands, so four different tests,
17 correct?

18 A. Four different samples.

19 Q. Four different samples that you tested. In this
20 case, this kit of Ms. Gaines' hands did not show any
21 gunshot residue to the backs of either hands?

22 A. It did not.

23 Q. Okay. None whatsoever?

24 A. No.

25 Q. And you indicate on the palms of the hands there

1 was how much residue?

2 A. One particle in each area.

3 Q. Okay. In your world, in your opinion, in your
4 field, is that a lot of gunshot residue?

5 A. No, it is not.

6 Q. What would that -- would that be consistent with
7 somebody who had fired a gun recently?

8 A. There are a lot of factors that come into play
9 with gunshot residue because it can be removed so
10 easily. The fact that it's on the palms of the hands,
11 we usually see a lot of transfer to the palms. When you
12 fire a weapon and you're in that vicinity of the gun
13 being discharged, when the cloud forms and deposits
14 these particles on your hands, it will get on the back
15 of your hands. You're less likely to pick up transfers
16 on the back of your hands because you're not touching
17 the back of your hands with things normally, you're
18 using your palms. In this case, finding it on the palms
19 in my opinion is more consistent with transfer, but it
20 also could have been deposited from firing. There's no
21 way to tell.

22 Q. Okay. It could be consistent with someone being
23 in close range of when the gun was fired?

24 A. Right. Whenever we report positive results, the
25 results mean that they could have been in the vicinity

1 of the discharged firearm or they fired a weapon or they
2 touched something that had gunshot residue on it, so any
3 three of those scenarios.

4 Q. Okay. And you said the palm is more likely it
5 is consistent with this transfer, from either touching
6 something that had gunshot residue on it or being in
7 vicinity of the gun, correct?

8 A. Yes.

9 Q. And why is that? When you fire a gun, where are
10 your palms typically?

11 A. It depends on what type of gun you're firing. I
12 mean, between handguns or long guns, but normally your
13 palms are on the weapon when you are firing, you're
14 holding the weapon.

15 Q. Okay. For example, a gun like this. I'm gonna
16 point it toward the floor here. If I were to fire this
17 gun like a normal individual would putting it up to my
18 shoulder, having one hand on the barrel if I'm a
19 right-handed person, where are my palms at that point?

20 A. They are on the gun.

21 Q. Okay. Butted up right against the gun, correct?

22 A. Yes.

23 Q. So when the gun discharges, it creates a cloud,
24 is that what you said?

25 A. It does.

1 Q. All right. And a cloud would more likely make
2 contact with the backs of the hands as opposed to the
3 front and the palms of the hands, correct?

4 **MR. HOWE:** Your Honor, I'm gonna have to ask him
5 not to lead so much.

6 **THE COURT:** All right. Rephrase, please.

7 **MR. STUMBO:** I'll rephrase.

8 BY MR. STUMBO:

9 Q. As far as firing the gun in the manner I just had
10 it positioned, would it seem more likely to have gunshot
11 residue on the backs of the hands or on the palms of the
12 hands?

13 A. On both areas.

14 Q. Okay.

15 A. Because the particles are very small, so you're
16 gonna get it from holding the gun anyway on your palms,
17 but it will deposit on the back of the hands when you're
18 close to that cloud when you're shooting.

19 Q. Okay. The unexposed part would be the backs and
20 not the palms of the hands?

21 A. If you're holding the gun that way, yes.

22 Q. Now I believe you mentioned a moment ago this is
23 a small amount of gunshot residue in your estimation.
24 What's your opinion as to the amount found on the palms
25 here?

1 A. Just the fact that I found one particle is not
2 usually what we see.

3 Q. Okay. What would you normally see with someone
4 who had fired a gun recently? How many particles would
5 you expect to see?

6 A. You can't really make a determination with that
7 because of the time frame of when it was shot, the type
8 of gun, activities they did afterwards. So normally if
9 I fire a gun, take a kit directly afterwards and don't
10 do anything, I don't wash my hands, I don't touch
11 anything, I usually see hundreds of particles, and
12 that's with a Glock 40. That is the one that we test
13 fired. Not for this case, just in general taking
14 gunshot residue kits. So in this case with this type
15 of gun, I don't know what it should produce or would
16 produce.

17 Q. Okay. But if -- you said testing with a Glock 40
18 you would expect to see -- you have seen hundreds of
19 particles?

20 A. I have immediately after firing.

21 Q. If someone goes and completely washes their
22 hands, you know, at a sink with soap and water after
23 they discharge a gun, what would happen with the gunshot
24 residue?

25 A. It would be removed.

1 Q. And just in the course of normal -- a normal day,
2 what happens when you touch stuff? What happens to the
3 gunshot residue?

4 A. Part of the reason we only collect up to six
5 hours after the incident is because anything you do
6 with your hands after gunshot residue is deposited on
7 your hands, will remove it. If you sweat, put your
8 hands in and out of your pockets, wash your hands, touch
9 other things, you're gonna remove that. And your body
10 actually absorbs the residue as well, but after six
11 hours there's no reasonable expectation to find anything
12 on your hands from that incident time.

13 Q. Other than maybe transfer from some other --

14 A. Transfer or recontaminating your hands by
15 touching something.

16 MR. STUMBO: No further questions of Lieutenant
17 Stoner. Please answer any questions the defense may
18 have.

19 THE COURT: Mr. Howe.

20 MR. HOWE: Thank you.

21 CROSS-EXAMINATION

22 BY MR. HOWE:

23 Q. Agent Stoner, of course you indicated things that
24 could decrease the amount of residue. You mentioned
25 washing hands and, of course, touching items, like

1 touching a steering wheel, correct?

2 A. Any item.

3 Q. Any item. Have you ever done any studies on what
4 effect shooting up an opiate like Roxicodone would do as
5 far as getting rid of gunshot residue?

6 A. I have not.

7 Q. Okay. Are there any studies out there as to what
8 effect doing drugs, shooting up drugs in veins would
9 have an effect on gunshot residue?

10 A. I have not read of any, but it may just be I'm
11 not aware of them.

12 Q. Okay. You indicated as part of your job you need
13 to know the estimated time that the weapon was fired
14 because if it's outside that six-hour window y'all just
15 don't do it; is that correct?

16 A. That is correct.

17 Q. Okay. And you indicated you had some notes
18 verifying that. Can I see that note?

19 A. Yes. This is actually the GSR collection sheet
20 that the officer filled out when they took it.

21 Q. Okay. Help me with this particular form, if you
22 -- if you can. Show me where it indicates what time the
23 weapon would have been fired.

24 A. On the first line it has the shooting information
25 line.

1 Q. Right. Okay. Oh, down there?

2 A. At the bottom.

3 Q. Shooting information time is 2 to 2:30 AM?

4 A. Yes.

5 Q. The shooting information time?

6 A. Yes.

7 Q. Not 11:00 PM?

8 A. No.

9 Q. 2 to 2:30 AM?

10 A. That is what was on the GSR collection sheet.

11 Q. Okay. And that was given to you by a
12 representative of the Laurens County Sheriff's
13 Department that it happened at 2 and 2:30 AM on
14 November the 8th and not around 11:00 PM on
15 November the 7th, right?

16 A. No, sir, this is the sheet that I received. It
17 was in the sealed GSR kit.

18 Q. All right. So based on the information that was
19 furnished to you, that you as part of your job do, the
20 window based on what was represented to you by this form
21 is three hours?

22 A. Three -- if you go to 2:00, it's three and a half
23 hours. 2:30 is three hours.

24 Q. Okay. But if the time had been 11:00 PM on not
25 November the 8th, but November the 7th, the time frame

1 would be what?

2 A. Six and a half hours.

3 Q. And what would do then?

4 A. We would not have analyzed it.

5 Q. Okay. May I see that again, please?

6 A. (Handing.)

7 Q. There's also a brief description of the
8 subject's activities and that was on this document as
9 well, correct?

10 A. On this one?

11 Q. Yes.

12 A. Yes, sir. Some of them don't fill that out, but
13 in this case it was.

14 Q. Okay. Could you read that into the record?

15 A. Suspect Number 1 left the crime scene, drove
16 with Suspect Number 2 to the One Stop in Greenwood
17 County. Suspect Number 2 went in store. Suspect
18 Number 1 drove off and went to a trailer on Faith Home
19 Road in Greenwood County.

20 Q. Okay. No indication there that either of those
21 people, and one of them being Ms. Gaines whose GSR you
22 had, went and did drugs somewhere at a different
23 location, is there, ma'am?

24 A. There is not.

25 Q. Okay. But, again, just so we have this, just

1 so I can be clear, that it was represented to you that
2 2 AM to 2:30 AM on November the 8th was when this weapon
3 was fired?

4 A. Yes, sir.

5 Q. Okay. Now you and I talked the other day, I
6 think, on the phone, do you remember?

7 A. Yes, sir.

8 Q. I mean, Friday afternoon, I think, if I'm not
9 mistaken. And you indicated that gunshot residue on
10 clothing takes -- can stay on longer, correct?

11 A. It can.

12 Q. Okay. Have you ever in this particular case been
13 asked to analyze any clothing at all?

14 A. I was not.

15 Q. Okay. And what you can say is for whatever
16 amount that's on there, and you said not very much, but
17 nonetheless there was gunshot residue found on the
18 analysis of Shayla Gaines, correct?

19 A. Yes, sir.

20 Q. Okay. And that could have come, again, from
21 firing the gun, handling the gun, being around the gun,
22 you can't say to any -- beyond a reasonable doubt how it
23 happened?

24 A. No, sir, I cannot. Any three of those scenarios.

25 **MR. HOWE:** Thank you, ma'am.

1 **THE COURT:** All right. Thank you, ma'am. You
2 can step -- I'm sorry. Do you have some else,
3 Solicitor?

4 **MR. STUMBO:** And I do believe this is a
5 housekeeping matter. I know we've already published
6 the results of State's 55, but I would move just
7 officially at this time, if it hasn't already been
8 entered into evidence, State's 55 and 56.

9 **MR. HOWE:** I'm sorry, I can't hear.

10 **THE COURT:** He's seeking introduction of State's
11 55 and 56 at this point. Any objection? The GSR's.

12 **MR. HOWE:** Thank you.

13 **MR. STUMBO:** Just the GSR's.

14 **MR. HOWE:** No, no objection.

15 **THE COURT:** Without objection they'll be in
16 evidence.

17 (State's Exhibit Numbers 55 and 56, GSR Kits,
18 were admitted into evidence.)

19 REDIRECT EXAMINATION

20 **BY MR. STUMBO:**

21 Q. Just one follow-up question, Lieutenant Stoner,
22 and this is a follow-up to what Mr. Howe asked. You
23 said it could be any one of those three possibilities.
24 What is your opinion as to the findings in this case as
25 to what the --

1 **MR. HOWE:** I believe that question's been asked
2 already.

3 **THE COURT:** All right. Repeat the question
4 because I didn't hear the whole thing.

5 BY MR. STUMBO:

6 Q. Okay. What is your opinion as to -- of those
7 three different options, what it could be, based on the
8 amount of gunshot residue? Do you have an opinion?

9 A. Am I allowed to answer? I do have an opinion.
10 In my opinion, I feel it is more likely from transfer,
11 but I cannot rule out the other scenarios.

12 Q. And the option is not just being around the gun,
13 but it could be around a place where gunshot residue is;
14 is that correct?

15 A. You could pick it up from being near a fired
16 cartridge, handling a shot shell, being in the vicinity
17 to where the gun was discharged. If the discharge was
18 near a table and you touch it, you could pick it up from
19 that as well.

20 Q. So you might -- say I'm not even in the room and
21 a gun is fired in that room. If I go in the room and
22 touch a table close to where the gun was fired, could I
23 get gunshot residue?

24 A. Yes, you could.

25 **MR. STUMBO:** Nothing further, Your Honor.

1 **THE COURT:** Recross?

2 **MR. HOWE:** No recross.

3 **THE COURT:** All right. Thank you. You can step
4 down. You are free to go. I appreciate you coming.

5 (Witness excused.)

6 **THE COURT:** All right. We've been at it for
7 about -- court personnel have been at it for about an
8 hour and twenty minutes, so we're gonna go ahead and
9 take about a five, ten minute break. Step to the back
10 and feel free to get something to drink, have a
11 cigarette, if you want to. Don't talk about the case.
12 See you in a minute.

13 (The jury retires to the jury room.)

14 (Recess taken.)

15 (State's Exhibit Numbers 72 and 73, fingerprint
16 standards, were marked for identification.)

17 **BAILIFF:** Let's keep your seats and come back to
18 order, please.

19 **THE COURT:** All right. Let's go ahead and have
20 the jury back out, please.

21 (The jury returns to the courtroom.)

22 **BAILIFF:** All jurors present, Your Honor.

23 **THE COURT:** The record should reflect that the
24 jury is back and seated. The Defendant is present with
25 counsel. Solicitor, if you'll call your next witness.

1 **MR. STUMBO:** The State would call Thomas Darnell
2 to the stand.

3 THOMAS DARNELL,
4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. STUMBO:

7 Q. Good afternoon. Do you go by Mr. Darnell or
8 agent?

9 A. Mister's fine.

10 Q. All right. Mr. Darnell, you work for SLED,
11 correct?

12 A. I do.

13 Q. And what is your job at SLED?

14 A. I am a latent print examiner in the forensic
15 laboratory, which is located in Columbia.

16 Q. All right. Latent prints, you're talking about
17 fingerprint or footprints?

18 A. Yes, sir. I conduct fingerprint comparisons,
19 comparing unknown to known, as well as even bare feet
20 prints compared to known foot prints.

21 Q. How long have you been doing latent print
22 comparisons at SLED?

23 A. Twenty-five plus years.

24 Q. Okay.. About how many cases in that period of
25 time; thousands, hundreds of thousands?

1 A. I would have to probably say thousands.

2 Q. And, if you could, just briefly tell the jury
3 about your education and your training to do latent
4 print work.

5 A. I have a bachelor of science degree in criminal
6 justice from the University of South Carolina. I
7 graduated in 1982. I actually started working with the
8 Richland County Sheriff's Department in '82. In 1990,
9 I started working at SLED. I actually retired in 2009
10 from SLED. I then went back to work with Richland
11 County. I was deployed overseas as a forensic
12 contractor in support of the military and I've now since
13 been rehired back at SLED as a latent print examiner. I
14 was rehired in 2012.

15 During that time, I've taken a number of
16 fingerprint courses, in-state as well as out-of-state
17 courses. I've completed an in-house training program
18 designed by SLED to where I can -- and I completed
19 that program and I was deemed competent to conduct
20 fingerprint comparisons. So in addition to the classes
21 I've taken, at one point I was a certified instructor,
22 able to teach and train other examiners in the science
23 of fingerprints.

24 Q. Okay. Have you ever been qualified as an expert
25 in courts of this state in the field of latent prints?

1 A. Yes, I have.

2 Q. Okay. About how many times?

3 A. At this point, I'd just say a hundred plus, so
4 at least a hundred or so times. Mostly state circuit
5 courts, some Federal courts and a few times I've
6 testified in out-of-state courts as well, but primarily
7 in the state of South Carolina.

8 **MR. STUMBO:** Your Honor, at this time the State
9 would offer Agent Darnell, Mr. Darnell, as an expert in
10 the field of latent print examination.

11 **MR. HOWE:** No objection, Judge.

12 **THE COURT:** All right. Again, ladies and
13 gentlemen, it's been stipulated that Thomas Darnell's an
14 expert in the field of latent print analysis, so he can
15 give his opinion in that particular area. He can give
16 opinion testimony along those lines. It doesn't mean
17 you have to accept it, but it's evidence for you to use.
18 Go ahead, Solicitor.

19 **MR. STUMBO:** Thank you, Your Honor.

20 BY MR. STUMBO:

21 Q. Mr. Darnell, I'm gonna show you several things
22 that have already been premarked for identification
23 purposes in this case. I'm gonna show you first State's
24 Exhibits 59, 60, 61, 62 and 63.

25 **MR. HOWE:** Your Honor, I apologize for

1 interrupting. We have a matter for the court, if we
2 could take up briefly.

3 **THE COURT:** Okay.. Do I need to do it on the
4 record or could we take it up at the sidebar and see
5 where we are?

6 **MR. HOWE:** We could do a sidebar.

7 **THE COURT:** Y'all walk over here, please.

8 (Proceedings held at the bench; not reported.)

9 **THE COURT:** Madam forelady, ladies and gentlemen
10 of the jury, I'm gonna need to take up a matter of law
11 with the attorneys briefly. I'm hoping it won't take
12 too long, but it's going to take at least fifteen
13 minutes. I'm sorry. This came up unexpectedly.
14 Adjourn to the back and don't talk about the case.
15 Thank you very much.

16 (The jury retires to the jury room.)

17 **THE COURT:** All right. Let's go ahead and get
18 back on the record real quick, if we could. At the
19 sidebar it was explained to the Court, and the record
20 should reflect, that while Mr. Darnell was up there I'd
21 observed Mr. Howell over talking to Mr. Mowry and they
22 were exchanging sort of information and notes. This
23 apparently, I guess, came to Mr. Howe's attention when
24 this witness was called as a fingerprint expert. The
25 report that Mr. Howe says he got is a report that's

1 dated January the 25th of 2013, from latent prints,
2 which is signed by Almon Brown, A-L-M-O-N, Brown,
3 forensic scientist. Mr. Howe basically stated that he
4 has that report. Interestingly, Mr. Mowry explained
5 that the report dated January 25th the State does
6 not have and had not seen. The report that the Court
7 has in front of it dated June 13, 2013, is a report
8 that's four pages in length signed by this witness,
9 Mr. Darnell, again, dated June 13, 2013. It identifies
10 Item 31.1 as having a latent impression consistent with
11 Mr. Hollingsworth's prints. Item 34.1, a latent
12 impression identified with the decedent, Mr. Ardis.
13 Item 35, a latent print from the Swiss rolls box
14 belonging to the Defendant. Item 36.1 identified as
15 belonging to the Defendant, and the rest nothing could
16 be identified..

17 All right. So have y'all had a chance to
18 double-check and figure out where we stand and what
19 we've got, gentlemen? Where are we, Solicitor, as are
20 as you're concerned?

21 **MR. STUMBO:** I believe so, Judge. We've
22 exchanged what they had and we didn't and we've
23 exchanged what we had and, I guess, pretty much they
24 didn't, but, Your Honor, the certified chain of custody
25 in this case, which I know we turned over recently,

1 showed a pretty clear path of the latent print items
2 routing through Mr. Darnell for examination and so I
3 -- you know, there again, I'm not sure how the mixup
4 happened with us getting one report and the defense
5 getting the other. I don't even want to speculate as
6 to that at this point. I know Mr. Mowry has been
7 involved with the discovery exchange to this point
8 primarily with Ms. McNeill, so, but be that as it may,
9 Judge, I do believe that sufficient notice has been
10 given. I don't know that there's been any Rule 5 issues
11 attached to this. I do believe Mr. Darnell can testify
12 to the findings that are in his report, but I'm not sure
13 what Mr. Howe's position is at this point.

14 **THE COURT:** Okay. Well, let me try and get a
15 feel initially. Or, Mr. Howe, you got a position on
16 this?

17 **MR. HOWE:** Well, I am -- let me tell you, I am
18 concerned, Judge, because if the State is gonna argue in
19 the end that -- that our client's fingerprints, which
20 were on the Swiss roll box, shows that he was in the
21 kitchen area and may have come from the kitchen area to
22 the -- to the living room and then fired the gun, if
23 that's gonna be an argument, that would obviously cause
24 us concern, as well as the information concerning the
25 latent lift from the interior of the back door of the

1 residence. If that's gonna be an argument they make,
2 then the fact that we didn't get this document until now
3 would certainly cause concern.

4 I can represent to the Court the following. I
5 was taking the latent print witness and I will admit
6 that I did not notice that Mr. Brown's name was on there
7 rather than Agent Darnell. Agent Darnell I am familiar
8 with because he's been with SLED for some time and I
9 knew he was the fingerprint man and I neglected, to be
10 quite candid with the Court, to see that it was Brown
11 and I just assumed that that was the report that -- that
12 Agent Darnell was gonna testify to, but now I see that
13 he's gonna testify to this four-page report that we now
14 received -- that I would represent to the Court that we
15 just received today, so my only concern is I don't know
16 where they may be going with this.

17 And the other concern I have, to be candid
18 with the Court, is sometimes you'll have a fingerprint
19 -- sometimes you'll have a fingerprint expert give an
20 opinion and explain why the fingerprint analysis, the
21 conclusion, did not -- could not give a final conclusion
22 and will usually testify well, there was -- it didn't
23 quite meet our standards, and I would be somewhat
24 concerned with that if that's gonna be testimony
25 elicited from Agent Darnell because I've had that

1 happen before.. I've objected to it and I lost that
2 argument that they could still render that opinion;
3 well, it didn't quite meet our standards, but I did find
4 this, this and this.

5 So perhaps if we can stipulate that the State
6 will make no argument about the -- the Swiss rolls box
7 as well as the back door of the residence in making
8 an argument, then I don't have any problem with it
9 coming in. And we also understand that the agent is
10 not gonna testify to well, it didn't quite meet our
11 standards, but it was close and do that, if we could
12 stipulate to that, then I don't have any problem with
13 it coming in; otherwise, the fact that we didn't get it
14 for whatever reason, I think I would have to -- on
15 behalf of our client, I think I would be doing him a
16 disservice if I didn't object to it under Rule 5.

17 Being put on notice is one thing. And it's
18 clear, Agent Brown -- it had to come from them. He
19 wouldn't have given it to us. We didn't meet this man
20 until today, so it had to come from some part of the
21 prosecution's file. And to be honest with you, that's
22 what I was relying on. It's obvious I was relying on
23 the wrong thing. If I had of seen his name on there, I
24 may have picked up on it or may not.

25 **THE COURT:** All right. Let me ask this.. First,

1 let me state this. The January 25th report, which the
2 Defendant has that the State did not have, indicates
3 that the firearms involved and the shells, apparently a
4 white cup or a couple of white cups, three white cups,
5 were all tested, negative results, nobody identified.

6 **MR. HOWE:** Yes, sir. And may I add one thing
7 while I'm thinking about it? I heard SLED Agent Brown
8 testify that he did develop a fingerprint or that the
9 fingerprint was tested or submitted for testing on the
10 shotgun shell, remember? If the Court recalls that
11 discussion with him about whether or not there would
12 have been any reason to do DNA or fingerprint analysis
13 of the shotgun shell, and I think he referred to his
14 notes and pretty much told me that, yeah, we did get
15 that down there for testing. I think that's what he
16 said.

17 **THE COURT:** Right, and all I'm seeing here is it
18 say results, no fingerprint evidence was developed, and
19 whether that's for lack of testing or they decided that
20 it was just futile, that's -- I don't know. It is what
21 it is, but we haven't had Brown testify, I don't think.

22 **MR. MOWRY:** Yes, sir.

23 **MR. HOWE:** Yes, sir. He was the crime scene guy.

24 **THE COURT:** Yeah. Okay. I'm sorry. Yeah, Al
25 Brown. Al Brown. Yeah, he did testify.

1 **MR. STUMBO:** He signs his name Almon Brown.

2 **THE COURT:** But he does say -- he does say no
3 evidence was developed. What's Item 31 that we're
4 dealing with on the report?

5 **MR. STUMBO:** Judge, it's latents off of the
6 Spirit Zero bottle found in the kitchen, which is in
7 the pictures that have already been admitted.

8 **THE COURT:** Okay. So 31.1 --

9 **MR. STUMBO:** No, State's 14, Your Honor. I'm
10 sorry for interrupting. State's 14 reflects the Sprite
11 Zero bottle --

12 **THE COURT:** Right.

13 **MR. STUMBO:** -- on the counter. Latent prints
14 developed off the Sprite Zero bottle. The second would
15 be the Swiss cake rolls.

16 **THE COURT:** Is that Item 34? Because we've got
17 Item 34.1 and Item 35. Item 35 specifically says Swiss
18 rolls box.

19 **MR. STUMBO:** Correct, which is in State's 15,
20 Swiss cakes found on the counter, which, again, was
21 collected by CSI -- or the crime scene investigator,
22 Mr. Brown.

23 **THE COURT:** All right. What's Item 34.1 that had
24 Mr. Ardis's prints on it?

25 **MR. STUMBO:** The Sprite Zero bottle. The same

1 bottle. It looks like a two-liter bottle.

2 **THE COURT:** And then 36.1 -- or Item 36 --

3 **MR. STUMBO:** That was the back door, Judge.

4 **MR. MOWRY:** Right. Latent lifted from the back
5 door of the residence, Your Honor.

6 **THE COURT:** Okay. Thank you, gentlemen. I'd
7 sort of lost track with some of the exhibits here.
8 Solicitor, what argument is it that you intend to make?
9 I mean, obviously, Mr. Howe, all these people lived at
10 this place, so it's normal I would think that you'd find
11 your client's prints on everything. It's a two-liter
12 bottle, which was obviously a communal Sprite Zero
13 bottle, snack cakes, a dozen to a box, that's communal,
14 too. I mean, I'm trying to really gauge the prejudice
15 level even if they were to be making this argument that
16 -- because obviously your client was in the kitchen at
17 some point during the day presumably. That's normal.

18 **MR. HOWE:** And I understand that, and that's the
19 way it would argue, you know. That's the argument that
20 I'm thinking of that Ms. McNeill or whomever does the
21 closing in this will have to make.

22 **THE COURT:** I mean, what I'm saying is if all
23 of a sudden your client's prints wound up all over the
24 shotgun and Ms. Gaines' prints were not on the shotgun,
25 and you had no notice of that, that's one thing. Prints

1 on a Sprite bottle and Little Debbie cake, you know,
2 that's in an accessible area where everybody can go to
3 and everybody presumably accesses throughout the course
4 of a day or what have you, that's a slightly different
5 animal. What's the inference that -- where are y'all
6 going with that?

7 **MR. STUMBO:** Well, Your Honor, it's been of very
8 small probative value, but obviously we have no idea
9 what to anticipate from the defense. They don't have to
10 tell us what their defense is.

11 **THE COURT:** Right.

12 **MR. STUMBO:** So ultimately just to show presence
13 in the house. I mean, I don't think there's any way
14 from the fingerprints you can tell when he touched the
15 Sprite bottle or touched the Little Debbie cakes in
16 proximity to the shooting. I don't think there's any
17 argument we can make as to that. Just simply presence
18 in the house. At some time close enough to the time of
19 this incident there was a fingerprint left.

20 **MR. HOWE:** Your Honor, may I be allowed to have
21 co-counsel give her input on this?

22 **THE COURT:** By all means. Go ahead, Ms. McNeill.

23 **MS. McNEILL:** Your Honor, I'm willing to
24 stipulate that my client lived in the house. I mean --

25 **MR. HOWE:** We'll admit that.

1 **MS. McNEILL:** I mean, we're going to admit that.

2 **MR. STUMBO:** And I concede that, Your Honor,
3 but I still think we have the right to put up our case.
4 I mean, jurors hold stuff against us if we don't tell
5 them about that's part of the investigation and I think
6 that's -- that's more or less where we're going.

7 **THE COURT:** Sure. And the record should reflect
8 that it's obvious just from looking at the demeanor of
9 the attorneys involved in this, I've tried cases with
10 everyone here, everybody tries to keep it aboveboard,
11 and I'm quite certain that Mr. Howe and the defense did
12 not get the report from June 13th and for whatever
13 reason I think it may have been just a shuffling of
14 papers or something --

15 **MR. MOWRY:** Your Honor?

16 **THE COURT:** -- you may have given them the
17 original or something, Mr. Mowry, but go ahead.

18 **MR. MOWRY:** Could I ask that you hear from Walter
19 Bentley on that?

20 **THE COURT:** Sure.

21 **MR. MOWRY:** He and Ms. McNeill met on this a
22 couple of weeks ago to go through the items in our file
23 to make sure there wasn't anything we'd left out and I
24 think what he says is -- or has to say is of note to the
25 Court.

1 **THE COURT:** All right. Go ahead, Mr. Bentley.
2 What do you want to tell me?

3 **MR. BENTLEY:** I met with Ms. McNeill a few weeks
4 ago and we actually discussed the latent prints and
5 actually -- as she said at the sidebar a second ago, we
6 actually discussed it and her comment at the sidebar
7 was, yes, we did talk about it, but I didn't think it
8 was being introduced because he lived in the house, but
9 we did discuss those particular lifts, specifically on
10 the Spite Zero and Swiss cake rolls in that meeting.
11 I didn't give her the report, but we did have a
12 conversation about it.

13 **THE COURT:** All right.

14 **MS. MCNEILL:** Your Honor, that is correct. I
15 will agree with Mr. Bentley. You know, Mr. Bentley and
16 I have been meeting very, very frequently. I've been
17 appointed to Mr. Hollingsworth's case since day one on
18 this case. Mr. Mowry has been the prosecutor the entire
19 time and this report, this -- the original report that
20 I gave Your Honor, the one that we had testing the
21 shotgun shells and the two guns, the double barrel
22 shotgun and the .357, that is the latent print report
23 that I received from the Solicitor's office. Now papers
24 have been getting mixed up such as that other
25 handwritten note, I didn't have that, but that's just

1 an oversight. I'm not saying that they have withheld
2 discovery at all in this case. There's a lot of paper
3 and as Your Honor can see, my trial notebook is huge.

4 **THE COURT:** Right.

5 **MS. McNEILL:** But, again, we're willing to
6 stipulate that my client lived in the house. You know,
7 at this point I'm lead counsel on this case and I don't
8 know that a fingerprint from a Sprite bottle or a Swiss
9 cake roll or whatever really does prejudice us. If it
10 had been the opposite and, as Your Honor stated before,
11 all of a sudden prints were on, you know, murder weapons
12 and things of that nature, obviously we would object
13 vehemently.

14 **THE COURT:** Okay. Here's how I'm gonna handle
15 it. The Solicitor makes a valid point that -- the
16 Court tries to stay out of the way. At least that's my
17 personal way of trying to try these cases. I should be
18 the least important person here. The focus should be on
19 the witnesses and to a lesser extent on the attorneys,
20 so I'm gonna allow the State to try the case the way it
21 wants to. This is a very minimal point and the defense
22 has offered to stipulate, the State doesn't want to,
23 that's fine. If this was a more substantial point,
24 again, the prints found on the shotgun and the Defendant
25 did not know about that, we might be talking something

1 else, but we're talking about a Sprite bottle and a box
2 of snack cakes that presumably anyone who lived in that
3 home would have access to. So if that evidence -- if
4 that's the intent of the State going forward, I'll allow
5 them to proffer that evidence through this witness.

6 **MS. McNEILL:** Your Honor, one more additional
7 point.

8 **THE COURT:** Sure.

9 **MS. McNEILL:** I have a request that, you know,
10 the report that I was provided with that did test for
11 latent prints on the gun, Items 21, 22, 23, 26, 28, 29
12 and 30, what I would, I guess, is stipulate there were
13 no prints -- now that Al Brown has completed his
14 testimony for today, stipulate that no prints were found
15 on those items.

16 **MR. MOWRY:** And, Your Honor, quite frankly, I
17 think the Solicitor and I would agree that if she
18 desires, we will enter that as a State's exhibit.

19 **THE COURT:** All right.

20 **MS. McNEILL:** Yes, that's fine with us.

21 **THE COURT:** Okay. So you're going to introduce
22 the report of January 25th as a State's exhibit?

23 **MR. MOWRY:** Yes, sir. Mr. Brown's talking about
24 the shotgun, the .357, Item 22 --

25 **THE COURT:** The shells and Styrofoam cups?

1 **MR. MOWRY:** -- the shells and the Styrofoam cups,
2 yes, sir. We're gonna enter that as a State's exhibit.

3 **THE COURT:** All right.

4 **MS. McNEILL:** Thank you.

5 (State's Exhibit 74, Brown fingerprint report,
6 was marked and admitted into evidence.)

7 **THE COURT:** All right. And just so that the
8 record is clear as far as what we're talking about,
9 I'm gonna have the two SLED reports marked as Court's
10 exhibits. The report of January 25th I wrote at the
11 top Defendant, represented by Delta, got and then the
12 State didn't have. On the report of June 13th, I
13 represented that as Delta didn't get, State had. I've
14 signed my name at the bottom of the first page of each
15 of the reports and I've included my judicial code
16 number underneath my signature, so those will be
17 Court's exhibits not to go back to the jury, they're
18 just Court's exhibits, whatever we're up to.

19 **MR. HOWE:** Thank you, Your Honor.

20 (Court's Exhibit Number 2, SLED Report of
21 1/25/13 and 3, SLED Report of 6/13/13, were marked
22 for identification.)

23 (The jurors returned to the courtroom.)

24 **BAILIFF:** All jurors present, Your Honor.

25 **THE COURT:** All right. Ladies and gentlemen, I

1 apologize for the break and the delay in proceeding.
2 We're now gonna receive the testimony of Mr. Darnell.
3 I think we've got it all sorted out, so go ahead,
4 Solicitor, please. You may proceed, sir.

5 **MR. STUMBO:** Thank you.

6 BY MR. STUMBO:

7 Q. Mr. Darnell, I believe before we broke I'd handed
8 you State's 59 through 63, five different items here.
9 Could you look through those and identify -- and see if
10 you recognize them?

11 A. Yes, I can.

12 Q. Okay. And what are those?

13 A. These are five three-by-five cards. They
14 have the lab number and my initials on the front and
15 the back side. These are actually latent lifts or
16 fingerprint lifts that were made by an agent and
17 ultimately submitted for comparison.

18 Q. Okay. Were they marked in any way by item
19 number?

20 A. Yes, they are. My item numbers are 31, 32, 33,
21 34 and 35.

22 Q. Okay. And did you ultimately analyze those as
23 part of your work in this case?

24 A. Yes, I did.

25 **MR. STUMBO:** Okay. Your Honor, I move State's 59

1 through 63 into evidence.

2 **THE COURT:** Without objection?

3 **MR. HOWE:** Can I see those, Judge?

4 **THE COURT:** Sure.

5 **MR. HOWE:** No objection, Judge.

6 **THE COURT:** They will be in evidence.

7 (State's Exhibit Number 59 through 63, latent
8 lifts, we admitted into evidence.)

9 BY MR. STUMBO:

10 Q. Next I'm gonna show you, Mr. Darnell, State's
11 Exhibits 69, 70 and 71. Do you recognize those items?

12 A. Yes, I do. These are what we call postmortem
13 fingerprints, standard prints, known prints, that were
14 taken of the victim in this case, Mr. Bill Ardis, and
15 each of these items has my initials to allow me to be
16 able to identify them at any given time.

17 Q. Okay. State's 64, 65, 66, 67 and 68, so five
18 more. Do you recognize State's 64 through 68?

19 A. Yes, I do.

20 Q. Okay. Did you analyze those cards as part of
21 your work in this case?

22 A. I did.

23 Q. Okay. Did you turn those back into the local
24 law enforcement agency when you got done with them?

25 A. Yes, sir.

1 Q. Okay. Just a couple of more. I'm gonna show you
2 State's 72 for ID purposes. Can you identify that?

3 A. Yes, I can.

4 Q. All right. What is that?

5 A. This is a standard fingerprint card with the name
6 Shayla Jordan Gaines at the top.

7 Q. Okay. Is that -- that would be Shayla Gaines'
8 fingerprints?

9 A. That's correct. It would be known prints taken
10 from this individual and her name does appear at the top
11 of the card.

12 Q. Okay. And I want to show you State's 73 as well.
13 State's 73, do you recognize that?

14 A. Yes, I do. This is also a second known
15 fingerprint card bearing the name Phillip Heath
16 Hollingsworth at the top. Again, these would be known
17 prints that were taken from Mr. Hollingsworth.

18 Q. Okay. Did you analyze this card and use it for
19 comparison in your analysis?

20 A. Yes, I did.

21 Q. All right. So it would be fair to say that
22 State's 59 through 68, which were ten latent print
23 cards, were compared to these three standards; is that
24 correct?

25 A. That's correct, yes, sir.

1 Q. All right. Standards of Bill Ardis, correct?

2 A. Correct, Bill Ardis.

3 Q. And a standard of Shayla Gaines?

4 A. Yes, sir.

5 Q. And a standard of Phillip Hollingsworth?

6 A. That would be correct, yes, sir.

7 Q. Okay. Now if you could -- did you produce a
8 report as part of your analysis here?

9 A. I did, yes, sir.

10 Q. Okay. And what were your findings? Did any of
11 these latent prints that were submitted by the crime
12 scene investigator match up with any of these three
13 individuals?

14 A. Yes, some of them did. Yes, sir.

15 Q. Would you tell the jury what the findings were.

16 A. On my Item Number 31, which is a latent lift
17 from a two-liter Sprite Zero bottle, on that particular
18 lift I found one impression or one fingerprint to be
19 identified to Mr. Phillip Heath Hollingsworth. On my
20 Item Number 34, which was also a latent lift from --
21 or a fingerprint lift from the two-liter Sprite Zero
22 bottle, I also found an impression on that lift -- or
23 found a partial fingerprint that was identified to
24 Mr. Bill Ardis. My Item --

25 Q. Let me stop you right there, Mr. Darnell. The

1 first two items you mentioned were latents from the
2 Sprite Zero bottle?

3 A. Yes, sir.

4 Q. Okay. Item 31 and Item 34.1?

5 A. That's correct.

6 Q. Okay. Which would be part of the State's
7 exhibits you just identified?

8 A. Yes, sir.

9 Q. All right. Okay. Did you have any other
10 matches?

11 A. Yes, sir, I did.

12 Q. All right. Could you tell the jury what those
13 were?

14 A. Item 35 was a latent lift from a Swiss rolls box,
15 and that print was identified as having been made by
16 Phillip Heath Hollingsworth, and I had another lift
17 that came from the interior of the back door of the
18 residence, and it also was compared and matched to -- or
19 identified to Phillip Heath Hollingsworth.

20 Q. Okay. So total you had four matches; is that
21 correct?

22 A. Four matches, yes, sir.

23 Q. Two of which were latents from the Sprite Zero
24 bottle; is that correct?

25 A. That's correct.

1 Q. And one more which was a latent from the Swiss
2 roll box?

3 A. Yes, sir.

4 Q. And the fourth one was labeled as the back door?

5 A. Interior glass -- I'm sorry. Interior of the
6 back door of the residence, yes, sir.

7 Q. Did you test the other latents as well or compare
8 those to these three standards?

9 A. Yes, I examined all ten latent lifts that were
10 submitted and I have the results published in my report.

11 Q. Okay. Do you have that report with you?

12 A. Yes, sir.

13 Q. Okay. If I may see it?

14 A. (Handing.)

15 Q. Do you have a copy without your writing on it,
16 agent?

17 A. No, sir, I don't.

18 **MR. STUMBO:** Your Honor, if I may approach the
19 witness?

20 **THE COURT:** Sure.

21 Q. I'm handing you a report. Is that an accurate
22 copy of your report in this case?

23 A. Yes, it is.

24 Q. And your complete findings?

25 A. Yes, sir.

1 **MR. STUMBO:** Okay. Your Honor, the State would
2 offer this into evidence at this time.

3 **THE COURT:** All right. That's the report dated
4 what?

5 **MR. STUMBO:** June 13, 2013.

6 **THE COURT:** No objection?

7 **MR. HOWE:** No objection, Your Honor.

8 **MR. STUMBO:** If I could have that marked, Your
9 Honor. I believe that would be State's 75, Judge.

10 **THE COURT:** Both are in evidence. And the other
11 report was 74?

12 **MR. STUMBO:** That's correct, judge.

13 **THE COURT:** Both in evidence, 74 and 75.

14 (State's Exhibit 75, Darnell latent print report,
15 was marked and admitted into evidence.)

16 **MR. STUMBO:** And, Your Honor, we would also move
17 into evidence at this time State's 64 through 68, which
18 are -- sufficient foundation having been laid, these are
19 the latents submitted by crime scene.

20 (State's Exhibit 64 through 68, latent print
21 cards, were admitted into evidence.)

22 **MR. STUMBO:** We would also move into evidence
23 69, 70 and 71, which are the prints from Mr. Ardis,
24 postmortem prints. State's 72, which are the prints of
25 Ms. Gaines, and State's 73, which is the print card for

1 the Defendant, Mr. Hollingsworth.

2 **THE COURT:** All right. Without objection?

3 **MR. HOWE:** Without objection.

4 **THE COURT:** Very good. Those should also be in
5 evidence. So I've got 59 through 68, 74 and 75, 69
6 through 73, all in evidence.

7 (State's Exhibit Numbers 69, 70 and 71, victim's
8 fingerprint standard, Exhibit Number 72, fingerprint
9 card for Shayla Gaines, and Exhibit Number 73,
10 fingerprint card for Phillip Heath Hollingsworth, were
11 admitted into evidence.)

12 BY MR. STUMBO:

13 Q. Just a couple more questions. Mr. Darnell, your
14 expertise would be just the comparison to see if there's
15 a print that matches another print, correct?

16 A. That would be correct, yes, sir.

17 Q. And there's no way for you to tell what time
18 somebody left those prints?

19 A. No, sir. There's no way to age a fingerprint.

20 Q. Just that it was left, correct?

21 A. Just that it was left and that it was made by a
22 certain individual.

23 **MR. STUMBO:** Thank you. Please answer any
24 questions Mr. Howe may have or Ms. McNeill. Thank you,
25 Judge.

CROSS-EXAMINATION

BY MR. HOWE:

Q. Agent Darnell, give me just a second to find the report. Referring to your report, what you analyzed was a Swiss rolls box, a Sprite Zero bottle, the back door of residence, interior glass of back door of residence, exterior of driver's side window of Ford truck, the interior front passenger door window of Ford truck. I think those -- are the things, I think, you analyzed; is that right? Did I leave out any?

A. I think I saw it would be a total of ten, ten latent lifts that were submitted.

Q. All right. Now you indicated you can't -- you clearly said you don't know when anything's put there, but the items that you found that you identified for somebody, would it be a fair statement they're household-type items?

A. Yes, sir. Yes, sir.

Q. Okay. Somebody who would maybe live in the house, for instance?

A. Yes, sir.

Q. Okay. Now I'm gonna show you what's now in evidence as State's Exhibit Number 74, and ask you to take a look at that. Have you seen that?

A. No, sir, I have not.

1 Q. Okay. Take a minute and read that over, if you
2 can. It's just the two pages right there.

3 A. (Witness reading document.)

4 Q. All right. That's the Crime Scene Investigator
5 Brown's report; is that correct?

6 A. Yes, sir. It does appear to be signed by him,
7 yes, sir.

8 Q. Okay. And you know him and y'all work together,
9 et cetera?

10 A. Sure.

11 Q. Yes, sir. And apparently, as I'm reading the
12 report, he attempted to get fingerprint evidence and
13 develop it for analysis by somebody like you. Is that
14 what he was doing?

15 A. Yes, sir.

16 Q. Okay. And what he attempted to get fingerprint
17 evidence from and submit for analysis was a Vulcan
18 double barrel shotgun. I'll just read them out to you.
19 Let me grab my copy of the report so we can speed this
20 along. It would be the Vulcan double barrel shotgun; is
21 that right?

22 A. Yes, sir.

23 Q. A Rossi .357 Magnum pistol, correct?

24 A. Yes, sir.

25 Q. A Remington 12 gauge shotgun shell from Marker

1 18?

2 A. Yes, sir.

3 Q. A Remington 12 gauge shotgun shell from Marker 3,
4 correct?

5 A. Yes, sir.

6 Q. A white cup -- actually two separate white cups
7 -- actually three white cups in a row from Markers 9, 10
8 and 11, correct?

9 A. Yes, sir.

10 Q. All right. And on all of those no fingerprint
11 evidence was developed at all, correct?

12 A. According to this report, yes, sir, that would be
13 correct.

14 Q. Okay. That means nothing was given to you to do
15 further analysis with?

16 A. That's right.

17 **MR. HOWE:** Okay. Thank you.

18 **MR. STUMBO:** Just briefly, Judge.

19 **THE COURT:** Yes, sir.

20 REDIRECT EXAMINATION

21 BY MR. STUMBO:

22 Q. The report that Mr. Howe just referenced, that
23 was from Crime Scene Investigator Brown?

24 A. Yes, it was.

25 Q. And if he doesn't find fingerprints in his

1 estimation that are worth -- or having value for
2 identification, you would never see those; is that
3 correct?

4 A. That's -- that's a fair statement, yes, sir.
5 That would be correct.

6 Q. So it would be fair to say he screens out what he
7 believes wouldn't be worth your time looking at?

8 A. That would be right, yes, sir.

9 Q. And that would be documented in his report, which
10 is State's 74, which was just shown you?

11 A. Yes, sir.

12 Q. His signature is on the back?

13 A. Correct, Almon Brown.

14 **MR. STUMBO:** Thank you, sir. No further
15 questions. We would ask that Mr. Darnell be released.

16 **THE COURT:** All right. Thank you for coming,
17 sir. You're free to step down, free to leave. Have a
18 good day.

19 **THE WITNESS:** Thank you.

20 (Witness excused.)

21 **THE COURT:** Call your next witness, Solicitor.

22 **MR. STUMBO:** Thank you, Judge. The State would
23 call Amanda Webb to the stand.

24 AMANDA WEBB,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. STUMBO:

3 Q. Good afternoon. You go by Agent Webb or
4 Mrs. Webb or Ms. Webb?

5 A. Ms. Webb's fine.

6 Q. Ms. Webb, you work for SLED?

7 A. Yes, sir, I do.

8 Q. Okay. And what do you do at SLED?

9 A. I'm a forensic DNA analyst.

10 Q. Okay. And how long have you been analyzing DNA
11 cases with SLED?

12 A. A little over six years.

13 Q. Could you tell the jury just a little bit about
14 your education and training to be a DNA analyst?

15 A. I have a bachelor's of science degree in forensic
16 chemistry and I also have a master's of science in
17 forensic science, both of those from Marshall
18 University, and upon completion of those degrees, I
19 was hired on at SLED and did my training to become an
20 independent analyst in DNA.

21 Q. Okay. And you said you've been at SLED for six
22 years. Have you worked in the DNA department that
23 entire time?

24 A. Yes, I have.

25 Q. About how many cases have you worked on in your

1 six years?

2 A. I think over six hundred.

3 Q. Okay. Have you ever testified in a court like
4 this as an expert?

5 A. Yes, I have.

6 Q. Okay. How many times have you been qualified as
7 an expert?

8 A. Over twenty-five times.

9 **MR. STUMBO:** Judge, the State would offer Amanda
10 Webb as an expert in the field of DNA analysis.

11 **MS. McNEILL:** No objection.

12 **THE COURT:** Again, ladies and gentlemen, Ms. Webb
13 has been certified to be an expert in the field of DNA
14 analysis, so she can give opinion testimony in that
15 area. She's not limited to simply something that she
16 observed with her senses. It's evidence for you to use
17 as you deem appropriate. You can continue, Solicitor.

18 **MR. STUMBO:** Okay. Thank you, Judge.

19 BY MR. STUMBO:

20 Q. As part of those six hundred some odd cases
21 you've worked on at SLED, did you have occasion to be
22 involved with a case involving this Defendant, Phillip
23 Hollingsworth?

24 A. Yes, I did.

25 Q. Okay. And did you analyze evidence that was

1 submitted to your department in this case?

2 A. Yes, sir.

3 Q. And you documented those findings in a report?

4 A. Yes, I did.

5 Q. And you gave that report to the State for our
6 review?

7 A. Yes, I did.

8 Q. Now who submitted the evidence in this case?
9 Which agency, I should say.

10 A. That would be the Laurens County Sheriff's
11 Office.

12 Q. Okay. I'm gonna show you -- I'm gonna hand you
13 several items here that have already been premarked for
14 identification. I'm gonna pass you up, Ms. Webb,
15 State's 51, 52, 53, 57 and 58 at this time. Actually,
16 let's just take them one at a time. I'm gonna show you
17 State's 51 to start with, if I could. Do you recognize
18 that?

19 A. Yes, I do.

20 Q. Okay. What is State's 51?

21 A. This is a dry blood standard from the victim,
22 Bill Ardis, and the purpose of this is I can get the DNA
23 from this and I know that the DNA has comes from the
24 victim, so I can develop a DNA profile from the victim
25 and then compare it to any DNA profiles developed from

1 any evidentiary samples.

2 Q. Okay. So State's 51, which is labeled as
3 Mr. Ardis's blood standard, you did analyze this and
4 develop the DNA standard?

5 A. Yes, I did.

6 Q. All right. State's 45, let me show you that one
7 now. If you could take a look at that. Can you
8 identify that package?

9 A. Yes, I can. This is buccal swabs from Phillip
10 Hollingsworth and what buccal swabs are is you take a
11 Q-tip and it's rubbed on the inside of the cheek and the
12 skin cells inside of the cheek are called buccal cells
13 and so that's why we call them buccal swabs. So that
14 gets the DNA from a known individual and, again, I can
15 use that to develop a DNA profile that I know is from
16 that individual and then compare it to any evidentiary
17 samples.

18 Q. Okay. And that was -- State's 45 was a package
19 that you did analyze?

20 A. Yes, I did.

21 Q. Or you analyzed the contents of the package
22 obviously?

23 A. Yes, correct.

24 Q. When you received it, it was sealed up?

25 A. Yes, that's correct.

1 Q. Okay. The same with State's 51, when you
2 received it, was it completely sealed?

3 A. Yes, it was.

4 Q. Okay. And you cut the seal to open the contents
5 to analyze it?

6 A. Yes, I did.

7 Q. All right. State's 52, can you identify that?

8 A. Yes, that is buccal swabs from Shayla Gaines.

9 Q. Okay. And did you -- was this sealed up when you
10 received it for analysis?

11 A. Yes, it is.

12 Q. Okay. And were you the one that cut it open and
13 analyzed the contents?

14 A. Yes.

15 Q. Okay. Did it appear to be manipulated or
16 tampered with in any way when you received the package?

17 A. No, not at all.

18 Q. Okay. And you ultimately did analyze this and
19 develop a DNA profile off of the contents of State's 52?

20 A. Yes, I did.

21 Q. All right. State's 53, if could you identify
22 that for the jury.

23 A. Yes, this is swabs from a red stain on a Rossi
24 .357 Magnum.

25 Q. Okay. When you -- did you receive this package

1 as part of the evidence in this case?

2 A. Yes, I did.

3 Q. Was it sealed when you received it?

4 A. Yes, it was.

5 Q. Okay. Were you the one that cut it open?

6 A. Yes, I cut it open.

7 Q. And did it appear to have been tampered with or
8 added to in any way when you received it?

9 A. No, it did not.

10 Q. Okay. And did you ultimately conduct an analysis
11 of the contents of State's 53?

12 A. Yes, I did.

13 Q. This little plastic tube in there, what is that?

14 A. When I get the swabs, I cut the cotton tip off of
15 the swab and I add some chemicals to it and I put it in
16 a little tube and after I perform my analysis there's
17 some liquid left over and we retain that liquid in case
18 there needs to be any additional testing and someone can
19 go back and retest that liquid and develop the same
20 profile that I got before.

21 Q. Okay. So this plastic tube is something you put
22 back in there that's residue from the swab?

23 A. Yes, it helps to preserve the sample remaining.

24 Q. Okay. Did you seal this package back up like the
25 -- did you seal all these packages back up to send back

1 to law enforcement?

2 A. Yes, I did.

3 Q. All right. I'm going to show you State's 57 and
4 -- well, let's go one at a time. State's 57, what is
5 that?

6 A. This is swabs from the right front blue jean
7 pocket of the victim.

8 Q. Okay. And did you -- are your initials on that
9 packet?

10 A. Yes, they are.

11 Q. Okay. And did you put your initials on there
12 after you sealed it back up?

13 A. Yes, I did.

14 Q. Okay. And did you analyze the contents of the
15 swabs here?

16 A. I did, yes.

17 Q. And they're identified as what jeans pocket?

18 A. Yes, right front blue jeans pocket.

19 Q. All right. State's 58. Similarly are your
20 initials on State's 58?

21 A. Yes, they are.

22 Q. Okay. Did you analyze that as part of your work
23 in this case?

24 A. Yes, I did.

25 Q. And what is State's 58 labeled as?

1 A. That is the swab from the trigger face of a
2 double barrel shotgun.

3 Q. Okay. Did you analyze these swabs?

4 A. Yes, I did.

5 Q. And when you received State's 58, was it in a
6 sealed package?

7 A. Yes, it was.

8 Q. Okay. If any of these had been not sealed up at
9 the time you received them, would that have been of some
10 concern?

11 A. Yes. The protocol I would have followed is to
12 not perform any analysis, to make notes in my lab notes
13 and then call the investigator who submitted the items
14 and ask about the sealing problem, but these were all
15 sealed properly.

16 Q. Okay. So other -- those that handle this
17 evidence within the SLED lab, what is their protocol as
18 to handling this evidence?

19 A. Yes, it would have been the same thing. They
20 would have checked to make sure they had the proper
21 seals before they opened it and then if they had opened
22 the pouch and sealed it, they would have initialled and
23 put the date, and so I can tell who's been within the
24 packages before it's gotten to me, and that's how I can
25 recognize it, too. It has my initials and the date on

1 it.

2 Q. And if you had seen any evidence that these
3 packages were not in tact and of sufficient integrity,
4 would you have tested them?

5 A. Only if I would have had that issue resolved, but
6 there wasn't an issue with the packaging.

7 Q. That wasn't a problem with anything you received
8 in this case?

9 A. No, it wasn't.

10 Q. After you finished analyzing these items, you
11 packaged them back up yourself?

12 A. Yes, I did.

13 Q. And you put SLED tape on it here?

14 A. Yes, I did.

15 Q. And you put your initials on all those items,
16 correct?

17 A. That's correct.

18 Q. And at that point they're packaged up for the
19 purpose of going back to the agency that submitted them?

20 A. Yes, that's correct.

21 Q. And ultimately for possibly coming into court and
22 presenting today?

23 A. Yes.

24 MR. STUMBO: Your Honor, at this time the State
25 would offer State's 45, 51, 52, 53, 57 and 58 into

1 evidence.

2 **THE COURT:** All right. Any objection?

3 **MS. McNEILL:** No objection.

4 **THE COURT:** Without objection. You said 45, 51
5 through 53, 57, 58? Is that what I've got?

6 **MR. STUMBO:** 52 as well, I think.

7 **THE COURT:** Right.

8 **MR. STUMBO:** It's 45, 51, 52, 53, 57 and 58. Six
9 items.

10 **THE COURT:** In evidence without objection.

11 **MR. STUMBO:** Thank you, Judge.

12 (State's Exhibit Numbers 45, 51, 52, 53, 57 and
13 58, DNA swabs, were admitted into evidence.)

14 BY MR. STUMBO:

15 Q. Now, Ms. Webb, these items that are on the bench
16 in front of you there on the rail, you did analyze those
17 for -- were you able to develop a DNA profile for each
18 one of these items?

19 A. Yes, sir, I was.

20 Q. Okay. And can you explain to the jury -- let's
21 back up a little bit on this. Can you explain to the
22 jury what exactly DNA is? What does it stand for?

23 A. Sure. DNA stand for deoxyribonucleic acid, and
24 basically what it is, is it's found in the cells of the
25 body, found in blood, skin cells, body fluids, and

1 essentially what it's used for in forensics is anything
2 that might have potential DNA on it at a crime scene
3 is collected and then known standards like the buccal
4 swabs or a blood standard are collected from individuals
5 and then I can develop DNA profiles from the crime scene
6 and individuals and compare them and see if someone may
7 have left some DNA behind, if it matches them or doesn't
8 match them.

9 Q. Okay. And is DNA unique to you as a person?

10 A. Yes, that's correct. DNA is unique to
11 individuals except for identical twins. Identical twins
12 do have the same DNA.

13 Q. And as part of a comparison, are you able to make
14 a probability of how likely it is that this DNA standard
15 matches what you find on any given piece of evidence?

16 A. That's correct. Any time I say that DNA matches
17 the person, then a statistical calculation is done and
18 that just provides weight to the match to show how
19 strong of a match it is.

20 Q. Okay. These items of -- I believe 45 you
21 indicated was -- it is the standard for Phillip
22 Hollingsworth, this package here, State's 45. You were
23 able to develop a profile for that, correct?

24 A. Yes, correct.

25 Q. You were able to develop the profile of State's

1 51, which was Mr. Bill Ardis's blood?

2 A. Yes, correct.

3 Q. You were able to develop a profile from the
4 buccal swab of Shayla Gaines, which is State's 52?

5 A. Yes, correct.

6 Q. Okay. Now as part of your report, do you also
7 have -- well, let me do it this way first. I'm gonna
8 show you what is in evidence at this point as State's
9 36. Would it be fair to say this is just a blown up
10 copy of the chart that's within your report? You can
11 take a look at it.

12 A. Yes, that is.

13 Q. Okay. And if you could just -- I don't want to
14 block Judge Addy.

15 **THE COURT:** You're fine. Block me if you need
16 to.

17 Q. I'm gonna refer you to this top line here where
18 it says case items and it has these numbers -- a series
19 of numbers and letters, D8S1179 and then so forth and so
20 on across the top. What are those? What are each of
21 these columns? What do they signify?

22 A. Each of those columns are a location that the DNA
23 is found on a chromosome and the chromosomes are within
24 the cells of the body, so it's just a location where the
25 DNA is found for our testing.

1 Q. Okay. Those are points on the strand that you
2 refer to as the DNA?

3 A. Yes. Yes.

4 Q. All right. And so these numbers within each box
5 here, what -- what do those mean?

6 A. Forensic DNA testing depends on how many times
7 DNA is found to repeat in a certain location. We like
8 to sort of compare it to a box -- a train car. How many
9 train cars you see on a train is like how many times
10 your DNA is repeating, and you get half of your DNA from
11 your mother and half from your father, so you can find
12 two numbers for one person at one location because --
13 for instance, the top number in the corner is a 13/14.
14 So he has 13 repeats of DNA and 14 repeats of DNA; 13 on
15 one chromosome and 14 on the other chromosome because
16 there's pairs of chromosomes in cells. So essentially
17 the mother passed down either 13 repeats or 14, then the
18 father passed down either 13 or 14. I can't tell which
19 one came from which parent, I can just tell that there's
20 that number of repeats there, and so then essentially
21 what I do for my testing is compare those numbers of
22 repeats to like evidence items and see if the same
23 numbers are present or not. It's just basically okay,
24 is this 13/14 present in the evidentiary item or not,
25 and that's how I do my comparison or my analysis.

1 Q. Okay. So this top line would be each box or each
2 sector that appeared that's identified as Bill Ardis,
3 which would be State's 51, that would be the standard
4 for Mr. Ardis across this top line?

5 A. That's correct. The DNA profile is all of those
6 locations as a whole.

7 Q. And the last column is an XY or either an X.
8 What's the difference between XY and X?

9 A. Sure. That's our sex typing chromosome, so what
10 that means is if there's an XY, there's male DNA present
11 and only an X is female DNA.

12 Q. So as we see here, Shayla Gaines is just an X as
13 compared to Phillip Hollingsworth and Bill Ardis, which
14 are XY, correct?

15 A. Yes, that's correct.

16 Q. Okay. Now is it possible when you analyze a
17 piece of evidence or swab that has come off of a piece
18 of evidence that there could be more than one DNA
19 profile in that swab?

20 A. Yes, correct. There can be -- that's what we
21 call a mixture of DNA. A lot of time with touch items,
22 especially items where -- we call it touch DNA where
23 people might have handled or touched -- usually
24 multiple people have handled those items or touched
25 those locations and so you get the mixture of DNA of

1 multiple individuals.

2 Q. Okay. And are you able to develop a probability
3 as to those individuals' profiles and the combination of
4 those profiles?

5 A. Yes.

6 Q. And State's 53, which was -- let's start with
7 that one. That was two swabs of red stains from the
8 Rossi .357 Magnum, I believe.

9 A. Yes.

10 Q. I'm gonna refer you back to the chart here so
11 the jury can see it. I'll hand you a laser pointer.
12 The top button is the light button here.

13 A. Okay.

14 Q. Okay. And what I'm gonna refer you to, Ms. Webb,
15 is this line that has the Number 9. It says swabs from
16 right front blue jeans pocket of victim. That would be
17 the swabs from State's 53, which are in evidence,
18 correct?

19 A. Yes, correct.

20 Q. Okay. Were you able to develop or make any
21 findings as to the DNA profile that you were able to
22 develop off of this swab?

23 A. Yes, I was.

24 Q. Okay. What were your conclusions there?

25 A. That the DNA profile developed on this item is a

1 mixture of at least two individuals, so there's at least
2 two people's DNA showing up on this item, and the DNA
3 profile developed from the major contributor to this
4 item matches the DNA profile of Bill Ardis.

5 What major contributor means is that sometimes
6 with mixtures I can tell if one person is contributing
7 more DNA to that item, meaning just that more of their
8 DNA is on that item than another individual, and that's
9 the major contributor, which is Bill Ardis. And,
10 again, I'm saying it matches him, so I'm gonna give you
11 statistics to sort of put weight to the match and that
12 is the probability of randomly selecting an unrelated
13 individual having a DNA profile matching the major
14 contributor to this mixture is approximately 1 in
15 230 quadrillion.

16 Now what that means is that if I were to pick a
17 person random out of the population, I would only expect
18 to find this DNA profile out of 1 in 230 quadrillion
19 individuals. And to put that in perspective, it goes
20 million, billion, trillion, quadrillion.

21 Now for the minor contributor, let's see.
22 Sometimes with DNA there's not enough information.
23 Like if there's not enough DNA present, you can't make
24 a conclusion, and that's what happened here. So due to
25 the limited information available, I wasn't able to

1 make a conclusion regarding the inclusion or exclusion
2 of Phillip Hollingsworth or Shayla Gaines as minor
3 contributors to this mixture.

4 Q. Okay. And there was another profile at that
5 point and that's in State's, I believe, Number 9 or --
6 excuse me, SLED Number 9. Is that the one you were
7 referring to?

8 A. SLED Number 9? Okay.

9 Q. Just to clarify, the one you were just referring
10 to would have been, I believe, State's 19?

11 A. 19, yes. The swabs from the Rossi.

12 Q. From the Rossi. Okay. And in that one, swabs
13 from the Rossi .357 Magnum show major the contributor to
14 be Bill Ardis, the blood stain?

15 A. Yes, that's correct.

16 Q. Okay. And the other two contributors were not --
17 you weren't able to develop a comparison with either
18 Shayla Gaines or Phillip Hollingsworth on the swabs from
19 the .357?

20 A. Right, that's correct. I couldn't make a
21 conclusion.

22 Q. Okay. Now let's, I believe, go back to Number 9
23 here.

24 A. Okay.

25 Q. If you could go to Number 9, to the swabs from

1 the right front blue jeans pocket, which are in evidence
2 as State's 57. If you could tell the jury what your
3 conclusions were as to the contents of State's 57.

4 A. Okay. The DNA profile from -- I had nine swabs
5 from the right front blue jeans pocket of the victim
6 that was a mixture of at least three individuals, so I
7 know there's at least three people there and the DNA
8 profile developed from the major contributor matches
9 the DNA profile of Bill Ardis and the probability of
10 randomly selecting an unrelated individual having a DNA
11 profile matching the major contributor is approximately
12 1 in 12 quadrillion and Phillip Hollingsworth cannot be
13 excluded as a minor contributor to this mixture. So
14 the probability of randomly selecting an unrelated
15 individual who could have contributed to this mixture
16 is approximately 1 in 12 and then there wasn't enough
17 information available for me to make an inclusion or
18 exclusion of Shayla Gaines as a contributor to the
19 mixture.

20 Q. Okay. So you were able to develop a probability,
21 although a much smaller probability, as to Phillip
22 Hollingsworth being the second contributor to the swab
23 on the jeans?

24 A. Yes, that's correct.

25 Q. And could you with your laser pointer show the

1 jury based on the numbers what you mean by that?

2 A. Sure. With the -- with the comparison of the
3 numbers from the individual to the mixture, if you look
4 at Number 9, this first area, there is a -- on the
5 evidence item a 13, 14, 15. Now Bill Ardis has a 13/14,
6 so that can be accounted for by Bill Ardis. Phillip
7 Hollingsworth has a 14/15. That's also included in this
8 profile, a 14/15 is present. And if you move on to the
9 next location, this is 31.2 -- that's actually one
10 number there, 33.2 that is present in the mixture, and
11 then also the 30 -- 30.2 from Phillip Hollingsworth is
12 present as well.

13 Q. Okay. And going on down the line on both of
14 those, you see contributing DNA numbers from both
15 Phillip Hollingsworth and Bill Ardis, correct?

16 A. Yes, that's correct.

17 Q. All right. And that would be State's 57. Now
18 I'm gonna go to State's 58, which is labeled as one
19 swab from the trigger face of shotgun, which is also
20 reflected on your chart here as SLED Item 7, which is
21 in this line here. What were of your findings and
22 conclusions as to the swab from the trigger face of
23 the double barrel shotgun?

24 A. It was also a mixture of at least two
25 individuals and the DNA profile developed from the

1 major contributor matches the DNA profile of Shayla
2 Gaines and the probability of randomly selecting an
3 unrelated individual having a DNA profile matching the
4 major contributor to this mixture is 1 in 31 million.
5 And then the DNA profile developed from the minor
6 contributor matches the DNA profile of Phillip
7 Hollingsworth and the probability of randomly selecting
8 an unrelated individual having a DNA profile matching
9 the minor contributor to this mixture is 1 in 2,700.

10 Now there was also a DNA type not attributable
11 to Shayla Gaines or Phillip Hollingsworth in this
12 mixture and what that means is there's one number out
13 of this whole profile that doesn't belong to either
14 Shayla or Phillip and what that means to me is just
15 that there's a very small amount of DNA from somebody
16 else on there and I can't make any conclusions off of
17 just one number.

18 Q. Okay. So based on -- there again, referring to
19 the numbers here, you would expect to see both numbers
20 from Shayla Gaines and then Phillip Hollingsworth on
21 this swab that came from the trigger face of the
22 shotgun, correct?

23 A. Yes, that's correct.

24 Q. Okay. Now you say major contributor, minor
25 contributor. Could you explain to the jury then what

1 exactly that means?

2 A. Sure. Major contributor means that that
3 individual has deposited or placed more DNA on that
4 item than the person who's the minor contributor. Now
5 I can't say who's touched the item last. That doesn't
6 mean anything compared to major or minor. I can't tell
7 what time period the DNA was placed on this item. You
8 know, it could mean that the major contributor's handled
9 it more, it could mean that they just -- some people
10 naturally shed more skin cells, more DNA, so all I can
11 say is that both individuals are present in the mixture.

12 Q. Okay. But no one can tell, according to what you
13 just said, just to clarify, how much each individual had
14 touched it?

15 A. Correct. I don't know. I can't tell from my
16 testing.

17 Q. Okay. Other than -- did you test other items
18 that were submitted in the case other than the ones that
19 have been shown to you and put into evidence?

20 A. Yes, I did.

21 Q. Okay. And all those were documented as part of
22 your report?

23 A. Yes, they are.

24 Q. Do you have a copy of your report?

25 A. I do.

1 Q. And this is a true and accurate copy of your
2 report and your findings as you've testified here to
3 today?

4 A. Yes, it is.

5 Q. With the chart on the back being what is blown up
6 in State's 36 that we've referred to?

7 A. Yes, that's correct.

8 MR. STUMBO: Judge, at this time we'd offer
9 Ms. Webb's report into evidence.

10 MS. McNEILL: No objection.

11 THE COURT: Without objection, that will be
12 State's 76.

13 THE COURT REPORTER: 77 -- No, 76.

14 THE COURT: 76.

15 (State's Exhibit Number 76, Webb DNA report, was
16 marked and admitted into evidence.)

17 MR. STUMBO: I beg the Court's indulgence, Your
18 Honor.

19 THE COURT: Yes, sir.

20 MR. STUMBO: No further questions, Your Honor.
21 Please answer any questions Ms. McNeill may have.

22 THE COURT: Ms. McNeill.

23 MS. McNEILL: May I take a two minute break,
24 Judge?

25 THE COURT: All right. We'll be at ease for

1 about five minutes. We'll be back in just a moment.
2 Y'all go to the back, relieve yourselves, have something
3 to drink and we'll be right back in a minute:

4 (The jury retires to the jury room.)

5 (Recess taken.)

6 **BAILIFF:** All right. Let's come back to order.
7 Please be seated. Keep your seats and come back to
8 order.

9 **THE COURT:** All right. Bring them on in.

10 (The jury returns to the courtroom.)

11 **BAILIFF:** All present, Your Honor.

12 **THE COURT:** All right. The record should reflect
13 that the jury is back and seated. The Defendant is
14 present. Ma'am, you are still under oath. Ms. McNeill,
15 you may examine.

16 **MS. McNEILL:** Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. McNEILL:

19 Q. Ms. Webb, how are you doing?

20 A. Just fine. Thank you.

21 Q. Good. Now I understand these pieces of DNA,
22 they're actually called short tandem repeats; is that
23 correct?

24 A. Yes, that's correct.

25 Q. And they don't code for anything specific, right?

1 A. No, I can't tell, you know, eye color, race.
2 You know, I can only compare the numbers to each other.

3 Q. And they're subject to a lot of mutations which
4 happen randomly that doesn't affect the actual subject;
5 is that correct?

6 A. Any mutation observed on an evidence item would
7 also be observed in the known standard as well, so it
8 wouldn't affect the comparison.

9 Q. Okay. And this is cut up DNA and they're cut
10 out into these short tandems repeats and everyone has
11 different lengths and weights, correct?

12 A. Yes, that's correct.

13 Q. Okay. And each person has two genes at a
14 specific site, correct?

15 A. Yes, that's correct.

16 Q. All right. And so on this one, on this chart,
17 State's Exhibit 36 -- can you see it if I hold it here?

18 A. Yes.

19 Q. Okay. So this one weighs in at 13 and 14 at that
20 specific location up here, correct?

21 A. Yes, that's correct.

22 Q. Okay. I know this is complicated stuff, but it
23 sounds like I'm on the right track.

24 A. I think you are.

25 Q. Okay. Great. And at Number 7 -- we don't have

1 an easel, do we?

2 **MR. HOWE:** I'll hold onto it.

3 Q. Can you still see it, ma'am?

4 A. Yes. Thank you.

5 Q. So at Number 7, right, the peak heights are at 10
6 and 14, correct?

7 A. It's not necessarily the height, it's the
8 repeats. So, yes, the repeats are 10, 14 and 15.

9 Q. Okay. Now it's my understanding that because
10 each person has two genes at a specific site, down here,
11 for example, you have one, two, three, four, five --
12 five; is that correct?

13 A. Well, I'm sorry, the chart's a little unclear
14 here. This is a 30.2, so that's one, and then 33.2 is
15 one, so that's actually one for the 32, three, four --
16 so four, yes.

17 Q. Okay. So we have a mixture?

18 A. Yes, that's correct, a mixture.

19 Q. Okay. But up here, say, that's not a mixture
20 because it's two and every person has two genes; is that
21 correct?

22 A. Yes, that's correct.

23 Q. Now at Site D7, D7, there is no 11; is that
24 correct?

25 A. That's correct.

1 Q. Okay. And so Phillip Hollingsworth is not a
2 contributor at that site; is that correct?

3 A. Not necessarily. His 11 is not present in that
4 mixture, yes, that is correct.

5 Q. Okay.

6 A. But looking at the profile as a whole, may I have
7 my copy of my report back, please?

8 Q. Sure. I'm sorry.

9 **MR. STUMBO:** I believe it's State's 76.

10 **MS. McNEILL:** I have it.

11 **THE COURT:** 76.

12 BY MS. McNEILL:

13 Q. I understand that as a profile as a whole, he's a
14 minor contributor, that's correct, right?

15 A. Yes, correct.

16 Q. Okay. But at that specific site, Phillip Heath
17 Hollingsworth is not a contributor at that specific
18 location at the short tandem repeat?

19 A. Well, he could still be a contributor. It's just
20 that the 11 is not showing up. What happens is if
21 someone is a minor contributor, it means that there's
22 not as much DNA there and sometimes there's even so
23 little DNA that sometimes not every single number at a
24 location will slow up and that's what we call dropout.
25 So if sometimes there's just not enough information to

1 show up, sometimes it could be represented as dropout,
2 so when I look at the profile as a whole, I wouldn't
3 necessarily say that he's not contributing DNA there,
4 it's just maybe he's only contributing half of his DNA
5 because there's not enough to make the other half show
6 up.

7 Q. So maybe there's some sort of problem in
8 amplifying one of those genes?

9 A. It's not a problem with amplification. It's just
10 -- really it's just a scientific representation of low
11 amounts of DNA.

12 Q. Okay. And on your report -- do you have it
13 present?

14 A. Yes. Thank you.

15 Q. On your report -- let's go over this real quick.
16 I know that the Solicitor just did as well, so Item
17 Number 7 is a swab from the trigger face of the double
18 barrel shotgun, correct?

19 A. Yes, that's correct.

20 Q. Okay. So where would that be on here, do you
21 think?

22 A. Well, I know -- because I talked to the crime
23 scene agent who collected it. That's how I know where
24 the swab was from and he said the swab from the trigger
25 face was actually the inside of the trigger itself.

1 Q. Okay. So inside of the trigger itself is where
2 that DNA swab was taken from, right, Item Number 7?

3 A. Yes.

4 Q. Okay. And on Item Number 7, you found that the
5 major contributor to that item matches the DNA profile
6 of Shayla Gaines, correct?

7 A. Yes, that's correct.

8 Q. Okay. So Shayla Gaines is the major contributor
9 of the DNA from the trigger of the double barrel
10 shotgun?

11 A. Yes, that's correct. She is.

12 Q. Now let me ask you this as well. Is it possible
13 -- I know that Phillip Hollingsworth is the minor
14 contributor on that item as well, correct?

15 A. Yes, that's correct.

16 Q. Okay. Is it possible for the major contributor
17 to transfer DNA from the minor contributor?

18 A. Transfer the DNA from the minor contributor?

19 Q. And this is something that you and I have
20 discussed -- or actually, I believe, Mr. Howe called
21 you the other day and we talked about this, and so the
22 major contributor -- for example, if I shake your hand
23 and then -- let's say, I had handled this gun, right,
24 so my DNA is now all over this thing, right?

25 A. (Nods head.)

1 Q. And if I shake your hand, okay, and then I handle
2 it some more, it's possible that I just transferred some
3 of your DNA onto this trigger; is that correct?

4 A. That could be a possibility, yes..

5 Q. Okay. Thank you. So it's possible that that's
6 one explanation of how Phillip Heath Hollingsworth's DNA
7 got on that trigger face as a minor contributor?

8 A. That's a possibility.

9 Q. Okay. And, ma'am, what is the date of the report
10 that you did this on?

11 A. This was December 31, 2013.

12 Q. Okay. And is that the only report that you have
13 done involved in this case?

14 A. No, it is not.

15 Q. What's the most recent report that you did,
16 ma'am?

17 A. I issued a report April 12, 2014.

18 Q. 2014?

19 A. That's correct.

20 Q. And what was that item? Do you need a copy of
21 your report?

22 A. I have one. Thank you.

23 Q. Okay.

24 A. It was a cutting from a hoody, a hoody
25 sweatshirt, from Shayla Gaines.

1 Q. And do you recall what was indicated on that
2 report?

3 A. Yes, I do. It was a -- there was a request for
4 blood on that item and it was tested for blood and there
5 was blood indicated and the DNA profile developed from
6 that matched the DNA profile of Shayla Gaines.

7 Q. And would you anticipate that, I don't know,
8 washing clothes or such would get rid of some DNA?

9 A. Yes, I would definitely expect it to. In fact,
10 we use detergents in our lab to, you know, clean up and
11 degrade DNA, so detergents will degrade DNA.

12 Q. Particularly after something has been worn over a
13 year ago, correct?

14 A. Yes, if it's been worn and washed repeatedly, I
15 would definitely expect the DNA to be degraded,
16 lessened, removed.

17 Q. Now I'm holding up a camouflage thermal
18 long-sleeve shirt. Were you ever asked to test this
19 item for DNA?

20 A. I never had a request for the camouflage
21 long-sleeve shirt.

22 Q. Okay. And because you are an expert in DNA,
23 you've been qualified as such, now I know that you don't
24 have any chemical tests that you can do, but in your
25 experience you've seen a lot of blood, right?

1 A. Yes.

2 Q. Do you see any visible blood on this camo?

3 A. Not from just looking at it at this distance.

4 Q. Okay. So no blood visible to the eye on the
5 front or the back, correct?

6 A. Not that I can see.

7 Q. And you were never asked to test this, were you?

8 A. No, I was not.

9 Q. Okay. I'm now holding up a pair of shoes. Were
10 you ever asked to test these shoes for DNA evidence?

11 A. No, I was not.

12 Q. Okay. Now typically in your experience, would it
13 be unusual for you to be asked to test shoes if they
14 were to, say, walk through blood?

15 A. No, that wouldn't be an unusual request.

16 Q. Okay. And then, again, I'm holding up some
17 jeans. You were never asked to test these either, were
18 you?

19 A. I know I tested some jeans from the victim,
20 which those are not the victim's jeans, so, no, I was
21 not.

22 Q. So you weren't. Not the victim's jeans?

23 A. Not the -- no, not those, the victim's.

24 MS. McNEILL: Okay. That's all the questions I
25 have for you, ma'am. Thank you.

1 **THE COURT:** Anything on redirect?

2 **MR. STUMBO:** Just a couple, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. STUMBO:

5 Q. Ms. Webb, I think Ms. McNeill asked you is
6 it possible for transfer to occur between a major
7 contributor and a minor contributor and then to the
8 item of evidence. Could that also be true of a minor
9 contributor transferring to a major contributor? Is
10 that a possibility?

11 A. I would say it would be a less likely scenario
12 because I would assume, you know, the major contributor
13 is probably the one that handled the item and the minor
14 contributor could have been transfer, but --

15 Q. But it's possible?

16 A. It's a possibility.

17 Q. But really from your analysis there's no way to
18 tell how many times a person handled an item; is that
19 correct?

20 A. That's correct.

21 Q. Is there any way for you to tell when a person
22 handled an item?

23 A. No. No time sample on DNA. I don't know how
24 long it's been there.

25 Q. Is there any way for you to tell in what manner

1 they handled the item?

2 A. No, I can't tell.

3 Q. Other than there was just something deposited
4 from their skin to that place where it was swabbed,
5 correct?

6 A. Yes, that's correct.

7 Q. If an individual had picked up, say, this gun,
8 which is State's 40, picked it up like this and had
9 their finger on the trigger itself, like so, picked it
10 up to move it and had their finger here to put it
11 somewhere, could it have left DNA?

12 A. It could have, yes.

13 Q. And there's no way for you to tell how many times
14 that happened?

15 A. That's correct. I don't know how many times it's
16 been handled.

17 Q. And there's no way for you to tell when it
18 happened, correct?

19 A. Or when it happened, correct.

20 Q. So in your expertise and on this witness stand,
21 you can't testify as to when and how DNA was put on any
22 given item, correct?

23 A. That's correct. I can only say it's there. I
24 don't know when or how it was placed there.

25 Q. And how many times it was handled by each

1 individual person?

2 A. Or how many times it's handled.

3 Q. This clothing -- well, you did do a test
4 recently. Was that at our request for Crime Scene
5 Investigator Brown to test Ms. Gaines' sweatshirt?

6 A. Yes, it was.

7 Q. And you found on her sweatshirt her DNA; is that
8 correct?

9 A. Yes, I did.

10 Q. You didn't find anybody else's DNA on it; is that
11 correct?

12 A. Nobody else. Just Shayla Gaines.

13 Q. Would you expect to find DNA on a sweatshirt
14 that's owned by -- the person's DNA that owns the
15 sweatshirt?

16 A. Yes, I would. Just wearing clothing you get
17 your own DNA, your own skin cells on your clothing, so
18 I would expect to find the owner of that article of
19 clothing on their own shirt.

20 Q. Does SLED always test every item of evidence
21 collected in any given case?

22 A. No, we do not.

23 Q. Okay. Who makes the request for whether items
24 are tested or not? Is that your decision?

25 A. The agency makes the request, the submitting

1 agency, and the Solicitor's office. It's SLED's policy
2 and protocol that we try to limit the amount of items
3 just because there's so many cases. We analyze cases
4 for the whole state and so we like to take and analyze
5 the best items of evidence first, the ones that are
6 more likely to produce probative results and so, you
7 know, in general the policy at SLED is, you know,
8 violent crimes, pick the top five items. You know, if
9 we can't make any sort of connection, then we'll work
10 other items as necessary as well until -- you know, or
11 aid in the investigation, so sometimes we don't work
12 all the items because it's just not necessary. Many
13 items are collected at the crime scene and we try to
14 keep things as efficient as possible.

15 Q. Is your unit pretty backed up? Is that fair to
16 say?

17 A. Yes, we have a large backlog in the DNA
18 department.

19 Q. And y'all take in evidence from every agency all
20 over the State of South Carolina?

21 A. The whole state. You know, burglaries,
22 robberies, homicides, rape cases. Any sort of case you
23 can think of DNA can be taken from, so we get many cases
24 throughout the State.

25 MR. STUMBO: Thank you. That's all I have, Your

1 Honor.

2 **MS. McNEILL:** Just briefly.

3 RECROSS EXAMINATION

4 BY MS. McNEILL:

5 Q. When were you asked to test all these items,
6 ma'am? Or the most recent item, being the hoody of
7 Shayla Gaines.

8 A. That was about two weeks ago today.

9 Q. And you tested it pretty quickly, didn't you?

10 A. Yes, I did. It was a rush item for me, so I
11 rushed it through the analysis.

12 Q. And you were never asked to do a rush test on
13 any of Heath Hollingsworth's clothing -- Phillip Heath
14 Hollingsworth's clothing, correct?

15 A. I had no request for those clothes, correct.

16 Q. And, again, to be clear, Shayla Gaines was the
17 major contributor on that trigger face?

18 A. Yes, that's correct.

19 Q. And also to be clear, it is less likely that a
20 minor can transfer a major contributor, it's more likely
21 that a major can transfer a minor contributor, correct?

22 A. In my opinion, yes, I would expect that.

23 **MS. McNEILL:** Thank you. No further questions.

24 **THE COURT:** Thank you, ma'am. You can step down.
25 No objection to excusing this witness? You are free to

1 go.

2 **THE WITNESS:** Thank you, Your Honor.

3 (Witness excused.)

4 **THE COURT:** Ladies and gentlemen, I know it's
5 late in the day, but we do have one more witness that
6 we need to get to. I know that we're all a little bit
7 tired, but it's important that we get through this
8 witness today, so call your next one, please.

9 **MR. MOWRY:** Chad Smith, Your Honor.

10 CHAD SMITH,

11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MOWRY:

14 Q. You are Chad Smith?

15 A. That's correct.

16 Q. And what is your position with the State Law
17 Enforcement Division?

18 A. I'm a firearms and tool mark examiner at the
19 firearms department at SLED in Columbia.

20 Q. And what do you do in that capacity?

21 A. As a firearms and tool mark examiner, my main
22 responsibility is the examination of firearms,
23 ammunition and various components, tool marks and tools.
24 This is an area of forensic science known as firearms
25 and tool mark identification. Basically an examination

1 in firearms and tool mark identification tries to
2 determine if an ammunition component such as a bullet
3 or a cartridge case was fired by a specific firearm or
4 if a particular mark was produced by a specific tool.

5 Q. And that could include a crowbar or a screwdriver
6 or something like that?

7 A. Correct.

8 Q. What kind of training have you had to become a
9 firearms and tool mark examiner?

10 A. Well, I graduated from Clemson University with
11 a biological science degree and bachelor's of science
12 degree, then I successfully completed the SLED firearms
13 training program, which is an in-house training program
14 supervised by the court-qualified examiners of the
15 firearms department. This program usually lasts between
16 three to five years, it's a very long program, and
17 during this period I attended various seminars and
18 classes, did extensive reading and studying, was given
19 a multitude of tests and examinations. I also help
20 prepare other examiners' casework. At the end of the
21 training program, I was given a comprehensive multipart
22 examination. After successfully completing this exam,
23 I was then able to get my own casework.

24 Q. And when was that?

25 A. That was approximately -- let's see. That was

1 two years ago was when I signed off and began to receive
2 my casework.

3 Q. Okay. And you've been working in the same
4 capacity ever since?

5 A. Yes, sir.

6 Q. Have you testified in courts of law around the
7 State or in Federal courts?

8 A. Yes, sir, I've testified three times.

9 Q. And have you been declared an expert in this
10 field at any of those times?

11 A. Yes, sir. In firearms identification.

12 MR. MOWRY: Okay. Your Honor, I would offer him
13 as an expert in that field in this court.

14 THE COURT: Okay. In the field of firearms
15 identification?

16 MR. MOWRY: Yes, sir.

17 MR. HOWE: No objection.

18 THE COURT: Again, ladies and gentlemen,
19 Mr. Smith has been stipulated to be an expert in the
20 field of firearms identification, so he can give opinion
21 evidence in that particular area and he can also state
22 the basis for his opinions. It doesn't mean you have to
23 accept his testimony, but it's evidence that you can use
24 as you deem appropriate. Go ahead.

25 MR. MOWRY: Thank you, Your Honor.

1 BY MR. MOWRY:

2 Q. Agent Smith, with regard to the matter here, the
3 murder case of Bill Ardis, were you asked to examine
4 certain pieces of evidence to determine whether or not
5 there was anything of evidentiary value involved?

6 A. Yes, I was. I was asked to examine several
7 pieces of evidence.

8 Q. All right. Specifically, were you asked to
9 examine a Vulcan Arms 12 gauge double barrel shotgun?

10 A. Yes, I was.

11 Q. All right. Let me hand you this item that has
12 been marked as State's Exhibit Number 40, and ask you if
13 you can identify that?

14 A. Yes, I can. What I'm looking for is when we
15 receive a piece of evidence, we mark the evidence with
16 the lab number, the SLED lab number, the item number
17 and my initials, and I can plainly see my markings right
18 here.

19 Q. And would it help if I showed you a box that it
20 was testified earlier this was packed in?

21 A. Yes, sir. Yes, sir, that's the correct box.

22 Q. Okay. Did you examine that gun?

23 A. Yes, sir, I did.

24 Q. What kinds of tests did you run?

25 A. What I did was I ran a function test to make sure

1 the safeties work, you know, the action works properly.
2 I test-fired the firearm to make sure it was functioning
3 and works properly with ammunition. I also received
4 some fired evidence and what we try to do is test fire
5 the firearm, compare those tests with the fired evidence
6 that we got in to see if there's a match or not.

7 Q. Okay. And when you test-fired the weapon, what
8 did you discover?

9 A. As far as to comparisons or the functionality?

10 Q. With the functionality. Let's start with that.

11 A. When I test-fired this firearm, I did discover
12 that the action -- what I mean by action is the locking
13 mechanism, that when you fire the firearm that it
14 basically stayed together when I fired it. When I
15 test-fired it, the action went open after every shot,
16 meaning that some sort of mechanism inside was worn or
17 malfunctioning, that the firearm would break open after
18 every shot. It's not really supposed to do that.

19 Q. So it's a breach loaded shotgun; is that right?

20 A. That's correct.

21 Q. And every time you fired it, it would -- it would
22 break up?

23 A. Right, the action would come open.

24 Q. Okay. Were you -- when you test-fired the
25 weapon -- I'm gonna hand you what's been marked as

1 State's Exhibit Number 42 for identification, and ask
2 you if you can identify that?

3 A. Yes, sir. This is my Item 23. This is a fired
4 shot shell that I received.

5 Q. Did you exam that fired shotgun shell to
6 determine whether or not it came from the shotgun you
7 have before you?

8 A. Yes, I did. I compared this shot shell with the
9 test-fired shot shells that I fired from the shotgun and
10 was able to determine that the -- that this shot shell
11 was fired by the shotgun.

12 Q. Okay. And I want to hand you what's been marked
13 as Exhibit Number 47 for identification, and ask you if
14 you can identify that?

15 A. Yes, sir, I can. This is my Item 26. Again,
16 I'm looking for my markings that I placed on the item
17 itself and I can clearly see that and the packaging that
18 I repackaged the item in is intact.

19 Q. How similar is that to the fired shotgun shell
20 that you have before you?

21 A. It's the same make. They're both Remington
22 brands, the same type of load as compared to the fired
23 shot shell. They're both marked with being Number 8
24 birdshot, lead birdshot pellets.

25 Q. So they are substantially the same kind of

1 shotgun shells, is that right?

2 A. Correct.

3 MR. MOWRY: Your Honor, I would offer State's 42,
4 47 and 40 into evidence at this time.

5 THE COURT: Any objection?

6 MR. HOWE: No objection.

7 THE COURT: Without objection, State's 42, 47 and
8 40 shall be in evidence.

9 (State's Exhibit Number 42, a fire shot shell,
10 Number 47, a fired shot shell, and Number 40, a shotgun,
11 were admitted into evidence.)

12 BY MR. MOWRY:

13 Q. Okay. Did you also examine what has been marked
14 as State's Exhibit 41 for identification, a Rossi .357
15 pistol? And if it would help, I have the box that it
16 was testified the gun was packaged in.

17 A. Yes. This is my Item Number 22. I can clearly
18 see the markings on the firearm itself that I placed on
19 there.

20 Q. All right. And let me hand you also State's
21 Exhibit Number 43. Can you identify that?

22 A. Yes, it's my Item Number 22. These are six
23 unfired cartridges that I received.

24 Q. Okay. Were they separately packaged?

25 A. Let me check my notes here. They were received

1 in the same cardboard box as the firearm, but they were
2 in a different container, a sealed pouch, which the
3 original packaging is in here with my packaging as well.

4 Q. Do those cartridges fit that particular firearm?

5 A. Yes, they do.

6 Q. Okay. Let me hand you a couple of other items
7 here. Okay. There it is. It's State's Exhibit 49 and
8 48. Do you recognize those?

9 A. Yes, I do. This is my Item 24, which is a fired
10 shot shell wad, plastic wad, and my Item 25, which
11 was submitted as a piece of wadding, but during my
12 examination I found it to be not consistent with being
13 an ammunition component. It is, in fact, some sort of
14 button or fastener.

15 Q. Okay. How does the wadding that you find match
16 up or does it match up at all with, for example, State's
17 Exhibit Number 42, the fired shotgun shell?

18 A. The wadding when I analyzed it, it contained no
19 marks of value on it, which means that there's nothing
20 on it to match to with my test wads, so I couldn't say
21 that it was fired. It's unsuitable for identification,
22 there's no marks on it, but it is the type of wad that
23 would be loaded into that fired shot shell.

24 Q. Thank you, sir.

25 **MR. MOWRY:** Your Honor, I would offer at this

1 time State's Exhibit Numbers 48, 41 and 43 for
2 identification into evidence.

3 **THE COURT:** All right. How about 49?

4 **MR. MOWRY:** 49, there is no -- there's no
5 evidentiary value to it, Your Honor. I just simply
6 wanted to let the jury know about the analysis of it.

7 **THE COURT:** All right. Any objection?

8 **MR. HOWE:** No objection, Judge.

9 **THE COURT:** All right. 41, 43 and 48 shall be in
10 evidence.

11 (State's Exhibit Number 41, a handgun, Number 43,
12 six unfired bullets, and Number 48, plastic wadding,
13 were admitted into evidence.)

14 BY MR. MOWRY:

15 Q. And also let me hand you what has been marked as
16 State's Exhibit Number 50, and ask you if you can
17 identify that?

18 A. Yes, I can. These were actually submitted under
19 a different case that's been cross-related to this
20 same case, but these are birdshot pellets that were
21 submitted.

22 Q. And I believe those were submitted to you by the
23 Laurens County Coroner's Office; is that right?

24 A. That's correct.

25 Q. Can you give any comparison to the shot that is

1 present in 47 and was present in 42 --

2 A. Right.

3 Q. -- the shotgun shells?

4 A. My examination revealed that these were most
5 consistent with being Number 8, which is just a size
6 value, Number 8 birdshot, lead birdshot pellets, which
7 the markings on the fired shot shell and the unfired
8 shot shell both indicate that they contain Number 8
9 birdshot pellets.

10 Q. And, again, that would match up with the pellets
11 here; is that right?

12 A. That's correct.

13 Q. And with the shotgun shells that you have
14 testified to earlier?

15 A. Right, the type that would have been loaded into
16 those.

17 Q. Right. Is there any way that you can
18 specifically say that those pellets came from a
19 particular weapon?

20 A. No, I can't. Again, those pellets, just like the
21 wad, contain no marks of value, so they're unsuitable
22 for identification.

23 Q. Can you explain to the jury why, for example,
24 shotgun pellets can't be identified as perhaps pistol or
25 rifle bullets can, projectiles?

1 A. Yes. With a pistol or any firearm having a
2 rifle bore, meaning that the manufacturer puts a
3 process into the firearm barrel itself to give it a
4 spin on a projectile or bullet. An analogy would be
5 like a football -- a quarterback throwing a football,
6 you know, a nice tight spiral on that projectile for
7 both accuracy and velocity. So the manufacturer puts
8 rifling in these barrels for that purpose. Now when a
9 bullet goes down the barrel, it picks up the impressions
10 of that rifling. During the manufacturing process of
11 the firearm barrel, there are tiny little defects,
12 imperfections, that are placed in that barrel just due
13 to the manufacturing process, the tooling that came in
14 contact with those barrel, so it's those imperfections
15 that impart a certain damage to that bullet, if you
16 will. What we're looking for is they're called
17 striations. They're just marks on the bullet that are
18 caused by the rifling itself and when it comes to a
19 shotgun or a smooth bore, there's no rifling on this
20 smooth bore barrel, so there's nothing to make contact
21 with.

22 **MR. MOWRY:** Okay. Your Honor, at this time I'd
23 move State's Number 50, the pellets, into evidence.

24 **MR. HOWE:** No objection, Judge.

25 **THE COURT:** In evidence without objection.

1 **MR. MOWRY:** Thank you Your Honor.

2 (State's Exhibit Number 50, shotgun pellets, were
3 admitted into evidence.)

4 BY MR. MOWRY:

5 Q. If you could tell me, Agent Smith, with regard to
6 State's Exhibit Number 42, the fired shotgun shell, and
7 State's Exhibit Number 40, the shotgun, how did you go
8 about testing whether or not that shell was fired by
9 that shotgun?

10 A. Like I said, I test-fired the shotgun with
11 laboratory-submitted ammunition, ammunition that we
12 had in our reference collection. What we're looking
13 for is -- just like I was talking about the rifling in
14 the barrel, well, there's other markings on the firearm
15 itself that -- I mean, created during the manufacturing
16 process that impart markings to a cartridge case or,
17 in this instance, the shot shell itself. So what we're
18 looking for is on the rear of the shot shell there are
19 tiny microscopic marks that replicate on the test so
20 we can compare those using our comparison microscope,
21 which is basically just two microscopes put together
22 by an optical bridge, so we can compare two samples
23 simultaneously when we're looking for those striations
24 and marks, and just through that I was able to determine
25 that the shot shell was fired by the shotgun.

1 Q. And when you're talking about those markings,
2 are those markings unique?

3 A. Many times they are. Some of the gross
4 markings, larger markings, can replicate, but through
5 my experience and training we learn how to differentiate
6 between those markings.

7 Q. And how would you characterize the markings on
8 the spent shotgun shell, Number 42, I believe --

9 A. That's correct.

10 Q. -- and the markings left by the shotgun,
11 Number 40?

12 A. I was able to make an identification of the
13 markings. It marked very well.

14 Q. Could you say that this shotgun fired that shell?

15 A. In my opinion, correct.

16 **MR. MOWRY:** Thank you, sir. That's all I have.

17 **THE COURT:** Mr. Howe.

18 **MR. HOWE:** No questions, Judge.

19 **THE COURT:** Sir, thank you very much for coming.
20 You are free to go.

21 **THE WITNESS:** Okay. Thank you, Judge.

22 (Witness excused.)

23 **THE COURT:** Solicitor, gentlemen, Ms. McNeill,
24 y'all approach real quick. One quick question.

25 (Proceedings held at the bench; not reported.)

1 **THE COURT:** All right. Ladies and gentlemen of
2 the jury, we've reached a good breaking point for the
3 evening. I want to thank you for your attention today.
4 I do realize it's been a long day. I'm gonna ask that
5 you be back in the jury room tomorrow morning at -- I'm
6 gonna ask that you be there by 10:00 tomorrow morning.
7 And there are some other matters that I have to take up,
8 and what I'll do is -- what we'll do is resume with the
9 case at that particular point in time, but I see no
10 reason to have y'all waiting around while I'm doing
11 other stuff, so that's the reason 10:00 is the time I'm
12 picking. Plus y'all worked late today.

13 Again, don't discuss the case with anyone this
14 evening. I do hope you have a pleasant night however.
15 Wear those badges back, try not to forget them, and
16 we'll resume tomorrow morning. I'm looking forward to
17 seeing y'all then. You're excused. Have a good night.

18 (The jury is excused for the day.)

19 **THE COURT:** All right. The jury is out and we'll
20 stay on the record for just a few more moments. The
21 State indicated to me at the sidebar that all intentions
22 are that they have is to rest with this testimony, but
23 they won't formally do that until in the morning just to
24 make sure that all of the exhibits have been introduced.
25 Not to hold you to this, Mr. Howe, but out of curiosity,

1 do you intend -- I've noted that you had a number of
2 individuals listed as potential witnesses. Does the
3 defense intend to offer a defense at this point or,
4 Ms. McNeill, have y'all made that decision yet?

5 **MS. MCNEILL:** We have and we're not going to,
6 Your Honor.

7 **THE COURT:** All right. What I'll do then
8 tomorrow morning, if we could, is at 9:30 we'll
9 reconvene here. I'll go ahead and prepare the proposed
10 instructions tonight. I will e-mail those to all
11 concerned. I know that y'all got an e-mail from me
12 earlier today or sometime. You got an e-mail from me
13 sometime, so I've got that list and you can look at
14 those instructions. I'll address your client's right to
15 testify, et cetera, tomorrow morning. I'm sure you've
16 explained that to him in detail, right?

17 **MS. MCNEILL:** Very thoroughly.

18 **THE COURT:** All right. Very good. We'll address
19 that in the morning. Mr. Howe?

20 **MR. HOWE:** Judge, there is one thing. There will
21 be a stipulation that we're going to present to the
22 Court.

23 **THE COURT:** Okay.

24 **MR. HOWE:** The stipulation will be that -- and
25 this is based on the hearing we had before you with

1 Ms. McNeill, the pretrial hearing back in January.
2 The stipulation will be that Ms. Gaines has not been
3 indicted on the accessory after the fact to murder
4 charge and grand larceny and that the State has no
5 intention -- excuse me. That right now the State has
6 no intention to indict her.

7 **MR. MOWRY:** The way we'd like that put, Your
8 Honor, is that we will re-examine that at the conclusion
9 of this case, but she has not been indicted at this
10 time.

11 **THE COURT:** She is charged, but not indicted,
12 correct?

13 **MR. MOWRY:** Yes, sir.

14 **THE COURT:** Perhaps y'all could work up something
15 on a piece of legal paper that everyone can agree to
16 and I'll be more than happy to -- and, Mr. Mowry, and,
17 Ms. McNeill, y'all take a look at that -- or, Mr. Howe,
18 Solicitor.

19 **MS. MCNEILL:** I'll have that for you tomorrow.

20 **THE COURT:** However you want to do that. Yeah,
21 that's fine. And you've got a transcript, so whatever
22 the transcript reads that's probably how we'll address
23 it.

24 **MR. HOWE:** Yes, sir.

25 **THE COURT:** All right. I can't think of anything

1 else for this evening. I'll see y'all back here
2 tomorrow morning around 9:30. Assuming that nothing
3 changes overnight and the Defendant elects not to
4 testify, obviously we will go straight into closings
5 tomorrow morning with the State going first and the
6 Defendant following, all right? So I'll have this to
7 you by e-mail as soon as I can. Any suggestions that
8 you want, let me know. My intention right now is to
9 charge -- well, let me ask you this while everybody's
10 here. I was gonna go up or down on murder. Does the
11 defense want a lesser included?

12 **MR. HOWE:** Can we -- we've talked about that and
13 we've debated it and I'd like to debate it a little
14 more.

15 **THE COURT:** All right. That is fine.

16 **MR. HOWE:** Yes, sir.

17 **THE COURT:** Yes, sir.

18 **MR. HOWE:** But it wouldn't be -- if you charged
19 that, it wouldn't be anything -- you know, we wouldn't
20 be asking for any unusual charge on that.

21 **THE COURT:** At the most I could see perhaps you
22 requesting a voluntary.

23 **MS. McNEILL:** That's correct, Your Honor.

24 **THE COURT:** I don't see it being an involuntary
25 and I don't see any evidence of self-defense.

1 **MR. HOWE:** Yes, sir.

2 **THE COURT:** Are we in agreement?

3 **MR. HOWE:** We are..

4 **THE COURT:** All right. I'm going to prepare the
5 charges just with idea of murder. If you make that
6 decision tonight, that's fine, and I can always include
7 voluntary if I deem it's appropriate, but we may need
8 to talk about that a little bit in the morning. I'm
9 not wedding myself to that, but there has been some
10 testimony that perhaps -- and that's something I'd want
11 to look at again tomorrow. Honestly, I'm too tired to
12 do it tonight, so we'll do it tomorrow. Y'all have a
13 good evening.

14 **MR. MOWRY:** Thank you, Your Honor.

15 **THE COURT:** Thank you.

16 **MR. HOWE:** Thank you, Judge.

17 (The proceedings were concluded for
18 April 9, 2014.)

19 (The following proceedings were held on April 10,
20 2014.)

21 **BAILIFF:** All rise. Come to order.

22 **THE COURT:** Thanks. Y'all have a seat.

23 **THE COURT:** Okay. If we may, we'll go
24 back on the record in Case 13-288, the State versus
25 Hollingsworth. The Defendant is present with counsel.

1 I exchanged e-mails with the attorneys last evening
2 on the proposed jury instructions. Ms. McNeill had
3 responded last evening that y'all were still considering
4 the possibility of requesting a voluntary manslaughter
5 charge. My clerk was told this morning that the defense
6 is not gonna be requesting that charge; is that correct?

7 **MR. HOWE:** That's correct, Your Honor.

8 **THE COURT:** All right. And I believe that
9 yesterday you indicated to me that it was your intention
10 after the State rests to basically rest as well and
11 Mr. Hollingsworth was not going to testify; is that
12 right?

13 **MR. HOWE:** That's correct, Your Honor.

14 **THE COURT:** Okay. And the defense does not
15 otherwise intend to present a defense, correct?

16 **MR. HOWE:** That's correct, Your Honor.

17 **THE COURT:** Very good. The State needed to move
18 one additional item into evidence is what was told to me
19 this morning; is that right?

20 **MR. MOWRY:** Yes, sir, Your Honor. There
21 was a swab that was taken from the .357 that should be
22 -- I believe it's Number 53 that we would move into
23 evidence at this time. I thought we had taken care of
24 that yesterday, but the court reporter informs me that
25 we did not. Otherwise, Your Honor, if I could approach

1 the table, the only items that we are not seeking to
2 admit --

3 **THE COURT:** Hold on. I have State's 53 was blood
4 from the pistol. Is that what you're talking about?

5 **MR. MOWRY:** Yes, sir.

6 **THE COURT:** Okay. I have that being in evidence,
7 but I assume there's no objection to it coming in,
8 right, Mr. Howe?

9 **MR. HOWE:** No, sir.

10 **THE COURT:** Very good.

11 **MR. MOWRY:** That's fine. Good. The only other
12 items were -- was it 48?

13 **MS. McNEILL:** 49.

14 **MR. MOWRY:** -- which was the button. We did not
15 admit that.

16 **THE COURT:** Correct.

17 **MR. MOWRY:** And also Number 54. 54 was an
18 envelope that contained all of the fingerprint lifts
19 and the known prints and the major case prints and
20 everything else, so all of those have been admitted
21 individually and we will not admit the --

22 **THE COURT:** Envelope.

23 **MR. MOWRY:** -- envelope itself, yes, sir.

24 **THE COURT:** Very good. All right. At this
25 point, I assume that the State rests? Is that correct,

1 Solicitor?

2 **MR. STUMBO:** We do, Your Honor. We'd like to do
3 it front of the jury, if that's --

4 **THE COURT:** Yes, of course. What I was planning
5 on doing though is if you officially rest, I can deal
6 with the DV motion and allow the defense to renew the
7 other motions and then when the jury comes out, you can
8 rest, they can rest and we'll go straight into closings.

9 **MR. HOWE:** Okay. So --

10 **MS. MCNEILL:** Your Honor, there's also the matter
11 of the stipulation that I have worked on with Warren and
12 Solicitor Stumbo and I think that maybe your clerk has a
13 copy.

14 **MR. HOWE:** The court reporter has it and I didn't
15 know however you were gonna handle it, whether or not
16 you were gonna make it an exhibit or whatever. And, I
17 guess -- I'm assuming, Judge, you will read that into
18 the record and give the jury the proper instructions?

19 **THE COURT:** Right, that's what I was planning on
20 doing during the course of the charge because I'll say
21 you can only consider the evidence before you, the
22 testimony, exhibits, any stipulations of counsel. In
23 this case, we have a stipulation and the stipulation is
24 written down that basically states that Shayla Gaines is
25 currently unindicted on her pending charges and at the

1 conclusion of this case the State will re-evaluate their
2 decision on how to proceed on her charges, and it's
3 agreed to that that's the stipulation, everyone?

4 **MS. MCNEILL:** Yes, Your Honor.

5 **MR. STUMBO:** (Nods head.)

6 **THE COURT:** Very good. All right. The defense
7 moves for a directed verdict motion and you renew all
8 other previous motions, correct?

9 **MR. HOWE:** That's correct.

10 **THE COURT:** Renewing all objections?

11 **MR. HOWE:** Yes, sir.

12 **THE COURT:** All right. In the light most
13 favorable to the State, the Court finds that there is
14 evidence from which the jury could reasonably conclude
15 that the Defendant is guilty of the crimes charged.
16 Accordingly, I'll deny the defense motion at this time.

17 All right. Any additional requests concerning
18 the instructions?

19 **MS. MCNEILL:** No, Your Honor.

20 **MR. HOWE:** No, Your Honor.

21 **MR. STUMBO:** We've reviewed it, Judge. We think
22 it's fine.

23 **THE COURT:** Very good. Anything further,
24 Mr. Howe?

25 **MR. HOWE:** No, sir. Does the Court want to make

1 sure our client is making a knowingly and intelligent
2 decision not to testify and just put that on the record?

3 **THE COURT:** Right. I was gonna do that
4 here just now, but I assume, Mr. Howe and Ms. McNeill,
5 each of you have discussed with him at length the
6 ramifications of his right to testify, the procedural
7 and tactical decisions that go into whether or not he
8 testifies and presents a defense; is that correct?

9 **MS. MCNEILL:** I have, Your Honor.

10 **MR. HOWE:** We have, Judge.

11 **THE COURT:** Very good. Mr. Hollingsworth, you
12 can stay seated, but just raise your right hand, if you
13 would, sir. Do you swear or affirm the testimony you're
14 about to give is the truth?

15 **THE DEFENDANT:** I do.

16 **THE COURT:** All right. And you're Phillip Heath
17 Hollingsworth; is that correct, sir?

18 **THE DEFENDANT:** Yes, sir.

19 **THE COURT:** Now, Mr. Hollingsworth, we've come
20 to that point in the trial where you and your attorneys
21 can present a defense if you chose to do so. Do you
22 understand that, sir?

23 **THE DEFENDANT:** Yes, sir.

24 **THE COURT:** And obviously like any other person,
25 you have the right to testify in this case if you chose

1 to do so. Do you understand that, sir?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** If you testified, you'd be subject
4 to the same rules of cross-examination pretty much as
5 any other witness, and I don't know if you have a
6 criminal history or not, but you understand if you
7 have any prior convictions for crimes involving
8 dishonesty or a crime that's punishable by more than
9 a year in prison and the Court were to determine
10 that the probative value of the impeachment outweighs
11 any prejudice to you, the State would be able to
12 cross-examine you on those convictions. Do you
13 understand that, Mr. Hollingsworth?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** And, again, I've not made any sort
16 of ruling concerning those convictions, but I'm sure
17 that's something you've discussed with your attorneys;
18 is that right?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** All right. Assuming you have some.
21 Now, Mr. Hollingsworth, of course, if you testified,
22 like I said, you'd be subject to the same rules of
23 cross-examination as any other witness; you'd have to
24 answer the questions of the Solicitor. So if you chose
25 not to testify, I would explain or I will explain to

1 the jury that they're to make no inference, they're not
2 to in any way take your failure to testify as evidence
3 of guilt, they're not even to talk about it in the jury
4 room. Do you understand that, sir?

5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** Now whether or not you choose to
7 testify is solely for you to determine. Obviously it's
8 your decision to make. It's a personal right that only
9 you can waive. Nobody can force you to testify; not
10 your attorneys, not the State, not myself. And you can
11 talk about this decision with anyone, your attorneys --
12 I'd encourage you, of course, to talk about it with your
13 attorneys and I assume you've done so; is that right?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** All right. You can speak to family
16 members or anybody else you need to about this, but
17 ultimately the decision is yours to make. Do you
18 understand, sir?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** All right. Have you understand
21 everything that I've said to you?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** And am I correct that you're choosing
24 not to testify in this case?

25 **THE DEFENDANT:** No, sir, I do not wish to

1 testify.

2 **THE COURT:** All right. And you understand that
3 I'm hearing from your attorneys that you will not be
4 presenting a defense otherwise and obviously y'all will
5 get last argument; is that your understanding?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** All right. And you're okay with all
8 that?

9 **THE DEFENDANT:** Yes, sir.

10 **THE COURT:** Very good. All right. No other
11 questions of Mr. Hollingsworth?

12 **MR. HOWE:** No, sir. Thank you, Your Honor.

13 **THE COURT:** Very good. Anything else before we
14 bring the jury out, gentlemen?

15 **MR. STUMBO:** Nothing from the State.

16 **THE COURT:** All right. One quick housekeeping
17 matter. I did -- before we came in and went on the
18 record, I did take Exhibit 47, which is the active
19 shotgun round, and State's Exhibit 43, which are the
20 six rounds from the pistol. I've got those up here on
21 the bench. I'll explain to the jury safe-handling
22 instructions, et cetera, in the jury room. And the
23 State has double-checked the locks on the firearms, so
24 we should be safe as far as that's concerned.

25 The State will go first on arguments, the defense

1 will go second. When the jury comes out, I'll afford
2 y'all an opportunity to rest on the record and then the
3 defense can rest, okay? I assume you'll close for the
4 State, Solicitor?

5 **MR. STUMBO:** Yes, sir.

6 **THE COURT:** Ms. McNeill, you'll close for the
7 defense?

8 **MS. McNEILL:** Yes, sir.

9 **THE COURT:** Let's have the jury in, please.

10 (The jury returns to the courtroom at 10:21 AM.)

11 **BAILIFF:** All jurors present, Your Honor.

12 **THE COURT:** All right. Let the record reflect
13 that the jury is back and seated. Ladies and gentlemen
14 of the jury, I trust you had a pleasant evening last
15 night. I want to thank you for being back here on time.
16 We've, of course, been working this morning. At this
17 point in time, we're still on the State's case in chief.
18 Solicitor, you can call your next witness, sir.

19 **MR. STUMBO:** Your Honor, at this time the State
20 will rest its case.

21 **THE COURT:** All right. A case from the defense,
22 Ms. McNeill?

23 **MS. McNEILL:** None, Your Honor.

24 **THE COURT:** All right. Ladies and gentlemen, at
25 this point in the trial we've reached the juncture where

1 you've received all the evidence that you're going to
2 get in this particular case and it will now be -- the
3 lawyers will now have an opportunity to give you their
4 closing argument or their closing summation. The way
5 that we'll proceed is the State will go first to be
6 followed by Ms. McNeill.

7 I'll tell you that normally in a closing argument
8 it's customary for the attorneys to refer to certain
9 testimony or certain evidence, which has been presented.
10 Understand that even though they say or they'll talk
11 about the evidence in the case, you're the sole judges
12 of the facts in this case, you're the sole judges of the
13 evidence. So if the lawyers say anything about the --
14 the testimony or the evidence and if it differs from
15 what your recollection of the evidence is, you should go
16 with your recollection of the evidence as opposed to
17 what the attorneys say it is, okay? Because, again,
18 you're the judges of the facts.

19 For example, if one of the lawyers were to say
20 that yesterday it was cloudy and rainy and cold and wet
21 and miserable, but your recollection was that yesterday
22 it was sunny and pleasant and nice outside, you should
23 go with your recollection as opposed to what they say
24 the weather was like, okay?

25 With that, Solicitor, you're invited to give your

1 closing, sir.

2 MR. STUMBO: Thank you, Your Honor. If it please
3 the Court.

4 THE COURT: Yes, sir.

5 CLOSING ARGUMENT

6 MR. STUMBO: Mr. Bill Ardis. That's why we're
7 here. A sixty-five-year-old man, a contributing member
8 of our community, owned his own business. Not only
9 owned the business, but got up at five in the morning
10 and went to work. He owned a roofing company. A family
11 who loves him, who've been sitting here faithfully all
12 week listening to some of the most horrible things that
13 I could ever imagine happening to a family member. As
14 we've talked sterilely about this case and clinically
15 about the things that happened, put up scientific
16 testimony that sounded real cold, this family has had
17 to sit there and listen to that and to see a picture put
18 up on that screen of Bill's dead body laying on his own
19 living room floor.

20 That's why we're here folks and that's why it's
21 so important. We said this the whole time, and
22 Mr. Mowry indicated this when he opened to you, and
23 that's why what you've done here in the last few days,
24 I know it's been an inconvenience for you, you had to
25 take time away from your families, your jobs, and that's

1 not lost on me, so I want to thank each and every one
2 of you for the service you've given this county and the
3 state this week. So that's why we're here. Because of
4 Bill Ardis. We're here because he's not here anymore.
5 Each and every one of us in this courtroom this morning
6 was able to wake up and walk out our front door and see
7 the sunshine and know that we had another day of life in
8 front of us.

9 Mr. Bill Ardis, you'll have this back in the jury
10 room, he didn't get that chance to wake up this morning
11 to feel the sunshine on his face when he walked out the
12 door. Because of what Heath Hollingsworth did that
13 night back in November of 2012, this sixty-five-year-old
14 man, who was a contributing businessowner, a member of
15 this community, a family man, became this. We're here
16 because justice demands it. We're here for justice.
17 We're here to seek the truth, and ultimately the
18 culmination of all this is to seek closure for these
19 people.

20 Now as Mr. Mowry pointed out to you in opening
21 statements, we bear the burden of proof and the Judge is
22 gonna tell you about that. The State always bears the
23 burden. So me as your elected Solicitor and Mr. Mowry
24 as my Deputy Solicitor, we have the burden to prove this
25 case. The Defendant doesn't have to prove anything.

1 Doesn't even had to put up a defense, and he didn't in
2 this case. He's not required to under the law. He has
3 the right to remain silent. The Judge is gonna tell you
4 that, but that's a burden that we have gladly borne in
5 this case for this community, for this family.

6 Now let's talk a little bit about some of the
7 legal points that you're gonna hear. The Judge is gonna
8 instruct you on the law. You're gonna get everything
9 you need about the law from the Judge, from Judge Addy,
10 at the end of the arguments.

11 Let's talks about a couple of points of law and
12 then we'll get into some of this evidence that you've
13 seen throughout this week. If you could hit the first
14 slide there, Mr. Bentley. Proof beyond a reasonable
15 doubt. This is the burden that we have. That's the
16 burden of proof. That's what's known as the burden of
17 proof. Every time a prosecutor walks into the courtroom
18 and has to argue a case to the jury, this is our burden.
19 It's the Defendant's right under the Constitution to be
20 innocent until proven guilty, until we prove him guilty
21 beyond a reasonable doubt.

22 What does that mean? Okay, folks, this is not --
23 you don't use beyond a reasonable doubt in your every
24 day living, I'm sure. What the Judge is gonna tell you
25 is this. I want you to listen to these two words.

1 Firmly convinced. Judge Addy, I want you to listen
2 closely when he starts instructing you on what beyond a
3 reasonable doubt means. He's gonna tell you that it's
4 proof that leaves you firmly convinced. Two words,
5 firmly convinced. That's not a scientific formula, it's
6 not something you go into a lab and come out with a
7 scientific answer on, it's not a mathematical equation.
8 Firmly convinced. That means you're firmly convinced in
9 your heart after you've heard -- heard all the testimony
10 and seen all the evidence that Heath Hollingsworth
11 murdered Bill Ardis, and that's our burden in this case.

12 Firmly convinced. Don't make it more than it is.
13 Sometimes I think it's very daunting sounding, the words
14 beyond a reasonable doubt. It's not proof beyond all
15 doubt, but after you've heard all the evidence in this
16 case, which you have, and you're able to go back in that
17 jury room and consider it and look at the exhibits and
18 recount the testimony and discuss it amongst yourselves,
19 if you're left firmly convinced of the Defendant's
20 guilt, then you've done your job and you come out with a
21 verdict of guilty.

22 The next thing we'll talk about is murder. This
23 is the one charge you have to consider in this case,
24 is what exactly is murder under our law. The Judge
25 is gonna tell you it's the killing of another person,

1 which is a homicide, as opposed to a suicide, killing
2 yourself, but this is the key element here; that the
3 killing is done with malice aforethought. There again,
4 words you probably don't use every day.

5 What is malice? It says malice can be either
6 implied or express malice or inferred malice. The Judge
7 is gonna tell you that. It can be either express or
8 implied or inferred. Now what that means, folks, is
9 express malice would be me expressly saying I am going
10 to kill so and so. It's the words. Express malice
11 means I am expressing by my words my intent to kill.
12 That's what malice is. It shows an intent to kill,
13 okay, and that's what the law implies when a killing is
14 done with an intent to kill that person without any
15 legal justification.

16 Now what are some of the ways you infer malice?
17 These are just several options here. You can put them
18 all up on the screen, Mr. Bentley. There's one that I
19 want you to focus on. It is extreme indifference to the
20 value of human life. And the Judge is gonna tell you
21 when he gives his instructions that someone who has so
22 little concern for the value of human life that they act
23 in the way they do, that that is a way to show malice.
24 And I would submit to, you ladies and gentlemen, that's
25 very important to this case when you evaluate the

1 actions of Heath Hollingsworth the night of November 7,
2 2012.

3 Now what does aforethought mean? That is
4 basically, folks, another way of saying premeditation.
5 And what the Judge is gonna tell you is this is not
6 something that you have to plan out, okay? You don't
7 have to plan out your premeditation of a murder. What
8 aforethought means under our law is that the intent to
9 kill, the malice, can be formed just before and at the
10 time that the crime or the act is committed, okay? So
11 don't think that this is something that you plan out for
12 hours before, plan to kill somebody, which I will submit
13 to you, there again, understanding that concept is very
14 important to this case when you evaluate the actions of
15 Heath Hollingsworth on the night of November 7, 2012.

16 Now, folks, one other concept I want to discuss
17 in the law before we get into some of the evidence is
18 this. The Judge is gonna tell you there's two types of
19 evidence; direct evidence and circumstantial evidence.
20 Now direct evidence is kind of like express malice like
21 I told you before. It's eyewitness testimony. Somebody
22 saw something and they're telling you what they saw is
23 direct evidence. The Judge is gonna tell you there's
24 no difference in the weight between direct and
25 circumstantial, but obviously someone who sees something

1 and you believe that they're telling the truth about
2 what they say, that is direct evidence. Some of the
3 best evidence you can have; a person who was there in
4 the room and saw what happened.

5 Circumstantial evidence, on the other hand, is
6 evidence that, there again, you can make inferences
7 from the facts. There again, a certain type of
8 circumstantial evidence in this case would certainly
9 be the fact that on the shotgun trigger as you heard
10 from the SLED DNA analyst that we have DNA material from
11 both Shayla Gaines, the co-defendant, and from this man,
12 Phillip Heath Hollingsworth. So the circumstantial
13 evidence being that both of those individuals at some
14 point, as the analyst testified, she can't you tell you
15 how many times, she can't tell you when, but they both
16 handled that gun, okay? That's circumstantial evidence.
17 That doesn't tell you exactly what happened that night,
18 but it's evidence that helps you make inferences on the
19 ultimate question here, which is who killed Bill Ardis.
20 That's circumstantial evidence.

21 A very important -- a good way to describe this
22 here for circumstantial evidence would be this. If
23 you go to sleep one night and you wake up the next
24 morning and you walk out your front door, and we had
25 this one time this year, we came out in the morning and

1 there was snow on the ground. Well, you didn't see it
2 snow, you didn't eyewitness the snow coming down because
3 the snow had stopped, but when you walk outside and
4 there's white covering the ground, you can pick it up
5 and feel it, it's cold, wet, icy, that's circumstantial
6 evidence. That's a good way to think about it. So in
7 this case, folks, we have direct evidence and we have
8 circumstantial evidence. We have both to assist you
9 in making your decision in this case.

10 Now, folks, direct evidence is a type of evidence
11 here, and this is the most important thing to remember
12 here, is we have one witness in this case that can give
13 us direct evidence. She was the first witness we saw.
14 That's Shayla Gaines. She was the only human eyewitness
15 to the events of November 7, 2012. Mr. Ardis isn't here
16 anymore to tell us what happened. If only dogs could
17 talk. You can see in State's Exhibit 2, and you heard
18 the crime scene analyst, you see the little white dog
19 there sitting on the couch with what he said was red,
20 which appeared to be blood on the dog, the dog didn't
21 move the entire time they were there, hours spent
22 processing this crime scene, sitting on the back of that
23 couch. If only dogs could talk, but they can't and we
24 know that. They can't communicate to us and tell us
25 what they saw, so we're left with Shayla Gaines. The

1 only person in the room that night other than the
2 Defendant and Mr. Ardis, who's not here anymore to tell
3 us what happened.

4 Now despite the defense's attempts, and I want
5 you to think about this for a second because she was
6 on the witness stand for a while telling y'all what
7 happened, Ms. McNeill had an opportunity to
8 cross-examine her. She's a fine attorney and did a
9 fine job, but did you notice something, that she never
10 asked her anything about what happened in the room at
11 [REDACTED] in Waterloo when Mr. Ardis was killed?
12 Let's talk about all these other things, Shayla, all
13 these bad things that you've done.

14 Listen, folks, she was asked candidly as anybody
15 I've ever seen sitting there telling you about all the
16 warrants that she had. She told you about her pill
17 addiction, she told you about the problems she had with
18 having custody of her children, she told you about
19 criminal records. That was all exposed for the world
20 to see. She didn't hide any of that, folks. She sat
21 there and told you about it just like she told you about
22 what she saw.

23 Now here's what's important about this direct
24 evidence that you heard from Shayla Gaines, ladies and
25 gentlemen. That Ms. McNeill said in opening that

1 science -- she said science would prove to you that
2 Shayla Gaines killed Bill Ardis. Science would do it.
3 Ms. McNeill delivered to you in opening statements a
4 promise that she hasn't been able to fulfill. Y'all
5 heard the SLED analysts yesterday. There were several
6 of them that got on the stand and talked about the
7 scientific evidence and the scientific evidence in this
8 case is important. We've got it all over this table
9 here for y'all to take back in the jury room and look
10 at. Why is the science important to you? Because it
11 corroborates her story at every turn, folks. Science
12 has proven nothing in this case. What it does is it
13 helps to corroborate her story and it in no way, as
14 Ms. McNeill promised you in opening statements, proves
15 that either Shayla or that Heath killed Bill Ardis, but
16 I challenge her to take the science and disprove or
17 damage or discredit anything that Shayla said on this
18 witness stand because it didn't. It corroborated it
19 over and over and over again.

20 What was some of the ways it corroborated? What
21 about the GSR particles? Remember the GSR testimony?
22 You've got the kit here and you heard the SLED witness
23 talk about her experience with gunshot residue and this
24 was probably on the very outside of the time that they
25 could have even got reliable results from the gunshot

1 residue kit. We know they didn't take it until sometime
2 about 5:00 in the morning. Now at the time they put
3 2 to 2:30 as the time of the crime, but the investigator
4 at the time was going off Shayla's story that this had
5 just happened. Remember she left out the further fact
6 that they had done the pills, but if you take the
7 accurate timeline, which we know Mr. Ardis was killed
8 sometime around midnight, this was right there at the
9 outside where you could even get GSR.

10 But that being said, what did she have? She had
11 no gunshot residue on the backs of her hand. Remember
12 the analyst told you that they've done testing before;
13 they could fire a gun and go back and test their hands
14 and that typically the person who's fired the gun had
15 hundreds of particles on their hands and more prevalent
16 on the backs of the hands because that's the area that's
17 exposed to the cloud typically when you're holding a gun
18 in any manner.

19 Well, what did Shayla have? She had a particle
20 on one hand or on the palm of the right and a particle
21 on left hand. Well, folks, wouldn't that be consistent
22 with somebody sitting there on the couch, just a few
23 feet away on this couch where the dog's sitting, and
24 when this man comes in the room with a double barrel
25 shotgun and shoots it directly in the back of a man's

1 head, wouldn't that be consistent with her throwing up
2 her hands in defense possibly? Also the analyst said
3 it could have come from her just -- a small particle
4 could have come from her picking up something that was
5 in the room. Anything. So, there again, the GSR
6 evidence, ladies and gentlemen, doesn't prove anything.
7 If anything, it corroborates Shayla's testimony.

8 What about the trigger? We've talked about that,
9 the DNA on this trigger. Shayla told you that many,
10 many times, especially when her children would come --
11 when her son would come over, that she would move that
12 gun out of the way. It was there for self-defense,
13 they had it in the room, she'd move it, she'd put it up,
14 so is it any surprise that she has DNA on that gun if
15 she picks it up similarly to the way I picked it up
16 yesterday when the witness was on the stand to move it?
17 It's got his DNA on the trigger, too. So what does that
18 prove? It doesn't prove anything, folks, as Ms. McNeill
19 promised you, but it supports Shayla Gaines' testimony.
20 It corroborates it yet again.

21 What about the pants pocket turned inside out as
22 we can see in State's 12? We had testimony from Shayla
23 and from Tina Dobbins that Heath Hollingsworth later
24 that night had a pocket full of dollar bills so that he
25 could pay for the Roxie pills. So the pants pocket, the

1 way its found by the crime scene investigator turned
2 inside out, and they did swab it, whose DNA is on the
3 pants pocket? Of course Mr. Ardis, putting his hand in
4 and out of his pocket all day, but who else? They were
5 able to develop a comparison, although in a smaller
6 amount, but they had Heath Hollingsworth's DNA present
7 on Mr. Ardis's pants pocket and he ended up with money
8 later on paying for the pills, going in the store,
9 buying merchandise.

10 There again, the science, ladies and gentlemen,
11 and the crime scene evidence corroborates what Shayla's
12 told you and what Tina Dobbins testified to about Heath
13 having Bill's money.

14 Shayla said that Bill was wearing a John Deere
15 hat that night when he was killed and you'll have
16 this in the jury room. You'll see that this hat is
17 completely tuned back, blown to smithereens, has blood
18 and matter on it. It was blown all the way across the
19 room against the window. That corroborates Shayla's
20 testimony that Bill was wearing a John Deere hat.

21 What about the shotgun shell? Remember Marker
22 Number 18? This is State's Exhibit 19 here. You'll
23 have this in the jury room. One of the crime scene
24 investigator tells you he finds that green shotgun shell
25 that ends up matching or being consistent with the

1 double barrel shotgun that shot it. You heard from the
2 firearms expert. Remember what Shayla said; that he
3 comes out and waves it in her face and says smell that.
4 There's the shell right there. You'll have it in the
5 jury room. That's the shell that he waived in her face
6 and said smell it. Smell it. That's what killed him.

7 Why do you think he did that? He did that so he
8 would have no leaks. To keep her quiet he waves a
9 shotgun shell in your face and lets you smell it. Maybe
10 if I do that you won't tell anybody what I did. There
11 again, science. Evidence collected at the scene
12 corroborates Shayla's testimony. She said after he
13 waved it in her face, he tossed it to the side. She
14 said she couldn't tell if it went in the back of the
15 truck or on the ground. It was found right about the
16 place in that driveway where the truck would have been
17 parked. There again, the scene, the science,
18 corroborates everything you heard from her, folks.

19 What else? How about the blood on the .357
20 Magnum? That's the gun that Shayla said that was
21 sitting on the table, State's 41, this .357 pistol here.
22 There were swabs taken from that gun that comes back
23 with Bill Ardis's blood. Just as Shayla said, he took
24 the gun that was sitting on the table and, lo and
25 behold, that gun wasn't in a drawer somewhere or on the

1 kitchen table or under the couch. It was sitting right
2 in a place, if you look at the layout of this room,
3 where it could have gotten Bill's blood on it when he
4 was shot and killed by Heath. There again, science.
5 Hard evidence that corroborates the direct testimony
6 which you heard from Shayla Gaines.

7 What else? How about Tina Dobbins' testimony
8 itself? Tina's similar in some way to Shayla. She
9 wasn't hiding anything. Yeah, I've got a pill
10 addiction. I've got a prescription for pain pills,
11 but I also do them for other reasons; shoot them up
12 with a needle. She didn't hide any of that, folks.
13 She told you all about it.

14 But what else did Tina say? They didn't have
15 time -- by the time Shayla gets back to the house, they
16 call 9-1-1 and the testimony was officers from Greenwood
17 County arrived within several minutes. They didn't have
18 time to sit down and hash out this grand conspiracy of
19 you say this and I'll say this and we'll get our stories
20 straight. Tina testified to you that Heath said three
21 or four times no leaks, Shayla; no, leaks. Why do you
22 think he said that? She didn't know at the time what he
23 meant because that was before Shayla told Tina Bill's
24 dead. She had no reason -- she was wondering what he
25 was talking about. What do you mean no leaks? It was

1 the same thing that Shayla told the investigators when
2 she gave her statement. He was telling me no leaks; no
3 leaks, Shayla. So Tina's testimony corroborates that.

4 It matches up with the store clerk; that she
5 said I'll give you fifteen minutes, Shayla, to get rid
6 of him. Shayla goes in the store -- Heath goes in the
7 store once, comes right back out, goes back in the
8 store again. By that time Shayla had thrown it in
9 reverse and got the heck out of Dodge. Now you heard
10 from the store clerk. She testified to the same thing.
11 She had time to collaborate with Shayla on he went in
12 the store twice? No. It's just another small piece of
13 circumstantial evidence that testimony from the store
14 clerk shows you Shayla isn't pulling your leg, folks.
15 She's telling you what happened.

16 What else do we have? The very fact, folks, that
17 Shayla was doing everything she could to get -- I want
18 you to think about this for a second -- to get away from
19 Heath Hollingsworth. She left him at that store. She
20 got the heck out of there and got back to Tina's and
21 immediately there on the horn to law enforcement trying
22 to get them over there. She was scared to death. If
23 she had been the one to kill Bill Ardis and poor Heath
24 Hollingsworth was just the one sitting there to witness
25 it, don't you think Shayla would have wanted to keep

1 Heath as close by her as she possibly could? Think
2 about it for a second. She was the one to get rid of
3 him. He would have been -- under that scenario, he
4 would have been the only one who witnessed her crime
5 and she would have just left him out in the middle of
6 no where for him to tell somebody else or tell law
7 enforcement or whatever? No, it doesn't make sense,
8 folks. So, there again, that bit of testimony that she
9 got away from him and got back to Tina's and they call
10 law enforcement and immediately tell -- when she's able
11 to get away from him to them what she knows. That
12 corroborates that Heath did this, not Shayla.

13 What about Shayla herself here sitting on that
14 stand? And I know Ms. McNeill told you about history,
15 science and motive at the start of the case. Well, what
16 about motive? She was just wanting you to think about
17 motive in the sense of well, she's got a motive to lie
18 because she might get charged with murder and she may be
19 looking at a life sentence. That's what she wanted you
20 to hear, okay? What about Shayla's motive to kill Bill
21 Ardis? Where is that? Shayla, folks -- here's a girl
22 that really stayed at the house, kept the house, kept
23 Bill up. He basically financially supported her, gave
24 her a place to sleep. Gave Heath Hollingsworth a place
25 to sleep, too. Gave him a job. He was good to Heath,

1 but what about Shayla? He was good to Shayla. He kept
2 her there. What motive does Shayla Gaines have to kill
3 Bill Ardis? We haven't heard that yet, folks.

4 Now, on the other hand, what about Heath
5 Hollingsworth? Well, we know he was in a drunken stupor
6 all day. He was angry. When they were driving back, he
7 was accusing Shayla of sleeping with Bill. He was mad
8 at Bill. In his estimation, Bill was getting in his way
9 that night. Remember Shayla's testimony when Bill said
10 in the truck I'm not putting up with any BS tonight
11 when he goes and picks him up in his drunken stupor and
12 takes him back to his house? I still haven't heard any
13 evidence of motive here for Shayla Gaines to kill Bill
14 Ardis, but I do know that that man sitting at that table
15 over there was in an angry, drunken rage that night and
16 had so little concern for life that he shot and killed
17 him. Shayla's got no motive to kill Bill Ardis. She
18 loved Bill. She told you that on this witness stand.
19 She said she loved Heath. She's devastated by what
20 happened that night. She couldn't believe that Heath
21 would take a double barrel shotgun and go blow Bill's
22 head off. Why would he do that? You saw that raw
23 emotion from her on the stand, crying as she told you
24 about what she saw when she saw Bill get shot and
25 killed, crying as she told you that she loved him. She

1 didn't kill Bill Ardis. The guy that was drunk, buying
2 Sudafed for Shayla's dad to cook meth with who was so
3 drunk he was peeing on the side of the highway, never
4 sobered up and in a fit of drunken rage, he did
5 something that took a man away from us permanently.

6 Now, folks, Ms. McNeill is a fine lawyer. She's
7 gonna get up here and argue to you in a second. I'm
8 sure she'll do a great job with that. She always does.
9 Ms. McNeill, I anticipate here, is going to try to
10 divert you away from what her client did that night.
11 There's plenty of evidence here, there's plenty of ways
12 she can do that, but I would ask you to remember one
13 thing. Don't allow the smoke and mirrors of getting you
14 to look everywhere else in this case to take your eye
15 off the ball, okay?

16 An interesting thing that the crime scene
17 investigator told us yesterday. This is a guy that is
18 a crime scene investigator and he said I've never worked
19 a perfect scene in my life and this one wasn't. There
20 will be a temptation, folks, as the jury here for you to
21 do one thing. There will be a temptation for you to
22 latch onto one little detail here or one little detail
23 there and get focussed on that. I would ask you to do
24 one simple thing. Focus on each piece of evidence as it
25 fits into the other. Look at it in the whole spectrum

1 of what you've heard in this case, not only heard but
2 seen from the witness stand. Don't get so focussed on
3 one piece because this is -- you have to take a broad
4 view. Like on an airplane going over land, you don't
5 just see one little house there or one little field
6 there, you see a large amount of area, and that's what I
7 want you to think of this as, looking at this case as a
8 whole and at the end you'll be firmly convinced of this
9 man's guilt.

10 And what are some of the ways that she's probably
11 gonna try to keep your eye off the ball here? Law
12 enforcement. It's not uncommon for the attacks come on
13 law enforcement. You heard from Investigator Franklin.
14 He would probably say the same thing that the SLED
15 crime scene guy said, has there ever been a perfect
16 investigation, has there ever been a perfect crime
17 scene? No. We're talking about human beings just like
18 you and me, up twenty hours, all night. Having to go --
19 this is a normal guy, Investigator Franklin, who lives
20 here in Laurens County just like everyone else. He had
21 to go out in the middle of the night, walk into a room
22 where there was a dead sixty-five-year-old man on the
23 floor and one of the most horrific things he's ever
24 seen. You think he'll ever erase that memory out of his
25 head? The same thing with the SLED agents. But what

1 I'm sure you'll get is attacks on law enforcement from
2 Ms. McNeill; why didn't they do this, why didn't they do
3 that, why didn't they show you this? Folks, there
4 again, keep your eye on the ball. See this case as a
5 whole entity as what it is.

6 We've already talked about how she's gonna talk
7 about Shayla. I'm sure we'll hear all about Shayla's
8 problems that she's had in the past. Throughout her
9 cross-examination that's all we heard from Ms. McNeill;
10 attacks on Shayla. Let's talk about everything else,
11 Shayla, but what happened that night, what really
12 happened in that room at [REDACTED] Drive. She'll talk
13 about her not coming clean the first time about going
14 to do the pills. Well, she's been very honest and frank
15 about that. Yeah, I didn't tell them the first time
16 about the pills; I didn't want to get Renee in trouble,
17 Tina Dobbins, I didn't want to get the guy that sold
18 us the pills in trouble. But is that any reason not
19 to believe, over some pills?

20 There again, smoke and mirrors, folks. They're
21 trying to get you to look at these other elements here
22 and not what happened in that room at [REDACTED]
23 because she was trying to protect Renee from going and
24 getting the Roxies and shooting them up with them. They
25 want you to believe that because of that you can't

1 believe anything she says about what happened to Bill
2 Ardis. Don't let her do it, folks. Keep your eye on
3 the ball.

4 You notice how Mr. Howe tried time and time again
5 to get Investigator Franklin to say that he cut her some
6 kind of deal for her testimony or that the Solicitor's
7 office, we gave her some kind of deal. We didn't give
8 her any deal, folks. She's still facing what she was
9 arrested for. She was arrested for accessory after the
10 fact of murder. She still stands charged with that
11 today. We didn't make any deals with her, folks, but
12 they tried over and over again to get Investigator
13 Franklin to tell you it was some kind of conspiracy.

14 Why did they do that? You know why they did it.
15 They tried to get your eye off the ball of what really
16 happened because they know -- they know that all of this
17 scientific evidence that we have, that everything that
18 came into this courtroom corroborates her story, so
19 they've got to go somewhere with it. They've got to
20 make the jury think that she's just getting some kind of
21 deal for doing this. Was she given some kind of deal
22 when she wheeled out of the One Stop in Coronaca that
23 night and hightailed it back to Tina Dobbins' house
24 and called law enforcement as quickly as she could?
25 No, she still got charged. She still got arrested and

1 charged for her part. She didn't get a deal, ladies
2 and gentlemen. No leaks.

3 I know y'all have had probably enough of me
4 talking to you. You've been here for two days listening
5 to a lot of testimony and I'm sure you're tired, so I'm
6 gonna shut up and sit down here in just a moment, but I
7 want you to remember those words.

8 The unfortunate part for Heath Hollingsworth is
9 that there was a leak that night. Shayla. She got rid
10 of him and got to the police as quickly as she could
11 to tell them about her good friend, Bill Ardis, having
12 his head blown off by this man. State's 38, you'll
13 have this in the jury room. It's a picture of Heath
14 Hollingsworth's shoulder less than twenty-four hours
15 after he had killed Bill Ardis. You'll have a chance
16 to look at this close up in the jury room. The bruise
17 here, this indentation right down the middle there. I
18 don't know how many folks on the jury has shot a 12
19 gauge shotgun or have friends that bird hunt and do
20 other things to shoot a 12 gauge shotgun, but they've
21 got a pretty good kick to them. You'll also have a
22 picture of State's 17, the butt of that shotgun. You'll
23 have the shotgun itself. What do you think caused that
24 bruise, folks? Is that the smoking gun? Does that tell
25 you 100 percent beyond all doubt what happened in that

1 room that night? What does? We have another piece of
2 circumstantial evidence that corroborates the story that
3 Shayla Gaines told us.

4 I won't have an opportunity -- after Ms. McNeill
5 speaks to you in a moment, I'm not gonna have another
6 chance to talk to you, so thank you again for your
7 service this week. You're gonna have an opportunity
8 to go back in the jury room and consider a verdict, a
9 verdict of guilty or not guilty. A verdict, the word
10 itself, is from two Latin words that means to speak the
11 truth. So literally by your verdict the word verdict
12 means speak the truth. You'll have an opportunity to
13 do that when you go back to the jury room and consider
14 all this evidence. Remember why we're here, folks.
15 Remember why we're here. We're hear for justice.
16 We're here to seek the truth and speak the truth as
17 your verdict will do and we're here for closure.

18 Mr. Mowry said during opening statements that one
19 thing all of you had in common was your common sense,
20 and I agree with that. There's another thing that you
21 have in common. All of you are citizens of Laurens
22 County. You are citizens of this county and as the
23 twelve of you speaking one mind as you deliberate the
24 consciousness of this county as citizens. We've gladly
25 borne the burden in this case with proof, we've

1 presented the evidence to you as best we know how, not
2 perfectly just like the crime scene investigator said,
3 and we now we leave this important decision in your very
4 capable hands. Thank you.

5 **THE COURT:** Thank you, Solicitor. All right.
6 Why don't y'all retrieve that computer over there.
7 Ms. McNeill, you're recognized for your closing
8 argument, ma'am.

9 **MS. MCNEILL:** Judge, I'd just ask for you to
10 inquire whether the jury wants a five-minute break.

11 **THE COURT:** Certainly. That took about
12 fifty minutes. Does anybody need a brief break? This
13 may take a little bit long. Do you want to take five
14 minutes anyone or -- if you do, raise your hand. Going
15 once -- okay. It looks like they're okay, Ms. McNeill.
16 You may proceed at your leisure.

17 **MS. MCNEILL:** Thank you.

18 **MR. HOWE:** Judge, if I could --

19 **THE COURT:** Right. I think the off switch is
20 just at the base of the -- not that, the -- yeah, there
21 you go. And the projector is still on if y'all wanted
22 to cut that off, too.

23 **MS. MCNEILL:** Good morning. Now Solicitor
24 Stumbo sat up here and talked a lot about what I was
25 going to say and it sounds like he was kind of worried

1 about what I was going to say and how I'm going to cloud
2 your judgment and how I'm going to fog up the mirrors
3 so that you cannot see the truth to what he says is
4 speaking the truth and seeking justice. He constantly
5 repeated that term.

6 Mr. Mowry in his opening statement said this is
7 a case about who done it. Who done it, right? And
8 so what we're here today to do was to try this case to
9 see if you can determine who done it, and I don't know
10 about anybody in here, but I think that there's enough
11 reasonable doubt about who done it in this particular
12 case. We're gonna go through this, and I promise that
13 I'm not gonna keep you as long as the Solicitor did, but
14 I am gonna have to be thorough, so just bear with me.

15 We do not dispute the fact that Bill Ardis
16 was murdered and it was a violent murder and it's a
17 terrible, terrible thing. We don't dispute that
18 fact. What we are disputing is that Phillip Heath
19 Hollingsworth pulled the trigger that shot Bill Ardis.
20 Phillip Heath Hollingsworth is innocent. He's not
21 guilty of pulling that trigger. His co-defendant,
22 Shayla Gaines, is the one that pulled that trigger.

23 Now Solicitor Stumbo got up here and said that
24 I stated in my opening that I was going to prove to
25 you that science will show that Shayla Gaines was the

1 shooter. Keep in mind that's burden shifting, okay? I
2 have nothing to prove. Our defense team has absolutely
3 nothing to prove. They are the ones that have to prove
4 everything. They have to prove each and every element
5 in this particular case that Phillip Heath Hollingsworth
6 is guilty of pulling that trigger that shot Bill Ardis,
7 and he has not done that. He has not met his burden.

8 The State said that Shayla Gaines had a checkered
9 past in their opening. I think you'll recall Mr. Mowry
10 saying that. That's putting it mildly, all right? They
11 are putting their entire faith of this case in the hands
12 of Shayla Gaines. That's what their case rests on.

13 how much would you trust this girl? If her testimony
14 is trustworthy, then, okay, but if her testimony is
15 not trustworthy, then you have to find Phillip Heath
16 Hollingsworth not guilty of murder. It's that simple.

17 So let's go over this. Her prior difficulties
18 with Bill Ardis, right? Shayla Gaines took the stand
19 and I cross-examined her and discussed her prior
20 difficulties with her relationship with Mr. Ardis. In
21 2011, just a year prior to this murder, because we know
22 this murder occurred on November 7th of 2012, so in 2011
23 she pled guilty to assault and battery, and guess who
24 the victim was? Bill Ardis. Bill Ardis was Shayla
25 Gaines' victim just a year prior. If she could use her

1 hands and her fists, and there was testimony that there
2 was scratches and bruises on him, if she could use her
3 hands and her fists, what's to say that she -- that
4 little girl is not gonna get pissed off enough to up the
5 ante and take a gun and blow him away.

6 She had prior difficulties with him. You heard
7 her testify that he had kicked her out of his house and
8 that made her furious and it wasn't until Heath moved in
9 that she moved back in and I'm certain that it was in
10 hopes of, you know, some sort of cordial relationship
11 ability to be developed after Heath would come in as the
12 buffer.

13 She testified, ladies and gentlemen, that Bill
14 Ardis made her feel worthless. I straight up asked
15 her that question. She said yeah, he made me feel
16 worthless, he sure did. And I asked her what she
17 contributed to the household. She contributed nothing.
18 She made a sandwich every once in a while Heath and
19 Bill were out doing their roofing jobs and she
20 slept and slept and didn't get up until 1 or 2:00 PM.
21 She was worthless. She contributed nothing to that
22 household. What she did contribute was occasionally
23 drugs and a sandwich. That's it. That's what she
24 contributed. Meanwhile Bill and Heath were out there
25 working to try to make sure that that girl had a roof

1 over her head, but she said Bill made her feel worthless
2 time and time again. Maybe that's why she committed
3 that assault and battery just a year prior. Maybe
4 that's why she beat him up just a year prior because
5 he made her feel worthless. Maybe this time that girl
6 held onto such a grudge she picked up the gun to take
7 care of business for herself.

8 Let's talk about science. Solicitor Stumbo's
9 talked about it a little bit and he kept saying the
10 science doesn't prove anything, the science doesn't
11 prove anything, okay? Well, if the Solicitor even
12 thinks that nothing has been proven in this case, why
13 should you think that something has been proven in this
14 case? If he thinks that there is wiggle room, why
15 shouldn't you think that's there's wiggle room? And
16 you know what that wiggle room is called? Reasonable
17 doubt. That's what that's called. The Solicitor is
18 even telling you out of his own mouth in his own closing
19 that it proves nothing. That's reasonable doubt.

20 Let's take this gun, okay? Now I don't know
21 about y'all, but let's say I lay this down right here,
22 okay? Now how would any one of you pick this thing up
23 if you were just moving it from Point A to Point B?
24 Probably just like this, right? Holding it, moving it
25 and laying it back down, Point A to Point B. If it's

1 standing up -- let's say it's standing up. How would
2 you pick it up then? Probably either just like this or
3 like this, Point A to Point B, and setting it back down.
4 How would you probably not pick up this thing? You
5 probably wouldn't pick it up, especially if it's loaded,
6 you probably wouldn't pick it up like this, right? You
7 probably would never carry it like this. You probably
8 would never carry it like this, right? No. She
9 testified she had never shot this gun before. She
10 testified that she had moved it around before. Why is
11 she carrying a gun around by its trigger face? Does
12 that make any sense to you?

13 Her DNA is the major contributor on that trigger
14 face right here, right there, okay? So if they take a
15 swab from right there, her DNA is the major contributor
16 on this trigger. Phillip Heath Hollingsworth's DNA is
17 the minor contributor. And you'll have the report from
18 Amanda Webb, so you'll be able to read it for yourself,
19 and I encourage you to do so. Item Number 7 is that
20 trigger face and it states the DNA profile developed
21 from Item 7 is a mixture of each two individuals. The
22 DNA profile developed from the major contributor to
23 this item matches the DNA profile of Shayla Gaines.
24 The probability of randomly selecting an unrelated
25 individual having a DNA profile matching a major

1 contributor to this mixture is approximately 1 in 31
2 million, okay?

3 I asked her some questions about transferring
4 DNA, and you saw me ask those questions yesterday, and
5 what did I say to her? I said well, ma'am, I'm, you
6 know, handling this gun, my DNA's over it, now shake
7 my hand. She shook my hand up here and then I put my
8 hand back on the gun and I said isn't it possible now
9 that your DNA is now on this gun? She said yes, it's
10 possible. What was less likely to have occurred is that
11 a minor contributor can transfer a major contributor's
12 DNA onto another item. You heard her testify to that.
13 And she said it's possible that, you know, the major
14 contributor has handled the gun more. What you know
15 though, what science is telling you, is that more of
16 Shayla Gaines' DNA is on that trigger to that gun than
17 there is of Phillip Heath Hollingsworth's. That's what
18 we know. Science is telling us there is more of that
19 girl's DNA on that trigger than my client's.

20 GSR. Let's go over this report. Now what's
21 interesting about this was that Mr. Howe yesterday on
22 his cross-examination of the gunshot residue guy that
23 took the stand -- or the woman. I'm sorry. She let
24 Mr. Howe see a report and it was interesting because
25 what her report stated -- and she kept testifying that

1 between four and six hours was the limit to test GSR,
2 gunshot residue, and if it falls outside of the six-hour
3 time frame it's considered pretty much a dead kit to her
4 and she's not going to test it. Remember her testifying
5 to that?

6 So what did we find out though? We find out
7 that her report, the information that SLED gave to
8 her, stated that the shooting had occurred between
9 2 and 2:30 AM, right? But what time did that shooting
10 actually occur? More like 11, 11:30 PM the night
11 before, so she's thinking that she was testing a GSR
12 kit, gunshot residue kit, three hours after the shooting
13 had occurred, right, but in reality she was testing a
14 kit that had been taken six and a half hours after the
15 shooting had occurred. And Mr. Howe asked her on cross
16 had you known that that GSR kit was taken six and a half
17 hours after this incident, would you have tested it and
18 she stated no, she would not have.

19 So what's my point to you there? My point to you
20 there is this. It does not matter how little or how
21 much gunshot residue was found on Shayla Gaines. The
22 point being that the reason that the lady said that she
23 doesn't test outside of six hours is because it's less
24 likely to find any sort of particles of gunshot residue,
25 but lo and behold in this particular case, despite the

1 fact that the kit was actually tested outside of the
2 time frame, there's still gunshot residue on Shayla
3 Gaines. Still. Even after the time frame.

4 Let's go to this bruise. I'm showing you State's
5 Exhibit 38. Now conveniently enough they have -- the
6 State has blown up this one particular picture, just
7 one, and not all the pictures taken of my client. So
8 I'm gonna point some things out and I really want you
9 guys to look at this picture. They are thinking that
10 this is -- you know, he said is this the smoking gun?
11 That's what he said when he showed you this picture,
12 okay? And I know that they're hoping, they're really
13 hoping that you guys are gonna look at this and say,
14 oh, my gosh, that's a huge bruise, this thing, this
15 discoloration here, that Lieutenant Franklin took of my
16 client at the jail. Is he an expert photographer? What
17 kind of lens did he use? What are the shadows that are
18 there? And let me show you what I mean by that. Here's
19 the un-blown up version, okay, of that same picture,
20 right, of the same exact picture.

21 Now let me show you this picture. This is the
22 full torso shot taken of my client, all right? Full
23 torso shot. So what's my point? My point is this.
24 This picture here is the same shoulder as this shoulder
25 here. Where the hell is that bruise now? Where is

1 it? I don't see one, but I tell you what I do see. I
2 see a possible bruise here. It could be a shadow, it
3 could be a bruise. And I see a big bruise here on his
4 forearm. I hope you guys see that. So I showed y'all
5 down there. No bruise here, which is the blown up
6 version. I see a possible bruise, a possible shadow
7 here and I see a big bruise here, but what I don't see
8 is any bruise from any sort of kickback from the gun up
9 here, which conveniently when they blow it up now all
10 of a sudden it looks like a discoloration photo. This
11 is not a bruise, y'all.

12 I don't know if anybody's ever shot a gun and had
13 some kickback and been bruised, but that's not a bruise.
14 That could be and that could be, but that one on the
15 shoulder -- they're chasing high if they're trying to
16 tell you that that's a bruise. Look at those photos
17 closely.

18 Now we have motive. The Solicitor said he hasn't
19 heard of any motive for her to lie or for her to kill
20 Bill Ardis. We talked about the prior difficulties of
21 her relationship with him and, ladies, you know we can
22 hold onto grudges. He made her feel worthless, they got
23 into an argument. No one knows what exactly happened.
24 What I do know is that Shayla's DNA is on that trigger
25 more-so than Heath's is.

1 Let's talk about the other motive. The time
2 she's facing. She has got an enormous amount of time
3 that's hanging over her head. She's charged with
4 accessory to murder. That's fifteen years. Grand
5 larceny for stealing Bill's truck. That's five. That's
6 twenty years right there. And just as I asked her on
7 the stand, if they don't believe her testimony she could
8 be facing a murder charge, which is thirty to life. If
9 that's not motive to lie, I don't know what is. I doubt
10 anybody would want to do that kind of time.

11 Officer Franklin testified that he didn't believe
12 her, her statements were conflicting, they were going
13 back and forth, and so he continued to, quote, press
14 her to give up the ghost and then all of a sudden she's
15 adding to this other statement that she made. Oh,
16 yeah, now I'm gonna come clean about the drugs. Let
17 me tell you something about this girl, okay? She is
18 manipulative, she's a liar, she's a drug addict. Who's
19 gonna trust a manipulative, lying drug addict? Who?
20 Can you trust this girl?

21 You know, she also recently was arrested in
22 January of this year while out on bond on these charges
23 and we heard testimony that she had been riding around
24 in a car with somebody wearing a bulletproof vest and
25 toting guns and drugs. That's what she was just

1 recently doing in January. This is the girl that the
2 State wants you to trust. And she said I didn't know
3 he was wearing a bulletproof vest, it was underneath
4 his T-shirt. Probably because that boy knows how she
5 is with guns. And then not only was she doing that,
6 but when she was pulled over and arrested for DUI and
7 driving under suspension and giving false information
8 to police officers, the reason that she was charged with
9 giving false information to police officers is because,
10 as you heard on the stand, she gave the law enforcement
11 officer a beginner's permit with the name of Joanie Rice
12 on it. She's not Joanie Rice, she's Shayla Gaines. She
13 was representing to a law enforcement officer that she
14 was, in fact, somebody else. She was lying to the law
15 enforcement officer.

16 And not only did she do that, she didn't clear
17 it up right away. Oh, no. What did she do? She
18 continued to sign her name Joanie Rice on all the forms
19 that the police officer was giving her and he continued
20 to call her Joanie Rice for about two hours until she
21 got caught. How does she get caught? The officer went
22 into her car and found the license. That's what she
23 said. Only when this girl gets caught does she start to
24 make up more stories. It's constant with her because
25 she's manipulative, a drug addict. She's a liar. She

1 is a liar. So how can you trust this girl?

2 You know, let's also talk about what we don't
3 have in this case, okay? Yesterday when I talked to
4 Amanda Webb on cross-examination, the DNA lady, and I
5 held up the long-sleeved camo thermal T-shirt thing that
6 Heath was purported to have been wearing the night that
7 this happened and I showed it up to her and I showed
8 y'all that there was no visible blood on his shirt.
9 This in a crime scene that the State's witnesses have
10 time and time again described as horrific and incredibly
11 bloody, and you'll see those crime scene photos and
12 you'll see for yourself. There's blood everywhere.
13 There is blood on the ceiling, there is blood and brain
14 matter in the next room. There is blood everywhere.
15 Why doesn't Heath have any blood on his clothes? Why
16 doesn't Heath have any blood on his boots?

17 Now some people might say well, he might have
18 changed clothes, but the thing is, is that these were
19 the clothes that he was reported to be wearing at the
20 9-1-1 call. These are the clothes that he was reported
21 to be wearing in all of the officers' testimony, but
22 you know what, the State never put any of that into
23 evidence. The State never asked Amanda Webb to test
24 this for DNA, but you know what they did ask her to
25 test? A gray sweatshirt that Shayla Gaines had in her

1 possession over a year and a half now just two weeks
2 ago.

3 And the Solicitor on redirect said well, ma'am,
4 your lab is backed up, right? Y'all take samples from
5 all over the state and you have a lot of work to do and
6 it's not unusual for SLED not to test every piece of
7 evidence and she said yeah, that's true, but you know
8 what? They asked her to test something just two weeks
9 ago and she tested it. This is not a possession of
10 marijuana case. This is a murder case. They need to
11 do better than that. If some dude is arrested in the
12 clothes that apparently he killed somebody in, don't
13 you think that a prosecutor or a law enforcement
14 officer should send that off to be tested for DNA
15 evidence, for blood? I would think so. We don't have
16 any blood on his shoes that we know about. Never
17 tested. No visible blood though and, like I said,
18 there was blood everywhere.

19 The other thing is they only took photos of
20 Heath. They didn't take photos of Shayla. They didn't
21 test her clothes until two weeks ago after she's had it
22 for over a year and a half. They didn't take pictures
23 of her. They didn't test Heath's clothes, but you could
24 see for yourself there's no visible blood on any of it,
25 so what do we have here, y'all? We have reasonable

1 doubt.

2 We know Bill Ardis was murdered. We do know
3 that. That's undisputed, but what we are not firmly
4 convinced about is that it was Heath who pulled that
5 trigger. Look at the science. The DNA says she has
6 more of it. Shayla Gaines' DNA is more on that trigger
7 than Heath's is even after the time frame, after the six
8 and a half hours of time frame that Shayla was tested
9 for GSR, she still has GSR particles on her. Whether or
10 not it's a little bit or a lot is irrelevant because the
11 lady testified the longer the time frame goes by, the
12 lesser of those particles you're going to find because
13 they fall off, but yet, lo and behold, they still found
14 GSR on Shayla.

15 So Shayla's got GSR, Shayla's got more DNA.
16 Heath had no visible blood on his clothes. You do the
17 math. Use your common sense. You look at those
18 pictures of that bruise. You'll see there's not a
19 bruise in the non-blown up photo. This is reasonable
20 doubt. Can you honestly say that you are firmly
21 convinced that Heath shot that gun? Are you firmly
22 convinced with all the evidence presented to you? I'm
23 asking you to find him not guilty. Thank you.

24 CHARGE OF THE COURT

25 **THE COURT:** All right. Ladies and gentlemen, it

1 now becomes my responsibility to instruct you on the law
2 that applies in this particular case and this will take
3 about -- probably about ten, maybe fifteen minutes.

4 Does anyone need a brief break before we start with
5 this? If so, raise your hand. No? All right.

6 Like I said, ladies and gentlemen, it now becomes
7 my obligation to instruct you on the law that applies.
8 And twenty plus years ago, the way that this was
9 traditionally done or the way it was done when I first
10 started practicing, is that the judge would basically
11 just sit up here and read to you sixteen pages of what
12 the law is and you're supposed to sit there and on the
13 first take absorb everything that I say to you or that
14 the judge says to you. And I've always found that to be
15 a little bit unreasonable because, like most people, it
16 took me three years to get through law school and three
17 years to learn this stuff, so what I'm telling you,
18 ladies and gentlemen, is that you'll have a copy of
19 these instructions that you can refer to in the jury
20 room if you need to.

21 Please don't simply refer to some of the
22 instructions separate from the other instructions, but
23 refer to them as a whole. At the conclusion of your
24 deliberations, please return these to me once you've
25 finished your deliberations. At this point in time,

1 ladies and gentlemen, I'll tell you that I can -- I can
2 assist you or answer any questions that you might have
3 about the law that applies, but at this juncture it's
4 not possible for the Court to answer any questions that
5 you may have concerning the facts and it's not possible
6 to reopen the record during your deliberations and get
7 additional testimony in, so you will have to judge this
8 case based upon the evidence that has been presented to
9 you thus far.

10 Now, ladies and gentlemen, the indictment in
11 this case charges Mr. Hollingsworth, the Defendant,
12 with the offense of murder. And I remind you that
13 the fact Mr. Hollingsworth was arrested, charged and
14 indicted in this case is not evidence in this case and
15 cannot be considered by you as evidence of guilt in
16 this case, nor does it create any presumption or
17 inference of guilt. This indictment is merely the
18 formal written instrument which contains the charges
19 made against the Defendant. It's the formal document
20 by which this case is brought into court.

21 Now Mr. Hollingsworth in this case has pled not
22 guilty to this charge and that plea puts the burden of
23 proof on the State to prove the Defendant guilty. A
24 person charged with committing a criminal offense in
25 South Carolina is never required to prove himself

1 innocent. I instruct you that it's an important rule
2 of law that the Defendant in a criminal trial, no
3 matter what the seriousness of the charge may be, will
4 always be presumed to be innocent of the crime for
5 which the indictment was issued unless guilt has been
6 proven by evidence satisfying you of that guilt beyond
7 a reasonable doubt.

8 This presumption of innocence does not end when
9 you begin your deliberations, but it accompanies the
10 Defendant throughout the trial until you reach a verdict
11 of guilt based upon evidence satisfying you of that
12 guilt beyond a reasonable doubt.

13 Ladies and gentlemen, the presumption of
14 innocence is like a robe of righteousness placed about
15 the shoulders of the Defendant. It remains with
16 him until it's been stripped from him by evidence
17 satisfying you of his guilt beyond a reasonable doubt.
18 The presumption of innocence, ladies and gentlemen,
19 is not merely a legal phrase, it's not just a legal
20 theory. It's a substantial right to which every
21 citizen is entitled unless you, the jury, are satisfied
22 from the evidence of the Defendant's guilt beyond a
23 reasonable doubt.

24 Well, what is a reasonable doubt in the law? A
25 reasonable doubt is the kind of doubt that would cause

1 a reasonable person to hesitate to act. The State has
2 the burden of proving the Defendant guilty beyond a
3 reasonable doubt and some of you may have served as
4 jurors in civil cases where you were told that it's
5 only necessary to prove that a fact is more likely true
6 than not true, such as by the greater weight or the
7 preponderance of the evidence.

8 In criminal cases, the State's proof must be
9 more powerful than that. It must be proof beyond a
10 reasonable doubt. Proof beyond a reasonable doubt
11 is proof that leaves you firmly convinced of the
12 Defendant's guilt. Now there are very few things in
13 this world that we know with absolute certainty and in
14 criminal cases the law does not require proof that
15 overcomes every possible doubt. If, based upon your
16 consideration of the evidence, you're firmly convinced
17 that the Defendant is guilty of the crime charged, you
18 must find the Defendant guilty. If, on the other hand,
19 you think there's a real possibility that the Defendant
20 is not guilty, you must give the Defendant the benefit
21 of the doubt and find him not guilty.

22 Now, ladies and gentlemen, I remind you that
23 during this trial you and I have certain duties to
24 perform. As the trial judge, it's my responsibility
25 to preside over the trial of this case and I also have

1 the duty to rule on the admissibility of evidence
2 offered during this trial. You are to consider only
3 the competent evidence before you. Any testimony which
4 was ordered stricken from the record in this case,
5 you must disregard that testimony because you are to
6 consider only the testimony which has been presented
7 from the witness stand, any exhibits which have been
8 introduced into evidence in this case and any
9 stipulations of counsel.

10 Now in this case, ladies and gentlemen, there
11 is a stipulation that the parties have agreed to and a
12 stipulation is simply an agreement between both sides
13 that the fact is true, and in this case the State and
14 the defense have stipulated that Shayla Gaines is
15 currently unindicted on her pending charges and at the
16 conclusion of this case the State will re-evaluate this
17 decision on how to proceed with her charges, okay? So
18 that's a stipulation and you can take that as a fact.

19 Now, ladies and gentlemen, I instruct you that
20 similarly statements made by this Court or the attorneys
21 in ruling on or arguing any evidentiary matter do
22 not constitute evidence in this case and cannot be
23 considered by you in your deliberations. Additionally,
24 questions of counsel are not evidence.

25 Now I have the additional duty, ladies and

1 gentlemen, to charge the law applicable in this case
2 and as the presiding judge, I'm the sole judge of the
3 law. It's your duty to accept and apply the law as I
4 now state it to you. If you already have any idea as
5 to what the law is or what the law ought to be and it
6 disagrees with what I now tell you the law is, you must
7 abandon this idea because you're sworn to accept the
8 law and apply the law as I now state it to you.

9 In every case tried in this court before a jury,
10 the jury becomes the sole and exclusive judge of the
11 facts in a case. A trial judge cannot intimate, state,
12 comment on or make any statement to a trial jury about
13 the facts in a case. Since you, the jury, are the sole
14 judges of the facts in this case, you're not to infer
15 from what I've said during the progress of this trial
16 in ruling upon the admissibility of evidence, or
17 otherwise, or anything that I say to you now that I
18 have any opinion about the facts in this case. Ladies
19 and gentlemen, the law does not permit me to have an
20 opinion about the facts. This is a matter solely
21 for you to determine. As jurors, it's your duty to
22 determine the effect, value, weight and truth of the
23 evidence presented during the trial.

24 Now, ladies and gentlemen, there are two types of
25 evidence which are generally presented during a trial;

1 direct evidence and circumstantial evidence. Direct
2 evidence directly proves the existence of a fact and
3 does not require deduction. Circumstantial evidence is
4 a proof of chain of facts and circumstances indicating
5 the existence of a fact. Crimes may be proven by
6 circumstantial evidence. The law makes no distinction
7 between the weight or value to be given to either direct
8 or circumstantial evidence; however, to the extent the
9 State relies on circumstantial evidence, all of the
10 circumstances must be consistent with each other, and
11 when taken together, point conclusively to the guilt
12 of the accused beyond a reasonable doubt. If these
13 circumstances merely portray the Defendant's behavior
14 as suspicious, the proof has failed.

15 The State has the burden of proving the Defendant
16 guilty beyond a reasonable doubt and this burden rests
17 with the State regardless of whether the State relies
18 upon direct evidence, circumstantial evidence, or some
19 combination of the two.

20 Now, ladies and gentlemen, necessarily, you
21 must determine the credibility of witnesses who have
22 testified in this case and credibility simply means
23 believability. It becomes your duty as jurors to
24 analyze and to evaluate the evidence and determine which
25 evidence convinces you of its truth. In determining the

1 believability of witnesses who have testified in this
2 case, you may believe one witness over several witnesses
3 or several witnesses over one witness. You may believe
4 a part of the testimony of a witness and reject the
5 remaining part of the testimony of that same witness.
6 You may believe the testimony of a witness in its
7 entirety or reject the testimony of a witness in its
8 entirety. You may consider whether the witness has
9 exhibited to you any interest, bias, prejudice or other
10 motive in this case and you may also consider the
11 appearance and manner of a witness while on the witness
12 stand.

13 Now, ladies and gentlemen, as I mentioned
14 yesterday, we had several witnesses qualified as
15 expert witnesses and usually the rules of evidence
16 don't permit a witness to testify as to opinions or
17 conclusions. An exception to this rule exists for
18 witnesses known as expert witnesses. A witness who
19 by education and experience has become expert in some
20 art, science or profession may state an opinion as to
21 the relevant and material matter in which the witness
22 claims to be an expert and may also state the reasons
23 for that opinion. You should consider any expert
24 opinion received in evidence in this case, and like
25 any other evidence, give it the weight you think it

1 deserves. If you decide the opinion of an expert
2 witness is not based on sufficient education and
3 experience or if you conclude that the reasons given
4 in support of the opinion are not sound or that the
5 opinion is outweighed by other evidence, you may
6 disregard the opinion entirely. An expert witness's
7 testimony is to be given no greater weight than that
8 of any other witness simply because the witness is an
9 expert. Further, you're not required to accept an
10 expert's opinion even though it's not contradicted.

11 Now, ladies and gentlemen, I instruct you and
12 emphasize that the fact that the Defendant did not
13 testify is not a factor to be considered by you in any
14 way in your deliberations and in your consideration of
15 the question of the guilt or the innocence of the
16 Defendant. It must not be considered by you in any
17 manner whatsoever. A Defendant has the constitutional
18 right to remain silent and the assertion of this right
19 must not be considered by you in your deliberations. I
20 repeat. Under your oath you're to draw no conclusions
21 whatsoever from the fact that the Defendant in this case
22 did not testify. The fact that he didn't testify should
23 not even be discussed in the jury room. The burden of
24 proof, as I have stated to you, is on the State. The
25 Defendant is not required to prove his innocence. The

1 burden of proof remains on the State to prove guilt
2 beyond a reasonable doubt.

3 Ladies and gentlemen, I instruct you that a
4 person who has a past criminal record is competent to
5 testify during a trial. A past record does not affect
6 the ability of that witness to testify. The past record
7 may only be considered by you, if at all, in determining
8 the witness's believability. Remember, you're the sole
9 judges of the facts in the case and the believability of
10 any and all of the witnesses.

11 And, ladies and gentlemen, you've also heard
12 testimony concerning the penalty a person can receive
13 for the crime alleged in the indictment. In determining
14 the guilt or innocence of the Defendant, you cannot
15 consider any possible -- any possible penalty for any
16 particular crime. The punishment for the crime is a
17 matter for me to determine and should never be
18 considered by you in any way whatsoever in arriving at
19 an impartial verdict as to the guilt or the innocence of
20 the Defendant.

21 Now, ladies and gentlemen, in this case,
22 Mr. Hollingsworth is charged with the offense of murder.
23 The State must prove beyond a reasonable doubt that
24 the Defendant killed another person with malice
25 aforethought. Malice is defined as hatred, ill

1 will or hostility towards another person. It's the
2 intentional doing of a wrongful act without just cause
3 or excuse and with an intent to inflict an injury or
4 under circumstances that the law will infer an evil
5 intent. Malice aforethought does not require that
6 malice exist for any particular period of time before
7 the act is committed, but malice must exist in the
8 mind of the Defendant just before and at the time that
9 the act is committed. Therefore, there must be a
10 combination of the previous evil intent and the act
11 itself.

12 Malice aforethought may be express or inferred.
13 These terms express and inferred do not mean different
14 kinds of malice, but merely the manner in which
15 malice may be shown to exist; that is, either by
16 direct evidence or by inference from the facts and
17 circumstances which are proved. Express malice is
18 shown when a person speaks words which express hatred
19 or ill will for another or when the person prepared
20 beforehand to do the act which was later accomplished.
21 For example, lying in wait for a person or any other
22 acts in preparation going to show that the deed was
23 done within the Defendant's mind -- that the deed was
24 within the Defendant's mind would be express malice.
25 Malice may be inferred from conduct showing a total

1 disregard for human life. If facts are proven beyond a
2 reasonable doubt sufficient to raise an inference of
3 malice to your satisfaction, this inference would simply
4 be an evidentiary fact to be taken into consideration by
5 you, the jury, along with other evidence in this case
6 and you may give it such weight as you determine it
7 should receive.

8 Now, ladies and gentlemen of the jury,
9 there are two possible verdicts in this particular
10 case. And I've prepared this verdict form, Madam
11 Forelady, for your use during your deliberations. The
12 verdict form makes the following statement. We, the
13 jury, in the above-captioned case on the charge of
14 murder unanimously find Phillip Heath Hollingsworth,
15 and there are two blanks for you to choose from or
16 initial. They're mutually exclusive obviously.

17 If you find that the State has met its burden of
18 proving the Defendant's guilt beyond a reasonable doubt
19 and all twelve of you agree on that, Madam Forelady,
20 you'd initial here next to the blank that says guilty.
21 If, on the other hand, you find that the State has
22 failed to meet its burden of proving the Defendant
23 guilty beyond a reasonable doubt and all twelve of you
24 agree, you would initial down here next to not guilty,
25 then sign your name, knock on the door of the jury room,

1 let the bailiff know that you've reached a verdict and
2 we'll get everybody together and receive you back in
3 here as soon as possible.

4 Now, ladies and gentlemen, I remind you that you
5 have no enemies to punish in this case, you have no
6 friends to award. You have been picked as twelve fair
7 and impartial jurors who have no interest in the outcome
8 of this case other than to judge the facts of the case
9 and render a true verdict.

10 Now, ladies and gentlemen, I'll tell you that the
11 exhibits and all the evidence that has been introduced
12 into the record in this case will go back with you to
13 the jury room. There are two firearms that are being
14 introduced into evidence and per the orders of the Chief
15 Justice, she's ordered that anytime firearms go back
16 with a jury, any live ammunition stays out here, okay?
17 So the live shotgun shell, I have that one up here,
18 that's Exhibit 47, and the rounds from the pistol -- the
19 six rounds from the pistol, I have those up here.
20 That's Exhibit 43. If at any time you want to look at
21 either of these two exhibits, the ones I'm keeping out
22 here, that's perfectly fine, just let the bailiff know
23 and what he'll do is you can give him the guns and I'll
24 send these back, but the rule is that ammo and guns
25 never stay in the same room at the same time during the

1 deliberations, all right? That's just for your safety.
2 The guns have been secured and even if you wanted to I
3 doubt that you could get them to fire even if you had
4 the ammo, okay, but that's just an additional precaution
5 that the Chief has ordered that we take.

6 Now, ladies and gentlemen, I remind -- I'll ask
7 that you return to the jury room, but don't start your
8 deliberations until you're told to do so by the bailiff.
9 Your cue to begin your deliberations will be receipt of
10 the evidence, the verdict form, these instructions back
11 in the jury room and my asking the
12 two alternates to step out, okay?

13 So at this point in time I just want to make sure
14 with the attorneys I've told you everything I need to
15 tell you concerning the law.

16 While you're back there, if you want to, I'll
17 tell you that we can order pizza. It's about ten
18 minutes until twelve, so if you want to deliberate and
19 you're getting hungry and you feel like you want pizza,
20 we can order pizza for you, okay? That's the standard
21 meal for here. It's nothing fancy, but it will be
22 pizza, all right? If you want to break, however, and
23 reassemble at a later point in time because some of
24 y'all can't eat pizza or don't want to eat pizza, that's
25 fine, but it has to be a unanimous decision. So either

1 all twelve of you want pizza or all twelve of you want a
2 break, all right? If you decide you want us to order
3 some food for you, let the bailiff know and we'll have
4 the Clerk do that.

5 So at this point in time, adjourn to the jury
6 room at this point in time. Don't start your
7 deliberations yet. I will tell you that whatever
8 verdict you return in this case, of course, has to be
9 unanimous; all twelve of you have to agree on it. We
10 don't have majority verdicts in South Carolina. So do
11 adjourn to the jury room and you know your cue to begin
12 your deliberations, all right?

13 (The jury retires to the jury room.)

14 **THE COURT:** The jury is out. Exceptions or
15 additions from the State?

16 **MR. STUMBO:** Nothing from the State, Judge.

17 **THE COURT:** None from the defense?

18 **MR. HOWE:** No, Your Honor.

19 **THE COURT:** Very good. If y'all could just
20 confirm the exhibits that are going back and I'm
21 assuming that they are gonna want pizza. That's
22 probably what's gonna happen. If you want to take a
23 look at the verdict form as well, I've got that up here,
24 but it's short, simple and to the point. I read the
25 stipulation, so I really don't see the need to send that

1 back unless y'all feel strongly about it.

2 MR. HOWE: Let me ask her.

3 (Discussion between defense counsel.)

4 MR. HOWE: We'd like to.

5 THE COURT: Do y'all have any big problem with
6 that or --

7 MR. STUMBO: It's six to one, half dozen -- it's
8 not evidence.

9 THE COURT: Right.

10 MR. MOWRY: And you have read it. I mean, the --
11 the communication was the evidence.

12 MR. HOWE: It's kind of like jury instructions.

13 MR. STUMBO: Are you sending your instructions
14 back?

15 THE COURT: I'm sending the instructions back,
16 yeah. It's not written into those instructions. I just
17 cross-referred to it. I could type it out real quick
18 and just have stipulation at the top and send it back,
19 if y'all want?

20 MR. STUMBO: And just have it stapled then?

21 THE COURT: I'll just add it. That's not a
22 problem.

23 MR. HOWE: Thanks.

24 (The jury commenced its deliberations at
25 11:53 AM.)

1 (Recess taken.)

2 **THE COURT:** Let's just go on the record real
3 quick and make a record of this. Okay. We're back on
4 the record and I've received a communication from the
5 jury. The record should reflect that, of course, the
6 Defendant is present and all counsel is present. The
7 note says, quote, Need CD player for 9-1-1 call. Then,
8 secondly, it asks, quote, Copy of Shayla's statement,
9 question mark; was it entered into evidence, question
10 mark. Signed, Nancy Brown.

11 So I've talked to the attorneys at the bench here
12 before we went back on the record. My clerk, we're
13 gonna use his computer. I'll tell the jury that they're
14 free to use it, just disregard and don't open anything
15 else on there, and, Tee, go ahead on and close out
16 everything else that you have that's open. Just close
17 it so that the only thing on there is the media player.

18 Then as far as the copy of Shayla's statement,
19 was it entered into evidence, I'm gonna say no, it
20 wasn't, and that it wasn't and that she testified, and
21 so they'll have to judge this case based upon the
22 testimony that she gave.

23 **MS. MCNEILL:** Thank you, Judge.

24 **THE COURT:** That's what I'm gonna do.

25 **MR. MOWRY:** Thank you, Your Honor.

1 **THE COURT:** All right. Let's have them back out,
2 please.

3 (The jury returns to the courtroom.)

4 **BAILIFF:** All present, Your Honor.

5 **THE COURT:** All right. Let the record reflect
6 that the jury is back, the Defendant is present with
7 counsel. Madam Forelady, I've received the note that
8 you have that you need a CD player for the 9-1-1. It
9 was a digital recording, so what I'm gonna do is give
10 y'all my law clerk's computer. He already has Windows
11 Media Player up, so all you should have to do is pop
12 the CD in there and close it and then -- I assume that's
13 the only thing on the CD-ROM. So just pop that in there
14 and it should start playing. I'm assuming one of y'all
15 knows how to work a media player on a computer.

16 Please don't open anything else that's on his
17 computer, of course, any other things, but it's the only
18 computer that we really have available to play that on
19 that doesn't belong to one of the parties.

20 As far as the second question, a copy of Shayla's
21 statement, was it entered into evidence, it wasn't
22 entered into evidence. And I think that you're talking
23 about the first witness that testified. Her statement
24 was not entered into evidence, she testified, so that's
25 one of the reasons that you don't have her statement,

1 okay?

2 **FORELADY:** Okay.

3 **THE COURT:** So we'll -- once you get done playing
4 the 9-1-1 call -- you can have his computer as long as
5 you need it, and if you need it again at a later point
6 in time, that would be great, but I am trying to get a
7 little work out of him, so as soon as you get finished
8 playing the CD, if you would just give his computer
9 back to the bailiff and that way we can have it back
10 here and we can get a few more things done while y'all
11 are deliberating.

12 So with that, return to the jury room and,
13 please, continue your deliberations. Thank you y'all
14 very much.

15 (The jury retires to the jury room to continue
16 its deliberations.)

17 **THE COURT:** That will be Court's 4, I think.

18 (Court's Exhibit Number 4, a jury question, was
19 marked for identification.)

20 (Recess taken.)

21 **BAILIFF:** Keep your seats. Come back to order.

22 **THE COURT:** Okay. If we may, we'll go back
23 on the record. I asked my clerk to share with the
24 attorneys the note that I received a few moments ago
25 from the jury. Basically it says we are a hung jury.

1 It gives the split, 6/6. I didn't solicit that,
2 obviously, but they volunteered it, and I'm just
3 quoting: We believe we don't have enough evidence to
4 help each other agree. What should we do to help agree
5 to a unanimous decision, question mark. Signed, Nancy
6 Brown. It's dated and then the time's listed at 2:45.

7 It's my intention to give them an Allen charge.
8 Does anyone have objections to that?

9 **MS. MCNEILL:** No objection from the Defendant,
10 Your Honor.

11 **MR. STUMBO:** We don't have an objection to an
12 Allen charge, Judge.

13 **THE COURT:** Very good.

14 **MR. STUMBO:** One issue though, and I thought
15 about asking to add this is to the instruction from the
16 first question, but some statement as to the evidence
17 that's in evidence before you is pursuant to rules of
18 court or some statement -- I don't even know how to word
19 it at this point. Quite frankly, the way that question
20 was worded, it sounds like maybe they have people in
21 room saying why don't we have this, why don't we have
22 that, in particular, her written statement. So I think
23 that statement could be very benign and general in
24 nature, but we'd just ask for some sort of instruction
25 on evidence that has been entered in the case has been

1 entered pursuant to the rules of court and rules of
2 evidence.

3 **THE COURT:** I'm hesitant to give such an
4 instruction unless perhaps the defense would be
5 inclined to -- or if y'all could get together and
6 suggest something. The thing that causes me hesitation
7 is anything that touches upon the facts of the case, I
8 don't want anything I say to be perceived as a comment
9 on the facts, and presumably in my opening remarks they
10 were listening when I told them that the rules of
11 evidence are designed to give them the best information
12 possible, coupled with the information that's gonna be
13 in the Allen charge that talks about the same evidence
14 would be presented, the same arguments made. I don't
15 think that the absence of the statement of the first
16 witness, the Gaines witness, truly is anything that
17 they are having major issues with. What's the defense
18 position on this?

19 **MS. McNEILL:** We would object to that, Your
20 Honor. We think that the instructions that you gave to
21 the jury when you brought them out the first time when
22 they presented that question initially was sufficient.

23 **MR. STUMBO:** And, Judge, I think -- you mentioned
24 your opening statement. I wouldn't mind if you repeated
25 verbatim what you told them in opening in that regard.

1 **THE COURT:** I think that was -- some of that was
2 probably off the cuff. I'm not gonna charge them on
3 that. I'm assuming that they already are comfortable
4 and that they're fully aware that anything that came in
5 -- they seem like an intelligent bunch. A lot of them
6 are very professional or appeared very professional to
7 me. They're smart enough to know that they have what
8 they have because the rules require them to have it, so
9 I'm gonna let that sleeping dog lie. That's what I'm
10 gonna do.

11 **MR. STUMBO:** All right. Understood.

12 **THE COURT:** Thank you. One thing I will be
13 deleting from the Allen charge. The standard charge
14 has, you know, the minority should listen to the
15 majority. I'm just not gonna tell them that since I'm
16 being told it's an even split and I'll leave that part
17 out. Let's have them in, please.

18 (The jury returns to the courtroom.)

19 **BAILIFF:** All present, Your Honor.

20 **THE COURT:** All right. Thank you. The record
21 should reflect that the jury is back and the Defendant
22 is present with counsel:

23 Madam Forelady, I've received your note that
24 basically explains sort of where y'all are right now,
25 and what I'm gonna do is give you an additional

1 instruction that I'm hopeful you'll find helpful, okay?
2 What you basically stated is that you've been unable
3 to agree on a verdict in this case, and as I told you
4 earlier, your verdict has to be unanimous and all twelve
5 of you have to agree. And obviously when a matter is in
6 dispute, it's not always easy for two people to agree,
7 so when twelve people have to agree it becomes even more
8 difficult.

9 In most cases, absolute certainty can't be
10 reached or expected; however, you have a duty to make
11 every reasonable effort to reach a unanimous verdict.
12 In doing this, of course, you should consult with each
13 other and express your own views, listen to the opinions
14 of your fellow jurors, tell each other how you feel and
15 why you feel that way and discuss your differences with
16 open minds.

17 Now although the verdict of the jury must be
18 unanimous, every one of you has the right to your own
19 opinion. The verdict that you agree on must be your
20 own verdict, the result of your own convictions and you
21 shouldn't give up any of your firmly held beliefs merely
22 to be in agreement with your fellow jurors. You should
23 carefully consider and respect the opinions of each
24 other and reevaluate your position for reasonableness,
25 correctness and impartiality. You must lay aside all

1 outside matters and reexamine the questions before you
2 based on the law and the evidence in this case.

3 Now, ladies and gentlemen, if you don't agree on
4 a verdict in this case, I have to declare a mistrial.
5 In that case, it doesn't mean anyone wins. It just
6 means that at some future time I'll try this case again
7 with some other jury sitting exactly where you're
8 sitting. The same participants will come into court,
9 the same lawyers will ask basically the same questions
10 and get basically the same responses and we'll go
11 through the whole process all over again.

12 Now you were selected in the same manner and from
13 the same source as any future jury will be and there's
14 no reason for me to suppose that the case will ever be
15 submitted to twelve people who are more intelligent,
16 impartial, conscientious or competent than you twelve,
17 so -- and it's -- also there's no reason to believe that
18 any additional evidence or more clearer evidence will be
19 produced by one side or the other; therefore, I'm gonna
20 ask that you return to your deliberations and continue
21 working on this particular question.

22 If you feel like it would be beneficial to break
23 for the day or break for the evening and, you know,
24 ponder this question anew tomorrow morning, that's
25 perfectly fine. I meant to tell you this when I

1 concluded, but once the case belongs to the jury, we're
2 on your schedule, okay, we're on your timeline. So if
3 you think that it would be beneficial to break at some
4 point this afternoon and come back tomorrow and try
5 again tomorrow morning and deliberate further tomorrow
6 morning, that's fine. I'm happy to do that. Again,
7 we are on your schedule, you're not on our schedule
8 anymore, okay?

9 So with that, I'm gonna ask you that return to
10 the jury room and continue your deliberations at this
11 point, okay? Thank you y'all very much.

12 (The jury retires to the jury room to continue
13 its deliberations.)

14 **THE COURT:** All right. With the exception of my
15 failure to make the requested charge from the State on
16 the evidence, any problem with what I said?

17 **MR. STUMBO:** No, sir.

18 **THE COURT:** No objections?

19 **MS. McNEILL:** No objection.

20 **THE COURT:** Good enough. We'll remain at ease.

21 (Recess taken.)

22 **BAILIFF:** Everybody keep your seats. Come back
23 to order.

24 **THE COURT:** All right. I'm informed that the
25 jury has reached a verdict in this case. Anything

1 before we receive the jury back from the jury room from
2 the State?

3 **MR. STUMBO:** Nothing from the State.

4 **THE COURT:** From the defense?

5 **MR. HOWE:** No, sir.

6 **THE COURT:** I know that the lawyers are -- are
7 aware of my general rules. I want to just say before I
8 bring the jury back in here to everyone who's here today
9 that certainly -- certainly I appreciate your attendance
10 and your patience and the way everybody has conducted
11 themselves throughout this trial. I know that we have
12 a number of members of Mr. Ardis's family here and
13 Mr. Hollingsworth's family here and clearly Mr. Ardis
14 was a good fella and clearly Mr. Hollingsworth has the
15 support of his family. Whatever the verdict is, and I
16 don't know what this verdict is, but whatever it is,
17 it's the result of twelve people who didn't volunteer to
18 come in here and hear this case and hear about what's
19 happened, so I want to just make sure that whatever the
20 verdict is the jury's afforded the appropriate respect
21 that I think they're due for the job that they've done.

22 So, again, I don't know what the verdict is. If
23 you feel once the verdict is read by the Clerk that you
24 have difficulty controlling your emotions, I understand,
25 that's human, that's natural. Just feel free to stand

1 and leave the courtroom if you feel yourself being
2 overcome. Clearly I don't want any outbursts or any
3 cheering or audible sighs, please, because that jury
4 might not -- might not appreciate it and if they don't
5 appreciate it, I guarantee you I'm not going to, so
6 let's try to keep our emotions in check to the best of
7 our abilities, okay?

8 Let's have the jury back in, please.

9 (The jury returns to the courtroom to report its
10 verdict at 4:08 PM.)

11 VERDICT OF THE JURY

12 **BAILIFF:** All jurors present, Your Honor.

13 **THE COURT:** All right. Let the record reflect
14 that the jury is back. Madam Forelady, I'm informed
15 that the jury has reached a verdict; is that correct?

16 **FORELADY:** Yes, we have, Your Honor.

17 **THE COURT:** All right. If you would just hand
18 the verdict form, please, to the bailiff.

19 **THE COURT:** Madam Clerk, if you'll publish,
20 please.

21 **THE CLERK:** In Case Number 2012-GS-30-288,
22 the State of South Carolina versus Phillip Heath
23 Hollingsworth, we, the jury, in the above-captioned
24 case on the charge of murder unanimously find Phillip
25 Heath Hollingsworth guilty. Signed by the Forelady of

1 the jury.

2 Ladies and gentlemen of the jury, if that be your
3 verdict, please indicate by your upraised right hands.

4 Thank you.

5 **THE COURT:** All right. Let the record reflect
6 that all twelve jurors did, in fact, raise their right
7 hand. Anything before discharging the jury from the
8 State?

9 **MR. STUMBO:** Nothing from the State.

10 **THE COURT:** From the defense?

11 **MR. HOWE:** No, sir.

12 **THE COURT:** Very good. Ladies and gentlemen of
13 the jury, I want to thank you for your service this
14 week. I know that this is never an easy thing to do, to
15 come into court and to hear this kind of evidence and
16 have to make a decision. Perhaps the lawyers and I
17 underestimate sometimes how hard this can be on you
18 because this is what we do for a living. I'm here day
19 in, day out, either here in Laurens or somewhere else
20 throughout the State doing cases like this, and this is
21 what I do for a living, okay?

22 So what I want to tell you is that I thank you
23 for the hard work that you have engaged in. The Clerk
24 will be mailing your checks to you. You do get paid for
25 your jury service. I didn't tell you that on Monday,

1 but you do get paid for this. I've always been a little
2 bit conflicted about paying jurors for jury service
3 because I've always considered this kind of a civic
4 responsibility. It's a little like voting or if we go
5 to war, getting drafted, that kind of thing, you've just
6 got to do it, okay, you've got to do it because you're a
7 citizen. The Clerk tells me that the checks are ready.
8 Don't consider them payment. Consider them kind of a
9 token of appreciation for the work that you've done this
10 week, all right? Again, it's not a lot of money.

11 Normally it's customary sometimes for jurors to
12 be contacted by the attorneys after a case has concluded
13 just to find out how they did. When I was practicing
14 law, I often would call the jurors, especially if I knew
15 them, ask what they thought about my presentation. It
16 helped me become a better lawyer, okay? If you choose
17 to speak to the lawyers, that's fine. It's your own
18 business, it's a free county, you can say what you want
19 or not say what you want, all right? So if you happen
20 to get contacted by somebody just to get feedback on how
21 they did and what their presentation was like, that's
22 fine.

23 The general rule though -- two general rules.
24 First, what happens in the jury room, stays in the jury
25 room typically and then, second of all, if you don't

1 feel comfortable speaking to the attorney or the person
2 who contacts you, just say look, thank you, I appreciate
3 you calling, but I'd rather not talk to you. If they
4 insist on talking to you, let law enforcement know,
5 they'll let me know, I'll take care of it, okay?

6 With that, I'm not gonna keep you any further.
7 At this point, all that remains to be done is sentencing
8 of the Defendant. If you care to stay around for that,
9 that's perfectly fine. What I'll ask that you do is
10 just go back out to the jury room, we're gonna take a
11 brief break here while the State prepares the sentencing
12 sheets and the bailiff can bring you back into the
13 courtroom if you want to stay. If you don't want to
14 stay, that's fine. You can leave your phone number with
15 the Clerk and we'll be sure to let you know what the
16 sentence was if you want to find out, okay?

17 So with that, you're discharged with my
18 appreciation and my thanks and our gratitude. I hope
19 y'all have a great week and a wonderful weekend and hope
20 to see y'all again under less formal circumstances.
21 Y'all take care.

22 (The jury was excused.)

23 **THE CLERK:** We need the forelady to sign.

24 **THE COURT:** Madam Forelady, I need you to stick
25 around to sign the indictment, if you would, ma'am. And

1 do you want to go give them their checks?

2 **THE CLERK:** Betty Ann has gone to get them.

3 **THE COURT:** We'll be at ease for a few moments
4 and then we'll take up post-trial motions, all right?

5 **MR. HOWE:** Yes, sir.

6 (Recess taken.)

7 **BAILIFF:** Let's all come back to order. Keep
8 your seats.

9 **THE COURT:** All right. At this point in time
10 certainly I'll entertain any post-trial motions that
11 y'all may have, Mr. Howe.

12 **MR. HOWE:** Thank you, your Honor. May it please
13 the Court?

14 **THE COURT:** Yes, sir.

15 **MR. HOWE:** We would be asking the Court to either
16 vacate the verdict or grant us a new trial. The issues
17 that we raised had to do with the photographic evidence,
18 some of those photos, particularly the ones showing the
19 dog. We anticipated and it was, in fact, argued in the
20 closing argument and emphasized and we felt that that
21 would be prejudicial to our client, so we objected to
22 those photographs and there were some other photographs
23 as well.

24 The other issue, Judge, that we had, there was
25 testimony from Lieutenant Franklin that we contended was

1 a comment on our client's right to remain silent. The
2 silence -- the Court did, I know, give a curative
3 instruction to the jury, but, of course, we moved for
4 a mistrial under the theory -- our theory there was no
5 other way to cure that matter and anticipating at that
6 time even that we were not going to put up a defense or
7 have our client testify, we thought that was crucial
8 and may have impacted the jury's decision, particularly
9 when about ten minutes after three they were deadlocked
10 six to six and after the Allen charge, by my estimation
11 about forty-six to fifty minutes later, came back with a
12 unanimous verdict. We don't know how those matters may
13 have impacted, but we certainly think they merit having
14 the Court to consider our post-trial motions. Thank
15 you, Judge.

16 **THE COURT:** Thank you, Mr. Howe. Does the State
17 care to address those issues at this point?

18 **MR. STUMBO:** Your Honor, no, we don't believe
19 that there was any substantial prejudice and would ask
20 the Court to deny the motion.

21 **THE COURT:** Certainly your motions are noted,
22 Mr. Howe and Ms. McNeill. The Court will stand by its
23 original rulings with regard to those motions and so
24 your motion for a new trial is denied.

25 **MR. HOWE:** Thank you judge.

1 **THE COURT:** Thank you. Solicitor, I know that
2 you have certain members of Mr. Ardis's family standing
3 with you and do you have a sentencing sheet at this
4 point?

5 **MR. STUMBO:** I do, Your Honor, if I may approach.
6 I have a sentencing sheet. I believe everything's
7 filled out properly.

8 **THE COURT:** All right.

9 **MR. STUMBO:** Judge, I will -- before I introduce
10 members of Mr. Ardis's family, I would note for the
11 Court that this Defendant, Mr. Hollingsworth, has a
12 fairly substantial criminal record that obviously we
13 could not get into in front of the jury and the Court
14 for purposes of the rules of evidence, Judge, but be
15 that as it may, for sentencing purposes we do believe
16 his record is relevant for Your Honor.

17 We have certified convictions -- copies of all
18 his convictions here in this stack in chronological
19 order, if I may approach, Judge, and make those part of
20 the record and I can read off his record as well for
21 you, Judge.

22 **THE COURT:** It may be easier just for purposes --
23 instead of burdening the court reporter with additional
24 paperwork, would you mind simply reading into the record
25 -- or reading his record into the record.

1 **MR. STUMBO:** Judge, Mr. Hollingsworth has a
2 malicious injury to personal property in 1989, he has
3 convictions for burglary, second degree, and larceny
4 in 1993, he had a resisting arrest in 1997, he had an
5 unlawful possession of a pistol charge in 1998, he had
6 an assault and battery of a high and aggravated nature,
7 which was pled down from an ABWIK in 2000, a criminal
8 domestic violence in 2003, manufacturing methamphetamine
9 in 2010, for which he got time served and probation.
10 Your Honor, his probation on that offense appears to
11 have been violated based on his rap sheet. He was
12 given two years revocation that he had to serve in the
13 Department of Corrections as a result of the meth
14 conviction.

15 **THE COURT:** All right. I know that several
16 members of Mr. Ardis's family are standing with you,
17 Solicitor. Would you -- I'm certainly happy to
18 entertain anything that they may want to say.

19 **MR. STUMBO:** Thank you, Judge. I'd be glad to
20 introduce them. Karen Lewis is the first one that's
21 gonna speak to you. Bill Ardis was her father. I
22 believe she's gonna read a statement to you, Judge.

23 **THE COURT:** By all means.

24 **MS. LEWIS:** Hi. My name is Karen Lewis and Bill
25 Ardis was my daddy. I want to make a statement of my

1 daddy, but there is not enough time or paper to tell you
2 about the greatest loving and caring and giving man I
3 have ever known. There's not one day that passes by
4 that I don't hear his voice or see his smile. I have
5 cried every day since this has happened. I cannot get
6 the images out of my mind of what I feel like happened
7 on that day. It is so hard to comprehend that someone
8 could take the life of such a wonderful man. My daddy
9 would offer his whole being to help someone out, give
10 them a place to live, money and a job when their luck
11 had run out.

12 My daddy always taught me to try to see the good
13 in people, but with him living by his own words he was
14 brutally murdered by the one he took under his wing. It
15 is so hard to listen to certain songs or even enjoy
16 birthdays, Thanksgiving, Christmas, and especially
17 Super Bowl Sundays anymore because he loved his family
18 and everyone that came over for those days. I really
19 hate he never got to meet his great-grandson. He was
20 so excited to be a great-grandpa. I know my words are
21 rambling, but until you go through something in your
22 life that is so callus, cold, evil, uncalled for,
23 senseless murder, you cannot understand what I hold in
24 my heart and mind. I'll never be able to hear the sound
25 of his voice, hear him singing his silly little songs,

1 hear that contagious laugh, hear his jokes and his
2 stories of growing up anymore.

3 I will forever cherish the times we spent going
4 out and buying Christmas for those children that he knew
5 was less fortunate and buying everyone something to eat
6 if you were at his table. I would give anything to wake
7 up from this nightmare and everything would be back like
8 it used to be, but I know that will never be. The
9 anger, pain, fear and always wondering what would have
10 been will haunt me for the rest of my life. I pray that
11 justice will be served and that every time the Defendant
12 closes their eyes that they realize they took the life
13 of the one who gave them shelter, fed them and gave them
14 a chance when no one else would.

15 Your Honor, if I may, I feel like I need to let
16 Heath know that in my heart I have to forgive him
17 because God tells me I do, but I hate what he done
18 taking the life of my daddy who will never be with me
19 again, who loved him like a son, who helped him out. I
20 just want justice to be done and I pray that he gets
21 life so that he will understand the life that he took
22 from us of my daddy. Thank you.

23 **THE COURT:** Thank you, Ms. Lewis.

24 **MR. STUMBO:** Judge, secondly, we have Ms. Delores
25 Whitaker. Ms. Delores was married to Mr. Bill Ardis and

1 also not only married to him, but they were in business
2 together for many years. She kept the books for the
3 business, for the roofing company, and, Judge,
4 Ms. Delores would like to speak to you as well.

5 **THE COURT:** Ms. Whitaker, I'll be glad to hear
6 from you.

7 **THE WITNESS:** Hello, Your Honor. My name is
8 Delores Ardis Whitaker and I'm the former wife and best
9 friend of Bill Ardis. I was part of his life for over
10 forty years and I stand before you today a broken person
11 who grieves the loss of Bill every day, not only for
12 myself, for our children, our grandchildren, the
13 great-grandchild he never met and also the ten men who
14 lost their job with no source of income. We feel the
15 pain, anger and devastation each and every day.

16 Bill loved life and he lived it to the fullest.
17 It didn't matter who you were or where you'd come from,
18 where you'd been, what you'd done, if you needed food,
19 clothing, shelter or just money or a job, he would
20 freely give it and expect nothing in return. Bill
21 always ate Thanksgiving dinner with us, Christmas
22 breakfast and years of lunches and dozens of other
23 meals.. He would provide the money for the food and I'd
24 prepare it for thirty or forty people and it's been that
25 way for twenty years.

1 And birthdays was special to Bill also. His
2 birthday was November 6th, the day before he was killed.
3 He turned sixty-five and he was happy that he finally
4 qualified for Medicare and could get his knee replaced
5 and I had called to make his appointment. The next day,
6 November the 7th, I worked at the office all day. Bill
7 was in and out, in and out, and he made it a point to
8 stop back by there before it was time for me to go home
9 and he gave me a hug and some money because that was my
10 birthday, so we walked out the door together to go our
11 separate ways, he smiled and said see you tomorrow. He
12 said see you tomorrow, but I didn't get to see him
13 tomorrow because his tomorrow on this earth never came.
14 He was dead on my birthday. So I feel that Bill was
15 instantly given a sentence of eternity with no chance
16 of reconciliation or repentance and I ask that the
17 Defendant be given a maximum sentence with no chance
18 of parole. Thank you.

19 **THE COURT:** Thank you, Ms. Whitaker.

20 **MR. STUMBO:** Your Honor, third, Mr. Ardis's son,
21 Randall Ardis is here. Your Honor, he would like to
22 address Your Honor as well.

23 **THE COURT:** Mr. Ardis.

24 **MR. RANDALL ARDIS:** Your Honor, thank you for
25 allowing me the opportunity to speak. The first thing

1 I'd like to do is express my appreciation not only to
2 you, but the members of the court staff, the members of
3 the prosecution and also the defense team for being so
4 professional throughout this entire trial. I want to
5 say that I would like to recognize that my sister, Susan
6 Ardis Poole, is not here at this time because of medical
7 conditions, but she is here with us in spirit. One
8 thing I just have to say is that I'm currently no longer
9 a proud South Carolinian, I have moved off to Florida,
10 but the one thing that bothers me given the senseless
11 act that occurred about a year and a half ago is the
12 fact that the people of South Carolina don't deserve to
13 have Phillip Heath Hollingsworth walking around where he
14 could possibly commit the same crime against someone.
15 For someone who basically bit the hand that fed him and
16 sheltered him and to turn around and to betray that
17 trust, what would he do to someone who he maybe didn't
18 even know on the street? As you know, he does have a
19 significant record and I would like you to take that
20 into consideration in sentencing. I think that's very
21 important because as a human resource manager, one thing
22 I always look at is how past performance or past
23 behaviors indicate future performance or future actions
24 to be taken, and I'm sorry, but if this man gets out
25 back on the streets, he will do the same thing, that's

1 guaranteed. So please take that into consideration
2 during your sentencing. I appreciate your time and
3 thank you for everyone who was involved with this.

4 **THE COURT:** Thank you, Mr. Ardis.

5 **MR. STUMBO:** Judge, that's all the victim impact
6 we have. We don't have much to add, Your Honor. You've
7 been here all week when we've presented this case and
8 as you've been able to see and hear from Investigator
9 Franklin, it's one of the most horrific crime scenes
10 he'd ever seen. It's about as cold-blooded a killing
11 as I've ever had to prosecute, Judge. Senseless.
12 Completely senseless. I can't still wrap my mind
13 around why it happened, but we are where we are.

14 Your Honor, I would just ask that you take the
15 victims' requests and honor that and take it into
16 consideration, as well as Mr. Hollingsworth --
17 Mr. Hollingsworth's substantial prior record when
18 sentencing, Judge. That's all from the State.

19 **THE COURT:** Thank you, Solicitor. Mr. Howe
20 and Ms. McNeill, I'd be happy to hear anything in
21 mitigation.

22 **MS. McNEILL:** Thank you, Judge. First, I do
23 want to apologize to anyone who is here that loved and
24 cared for Mr. Ardis. Certainly losing a loved one is
25 horrible. I've lost many in my family and I know how

1 hard it is. I want to particularly thank Mr. Ardis's
2 son for his very professional and courteous comments.
3 It sounds like he understands that the defense in this
4 case, we have a job to do, and each person in this --
5 each officer of this court has a job to do and we just
6 try to do it to the best of our ability.

7 You know, this was a case unfortunately we could
8 not work out. Mr. Hollingsworth is forty-two years
9 of age. And I want to thank Mr. Warren Mowry and
10 Mr. Walter Bentley specifically. I have been appointed
11 as Mr. Hollingsworth's lawyer from day one and Mr. Mowry
12 and Mr. Bentley have been nothing but very professional,
13 very courteous and very good about discovery responses
14 in this case and we've had great communication and have
15 worked together despite not being able to work this case
16 out.

17 A little bit about Mr. Hollingsworth. He is
18 forty-two years of age. He has three children; two
19 daughters and a son. Their ages, twenty-one,
20 twenty-two, and his youngest is seven. His ex-wife
21 lives in Greenville and another mother of his child
22 lives in North Carolina. He does have family that
23 has been here faithfully in the courtroom from the
24 beginning of this trial who I know that Your Honor has
25 seen every single day and also Judy Hollingsworth has

1 been here. Unfortunately, she could not be here for
2 the final day of the trial. She moved to Beaufort and
3 had to work and it was impossible for her to get off,
4 but I did tell her that I would mention her to Your
5 Honor.

6 Judge, Heath has not had the best of upbringing.
7 Judy is a wonderful person and she's a wonderful mother
8 and she's been a nurse in some capacity, I think
9 primarily neonatal care, down in Greenwood at the
10 hospital system there. Heath has three brothers and
11 one of them tragically died when Heath was in his
12 twenties and I believe his brother was nineteen years
13 old at the time he fell off a telephone tower --

14 **THE COURT:** I knew his brother. I represented
15 his brother in private practice.

16 **MS. McNEILL:** Yes. And I know that in chambers
17 Your Honor had met with me and Mr. Mowry and talked
18 about your knowledge of the Hollingsworth family. And
19 that was very devastating for Heath and I think that
20 losing his brother caused him to turn harder to drugs.
21 I know he has a brother, Jason, who is also in Greenwood
22 who also struggles with the same problem. His other --
23 the third brother he has no contact with. It's my
24 understanding that that brother is married and has kind
25 of distanced himself from the situation in Greenwood

1 because he didn't want to follow the same path down with
2 the drug epidemic going on.

3 Judge, Heath has been very respectful towards me
4 the entire time I've represented him. I've had a few
5 times, but overall very respectful, he's been very
6 gracious and I think that he understands that Chip and
7 I gave him the best fight that we could. I have advised
8 him not to speak. He doesn't wish to say anything and
9 he's prepared for Your Honor's sentencing. Thank you.

10 **THE COURT:** Thank you. I understand that you've
11 advised him not to speak. I always, as a matter of
12 course, offer someone the opportunity to, so if -- just
13 directly to Mr. Hollingsworth, I mean, if you want to
14 say something to me, now's your opportunity to offer
15 anything that you may want to say, but you don't have to
16 as your lawyer has said. Is there anything that you'd
17 like to say, Mr. Hollingsworth?

18 **THE DEFENDANT:** I'm fine. I don't want to talk.
19 Thank you.

20 **THE COURT:** The two ladies that are seated behind
21 him, is there anything that they wanted to say? It's
22 good that y'all are here to support him.

23 **MS. JOHNSON:** I appreciate all the things you've
24 done. You've been a very, very fair, Judge, and I
25 appreciate it.

1 **THE COURT:** Thank you, ma'am. And, just for the
2 record, what's your name, please?

3 **MS. JOHNSON:** Gina Johnson.

4 **THE COURT:** Thank you, Ms. Johnson. And just --
5 Ms. McNeill, just one point of clarification. The
6 sentencing sheet indicates your client was born in '66,
7 and I may have misheard you. I thought you said he was
8 forty-two, but this --

9 **MS. MCNEILL:** He was born in 1971, Judge. I did
10 not review the sentencing sheet.

11 **MR. MOWRY:** And, Your Honor, I did not either.
12 I can tell you that on the original file, his date
13 of birth is 1966, but I looked on a warrant when
14 Ms. McNeill said forty-two and it did indicate 1971.

15 **THE COURT:** Okay.

16 **MR. MOWRY:** I cannot explain that.

17 **THE COURT:** Sure.

18 **MS. MCNEILL:** And, Your Honor, for the record he
19 has been in custody since November 8, 2012.

20 **THE COURT:** All right. The record should
21 reflect, first of all, that I've corrected the
22 sentencing sheet to reflect his birth date -- or birth
23 year being in 1971, September 13th, and his age
24 forty-two.

25 I've considered what has been said, and obviously

1 I've had an opportunity to be here and participate in
2 the trial of this case and feel like I have a good
3 appreciation for certainly the evidence that the State
4 had, as well as the fact that obviously this is a case
5 that could not be worked out, and that the Defendant --
6 or, rather, the fact that the jury had difficulty
7 initially reaching a verdict, you know, certainly
8 indicates to me that this is -- or this was a defensible
9 case, and I take that into account. And I also take
10 into account, of course, Mr. Hollingsworth's prior
11 criminal history that dates back, I think, to 1989.

12 Obviously, Mr. Hollingsworth, and I think that
13 Ms. Lewis perhaps would even agree with me in this
14 statement, but I'm hopeful that when my life here is
15 done, and I think that everybody here can probably say
16 the same thing, but that I'm not gonna be judged by the
17 worst thing that I've done in this life. If that's the
18 case, then we're all in big trouble.

19 So the Court appreciates the fact that in maybe
20 many respects you have led a positive life in some ways
21 and the fact that you have family here to support you
22 is good and that you have people here that love you
23 enough to stay the whole week, and if your momma was
24 able to be here, I'm sure that she would have been as
25 well, Mr. Hollingsworth.

1 So what I'm saying, sir, is that I'm certain that
2 there are some redeeming qualities that you possess. I
3 like to believe everybody has that no matter how bad
4 something that they may have done might be. That said
5 Mr. Hollingsworth, what you have to understand, sir, is
6 that you have been in and out of trouble for a long
7 period of time and I know that your brother's death was
8 very unexpected and very tragic to your family and it
9 was a shock to the family, but -- and the fact that you
10 had difficulties growing up, I mean, I understand that
11 and that is a common refrain that I hear. It can't
12 excuse what happened though.

13 It cannot excuse what happened because if we
14 allowed that to excuse what you did, there would be no
15 ramifications, no repercussions for these kind of crimes
16 and these kind of crimes are particularly horrible,
17 especially when it's a situation, Mr. Hollingsworth,
18 that the gentleman that you killed did take you in and
19 did provide a roof over your head and did provide you
20 with the ability to have a job and to make something of
21 yourself.

22 Ms. Lewis, Ms. Whitaker, Mr. Ardis, and the rest
23 of the family, I'm terribly sorry about y'all's loss.
24 And, Ms. Lewis, you may never be able to move forward
25 with this and this might haunt you for the rest of your

1 life, I hear -- I hear what you said there. Let me
2 offer a suggestion, ma'am, okay? Please don't focus
3 anymore on how your father died. We're all gonna be
4 dead one day, all right? Whether it's by a bullet or
5 old age or cancer or something else, sooner or later
6 we're all gonna be dead. And when your family -- when
7 you are gone, I would hope that your family is gonna
8 remember you not so much in terms of how you died, but
9 rather how you lived, okay? So your father was a good
10 man, he did a lot of good things and was loved by a lot
11 of good people, so just remember how he lived and don't
12 focus on how he died and you'll get through this, okay?
13 That goes for the rest of y'all.

14 I've taken everything into account. I understand
15 the victims' desire for a life sentence. In many cases,
16 certainly that's appropriate. In this case -- in all
17 candor, in this case I think something less than a life
18 sentence is warranted, but something more than the
19 minimum is, of course, also warranted. And I've done
20 several murder trials, I've done numerous murder trials,
21 and I think I'm issuing an appropriate sentence in light
22 of everything that's been said.

23 SENTENCE OF THE COURT

24 The sentence of this Court, Mr. Hollingsworth,
25 is that you are committed to the Department of

1 Corrections for a term of forty years. You will
2 get credit for the time that you have served since
3 November the 8th of 2012. By my math, the earliest you
4 will be able to be eligible for parole will be roughly
5 seventy-four years of age. That's an 85 percent
6 sentence.

7 Mr. Hollingsworth, I inform you that have you ten
8 days to file notice of intent to appeal on this case.
9 You have one year after that appeal is resolved to file
10 post-conviction relief proceedings. I wish you luck,
11 sir. I wish peace to the family. We're concluded.

12 (End of proceedings.)
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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in Circuit Court on the 7th - 10th day of April, 2014.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

July 15, 2014

s/Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

FORM 4
NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT
OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA
 In The Court of Appeals

RECEIVED

APR 24 2014

APPEAL FROM LAURENS COUNTY
 Court of General Sessions

SC Court of Appeals

Frank R. Addy, Circuit Court Judge

Indictment No. 13-GS-30-0288

The State,

Respondent,

v.

Phillip Heath Hollingsworth,

Appellant.

NOTICE OF APPEAL

Phillip Heath Hollingsworth appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Frank R. Addy on April 10, 2014.

April 17, 2014

Chelsea B. McNeill

Chelsea B. McNeill, Esq.
 Assistant Public Defender
 Laurens County, South Carolina

A TRUE COPY OF ORIGINAL

Lynn W. Lancaster
 Lynn W. Lancaster
 Laurens County CCCP & GS

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

Case No. 13-GS-30-0288

State,

Respondent,

v.

Phillip Hollingsworth,

Appellant.

LYNN W LANCASTER

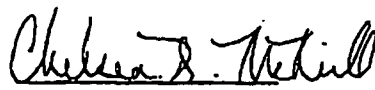
2014 APR 17 P 12:51

LAURENS COUNTY
CLERK OF COURT

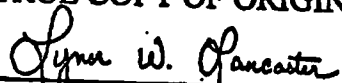
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on State v. Phillip Heath Hollingsworth by personally delivering a copy of it to the Eighth Circuit Solicitor's Office attorneys of record, Mr. David Stumbo and Mr. Warren Mowry, at Mr. Mowry's office at the Laurens County Courthouse, Laurens, South Carolina, on April 17, 2014.

April 17, 2014


Chelsea B. McNeill, Esq.
Attorney for Appellant

A TRUE COPY OF ORIGINAL


Lynn W. Lancaster
Laurens County CCCP & GS

WITNESSES

M. B. Blackmon
Laurens County Sheriff

WARRANT NUMBER

2012A3010100753

True BM

Randall S. Powell

Foreman of the Grand Jury

Date: 2-22-13

VERDICT

Guilty

Nancy L. Brown

Foreman

4-10-14

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

February Term, 2013

Indictment # 13GS30- 0288

THE STATE

vs.

Phillip Heath Hollingsworth

INDICTMENT FOR

MURDER
16-03-0010

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

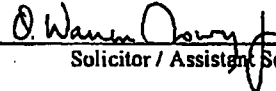
COUNTY OF LAURENS

MURDER
16-03-0010

At a Court of General Sessions, convened on the 22nd day of February, 2013 the Grand Jurors of Laurens County present upon their oath:

That Phillip Heath Hollingsworth, did in Laurens County, state aforesaid, on or about the 7th day of November, 2012 willfully, feloniously, and with malice aforethought kill one Bill Ardis by means of shooting him and that the said Bill Ardis did die in Laurens County as a proximate result thereof on or about the 7th day of November, 2012, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended.

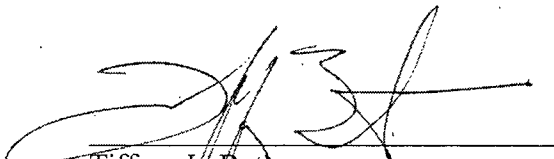
Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Solicitor / Assistant Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 17th, 2015



Tiffany L. Butler
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

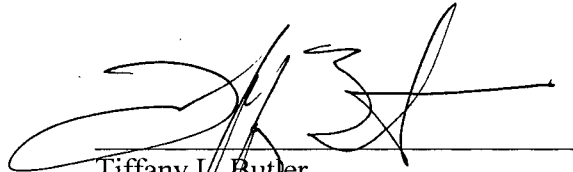
JUL 17 2015

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 17th, 2015



Tiffany L. Butler
Appellate Defender

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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County

Frank R. Addy, Circuit Court Judge

THE STATE,

V.

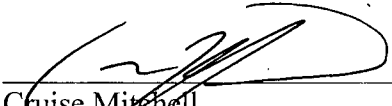
PHILLIP HEATH HOLLINGSWORTH,

APPELLANT

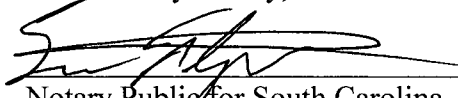
APPELLATE CASE NO. 2014-000903

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 17th day of July, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 17th day of July, 2015.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.

 ORIGINAL

RECEIVED
JUL 17 2015
RESPONDENT,
SC Court of Appeals