

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM MARION COUNTY

D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARCO SANDERS,

APPELLANT

APPELLATE CASE NO. 2014-001201

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF MARION	)	CASE NO. 2013-GS-33-256

STATE OF SOUTH CAROLINA,

Plaintiff,

-vs-

MARCO SANDERS AND TYRELL WOODS,

Defendants.

TRANSCRIPT OF RECORD

May 19-22, 2014
Marion, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN, Judge; and a jury

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Court Reporter

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1 all be back in here about at a quarter of three -- at a
2 quarter of three, and we'll start this and get as much done or
3 try to get all of it done this afternoon so we can start at
4 9:30 in the morning. Anything from the State before we break?

5 MR. CLEMENTS: No, Your Honor.

6 THE COURT: Mr. Wilson?

7 MR. WILSON: Nothing further.

8 THE COURT: Mr. Floyd?

9 MR. FLOYD: Nothing further, Your Honor.

10 THE COURT: All right. 2:45.

11 (Whereupon, there is a break in the proceedings from 1:43
12 p.m. until 2:55 p.m.)

13 (Whereupon, during the break, the transcript from the
14 hearing of November 16, 2012, is marked as Court's
15 Exhibit Number 1.)

16 THE COURT: All right. Is the State ready to proceed?

17 MR. CLEMENTS: No, Your Honor. We're waiting on Mr.
18 Saleeby to get here. He has something downstairs, but we can
19 go ahead and start. These are members of the victim's family
20 that are coming in that want to hear the motions.

21 THE COURT: Does the State have any pre-trial matters
22 that we need to address?

23 MR. CLEMENTS: Your Honor, we don't. We know there are
24 some issues pursuant to the motion by the defense.

25 THE COURT: All right. Well, I'm going to -- I wanted to

1 clear it with you first whether or not there were any State
2 issues. Mr. Wilson, now I know we heard some pre-trial
3 matters concerning your client. Any additional pre-trial
4 matters from you at this time? I mean I -- and you had
5 brought up the issue of identification.

6 MR. WILSON: Yes, sir. I handed up a motion regarding
7 identification, but, Your Honor, that -- I know we -- we
8 addressed the motion for severance at our last -- and I can't
9 remember the exact date of the hearing. It was recorded, and
10 we filed a motion for severance in this case and the Court
11 denied the motion.

12 I think that -- and -- and I'd like to revisit that
13 briefly if I could simply to say that I think that in this
14 case that because of the evidence as it stands and because we
15 have two defendants and I'm not even sure whether or not the
16 defenses would be consistent or inconsistent, I just -- I'd
17 like to renew my motion for -- for severance in this case.

18 THE COURT: Okay. Your objection or your renewal of such
19 motion is so noted for the record.

20 MR. WILSON: Thank you.

21 THE COURT: However, I'm going to respectfully deny it
22 based --

23 MR. WILSON: Yes, sir.

24 THE COURT: -- upon my prior ruling.

25 MR. WILSON: Thank you very much, Your Honor.

1 THE COURT: All right.

2 MR. WILSON: Your Honor, the second issue was the
3 identification issue. It is my understanding that the State
4 intends to offer, one, some video evidence, and then in
5 addition to that some eyewitness identification as to the
6 perpetrators of the offense, and I would like to have -- I
7 would like to have an in-camera hearing before each ID witness
8 or identification witness testifies, whether it's in regards
9 to the video or whether it's in regards to some out-of-court
10 identification of the defendant -- some identification of in-
11 court defendant based on some out-of-court contact that they
12 claim that they may have had with the defendant at some prior
13 time.

14 THE COURT: Mr. Clements?

15 MR. CLEMENTS: Your Honor, we do have some witnesses we
16 can go ahead and put up now and deal with that and also, Your
17 Honor, show the video.

18 THE COURT: All right. Let's move forward.

19 MR. CLEMENTS: Your Honor, the first witness we would
20 call would be --

21 THE COURT: Hold on.

22 MR. WILSON: Judge, my understanding now is that all the
23 witnesses are to be sequestered.

24 THE COURT: Correct. I've previously ruled on that.

25 MR. WILSON: Yes, sir.

NEIL ROUSE - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: Yes, sir. If there are any other
2 witnesses in the courtroom, I'd ask you to wait outside.

3 (Whereupon, there is a pause in the proceedings as
4 several individuals leave the courtroom.)

5 MR. CLEMENTS: Mr. Wilson, you don't have any of your
6 witnesses left in the courtroom?

7 MR. WILSON: No, except for law enforcement -- I mean the
8 ones that were subpoenaed.

9 MR. CLEMENTS: Okay. We'd call Investigator Neil Rouse
10 to the stand, Your Honor.

11 THE CLERK: Do you solemnly swear that the evidence you
12 are about to give in the trial of this case will be the truth,
13 the whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: I do.

15 INVESTIGATOR NEIL ROUSE, being first
16 duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. CLEMENTS:

19 Q: Good afternoon.

20 A: Good afternoon, sir.

21 Q: Can you please state your name for the record?

22 A: Neil Rouse.

23 Q: And where were you employed?

24 A: The Marion County Sheriff's Office.

25 Q: And you recently retired; is that correct?

NEIL ROUSE - DIRECT BY MR. CLEMENTS

1 A: That's correct.

2 Q: And how long did you serve in law enforcement in Marion
3 County, Investigator Rouse?

4 A: I've been in Marion County 20 years.

5 Q: Twenty years? And were you involved in the investigation
6 of the murder of Sam Rowell?

7 A: I was.

8 Q: As a result of that investigation and your participation
9 in that, did you view any types of evidence?

10 A: I did.

11 Q: What types of evidence did you view?

12 A: I viewed a videotape.

13 Q: And that videotape -- do you know where that videotape
14 came from?

15 A: It came from Mr. Rowell's residence off of Phil Court.

16 Q: All right. On Phil Court?

17 A: Yes, sir.

18 Q: And what -- was it a surveillance video or a VCR or what
19 type? It wasn't like movies or anything? What was it?

20 A: Surveillance cameras.

21 Q: Okay. Did he have multiple cameras in his house?

22 A: He did.

23 Q: Okay. Now, do you happen to know Mr. Tyrell Woods?

24 A: I do.

25 Q: Okay. And do you see him here in the courtroom?

NEIL ROUSE - DIRECT BY MR. CLEMENTS

1 A: Yes, sir, I do.

2 Q: Okay. Where is he seated?

3 A: Over at the defense table on to the -- to the left of me.

4 Q: And what kind of shirt has he got on?

5 A: A plaid shirt.

6 MR. CLEMENTS: All right. May the record reflect for the
7 purposes of this hearing that Mr. Rouse has identified the
8 defendant Woods.

9 THE COURT: So noted for the record.

10 Q: Now, do you see -- or let me ask you this. Did you know
11 Marco Sanders?

12 A: I did.

13 Q: How long have you known Marco Sanders?

14 A: Probably fifteen years.

15 Q: Fifteen years? And how long have you known Tyrell Woods?

16 A: About four years.

17 Q: Okay. So is it safe to say or fair to say that you know
18 Marco Sanders a lot better than you do Tyrell Woods?

19 A: Yes, sir.

20 Q: Had a lot of dealings with Mr. Sanders?

21 A: I have.

22 Q: Have you had face-to-face dealings with him?

23 A: I have.

24 Q: Okay. Do you see him here seated in this courtroom?

25 A: Yes, sir.

NEIL ROUSE - DIRECT BY MR. CLEMENTS

1 Q: And where do you see him seated?

2 A: Sitting there beside of the defense attorney, Mr. Ralph
3 Wilson.

4 Q: And can you describe what shirt he has on?

5 A: White shirt, black tie.

6 MR. CLEMENTS: All right. May the record reflect that
7 Mr. Rouse has identified the defendant, Mr. Sanders?

8 THE COURT: So noted for the record.

9 Q: You said you reviewed some video; is that correct?

10 A: That's correct.

11 Q: From the surveillance system at Mr. Rowell's house?

12 A: That's correct.

13 Q: Did you see anyone on that video that you recognized?

14 A: Mr. Sanders.

15 Q: Okay. Did you see anyone on that video that you didn't
16 recognize to begin with?

17 A: To begin with, Mr. Woods over there.

18 Q: So to begin with, you didn't recognize Mr. Woods?

19 A: No, sir.

20 Q: How soon from looking at that video did you recognize Mr.
21 Sanders?

22 A: Time I saw it.

23 Q: The time you saw it?

24 A: Yes, sir.

25 Q: Okay. Did you have any doubts about that?

NEIL ROUSE - DIRECT BY MR. CLEMENTS

1 A: No, sir.

2 Q: Okay.

3 MR. CLEMENTS: Your Honor, we would ask permission to
4 play a section of that video at this time.

5 THE COURT: All right. Go ahead.

6 MR. CLEMENTS: Your Honor, this video was running for
7 hours, but we're going to take the last few minutes that are
8 relevant here and we're going to show you that at this time.

9 THE COURT: All right.

10 MR. CLEMENTS: And, Mr. Rouse, I'm going to ask if you
11 would watch this and when it's completed, you can tell us
12 whether or not that is what you observed before or not.

13 (Whereupon, a four-minute portion of the surveillance
14 video is played in open court. The video has no audible
15 sound to be transcribed. The video is later marked and
16 entered as State's Exhibit Number 18.)

17 Q: All right. Investigator Rouse, was this a single camera
18 system or multiple cameras?

19 A: Multiple cameras.

20 Q: Did it alternate back and forth between views?

21 A: Yes, sir.

22 Q: Okay. And was that what you -- is this what you
23 observed?

24 A: That's exactly what I observed.

25 Q: Okay. And you -- we saw a gentleman go up to the door in

NEIL ROUSE - DIRECT BY MR. CLEMENTS

1 a black shirt and then walk away. Did you recognize that
2 individual immediately?

3 A: Not immediately, no.

4 Q: Okay. And then we saw two individuals come up. One was
5 the gentleman in the black shirt and the other one was a
6 gentleman in plaid-looking pants; is that correct?

7 A: Correct.

8 Q: Did you recognize that person?

9 A: I did.

10 Q: And how soon did you recognize that?

11 A: Time I saw it.

12 Q: And who was that individual?

13 A: Marco Sanders.

14 Q: Okay. And could you ascertain what he was holding in his
15 hands?

16 A: It appeared to be a gun.

17 Q: Okay. All right. Please answer any questions that Mr.
18 Wilson may have.

19 THE COURT: Cross examination.

20 MR. WILSON: Thank you very much, Your Honor.

21 CROSS EXAMINATION

22 BY MR. WILSON:

23 Q: Detective Rouse, let me ask you -- now, you said you've
24 known the defendant for how many years?

25 A: At least fifteen.

NEIL ROUSE - CROSS BY MR. WILSON

1 Q: At least fifteen? Well, now, do you recall a hearing
2 that we had -- do you recall a hearing that we had back here I
3 guess it was May 13th of last year?

4 A: No, sir.

5 Q: You don't recall testifying at a Schmerber hearing that
6 we had back in May of last year?

7 A: I don't recall that. No, sir.

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

9 THE COURT: Yes, sir.

10 Q: Let me show you this transcript of a hearing and see if
11 you recognize that, and you can turn it over, if you would, to
12 the first page which would have your testimony on it which
13 would be page -- do you see your name on there?

14 A: No.

15 Q: It --

16 A: There it is.

17 Q: Okay.

18 A: Yes, sir. Okay.

19 Q: Do you recall now?

20 A: Yes, sir.

21 Q: All right. And do you recall at that hearing saying that
22 you had actually known this defendant since 1993?

23 A: Approximately, yes, sir.

24 Q: Okay.

25 A: '93 or '94.

NEIL ROUSE - CROSS BY MR. WILSON

1 Q: All right.

2 A: Somewhere in there.

3 Q: And do you know that in 1993 he was twelve years old?

4 A: I don't know how old -- I don't know how old he was then.

5 He was a juvenile. Yes, sir.

6 Q: So how did you know him in 1993 as a juvenile?

7 A: I was a drug agent at that time.

8 Q: Okay. And are you saying that you had contact with him
9 in 1993 while you were a drug agent? Is that what you're
10 saying?

11 A: That's correct.

12 Q: When he was twelve years old?

13 A: That's correct.

14 Q: All right. And so you charged him with an offense in
15 1993?

16 A: No, sir.

17 Q: All right. Well, tell me what it is. How did you come
18 to know him in 1993?

19 A: Through his family members, his brothers and stuff that
20 we had had dealings with all the time. He was with his
21 brothers several times on occasions we made charges.

22 Q: Okay. And so you said he was with his brother and so you
23 got to know him. He was twelve years old and he was with his
24 brother. Where was it that you met him with his brothers?

25 A: He was out here in the City of Marion.

NEIL ROUSE - CROSS BY MR. WILSON

1 Q: Where?

2 A: I don't recall the street.

3 Q: What --

4 A: It was out here in the City of Marion.

5 Q: Did you go to their home? Did you see him at some public
6 location like a restaurant or a hotel? Did you see him in
7 court or a police station?

8 A: I been -- I been -- I've been to their home. I have been
9 seeing him on the street.

10 Q: Okay. Now, since you've known Mr. Sanders you say since
11 1993, you saw the video on the day of this incident or the
12 very next day; is that fair?

13 A: Yes, sir.

14 Q: All right.

15 A: Well, no, no, no, not the next day, no.

16 Q: Well --

17 A: It was several days after. A week or something after.
18 It might have been a week after. So --

19 Q: Well, did you tell the solicitor just a minute ago that
20 you immediately recognized the individual in the video as
21 being Marco Sanders?

22 A: That's correct.

23 Q: And the video was taken from the home of Mr. Rowell the
24 day of the homicide or at least the morning after?

25 A: That's correct.

NEIL ROUSE - CROSS BY MR. WILSON

1 Q: All right. So you had it in your possession from July
2 the 5th at least; is that correct?

3 A: No, sir.

4 Q: No, sir? What part is not correct?

5 A: I didn't have it in my possession.

6 Q: Well, who had it?

7 A: SLED.

8 Q: Okay. When did SLED give it to y'all or when did you --
9 when did they ask you to look at it?

10 A: I'm not quite sure the exact date on when I looked at it,
11 but it was a few weeks after that.

12 Q: Well, so you're saying that now SLED has a video with two
13 suspects on it, one of which you can immediately identify, and
14 nobody asked you to look at it for how many days?

15 A: Well, at the time that SLED had the video equipment that
16 was coming out of Mr. Rowell's house, they didn't have the
17 system to play it on. Detective Lee then purchased a piece of
18 equipment to carry to SLED for them to look at it.

19 Q: Okay. And my question then is you actually -- did you
20 participate in a line-up -- showing a line-up to an individual
21 of the -- of the robbery?

22 A: No, sir, I did not.

23 Q: All right. You didn't participate in any line-up?

24 A: No, sir.

25 Q: All right. The one with Shawn Davis, you didn't

NEIL ROUSE - CROSS BY MR. WILSON

1 participate?

2 A: No, sir.

3 Q: All right. Were you aware that there was a line-up --

4 A: Yes, sir.

5 Q: -- and that he was shown a line-up?

6 A: Yes, sir.

7 Q: Okay. Were you aware of the individuals who were in the
8 picture?

9 A: You're talking about the --

10 Q: In the photo line-up.

11 A: No, sir.

12 Q: All right. You do not know?

13 A: No, sir.

14 Q: So what day was it that -- after July 5th, what day was it
15 that you identified the person in the video as being Marco
16 Sanders?

17 A: I'm not sure of the exact date. Whenever they brought it
18 back to -- to the Sheriff's Office so we could look it, I
19 looked at it. I don't know exactly what date.

20 Q: Okay. Was it before the 12th of July?

21 A: I'm not sure. I can't tell you the exact date.

22 Q: Well, did you make some notes? Here you get this video
23 of this individual that you say committed a robbery and you
24 don't make any -- a murder and you don't make any notes to
25 know the date and time that you actually saw the video for the

NEIL ROUSE - CROSS BY MR. WILSON

1 first time and identified this person?

2 A: No, sir. I don't have it with me if I did, but I knew
3 the subject on the video.

4 Q: Okay. So how many -- on how many occasions prior to --
5 to July 5th had you had personal contact with Mr. Sanders here?

6 A: Over the period from '93 until then?

7 Q: Yes, sir.

8 A: I'd say probably eight -- ten times.

9 Q: Okay. And -- and so you knew him by name; right?

10 A: Correct.

11 Q: And -- and now, what was your role? Were you the lead
12 investigator in this --

13 A: No, sir.

14 Q: -- case?

15 A: No, sir.

16 Q: All right. Well, what was your role then?

17 A: I was assisting Detective Lee.

18 Q: I'm sorry?

19 A: I was assisting Detective Lee.

20 Q: And was Detective Lee the -- the lead officer?

21 A: He was.

22 Q: All right. And when did Detective Lee, to your
23 knowledge, know that there were two men on a video which was
24 in the possession of law enforcement?

25 A: If I can recall correctly, he was -- he received a call

NEIL ROUSE - CROSS BY MR. WILSON

1 from SLED telling him that there was something on the video
2 that they didn't know what it was until they could get
3 something to play it. He went to Harbor Freight in Dillon I
4 think and purchased the same type of equipment that Mr. Sam
5 Rowell had and carried it to Columbia and they looked at it at
6 that time. I guess that's when he seen it.

7 Q: Okay. You didn't go with him to Columbia?

8 A: No, sir.

9 Q: So did he bring a copy of it back for you?

10 A: Yes, sir.

11 Q: All right. And so that was brought back to you and you
12 then told law enforcement that very day that the individual in
13 that video was Marco Sanders?

14 A: That's correct.

15 Q: Is that correct?

16 A: That's correct.

17 Q: All right. Now, during -- during the time that -- I'm
18 going to try that question again. Just let me ask you this
19 way. Have you -- I'm trying to -- have you -- you said that
20 you know Mr. -- Mr. Rowell -- Mr. -- Mr. Sanders and that
21 you've known him well and you've had several contacts with
22 him, including arrests? Is that --

23 A: Correct.

24 Q: -- fair?

25 A: That's correct.

NEIL ROUSE - CROSS BY MR. WILSON

1 Q: Okay. Now, then you also are aware then that he has
2 tattoos; correct?

3 A: I wouldn't know if he did or not. No.

4 Q: Well, you don't know if he has tattoos on a man that
5 you've known for twenty-plus years? You don't know?

6 A: No, sir. I don't look at his body.

7 Q: You don't look at his body? What about his hands and his
8 arms?

9 A: I really haven't paid any attention.

10 Q: You haven't paid any attention? Okay. Well, would it
11 surprise you to know that he has tattoos all over his arm,
12 inside and out?

13 A: No, sir. No, sir. It wouldn't surprise me any.

14 Q: And did you see tattoos on the video on the man in the
15 video?

16 A: I didn't look that close at his -- at his arm, sir.

17 Q: Well, so you didn't -- so you looked at the face, but you
18 didn't look at the arms so you don't know whether the person
19 in the video had tattoos or not had tattoos?

20 A: No, sir, not particularly I don't.

21 Q: You would -- would you disagree with me that, in fact,
22 that video is of very, very poor quality? Is it not?

23 A: No, sir, it is not.

24 Q: It is not?

25 A: No, sir.

NEIL ROUSE - CROSS BY MR. WILSON

1 Q: Okay.

2 A: I've seen a lot worse.

3 Q: All right.

4 MR. WILSON: I don't have any other questions. Thank
5 you.

6 THE COURT: Mr. Floyd, anything?

7 MR. FLOYD: I don't have anything.

8 THE COURT: Any redirect?

9 MR. CLEMENTS: I beg the Court's indulgence a moment.

10 THE COURT: Mr. Wilson, don't get too comfortable. You
11 might have some recross. Go ahead, Mr. Clements.

12 MR. CLEMENTS: Investigator Rouse, that's all the
13 questions I have for you right now. Thank you very much.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Thank you, sir. You may step down. Call
16 your next witness.

17 MR. CLEMENTS: Your Honor, we would call Investigator Lee
18 to the stand. Does Investigator Rouse need to step outside
19 now?

20 THE COURT: Yes. I'd ask that he step back outside.
21 Yes, sir.

22 MR. CLEMENTS: All right. Thank you. We'd call
23 Investigator Lee in.

24 (Whereupon, there is a pause in the proceedings until the
25 witness enters the courtroom.)

26

JAMES LEE - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: Step over there.

2 THE CLERK: Come around this way to be sworn, sir. Do
3 you solemnly swear or affirm the evidence you are about to
4 give in this trial shall be the truth, the whole truth, and
5 nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Go ahead and have a seat.

8 INVESTIGATOR JAMES LEE, being first
9 duly sworn, testifies as follows:

10 DIRECT EXAMINATION

11 BY MR. CLEMENTS:

12 Q: Can you please state your name for the record?

13 A: James Lee.

14 Q: And what are you doing work-wise right now?

15 A: Deputy Coroner work for Marion County.

16 Q: Deputy Coroner work? And did you recently retire?

17 A: Yes, I did.

18 Q: Where did you retire from?

19 A: Detective for the Marion County Sheriff's Department.

20 Q: And how long have you worked in law enforcement in Marion
21 County, Mr. Lee?

22 A: Eighteen years.

23 Q: Okay. All right. I'm used to calling you Investigator
24 Lee. I guess you can still be called that title being
25 retired; can't you?

JAMES LEE - DIRECT BY MR. CLEMENTS

1 A: I've been called most everything.

2 Q: All right. Investigator Lee, were you the -- the main
3 agent investigating the murder of Mr. Sam Rowell --

4 A: Yes, sir.

5 Q: -- at his home and burglary?

6 A: Yes, sir.

7 Q: Now, as a part of your investigation, did you have a
8 chance to deal with any type of video evidence?

9 A: Yes, sir, I did.

10 Q: Can you tell the Court please when you first became aware
11 of video being a part of this investigation?

12 A: When I went to Columbia to meet with the investigator
13 there with SLED, I was told there was some video on the
14 recorder, but he said he was unable at that time to pull it up
15 because of damage to the piece of equipment.

16 Q: And how was it -- how do you think the equipment was
17 damaged?

18 A: Wires being cut from the main box.

19 Q: Okay. So they were cut and left in the home?

20 A: Correct.

21 Q: During the burglary and the murder?

22 A: Yes, sir.

23 Q: Now, do you remember -- and if you don't, that's fine.

24 Just tell me you don't remember, but do you remember the day

25 when you went to SLED how soon after the murder that was or

JAMES LEE - DIRECT BY MR. CLEMENTS

1 not?

2 A: No, sir, I can't.

3 Q: You can't say the exact day? A few days? A week maybe?

4 Or you just can't remember the exact dates on that?

5 A: I'd say it was a week maybe.

6 Q: Okay. And when you went up there and they told you that,

7 as a result of that and knowing that they had a video they

8 thought something was on, but they couldn't play it, what did

9 you then do?

10 A: Once I found out who -- who was selling the -- that type

11 of equipment -- and at that time it was Harbor Freight.

12 Q: Over in Dillon?

13 A: Yes, sir.

14 Q: Okay.

15 A: Or most Harbor Freights, yeah. I -- I told the agent

16 there that I was going to go to Dillon because that's where I

17 buy a lot of tools and I'd buy it --

18 Q: Yeah.

19 A: -- to see if I could get one from them, and if I could,

20 I'd call him back to let him know I'd be coming up the next

21 morning.

22 Q: Okay. And did you do that?

23 A: Yes, I did.

24 Q: You found that type of equipment over in Dillon?

25 A: Yes, sir.

JAMES LEE - DIRECT BY MR. CLEMENTS

1 Q: And -- and what did you do then?

2 A: Well, the next morning I carried it up to SLED and met
3 with the agent again.

4 Q: You -- you remember his name?

5 A: Mark Cave.

6 Q: Okay. All right. And what -- what did you give to Mr.
7 Cave?

8 A: I gave him the whole surveillance kit, the box and all.

9 Q: Okay. And did you stick around that day to see what he
10 was going to be able to find out or did you come back to
11 Marion that day?

12 A: No, I stuck around that day.

13 Q: Okay. And what -- did you end up seeing anything that
14 day?

15 A: Yes, sir.

16 Q: And you watched the video?

17 A: Yes, sir, I did.

18 Q: Okay. What did you see on that video?

19 A: I noticed the two defendants going up toward the house
20 with guns pulled.

21 Q: Did you recognize either one?

22 A: Yes, sir.

23 Q: Did you recognize both?

24 A: Both.

25 Q: Okay. And who did you see on that video?

JAMES LEE - DIRECT BY MR. CLEMENTS

- 1 A: Marco Sanders and Tyrell Woods.
- 2 Q: Okay. Can you tell the Court how do you know Tyrell
- 3 Woods?
- 4 A: Incidents in the past that he would be at the Sheriff's
- 5 Office for.
- 6 Q: Okay. And did you know Tyrell Woods very long? He's
- 7 pretty young.
- 8 A: No. Matter of fact, he was a juvenile.
- 9 Q: Okay. When you first met him?
- 10 A: First met him.
- 11 Q: Okay. And how long would you say, if you know, roughly
- 12 how many years have you known Tyrell?
- 13 A: That was in '07.
- 14 Q: Back from like '07?
- 15 A: Yes, sir.
- 16 Q: Okay. All right. And you said you recognized the second
- 17 individual. Who was that?
- 18 A: Marco.
- 19 Q: Marco Sanders?
- 20 A: Yes, sir.
- 21 Q: How long have you known Marco Sanders?
- 22 A: Well, about the same time because they were together.
- 23 Q: Okay. All right. Are they related?
- 24 A: I believe they are related.
- 25 Q: Okay. All right. And have you had face-to-face

JAMES LEE - DIRECT BY MR. CLEMENTS

1 encounters with both?

2 A: Yes, sir.

3 Q: One time or multiple times?

4 A: Just one time.

5 Q: Okay. And you noticed both of them on this video?

6 A: Yes, sir.

7 Q: How -- how quickly were you convinced who you saw?

8 A: In no time it was clear.

9 Q: Okay. All right. Now, are you aware -- do you ever pay
10 attention to -- to, for instance, Mr. Sanders or Mr. Woods to
11 see if you know whether or not they have any tattoos or any
12 type markings like that?

13 A: No. No.

14 Q: Okay. And you never paid attention to that one way or
15 another?

16 A: Not when I met them the first time, no.

17 Q: Okay. All right.

18 MR. CLEMENTS: I'm going to ask, Your Honor, if we can
19 show the video just to see if this is the same thing Mr. Lee
20 has watched.

21 THE COURT: All right.

22 MR. CLEMENTS: And while he's loading that up --

23 Q: Well, how many cameras do you know were on that
24 surveillance system?

25 A: Three or four.

JAMES LEE - DIRECT BY MR. CLEMENTS

- 1 Q: Okay. And it alternated between those -- those cameras?
- 2 A: (No verbal response.)
- 3 Q: Do you know whether all of them were working or not?
- 4 A: I don't think they were all working. I believe the back
- 5 of the building wasn't.
- 6 Q: In your investigation, what, if any, type of vehicle was
- 7 being looked for?
- 8 A: A white Expedition.
- 9 Q: Okay. And that was based on? What was the first
- 10 information you had about a white Expedition?
- 11 A: Well, everybody when we arrived at the scene was bringing
- 12 it up there was a white Expedition out there.
- 13 Q: Okay. All right. And what did you see on the video in
- 14 regards to a vehicle?
- 15 A: A white Expedition.
- 16 Q: Okay. All right.
- 17 MR. CLEMENTS: Please play the video.
- 18 (Whereupon, the surveillance video later marked and
- 19 entered as State's Exhibit Number 18 is played in open
- 20 court.)
- 21 Q: Investigator Lee, is this -- is that what you observed at
- 22 SLED?
- 23 A: Yes, sir.
- 24 Q: Okay. And who was the person with the black shirt on?
- 25 Do you recognize that person in the black shirt?

JAMES LEE - DIRECT BY MR. CLEMENTS

1 A: Well, I weren't basically looking at the black shirt. I
2 was looking at the weapons.

3 Q: Okay. All right.

4 A: I know -- I know who went in the house first.

5 Q: Who went in the house first?

6 A: Marco.

7 Q: Marco? Okay. And the second person was who?

8 A: Tyrell.

9 Q: Okay. All right. You looked at the weapons. What else
10 were you focusing on that determined who it was?

11 A: That was it.

12 Q: Okay.

13 A: Just faces.

14 Q: Faces? Okay. All right. Please answer any questions
15 Mr. Wilson might have.

16 THE COURT: Cross examination?

17 MR. WILSON: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. WILSON:

20 Q: Detective, now, as I understand it, you say that you've
21 known Marco Sanders since 2007; is that correct?

22 A: Somewhere abouts, yes, sir.

23 Q: Well, somewhere thereabouts? I mean was it 2007 or --

24 A: In that year.

25 Q: -- you're not sure?

JAMES LEE - CROSS BY MR. WILSON

- 1 A: Within the year.
- 2 Q: I'm sorry?
- 3 A: Sometime that year.
- 4 Q: Okay.
- 5 A: I'm pretty sure it was 2007.
- 6 Q: You're sure? You're absolutely positive?
- 7 A: No. If you're going to pin me down, not 2007 then.
- 8 Q: Well, then when was it?
- 9 A: It was somewhere in that time --
- 10 Q: Okay.
- 11 A: -- period.
- 12 Q: Well, did you know that he was in prison in 2006, 2007,
- 13 and 2008? You didn't know that?
- 14 A: I wasn't aware of that.
- 15 Q: Okay. So then you couldn't have known him in 2007 if you
- 16 weren't working at the prison; right?
- 17 A: Not if he was in prison.
- 18 Q: Right. So that much we know is not correct from what you
- 19 said. You did not know him if he was in prison in 2006, '07,
- 20 and '08; right?
- 21 A: Correct.
- 22 Q: All right. So when did you know him?
- 23 A: I can tell you where I know him from.
- 24 Q: Okay. Tell me where you know him from?
- 25 A: When he was brought in, him and Tyrell, about an incident

JAMES LEE - CROSS BY MR. WILSON

1 that happened.

2 Q: Okay. When was that?

3 A: I was thinking it was '07, but apparently it was not '07.

4 Q: What were they brought in for?

5 A: For theft of a lawnmower from another county.

6 Q: Okay. Was that your first contact with him?

7 A: Yes, sir.

8 Q: All right. And was he arrested at that time?

9 A: No, sir.

10 Q: Okay. Now, you say -- I think you said earlier that --
11 that you didn't know about the video; right?

12 A: No. I don't remember saying that.

13 Q: You didn't know about the video until you went to SLED
14 and somebody at SLED told you or showed you the video; right?

15 A: I knew video had been carried to SLED from the scene by
16 their agents.

17 Q: Okay. But you knew from July the 5th that, in fact, there
18 was a video recording device and that it may have video on it?

19 A: Sure.

20 Q: Right?

21 A: Sure.

22 Q: All right. In fact, you are the one that -- that
23 actually got it; right?

24 A: No, I didn't get it.

25 Q: You didn't get it?

JAMES LEE - CROSS BY MR. WILSON

1 A: Not that night. SLED got it.

2 Q: Well, it says here this inventory was made in the
3 presence of Sabrina Fellers, Agent, Carl Kinley, Agent, and
4 Detective James Lee, and Detective Rouse.

5 A: That was that night at the scene.

6 Q: Yes, sir. And it's signed by you. Is that your
7 signature?

8 A: I told you I knew they carried it with them, SLED, that
9 night.

10 Q: Okay. Well, but this is your inventory sheet, which is
11 what my --

12 A: No. That's SLED's inventory sheet.

13 Q: No, sir. Your name is signed. Look at the bottom of
14 that.

15 A: I think I was asked to witness it.

16 Q: Is that your name at the bottom of that?

17 A: Yeah, that's my name.

18 Q: Yeah. So that shows that you knew about this video
19 equipment that night. The morning of July the 5th, you were
20 well aware that there was video equipment and that there were
21 cameras there that may have taken pictures?

22 A: Sure.

23 Q: Okay. Now, you participated in a line-up -- did you not?
24 -- with Bart -- what's his name? Shawn Davis, back on the 5th;
25 right?

JAMES LEE - CROSS BY MR. WILSON

1 A: Not on the 5th.
2 Q: You sure?
3 A: Almost positive.
4 Q: Do you recall meeting with Shawn Davis at any point?
5 A: Yes, sir.
6 Q: All right. Do you recall showing him a line-up?
7 A: Yes, sir.
8 Q: All right. Did you show him a line-up on more than one
9 occasion?
10 A: I only showed him one line-up.
11 Q: Was that on the 12th?
12 A: It could have been. Yes, sir.
13 Q: Well, I don't want to know when it could have been. I
14 want to know when it was. Did you show him a line-up on the
15 12th or did you show it to him on the 5th or do you know? And
16 if you don't know, that's fine. I'm just asking.
17 A: I'd say it was around the 12th.
18 Q: Okay. All right. Did you meet with him on the 5th?
19 A: I don't recall meeting with him on the 5th.
20 Q: Now, you were the lead investigator in this case. Is
21 there any -- before we go any further, is there any question
22 about that fact that you were the lead investigator in this
23 case? Is that correct?
24 A: Well, it all depends on what day you're referring to
25 because all detectives were working this case first to start

JAMES LEE - CROSS BY MR. WILSON

1 with.

2 Q: Okay.

3 A: It just all depends on what date you're referring to.

4 Q: All right. When is the first time that you met with
5 Shawn Davis about this case?

6 A: I know I met with him on the line-up, and I think
7 Detective Rouse had spoken with him in my presence.

8 Q: Do you know whether or not the police showed him a line-
9 up on more than one occasion that he didn't pick anybody out
10 of? Do you know whether that's true or not?

11 A: I think he was probably shown a line-up around the 4th or
12 the 5th, but not by me.

13 Q: Okay. Well, who was it by?

14 A: I think it was either Captain Barker and Detective Bell
15 or either Captain Barker or Charlotte.

16 Q: Okay. Did they share that line-up with you?

17 A: Later.

18 Q: Okay. And was Marco Sanders' picture in that line-up?

19 A: I don't recall it being in that particular line-up
20 because I think that early in the stage, we really didn't have
21 him as a suspect.

22 Q: Okay. So are you telling us then that the first time
23 that anybody -- the first time that anyone picked Marco
24 Sanders out of any line-up was on August -- I'm sorry -- July
25 the 12th? Is that correct? That's the first time that any

JAMES LEE - CROSS BY MR. WILSON

1 person picked Marco Sanders out of a line-up in that? Is that
2 a fair statement?

3 A: That's a fair statement..

4 Q: Okay. Is there any affidavit or any statement prior to
5 the 12th of July where it says that you picked Marco Sanders
6 out of anything?

7 A: Any statements anywhere?

8 Q: Is there any affidavit, any recorded statement, anything
9 in writing showing that prior to July the 12th of 2013 -- I'm
10 sorry -- 2012, that you picked Marco Sanders out of a line-up
11 or out of the video?

12 A: Not to my knowledge.

13 Q: Not to your knowledge?

14 MR. WILSON: Will the Court bear with me just for a
15 minute?

16 THE COURT: Yes, sir.

17 MR. WILSON: No other questions.

18 THE COURT: Mr. Floyd?

19 MR. FLOYD: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. FLOYD:

22 Q: Detective Lee, you said you had known Tyrell Woods since
23 2007?

24 A: Somewhere in there.

25 Q: Or thereabouts? And how did you know him?

JAMES LEE - CROSS BY MR. FLOYD

1 A: At that time, he was involved in an incident where
2 lawnmowers were being stolen or had been stolen, but he was in
3 the office at that time, if I remember, interviewing by
4 Detective Rouse.

5 Q: So you met him that one time in 2007? And after that,
6 how many times did you meet with him that you recall? Just
7 that one time?

8 A: As far as -- yeah. You know, one on one, yeah.

9 Q: Okay. All right. And that was done inside your office
10 or at the Marion County Sheriff's Office?

11 A: Yes, sir.

12 Q: Did you personally interview him in connection with that
13 night?

14 A: No.

15 Q: You were just there?

16 A: Well, we were working out of the same office. I couldn't
17 help but be there.

18 Q: Okay. Now, you gave -- made an affidavit I believe in
19 connection with this case on August the 1st of 2012; is that
20 true? Is that your signature on that?

21 A: That's my signature. Yes, sir.

22 Q: Okay. Did you sign that affidavit?

23 MR. CLEMENTS: Your Honor, may I see what he's showing
24 the witness?

25 THE COURT: Yes.

JAMES LEE - CROSS BY MR. FLOYD

1 MR. CLEMENTS: Mr. Wilson didn't give me that courtesy.

2 (Whereupon, there is a pause in the proceedings.)

3 Q: Is that your signature on the affidavit that I just
4 showed you --

5 A: Yes, sir.

6 Q: -- dated August 1st, 2012?

7 A: Mm-hmm.

8 Q: Was that a yes?

9 A: Yes.

10 Q: Other than signing that affidavit -- and I believe you
11 said you put your signature on the photo lay-down affidavits
12 of July the 12th; is that correct?

13 A: Yes, sir.

14 Q: Okay. Did -- did you make any other incident report or
15 written statement about this investigation insofar as it
16 relates to Mr. Woods?

17 A: No. I think everything that was turned over by the State
18 y'all got.

19 Q: So you did not make a report of your viewing of the video
20 at SLED?

21 A: No.

22 Q: Is that correct?

23 A: That's correct.

24 MR. FLOYD: I don't have anything else. Thank you.

25 THE COURT: Anything further, Mr. Clements?

JAMES LEE - REDIRECT BY MR. CLEMENTS

REDIRECT EXAMINATION

1
2 BY MR. CLEMENTS:

3 Q: Detective Lee, I'm kind of unclear what Mr. Floyd was
4 asking you. He was asking you if you had seen Mr. Tyrell
5 Woods in your office, and you testified it was just that one
6 time; is that correct?

7 A: Yes, sir.

8 Q: What other times and what other places did you see Mr.
9 Woods or run into him?

10 A: Only in photographs, sir.

11 Q: Okay. Ever see him out on the street or in the
12 community?

13 A: No.

14 Q: Okay. All right. And the other photographs -- you said
15 you saw other photographs. Did you know those to be
16 photographs of him at the time you were looking at them?

17 A: Yes, sir.

18 Q: Okay. And what was the purpose for looking at other
19 photographs of him at other times?

20 A: When he was -- when it was drawn interest to him to
21 being a suspect.

22 Q: Okay. All right. And those were in other cases that he
23 wasn't arrested in, but --

24 A: Correct.

25 Q: Okay. All right.

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

2 THE COURT: Mr. Wilson, anything further?

3 MR. WILSON: Nothing further, Your Honor.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: Nothing further.

6 THE COURT: All right, sir. You may step down. Anything
7 further?

8 MR. CLEMENTS: Just that on the identification off the
9 video, that's it, Your Honor.

10 THE COURT: I'm sorry. What was that?

11 MR. CLEMENTS: On the identification of the video, that's
12 all we have. These are the only two witnesses -- only two
13 people that we're going to put up to testify about that.

14 THE COURT: All right. Mr. Wilson, anything by way of
15 argument?

16 MR. WILSON: No, sir. I don't have any testimony at all.
17 No, sir.

18 THE COURT: All right. Mr. Floyd, have you got any
19 testimony?

20 MR. FLOYD: None, Your Honor.

21 THE COURT: All right. Happy to hear from you by way of
22 argument as to why it's admissible.

23 MR. CLEMENTS: Your Honor, he had prior -- both
24 individuals had prior dealings with the individuals that they
25 identified. Mr. Lee identified both individuals. He had

1 prior dealings with both of them. Mr. Rouse had prior
2 dealings with them, with the video determined who it was. Mr.
3 Rouse did not have enough dealings with Mr. Woods to recognize
4 him immediately, but he did with Mr. Sanders, and Mr. Woods
5 was not identified by Mr. Rouse. Mr. Lee identified both of
6 them and has got the foundation to do so.

7 THE COURT: Mr. Wilson?

8 MR. WILSON: Based on -- on the totality of all of the
9 circumstances in this case, I don't think that the State has
10 established a substantial basis -- factual basis to show that
11 these two witnesses have the kind of knowledge -- intimate
12 knowledge of the individuals that they claim to have known to
13 make identification in the first place, but even beyond that
14 when you talk about Mr. Rouse -- let's talk about Mr. Rouse's
15 testimony first -- Detective Rouse's testimony. He indicated
16 that -- that he had known the defendant since 2007 and I asked
17 him, well, if the defendant was in jail in 2006, '07, and '08,
18 how could he have possibly known him, and he said, well, it
19 was sometimes around that time.

20 THE COURT: You talking about Mr. Rouse?

21 MR. WILSON: Yes, Neil Rouse.

22 THE COURT: Okay. Go ahead. I'm sorry.

23 MR. CLEMENTS: Your Honor?

24 THE COURT: Hold on. I'll let you reply. Go ahead, Mr.
25 Wilson.

1 MR. WILSON: I thought that was Detective Rouse that I
2 asked that question to. I asked both of them --

3 THE COURT: You asked it of Investigator Lee.

4 MR. WILSON: Well, I asked him --

5 THE COURT: Go ahead though.

6 MR. WILSON: And then I apologize, Your Honor.

7 THE COURT: That's okay.

8 MR. WILSON: But my understanding of Mr. Rouse's
9 testimony because he was the first one to testify -- I mean
10 what I asked him was if he knew the defendant, how he knew
11 him, and he said he knew him since 1993 and -- and you're
12 right. Mr. -- Detective Lee said since 2007, but what -- what
13 Detective Rouse -- let me go back to him.

14 He said he knew him since 1993, which the defendant would
15 have been twelve or thirteen years old at that time. He
16 wouldn't have even been able to get in difficulty with -- with
17 law enforcement because he wasn't old enough at that point and
18 so I have a real problem with that.

19 The other thing is is that not either of -- either
20 Detective Lee or Detective Rouse indicated that they knew
21 about any tattoos that the defendant had and, if so, where
22 were they located. Neither of them knew anything about it and
23 I just -- you know, and the other problem is is that with the
24 video surveillance equipment.

25 Apparently, they showed -- according to Detective Lee,

1 they showed some kind of a line-up to -- to Shawn Davis at
2 some point in time trying to get him to identify somebody, but
3 nobody seems to know exactly when it was that they showed him
4 the line-up, but by all conclusions, there was never an
5 identification of Mr. Sanders before July the 12th by anybody,
6 and certainly there is no indication that Mr. -- that
7 Detective Lee or Detective Rouse in any way identified Mr.
8 Sanders as being a participant or being on that video before
9 the 12th, and the 12th is when the -- which is what we were
10 asking about the affidavit or the photo line-up that was shown
11 to Shawn Davis. Apparently, they're claiming that Shawn Davis
12 picked out these two individuals on July the 12th, which is the
13 first time that anybody supposedly picked them out of
14 anything.

15 And then you go back to -- to the testimony from these
16 two officers. Apparently, they went to SLED and -- and
17 Detective Lee I think it was -- well, Detective Rouse actually
18 signed the first affidavit of the return for the search
19 warrant showing that he actually had this surveillance
20 equipment since July the 5th. He had it since July the 5th in
21 his possession and he said it was sent to SLED, but nobody
22 knows when it was that they saw it at SLED.

23 Now, I just think that there's just -- there is
24 absolutely nothing to show that what they're saying ever
25 occurred, that it actually -- that they actually identified

1 Marco Sanders before July 12th, and the reason that's important
2 is because there is a witness who supposedly identified him on
3 July the 12th. Before that, there has been no mention that
4 Marco Sanders or Tyrell Woods for that matter was ever
5 involved in this robbery/homicide and -- and now they come to
6 court and they say, oh, well, we picked them out.

7 Well, if they picked them out -- if they picked them out
8 -- if two officers -- two law enforcement officers actually
9 picked these individuals out, why would there be a necessity
10 to get -- on the 12th to get a layperson to say, oh, yeah,
11 that's the two of them there? I just -- it makes no sense
12 and -- and knowing law enforcement and how they work, if prior
13 to the 12th if they had information that these individuals,
14 Marco Sanders and Tyrell Woods, were the two culprits, believe
15 me they would have a warrant, they would have went out and got
16 them and tried to find them and arrest them. None of that was
17 done until the 12th, which is when Shawn Davis is supposed to
18 be the one who identified them as being the culprits. So I
19 just don't think that there's a sufficient basis for their
20 identification.

21 THE COURT: All right. Mr. Floyd, anything?

22 MR. FLOYD: Thank you, Your Honor. Your Honor, insofar
23 as Mr. -- or Detective Rouse is concerned, he never says he
24 identified --

25 THE COURT: Well, never identified your client.

1 MR. FLOYD: -- Mr. Woods in that video and, therefore, I
2 would submit I don't believe he should be allowed to make an
3 in-court identification of Mr. Woods off the video. In
4 addition to what was the statement here about Detective Lee,
5 Your Honor, he was shown the video here on the stand and a
6 minute later was asked by the solicitor I believe who had on a
7 black shirt.. I mean -- I mean he's sitting right here in the
8 courtroom and couldn't say Mr. Woods had on a black shirt.

9 He says he recognized his face, but yet if you watch that
10 video, Your Honor, you can't see his -- his face on that
11 video. You know, he never turns to that camera. I mean you
12 can see certainly a side view of the individual and, Your
13 Honor, his testimony was that he had I guess contact with him
14 in his office back in 2007. I think Mr. Woods is twenty-one
15 years old now so help me do the math. That would be -- he
16 would have been a teenager at that time and, other than that,
17 I can't remember him saying he had any real contact with him,
18 and it wasn't even his case that he was in the office for. He
19 just said he was in the office and another detective actually
20 was assigned the case.

21 Your Honor, I just don't think there's any basis for him
22 to make an in-court identification off of a video of Mr.
23 Woods.

24 THE COURT: Anything further, Mr. Clements?

25 MR. CLEMENTS: Yes, sir. Mr. Tyrell Woods' juvenile

1 record starts in 2007 just at the time period that Mr. Lee was
2 talking about, and he says he reviewed him several times.
3 He'd pull out -- he'd have pictures and photos that he knew as
4 Tyrell Woods in trying to identify suspects in other cases.

5 There is nothing that we show we have to prove what Mr.
6 Wilson has said about when Mr. Sanders was in jail all that
7 whole time because we have him pleading guilty and -- being
8 arrested in April 2008 and pleading guilty in May of 2008,
9 plus other things that show that there was several times he
10 was out of incarceration during that time period that Mr.
11 Wilson asked him about. So I submit Mr. Wilson has got that
12 all confused.

13 Other than that, Mr. Lee said he concentrated on the
14 faces and who went in when, who went in first, and Mr. Sanders
15 went in first and Mr. Woods followed him in. You know, I'd
16 referred to it as being a black shirt. It's a black and white
17 video. It might not have been a black shirt for all I know,
18 but it appeared black. But I was looking at the shirt. He
19 was looking at the faces and the order of which way they're
20 going in, and he recalled that.

21 Now, Mr. Wilson is going on and on about the 12th. I
22 don't recall either one of those witnesses testifying that
23 they viewed the video before the 12th or trying to say that
24 they viewed the video before the 12th. I don't recall that.
25 They might have, but yeah, there was an identification on the

1 12th and Mr. Lee acknowledged that he talked to Shawn Davis.
2 When Mr. Wilson was talking about, well, did you talk to him
3 before, and he thinks somebody did before, but he didn't, and
4 he did say that he identified talking to Mr. Davis on the 12th,
5 which has nothing to do with whether he knew or had enough
6 knowledge of Mr. Woods and Mr. Sanders as to what they looked
7 like and whether he could identify them if he saw them on a
8 video.

9 That would all go to the weight of their testimony for
10 the jury to look at that and see if they felt like they saw
11 enough of them and if they feel like if they look at the video
12 themselves and see that they can recognize them on there. So
13 all that goes -- argument goes to the weight of evidence, but
14 not to the admissibility of it. I think there is a foundation
15 that they can testify they've known, they had prior dealings
16 with them, and they knew what they looked like, and they
17 identified them.

18 THE COURT: All right. All right. Anything else, Mr.
19 Wilson? I'll give you -- since I gave him another shot at
20 arguing.

21 MR. WILSON: No, sir. I don't have anything else.

22 THE COURT: Mr. Floyd, anything further?

23 MR. FLOYD: Well, Your Honor, I think Detective Lee's
24 testimony was that he concentrated on the gun. I don't think
25 he said anything about concentrating on Mr. Woods' face, and

1 when he viewed the video, he said I concentrated on the gun.
2 I was looking at the weapons. And also, Mr. Woods' juvenile
3 record actually starts in 2004, not 2007.

4 MR. CLEMENTS: Well, he's got a --

5 THE COURT: All right. That's enough. I've heard
6 enough.

7 MR. CLEMENTS: All right. Your Honor, we have some law
8 we feel like supports our position as well.

9 THE COURT: Okay. Give me the case name.

10 MR. CLEMENTS: State versus Gerald Fripp, a 2012 case.

11 THE COURT: All right. Any law you want me to look at,
12 Mr. Wilson or Mr. Floyd? I mean that is --

13 MR. WILSON: No, sir.

14 THE COURT: -- important if you have any. All right.
15 Pursuant to State v. Mitchell, 399 S.C. 410 -- and that
16 particular case is a 2012 case where an officer testified that
17 he believed the individual captured on the victim's deer
18 camera breaking in was defendant. That testimony was based
19 upon the officer knowing the defendant from twenty years of
20 living in the same town.

21 State v. Mitchell cites State v. Fripp, the one Mr.
22 Clements just cited, 396 S.C. at 438 and 440 -- 438 and 440,
23 and in Fripp, the Court determined that two witnesses could
24 testify to the identity of a person depicted on a surveillance
25 videotape. The witnesses in that particular case testified

1 that they knew the defendant, saw him all the time, and the
2 Court concluded that their testimony -- that their testimony
3 was rationally based on their perception of Fripp's
4 appearance, including his physical appearance, mannerisms, and
5 clothing. The Court concluded that the two witnesses'
6 opinions were helpful in determining a key fact in issue.

7 As it was in that case, it is in this case. These
8 witnesses' testimony would be helpful in determining a key
9 fact in issue, and that is whether the defendants were the
10 persons depicted in the video. Each of these two witnesses --
11 more specifically now as it relates to Mr. Rouse's testimony,
12 he doesn't identify Mr. Woods. He doesn't identify Mr. Woods
13 in this video. He said he didn't know who he was, but Officer
14 Lee identified both of these individuals. He indicated that
15 he knew them over a period of time.

16 While there is some discrepancy as to when and how long
17 each of these defendants were known by the officers, there's
18 no question that each of them testified based upon prior
19 dealings with each of the defendants that they knew them, that
20 they had interaction with them. As it relates to Mr. Sanders,
21 Mr. Rouse indicated he identified him I believe immediately.
22 He has firsthand knowledge of Mr. Sanders, and his
23 identification as an individual involved in this act or in
24 these alleged offenses is a fact in issue for the jury, and
25 his testimony will certainly aid in that.

1 Now, with regards to Mr. Lee, his identification of -- he
2 identified Sanders and Woods. His testimony was that he knew
3 Woods from previous incidents in the past since '07. There is
4 some discrepancy as to how long the juvenile record went back
5 to. I've heard '04, I've heard '07, but did know him prior to
6 this time.

7 As it relates to Mr. Sanders, he has known Mr. Sanders he
8 indicated since about '07 as well and had face-to-face with
9 both of them, albeit the testimony was that that face-to-face
10 I believe was one time, but he did testify that he recognized
11 him, knew him. I think it goes to the weight, not to the
12 admissibility.

13 Further testimony of Officer Lee was that he identified
14 each of them in no time. In no time, once he saw the video,
15 it was clear to him as to the identity of not only Mr. Sanders
16 but Mr. Woods as well. Therefore, I am going to allow it.
17 Anything further from the State?

18 MR. CLEMENTS: Not on this issue, Your Honor.

19 THE COURT: Mr. Wilson? But your objection, Mr. Wilson
20 and Mr. Floyd, is so noted for the record. Anything further,
21 Mr. Wilson?

22 MR. WILSON: No, sir.

23 THE COURT: Mr. Floyd?

24 MR. FLOYD: Nothing further, Your Honor.

25 THE COURT: All right. Now, are there any other matters?

1 And this was an issue that Mr. Wilson brought up some time ago
2 when we previously had these -- some pre-trial matters. The
3 identification issue just was hashed out today. Are there any
4 other pending matters, Mr. Wilson --

5 MR. WILSON: The only --

6 THE COURT: -- that were not dealt with before that we
7 need to deal with as it relates to your client?

8 MR. WILSON: I'm not sure -- again, I don't know who the
9 State intends to call, but I would object to any
10 identification of the defendants in addition to the ones from
11 the tape unless we have an in-camera hearing before that
12 identification is made.

13 And secondly, I would ask the Court to -- to admonish the
14 witnesses when they are on cross examination in this trial
15 that -- especially these officers that while we have to cross
16 examine them that they can't talk about the defendants'
17 criminal history and --

18 THE COURT: Well, I mean I'm not going to --

19 MR. WILSON: -- try to sneak that in.

20 THE COURT: I understand your position on that. However,
21 I'm not going to tell them they can't when you might as -- you
22 might open that door. If you or Mr. Floyd open that door -- I
23 mean Mr. Clements can talk with his clients about not opening
24 it without the question being answered, but if you or Mr.
25 Floyd open that door, then I'm not going to sit here and tell

1 them they can't discuss it.

2 MR. WILSON: Well --

3 THE COURT: I mean certainly recognizing if there any
4 issues out there that we need to address concerning -- I mean
5 I think that's something that will have to be addressed as we
6 go along.

7 MR. WILSON: Yes, sir.

8 THE COURT: Mr. Clements knows I think not to necessarily
9 cross that line, but if you open that door or Mr. Floyd opens
10 that door, then I'm not going to sit here and say that they
11 can't discuss that if the door is opened. Okay? But we'll
12 address it here.

13 MR. WILSON: Yes, sir. My concern, Your Honor is is that
14 even if we don't open the door and they're looking for
15 opportunities to jump through a door that's not open and --
16 and I --

17 THE COURT: I mean you asked -- I'm sorry. Go ahead.

18 MR. WILSON: And I have some real concerns about it and I
19 just kind of want the Court to -- to be on notice that -- that
20 -- that it's not appropriate to -- to bring up the defendants'
21 criminal history. If I ask them do you know the defendant,
22 yeah, they can -- there are a hundred ways they could answer
23 it, but one of them would be, yeah, I mean I arrested him for
24 armed robbery 25 years ago.

25 So, you know -- and when they know that that's not where

1 I'm going, but it just gives them the opening and it -- and it
2 puts us in a really precarious defense and a really precarious
3 situation when we're trying to cross examine, especially
4 police officers --

5 THE COURT: Right.

6 MR. WILSON: -- who have this knowledge that laypeople
7 would not have had in the first place.

8 THE COURT: Well, police officers ought to know even more
9 so not to.

10 MR. WILSON: Yes, sir.

11 THE COURT: That a question that necessitates a yes or no
12 answer doesn't necessarily, you know, throw the door wide open
13 for them to go down any avenue that they want. Mr. Clements?

14 MR. CLEMENTS: Your Honor, they are aware of that because
15 they know how to answer questions when I ask them, but we ask
16 them how and tries to get in, but yet have their -- their
17 tongues tied before we ask them about it and then he tries to
18 use that a certain way. I think if he opens the door, they're
19 going to bust right through it if he opens it up. So he
20 better be careful how he cross examines. Otherwise, they're
21 not going to volunteer that information.

22 THE COURT: Well, both -- all of y'all are very
23 experienced lawyers. Be careful in what you're questioning.
24 I mean how you do so. I mean if you certainly ask them an
25 open question of how you know them, you know, that very well

1 could be throwing that door wide open.

2 MR. WILSON: I understand.

3 THE COURT: All right. Mr. Floyd, anything on that
4 issue?

5 MR. FLOYD: Nothing further, Your Honor.

6 THE COURT: All right. Anything else at this time, Mr.
7 Wilson?

8 MR. WILSON: No, sir.

9 THE COURT: We've got some motions to address from Mr.
10 Floyd.

11 MR. FLOYD: Yes, Your Honor. I had some motions that we
12 filed this past Friday, May the 16th.

13 THE COURT: Right.

14 MR. FLOYD: I believe that the solicitor has a copy of
15 that already.

16 THE COURT: All right. The first motion on here -- let's
17 deal with them one at a time. Did you get a copy of these,
18 Mr. Wilson?

19 MR. WILSON: Thank you.

20 MR. FLOYD: Ed, you have a copy?

21 THE COURT: And there were a total of seven; is that
22 correct?

23 MR. FLOYD: Yes, Your Honor, but, you know, we've been
24 provided with the witness list this morning.

25 THE COURT: Yes, sir.

1 MR. FLOYD: And also, I have here NCIC reports I believe
2 on Gene Stanley, Lafayette Reed, Eddie Godbold, and Frances
3 Davis. I think y'all provided me these today and I believe
4 that would resolve Number 5, Your Honor.

5 THE COURT: What number?

6 MR. FLOYD: Number 5.

7 THE COURT: All right. Well, let me ask this, and you
8 all need to get together on those witnesses to determine what,
9 if anything, comes out as it relates to those lay witnesses.
10 Okay? And y'all can do that overnight and advise me.

11 MR. CLEMENTS: Your Honor, we will do that. We will
12 certainly go above and beyond what the rule requires us to do
13 because the rule only requires us to give them the criminal
14 record after they've finished their direct testimony, and
15 we're going to be sure we don't have any other records out
16 there of any of our lay witnesses and provide that to them as
17 quickly as we can out of courtesy.

18 THE COURT: Okay. All right. What else, Mr. Floyd?

19 MR. FLOYD: Your Honor, on Number 7, I think we're going
20 to table that motion for the time being. I think that's --

21 THE COURT: I think that --

22 MR. FLOYD: -- probably best left to see how the evidence
23 unfolds and the testimony.

24 THE COURT: Well -- and I've read the cases that you all
25 have forwarded to me and did a little additional research on

1 my own yesterday, and certainly believe that that issue is
2 best, as you've stated, to be decided based upon how the
3 evidence comes out during the course of this trial. We can
4 revisit that issue later if necessary.

5 MR. FLOYD: Yes, sir.

6 THE COURT: How about -- let me ask you this now. You --
7 you've hit on some and you have not hit on others. Number 1,
8 are y'all satisfied that the State has complied with Rule 5
9 and Brady?

10 MR. FLOYD: Yes, Your Honor.

11 THE COURT: Mr. Wilson?

12 MR. WILSON: Yes, sir.

13 THE COURT: Okay. All right. Number 2?

14 MR. FLOYD: Yes, Your Honor. That's just a motion to
15 determine the prior record of Mr. Woods that the State would
16 introduce if he should choose to testify.

17 THE COURT: All right. And you've got a copy of your
18 client's record?

19 MR. FLOYD: I do, Your Honor.

20 MR. MEETZE: Your Honor, the only adult record we have on
21 Mr. Woods is a prior burglary and -- so we would submit since
22 one of the charges on this indictment is burglary that they
23 just be able to say -- or whoever asks him that he had a prior
24 felony conviction.

25 THE COURT: Mr. Clements?

1 MR. CLEMENTS: I think he's on parole or probation
2 violation now for burglary.

3 THE COURT: Well, I understand that.

4 MR. CLEMENTS: All right.

5 THE COURT: But what he indicated or Mr. Meetze indicated
6 is that if you do intend to impeach him on something that you
7 certainly -- that you only be allowed to do so by asking if
8 he's been convicted of a prior felony, not a burglary since
9 he's currently on trial for a burglary 1st.

10 MR. CLEMENTS: Yes, sir.

11 THE COURT: Is the State in agreement with that?

12 MR. CLEMENTS: Well, if Your Honor rules that's what we
13 can ask him, we will be happy to ask him that. If we can go
14 further, that's within the discretion of the Court.

15 THE COURT: Okay.

16 MR. CLEMENTS: I haven't exactly researched that issue so
17 I don't want to punt right now, but --

18 THE COURT: I'll let you look at it overnight. I'll let
19 you look at it overnight. I mean his testimony, if he
20 testifies at all, will be over the next -- not tomorrow,
21 probably even Wednesday. So I'll give y'all a couple days to
22 address that issue. All right? All right.

23 Number 3 is -- is correct. How about Number 4?

24 MR. FLOYD: Yes, Your Honor. That's a motion to
25 determine the existence and admissibility of any prior bad

1 acts or Lyle testimony that the State would intend to offer to
2 use against Mr. Woods in this case.

3 THE COURT: Mr. Clements?

4 MR. CLEMENTS: Your Honor, earlier the same day Mr.
5 Rowell was killed, Mr. Liston Phillips was robbed -- armed
6 robbed on Jones Avenue by an individual he identified as being
7 Mr. Tyrell Woods using a similar handgun to the handgun seen
8 in the video where they entered Mr. Rowell's home.

9 THE COURT: All right. The State intends to try to
10 introduce that?

11 MR. CLEMENTS: Your Honor, we -- we are certainly
12 contemplating that at this time. We think it fits under the
13 common scheme, motive, and plan under Rule 404(b).

14 THE COURT: All right. We'll cross that bridge if need
15 be. All right. Mr. Floyd, anything else? You indicated
16 Number 5 was -- was okay?

17 MR. FLOYD: That's correct, Your Honor.

18 MR. WILSON: Your Honor --

19 THE COURT: How about Number 6?

20 MR. WILSON: Your Honor --

21 THE COURT: I'm sorry. Go ahead, Mr. Wilson.

22 MR. WILSON: Yes, sir. Did I understand Mr. Clements to
23 say that he does intend to offer Lyle in regards to --

24 THE COURT: He said he's contemplating it.

25 MR. WILSON: So then -- then I certainly want to

1 interpose an objection to that because, again, that goes back
2 to my whole severance argument and if he's now going to offer
3 Lyle on this defendant, which I certainly think prejudices my
4 defendant if we are here at the table with him, and anyway,
5 we'll deal with that I guess if he offers it, but I just want
6 to for the record be clear that I object to that vehemently.

7 MR. CLEMENTS: Of course, if I do choose to introduce it,
8 Your Honor, I'm going to say that we had no evidence
9 whatsoever that Mr. Sanders had anything to do with Mr.
10 Phillips' armed robbery, just so that Mr. Wilson feels better.

11 THE COURT: Thank you, Mr. Clements. Mr. Wilson, your
12 objection is so noted --

13 MR. WILSON: Thank you.

14 THE COURT: -- for the record on that issue. How about
15 this Number 6, Mr. Floyd?

16 MR. FLOYD: Yes, sir, Your Honor.

17 THE COURT: What's y'all's position on that?

18 MR. FLOYD: Your Honor, we had a Schmerber hearing back
19 here in this courtroom. I believe it was on November the 16th
20 of 2012. I believe the solicitor had a copy of the
21 transcript.

22 THE COURT: And for the record, y'all provided me with a
23 copy of it --

24 MR. FLOYD: Yes, sir, Your Honor.

25 THE COURT: -- Friday when you filed your motion and

1 forwarded it to me.

2 MR. FLOYD: I actually had one marked Court's Exhibit 1.

3 THE COURT: All right.

4 MR. FLOYD: Just so -- for the record. Your Honor, one
5 of the things that we took up in that hearing was whether or
6 not to allow Mr. Woods' fingerprints to be taken by SLED.
7 Judge Seals did order that Mr. Woods give fingerprints, Your
8 Honor. However -- and as you can see in the transcript, he
9 did say that I should be allowed to sit with Mr. Woods while
10 that was taking place.

11 It's my understanding that those fingerprints were
12 collected that day, November the 16th, 2012, and I think it was
13 done here in the courthouse somewhere. Of course, we were
14 having court then, Your Honor, and I was up here in the
15 courtroom, and after we had this hearing, they took Mr. Woods
16 out of the courtroom and I -- I mean I was never notified they
17 were actually doing it, but apparently it was done later on
18 that day at some point. I don't know when exactly, but I was
19 never told that they were getting ready to do it, Your Honor,
20 and so I was not there.

21 THE COURT: All right. Anything further?

22 MR. FLOYD: Nothing further, Your Honor.

23 THE COURT: And the defense wants simply to suppress
24 them?

25 MR. FLOYD: Yes, Your Honor.

1 THE COURT: Mr. Clements, anything?

2 MR. CLEMENTS: Your Honor, I'm not aware of any written
3 order from this transcript, and the way I read it, Your Honor
4 -- and if I may read it into the record. It says -- it talks
5 about Mr. Woods wants his fingerprints to be taken
6 electronically and the Court said can you do that and I said,
7 no, sir, Your Honor. We have the guy here and he has his ink
8 pads and his paper, but I don't know of any way to do it
9 electronically.

10 And then the Court interjected and said, well, how about
11 your lawyer sitting with you while that's being done and
12 monitors the situation to make sure that it's done properly
13 and stored properly and carried out properly. Would you be
14 okay with that? The defendant said, I guess so, Your Honor.

15 Then the Court said, you can sit with him. Yes, sir.
16 Any problem with the swabs? And Mr. Floyd said, we're fine
17 with that, Your Honor, and I'll be glad to sit with him.

18 I don't think that was an -- an order. He didn't order
19 it on the record and he didn't do a written order. He -- I
20 think he was just trying to make somebody a little more
21 comfortable even than they needed to be. I do not think that
22 any defendant has any inherent rights to refuse to have his
23 fingerprints taken, and I don't think there was anything done
24 by design or intent that these fingerprints were taken without
25 Mr. Floyd being there.

1 I think it just inadvertently happened and no one I think
2 thought that there was a order and it was just to make Mr.
3 Woods comfortable. I don't think any of his rights --
4 inherent rights have been violated and I don't think really
5 that a court order has been violated. It's certainly not the
6 spirit of a court order.

7 THE COURT: Anything else, Mr. Floyd?

8 MR. FLOYD: Your Honor, I don't have anything else.

9 THE COURT: Do you have any case law or anything?

10 MR. FLOYD: I have no case law, Your Honor. I just have
11 the transcript of what Judge Seals said.

12 THE COURT: Well -- and I'm looking at the transcript
13 that you provided to me on Friday when you forwarded these
14 motions to me. I am going to respectfully deny your request.
15 I mean from my reading of the transcript, it does not say that
16 -- it's not an order the way I read it that it be done a
17 particular way.

18 Therefore, I am not going -- I do not believe -- unless
19 you can convey to me how your client was prejudiced or could
20 be prejudiced as a result of yourself or Mr. Meetze or any
21 other lawyer being there. Is there anything you can convey to
22 me on that, Mr. Floyd?

23 MR. FLOYD: Your Honor, I don't have anything.

24 THE COURT: Okay. Well, your objection is so noted for
25 the record, but I'm going to respectfully deny that -- all

1 right? -- that it be suppressed. All right. Any other pre-
2 trial matters?

3 MR. CLEMENTS: Your Honor, we have all of the exhibits
4 here we'd like to lay out for defense counsel to look at and
5 see if there's any we can agree on so that it would speed up
6 the trial presentation for all parties involved, and we're
7 prepared to do that at this time.

8 Your Honor, I don't know of any other issues that may
9 come up. There is one we didn't get into. There's one
10 witness that did do an identification on a photo line-up that
11 Mr. Wilson referred to in his questioning of Investigator Lee.
12 I think also Investigator Rouse. We're undecided whether
13 we're going to bring that guy back or not. He's off in the
14 Department of Corrections, but if that happens, we can take
15 that -- those matters up in-camera.

16 We just want to let you know -- let the Court know that
17 we're not trying to avoid that now and then later slow the
18 process down. He just wasn't available for us to bring him
19 over today and we're undecided whether we need to use him or
20 not.

21 THE COURT: All right. Mr. Wilson, anything else?

22 MR. WILSON: Yes, sir. Your Honor, in regards to that
23 particular witness, we had put him under subpoena. I guess we
24 probably still need an order of transportation though. If the
25 solicitor does not call him, I will need an order of

1 transportation from the Court to get him here.

2 THE COURT: Well, you need to get me one.

3 MR. WILSON: I'll go ahead and do that. He's under
4 subpoena.

5 THE COURT: All right. That'll conclude our pre-trial
6 matters today. Is that right? All right. Any other matters
7 that y'all can think of at this time, Mr. Wilson?

8 MR. WILSON: No, sir.

9 THE COURT: Mr. Floyd?

10 MR. FLOYD: I don't have anything.

11 MR. CLEMENTS: Your Honor, are you going to rule on the
12 exhibits or -- because we have --

13 THE COURT: How many exhibits are they?

14 MR. CLEMENTS: The exact number, Your Honor, 45.

15 MR. SALEEBY: But some of them are multiples.

16 MR. CLEMENTS: But some of them are multiple because
17 they're like 45-A, B, C, D, and E, they're photographs.

18 THE COURT: Well, I mean I'm -- I'm not going to sit here
19 the balance of the afternoon while y'all go through them. You
20 can go through them this afternoon, you and Mr. Wilson and Mr.
21 Floyd, and be back here at 8:30 in the morning and tell me
22 what you agree on and what you don't agree on and I'll rule on
23 them before we start the trial at 9:30 in the morning.

24 MR. CLEMENTS: Thank you, Your Honor.

25 THE COURT: All right. Thank you. Hold on a minute.

1 Can the lawyers approach just a minute?

2 MR. CLEMENTS: Certainly.

3 MR. SALEEBY: Ed, are we going to use this or take them
4 to the jury room?

5 MR. CLEMENTS: Your Honor, may we use the jury room to
6 lay out the exhibits so everybody can look at them?

7 THE COURT: Yeah. Can the lawyers approach a minute?

8 (Whereupon, a bench conference is held off the record.)

9 THE COURT: All right. We'll start at nine o'clock in
10 the morning. Just have them here, please, sir, in their seats
11 ready to go. Anything else?

12 THE CLERK: No.

13 (Whereupon, the proceedings are adjourned at 4:18 p.m.
14 until the following day.)

15 May 20, 2014

16 (Whereupon, the proceedings resume at 9:15 a.m.)

17 THE COURT: All right. When we broke yesterday
18 afternoon, I asked the lawyers to be back here at nine o'clock
19 to proceed. During the break, I asked the lawyers to go over
20 the items of evidence. I think Mr. Clements indicated there
21 were over 40-some pieces of evidence. Is that right, Mr.
22 Clements?

23 MR. CLEMENTS: That is correct, Your Honor, and we have
24 all of these lined up right here and we are seeking to
25 introduce them at this time and, Your Honor, we'd like to go

1 through them numerically. I think we can very quickly go
2 through them in numerical order.

3 THE COURT: All right. Do you have a list for my court
4 reporter?

5 THE COURT REPORTER: Yes, sir.

6 THE COURT: Okay. Can I have a -- can I have a copy of
7 that, please?

8 MR. CLEMENTS: Sure.

9 THE COURT: Do you have an extra copy?

10 MR. CLEMENTS: Mr. Saleeby has got a copy, Your Honor.

11 THE COURT: Okay. I mean I could -- if not, I can get
12 Christy to make a copy right here. That copy machine --

13 MR. CLEMENTS: We'll make a copy real quick.

14 THE COURT: That would be great. Is that a copy machine
15 right there? Okay.

16 MR. CLEMENTS: Your Honor, what we -- what we propose
17 doing is we just go through them in numerical order.

18 THE COURT: All right.

19 MR. CLEMENTS: And find out what we agree on and not and
20 that way the court reporter has a list and we can do that in a
21 succinct fashion.

22 THE COURT: All right. Very well. Let me hear from you.

23 MR. CLEMENTS: Your Honor, I am going to defer at this
24 time to Mr. Saleeby --

25 THE COURT: Okay.

1 MR. CLEMENTS: -- on these. He's been handling the
2 numbering of that. I think it would be quicker for him to do
3 it.

4 THE COURT: Okay. Mr. Saleeby?

5 MR. SALEEBY: Your Honor, the State's Exhibit Number 1
6 would be an aerial diagram.

7 THE COURT: Okay. Any objection from defense counsel?

8 MR. WILSON: No objection.

9 THE COURT: Defense --

10 MR. SALEEBY: Number 2 would be -- I just call it a
11 diagram. It's an aerial photograph. Number 2 is an aerial
12 photograph of Phil Court.

13 THE COURT: Any objection, Mr. Wilson?

14 MR. WILSON: No objection.

15 THE COURT: Mr. Floyd?

16 MR. FLOYD: No, sir.

17 THE COURT: All right.

18 MR. SALEEBY: Then Number 3 is a diagram not to scale of
19 Phil Court.

20 THE COURT: Any objection, Mr. Wilson?

21 MR. WILSON: No objections.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: No objections, Your Honor.

24 MR. SALEEBY: Number 4 is a CD of the 9-1-1 call.

25 THE COURT: Any objection, Mr. Wilson?

1 MR. WILSON: I don't have any objection to the actual
2 tape. I'm just --

3 THE COURT: Well, then what's the problem?

4 MR. WILSON: I don't -- I don't have any objection to
5 that. I won't have any objections.

6 THE COURT: You sure?

7 MR. WILSON: Yes, sir.

8 THE COURT: All right. Mr. Floyd, any objection?

9 MR. FLOYD: None, Your Honor.

10 THE COURT: All right.

11 MR. SALEEBY: Your Honor, the next exhibit is -- 4
12 through 17 are a series of photographs.

13 THE COURT: Hold on a minute now. What -- 5 through 17.

14 MR. SALEEBY: Yes, sir. I beg your pardon, 5 through 17.

15 THE COURT: Are what now? Photographs? What kind of
16 photographs?

17 MR. SALEEBY: 5-A through E are photographs of the front
18 and outside of the residence.

19 THE COURT: All right. 5-A through E are photographs of
20 the outside of the residence. Any objection, Mr. Wilson?

21 MR. WILSON: No objection to the outside.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: None, Your Honor.

24 THE COURT: All right. All right. Go ahead, Mr.
25 Saleeby.

1 MR. SALEEBY: 6-A to B, photographs of the rear.

2 THE COURT: Any objection, Mr. Wilson?

3 MR. WILSON: No objections.

4 MR. SALEEBY: 7-A --

5 THE COURT: Hold on a minute. Hold on a minute.

6 MR. SALEEBY: I'm sorry, sir. Excuse me.

7 THE COURT: All right. 7-A through C; is that right?

8 MR. SALEEBY: Yes, sir.

9 THE COURT: Photographs of the front porch?

10 MR. SALEEBY: Yes, sir.

11 THE COURT: Any objection, Mr. Wilson?

12 MR. WILSON: No, sir.

13 THE COURT: Mr. Floyd?

14 MR. FLOYD: None, Your Honor.

15 THE COURT: All right. Go ahead, Mr. Saleeby.

16 MR. SALEEBY: 8-A to G are photographs of the side door
17 and some cartridge cases.

18 THE COURT: Any objection, Mr. Wilson?

19 MR. WILSON: No objections.

20 THE COURT: Mr. Floyd? Mr. Meetze?

21 MR. MEETZE: Your Honor, one of the pictures -- I don't
22 know which one it is -- in Number 8, they're trying to show
23 the front door, but also you can clearly see the victim's
24 feet.

25 THE COURT: Well, it says side door.

1 MR. MEETZE: Side door. I'm sorry. That's correct.
2 Side door is correct. We would object to the picture showing
3 the defendant's feet. I think --

4 THE COURT: You mean the victim's feet?

5 MR. MEETZE: The victim's feet. I'm sorry. Other than
6 that, we don't object to any of the other pictures in that
7 grouping.

8 MR. SALEEBY: Your Honor, that appears to be 8-A.

9 MR. MEETZE: And I think they have pictures that show
10 what they want to show.

11 THE COURT: What's your objection to it, Mr. Meetze?

12 MR. MEETZE: I just think it's overly prejudicial. It's
13 not what they're trying to display in the picture and I think
14 other pictures in the grouping show what they're trying to
15 show and --

16 MR. SALEEBY: Excuse me, sir. 8-D would have the same
17 thing.

18 THE COURT: 8-D is -- has the same thing.

19 MR. MEETZE: I just think --

20 THE COURT: Because it shows even more --

21 MR. MEETZE: Yes, sir.

22 THE COURT: -- of what you're --

23 MR. MEETZE: We'd object to any of those.

24 THE COURT: Any response, Mr. Saleeby?

25 MR. SALEEBY: Your Honor, I don't think it's prejudicial

1 without being explained. I don't see anything there that
2 would inflame the senses or cause people to revolt or to act
3 out of passion or prejudice.

4 THE COURT: All right. Over defense counsel's objection,
5 I'm going to allow photographs 8-A, as well as 8-D, but your
6 objection, Mr. Meetze, is so noted for the record.

7 MR. SALEEBY: Just a moment. I'm just trying to get them
8 back so we -- are you ready for me to proceed, Your Honor?

9 THE COURT: Yes, sir.

10 MR. SALEEBY: 9-A to E are pictures of the interior of
11 the side door.

12 THE COURT: Any objection, Mr. Wilson?

13 MR. WILSON: No, sir, no objection.

14 THE COURT: Any objection, Mr. Floyd or Mr. Meetze?

15 MR. MEETZE: Yes, Your Honor. Again, there are two
16 pictures in that grouping same as the first two that -- that
17 are showing a good bit of I think the victim's feet and legs,
18 and we would object to those for the same reason as being
19 overly prejudicial and there are other pictures that I think
20 show what the State is trying to show in those pictures.

21 MR. SALEEBY: Your Honor, I'll hand them up to the Court,
22 and our argument would be the same that there's nothing
23 inflammatory or prejudicial, and it would be very difficult to
24 take a picture of the door from that angle without showing Mr.
25 Rowell.

1 THE COURT: It appears only that 9-A and 9-B has a -- it
2 looks like his -- the victim's foot at the bottom. It appears
3 to be so. Over defendant's objection, but your objection is
4 noted for the record as to 9-A. I'm sorry, Mr. Saleeby.

5 MR. SALEEBY: Your Honor, photographs 10-A to C are
6 pictures of the den.

7 THE COURT: Any objection, Mr. Wilson?

8 MR. WILSON: I'm sorry. I apologize.

9 MR. SALEEBY: 10-A through C --

10 THE COURT: 10-A through C.

11 MR. SALEEBY: -- are pictures of the den.

12 MR. WILSON: I have no objections to pictures of the den.

13 THE COURT: Any objection, Mr. Meetze or Mr. Floyd?

14 MR. MEETZE: Just the pictures that show the body. I
15 think, you know, you get to a point where it's overkill, Your
16 Honor.

17 THE COURT: All right. I'm going to allow 10-A and 10-B.
18 I'm going to reserve my ruling on 10-C right now. I want to
19 look at something. What did I do with the paperclip? Mr.
20 Saleeby, I've misplaced your paperclip. I'm sorry.

21 MR. SALEEBY: What do you need, sir?

22 THE COURT: I misplaced your paperclip.

23 MR. SALEEBY: I've got one.

24 THE COURT: I'm sorry.

25 MR. SALEEBY: I'm good. Your Honor, Number 11,

1 photographs of Mr. Rowell, I know that we'll have to talk
2 about that in detail so --

3 THE COURT: Okay. What point are those -- and let me ask
4 this question. Are -- these items of evidence that there is
5 no objection to, are they without objection subject to laying
6 the proper foundation or are they just agreed upon admissible
7 without objection, Mr. Wilson and Mr. Floyd?

8 MR. WILSON: Your Honor, the photos that I have agreed to
9 --

10 THE COURT: I'm talking about everything that we have
11 talked about thus far and everything beyond. There are 45
12 items of evidence and I want to know that so it's clear as --

13 MR. WILSON: Yes, sir.

14 THE COURT: -- we go forward here.

15 MR. WILSON: The things that I have not objected to thus
16 far, I don't need them to lay a foundation for, which are
17 simply pictures of the residence and the yard and the exterior
18 of the house and I think there were some of the interior of
19 the house.

20 THE COURT: Correct.

21 MR. WILSON: Those -- I have no objections to those
22 pictures and I'm not requiring them to lay a foundation for
23 them.

24 THE COURT: Okay.

25 MR. WILSON: Almost all of the other evidence, I am.

1 THE COURT: All right. Well, as we go through these --
2 MR. WILSON: Yes, sir.
3 THE COURT: -- I want you to make that issue clear on the
4 record or your position on the record.
5 MR. WILSON: Yes, sir.
6 THE COURT: If it's without objection subject to
7 foundation, you need to state that. Both of you state it on
8 the record --
9 MR. WILSON: Yes, sir.
10 THE COURT: -- so the record is clear on that. Okay?
11 MR. WILSON: Yes, sir.
12 MR. CLEMENTS: Your Honor, then I'm going to ask does
13 that cover the three diagrams and the 9-1-1 that he doesn't
14 require us to lay a foundation for those four?
15 THE COURT: That's my understanding of what he's just
16 conveyed here and Mr. Floyd is shaking --
17 MR. FLOYD: Certainly.
18 THE COURT: -- his head in the affirmative as well. Is
19 that right?
20 MR. FLOYD: That's right.
21 THE COURT: Okay.
22 MR. SALEEBY: Your Honor, I'm going to come back to
23 Number 11.
24 THE COURT: Okay.
25 MR. SALEEBY: But I will go to Number 12. A to F are

1 photographs of the master bedroom.

2 THE COURT: All right. Any objection, Mr. Wilson?

3 MR. WILSON: No objections.

4 THE COURT: No objection period?

5 MR. WILSON: No objections.

6 THE COURT: All right. Mr. Floyd?

7 MR. FLOYD: No objection, Your Honor.

8 THE COURT: All right.

9 MR. SALEEBY: Number 13-A to H are photographs of the
10 kitchen and living room.

11 THE COURT: Any objection, Mr. Wilson?

12 MR. WILSON: No objections.

13 THE COURT: Mr. Floyd?

14 MR. FLOYD: No, Your Honor.

15 MR. SALEEBY: Number 14-A to C are photographs of the
16 storage room.

17 THE COURT: Mr. Wilson?

18 MR. WILSON: No objections.

19 THE COURT: Mr. Floyd?

20 MR. FLOYD: No objections, Your Honor.

21 MR. SALEEBY: Number 15-A to C are photographs of what we
22 call the dining or club area.

23 THE COURT: Mr. Wilson?

24 MR. WILSON: No objections.

25 THE COURT: Mr. Floyd?

1 MR. FLOYD: No objection.

2 MR. SALEEBY: Number 16-A through D are photographs of
3 the intersection of Foxworth and Wahee Drive where some items
4 belonging to Mr. Rowell were recovered.

5 THE COURT: Any objection, Mr. Wilson?

6 MR. WILSON: No objections.

7 THE COURT: Mr. Floyd?

8 MR. FLOYD: No objection, Your Honor.

9 THE COURT: All right.

10 MR. SALEEBY: 17-A and B are photographs of a white Ford
11 Expedition.

12 THE COURT: Any objection, Mr. Wilson?

13 MR. WILSON: Yes, sir. I don't -- subject to a
14 foundation. Let me say that I --

15 THE COURT: All right.

16 MR. WILSON: -- have no objection subject to them laying
17 some foundation for that. I just -- I'm not sure of
18 relevance.

19 THE COURT: Mr. Floyd, any objection?

20 MR. FLOYD: No objections, Your Honor.

21 THE COURT: All right.

22 MR. SALEEBY: Number 18 is the DVD of the surveillance
23 video that you were shown yesterday.

24 THE COURT: Mr. Wilson, any objections?

25 MR. WILSON: I object. Yes, sir.

1 THE COURT: And that's noted for the record.

2 MR. WILSON: Yes, sir.

3 THE COURT: And I've ruled on it. Mr. Floyd, the same?

4 MR. FLOYD: I object, Your Honor.

5 THE COURT: All right.

6 MR. SALEEBY: So, Your Honor, is it admitted or --

7 THE COURT: Over defense -- it's admitted over defense
8 counsels' objection.

9 MR. SALEEBY: And, Your Honor, while -- while we're on
10 that, I just want to call to the Court's attention that SLED
11 started the first recording and ran the DVD from like three in
12 the afternoon until this cut off around nine, and then they
13 went and ran a DVD from six in the morning until this thing
14 cut off at nine in the evening. Now, both of those are
15 available, but the part that we thought was pertinent is here.
16 Now, we're not hiding those from anybody. If the defense
17 wants to use them and play the whole thing, the whole nine
18 hours or the last three hours, they're there, but this is what
19 we propose to introduce.

20 THE COURT: All right. Mr. Wilson?

21 MR. WILSON: Your Honor, the Court ruled on the
22 identification issues on yesterday. Now, I'm not sure that
23 we actually addressed the admissibility of the video itself.

24 THE COURT: All right.

25 MR. WILSON: And so that's --

1 THE COURT: All right. I'll rule on it pending y'all
2 laying a proper foundation on it.

3 MR. WILSON: All right, sir.

4 THE COURT: But it's subject to their objection at this
5 time. Same for you, Mr. Floyd?

6 MR. FLOYD: Yes, Your Honor.

7 THE COURT: All right.

8 MR. SALEEBY: All right. Your Honor, 19-A through R will
9 be photographs taken from the surveillance video.

10 THE COURT: Any objection, Mr. Wilson?

11 MR. SALEEBY: Still photographs.

12 MR. WILSON: Subject to foundation and admissibility of
13 the video itself and the video equipment itself.

14 MR. FLOYD: Same, Your Honor.

15 MR. SALEEBY: Okay.

16 THE COURT: All right.

17 MR. SALEEBY: Your Honor, the next items are tangible
18 items recovered from the scene and that would be items Number
19 20 through 38, all recovered at the scene by SLED with the
20 exception of -- and I guess I can get to this one next. This
21 is an x-ray taken at the Medical University at the autopsy.
22 This is Number 29. I'll put it up by the doctor.

23 THE COURT: All right. Any objection as to 20, Mr. --

24 MR. SALEEBY: 29, sir.

25 THE COURT: Well, 29, Mr. Wilson?

1 MR. WILSON: I object to it unless there's a foundation
2 laid for it. Now, I've not seen it until yesterday so -- and
3 I assume that the expert is coming to testify and he will use
4 it as a prop and I wouldn't have any objection to having the
5 expert identify it and he says that he needs to use it as a
6 prop.

7 THE COURT: Okay.

8 MR. SALEEBY: Your Honor, we can handle that, but just to
9 clarify the record, I believe that the DVD that we handed over
10 and the photographs that we handed over might have included
11 this. But it doesn't matter. We'll take care of that one.
12 Your Honor, like I said, we'll deal with them as a group.

13 The next items, 20 through 38, with the exception of 29,
14 are tangible items recovered from the scene: cartridge cases,
15 cigar boxes that are going to be matched to fingerprints,
16 Crown Royal boxes, papers, and the DVR that recorded the
17 security thing, bullet fragments, duct tape taken from Mr.
18 Rowell's person, items used as a gag, pillowcases used to
19 store stuff in. Those are all tangible items recovered by
20 SLED at the scene.

21 THE COURT: All right.

22 MR. SALEEBY: Taken to SLED and then brought back by the
23 Sheriff's Department and kept here in Marion.

24 THE COURT: All right. Items 20 through 38?

25 MR. SALEEBY: 20 through 38 with the exception of 29.

1 THE COURT: Excluding 29. With the exception of 29, any
2 objection, Mr. Wilson?

3 MR. WILSON: Yes, sir. To the admissibility and to them
4 having to lay a foundation for the admissibility.

5 THE COURT: Same for you, Mr. Floyd?

6 MR. FLOYD: Same objection, Your Honor.

7 THE COURT: All right. Object in full as quoted by --
8 quoting Mr. Wilson and subject to foundation.

9 MR. SALEEBY: Your Honor, Number 39 is -- are Mr.
10 Rowell's driver's license and debit cards that were found at
11 that intersection of Wahee and Foxworth Road and recovered and
12 turned over to the Sheriff's Department.

13 THE COURT: Any objection, Mr. Wilson?

14 MR. WILSON: Yes, sir. Your Honor, my -- my real issue
15 with that piece of evidence is relevance. This was found
16 much, much later. It's not contemporaneous with the homicide
17 itself so I'm not sure how it's relevant, but anyway, I don't
18 know how it's relevant to any issue at hand.

19 MR. SALEEBY: Your Honor, I can speak to that if you
20 wish.

21 THE COURT: Hold on a minute. Mr. Floyd, any objection?

22 MR. FLOYD: Yes, Your Honor, same objection.

23 THE COURT: All right. Yes, sir, Mr. Saleeby?

24 MR. SALEEBY: Your Honor, one of the charges here is
25 armed robbery. Proof of armed robbery is largely the taking

1 and carrying away. We have information and I think we'll
2 present testimony that Mr. Rowell carried a wallet and had
3 money, but we're going to show you photographs in a moment of
4 Mr. Rowell with his pockets picked out. The fact that his
5 personal possessions, including his driver's license, were
6 found a distance of a few miles at a route fairly close to
7 where this incident took place.

8 THE COURT: Well, I'm noting their objection. I'm going
9 to reserve ruling pending a foundation being laid. All right?

10 MR. SALEEBY: Your Honor, Number 40 is a fingerprint card
11 belonging -- that was taken at the autopsy of Mr. Rowell.

12 THE COURT: Any objection, Mr. Wilson?

13 MR. WILSON: None, Your Honor.

14 THE COURT: Mr. Floyd? This is Mr. Rowell now.

15 MR. FLOYD: No objection, Your Honor.

16 THE COURT: All right.

17 MR. SALEEBY: Number 41 is the fingerprint card of Marco
18 Sanders.

19 THE COURT: Any objection, Mr. Wilson?

20 MR. WILSON: No, sir.

21 MR. FLOYD: None, Your Honor.

22 MR. SALEEBY: And Number 41 [sic.] is the fingerprint
23 card of Tyrell Woods.

24 THE COURT: Any objection, Mr. Wilson?

25 MR. WILSON: No, sir.

1 MR. SALEEBY: 42. I'm sorry, Your Honor.

2 THE COURT: All right, 42.

3 MR. SALEEBY: Your Honor, I --

4 THE COURT: Hold on a minute. Hold on a minute.

5 MR. SALEEBY: Excuse me. I'm sorry.

6 THE COURT: I know that you -- I note your objection for
7 the record, Mr. Floyd.

8 MR. FLOYD: Yes, Your Honor. Thank you.

9 THE COURT: All right. Go ahead. I'm sorry.

10 MR. SALEEBY: Your Honor, Items 43, 44, and 45,
11 fingerprint exhibits and photographs representing the firearms
12 are not in our possession right now. SLED agents that will be
13 testifying to those will be bringing them.

14 THE COURT: All right. We'll deal with those when they
15 bring them here and when they're up.

16 MR. SALEEBY: Your Honor, that covers everything with the
17 exception of the photographs of Mr. Rowell, which are Items
18 Number 11-A to H, and I'm sure you'll want to look at them one
19 at a time. I would ask you, Your Honor, realizing that you
20 want to move the jury in, if while we're discussing these if I
21 could ask Mr. Sawyer to go ahead and to leave the diagrams up
22 here, but box up everything else and get it out of the jury's
23 way.

24 THE COURT: That's fine. I mean you're going to need to
25 move those diagrams as well.

1 MR. SALEEBY: Yes, sir. Well, I was going to move them
2 out of the way, but the rest of it I was just going to get out
3 of the way.

4 THE COURT: Yeah. Go ahead and box that up.

5 MR. SALEEBY: All right, sir. All right. Your Honor,
6 what I'm going to hand up to the Court is a series of photos
7 taken of the deceased, Mr. Rowell. It's A to H. I know
8 counsel would like to look at them and you at the same time.
9 In handing them up, I will tell you that the purpose of these
10 is to show how he was bound, how he was gagged, and how his --
11 how his pockets were pulled out, at least three of them, to
12 support the charge of armed robbery. I'll hand these up to
13 you now, sir, and I'm sure that counsel will want to take a
14 look at them. I know you'll want to rule on them one at a
15 time.

16 (Whereupon, there is a pause in the proceedings.)

17 THE COURT: Do you want to look at these, Mr. Floyd and
18 Mr. Wilson?

19 MR. FLOYD: Yes, Your Honor.

20 (Whereupon, there is a pause in the proceedings.)

21 THE COURT: All right. Are we bringing the jury up now?
22 Okay. Are they bringing the jury up?

23 MR. SALEEBY: Your Honor, I'm having that evidence taken
24 downstairs because the SLED agent who gathered it is here and
25 to save time so that she can identify all of it as opposed to

1 having to unwrap it when we are --

2 THE BAILIFF: Are you ready for them now?

3 THE COURT: Hold on just a minute. There's no need to
4 bring them up here and put them in this room. Let's go ahead
5 and finish what we're doing and we'll bring them up and put
6 them in the box and start.

7 MR. SALEEBY: Are you ready? All right, sir.

8 (Whereupon, there is a pause in the proceedings.)

9 THE COURT: All right. Mr. Wilson, have you looked at
10 the photographs?

11 MR. WILSON: Yes, I have, Your Honor.

12 THE COURT: All right. Let's go through them one by one.
13 Did you leave them in the same order, Mr. Floyd?

14 MR. FLOYD: Yes, Your Honor.

15 THE COURT: All right.

16 MR. FLOYD: I didn't shuffle them.

17 THE COURT: You didn't shuffle them up on me?

18 MR. FLOYD: No, sir.

19 THE COURT: All right. 11-A, which depicts a picture of
20 the victim's feet bound, any objection, Mr. Wilson?

21 MR. WILSON: Just foundation. No other objection.

22 THE COURT: All right. Any objection, Mr. Floyd?

23 MR. FLOYD: None, Your Honor.

24 THE COURT: All right. 11-A -- hold on a minute. Who is
25 this coming in here?

1 LAW ENFORCEMENT OFFICER: The victim's family.

2 THE COURT: Okay.

3 MR. SALEEBY: Your Honor, is A in over objection?

4 THE COURT: 11-A is without objection.

5 MR. SALEEBY: All right.

6 THE COURT: Neither one of them object.

7 MR. SALEEBY: All right. Thank you, sir.

8 THE COURT: Yes, sir. All right. 11-B, which is a

9 depiction of one of his pockets pulled out, any objection, Mr.

10 Wilson?

11 MR. WILSON: Did you have G? No objection to that one.

12 No, sir.

13 THE COURT: You want to see it?

14 MR. WILSON: No, sir. No objection.

15 THE COURT: You've already seen it; correct?

16 MR. WILSON: I've seen it.

17 THE COURT: All right. Any objection?

18 MR. WILSON: No objection.

19 THE COURT: Mr. Floyd?

20 MR. FLOYD: No objection.

21 THE COURT: All right. All right. 11-C appears to be a

22 picture of his other pocket pulled out --

23 MR. WILSON: No objections.

24 THE COURT: -- on the left-hand side. Any objection?

25 MR. FLOYD: No objection.

1 MR. WILSON: No, sir.

2 THE COURT: All right. 11-D is a back picture of his --
3 of the victim's hands bound. Any objection, Mr. Wilson?

4 MR. WILSON: No objections.

5 MR. FLOYD: No objection.

6 THE COURT: All right. 11-E is another picture of the
7 back of the decedent's hands bound, as well as pockets pulled
8 out. Any objection, Mr. Wilson?

9 MR. WILSON: No objections.

10 THE COURT: Mr. Floyd?

11 MR. FLOYD: Your Honor, I would object to 11-E. I think
12 it basically shows the same thing as D does and it's --
13 frankly, Your Honor, it's a lot more graphic than D and I feel
14 that picture would enflame the jury. We object to it.

15 THE COURT: All right. I'll reserve my ruling on that.

16 MR. SALEEBY: E is to be determined, sir?

17 THE COURT: Yes, sir. All right. 11-F is a picture of
18 the decedent gagged. Any objection, Mr. Wilson?

19 MR. WILSON: Yes, sir, Your Honor. I object. I think
20 that that photograph is extremely inflammatory and
21 unnecessary.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: I object, Your Honor, on the same grounds.

24 THE COURT: All right. I'll make a decision on that and
25 reserve my ruling on that as well. 11-G, any objection, Mr.

1 Wilson?

2 MR. WILSON: Yes, sir. Same objection.

3 MR. FLOYD: Same objection, Your Honor.

4 THE COURT: All right. 11-G, I'm going to admit over
5 defendants' -- each defendant's objection pending laying the
6 foundation there. Based upon my observation of 11-G, I do not
7 see where that particular photograph is calculated to arouse
8 the sympathies or prejudices of the jury. They do show
9 material facts, and it is not unduly prejudicial to the
10 defendants in this case. I'm going to allow that in over
11 defendants' objections. 11-H?

12 MR. WILSON: I would object, Your Honor, on the same
13 grounds. I think that it's highly prejudicial.

14 THE COURT: Mr. Floyd?

15 MR. FLOYD: Your Honor, I would object as well on the
16 same grounds as F and G.

17 THE COURT: All right. I'll reserve my ruling on that as
18 well, on those two. So it's 11-E, F, and H. I'm going to
19 reserve ruling on that. All others are admitted over the
20 objection of defendants. As to 11-G, there was no objections
21 to 11-A through D. All right.

22 MR. SALEEBY: Thank you, sir.

23 THE COURT: I'm going to hand all of these back to you at
24 this time. Now, let me hold 10-C again, please. Well, that's
25 okay. It went down. That was one that I reserved my ruling

1 of.

2 MR. SALEEBY: 10-C was a photograph of the den that I
3 believe showed him from the knees down.

4 THE COURT: I am going to allow that photograph over
5 defendants' objections. So the only thing I've reserved
6 ruling on is 11-E, F, and H.

7 MR. SALEEBY: Your Honor, when I call the SLED agent who
8 took these photographs, I'll try to say it at that part of her
9 testimony so that we can deal with it at the right time
10 without disrupting everything else.

11 THE COURT: All right. Anything else before we bring the
12 jury up from the State?

13 MR. SALEEBY: No, sir.

14 THE COURT: Mr. Wilson, anything further before I bring
15 the jury up?

16 MR. WILSON: No, sir.

17 THE COURT: All right. We'll stand down for about five
18 minutes.

19 (Whereupon, there is a break in the proceedings from 9:54
20 a.m. until 10:05 a.m.)

21 THE COURT: All right. Anything from the State before I
22 bring the jury up?

23 MR. CLEMENTS: Your Honor, I have the first witness in
24 here.

25 THE COURT: Okay.

1 MR CLEMENTS: Is it fine if he stays?

2 THE COURT: Any objection, Mr. Wilson?

3 MR. WILSON: No, sir.

4 THE COURT: Mr. Floyd, any objection.

5 MR. FLOYD: No, Your Honor, I have no objection.

6 THE COURT: All right. Anything before I bring the jury
7 up?

8 MR. WILSON: Judge, two things I think I need to raise
9 before we swear the jury. One, with the indictment in this
10 case, there -- the indictment is signed by the foreperson of
11 the grand jury, but it's not true billed.

12 THE COURT: Mr. Clements?

13 MR. CLEMENTS: It was given back to us as being true
14 billed. When it goes back to the clerk, we don't see it, and
15 I don't think I ever looked it seeing that was the report we
16 were given. They're given back to the clerk and I don't
17 question what they tell us.

18 THE COURT: Is true billed -- I mean is that something --
19 I mean I know what it is, but is that an administerial task
20 done by the grand jury or the Clerk's Office once they give
21 them back to the Clerk's Office?

22 MR. CLEMENTS: I think it's the grand jury. I can't
23 speak for the clerk, but I think it's the grand jury. Am I
24 correct?

25 THE CLERK OF COURT: Yes, sir. Yes, sir.

1 MR. WILSON: Your Honor, in regards to indictments, it's
2 always been my understanding that the foreperson signs the
3 indictment, whether or not it's no billed or whether it's true
4 billed, and the only time that they don't sign it is when it's
5 not acted upon. So the fact that it's signed is not
6 necessarily evidence that it's a true bill. It could have
7 been a no bill that was also signed, but it's not marked.
8 It's not stamped so we don't know.

9 Now, I know that that's how it's done in Horry County.
10 It has been done that way since 20 -- 30 years. Now, I don't
11 know how it's done in Marion and whether it's done differently
12 here, but that's my concern about this issue with -- with the
13 indictment.

14 But I have a second issue that I also need to address.
15 The second issue, Your Honor, is is that the defendant is
16 charged with criminal conspiracy in this indictment. He was
17 never charged with criminal conspiracy by warrant and, as a
18 result of that, that would make it a direct indictment --

19 THE COURT: Correct.

20 MR. WILSON: -- which would have had to have been served
21 upon the defendant, which has not been done.

22 THE COURT: Mr. Clements?

23 MR. CLEMENTS: Your Honor, I can honestly say that I'm
24 not aware that we would have had him served on the --

25 THE COURT: Any case law, Mr. Wilson, on that issue?

1 MR. CLEMENTS: We did present them with copies of the
2 indictment. I don't think that would be the same as service.
3 He knows what -- he has notice and he's had notice for quite
4 some time.

5 THE COURT: Mr. Floyd?

6 MR. FLOYD: Your Honor, we have Anderson v. State. It's
7 a Court of Appeals case from 2000. It's at 338 S.C. 629. In
8 that case, the appellate court remanded the case to the trial
9 court for a determination of whether it was sufficient
10 evidence before it to determine if the indictment was true
11 billed, and I believe that Anderson was like this case where
12 the indictment was not stamped true billed.

13 And we also have State v. Bruce, Your Honor, which is
14 another Court of Appeals case from 2004. I'm quoting from the
15 finding in the case, Your Honor. It says:

16 When the action of the grand jury is not written on the
17 indictment and the evidence does not exist within the
18 records indicating the action of the grand jury, an
19 appellate court must remand the case to the circuit court
20 for a determination of whether the indictment was true
21 billed.

22 Those are just a couple of the cases that we see and --

23 THE COURT: Give me that cite, Mr. Floyd.

24 MR. FLOYD: It's --

25 THE COURT: Please.

1 MR. FLOYD: Your Honor, the -- do you want Anderson v.
2 State and -- or just --

3 THE COURT: I want both of them.

4 MR. FLOYD: Okay. Anderson v. State, the cite I have is
5 the South Carolina Reporter. It's 338 S.C. 629. State v.
6 Bruce, Your Honor -- Your Honor, I don't see a page number on
7 it. I see it says -- let me see if I can find it on here,
8 Your Honor. Your Honor, the State v. Bruce case cites State
9 v. Grim, which is 341 S.C. 63. And I'm sorry, Your Honor. I
10 don't have the cite for State v. Bruce.

11 THE COURT: B-R-U-C-E?

12 MR. FLOYD: Yes, sir, Your Honor. Your Honor, actually
13 -- I do want to clarify. We didn't actually get a copy of the
14 indictment until just a couple of days ago.

15 MR. CLEMENTS: Your Honor, we have the indictment if you
16 want to look at it.

17 THE COURT: Right here.

18 MR. CLEMENTS: Your Honor, I don't know if we could check
19 the -- all the other indictments for that time, May 2013, that
20 the grand jury met and see what they did on the other
21 indictments.

22 THE COURT: Is this individual still on the grand jury?

23 MR. CLEMENTS: Your Honor, I do not know. The clerk
24 would know. That's 2013. We're at 2014. I'm not sure. If
25 it was the foreperson, they probably did not rotate over to

1 the next group.

2 THE COURT: Well, it could have been a holdover.
3 Probably that person would sign it as the foreperson was a
4 holdover from 2012.

5 MR. CLEMENTS: Yes, sir. That's what I was thinking.

6 THE CLERK OF COURT: Nobody signs the indictments but the
7 foreperson. Only the foreperson signs our indictments.

8 MR. CLEMENTS: I mean we just get a report from them. We
9 don't actually see the indictments and what they've done with
10 them and whether they stamped them or not. If they're no
11 billed, we close the case. If they're not acted upon, we
12 bring them back or either close the case. So I don't know
13 what we -- what was reported to us from the grand jury was
14 that this was true billed.

15 THE COURT: Well, where is -- Madam Clerk, can you pull
16 the sheet? Because I know when cases are sent to the grand
17 jury, a report is forwarded to me as chief administrative
18 judge to sign as to what their actions were I believe. Is
19 that right?

20 THE CLERK OF COURT: We have a list. Yes, sir.

21 THE COURT: Can you go pull that?

22 THE CLERK OF COURT: Yes, sir.

23 (Whereupon, there is a pause in the proceedings.)

24 THE COURT: Well, I'm looking at Anderson v. State, which
25 cites State v. Bultron, B-U-L-T-R-O-N, 318 S.C. 323. In that

1 particular case, the indictment was signed by the grand jury
2 foreman, but was not stamped or otherwise marked as a true
3 bill or a no bill. The trial court held a hearing on the
4 defendant's motion to quash the indictment because of this
5 defect. At the hearing, the State produced testimony from the
6 grand jury -- jury's docket coordinator that during the term
7 in question, the grand jury considered and acted on all
8 indictments presented and returned no no bills.

9 Because of this evidence that the grand jury had, in
10 fact, true-billed the indictment, this court agreed with the
11 trial court's assessment that the lack of a true bill stamp
12 was merely a scrivener's error and found the conviction was
13 obtained with subject matter jurisdiction.

14 That's what that -- Bultron stood for. Therefore, I'm
15 going to wait and see what the Clerk's Office brings me back
16 with regards to the report that was provided to -- to me at
17 the time because I was chief administrative judge last year on
18 that very issue. Then I'll make a determination.

19 MR. CLEMENTS: Your Honor, do you know if there's an
20 easel in the courtroom? Is there an easel available here?

21 THE COURT: I have no idea.

22 (Whereupon, there is a pause in the proceedings.)

23 THE COURT: All right. I'm going to stand down for just
24 a minute.

25 (Whereupon, there is a break in the proceedings from

1 10:24 a.m. until 10:38 a.m.)

2 THE COURT: All right. The issue was brought up a short
3 period ago by Mr. Wilson concerning the indictment not having
4 true bill either stamped or written on here by the foreperson.
5 Pursuant to such matter being brought before the Court, I
6 asked the clerk to go and locate their report from the
7 indictments that were true billed during this period of time.
8 I've given that report -- or the report was given to me. I
9 met with the lawyers back in chambers, discussed what the
10 finding of that report was, and gave the report to the
11 solicitor. Mr. Clements, at this time I'm going to turn it
12 over to you --

13 MR. CLEMENTS: Thank you, Your Honor.

14 THE COURT: -- concerning this issue.

15 MR. CLEMENTS: May it please the Court. I'd like to call
16 our honorable clerk of court, Ms. Sherry Rhodes, to the
17 witness stand.

18 THE COURT: All right. Do y'all mind if she just stands
19 right here?

20 MR. WILSON: That's fine with the defendant.

21 THE DEPUTY CLERK: Do you swear to tell the truth, the
22 whole truth, and nothing but the truth, so help you God?

23 THE CLERK OF COURT: I do.

24 SHERRY RHODES, being first duly
25 sworn, testifies as follows:

SHERRY RHODES - DIRECT BY MR. CLEMENTS

DIRECT EXAMINATION

1
2 BY MR. CLEMENTS:

3 Q: Would you please state your name for the record?

4 A: My name is Sherry R. Rhodes.

5 Q: And, Ms. Rhodes, you are the clerk of court for Marion
6 County?

7 A: The clerk of court for Marion County. Yes, sir.

8 Q: And as a result of being clerk of court of Marion County,
9 when the grand jury meets, do you receive reports from them?

10 A: Yes, sir, I do.

11 Q: And those reports -- do those reports have listed the
12 indictment numbers that the grand jury has true billed for
13 that term?

14 A: It's got on the top of the paper -- the report the date
15 that the grand jury met and the following indictments are
16 reported as true bills. Yes, sir.

17 Q: And does the whole grand jury sign that there or just the
18 foreperson?

19 A: The whole grand jury has signed it.

20 Q: And the indictment we have in question here with Mr.
21 Sanders and Mr. Woods, was it indicted in the May term in
22 2013?

23 A: Yes, sir, it was.

24 Q: What date did that grand jury meet?

25 A: It was signed on May the 9th, 2013.

SHERRY RHODES - DIRECT BY MR. CLEMENTS

1 Q: All right. And the indictment number is --

2 THE COURT: Right here, Mr. Clements.

3 MR. CLEMENTS: Thank you, Your Honor.

4 Q: The indictment number on State versus Marco S. Sanders
5 and Tyrell Woods is 2013-GS-33-256?

6 A: That is correct.

7 Q: Is that Indictment 2013-GS-33-256 listed as one of the
8 indictments that was true billed on the May 2013 term of
9 court?

10 A: Yes, sir, it was.

11 Q: For the grand jury for Marion County?

12 A: Yes, sir, it was.

13 Q: And is that the report there?

14 A: Yes, sir. That's the report I'm holding in my hand.
15 Yes, sir.

16 MR. CLEMENTS: Your Honor, I would ask that that -- a
17 copy of this be made so that the clerk can maintain a copy for
18 her records and that the other copy be made a Court's exhibit.

19 THE COURT: Any objection, Mr. Wilson?

20 MR. WILSON: No objections to that.

21 THE COURT: Mr. Floyd?

22 MR. FLOYD: No objection.

23 THE COURT: All right. Without objection, such is
24 granted.

25 (Whereupon, a copy of the report is marked and entered as

SHERRY RHODES - CROSS BY MR. WILSON

1 Court's Exhibit Number 2.)

2 MR. CLEMENTS: Ms. Rhodes, thank you. That's all the
3 questions I have. Please answer any questions that the
4 defendant may have.

5 THE CLERK OF COURT: Thank you.

6 THE COURT: All right. Any cross examination?

7 MR. WILSON: Yes, ma'am.

8 CROSS EXAMINATION

9 BY MR. WILSON:

10 Q: Ms. Clerk, let me ask you in regards to direct
11 indictments as opposed to noticed indictments, in regards to
12 true bills and no bills, what is the different procedure you
13 have the grand jury to notify you that something has been no
14 billed as opposed to something that has been true billed?

15 A: The way it's on the report the grand jury turns back into
16 the Clerk's Office, they have the indictments that are true
17 billed listed and then on a separate page, it says the
18 following indictments were found no bills.

19 Q: Okay.

20 A: There was none listed on that term of grand jury.

21 Q: Okay. Is it required for the grand jury to sign -- the
22 foreman to also sign no billed indictments as well as true
23 billed indictments?

24 A: I believe they mark it, but they don't sign it.

25 Q: Okay.

SHERRY RHODES - CROSS BY MR. WILSON

1 A: There are very few no bills.

2 Q: All right. And then there would be those cases that were
3 not acted upon by the grand jury, and how would the grand jury
4 indicate to you that?

5 A: I have one on this report where it says -- it gives me
6 the indictment number and it says continued to next term.
7 Evidently, there was not enough evidence or enough for them to
8 go forward at that time so it was continued to next term.

9 Q: Okay. Now, the list that you just presented to the
10 Court, who compiles that list?

11 A: The list is compiled in my office and it's given to the
12 grand jury when they meet. They fill in the indictment
13 numbers, sign it, and give it back to us.

14 Q: Okay. And now, in regards to this particular indictment
15 not having been stamped, do you have a stamp --

16 A: No, sir.

17 Q: -- for a true bill?

18 A: We do not have a stamp. No, sir.

19 Q: You never --

20 A: We use this report.

21 Q: Okay. So you don't have a no bill stamp or a true bill
22 stamp?

23 A: No.

24 Q: Okay.

25 MR. WILSON: I have no further questions. Thank you.

1 THE COURT: Mr. Floyd?

2 MR. FLOYD: I have no further questions, Your Honor.

3 THE COURT: All right. The document copy has been
4 admitted into evidence without objection. Anything further
5 from the State?

6 MR. CLEMENTS: No, Your Honor. Thank you.

7 THE COURT: All right. Anything by way of argument from
8 the State?

9 MR. CLEMENTS: Your Honor, it's just we believe we have
10 subject matter jurisdiction to go forward with this trial at
11 this time.

12 THE COURT: All right. Anything by way of argument, Mr.
13 Wilson?

14 MR. WILSON: No, sir. You mean regarding -- I apologize.

15 THE COURT: You objected to the indictment. The State
16 presented evidence. I'm just asking whether or not you have
17 any argument.

18 MR. WILSON: No, sir. I don't have anything in addition
19 to what I've already offered.

20 THE COURT: All right. All right. Pursuant to State v.
21 Bultron, which I cited for the lawyers previously, 318 S.C.
22 323, 457 S.E.2d 646, which is a 1995 Court of Appeals case,
23 based upon the evidence which has been presented here and the
24 testimony of the clerk of court, the Court hereby finds that
25 this particular failure of the grand jury to either stamp --

1 which they do not have a stamp, but either write true bill or
2 no bill on here is simply a scrivener's error. I do find that
3 the State has subject matter jurisdiction to proceed at this
4 time, and that's based upon the testimony of the clerk as well
5 as the document that has been admitted into evidence without
6 objection.

7 All right. Anything further at this time, Mr. Wilson?

8 MR. WILSON: Yes, sir, Your Honor. We still haven't
9 addressed the issue regarding the conspiracy charge which is
10 in the indictment and -- and it would be my understanding
11 since the defendants were not indicted -- I'm sorry. I
12 apologize. Since the defendants were not arrested by an
13 arrest warrant, that would mean that the initial charge would
14 have been -- it was a direct indictment.

15 If there's a direct indictment, the process is the same
16 as is for a warrant, which means that it has to be served,
17 bond has to be posted, and we have to go through the
18 procedures that are required, and that's done to give the
19 defendants notice, as well as follow the statute which
20 requires that it be done that way.

21 So my position is is that that should be stricken from
22 the -- from the indictment and the State should not be
23 permitted to go forward on that charge.

24 THE COURT: Mr. Floyd?

25 MR. FLOYD: Your Honor, we would join in that.

1 THE COURT: You got any case law you want me to look at
2 on that issue, Mr. Wilson or Mr. Floyd?

3 MR. WILSON: No, sir. I've been trying to find it for
4 you. We've been searching diligently trying to find it, but I
5 have not been able to. You know, what my paralegal was saying
6 was that Rule 106, in her opinion, would apply, which is
7 simply talking about the arrest process and the charging
8 process and which is what I'm saying. This is a new charge.
9 It was not done by arrest warrant so it's a new charge and it
10 would follow the same process as any other new charge.

11 THE COURT: How long have you had the indictment?

12 MR. WILSON: I got it when we had the hearing after --
13 yeah. I think we got it from the clerk sometime in April
14 because the reason we got it was because we were getting ready
15 to do that state hospital order that we were trying to do.

16 THE COURT: Right.

17 MR. WILSON: And we had to get it for that. We did not
18 have it before then. We never got it from the Solicitor's
19 Office, but we did get it from the clerk.

20 THE COURT: All right. Mr. Clements, you got anything?

21 MR. CLEMENTS: Your Honor, I don't know of any statute or
22 case law that would support Mr. Wilson's argument on this, and
23 they had notice. The conspiracy charge is particularly a
24 whole lot less than any of the other charges that the
25 defendants are facing, and he did have notice of the facts

1 that there were two co-defendants agreeing to do this and
2 entered into this house together. He has all that evidence.
3 He did receive a copy of the indictment in April from the
4 clerk. He has not been prejudiced in any way and I am not
5 aware and I talked to Mr. Saleeby and he is not aware of any
6 statute or case law that supports that proposition.

7 THE COURT: Well, I'll note Mr. Wilson' objection at this
8 time, as well as Mr. Floyd's objection concerning that issue.
9 I'm going to do some research on my own, but I'm not going to
10 rule on it right now. I don't think it is necessary that I
11 rule upon it right now before we start the trial of this case.
12 All right? But I'll do some research on that issue myself.
13 Anything else before I bring the jury up?

14 MR. WILSON: Nothing further, Your Honor.

15 THE COURT: Mr. Floyd?

16 MR. FLOYD: Nothing further.

17 THE COURT: Mr. Clements, anything further?

18 MR. CLEMENTS: Nothing further.

19 THE COURT: Please bring me a jury. We're going to put
20 them in this box. I'm not putting them in that room. We're
21 putting them in the box and starting the trial. Okay?

22 (Whereupon, the jury enters the courtroom at 10:52 a.m.)

23 THE COURT: All right. Madam Clerk, would you swear the
24 jury, please?

25 THE CLERK OF COURT: Good morning.

1 THE JURY: Good morning.

2 THE CLERK: Please raise your right hand. I'm going to
3 read you the oath and after I read you the oath, you will
4 repeat "I will." Please stand and raise your right hand.

5 You shall well and truly try and a true deliverance make
6 between the State of South Carolina and the prisoner at the
7 bar whom you shall have in charge and a true verdict give
8 according to the law and the evidence, so help you God.

9 THE JURY: I will.

10 THE CLERK OF COURT: Thank you. You may be seated.

11 THE COURT: Good morning, ladies and gentlemen. I
12 appreciate your patience downstairs while we had to deal with
13 some matters. Some things take a little bit longer than we
14 anticipate, and we have not been up here just drinking coffee
15 and talking. Okay? We've been up here working trying to do
16 some things to streamline the case as we go forward here.

17 Now, we are about to try the case of the State of South
18 Carolina versus Marco Siara Sanders and Tyrell Woods. Now,
19 before we begin the trial of this case, I want to tell you
20 that this trial will probably be different from what you might
21 expect. Many people do not have the chance to attend actual
22 court sessions as you are doing now and may think from
23 watching television or movies or reading books that trials are
24 always full of high drama, intense action, and riveting
25 circumstances.

1 those facts and thus render a true and just verdict.

2 Now, later in this case, ladies and gentlemen, a
3 foreperson will be selected to preside over deliberations in
4 the jury room. It will be the foreperson's added
5 responsibility and duty to preside in the jury room and be the
6 jury's spokesperson here in court. It will also be the
7 foreperson's duty to write the verdict, but I will give the
8 foreperson further instructions about that at the conclusion
9 of this case.

10 Now, in order to preserve everyone's rights, I will give
11 the parties an opportunity to object to anything that I have
12 said. Any exceptions to anything that I have said to the jury
13 by the State?

14 MR. CLEMENTS: No, Your Honor.

15 THE COURT: Defense counsel, Mr. Wilson?

16 MR. WILSON: No, sir.

17 THE COURT: Mr. Floyd?

18 MR. FLOYD: None, Your Honor.

19 THE COURT: Ladies and gentlemen, we will now begin the
20 trial of this case. Mr. Clements, you're recognized for
21 opening statement.

22 MR. CLEMENTS: May it please the Court.

23 THE COURT: Yes, sir.

24 OPENING STATEMENT BY THE STATE

25 MR. CLEMENTS: Good morning.

1 THE JURY: Good morning.

2 MR. CLEMENTS: I'm Ed Clements and I represent the State
3 of South Carolina.

4 On July the 4th of 1776, Thomas Jefferson penned a
5 document that is part of our history, part of our lives, part
6 of the philosophy of our nation, and that document is called
7 the Declaration of Independence, and it stated that all people
8 are endowed by their creator with certain unalienable rights:
9 life, liberty, and the pursuit of happiness. And on July the
10 4th, 2012, Sam Rowell got up that morning, went out to enjoy
11 his God-given rights to life, liberty, and the pursuit and
12 happiness, and sometime that evening around nine o'clock,
13 Marco Sanders and Tyrell Woods took Sam Rowell's life, his
14 liberty, and any chance he had to pursue happiness.

15 1925 Phil Court, Marion, is where Sam lived on a dirt
16 road, had friendly neighbors that he knew, and Sam was the
17 type of man that helped everybody around him. He had a lot of
18 businesses and property he dealt with, and he got up and he
19 was enjoying his day and he drove off and he had security
20 cameras on the front of his house. And he had a recording
21 device that was situated at the foot of his bed and it showed
22 him leaving early evening around 6:45 and he turned right
23 towards Highway 9 and towards Sandy Land Road and he passed by
24 his neighbors headed on to Marion.

25 And sometime around seven o'clock, his good friend, Eddie

1 Godbold, passed by him in Marion and tried to wave him down
2 because Eddie was going to borrow one of Sam's deep fryers for
3 a family reunion that was coming in a couple days, and just
4 like Sam always did, he was helping his friends, helping
5 people he knew, and he was going to help Eddie out and let him
6 use that deep fryer.

7 But Eddie couldn't get his attention to stop him so Eddie
8 went on about his business, went to SavWay, went to Walmart,
9 and then went back sometime around 9:23 he thought as he
10 entered Sandy Land Road to go to Sam's house, and Eddie pulls
11 up to the house and sees Sam's white pickup truck there, goes
12 to the front door and knocks and hollers out for Sam. No
13 answer. He goes around to the back and knocks on the back.
14 No answer. He couldn't figure out what was going on because
15 Sam's truck was there.

16 And he's walking back down the side of the house and he
17 hears Sam cry out to him, "Eddie, they're trying to rob me.
18 They're trying to rob me." He goes over to the side door and
19 it flies open and a gun starts shooting at him and he runs.
20 It shot three or four times, and he had left his car running,
21 but he didn't go to his car because it was where you could see
22 it from the side door. He ran around the corner of the house
23 and hid behind the steps and everything got quiet. And then
24 he kind of squatted and made his way back to his car and got
25 in his car and laid down halfway down and made a U-turn and

1 pulled on out of there.

2 Well, Lafayette Reed, who is a neighbor of Sam's, comes
3 by and almost gets run off the road by a white SUV, and Eddie
4 was flying by and he went to Francis Davis' house and got on
5 the phone and called 9-1-1. He said there's a robbery,
6 there's gunshots, they're shooting. And then he and some
7 neighbors go back to wait on law enforcement and they see the
8 door -- side door open and they call for Sam and there's no
9 answer. They see his legs there, and they wait on law
10 enforcement and law enforcement begins their investigation.

11 And as part of that investigation, they go in and they
12 collect evidence. They collect shell casings from outside
13 where Eddie was shot at, 9mm shell casings. And they go in
14 and they see items, cigars liquor, other items stacked up to
15 be taken out. They see the recording device that should have
16 been at the foot of Sam's bed with the wires cut sitting on
17 the couch, and common sense will tell you that nobody would
18 have left that unless they had left in a hurry, if they were
19 worried about being detected.

20 Well, they left in a hurry. When Eddie came out to the
21 house and they shot at him and they were surprised by him,
22 they had to act fast, and they left Sam Rowell there at his
23 house with his hands and his feet taped up with duct tape and
24 some of his underwear shoved in his mouth and his head taped
25 up and shot in the head execution-style, laying there in his

1 living room dead, and they left the items they had stacked up
2 they wanted to take with them, and they left the recorder,
3 thank goodness.

4 But when they left Sam, they left him with his pockets
5 pulled out in his britches on the side and the front and the
6 back. They left one pocket unpulled out with \$21 in it, but
7 all his other pockets were pulled out and cleaned out, and the
8 wallet that Sam always carried was missing. And just a couple
9 miles down the road at the intersection of Wahee and Foxworth,
10 you're going to hear somebody found a card with Sam's name on
11 it and contacted Sam's brother, and they went out there and
12 then they found his driver's license and all kind of cards
13 that were in Sam's wallet scattered out there where his home
14 invaders threw them because they weren't of any value to them,
15 only the money.

16 Well, law enforcement came out on the scene and met the
17 neighbors out there, and they heard about the white SUV and
18 they started investigating. That's all they had to begin with
19 was a white SUV. You're going to hear Levern Nichols. Most
20 people call him JJ. He was working with law enforcement at
21 that time and when the information went out that they were
22 looking for a white SUV, he says the day before this happened,
23 I was Marco Sanders driving a white SUV and Tyrell Woods was
24 riding with him, and I believe he saw them over close to
25 Martin's Station and saw them riding around other places and

1 knew they didn't own a white SUV. So they became persons of
2 interest.

3 Well, that video that they left was submitted to SLED,
4 and SLED couldn't get it to work. So James Lee goes to Harbor
5 Freight over in Dillon and buys the same unit. So he goes
6 back, so they get the piece that's broken replaced, and they
7 are able to play it and they've got the video. And you're
8 going to see that video, and you're going to see for yourself
9 that you're going to see Marco Sanders go up to the door, but
10 first you're going to see a white SUV go by in both
11 directions, and then you're going to see Tyrell Woods walk up
12 and knock on the door and then leave, and a few minutes later
13 they come back with Marco and Tyrell, and Marco is holding a
14 gun which appears to be a revolver and with a homemade
15 silencer taped on it and a roll of duct tape in his hand. And
16 you're going to see Tyrell Woods coming behind him with what
17 looks to be a semi-automatic like a 9mm, and he's there ready
18 to go in the door.

19 Marco tells him come on and they go up and they go in the
20 door, and then in a very few minutes at 8:03:39 p.m. according
21 to the time on the recorder, that recorder stops recording.
22 Now, those wires are cut and it's stacked up on the couch to
23 be taken away, and they begin to collect whatever loot they
24 want to take, but then Sam comes home.

25 And from the appearances that you're going to hear

1 testified to by the law enforcement officers who went in and
2 examined the crime scene, it appears that Sam goes in the back
3 door where he always goes in, took his shoes off, and went and
4 got himself a cup of coffee, and then evidently Marc and
5 Tyrell jumped him, and he's left there by the side door
6 between the couch and the wall with his ankles taped up, with
7 his -- with no shoes on, with his hands taped up, with his
8 head and mouth taped up. I'm sure after he called out to
9 Eddie -- because Eddie had been calling out for him, he called
10 out to Eddie, Eddie, they're trying to rob me, they stuffed
11 that underwear in his mouth and wrapped his head up.

12 And we don't know what their ultimate plan was. Maybe
13 they were going to tape up Sam and carry him away and kill him
14 and dump him somewhere else. We don't know that, but why
15 would they leave him when he could identify them? But then
16 they got rushed. Maybe they didn't count on Sam coming home.
17 They had the duct tape so they were ready for him, but when
18 Eddie came up, they got in a real hurry then. They shot at
19 Eddie, Eddie ran and hid, they lost sight of him, and the
20 State believes that's when they executed Sam and grabbed what
21 they could grab and hauled butt.

22 And Lafayette Reed, who is Sam's neighbor, is going to
23 testify about pulling by his house and almost getting run by
24 by a white SUV that came from a little bit down the road where
25 there's a big tree and where there's a turnaround at on the

1 dirt road. And Lafayette had to go down there and turn around
2 and come back and tried to chase them to find out who they
3 were, but they turned and got away from him. So he went back
4 to Francis Davis' house where Eddie was and where everybody
5 else was and they went to check on Sam and found him dead and
6 waited on law enforcement.

7 You're going to hear from the autopsy, the pathologist
8 that -- that did the autopsy and explains exactly how Sam
9 died. You're going to hear from the SLED experts that came
10 and did the crime scene work. You're going to hear from the
11 people that took that tape and examined it and found the
12 fingerprints of Tyrell Woods. They found the fingerprints on
13 the sticky side. And you're going to hear that Sam was killed
14 with a .22, not a 9mm, which we know the 9mm is what shot at
15 Eddie because the shell casings were outside.

16 And we know Tyrell's fingerprints are on the sticky part
17 of the tape. He must have been the one taping up Sam, and Sam
18 was shot with a .22 and we know that from the video Marco was
19 carrying a revolver.

20 The other witnesses you're going to hear from, other
21 people. One young man that rode up earlier on a dirt bike
22 says he got scared away by Tyrell and Marco as he went up to
23 the door, and you're going to hear from law enforcement
24 officers who are going to tell you about how they proceeded
25 and how they looked at other leads and determined those

1 suspects were not involved and how everything in the
2 investigation led to Tyrell Woods and Marco Sanders, uncle and
3 nephew.

4 And you're going to hear how Marco Sanders went to New
5 York and they had to apprehend him there and bring him back to
6 South Carolina to face justice, to face you, the judges of the
7 facts in this case. And as Marco sits there, he's presumed
8 innocent. Just like he's got that white shirt on and that
9 black tie, he's clothed with innocence as all of us should be
10 in our country and all of us are because of people like Thomas
11 Jefferson and because of people like George Washington and
12 because of the Declaration of Independence.

13 We have the legal system we have that allows him to be
14 presumed to be innocent and allows Tyrell to be presumed to be
15 innocent, and my job is to remove that cloak of innocence from
16 them and to present to you the facts, the witnesses from this
17 witness stand, and the evidence and the exhibits that we're
18 going to present to you that you can look at and hold in your
19 hand that prove to you that 1925 Phil Court was broken into by
20 Marco Sanders and Tyrell Woods, and that 1925 Phil Court was
21 burglarized by them and that they took items there and they
22 were armed and they robbed Sam Rowell and they murdered him
23 execution-style. And during the commission of those crimes of
24 violence, they possessed weapons, and they agreed together to
25 do this.

1 We have the duty, Mr. Saleeby and I, to present those
2 facts to you beyond a reasonable doubt, and that's not a
3 fanciful doubt. That's a doubt that would cause a reasonable
4 person to hesitate to act. But we believe that once you hear
5 from these witnesses and once you look at this evidence and
6 you determine those fingerprints were there on the scene and
7 had no other reason to be there of these two defendants and
8 you see them yourself on the video entering his home armed and
9 with duct tape, then you're not -- you're not going to have a
10 reasonable doubt. You won't have any doubt and you will reach
11 a verdict that tells the truth.

12 Veredicto is where we get that word verdict from. I
13 think it's Latin and it means to speak the truth. Well, we're
14 asking you to listen to all the evidence fairly, with an open
15 mind, and to not make your decisions until you've heard
16 everything, until Judge Brown has given you the law so that
17 you can apply the law to the facts that you hear and see in
18 this courtroom, and then you speak the truth.

19 And the truth is Marco Sanders and Tyrell Woods are
20 guilty of the murder of Sam Rowell, are guilty of the armed
21 robbery of Sam Rowell, the burglary of his home, that they
22 used a weapon to do it, and they agreed together to do it.
23 And then not only that, but they attempted the murder of Eddie
24 Godbold, Jr., and he was able to get away. Those are the
25 charges, that's what the evidence is going to show to you, and

1 we believe you'll return verdicts of guilty. Thank you.

2 THE COURT: Mr. Wilson?

3 OPENING STATEMENT ON BEHALF OF THE DEFENDANT SANDERS

4 MR. WILSON: Ladies and gentlemen, I know that when you
5 got your subpoenas to come to court, you could probably think
6 of a hundred other things that you would rather do than to
7 come here and spend the week with us and hear a bunch of
8 lawyers going at it, but let me say this to you. Your
9 presence here today is extremely important. It's important to
10 the State of South Carolina; it's important to these
11 defendants who are on trial here today.

12 Our jury system is not perfect. It's not, but I don't
13 know another system anywhere which is even close to being as
14 good as ours is. And I tell you that our court system in this
15 country would not work without the jury. You are the backbone
16 of our judicial system. You are what makes it work. You are
17 what separates Mr. Sanders from the State of South Carolina so
18 the State of South Carolina can't just impose their will on an
19 individual. They can arrest you, they can charge you, they
20 can put you in jail, but then you have the right to have a
21 trial so that your side of the story can be heard so that the
22 truth can come forth.

23 Every defendant enjoys that right. I don't care how
24 serious a crime might be. In this country, you are entitled
25 to a trial of your peers, and that's you. You are the judges

1 of the facts in this case. His Honor is the judge of the law.
2 He will tell you what the law is and you must follow the law
3 as he gives it to you, but you, the twelve of you
4 collectively, will decide what the facts are in this case and
5 that's an awesome responsibility.

6 Because if you were listening when His Honor was telling
7 you, he was saying that if the jury makes an erroneous finding
8 of fact, there's really no way to correct that. That's why
9 it's so important that you pay close attention to the facts
10 that will come into this trial, and the only evidence that
11 you're to consider is going to be evidence that comes from the
12 witnesses who testify in this case and the exhibits that might
13 be introduced during the course of this trial, not from what
14 somebody on the street has heard, but from what happens in
15 this courtroom.

16 Now, let me say this. Marco Sanders is not guilty. He
17 has pled not guilty and the law of the state of South Carolina
18 and every state in this union so far as I know says that a
19 defendant is presumed to be innocent until and unless the
20 State can prove to your satisfaction -- that being the twelve
21 of you collectively -- that he is guilty beyond a reasonable
22 doubt.

23 Now, what does that mean? Reasonable doubt. Well, you
24 can have a doubt about anything. You can doubt whether or not
25 you'll ever grow tobacco in Marion again. That's a foolish

1 doubt. That's not a reasonable doubt. You could doubt
2 whether the ocean still exists in Myrtle Beach. Well, it
3 does, and that's a foolish doubt. That's a whimsical kind of
4 doubt. Nobody has to prove beyond that kind of doubt, but of
5 any doubt where you have a reason to question it, to hesitate.

6 Now, you've heard the solicitor give you this long
7 scenario, and let me say at the outset here, the set of facts
8 we know are tragic. They are tragic. Anytime there is a loss
9 of life unnecessarily, that is tragic. What happened to Mr.
10 Rowell is tragic. Nobody, and certainly not the defendants,
11 is claiming that these things didn't happen to Mr. Rowell.

12 What we're saying about it is it was not Marco Sanders
13 who did it. Nobody is questioning whether or not Mr. Rowell
14 was killed. Nobody is questioning whether somebody shot at
15 him. Nobody is questioning any of those things. The issue
16 here is did Marco Sanders kill him. That's the issue. And I
17 submit to you, ladies and gentlemen, that as we go forward you
18 will see that there are a lot of reasons to believe that Marco
19 Sanders is, in fact, innocent of these charges.

20 They're going to bring you a video and I invite you -- in
21 fact, I encourage you or urge you to look at it, which is
22 unusual because usually you don't have a video, but you're
23 going to have a video according to the State that they're
24 going to produce to show you who the perpetrators were. It
25 can't be much better than that. Right? Well, there's a

1 problem and you will see that when you get the video.

2 There's a problem. There will be testimony in this trial
3 about Marco Sanders and whether he has tattoos or don't have
4 tattoos. You're going to have video so you can look to see if
5 the man in the video has tattoos or he doesn't. What you will
6 find, I submit to you, ladies and gentlemen, is that the video
7 is so -- of such poor quality, it is so grainy, that the only
8 thing that you can possibly determine is that there are two
9 black men on that video.

10 The other thing that I want to bring to your attention is
11 the solicitor says, oh, well, you know, we found some
12 fingerprints in the house. Well, part of the problem is this
13 was also kind of a business, a nightclub if you will, a juke
14 joint, or whatever you want to call it. I don't know. People
15 were in and out of there all the time, lots of people, and you
16 will see that as we go through this process.

17 Lastly, the indictment that was read to you is not
18 evidence of anything. It's just the manner in which the
19 charges are brought forward. You have to tell a person what
20 you are being charged with, and the best way to do that is
21 write it down and give it to them and say, well, this is what
22 you're charged with, and that's what an indictment is. Now,
23 the tough part for the State is they've got to prove it and
24 not only must they prove it, but they must prove it beyond a
25 reasonable doubt.

1 Now, what I ask you to do is to listen to the witnesses.
2 I don't know how long this trial will last and I know you've
3 been here two days already and we may be here for a little
4 while longer, but I ask you to be patient and to listen.

5 Listen to the witnesses because over the years I've
6 learned that sometimes it's not so much what a witness says,
7 it's what he doesn't say or how he's saying it that makes all
8 the difference in the world. And listen to whether or not the
9 witness testifies and contradicts him or herself as they
10 testify. And did the witness really have an opportunity to
11 see or know what was going on?

12 If you do those things, then at the end of this trial you
13 are going to be in a position to render a verdict that speaks
14 the truth. You've agreed and been sworn to truly try the
15 issues between the State of South Carolina and these
16 defendants. You have no friends to reward. You have no
17 enemies to punish. Your job is to find the truth, whatever
18 that truth might be.

19 And if the State fails to prove their case beyond a
20 reasonable doubt -- because the burden is on the State. It's
21 not on the defendant. The defendant has no burden whatsoever.
22 He doesn't have to do anything. It's upon the State, if they
23 can, to try and prove these things.

24 I simply ask you to listen and be patient as we go
25 through this process, and if I say something or do something

1 during the course of the trial that bothers you, I ask you not
2 to hold that against the defendant. Hold it against me,
3 that's fine, but I ask you not to hold that against the
4 defendant. I'm his lawyer and my job is to do my job and
5 sometimes that's not always easy, but it's still my job and I
6 still need to do my job. So I ask you not to -- to use that
7 or hold that in any way against him. It's not him, but I
8 thank you.

9 THE COURT: Mr. Floyd?

10 MR. FLOYD: Thank you, Your Honor.

11 THE COURT: Yes, sir.

12 OPENING STATEMENT ON BEHALF OF THE DEFENDANT WOODS

13 MR. FLOYD: Good morning. I represent Tyrell Woods, who
14 is seated at the table directly in front of you along with Mr.
15 Vick Meetze. Tyrell is a twenty-one-year-old resident of
16 Marion County. He's lived here most of his life and you've
17 heard a series of allegations that have been made against Mr.
18 Woods. And sometimes, unfortunately, just accusations
19 themselves have a lot of power because I think it's human
20 nature oftentimes when we hear something negative about
21 somebody, you know, through gossip or either read something
22 negative in a news article or something of that nature, we
23 sometimes just tend to believe that just because we heard it,
24 and that's the power that just an accusation has.

25 But that power of accusation doesn't have any place in

1 this courtroom today, and you've heard the Court and the other
2 counsel discuss presumption of innocence and, of course, Mr.
3 Woods, just like Mr. Sanders, is presumed to be innocent, and
4 they're entitled to that presumption throughout the course of
5 this trial. Mr. Woods doesn't have any legal obligation to
6 take this witness stand during this trial. He doesn't have an
7 obligation to testify. He doesn't have the obligation to
8 bring any witnesses up here to testify for him. He doesn't
9 have to do anything, if he chooses not to, but just sit in
10 court and be here. That's really his only obligation.

11 And, of course, the reason for that is is because the
12 State of South Carolina has the burden of proof in this case,
13 just like they do in any criminal trial, and they've got to
14 prove to you each and every element of each and every offense
15 that's charged in this indictment. They're going to try and
16 do that by witness testimony or videos or photographs or
17 whatever kind of evidence they decide they're going to use to
18 try and sway you in this case, but as jurors, of course, it's
19 your province and your obligation to decide what the facts
20 really are.

21 And I submit to you that the facts are not as they were
22 stated by Mr. Clements earlier, but the only thing we ask you
23 to do is just keep an open mind throughout this case and
24 evaluate the evidence carefully and consider very carefully
25 what you hear and what you see, and just remember that just.

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 because you hear something doesn't mean it's true. Thank you.

2 THE COURT: Call your first witness.

3 MR. CLEMENTS: Your Honor, we'd call Eddie Godbold Jr.

4 THE CLERK: Mr. Godbold, if you'll come here, let me
5 swear you in, please, sir. Place your left hand on the Bible
6 and raise your right hand. Do you solemnly swear or affirm
7 that the testimony you shall give in this case shall be the
8 truth, the whole truth, and nothing but the truth, so help you
9 God?

10 THE WITNESS: I do.

11 THE CLERK: Thank you. You may take the witness stand.

12 EDDIE GODBOLD JR., being first
13 duly sworn, testifies as follows:

14 DIRECT EXAMINATION

15 BY MR. CLEMENTS:

16 Q: Good morning, Mr. Godbold.

17 A: Good morning.

18 Q: It's almost good afternoon.

19 A: Yes, sir.

20 Q: If you would, please, can you please tell this jury your
21 name, how old you are, and where you live?

22 A: Yes.

23 Q: And I'm going to ask you, if you would -- you speak kind
24 of softly. I'm going to ask you, if you would, speak up
25 loudly so this court reporter can take down everything in here

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 and so that we can all hear you.

2 A: All right. Good morning. My name is Eddie Godbold, Jr.
3 I live out by Sam on his road -- on the corner where Sam
4 Rowell lived at. On July the 4th, I left my home and went to
5 Marion. I passed Sam going home.

6 Q: About what time of day was that, Mr. Godbold?

7 A: It must have been about seven o'clock.

8 Q: In the evening?

9 A: In the evening. I passed him.

10 Q: Okay.

11 A: So I tried to sign him down, but he must not have been
12 paying attention. So I -- I said, well, I'll go over to
13 Marion and coming back, you know, go by his house. He had
14 promised to let me use a deep fryer for our anniversary.
15 Anniversary? Not anniversary. Family reunion, that's what it
16 was.

17 Q: So where -- when you went to Marion, where did you go in
18 Marion?

19 A: Went to IGA.

20 Q: All right.

21 A: So on the way back, we left there about seven o'clock --
22 seven thirty. So I stopped at another store in the car and
23 then I came on down. Like I pulled -- I was turning in on
24 Sandy Hill Road around -- around about nine something. So
25 anyway --

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 Q: About nine something you said?

2 A: Yeah.

3 Q: Okay.

4 A: So by the time I got to the house, I walked around. I
5 see his truck was in the back there. I said he must be here.
6 So I left my car running.

7 Q: Where did you park at?

8 A: Right at the entrance.

9 Q: Okay.

10 A: So I walked up to his front door and I knocked on the
11 door. So I called and I said, Sam, but I didn't get no answer
12 so I said, well, I'll go around to the back door. So I went
13 around to the back door and I knocked on the door. I didn't
14 get no answer then.

15 Q: You called his name out again?

16 A: Yeah. So I came back around. As I was passing the side
17 door, that's when he called out. He said, "Eddie." He says,
18 "They're trying to rob me." He said, "Open the door." So
19 when I went to reach for the door, that's when I hear the gun
20 went off. I said, oh, Lord.

21 Q: Did you see anyone?

22 A: I didn't see anyone because it was dark.

23 Q: Okay.

24 A: So no lights on. So I ran around in front of the house
25 and hid behind the steps.

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 Q: How -- how fast did you move?

2 A: I moved pretty fast. So anyway, I seen that things quiet
3 down a little bit.

4 Q: All right. You said you -- where were you hiding at?

5 A: Behind the steps.

6 Q: Behind the steps?

7 A: Right. So I sit there until things cool down a little
8 bit.

9 Q: How long do you think you sat there?

10 A: About -- about three or four minutes I sit there because
11 I didn't want to be too hasty.

12 Q: Let me ask you this. About how many gunshots did you
13 hear? Do you know?

14 A: About five.

15 Q: Okay.

16 A: Well, anyway, I -- I walked out to the road.

17 Q: How did you walk out to the road?

18 A: I bent down like I was bent over and I walked out to the
19 road.

20 Q: Trying to hide sort of?

21 A: Right. And I walked up the road a piece and came behind
22 my car and walked up side the car because my door was open
23 like and I pulled the door open and I got in there. I leaned
24 in like this here over the seat.

25 Q: Why did you do that?

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 A: I made a U-turn.

2 Q: Okay. Why were you leaning down in the seat?

3 A: To keep from anybody seeing me.

4 Q: Okay. From the side where you were when you saw the

5 shots, could you see your car from there?

6 A: I could see my car, yeah.

7 Q: From that door?

8 A: Right.

9 Q: Whoever was shooting at you, could they have seen your

10 car?

11 A: Oh, yeah.

12 Q: Is that why you didn't run to your car to begin with?

13 A: I didn't go to the car. I didn't even attempt to go

14 there at all.

15 Q: Okay.

16 A: So I went down. I said I'll go down and make a phone

17 call.

18 Q: Where did you go?

19 A: I went down to -- what do you call her? Bay-Bay. I went

20 down to her house.

21 Q: Okay. About how far was that?

22 A: I'd say about -- about three-quarters of a mile.

23 Q: Okay.

24 A: Anyway, I told her -- I said, you mind if I use your

25 phone? I said, I want to call the cops -- the highway -- the

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 cops. So she said, go ahead. So I finally got them. I
2 couldn't dial I was so nervous. So she said, give me the
3 phone, I'll call them. I'll talk to them. So I give her the
4 phone and I said I want to go back up there and see what
5 happens. So I went back up there.

6 Q: Did you go by yourself or was there other people?

7 A: I went by myself.

8 Q: Okay.

9 A: I went by the house and I made a U-turn and came back.
10 I'd say I parked about two- or three-tenths from her house.

11 Q: Okay.

12 A: And I stayed there until the cops came. So when the cops
13 came, we went and we stood over there. So I thought can you
14 go over and see the -- you know, can you do that thing for
15 them, you know? He said, no, I'll go over there. He didn't
16 like believe it, you know. So then the cops came anyway and
17 they investigated it.

18 Q: All right. And do you know Lafayette Reed?

19 A: Yeah, I know him. Yeah.

20 Q: And where does he live?

21 A: He live right above Sam.

22 Q: Okay. And was he out there that evening?

23 A: He was out there.

24 Q: Okay.

25 A: He told me -- he says --

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 Q: Well, you can't tell me what he said.

2 A: Okay.

3 Q: Did you talk with the police officers that evening?

4 A: Yeah. I talked to them, yeah.

5 Q: Did you tell them what all happened?

6 A: Yeah. I told them what happened.

7 Q: Okay. Did they talk to other folks as well?

8 A: Yeah.

9 Q: Were there other people out there?

10 A: Right.

11 Q: Where did those people come from?

12 A: Well, they came up, you know, as we stood there talking,

13 you know. They kept coming up, you know.

14 Q: Okay. All right. So word got out pretty quick it was

15 him?

16 A: Right. Real quick.

17 Q: Okay. Now, what kind of road is that Phil Court?

18 A: Sandy road.

19 Q: Sandy road? Dirt road?

20 A: Right.

21 Q: Okay. All right. And is that -- is there a lot of

22 houses out there or are the houses scattered out a little bit?

23 A: It's kind of scattered out.

24 Q: Okay. All right. Sam -- did he have something there in

25 his house other than just where he lived? Was it also

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 something else?

2 A: Well, like -- like a little club like for birthday
3 parties and things like that.

4 Q: Okay.

5 A: That's what he had.

6 Q: And were you over there a lot?

7 A: Well, we visited each other quite a bit.

8 Q: Okay. Was -- do you know what kind of business was that?
9 Was that a cash business or a credit business or what? Do you
10 know? The little club?

11 A: It wasn't really like that.

12 Q: What else did he have out there on his property? Did he
13 have any animals?

14 A: Yeah. He got animals out there and that's about it.

15 Q: Did he have any kind of water out there?

16 A: Yeah. He had water, yeah.

17 Q: A fish pond?

18 A: A fish pond, yeah. He had all that, yeah.

19 Q: All right. And you say you were out there a lot?

20 A: We visited each other quite a bit.

21 Q: Okay. Did you know Marco Sanders before now -- before
22 this happened?

23 A: Not really.

24 Q: All right. Not really?

25 A: No.

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 Q: Did you know who he was?

2 A: Well, I seen guys be out there to help him work, you
3 know. That's about it.

4 Q: Okay. And where at? With the horses or with the fish
5 pond or what?

6 A: Well, cutting grass and stuff like that.

7 Q: All right. Had you ever seen Marco out there?

8 A: I never knew him.

9 Q: Okay. How about Tyrell?

10 A: I seen him, but I didn't know him really.

11 Q: Okay. Okay. All right. So you can't say if they were
12 ever out there or not?

13 A: No. I can't say it because I see guys out there working.

14 Q: Okay. All right.

15 MR. CLEMENTS: I beg the Court's indulgence a moment.

16 Q: Now, again I want to be sure. About how many shots did
17 you hear fired at you?

18 A: At me?

19 Q: Yeah.

20 A: Three I believe.

21 Q: Three at you? Did you hear any other shots other than
22 those three?

23 A: One more.

24 Q: One more?

25 A: One more.

EDDIE GODBOLD JR. - DIRECT BY MR. CLEMENTS

1 Q: Okay. All right. And you didn't see anybody else on the
2 property that you recognized or saw?

3 A: No one else.

4 Q: Okay. Thank you. Please answer any questions that the
5 defense may have for you.

6 THE COURT: Cross examination, Mr. Wilson.

7 MR. WILSON: Thank you very much.

8 CROSS EXAMINATION

9 BY MR. WILSON:

10 Q: Mr. Godbold, you said that you had been friends with Mr.
11 Rowell for a long time?

12 A: Right.

13 Q: And you visited his place fairly regularly?

14 A: Right.

15 Q: Okay. And -- and you said that you had seen people
16 working for him on the farm and out there and around --

17 A: Right.

18 Q: -- from time to time?

19 A: Right.

20 Q: Okay. Did you ever see Marco Sanders working out there
21 that you know of?

22 A: If I seen him, I didn't know him.

23 Q: You don't know him?

24 A: Right.

25 Q: Okay. And did the police ever show you a video or a

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

1 picture of the person and ask you if that was Marco Sanders?

2 A: They showed me a picture, but I told them I ain't know
3 who it was.

4 Q: Okay. So they showed you a picture and you told them
5 that you didn't know who the person was?

6 A: No. I couldn't tell, you know, the way it was taken.

7 Q: Okay. And, in fact, that night that you were there, you
8 never saw any faces of whoever it was that was inside the
9 house with Mr. Rowell?

10 A: No. I ain't never see them.

11 Q: Okay. And even when the guy, whoever it was, guy, girl,
12 whatever who came to the door and was shooting at you, you
13 don't even know who that was?

14 A: I couldn't say.

15 Q: Okay. And you didn't see what they were wearing?

16 A: No. I didn't take a chance to look to see that.

17 Q: Okay. You were just trying to get from around there?

18 A: Right.

19 Q: All right. And you said you ran then and hid around the
20 side of the house --

21 A: Right.

22 Q: -- so that they couldn't see you?

23 A: Right.

24 Q: And because when you entered, you had entered from the
25 side door. Is that where you were at when the shots were

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

1 fired at you?

2 A: I came from around in the back. I first went to the
3 front door.

4 Q: Okay.

5 A: Knocked on the door. He didn't answer so what I did was
6 I went around to the back door and knocked on that door. I
7 didn't get no answer there.

8 Q: Okay.

9 A: So as I was coming back around the house, the side door
10 there, that's when he called out.

11 Q: All right.

12 A: But the door was closed.

13 Q: All right.

14 A: And when he told me to open the door, I went to reach for
15 it and that's when I hear the shots go off.

16 Q: Okay.

17 A: That's when I taken off.

18 Q: Okay. Now, let me ask you about the -- the residence or
19 the little building there. Now, this was kind of like -- and
20 I think the solicitor asked you whether it was a cash kind of
21 club or -- this was a small, little club where people would
22 come, drink beer, whatever, hang out; is that right?

23 A: Yeah. Something like that.

24 Q: Okay. Did he sell liquor in there, too?

25 A: I never seen him selling liquor.

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

1 Q: Okay. You never saw them sell liquor in there?

2 A: Not no more. No. Like parties and they had parties
3 there.

4 Q: Okay. And they would have parties there and there would
5 be people who would -- well, when they have parties, would
6 people like rent the place out and have a party there? Is
7 that what would happen? Or would they just have like a party
8 and you'd come and pay a fee and come in?

9 A: It was like that, yeah.

10 Q: Yeah. You'd pay a fee and you'd come in and you can
11 participate?

12 A: Right.

13 Q: And now, during the time that -- that -- well, let me ask
14 you this way I guess. Had you ever gone to the club when
15 people -- other people were there?

16 A: Yeah. I been there.

17 Q: How many people? What's the most number of people that
18 you've ever seen in the club at any one time?

19 A: Well, most I seen there is about twenty or thirty.

20 Q: Twenty or thirty? All right. And they would be
21 basically sitting at tables or playing pool or --

22 A: Something like that.

23 Q: Things like that and drinking?

24 A: Yeah.

25 Q: Okay. All right. And -- and -- now, was that an

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

1 everyday thing or just on weekends or how -- how did that
2 work?

3 A: It wasn't an everyday thing.

4 Q: Okay.

5 A: No.

6 Q: All right. Do you know whether or not there was a party
7 or whether or not the club was open on July the 4th, which is
8 the day that this happened?

9 A: Well, I wouldn't know.

10 Q: I'm sorry?

11 A: On July the 4th, I wouldn't know.

12 Q: But you --

13 A: I was away.

14 Q: No. July 4th of 2012, the day that this incident
15 occurred.

16 A: Oh. There wasn't nobody there.

17 Q: There wasn't nobody there?

18 A: No.

19 Q: Okay. So you don't know whether the club was open
20 earlier in the day?

21 A: No.

22 Q: All right. Because when you get there, it's like -- what
23 -- nine? Nine thirty?

24 A: About nine.

25 Q: Or something like that?

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

- 1 A: Nine, yeah.
- 2 Q: Okay. And so when you got there, you didn't see any
3 other cars?
- 4 A: No. No other, just his truck.
- 5 Q: Just the truck?
- 6 A: Yeah.
- 7 Q: All right. Now, did you -- did you tell the police that
8 you also saw what you thought was a white Escalade SUV?
- 9 A: Yeah, I seen one. Yeah, but that -- that was down by --
10 by Lafayette's corner.
- 11 Q: You saw a white Escalade down by Lafayette Reed's house?
- 12 A: Right.
- 13 Q: Okay.
- 14 A: I didn't see the other one.
- 15 Q: And Lafayette Reed's house is how far from Mr. Rowell's
16 house?
- 17 A: About --
- 18 Q: Is that in-between where Ms. Bay-Bay's house is and where
19 --
- 20 A: Yeah.
- 21 Q: -- where Mr. Rowell's house is?
- 22 A: Yeah.
- 23 Q: And -- and you said earlier that Ms. Bay-Bay's house was
24 like -- what did you say? A quarter of a mile?
- 25 A: A little bit more than a quarter. A little more than a

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

1 quarter mile.

2 Q: Okay. And -- and so Mr. Lafayette Reed's would be closer
3 to Mr. Rowell's house than that?

4 A: Right. Right.

5 Q: Okay. And you say you saw this white SUV Cadillac
6 Escalade near Mr. -- now, where was that coming -- was that
7 when you were going to Mr. Rowell's house or were you coming
8 from Mr. Rowell's house when you saw the white Escalade?

9 A: I was going back toward Bay-Bay's house.

10 Q: Okay. You were on your way back to Bay-Bay's house?

11 A: Right.

12 Q: Was that when you were going to make a 9-1-1 call?

13 A: Right.

14 Q: Okay. All right. And so this car was meeting you or was
15 it behind you?

16 A: It was parked. It was backed up in a driveway.

17 Q: Backed up in the driveway where?

18 A: Just before you get to Lafayette's house.

19 Q: Okay. So it wasn't in the driveway or in the yard of Mr.
20 Rowell?

21 A: No.

22 Q: Okay. When you came to Mr. Rowell's house that evening
23 at the time that they fired the shots at you, somebody fired
24 some shots at you, was there any other vehicle other than Mr.
25 Rowell's white pickup truck in Mr. Rowell's yard?

EDDIE GODBOLD JR. - CROSS BY MR. WILSON

1 A: I didn't see any.

2 Q: You didn't see any other vehicles?

3 A: No.

4 Q: Other than Mr. Rowell's pickup truck?

5 A: Right.

6 Q: Is that right? Okay. All right. No other questions.

7 Thank you, sir.

8 THE COURT: Mr. Floyd, cross examination.

9 CROSS EXAMINATION

10 BY MR. FLOYD:

11 Q: Mr. Godbold, how are you today?

12 A: Pretty good.

13 Q: Good. When you tried to enter Mr. Rowell's house
14 immediately before you heard the gunshots, now which door was
15 it you tried to go into?

16 A: The front door.

17 Q: The front door?

18 A: Right.

19 Q: Okay. Did you get the door all the way open? Did you
20 open the door or did somebody else?

21 A: Which one?

22 Q: The front door that you were trying to enter the house.

23 A: I couldn't get in there.

24 Q: Okay. Did you open the door or did somebody else open
25 it?

EDDIE GODBOLD JR. - CROSS BY MR. FLOYD

- 1 A: Nobody opened it.
- 2 Q: Nobody opened it?
- 3 A: No.
- 4 Q: So when you heard the gunshots, the door was closed?
- 5 A: That wasn't the front door.
- 6 Q: Okay.
- 7 A: That was the side door.
- 8 Q: Okay. The side door?
- 9 A: Right.
- 10 Q: Okay. And that's what I was trying to get at.
- 11 A: Oh, okay.
- 12 Q: Immediately before you heard the gunshots, you were at
- 13 the side door; is that correct?
- 14 A: Right.
- 15 Q: Okay. Did -- did you actually open the door or did
- 16 someone else open it?
- 17 A: No, no, no, no. I didn't open the door. I say when I
- 18 went to reach for the door, I hear the shots.
- 19 Q: Okay.
- 20 A: That when I ran.
- 21 Q: And you ran?
- 22 A: Right.
- 23 Q: When you reached for the door?
- 24 A: Yeah. I hear the shots.
- 25 Q: Okay.

EDDIE GODBOLD JR. - CROSS BY MR. FLOYD

1 A: I didn't never open the door.

2 Q: All right. Did you actually -- were you aware of a
3 bullet coming through the door?

4 A: No.

5 Q: Okay. And then you ran and you heard two or three more;
6 is that correct?

7 A: Right.

8 Q: Okay. All right. Thank you very much.

9 A: Mm-hmm.

10 THE COURT: All right. Any redirect?

11 MR. CLEMENTS: No, Your Honor. We ask that Mr. Godbold
12 be released from his subpoena.

13 THE COURT: Any objection, Mr. Wilson?

14 MR. WILSON: No objections, Your Honor.

15 THE COURT: Mr. Floyd?

16 MR. FLOYD: No objections.

17 THE COURT: All right. Sir, you may step down and you're
18 free to go. You have no further responsibilities under your
19 subpoena. Thank you for being here.

20 THE WITNESS: All right. Thank you.

21 (Whereupon, a bench conference is held with the clerk off
22 the record.)

23 THE COURT: All right. Call your next witness.

24 MR. CLEMENTS: Your Honor, we'd call Ms. Alicia McGirt.

25 Would you step up and be sworn, Ms. McGirt?

ALICIA MCGIRT - DIRECT BY MR. CLEMENTS

1 THE CLERK: Ms. McGirt, if you would, come and let me
2 swear you in, please, ma'am. Do you solemnly swear or affirm
3 the testimony you are about to give in the trial of this case
4 shall be the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Thank you. You may take a seat in the
8 witness box.

9 ALICIA MCGIRT, being first duly
10 sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MR. CLEMENTS:

13 Q: Good morning, Ms. McGirt.

14 A: Good morning.

15 Q: Could you please tell this jury -- I'm going to stand
16 over here so you can be kind of focused towards them. Can you
17 please tell this jury where you work and what the nature of
18 your job is?

19 A: Marion County 9-1-1. We answer emergency and non-
20 emergency calls, which are recorded automatically when we
21 answer the phone.

22 Q: Okay. Now, are you a little nervous here? Have you ever
23 testified in court before?

24 A: No, sir.

25 Q: Okay. I'm going to ask you, if you will, to speak slowly

ALICIA MCGIRT - DIRECT BY MR. CLEMENTS

1 and speak up so that court reporter can get every word you say
2 and so everybody can hear you. Okay? So let me repeat and
3 make sure I got what you said. All right. You work for 9-1-1
4 and they take emergency calls and they're all automatically
5 recorded?

6 A: Yes, sir.

7 Q: Is that what you said?

8 A: Yes, sir.

9 Q: Okay. Were you working on the evening of July 4th, 2012?

10 A: Yes, sir.

11 Q: All right. Do you recall getting a phone call from the
12 lower part of the county?

13 A: Yes, sir.

14 Q: Regarding a shooting?

15 A: Yes, sir.

16 Q: Okay. And can you please tell this jury exactly how it
17 works with what you do and describe where you sit at while
18 you're working and what kind of machine are you guys working?

19 A: We have our CAD system, our phone system, and our map
20 system. When the phone rings, we answer it and then we CAD
21 our call and we dispatch who needs to go, law or EMS or the
22 fire department.

23 Q: Okay.

24 THE COURT: Hold on a minute. Does this lady need to
25 leave the courtroom? Does she need to leave the courtroom?

ALICIA MCGIRT - DIRECT BY MR. CLEMENTS

1 THE BAILIFF: She needs to go to the restroom.

2 THE COURT: All right. Let her go, please. Somebody
3 escort her out. Okay?

4 (Whereupon, there is a pause in the proceedings.)

5 THE COURT: All right. Mr. Clements, you may continue.

6 MR. CLEMENTS: Thank you, Your Honor.

7 THE COURT: I'm sorry.

8 Q: All right. Can you please tell the jury now one more
9 time how -- how it's set up with the phone and the map?

10 A: We have our phone system, our CAD, and our map, and when
11 we answer the call -- the call comes in, we answer it, and we
12 CAD the call in our CAD system, and then we dispatch who needs
13 to go.

14 Q: All right. And when -- when the phone call comes in,
15 does it automatically light up on your map where it's coming
16 from?

17 A: If it's working properly, it does.

18 Q: Okay.

19 A: Yes, sir.

20 Q: And -- and then when you take the call, does the recorder
21 automatically cut on?

22 A: Automatically.

23 Q: Okay. And when you got a call out to Phil Court, what
24 was that call about?

25 A: The caller stated that he went to visit his friend and he

ALICIA MCGIRT - DIRECT BY MR. CLEMENTS

1 went up to the door. Two guys or one guy came out and started
2 shooting at him and he ran.

3 Q: Okay. All right. And was all that recorded?

4 A: Yes, sir.

5 Q: Okay. And y'all maintain that in case law enforcement or
6 someone needs it later?

7 A: Yes, sir.

8 Q: Okay. Now, does that get reduced to like a CD or
9 something --

10 A: Yes, sir.

11 Q: -- on all of your system?

12 A: You have to request it.

13 Q: Yeah.

14 A: And they'll put it on a disk for you.

15 Q: Okay. And was it requested by law enforcement this time?

16 A: As far as I know, it was. Yes, sir.

17 Q: Okay. All right. I'm going to show you State's Exhibit
18 Number 4. Would this be what would be produced as a result of
19 law enforcement request?

20 A: Yes, sir.

21 Q: Okay. All right.

22 MR. CLEMENTS: Your Honor, at this time, we would ask
23 permission to publish this to the jury. I believe it's been
24 moved in evidence without objection by the defense.

25 THE COURT: All right. Anything?

ALICIA MCGIRT - DIRECT BY MR. CLEMENTS

1 MR. WILSON: No objections.

2 THE COURT: Mr. Floyd?

3 MR. FLOYD: No objections.

4 THE COURT: All right. Permission granted.

5 (Whereupon, the CD marked as State's Exhibit Number 4 is
6 played in open court. NOT TRANSCRIBED HEREIN.)

7 Q: All right. Ms. McGirt, was that you on the line there?

8 A: Yes, sir.

9 Q: Okay. All right. Please answer any questions Mr. Wilson
10 or Mr. Floyd may have.

11 THE COURT: Mr. Wilson, cross examination?

12 MR. WILSON: I don't have any questions.

13 THE COURT: Mr. Floyd?

14 MR. FLOYD: Your Honor, I don't either. Thank you.

15 THE COURT: Ma'am, you may step down. Thank you.

16 MR. CLEMENTS: Your Honor, we ask that she be released
17 from her subpoena.

18 THE COURT: Any objection?

19 MR. WILSON: No objections.

20 MR. FLOYD: No objection.

21 THE COURT: All right. Without objection, ma'am, you're
22 excused. You have no further responsibilities under your
23 subpoena. You're free to go. Thank you for being here. Call
24 you next witness, please.

25 MR. CLEMENTS: Your Honor, we'd call Officer Pike or

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 Officer Legette, whichever one is closest to the door. Your
2 Honor, we'd call Sergeant Pike.

3 THE COURT: All right.

4 THE CLERK: If you will, come here and let me swear you
5 in, please, sir. Place your left hand on the Bible and raise
6 your right. Do you solemnly swear or affirm that the
7 testimony you shall give in this case shall be the truth, the
8 whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you. Have a seat in the witness box.

11 GREGORY PIKE, being first duly
12 sworn, testifies as follows:

13 DIRECT EXAMINATION

14 BY MR. CLEMENTS:

15 Q: Can you please state your name and where you work and in
16 what capacity to the jury?

17 A: My name is Greg Pike. I'm a sergeant with the Marion
18 County Sheriff's Office.

19 Q: And how long have you worked with the Marion County
20 Sheriff's Office?

21 A: Since February of 2012.

22 Q: And how much experience beyond that do you have in law
23 enforcement?

24 A: I worked for the Mullins Police Department for six years
25 prior to that.

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 Q: Okay. Any other prior service in law enforcement with
2 the military or civilian life?

3 A: Military. I was 20 years military as a military
4 policeman.

5 Q: Okay. Did you have an occasion to be called out onto
6 Phil Court on the night of July 4th, 2012?

7 A: Yes, sir.

8 Q: And where did you receive the call from?

9 A: Central dispatch.

10 Q: Okay. And what was the nature of that call?

11 A: There was a possible home invasion. Somebody thought
12 that somebody had been shot inside his house.

13 Q: Okay. When you got to the scene there, do you recall
14 approximately about what time it was?

15 A: We got the call around 9:40 I believe and it probably
16 took me ten minutes to get there.

17 Q: Okay. All right. Were you the first one on the scene?

18 A: Yes, sir.

19 Q: Law enforcement? Who -- what did you find there when you
20 got there?

21 A: As soon as I stopped my car at the residence -- I was in
22 the road -- Mr. Godbold came running out to me and he said
23 that they were inside and they had just shot at him.

24 Q: Okay. All right. And were there any other folks there
25 with Mr. Godbold?

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 A: There was a couple of other people. I don't know who
2 they were. There was a couple other people there at that
3 time.

4 Q: Okay. Neighbors?

5 A: Yeah.

6 Q: Now, after Mr. Godbold told you that, what did you do?
7 How did you proceed?

8 A: He told me they were -- he came from the door on one of
9 the side of the houses and I went to that door and identified
10 myself as a sheriff's deputy and, you know, I was kind of
11 waiting. I advised my supervisor of what was going on.

12 Q: By radio?

13 A: Yes, sir, by radio.

14 Q: Okay.

15 A: And he said he was en route and I just -- I was waiting
16 for him.

17 Q: All right.

18 A: And then -- go ahead.

19 Q: And you said you advised who you were. Who did you
20 advise?

21 A: Well, I thought there was people in the house. I was
22 told there was two people in the house still.

23 Q: And so you just -- to whoever was there to hear you?

24 A: Yes.

25 Q: You didn't actually go in at that time?

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 A: No, sir.

2 Q: Okay. All right. So what did you do? Just remain
3 outside that side door?

4 A: Yes, sir. I stayed at the side door. I waited for my
5 backup to come.

6 Q: What could you observe there?

7 A: I could tell that the first room was a -- a narrow room
8 and right off the first room was another room and the door --
9 the doors were straight with each other. I could see into a
10 second room, but I couldn't see much into it.

11 Q: Okay. Did you notice anything on the outside of the
12 doors?

13 A: After a few minutes, I observed a shell casing laying on
14 the ground, and I threw my hat down just so I wouldn't forget
15 it and lose track of it. And then I found a second one near
16 the door of the house and I found a third one later on after
17 that.

18 Q: Okay. All right. Could you see anyone or anything in
19 the inside of the door?

20 A: Not -- not at the beginning. Then I started moving left
21 and right of the door to get a better view of inside the room
22 and at one time when I looked to my right, I saw the socked
23 feet by the doorway.

24 Q: Okay. Was there any lights on in the house?

25 A: No. I had a flashlight, but no, there was no lights on.

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 Q: No lights on on the inside?

2 A: No, sir.

3 Q: Any lights on the outside of the house?

4 A: I'm sure there was some street lights and stuff like
5 that, but I don't -- there was nothing that made it real
6 bright outside. So --

7 Q: Nothing close by to illuminate anything?

8 A: Just my flashlight.

9 Q: Okay. And that's how you found the shell casings with
10 your flashlight?

11 A: Yes, sir.

12 Q: Okay. So what did you do after you observed those and
13 marked where the shell casings were? What happened next?

14 A: Well, after that was when I saw the feet and I called out
15 again, you know, Marion County Sheriff's Office. They didn't
16 move or anything so I eventually eased my way up to the
17 doorway. I didn't cross the threshold except with my head and
18 I did a quick peek to my left and to my right, and that's when
19 I saw Mr. Rowell laying on the ground.

20 Q: So you like leaned in the door?

21 A: Yes, sir.

22 Q: Like this and looked --

23 A: Just my head.

24 Q: -- left and right?

25 A: Real quick.

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 Q: Yeah. Okay. And no response from Mr. Rowell?

2 A: No, sir.

3 Q: Okay. All right. So what did you do? Did you maintain
4 your position outside of the home?

5 A: I backed back up and advised dispatch to send EMS and
6 that was it. I just backed up and waited.

7 Q: Who -- who was the next officer on the scene?

8 A: That would be Sergeant Legette.

9 Q: Okay. All right. And did y'all begin to take any
10 statements or talk to people that were there at that time?
11 Did you?

12 A: I didn't take any statements. No, sir. He did, but I
13 did not.

14 Q: Okay. All right. And after Sergeant Legette came, who
15 else came?

16 A: Corporal Marion Richardson.

17 Q: Okay. And y'all were all on patrol duty that night?

18 A: That was the whole shift. Yes, sir.

19 Q: All three of you?

20 A: Yes, sir.

21 Q: Okay. And then from that point, who did you call? Who
22 else in law enforcement showed up after the three of you?

23 A: Sergeant Legette, him being the supervisor, he called
24 dispatch and had them call the on-call investigator and the
25 whole command staff came down.

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 Q: The whole command staff?

2 A: Yes, sir.

3 Q: Because of the seriousness of the crime?

4 A: Yes, sir.

5 Q: Okay. All right. Other than that, did you perform any
6 other duties of an investigative nature?

7 A: No, sir. We cleared the house, but that was about it.

8 Q: Okay. And when you say you cleared the house, can you
9 explain to the jury what you mean when you clear a house?

10 A: Once the other two deputies got down there, like I said,
11 I was told that there were some people still in the house so
12 we went into the residence to make sure there was nobody else
13 in there, and there was not so we backed out. We didn't touch
14 anything. We just backed out and waited for the investigators
15 to come in.

16 Q: Okay. Did you find anyone else in the house?

17 A: No, sir.

18 Q: Okay.

19 A: There was no one else in the house.

20 Q: Did you disturb anything?

21 A: No, sir. We didn't touch anything. Just, you know,
22 looked in closets, under beds, stuff like that.

23 Q: All right. After clearing the house, then did you do
24 anything? Do you carry a camera with you or anything of that
25 nature?

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 A: No, sir. I just -- I was protecting the crime scene to
2 make sure nobody went in.

3 Q: Did you put up any of that yellow crime scene tape?

4 A: No. Corporal Richardson did that.

5 Q: Okay. But y'all kept all the neighbors and --

6 A: Yes, sir.

7 Q: -- curious folks away?

8 A: No one got in the house.

9 Q: Okay. No one got -- did anybody go on the front porch or
10 anything like that?

11 A: No, sir.

12 Q: Okay. So y'all maintained the integrity of that scene?

13 A: Yes, sir.

14 Q: All right. And you, yourself, you didn't take any
15 photographs or anything?

16 A: No, sir.

17 Q: Okay. All right. Was that the end of your duties?

18 A: Pretty much.

19 Q: Regarding this?

20 A: Pretty much it was done.

21 Q: How long did you stay out there? You said you got there
22 around 9:40, something like that. Ten o'clock?

23 A: I was probably out there maybe an hour and a half -- two
24 hours. I mean I'm not really -- I -- it was kind of a long
25 night, but I -- once the command staff got down there, I had

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 to stay and show the coroner where the road was.

2 Q: Yeah.

3 A: Because it wasn't marked.

4 Q: Yeah.

5 A: And after he got there, I went back up and, you know,
6 resumed patrolling.

7 Q: And what kind of road was this?

8 A: A dirt road.

9 Q: Okay. I'm going to set up something and I'm going to ask
10 you if you can with the Court's permission step down from the
11 witness stand?

12 (Whereupon, State's Exhibit Number 2 is placed on an
13 easel in front of the jury.)

14 (Whereupon, the witness steps down from the witness
15 stand.)

16 THE COURT: Mr. Wilson and Mr. Floyd, feel free to get up
17 if you need to --

18 MR. FLOYD: Thank you, Your Honor.

19 THE COURT: -- while he's soliciting testimony from
20 Officer Pike.

21 MR. WILSON: Thank you, sir.

22 THE COURT: Yes, sir. Please identify the exhibit, Mr.
23 Clements.

24 MR. CLEMENTS: I will, Your Honor.

25 Q: Sergeant Pike, I'm showing you what's marked as State's

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 Exhibit Number 2, and I guess you can use this pen to point
2 with. Can you identify for this jury the two roads here in
3 this area?

4 A: This is -- this is Phil Court. This is the road I came
5 down. And this is Sandy Land Road. I know I was never on
6 that road that night.

7 THE COURT: Officer Pike, I think you're blocking the
8 view --

9 THE WITNESS: Oh.

10 THE COURT: -- of these jurors to my far right and your
11 far right.

12 MR. CLEMENTS: You can stand on this side.

13 A: This is Phil Court. That's the only road I was on that
14 night. This is Sandy -- Sandy Land Road. It kind of runs
15 parallel to Phil Court, but I was never on that road. I was
16 only on Phil Court.

17 Q: And you can see this direction. Where does this go?

18 A: Highway 9.

19 Q: Highway 9? Okay. And do you know about where Mr.
20 Rowell's house was?

21 A: It's right here.

22 Q: Right there?

23 A: Yes, sir.

24 Q: Okay. All right. Did you go to any other residence that
25 night? Any of the neighbors at all?

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 A: I slowed down at this residence and someone told me it
2 was farther down.

3 Q: Okay. All right. And you don't know who that would have
4 been, do you?

5 A: No, sir.

6 Q: Okay. All right. But that was Mr. Rowell's residence
7 right there?

8 A: Yes, sir.

9 Q: Okay. All right. Did you do anything around the
10 outskirts of the building or property at all?

11 A: No, sir.

12 Q: Okay. That was somebody else's job?

13 A: Yes, sir.

14 Q: Okay. All right. You can have a seat back there.

15 (Whereupon, the witness complies.)

16 Q: All right. I'm actually going to put one more exhibit up
17 while I got you.

18 (Whereupon, State's Exhibit Number 1 is placed on the
19 easel in front of the jury and the witness steps down
20 from the witness stand again.)

21 THE COURT: Watch your step.

22 Q: I'm showing you what's been marked State's Exhibit Number
23 1 and I'm going to ask if you can step down on this side. Can
24 you identify this area and these roads, like Highway 9 and
25 Phil Court and Sandy Land on this exhibit?

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 A: This would be Phil Court right here.

2 Q: Okay.

3 A: That's the way I came in and took a right on Phil Court
4 and that's how I got to the residence.

5 Q: All right.

6 THE COURT: Hold on a minute. Officer Pike, I know
7 you're not used to this, but you've got jurors that are seated
8 right there behind you. I want to make sure that everybody
9 can see. Okay?

10 Q: All right. And again, show us where Phil Court is?

11 A: This is Phil Court right here.

12 Q: All right.

13 A: I came down this way.

14 Q: Along here?

15 A: Yes, sir.

16 Q: Okay. Now, Sandy Land, does it --

17 A: Yes, sir.

18 Q: It dead-ends on Phil Court on one end and where on the
19 other end?

20 A: Highway 9.

21 Q: Highway 9? Okay. All right. Can you tell me where the
22 corner of Foxworth and Wahee would be on this map?

23 A: It would be -- there is Foxworth, and Wahee would be
24 right in here and there's the intersection.

25 Q: That's where they intersect right there?

GREGORY PIKE - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: Okay. So if you were to leave off of Phil Court, if you
3 could, please trace for me with that pen where -- what route
4 you would take and how you would get to the intersection of
5 Wahee and Foxworth?

6 A: You would just come back to Highway 9 and take a left.

7 Q: Could you go down Phil Court or Sandy Land either way?

8 A: Either one. Either one would get you out to Highway 9
9 and then you go up there to Foxworth Road.

10 Q: And it runs into Wahee right there?

11 A: Right there.

12 Q: Can you tell us approximately how long that is in miles?

13 A: Maybe ten, maybe fifteen. I've driven it many times, but
14 --

15 Q: You're not sure exactly how far it is? Okay. All right.
16 Thank you. So you don't know? That's just a pure guess as
17 far as distance?

18 A: Yes, sir.

19 Q: All right.

20 (Whereupon, the witness resumes the witness stand.)

21 MR. CLEMENTS: Sergeant Pike, please answer any questions
22 that Mr. Wilson or Mr. Floyd have.

23 THE COURT: Cross examination.

24 MR. WILSON: Thank you.

25 THE COURT: Mr. Wilson.

GREGORY PIKE - CROSS BY MR. WILSON

CROSS EXAMINATION

1
2 BY MR. WILSON:

3 Q: Sergeant Pike, you were the first officer there as far as
4 you know; correct?

5 A: Yes, sir.

6 Q: All right. And when you got there, as I understand it,
7 there were already at least two or more people there?

8 A: Yes, sir.

9 Q: All right. We know that Mr. Godbold was there, and do
10 you know who the other individuals were that were there?

11 A: No, sir.

12 Q: Okay. Well, did you ask any of them if they had gone
13 into the house or disturbed the scene in any way?

14 A: No, sir, I did not.

15 Q: Okay. To your knowledge, did any of the other officers
16 ask them that once they arrived?

17 A: I couldn't tell you. Not to my knowledge, no, sir.

18 Q: Okay. Now, as I understand it, when you arrived the door
19 was -- to the side door -- I mean I think we're referring to
20 the side door as being the door kind of to your right as
21 you're facing the house?

22 A: Yes, sir.

23 Q: And that door was already open --

24 A: Yes, sir.

25 Q: -- when you arrived?

GREGORY PIKE - CROSS BY MR. WILSON

1 A: Yes, sir.

2 Q: Okay. And was there some type of black metal frame to
3 that door?

4 A: Yes, sir. Like a gate -- gated door to it.

5 Q: Okay. And was that unhinged?

6 A: Partially.

7 Q: Okay. And it was like that when you arrived?

8 A: Yes, sir.

9 Q: And then inside the door -- was the door a wooden door or
10 a glass door that's inside that metal thing? Was that -- was
11 that wood or glass or what?

12 A: I believe it was wood. I don't believe there was like
13 glass that was like see-through or anything.

14 Q: Okay. Now, was that door damaged or broken to your
15 knowledge?

16 A: I don't recall.

17 Q: Okay. Now, when -- when -- you said at some point that
18 you were -- you were talking to someone and they said there
19 were two people in the house? Who said that?

20 A: Mr. Godbold. He said --

21 Q: Mr. Godbold?

22 A: Yes. Mr. Godbold.

23 Q: He told you that -- that there were two people in the
24 house?

25 A: He said -- yes, sir, there was two people in there and

GREGORY PIKE - CROSS BY MR. WILSON

1 they were shooting at him.

2 Q: Okay.

3 A: Or that they had just shot at him.

4 Q: And did he say who the two people were who was in the
5 house that was supposedly shooting at him?

6 A: No, sir.

7 Q: Okay. All right. And did he say two people were
8 shooting at him or that there was a person and -- and the
9 victim, Mr. Rowell, in the house?

10 A: He said there were two people in there shooting. There
11 were two people in there shooting and they just shot at him.

12 Q: Right. And there's no doubt in your mind he specifically
13 used the word two? That he said to you that there was two
14 people?

15 A: The best I can recall, yes. I mean -- yes.

16 Q: Okay. Did he ever tell you that he saw any person who
17 was in the house?

18 A: No. I didn't talk to him after that. My job -- I went
19 to the door to secure the crime scene.

20 Q: Okay. All right. Now, let's go back and talk for a
21 minute about the crime scene. Do you know who had been into
22 the house before you arrived? You said that it took you about
23 ten minutes. Once you got the call at 9:40 -- 9:41 from
24 dispatch, it took you probably ten minutes to get there and
25 when you arrived, as I understand it, Mr. Godbold was there

GREGORY PIKE - CROSS BY MR. WILSON

1 and at least one other person. Do you know whether or not it
2 was just one other person or whether or not there was more
3 than one other person in addition to Mr. Godbold present when
4 you arrived?

5 A: I believe there was two.

6 Q: Okay. So you think it was Mr. Godbold and two additional
7 people?

8 A: Yes, sir.

9 Q: Okay. But we don't know who those people were?

10 A: I do not know. No.

11 Q: Okay. And then -- and did you ask either of those people
12 if they saw anybody come or go from the house?

13 A: I did not. No.

14 Q: Okay. Did you get any indication from them as to whether
15 or not they had gone into the house to check on Mr. Rowell at
16 any point in time?

17 A: I did not ask them. Like I said, I went to the door to
18 try to secure the crime scene.

19 Q: Okay. Now, let me ask you this. Normally when you
20 arrive at a crime scene and you're the first officer, do you
21 put up a tape to try to keep people from going or do you wait
22 for the other officers to come before you do that?

23 A: We wait for other officers.

24 Q: Okay. And so how long after you arrived was it before an
25 additional officer or additional officers arrived?

GREGORY PIKE - CROSS BY MR. WILSON

1 A: It was eighteen minutes.

2 Q: Okay. So some twenty-eight minutes after you got the
3 call, you had help there?

4 A: Yes, sir.

5 Q: All right. And at that point in time, y'all cordoned off
6 the area with the tape?

7 A: Yes, sir.

8 Q: All right. Now, you said that you found three bullet
9 casings somewhere on the ground and you put your hat on one of
10 them to help you remember that that's where it was at?

11 A: Yes, sir.

12 Q: And then you found -- later found the other two?

13 A: Yes, sir.

14 Q: Okay. And -- and you -- did you retrieve those shells or
15 did you just show them to whoever was doing the collection?

16 A: I just showed them to my supervisor and that was it.

17 Q: Okay.

18 A: I picked up my hat.

19 Q: All right.

20 MR. WILSON: I don't think I have any other questions.

21 Thank you so much.

22 THE COURT: Mr. Floyd, cross examination.

23 MR. FLOYD: Your Honor, I don't have any questions for
24 Sergeant Pike.

25 THE COURT: Any redirect, Mr. Clements?

GREGORY PIKE - REDIRECT BY MR. CLEMENTS

REDIRECT EXAMINATION

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BY MR. CLEMENTS:

Q: You didn't see anyone go into the house at all; did you?

A: No, sir.

Q: All right.

MR. CLEMENTS: No further questions.

THE COURT: Mr. Wilson, anything else?

MR. WILSON: No, Your Honor.

THE COURT: Sir, you may step down. Thank you.

MR. CLEMENTS: We ask that he be relieved from his subpoena.

THE COURT: Any objection, Mr. Wilson?

MR. WILSON: No objections, Your Honor.

MR. FLOYD: No objection.

THE COURT: Without objection, sir, you're free to go. You have no further responsibilities under your subpoena. Thank you for being here. Yes, sir?

MR. CLEMENTS: Our next witness will be Sergeant Clemson Legette.

THE COURT: All right. Ladies and gentlemen, as he's -- as the next witness is coming up, is everybody in the jury okay? I told you we would go about an hour and a half to two hours and we've been going about an hour and a half. Anybody need a break? Okay. Go ahead and swear him.

THE CLERK: Place your left hand on the Bible and raise

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 your right hand. Do you solemnly swear or affirm the
2 testimony you are about to give shall be the truth, the whole,
3 truth, and nothing but the truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Thank you. You may have a seat in the
6 witness box.

7 CLEMSON LEGETTE, being first
8 duly sworn, testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. CLEMENTS:

11 Q: Can you please state your name?

12 A: Yes. Sergeant Clemson Legette II.

13 Q: Okay. Clemson like the university?

14 A: Yes, sir.

15 Q: Okay. And can you please tell the jury where you work
16 and what you do exactly?

17 A: I work for the Marion County Sheriff's Office. I'm a
18 shift supervisor and patrol sergeant. I check with my men to
19 get the jobs done.

20 Q: Now, can you explain exactly what a shift supervisor does
21 and over what period of time of the day and how many people
22 work with you on the shift?

23 A: I currently have two deputies under me, but I do insure
24 that they do their job. Like I said, make sure we do our jobs
25 of patrolling the area, answer calls, pass out paperwork,

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 serve warrants.

2 Q: Okay. And y'all are out during a particular time period?

3 How many shifts are there in a day?

4 A: We have two shifts, twelve-hour shifts. Day shift from 7
5 a.m. to 7 p.m. The night shift is from 7 p.m. to 7 a.m.

6 Q: So the three of y'all have to cover the whole county
7 during that time period?

8 A: Yes, sir.

9 Q: That keeps you hopping, doesn't it?

10 A: Yes, sir.

11 Q: All right. Were you working the evening of July the 4th,
12 2012?

13 A: Yes, sir, I was.

14 Q: Did you have an occasion to be called out to the scene of
15 a home invasion?

16 A: We had a call of a home invasion. Yes, sir.

17 Q: And where did you go?

18 A: Well, at the time I was processing -- someone had turned
19 themself in on a warrant so I was processing them, you know.

20 Q: At the jail?

21 A: Yes, sir. I was at the detention center.

22 Q: Okay. And that's when the call went out?

23 A: Yes, sir.

24 Q: Okay. And your shift went to it? Now, who was on your
25 shift that night?

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 A: We had PFC Gregory Pike and Corporal Marion Richardson.

2 Q: Okay. All right. And who was the first one on the
3 scene?

4 A: It was PFC Gregory Pike.

5 Q: Okay. And then who -- who was next on the scene?

6 A: I came next.

7 Q: Okay. And then who came next?

8 A: Corporal Richardson right after I did.

9 Q: Okay. All right. And after y'all got on scene and get
10 it secured, who do you alert or call in?

11 A: I advised central dispatch to notify the command staff,
12 which is our administrative staff, and advise what had
13 happened.

14 Q: Okay. Due to the seriousness of the crime?

15 A: Yes, sir.

16 Q: All right. Now, when you arrived on the scene, Pike was
17 first and you were second, how many civilian people were there
18 when you got there, if you know?

19 A: As I recall, it was possibly -- I would say three --
20 excuse me -- four or five I would say at least.

21 Q: And where were they when you came up? Were they close to
22 the house, in the house or away from the house?

23 A: They was away from the house.

24 Q: Okay. All right. To your knowledge, while you were
25 there when you arrived on the scene after Pike and you stayed

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 approximately how long?

2 A: At the scene, approximately -- I'd say possibly an hour,
3 an hour and a half, two hours.

4 Q: During that time period, did anybody go in and out of
5 that crime scene?

6 A: Other than the officers and investigators, other than
7 that, nobody else.

8 Q: Okay. So no civilian personnel?

9 A: No, sir.

10 Q: All right. Now, when you got there to provide backup to
11 Pike, tell this jury exactly what you did?

12 A: We got in. As I recall, we cleared the house. We
13 checked the house for any -- to see if anyone else was in
14 there. Possibly the suspects was in there. Once we cleared
15 it, I had the officers -- I had Corporal Richardson do what we
16 call a crime scene log for everybody that comes in and out,
17 and we took pictures of Mr. Rowell.

18 Q: Okay. And did you put up crime scene tape?

19 A: Yes, sir.

20 Q: Okay. You took pictures of Mr. Rowell?

21 A: Yes, sir.

22 Q: Okay. Now, did you talk to anybody out there on the
23 scene that night?

24 A: I talked to Mr. Eddie Godbold.

25 Q: Okay. All right. And did you talk to anyone else?

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 A: That was the only one.

2 Q: That was the only one you talked to?

3 A: Yes, sir.

4 Q: Okay. Did you take a written statement from him?

5 A: Yes, sir.

6 Q: Okay. Did you take a written statement from anyone else?

7 A: No, sir. Only Mr. Godbold.

8 Q: Okay. All right. Now, after you took a statement from

9 him and you got pictures of Mr. Rowell and cleared the house,

10 what did y'all do as patrol officers? What was your duty on

11 the crime scene?

12 A: We stayed at the scene until the command staff got there

13 and investigators.

14 Q: Okay. And about how long did it take the investigators

15 to arrive on scene?

16 A: Within twenty -- thirty minutes I would say.

17 Q: All right. And did the whole command staff come out?

18 A: Yes, sir.

19 Q: Okay. And after they got there, what did you do as far

20 as controlling the scene or commandeering the scene? Did you

21 relinquish that to someone else or did you continue to take

22 care of that?

23 A: I was asked by one of my supervisors to just go to the

24 end of the road to make sure nobody goes in and out the road

25 at the time.

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 Q: And that was the end of which road?

2 A: Phil Court.

3 Q: What about Sandy Land Road?

4 A: Sandy Land and Phil Court at the intersection of that.

5 Q: At that intersection?

6 A: Yes, sir.

7 Q: And that was approximately how far from Mr. Rowell's
8 house?

9 A: I would say to my estimation it was less than a mile.

10 Q: Less than a mile?

11 A: Yes, sir.

12 Q: So it was a short distance?

13 A: Yes, sir.

14 Q: Okay. So you didn't go all the way out to Highway 9; you
15 just went just to the intersection?

16 A: The intersection, yes, sir.

17 Q: Okay. All right. And as you controlled vehicle traffic
18 in and out of there, was there a lot of vehicle traffic then?

19 A: No, sir.

20 Q: Okay. Just law enforcement?

21 A: Law enforcement.

22 Q: EMS?

23 A: Yes, sir.

24 Q: Okay. All right. I'm going to ask you, if you would,
25 please step down.

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 (Whereupon, the witness complies.)

2 (Whereupon, State's Exhibit Number 1 is placed on an
3 easel in front of the jury.)

4 Q: What area of the county do you live in?

5 A: I stay in what we call the Zone 3 area. That's midway to
6 the lower part of the county.

7 Q: All right. And what -- what area is -- where Mr. Rowell
8 lived, this neighborhood, what area was that in?

9 A: That would be called classified Zone 3 and that would be
10 the Friendship area.

11 Q: I'm going to ask you, if you would, to stand on this side
12 over here so all these jurors can see and not be blocked. Can
13 you -- I guess you can use that. That's the longest thing I
14 got.

15 (Whereupon, the witness is handed a pen.)

16 Q: Can you point out to this jury whereabouts the crime
17 scene was?

18 A: (Indicating)

19 THE COURT: What exhibit is that, Mr. Clements? What
20 exhibit is that?

21 MR. CLEMENTS: That's Exhibit Number 1, Your Honor.

22 THE COURT: Thank you.

23 Q: In that area?

24 A: Yes, sir.

25 Q: And where is the intersection of Sandy Land Road and Phil

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 Court?

2 A: (Indicating)

3 Q: Right there? Okay. Are you familiar with the

4 intersection of Wahee and Foxworth?

5 A: This is Foxworth and right there is Wahee.

6 Q: So right there?

7 A: That's Wahee and Foxworth.

8 Q: Okay. Do you know about how far that is? If you don't,

9 that's fine, but your closest guess?

10 A: My closest guess, that would be in -- I think I would say

11 about five miles.

12 Q: About five miles?

13 A: Right.

14 Q: All right. Is this an area of the county you live in?

15 A: Well, actually I stay about around this area.

16 Q: Okay. All right. So you're pretty close to that area?

17 A: Yes, sir.

18 Q: Okay. So you say that's approximately five miles?

19 A: Yes, sir.

20 Q: Okay. All right. You can have a seat.

21 (Whereupon, the witness resumes the witness stand.)

22 Q: Sergeant Legette, that evening did you go to any other

23 locations along Phil Court or anywhere else?

24 A: That was it. On Phil Court, that was it and the

25 intersection there.

CLEMSON LEGETTE - DIRECT BY MR. CLEMENTS

1 Q: And the intersection right there?

2 A: Yes, sir.

3 Q: And Mr. Rowell's house?

4 A: Yes, sir.

5 Q: Okay. All right. You didn't talk to anyone else other
6 than Mr. Godbold?

7 A: Mr. Godbold was the only one, like I said.

8 Q: All right. That would have been somebody else's job at
9 that scene rather than you as patrol supervisor?

10 A: No. At the time, that was the other deputies who talked
11 to them.

12 Q: Okay. All right. Please answer any questions Mr. Wilson
13 or Mr. Floyd may have for you.

14 THE COURT: Cross examination, Mr. Wilson.

15 MR. WILSON: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. WILSON:

18 Q: Sergeant, that night you were the second officer to
19 arrive or third?

20 A: Second.

21 Q: Second?

22 A: Yes, sir.

23 Q: And when you arrived, then you would have been the senior
24 officer present at that point?

25 A: Yes, sir.

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 Q: All right. And it would have then been your
2 responsibility to secure the scene, kind of make sure that
3 everything was going the way that it's supposed to go, make
4 sure that the crime scene doesn't get contaminated any
5 further, and that kind of thing; right?

6 A: Well, usually we have the officers on the scene be the
7 ones to --

8 Q: Well, you were the senior officer there at that time?

9 A: I was the sergeant, but he was the first officer on the
10 scene.

11 Q: So that would have been Sergeant Pike? Would that have
12 been his responsibility? Is that what you're saying?

13 A: He was the first officer. Yes, sir.

14 Q: Okay. So when -- so if it wasn't done when you got
15 there, then what? If it hadn't been secured and the tape
16 hadn't been put up and Sergeant Pike was there, I mean what
17 happens then?

18 A: Then I guess I'll be the one to make sure it gets done.

19 Q: Okay. Well, that's what I'm asking.

20 A: Yes, sir.

21 Q: Once you arrived, you would have been the senior person
22 present and you would have been in charge at that point?

23 A: Yes, sir.

24 Q: Fair?

25 A: Yes, sir.

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 Q: All right. And so when you got there, you said that you
2 spoke to Mr. Godbold at some point; right?

3 A: Yes, sir.

4 Q: And -- and you were speaking to him to try to find out as
5 best you could what had occurred -- what had transpired prior
6 to your arrival?

7 A: Yes, sir.

8 Q: Fair? All right. And in the process, he told you that
9 somebody had shot at him; right?

10 A: Yes, sir.

11 Q: Did he ever tell you that there were two people inside
12 the house?

13 A: I can't recall for sure or not because I guess when the
14 shooting happened, he just --

15 Q: Ran?

16 A: -- ran for cover.

17 Q: Let me ask you this. Did you do some kind of report? An
18 incident report? Did you do one?

19 A: Yes, sir.

20 Q: All right. And would that help you remember what he told
21 you that night if you looked at it perhaps?

22 A: Yes, sir.

23 Q: Okay.

24 MR. WILSON: May I?

25 THE COURT: Yes, sir.

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 Q: And before you read anything off of it, I just want you
2 to look at it, and I'm going to show it to the solicitor.

3 A: Yes, sir.

4 Q: And I need to ask you can you identify that as being your
5 report first?

6 A: Yes, sir.

7 Q: All right.

8 (Whereupon, there is a pause in the proceedings as
9 counsel confer.)

10 Q: And let me hand this back to you. I'm just asking you to
11 look at that to refresh your memory about what he told you.
12 Is there anywhere in there where you indicated he told you
13 that there were two people inside the house?

14 A: No, sir.

15 Q: Okay. And, in fact, you also took a written statement
16 from Mr. Godbold; correct?

17 A: Yes, sir.

18 Q: Where you had him sign it. Let me show you that and ask
19 you to take a look at that and don't tell me other than can
20 you identify what that is.

21 A: Yes, sir.

22 Q: Okay. Let me show it to the solicitor, please.

23 MR. CLEMENTS: No objection, Your Honor. If he wants
24 that submitted into evidence, we don't have any objection.

25 MR. WILSON: I don't want to introduce it. I just want

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 him to refresh his memory.

2 THE COURT: Go ahead.

3 Q: Have you seen that before or have you not?

4 A: Yes, sir.

5 Q: All right. And that was a statement you took from Mr.
6 Godbold?

7 A: Yes, sir.

8 Q: All right. Now, just all I need to ask you is is there
9 anywhere in there where he tells you that there were two
10 people in the house?

11 A: No, sir.

12 Q: And based on everything that you know at that time or
13 knew at that time, did you know how many people were in the
14 house?

15 A: No, sir.

16 Q: I'm talking about back on -- on the night of July the 4th.

17 A: No, sir.

18 Q: All right. And let's talk for a minute about the crime
19 scene itself. Now once you arrived, you said that there were
20 four or five other people present. Now, I assume that
21 includes Mr. Godbold; correct?

22 A: Yes, sir.

23 Q: And those four or five people -- did you talk with those
24 people to find out if any of the four or five of them had been
25 inside that house at any point in time before you arrived?

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 A: I think if I recall, Sergeant Pike had talked -- maybe
2 talked with Mr. Godbold, and Mr. Godbold was the one on the
3 scene when it occurred.

4 Q: Okay.

5 A: So I think with the other four, I'm not sure about them.

6 Q: Okay. Now once you arrived, did you then put up the --
7 the crime scene tape in order to keep people from going into
8 the house?

9 A: After we cleared the house, we took pictures of what had
10 occurred inside the house. A crime scene was set up. I think
11 that was with Corporal Richardson.

12 Q: Okay. Now, did you ever have a conversation with Mr.
13 Lafayette Reed?

14 A: I may have spoke to him briefly.

15 Q: Okay. Did you ask him whether or not he had gone into
16 the house before you arrived?

17 A: I don't recall asking him that.

18 Q: Okay. Well, let me ask you this. Would it be important
19 during -- when you come to secure the crime scene, would it be
20 important to know who has been in or out of the house since
21 the time the offense or crime or whatever it was was
22 committed?

23 A: Yes, sir.

24 Q: All right. And if someone had been in that house before
25 you arrived other than the perpetrators, you would want to

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 know that?

2 A: Yes, sir.

3 Q: Okay. And the reason that you would want to know that is
4 because then those people's prints or shoe prints or
5 footprints or whatever might be there even though they had
6 nothing to do with it?

7 A: Correct.

8 Q: All right. And so you would want to talk to those people
9 to find out about those things?

10 A: Yes, sir.

11 Q: All right. Now, what I'm asking you is in your
12 conversations with Mr. Reed, did he indicate to you that he
13 had been into the house?

14 A: I don't recall him saying he had been in the house. I
15 don't recall him being in there.

16 Q: Okay. All right. Now, do you recall any talk from Mr.
17 Reed or from Mr. Godbold about a white Cadillac?

18 A: Yes, sir.

19 Q: Okay. And did you ever find a white Cadillac or did you
20 have any part in looking for a white Cadillac?

21 A: Well, at the time we was at the scene so we didn't leave
22 the scene. So I was just at the scene.

23 Q: Let me ask you in regards to Mr. Rowell's house, had you
24 ever been there prior to on a call or whatever or just knowing
25 him? Had you ever been there prior to July the 4th?

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 A: No, sir. It was my first time.

2 Q: Did you know where it was at?

3 A: Yes, sir.

4 Q: All right. Did you know that there was a club or a
5 business or a juke joint or whatever you want to call it that
6 was at that location?

7 A: No, sir. I just know --

8 Q: You didn't know that?

9 A: -- from the call it just was a house.

10 Q: Okay.

11 A: Just from going past it.

12 Q: All right. So the first you knew that it was that kind
13 of an establishment was when you went there to do the crime
14 scene?

15 A: Yes, sir.

16 Q: Okay. And -- and there's no question the way -- well,
17 let me ask you this way first. Did you actually go into the
18 house at some point?

19 A: Yes, sir.

20 Q: All right. And so did you get a chance to survey and
21 look around the rooms in the house?

22 A: Yes, sir.

23 Q: Okay. And is there any question in your mind that this
24 was, in fact, some kind of a business, a juke joint or a club
25 or whatever you want to call it? People call them different

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 names, but all the same thing pretty much.

2 A: Pretty much it was.

3 Q: Okay. There were tables and chairs and -- and liquor and
4 beer and cigarettes and all those kinds of stuff?

5 A: Yes, sir.

6 Q: Okay. All right. And you said that you stayed about an
7 hour or an hour and a half at this -- at this location?

8 A: An hour and a half -- two hours.

9 Q: Okay. An hour and a half to two hours and then you said
10 that the command staff showed up at that point?

-11 A: Yes, sir.

12 Q: Is that right?

13 A: Yes, sir.

14 Q: Now, when -- once y'all set up and the command staff --
15 and how large is the command staff?

16 A: We have the sheriff, the chief deputy, the captain, our
17 lieutenants.

18 Q: Okay. So several people?

19 A: Yes, sir.

20 Q: And there were already three officers there prior to the
21 command staff coming?

22 A: Yes, sir.

23 Q: Fair?

24 A: Yes, sir.

25 Q: And then the command staff comes and they bring what?

CLEMSON LEGETTE - CROSS BY MR. WILSON

1 Four or five more so now you've got seven or eight officers at
2 least?

3 A: At least.

4 Q: At least there. And this is before SLED actually
5 arrives?

6 A: Yes, sir.

7 Q: All right. Now, did y'all have a crime scene log so that
8 you knew who was coming in and out of the house and whether or
9 not they were tracking or leaving tracks or leaving stuff? Do
10 you have any kind of a system or did you have any kind of a
11 system in place so that you knew who came in and when they
12 came in and when they left and what they did while they were
13 there?

14 A: Yes, sir.

15 Q: Okay. And where is that? Where is that log?

16 A: I had Corporal Richardson to do with that log.

17 Q: Corporal Richardson would have that?

18 A: Yes, sir.

19 Q: All right. And -- and so how many of -- those seven or
20 eight or nine officers that we just talked about, how many of
21 those officers actually went into that house and went through
22 the house?

23 A: You had the three of us as the patrol officers. I would
24 say you had at least three of the command staff. As far as
25 the SLED agents, I'm not sure.

CLEMONS LEGETTE - CROSS BY MR. WILSON

1 Q: Okay. So you're saying at least six --

2 A: Yes.

3 Q: -- local law enforcement officers --

4 A: At least.

5 Q: -- went through there and then in addition to that, how
6 many other SLED officers there were there?

7 A: I'm not sure on the SLED officers.

8 Q: Okay. All right. Did -- did y'all find some footprints
9 either in the house or in the yard adjacent to the house? Do
10 you recall?

11 A: I don't recall about the footprints off the top of my
12 head.

13 MR. WILSON: No other questions. Thank you, sir.

14 THE WITNESS: Yes, sir.

15 THE COURT: Mr. Floyd, any questions?

16 CROSS EXAMINATION

17 BY MR. FLOYD:

18 Q: Sergeant Legette, in the incident report Mr. Wilson just
19 showed you dated July the 5th, 2012, is that the only report --
20 written report that you prepared --

21 A: Yes, sir.

22 Q: -- in regards to this investigation?

23 A: Yes, sir.

24 Q: Okay. After you spent the time there immediately after
25 the incident was reported, did you do any further

CLEMSON LEGETTE - CROSS BY MR. FLOYD

1 investigation on this particular case?

2 A: No, sir, Your Honor. Oh, no, sir. I just -- I said we
3 left it to the investigators.

4 Q: That was it?

5 A: Yes, sir.

6 Q: Okay. And you prepared this on the 5th of July; is that
7 correct?

8 A: Yes, sir. At the office. Yes, sir.

9 Q: Which would have been the day after the incident?

10 A: It was after midnight when I made it back to the office.
11 Yes, sir.

12 Q: Okay. Did -- did you make notes while you were on the
13 scene that you used to prepare this or did you just prepare it
14 from memory?

15 A: With the statement that what we -- and our findings,
16 stuff like that.

17 Q: All right. So you didn't make notes; you just did it
18 when you got back to the office?

19 A: Well, wrote down what was found. Then I said go with the
20 statement from Mr. Godbold.

21 Q: Okay. All right. Thank you very much.

22 A: Yes, sir.

23 THE COURT: Any redirect?

24 MR. CLEMENTS: Just a little.

25 REDIRECT EXAMINATION

CLEMSON LEGETTE - REDIRECT BY MR. CLEMENTS

1 BY MR. CLEMENTS:

2 Q: Mr. Wilson was asking you about a written statement you
3 took from Mr. Godbold?

4 A: Yes, sir.

5 Q: Is that it?

6 A: Yes, sir.

7 Q: And Mr. Wilson was asking about it being a Cadillac
8 Escalade?

9 A: Yes. Escalade.

10 Q: That wasn't exactly what was said; was it?

11 A: It said what appeared to be.

12 Q: Appeared?

13 A: Yeah.

14 Q: Appeared like?

15 A: Yes, sir.

16 Q: Okay. But nobody ever said it was?

17 A: Nobody said it. Nobody was sure.

18 Q: All right. And Mr. Wilson kept asking you about two
19 people being in the house. If Mr. Rowell was in the house
20 shot and the person that shot him is in the house, how many
21 people is that?

22 A: Two.

23 Q: Okay. And if I was -- if you would come up to my house
24 and I was to holler out at you, Clemson, open the door, he's
25 robbing me, how many people would that be?

CLEMSON LEGETTE - REDIRECT BY MR. CLEMENTS

1 A: Just two.

2 Q: If I said he's robbing me, how many people?

3 A: You and him. That would be two, yes.

4 Q: But only how many robbing?

5 A: Just one is robbing him.

6 Q: Okay. But if I was to say to you, they're robbing me,
7 how many people would that be?

8 A: That's more than one.

9 Q: More than one; right?

10 A: Yes, sir.

11 Q: Okay. I just wanted to clear that up.

12 MR. CLEMENTS: I don't have any further questions.

13 THE COURT: Mr. Wilson?

14 MR. WILSON: I don't have any questions.

15 MR. FLOYD: Nothing further.

16 THE COURT: All right. Sir, you may step down.

17 THE WITNESS: Thank you.

18 THE COURT: Can the lawyers approach for just a minute
19 while he's stepping down?

20 (Whereupon, a bench conference is held off the record.)

21 THE COURT: All right. Ladies and gentlemen, it is now
22 about one o'clock. We're going to stop for lunch. I have
23 asked the clerk and she has gone and done what I asked her to
24 do and that is order lunch for you all. I've been advised
25 that it is here. I am going to ask you to step to the jury

1 room. Do not discuss the case during your lunch break. Do
2 not discuss the case. I'll give you sufficient time to eat
3 and we're going to resume the trial of this case. Okay? Do
4 not discuss the case. You can step to the jury room right
5 now.

6 (Whereupon, the jury exits the courtroom at 12:54 p.m.)

7 THE COURT: All right. Anything from the State before we
8 break?

9 MR. CLEMENTS: No, Your Honor.

10 THE COURT: Mr. Wilson, anything before we break?

11 MR. WILSON: No, sir.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: No, Your Honor.

14 THE COURT: All right. At 1:45, we'll resume the trial
15 of this case.

16 (Whereupon, there is a break in the proceedings from
17 12:55 p.m. until 1:55 p.m.)

18 THE COURT: Anything from the State before I bring the
19 jury out?

20 MR. CLEMENTS: No, Your Honor.

21 THE COURT: Mr. Wilson?

22 MR. WILSON: No, sir.

23 MR. FLOYD: No, sir.

24 THE COURT: Okay.

25 (Whereupon, the jury enters the courtroom at 1:55 p.m.)

26

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 THE COURT: All right. Mr. Clements? Mr. Saleeby?

2 MR. SALEEBY: May we proceed, Your Honor?

3 THE COURT: Yes, sir. Call your next witness.

4 MR. SALEEBY: The State would call Dr. Lee Marie Tormos
5 to the stand. Doctor, please come around and be sworn.

6 THE CLERK: Place your left hand on the Bible and raise
7 your right. Do you solemnly swear or affirm that the
8 testimony you are about to give in this case shall be the
9 truth, the whole truth, and nothing but the truth, so help you
10 God?

11 THE WITNESS: I do.

12 THE CLERK: Thank you. Have a seat in the jury box.

13 DR. LEE MARIE TORMOS, being
14 first duly sworn, testifies as follows:

15 DIRECT EXAMINATION

16 BY MR. SALEEBY:

17 Q: Would you tell us your name, please?

18 A: My name is Dr. Lee, L-E-E, Marie, M-A-R-I-E, last name
19 Tormos, T-O-R-M-O-S.

20 Q: We may need you to speak up a little bit or to turn the
21 volume up a little bit.

22 A: How do I do that? I'll speak up.

23 Q: All right. Okay. Well, I think your voice carries
24 pretty well. Doctor, if you would, just tell the ladies and
25 gentlemen of the jury where you work and what kind of work you

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 do?

2 A: Sure. I am a forensic pathologist in the autopsy
3 division of the Medical University of South Carolina.

4 Q: And are you also on the faculty of the Medical
5 University?

6 A: I am a -- I am an assistant professor at the Medical
7 University of South Carolina.

8 Q: I would like you, please, to tell the jury about your
9 education and your training in the field of pathology.

10 A: Absolutely. I became a doctor in 2003 at the University
11 of Puerto Rico in San Juan, Puerto Rico, and then I did my
12 specialty training, which is an additional four years in
13 pathology. Now, pathology is the area that studies disease
14 and how the aging process and diseases affect the body and
15 causes death. Afterwards, after graduation I worked as a
16 medical examiner in Puerto Rico for two years before
17 relocating to the -- to Charleston, South Carolina, where I
18 pursued my sub-specialty degree in forensic pathology. I
19 became board certified in that sub-specialty degree in 2011
20 and have been on staff at the Medical University ever since.

21 Q: Board certified in 2011?

22 A: Mm-hmm. And board certified in forensic -- in regular
23 pathology and anatomic pathology in 2009.

24 Q: How many autopsies have you performed over your career,
25 Doctor?

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 A: Over a thousand.

2 Q: And have you been qualified to testify in courts such as
3 the one that you're appearing in today?

4 A: Yes, sir.

5 MR. SALEEBY: Your Honor, we would submit for the Court
6 that Dr. Tormos would be well-qualified to testify in the
7 field of forensic pathology.

8 THE COURT: Mr. Wilson? '

9 MR. WILSON: I just have a couple of questions.

10 THE COURT: All right. Go ahead.

11 THE WITNESS: Sure.

12 DIRECT EXAMINATION RE: EXPERT QUALIFICATION

13 BY MR. WILSON:

14 Q: Doctor, have you ever testified in a trial before?

15 A: Yes, sir.

16 Q: Okay. How many times have you testified?

17 A: About ten.

18 Q: Okay. And were those in the state of South Carolina?

19 A: Yes, sir.

20 Q: Okay. And those times that you were -- that you
21 testified, were you qualified as an expert in the field of
22 forensic pathology?

23 A: Yes, sir.

24 Q: All ten times?

25 A: All ten times.

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 MR. WILSON: I don't have any other questions.

2 THE COURT: Mr. Floyd?

3 MR. FLOYD: Nothing further.

4 THE COURT: Anything further, Mr. Saleeby?

5 MR. SALEEBY: No, sir. I'd just like to continue.

6 THE COURT: All right. Let me give them an instruction
7 on --

8 MR. SALEEBY: Yes, sir.

9 THE COURT: -- those qualifications. Ladies and
10 gentlemen, normally a person cannot give opinion testimony.
11 Normally, when a person testifies, they must testify as to
12 what they either saw, heard or sensed by smell or something of
13 that nature. However, there is an exception when someone is
14 qualified because of education or experience. They are
15 permitted to give their opinion in certain areas if the Court
16 qualifies them that way.

17 This particular witness will be qualified in the area of
18 forensic pathology to give opinion testimony in that area.
19 That does not mean that you must accept the opinion, but it is
20 evidence for you to use in any way that you see fit and give
21 it the weight and credibility that you believe is appropriate.

22 Mr. Saleeby?

23 CONTINUED DIRECT EXAMINATION

24 BY MR. SALEEBY:

25 Q: Dr. Tormos, the first thing I'd like you to explain to us

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 is what the field of pathology, generically speaking, is all
2 about.

3 A: General pathology?

4 Q: Yes.

5 A: Okay. General pathology is a specialty within the
6 medical field, and we study diseases. We help doctors
7 interpret laboratory tests and how they can affect the
8 prognosis of a particular illness, and we also use other
9 special training -- sorry -- special testing such as DNA
10 testing and molecular testing to study the effects of illness
11 on the body and how these may lead to death.

12 Q: Would you now tell us about the thing that you're board
13 certified as a specialist in, forensic pathology?

14 A: Okay. Forensic pathology takes that study of illness and
15 how it affects the body and eventually causes disease and
16 takes it one step further, and we are actually able to
17 interpret injuries to the body, poisonings and things of that
18 nature, that also lead to death and specifically taking into
19 consideration that most of the cases that we see as a forensic
20 pathologist have some sort of medical legal ramification and
21 will possibly eventually end up in court.

22 Q: You mentioned before that you have conducted over a
23 thousand autopsies.

24 A: Mm-hmm.

25 Q: I'd like you to tell us generally speaking how you go

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 about conducting an autopsy.

2 A: Okay. An autopsy in general -- it starts with an
3 external -- well, first the case is referred to us. In South
4 Carolina, the case is referred to us by the coroner. Once the
5 body arrives, we establish identification of the body.
6 Usually, the coroner provides the identification and then we
7 take the body for a -- to the autopsy room for examination.

8 We perform the detailed external examination, documenting
9 everything from birthmarks to scars to injuries to the
10 external aspect of the body. We document things such as hair
11 color, eye color, and anything of significance on the body,
12 and then we proceed with the internal examination.

13 The internal examination is a surgical procedure that we
14 undertake to examine the body from the inside, and we evaluate
15 each organ, we weigh, we take microscopic sections if
16 necessary. We also do ancillary testing such as blood
17 cultures or take vitriol samples for electrolyte testing. We
18 take samples for DNA, and we may even do fingerprinting and
19 things like that.

20 Q: Now specifically speaking, did you have the occasion to
21 perform an autopsy on Samuel Rowell on Thursday, July the 5th,
22 2012?

23 A: Yes, sir.

24 Q: And where did that take place?

25 A: That took place in the autopsy room at the Medical

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 University of South Carolina in Charleston.

2 Q: And was a SLED agent present at the time that you
3 conducted that autopsy?

4 A: Yes.

5 Q: And do you have in your notes a record of who that person
6 was?

7 A: I will tell you in a second. Kukila N. Stanley.

8 Q: Kukila Stanley?

9 A: Mm-hmm.

10 Q: And I will -- I will ask you this question later, but if
11 you collected certain items at the autopsy for future testing,
12 what did -- what did you do with regard to giving those to Ms.
13 Stanley?

14 A: Ms. Stanley observed as I took all the collected items
15 off of the body, packaged them in individual containers, and
16 then she immediately took possession and signed and I was able
17 to sign over with chain of custody to Kukila Stanley.

18 Q: You took the items off the body?

19 A: I personally took the items off the body.

20 Q: And you packaged the items?

21 A: I packaged the items myself.

22 Q: And then you handed them to her?

23 A: Yes.

24 Q: All right.

25 A: And she was observing the entire procedure in the autopsy

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 room.

2 Q: Let's talk about Mr. Sam Rowell. Can you tell us what
3 your external examination showed us in terms of his -- his
4 race, his age, his height, his weight?

5 A: Okay. Okay. His external examination -- he was a
6 normally developed adult black male, which appeared consistent
7 with the stated age of approximately 70 years. He measured 72
8 inches in length so he was six feet tall and weighed 238
9 pounds. The body was relatively well-preserved with only
10 postmortem changes due to the heat of the summer and there was
11 some skin slippage, which is a sign of early decomposition.

12 Q: Can you tell us how he was dressed?

13 A: He was dressed in a light blue polo shirt, navy blue
14 pants with a black leather-like belt. He had on white brief
15 underwear and a white undershirt and he was wearing a pair of
16 white socks.

17 Q: Was a hat sent with him?

18 A: A grey cap inscribed with "The Eclectic." It was with
19 the body inside the body bag, but not on his head.

20 Q: And he was wearing a blue polo shirt?

21 A: Yes, sir.

22 Q: Did he have any shoes on his feet?

23 A: He did not have any shoes on.

24 Q: Did he have anything on this feet?

25 A: He had a pair of white socks.

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 Q: And can you tell us what the condition of those socks
2 was?

3 A: The socks were dirty on the bottom, but they were not
4 significantly stained.

5 Q: Dirty, but not -- but not stained?

6 A: Yes. Nor -- nor torn.

7 Q: Did he have a wallet or any ID on his person?

8 A: No, he did not. Personal effects on the body were \$22.19
9 in cash that were in the front left pocket of the pants, and
10 there was a penny adhered to the forearm on the skin.

11 Q: \$22 in the front left pocket?

12 A: Yes.

13 Q: No shoes, some socks, dirty but not stained?

14 A: Yeah.

15 Q: All right. How about telling us what the condition of
16 his body was, external examination, in terms of being bound or
17 restrained?

18 A: Okay. His hands were bound behind his back. The way I
19 found them is his left forearm was all the way across his
20 waist on the back and his right arm was extended and both
21 wrists were tied together with brown fiber rope and abundant
22 duct tape wound around the wrists. There was a bit of rope
23 in-between so he did have a little bit of motion. They were
24 not bound together tightly, but both wrists were individually
25 bound.

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1 Q: Behind his back?

2 A: Behind his back.

3 Q: Tell us about his legs, please?

4 A: His legs were tightly bound together with duct tape right
5 -- right above the ankles, and there was a distance of about
6 yay high where there were about seven loops of duct tape on
7 the lower legs.

8 Q: What about his -- above his neck?

9 A: Above his neck, he had a gag. He had --

10 Q: A gag?

11 A: A gag, yes. He had --

12 Q: And how was that bound? How was that secured?

13 A: White brief underwear were partially stuffed inside the
14 mouth. It was an ineffective gag, and then that brief
15 underwear had duct tape across the brief underwear and behind
16 his neck.

17 Q: You -- you said it was an ineffective gag. Please
18 explain what you mean by that.

19 A: The -- it was ineffective because the gag was not fully
20 inserted into the mouth and it was just overlying the teeth;
21 so he was able to probably open his mouth, but it -- it was
22 not bunched up inside his mouth significantly.

23 Q: He would have been able to open his mouth to some extent?

24 A: To some extent, yes.

25 Q: Did he have any wounds?

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1 A: On the body, he had a 1 $\frac{3}{4}$ by 1 inch triangular abraded
2 contusion on the left forehead right above the left eyebrow.
3 Q: Okay. Let's -- let's slow down a little bit with that
4 and give me those dimensions again?
5 A: It's 1 $\frac{3}{4}$ by 1 inch.
6 Q: And you said it was abraded?
7 A: It's abraded.
8 Q: What's that mean?
9 A: That means it's scraped.
10 Q: It's what?
11 A: It's a scrape.
12 Q: A scrape?
13 A: Yeah.
14 Q: And you said it was a contusion, and what's that mean?
15 A: That means it's a bruise. So it's -- it's scraped on the
16 skin, but it's also a bruise.
17 Q: So a bruise and a scrape on his right forehead?
18 A: On his left forehead.
19 Q: Left forehead. And what would that be consistent with?
20 A: That would be consistent with being hit with a triangular
21 or rectangular object such as the corner of a two-by-four, the
22 butt of a pistol, the edge of a table, things of that nature.
23 Q: And would this have been a blow that would have been
24 inflicted before the fatal shot?
25 A: Very likely. The injury had evidence of pre-mortem

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1 hemorrhage and the bleeding in the soft tissues can only
2 happen if the heart is beating. Therefore, he had a -- he
3 sustained that blow to the forehead before he was shot.

4 Q: So pre-mortem would be before death?

5 A: Before death, yes.

6 Q: All right. Did he have any other wounds?

7 A: He had three punctures to the right antecubital fossa.

8 So right here, right where you would have a blood draw, he had
9 three punctures, skin punctures, sort of like an injection
10 site or a blood draw site.

11 Q: How about injuries to his head?

12 A: Just the -- the subgaleal contusion which is really the
13 bruise that's underlying the forehead abrasion.

14 Q: All right. And were there any gunshot wounds? I guess I
15 should have asked you that before.

16 A: Oh, yes.

17 Q: All right. Please tell us about that?

18 A: Okay. This person had a gunshot wound right to the crown
19 of the head, to the top of the head, right half an inch to the
20 right of midline. It was a contact or a soft contact gunshot
21 wound, relatively small, and the gun -- the projectile
22 traveled in a downward position and ended up near his brain
23 stem, and it caused all sorts of hemorrhage and destruction
24 along the bullet pathway. It was a single gunshot wound to
25 the top of the head.

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1 Q: Based on what you observed, could you draw a conclusion
2 as to the proximity of the barrel of the weapon that fired
3 that fatal shot to the top of Mr. Rowell's head?

4 A: Yes. The -- the wound characteristics, that being that
5 there is abundant soot around the entrance of the gunshot
6 wound and on the soft tissues -- the superficial soft tissues
7 of the head, tell me that the gun was very close or touching
8 the scalp.

9 Q: How about explain to the jury, first of all, what you
10 mean by contact and soft contact?

11 A: Contact or soft contact means that the gun is being held
12 to the skin or less than half an inch from the skin, but it is
13 not being pressed hard into the skin. When you press hard,
14 what happens is not only does the -- does the projectile come
15 out of the barrel of a gun, but you also have burning
16 gunpowder and you also have soot, and when it is a hard
17 contact, then that hot air that is being expelled along with
18 the projectile travels under the tissues and it would lacerate
19 the edges.

20 When it's a soft contact, meaning that the gun is very,
21 very close or touching -- lightly touching the scalp, what
22 happens is the soot is deposited right on the surface, but it
23 has an area to escape between the muzzle of the gun and the --
24 and the skin surface and, therefore, those lacerations do not
25 occur.

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 Q: Now, you've talked about soot --

2 A: Mm-hmm.

3 Q: -- being on the outside of the wound in the bullet
4 pathway.

5 A: Mm-hmm.

6 Q: What is soot?

7 A: Soot is the smoke that comes from the combustion inside
8 the chamber. That is the combustion that expels the -- the
9 projectile and makes it go out of the barrel.

10 Q: And you described the pathway of the bullet being what
11 again?

12 A: The pathway of the bullet is downwards, slightly left and
13 slightly backwards.

14 Q: Did you take any x-rays during the course of your autopsy
15 that would help you show us the path of that projectile a
16 little bit better?

17 A: Absolutely. It is part of the autopsy examination.

18 Q: I'm going to show you State's Exhibit Number 29 for
19 identification and just ask you if that's an x-ray that you
20 made and if you can use it to illustrate your testimony?

21 A: This is an x-ray I ordered, yes.

22 MR. SALEEBY: We move this introduction at this time,
23 Your Honor..

24 THE COURT: Any objection?

25 MR. WILSON: I have no objection, Judge.

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 MR. FLOYD: No objection.

2 THE COURT: Without objection. What's the exhibit
3 number, Mr. Saleeby?

4 MR. SALEEBY: Your Honor, it is Number 29, sir.

5 THE COURT: 29 admitted without objection.

6 Q: Doctor, I'm going to hold this up.

7 A: Mm-hmm.

8 Q: And if you can, perhaps you can point or if you need to
9 step down and get closer to the jury, you determine it. Can
10 you show us what's on -- what this shows you in terms of
11 projectile path?

12 A: Okay. This is a lateral x-ray of the head. You can see
13 that his nose would be right around here. This is his mouth.
14 That is a dental implant that he had on the lower jaw. This
15 would be his -- the bones in his neck. These are his
16 shoulders. What you see up here, that's a slight defect of
17 the crown of the head that I'm telling you about. That's the
18 entrance through the skull, that fracture, and you see all
19 those teeny-tiny projectiles that are being cast off by the
20 metal bullet. These delineate the bullet pathway. So you see
21 it is going downward and into the base of the neck, and that
22 white irregular object right there, that's the projectile at
23 the base of the skull.

24 Q: Did you recover that projectile?

25 A: Yes, I did.

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1 Q: I'm going to show you what's been marked for
2 identification as State's Exhibit Number 30 and ask you if you
3 will take a look at this and tell us if you can identify it.
4 Do you need any gloves?

5 A: I have gloves here.

6 Q: Okay.

7 A: Okay. This is the pack -- the packaging that I put the
8 projectile in, and that is my handwriting that says projectile
9 on the identification label.

10 Q: Go ahead, if you can, and take it out.

11 (Whereupon, the witness complies.)

12 A: Mm-hmm. Yes.

13 Q: Dr. Tormos, what can you identify that as being?

14 A: This is a gray metal projectile.

15 Q: And where did it come from?

16 A: It came from the decedent's skull.

17 Q: And is this substantially in the same condition as when
18 you removed it?

19 A: Yes.

20 MR. SALEEBY: Your Honor, at this time, we move for the
21 introduction into evidence of State's Exhibit Number 30.

22 THE COURT: Any objection, Mr. Wilson?

23 MR. WILSON: No objections.

24 THE COURT: Mr. Floyd?

25 MR. FLOYD: No objection.

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 THE COURT: Without objection, State's Exhibit Number 30
2 admitted into evidence.

3 Q: Doctor, if you keep your gloves on, I've got a couple
4 other things I'm going to show you, but I'd like you to tell
5 the jury what kind of damage that bullet did to Mr. Rowell's
6 brain.

7 A: Okay. When the bullet -- first, the bullet perforates
8 the scalp and it creates bleeding around the entrance. Then
9 is fractures the skull at the top of the head, and then it
10 goes right through the brain with destruction and hemorrhage
11 along the bullet pathway. Now, because it was half an inch to
12 the right of midline, basically what happened is it went
13 through the right hemisphere of the brain, crossed over at the
14 midline, and ended up near the brain stem.

15 When you receive a bullet in a soft tissue such as the
16 brain, which has the consistency of Jell-o, what happens is
17 the energy displacement forms a cavity and it gives a whole
18 lot of hemorrhage to those tissues. There was hemorrhage
19 inside the brain and there was destruction near the brain
20 stem. So this would likely have been an immediately
21 incapacitating gunshot wound.

22 Q: And by immediately incapacitating, do you mean death or a
23 time -- a time before death?

24 A: I mean that once he sustained this gunshot wound, he was
25 very likely immediately dead.

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1 Q: And so, Doctor, I know you've answered this in one way,
2 but I have to ask this question. Based upon your autopsy, do
3 you have a medical opinion satisfactory to yourself as to what
4 caused the death of Mr. Sam Rowell?

5 A: Mr. Sam Rowell died of a gunshot wound to the head.

6 Q: Now, as part of your standard operating procedure, did
7 you run toxicology tests to determine if there were any
8 foreign substances in Mr. Rowell?

9 A: Yes. Mr. Rowell had two substances in his blood. He had
10 caffeine --

11 Q: Caffeine?

12 A: -- and --

13 Q: Like comes in Coke and coffee?

14 A: Coca-Cola, coffee. If they test, most of us would
15 probably give positive for caffeine, too. And he had
16 cotinine, and cotinine is a derivative of nicotine.

17 Q: Nicotine?

18 A: So he had a -- he had a cigarette that day, but not
19 immediately before he was shot. Otherwise, we would see
20 nicotine and we're only seeing the -- the metabolite.

21 Q You said Ms. Stanley was there during the course of your
22 -- through the course of your autopsy?

23 A: Mm-hmm.

24 Q: And you removed and bagged things and then handed them to
25 her?

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1 A: Mm-hmm.

2 Q: I'm going to show you State's Exhibit Number 31 and ask
3 you if you can identify this as the duct tape that came off of
4 Mr. Rowell's head?

5 A: Given the chain of custody, this is probably the duct
6 tape that was removed from his head. I see that it has been
7 processed for fingerprints, which is why there's this black
8 substance on the duct tape.

9 Q: Let me show you State's Exhibit Number 36 for
10 identification and ask you if you can identify that as the gag
11 used on Mr. Rowell?

12 A: That's my chuck. It has been written on and processed,
13 but I do believe these are the brief underwear that were being
14 used as a gag.

15 Q: Can you identify those as the ones that you took and
16 handed to SLED?

17 A: I'm sorry?

18 Q: Are those the ones that you took and handed to SLED?

19 A: Very probably.

20 Q: Very probably?

21 A: Yes.

22 Q: We'd have to talk with SLED about that. Okay.

23 A: Yeah. They -- they processed them.

24 Q: So is it --

25 A: But this is the packaging from our autopsy room so -- the

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 package on the outside is different.

2 Q: It looks different now that's it been treated for
3 fingerprints?

4 A: It's been treated for lots of things.

5 Q: All right. Let's put it in here. 31 you gave to Ms.
6 Stanley? 36 you gave to Ms. Stanley?

7 A: Mm-hmm.

8 Q: All right. I'll show you State's Exhibit Number 35 and
9 ask you if this is consistent with the duct tape you took off
10 of the hands of Mr. Rowell?

11 A: Yes. This would -- this messy one would be the one that
12 came from around his wrists. He had the hands tied with rope
13 first and then the duct tape was wound around the wrists and
14 around the -- and around the rope so it was stuck up on itself
15 like that, very thin folds and messy.

16 Q: So that's a little distinctive?

17 A: It -- this one is distinctive, yes.

18 Q: That is the one you took off his hands?

19 A: Yeah.

20 MR. SALEEBY: Your Honor, we'd move for the introduction
21 of State's Exhibit Number 35.

22 THE COURT: Any objection, Mr. Wilson?

23 MR. WILSON: No, sir.

24 THE COURT: Mr. Floyd?

25 MR. FLOYD: No objection.

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 THE COURT: Without objection, State's Exhibit Number 35
2 admitted into evidence.

3 Q: And finally, Doctor, I will show you State's Exhibit
4 Number 33 --

5 A: Mm-hmm.

6 Q: -- which I ask you if that's the tape you took off of his
7 legs?

8 A: Let's see. Again, it's been processed, but you can see
9 the -- this one is more orderly and this is the section that
10 was wound around the legs, and it was wound about seven times
11 over -- overlapping the one before, but not necessarily all
12 the way. So this is the one that was around the -- the lower
13 legs.

14 Q: And you can identify it as being the one that you
15 removed?

16 A: Yes.. It has been processed.

17 MR. SALEEBY: Your Honor, we would move to enter that as
18 State's Exhibit Number 33.

19 THE COURT: Any objection?

20 MR. WILSON: No, sir.

21 THE COURT: Mr. Floyd?

22 MR. FLOYD: No objection.

23 THE COURT: Without objection, State's Exhibit 33
24 admitted into evidence.

25 Q: So, Doctor, if I understand you correctly, the ones

DR. LEE MARIE TORMOS - DIRECT BY MR. SALEEBY

1 you've identified are because they were distinctive the way
2 they were packaged as to each enough to identify, but the
3 other -- the thing that came off of his head and the gag,
4 because of processing SLED would have to tell us about the
5 processing?

6 A: Yes. It -- while the gag was stained with body fluids,
7 that yellow discoloration is likely from processing by law
8 enforcement.

9 Q: It wasn't yellow when you --

10 A: It was not yellow when I --

11 MR. SALEEBY: Thank you, Doctor. Please answer any
12 questions that counsel has for you.

13 THE COURT: Cross examination, Mr. Wilson.

14 CROSS EXAMINATION

15 BY MR. WILSON:

16 Q: Doctor, I have a couple of questions. You -- your
17 testimony today is essentially that you received the body of
18 Mr. Rowell and you performed an autopsy?

19 A: That is correct. I received the body and I performed an
20 autopsy.

21 Q: And as a result of that autopsy, you determined that the
22 cause of death was a gunshot wound to the head?

23 A: That is correct.

24 Q: Now, do you have any information, any at all, as to who
25 killed Mr. Rowell?

DR. LEE MARIE TORMOS - CROSS BY MR. WILSON

1 A: No, sir, I do not.

2 Q: Do you have any evidence or any idea as to whether or not
3 Mr. Marco Sanders is the person who shot Mr. Rowell?

4 A: I have no idea.

5 Q: Okay. And were you sent any information indicating to
6 you that Mr. Sanders was the person who shot Mr. Rowell?

7 A: No, sir.

8 MR. WILSON: I don't have any other questions. Thank
9 you.

10 THE COURT: Mr. Floyd?

11 MR. FLOYD: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. FLOYD:

14 Q: Dr. Tormos --

15 A: Yes.

16 Q: How are you today?

17 A: Good.

18 Q: Good. You identified the bullet you retrieved in the
19 autopsy as a small caliber bullet in your opinion?

20 A: Yes.

21 Q: Is that correct?

22 A: Yes.

23 Q: What do you consider a small caliber?

24 A: About a .22 or a .25 or less.

25 Q: .22, .25 or less?

DR. LEE MARIE TORMOS - CROSS BY MR. FLOYD

1 A: Yes.

2 Q: Okay. All right. And also, you mentioned I believe some
3 rope binding; is that correct? You found some rope binding
4 --

5 A: Yes.

6 Q: -- around the wrists?

7 A: Yes.

8 Q: Is that correct?

9 A: Yes.

10 Q: Did you put that into evidence?

11 A: It was in evidence with the duct tape.

12 Q: Okay. Was that presented to you here?

13 A: It was not presented to me.

14 MR. FLOYD: Thank you very much.

15 MR. SALEEBY: I have one more question. Ms. Stanley?

16 Ms. Stanley?

17 (Whereupon, Ms. Stanley stands.)

18 REDIRECT EXAMINATION

19 BY MR. SALEEBY:

20 Q: Is this Kukila Stanley, the SLED agent that was there
21 during your autopsy, if you recall?

22 A: I do believe.

23 Q: All right. Thank you.

24 A: She's dressed differently.

25 THE COURT: Anything else, Mr. Saleeby?

26

1 MR. SALEEBY: No, sir.

2 THE COURT: Mr. Wilson?

3 MR. WILSON: No, sir.

4 THE COURT: Mr. Floyd?

5 MR. FLOYD: No, Your Honor.

6 THE COURT: You may step down, Doctor.

7 THE WITNESS: Thank you.

8 MR. SALEEBY: Your Honor, next is Ms. Stanley. Can she
9 be excused?

10 THE COURT: Any objection, Mr. Wilson, to this lady
11 doctor being excused?

12 MR. WILSON: We may want to call her later, but I don't
13 have any objection to her leaving today.

14 THE COURT: All right. I'm going to allow you to leave
15 today, but you still may be recalled in the trial of this
16 case. Okay?

17 THE WITNESS: Okay.

18 THE COURT: Thank you for being here.

19 THE WITNESS: Thank you.

20 MR. SALEEBY: Your Honor, the State would call Kukila
21 Stanley.

22 THE COURT: All right.

23 THE CLERK: Place your left hand on the Bible and raise
24 your right hand. Do you solemnly swear or affirm the
25 testimony you are about to give shall be the truth, the whole,

KUKILA STANLEY - DIRECT BY MR. SALEEBY

1 truth, and nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Thank you. You may have a seat in the
4 witness box.

5 KUKILA STANLEY, being first duly
6 sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. SALEEBY:

9 Q: Tell us your name, please, ma'am?

10 A: My name is Kukila Nicole Stanley.

11 Q: And who do you work with?

12 A: I work with the South Carolina Law Enforcement Division,
13 also known as SLED.

14 Q: How long have you worked with them?

15 A: I've worked with SLED almost nine years.

16 Q: And you've worked in different parts of SLED I believe?

17 A: Yes, I have.

18 Q: Please tell us what different divisions of SLED you
19 worked in?

20 A: For the first five years of my career at SLED, I worked
21 in the drug analysis department where I analyzed evidence for
22 the identification of controlled substances. Currently, I am
23 employed with the crime scene unit. I also worked as a latent
24 print examiner in the crime scene unit.

25 Q: Now, did you have -- did you respond in July of 2012 to

KUKILA STANLEY - DIRECT BY MR. SALEEBY

1 Phil Court in Marion County?

2 A: No, I did not.

3 Q: All right. What was your participation in this
4 particular investigation limited to?

5 A: I responded to the autopsy of the victim at MUSC in
6 Charleston.

7 Q: Were -- did you see the lady who left -- just left here?

8 A: Yes, I did.

9 Q: And was Dr. Tormos the one who conducted the autopsy?

10 A: Yes.

11 Q: All right. Did she remove the items from Mr. Rowell?

12 A: Yes, she did.

13 Q: All right. What did you do? Did you take prints or do
14 anything with him?

15 A: Yes. I collected major case prints from him and I also
16 collected a GSR, which is a gunshot residue kit, from the
17 victim.

18 Q: You took prints from Mr. Rowell?

19 A: Yes, I did.

20 Q: All right. This has been admitted into evidence as
21 State's Exhibit Number 40, and just to confirm, would you take
22 a look at these and tell us if these are the prints that you
23 took at the autopsy?

24 A: Yes.

25 Q: And what did you do with all of the items that you got at

KUKILA STANLEY - DIRECT BY MR. SALEEBY

1 the autopsy?

2 A: All of the items that I took from autopsy, I took it back
3 to SLED, and then I did a chain of custody with the case agent
4 to transfer the evidence into her custody.

5 Q: And who was the case agent?

6 A: Sabrina Fellers.

7 Q: Among those items was there State's Exhibit Number 30,
8 which has been admitted into evidence, a projectile?

9 A: Yes.

10 Q: State's Exhibit Number 36, which was identified as a gag,
11 is this an item that you received from the doctor?

12 A: Yes, it was.

13 Q: Okay. How can you tell us that? What helped you tell
14 us?

15 A: I can tell based on the lab number and also the way that
16 the item is packaged. That's how I received it from autopsy.

17 Q: Did you receive any duct tape during the autopsy?

18 A: Yes, I did.

19 Q: I'm going to show those to you and make sure we have the
20 State's exhibit numbers. State's Exhibit Number 33 I think
21 which is identified as being duct tape from the feet -- can
22 you identify that as something you received?

23 A: Yes.

24 Q: And how could you -- how can you be sure that that's the
25 one that you got there?

KUKILA STANLEY - DIRECT BY MR. SALEEBY

1 A: This is the lab -- it has the lab number associated with
2 this case.

3 Q: And I believe Number 33 is in evidence. And State's
4 Exhibit Number 35, which was identified as duct tape from the
5 hands, can you identify that as being something you received
6 at the autopsy?

7 A: Yes.

8 Q: And what helps you identify that?

9 A: It also has the lab number associated with this case.

10 Q: And finally, State's Exhibit Number 31?

11 A: Yes. And it also has the lab number associated with this
12 case.

13 MR. SALEEBY: Your Honor, at this point in time, we would
14 move for the introductions of 31 and 36, duct tape that came
15 from the head and the gag.

16 THE COURT: Any objection, Mr. Wilson?

17 MR. WILSON: No, sir.

18 MR. FLOYD: No objection.

19 THE COURT: Without objection, State's Exhibit 31 and 36
20 are admitted into evidence.

21 MR. SALEEBY: Ms. Stanley, that's all the questions I've
22 got. Please answer any questions counsel has for you.

23 THE COURT: Cross examination, Mr. Wilson.

24 CROSS EXAMINATION

25 BY MR. WILSON:

KUKILA STANLEY - CROSS BY MR. WILSON

1 Q: Let me ask you now, did you get some fingernail clippings
2 from the autopsy?

3 A: Yes, I did.

4 Q: Okay. And were they fingernail clippings from the -- the
5 body of Mr. Rowell?

6 A: Yes.

7 Q: Okay. And --

8 MR. SALEEBY: Let me get that out of your way.

9 Q: Did you -- did you take those fingernail clippings of Mr.
10 Rowell to SLED and request that they be analyzed?

11 A: I did take them to SLED, but I was not the one that
12 issued a request for analysis.

13 Q: Okay. Do you know who issued the request for the actual
14 analysis of those fingerprint -- of those fingernail
15 clippings?

16 A: If one was made, it would have been the case agent,
17 Sabrina Fellers.

18 Q: Okay. And Ms. Fellers is the person that you turned
19 these items over to once you received them from the autopsy?

20 A: Yes.

21 Q: Okay. Now, to your knowledge, were the fingernail
22 clippings of the -- of Mr. Rowell ever examined or ever
23 analyzed to see what was underneath?

24 A: I'm not sure.

25 Q: All right. Now, you said at some point that you were a

KUKILA STANLEY - CROSS BY MR. WILSON

1 crime scene person; is that correct?

2 A: I'm currently a crime scene investigator, yes.

3 Q: All right. And tell us kind of what a crime scene
4 investigator or specialist does. What -- what is the role of
5 the crime scene investigator?

6 A: Our responsibility is to respond to scenes as we are
7 requested by local, state, and federal agencies. We process
8 the crime scene to identify any evidence related to the scene.
9 We photograph the evidence, and we are also responsible for
10 attending autopsies as needed.

11 Q: Okay. And -- and -- and in accord with that, you
12 actually did attend the autopsy of Mr. Rowell?

13 A: Yes, I did.

14 Q: All right. Now, I noticed you said that the tape that
15 you saw was packaged, and I think they were items 31, 33, and
16 I think 35. And now, did you have any markings on those
17 packaging other than the fact that it was in a SLED envelope
18 or a SLED package? Did you have any special markings like
19 your initials or anything on the packaging before it was
20 sealed?

21 A: I personally didn't package any of the evidence. Upon
22 leaving autopsy, all of the evidence is packaged individually
23 and it's labelled by the pathologist.

24 Q: Okay. All right. Have you met Mr. Sanders before?

25 A: No, I have not.

KUKILA STANLEY - CROSS BY MR. WILSON

1 Q: All right. And you're not here telling us that Mr.
2 Sanders had anything to do with this as far as you know?

3 A: No, I am not.

4 Q: All right.

5 MR. WILSON: I don't think I have any other questions.
6 Thank you.

7 THE COURT: Mr. Floyd?

8 MR. FLOYD: Your Honor, I don't have any questions.

9 THE COURT: Any redirect?

10 MR. SALEEBY: No, sir. Your Honor, I'd ask that she be
11 excused.

12 THE COURT: You may step down. Thank you.

13 MR. SALEEBY: Your Honor, at this time, we'd call Sabrina
14 Fellers to the stand.

15 THE COURT: Hold on. Any objection to her being excused?

16 MR. WILSON: No, sir.

17 MR. FLOYD: No, no objections.

18 THE COURT: Ma'am, you're free to go. You have no
19 further responsibilities under your subpoena. Thank you for
20 being here today.

21 (Whereupon, a bench conference is held in the presence of
22 the jury but out of the hearing of the jury as follows.)

23 MR. SALEEBY: This next witness is going to be lengthy.
24 I don't know if they need a break or not.

25 (Whereupon, the bench conference ends.)

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1 THE COURT: All right. Ladies and gentlemen on the jury,
2 I've been advised -- Mr. Saleeby just advised me this is going
3 to be a lengthy witness. Anybody -- everybody okay? Anybody
4 need a break? All right. Go ahead.

5 MR. SALEEBY: Your Honor, we'd call Sabrina Fellers to
6 the stand. Ms. Fellers, please come around and be sworn.

7 THE CLERK: Place your left hand on the Bible and raise
8 your right hand. Do you solemnly swear or affirm the
9 testimony you are about to give shall be the truth, the whole,
10 truth, and nothing but the truth, so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Thank you. You may have a seat in the
13 witness box.

14 SABRINA FELLERS, being first duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. SALEEBY:

18 Q: Tell us your name, please, ma'am?

19 A: Sabrina Fellers.

20 Q: And what part of this state do you live in?

21 A: The low country.

22 Q: And how long have you lived in South Carolina?

23 A: Five and a half years.

24 Q: Who do you work for?

25 A: I work for the South Carolina Law Enforcement Division,

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1 commonly referred to as SLED.

2 Q: And how long have you worked with SLED?

3 A: Five and a half years.

4 Q: All right. What kind of work have you done for SLED?

5 A: Prior to March of this year, I was employed as a crime
6 scene investigator in the forensic laboratory, as a crime
7 scene --

8 Q: And since March?

9 A: Since March, I've been assigned to the special victims
10 unit and vulnerable adult investigations.

11 Q: All right. And do you do that work on a regional basis?
12 The crime scene?

13 A: Yes. It's concentrated closer to the low country.

14 Q: And how long did you work in the crime scene unit at
15 SLED?

16 A: Just over five years.

17 Q: And do you have any other prior experience in law
18 enforcement working on crime scenes?

19 A: Yes. Prior to being employed at SLED, I was employed by
20 the Charlotte-Mecklenburg Police Department as a crime scene
21 investigator there for just under two years.

22 Q: And -- and you did crime scene there; so a total of seven
23 years in crime scene investigation?

24 A: Approximately, yes.

25 Q: Until March of this year?

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1 A: Yes.

2 Q: What type of training did you receive in Charlotte and
3 did you receive at SLED to help you perform your duties?

4 A: I have a bachelor's degree from Youngstown State
5 University where I majored in forensic science. At Charlotte-
6 Mecklenburg, I completed on-the-job training, as well as at
7 SLED. Between the two agencies, I have completed
8 approximately 500 hours of continuing education courses in
9 numerous areas of forensic science and crime scene
10 investigation.

11 Q: How many crime scenes have you conducted or participated
12 in in processing?

13 A: Approximately 5- to 600.

14 Q: Do you regularly testify in General Sessions and other
15 courts as to your activities?

16 A: Yes.

17 Q: Now, help us to understand what crime scene processing is
18 as opposed to what we see in 60 minutes on TV. Tell us what
19 crime scene processing consists of?

20 A: As a crime scene investigator for SLED, we respond to
21 requests for assistance from local, state, and federal
22 agencies throughout the state of South Carolina. We receive
23 the call, speak with the investigator. We arrive to the
24 scene, make sure the scene is secure, and address any issues
25 as far as if we need to put extra barriers or any weather

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1 issues that might arise.

2 We process the scene, and part of processing it is
3 documenting it with photographs, notes, and sketches. We look
4 for and search area for any evidence that needs to be
5 collected or documented. We document and collect the evidence
6 in a way that we can preserve it and transport it to the
7 laboratory, where we log it in for additional analysis.

8 Q: So your -- you observe, you preserve, and record. You
9 collect and you send to testing?

10 A: Yes.

11 Q: That's a short way of saying a large job. Did you have
12 the occasion on Wednesday, July the 4th of 2012, to respond to
13 a crime scene here in Marion County?

14 A: Yes, I did.

15 Q: And approximately what time were you summoned and what
16 time did you arrive?

17 A: The call came in at approximately 11:24 at night, and I
18 arrived at approximately 1:26 a.m. It would have been on the
19 5th.

20 Q: Now, what was your responsibility in terms of the crime
21 scene unit and SLED?

22 A: I was assigned to process the scene. I have a partner,
23 another crime scene agent, with me and we worked in a team. I
24 was the lead investigator on this case, which means I handled
25 more of the documentation as far as paperwork, sketching, and

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1 he assisted with the processing and the photographs.

2 Q: And who was that individual?

3 A: Special Agent Carl Kinley.

4 Q: And he was working under your direction?

5 A: Yes.

6 Q: Did the two of you work together?

7 A: We did.

8 Q: As opposed to independent in different places and
9 different times? You worked together?

10 A: Yes. We communicated throughout the scene and worked it
11 together.

12 Q: At the same time, same place, same focus?

13 A: Yes.

14 Q: When you first arrived on the scene shortly after
15 midnight, 1 p.m., 1:26 p.m., what did you observe at Phil
16 Court?

17 A: The scene was secured with yellow crime scene tape around
18 the perimeter of the yard area and there were law enforcement
19 personnel standing by.

20 Q: What could you -- once you got there, what did you --
21 what were your first steps with regard to the Marion County
22 Sheriff's Department?

23 A: I was briefed by a Marion County Sheriff's representative
24 about what the scene entailed, and the search warrant was
25 reviewed and executed, and then we went on into the scene.

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1 Q: And this was -- this was a rural location, was it?

2 A: Yes, it was.

3 Q: All right. I have a diagram that I'm going to put up.

4 Generally orient us to this area, and then I'll take it down
5 and we will have you testify about it and we'll show us some
6 photographs later. Sorry to bother y'all. Can you see this?

7 A: Yes, I can.

8 Q: All right. I'm going to use this laser pointer just to
9 help you orient us to the premises.

10 THE COURT: Hold on a minute. What's the exhibit number?

11 MR. SALEEBY: Excuse me, sir?

12 THE COURT: What's the exhibit number?

13 MR. SALEEBY: Number 3, Your Honor.

14 THE COURT: Okay.

15 MR. SALEEBY: My apologies.

16 THE COURT: That's okay. I want to make the record
17 clear. Thank you.

18 MR. SALEEBY: Yes, sir.

19 Q: 1925 Phil Court. This is a not-to-scale diagram, is it
20 not?

21 A: It is not to scale.

22 Q: All right. Was this prepared by you and Mr. Kinley?

23 A: Yes.

24 Q: All right. If you would, orient us on what we're seeing
25 here?

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- 1 A: Those are the steps to the front porch of the residence.
- 2 Q: And is this the front porch?
- 3 A: Yes, it is.
- 4 Q: What is this?
- 5 A: A table.
- 6 Q: All right. Now, what is this -- this -- this part of the
- 7 area? Sort of -- this is the second rectangular area just
- 8 inside the front porch?
- 9 A: That would be the residence, a single-wide mobile home.
- 10 Q: A single-wide?
- 11 A: Yes.
- 12 Q: And then we see a third rectangular area at the back.
- 13 What is that?
- 14 A: That is an extension on the residence, and there were
- 15 numerous tables and a bar area in there and a couple separate
- 16 rooms.
- 17 Q: Okay. Well, let's just work from left to right. What is
- 18 this area that I'm showing you now?
- 19 A: That was the master bedroom of the residence.
- 20 Q: All right. And were there any windows in the master
- 21 bedroom that led out to the porch?
- 22 A: Yes, there were.
- 23 Q: All right. What's the second room to the right?
- 24 A: That is the kitchen area.
- 25 Q: The third room?

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1 A: Living room.

2 Q: This is the fourth room?

3 A: A bedroom/storage room area.

4 Q: Next?

5 A: A bathroom.

6 Q: And the final room to the right?

7 A: A bedroom.

8 Q: So sort of a classic single-wide layout?

9 A: Yes.

10 Q: All right. Let's go to the add-on section. The far

11 left?

12 A: That is a room that had some pool tables in it and

13 restrooms off the rear of it.

14 Q: And the middle section?

15 A: There were tables and chairs in there with a bar area.

16 Q: And the far right area?

17 A: That was kind of like a living room/den area. There were

18 some sofas in there.

19 Q: In the front or the front porch right here is --- what is

20 that?

21 A: That is the front door of the residence.

22 Q: And is there a back door?

23 A: Yes, there is.

24 Q: All right. And that's on the add-on?

25 A: Yes.

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1 Q: And is this a side door?

2 A: Yes, it is.

3 Q: And what's out back?

4 A: A sitting area.

5 Q: Okay. And this is the area that you and Mr. Kinley went
6 through?

7 A: Yes, it is.

8 Q: All right. I think it might be easier to keep this up
9 and I'll ask you about the areas and then we'll show some
10 photographs later of that. But I'm going to start, if you
11 would, on the right-hand side, the right rear, what you
12 referred to as the den area.

13 A: Yes.

14 Q: Tell us what you reserved -- what you observed in the
15 area of this door?

16 A: Outside of the door area in the grassy area, there were
17 three fired cartridge cases laying on the grass, and those
18 were marked prior to our arrival. We then marked them with
19 evidence markers as 1, 2, and 3. The door had a metal
20 security gate-type door on the exterior. That appeared to be
21 damaged and partially removed from the vinyl siding. The
22 wooden door inside of the metal security gate door was cracked
23 where the lock mechanism would be, and a screw from that was
24 found on the floor inside the doorway.

25 Q: All right. You said the cartridge cases were found in

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1 this area?

2 A: They were in the grassy area.

3 Q: And you have some photographs that you can show us later?

4 A: Yes, I do.

5 Q: Can you tell us what caliber those -- those cartridge
6 cases were?

7 A: Those were 9mm.

8 Q: If you would, please tell us where you found the body of
9 Sam Rowell?

10 A: He was placed on the floor. Yes, right in that area
11 between the couch and the wall kind of forward of the door.

12 Q: Just to the -- as you walk in this door, just to your
13 left?

14 A: Yes.

15 Q: All right. You were there at about 1:30. This would
16 have been a good twelve hours before the autopsy. Tell us
17 what you observed there about Mr. Rowell's body?

18 A: He was clothed. He did not have shoes on, but he had
19 socks on. The ankle area was bound with duct tape. His hands
20 were behind his back and there was duct tape wrapped around
21 those. And he had a white undergarment stuffed in his mouth
22 with duct tape around his head. There was a blood pool around
23 the head area, and a hat was on the floor kind of towards the
24 front of the residence from his head.

25 Q: Feet towards the door and head away from the door?

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- 1 A: Yes.
- 2 Q: What can you tell us about the condition of his pants?
- 3 A: The pockets on his pants appeared to have been partially
- 4 pulled out. The left rear, the right front, and the right
- 5 rear pockets.
- 6 Q: All right. Left rear; right?
- 7 A: Yes.
- 8 Q: And which one? Right rear?
- 9 A: Right rear.
- 10 Q: And right front?
- 11 A: Partially, yes.
- 12 Q: But not the left front?
- 13 A: Not that I observed.
- 14 Q: All right. And you weren't at the autopsy; were you?
- 15 A: I was not.
- 16 Q: You said that there was a blood pool or stain at his
- 17 head?
- 18 A: Yes.
- 19 Q: He had no shoes?
- 20 A: Yes.
- 21 Q: Did you find shoes anywhere else in the house?
- 22 A: We did. We found a pair of shoes in the, like, bar/club
- 23 area along the left side near the pool table room.
- 24 Q: This room? This area?
- 25 A: Yes.

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1 Q: All right. You have some photographs so you at least can
2 show us this area?

3 A: Yes, I do.

4 Q: All right. Now, you found cartridge cases here, three of
5 them?

6 A: Yes.

7 Q: Like the sorts that would be ejected from a semi-
8 automatic. What did you do to try to find out if there were
9 any cartridge cases at or near the body of Mr. Rowell?

10 A: We searched that room. We moved the furniture. We took
11 the couch cushions apart. The room didn't have a lot on the
12 floor so we looked thoroughly throughout the room.

13 Q: Did you ever find a cartridge case there close to Mr.
14 Rowell?

15 A: We did not.

16 Q: All right. I'll ask you now -- I'll move you to the
17 front porch area. Does this face the road of the Phil Court
18 area?

19 A: Yes, it does.

20 Q: Is this a screened porch?

21 A: It was enclosed, yes.

22 Q: All right. Did you notice -- and I hesitate to ask and I
23 didn't ask you this before -- whether or not there were any
24 surveillance cameras at this house?

25 A: Yes, there were.

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1 Q: Please tell me where?

2 A: One was to the right portion of the front porch kind of
3 in front of where that table is and --

4 Q: About where I am?

5 A: Yes.

6 Q: And where's the other?

7 A: The other one was behind the metal screen -- metal grate
8 door on the side of the residence.

9 Q: Back at that?

10 A: Yes.

11 Q: What did you collect from the front porch area?

12 A: The front porch area -- we collected some papers off of
13 the table, and we swabbed the -- there was a pair of glasses
14 on the table and we swabbed those for any possible DNA. We
15 processed the front door for any latents evidence and we
16 processed the window into the master bedroom for any evidence.

17 Q: All right. And when you say you processed them, how did
18 you go about processing them? What does processing mean?

19 A: Well, the glasses were swabbed using water and a sterile
20 swab to collect any possible DNA, and the door and the window
21 were processed using black powder for any latent fingerprint
22 evidence.

23 Q: Were you able to lift any -- any identifiable or usable
24 prints from the area that you tested?

25 A: I lifted one print from the door, and I submitted it to

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1 the lab for analysis.

2 Q: All right. And you don't know whether that was
3 identifiable or not?

4 A: No.

5 Q: All right. Tell me the condition of the windows of the
6 master bedroom here at the left of the -- of the house?

7 A: They were both partially open.

8 Q: And what could you tell me about the area around the
9 window?

10 A: There appeared to be a void on the left portion of the
11 window.

12 Q: A void meaning what?

13 A: A void as in there had been some movement there and the
14 dust might have been displaced. You could tell that there was
15 -- the best way to say it would be like a cleaner area of the
16 window than the rest of the window.

17 Q: The windows were open?

18 A: They were both partially open, yes.

19 Q: And what about inside the house? Inside this room, what
20 did you see that might indicate there had been some activity?

21 A: The curtains were kind of tied back and the blinds were
22 crooked.

23 Q: Were there pillows on the bed?

24 A: There were pillows on the bed.

25 Q: Were there pillowcases on the bed?

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1 A: There were no pillowcases on the pillows.

2 Q: And what -- did you notice whether or not there was a
3 television or a monitor in that room?

4 A: There was a television in the corner on the dresser.

5 Q: And what condition was it in?

6 A: To my best recollection, it appeared okay.

7 Q: All right. And was there anything coming out of it to
8 disturb it? Were there any cords in that area?

9 A: Not that I'm aware of.

10 Q: All right. Maybe I'm asking the wrong way. Was there a
11 monitor in that room and signs it had been cut?

12 A: May I refer to my case file, please?

13 Q: Sure. This has been admitted into evidence as State's
14 Exhibit Number 12-A. I think I may have asked that the wrong
15 way.

16 A: Yes. There was a monitor on the stand near the foot of
17 the bed.

18 Q: It's a monitor, not a TV?

19 A: It might have been a TV, but -- and that was near the
20 foot of the bed near the windows.

21 Q: All right. And were there any signs of any cords or
22 anything cut outside of that?

23 A: Yes. There were some yellow cut pieces on top of that.

24 Q: All right. We'll show that photograph at closer detail
25 later. What did you find in the kitchen? Or what kind of

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1 door leads from the bedroom into the kitchen area?

2 A: It was a double door.

3 Q: And what did you find in the kitchen area that was
4 noteworthy to you?

5 A: There were three cases of -- labelled Crown Royal, three
6 cases of liquor boxes.

7 Q: Where were they?

8 A: They were near the steps that lead down into the bar area
9 and they were near the island in the kitchen.

10 Q: What did you find in the living room area?

11 A: The living room area -- there were two pillowcases on --

12 Q: Two pillowcases?

13 A: Yes. On the couch along the rear wall that contained --
14 one pillowcase contained a Crown Royal box and ten boxes of
15 cigars, and the other pillowcase contained numerous toiletry
16 items and prescription bottles and medicine bottles.

17 Q: What else did you find in the living room area?

18 A: There was a digital DVR recorder on the sofa or loveseat
19 near the front wall.

20 Q: I did not ask you this before. Was there any sign of
21 forcible entry on this door that leads from the front porch
22 into the house?

23 A: Not that I observed.

24 Q: Or from the back door?

25 A: Not that I observed.

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1 Q: All right. Fine. I'll move you down the hallway to this
2 thing that's called a storage room. It might have been a
3 bedroom at one time. What was the condition of this door and
4 what did you find in that storage room?

5 A: The door was damaged, and the storage room contained
6 tobacco items and liquor alcohol items.

7 Q: Were any of those items similar to the Crown Royal and
8 the other items that you found out in this area?

9 A: I do not recall. I know there were cases of beer in
10 there.

11 Q: Okay. Alcohol of some sort?

12 A: Yes.

13 Q: What did you find in this dining/living room/club area?

14 A: In the club room area, the steps that are kind of between
15 the island -- there was steps that led down into the clubroom
16 area and at the bottom of the steps, there was what appeared
17 to be a spilled liquid and a cup was there and there was also
18 a lid in the vicinity and there were footwear impressions that
19 were in the liquid that were photographed, and the shoes were
20 along the left wall of that room.

21 Q: This room?

22 A: Yes.

23 Q: Did you find anything of significance in the area of
24 these pool tables or the restrooms?

25 A: No.

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- 1 Q: So in the process of what you did, you took photographs?
- 2 A: Yes, I did.
- 3 Q: You tried your best you can to find prints that could be
- 4 done? Prints that could be perhaps identified?
- 5 A: Yes.
- 6 Q: Whether they were or not, you're not sure. You and Mr.
- 7 Kinley collected items?
- 8 A: Yes.
- 9 Q: And once they were secured, were they transported to the
- 10 State Law Enforcement Division in Columbia?
- 11 A: Yes, they were.
- 12 Q: Were they secured there?
- 13 A: Yes, they were.
- 14 Q: All right. Did you receive items from the lady who just
- 15 testified, Ms. Kukila Stanley, that she got from Dr. Tormos at
- 16 the autopsy?
- 17 A: Yes, I did.
- 18 Q: Did you also see that those were left at SLED to be
- 19 processed?
- 20 A: Yes. I walked those items in.
- 21 Q: Did you actually assist the man in the latent division,
- 22 Mr. Darnell, in going over some of these items to try to see
- 23 if there might be possible lifts?
- 24 A: Yes. I assisted with some of the processing.
- 25 Q: All right. What I want to do now with the assistance of

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1 Mr. Godbolt is show you some photographs.

2 MR. SALEEBY: And it will take us a minute, Your Honor,
3 with the permission of the Court, to set up your TV, their TV,
4 and the TV for the jury.

5 THE COURT: Feel free to move. As they're doing that,
6 Mr. Saleeby, can you all approach up here a second?

7 (Whereupon, a bench conference is held in the presence of
8 the jury but out of the hearing of the jury as follows.)

9 THE COURT: I ruled on -- have I ruled on all the
10 photographs? Have I ruled on all the photographs?

11 MR. SALEEBY: Oh, you want to rule on the photographs?

12 THE COURT: Have you ruled -- have I ruled on all the
13 ones you anticipate showing right now is my question.

14 MR. SALEEBY: You have not ruled on the body photographs.
15 I think you ruled on all the rest of them.

16 MR. CLEMENTS: That's my recollection.

17 MR. WILSON: That's correct.

18 THE COURT: Get those and let me -- I'm going to do it
19 right here in this mic.

20 MR. CLEMENTS: You want me to go get the -- those?

21 THE COURT: Get those photographs, please. I don't want
22 them thrown up there.

23 MR. WILSON: Yes, sir. I agree.

24 THE COURT: You got the photographs?

25 MR. SALEEBY: We've got them. Excuse me, Judge. I can't

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1 do these things without my notes.

2 THE COURT: Do you have -- do you have the photographs
3 right there?

4 MR. SALEEBY: It's D, F, and H. Do you need them? I
5 mean I've got them separated out.

6 THE COURT: Let me see the photographs, please, E, F, and
7 H.

8 MR. SALEEBY: All right.

9 (Whereupon, there is a pause in the bench conference.)

10 THE COURT: B, C, D, E, F, and G. All right.

11 MR. SALEEBY: From what I show, you ruled on everything,
12 including over objections, except E, F, and H. Is that your
13 correct --

14 MR. WILSON: That's correct.

15 THE COURT: All right. I am not going to allow
16 photograph 11-H. I'm not going to allow photograph 11-H. And
17 I'm just going to --

18 MR. SALEEBY: I'm going to do them last.

19 THE COURT: Well, let me say this.

20 MR. SALEEBY: And I was going to make sure that I -- that
21 that's the last thing I did and I did them slow.

22 THE COURT: I do believe, one, that the photographs are
23 relevant. They're all relevant. I mean they show material
24 facts or conditions that's been corroborated -- corroborative
25 testimony that's already been in -- that's already been

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1 elicited from that stand. Okay?

2 Now, the next issue is whether or not the prejudice
3 outweighs the probative value. When you initially introduced
4 or tried to introduce these photographs when we were going
5 through all of this, your statement was that the photographs
6 were there to show how he was bound, how he was gagged, and
7 his pockets --

8 MR. SALEEBY: And his pockets.

9 THE COURT: -- were pulled.

10 MR. SALEEBY: That's correct, sir.

11 THE COURT: All right. A, B, C, D, and G certainly show
12 that. Now, just because photograph F and E show the very
13 things from a different perspective than --

14 MR. SALEEBY: Have they got all three pockets? That's
15 one of them.

16 THE COURT: I'm going to allow this photograph here
17 because it -- from photograph D, which shows a bounding, it is
18 not clear from this photograph where the bounding is, whether
19 it be in front or whether it be in back. All right?
20 Photograph E is a clear picture as to where the binding took
21 place.

22 MR. SALEEBY: Yes, sir.

23 THE COURT: Photograph F is a farther back picture of
24 photograph G, which shows some bounding around the head and
25 the gagging. Without further explanation, this is not clear

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1 what it is, what is taking place there. Therefore, I'm going
2 to allow photograph F, which is a farther off picture of
3 exactly what that is.

4 MR. WILSON: Yes, sir.

5 THE COURT: I do not believe -- all evidence I understand
6 is prejudicial to some extent, but it is corroborated
7 testimony that's been elicited from this witness stand and I
8 do not believe that the prejudicial effect outweighs the
9 probative value of it at this stage.

10 MR. WILSON: Judge, just for the record, we would argue
11 also that it's cumulative and that some of these pictures are
12 cumulative and that it's already in some of the pictures, and
13 I know the Court is saying that -- that it appears that --

14 THE COURT: I certainly understand your concern about
15 cumulative, but those are cumulative to some extent, if at
16 all, which I understand is your concern, but they are not
17 gruesome-type photos or any kind of photos that would tend to
18 arouse the sympathies or prejudice of this jury in basing
19 their decision, but I want to --

20 MR. WILSON: We just take -- we just take exception for
21 the record.

22 THE COURT: So noted.

23 MR. WILSON: Thank you.

24 THE COURT: But H is not admissible.

25 MR. SALEEBY: I was going to leave H up here with you.

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1 THE COURT: Okay.

2 MR. SALEEBY: To prevent me from -- and I will tell Keith
3 right now we're not showing H.

4 THE COURT: Okay.

5 MR. SALEEBY: I think all the other photographs we're
6 showing.

7 THE COURT: Did you get all that?

8 MR. FLOYD: And, Your Honor, just -- just for the record,
9 I mean our objections are noted.

10 THE COURT: Absolutely. Both defendants' objections are
11 so noted for the record.

12 MR. WILSON: Thank you very much, Your Honor.

13 MR. CLEMENTS: I just want to be sure. So the
14 prejudicial outweighs the probative value on H; is that what
15 you said?

16 THE COURT: Yeah.

17 MR. CLEMENTS: All right.

18 (Whereupon, the bench conference ends.)

19 THE COURT: Mr. Keith, all I have to do is just pull this
20 thing up?

21 MR. GODBOLT: Yes. It should be ready to go.

22 MR. SALEEBY: Your Honor, if you would, inquire of the
23 jury once we put a photograph up if it's at the right
24 distance. And if you would bear with me just a moment here,
25 we'll be ready to roll. Mr. Godbolt, are you ready?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 MR. GODBOLT: Yes, sir.

2 BY MR. SALEEBY:

3 Q: Now, Ms. Fellers, did you get your --

4 A: Mm-hmm.

5 Q: All right. Good. You were showing us the diagram which
6 now is at a distance. I'm going to ask you -- I'm going to
7 mention the diagram and then ask you to tell what the photos
8 represent, and we're going to start with photographs from the
9 outside. This would be Number 5-A. Can you see that?

10 A: Yes, I can.

11 Q: All right.

12 MR. SALEEBY: Your Honor, the jurors? Check and see if
13 that's going to be the right focus for them?

14 THE COURT: Anybody have any problem seeing that in the
15 jury box? All right.

16 MR. SALEEBY: All right.

17 Q: What have we got there?

18 A: That is the front of the residence, the enclosed screened
19 porch area.

20 Q: All right. And what are these two things I'm pointing to
21 right there?

22 A: That is the stairways leading into the porch area.

23 Q: All right. And over here?

24 A: The other stairway leading into the porch area.

25 Q: B -- 5-B?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 A: That is the left side of the porch area.

2 Q: I think this must be shooting through the TV. There it
3 is. All right. And where is the front windows there? If you
4 could, show us the windows.

5 A: They are inside the porch area kind of to the left of the
6 stairway in the middle.

7 Q: Okay.

8 MR. SALEEBY: (To Keith Godbolt) Can you zoom in?

9 Q: Is that what he's showing you?

10 A: Yes.

11 Q: And 5-C? And what is that?

12 A: That is the right side of the residence.

13 Q: And show us where the security camera was?

14 A: The security camera is in the upper portion along the
15 roof. Yes, right up -- yep.

16 Q: All right. That's fine. Thank you very much. Now, you
17 took some pictures of the back as well I believe?

18 A: Yes, I have.

19 MR. SALEEBY: Let's go to 6-A.

20 Q: And what are we looking at there?

21 A: That is the rear of the residence with the seating area
22 outside.

23 Q: And this is the seating area over to the right of the
24 nose of the truck?

25 A: Yes.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 Q: And B?

2 MR. SALEEBY: If you could, show us B -- 6-B.

3 Q: What's that showing us?

4 A: The rear door into the dining/clubroom area from the
5 seating area.

6 Q: All right.

7 MR. SALEEBY: Let's go photograph Number 7 -- 7-A.

8 Q: What is that?

9 A: That is the front porch area.

10 Q: All right. And where are the two sets of steps?

11 A: They are -- the one is where that mat is going out that
12 doorway and the other one is on up also on the right side.

13 Q: All right.

14 MR. SALEEBY: And show us to the left the windows, if you
15 would, come in and zoom in over here.

16 Q: And show us the windows to the master bedroom?

17 A: Those are the windows that were partially open.

18 MR. SALEEBY: And if you would, please show us now C --
19 7-C.

20 Q: What is that?

21 A: Those are the coffee cups and the papers and the glasses
22 on the table that were in the patio area.

23 Q: What did you do with those papers?

24 A: I collected the papers.

25 Q: And they were sent to SLED?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 A: They were.

2 Q: All right.

3 MR. SALEEBY: Let's shift now to -- if we would, to

4 photographs 8.

5 MR. GODBOLT: 8-A?

6 MR. SALEEBY: 8 -- 8-A. Excuse me.

7 Q: What are we looking at there?

8 A: That is the door along the right side of the extension on

9 the back with the metal security-type door.

10 Q: And where was the security camera in -- in -- in

11 proximity to that? It may or may not be shown in that

12 photograph, but where was it?

13 A: It was closer to the rear.

14 Q: Closer to the back?

15 A: Yes.

16 Q: All right.

17 MR. SALEEBY: Let's go to 8-B.

18 Q: Same view, different angle?

19 A: Yes.

20 Q: And this is the condition of the door when you got there?

21 A: Yes.

22 Q: And you don't know at what point in time from your own

23 knowledge either one of those doors was the condition they

24 were in?

25 A: No.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 Q: All right.

2 MR. SALEEBY: 8-C.

3 Q: What's that showing us?

4 A: That is showing where the door was partially loosened
5 from the wall.

6 Q: All right.

7 A: On the side.

8 MR. SALEEBY: 8-D.

9 Q: What have we got there?

10 A: Those are the markers 1 through 3 for the 9mm cartridge
11 cases.

12 Q: And I see two things there. I see numbers and flags, and
13 who did what when?

14 A: The flags were there prior to my arrival and I -- we
15 placed the numbers there.

16 MR. SALEEBY: I think the next number is 8-E; is it?

17 MR. GODBOLT: Mm-hmm.

18 Q: All right. What have we got there?

19 A: That is one of the cartridge cases that is on the
20 exterior of the residence on the cement.

21 Q: That's close to that side door?

22 A: Yes, it is...

23 MR. SALEEBY: 8-F. Zoom in there. And 8-G. And let's
24 just go back to 8-D which shows the proximity of these three
25 to the door. There we go. There we go. Can you back out or

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 is that --

2 Q: That's where you found them?

3 A: Yes.

4 Q: All right. Did you then walk in the door and take
5 pictures in the interior of that den area?

6 A: The interior was photographed, yes.

7 MR. SALEEBY: Let's go to 9-A.

8 Q: Okay. What are we looking at there?

9 A: That is the interior of the room where the metal door was
10 with the wooden door on the inside. There is damage on the
11 wall to the left of the door frame from this angle and you --
12 the victim is on the floor to the right of the door.

13 Q: And that's Mr. -- as you found Mr. Rowell, that's where
14 he was?

15 A: Yes.

16 MR. SALEEBY: Let's go to 9-B.

17 Q: Same door?

18 A: That is the wooden interior door.

19 MR. SALEEBY: 9-C.

20 Q: That's part of the door frame?

21 A: Yes.

22 MR. SALEEBY: 9-D.

23 Q: What are we --

24 MR. SALEEBY: Can we zoom in there a little bit?

25 Q: What are we seeing there on the floor?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 A: That is the drywall that is damaged, and that is the
2 drywall debris on the floor below it.

3 MR. SALEEBY: 9-E.

4 Q: What are we looking at there?

5 MR. SALEEBY: Can you zoom in on the item? Yes.

6 Q: What's that?

7 A: That is a screw that is on the floor inside the doorway
8 along the wall.

9 MR. SALEEBY: And zoom out.

10 Q: And is that Mr. Rowell there?

11 A: Yes.

12 MR. SALEEBY: And is that 9-E?

13 MR. GODBOLT: Yes, sir.

14 MR. SALEEBY: All right. Let's go to 10 in the den. All
15 right. Let's focus this.

16 Q: That's a view we haven't seen before. Where are you
17 standing in that photograph? Where's the door we've been
18 looking at? And where would Mr. Rowell be?

19 A: The photographer would be in the front left corner of the
20 room. The door that we were looking at is the opening on the
21 right side of the photo, and Mr. Rowell would have been on the
22 floor between the love -- or the couch and the wall.

23 MR. SALEEBY: Let's go to 10-B.

24 A: This --

25 Q: Tell us what view we're looking at there?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 A: This view shows the entrance into the dining club area.

2 MR. SALEEBY: And 10-C.

3 A: That is a photograph of Mr. Rowell on the floor along the

4 wall between the wall and the couch.

5 MR. SALEEBY: All right. We'll skip 11 and go to 12 --

6 12-A.

7 Q: All right. First of all, let's start on the left and

8 let's talk about the blinds over the windows there. What are

9 we looking at there?

10 A: That is the curtain area that was kind of tied back, and

11 those are the blinds that were somewhat crooked.

12 Q: And the window was open?

13 A: Yes, partially.

14 Q: And that's the monitor on the right?

15 A: Yes, it is.

16 MR. SALEEBY: Let's go to 12-B. Okay. Zoom in on the

17 cords, please.

18 Q: What are we looking at there?

19 A: Those are the cut ends of the cords.

20 MR. SALEEBY: So let's see if we've got a 10-C that shows

21 that a little better. That's 10-C.

22 Q: What is that?

23 MR. GODBOLT: That's 12-C.

24 MR. SALEEBY: 12-C. I beg your pardon.

25 A: That is the dresser that is along the front wall of the

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 bedroom.

2 Q: Is that drawer open?

3 A: Partially, yes.

4 MR. SALEEBY: If you could, show us that.

5 A: The drawer is partially open.

6 MR. SALEEBY: 12-D.

7 Q: Same drawer from another perspective?

8 A: Yes.

9 MR. SALEEBY: 12-E.

10 Q: What is that?

11 A: Clothing items on top of the dresser.

12 Q: And could you describe what those items might have

13 consisted of? And the photograph might not show it as well as

14 you would call it being. What are those items of clothing?

15 A: White brief underwear.

16 Q: White brief underwear?

17 A: Yes.

18 Q: Could you --

19 A: There were other items of clothing there also.

20 Q: Did those brief underwear -- did you observe the

21 underwear that was in Mr. Rowell's mouth?

22 A: I did.

23 Q: All right. Were they similar to these underwear?

24 A: They were also white brief underwear, yes.

25 MR. SALEEBY: Is it 12-F?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 Q: And what is that?

2 A: That is the doorway leading from the kitchen into that
3 master bedroom area.

4 Q: So you come out of the master bedroom and you come into
5 the kitchen?

6 A: Yes.

7 MR. SALEEBY: Let's go into the kitchen and the living
8 room, the central part of the mobile home. 13-A.

9 Q: What are we looking at there?

10 A: Those are two Crown Royal boxes, and that is between the
11 island and a kind of built-in bar area in the kitchen area.

12 Q: That's how you found them? Stacked up there?

13 A: Yes.

14 MR. SALEEBY: Let's look at 12-B -- 13-B. I beg your
15 pardon.

16 Q: What's that?

17 A: That is another Crown Royal box, and that is near the
18 door leading to the dining club area.

19 Q: Are those represented on your diagram of the areas just
20 past the stove? Is that what that might be or is that too --
21 too nebulous to say?

22 A: Those are -- those might represent the chair that it was
23 on.

24 Q: All right.

25 A: Yes.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 MR. SALEEBY: Let's go to the next. I think it is 13-D,
2 is it?

3 Q: All right. That's the sofa. Which side? The back side
4 or the front side?

5 A: That is the back side of the sofa.

6 Q: And what are we looking at?

7 A: Two pillowcases on it.

8 MR. SALEEBY: Let's go to the next, 13-E.

9 Q: You opened up the pillowcases?

10 A: We did.

11 Q: And there were no pillowcases on the pillows in Mr.
12 Rowell's bed?

13 A: Correct.

14 Q: What are we looking at in that pillowcase?

15 A: That is a Crown Royal box and cigar boxes inside the
16 pillowcase.

17 Q: Crown Royal box and cigar boxes?

18 A: Yes.

19 Q: In a pillowcase?

20 A: Yes.

21 MR. SALEEBY: 13-F.

22 Q: What is that?

23 A: That is a toiletry set inside of the other pillowcase.

24 Q: Both on the sofa on the back wall of that room?

25 A: Yes.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 MR. SALEEBY: 13-G.

2 Q: What do we have there?

3 A: That is the recorder that was on the sofa along the front
4 wall.

5 MR. SALEEBY: And 13-H.

6 Q: Is this how you found it?

7 A: Yes.

8 Q: With those cords cut?

9 A: They appeared to be cut, yes.

10 MR. SALEEBY: Let's go to 14-A.

11 Q: The storage room?

12 A: That is the door leading into the storage room from the
13 hallway.

14 MR. SALEEBY: Can you zoom in on that handle?

15 Q: What condition was that door in?

16 A: Damaged.

17 MR. SALEEBY: Let's look at 14-B. Same thing, zoom in on
18 it a lot. And 14-C.

19 Q: That's the contents of that room?

20 A: Yes.

21 Q: All right.

22 MR. SALEEBY: Let's go to the back area to the dining
23 club area, 15.

24 Q: What are we looking at? It is the back area. What --
25 what -- where is that? What's our viewpoint here? Can you

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 see that?

2 A: Yes. That is the bar area along the -- that is the bar
3 area to the right side of the photograph and the door leading
4 into the area where Mr. Rowell was is that doorway that the
5 cursor is on and those are the tables in that bar area. Yes.

6 MR. SALEEBY: Let's look at B. Can you zoom in? Can you
7 zoom in right in here?

8 Q: And can you tell us what we're looking at there, Ms.
9 Fellers?

10 A: Those are the footwear impressions that were in the
11 spilled liquid on the floor, and if he zooms out just a little
12 bit --

13 MR. SALEEBY: Zoom out.

14 A: That is the lid for the paper cup and then on back on the
15 carpeted area is where the paper cup was.

16 MR. SALEEBY: If you would, go then to 16. I beg your
17 pardon. 15-C and just zoom in on that.

18 Q: This is in the back of the dining club area?

19 A: Towards the back, yes.

20 Q: And the shoes that you found, which I don't think I have
21 a photograph of, were closer to the side, were they?

22 A: They were. There was a chair along the left wall of the
23 dining club area near the door that leads into the room where
24 the pool tables are, and the shoes were on the floor in that
25 area.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 MR. SALEEBY: Okay. We will go to 11 next, but first I
2 need to show Ms. Fellers some items of property and have her
3 identify them. Bear with me one moment. There are a number
4 of items over here to one side.

5 Q: Do you need gloves to look at these things?

6 A: If I'm going to open them. I have some with me if I need
7 them.

8 Q: All right. And I think that's the safest thing to do.
9 Just take a second and do that. All right. I'm going to show
10 you three items which have been marked for identification as
11 20-A, B, and C. I'd like you to take a look at these items
12 and the contents and tell us if you can identify them?

13 A: What item numbers were they?

14 Q: I think State's Exhibits -- it should be 20-A, B, and C.

15 A: Okay.

16 Q: It would be marked here.

17 A: Those weren't my item numbers then.

18 Q: No, no, no. They're not your item numbers. They're
19 exhibit numbers.

20 A: Okay. Yes. These are the packaging for the cartridge
21 cases that I collected at the exterior of the residence.

22 Q: Can you take a look at the cartridge cases for me while
23 we're there?

24 A: Yes.

25 Q: You've looked at them?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 A: Yes.

2 Q: Are those the cartridge cases you collected from Phil
3 Court that evening?

4 A: Yes, they are.

5 Q: And are they in substantially the same condition as when
6 you collected them?

7 A: Yes, they are.

8 MR. SALEEBY: Your Honor, we would move for the
9 introduction of State's Exhibits 20-A, B, and C.

10 THE COURT: Any objection, Mr. Wilson?

11 MR. WILSON: No objection, Your Honor.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: No objection, Your Honor.

14 THE COURT: Without objection, State's Exhibits 20-A, B,
15 and C are admitted into evidence.

16 Q: You next mentioned that you -- and I'll get this out of
17 your way. You said in one of those pillowcases there were
18 some cigar boxes?

19 A: Yes.

20 Q: I'm going to show you State's Exhibits 21, 22, 23, and
21 24, and ask you to take a look at them.

22 A: Yes.

23 Q: Did you seize those from the scene that night?

24 A: Yes, I did.

25 Q: Did you mark them in a way that you would be able to

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 identify them later?

2 A: Yes, they were.

3 Q: And you see your markings on them?

4 A: Yes, I do.

5 Q: Are they substantially the same way as when you collected
6 them then?

7 A: Yes.

8 MR. SALEEBY: Your Honor, we'd move for the introduction
9 of the evidence of those items 21, 22, 23, and 24.

10 THE COURT: Any objection, Mr. Wilson?

11 MR. WILSON: No objections.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: No objection.

14 THE COURT: Without objection, State's Exhibits 21, 22,
15 23, and 24 are admitted into evidence.

16 Q: One of those bags had a Crown Royal bottle in it, did it
17 not?

18 A: One of the pillowcases. Yes, sir.

19 Q: One of the pillowcases. My bad. This is State's Exhibit
20 Number 25 for identification. Take a look at that.

21 A: Yes.

22 Q: Is that an item you seized that night?

23 A: Yes, it is.

24 Q: And did it you mark it so you could identify it?

25 A: Yes.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 Q: And is it substantially unchanged from when you got it?

2 A: Yes.

3 MR. SALEEBY: We move for its introduction, Your Honor.

4 THE COURT: Any objection, Mr. Wilson?

5 MR. WILSON: No, sir.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: No objections.

8 THE COURT: Without objection, that is State's Exhibit

9 Number 25 admitted into evidence.

10 Q: There was a big case of Crown Royal on the floor. I'll

11 show you State's Exhibit Number 26 and ask you if you seized

12 that that evening?

13 A: Yes, I did.

14 Q: Did it you mark it in a way you could identify it?

15 A: Yes, I did.

16 Q: Is it substantially unchanged from when you got it?

17 A: Yes.

18 MR. SALEEBY: Your Honor, we'd move for the introduction

19 of State's Exhibit Number 26.

20 THE COURT: Any objection, Mr. Wilson?

21 MR. WILSON: No, sir.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: No objections.

24 THE COURT: Without objection, State's Exhibit Number 26

25 admitted into evidence.

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 Q: There was a DVR recorder that was in that kitchen/dining
2 area with cords coming out of the back of it. I'm showing you
3 State's Exhibit Number 28 for identification. I ask you if
4 you can identify that?

5 A: Yes, I can.

6 Q: Did you mark it in a way so you would be able to tell?

7 A: Yes, I did.

8 Q: And is that in substantially the same condition as when
9 you seized it?

10 A: Yes.

11 MR. SALEEBY: Your Honor, we'd move for the introduction
12 of State's Exhibit Number 28.

13 THE COURT: Mr. Wilson?

14 MR. WILSON: No objections.

15 THE COURT: Mr. Floyd?

16 MR. FLOYD: No objection, Your Honor.

17 THE COURT: Without objection, admitted into evidence as
18 State's Exhibit 28.

19 Q: With regards to the items that are in evidence that we're
20 pulling right now, the fragment recovered from the autopsy is
21 State's Exhibit Number 30. The duct tape from Mr. Rowell's
22 head is State's Exhibit 31 and 32. The duct tape from his
23 feet is State's Exhibit 33 and 34 -- and the duct tape from
24 his hands, 35, and the underwear. Were all of those items
25 transferred to you by Kukila Stanley?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 A: Yes, they were.

2 Q: And what did you do with them?

3 A: I packaged them and logged them into the laboratory for
4 additional analysis.

5 MR. SALEEBY: Your Honor, does this witness need to
6 identify those items since they're in evidence?

7 THE COURT: Depends on -- any objection, Mr. Wilson?

8 MR. WILSON: I have no objection to that.

9 THE COURT: Mr. Floyd?

10 MR. FLOYD: No objection, Your Honor.

11 THE COURT: No, sir.

12 Q: 36 and 37. You said you seized --

13 THE COURT: Hold on a minute. Hold on a minute.

14 MR. SALEEBY: What was that? Did I miss one?

15 THE COURT: 32 and 34 were not admitted into evidence
16 yet. Did you just move them to be entered into evidence?

17 MR. SALEEBY: 32 and 33?

18 THE COURT: 32 and 34 have not been admitted into
19 evidence yet.

20 MR. SALEEBY: If I mentioned those, I mentioned those in
21 error. I'm not ready for those.

22 THE COURT: They are not -- 32 and 34 have not been moved
23 into evidence yet. Okay?

24 MR. SALEEBY: Thank you.

25 Q: I'm showing you two items, State's Exhibit Number 37 --

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 I'm sorry. Yeah, State's Exhibit Number 37 and State's
2 Exhibit Number 38.

3 MR. SALEEBY: (To Mr. Clements) This is 37. I need 38.

4 Q: This is 36. Do you need to open these to identify them
5 or are you satisfied with what you've got there?

6 A: I wrote on the exterior packaging for each one.

7 Q: And what are those?

8 A: These are the pillowcases.

9 MR. SALEEBY: We would move for the introduction of
10 those, Your Honor.

11 THE COURT: Mr. Wilson, any objection?

12 MR. WILSON: No, sir.

13 THE COURT: Mr. Floyd?

14 MR. FLOYD: No objections.

15 THE COURT: All right. Without objection, State's
16 Exhibit 37 and 38 admitted into evidence.

17 MR. SALEEBY: Mr. Clements, let me have that list for my
18 questions. Your Honor, that is 32 and 34, was it not?

19 THE COURT: No, sir. Yeah, the ones you have not, 32 and
20 34 --

21 MR. SALEEBY: Thank you, sir.

22 THE COURT: -- have not been admitted as of yet.

23 MR. SALEEBY: All right. Mr. Godbolt, I'd like now to go
24 to photographs and just ask the Court again is it everything
25 but H?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 THE COURT: Correct.

2 MR. SALEEBY: All right.

3 Q: You took some pictures of Samuel Rowell as you found him
4 that evening?

5 A: Yes, I did.

6 MR. SALEEBY: Let's go to State's Exhibit Number 11-A.

7 Q: All right. Where is he positioned? What's on his feet?

8 A: That is inside the residence -- inside the residence in
9 that living room area and that is the door that has the metal
10 grate that was damaged near his feet. He has socks on his
11 feet, and there's duct tape around his ankle area.

12 MR. SALEEBY: Let's look at another closer angle, State's
13 Exhibit 11-B.

14 Q: All right. Is this taken with him face up?

15 A: Yes, it is.

16 Q: What are we looking at right there?

17 A: That is the pocket that is partially pulled out on his
18 right side.

19 MR. SALEEBY: Can you zoom in on that, please, sir?

20 Q: Right front pocket?

21 A: It appears to be, yes.

22 MR. SALEEBY: Let's go to 11-C. Zoom in, please.

23 Q: What are we looking at there?

24 A: Rear left pocket.

25 Q: Rear left?

SABRINA FELLERS - DIRECT BY MR. SALEEBY

- 1 A: Yes.
- 2 Q: Rear left, front left?
- 3 A: Yes.
- 4 Q: Front left not pulled out?
- 5 A: No. It does not appear to be.
- 6 Q: Rear left?
- 7 A: Yes.
- 8 MR. SALEEBY: State's Exhibit 11-D.
- 9 Q: Tell us what we see there?
- 10 A: Those are his hands, which were behind his back, and that
- 11 was once we moved him, and that is the rope and the tape
- 12 around his wrist area.
- 13 MR. SALEEBY: State's Exhibit 11-E.
- 14 Q: What are we -- you've moved his -- moved him at this
- 15 time, have you?
- 16 A: Yes.
- 17 MR. SALEEBY: All right. Let's zoom in on his right rear
- 18 pocket and his right front pocket.
- 19 Q: Tell us what we see there?
- 20 A: The pockets are both partially pulled out.
- 21 MR. SALEEBY: State's Exhibit 11-F.
- 22 Q: Can you see that?
- 23 A: Yes, I can.
- 24 Q: What are we looking at?
- 25 A: That is the white material in his mouth area and the tape

SABRINA FELLERS - DIRECT BY MR. SALEEBY

1 wrapped around it.

2 MR. SALEEBY: And let's look at State's Exhibit 11-G.

3 Q: I'll ask you if this is a close-up?

4 A: Yes, it is.

5 Q: Thank you, Ms. Fellers. Please answer any questions
6 counsel has for you.

7 A: Thank you.

8 MR. WILSON: Can we move this?

9 THE COURT: Yeah. Can y'all take these videos down,
10 please?

11 (Whereupon, there is a pause in the proceedings.)

12 THE COURT: All right. Mr. Wilson, cross examination.

13 MR. WILSON: Thank you very much, Your Honor.

14 THE COURT: Yes, sir.

15 CROSS EXAMINATION

16 BY MR. WILSON:

17 Q: Ms. Fellers or Agent Fellers, you said that you've been
18 doing this for how long? Crime scene investigation? Prior to
19 July of 2012, how long had you been a crime scene
20 investigator?

21 A: Prior to July 2012, approximately five years.

22 Q: Okay. And you would have worked then probably hundreds,
23 if not more, of different crime scenes by that time?

24 A: That is correct, yes.

25 Q: And when you come out to a crime scene as a crime scene

SABRINA FELLERS - CROSS BY MR. WILSON

1 investigator or specialist, part of what you want to do is
2 find any items of evidence that might be preserved so that you
3 can preserve it, bring it to court, and show it?

4 A: That is correct.

5 Q: Okay. And one of the things that you would be concerned
6 about during your investigation is making sure that the crime
7 scene is not contaminated; right?

8 A: That is correct.

9 Q: And that -- that would mean that you don't want other
10 people walking through the crime scene or being in and out of
11 the house touching things, picking things up, putting them
12 back, that kind of thing, or moving things around?

13 A: Yes.

14 Q: All right. And that's very important because sometimes
15 if that happens, you don't always know that someone went in
16 and touched something before you got there; right?

17 A: That is correct.

18 Q: Okay. And when you got there, you actually got there --
19 what? A couple of hours after the call -- the 9-1-1 call was
20 made?

21 A: I'm not sure exactly when the 9-1-1 call came in, but I
22 got there approximately two hours after I was called.

23 Q: Okay. What time were you called?

24 A: I was called at approximately 11:24 in the evening.

25 Q: Okay. So if the 9-1-1 call was at 9:41 and you got there

SABRINA FELLERS - CROSS BY MR. WILSON

1 at 11 -- what?

2 A: I got there at about 1:26 a.m.

3 Q: So three and a half, give or take?

4 A: Yes.

5 Q: Okay. And did you make a determination when you arrived
6 as to how many people, including law enforcement people, had
7 been in and out of that house before you got there?

8 A: No, I did not.

9 Q: Okay. Did you make any attempt then to determine how
10 many civilians had been in and out of that house before you
11 got there?

12 A: No, I did not.

13 Q: Did you talk to the law enforcement who was present on
14 the scene when you arrived to ask them what their protocol
15 was? That is, what did -- what is it that they had done
16 before you got there so that you would make sure that you
17 didn't have to cover the same things they had already done?

18 A: Not that I recall.

19 Q: Okay. Now, is it fairly typical for EMS to come and
20 attempt to resuscitate an individual once they find a body
21 that is supposed to be either dead or severely injured?

22 A: Yes, that happens.

23 Q: Okay. And is that something that you take into account
24 in your protocol or in your processing of the scene?

25 A: Yes.

SABRINA FELLERS - CROSS BY MR. WILSON

1 Q: Okay. And was there EMS? Did EMS come to the house on
2 that particular night?

3 A: I am not aware, but I did not observe any of the typical
4 EMS debris that they leave behind.

5 Q: Well, would you be surprised to know that EMS did come?

6 A: No, I would not.

7 Q: Okay. And do you know if they -- do you know what they
8 did while they were there, if anything?

9 A: No, I do not.

10 Q: Did you talk to EMS to find out from them what, if
11 anything, they did in regards to the body before you got
12 there?

13 A: No, I did not.

14 Q: You said during the photographs that a number of the
15 pockets were turned inside out; right?

16 A: Yes, they were.

17 Q: Okay. Now, do you know whether EMS did that?

18 A: No, I do not.

19 Q: Okay. In fact, we don't know how those pockets got
20 turned out, do we? Or at least as crime scene specialist, you
21 don't know?

22 A: No, I do not.

23 Q: All right. But now, in all fairness, there was money
24 found in his -- was it right front pocket? \$22.19?

25 A: There was money found in a pocket. I would have to look

SABRINA FELLERS - CROSS BY MR. WILSON

1 at my case file to tell you exactly which one.

2 Q: Okay. But there's no question about the fact that there
3 was money found in one of the pockets; right? Cash money?

4 A: Yes, there was.

5 Q: And there's no question that a cell phone was found in
6 the other pocket?

7 A: That is correct.

8 Q: Okay. And so even though you're saying the pockets were
9 turned out, do you know or did you know back on July the 5th
10 what, if anything, was ever taken from his pockets?

11 A: I do not know that.

12 Q: Okay. And in fact, you don't know whether he had a
13 wallet or he didn't have a wallet on July the 4th in his
14 pocket; do you?

15 A: I do not.

16 Q: Okay. Now, let's talk for a minute about what you
17 submitted to SLED. Now, the whole idea of submitting stuff to
18 SLED is to help determine if -- one, if there's DNA on some
19 items --

20 A: Yes.

21 Q: -- such as maybe a coffee cup if somebody is drinking out
22 of it?

23 A: Yes.

24 Q: Or maybe say a cigarette butt. That would be important
25 if a -- if a person is smoking a cigarette and they -- you

SABRINA FELLERS - CROSS BY MR. WILSON

1 find the butt of that cigarette, there may be a chance that
2 there'd be that person's DNA on the cigarette butt?

3 A: Yes, it could be.

4 Q: Now, let me ask you -- you -- have you seen a video in
5 this case of -- of anything?

6 A: No, I have not.

7 Q: Okay. Did you find a cigarette butt out in front of the
8 house on the left-hand side of the steps?

9 A: Not to my recollection, no.

10 Q: Do you know whether or not y'all looked for a cigarette
11 butt on the left side of the steps as you approach the front
12 of the house?

13 A: We looked in the area, yes, but I did not recall seeing a
14 cigarette butt.

15 Q: Okay. Well, would it surprise you if there was a
16 cigarette butt thrown to the left side of the house as the
17 people approached the house?

18 A: There could have been.

19 Q: Okay.

20 A: It would not surprise me.

21 Q: All right. But you didn't find that. Now, you say that
22 you found this recording device, and this recording device
23 that you say was on the couch and with the wires cut from it;
24 correct?

25 A: They appeared to be cut, yes.

SABRINA FELLERS - CROSS BY MR. WILSON

1 Q: Appeared to be cut, but we don't know who cut them;
2 right?

3 A: I do not.

4 Q: In fact, we don't even know when they were cut?

5 A: No.

6 Q: Okay. But what we do know is is that there were
7 multiple, multiple prints -- fingerprints or latents on that
8 machine, weren't there?

9 A: There were latents recovered from that machine, correct.

10 Q: In fact, you recovered -- what? -- nineteen? Twenty-
11 seven? How many? How many latents did you recover from that
12 one machine?

13 A: I did not do all of the processing on it; so I can't
14 answer exactly how many.

15 Q: Okay. So someone else processed it in addition to you
16 and -- but you know you recovered multiple latent prints.
17 Now, explain to the jury -- when we say recovered multiple
18 latent prints, explain to them exactly what that means. What
19 does it that we recovered when we recovered these latent
20 prints?

21 A: That is the -- if you look at your fingertips and you see
22 the ridges, a latent print is the impression that is left from
23 the oils and moisture on your hand from those ridges on the
24 item.

25 Q: Okay.

SABRINA FELLERS - CROSS BY MR. WILSON

1 A: It just -- it's ridge detail pretty much.

2 Q: Okay. And then what you want to do is you want -- as a
3 crime scene specialist or agent, you want to get -- make a
4 copy of that or take that lift or lift that lift, if you will,
5 and then you want to send it or sometimes you may process it
6 yourself. Do you do actual processing --

7 A: I did --

8 Q: -- of the prints?

9 A: -- limited processing, yes.

10 Q: Okay. And you take that and then you process it and you
11 want to match it against an individual. Is that fair?

12 A: I collect any ridge detail that I see on scenes, and I
13 assisted in the processing of these items, and then a latent
14 examiner would look at the latents that are recovered or
15 photographed on the items and determine the value and any
16 analysis from that point on.

17 Q: Of the -- of the multiple latents that you took from this
18 video recording machine? Because as I understand it, your
19 testimony is that the video recording machine was found on the
20 couch on the living room area?

21 A: Yes, it was.

22 Q: Is that right?

23 A: Yes, it is.

24 Q: And you're saying that it was in a -- a pillowcase?

25 A: No, it was not.

SABRINA FELLERS - CROSS BY MR. WILSON

- 1 Q: It was not in the pillowcase?
- 2 A: No, it was not.
- 3 Q: It was just laying on the couch?
- 4 A: That was on the other couch. The pillowcases were on the
- 5 couch along the rear wall.
- 6 Q: Okay. And so it got moved somehow to get on the couch;
- 7 right?
- 8 A: I would assume so.
- 9 Q: But we don't know who moved it to the couch?
- 10 A: I do not.
- 11 Q: Do you know whether or not Mr. Rowell moved it and put it
- 12 on the couch?
- 13 A: I do not.
- 14 Q: Okay. Do you know how long it had been on the couch?
- 15 A: I do not.
- 16 Q: Now, let me ask you in regards to the prints that you did
- 17 -- the latents that you did make of that machine, did you
- 18 compare those latents that you found on that machine to Mr.
- 19 Sanders?
- 20 A: I am not qualified in the area of latent print
- 21 comparison. I assisted in the processing, and the latents
- 22 examiner would be more qualified to answer that question.
- 23 Q: Okay. All right. Do you recall how many latents you
- 24 actually lifted personally from that machine?
- 25 A: I do not.

SABRINA FELLERS - CROSS BY MR. WILSON

1 Q: Okay. Do you have that in your notes?

2 A: I -- I do not have the examination. That would be on the
3 latents examiner's report and worksheets.

4 Q: Okay.

5 A: They might not have been the actual lifts either. They
6 could have been photographs.

7 Q: Okay. So you do photographs as well as that?

8 A: Yes. If the surface requires it, yes.

9 Q: Okay. Now, you also found a coffee cup in the club area
10 of this place; right?

11 A: Yes, I did.

12 Q: And you said you wanted DNA touch and DNA saliva and
13 latents. Now, what does that mean?

14 A: That means that the coffee cup would be processed by the
15 latent examiner and/or a DNA person, and they would look at it
16 to see if they thought they could get latent prints off of it,
17 and if not, they would swab it for touch DNA and then they
18 would swab around the area where your mouth would go if you
19 were drinking out of it for any possible saliva DNA.

20 Q: Okay. All right. And to your knowledge, did you request
21 that SLED look at that and analyze it to see if, in fact, DNA
22 of -- especially I'm concerned about Mr. Sanders, whether his
23 DNA was on that coffee cup.

24 A: May I look at my case filed?

25 Q: Yes, ma'am. Sure. Okay.

SABRINA FELLERS - CROSS BY MR. WILSON

1 A: Okay. I requested DNA analysis and latent prints on
2 that. That is correct.

3 Q: Okay. So you requested them to look at that and to
4 determine whether or not he ever drank from that coffee cup?

5 A: To determine who.

6 Q: Who drank from the coffee cup?

7 A: Yes.

8 Q: Okay. Now, you also found two cigarette butts in an
9 ashtray in this place; right?

10 A: I --

11 Q: From on the desk in the club area.

12 A: Yes, I did.

13 Q: Okay. And you sent that off also as well to have DNA
14 done on that trying to determine whether or not the
15 perpetrators of this crime smoked those cigarettes?

16 A: Yes, I did.

17 Q: All right. And you also sent a set of swabs from the
18 living room door?

19 A: Yes, I did.

20 Q: Trying to determine the same thing; right?

21 A: Yes, I did.

22 Q: Okay. You also got latents from one of the doors. Now,
23 which door was that? Was that the door that was broken open
24 or kicked open? Is that the door that you got the latents
25 from?

SABRINA FELLERS - CROSS BY MR. WILSON

1 A: No. The latent that I lifted on the scene was from the
2 door that led to the steps near the security camera off of the
3 front porch area.

4 Q: Okay. Now, the fingernail clippings, let me ask you
5 about that because I think I asked Agent Stanley about it and
6 she said she turned that over to you I think. There were some
7 fingernail clippings of the victim that were taken at the time
8 of the autopsy and those fingernail clippings were supposedly
9 turned over to you.

10 A: Yes.

11 Q: And those were the fingernail clippings of Mr. Rowell?

12 A: Yes.

13 Q: Now, tell -- tell this jury why it would be important to
14 get the victim's fingernail clippings. Why would that be
15 important to do?

16 A: There could be possible DNA evidence under the
17 fingernails if the person had fingernails that were long
18 enough to collect anything that could have come from any type
19 of struggle with -- or if you scratched somebody, anything
20 like that.

21 Q: So essentially, if -- if the victim had been in a fight
22 or a struggle and he scratched one of the perpetrators, there
23 would be a chance that some of his DNA -- the perpetrator's
24 DNA might be very well under his fingernails?

25 A: There's be a possibility of it, yes.

SABRINA FELLERS - CROSS BY MR. WILSON

1 Q: And we would want to know that?

2 A: Yes.

3 Q: And if it was there, then DNA would tell us who that
4 person was or could tell us perhaps who that person was?

5 A: Yes.

6 Q: All right. Now, this place was a club or a lounge or
7 whatever you want to call it. Is that -- is that -- is that a
8 fair statement based on your view of it as a crime scene
9 specialist?

10 A: I would assume that social activities took place there,
11 yes.

12 Q: Okay. And do you know how frequently social activities
13 took place there?

14 A: No, I do not.

15 Q: Okay. How many sets of known fingerprints or standards
16 did you send to SLED to be measured against all of the many
17 latents that you had garnered during the course of this
18 investigation?

19 A: I only submitted the latent prints that were collected
20 from Mr. Rowell at autopsy.

21 Q: Okay. So you only submitted Mr. Rowell's prints?

22 A: Yes.

23 Q: And -- and -- and the prints on the door, for instance,
24 did you ever find out who those prints belong to?

25 A: I am not aware of what the examiner determined. No, sir.

SABRINA FELLERS - CROSS BY MR. WILSON

- 1 Q: Okay. Now, you also -- you swabbed the -- the door
2 handle and -- and it was at the door that you enter into the
3 bedroom? Is that the door we're speaking of? You had one
4 pair of swabs collected from the door handle of the door open
5 on the headboard of the bed?
- 6 A: That was one of the wooden doors that was part of the bed
7 as the headboard had, like, cabinets on it and around it.
- 8 Q: Okay. So how many -- how many items was it that you
9 submitted to SLED and asked them to test or analyze to make a
10 determination as to whether there was DNA or whether there was
11 fingerprints involved in this particular case that you are
12 aware of?
- 13 A: I submitted over 60 items, butn some of those were not
14 submitted for analysis.
- 15 Q: Okay. Did you ever make a determination as to when the
16 last time was that they had a party or a club event at this
17 location?
- 18 A: No, I did not.
- 19 Q: Do you know whether or not there was one the night
20 before?
- 21 A: No, I do not.
- 22 Q: Let me ask you -- you indicated that there was a
23 footprint inside the house on the floor I think when you were
24 addressing the solicitor earlier?
- 25 A: A shoe print, yes.

SABRINA FELLERS - CROSS BY MR. WILSON

1 Q: A shoe print? And, in fact, there was a shoe print
2 outside in the yard as well; right?

3 A: No, sir.

4 Q: There was no shoe print in a yard?

5 A: No, sir.

6 Q: Are you sure?

7 A: It was in the field way back by the tree line.

8 Q: Okay. Well, in the field -- in the yard, there was
9 another print outside, let's put it that way?

10 A: Yes, there was.

11 Q: All right.

12 A: It was a significant distance.

13 Q: And did the two prints match the one that was in the
14 house on the floor and the one that you found out in the
15 field? Did those two match?

16 A: I am not qualified to answer that question.

17 Q: Okay. Well, did you submit both of those to SLED and ask
18 that they be analyzed first to see if they matched? And then
19 the second part of the question is did you then try to find
20 out who they matched to?

21 A: I photographed them. I did not -- they were not analyzed
22 at SLED.

23 Q: Okay. They were not analyzed?

24 A: They were not.

25 Q: So we don't know if those footprints belonged to somebody

SABRINA FELLERS - CROSS BY MR. WILSON

1 in law enforcement who was helping to investigate out there?

2 A: I do not.

3 Q: And we don't know either whether or not some of those
4 prints that were found on the video recorder machine belong to
5 law enforcement officers who were out there looking around
6 before you got there?

7 A: That is not a question I can answer.

8 Q: Okay. Well, do you know?

9 A: I do not know.

10 Q: Okay. Now, when EMS -- did you -- did you ever examine
11 the body of Mr. Rowell when you got there?

12 A: When --

13 Q: I know you said you've got a call out there. I know you
14 said you photographed it. What I'm asking you is other than
15 taking pictures did you actually look at the body?

16 A: Limited. We looked at it enough to roll it over and to
17 -- when the coroner was present on the scene or the coroner's
18 people were present, which was prior to transport.

19 Q: Did you notice three marks in his arm area?

20 A: I did not.

21 Q: Okay. Have you seen a copy of the autopsy report?

22 A: I have not.

23 Q: Now, the pillowcases -- you said that there were two
24 pillowcases missing off of the bed; is that right? Two?

25 A: Yes.

SABRINA FELLERS - CROSS BY MR. WILSON

1 Q: All right. And there were two pillowcases on the couch
2 in the living room?

3 A: Yes.

4 Q: Okay. And do we know whether or not -- well, let me ask
5 you it this way. Do you know how the pillowcases got from the
6 bedroom to the living room?

7 A: No, I do not.

8 Q: Do you know when they got from the bedroom to the living
9 room?

10 A: No, I do not.

11 Q: Do you know whether or not Mr. Rowell moved them from the
12 bedroom to the living room?

13 A: No, I do not.

14 MR. WILSON: I don't have any other questions. Thank you
15 very much.

16 THE COURT: Mr. Floyd, cross examination.

17 MR. FLOYD: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. FLOYD:

20 Q: I just have a couple of questions. How are you today?

21 A: I'm good. How are you?

22 Q: Good. When you try to lift a latent print on an object
23 like a table or whatever, a door, how do you detect the
24 presence of a print?

25 A: One way of detecting it would be to look for a void area,

SABRINA FELLERS - CROSS BY MR. WILSON

1 like what I mentioned on the window where you can tell there's
2 been a disturbance in the film or the dust on the surface. We
3 use oblique lighting, which is holding a light at an angle so
4 that sometimes you can visualize them that way, and then they
5 are also processed using different types of powders.

6 Q: Okay. And once you detect a print that you want to have
7 tested, you actually lift it? Is that how you refer to it?

8 A: We call it lifting it. That's when you take a piece of
9 tape and you apply it to the print, smooth it out, and then
10 you lift the tape off of the print, and the powder leaves an
11 impression on the tape, and that is applied to a white -- or a
12 backer of some type, kind of like a note card, so that you can
13 see the print. And since you're using a dark powder, it would
14 contrast against the white background. Or it can be
15 photographed on scene.

16 Q: Okay. So the tape that you use to lift the print, that's
17 what's actually sent to the lab to be tested; is that correct?

18 A: On the backer, yes.

19 Q: Right. Okay. So you -- basically, you're transferring a
20 print from one medium to another; is that correct?

21 A: Yes.

22 Q: Okay. Thank you.

23 THE COURT: Any redirect?

24 MR. SALEEBY: Yes, Sir. If I could, please, Your Honor,
25 I neglected to show this. I did not show this item to Ms.

SABRINA FELLERS - REDIRECT BY MR. SALEEBY

1 Fellers. It's State's Exhibit 28 -- 27-A, and with all the
2 other stuff, I overlooked it.

3 REDIRECT EXAMINATION

4 BY MR. SALEEBY:

5 Q: But I'm going to show that to you and ask you if you can
6 identify it?

7 A: Yes.

8 Q: And what can you identify it as being?

9 A: These are the papers that were collected from the table
10 that was on that front porch area.

11 Q: And is it substantially in the same condition as when you
12 retrieved in?

13 A: Yes.

14 MR. SALEEBY: I move its introduction.

15 THE COURT: Any objection, Mr. Wilson?

16 MR. WILSON: No, sir.

17 THE COURT: Mr. Floyd?

18 MR. FLOYD: No, sir.

19 THE COURT: Without objection, State's Exhibit 27 is
20 admitted into evidence.

21 Q: And just as a couple of procedural things, you testified
22 earlier that when you got to SLED, you helped Mr. Darnell
23 process some evidence, but you did not actually do any
24 fingerprint testing yourself?

25 A: I do not do comparison. I'm not qualified.

SABRINA FELLERS - REDIRECT BY MR. SALEEBY

1 Q: That's not something you're qualified to do. Mr. Darnell
2 would be qualified to speak to that?

3 A: Yes, he would.

4 Q: And there's something else that you said that folks might
5 not be aware of. You said you didn't see any signs of EMS nor
6 anybody else to your knowledge tampering with Mr. Rowell's
7 body. What do you ordinarily see once EMS shows up?

8 A: Usually -- sometimes when EMS comes to a scene, they
9 might leave some gloves around or they'll put medical leads on
10 the body to try to detect any heartbeat or anything like or
11 there might be some sterile packaging where they remove gauze
12 or anything that they might have did while they were on the
13 scene.

14 Q: And part of that protocol there is not going into
15 people's pockets, is it?

16 A: I am not sure what the protocol is.

17 Q: Okay. Thank you, ma'am.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: Nothing further, Your Honor.

20 THE COURT: Mr. Floyd?

21 MR. FLOYD: Nothing further.

22 THE COURT: All right. Ma'am, you may step down. Thank
23 you.

24 THE WITNESS: Thank you.

25 MR. SALEEBY: And I'll ask that she be excused.

1 THE COURT: Any objection?

2 MR. WILSON: No objection, Your Honor.

3 MR. FLOYD: No objections.

4 THE COURT: Ma'am, you are excused. You have no further
5 responsibilities regarding your subpoena. Thank you for being
6 here.

7 THE WITNESS: Is that for both --

8 THE COURT: You're free to go.

9 THE WITNESS: For both subpoenas?

10 THE COURT: Ma'am?

11 THE WITNESS: Is that for both subpoenas or --

12 MR. WILSON: Yes, sir.

13 THE COURT: Yes, ma'am.

14 THE WITNESS: Thank you.

15 THE COURT: All right. Ladies and gentlemen, we're going
16 to take an afternoon break. It's four o'clock or a few
17 minutes after four. I'm going to ask that you step to your
18 jury room for just a few minutes and I'll get you back out
19 here as quickly as possible and we'll resume the trial of this
20 case. Do not discuss the case. Do not discuss the case.

21 (Whereupon, the jury exits the courtroom at 4:02 p.m.)

22 (Whereupon, a bench conference is held off the record
23 regarding a juror requesting to make a phone call and
24 regarding scheduling.)

25 (Whereupon, a juror enters the courtroom.)

1 THE COURT: All right. Ma'am, I'm going to let you go
2 make a phone call. I'm just going to ask that you be escorted
3 by one of the bailiffs and one of law enforcement and they'll
4 get you back up here. Okay?

5 THE JUROR: Okay.

6 (Whereupon, the juror exits the courtroom and a bench
7 conference is held off the record.)

8 THE COURT: We'll stand down for just a few minutes.

9 (Whereupon, there is a break in the proceedings from 4:05
10 p.m. until 4:23 p.m.)

11 THE COURT: All right. Anything from the State before I
12 bring the jury back out?

13 MR. CLEMENTS: No, Your Honor.

14 THE COURT: Defense counsel, Mr. Wilson?

15 MR. WILSON: No, Your Honor.

16 MR. FLOYD: No, Your Honor.

17 THE COURT: All right. Bring me the jury, please.

18 (Whereupon, the jury enters the courtroom at 4:24 p.m.)

19 THE COURT: We've got everybody back. Call your next
20 witness, Mr. Clements.

21 MR. CLEMENTS: Thank you, Your Honor. If it please the
22 Court, we'd call Mr. Andre Paige.

23 MR. SALEEBY: Step right there, sir.

24 THE CLERK: Sir, please come forward and let me swear you
25 in, please. Place your left hand on the Bible and raise your

ANDRE PAIGE - DIRECT BY MR. CLEMENTS

1 right hand. Do you solemnly swear or affirm the evidence you
2 are about to give in this trial will be the truth, the whole
3 truth, and nothing but the truth, so help you God?

4 THE WITNESS: Yes, ma'am.

5 THE CLERK: Thank you. You can have a seat in the
6 witness chair.

7 ANDRE PAIGE, being first duly
8 sworn, testifies as follows:

9 DIRECT EXAMINATION

10 BY MR. CLEMENTS:

11 Q: Mr. Paige, how are you doing?

12 A: Good.

13 Q: Can you please state your name and spell it for the court
14 reporter, please?

15 A: Andre Paige. A-N-D-R-E P-A-I-G-E.

16 Q: And where do you live, Mr. Paige?

17 A: I live in Friendship.

18 Q: And that's in Marion County?

19 A: Yeah.

20 Q: Is that correct?

21 A: Mm-hmm.

22 Q: And how long have you lived there?

23 A: About all my life.

24 Q: And did you know Sam Rowell?

25 A: I knew him.

ANDRE PAIGE - DIRECT BY MR. CLEMENTS

1 Q: Did you know his brother, David?

2 A: Yeah.

3 Q: What do you call David?

4 A: Harold.

5 Q: Harold?

6 A: Mm-hmm.

7 Q: Okay. Now, do you remember back July 4th, 2012, when Mr.
8 Sam Rowell got killed?

9 A: Mm-hmm.

10 Q: Do you remember --

11 THE COURT: Hold on a minute. Mr. Paige, I need a yes or
12 a no.

13 THE WITNESS: Oh, I'm sorry.

14 A: Yes.

15 THE COURT: Okay. Thank you.

16 MR. CLEMENTS: It's kind of hard for the court reporter
17 to get a mm-hmm or an uh-uh.

18 THE COURT: Go ahead.

19 Q: But you remember when Mr. Rowell got killed; is that
20 correct?

21 A: Yes.

22 Q: And something unusual happened to you some days after
23 that?

24 A: Yes.

25 Q: Would you please turn and tell the jury what happened,

ANDRE PAIGE - DIRECT BY MR. CLEMENTS

1 what you were doing, and what you discovered?

2 A: We were going on a -- we were going to the beach with the
3 church and I was checking the oil in the car and I found a
4 card on the ground and it was a Walmart card and it had Sam
5 Rowell's name on it, and I told his brother about it and gave
6 it to him and we went -- he asked me where I found it at. So
7 I took him to where I found it at and then he found some more
8 stuff on the ground, too, some other cards and stuff.

9 Q: And what road was that on? What was that near?

10 A: That was on -- it was near Wahee Road at the corner at
11 Wahee Road.

12 Q: Which corner? Wahee and what other road?

13 A: I can't remember the name of the other road. I -- one
14 road -- oh, Foxworth Road and Wahee Road.

15 Q: Foxworth Road and Wahee Road?

16 A: Mm-hmm.

17 Q: Okay. All right. I'm going to show you what's been
18 marked as State's Exhibit 39 and ask can you identify that?

19 A: Yeah. That's the card that I found.

20 Q: Okay.

21 MR. CLEMENTS: And, Your Honor, I'm not sure. If this is
22 not in evidence already, we'd move to have it submitted into
23 evidence at this time.

24 THE COURT: That's Number what?

25 MR. CLEMENTS: 39.

ANDRE PAIGE - DIRECT BY MR. CLEMENTS

1 THE COURT: Any objection, Mr. Wilson?

2 MR. WILSON: Nothing new, Your Honor. I think we
3 addressed that issue earlier.

4 MR. FLOYD: No objections.

5 THE COURT: Subject to Mr. Wilson's prior objection,
6 without objection from Mr. Woods' attorney, Mr. Floyd, 39 is
7 admitted into evidence.

8 Q: Now, you said you went out there with his brother. Which
9 brother was that?

10 A: Harold.

11 Q: Harold? Okay.

12 A: Well, David Rowell.

13 Q: David?

14 A: Yeah.

15 Q: And you found some other items?

16 A: Yeah.

17 Q: You were there with him when those were found?

18 A: I was there with him when he found the other items, but I
19 didn't actually find them. He found them.

20 Q: Okay. Do you know basically what they were?

21 A: Some other cards, ID. It was probably about three or
22 four more pieces of ID, something like that.

23 Q: All right. And they're in this bag here --

24 A: Yes, sir.

25 Q: -- as well? State's Exhibit 39?

ANDRE PAIGE - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: Okay. I want to show you a couple of more exhibits.

3 State's Exhibit 16-A, can you identify that?

4 A: Yeah. That's -- this is Foxworth Road where it leads up
5 to Wahee Road.

6 Q: Okay. And State's Exhibit 16-B?

7 A: That's the corner where the stop sign is.

8 Q: Okay. And State's Exhibit 16-C?

9 A: That's the back of the stop sign.

10 Q: Where?

11 A: At the corner of Foxworth and Wahee Road.

12 Q: And that's where the items were found?

13 A: Yeah.

14 Q: Right by that stop sign?

15 A: Mm-hmm.

16 Q: State's Exhibit 16-D?

17 A: Same corner.

18 Q: Same corner?

19 A: Yes, sir.

20 Q: All right.

21 MR. CLEMENTS: Your Honor, State's Exhibit 16-A, B, C,
22 and D, we would move into evidence at this time.

23 THE COURT: As previously indicated by Mr. Wilson as well
24 as Mr. Floyd, there was no objection to those. Any objection
25 at this time, Mr. Wilson?

ANDRE PAIGE - DIRECT BY MR. CLEMENTS

1 MR. WILSON: No, sir. No objections.

2 THE COURT: Mr. Floyd?

3 MR. FLOYD: No objection.

4 THE COURT: Without objection, State's Exhibits 16-A
5 through D admitted into evidence.

6 MR. CLEMENTS: Your Honor, request permission just to
7 hold these up for the jury --

8 THE COURT: Yes, sir.

9 MR. CLEMENTS: -- to look at them.

10 THE COURT: They're in evidence.

11 Q: Mr. Paige, while y'all were out there and you were
12 looking to see what you could find where you found these
13 cards, was there anything else in particular that you were
14 looking for?

15 A: No.

16 Q: You didn't look for a wallet or anything like that?

17 A: We didn't find a wallet.

18 Q: You didn't find a wallet?

19 A: No, sir.

20 Q: Just the cards was all you found?

21 A: Just the cards. That's it.

22 MR. CLEMENTS: I beg the Court's indulgence a moment.

23 THE COURT: All right.

24 MR. CLEMENTS: Please answer any questions Mr. Wilson or
25 Mr. Floyd may have.

ANDRE PAIGE - CROSS BY MR. WILSON.

1 THE COURT: Mr. Wilson, cross examination.

2 MR. WILSON: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. WILSON:

5 Q: Mr. Paige --

6 A: Yes, sir.

7 Q: When -- when you found the first card, do you know when
8 that was? Do you know the date?

9 A: The exact date?

10 Q: Yes, sir.

11 A: I can't remember the exact date. It was on a Saturday.
12 We were getting ready to go to the beach with the church.

13 Q: Okay. Now, you gave a statement to the police back on
14 August the 23rd --

15 A: Mm-hmm.

16 Q: -- which was probably a month and a half after this
17 incident happened.

18 A: Yeah.

19 Q: Is that -- did you give -- did you find the card close in
20 time to the time you gave the statement?

21 A: It was probably -- it wasn't that long before, yeah.

22 Q: I'm just trying to get some idea. When you say it wasn't
23 that long, are you talking, like, two or three days? Two or
24 three weeks?

25 A: Maybe a week -- week -- or maybe a week.

ANDRE PAIGE - CROSS BY MR. WILSON

1 Q: Okay. So you would have found the cards the first part
2 sometime in August based on what you're saying if it was a
3 week or so before you notified the police?

4 A: Yeah.

5 Q: Okay. And then when you found the first card sometime in
6 August, you then waited a couple of days and then you saw Mr.
7 David Rowell?

8 A: Yeah.

9 Q: And then --

10 A: When I saw Mr. David Rowell, that's when I gave him the
11 card.

12 Q: All right. When you saw him? You just happened to run
13 into him somewhere?

14 A: Yes, sir.

15 Q: Okay. And where was that that you ran into him?

16 A: It was actually up the street from my house.

17 Q: Okay. Now, you said that you'd known Mr. Sam Rowell and
18 Mr. David Rowell prior to this -- to the death of Mr. Sam
19 Rowell?

20 A: Yeah. I grew up in the neighborhood.

21 Q: Okay. So you knew all of them very well?

22 A: Yes.

23 Q: And -- and so when you found the card in August, you knew
24 that the card because it had Mr. Rowell's name on it belonged
25 to Mr. Rowell?

ANDRE PAIGE - CROSS BY MR. WILSON

1 A: Yes..

2 Q: Is there a reason that you waited two days before you
3 took it to Mr. David Rowell to tell him that you found it?

4 A: No. I hadn't seen him. When I saw him, that's when I
5 mentioned it to him.

6 Q: Okay. And then when you took it to him, then the two of
7 you guys went back to where it was that you had found the
8 original card?

9 A: Yes, sir.

10 Q: And you didn't find any more cards actually where you had
11 found the first card, but y'all walked further down the street
12 and then you found some more cards? Is that fair?

13 A: Yes, sir.

14 Q: Okay. How far from where you found your card was it that
15 you found the stack of cards laying down by a stop sign all
16 neatly laying there?

17 A: Probably about a hundred feet maybe.

18 Q: Further than from here to the back of the courtroom?

19 A: Yes, sir.

20 Q: Further than that?

21 A: Yes, sir.

22 Q: Maybe twice that distance?

23 A: Maybe.

24 Q: Okay. And the cards that you found, you said that they
25 were neatly stacked? Or were they? Maybe I should ask you

ANDRE PAIGE - CROSS BY MR. WILSON

1 that. Were they neatly stacked or were they scattered all
2 over the place and you just kind of picked them up?

3 A: They were -- they were stacked under the stop sign.

4 Q: Okay. They were stacked and laid under the stop sign?

5 A: Yes.

6 Q: Okay. Any question about that?

7 A: No, sir.

8 Q: That that's how they were?

9 A: That's how they were.

10 Q: Okay.

11 MR. WILSON: No other questions.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: Your Honor, I don't have anything.

14 THE COURT: Any redirect?

15 MR. CLEMENTS: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. CLEMENTS:

18 Q: Mr. Paige --

19 A: Yes, sir.

20 Q: When you found that card, what was the grass like on the
21 sides of the road?

22 A: When I found the card that I found?

23 Q: Right.

24 A: It hadn't been cut at all.

25 Q: It hadn't been cut at all? The grass was tall and hadn't

ANDRE PAIGE - REDIRECT BY MR. CLEMENTS

1 been cut at all?

2 A: It was probably six to eight inches tall.

3 Q: Okay. Now, when you and David went back out there and
4 you found these other cards -- as Mr. Wilson asked you --
5 stacked neatly by the stop sign, what was the condition of the
6 grass then?

7 A: It had been freshly cut.

8 Q: It had been freshly cut?

9 A: Yes.

10 Q: Okay. So one of two things happened -- would have
11 happened --

12 MR. WILSON: Objection.

13 THE COURT: Hold on a minute. What's your objection?

14 MR. WILSON: To the one of two things happened. That is
15 not a question, first of all.

16 THE COURT: Rephrase your -- rephrase your question or
17 restate it.

18 MR. CLEMENTS: All right.

19 Q: Would it be fair to say that one of two things could have
20 happened to those cards if someone was cutting the grass and
21 they were along the side of the road?

22 THE COURT: Hold on.

23 MR. WILSON: I'm -- I withdraw my objection.

24 THE COURT: You can answer the question, please, sir. Go
25 ahead.

ANDRE PAIGE - REDIRECT BY MR. CLEMENTS

1 A: They could have gotten cut up or --

2 Q: Or somebody could have stacked them up?

3 MR. WILSON: Your Honor --

4 A: Yeah.

5 MR. CLEMENTS: No further questions.

6 THE COURT: Mr. Wilson, anything else?

7 MR. WILSON: Nothing further, Your Honor.

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

9 THE WITNESS: Thank you.

10 MR. CLEMENTS: Your Honor, we would call David AKA Harold
11 Rowell, and we want to ask that Mr. Paige can be excused from
12 his subpoena.

13 THE COURT: Any objection, Mr. Wilson?

14 MR. WILSON: No, sir.

15 THE COURT: Mr. Floyd?

16 MR. FLOYD: No objection.

17 THE COURT: Without objection, Mr. Paige, you are
18 excused. You have no further responsibilities under your
19 subpoena. You're free to go. Thank you for being here.

20 THE CLERK: Come over here and let me swear you in,
21 please, sir. Place your left hand on the Bible and raise your
22 right hand. Do you solemnly swear or affirm that the
23 testimony you are about to give will be the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 THE WITNESS: Yes, ma'am.

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 THE CLERK: Thank you. You can have a seat in the
2 witness box.

3 DAVID "HAROLD" ROWELL, being first
4 duly sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. CLEMENTS:

7 Q: Can you please state your name for the record and tell
8 the jury where you live?

9 A: David Leon Rowell. I live at 339 Highway 9 -- 3951
10 Highway 9, Marion, South Carolina.

11 Q: And how close is that to 1925 Phil Court?

12 A: It's about a quarter mile.

13 Q: I'm just curious. Your name is David Leon Rowell. Where
14 do you get Harold from?

15 A: Well, that came back a long time ago. My mother told me
16 two doctors named me and Harold wasn't on my birth
17 certificate.

18 Q: Okay. All right. And do you know Mr. Andre Paige?

19 A: Yes, I do.

20 Q: Is he a friend of yours?

21 A: Yes, he is.

22 Q: Okay. What was your family relationship to Mr. Sam
23 Rowell?

24 A: Sam is my brother.

25 Q: Okay. How many brothers and sisters do you have, Mr.

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 Rowell?

2 A: I have four sisters and ten brothers.

3 Q: And what -- where do you find -- where do you fall in the
4 line there? Toward the younger end or the older end?

5 A: I am I think on the lower end.

6 Q: Okay. How about Sam? Was he older or younger than you?

7 A: Older.

8 Q: Older? Okay. All right. And do you remember Mr. Paige
9 coming and talking to you --

10 A: Yes, I do.

11 Q: -- about finding something?

12 A: Yes, I do.

13 Q: And as a result of that, what did y'all do?

14 A: As a result, he had a -- one of my brother's cards in his
15 -- in his hand and asked me did I know whose it was and I said
16 yes, it's my brother's, and I asked him where he found it at.
17 And what he did was show me where he got that from so I could
18 look -- investigate and see whether I could find anything
19 else. And he said yes and he took me to the area on Fox --
20 Foxworth Road and I went there.

21 When I first got there, I seen the grass was freshly cut
22 down the side of the road, but he showed me where it was at,
23 and so I was looking for something to be scrapped up somewhere
24 side the road, cut up, but it was not. So I walked up and
25 down that road and came back and I didn't see anything. So I

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 decided to walk the other way a little bit and didn't see
2 anything. So my mind told me to walk back to the sign and I
3 walked back to the stop sign and there the cards was in a
4 little neat pile beside the sign. So I figured somebody knew
5 what was there and just put them there hoping for somebody to
6 find them.

7 Q: Okay. All right. I'm going to show you what's been
8 marked as State's Exhibit Number 39 into evidence and tell me
9 can you identify this?

10 A: Yes. Those are the cards.

11 Q: Those are the cards y'all found?

12 A: Yes, sir.

13 Q: Okay. Now, I want to show you State's Exhibit 16-A. Do
14 you recognize that?

15 A: Yes, I do.

16 Q: Okay. Where is that?

17 A: That's on Foxworth Road. That's the stop sign before you
18 enter the road off of Foxworth Road.

19 Q: Okay. So it's right before you go onto Wahee?

20 A: Right.

21 Q: State's Exhibit 16-B, do you recognize that?

22 A: Yes, sir.

23 Q: What is that?

24 A: That's the stop sign on Foxworth Road.

25 Q: And State's Exhibit 16-C, do you recognize that?

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: What is that?

3 A: That's the stop sign on Foxworth Road.

4 Q: And what -- what did you find there?

5 A: I found the cards laying right beside the pole right

6 here.

7 Q: Okay. Right beside that pole?

8 A: Right beside it, right in there.

9 Q: All right. State's Exhibit 16-D?

10 A: That's -- that's the same pole, the bottom of it.

11 Q: The bottom of it? Okay. All right. Thank you, sir.

12 When you found these cards of your brother's and you looked at

13 those, did you look for anything else other than cards?

14 A: I didn't look at anything else besides that. I didn't

15 look at anything else besides the cards, but I did walk --

16 continue to walk the road trying to find a wallet or something

17 else. I didn't see his wallet or nothing like that, just the

18 cards.

19 Q: You didn't see his wallet?

20 A: No. I didn't see no wallet.

21 Q: Did Sam carry a wallet all the time?

22 A: Yes. He carried a wallet.

23 Q: Okay. All right. And when you got these cards, what did

24 you do in regards to contacting law enforcement or did you

25 contact law enforcement?

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 A: Yes. As soon as we found the cards and checked for the
2 wallet and we didn't find any wallet, we got in the car and we
3 drove to the police department and -- and reported that we had
4 his cards.

5 Q: Okay. And who did you -- do you recall who you gave
6 those to?

7 A: I don't recall the officer's name that we gave them to,
8 but --

9 Q: Do you know what he looks like?

10 A: I know what he looks like if I see him.

11 Q: You don't see him in here today right now?

12 A: I don't think I see him.

13 Q: Okay. Now, you gave those cards to him. Did you ever
14 get them back?

15 A: No. I've never gotten them back.

16 Q: You never got them back? Okay. They kept those?

17 A: Yes, sir.

18 Q: For today's purposes?

19 A: Yes, sir.

20 Q: Okay. Now, I want to move on from that a little bit.
21 Can you tell me what type of business your brother was in?

22 A: My brother was in all types of business, housing and
23 stuff like that. He, you know, purchased houses and stuff
24 like that, and he had a farm. Also, he had a -- built his
25 place back there for recreation that family could go or

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 somebody could have parties or something like that. He was
2 trying to get it ready for weddings and stuff so we had a
3 little pond and stuff out there.

4 Q: Okay.

5 A: And stuff like that.

6 Q: So he had a pond out on his property there on Phil Court?

7 A: Yes, sir.

8 Q: And horses and he owned a lot of property?

9 A: Yes, sir.

10 Q: All right. Did he -- did he have any other businesses
11 that people helped him with and people worked for him some?

12 A: Yes. He had other businesses he worked for. Also, I
13 don't say it, but this -- this is just hearsay. I don't like
14 to say hearsay, but some --

15 Q: If it's something hearsay, don't tell us.

16 A: Yeah. I don't want to say hearsay.

17 Q: I'm asking you what you know. Okay?

18 A: Yeah.

19 Q: Let me ask you this then. Did you know Marco Sanders?

20 A: I did not know Marco Sanders.

21 Q: Did you know Tyrell Woods?

22 A: No, I did not.

23 Q: To your knowledge --

24 A: To my knowledge, I did not know them.

25 Q: To your knowledge, did they ever work for Sam to your

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 knowledge?

2 A: Not to just my knowledge, no.

3 Q: Not to your knowledge? Okay. All right. But he would

4 have different people work for him --

5 A: Yes, sir.

6 Q: -- around, clean up around his house?

7 A: Yes, sir.

8 Q: Doing other jobs?

9 A: Yes, sir.

10 Q: He also -- did he also ever go cook and sell food?

11 A: Yes, sir.

12 Q: Where would he do that?

13 A: He would go down to Atlantic Beach.

14 Q: Okay.

15 A: For Biker's Week.

16 Q: Who were some of the people who would cook and work for

17 him?

18 A: Some of the people that worked for him was -- I think

19 Sister Gus Ann Weeks used to work for him some.

20 Q: Gus Ann Weeks?

21 A: Yeah.

22 Q: Okay.

23 A: And some others.

24 Q: All right. And do you recall seeing him at all that day

25 on July 4th yourself?

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 A: I don't remember seeing him on July 4th.

2 Q: Okay. Do you -- did you see him the day before or a
3 couple days before?

4 A: I had seen him. I had seen him a few days before.

5 Q: Okay. Was -- at that time, was he using or opening up
6 the back of his home at that particular time for entertainment
7 purposes?

8 A: He -- he -- he does that, but I don't know whether he was
9 going to have a party or something out there that week or not.
10 But he'd normally open up and have little things back there.

11 Q: Okay.

12 A: Yeah.

13 Q: All right. And do you recall when you first got called
14 regarding what had happened to him?

15 A: Yes. I was at a -- at a cookout. I was at a cookout
16 with some friends and I got the call and my sister told me
17 that she had heard there had been a shooting back there. Back
18 up there, she heard some shots and I was just assuming it's
19 the 4th of July, like somebody was using fireworks or something
20 like that, just having a party or something back in that area.

21 Q: Okay. Did you go to his home at that time?

22 A: At that time, I didn't rush off and go because I figured
23 it was some firecrackers or something like that that just
24 happened back up in there to cause that noise. Normally have
25 occasions like that. But I stopped by my friend's house and

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 they told me -- they said --

2 MR. WILSON: Objection.

3 A: -- what are you doing --

4 THE COURT: Hold on.

5 MR. WILSON: Objection, Your Honor.

6 THE COURT: Objection sustained.

7 Q: You can't tell us what somebody else said.

8 THE COURT: Objection sustained.

9 A: No, no, no. Okay. What I'm saying is my brother had
10 been shot. I take that back. I stopped by there and what
11 they told me was -- and then I left there and I went to my
12 brother's residence --

13 Q: Okay.

14 A: -- but I wasn't able to get in because they had already
15 had it taped off and a lot of people was there --

16 Q: And the law was there?

17 A: -- and they wouldn't let me in and I couldn't get any
18 information.

19 Q: Now, were you aware that he had surveillance cameras?

20 A: Yes, I was aware of that.

21 Q: And how many cameras did he have working on the house at
22 that time?

23 A: I think he's got -- I think he's got four at each part of
24 the house and I think one was out. He had three working.

25 Q: Okay. All right. And -- and he kept those running all

DAVID "HAROLD" ROWELL - DIRECT BY MR. CLEMENTS

1 the time?

2 A: Yes, sir.

3 Q: Do you know where he had the monitor and recorder set up
4 in his home to your knowledge?

5 A: It was at the foot of his bed to the left.

6 Q: Okay.

7 A: Towards the bathroom.

8 Q: And that's where he kept that?

9 A: Yes, sir.

10 Q: Okay. All right. Mr. Rowell, at this time that's all
11 the questions I've got. Will you please answer any questions
12 that Mr. Wilson or Mr. Floyd may have?

13 A: Yes, sir.

14 THE COURT: Mr. Wilson, cross examination.

15 CROSS EXAMINATION

16 BY MR. WILSON:

17 Q: Mr. Rowell, I think I just have a couple of questions.
18 Let me ask you if -- on the day that you went to find the --
19 the cards, you said Mr. Paige came to you and told you that he
20 had -- that he had seen the card or brought the card, and did
21 y'all go that same day to look for the other cards?

22 A: The -- the same day, yes, sir.

23 Q: All right. And do you know about what time of day that
24 was that y'all went to look?

25 A: It was afternoon.

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

1 Q: Okay. And did you actually find the cards or did someone
2 else find them?

3 A: I found them.

4 Q: Okay. Was it just the two of you that went out?

5 A: Yes, sir.

6 Q: All right. Now, the cards were -- were stacked together
7 at the foot of the stop sign?

8 A: Yes, sir.

9 Q: Okay. And it was like somebody had put them together and
10 then placed them there?

11 A: Right.

12 Q: Okay. And the grass had been freshly cut --

13 A: Right.

14 Q: -- in that area?

15 A: Yes, sir.

16 Q: Now, how long had your brother been dead before this
17 occurred?

18 A: I don't recollect how long he had been dead. I don't
19 recollect.

20 Q: Okay. All right. Did the police take a statement from
21 you and Mr. Paige that day?

22 A: Yes, sir.

23 Q: Okay. And in regards to Mr. -- Mr. Paige, his statement
24 was on August the -- August 23rd. Do you know whether that was
25 the day that you gave your statement as well?

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

1 A: I gave my statement the same day he gave his.

2 Q: Okay. So that would have been August 23rd and that would
3 have been the day that you also found the cards?

4 A: Right.

5 Q: Or the second piece of the cards. Now, let me ask you
6 about your brother's business for just a minute. This was a
7 little -- a little club and -- and people would come and visit
8 the club from time to time. Patrons would come into the
9 lounge and they would have alcoholic beverages and sit around
10 and I guess do whatever people do at a club.

11 MR. CLEMENTS: Your Honor, I would object. I didn't hear
12 a question in that if there was a question in there, but it
13 sounds like Mr. Wilson is testifying.

14 THE COURT: Hold on a minute. Restate your question, Mr.
15 Wilson.

16 Q: I'm asking you -- this was a place of business where
17 people would come from time to time and sit around and drink
18 liquor and drink beer and talk; is that correct?

19 A: Well, he -- well, not -- not with him. He didn't -- he
20 didn't operate -- operate to sell anything like that. He
21 rented out.

22 Q: Okay.

23 A: And the only time that alcohol was -- was sold was when
24 he did his business at the beach for Memorial Day.

25 Q: Okay. So --

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

1 A: That's what he did.

2 Q: Who did the alcohol in the house belong to?

3 A: It belonged to him. That was for the beach.

4 Q: Okay. And -- and when did he sell alcohol at the beach?

5 A: During Memorial weekend.

6 Q: Okay.

7 A: Biker's Weekend.

8 Q: Memorial weekend would have been in May of that year.

9 This was -- this would have been in July when he was killed;
10 is that correct?

11 A: That's correct.

12 Q: So -- and he only -- and you're saying that he only sold
13 alcohol one time a year which would have been Memorial weekend
14 and that would have been at Atlantic Beach. So at the club
15 when these -- when these people come, what would they do? I
16 mean in terms of alcohol.

17 A: Well, they'd buy it or bring their own.

18 Q: Okay.

19 A: For their -- for their parties.

20 Q: Had you ever been to one of the events where -- at this
21 location when it was active as when an event was occurring?
22 Had you ever been there?

23 A: Yes. I've been to a -- a baseball -- a baseball after
24 gathering party.

25 Q: Okay. And how many people were at that baseball party?

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

- 1 A: There could have been 45 -- 50 people.
- 2 Q: Okay. And they were all in that house doing whatever it
- 3 is that they were doing?
- 4 A: Yes. In that -- in that lower area.
- 5 Q: Okay. And when was that baseball party that you went to?
- 6 A: I can't remember, but any time after baseball season in
- 7 the spring -- summertime of the year.
- 8 Q: Okay.
- 9 A: And they have the after gathering.
- 10 Q: Okay. But you don't recall how close in time that was to
- 11 the death of Mr. Rowell?
- 12 A: No. That was way before. That was way before his death.
- 13 Q: So that was a good period of time before?
- 14 A: Right.
- 15 Q: All right. You also said that Mr. Rowell rented out the
- 16 property; is that correct?
- 17 A: Yes. He had some homes and stuff that he rents out.
- 18 Q: Okay. Who was he renting his property to? Do you know?
- 19 A: I -- I don't know all the tenants.
- 20 Q: Okay. All right. Did he own any other clubs other than
- 21 the one that was at his house?
- 22 A: He didn't own one, but he rented one.
- 23 Q: Okay. Who did he rent that one to?
- 24 A: I -- I don't know the young man's name.
- 25 Q: Okay. Now, is that club called Sweet Daddy's Sugar

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

1 Shack?

2 A: It is.

3 Q: Okay. And how far is Sweet Daddy's Sugar Shack from
4 where Mr. Rowell's house was?

5 A: It's I'd say the distance from where I live a quarter
6 mile.

7 Q: Okay. But we don't know how far it is so --

8 A: About a quarter mile.

9 Q: -- if you would tell us like in miles or feet if you can?

10 A: Yeah. About a quarter mile.

11 Q: Okay. About a quarter mile? So that Sweet Daddy's Sugar
12 Shack is about a quarter of a mile from where Mr. Rowell's
13 house is; is that correct?

14 A: Right.

15 Q: All right. And -- and you said you don't know who was
16 renting the club, that Sweet Daddy's Sugar Shack, from Mr.
17 Rowell?

18 A: No, I don't.

19 Q: Okay.

20 A: By name.

21 Q: Well, let me ask you this. Had Mr. Rowell ever been
22 robbed before that you know of?

23 A: Yes.

24 MR. CLEMENTS: Your Honor, we would object on the basis
25 of relevance. I don't know what that has to do with what

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

1 happened on July the 4th, 2012.

2 THE COURT: Can the lawyers approach?

3 MR. WILSON: I'll withdraw the question.

4 THE COURT: Sir?

5 MR. WILSON: I'll withdraw the question.

6 THE COURT: All right. Objection sustained.

7 Q: Let me ask you this. In regards to the items that were
8 in Mr. Rowell's house, the beer in boxes and the Crown Royal
9 boxes or whatever, do you know how long those boxes had been
10 there? Do you have any idea?

11 A: No. I don't know how long they have been there.

12 Q: All right. Did Mr. Rowell sell cigarettes or cigars or
13 anything like that?

14 A: He might have on occasion because he sells them on the
15 beach.

16 Q: Okay. All right. Do you know of your own personal
17 knowledge whether he sold cigarettes or handled cigars?

18 A: Yes. He used to sell them at the beach for Biker's Week.

19 Q: Okay. All right. Did he sell any at the house on 125
20 [sic.] Phil Court?

21 A: Not to my knowledge.

22 Q: Okay. All right. And -- and as I understand what you're
23 saying that the house at 125 [sic.] Phil Court was rented out
24 to people for parties and things like that, but that there was
25 no -- it wasn't like a club where you -- or a lounge where you

DAVID "HAROLD" ROWELL - CROSS BY MR. WILSON

1 just go and hang out and drink and do that kind of stuff. Is
2 that what you're saying?

3 A: It was not.

4 Q: I'm sorry.

5 A: It was not.

6 Q: Okay. All right. Thank you so much. I appreciate it.

7 THE COURT: Mr. Floyd?

8 MR. FLOYD: Your Honor, I don't have any further
9 questions.

10 THE COURT: Any redirect?

11 REDIRECT EXAMINATION

12 BY MR. CLEMENTS:

13 Q: Was it your brother's habit to have liquor boxes and
14 cigar boxes stacked up in the middle of his floor?

15 A: No.

16 Q: Okay. Thank you.

17 MR. CLEMENTS: No further questions.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: Nothing further.

20 THE COURT: Sir, you may step down. Thank you.

21 THE WITNESS: All right.

22 MR. CLEMENTS: Our next witness, Your Honor, will be
23 Officer Marion Richardson. Your Honor, we'd ask that Mr.
24 Rowell be released from his subpoena.

25 MR. WILSON: Without objection, Your Honor.

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 THE COURT: Mr. Floyd?

2 MR. FLOYD: No objection.

3 THE COURT: Sir, you are released and have no further
4 responsibilities under your subpoena.

5 THE CLERK: Sir, if you would, come over here, please.
6 Place your left hand on the Bible and raise your right hand.
7 Do you solemnly swear or affirm the evidence you are about to
8 give in this trial will be the truth, the whole truth, and
9 nothing but the truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Thank you. You can have a seat in the
12 witness stand.

13 MARION RICHARDSON, being first
14 duly sworn, testifies as follows:

15 DIRECT EXAMINATION

16 BY MR. CLEMENTS:

17 Q: Can you state your name and where you work at?

18 A: My name is Marion Richardson and I work for the County
19 Administrations Office in charge of code enforcement.

20 Q: Okay. And -- and you work with codes enforcement and you
21 haven't had an opportunity to come in the new courtroom yet,
22 have you?

23 A: Absolutely not. It's totally changed as far as the first
24 time.

25 Q: So you didn't know where to sit?

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

- 1 A: No. No, absolutely.
- 2 Q: Okay. All right. But you're okay? You good now?
- 3 A: I'm good now. I'm good now.
- 4 Q: Okay. All right. Back on July the 4th, 2012, were you
- 5 working with codes enforcement?
- 6 A: I was working with the county at the Marion County
- 7 Sheriff's Office.
- 8 Q: Okay. And what -- what were you working as? There are
- 9 different law enforcement officers. What part did you play in
- 10 the Sheriff's Office?
- 11 A: Patrol officer.
- 12 Q: Okay. And you were working on a shift?
- 13 A: Yes, sir.
- 14 Q: Who did you work on a shift with?
- 15 A: I worked on a shift with -- at that time, my sergeant was
- 16 Clemson Legette and PFC was Greg Pike and I was the corporal.
- 17 Q: Okay. All right. And did you know Andre Paige?
- 18 A: No, not -- not at that time until -- up until I was
- 19 addressed a couple of weeks later.
- 20 Q: Okay. All right. Now, I'm going to ask you -- you met
- 21 Mr. Paige a couple of weeks later?
- 22 A: Correct.
- 23 Q: What were -- and did you know Mr. David Rowell?
- 24 A: Not at the time, no.
- 25 Q: Okay. Did you meet them at the same time?

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: Can you please tell this jury what were the circumstances
3 of you -- of being introduced to them and what transpired?

4 A: When I was introduced to them, I received a call from
5 central dispatch that there was two gentlemen that had some
6 evidence in relations to the case which is going on now and
7 that they had found along the roadside. And we were eating
8 supper at the time and the two gentlemen met me at Jimmy B's
9 in Marion, at the restaurant where we were having supper, and
10 at that time they brought the evidence in, which was some ID
11 and other personal items of the deceased.

12 Q: Okay. And did you receive those items from them at that
13 time?

14 A: Yes, I did.

15 Q: What did you do with those items?

16 A: I took those items and placed them into evidence and
17 turned them over to the investigative officer at that time.

18 Q: Did you take any statements from Mr. Rowell and Mr.
19 Paige?

20 A: I did not take the statements. The statements were given
21 to the -- to the investigative officers who were on the case.

22 Q: All right.

23 A: I took their name and number and address and contact
24 information and told them they would be in contact with them.

25 Q: So the statements weren't taken that same day?

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

- 1 A: No. No, sir, not that day.
- 2 Q: They were taken later by investigators?
- 3 A: Yes, sir.
- 4 Q: Okay. All right. Do you recall what day that was that
- 5 you met with them?
- 6 A: It was around July the 18th in the evening time. I'm
- 7 suspecting that was either -- it was on a weekend.
- 8 Q: Okay. And you're sure about the date?
- 9 A: It was around the 18th.
- 10 Q: Around the 18th?
- 11 A: Yes, sir.
- 12 Q: Okay. All right. I'm going to show you what's been
- 13 marked State's Exhibit 39. Do you recognize these?
- 14 A: Yes, sir.
- 15 Q: What are they?
- 16 A: This is the identification cards, driver's license, and
- 17 other personal items that belonged to the deceased.
- 18 Q: Okay. All right. Now, July 4th, 2012, you were working
- 19 on patrol with Clemson Legette and Gregory Pike?
- 20 A: Yes, sir.
- 21 Q: Did you receive a call to respond to a home invasion?
- 22 A: Zone 3 received a call and all units reported to that
- 23 location to the home invasion.
- 24 Q: Okay. And what was that location?
- 25 A: I -- I couldn't rightly remember.

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 Q: Does 1925 Phil Court sound like the right address?

2 A: Yes, sir. That was -- I do remember the court was Phil
3 Court.

4 Q: Okay. And what type of road is that?

5 A: It was a dirt road -- a county dirt road.

6 Q: Okay. And when you responded to there, who did you find
7 there when you got on the scene?

8 A: Well, there -- there was quite a few people around there.
9 When I got there on the scene, there were -- I'm not sure.
10 It's been some time, but I think Officer Pike was on scene
11 first when we arrived.

12 Q: He was the first one there?

13 A: I believe he was the first one on scene when we arrived.

14 Q: Did you -- did you arrive at the same time as Sergeant
15 Legette or after him or before him?

16 A: I think I -- I think I arrived behind Sergeant Legette or
17 maybe a couple of seconds. We both arrived down there about
18 the same time.

19 Q: About the same time? And there were a few people out
20 there?

21 A: Yes, sir. Around the residence, but not at -- not
22 totally at the residence, but around the area of it.

23 Q: So around -- away from the residence in the yard?

24 A: Oh, yeah, away from the residence.

25 Q: Okay. When you got up there and you got out of your

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 patrol car, what did you see or what did you observe?

2 A: The -- the first thing I observed when I -- when I got
3 out of the patrol car, naturally there were a lot of people at
4 the scene but not necessarily on the scene, just around the
5 house. We were advised at the time by Mr. Pike that there was
6 -- there was a body laying in the threshold of the doorway.
7 At that time, I secured the security tape, secured the scene,
8 and then started a log-in report of the scene.

9 Q: All right. Is that that yellow tape that says crime
10 scene?

11 A: Crime scene tape. I secured the scene.

12 Q: Did anyone try to cross that?

13 A: No.

14 Q: No?

15 A: Anyone that tries to pass -- pass through or go onto the
16 scene has to -- has to be signed in on a log sheet.

17 Q: Okay. To your knowledge, while you were there did
18 anybody go in that crime scene other than law enforcement or
19 emergency personnel?

20 A: Correct. And I was only there briefly. I went back out
21 to direct the detectives into the incident location.

22 Q: Okay. And you didn't see any civilian --

23 A: No.

24 Q: -- traffic in that house?

25 A: No.

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 Q: Okay. Now, did you start the crime log yourself?

2 A: I started the first page of the crime log myself.

3 Q: And who completed it?

4 A: And it was completed by Officer Legette or Officer Pike
5 at that time. Like I said, my first page I completed it and
6 then I left the -- left the incident.

7 Q: All right. And is this a copy of the crime scene log?

8 A: Yes, sir.

9 Q: That is complete?

10 A: Right.

11 Q: And page 1 was the one you filled out?

12 A: Yes, sir.

13 (Whereupon, counsel confer.)

14 MR. WILSON: I have no objections.

15 MR. FLOYD: No objection.

16 THE COURT: Without objection -- what number is that,
17 Madam Court Reporter?

18 MR. CLEMENTS: Your Honor, I haven't moved it in. I just
19 wanted to show it to them before I asked any further questions
20 about it.

21 THE COURT: I'm sorry.

22 MR. CLEMENTS: That's okay, Your Honor.

23 Q: Did EMS respond?

24 A: Yes, they did respond.

25 Q: So there were a couple of EMS workers there?

MARION RICHARDSON - DIRECT BY MR. CLEMENTS

1 A: There was two EMS workers on -- that was on location
2 prior to my exiting the incident location.

3 Q: You let them onto the scene?

4 A: Yes, sir. After -- after I received their information, I
5 let them onto the scene.

6 Q: Do you have any knowledge whatsoever of what they were
7 able to do for, if anything, Mr. Rowell?

8 A: No.

9 Q: Okay. All right. And on -- on this, is there any --
10 other than those two, is there anybody else other than
11 employees and investigators of the Marion County Sheriff's
12 Office?

13 A: No. Everything is -- everything is pretty much Marion
14 County Sheriff's Office other than the two EMS workers.

15 Q: Okay. All right.

16 MR. CLEMENTS: I beg the Court's indulgence.

17 MR. CLEMENTS: Officer Richardson, will you please answer
18 any questions Mr. Wilson or Mr. Floyd may have?

19 THE COURT: Cross examination.

20 MR. WILSON: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. WILSON:

23 Q: Mr. Richardson, as I understand it, you're saying that it
24 was actually you think around August 18th that you received the
25 cards for Mr. Rowell --

MARION RICHARDSON - CROSS BY MR. WILSON

1 A: Yes, sir.

2 Q: -- from the family?

3 A: Yes, sir.

4 Q: From Mr. David Rowell and Mr. Paige? Are you certain
5 that it was on the 18th?

6 A: It was -- it was -- I'm -- I could only state that it was
7 around the 18th.

8 Q: All right.

9 A: I can't be absolutely for certain, but I'm thinking it
10 was around the 18th.

11 Q: Well, did you do a report once they brought you this
12 evidence and turned it over to you? Did you file a written
13 report showing that you had received it and that you were then
14 turning it over to the case agent, whoever that case agent may
15 be?

16 A: I -- it's been -- it's been a while. I don't remember,
17 sir.

18 Q: Okay. So you don't know if you did that or you don't --

19 A: I don't have recollection of it. You know, I don't have
20 -- I can't remember. Being the time lapse, I can't remember
21 if I did a report or a supplemental to the fact that evidence
22 was turned over. I can tell you I did notify the investigator
23 of the scene and placed it into an evidence bag.

24 Q: Well, wouldn't that be fairly standard procedure if you
25 are receiving evidence in a murder case that you would record

MARION RICHARDSON - CROSS BY MR. WILSON

1 the reception of that evidence so that we would know when it
2 was that you received it and what happened to it while it was
3 in your possession?

4 A: Yes. It was recorded on the evidence bag and turned over
5 to the evidence container.

6 Q: When did you turn it over to the --

7 A: At approximately the same day I suppose.

8 Q: Okay. And who did you turn it over to?

9 A: We have an evidence box. We have an -- we have an
10 evidence box and we transfer it over to the evidence box and
11 then it's picked up and processed out to the investigators.

12 Q: Okay. And we think that that was done around the 18th
13 that you put it in the box we think; right?

14 A: Yes, sir.

15 Q: And -- but you're not a hundred percent certain that it
16 was the 18th?

17 A: I believe that -- I believe the day that we took the
18 information from them or took the evidence from the subject is
19 I believe the 18th or around the 18th. I'm not sure.

20 Q: What day of the week would that have been?

21 A: It would have been on a weekend. It would have been on a
22 Saturday or a Sunday. I'm not quite sure. I'm thinking maybe
23 a Saturday.

24 Q: Okay. Now, when -- when the items were turned over to
25 you, how did you -- now, you were at a restaurant you said

MARION RICHARDSON - CROSS BY MR. WILSON

1 when you received them. So how did you package them to
2 preserve any fingerprints or anything, DNA or whatever might
3 be on them after this period of time? What did you do to
4 preserve them?

5 A: The only -- the only thing that I could do at that
6 present time -- because I wasn't sure what they had in
7 relations to the case. Once they brought it in, they -- one
8 of the individuals had it in a hat and he took all of them out
9 and laid them on the table. At that point, I took a napkin
10 and wrapped them up, and I wrote down their home information,
11 contact information, and that sort of stuff. And then when I
12 got to my patrol car, I inserted them into an evidence bag to
13 seal it up.

14 Q: Okay. Well, did you go out to the area that they --
15 where they told you that they had found the cards to see if
16 there were any other cards or if a wallet or any other piece
17 of evidence might be there?

18 A: Sure. We went. Myself and Officer Gerald went to that
19 location and we searched the location and walked up and down
20 the road of the area where they -- they said they located them
21 items and I think also we took -- I believe we took pictures
22 of the area also.

23 Q: Did you go to the same day or the same week?

24 A: We went the same day.

25 Q: Okay. Now, what time of night was it that they brought

MARION RICHARDSON - CROSS BY MR. WILSON

1 you the stuff at the restaurant?

2 A: I can't -- I can't affirm the time. It was before -- it
3 was before dark. The area that we located and searched was
4 close to the evening hours, getting -- getting pretty close to
5 dark.

6 Q: Okay.

7 A: But it was all done in the daylight hours.

8 Q: All right. Moving to another subject, you said that --
9 you told the solicitor that you were the person responsible at
10 least for page 1 of the crime scene report. That would be
11 those people who were coming and going from the crime scene?

12 A: Absolutely.

13 Q: And there's no doubt about the fact that EMS -- emergency
14 medical people actually did come to the scene before SLED
15 came. Is that fair?

16 A: I can't -- they were -- I would assume that, but -- oh, I
17 can say that, yes, because they were they shortly after we
18 made -- you know, after we arrived on the scene.

19 Q: And -- well, did EMS get there before you got there?

20 A: I can't remember. I don't -- I'm not -- no, I don't
21 think they did.

22 Q: Well, let me ask you this. There is a crime log and I
23 think the solicitor showed you one. Let me show you this one
24 and see if that's the same one that the solicitor showed you.

25 A: Yes, sir. That is.

MARION RICHARDSON - CROSS BY MR. WILSON

1 Q: All right. And is that your name at the bottom of it?

2 A: That is. Correct.

3 Q: Okay. Now, is that in order of the people who went into
4 that house?

5 A: Yeah. Greg -- yeah, Officer Pike was on scene first.

6 Yeah, that is the order in which I remember them being on
7 scene.

8 Q: Okay. So you're then -- the order that they went in the
9 house would have been Officer Pike of the Sheriff's Office and
10 then Sergeant Legette and then you?

11 A: Yes, sir.

12 Q: And then Emily Avant from EMS?

13 A: Correct.

14 Q: And then somebody -- Bobby Larrimore from EMS?

15 A: Correct.

16 Q: Okay. And how long were the EMS people there dealing
17 with the body of Mr. Rowell?

18 A: At that time, I turned -- I turned the -- I wasn't there.
19 I was briefly there to get their information and then I turned
20 the crime log sheet over to Officer Pike and Officer Legette.

21 Q: Okay. Did you leave at that point or did you stay?

22 A: Yes, sir. I left at that point and I went to the -- back
23 to the major highway and directed the detectives into the
24 incident location.

25 Q: Okay. When you left, was EMS still there at the scene

MARION RICHARDSON - CROSS BY MR. WILSON

1 when you left?

2 A: Yes.

3 Q: Okay. So you don't know how long they were there?

4 A: No.

5 Q: And you don't know what procedures, if any, they employed
6 while they were there?

7 A: No.

8 MR. WILSON: No other questions. Thank you, sir.

9 THE COURT: Mr. Floyd?

10 MR. FLOYD: I don't have any questions, Your Honor.

11 THE COURT: All right. Any redirect?

12 MR. CLEMENTS: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. CLEMENTS:

15 Q: Marion, I think you testified on direct that you believe
16 you met them at Jimmy B's on July 18th, but Mr. Wilson asked
17 you August 18th. Which is right?

18 A: July the 18th.

19 Q: July the 18th? Okay.

20 A: Yes, sir.

21 MR. CLEMENTS: Nothing further.

22 THE COURT: Mr. Wilson?

23 MR. WILSON: No, sir.

24 THE COURT: Sir, you may step down. Thank you.

25 MR. CLEMENTS: Your Honor, may we approach a minute?

1 THE COURT: Yes.

2 (Whereupon, a bench conference is held off the record in
3 the presence of the jury but out of the hearing of the
4 jury off the record regarding scheduling.)

5 THE COURT: All right. Ladies and gentlemen, we are
6 going to -- we are at a stopping point. You all have been
7 here all day and I've kept you here all day. You all have
8 been very patient with us and with me. You've been very
9 attentive throughout the day and I appreciate that and I know
10 the lawyers and all parties involved appreciate that.

11 What I am going to do at this time -- I am going to
12 release you for the evening. Okay? I'm going to release you
13 for the evening. My instructions remain the same that I gave
14 you at the beginning of this trial.

15 You're not to discuss this case at all -- at all with
16 anyone. You are not to do any independent investigation on
17 your own. You are to decide this case based solely -- and I
18 emphasize based solely upon the testimony in this courtroom
19 and the evidence that's been admitted into evidence. All
20 right?

21 At this time, I'm going to let you go for the balance of
22 today. I'm going to ask you to be back up here at nine
23 o'clock in the morning and we will resume the trial of this
24 case as promptly at that time as possible. Thank you all.
25 You all are free to go. Everybody else except -- everybody

1 else remain seated while the jury exits the courtroom.

2 (Whereupon, the jury exits the courtroom at 5:15 p.m.)

3 THE COURT: All right. Anything from the State before we
4 break for the balance of today?

5 MR. CLEMENTS: No, Your Honor.

6 THE COURT: Defense counsel, Mr. Wilson?

7 MR. WILSON: Nothing further, Your Honor.

8 THE COURT: Mr. Floyd?

9 MR. FLOYD: Nothing.

10 THE COURT: All right. Let me -- the jury is leaving
11 now. Mr. Wilson wants a few minutes to speak with his client.

12 MR. WILSON: Yes, sir, please.

13 THE COURT: As well as Mr. Woods to speak with his
14 lawyers. I'm going to allow -- I would ask law enforcement --
15 taking into consideration now that they've got to transport
16 them to various places, I will ask law enforcement if they'll
17 remain here for about thirty minutes to let you all talk if
18 you need to.

19 MR. WILSON: That's good.

20 THE COURT: And that should give the jury more than
21 sufficient time to vacate the grounds here of the courthouse
22 and its surrounding area for them to be transported to the
23 facilities that they're currently being housed.

24 Let me say this, too. I know there is some family in the
25 courtroom, victim's family as well as defendants' family, and

1 I understand some people can't whisper. They just can't talk
2 silently, and I've heard some people from the victim's family
3 during the course of the trial today talking in the back of
4 the courtroom, which is disruptive to me, and I'm not going to
5 allow it. I'm not going to allow it. It's disruptive to me
6 and, more importantly, I have a concern about it being a
7 disruption to the jury as they sit here trying to listen to
8 this testimony that's being elicited from the witness stand.

9 If it happens tomorrow, I'm going to ask that you be
10 removed from the courtroom because I do not want it to be a
11 disruption during the course of this trial. Am I clear on
12 that?

13 All right. Any questions on that? Does anybody in here
14 not understand that? Okay. Thank you. Nine o'clock in the
15 morning. Thank you.

16 MR. WILSON: Thank you, Your Honor.

17 (Whereupon, the proceedings adjourn for the day at 5:18
18 p.m.)

19 MAY 21, 2014

20 (Whereupon, the proceedings resume at 9:06 a.m.)

21 THE COURT: All right. Anything? I've been advised that
22 all the jurors are here. Anything before I bring the jury
23 out, Mr. Clements?

24 MR. CLEMENTS: No, Your Honor. Thank you.

25 THE COURT: Mr. Wilson?

1 MR. WILSON: Nothing, Your Honor.

2 THE COURT: Mr. Floyd?

3 MR. FLOYD: Nothing, Your Honor.

4 THE COURT: All right. If you will, bring me the jury,
5 please sir.

6 (Whereupon, the jury enters the courtroom at 9:07 a.m.)

7 THE COURT: Good morning, ladies and gentlemen. I hope
8 you all had a nice evening last night and are ready and
9 prepared to go forward with the trial of this case this
10 morning. I appreciate you all being back here when I asked
11 you to be back here this morning.

12 All right. At this time, we are going to continue the
13 trial of this case. Mr. Clements, you're recognized. Call
14 your next witness, please, sir.

15 MR. CLEMENTS: Thank you, Your Honor. May it please the
16 Court. We would call Lafayette Emmanuel Reed.

17 THE CLERK: Mr. Reed, if you'll come forward and let me
18 swear you in, please, sir. Place your left hand on the Bible
19 and raise your right hand. Do you solemnly swear or affirm
20 that the testimony you are about to give in the trial of this
21 case will be the truth, the whole truth, and nothing but the
22 truth, so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you. Have a seat in the witness box.

25 LAFAYETTE REED, being first duly

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 sworn, testifies as follows:

2 DIRECT EXAMINATION

3 BY MR. CLEMENTS:

4 Q: Good morning, Mr. Reed. How are you doing today?

5 A: Great. And yourself?

6 Q: All right. I'm going to tell you, if you can, keep your
7 voice up so this court reporter can take down everything you
8 say and so that everybody can hear you. Okay?

9 A: Okay. Good enough.

10 Q: All right. Mr. Reed, can you tell the jury where do you
11 live?

12 A: Probably less than fifty -- probably about a hundred
13 yards from where Sam Rowell had lived on Phil Court.

14 Q: On Phil Court about a hundred yards down from -- from San
15 Rowell?

16 A: Right.

17 Q: Okay. Were you around your house the evening of July the
18 4th, 2012?

19 A: Later that evening.

20 Q: Later that evening?

21 A: Yes, sir.

22 Q: Okay. All right. And when you were home on that
23 evening, you said later in the evening, around what time are
24 you talking about?

25 A: Just -- just about dark.

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 Q: Just about dark?

2 A: Right.

3 Q: Okay. And you came home and who lives -- if you walk out

4 your front door, who lives on the left side of your house?

5 A: Francis Davis.

6 Q: Okay. And who lives on the right side?

7 A: Residence of Sam.

8 Q: All right.

9 A: Sam. Sam Rowell.

10 Q: So looking at the front of your house, Sam Rowell is on

11 the right and Francis Davis is on the left?

12 A: Yeah.

13 Q: That's Bay-Bay?

14 A: Right.

15 Q: All right. You came home and you were home close around

16 dark you said?

17 A: Yes.

18 Q: Did you go to either one of your neighbor's houses?

19 A: Not at the time, but by the time I got there because they

20 was over at Francis' house and they walked over and said

21 something was going down up to Sam Rowell's house. So I

22 didn't know what to think of it at the time. Then I left and

23 came back, and then we was standing in the yard and then I --

24 then again I heard about three shots go off up that way.

25 Q: Okay. All right. And what did you do when you heard

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 shots?

2 A: Immediately, I got in my car and I got my gun and I was
3 heading up that way and --

4 Q: You said you got in your car and you got your gun?

5 A: Right.

6 Q: Okay.

7 A: Well, I got my gun and then I got in the car.

8 Q: You got your gun and then you got in your car and headed
9 up that way. Which way was that way?

10 A: Towards Sam.

11 Q: Towards Sam's house? All right. As you were headed
12 towards Sam's house, what did you see?

13 A: At the time I got in front of the house, I didn't see
14 anything at the time, but I seen Eddie Godbold's car parked
15 out in the yard and the closer I got to the house, I seen
16 Eddie was getting in his car kind of squatting down, and by
17 the time I got to Eddie's car, a set of lights came on and as
18 I got a little closer to it, it ran me off the road coming
19 back.

20 Q: All right. A set of lights? Was that -- and let me be
21 sure. Correct me if I'm wrong. If you pulled out your
22 driveway going to Sam's, you're going this way; right?

23 A: Right.

24 Q: And as you were going this way, you said you saw a set of
25 lights come on. Was that in front of you?

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

- 1 A: That was after I got in front of Sam Rowell's house.
- 2 Q: You kept going, you're getting to Sam's house, saw Eddie
- 3 get in his car, and then a set of lights came on. Which
- 4 direction were those lights at?
- 5 A: The lights was facing out.
- 6 Q: Coming -- coming towards you?
- 7 A: Right.
- 8 Q: Okay. All right. And then when you saw those lights
- 9 coming towards you, how fast were they coming?
- 10 A: Fast enough I had to get out the -- run up on the hill to
- 11 get out the way so they could get back.
- 12 Q: You had to run up on the hill?
- 13 A: Right. Ran me off the road.
- 14 Q: All right. What kind of a road is that?
- 15 A: Dirt road.
- 16 Q: Dirt road?
- 17 A: Right.
- 18 Q: And you got dirt kind of on either side?
- 19 A: Right.
- 20 Q: Kind of raised up?
- 21 A: Yes.
- 22 Q: Did you have to run up on the hill?
- 23 A: Yes.
- 24 Q: Why did you have to run up on the hill?
- 25 A: To keep from getting hit.

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 Q: To keep them from hitting you?

2 A: Right.

3 Q: Okay. What type of vehicle was that, if you could tell?

4 A: It was a light-colored car. I was -- I told the
5 detectives it looked like it was a Expedition or a Ford
6 Explorer. It was a light-colored car.

7 Q: Could it have been possibly a Cadillac or some other SUV
8 like that?

9 A: It could have, but at the time, like I said, it was dark
10 and the only thing I see is just the color. It was a light-
11 colored vehicle.

12 Q: Okay. All right. I want to show you two things for
13 identification purposes, 17-A and -- excuse me. Yes -- and
14 17-B.

15 A: Possibility it was the vehicle, but like I said, it was
16 at night and the only thing I seen was the color of the car,
17 and I couldn't tell was who or what or who was in the car.

18 Q: Okay. So is it fair you're telling me you can't say this
19 was the vehicle?

20 A: Right.

21 Q: But was it similar to this?

22 A: Similar to it, yes.

23 Q: So it could have been or could not, but something
24 similar?

25 A: Right.

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 Q: Is that fair?

2 A: Fair. That's fair.

3 Q: Okay.

4 MR. CLEMENTS: Your Honor, at this time, we'd move 17-A
5 and B in as evidence of something similar to -- not as the
6 actual vehicle itself, but as a reasonable representation.

7 THE COURT: Any objection, Mr. Wilson?

8 MR. WILSON: Well, yes, sir. I mean the witness --

9 THE COURT: State your grounds for your objection.

10 MR. WILSON: My grounds is that there's not a proper
11 foundation. The witness has not identified this as being the
12 vehicle that he saw. He says that it is a similar type of
13 vehicle and not only that, based on the witness' --

14 THE COURT: I don't want to hear your argument. I just
15 want to hear your grounds. Mr. Floyd, any objection?

16 MR. FLOYD: Your Honor, I would object.

17 THE COURT: All right. Objection is sustained at this
18 time. Objection sustained at this time.

19 MR. CLEMENTS: All right. Thank you, Your Honor.

20 MR. WILSON: Thank you, Your Honor.

21 Q: Now, you told the investigators at the scene that night
22 what you saw?

23 A: Yes, sir.

24 Q: And you gave them a written statement?

25 A: Yes, sir.

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 Q: And is that statement the same as what you're testifying
2 to today?

3 A: Yes.

4 Q: That it was a light-colored large SUV?

5 A: Correct. Correct.

6 Q: All right. Could you tell at all how many people were in
7 that vehicle?

8 A: No, I couldn't.

9 Q: Okay. Could you tell whether they were male or female in
10 the vehicle?

11 A: I couldn't tell because it was too dark. I couldn't see.

12 Q: Okay. You couldn't see the occupants at all?

13 A: Right.

14 Q: Okay. All right. I want to show you what's been marked
15 State's Exhibits 5-D and 5-E, and I believe they're in
16 evidence without objection. And I'm going to ask you if 5-D
17 is something you recognize?

18 A: Yes. That's the front of the house.

19 Q: That's the front of whose house?

20 A: Sam Rowell's house.

21 Q: Looking which direction? Away from where you were coming
22 from or where you -- or back towards your house? Which
23 direction?

24 A: That's coming from my house.

25 Q: All right. So coming from your house, not looking

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 towards your house?

2 A: Right.

3 Q: Okay. All right. And I'm going to show you State's
4 Exhibit 5-E. Can you identify that for me?

5 A: This would be the side of the house about on the end
6 where the vehicle was parked coming.

7 Q: All right. Is that looking off from his -- from the side
8 of his house?

9 A: Yes.

10 Q: Is that what's across the field?

11 A: Yes.

12 Q: And down the road?

13 A: Right.

14 Q: All right. And that's looking back towards his house?

15 A: Right.

16 Q: What is that right there?

17 A: That's a side door where it was broken down when we got
18 there.

19 Q: All right. Of Sam's house?

20 A: Right.

21 Q: Okay. All right. What -- what is right in this area
22 right here?

23 A: It was a field and a little dirt road that goes through
24 there.

25 Q: Okay. So right here is where there's a dirt road?

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 A: Yes.

2 Q: All right. And you had testified earlier those are hills
3 -- there's a little hill --

4 A: On the side.

5 Q: -- on the sides of the road. So where can you turn
6 around on this road at?

7 A: The only way you can turn around is that road right
8 there.

9 Q: Okay. You either had to turn around in that little dirt
10 road or at Sam's?

11 A: Yes.

12 Q: Okay. Or further down?

13 A: Further down.

14 Q: Okay. All right. When the vehicle passed you, the
15 light-colored SUV, at a high rate of speed, you said it almost
16 ran you off the road. After they passed you, where did you go
17 and what did you do?

18 A: I turned around and --

19 Q: Where did -- where did you turn around at?

20 A: At the little road I was showing you up on that picture.

21 Q: On -- on State's Exhibit 5-E?

22 A: Right. Yes, the road right there. I turned around there
23 and then I went back behind trying to kind of follow the
24 vehicle.

25 Q: Okay. So on State's Exhibit 5-D, you went past that tree

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 there and turned around?

2 A: Yes.

3 Q: Okay. All right. And then after you turned around, what
4 did you try to do?

5 A: Well, follow the vehicle, and I, like, lost contact
6 because I went all the way up to 41, which would be at T-Mart
7 where that is located, and then I turned around and came back
8 because I didn't see the vehicle.

9 Q: All right. You couldn't catch up with them?

10 A: No, sir.

11 Q: All right. I'm going to -- let me just turn this a
12 little bit where you can see this.

13 MR. CLEMENTS: I hope all the jurors can see it.
14 Everybody okay? And, Your Honor, I'm going to ask if Mr.
15 Rowell [sic.] can come stand right here.

16 THE COURT: All right.

17 MR. CLEMENTS: Mr. Rowell [sic.], if you would, step
18 down.

19 THE COURT: Mr. Wilson, Mr. Floyd, if you all need to get
20 up, feel free to do so.

21 MR. WILSON: Thank you, Your Honor.

22 MR. CLEMENTS: This is State's Exhibit Number 2.

23 THE COURT: All right.

24 Q: Now, I'm going to point this -- and this is State's
25 Exhibit Number 2. It's into evidence. This is Phil Court

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

- 1 Road and this is Sandy Land Road right here.
- 2 A: Okay.
- 3 Q: All right. Where -- where am I pointing at right now?
- 4 A: That's Sam Rowell's house.
- 5 Q: Okay. And where am I pointing at right now?
- 6 A: That's where I live at.
- 7 Q: Okay. And down here, who lives down here?
- 8 A: Francis.
- 9 Q: Okay. What -- what am I pointing at right now?
- 10 A: That should be that pecan tree.
- 11 Q: Is that -- I'm going to show you again State's Exhibit 5-
- 12 E, and is that where that is?
- 13 A: Yes.
- 14 Q: Okay. All right. Now, you rode past Sam's house and you
- 15 went here and turned around right here?
- 16 A: Right.
- 17 Q: And you came back?
- 18 A: Right.
- 19 Q: When you were following them, when you saw the white SUV,
- 20 did it go down Phil Court or did it turn here on Sandy Land?
- 21 A: It turned on Sandy Land.
- 22 Q: It turned on Sandy Land and went in this direction?
- 23 A: Right.
- 24 Q: And you followed it this direction?
- 25 A: No. I went straight. I went down Phil Court.

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

- 1 Q: You went straight on Phil Court?
- 2 A: Right.
- 3 Q: And why did you go straight out Phil Court instead of
- 4 going on Sandy Land?
- 5 A: I didn't know exactly where it went.
- 6 Q: Okay. And you went -- and this goes out to which road?
- 7 A: Highway 9.
- 8 Q: And this goes out to which road?
- 9 A: It comes back out to Highway 9.
- 10 Q: When you got to Highway 9 up here, which way did you
- 11 turn? Right or left?
- 12 A: Left.
- 13 Q: Left? And went all the way down to the T-Mart?
- 14 A: The T-Mart, right.
- 15 Q: Okay. And did you see them at all?
- 16 A: No, sir.
- 17 Q: Okay. And after you went to the T-Mart, you turned
- 18 around and you came back?
- 19 A: I came back.
- 20 Q: And went back to Sam's house?
- 21 A: Well, I went back to Francis' house first.
- 22 Q: Okay.
- 23 A: And then we left from there and went back up to where
- 24 Sam's was.
- 25 Q: Okay. All right. When you got back to Sam's house, who

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 did you find there?

2 A: There was Eddie, Bay-Bay, and a couple more. I can't
3 think of exactly who was all there.

4 Q: Okay. All right. Were there a lot of people or a
5 handful of people?

6 A: There was a lot of people there --

7 Q: Okay.

8 A: -- by the time I got back.

9 Q: Okay. More than ten?

10 A: I'd say close to ten.

11 Q: Okay. All right. Sit back up there, please, sir.

12 (Whereupon, the witness returns to the witness stand.)

13 Q: Now, when you got up to the house, where were the people
14 at? In the house? In the yard? Away from the house? Close
15 to the house? Where were they?

16 A: They were away from the house, closer by the road.

17 Q: Close by the road?

18 A: Yes.

19 Q: Okay. Nobody was at the house?

20 A: No, sir.

21 Q: Did you go in the house?

22 A: No, sir.

23 Q: Did you go look in the side door?

24 A: I didn't go. I looked at -- I went from the house. I
25 didn't go to the house because it's a crime scene so it's good

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 for nobody to go near the house.

2 Q: You didn't go near it because it was a crime scene?

3 A: Right.

4 Q: How about did you see the rest of the people go near it?

5 A: No, sir.

6 Q: All right. You didn't -- did you see anybody go in and
7 out?

8 A: No, sir.

9 Q: All right. Was there a door on the side open?

10 A: Yes, the door was open.

11 Q: All right. So you went and you looked in the door and
12 you could either look in the door close by or stand way away
13 from it and look in the door. Which one did you do?

14 A: Stand away from it and looked in.

15 Q: And looked in? And what did you see?

16 A: The only thing I could see was his feet.

17 Q: All right. Did you call his name?

18 A: Yes.

19 Q: Any response?

20 A: No response.

21 Q: All right. And you didn't go any closer than that?

22 A: No, sir.

23 Q: Did you see anybody else go any closer than that?

24 A: No, sir.

25 Q: Okay. All right. But you couldn't say what they did

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

1 before they went in?

2 A: No, sir.

3 Q: Before you got there?

4 A: No, I couldn't say.

5 Q: Did you hear any talk about anybody going in the house?

6 A: No, sir.

7 Q: Okay. All right. Did you stay at the scene then?

8 A: Sir?

9 Q: Did you stay there at the scene?

10 A: Yes.

11 Q: And why did you remain at the scene and stay there?

12 A: Just to see what was going on and see whether he was

13 still living at the time, but come to find out he was dead.

14 Q: All right. And who else -- who arrived on the scene

15 after you did?

16 A: I think they called in and 9-1-1 came up.

17 Q: All right. So law enforcement came up?

18 A: Yes.

19 Q: Did you see EMS come up?

20 A: I think a little while later then they came up.

21 Q: The ambulance came up?

22 A: Right.

23 Q: Okay. And did you talk to anyone there at the scene with

24 law enforcement?

25 A: No, sir, I didn't.

LAFAYETTE REED - DIRECT BY MR. CLEMENTS

- 1 Q: All right. Nobody from law enforcement talked to you --
- 2 A: No, sir.
- 3 Q: -- that evening?
- 4 A: Well, I talked to -- I can't think of the detective's
- 5 name, but I told him what I --
- 6 Q: What you saw?
- 7 A: Right.
- 8 Q: Where did you tell him? There at the scene or at your
- 9 house?
- 10 A: At the scene.
- 11 Q: Okay. All right. And did you give him a written
- 12 statement at that time?
- 13 A: Yes, sir.
- 14 Q: Okay. All right. Now, you said you got your gun and got
- 15 in your car and went to Sam's. Why did you get your gun?
- 16 A: To protect myself.
- 17 Q: All right. What -- what did you hear before that?
- 18 A: Before I got my gun?
- 19 Q: Yeah.
- 20 A: I heard three shots going off from up in that area.
- 21 Q: You heard three shots?
- 22 A: Yes, sir.
- 23 Q: You sure of the number?
- 24 A: Yes. I heard three.
- 25 Q: Okay. All right. Mr. Reed, if you would, please answer

LAFAYETTE REED - CROSS BY MR. WILSON

1 any questions that Mr. Wilson has or Mr. Floyd has.

2 THE COURT: Mr. Wilson, cross examination.

3 CROSS EXAMINATION

4 BY MR. WILSON:

5 Q: Mr. Reed --

6 A: Yes, sir.

7 Q: You and Mr. Rowell were good friends or are y'all
8 related?

9 A: Related.

10 Q: Okay. And what's that relationship? Do you know?

11 A: Yes.

12 Q: What cousins or first cousins? Second?

13 A: We're -- I couldn't tell you which cousins.

14 Q: Okay. You just know you're cousins?

15 A: Right.

16 Q: Did y'all grow up together?

17 A: No. He's a lot older than I was.

18 Q: Okay. All right. And when did Mr. Rowell move back to
19 Marion County?

20 A: I really couldn't tell you.

21 Q: Okay. Has it been a while though?

22 A: Yes.

23 Q: Like, ten -- twelve years?

24 A: It has been a while.

25 Q: Okay. And you live just down the street from where Mr.

LAFAYETTE REED - CROSS BY MR. WILSON

1 Rowell lives, and I think you said it was like a hundred yards
2 from where he lives?

3 A: Yeah.

4 Q: All right. And that's pretty much a long dirt road and
5 there are what? Maybe three or four houses on that whole road
6 -- on that dirt road leading from Highway 9?

7 A: Well, just in that, like, area, but further up there's
8 about four more houses.

9 Q: Okay. Now, Ms. Bay-Bay, who you were telling the
10 solicitor about a minute ago, she lives what? Maybe a hundred
11 yards from you?

12 A: I would say closer to fifty.

13 Q: Fifty yards from you? Okay. Further down --

14 A: Right.

15 Q: -- away from Mr. Rowell's house?

16 A: Right.

17 Q: And you -- your house is in-between Mr. Rowell's house
18 and Ms. Bay-Bay's house?

19 A: Right.

20 Q: Okay. And Mr. Rowell's house would be further down Phil
21 Court if you're coming in from 9 the way that you went out to
22 look for the car?

23 A: Right.

24 Q: If you're coming in on that road, you'd have to pass Ms.
25 Bay-Bay's house and then your house, then you'd get to Mr.

LAFAYETTE REED - CROSS BY MR. WILSON

1 Rowell's house?

2 A: Right.

3 Q: Okay. And now, that night when you say you heard the
4 shots, what time do you think it was that you -- you heard the
5 shots?

6 A: That would be somewhere between about seven thirty and
7 eight so I would say between seven thirty and eight.

8 Q: Okay. It could have been later than that in all
9 fairness, could it?

10 A: It could.

11 Q: You weren't really keeping up with the time?

12 A: Right.

13 Q: You just know that you heard some shots?

14 A: Right.

15 Q: And you ran out there after you heard the shots and you
16 said you got your gun and then you went to try to see what was
17 going on?

18 A: Right.

19 Q: Okay. And -- and this is the 4th of July. Now, when you
20 got your gun and you headed out, was it already dark at that
21 point?

22 A: Yes.

23 Q: Okay. And in fact, it was dark enough that the car that
24 you said that you saw coming towards you as you headed out
25 going towards Mr. Rowell's house from your house, which you

LAFAYETTE REED - CROSS BY MR. WILSON

1 said was about a hundred yards or less, and you started going
2 down the dirt road to Mr. Rowell's house, and at that point
3 you had -- did you have your -- were you driving your vehicle?

4 A: Yes.

5 Q: All right. Did you have your lights on?

6 A: Yes.

7 Q: Okay. And the other car had its lights on? The car that
8 was coming towards you?

9 A: Not at the time.

10 Q: Okay. They didn't have lights on?

11 A: No. They didn't have no lights on until after I got
12 right in front of Mr. Rowell's house. When I got in front of
13 Sam's house --

14 Q: Okay.

15 A: -- and then all of a sudden a set of lights came on and
16 that's when they passed me.

17 Q: Okay. Now, let me ask you about that. You said that you
18 were in front of Sam's house now?

19 A: Right.

20 Q: When -- when you first saw the lights to the other car,
21 you were already in front of Sam's house?

22 A: No. No. I said when I got in front of Sam's house,
23 after I got in front of Sam's house, all of a sudden a set of
24 lights came on in front of me.

25 Q: And that's what I'm asking you.

LAFAYETTE REED - CROSS BY MR. WILSON

- 1 A: Okay.
- 2 Q: You were headed -- you were headed towards Sam's house?
- 3 A: Right.
- 4 Q: There is a car which is headed towards you?
- 5 A: Okay.
- 6 Q: Is that correct?
- 7 A: Correct.
- 8 Q: All right. And what I'm asking you is when you first saw
- 9 the lights from the vehicle, the other vehicle, where was your
- 10 car on that road? Were you already in front of Sam's house?
- 11 Is that what you're saying?
- 12 A: Yes.
- 13 Q: All right. So you were in front of Sam's house, you see
- 14 this other car now coming from further up the road; is that
- 15 right?
- 16 A: Right.
- 17 Q: Okay. So they're coming from further up the road past
- 18 Sam's house?
- 19 A: Correct.
- 20 Q: Coming towards you because you're in front of Sam's
- 21 house?
- 22 A: Right.
- 23 Q: All right. And so this car that you saw was not coming
- 24 out of Sam's yard?
- 25 A: No.

LAFAYETTE REED - CROSS BY MR. WILSON

1 Q: It was not?

2 A: No.

3 Q: Okay. And you never saw this car parked in Sam's yard?

4 A: No.

5 Q: All right. Now, once the car comes out, comes past you,
6 you try to look at the car and you try to get a good look at
7 it as best you could?

8 A: Right.

9 Q: Okay. But at some point, the car turns its lights -- its
10 headlights on; is that right?

11 A: Right.

12 Q: And you got your headlights on and you couldn't see who
13 was in the vehicle?

14 A: Right.

15 Q: So you don't know whether there was one person or two
16 people or five people in the car?

17 A: No.

18 Q: And you don't know if the people were black or white or
19 Asian or otherwise?

20 A: I don't know.

21 Q: All right. Now, as I understand it, when that car passed
22 you, did you ever stop at Mr. Rowell's house before you chased
23 the white car that you say passed you?

24 A: No.

25 Q: Okay. So did you have -- did you stop at some point and

LAFAYETTE REED - CROSS BY MR. WILSON

1 have a conversation with Mr. Godbold, who was up at Mr. Sam's
2 house?

3 A: No, not at -- not at Sam's house. It was later at Bay-
4 Bay's house.

5 Q: Okay. So you talked to Mr. Godbold later on --

6 A: Right.

7 Q: -- at Ms. Bay-Bay's house about what had happened up at
8 Sam's house?

9 A: Correct.

10 Q: Okay. So when this car passed you, how did you know that
11 you should follow this car? What made you think that you
12 needed to follow that particular car?

13 A: Just instincts.

14 Q: Okay. Just instincts? All right. So when the car
15 passed, how far down did you have to go past Mr. Sam's house
16 in order to turn around? Because that's a pretty narrow dirt
17 road right there; right?

18 A: Right.

19 Q: All right. So how far did you have to go down past Mr.
20 Sam's house before you could turn around to go follow the
21 other car?

22 A: I'd say close to about fifty feet.

23 Q: Okay. And you had to go around about fifty feet?

24 A: Right.

25 Q: All right. And now -- and did you make like a three-

LAFAYETTE REED - CROSS BY MR. WILSON

1 point turn or were you able to actually turn onto -- onto a
2 yard or something?

3 A: It's a -- it's a back road there so I just pulled up in
4 it and backed out.

5 Q: Okay. All right. And now, when -- when you -- when you
6 were there the first time, you were passing Mr. Sam's house
7 the first time, did you see Mr. Godbold's car parked there?

8 A: Yes.

9 Q: Okay. And where is his car parked?

10 A: Side of the highway beside the dirt road.

11 Q: Okay. Was he actually on the dirt road or was he off of
12 the dirt road into Mr. Sam's -- edge of Mr. Sam's yard?

13 A: He was in the edge of his yard.

14 Q: Okay. And did you see any other vehicles other than Mr.
15 Godbold's vehicle and Mr. Sam's truck in Mr. Sam's yard when
16 you passed there?

17 A: No, I didn't.

18 Q: Okay. There was nobody else in that yard that you saw?

19 A: No.

20 Q: Did you even see Mr. Godbold himself at that moment?

21 A: Well, I seen him as I was going back.

22 Q: Okay. So after you turned around and was coming back
23 out, that's when you actually saw him?

24 A: Right.

25 Q: But you saw his car earlier?

LAFAYETTE REED - CROSS BY MR. WILSON

1 A: Right.

2 Q: All right. And so you then go and you try to follow this
3 other car, and was the car going fast or slow? And I know
4 that's a relative term, but try to describe to me how the
5 speed of the car that was coming past you?

6 A: It was coming past me --

7 Q: Pretty fast?

8 A: -- pretty fast.

9 Q: Okay. And then the car headed out and it went straight
10 out Phil Court or did it make that left or do you know?

11 A: When I seen it, I was walking the road and I seen where
12 it turned and went down Sandy -- Sandy Land.

13 Q: Okay. All right. And -- and the solicitor asked you
14 about giving the statement to the police and you did. You
15 talked with the police that night and you told them what you
16 knew about this?

17 A: Right.

18 Q: Did you not?

19 A: Correct.

20 Q: And -- and you told them at that time that you thought
21 that it was either a Cadillac or a Navigator?

22 A: Right.

23 Q: Okay. And -- and -- but you said here that you thought
24 it was an Expedition, but that was something that you learned
25 later; right?

LAFAYETTE REED - CROSS BY MR. WILSON

1 A: (No verbal response.)

2 Q: You have to say yes or no.

3 A: Yes. I'm sorry.

4 Q: Okay. Thank you, sir. And -- and now, let me ask you
5 when you came -- after you -- how -- well, let me ask you
6 this. How long were you gone chasing the other car? How long
7 would you think you were gone down that road chasing the other
8 car?

9 A: Probably about twenty or thirty minutes.

10 Q: That long? Okay. So you were gone twenty or thirty
11 minutes chasing this car. So then you come back to Mr.
12 Rowell's house; correct?

13 A: Well, I stopped by Francis' house first.

14 Q: All right. Bay-Bay's?

15 A: Right.

16 Q: Okay.

17 A: Then I -- we went on back up there.

18 Q: Okay. Now, you -- all right. So when you come back in,
19 do you come back in on Phil Court or do you come back in on
20 the other dirt road?

21 A: Phil Court.

22 Q: You come back on Phil Court? And when you come back in
23 off of 9 onto Phil Court, you go to Ms. Bay-Bay's house?

24 A: Right.

25 Q: All right. And do you stay there for any length of time

LAFAYETTE REED - CROSS BY MR. WILSON

1 or do you -- do you immediately leave there and go back to Mr.
2 Rowell's?

3 A: We stayed there for wasn't even five seconds.

4 Q: Okay. So you just picked her up?

5 A: Right.

6 Q: All right. Just -- just you and Ms. Bay-Bay?

7 A: Yes and no.

8 Q: Okay.

9 A: Eddie, he drove back up there. So --

10 Q: Okay. So when you got back to Ms. Bay-Bay's house, Eddie
11 was where? At Ms. Bay-Bay's?

12 A: Yes.

13 Q: Okay. So when you got to Ms. Bay-Bay's house after
14 chasing the car, Mr. Godbold was at Ms. Bay-Bay's house and --
15 and then you and Ms. Bay-Bay got in your vehicle?

16 A: Right.

17 Q: Did Eddie drive his vehicle or did he ride with y'all?

18 A: I think, if I'm not mistaken, he drove his vehicle.

19 Q: Okay. And then the two vehicles then leave Ms. Bay-Bay's
20 house and y'all go back down the road to go back to Mr. Sam's
21 house?

22 A: Right.

23 Q: Now, what you're saying is you think that there was about
24 a thirty minute window from the time that you chased those
25 cars until the time you got back to -- to the house. Is that

LAFAYETTE REED - CROSS BY MR. WILSON

1 -- is that fair?

2 A: That's fair.

3 Q: All right. All right. Now, let me ask you some
4 questions about what the -- well, let me finish with this line
5 of questioning first. When you got back to the house, when
6 you went back, you were telling the solicitor that you thought
7 that there were maybe eight -- ten people outside. This is
8 when you come back?

9 A: Right.

10 Q: And this is when you come back with Mr. -- with Mr.
11 Godbold and with Ms. Bay-Bay. When y'all get back, you're
12 saying there are eight -- seven or eight other people already
13 there?

14 A: Yeah. Close. About seven people.

15 Q: Okay. All right. So when the three of y'all come back,
16 there are already several other people outside the house?

17 A: Right.

18 Q: And you don't know how long those people had been out
19 there --

20 A: No.

21 Q: -- at that point? All right. And -- and do you know
22 whether or not any of those people had gone into the house
23 before you got back?

24 A: Well, I heard one of them saying they wanted to go to see
25 was he living and I said no, it's best not to go over there

LAFAYETTE REED - CROSS BY MR. WILSON

1 yet.

2 Q: Yeah.

3 A: Because they would come -- the police would have to come
4 and investigate it there.

5 Q: So when you got back, you tried to make sure that nobody
6 else went in the house?

7 A: Right.

8 Q: Okay. Once you got back, but what I was asking you, do
9 you know whether or not any of those people who were out there
10 had gone into the house before you got back?

11 A: Well, I don't know for sure.

12 Q: Okay. That's fair. All right. Now, let's talk for a
13 minute about the -- Mr. Rowell had -- had like a little -- I
14 don't want to call it a farm because I don't know if it's
15 really a farm, but he had like animals, horses and some cows
16 and things like that out there --

17 A: Right.

18 Q: -- on this area. Is that fair?

19 A: That's fair.

20 Q: All right. And -- and there was also this I guess club
21 or lounge or whatever we want to call it that was there. How
22 long had -- had that club or lounge been there?

23 A: Since -- well, since he had the trailer put there so I
24 would say close to -- I would say probably two to three years
25 maybe.

LAFAYETTE REED - CROSS BY MR. WILSON

1 Q: Okay. All right. And -- and how often or how frequently
2 was it used? Do you know?

3 A: Mostly used when family reunions. That's basically the
4 things he used it for.

5 Q: Okay. All right. And -- and -- and now, have you --
6 have you ever been to any event up there at the house?

7 A: Yes.

8 Q: Okay. All right. And when is the last time that you had
9 been to some event there at the house?

10 A: I really couldn't tell you the last event that I went to
11 at that time before he got killed.

12 Q: Okay. All right. You're not real sure when that was?

13 A: Right.

14 Q: All right. Did you ever go to Atlantic Beach to sell --
15 help him sell stuff down in Atlantic Beach?

16 A: No, sir.

17 Q: All right. But you knew that he was doing that?

18 A: Mm-hmm.

19 Q: Okay. All right. Now, let me ask you in terms of -- of
20 -- of the video recording devices that -- were you aware that
21 he had video recorders at his house?

22 A: Yes.

23 Q: All right. And did you know where the video recording
24 machine was in his house?

25 A: Not at the time.

LAFAYETTE REED - CROSS BY MR. WILSON

- 1 Q: Okay. You didn't know where it was at?
- 2 A: No.
- 3 Q: All right. Did he ever talk with you about it or tell
- 4 you about it?
- 5 A: About?
- 6 Q: The video recording machine that he had?
- 7 A: Yes.
- 8 Q: That recorded the outside and stuff like that?
- 9 A: Yes, he did.
- 10 Q: Okay. Now, Mr. -- Mr. Rowell also had a number of people
- 11 working for him -- did he not? -- from time to time helping
- 12 him with feeding the animals and do the yards and -- and fix
- 13 up things around there. That was not uncommon to see him have
- 14 two or three guys over there doing stuff and working around
- 15 there, would it not?
- 16 A: Right.
- 17 Q: In fact, he owned some other properties as well?
- 18 A: As far as I know, he does.
- 19 Q: Yeah. And he owned another club which was the Sugar --
- 20 Sweet Daddy's Sugar Shack?
- 21 A: Right.
- 22 Q: All right. And -- and do you know who he rented that
- 23 place to?
- 24 A: I don't know the fellow's name.
- 25 Q: Okay. Let me ask you about EMS. That night when -- when

LAFAYETTE REED - CROSS BY MR. WILSON

1 you got back from -- from trying to find the white car, you
2 came back and you picked up Ms. Bay-Bay and -- and Mr. Eddie
3 followed y'all or y'all followed him, but you went back to the
4 house. How long after you got back was it before EMS people
5 came to -- to -- to the house?

6 A: I couldn't give you a roughly estimate of exactly what
7 time they showed up.

8 Q: Okay. But when they came in -- when they came up, were
9 they driving the regular EMS emergency medical van?

10 A: Yes.

11 Q: Like they always drive?

12 A: Yes.

13 Q: All right. And did they get out and go inside the house?

14 A: If I'm not mistaken, I think they called the -- like,
15 called the coroner first.

16 Q: Okay.

17 A: If I'm not mistaken.

18 Q: Who called the coroner first?

19 A: I -- I think the police called him first.

20 Q: Okay.

21 A: Because they wanted to make sure that he was dead and
22 stuff before they moved him.

23 Q: Okay. Yeah. What I'm asking about was when EMS people
24 came. You told the solicitor that EMS people came, and I'm
25 just trying to find out did they go in the house. Did the EMS

LAFAYETTE REED - CROSS BY MR. WILSON

1 people go into the house?

2 A: If I'm not mistaken, they did.

3 Q: Okay.

4 A: If I'm not mistaken.

5 Q: All right. All right. And -- and you don't know what
6 they did when they went in there; you just know that they
7 showed up?

8 A: Right.

9 Q: All right. Now, how long did you stay there that
10 evening?

11 A: It was about one -- one o'clock before I left.

12 Q: Okay. All right. Did EMS leave before you did or after
13 you?

14 A: Yes.

15 Q: They left before you did?

16 A: Yeah.

17 Q: Okay. So do you know how long they were there?

18 A: Not that --

19 Q: You weren't paying attention to the time so you don't
20 really remember?

21 A: Right.

22 Q: Okay. All right.

23 MR. WILSON: If the Court would bear with me just one
24 second?

25 THE COURT: Yes, sir.

LAFAYETTE REED - CROSS BY MR. FLOYD

1 MR. WILSON: No other questions. Thank you so much.

2 THE COURT: Mr. Floyd, cross examination.

3 MR. FLOYD: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MR. FLOYD:

6 Q: Good morning, Mr. Reed.

7 A: Good morning.

8 Q: How are you?

9 A: I'm fine.

10 Q: Mr. Reed, could you just take a look at this statement
11 for me?

12 (Whereupon, the witness complies.)

13 Q: Is that a statement that you wrote?

14 A: Yes.

15 Q: Okay. Did you --

16 MR. CLEMENTS: No objection if he wants to put it into
17 evidence, Your Honor.

18 THE COURT: All right.

19 MR. FLOYD: Thank you.

20 Q: Did you write that on July the 4th of 2012?

21 A: Yes.

22 Q: Okay. Now, when you wrote this statement, you said the
23 vehicle looked similar to an Escalade or a Navigator; is that
24 correct?

25 A: Right.

LAFAYETTE REED - CROSS BY MR. FLOYD

1 Q: Okay. And you spoke to an investigator on the scene and
2 told him that?

3 A: Yes.

4 Q: Okay. Did you talk about anything else other than your
5 seeing that car and what it looked like?

6 A: No, sir.

7 Q: That's -- that's the only subject y'all talked about?

8 A: Right.

9 Q: Were you ever interviewed by anyone else after that or
10 did you talk to anybody else about any subject?

11 A: Not that I recall.

12 Q: Okay. All right. Thank you very much.

13 THE COURT: Any redirect?

14 REDIRECT EXAMINATION

15 BY MR. CLEMENTS:

16 Q: Mr. Wilson asked you about people working around helping
17 Mr. Rowell out. Did you ever see Marco Sanders there working?

18 A: No.

19 Q: Did you ever see Tyrell Woods there working?

20 A: No. I haven't seen him.

21 Q: All right. Also, Mr. Wilson asked you -- I want to be
22 sure I've got this clear. Mr. Wilson asked you about people
23 going in -- going into the scene and -- and you said you heard
24 them talking about no, and then he said, "So you tried to stop
25 them; didn't you?" Is that you that said, "No, this is a

LAFAYETTE REED - REDIRECT BY MR. CLEMENTS

1 crime scene," or is that you heard somebody else say, "No,
2 this is a crime scene. You better not go in there?"

3 A: I said it.

4 Q: Okay. Did you hear anybody else say that?

5 A: Yes. I heard a couple more people said it also.

6 Q: A couple more people said it also?

7 A: Right.

8 Q: Okay. All right. So to your knowledge, no one went in
9 there?

10 A: For my knowledge, no one did.

11 Q: Okay. Thank you.

12 THE COURT: Mr. Wilson?

13 MR. WILSON: I have no other questions, Your Honor.

14 MR. FLOYD: Nothing further, Your Honor.

15 THE COURT: All right. Sir, you may step down. Thank
16 you.

17 THE WITNESS: Thank you.

18 MR. CLEMENTS: Your Honor, we'd ask that Mr. Reed be
19 excused from his subpoena.

20 THE COURT: Any objection, Mr. Wilson?

21 MR. FLOYD: No objection, Your Honor.

22 THE COURT: Mr. Floyd?

23 MR. FLOYD: No objection.

24 THE COURT: Any objection, Mr. Wilson?

25 MR. WILSON: No, sir.

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 THE COURT: Thank you. Sir, you're free to go. You have
2 no further responsibilities under your subpoena. Thank you
3 for being here. Call your next witness please.

4 MR. CLEMENTS: Your Honor, we'd call Levern Nichols.

5 (Whereupon, there is a pause in the proceedings until the
6 witness enters the courtroom.)

7 MR. CLEMENTS: If you would, step up and be sworn, Mr.
8 Nichols.

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

12 THE WITNESS: I do.

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

14 LEVERN NICHOLS, being first duly
15 sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. CLEMENTS:

18 Q: How are you doing?

19 A: Fine. And yourself?

20 Q: Doing fine. Please introduce yourself to this jury?

21 A: Hi. My name is Levern Nichols. I live here in Marion.

22 Q: And what does everybody call you?

23 A: JJ.

24 Q: Okay. And can you tell this jury what kind of business
25 you run?

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

- 1 A: A detail shop.
- 2 Q: Tell them exactly, in case they don't know, what a detail
- 3 shop is?
- 4 A: A car wash.
- 5 Q: A car wash?
- 6 A: Hand car wash.
- 7 Q: All right. And you detail cars?
- 8 A: Yes, sir.
- 9 Q: All kinds of cars?
- 10 A: All kinds.
- 11 Q: Okay. And did you formerly work for the Marion County
- 12 Sheriff's Office?
- 13 A: Yes, sir.
- 14 Q: All right. Back around July the 4th or 5th of 2012, did
- 15 you hear anything about a murder that occurred in the county?
- 16 A: Yes, sir.
- 17 Q: And did you hear about anything that they were looking
- 18 for?
- 19 A: Yes.
- 20 Q: Can you tell this jury what -- what you heard that they
- 21 were looking for?
- 22 A: A white SUV. A white Expedition.
- 23 Q: All right. Are you sure it was an Expedition or just a
- 24 white SUV at that time?
- 25 A: Well, they said a white SUV at the time.

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 Q: Okay. All right. And as a result of knowing law
2 enforcement was looking for individuals with a white SUV, did
3 you talk to any of the law enforcement officers or any of the
4 investigators?

5 A: I talked to Detective Lee about it.

6 Q: And what did you tell Detective Lee?

7 A: That I saw Marco and Tyrell in one the day before.

8 Q: The day before the shooting?

9 A: Yes, sir.

10 Q: July 3rd of 2012?

11 A: Yes.

12 Q: And how long had you known Marco Sanders?

13 A: About the last twenty years maybe.

14 Q: The last twenty years?

15 A: Yes.

16 Q: And how long had you known Tyrell Woods?

17 A: Not that long. Briefly. Maybe a year or two.

18 Q: What -- was there an age difference between Marco and
19 Tyrell?

20 A: Yes.

21 Q: All right. Is there a family relationship there?

22 A: Yes.

23 Q: What is that relationship?

24 A: Nephew and uncle.

25 Q: Tyrell is the nephew and Marco is the uncle?

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

- 1 A: Yes.
- 2 Q: Okay. Now, when you told James Lee what you had seen,
3 did you do a written statement at that time?
- 4 A: Yes, I did. I think a day or two after maybe.
- 5 Q: All right. Can you remember -- was it some -- could it
6 have been longer than that?
- 7 A: It couldn't have been no longer than two or three days at
8 the tops.
- 9 Q: Okay. But you told him verbally first?
- 10 A: Verbally first. Yes.
- 11 Q: Okay. Mr. Nichols, do you see Marco Sanders in the
12 courtroom?
- 13 A: Yes, sir.
- 14 Q: Can you please point him out for me?
- 15 A: (Witness gestures.)
- 16 Q: Can you describe him verbally please for the court
17 reporter?
- 18 A: He's wearing a full beard, glasses, white shirt, black
19 tie.
- 20 Q: All right. Do you see Tyrell Woods in the courtroom?
- 21 A: Yes, sir.
- 22 Q: What's he wearing?
- 23 A: A polo shirt with stripes, blue in color.
- 24 Q: All right.
- 25 MR. CLEMENTS: May the record reflect that the witness

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 has identified both of the defendants?

2 THE COURT: So noted for the record.

3 MR. WILSON: Your Honor, I have a matter I want to take
4 up with the Court.

5 THE COURT: All right. Ladies and gentlemen, I have to
6 ask you to step to the jury room for just a minute. Do not
7 discuss the case. While you all are back there -- let me just
8 say this before you step back there. I want you all to select
9 a foreperson while you all are back there. Write it down on a
10 piece of paper. The two ladies that are seated over here as
11 alternates cannot -- cannot serve as foreperson. The twelve
12 of you who are seated here, please select a foreperson while
13 you are back there and write it on a piece of paper and give
14 it to the bailiff when you come back in. Thank you. Do not
15 discuss the case.

16 (Whereupon, the jury exits the courtroom at 9:53 a.m.)

17 THE COURT: All right. Mr. Wilson?

18 MR. WILSON: Yes, sir. Your Honor, I had filed a motion
19 and asked that we have an in-camera hearing before any in-
20 court identification of this defendant -- and this is clearly
21 an in-court identification -- and I -- because I wanted to
22 make sure that we had in-camera hearings on this issue to have
23 some opportunity to know whether or not the witness had the
24 knowledge and information in order to make the identification,
25 first of all, and there's not -- there's not been any showing,

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 you know, in any kind of in-camera hearing on this witness at
2 all.

3 THE COURT: Mr. Floyd, you got anything?

4 MR. FLOYD: Your Honor, I would -- I would join in that
5 motion as well on that issue.

6 THE COURT: Mr. Clements, anything in response?

7 MR. CLEMENTS: Your Honor, I did not -- I did not pause
8 on that. I asked him if he'd known him and he's known him for
9 twenty years. I moved ahead and asked the question, and just
10 forgot that he had asked for an in-camera hearing and figured
11 he would -- I would figure he would have objected, but I
12 probably moved too fast for him and I wasn't even thinking
13 about that.

14 THE COURT: You got any questions you want to ask him,
15 Mr. Wilson?

16 MR. WILSON: Well, the cat's out of the bag now, Your
17 Honor. I mean I can't undo what's already been done, and I
18 mean the Court may very well have allowed him to testify
19 anyway. I'm not saying that you wouldn't have, but I'm just
20 saying --

21 THE COURT: What you asked for wasn't done and --

22 MR. WILSON: Yes, sir.

23 THE COURT: -- therefore, you're objecting pursuant to --
24 or subsequent to it not being done.

25 MR. WILSON: Yes, sir.

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 THE COURT: Correct?

2 MR. WILSON: That's it.

3 MR. CLEMENTS: And, Your Honor, I did ask the question,
4 and I guess the thing to do now is to see if there is a
5 foundation and you would have ruled and if there would have
6 been any prejudice that would have come.

7 THE COURT: I mean there's certainly been a foundation
8 laid as to his knowledge of each of these two individuals.
9 Based upon what I've heard and based upon the foundation that
10 was laid, I would have allowed the in-court identification of
11 them. I do not find that there would have been any prejudice
12 to either one of these defendants in allowing him to testify
13 as to his knowledge of them and identifying them in this
14 courtroom. But I certainly understand where you're coming
15 from and -- but based upon what I've heard, I would have
16 allowed it. Is there -- are there any questions before I
17 bring the jury back in that you may want to ask him?

18 MR. WILSON: Yes, sir.

19 THE COURT: Okay. Go ahead, Mr. Wilson.

20 MR. WILSON: Judge, my client wants me ask the questions.
21 I -- I'm not comfortable that I should ask these questions,
22 but --

23 THE COURT: Well, as his lawyer, it is your
24 responsibility to try the case as you see fit.

25 MR. WILSON: Yes, sir.

LEVERN NICHOLS - IN-CAMERA BY MR. WILSON

1 THE COURT: You're the experienced lawyer here. Just
2 kind of like with motions, just because clients ask us to file
3 motions doesn't mean as lawyers we have to file every motion
4 and do everything that our client asks us to do. So if as his
5 lawyer and as a well-experienced -- has tried hundreds of
6 cases, whether it be from the prosecution side or the defense
7 side, and who has tried cases in front of me --

8 MR. WILSON: Yes, sir.

9 THE COURT: -- knowing how good of a trial lawyer you are
10 and knowing how experienced you are, as well as each of these
11 lawyers sitting at these tables. If you do not believe it's
12 in your client's best interest, then that's your decision.

13 MR. WILSON: Yes, sir.

14 THE COURT: It's not for your client to run the show
15 here, so to speak. It's your decision as his lawyer.

16 MR. WILSON: I --

17 THE COURT: Having said that, you make the decision.

18 MR. WILSON: All right.

19 IN-CAMERA EXAMINATION

20 BY MR. WILSON:

21 Q: Let me ask you just a couple of questions. You said that
22 you've known Mr. Sanders for twenty years; is that correct?

23 A: Yes, sir.

24 Q: How do you know him?

25 A: Well, not personally. Just, you know, I've been in

LEVERN NICHOLS - IN-CAMERA BY MR. WILSON

1 business in Marion for about the last twenty years; so I've
2 had different locations with detail shops. You always see him
3 I mean regularly throughout the day and stuff like that.

4 Q: Okay. Have you ever been involved with drugs with Mr.
5 Sanders?

6 A: No, I haven't.

7 Q: Okay. Have you ever bought or sold drugs to or from him?

8 A: No, sir.

9 Q: All right. Now, you -- when you made this -- when you
10 made this statement, you were working for the Marion Sheriff's
11 Office?

12 A: Yes, sir.

13 Q: All right. And you're no longer there?

14 A: No, sir.

15 Q: All right. Why is that?

16 A: I was fired for issues with controlled substances.

17 Q: Issues with what?

18 A: Controlled substance.

19 MR. WILSON: I don't have any other questions, Your
20 Honor.

21 THE COURT: Mr. Floyd?

22 MR. FLOYD: Yes, sir.

23 IN CAMERA EXAMINATION

24 BY MR. FLOYD:

25 Q: Mr. Nichols, you said you had known Mr. Woods for one or

LEVERN NICHOLS - IN-CAMERA BY MR. FLOYD

1 two years?

2 A: Yeah. I never knew him personally. Just, you know,
3 passing, you know, or in the store or something like that.

4 Q: Okay. You knew him one or two years prior to the time
5 that you saw him in July?

6 A: Well, before then.

7 Q: Before then?

8 A: Yes.

9 Q: Okay. I mean when had you seen him before then?

10 A: I can't remember. It had probably been a while before
11 then.

12 Q: Okay. Well, how did you get to know him?

13 A: Well, I was -- I worked at the Sheriff's Department for
14 the last six and a half years before I was terminated. So I
15 knew a lot of people.

16 Q: Okay. Well, I mean did you know him socially?

17 A: No.

18 Q: Did you go to church together?

19 A: No.

20 Q: Then how did you know him?

21 A: By just seeing him with other guys that I had problems
22 with at work from time to time.

23 Q: Okay. Do you -- do you recall the last time you had seen
24 Mr. Woods before you saw him July 2012?

25 A: Probably maybe a month or two. I was looking -- I went

LEVERN NICHOLS - IN-CAMERA BY MR. FLOYD

1 to his cousin's address and he was there when I went to serve
2 her for jury duty or something, and he was at his cousin's
3 house at the Bluff Road projects here in Marion.

4 Q: When was that? A month or two before July 2012?

5 A: Excuse me. That was Marco, not Tyrell.

6 Q: Okay.

7 A: Yeah.

8 Q: I was asking about Tyrell.

9 A: No. I hadn't seen --

10 Q: You don't remember the last time you had seen him?

11 A: No.

12 Q: Before July 2012?

13 A: No.

14 Q: Thank you.

15 THE COURT: All right. Anything else on this issue?

16 IN CAMERA EXAMINATION

17 BY MR. CLEMENTS:

18 Q: Did you know who he was in relationship to Marco Sanders
19 on July 3rd, 2012?

20 A: Yes, sir.

21 Q: And you knew he was what to Marco?

22 A: That was his uncle.

23 Q: Okay. Marco was Tyrell's uncle? You knew that?

24 A: Yes.

25 Q: Okay. Were you familiar enough with other family members

LEVERN NICHOLS - IN-CAMERA BY MR. CLEMENTS

1 that you knew that connection?

2 A: Yes, sir.

3 THE COURT: All right. Anything else?

4 MR. CLEMENTS: No, sir.

5 THE COURT: All right. Based upon what I've heard here,
6 I would have allowed the in-court identification. I do not
7 find there is any suggestiveness whatsoever. He's basing his
8 identification solely upon personal knowledge of each of these
9 individuals charged with this offense, Mr. Woods and Mr.
10 Sanders, and, therefore, I would have allowed the
11 identification. But your objection --

12 MR. WILSON: Thank you, Your Honor.

13 THE COURT: -- is noted for the record. Mr. Clements,
14 for future reference, if there are any identification
15 witnesses identifying these individuals in any capacity,
16 please -- we've had the hearing on Mr. Rouse and Mr. Lee.
17 We've dealt with this issue now with --

18 MR. CLEMENTS: My mistake, Your Honor. I did not do that
19 intentionally. I apologize.

20 THE COURT: I understand. All right. Anything else
21 before I bring the jury back out?

22 MR. WILSON: Nothing further, Your Honor.

23 THE COURT: All right. What I will do -- does anybody
24 got to go to the bathroom? Mr. Clements?

25 MR. CLEMENTS: No, sir.

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 THE COURT: Bring me the jury, please, sir. Can the
2 lawyers approach at sidebar as they're coming back in?

3 (Whereupon, a bench conference is held off the record.)

4 (Whereupon, the jury enters the courtroom at 10:03 a.m.)

5 THE COURT: Thank you, ladies and gentlemen. All right.
6 Ms. Williams?

7 THE JUROR: Yes, sir.

8 THE COURT: That's been your seat throughout and that's
9 going to be your seat through the remainder of this trial.
10 Ms. Earline Williams has been selected as the forelady or
11 foreperson of this jury. Thank you all for doing that while I
12 had you step out there. So at this time, Mr. Clements, you
13 may continue, sir.

14 CONTINUED DIRECT EXAMINATION

15 BY MR. CLEMENTS:

16 Q: Mr. Nichols --

17 A: Yes.

18 Q: You said that you gave that verbal information to James
19 Lee?

20 A: Yes.

21 Q: And then later he asked you to do a written statement?

22 A: Yes.

23 Q: And you said it was a couple of days later?

24 A: Yes, sir.

25 Q: Is that -- is that the statement that you wrote?

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

- 1 A: Yes, sir.
- 2 Q: Can you look at the date down at the bottom?
- 3 A: Yes.
- 4 Q: Does that refresh your recollection?
- 5 A: Yes.
- 6 Q: When -- when did you do a written statement?
- 7 A: On August 23rd.
- 8 Q: August 23rd?
- 9 A: Mm-hmm.
- 10 Q: That's when Mr. Lee asked you to do that?
- 11 A: Yes.
- 12 Q: Okay. All right. Now, can you tell us exactly what you
- 13 told Mr. Lee in detail about the white SUV that you saw on
- 14 July 3rd?
- 15 A: I told him -- well, court was letting out here and I was
- 16 walking over to the restaurant next door to have some lunch,
- 17 and they was circling the parking lot at the Martin's Exxon
- 18 station.
- 19 Q: And you said they were circling the parking lot. Who are
- 20 you talking about?
- 21 A: Marco and Tyrell. Marco was driving.
- 22 Q: Marco was driving; Tyrell was in the passenger seat?
- 23 A: Yes.
- 24 Q: And what type of vehicle was it?
- 25 A: It was a Ford Expedition.

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 Q: A Ford Expedition?

2 A: Yes, sir.

3 Q: All right. And did you have any knowledge whether they
4 owned the Ford Expedition or not?

5 A: No, sir.

6 Q: Okay. Now, they were circling the parking lot, and you
7 have a detailing business where you detail cars?

8 A: Yes.

9 Q: All right. Are you familiar with different brands and
10 makes of cars?

11 A: Yes.

12 Q: Can you tell us what type -- what -- let me start with
13 here. A Navigator is made by what company?

14 A: Ford.

15 Q: Ford? An Expedition is made by what company?

16 A: Ford.

17 Q: Other than the front grill and the back taillights, what
18 differences in structure is there between an Expedition and a
19 Navigator?

20 A: There's not much difference in the front end and the
21 radiator.

22 Q: Okay.

23 A: I mean that's the only thing that pretty much
24 distinguishes the two.

25 Q: That's the only thing that pretty much distinguishes the

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 two?

2 A: Yes.

3 Q: Okay. I'm going to show you what's been marked for
4 identification purposes as State's Exhibit 17-A and B. Can
5 you tell me -- State's Exhibit 17-A, what type of vehicle is
6 that?

7 A: An Expedition.

8 Q: State's Exhibit 17-B -- what type of vehicle is that?

9 A: An Expedition.

10 Q: All right. And as a detail man, what color trim is that?

11 A: It's gold.

12 Q: Gold trim?

13 A: Yes.

14 Q: Okay. Do you recognize State's Exhibit A and State's
15 Exhibit B or not?

16 A: Yes.

17 Q: You do?

18 A: Yes.

19 Q: Okay. How do you recognize State's Exhibit A and B?

20 A: Well, A is from the side and B is from the rear.

21 Q: Okay. All right. Can you identify this as being the
22 same vehicle? Right?

23 A: Yes.

24 Q: A and B -- the same shots of the same vehicle?

25 A: Yes.

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 Q: Can you identify this particular vehicle?

2 A: Yes.

3 Q: You can?

4 A: Yes.

5 Q: How do you identify this vehicle?

6 A: Well, the Expedition --

7 Q: Let me rephrase my question.

8 A: All right.

9 Q: Can you say whether or not you ever seen this particular
10 vehicle that's photographed here in 17-A and B?

11 A: Yes.

12 Q: Where?

13 A: At the Exxon station.

14 Q: Martin's service station right over there?

15 A: Yes.

16 Q: And who did you see with this vehicle, if anyone?

17 A: Marco.

18 Q: Okay. This is the vehicle you saw Marco driving?

19 A: Yes.

20 Q: Okay. All right.

21 MR. CLEMENTS: At this time, Your Honor, we would move
22 State's Exhibit A and B -- 17-A and B into evidence.

23 THE COURT: Any objection, Mr. Wilson?

24 MR. WILSON: Yes, sir. Subject to my sidebar and I
25 object in general to the introduction of this document with

LEVERN NICHOLS - DIRECT BY MR. CLEMENTS

1 this witness.

2 THE COURT: All right. Any objection, Mr. Floyd?

3 MR. FLOYD: Same objection, Your Honor.

4 THE COURT: All right. Over defense counsels' objection,
5 17-A and B are admitted into evidence at this time.

6 MR. CLEMENTS: Thank you, Your Honor.

7 Q: Let me ask you this. Did you see either one of these
8 defendants, Mr. Sanders and Mr. Woods, in the next couple of
9 days at all?

10 A: No, sir.

11 Q: Okay. After July 5?

12 A: No, sir.

13 Q: Okay. All right. Please answer any questions Mr. Wilson
14 or Mr. Floyd may have.

15 THE COURT: Cross examination, Mr. Wilson.

16 MR. WILSON: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MR. WILSON:

19 Q: Well, you did a statement, did you not?

20 A: Yes, sir.

21 Q: And in that statement, didn't you actually -- you just
22 told the solicitor that you didn't see these defendants or
23 Marco Sanders after July the 5th. That's not really true, is
24 it?

25 A: Did I see them?

LEVERN NICHOLS - CROSS BY MR. WILSON

- 1 Q: Yes, sir.
- 2 A: After July 5th?
- 3 Q: Yes, sir.
- 4 A: No. I don't recall seeing them after July 5th.
- 5 Q: Well, do you remember making the statement? Let me show
- 6 you this. Look at that and see if that's your statement.
- 7 A: Well, when I seen them in the blue Buick, I wasn't sure
- 8 of that date at that time.
- 9 Q: Well, so you did see them after this according to you in
- 10 your statement that you gave?
- 11 A: Yes.
- 12 Q: Did you not?
- 13 A: Yes.
- 14 Q: So what you told the solicitor just now is not correct?
- 15 A: Yeah. It wasn't correct.
- 16 Q: All right. It was not. And let me ask you this. Back
- 17 -- back on July the 3rd, is that when you say that you saw the
- 18 white Expedition?
- 19 A: Yes, sir.
- 20 Q: All right. And you were where when you say you saw the
- 21 white Expedition?
- 22 A: At the Martin's Exxon station.
- 23 Q: The Martin's Exxon station right across the street?
- 24 A: Yes.
- 25 Q: And that would have been the day before July 4th?

LEVERN NICHOLS - CROSS BY MR. WILSON

- 1 A: Yes.
- 2 Q: Is that correct?
- 3 A: Yes.
- 4 Q: All right. Now, tell me about the car. The car had
- 5 tinted windows?
- 6 A: No. Well, the windows was down on it.
- 7 Q: Which windows were down?
- 8 A: All of them.
- 9 Q: The passenger windows?
- 10 A: Well, then driver window was down and the passenger
- 11 window was down and I didn't take the rear wants to be tinted,
- 12 no.
- 13 Q: All right. And this was on July the 3rd; correct?
- 14 A: Yes.
- 15 Q: Is that correct?
- 16 A: Yes.
- 17 Q: And Mr. Rowell was killed on July the 4th; right?
- 18 A: Yes.
- 19 Q: You didn't give a statement to the police until August
- 20 23rd, and both these defendants and already been arrested at
- 21 that time, hadn't they?
- 22 A: Yes.
- 23 Q: In fact, this statement comes after they were arrested
- 24 and put in jail, and then you gave this statement saying that
- 25 you knew them and that you saw them in this white car. Isn't

LEVERN NICHOLS - CROSS BY MR. WILSON

1 that the truth?

2 A: Yes.

3 Q: In fact, prior to July the 16th when they was arrested,
4 you never said one word about ever having seen them anywhere
5 ever until -- until after July 16th when they were arrested and
6 put in jail, isn't that a fact?

7 A: I'm not sure about that. The 16th.

8 Q: Show me any document -- anything where you gave any
9 statement prior to July 16th when they were arrested indicating
10 that you saw them in a white Expedition?

11 A: Well, when I told James Lee verbally, he didn't ask me to
12 put it in writing at the time, sir.

13 Q: Well, you told the solicitor that you gave the statement
14 two or three days after you gave the oral --

15 A: I talked with him.

16 Q: Go ahead.

17 A: I mentioned it to James Lee after they said that they was
18 looking for a white SUV, but I wasn't asked to write a
19 statement until a week or two later maybe.

20 Q: You told the solicitor that it was two or three days
21 between the time you gave the verbal indication to one of the
22 other officers and the time you wrote the statement. The
23 statement is dated August the 23rd of 2004 [sic.], more than a
24 month and a half after Mr. Rowell was dead. Isn't that a
25 fact?

LEVERN NICHOLS - CROSS BY MR. WILSON

1 A: Yes.

2 Q: Yes. And this is made up, isn't it? Made up after the
3 fact in order to inculcate these defendants, isn't it?

4 A: No, sir.

5 MR. WILSON: I don't have any other questions.

6 THE COURT: Mr. Floyd?

7 MR. FLOYD: Your Honor, I don't have any.

8 THE COURT: Any redirect?

9 MR. CLEMENTS: Yes.

10 REDIRECT EXAMINATION

11 BY MR. CLEMENTS:

12 Q: I just want to clarify this. How soon did you talk to
13 James Lee when you heard they were looking for somebody in a
14 white SUV?

15 A: Same day it was brought up I mentioned it to him.

16 Q: The same day it was brought up you mentioned it to him?

17 A: Yes.

18 Q: And then later, was that July 4, 5, 6, somewhere in
19 there?

20 A: Well, the 4th was on Thursday. It had to be sometime that
21 next week.

22 MR. WILSON: This is all --

23 THE COURT: Hold on a minute.

24 MR. WILSON: I object. This is his witness and now he's
25 doing --

LEVERN NICHOLS - REDIRECT BY MR. CLEMENTS

1 THE COURT: You're only allowed to go into what he dealt
2 with on cross examination.

3 MR. WILSON: And he's leading. That's the other ground.

4 THE COURT: All right. Rephrase your question.

5 MR. CLEMENTS: All right.

6 Q: You said it was some short period after when you heard.

7 Is that what you just said?

8 A: Yes.

9 Q: And later he came and asked you to write. Is that what
10 you --

11 A: Yes.

12 Q: -- was asking about and --

13 THE COURT: Hold on. You got any objection, Mr. Wilson?

14 MR. WILSON: Yes, sir. He's leading.

15 THE COURT: All right. Please restate your question.

16 MR. CLEMENTS: Okay.

17 Q: When did you write a statement?

18 A: August 23rd.

19 Q: Okay. Before -- what do you remember about it prior to
20 looking at your statement as to that date? What do you
21 remember?

22 A: Well, I'd forgot about the last part of it about seeing
23 them after -- maybe after the 4th or the 5th or 6th or
24 something. I seen them in the blue car. I'd forgot about
25 that part of it.

LEVERN NICHOLS - REDIRECT BY MR. CLEMENTS

1 Q: All right. What did you remember about the actual date
2 you wrote it before you looked at the statement?

3 A: Oh, I remember everything about it, where I saw them at,
4 and who was driving. I remember all that.

5 Q: Okay. But you don't -- you don't remember when you
6 actually wrote it?

7 A: No, sir.

8 Q: Okay.

9 A: I mean the 23rd though.

10 Q: That's what it says?

11 A: Yes.

12 Q: Why did you write this statement?

13 A: James Lee asked me to. He told me he needed it for the
14 record.

15 Q: And he said that we needed it for the record?

16 A: Yes.

17 Q: And he asked you to write it?

18 A: Yes, sir.

19 Q: What did you remember about that day when he asked you to
20 write it? Do you remember when that was?

21 A: Not exactly.

22 Q: Okay. You thought it was sometime, but that document is
23 true?

24 A: Yes.

25 Q: You put the date on that document?

LEVERN NICHOLS - REDIRECT BY MR. CLEMENTS

1 A: Yes.

2 Q: Okay. All right. And based on what Mr. Wilson was
3 asking you about and he said that you didn't give a statement
4 until August 23rd, verbal or otherwise, is that true or not?

5 A: Verbal I did, but not written, no.

6 Q: Okay. All right. How many days after the 4th -- if you
7 remember, how many days after the 4th did you give the verbal
8 statement to James the first time?

9 A: After the 4th, maybe it was on that Monday or Tuesday.
10 I'm not sure what date exactly it was that following week.

11 Q: All right. But it was a Monday or Tuesday after the 4th?

12 A: Yes.

13 Q: The first Monday or Tuesday after the 4th?

14 A: Yes.

15 Q: But you're not sure the exact date?

16 A: No.

17 Q: Okay. That was verbal, not written?

18 A: Yes.

19 Q: Okay.

20 MR. CLEMENTS: Nothing further.

21 THE COURT: Mr. Wilson, any -- any further recross?

22 RECROSS EXAMINATION

23 BY MR. WILSON:

24 Q: Just let me ask you this. Is it true or not true that
25 you gave a statement on the 23rd and your initial statement to

LEVERN NICHOLS - RECROSS BY MR. WILSON

1 the solicitor that it was two or three days before that that
2 you gave an oral statement? Which is true? Did you give it
3 on the 4th or the 5th? Which -- which is true?

4 A: The written statement was on the 23rd and the verbal
5 statement was -- like I said, it was that following week after
6 the holiday weekend.

7 Q: All right. And you are claiming that you told -- who did
8 you tell on the 4th or the Monday after or whatever it was that
9 you're saying --

10 A: Detective Lee.

11 Q: -- that you told? I'm sorry?

12 A: Detective Lee.

13 Q: Detective Lee?

14 A: Yes.

15 Q: Okay. And you told him on that date that it was Marco
16 Sanders and Tyrell Woods in that car. That's what your story
17 is now?

18 A: Yes, sir.

19 Q: Okay. And -- and you say even now that that was -- you
20 told me earlier that that was after the 16th; so now you're
21 saying it was before the 16th. Is that what you're saying now?

22 A: I don't recall mentioning anything about the 16th.

23 Q: No. I asked you specifically whether or not you gave
24 that statement before the 16th, and you told me it was after
25 the 16th, and what I'm asking you is --

LEVERN NICHOLS - RECROSS BY MR. WILSON

1 MR. CLEMENTS: Your Honor, I object. He's testifying.

2 THE COURT: Let him finish his question.

3 MR. CLEMENTS: He needs to ask a question.

4 THE COURT: Let him finish his question, please. Go
5 ahead, Mr. Wilson.

6 Q: What I'm asking you is was it before the 16th or was it
7 after the 16th or do you even know?

8 A: It was a verbal before the 16th and I did a written
9 statement after the 16th.

10 Q: So you did -- so you gave it before the 16th and then you
11 didn't do a written statement for a month later until the 23rd?

12 A: According to the date on the document, yes.

13 MR. WILSON: I don't have any other questions.

14 THE COURT: Mr. Floyd?

15 MR. FLOYD: Nothing further.

16 THE COURT: Thank you, sir. You may step down.

17 THE WITNESS: Thank you.

18 THE COURT: Well --

19 MR. CLEMENTS: Your Honor, if he may remain under
20 subpoena in case we need to call him later.

21 THE COURT: Well, hold on just a minute. Ladies and
22 gentlemen, rather than do this -- and I hate to. I'm going to
23 ask you to step back to the jury room for just a minute. I'll
24 get you back out here as quickly as possible. Do not discuss
25 the case.

1 (Whereupon, the jury exits the courtroom at 10:21 a.m.)

2 (Whereupon, a bench conference is held with a member of
3 law enforcement off the record.)

4 THE COURT: All right. Mr. Nichols, if you'll come back
5 around here and take the stand. As he's doing that, let me
6 ask you -- Mr. Wilson, we had a discussion at sidebar and you
7 had asked him some questions previously outside of the
8 presence of the jury concerning some dealings with your
9 client, Mr. Sanders, and I told you at sidebar I was not going
10 to allow it. Let me ask this question and then we'll put some
11 case law on the record and some rulings on the record right
12 now concerning what I told you at sidebar.

13 Other than what you previously asked Mr. Nichols
14 concerning their prior dealings, is there anything else that
15 you would like to proffer on the record concerning that?
16 Because I want the record abundantly clear to protect your
17 client's interest.

18 MR. WILSON: No, sir. Nothing. Nothing other than the
19 questions I asked him during the in-camera hearing.

20 THE COURT: Right. And those were questions that I did
21 not allow you to go into.

22 MR. WILSON: Yes, sir.

23 THE COURT: And I told you that before I brought the jury
24 back out here that I was not going to allow you to do that in
25 the presence of the jury, and at sidebar -- and I want it

1 clear for the record at sidebar you objected to that and I
2 told you I'd let you put anything on the record that you
3 wanted to to so protect your client's interests as it relates
4 --

5 MR. WILSON: Yes, sir.

6 THE COURT: -- to that issue and that's -- that's why I'm
7 giving you that opportunity now.

8 MR. WILSON: Yes, sir.

9 THE COURT: Mr. Floyd, do you have anything concerning
10 that issue?

11 MR. FLOYD: Nothing further.

12 THE COURT: And it didn't apply to your client, but I'm
13 just giving you that opportunity.

14 MR. FLOYD: No, sir.

15 THE COURT: Now, I told you at sidebar that I was not
16 going to allow it, but it was proffer testimony concerning
17 questions that you asked of Mr. Nichols. Under State v.
18 Aleksey, A-L-E-K -- Aleksey, excuse me. A-L-E-K-S-E-Y, 343
19 S.C. 20, 538 S.E.2d 248. In that particular case, the trial
20 court -- it was determined that the trial court did not -- did
21 not abuse its discretion in limiting the scope of cross
22 examination to comply with Rule 609.

23 Rule 609 permits -- permits impeachment of a witness by
24 evidence of conviction of certain crimes. Rule 609 also talks
25 about they may, however, in the discretion of the Court if

1 probative of truthfulness or untruthfulness. It's a
2 discretionary call on the Court's behalf as to whether the
3 Court allows it if it's probative of truthfulness or
4 untruthfulness.

5 All right. In this particular case, Mr. Nichols
6 testified that he had been terminated from the Sheriff's
7 Department for something to do as it relates to the narcotics
8 laws. Is that correct, Mr. Nichols?

9 THE WITNESS: Yes, sir.

10 THE COURT: All right. Pursuant to Rule 609, it talks
11 about impeachment evidence, about evidence of conviction of a
12 crime. Here, we do not -- there's not any evidence of a
13 conviction of a crime, but it goes on to say in the footnotes
14 as to this particular rule, citing State v. Bryant, 369 S.C.
15 511, it says violations of narcotics laws are generally not
16 probative of truthfulness or untruthfulness.

17 Therefore, pursuant to what I've said on 608 -- Rule 608,
18 as well as Rule 609, and pursuant to my reading of State v.
19 Aleksey, again, 343 S.C. 20, 538 S.E.2d 248, my ruling remains
20 the same, but your objection is so noted -- is so noted for
21 the record. All right.

22 MR. WILSON: Yes, sir. Your Honor, just in case I didn't
23 make it clear for my -- my objection was twofold. One on
24 identification, but also on credibility.

25 THE COURT: Right. And I ruled on the identification

1 issue.

2 MR. WILSON: Yes, you did.

3 THE COURT: I did not believe -- believe that any -- or
4 the in-court identification was in any way suggestive in
5 nature. He testified and laid the foundation as to how he
6 knew your client, as well as Mr. Woods, and, therefore, I
7 allowed the identification, as well as limiting your scope of
8 cross examination of this witness. But your objections are so
9 noted for the record.

10 MR. WILSON: Thank you, Your Honor.

11 THE COURT: For the record. All right. Anything else?

12 MR. WILSON: No, sir.

13 THE COURT: All right. We're going to -- Mr. Nichols,
14 you may step down now, sir. I just wanted to bring you back
15 in here and Mr. Clements had asked that you be held under your
16 subpoena, and I believe based upon our discussion at sidebar
17 as it related to that particular issue -- I'm not sure, but it
18 was my belief that it was related to that particular issue. I
19 wanted to deal with that issue right now as opposed to -- and
20 they may still want you under that subpoena, but I wanted to
21 deal with that issue right now before you stepped off the
22 stand.

23 MR. CLEMENTS: Your Honor, we would ask that he be
24 excused from his subpoena.

25 THE COURT: All right. Any objection now, Mr. Wilson? I

1 mean you've noted your objection. And I mean he may be under
2 one of your subpoenas. You may have subpoenaed him.

3 MR. WILSON: Yes, sir. I did subpoena him. And, Your
4 Honor, I would ask that he remain under my subpoena --

5 THE COURT: Okay.

6 MR. WILSON: -- at least at this time. I'm going to try
7 to find some -- you know, something to --

8 THE COURT: All right.

9 MR. WILSON: -- convince the Court, but I don't know if I
10 can.

11 THE COURT: Well -- and I'll certainly give you that. I
12 told you at sidebar I'd give you an opportunity to see what
13 you could find on that.

14 MR. WILSON: I appreciate that.

15 THE COURT: But I've -- in the meantime, I was looking.
16 My law clerk was looking up here and I felt confident in what
17 I told you at the sidebar, and I just put some rules and some
18 case law on the record so the -- so the appellate courts -- if
19 it -- if it becomes an issue on appeal, so the appellate
20 courts know what I was doing and where I was -- my ruling came
21 from.

22 MR. WILSON: Yes, sir.

23 THE COURT: Okay.

24 MR. WILSON: Thank you, Your Honor.

25 THE COURT: All right. You may step down. You're still

1 under subpoena, but you're free to leave here right now.

2 THE WITNESS: All right. Thank you.

3 THE COURT: Thank you, Mr. Nichols. All right. We're
4 going to step down for -- we're going to stand down for just a
5 few minutes. Anything before we step down, Mr. Clements?

6 MR. CLEMENTS: No, Your Honor.

7 THE COURT: Mr. Wilson?

8 MR. WILSON: No, sir.

9 THE COURT: Mr. Floyd?

10 MR. FLOYD: No, sir, Your Honor.

11 THE COURT: All right. We'll stand down for about five
12 minutes.

13 (Whereupon, there is a break in the proceedings from
14 10:28 a.m. until 10:47 a.m.)

15 THE COURT: All right. Anything from the State before I
16 bring the jury back in?

17 MR. CLEMENTS: No, Your Honor.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: Nothing, Your Honor.

20 THE COURT: Mr. Floyd?

21 MR. FLOYD: Nothing, Your Honor.

22 THE COURT: All right. If you will, bring me the jury,
23 please.

24 (Whereupon, the jury enters the courtroom at 10:48 a.m.)

25 THE COURT: Madam Forelady, ladies and gentlemen, I hope
26

JAMES LEE - DIRECT BY MR. CLEMENTS

1 you all are ready to continue with the trial of this case. At
2 this time, Mr. Clements, you're recognized. Call your next
3 witness, please.

4 MR. CLEMENTS: Thank you, Your Honor. If it please the
5 Court, we'd call Detective James Lee.

6 THE COURT: All right.

7 MR. CLEMENTS: Former Detective James Lee, now retired.

8 THE CLERK: Place your left hand on the Bible and raise
9 your right hand. Do you solemnly swear or affirm your
10 testimony you give the Court today will be the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you. Have a seat in the witness stand.

14 JAMES LEE, being first duly sworn,
15 testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. CLEMENTS:

18 Q: Good morning, Detective Lee.

19 A: Good morning.

20 Q: How are you?

21 A: Fine.

22 Q: Can you please state your full name for the record and
23 tell this jury where you retired from and how long you were in
24 that business?

25 A: Yes, sir. My name is James Lee. I retired from the

JAMES LEE - DIRECT BY MR. CLEMENTS

1 Marion County Sheriff's Department in February of 2013. I was
2 employed in law enforcement for 18 years.

3 Q: And how long were you a detective with Marion County?

4 A: From '05 until I retired in '13.

5 Q: Did you have occasion to be called out on a home invasion
6 and shooting on the 4th of July of 2012?

7 A: Yes, sir.

8 Q: Can you please tell this jury where you responded to?

9 A: I responded to Phil Court off of secondary 9 in the
10 Gresham area.

11 Q: What did you find when you got there?

12 A: When I got there, I met with the shift commander and we
13 walked up to the door at the end of the home and I noticed
14 when I looked in the door a gentleman lying on the floor that
15 had been gagged and he appeared to have blood coming from the
16 back of his head.

17 Q: What were the conditions of his hands and feet?

18 A: They were bound up with tape.

19 Q: Okay. And did you go through the house at that time?

20 A: Not at that time.

21 Q: Okay. Did you later go through the house at that time?

22 A: Yes, I did.

23 Q: At a different time?

24 A: Right.

25 Q: And who took you through the house at that point?

JAMES LEE - DIRECT BY MR. CLEMENTS

1 A: SLED.

2 Q: All right. And also, SLED crime scene officers took you
3 through to do an inventory to show you what they had?

4 A: Correct.

5 Q: And you were the chief investigator on this case?

6 A: Correct.

7 Q: At the end of that evening, what evidence or what leads
8 at all did you have that you followed up on?

9 A: We had no leads at the end of the day.

10 Q: Anything about a vehicle?

11 A: Other than a white SUV.

12 Q: Okay.

13 A: Expedition-style.

14 Q: And what did you do to put that word out that you were
15 looking for a white SUV?

16 A: I informed all the other officers with the Sheriff's
17 Department, and it was spread about through the community we
18 were looking for a SUV, white in color.

19 Q: All right. Did you have occasion to talk to another law
20 enforcement officer regarding a white SUV?

21 A: Yes, sir, I did.

22 Q: Who was that officer?

23 A: JJ Nichols.

24 Q: JJ? Is that Levern Nichols?

25 A: Correct.

JAMES LEE - DIRECT BY MR. CLEMENTS

- 1 Q: Everybody calls him JJ?
- 2 A: Yes, sir.
- 3 Q: Do you recall what day that was?
- 4 A: It was shortly after the 4th after the incident happened.
- 5 Q: A couple of days after?
- 6 A: Correct.
- 7 Q: All right. And did you get information from JJ?
- 8 A: Yes, sir, I did.
- 9 Q: And based on that information, did you begin to look for
- 10 anyone in particular?
- 11 A: Yes, sir. We started looking for Marco Sanders and
- 12 Tyrell Woods.
- 13 Q: Okay. And did you get a written statement from JJ at
- 14 that time?
- 15 A: Not at that time.
- 16 Q: Did you get a written statement from him later?
- 17 A: Yes, sir, I did.
- 18 Q: How much later, if you recall?
- 19 A: Later in the month around the 26th. I believe I was asked
- 20 by your office to get the statement written by JJ.
- 21 Q: All right. Or a report?
- 22 A: Or a report. Yes, sir.
- 23 Q: Okay. And what did you choose to ask him to do?
- 24 A: I asked him to write a statement of what he had seen.
- 25 Q: Okay. And did he later get that back to you?

JAMES LEE - DIRECT BY MR. CLEMENTS

- 1 A: Yes, sir.
- 2 Q: Okay. Do you recall what the date was on that?
- 3 A: No, sir.
- 4 Q: All right. Now, you began to look for Marco Sanders and
- 5 Tyrell Woods?
- 6 A: Correct.
- 7 Q: In that process of looking for them, did you go to see
- 8 anyone?
- 9 A: I went and paid a visit to Tyrell's mother.
- 10 Q: Okay. And after talking with Tyrell's mother, then did
- 11 you -- what did you begin to look for?
- 12 A: Well, after finding out that Tyrell had been seeing a
- 13 girl over in the Florence area, I took her name and went back
- 14 to the office and went to the DMV to check to see what type of
- 15 vehicle she had. At that time, I found that she owned a white
- 16 Expedition.
- 17 Q: Okay. And what was her name?
- 18 A: Valerie Commander.
- 19 Q: Okay. Did you hunt for Valerie Commander?
- 20 A: Yes, sir.
- 21 Q: Did you ever make contact with her?
- 22 A: We made contact with Ms. Valerie at Wateree Correctional
- 23 Facility, where she was employed.
- 24 Q: She was employed there?
- 25 A: Yes, sir.

JAMES LEE - DIRECT BY MR. CLEMENTS

1 Q: Okay. And what were you able to do or verify at that
2 time?

3 A: She stated to us that --

4 Q: You can't tell me what somebody states. And as a result
5 of that, what did you verify?

6 A: That she was the girlfriend to Tyrell Woods.

7 Q: Okay. And how about her vehicle?

8 A: And that Tyrell had the vehicle.

9 Q: All right. And had use of it or hadn't at that time?

10 A: I'm sorry?

11 Q: That he had had use of it or hadn't at that particular
12 time?

13 MR. WILSON: Your Honor --

14 MR. FLOYD: Your Honor, this is all hearsay he's calling
15 for. I object to it.

16 THE COURT: Mr. Wilson?

17 MR. WILSON: Same objection.

18 THE COURT: Objection sustained. Go ahead, Mr. Clements.

19 Q: Let me rephrase my question. Did you determine where her
20 vehicle was at that time?

21 A: At that time --

22 MR. FLOYD: Your Honor, I object. He's asking for
23 information that he got from somebody else. His answer is
24 going to be hearsay.

25 THE COURT: Objection overruled. Go ahead, Mr. Clements.

JAMES LEE - DIRECT BY MR. CLEMENTS

1 Q: Did you determine where her car was at that time?

2 A: That particular day?

3 Q: Yes.

4 A: At work with her.

5 Q: Okay. What did you pursue in regards to her car?

6 A: We obtained a search warrant.

7 Q: Okay.

8 A: From Sumter County.

9 Q: And after getting that search warrant, what did you --
10 did you execute that or did you have someone else execute
11 that?

12 A: After I contacted the agent with SLED to come process the
13 car.

14 Q: All right. And did that happen?

15 A: Sir?

16 Q: Did that happen?

17 A: Yes, sir.

18 Q: Okay. All right. Now, I want to -- now, let me back up
19 a little bit. You followed that lead on the SUV?

20 A: Correct.

21 Q: And then you had a lead from JJ on two individuals?

22 A: Correct.

23 Q: Did you personally know either one of those individuals?

24 A: I knew of them.

25 Q: Okay.

JAMES LEE - DIRECT BY MR. CLEMENTS

1 A: Yes, sir.

2 Q: All right. And did you know them if you -- had you had
3 face to face encounters with them, knowing them from being in
4 the community? Would you have recognized them if you walked
5 up and talked to them?

6 A: Yes, sir.

7 Q: Okay. All right. Now, at the -- at the scene that you
8 did the inventory with when the SLED crime scene person took
9 you through the house, what, if any, electronic equipment did
10 you notice?

11 A: I noticed the surveillance recorder.

12 Q: And where was that? What -- what was done with that?

13 A: That was carried back to SLED with them.

14 Q: Okay. Did you ever have any other dealings after that
15 regarding that surveillance recorder?

16 A: Yes, sir.

17 Q: Can you please tell the jury what happened in regards to
18 that and what you did?

19 A: Yes, sir. The surveillance equipment was Bunker Hill. I
20 carried it up to SLED and gave it to Bart Cave, and he started
21 looking at it and he was able to find that there was something
22 on the piece of equipment, but during the time of it being cut
23 at the scene by the defendants, it did some damage. And Bart
24 was able to get on his computer and find out where or who sold
25 that type of equipment and he found out that Harbor Freight

JAMES LEE - DIRECT BY MR. CLEMENTS

1 was an outlet for the Bunker Hill surveillance system. And at
2 that time, I told him I had been buying parts -- not parts but
3 tools from Harbor Freight in Dillon and that I would go and
4 see if I could get another video player.

5 And I got back to Marion County and I did that and I
6 obtained one and I met with Bart -- I'm pretty sure the next
7 morning, and he took that piece of equipment and was able to
8 put whatever he did from the one from the home into that one
9 and we were able to view or review what had taken place there
10 that day.

11 Q: Okay. I'm going to show you what's been marked as
12 State's 28, which I believe is in evidence without objection.
13 Do you recognize State's Exhibit 28?

14 A: Yes, sir.

15 Q: What is State's Exhibit 28?

16 A: The surveillance equipment box.

17 Q: Okay. The one that was at Mr. Rowell's?

18 A: Correct.

19 MR. CLEMENTS: Your Honor, that's all the questions we
20 have of Detective Lee at this time, but we would like to
21 recall him later on some other issues, and we turn him over
22 for cross examination by Mr. Wilson and Mr. Floyd at this
23 time.

24 THE COURT: Mr. Wilson?

25 MR. WILSON: Thank you, Your Honor.

JAMES LEE - CROSS BY MR. WILSON

CROSS EXAMINATION

1
2 BY MR. WILSON:

3 Q: Now, Detective Lee, you were the chief investigator in
4 this case. Is that fair?

5 A: Correct.

6 Q: And you've been doing this for a long time -- 18 years
7 you said I think at the time you retired?

8 A: Correct.

9 Q: Which meant that you would have been doing this probably
10 15 -- 16 years at the time of the homicide involving Mr.
11 Rowell?

12 A: Involving investigations, no.

13 Q: I'm sorry?

14 A: Not investigations.

15 Q: Not investigations? So what had you been doing the other
16 13 -- 14 years of your career?

17 A: I was an officer working the road. In '05, that's when I
18 got moved up to detective.

19 Q: Okay. All right. And so since '05, you've been a
20 detective; so '05 to '12, seven years at least?

21 A: Correct.

22 Q: All right. And you've been a detective and I would
23 assume in those seven years that you have worked other crime
24 scenes and you've probably been a chief investigator on other
25 cases prior to Mr. Rowell's homicide?

JAMES LEE - CROSS BY MR. WILSON

1 A: I've had more cases that I was the lead investigator.

2 Yes, sir.

3 Q: Okay. All right. And in working cases, especially

4 working homicides and other serious felony cases, it's

5 important to kind of document things and keep up with what's

6 going on. Wouldn't you agree with that?

7 A: Sure.

8 Q: All right. And -- and I'm sure having the experience

9 that you've had that you tried to do that in this case?

10 A: Correct.

11 Q: And you would try to do that in every case as best you

12 could?

13 A: Correct.

14 Q: Now, let's -- let's talk for a minute about a couple of

15 things. One, let's talk about the video first. This -- when

16 you went to the house on -- well, let me ask you first did you

17 go to the house? That is to Mr. Rowell's house on July the

18 4th?

19 A: Yes, sir.

20 Q: The evening, that night. And did you know that on July

21 the 4th there were video equipment in that house?

22 A: You talking about prior to that night?

23 Q: No, sir. On the night of July 4th when y'all were doing

24 the search of the house trying to determine what happened, did

25 you find the video recording equipment in the house on that

JAMES LEE - CROSS BY MR. WILSON

1 night?

2 A: SLED found it.

3 Q: Okay. Well, you also were present when it was found. In
4 fact, you signed a document indicating that it was found in
5 your presence and that you were aware of it, did you not?

6 A: It was turned over to me, sir.

7 Q: I'm sorry?

8 A: It was turned over to me.

9 Q: What was turned over to you?

10 A: I did not go in the house until SLED finished their --

11 Q: Okay.

12 A: -- investigation.

13 Q: But my point is simply this. On the night of July 4th,
14 you were aware of this video recording equipment?

15 A: Yes, sir.

16 Q: And you were aware that -- you didn't know at that point
17 whether it worked or didn't work; right?

18 A: Correct.

19 Q: But it would have been important to find out if it worked
20 or if it didn't work, and you would have wanted to do that as
21 expeditiously as you possibly could; right?

22 A: Right.

23 Q: All right. Now, on the 4th, the evidence is collected and
24 it's taken to SLED?

25 A: Correct.

JAMES LEE - CROSS BY MR. WILSON

1 Q: Including the video recorder?

2 A: Correct.

3 Q: Now, from the 4th to July 18th, nobody does anything with
4 the video equipment; right? It's stays up at SLED?

5 A: As far as I know.

6 Q: Okay.

7 MR. CLEMENTS: Your Honor, I object. I don't know how
8 he's even qualified to answer what was done with it at SLED.

9 MR. WILSON: Well --

10 THE COURT: I'll allow the question. It's cross
11 examination. If he knows the answer, he can answer it. If he
12 doesn't, he can so state.

13 MR. WILSON: Thank you.

14 Q: Do you know what happened to the video equipment between
15 July the 4th and July 18th, two weeks?

16 A: No, sir.

17 Q: Okay. But you know it was up at SLED at least on the 4th
18 because they took it when they left?

19 A: Correct.

20 Q: All right. Now, on July 18th, you -- well, let me ask you
21 this way. Who picks it up from SLED on July 18th?

22 A: July the 18th?

23 Q: Yes, sir. Well, let me help you --

24 A: I know it was picked up July the 18th.

25 Q: Okay. Now, July 18th -- just so we're clear, July 18th an

JAMES LEE - CROSS BY MR. WILSON

1 arrest warrant had already been issued for both of these
2 defendants before July 18th; isn't that correct?

3 A: Correct.

4 Q: In fact, they were in custody before July the 18th. Is
5 there any question about that?

6 A: Not both of them.

7 Q: Okay. Mr. -- Mr. Tyrell Woods was in jail; right?
8 Before the -- before the 18th?

9 A: Hold on just a minute. Mr. Woods turned himself in on
10 the 19th.

11 Q: Okay. So on the 19th. So -- all right. And so on the
12 19th, he was arrested. What was the date of the arrest for Mr.
13 Sanders?

14 A: I don't know, sir.

15 Q: Okay. But an arrest warrant had already been issued for
16 both of these defendants before July 18th, even though they had
17 not been actually put in jail at that point. They had been --
18 an arrest warrant had been issued for their arrest. Is that
19 fair?

20 A: That's fair.

21 Q: Okay. And that arrest warrant was issued on July the
22 16th; is that correct?

23 A: Well, I signed two warrants on July the 12th.

24 Q: Okay. So you signed two warrants on July the 12th?

25 A: Correct.

JAMES LEE - CROSS BY MR. WILSON

1 Q: And that was for Marco Sanders and Tyrell Woods?

2 A: Correct.

3 Q: And on July the 12th, you had not gotten the video back
4 from SLED?

5 A: Correct.

6 Q: So the video had absolutely nothing to do with the fact
7 that you issued those arrest warrants?

8 A: Correct.

9 Q: Correct. On the 18th, six days after the arrest warrants
10 had been issued, you go and you get the video equipment from
11 SLED; right? When I say you, you or somebody at your
12 direction.

13 A: Correct.

14 Q: But you get the video equipment from SLED, and the
15 purpose of getting the video equipment from SLED now is so
16 that you can see what's on the video.

17 MR. CLEMENTS: Your Honor, I object. He's making a
18 statement. There wasn't any question there.

19 THE COURT: Restate your question or restate your --

20 MR. WILSON: Thank you, Your Honor. I will.

21 THE COURT: Get at what you're trying to get at there.

22 MR. WILSON: All right, sir.

23 Q: On July the 18th, is it true that you or someone at your
24 direction went to SLED to pick up the video equipment?

25 A: Yes, sir.

JAMES LEE - CROSS BY MR. WILSON

1 Q: All right. Is it true that the purpose of doing that was
2 so that you could see what was on the video, if anything?

3 A: To pick it up? Are you asking me did I want to pick it
4 up to view it?

5 Q: I'm asking you -- well, I don't know why you picked it
6 up. I'm going to ask you in a minute why you picked it up,
7 but right now I'm simply asking you whether or not on July the
8 18th when you went to pick it up -- well, first of all, did you
9 go pick it up and, if so, who was it that went to pick it up?
10 I assume it was at your direction since you're the chief
11 investigator.

12 A: Myself or somebody from the Sheriff's Office picked it
13 up.

14 Q: Yes, sir. All right. And what was the purpose then of
15 picking it up from SLED? SLED had had it and they're the
16 people who do the analyzation of all these kinds of things;
17 right?

18 A: Correct.

19 Q: All right. So why were y'all going to pick it up from --
20 why was Marion County going to SLED, who is supposed to do the
21 analysis, and getting the equipment back from SLED to bring it
22 back to Marion? Why was that happening?

23 A: To put it back in our evidence.

24 Q: Why? Had it been examined by SLED at that point?

25 A: Just a second, sir.

JAMES LEE - CROSS BY MR. WILSON

1 Q: Sure.

2 A: I'm really not sure, sir.

3 Q: Okay.

4 A: I don't -- I don't know if it was because they couldn't
5 do nothing with it at the time or not.

6 Q: Okay. All right. So when you get it on the 18th and you
7 put it in Marion County in your evidence locker, how long does
8 it stay in your evidence locker before you do anything else
9 with the video equipment?

10 A: August.

11 Q: August? So from July 18th to August when?

12 A: Around the 2nd.

13 Q: Okay. So from July 18th to August the 2nd, it sits in
14 Marion County evidence locker and nothing is happening to it
15 during that time?

16 A: Correct.

17 Q: Nobody views it?

18 A: We weren't able -- I think they were unable to view it at
19 the time at SLED.

20 Q: Okay. So SLED couldn't view it. So now, at some point
21 in time as I understand it, you say that you went to some
22 local dealer and got a similar machine and you were able to
23 then play it?

24 A: Correct.

25 Q: Was that before August the 23rd?

JAMES LEE - CROSS BY MR. WILSON

1 A: It would have had to have been. Yes, sir.

2 Q: Yeah. It would have been before August 23rd, and now at
3 this point, both defendants are under arrest and incarcerated?

4 A: I'm sure of one. I'm not sure about the other one.

5 Q: Okay. And now, you also have some conversation with Mr.
6 Nichols. I mean you call him JJ or J-Fer or something similar
7 to that. What did you call him? JJ?

8 A: JJ.

9 Q: JJ. You have some conversation with JJ, and JJ gives you
10 some information and tells you that he saw Marco Sanders and
11 Tyrell Woods in a white SUV Expedition?

12 A: Correct.

13 Q: Right? What date was that?

14 A: It was a couple days after the 4th.

15 Q: A couple of days after the 4th? So now what you're
16 telling us is is that a couple of days after the 4th, the 6th
17 if you will, you knew that it was supposedly Marco Sanders and
18 Tyrell Woods in the car; right?

19 A: From JJ.

20 Q: Yeah. From JJ because he told you, "I saw Marco
21 Sanders," but you don't issue an arrest warrant until the 12th;
22 right?

23 A: (No verbal response.)

24 Q: And in-between that, you actually interviewed other
25 people to try to get them to identify the perpetrators, don't

JAMES LEE - CROSS BY MR. WILSON

1 you?

2 A: Between what dates now?

3 Q: Between -- between July the 4th and July the 16th when you
4 actually -- or 12th when you actually issued the arrest
5 warrant, don't you go to other people and try to get them to
6 identify the perpetrators of this crime?

7 A: Yes, sir.

8 Q: Yes. And in fact, in the line-up, you don't have anybody
9 in the line-up -- you don't have Mr. Sanders in that line-up
10 and you didn't have Tyrell Woods in that line-up when you took
11 it to try to get those people to identify them, did you?

12 A: I did not show the first line-up.

13 Q: Okay. Well, whoever showed it, their pictures weren't in
14 there, were they?

15 A: No, sir.

16 Q: No. That's something that you came up with later on;
17 right?

18 A: (No verbal response.)

19 THE COURT: Is that a yes?

20 A: Right.

21 Q: Yeah. And at that point, you had not seen the video?

22 A: No.

23 Q: Right? And at that point, in fact, when on the 12th you
24 went and tried to find another individual to pick out somebody
25 out of a line-up; right? Right?

JAMES LEE - CROSS BY MR. WILSON

1 A: Correct.

2 Q: And in the 12th when you did the line-up with this other
3 person, you actually had Mr. Sanders' picture and Tyrell
4 Woods' picture in those line-ups; right?

5 A: Yes, sir. Two different line-ups. Yes, sir.

6 Q: Okay. And in fact, the person that you -- that you had
7 pick them out of the line-up -- that person was in jail
8 himself; right?

9 A: Not at that time.

10 Q: He wasn't in jail at that time? In fact, it was that
11 identification on which you based the arrest warrants, isn't
12 it?

13 A: It had to be.

14 Q: Yeah. Yeah. It wasn't based on what Mr. JJ told you
15 because Mr. JJ you say told you that they didn't -- or that
16 they saw him riding around in this car back as far back as the
17 4th or the 5th or the 6th. So you had that information since
18 the 6th. When you got this information from this person, then
19 you issued the arrest warrant?

20 A: Correct.

21 Q: All right. All right. And now, did you make a deal with
22 that person who you were trying to get to identify the two of
23 them when you put their pictures in there on the 12th?

24 A: No, sir.

25 Q: Okay. But he's in jail now; right?

JAMES LEE - CROSS BY MR. WILSON

1 A: As far as I know.

2 Q: In fact, you showed him some pictures before that he
3 didn't pick anybody out in, did he?

4 A: I didn't show him the pictures on the other line-up.

5 Q: Okay.

6 A: He didn't pick nobody out.

7 Q: In fact, didn't he give you a statement telling you he
8 didn't know who it was? That he couldn't describe them other
9 than they were two black men basically?

10 A: I can't recall.

11 Q: But you did take a statement from him; right?

12 A: Sir?

13 Q: You -- you took a statement from this particular witness?

14 A: That day of the line-up.

15 Q: Right. And then on the 12th, you go back to him because
16 -- you meet with him on how many different occasions?

17 MR. CLEMENTS: Your Honor --

18 THE COURT: Hold on. Yes, sir?

19 MR. CLEMENTS: He's just making a statement and then he
20 tries to follow it up with a question. I would object to him
21 making statements because that's not what the witness just
22 told him.

23 THE COURT: Ask questions, Mr. Wilson, please.

24 MR. WILSON: Thank you, Your Honor. I will.

25 THE COURT: Direct --

JAMES LEE - CROSS BY MR. WILSON

1 MR. WILSON: Yes, sir.

2 THE COURT: This is cross examination.

3 MR. WILSON: Thank you, Your Honor.

4 THE COURT: You can lead.

5 Q: Now, what are -- simply where we are going here is this.

6 This person that you had on the 12th that picked the two people

7 out because that's the basis for your warrant and everything

8 else came after that; is that correct? That includes the

9 video, includes the signed statement by Mr. JJ on August 23rd.

10 All that was done after, wasn't it?

11 A: As far as JJ writing that statement, it was done after.

12 Q: Okay. Ain't no question about that, is there?

13 A: No.

14 Q: And there ain't no question about the fact that their

15 pictures had already been put in the newspaper and on

16 television and everywhere else that they were under arrest and

17 the arrest warrants had been issued by the time he made that

18 statement -- that he did that written statement. No question

19 about that, is there?

20 A: No.

21 Q: Okay. Now, let me ask you in regards -- let's go back to

22 the house. On the night of July the 4th, you're the chief

23 investigating officer and you said that when you arrived, SLED

24 then took you through the house and guided you through to show

25 you what was there?

JAMES LEE - CROSS BY MR. WILSON

1 A: No, sir.

2 Q: No, sir, they didn't take you?

3 A: No, sir. When I first got there on the scene?

4 Q: Yes, sir. The night that you arrived. July the 4th, the
5 night that you arrived, you would have been part of the
6 command staff that we heard so much about; right?

7 A: Correct.

8 Q: All right. And what I'm asking you is on July the 4th
9 when you got there, I thought your testimony -- if I'm
10 misreading, it, then I apologize. I thought your testimony to
11 the solicitor was when you got there, SLED guided you through
12 the house -- took you and guided you through the house and
13 told you kind of what was going on.

14 A: No. No, not when I got there.

15 Q: Okay. Well, tell me what happened when you got there?

16 A: When I got there, the shift commander -- we walked up to
17 the door together and I looked in and I noticed the -- Mr.
18 Rowell on the floor, and I walked back out.

19 Q: Okay.

20 A: I never entered. I didn't even never break the barrier
21 of that door.

22 Q: Okay.

23 A: I looked in.

24 Q: All right. Well, at any point in time, did SLED take you
25 into the house?

JAMES LEE - CROSS BY MR. WILSON

1 A: After they got through processing.

2 Q: Okay. Now, whose -- whose decision was it to decide --
3 who made the decisions as to what evidence would be processed
4 by SLED? Would that be your decision as the chief
5 investigating officer? Or would somebody else make that
6 decision?

7 A: Anything that was evidentiary was to be carried back by
8 SLED.

9 Q: But that wasn't my question. My question was whose
10 decision was it as to what items of evidence should be or
11 would be examined or analyzed by SLED?

12 A: At that time, the question didn't arise of who makes the
13 decision to carry back.

14 Q: Well, at some --

15 A: Anything -- anything that is of concern of evidence goes
16 back with SLED to be processed. It doesn't matter whether I
17 make that decision or SLED makes that decision I don't think.

18 Q: Okay. So are you telling me then that you don't have to
19 make a request for -- for pieces of evidence -- items of
20 evidence to be analyzed? You just -- once it's collected,
21 everything is analyzed? Is that what you're saying?

22 A: I'm not saying everything was analyzed. I guess it's at
23 SLED's discrepancy [sic.] what they are going to analyze.

24 Q: Okay. So you can't request that SLED analyze a
25 particular item? Say, for instance, try to get fingerprints

JAMES LEE - CROSS BY MR. WILSON

1 off of the video equipment or try to enhance the video
2 equipment. You can't make that kind of request. Is that what
3 you're saying?

4 A: I can suggest it.

5 Q: Okay. All right.

6 A: But whether it's done or not, I don't know.

7 Q: All right. Were there any specific pieces of evidence
8 that you requested SLED to analyze?

9 A: The only thing would have been the video.

10 Q: Okay. And that -- we know that was done in August;
11 right?

12 A: Right.

13 Q: All right. Now, the white SUV that the solicitor asked
14 you about -- you indicated that you went to -- you said
15 Wateree?

16 A: Correct.

17 Q: Wateree Correctional. And that the person who owned that
18 vehicle was an employee there?

19 A: Correct.

20 Q: I assume a detention officer?

21 A: No, sir. I don't think she was a detention officer.

22 Q: Okay.

23 A: I think she was -- well, I'm not really sure what her job
24 was.

25 Q: Okay. But just she's an employee there at the detention

JAMES LEE - CROSS BY MR. WILSON

1 center. Fair enough. And you got a search warrant to have
2 that vehicle searched?

3 A: Yes, sir.

4 Q: Okay. Is there anything that you found that connects
5 Marco Sanders with that car?

6 A: No.

7 Q: Okay.

8 MR. WILSON: I don't have any other questions.

9 THE COURT: Mr. Floyd, cross examination.

10 MR. FLOYD: Yes, sir, Your Honor. Just a couple.

11 CROSS EXAMINATION

12 BY MR. FLOYD:

13 Q: Mr. Lee, I believe you did testify earlier you thought it
14 was important to -- to document what you do in cases like
15 this; is that correct?

16 A: Yes, sir.

17 Q: Okay. And as a police officer, how do you typically
18 document things?

19 A: I just make notes.

20 Q: You make notes?

21 A: Yes, sir.

22 Q: And do you -- is it also common to employ the incident
23 reports?

24 A: The incident reports initiate it at the beginning.

25 Q: All right. And -- but you also have supplemental

JAMES LEE - CROSS BY MR. FLOYD

1 incident reports that you can do along and along; is that
2 right?

3 A: We could. Yes, sir.

4 Q: Okay. And it's not uncommon in any investigation for
5 whichever officer works on the case for them to do a report;
6 right? That's not uncommon?

7 A: Or as a supplement to it.

8 Q: Yes, sir.

9 A: Sure.

10 Q: As far as any documentation you did in that regard, did
11 you prepare any incident reports in this yourself?

12 A: No.

13 Q: And -- but you were in on the investigation from --

14 A: Yes, sir.

15 Q: -- from the beginning on July the 4th until the
16 conclusion?

17 A: Yes, sir.

18 Q: Is that correct?

19 A: Yes, sir.

20 MR. FLOYD: Thank you very much.

21 THE COURT: Mr. Clements, anything?

22 REDIRECT EXAMINATION

23 BY MR. CLEMENTS:

24 Q: Detective Lee, I think Mr. Wilson was asking you a lot
25 about the date of the 12th of July.

JAMES LEE - REDIRECT BY MR. CLEMENTS

- 1 A: Yes, sir.
- 2 Q: And that was the date you said you got two warrants?
- 3 A: Yes, sir.
- 4 Q: Is that correct?
- 5 A: Correct.
- 6 Q: And when did you get the remainder of the warrants?
- 7 A: On the 16th.
- 8 Q: On the 16th? Now, he -- he talked to you about talking to
- 9 somebody on the 12th. Let's back up to the 4th when he was
- 10 asking you about that. Did you take any statements from
- 11 anyone on the 4th yourself?
- 12 A: No, sir.
- 13 Q: How many other investigators were out there?
- 14 A: Four or five.
- 15 Q: Okay. And did you talk to Shawn Davis on the 4th?
- 16 A: No, sir. I think it was Detective Rouse that talked to
- 17 Shawn Davis.
- 18 Q: Okay. And did you talk to him on the 12th? Shawn Davis?
- 19 A: Yes, sir.
- 20 Q: Do you recall where that was?
- 21 A: Probation office.
- 22 Q: Okay. Do you recall who was with you?
- 23 A: Detective Watson.
- 24 Q: Okay. And I think Mr. Wilson was asking you about
- 25 showing two photo lay-downs?

JAMES LEE - REDIRECT BY MR. CLEMENTS

- 1 A: Correct.
- 2 Q: That was shown to Shawn Davis?
- 3 A: Yes, sir.
- 4 Q: Okay. And I think you told Mr. Wilson that one photo
- 5 lay-down had Marco Sanders in it?
- 6 A: Correct.
- 7 Q: And how many other individuals?
- 8 A: Five.
- 9 Q: And one photo lay-down had Tyrell Woods in it?
- 10 A: Correct.
- 11 Q: And how many other individuals?
- 12 A: Five.
- 13 Q: All right. And as a result of the showing those line-ups
- 14 to Shawn Davis on the 12th, what did you then go do?
- 15 A: I -- I went and signed a warrant on them.
- 16 Q: You went and signed a warrant on them? On who?
- 17 A: Both Tyrell and Marco.
- 18 Q: One on Marco and one on Tyrell?
- 19 A: Yes, sir.
- 20 Q: Okay. And that was based on your investigation up to
- 21 that point; is that correct?
- 22 A: Correct.
- 23 Q: And I think Mr. Wilson asked you about looking at the
- 24 video. Did you look at the video?
- 25 A: Any particular date?

JAMES LEE - REDIRECT BY MR. CLEMENTS

1 Q: Just any -- I'm not asking the date. Just did you have a
2 chance to watch that video?

3 A: Yes, sir.

4 Q: Once Bart Cave got it to work?

5 A: Correct.

6 Q: Where did you first look at it? At SLED or in Marion?

7 A: SLED.

8 Q: At SLED?

9 A: Yes, sir.

10 Q: All right. Did you go get warrants on anybody else after
11 looking at that video?

12 A: No, sir.

13 Q: Did you recognize anyone on that video?

14 A: Yes, sir.

15 Q: Who?

16 A: Marco.

17 Q: Hold on. Stop. Don't answer that question yet.

18 THE COURT: Mr. Wilson? Mr. Floyd?

19 (Whereupon, a bench conference is held in the presence of
20 the jury but out of the hearing of the jury as follows.)

21 MR. CLEMENTS: I don't want to make a mistake. We've had
22 an in-camera hearing on this; right?

23 THE COURT: And I've already ruled on this.

24 MR. WILSON: Yes, sir.

25 MR. CLEMENTS: Okay.

JAMES LEE - REDIRECT BY MR. CLEMENTS

1 THE COURT: But your objections are so noted.

2 MR. WILSON: Yes, sir.

3 THE COURT: I just wanted to make sure.

4 MR. CLEMENTS: Okay. All right.

5 (Whereupon, the bench conference ends.)

6 THE COURT: Mr. Wilson?

7 MR. WILSON: Yes, sir.

8 THE COURT: Come here for a minute, you and Mr. Floyd.

9 (Whereupon, a bench conference is held in the presence of
10 the jury but out of the hearing of the jury off the
11 record.)

12 THE COURT: All right. Before you go any further, Mr.
13 Clements, Mr. Wilson, any objection or anything you want to --

14 MR. WILSON: Your Honor, just subject to our previous
15 objections.

16 THE COURT: All right.

17 MR. FLOYD: Yes, Your Honor. Subject to objections
18 previously made.

19 THE COURT: Subject to both defense counsels' previous
20 objections, those objections are overruled, and you may
21 continue, Mr. Clements.

22 MR. CLEMENTS: Thank you, Your Honor.

23 Q: Detective Lee, did you recognize anyone on that video?

24 A: Yes, sir.

25 Q: Who? Both individuals or one individual? How many

JAMES LEE - REDIRECT BY MR. CLEMENTS

1 individuals --

2 A: Both.

3 Q: -- did you recognize? Both?

4 A: Both.

5 Q: And who were they?

6 A: Marco Sanders and Tyrell Woods.

7 MR. CLEMENTS: Please answer any other questions defense
8 counsel may have.

9 THE COURT: Mr. Wilson?

10 MR. WILSON: Just a couple things.

11 RECROSS EXAMINATION

12 BY MR. WILSON:

13 Q: This is -- you said that you recognized Marco Sanders and
14 Tyrell Woods from the video; right?

15 A: Right.

16 Q: And this -- this is after you had already had them
17 arrested and in jail and charged with these offenses; right?

18 A: One of them was in there in jail.

19 Q: Okay. And so at that point, what you're saying is that
20 the two people that you saw in the video that you had already
21 arrested those -- I mean you had already issued arrest
22 warrants for the two people that you thought committed the
23 crime. Is that fair?

24 A: Correct.

25 Q: All right. So were you going to find some different

JAMES LEE - RECROSS BY MR. WILSON

1 people on the video?

2 MR. WILSON: I don't have any other questions.

3 A: Well, I don't know how much of the video you're going to
4 look at.

5 Q: I'm sorry?

6 A: I don't know how much of the video is going to be shown.

7 THE COURT: Mr. Floyd?

8 MR. FLOYD: I don't have anything further.

9 THE COURT: Sir, you may step down. Thank you.

10 THE WITNESS: Thank you, sir.

11 MR. SALEEBY: We'd call Scott Hardee.

12 MR. CLEMENTS: Your Honor, we want to ask that Detective
13 Lee be still kept under subpoena at this time.

14 THE COURT: All right.

15 MR. CLEMENTS: In case we need to call him again.

16 THE COURT: All right. So granted.

17 MR. SALEEBY: Come around please, sir, and be sworn by
18 the clerk.

19 THE CLERK: Sir, you can come around and let me swear you
20 in, please, sir.

21 THE WITNESS: Okay.

22 THE CLERK: Place your left hand on the Bible and raise
23 your right hand please, sir. Do you solemnly swear or affirm
24 the testimony you are about to give in the trial of this case
25 shall be the truth, the whole truth, and nothing but the

26

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 truth, so help you God?

2 THE WITNESS: Yes, ma'am, I do.

3 THE CLERK: Thank you. You can have a seat in the
4 witness box.

5 SCOTT HARDEE, being first duly
6 sworn, testifies as follows:

7 DIRECT EXAMINATION

8 BY MR. SALEEBY:

9 Q: Tell us your name, please, sir?

10 A: Leland Scott Hardee.

11 Q: And, Mr. Hardee, where do you live?

12 A: I live in Florence County.

13 Q: How long have you lived over in Florence?

14 A: 42 years.

15 Q: What you please give the ladies and gentlemen -- will you
16 tell us who you're working for now?

17 A: I work for the South Carolina Law Enforcement Division,
18 commonly known as SLED.

19 Q: How long have you worked for SLED?

20 A: Since May 2nd of 2008.

21 Q: 2008?

22 A: Yes, sir.

23 Q: Going on six years then?

24 A: Just over six years.

25 Q: And what kind of assignments have you had at SLED?

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 A: When I started in May of 2008, I was assigned to the Pee
2 Dee region as a regional field agent and investigator. Six
3 months after that, we had some changes go about SLED
4 structurally inside, and I was reassigned to the crime scene
5 unit out of Columbia, but I worked regional. After crime
6 scene, on April 1st of 2013, I was reassigned to the arson
7 unit, and that's where I am currently.

8 Q: Prior to working for SLED, did you have any other law
9 enforcement experience?

10 A: Yes, sir. I was hired in April of 2000 with the Florence
11 Police Department. I went through the academy. After that, I
12 was assigned to patrol. A year after patrol, I was assigned
13 to crime scene where I stayed until 2005. Then I took a
14 little hiatus, came back about four months later, and started
15 back over on patrol, and my last position with Florence before
16 I went to SLED was as a school resource officer.

17 Q: Were you working in the crime scene section of SLED July
18 2012?

19 A: Yes, sir.

20 Q: Did you -- were you ever asked to participate in any
21 manner in the investigation into the death of Mr. Rowell?

22 A: Yes, sir, I was.

23 Q: Did you actually come to Marion County on July the 4th of
24 2012?

25 A: No, sir, I did not.

SCOTT HARDEE - DIRECT BY MR. SALEEBY.

1 Q: What were you asked to do with regard to the first thing
2 that you were asked to do to assist the Marion Sheriff's
3 Department?

4 A: On July 20th of that same year, I was asked by Lieutenant
5 Darren Miles of the Marion County Sheriff's Office to process
6 a vehicle at the Wateree Correctional facility in Sumter
7 County.

8 Q: And did you do that?

9 A: Yes, sir. I responded out there approximately 1:25 that
10 afternoon, where myself and my partner, Melinda Warley, with
11 detectives James Lee and Neil Rouse. They had obtained a
12 search warrant for a vehicle that was at that location for us
13 to process.

14 Q: All right. And in processing that vehicle, what did you
15 do?

16 A: Standard procedure for us, we photograph the vehicle
17 before anything is touched, before anything is removed. We
18 always photographed -- photographed the scene as it is before
19 we do anything. After that, we do a search. If we see
20 anything, we'll photograph it again -- anything of probative
21 value. After that, we'll start to -- after we document the
22 scene with notes, photographs, we'll start collecting the
23 evidence or processing stuff on scene or stuff that to be
24 taken back to headquarters to the forensics lab for further
25 analysis by someone that is an expert in that field.

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 Q: Did you yourself personally recover anything in that
2 vehicle that would indicate that Mr. Sanders had been it or
3 had use of it or Mr. Woods had been in it and had use of it?

4 A: We collected evidence, but I would not know what that
5 evidence -- who that evidence belonged to. That would have to
6 be sent back for further analysis.

7 Q: And if there was anything that SLED discovered, you're
8 not aware of it?

9 A: No, sir.

10 Q: But you personally didn't find anything?

11 A: No.

12 Q: That was connected to either of these two people in the
13 vehicle?

14 A: No, sir, not to my knowledge.

15 Q: All right. I'm going to show you two photographs which
16 have been entered into evidence as State's Exhibit 17-A and B
17 and ask you to identify those.

18 A: All right. This is the -- this is the vehicle that we --

19 Q: Just hold them up and show them to the jury.

20 A: My apologies. This is the white Ford Expedition that
21 myself and my partner, Melinda Warley, processed at Wateree
22 Correctional.

23 Q: And you have the driver's license -- I mean not the
24 driver's license, but the license plate. Is that visible in
25 that photograph?

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 A: Yes, sir, it is.

2 Q: I think that's A. And were you able to determine fro the
3 DMV who was the registered owner?

4 A: We -- I didn't run the actual DMV, but I believe the
5 registered owner was on scene and was being interviewed by the
6 Department of Corrections, as well as Investigators Rouse and
7 Lee.

8 Q: Is that Valerie Commander?

9 A: Yes, sir.

10 Q: Did you -- as you said, each item that you collected is
11 sent back and you don't know what the disposition of those
12 was?

13 A: No, sir.

14 Q: I will ask you if you were asked to do any further
15 participation in this investigation?

16 A: Yes, sir. Later, I was asked by Tom Darnell with the
17 latent print department to come to Marion to collect major
18 case prints and buccal swabs from Tyrell Woods.

19 Q: All right. Well, let's talk about that. So Tom Darnell
20 is who and does what at SLED?

21 A: He has retired and came back. He was a lieutenant and he
22 came back as a latent print examiner.

23 Q: And did -- and you also referred to -- you were asked to
24 do that by him and you said you took what you called major
25 case prints, and what's that mean in law enforcement speak?

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 A: Okay. Major case prints. Basically, when anyone is
2 arrested or applies for a certain job such as law enforcement,
3 teachers, lawyers, nursing, and stuff like that, daycare
4 workers, you normally get what we call a ten-print card. It's
5 a form you see in, like, when people are being booked in on TV
6 where you just get pretty much from this knuckle to the tip of
7 the finger of the fingerprints. Major case prints goes a
8 little bit further.

9 We go and get an 8 1/2 x 11 sheet of paper and we try to
10 print every aspect of that person's hand, whether it's the
11 side here or right here. Anywhere any part of the hand that
12 can touch something, like, you might just use the palm of your
13 hand to open a door or you might use this part to hold a gun
14 with. And so that's what major case prints involve. We get
15 every aspect. So if we get prints off of something, then we
16 can use those parts of the hand to identify those prints that
17 you normally wouldn't get just on the fingertips.

18 Q: And did you, in fact, come to Marion County on November
19 the 16th of 2012?

20 A: Yes, sir. That was the day.

21 Q: And did you take some major case prints?

22 A: Yes, sir.

23 Q: All right. And these were from one individual?

24 A: Tyrell Woods.

25 Q: And do you see Mr. Woods in this courtroom today?

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 A: Yes, sir. He's sitting over there.

2 Q: And what you identify him for the judge and the jury?

3 A: He would be that gentleman right there with the -- with

4 the shirt with the stripes -- vertical stripes.

5 Q: And -- and it was his hands that you took this print from

6 -- these prints from; is that correct?

7 A: Yes, sir.

8 Q: His hands?

9 A: Yes, sir.

10 Q: This is State's Exhibit Number 42. Take a look at that

11 and tell the members of the jury what it is?

12 A: Okay. Do you mind if I remove them from the --

13 Q: That's fine.

14 A: Okay. All right. This is what I was talking about.

15 These are the prints that I took.

16 Q: If you'll hold them up so that the jurors over here can

17 see them too.

18 A: When he be better if I stepped out?

19 Q: You're referring to State's Exhibit Number 42.

20 A: What it be easier if I stepped out?

21 THE COURT: Hold on a second.

22 MR. FLOYD: Subject to my prior objection.

23 THE COURT: Subject to prior objection over defense

24 counsels' objection.

25 Q: You can step down.

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 A: Okay.

2 THE COURT: They are admitted into evidence.

3 Q: Tell us what they are and tell us how you obtained them,
4 what you physically did?

5 A: Okay. And as you can see right here, like I said, it's
6 an 8 1/2 x 11 sheet of paper. It's actually called card
7 stock.

8 THE COURT: He's going to move down there. I'm going to
9 make him move.

10 THE WITNESS: Your Honor, I apologize.

11 A: And what we do basically, we'll get pretty much printer's
12 ink. You get a roller and you roll the entire hand, including
13 the back of the hand, and then basically we just ask the
14 person to lay their hand down. In this case, it was the left
15 hand. And you just lay it down like that. In this case, as
16 you'll see, most of the time when you see something, there's
17 always a little piece of the hand that doesn't touch that
18 surface. In this case, we get a piece of PVC pipe, we rubber
19 band it just like this, kind of wrapped around, and that way
20 you get the entire hand.

21 We -- once we're done with that, we do this right here
22 with the entire hand and then we spend the rest of the time
23 rolling. Like right there is an example. And we just go
24 about getting every aspect of that hand. The same thing with
25 the right hand. And we also roll the ten-print fingerprint

SCOTT HARDEE - DIRECT BY MR. SALEEBY

1 cards the same way as what I was referring to so that we'll
2 have our copy of the ten-print cards for comparison with.

3 Q: And when you call it a ten-print card, that's ten
4 fingers?

5 A: Yeah. Ten-print cards, right and left fingers. Then we
6 get another aspect of the thumb and then we'll get the four
7 fingers together.

8 Q: And after you had collected these from Tyrell Woods, you
9 took them to Tom Darnell to see if he could make any
10 comparisons?

11 A: Yes, sir.

12 Q: Thank you. Please answer any questions counsel has for
13 you.

14 THE COURT: Cross examination, Mr. Wilson.

15 CROSS EXAMINATION

16 BY MR. WILSON:

17 Q: Agent Hardee, your first -- your first involvement was on
18 the 20th?

19 A: Yes, sir.

20 Q: All right. And -- and you are a crime scene specialist
21 or a crime scene investigator. Is that what your title role
22 would be?

23 A: Yes, sir. My rank is -- it was special agent, and crime
24 scene investigator is what I was assigned to.

25 Q: All right. And you had been doing that for a period of

SCOTT HARDEE - CROSS BY MR. WILSON

1 time before this occurred?

2 A: Yes, sir.

3 Q: All right. And this wasn't your first time doing this?

4 A: No, sir.

5 Q: All right. And how many -- how many crime scenes prior
6 to this white car would you think that you had done? Just
7 give us some general idea.

8 A: Are you talking about all crime scenes?

9 Q: Yes, sir.

10 A: Or just -- okay.

11 Q: All of just whatever.

12 A: Probably close to 600.

13 Q: Okay. So hundreds?

14 A: Yes, sir.

15 Q: Literally hundreds. All right. So you knew kind of what
16 to look for and what to expect and kind of what you needed to
17 do with whatever you found?

18 A: Yes, sir.

19 Q: Okay. Now -- so let's talk about that for a minute.

20 Now, you went out to this white car at Wateree Prison and you
21 took a lot of photographs and you found some items in there
22 that you thought at least were something that needed to be
23 analyzed and looked at; right?

24 A: Yes, sir.

25 Q: In fact, you found some cigarette butts in there and --

SCOTT HARDEE - CROSS BY MR. WILSON

1 and you requested that those cigarette butts be analyzed?

2 A: Yes, sir.

3 Q: All right. And the reason that you wanted them analyzed
4 is because whoever -- if Marco Sanders had been smoking one of
5 those cigarettes in that car, then his DNA or saliva may very
6 well be on the butt of that cigarette; right?

7 A: Yes, sir. That was a possibility.

8 Q: The other thing is you took a bunch of fingerprints or
9 attempted latents I guess we would call it?

10 A: Actually, we did not process that vehicle for latents.

11 Q: So you didn't do any latents?

12 A: No.

13 Q: Is there any particular reason?

14 A: Well, you had the actual scene happenn on July 4th here in
15 Marion.

16 Q: Okay.

17 A: Well, the vehicle was discovered or it was brought to my
18 attention on July 20th.

19 Q: Okay.

20 A: So you had a period of time between there. Then on top
21 of that, from my understanding at that time, the owner of the
22 vehicle had relations with one of the defendants and so any
23 fingerprints they would have had could have been explained on
24 that vehicle.

25 Q: Okay. Well, but what did -- right. Okay. But wouldn't

SCOTT HARDEE - CROSS BY MR. WILSON

1 you still want to know if Marco Sanders' fingerprints were
2 anywhere on that because he was supposed to be the driver of
3 that vehicle so -- and if he had been the driver I mean -- and
4 we don't know how many days according to the police, but if he
5 had been the driver of that vehicle, wouldn't you expect to
6 find his fingerprints in the vehicle unless it had been
7 cleaned or something? Wouldn't you expect to find his prints
8 in that car?

9 A: It's a possibility.

10 Q: Okay. Maybe on the window? On the steering column? On
11 the dashboard? On the glove compartment? All of those places
12 which a fingerprint could possibly be?

13 A: Right. And one problem that you run into sometimes with
14 that aspect is the texture of the surface or the material of
15 the surface. Fingerprints tend to adhere better to metal,
16 glasses. If you have a textured surface, the textured surface
17 would break up the print.

18 Q: Okay.

19 A: And so you might not get a good print.

20 Q: All right. But you also did swabs like on various items
21 inside of the vehicle; is that correct?

22 A: Yes, sir.

23 Q: And the purpose of doing the swabs was so that, you know,
24 you can pick up the DNA of anybody who might have maybe
25 touched that or if they put saliva on it or whatever else on

SCOTT HARDEE - CROSS BY MR. WILSON

1 the steering wheel or on the dashboard or on the console or
2 whatever. You would swab those items and if that person, you
3 know, if they -- for instance, had a sweaty hand and he's
4 holding the steering column, then his DNA would likely be on
5 that steering column?

6 A: It stands a very good chance.

7 Q: Okay. And so you did that and you preserved those things
8 and you actually sent them to SLED to be tested, did you not?

9 A: Yes, sir.

10 Q: Right?

11 A: I did.

12 Q: And were they ever tested?

13 A: That I can't tell you. I made a submission, but I didn't
14 receive any report saying anything would not be tested or they
15 were sent back not tested. I wasn't made privy to that
16 information.

17 Q: Okay. You also did a set of swabs from the driver's seat
18 of the white Ford Expedition; correct?

19 A: You know what number that is so I can confirm?

20 Q: I think it's your 78. Would that have been right?

21 A: One set of swabs from the driver's seat controls of the
22 white Ford expedition. Yes, sir.

23 Q: Okay. And you did the exterior rear driver's side door?

24 A: Yes, sir.

25 Q: And a set of swabs from the interior rear passenger door?

SCOTT HARDEE - CROSS BY MR. WILSON

1 A: Yes, sir.

2 Q: A set of swabs from the interior rear driver's side door
3 and the armrest of the white Ford vehicle?

4 A: Yes, sir.

5 Q: One set of swabs from the exterior front passenger side
6 door?

7 A: Yes, sir.

8 Q: One set of swabs from the front passenger seat control of
9 the white vehicle?

10 A: Yes, sir.

11 Q: All right. And you did one of the swabs from the
12 interior front passenger door armrest of the white Ford
13 Expedition?

14 A: Yes, sir.

15 Q: One set of swabs from the interior rear passenger side
16 door release of the white Ford Expedition?

17 A: Yes. Yes, sir.

18 Q: Okay. And then you got one cigarette butt from a cup
19 holder of the white Ford expedition?

20 A: Yes, sir.

21 Q: One cigarette butt from a cup holder of the white Ford
22 Expedition? I assume that's two separate cigarette butts?

23 A: Yes, sir.

24 Q: One cigarette butt from a cup holder in the white Ford
25 Expedition?

SCOTT HARDEE - CROSS BY MR. WILSON

1 A: Yes, sir.

2 Q: You've got one partially smoked cigar from the white Ford
3 Expedition?

4 A: Yes, sir.

5 Q: One partially chewed on straw or coffee stirrer from the
6 white Ford Expedition?

7 A: Yes, sir.

8 Q: One Swisher Sweet cigar partially unwrapped from the
9 white Ford Expedition?

10 A: Yes, sir.

11 Q: One copper-colored fabric headrest protector from the
12 driver's seat of the white Ford Expedition?

13 A: Yes, sir.

14 Q: One tan leather work glove with a blue cuff recovered
15 from an Advance Auto Parts plastic shopping bag located on the
16 rear passenger floorboard of the white Ford Expedition?

17 A: Yes, sir.

18 Q: Okay. And one pair of Dickey's size 38 khaki shorts
19 recovered from the white Ford Expedition?

20 A: Yes, sir.

21 Q: One brown leather belt with a silver buckle through the
22 loops of the khaki shorts recovered from the white Ford
23 Expedition?

24 A: Yes, sir.

25 Q: Plus you took multiple, multiple pictures of the content

SCOTT HARDEE - CROSS BY MR. WILSON

1 of the vehicle?

2 A: Yes, sir.

3 Q: And you took all of these items and you requested that
4 DNA touch be done on all of these items that I just read or --
5 and/or saliva?

6 A: Yes, sir. And ownership.

7 Q: And ownership. And -- and to your knowledge, you don't
8 know if these were ever actually done. Now, once you request
9 them, is SLED obligated to do them or your request doesn't
10 mean anything when you send it up there? You just send it up
11 there and somebody decides later that, well, we ain't got time
12 to do that so we ain't messing with it?...

13 A: I can't testify to that department's standard operating
14 procedures or protocols. We make the request, but I know from
15 my own experience that investigators will get together and
16 solicitors will get together and they'll decide what would be
17 probative and what will not, and that's based on my
18 department.

19 Q: So the --

20 A: But --

21 Q: I'm sorry.

22 A: Sometimes -- I mean we'll make a request, but you have an
23 expert in that other department that knows more than I do
24 about DNA, and what their decisions are is out of my scope.

25 Q: Okay. Your job is not to decide what the expert does in

SCOTT HARDEE - CROSS BY MR. WILSON

1 deciding whether he's going to do the DNA or not do it or
2 whether the Sheriff's Office decides they're not going to do
3 it or the Solicitor's Office decides they're not going to do
4 it. Your job is to go out and collect it and then make the
5 request and then you've done your job?

6 A: Yes, sir.

7 Q: And that's what you did?

8 A: Yes, sir.

9 Q: And you gave them all this stuff?

10 A: Yes, sir.

11 Q: And as far as you know, you don't -- you haven't seen any
12 results from it, have you?

13 A: No, sir.

14 Q: All right. And just let me ask you -- you said earlier
15 that different surfaces are more prone to -- to have
16 fingerprints than some other surfaces. In fact, glass would
17 be an excellent conductor or place to collect a fingerprint?

18 A: Right. I mean you're going to still have the secretions
19 from your fingers and they're going to get on this and get on
20 this, whatever, but it's the surface on the process that
21 collects them. If you have your fingerprint on the zipper,
22 your print is going to be broken up because of the surface of
23 the zipper. If you have it on leather, the leather is a
24 porous material and it's going to absorb -- I'm sorry. It's
25 going to absorb the oils. But if you have it on, like, wood

SCOTT HARDEE - CROSS BY MR. WILSON

1 or glass, it's not porous; it's going to leave a better print
2 that you'd be able to more readily identify as opposed to
3 getting a print off of something that's been absorbed by the
4 oils.

5 Q: Let me ask you something. A smooth surface like this --
6 like the top of this laptop -- would that be a surface that
7 you might have less trouble finding a print -- a fingerprint
8 on it say?

9 A: Less trouble as opposed to?

10 Q: As opposed to something that's grainy.

11 A: Like a brick?

12 Q: Like a brick.

13 A: Yes. That would be a better surface to try to get a
14 print off of than a brick.

15 Q: And glass -- say, for instance, the glass in a screen
16 door. If somebody put their palm and pushed that screen door
17 open, could you collect that glass? Could you collect a print
18 from that glass?

19 A: Well, you should be able to, but I have to stipulate that
20 there are circumstances where you have people that sweat more
21 than others, and if a person sweats more, they're going to
22 have sweatier hands. The sweat is going to leave a better
23 print as opposed to a person who doesn't secrete a lot of oils
24 from their skin. A person that wears a lot of lotion on their
25 hands would be -- their hands would be more moist. They'll

SCOTT HARDEE - CROSS BY MR. WILSON

1 leave a print more so than a person who has dry skin or a
2 person that works as a brick mason or a person that works as a
3 sales associate at sporting goods store because a brick mason
4 -- their hands get rubbed. They get scraped. So you're going
5 to have trouble.

6 There's a lot of circumstances that go -- that are
7 involved in getting a latent print. You can't just say like
8 on TV someone touches their forehead which is normally a
9 greasy area of the body and they put it on a piece of glass,
10 you're going to get a print every time. They may have --
11 their hands may be all scratched up from having to work with
12 forms or work in a nursery, landscaping, a brick mason, a
13 carpenter. Those can really mess up a person's hands --

14 Q: Okay.

15 A: -- as opposed to someone that's -- they spend all day in
16 school, just riding around, typing on a computer or something.

17 Q: If a -- if a person -- if a print is placed on something,
18 how long would it stay there?

19 A: There's been no definite time frame. I mean you have to,
20 again, look at the circumstance behind it. If the -- if the
21 fingerprint is on the inside of the window inside the --
22 inside the house and it's normally a 70 degree house or a 75
23 degree house as opposed to being on the outside of the house
24 on the window where you get rain, pollen, dust, hot sun, and
25 everybody knows the sun -- it dries out everything, and so if

SCOTT HARDEE - CROSS BY MR. WILSON

1 you have -- and which a fingerprint is mostly moisture with a
2 few amino acids and oils. When you have the sun beating down
3 on it, it's going to dry that moisture really fast.

4 Q: So if it's inside in a controlled environment, then it's
5 more likely to last longer than if it's on the outside in the
6 hot sun or in the weather?

7 A: It has a better chance, especially in the South Carolina
8 heat.

9 Q: But you say that there is no magical amount of time, like
10 a week or a month or a year --

11 A: No.

12 Q: -- or however long?

13 A: It's not two weeks, fourteen days. After that fourteen
14 days, the fingerprint disappears into oblivion, no.

15 Q: Okay. So after fourteen days, it would be gone?

16 A: No. I'm saying it wouldn't be. There's no magical
17 number.

18 Q: Okay. Okay. Nothing further. Thank you so much.

19 A: You're welcome.

20 THE COURT: Mr. Floyd, any cross examination?

21 MR. FLOYD: Thank you, Your Honor. Just a couple of
22 questions.

23 CROSS EXAMINATION

24 BY MR. FLOYD:

25 Q: The major case prints that you referred to earlier that

SCOTT HARDEE - CROSS BY MR. FLOYD

1 you took, where did you take those? Here?

2 A: I took them here at the courthouse.

3 Q: In the courthouse?

4 A: Downstairs.

5 Q: Downstairs? And who was with you? Who was present?

6 A: Tony -- Lieutenant Tony Flowers of the Marion Police
7 Department.

8 Q: Okay.

9 A: I believe Lieutenant Chris Smith with the Marion Police
10 Department were the ones that were with me at the time.

11 Q: As far as you recall, that was -- that was it?

12 A: There may have been a couple of other people, but I
13 didn't know their names.

14 Q: Okay. But they were all local law enforcement you
15 believe?

16 A: Yeah. I believe. It was in that long conference room
17 downstairs by the front door.

18 Q: Okay. All right. Thank you very much.

19 A: You're welcome.

20 THE COURT: Any redirect?

21 MR. SALEEBY: Just one question.

22 REDIRECT EXAMINATION

23 BY MR. SALEEBY:

24 Q: Did I understand you to tell Mr. Wilson that it was your
25 understanding that the owner of the vehicle had a relationship

SCOTT HARDEE - REDIRECT BY MR. SALEEBY

1 with one or more of the defendants and, therefore, you didn't
2 process it for prints because it wouldn't tell you anything
3 you didn't already know?

4 A: Yes, sir.

5 Q: All right. Thank you.

6 MR. SALEEBY: That's it, Your Honor.

7 THE COURT: Mr. Wilson, anything else?

8 MR. WILSON: No, sir.

9 THE COURT: Mr. Floyd?

10 MR. SALEEBY: I ask if he could be excused, sir.

11 THE COURT: Hold on. Mr. Floyd, anything else?

12 MR. FLOYD: Nothing, Your Honor.

13 MR. SALEEBY: Excuse me, sir.

14 THE COURT: Sir, you may step down. Thank you.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Any objection to him being excused, Mr.
17 Wilson?

18 MR. WILSON: No, Your Honor.

19 THE COURT: Mr. Floyd?

20 MR. FLOYD: No objection.

21 THE COURT: All right. Agent Hardee, you are excused.

22 You have no further responsibility under your subpoena. Thank
23 you for being here.

24 THE WITNESS: You're welcome, sir.

25 THE COURT: All right.

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

1 MR. CLEMENTS: Justina Hayes.

2 THE CLERK: Place your left hand on the Bible and raise
3 your right hand. Do you solemnly swear or affirm the
4 testimony you are about to give will be the truth, the whole
5 truth, and nothing but the truth, so help you God?

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Thank you. Have a seat in the witness box.

8 JUSTINA HAYES, being first duly
9 sworn, testifies as follows:

10 DIRECT EXAMINATION

11 BY MR. CLEMENTS:

12 Q: Good afternoon.

13 A: Good afternoon.

14 Q: Can you please state your name for the record and tell
15 this jury where you work?

16 A: My name is Justina Kelly Hayes and I work at Marion
17 County Detention Center.

18 Q: All right. How long have you worked there?

19 A: I started November 16th of 2011.

20 Q: Okay. And in what capacity do you work there?

21 A: At this point in time, I work in central.

22 Q: Okay. And were you working there in 2012?

23 A: No, sir. I was working in booking in 2012.

24 Q: Okay. And as part of booking, what -- what are some of
25 your duties in booking that you do?

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

1 A: As the inmates come in or the subjects come in from sally
2 port to intake, we pat them. We get all the information from
3 the police officers and we put it into our computer, which is
4 LawTrack, and we do the process of booking them in. After
5 their paperwork is completed, then we fingerprint.

6 Q: Okay. And what type of training do you have that's
7 required to qualify you to take fingerprints?

8 A: We -- all the booking officers went through a training
9 class with our captain and there's a couple of other people
10 and Rihanna Herring from the Sheriff's Department.

11 Q: Okay. And do you recall taking the fingerprints of a
12 Marco Sanders?

13 A: Yes, sir.

14 Q: Do you know about what date that was?

15 A: It was November 19th, 2012.

16 Q: Okay. Do you know where Mr. Sanders came from to be
17 booked into the Marion County Detention Center?

18 A: In I think New Jersey.

19 Q: Okay.

20 A: He was transported in.

21 Q: All right. Do you know who transported him?

22 A: Only -- there's only one I can remember. Charlie Watson.

23 Q: Charlie Watson was one of those?

24 A: Mm-hmm.

25 Q: Okay. And he was transported from New Jersey into the

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

1 Marion County Detention Center. Do you remember if it was
2 daytime or nighttime?

3 A: It was early morning.

4 Q: Early morning? Okay. And so you booked in Mr. Sanders
5 at that time?

6 A: Yes, sir.

7 Q: Okay. Did you have an occasion to take fingerprints from
8 him?

9 A: Yes, sir.

10 Q: Okay. Can you please explain to this jury the process
11 you use and how you physically did the process of taking his
12 fingerprints?

13 A: The first thing we do is give the subject some soap to
14 wash their hands off, and then we give them paper towels and
15 they dry their hands. We pull the system up. It tells you
16 exactly which finger to lay on at a time. When you place the
17 finger on there, if it's a good print, it turns green. If
18 not, it will be -- it will come up poor scan. It won't -- if
19 the print is not good, it will not scan it.

20 Q: When you say it, what are you --

21 A: The finger --

22 Q: Explain what you're talking about?

23 A: The fingerprint. If the fingerprint is not good, say
24 there's something wrong, that machine will not take a picture
25 of it. It will not let us process.

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

- 1 Q: So you use a machine?
- 2 A: Yes, sir.
- 3 Q: And you electronically take the fingerprints?
- 4 A: Yes, sir.
- 5 Q: Okay. All right. And you don't have to use inkpads or
- 6 anything like that?
- 7 A: No, sir. The only time we have to do that is if there's
- 8 something wrong with the -- like, the fingerprints or maybe
- 9 there's a smudge on one where there's a cut. Sometimes if
- 10 there's a cut or something, the computer will not pick up that
- 11 print.
- 12 Q: Did you have any problems with the computer when you
- 13 fingerprinted Mr. Sanders or anything come up --
- 14 A: No, sir.
- 15 Q: -- red? I guess you said it's green if it's good.
- 16 A: Green if it's good.
- 17 Q: Red if it's not?
- 18 A: They all come up red, yellow, and green.
- 19 Q: Okay. Did you have any reds during this process?
- 20 A: No, sir.
- 21 Q: Did you have any yellow ones?
- 22 A: No, sir.
- 23 Q: All of them were green?
- 24 A: Yes, sir.
- 25 Q: Okay. I'm going to show you what's been marked State's

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

1 Exhibit 41. I think they're in evidence without objection.

2 And I would ask if you can identify this for me, if you could?

3 A: Yes, sir. That's our booking cards that our computer
4 prints out -- that our machine prints out. You have to print
5 them.

6 Q: Okay. And is there anything on there to indicate that
7 you were the person doing this?

8 A: Yes, sir. It's got on the back of it right here PFC
9 Justina K. Hayes.

10 Q: All right. And you -- if you can --

11 MR. CLEMENTS: Your Honor, I'd ask for her to be able to
12 step down in front of the jury.

13 THE COURT: Go ahead.

14 (Whereupon, the witness complies.)

15 Q: Can you explain to the jury what the prints are and what
16 the different blocks are and explain how you did that?

17 A: Okay.

18 Q: Speak up where all the jury and the court reporter can
19 hear you.

20 A: Yes, sir. The first steps here you see -- this is the
21 right thumb and the left thumb. Actually, the right and left
22 thumb is took twice. The first time you do both thumbs at one
23 time. Then after you do both thumbs at one time, you go to
24 each individual finger starting with your right thumb. You do
25 your right thumb, pointer finger, the middle -- I can't

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

1 remember the name of it is. And then your ring finger and
2 your pinkie finger, and then you go to the left hand, thumb,
3 pointer -- what's that?

4 Q: Middle finger.

5 A: And your middle finger, ring finger, and pinkie. And
6 then they're not showing it on here, but we actually do what
7 they call a slap, and it's this whole one side of your hand,
8 and then we also do a palm and it gets from here to here. And
9 these right here are where you have to put all four fingers on
10 that machine. You do these four and then these four. So each
11 finger is took at least two prints of, including the palm and
12 the slap. But every print is took twice.

13 Q: Okay.

14 THE COURT: Ms. Hayes, as you're testifying, make sure
15 everyone as far back can see. I know you're not --

16 THE WITNESS: I'm sorry.

17 THE COURT: -- used to standing in front of so many
18 individuals, but make sure they can see.

19 THE WITNESS: Yes, sir.

20 Q: You can have a seat back.

21 (Whereupon, the witness complies.)

22 Q: Now, after you take these prints, what did you do with
23 it?

24 A: We actually save them in our system and then Rihanna
25 Herring from the Sheriff's Department -- she comes over, she

JUSTINA HAYES - DIRECT BY MR. CLEMENTS

1 makes sure that everything that's in the LawTrack for the
2 subject matches the same thing that's on the card -- the
3 computer so that way we can make sure the information is
4 correct.

5 Q: All right. And they're maintained there in case SLED or
6 somebody needs them?

7 A: Yes, sir. And she sends them off where they -- where
8 they go to SLED or AFIS.

9 Q: Okay. All right. Do you see the individual whose
10 fingerprints you took here on State's Exhibit 41 in this
11 courtroom?

12 A: Yes, sir.

13 Q: Can you please point him out and describe him for the
14 record?

15 A: Mr. Marco Sanders. He's in a white shirt, black tie,
16 gray pants, and a pair of brown glasses.

17 Q: Thank you.

18 MR. CLEMENTS: May the record reflect she identified the
19 defendant Sanders.

20 THE COURT: So noted.

21 MR. CLEMENTS: Thank you.

22 THE COURT: Cross examination, Mr. Wilson?

23 MR. WILSON: Thank you, Your Honor.

24 CROSS EXAMINATION

25 BY MR. WILSON:

JUSTINA HAYES - CROSS BY MR. WILSON

1 Q: Now, I just have a couple of questions.

2 A: Yes, sir.

3 Q: This is a part of the booking process. Anytime somebody
4 is arrested and they're brought in, y'all do this?

5 A: As long as it's not a child support bench warrant or a
6 bench warrant, yes, sir.

7 Q: Y'all don't do it for those people?

8 A: No, sir.

9 Q: For the child support people and --

10 A: No. Not child support or bench warrant.

11 Q: But anybody else who comes through there and they're
12 arrested, they go through that process and they have to be
13 fingerprinted?

14 A: Yes, sir. Even down to a public drunk --

15 Q: Okay.

16 A: -- or anything like that.

17 Q: And let me ask you this. Do y'all also look at tattoos
18 and markings on the body to help you identify those people?

19 A: Yes, sir.

20 Q: Okay. And did you look at Marco Sanders to determine
21 whether he had tattoos?

22 A: I cannot recall, but I know if we ask and if so, it
23 should be stated on the booking report.

24 Q: Okay. Where is that report?

25 A: It's in the computer LawTrack. I do have a copy.

JUSTINA HAYES - CROSS BY MR. WILSON

1 Q: Okay.

2 A: It's in my car. I don't have it with me.

3 Q: Okay.

4 MR. WILSON: Your Honor, Can I ask her to either get that
5 or come back?

6 THE COURT: Mr. Clements?

7 MR. CLEMENTS: We have no objection to that whatsoever,
8 Your Honor.

9 THE COURT: All right.

10 MR. CLEMENTS: She can go get it now or however you
11 decide would be the appropriate way.

12 THE COURT: I want you to finish her cross examination
13 and then she can go get it. Once you retrieve it, if there's
14 any additional questioning from the State or defense counsel,
15 I'll allow it.

16 Q: And what I'm asking is this. When a person is arrested
17 and they come through, you look at and want to get their
18 fingerprints, which is what you just showed us on a
19 fingerprint card, but you also want to know if that person has
20 any body markings?

21 A: Yes, sir.

22 Q: Or that you can put down so that if that person is ever
23 in question again, you'll know how to identify that
24 individual?

25 A: Yes, sir.

JUSTINA HAYES - CROSS BY MR. WILSON

1 Q: Okay. And tattoos is a big part of that?

2 A: Tattoos and scars.

3 Q: Tattoos and scars? And so you make a note of those
4 things and you put those things in the computer so that if
5 that person is ever arrested again or if you're looking for
6 that person, then when you find them, you know that's the
7 right person?

8 A: Yes, sir.

9 Q: And if they don't have the markings, then it might not be
10 the right person?

11 A: It's a possibility.

12 Q: Okay.

13 MR. WILSON: No other questions, Your Honor.

14 THE COURT: Mr. Floyd, anything?

15 MR. FLOYD: I don't have any questions.

16 THE COURT: Anything else?

17 MR. CLEMENTS: None, Your Honor.

18 THE COURT: You may step down, ma'am, and I'd ask that
19 you go retrieve the document that you referred to.

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. In the meantime, call your next
22 witness.

23 MR. SALEEBY: Your Honor, we'd call Bart Cave to the
24 stand.

25 (Whereupon, there is a pause in the proceedings until the

BART CAVE - DIRECT BY MR. SALEEBY

1 witness enters the courtroom.)

2 MR. SALEEBY: Okay. Come around and be sworn, please,
3 sir.

4 THE CLERK: Place your left hand on the Bible and raise
5 your right. Do you solemnly swear or affirm the evidence you
6 are about to give in the trial in this case shall be the
7 truth, the whole truth, and nothing but the truth, so help you
8 God?

9 THE WITNESS: Yes, ma'am.

10 THE CLERK: Thank you. You can have a seat in the
11 witness box.

12 BART CAVE, being first duly
13 sworn, testifies as follows:

14 DIRECT EXAMINATION

15 BY MR. SALEEBY:

16 Q: Tell us your name, please, sir?

17 A: Bart Cave.

18 Q: And Mr. Cave, who do you work with?

19 A: The South Carolina Law Enforcement Division.

20 Q: And how long have you worked with SLED?

21 A: Eight years.

22 Q: And what section are you currently working in?

23 A: The computer crimes center.

24 Q: Okay. What other sections of SLED have you worked in in
25 your eight years?

BART CAVE - DIRECT BY MR. SALEEBY

- 1 A: IT.
- 2 Q: IT? Information technology?
- 3 A: Yes, sir.
- 4 Q: In addition to that, who did you work with? What other
- 5 sections?
- 6 A: That's the only two sections I've worked with at SLED.
- 7 Q: IT and computers?
- 8 A: Yes, sir.
- 9 Q: We say computer, but do you do things in the computer
- 10 section other than computers?
- 11 A: Yes, sir. We do forensic imaging of computers, cell
- 12 phones. We also do DVR systems. We also look at internet
- 13 history for threats and hacking and anything that's related to
- 14 any kind of electronic media device as far as stored on flash
- 15 drives, SD cards, cameras, any types of devices.
- 16 Q: So yours is a technological specialty?
- 17 A: Yes, sir.
- 18 Q: You probably understand and can use a smart phone?
- 19 A: Yes, sir.
- 20 Q: Now,, there has been some testimony previously about
- 21 during the conduct of this investigation a DVR player was
- 22 submitted to SLED?
- 23 A: Yes, sir.
- 24 Q: All right. And would that eventually make its way to
- 25 you?

BART CAVE - DIRECT BY MR. SALEEBY

1 A: It did.

2 Q: Okay. I'm going to show you what's been introduced into
3 evidence as State's Exhibit Number 28 and ask you if you can
4 identify this as the device?

5 A: Yes, sir. That's the device that was logged in our unit.

6 Q: All right. What did you do initially to determine
7 whether or not you could reproduce or view what was saved or
8 recorded on this device?

9 A: We first identified what kind of storage media was inside
10 of it.

11 Q: What kind of what?

12 A: Storage media.

13 Q: Storage media? What's that mean?

14 A: Either a hard drive or a solid-state memory or wherever
15 it stores the video at once it records it. When we opened it
16 up inside, we found a hard drive located inside, and that's
17 where all the files were stored at.

18 Q: All right. And did you try then to see if you could
19 access the files on the hard drive and view the images that
20 were recorded there?

21 A: We did. And we found out that it was proprietary.

22 Q: And proprietary means what?

23 A: That you can only use it with certain software and
24 hardware, and the only way it would play was within a working
25 DVR, and that one had damaged motherboard in it and so we

BART CAVE - DIRECT BY MR. SALEEBY

1 weren't able to do it from that specific model.

2 Q: When you got this, it wasn't working?

3 A: Correct.

4 Q: All right. And you said something called a motherboard
5 wasn't working?

6 A: Correct.

7 Q: All right. And did that have anything to do with the way
8 -- potentially with the way it had been disconnected or cut?

9 A: Yes. It had been cut and it looked like it had been, you
10 know, thrown on the floor or something because it was not
11 working.

12 Q: So the images were still on this, but you weren't able to
13 access them because the equipment had been damaged?

14 A: Correct.

15 Q: So what did you and Detective Lee do to try to see if you
16 could find the device to help you get into those images?

17 A: We contacted the company that manufactured that device
18 and asked them about how we could view it if the item was
19 damaged, and what they informed us is the only way we could
20 view it was if we got an identical unit and took the hard
21 drive out and put in that hard drive, and that would let us
22 see the images that were there. And that's what we were able
23 to do successfully.

24 Q: So Mr. Lee brought you a similar Bunker Hill security
25 system DVR player from Harbor Freight as well?

BART CAVE - DIRECT BY MR. SALEEBY

1 A: Yes, sir. That's correct.

2 Q: And that enabled you to be able to produce or to collect
3 those images and to produce a recording?

4 A: Correct.

5 Q: I'm going to show you I think once been introduced into
6 evidence as State's Exhibit Number 18, but I'm going to ask
7 you if you recorded the events on a DVD that could be played
8 for the jury?

9 A: Yes, sir, I did.

10 Q: All right.

11 MR. SALEEBY: And, Your Honor, I think it's in over
12 foundation, but we move it again if it's not.

13 THE COURT: Any objection, Mr. Wilson?

14 MR. WILSON: No, sir.

15 THE COURT: Mr. Floyd?

16 MR. FLOYD: None, Your Honor.

17 THE COURT: All right.

18 Q: All right. In addition to making this -- let me back up
19 on that. You were able actually to record the events on this
20 recorder from what time in the morning until what time in the
21 afternoon, if you recall? Or in the evening?

22 A: From 7:28 until 8:03.

23 Q: 7:28 in the evening?

24 A: Yes, sir.

25 Q: Until 8:03?

BART CAVE - DIRECT BY MR. SALEEBY

1 A: Yes, sir.

2 Q: Now, there were more events collected and stored images
3 stored earlier in the day; correct?

4 A: Yes, sir. Earlier in the month, there was previous days
5 on there, but the date we were in reference to was just that
6 specific day.

7 Q: All right. Did you make DVDs of the whole day in case
8 they were useful?

9 A: We just did the one for that day.

10 Q: For that day?

11 A: Yes, sir.

12 Q: But you did make them for the entire day?

13 A: Yes, sir.

14 Q: All right. And gave copies to us and passed copies to
15 the defense?

16 A: Yes, sir.

17 Q: But the one you have here is restricted to the evening
18 hours on July 4th?

19 A: Correct.

20 Q: All right. Were you also able, given your technological
21 capability, to make still photographs from the moving images
22 on the DVD?

23 A: Yes, sir.

24 Q: I'm going to show you State's Exhibit Number 19-A through
25 R --

BART CAVE - DIRECT BY MR. SALEEBY

1 A: Yes, sir.

2 Q: -- and just ask you to look at them and not tell us what
3 they are now, but ask you if those are the still images that
4 came off of that DVD and we'll go from there.

5 A: Yes, sir. These are the images.

6 MR. SALEEBY: And, Your Honor, I think these were over
7 objection based on foundation, but just out of an abundance of
8 caution, we'd move for their introduction now.

9 THE COURT: All right. Any objection at this time, Mr.
10 Wilson?

11 MR. WILSON: No, sir.

12 THE COURT: Mr. Floyd?

13 MR. FLOYD: No, Your Honor.

14 THE COURT: All right. State's Exhibit 19-A through R
15 admitted into evidence without objection.

16 Q: Simply stated, in layman's terms, how are you able to
17 take the contents that were on the DVR player and put them on
18 a DVD? Was it anything hyper-technical or we might do it in
19 everyday life?

20 A: It was not hyper-technical. We've got a tech services
21 division and we -- that's where they do video enhancements at,
22 and we took it over there and they've got where they pretty
23 much just hook up the DVD player through another DVD player
24 and as it plays through, they can record what's being played
25 through there and that's how we made the recording.

BART CAVE - DIRECT BY MR. SALEEBY

1 Q: And you worked with them on making the recording and
2 making the stills?

3 A: Yes, sir.

4 Q: All right.

5 MR. SALEEBY: If you will bear with us a moment, Your
6 Honor, we need to set up the screen so we can project this.

7 THE COURT: All right.

8 (Whereupon, there is a pause in the proceedings.)

9 MR. CLEMENTS: Your Honor, while they're setting that up,
10 I have the booking report --

11 THE COURT: Mr. Wilson, did you want to look at that?

12 MR. CLEMENTS: -- for Mr. Wilson. We do not object to
13 him introducing it into evidence.

14 THE COURT: All right.

15 (Whereupon, there is a pause in the proceedings.)

16 THE COURT: All right. While we're doing this, I've been
17 informed that one of the jurors needs a break for a minute.
18 I'm going to let you step to the jury room. Do not discuss
19 the case. We'll get you back out here as quickly as possible
20 to continue the trial. Okay? Do not discuss the case. Go
21 ahead.

22 (Whereupon, the jury exits the courtroom at 12:18 p.m.)

23 THE COURT: All right. We'll stand down for just a
24 couple of minutes. Mr. Godbolt, when you get all this -- it
25 looks like he's got it set up. If not, finish that and we

BART CAVE - DIRECT BY MR. SALEEBY

1 will -- Mr. Cave, you can step down, but do not discuss your
2 case. Do not discuss your testimony at all. We'll get you
3 back up here as soon as we reconvene.

4 THE WITNESS: Yes, sir.

5 (Whereupon, there is a break in the proceedings from
6 12:19 p.m. until 12:27 p.m.)

7 THE COURT: All right. Bring me the jury back, please.

8 (Whereupon, the jury enters the courtroom at 12:27 p.m.)

9 THE COURT: All of the jurors are back and presently
10 seated in the jury box. Mr. Saleeby, you may --

11 MR. SALEEBY: Thank you, Your Honor.

12 THE COURT: You may continue. Mr. Cave, I remind you
13 that you are still under oath.

14 THE WITNESS: Yes, sir.

15 CONTINUED DIRECT EXAMINATION

16 BY MR. SALEEBY:

17 Q: This would be State's Exhibit Number 18. And just to
18 make sure that we know what we're seeing, you took what had
19 been recorded from the entire day and what you have condensed
20 it down to is a period of time in the afternoon; is that
21 correct?

22 A: Yes, sir.

23 Q: And it will start at approximately what time? Well, will
24 the date -- will the time and the minutes be shown on the
25 date?

BART CAVE - DIRECT BY MR. SALEEBY

1 A: Yes, sir, it should.

2 Q: All right. And it would start at what time?

3 A: It should be 7:28.

4 Q: What time?

5 A: 7:28.

6 Q: 7:28?

7 A: Yes, sir.

8 Q: All right. And will it run approximately -- does it run

9 continuously or just when you see activity is your highlight

10 film?

11 A: It's going to -- it's going to show when there's

12 activity.

13 Q: I beg your pardon?

14 A: It will be activity.

15 Q: All right. When there's activity?

16 A: Yes, sir.

17 Q: Okay. Will what you have recorded stop at 7:48?

18 A: No, sir.

19 Q: All right. What time did the -- what time did the device

20 quit recording?

21 A: At 8:03.

22 Q: 8:03? All right. Well, let's start with playing this.

23 THE COURT: And again, this is Exhibit 18?

24 MR. SALEEBY: Exhibit 18.

25 THE COURT: Thank you.

BART CAVE - DIRECT BY MR. SALEEBY

1 MR. SALEEBY: And, Your Honor, if you would, just check
2 and ask the jurors if they all can see it.

3 THE COURT: Can everybody see the screen? I had a
4 concern about that. Thank you. Please move that, Mr.
5 Godbolt.

6 MR. SALEEBY: Do we need to dim the lights perhaps?

7 MR. GODBOLT: It might help.

8 THE COURT: I think we're okay. Before we play it, is
9 there any difficulty in seeing what's on the screen by anybody
10 in the jury box? Okay.

11 (Whereupon, State's Exhibit Number 18, the surveillance
12 video, is brought up on the screen in open court,
13 started, and then stopped.)

14 Q: All right. What's the time there, sir? Can you see it?
15 Do you need to step down?

16 A: I can't see the screen from here.

17 (Whereupon, the witness exits the witness stand.)

18 Q: I'll just ask you if this indicates the date, the month,
19 the day, the year, the hour, the minutes, and seconds?

20 A: It does.

21 Q: And this would be 7/4/2012 at 7:27 --

22 A: Correct.

23 Q: -- :55 p.m.?

24 A: Yes, sir.

25 Q: All right.

BART CAVE - DIRECT BY MR. SALEEBY

1 THE COURT: Can you all see in my far right corner over
2 there okay? Okay.

3 MR. SALEEBY: All right. If you would, play it, please.

4 (Whereupon, State's Exhibit Number 18, the surveillance
5 video, is played in open court. NO SOUND TO TRANSCRIBE.)

6 MR. SALEEBY: Stop it, please.

7 Q: If you could, stay right there at 7:48:44. At what time
8 did the device quit recording?

9 A: At 8:03.

10 Q: 8:03?

11 A: Yes, sir.

12 Q: P.m.?

13 A: Yes, sir.

14 Q: Approximately 15 minutes?

15 A: Yes, sir.

16 MR. SALEEBY: Can you take it back to where you started,
17 please?

18 Q: I'm going to have you start again. I'm going to stop it
19 at certain places.

20 A: That's fine.

21 Q: And just ask you if you were able to take stills --

22 A: Okay.

23 Q: -- that you've shown -- that you'll be able to show us.

24 (Whereupon, State's Exhibit Number 18, the surveillance
25 video, is played again in open court.)

BART CAVE - DIRECT BY MR. SALEEBY

1 MR. SALEEBY: Stop. Proceed just a little bit. Stop it,
2 please.
3 Q: Do we have a still of this vehicle at approximately 7:28?
4 A: Yes, sir.
5 MR. SALEEBY: Proceed.
6 (Whereupon, the video resumes playing.)
7 Q: These are shot from a camera in two different locations;
8 correct?
9 A: Correct. One on the front and one on the back.
10 MR. SALEEBY: Stop.
11 Q: Doesn't that in a few seconds -- 7:29 -- have a still
12 here?
13 A: Yes, sir.
14 Q: All right, sir.
15 MR. GODBOLT: Go ahead?
16 MR. SALEEBY: Right.
17 (Whereupon, the video resumes playing.)
18 Q: At 7:29 -- it's now 7:36. All right. So seven minutes
19 have transpired; is that correct?
20 A: Yes, sir.
21 Q: And you've got this based on activity?
22 A: Correct.
23 (Whereupon, the video continues playing.)
24 MR. SALEEBY: Stop. 7:36:51. Move.
25 (Whereupon, the video resumes playing.)

BART CAVE - DIRECT BY MR. SALEEBY

1 MR. SALEEBY: Stop.

2 Q: 7:37:23. Approximately a minute later; correct?

3 A: Yes, sir.

4 MR. SALEEBY: Move.

5 (Whereupon, the video resumes playing.)

6 MR. SALEEBY: Stop. Proceed.

7 (Whereupon, the video resumes playing.)

8 MR. SALEEBY: Stop right there.

9 Q: All right. That's 7:48. That's approximately ten

10 minutes?

11 A: Yes, sir.

12 Q: All right. That's ten minutes from the last activity

13 that you recorded?

14 A: Yes, sir.

15 Q: You're only recording when you see people coming up? All

16 right.

17 MR. SALEEBY: Proceed.

18 (Whereupon, the video resumes playing.)

19 MR. SALEEBY: Stop.

20 Q: Do you have a still of that particular image or something

21 close to it?

22 A: Yes, sir.

23 MR. SALEEBY: We don't have zoom capacity?

24 MR. GODBOLT: Not with this.

25 MR. SALEEBY: That's fine. Proceed. Stop. Proceed.

BART CAVE - DIRECT BY MR. SALEEBY

1 (Whereupon, the video resumes playing.)

2 MR. SALEEBY: Stop. Proceed.

3 (Whereupon, the video resumes playing.)

4 MR. SALEEBY: Stop.

5 (Whereupon, the playing of the video is stopped.)

6 Q: All right. Now, sir, what I would like to do since we've

7 introduced these into evidence is to have you identify them.

8 You may need to stand here because you might not be able to

9 see. I'm going to have Mr. Godbolt project on here State's

10 Exhibit 19-A.

11 (Whereupon, State's Exhibits 19-A through 19-R are

12 projected on the screen in open court one at a time as

13 indicated by counsel.)

14 MR. SALEEBY: Can you zoom in on the vehicle? Thank you,

15 sir.

16 Please go to 19-B. That's fine.

17 19-C. I'd like you to zoom in on the individual.

18 19-D.

19 19-E. And please zoom in on the individual.

20 19-F.

21 19-G. And zoom in, if you would, please.

22 19-H. Can you zoom in on the area that's illuminated?

23 19-I. Once again, zoom in on the individual face first

24 and then right hand side.

25 19-J. I want you to go to the face first. Right hand

BART CAVE - DIRECT BY MR. SALEEBY

1 next. Right hand. Other right. And then left hand.

2 Illuminated. Was that H?

3 MR. GODBOLT: J.

4 MR. SALEEBY: J? Go to K, please. Once again, left
5 hand. And the right hand. And the face.

6 19-L.

7 Go to 19-M. Face. Left hand.

8 19-N. Left hand. Right hand.

9 19-O. I'd like you to take the individual in the black
10 shirt and do face first. Head. Now, right hand. And now,
11 the individual at the top of the stairs.

12 19-P. Please focus on the area that's illuminated or
13 highlighted.

14 19-Q. And go right to the illuminated. Top of the body
15 as well.

16 And 19-R. Once again, focus on the two individuals.

17 Thank you.

18 Mr. Cave, that's all the questions I have for you.

19 Please answer any questions counsel has for you.

20 THE WITNESS: Yes, sir.

21 (Whereupon, there is a pause in the proceedings as the
22 screen is removed and the witness returns to the witness
23 stand.)

24 THE COURT: All right. Cross examination, Mr. Wilson?

25 MR. WILSON: Thank you, Your Honor.

BART CAVE - CROSS BY MR. WILSON

CROSS EXAMINATION

1

2 BY MR. WILSON:

3 Q: Agent Cave, now, let me see if I understand. You got
4 this video on -- on July the 5th? When did you receive it?

5 A: I don't have that exact intake sheet with me in front of
6 me as far as the day we received it. I've got that the day we
7 viewed it was August 2nd.

8 Q: Okay. So the first time that you looked at or anybody
9 that you know of looked at the content of the video was August
10 the 2nd?

11 A: Yes, sir.

12 Q: And -- and you had -- somebody came from Marion County
13 and got it from you sometime after you received it originally;
14 is that correct?

15 A: Yes.

16 Q: All right. Who was it that came and got the video
17 recorder from you? Who came and got it?

18 A: James Lee.

19 Q: Okay. And what was the purpose of Mr. Lee getting the
20 video recorder from you? Now, you're the expert; right?

21 A: Yes, sir.

22 Q: And as an expert, your job is to find out what's going on
23 with things and do a report and tell us how to fix it or what
24 the issues are with it, but in this case, that's not what
25 happened; right?

BART CAVE - CROSS BY MR. WILSON

1 THE COURT: Was that a question, Mr. Wilson?

2 MR. WILSON: Well, yes, sir. That's what I asked him.

3 Q: That's not what happened?

4 A: Right. What -- the reason why he took it back was to --
5 was to try to locate a similar unit so that we could remove
6 the hard drive out of one and put it in another to make it so
7 we could actually view the video.

8 Q: And you couldn't have done that?

9 A: No, sir. Because we didn't have the resources for
10 finding that. We talked to the company -- with Bunker Hill.
11 They -- that's when they said that we needed to find a similar
12 unit for, you know, to put it in there so that we could play
13 it since the motherboard was damaged.

14 Q: Well, SLED couldn't have gotten one from the
15 manufacturer? Is that what you're saying? Y'all couldn't do
16 that?

17 A: Well, our normal process that we go through when we have
18 an issue like that is it goes back to the local agency, and
19 when it went back to them, they had a location for where one
20 was at and they were wanting to verify that and they were
21 going to provide that for us.

22 Q: Okay. So -- all right. But what you needed was a new
23 unit so that you could take the hard drive out of the old unit
24 and put it in the new unit; right?

25 A: Correct.

BART CAVE - CROSS BY MR. WILSON

1 Q: Okay. So what I'm not understanding is -- what is the
2 difficulty in just ordering the new unit from the
3 manufacturer, taking the hard drive that you had, and putting
4 it in the new unit? Why would you need to give it back to
5 Marion and have them keep it for two weeks and then bring it
6 back to you?

7 MR. SALEEBY: Your Honor, I thought he answered that
8 questions. Well, he said that was SLED's standard operating
9 procedure. I think --

10 MR. WILSON: He did not --

11 THE COURT: Hold on a minute.

12 MR. SALEEBY: But I thought that he had. That's the same
13 question twice.

14 THE COURT: I'll allow it. Go ahead and answer the
15 question, Mr. Cave, if you know.

16 A: When we contacted Marion back and let the -- let Mr. Lee
17 know that it was -- that we were going to need -- that that
18 was what we would need, and that's when he said that he had a
19 location in Marion that he could get one of those units from,
20 and he wanted to take that to verify it was the same model
21 whenever he brought it back so that whenever we swapped it
22 out, there wouldn't be any issues.

23 Q: Okay. So why was there two weeks? Did it take two weeks
24 to do that? Two weeks from the day that he picked it up until
25 he brought it back. Did it take two weeks to go to Dillon or

BART CAVE - CROSS BY MR. WILSON

1 Marion or wherever he picked up the second unit and bring it
2 -- and get it to you?.

3 A: I can't answer that question because I wasn't the one
4 that took it.

5 Q: So it was gone from your possession for two weeks?

6 A: Correct.

7 Q: And you have no idea what happened to it during those two
8 weeks?

9 A: Correct.

10 Q: All right. And did you make a copy of whatever was on
11 the hard drive so that you now know that whatever was on the
12 hard drive when you saw it two weeks later was on there when
13 you gave it to them?

14 A: Yes, sir. We did a forensic image of it.

15 Q: Okay. And where is that?

16 A: We've got a copy of the EL1 file on our server.

17 Q: Okay.

18 A: And then -- and that's what we used as our working copy
19 when we put -- we didn't put the original drive into the
20 secondary machine.

21 Q: Mm-hmm.

22 A: We did a clone drive. So that way it's a -- it was a bit
23 by bit image and that way we weren't working off of the
24 original evidence.

25 Q: So -- well -- so -- well, then I'm confused because I

BART CAVE - CROSS BY MR. WILSON

1 thought the whole idea was that you didn't -- you couldn't get
2 the hard drive out and it would only play in another machine.
3 So what you're telling me now is that you actually did take
4 the hard drive out and you made a clone of the hard drive
5 before they came and got it and kept it for two weeks. Is
6 that what you're saying now?

7 A: Well, when we got it to preview it in our previous DVR
8 systems, we could take out the drive and the company would
9 provide us with a player so that way we wouldn't have to
10 actual have the physical DVR system to play them in. But when
11 I contacted them, they said that was not the case for that
12 unit. So we did make an image of that drive.

13 Q: Okay. How could you make an image out of it? How could
14 you make the image of it and not see it? I mean is that what
15 you're saying? You could make an image of it, but you
16 couldn't see what the image was that you were making?

17 A: No. We can see the image, but we couldn't see the video
18 files. The image is just a -- is just a folder that contains
19 all the files located on the drive.

20 Q: Right.

21 A: For the videos to play, you had to have their proprietary
22 software and player to play it, and it won't do it outside of
23 their DVR box. It has to be inside their box to play that --
24 the video.

25 Q: Okay. All right. Now, let's go to when you got it back.

BART CAVE - CROSS BY MR. WILSON

1 Two weeks later, you got it back; correct? Or theirs back?

2 And when you got it back two weeks later, did they bring to
3 you the new box and the old box?

4 A: On the -- as far as them -- they brought us back a new
5 box --

6 Q: Mm-hmm.

7 A: -- and it was -- and that's what -- we were able to open
8 it up and the drive just connected right in there.

9 Q: Okay.

10 A: And -- but as far as the chain -- Mr. Saleeby, do you
11 have the chain of where the --

12 MR. SALEEBY: I don't know that you can ask me a
13 question.

14 THE COURT: Hold on. Your job is to answer his
15 questions.

16 THE WITNESS: That's fine. That's fine.

17 A: We did. Yes. When they brought it back, we swapped the
18 drive out. That's what we did.

19 Q: Okay.

20 A: Then it worked.

21 Q: All right. But -- all right. So -- so let me see if I'm
22 clear -- that I understand what you did. You -- when you got
23 the DVR the first -- you had it until July 18th up there at
24 SLED, and you then -- is that correct, first of all?

25 A: Yes.

BART CAVE - CROSS BY MR. WILSON

1 Q: All right. And you then went into it and took out the
2 hard drive?

3 A: Correct.

4 Q: And you made a copy of the hard drive?

5 A: Correct.

6 Q: So when you gave -- when you gave Marion County whatever
7 you gave them on the 18th, that was not the original? That was
8 a copy. Is that what you're saying?

9 A: No, sir. We gave them back the original.

10 Q: Okay. So they had the original. So Marion County had
11 the original?

12 A: Correct.

13 Q: All right. So now -- so now you -- so when Marion County
14 has the original, you have a copy or a clone I think you
15 called it, which you kept at SLED?

16 A: Correct.

17 Q: All right. Now, did you bring that clone to play today
18 too so that we know that the clone is identical to what you
19 got when you got the property back?

20 A: No, sir.

21 Q: Okay. All right. Now, let me see if I understand it.
22 You were also trying to -- you said that there were some
23 enhancements made to the video; right?

24 A: Yes, sir.

25 Q: All right. And did you make the enhancements or did

BART CAVE - CROSS BY MR. WILSON

1 somebody else make them?

2 A: Our tech services division made them.

3 Q: Okay. So you didn't even do that?

4 A: No. I was -- I was there when it was being done.

5 Q: Okay. That's good. You were there when it was being
6 done; so you saw these enhancements being made. Were you the
7 one directing them as to what to enhance?

8 A: Yes, sir.

9 Q: Okay. And were you instructed by law enforcement -- that
10 is Marion County Sheriff's Office -- as to what it was that
11 they wanted you to focus in on? Or by the Solicitor's Office?

12 A: Yes, sir.

13 Q: Okay. And what was it that they wanted you to focus in
14 on?

15 A: The vehicle to get a clearer description of what type of
16 vehicle it was.

17 Q: Okay.

18 A: The individuals' faces.

19 Q: Okay.

20 A: And the items that they were carrying as they entered the
21 home.

22 Q: Okay. Did they ever tell you to focus in on the arms of
23 the individual to see if there were tattoos on the person?

24 A: No, sir.

25 Q: Okay. They never asked you to do that?

BART CAVE - CROSS BY MR. WILSON

1 A: All we looked at was the -- was the weapons.

2 Q: Okay.

3 A: And the -- and the faces.

4 Q: All right. All right. Do you have the capacity -- that
5 is with your technology -- to look at the arms -- inside or
6 outside of the arms to determine if there is anything on the
7 arms or inside of the arms?

8 A: The problem we'd have with that was the quality of the
9 video. As you could tell when they zoomed in earlier, the
10 more you zoomed in, the more pixilated it became. And so it
11 would have been harder to see or describe, you know.

12 Q: Yeah. In fact, the more you blow it up, the more
13 difficult it is to tell what's there --

14 A: Correct.

15 Q: -- in that photograph. And the reason for that is is
16 that the pixel quality of that photograph is very poor, is it
17 not?

18 A: Correct.

19 Q: All right. And -- and -- and that makes it -- and when
20 the pixel quality is poor, as you try to enhance it or you try
21 to blow it up, then it blurs so that you can't really get a
22 clearer picture.

23 MR. SALEEBY: Your Honor --

24 Q: Would that be a fair statement?

25 THE COURT: Hold on a minute.

BART CAVE - CROSS BY MR. WILSON

1 MR. SALEEBY: I just didn't find a question in there. It
2 was an eloquent statement.

3 THE COURT: Let him -- let him finish what he's saying.
4 He may be getting to a question in there.

5 THE WITNESS: Okay.

6 THE COURT: Restate your question, Mr. Wilson.

7 MR. WILSON: Yes, I will. Thank you.

8 Q: What I'm simply asking you is is it true that whenever
9 you have a picture and the pixel count for that picture is of
10 low quality that the more that you try to enhance it or blow
11 it up, if you will, the more blurred it becomes?

12 A: Correct.

13 Q: All right. And that's kind of what happened in this
14 case, is it not?

15 A: When they tried to blow it up, yes.

16 Q: Okay. And the more they tried to blow it up to get a
17 clear picture of the faces of the individual, the more blurred
18 the photographs become?

19 A: Correct.

20 Q: Fair? All right. And now -- and you indicated that at
21 no point in time did anybody from law enforcement or the
22 Solicitor's Office for that fact -- right? -- tell you that
23 they wanted you to focus and see if there are tattoos on these
24 individuals or specifically on any of these individuals?

25 A: I don't specifically remember them asking about the