

230 34

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
General Sessions Court

R. Scott Sprouse, Circuit Court Judge

RECEIVED

NOV 30 2016

Re: State of South Carolina v. Bobby Joe Arflin
Case No.: 2015-001900

SC Court of Appeals

The State of South Carolina,

Respondent,

v.

Bobby Joe Arflin,

Appellant.

RECORD ON APPEAL
Volume 2 of 3

Sarah Ganss Drawdy
Byrholdt Drawdy, LLC
2315 N. Main St., Ste. 117
Anderson, SC 29621
(864) 261-3977
Attorney for Appellant

Other Counsel of Record:

Alan Wilson
Attorney General
J. Robert Bolchoz
Chief Deputy Attorney General
Don Zelenka, Esquire
Senior Assistant Attorney General
Sherrie Butterbaugh
Assistant Attorney General
S.C. Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

Christina Theos Adams
Solicitor, Tenth Judicial Circuit
P.O. Box 8002
Anderson, South Carolina 29622

Attorneys for Respondent

INDEX
Volume II

CHRIS PRIDEMORE

Direct Examination By Ms. Price	457
Cross-Examination By Ms. White	477
Redirect Examination By Ms. Price	497
Recross-Examination By Ms. White	498

THOMAS DUGAN

Direct Examination By Ms. Price	500
Cross-Examination By Ms. White	516
Redirect Examination By Ms. Price	527

TRAVIS VICKERY

Direct Examination By Ms. Price	529
Cross-Examination By Ms. White	537

JUSTIN RICHEY

Direct Examination By Ms. Huey	540
Cross-Examination By Ms. White	555
Redirect Examination By Ms. Huey	560

JOSEPH STONE

Direct Examination By Ms. Huey	563

JAMES ARMSTRONG

Direct Examination By Ms. Price	572
Cross-Examination By Ms. White	587
Redirect Examination By Ms. Price	596
Recross-Examination By Ms. White	598

WHITNEY BERRY

Direct Examination By Ms. Price	599

Cross-Examination By Ms. White	610
Redirect Examination By Ms. Price	615
Recross-Examination By Ms. White	617
TOMMY BROOKS	
Direct Examination By Ms. Price	618
Cross-Examination By Ms. White	629
Redirect Examination By Ms. Price	639
Recross-Examination By Ms. White	642
Redirect Examination By Ms. Price	648
Recross-Examination By Ms. White	648
BRETT WOODARD, M.D.	
Direct Examination By Ms. Price	650
Cross-Examination By Ms. White	666
Redirect Examination By Ms. Price	686
Recross-Examination By Ms. White	692
Further Redirect Examination By Ms. Price	694
BRENT SIMPSON	
Direct Examination By Ms. Huey	697
Cross-Examination By Ms. White	711
CLAYTON MARTIN	
Direct Examination By Ms. Price	728
Cross-Examination By Ms. White	730
Redirect Examination By Ms. Price	732
ROY LAWRENCE	
Direct Examination By Ms. Price	735
Cross-Examination By Ms. White	752
ROBERT GEBING	
Direct Examination By Ms. Price	775

Cross-Examination By Ms. White	805
Redirect Examination By Ms. Price	812
Recross-Examination By Ms. White	814
SHEILA ARFLIN	
Direct Examination By Ms. White	826
Cross-Examination By Ms. Price	838
Redirect Examination By Ms. White	840
Recross-Examination By Ms. Price	843
BILLY ARFLIN	
Direct Examination By Ms. White	845
Cross-Examination By Ms. Price	852
BOBBY ARFLIN	
Direct Examination By Ms. White	856
Cross-Examination By Ms. Price	898

1 for us, please, sir.

2 (WHEREUPON, the jury entered open court at
3 1:52 p.m.)

4 THE COURT: Ms. Price.

5 MS. PRICE: At this time, the State calls forensic
6 investigator Chris Pridemore to the stand.

7 CHRIS PRIDEMORE,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE CLERK: Please state and spell your name for
10 the reporter.

11 THE WITNESS: Chris Pridemore, P-r-i-d-e-m-o-r-e.

12 DIRECT EXAMINATION

13 BY MS. PRICE:

14 Q Investigator Pridemore, who do you work for and in
15 what capacity?

16 A Anderson County Sheriff's Office. I'm a forensic
17 investigator.

18 Q Okay. And what sort of duties and
19 responsibilities are associated with being a forensic
20 investigator?

21 A I locate, photograph and collect evidence on crime
22 scenes.

23 Q Do you occasionally process crime scenes?

24 A Yes.

25 Q How long have you been in law enforcement?

- 1 A Going on 11 years.
- 2 Q How many in forensics?
- 3 A Going on six years.
- 4 Q Did you respond to a call on December 11, 2013?
- 5 A I did.
- 6 Q And were you in forensics at that time?
- 7 A I was.
- 8 Q And has that call led you to be in court today?
- 9 A It has.
- 10 Q What was the nature of that call?
- 11 A It was a shooting investigation.
- 12 Q And where did you respond?
- 13 A Williamson Road -- Williamson Drive in Belton,
- 14 which is in Anderson County.
- 15 Q Okay. What did you do when you arrived on scene?
- 16 A When I first arrived on scene, I met with Sergeant
- 17 Bowland, Investigators Garrett, Hill and Simpson. They
- 18 debriefed me, pretty much gave me what they had
- 19 gathered information-wise about the incident.
- 20 Q And why did they debrief you as a forensic
- 21 investigator?
- 22 A Well, I have to know what happened generally so I
- 23 know what I'm looking for in regards to evidence.
- 24 Q For the collection?
- 25 A Yes.

1 Q Okay. What did you do after they debriefed you?

2 A I got with Sergeant Bowland and took possession of
3 a Smith & Wesson .41 caliber Magnum revolver.

4 Q What did you do once you were in possession of
5 that revolver?

6 A I cleared the weapon.

7 Q And what do you mean by "cleared the weapon"?

8 A Well, I open up the cylinder and make it safe,
9 took the rounds out of it.

10 Q There were rounds in the cylinder?

11 A There were six live rounds in the cylinder.

12 Q How many rounds does this revolver carry?

13 A It holds six.

14 Q So it was fully loaded?

15 A It was fully loaded, correct.

16 Q Okay. Did you fill out an evidence sheet for the
17 revolver or did Sergeant --

18 A Sergeant Bowland did.

19 Q For what purpose?

20 A To keep the chain of evidence intact, chain of
21 custody.

22 Q Investigator Pridemore, I'm showing you what's
23 been marked as State's Exhibit 24 and 25. Without
24 showing this to the jury, are you familiar with what's
25 contained herein?

1 A Yes.

2 Q And what are we looking at?

3 A We're looking at the revolver that I collected
4 from Sergeant Bowland that night along with the six
5 live rounds.

6 Q Are you certain?

7 A Yes.

8 Q How are you certain?

9 A Well, because that's my writing. The serial
10 number, all of it matches up.

11 Q The serial number on what?

12 A On the weapon.

13 Q And your writing is on what?

14 A It's on the packaging.

15 Q For?

16 A The sealed up rounds, live rounds.

17 Q Okay. All right. Investigator Pridemore, I'm
18 going to show you what's been marked as State's
19 Exhibits 26 through 31.

20 Would you flip through those real quickly and tell
21 me if you're familiar with what's represented in those
22 exhibits.

23 A Yes. This is the revolver that I collected that
24 night.

25 Q Okay. Photographs of the revolver?

1 A Yes.

2 Q Okay.

3 A These are photographs of the revolver that I
4 collected that night.

5 Q Okay. And it is an accurate depiction of what the
6 revolver looked like when you collected it?

7 A Yes.

8 Q And also does it depict the six live rounds?

9 A Yes, it does.

10 Q Is the depiction of the gun while they were still
11 in the chamber?

12 A Yes.

13 Q So you documented that before you unloaded it for
14 safety reasons?

15 A Yes.

16 Q Okay. And did you make note of the serial number
17 and model number for the revolver?

18 A I did.

19 Q Okay. And what are those?

20 A It's AYU1199 and the model number is 57-1.

21 Q Are those unique to the weapon?

22 A Yes, they are.

23 Q So are those represented in the photographs?

24 A They are.

25 Q And when I showed you State's Exhibit 24, was that

1 the same serial number?

2 A Yes.

3 MS. PRICE: Your Honor, at this time the State
4 would move to admit State's Exhibits 26 through 31 into
5 evidence.

6 MS. WHITE: No objection.

7 THE COURT: State's Exhibits 26 through 31 will be
8 admitted without objection.

9 (WHEREUPON, State's Exhibit Numbers 26 through 31
10 were admitted into evidence.)

11 MS. PRICE: I request permission to publish to the
12 jury.

13 THE COURT: Yes, ma'am.

14 BY MS. PRICE:

15 Q Can you tell me, Investigator Pridemore, what this
16 photograph depicts?

17 A Okay. This is the cylinder from a revolver. I
18 don't know how many of you are familiar with a
19 revolver, okay, the Old West style of guns. You pull
20 it out, okay, and inside of it you will see the serial
21 number of the weapon, which is kind of hard to see in
22 that picture. And underneath it you see the 57-1.
23 That's the model number. So the serial number and the
24 model number will be inside that.

25 Q Is this an additional photograph?

1 A Yeah. This one is a little better. You might be
2 able to see it better in this one. It's the same.
3 It's the same shot. It's just closer up.

4 Q And would you go through these with the jury,
5 please.

6 A Okay. This is just a look through.

7 Q What number is that, Investigator Pridemore?

8 A This one is --

9 Q 30?

10 A Exhibit 30. Okay. And it shows the cylinder with
11 the live rounds. Notice none of the primers have been
12 struck. All of the rounds in the cylinder are live.

13 31 is just a blown up version where you can
14 actually see that none of the primers on these
15 cartridges have been struck or fired, and that there
16 are six -- six live rounds in the cylinder of the same
17 gun.

18 A This is 26, which is basically just a shot of the
19 handgun itself. And this is 27, which is just another
20 shot of the same gun.

21 Q Thank you, Investigator Pridemore. And did you
22 document the crime scene that evening?

23 A Yes. Yes. I took digital photographs of the
24 scene, the vehicles. It was dark. I took the
25 photographs the best I could, and Mr. Powell was not on

1 scene. He had already been transported.

2 Q Okay. So you documented it to the extent that you
3 could with the limitations you had in place that
4 evening?

5 A Right. Correct.

6 Q Okay. I'm showing you what's been marked as
7 State's Exhibits 32 through 39. What are we looking
8 at?

9 A These are the photographs that I took of the crime
10 scene on Williamson Drive.

11 Q Okay. And are they true and accurate
12 representations of the scene as it occurred that
13 evening?

14 A Yes, ma'am.

15 Q Okay. I'm also going to show you what's been
16 previously admitted as State's Exhibits 14 through 21.
17 And what are those, sir?

18 A More of my photographs from the crime scene.

19 Q Okay. And can you tell me -- step down again, if
20 you will, as we go through these very briefly with the
21 jury.

22 MS. WHITE: Your Honor, may I get where I can see
23 what they're doing?

24 THE COURT: Yes, ma'am.

25 MS. WHITE: Thank you.

1 BY MS. PRICE:

2 Q If you will, briefly go through each exhibit and
3 explain what you're documenting in that photograph,
4 please.

5 A On number 21, on Exhibit 21, what I was
6 documenting was the fact that the -- the side mirror on
7 the GMC, which is Mr. Powell's vehicle, has been
8 busted. And if you will look down here by the tire,
9 you will also see parts of what looks like a taillight.

10 This is Exhibit 20, which basically is focusing
11 more on the road around the tire. You will see the
12 busted plastic pieces. Exhibit 19, pay particular
13 attention to the front corner up here of the GMC, which
14 is Mr. Powell's vehicle.

15 18, we're looking at the same thing, just a little
16 more straight-on of the damage. 17, this is kind of
17 between the vehicles. This is at the mailbox. And you
18 will see pieces of plastic. This is Exhibit 16. This
19 is a shot of the driveway area. This is 15. This is
20 pretty much just a close-up. This is where EMS was
21 working on Mr. Powell in the driveway area.

22 And this is 14, and this shot is where I am
23 standing where I just showed you the last photograph.
24 I'm standing at that point looking out at the road at
25 the vehicles.

1 Q Okay. Let's go through the additional exhibits
2 now as well, Investigator.

3 A This is Exhibit 32. This is Mr. Arflin's vehicle.
4 If you will pay attention to the passenger side mirror,
5 it's got damage to it, and it's pushed back towards the
6 glass. Anybody that's bumped a tree knows that if you
7 hit something going forward, it slaps back.

8 Exhibit 33, just a close-up of the side mirror.
9 This is Exhibit 34, which was focusing in on the
10 passenger rear of Mr. Arflin's vehicle. You can see
11 damage to that. This is Exhibit 35, which is just a
12 closer view of the damage to the back of Mr. Arflin's
13 truck. Exhibit 36 is a close-up of more of a side
14 angle of the same damage spot on Mr. Arflin's vehicle.

15 This is Exhibit 37. What we're looking at in this
16 picture is the back of Mr. Powell's vehicle, the
17 driver's side rear. It's hard to see. I'm going to
18 try to get as close as I can, but that's a bullet hole
19 right above the tire right here. And it goes all the
20 way through and strikes the back of the cab. Y'all can
21 see it right in here.

22 Exhibit 38, this is just a side shot so that you
23 can see the first strike that's above the tire on
24 Mr. Powell's vehicle. Exhibit 39, from the driver's
25 rear tire, I just took a photograph back towards the

1 driveway.

2 Q Thank you, Investigator. Are these true and
3 accurate depictions of the scene as it occurred that
4 evening?

5 A They are.

6 MS. PRICE: Your Honor, at this time the State
7 would seek to admit Exhibits 32 through 39.

8 THE COURT: Ms. White, any objection?

9 MS. WHITE: Are those the ones we just saw?

10 MS. PRICE: Yes.

11 MS. WHITE: No objection.

12 THE COURT: State's Exhibits 32 through 39 will be
13 admitted without objection.

14 (WHEREUPON, State's Exhibit Numbers 32 through 39
15 were admitted into evidence.)

16 BY MS. PRICE:

17 Q Did you collect anything else from the scene,
18 anything physical?

19 A I did. I collected pieces of the plastic from
20 both vehicles. I also collected a Nokia cell phone. I
21 believe it belonged to Mr. Arflin. It was given to me
22 by Investigator Garrett. I did get that with an
23 evidence sheet.

24 Q Okay. And where did you proceed -- well, was that
25 the totality of what you did at the scene?

1 A Well, I also looked around the roadway, make sure
2 there was no evidence that I missed. I also marked
3 with a nail, I put a nail beside the driver front tire
4 on each vehicle in case we had to go back out and get
5 any kind of measurements.

6 Q Okay. And was that the totality of your
7 involvement at the scene?

8 A Yes.

9 Q Okay. Where did you proceed next?

10 A From that point, I went to the Anderson County
11 Sheriff's Office armory to store the two vehicles
12 pending search warrants.

13 Q And what is the armory?

14 A It's just a secure building with bays. Half of it
15 belongs to fleet services that does our maintenance on
16 our patrol vehicles. The other half is secured with
17 locked doors, and we keep our vehicles in there or
18 stuff that we need to do processing on for search
19 warrants and such.

20 Q Is there a limited number of people that have
21 access to it?

22 A Yes. Yes. Only forensic personnel can access
23 where the vehicles are stored.

24 Q So it can't be tampered with once it's there?

25 A No.

1 Q And how did the vehicles get to the armory?

2 A Well, they're escorted. The -- Mr. Arflin's
3 pickup was escorted by Investigator Hill. And
4 Mr. Powell's GMC was escorted by Deputy Cowan.

5 Q And you met them at the armory?

6 A Yes.

7 Q You had to unlock it?

8 A Yes.

9 Q Did anything notable happen once you got to the
10 armory?

11 A While the tow company was putting Mr. Powell's
12 vehicle in the bay, the vehicle -- the tow truck
13 actually rolled forward, and Mr. Powell's truck rolled
14 off and slammed down, the front of the vehicle slammed
15 onto the concrete.

16 Q Was there damage to the vehicle?

17 A There was damage underneath the front bumper in
18 the tag area, the trim and the plastic.

19 Q So those photographs show the damage as it was
20 after the incident at issue, correct?

21 A Yes.

22 Q Anything afterwards, after it was towed, has been
23 altered; is that correct?

24 A Right.

25 Q Okay. And did you secure those vehicles after you

1 dealt with that situation?

2 A Yes.

3 Q Did you secure the vehicles at the armory?

4 A Yes. They were locked up in the armory, like I
5 said, pending search warrants the next day.

6 Q And where did you proceed next from?

7 A That point, I went to the sheriff's office.

8 Q Okay. Did you meet anybody there?

9 A On arrival at the sheriff's office, I met with
10 Investigator Simpson, Investigator Garrett and Hill.
11 Also investigator Dugan.

12 Q Okay. And what did you do once you were at the
13 sheriff's office?

14 A Assisted Investigator Dugan. He was collecting
15 GSR from Mr. Arflin as well as a buccal swab. I did
16 photograph Mr. Arflin. It was inside the holding cell.

17 Q Did you observe any physical injury to Mr. Arflin?

18 A No, I did not.

19 Q If you had, would you have documented it?

20 A Yes.

21 Q In your photographs?

22 A Yes.

23 Q You said you took the photographs where?

24 A It was inside the holding cell at the sheriff's
25 office.

1 Q What cell would that be?

2 A Cell one. It's the very first cell when you go
3 into the bay.

4 Q Can you describe it for me?

5 A Roughly an eight-by-ten.

6 Q Okay.

7 A Has a bunk in the very back, toilet/sink on the
8 other end of it.

9 Q Working toilet and sink,

10 A I would say.

11 Q Okay. But it has a toilet and a sink?

12 A Yes.

13 Q Okay. All right. I'm showing you what's been
14 marked State's Exhibit 40 through 47. Are you familiar
15 with what is depicted in those photographs?

16 A I am.

17 Q And what is that?

18 A This is my photographs of Mr. Arflin in the
19 holding cell.

20 Q And, once again, I'm sorry. Do you believe that
21 they are true and accurate representations of
22 Mr. Arflin as he appeared that night?

23 A Yes.

24 Q Okay. Have they been altered in any way?

25 A No.

1 MS. PRICE: Your Honor, at this time the State
2 would move to admit State's Exhibits 40 through 47 into
3 evidence.

4 MS. WHITE: No objection.

5 THE COURT: 40?

6 MS. PRICE: 40 to 47, yes, sir.

7 THE COURT: State's Exhibits 40 through 47 will be
8 admitted without objection.

9 (WHEREUPON, State's Exhibit Numbers 40 through 47
10 were admitted into evidence.)

11 BY MS. PRICE:

12 Q Investigator Pridemore, would you just again step
13 down and go through these with the jury.

14 A This is Exhibit 40. This is just a picture,
15 close-up front shot of Mr. Arflin in the holding cell.
16 Exhibit 41 is another front shot, paying attention to
17 the arms and the back of the hands for any kind of
18 marks, injuries.

19 Q And did you see any marks or injuries on his
20 hands?

21 A No.

22 Q No scrapes?

23 A No. And here is a close-up, it's Exhibit 42, of
24 his hands, hands only, the back of the hands. No
25 marks. This is Exhibit 43. It's another frontal, but

1 his arms are turned in so you see the underside of his
2 arms and hands.

3 This is Exhibit 44, just a close-up of the same
4 shot. Exhibit 45, it's a right-side profile of
5 Mr. Arflin. Exhibit 46. This is just the back, a view
6 from the back. And Exhibit 47, which is the left side.

7 Q Thank you, Investigator. You may take the stand.

8 Did you observe any physical injury to his face
9 that evening?

10 A I did not.

11 Q If you had, would you have documented it?

12 A Yes.

13 Q Is that part of your job as the forensic
14 investigator?

15 A Yes.

16 Q Do you see the man you photographed that night in
17 the courtroom today?

18 A I do.

19 Q Can you please point him out and state what he's
20 wearing for the record.

21 A Mr. Arflin is sitting in the middle of the table.
22 He is wearing a red shirt and black jacket.

23 Q Do you note any differences in his appearance
24 today than you did that night?

25 A He's clean shaven and his hair is cut.

1 Q And what did you do after taking photographs of
2 Mr. Arflin?

3 A At that point I couldn't get his clothes because
4 we were waiting on a jumpsuit to come from the jail, so
5 I took the evidence that we had collected over and put
6 it in the secure intake area at the office.

7 Q What secure intake area?

8 A It's an area in evidence that can only be accessed
9 by a forensic investigator or an evidence tech.

10 Q And what is evidence? What is property in
11 evidence at the sheriff's office?

12 A Well, it's either -- evidence is something of a
13 crime, stuff that we store from crimes, or property,
14 property being someone's property, recovered property,
15 whatever. It's just a secure area where we keep all of
16 our stuff.

17 Q Okay. Limited access to that location?

18 A Yes.

19 Q Much like we discussed with the armory?

20 A Right. Right.

21 Q Do you keep a log of people who come in and out?

22 A Yes. There are only outer doors.

23 Q Okay. And is the evidence maintained for each
24 case?

25 A Yes.

1 Q Given bar codes?

2 A Yes.

3 Q And so once you stored the items that you had
4 retrieved to that point, where did you respond?

5 A I proceeded back to the sheriff's office, which is
6 just the next building over, in regards to getting
7 Mr. Arflin's clothing.

8 Q And who did you meet?

9 A I met with Don McCown, deputy coroner Don McCown
10 and Investigator Simpson.

11 Q And what did you do once you got to the sheriff's
12 office?

13 A At that point, I collected from the coroner, Don
14 McCown, two blood samples that he had gotten from
15 Mr. Arflin, and I collected Mr. Arflin's clothing.

16 Q What items of clothing did you collect from
17 Mr. Arflin?

18 A I collected from Mr. Arflin a pair of black
19 Velcro-top shoes, size 12. I collected a short-sleeved
20 striped shirt, green in color, size 2XL. I collected a
21 green pair of jogging pants, size large, and a green
22 ball cap. And his personal effects in his pants at
23 that time were a red tape measure, a small black
24 container with a single pill in it, some lip balm and a
25 blue credit card case.

1 Q And what did you do with all those items?

2 A All of those items were taken over and placed into
3 evidence.

4 Q Okay. When you collected his clothing, do you
5 recall seeing any debris on the clothing?

6 A No.

7 Q Dirt?

8 A No.

9 Q Leaves?

10 A Nothing.

11 Q Grass? Nothing?

12 A Nothing.

13 Q And so you took the clothing and the blood samples
14 and put them where?

15 A The clothing was put into evidence, and the
16 samples were put in the evidence refrigerator so they
17 don't go bad.

18 Q What did you do with the photographs from that
19 night?

20 A They're put in the evidence photo computer.

21 Q So also secure?

22 A Yes.

23 Q Aside from testifying today, did you have any
24 further involvement in this case after that?

25 A No.

1 Q One moment.

2 Thank you, Investigator. Please answer any
3 questions that Ms. White has for you at this time.

4 THE COURT: Ms. White.

5 MS. WHITE: Yes, sir.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q You said that you took photographs of Mr. Arflin;
9 is that correct, that night?

10 A Yes, ma'am.

11 Q And did you examine his body or did you just take
12 photos?

13 A No. We looked at the extremities, but that's
14 about it. As far as like lifting up the shirt and
15 everything, I didn't go into detail as far as looking
16 underneath his shirt or pants.

17 Q Didn't comb through any hair, no beards, nothing
18 like that?

19 A No.

20 Q Did you play sports growing up?

21 A I did.

22 Q And did you ever not realize you were injured, and
23 then the next day you realized you were injured,
24 something came up?

25 A Oh, sure. Absolutely.

1 Q And injuries aren't always apparent right when
2 they occur, are they?

3 A Exactly.

4 Q In fact, that's pretty common; is that right?

5 A Right.

6 Q Especially when you got adrenaline going like with
7 sports or some traumatic incident?

8 A That's true.

9 Q All right. Now, you said that you didn't see any
10 injuries; is that correct?

11 A Correct.

12 Q Did you see any abnormalities on him?

13 A Abnormalities?

14 Q Yes, sir, any kind of abnormalities?

15 A As in -- I didn't see anything out of the normal
16 for a gentleman of his age.

17 Q Are you aware -- again, looking at your pictures,
18 let's just pick one or two. Do you know why this is
19 poking out of his stomach here? Did you ever examine
20 that? Did you ever look at him to see what that was?

21 A No. No, I did not.

22 Q Did you ever ask him why that was that way?

23 A Why his stomach was bulging?

24 Q Yes, sir, why that was poking out of that area.

25 A No.

1 MS. WHITE: Your Honor, I'm going to ask that my
2 client stand up.

3 MS. PRICE: Your Honor, I'm going to object
4 because if she's asking him about his appearance that
5 night, I've already asked him if he sees any
6 differences.

7 MS. WHITE: Your Honor, the law certainly
8 permits --

9 THE COURT: It's in response to your direct
10 examination. I'm going to allow the question.
11 Overruled.

12 MS. WHITE: If you will please stand up,
13 Mr. Arflin, and unbutton your jacket and pull up your
14 shirt, and if you will face the jury.

15 Sir, what is that?

16 THE DEFENDANT: It's a hernia.

17 BY MS. WHITE:

18 Q So, sir, you're telling this jury that you
19 examined him for injuries after this and were
20 documenting whether or not he had an injury, and you
21 didn't notice that?

22 MS. WHITE: Please sit.

23 THE WITNESS: No.

24 BY MS. WHITE:

25 Q Now, you said that a pill was recovered from

1 Mr. Arflin; is that correct?

2 A It was a pill inside of a container that was in
3 his clothing, yes.

4 Q And are you aware that that pill was tested and
5 it's blood thinner. Are you aware of that?

6 A No.

7 Q Are you aware that blood thinner, if you get hit
8 or get any kind of injury, you can bleed to death?

9 MS. PRICE: I'm going to object, your Honor.
10 That's medical testimony.

11 THE COURT: I'll sustain the objection. Limit
12 your questions to the witness' knowledge.

13 BY MS. WHITE:

14 Q So, let's back up to that night. So you went to
15 Mr. Arflin and you requested him to allow you to swab
16 his hands for gunshot residue; is that correct?

17 A I did not. Investigator Dugan did.

18 Q And you were there?

19 A Yes.

20 Q All right. And he agreed?

21 A Yes.

22 Q And what you're looking at on the hands is you're
23 looking at whether there's lead, antimony and barium,
24 which are some of the components of gunshot; is that
25 correct?

1 A Yes.

2 Q So if I fire a gun, then I may have these elements
3 on my hands?

4 A Correct.

5 Q Now, you also asked Mr. Arflin if he would give a
6 buccal swab; is that correct?

7 A I did not.

8 Q Again, I'm sorry. Let me rephrase. I'm not
9 meaning to mislead you at all.

10 Were you there and were you part of the consent?
11 Were you there?

12 A Yes.

13 Q And, again, Mr. Arflin agreed to give you a buccal
14 swab, which is simply a swab of the mouth, so you can
15 do DNA or whatever tests you need to do on it?

16 A Correct.

17 Q All right. And the coroner requested that
18 Mr. Arflin give blood, and he agreed to give blood. In
19 fact, y'all got it; is that correct?

20 A Correct.

21 Q And you all requested Mr. Arflin to allow you to
22 take pictures, and you agreed to that -- and he agreed
23 to that as well; is that right?

24 A Yes. Yes.

25 Q Now, did you also take pictures of his shoes?

1 A I did.

2 Q I'm sorry, sir?

3 A I did.

4 Q Okay. I'm handing you Defendant's Exhibit 2 for
5 identification. Will you please look at that and see
6 if that's a picture you took.

7 A Absolutely, it is.

8 Q And is that a fair and accurate presentation of
9 what you saw that night when you took his shoes?

10 A Yes.

11 Q Are you a --

12 MS. WHITE: Your Honor, I'd ask that Defense
13 Exhibit 2 be admitted.

14 THE COURT: Any objection?

15 MS. PRICE: Without objection.

16 THE COURT: Okay. Defendant's Exhibit 2 will be
17 admitted without objection.

18 (WHEREUPON, Defendant's Exhibit Number 2 was
19 admitted into evidence.)

20 BY MS. WHITE:

21 Q Sir, are you aware of what these blue things are
22 in his shoes?

23 A No, ma'am. I have no idea.

24 Q Are you aware they help him stabilize because of
25 his neuropathy?

1 A No, ma'am, I do not.

2 Q Now, you said that you -- let's kind of go through
3 the items that you took. You're aware that if someone
4 is shot lying on the ground, that the bullet would be
5 underneath them; is that correct?

6 A If it come out of him, yes.

7 Q Okay. And if it did exit, if there is an exit
8 wound, then, of course, your normal course is you all
9 take pictures as you cut through the ground, and you
10 can see the column go all the way down until you find
11 the bullet --

12 MS. PRICE: Your Honor, I'm going to object again.
13 He's not a directionality expert. He's not -- he can't
14 deal with directionality --

15 MS. WHITE: He's a crime scene expert.

16 THE COURT: Overruled.

17 MS. PRICE: I didn't declare him an expert.

18 THE COURT: Ladies, overruled.

19 Proceed.

20 BY MS. WHITE:

21 Q And when you're processing a scene where you
22 suspect that has occurred, of course you dig through
23 the ground and you recover the bullet; is that correct?

24 A Yes.

25 Q And you photograph it as you go?

1 A Yes.

2 Q You would agree that if you have people buzzing in
3 and out of a house and you're scared that it might be
4 reasonable to reload a gun and wait for the police just
5 in case you needed it because if you fired two, you
6 only have four left; is that right, in this gun?

7 A Yes. You have six rounds. If you fire two, there
8 would be four left.

9 Q And you would agree that if this gun was loaded
10 when you got it, let's suppose two shots had been
11 fired, then it had to be reloaded before law
12 enforcement got there; is that right?

13 A Correct.

14 Q And you would want to keep this gun, and when law
15 enforcement came up, you would want to put it on the
16 hood so that you don't get shot?

17 A Well, I would make sure they knew where the weapon
18 was when they pulled up, yeah, absolutely.

19 Q You showed a picture of the parking area when you
20 got there that night. Was that a fair and accurate
21 portrayal of the parking area at the scene, the
22 picture -- do you want me to refresh your memory?

23 A You mean the driveway?

24 Q Yes.

25 A Yes, that's the exact way the driveway looked when

1 I got on scene.

2 Q Now, would you agree that -- did you know that my
3 client is basically on disability now but was a
4 mechanic, and his wife works at Nutro, they're working
5 people, working class?

6 A No. I know nothing about them.

7 Q Are you aware that my client was originally
8 charged and arrested --

9 MS. PRICE: Objection, your Honor.

10 THE COURT: Okay. Mr. Bailiff, if you can have
11 our jury go out for a minute.

12 (WHEREUPON, the jury exited open court at
13 2:31 p.m.)

14 THE COURT: Ms. Price, state your objection.

15 MS. PRICE: Yes, sir. I believe that she's about
16 to discuss charges that are not before this jury.
17 There is evidence before this jury, but other charges
18 that have not been brought before this jury with a
19 forensic investigator. Number one, she's been
20 testifying for the past five minutes which I object to
21 across the board. But secondarily, your Honor, the
22 charge that I think that she's about to bring up is a
23 malicious injury to personal property which is not
24 before this jury. And it doesn't have to be before
25 this jury. It is my discretion as the prosecutor

1 whether to go forward on that charge or not. And she's
2 already gotten into discovery between the parties. You
3 know, she's one step away from getting into plea
4 negotiations, and I have got a major problem with that
5 because under the rules of South Carolina evidence,
6 it's objectionable. It's prejudicial.

7 MS. WHITE: Your Honor, I'm not about to get into
8 plea negotiations. However, I don't know -- I never
9 heard a grounds. Why on earth could I not ask him if,
10 in fact, that night he had been arrested for malicious
11 injury to personal property --

12 MS. PRICE: It's misleading. How about it's
13 misleading to the jury.

14 THE COURT: Let her finish her argument before you
15 respond. I will give you ample opportunity to respond,
16 but I am getting tired of people talking at the same
17 time.

18 MS. PRICE: Yes, sir.

19 THE COURT: All right.

20 Ms. White, finish your response.

21 MS. WHITE: Yes, sir. Your Honor, I'm aware of no
22 rule that prohibits me from asking if he was charged
23 that night with malicious injury to personal property
24 and if the State has decided not to proceed today with
25 it. I don't know what the objection would be. This is

1 my client I'm bringing up.

2 And, your Honor, the second thing is I'm not
3 testifying. I'm on cross-examination. The rules
4 permit me to ask direct questions. Not that that's
5 before you right now, but regardless.

6 THE COURT: So you're seeking just to ask if he's
7 aware that the defendant was charged with malicious
8 injury to personal property?

9 MS. WHITE: Yes, sir, was arrested that night.

10 THE COURT: And that case has not been brought?

11 MS. PRICE: No, sir.

12 THE COURT: And there's no disposition to that
13 case at this time?

14 MS. PRICE: No, sir.

15 THE COURT: Okay. I'm going to overrule the
16 objection. I'm going to allow that question.

17 Anything further before I bring the jury back in?

18 MS. PRICE: Yes, sir, your Honor. With regard to
19 her testifying and, again, since I'm not interrupting
20 at this point in time, Ms. White has gone through this
21 stuff and said, you know, "Do you fish? Well, have you
22 ever heard of a big fish story?" Things like that are
23 outright objectionable testifying. So if she could
24 just play by her own rules that she's just laid out,
25 that would keep me from having to object so often.

1 THE COURT: Well, Ms. Price, whenever you feel the
2 need to object, just like Ms. White, when either one of
3 you feel the need to object, that's something that I'm
4 here for.

5 MS. PRICE: Yes, sir.

6 THE COURT: Something that -- I will deal with
7 those as they arise. And let me make everyone rest
8 assured that the rules of evidence are going to be
9 followed in this case. But as objections arise, we
10 will deal with them.

11 MS. PRICE: Yes, sir.

12 THE COURT: Okay. Let's get our jury back in and
13 we will proceed.

14 (WHEREUPON, the jury entered open court at
15 2:37 p.m.)

16 THE COURT: Ms. White.

17 MS. WHITE: Thank you, your Honor.

18 Q Now, Bobby was arrested that night for malicious
19 injury to personal property for the wreck; is that
20 correct, a crime that requires intent?

21 A I do not know what he was arrested for that night.

22 Q Are you aware we're not going forward on those in
23 this trial?

24 A I'm sorry. Could you repeat the question?

25 Q Are you aware that the State has not gone forward

1 with that charge in this trial?

2 A No, ma'am. I did not even know about that charge.

3 Q Now, there's no question that before you arrived
4 to take these pictures, the witnesses say that Bobby
5 pulled his vehicle up, so this isn't the way it was
6 during the shooting; is that correct, from your
7 understanding of your briefing?

8 A No.

9 Q You don't know, or I'm sorry?

10 A I don't know.

11 Q You don't know. Would you agree that if a person
12 wants to intentionally damage another vehicle out of
13 rage or whatever, that the thing you would probably do
14 is slam into it, front, back, whatever, full on?

15 A Once again, I don't know. I've never -- I've
16 never slammed into anybody's vehicle intentionally.

17 Q Well, do you think that if you intentionally did
18 that, you would then pick up the phone and call law
19 enforcement to come immediately?

20 A I wouldn't do that if I hit somebody's vehicle.

21 Q All right. The injuries or damages, I should say,
22 that you saw on these vehicles would be consistent
23 with, say, someone parallel parking and kind of
24 misjudging; is that correct?

25 A My opinion, which is just my opinion, would be

1 doing a lot more than parallel parking to cause that
2 kind of damage to both vehicles. There would have to
3 be some speed in that.

4 Q Are you at all a reconstructionist?

5 A No.

6 Q All right. And did you call the MAIT team out
7 that night?

8 A No, I did not.

9 Q And MAIT is a special team that you can call that
10 will come out for law enforcement that does a complete
11 accident reconstruction; is that correct?

12 A Yes.

13 Q They measure the roads, they look at the vehicles,
14 they document everything, and then they reconstruct.
15 But to your knowledge, MAIT was not called that night,
16 was it?

17 A Not that night, I do not believe so.

18 Q Now, you talked about -- you talked about the
19 gunshot in the vehicle. And this is Jody's vehicle; is
20 that correct?

21 A Yes.

22 Q And you said that it went in and then it kind of
23 went straight across and kind of went into the cab; is
24 that right, kind of in the back of the driver's side?

25 A Right. It's kind of angled. Angled. If this

1 is --

2 Q Look at my picture and tell me if I'm doing it
3 right.

4 A Well, you're laying your arm straight across it.
5 I'm sorry.

6 Q You do that. It might be better if you do it.

7 A Yeah. Kind of like going corner to corner of the
8 vehicle.

9 Q Here?

10 A (Indicating). Kind of like that right there, but
11 once again, my fingers are blocking it. If we had it
12 up on the screen. May I?

13 MS. PRICE: No, sir. Objection. I'm sorry, you
14 can't write on a State's exhibit.

15 MS. WHITE: He's not.

16 THE COURT: State your objection, Ms. Price.

17 MS. PRICE: I'm sorry. I thought he had the
18 exhibit and he was going to draw on it. I can't see
19 over the bench.

20 THE COURT: Do not address the witness while the
21 witness is being questioned by the other attorney.

22 MS. PRICE: Yes, sir.

23 THE COURT: Don't draw on the exhibit.

24 BY MS. WHITE:

25 Q Your Honor, in his defense, he was looking at a

1 plain pad of paper.

2 (Witness drawing on a piece of paper.)

3 A Now, this roughly is going to be looking down at
4 the top of it.

5 Q And if you will just lay -- just draw a dotted
6 line. How about that?

7 A (Witness complies.)

8 Now, obviously it's not to scale.

9 Q I understand. So that's the angle; is that
10 correct?

11 A Roughly.

12 Q And it's pretty much a level shot; is that right?

13 A Yes.

14 Q Okay. It's not angled way up, not angled down,
15 pretty much level?

16 A (Nodding.)

17 Q Now, sir, if you heard that one of the shots went
18 through Jody from approximately here and out here
19 (indicating), and then another one went in here
20 (indicating) and came out about three inches lower in
21 the back, let's assume that that's true. But this shot
22 wasn't way up and it wasn't down, was it? It was
23 pretty even?

24 A Yes. Basically, yes.

25 Q So you would get a downward -- if your position

1 was like this (indicating) when you were shot in this
2 arm, then that would give it a downward angle, wouldn't
3 it, but it would be an even shot. My body would make
4 it a downward shot, but, in fact, the shot itself would
5 be even, would it not?

6 A Well, once again, I'm not a specialist on this,
7 but a lot of it depends on the path that the bullet
8 goes through the body.

9 Q You would agree that Bobby's vehicle had a camper
10 back on it; is that right? Here. This isn't a test.

11 A You're correct. It had a little shell on it.

12 Q If you need to look at pictures, that's why you
13 take pictures.

14 A You still got this one.

15 Q Okay. And it had a camper back, and the mirror
16 that you would look at if you were backing up, one of
17 the side mirrors was damaged and was knocked in so it
18 was not functioning anymore; is that correct?

19 A That's correct.

20 Q Now, you said that you took the clothing of Bobby
21 and Jody; is that correct?

22 A No. No, ma'am.

23 Q Which individual did you take the clothing?

24 A Mr. Arflin.

25 Q And clothing is collected from a gunshot victim

1 and from the suspected shooter in pretty much all
2 homicide cases; is that right?

3 A Right.

4 Q And there's some reasons for that; is that right?

5 A Yes.

6 Q For instance, blood spatter tests can be conducted
7 on clothing. That's one reason why you take it; is
8 that correct?

9 A Yes.

10 Q You can verify if a person's standing, bending,
11 running, whatever, perhaps through some of the blood
12 spatter evidence?

13 A Yes.

14 Q Do you know why the State did no blood spatter
15 evidence tests in this case?

16 A I don't.

17 Q Also, you can do tests called distance
18 determination tests; is that correct?

19 A (Nodding.)

20 Q You've got my pen. Let me get my pen back.

21 When a shot is fired, out the end of the weapon
22 comes the projectile as well as barium, antimony and
23 lead, the cloud that is invisible but comes out with
24 the round; is that correct?

25 A Yes.

1 Q So a lab can actually take the alleged victim's
2 clothes, look around the gunshot and look at the
3 pattern, take a plain cloth and shoot it at different
4 things and be able to tell how far the end of the
5 weapon was from the clothing by matching this pattern
6 to that pattern; is that correct?

7 A If there is any on there, yes.

8 Q And if there isn't, then that tells you something,
9 too, about distance, doesn't it?

10 A Far off.

11 Q Are you aware the State ran no distance tests in
12 this case? Are you aware of that?

13 A No.

14 Q Are you aware of Mr. Arflin's extensive health
15 issues?

16 A No, ma'am, I'm not.

17 Q Did you have anything to do with the phone records
18 showing when phone calls were made?

19 A No, ma'am, I was not.

20 Q Are you aware that MAIT was called this year to
21 this scene?

22 A Yes.

23 Q And are you aware that the actual vehicles that
24 were involved in this were not towed back to the scene
25 to put in the scene to figure out how everything fit?

1 A I'm not aware of that.

2 Q Now, a knife was found in this vehicle; is that
3 correct?

4 A I have no idea about that. I know nothing of a
5 knife.

6 Q Are you aware that toxicology was run on Bobby's
7 blood and he was clean -- no drugs, no alcohol, none of
8 that when this occurred?

9 A No.

10 Q Are you aware of something called touch DNA?

11 A Yes.

12 Q Will you please tell the jury what is touch DNA.

13 A Touch DNA is anything from skin cells; can be
14 anything from fabric, anything that you leave behind
15 when you touch something. If I touch this, I can leave
16 it on there, so.

17 Q And, certainly, if I punch something, then if the
18 State swabs it, they may be able to get a transfer of
19 skin cells; is that correct?

20 A Correct.

21 Q Do you know if any touch DNA was done in this
22 case?

23 A No, I do not.

24 Q Did you ever have possession of Jody's phone?

25 A No, ma'am.

1 Q Do you know who ended up finding that phone or
2 getting it and who might have been using it that night?
3 You don't know -- what I'm asking is: Do you know
4 anything about the phone?

5 A No, I don't.

6 Q Just one minute, please.

7 Sir, I believe you had testified earlier, if I'm
8 not mistaken -- I may have misunderstood this, but I
9 think you said that you got Bobby's phone, Bobby
10 Arflin's phone, from Mr. Garrett; is that right?

11 A Investigator Garrett, correct.

12 Q And that's so that tests could be run on it; is
13 that right?

14 A If the lead investigator wishes, then yes.

15 Q And, in fact, all they have to do is they send it
16 to a lab, they get into it and they show what phone
17 calls were made, when they were made and so forth?

18 A I don't do that, so I don't know about that.

19 Q Fair enough.

20 MS. WHITE: No further questions.

21 THE COURT: Ms. Price, any redirect?

22 MS. PRICE: Briefly.

23 REDIRECT EXAMINATION

24 BY MS. PRICE:

25 Q Investigator Pridemore, did you see any evidence

1 of blood on this defendant's clothing?

2 A No. No, I did not.

3 Q Okay. And Defense Exhibit 2, did you see any
4 evidence of dirt or scuffs or anything like he was
5 dragged on the ground or anything of that nature on
6 those shoes?

7 A No. Not at all.

8 MS. PRICE: No further questions.

9 RECROSS-EXAMINATION

10 BY MS. WHITE:

11 Q But, sir, there are different sizes of blood
12 spatter depending on whether it's a knife wound or a
13 gunshot wound; is that correct?

14 A Yes.

15 Q And, in fact, you can have a very fine spray with
16 a gunshot that doesn't show up at all visually. One
17 has to test for it; is that correct?

18 A Correct.

19 Q And Jody's clothing can be tested as well to see
20 how the blood went, those sort of things, by a blood
21 spatter expert; is that correct?

22 A Yes.

23 Q But if no one ever does the test to look to see
24 blood spatter and to see all of this, then we don't
25 know, do we?

1 A No.

2 Q How many resources does the State of South
3 Carolina have --

4 MS. PRICE: Objection, your Honor.

5 MS. WHITE: -- compared to --

6 MS. PRICE: Calls for speculation.

7 THE COURT: You can ask him if he's aware.

8 BY MS. WHITE:

9 Q Are you aware of the State of South Carolina, who
10 brought these charges, having more or less financial
11 resources to be able to pay for these tests than
12 Mr. Arflin, who is on disability from cancer
13 neuropathy, and all these other things?

14 A No, ma'am.

15 MS. WHITE: No further questions.

16 THE COURT: Any response in redirect?

17 MS. PRICE: Nothing from the State.

18 THE COURT: Okay. Thank you, Officer. You can
19 step down.

20 Call your next witness.

21 MS. PRICE: The State calls Investigator Ben Dugan
22 to the stand.

23 THOMAS DUGAN,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 THE CLERK: Please state and spell your name for

1 the reporter.

2 THE WITNESS: Thomas Dugan, D-u-g-a-n.

3 DIRECT EXAMINATION

4 BY MS. PRICE:

5 Q Investigator Dugan, who do you work for and in
6 what capacity?

7 A Anderson County Sheriff's Office as a forensics
8 investigator.

9 Q Okay. What sort of duties and responsibilities
10 are associated with that position?

11 A We respond and process crime scenes, collect
12 evidence.

13 Q And how long have you been in law enforcement?

14 A 14 years.

15 Q Did you respond to a call on December 11, 2013?

16 A I did.

17 Q Has that led you to be in court today?

18 A It has.

19 Q What was the nature of the call?

20 A It was a shooting investigation.

21 Q And where did you respond, sir?

22 A I responded to the Anderson Area Medical Center,
23 the ER.

24 Q And what did you observe when you arrived there?

25 A The medical staff was attending to the victim,

1 Jody Powell.

2 Q And once you were there and they were attending,
3 at some point were they not attending?

4 A Yes. They pronounced him dead.

5 Q And what did you do at that time?

6 A Mr. Powell was moved to a private room, and I
7 began my investigation by taking digital photographs of
8 the victim.

9 Q Okay. And did you collect anything?

10 A I did. I collected GSR, his clothes and
11 photographs.

12 Q Okay. What items of clothing did you collect from
13 Mr. Powell?

14 A A brown UPS shirt, a black undershirt, brown UPS
15 pants, brown shoes, brown socks, and I believe yellow
16 underwear.

17 Q Anything else?

18 A There was -- inside his pocket was a cell phone,
19 some keys and a little bit of money. I didn't find
20 that until I was putting the evidence away, the clothes
21 at the office.

22 Q Do you recall the sizes of any of that clothing?

23 A The shirt, the black shirt, was a medium. Oh, and
24 I collected a vest also, a camo vest, and it was a
25 large. It was like a brown camo vest jacket and it was

1 a large. The UPS shirt didn't have a size in it. I
2 think it was a Twin Hill brand. And the pants, the
3 bullet hole actually went through the tag.

4 Q Do you remember the size shoes that you collected?

5 A I believe they were size ten.

6 Q Investigator, I'm showing you what's been marked
7 as State's Exhibit 48. If you would, please, open the
8 exhibit, look inside without showing it to the jury
9 first and tell me if you recognize what's inside.

10 A (Witness complies.)

11 I just broke your scissors.

12 MS. WHITE: I'll take the job back, your Honor.

13 BY MS. PRICE:

14 Q Do you recognize that item?

15 A I do.

16 Q And what is it?

17 A It's the UPS shorts that I collected from the
18 victim.

19 Q Do they appear to be in substantially the same
20 condition as when you retrieved them from the emergency
21 room?

22 A Yes.

23 Q Okay. Any differences?

24 A They're dry. They were wet when I collected them.

25 MS. PRICE: Your Honor, at this time the State

1 would move to admit State's Exhibit 48 into evidence.

2 MS. WHITE: Object, your Honor.

3 THE COURT: Okay. Will you take the jury out,
4 please.

5 (WHEREUPON, the jury exited open court at
6 2:58 p.m.)

7 THE COURT: State your objection.

8 MS. WHITE: Yes, sir. Your Honor, my objection is
9 that, number one, they are not in the same condition.
10 They have obviously been put in a bag and folded up
11 which would perhaps skew some of this blood evidence,
12 but, number two, and more importantly, the -- the
13 prejudicial effect of blood on clothing far outweighs
14 any probative value.

15 Now, certainly if they had an expert who was going
16 to stand up, hang up the clothing and say, "Look at
17 this blood spatter here, this is here, this is here,"
18 then certainly that would be something that would
19 demonstrate some point in this case besides he had
20 blood on him. And, therefore, your Honor, I would
21 object under 403. I would object under relevance.
22 There is absolutely no reason to introduce these other
23 than to have the jury say, "Oh, gosh, they're all
24 bloody." And, again, they're not hung up and preserved
25 that way so that everything stays the same.

1 THE COURT: Ms. Price.

2 MS. PRICE: Thank you, your Honor. I'm certainly
3 not introducing it to show the blood evidence, nor will
4 I ask anyone about blood spatter or blood patterns. I
5 do plan to ask the investigator about the bullet hole
6 that is in the shorts.

7 Ms. White has been discussing the directionality,
8 the trajectory, placement of the body throughout the
9 trial up to this point. I think it's extremely
10 probative to show this evidence to the jury.

11 THE COURT: I think the probative value outweighs
12 the prejudicial effect.

13 Ms. White, your arguments go more towards the
14 weight of the evidence than admissibility of it, so I'm
15 going to overrule your objection, allow the State to
16 put in this evidence.

17 MS. PRICE: Thank you, your Honor.

18 THE COURT: If you will bring our jury back.

19 MS. PRICE: Your Honor, may I hand the witness an
20 additional pair of scissors? We have some additional
21 evidence.

22 THE COURT: Yes.

23 (WHEREUPON, the jury entered open court at
24 3:03 p.m.)

25 THE COURT: Ms. Price.

1 MS. PRICE: Thank you, your Honor. At this time,
2 again I move that State's Exhibit 48 be admitted into
3 evidence.

4 THE COURT: So admitted.

5 (WHEREUPON, State's Exhibit Number 48 was admitted
6 into evidence.)

7 BY MS. PRICE:

8 Q Investigator Dugan, would you remove the item from
9 the bag, please, and would you step down and hold those
10 up. Would you step all the way down, please, sir. Do
11 you notice any holes?

12 A Yes. Right here above the left pocket just below
13 the belt there is a hole here and a hole right here.
14 It goes through this side where the tag was.

15 Q Thank you, Investigator. If you could just put
16 those back in the bag.

17 Investigator, I'm handing you what's been marked
18 as State's Exhibit 49. Would you please open that
19 exhibit and tell me if you're familiar with the item
20 that's inside.

21 A Yes, ma'am.

22 Q And what is it?

23 A It's a brown UPS shirt.

24 Q And how are you familiar with that item?

25 A It's the shirt that I collected from the hospital.

1 It's got my name on the label where I printed it off
2 and where I sealed it.

3 MS. PRICE: Your Honor, at this time the State
4 would move to admit State's Exhibit 49 into evidence.

5 MS. WHITE: Objection. 403.

6 THE COURT: Overruled.

7 (WHEREUPON, State's Exhibit Number 49 was admitted
8 into evidence.)

9 BY MS. PRICE:

10 Q Would you please remove the item.

11 And, once again, will you step down and unfold the
12 item.

13 Investigator, do you notice any holes in that
14 item?

15 A I do. There's one right here in the back.
16 There's actually two.

17 Q Will you grab the ends of the piece of clothing
18 and hold that up and sort of walk it down for me,
19 please, sir.

20 A (Witness complies.)

21 Q Thank you, Investigator. Can you put that back
22 for me as well.

23 Investigator, you said you also collected a GSR
24 kit?

25 A Yes, ma'am.

1 Q What is a GSR kit, sir?

2 A It is a gunshot residue kit.

3 Q And what is gunshot residue?

4 A It's the residue that gets on people's hands,
5 clothing from gunshots.

6 Q Okay. And how do you collect GSR with a kit?
7 What is that process?

8 A It's a little packet, and you unseal the packet,
9 pull it out. It's got a data sheet. You fill out the
10 data sheet. And it's got four little stubs in there,
11 little vials. You pop off the top of the vial, and
12 it's got a sticky -- almost looks like a stamper but
13 it's sticky -- and you go around the hands. And
14 they're marked right palm, right back, left palm, left
15 back. So you do four samples. When you do the sample,
16 then you put it back in the vial, then you put it back
17 in the bag along with the data sheet and seal it with
18 the evidence tape.

19 Q Did you perform that process on Mr. Powell?

20 A I did.

21 Q And did you fill out a data sheet?

22 A I did.

23 Q Investigator, I'm showing you what's been marked
24 as State's Exhibit 50. Are you familiar with that?

25 A I am.

1 Q Okay. And what is it, sir?

2 A It's a gunshot residue analysis data sheet.

3 Q Okay. And do you know for whom that data sheet
4 was filled?

5 A This one was for Jody Powell.

6 Q And is your handwriting on that?

7 A It is.

8 Q Okay. You filled that out?

9 A I did.

10 MS. PRICE: Your Honor, at this time the State
11 would move to admit State's Exhibit 50 into evidence.

12 THE COURT: Any objection?

13 MS. WHITE: No objection.

14 THE COURT: State's Exhibit Number 50 will be
15 admitted without objection.

16 (WHEREUPON, State's Exhibit Number 50 was admitted
17 into evidence.)

18 BY MS. PRICE:

19 Q Does that paperwork indicate what time you took
20 your samples, sir?

21 A It does. 2200 hours.

22 Q What's 2200 hours?

23 A 10:00 p.m.

24 Q And what's the standard for how long after a
25 shooting for collecting gunshot residue on?

1 A On a living subject, it's six hours. On a
2 deceased subject, it's indefinite until it's wiped
3 away.

4 Q And did you do anything else while you were at the
5 emergency room?

6 A Collected those clothes, did the GSR, photographs.
7 I believe that was it.

8 Q Okay. And what did you do after the ER?

9 A Took the evidence back to the office, left it at
10 the office and went to -- dropped it off at the
11 forensics building next door to the office where I met
12 with the other investigators.

13 Q What investigators?

14 A Pridemore. Investigator Pridemore.

15 Q And what did you do there?

16 A I did another gunshot residue kit this time on the
17 defendant.

18 Q Okay. Did you do anything else with the
19 defendant?

20 A Buccal swab.

21 Q What is a buccal swab?

22 A It's a -- I guess the best way, it's like a
23 noninvasive DNA test. You just stick a cotton swab in
24 the subject's mouth and you scrape the cheeks for DNA
25 cells.

1 Q For identity purposes?

2 A Yes.

3 Q Where was Mr. Arflin at the time you collected the
4 gunshot residue and buccal swab from him?

5 A He was at the sheriff's office in holding cell
6 number one, I believe.

7 Q Can you describe that room for me?

8 A It's just a small little cinderblock cell with a
9 bed, toilet and a sink, running water.

10 Q And did you fill out paperwork when you collected
11 gunshot residue from Mr. Arflin?

12 A I did.

13 Q Did you follow the same process that you just
14 described that you used on Mr. Powell?

15 A I did.

16 Q Okay. I'm showing you what's been marked as
17 State's Exhibit 51. Are you familiar with that
18 exhibit, sir?

19 A I am.

20 Q And what is it?

21 A It is a gunshot residue analysis data sheet.

22 Q Does it contain your handwriting?

23 A It does.

24 Q Okay. For whom was that sheet filled out?

25 A Bobby Joe Arflin.

1 MS. PRICE: Your Honor, at this time the State
2 would move to admit Exhibit 51 into evidence.

3 THE COURT: Any objection?

4 MS. WHITE: I'm sorry, your Honor. I was talking
5 to my client. I'm sorry.

6 MS. PRICE: Moving State's Exhibit 51.

7 MS. WHITE: I have no objection to the form coming
8 in.

9 THE COURT: All right. State's Exhibit 51 would
10 be admitted without objection.

11 (WHEREUPON, State's Exhibit Number 51 was admitted
12 into evidence.)

13 BY MS. PRICE:

14 Q And does that paperwork indicate what time you
15 took the samples from Mr. Arflin?

16 A 2328, which would be 11:28 p.m.

17 Q Okay. And what did you do after completing the
18 buccal swab and GSR kit with Mr. Arflin?

19 A I went back to the office where I stored the
20 evidence.

21 Q What is "the office"?

22 A I'm sorry, the forensics building.

23 Q Is the forensics building located in your property
24 and evidence area?

25 A It is.

1 Q Is that a safe and secure location?

2 A It is.

3 Q Limited access?

4 A Yes, just to the fellow forensics officers and the
5 evidence personnel.

6 Q And are there guarantees so the evidence isn't
7 tampered with there?

8 A Yes.

9 Q When you got back, did you do anything
10 additionally to the clothing that you had collected?

11 A I would have hung them up in our dry room, which
12 is just a big room with a fan so it allows the blood or
13 whatever would be wet on the clothing -- because you
14 can't seal them up wet.

15 Q So you wait until biological material is dry
16 before storage?

17 A Yes. Yes, ma'am.

18 Q Okay. While hanging the clothes to dry, did you
19 collect anything from the victim's pocket?

20 A I did. A cell phone, a little bit of cash and
21 some keys.

22 Q Okay. And did you do anything -- did you take any
23 photographs? You said you maybe took some photographs
24 earlier in the evening?

25 A I took photographs of the -- at the hospital. I

1 would have put those on our server, our computer, a
2 secured computer.

3 Q All right. Did you process a firearm in this
4 case?

5 A I did.

6 Q Did you process any ammunition in this case?

7 A I did and some shell casings.

8 Q First I'm showing you State's Exhibit 24 and 25.
9 Please open the exhibits but don't show them to the
10 jury and tell me if you're familiar with that item and
11 if that's what you processed, sir.

12 A Yes.

13 Q Will you open these up for me but without emptying
14 the envelopes, look inside and tell me if you also
15 processed what's inside and what they are, please, sir.

16 A Yes, ma'am. That's what I processed.

17 Q And what are those exhibits marked? Are those
18 Exhibits 60 and 61, sir?

19 A Yes, ma'am.

20 Q Okay. And you processed both of those?

21 A I did.

22 Q And you processed a revolver?

23 A I did.

24 Q And you processed some ammunition as well?

25 A Yes, ma'am.

1 Q And that would have been State's Exhibits 24 and
2 25. How did you process these items?

3 A In our fuming chamber -- fuming chamber is just a
4 big chamber that you heat Super Glue or cyanoacrylate.
5 It takes the fumes and it adheres to fingerprints.

6 Q And would you have taken any measures with the gun
7 to ensure that ballistics testing would be accurate
8 following your testing?

9 A Yeah. You just want to plug the barrel from both
10 ends using -- I think I used paper towels, just where
11 it was tight-fitting so the fumes wouldn't get inside
12 the chamber.

13 Q And did you get any fingerprints from any of these
14 items?

15 A I did not.

16 Q Did you do anything else in this case?

17 A I did. I did a search warrant on Mr. Powell's
18 vehicle.

19 Q Okay.

20 MS. PRICE: Your Honor, I just want to renew my
21 motion to admit State's Exhibits 48 through 51, the
22 shorts, the shirt, and the two data sheets.

23 THE COURT: Those are already into evidence.

24 MS. PRICE: Yes, sir. Just out of an abundance of
25 caution, I wanted to make sure we have moved those into

1 evidence.

2 THE COURT: Those are already in evidence.

3 MS. PRICE: Thank you, sir.

4 No further questions.

5 Please answer any questions Ms. White has for you.

6 THE COURT: Before we begin cross-examination,
7 we're going to take a short break.

8 Officer, you're under oath so you can't discuss
9 the case with anybody.

10 THE WITNESS: Yes, sir.

11 THE COURT: Mr. Bailiff, if you will take our jury
12 out. We'll take a short break, stretch our legs.

13 (WHEREUPON, the jury exited open court at
14 3:18 p.m.)

15 (WHEREUPON, a recess was taken from 3:18 p.m.
16 to 3:40 p.m.)

17 THE COURT: Anything from the State before we
18 bring the jury back?

19 MS. PRICE: Nothing from the State.

20 THE COURT: Anything from the defense before we
21 bring our jury back?

22 MS. WHITE: No, sir.

23 THE COURT: Mr. Bailiff, if you will get our jury
24 for us, please, sir.

25 (WHEREUPON, the jury entered open court at

1 3:40 p.m.)

2 THE COURT: Ms. White, you ready?

3 MS. WHITE: Yes, sir.

4 CROSS-EXAMINATION

5 BY MS. WHITE:

6 Q You said that you found Jody's phone in his
7 pocket; is that correct?

8 A Yes. It came in the -- the hospital put all the
9 clothes in a bag together, and when I was taking them
10 out to hang the clothes, that's when I found the --

11 Q Do you recall what time you found his phone in his
12 pocket?

13 A I don't. It would have been later on in the
14 evening.

15 Q I'm sorry?

16 A It would have been later on in the evening. I
17 don't -- I don't know exactly what time it was.

18 Q I'm old and I'm half deaf, sorry. I'm not meaning
19 to make you say things twice.

20 So there's no question you all did not find the
21 phone in Jody's truck. It wasn't in there, it was in
22 his pants?

23 A I believe that is correct. I believe I took
24 possession of it when I got it from the hospital.

25 Q Now, are you aware that the phone call to 911 was

1 approximately 8:40 that evening?

2 A Sometime around then, yes, ma'am.

3 Q And are you aware that the State, y'all actually
4 had Jody's phone examined?

5 A Yes, ma'am.

6 Q And are you aware that his phone made an outgoing
7 call at 9:14, another one at 9:49, another one at 9:55,
8 all outgoing, another at 10:23 to Brenda, that's
9 incoming -- oh, an incoming came in and lasted seven
10 minutes and 28 seconds from Mike Hicks. Another
11 outgoing at 10:39 for another seven minutes and
12 something to Brenda, another outgoing at 14 minutes
13 after midnight to Brenda, another outgoing at
14 35 minutes after midnight to Brenda for two minutes
15 plus. And, finally, the last outgoing at 38 minutes
16 past midnight to Brenda that lasted over 15 minutes?

17 A What was the question?

18 Q Are you aware of those? Have you seen that
19 report?

20 A I have not seen the report.

21 Q You have not seen it?

22 Let me mark it. I'm sorry.

23 (WHEREUPON, Defendant's Exhibit Number 3
24 was marked for identification.)

25 MS. PRICE: No objection.

1 MS. WHITE: Your Honor, I'd ask that Defendant's
2 Exhibit 3 be admitted.

3 THE COURT: Defense Exhibit 3 would be admitted
4 without objection.

5 (WHEREUPON, Defendant's Exhibit Number 3 was
6 admitted into evidence.)

7 BY MS. WHITE:

8 Q How did that happen? Or do you know?

9 A Well, I mean, I can't explain why they were going
10 out. You know, I don't know what time he got to the
11 hospital. When I got there, everything was in a
12 hospital bag, so I took possession of it. So, I mean,
13 the only explanation I could possibly come up with is,
14 I mean, if it was -- if he still had his pants on when
15 they were doing CPR, they could have mashed buttons or
16 if they had it all clumped up and they were stepping on
17 the clothes. I mean, they were in a bag when I grabbed
18 the bag, like a hospital bag. What time they put them
19 in the bag, I don't know. I collected them from the
20 hospital staff after I completed the GSR and the
21 photographs.

22 Q Now, is there any reason that a GSR kit was not
23 done on Bobby's hands before he ever left the scene
24 while he was there?

25 A I can't explain why it wasn't done. I don't know.

1 Q Well, typically that's done right at the scene so
2 there won't be a question later did somebody wash
3 hands, did somebody go to the bathroom, something like
4 that. And that's why it's done at the scene normally;
5 is that correct?

6 A Yes, ma'am, if we have time. Sometimes there's
7 other evidence that's pressing to get. I mean, I can't
8 explain why it wasn't done at the scene. I wasn't at
9 the scene. I don't know.

10 Q Well, you're aware there were multiple officers at
11 the scene, right?

12 A Yes, ma'am.

13 Q Now, GSR is -- gunshot residue is actually kind of
14 the consistency of a light flour-type, almost like
15 cooking flour, very light on your hands; is that right?

16 A I don't know the consistency. I know it's just
17 basic residue from an explosion that occurs when you
18 fire a gun.

19 Q And that's why they say if you're alive, you must
20 take the GSR within six hours because just normal --
21 just even if you don't wash your hands, it will just
22 come off just because of your metabolism and just daily
23 wear?

24 A Or as you shed dead skin cells, yes, ma'am.

25 Q And are you aware that the ground was wet that

1 night?

2 A I don't recall.

3 Q All right. And certainly if somebody is on the
4 ground, especially if they're moved and their hands are
5 touching wet things, especially if something is going
6 through their fingers, then that could very -- as a
7 matter of fact, you can get it off just by brushing; is
8 that right?

9 A I was going to say it doesn't have to be wet. You
10 can just brush it on your clothes and get rid of a lot
11 of it.

12 Q Now, you talked about testing some of these items
13 for fingerprints, and you said you did not find any
14 fingerprints on any of the firearms, any of the ammo,
15 any of that?

16 A That's correct.

17 Q And that doesn't mean you're incompetent at
18 fingerprints, but contrary to TV, you rarely find
19 fingerprints, do you?

20 A Yeah. On shell casings, it's very rare because of
21 the heat from the gun just burns off the fingerprints.

22 Q All right. And let's just talk about regular
23 objects, a gun or anything else. In fact, you have to
24 have just the right surface; is that correct? Like if
25 I touch something very granular, I might not leave it,

1 but if I touch something like glass, I have a much
2 better chance of leaving a print; is that right?

3 A Yeah. I mean, the surface has a lot to do with
4 it, the size of the surface, the humidity has got a lot
5 to do with it.

6 Q Speaking of which, the second thing is I have to
7 have just the right amount of moisture on my fingers.
8 If they're bone dry, I won't leave it. If they're wet,
9 I won't leave it. It has to be just the right amount;
10 is that correct?

11 A That's correct.

12 Q And, finally, the third factor depends on how I
13 touch an item. If I touch go like this, I'm not going
14 to leave it. However, if I go like that, I may leave
15 it. If I have the right surface, the right amount of
16 oil, and the right way of touching it; is that right?

17 A Well, like if you did like that, you would leave a
18 smear mark, and maybe where you first began, there
19 might be a little bit of ridge detail but most of it
20 would be smeared.

21 Q So, in fact, it doesn't mean anything has been
22 wiped down, it doesn't mean any of that. It simply
23 isn't very common to find prints, especially on ammo
24 little bits of ammo?

25 A On shell casings, it's very, very rare. On ammo,

1 it's a little bit more common in guns. It's probably
2 about 50/50.

3 Q We do an autopsy for a reason, and that is to look
4 at entrance wounds and exit wounds; is that correct?

5 A Yes, ma'am.

6 Q For instance, if I got my skirt and I'm going like
7 this when I'm shot, this might -- this clothing might
8 show an entirely different place than the autopsy where
9 an entrance wound is; is that correct?

10 A I'm not sure of the question. Say that again.

11 Q A pathologist is trained to show exactly where the
12 entrance wound is and where the exit wound is; is that
13 correct?

14 A Yes.

15 Q And, in fact, that was done in this case, was it
16 not, an autopsy?

17 A Yes. Yes, ma'am.

18 Q Would you agree that if you had a rather large
19 hernia that you would be wearing rather large clothes
20 so that it wasn't pushed against it?

21 A I've never had a hernia. I don't know.

22 Q Now, let's talk a minute about this clothing that
23 was introduced. You would agree that SLED has experts
24 named blood spatter experts; is that correct?

25 A Yes.

1 Q And blood spatter experts have years of training,
2 lots of experience in looking at the size of the
3 directionality depending on where the tail is, they
4 illuminate things, find stuff that we can't even see
5 with the naked eye; is that correct?

6 A Yes, ma'am.

7 Q And you would agree that without a blood spatter
8 expert doing all the testing and coming in and
9 interpreting it for a jury, there is no possible way
10 any of us can try to interpret anything on this
11 clothing? We don't even know if there's microscopic
12 stuff that might be important on there. Would you
13 agree with that?

14 A I'm not sure. I'm not following your line of
15 questioning. I'm not sure.

16 Q All right. Let me rephrase. Fair enough.. My
17 question is: Without a blood spatter expert doing all
18 the tests, without all of their expertise, without all
19 of their knowledge, there's no way you can interpret
20 blood spatter on those clothes and nor can I or anybody
21 else without an expert running all the tests and their
22 expertise?

23 A Blood spatter, you're correct.

24 Q And these clothes at this point have been curled
25 up in bags for year and eight months, nine months,

1 something like that?

2 A Yes, ma'am.

3 Q With sides rubbing on each other and whatever in
4 the bags?

5 A In fact, when I got them, they were folded up, so.

6 Q You would agree that if I am shot on my side and
7 it comes out under my arm, that there should be an
8 entrance wound, if my arm is down, in my arm. It
9 should go in, out, in, out?

10 A Yes, ma'am.

11 Q Especially with a larger caliber weapon; is that
12 right?

13 A There's lots of factors that can play into where a
14 bullet ends up.

15 Q However, if I have my arm up anywhere on the
16 spectrum up, it would go on out, it wouldn't go into my
17 arm, would it?

18 A It would depend on the trajectory.

19 Q I'm sorry?

20 A It would depend on the trajectory.

21 Q Well, if you heard the trajectory is here going
22 straight up and out right here, would you agree that if
23 my arm is down, it must enter my arm?

24 A Yes. If it went through and through, then yes,
25 ma'am.

1 Q If my arm is down?

2 A Yeah, depending on where your arm is at.

3 Q Are you aware that there have been no DNA tests in
4 this case?

5 A I'm not aware of what's been tested or what
6 hasn't.

7 Q Will you please tell the jury where you found --
8 you said that you processed Jody's truck; is that
9 correct?

10 A Mr. Powell, yes.

11 Q And what, if any, knives did you find in the
12 truck?

13 A There was a 14-inch pocketknife in the console.

14 Q And tell me a little bit about the console. What
15 does that mean?

16 A It's the center console where you rest your arm.
17 Inside of it there was other stuff around it like there
18 was some pliers and some epoxy glue, sunglass cover. I
19 mean, you know, sunglass straps, so.

20 Q So what you're saying, there is a driver's seat.
21 There is a center console. There is a passenger seat,
22 and this center console can pull up and down. It's got
23 like one of those covers?

24 A Yes, ma'am.

25 Q And it had all sorts of stuff in it?

1 A Yes, ma'am.

2 Q And that knife was in that; is that correct?

3 A Yes, ma'am.

4 Q Are you aware of the width of that road where this
5 happened?

6 A No, ma'am. I didn't go to the scene.

7 Q Are you aware of the width of each of these
8 vehicles?

9 A I didn't measure the vehicles, no, ma'am.

10 Q Are you aware of the width of the mirrors?

11 A No, ma'am. I didn't measure the vehicles.

12 Q To your knowledge, were these vehicles ever taken
13 back out to the scene or that night placed side by side
14 since he was arrested for malicious injury to personal
15 property?

16 A To my knowledge, were they taken back out to the
17 scene?

18 Q Yes, sir.

19 A To my knowledge, no.

20 Q I'm sorry, did you tell me you had not -- you
21 didn't go to the scene or you did go to the scene?

22 A I did not go to the scene. I went to the
23 hospital.

24 Q Are you aware that Mr. Arflin's phone was taken
25 that night into custody?

1 A I would assume they got it off of him when they
2 made the arrest.

3 Q And are you aware that it was taken a couple of
4 different places and actually lost for a few months?

5 A No, ma'am, I'm not aware.

6 Q You would agree -- I'll rephrase.

7 Just one minute, please.

8 MS. WHITE: No further questions.

9 THE COURT: Any redirect, Ms. Price?

10 MS. PRICE: Yes, sir, your Honor, briefly.

11 REDIRECT EXAMINATION

12 BY MS. PRICE:

13 Q Investigator Dugan, you said that you found a
14 knife?

15 A Yes, ma'am.

16 Q In the center console of Mr. Powell's vehicle?

17 A Yes, ma'am.

18 Q And you said there was some other item around it?

19 A Yes, ma'am.

20 Q Okay. When you executed the search warrant to
21 find the -- this knife, was the console closed?

22 A It was.

23 Q Okay. Was the knife in any sort of sheath?

24 A It was folded down, closed.

25 Q So was it an exposed blade, then?

1 A No, ma'am.

2 Q Is there a mechanism to open the knife?

3 A There is a little notch on the back of the blade
4 that you have to flick your finger to.

5 Q Was there any blood on the knife?

6 A I didn't see any.

7 Q And you processed it for prints?

8 A I did.

9 Q You found none?

10 A I found none.

11 Q Okay. And there were other tools in that console
12 with the knife?

13 A Yeah. There was a pair of like needle nose
14 pliers, some sort of epoxy glue like maybe a Super Glue
15 or something.

16 Q So kind of like a kitchen drawer-type situation?

17 A Yeah, like a little junk drawer, I guess, where
18 you put --

19 Q Do you still have Ms. White's exhibit, the phone?

20 A I do.

21 Q Okay. I'm showing you Defendant's Exhibit 3.

22 Now, Ms. White showed you a bunch of times or asked you
23 about a bunch of times; is that right?

24 A Yes, ma'am.

25 Q Next to every single one of those times, is there

1 a negative 400?

2 A There is.

3 Q Next to every single one of those?

4 A Yes, ma'am.

5 Q Okay.

6 A Yes, ma'am.

7 Q Every single time?

8 A Every single time.

9 Q Okay. No further questions.

10 THE COURT: Anything further?

11 MS. WHITE: No, sir.

12 THE COURT: Thank you, Officer. You may step
13 down.

14 Call your next witness.

15 MS. PRICE: Yes, your Honor. The State calls
16 Corporal Travis Vickery to the stand.

17 TRAVIS VICKERY,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: Please state and spell your name for
20 the reporter.

21 THE WITNESS: My name is Travis Vickery. Last
22 name is V-i-c-k-e-r-y.

23 DIRECT EXAMINATION

24 BY MS. PRICE:

25 Q Who do you work for and in what capacity?

1 A I work for the Anderson County Sheriff's Office
2 detention center.

3 Q Detention center?

4 A Yes, ma'am.

5 Q What sort of duties and responsibilities are
6 associated with your position, Corporal Vickery?

7 A Intake of new detainees and releasing of
8 detainees.

9 Q How long have you been with law enforcement?

10 A Five and a half years.

11 Q Were you working the night of December 11, 2013 --

12 A Yes, ma'am.

13 Q -- the early morning hours, meaning midnight and
14 past of December 12, 2013?

15 A Yes, ma'am.

16 Q Did you book an individual into the detention
17 center by the name of Bobby Joe Arflin?

18 A Yes, ma'am, I did.

19 Q Okay. When you book someone in, what's your
20 process?

21 A We receive all -- ask them all the pertinent
22 information -- name, age, address, telephone number,
23 height, weight and the location where they were picked
24 up. That's all done at the window. Then we go back
25 over that information at the actual booking counter,

1 and then we take the picture, fingerprint them and ask
2 them medical questions and deal with all the property
3 that they come in with.

4 Q Do you do that every time you book someone in the
5 detention center?

6 A Yes, ma'am. We do that with every single person.

7 Q Did you fill out a report every time you book
8 someone into the detention center?

9 A Yes, ma'am, facility admission form.

10 Q Facility admission form?

11 A (Nodding.)

12 Q And you filled it out based on information
13 provided to you by that individual?

14 A Yes, ma'am. I ask every one of the questions.

15 Q And that report includes standard medical
16 questions?

17 A It does. It includes our observations plus
18 questions we ask the detainee.

19 Q Did you go through that process you just described
20 with Mr. Arflin?

21 A Yes, ma'am, I did.

22 Q And would you have filled out a facility admission
23 report?

24 A Yes, ma'am.

25 Q Corporal Vickery, I'm showing you State's

1 Exhibit 52. Are you familiar with this exhibit?

2 A Yes, ma'am.

3 Q Okay. And can you tell me what that is, sir?

4 A It's the facility admissions report for Bobby Joe
5 Arflin.

6 Q Okay. And is it a true and accurate
7 representation of the report as you filled it out that
8 evening?

9 A Yes, ma'am.

10 Q Okay.

11 MS. PRICE: Your Honor, at this time the State
12 moves to admit Exhibit 52 into evidence.

13 MS. WHITE: No objection.

14 THE COURT: State's 52 will be admitted without
15 objection.

16 (WHEREUPON, State's Exhibit Number 52 was admitted
17 into evidence.)

18 BY MS. PRICE:

19 Q Did you get the standard information from
20 Mr. Arflin?

21 A Yes, ma'am.

22 Q What was his height that evening?

23 A 5'11".

24 Q And his weight?

25 A 247 pounds.

1 Q His age?

2 A I believe at that night it was 61.

3 Q 61?

4 A Yes, ma'am.

5 Q And would you have had Mr. Arflin sign a copy of
6 the sheet acknowledging that these were his answers?

7 A Yes, ma'am.

8 Q Okay. And did you go through standard medical
9 questions with Mr. Arflin?

10 A Yes, ma'am.

11 Q Okay. Please read the questions that you went
12 through with Mr. Arflin and his responses.

13 A The questions started: "Do you have any medical
14 problems we need to know about: Heart disease,
15 diabetes, kidney problems, venereal disease, hepatitis,
16 ulcers, seizures, high blood pressure, cancer,
17 tuberculosis or any other medical questions that we --
18 or medical problems we need to know about? If female,
19 are you pregnant?"

20 Do you want me to read his answer?

21 Q Yes.

22 A All right. His answer was, "Head cancer, hernia,
23 high cholesterol and mood issues."

24 Q Okay.

25 A Next question is: "Are you on any medication or

1 are you supposed to be on any medication?" He said,
2 "No, at this time." "Are you allergic to any
3 medications?" "No." "Do you have any special needs or
4 problems with diet, dentist, glasses, contact lenses,
5 or ostomy?" He said, "Glasses and upper and lower
6 dentures."

7 "Have you recently been hospitalized? Do you take
8 any street drugs? Have you ever attempted suicide? Do
9 you have any sexual deviation? Do you have any cuts,
10 bruises or sores on you that need medical attention at
11 this time?"

12 Q And what did he say to those?

13 A Nothing to the ones at the end.

14 Q He said no to, "Do you have any cuts, bruises or
15 sores you on"?

16 A Yes, ma'am.

17 Q And you signed no, "Does the new inmate any have
18 obvious pain or bleeding or other symptoms suggesting
19 need for emergency services?"

20 A Is that the last one?

21 Q That's the first question.

22 A Yes. "Obvious pain, bleeding," yeah. That's
23 actually not a question. That's just an observation --

24 Q Okay.

25 A -- by us.

1 Q Did you observe any pain, bleeding?

2 A No, ma'am.

3 Q Okay. Any symptoms suggesting the need for
4 emergency services?

5 A No, ma'am.

6 Q Okay. No visible signs of trauma or illness?

7 A No, ma'am.

8 Q Okay. And to the questions you asked him about
9 medical problems that you needed to know about, he
10 said, "Head cancer, hernia, high cholesterol and mood
11 issues"?

12 A Yes, ma'am. That was his words.

13 Q Those are his words?

14 A Yes, ma'am. I write it down just as they say it.

15 Q And he would have signed a form acknowledging
16 these answers?

17 A Yes, ma'am, and these questions, yes, ma'am.

18 Q Would he have looked at the form that you're
19 looking at right now?

20 A He wouldn't have seen the form because we don't
21 give them a copy, but he signs it on like an electrical
22 pad.

23 Q Okay. After you go through all of this
24 information with him?

25 A Yes, ma'am.

1 Q Okay. I'm showing you State's Exhibit 53. Are
2 you familiar with that?

3 A Yes, ma'am.

4 Q Okay. And what does it show?

5 A It shows all the questions we just went through
6 and my observations from that night he got brought in.

7 Q Are there signatures?

8 A Yes, ma'am, mine and his.

9 Q Yours and whose?

10 A And Bobby Joe Arflin's.

11 Q Okay.

12 MS. PRICE: Your Honor, at this time the State
13 would seek to admit Exhibit Number 53.

14 MS. WHITE: No objection.

15 THE COURT: State's Exhibit 53 will be admitted
16 without objection.

17 (WHEREUPON, State's Exhibit Number 53 was admitted
18 into evidence.)

19 BY MS. PRICE:

20 Q Corporal Vickery, do you see the man you booked
21 into the detention center on December 12, 2013, in the
22 courtroom today?

23 A Yes, ma'am.

24 Q Would you please point him out and describe what
25 he's wearing?

1 A He's wearing a black -- gray or black suit and a
2 red shirt.

3 Q Okay. Thank you. Please answer any questions
4 that Ms. White has for you at this time.

5 A Yes, ma'am.

6 THE COURT: Ms. White.

7 CROSS-EXAMINATION

8 BY MS. WHITE:

9 Q Sir, would you say it would be normal to have some
10 depression if you had cancer?

11 A Yes, ma'am.

12 Q Would you say it would be normal to have a little
13 bit of depression if you had diabetes, neuropathy,
14 cancer, arthritis and you could no longer work after
15 35 years of working?

16 A Yes, ma'am.

17 Q Now, you all have a nurse on staff at the jail; is
18 that correct?

19 A Yes, ma'am, we do.

20 Q And you keep records in the normal course of
21 business out there regarding whether or not someone is
22 seen; is that right?

23 A I'm guessing that the medical staff documents
24 that.

25 Q And did you know that Mr. Arflin had almost a

1 complete denture. It's called a partial denture
2 because I think there were two or three teeth that were
3 there, but the rest was a denture in the bottom of his
4 jaw. Were you aware of that?

5 A He told me he had dentures, but I didn't know
6 exactly what kind, partial or full dentures.

7 Q And are you aware that after this he requested a
8 medical visit because of the mouth and the clinical
9 data, "Swelling, yes; redness, yes." Are you aware of
10 that?

11 A No, ma'am.

12 Q Well, that would have been filled out by your
13 medical people at the jail; is that right --

14 A Yes, ma'am.

15 Q -- a few days after this?

16 A Our nursing staff, yes, ma'am.

17 Q And you would agree clinical data would be what
18 they observed?

19 A Yes, ma'am.

20 Q Now, are you aware that the injury was primarily
21 inside the mouth, not outside?

22 MS. PRICE: Objection, your Honor. That's
23 hearsay.

24 THE COURT: You need to lay some foundation for
25 that question, Ms. White.

1 BY MS. WHITE:

2 Q Is it possible, if you have a partial denture
3 which is essentially almost all your bottom teeth, and
4 if you were knocked in the bottom of your jaw and you
5 have a beard --

6 MS. PRICE: Objection, your Honor. He's not a
7 medical witness.

8 MS. WHITE: Your Honor, he just testified about
9 what he observed. My question is going to be would you
10 observe it necessarily.

11 THE COURT: Rephrase your question pertaining to
12 what he observed.

13 MS. WHITE: Yes, sir.

14 Q You said that you did not observe any injury; is
15 that correct?

16 A Yes, ma'am.

17 Q And would it be possible for you not to observe it
18 if, in fact, it were inside the mouth because of
19 dentures?

20 A It is possible.

21 MS. WHITE: No further questions.

22 THE COURT: Anything further from this witness?

23 MS. PRICE: No, sir, nothing from this witness.

24 THE COURT: Thank you, Officer. You can step
25 down.

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MS. HUEY: Your Honor, the State calls Justin
4 Richey to the stand.

5 JUSTIN RICHEY,

6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 THE CLERK: Please state and spell your name for
8 the reporter.

9 THE WITNESS: My name is Justin Richey,
10 R-i-c-h-e-y.

11 DIRECT EXAMINATION

12 BY MS. HUEY:

13 Q Investigator Richey, where do you work?

14 A I work for the Anderson County Sheriff's Office.

15 Q And in what department?

16 A Forensic investigator.

17 Q As such, what are some of your duties and
18 responsibilities with that position?

19 A We respond to calls for forensics, take
20 photographs, locate evidence and collect evidence.

21 Q And how long have you been in forensics now?

22 A For four years.

23 Q And how long in law enforcement altogether?

24 A 15 and a half years.

25 Q What, if any, involvement did you have in this

1 case, State vs. Bobby Joe Arflin?

2 A I executed search warrants on the defendant's
3 vehicle as well as the victim's vehicle.

4 Q In order to do that, where did you respond?

5 A The Anderson County Sheriff's Office armory.

6 Q And what is the armory again?

7 A The armory is a building that the sheriff's office
8 uses to execute search warrants on vehicles that we
9 have towed back there, and we secure those vehicles
10 inside the armory.

11 Q And it remains secured at all times?

12 A Yes, ma'am.

13 Q What kind of vehicle did you search in reference
14 to the defendant in this case?

15 A The defendant's vehicle was a red-in-color Dodge
16 truck.

17 Q And when you were searching the defendant's truck
18 what, if anything, did you find in his vehicle?

19 A During the course of searching his vehicle, we
20 located 12 .41 Magnum bullets, and we also located two
21 fired or spent cartridge casings that were also .41
22 Magnum.

23 Q And did you document this by taking photos?

24 A Yes, ma'am.

25 Q Mr. Richey, I'm going to show you what's been

1 marked as State's 54 through 59. If you could please
2 take a look at all of these. Do you recognize all
3 those?

4 A Yes, ma'am.

5 Q How are you able to recognize them?

6 A These are photographs that I took during the
7 course of executing the search warrant on the
8 defendant's vehicle.

9 Q Do they fairly and accurately depict what you
10 observed when you executed that search warrant?

11 A Yes, ma'am.

12 MS. HUEY: At this time, your Honor, we'd move
13 State's 54 through 59 in evidence.

14 MS. WHITE: No objection.

15 THE COURT: State's 54 through 59 will be admitted
16 without objection.

17 (WHEREUPON, State's Exhibit Numbers 54 through 59
18 were admitted into evidence.)

19 BY MS. HUEY:

20 Q Mr. Richey, if you don't mind stepping down with
21 those photos. If you will just say the State's exhibit
22 number and tell the jury what each of these photos
23 depict.

24 A This is State's Exhibit 54, and this is a view
25 from the driver's side of the detective's truck looking

1 into the driver's area. There is a black bag right
2 here, and then this is the steering wheel and the
3 driver's seat.

4 Q Make sure he sees it. And this is State's 55.

5 A State's 55, this is a photograph of the actual
6 driver's seat inside the truck where we located two
7 spent shell casings or fired cartridge casings.

8 Q And this is State's 56.

9 A This is -- State's 56 is just a closer photograph
10 of the shell casings that were located in the driver's
11 seat.

12 Q And this is State's 57.

13 A State's 57 is the same photograph, basically, of
14 the spent shell casing, but I had to put evidence
15 markers beside them and marked them with the evidence
16 marker, this one being number one and this one being
17 number two.

18 Q What's the purpose of that?

19 A The reason that I did it that way was that so I
20 would have photographs to show me which one was where
21 in the driver's seat and I could enter them into
22 evidence as markers number one and number two.

23 Q And this is State 58.

24 A State's 58 is a photograph of bullets that were
25 located inside the black bag. One of these pictures

1 had the driver's side, the vehicle, the black bag in
2 front of the driver's seat, and these .41 Magnum
3 bullets were located inside the black bag.

4 Q And does the photo you speak of, State's 54, that
5 shows the black bag?

6 A Yes, ma'am. This is the black bag in front of the
7 seat, and this was the bullets that we removed from
8 inside that black bag.

9 Q And then this is State's 59.

10 A State's 59 is a photograph that I took of the
11 bullets. We removed them from the black bag, and I
12 just took a picture of the bullets.

13 Q You can have a seat. Thank you.

14 A Thank you.

15 Q So you photographed these items, Investigator
16 Richey, and then did you also collect these items?

17 A Yes, ma'am.

18 Q I believe you testified that you marked the
19 casings as one and two; is that correct?

20 A Yes, ma'am.

21 Q I'm going to show you what's been marked as
22 State's Exhibits 60 and 61. If you could take a look
23 at both of those items.

24 A Okay.

25 Q Do you recognize those items?

1 A Yes, ma'am.

2 Q And how are you able to recognize them?

3 A These are the shell casings that were collected
4 from the driver's seat. And when we entered it into
5 evidence, I created a bar code that's got my name and
6 markers one and two in the description and then put
7 them on their respective packaging.

8 Q And that matches up with the one and two in the
9 photograph of the casings in the driver's side seat in
10 the defendant's vehicle?

11 A Yes, ma'am.

12 Q And what did you then do with these casings that
13 you collected?

14 A After we collected them or after I collected them,
15 I took them back to the sheriff's office, sealed the
16 packaging, initialed and dated it and created this bar
17 code label to put on it and submitted it to the
18 evidence division.

19 Q And are they in substantially the same condition
20 as when you last collected them?

21 A Yes, ma'am.

22 Q I'm showing you what's been marked as State's 62.
23 If you could please take a look at this and see if you
24 recognize it.

25 A Yes, ma'am.

1 Q All right. And how are you able to recognize that
2 item?

3 A This packaging also has the bar code that I
4 created and the description of 12 .41 Magnum bullets.

5 Q So are those the 12 bullets that you found in the
6 black bag that was located in the defendant's truck?

7 A Yes, ma'am.

8 Q And are they in substantially the same condition
9 as when you collected them?

10 A Yes, ma'am. They appear to be.

11 Q And, again, once you collected those, you put them
12 into evidence?

13 A Yes, ma'am. I collect them and put them in the
14 packaging, seal them with evidence tape, initial and
15 date the evidence tape, apply this bar code label
16 that's unique to this item and submit it to evidence.

17 MS. HUEY: Your Honor, at this time, we move
18 State's 62 into evidence.

19 MS. WHITE: No objection.

20 THE COURT: State's Exhibit 62 will be admitted
21 without objection.

22 (WHEREUPON, State's Exhibit Number 62 was admitted
23 into evidence.)

24 BY MS. HUEY:

25 Q Now what, if anything, can you tell me about these

1 unfired bullets that you collected, the 12
2 specifically, Exhibit 62?

3 A These 12 bullets that we collected were all .41
4 Magnum. Some were different manufacturers, but they
5 were all .41 Magnum bullets.

6 Q Okay. And did they all appear to be the same?

7 A No. Some are what I would call just a lead
8 bullet, and then some appear to have been like a
9 defensive round.

10 Q Regardless, they all would fit a .41 caliber?

11 A I believe so, yes, ma'am.

12 Q Now, what kind of vehicle did you search as it
13 relates to the victim in this case, Jody Powell?

14 A Mr. Powell had a silver GMC truck that we
15 searched.

16 Q And what, if anything, did you locate as it
17 relates to the victim's vehicle initially?

18 A Initially, during the course of that search, we
19 located a bullet hole on the outside of the driver's
20 side exterior of the bed and another bullet hole at the
21 back of the bed like it was going toward the cab of the
22 truck.

23 Q Could you locate the bullet?

24 A Not at that time.

25 Q And so what did you then do as a result?

1 A To try to locate the actual projectile, we needed
2 to remove the bed of the truck, so I contacted Joe
3 Stone with Anderson County fleet services and asked him
4 to come to the armory and remove the bed of the truck
5 so that we could see if the projectile had actually
6 entered the cab.

7 Q When you say "projectile," what does that mean?

8 A The projectile is the part of the bullet that
9 actually comes down the barrel of the gun and is fired
10 from the firearm.

11 Q So did Joe Stone, in fact, come and meet with you?

12 A He told me he couldn't come that day and that he
13 would come the next morning and meet us at the armory.

14 Q And did he do that?

15 A Yes, ma'am.

16 Q And were you present the entire time that Joe
17 Stone was in the armory?

18 A Yes, ma'am.

19 Q So what did Mr. Stone do in your presence at the
20 armory the next day?

21 A Well, initially Mr. Stone removed the bed of the
22 truck, set it back so we could see if there was an
23 actual bullet hole going toward the cab of the truck.
24 We noticed that there was one there. We had searched
25 the interior of the cab of the truck and could not

1 locate the projectile, so then he removed the backseat
2 that was in the cab of the truck so that we could try
3 to locate a projectile.

4 Q So you had to take the truck apart?

5 A Basically. We removed the bed and took the
6 backseat out.

7 Q And was the bullet, in fact, eventually retrieved?

8 A Eventually, yes.

9 Q And did you collect that item as well?

10 A Yes, ma'am.

11 Q Did Joe Stone ever touch it?

12 A Not that I know of, no, ma'am.

13 Q All right. And did you also take photos of this
14 process?

15 A Yes, ma'am.

16 Q As well as the projectile?

17 A Yes, ma'am.

18 Q All right. Investigator Richey, I'm going to show
19 you what's been marked as State's 64 through 75, if you
20 will take a look at all these photos.

21 A Okay.

22 Q Do you recognize those photos?

23 A Yes. Yes, ma'am.

24 Q And how are you able to do so?

25 A I took these photographs.

1 Q And what do they depict?

2 A These depict the bullet hole or bullet holes that
3 were located in the victim's truck as well as the
4 projectile once it was recovered.

5 Q Okay. And do they fairly and accurately depict
6 the truck when you executed the search warrant and then
7 additionally when Joe Stone came to help with locating
8 the projectile?

9 A Yes, ma'am.

10 Q All right.

11 MS. HUEY: At this time we'd like to admit State's
12 Exhibits 64 through 75, your Honor.

13 THE COURT: Ms. White, is there any objection?

14 MS. WHITE: No, sir.

15 THE COURT: Okay. State's Exhibits 64 through 75
16 will be admitted without objection.

17 (WHEREUPON, State's Exhibit Numbers 64 through 75
18 were admitted into evidence.)

19 MS. HUEY: Mr. Richey, if you don't mind stepping
20 down again.

21 Q Once again, can you tell the jury what State's 64
22 is?

23 A State's 64 is the bullet hole that was located on
24 the driver's side of the victim's truck that we
25 initially found.

1 Q Is that a close-up of the bullet hole?

2 A Yes, ma'am.

3 Q And this is State's 65.

4 A State's 65 is a picture from inside the bed of the
5 truck that shows the bullet hole that is in the bed of
6 the truck leaning toward the cab.

7 Q And this is State's 66.

8 A State's 66, what we did here, I ran a trajectory
9 rod through the hole to line up the hole on the outside
10 of the bed of the truck with this hole so it would show
11 which way the bullet traveled through the bed of the
12 truck.

13 Q And what is a trajectory rod?

14 A It's a rod that we can run through -- like if I
15 need to see if this hole lines up to that one, we can
16 run a trajectory rod through those holes to see that it
17 is a straight line.

18 Q And you were able to do that in this case?

19 A Yes, ma'am.

20 Q And this is State's 67.

21 A This is another photograph of the trajectory rod
22 from outside the truck leading into this hole in the
23 bed toward the cab of the truck.

24 Q And this is State's 68.

25 A This is a picture of the back of the cab of the

1 victim's truck after the bed had been slid back so that
2 we could see the projectile did actually travel all the
3 way through the bed and into the exterior wall on the
4 back of the cab which is -- I don't know if you can see
5 it. Yes, that's the bullet hole. You can see that.

6 Q And is that what Joseph Stone did when he arrived
7 the next day?

8 A Yes, ma'am. He removed the bed of the truck so
9 that we could see that bullet hole, because with the
10 bed in place, I couldn't tell if there was a hole in
11 the back wall of the cab or not.

12 Q And this is 69.

13 A 69. This is just a picture of the inside of the
14 victim's truck after we were moved the backseat or
15 Mr. Stone removed the backseat and set it out of the
16 cab.

17 Q And what is that blue material?

18 A That's behind the seat?

19 Q Uh-huh.

20 A I don't know exactly what it is. It's some kind
21 of -- I don't know if it was insulation or what, but it
22 was behind the backseat, against the metal wall inside
23 the cab of the truck against that back wall.

24 Q State's 70.

25 A That's when you remove the the backseat from the

1 truck, this is what's against the metal wall behind the
2 backseat, and we just photographed it.

3 Q At this point have you found the projectile yet?

4 A No, ma'am, we have not located the projectile at
5 this time. Right here we cut out a section of this
6 material, this green material. And I don't know if you
7 can see it or not, but there is a dent in the metal.
8 That dent is on the interior wall of the cab where the
9 projectile entered the exterior wall and hit this
10 interior wall and caused this dent.

11 Q This is State's 71. A close-up?

12 A Yes, ma'am. State's 71 is just a close-up of the
13 dent that was made by the projectile.

14 Q And State's 72?

15 A This is a photograph of the inside of the vehicle
16 after Mr. Stone pried that piece of metal away and it
17 about fell out into the cab. This is where the
18 projectile fell to, and then I photographed an overall
19 picture of the projectile. It's very small, right here
20 where it fell out of that piece of metal.

21 Q And State's 73?

22 A 73. This is a close-up of the metal, I think
23 where Mr. Stone pried the metal back where the bullet
24 had entered the cab. It came into this channel, this
25 metal here. The dent would be down here. He pried

1 this up, and that's where the projectile fell out, and
2 that's just showing the piece of metal that he pried
3 up.

4 Q And then State's 70.

5 A This is a close-up photograph of the projectile
6 that was recovered in place where it fell inside the
7 truck.

8 Q So Mr. Stone had pulled that metal back, and then
9 the projectile dropped out?

10 A Yes, ma'am. It was in like a -- there is a piece
11 of metal on the inside of the truck that he pried this
12 one little piece back where the actual bullet was, and
13 it ran down this way and stopped. So when we pried the
14 metal back, the projectile fell out and onto the
15 bottom, and that's when he said, "Hey, the projectile
16 just fell out," and I came over and photographed it in
17 place.

18 Q And then, finally, State's 75.

19 A State's 75 is an up-close photograph of the
20 projectile. I placed a scale beside it just to show
21 its size.

22 Q And that was the projectile recovered from the
23 victim's truck, then?

24 A Yes, ma'am.

25 Q You can have a seat. So once that projectile was

1 finally located, did you collect that item as well?

2 A Yes, ma'am.

3 Q All right. Mr. Richey, I'm going to show you
4 what's been marked as State's 76. If you will take a
5 look at this item, please.

6 A Okay.

7 Q Do you recognize that item?

8 A Yes, ma'am. That's the projectile I collected.

9 Q And how are you able to tell that?

10 A Again, it has the bar code that I put on the
11 packaging when I submitted it to evidence. It says,
12 "Projectile removed from cavity in the back of the GMC
13 truck."

14 Q Okay. And is it in substantially the same
15 condition as when you collected it?

16 A Yes, ma'am.

17 Q And what did you then do with that?

18 A After I collected it, I placed it into the
19 packaging, sealed it with evidence tape, dated,
20 initialed it, and submitted it to the evidence section.

21 MS. HUEY: That's all I have for this witness,
22 your Honor.

23 THE COURT: Ms. White.

24 MS. WHITE: Yes, sir.

25 CROSS-EXAMINATION

1 BY MS. WHITE:

2 Q So you would agree that law enforcement would have
3 thoroughly searched both vehicles after towing them to
4 the sheriff's department; is that correct?

5 A Yes, ma'am.

6 Q You would agree that they would have thoroughly
7 searched the scene?

8 A I didn't go to the scene.

9 Q I mean, would you agree that that's what they
10 would do at a scene?

11 A Yes, ma'am, I would say that was.

12 Q And you would agree, of course, before my client
13 was transported in any way, they would have searched
14 him pretty thoroughly, too?

15 A Yes, ma'am.

16 Q And only two spent shell casings were found; is
17 that correct?

18 A Yes, ma'am.

19 Q Which would indicate, if those are the only ones
20 that were there, that two shots were fired; is that
21 right?

22 A Yes, ma'am.

23 Q Now, Jody worked for UPS; is that correct?

24 A I don't know.

25 Q You don't know, okay. But this was certainly his

1 personal vehicle, not the vehicle he could have
2 transported packages in; is that right? This wasn't a
3 work vehicle?

4 A If he worked for UPS, no, ma'am, it was not a UPS
5 truck.

6 Q Hand you you Defendant's Exhibit 4 for
7 identification. Do you recognize that?

8 A Yes, ma'am.

9 Q What is that?

10 A That is a pocketknife.

11 Q And is that the knife that you found in Jody's
12 vehicle in the console, the one between the two seats
13 that we talked about?

14 A Yes, ma'am.

15 MS. WHITE: Your Honor, I'd ask that Defendant's
16 Exhibit 4 be admitted.

17 THE COURT: Any objection?

18 MS. HUEY: No, sir, your Honor.

19 THE COURT: All right. Defendant's 4 is admitted
20 without objection.

21 (WHEREUPON, Defendant's Exhibit Number 4 was
22 admitted into evidence.)

23 BY MS. WHITE:

24 Q And, Investigator Richey, you would agree that the
25 pictures you took of the bullet, y'all had already

1 processed some stuff out of the backseat of Jody's car
2 when you took those pictures; is that right?

3 A I'm not sure what you mean.

4 Q Okay. Well, what I mean, when y'all originally
5 took pictures, the backseat had all sorts of sports
6 equipment?

7 A Oh, yes, ma'am.

8 Q Had cleats, had a sports bag, gym bag, that sort
9 of thing?

10 A Yes, ma'am. We removed things to remove the
11 backseat.

12 Q And I want to make sure we're understanding each
13 other. The bullet came in this portion -- can you see
14 that far? Am I giving you way too much credit for your
15 eyes?

16 A You may be giving me a little more credit than I
17 deserve.

18 Q How about there? Can we just get the general idea
19 from here? I want the jury to see.

20 A Yes, ma'am.

21 Q All right. You would agree that the bullet came
22 in the bed of the truck and then entered this portion
23 of the metal?

24 A Yes, ma'am.

25 Q And then it went in that metal, and there is

1 another piece of metal on the other side of it that's
2 before you get to the seat; is that right?

3 A Yes, ma'am.

4 Q And so it went in this outside piece of metal, hit
5 the other piece of metal and fell down to here; is that
6 what happened?

7 A No, ma'am.

8 Q Okay. I'm confused, then.

9 A Okay.

10 Q I thought there were two things of metal it went
11 through, one hit the other one, dented it out and fell
12 to the ground. Did I misunderstand something?

13 A It did dent it out, yes. But after it dented the
14 metal --

15 Q Uh-huh.

16 A -- it traveled a short distance which is where
17 Mr. Stone pried the metal back and then it fell out.
18 But, yes, it was in between the exterior wall and the
19 interior wall.

20 Q Okay. And are you a gun enthusiast, in other
21 words, you collect -- not collect, but you have
22 weapons, you shoot weapons, et cetera?

23 A Yes, ma'am.

24 Q And would you agree that it's not unusual for any
25 of us who have firearms, especially if you have one

1 firearm, to use some ammo, have three or four left
2 over, go to the target another time, you have another
3 box, and you end up with kind of a variety of live
4 rounds for the same weapon?

5 A Yes, ma'am.

6 Q That's not unusual and it doesn't mean a thing,
7 does it?

8 A No, ma'am.

9 Q And everything you found in this vehicle in the
10 way of live ammo was completely legal; you're allowed
11 to have it in your vehicle?

12 A Yes, ma'am.

13 Q And it all matched this weapon; is that correct?

14 A Yes, ma'am.

15 Q Just making sure I'm not taking any of the Court's
16 exhibits. I want to make sure.

17 If I may have one minute.

18 THE COURT: Yes, ma'am.

19 MS. WHITE: No further questions.

20 THE COURT: Any redirect for this witness?

21 MS. HUEY: Just a couple on redirect.

22 REDIRECT EXAMINATION

23 BY MS. HUEY:

24 Q Mr. Richey, I'm going to show you what I need to
25 mark, actually.

1 (WHEREUPON, State's Exhibit Numbers 77 through 80
2 were marked for identification.)

3 BY MS. HUEY:

4 Q I'm going to show you what's been marked as 77
5 through 80. If you can take a look at those photos.

6 A Okay.

7 Q Do you recognize those photos?

8 A Yes, ma'am.

9 Q And how are you able to recognize those?

10 A I believe these are photographs that I took of the
11 center console area of the victim's truck.

12 Q And, again, where did that -- when did you take
13 photos of that vehicle?

14 A When we did the search warrant at the armory.

15 Q And the armory is a secured location?

16 A Yes, ma'am.

17 Q And to your knowledge, you were the first person
18 that executed the search warrant on that vehicle to
19 take the photographs?

20 A Yes, ma'am.

21 Q Okay.

22 MS. HUEY: Your Honor, at this time we'd admit 77
23 through 80.

24 MS. WHITE: No objection.

25 THE COURT: All right. State's Exhibits 77

1 through 80 are admitted without objection.

2 (WHEREUPON, State's Exhibit Numbers 77 through 80
3 were admitted into evidence.)

4 BY MS. HUEY:

5 Q If you will tell the jury what State's 77 is.

6 A This is State's 77. It's a photograph of the
7 interior of the victim's truck as I found it at the
8 armory when I conducted the search warrant. It just
9 shows the center console. There is a drink bottle in
10 the cup holder.

11 Q And it was closed when you found it?

12 A Yes, ma'am.

13 Q All right. So then State's 78?

14 A State's 78 is a photograph I took after I raised
15 the center console of the victim's truck.

16 Q And State's 79?

17 A State's 79 is a photograph that I took of the
18 victim's console. Again, this is actually showing the
19 contents of the console. That is a photograph of the
20 pocketknife that we saw earlier. It was in the closed
21 position when I saw it the first time inside the truck.

22 Q And then State's 80?

23 A Again, this is another photograph of the inside
24 contents of that console of the truck.

25 Q Is that just a closer view of the pocketknife?

1 A Yes, ma'am.

2 Q You can have a seat.

3 MS. HUEY: That's all I have for this witness,
4 Judge.

5 THE COURT: Anything further?

6 MS. WHITE: No, sir.

7 THE COURT: Thank you, Officer. You can step
8 down.

9 THE WITNESS: Thank you.

10 THE COURT: Would counsel approach very briefly.

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

14 THE COURT: Call your next witness.

15 MS. HUEY: Thank you, your Honor.

16 The State calls Joseph Stone.

17 JOSEPH STONE,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: Please state and spell your name for
20 the reporter.

21 THE WITNESS: My name is Joe Stone, last name
22 S-t-o-n-e.

23 DIRECT EXAMINATION

24 BY MS. HUEY:

25 Q Mr. Stone, where do you work?

1 A Anderson County fleet services.

2 Q And what is fleet services?

3 A Fleet services is the entity within the county
4 that we maintain all of the equipment, vehicles and
5 things like that.

6 Q And at one time was it connected with the
7 sheriff's office?

8 A It was.

9 Q And was it connected in December of 2013?

10 A It was.

11 Q And so were you called on from time to time or
12 fleet services, for that matter, to assist the
13 sheriff's office?

14 A Quite often, yes, ma'am.

15 Q And what kind of things would you have to assist
16 in?

17 A All kinds of things. We've done searches for
18 drugs, paraphernalia, hidden compartments. In this
19 case, projectile.

20 Q So it wasn't uncommon for you to get a call from a
21 forensics investigator?

22 A It was not. We did it quite often.

23 Q All right. So did you get a call in December of
24 2013 to help out in this case, State versus Bobby
25 Arflin?

1 A We did.

2 Q All right. And do you know where this took place?

3 A Where I did the search? Yes, at the armory.

4 Q Okay. And was an investigator present with you
5 when you did this?

6 A Yes, they were.

7 Q And do you remember what kind of vehicle that was?

8 A It was a GMC truck, if I recall correctly.

9 Q And what were you trying to do in this particular
10 case?

11 A They contacted us because they needed some
12 assistance in the removal of the bed on the back of the
13 vehicle for trying to find the trajectory of the bullet
14 that went through, so we went out there to assist with
15 that. And in that case we just removed the bed. Once
16 we removed the bed, we realized that it had went
17 through the bed and into the cabin. It did not come
18 out of the cabin, so we then removed the backseat, and
19 that's when we noticed that it had ricocheted on the
20 inside and got caught in the cab, on the inside of the
21 cab.

22 Q How could you tell that?

23 A It was pretty obvious. You could see where the
24 penetration went through the backside of the cab and
25 into the cabin. And on the inside of the cabin there

1 is a channel that we use for reinforcement. It had hit
2 the inside and ricocheted off. You can see that. And
3 then we realized it didn't come out, and you could tap
4 it and hear it rattle inside.

5 Q So you could hear it inside. So you knew
6 something was in there?

7 A We did.

8 Q What did you do as a result of that?

9 A Trying to find a way of removing it without
10 damaging or anything. And what we ended up doing
11 because of where it had fallen inside there, we were
12 able to take a pry bar and create a little bit of a
13 hole down at the bottom side, and we just tapped it a
14 little bit and she fell right out.

15 Q Did you ever touch the bullet?

16 A No.

17 Q You left that to the investigator?

18 A As soon as it came out, he was standing right
19 there. I said, "There it is." We got up and left.

20 Q So can you, based on what you had to do to locate
21 the bullet, how many layers of metal or material do you
22 think you had to go through?

23 A I would say at least four and ricocheted off the
24 fifth or went through five and ricocheted off the six.
25 I'm not sure how much members of material it went

1 through on the back side of the cab. I know for a fact
2 at least four. It penetrated at least four layers.

3 Q Why are there so many layers?

4 A It's due to the construction of the truck because
5 the material they make the trucks out of nowadays are
6 so thin, most people don't realize it. But they layer
7 them on the inside to give them strength and rigidity
8 due to the thinness of the material.

9 MS. HUEY: That's all I have for this witness,
10 Judge.

11 THE COURT: Anything, Ms. White?

12 MS. WHITE: I'm happy to announce I have no
13 questions, your Honor.

14 THE COURT: Thank you. You can step down.

15 Okay. Ladies and gentlemen, it is almost
16 5 o'clock and you have all worked very hard today, and
17 you've heard a lot of testimony. It's been a long day,
18 so I'm going to adjourn court at this time, let you go
19 home. We will reconvene again tomorrow at 9 o'clock.

20 Give you the same instruction I gave you
21 yesterday: Do not discuss this case with anyone. Do
22 not do independent investigation or media, Internet,
23 library, from whatever source. Do not deliberate
24 amongst yourselves until I instruct you to do so at the
25 end.

1 I hope everyone has a good evening, and you are
2 dismissed. We'll see you at 9 o'clock in the morning.

3 (WHEREUPON, the jury exited open court at
4 4:51 p.m.)

5 THE COURT: Anything from the State before we
6 adjourn for the day?

7 MS. PRICE: Nothing further, sir.

8 THE COURT: Anything from the defense before we
9 adjourn for the day?

10 MS. WHITE: I'm sorry, your Honor?

11 THE COURT: Is there anything from the defense
12 before we adjourn?

13 MS. WHITE: No, sir.

14 THE COURT: We are now in recess. We will
15 reconvene at 9 o'clock tomorrow morning.

16 (WHEREUPON, proceedings adjourned at 4:52 p.m.)
17
18
19
20
21
22
23
24
25

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:01 a.m.)

4 THE COURT: Anything from the State before we
5 bring the jury in?

6 MS. PRICE: Just that State's Exhibit 63, it was
7 brought to my attention by our court reporter that
8 Ms. Huey said 64 through the following number. This is
9 the defendant's vehicle. I believe this was a
10 misspeak. They were shown to the jury. She had them
11 last evening. Then we would make sure that State's
12 Exhibit 63 is also moved into evidence.

13 MS. WHITE: No objection.

14 THE COURT: All right. That would be without
15 objection.

16 (WHEREUPON, State's Exhibit Number 63 was admitted
17 into evidence.)

18 THE COURT: Anything from the defense before we
19 bring in the jury?

20 MS. WHITE: No, your Honor.

21 THE COURT: Bring the jury for us, please, sir.

22 (WHEREUPON, the jury entered open court at
23 9:03 a.m.)

24 THE COURT: Good morning, ladies and gentlemen. I
25 hope everyone had a good evening. We're back for the

1 next day of our trial. Before we get started, I know
2 there is some concern about the length of the trial.

3 Certainly when we qualified you as a juror and you
4 were selected as a jury on Monday, a large number of
5 witnesses were read out in the voir dire questions. I
6 believe there were over one hundred witnesses
7 potentially listed. Please note those are potential
8 witnesses, people that might have some knowledge about
9 the facts of the case.

10 I have conferred with the attorneys, and it
11 appears that we're going to be able to finish this case
12 this week. So I know your families are concerned about
13 that. I know your employers are concerned about that.
14 But it's the Court's belief, after conferring with the
15 attorneys, that this case certainly will be able to be
16 finished this week.

17 So is the State ready to proceed?

18 MS. PRICE: Yes, sir, your Honor.

19 THE COURT: Call your next witness.

20 MS. PRICE: Your Honor, at this time, the State
21 would like to publish a stipulation signed by Ms. White
22 and myself.

23 THE COURT: Okay.

24 (WHEREUPON, Court's Exhibit Number 2 was marked
25 for identification.)

1 MS. PRICE: Your Honor, this is Court's Exhibit
2 Number 2. This is a stipulation to testimony of Kara
3 Bennick and Todd Caron by the parties in this case. It
4 reads: "The State, through Assistant Solicitor Lauren
5 Davis Price, and the defendant, through his attorney,
6 Druanne D. White, hereby agree that Todd Caron works
7 for the Anderson County Sheriff's Office supervising
8 property and evidence, and Kara Bennick works for the
9 Greenville County Department of Public Safety, and
10 their testimony would be as follows: That a Smith &
11 Wesson .41 Magnum revolver and six live rounds from the
12 cylinder, two fired .41 Magnum shell casings and one
13 projectile recovered from a cavity in the back of a GMC
14 truck belonging to Jody Powell were taken from Todd
15 Caron from property and evidence at the Anderson County
16 Sheriff's Office on March 7, 2014, where they had been
17 safely and securely stored since December 11, 2013, to
18 property and evidence at the Greenville County
19 Department of Public Safety.

20 "All items were properly sealed when he obtained
21 them. He did not tamper with them or alter them in any
22 manner while he had them in his possession. While at
23 the Greenville County Department of Public Safety,
24 which is a safe and secure location, they were under
25 the supervision and control of Kara Bennick, who is the

1 supervisor of property and evidence at the Greenville
2 County Department of Public Safety.

3 "At no time when they were at the Greenville
4 County Department of Public Safety and under the
5 custody and control of Kara Bennick were they tampered
6 with or altered in any way except for any necessary
7 testing."

8 That is the stipulation, your Honor.

9 MS. WHITE: Stipulation of testimony, yes, your
10 Honor. If they had been here to testify, that's what
11 they would have said.

12 THE COURT: Thank you.

13 MS. PRICE: Your Honor, at this time the State is
14 calling James Armstrong to the stand.

15 JAMES ARMSTRONG,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: James Armstrong, A-r-m-s-t-r-o-n-g.

20 DIRECT EXAMINATION

21 BY MS. PRICE:

22 Q Thank you. Mr. Armstrong. What's your occupation
23 or profession?

24 A I'm employed with the Greenville County Department
25 of Public Safety and Forensics Division Crime

1 Laboratory as a forensic chemist and a firearms
2 examiner.

3 Q And how long have you been employed there?

4 A Been employed there a little over 19 and a half
5 years.

6 Q And what are some of your duties and
7 responsibilities?

8 A One of my main duties is as a forensic chemist
9 where I actually test controlled substances, and my
10 second duty is as a firearms examiner where I examine
11 firearms and firearm-related evidence and compare them
12 to each other.

13 Q Okay. And what is firearms identification and
14 ballistics?

15 A Firearms identification and ballistics is where
16 we're actually comparing firearms or fired evidence to
17 determine the originality of the evidence as left
18 behind from a scene or connect cases to each other by
19 their markings based on the fired cartridge casings and
20 fired bullet specimens.

21 Q What makes the identification possible in those
22 cases?

23 A There are striations or imperfections that are in
24 the firearm when it's actually made by another tool,
25 and those imperfections are transferred to the fired

1 cartridge casings or projectiles, which are just like a
2 fingerprint of that firearm where it's then transferred
3 to those evidence pieces, then we can link them back by
4 the use of a microscope.

5 Q And what's your educational background,
6 Mr. Armstrong?

7 A I have a bachelor of science degree in chemistry
8 from Erskine College. I trained in the area of
9 firearms identification under the direction of a
10 retired firearms examiner approximately two years of an
11 apprenticeship training. I have attended numerous
12 classes sponsored by the Bureau of Alcohol, Tobacco,
13 and Firearms in identification of firearms and tool
14 markings. I have attended five different armor schools
15 to learn how to actually work and repair firearms. I
16 have been through 14 different factory tours to
17 actually watch the manufacturing of firearms from raw
18 materials through finished products. I've been through
19 four different ammunition manufacturing or assembly
20 plants, and I am a member of the Association of Firearm
21 and Tool Mark Examiners in the area of firearms
22 examinations. I've also testified in federal and state
23 court at least 41 times as an expert.

24 MS. PRICE: Your Honor, at this time the State
25 moves that Mr. Armstrong be declared an expert in the

1 field of firearms identification and ballistics.

2 MS. WHITE: No objection, your Honor.

3 THE COURT: Okay. Mr. Armstrong would be admitted
4 as an expert in the field of firearms identification
5 and ballistics.

6 Ladies and gentlemen of the jury, ordinarily a
7 witness in a case is limited to what they have
8 knowledge of in a case, that they're not ordinarily
9 allowed to give opinions. However, certain witnesses,
10 because of their education and experience, have
11 specific knowledge about a scientific or technical
12 field to be able to assist you as the trier of fact.
13 An expert witness is like any other witness. They are
14 not to be believed simply because they're an expert,
15 but you, as the trier of fact, evaluate their testimony
16 and place whatever weight on that testimony that you,
17 as the jury, determine is appropriate.

18 Thank you.

19 MS. PRICE: Thank you, your Honor. May it please
20 the Court.

21 BY MS. PRICE:

22 Q Mr. James -- Mr. Armstrong, were you asked to
23 analyze evidence in this case?

24 A Yes, sir -- yes, ma'am, I was.

25 Q Okay. Mr. Armstrong, I'm going to present you

1 with several items. I want you to look at them without
2 showing them to the jury -- I have some gloves here for
3 you as well, sir -- and tell me if you recognize these
4 exhibits as I'm presenting them to you, sir.

5 That's State's Exhibit 24 and 25.

6 A Yes, ma'am, I do.

7 Q Okay. And what are they?

8 A My -- what I actually have on my report is item
9 1135452, the Smith & Wesson model 57-1 revolver, serial
10 number AYU1199, caliber .41 Magnum. And it was
11 submitted with six cartridges and caliber .41 Magnum.

12 Q Okay. I'm presenting you with State's Exhibit 60
13 and 61. Again, if you can look at those and tell me if
14 you're familiar with those items.

15 A I am.

16 Q Okay. And how is it you're familiar with those
17 items?

18 A The envelope itself actually has my initials and
19 the date which I had sealed it. And on Item State's
20 Exhibit Number 60, on the fired cartridge case, I
21 actually have my initials engraved with an item number
22 inside the cartridge case.

23 Q And I'm showing you what's been marked as State's
24 Exhibit 76. If you will take a look at this item and
25 also tell me if you recognize it.

1 A Yes, ma'am, I do.

2 Q And how is it you recognize that item?

3 A Once again, my initials and the date which I had
4 sealed on the outer part of the envelope matches the
5 case number that was assigned to it by Greenville
6 County.

7 Q What is that item, sir?

8 A This item is a -- let me open it up.

9 Q I didn't realize it was sealed, sir.

10 A That's okay. That's okay. This is actually a
11 fired bullet specimen, which has my item number
12 1135487. It's a .41 caliber fired bullet specimen.

13 Q And were those items in your possession for the
14 purpose of analysis?

15 A Yes, ma'am, they were.

16 Q All of them?

17 A Yes, ma'am, they were.

18 Q And where did you get those items?

19 A Received them from the property and evidence room,
20 which is located in the basement of the law enforcement
21 center at Greenville County.

22 Q Is that a safe and secure location?

23 A Yes, ma'am, it is.

24 Q And when did you receive those items?

25 A I received them on March the 7, 2014.

1 Q And how long were they in your possession?

2 A Right at a week.

3 Q Okay. So you returned them on what date, sir?

4 A March the 14th.

5 Q Okay. And where were they placed when you were
6 finished?

7 A When I finished my examination, they were returned
8 to property and evidence.

9 MS. PRICE: Your Honor, at this time the State
10 would move to have Exhibits 24, 25, 60, 61 and 76
11 admitted into evidence.

12 THE COURT: Any objection?

13 MS. WHITE: No objection, your Honor.

14 THE COURT: All right. State's Exhibits 24, 25,
15 60, 61 and 76 will be admitted without objection.

16 (WHEREUPON, State's Exhibit Number 24 was admitted
17 into evidence.)

18 (WHEREUPON, State's Exhibit Number 25 was admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit Number 60 was admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit Number 61 was admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit Number 76 was admitted
25 into evidence.)

1 MS. PRICE: Thank you, your Honor.

2 Q Mr. Armstrong, if you would, let's bring those
3 exhibits down to this table and talk about them a
4 little bit more, sir.

5 Let's look at State's Exhibit 24 and 25. Could
6 you show that to the jury, please, sir.

7 A Yes, ma'am.

8 Q And what type of gun is this?

9 A It's a Smith & Wesson model 57-1 revolver.

10 Q And the serial number again?

11 A It is AYU1190.

12 Q Okay. And what kind --

13 A 99, excuse me.

14 Q 99? Okay. And for a revolver, you're familiar
15 with firearms. What kind of a size of a revolver is
16 that?

17 A This is considered a large frame revolver.

18 Q Okay. Is it heavy?

19 A It's substantially with its size.

20 Q And what kind of a shot would it pack?

21 A This is -- when this caliber, when it was created,
22 it was made to bridge the gap between the .357 Magnum
23 and a .44 Magnum. It was originally designed for like
24 hunting and law enforcement-type needs. It will have a
25 good bit of recoil with it.

1 Q Is this a gun that you see regularly?

2 A Not this particular caliber, no.

3 Q Okay. So would you call it rare?

4 A This one is relatively rare. I've only seen two
5 in my 19 and a half years.

6 Q Can you tell me what sort of tests you performed
7 on this weapon?

8 A I examined it, test fired it, found to be
9 operable, and then did the comparisons with the
10 evidence that was generated.

11 Q Okay. And from your analysis, were you able to
12 form an expert opinion as to the results of your
13 examination as to this revolver?

14 A Yes, ma'am.

15 Q And what were your results?

16 A I found the revolver to be operable.

17 Q Operable?

18 A Yes, ma'am.

19 Q Fires properly?

20 A Yes, ma'am.

21 Q No technical issues with it whatsoever?

22 A None at all.

23 Q And State's Exhibit 25 is made up of six items.

24 A Yes, ma'am.

25 Q Could you show those to the jury, please, sir.

1 A These are the cartridges that were submitted with
2 the revolver.

3 Q And are those spent cartridges?

4 A No, ma'am. They are live.

5 Q Live rounds, okay. And what type of analysis did
6 you perform on those, if any?

7 A I just identified them as the caliber and that
8 they were consistent with being reloaded ammunition.

9 Q So you believe that they are reloaded ammunition
10 for that gun?

11 A Yes, ma'am.

12 Q And that they're all .41 caliber?

13 A Yes, ma'am, they are.

14 Q So they would be able to be fired from that
15 weapon?

16 A Yes, ma'am.

17 Q Okay. Mr. Armstrong, let's look at State's
18 Exhibits 60 and 61.

19 A Yes, ma'am.

20 Q If you will show those to the jury as well,
21 please, sir.

22 A (Witness complies.)

23 Q And what are we looking at?

24 A These are two fired cartridge cases.

25 Q And how can you tell they have been fired?

1 A Well, for one, the firing pin impression is on the
2 primer, and it's also missing the projectile and the
3 powder charge.

4 Q What is a firing pin impression?

5 A A firing pin impression is when the firing pin of
6 the actual firearm strikes the primer. That's where it
7 actually causes a spark which then burns the powder
8 inside causing the projectile to go down the barrel.

9 Q So you can tell that those have been fired?

10 A Yes, ma'am, they have been.

11 Q And from your analysis -- what exactly was your
12 analysis?

13 A I compared the fired -- the firing pin
14 impressions, what we call breach face impressions, that
15 are left behind on the fired cartridge cases to each
16 other and determined that these were fired in the same
17 firearm. And then when I had done my test fires with
18 the revolver, it was determined that these two were
19 fired in this revolver.

20 Q And was there -- are there markings on the casings
21 that indicate that?

22 A Just the markings that are left behind from the
23 firing of the firearm.

24 Q And those would be unique to that firearm?

25 A Yes, ma'am, they would.

1 Q And did you reach any other results with regard to
2 the fired shell casings?

3 A No, ma'am.

4 Q Okay. Now, let's look at State's Exhibit 76, sir.
5 If you would, please show that to the jury.

6 A It is a fired bullet specimen, caliber .41.

7 Q Okay. What type of analysis was performed on this
8 item?

9 A Identified it, and then compared it to the evidence
10 or test fires I generated from the revolver.

11 Q And from your analysis, were you able to form an
12 expert opinion after your examination as to this item?

13 A They were .41 caliber and that it bears similar
14 but insufficient microscopic marks to prevent a
15 positive identification to the revolver.

16 Q You have to have a certain number of marks to make
17 a positive identification?

18 A Don't make a certain number of marks. You
19 actually have to have the totality of the entire
20 projectile to make sure the markings are the same on
21 the firearm. And by looking at this one, I could not
22 see enough details to say it was fired from that gun.
23 It bears a lot of similarities to that particular
24 firearm.

25 Q Now, is there any, anything unusual about the

1 presentation of that projectile?

2 A The projectile has been deformed a little bit.
3 The base of it is deformed, and it's deformed on the
4 side which is consistent with hitting a hard surface.
5 And that alone and the deformity on another part of it,
6 that can interfere with some of the actual
7 identification parts. But that's one reason it became
8 a similarity.

9 Q Okay. So if a bullet had traveled through several
10 layers of metal before being collected, could that
11 explain the effect that we're seeing?

12 A It definitely could.

13 Q Now, I'm going to show you what's been marked
14 previously as State's Exhibit 62. And that has already
15 been admitted into evidence. Can you remove those
16 items.

17 Mr. Armstrong, can you tell me if these are also
18 consistent with what would be able to be fired from a
19 .41 caliber revolver?

20 A Yes, ma'am, they could.

21 Q All of them?

22 A All of them.

23 Q Is there anything unique about any of those
24 rounds?

25 A The majority of the rounds appear to be -- are

1 consistent with reloads. This one here appears to be a
2 factory loaded on first examination.

3 Q Are there any defense rounds?

4 A These are -- all of these are potentially used for
5 either hunting or defense-type rounds, even the lead is
6 typically used for target practicing. It leaves nice
7 little holes in the paper. However, being lead, it's
8 often the case it can still be used for hunting and/or
9 personal defense.

10 Q Okay. Mr. Armstrong, if you will take the stand
11 again, please.

12 As part of your ballistics testing, you said you
13 fired this revolver?

14 A Yes, ma'am.

15 Q And is that something that you do when you test
16 firearms?

17 A Yes, ma'am.

18 Q Every time?

19 A Every time.

20 Q Okay. So are you familiar with trajectory of
21 bullets?

22 A Yes, ma'am.

23 Q Generally speaking?

24 A Generally speaking.

25 Q Okay. And can you tell me, if a bullet hits an

1 object, does it ever change pathways?

2 A It definitely can. It's real similar to if you're
3 throwing a ball and it hits a tree limb or something in
4 the way, you may see the projectile or the ball kind of
5 go off to the side or even hit something and stop.
6 Same concept is in play with a projectile being fired
7 from a gun. It can hit an object and still either
8 deflect it a little bit, slow it down, basically where
9 we hear the term "ricochet" may come in.

10 Q Does it have to be a hard surface for something to
11 be deflected?

12 A Not necessarily. Anything that can actually slow
13 down the projectile on one side or even flat-on, it can
14 actually deflect it just enough.

15 Q So, for example, body?

16 A A body could definitely do it.

17 Q A moving target?

18 A Anything that can actually strike the projectile
19 can misdirect it or redirect the projectile.

20 Q Redirect, okay. All right. One moment, please.

21 Mr. Armstrong, I don't have any further questions.
22 Please answer any questions that Ms. White has for you
23 at this time, sir.

24 THE COURT: Ms. White.

25 MS. WHITE: Yes, sir.

CROSS-EXAMINATION

1
2 BY MS. WHITE:

3 Q Mr. Armstrong, how much do you charge the
4 prosecution for running these tests or law enforcement
5 for running these tests?

6 A Everything is free from the firearms lab.

7 Q And, generally, there are a variety of tests that
8 can be run on every item in a murder case, an arson
9 case, burglary case, whatever, right?

10 A That's correct.

11 Q However, once you run certain tests on an item,
12 you prohibit other tests from being run because you may
13 be eradicating some of the evidence that could have
14 been gathered had that test been run first; is that
15 correct?

16 A That's a possibility, yes, ma'am.

17 Q And, generally, the firearms test would be the
18 last test you would run; is that correct?

19 A Typically, yes, ma'am.

20 Q So, for instance, you wouldn't be able to handle a
21 weapon and start shooting it and all, and then give it
22 back to the fingerprints person; is that correct?

23 A That's typically the process. It goes to everyone
24 before it comes to me.

25 Q And you're aware that a gunshot causes high

1 velocity blood spatter that is very, very often not
2 visible by the human eye; is that correct?

3 A It is possible. Depends on the firearm and the
4 velocity of the projectile.

5 Q And that test is one of those tests that we would
6 want to run before people handle it, shoot it, do all
7 of these other things; is that correct?

8 A That is -- yes, ma'am.

9 Q Do you know why that wasn't done in this case?

10 A I have no idea.

11 Q And you can tell quite a few things about distance
12 if that test is run; is that right?

13 A That is a possibility, yes, ma'am.

14 Q In fact, that's one of the main purposes for that
15 test is to say, Okay. We can show how far this firearm
16 was from this person if we run this test, depending on
17 the amount of spatter?

18 A Well, not necessarily with blood spatter, but also
19 you can do a test known as gunshot residue testing to
20 determine if there's unburnt shot particles on clothing
21 or whatnot, so.

22 Q All right. I was going there next. All right.
23 And very often the clothing is gathered in a case; is
24 that correct, of the person who shot as well as the
25 other person?

1 A Yes, ma'am.

2 Q And the reason is, again, you can look at blood
3 spatter on sleeves, you can look at blood spatter on
4 shirts, various things like that and see, perhaps, some
5 distance issues can be answered?

6 A Yes, ma'am.

7 Q Likewise, there is a test that you can run called
8 a distance determination that firearms can look at; is
9 that correct?

10 A That's correct.

11 Q For instance, we can put the person who was shot,
12 his shirt here, we can process it and see where the gun
13 powder is on it. We can put a blank shirt here -- I
14 know you don't use shirts -- piece of material, and you
15 can shoot it here. Okay. Does that pattern match?
16 No. Go back. Okay. Does that pattern match? No.
17 Does that? And you can figure out how far the end of
18 the barrel of the weapon was from this person who was
19 shot when the shot occurred; is that correct?

20 A Within a certain distance, yes, ma'am.

21 Q Now, there are tests offered at SLED that are free
22 to all of law enforcement and all the prosecutors in
23 the state as well; is that correct?

24 A That's correct.

25 Q Blood spatter?

1 A As far as I know there is.

2 Q DNA?

3 A Yes, ma'am.

4 Q All of these things are free; is that right?

5 A That's correct.

6 Q But to a defendant, it costs thousands and
7 thousands of dollars for every expert, to pay them to
8 get the stuff down, to pay them by the hour to pay them
9 to come in and testify. They charge by the hour; is
10 that correct?

11 A I'm not positive. I really don't know on that
12 one.

13 Q So the only test that SLED does not now offer out
14 of all the tests that we've discussed for free is the
15 distance determination test; is that correct?

16 A I'm not positive.

17 Q But, certainly, you could go to another lab. It's
18 a well known test that's been used for, what, 50 years?

19 A At least.

20 Q Are you aware of the MAIT team?

21 A Excuse me?

22 Q MAIT, Multidisciplinary Accident Investigation
23 Team, with the highway patrol?

24 A No, ma'am.

25 Q Okay. You don't know whether or not the highway

1 patrol has a free team that can do accident
2 reconstructions?

3 A I have no idea.

4 Q Were you aware that about a year after this or
5 more after he was arrested for malicious injury, MAIT
6 team did an investigation --

7 MS. PRICE: Objection, your Honor.

8 THE COURT: Sustained.

9 MS. PRICE: Thank you.

10 BY MS. WHITE:

11 Q Are you aware that the State has not proceeded
12 with the malicious injury warrant to bring before this
13 jury?

14 A I have no idea what is going on with the case
15 except for what I was asked to examine.

16 Q Are you aware of whether SLED offers touch DNA
17 testing for free?

18 A As far as I know, yes, ma'am.

19 Q And that's where if I touch somebody or if I bang
20 against somebody, if my skin cells can be transferred
21 over, I may be able to pick that up; is that correct?

22 A That is a possibility, yes, ma'am.

23 Q But if that evidence is not collected and
24 processed immediately, it goes, does it not?

25 A It depends on the surface. I'm really not a

1 hundred percent familiar with all the DNA procedures.

2 Q Have you seen the trajectory of the bullet in the
3 vehicle? Has the prosecution shown you that?

4 Just one minute. I'm handing you State's
5 Exhibit 67. And just for background, that's a picture
6 of the vehicle, the bullet hole going through and then
7 here. And that's the bullet you tested, the one that
8 was found right down here.

9 A Okay.

10 Q So this is the first time you have seen this?

11 A First time, yes, ma'am.

12 Q All right. And what does that show about the
13 trajectory of the round?

14 A It's hard to say specifically, but it appears to
15 be a fairly flat trajectory with horizontal with the
16 ground. It did go in at an angle on the side of the
17 truck, actually hit the bed of the truck.

18 Q Let me show you State's Exhibit 63, too, which is
19 a good picture, I think, of the hole going in the bed
20 of the truck, a little better than that one. Does it
21 look like that bullet entered about the same angle that
22 you noticed that rod going through?

23 A By looking at the actual deformation of the hole
24 in the side of the truck, it appears that the
25 projectile was either tumbling or had been misdirected

1 just a little bit because it actually hit and formed
2 more of a -- instead of a straight-on shot, kind of
3 like an oblong or angled area, and then it goes through
4 and then striking the other part of the truck.

5 Q All right. So that looks pretty consistent with
6 the rod, then?

7 A Yes, ma'am.

8 Q Okay. And the rod is quite flat; is that correct?

9 A It appears to be, yes, ma'am.

10 Q So it doesn't look like it deviates up or down?

11 A If it does, it's very little. I mean, it's kind
12 of hard to tell just by the photos, but it appears to
13 be fairly level.

14 Q And again, looking at State's Exhibit 63, which is
15 the hole on the side of the truck, it looks like it
16 comes in at an angle kind of like this, it comes in at
17 an angle?

18 A Comes in at an angle.

19 Q So it look likes this plane is pretty accurate all
20 the way out, doesn't it?

21 A Yes, ma'am.

22 Q This hole matches up with that plane?

23 A That's correct.

24 Q So would you agree that that's a pretty flat
25 plane, then?

1 A Apparently, yes, ma'am, it appears to be.

2 Q And it's flat all the way out. It looks like that
3 would be about the angle the bullet came in and
4 continued on?

5 A That's what it appears to be, yes.

6 Q And I think this is kind of self-explanatory, but
7 if you have two shell casings, that means the gun has
8 been shot how many times? If you've got all the shell
9 casings from the scene, how many times has the gun been
10 shot?

11 A Well, if the firearm has actually been fired twice
12 at the location, there would be two fired cartridge
13 casings and two projectiles in the location. With a
14 revolver, you could actually fire it just one time and
15 still leave a fired one there and fire it another time.
16 I'm not positive of the timing of that sequence.

17 Q Yeah. I'm not talking about the timing. That
18 firearm has been fired two times, though, to get two
19 shell casings; is that correct?

20 A That's correct. That's correct.

21 Q And, basically, what happens is --

22 MS. WHITE: I'm not going to point it anywhere,
23 Judge. I'm pointing it up.

24 Q And what happens is the cartridge is fed into this
25 firearm. When I pull the trigger, the cartridge case

1 comes out into the cylinder and the live round comes
2 out the end of the barrel; is that right? It's just
3 the cartridge case is kind of stripped from the live
4 round?

5 A Well, the cartridge case actually stays inside the
6 cylinder of the revolver. It does not go. The only
7 thing that leaves the revolver is the projectile.

8 Q And that's what we've got is the outside of that
9 live round that's still stuck in that cylinder?

10 A That's correct.

11 Q Just one minute, please.

12 One thing. I may have missed it. Maybe you
13 explained this. If so, I'm sorry I missed it. A
14 reload means what?

15 A That the -- that someone had actually been
16 shooting and collected their fired cartridge casings,
17 then they were able to remove the old primer, add a new
18 primer, add more powder and put a new projectile on it.

19 Q And that's much less expensive to get a reload
20 than it is to buy brand-new ammo; is that right?

21 A It used to be.

22 Q Okay. Well, there is a price difference, shall I
23 say. So if you're a thrifty gun enthusiast --

24 MS. PRICE: Your Honor, may we approach? I
25 object.

1 (WHEREUPON, a bench conference was held off the
2 record in the presence of the jury, but out of the
3 hearing of the jury.)

4 BY MS. WHITE:

5 Q Now, you talked about defensive. You talked about
6 some defensive things. People own firearms for a
7 variety of reasons; is that correct?

8 A That's correct.

9 Q Some like to target practice. Probably not going
10 to hunt with a firearm like this, don't you agree?

11 A That is actually used for hunting in some areas.
12 I know guys, like I say, hunt with a .41 Magnum for
13 deer hunting.

14 Q All right. That's impressive. But also another
15 reason for owning a firearm, of course, is
16 self-defense; is that correct?

17 A That's correct.

18 MS. WHITE: Just one minute, please.

19 No further questions.

20 THE COURT: Anything further?

21 MS. PRICE: Yes, your Honor, briefly.

22 REDIRECT EXAMINATION

23 BY MS. PRICE:

24 Q Mr. Armstrong, if two cylinders are found but
25 they're not still in the revolver, fired casings --

1 A Uh-huh.

2 Q -- what does that indicate to you?

3 A If they were not inside the cylinder when the
4 firearm was found, that means they were removed after
5 being fired. And then if all six were in the cylinder
6 that were live, then someone actually reloaded or
7 filled up the cylinder completely.

8 Q Mr. Armstrong, just to make sure I'm clear on your
9 testimony, when Ms. White showed you State's Exhibit 63
10 and asked you about the entry into that vehicle?

11 A Yes, ma'am.

12 Q Was it your testimony that there was a change in
13 trajectory before?

14 A It appears by looking at the actual hole, which is
15 here at an angle going down -- going from my left to
16 the right going down, there's actually an oblong angle
17 here that shows an angle going in, plus instead of
18 being straight, perpendicular with or parallel with the
19 parallel lines, it actually kind of sloped down, which
20 shows me it looks like the bullet had either been
21 angled or hit or something and allowed it or called
22 tumbling. It may not have been perfectly thrown like a
23 football, not spiraling anymore when it hit.

24 MS. PRICE: Thank you, Mr. Armstrong. No further
25 questions.

RECROSS-EXAMINATION

BY MS. WHITE:

Q But spiraling on the trajectory of that rod; is that right?

A Correct.

Q Like a football, as you say, not a fine spiral, still along the same plane but tumbling a bit?

A Still going on the same plane, yes.

THE COURT: Anything further for this witness?

MS. PRICE: Nothing further, sir.

THE COURT: Thank you, Officer. You may step down.

I've been informed that we have someone that needs to take a break, so we're going to take an early break here for about ten minutes.

MS. PRICE: Yes, sir.

THE COURT: Okay.

(WHEREUPON, the jury exited open court at 9:40 a.m.)

(WHEREUPON, a recess was taken from 9:40 a.m. to 9:49 a.m.)

THE COURT: Anything from the State before we bring our jury back in?

MS. PRICE: No, sir, your Honor.

THE COURT: Anything from the defense before we

1 bring our jury back in?

2 MS. WHITE: No, sir.

3 THE COURT: Mr. Bailiff, if you will get our jury
4 for us, please, sir.

5 (WHEREUPON, the jury entered open court at
6 9:51 a.m.)

7 THE COURT: Ms. Price.

8 MS. PRICE: Thank you, your Honor. The State
9 calls Whitney Berry to the stand.

10 WHITNEY BERRY;

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: Please state and spell your name for
13 the reporter.

14 THE WITNESS: My name is Whitney Berry, B-e-r-r-y.

15 DIRECT EXAMINATION

16 BY MS. PRICE:

17 Q Thank you, Ms. Berry. And by whom are you
18 employed?

19 A I'm employed with the South Carolina Law
20 Enforcement Division, also known as SLED.

21 Q And where is that located?

22 A That is located in Columbia, South Carolina.

23 Q And what is your position with SLED?

24 A I'm the gunshot residue analyst in the trace
25 evidence department.

1 Q What is trace evidence?

2 A Trace evidence is a broad term that refers to all
3 of the tiny microanalysis that can be done such as
4 paint analysis on a hit and run, fiber analysis,
5 gunshot residue, bank dye analysis, glass and physical
6 fit or fracture analysis.

7 Q And what do you do as a forensic scientist?

8 A As a forensic scientist at SLED, I'm responsible
9 for the preparation -- the preparation of samples for
10 gunshot residue analysis as well as analyzing them on a
11 scanning electron microscope and then taking the data
12 that is generated by the computer and compiling it into
13 a report.

14 Q Do you analyze the results?

15 A I do.

16 Q How long have you been a forensic scientist?

17 A I have been a forensic scientist for about two and
18 a half years.

19 Q And do you keep records as to how many times you
20 perform GSR analysis?

21 A Our computer system or laboratory management
22 system does.

23 Q Do you know how many cases you've done
24 approximately since you began working with SLED?

25 A I've done approximately or I did approximately

1 150 cases during my training working under a qualified
2 analyst, and I've done probably 250 or so since then.

3 Q What's your education and training for your
4 position?

5 A I have a bachelor's of science in chemistry from
6 the University of South Carolina, and then once I began
7 working at SLED, I started their nine-month in-house
8 training program for gunshot residue analysis that
9 included reading different journal articles and books
10 about the theory of gunshot residue, deposition and
11 scanning electron microscopy. I've also done hands-on
12 practical exams and written exams on the theory and
13 practice of analyzing gunshot residue. I also did a
14 mock court in which I had to defend results as though I
15 were in a situation like this, on trial. And in
16 addition to all that, I'm -- I've actually taken
17 classes at Hook College of Applied Science in scanning
18 electron microscopy.

19 MS. WHITE: Your Honor, we'll certainly stipulate
20 she's an expert, trace analyst in GSR kits or however
21 she wants to phrase that.

22 MS. PRICE: Certainly. Your Honor, that she is an
23 expert in trace analysis.

24 THE COURT: Okay. So she will be admitted as an
25 expert in trace analysis.

1 Ladies and gentlemen of the jury, the same
2 instruction that I give for any expert. Expert opinion
3 testimony should be judged as any other testimony.
4 You, as a jury, give it whatever weight that you, as
5 the trier of fact, deem appropriate.

6 Okay. Ms. Price.

7 MS. PRICE: Thank you, your Honor.

8 Q Ms. Berry, what is gunshot residue?

9 A Gunshot residue is a term we use for everything
10 that comes out of the barrel end of the gun when it is
11 fired. This can include dirt, debris, rust, any kind
12 of lubricant that was put in the gun as well as the
13 primer residue particles from the ammunition.

14 What we're actually looking for when we're
15 analyzing for gunshot residue are these prime
16 particles. They're unique to ammunition. They're
17 composed of three materials which is lead, barium and
18 antimony. And in addition to looking for those
19 elements, we also look at the shape of these
20 microscopic particles.

21 Gunshot residue is very small. If you pull a hair
22 out of your head, about 100 particles will fit across
23 the diameter of your hair. So it's very tiny, and we
24 use an electron microscope to look for these.

25 Q And what are you looking for when you do an

1 analysis of a GSR kit?

2 A We're looking for the presence of these primer
3 particles. So we're looking for round or molten
4 three-component particles. That's what we call them.
5 Meaning they contain the lead, barium and antimony.
6 But while we're doing that, we also look for particles
7 that could support those such as consistent particles,
8 which are two-component particles, or associated
9 particles which would be your single-component
10 particles.

11 Q And what are you able to determine when you do
12 your analysis?

13 A We're able to determine whether or not there's
14 gunshot residue present or was it present on someone's
15 hands or clothing. We're also able to tell that that
16 person may have been in the vicinity to the discharge
17 of a firearm or come into contact with something that
18 was in the vicinity to the discharge of a firearm.

19 Q Where is gunshot residue most commonly found?

20 A What we give out to all the agencies free of
21 charge are called gunshot residue collection kits, and
22 these kits are four vials like this. They're labeled
23 for the different areas of the hand that the directions
24 want you to collect from. So that would be the right
25 palm of the hand, the right back of the hand, the left

1 palm of the hand, and the left back of the hand.

2 And inside one of these vials, that black dot is
3 tape. It's carbon coated tape. And you just depress
4 it on the hand in the different areas, and it will pick
5 up any particulate that is on the hands.

6 Q And so most commonly you would find it on the
7 hands when you do a kit?

8 A Most commonly the hands are sampled by officers in
9 the field. There is a six-hour window for a living
10 person to get that gunshot residue kit collected.
11 After six hours, it's accepted in the scientific
12 community that you're probably not going to find any
13 gunshot residue on someone's hands just because it's
14 very fragile.

15 If you think about having flour on your hands in
16 your kitchen, every time you touch something or clap
17 your hands, even if you put your hand in your pocket, a
18 little bit of that flour comes off. And that's the
19 same way gunshot residue can come off someone's hands.

20 Q It's extremely fragile?

21 A Yes.

22 Q How far does gunshot residue normally travel?

23 MS. WHITE: Your Honor, I'm going to object to any
24 testimony on this. The test was not done with this
25 gun. It could have been done and it wasn't.

1 THE COURT: Counsel, approach.

2 MS. PRICE: Yes, sir.

3 (WHEREUPON, a bench conference was held off the
4 record in the presence of the jury, but out of the
5 hearing of the jury.)

6 MS. WHITE: Your Honor, I'm going to object as to
7 the relevance of some general thing when there are
8 exact tests that could have been run on this exact
9 weapon to tell us exactly how far it goes.

10 THE COURT: I overruled the objection. You may
11 ask the question.

12 MS. PRICE: Thank you, your Honor.

13 BY MS. PRICE:

14 Q Ms. Berry, again, how far would GSR normally
15 travel and would it depend on certain factors?

16 A Yes, ma'am. Gunshot residue comes out in two
17 places on a gun. First place is from the ejection port
18 of a semiautomatic or the cylinder gap on a revolver.
19 So if you think to any western movie you may have seen,
20 when they go and pull the trigger, you see a poof of
21 smoke around their hands. So that would be how someone
22 who is firing a gun could potentially get on it their
23 hands.

24 The majority of the gunshot residue is going to go
25 out the barrel or out the muzzle of the gun, and it's

1 going to follow the projectile to its target. So if
2 someone is being shot at, more often than not we find
3 gunshot residue on a victim.

4 Q What about for a .41 caliber revolver?

5 A Different factors could affect how far gunshot
6 residue is going to travel such as the condition of the
7 gun, how well has it been maintained, what kind it is,
8 different ammunition. Obviously, the larger calibers
9 have more powder in them, so you can expect the primer
10 to go a little bit farther. We have a chart. It's
11 very general. It's not based on specific makes or
12 models that --

13 MS. WHITE: Your Honor, I'm going to renew my
14 objection to this entire line of testimony.

15 THE COURT: Okay. So noted. Overruled.

16 THE WITNESS: -- that gives estimates as to how
17 far gunshot residue may travel depending on different
18 calibers. For a larger caliber gun -- I believe you
19 said it was a .41 caliber?

20 Q Yes, ma'am.

21 A We would expect to see it travel about five or
22 six feet. It doesn't mean it's always going to go that
23 far. It could go shorter or longer, but that's about
24 the average.

25 Q That can depend on the condition of the gun?

1 A Yes, ma'am.

2 Q Can that also depend on some environmental
3 conditions?

4 A It can. It can depend on, for example, if you're
5 outside on a windy day, you know, obviously the wind is
6 going to be a factor. Rain can be a factor. Different
7 environmental things like that can always be factors.

8 Q Okay. And we talked about where GSR would be on a
9 person who had been shot at. Where would it most
10 commonly be found on somebody who fired a gun?

11 A On somebody who fired a gun, we would expect to
12 find on it their hands. We would also expect to find
13 it on their clothes, if they had been wearing clothing.
14 We sample clothes at SLED quite often, and we sample
15 specific areas on shirts and pants where it's most
16 likely to be deposited.

17 Q Do you always find it on someone who's fired a
18 weapon?

19 A No, we do not.

20 Q Okay. Did you receive evidence in this case?

21 A Yes, I did.

22 Q What did you examine, ma'am?

23 A I examined two gunshot residue kits. One was from
24 Jody Adams Powell and the other was from Bobby Joe
25 Arflin.

1 Q Okay. And from your analysis, were you able to
2 form an expert opinion as to the results of your
3 testing?

4 A Yes, I was.

5 Q What were those results as to -- first as to
6 Mr. Powell?

7 A The results from Mr. Powell's GSR kit were
8 negative, so that means the right palm, right back,
9 left palm, and left back areas were all negative. They
10 didn't contain any three-component gunshot residue
11 particles, they didn't contain any two- or
12 single-component particles that could be consistent or
13 associated with gunshot residue. They were completely
14 negative.

15 Q Okay. And as to Mr. Arflin?

16 A For Mr. Arflin, his GSR kit was also negative in
17 all four areas. So, again, that means there was no GSR
18 on the back palm of the right hand or back and palm of
19 the left hand.

20 Q What are the possible reasons for absence of GSR
21 on a person?

22 A Well, you can have a negative results from gunshot
23 residue not being deposited from the gun in the first
24 place. It can be from washing your hands, wiping your
25 hands. If you were wearing gloves at the time. If you

1 sweat a lot, sweat can remove GSR. Some GSR can be
2 absorbed through the skin through your pores. Then
3 there's also environmental factors such as the wind and
4 the rain if you're outside. Excessive debris on the
5 sample. So if the sample was taken off somebody whose
6 hands were covered in blood or dirt, those different
7 things could affect being able to see what was on the
8 particle lift. And just normal physical activity
9 between the four- to six-hour period after or any
10 period up to six hours after the shooting. It could
11 also mean that, you know, the person didn't fire a gun.
12 That's always an option, too.

13 Q Would it be possible that somebody who had been
14 worked on by EMS who had gunshot residue on their
15 hands, that if that had happened, it could have
16 contributed to the removal?

17 A It could have. It's definitely possible.

18 Q Is it also possible that that individual would
19 have been more than five or six feet away from the
20 weapon when it was fired?

21 A It's -- it could be possible, yes.

22 Q And you said that washing hands could result in
23 removal of GSR?

24 A Yes, it can.

25 Q Okay. One moment please.

1 Ms. Berry, I don't have any further questions for
2 you at this time. Please answer any questions that
3 Ms. White has for you.

4 THE COURT: Ms. White.

5 MS. WHITE: Yes, sir.

6 CROSS-EXAMINATION

7 BY MS. WHITE:

8 Q So, ma'am, the GSR kits, then, for Jody and for
9 Bobby were both negative; is that correct?

10 A Yes, ma'am.

11 Q Now, you said -- you were using the terms "chart,"
12 "estimates," et cetera. But there are tests that one
13 can actually run on the exact weapon in a case and find
14 out exactly how far this gunshot residue goes; is that
15 correct?

16 A No, ma'am. You cannot get an exact determination.
17 You can get a range which, again, would be a broad
18 term.

19 Q Yes. But you can find out with that weapon what
20 the range -- I don't mean exact. You can't get to the
21 exact inch, but you can get a range for this gun; is
22 that correct?

23 A SLED doesn't do analysis for that anymore.
24 However, the FBI does, and they could potentially do
25 it. However, they would need the firearm used, most

1 likely an entire box of unused ammunition from the
2 scene, and they would need the clothing from the victim
3 as well.

4 Q All right. So let's talk about that a minute. So
5 you said since we only have kind of a general chart,
6 you said the average is it would go five or six feet;
7 is that correct?

8 A Yes, ma'am.

9 Q And, of course, there would be very little -- you
10 would have much more here, and you would have much less
11 out here; is that right? It kind of falls -- it's a
12 fine flour and it kind of falls to the ground?

13 A It's actually a mist because these metal elements
14 get superheated during the explosive reaction of the
15 hammer hitting the primer capsule, and they vaporize,
16 so it's a metallic vapor. You have these tiny
17 particles. With the majority of them following the
18 projectile out of the muzzle of the gun, they're coming
19 out in a cone pattern. So they don't just go straight,
20 they go out in a cone. So everything potentially in
21 that cone shape could have gunshot residue on it.

22 Q And as it goes into -- as it gets bigger and
23 expands in this cone, that's when it begins dissipating
24 even more; is that correct? It's less concentrated?

25 A Yes, ma'am.

1 Q Now, you said that we would need the clothing.

2 For instance, if I'm shot in my pants, in my leg, and I
3 have a bare leg, that's different than if I have pants
4 on because the pants can be compared with this pattern,
5 this cone pattern; is that correct?

6 A From what I understand. However, I'm not trained
7 nor have I done a bullet hole analysis.

8 Q And there are labs that do it, FBI lab as well as
9 many others that do that; is that correct?

10 A I can't testify to other labs other than the FBI
11 that does it. I don't know of any others personally.

12 Q Now, if you heard that Jody had been on wet grass
13 and, in fact -- do you advise -- let's back up. Do you
14 advise that a person's hands be bagged at the scene to
15 preserve this?

16 A SLED does not have a policy about that. That's up
17 to the individual jurisdiction working the case.

18 Q Are you aware that that very often happens, that
19 the hands will be bagged at the scene so that this
20 fragile evidence doesn't fall off?

21 A In some cases it is. I would say in about 50 to
22 60 percent of cases I have, there is no notation
23 whatsoever to let me know whether they were bagged or
24 not.

25 Q Well, let me ask you this: If you want a more

1 accurate test, would you prefer the hands be bagged so
2 you don't lose this fragile evidence?

3 A In the case of a victim, because a victim is no
4 longer -- I don't know how to say this -- no longer a
5 living person, in most cases we don't have to worry
6 about sweat or about them wiping their hands or any
7 physical activity, so in the majority of cases, I would
8 say it would probably have a negligible effect.

9 Q Yes, ma'am. But if EMS is working on them and
10 they're being picked up by EMS and they're being
11 transported and they're having these things done to
12 them, then that would not apply, would it?

13 A No, ma'am.

14 Q And so if you heard that Jody had been moved
15 around on wet ground, his hands had not been bagged,
16 his hands were muddy, at least one of them in
17 particular and some blood, how, if at all, would you
18 expect that to potentially affect any GSR results?

19 A I mean, that would definitely have the potential
20 to remove GSR if it was there.

21 Q Now, let's talk about the five feet. When you say
22 the chart shows an average of five to six feet, that
23 means a particular weapon could be much shorter or
24 could be longer; is that correct?

25 A Yes, ma'am.

1 Q And it could be very different from what the
2 average on the chart is?

3 A Yes, ma'am.

4 Q And what you're measuring there is you're
5 measuring from the end of the barrel of the weapon to
6 the area that's being tested; is that correct?

7 A Yes, ma'am.

8 Q So, in other words, if I'm testing somebody's hand
9 and their hand is back, then you're going from the end
10 of the barrel to where the hand is; is that correct?

11 A Yes, ma'am.

12 Q Now, there can be intervening things that
13 intercept this gunshot residue; is that right?

14 A Yes, they can.

15 Q For instance, again, if I've got my body here and
16 my hand is back behind, my body will actually catch a
17 good bit of this gunshot residue; is that correct? Or
18 I can block it with various things, vehicles, body,
19 whatever, depending on the angle of these things?

20 A Yes, ma'am.

21 Q But the only way to know, if somebody is clothed,
22 is to do the distance determination test and test the
23 clothing; is that right?

24 A Yes, ma'am. And from what I understand about
25 that -- and, again, this is just my understanding -- is

1 that they're actually testing for the powder when they
2 do that, not the primer residue. And the extinction
3 point of most powders is about three feet.

4 Q And that will help determine a distance; is that
5 correct?

6 A Up to three feet, potentially.

7 Q And that's why SLED tested for it for 20 or more
8 years in every single case where it was requested; is
9 that right?

10 MS. PRICE: Objection, your Honor.

11 THE COURT: Overruled.

12 THE WITNESS: I can't testify to why the SLED
13 laboratory may have done it in the past. I can only
14 say that it was an administrative decision to move away
15 from doing that and to look for the actual primer
16 particles because you can physically see them and give
17 more definite information.

18 BY MS. WHITE:

19 Q But the bottom line is the clothing, nobody looked
20 for anything on this clothing; is that right?

21 A We do not analyze victim clothing at SLED.

22 MS. WHITE: No further questions, your Honor.

23 MS. PRICE: One moment, your Honor.

24 REDIRECT EXAMINATION

25 BY MS. PRICE:

1 Q Ms. Berry, if an individual -- let's say you do
2 have clothes, which you don't test for victims?

3 A No, we do not.

4 Q But you could potentially test for a defendant or
5 for a shooter?

6 A If we had the shooter's clothes, then we could
7 potentially test it, had they not been shot, yes.

8 Q If a shooter were to wipe their hands on their
9 clothing, put their hands in their pockets, otherwise
10 move about with their clothing, could that affect your
11 ability to accurately test the GSR in the clothing?

12 A For clothing, we don't typically test areas where
13 we would expect someone to wipe their hands. Most
14 people would wipe their hands on their stomach. What
15 we actually test when we're doing clothing, depending
16 on the shirt, for a short-sleeved shirt we test the
17 sleeve and the chest area for each side of the front of
18 the shirt. We also test on a long-sleeved garment the
19 cuff and the forearm. And for pants we do the right
20 and left groin area which goes from the waistband to
21 about mid thigh.

22 Q So you try to stay away from those areas?

23 A We just -- the majority of gunshot residue
24 probably isn't going to be deposited in those areas, so
25 we focus on areas where we think it's most likely going

1 to be deposited. There are some cases where we get a
2 call and we're told a specific fact about the case such
3 as, you know, they put the gun right in their pocket
4 but they weren't around for the shooting. Then, of
5 course, we would check the inside of the pocket. But
6 for the majority of the time we just stick to what the
7 scientific working group recommends.

8 Q One moment, please.

9 Nothing further, Ms. Berry. Thank you.

10 MS. WHITE: Just one more question.

11 RE CROSS-EXAMINATION

12 BY MS. WHITE:

13 Q But it's impossible to get a test result if a test
14 is not run; is that correct?

15 A Yes, ma'am.

16 MS. WHITE: No further questions.

17 THE COURT: Anything further from this witness?

18 MS. PRICE: No, sir.

19 THE COURT: Thank you, ma'am. You can step down.
20 Call your next witness.

21 MS. PRICE: Yes, sir. Thank you, your Honor. The
22 State calls Corporal Tommy Brooks.

23 TOMMY BROOKS,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 THE CLERK: Please state and spell your name for

1 the reporter.

2 THE WITNESS: My name is Tommy James Brooks. Last
3 name is B-r-o-o-k-s.

4 DIRECT EXAMINATION

5 BY MS. PRICE:

6 Q Thank you, Corporal Brooks. Where are you
7 employed?

8 A South Carolina Highway Patrol.

9 Q Okay. And any specific division?

10 A I'm with the accident reconstruction team for the
11 patrol.

12 Q And how long have you been employed there?

13 A With the reconstruction team?

14 Q Well, with -- I'm sorry, with the highway patrol
15 and then additionally with the reconstruction team?

16 A With the highway patrol, I've been employed for
17 19 years. Reconstruction team, I actually started in
18 2008 as a permanent member.

19 Q Permanent member?

20 A Yes.

21 Q And what are some of your duties and
22 responsibilities with MAIT?

23 A With MAIT, we actually -- MAIT is the
24 Multidisciplinary Accident Reconstruction Team, and we
25 can do anything from airplane crashes, train wrecks.

1 We do it all. But basically what our main focus is is
2 for complex motor vehicle collisions. We put cars back
3 together. When you see the wrecks on the news and you
4 have got cars and debris everywhere, we go back in and
5 we document evidence through forensic mapping, and we
6 take them back and get on the computers and we try to,
7 you know, figure out what happened during a collision
8 event.

9 Q And what's your educational background?

10 A As far as the patrol itself? I've had over
11 1,000 hours of advanced training in traffic accident
12 reconstruction.

13 Q And are you a member of professional organizations
14 as it pertains to accident reconstruction?

15 A I am actually ACTAR certified. That's the
16 Association for the Accreditation for Traffic Accident
17 Reconstructionists. And I'm also a member of the South
18 Carolina Accident Reconstruction Group. So it's kind
19 of -- it's a strange group of people. They're all
20 wreck nerds, basically.

21 Q And do you attend conferences, go to training?

22 A Yes, we do. Typically we go to a conference -- we
23 try to get one at least once a year. We go to advanced
24 training twice a year. That's where I was Monday and
25 Tuesday, for some advanced training.

1 Q So this very week you're getting additional
2 training?

3 A Yes.

4 Q Do you keep up with the publications, any new
5 developments in the area of reconstruction?

6 A Yes, we do. Any time a new publication or a new
7 study comes out, our guys at headquarters usually get
8 copies of those papers. And typically what it is is
9 it's highway engineers that are coming up with stuff or
10 guys that are engineers that focus mainly on accident
11 reconstruction, whether it's with cars or bikes or
12 pedestrians or motorcycles, whatever. And then our
13 guys at headquarters go through those papers, and if
14 there's any additional training that we don't have that
15 we need, we get that.

16 Q Have you testified in court before?

17 A Yes, I have.

18 Q Have you testified as an expert?

19 A Yes, I have.

20 Q And how many times approximately, if you recall?

21 A Five times. Twice in Pickens, the rest in
22 Greenville, Spartanburg.

23 MS. PRICE: Your Honor, at this time, the State
24 moves that Corporal Tommy Brooks be declared an expert
25 in accident reconstruction.

1 MS. WHITE: No objection.

2 THE COURT: Trooper Brooks will be admitted as an
3 expert in accident reconstruction.

4 Ladies and gentlemen, I give you the same charge:
5 Expert opinion testimony should be judged as any other
6 witness' testimony, and you may give it whatever weight
7 you deem appropriate as the trier of fact.

8 Ms. Price.

9 MS. PRICE: Thank you, your Honor. May it please
10 the Court.

11 Q Corporal Brooks, were you asked to review some
12 evidence in this case?

13 A Yes, I was.

14 Q What were you asked to review in this case?

15 A We were actually asked to look at the roadway
16 widths as they relate to an incident that occurred on,
17 I believe it was Williamson Road -- I'd have to look at
18 the document to give the exact road -- in respect to if
19 there was enough distance that two vehicles could pass
20 without making contact with each other.

21 Q Okay.

22 MS. PRICE: Well, let me ask Ms. White: Do you
23 have any objection to me showing Corporal Brooks his
24 report?

25 MS. WHITE: Not a bit.

1 (Document handed to witness.)

2 BY MS. PRICE:

3 Q And so what was that roadway, then, sir?

4 A The distance, the roadway width?

5 Q No, sir, the name --

6 A It was actually Williamson Drive.

7 Q Okay. And in what county, do you recall?

8 A Anderson County.

9 Q And what was the limited question you were asked?

10 A We were just basically asked if the roadway was
11 wide enough that two vehicles could pass without making
12 contact.

13 Q Specific vehicles?

14 A Yes.

15 Q What were those specific vehicles?

16 A Vehicles in question was a full-size Dodge pickup
17 truck and a full-size GMC pickup truck.

18 Q Any particular years on those?

19 A I can dig it out for you. It's in the middle of
20 this somewhere. Take my glasses off. I can't see with
21 them on. Takes me a moment to go through all this
22 paperwork. One was a 2011 GMC pickup truck. The other
23 was a 2005 Dodge 2500 or a three-quarter-ton truck.

24 Q Okay. And were you asked to do an entire
25 reconstruction in this case?

1 A No, we were not.

2 Q Okay. Could you have done one if you had been
3 asked to do one?

4 A In this case, no. And typically what happens when
5 we have an incident that involves vehicles, the traffic
6 officers or the guys that work the wrecks or the road
7 troopers that work the wrecks, when they go out to
8 document the scene of a collision, they will actually
9 document evidence as it appears on the roadway, if it's
10 skid marks, if it's debris from vehicles, that will be
11 marked. And more importantly is the final rest of the
12 vehicles is what helps us out also.

13 In this case we were called in after the fact.
14 There is no final rest mark. The debris from the
15 incident itself with the mirrors bumping was not
16 marked, so we could not do that.

17 Q And if you had one rest mark that was just
18 generally marked, that would not be sufficient for
19 purposes for your reconstruction?

20 A No, it would not.

21 Q To be -- is it because MAIT tries to be very
22 accurate?

23 A We try to be as accurate as possible. And
24 sometimes it makes it hard when vehicles are moved
25 after events take place. And then if they're not

1 marked and they're moved, you can't get them back in
2 the same place, so we really try to stay away from
3 that.

4 Q If a vehicle had been moved and sustained
5 additional damage, would that also affect your ability
6 to do an accurate reconstruction?

7 A Yes, it would.

8 Q Okay. And so you were asked the very limited
9 question, then, of whether these two vehicles had ample
10 room to pass each other on that roadway, Williamson
11 Drive?

12 A That's correct.

13 Q And did you reach a conclusion?

14 A I did. You know, we did some measurements on the
15 vehicles. We use a program called Expert Auto Stats.
16 We go out and map the road. And what we do when we map
17 it, we actually use a station like you see surveyors
18 using when they are going out and mapping points. The
19 only difference in theirs and ours is our data
20 collector is actually made for forensic mapping. It
21 has stuff for evidence in there. So when we go back
22 out and we map this stuff, we're actually telling
23 it what we -- you know, if we're measuring point A to
24 point B, we say this is the edge of the roadway, this
25 is the edge of the roadway. We did that. And once we

1 got it back into CAD, we were able to take the vehicles
2 for their specific year and makeup, go into Expert Auto
3 Stats where I am actually able to adjust the dimensions
4 on the vehicles on the CAD to get them to the exact
5 dimensions of the cars, or the trucks in this case.

6 Expert Auto Stats is a company out of California.
7 That's all this guy does is auto stats. Our drawing
8 program, however, is out of Canada. So what they do
9 with the drawing program, Expert Auto Stats has the
10 vehicle width. In this case both the vehicles were
11 6.67 feet wide. Expert Auto Stats says, if they go
12 through Ford or GMC or Dodge, they get the exact
13 measurements. It's maximum width of the body, not for
14 the mirrors. The Canadian group that makes the drawing
15 program actually uses the outside mirror to outside
16 mirror widths when they put the scale of cars in for
17 us. So we go in and we readjust.

18 In this case, most of the vehicles that are in the
19 CAD program have 12-inch mirrors. They make them
20 standard 12-inch mirrors. So you have to adjust the
21 cars for each of those. In this case I went back out
22 to the armory where the vehicles were stored and
23 measured the mirrors that were on the trucks
24 themselves. Where the 12-inch mirrors on the CAD
25 drawing, we had to adjust our clearance widths for the

1 measurements that we already had on the road.

2 The Dodge truck had mirrors that were 14 and a
3 half inches wide. Because it's a big truck, it's got
4 wider mirrors on it. And the GMC, instead of having a
5 12-inch mirror on it, actually in real life it's got an
6 11-and-a-half-inch mirror, so we had to make
7 adjustments.

8 Once those adjustments were made, the drawing that
9 we did prior to making those measurements of the
10 physical mirrors themselves had a clearance, maximum
11 clearance on one side of the pavement -- this is while
12 the vehicles were still on pavement -- of 2.86 feet,
13 which is really close to three feet. But adjusting for
14 the mirror widths for the trucks, it actually kicks it
15 back to 2.7 feet of pavement. So when you think about
16 it, if you got the vehicles that are actually -- if
17 there are vehicles passing each other, you can throw
18 out whichever sides are opposed. They're on the
19 opposite sides of the cars because they're not going to
20 make contact anyway.

21 But with that being said, once the adjustments
22 were made, we had 2.86 feet of clearance, you know,
23 that they could have messed with. And I know one of
24 the vehicles was parked. But it's still going to be
25 2.7 feet of clearance. This does not include the

1 shoulders, though.

2 Q So what would it be with the shoulders?

3 A The shoulder on the --

4 Q Define shoulder, just so we know exactly what
5 we're talking about.

6 A The shoulder is the edge of the roadway between
7 the edge of the pavement and the ditches. You know,
8 where you see people walking or you see people run off
9 the side of the road or whatever.

10 In this case, the vehicle, both of the vehicles
11 were traveling inbound towards the cul-de-sac or back
12 into the neighborhood. The left-hand-side of the road,
13 which would have been the left -- the driver's side of
14 the red truck was actually 3.81 feet of shoulder. The
15 other side of the road really didn't play a part
16 because it was -- the vehicle was parked. But there
17 was 6.05 feet and it actually went off into a little
18 ditch over there towards a fence.

19 Q So in your analysis, you were already presupposing
20 based on reviewing the reports, I assume, that --

21 A That's correct.

22 Q -- that the GMC was on the pavement?

23 A That's correct.

24 Q Okay. So you didn't have the GMC off the road at
25 all --

1 A No, ma'am.

2 Q -- in your analysis?

3 A No.

4 Q In your analysis, the GMC is parked squarely on
5 the roadway?

6 A Yes, ma'am.

7 Q And then you have the Dodge next to it. And if
8 the Dodge is touching the GMC, you would have had an
9 additional three feet?

10 A 2.7. Close to three.

11 Q 2.7, okay. And then an additional three feet of
12 shoulder approximately?

13 A Yes.

14 Q Three -- how much?

15 A 3.81.

16 Q 3.81. So potentially six feet or almost six feet
17 to work with?

18 A Yes.

19 Q In terms of the vehicles passing each other?

20 A Yes.

21 Q Okay. So what is your expert opinion, then, as to
22 whether or not these two vehicles had room to pass each
23 other the day of the incident?

24 A It is my opinion that both vehicles should have
25 been able to clear each other, so they should have been

1 able to pass without making contact with the mirrors.

2 Q One moment, please.

3 A Yes.

4 MS. PRICE: Corporal Brooks, I don't have any
5 further questions at this time. Please answer any
6 questions that Ms. White has for you.

7 A Yes, ma'am.

8 THE COURT: Ms. White.

9 CROSS-EXAMINATION

10 BY MS. WHITE:

11 Q All right, Corporal. So when you pulled the
12 manufacturer's specs for these vehicles, they're each
13 80 inches wide without mirrors; is that correct?

14 A That's correct. From the group that makes that,
15 yes, ma'am.

16 Q And so that would be 160 inches; is that correct?

17 A Yes, ma'am.

18 Q And then you said that the mirror on one of the
19 vehicles was 11 and a half, but the manufacturer's
20 specs actually say 12; is that correct?

21 A No, ma'am. Actually, the manufacturer's specs
22 just use body widths themselves. The Canadians that
23 make our drawing program, they just assume that
24 everything apparently in America is 12 inches, so they
25 put everything in 12 inches. So we have to go back in

1 and actually scale the cars to make them the exact
2 dimensions to include those mirrors.

3 Q And you said, I believe, that one of the vehicles
4 had 11.5?

5 A Yes, ma'am.

6 Q And what did you measure the other vehicle's
7 mirror?

8 A The Dodge truck mirror was 14 and a half inches.

9 Q And, sir, will you just give a very brief
10 description -- I know this could go for an hour -- just
11 a very brief description of perception-reaction time.

12 A Perception-reaction time?

13 Q Yes, sir.

14 A Perception-reaction time, basically, in a
15 nutshell, is the time that you have to perceive that
16 there is a hazard. Like say if you're driving down the
17 road and you see a vehicle cross over the center line,
18 you have a distance that the vehicle is traveling at
19 whatever speed, but you actually have a time that you
20 could actually react. Most of the time it's -- for
21 somebody that's in fine feather, it's about two and a
22 half seconds.

23 Q So, in other words, let's say I see a branch
24 hanging out over the road. It's going to take me two
25 and a half seconds to see it and for my body to react,

1 to put on the brakes or swerve or do whatever I need?

2 A Yes, ma'am.

3 Q So I'm still traveling during at that time it
4 takes me to perceive and react; is that correct?

5 A You are, yes, ma'am.

6 Q Now, does perception-reaction time differ perhaps
7 depending on the age of the person?

8 A It can, yes, ma'am.

9 Q How does that affect it?

10 A Well, you know, professional drivers, it usually
11 remains the same. Somebody that's not a professional
12 driver, it could go up.

13 Q Let's not go with a professional driver. Let's go
14 with an older person who's not in the greatest of
15 health. How does it -- does it make it less or does it
16 make it more, this perception-reaction time?

17 A It depends on the lighting and how attentive they
18 are, but it can go up as high as three and a half
19 seconds.

20 Q All right. You just led me right into my next
21 area which is: Let's say it's very dark. Does dark
22 let you perceive and react faster or slower?

23 A It is slower.

24 Q And let's say that your eyesight isn't good. Does
25 that increase or decrease your perception-reaction

1 time?

2 A It increases.

3 Q All right. So, in other words, would you say
4 you're a much safer driver if you have a very low
5 perception-reaction time? If I can see something and
6 I'm in good shape and I've got good eyesight, it's nice
7 and light and I can react in one to 1.5 seconds, is
8 that preferable or is it better to be 3.5?

9 A I would go with the lower number on that, I
10 believe.

11 Q Would you agree that age, darkness, that sort of
12 thing decreases your ability to perceive things and
13 react to things?

14 A Yes, ma'am.

15 Q Now, let's take your figures that you just gave.
16 First, I want to -- you measured that road at what
17 width?

18 A 16.88 feet.

19 Q Are you aware Anderson County, since 1987, I
20 think, requires 20-foot roads now?

21 A No, ma'am, I did not know that.

22 Q Have you been by the road department at all to see
23 what's going on with them in Anderson?

24 A No, ma'am.

25 Q And you would agree there was no -- you would

1 agree there's no streetlights out there? You didn't
2 see any streetlights, did you?

3 A I did not see any, no, ma'am.

4 (WHEREUPON, Defendant's Exhibit Number 5
5 was marked for identification.)

6 (WHEREUPON, Defendant's Exhibit Number 6
7 was marked for identification.)

8 (WHEREUPON, Defendant's Exhibit Number 7
9 was marked for identification.)

10 (WHEREUPON, Defendant's Exhibit Number 8
11 was marked for identification.)

12 (WHEREUPON, Defendant's Exhibit Number 9
13 was marked for identification.)

14 BY MS. WHITE:

15 Q I'm handing you Defendant's Exhibit 5, 6, 7, 8,
16 and 9. You talked about the shoulder of the road, sir?

17 A Yes.

18 Q We're not really concerned about the other
19 shoulder, are we? That has nothing to do with
20 anything?

21 A Correct.

22 Q We're worried about the shoulder that he would
23 have had to go down?

24 A That's correct.

25 Q I'm going to show you those pictures of the

1 shoulder of the road. Did you all measure the drop-off
2 from the pavement onto the ground?

3 A No, ma'am.

4 Q All right. If you will just take a look at those
5 and see if that's been done in those pictures.

6 A It appears to have been, yes.

7 Q And would it surprise you to know that the
8 pavement down to the actual ground is four inches or
9 more?

10 A Four inches. Well, the angle of the camera is
11 off, but it looks about four inches, yes.

12 MS. WHITE: Your Honor, I'd ask that these
13 exhibits be admitted.

14 THE COURT: Any objection?

15 MS. PRICE: Without objection.

16 THE COURT: All right. Defendant's Exhibits 5, 6,
17 7, 8 and 9 will be admitted without objection.

18 (WHEREUPON, Defendant's Exhibit Numbers 5 through
19 9 were admitted into evidence.)

20 BY MS. WHITE:

21 Q So when you're talking about the shoulder of the
22 road, this is the shoulder we're concerned about right
23 here; is that correct?

24 A That's correct. Well, not more in lines of the
25 shoulder of the asphalt, but the shoulder that's -- the

1 portion between the edge of the roadway and the deepest
2 part of that ditch.

3 Q Now, this night this vehicle was parked there.
4 But are you aware other times other vehicles of other
5 sizes have been parked at various places in the road?

6 A No, ma'am. I did not know that.

7 Q I'm probably going to break my husband's measuring
8 tape, but I'm going to measure out. And, basically,
9 what you're saying is that would be the potential; is
10 that correct?

11 A Potential for passing, yes, ma'am.

12 Q For passing, using y'all's figures?

13 A Yes, ma'am.

14 Q Have you seen the damage on these vehicles?

15 A I saw -- I went out to the armory and actually
16 looked at it, yes, ma'am.

17 Q And would you agree that it looks like the
18 silver -- I'll use silver and red -- the silver truck
19 could have been parked here, this one came by and the
20 mirrors clipped; would you agree with that?

21 A I do agree with that.

22 Q And then would you agree the damage is also
23 consistent with the red one backing up and clipping the
24 top of this car, the front of this car?

25 A It does appear that. As far as that goes, the

1 damage from the back of the vehicle, we didn't look in
2 that other than making sure the road was wide enough
3 for vehicles to pass. But it does look consistent with
4 that.

5 Q And how often would you say does the highway
6 patrol go to accidents involving this very kind of
7 thing, one vehicle clipping, mirrors clipping, that
8 sort of thing?

9 A That happens a lot. I don't have an exact figure,
10 but I do know it happens a lot.

11 Q Now, let me ask you about the scene that night.
12 If you all had been called to the scene that night, you
13 could have actually measured how many inches in the
14 silver truck was, you could have actually marked at
15 least that truck very well with tires and position and
16 measured over to the other side of the road; you would
17 have been very accurate, is that right?

18 A Yes, ma'am.

19 Q Were you called to the scene that night?

20 A No, ma'am.

21 Q Are you aware that my client was actually charged
22 at that point with malicious injury to personal
23 property on this silver car or truck, I'm sorry?

24 A No, ma'am.

25 Q How many times would you say that you've answered

1 accidents with damage like this or greater that have
2 been accidents?

3 A Many times. I couldn't put a number on it.

4 Q Are you familiar with the term "road rage"?

5 A I've heard that, yes, ma'am.

6 Q Have you dealt with times where somebody has an
7 accident and the person whose vehicle is damaged has
8 road rage?

9 A As far as MAIT goes, as far as the accident
10 reconstruction team, typically we don't get into the
11 charging side of that as far as the charges go, but I
12 have -- I haven't dealt with that specifically myself,
13 no.

14 Q Would you agree that you could have done an
15 accident reconstruction, you could have pieced all this
16 back together, seen the debris in the road if you would
17 have been called to the scene that night?

18 A Yes, ma'am.

19 Q And once you map it out and you simply put your
20 paint, your orange paint, your various things y'all
21 put, you could have moved everything off and that would
22 have been that?

23 A Yes, ma'am.

24 Q Did you take a look at all and measure at all a
25 gunshot, gunshot damage to the side of the silver

1 truck?

2 A No, ma'am.

3 Q So you weren't asked to measure the height off the
4 ground of the gunshot?

5 A No, ma'am.

6 Q And when were y'all called out?

7 A Let's see here. Give you the date. Just a
8 moment. We were actually notified on April 1st of this
9 year and actually went out -- let's see when we arrived
10 on scene. We actually arrived on the scene on 7th,
11 April 7th this year at noon.

12 Q And, sir, y'all issued a supplemental report in
13 this case, too. Why did you do that?

14 A The supplemental?

15 Q Yes, sir.

16 A Can I see the supplemental?

17 Q Sure.

18 A I did that because I wanted to make the
19 adjustments to the actual physical mirrors themselves.

20 Q So the first report did not consider the mirrors;
21 is that what you're saying?

22 A Well, you know, we actually did consider the
23 mirrors, we just didn't consider there was a
24 two-and-a-half-inch difference on one as opposed to,
25 you know, take a half an inch for the other.

1 Q Again, on a dark road with an older person driving
2 with no streetlights, is this kind of thing at all
3 unusual to see?

4 A No, ma'am.

5 Q And do you have any idea on previous days whether
6 other people would park in this road with different
7 sized vehicles in different areas of the road?

8 A I'm not sure about that.

9 Q Would you agree that -- well, just one minute,
10 please.

11 MS. WHITE: No further questions.

12 THE COURT: Ms. Price, any redirect?

13 MS. PRICE: Yes, sir.

14 REDIRECT EXAMINATION

15 BY MS. PRICE:

16 Q Corporal Brooks, if someone has said that they
17 made a conscious decision, recognized a vehicle and
18 made a conscious decision to pass it, would
19 perception-reaction time have anything to do with that
20 then?

21 A In that case, it depends on highway speeds, but
22 no.

23 Q Okay. So it would be a nonissue if somebody had
24 said that they made a conscious decision, once they saw
25 a vehicle, to pass it?

1 A That's correct.

2 Q And in this case there is a Dodge pickup, a red
3 Dodge pickup. Would you say that the red Dodge pickup
4 is a, what, three-quarter-ton pickup?

5 A It's a three-quarter-ton, big truck.

6 Q Can handle a four-inch drop?

7 A Yes, ma'am.

8 Q Would you say it would handle it with any problem
9 at all?

10 A It shouldn't have any trouble. My wife runs off
11 the side of the road in our little car all the time.
12 But, no, that truck is actually -- they're specifically
13 designed for weight, for hauling stuff and pulling
14 stuff, so they have heavier suspension. You wouldn't
15 have the same problem as you would if you ran off with
16 a smaller car.

17 Q So, again, a nonissue in that truck?

18 A Yes, ma'am.

19 Q Okay. And when Ms. White held up that tape
20 measure to you, she was talking about the amount of
21 room that would be left on the road, not the additional
22 room that would be on the shoulder, then?

23 A That's correct.

24 Q And she talked about you're called to accident
25 scenes all the time?

1 A Yes, ma'am.

2 Q And that's part of what you do?

3 A Yes, ma'am.

4 Q Are you often called to murder scenes?

5 A We go to murder scenes from time to time, not
6 much. Most of the time if we do, it is -- the last one
7 I think we got other than having to map the road on
8 this one was the double homicide in Pickens County
9 where the mother killed her children. But other than
10 that, we typically -- if we go, it's just to map
11 roadways or document maybe the dimensions of the home
12 or the driveway or siding issues with hedge bushes, but
13 other than that.

14 Q Is it unusual for you to be called back after the
15 fact?

16 A No, we do go out a great deal. I mean, we do
17 everything. As a matter of fact, we do CDV cases. We
18 do everything when it doesn't involve death. So we
19 just go around the world with some of this stuff.

20 Q And sometimes contemporaneously with the incident
21 itself?

22 A Yes.

23 Q And sometimes after the fact?

24 MS. WHITE: Objection; leading.

25 BY MS. PRICE:

1 Q Is it sometimes that you respond later?

2 A Yes, that's correct.

3 Q Is it unusual for you to respond later?

4 A No, it's not.

5 Q Okay.

6 MS. PRICE: No further questions.

7 RECROSS-EXAMINATION

8 BY MS. WHITE:

9 Q All right, Corporal. Just keep in mind I took one
10 math class in college and it was the lowest one
11 possible.

12 A It was probably more than I had.

13 Q I'm terrible at that, but let me just show you.
14 I'm confused. The manufacturer says the vehicle is 80
15 inches wide?

16 A Yes.

17 Q And the other vehicle is 80 inches wide. Am I
18 right in saying that's 160 inches?

19 A You're correct.

20 Q All right. And then you said one of the mirrors
21 is 14.5 inches wide?

22 A Yes.

23 Q And then one is 11.5 inches, so that would be
24 adding 26 inches to 160; is that correct? 80, 80, and
25 then 26 for the two mirrors?

1 A Yeah.

2 Q Would that not equal 186? I'm going to --

3 A Let's go through this. We'll go through it
4 because I'm from Walhalla, so I'm simple. So let's do
5 this.

6 Q I'm the worst at math, and I may be way off on
7 this, but okay. 80 plus 80?

8 A Let's go 6.67. Plus 6.67.

9 Q But the manufacturers say it's 80 inches.

10 A At it's widest point. And another thing, if you
11 will look at an automobile door, you got a widest part
12 of the door. Then what happens to the door as you get
13 closer to the top where the window is, the door goes
14 in. Giving the benefit of the doubt, I measure from
15 the inside underneath portion all the way up against
16 the door. And instead of going out to the edge of the
17 door where it actually came out, I measured the mirror
18 itself.

19 Q We're going to do it both ways. I want the
20 manufacturer's specs of 80 plus 80. We'll do it that
21 way first.

22 A I got 6.67 and 6.67 is 13.34.

23 Q Turn it into inches for me, if you don't mind.

24 A Okay. Clear this out. This is a weird
25 calculator.

- 1 Q I can't do point something and point something.
- 2 A Well, we've got to get you back in math class.
- 3 Q That wouldn't do any good.
- 4 A All right.
- 5 Q How many inches is that?
- 6 A We have 160 inches.
- 7 Q Okay. Now, let's add the 14.5 inches of the one
- 8 mirror. And you said the other one is 11.5. Let's add
- 9 that.
- 10 A Uh-huh.
- 11 Q Doesn't that add up to 186 inches?
- 12 A Let me clear this out. Yours keeps clearing out.
- 13 I'm not used to this calculator.
- 14 Q See, my calculator doesn't even work. Maybe
- 15 that's why I can't do math.
- 16 A It's from Staples. You're supposed to have the
- 17 easy button and we'd be able to do this thing.
- 18 MS. WHITE: Judge, do you mind if I give him my
- 19 phone? My ringer is off.
- 20 THE COURT: The clerk is prepared.
- 21 THE WITNESS: We're good. I got it going now. I
- 22 found the easy button.
- 23 BY MS. WHITE:
- 24 Q 186 inches all together, right?
- 25 A Yes.

1 Q And then we divide 186 inches by 12, which is a
2 foot?

3 A Yes.

4 Q Okay. What do we end up with?

5 A 15.5.

6 Q Okay. So 15 feet five inches?

7 A Correct.

8 Q And you measured six feet eight inches?

9 A For?

10 Q I mean 16 feet eight inches, right?

11 A For the roadway, yes.

12 Q For the roadway. So it's one foot three inches
13 difference, right? It's not 2.7, it's 1.3?

14 A Well, I had -- let's look back at the report. You
15 may be trying to pull a fast one. I'm just kidding.
16 I'm teasing. I've worked with Druanne before. Many
17 times.

18 Q We've got way too many years, haven't we?

19 A Let's look back at our thing here. All right.

20 Q I'm surprised you didn't just say, "You don't know
21 how to add, be quiet."

22 A We wouldn't do that. Let's see here. That is
23 accurate.

24 Q Okay. So it's 1.3?

25 A Correct.

1 Q Okay. I'm going to remember this. So let's do
2 this again. So then that means if one had been on the
3 complete edge of the road, not an inch or two in,
4 that's the clearance?

5 A Between the mirrors.

6 Q Yes, sir. Well, the mirrors are what hits, so
7 that would have been the best you could possibly do?

8 A Yes.

9 Q Now, you said you measured.

10 A We measured in CAD. Actually, I didn't actually
11 draw the CAD, but I went out for the measurement. I
12 was actually the architect, so I went out on a prism
13 pole and measured the stuff.

14 Q Can you convert yours into inches and tell me if
15 it still comes up to this?

16 A I can do the best I can. Hold on just a minute.
17 We're going back to this calculator here. It's not
18 like an adding machine. You've got to keep remembering
19 what you're doing.

20 Q If you need another calculator --

21 A We're getting through it.

22 Q Okay.

23 A So the roadway width is 16.06 feet converted from
24 the 16.88. So it's just almost 17 feet wide.

25 Q I think y'all measured 16.8. Are you aware we

1 went out and measured and actually took pictures, and
2 it was 16 feet two inches and 16.8 four inches in this
3 area?

4 A We try to go -- we don't know -- like I said, I
5 didn't know exactly where the vehicles were placed, so
6 we go down the road to start measuring. We will
7 measure a point here and measure a point there.
8 Sometimes you have overflow of asphalt and it might
9 make a minor difference but not much.

10 Q If it is 16 feet two inches, then that would be
11 actually seven inches difference from the 15 feet
12 five inches, which would be -- that would be your
13 clearance; is that right?

14 A It could be, yes.

15 Q All right. That's all the math I'm doing.

16 A Do you want your calculator back?

17 Q I don't know. Do I?

18 A It should be fine. There you are, Druanne.

19 Q Thank you.

20 A You're welcome.

21 MS. PRICE: May I, your Honor? May I?

22 THE COURT: Yes.

23 MS. PRICE: Redirect?

24 THE COURT: Okay.

25 MS. PRICE: Thank you.

REDIRECT EXAMINATION

BY MS. PRICE:

Q Giving Ms. White every benefit of her own personal measurements on the scene, which were not done --

MS. WHITE: I object, your Honor. Those actually weren't my own personal. I had staff out there with a measuring tape.

THE COURT: Overruled. You can ask the question.

BY MS. PRICE:

Q Ms. White's measurements, giving her every benefit of her measurements, was there still room for the trucks to pass by each other?

A Yes, ma'am.

Q Okay. And, again, there was additional room on the shoulder?

A That is correct.

Q A truck -- would a truck have had any problem using that shoulder?

A No, ma'am.

MS. PRICE: No further questions.

THE COURT: Anything further?

RECROSS-EXAMINATION

BY MS. WHITE:

Q You're aware an ambulance had to get pulled out of there because it slid into the ditch that night because

1 it was wet?

2 A No, ma'am.

3 MS. WHITE: No further questions.

4 THE COURT: Anything further?

5 MS. PRICE: Nothing further.

6 THE COURT: Trooper, thank you.

7 MS. PRICE: Your Honor, may Corporal Brooks be
8 released from his subpoena?

9 MS. WHITE: No objection.

10 THE COURT: Trooper Brooks, you're excused.

11 THE WITNESS: Thank you, Judge.

12 THE COURT: Call your next witness.

13 MS. PRICE: Your Honor, may I approach?

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, a bench conference was held off the
16 record in the presence of the jury, but out of the
17 hearing of the jury.)

18 THE COURT: Ladies and gentlemen, I've been
19 informed the next witness is going to be somewhat
20 lengthy, so since we took an early break, I was going
21 to take one a little bit later, but we're going to
22 break again now to make sure no one has any personal
23 issues during a lengthy testimony of the next witness.

24 Mr. Bailiff, if you will take our jury out.

25 (WHEREUPON, the jury exited open court at

1 10:57 a.m.)

2 (WHEREUPON, a recess was taken from 10:58 a.m.
3 to 11:14 a.m.)

4 THE COURT: All right. Anything from the State
5 before we bring the jury back in?

6 MS. PRICE: No, sir, your Honor.

7 THE COURT: Anything from the defense?

8 MS. WHITE: No.

9 THE COURT: Ms. Price -- let's get our jury.

10 (WHEREUPON, the jury entered open court at
11 11:15 a.m.)

12 THE COURT: Ms. Price, call your next witness.

13 MS. PRICE: Yes, sir. May it please the Court.

14 The State calls Dr. Brett Woodard to the stand.

15 BRETT WOODARD, M.D.,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: I'm Brett Houghton Woodard,
20 W-o-o-d-a-r-d.

21 DIRECT EXAMINATION

22 BY MS. PRICE:

23 Q Thank you, Dr. Woodard. What's your occupation,
24 sir?

25 A I'm a medical doctor, a pathologist by special

1 training.

2 Q And what is a pathologist?

3 A A pathologist is someone who studies disease and
4 injury in the human body, its causation and its effects
5 and how to diagnose that through the tools of
6 observation or chemical testing.

7 MS. WHITE: Your Honor, I would stipulate that
8 Dr. Woodard is an expert in forensic -- sorry to make
9 him a toxicologist -- pathologist.

10 THE COURT: He'll be admitted as an expert in
11 pathology.

12 MS. PRICE: Forensic pathologist.

13 THE COURT: Forensic pathology.

14 Ladies and Gentlemen, I give you the same
15 instruction for all experts. He is like any other
16 witness. You place whatever weight on the testimony
17 that you deem appropriate as the trier of fact.

18 Ms. Price, proceed.

19 MS. PRICE: Thank you, your Honor.

20 Q Dr. Woodard, what was your occupation on
21 December 13th of 2013?

22 A I was working as a pathologist with Piedmont
23 Pathology Associates, and I was the member of the group
24 who had speciality training in forensic pathology.

25 Q Did you perform an autopsy on Jody Powell on that

1 date?

2 A Yes, I did.

3 Q What procedure is generally followed in an
4 autopsy?

5 A The deceased is observed as we receive them. In
6 this particular case, he had been taken by LifePoint.
7 LifePoint donations had been done before the procedure.
8 They removed the long bones and some skin for
9 transplantation. So he did not have any clothing with
10 him at the time, but we would examine any clothing that
11 would be associated with the deceased, examine the
12 external surfaces of the deceased for any signs of
13 injury and then look on the internal organs of the
14 deceased to see what those injury paths produced and
15 how that may have caused inability to function and
16 ultimately death.

17 Q What are some general characteristics of
18 Mr. Powell?

19 A He was 68 inches, 5 foot 8 inches, weighed
20 approximately 170 pounds. So he was pretty much my
21 size.

22 Q Did you know his age, sir?

23 A Yes. He was 41.

24 Q And did you notice any wounds to his body?

25 A He had two gunshot wounds. One was in his

1 anterior right shoulder, and the other was in his left
2 hip, toward the back of his left hip.

3 Q And can you tell me a little bit more about the
4 first wound that you just mentioned?

5 A There was a gunshot wound that passed through his
6 right shoulder down on this big muscle on his right
7 shoulder. It passed into the axilla and then passed
8 out to the back. It didn't hit the scapula on the way
9 out, but it did hit the brachial plexus and the
10 brachial artery. The brachial artery is the artery
11 that leaves the chest and goes down into the arm. The
12 brachial plexus is the nerves that give you function to
13 your hand and arm, allow you to move it and do things
14 with it.

15 Q And what directionality was there?

16 A This was from his front right to his back left.
17 And at the time of the wound, while I would not know
18 what his lower arm and hand were doing, his arm had to
19 be up somewhat similar to the position I'm showing
20 (indicating) so that the path would be straight and the
21 scapula would be rotated out of the way.

22 Q And so would this be consistent (indicating)?

23 A Yes, something along those lines, though, again, I
24 don't know what happened --

25 Q Sure.

1 A -- below the elbow.

2 Q Sure. But that would not be inconsistent with
3 what you're describing?

4 A That's correct.

5 Q And what would have happened to his right arm as a
6 result of that shot?

7 A After the bullet passes through, he would lose
8 function in his right arm. He would eventually, if
9 that was the only injury and it was unattended to, he
10 would bleed to death.

11 Q And, now, let's talk a little bit about this
12 second wound. Could you describe it in more detail for
13 me, please, sir?

14 A Yes. The second wound was in his buttocks around
15 on his hip side toward the back. It was an oval-shaped
16 wound, which tells us it's going from -- and had an
17 abrasion or scuffing on the skin on its lower aspect,
18 which tells us it's coming from below going upward.
19 That wound passed through the large muscles on the
20 internal surface of your back known as the psoas
21 muscles. It broke the pelvic bone on its way in. It
22 then went through the right kidney as it crossed from
23 the left to the right side. It then went through the
24 right side of the liver, through the right lung, and
25 then ultimately exited right about at the back of the

1 axilla. If you put your hand just at the back of your
2 armpit, approximately in that position.

3 Q So would it be accurate to say it went sort of
4 catty-corner through the body cavity?

5 A Catty-corner or obliquely through the body, that's
6 correct.

7 Q Did you recover any projectiles?

8 A No. Both projectiles exited the body.

9 Q Did you observe any bruising to Mr. Powell?

10 A He had a small bruise on what we call the
11 hypothenar eminence. That's your little finger side of
12 the hand. There was a small bruise in this location
13 that was of an age or a time period that could have
14 occurred with this event or shortly before this event
15 but less than 18 hours before this event.

16 He also had some scrapes on his side which were
17 what we like to refer to as ground contact scrapes.
18 These may have been produced by him having motion on
19 the ground or when emergency medical services come to
20 evaluate him and roll him into a position that's better
21 for their evaluation.

22 Q Dr. Woodard -- one moment, please. Dr. Woodard, I
23 have a diagram that's been marked as State's Exhibit 81
24 for identification purposes only. Would you mind
25 stepping down and going through what we just discussed

1 and showing it to me on this screen, sir.

2 THE COURT: Can we get the lights so we can see
3 better.

4 BY MS. PRICE:

5 Q Let's go through the first shot, please, sir.

6 A The first shot that I described -- and I
7 only state this, that I don't know which shot was
8 first. I just described it this way -- occurred in his
9 right arm out here on this muscle, the deltoid muscle,
10 the big muscle that makes the ball in your arm, and
11 passed -- I'm going to draw an arrow on his front
12 here -- passed from his front toward his back.

13 This is your scapula right here. Remember, we're
14 looking at the right side from the back. It came out
15 slightly lower than the place it went in. And as I
16 said, some action of the arm to lift that arm or rotate
17 it had to occur in order to move the scapula out of
18 position when the bullet passed through the body. So
19 the bullet would be coming out.

20 The second gunshot wound went in his left hip. It
21 was an oval-shape wound which tells us with the scrape
22 of the skin in the lower portion which tells us the
23 direction it came from and that it's going at an angle
24 up through the body. It passed up through the body in
25 this general path that I'm going to draw right here and

1 came out right there at the edge of his armpit. You
2 wouldn't be able to see that exit wound from the front.

3 As it passed through this area, this is where it
4 did its damage on the right side where it hits the
5 kidney, the liver, the right lung before it ultimately
6 exits the body.

7 Q Thank you, Dr. Woodard. You can take the stand
8 back.

9 Would you describe either of those wounds as being
10 received in a confrontational position?

11 A The wound to the front of the body would have
12 shown that the deceased was presenting his front right
13 side, the right side to the shooter at the time, so he
14 would have been slightly angled to the front. And as I
15 said, he wouldn't have necessarily had his hands in an
16 aggressive position, more -- it would be more probable
17 that it was in a defensive posture.

18 Q Okay. And slightly turned, then, to that
19 individual's --

20 A Yes, slightly --

21 Q -- left?

22 A -- turned so that if the individual would be off
23 to their right so that we get an angle through the body
24 rather than just from front to back.

25 Q And you said that the exit wound is slightly lower

1 than the entrance wound?

2 A Slightly lower and it's drifted to the left.

3 Q Okay. And, Dr. Woodard, from your examination,
4 can you give an approximation of the distance between
5 these individuals?

6 A No. There was no clothing present at the time
7 that I did this. The clothing could be studied for
8 distance. When the gun is extremely close, even with
9 clothing, there can be signatures on the skin, but
10 there was none of those signatures on the skin that
11 told me the gun was in close range.

12 Q Okay. And so no stippling?

13 A No, no stippling, no powder debris.

14 Q Okay. Are the wounds you observed consistent with
15 having been shot by a .41 Magnum revolver?

16 A Yes, they would be.

17 Q Okay. And in your expert opinion, what was the
18 cause of Mr. Powell's death?

19 A The gunshot wounds with resultant hemorrhage and
20 ultimately death from hemorrhage.

21 Q And when you say death from hemorrhage, would that
22 have been a slow process, fast process?

23 A No. About ten percent of each ejection of your
24 heart is going to run down your arm, so he's losing a
25 significant amount of blood into the soft tissues where

1 he's torn the brachial artery. But even more
2 important, the kidney is getting about 20 percent of
3 the blood for each ejection, so he's bleeding a little
4 faster through the kidney, a little slower through the
5 lung, a little faster -- excuse me, slower through the
6 liver, a little faster through the lung.

7 Q Are either of these fatal wounds or both fatal
8 wounds?

9 A The arm wound is potentially fatal. There could
10 be medical help, a tourniquet could have saved his
11 life. But the internal wound from the buttocks
12 criss-crossing his body was a fatal wound.

13 Q From the positioning of the wounds, can you tell
14 me anything about the directionality of the bullets and
15 how you would potentially get that shot? We talked a
16 little bit about the first shot. But the second shot
17 that you're talking about, the second wound, how would
18 his body have to have been facing?

19 A His body would -- there are a couple potential
20 scenarios. He could have been standing over the
21 shooter with the shooter lying on the ground and
22 shooting up at him, though I would anticipate at that
23 distance, a man 5'8", the gun would be close enough to
24 leave signature on the skin. But it's theoretically
25 possible he would have his back facing the shooter,

1 shooter would have to be laying on the ground or have
2 climbed down someplace far below him and shoot in an
3 upward angle, or we can begin to move his body, and if
4 we lay his body down on the ground, we could achieve
5 that kind of angle with basically an erect shooter.

6 Q So his body could have been on the ground --

7 A Yes, could have been.

8 Q -- to achieve that or falling down?

9 A It could be falling down or have fallen down.

10 Q And that would be consistent with the wounds
11 you're seeing?

12 A With the second wound I described.

13 Q And once again, what you just described as an
14 additional scenario, in order to effectuate that, he
15 would have to be facing away from the shooter; is that
16 correct?

17 A That's correct.

18 Q Not standing over him?

19 A If he's standing over the shooter, the shooter's
20 head would be behind him so that his arm --

21 Q He would have to be actually over the shooter?

22 A Yes, he would have to be almost be --

23 Q Straddling him?

24 A Straddling him.

25 Q Okay. But facing away from the shooter's face?

1 A That's correct.

2 Q And the other scenario is he's tripped and fallen,
3 potentially on the ground?

4 A That's correct.

5 Q And is being shot from behind?

6 A That's correct.

7 Q Would the marks that you observed on Mr. Powell's
8 palm and elbow be consistent with him falling?

9 A They would be consistent with him falling and
10 attempting to use that arm to move himself. If the
11 first shot that I described was the first shot, he
12 would have lost function in the right arm and he
13 wouldn't be able to use the right arm, so he would only
14 be able to use his left arm.

15 Q So he would have braced him potentially with his
16 left arm?

17 A He would have had no choice if he didn't want to
18 just fall flat on his face.

19 Q And again, the bruising could have occurred
20 contemporaneous with this event or up to 18 hours
21 beforehand?

22 A That's correct.

23 Q Okay. But that day?

24 A Essentially that day.

25 Q Okay. Dr. Woodard, what kind of death would this

1 be?

2 A He would have gone into shock, ultimately lost
3 consciousness and then died. The gunshot wound
4 themselves initially are not really painful but then
5 become painful very quickly, much like when you cut
6 yourself with a kitchen knife and you don't quite feel
7 it, and then all of a sudden it hurts. Especially the
8 wound that went through his pelvis. Any time you break
9 a bone, that's a very painful wound.

10 Q Is it your opinion that he would have had time to
11 register what was happening?

12 A Yes. He would have realized that he was losing
13 control of himself and may have felt that he was going
14 to die.

15 Q Could have said something before he died, in fact?

16 A Absolutely.

17 Q Dr. Woodard, in your examination, do you
18 specifically look for any additional cuts or bruises to
19 the knuckle area, the hands of the deceased?

20 A Yes. We look for typical contact injuries that
21 might be seen on the fingers, the knuckle pads or the
22 back of the hands, and we record those photographically
23 if they're there or if they're not there. In this
24 particular case, there were no bruises.

25 We also looked for contact injuries that might

1 occur if there had been a fist fight first, even if the
2 deceased hadn't struck the perpetrator --

3 (Defendant vomiting into a trash can.)

4 THE WITNESS: Even if the deceased hadn't struck
5 the perpetrator, maybe the perpetrator struck the
6 deceased, so we look for bruises around the face, lips,
7 mouth --

8 MS. PRICE: Your Honor, do we need to take a
9 break?

10 THE COURT: Let's take a break.

11 (WHEREUPON, the jury exited open court at
12 11:34 a.m.)

13 THE COURT: Ms. White, does your client need any
14 kind of medication or anything? Has he had his
15 medication today?

16 MS. WHITE: I can only speak for myself. When I'm
17 throwing up, I can't move, so can we let him get his
18 bearings.

19 THE COURT: Take as long as he needs. If he needs
20 any medication, staff will assist you.

21 MS. PRICE: Your Honor, may we take a 15-minute
22 recess?

23 THE COURT: Let's just go into recess.

24 MS. PRICE: Thank you.

25 THE COURT: We're taking a 15-minute recess,

1 Doctor. You're still under oath so you can't discuss
2 your testimony with anyone while we're taking a break.

3 (WHEREUPON, a recess was taken from 11:39 a.m.
4 to 11:58 a.m.)

5 THE COURT: Are we ready to proceed?

6 MS. WHITE: Your Honor, I don't know what's going
7 to happen. I just got a trash can here, we've got
8 tissue here, and that's all we can do. I don't know
9 what else to do. He is stabilized for now, but he has
10 told me probably when he hears some more, he's probably
11 going to start throwing up more, so. I have to have
12 him in here.

13 MS. PRICE: Well, Judge, at that time it's a
14 distraction to the testimony. I know he has a right to
15 confrontation attention, but we're going to have to
16 strike a balance.

17 THE COURT: Well, we'll evaluate that if further
18 issues arise.

19 If your client gets in distress, please call that
20 to the Court's attention if I haven't noticed it.

21 MS. WHITE: I think you'll hear it.

22 THE COURT: We'll proceed.

23 Get our jury.

24 (WHEREUPON, the jury entered open court at
25 11:59 a.m.)

1 THE COURT: Okay. Ms. Price.

2 MS. PRICE: Yes, sir. May it please the Court.

3 Q Dr. Woodard, I'm going to ask you the question
4 again that I had asked you which was: Did you
5 specifically look for any bruising, scrapes, any
6 contact injury to the hands of the decedent?

7 A Yes. We specifically look at it and we
8 photographed it, even though it was negative.

9 Q It was negative?

10 A There was no evidence of impact injuries on his
11 hands.

12 Q If someone -- if the decedent had struck someone,
13 let's say, with an uppercut, would you expect to see
14 evidence of that?

15 A It would depend on where the individual was
16 struck. If they're struck in soft tissue, it may not,
17 but if they're struck against the bone, when you have
18 two layers of bone crushing against each other, the
19 skin in between gets injured.

20 Q So, for example, if someone had thrown a punch to
21 a jaw, would you expect to see evidence of that on a
22 hand?

23 A On a hand and on the individual that was struck.

24 Q So you saw no evidence of that on the decedent?

25 A That's correct.

1 MS. PRICE: Thank you, Dr. Woodard. Please answer
2 any questions that Ms. White may have for you at this
3 time.

4 THE COURT: All right.

5 Ms. White.

6 MS. WHITE: Yes, sir.

7 CROSS-EXAMINATION

8 BY MS. WHITE:

9 Q Dr. Woodard, now, you weren't able to examine any
10 of the clothing in this case; is that right?

11 A I was not able to. I don't know if the police
12 sent it to SLED or not.

13 Q And, certainly, the police would send clothing
14 off, and they can test and find out pretty closely to
15 what the distance was on things; is that right?

16 A That's correct.

17 Q And the reason why that's necessary in a case like
18 this is because there's clothing on the intervening,
19 between the shooter and the skin; is that right, of the
20 person who is shot?

21 A That's correct.

22 Q And so the things that you would normally look
23 at -- let's say I get shot in the face. You would be
24 looking for stippling and those other little particles
25 we have already heard about might have tattooed around

1 the wound; is that right?

2 A That's correct.

3 Q And then you could come in and tell this jury,
4 Yeah, I saw this tattooing around and it showed the gun
5 was maybe an inch back or a contact wound or something
6 like that; is that right?

7 A That's correct.

8 Q But when there's clothing intervening, the tests
9 that you run is you send it to SLED or to some other
10 lab and they run the test; is that right?

11 A A police forensic lab runs the test.

12 Q And that's done in millions of cases; is that
13 right?

14 A That's correct.

15 Q All right. And so in this case you would agree
16 that there was clothing between -- in other words, the
17 wounds that you saw were clothed, they had clothing
18 over them?

19 A That's correct. They would be clothed areas.

20 Q Now, Doctor, when you say how much he weighed,
21 y'all don't actually weigh them there, you estimate?

22 A That's correct. We estimate.

23 Q So you didn't actually weigh Jody?

24 A No, we did not.

25 Q But you did measure his height?

1 A That's correct.

2 Q And he is 68 inches tall; is that correct?

3 A That's correct.

4 Q All right. Now, let's look over here at the
5 diagram that you drew. When you say first wound,
6 second wound, you have no idea which order these
7 happened in?

8 A That's correct.

9 Q But we're going to call the shoulder wound the
10 first wound because that's what you did in your autopsy
11 report; is that okay?

12 A That's fair.

13 Q All right. So let's talk first about this wound
14 to the shoulder. How many inches down from the top of
15 the head did it enter the shoulder?

16 A That was 11 inches down from the top of the head.

17 Q So that means 68 -- 57 inches off the ground, if
18 he's erect?

19 A That's correct. If he's standing.

20 Q And we're assuming in all this he's standing
21 erectly, but that may not be the case; is that right?

22 A That's correct.

23 Q Okay. And then it exits where in the back, how
24 many inches below the head?

25 A It exits 14 inches below the top of the head in

1 the back, and so it's dropped three inches.

2 Q And that would be 68 minus 14 would be 54 inches;
3 is that correct?

4 A If you did the math right.

5 Q And, again, if he's standing completely -- well,
6 don't trust me on math. We've been through that this
7 morning. We're 54 inches off the ground, then, if he's
8 standing erect?

9 A That's correct.

10 Q Now, when we look at the angles and we say, Okay,
11 then this shot is at this angle, kind of downward, that
12 assumes he's standing completely straight up, though,
13 right?

14 A That's correct. But he has the ability to go in
15 three dimensions.

16 Q He could go down. That would mean it would be an
17 even shot, wouldn't it? The further down he goes --

18 A The more he bends himself at the waist, the more
19 it would be a level shot.

20 Q Okay. So, in other words, this might not be a
21 downward shot at all. If he's bent forward, it
22 actually was a level shot and it just looks that way on
23 his body because he leaned forward?

24 A That's correct.

25 Q All right. Now, let's keep talking about this

1 one. You said the arm was up; is that correct, but you
2 don't know what this part of the arm --

3 A Relative to the shooter. If you were the shooter,
4 his arm had to be so the elbow was rotated toward you,
5 and then the arm was pulled just a little bit so it was
6 crossing the chest because we moved the scapula out of
7 the way.

8 Q Okay. And you said you don't know what to do with
9 this part of the arm; is that right?

10 A I don't know --

11 Q You have no idea what's happening with this?

12 A I don't know what's happening with his hand or
13 that part of the arm.

14 Q So the arm was definitely up some, though; is that
15 right, and then this was somewhere along that plane?

16 A That's correct.

17 Q All right. And, Doctor, are you aware that he had
18 on a shirt?

19 A I would assume that he was dressed in at least a
20 shirt, if not a shirt and a T-shirt.

21 Q And, to your knowledge, was anything done with
22 that shirt in the way of testing to look at distance
23 things?

24 A I have no idea.

25 Q So all we know -- and, of course, if he's bent

1 over, then it would not be 54 inches off the ground,
2 the entrance shot, it would be --

3 A Depending on how much he bends at the waist, it
4 would lower it closer to the ground.

5 Q All right. Now, let's look at -- assume for me,
6 Doctor, that -- have you been shown any of the pictures
7 of the vehicles in this case?

8 A No.

9 Q All right. Assume that a gunshot, a spent round,
10 went through the back of a truck. They're standing on
11 a road, and it went through 49 inches and remained
12 steady. I mean, it didn't really go up, it didn't go
13 down, it just kind of -- and we have already had the
14 ballistics expert say, yeah, the shooting would have
15 occurred along that plane, too.

16 If this is the shot that led to that, what would
17 that tell you about whether or not Jody had to be down
18 in a crouched position?

19 A You could take his body, reapply the gunshot wound
20 to that line. If you knew approximately where he was,
21 you would -- you figuratively move his body up and down
22 and come up with the exact measurement.

23 Q And that would make this a much more level shot or
24 even maybe an upper shot, wouldn't it, depending on how
25 bent he was?

1 A It would make it more level -- no, I don't think
2 it ever gets to be an upward shot.

3 Q Well, the reason why I'm asking that -- and,
4 again, correct me if I'm wrong, but if we're saying if
5 he's standing erect and it's 14 inches out, that would
6 be 64 -- wait a minute. 68 minus 14 would be 54 inches
7 if he were standing erect and it went out at 14 inches;
8 is that right?

9 A That's correct.

10 Q But it would certainly be downward?

11 A That's correct.

12 Q Okay. So what I'm saying is if you go down from
13 54 inches to 49 inches, that takes off five inches; is
14 that correct?

15 A Yes, that's correct.

16 Q Okay. So that would put him down, and that would
17 make the shot perhaps even a slight upward shot when it
18 was made?

19 A Well --

20 Q Or could?

21 A In your scenario, you told me that it passed
22 through the truck at a constant 49 inches, so it can't
23 be going upward.

24 Q Well, now, let me just say the truck has several
25 layers of metal on it when it goes in, so be aware of

1 that.

2 A Oh.

3 Q But the bottom line is probably this wasn't
4 somebody standing up shooting somebody erect if you've
5 got these inches on this truck; would you agree with
6 that?

7 A I would agree that you could take the distances on
8 the truck at both -- you said there was one in the
9 front and the back. You could draw a line and put his
10 body on the line from the measurements that I made.
11 That would be done by --

12 Q We have that picture. I have just got to find it.
13 I'm handing you State's Exhibit 67. Is that what
14 you're talking about?

15 A Yes. You would -- can I show them?

16 Q Oh, sure. Yeah. Would you like to step down?

17 A All right.

18 Q And, Doctor, if you do that, just be sure you show
19 this side of the jury just like you do this side.

20 A You could take this line and you could project it
21 out to where he was, and then you could know exactly --
22 you could then align his wound up to his exact posture.
23 Obviously you couldn't do it with that small of a rod.
24 You would have to do what we call string it out so you
25 could carry it as far as away as the range of the gun.

1 Q Doctor, if you don't mind, this side.

2 A You can take this line that they have done here,
3 you can project it out. They use a little level
4 gadget. Cell phones have it inside and project it out
5 to as far as you need to. And you can take the wound
6 we measured and actually come up with the exact amount
7 of flexion that had to have been in his waist at the
8 time the discharge occurred.

9 Q Thank you, Doctor. If you will go on back up.
10 So you would agree that if, in fact, he's
11 68 inches tall, if this is 49 inches off the ground,
12 that there had to be some kind of flexion going on when
13 this occurred, when this shot occurred. There's no
14 other way it would match up?

15 A If the ground is level.

16 Q If the ground is level. We're on a flat surface.

17 A Yeah, if the ground is level.

18 Q And, again, the arm's in front; is that correct?

19 A The arm is pulled around so that it lines up with
20 the exit. We don't know where this elbow and hand is,
21 so it's brought around. And it has to be brought
22 around so that we move that scapula out of the way.

23 Q It could be out, it could be in, it could be up?

24 A It could be up, over.

25 Q Reaching, whatever?

1 A Yeah.

2 Q Okay. Now, again, let's look at the other one. I
3 want you -- if you don't feel comfortable, let me know,
4 but I'm okay with it. Can you point on my body, and
5 you can use a pen or something if you want to, where --
6 I want the jury to see where this second entrance wound
7 is.

8 A Okay. This entrance wound would be right here in
9 the buttocks crossing up through the back, going
10 internally. Your psoas muscles are on the inside.
11 They're not on the outside. They are not these muscles
12 on the outside. It misses the spine, but it fractures
13 this wing of the pelvis as it goes and it comes up,
14 goes through the kidney here, goes through the liver
15 there, goes through the right lung here, then it comes
16 out approximately right here at the edge of the armpit.
17 The other one came out approximately here, the edge of
18 the scapula.

19 Q So, Doctor, if my arm is down, what's going to
20 happen to that round that comes out under my arm if
21 it's down? What are you going to see in the inside of
22 this arm?

23 A It didn't go through the arm. It comes out right
24 at the crease.

25 Q No, sir. What I'm saying is if my arm is down

1 against that when it exits, will it enter my arm if my
2 arm is covering that area?

3 A No. Because it was coming at an angle, it would
4 go outside that area. As long as your arm -- if your
5 arm was down -- if we assume the first shot was the
6 first shot, then the arm is down because it can't move,
7 that arm would be standing sort of at the attention
8 position of a soldier and it would miss that arm on its
9 way out.

10 Q Well, let's assume that isn't the first shot and
11 the arm still is mobile. Let's say that.

12 A Then the arm could be anywhere.

13 Q All right.

14 Now, again, let's look at that angle. I was
15 standing completely upright. So that means the shooter
16 has to be, again, just like you said, on the plane; is
17 that correct?

18 A That's right. We have to either move the shooter
19 down, if we're going to have him be erect, move the
20 shooter down so the shooter is laying on his back
21 beneath him looking at his buttocks when he discharges
22 the weapon.

23 Q All right. Now, let's say that's not the case.
24 Let's say he's in a position where he's down and he's
25 assaulting him or charging him or doing something like

1 that, bent over. We don't know. I mean, however the
2 body position is. Do you find most people are like
3 this (indicating) when they're involved in
4 altercations?

5 A No, but they don't lead with their butt either.

6 Q I'm sorry?

7 A They don't lead with their butt either.

8 Q Well, but that depends, doesn't it, on what's
9 happening?

10 A If -- yes. If he made some wild gestures where he
11 throws his -- misses the guy entirely and throws his
12 butt so it's facing the man at the time he
13 discharges --

14 Q But, Doctor --

15 A -- wow, that's a wild scenario.

16 Huh?

17 Q You're assuming there's one assailant. If there
18 are two people that are a threat or three people that
19 are a threat out there, then you're not necessarily
20 going to be facing one in particular; isn't that true?
21 It's kind of a rotating scene?

22 A Absolutely. If there were three people attacking
23 him. But, again, we still have to have the deceased
24 attacking him butt-first with your scenario.

25 Q Let's talk about that, then, because you're saying

1 right here; is that correct? That's what we're talking
2 about?

3 A That's correct.

4 Q All right. What if there is a leg that's up or
5 rotated? What if the body is twisted in a different
6 manner? Will that affect the plane of this rod just
7 like we talked about on this?

8 A It really won't in this particular gunshot because
9 our ability to rotate is somewhat limited compared to
10 around -- our spinal axis is controlled, so we don't
11 really have the ability to do it. If the leg was up,
12 then I would anticipate that the abrasion collar would
13 then begin to slide around more toward the 3 o'clock
14 position as we lift that leg and bring that buttocks
15 area more perpendicular to the ground surface.

16 Q Okay. And you're talking about twisting, but I'm
17 talking about bending. If there's some bending in
18 this, what I'm saying is this -- I wish I had one of
19 those rods that we have. The rod that would make it go
20 in a shot like this, if I'm bent over, just like if I
21 bend over this one, it may not be as sharp and upward.
22 That's what I'm talking about. I'm talking about
23 bending. I'm sorry, I'm not talking about twisting.
24 I'm talking about bending.

25 A If he bends sharply at his waist to present his

1 butt in a more absolute presentation of his butt to the
2 man, you could bend over so far with your waist to
3 achieve that angle, yes.

4 Q Okay. In fact, it could have been a flat shot if
5 you're bent all the way over; is that correct?

6 A If you're bent all the way over with your butt
7 sticking up in the air, yeah.

8 Q Fair enough. Now, let's talk about that. But
9 does it also depend on where the gun is? We're
10 assuming there is a straight shooter as well; is that
11 right?

12 A Well --

13 Q Does it --

14 A -- are you suggesting there's multiple shooters?

15 Q No, sir. What I'm saying is not everybody shoots
16 like this, especially if there's some falling back,
17 some issues like that that could change where your gun
18 is. In other words, you're not going to have the
19 firearm directly in front of you. You could be at an
20 angle yourself; is that correct?

21 A Yeah. The individual would have the ability to
22 rotate their arm in any direction that allowed them to
23 meaningfully point the weapon.

24 Q Now, I don't think we talked about this, but what
25 is the -- you said that the second -- what we'll call

1 the second wound, that that gunshot wound came out
2 here. How far was that from the top of the head?

3 A It was 14 and a half inches below the top of the
4 head.

5 Q So essentially the same as the other shot, of
6 exit?

7 A Half an inch difference.

8 Q Now, Doctor, you said there were no projectiles in
9 the body; is that correct?

10 A That's correct.

11 Q And so that means they had to exit the body.
12 We've got one in evidence, but there actually had to be
13 two that exited; is that correct?

14 A That's correct.

15 Q And, Doctor, if you're on the ground, if you heard
16 that a witness testified that there was a shot in the
17 back while he was flat on the ground, face down, where
18 would you expect that projectile to be?

19 A Somewhere in the ground area where the body had
20 laid at the time it was shot.

21 Q And, again, that's because of what we talked about
22 with the plane of the bullet; is that correct?

23 A That's correct.

24 Q All right. And, in fact, there have been many
25 cases where it's suspected that somebody was shot on

1 the ground, and you dig through the ground and you take
2 pictures, show the nice tunnel down, and you retrieve
3 the spent round; is that correct?

4 A That's correct.

5 Q Are you aware of any spent round that was
6 recovered in this case?

7 A I don't know what they recovered or didn't
8 recover.

9 Q So, Doctor, you're unable to tell the jury
10 anything definitive about any kind of distance without
11 getting these tests done on the clothing, having the
12 weapon tested to determine the cloud or whatever you
13 want to call it. Until those things are done, it's
14 very difficult to tell anything definitive about
15 distances; is that correct?

16 A That's correct.

17 Q Let's talk a minute about the -- about any
18 injuries to the hand. You said there was an injury to
19 the left hand; is that correct?

20 A That's correct, on what we call the hypothenar
21 eminence. That's the little finger side of the hand.

22 Q And, Doctor, does a person always have injuries to
23 their hand if they punch someone?

24 A If you punch bone on bone, yes. If you punch bone
25 on soft tissue, no.

1 Q What if you punch bone on a bearded area and the
2 head goes back? This isn't a person who's got a lot of
3 strength and the head moves with the hand, what then?

4 A I would still anticipate, especially with a rough
5 surface like a beard, that there would be some
6 translation of evidence.

7 Q Can you say that for sure depending on how much
8 the head goes back?

9 A No. I'd say it's likely.

10 Q All right. So you can't say that that would be
11 there for sure?

12 A Not absolute.

13 Q Now, Doctor, did you take any bodily fluids for
14 testing to see if anybody was under the influence of
15 anything during this time?

16 A Yes. We took blood and vitreous humour. He --

17 Q Stop there, Judge -- Judge. Doctor. Vitreous
18 humour, will you tell the jury --

19 A That's the fluid around the eye. He did not have
20 any urine in his bladder, so we didn't take urine.
21 Then we saved hair and nails, nails for any trace
22 evidence that might pass between the contact between
23 two individuals.

24 Q Okay. And was urine taken?

25 A He had no urine in his bladder.

1 Q Are there certain tests for drugs that cannot be
2 performed without urine?

3 A All tests for drugs can be performed on blood.
4 Certain agencies don't want to perform them on blood.

5 Q So could there have been testing on several drugs
6 at SLED?

7 A Well, SLED did do testing for several drugs.

8 Q Let's talk about that. Have you seen the test
9 results, Doctor?

10 A I do not have any test results from the drugs in
11 my information.

12 Q Do you feel comfortable with me handing you these
13 tests and asking you what the results are?

14 A So long as we put them in evidence.

15 Q If you will just take a look at those, please.
16 And you said that y'all got vitreous humour and blood;
17 is that correct?

18 A That's correct. They use the term "ocular
19 fluid," but it's vitreous humour. It means the same
20 thing.

21 Q And will you please tell the jury what was
22 tested -- which one are you looking at now, Jody or
23 Bobby?

24 A Jody Powell is the one I have.

25 Q Let's start with Jody. What was tested, what

1 drugs were tested for?

2 A They tested for all the alcohols -- ethyl, methyl,
3 acetone and isopropyl. They tested for amphetamine,
4 benzodiazepines, carisoprodol, cocaine, methadone,
5 methamphetamine, opiates, oxycodone, tramadol,
6 zolpidem, cannabinoids, and then on the vitreous humour
7 they, again, tested for all the alcohols, the same I
8 mentioned before.

9 Q And that was all negative; is that correct?

10 A That's correct.

11 Q And will you please look at Bobby's and tell us
12 the same thing.

13 A Here they didn't have vitreous humour. They just
14 tested blood, and they were all negative, same tests.

15 Q Same tests, okay. Doctor, what is blood thinner?

16 A Well, there's several brands of blood thinner.
17 The most common one is Coumadin. What it does is
18 suppress the synthesis in your liver proteins that make
19 coagulation factors. And we follow that by blood
20 testing to make sure we get in a range where you're
21 less likely to clot, but if there was a serious injury,
22 you would clot.

23 Q And, Doctor, warfarin, is that one of the terms
24 for blood thinner?

25 A Yeah. Warfarin and Coumadin are the same agent.

1 Q So what, if any, difficulties might you face if
2 you're on blood thinner and you get some kind of, I
3 don't know, internal injury, cut, something like that?

4 A You're likely to bruise more easily, bleed more
5 freely, and if you had to have major surgery especially
6 in contained areas, eye surgery, brain surgery where
7 there is a small additional space, they would have to
8 reverse it before they can do it.

9 Q So is there a greater danger or a lesser danger if
10 you're injured to bleeding excessively if you're on a
11 blood thinner?

12 A You're more likely to bleed excessively.

13 Q Doctor, when you were saying that the shooter or
14 the -- or that Jody would have been having to stand
15 over someone who was shooting, that assumes he's erect;
16 is that correct?

17 A That would assume he was erect.

18 Q And that assumes the shooter is in front, not to
19 the side?

20 A No. The shooter would have to be -- if the
21 shooter was on the ground, you would have to be looking
22 at his butt at the time he discharged the weapon.

23 Q Right. The shooter would actually have been
24 pushed to the side; is that correct?

25 A To the ground, and then he would have to step over

1 him.

2 Q Thank you.

3 THE COURT: Ms. Price, any redirect?

4 MS. PRICE: Yes, sir.

5 REDIRECT EXAMINATION

6 BY MS. PRICE:

7 Q Dr. Woodard, would the entrance wound on an
8 individual depend also somewhat if they're being fired
9 at on how far away they are potentially from the
10 shooter?

11 A I don't quite understand your question.

12 Q If you have a wound like you did in this case that
13 you're examining, Ms. White was talking about the
14 trajectory of the bullet, and we looked at the vehicle.
15 I don't remember what exhibit she used, but let's say,
16 for example, 67. If the decedent in this case was
17 further away from the truck and had been shot, the
18 body -- the bullet had entered the body, would it be
19 natural to see, in your opinion, not as a ballistics
20 expert, but would it be natural to see the bullet go
21 down some as it loses momentum?

22 A As it goes through the body, even talking about
23 the first gunshot wound as I numbered them, the one to
24 the right shoulder?

25 Q Yes. Yes.

1 A It hits muscle and other tissues, and that slows
2 the bullet down. It also does a secondary phenomena to
3 the bullet. The bullet is in a gyroscopic spin because
4 of the nature of the rifling in the gun barrel, and it
5 begins to lose that spin so the bullet begins to wobble
6 more. And in wobbling, it becomes more -- it uses up
7 its kinetic energy and causes it to fall.

8 Q So that could affect the trajectory as you would
9 see it in a body versus as you would see it in an
10 object after it had passed through a body?

11 A That's correct.

12 Q Dr. Woodard, Ms. White asked you about crouching
13 down also with regard to the first shot. And by that I
14 mean the first wound that we discussed, the shot to the
15 shoulder area. When an individual is running, are they
16 also crouching?

17 A They usually are flexed at the waist --

18 Q Usually flexed at the waist?

19 A -- in the direction they are going.

20 Q In the direction they're going. For example, this
21 direction, if I was trying to turn and run to my left?

22 A Yes.

23 Q Okay. Potentially?

24 A Potentially.

25 Q Okay. That would be consistent with the wound as

1 well?

2 A That -- the wound through the shoulder.

3 Q Yes, the first -- the wound through the shoulder.

4 Dr. Woodard, referring to the second wound, the
5 butt wound now that we've been calling it that, the
6 wound to the hip area in the back, you said that that
7 gunshot wound fractured this individual's pelvis?

8 A That's correct.

9 Q Would that make it difficult to run?

10 A Yes. It would make it extremely painful to take
11 another step.

12 Q So it would be -- would it be consistent that
13 after that wound was received, the individual would not
14 be able to continue forward?

15 A That's correct.

16 Q Dr. Woodard, Ms. White also asked you about the
17 positioning of the arm on this second wound that we
18 were discussing to the hip. She was saying that, I
19 believe, that it would need to be a certain direction.
20 What direction would it need to be to have achieved
21 that exit?

22 A Anywhere from straight down like a soldier at
23 attention to anything else you can do keeping the arm
24 in that plane. Obviously I can lift my arm to the side
25 and achieve that plane or lift it to the front and

1 achieve it.

2 Q And we're talking about the right arm?

3 A The right arm.

4 Q That was no longer working?

5 A Well, once that shoulder shot occurs.

6 Q Okay. Dr. Woodard, if an individual is falling,
7 can gravity affect their movement, their body?

8 A Yeah. The body organs, if we assume the first
9 shot occurred first, that arm is just going to be
10 flail, and it's going to just basically be carried
11 along like a backpack and go wherever the momentum of
12 the arm carries it.

13 Q One moment, Dr. Woodard.

14 I'm showing you what's been previously admitted as
15 State's Exhibit 14. Now, Dr. Woodard, do you see an
16 indentation here in the land?

17 A Yeah. There's like a wagon wheel decoration, and
18 then there appears to be some sort of small drainage
19 ditch.

20 Q Okay. So, Dr. Woodard, with regard to that second
21 wound, if an individual, hypothetically speaking, had
22 been running across that ditch and leaning forward, as
23 the individual is running, would that have lowered his
24 body also?

25 A Yes, it would.

1 Q To effectuate that wound?

2 A Again, he could flex at the waist presenting his
3 rear end to the gun barrel.

4 Q So that would be consistent with your findings?

5 A That's correct.

6 Q Okay. Dr. Woodard, we were talking about blood
7 thinner with Ms. White just a moment ago, and along
8 with making an individual bleed more easily during
9 surgery, if an individual had been struck, what would
10 the effect be as far as bruising goes on an individual
11 with blood thinners? Would that be different than you
12 would see in a normal bruising situation?

13 A Yeah. An individual on blood thinners will bruise
14 more easily and more significantly. So if we take an
15 impact of any kind, they're more likely to have a
16 bruise from it, and they're more likely to have a
17 larger bruise from it. Even simple pressure impacts
18 such as someone trying to help by pulling on your arm
19 can produce significant bruises.

20 Q Would that bruising manifest itself earlier than
21 it would in a normal individual?

22 A It would be a little more quickly, and, again, it
23 would be more dramatic.

24 Q So just out of curiosity, if someone had received
25 an uppercut with some amount of reasonable force,

1 hypothetically speaking, and they were on blood
2 thinners, would you expect to see a manifestation of
3 injury in that individual?

4 A Yes. And you would -- you would have a bruise, a
5 significant bruise associated with the site of impact.
6 And depending on exactly where they were with their
7 blood thinners, the whole inside of the mouth, the gum
8 surfaces, may also look bruised.

9 Q And did you have an opportunity to review some
10 medical records in this case?

11 A Yes. Your office faxed me some medical records.

12 Q And did you -- were these records pertaining to
13 the defendant?

14 A Yes, they were related to Bobby Joe Arflin.

15 Q And the defendant did complain of -- did the
16 defendant complain of some internal swelling at some
17 point in time?

18 A Yes. In the inmate call slip medical request, he
19 complained of, "Gums swelled on the left side and
20 bleeding when I brush. Also lower plate cutting gum
21 making it painful to try to," and then he stops.

22 Q Okay. And is there an indication when you
23 reviewed that of the onset of that symptom?

24 A He says the problem has been present for five days
25 and the form was filled out on the 15th of December.

1 Q Which means that it manifested initially when?

2 A The 10th of December.

3 Q The 10th of December. So if this incident
4 happened the 11th of December, would you expect that
5 symptom to be connected in any way to these events?

6 A Not based upon this statement.

7 Q Okay.

8 MS. PRICE: Nothing further at this time,
9 Dr. Woodard.

10 THE COURT: All right. Ms. White, anything in
11 response to the redirect?

12 MS. WHITE: Yes, sir.

13 RECROSS-EXAMINATION

14 BY MS. WHITE:

15 Q Doctor, you were talking about the shot that went
16 up -- well, maybe upward. Your shot number two. Let's
17 talk about that a minute. Are you aware that Jody's
18 girlfriend was right there with him when this occurred?

19 A I knew that his female companion and perhaps two
20 other adults were present.

21 Q Are you aware that she gave sworn testimony in a
22 bond hearing saying he was shot on the second time and
23 then started to run -- as he was starting to run.
24 That's what she said. Are you aware of that?

25 A No.

1 Q And are you aware that this ditch is just a few
2 feet away from where this supposedly happened, maybe, I
3 don't know, six feet, ten feet, something like that?

4 A If the cars were in their position as they were at
5 the time of the incident, that's what it looks like.

6 Q Especially with adrenaline going and things like
7 that, is it certainly possible for him to have run a
8 few feet?

9 A A few steps.

10 Q And, Doctor, you said that Bobby said that this
11 had been present for five days; is that correct?

12 A That's what the form says.

13 Q Are you aware of anybody who sits in jail all day
14 and has appointments or places to go, things to do that
15 they have got a calendar so they're keeping up with the
16 exact number of days?

17 A Only about movies about the Mafia.

18 Q So it might very well be - have you ever been on
19 vacation and you totally forget which day it is because
20 you have got nothing to keep up with?

21 A Yeah.

22 Q Just one minute, please.

23 MS. WHITE: No further questions, your Honor.

24 THE COURT: Anything further from this witness?

25 MS. PRICE: Only one question.

FURTHER REDIRECT EXAMINATION

BY MS. PRICE:

Q Dr. Woodard, would you remember the date you
killed someone?

A I would think you would.

MS. PRICE: Thank you.

No further questions.

THE COURT: Anything further?

MS. WHITE: No, sir.

THE COURT: Any objection to this witness being
excused?

MS. WHITE: No, sir.

MS. PRICE: Not from the State.

THE COURT: Thank you, Doctor. You are excused.

All right. Ladies and gentlemen, we're going to
break for lunch right now. We're going to reconvene at
2 o'clock. So your lunch is going to be about ten
minutes shorter than it's been the first two days since
we had some unexpected delays today. We want to keep
moving, so be back here by 2 o'clock and we will resume
the trial.

Do not discuss the case with any third party. Do
not deliberate amongst yourselves. Do not do any
independent research while you're outside at lunch. I
hope everyone has a good lunch.

1 (WHEREUPON, the jury exited open court at
2 12:39 p.m.)

3 THE COURT: We will be in recess until 2 o'clock.
4 (Lunch recess was taken from 12:40 p.m.
5 to 1:56 p.m.)

6 (WHEREUPON, State's Exhibit Number 82 was marked
7 for identification.)

8 (WHEREUPON, State's Exhibit Number 83 was marked
9 for identification.)

10 (WHEREUPON, State's Exhibit Number 84 was marked
11 for identification.)

12 (WHEREUPON, State's Exhibit Number 85 was marked
13 for identification.)

14 THE COURT: Before we bring the jury out, to the
15 attorneys I will address this. In response to our
16 issue this morning about one of the juror's employer,
17 the clerk typed a letter to the employer, and I
18 instructed him to give each of you a copy of it.

19 Do either of you have any objection to that being
20 sent to that juror?

21 MS. WHITE: None.

22 MS. PRICE: None from the State.

23 THE COURT: Anything from the State before we
24 bring the jury back?

25 MS. PRICE: Nothing from the State.

1 THE COURT: Anything from the defense?

2 MS. WHITE: Yes, your Honor. Judge, I just want
3 to make sure that when the CI gets called, I'm going to
4 have to proffer some testimony. I want him to be
5 called, but I'm going to have to proffer some testimony
6 regarding some prior motions to renew and proffer
7 testimony. So I just want to make sure. It shouldn't
8 be long. I'm going to ask him about his rap sheet and
9 whether he wiggled, and that's about it. But I
10 understand I have to do it again here. I just wanted
11 to give you a little bit of a heads-up here.

12 THE COURT: We'll take the necessary time to do
13 that when it becomes an issue.

14 Let's get our jury.

15 MS. WHITE: And, your Honor, the next witness is
16 Deputy Martin, and I do want to say I'm going to object
17 to any hearsay whatsoever that he tries to get in.

18 THE COURT: We will deal with objections as they
19 arise.

20 MS. PRICE: May it please the Court. The next
21 witness is not Deputy Martin.

22 MS. WHITE: In that case, I withdraw that.

23 THE COURT: All right. Let's get our jury.

24 (WHEREUPON, a note was received from the jury.)

25 THE CLERK: She's wanting a letter saying how long

1 she was here and how much she's getting paid.

2 THE COURT: So another juror needs a letter for
3 their employer?

4 THE CLERK: It says, "Please provide documentation
5 from the Court, written statement from Clerk of Court
6 showing length of service" --

7 THE COURT: Okay. We'll deal with that.

8 THE CLERK: We'll deal with that.

9 (WHEREUPON, the jury entered open court at
10 1:58 p.m.)

11 THE COURT: All right.

12 Ms. Price, call your next witness.

13 MS. HUEY: Your Honor, the State calls Brent
14 Simpson to the stand.

15 BRENT SIMPSON,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: Brent Simpson, S-i-m-p-s-o-n.

20 DIRECT EXAMINATION

21 BY MS. HUEY:

22 Q Investigator Simpson, where do you work?

23 A I work for the Anderson County Sheriff's Office.

24 Q And in what capacity?

25 A I'm an investigator.

1 Q How long have you been an investigator with the
2 sheriff's office?

3 A Since 2008.

4 Q All right. And what, generally speaking, are your
5 duties as an investigator?

6 A My duties are to investigate crimes, homicides, be
7 it sexual assaults, several different things.

8 Q And were you working in this capacity in December
9 of 2013?

10 A Yes.

11 Q And as such, did you become involved in the case
12 of State versus Bobby Joe Arflin?

13 A I did.

14 Q And how did that come about?

15 A I happened be the on-call that week and was called
16 out by uniformed patrol.

17 Q Okay. And so as a result, where did you go when
18 you were called out?

19 A I believe the address was 122 Williamson Drive,
20 Belton.

21 Q And that's in Anderson County?

22 A That's correct.

23 Q Do you remember about what time you got to the
24 scene?

25 A I don't know exactly the time. I know it was

1 between 8:30 and 9:00.

2 Q Was it dark outside?

3 A Yes.

4 Q All right. Now, when you first arrived on scene,
5 who all was there as far as law enforcement goes, if
6 anybody?

7 A I believe Sergeant Bowland, Kenta Cowan, and Shane
8 Chandler.

9 Q And then what, if anything, did you observe in
10 terms of non-law enforcement people at the scene?

11 A I observed a white male laying in the roadway,
12 kind of in the driveway, and he was being rendered aid.

13 Q And did you determine eventually who that white
14 male was?

15 A Yes, ma'am. It was Jody Powell.

16 Q And who was rendering aid to Jody Powell?

17 A That was Brenda Masters, his girlfriend, was
18 attempting CPR at that time.

19 Q Now, while you were on scene, did Mr. Powell stay
20 there for long? What happened next?

21 A No. He was taken away in an ambulance.

22 Q All right. And then did you eventually learn the
23 condition of Mr. Powell once he was taken away by
24 ambulance?

25 A I did. I believe it was Investigator Garrett

1 contacted me to let me know he was deceased.

2 Q So in terms of your being on scene that night,
3 once you learned of Mr. Powell's death, what kind of
4 investigation did this become?

5 A At that point in time it was a homicide
6 investigation.

7 Q And so what was your role?

8 A As lead detective, I kind of step back and gather
9 all the information that I can and direct the rest of
10 the investigators to start taking statements from
11 witnesses, contacting forensics, things of that nature.

12 Q And did you do so in this case?

13 A I did.

14 Q All right. So you delegated certain investigators
15 to go speak with witnesses from the scene?

16 A Correct.

17 Q And then you also called for forensics to come out
18 to process the scene?

19 A That's correct.

20 Q How about the vehicles that were damaged at the
21 scene?

22 A Also I instructed road patrol to have those towed
23 back to the armory.

24 Q And those would be dealt with later?

25 A Correct.

1 Q And, now, was the defendant already in custody at
2 that point when you arrived on scene?

3 A He was. He was being taken from the scene, so I
4 instructed them to take him to the sheriff's office
5 holding cell.

6 Q All right. And was that to be tested for the
7 gunshot residue?

8 A That's correct.

9 Q Can you describe that holding cell to the jury?

10 A It's probably an eight-by-ten or so brick room
11 with a like a concrete bunk in the back, and also it
12 had a sink and a toilet in it.

13 Q Investigator Simpson, I'm going to show you what's
14 been marked as State's 82, 83, 84 and 85. If would you
15 please take a look at these, sir. And do you recognize
16 those?

17 A I do.

18 Q And how are you able to recognize those?

19 A It's the holding cell that Mr. Arflin was placed
20 in that night.

21 Q And does that fairly and accurately depict the
22 holding cell he was placed in on December 11th of 2013?

23 A Correct.

24 MS. HUEY: Your Honor, at this time we'd move to
25 admit State's 82 through 85.

1 MS. WHITE: No objection.

2 THE COURT: State's 82 through 85 will be admitted
3 without objection.

4 (WHEREUPON, State's Exhibit Number 82 was admitted
5 into evidence.)

6 (WHEREUPON, State's Exhibit Number 83 was admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit Number 84 was admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit Number 85 was admitted
11 into evidence.)

12 BY MS. HUEY:

13 Q And Investigator Simpson, starting with 82, if you
14 could just step down and show those to the jury.

15 A This is the actual door to the holding cell where
16 he was placed that night.

17 Q State's 83?

18 A And this is the bunk that's inside the cell.

19 Q And State's 84?

20 A And this is the toilet/sink combo.

21 Q And State's 85, what does that picture depict?

22 A This is just showing that it actually had running
23 water on the sink.

24 Q Thank you, sir. You may have a seat.

25 So, Investigator Simpson, you previously testified

1 that you had the vehicles involved in this case
2 transported and secured at the armory?

3 A Correct.

4 Q Correct? Okay. And then what, if anything,
5 happened with the vehicles once they were at the armory
6 under your direction?

7 A I directed investigators to do search warrants on
8 those vehicles to recover any items out of them.

9 Q And was that, in fact, done?

10 A Yes.

11 Q And there's been mention of a knife being located
12 in the victim's truck in this case. Was that collected
13 initially?

14 A Not initially, no.

15 Q And why was that?

16 A At that point in time I had no reason to think the
17 knife was in play in this.

18 Q Did you also attend the autopsy of the victim in
19 this case?

20 A I did.

21 Q And for what purpose do you attend the autopsy?

22 A That's to determine the cause of the death.

23 Q Okay. And were you able to get those results?

24 A Yes.

25 Q And what were those results?

1 A He died from gunshot wounds.

2 Q And what was it ruled as a result?

3 A Homicide.

4 Q And now, additionally, are you there as the
5 pathologist is going through the wounds?

6 A Yes.

7 Q All right. And based on the evidence you had at
8 hand, did the autopsy results corroborate the witness
9 testimony you had at the time?

10 MS. WHITE: Your Honor, I'm going to object to
11 that. What are we talking about? I'm sorry.

12 THE COURT: Sustained.

13 You can rephrase your question.

14 BY MS. HUEY:

15 Q Based on your investigation, Investigator Simpson,
16 you were aware of eyewitness testimony or eyewitness
17 statements, rather, from the night of the incident?

18 A Yes.

19 Q Okay. And then you attended the autopsy --

20 A Correct.

21 Q -- after that? Based on your observations at the
22 autopsy, the results from the autopsy, was that
23 consistent with what you had heard at the scene?

24 MS. WHITE: Objection, your Honor. Hearsay. And
25 I believe there was a recent advance sheet on this, and

1 I'm going to move for a mistrial if we keep going into
2 this --

3 THE COURT: Ms. --

4 MS. WHITE: -- hearsay.

5 THE COURT: Counsel, approach.

6 (WHEREUPON, a bench conference was held off the
7 record in the presence of the jury, but out of the
8 hearing of the jury.)

9 BY MS. HUEY:

10 Q All right. Investigator Simpson, were you aware
11 of items collected from the investigation in this case?

12 A Yes, ma'am.

13 Q Okay. Now, let's talk about some of the items,
14 specifically gunshot residue kits. Who were those
15 obtained on?

16 A On the victim, Mr. Powell, and also the defendant,
17 Mr. Arflin.

18 Q And those are collected and then sent on to SLED;
19 is that correct?

20 A Correct.

21 Q At your direction?

22 A That's correct.

23 Q Now, was the clothing tested in terms of the
24 victim for gunshot residue?

25 A No.

1 Q And why was that?

2 A SLED doesn't do any kind of testing on the
3 victim's clothing.

4 Q And how about in terms of the defendant?

5 A No, it was not sent either.

6 Q And why not?

7 A We knew at that point in time that the defendant
8 had fired a gun.

9 Q And so what would you expect to find on his
10 clothes?

11 A Gunshot residue.

12 Q Now, additionally, was the gun collected as well
13 as casings and just a single projectile; is that
14 correct?

15 A Correct.

16 Q Now, you were on the scene that night of the
17 incident, December 11th of 2013. Are you aware of any
18 other projectile that was collected that evening?

19 A No, it wasn't.

20 Q Okay. And is that unusual?

21 A No, it's not unusual at all. There's several
22 different variables why it wouldn't be.

23 Q And what are some of those variables?

24 A We don't know the projection of where the bullet
25 went to. It could have ricocheted off of anything.

1 There's just several different reasons we wouldn't find
2 it.

3 Q Now, you also directed that certain things be
4 fingerprinted; is that correct?

5 A Yes.

6 Q Okay. And what things were those?

7 A The shell casings and the gun.

8 Q And there were no results on that; is that
9 correct?

10 A No, ma'am.

11 Q Now, did you have, though, any items tested for
12 DNA purposes?

13 A No.

14 Q And why was that?

15 A We either had the option of testing it with DNA or
16 doing the fingerprints, and throughout our
17 investigations in the past, we've always had more
18 results with the fingerprinting than DNA.

19 Q So when you say -- when we're talking about the
20 casings and the gun in particular --

21 A Correct.

22 Q -- if you send it to DNA, then you can't test it
23 for fingerprints and vice versa?

24 A Right.

25 Q And it's been your experience that you're more

1 likely to get a result with a fingerprint test?

2 A That's correct.

3 Q And how about a blood spatter test in this
4 situation?

5 A No, we didn't do any kind of blood spatter.

6 Q And why not?

7 A We didn't see any blood on the clothing or
8 anything like that to do any sort of spatter.

9 Q During the course of your investigation, were you
10 able to establish where Jody Powell worked?

11 A I did. He worked at UPS.

12 Q And did you establish whether he was working on
13 December 11th of 2013?

14 A Yes, ma'am.

15 Q And were you able to establish a time frame as far
16 as when he got off of work?

17 MS. WHITE: Your Honor, I'm going to object to
18 hearsay. There would be no way to know that except for
19 hearsay.

20 THE COURT: Lay a foundation, Ms. Huey.

21 BY MS. HUEY:

22 Q During the course of your investigation,
23 Investigator Simpson, was it important for you to get a
24 timeline to help you with the investigation that night
25 on December 11th?

1 A Yes, ma'am.

2 Q And as such, did you -- did you try to establish
3 what time Mr. Powell left work?

4 A I did.

5 Q Okay. And were you able to do that?

6 A Yes, ma'am.

7 Q And what time was that?

8 MS. WHITE: Your Honor, again I'm going to renew
9 my objection. You can't get around hearsay by saying,
10 "During your investigation, did you discover
11 something."

12 THE COURT: All right. Sustained. Sustained.

13 BY MS. HUEY:

14 Q All right. The witnesses talked a lot about phone
15 records. I'm going to show you what's been marked as
16 Defense -- and admitted, I believe, as Defense
17 Exhibit 3. If you could take a look at that, please.

18 Now, during the course of your investigation, did
19 you obtain these phone records?

20 A Yes, I did.

21 Q From the victim's cell phone; is that correct?

22 A That's correct.

23 Q And, again, where was the victim's cell phone
24 located?

25 A It was taken from his pocket at the hospital, I

1 believe.

2 Q And so there's been talk or testimony about some
3 phone calls possibly taking place after we know that he
4 died; is that correct?

5 A Yes.

6 Q All right. And I believe there's testimony
7 that -- and you can verify that beside each of those
8 times, what is written out beside each of those call
9 times?

10 A Minus 0400.

11 Q Okay. And in your experience, what do you
12 understand that to mean?

13 A When we get phone records, there's -- phone
14 companies do weird things with them. There's a thing
15 called Greenwich Mean Time, and that's kind of a
16 standard for cell phone companies. And out beside the
17 times, normally you have either a plus or a minus one,
18 two, three, four, five hours. You either have to
19 subtract to get to your time or add to get to your
20 time. And on this occasion would you subtract the four
21 hours to get to our time but also you have to take into
22 account that back in December of 2013, you would have
23 to have added an extra hour due to daylight savings
24 time, so it actually would be five hours prior to the
25 times listed on this paper.

1 Q So the Greenwich Mean Time doesn't take into
2 consideration daylight savings?

3 A Does not.

4 Q So you have to -- rather than minus four, it's
5 really minus five is your understanding?

6 A Correct.

7 Q So then what would that last phone call time then
8 translate to?

9 A The last phone call would be 7:38 p.m. in the
10 evening.

11 Q Just a minute.

12 To whom was that call made?

13 A It has on here "Bren has my heart."

14 MS. HUEY: That's all I have at this time, Judge.

15 THE COURT: Ms. White.

16 MS. WHITE: Yes, sir.

17 CROSS-EXAMINATION

18 BY MS. WHITE:

19 Q Detective, you said, I think, to the prosecutor
20 that when you got there, you observed Jody and he was
21 half on the road and half in the driveway or part one
22 or part the other. Can you tell us a little more about
23 that?

24 A He was more laying on the driveway.

25 Q Okay. Were his feet still in the road or his head

1 in the road? I know there has been some talk about
2 moving the body around, but do you recall the position
3 when you got there? If you don't, that's fine.

4 A I believe his head was up and his feet was down
5 the driveway.

6 Q Okay. And you interviewed or delegated to
7 interview some of the people who were there; is that
8 correct?

9 A Correct.

10 Q And as police arrived, the other Williamsons
11 arrived, too, or were they already there. I'm talking
12 about the ones up and down the road were there already
13 there when you got there or did they come later?

14 A I'm not sure if they were already there, and I
15 don't know exactly how many people were there. I was
16 kind of in the middle of delegating at that time; so I
17 didn't have a count on people.

18 Q Well, at this point you know that you delegated
19 and you all recorded interviews from various
20 Williamsons up and down the road who had migrated to
21 the scene; is that correct?

22 A Correct.

23 Q As far as you know, of the Williamsons who were at
24 this scene when the shooting occurred, they were all
25 there except for Tonya and Brenda; is that right? They

1 went to the hospital. The others were there and were
2 actually interviewed there?

3 A I believe that's correct.

4 Q Now, you said that you instructed the deputy to
5 take Bobby to the sheriff's department or detention
6 center or something and have him held there later; is
7 that right, for the GSR?

8 A Correct.

9 Q Is there a reason why y'all didn't just do the GSR
10 at the scene like usual?

11 A He was being taken away from the scene. I didn't
12 want to call him back to the scene, so I had -- instead
13 of taking him to the detention center, I had them take
14 him to the sheriff's office holding cell.

15 Q And you would agree that GSR, I mean, in all
16 fairness to your side, perhaps, GSR, I mean, messing
17 with the hands at all, rubbing hands, any of that can
18 knock this GSR off; is that correct?

19 A That's correct.

20 Q And that applies as well to Jody, you know, being
21 EMS --

22 A Correct.

23 Q -- and grass and various things like that, this is
24 very delicate material, isn't it?

25 A Right.

1 Q And why weren't Jody's hands bagged at the scene,
2 do you know?

3 A That, I do not believe I had any bags to do that,
4 and I don't know if anyone else did at that point in
5 time.

6 Q Okay. And we were asking about MAIT, and MAIT
7 said -- I think your witness said, you know, "We don't
8 work many murder scenes." Well, that's because not
9 many homicide scenes have vehicles involved, do they?
10 That's very unusual.

11 A Not very many.

12 Q And MAIT was not called to the scene that night;
13 is that right?

14 A That's correct.

15 Q Wouldn't it have been helpful to be able to mark
16 everything before it was moved so an accident
17 reconstruction could be done in retrospect?

18 A Monday morning quarterbacking, possibly could have
19 been. At this point I was more worried about the
20 shooting.

21 Q All right. And let's talk about Monday morning
22 quarterbacking. It is easy to Monday morning
23 quarterback a situation where someone is in under
24 stress and time limits, isn't it?

25 A True.

1 Q But it's a lot more difficult when you're trying
2 to make a decision right there in the stress of a
3 moment; isn't that correct?

4 A I agree with that.

5 Q And it's very easy for people to sit back and
6 question what somebody did back in the spur of the
7 moment when they had to make a snap decision, isn't it?

8 A True.

9 Q All right. You said -- so the bottom line is the
10 GSR tests don't really mean anything on Jody and they
11 don't really mean anything on Bobby in this case?

12 A No. They came back negative.

13 Q But, I mean, that doesn't mean anything because
14 both of their hands could have lost this stuff anyway?

15 A That's true.

16 Q Now, let's go to -- you said that there was no
17 clothing tested because SLED doesn't do testing, but
18 there are many other labs that do. And, certainly, the
19 State could have sent this evidence to another lab,
20 could they not?

21 A That's not our policy to do that.

22 Q Well, sir, my client, no disrespect intended, is
23 facing murder charges. Could you not have broken the
24 policy considering that is a big factor in this case
25 and pay a little bit of money to send this stuff to a

1 lab?

2 A I don't make that decision.

3 Q You said that the clothing, my client's clothing
4 was not tested because you already knew he had fired a
5 shot; is that correct?

6 A Correct.

7 Q But are you aware that you could do distance
8 determinations, you can do blood spatter
9 determinations, and with a firearm, you can't see blood
10 spatter with the naked eye? Are you aware of that?

11 A Yes.

12 Q And both of these tests would help us determine
13 distances. Are you aware of that?

14 A I'm not aware of everything that you can test, no,
15 ma'am.

16 Q All right. Well, let's go back to you interviewed
17 Jamie; is that correct, in, I think, March of this
18 year?

19 A Correct.

20 Q And he said that Jody was face down on the ground
21 when Bobby shot him through the back; is that correct?
22 I'll be happy to show you a transcript if you need to
23 refresh your memory.

24 A Yes, ma'am, because I don't remember word for word
25 all these statements.

1 Q Let me get the transcript for you. If you don't
2 mind taking a look at page eight, and I'm going to read
3 it. You tell me if I'm correct. "I thought maybe, you
4 know, when you took off to run, maybe just tripped and
5 fell in the ditch. But Bobby walked over there, and,
6 you know, you could see him plain as day. He pointed
7 and shot again when he was -- while he was face down on
8 the ground.

9 "Shot him in the back?

10 "Yes, sir."

11 Do you recall that?

12 A Yes.

13 Q Did y'all find any projectiles in the ground?

14 A No, ma'am, not at that point in time. As I
15 stated --

16 Q Had you at any point in time?

17 A I didn't finish. They could have -- the bullet
18 could have went anywhere. Somebody could have stepped
19 on it on the ground. I don't know where it went to.

20 Q You all are telling the jury that this is a -- not
21 a small, it's a high-caliber pistol. And you're saying
22 if it shot right here through the back, that the
23 bullet, you're not going to look -- I mean, the bullet
24 can go anywhere; is that what you're saying, when the
25 body is on top of it?

1 A I don't know what's under it. It could have hit a
2 rock. It could have hit anything. I'm not sure.

3 Q Well --

4 A I'm not a gun expert.

5 Q Well, let me just ask you: Did y'all find a
6 bullet under that body?

7 A No.

8 Q Now, you said that you have to make a choice of
9 DNA or prints. And that takes us back to what we were
10 talking about you have to do things in a certain order;
11 is that correct?

12 A Correct.

13 Q All right. And you said you didn't test Bobby's
14 clothing because you already knew he was the shooter;
15 is that right?

16 A Correct.

17 Q So why out of the two tests of blood spatter or
18 fingerprints would you pick fingerprints on the pistol
19 that Bobby, according to y'all's evidence, said is
20 right there, "That's mine"?

21 A Again, that's something we can do rather fastly
22 and find out the results.

23 Q And, in fact, you can do different tests on one
24 item; isn't that true? You can partial -- for
25 instance, I can test this part of the weapon for

1 fingerprints, down in here, and I can test this part
2 for blood spatter. I can do both tests. I just do
3 tests on different areas of the weapon; is that right?

4 A I'm sure you probably could.

5 Q And, again, blood spatter can help determine
6 distance, angle, all of that; is that right?

7 A I'm not a chemist. I don't know how that works.

8 Q Now, you all also took Bobby's phone, did you not?

9 A Yes.

10 Q And will you please tell the jury what you all did
11 with that?

12 A I placed it into evidence.

13 Q I mean, what your department did with it after
14 that?

15 A It was transferred to Anderson City Police
16 Department to be examined.

17 Q And did it ultimately get lost for a few months
18 but then get located again?

19 A According to Anderson City, yes, ma'am.

20 Q And did law enforcement end up issuing what's
21 called an extraction report?

22 A Yes.

23 Q And that's simply where they go in and they
24 extract the information from the phone; is that
25 correct?

1 A Correct.

2 MS. WHITE: Your Honor, I move Defendant's
3 Exhibit 10 be admitted.

4 THE COURT: Any objection?

5 MS. PRICE: No objection.

6 THE COURT: Defendant's Exhibit 10 will be
7 admitted without objection.

8 (WHEREUPON, Defendant's Exhibit Number 10 was
9 admitted into evidence.)

10 BY MS. WHITE:

11 Q All right, Officer. I'm going to hand you
12 Defendant's Exhibit 10. And if you will just look at
13 the last two pages. Those are the ones involving this
14 day -- or night, I should say.

15 A Yes, I'm assuming so.

16 Q And there is no Greenwich -- thank you for
17 answering that. I was very confused about how that
18 phone got used, by the way. But, anyway, we don't have
19 any of this on this, do we? This is data taken
20 directly from the phone?

21 A Right.

22 Q All right. Let's go to again December 11, 2013.
23 What time does Bobby's phone call 911?

24 A 8:36 p.m.

25 Q And you later determined that that was the first

1 call regarding the accident; is that correct?

2 A Correct.

3 Q The vehicle accident. And, again, that was
4 8:36 p.m.; is that right?

5 A That's correct.

6 Q All right. And you, your agency, promulgates
7 something called a CAD report; is that right?

8 A That's right.

9 Q And the CAD report is the report that tells what
10 time the other 911 call came in; is that right?

11 A Should.

12 (WHEREUPON, Defendant's Exhibit Number 11
13 was marked for identification.)

14 BY MS. WHITE:

15 Q All right. And I'm handing you Defendant's
16 Exhibit --

17 MS. WHITE: Your Honor, I'd ask that Defendant's
18 Exhibit 11 be admitted.

19 MS. HUEY: Without objection.

20 THE COURT: Defendant's Exhibit 11 will be
21 admitted without objection.

22 (WHEREUPON, Defendant's Exhibit Number 11 was
23 admitted into evidence.)

24 BY MS. WHITE:

25 Q Handing you Defendant's Exhibit 11, which is this

1 CAD report promulgated by your agency regarding the 911
2 call that came in from Tonya; is that right?

3 A Yes.

4 Q All right. And what time did that come in?

5 A 8:42.

6 Q And on there military time is used. It says
7 20-something, but that is the equivalent of 8:42; is
8 that right?

9 A That's correct.

10 Q So we know the wreck call came in at 8:36 we know
11 the other 911 call came in 8:42; is that right?

12 A That's correct.

13 Q How many minutes' difference between those two?

14 A Oh, I would say six.

15 Q Approximately. All right. And, of course, the
16 clocks could have been different in the two phones --

17 A Right.

18 Q -- or the phone and the other system, but that
19 would be approximately the right amount of time
20 between, right?

21 A Close.

22 Q May I have this back, please? No, no, no. Keep
23 them in front of you. I have got one more question on
24 those.

25 Now, the next call -- let's go back to Bobby's,

1 Bobby's phone. So we know that on the CAD report,
2 approximately 8:40 you said that -- I'm sorry.

3 A 8:42.

4 Q 8:42. All right. If you will go back to Bobby's
5 phone, I believe we've heard testimony that after the
6 shooting, he got on the phone. Can you tell this jury
7 who he called at 8:42? In other words, while this
8 other call was going into 911, who did his phone show
9 he was calling at 8:42 on his phone?

10 A Says "Sheila Arflin."

11 Q And that's his wife; is that right?

12 A That's correct.

13 Q And then the next call from his phone is what
14 time?

15 A 8:48.

16 Q And that is to whom?

17 A Billy Arflin.

18 Q And that is his brother; is that right?

19 A That's correct.

20 Q So 8:36 he's calling 911 about the traffic
21 incident. 8:42 the 911 call comes in on the shooting,
22 and there is a call to Sheila, and 8:48 there is a call
23 from Bobby's phone to Billy, his brother?

24 A Correct.

25 Q And did you hear the testimony that he was on the

1 phone when the officer arrived?

2 A I don't recall exactly when he was on the phone.
3 I just know he was on the phone somewhere around that
4 time.

5 Q You remember Deputy Chandler said, "I said, 'Put
6 your hands up,' and he was on the phone and he had to
7 hand it to his wife"; do you remember that?

8 A I believe so, yes.

9 Q And I believe Deputy Chandler said it took him
10 about nine minutes to get to the scene from the time
11 that 8:42 call came in to him on the CAD report?

12 A That's fairly close.

13 Q So that means that Bobby would have been talking
14 to Billy -- to Sheila when he was on the phone right
15 after the shooting and to Billy at the time the police
16 got there; is that correct?

17 A Well, it goes back to what you said about the
18 clocks being different --

19 Q If the clocks --

20 A I don't know.

21 Q Yeah. If these times are approximately right?

22 A Either or, we don't know exactly the times.

23 Q All right. Okay. So let's talk about what
24 happened at the scene, then. Now, when you all got to
25 the scene, Sheila was at the scene with my client; is

1 that right?

2 A Yes, I believe so.

3 Q And you heard Deputy Chandler say, you know,
4 "We're going to take you to the sheriff's department,"
5 and they took him to a car and guarded the car; is that
6 right?

7 A Right.

8 Q Now, at that point you all -- you assigned an
9 officer to talk to Sheila and to talk to Billy; is that
10 right? And you, in fact, taped statements from both of
11 them?

12 A Yes.

13 Q And on those taped statements where Billy and
14 Sheila are talking, they tell you --

15 MS. HUEY: Objection, your Honor. Hearsay.

16 THE COURT: Sustained.

17 BY MS. WHITE:

18 Q Did they talk on these taped statements about
19 these phone calls?

20 MS. HUEY: Objection.

21 THE COURT: Sustained.

22 MS. WHITE: I'll move on.

23 Q Did you provide taped statements of Billy and
24 Sheila within minutes after this shooting to us in
25 discovery?

1 A Yes.

2 Q And do you all still have those tape recordings?

3 A Yes.

4 Q And have they, in fact, been transcribed?

5 A That part I don't know. I'm assuming they have.

6 Q And there's no question from the phone records
7 that Bobby talked to them immediately after the
8 shooting?

9 A Yes.

10 Q Now, if you have been in a wreck or had some kind
11 of traumatic incident like that and you know 911 has
12 been called because somebody was already screaming
13 about 911, who would you pick up the phone and call?

14 A I don't know. I have never been in a wreck.

15 Q Would it be natural to pick up the phone and call
16 your husband or your wife?

17 A Could be.

18 Q Bobby was charged with malicious injury to
19 personal property on the silver truck that night; is
20 that correct?

21 A Correct.

22 Q And MAIT came out in March of 2015 or whatever he
23 said, April I think it was; is that right?

24 A Right.

25 Q And you all are not proceeding on those charges

1 today; is that correct?

2 A That's out of my hands.

3 Q Well, I mean, the jury -- the indictment was not
4 presented to the jury on that; is that correct?

5 A I don't think so.

6 Q You ended up going back to the sheriff's
7 department at some point that evening; is that right?

8 A Correct.

9 Q And Bobby provided gun, blood, buccal swab, GSR,
10 pictures, et cetera?

11 A Right.

12 Q If someone has accidentally hit a car, would you
13 expect them to pick up the phone and call 911 or some
14 law enforcement agency?

15 A Certainly.

16 Q And that's called doing the right thing because,
17 actually, if you leave the scene, you could be charged
18 with a crime; is that right?

19 A Right.

20 Q And so that would be the appropriate way to handle
21 it?

22 A Correct.

23 Q Do you think it's odd that at the end of a 911
24 call for virtually a fender bender that someone says,
25 "You better hurry"?

1 A Yes, I do think it's odd.

2 Q Just one minute, please.

3 MS. WHITE: No further questions.

4 THE COURT: Ms. Huey, any redirect?

5 MS. HUEY: No, sir, your Honor.

6 May he be excused?

7 THE COURT: Thank you, Officer. You can step
8 down.

9 Call your next witness.

10 MS. PRICE: Your Honor, at this time the State
11 calls Deputy Clayton Martin to the stand.

12 CLAYTON MARTIN,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 THE CLERK: Please state and spell your name for
15 the reporter.

16 THE WITNESS: My name is Clayton Martin. Last
17 name spelled M-a-r-t-i-n.

18 DIRECT EXAMINATION

19 BY MS. PRICE:

20 Q Deputy Martin, who do you work for and in what
21 capacity?

22 A I work for the Anderson County Sheriff's Office
23 assigned to the canine unit.

24 Q What sort of duties and responsibilities are
25 associated with that position?

1 A I serve as a support unit for road patrol and also
2 handle canine calls such as narcotics in vehicles,
3 clearing buildings, tracking suspects, things of that
4 nature.

5 Q And how long have you been in enforcement today,
6 in law enforcement today?

7 A Right around six years.

8 Q And were you in the canine unit on August 26th of
9 2013?

10 A I was not.

11 Q What was your area at that time?

12 A Road patrol.

13 Q You were on road patrol. What did road patrol do?
14 What did you do when you were on it?

15 A Answer 911 calls was our primary duty.

16 Q And on October 26th -- excuse me -- August 26th of
17 2013, did you respond to call?

18 A I did.

19 Q Where did you respond?

20 A It was on Williamson Drive in Belton. I can't
21 remember the exact address. I believe 135
22 approximately.

23 Q What was the nature of the call?

24 A It was a call for a dispute between neighbors.

25 Q Okay. Who was the person that called to request

1 law enforcement assistance?

2 A Larry Williamson.

3 Q Okay. And who was he calling to report?

4 MS. WHITE: Objection. Hearsay, your Honor.

5 THE COURT: Sustained.

6 BY MS. PRICE:

7 Q How was Larry Williamson acting when you arrived?

8 A He was calm. He was a little aggravated about the
9 situation at hand, but he did not seem violent in any
10 way.

11 Q And, again, the nature of this call?

12 A A dispute between neighbors.

13 Q Okay.

14 MS. PRICE: One moment.

15 I have no further questions at this time. Please
16 answer any questions that Ms. White has for you.

17 CROSS-EXAMINATION

18 BY MS. WHITE:

19 Q Deputy Martin, in your years of law enforcement
20 experience, have you investigated or gone to or been
21 called to various assaults, various criminal domestic
22 violences, things like that?

23 A I have.

24 Q And is it -- have you been on many cases where
25 someone has reported that somebody has hit them in the

1 face or hit them in the jaw or hit them in the head or
2 something else?

3 A I have.

4 Q And is it common or uncommon for there to be no
5 injury?

6 A That has happened on occasion, yes, ma'am.

7 Q And that isn't that infrequent, is it, that there
8 may be no injury?

9 A No, ma'am.

10 Q And especially when you go to CDVs but assaults,
11 too, you're going to look at the hands of the person
12 who supposedly did the hitting. You're going to look
13 at the other person, and, in fact, it's your job to
14 photograph any issues, isn't it?

15 A Yes, ma'am.

16 Q So you look in those cases?

17 A Yes, ma'am.

18 Q And, again, very often the hands of the person who
19 has done the assault, there is no injury at all; is
20 that correct?

21 A That's common, yes, ma'am.

22 THE COURT: Anything further?

23 MS. WHITE: No, sir.

24 THE COURT: Any redirect?

25 MS. PRICE: Yes.

REDIRECT EXAMINATION

BY MS. PRICE:

Q Was there any allegation of assault that day to the incident that you responded?

A No, ma'am.

MS. PRICE: Thank you. No further questions.

THE COURT: Anything further from this witness?

MS. PRICE: No, sir.

THE COURT: Any objection to this witness being excused?

MS. PRICE: None from the State.

MS. WHITE: No, your Honor.

THE COURT: Thank you, Officer. You are excused.

MS. PRICE: Your Honor, may we approach?

THE COURT: Yes, ma'am.

(WHEREUPON, a bench conference was held off the record in the presence of the jury, but out of the hearing of the jury.)

THE COURT: Ladies and gentlemen, we're going to take our first break of the afternoon. We're going to take about 15 minutes and then we'll resume.

Mr. Bailiff, you can take our jury to the jury room.

(WHEREUPON, the jury exited open court at 2:46 p.m.)

1 THE COURT: We'll be in recess until 3 o'clock.

2 (WHEREUPON, a recess was taken from 2:47 p.m.

3 to 3:05 p.m.)

4 THE COURT: Okay. Anything from the State before
5 we bring the jury back?

6 MS. PRICE: Your Honor, the State is ready to call
7 Mr. Roy Lawrence. I believe Ms. White has indicated
8 for some reason she wants to proffer something with
9 him.

10 THE COURT: Okay.

11 Ms. White.

12 MS. WHITE: Yes, sir. Well, they haven't called
13 him yet, your Honor, but rather than having the jury
14 come in and go back out, it might be easier to just
15 take care of it now.

16 THE COURT: Go ahead and call Mr. Lawrence.

17 MS. PRICE: Your Honor, I don't need to proffer
18 him until --

19 THE COURT: Ms. White, what's the nature of the
20 matter that you wish to proffer?

21 MS. WHITE: Your Honor, I'm going to be renewing
22 my objection to Fifth Amendment and Sixth Amendment,
23 that he's acting as an agent and it's custodian
24 interrogation. I'm going to be asking that his rap
25 sheet come in. We had been over that before. It

1 starts in the '70s and goes on all the way.

2 THE COURT: We had a hearing on that, and my
3 ruling does not change.

4 MS. WHITE: As long as I can renew it and you
5 accept what we did there, I'm good with that.

6 THE COURT: You are -- your objection is noted to
7 protect you on the record.

8 MS. WHITE: And, your Honor, I also would ask
9 that, you know, he was given a polygraph and was told
10 repeatedly, "Don't wiggle or we can't get a result. We
11 can't get a result. We can't get a result." I'm
12 asking again that my request to get in that to show
13 that he deliberately evaded a polygraph result come in.

14 THE COURT: Okay. My ruling remains the same. We
15 will not have polygraph result evidence or mention of
16 polygraph in the case. Your objection is noted for the
17 record.

18 MS. WHITE: If I'm completely covered, I do not
19 need to ask any questions then.

20 THE COURT: Your objection is noted for the
21 record.

22 MS. WHITE: Yes, sir. Thank you.

23 MS. PRICE: Yes, sir. Then I believe we can bring
24 the jury in and I'll call my witness.

25 THE COURT: Bring our jury in.

1 (WHEREUPON, the jury entered open court at
2 3:07 p.m.)

3 THE COURT: Ms. Price.

4 MS. PRICE: Yes, sir. Your Honor, at this time
5 the State calls Roy Lawrence.

6 ROY LAWRENCE,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: Please state and spell your name for
9 the reporter.

10 THE WITNESS: Roy Edward Lawrence,
11 L-a-w-r-e-n-c-e.

12 DIRECT EXAMINATION

13 BY MS. PRICE:

14 Q Mr. Lawrence, do you have a nickname?

15 A Wolf.

16 Q Wolf?

17 A (Nodding.)

18 Q And, Mr. Lawrence, where do you live?

19 A Anderson.

20 Q Okay. Where were you living last year?

21 A Anderson.

22 Q Okay. Can you give me your address?

23 A It was 4013 South 81.

24 Q Okay. Do you remember the zip code?

25 A 29624.

- 1 Q 29624?
- 2 A Yeah.
- 3 Q Okay. And where were you from October 6th through
- 4 November 4th of 2014?
- 5 A In the county jail.
- 6 Q In the jail, okay. And did you have a cellmate
- 7 during that period of time?
- 8 A Yeah.
- 9 Q Okay. Who was that cellmate?
- 10 A Named Bobby.
- 11 Q Do you know his last name?
- 12 A Arflin.
- 13 Q Do you see him in the courtroom today?
- 14 A Yeah.
- 15 Q Okay. Can you point him out and describe what
- 16 he's wearing for the record?
- 17 A Yeah. He's wearing a black jacket, purple shirt.
- 18 Q Okay. And when you had him as a cellmate, did you
- 19 get to know him during that time?
- 20 A I did.
- 21 Q Would you do things together?
- 22 A We played cards and talked.
- 23 Q Played cards and talked?
- 24 A Yeah.
- 25 Q What kind of cards?

1 A We played rummy, 500, and he liked blackjack, you
2 know, 21.

3 Q Did you talk about your home life?

4 A Yeah.

5 Q Did you do anything with regard to the canteen?

6 A Yeah. My wife, I had a problem for about three to
7 four weeks on getting my phone calls, my glasses, and
8 my canteen, so my wife was putting money on his account
9 so he would split his canteen. You can only get up to
10 \$50, so he gave me 25 and him 25 to get to the canteen.

11 Q In the canteen?

12 A Yeah.

13 Q So you would help each other out?

14 A Yeah.

15 Q Okay. Did Bobby ever write anything out for you?

16 A Yeah. My medical, yeah, request, stuff like that.
17 I was having problems with my medical. They wasn't
18 giving me my right medicine. I'm a diabetic and I am,
19 you know, at night I can't breathe. They wouldn't give
20 me my inhalers and stuff, so.

21 Q And why would he write them for you?

22 A I didn't have my glasses.

23 Q Are you good at spelling?

24 A Not really, but, you know, he's helped me on that.

25 Q Okay. But y'all are friendly with each other?

- 1 A Right.
- 2 Q Did he ever talk to you about this case?
- 3 A Yeah.
- 4 Q Okay. Did he tell you what he said happened?
- 5 A Yeah.
- 6 Q What did he say?
- 7 A He ran into somebody's car or vehicle and seemed
- 8 like the whole neighborhood came after him, and he had
- 9 a confrontation with the guy, the guy pushed him in the
- 10 chest and he shot him.
- 11 Q Pushed him in the chest?
- 12 A Yeah. That's what he said.
- 13 Q Okay. Did he say anything to you about the
- 14 witnesses in this case?
- 15 A Explain yourself on that.
- 16 Q Rephrase my question?
- 17 A Yeah.
- 18 Q Did he talk to you about the witnesses in this
- 19 case?
- 20 A He talked about three homes. He drew a map out
- 21 for me.
- 22 Q Okay. Three homes of what?
- 23 A Of witnesses.
- 24 Q He -- okay. Tell me more about that.
- 25 A Well, he -- we got to talking about the witnesses,

1 and he said that if they can disappear, you know,
2 wouldn't be at trial, that, you know, it would be a
3 mistrial.

4 Q Okay.

5 A He drew a map. He showed me exactly how to go in
6 from the back side, the front side. He showed me
7 exactly each trailer they lived in and who they were.

8 Q Okay. Who were they, do you remember?

9 A I remember the 34-year-old on his side of the
10 road, and then there was an elder gentleman that
11 lived -- they lived together on the same land. And the
12 lady's trailer was right here, and she was only
13 supposed to have a son there.

14 Q Okay. And so he talked to you about making them
15 disappear?

16 A He asked me to -- yeah, kill them. But I told him
17 I ain't into that, and then it came up to kidnapping
18 them.

19 Q He asked you to kidnap them?

20 A Yes, ma'am.

21 Q Okay. And you said he drew out a map and gave you
22 instructions on how to get there?

23 A Yes, ma'am.

24 Q Okay.

25 MS. WHITE: Your Honor, my only objection to any

1 of the exhibits or any of the testimony I've already
2 put on the record earlier, and that would continue.

3 THE COURT: Objection is noted.

4 BY MS. PRICE:

5 Q Mr. Lawrence, I'm showing you what's been marked
6 as State's 86 and 87. Can you look at those items for
7 me, please.

8 A Can I get my glasses?

9 Q Absolutely. Okay. Are you familiar with those
10 items?

11 A Yeah. Bobby drew it out for me, and that's the
12 request on the back that he helped me -- he wrote out
13 for me so I could put it on a request.

14 Q What do you mean, "request"?

15 A An inmate request to the medical people.

16 Q So on one side there is a map, and on the other
17 side there is a medical request?

18 A Exactly.

19 Q And the medical request is something he had done
20 for you?

21 A Yeah. He wrote it out so I could put it on an
22 inmate request.

23 Q Okay.

24 A I couldn't send this out.

25 Q Right. And the other side is a map?

1 A It's a map he drew where he lived and where the
2 defendants, you know, live.

3 Q Okay. And did you draw out that map?

4 A No.

5 Q Did you write out those names?

6 A No.

7 Q Okay. Now, with the map and the note you have up
8 there?

9 A Uh-huh.

10 Q Now, do you still have the -- would you pick that
11 up for me, sir. Okay. Can you read out those three
12 names for me?

13 A Brenda Williamson Masters, Larry Williamson, and
14 James Paul Madison, I think. Yeah, 34-year-old.

15 Q 34-year-old?

16 A Yeah.

17 Q Those three names are the three names that he gave
18 you?

19 A Yes, ma'am.

20 Q And asked you to kidnap?

21 A Yes, ma'am.

22 Q Okay. Was he going to give you anything for doing
23 this for him?

24 A He said he had three -- he had three and a half
25 acres besides his acres on one side where the house was

1 that I was supposed to come across with a trailer
2 sitting on it, old trailer.

3 Q A trailer?

4 A Yeah.

5 Q Would you have been interested in a trailer?

6 A The land, the trailer was optional if you're
7 asking me that, to consider just taking it. You know,
8 I mean, the thought came in to me. I mean, I'm human.

9 Q So you considered doing this?

10 A Yes, ma'am.

11 Q Okay. And do you do things with trailers?

12 A Yes, ma'am.

13 Q Okay. So that would have sweetened the pot?

14 A Yes, ma'am.

15 Q Okay. What do you do with trailers?

16 A I contract for Clayton Homes remodeling homes and
17 re-setting them up for storage or resale.

18 Q When did he bring this plot up with you?

19 A About a week before I was getting out. He found
20 out I was getting out of jail, bonding out.

21 Q So he found out you were going to be released?

22 A Right.

23 Q And that's when he brought this up?

24 A Yes, ma'am.

25 Q So he knew you would be able to work on it?

1 A Yes, ma'am.

2 Q Okay. So were you released?

3 A Yes, ma'am.

4 Q You were let out of jail, okay. And what did you
5 do about this after you were released?

6 A Went home and I called my brother-in-law. He's a
7 state constable and city inspector for Anderson.

8 Q Who's your brother-in-law?

9 A Bud Chitwood.

10 Q And what did you do after you called Bud?

11 A I talked to him about it.

12 Q Okay. And --

13 A He asked me, "Are you serious?" I said, "Yeah."
14 He said, "Don't do it. Let me let you talk with
15 somebody." So he went and called one of his friends,
16 and his friend's, within about two hours, knocking on
17 my door at my house.

18 Q Okay. Someone with the sheriff's office was
19 knocking on the door of your house?

20 A Yes, ma'am, a detective.

21 Q Why did you tell somebody about this?

22 A I was taking into consideration it could have been
23 my family or a family member, and it just didn't seem
24 right, you know what I'm saying. I mean, I just had a
25 guilty conscience, I guess.

- 1 Q The detective that came to meet with you?
- 2 A Uh-huh.
- 3 Q Had you ever met him?
- 4 A Never in my life.
- 5 Q Had he talked to you before you went to jail?
- 6 A No.
- 7 Q Okay. He didn't put you in that cell to talk to
- 8 Mr. Arflin?
- 9 A No, ma'am.
- 10 Q Okay. So you had never, ever met with anybody
- 11 about this case prior to being in jail?
- 12 A No, ma'am.
- 13 Q And Mr. Arflin approached you?
- 14 A Yes, ma'am.
- 15 Q Okay. When the detective came to meet with you,
- 16 did you talk to him about what Mr. Arflin had asked you
- 17 about?
- 18 A Rephrase the question again.
- 19 Q Yes, sir. That was a little bit confusing.
- 20 A Uh-huh.
- 21 Q Did you tell the detective what you're telling us
- 22 today?
- 23 A Yes, ma'am.
- 24 Q Did you give him the map and that list of names?
- 25 A Yes, ma'am.

1 Q And was -- were you going to get some additional
2 instructions from Mr. Arflin?

3 A Yes, ma'am.

4 Q Okay. How was he going to give you those
5 additional instructions at first?

6 A Phone call.

7 Q He was going to call you?

8 A Yes, ma'am.

9 Q Did you wind up getting some calls from the jail?

10 A Yes, ma'am. I got one from -- he was a convicted
11 murderer, too. The one over there on -- close to the
12 Cab Light, old Cab Light. I can't remember his name.
13 I mean, I go through a thousand names. I was a cab
14 driver. That's how I knew who he was. And he called
15 my house. He was wanting me, I guess, going up to
16 sentence and wanted some money on his account. Then I
17 did another -- I was doing something for Jason -- I
18 think his name was Jason -- about his truck. He wanted
19 us to help his wife sell the truck. So I called Will
20 Dorsey. Will Dorsey went down on 29 and looked at the
21 truck, tried to get their people to bring the title up
22 there and nothing happened. So when I got off the
23 phone with that, I asked them about having Mr. Arflin
24 call me. And that's when he called me.

25 Q Okay. So you were on the phone with another

1 inmate?

2 A Right.

3 Q Because you were doing favors for people you had
4 met?

5 A Thank you.

6 Q Is that you made friends --

7 A Yes, ma'am.

8 Q -- when you're behind bars?

9 A Well, they knew me.

10 Q So you were doing favors outside for some folks?

11 A Right.

12 Q But not kidnapping anybody?

13 A No.

14 Q Okay. And you asked -- you asked that individual
15 to have Mr. Arflin call you?

16 A Yes, ma'am.

17 Q Is this after you met with the detective?

18 A Yes.

19 Q Okay. Had the detective told you that if
20 Mr. Arflin calls you, to talk to him about this
21 situation?

22 A Not in those exact words, but he said, "If he
23 calls, contact me," and I did.

24 Q And did the defendant call you?

25 A Yes, ma'am.

1 Q Okay. And did you talk to Mr. Arflin about the
2 plan?

3 A Yes, ma'am. I led Mr. Arflin into believing that
4 I went out to the place and scoped it all out and told
5 him everybody was home but the 34-year-old. He was
6 supposed to be out of town for a week and what did he
7 want me to do. Do you want me to hold off? And his
8 statement was, "Yeah, hold off."

9 Q Okay. Had you ever actually gone out there?

10 A No, ma'am.

11 Q Have you ever been out there?

12 A No, ma'am. Eagle Eye can verify that. I got a
13 brace on my leg since I've been out of jail and they
14 know everywhere I go.

15 Q Okay. And were you going to get additional
16 instructions from Mr. Arflin after that phone call?

17 A I was supposed to in a letter, but he didn't feel
18 comfortable talking on the phone. But my problem was I
19 gave him the wrong zip code. I gave him 296201, and my
20 zip code is 29620 -- 24.

21 Q Okay. So you gave -- you were supposed to get a
22 letter but you gave him the wrong zip code?

23 A Yes, ma'am.

24 Q Okay. So you don't know if a letter was actually
25 sent?

1 A No, ma'am. I mean, I looked for it, but it never
2 came.

3 Q But you never got a letter?

4 A No, ma'am.

5 MS. WHITE: Your Honor, again, I'm going to object
6 on the same grounds that I objected to before.

7 THE COURT: Objection is overruled but noted for
8 the record.

9 BY MS. PRICE:

10 Q Mr. Lawrence, I'm showing you -- you need your
11 glasses again, I'm sorry -- what's been marked as
12 State's Exhibit 88. Are you familiar with this item?

13 A The -- yes, ma'am.

14 Q Okay. What is it?

15 A It's a recording of the phone call of me and
16 Arflin.

17 Q How can you tell?

18 A Because it says "recorded call."

19 Q Okay. At any point did you listen to this?

20 A I think I did, yeah.

21 Q Okay. And did you potentially sign it?

22 A Yes, ma'am, and dated it in your office.

23 Q That's your signature?

24 A Yes, ma'am.

25 Q Okay. And when you listened to it, was it a true

1 and accurate recording of the conversation you had with
2 him?

3 A Yes, ma'am.

4 Q Okay. And there had not been any edits to it
5 whatsoever?

6 A No, ma'am.

7 Q Okay.

8 MS. PRICE: Your Honor, at this time the State
9 would seek to admit Exhibit 88 into evidence and
10 publish it to the jury.

11 THE COURT: So admitted. Ms. White's objection is
12 noted.

13 (State's Exhibit 88 is being played for the jury.)

14 BY MS. PRICE:

15 Q Was what we just heard a true and accurate
16 depiction of your conversation with Mr. Arflin?

17 A Yes, ma'am.

18 Q It was. And did you give a statement to law
19 enforcement about all of this?

20 A Yes, ma'am.

21 Q Did you -- you told me you didn't go out to the
22 area at all?

23 A No, ma'am.

24 Q Okay. Have you been telling the truth today?

25 A Yes, ma'am.

1 Q Did I promise you anything in exchange for your
2 testimony?

3 A No, ma'am.

4 Q Did the detective promise you anything in exchange
5 for your testimony?

6 A No, ma'am.

7 Q Mr. Lawrence, you have a serious pending charge,
8 correct?

9 A Yes, ma'am.

10 Q You're facing some substantial time, correct?

11 A I'm facing it but I'm not guilty, so I'm not
12 facing it.

13 Q Fair enough. We're not talking about that case
14 today.

15 A Right.

16 Q Have you and I talked about that case at all?

17 A No, ma'am.

18 Q Have I offered you anything in exchange for your
19 testimony?

20 A No, ma'am.

21 Q Are you talking today in the hopes of getting --

22 MS. WHITE: Objection; leading.

23 THE COURT: Sustained.

24 Rephrase your question.

25 BY MS. PRICE:

1 Q Do you hope to get a benefit from cooperating
2 today?

3 A No, ma'am. Like I said, my case is going to a
4 jury trial regardless. I'm not guilty, so, you know,
5 that's the system. I know how the system works. I
6 don't play with the system.

7 Q And do you see the man who asked you to kidnap the
8 witnesses in this case in the courtroom today?

9 A Sitting right there.

10 MS. PRICE: Let the record reflect he pointed to
11 the defendant, please.

12 One moment.

13 Q Mr. Lawrence, you have a prior record also?

14 A Oh, yeah. I ain't -- I was a demon when I was a
15 young kid, so yeah.

16 Q But your current charges, your past charges don't
17 have anything to do with this case?

18 A No. I don't think so. I hope not.

19 Q And, again, you're cooperating just because it was
20 the right thing to do?

21 A Like I said, I had a guilty part, plus my wife led
22 me on, said, you know, think about that could have been
23 your family, so.

24 Q Yes, sir. Thank you.

25 MS. PRICE: No further questions.

1 THE COURT: All right. Ms. White, your witness.

2 MS. WHITE: Yes, sir.

3 CROSS-EXAMINATION

4 BY MS. WHITE:

5 Q You go by Wolf; is that correct?

6 A Yes, ma'am. My company's name is Wolf. When I
7 was a cab driver for eight years, I was Wolf. When I
8 was born, I was Wolf.

9 Q And you've been convicted of several charges; is
10 that correct?

11 A Yes, ma'am.

12 Q All right. Forgery in the 1980s?

13 A Yes, ma'am.

14 Q Another forgery in the 1980s?

15 A Yes, ma'am.

16 Q Armed robbery a few years ago?

17 A A few years ago?

18 Q 2002.

19 A Excuse me?

20 Q Armed robbery and grand larceny, 2002?

21 A No, ma'am. No, ma'am. 1989 I did an armed
22 robbery and did 20 years in prison. I got out in 2002,
23 did nine years parole here in Anderson clean.

24 Q Okay. And now you're facing charges of criminal
25 sexual conduct with a seven-year-old; is that correct?

1 A Yes, ma'am, I am.

2 Q And that holds a mandatory 25 years to life; is
3 that right?

4 A That's what it holds.

5 Q And also if you're convicted, you're mandatorily
6 placed on the sex offender registry for life; is that
7 right?

8 A That's what the law says.

9 Q And the same sheriff's department who is in charge
10 of your charges is also bringing this case; is that
11 right? Anderson County Sheriff's Department charged
12 you, Anderson County Sheriff's Department is dealing
13 with this case; is that right?

14 A They're not the same detectives. The detective
15 that called me --

16 Q I didn't ask that, sir.

17 A Well, I turned myself in. So I guess Anderson
18 County is Anderson County, but that's not the
19 detective. They're two different detectives.

20 Q Are they both in the same department?

21 A Yes, ma'am. I guess. Warrants division.

22 Q Now, the same prosecutor's office that is
23 prosecuting you on that is also prosecuting this case;
24 is that correct?

25 A I think so. They're in the same office.

1 Q And I believe you told the jury, "I know how the
2 system works"?

3 A Yes, ma'am.

4 Q Do you recall telling the jury that a few minutes
5 ago?

6 A Yes, ma'am, I did.

7 Q Okay. And you know how the system works that if
8 you rub my back here, I'll rub your back there?

9 A That ain't how the system works, ma'am.

10 Q So you don't expect to get anything out of this
11 whatsoever?

12 A No, ma'am.

13 Q Now, let's talk about your relative, the state
14 constable.

15 A Bud Chitwood, yes, ma'am.

16 Q As a state constable, does he deal with law
17 enforcement here and know them?

18 A Yes, ma'am.

19 Q In fact, I believe you said on one of the tapes
20 that he's good friends with maybe a captain or
21 something at the sheriff's department; is that right?

22 A Yes, ma'am.

23 Q Do you think he knows how the system works?

24 A Yeah. He's a Christian, and he goes by the book.

25 Q I noticed you limping when you came in. Why is

1 that?

2 A Well, close to a year I had this brace on. I'm a
3 diabetic anyway. They're talking about cutting my feet
4 off.

5 Q I believe you've got some other health issues,
6 too. What are those?

7 A Breathing problems at night, acid reflux.

8 Q Don't you have some others, too, that you have had
9 in the past?

10 A Okay. Evidently you know more than I do. I mean,
11 I'm trying to follow what you're saying. I got acid
12 reflux. I have diabetes. I lost this arm. They put
13 it back together. I mean, I'm not knowing where you're
14 going.

15 Q Well --

16 A I had a heart attack. Yeah. That was in -- about
17 a year ago.

18 Q Have you had a stroke?

19 A I had a stroke. That was at a stop sign up here
20 on 418. I was stopped with my foot on the brake and I
21 had a stroke.

22 Q And so how exactly were you going to get three
23 people in good health? How was that exactly going to
24 work?

25 THE WITNESS: Judge, do I have to answer that

1 question?

2 THE COURT: Yes, sir.

3 THE WITNESS: In my past, as you brought up
4 earlier, in my past I'm well educated on how to deal
5 with a situation like that.

6 BY MS. WHITE:

7 Q And do you have money?

8 A Do I have money?

9 Q Yes, sir.

10 A I got a few dollars. I work hard for my money.

11 Q So this happened in November of 2014; is that
12 right, what we just heard, the phone call?

13 A Yes, ma'am.

14 Q And no trial date had been set at all; is that
15 right?

16 A On what? On my case or his?

17 Q No, on this case.

18 A On this case, I don't know. You'd have to ask
19 Mr. Arflin that.

20 Q Okay. Well, let's say it had been set for now,
21 for August.

22 A Okay.

23 Q So you were talking about holding off a week in
24 November for a trial that was going to happen -- either
25 hadn't been set at all or in August of the next year?

1 A The thing was to keep an eye on them, and a week
2 before the trial, get them. You know, that was the
3 agreement.

4 Q Is that what you said on the tape?

5 A No, ma'am. That's what was said personally
6 between me and him.

7 Q Now, Bobby didn't call you. You called
8 Mr. Sandoval and told him, "Have Bobby call me"?

9 A Exactly.

10 Q So Bobby didn't just call you. You said, "Have
11 him call me"; is that right?

12 A Exactly.

13 Q How many visitors are you allowed to have on your
14 visitor list at the sheriff's department detention
15 center?

16 A I don't know.

17 Q Is it ten?

18 A I don't know. I just have my wife visit me, so.

19 Q Are you aware --

20 A And my mother.

21 Q I'm sorry?

22 A And my mother.

23 Q Are you aware that the same Anderson County
24 Sheriff's Department who has brought these charges also
25 runs the jail? Those are the deputies who run the

1 jail?

2 A Yes, ma'am.

3 Q So you're not trying to tell this jury that the
4 deputies aren't monitoring the mail? The same deputies
5 who are running this case are not monitoring the
6 letters that are going in and out of the jail, are you?

7 A I can't even state on that. That's their job, but
8 to say that they do their job, some people sleep on the
9 job, so I don't know. By law they're supposed to read
10 letters. I mean, I know when I was in prison they read
11 letters going out.

12 Q So if a letter had gone out or come back, the
13 sheriff's department would know about it; is that
14 right?

15 A Possibility, yes, ma'am.

16 Q And no letter was ever written, was it?

17 A That I can't verify. Like I said, I never
18 received a letter.

19 Q Now, did you ask Mr. Arflin to write you a letter
20 or did he say, "I need your address. Let me write you
21 a letter"?

22 A No. I asked him. I offered my address and asked
23 him to write a letter because he didn't feel
24 comfortable talking on the phone.

25 Q So he wasn't going to talk to you over the phone?

1 A No.

2 Q You didn't get a letter?

3 A No.

4 Q And what was his response when you asked, "Put me
5 on the visitor list"?

6 A He said it was full.

7 Q And, again, who's in charge of the visitor list?
8 Which department out there who runs the jail?

9 A The captain, I guess.

10 Q So they would certainly know if he had added you
11 to the jail list?

12 A Exactly.

13 MS. WHITE: Your Honor, may we approach?

14 THE COURT: Yes, ma'am.

15 MS. WHITE: Do you have that map up there?

16 THE WITNESS: I got everything she give me.

17 MS. WHITE: Thank you.

18 (WHEREUPON, a bench conference was held off the
19 record in the presence of the jury, but out of the
20 hearing of the jury.)

21 THE COURT: Mr. Bailiff, if you can take our jury
22 out.

23 (WHEREUPON, the jury exited open court at
24 3:47 p.m.)

25 THE COURT: Okay. As I understand it from the

1 conference with the attorneys at the bench, Ms. White,
2 you are seeking to ask this witness whether he had
3 knowledge of a civil suit filed by Roscoe Powell as
4 personal representative for the estate of Jody Adams
5 Powell; is that correct?

6 MS. WHITE: Your Honor, may I mark the complaint
7 for identification, of course?

8 THE COURT: For identification, yes, ma'am.
9 (WHEREUPON, Defendant's Exhibit Number 12
10 was marked for identification.)

11 THE COURT: The state renews its objection to
12 this?

13 MS. PRICE: Yes, your Honor, the State does under
14 403.

15 THE COURT: Ms. White.

16 MS. WHITE: Yes, sir, your Honor.

17 THE COURT: Any additional reasons that you would
18 have for me to change my ruling?

19 MS. WHITE: Your Honor, in this case they have
20 submitted a map that allegedly involves him making a
21 hit map or something so that he'd know where to hit
22 some people. Your Honor, you will notice the map,
23 that's all the Williamsons who are right around his
24 property.

25 Your Honor, number one, my client will certainly

1 testify he was using this map to do two things. Number
2 one, he was drawing out what happened in this case, the
3 criminal case. But, number two, there had been a
4 complaint which had been filed in March of 2014, had
5 been served on him shortly thereafter, and he also had
6 this. And in this they had put a writ of attachment on
7 Mr. Arflin's property. And what that means is they
8 have said, You can't sell your land. You can't do
9 anything with your land, blah, blah, blah. So this
10 witness told just now on direct testimony, told the
11 jury, "Oh, okay. Well, he was going to give me some
12 property and give me a trailer." He can't do that.
13 He's got a writ of attachment on it. He's not allowed
14 to do anything with it. And he knew that for six
15 months before he supposedly made this statement, number
16 one.

17 Number two, it depicts the land and all involved
18 in the civil case. He was in the jail cell with this
19 man for 22 hours a day, and, yes, they talked about his
20 criminal case, his civil case. They don't have
21 anything else to talk about. And this goes directly
22 they're saying, Oh, no. He did all of this because he
23 was trying to do a hit. My hands are tied behind my
24 back if I can't say, No, the real reason is because of
25 this. And, furthermore, not only did he not put him on

1 the jail list, he couldn't have given him this
2 property.

3 THE COURT: So you're seeking to admit the writ of
4 attachment to show impossibility of the scheme that the
5 witness claims took place?

6 MS. WHITE: And, again, the civil case showing the
7 land. It's all about the land, and we've got -- and,
8 Judge, let me just say I would love to get in the
9 complaint and the writ of attachment. That's what I
10 would ask to be able to get in. But, certainly, if you
11 don't do that, and I would continue my objection
12 because I think it actually needs to come in to explain
13 this, but if not, I would at least ask to be able to
14 cross-examine him on it. But I don't understand how my
15 hands can be tied on the defense which is my client
16 didn't intend to do anything. They have to show he
17 intended to have this done. That's part of the jury
18 instruction.

19 THE COURT: The complaint regards wrongful death.

20 MS. WHITE: Yes, sir.

21 THE COURT: The complaint does not have anything
22 to do with the land. Apparently the plaintiff's
23 attorney believes that he is entitled to attach the
24 property in anticipation of obtaining a judgment and
25 then put that in the affidavit. Now, of course, that

1 goes to the civil case, and that's an issue that can be
2 dealt with in the civil case, but there's no claim.
3 And, furthermore, this is filed by the victim's family
4 and not anyone on behalf of the Williamsons. So what's
5 the connection to the Williamsons? This map deals with
6 the Williamsons.

7 MS. WHITE: No. It deals with my client's intent
8 to have a hit put on people, Judge. And that's his
9 defense is I didn't intend anything. We were talking
10 about this and, furthermore, I can't do it. And, your
11 Honor, it doesn't make any sense to talk about the writ
12 of attachment. The attachment goes with the civil
13 suit, which is why all of this is on one map. I don't
14 care who filed the complaint. The point is he said,
15 "I'm getting land. I'm getting a trailer." You will
16 notice there was a writ of attachment on both of those.
17 And that's why he maps out all of this land and the
18 plots and the addresses and everything else.

19 THE COURT: All right. Ms. Price.

20 MS. PRICE: Thank you, your Honor. May it please
21 the Court.

22 THE COURT: Yes, ma'am.

23 MS. PRICE: Your Honor, as to any admission of the
24 civil filings, I submit to the Court that that is
25 absolutely more prejudicial than probative. When I

1 addressed the Court last week and we had a lengthy
2 pretrial motion hearing on this very issue, I stated to
3 the Court just what the Court was saying, which is that
4 none of the parties to this civil suit are the folks
5 that are at issue in this case.

6 In addition to that, the unavailability of land is
7 something that certainly she could bring out with her
8 client. She just said a minute ago that he's going to
9 testify to that. That's great. And that's something
10 that she can bring out with him if she would like to
11 introduce additional evidence in her case-in-chief.

12 However, your Honor, even if she chooses to do
13 that, I'm going to object to it as being more
14 prejudicial than probative under a 403 analysis. I
15 think there is a danger of misleading this jury into
16 thinking that there is some other action that is
17 existing that is going to resolve what's happening here
18 today. And I think that that's a real danger to the
19 process that we're going through right now.

20 MS. WHITE: That can be handled with a jury
21 instruction. The real prejudice -- how is it not
22 relevant? Relevant is it makes something more
23 probative than not.

24 MS. PRICE: Your Honor, I'm not saying it's not
25 relevant. I'm saying it's prejudicial.

1 THE COURT: One at a time. One at a time. All
2 right.

3 Ms. White.

4 MS. WHITE: What's prejudicial is for the jury to
5 hear their side of the story and not hear my client's
6 side of the story. That's what's prejudicial.

7 THE COURT: But this complaint is not your
8 client's side of the story. This is a complaint filed
9 by a third party that's not a part of this action
10 today.

11 MS. WHITE: Your Honor, that has no relevance
12 because the relevance is not who filed the action. The
13 relevance is one of the elements of solicitation is
14 that Bobby Arflin, with intent to have it done,
15 solicited a crime with intent to have it done. This
16 goes directly to intent because they're saying -- your
17 Honor, may I see the map?

18 THE COURT: Yes, ma'am.

19 MS. WHITE: I don't want to get in your space up
20 here. Because they're saying, "Look. He drafted all
21 of this so that he could do a hit." We're saying he
22 didn't intend that at all. In fact, what he intended
23 to do was not intend to have a hit, he intended to
24 explain this and to explain the criminal action and to
25 show all the property and to show who's down there

1 around the property. That was his intent. And so
2 basically what happens is we're extremely prejudiced
3 because they hear this side and they never hear what
4 his true intent was.

5 MS. PRICE: May it please the Court.

6 THE COURT: Yes, ma'am.

7 MS. PRICE: Your Honor, under the charge of
8 solicitation of a felony, the State is not required to
9 prove that there was the payment of any money or the
10 conveyance of any property. That's actually not
11 something that we have to prove.

12 MS. WHITE: Your Honor, I never said that had to
13 be proved. If you look at the jury instruction, I will
14 read it from the judge's charge book. And it most
15 certainly does not require money to be passed or
16 anything else. However, a critical element of that
17 is -- and this is the judge's bench book --
18 "Solicitation: The defendant is charged with
19 solicitation to commit kidnapping. The State must
20 prove beyond a reasonable doubt that the defendant
21 asked, enticed, advised, invited, ordered, counseled,
22 persuaded, or otherwise encouraged another person to
23 commit kidnapping. It must be shown that the defendant
24 intended that the other person commit the kidnapping,"
25 blah, blah, blah. It goes on, but intent is absolutely

1 an element of solicitation.

2 THE COURT: All right. Thank you. Thank you,
3 ladies.

4 I have considered arguments of counsel, just as I
5 did last week when we had this issue before the Court.
6 I looked at the exhibits, and I don't see any evidence
7 that has been presented that would cause me to change
8 my ruling.

9 Ms. White, your objection is noted for the record.
10 Okay. Let's get our jury back in.

11 THE WITNESS: Your Honor, I need some water. I'm
12 a diabetic.

13 THE COURT: We'll have the bailiff get you some.
14 (WHEREUPON, the jury entered open court at
15 3:57 p.m.)

16 THE COURT: Ms. White.

17 MS. WHITE: Thank you, your Honor.

18 Q Now, Mr. Arflin and you were in a cell together
19 22 hours a day; is that correct? Two hours of rec
20 time. And this cell was a basically a cement -- it
21 wasn't like bars. It was a closed-in tiny cement room
22 with a toilet, a sink, and a little slot in the door,
23 in a solid door; is that right?

24 A Yes, ma'am.

25 Q So you couldn't even talk, you know, to other

1 people in adjoining cells. It's all concrete block; is
2 that correct?

3 A Yes, ma'am.

4 Q And you all don't have mutual relatives, you
5 haven't had mutual past experiences, none of that; is
6 that right?

7 A No, ma'am.

8 Q So pretty much the thing that you have in common
9 in this little cell for 22 hours a day is your cases?

10 A Yes, ma'am.

11 Q And, of course, Bobby keeps up all the materials
12 that he gets from us and all the materials that he gets
13 from the State and keeps all the reports, all of those
14 are sent to him, and you discussed all of this with
15 him; is that correct?

16 A Rephrase that again.

17 Q You all would discuss the case?

18 A Yes, ma'am. His case?

19 Q Yeah.

20 A Yes, ma'am.

21 Q And when Bobby discusses things, he loves to
22 write, doesn't he?

23 A Not necessarily. I mean, we set and talked about
24 his case and being laying on this bunk and he be laying
25 on that bunk.

1 Q Sir, he likes to write down, take notes, draw out
2 things; isn't that what he does?

3 A An everyday thing, no, ma'am. That ain't what he
4 does, but he did draw a map out for me. He did write
5 my requests for me.

6 Q And --

7 A But to do that every day, he don't do that every
8 day.

9 Q And he writes down things to remind himself to ask
10 his lawyer about, too, doesn't he?

11 A That I don't know because, like I said, there's
12 some -- we're in a cell together. We try to show each
13 other, you know, some privacy. He has set on his bed
14 and wrote his wife, you know. I'll read a book or I
15 get up and watch television while he's doing that.

16 Q And did y'all always have the same rec time?

17 A Yes, ma'am.

18 Q Okay. Did you always have the same visitation
19 time?

20 A No, ma'am.

21 Q So when he was at visitation, you were completely
22 alone in this blocked-in cell with all of his stuff; is
23 that right?

24 A Yes, ma'am.

25 Q Now, you talked to Detective Gebing to get all

1 this set up; is that right, all this set up for you to
2 come in and testify and cooperate and all of that?

3 MS. PRICE: Objection, your Honor.

4 MS. WHITE: Your Honor, there are taped calls and
5 meetings.

6 THE COURT: State your objection.

7 MS. PRICE: She's implying that he set up all of
8 this --

9 THE COURT: Stand when you address the Court.

10 MS. PRICE: I'm sorry, your Honor.

11 THE COURT: What is your objection?

12 MS. PRICE: Your Honor, my objection is it's
13 misleading to the jury.

14 THE COURT: Rephrase your question, Ms. White.

15 BY MS. WHITE:

16 Q You met with Investigator Gebing from the Anderson
17 County Sheriff's Department plenty of times, lots of
18 times, didn't you?

19 A No, ma'am. I met at my house, all right, and then
20 he called me in for a polygraph test.

21 Q And he talked to you over the phone -- I'm sorry,
22 what did you just say?

23 A I said he called me in for a polygraph --

24 MS. PRICE: Objection.

25 THE COURT: Sustained.

1 MS. WHITE: Your Honor, he's opened the door. He
2 has opened the door.

3 THE COURT: Please take the jury out.

4 (WHEREUPON, the jury exited open court at
5 4:02 p.m.)

6 THE COURT: Okay. State your objection.

7 MS. PRICE: Yes, sir. My objection is that she
8 was re-eliciting the statement that Mr. Lawrence made
9 referring to a polygraph, which he had been -- he had
10 been told to refer to those as statements, not as
11 polygraphs by the State, as the Court had ruled last
12 week that it was prejudicial for that to come out.

13 Your Honor, I believe either a curative
14 instruction or moving on would be appropriate.

15 THE COURT: We're not going -- I'm going to give a
16 curative instruction to the jury. My ruling stays the
17 same. There will be no mention of polygraph. There
18 will be no questions about polygraphs, no answers
19 regarding polygraphs. Is that understood by all
20 parties?

21 MS. PRICE: Yes, sir.

22 MS. WHITE: Your Honor, I had no idea he was going
23 to say anything --

24 THE COURT: Ms. White, I'm not accusing you of
25 that. I understand that was inadvertent. But we are

1 not going to discuss the polygraph. Okay?

2 Get our jury back in.

3 (WHEREUPON, the jury entered open court at
4 4:03 p.m.)

5 THE COURT: Ladies and gentlemen of the jury, you
6 will disregard the last question asked and the answer
7 that was given. You are to give no weight whatsoever
8 to the question or the answer when you have your
9 deliberations at the end of the trial. Okay.

10 Ms. White, proceed.

11 BY MS. WHITE:

12 Q Now, you talked to Investigator Gebing quite a bit
13 about this case, and you talked to him quite a bit
14 about your pending charges; isn't that true?

15 A I've never talked to the man about my charges.

16 Q Sir, did you know that all of that was recorded
17 and it's all been transcribed? Did you know that every
18 word you have had with Dr. -- with Investigator Gebing
19 has been recorded? Are you aware of that?

20 A No.

21 Q Would you like to reconsider that answer and tell
22 us: Have you discussed your charges with Detective
23 Gebing as well as these?

24 A Is this the detective -- I got two detectives I've
25 talked to, and you're confusing me of which detective.

1 I don't know them by name. I know the detective that
2 charged me called me because I was in North Carolina
3 and said, "Mr. Lawrence, would you please come back to
4 South Carolina and turn yourself in." That's what I
5 did on my charge. That was the detective. Then I got
6 the detective with Mr. Arflin that came to my house.
7 Now, who's who? I don't know them by name. I'm not
8 good with names. I just, you know.

9 Q Mr. Lawrence, you have never talked about this
10 case with the other investigator. You just testified
11 to the jury that you had never talked to him about it,
12 your other one; isn't that correct? So how can you get
13 them confused?

14 Now, do you remember telling Detective Gebing, and
15 I'll be happy to show you the transcript if you'd like
16 on page 41, that your charges -- your charges are BS,
17 "But I'm just trying to get rid of this. I can't
18 afford it." Do you recall saying that?

19 A Yes, ma'am. I remember saying that to him. I
20 told him this monitor that's on my leg is BS because I
21 got to pay \$400 a month for something I didn't do.

22 Q Why did your wife in the background say, "Roy has
23 always helped the police whenever he could"?

24 MS. PRICE: Objection, your Honor. Hearsay.

25 THE WITNESS: Can I answer that question?

1 THE COURT: Overruled.

2 THE WITNESS: Since I've been out of prison, which
3 the system works. I did 20 years. I have been nine
4 years parole here. Perfect person. Paid my dues, paid
5 my money, and I have been wonderful for nine years for
6 my community. I changed.

7 Q Until the CSC with a minor case first degree?

8 A Ma'am, you're bringing that up continuously and
9 don't know the situation of it. You follow what I'm
10 trying to tell you? You know, you're sitting there
11 throwing it in my face on that charge, and I'm not
12 guilty. I'm going to trial, to a jury trial, to prove
13 that I'm not guilty. You don't know nothing about the
14 situation or you wouldn't be commenting to me on it.

15 Q You don't think that I've researched that, sir?

16 A Ma'am, you can research all you want, but not even
17 the court realizes what I'm up against until my lawyer
18 brings it to court.

19 Q Now, so what you're telling this jury is
20 Mr. Arflin refused to talk to you over the phone,
21 didn't even initiate the call, you initiated the call
22 to him, he never sent you a letter and he never put you
23 on the visitation list; is that correct?

24 A What I'm saying is Mr. Arflin was not comfortable
25 talking about it on the phone, and he -- I suggested to

1 him to write me a letter. Yes, ma'am, I did.

2 Q Are people who are in jail who do not have a bond,
3 are they permitted to come and go and set up stuff any
4 other way?

5 A I'm not following your question, ma'am. Bring it
6 down to my level.

7 MS. WHITE: No further questions.

8 THE COURT: Any further questions of this witness?

9 MS. PRICE: No. Thank you, your Honor.

10 THE COURT: Thank you, Mr. Lawrence. You can step
11 down.

12 Call your next witness.

13 MS. PRICE: Thank you, your Honor. At this time
14 the State calls Detective Robert Gebing to the stand.

15 ROBERT GEBING,

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: Please state and spell your name for
18 the reporter.

19 THE WITNESS: My name is Robert Gebing,
20 G-e-b-i-n-g.

21 DIRECT EXAMINATION

22 BY MS. PRICE:

23 Q Thank you, Sergeant Gebing. Who do you work for?

24 A I work for the Anderson County Sheriff's Office.

25 Q And what sort of duties and responsibilities are

1 associated with your position with them?

2 A Currently, as of May, I transferred. I am now an
3 investigator with gang unit. I also work on the bomb
4 squad.

5 Q Where were you prior to that?

6 A I spent just under ten years in criminal
7 investigations division, the last four of which I was a
8 sergeant. I was a supervisor.

9 Q And were you assigned to follow up on a matter
10 that has led you to be in court today?

11 A I was.

12 Q What was the nature of that matter?

13 A My then lieutenant Mills tasked me with following
14 up on what was presented to me as something akin to
15 like a murder-for-hire type of case.

16 Q When did your involvement begin?

17 A November 5th, if I recall.

18 Q Of what year, sir?

19 A 2014.

20 Q Okay. And Lieutenant Mills, had he received a
21 call from an individual?

22 A No. He had gotten this thirdhand. Chief Deputy
23 Keith Smith had handed off a name and number to
24 Lieutenant Mills, Lieutenant Mills handed it to me and,
25 thus, my involvement. So Lieutenant Mills had never

1 actually spoken to anybody other than the deputy.

2 Q What was the name and number?

3 A Bud Chitwood. Unfortunately, I don't remember the
4 number off the top of my head.

5 Q Did you contact Bud Chitwood?

6 A I did, by phone.

7 Q Okay. And once you contacted him, were you given
8 an additional name and number?

9 A I was. Everything he had to offer was third-party
10 as well, so he referred me to Roy Lawrence, his
11 brother-in-law.

12 Q And did you meet with Roy Lawrence?

13 A I did. I called Mr. Lawrence that day and
14 arranged to meet. In fact, I met him probably
15 20 minutes after the initial phone call and went to his
16 residence and met him there.

17 Q What day was that?

18 A The same day, November 5th, 2014.

19 Q Had you ever met Mr. Lawrence prior to this date?

20 A No.

21 Q Never met with him on any of his other charges?

22 A No.

23 Q And, generally, what did he discuss with you that
24 day?

25 MS. WHITE: Your Honor, may I renew my motions?

1 THE COURT: Yes, ma'am.

2 MS. WHITE: For the record.

3 THE COURT: Yes, ma'am.

4 MS. WHITE: Thank you.

5 THE COURT: Counsel, approach.

6 (WHEREUPON, a bench conference was held off the
7 record in the presence of the jury, but out of the
8 hearing of the jury.)

9 MS. WHITE: Yes, sir. My objection is Fifth and
10 Sixth Amendment as we discussed before.

11 THE COURT: Noted. Overruled.

12 BY MS. PRICE:

13 Q Detective?

14 A Yes.

15 Q What did he discuss with you generally?

16 A In essence, he said that a cellmate of his had
17 approached him or spoken to him about killing and/or
18 kidnapping some witnesses in a case that was pending in
19 exchange for some land.

20 Q Okay. Did he provide you with any physical
21 materials when you met?

22 A He did. I had been made aware by Mr. Chitwood
23 initially, and then that there was a map that had been
24 allegedly hand drawn, given to Mr. Lawrence along with
25 some names of the targeted persons. Upon arrival at

1 the house, he turned those over to me.

2 Q And what did you do with those materials?

3 A Those, later that day, were transported to the
4 Anderson County Sheriff's Office, placed in evidence,
5 and I submitted a request to have them fingerprinted.

6 Q Okay. Detective, I'm showing you what's been
7 previously marked as State's Exhibit 86 and 87. Are
8 you familiar with these items?

9 A I am. Yes, I am.

10 Q And what are they, sir?

11 A These two smaller items, the small slip of paper,
12 is the names that, according to Mr. Lawrence, were
13 provided to him. These are the targeted individuals.
14 This second smaller piece of paper is the hand drawn
15 map, and on the back is some medical complaints and
16 terminologies. These were the items that were given to
17 me by Mr. Lawrence but not quite in this condition.
18 The pink tone is due to the processing for
19 fingerprints. These are the originals. They're not
20 just as they appeared that day.

21 Q So they have a pinkish tone now?

22 A They do.

23 MS. PRICE: Your Honor, at this time the State
24 seeks to admit Exhibits 86 and 87 into evidence.

25 MS. WHITE: Your Honor, my continuing objection is

1 Fifth and Sixth Amendment.

2 THE COURT: Continuing objection is noted for the
3 record. Overruled. So admitted as State's Exhibit 86
4 and 87.

5 (WHEREUPON, State's Exhibit Number 86 was admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit Number 87 was admitted
8 into evidence.)

9 BY MS. PRICE:

10 Q And you said that those were printed. Were there
11 sufficient prints for comparison purposes?

12 A According to our forensics commander, Lieutenant
13 Scott, he said there were not sufficient prints for
14 comparison.

15 Q What else was done with that note and map?

16 A I mean, I made photocopies of it. And later on,
17 as a continuing follow-up investigation, I did send a
18 request down to SLED to their questioned documents
19 department with something to compare them to to try to
20 authenticate that Mr. Arflin was or was not the author.

21 Q Okay.

22 MS. WHITE: Your Honor, if this will expedite the
23 trial at all; my client has never and is still not
24 denying that he wrote that map. Now, we're going to
25 have a different explanation, but if that expedites

1 things at all.

2 MS. PRICE: Okay. Well, this is State's
3 Exhibit 89.

4 THE COURT: Show her the exhibit.

5 BY MS. PRICE:

6 Q Showing you State's Exhibit 89. Are you familiar
7 with that item?

8 A I am.

9 Q Okay. And what is it?

10 A This is an inmate sick call request slip. This is
11 what I obtained from the nursing staff at the jail to
12 use as a standard to compare to the writing on the
13 questioned documents. Without alerting Mr. Arflin to
14 my investigation, I needed something to compare, and
15 this is the nearest thing that I could obtain.

16 Q And was there a comparison?

17 A There was. Based on this, it was not definitive.
18 We then, as this case progressed, later on got further
19 actual known handwriting samples in accordance with the
20 SLED analyst instructions. Those were again sent and
21 compared to the original, and that yielded an actual
22 match.

23 Q One moment.

24 MS. WHITE: Your Honor, my same objection, but,
25 again, we're stipulating that he wrote these.

1 THE COURT: So noted. That would be?

2 BY MS. PRICE:

3 Q Showing you State's Exhibit 90, are you familiar
4 with these, sir?

5 A I am.

6 Q Okay. And those had previously been stipulated to
7 as authenticated by the parties. What are they?

8 A Following the instructions given me by the SLED
9 analyst, she asked that the actual standards taken from
10 Mr. Arflin. She wanted them on just standard index
11 cards. She even told me black ballpoint pen so she
12 could better judge the striations. She asked me to,
13 you know, have him write word for word what I wanted to
14 compare to. Mr. Arflin complied, and she wanted 25 of
15 this, so I have 25 cards bearing that portion, 25 of
16 the street names that were listed in the map, so I have
17 25 individual cards, and then she said for the other
18 portions that were a little bit longer, just to pick
19 out several sentences and have him write that out on
20 regular paper. So there's three of one portion and
21 three of another. These all bear my initials and
22 dates. I'm certain these are the ones we did back in
23 May.

24 Q Okay. Now, as a result of your conversation with
25 Mr. Lawrence, did you develop a suspect in your

1 investigation?

2 A We did. He identified who was then his cellmate,
3 Mr. Arflin, as the one who had approached him about
4 this plot.

5 Q Okay. And did you verify additional information
6 that Mr. Lawrence gave you?

7 A I did. During the course of that conversation, he
8 had obviously mentioned that they had been housed
9 together. I verified it with records from the jail
10 that they had shared a cell together. He had mentioned
11 that at one point something was wrong with his
12 purchasing account, and he had to have his wife put
13 money on Mr. Arflin's books to make purchases for him.
14 And I did verify that it appeared five times, if I
15 recall, that his wife, Alice Lawrence, did put those
16 payments on Mr. Arflin's books.

17 With regard to the addresses and the map itself
18 and the names, I spoke to Detective Simpson and
19 verified that these were, in fact, people who had been
20 involved in the prior case. I used satellite imagery
21 from the computer from the Internet and tax records to
22 kind of just note that, you know, the way that the
23 streets were and the positioning of the lots and the
24 houses, they were lining up with what Mr. Lawrence had
25 been told. Those were the steps I took just to kind of

1 authenticate what I was being told.

2 MS. WHITE: Your Honor, I renew my motion for the
3 defense exhibit for identification to be admitted.

4 THE COURT: Would you take the jury out, please.
5 (WHEREUPON, the jury exited open court at
6 4:21 p.m.)

7 THE COURT: All right. Ms. White.

8 MS. WHITE: Your Honor, she's getting ready now to
9 put in not just the map but the plats of the land.

10 THE COURT: Well, as I understand the testimony,
11 the officer just testified that he verified the land
12 with county records.

13 MS. PRICE: Yes, sir, records that Ms. White has
14 that we previously stipulated to as authenticated.

15 THE COURT: I -- Ms. Price, I think the door is
16 firmly open by introducing that evidence. I think the
17 defense is entitled to put the writ of attachment into
18 evidence since it is an official record of Anderson
19 County as well and that's an issue. Again, the State
20 has brought that up.

21 Ms. White, I'm going to allow you to ask your
22 client if a writ of attachment has been placed on his
23 property. I will not allow any particulars or details
24 about the wrongful death lawsuit.

25 MS. PRICE: May it please the Court, your Honor.

1 THE COURT: Yes, ma'am.

2 MS. PRICE: I haven't moved this into evidence
3 yet, nor have I attempted to, so I will refrain from
4 doing so.

5 MS. WHITE: His testimony --

6 THE COURT: Well, the horse is out of barn now,
7 Ms. Price. The witness has testified under oath.

8 MS. PRICE: May it please the Court.

9 THE COURT: Yes, ma'am.

10 MS. PRICE: I would ask, then, that she be limited
11 to asking or eliciting from whatever witness or from
12 her client simply what she has already asked, not
13 necessarily that the civil suit come in, but if she is
14 seeking to say that the land was unavailable, that she
15 be allowed to elicit testimony that there is a writ of
16 attachment.

17 THE COURT: This is what I will allow: I will
18 allow her to ask her client a question if a writ of
19 attachment has been placed on the property as a result
20 of a civil suit. I will not allow any details about
21 the wrongful death lawsuit.

22 MS. WHITE: Your Honor, I understand no details,
23 but a writ of attachment, I want to make sure a civil
24 suit in this case. I don't want it to sound like he's
25 cheating people out of stuff and all. I mean, I have

1 to explain why. That's bad character evidence if I
2 don't. They're the ones that are introducing all of
3 this, Judge. It just can't go on and on and on without
4 me being able to give an explanation.

5 THE COURT: I will allow you to say that he is
6 contesting the civil suit, but we are not getting into
7 the details of the wrongful death suit. I have already
8 ruled on that. It's a different court, a different
9 burden of proof, different evidence. The parties to
10 that case are different than the parties today, so --
11 but I will allow you, as I stated, to put in the writ
12 of attachment explaining that it is part of the civil
13 suit and that he is contesting that civil suit.

14 MS. WHITE: Yes, sir. And, your Honor, I want to
15 make sure that I can ask Mr. Gebing if, during his
16 investigation, he discovered that he can't get rid of
17 this property, because of this civil suit he can't.

18 THE COURT: I will allow that question.

19 MS. WHITE: All right. So, Judge, wait a minute.
20 I just want to make sure. I don't want to put anything
21 in that I'm not supposed to put in.

22 So, Judge, what you're saying is I take off the
23 complaint and just do the writ of attachment, and are
24 you saying I just -- I'm not sure -- I want to make
25 sure I comply -- may I hand this up, Judge, and you

1 tell me what to do? I just don't want to do anything
2 I'm not supposed to do.

3 THE COURT: Actually, the writ of statement has a
4 warrant of attachment attached to it which actually
5 provides the description of the property.

6 MS. WHITE: Yes, sir.

7 THE COURT: This is what I want. I want the writ
8 of attachment. I'll allow you to put that in. I'll
9 allow you to put the warrant of attachment in. I would
10 like --

11 MS. WHITE: Judge, can you tell me what to tear
12 off? I'm going to leave that marked for I.D., then
13 I'll tear off sheets as you tell me what to tear off
14 and I'll mark this as an exhibit.

15 THE COURT: Warrant of attachment.

16 MS. WHITE: So take off the first three pages.

17 THE COURT: Take off the complaint, all three
18 pages of the complaint. Take off the -- and then I
19 will allow the warrant of attachment. I will allow the
20 writ of attachment, and then take off the plaintiff's
21 affidavit.

22 MS. WHITE: So, in other words, Judge, I want to
23 make sure I'm right. I've got three pages is what I'm
24 submitting.

25 THE COURT: And I would like the caption, "As

1 personal representative for the estate of Jody Adams
2 Powell" redacted.

3 MS. WHITE: I don't know what that means. You
4 mean just the plaintiff's name redacted?

5 THE COURT: The plaintiff's name redacted.

6 MS. WHITE: But I am allowed to say it's a civil
7 case in this case, per your previous ruling. Otherwise
8 it's just bad character evidence of my client.

9 THE COURT: All right. I'll allow you to do that.
10 I'll allow you to do that. Redact the plaintiff's
11 name.

12 Are we understood?

13 MS. WHITE: Your Honor, I'm going to need one
14 minute because I've got to get it redacted. I want to
15 hand it in so everybody okays it.

16 MS. PRICE: Your Honor, we can take a break before
17 she begins her direct of my witness for her to do that,
18 if I can continue.

19 THE COURT: Let's do that and finish up. How many
20 more witnesses do you have?

21 MS. PRICE: This is it.

22 THE COURT: Okay.

23 MS. PRICE: And, your Honor, I am planning to
24 introduce also, if this is happening, then I have
25 public access Anderson County assessor's office records

1 pertaining to the property, and I plan to introduce
2 those as well.

3 THE COURT: What records?

4 MS. PRICE: Your Honor, the tax records that show
5 that he has nine acres, which is what Mr. Lawrence told
6 Detective Gebing, as well as a trailer which was the
7 inducement.

8 THE COURT: All right. Okay. Okay.

9 MS. WHITE: Then after that I'm going to ask that
10 the whole complaint come in again based on even more
11 evidence coming in.

12 THE COURT: Well, the property that -- the
13 warrants of attachment describes the property, has a
14 legal description with tax map numbers, okay. It also
15 describes the acreage of the property. And I believe
16 it looks like there are two parts that also
17 describes -- well, okay. It also has the mobile home
18 on it, Ms. Price.

19 MS. WHITE: Yes, it does.

20 MS. PRICE: You've already ruled that that's
21 coming in. Right?

22 THE COURT: Right. So what do the tax records
23 have that's different than what's in here?

24 MS. PRICE: By Ms. White or by myself?

25 THE COURT: The warrant of attachment that was

1 prepared for the civil case has both tracts of
2 property, the legal description and the mobile home.
3 So you're just seeking the tax records?

4 MS. PRICE: Your Honor, I'm not seeking to admit
5 anything with the civil suit.

6 THE COURT: I understand --

7 MS. PRICE: Yes, sir.

8 THE COURT: I understand.

9 MS. PRICE: Yes, sir. It is the -- may it please
10 the Court. May I approach?

11 THE COURT: Let me see what you've got.

12 MS. PRICE: Yes, sir. And the tax assessor's
13 office records are the official records, as your Honor
14 is aware, from the tax assessor's office. Detective
15 Gebing first pulled that information by way of the
16 public access, which is there. Ms. White, again, and I
17 have already agreed to the authentication of these
18 items.

19 THE COURT: Okay.

20 Ms. White, it looks like it's just a different
21 document of the same thing.

22 MS. WHITE: I was about to say I think it is
23 cumulative and certainly it adds even more reason why I
24 should be getting in this other stuff, but that would
25 be the basis of my objection.

1 THE COURT: If I allow you to put it in, warrant
2 of attachment, writ of attachment, I'm going to allow
3 her to put the tax records in and with the instructions
4 that was stated. So finish with this witness --

5 MS. PRICE: Yes, sir.

6 THE COURT: -- and then we can take a break and we
7 can do cross-examination, and then you will be finished
8 for the day; is that correct?

9 MS. PRICE: Yes, sir. May --

10 MS. WHITE: Your Honor -- go ahead.

11 MS. PRICE: For clarification purposes so I don't
12 object to something that's already been ruled on, sir.

13 THE COURT: Yes, ma'am.

14 MS. PRICE: Ms. White is going to be allowed to
15 elicit testimony from her client or whoever that there
16 is a writ of attachment and a warrant of attachment on
17 the nine acres of property and the trailer that are at
18 issue, correct?

19 THE COURT: Yes.

20 MS. PRICE: And has the Court ruled that she is
21 also going to be allowed to say that those are a result
22 of a wrongful death lawsuit filed by victim's family in
23 this case?

24 THE COURT: I want it just said "a civil suit."

25 MS. PRICE: Okay.

1 THE COURT: "A civil suit." I don't want any
2 particulars about the lawsuit put into the record.

3 MS. WHITE: Your Honor, we found a pen to redact,
4 so I know you probably don't want to take a break and
5 let the jury out right before 5:00. I can just
6 approach and show it to both of you.

7 THE COURT: While we got them out, take a minute
8 and do it now, then we can finish up. This will be a
9 natural stopping point if the State is ready to rest,
10 and then we can start anew in the morning with
11 Ms. White's case.

12 MS. PRICE: Yes, sir.

13 Your Honor, we do have a stipulation to publish
14 after this witness that was signed by the parties just
15 for full disclosure, but it's a page and a half
16 pertaining to the handwriting analysis.

17 THE COURT: That's fine.

18 MS. WHITE: Judge, I'd like to hand it up.

19 THE COURT: Go ahead and have it marked.

20 (WHEREUPON, Defendant's Exhibit Number 13
21 was marked for identification.)

22 THE COURT: Are we ready to proceed?

23 MS. PRICE: Yes, your Honor.

24 THE COURT: Mr. Bailiff, get our jury, please.

25 (WHEREUPON, the jury entered open court at

1 4:35 p.m.)

2 THE COURT: All right. Ms. Price.

3 MS. PRICE: Thank you, your Honor.

4 Q Detective, you were saying that you had confirmed
5 some of the details provided by Mr. Lawrence?

6 A Yes, I did.

7 Q And did you confirm the areas of land that he had
8 been instructed were occupied by these witnesses?

9 A Yes.

10 Q How did you do that?

11 A Open sources, through the county's public access
12 system, through the tax maps and such.

13 Q I'm showing you what's been marked as State's
14 Exhibit 91 through 94. Are you familiar with those
15 items?

16 A I am.

17 Q And what are they?

18 A These are basically the parcel map from the public
19 access system, just an open source, go to county
20 website, public access, and you can search by street or
21 by taxpayer. I was just trying verify where in
22 relation to Mr. Arflin's property these folks were said
23 to have lived and so could you line up -- you know,
24 pick an address, and it would highlight it. In this
25 particular case, this is 124 Williamson, which is the

1 home of Brenda Masters. And, additionally, this is a
2 photocopy of the original. It's got my handwriting
3 down here at the bottom. But, basically, I did that
4 just to ensure that the depiction on the map was
5 consistent with the actual -- the actual layout of the
6 area.

7 Q Detective, would you bring those exhibits as well
8 as the photocopy of the map that you have as part of
9 State's Exhibit 86 down with me and we'll look at it
10 for a minute.

11 Let's start with the map. Detective, please show
12 me what each area is that we're looking at the map
13 here.

14 A As oriented, this is Williamson Drive. You will
15 note the heavy curve here and it kind of dead-ends. As
16 it was explained to me, this was 139 Williamson Drive,
17 and this is Mr. Arflin's property. It was also
18 explained to me that here, here, and here were the
19 potential targets. The numerics that were wrote on the
20 map do not necessarily depict the actual street
21 addresses, but they're close as far as where they are
22 actually at on the map, on the tax records. This one
23 here is actually 124 Williamson Drive, which is the
24 home of Brenda Masters. This one here, though marked
25 128, is actually 126 Williamson Drive, which is the

1 home of James Madison. And then this one here is 135,
2 which is the home of Larry Williamson, and then this
3 property here is 139 Williamson Drive.

4 Q Let's look at each of those pieces of property as
5 they compare to this map.

6 A Sure.

7 Again, if you orient it in somewhat the same way,
8 this is Lamar Mitchell Road, which you will notice is
9 marked here. Here's Williamson, a heavy curve ending
10 at the dead-end and then kind of a distinct looking
11 plot of land and a distinct looking plot of land. This
12 particular document here is the one that when I pulled
13 the records was for 139 Williamson Drive, the residence
14 of Mr. Arflin.

15 So that, to me, again, not being to scale, but all
16 things being equal, it very closely resembles the hand
17 drawn map, what's actually -- what was provided to me
18 through the public access system did very much resemble
19 the hand drawn map.

20 Q Okay. The next piece is State's Exhibit what?
21 And that was State's Exhibit 94.

22 A Yes.

23 Q Okay.

24 A This is State's Exhibit 93, which actually it
25 depicts -- it depicts the property listed as 126

1 Williamson Drive, which is the home of James Madison.
2 Now, he actually physically lives here, and as you can
3 see, using this for reference, this is Mr. Arflin's
4 portion and this one is drawn a little bit closer in,
5 kind of zooming in on the detail and giving me a little
6 more room to work with. This is the home of Mr. Arflin
7 here, and you notice the curve in Williamson Drive. As
8 indicated on the map right here, this is one of the
9 target houses. And in all actuality, the residence
10 sits on this corner here, though this entire shaded
11 part of the property is all part of the same plot at
12 126 Williamson Drive.

13 Q And Mr. Lawrence indicated to you that that
14 square, 128, was a target location?

15 A It's a target location. When we finally sat down,
16 he tried to determine who lived where, he actually had
17 the two male targets crossed. He had those at the
18 wrong houses, though he did have the houses correct.

19 State's Exhibit 91 depicts property located at 124
20 Williamson, which is the home of Brenda Masters. It's,
21 in my estimation, depicted here on the hand drawn map.
22 And for reference, this portion here ending in 5012 is
23 Mr. Arflin 's property. It's kind of inset in the lot
24 for 126, but according to records, Ms. Masters and
25 Christopher Masters do pay taxes on a single-wide

1 mobile home on this lot. And, again, the hand drawn
2 map not being to scale, it is very close. It does very
3 closely resemble hand drawn versus real according to
4 tax records.

5 Q And when you asked Mr. Lawrence about Ms. Masters,
6 did he indicate that was the home?

7 A He did.

8 Q Okay.

9 A And he was -- he did correctly indicate her at
10 that particular home. Like I said, the two males were
11 the ones that he had crossed.

12 Q Okay.

13 A The last one, which will be State's Exhibit 92,
14 depicts 135 Williamson Drive, which is the home of
15 Larry Williamson. And, again, using this unusual
16 shaped plot and ending the numbers 5012, which is the
17 home of Mr. Arflin as indicated here, this is 135, and
18 it correlates to this, which is again a lot that
19 Mr. Lawrence indicated one of the targets was on.

20 Q Thank you, Detective. You can take the stand.

21 Now, aside from confirming the property was
22 similar to that which was reflected in the map,
23 Mr. Lawrence, did he tell you what he had been promised
24 in payment?

25 A He said he was promised a portion of a

1 nine-acre -- 9.9, I think it was he told me, parcel of
2 land that Mr. Arflin owned, that he was to receive a
3 portion of that.

4 Q The parcel that we just looked at?

5 A Yes.

6 Q And did you in some way confirm that Mr. Arflin
7 owned about that amount of property?

8 A Again, using the public access system and open
9 sources, I did confirm that Mr. Arflin does own or pay
10 taxes on a 9.08, I believe, acre portion of land at 139
11 Williamson Drive.

12 Q And was there also a trailer involved?

13 A There is.

14 Q Was that part of the inducement to Mr. Lawrence?

15 A According to Mr. Lawrence, there's some sort of a
16 separate trailer on the property that was to go with
17 it, to -- you know, the portion of land and the
18 trailer.

19 Q Yes.

20 A But not the main residence that Mr. Arflin resides
21 in, or at least that was my understanding of it.

22 Q Did you verify there was a trailer on the
23 property?

24 A There is the one. The only thing I could find is
25 that Mr. Arflin pays tax on a trailer which it's my

1 understanding is the one that he physically lives in.
2 And speaking to Detective Simpson, he mentioned that
3 there was a secondary structure off to the right on
4 that property as well, which could be believed it could
5 be possibly what he was referring to.

6 Q So this may or may not be the trailer but the
7 records indicate that there is a trailer on the
8 property, and the records also indicate to you that the
9 acreage was approximately correct?

10 A It's close, yes.

11 MS. WHITE: Your Honor, I would renew my
12 objection. If this comes in, the full exhibit should
13 come in on our side.

14 THE COURT: So noted.

15 BY MS. PRICE:

16 Q Detective, I'm showing you State's Exhibits 95
17 through 98. What are these, sir?

18 A 95 is, again, is from the Anderson County public
19 access system, just an open source, the tax records for
20 139 Williamson Drive, which does indicate that as far
21 apparently he pays taxes on a 9.08-acre plot of land.
22 Exhibit 96 is the tax record for a 1985 Brigadier
23 28-by-64 mobile home.

24 97 and 98 are records pretty much of the same
25 thing, but actually from the assessor's office, so they

1 bear similar markings, the 9.08-acre plot of land and a
2 mobile home, so they -- they further reiterate what I
3 found in open sources is apparently accurate.

4 Q After verifying some of the information that
5 Mr. Lawrence had given you -- well, actually, let me
6 back up. Did you give Mr. Lawrence some directions
7 after your meeting with him?

8 A During the conversation I had with him, I did ask
9 whether he was anticipating any calls from Mr. Arflin,
10 and I told him if Mr. Arflin were to call, just strike
11 up a conversation and see what was said. I told him
12 I'd like to hear any further talking or further comment
13 about it, so I did ask him to be mindful about that if
14 he did, in fact, receive a call.

15 Q And did you instruct him at all to speak to
16 Mr. Arflin about his pending charges?

17 A No. No.

18 Q Okay. Simply to the plot?

19 A Yes.

20 Q Okay. Did you give him any instruction at all
21 about specifically obtaining information pertaining to
22 the charges you were investigating?

23 A My instructions were basically just, you know,
24 strike -- I even said to him, "Just ask him when he
25 calls, if he calls, 'Hey, remember that thing we talked

1 about?'" So I was very leery of steering clear of the
2 original case, but my instructions and my intent was to
3 have him ask solely on these new set of circumstances.

4 Q And were you contacted again by Mr. Lawrence?

5 A I was.

6 Q Do you remember what date?

7 A He called my office, and my receptionist called me
8 on November 7th but I was away. I actually spoke to
9 Mr. Lawrence again on November 10th, 2014.

10 Q And what did you do after that meeting?

11 A Well, that wasn't a meeting. That was a phone
12 call.

13 Q Oh, okay. What did you do after that phone call?

14 A Well, I called him back, and he told me that the
15 call had taken place and that there was some
16 conversation that had taken place regarding this
17 matter.

18 Q And did you verify that was the case?

19 A I did. We -- at the jail here, we have access to
20 inmate phone calls, outgoing phone calls through two
21 systems, one called PayTel and one called Investigator
22 Pro. And I signed on to that. I have a user name and
23 password. I signed on to that and verified that a call
24 had taken place, and I was able to listen to that call.

25 Q How were you able to verify that it was Mr. Arflin

1 that made that call?

2 A The system -- and, again, in layman's terms. I'm
3 not the administrator over it, but inmates are required
4 to enter a PIN number to make a call. The Investigator
5 Pro of it uses voice biometrics to match what it knows
6 to be that PIN number's voice to the call itself. It
7 doesn't necessarily always stop the call, but it will
8 send a flag or something you can kind of search to
9 indicate that the PIN number didn't match the known
10 noise. This particular call, it was in the green, so
11 it did match.

12 Q Is that why we hear Mr. Arflin say "United
13 States"?

14 A Yes.

15 Q And did you listen to the call?

16 A I did.

17 Q What did you determine by listening to the call?

18 A I determined that, in my opinion, that --

19 MS. WHITE: Your Honor, I'm going to object. The
20 jury has listened to --

21 THE COURT: Sustained.

22 BY MS. PRICE:

23 Q Did you make some charges as a result of that
24 call?

25 A I did. The call provided enough corroboration at

1 that point that I no longer thought that I was looking
2 at one person's word against the other, provided what I
3 thought was additional evidence to support my charge,
4 so I delayed briefly. There was mention of a letter,
5 and I wanted to wait on that. But we did at that point
6 feel that we had sufficient probable cause to move
7 forward.

8 Q Were there statements by Mr. Arflin that were made
9 during that call, any specific statements that led you
10 to make these charges?

11 MS. WHITE: Your Honor, I'm going to object. The
12 jury has --

13 MS. PRICE: May we approach?

14 MS. WHITE: The jury is the fact-finder here.

15 MS. PRICE: May we approach?

16 THE COURT: Yes, ma'am.

17 (WHEREUPON, a bench conference was held off the
18 record in the presence of the jury, but out of the
19 hearing of the jury.)

20 BY MS. PRICE:

21 Q Are there portions of the phone call where the
22 defendant and Mr. Lawrence speak over each other?

23 A There are.

24 Q Okay. Were there statements -- without telling me
25 what statements, were there statements made during

1 those phone calls that led you to believe making
2 charges were appropriate in this case?

3 A Yes, there were.

4 MS. WHITE: Your Honor, again, objection;
5 relevance, and the jury is the fact-finder.

6 THE COURT: I'll sustain the objection. He
7 already testified that he sought charges in the matter.

8 BY MS. PRICE:

9 Q So you sought charges. What were those charges,
10 sir?

11 A Three counts of solicitation of a felony.

12 Q And did you determine who the victims were
13 supposed to be?

14 A I did. Again, Brenda Masters, James Madison and
15 Larry Williamson.

16 Q And did you verify that they had some relationship
17 to the case at hand?

18 A In speaking to Detective Simpson, yes, he verified
19 that they had been part of the original case. I had
20 nothing do with that, so I had to go to him for that
21 information.

22 Q Detective, do you see the man you charged with
23 three counts of solicitation of felony in the courtroom
24 today?

25 A I do.

1 Q Would you point him out and describe what he's
2 wearing for the record, please, sir?

3 A He's wearing a black jacket, purple shirt, purple
4 tie and glasses, seated beside the defense counsel.

5 Q One moment, sir.

6 Detective Gebing, does the jail monitor outgoing
7 and incoming mail, do you know?

8 A I don't know.

9 Q Okay.

10 A I don't.

11 Q Okay. Detective Gebing, is there a creek behind
12 the property at issue?

13 A Again, I've not physically been onto his property
14 to see it, but according to open source, Google Maps,
15 tax records, it does appear that the back portion of
16 his property is bordered by a creek. I think it was
17 listed as Cupboard Creek is what it was called.

18 Q Okay. No further questions. Please answer any
19 questions Ms. White has for you.

20 THE COURT: Ms. White.

21 MS. WHITE: Yes, sir.

22 CROSS-EXAMINATION

23 BY MS. WHITE:

24 Q Are you aware that during the time that Bobby was
25 in a cell with Roy, that they were in a cinderblock

1 cell, very small -- you know how small the cells are
2 out there -- and it didn't have -- a jail, they were
3 just together alone. Are you aware of that?

4 A Not knowing the layout of the cell, I can't speak
5 to that, but it is my understanding it was just the two
6 of them sharing that cell.

7 Q And you would agree that they have two hours of
8 rec time which means they have 22 hours together in the
9 cell?

10 A I don't know that I can agree to that. I don't
11 know what their schedule is, I'm sorry.

12 Q Would you disagree with that if Roy has already
13 testified to it?

14 A I wouldn't disagree with it. I personally don't
15 know what their schedule is.

16 Q And you would agree that a trial attorney is in
17 trial a lot, and if their client is in jail, the client
18 can't just drop by the office anytime, and the attorney
19 may not be there anyway, so they only meet once in a
20 while?

21 A I would concede to that, yes.

22 Q And you would agree when things are sent to the
23 defendant, to the client, that they have got to make
24 lists, they have got to make notes about what they want
25 to talk to their attorney about next time?

1 A Sure.

2 Q And that would be normal to review the
3 investigation, to review this stuff as it's sent and
4 then make notes, talk to this witness, these three
5 witnesses, talk about these three and look at this,
6 describe this map. Those would be things that, of
7 course, you would want to explain, would you not?

8 A Yes, it's plausible.

9 Q And if you're talking to your cellmate about your
10 pending charges and you're describing, "Okay. This is
11 where this happened. This is my house. These are the
12 houses in between. This is the area," that that would
13 be normal to do that?

14 A Possible.

15 Q Now, sir, when you were researching before you
16 made these charges, did you happen to research whether
17 my client even has the ability to sell or transfer this
18 property?

19 A No. I mean, other than open source, just
20 verifying approximate boundary lines and what he had
21 available to. That was the extent of my research on
22 it.

23 Q Sir, would it surprise you to know there was a
24 civil case against my client dealing with this incident
25 and that it was filed in March of 2014 --

1 MS. PRICE: Your Honor, may we approach?

2 THE COURT: Yes, ma'am.

3 (WHEREUPON, a bench conference was held off the
4 record in the presence of the jury, but out of the
5 hearing of the jury.)

6 BY MS. WHITE:

7 Q And are you aware that this was filed in March,
8 approximately six, seven months before this supposed
9 phone call and your investigation?

10 A I am now.

11 Q All right. And are you aware that the civil suit
12 put a warrant of attachment on all of this property
13 that you're talking about of my client's and a writ of
14 attachment on the mobile home on it?

15 A Civil is not my thing. I'm not arguing, but I
16 think you have handed me documents that apparently do
17 describe the land, the land in question titled "warrant
18 of attachment," so -- or "writ of attachment."

19 Q So are you aware that, in fact, my client did not
20 have the ability to transfer one square foot of any of
21 this property much less the whole tract or three acres
22 or whatever it was you said and had not for months
23 before this because of the writ of attachment that
24 prohibited either one of those things from being
25 transferred in any manner?

1 A That was a long question. Start over, please.

2 Q So are you aware that months before your
3 investigation even began, these documents prevented my
4 client from transferring a square foot of any of this
5 property?

6 A Right. But they don't prevent your client from
7 telling Mr. Lawrence whatever he wants to. I don't
8 know that I would be enticed into committing a crime if
9 I said, "Hey, I got this land, but I can't do anything
10 with it."

11 Q Did you discover this in this your investigation?

12 A I told you I didn't.

13 Q Okay.

14 MS. WHITE: Your Honor, I would ask that
15 Defendant's Exhibit 13 be admitted.

16 MS. PRICE: Without objection.

17 THE COURT: Okay. Defendant's Exhibit 13 will be
18 admitted.

19 (WHEREUPON, Defendant's Exhibit Number 13 was
20 admitted into evidence.)

21 MS. PRICE: And you're publishing it then?

22 MS. WHITE: Yes.

23 BY MS. WHITE:

24 Q Now, in November of 2014 when this phone call
25 occurred, there had been no trial date set for this

1 case, had there?

2 A A trial date? No, ma'am.

3 Q And, in fact, we're having trial eight or
4 nine months later; is that right?

5 A Yes, ma'am.

6 Q How free is Mr. Arflin to drop by my office and
7 see me any time he wants to?

8 A Well, currently he's not. I guess the burden is
9 on you or your staff to get out to him.

10 Q And, again, if he wants -- this Larry Williamson
11 on the list of three?

12 A Yes, ma'am.

13 Q One is a neighbor beside him, one is a neighbor
14 across from him, and one is the other neighbor in
15 between his house where he was going that night, to try
16 to get to his house, the incident location, and there;
17 is that correct?

18 A That is, yes, ma'am.

19 Q Now we have Larry Williamson, who was not there
20 that night; is that correct?

21 A Well, I don't -- the facts of the initial case, I
22 have no knowledge of who was where. I just know that
23 they were somehow or another spoken to and their names
24 were familiar in the case.

25 Q Would it surprise you to know that Larry

1 Williamson came over there after the police got there
2 and gave about a five-minute statement to police
3 basically saying he wasn't there?

4 A Again, I don't know what was or was not said.

5 Q Now, you're aware that the sheriff's department
6 runs the jail?

7 A Yes.

8 Q And, to your knowledge, did a letter ever go out
9 from Mr. Arflin regarding this matter?

10 A Are you referring to the one that Mr. Lawrence had
11 asked him to send?

12 Q Yes.

13 A To my knowledge, it has not. I have checked with
14 Mr. Lawrence several times and in the week or week and
15 a half or so before I made charges he -- and I asked
16 him. He said it never arrived.

17 Q All right. To your knowledge, did my client ever
18 add Mr. Lawrence onto the visitor list?

19 A I don't believe he did.

20 Q And, to your knowledge, were there any other phone
21 calls between the two?

22 A Between him and -- no.

23 Q Yes, sir.

24 A I don't believe so.

25 Q And are you aware of a phone call that Roy

1 Lawrence made to Mr. Sandoval, who was in jail, asking
2 him to have Bobby call Roy?

3 A That's not possible.

4 Q I've got the transcript, sir. Would you like to
5 read it.

6 A Mr. Lawrence can't call the jail.

7 Q Sorry. Let me rephrase that. Are you aware of a
8 conversation between Sandoval and Roy Lawrence where
9 Roy Lawrence says, "You've got to get Bobby Arflin to
10 call me"?

11 A Yes.

12 Q They're talking about selling a car for Travis or
13 something.

14 A Yes. I'm familiar with that call.

15 Q So even the phone call that we've had that we've
16 heard the recording on, my client did not originally
17 initiate. That he was told to call; is that right?

18 A Yes.

19 Q Just one minute, please.

20 MS. WHITE: No further questions.

21 THE COURT: Anything further from this witness?

22 MS. PRICE: Briefly. One moment, your Honor.

23 REDIRECT EXAMINATION

24 BY MS. PRICE:

25 Q Detective?

1 A Ma'am.

2 Q He was -- he, meaning this defendant, may have
3 been told to call by Leslie Sandoval, who is also an
4 inmate, correct?

5 A He's not an inmate there anymore.

6 Q Not anymore, but at some point he was?

7 A Yes.

8 Q He could have been told to call, but did he have a
9 choice as to whether to make that call?

10 A Yes. He's under no obligation to call just
11 because another inmate tells him to call.

12 Q And if somebody like Larry Williamson had given a
13 five-minute statement to the police the evening of this
14 incident, would his name come up in all of the
15 documents that Ms. White was referring to that we send
16 to her and she gives to her client?

17 A Certainly. Even if somebody just came forward and
18 say, "Hey, I really didn't see anything," if it was
19 noted in this report that this person was interviewed,
20 didn't see anything, that would still come over to the
21 defense as part of the discovery.

22 Q So he would have been a witness in the case?

23 A Potentially, yes.

24 Q One moment.

25 Detective if -- you're a supervisor correct?

1 A Yes.

2 Q And so when one of the deputies that's working
3 road patrol, something like that, responds to a dispute
4 between neighbors, would he make a report?

5 A Potentially. Just depends on the severity of it.
6 If it's nothing more than a dog running wild or a loud
7 noise, he very well might not. But typically if they
8 get beyond that, something physical, something where
9 there is an allegation that a crime has been committed,
10 yes, a report would more than likely be generated.

11 Q If somebody asked him to make a report, would he
12 make a report?

13 A More often than not, yes.

14 MS. PRICE: No further questions. Thank you very
15 much.

16 RECROSS-EXAMINATION

17 BY MS. WHITE:

18 Q And every officer kind of has a different standard
19 for when they write a report or when they don't, don't
20 they? It's discretionary pretty much?

21 A Yeah. I wouldn't necessarily argue that
22 statement.

23 THE COURT: Anything further from this witness?

24 MS. PRICE: Nothing further for this witness, sir.

25 THE COURT: Any objection to this witness being

1 excused?

2 MS. PRICE: Not from the State.

3 MS. WHITE: No, sir.

4 THE COURT: Thank you, Officer. You are excused.

5 MS. WHITE: Your Honor, I don't know if I've
6 gotten that exhibit.

7 THE COURT: Yes.

8 MS. PRICE: May it please the Court.

9 THE COURT: Yes, ma'am.

10 MS. PRICE: Your Honor, the State would like to
11 publish an additional stipulation between the defense
12 and the State.

13 THE COURT: Yes, ma'am.

14 MS. PRICE: Your Honor, this is a stipulation of
15 testimony by the parties.

16 "The State, through Assistant Solicitor, Lauren
17 Davis Price, and the defendant, through his attorney,
18 Druanne D. White, hereby agree to stipulate to chain of
19 custody testimony concerning the following pieces of
20 evidence, stipulate as to the admissibility of these
21 items and their accompanying reports and stipulate to
22 the testimony of Ms. Brenda Gail Heath and the
23 following statements below and agree they are to be
24 read into the record.

25 "Item 1.1 is a hand drawn map which has been

1 processed for latent prints. Item 1.1.1 is a machine
2 copy of item 1.1. Item 1.2 is the reverse side of item
3 1.1, which is a hand printed note which has been
4 processed for latent prints. Item 1.2.1 is a machine
5 copy of item 1.2. Item 2 is a hand printed note
6 containing names which has been processed for latent
7 prints. Item 2.1 is a machine copy of item 2. Item 3
8 is a machine copy of known writing of Bobby Joe Arflin
9 on a sick slip. Item 4, 4.1 through 4.56, are
10 standards submitted as known writing of Bobby Joe
11 Arflin.

12 "The above items were provided to Brenda Gail
13 Heath, a forensic scientist with the SLED, South
14 Carolina Law Enforcement Division. Brenda Gail Heath
15 is assigned to SLED laboratory in the questioned
16 documents department and is a forensic questioned
17 documents examiner, more commonly referred to as a
18 handwriting or hand printing examiner. Due to her
19 training, education, 31 years of experience and prior
20 courtroom qualifications and testimony, Brenda Gail
21 Heath is an expert in the field of questioned
22 documents.

23 "The above items were provided to Ms. Heath for
24 examination and comparison by Detective Robert Gebing
25 with the Anderson County Sheriff's Office to match

1 known samples to unknown samples. Items 1.1, 1.1.1,
2 1.2, 1.2.1, 2 and 2.1 were unknown questioned samples.
3 Items 3 and 4, 4.1 through 4.56, were known samples.

4 "As a result of her examination and comparison of
5 the handwriting, it is the expert opinion of Ms. Brenda
6 Gail Heath that the writer of items 3 and 4, 4.1
7 through 4.56, known to be Bobby Joe Arflin, is also the
8 writer of items 1.1, 1.1.1, 1.2, 1.2.1, 2 and 2.1,
9 excluding the entries of, quote, Bobby Joe Arflin, end
10 quote, and, quote, 109 Helena Road, end quote, on item
11 1.2.1 for which there is no conclusion.

12 "It is further the opinion of Ms. Brenda Gail
13 Heath that the range of variation exhibited in the
14 questioned entries and in the known entries contained
15 substantial significant similarities with no
16 significant dissimilarities. It is further the opinion
17 of Ms. Brenda Gail Heath that there was no evidence of
18 disguise, variation or simulation in the writing she
19 examined.

20 "In addition, it would be her testimony that there
21 were no limitations in her assessment of the writings
22 due to absent characters or quantity of writing.

23 "I so stipulate, Lauren Davis Price. I so
24 stipulate, Druanne D. White."

25 Your Honor, at this time the State rests its case.

1 THE COURT: Ladies and gentlemen of the jury, you
2 have had another long day, and we have reached a
3 natural stopping point, so I'm going to let you go home
4 now. And you know what instruction I'm getting ready
5 to give you. Do not discuss the case with any third
6 parties. Do not deliberate among yourselves. Do not
7 do any independent research through any source --
8 Internet, media, third parties, whatever. Same
9 instructions we have given you all week.

10 I hope everyone has a good evening, and we will
11 see you at 9 o'clock in the morning, same time.

12 (WHEREUPON, the jury exited open court at
13 5:09 p.m.)

14 THE COURT: Any motions?

15 MS. WHITE: Yes, sir. Your Honor, I'd like to
16 make a directed verdict motion on the murder, the
17 firearms charge and the three solicitations, your
18 Honor.

19 Your Honor, as to the murder charge and the
20 firearms, the State, even if you believe what they say,
21 it is not sufficient to prove murder. Your Honor, as
22 to the solicitation charges, it was impossible for my
23 client to commit those. He was in jail. He didn't
24 write any letters. They have got to show he intended
25 to do it. Discussing something with somebody is not

1 enough if you don't have intent.

2 You know, and Mr. Gebing, he's a very good
3 investigator, but, you know, he said, "Well, who cares
4 if they knew it or not." What? He was going to have
5 this guy kidnap people nine months in advance and then
6 say, "Oh, sorry, I'm not signing over the property."
7 At some point that was going to come out in nine
8 months. He had no way of paying for this. They have
9 shown none of that.

10 Your Honor, as to the communication, he didn't
11 call, he didn't send a letter, he didn't write, he
12 didn't do any of this. It was impossible for him to do
13 this.

14 THE COURT: Ms. White, I have heard the evidence
15 in the case, and I think your arguments go toward the
16 weight of the evidence rather than the existence of the
17 evidence, so, therefore, I'm going to deny your motions
18 for directed verdict. I believe this is a jury
19 question.

20 MS. WHITE: Yes, sir. Your Honor, I'd also like
21 to renew all my motions I made about Fifth Amendment,
22 Sixth Amendment, polygraph, complaint, CI record, and
23 any of those others that I made before.

24 THE COURT: Yes, ma'am. That will be noted for
25 the record.

1 MS. WHITE: Thank you, your Honor.

2 THE COURT: Anything further from the State before
3 we adjourn for the evening?

4 MS. PRICE: Your Honor, only that State's
5 Exhibits 1 through 98, with the exception of the, I
6 believe, two that were marked for identification
7 purposes only, be, out of an abundance of caution, be
8 moved into evidence.

9 THE COURT: The clerk of court -- okay. I
10 understand what you're saying. We just need to make
11 sure we separate the two that were not actually
12 admitted into evidence before we leave today, the court
13 reporter and the clerk will account for all the
14 exhibits. I would ask the attorneys just to hang
15 around until all the exhibits are accounted for.

16 Anything further before we adjourn?

17 MS. PRICE: Nothing from the State, sir.

18 MS. WHITE: Did you say 9 o'clock tomorrow?

19 THE COURT: 9 o'clock tomorrow. Same time. Now,
20 tomorrow will be Thursday, and I don't know how long
21 the defense's case will be, but anticipate tomorrow we
22 may go a little later. We'll just have to look at it
23 at the time, but we are going to make an effort to get
24 this thing finished this week. Of course, the
25 attorneys don't need to feel pressure not to present

1 anything that they feel is necessary for their case.
2 Take the time that you need, but we will -- we may
3 shorten lunch or we have some ways of getting the thing
4 moved along, but we are going to be finished this week.

5 MS. WHITE: Your Honor, I really don't see any
6 problem in finishing by Friday.

7 MS. PRICE: May it please the Court. One other
8 item of business. As Ms. White's case progresses
9 tomorrow, if we can talk about potential jury charges,
10 et cetera, so that we can be adequately preparing our
11 closings.

12 THE COURT: Let me go ahead and do this as the
13 jury is gone, and this will save us some time tomorrow.

14 Mr. Arflin, would you please stand.

15 Mr. Arflin -- Mr. Clerk, would you put Mr. Arflin
16 under oath, please.

17 (WHEREUPON, the defendant was sworn.)

18 THE COURT: Mr. Arflin, at this time I'm going to
19 explain to you some of your rights. If you do not
20 understand anything that I say, please let me know and
21 I will explain it in more detail. If you answer the
22 question, I will assume that you understood the
23 question.

24 Do you understand?

25 THE DEFENDANT: Yes.

1 THE COURT: We've reached the stage in the trial,
2 with the prosecution having rested, where you may
3 present your defense. You have the right to claim the
4 protections given to you by the Fifth Amendment to the
5 Constitution of the United States. This amendment
6 states in part, No person shall be compelled in any
7 criminal case to be a witness against himself. This
8 means that you cannot be required to testify in this
9 case.

10 On the other hand, you have the right to testify
11 on your own behalf should you choose to do so.
12 However, no one can make you testify. This is a
13 personal right, and no one can waive this right except
14 you. If you decide to testify, you will be subject to
15 the same rules that govern other witnesses, and you may
16 be examined and cross-examined on any relevant issue in
17 this case.

18 In addition, if you have any convictions involving
19 dishonesty or false statements or for crimes punishable
20 by imprisonment for more than one year and this Court
21 determines that the probative value of admitting this
22 evidence outweighs its prejudicial effect to you, the
23 solicitor will be able to introduce your record to
24 attack your credibility.

25 If you decide to testify, this decision on your

1 part must be freely, voluntarily and intelligently made
2 with knowledge of the protections given to you by the
3 Fifth Amendment and the consequences of your decision
4 to testify. If you decide not to testify, I will
5 instruct the jurors that they cannot give the fact that
6 you did not testify any consideration whatsoever and
7 that there is to be absolutely no prejudice to you
8 because you did not testify. It is left entirely up to
9 you whether or not to testify. You may talk to your
10 attorney, your family, friends or anyone else, but the
11 final decision will be left entirely up to you.

12 Do you understand what I have explained to you?

13 THE DEFENDANT: Yes, I do, your Honor.

14 THE COURT: Do you have any questions about what I
15 explained to you?

16 THE DEFENDANT: No, sir, your Honor.

17 THE COURT: Okay. Thank you, sir. You may be
18 seated and we will be adjourned, and we will reconvene
19 at 9 o'clock in the morning to begin the defense case.

20 MS. WHITE: Yes, sir. And, your Honor, I never
21 have any problem getting in and out of the jail, but,
22 obviously, I'm going to have to discuss those rights
23 with my client tonight. I have never been turned down,
24 but I just want to make sure that I do have an order
25 saying I am allowed to meet with him tonight to go over

1 all that so we'll be ready by 9:00 tomorrow. There
2 shouldn't be any problem.

3 THE COURT: There should be no issue at all with
4 an attorney accessing her client.

5 (WHEREUPON, proceedings adjourned at 5:17 p.m.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at approximately 9:02 a.m.)

4 THE COURT: Anything from either party before we
5 bring the jury in?

6 MS. PRICE: Nothing from the State

7 MS. WHITE: Nothing, your Honor.

8 THE COURT: All right. Mr. Bailiff, you can bring
9 our jury in.

10 (WHEREUPON, the jury entered open court at
11 9:03 a.m.)

12 THE COURT: Good morning, ladies and gentlemen. I
13 hope everyone had a good evening. Before we get
14 started, has any member of the jury panel consulted
15 third parties or talked to third parties about the
16 facts of this case, done independent research or
17 deliberated among themselves?

18 Let the record reflect that there are no positive
19 responses.

20 Defense ready?

21 MS. WHITE: Yes, sir.

22 THE COURT: All right.

23 MS. WHITE: Your Honor, the defense would call
24 Sheila Arflin.

25 SHEILA ARFLIN,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE CLERK: Please state and spell your name for
3 the reporter.

4 THE WITNESS: My name is Sheila Marie Garrett
5 Arflin, A-r-f-l-i-n.

6 DIRECT EXAMINATION

7 BY MS. WHITE:

8 Q Ms. Arflin, how old are you?

9 A 61.

10 Q And to whom are you married?

11 A Bobby Joe Arflin.

12 Q And what do you do for a living?

13 A I work at Nutro Manufacturing Production.

14 Q And how long have you worked there?

15 A 15 years.

16 Q Now, when did you and Bobby get married?

17 A 1972.

18 Q So you've been married how many years?

19 A 43.

20 Q And you were how old when you got married and he
21 was how old when he got married?

22 A I was 18, he was 19 fixing to turn 20.

23 Q Now, in about 1975, where did you and Bobby start
24 living?

25 A On Williamson Drive, except it didn't have a name

1 then, at the end.

2 Q And shortly thereafter, what did you and Bobby
3 agree to do about the name of the road?

4 A They brought a petition around and wanted us to
5 sign it that they could name it that.

6 Q Williamson Drive?

7 A Yes.

8 Q Okay. And did y'all sign to petition to allow
9 that?

10 A Yes, we did.

11 Q Now, after a short while of being down there
12 living -- you live at the end of the dead-end, I
13 believe we've heard. Let me back up a little bit.
14 Along the road, up at the top of the road -- you're
15 down at the dead-end. If you go to the top where you
16 turn onto your road, are there some people who are not
17 Williamsons who live up there?

18 A Yes, ma'am.

19 Q And have you ever had any issues or problems with
20 them?

21 A Never.

22 Q And then on down this road, who lives along the
23 road in particular down near your house?

24 A Tony Williamson and his daughters and their
25 husbands and boyfriends and Tony, his wife, and then

1 Larry and Pat Williamson.

2 Q And so without going into a lot of detail, what,
3 if any, or have y'all had issues with the Williamsons?

4 A Yes, we have.

5 Q Would you consider your relationship with the
6 Williamsons harmonious or not?

7 A Harmonious?

8 Q Yeah.

9 A (Shaking head.)

10 Q You're shaking your head. Just remember you've
11 got to talk out loud so the court reporter can pick up
12 what you say.

13 Is it fair to say y'all have called law
14 enforcement on them, they have called law enforcement
15 on you, nobody has ever been arrested, but that's kind
16 of the relationship?

17 A Yes, ma'am.

18 Q Now, what did your husband do for approximately
19 35 years?

20 A He was a diesel truck mechanic.

21 Q And what happened to his health the last few
22 years?

23 A Well, where he used the big tools on the big
24 trucks, it just wore his muscles and bones and stuff
25 out. He got arthritis.

1 Q And in 2012 did he receive a diagnosis for
2 anything besides arthritis?

3 MS. PRICE: Objection. Your Honor, it's medical
4 testimony.

5 MS. WHITE: Your Honor, she's his wife. She knows
6 if he suffers from something.

7 THE COURT: I'll overrule the objection.

8 BY MS. WHITE:

9 Q What, if any, health issues did he have in 2012?

10 A He was diagnosed with colon cancer. They took out
11 a foot of his colon.

12 Q And what, if any, treatment did you have to help
13 him through during that time?

14 A Chemo. He had a port that we had to clean out
15 every night after his chemo treatments.

16 Q I believe the jury has already seen this, but did
17 he have any issues in his abdominal area? And, again,
18 all of this I'm asking about, December of 2013. I know
19 you gave a little history about the cancer, but in 2013
20 December, what, if any, issues did he have in his
21 abdominal area?

22 A It got herniated. It just started to bulge out.

23 Q And what, if any, issues with neuropathy does he
24 have or did he have in December?

25 A His feet and legs just tingle and burn all the

1 time.

2 Q So, ma'am, in December of 2013, how would you
3 characterize Bobby's health?

4 A In 2013?

5 Q Yes, ma'am, when this happened. Was it good or
6 bad?

7 A It was still bad. He was still down from the
8 chemo.

9 Q Now, have either you or your husband ever been
10 arrested for anything?

11 A No, ma'am.

12 Q And let's move a little bit forward now. Let's
13 move to the date that this happened. On December 11,
14 2013, what did you do that day?

15 A I worked, and I called him when I get off work
16 like we always do on Wednesdays.

17 Q And what time do you get off work approximately?

18 A 3 o'clock.

19 Q 3 o'clock. All right. So what did you do at that
20 point?

21 A We always -- we meet and wash our clothes. We go
22 eat, and then we go to AnMed and walk, and then he goes
23 to his mom's on Wednesdays and check on her, and I go
24 home.

25 Q Why were y'all walking at AnMed?

1 A Because I had had a heart attack that November
2 before this happened, and his sugar was high, so we
3 decided to walk to try to straighten things out.

4 Q Now, where did y'all eat dinner that night, do you
5 recall?

6 A Mama Penn's.

7 Q And you said on Wednesdays. What happens after
8 that? What -- y'all do the laundry, you do errands --

9 A It's a cheaper day at the laundromat.

10 Q Okay. So after that, what did you do? After the
11 laundry and the eating out and the errands and walking,
12 what did you do?

13 A Walking, I went home. He went to his mom's.

14 Q And how old is his mother?

15 A 80 -- she was born in '27.

16 Q And you said it was Wednesday, so he went to his
17 mom's. Was this a routine?

18 A Yes, it was.

19 Q And while you were with Bobby that evening, what
20 kind of mood was he in?

21 A He was in a pretty good mood.

22 Q To your knowledge, were there any issues with
23 hostility or anger or anything else?

24 A No.

25 Q Now, after you went home and Bobby went to his

1 mother's, what did you do at home?

2 A I get things ready for work the next morning and
3 watch TV and wait on him.

4 Q And I believe the phone records show at 8:42 you
5 received a call that evening, that night. This was
6 December of 2013, so was it light or was it dark at
7 this time?

8 A It was dark.

9 Q And does this dead-end road that y'all live on
10 have any streetlights on it?

11 A Not on the road, no.

12 Q So you got the call. And who was calling you?

13 A Bobby was calling me.

14 Q How did he act?

15 A Upset.

16 Q And what did he say to you?

17 MS. PRICE: Objection, your Honor. Hearsay.

18 MS. WHITE: Your Honor, this is clearly res gestae
19 and excited utterance. This is within one minute.

20 THE COURT: Take our jury out, please.

21 (WHEREUPON, the jury exited open court at
22 9:12 a.m.)

23 THE COURT: Ms. Price, state your objection.

24 MS. PRICE: May it please the Court, your Honor.

25 That's self-serving hearsay that she's about to elicit

1 from this individual.

2 THE COURT: Okay.

3 Ms. White.

4 MS. WHITE: Your Honor, self-serving has nothing
5 to do with it. If it's excited utterance or res
6 gestae, it's actually an exception to the hearsay rule,
7 so even if it is hearsay, it still comes in. Your
8 Honor, the 911 call, we have already had testimony came
9 in at this exact same time on another phone. We have
10 got evidence that he was walking right after the
11 shooting, was walking, calling his wife. You can't get
12 any more res gestae and excited utterance than this.

13 THE COURT: I'm going to overrule the objection.
14 Get the jury back in.

15 (WHEREUPON, the jury entered open court at
16 9:14 a.m.)

17 THE COURT: Ms. White, proceed.

18 BY MS. WHITE:

19 Q All right. You said that you received a call from
20 Bobby at 8:42 p.m.; is that correct?

21 A That's what it showed on my phone.

22 Q And as a result of that phone call, you said that
23 Bobby was acting how?

24 A Upset.

25 Q And what did he tell you had just happened?

1 A He said he was trying to get home and he hit the
2 neighbor's truck. And he -- the neighbor come out
3 hollering at him and hit him.

4 Q Where did he say he hit him?

5 A In the jaw.

6 Q And what did he say he did?

7 A He said he shot him.

8 Q Now, as a result of this phone call, where did you
9 go?

10 A The result -- I went out there.

11 Q And how did you get to the scene?

12 A I drove my car out to the end of my driveway and
13 then walked around the curve up to where it was.

14 Q And when you got there, had the police arrived
15 yet?

16 A They was just coming to get him as I walked up.

17 Q And did you ever even get a chance to talk to him
18 when you got up there?

19 A No.

20 Q What was he doing when you got there? What was he
21 doing when you got there?

22 A Bobby?

23 Q Yes.

24 A He was on the phone.

25 Q And what did the officer do in your presence when

1 he came up?

2 A He just shined the light in his face and told him
3 to get his hands up and drop the phone, so Bobby
4 reached the phone out and I got it.

5 Q Now, to your knowledge, did Bobby try to flee the
6 scene?

7 A No.

8 Q Let me back up a minute. What -- right before
9 this phone call, what were you doing right before the
10 phone call?

11 A At home?

12 Q Yes, ma'am.

13 A I was watching TV.

14 Q All right. Do you recall what you were watching
15 or not?

16 A X Factor. I had always watched it on Wednesday
17 nights.

18 Q And you're on around the curve down the hill and
19 to the left; is that right?

20 A At the back, yeah.

21 Q What, if any, gunshots did you hear while you were
22 watching TV in your house?

23 A I didn't hear any.

24 Q Now, after they told Bobby to put down the phone
25 and put his hands up and they cuffed him, what happened

1 to Bobby? Where did he go?

2 A They took him away.

3 Q Okay. And so did you ever get to say a word to
4 him at the scene you got to say out loud?

5 A No, ma'am.

6 Q And after they took him away, did you talk to an
7 officer at the scene?

8 A Yes, I did.

9 Q And are you aware that was recorded?

10 A Not at the time.

11 Q Are you aware now that that was recorded?

12 A Yes, I am.

13 Q Have you, in any event, listened to the tape and
14 read the transcript?

15 A Yes, I have.

16 Q And what did you tell the officer about what Bobby
17 said on that phone call?

18 A That he had hit the truck and the neighbor come
19 out hollering at him and hit him, and he shot him.

20 Q And is there a recording of you telling the
21 officer that within minutes of this thing occurring?

22 A Yes, ma'am.

23 Q And that's a police recording; is that correct?

24 A Yes, ma'am.

25 Q Now, did you end up at some point later that night

1 giving Bobby's phone to the police?

2 A Yes, ma'am.

3 Q All right. And I believe we've heard that they
4 forensically reviewed it. You're aware of that?

5 A Yes.

6 Q At the time that this occurred, what kind of
7 facial hair did Bobby have?

8 A He had a full beard.

9 Q And after he was arrested, were you able to visit
10 him?

11 A Yes, ma'am.

12 Q Okay. Not that night, though; is that correct?

13 A No. It was a few days.

14 Q And when you visited him, what, if any, pain was
15 he having?

16 A His hernia was hurting him. His jaw was hurting.

17 Q And are you aware of whether or not he sought any
18 treatment?

19 A He kept asking them to look at it, look at it.
20 And it took a while, but they finally did.

21 Q And what did they prescribe?

22 A Antibiotics.

23 Q Just one minute, please.

24 MS. WHITE: No further questions, your Honor.

25 THE COURT: Ms. Price.

1 MS. PRICE: Yes, sir. May it please the Court.

2 THE COURT: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY MS. PRICE:

5 Q Ms. Arflin?

6 A Yes, ma'am.

7 Q You've been married for years?

8 A Yes, ma'am.

9 Q To this individual?

10 A Yes, ma'am.

11 Q Okay. So you don't want to see him come to any
12 harm; is that right?

13 A No, ma'am.

14 Q Okay. You'd probably do anything for him,
15 wouldn't you?

16 A I wouldn't lie for a murder, no, I wouldn't. I
17 know that's what you're trying to say.

18 Q Are you saying he's a murderer?

19 A No, he's not.

20 Q All right. When you talked to police, as
21 Ms. White said, the night of this incident, didn't you?

22 A Ma'am?

23 Q You talked to the police the night of this
24 incident?

25 A Yeah.

1 Q Okay. And isn't it true that you gave them a
2 recorded statement?

3 A Yes, ma'am.

4 Q Okay. And isn't it true that the first thing you
5 said to them was, "I just know he called me and said,
6 'Sheila, one of the neighbors just come out. I hit his
7 truck. He was mouthing off at me, and I just shot
8 him.' That's all I know."

9 A That's all I could think of at the time.

10 Q Okay. But you said that?

11 A I was a nervous wreck.

12 Q You admit you said that?

13 A Yeah.

14 Q That was the first thing that you said to the
15 officers?

16 A Yes, but in the same few minutes --

17 Q All right. That's my question. Thank you.

18 At some point that evening the phone was handed to
19 you when your husband was talking to Billy; isn't that
20 correct?

21 A Yes, ma'am.

22 Q Okay. Isn't it true that Billy is the person that
23 gave you the idea that he had been hit in the face?

24 A No, ma'am.

25 Q You said that your husband was prescribed

1 antibiotics?

2 A Yes, ma'am.

3 Q Aren't antibiotics prescribed for infections?

4 A Yes, ma'am.

5 Q And you said that you have visited your husband
6 while he's been incarcerated?

7 A Yes, ma'am.

8 Q Multiple times?

9 A Yes, ma'am.

10 Q In fact, you've spoken with him on the phone many,
11 many times?

12 A Yes, ma'am.

13 Q So you have had multiple opportunities to confer
14 with him since this event; is that correct?

15 A Yes, ma'am.

16 Q Okay.

17 MS. PRICE: No further questions.

18 THE COURT: Ms. White, any redirect?

19 MS. WHITE: Yes, sir.

20 REDIRECT EXAMINATION

21 BY MS. WHITE:

22 Q Now, in this same conversation, did you talk to
23 the police officer for a little while that night?

24 A Yes, ma'am. He never left.

25 Q All right. And let's talk about what you said.

1 All right. If you don't mind reading --

2 MS. WHITE: Your Honor, may I approach the
3 witness?

4 THE COURT: Yes, ma'am.

5 BY MS. WHITE:

6 Q All right. If you don't mind --

7 MS. WHITE: I'm sorry, your Honor?

8 THE COURT: I said, "Yes, ma'am."

9 MS. WHITE: Sorry.

10 Q All right. If you will read from the transcript
11 of what you told the police that night. Go ahead.
12 When you're talking to the officer, what did you say
13 about the conversation?

14 A "He said, 'Sheila, I just hit the neighbor's truck
15 and he come out' --

16 Q Read it word for word.

17 A I can't see it.

18 Q I'm sorry.

19 A "He came out mouthing off."

20 Q Read this word for word.

21 A "He said, 'Sheila, I just hit the neighbor's
22 truck, and he come out mouthing off at me and hit me.'"

23 Q The officer said, "He said he hit you, he said?"
24 And you say?

25 A "He hit him in the jaw."

1 Q "Hit him in the jaw? And then what else did he
2 say?"

3 A "He just told me he shot him. That's all I know."

4 Q And is that an exact transcript of what you said
5 that night to the officer?

6 A Yes, ma'am.

7 Q All right. Now, let's go on into the
8 conversation. And then the officer says, "And when he
9 called you, he told you, 'I just hit the neighbor's
10 truck. He came out of the house and hit me, and I shot
11 him.'" You said what?

12 A "He said he was hollering."

13 Q "He was hollering?"

14 A "He was hollering at him."

15 Q Okay. And, "But he" --

16 A "I don't know what happened out there, why he hit
17 him."

18 Q And then we keep going. The officer, "He said
19 that he hit the neighbor's truck and then?"

20 A "The neighbor came out hollering."

21 Q "The neighbor came out hollering and the neighbor
22 hit him?"

23 A "That's what he said."

24 Q "And then he shot him?"

25 A "I don't" --

1 Q "Okay. Is -- did he call you after he hit the
2 truck and you were on the phone with him when all that
3 happened?"

4 A "Right after."

5 MS. WHITE: No further questions.

6 THE COURT: Anything further?

7 MS. PRICE: Yes, sir, briefly.

8 RECROSS-EXAMINATION

9 BY MS. PRICE:

10 Q Ms. Arflin, the portion that you just went through
11 with Ms. White --

12 A Yes, ma'am.

13 Q -- came after the portion that I asked you about;
14 is that correct?

15 A He kept asking me and I kept remembering.

16 Q Yes, you kept remembering. And he kept asking you
17 more detail, did he not?

18 A He wanted more detail.

19 Q Okay. And he asked you and you remembered more as
20 he asked you more; is that what you're telling me?

21 A Yes, because I was panicked when I first got
22 there.

23 Q And can you tell me, did you tell the officer, "I
24 just know that he -- he just gets something on his
25 nerves so bad sometimes"?

1 A He asked me has he had any problems.

2 Q You said that?

3 A Yes.

4 Q About your husband?

5 A Yes.

6 Q Okay.

7 A When I said --

8 Q And, again, this statement was taken after you had
9 spoken with Billy; is that correct?

10 A I hadn't spoken to Billy at that time.

11 Q Well, isn't it true that your husband handed the
12 phone to you?

13 A Yes, but the police was right there with me, and
14 he handed it to me.

15 Q And then you got on the phone and spoke with
16 Billy; isn't that right?

17 A No, ma'am.

18 Q Is that not what you told the police that night?

19 A I called -- Bobby got me to call Billy when he
20 called me and tell him to come over.

21 Q So you had spoken with Billy?

22 A Yeah. Billy hadn't got there yet.

23 Q Had Billy spoken with Bobby?

24 A Not at that time.

25 Q Had Billy spoken with Bobby before you gave your

1 statement?

2 A That I don't know because he didn't come out
3 there.

4 Q Okay. Was Billy with you when you gave one of
5 your statements?

6 A My -- he come out there at the end of them.

7 Q Billy was out there, was he not?

8 A He came out at the end because he was on the other
9 end. He got somebody to transport him down to where I
10 was.

11 MS. PRICE: No further questions.

12 THE COURT: Anything further from this witness?

13 MS. WHITE: No, sir.

14 THE COURT: All right. Thank you, ma'am. You can
15 step down.

16 Call your next witness.

17 MS. WHITE: Your Honor, we call Billy Arflin.

18 BILLY ARFLIN;

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE CLERK: Please state and spell your name for
21 the reporter.

22 THE WITNESS: My name is Billy Dean Arflin,

23 A-r-f-l-i-n.

24 DIRECT EXAMINATION

25 BY MS. WHITE:

1 Q Mr. Arflin, do you know Bobby and Sheila?

2 A Yes, ma'am.

3 Q How do you know them?

4 A Bobby is my brother. And Sheila is my
5 sister-in-law.

6 Q And how old are you?

7 A I'll be 66 in a few days.

8 Q And have you ever been arrested?

9 A No, ma'am.

10 Q Are you married?

11 A Yes, ma'am.

12 Q To whom are you married?

13 A Helen Crow Arflin.

14 Q And how long have y'all been married?

15 A 47 years.

16 Q Now, let's talk a little bit about your brother's
17 health. In December of 2013, what, if any, health
18 issues was he battling?

19 A In what year, ma'am?

20 Q When this happened.

21 A He had been taking chemo. He was taking shots.

22 Q And that was in 2012, right? That finished right
23 before this?

24 A Right. That's correct. And he has arthritis
25 problems, neuropathy problems from many, many years of

1 pulling wrenches. Shoulders, knees, elbows.

2 Q So at that point in time, what kind of health was
3 your brother in then?

4 A He was not in good health.

5 Q And do you know whether or not he had any issues
6 in his midsection?

7 A He had a huge, huge hernia. As a matter of fact,
8 it wasn't pleasant even to look at.

9 Q And let's talk a little bit about that day. On
10 the day that this happened, did you receive a phone
11 call, and as a result of that phone -- well, did you
12 receive a phone call from Sheila first?

13 A Yes, I did.

14 Q And where did she ask you to go?

15 A She asked me to come as quick as I could.

16 Q And after you got a phone call from Sheila, to
17 whom did you speak on the phone?

18 A I spoke to Bobby.

19 Q And I believe the phone records show this is
20 approximately 8:48; is that correct?

21 A Yes, ma'am, in there.

22 Q And how was Bobby acting when he talked to you?

23 A He was upset, yes.

24 Q And when you talked to him, did you talk to him
25 about what had just happened?

1 A Yes.

2 Q What did he tell you had just happened?

3 A He told me that he had accidentally hit a truck,
4 that he had called the police and overheard somebody
5 say, "I'm going to knock the piss out of you," in the
6 conversation and said that immediately when he hung up
7 the phone from calling the police, they hit him or he
8 was hit.

9 Q Now, did you get to the scene that evening?

10 A Yes, sir -- yes, ma'am.

11 Q And once you -- about how long did it take you to
12 get to the scene, do you think?

13 A I'd say eight to ten minutes.

14 Q And when you got there, was the scene kind of
15 roped off?

16 A Yes. They was -- they were pulling the tape at
17 the time I pulled up. By the time I got out, it was
18 pulled across.

19 Q And did you see Sheila at that point?

20 A No, ma'am.

21 Q Okay. Were you on one side, this side of the road
22 scene and she was on the other side of the road scene?

23 A Yes, ma'am. I was at the side where they had
24 pulled the tape across. But from the other side, I
25 didn't know who all was standing there.

1 Q And were you able to talk to Bobby when you got to
2 the scene?

3 A No, ma'am.

4 Q In fact, did you ever have any contact with him at
5 the scene?

6 A No, ma'am.

7 Q Now, when you got there, at some point did you
8 talk to an officer?

9 A Yes, I did.

10 Q And did you give a recorded statement?

11 A At the time I didn't know that it was.

12 Q Well, later did you find out when the State --

13 A Yes, ma'am.

14 Q And as a result of that, was that recording by the
15 police officer transcribed?

16 A Yes, ma'am.

17 Q And, again, had you had any contact with Bobby at
18 all at the scene?

19 A No, ma'am.

20 Q And what did you tell the officer in so many
21 words, paraphrasing at the scene that night soon after
22 you got there?

23 A I told them I felt like Bobby was in imminent
24 danger when this happened, that I would bet my life on
25 it.

1 Q What did you tell him that Bobby told you?

2 A Bobby told me that he was hit as soon as --

3 Q Basically what you just --

4 A What I just testified to, yes, ma'am.

5 Q And, again, did you even have any idea you were
6 being recorded at this point?

7 A At that time, no.

8 Q Were you there at all when Bobby was arrested, or
9 had that already happened?

10 A I was there until everyone, most everyone, had
11 left. I was probably there for over an hour, but I
12 never got to see him, and I was concerned about the way
13 it was going to be handled. That was my biggest --

14 Q He had some very serious health concerns; is that
15 right?

16 A Yes, ma'am. I was concerned.

17 Q Now, let's talk about an ambulance that got there.
18 At some point did an ambulance come to the scene while
19 you were there?

20 A Yes, ma'am.

21 Q And what happened to the ambulance?

22 A The ambulance was attempting to make a three-point
23 turn and ended up stuck in the ditch on the side of the
24 road.

25 Q Now, did you and I go out to this road shortly

1 after this arrest to look at the measurements and to
2 look at the side of the road and things like that?

3 A Yes, ma'am.

4 Q And do you recall looking at the side of the road
5 that Bobby would have had to go off on to get around
6 this other vehicle?

7 A Yes, ma'am.

8 Q And tell me a little bit about that.

9 A Well, there's where the road goes to the edge. It
10 drops off, I'd say, three to five inches.

11 Q In fact, did you even have a tape measure where
12 you were showing that?

13 A Yes, ma'am.

14 Q Did we also measure the road in a couple of
15 different locations right there where he would have had
16 to go around?

17 A Yes, ma'am.

18 Q And will you please tell the jury what measurement
19 the width of the road at those points were?

20 A Around 16'2", in that neighborhood.

21 Q 16 feet, 2 inches?

22 A Yes.

23 Q And, in fairness, I think in another spot it was
24 16 feet, 4 inches; is that correct?

25 A Yes.

1 Q Is it fair to say the edge is kind of jagged,
2 depending on where you measure. It's not nice and
3 pristine and clean like a new road?

4 A Yes, that's correct.

5 Q Just one minute, please.

6 MS. WHITE: No further questions.

7 THE COURT: Ms. Price.

8 MS. PRICE: Yes, sir. Thank you. May it please
9 the Court.

10 CROSS-EXAMINATION

11 BY MS. PRICE:

12 Q Just so I'm clear on the chronology, Sheila called
13 you; is that correct?

14 A That's correct.

15 Q Then you called Bobby; is that correct?

16 A No, ma'am.

17 Q Bobby called you?

18 A Bobby called me.

19 Q Okay. And so you spoke to Bobby after you had
20 spoken with Sheila?

21 A Correct. I was on the way to the scene.

22 Q Okay. But you spoke with Bobby before he was
23 taken away? You had a phone, so --

24 A I was talking to him right before the police came,
25 yes.

1 Q Right. Okay. Before the police came. Do you
2 recall what kind of a phone you had at that time?

3 A I'm an old man. I like flip phones.

4 Q Do you have a computer at your house?

5 A Yes.

6 Q You do, okay. Are you an attorney?

7 A No.

8 Q Rather odd that you used the word "imminent
9 danger," don't you think, sir?

10 A No.

11 Q In your statement, isn't it true that you say,
12 "Well, I bet my life that he felt like he was in
13 imminent danger. As a matter of fact, he told me on
14 the phone that they hit him"? Isn't that true?

15 A That's true.

16 Q Those are your words? Okay.

17 A And I -- yes, ma'am.

18 Q And, now, when you gave this statement, you say
19 you didn't know you were being recorded?

20 A No.

21 Q But you knew you were talking to a detective? You
22 knew that the person you were talking to was with law
23 enforcement, correct?

24 A Correct.

25 Q Okay. One moment, please.

1 MS. PRICE: No further questions.

2 THE COURT: Any redirect?

3 MS. WHITE: No, sir.

4 THE COURT: Thank you, sir. You can step down.

5 MS. WHITE: Your Honor, may we approach?

6 THE COURT: Yes, ma'am.

7 (WHEREUPON, a bench conference was held off the
8 record in the presence of the jury, but out of the
9 hearing of the jury.)

10 THE COURT: Mr. Bailiff, you can take our jury out
11 for just a moment, please.

12 (WHEREUPON, the jury exited open court at
13 9:40 a.m.)

14 THE COURT: Mr. Arflin, would you stand, please,
15 sir.

16 Your attorney has informed me that we're at the
17 stage where she may present you as the next witness.
18 Have you had enough time to discuss with your lawyer
19 your Fifth Amendment rights as they were instructed to
20 you yesterday?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you need any more time to talk to
23 your lawyer, or do you have any questions about
24 anything that I explained to you yesterday?

25 THE DEFENDANT: No, your Honor.

1 THE COURT: And do you wish to testify in this
2 case?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: Thank you.

5 Anything, Ms. White?

6 MS. WHITE: Not with that, your Honor, but I have
7 two pictures I'm going to have to use, and I think
8 they're already in evidence. May I just have one
9 minute to see if I'm going to need to mark these or
10 not?

11 THE COURT: That's fine.

12 MS. PRICE: May we take a five-minute break then?

13 THE COURT: Let's just go ahead and -- it's a
14 little bit early, but it's at a good stopping point.
15 We'll just take our first break of the morning right
16 now so everyone can get ready for the next phase.

17 MS. PRICE: Thank you, your Honor.

18 (WHEREUPON, a recess was taken from 9:41 a.m.
19 to 9:57 a.m.)

20 THE COURT: All right. Anything from the State
21 before we bring our jury back?

22 MS. PRICE: No, sir, your Honor.

23 THE COURT: Anything from the defense?

24 MS. WHITE: No, sir.

25 THE COURT: All right.

1 Mr. Bailiff, you can get our jury for us, please,
2 sir.

3 THE BAILIFF: Yes, sir.

4 (WHEREUPON, Defendant's Exhibit Number 14
5 was marked for identification.)

6 (WHEREUPON, Defendant's Exhibit Number 15
7 was marked for identification.)

8 (WHEREUPON, the jury entered open court at
9 9:58 a.m.)

10 THE COURT: All right. Ms. White, call your next
11 witness.

12 MS. WHITE: Yes, sir. Your Honor, I'd call Bobby
13 Arflin.

14 BOBBY ARFLIN,

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 THE CLERK: Please state and spell your name for
17 the reporter.

18 THE WITNESS: My name is Bobby Joe Arflin,
19 A-r-f-l-i-n.

20 DIRECT EXAMINATION

21 BY MS. WHITE:

22 Q Mr. Arflin, what is your date of birth?

23 A July 25, 1952.

24 Q And so in December of 2013, how old were you?

25 A 61.

1 Q And, Mr. Arflin, what is your educational
2 background?

3 A I have a GED.

4 Q Are you married?

5 A I am.

6 Q To whom?

7 A Sheila G. Arflin.

8 Q And how long have you and Sheila been married?

9 A 43 years.

10 Q And have you and your wife -- I should say you or
11 your wife ever been arrested?

12 A No.

13 Q This was the first time?

14 A Yes.

15 Q For about 35 years, what did you do for a living?

16 A I was a diesel mechanic, worked on semis.

17 Q And don't tell us all of your job, but what kind
18 of lifting did that involve?

19 A It's repetitious lifting, climbing, bending,
20 twisting. Just continuous, repetitious work, climbing,
21 lifting.

22 Q All right. Now, in December of 2013, will you
23 please talk to the jury about your health.

24 A Okay. In 2013 I had cancer, I had diabetes, I had
25 kidney disease, I had neuropathy in my feet, both feet,

1 front portion of my lower legs, and I have busted
2 cartilages in my both knees. I have arthritis in my
3 knees and my ankles. I have arthritis in my hips. I
4 have arthritis in mid, lower and upper back, arthritis
5 in my shoulder, elbows and wrists. My eyesight is
6 going bad partially because of the diabetes and the
7 other part because of getting stuff in my eyes over the
8 years. My eyesight is going bad because of that.

9 Q Now, sir, did you and your wife have a home in
10 December of 2013?

11 A We did.

12 Q And do you recall when y'all moved into that home?

13 A We actually moved over there in a single-wide in
14 1975.

15 Q And do you own the property there?

16 A We do.

17 Q Now, the jury has already heard a lot about this,
18 but just briefly tell the jury what kind of road you
19 live on and where you live on that road.

20 A The road is a dead-end street, and I live at the
21 dead-end on the left-hand side as you go down the road.

22 Q And are there Williamsons who live up at the top
23 of the road?

24 A Yes, there are.

25 Q At the very top I'm talking about.

1 A Are you talking about the very end?

2 Q The other end from you, sorry.

3 A No. No.

4 Q And have you had any issues with those people at
5 all in your 40 years or however many years you have
6 been there?

7 A No, I have not.

8 Q Now, as you get past those people and you get on
9 down, again like we're driving down the road toward the
10 dead-end, what family lives along that road?

11 A The Williamson family.

12 Q And do you know how many generations live there?

13 A Approximately three to four generations.

14 Q Now, is it fair to say there have been issues
15 between you and Sheila and the Williamsons?

16 A Yes.

17 Q In particular, the Williamsons who live down near
18 you?

19 A Yes.

20 Q Is it fair to say there have been many issues, but
21 one of which is parking in the road so that you can't
22 get to your house?

23 A Yes.

24 Q All right. Let's move forward to the day that
25 this happened.

1 A Okay.

2 Q On December 11, 2013, that afternoon, I think it
3 was a Wednesday; is that correct?

4 A It was.

5 Q That afternoon, what did you do?

6 A I fed the cats in the afternoon. I fed the cats
7 inside and outside, cleaned the litter boxes, fed the
8 outside cats because you can't catch them to bring them
9 in.

10 Q Are they wild?

11 A They're wild and run. And the cats that I have
12 inside are actually offspring from the ones on the
13 outside that I raised from babies because the mothers
14 wouldn't raise them. I gathered up my clothes and got
15 my trash gathered up and just left to go wash clothes
16 and dump the trash and do some errands.

17 Q And at some point did you meet up with your wife?

18 A I did.

19 Q Tell me about that. What did y'all do?

20 A We finished the clothes washing, and then we went
21 to Mama Penn's to eat down there. And then we left
22 from there and went to AnMed, walked a few laps around
23 the track.

24 Q After y'all walked, where did Sheila go and where
25 did you go?

1 A Sheila left to go home, and I left to go over to
2 see my mom.

3 Q What did you and your mom do that evening?

4 A We watched a little TV and talked about what had
5 went on in her day and her week and just to see if she
6 had anything that needed repair or took care of at that
7 time.

8 Q Now, about 8:00, 8:30, somewhere in there, what
9 did you do?

10 A Well, I left mom's somewhere after 8:00 and went
11 to the post office and got my mail, and then was on my
12 way home around 8:30.

13 Q Now, had you had any issues, were you angry, or
14 was it just kind of a pleasant normal day?

15 A Just a pleasant normal day.

16 Q About what time would you say did you turn -- and
17 I know you weren't looking at your watch, so just
18 estimate when you turned onto Williamson Drive?

19 A I'm going to estimate somewhere between 8:30,
20 8:25, 8:30.

21 Q And let's talk about that road that night. Was it
22 light outside or was it dark?

23 A It was dark.

24 Q And are there any streetlights on that road?

25 A No streetlights.

1 Q Is this like a downtown subdivision or is this
2 like a country area?

3 A It's a country area.

4 Q Now, when you got down in front of George and
5 Linda Williamson's house where this thing occurred,
6 what did you see in the road?

7 A A GMC pickup truck setting in the road.

8 Q Is that a small pickup truck or a full-size pickup
9 truck?

10 A It was a large four-wheel-drive pickup truck.

11 Q And what were you driving?

12 A I was driving a full-size Dodge pickup truck.

13 Q Now, was the ground at that point wet or dry? Had
14 it been raining?

15 A It had rained a little earlier and the ground was
16 wet.

17 Q At that point what did you do when you got there
18 and saw the truck in the road?

19 A I was looking to see if I could get around it
20 because either I had to go around it or I could, you
21 know, stop and call the police and cause an issue, or I
22 could blow the horn and cause an issue or just try to
23 ease around it without causing any problems.

24 Q So did you think that you could do that?

25 A I did think that I could do it, yes.

1 Q And were you able to do that?

2 A No, I was not.

3 Q All right. Please tell the jury what happened as
4 you attempted to go around this truck.

5 A As I attempted to go around the truck, I heard
6 something hit the side of my truck. And just as I went
7 past the front of it, I stopped, looked back through my
8 mirror, and then I was afraid to get out because I
9 didn't want to cause any issues, and I didn't know what
10 had happened, so I started easing back. And when I was
11 backing up, I was turning to go right back around the
12 front of that truck, and I was checking my mirror on
13 the left side. I looked over to the right side to
14 check the mirror on the right side, and I didn't see
15 anything at that point --

16 Q Stop there a minute. Okay. So you're talking
17 about the mirror on your passenger side?

18 A Yes, I am.

19 Q I'm handing you State's Exhibit 33. Did you later
20 determine why you weren't able to use that mirror?

21 A Yes.

22 Q Why?

23 A It had been knocked in.

24 Q And had that been done on the original passing on
25 the road?

1 A It had.

2 Q All right. And so at this point did you look in
3 your rearview mirror?

4 A The rearview mirror, I have a full-size camper
5 cover on the back of the truck, and the rearview
6 mirror, you can't see out of it to see anything because
7 of the full-size camper cover I have on the back.

8 Q So as you back up, what happened?

9 A As I -- just about the time I looked to the right
10 or passenger side mirror, I felt a bump. And I already
11 had my foot on the brake anyway, so I stopped. And at
12 that point I couldn't see, but I realized that I had
13 hit something. And since I knew I was trying to back
14 back around the front of that pickup truck, I figured I
15 just bumped into the front bumper on his with the back
16 bumper on mine, so I stopped and at that point was
17 trying to decide what to do because, you know, I didn't
18 want to -- I knew I was going to have to get out and
19 face what I had done, you know, bumped into the truck,
20 and I was going to have to get somebody to come out
21 there and tell them, you know, that I had hit -- hit
22 their truck --

23 Q All right. Stop there a minute. You're going too
24 fast. Okay. So at that point did you stay at the
25 scene or did you leave?

1 A I stayed at the scene.

2 Q And do you have a cell phone?

3 A I do.

4 Q And did you have it with you?

5 A I did.

6 Q Do you carry any kind of weapon in your car -- I
7 mean your vehicle?

8 A I do.

9 Q And what do you carry in your vehicle?

10 A A pistol.

11 Q And why do you carry it other than the normal
12 reasons that everybody carries it, but why do you carry
13 it?

14 A I carry it because the truck that I drive is a
15 high mileage vehicle and subject to break down at any
16 time, and I have poor health. You know, if I broke
17 down and somebody stopped for whatever reason other
18 than to help me, I would need something to protect
19 myself with, so.

20 Q So what did you do when you realized you were
21 going to have to get out of this vehicle in the dark on
22 that road at that location?

23 A I got my cell phone and I took my pistol out of
24 the dash and stuck it in the back of my pants.

25 Q Now, when you got out of the vehicle, what were

1 you looking for? Why did you get out?

2 A I was looking to see mostly the damage and if
3 anybody else was out in the road or had come out
4 because usually that's what happens.

5 Q What does that mean, "that's what happens"?

6 A Usually, if something like that happens, you have
7 a lot of those people that come out to see what's going
8 on.

9 Q So, anyway, so you're there. You're looking?

10 A Yeah.

11 Q What did you do with your phone?

12 A I dial 911.

13 Q And what did you report?

14 A I reported an automobile accident.

15 Q And is that the 911 call that the jury heard, I
16 think the first day?

17 A Yes.

18 Q And, again, were you having any kind of anger or
19 any other issues at that point?

20 A No.

21 Q What did you mean when you told the operator,
22 "There's been an accident"?

23 A I meant that I had hit the mirror, and then trying
24 to see what kind of damage, I had backed back into the
25 truck by accident.

1 Q Now, as you were on the phone, as you were calling
2 911, what happened in regard to the house right there,
3 the Williamsons' house?

4 A People come to the door and had come out on the
5 porch.

6 Q And at some point who came down to your area?

7 A Actually, Jamie and Teresa had come up to the gate
8 where I had walked down to the back end of the truck.

9 Q And then what?

10 A I asked him if that was his truck. And he said,
11 "No, it wasn't." And I said, "Well, whoever's truck
12 this is needs to come out because I've hit their
13 truck," and I need -- you know.

14 Q All right. And so what happened then?

15 A He hollered. Teresa went back in, and he hollered
16 for somebody to tell Jody. At that time I didn't know
17 who he was, but called him to come outside, and he came
18 out.

19 Q Now, where did -- did he have anybody with him?

20 A He didn't have anybody with him at the time.

21 Q All right. And so at some point did you call 911?

22 A I was already on the phone with 911.

23 Q All right. And, in fact, I believe we hear you
24 talking to somebody in the background now and then
25 answering questions. To whom are you speaking on that

1 911 tape?

2 A On the 911 tape, I'm speaking with Mr. Powell.

3 Q That's who you're talking to in the background,
4 sometimes sounds like you're asking questions?

5 A Yes. He's ask -- he's questioning, too.

6 Q All right. Now did anybody at any time, while you
7 were talking, go to the cab of the silver vehicle?

8 A Yes.

9 Q And who went to the cab of the silver vehicle?

10 A Mr. Powell and Mr. Madison.

11 Q Were you still on the phone?

12 A I was.

13 Q And while you were on the phone, where were you
14 compared to where they were?

15 A I was at the rear of the truck and they were at
16 the driver's door.

17 Q And you're talking about both -- the silver truck
18 is what you're talking about?

19 A Yes.

20 Q I neglected to do something. You said if this is
21 the silver truck, you tried to go around it and hit it;
22 is that right? And then you backed up. At the time
23 everybody is coming out and you're making the 911 call,
24 are the vehicles kind of like this?

25 A They are still together, yes.

1 Q So you said you were at the back of the silver
2 vehicle?

3 A Yes.

4 Q They were in the door of the silver vehicle?

5 A Yes.

6 Q Did anyone get in that silver vehicle?

7 A Yes. Mr. Powell got in, in the driver's seat.

8 Q And what, if anything, did you hear them kind of
9 discussing in there when you were standing right there?

10 A I was -- I overheard them murmuring that they were
11 going to -- he was going to kick my ass.

12 Q And during the phone call, you say -- they asked,
13 "Is anybody hurt?" And you respond, I think words to
14 the effect of, "Not yet"?

15 A Yes.

16 Q Why did you say that on the 911 call?

17 A I had heard what they was saying, overheard the
18 murmuring that they had said. And I just told them
19 that, you know, I didn't expect anybody to get hurt,
20 but at that point in time there was nobody hurt at that
21 point in time.

22 Q All right. Was it dark or light out there?

23 A It was dark.

24 Q Were you the only person there who wasn't a
25 Williamson or associated with them?

1 A I was. I was.

2 Q And, again, had there been previous issues?

3 A Yes.

4 Q So how comfortable were you being alone in that
5 situation?

6 A Not at all comfortable, and I was actually afraid.

7 Q Now, as they were up at the front of the truck,
8 what, if anything, while you were talking did you --
9 and let me ask you this because -- of course say, "I
10 don't know" or "I don't remember" if I ask you
11 something you don't know. Were you solely looking one
12 direction or were you having to kind of multitask with
13 your attention at this point?

14 A At that point I was -- I was multitasking, I guess
15 you would say, because I was watching -- trying to
16 watch them and watch beside me, in front of me, all
17 directions that I could see.

18 Q Did you notice whether or not anything was removed
19 from the truck?

20 A I saw him rummage through the console or the edge
21 of the console, and I seen him hand something to
22 Mr. Madison and he had -- he got something. I don't
23 know what it was.

24 Q Okay. And what were they saying, what were they
25 murmuring when this was going on?

1 A They were still murmuring about kicking my butt.

2 Q Now, at the end of the night -- this was a fender
3 bender; is that right?

4 A It was.

5 Q And you lived just a little ways down the road?

6 A Yes.

7 Q Why at the end of the phone call did you tell them
8 on a fender bender case, "You might want to hurry"?

9 A I was afraid that something bad was fixing to
10 happen. I could -- you know, I could tell that the
11 owner of the pickup truck, Mr. Powell, was agitated,
12 seriously agitated, and he had already come back
13 towards me. I had already heard him and if you listen
14 to the 911 tape, you hear me say, "That would be me."
15 He was asking me if I was the SOB the lived down at the
16 end in that doublewide and was that the truck that
17 belonged to the SOB that lived there in that
18 doublewide. I once said, "That would be me," and the
19 second time I said, "Yes, that's me."

20 Q All right. And so after you hang up the phone,
21 who is out there at that point? Tell us who's there
22 and who's in this vicinity that you know of.

23 A Well, before I hung up the phone, Ms. Masters had
24 come out, and she had told -- she asked me was I on the
25 phone with the police, and I said, Yes, I've already

1 got 911 on the phone and I have called them and told
2 them, you know, about the accident and everything. And
3 at that point she was telling Jody that just, you know,
4 the police have been called, just let it go at that
5 because he was -- you could tell he was agitated.

6 Q Did you find out later that this was a new truck
7 to him?

8 A I did.

9 Q Now, what, if anything, were you trying to explain
10 to Jody and Jamie about what happened?

11 A I was trying to explain to them that it was an
12 accident. You know, I come down the road. I didn't
13 have -- I thought I had enough room, but I didn't have
14 enough room to get by. Then I backed up thinking I
15 could get back beside the truck, and I run into it by
16 accident.

17 Q So did this seem to have -- what, if any, effect
18 did this seem to have on Jody?

19 A I didn't seem to have any effect. It just -- he
20 seemed more agitated about it.

21 Q And what, if any, indication did he give that he
22 was believing that this wasn't deliberate?

23 A None.

24 Q What did he say in that respect?

25 A He -- you know, he told me that -- well, he called

1 me an SOB and called me a stupid bastard and an
2 ignorant bastard. And this was after I had
3 disconnected the call from 911. And he told -- you
4 know, he told me he was going to whoop my ass.

5 Q What did he say about anything that he had heard
6 about you? Did me mention --

7 A He did -- he did say that everybody on that street
8 hated me, and he didn't know me but now he understood
9 why they hated me.

10 Q And your response was what?

11 A I -- you know, wasn't nothing I could say. I
12 mean --

13 Q Did you try to explain the accident?

14 A I tried to tell him that it was an accident. I
15 had already called 911, the police would be out there
16 to take care of it.

17 Q Now, at some point did Brenda go back in the
18 house?

19 A She did go back in the house.

20 Q Okay. And so when she went back in the house, who
21 was left out there?

22 A Just me, Jamie and Jody.

23 Q When you were on the 911 tape, I noticed that the
24 operator told you to try to move your vehicle out of
25 the roadway?

1 A Yes.

2 Q At around this point -- well, let me ask you this:
3 You told us what Jamie -- I mean what Jody was saying,
4 but how was he acting?

5 A Aggressive. Thoroughly aggressive.

6 Q And what was his strength and size and Jamie's, I
7 think we saw Jamie --

8 A Uh-huh.

9 Q -- compared to yours?

10 A They were more massive than me. One was taller
11 than me. One might have been a little shorter than me,
12 but he was still -- heavily built.

13 Q Do you go to the gym several times a week?

14 A Me?

15 Q Yes, sir.

16 A No. I don't go to the gym at all.

17 Q And is this the one we're talking about? I'm
18 showing you defense Exhibit 1. Is that Jody?

19 A That is Jody, yes.

20 Q And are Jamie and Jody younger than you or older
21 than you?

22 A They're much younger than me.

23 Q How secure were you feeling at this point?

24 A Not secure at all. I was totally afraid of what
25 could possibly happen.

1 Q Now, did Jody continue to say anything in the way
2 of threats?

3 A He did tell me, just as he -- just after I hung --
4 disconnected the call, I tried to go to the left of him
5 to go move my truck because the operator had told me my
6 truck was blocking the road and I needed to move it. I
7 tried to go to the left. When I tried to go to the
8 left, he stepped in front of me and told me, he says,
9 you know, just, "I'm going to whoop your ass."

10 Q Now, where are y'all at some point in this --
11 where did y'all end up at some point in this
12 altercation?

13 A At the rear driver's side of his pickup.

14 Q And I know it was dark and you had a lot going on.
15 Do you know exactly where you were or can you just say
16 you were back in that area?

17 A Back in that area.

18 Q Where was Jamie compared to Jody?

19 A Jamie was behind Jody, a foot or so behind him.

20 Q And did you ever figure out what this object was
21 that they had gotten from the vehicle?

22 A No, I did not.

23 Q Now, at some point did Jody come in your direction
24 and was there actually some physical contact?

25 A Yes. When I tried to go to the left of him, he

1 jumped in front of me and actually crossed his arms and
2 thrust into my chest (indicating).

3 Q And were you able to get past him?

4 A No, I was not. I could not get by him or I
5 couldn't -- even though I would try to back up, he was
6 steady (indicating).

7 Q Why were you wanting to go to your truck?

8 A I wanted to go to the truck to move it out of the
9 way because the patrolman had told me I needed to get
10 it out of the street.

11 Q When he pushed you or thrust against you,
12 whatever, however that is, you said y'all were back
13 there at the rear of the truck; is that correct?

14 A Yes.

15 Q Was Brenda there or did she come out in the middle
16 or later, or when does Brenda come back?

17 A Brenda came out just as he had knocked me
18 backwards and hit me like this and then uppercut me.
19 She came out to the rear of the truck telling him, you
20 know, "Let the police handle it. The police have
21 already been called. Let the police handle it."
22 Because just after he hit me, she was trying to calm
23 him down or get between us, and that's when she came
24 back out.

25 Q All right. And you said he uppercut you. Where

1 did he uppercut you?

2 A Into the lower jaw.

3 Q What kind of teeth do you have on the lower jaw?

4 A I have false teeth.

5 Q What do you do about -- what does that mean, false
6 teeth? Are they dentures, are they --

7 A Dentures. I have dentures.

8 Q And is this the kind of denture you can remove the
9 whole bottom and put in?

10 A Yes.

11 Q Now, at this point how many of them are out there
12 compared to you?

13 A There's three of them out there compared to one of
14 me.

15 Q At this point have you made any threats?

16 A I have not.

17 Q Have they made threats?

18 A They have.

19 Q At this point is it light or dark?

20 A It's dark.

21 Q At this point are you being allowed to go to your
22 truck to try to --

23 A No. I'm being blocked from going to my truck.

24 Q All right. After Jody kind of uppercut you with
25 his hand, what happened?

1 A At some point after that, I told him to, "Stay
2 away from me, Boy," and --

3 Q Did you ever say, "I got something for you, Boy"?

4 A No, I did not.

5 Q And so what ended up happening when you said,
6 "Stay away from me"?

7 A He come towards me again.

8 Q Now, did you ever discuss whether or not you would
9 fight him?

10 A I did. I kept telling him when he was thrusting
11 me and calling me names, I said, "I'm not going to
12 fight you." I said that about three or four times.

13 Q Mr. Arflin, are you in any condition to fight
14 anybody but especially somebody like the picture we
15 just saw this like?

16 A No -- no.

17 Q All right. So what ends up happening?

18 A He hit -- he hit me, and everything at that point
19 started going so fast. And the only thing that -- I
20 don't remember where I ended up at. All I remember is
21 he come back by, was coming towards me, and I fired,
22 and he went by me. And when I finally got up, he was
23 in the -- on the other side of the gutter.

24 Q All right. Now, again, I'm not expecting you to
25 know exact locations, but I'm going to show you some of

1 the police photos from that night, Defendant's
2 Exhibit 14 and 15. Will you take a look at those.

3 Do those look like -- these are the pictures the
4 police took. Are those accurate from the scene?

5 A Yes.

6 Q All right. And, again, I'm not asking you for an
7 exact location, but let's look at Defense Exhibit 14.
8 When you fell back onto the ground, where were you?

9 A Just in this area right here.

10 Q Somewhere back in here?

11 A Yes.

12 Q And I believe that we have heard testimony that
13 Jamie ran from Brenda and them, that Jamie ran around
14 this way and ended up right here in the ditch; is that
15 correct? Went from the side of the truck to the ditch?

16 A That wasn't Jamie. That would be Jody.

17 Q I'm sorry. I do that all the time. That Jody --
18 Jamie runs this way; is that correct?

19 A Yes.

20 Q And that Jody ran this way to the ditch; is that
21 correct?

22 A Yes.

23 Q And you said you were somewhere down here on the
24 ground; is that right?

25 A I was.

1 Q Do you ever remember -- you know we've heard about
2 a shot here?

3 A Yes.

4 Q Do you even remember firing two shots?

5 A I don't remember. I just know that I had two
6 empty cartridges.

7 Q All right. Do you remember firing one when you
8 had gone -- stumbled down onto the ground?

9 A Yes, I remember firing that.

10 Q Now, I believe we've heard testimony now that Jody
11 had been hit once. Did you have any idea when he came
12 running towards you as you had been knocked to the
13 ground that he had been hit?

14 A No, I did not.

15 Q Did you have any idea whether he was coming
16 towards you or whether he was coming toward the ditch?

17 A No, I didn't.

18 Q So at the point that you fired the shot that you
19 know you fired, were you upright or were you down?

20 A I was down.

21 Q So you're down on the ground; is that correct?

22 A Yes.

23 Q And you said Jody ran by you; is that right?

24 A Yes.

25 Q And do you remember firing a shot up?

1 A I do.

2 Q When did that other shot occur, do you know?

3 A No, I don't know.

4 Q Well, do you acknowledge there had to be another
5 shot at some point?

6 A There had to be another shot, yes.

7 Q How fast did this happen when it started
8 happening?

9 A It was, from start to finish, in seconds. I would
10 say somewhere around five, six seconds is all it
11 lasted.

12 Q Now, when this happened, again, how many people
13 were out there compared to you?

14 A Three.

15 Q Were you putting your -- especially once people
16 ran, were you putting your sole attention in one place,
17 or were you monitoring the whole area?

18 A I was trying to watch the whole area because I
19 didn't know where people might be coming from.

20 Q Now, you understand that if that first shot was
21 fired -- I'm showing you -- well, let's do it this way.
22 I'm showing you Defendant's Exhibit 15. If there is a
23 gunshot hole in that truck, then it had to be fired
24 from somewhere back in here; is that right?

25 A True. Yes.

1 Q Had to be fired somewhere back in here, you said,
2 obviously?

3 A Yes.

4 Q Y'all were pretty much to the rear area of the
5 truck most of the time?

6 A Yes.

7 Q Now, you said that you were trying to come forward
8 to your truck; is that correct?

9 A That is correct.

10 Q And is that why the bullet is apparently going
11 this way?

12 A Yes.

13 Q After you got up, what happened?

14 A When I got up?

15 Q Wait a minute. Let me ask you this: Did you even
16 know then whether or not Jody had been hit?

17 A No, I did not.

18 Q And so after you got up, what happened?

19 A After I got up, I stepped over to the edge of the
20 road and looked at where he was laying, and Brenda was
21 over there screaming, you know, "Please don't shoot.
22 Please don't shoot." And the only thing I told her
23 was, you know, "Tell him to stay away from me."

24 Q Okay. And, again, did you know for sure whether
25 he had been hit by a bullet at all at that point?

1 A No, I could not. I couldn't see that he had been
2 hit at all.

3 Q So where did you go after that?

4 A After that I went back to --- I was going back to
5 my truck to move it.

6 Q And what did you do?

7 A On the way to my truck, I heard them talking about
8 they had called 911, so I pulled my phone out of my
9 pocket and called, dialed my wife. I don't remember if
10 I dialed it or if I used the one key dial or what. I
11 don't remember dialing the number.

12 Q Now, did you ever say, I believe for the first
13 time in Jamie's March 2015 statement, that he says that
14 you said something about, "Let him die" or something
15 like that. Did that ever happen?

16 A No, it did not.

17 Q When you got back to your truck, did you move it?

18 A I did move it.

19 Q And I believe the police said that you had left it
20 running; is that correct?

21 A I don't remember leaving it running, but they did
22 say I left it running.

23 Q And what did you do with this pistol?

24 A I took out the two empty cartridges and laid them
25 on the front seat and put two more rounds in it, two

1 more cartridges in it.

2 Q Why did you do that?

3 A Because I didn't know when somebody else might
4 come out or what they might come out with. There was a
5 lot of people at the house, and I didn't know how many
6 might have decided they wanted to come out and attack
7 me again.

8 Q So, let me ask you something. Other than Jody,
9 did you have any kind of physical altercation, did you
10 shoot at anybody, anybody else?

11 A No.

12 Q Did you flee after this happened?

13 A No.

14 Q What did you do?

15 A I stayed beside my truck between the cab and the
16 door so if somebody tries to come up behind me, the
17 door would be open. And I stayed there until I seen
18 the police cars coming down Williamson Road. And at
19 that time I had already called -- I did call my
20 brother, Billy.

21 Q And when you saw the blue lights, what did you do
22 with the gun?

23 A When I saw the blue lights, I closed the door and
24 laid the gun up on the hood of the truck.

25 Q Now, sir, would you call this a shooting that

1 occurred in heat of passion or that occurred because
2 you were defending yourself?

3 A It occurred because I was defending myself.

4 Q When you talked to your wife and then talked to
5 your brother, I know you didn't have long to talk, but
6 what did you say to them?

7 A The call I made to my wife, I told her that I had
8 hit the neighbor's truck and they come out fussing and
9 cussing me and hit me and I had shot him.

10 Q Now, let's look at -- I'm trying to find -- in
11 looking at Defense Exhibit 15 -- let's look at 14.
12 There's a little better light there. How big is this
13 area right here behind the truck to the ditch?

14 A I'd say approximately -- to the ditch would
15 probably be eight to ten feet.

16 Q All right. From over here where I was pointing?

17 A Yes.

18 Q But we know the width of the truck is how long?

19 A Width of the truck is 80 inches.

20 Q And at the point that you fell on the ground, were
21 you behind the truck actually at that point?

22 A Yes.

23 Q So are we talking about a big area here or are we
24 talking about a small area here?

25 A It would be a small area.

1 Q That night did the police arrive there pretty
2 quickly after this?

3 A Yes.

4 Q I think it was eight minutes, ten minutes,
5 somewhere in there. Does that sound about right?

6 A That sounds about right.

7 Q And did you comply with the officer's request?

8 A I did.

9 Q Did you submit to GSR testing?

10 A I did.

11 Q Did you submit to photographs?

12 A I did.

13 Q Did you submit blood?

14 A I did.

15 Q Did you submit to buccal swabbing?

16 A I did.

17 Q Mr. Arflin, you went to jail that night; is that
18 right?

19 A I did.

20 Q And when you went to jail, I believe you filled
21 out some kind of form about injuries; is that right?

22 A I did.

23 Q And you had a beard until, what, just a few days
24 ago? I noticed your face was all scratched up the
25 first day.

1 A Yeah.

2 Q And you put on there that you did not have any
3 injuries. Were you actually booked in that night to
4 the jail?

5 A I was.

6 Q Were you extremely concerned about any mouth
7 injuries after being arrested for murder and put in
8 jail and shooting somebody and having all these crazy
9 things happen?

10 A No, I was not.

11 Q At some point in jail did you begin requesting to
12 have a medical visit?

13 A I did, yes.

14 Q And why is that?

15 A Because my gums on the inside of my mouth had
16 swelled up and I was having problems eating.

17 Q We heard something about you requested it and it
18 was four days instead of five or something?

19 A Well, it took me -- it took me over a day just to
20 figure out what I needed to do because you had to fill
21 out paperwork and then turn in the paperwork, and that
22 had to go to the nurse before you could get a -- get
23 checked by the nurse.

24 Q They have some kind of procedure?

25 A They do have procedures that I didn't know

1 anything about.

2 Q Because you had never been to jail before?

3 A No.

4 Q All right. So at some point do you end up
5 submitting a form?

6 A I do.

7 Q And at the jail, have you found that the
8 procedures are you can just go straight to the doctor
9 or do you have to fill out a form and get an
10 examination from the nurse first and then go to the
11 doctor?

12 A You have to fill out a form, get an examination
13 from the nurse, then she will put you on the list to
14 see the doctor if you need to.

15 Q So is it like when you're out of jail where you
16 can call your doctor and say, "I'm having real issues.
17 I need to come in today"?

18 A No, it's not.

19 Q Now, did you go through that procedure, and were
20 you seen by a nurse?

21 A I did and I was.

22 Q And I believe we've already had testimony that
23 this was a few days later redness, swelling, et cetera,
24 was noted; is that right?

25 A Yes.

1 Q And did the nurse okay you to go on then at that
2 point and see a doctor?

3 A Yes.

4 Q And what, if anything, those days later was
5 prescribed for your injury?

6 A Antibiotics.

7 Q All right. You've been in jail for a year and
8 eight months at this point; is that right, nine months
9 eight months?

10 A I think it's -- somewhere in there, yes.

11 Q I believe we heard from a man named Roy Lawrence
12 yesterday?

13 A Yes.

14 Q Did you share a cell with him in October of 2014?

15 A I did.

16 Q And let's talk about that. Have you had many
17 cellmates through your time there?

18 A I have.

19 Q Have many of them made bond?

20 A Yes.

21 Q Have you had anyone come forward besides Roy
22 Lawrence and say you tried to solicit something to be
23 done to witnesses?

24 A No.

25 Q Did that ever happen?

1 A Excuse me?

2 Q Did you ever try to solicit Roy Lawrence to do
3 anything?

4 A No, I did not.

5 Q What kind of cell were you and Roy Lawrence in?

6 A The cell is about 16 feet long and about six to
7 eight feet wide.

8 Q Is it bars and concrete?

9 A Concrete walls with a steel door and about a
10 four-inch strip about 33 inches tall in the door to
11 look through.

12 Q And how many hours of rec do you get every day?

13 A We get two hours of rec.

14 Q So you're essentially in this cell with Roy
15 Lawrence for how many hours a day?

16 A 22 hours a day.

17 Q And did you know him ahead of time?

18 A No, I did not know him.

19 Q So what did you and Mr. Lawrence -- well, I think
20 we heard yesterday that Mr. Lawrence is, as he put it,
21 knows the system well or something. Would that be
22 pretty accurate?

23 A Yes.

24 Q And what did you and Mr. Lawrence talk about most
25 of the time while you were in there?

1 A Most of the time we talked about our cases, or
2 most of the time he wanted to talk about my case.

3 Q And did you talk to him?

4 A Yes.

5 Q When you talked to him, did you also have a packet
6 in your jail -- do you have like a personal locker when
7 you're in jail, or do you have to keep your stuff in
8 your cell?

9 A You have to keep your stuff in your cell, and it's
10 pretty much open to anybody that wants to get to it,
11 but I tried to keep mine in a plastic bag under the
12 bed.

13 Q Now, do y'all have visitation when you're at the
14 detention center?

15 A Yes.

16 Q And do y'all have the same visitation?

17 A No, we do not. We had different visitations.

18 Q Do you know how long your visits were when you had
19 visitation?

20 A 30 minutes.

21 Q And did you also have to get taken to a doctor at
22 least once a month?

23 A I did. I had to go to the doctor once a month for
24 blood work and a shot.

25 Q For your cancer?

1 A Yes.

2 Q And, again, was he there during those times?

3 A Yes, he was.

4 Q When you had rec were -- were you permitted to
5 come and go from the cell, in other words, one of you
6 could go, one could stay in the cell?

7 A Yes.

8 Q Now, I believe we said yesterday that you never
9 contested that those names or that that map were things
10 that you did; is that right?

11 A That's correct.

12 Q Will you tell the jury -- let's talk about the map
13 first. Have you been served with a civil suit dealing
14 with this incident several months before this?

15 A I had.

16 Q And did you have a copy of that paperwork?

17 A I did have a copy of the paperwork, yes.

18 Q And did you talk to him about this?

19 A I did.

20 Q And did you talk about this case?

21 A I did.

22 Q Tell the jury why that map was done.

23 A The map was -- I drew the map -- as a matter of
24 fact, I drew the entire area, not just the area where I
25 live, but the area around where I live to show him

1 where my case had happened, the areas that it had
2 happened in.

3 Also I drew out the property on mine to show him
4 what property that they had attached in the civil suit
5 and explained to him, you know, who lives closest to me
6 and the property lines of my property and all the way
7 back up to the end of the street. I had drew the
8 houses at the end of the street, across the road. Up
9 the road used to be the old Haven of Rest Children's
10 Home. It is now -- I think it's Haven of Rest, it's
11 just Haven of Rest. They put people that went through
12 or doing drug rehabilitation, stuff like that, in
13 there.

14 Q Did you ever give that map to him?

15 A I did not.

16 Q Now, let's talk about this list of three names.
17 Larry Williamson is on that; is that correct?

18 A Yes.

19 Q Was he there that night?

20 A No, he was not.

21 Q Did he give a short statement with a taped
22 interview in this case?

23 A He did.

24 Q How often -- when you're in jail, can you visit
25 your attorney any time you want?

1 A No, I cannot.

2 Q About how often would you get an attorney visit
3 from my office?

4 A About once every two weeks.

5 Q And would stuff be sent to you as it came in?

6 A Yes.

7 Q What would you do in order to prepare for the next
8 visit, which could be two weeks away, a week away, or a
9 few days away?

10 A Most of the time I would go through my discovery
11 that had just come in. I would read it and take my
12 notebook, make notes on my legal pad and make notes of
13 any questions that I had, and I would write down, you
14 know, what the question was, the person's name that
15 made the statement.

16 Q Something to jog your memory when I came to see
17 you?

18 A Yes, something I do to keep my memory going.

19 Q Are you familiar with what Mr. Lawrence's pending
20 charges were?

21 A He did -- he told me that his charges were because
22 of his sister-in-law --

23 MS. PRICE: Objection.

24 THE COURT: Sustained.

25 MS. WHITE: I'll move on.

1 Q Now, at some point did Roy Lawrence talk about the
2 things that we heard on the tape the other day?

3 A Yes.

4 Q And when you were locked in this cell with him for
5 22 hours a day, what, if any, need did you see to
6 confront him about it?

7 A I didn't confront him about it simply because it
8 would have caused problems inside the cell, and they
9 wasn't going to move either one of us unless we got
10 into a fight or something, and I'm not -- I'm not a
11 fighter. I'm not capable of fighting.

12 Q So did you ever instigate anything about witnesses
13 or anything else?

14 A No.

15 Q Did you have a trial date in November of 2014?

16 A I did not.

17 Q Did you have any idea if your trial was going to
18 be in a year, five years or several months?

19 A I didn't have any -- I had no knowledge of when it
20 might be.

21 Q Now, did you get a message from someone to call
22 Mr. Lawrence once he got out?

23 A I did.

24 Q And did you call him?

25 A I did.

1 Q When he brings up the subject -- and did this
2 subject surprise you at all?

3 A It did surprise me somewhat, but he had talked
4 about it in the cell.

5 Q Did you stay on subject or did you try to change
6 the subject?

7 A I tried to change the subject.

8 Q When you're in jail, are you allowed to go talk to
9 people, make arrangements, do things like that?

10 A No.

11 Q So were you free to go to his house and say, "This
12 is what we're going to do. We're going to get them
13 this way. We're going to house them this way. We're
14 going to do it this way"? You would agree this plot
15 would have to have a whole lot of planning?

16 A Yes, it would have.

17 Q And was that ever done?

18 A No.

19 Q When he asked to be put on your visitation list,
20 how many people are you allowed to have on your
21 visitation list?

22 A I'm allowed to have ten.

23 Q And what did you tell him?

24 A My visitation list was full.

25 Q Did you have any desire or intention for him to

1 come visit you?

2 A No, I did not.

3 Q When he tried to bring up a subject on the phone,
4 this subject on the phone, did you agree to talk to him
5 on the phone about it?

6 A No.

7 Q When he asked you to write him a letter, did you
8 ever write him a letter?

9 A No.

10 Q Who runs the detention center, which law
11 enforcement agency?

12 A Anderson County.

13 Q And would they have been free to intercept any
14 mail that went out or in from that facility?

15 A Yes.

16 Q So is there any way that a complex event like
17 taking people, housing them for God only knows how
18 long, et cetera, is there any way that could have even
19 been -- is it impossible to have done that?

20 A It is.

21 Q Did my office request that the prosecution run
22 distance trace reports in your case so that when we
23 came to trial, we would have those reports?

24 A Yes.

25 Q And was that done?

1 A No, it was not.

2 Q Did my office request complete DNA reports?

3 A Yes.

4 Q And was that done?

5 A No.

6 Q Did you want it done?

7 A Yes.

8 Q Was that why it was requested?

9 A Yes.

10 Q Bobby, I know it is -- we've used the term Monday
11 morning quarterbacking to try to re-create in this
12 environment the few minutes or seconds that you were
13 out there that night. But can you just tell this jury
14 why -- you obviously fired two shots -- why you fired
15 that gun out at that scene at that time?

16 A I was afraid that I was going to be killed, and
17 that's the reason that I fired, to keep from being
18 killed, to save my life because I was under full
19 impression that this guy was going beat me to death
20 from the anger and everything on his face.

21 Q Just give me one minute, please.

22 MS. WHITE: Your Honor, I have nothing further.

23 THE COURT: Ms. Price.

24 MS. PRICE: Yes, sir. May it please the Court.

25 CROSS-EXAMINATION

1 BY MS. PRICE:

2 Q You were under no obligation to call Roy Lawrence
3 back, right? You called him?

4 A I was told to call him.

5 Q By somebody that had some authority over you?

6 A Well, he had a simple request for me to call him.

7 Q Simple request. Nobody forced you to call
8 Mr. Lawrence?

9 A Nobody twisted my arm, no.

10 Q Right. And when you called him, you were quite
11 friendly with him?

12 A Yes, that's --

13 Q Yes. Okay. So you didn't indicate on that phone
14 call that you had any prior issue with Mr. Lawrence,
15 did you?

16 A No.

17 Q No. And on that phone call when he asked you if
18 he should hold off or not, you say, "Hold off," don't
19 you?

20 A I do.

21 Q You do. Okay. And when he asked you about
22 stashing them away as it gets further into the phone
23 call, he asked you about stashing them away, and you at
24 first say, "Oh, my mind went blank," and then you say,
25 "But, anyway, I'll pay for that," don't you?

1 A No.

2 Q You talk over each other, and that's what you say,
3 isn't it, sir?

4 A No.

5 Q Okay. And at the end of the call, he asks you
6 about his visitation list, things of that nature --
7 your visitation list, things of that nature, and you
8 get a little squirrely, don't you, sir? You were
9 beginning to get suspicious; isn't that right?

10 A No.

11 Q No? Okay. And he gave you an address, but it had
12 the wrong zip code, and that's why he didn't get a
13 letter; isn't that the case?

14 A No.

15 Q So this note with three names in your case?

16 A Yes.

17 Q That was to jog your memory?

18 A Yes.

19 Q You had trouble remembering Brenda Masters' name,
20 the girl who lived down the street from you for years?
21 You had trouble remembering that name for a meeting
22 with Ms. White?

23 A I had three names wrote down and what I was going
24 to talk to her about under those names.

25 Q Well, I don't remember seeing anything about what

1 you were going to talk about on that note, do you?

2 A That part was taken off.

3 Q Oh, it was taken off.

4 A I didn't take it off, but it was taken off.

5 Q I see. So you're not capable of fighting. That's
6 what you said?

7 A No, I'm not capable of fighting. I couldn't -- I
8 couldn't hold up to it. I couldn't hold up to a hard
9 punch.

10 Q You couldn't hold up to a hard punch. But you're
11 capable of firing a gun; is that right?

12 A Yes.

13 Q Okay. You're capable of tucking this in your back
14 pocket, your back shorts, correct?

15 A Yes.

16 Q And pulling it out?

17 A Yes.

18 Q And firing it?

19 A Yes.

20 Q Okay. This has some pretty hard recoil on it,
21 doesn't it, sir?

22 A It does not. It's a heavy gun.

23 Q It is a heavy gun, isn't it?

24 A That's why there's no recoil.

25 Q So it would take some effort to pull that up,

1 wouldn't it, sir?

2 A Yes.

3 Q Yes. Some thought and some effort; isn't that
4 right?

5 A Some effort. The thought, (shaking head).

6 Q All right. Are you aware that the State has the
7 medical forms that Ms. White was referring to?

8 A Yes.

9 Q Okay. Are you aware that you checked off that you
10 had no jaw or mouth injuries on that form, sir?

11 A That was the intake form?

12 Q No, sir, a sick slip, the one that you were
13 discussing with Ms. White. Would you like to see it?

14 A I don't remember.

15 Q Okay. Well, let's show it.

16 MS. WHITE: Your Honor, I'd like to look at
17 whatever she's --

18 MS. PRICE: Oh, you gave it to me.

19 Oh, I'll put that one in too. Do you have any
20 objection to this?

21 THE COURT: If it's two documents, mark them
22 separately.

23 MS. PRICE: Yes, sir.

24 (WHEREUPON, State's Exhibit Number 99 was marked.
25 for identification.)

1 (WHEREUPON, State's Exhibit Number 100 was marked
2 for identification.)

3 BY MS. PRICE:

4 Q I'm showing you State's Exhibit 99 and 100.

5 MS. PRICE: May I approach?

6 THE COURT: Yes, ma'am.

7 MS. PRICE: Okay.

8 Q Now, sir, are you familiar with this?

9 A I have seen it, yes.

10 Q Okay. And on that form is there a space that
11 says, "Do you have any recent injury to your mouth?"

12 A Yes. Okay.

13 Q And it says "no," does it not?

14 A It does.

15 Q And is there also a space that says, "Do you have
16 any recent injury to your jaw?" I believe it's almost
17 next to that. Would you like me to point it out to
18 you, sir?

19 A Yes. I can't -- I can't find it.

20 Q Sure. Right here it says, "Recent injury to
21 mouth?" "No." "To jaw?" "No."

22 A Okay.

23 Q Okay? And this form was actually filled out by
24 you; is that correct, sir?

25 A Yes.

1 Q Okay. And tell me what it says about how long
2 have you had this problem?

3 A It says I had this problem for five days.

4 Q Okay. And what was the date on that form?

5 A 12/15.

6 Q So you would have had that problem for -- since
7 the 10th; is that correct, sir?

8 A By those numbers, yes.

9 Q Okay. You said as you walked down the road after
10 this event, the incident had occurred, right, that you
11 heard somebody talking about 911. In fact, you heard
12 people screaming to call 911; is that correct?

13 A I heard them screaming they were on 911.

14 Q We glossed over the shooting a little bit, didn't
15 we, Mr. Arflin, when you were speaking with your
16 attorney just now?

17 A No.

18 Q I want to talk about that. Okay?

19 A Okay.

20 Q You say that Mr. Powell threatened you?

21 A Yes.

22 Q You say that he said what exactly? Specifically,
23 you said what?

24 A At which point?

25 Q Tell me both times.

1 A Okay. When he was hitting me, he called me a
2 stupid son of a bitch.

3 Q Uh-huh.

4 A Second time, a stupid bastard.

5 Q Uh-huh.

6 A And the third time, he told me he was going to
7 whoop my ass.

8 Q Uh-huh. Okay. Are you aware that none of those
9 phrases are the phrases that your brother told us that
10 was said earlier today?

11 A Yes.

12 Q Okay. Because you were present in the courtroom?

13 A Yes.

14 Q So you know that your brother said something else
15 entirely, right?

16 A Right.

17 Q Okay. So he says these phrases to you?

18 A Yes.

19 Q Okay. And you said that he -- well, I'm a little
20 confused. Did he give you an uppercut; is that your
21 testimony?

22 A Yes.

23 Q So the testimony is that he actually punched you
24 in your jaw?

25 A He come up (indicating) and punched me.

1 Q He come up and punched you.. He crossed his hands
2 across his own chest?

3 A He had his arms crossed.

4 Q And punched you?

5 A (Indicating). Yes.

6 Q You say that after that happened, Brenda came out;
7 is that right?

8 A Yes.

9 Q So after that happened, Brenda came out and said,
10 "Let the police be called. Let's let the police handle
11 it"?

12 A Yes.

13 Q That's what you recall happening?

14 A Yes.

15 Q Okay. And you say so that after if -- if this
16 happened -- after that happened, she broke you up; is
17 that right?

18 A No, she didn't break us up.

19 Q Well, that's what you just said.

20 A No. I said she came out and tried to stop him.

21 Q You said, "After he hit me, she broke us up." You
22 just said that in this courtroom.

23 A Not that I remember.

24 Q Well, you did. So, okay. So you hadn't been
25 broken up; is that right?

1 A Yes.

2 Q Now your testimony is that you hadn't been broken
3 up?

4 A I'm separated from him because he's already
5 knocked me backwards.

6 Q He's knocked you backwards, okay. But are you
7 still standing?

8 A I don't know. I don't remember.

9 Q You don't remember. It's very hard to make your
10 testimony fit medical evidence that exactly contradicts
11 your case, isn't it, sir?

12 MS. WHITE: Your Honor, I'm going to object.

13 THE COURT: Overruled.

14 BY MS. PRICE:

15 Q It's difficult, isn't it?

16 A I don't know. Medical evidence, I'm not a doctor.

17 Q You've had some time to come up with a defense,
18 haven't you?

19 A I had a year and nine months in jail, if that's
20 what you're saying.

21 Q And you're telling me that you don't remember
22 anything about the actual moments that you fired this
23 weapon?

24 A I do the last shot, yes.

25 Q You do remember the last shot?

1 A I was down and fired.

2 Q Down how, sir?

3 A Just down towards -- on the ground, towards on the
4 ground.

5 Q Were you on your belly? Were you on your back?
6 How were you positioned?

7 A Actually, it was -- it happened so fast, I
8 couldn't tell you exactly how I was positioned.

9 Q You can't remember if you were on your front or
10 your back when you fired the gun?

11 A I was on my -- I fired the gun up, so I was on --
12 probably on my back.

13 Q Probably on your back. Okay. When you fired the
14 first shot, how were you positioned?

15 A I don't remember firing that shot.

16 Q Okay. Did you fire that from the ground as well?

17 A No, I don't think so.

18 Q You did not fire that from the ground, okay. So
19 now your testimony -- now your testimony -- is that you
20 fired it while you were standing up?

21 A I don't know when I fired it.

22 Q Wait a minute. The first shot that you fired --

23 A Yes.

24 Q -- into Mr. Powell's body, where were you -- how
25 were you positioned when you fired that shot, sir?

1 A I do not remember. I don't know.

2 Q How did you get on the ground after someone --
3 after you had already fired a shot?

4 A My -- I tripped over -- I tripped over my own
5 feet, I guess, because I can't feel my feet. They're
6 numb on the sides.

7 Q Well, you didn't have any trouble walking up to
8 the stand today, did you, sir?

9 A No, but I hadn't been hit neither.

10 Q You were wearing inserts to help with that
11 problem, weren't you?

12 A I was wearing inserts.

13 Q So you corrected that issue?

14 A No, they didn't correct the issues, they just
15 helped it.

16 Q So you tripped on your own feet now is your
17 testimony? You weren't knocked to the ground? Because
18 initially, and you were present in the courtroom,
19 Ms. White said you were knocked to the ground.

20 A I was knocked to the ground.

21 Q You were knocked to the ground? Okay. You just
22 testified that you tripped on your own feet, sir.

23 A I was knocked to the ground which caused me to
24 catch my own feet. I mean, when I was -- when I was
25 hit, I backed, my feet caught under me, and I went down

1 because I couldn't tell exactly where they were. I
2 mean, they were numb. And that's what neuropathy does.

3 Q So then is it your testimony that you were on the
4 ground after he knocked you?

5 A Yes.

6 Q So then you would have been on the ground when you
7 fired the first shot according to your own statement
8 just now; is that right, sir? But that's impossible,
9 isn't it, because Dr. Woodard testified that that could
10 not have come at an upward angle. You were present in
11 the courtroom for that, weren't you, sir?

12 A I was.

13 Q One moment.

14 Mr. Arflin, isn't it true that you and Jody Powell
15 were speaking to each other, and he said to you that
16 you were heartless, and you said, "I'm not heartless,
17 I'm ruthless"?

18 A No, I did not.

19 Q No, sir, okay. And then isn't it true that right
20 after that happened he touched you on your chest
21 because you were in his face; isn't that the case, sir?

22 A No. I did not get in his face.

23 Q Well, you told that to Roy Lawrence, didn't you?

24 A No, I didn't.

25 Q Okay. So you were close together. You admit that

1 you were close together?

2 A Yes, we were.

3 Q And at that time he pushed you on the chest; is
4 that right?

5 A No.. At that time he crossed arms and thrust me in
6 the chest.

7 Q And at that time you pulled out a gun and you shot
8 him once after saying, "I've got something for you,
9 Boy"; isn't that correct?

10 A No, it is not.

11 Q Isn't it true that after you fired that shot,
12 Mr. Powell turned to run, and he ran from you?

13 A No.

14 Q Isn't it true that Mr. Powell tripped and fell and
15 you shot him again?

16 A No.

17 Q Isn't it true that you said to Brenda Masters;
18 "Don't help him. Let him die"?

19 A No. I never said that.

20 Q Isn't it true that you were angry that this young
21 buck was confronting you?

22 A No.

23 Q You weren't angry about that?

24 A No.

25 Q Really?

- 1 A I was afraid.
- 2 Q You were afraid?
- 3 A Yes.
- 4 Q You had that (indicating) in your body, you had
5 this, and you were afraid?
- 6 A I was still afraid, yes.
- 7 Q Really?
- 8 A Yeah.
- 9 Q You followed him.
- 10 A I did not follow him.
- 11 Q You followed him, didn't you, sir?
- 12 A No, I did not.
- 13 Q You pursued him with that.
- 14 A No.
- 15 Q Who's afraid of who, sir?
- 16 One moment.
- 17 Mr. Arflin, you shot Jody Powell twice, didn't
18 you, sir?
- 19 A Yes. There were two empty cartridges.
- 20 Q You did it intentionally, didn't you, sir?
- 21 A I did not.
- 22 MS. PRICE: No further questions.
- 23 THE COURT: Ms. White, any redirect?
- 24 MS. WHITE: No, sir.
- 25 THE COURT: All right. Thank you. You can step