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SC Court of Appeals

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Donald B. Hocker, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT,

V.

DARRELL ERWIN RAINES JR.,

APPELLANT

APPELLATE CASE NO 2016-000142

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

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STATE'S #37 – MAP ON BOARD
STATE'S #38 – DELETED CALLS ON BOARD
STATE'S #47 – CD OF INTERVIEW

State of South Carolina)
 vs.) Transcript of Record
)
Darrell Erwin Raines, Jr.)
 DEFENDANT)

November 19, 2015
Newberry, South Carolina

B E F Ò R E:

Honorable Donald B. Hocker, Judge

A P P E A R A N C E S:

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Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

(SW) Keith McIntosh

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Cross-examination by Mr. Able: 25
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(SW) Bryant Cheek

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1 THE COURT: Okay, we are on the record in the case of
2 the State of South Carolina versus Darrell Raines. And
3 Solicitor Scott, I understand you have a motion or motions
4 to make in this case which I think is scheduled for trial,
5 I believe, the week of December 7th.

6 MR. SCOTT: Yes sir, Your Honor.

7 THE COURT: I will be glad to hear from you.

8 MR. SCOTT: Okay. Thank you again for hearing this,
9 Your Honor. This is something that I kind of, I guess,
10 for housekeeping purposes. It is going to determine
11 whether or not we need to fly certain witnesses in which
12 we are prepared to do. But, there is a new statute and I
13 apprized the Court of that. The Federal Rules of
14 Evidence, as well as the State Rules of Evidence have
15 pretty much identical hearsay exceptions regarding
16 records, regular conducted business activity. They are
17 both found in 803(6), both the Federal Rules and the State
18 Rules. And, again, they have nearly identical
19 requirements, nearly identical wording and they have that
20 one major difference. The business records exceptions in
21 the Federal Rules allows requirements to be shown by the
22 testimony of a custodian or other qualified witness. And
23 then comes this language, or by certification that
24 complies with Rule 902(11), Rule 902(12); or a statute
25 permitting certification. Now, 902(11) and (12) are the

1 self-authentication provisions of the Federal Rules as
2 well as the State Rules. In those provisions extrinsic
3 evidence of authenticity as a condition precedent to
4 admissibility is not required. Subsection (11) is
5 certified, domestic records; whereas subsection (12) is
6 certified for those. Specifically 902(11) provides for
7 the original or a duplicate of a domestic record of
8 regular conducted activity that would be admissible under
9 Rule 803(6), that's the hearsay exception, if accompanied
10 by a written declaration of its custodian or other
11 qualified person in a manner complying with any act of
12 Congress or Rule described by the Supreme Court pursuant
13 to statutory authority. Certified of the record is three
14 things, was made at or near the time of the occurrence of
15 the matter set forth by or information transmitted by a
16 person with knowledge of those matters. Second
17 requirement, was kept in the course of a regular conducted
18 activities. And third, was made by the regularly
19 conducted activity as a regular practice. And then a
20 party tending to all of the records into evidence of this
21 paragraph must provide written notice of that intention to
22 all adverse parties. Again, what I started off saying,
23 South Carolina Hearsay Exception never provided for this
24 certified affidavit, live testimony until this year. And
25 that was a statute that referred to. And I think our

1 legislatures enacting this just realized the difficulties
2 and problems that arise and the issues that arise when
3 litigators have to call these witnesses who are going to
4 fly in from all over the Country to testify for ten
5 minutes that, you know, this record is kept in the
6 ordinary course of business when the Fed's have been doing
7 this for years, saying, well, certified affidavit from
8 these records custodians will suffice. Judge, what I have
9 passed up to you is really the history of the Bill. The
10 Bill is 177 in the 121st Session of South Carolina General
11 Assembly. It was effective March 27th of this year. The
12 Title is an Act to Amend the Code of Laws of South
13 Carolina by adding section 19-5-520, so as to allow for
14 certification instead of requiring extrinsic evidence of
15 the authenticity certain domestic and foreign business
16 records of regularly conducted activity for the records to
17 be admissible and to require criminal penalty of false
18 certification. In fact, they are charging a penalty if
19 you purger yourself as far as certifying these affidavits.
20 Judge, I have got the actual statute up there printed for
21 you. But what we are undertaking to do is we have got
22 fairly voluminous records from two cell phone companies.
23 And this surprised me, whenever I saw Sprint, Verizon
24 companies, we just need a regional person that can come
25 down here and testify to the authenticity of these records

1 and we won't even bother with this new statute. And said,
2 no, we have got people who do this year round and that is
3 their sole job and they fly over the Country and they are
4 out of Kansas or something like that. And I said, well,
5 let's explore this new statute and put it to the test and
6 see what we can do with it. But, again, cell phone
7 records are extremely important in this case. If the
8 Court says we need to do it, we are going to fly these
9 people in and make room in our budget to it but it appears
10 to me that this statute is right on point. It appears to
11 me that the Legislature had in mind permitting this kind
12 of unnecessary, don't want to say unnecessary, but needed
13 testimony from people that can authenticate something
14 through a certified, that is what we are seeking to do
15 again. With Sprint cell phone records that would belong
16 to the victim in our case as well as Verizon cell phone
17 records that belong to the defendant in this case.

18 THE COURT: All right, Mr. Able.

19 MR. ABLE: Thank you, Your Honor, thank you very
20 much. Of course, Your Honor, we would believe that it
21 would be necessary for the State to have live testimony of
22 the records custodians for both or all telephone companies
23 appear and give live testimony. I have read the statute,
24 I have prepared for this, we were suppose to try this
25 matter back in September. The first thing, it is hard to

1 find a copy of the statute since it was so new. But we
2 would challenge it, first of all, on the
3 unconstitutionality of it as far as its violation of
4 confrontation clause. It is a direct violation of the
5 Sixth Amendment of the Constitution of the United States.
6 Also, a direct violation of the South Carolina
7 Constitution Article I, Section 14, describes of course
8 that an accused has the right pursuant to our Constitution
9 of this State to be confronted with the witnesses against
10 him. And it is also in violation of statute 17-23-60 and
11 I will hand those up to you, Judge. And I would note that
12 in looking at that section, 17-23-60, that statute that I
13 cited, it is even stronger than the Constitution. It
14 requires, if you look at it, I printed it out for you, I
15 handed it up. It requires to meet the witnesses produced
16 against him face to face. So it is even stronger language
17 than in the Constitution of this State and the
18 Constitution of the United States. It requires, that
19 statute requires a face to face confrontation. I have a
20 State case I will hand up in a moment. But State versus
21 Smith, it is an older case, Judge, and it basically, it
22 can be found at 230 SC 164 from 1956. And as I said, it
23 is an older case but of course the proposition is that a
24 defendant accused of any crime cannot be denied a right to
25 cross-examination of witnesses. And I will address that

1 in a moment because what this new rule requires or it says
2 can be done, is that somebody sign an affidavit or an
3 affirmation that these are the records and that is all it
4 is. In the Smith case it goes on to say, that affidavits
5 and depositions are inadmissible in evidence in a criminal
6 case. So I will hand that up to you also to support our
7 position that the Rule is unconstitutional. But, of
8 course, there is a host of U.S. Supreme Court cases
9 concerning the confrontation clause, the primary ones of
10 those are Maryland versus Craig which was a child abuse
11 case. And Floyd versus Iowa. But basically, in Maryland
12 v. Craig basically the Court set out that the preference
13 in these type cases, anytime that there is a question that
14 something has been called into question as concerned to
15 the confrontation clause that it is a preference for face
16 to face confrontation. But, the Supreme Court or U.S.
17 Supreme Court went on to say that that preference of a
18 face to face confrontation can be overcome only where
19 denial of such confrontation is necessary to further an
20 important public policy. And it is a two-part test. And
21 only where the reliability of the testimony is otherwise
22 assured. Now, of course basically what that is saying is
23 that the confrontational clause is not absolute which I
24 understand that and I think that everybody understands
25 that. But the test, like I said, only sets out these

1 exceptions as to it is necessary for further an important
2 public policy. And in the Maryland v. Craig case it, of
3 course, it is obvious they are dealing with children, a
4 child abuse case. And the public policy there was to, of
5 course, protect these young children from trauma, having
6 to face their attacker or their abuser on the witness
7 stand. In this case, Judge, I think in this case the
8 statute fails for two reasons on both counts. The fact,
9 if it is necessary to further an important public policy.
10 Well, the Solicitor said so himself, what is this about.
11 The Public Policy is advancing is the State doesn't want
12 to pay for the cost in bringing these witnesses in and
13 having them testify. He said they had the budget, it
14 might affect their budget some. But it boils down to
15 dollars and cents and I believe that is the logic behind
16 this and the Legislature says, hey, we have got, you know,
17 in these cases now we fly these people in or bringing
18 these witnesses in from out-of-state and it is costing us
19 some money. And, of course, the Legislature being who
20 they are always looking at the nickels and dimes says we
21 are going to add this on so we don't have to do that
22 anymore. We are going to produce this new statute and new
23 rule so we don't have to do that anymore. The Solicitor
24 also said they stand ready to bring these people in if
25 necessary depending upon the Court's ruling today. So, I

1 think the constitutionality of this, as concerns my
2 client's right to confront these witnesses, whomever they
3 are, whatever they might testify to, obviously the statute
4 is unconstitutional or the new or the statute and the new
5 rule are unconstitutional because they don't further any
6 public, any important public policy like protecting a
7 child from having to face an accuser. What it is here is
8 dollars and cents. The second part of that test is set
9 forth in Maryland v. Craig is, and where the liability of
10 the testimony is otherwise assured. Well, under this new
11 rule it sets forth, it has got to be a domestic record to
12 comply with 803(6), certification of the custodian,
13 certification complies with a State statute or Court rule
14 and then giving me notice of their intent to do this. But
15 it calls in question, Judge, the reliability of the
16 testimony. What of course they are going to do or what
17 would be done in this case is that these records will be
18 compiled, I assume some certification of the custodian
19 with complies which the State statute or Court rule, just
20 basically saying these are the records. Going back to a
21 moment ago about an affidavit not be permissible, it
22 leaves me nothing to cross-examine during a trial but an
23 affidavit. It doesn't provide my client with an
24 opportunity to confront that witness that produced that
25 affidavit. And I can't ask, of course I can't ask him

1 questions of an affidavit even if it is just a records
2 custodian, I might want to ask about some of the contents
3 of the record and what some of the records are and how
4 they were compiled. But all that allows me to do is
5 really nothing, it kind of ties my hands in saying I don't
6 have an opportunity to whoever produced these records, how
7 they were produced. All I have is an affidavit to
8 cross-examine. And that goes to the jury that way without
9 providing my client an opportunity to examine a live
10 witness. So, I think fails on both parts of the two-part
11 test when you are talking about exceptions to the
12 confrontation clause. It doesn't, this statute and this
13 rule doesn't support an important public policy and there
14 is no reliability of these records to come in because all
15 I have is that affidavit. And we don't know who signed
16 the affidavit or what. That leads into my second argument
17 about the rule itself as to the reliability and who is
18 doing these documents. In reading the statute, Judge, it
19 says the original or a copy of a domestic record that
20 meets the requirements of 803(6). I am interpreting
21 domestic record to mean a record made here in South
22 Carolina. The reason being, if you look through the
23 statute itself, it goes on from (a) down to (b) where it
24 talks about civil cases and it talks about the original or
25 a copy of a foreign record. Again, I am interpreting that

1 to mean outside the State of South Carolina. If you have
2 to look at the Federal Rule and I will get to that in a
3 moment. But the reason I am interpreting an (a) in a
4 criminal case when it talks about the original and copy of
5 the domestic record. They talk in the rule and the
6 statute as a whole about these criminal penalties. Now,
7 in this case we have these records from out of state. If
8 we allow this certification or affidavits or whatever it
9 might be signed by somebody, I think the Solicitor
10 mentioned Kansas or Missouri or where ever, the question
11 then becomes, if they sign a false affidavit which I don't
12 know, I am not saying that anybody would but if they sign
13 a false affidavit and they are in Kansas or Illinois or
14 where ever it might be, they would not be subject to any
15 penalty in the State of South Carolina. The rule just
16 wouldn't be any jurisdiction, we don't have the ability,
17 we don't have them here to penalize them criminally if
18 they were to sign a false affidavit.. If you go on down
19 and look at, again (b), I referenced that where they talk
20 about a foreign record. Well, it says, if it is a foreign
21 record they have to, in the certification or the
22 affidavit, must be signed in a manner that in falsely made
23 would subject the maker to a criminal penalty in the
24 jurisdiction where the certification is signed. So in a
25 civil case where you could put in a domestic record, of

1 course, because it is just a civil case. And it says, in
2 a foreign record, in a foreign record you are going to put
3 in a civil case you are going to have to sign it and say
4 you are going to be subject to a penalty where ever you
5 are before it comes into this State. It is more stringent
6 in a criminal case, it is only saying domestic record and
7 we interpret that to mean a domestic record, domestic
8 meaning South Carolina. So, and then if you look at the
9 Federal Rule where I just said in the civil matter, it
10 says criminal penalty in the jurisdiction where the
11 certification is signed, well the position might be, well,
12 domestic means U.S., foreign means outside the U.S. But
13 if you look the Federal Rule in the civil case it talks
14 about the maker, if falsely made would subject the maker
15 to a criminal penalty in the country, it doesn't say
16 jurisdiction, it says the Federal Rule is this Country.
17 So, we interpret, when it says, concerning criminal cases
18 that it has to be a domestic record to come in under this
19 statue, that it is South Carolina record, produced here in
20 South Carolina. And as I mentioned before and just clear
21 it out again, I think that the fact that I would not, and
22 the third argument is the fact, it is just a plain out
23 hearsay. And I know this is suppose to be an exception to
24 the hearsay rule but it is just plain out hearsay. And,
25 of course, it would only leave me with that affidavit to

1 cross-examine the people. So we would ask that the Court
2 rule that first of all that the statute is
3 unconstitutional and they would have to bring these people
4 in to testify in this case. Thank you, sir.

5 THE COURT: Thank you, Mr. Able. Solicitor, anything
6 in response?

7 MR. SCOTT: Judge, as far as, it is hearsay but it is
8 clearly an exception. Documents prepared in an ordinary
9 course of business are generally presumed trustworthy
10 because businesses depend on such records their own
11 affairs and employees who generate them have a strong
12 motive to be accurate and none to be deceitful. That is
13 why we have an exception to records. And I think foreign
14 is what foreign sounds like and domestic is what domestic
15 sounds like. And domestic being within the U.S. and
16 foreign being without the U.S. And I have got a case
17 here, I just happened to be looking, U.S. v. Gadsden,
18 obviously a Federal case. All I have got right now, this
19 is a September 24th, 2012 case and I have got a memorandum
20 here and I know this isn't precedent but what you are
21 dealing with here is a, Gadsden was indicted, conspiracy
22 to commit bank fraud. And they have used 902(11) in this
23 case which is the domestic provision is what I am talking
24 about here. And what they have done, they have got
25 certified affidavits from all over the Country. And you

1 want to look at that case it is U.S. v. Gadsden.

2 THE COURT: What is the cite, do you have a cite?

3 MR. SCOTT: What I have got here is a 2012 WL
4 4378161.

5 COURT REPORTER: Can you spell that?

6 MR. SCOTT: G-A-D-S-D-E-N. So I think that kind of
7 stands for the proposition, would be outside the U.S.
8 jurisdiction. Let me see, the confrontation clause issue,
9 Judge, anyone accused of a crime obviously has the right
10 to confront those, their accusers. The key linchpin^a there
11 is, whether the evidence offered is testimonial in nature.
12 It occurs to me that what we are trying to offer here is a
13 certified business records. That is non-testimonial. So
14 I think it would fail on proffer, it fails a Crawford
15 analysis, Judge, because it is non-testimonial in nature.
16 Certified affidavit would be non-testimonial. State v.
17 Brockmeyer case, I remember that case, I don't have the
18 statute.

19 THE COURT: The Crawford case comes up a lot in these
20 911 calls and I think Brockmeyer is a 911 call, try to
21 make a distinction between testimonial or non-testimonial.

22 MR. SCOTT: And I remember that trial, I was in
23 Lexington at the time. The one thing that I remember they
24 talked about a lot as far as testimony or non-testimony,
25 the chain of custody and you had somebody testifying in

1 different links in the chain of custody. And said, no,
2 you have got to call every one of them. Of course, we
3 have got Hatcher that deals with that. I guess my
4 argument here is it, this is non-testimonial type
5 evidence. I don't think the confrontation clause is what
6 is triggering this.

7 THE COURT: Anything further?

8 MR. ABLE: No, sir.

9 THE COURT: I am going to take this under advisement.
10 I will let you guys know in a couple of days. If I do
11 rule that you have to bring them here that would still
12 give you enough time.

13 MR. SCOTT: Yes, sir. I do have these exhibits here,
14 the affidavit. I don't know if you want this as a Court's
15 exhibit now or we can handle that later.

16 THE COURT: The exhibits as far as related to these
17 phone records?

18 MR. SCOTT: Yes, sir. They are just certified
19 affidavits that we actually intend to show in lieu of the
20 testimony of these records custodians.

21 THE COURT: I don't think we need to have it marked
22 for purposes of this hearing. And I trust you provided
23 all of that to Mr. Able.

24 MR. SCOTT: Yes, sir.

25 THE COURT: Okay. Any other pretrial matters we need

1 to take up with, you had eluded to some, possibly some
2 other matters in your email. Let me just tell you this, I
3 am going to be holding court Monday in Laurens in an
4 Abbeville case and I would have some time that afternoon
5 if there was anything you needed my help on. I will offer
6 that.

7 MR. SCOTT: I think, if Mr. Able, the defendant was
8 given two statements. He gave a written statement August
9 the 22nd, I think, and then August 29th he gave a
10 statement through an interview. I have got the deputies
11 here, we can handle that, the Jackson v. Denno.

12 THE COURT: The oral statement?

13 MR. SCOTT: Yes, the oral statement. As much as we
14 can do prior to this trial, again, I have got, just
15 pushing 30 witnesses. I would like to streamline this as
16 much as possible.

17 THE COURT: I understand. Mr. Able, concerning a
18 Jackson v. Denno related to the second statement which is
19 an oral statement, are you prepared to deal with that
20 today?

21 MR. ABLE: If the Court has time, yes sir.

22 THE COURT: Yes, yes.

23 MR. SCOTT: Judge, I think we will proffer at least
24 one witness, Keith McIntosh with the Laurens County
25 Sheriffs Department.

1 THE COURT: Okay.

2 KEITH MCINTOSH, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Scott:

6 Q You are an Investigator with the Laurens Sheriffs
7 Department, correct?

8 A Yes, sir.

9 Q And you were involved in this investigation of a
10 murder that happened in August in Laurens County?

11 A Yes, sir.

12 Q And what was the victim's name in that particular
13 murder investigation?

14 A Myranda Southern.

15 Q And tell me how this case started out?

16 A It started out as a missing person in Greenville
17 County. White female was reported missing, I believe
18 around the 18th or 19th, somewhere along in there in
19 August of 2013.

20 Q And moving things along, eventually did you become
21 privy of some bank records that indicated that the
22 defendant, Darrell Raines, was using the victim's ATM
23 card?

24 A Yes, sir. Working with the investigators from
25 Greenville County Sheriffs Office, provided some

1 information.

2 Q And do you have in your records up there when she
3 went missing?

4 A Yes, sir. That was on the 18th.

5 Q You are talking about August, 2013?

6 A Yes, sir.

7 Q August 18th of 2013 she goes missing. When are the
8 ATM videos of the defendant using her debit card?

9 A I believe it was on, I have to get my other records
10 to find out.

11 Q Get what you need. You got information about
12 midnight?

13 A Yes, sir.

14 Q So that would be pushed into the 19th?

15 A Yes, sir. It was actually August the 19th, 2013.

16 Q Say around 3:00 a.m. on the 19th is when y'all got
17 that video of him using the ATM card?

18 A Yes, sir. At 3:35 in the morning.

19 Q Now, when was the body found. When was Ms.
20 Southern's body found?

21 A It was on the 22nd, 23rd.

22 Q On August 23rd?

23 A I responded along with the other investigators from
24 Greenville and the Laurens County Sheriffs Office.

25 Q At some point did Darrell Raines become your primary

1 suspect?

2 A Yes, sir. During the course of our investigation.

3 Q And let's fast-forward to August 29th of 2013. That
4 was the day that the body was positively identified as
5 Myranda Southern's?

6 A Yes sir, it was.

7 Q At that point did you have an opportunity to
8 interview Darrell Raines?

9 A That evening, yes sir we did, on the 29th.

10 Q The evening of August 29th?

11 A Yes, sir.

12 Q How did that come about. Did he come to the Laurens
13 Sheriffs Department?

14 A No, sir. In Greenville County, the Investigator I
15 believe was Antonio Bailey, had his cell phone. And the
16 defendant, Mr. Raines, had requested to get his phone back
17 and he came to the sheriffs office and that is where we
18 met and we interviewed Mr. Raines.

19 Q He voluntarily came to the sheriffs office?

20 A Yes, sir.

21 Q And you were there representing the Laurens County
22 Sheriffs Department, who else was with you?

23 A Myself and Lieutenant Bryant Cheek and Lieutenant Ben
24 Blackmon.

25 Q Who participated in the interview?

1 A Myself and Lieutenant Bryant Cheek.

2 Q Okay. And this is Mr. Cheek over here?

3 A Yes sir, it is.

4 Q Tell me what happened when you first came in?

5 A He was taken to an interview room, myself and
6 Lieutenant Cheek went in. We introduced ourself and who
7 we were while we was there. And we read him his rights,
8 and we got him to sign off on each line that we read to
9 him.

10 Q Okay. Have you got that waiver of rights up there?

11 A Yes, sir.

12 Q Okay. Let's mark this as a, if we are going to go
13 ahead and handle this now, as a Court's exhibit.

14 THE COURT: State's number 1.

15 (Whereupon, State's Exhibit 1 was marked for
16 identification purposes only.)

17 Q Can you read the rights enumerated in your waiver
18 form there and tell me how he indicated that he understood
19 each one of those.

20 A We first of all dated it with the case number,
21 13002684 at the top, dated and put the time, the date was
22 8/29/2013, time 5:47 p.m. Before we ask you any questions
23 you must understand your rights. You have the right to
24 remain silent. Anything you say can be used against you
25 in court. You have the right to talk to a lawyer for

1 advice. Before we ask you any questions to him, to have
2 him with you during questioning. If you have no money to
3 pay a lawyer's fee the Court will appoint one to represent
4 you without cost if you wish. If you decide to answer
5 questions now without a lawyer present you still have the
6 right to stop answering at any time. You also have the
7 right to stop answering at any time until you talk to a
8 lawyer. He initialed each of the first five waivers that
9 I just read with his initials. And then the next one was
10 the waiver of rights. It says, I have read this statement
11 of my rights and I understand what my rights are. I am
12 willing to make a statement and answer questions. I do
13 not want a lawyer at this time. I understand and know
14 what I am doing. No promises or threats have been made to
15 me, no pressure or coercion of any kind has been used
16 against me. He signed there as Darrell Raines.

17 Eyewitnesses, Lieutenant K. McIntosh. The second witness
18 is Lieutenant Bryant Cheeks. And this is at 5:50 p.m.

19 Q Okay, did he seem to, I know he initialed them but to
20 you did he seem to understand each one of those rights
21 that you gave to him?

22 A Yes, sir.

23 Q Did he seem lucid or did, did you detect him to being
24 under the influence of anything?

25 A No, sir.

1 Q Was he under arrest at that time?

2 A No, sir.

3 Q As a matter of fact, y'all did an audio recording of
4 this interview, is that right?

5 A Yes sir, we did.

6 MR. SCOTT: Judge, I am going to go ahead and publish
7 the Miranda portion of it, the audio.

8 THE COURT: Okay.

9 (Whereupon, an audio was played for the Court.)

10 Q Investigator, was that your voice in there reading
11 the rights?

12 A Yes sir, it is.

13 Q And that was your recollection on what occurred
14 August 29th of 2013 between 5:47 p.m. and 5:50 p.m.?

15 A Yes sir, it is.

16 Q And, again, to you it appeared that he understood all
17 of his rights?

18 A Yes sir, he did.

19 Q At some point did he indicate his educational level
20 to you during that interview?

21 A I knew he said he had some technical, I am not sure,
22 I am not one-hundred percent sure.

23 THE COURT: Would you repeat that one more time.

24 Q I asked him if he indicated he had an educational
25 background.

1 A He indicated that he had some technical background.

2 Q Technical College?

3 A Like in computers, things like that.

4 Q Do you recall whether he was a high school graduate?

5 A No sir, I don't.

6 Q At any rate, after you read those rights and he
7 indicated he understood them did you proceed to ask him
8 questions?

9 A Yes, sir.

10 Q At some point did he indicate that he wished to speak
11 to a lawyer?

12 A Yes sir, he did.

13 Q And what happened in the interview at that point?

14 A It ceased.

15 CROSS-EXAMINATION

16 By Mr. Able:

17 Q How long did the interview last?

18 A Probably an hour, I don't know the exact time.

19 Q And my client would not have been free to leave at
20 that time?

21 A Sir?

22 Q He would not have been free to leave the interview if
23 he had wanted to leave?

24 A He never indicated he wanted to leave.

25 Q That is not my question. I am saying, he would not

1 have been free to leave that interview if he wanted to
2 leave?

3 A No, sir.

4 Q You would have arrested him immediately?

5 A Yes, sir.

6 Q He didn't have on handcuffs or anything like that?

7 A No, sir.

8 Q Was anybody with him, any family or anybody with him
9 when he was there?

10 A Not that I am aware of, he drove there.

11 Q That is all I have.

12 REDIRECT EXAMINATION

13 By Mr. Scott:

14 Q How old was Mr. Raines during this interview?

15 A How old he was?

16 Q Yes, sir.

17 A 33.

18 Q 33 years old?

19 A Yes, sir.

20 Q Did he ask to leave at any time?

21 A No, sir.

22 Q Okay. That is all.

23 THE COURT: Officer, during this interview, it lasted
24 approximately one hour, was anything done or said that
25 would cause you to believe that whatever he may have told

1 you during this one hour that it was not voluntarily given
2 to you?

3 A No, sir.

4 THE COURT: Thank you, sir, you can step down.
5 Anything further, Solicitor, concerning this Jackson v.
6 Denno hearing?

7 MR. SCOTT: Judge, just to be safe let me call
8 Investigator Cheek.

9 BRYAN CHEEK, being
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 By Mr. Scott:

13 Q Investigator Cheek, were you there for that interview
14 August 29th of 2013?

15 A Yes, sir.

16 Q And were you there when the Miranda rights were given
17 to Mr. Raines?

18 A Yes, sir.

19 Q And did you witness him initial all five of his
20 rights?

21 A Yes sir, I did.

22 Q And were you there when the waiver of rights was read
23 to him?

24 A Yes, sir.

25 Q And did you witness him sign the document waiving his

1 rights?

2 A Yes, sir.

3 Q And did he appear to understand his rights?

4 A Yes, sir.

5 Q And did he appear frightened in any way?

6 A No, sir.

7 Q Did he ever ask to leave?

8 A No, sir.

9 Q Were you there when he finally did ask for a lawyer?

10 A Yes, sir.

11 Q What happened to the interview at that time?

12 A We ceased, we stopped.

13 Q Okay. That is all.

14 THE COURT: Mr. Able.

15 MR. ABLE: Nothing.

16 THE COURT: I will ask you the same question,

17 Officer. During this one, approximately one hour

18 interview with the defendant was anything the defendant

19 said cause you to believe that whatever he may have told

20 you was not voluntarily made?

21 A No, sir.

22 THE COURT: Thank you, sir. Solicitor, anything

23 further?

24 MR. SCOTT: No, sir.

25 THE COURT: Mr. Able, anything on this issue?

1 MR. ABLE: No, sir. Not on this issue.

2 THE COURT: I will allow the August 29, 2013 oral
3 statement into evidence. I find that Miranda was properly
4 given to the defendant and voluntarily waived and by the
5 preponderance of the evidence. I find that the oral
6 statement was voluntarily made by the defendant. So I
7 find that it is admissible under Jackson v. Denno.

8 MR. SCOTT: Thank you, Your Honor.

9 THE COURT: Anything further?

10 MR. SCOTT: We discussed, I know there is going to be
11 probably a chain of venue motion that is probably
12 premature. My understanding is we have got the voir dire
13 for the jury panel.

14 MR. ABLE: Yes sir, I had filed that back, I guess,
15 in August, notice under the statute.

16 THE COURT: We will have to wait on that. But if
17 there is anything else that comes up I will be around next
18 week and I will be in Greenwood the following week. If
19 you guys need me on anything related to this case let me
20 know.

21 MR. ABLE: Well, Judge, if I could mention, go ahead
22 and put on the record. I mentioned to Mr. Scott,
23 yesterday I was going to call him back but I didn't have a
24 chance to. I mentioned to him before you took the bench,
25 I had a motion that could be heard today and I discussed

1 it with him, basically a reveal the deal motion
2 concerning, I had been produced a statement from a
3 gentleman by the name of Bobby Joe Sams. My motion
4 concerned his testimony and if any, if there was any type
5 of understanding between Mr. Sams, because he has got some
6 pending charges and the State concerning his testimony. I
7 understand from Mr. Scott now that they do not intend on
8 calling Mr. Sams so that would mute my motion. I just
9 want to put that on the record that Mr. Sams is not going
10 to be called.

11 MR. SCOTT: That is correct. That was a jail house
12 snitch, in order to streamline the witnesses we are not
13 going to call him. There never was a deal, just for the
14 record.

15 THE COURT: All right, very good. Thank you very
16 much. I will let you guys know on the first issue as soon
17 as I can. The one exhibit that was marked for purposes of
18 this hearing and it is going to be used at trial, you have
19 any objection for that exhibit just going back to the
20 Solicitor in anticipation of it being used.

21 MR. ABLE: No, I don't have any problem with that.

22 THE COURT: Let's just do that. Thank you.

23 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

24

25

1 CERTIFICATE OF REPORTER
2
34 State of South Carolina)
5)6 County of Newberry)
7

8 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Laurens on the 19th
14 day of November, 2015.

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

17
18

19 March 31, 2016

20 *Joy E. Holston*
21 _____

22 Joy E. Holston, Court Reporter

23 My Commission expires: March 13, 2016
24
25

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)

CASE NO.: 2013-GS-30-1932

2013-GS-30-1933

PLAINTIFF,)

-VS-)

DARRELL RAINES,)

DEFENDANT.)

TRANSCRIPT OF RECORD

DECEMBER 7, 8, 9, 10, 11, 2015
LAURENS, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DONALD B. HOCKER, JUDGE

A P P E A R A N C E S:

ATTORNEY FOR PLAINTIFF:

DALE SCOTT, SOLICITOR
MARGARET BOYKIN, SOLICITOR

ATTORNEY FOR DEFENDANT:

BRIAN ABLE, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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S-1	2 page statement		X
S-2	Photo		X
S-3	Face book Message		X
S-4	Face book Message		X
S-5	Face book Message		X
S-6 through S-11	Photographs		X
S-12	Diagram on Board		x
S-13	Diagram on Board		X
S-14	Magazine		X
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S-42 Letters	X
S-43 9 mm Handgun	x
S-44 .380 Handgun	X
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OPENING STATEMENTS

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1 told you, you are the sole judge 100 percent of the facts in
2 this case. So we'll use that sparingly, but when necessary
3 we'll use it and try to get that issue resolved so where you
4 don't have to spend a lot of time in the jury room. When
5 you're back there, any time your back in the jury room, I
6 can promise you we're working. We're not just sitting
7 around drinking coffee. Now, we may do that during a 10
8 minute recess break, but other than we'll be working. I
9 want to assure you of that. I tell juries that when I have
10 excellent lawyers like I've got in this case they're going
11 to work the judge pretty hard. Okay?

12 Now, with all that said, I'm going to ask the State are
13 there any objections to the Court's preliminary charge?

14 MR. SCOTT: No, sir.

15 THE COURT: The Defense?

16 MR. ABLE: No, Your Honor.

17 THE COURT: Thank you. All right. Solicitor Boykin, I
18 think you're going to make the opening on behalf of the
19 State?

20 MS. BOYKIN: That's correct, Your Honor.

21 THE COURT: You may proceed.

22 MS. BOYKIN: Thank you, Your Honor. May it please the
23 Court.

24 OPENING STATEMENT

25 BY MS. BOYKIN: Ladies and gentlemen, this is a case

OPENING STATEMENTS

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1 about obsession, deception, and a completely senseless
2 crime. A senseless crime, schemed, planned and hatched by a
3 man who had become entirely fixated on an unattainable idea
4 and person. This is a case about Darrell Raines and how he
5 murdered a young woman. A mother of two. Myranda Southern.
6 This is also a case about how he tried to get away with it,
7 and you'll hear a bunch of testimony about that. How every
8 single step he took to cover his tracks, in fact, turned
9 into a piece of evidence officers were able to use to get
10 closer to the truth. Much like a puzzle. Each one of these
11 pieces of evidence fit together and formed one very clear
12 picture. And that picture is that on August 19th, 2013
13 Darrell Raines killed Myranda Southern.

14 And ladies and gentlemen, I'll say this again, but this
15 is a very important case, not only to the State of South
16 Carolina, to the victim's family, to the Defendant. It's a
17 very important case, so I ask you please have patience. Pay
18 attention, because you'll have a lot of testimony to hear.
19 A lot of evidence presented to you. So I ask please pay
20 attention this week to everything that you hear.

21 So let me tell you a little bit about what I think you
22 will hear this week. The story takes place August 2013.
23 Myranda Southern and Darrell Raines are actually two very
24 similarly situated people. They both live in the Greenville
25 area. They both are parents of young children. They both

OPENING STATEMENTS

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1 are married but going through separation. Both going
2 through pretty difficult financial times. And both found
3 themselves drawn to the online dating would. In fact, they
4 both joined a dating website called PlentyOfFish, and that's
5 where they would ultimately meet. Now, before Darrell
6 joined this dating website and before he met Myranda he
7 tried to reconnect with a family childhood friend, Lisa
8 Hamlett. And you'll hear a lot about Lisa Hamlett in this
9 case. Late 2012 they went out to dinner. A seemingly
10 innocent reunion, or so Lisa thought. Darrell had something
11 else in mind. They met once again and that was it. Lisa
12 moved on but Darrell couldn't. And you'll see this in the
13 evidence presented to you how Darrell's obsessive state of
14 mind just built and built around Lisa. And you'll see this.
15 All the way up to when he meets Myranda and after he meets
16 Myranda.

17 So let's go back to August 2013 when Darrell meets
18 Myranda. August 6th is around the time when they meet
19 online. They don't meet in person until the 13th. Now,
20 you'll see evidence that during this time-frame Darryl
21 suddenly becomes fixated on owning a weapon. He wants to
22 own a gun but just doesn't have the money. August 13th
23 rolls around and Myranda had driven down to meet her money,
24 Penny Smithers, to drop her two kids off. Her mother lives
25 in Florida. It's summer break, the last week of summer, so

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1 the kids want to spend it with their grandmother. Miranda
2 meets her mother, comes back to Greenville and she meets
3 Darrell that night. They hang out, she spends the night,
4 and from there they start spending a lot of time together.
5 In fact, you'll hear testimony that their relationship grew
6 pretty quickly. He had access to her computer, a key to her
7 apartment within days. But what you will also hear is that
8 Darrell was not truly invested in this relationship. And
9 this is evidenced by a Face book message sent on Saturday
10 August 17th, 2013. It was sent from Miranda's account, her
11 Face book account, to Lisa Hamlett telling Lisa that Miranda
12 had slept with her husband -- with her boyfriend. I'm
13 sorry. And you'll see that this message was actually sent
14 by Darrell. They message back and forth, but it's actually
15 Darrell that's sending these from her account. And what
16 you'll see is that he's trying to break Lisa up with her new
17 boyfriend. One last chance to get Lisa. But does it work?
18 No. So what does Darrell do? He goes and buys a gun that
19 night. It's a Saturday, August 17th, 2013 he buys a gun.
20 The next day is a Sunday. A normal day for Miranda. She
21 works at Charter Communications in Simpsonville. She has
22 strange work hours. She goes into work hours. She goes
23 into work at 2:00 p.m. and gets off around midnight, and
24 you'll hear testimony regarding that. And she -- she had to
25 work that day. So she leaves her house. Talks to her good

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1 friend and neighbor Lauren Searcy. They chat. Nothing out
2 of the ordinary. She gets in her car and goes to work. She
3 gets to work, talks to her friends at work. Calls her mom a
4 couple hours later. Then she goes on her break around 8:00
5 p.m. She goes to a gas station then goes to visit her
6 husband, Sean. Now, you'll hear testimony that her and Sean
7 are, in fact, separated, but at this time she goes to -- She
8 goes back to work. Stays there for another couple of hours.
9 Nothing out of the ordinary. And you'll hear testimony that
10 she leaves at midnight that night. And, ladies and
11 gentlemen, that's the last time anyone, besides Darrell
12 Raines, would ever see or speak to Myranda again.

13 The next day, it's a Monday morning. Lauren Searcy
14 gets up, looks outside the window and doesn't see Myranda's
15 car. It's usually there, so she starts to worry. Well, she
16 calls friends. Tries to find her. And eventually she files
17 a missing persons report with the Greenville County
18 Sheriff's Office. During their investigation trying to
19 figure out where Myranda is they are informed that there
20 were two Face book posts from Myranda's account. The first
21 one claiming that she was going to Florida. The second one
22 claiming to go to Georgia. They look further into it and
23 they see another strange message from her account to her
24 mother saying that she was coming to get the kids. Now,
25 anyone that knew Myranda told officers this is not Myranda.

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1 This doesn't sound like her. So the next they do they is
2 they pull her financial records. Where is Myranda and what
3 has she been up to. The last transaction from Myranda's
4 account is Monday morning at 3:30 a.m. Now, remember, this
5 is a few hours after Myranda gets off work. It's a \$500
6 withdrawal from an ATM. They go pull the surveillance to
7 see what Myranda was up to. What do you think they found?
8 Darrell Raines alone in a vehicle at 3:30 in the morning
9 taking \$500 out of Myranda's account. Suspicions rise about
10 Darrell.

11 Well, Friday that week, August 23rd, Myranda is found.
12 She is found in Laurens County. She is, in fact, deceased.
13 She is found laying in a field off Bramlett Church Road in
14 Laurens County. Her body laying in a field like a piece of
15 trash with a bullet in her neck. And you'll hear testimony
16 that this bullet matches that with one that would go to a
17 .380 Hi-Point. Now, remember, Darrell Raines bought one
18 just the day before she went missing. You'll hear testimony
19 that next to Myranda's body is a clip. Now, a clip holds
20 bullets that go in a firearm. That, in fact, matches a .380
21 Hi-Point. It's the same type of weapon that Darrell Raines
22 bought just the day before she went missing.

23 You'll hear testimony from a witness from a witness
24 that lives nearby where the body was -- where Myranda was
25 found. She says that she heard two gunshots between 1:00

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1 and 1:30 a.m. late Sunday night, early Monday morning. Now,
2 remember, this is about an hour and a half or so after
3 Myranda gets off work and a couple of hours before we see
4 Darrell taking \$500 out of Myranda's account.

5 Law enforcement then is able to get phone records from
6 Darrell's phone and Myranda's phone. And there will be a
7 lot of evidence presented to you regarding that. But all I
8 will say, there are phone calls, text messages, and a bunch
9 more information that when you see it all it's very telling
10 of what exactly happened leading up to and during the time
11 that Myranda was killed. So just keep that in mind.

12 And then you will hear Darrell's story. Darrell talked
13 to law enforcement. In fact, he gave two statements.
14 You'll hear his story. A story that is disproven by
15 evidence. A story that just doesn't match up to what
16 happened. A story of lies regarding the ATM card, the cash,
17 his whereabouts, his gun, everything. You'll hear all of
18 this. Ladies and gentlemen, you will hear all of that and
19 much more regarding this case. And I submit to you that
20 when you put all these pieces of evidence together it will
21 form one very clear picture, and that picture is that
22 Darrell Raines killed Myranda Southern on August 19th, 2013.
23 And that's what he's charged with. He is charged with
24 murder. And we all know what murder is. The intentional
25 killing of another person, and Darrell Raines killed Myranda

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1 Southern. And we have that here and I submit to you that
2 the State will prove that to you beyond a reasonable doubt.

3 Now, the Judge just mentioned that term, and it can be
4 confusing. You'll hear a lot more about that in closing
5 arguments, and the Judge's instruction. But I briefly want
6 to tell you what that means. It means that you are firmly
7 convinced of someone's guilt. Of Mr. Raines' guilt. What
8 it does not mean is beyond all doubt. You can have doubt in
9 life. I submit to you there are very few things in life
10 that are 100 percent certain. The key here is reasonable
11 doubt. And I submit to you the State will prove Darrell
12 Raines is guilty of murder beyond a reasonable doubt.
13 Beyond all doubt.

14 So, ladies and gentlemen, I've said this earlier. I
15 want to say it one more time before I sit down. But this is
16 a very, very important case. So please give your undivided
17 attention this week. You are going to have a lot of
18 evidence presented to you. The many witnesses that are
19 going to testify. It will get tedious. It will get
20 complicated. So just keep your ears open and pay attention,
21 because in the end you'll be rewarded. In the end it will
22 all make sense. Every single piece of evidence that you
23 have will all irrefutably point to one, only one, reasonable
24 conclusion, and that is that Darrell Raines killed Myranda
25 Southern on August 19th, 2013. So at the end of this case

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1 we're going to ask you to render the only just verdict in
2 this case, and that is that Darrell Raines is guilty of
3 murder. Thank you.

4 THE COURT: Thanks, Solicitor. Ladies and gentlemen,
5 what I meant to tell you before the opening is that these
6 opening arguments are not evidence that Solicitor Boykin
7 just made and that Mr. Able will be making in just a second.
8 It's not evidence. It's just their statement of what they
9 believe the evidence will show. A statement of what their
10 position is in this case. The evidence actually has to come
11 by the witness stand and the exhibits and that sort of thing
12 that are put into evidence. So I just want to mention that
13 to you. Mr. Able, are you ready, sir?

14 MR. ABLE: Yes, sir. Thank you, Your Honor.

15 OPENING STATEMENT

16 BY MR. ABLE: Good afternoon. My name is Brian Able,
17 and as I told you this morning, I've been practicing law in
18 Laurens County about 28 years. Today I'm here representing
19 Darrell Raines who's seated with me, and he introduced
20 himself to you this morning. Darrell is 36-years-old and he
21 has a young daughter. At the time of his arrest he was
22 employed with a trucking company in Greenville. He's
23 divorced from his wife, and he has an Associate's degree.
24 It's my pleasure to be here to represent him today. As Ms.
25 Boykin told you, this is a very important case. It's a very

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1 important case for all persons involved, not just Ms.
2 Southern's family but to Darrell Raines as well.

3 Now, as the Judge just told you, and as I intended to
4 tell you as my first statement to you, is it's correct that
5 what we say here in these opening statements is not
6 evidence. The information that Ms. Boykin provided to you
7 in her opening statement is not evidence, and it's not to be
8 taken as such. It's the State's position as to what they
9 think they can prove in this case. And I think that's
10 important to point out because that's what they have to
11 prove. That's what they have to do.

12 In our criminal justice system the burden is always on
13 the State. The burden of proof always rests at this table
14 here. At no time does that burden ever shift to Mr. Raines.
15 The State has to prove each and every element of the crimes
16 that Mr. Raines is charged with. Mr. Raines is charged
17 with, number one, murder, and number two, possession of a
18 weapon during a violent crime. The State has to show that
19 to you each and every element of both those crimes, and it's
20 their burden to show that. Under our system Mr. Raines
21 doesn't even have to put up a case. He doesn't have to
22 testify, and the Judge will talk to you about that at a
23 later time. But at no time is the burden ever on Mr. Raines
24 to prove anything, especially he never has the obligation to
25 prove himself innocent. The State must prove him guilty.

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1 Now, Judge Hocker mentioned to you a moment ago about
2 television shows and being in courtrooms and the high drama
3 that you see on television shows and not to expect something
4 like that here. Well, the reason I mention that is because
5 in watching those type shows you hear things like burden of
6 proof and presumption of innocence. Well, that's the next
7 thing I want to talk to you about, and the Judge mentioned
8 this a moment ago. Mr. Raines comes into this courtroom
9 with the presumption of innocence. As citizens of this
10 country and of this state we all enjoy that privilege that
11 it's never our burden, never our obligation to show that
12 we're not guilty of something. We are presumed innocent
13 under our law. It envelopes us. When you are charged with
14 a crime, any person gets charged with a crime in this
15 country, in this state, the presumption of innocence
16 envelopes us. It goes around as it falls upon us like a
17 cloak. And we come into this courtroom, and people charged
18 with offenses come into this courtroom wearing that
19 presumption of innocence like a cloak wrapped around them.
20 And going back to my earlier statement. It's always the
21 burden of the state to try to remove that cloak. And if at
22 the end of this trial you determine, your belief is that
23 that cloak has not been removed you must return a verdict of
24 not guilty.

25 Now, as Ms. Boykin alluded to and the Judge will talk

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1 to you about in a moment, the manner by which that's done,
2 the State must prove Mr. Raines guilty of each element of
3 the crime. They must also -- the measuring stick that we
4 use in this court is beyond a reasonable doubt. And like
5 Ms. Boykin said, sometimes that can be confusing. That can
6 be confusing for lawyers. That can be confusing for courts.
7 And I believe sometimes it's confusing for jurors. But
8 Judge Hocker will give you a charge as to what that means
9 and he'll tell you how to define that beyond a reasonable
10 doubt.

11 Now, as the Judge showed you a moment ago, the
12 indictments that have been presented to the grand jury have
13 been returned. They are charging documents. They are not
14 evidence in this case. All they say is this is why you must
15 come to court. This is -- you're being charged with these
16 offenses. They are not -- they do not in any way imply any
17 guilt on Mr. Raines. So I want to make sure you understand
18 that.

19 The things that Ms. Boykin talked about in her opening,
20 I'm sure you can believe -- some of the things she said are
21 right on, some of the things, of course, I'm sure you can
22 imagine that Mr. Raines completely disagrees with. What's
23 important in this case -- what is important in this case is
24 not only those things that the State can show that we agree
25 with, but also those things that they're not going to be

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1 able to show you in this case. There are many things that I
2 think will come out in the evidence that they can show and
3 that they won't be able to provide to you as a jury to help
4 you make a decision. But some of the things in going
5 through this trial this week I want you to remember for me.
6 Number one, I don't believe the State at any time during
7 this trial will produce not one witness who will put Mr.
8 Raines and Ms. Southern together on the early morning hours
9 of August 19, 2013. Not one witness. They won't be able to
10 show to you any videotape. In this world where we live in
11 now where we have cameras everywhere and videotape
12 everywhere they won't be able to produce for you one
13 videotape that places Mr. Raines and Ms. Southern together
14 during their early morning hours of August 19th, 2013. I
15 don't believe they'll be able to produce to you any DNA
16 evidence that would say -- that would prove that Mr. Raines
17 was with Ms. Southern during the early morning hours of
18 August 19, 2013. There's no evidence that I believe that
19 will be produced to you that any kind of DNA, fiber evidence
20 or hair evidence, forensic type evidence like that, that
21 places Ms. Southern in the vehicle of Mr. Raines during the
22 early morning hours of August 19, 2013, or places him in her
23 vehicle at that time. And lastly, I don't believe they can
24 produce any evidence that places Mr. Raines on Bramlett
25 Church Road here in Laurens County in that field during the

LAUREN SEARCY: DIRECT EXAMINATION

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1 early morning hours of August 19, 2013.

2 Now, in saying that, Ms. Boykin mentioned about the
3 gun. The .380. Well, there will be testimony about that
4 gun. There will be testimony that that's a very common gun.
5 A very inexpensive gun, and a lot of people own those guns.
6 So I just want to mention that for you. But I believe, like
7 I said, it's just as important as what the State won't be
8 able to show to you as what they think they can show to you.

9 I would ask that you listen with an open mind, that you
10 take in all the evidence, and at the conclusion of this case
11 I believe you will return a verdict of not guilty on both
12 charges against Mr. Raines. Thank you.

13 THE COURT: Thank you, Mr. Able.

14 MR. ABLE: Thank you, sir.

15 THE COURT: Is the State ready to call its first
16 witness?

17 MR. SCOTT: Yes, sir. The State calls Lauren Searcy.

18 LAUREN SEARCY, having been first
19 duly sworn, testified as follows:

20 (Whereupon, State's Exhibit Nos. 1 and 2 were marked
21 for identification.)

22 DIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q Have you stated your name for the record yet?

25 A Lauren Searcy.

LAUREN SEARCY: DIRECT EXAMINATION

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1 Q And Lauren, where do you live?

2 A In Taylors.

3 Q And how long have you -- you live in an apartment
4 complex over there?

5 A Yes.

6 Q How long have you lived over there?

7 A Six or seven years.

8 Q So August 2013? It's called the Granite or --

9 A Yeah. Well, it's just recently been changed, but it
10 was called the Granite.

11 Q That's what it would have been called on August 2013?

12 A Yes.

13 Q And it's just an apartment complex; is that correct?

14 A Yes, sir.

15 Q I show you State's No. 2. Who is that?

16 A Myranda Southern.

17 Q I'm sorry. Who? I was talking to somebody. Who did
18 you say?

19 A Myranda Southern.

20 Q Is this how she appeared in August 2013?

21 A Yes, sir.

22 MR. SCOTT: Your Honor, the State offers State's No. 2.

23 THE COURT: What says the Defense?

24 MR. ABLE: Judge, I just had a chance just to look over
25 it real quick.

LAUREN SEARCY: DIRECT EXAMINATION

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1 THE COURT: That's without objection, No. 2 into
2 evidence on behalf of the State.

3 (Whereupon, State's Exhibit No. 2 was admitted into
4 evidence.)

5 Q Who is Myranda Southern?

6 A She was my best friend.

7 Q How did you know her?

8 A She was my neighbor directly across the hall.

9 Q And how long did you all live across the hall from one
10 another?

11 A Five months.

12 Q But you all became best friends within five months?

13 A I was unemployed at the time and we spent pretty much
14 all day together. We talked, we went to the pool every day
15 together. She was the type of person when you met her, she
16 had a personality that was -- it was like you had known her
17 your entire life.

18 Q So in that period of time you all became that tight
19 where you would classify as your best friend?

20 A Yes.

21 Q How was it that she was able to spend the daytime with
22 you?

23 A Because she worked nighttime.

24 Q Where did she work at the time?

25 A She worked at Charter.

LAUREN SEARCY: DIRECT EXAMINATION

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1 Q Charter Communications?

2 A Yes, sir.

3 Q Now, if I got on 385 and went up towards Greenville,
4 that's the big building just right off the interstate?

5 A Yes, sir.

6 Q And you were familiar with her working hours?

7 A She would usually leave the apartment around 2:00-ish
8 in the afternoon and she would get home between 12:30 and
9 1:00.

10 Q Did you -- what was your -- did you check on her in any
11 way, like the next morning after she went to work? Did you
12 have a habit of looking out for her as far as if she got
13 home or not?

14 A My aunt would always be out on the porch when she --
15 not always, but the majority of the time she was there on
16 the porch when Myranda would come home in the morning.

17 Q At midnight?

18 A Uh-huh.

19 Q What was your aunt doing out there at midnight?

20 THE COURT: Was that a yes?

21 THE WITNESS: Yes, sir.

22 THE COURT: Move a little closer to the microphone,
23 please, ma'am. Thank you.

24 Q So her comings and goings were something you would be
25 aware of? Is that what you're saying?

LAUREN SEARCY: DIRECT EXAMINATION

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- 1 A Yes, sir.
- 2 Q Who did you live with at the time? Just your aunt?
- 3 A My aunt and my grandma.
- 4 Q Your aunt would just kind of look out for her, or was
- 5 she smoking cigarettes on the porch?
- 6 A She would be on the porch smoking.
- 7 Q So that was a habit of you all to see when she got
- 8 home, or was it just coincidental that you all would see?
- 9 A I would usually see her in the morning when I would
- 10 wake up, because I would go to bed before my aunt. But my
- 11 aunt, her sleep schedule is off. She would sleep a lot
- 12 during the day and then she'll be up a lot during the night.
- 13 So I would usually -- the morning times was my time with
- 14 Myranda, and then my aunt was there when she came home from
- 15 work.
- 16 Q Did you have personal knowledge of, I guess, Myranda's
- 17 marital status at the time?
- 18 A Yes, sir.
- 19 Q And she was going through a separation?
- 20 A Yes, sir.
- 21 Q Did you know her ex?
- 22 A Yes, sir.
- 23 Q And what was his name?
- 24 A Shawn Southern.
- 25 Q She had two children at the time?

LAUREN SEARCY: DIRECT EXAMINATION

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1 A Abigail and Alex.

2 Q And I think they had a dog, too; is that right?

3 A Yes.

4 Q Who would look after the children when she'd go to
5 work?

6 A He would.

7 Q Who's he?

8 A The dad.

9 Q Shawn Southern?

10 A Yes, sir.

11 Q Would he come over to the apartment to watch them?

12 A Yes, sir.

13 Q He didn't live there?

14 A Yes -- no. I mean, he still had most of his stuff
15 there, but he was also staying with his girlfriend.

16 Q They were still on speaking terms? Is that your
17 understanding?

18 A Yes, sir.

19 Q And the dog, would he come over and walk the dog while
20 she was at work?

21 A Most of the time.

22 Q Were you aware, or were you privy of her seeing anybody
23 else during this time? Her dating anybody else?

24 A During what time?

25 Q August 2013 while she was going through her separation.

LAUREN SEARCY: DIRECT EXAMINATION

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1 A Yes, sir.

2 Q You said Shawn already got a girlfriend?

3 A (Witness nods.)

4 THE COURT: You need to verbally give your answers
5 instead of nodding your head.

6 THE WITNESS: I'm sorry.

7 THE COURT: It's okay. It's all right.

8 Q And what was your answer to the last question? You
9 were aware of her dating other people?

10 A Yes, sir.

11 Q Were you aware of her participating in the online
12 dating services?

13 A Yes, sir.

14 Q She shared a lot of her personal information with you.
15 Is that safe to say?

16 A Yes, sir.

17 Q She was your confidant, I guess?

18 A Yes, sir.

19 Q Did you come to find out about Darrell Raines?

20 A Yes, sir.

21 Q Were you -- did you have personal knowledge about how
22 those two met, Miranda and Darrell Raines?

23 A On a dating website.

24 Q Do you know the name of that website?

25 A PlentyoFFish.

LAUREN SEARCY: DIRECT EXAMINATION

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1 Q PlentyOfFish?

2 A Dot com.

3 Q Describe how you first became aware of Darrell Raines
4 and her connecting on this website.

5 A I believe around the pool one day and she started
6 telling me that she had met a guy online.

7 MR. ABLE: Objection to what she was told.

8 MR. SCOTT: I'll move on, Your Honor.

9 Q Did you meet Darrel Raines at any time?

10 A Yes, sir.

11 Q Do you remember about when that was?

12 A I believe it was about a week before she was murdered.
13 It was the first time that they had met in person.

14 Q Do you remember when the first night they met was?

15 A I don't remember the exact date, but it was about a
16 week.

17 Q About a week before. Do you remember the last day you
18 saw her?

19 A Sunday afternoon.

20 Q August 18th?

21 A Yes, sir.

22 Q Do you remember -- you said a week prior. You don't
23 remember what day you first -- he first stayed over there?

24 A I don't.

25 Q But you met him in person whenever he came to stay with

LAUREN SEARCY: DIRECT EXAMINATION

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1 her?

2 A Yes, sir.

3 Q Do you see him in the courtroom?

4 A Yes, sir.

5 Q Where is he?

6 (Whereupon, Witness points toward Defense table.)

7 THE COURT: There's two gentlemen at that table, Madam
8 Witness.

9 A The one with the blue tie on.

10 Q And standing up here? That's Darrell Raines?

11 A Yes, sir.

12 THE COURT: Let the record reflect that she has
13 identified Mr. Raines, the Defendant.

14 Q Did he speak to you at the time?

15 A Yes, sir.

16 Q Did he hold himself out to be Myranda's boyfriend, I
17 guess?

18 A They had just met the first time I met him.

19 Q Did you have knowledge of him spending the night there?

20 A Yes, sir.

21 MR. ABLE: Judge, I think a foundation needs to be laid
22 as to how she had this knowledge. Was it something she was
23 told or something she observed.

24 THE COURT: Her knowledge related to Mr. Raines
25 spending the night?

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1 MR. ABLE: Yes, sir.

2 THE COURT: All right. Solicitor, if you would lay a
3 little bit of foundation there, please, sir.

4 Q Did you see him stay overnight?

5 A No, I didn't see him.

6 Q Did you see him there the next morning or anything like
7 that?

8 A I don't believe I did.

9 MR. ABLE: I'll object to that line of testimony then,
10 Judge.

11 THE COURT: Sustained, and I'll have that stricken from
12 the record and instruct the jury to disregard this witness'
13 testimony concerning Mr. Raines spending the night with Ms.
14 Southern.

15 Q We can't say anything Myranda told you, so we're going
16 to talk about things you personally observed and you had
17 personal knowledge of. Not anything Myranda told you. So
18 if I ask you a question that you don't have personal
19 knowledge, just tell me you don't know.

20 What did you see him doing over at -- did you go into
21 Myranda's apartment when he was there?

22 A No, sir.

23 Q Well, what did you see him doing while he was there?

24 A The first time it was -- basically it was just coming
25 into the breezeway to go into her apartment. And they would

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- 1 stop at my balcony and they would talk.
- 2 Q Was it daytime or nighttime?
- 3 A Nighttime.
- 4 Q And did you see him the next day?
- 5 A No, sir.
- 6 Q Did you ever see what he was driving?
- 7 A I don't remember.
- 8 Q What do you remember about him?
- 9 A I remember that he made her happy. She was giggly, she
- 10 laughed. He made her happy.
- 11 Q And Shawn maybe not so much?
- 12 A Not at that point in time.
- 13 Q They were going through a separation, arguing a lot?
- 14 A Yes, sir.
- 15 Q Let me go to August 18th. You mentioned that day. Do
- 16 you remember seeing Miranda that day?
- 17 A Yes, sir.
- 18 Q And tell me what your recollection was.
- 19 A I was sitting on my balcony. I was smoking a
- 20 cigarette. And she came out and she was leaving for work.
- 21 Q Do you remember about what time that was?
- 22 A Around 2:00-ish in the afternoon.
- 23 Q I'm going to show you something for demonstrative
- 24 purposes at this point. August 18th, you say, at about 2:00
- 25 you watched her leave for work?

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1 A Yes, sir.

2 Q What do you remember about that? Nothing she said to
3 you, but what do you remember saying?

4 A Have a good day at work. Have a good night at work.

5 Q And then that was -- did you ever see her again?

6 A No, sir.

7 Q She just gets in her car and drives off and that's the
8 last you saw of her?

9 A Yes, sir.

10 Q Tell me the first time you kind of realize something
11 maybe wasn't right.

12 A The next morning.

13 Q The morning of the 19th?

14 A Yes, sir.

15 Q Well, tell me what happened on the morning of the 19th?

16 A Me and Myranda, it was a little weird, but we didn't
17 call each other or anything in the morning. It just had to
18 be either I was out on my porch and she would come out
19 within a few minutes, or she was out on hers and I would
20 come out within a few minutes. But we would both be out
21 there in the morning and we'd both be on our balconies
22 smoking and talking across the way. I mean, it was an every
23 morning thing.

24 Q So August 19th, that morning when you woke up, did you
25 see her there?

LAUREN SEARCY: DIRECT EXAMINATION

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- 1 A No, I didn't.
- 2 Q Did you look for her car?
- 3 A Yes, I did.
- 4 Q Did you see her car?
- 5 A No, I didn't.
- 6 Q Was that immediately something that set off alarms or
- 7 was it --
- 8 A Yes, sir.
- 9 Q It did? Just because her car wasn't there?
- 10 A Because, I mean, the kids were in Florida with her mom.
- 11 So she let me and my aunt know pretty much where -- like if
- 12 she was leaving to go to a store she would say, you know,
- 13 I'm leaving to go to the store. I'm going to be back in a
- 14 little bit. Just kind of like we became an unofficial kind
- 15 of family and she just let us know where she was going for,
- 16 I guess, safety. So she would have let us known if she
- 17 wasn't going to be there.
- 18 Q So it did --
- 19 MR. ABLE: I'm going to object to that, especially to
- 20 what she would let someone know.
- 21 THE COURT: I think she's basing it on the relationship
- 22 that Myranda had with her family, based on prior experiences
- 23 of that. That's the way I took it. You may want to re-ask
- 24 the question, Solicitor, and let's hear this answer again.
- 25 Q What was your routine in the mornings? You talked

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1 about -- you said something about cigarettes and balconies.

2 What was your routine with Miranda in the mornings?

3 A We would both be on the balconies and smoking
4 cigarettes, talking across the breezeway to each other.

5 Q And that was commonplace?

6 A Just about every morning.

7 Q Then you mentioned you become an unofficial type
8 family? Is that what you said?

9 A Yeah, because she didn't have like any family up here,
10 and Shawn didn't either. So we just -- we became kind of an
11 unofficial family.

12 Q You'd kind of look out for her?

13 A Yes.

14 Q That was a habit of yours?

15 A Yes.

16 Q So in abiding by this habit, when the morning of the
17 19th came around and you didn't see her car, why was that
18 curious for you?

19 A Because she didn't let us know that she was going
20 somewhere.

21 Q And that would have been routine for her?

22 A Yes.

23 THE COURT: I'm going to overrule the objection.

24 MR. ABLE: Yes, sir.

25 Q So what did you do? What was the first step?

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- 1 A I believe the first thing I did was text Mr. Raines.
- 2 Q Who?
- 3 A Darrel Raines.
- 4 Q You texted Darrel Raines?
- 5 A Yes, sir. I asked him if he'd heard from Myranda.
- 6 Q Do you remember his response?
- 7 A He said no.
- 8 Q He said he had not?
- 9 A Yes.
- 10 Q What else did you do?
- 11 A I believe at that point my aunt was the one -- either
- 12 me or my aunt texted Shawn to ask him if he had heard from
- 13 her.
- 14 Q Were you on Face book at the time?
- 15 A Yes, sir.
- 16 Q Were you friends with Myranda?
- 17 A Yes, sir.
- 18 Q Did you check your Face book account?
- 19 A Yes, sir.
- 20 Q And I want to show you State's No. 3. Do you recognize
- 21 what that is?
- 22 A Yes, sir.
- 23 Q And is that something you saw on the 19th?
- 24 A Yes, sir.
- 25 MR. ABLE: No objection.

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1 THE COURT: Without objection, No. 3 will be in
2 evidence for the State.

3 MR. SCOTT: Your Honor, the State offers State's No. 3
4 into admission.

5 (Whereupon, State's Exhibit No. 3 was admitted into
6 evidence.

7 Q Do you remember when it was that you opened up your
8 Face book account and saw that message?

9 A It was after I realized her car wasn't there.

10 Q Had you any knowledge of her before that making plans
11 to go down to Florida early?

12 A I believe she was to go on Tuesday, but not earlier
13 than that.

14 Q Tuesday the 20th?

15 A Yes.

16 Q And you -- that message was August 19th, posted 4:07
17 a.m.?

18 A Yeah. I didn't know anything about her leaving to go
19 sooner.

20 Q What did you think when you saw that message?

21 A That wasn't her.

22 Q Why did you think that?

23 A When you're around somebody every day you get -- you
24 pick up on the way they talk, their certain lingo, and
25 that's not the way Myranda would talk.

LAUREN SEARCY: DIRECT EXAMINATION

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1 Q Would you text with her a lot?

2 A Yes, sir.

3 Q Would you text with her a lot?

4 A Yes, sir.

5 Q Would you Face book message with her very much?

6 A Not really. I mean, just more or less texting, phone
7 calls and, you know, face-to-face.

8 Q So I guess kind of like some people have an accent,
9 some people might have a texting dialect? Is that what
10 you're kind of saying?

11 A Yes.

12 Q And that didn't sound like her to you?

13 A No, sir. It didn't.

14 Q Did you get any other messages that day from her?

15 A I believe there was one later on that afternoon, or
16 that morning.

17 Q Let me show you State's No. 4. Do you recognize that?

18 A Yes, sir.

19 Q What is that?

20 A That was the second posting that was posted on her
21 account.

22 Q What's the time on that?

23 A 7:29 p.m.

24 Q So 4:07 you received that one on the 19th. On the
25 19th. And then at 7:29 p.m. you receive this one.

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1 MR. ABLE: Your Honor, without objection except as to
2 the agreement the Solicitor and I have regarding a portion
3 of the document.

4 THE COURT: Let me see the lawyers for just a second.
5 (Whereupon, a sidebar was held.)

6 THE COURT: Without objection, except for one little
7 explanation that's given to the Court, it'll be in evidence
8 as No. 4 for the State.

9 MR. SCOTT: This is State's No. 4.

10 (Whereupon, State's Exhibit No. 4 was admitted into
11 evidence.)

12 Q So this is what you -- this was posted 7:29 p.m. on
13 August 19th and that was the second Face book posting you
14 saw from Myranda?

15 A Yes, sir.

16 Q Again, what did you think about this one when you saw
17 it?

18 A That wasn't her.

19 Q The same reasons?

20 A Yes, sir.

21 Q 7:29 p.m. Now, at some point did you make a report to
22 the police?

23 A Yes, sir.

24 Q And you told them some of these suspicions you had that
25 she had gone missing?

LAUREN SEARCY: DIRECT EXAMINATION

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1 A Yes, sir.

2 Q 8:59 sound right?

3 A I believe so. Yes, sir.

4 THE COURT: What was that answer, ma'am?

5 THE WITNESS: I believe so. Yes, sir.

6 Q Let me be clear. You didn't suspect Mr. Raines at that
7 time, did you?

8 A Not at all.

9 Q You just knew that she was gone and you had these
10 suspicious Face book messages and you felt like it was
11 important to report that?

12 A Yes, sir.

13 Q Did you know of anything about what Darrell did for a
14 living?

15 A Some sort of electronics, I believe.

16 Q And you were not over in the apartment when he was over
17 there?

18 A Not while Myranda was there.

19 Q But you were in there with him later on?

20 A After she went missing.

21 Q How did that come to happen?

22 A He had a the spare key to her apartment, because she
23 had given to him to come walk the dog while she was at work
24 at night. And he had brought it over for us to go look to
25 see if there was anything missing out of her apartment.

LAUREN SEARCY: CROSS-EXAMINATION

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1 Q What did he talk about while you all were there?

2 A We were just trying to figure out where she was, who
3 she could be with. Just trying to figure out where she was.

4 Q Did he at any time mention working on her computer?

5 MR. ABLE: Objection to the leading, Your Honor.

6 Q Did you know anything about her computer?

7 A Yes.

8 Q Did you know anything about Darrell and her computer?

9 A It goes back to what Myranda told me.

10 Q You had no personal knowledge of that?

11 A I didn't see it firsthand, no.

12 Q Did he mention anything to you about her computer?

13 Darrell?

14 A I don't remember.

15 Q Did he mention anything to you about any passwords?

16 A No, sir.

17 MS. SCOTT: Answer any questions Mr. Able has for you,

18 Ms. Searcy.

19 THE COURT: Cross-examination?

20 MR. ABLE: Thank you, sir.

21 CROSS-EXAMINATION

22 BY MR. ABLE:

23 Q Ms. Searcy?

24 A Yes, sir.

25 Q Ms. Searcy, in the five months that you knew Myranda

LAUREN SEARCY: CROSS-EXAMINATION

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- 1 like you say, you and she had to be best friends?
- 2 A Yes, sir.
- 3 Q And, of course, her husband Shawn was living with
- 4 another woman at that time?
- 5 A Yes, sir.
- 6 Q And I believe he had gotten that other woman pregnant,
- 7 too, correct?
- 8 A Yes, sir.
- 9 THE COURT: You need to speak up, ma'am, please.
- 10 A Yes, sir.
- 11 Q And it would be a fair description of Myranda and
- 12 Shawn's relationship as pretty rocky, wasn't it?
- 13 A Yes, sir.
- 14 Q You had seen bruises on her before?
- 15 A I don't remember seeing bruises on her.
- 16 Q Now, as close friends Ms. Southern had allowed you on
- 17 occasion to use her ATM card, correct?
- 18 A Yes, sir.
- 19 Q And she would provide to you the ATM card and the pen
- 20 number, of course?
- 21 A Yes, sir.
- 22 Q And I think, as a matter of fact, sometime that
- 23 weekend, I think, maybe that Sunday morning, you had used
- 24 her ATM card and pin number to go to Hardee's, I think?
- 25 A If I remember correctly, I think she was with me that

LAUREN SEARCY: CROSS-EXAMINATION

133

1 time.

2 Q All right. Maybe I misunderstood that. But she had on
3 occasion allowed you to use her ATM card --

4 A Yes, sir.

5 Q -- and give you the pin number, correct?

6 A Yes, sir.

7 Q You wouldn't consider that something unusual for good
8 friends?

9 A No.

10 Q Now, as far as this PlentyOfFish website, Myranda had
11 met other men on Plentyoffish, too, hadn't she?

12 A I only know one other one.

13 Q One other one? You mean other than Mr. Raines?

14 A Yes, sir.

15 Q She was dating other men at the time?

16 A No, sir.

17 Q Now, you had mentioned when you -- the first thing you
18 did was text Mr. Raines; is that correct?

19 A Yes, sir.

20 Q And you text him on August 19, 2013 saying, "Hey,
21 Darrell. It's Myranda's neighbor, Lauren. Have you heard
22 from her lately? I know she's on her way to Florida but I
23 was just trying to check on her. Her phone is going
24 straight to voice mail and it is making me worry." Is that
25 the text you sent?

LAUREN SEARCY: REDIRECT EXAMINATION

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1 A Yes, sir.

2 Q And that was at 1:49 in the afternoon?

3 A Yes, sir.

4 Q So the first thing you wanted to do was contact Darrell
5 Raines?

6 A Yes, sir.

7 Q And you saying about State's Exhibit No. 2, I think it
8 was -- I'm sorry, State's Exhibit 3, where it said that she
9 was "heading to see my babies. Florida here I come." You
10 said that didn't sound like Myranda, but you think it
11 sounded enough like Myranda that when you text my client you
12 said you believed she was on her way to Florida, correct?

13 A I was trying to take her word for it at that time what
14 I was thinking.

15 Q So you think at that time it sounded enough like
16 Myranda that she was headed to Florida?

17 A Yes, sir.

18 MR. ABLE: One moment, Your Honor. Thank you, Your
19 Honor, that's all I have.

20 THE COURT: Any redirect, Solicitor?

21 REDIRECT EXAMINATION

22 BY MR. SCOTT:

23 Q You said you had used Myranda's ATM card before?

24 A Yes, sir.

25 Q What were the circumstances?

PENNY SMITHERS: DIRECT EXAMINATION

135

1 A Just random. Like if we were all out at the pool, run
2 into the gas station to get cigarettes or to get a drink,
3 run into Hardee's to get breakfast. Things like that.

4 Q It was a situation where --

5 A One of us was going.

6 Q Would she have the kids with her at the pool and you --

7 A Yes.

8 Q -- would go out to get cigarettes?

9 A Yes.

10 Q Did she ever leave it with you for days at a time or
11 anything like that?

12 A No. I gave it back to her as soon as I got back to the
13 apartment.

14 Q Any other kind of situations besides running out for a
15 pack of cigarettes or something like that?

16 A No, sir.

17 Q Did she ever ask you to withdraw \$500 for her?

18 A No, sir.

19 MR. SCOTT: Thank you.

20 THE COURT: Anything in recross? Okay. Thank you for
21 your testimony, ma'am. You can step down.

22 (Whereupon, the witness stepped down from the witness
23 stand.)

24 THE COURT: You're welcome to remain in the Court if
25 you like or you're free to leave. Have you got another

PENNY SMITHERS: DIRECT EXAMINATION

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1 witness?

2 MS. BOYKIN: Yes, Your Honor. The State calls Penny
3 Smithers.

4 PENNY SMITHERS, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. BOYKIN:

8 Q Ms. Smithers, if you could, just where are you from?

9 A Florida.

10 Q Do you have any children?

11 A Myranda is my child.

12 THE COURT: Let me see the lawyers for just a minute.

13 (Whereupon, a sidebar was held.)

14 THE COURT: Ms. Smithers, I know this is a difficult
15 time for you, but I need you to speak up a little bit louder
16 so I can hear you. The court reporter says she can hear you
17 fine. I need to be able to hear you, too. Okay?

18 THE WITNESS: Yes, sir.

19 THE COURT: Thank you very much.

20 Q Ms. Smithers, you just said that you have one daughter
21 Myranda; is that correct?

22 A Yes.

23 Q And that's Myranda Southern?

24 A Yes, it is.

25 Q Did she grow up in Florida?

PENNY SMITHERS: DIRECT EXAMINATION

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1 A She did. She did. She was born and raised in Florida.

2 Q What year was she born?

3 A She was born in 1981.

4 Q Okay. Keep going. Tell me a little bit about it,
5 about Myranda.

6 A About Myranda?

7 Q Just growing up and how she came down to Greenville.

8 A Okay. She was born and raised in Florida. And in '95
9 my parents were selling their home and moving to Greenville,
10 South Carolina area. My father and his family were
11 originally from South Carolina. I had gone through a
12 divorce and I thought it would be a good idea to go with my
13 parents. But I ended -- there was a sale on their house. I
14 moved up here. I made sure I had a job and then I moved up
15 here. And my parents sale on the house fell through a few
16 months into it. But we stayed three years. And then in '98
17 we were homesick and went back home.

18 Q But did Myranda eventually move back to Greenville?

19 A She did. She did.

20 Q Do you know what year?

21 A She's been here almost three years. Abby was six.

22 Alex was eight or nine. I couldn't -- I'm sorry.

23 Q And Abby and Alex, who are they?

24 A They're my grandchildren.

25 Q Are they Myranda's children?

PENNY SMITHERS: DIRECT EXAMINATION

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- 1 A Yes.
- 2 Q Now, was Myranda married?
- 3 A Yes. And Shawn moved back to his home.
- 4 Q And who's Shawn?
- 5 A Shawn is her estranged husband.
- 6 Q 2013 how were they doing that year?
- 7 A It was rocky.
- 8 Q Were they still together or separated?
- 9 A They were back and forth at first, and then separated.
- 10 He was there to help with the children while she worked.
- 11 Q Was Myranda dating anyone else to your knowledge?
- 12 A I remember her telling me about another guy she had
- 13 met, but I can't remember what his name was, and she said
- 14 that, you know, they met a couple of times and talked but
- 15 that was about it. And then she had told me about Darrell.
- 16 Before the day the kids came down to Florida she had told me
- 17 that, you know, they had been talking online and that he was
- 18 going through a similar situation as her. And they
- 19 basically were going through the same hard time in their
- 20 estranged marriages.
- 21 Q Let's talk about -- you said the kids came to stay with
- 22 you.
- 23 A Yeah.
- 24 Q Do you know what day Myranda met you to bring the kids?
- 25 A Yeah. She brought them down on August 12th, which was

PENNY SMITHERS: DIRECT EXAMINATION

139

1 a Tuesday.

2 Q Now, did she meet you in Florida?

3 A No. We always met in Pooler, Georgia. It was a
4 halfway point for us.

5 Q So you said Tuesday the 13th; is that correct?

6 A Yes. Or Tuesday --

7 Q Let me see if I can show you this.

8 A Yes, so it was Tuesday.

9 Q It would be the 13th; is that correct?

10 A Yes.

11 Q Around what time did she leave? When you met with her
12 that day on Tuesday the 13th?

13 A What time did she leave her home or --

14 Q Yes.

15 A Myranda left a lot earlier than her mother. I want to
16 say she must have left between around 8:00-ish because I
17 think we were supposed to meet at 1:00 or 1:30.

18 Q Do you -- so you have the kids starting Tuesday the
19 13th. When were you supposed to meet Myranda?

20 A The following Tuesday.

21 Q So that would have been the 20th?

22 A Yes.

23 Q But not the -- now, the 19th was -- is that an
24 important day?

25 A Yes. The 19th was Abigail's birthday -- or is

PENNY SMITHERS: DIRECT EXAMINATION

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1 Abigail's birthday. She turned eight the day Miranda left
2 this world.

3 Q And that's Miranda's daughter; is that correct?

4 A Yes, she is.

5 Q Did you talk to Miranda from the time you saw her on
6 Tuesday up until when she went missing on late Sunday night?

7 A Oh, yes. Of course.

8 Q How often would you talk to Miranda?

9 A Miranda and I talked all the time. We either talked by
10 phone or by text or by email. We were close.

11 Q Do you know where she worked?

12 A Yes. She worked at Charter Communications.

13 Q Do you know her work schedule?

14 A I know that at that time she was now at her training
15 and released to the floor and she was working the afternoon
16 to midnight shift.

17 Q So do you know about what time she would go into work?

18 A I want to say she went in somewhere around 2:00.

19 MR. ABLE: I think there has to be a foundation laid
20 for this testimony. I assume it's based upon what her
21 daughter has told her. Hearsay objection.

22 THE COURT: I think it's already been established in
23 the evidence by the first witness concerning Miranda's work
24 hours. So it's already into evidence without objection, so
25 I'm going to overrule the objection. Thanks, Mr. Able.

PENNY SMITHERS: DIRECT EXAMINATION

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1 Q Do you know when Myranda started working at Charter?

2 A She had been there just shy of three months, if I
3 remember correctly.

4 Q Did you personally know anything about Myranda's
5 financials?

6 A Yes, I did, because we'd been helping her once she was
7 no longer getting any child support.

8 Q So did she have a lot of money?

9 A No.

10 Q Now, Ms. Smithers, when was the last time that you
11 spoke to Myranda?

12 A That Sunday night I talked to her -- or evening.

13 Q About what time? Do you remember?

14 A About 6:30.

15 Q Was she at work at the time?

16 A Well, she said she was -- had driven home to take Bella
17 for a walk.

18 MR. ABLE: Objection, Your Honor.

19 THE COURT: I'll sustain the objection. Strike it from
20 the record. Instruct the jury to disregard testimony
21 concerning going home and walking the dog.

22 Q How long did you talk to Myranda? How long did the
23 call last?

24 A Fifteen minutes.

25 Q How did she sound?

PENNY SMITHERS: DIRECT EXAMINATION

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1 A She sounded good.

2 Q Did she -- did you all discuss coming to Florida to
3 pick the kids up on Tuesday?

4 A Yes. Oh, yes.

5 Q What day exactly did you all discuss getting the kids?

6 A Well, we preplanned it ahead of time before I picked up
7 the kids. We always -- you know, there was a pickup time
8 for bringing them and then me bringing them and returned
9 them to her. So I always had to -- you know, we prearranged
10 that. But we always followed up with each other, and she
11 was planning on being there on Tuesday around the same time,
12 around 1:00 or so.

13 Q Now, so around 6:30 Sunday night was the last time you
14 spoke to her?

15 A Yes.

16 (Whereupon, State's Exhibit No. 5 was marked for
17 identification.)

18 Q I want to -- Ms. Smithers, I want to show you what has
19 been marked as State's Exhibit 5.

20 THE COURT: Is that for ID only at this time?

21 MS. BOYKIN: After this, Your Honor, I'd like to admit
22 it into evidence.

23 A I'm driving down there -

24 THE COURT: Don't tell us. Just identify what it is,
25 ma'am, and then there may be some discussion. I don't know.

PENNY SMITHERS: DIRECT EXAMINATION

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1 Just identify it, please.

2 THE WITNESS: Oh, I see.

3 Q Do you know what this is?

4 A I do know what this is, yes.

5 Q And what is it?

6 A It is a Face book -- it's a Face book message that was
7 supposed to be Myranda sending it to me. And then I replied
8 because it didn't make sense to me. But then she never
9 answered.

10 Q Do you know what date you received this?

11 A The 19th. The day before we were supposed to meet.

12 MS. BOYKIN: Your Honor, at this time the State offers
13 State's Exhibit 5 for admission into evidence.

14 MR. ABLE: I would objection, Your Honor, on the
15 grounds that it's hearsay.

16 THE COURT: All right.

17 MS. BOYKIN: Your Honor, we would say that --

18 THE COURT: Let me see the lawyers for just a sec.

19 (Whereupon, a sidebar was held.)

20 THE COURT: Okay. No. 5 is into evidence on behalf of
21 the State.

22 (Whereupon, State's Exhibit No. 5 was admitted into
23 evidence.)

24 MS. BOYKIN: Thank you, Your Honor. With permission to
25 publish?

PENNY SMITHERS: DIRECT EXAMINATION

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1 THE COURT: Certainly.

2 Q Ms. Smithers, is this what you received?

3 A Yes, it is.

4 Q And did you try to call Myranda after that?

5 A Yes. I had -- because that wasn't our plan. And she
6 would not make that change. I mean, my gut knew at that
7 time this didn't feel right, but I went ahead and asked her
8 what time did she think she'd be there. She never
9 responded. I called and I called and it went straight to
10 voice mail. Something wasn't right.

11 Q Did you ever talk to Lauren Searcy that next day?

12 A Yes, I did.

13 Q Did you talk to anyone else?

14 A Yes. I called Darrell. I looked online and called a
15 Raines that wasn't the right one. Don't remember the first
16 name. But they gave me his cell phone number and I called
17 him and asked him had he seen or heard from Myranda.

18 Q And what was said?

19 A He told me that he had talked to her on her way home
20 from work that night for an hour and that she was venting
21 about having to deal with Shawn and that she didn't want to
22 have to deal with him anymore and that she was tired of it.
23 And he said that she just called because she just needed to
24 vent. And he talked to her until she got home he said.

25 Q Had you ever met Darrell in person?

PENNY SMITHERS: DIRECT EXAMINATION

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1 A No. Myranda just -- again, we were close.

2 Q Now, was that the only time you had talked to Darrell
3 or did --

4 A That was the first time I ever talked to Darrell.

5 Q Did you talk to him again?

6 A Yes.

7 Q About how many times?

8 A Several. Until his phone didn't answer anymore, which
9 is when he had turned it over to the police. I just didn't
10 know at the time.

11 Q Could you see about what time that is this message was
12 sent to you?

13 A It looks from here about 5:14. But my contacts aren't

14 Q If you could just read off the date and time, please.

15 A August 19th, 5:16 a.m.

16 Q So 5:00 in the morning?

17 A Yes.

18 Q Do you know of any prescriptions Myranda was taking?

19 A Yes.

20 Q What were those?

21 A It was Prozac for depression, and she said she had seen
22 the doctor -- she was supposed to check in with the doctor a
23 couple of weeks later and see how that was going and they
24 might adjust it. And then she said they had put her on a
25 second medication.

PENNY SMITHERS: DIRECT EXAMINATION

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1 Q Were you aware of anyone in Savannah that Myranda might
2 have been visiting?

3 A Absolutely not.

4 Q Did you see those Face book posts?

5 A I did. And I called the police department and told
6 them repeatedly she didn't know anybody in Savannah,
7 Georgia, and she would not go visit -- she would not. She
8 would call me. I had her babies. She's not going to just
9 change her mind and go to Savannah for a week and not want
10 to talk to me or anybody until she's feeling better. She's
11 not going to do that with her babies. She's supposed to
12 pick up her babies. And Myranda, she left them. Like I
13 said, she made me give them back every time.

14 Q Especially on Monday the 19th?

15 A Yes.

16 Q Did they sound like her, those messages?

17 A No. Absolutely not. It's not her lingo. It's not the
18 way she -- it's not the way she speaks at all. She was more
19 articulate and more -- the punctuation didn't even seem
20 right for her. It just wasn't -- it just -- my gut didn't
21 feel good about it. I knew then, and I told the Sheriff's
22 Office something's wrong. She's -- something's wrong.

23 MS. BOYKIN: Thank you. Please answer any questions
24 Mr. Able has for you.

25 THE COURT: Any cross-examination?

PENNY SMITHERS: CROSS-EXAMINATION

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1 MR. ABLE: Yes. Thank you.

2 CROSS-EXAMINATION

3 BY MR. ABLE:

4 Q Now, Ms. Smithers, you had mentioned helping Myranda
5 financially since she was no longer getting child support.

6 A Yes, sir.

7 Q The father and husband was not paying child support?

8 A Not when he didn't have any job any longer. He had
9 been.

10 Q And his name is Shawn?

11 A That's correct.

12 Q And they were having a lot of trouble during their
13 marriage, correct?

14 A Yes, they were.

15 Q It was a rocky marriage?

16 A Yes, it was.

17 Q And he was between Ms. Southern and his girlfriend, he
18 was back and forth continuously?

19 A Yes, he was.

20 Q And when Mr. Southern came down to Florida on Monday,
21 the 19th to retrieve his children you wouldn't give them to
22 him, would you?

23 A No, sir.

24 MR. ABLE: Thank you.

25 THE COURT: Redirect?

1 MS. BOYKIN: No, Your Honor.

2 THE COURT: Thank you, ma'am. You can step down now.

3 (Whereupon, the witness stepped down from the witness
4 stand.)

5 THE COURT: Can I see the lawyers up here one more
6 time.

7 (Whereupon, a sidebar was held.)

8 THE COURT: Mr. Foreman, ladies and gentlemen of the
9 jury, we're going to go ahead and break for this afternoon
10 and we're going to start back -- we're going to work on some
11 matters outside your presence at 9:00 and hopefully be
12 ready, hopefully, at 9:30. So I'm going to go ahead and
13 release you for the day. Again, you're going to get tired
14 of me saying this but I'm going to say it anyways. Don't
15 talk to anybody that you come in contact with about this
16 case. Again, don't do any independent research about
17 anything related to this case. And give yourself enough
18 time to get here promptly at 9:30. I hope you have a good
19 evening. Get some rest. We'll see you in the morning.

20 (Whereupon, the jury was excused for the day at 5:35
21 p.m.)

22 THE COURT: We will be in recess until 9:00. Do you
23 have something?

24 MR. SCOTT: Yes, sir. No. 5.

25 THE COURT: Well, let's do No. --

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 MR. SCOTT: No. 4, I think. Yes.

2 THE COURT: I think No. 4 it's been agreed that a
3 portion will be redacted by way of actually cutting off the
4 bottom of that exhibit.

5 MR. SCOTT: Yes.

6 THE COURT: And then once that is done then there is no
7 objection to that exhibit, right?

8 MR. ABLE: No objection.

9 THE COURT: And then, Mr. Able, you made an objection
10 to No. 5 based upon hearsay and in a bench conference I
11 indicated that I would overrule your objection due to the
12 fact that the State has maintained correctly, or
13 incorrectly, the position that these various Face book
14 postings were not done by Miranda but, in fact, done by the
15 Defendant. So taking that position concerning those Face
16 book postings, I'm going to overrule your objection to No.
17 5.

18 MR. ABLE: All right, sir.

19 THE COURT: Anything else on the record before we
20 adjourn?

21 MR. SCOTT: Nothing from the State, Your Honor.

22 THE COURT: Thank you very much. We'll be in recess
23 until 9:00 in the morning, at which time we'll take care of
24 Officer Ayers and the issues related to the cell phone
25 motions. You all have a good evening. See you in the

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 morning.

2 TRIAL DAY 2-12/08/15

3 THE COURT: Okay. We're on the record this morning in
4 the State vs. Darrell Raines and I think the plan was to go
5 back to the motions that -- the three motions that the
6 Defense has filed as it relates to certain cell phone
7 records. And I think there was going to be some testimony
8 from an officer; is that correct?

9 MR. ABLE: Yes, sir.

10 MR. SCOTT: I have Deputy Chad Ayers with the
11 Greenville Sheriff's Department here.

12 THE COURT: All right. Well, let's go ahead and take
13 him.

14 OFFICER CHAD AYERS, having been
15 first duly sworn, testified as follows:

16 THE COURT: Let me see the lawyers for just a second.

17 (Whereupon, a sidebar was held.)

18 THE COURT: Okay, Solicitor. Is Officer Ayers sworn
19 in?

20 MR. SCOTT: Yes.

21 DIRECT EXAMINATION (IN CAMERA)

22 BY MR. SCOTT:

23 Q State your name for the record.

24 A Chad Ayers, A-y-e-r-s.

25 Q And you're with the Greenville Sheriff's Department?

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 A Greenville County Sheriff's Office. Yes, sir.

2 Q How long have you been there?

3 A Almost 10 years.

4 Q So August 2013. What unit are you in up there?

5 A At the time I was assigned with the direct patrol unit
6 which was a street level narcotics unit. That was cross-
7 training over a 90 period with the armed robbery unit.

8 Q And is that -- is Tracy King in that unit?

9 A He is.

10 Q That was the investigator we heard from yesterday, I
11 think, who was involved in this case. And how did you
12 become involved with the missing person's case of Miranda
13 Southern?

14 A During the time period Tracy had taken on a role in
15 assisting our investigators that work on missing persons
16 cases. The lead investigator in that was out, and so Tracy
17 kind of took the position of working this case. I was
18 working alongside Tracy on some other cases and assisting
19 him just on some various -- he needed help during this
20 investigation.

21 Q Was he -- I don't know what the word is. But was he
22 kind of your supervisor as far as cross-training you for
23 armed robbery investigations?

24 A Yeah. I mean, there were several of them down there,
25 and I would just kind of -- I had worked investigations

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 before. They were just kind of plugging into a system,
2 other investigators caseloads whenever I could.

3 Q Do you remember getting this order for some phone
4 records on August 22nd?

5 A Oh, yes, sir.

6 Q Ms. Southern goes missing on the 19th and you swear out
7 this affidavit for the order on the 22nd. What had happened
8 in between the time she goes missing and the time you get
9 this order?

10 A The Defendant had come into the office voluntarily. He
11 had been interviewed in our office. I was there during the
12 interview. He voluntarily relinquished his cell phone to
13 investigators and we got his number. This was late in the
14 day by the time that I had typed this order up. And so, we
15 then -- after looking at some of the details we knew the
16 victim had gone missing. It had been several days. We also
17 had subpoenaed some bank records where her debit card was
18 used and the still images from the ATM where the Defendant's
19 photograph was on there. This raised some suspicions for
20 us. And so, at that time we decided to subpoena his phone
21 records, which is why I went ahead and got an order for
22 production of records.

23 Q So he had consented and turned over the phone, but you
24 went ahead and got the order --

25 A That's correct.

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 Q -- despite the consent?

2 A Yes, sir.

3 Q Had you asked for such orders before as far as cell
4 site locations?

5 A No. I have in narcotics cases and one on the federal
6 level when I was working for the DEA.

7 Q And was it your practice to get an order or a search
8 warrant? This is an order here. But what was your common
9 practice?

10 A It would be a search warrant for a phone.

11 Q Why did you get an order on this one?

12 A Investigator King stated that working these kind of
13 cases he --

14 MR. ABLE: Objection to the hearsay, Your Honor.

15 THE COURT: Well, for purposes of this in camera
16 hearing I'm going to overrule your objection and will allow
17 it. You may proceed.

18 Q Go ahead. For cell site locations King said the
19 practice was what?

20 A Better off to go ahead with the -- production of
21 records would be the route that he would recommend taking.

22 Q Okay. What's your affidavit say on there? The order?
23 Have you got the order in front of you?

24 A I do. The actual affidavit says, "Order to compile and
25 release to Deputy Chad Ayers of the Greenville County

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 Sheriff's Office copies of any and all documents in your
2 custody and/or control related to any and all phone records
3 to include subscriber information, all incoming and outgoing
4 calls and text messages for cell number area code 864-380-
5 5121. Also cell tower sites during the calls and texts and
6 the list of Verizon tower locations. The dates requested
7 are beginning with August 17th at midnight to August 22nd,
8 2013 at 11:00 a.m." That is what my -- that's where mine
9 ended right there.

10 Q Did it say anything about -- you know, like a search
11 warrant has got the affidavit that talks about the reason
12 that you think there's going to be probable cause. Does it
13 have a reason in there?

14 A No. I presented that to the magistrate. When I went
15 up to the judge I went into more detail with Judge Hudson as
16 to the case we were working and why we wished to do that.

17 Q So you presented some supplemental oral testimony is
18 what you're saying?

19 A Correct.

20 Q Let me back up for a minute. August 22nd Ms. Southern
21 hadn't been found at that point; is that correct?

22 A That's correct.

23 Q So your primary, I guess, drive at that point was
24 located Ms. Southern?

25 A Correct.

CHAD AYERS: DIRECT EXAMINATION (IN CAMERA)

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1 Q All right. Tell me what you had told the magistrate as
2 far as sworn oral testimony.

3 A I went up to Judge Hudson's office. It was -- like I
4 said, it was late in the afternoon, and let him know that we
5 were working a missing person's case. I informed him that
6 the Defendant had come in and had been interviewed. That
7 there was some discrepancies initially in his statement.
8 That we had subpoenaed cell phone -- or, correct, the
9 victim's debit card information and had still images of him
10 using her debit card. And that based on those facts we
11 wished to further the investigation by subpoenaing these
12 cell phone records.

13 Q Do you see the image?

14 A I do.

15 Q That's the image you saw?

16 A That's correct.

17 Q And that would have been the night she went missing?

18 A That's correct.

19 Q You would have told the magistrate that?

20 A Yes, sir. I had the initial report that Deputy Davis
21 had written on 8/19. I had read over his report.

22 Q There's no notarized signature on there. Do you have
23 an explanation for that?

24 A From what I can recall, the -- so we were working late
25 on this case. We caught the judge right as he was leaving.

CHAD AYERS-CROSS-EXAMINATION (IN CAMERA)

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1 And he -- after we presented the facts to him he signed it.

2 And I don't believe the secretary was there to notarize it.

3 Q Would you agree with me that timing was of the essence
4 as far as getting those phone records?

5 A Absolutely. Any time we're working a missing person's
6 case, and especially something that after interviewing the
7 Defendant the feeling that we got, we need to locate this
8 victim as soon as possible.

9 MR. SCOTT: Okay. Thank you, Mr. Ayers. Answer any
10 questions Mr. Able has for you.

11 THE COURT: Mr. Able, any cross-examination of this in
12 camera witness?

13 CROSS-EXAMINATION

14 BY MR. ABLE:

15 Q Officer Ayers, now, again I want to make sure we
16 understand. Because as you were testifying on direct
17 examination there was -- sometimes the word affidavit would
18 be used, sometimes the word statement would be used. You
19 would agree with me that what you signed was not an
20 affidavit?

21 A I'm not sure if I understand your question.

22 Q Well, let me ask you this way. You agree that it was
23 not a sworn statement because it was not in front of a
24 notary public?

25 A It was a sworn statement before a magistrate.

CHAD AYERS-CROSS-EXAMINATION (IN CAMERA)

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1 Q So it's your position that this document is a sworn
2 statement?

3 A I'm swearing to the facts of this and what I presented
4 to the judge as true and accurate. Yes, sir.

5 Q Now, you mentioned that you caught Judge Hudson as he
6 was leaving. So there was no sworn testimony? You just
7 told him what the case was about?

8 A I swore to -- I presented the facts of our
9 investigation that we had had so far in our investigation.
10 I presented those to the magistrate. Before he signs this
11 document I must swear to that. I've worked with Judge
12 Hudson since I started. The type of magistrate he is, he is
13 not willing to sign any document without the deputy or
14 investigator going into great detail about what we have so
15 far.

16 Q You would agree that the statement you signed doesn't
17 contain all the detail that you just testified to?

18 A That's correct.

19 Q And you --

20 A It's almost like getting a warrant on someone. It
21 might not contain every aspect of the case, or every aspect
22 of the charge. But I'm going to present all the facts
23 orally, as well as what's written here, to the judge.

24 Q And you mentioned, too, during your direct examination
25 that you were seeking a subpoena but you -- at one point you

CHAD AYERS-CROSS-EXAMINATION (IN CAMERA)

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- 1 said the word subpoena. But this was not a subpoena?
- 2 A No, sir.
- 3 Q Who prepared the order?
- 4 A I did.
- 5 Q And you had that prepared when you went to see Judge
- 6 Hudson?
- 7 A That's correct.
- 8 Q It's just -- I'm just going to use -- say affidavit
- 9 because that's what it's titled. Unsworn affidavit. You
- 10 presented that to him at that time?
- 11 A Before there's cell service needed, something added
- 12 into that. I was -- I had already left, and that's when
- 13 Investigator King added that portion there, faxed it to the
- 14 judge and had that initialed. But I swore to the facts down
- 15 here at the bottom of this production.
- 16 Q You said you were placed under --
- 17 A Yes, sir.
- 18 Q By Judge Hudson?
- 19 A Correct.
- 20 Q And this part that was added in on the foot of the
- 21 order, that was done the next day?
- 22 A I don't -- I don't know if it was done the next day or
- 23 later on that evening.
- 24 Q I thought you said Judge Hudson was leaving that day
- 25 when you caught him and --

1 A Correct. It was towards the end. But I don't -- I
2 can't testify as to when Investigator King went back and had
3 that signed.

4 MR. ABLE: That's all I have, Your Honor.

5 THE COURT: Anything on redirect?

6 MR. SCOTT: No, sir. Your Honor.

7 THE COURT: Thank you, Officer Ayers. You can step
8 down, sir.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 THE COURT: Now, the way I read 2703 is that there's no
12 requirement that there be sworn testimony or that a
13 statement be notarized, the way I read it. And I may not be
14 reading it correctly. But in looking at the (d) section
15 requirements for court order, I don't see where the -- where
16 there is requirement. Notwithstanding the fact that Officer
17 Ayers indicated that when he presented to the magistrate he
18 was placed under oath and gave all of this information while
19 being sworn.' But I don't read (d) -- because you've touched
20 on it today, we touched on it yesterday, that this document
21 called an affidavit is not notarized. But I don't see where
22 that requirement, under the statute, is there.

23 You guys read it and see if I'm not reading it
24 correctly. I mean, the fact it still has to be -- I have
25 to find that there were, you know, specific facts presented.

1 I understand that. But I think we kind of got hung up a
2 little bit that this document is not notarized.

3 MR. ABLE: Judge, in referring to my second motion on
4 this issue. The primary gist of the motion was the specific
5 and articulable facts --

6 THE COURT: Right.

7 MR. ABLE: -- and then the last part of it dealt with
8 the fact that, again, what's been titled as an affidavit was
9 not a sworn statement.

10 THE COURT: Right.

11 MR. ABLE: I agree with you. There's not a requirement
12 that -- under this particular statement that it be sworn
13 testimony. But the affidavit being presented, or the
14 document that's been characterized as an affidavit, it was
15 just my point that that was not a sworn statement.

16 THE COURT: I understand.

17 MR. ABLE: Yes, sir.

18 THE COURT: I understand. Any additional argument
19 concerning the three motions? And I realize the motions are
20 all really interrelated.

21 MR. ABLE: Yes, sir.

22 THE COURT: But any additional argument that you want
23 to put on the record, Mr. Able, concerning your three
24 motions?

25 MR. ABLE: Well, Judge, just touching briefly on -- I

1 did, at the point that we stopped yesterday when we were
2 arguing these motions, on -- it was number 2 where you said
3 you wanted to have Office Ayers come down.

4 THE COURT: Right.

5 MR. ABLE: As to my second motion. As I said, the gist
6 of it goes to the specific and articulable facts that are
7 required by the statute to be shown to the magistrate or the
8 judge before an order would be issued. I understand the
9 Officer's testimony today, but I think we have to look at it
10 again with the realization that it doesn't have to be a
11 sworn statement, but the document has been articulated as an
12 affidavit. You know, basically what it says is that the
13 Greenville County's office is conducting an investigation
14 into the disappearance of Ms. Southern and her boyfriend's
15 telephone number is a certain number. And that's basically
16 what the statement says. And I think we have to rely upon
17 what we have, or have had during the preparation of the this
18 case for some time now, that that's basically what was
19 presented to the magistrate and an order issued. So we
20 don't believe it complies with the requirement of the
21 statute as to the necessary facts that have to be shown, and
22 we would argue that the order is deficient in that way and
23 the cell phone records should be suppressed.

24 My third motion, which I didn't touch on yesterday,
25 basically is giving me -- the manner by which the Storage

1 Communications Act is structured it basically says, number
2 one, law enforcement can get these records if you can get a
3 warrant. Number two, you can get a court order. And it
4 lays out the mechanism by which you get the court order. We
5 all know how a subpoena is derived. My argument on that,
6 Judge, is basically the order -- I mean, the statute -- the
7 Storage Communications Act is inconsistent. It's internally
8 inconsistent and it would be unconstitutional.

9 As I argued yesterday, which kind of comes back around
10 full circle from my first motion, is that basically what the
11 Act attempts to do, or does, is lessen the requirements of
12 the Fourth Amendment against unreasonable search and says,
13 okay, you don't -- specifically in the Fourth Amendment and
14 the Article 1, Section 10 of the South Carolina
15 Constitution, you know, the word is you have to get a
16 warrant. I mean, that's basically what it says. If you're
17 going to search these things -- or search -- conduct a
18 search against somebody you have to have a search warrant.
19 What this law does is basically says, okay, you can get the
20 warrant, but we're going to say also you can go ahead and
21 get these orders. It lessens the authority of the Fourth
22 Amendment, which I think would make it unconstitutional,
23 because you can't do that by law. You just can't change the
24 Constitution of either the nation or the state just by
25 saying we're going to impose this in a statute when you have

1 the Constitution -- Fourth Amendment of the Constitution
2 which is the supreme law of the land. So it would be
3 internally inconsistent. It would lessen the authority of
4 the Fourth Amendment, and it would lessen the rights of the
5 citizenry by doing that, while at the same time extending
6 authority to the government and law enforcement that would
7 not be encompassed in the Constitution of the nation or this
8 state.

9 Thank you, sir.

10 THE COURT: Thank you very much, Mr. Able. Solicitor,
11 the -- from what I heard Officer Ayers say, and I want you
12 to elaborate a little bit, but he indicated that through
13 oral testimony he supplemented what was in the written
14 document, in the affidavit, with additional facts, correct?

15 MR. SCOTT: Yes, sir.

16 THE COURT: And specifically he testified there was a
17 mention of the withdrawal of the money at the ATM by the
18 Defendant?

19 MR. SCOTT: That's correct.

20 THE COURT: What additional information did Officer
21 Ayers say that he presented to the magistrate in
22 supplementing the affidavit?

23 MR. SCOTT: Your Honor, he sat in on the first
24 statement of the Defendant.

25 THE COURT: Right.

1 MR. SCOTT: And at that time the Defendant indicated
2 that he had this ongoing relationship with Ms. Southern.

3 THE COURT: Right.

4 MR. SCOTT: I do believe he mentioned speaking with her
5 the night that she went missing. He indicated the times
6 that she was last accounted for. The fact that this was a
7 missing person. And, of course, the fact the subpoena --
8 where it came up and they subpoenaed her bank records and
9 found that those suspicious withdraws occurred directly
10 after she went missing. And then they pulled the video and,
11 of course, he becomes kind of the prime suspect at that
12 time. So, of course, location of Ms. Southern is of primary
13 interest and timing was of the essence at that point. So
14 therefore, I think those are the specific and articulable
15 reasons for the location being so important. Cell towers
16 being so important.

17 THE COURT: All right. Thank you very much. Since we
18 have a case which authorizes the manner in which the cell
19 phone records, as to the tower location, and I think that's
20 the area of dispute, then I'm going to deny the motions to
21 suppress. I believe that there were sufficient specific
22 facts presented to the magistrate to justify the issuance of
23 the order under 2703 by Officer Ayers by way of this
24 document entitled affidavit, even though it was
25 unauthorized, and the additional testimony given to the

1 magistrate.

2 Anything else to be put on the record before -- Mr.
3 Able, your three motions, I'm going to have them marked as
4 Court's exhibits.

5 MR. ABLE: That's fine, Judge. I was going to ask that
6 you would. Yes, sir.

7 THE COURT: Because it looks like I've got the
8 original.

9 MR. ABLE: You do. Yes, sir. Yes, sir. I would ask
10 that you mark those. That was what I was going to do.

11 MR. ABLE: Judge, I think one exhibit -- I'm sorry,
12 sir. I'm sorry.

13 (Whereupon, Court's Exhibit No. 1 was marked for
14 identification.)

15 THE COURT: Okay. Mr. Able, you were saying what?
16 Yes, sir.

17 MR. ABLE: I was just asking if it was going to be
18 Exhibits 1, 2 and 3 or --

19 THE COURT: I think we'll just mark them all as one.

20 MR. ABLE: Thank you.

21 THE COURT: Anything else before we bring the jury out?

22 MR. SCOTT: No, sir. None from the State.

23 MR. ABLE: No, sir.

24 THE COURT: Okay. If you will bring the -- Mr. Bolt
25 indicated that some of the jurors have indicated that

1 they're having trouble reading what has been put on the
2 screen. So I don't know if that is a fixable problem, or if
3 you need maybe to move it. We'll bring the jury out. And I
4 think Mr. Bentley is your IT guy?

5 MR. SCOTT: Yes, sir.

6 THE COURT: If you could get him to look at it and --

7 MR. SCOTT: Yeah. Well, with this next witness I could
8 probably republish some of those things and just zoom in a
9 little bit more on it.

10 THE COURT: Okay. Do whatever you need to do. If it
11 can be corrected, then that's what we need to do for the
12 jury.

13 MR. SCOTT: Yes, sir.

14 THE COURT: All right. Bring the jury out, please.

15 (Whereupon, the jury entered the courtroom at 9:37
16 a.m.)

17 THE COURT: Good morning, ladies and gentlemen. I hope
18 you had a good restful evening and ready to get to work. We
19 have a full day ahead of us. I know some of you have
20 mentioned to Mr. Bolt that you had a little trouble reading
21 the documents or whatever's been shown on the screen and I
22 talked to the lawyers about it and they feel like they can
23 correct that and make it a little bit better. Again, if
24 you're still having problems seeing it then you let us know.
25 Okay?

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 All right. Solicitor, are you ready to proceed?

2 MR. SCOTT: Yes, sir, Your Honor. The State calls

3 Shawn Southern.

4 THE COURT: Some around, please, sir.

5 SHAWN SOUTHERN, having been first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. SCOTT:

9 Q Mr. Southern, who is Myranda Southern?

10 A Myranda Southern was my wife.

11 Q And how long were you all married?

12 A We were married for about three years.

13 Q And how long have you known her?

14 A Since the seventh grade.

15 Q Seventh grade?

16 A Seventh grade.

17 Q Sit closer to that microphone for me and speak up
18 louder so we can -- I can't hardly hear you from here.

19 A Okay. Is this better?

20 Q Yeah. Seventh grade.

21 A Seventh grade.

22 Q And when did you all get married?

23 A We got married at the beginning of 2011.

24 Q And you all have children together?

25 A A 12-year-old and a 10-year-old.

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 Q Where did you two live?

2 A We lived over in Taylors when we lived in South
3 Carolina and we lived in Lake Mary when we lived in Florida.

4 Q When did you all move back to Taylors from Lake Mary?

5 A We moved from Lake Mary to Taylors. So we moved in
6 March of '11.

7 Q Tell me about August 2013. What was going on with you
8 and Myranda at that time?

9 A Our relationship had pretty much come to the
10 determination that it was ending. We were trying to figure
11 out ways to still maintain our long-term friendship, still
12 maintain co-parenting together, and just try to figure out
13 that type of stuff.

14 Q Where were you living at the time?

15 A At the time I was currently living with my girlfriend.

16 Q Okay. And you and Myranda were separated?

17 A We were working on it. Yes, sir.

18 Q What does that mean?

19 A Some nights I would still be there. Myranda worked
20 until 12:00 at night. I would stay and watch the kids until
21 then, and sometimes I would just stay and spend the night
22 still.

23 Q Okay. Did you still have some of your stuff over at
24 the apartment?

25 A Oh, yeah.

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 Q And tell me, what was her working hours again?

2 A I believe she worked from like 2:00 to 12:00.

3 Q So during that time you would watch the kids?

4 A Uh-huh. Yes, sir.

5 Q Do you still have a key to the place?

6 A Yes, sir. Well, I had a key of the place until the
7 final week.

8 Q Tell me about that.

9 A I found out that she had had Darrell coming over and
10 told her, I said, it's your house now, so here's your key.

11 Q You all had kind of an argument about that, didn't you?

12 A Yeah. Yes, sir. Yes, sir.

13 Q You took her phone and broke it, didn't you?

14 A Yes, sir.

15 Q What else did you do?

16 A We argued and I took the big screen TV from her and
17 just little bitty spits and spats here and there.

18 Q You said some ugly things to her, didn't you?

19 A Oh, yes, sir.

20 Q You were ugly towards her, weren't you?

21 A Yes, sir.

22 Q Did you all make up?

23 A Yes, sir. We -- me and Myranda had known each other
24 for such a long time that we knew that no matter what the
25 argument at that moment was about, what we had the rest of

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 our lives wasn't worth that argument. We still had two kids
2 together. We had had the decades of long friendships, you
3 know. We -- that was more important to us than an argument
4 over a phone or an argument over a TV.

5 Q Did you return the TV back to her?

6 A Oh, yes, sir.

7 Q Do you remember the last time you saw her?

8 A I saw her, I believe, around 8:00 or 8:30. Her lunch
9 break that night. And she had brought me a cup of coffee
10 and a pack of cigarettes.

11 Q Did you ask her for the coffee and cigarettes?

12 A Yes, sir.

13 Q And where were you?

14 A I was over at my girlfriend's house.

15 Q So she went during her break, I guess?

16 A Uh-huh.

17 Q While she was at Charter. What time was it?

18 A Somewhere between 8:00 and 8:30.

19 Q Okay. Do you know where she got the cigarettes and
20 coffee?

21 A Probably would have been the Palms right there off of
22 Wade Hampton.

23 Q Is that Hickory Point or --

24 A It's now a 7-Eleven. They went from Hickory Point to
25 Palms to 7-Eleven.

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 Q And you said it was about 8:00?

2 A Yeah, around there. 8:00, 8:30 or somewhere.

3 Q Do you remember about when you found out about Darrell?

4 A It would have been probably the beginning of that week,

5 maybe Tuesday or Wednesday. I had -- I still had access to

6 the house key, so I came over to walk and -- you know, walk

7 the dog and feed and water the dog, and noticed that the

8 house was spotless and there was new sheets on the bed and

9 the old sheets were in the washing machine. And that was

10 just out of character. So I knew something had went up.

11 And I actually called Myranda that day at work and she

12 actually left work, and that was when I was like if you're

13 going to do this here, this is no longer my house.

14 Q I don't understand though. Just the house was clean so

15 you thought there was a man in it?

16 A Well, Myranda was not the housekeeper. For everything

17 she was, she was not a housekeeper. So to come in all of a

18 sudden one day and dishes are done in the dishwasher, brand

19 new bed sheets on the bed, the old sheets in the washing

20 machine. That's not Myranda. Myranda was having to hide

21 something.

22 Q Okay. The 18th was when she went missing. Had you

23 spoke to her that day?

24 A I spoke to her -- the last time I spoke to her on the

25 18th was around 10:00 or 10:30 on her last break at work.

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 Q And that was the day she brought you the coffee and the
2 cigarettes around 8:00 p.m. is what you said?

3 A Yeah, between 8:00 and 8:30. I can't remember the
4 exact -- the exact time.

5 Q And tell me about you all's conversation. Was it a
6 friendly --

7 A Our conversation was pretty much about Abigail's
8 birthday who is -- her birthday is the 19th of August. Just
9 trying to make plans. She was excited because she would be
10 leaving, I think, that next day or the Tuesday the 20th to
11 go get them. So we were trying to coordinate to where we
12 could do kind of a conference call to where we'd both be
13 able to call Abby and tell her happy birthday, and just
14 trying to figure out where we went from this point on. And
15 it was a good conversation. We ended up telling each other
16 we loved each other and I'll talk to you later.

17 Q And then that was the last time you saw her?

18 A That was -- after that there was nothing.

19 Q Your understanding was she was going back to work after
20 that break?

21 A Yeah, because when I did talk to her on her 10:30 break
22 she was yawning so much. She was exhausted. I was like you
23 just -- I remember telling her, you got to get home and get
24 to bed.

25 Q So you spoke with her on the phone while she was at

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 work at 10:30 on the 18th?

2 A Yes, sir.

3 Q Did you have any understanding what she was going to be
4 doing later that night?

5 A No. To me it sounded like she was going to go home,
6 get some rest and go get the kids the next day.

7 Q She was supposed to get the kids on Tuesday is what you
8 said?

9 A Correct. But she needed -- as tired as she was, she
10 needed the full rest.

11 Q Okay. What were you up to that night?

12 A My girlfriend was working until 11:00, so I was just
13 hanging out at the apartment watching Netflix.

14 Q And where was the apartment you shared with your
15 girlfriend?

16 A It's off of Watson Road which is -- you know anything
17 about Taylors, South Carolina, it's right across from the
18 Brunswick Bowling Alley near the Houser Shoes.

19 Q And where was -- what's your girlfriend's name?

20 A Debbie.

21 Q Debbie what?

22 A At that time it was Nulph.

23 Q Nulph, -u -

24 A N-u-l-p-h. Yes, sir.

25 Q Where was she working?

~

SHAWN SOUTHERN: DIRECT EXAMINATION

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- 1 A She was working at the Westin Poinsett downtown.
- 2 Q Downtown Greenville?
- 3 A Uh-huh.
- 4 Q And how did she get there?
- 5 A She drove her own vehicle.
- 6 Q How many cars did you two have at the time?
- 7 A At the time Debbie had the one, Myranda had the one,
- 8 and I didn't have a vehicle.
- 9 Q So she left you at the apartment in Taylors and she
- 10 drove downtown to Greenville?
- 11 A Uh-huh. Yes, sir.
- 12 Q What time would Deborah have gotten off work at the
- 13 Westin?
- 14 A She would have gotten off at 11:00. Probably would
- 15 have been home around 11:30-ish or so.
- 16 Q And you were home that night at the apartment?
- 17 A All night. Yes, sir.
- 18 Q What did you do when Debbie got home?
- 19 A We ate and did what we normally do. Probably watched (
- 20 Netflix.
- 21 Q Both of you all slept at the apartment that night?
- 22 A Oh, yes, sir.
- 23 Q And what, if anything, did you have to do the next
- 24 morning?
- 25 A I went to the doctor's office, Milestone Family

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 Medicine. And it was after that appointment was when I
2 started getting phone calls from neighbors that Myranda
3 never showed up from work the next -- that night. And
4 called down to Florida to speak to Myranda's mother to see
5 if she, Myranda, had called Abby and wished her a happy
6 birthday and she hadn't yet. And this was probably 11:00
7 a.m.

8 Q And who was the neighbor? Was it Searcy?

9 A Yes, ma'am.

10 Q Yes, ma'am?

11 A Or yes, sir. Sorry.

12 Q Searcy was the neighbor who Myranda was pretty close
13 with; is that right?

14 A Yeah. Lauren and Joyce. They were extremely close
15 with Myranda.

16 Q Did that immediately raise a red flag that her car
17 wasn't there that morning?

18 A Yeah. Joyce was the one that actually called me.

19 Q Okay. And you said that other people were saying that
20 she hadn't called to wish your daughter a happy birthday?

21 A Right. Penny -- Myranda's mom, Penny, when I had
22 called to wish Abby a happy birthday, had told me that
23 Myranda hadn't called yet.

24 Q So what's going through your head at this point?

25 A At that point a lot, because I thought maybe she had

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 just ran away for a day or two, kind of sneaked off for a
2 little bit. But then when she wouldn't even call her
3 daughter on her birthday that -- that's opposite of what
4 Myranda was.

5 Q Well, did you see any Face book posts from her that
6 day?

7 A The one you mean after the 18th and 19th?

8 Q Yeah.

9 A Yeah. Yes, sir. I did.

10 Q Let me show you -- let me show you State's No. 3.

11 MR. SCOTT: Can we cut these lights off, Mr. Bolt?

12 MR. BOLT: Can I see it?

13 MR. SCOTT: Can we cut this off?

14 MR. BOLT: Yes, sir.

15 MR. SCOTT: Can everybody see this?

16 (Whereupon, the jury responds in the affirmative.)

17 Q All right. Shawn, August 19th at 4:07 a.m. this was
18 posted. Did you see this as far as on her Face book page?

19 A I had friends. At that time me and Myranda weren't on
20 -- we weren't friends, but I had a friend that would screen
21 shot it and send it to me.

22 Q Was this interesting or --

23 A That's not Myranda.

24 Q What do you mean?

25 A Myranda would have never started out "so tired." It

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 would have been "I'm so tired that I don't care." She would
2 have had a comma in there. She was a grammar perfectionist.
3 In other words, she would cross Ts, dotted Is, used commas.

4 Q So it didn't sound like her to you is what you're
5 saying?

6 A Not at all.

7 Q All right. So that was significant to you when you saw
8 that?

9 A Yes. Yes. And especially the time-frame. I think you
10 can go back to all of Myranda's posts that she had and she
11 would have never posted at 4:07 in the morning.

12 Q So that would have been unlike her as well?

13 A That's -- all that's completely out of characteristic.
14 Yes, sir.

15 Q Let me show you State's No. 4. Did you see that one?

16 A Yes, sir. Yes, sir, I did. Now, that one is the
17 tell-tale. Myranda would have never ever used okay in
18 capital letters like that. She would actually probably
19 spelled it out. And then Savannah would have been
20 capitalized because it's a proper noun. And, I mean, she --
21 she is a very much -- like I'm not even sure I see a period
22 between ready and I love you. None of that is Myranda.

23 Q Well, I guess the point is it just didn't sound like
24 her.

25 A Yeah. And plus the fact that she's staying with

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 friends with Savannah. I've known Miranda for 20 years and
2 had been in a relationship with her for going on 10 and we
3 didn't know a soul in Savannah.

4 Q So that was significant to you as well?

5 A Yeah. The only reason why Savannah would have been
6 anywhere in Miranda's vocabulary was because that's where
7 when it was Mimi's week we would meet them in Savannah and
8 drop the kids off, and that's where we would pick them up
9 was Savannah.

10 Q Were you trying to call her during this time?

11 A Oh, I had called her numerous times, especially that
12 Monday. I called her so much that her phone just eventually
13 went straight to voice mail.

14 Q And were you texting her and everything else?

15 A Yeah. Yes, sir.

16 Q No response?

17 A No, none.

18 Q And were you aware about, I guess, some of these
19 financial difficulties Miranda was going through?

20 A Yes, sir.

21 Q Tell me about that.

22 A She was paycheck to paycheck, sometimes a little bit
23 behind.

24 Q You told me about something with some jewelry.

25 A She had to cover some bills, so she had pawned some of

SHAWN SOUTHERN: DIRECT EXAMINATION

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1 her -- or her wedding band.

2 Q She was behind on the rent?

3 A They -- about a week later, when I finally was able to
4 clear out the apartment from our stuff, they had just
5 written an eviction notice. On -- it would have been, I'm
6 guessing, the 16th she got paid with a bonus. So she had
7 more than enough to cover her bills. So she would have been
8 all right past that weekend.

9 Q But they had already started -- began the eviction
10 process?

11 A No, sir. When Myranda didn't pay that month and it
12 clicked back over nobody had heard anything from her,
13 including the apartment complex. So they just assumed write
14 the eviction notice.

15 Q When was it that you said you found out about Darrell?
16 I'm trying to build a calendar here.

17 A I think it was the 19th or the 20th when people were
18 really starting to wonder where Myranda was.

19 Q Now, wait a minute. Because you testified earlier
20 about finding out about him because there was some clean
21 sheets or something like that?

22 A Right. Well, that was earlier in the week.

23 Q What week? This week?

24 A Yeah. That was -- I don't know. The 13th or 14th.
25 Probably the 14th.

SHAWN SOUTHERN: DIRECT EXAMINATION

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- 1 Q I failed to mention this, but sometime in here you
2 mention to Myranda that Deborah, your other girlfriend, had
3 gotten pregnant; is that right?
- 4 A Yeah. But I didn't tell her that until later on in
5 that week. I had already known about --
- 6 Q What week? You can't just say that week. There's four
7 weeks here. Which week? Which week? You got to --
- 8 A Okay.
- 9 Q Which week?
- 10 A We're talking about the 13th, 14th or 15th week.
- 11 Q That's when you --
- 12 A Closer to probably the 15th or the 16th of that week.
- 13 Q That's when you told her Deborah was pregnant?
- 14 A Uh-huh.
- 15 Q How did she take that?
- 16 MR. ABLE: You said uh-huh.
- 17 THE COURT: You need to verbally answer instead of --
- 18 Q That's a yes or no?
- 19 A Yes, sir.
- 20 Q Tell me one more time. 15th or 16th?
- 21 A We'll shoot 15th.
- 22 Q How did she take that?
- 23 A Not very well.
- 24 Q It upset her?
- 25 A Oh, yes, sir.

SHAWN SOUTHERN: CROSS-EXAMINATION

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1 Q But it was after that that you all, I guess, had made
2 up to some degree, because on the 18th she's speaking with
3 you on the phone and she brings you coffee and cigarettes
4 during a break; is that right?

5 A On the 18th. Yes, sir.

6 Q And you're married to Deborah Nulph now; is that right?

7 A That's correct.

8 Q She's Deborah Southern?

9 A Correct.

10 Q And you all have a child together?

11 A Correct.

12 MR. SCOTT: Thank you, Shawn. Answer anything Mr. Able
13 has for you. Okay?

14 THE WITNESS: Okay.

15 THE COURT: Cross-examination, Mr. Able?

16 MR. ABLE: Thank you.

17 CROSS-EXAMINATION

18 BY MR. ABLE:

19 Q Mr. Southern, you and Myranda were never divorced?

20 A No, sir.

21 Q And it was during that time proceeding August 2013 you
22 had been living with Deborah for about a year?

23 A Oh, no, sir. No, sir.

24 Q When did you and she move in together?

25 A Officially moved in was probably a week or two before

SHAWN SOUTHERN: CROSS-EXAMINATION

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- 1 the 19th.
- 2 Q But you moved into --
- 3 A I was in and out.
- 4 Q Well, for about that year you were back and forth,
- 5 weren't you?
- 6 A Well, I had my toothbrush at Myranda's house. So if
- 7 that helps you out where I was permanently living. I mean,
- 8 I -- my mail was still coming to Myranda's house.
- 9 Q So, I mean, you were spending the night over -- with
- 10 Deborah?
- 11 A Uh-huh.
- 12 Q You have to say yes or no.
- 13 A Yes, sir.
- 14 Q Okay. And how long had you been spending those nights
- 15 at Deborah's apartment?
- 16 A Probably six, seven, eight months. Somewhere in there.
- 17 Q Okay. And then you would -- I believe you would go
- 18 back home, getting the kids ready for school, things like
- 19 that in the morning?
- 20 A No, at night, because Myranda worked at night.
- 21 Q Okay. That's right. And you would go and keep the
- 22 kids while she worked at night?
- 23 A Uh-huh.
- 24 Q You have to say yes or no.
- 25 A Yes, sorry.

SHAWN SOUTHERN: CROSS-EXAMINATION

183

1 Q We're recording here. Okay? So you're back and forth
2 between Myranda and Deborah, but you consider Myranda's home
3 to be your place of residence?

4 A I would -- if anybody would ask me where I would have
5 lived at that point, yes, I would have said I lived over
6 there.

7 Q Okay. During that time -- and I want to use your
8 words. But when you were interviewed in this case you
9 described your relationship -- your and Myranda's
10 relationship -- and I won't say the word, but F'd.

11 As F'd up, wasn't it?

12 A Yeah.

13 Q That's what you said?

14 A Uh-huh.

15 Q Our relationship is pretty F'd up?

16 A Uh-huh.

17 Q You have to say yes or no.

18 THE COURT: You have to say yes or no instead of making
19 a sound.

20 A Yes, sir.

21 Q And talking about that week, the week of the 11th,
22 Sunday the 11th, you described that as a pretty rough week
23 for you and Myranda?

24 A Yes, sir.

25 Q Because that's the week that you had informed Myranda

SHAWN SOUTHERN: CROSS-EXAMINATION

184

- 1 that your girlfriend, Deborah, was pregnant?
- 2 A Yes, sir.
- 3 Q And you still had a key? You had a key to both
- 4 apartments, didn't you?
- 5 A Up until probably Tuesday or Wednesday of that week.
- 6 Q The week of the 11th?
- 7 A The week of the 12th through the 16th.
- 8 Q So sometime during that week?
- 9 A Yeah. I believe it was Wednesday or Tuesday I gave the
- 10 key back to her.
- 11 Q Now, you had -- the manner by which you informed your
- 12 wife that your girlfriend was pregnant, you called her on
- 13 the phone?
- 14 A No. That would have been a conversation I think me and
- 15 her would have had face to face.
- 16 Q Well, wasn't it when you had talked to her on the phone
- 17 and said that didn't she leave work to come find you? Isn't
- 18 that when you all had the big argument?
- 19 A No. That was when I found all of the clean sheets and
- 20 called her and said you've had somebody here, so I'm going
- 21 to leave your key on the bar and walk out.
- 22 Q Anyway, when you told Myranda Deborah is pregnant she
- 23 got very upset?
- 24 A Yes, sir.
- 25 Q And you used words to describe her at that time when

SHAWN SOUTHERN: CROSS-EXAMINATION

185

1 you told her as explosive?

2 A I don't get what you mean.

3 Q You said that she got mad enough to -- you used the
4 words -- said she'd been crying, she was explosive,
5 hysterical?

6 A Yes, sir.

7 MR. ABLE: One moment, Your Honor.

8 THE COURT: Sure.

9 Q Now, when was the occasion that you broke her
10 telephone?

11 A I don't remember the exact date.

12 Q Well, that was after an argument you and she had?

13 A Yes, sir.

14 Q That was -- that was -- before you broke her phone you
15 and she had had an argument, and I believe that's when you
16 found out she had a boyfriend and you went over to the
17 apartment and took the television?

18 A Yes, sir. But I think I broke her phone after that.

19 Q That's right. And that's what I'm saying. You took
20 the television. You called her and said I'm not coming back
21 here. She left work to come find you?

22 A Correct. No, she came back to work. She didn't have
23 to find me. She went back to her apartment.

24 Q And that's where you were loading up the television?

25 A I was already gone.

SHAWN SOUTHERN: CROSS-EXAMINATION

186

- 1 Q And she came to Deborah's apartment?
- 2 A Uh-huh. Yes, sir.
- 3 Q And that's when you described her as hysterical and
- 4 explosive?
- 5 A Yes, sir.
- 6 Q And you had followed her to a parking lot and reached
- 7 in her car window and grabbed her phone, correct?
- 8 A Yes, sir.
- 9 Q And took it and threw it to the ground?
- 10 A Yes, sir.
- 11 Q Now, you had asked Myranda many, many times for a
- 12 divorce, correct?
- 13 A Not that my knowledge is, no.
- 14 Q You asked her for a divorce?
- 15 A To my knowledge, no.
- 16 Q You never asked her for a divorce?
- 17 A No.
- 18 MR. ABLE: Again, Your Honor, one moment, please.
- 19 THE COURT: Sure.
- 20 Q Now, you knew the password to Myranda's laptop,
- 21 correct?
- 22 A No, sir.
- 23 Q You didn't know the password to her laptop?
- 24 A No, sir.
- 25 Q And when you found out from Lauren, when Lauren called

SHAWN SOUTHERN: REDIRECT EXAMINATION

187

1 you and said that Myranda hadn't come home, you went
2 straight to Florida to pick up your kids, correct?

3 A Lauren never told me that Myranda came straight home.

4 Q But you left and went straight to Florida to pick up
5 your children?

6 A The next day. Yes, sir.

7 Q The 19th or the 20th?

8 A The 19th.

9 Q So she worked -- Myranda worked on Sunday evening?

10 A Yes, sir.

11 Q From 3:00 to midnight?

12 A Yes, sir.

13 Q And the 19th would have been the Monday of that week?

14 A Yes, sir.

15 Q And you left on the 19th to go back and go to Florida
16 to pick up your children?

17 A Yes, sir.

18 Q And your mother-in-law wouldn't let you have the
19 children?

20 A No, sir.

21 MR. ABLE: Thank you. That's all I have, Your Honor.

22 THE COURT: Anything on redirect, Solicitor?

23 REDIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q 'Did you have any knowledge of anybody doing any work on

DEBORAH SOUTHERN: DIRECT EXAMINATION

188

1 Myranda's laptop?

2 A She had told me that --

3 MR. ABLE: Objection to the --

4 THE COURT: Sustained.

5 Q Do you have any personal knowledge other than her
6 telling you something?

7 A No, sir.

8 MR. SCOTT: That's all. Thank you, Your Honor.

9 THE COURT: Thank you for your testimony, sir. You can
10 step down. You're free to leave or you're welcome to remain
11 with us.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. SCOTT: The State calls Deborah Nulph Southern.

15 DEBORAH NULPH SOUTHERN, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SCOTT:

19 Q What's your name?

20 A Deborah Southern.

21 Q Deborah, you are married to Shawn Southern?

22 A Yes, I am.

23 Q When did you all get married?

24 A July of 2014.

25 Q Do you remember August of 2013?

DEBORAH SOUTHERN: DIRECT EXAMINATION

189

1 A Uh-huh.

2 MR. ABLE: Is that yes?

3 THE WITNESS: Yes.

4 THE COURT: You need to give verbal answers, either yes
5 or no.

6 THE WITNESS: Yes.

7 Q And how are you able to remember that, that month and
8 that year?

9 A That was the year that -- or that was the month that
10 Myranda was murdered.

11 Q Did you know Myranda?

12 A Very little.

13 Q She was at the time Shawn's, I guess, separated wife?

14 A Yes, sir.

15 Q And where was he living at that time?

16 A He was living with me.

17 Q Had he fully moved into your place?

18 A Uh-huh. Yes.

19 Q But did he have other items at the other -- Myranda's
20 place?

21 A Yes.

22 Q But during the nighttime where would he sleep?

23 A With me.

24 Q Was he working at the time?

25 A He had just gotten a job at Comfort Inn.

DEBORAH SOUTHERN: DIRECT EXAMINATION

190

- 1 Q Where?
- 2 A At Comfort Inn.
- 3 Q Oh, okay. And his two children with Myranda, who was
- 4 watching them while she was at work?
- 5 A He was.
- 6 Q And where would he watch them?
- 7 A At her house.
- 8 Q So he would go over back to the place he used to live
- 9 with Myranda, watch the children while she was at work --
- 10 A Yes, sir.
- 11 Q -- and then when she would get home from work he would
- 12 do what?
- 13 A He would come back.
- 14 Q To your place?
- 15 A Yes, sir.
- 16 Q You had met Myranda in person before?
- 17 A Yes.
- 18 Q And how had that gone?
- 19 A As well as you would think.
- 20 Q When did you find out you were pregnant, when you and
- 21 Shawn got pregnant together?
- 22 A I can't remember the exact date. I took a pregnancy
- 23 test, a home pregnancy test, and I got a positive. But I
- 24 wasn't actually able to go to the doctor until three weeks
- 25 later. So --

DEBORAH SOUTHERN: DIRECT EXAMINATION

191

1 THE COURT: Ms. Southern, you need to sit a little
2 closer to that microphone, please. I'm having a hard time
3 hearing you.

4 THE WITNESS: Okay.

5 THE COURT: Thank you.

6 A Is that better?

7 Q That's better. Just speak up so everybody can hear
8 you.

9 A Yes, sir.

10 Q And was it in August of 2013, sometime this month?

11 A It was -- I found out I was pregnant before August.
12 Probably near the end of July.

13 Q Do you remember when Myranda went missing?

14 A I remember the call was Monday morning. That's when
15 she didn't come home from work.

16 Q Monday August 19th?

17 A 19th.

18 Q Do you remember the night before?

19 A I do.

20 Q And you had to speak with investigators about that,
21 right?

22 A I did.

23 Q They interviewed you shortly after she went missing; is
24 that right?

25 A Yes, they did.

DEBORAH SOUTHERN: DIRECT EXAMINATION

192

1 Q Tell me what was going on that you remember on Sunday
2 the 18th. What do you remember about that day and night?

3 A I mean, it was a regular Saturday. I was working that
4 night. When I got back from dropping Shawn back at home we
5 probably spent the -- together. I had to be at work at
6 3:00. Went to work. Talked to him on my break. Came home.
7 I think I went to Taco Bell that night on the way home.

8 Q Back up. So you were working where?

9 A The Westin Poinsett.

10 Q Downtown Greenville?

11 A Yes, sir.

12 Q And what was your shift?

13 A It was 3:00 to 11:00.

14 Q 3:00 p.m. to 11:00 p.m.?

15 A Yes, sir.

16 Q How did you get from Taylors, where you lived, over to
17 Greenville?

18 A I usually would take Wade Hampton.

19 Q I mean, but drive?

20 A Yes, I drove.

21 Q What kind of car did you drive?

22 A A CRV.

23 Q And did Shawn have a car?

24 A He had one that him and Myranda shared, but she --

25 Q Where was that car that night?

DEBORAH SOUTHERN: DIRECT EXAMINATION

193

1 A She had it.

2 Q At Charter?

3 A Yes.

4 Q So where was he when you went to work?

5 A He was at our apartment.

6 Q You left him at your apartment?

7 A Yes.

8 Q And then drove to the Westin?

9 A Yes.

10 Q At 3:00 p.m.?

11 A Uh-huh.

12 Q Did you have a break?

13 A I did, yeah.

14 Q What did you do during your break?

15 A I called him, and then I ate.

16 Q You ate there at the Westin?

17 A Uh-huh. Yeah.

18 Q And you got off at 11:00 p.m.?

19 A I did.

20 Q And where would you have gone after that? You said

21 Taco Bell?

22 A Yeah. I had been craving Taco Bell the whole day. So

23 I went to Taco Bell and then I went home.

24 Q And did you pick anything up for Shawn?

25 A I did.

DEBORAH SOUTHERN: DIRECT EXAMINATION

194

1 Q So you took the Taco Bell from Greenville and drove it
2 back to Taylors and ate with Shawn there?

3 A I did.

4 Q At the apartment?

5 A Yes.

6 Q What did you all do after that?

7 A Watched TV probably for a few hours.

8 Q And so, if you got home -- you got off work at 11:00
9 and went to Taco Bell what time would you have gotten home?

10 A Probably around 11:30, 11:40.

11 Q And then you all ate dinner after that?

12 A Yeah.

13 Q And you said you watched some TV?

14 A Yeah.

15 Q So what time would you have gone to bed approximately?

16 A It was late that night. I mean, he wasn't really
17 feeling well that whole weekend, so we probably went --
18 initially went to bed around 12:00 or 1:00. 12:30, 1:00.

19 Q Midnight to 1:00?

20 A Yeah.

21 Q And then the next morning, the morning of the 19th,
22 tell me what you remember about that morning.

23 A Shawn went to the doctor, and then after he got back
24 from the doctor we were just talking about Abby's birthday.
25 He was going to make a call. They were going to do a call

DEBORAH SOUTHERN: CROSS-EXAMINATION

195

1 together to Abby for her birthday. And then he got a call
2 from Joyce saying that Myranda never came home the night
3 before.

4 Q And then eventually you all had to -- did you all file
5 a missing person's report, or had that already been done?

6 A He did it, yeah.

7 MR. SCOTT: Deborah, answer any questions Mr. Able has
8 for you.

9 THE WITNESS: Yes, sir.

10 THE COURT: Mr. Able, any cross-examination?

11 MR. ABLE: Yes, sir. Thank you.

12 CROSS-EXAMINATION

13 BY MR. ABLE:

14 Q Ma'am, you and Shawn had been living together about a
15 year up to this time; is that correct?

16 A About.

17 Q Ma'am?

18 A Yes, about.

19 Q About a year --

20 A Uh-huh.

21 Q -- prior to this?

22 A Yeah. Not quite a year yet, but yeah.

23 Q And, of course, he was still married to Myranda?

24 A Yes, sir.

25 Q And it was kind of a back and forth thing with Shawn,

DEBORAH SOUTHERN: CROSS-EXAMINATION

196

- 1 correct? He had left you three or four times to go back to
2 Myranda, and leave there and come back to you, correct?
- 3 A Yes.
- 4 Q And he was primarily sleeping in your apartment?
- 5 A Yes.
- 6 Q But I think he left most of his stuff over at Myranda's
7 apartment?
- 8 A Yes.
- 9 Q And there was always kind of a lot of drama with Mr.
10 and Mrs. Southern in their relationship, correct?
- 11 A A little bit.
- 12 Q They argued a lot?
- 13 A They -- yeah. A couple.
- 14 Q It was pretty standard that they argued?
- 15 A Yeah, they had argued, but -- yeah.
- 16 Q And you and Shawn, of course, have a baby now?
- 17 A Yeah.
- 18 Q And you had conceived that child sometime during 2013?
- 19 A Yes.
- 20 Q And you were pregnant with that baby at the time this
21 event occurred?
- 22 A Yes.
- 23 Q And Shawn had told his wife about your pregnancy?
- 24 A Yes.
- 25 Q Do you know how he told her?

DEBORAH SOUTHERN: CROSS-EXAMINATION

197

1 A I'm not sure.

2 Q Now, Shawn got very upset when he found out Myranda had
3 a boyfriend, correct?

4 A He was upset.

5 Q He was upset enough to go over to her apartment and
6 take stuff out of the apartment, correct?

7 A Yes.

8 Q Now, after that he had brought the television and other
9 stuff to where you and he were living together?

10 A Yes.

11 Q And Myranda met him there?

12 A Yes.

13 Q And they argued?

14 A Yes.

15 Q And that's the occasion when she had driven off and he
16 broke her cell phone?

17 A Yes.

18 Q Now, after the Sunday of the 18th when Myranda worked,
19 you and Mr. Southern went straight on the 19th to Florida to
20 try to pick up his kids, correct?

21 A We did.

22 Q And they weren't scheduled to come back until, I
23 believe, the 20th?

24 A The next day, yes.

25 Q Tuesday the 20th?

DEBORAH SOUTHERN: REDIRECT EXAMINATION

198

1 A Uh-huh.

2 Q So he had been informed that his wife was missing, and
3 rather than stay in Greenville to see what help he could
4 provide there he went straight to Florida with you to get
5 the children?

6 A Yes.

7 Q And that was the occasion that his mother-in-law
8 wouldn't allow him to take the children, correct?

9 A Yes.

10 MR. ABLE: That's all I have, Your Honor.

11 THE COURT: Anything on redirect, Solicitor?

12 MR. SCOTT: Yes, sir.

13 REDIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q I think you all -- explain why did you all feel the
16 need to go down to Florida to get the kids at that point?

17 A Because he was worried about what was going on with
18 Myranda and he wanted to make sure the kids were with him.

19 Q Were you privy to this Face book post that came from
20 her account?

21 A I wasn't friends with her on Face book. I heard about
22 them from Shawn.

23 Q Okay. And, of course, you knew when Abigail's birthday
24 was, didn't you?

25 A I did.

DEBORAH SOUTHERN: REDIRECT EXAMINATION

199

1 Q And you knew that she hadn't called to wish her a happy
2 birthday?

3 A Yeah, I knew that..

4 Q And did you know she wasn't answering her phone?

5 A I did know.

6 Q So did all that come into play in wanting to get those
7 kids safe and in you all's hands as quick as possible?

8 A It did. Shawn knew that that was really out of
9 Miranda's character and was just very worried and --

10 Q Something was up?

11 A Yeah. And like any man would, wanted to make sure he
12 had the rest of his family there with him.

13 MR. SCOTT: Thank you.

14 THE COURT: Recross?

15 MR. ABLE: No, sir.

16 THE COURT: Thank you for your testimony, ma'am. You
17 can step down. You're free to leave the courthouse or
18 you're welcome to remain with us.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 MR. SCOTT: Investigator Hoover, Your Honor, with the
22 Greenville Sheriff's Department.

23 THE COURT: Okay.

24 SERGEANT DEVIN HOOVER, having first
25 been duly sworn, testified as follows:

CHRISTIAN YATES: DIRECT EXAMINATION

210

1 supposed to get off?

2 A Around midnight.

3 MR. SCOTT: Thank you, Investigator.

4 THE COURT: Cross-examination, Mr. Able?

5 MR. ABLE: None, Your Honor.

6 THE COURT: Thank you for your testimony, sir. You can
7 step down. You're certainly free to leave the courthouse or
8 you're welcome to remain with us.

9 THE WITNESS: Thank you, sir.

10 THE COURT: Thank you.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 MR. SCOTT: Christian Yates, Your Honor.

14 THE COURT: Christina or Christian?

15 MR. SCOTT: It's Christian.

16 THE COURT: I've got a Christina on my list, but it
17 should be Christian?

18 MR. ABLE: I think it's Christian.

19 MR. SCOTT: I've got it spelled two different ways. I
20 think her mom said Christian.

21 CHRISTIAN YATES, having first been
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q Would you please state your name for the record?

CHRISTIAN YATES: DIRECT EXAMINATION

211

1 A Christian Yates.

2 Q Christian. Would you spell that?

3 A C-h-r-I-s-t-I-a-n.

4 Q Okay. And you sometimes go by Nikki; is that correct?

5 A Yes.

6 Q Ms. Yates, do you remember August of 2013?

7 A Yes, sir. I do.

8 Q And where were you living at the time?

9 A Bramlett Church Road in Greenville.

10 Q Let me show you State's No. 9 which has been admitted
11 into evidence.

12 THE COURT: Did you say 9 as been admitted into
13 evidence?

14 MR. SCOTT: Yes, sir. Through stipulation we've agreed
15 that 9 will be -- a photo that was agreed upon, was my
16 understanding.

17 THE COURT: Is that correct, Mr. Able, 9 is --

18 MR. ABLE: Yesterday prior to trial stipulations were
19 made for certain photographs.

20 THE COURT: Is that 6 through 11 that's been agreed to?
21 Take a look just to make sure.

22 MR. ABLE: Yes, sir. I've looked at them during the
23 break. Yes, sir.

24 THE COURT: 6 through 11, by way of agreement, are into
25 evidence on behalf of the State.

CHRISTIAN YATES: DIRECT EXAMINATION

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1 (Whereupon, State's Exhibit Nos. 6 through 11 were
2 admitted.)

3 Q Let me show you State's Exhibit 9. Do you recognize
4 this?

5 A Yes, sir. I do. That's right next to my house.

6 Q And in looking at this house, or looking at this
7 picture, what are these outbuildings over here?

8 A That's our two buildings that we keep our mowers and
9 cans in.

10 Q Say that one more time?

11 A That's our buildings that we keep miscellaneous things,
12 like a lawnmower, cans. Just miscellaneous things..

13 Q Where is your house in this picture?

14 A The address post is right there in the picture. We are
15 on the right next to that.

16 Q It's just off screen?

17 A Just off screen. Yes, sir.

18 Q And then what is this area right here?

19 A My mother had a trailer. My mother and my step-father
20 had a trailer there and they had recently moved it. That's
21 just the empty piece of our property.

22 Q Is that how it looked in August 2013?

23 A Yes, sir.

24 Q And then if we go to this side over here just off of
25 the screen here, what would be over here?

CHRISTIAN YATES: DIRECT EXAMINATION

213

1 A A two-story red and white house that had been vacant
2 for -- since before I was born.

3 Q Tell me about the week --

4 MR. SCOTT: We can cut the lights back up.

5 Q The week of the 18th here. Tell me about that field
6 and what was going on out in that field that week.

7 A Sunday night into Monday morning, which was the 18th
8 into the 19th, around 1:30 -- 1:00, 1:30 in the morning, I
9 had got woken up to two gunshots that sounded like they were
10 right next to my bedroom window. And then I got up. I
11 looked out my bedroom window, which is directly at that
12 field. I didn't see anything because it was dark outside.
13 I didn't pay it much attention. I was half asleep, and I
14 went back to bed. That Wednesday --

15 Q So wait. The 18th and into the 19th you said 1:00 and
16 1:30 you hear two gunshots?

17 A Yes, sir.

18 Q So you hear the gunshots between 1:00 and 1:30. Is it
19 dark outside at that point?

20 A Yes, sir.

21 Q And you look out and you don't see anything?

22 A I didn't see anything at all. We had a nightlight that
23 was put at the front of that property, but it doesn't show
24 -- the light doesn't shine all the way back.

25 MR. ABLE: Without objection.

CHRISTIAN YATES: DIRECT EXAMINATION

214

1 Q Okay. I've got another -- let me show you State's 13.
2 this might be able to help us out a little bit. Do you
3 recognize this?

4 A Yes, sir. I believe that's an overview of my land,
5 plus the road to my house.

6 MR. SCOTT: Now the State's going to offer 13. State's
7 13.

8 THE COURT: And that's without objection. 13 into
9 evidence on behalf of the State.

10 (Whereupon, State's Exhibit No. 13 was admitted into
11 evidence.)

12 Q Can you see that, Christian?

13 A Yes, sir. I can.

14 Q Show the jury where your house would be.

15 A Right here.

16 Q And then if we're looking at the projected screen up
17 there it would be just off to the right?

18 A Correct.

19 Q And then where's the field?

20 A Right here.

21 Q And then the other house right there to the left. That
22 is a vacant house?

23 A It was at the time.

24 Q So about 1:00, 1:30 a.m. on the 19th you hear gunshots.
25 Where's your -- tell me where your bedroom is on this house?

CHRISTIAN YATES: DIRECT EXAMINATION

215

1 A Right here.

2 Q This back corner?

3 A On the back corner. Yes, sir.

4 Q So you would have had a -- you would have been able to
5 look out at the field?

6 A Yes, sir.

7 Q You didn't see anything?

8 A I didn't see anything at all. Like I said, it was
9 dark.

10 Q Okay. And so, the next day -- you were going forward
11 to the Wednesday after that.

12 A Right, correct.

13 Q So you're talking about Wednesday the 21st?

14 A The 21st.

15 Q What happened then?

16 A A man that was friends with my grandfather, Mr. Jerry
17 Williams, Sr., called my house and said that he was coming
18 bush hog that --

19 MR. ABLE: Objection to the hearsay, Your Honor.

20 THE COURT: Don't repeat what this particular
21 individual said. Sustained.

22 A Do you want me to continue?

23 Q Yeah. Just don't say what he said.

24 A Okay. He come to bush hog that part of our property
25 because we'd let it grow up for a year after they moved the

CHRISTIAN YATES: DIRECT EXAMINATION

216

1 trailer from the land.

2 Q And did you speak with him after he bush hogged?

3 A No, sir. I didn't.

4 Q Did somebody in your family speak with him?

5 A My grandmother.

6 Q Did you do anything as a result of that conversation?

7 A No, sir.

8 Q What about the next day, Thursday the 22nd?

9 A Thursday the 22nd I was at home and received a phone
10 call from Mr. Jerry's wife, Cindy Williams, stating that she
11 needed my mother's cell phone number --

12 MR. ABLE: Judge, there again --

13 THE COURT: Yeah. Can't repeat what this person told
14 you over the phone. If it falls under some hearsay
15 objection. I don't know. I'm not trying to --

16 MR. SCOTT: It's just not being offered for the truth
17 of the matter asserted. She's saying -- I think if we could
18 let it progress along a little bit and then if it becomes
19 objectionable.

20 THE COURT: All right. You may proceed.

21 Q There was a phone call you got?

22 A Correct.

23 Q And did that make you do anything?

24 A Yeah. My mother -- I had to get in touch with my
25 mother. She called me back and told me that something had

CHRISTIAN YATES: DIRECT EXAMINATION

217

1 been found outside of our property. That I needed to call
2 police.

3 Q This was on the 22nd?

4 A This was on the 22nd, correct.

5 Q Did you go investigate?

6 A I did not.

7 Q And at some point did you go investigate?

8 A That was Friday the 23rd.

9 Q 23rd. Did you walk out into the field there?

10 A Yes. Me and my boyfriend did.

11 Q Go ahead. The 23rd what did you do?

12 A I just -- I went to -- was at home, and brought my work
13 at home with me. And we got in my car and walked
14 immediately down to that part of our field. He walked in
15 front of me. We walked directly down there. Got about, I
16 want to say -- But we found what was a human body, and that
17 was it. We called --

18 Q Called 911?

19 A Yes, sir.

20 Q And this was Friday the 23rd. Now, I'll affirm that's

21 State's 13. Here's your house. Here's the vacant house.

22 Here's the field. Show us, I guess, about where the --
23 where you saw the body.

24 A Right in that area, around about.

25 Q At that point you called police and the police came out

CHRISTIAN YATES: CROSS-EXAMINATION

218

1 there and found it?

2 A Correct.

3 Q I think that's all, Ms. Yates. But I just want to
4 clarify it was 1:00 to 1:30 you heard the gunshots?

5 A Correct.

6 Q On the 23rd is when you walked out there and then
7 called the police about finding the body?

8 A Yes, sir.

9 MR. SCOTT: Answer any questions Mr. Able has for you,
10 please.

11 THE COURT: Mr. Able, any cross-examination?

12 MR. ABLE: Thank you, sir. Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. ABLE:

15 Q How are you this morning?

16 A I'm fine. How are you?

17 Q Good. Good. Do you remember when we previously met?

18 A Yes, sir.

19 Q And I want to ask you some questions about what you
20 just testified to and what we talked about that day I came
21 out and met you. Now, August 23rd, that was not the first
22 day you had called law enforcement, correct?

23 A No, sir. It was not.

24 Q You called law enforcement on August 22nd, the day
25 before, that Thursday, about something being in that field,

CHRISTIAN YATES: CROSS-EXAMINATION

219

1 correct?

2 A Correct.

3 Q And you located -- when you had the laser, it was
4 somewhere right in here; is that correct?

5 A Yes, sir.

6 Q Now, this property, this is Bramlett Church Road.

7 This is, I think, technically Bramlett Church Road.

8 A Yes, sir.

9 Q And are both these properties owned -- I think owned by
10 your grandmother?

11 A They're owned by my grandmother, correct.

12 Q And you were staying there with her. Living there with
13 her at the time --

14 A Correct.

15 Q -- back on August of 2013?

16 A Yes.

17 Q And your bedroom was right here in this corner?

18 A Yes, sir.

19 Q And you have a window facing right out over here to

20 What we refer to as the field. You have a window
21 right there looking out that way?

22 A Yes, sir.

23 Q Now, this Bramlett Church Road right here, it's up in
24 Gray Court?

25 A Yes, sir.

CHRISTIAN YATES: CROSS-EXAMINATION

220

- 1 Q And it's off -- if you go this way -- I don't know if
2 there's a directional. I don't see it. But if you go
3 travel to the left of this you go up to 101?
- 4 A Highway 101. Yes.
- 5 Q And Highway 101, I think, if you turn left it goes down
6 to the interstate?
- 7 A Correct.
- 8 Q And right there at the end of Highway 101 is Haywood's
9 Store?
- 10 A It's Kellett's Quick Stop.
- 11 Q Kellett's. That's right. I'm sorry. That's right.
12 Kellett's Quick Stop?
- 13 A Yes, sir.
- 14 Q Right there -- right at the intersection?
- 15 A Yes, sir.
- 16 Q Now, on August 22nd you called 911 and a deputy came
17 out to the house, correct?
- 18 A Correct.
- 19 Q And Laurens County Sheriff's Office?
- 20 A Correct.
- 21 Q And the deputy came to the house or did he come out to
22 the field?
- 23 A He come to the house.
- 24 Q Okay. He came to the house and you all explained that
25 there was something out in the field?

CHRISTIAN YATES: CROSS-EXAMINATION

221

1 A Correct.

2 Q And he didn't go over there and look, did he?

3 A No, sir. He did not.

4 Q Did he get out of the car?

5 A He got out of the car and met me on the sidewalk that
6 you see in front of the house there.

7 Q Right here?

8 A Yes, sir. He told me that it was just a -- it was
9 probably just a Halloween prank. Not to pay it no mind.

10 That they would up patrol in the area, and he left.

11 Q That was in August?

12 A That was in August.

13 Q Yeah, it wasn't Halloween.

14 A I know. But I'm just saying what he told me.

15 Q The officer was there for about five minutes?

16 A Correct.

17 Q And this was after you had called and said you had
18 concern about something over in the field right next to your
19 house?

20 A Yes, sir.

21 Q Now, the next day on the 23rd, that's when you called,
22 and you and your boyfriend, Bo, had walked over there and
23 found what you found?

24 A Yes, sir.

25 Q And at that time that's when law enforcement came back?

CHRISTIAN YATES: CROSS-EXAMINATION

222

- 1 A Correct.
- 2 Q So from the 22nd to the 23rd the body had been laying
- 3 out there for that day, that night?
- 4 A Yes, sir.
- 5 Q You don't have any idea as to how long that body has
- 6 been --
- 7 A I have no idea whatsoever.
- 8 Q You mentioned a moment ago that you were awoken by
- 9 gunshots?
- 10 A Correct.
- 11 Q And you kind of got right up --
- 12 A Yes, sir.
- 13 Q -- from your bed here at the corner of the house, and
- 14 you looked out into this field?
- 15 A Correct.
- 16 Q And you couldn't see anything?
- 17 A I couldn't see anything.
- 18 Q It was very dark?
- 19 A It was very dark on the back piece of that property.
- 20 Q Right. I believe there's a yard light somewhere up in
- 21 here?
- 22 A There's one in the back of our house and then one in
- 23 the front of
- 24 Q So this field is pretty dark?
- 25 A Pretty dark.

CHRISTIAN YATES: CROSS-EXAMINATION

223

1 Q And at the time on the 23rd the property had recently
2 been bush hogged?

3 A Correct.

4 Q And prior to it being bush hogged that grass was pretty
5 -- pretty high.

6 A It was knee high.

7 Q At least knee high, wasn't it?

8 A Yes, sir.

9 Q Now, so you looked out your window and you couldn't see
10 anything?

11 A No, sir.

12 Q Now, the window here, you pretty much have a complete
13 view of that field other than maybe back here where this
14 tree line is, and you have a complete view in front of the
15 field as far as Bramlett Church Road, correct?

16 A Correct.

17 Q And you didn't see -- when you got up -- you heard
18 gunshots. You jumped up. You looked out the window and you
19 didn't see anybody in that field?

20 A I didn't see anybody.

21 Q And you -- like I said, from your window here you can
22 see down to Bramlet Church Road. You didn't see a vehicle
23 on that road?

24 A No, sir.

25 Q You didn't see any car lights or anything like that?

CHRISTIAN YATES: CROSS-EXAMINATION

224

1 A No, sir.

2 Q And this was right after you heard the gunshots?

3 A Yes, sir.

4 Q Now, did you see any kind of lighting? A flashlight or
5 anything over in the field that night?

6 A No, sir. I did not.

7 Q And again, like I said, I think the yard light is
8 somewhere behind your house here?

9 A Correct. It's more up towards the back. Closer to the
10 back of the house.

11 Q And at that time in the morning, 1:00, 1:30 in the
12 morning, it would be very difficult, knee high grass, for
13 somebody to get into that field and walk around, correct?

14 A Yes, sir.

15 Q And it's really dark?

16 A It's dark. Yes, sir.

17 Q And so, you didn't see any lights or anything like
18 that?

19 A No, sir.

20 Q Now, this field, it's kind of hard from this two
21 dimensional photograph, but it kind of -- from the road it
22 kind of slopes down to the right down to this tree line,
23 doesn't it?

24 A Yes, sir.

25 Q Kind of goes down this way --

CHRISTIAN YATES: REDIRECT EXAMINATION

225

1 A Yes, sir.

2 Q -- from the road. And right up here at the road
3 there's kind of a gully right here and it kind of humps up
4 and goes down again, right?

5 A Yes, sir.

6 Q So there's no -- there's no driveway or anything like
7 that right there?

8 A Not in the back. No, sir.

9 MR. ABLE: That's all I have of this witness, Your

10 Honor. Thank you.

11 THE COURT: Any redirect, Solicitor?

12 MR. SCOTT: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q But you do have this driveway right here, don't you?

16 A Correct. That's to yes.

17 Q Is that an abandoned house there?

18 A The other driveway is to the abandoned house.

19 Q This one?

20 A Yes, sir.

21 Q Oh, so this driveway --

22 A Was put there --

23 Q -- was assigned to this lot?

24 A Yes, sir.

25 Q And you can freely drive an automobile through here?

CHRISTIAN YATES: REDIRECT EXAMINATION

226

1 A Yes, sir.

2 Q Likewise, you could park back in here?

3 A Correct.

4 Q Do these trees at all block your view looking out that
5 way?

6 A Barely, but they do in a way. Yes, sir.

7 Q But you are -- you are certain, you told law
8 enforcement, it was the morning of the 19th between 1:00 and
9 1:30 a.m. that you heard those gunshots?

10 A Yes, sir. I'm certain.

11 MR. SCOTT: Thank you.

12 THE COURT: Any recross?

13 MR. ABLE: One moment, Your Honor.

14 THE COURT: Sure. Take your time.

15 MR. ABLE: That's all I have, Your Honor.

16 THE COURT: Thank you, ma'am, for your testimony.

17 THE WITNESS: Thank you.

18 (Whereupon, the witness stepped down from the witness
19 stand.)

20 MS. BOYKIN: Your Honor, the State would call Tiffany
21 Hezel.

22 TIFFANY HEZEL, having been first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. BOYKIN:

TIFFANY HEZEL: DIRECT EXAMINATION

227

1 Q. Good morning, Ms. Hezel. If you could, please
2 just state your full name for the record.

3 A Tiffany Hezel, H-e-z-e-l.

4 Q Hezel, then. I'm sorry about that. Ms. Hezel, where
5 do you work?

6 A I'm working for -- at the South Carolina Law
7 Enforcement Division, commonly referred to as SLED.

8 Q And how often have you worked there?

9 A I've worked there since June of 2011.

10 Q And what's your position there?

11 A I'm a special agent in crime scene and latent prints.

12 Q Do you have any training for your working a crime
13 scene?

14 A Yes. I have a Bachelor of Science degree in criminal
15 justice with minors in chemistry and psychology from the
16 University of Wisconsin. I have a Master of forensic
17 science with a emphasis in technical investigations from the
18 University of Central Oklahoma. I am a nationally certified
19 medical legal death investigator, and I worked as a medical
20 legal death investigator in Memphis, Tennessee for four
21 years prior to my employment at SLED. I'm a state certified
22 law enforcement officer for South Carolina, and I'm also a
23 nationally certified crime scene analyst through the
24 International Association Of Crime Scene Analysts.

25 Q About how many crime scenes do you think you've been

TIFFANY HEZEL: DIRECT EXAMINATION

228

1 to?

2 A In the high 100s.

3 Q What do you do specifically at -- when you go to a
4 crime scene? What's your job when you get there?

5 A The first thing that I do when I arrive at a scene, I
6 talk with the local investigators who have already been
7 there and already secured the scene most of the time and
8 already kind of done an initial walkthrough. I will then do
9 my own walkthrough with those investigators to see kind of
10 what they have seen and kind of take the scene in everything
11 that I observed maybe that they haven't and just kind of
12 take in the whole picture. I will then document the scene
13 with photographs, take notes, measurements, and then we will
14 search and collect evidence. Sometimes we'll have to
15 process a scene, such as a vehicle or a house for additional
16 evidence, that may not be seen to the naked eye. We might
17 have to use chemicals or powders or something like that.

18 Q And were you working in August 2013?

19 A Yes.

20 Q And did you happen to become involved in the case of a
21 missing persons report of Myranda Southern?

22 A Yes, I was.

23 Q And if you wouldn't mind, just tell me a little bit
24 about how you became involved?

25 A On August 23rd I received word from my lieutenant at

TIFFANY HEZEL: DIRECT EXAMINATION

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1 the time, Deborah Cook, that the Laurens County Sheriff's
2 Office was requesting crime scene assistance as a deceased
3 person had been located within a grassy field area and that
4 the individual was in a state of decomposition. So Laurens
5 County was requesting us to come out to process the scene
6 and document accordingly.

7 Q And did you, in fact, go out there?

8 A Yes. Myself and Special Agent Brittany Burke responded
9 to the scene on Bramlett Church Road.

10 Q Do you know the exact address?

11 A The initial address, I was told, was However,
12 when we got there it was actually going to be within the
13 address spot, I believe.

14 Q And do you know what county that would be in?

15 A Laurens County.

16 Q And when you arrived did you, in fact, find Myranda
17 Southern there?

18 A We found an unidentified female in a state of
19 decomposition.

20 Q I'd like to show you some pictures that have been
21 marked State's Exhibit 6, 7, 8, 9, 10 and 11. If you
22 wouldn't mind just looking at those for me.

23 A Okay.

24 MR. ABLE: Madam Solicitor, what numbers were those?

25 MS. BOYKIN: 6 through 11.

TIFFANY HEZEL: DIRECT EXAMINATION

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1 MR. ABLE: Thank you.

2 Q And do you recognize those?

3 A Yes, ma'am. Those are the crime scene photographs that
4 we took the day we responded to that location.

5 Q Okay.

6 MR. ABLE: Without objection, Your Honor, as agreed.

7 THE COURT: Right. I think they're already into
8 evidence without objection.

9 Q And this is State's Exhibit 9. What is this picture?

10 A That is from the roadway looking toward the grassy
11 field where the victim was located. And this marker on the
12 right-hand side of the screen denotes the address spot
13 of that field.

14 Q If you wouldn't mind -- that one right there. If you
15 wouldn't mind, just point where's Bramlett Church Road?

16 A It's going to be this road right here.

17 Q And you said is what marker?

18 A Well, this blue indicator here.

19 Q And where was the body found?

20 A Right here on the left-hand side you can kind of see a
21 yellow line. That is the barrier tape that the Laurens
22 County Sheriff's Office had left to secure that location.
23 And -- was actually located behind that tape back towards
24 the tree line in that area of the field.

25 Q I show you State's 11. This is the closer up of the

TIFFANY HEZEL: DIRECT EXAMINATION

231

1 marker?

2 A Correct.

3 Q Now, when you arrived on scene did you find any other,
4 pieces of evidence besides a body?

5 A When we arrived on scene the victim was in the field
6 and a magazine from a handgun had previously been identified
7 with a plastic evidence marker bearing the number one. And
8 the magazine was underneath kind of a tented placard prior
9 to our arrival that had been marked.

10 Q State's Exhibit 6. Is this the magazine that --

11 A Yes, ma'am. That's the evidence placard here. I mean,
12 you can kind of see it right underneath that tented area.
13 That black item is a magazine.

14 Q Now, what's that?

15 A This is the same magazine. We've removed that plastic
16 marker denoting its location for a better photograph of what
17 the item actually is.

18 Q And what about that?

19 A Again, same piece of evidence. We just picked it up
20 kind of to show this side and if there were cartridges
21 within the magazine.

22 MR. ABLE: Judge, I would ask that -- I don't think she
23 referenced the number on that.

24 MS. BOYKIN: State's Exhibit 8.

25 MR. ABLE: Thank you.

TIFFANY HEZEL: DIRECT EXAMINATION

232

1 Q State's Exhibit 10. If you wouldn't mind telling us
2 what this picture shows.

3 A Back up towards this way, if you recall that very first
4 picture we showed that had the road kind of leading back.
5 This is going to be that field area that was behind that
6 yellow tape that I pointed out. So if you can imagine, the
7 yellow tape is going to be somewhere over here. This right
8 here is the location that the victim was discovered. You
9 can see that the majority of the field had been cut down.
10 However, the grassy area immediately around the victim is
11 kind of still taller than the surrounding area.

12 Q Is the clip, the magazine, is that in this picture as
13 well?

14 A It is. This is our victim right here. And based on
15 measurements from a pole that's out here, the clip is right
16 here, the magazine from the gun, and this distance from the
17 victim's head to marker one is about seven feet. So that's
18 the distance you're looking at between the victim and where
19 the magazine was located.

20 Q Ms. Hezel, I'd like to ask you to please look at this.
21 State's Exhibit 14. Do you recognize that?

22 A This is a magazine that was collected from marker one.

23 Q And how do you recognize that?

24 A The initial packaging it was placed in has the lab
25 number that was assigned to this case, the item number that

TIFFANY HEZEL: DIRECT EXAMINATION

233

1 I assigned it when it was logged in, and my initials. And
2 this is the original packaging prior to it going to
3 firearms, and it shows it was sealed by me on 8/28 of 2013.

4 Q So did you, in fact, seal -- you took this from the
5 field back to SLED; is that correct?

6 A Yes, ma'am.

7 Q And who did you hand it off to from there?

8 A The magazine stayed in my custody for processing for
9 latent prints and swabbing for touch DNA. Upon my
10 completion and processing of the magazine and the contained
11 cartridges it was then transferred to the firearms
12 department for further analysis. I believe Suzanne Cromer
13 was the firearms examiner that then took custody of the
14 evidence.

15 Q And do you know what caliber this goes to?

16 A It was recorded at the time of the scene that there
17 were four .380 cartridges found within it.

18 MS. BOYKIN: Your Honor, at this time we would offer
19 State's Exhibit 14 for admission into evidence.

20 THE COURT: And what says the Defense?

21 MR. ABLE: Without objection.

22 THE COURT: All right. Without objection, 14 on behalf
23 of the State is admitted into evidence.

24 (Whereupon, State's Exhibit No. 14 was admitted into
25 evidence.)

TIFFANY HEZEL: DIRECT EXAMINATION

234

1 Q I'd like to show you now State's Exhibit 12. Do you
2 recognize this?

3 A Yes, ma'am. That is the sketch that was completed for
4 this specific case.

5 Q And did you, in fact, do this sketch?

6 A Yes, ma'am.

7 Q Now, is this to scale or is it blown up?

8 A It's blown up. It is not to scale.

9 MS. BOYKIN: Your Honor, at this time we would offer
10 State's Exhibit 12 for admission into evidence.

11 THE COURT: What says the Defense?

12 MR. ABLE: No objection, Your Honor.

13 THE COURT: All right. Without objection No. 12 into
14 evidence on behalf of the State.

15 (Whereupon, State's Exhibit No. 12 was admitted into
16 evidence.)

17 Q If you wouldn't mind, please just explain a little bit
18 about your sketch.

19 A Okay. Unfortunately the location that we responded to
20 didn't have a lot of reference points to use. So the
21 reference point that was selected was actually a utility
22 pole that -- or light pole that was marked with the numbers
23 3628702, which is referenced as marker A on the sketch with
24 those numerics. That was located to the west of the victim
25 and to the east of the nearest dwelling that was present

TIFFANY HEZEL: DIRECT EXAMINATION

235

1 around there. The measurements that we took were from that
2 light pole to both the location of the magazine, that was
3 denoted with marker one, and both the head and the foot, on
4 this case the left foot, of the victim. Just to give an
5 approximate location of where the individual was if at any
6 point in time we needed to go back to that specific location
7 again.

8 Q So over here was Bramlett Church Road; is that
9 correct?

10 A Yes, ma'am.

11 Q I'm going to show you State's Exhibits 13. Now, this
12 is the aerial of Bramlett Church Road. And this would
13 be is that correct?

14 A Yes, ma'am.

15 Q If you wouldn't mind pointing to us exactly whereabouts
16 the victim was found around this way.

17 A Based just on where the location of -- based on where
18 this house is and my recollection for the photograph that I
19 took, I would assume that she was in this general area here
20 back from the marker off the roadway, give or take. I
21 haven't seen that area a week prior to.

22 Q Now, after you left the scene what else did you do in
23 regards to this case?

24 A After we finished up with the scene and the victim was
25 transported from the scene by the coroner, I then collected

TIFFANY HEZEL: DIRECT EXAMINATION

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1 evidence from my supervisor who then attended the victim's
2 autopsy the following day. He collected her hands, as we
3 were still trying to get identification, and the prints that
4 I obtained on scene produced no hits in the database system,
5 that the print was run through. And that database system
6 was the AFIS, so the Automatic Fingerprint Identification
7 System. There were no hits. The prints unfortunately that
8 we obtained from the scene were not that good. I was only
9 able to print three fingers due to the state of
10 decomposition the victim was in. So her hands had to be
11 removed and brought back to our lab for additional printing
12 to try to get a positive identification on the individual.
13 In addition, routine autopsy specimens were transported back
14 to various units within our laboratory, as well as
15 fingernail scrapings. My supervisor also collected two
16 items known to be from Myranda Southern, and that was a
17 toothbrush and a hair brush. All of those items were
18 assigned over to me from my supervisor via chain of custody.

19 Q If you wouldn't mind, please look at State's Exhibit 14
20 for me and tell me what that is.

21 A This is the white and purple stripped toothbrush that
22 was collected as belonging to Myranda Southern. And again,
23 it is sealed by me and logged in with the unique lab number
24 and the identifying item number for this particular item of
25 evidence.

TIFFANY HEZEL: DIRECT EXAMINATION

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1 Q And what did you do with it after you received it?

2 A I sent it to DNA as an alternative known standard for
3 comparison to autopsy specimens collected from the Jane Doe.

4 MS. BOYKIN: Your Honor, at this time we would offer
5 State's Exhibit 15 for admission into evidence.

6 THE COURT: What says the Defense?

7 MR. ABLE: No objection.

8 THE COURT: Without objection, 15 for the State into
9 evidence.

10 (Whereupon, State's Exhibit No. 15 was admitted into
11 evidence.)

12 Q Now I'd like to show you State's Exhibit 16. If you
13 wouldn't mind, just tell me what that is, please.

14 A These appear to be swabs. However, I did not take
15 these. These would have been done in the DNA department
16 once they received the items that I had forwarded. So these
17 would have been swabs that they took in their presence from
18 the items I submitted to them.

19 Q Could you tell what the swabs are taken from?

20 A That I could not tell you right now. Not without
21 breaking the seal of the bag.

22 Q Allo right. And let me show you State's Exhibit 17, if
23 you wouldn't mind, please.

24 A This is going to be a brown handled hairbrush collected
25 as belonging to Myranda Southern. Again, it has the unique

TIFFANY HEZEL: DIRECT EXAMINATION

238

1 lab number and item number from when I logged this item in
2 after receiving it from the chain of custody, and the bag is
3 secured with my initials and it is sealed.

4 Q And what did you do with this after you received it?

5 A Again, that item was submitted to the DNA department as
6 an alternative known standard for comparison to our
7 specimens to make positive identification on the victim.

8 Q And again, who did you receive State's Exhibit 17 and
9 State's Exhibit 15 from?

10 A I received them from Lieutenant Jeffrey Crooks via
11 chain of custody.

12 MS. BOYKIN: Your Honor, at this time I would offer
13 State's Exhibit 17 for admission into evidence.

14 THE COURT: What says the Defense?

15 MR. ABLE: No objection.

16 THE COURT: Without objection, 17 into evidence for the
17 State.

18 (Whereupon, State's Exhibit No. 17 was admitted into
19 evidence.)

20 MR. BOYKIN: Your Honor, may we approach?

21 THE COURT: Sure.

22 (Whereupon, a sidebar was held.)

23 THE COURT: Mr. Foreman, ladies and gentlemen of the
24 jury, we need to take about a five minute break. A real
25 short break so the State can handle a piece of evidence.

TIFFANY HEZEL: DIRECT EXAMINATION

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1 And so, it won't be long we'll get you back out and we'll
2 proceed forward. So go back to your jury room. Again, no
3 discussions about this case.

4 (Whereupon, the jury exited the courtroom at 11:38
5 a.m.)

6 THE COURT: Let me just mention real carefully,
7 Solicitor, just be real careful with proximity to the jury
8 box. You're real close. And I know you're talking with
9 Officer McIntosh, and that's fine. But just be real careful
10 because I would not want them to overhear something maybe
11 you and Officer McIntosh may say to each other.

12 MR. SCOTT: Yes, sir. Yes, sir. Are they turning
13 heads or something when I was --

14 THE COURT: Well, one time they did and I've kind of
15 kept a look on them. And I know it's unintentional. Just
16 be careful.

17 MR. SCOTT: Yes, sir.

18 (Whereupon, a break was held from 11:38 a.m. to 11:50
19 a.m.)

20 (Whereupon, the jury entered the courtroom at 11:50
21 a.m.)

22 THE COURT: Ladies and gentlemen, one thing about how
23 the Laurens Courthouse is designed from the jury room to the
24 courtroom you get you some exercise. So you didn't realized
25 that serving on the jury you'll also get some good exercise.

TIFFANY HEZEL: DIRECT EXAMINATION

240

1 Solicitor, you ready to proceed?

2 MS. BOYKIN: Yes, Your Honor. Thank you.

3 Q Now I'd like to show you what has been marked as
4 State's Exhibit 18. Can you identify that for me, please?

5 A These are the four cartridges that were removed from
6 the magazine at the time of processing. And again, each of
7 the items have been marked with the unique lab number, item
8 number, and the bag was sealed and dated by me at the time
9 that it was secured.

10 Q And you -- did you, in fact, remove these bullets from
11 this magazine, State's Exhibit 14?

12 A Yes, it is.

13 MS. BOYKIN: Your Honor, at this time we would offer
14 State's Exhibit 18 for admission into evidence.

15 MR. ABLE: Without objection.

16 THE COURT: Without objection, 18 for the State is in
17 evidence.

18 (Whereupon, State's Exhibit No. 18 was admitted into
19 evidence.)

20 Q And could you tell which -- what caliber these were?

21 A Just based on the head stamp, they were marked PMC .380
22 auto I believe was the stamp marking on those. Let me just
23 confirm this with my notes. Yes, PMC .380 auto.

24 MR. ABLE: PMC?

25 A P as in Paul, M as in Mary, C as in Charlie.

TIFFANY HEZEL: CROSS-EXAMINATION

241

1 Q Now I'd like to show you what has been marked as
2 State's Exhibit 19. Could you identify that for me, please.

3 A This is a fired projectile that was collected at
4 autopsy from the victim, and it was labeled, again,
5 according to the unique lab number and item number for the
6 specific case and the item number to this piece of evidence.
7 It was logged in by me, sealed, secured and then transferred
8 to firearms for further analysis.

9 Q And who did you receive this from?

10 A That item was received along with all the other items
11 from autopsy via chain of custody from my supervisor,
12 Lieutenant Jeffrey Crooks.

13 Q And who did you then give it to after you received it?

14 A It was transferred to the firearms unit and, in this
15 particular case, Special Agent Suzanne Cromer was the
16 firearms examiner.

17 MS. BOYKIN: Thank you. Please answer any questions
18 Mr. Able has.

19 THE COURT: Mr. Able, cross-examination?

20 MR. ABLE: Yes, sir, Your Honor. Thank you, Your
21 Honor.

22 CROSS-EXAMINATION

23 BY MR. ABLE:

24 Q Is it Hazel?

25 A Hezel.

TIFFANY HEZEL: CROSS-EXAMINATION

242

1 Q Hezel. I'm sorry. Ms. Hezel, I'm sorry. Now, the
2 call you received initially in this matter was from the
3 Laurens County Sheriff's Office, correct?

4 A Yes, it was.

5 Q And there was a report of a body of a female found out
6 on Bramlett Church Road?

7 A Yes, it was.

8 Q And you were made aware upon your arrival that there
9 had been an earlier report of a body in that field the day
10 before?

11 A The information that I was advised of is we received a
12 call at 8/23. It was reported to me that on 8/20 there had
13 been a prior citing of a body in a field. However, the
14 individual at that time believed it to have been a mannequin
15 was the information referred to me.

16 Q And that was the individual who was bush hogging that
17 lot?

18 A Correct.

19 Q But on the 22nd there had also been a report of a body
20 in that field, correct, too, wasn't it?

21 A I don't have that specifically documented in my notes.

22 Q I thought that was from your notes. Now, when you get
23 a call like that you and another office or agent report
24 directly to the scene?

25 A Correct.

TIFFANY HEZEL: CROSS-EXAMINATION

243

1 Q And you've testified you found a magazine that
2 contained four bullets at that time?

3 A Yes, I did.

4 Q Now, I read from your report that you said a magazine
5 was found and that looking at the magazine it had no
6 identification value, correct?

7 A The no value for identification was the result of the
8 fingerprints analysis were it was process for latent
9 fingerprints, and the prints that were developed on the
10 magazine were not suitable for comparison to yield any sort
11 of identification.

12 Q So there were no fingerprints of any found -- you had
13 found on the magazine or the bullets?

14 A Correct.

15 Q So you don't have any evidence from that?

16 A I don't have any evidence that was deemed suitable for
17 identification, meaning that there were ridges from
18 fingerprints present. However, when you touch something --
19 may I explain how --

20 THE COURT: You sure can.

21 Q Yes. Yes, ma'am.

22 A If you look on the palm of your hand you have little
23 ridges and squiggly lines. Okay? This pattern is unique to
24 you and you alone. Okay? So you have a unique pattern and
25 then each of those ridges within that pattern are unique.

TIFFANY HEZEL: CROSS-EXAMINATION

244

1 It can split, it can stop, it can just be a dot. Okay? So
2 the way your fingerprints work is like a stamp. You think
3 of a rubber stamp. When you touch something there is a
4 chance, and I use chance heavily, that you may leave a
5 stamped impression of your fingerprints, and sweat and
6 grease and dirt, as you have sweat glands along those
7 ridges. But based on the evidence, the individual, the
8 surface you're touching, you may not always leave a perfect
9 impression or enough of that stamp for someone in my
10 expertise of fingerprints to be able to compare to a known.
11 So it's kind of a pyramid situation if you're going to leave
12 enough of that impression for a comparison later. In this
13 particular case off of the magazine the impressions that
14 were left were not completed enough for us to compare to any
15 known. It doesn't mean it wasn't touched. It just means
16 that there wasn't a complete enough impression there.

17 Q So there was not enough --

18 A Correct.

19 Q -- fingerprint there for you to compare for any type of
20 analysis?

21 A That's correct.

22 Q And you had taken swabs from both the magazine and the
23 bullets that were in the magazine as well, correct?

24 A Yes, sir. I swabbed the base of the magazine and the
25 head stamped portion of the cartridges.

TIFFANY HEZEL: CROSS-EXAMINATION

245

1 Q And what was the purpose for that?

2 A A lot of times when we get evidence they want it
3 processed for both touch DNA and latent prints. So I have
4 to be selective of where I'm going to swab so I don't
5 unintentionally disrupt any fingerprints that might be
6 there. So we're going to pick the smallest surface, the
7 most textured surface. Any surface that's not going to be
8 as conducive to hold that stamped impression that we talked
9 about before.

10 Q And on the magazine, referring to State's Exhibit
11 Number 14, you would have swabbed where?

12 A I swabbed at the base of the magazine.

13 Q Just show -- just point to it for me, if you would.

14 A The magazine inserts in the gun in this direction. So
15 this kind of textured area, that hard plastic at the bottom
16 is where I swabbed off of this piece of evidence for touch
17 DNA purposes.

18 Q And the reason being, it's mostly likely if there were
19 touch DNA it would have been on the base because that's
20 where you put the magazine up in the gun?

21 A Correct. And then the sides of the magazine would have
22 been more conducive for that stamped impression to stay
23 without being smudged or smeared.

24 Q And referring to State's Exhibit 18, you would have
25 swabbed these bullets where?

TIFFANY HEZEL: CROSS-EXAMINATION

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1 A I would have swabbed the head stamp region. And the
2 head stamp region on a cartridge is going to be kind of that
3 flat end that might have some bowing\and have some
4 indentions that have like the main or the caliber of the
5 ammunition. So we're kind of seeing a small surface, and
6 really all that's happening on that, again, that stamped
7 impression doesn't have as much flat surface.

8 Q And it was -- you felt that most likely that if there
9 had been any touch DNA it would have been in that area?

10 A That would have been the best place for me to swab
11 without potentially taking away any ridges off of that
12 smooth cylinder portion of the items.

13 Q And just like there were no latent fingerprints, there
14 was no DNA, was there?

15 A I do not know what the results of the DNA were.

16 Q No, in looking at your report, your crime scene notes,
17 there's a notation that the resident -- and I'm reading from
18 it. "The resident of Bramlett Church Road stated they
19 heard gunshots late morning night --" I'm sorry, "late
20 Monday night or early Tuesday morning"; is that correct?

21 A That was information that was provided to me, not
22 information I received from the resident themselves. So
23 that was just information passed on to me.

24 Q So you didn't talk to the resident?

25 A No, sir. I did not.

TIFFANY HEZEL: CROSS-EXAMINATION

247

1 Q Okay. I thought you had. Who relayed that information
2 to you?

3 A Someone from the Laurens County Sheriff's Office. When
4 we arrived on scene we were getting information from
5 personnel on scene. And that first portion of my notes was
6 just kind of a quick bullet point of everything that we were
7 being told of once we got there.

8 Q But it said Monday night or early Tuesday morning.

9 A Yes, sir. That's the information I was told.

10 Q Now, the --

11 MR. ABLE: Mr. Bolt, can we have the lights?

12 Q Referring to the overhead, State's Exhibit 10, it's
13 obvious that the field had recently been bush hogged; is
14 that correct?

15 A We were advised it had been bush hogged in the previous
16 day. But I don't really know what bush hogging is. I
17 learned that on the scene.

18 Q Well, let me ask you this way. Well, go ahead. I'm
19 sorry. I interrupted you. I shouldn't have done that.

20 A I personally couldn't tell you the time-frame of which
21 it was done based on just looking at the grass.

22 Q I understand. But just in looking at it, the area
23 around the body, the vegetation is lower than the vegetation
24 around the body, correct?

25 A Yes.

TIFFANY HEZEL: CROSS-EXAMINATION

248

1 Q The vegetation over there on the left where the marker
2 had been placed for the magazine, to cover the magazine, to
3 identify where it was, that -- the vegetation there, the
4 grass was significantly lower?

5 A Yes.

6 Q So the magazine was found in the area that had been
7 bush hogged, or cut down?

8 A It's in the area of the lower grass, yes.

9 Q I'm showing you State's Exhibit 12.. This is, I assume,
10 the light post here?

11 A Yes.

12 Q The body -- I understand the position you had
13 described. But it was laying with it's arms above its head,
14 correct?

15 A The right arm was bent at the elbow with the hand
16 extended above the head, and the left arm erected out kind
17 of perpendicular to the torso with the hand up as well.

18 Q And the reason I pointed it out, they just -- they
19 weren't down by the side of the body?

20 A Correct. The diagram doesn't show the exact location
21 of the arms. It's just an overall --

22 Q Right, just --

23 A -- for measurement.

24 Q Just do show where it was?

25 A Yes.

TIFFANY HEZEL: CROSS-EXAMINATION

249

1 Q You noted in your notes that the bottom of the feet
2 were clean?

3 A Yes.

4 Q There were no shoes located anywhere?

5 A That is correct. There were no shoes and there were no
6 injuries to the soles of the feet that would have indicated
7 any kind of walking through harsh terrain or anything like
8 that.

9 Q And there were no -- you didn't notice during your
10 investigation any vehicle tracks in the field or anything
11 like that?

12 A Not at that time, no.

13 Q And no shoe prints or indentations where someone had
14 walked?

15 A Not at that time. However, by the time we responded
16 there had been a heavy foot tracking presence by both
17 emergency personnel and police.

18 Q Would that be the same reason you don't believe you had
19 seen any vehicle tracks or --

20 A Yeah. There were multiple vehicles on the scene. The
21 vehicles did not go all the way to where the victim was
22 located at that time, but there was heavy foot traffic
23 around her. Also, the terrain -- it was 92 degrees the day
24 we responded, so the ground was very hard. It hadn't
25 rained. So again you're not going to have anything that's

TIFFANY HEZEL: CROSS-EXAMINATION

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1 going to leave an impression with footwear with hard ground
2 as well.

3 Q But just going back to the fingerprints for minute.
4 There were no fingerprints found -- I want to make sure I
5 understand. There were no fingerprints found on the
6 magazine at all, much less matching Darrell Raines?

7 A There were areas of ridge detail located or developed
8 on the magazine, but the ridges that was there was not
9 enough for me to do a comparison.

10 Q Now, also there was a metal detector run over that
11 field, correct, during the time you were --

12 A Correct. Lieutenant Shelton utilized a metal detector
13 while myself and my partner, Special Agent Burke, were
14 attempting to print the victim prior to the Coroner removing
15 her from the scene.

16 Q And there were no shell casings found anywhere in that
17 field, were there?

18 A The metal detector did not hit on anything at that
19 time.

20 Q And you're familiar with a .380?

21 A I am not. I am not a firearms expert.

22 Q Okay. I didn't know.

23 MR. ABLE: One moment, Your Honor.

24 THE COURT: Sure.

25 MR. ABLE: Thank you. That's all I have.

TIFFANY HEZEL: REDIRECT EXAMINATION

251

1 THE COURT: Any redirect, Solicitor?

2 MS. BOYKIN: Yes, Your Honor. Briefly.

3 REDIRECT EXAMINATION

4 BY MS. BOYKIN:

5 Q Now, you testified that there were no fingerprints or
6 DNA found; is that correct?

7 A There --

8 Q Or partial --

9 A There were partial -- there were areas of ridge detail
10 found, but not enough of that ridge detail was present for
11 me to do a comparison.

12 Q Now, does the type of surface that you touch affect if
13 you'll leave fingerprints or DNA? More likely or not that
14 you'll leave a fingerprint, say, on a casing or a magazine?

15 MR. ABLE: I think that was explained during cross-
16 examination, Judge, when she asked can I explain.

17 THE COURT: I think so. But I think since you got into
18 it I'll allow it in redirect. Proceed.

19 A I can only speak on fingerprint behalf because that's
20 my area of expertise. I can't speak on behalf of DNA. But
21 based on the surface or the fancy word substrate meaning the
22 exact same thing as surface, it can alter how much of a
23 print it left. If you touch something smooth you have a
24 better chance of leaving that perfect stamped impression.
25 If you think about stamping bubble wrap, you're not going to

TIFFANY HEZEL: REDIRECT EXAMINATION

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1 leave that perfect print all in one surface. Okay? Because
2 you're going to have the ups and downs of bubbles and all
3 that. So you have the surface that you touch that's
4 affected, the environment. If it's cold you're not going to
5 sweat. If it's hot you're going to sweat profusely. At
6 least I do. So you're just taking basically a puddle and
7 pushing on something. So if you think about that, you're
8 not leaving anything. So there's a lot of factors that have
9 to kind of pretty much line up in perfect harmony for you to
10 have the right amount of moisture, the right amount on the
11 hands, and come into contact with the surface that's going
12 to allow that stamp to transfer in a fashion that enough of
13 the ridges are there that can be compared to a known
14 fingerprint later.

15 Q Now, you said factors will affect this. What about the
16 amount of time since someone has touched something? Does
17 that affect how long a fingerprint might stay on the
18 particular object?

19 A It is possible. You can't -- I can't time stamp a
20 finger. If this has not been wiped down in six months I
21 can't tell you if the fingerprint developed on it was left
22 today or six months ago. So you have to take into account
23 the last time it was cleaned. The last time it was wiped
24 down. Had it been rained on. Has it dried. Fingerprints
25 are basically consisting mostly of moisture. So if you put

1 moisture out in extreme heat it's going to kind of suck all
2 that moisture right up. If you put moisture out in more
3 moisture, now you're going to have an even bigger puddle of
4 moisture out there. Okay? So you have to think about the
5 individual, the environmental factors, the surface that
6 you're testing. I can't really testify time, place. That
7 big a role. Like I said before, I can't time stamp a
8 fingerprint. But there are a lot of things that go into
9 preserving it and us being able to process to recover it.

10 Q So if this was left out in a field for days in the hot
11 weather, possibly raining, would that affect whether you
12 would find fingerprints or DNA on this?

13 A It is possible, yes.

14 Q Now, you also testified that this was found right here
15 at this marker --

16 A Correct.

17 Q -- and the grass was lower?

18 A Correct.

19 Q And bush hogging might have been done they day or two
20 before that. Would that also affect what might have
21 happened to the DNA or the fingerprinting?

22 A It's possible. I couldn't tell you for certain.

23 Q What about the tracks in the grass for a car? Would
24 bush hogging affect that as well?

25 A Yes.

TIFFANY HEZEL: REDIRECT EXAMINATION

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1 Q Would that also affect whether there were shell casings
2 out in the field?

3 A If the equipment would have picked them up and
4 redisbursed them outside the area where we searched, it's
5 possible that that could have happened. So you're basically
6 -- you're taking what was a, for better lack of words,
7 pristine high grassy area and whatever may or may not have
8 been there, now you've introduced a piece of equipment that
9 is going to disburse everything on that ground. So is it
10 possible that other pieces were disbursed in that area?
11 Yes. I would say it's possible.

12 MS. BOYKIN: Thank you.

13 THE COURT: Recross?

14 MR. ABLE: No, sir.

15 THE COURT: Thank you, ma'am, for your testimony. You
16 may step down. You're free to leave or you're welcome to
17 remain with us.

18 THE WITNESS: Thank you.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 Mr. Scott: Your Honor, the State calls Tracy King.

22 OFFICER TRACY KING, having first
23 been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. SCOTT:

TRACY KING: DIRECT EXAMINATION

255

1 Q State your name for the record.

2 A Alvin Tracy King.

3 Q You're an investigator with Greenville County?

4 A Yes, sir.

5 Q You had occasion to work this case. The case started
6 out as a missing person, Myranda Southern?

7 A Yes, sir.

8 Q And tell me how you became to be involved in that case.

9 A At the time I was assigned to the armed robbery unit
10 with Greenville County, and we assisted. They work a lot of
11 missing person cases. But they're more part-time. So we
12 were asked to assist with this. And, of course, we got
13 information to do the reports and started making contact
14 with the last people who had -- or that we were advised that
15 had had contact with the victim.

16 Q Now, how did you get that information as far as who was
17 last in contact with the victim?

18 A We initially started with the information from the
19 people who had filed the report. Gained the information as
20 far as who the victim was dating. Was she married to
21 anybody. That type of -- that's the way we actually
22 obtained that information.

23 Q And did you learn that she was married and separated at
24 the time?

25 A That's correct.

TRACY KING: DIRECT EXAMINATION

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1 Q And then did you -- through your investigation and
2 gathering information were you able to determine whether she
3 was dating somebody at the time?

4 A We did. That's correct.

5 Q And who did you learn she was dating?

6 A She was dating Mr. Darrell Raines.

7 Q At some point did you have an occasion to interview
8 him?

9 A Yes, sir. That was, I believe, myself and Investigator
10 Hoover interviewed Mr. Raines on 8/22 of 2013.

11 Q How did you all come to -- 8/22, the first statement.
12 How did you all come to interview him?

13 A Well, again, when we have a missing person report come
14 through you obviously want to talk to the people that are
15 close to that person. Also the people that you believe or
16 have reason to believe could be the last people who spoke to
17 her prior to her being reported as missing.

18 Q At that time had you tried to get any phone records or
19 anything like that?

20 A That's correct. Later on that afternoon, after --
21 following the interview with Mr. Raines, I assisted Deputy
22 --

23 Q Ayers?

24 A -- cross-trained Deputy Ayers, who was cross-training
25 with us at the time, I assisted him with preparing the

TRACY KING: DIRECT EXAMINATION

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1 orders for the phone records.

2 Q For whose phone records?

3 A All involved. Myranda's phone and Darrell's phone, and
4 we also did the phone of the husband she was separated from?

5 Q Phone records?

6 A That's correct.

7 Q What about her car? At that point on the 22nd when you
8 all were talking to Darrell Raines had you found Myranda's
9 car?

10 A No, sir.

11 Q What other significant information had you become aware
12 of that made you want to speak to Darrell Raines?

13 A We had -- several of our investigators had actually
14 sent out -- obtained court orders for bank records. Bank
15 surveillance images which were provided to us in the way of
16 still images. We had found out that Myranda's bank card, or
17 debit card, had been used at an ATM machine. That would
18 have been in the early morning hours of the 19th, I believe.

19 Q Right here?

20 A Right. Sunday night into Monday morning. Early
21 morning hours.

22 Q Now, is that when she, I guess, would have gone
23 missing?

24 A That's correct.

25 Q Hold on one second. So on the 22nd when you were

TRACY KING: DIRECT EXAMINATION

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1 interviewing him you have knowledge that he was one of the
2 last people to speak with her? Is that what you said?

3 A That is correct. That is what we were advised.

4 Q And you said you had knowledge that her bank card had
5 been used twice in the early morning hours of the 19th?

6 A That's correct.

7 Q And then you had some kind of surveillance of Darrell
8 Raines using the card?

9 A That's correct.

10 Q And do you remember approximately what time it was?

11 A I want to say it was 3:00 -- between 3:30 and 3:36.
12 Around that time-frame.

13 Q A.m.?

14 A Yeah, right. Early in the morning.

15 Q So then what did Darrell have to say to you when you
16 spoke to him on the 22nd?

17 A He basically -- when we interviewed him on the 22nd we
18 basically wanted to know how he had met Myranda. Had came
19 to know Myranda. He advised us that he had met her through
20 a dating service called Plentyoffish. That they had talked
21 on Plentyoffish for about a week before they officially met.
22 He stated that he met them at Kids Planet in Greer. Spent
23 time at Century Park the week prior to our interview
24 actually. States that this would have been on Tuesday the
25 week before, around August the 13th of 2013. Do you want

TRACY KING: DIRECT EXAMINATION

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1 his whole statement?

2 Q Yeah. Did you ask him about the ATM card and what in
3 the world he was doing on that video at 3:30 a.m.?

4 A Absolutely. He basically went on into how they had met
5 and how they continued to see each other. He stated that
6 she had called -- she was going to call and let him know
7 when she was getting off. When she called, told me that she
8 was dealing with Shawn again. This was about midnight or a
9 little after. The night before she had given me her bank
10 card. She gave me the pin number.

11 MR. ABLE: Judge, can I ask what -- is he referring to
12 the statement itself, because --

13 THE COURT: I assume he is, but I don't know that.

14 MR. ABLE: I need to see. I don't know what you're
15 referring to.

16 THE COURT: Do you want to ask him what he's referring
17 to?

18 Q Let me just do this. Let me show you State's 1. Do
19 you recognize this?

20 A Yes, sir.

21 Q What is it?

22 A This is the two page statement that Investigator Hoover
23 and I obtained from Mr. Darrell Raines.

24 Q That's what you were referring to from August 22nd?

25 A Yes, sir. I'm reading -- actually reading from the

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1 second page.

2 Q You would have, I guess, sat in and -- during this
3 interview?

4 A Yes, sir.

5 Q And then how did it become typed like this?

6 A Investigator Hoover typed it as Darrell Raines spoke.

7 Q And then did he get an opportunity to review the typed
8 version of this?

9 A Yes, sir.

10 Q And then did he indicate that it was a true and
11 accurate version of his story?

12 A Yes, sir. He did.

13 Q And did he sign it?

14 A He signed it and then he also initialed the paragraphs.

15 MR. SCOTT: Your Honor, the State would offer State's
16 No. 1 for admission.

17 MR. ABLE: What number?

18 THE COURT: No. 1 marked for ID and he's asking to put
19 it into evidence.

20 MR. ABLE: Your Honor --

21 THE COURT: Subject to previous discussions?

22 MR. ABLE: Yes. The previous objections that we had on
23 this subject.

24 THE COURT: Sure, okay. So noted. Into evidence as
25 State's 1.

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1 (Whereupon, State's Exhibit No. 1 was admitted into
2 evidence.)

3 Q Investigator King, I tell you what, just -- you're
4 reading from the second page and summarizing. Just go ahead
5 and read it, starting at "This went on for a day or two."

6 A Okay. "This went on for a day or two. Then on Sunday
7 the 18th I told her to call me -- or call and wake me up at
8 11:00 p.m. She called and I told her let me know when she
9 was getting off. When she called she told me that she was
10 dealing with Shawn again. This was about midnight or a
11 little after. The night before she had given me her bank
12 card."

13 Q So he is referring to the night before. If he's
14 talking on the 18th, he's telling you she had given him her
15 bank card on the 17th?

16 A That's correct.

17 Q I want to put that down on this calendar. Raines says
18 this is when Myranda gave him her bank card. Okay. Go on.

19 A He states, "She gave me the pin number before that when
20 we got gas at a Spinx off exit 31 on 385. The stuff she was
21 saying about Shawn was the normal stuff she says, like I
22 hate you and you are a - We discussed several times how he
23 talks about her like that, but he has gotten another girl
24 pregnant and cheated on her several times. We already
25 arranged that she was going to help me with my car payment

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- 1 in the amount of \$200. We had talked about that Saturday
2 alone in the apartment. She offered. So she texted me and
3 said that she was having to continue to deal with Shawn. I
4 was reminded that I still needed to get the money, so I
5 drove to the bank by my parents house. I was on the phone
6 with her at the time I was at the ATM. She told me to just
7 get 500 out, keep the 200 I needed and save the other 300
8 for her. I told her okay. We talked for a little while
9 longer. I told her that I was going home and going to bed.
- 10 Q Okay. So you show him the evidence you've got and say,
11 now, explain to me you being at the ATM at 3:30 a.m. on the
12 19th. He says, oh, well, there's a good explanation. On
13 the 17th she gave me her ATM card. Is that what he told
14 you?
- 15 A That's correct.
- 16 Q And told him the pin number and everything?
- 17 A Right.
- 18 Q And then what he tells you is that he suddenly wakes up
19 at 3:30 a.m. and decides he needs to go and get the money
20 out?
- 21 A Correct.
- 22 Q Did I understand correctly that on the 17th she said
23 that she was going to help him pay a \$200 truck payment.
24 But then when he's on the phone with her at 3:30 a.m. she
25 just said, well, go ahead and take the max out. Take 500

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1 out?

2 A Correct.

3 Q That's what he told you?

4 A That's his statement. That's correct.

5 Q At that point did you think it was important to get his
6 phone from him?

7 A Yes, sir. Also present during that interview was
8 Investigator Bailey, and that was something Investigator
9 Bailey addressed.

10 Q Was he -- what was something he addressed?

11 A BT spoke to Mr. Raines about getting his cell phone.

12 And Mr. Raines voluntarily provided Investigator Bailey with
13 the cell phone.

14 Q So he handed it over at that point?

15 A Yes, sir.

16 Q Did you all do some kind of -- tell me what a phone
17 dump is.

18 A To the best of my knowledge, we had a tech unit that
19 works out of County Square. They specialize in recovering
20 data from our cell phones. That's to include photos,
21 telephone calls, text messages. Any data that's stored on
22 their cell phones they can retrieve.

23 Q So you got Darrell's phone from him on the 22nd and you
24 began that process?

25 A That is correct.

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1 Q Did you -- at some point did you find it to be
2 important to get the cell phone tower locations?

3 A That's correct.

4 Q Did you do anything on the 22nd to undertake doing
5 that?

6 A Yes, sir. We obtained court orders for both Verizon
7 and for Sprint due to the fact that Mr. Raines' phone was
8 through Verizon. Myranda's phone was through Sprint. We
9 had to obtain several different court orders, and just sent
10 those court orders out requesting that they be returned in a
11 timely manner due to the fact that we were working a missing
12 person case.

13 Q Okay.

14 THE COURT: Can I see the lawyers for just a second?

15 (Whereupon, a sidebar was held.)

16 Q So you got a court order. How many court orders did
17 you get?

18 A Got three court orders, for Darrell Raines, Myranda
19 Southern, and I believe his name is Shawn Southern.

20 Q Okay. Let me show you State's 20 and 21. I'll show
21 you State's 20 and 21. Do you recognize what that is?

22 A Yes, sir.

23 Q What is that?

24 A These are certifications from Sprint and from Verizon -
25 - Verizon. The study of records from Sprint and Verizon

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1 acknowledging receipt of the court orders.

2 Q And then what do those -- what do those affidavits
3 undertake to do? What do they say about the documents they
4 provide?

5 A They're certifying the documentation that they sent us.

6 Q What were the documents they sent you?

7 A They sent me phone records and tower locations for the
8 phones.

9 MR. ABLE: May I see those?

10 THE COURT: Yeah. Take your time.

11 Q I'm going to show you State's 23.

12 THE COURT: Is that number 23?

13 MR. SCOTT: Yes, sir.

14 A This is a copy of the call records for -- this is for
15 Myranda's phone.

16 Q Is it the Sprint records?

17 A Correct. Yes, sir.

18 Q And what information do those records contain?

19 A It contains the outgoing and incoming calls. And also
20 -- I believe it's the second set actually shows the tower
21 locations. It gives the coordinates, the longitude and
22 latitude of the phones. The cell tower sites.

23 Q So you were able to get the cell tower site locations?

24 A That is correct.

25 Q Was that something that was important for you to find?

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- 1 A Yes, sir.
- 2 Q And that was part of your court order that you were
- 3 asking for those cell phone tower locations?
- 4 A Yes, sir.
- 5 Q I show you State's No. 22.
- 6 A This is a copy of the phone records for Mr. Darrell
- 7 Raines.
- 8 Q Okay. And he was the Verizon?
- 9 A That's correct. Verizon records. Yes, sir.
- 10 Q And what information did you get from Verizon on his
- 11 phone?
- 12 A It also shows the number dialed, the number making the
- 13 call, and also obtained the tower site locations as well.
- 14 Q Okay. I'll show you State's No. 24.
- 15 A This is a -- it contains the tower key information from
- 16 Verizon.
- 17 Q So you've got State's 22 which are the records from
- 18 Verizon. You said it was outgoing calls, incoming calls,
- 19 and then tower locations?
- 20 A Correct.
- 21 Q And then Verizon also provided you with a tower key?
- 22 A That's correct.
- 23 Q That would be State's 22 and 24. And then State's 23
- 24 would be the Sprint record, and you said that was outgoing
- 25 and incoming calls, as well as the tower locations?

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1 A Correct.

2 MR. SCOTT: Judge, the State offers State's 20, 21, 22,
3 23 and 24 for admission.

4 THE COURT: Okay. Tell me again what 20 and 21 are. I
5 know it related to phone records, but I was a little unclear
6 as far as what --

7 MR. SCOTT: Yes, sir. 20 and 21 are the certificate of
8 records provided. 21 is Verizon. 20 would be Sprint. And
9 their record custodians indicating that these records are --
10 were made at or near the time of the occurrence of the
11 matter set forth in the records from information transmitted
12 by a person with knowledge of those matters. That these
13 records were kept in the court of the regularly conducted
14 business activity. And they were made by regularly
15 conducted business activity as a regular practice.

16 THE COURT: So those go with 22 and 23?

17 MR. SCOTT: Yes, sir.

18 THE COURT: You're just offering them as a separate --

19 MR. SCOTT: Yes, sir.

20 THE COURT: Okay.

21 MR. SCOTT: They are certifying that 23 and 22 are true
22 and accurate copies respectively.

23 THE COURT: Mr. Able, subject to prior discussions that
24 we've had?

25 MR. ABLE: Yes, sir. I would object based upon prior

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1 discussions as concerning those --

2 THE COURT: Right.

3 MR. ABLE: -- Exhibits 20, 21, 22, 23 and 24.

4 THE COURT: All right. Now, does 21 also deal with 24,
5 the CD?

6 MR. SCOTT: It does, Your Honor.

7 THE COURT: All right. Subject to prior hearings, the
8 five exhibits will be into evidence; 20, 21, 22, 23, 24 for
9 the State.

10 MR. ABLE: Judge, if I could just -- not to correct
11 Your Honor, but prior hearings and prior rulings.

12 THE COURT: And prior rulings. Yes, sir.

13 MR. ABLE: Thank you. I just want to make sure the
14 record is clear.

15 THE COURT: Everything in connection with those prior
16 rulings.

17 MR. ABLE: Yes, sir.

18 (Whereupon, State's Exhibit Nos. 20, 21, 22, 23, 24
19 were admitted into evidence.)

20 Q All right. Investigator King, using these documents
21 were you able -- were you aided in attempting to find Ms.
22 Southern's automobile?

23 A Yes, sir.

24 Q And how did that happen?

25 A When I got the records back, and using the key that

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1 basically helps you decipher the longitude and latitude of
2 the cell sites that I requested, I was actually able to
3 utilize the longitude and latitude numbers. Entered those
4 into Google maps and got the actual physical address of the
5 towers involved. And by doing so I noticed that Mr. Raines'
6 phone at 0003 on the 19th, the night of the 18th, was near
7 117 Duffy Road, Simpsonville, South Carolina. Myranda's
8 phone, which was Sprint -- Sprint carrier, also on the 19th
9 at 12:03 a.m. was hitting 211 Bridges Road, which is very --
10 very close to her work, and it's also in close proximity to
11 where the 117 Duffy Road is. As a result of this
12 information, myself, Investigator Hammett and Investigator
13 Fortner all got together and we met at the intersection of
14 Bridges Road and Holland Road which is very close to the
15 Charter building where Myranda worked. We decided to go
16 different directions. And receiving this information,
17 already viewing it on a map at work on my computer, I drove
18 down Holland Road to Highway 14, turned right on Highway 14
19 and actually passed Duffy Road. And then I came up on the
20 Super Bi-Lo which is located at the Main Street and Highway
21 14 in Simpsonville. I believe the actual physical address
22 is 120 Highway 14, or South Highway 14. I pulled into the
23 parking lot there, drove through the parking lot and
24 actually -- we already had the vehicle information that we
25 were looking for, to include the tag number. And I found

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1 the victim's car parked in front of, I believe it was,
2 Bertolo's or Bertoli's Pizza which is adjacent -- buildings
3 are attached to the Super Bi-Lo.

4 Q What was that date that you found the car?

5 A That was on the 23rd. The evening of the 23rd. It was
6 a Friday evening.

7 Q So you get the -- I just want to make sure I'm clear on
8 this. You get the tower keys from Verizon and Sprint and
9 the cell phone information for Myranda and Darrell, and
10 you're seeing -- you said at 12:03 a.m. on the 19th?

11 A Yes, sir.

12 Q Both of their phones are using cell phone towers in a
13 general vicinity located near one another?

14 A Yes, sir.

15 Q That was your starting point. So you said you and some
16 other officers went to that general area and started just
17 kind of combing the area for her car?

18 A That's correct. We branched out and went in different
19 directions.

20 Q Let me show you State's No. 25. Can you see that?

21 A Yes, sir.

22 Q What I want you to do is identify some things on here.
23 And I guess it's fairly evident. But what is this right
24 here?

25 A That's the Bi-Lo building itself.

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1 Q And it's on Highway 14 in Simpsonville?

2 A That's correct.

3 Q This would be the one that you said just -- because you
4 knew you were around here somewhere due to the cell phone
5 tower information. You just kind of randomly went up and
6 down the parking lot here in Bi-Lo?

7 A Right. Well, I actually came in at the upper entrance.
8 That was my direction of travel.

9 Q Okay.

10 A So I actually came in this entrance and actually just
11 drove around the parking lot checking -- checking on the
12 vehicles. And when I came down I actually cut across here,
13 and when I came down I found the vehicle. I believe it was
14 in one of these parking spots right here in this general
15 area. And the Bertolo's Pizza that I'm speaking of is right
16 there. Right directly in front of it.

17 Q The car was just abandoned?

18 A Yes, sir. It was actually -- it was actually pulled
19 nose first, or front of the vehicle into the parking spot.

20 Q Like you would normally park?

21 A Yeah.

22 Q They didn't back in? They pulled straight in?

23 A That's correct.

24 Q Did you guys attempt to pull some video footage or
25 surveillance footage?

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1 A Yes, sir. We actually went inside and spoke to the
2 store manager at the Bi-Lo itself. If you'll look right
3 here at these little islands they have in the front, they've
4 actually got -- and I don't know if it actually shows, or
5 clearly shows it at all, but they've basically got Bradford
6 pear trees grown up in these little islands, which actually
7 blocks the rest of the parking lot from the video coverage
8 itself.

9 Q So they've got these surveillance cameras but then they
10 plant Bradford pears right in front of them?

11 A It looks nice, but it takes the cameras out of order
12 for us.

13 Q Okay. So were you able to see anything on the --

14 A No, sir.

15 Q No video that was useful to you?

16 A No, sir. And the -- we also checked the -- I think I'm
17 saying it right, Bertolo's or Berteli's Pizza. They didn't
18 have video either. There's a -- I believe there's a CVS or
19 Walgreens. It's a drug store, and we checked that location
20 as well hoping that in a drive-thru somebody would have
21 video.

22 Q None?

23 A None. No, sir.

24 Q Let me ask you this. Did you ever try to find phone
25 numbers for this Bi-Lo?

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1 A Later on. Yes, sir.

2 Q You don't have them with you up there, do you?

3 A I do not.

4 Q Well then, those phone records that you got, did you
5 pass those on to anyone?

6 A Yes, sir. We have another gentleman that works in our
7 IT department which obviously knows computers a lot better
8 than I do. I provided him with all the records and
9 documents that I obtained from the phone companies.

10 Q Is that Dan Kelly?

11 A Yes, sir. That's Sergeant Dan Kelly.

12 MR. SCOTT: Thanks. Answer any questions Mr. Able has
13 for you, please.

14 THE COURT: Is that photo offered?

15 MR. SCOTT: If I failed to do so, Your Honor, the State
16 would offer 25 for admission into evidence.

17 THE COURT: What says the Defense?

18 MR. ABLE: No objection.

19 THE COURT: Without objection, 25 into evidence for the
20 State.

21 (Whereupon, State's Exhibit No. 25 was admitted into
22 evidence.)

23 CROSS-EXAMINATION

24 BY MR. ABLE:

25 Q Now, Officer, you don't know how long that vehicle had

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1 been in that parking lot, do you?

2 A No, sir. Other than the time of the report and the
3 time we located the vehicle. No, sir.

4 Q It could have been placed -- you're talking about the
5 initial missing person report?

6 A That's correct. From that Monday morning.

7 Q From that Monday morning until you found it on the
8 22nd?

9 A That's correct, on Friday evening.

10 Q Between those two periods of time you don't know when
11 that vehicle came into that parking lot?

12 A No.

13 Q Now, you -- of course, you found the vehicle and there
14 were -- the vehicle was towed and certain items retrieved
15 from the vehicle, correct?

16 A Yes, sir.

17 Q Do you know what those items were? Did you collect any
18 of that?

19 A No, sir. I did not.

20 Q Now, as far as the cell tower information that you had
21 and in locating the vehicle, that didn't give you a precise
22 location of the vehicle? It was telling you where the cell
23 tower was that Ms. Southern's phone was hitting off of at a
24 certain time, correct?

25 A That's correct.

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1 Q And it didn't tell you this is where the vehicle is or

2 --

3 A No, sir.

4 Q -- or where the phone was? So it's kind of a broad
5 area that it covers, correct?

6 A That's correct.

7 Q And you and two other officers had to comb a pretty
8 large area to find that vehicle?

9 A We actually started from her location where she was
10 employed, where she worked, and basically branched out from
11 there. Which I don't know how many people are familiar with
12 Hollands Road, but Hollands Road actually parallels 385
13 going down into Simpsonville.

14 Q Right.

15 A So it was basically a straight shot from her work to
16 Highway 14 and then turn right.

17 Q The tower was close to her proximity of her work?

18 A The tower for her phone was in close proximity
19 initially to her work.

20 Q Right.

21 A The tower for Mr. Raines' phone was actually closer in
22 proximity to the location the vehicle was found.

23 Q But from the -- getting back to my question about the
24 broad area. The location of her work at Charter to the Bi-
25 Lo takes about 10 minutes to travel that far, doesn't it?

TRACY KING: CROSS-EXAMINATION

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1 A Roughly. Yes, sir.

2 Q And like you said, there's a Holland Road, which kind
3 of parallels 385?

4 A Yes, sir.

5 Q And, of course, there's no telling how the vehicle got
6 there? What road was traveled or whatever?

7 A We had no way of telling which road. That's correct.

8 Q So the point I'm making is you have the tower
9 information, you travel 10 minutes this way. It would be a
10 10 minute radius even further out as to the area that had to
11 be covered, correct?

12 A Correct.

13 MR. ABLE: Thank you. That's all I have.

14 THE COURT: Redirect, Solicitor?

15 MR. SCOTT: No, Your Honor.

16 THE COURT: Thank you for your testimony, Officer. You
17 can step down.

18 THE WITNESS: Yes, sir.

19 THE COURT: You're certainly free to leave or you're
20 welcome to remain with us.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 THE COURT: Mr. Foreman, and ladies and gentlemen of
24 the jury, I think we're at a good stop. So this would be a
25 real good time to break for lunch. And I need you back at

1 2:00. As I mentioned to you yesterday, if you're going to
2 be out in public during the lunch break, a restaurant, store
3 or whatever, keep your badge on so everybody will know --
4 who's connected with this case will know that you're on the
5 jury. I'm sure by the end of the week they're going to be
6 able to recognize all faces. But we're still kind of early
7 on, so wear your badge. And don't discuss this among
8 yourselves or anybody that you come in contact with with
9 respect to this case. And have a good lunch and we'll see
10 you back at 2:00.

11 (Whereupon, the jury exited the courtroom at 12:50
12 p.m.)

13 THE COURT: Solicitor, anything we need to -- oh, we do
14 need to pick up one thing. The order from the Greenville
15 Magistrate that we discussed at length that's attached un-
16 notarized affidavit, that only pertains to Verizon records.
17 And I inquired of the attorneys if there was another order
18 out there as pertains to Sprint records, because I need to
19 have these orders marked as Court's exhibits. So, Solicitor
20 --

21 MR. SCOTT: I'm going to track that down. But it
22 occurred to me -- Your Honor, I'm happy to provide to
23 provide it. But does the Defendant have any standing to
24 challenge that order? I mean, it's Myranda's phone.

25 Just for clarification, I'm happy to track that down

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1 because he's testified to it. I'll look for it.

2 THE COURT: If you don't mind.

3 MR. SCOTT: Yes, sir.

4 THE COURT: And we'll just have those marked as Court's
5 Exhibits. You probably should have had this marked as a
6 Court's exhibit, the Verizon, because we did discuss at
7 length this order and the affidavit from Officer Ayers.

8 MR. SCOTT: Yes, sir.

9 THE COURT: If you don't mind, get the other one --

10 MR. SCOTT: Yes, sir.

11 THE COURT: -- and just have -- make it a part of the
12 record.

13 Okay. We'll be at recess until 2:00.

14 (Whereupon, a lunch break was held from 12:50 p.m. to
15 2:17 p.m.)

16 (Whereupon, the jury entered the courtroom at 2:17
17 p.m.)

18 THE COURT: Solicitor, are you ready to call your next
19 witness?

20 MR. SCOTT: I am. The State calls Mary Ellen Cervetti.

21 MARY ELLEN CERVETTI, having first
22 been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q Ma'am, if you would, state your full name and then

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1 spell your last name for me.

2 A. My name is Mary Ellen Cervetti, and it's spelled C-e-r-
3 v-e-t-t-I.

4 Q. Thank you. And where are you employed?

5 A. I'm employed with BB&T.

6 Q. And what is your title there?

7 A. I'm assistant vice-president in corporate
8 investigations.

9 Q. So what does that mean?

10 A. That means I investigate fraud for the bank, either
11 external or internal, and I assist law enforcement in their
12 need for records and things of that nature that they need
13 from the bank.

14 Q. August 2013 there was a missing person out of
15 Greenville and her name was Myranda Southern. Did you have
16 occasion to become involved in that investigation?

17 A. I did.

18 Q. And how did that come to be?

19 A. I received a call from a detective at Greenville
20 County, and I do not recall who it was, but advising that
21 they had a missing person and they thought that she banked
22 with BB&T. So they asked if we could look and see if, in
23 fact, she did and when her last transactions would have
24 been.

25 Q. So how would you search for her? Just by name?

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 A. By name, by Social Security number, by date of birth.

2 And again, I don't recall specifically how I searched, but
3 it would have been one of those.

4 Q. And were you able to gather some information on
5 Myranda Southern?

6 A. Yes, I was.

7 Q. And what did you find? What did you pull?

8 A. I found that she did have a bank account with us
9 and that she did have a debit card, ATM card. And so, I
10 pulled her record and I pulled her last transactions. And
11 then as an additional thing, I went in and locked the
12 account so that nobody could use it going forward because we
13 knew she was a missing person.

14 Q. Let me start by showing you State's No. 27. Do
15 you recognize that?

16 A. I do.

17 Q. What is that?

18 A. That is a bank statement, an account statement on
19 the accounts of Ms. Myranda Southern and Shawn Southern.

20 Q. They had a joint account then?

21 A. Yes.

22 Q. All right. Explain this to me. If they have a
23 joint account and they both have bank cards, debit cards,
24 ATM cards, whatever you all them, tell me what would happen
25 if they had a joint checking account that drew out of the

1 same account but they had -- each had a card. Would they
2 have different numbers or the same number?

3 A. Yeah. A joint account, when you have an ATM card,
4 as most people do today, that ATM card would be -- each
5 individual on that account would have a separate number. So
6 that number -- when you get your card, your statement in the
7 mail, your card -- your bank, it's going to have your name
8 with a particular number. So when we go back to look at
9 records, we're looking under that particular number for that
10 particular individual. And everybody on the account is
11 going to have a separate account or debit card number.

12 Q. And so, tell me about State's No. 27. If you go
13 to the very end there, what was the last transaction on it?

14 A. The last transaction was a BB&T 24 cash
15 withdrawal, which is our ATM, and the location was in Berea
16 in Greenville, South Carolina. And that would be our Berea
17 branch.

18 Q. And were you able to establish a time that that
19 withdrawal was made?

20 A. Yes. I did pull another document that showed --
21 because when you make a cash transaction or an ATM
22 transaction there's a report that generates and it will tell
23 a specific date and a specific time, because later when you
24 get your statement, as we all know, it reconciles the time
25 zone on the statement, but the report I pulled it shows the

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1 exact time that this \$500 withdrawal was made at that ATM.

2 Q. And then using that corresponding time and that
3 corresponding ATM location what did you do? Did you pull
4 any other evidence?

5 A. I did. Based on that ATM report I went and had
6 video pulled of the person making the transaction. What was
7 essentially going on at the ATM at that time, and so those
8 two times would correspond.

9 Q. And were you able to get a result?

10 A. Yes, I was.

11 Q. Let me show you State's 26. Do you recognize
12 that?

13 A. I do.

14 Q. And what is that?

15 A. That is a photo that was pulled from the ATM that
16 corresponds with the last transaction on this statement on
17 August 19th of \$500.

18 MR. SCOTT: Your Honor, State offers 26 and 27 for
19 admission into evidence.

20 THE COURT: And what says the Defense?

21 MR. ABLE: No objection.

22 THE COURT: All right. Without objection, 26 and 27
23 for the State into evidence.

24 (Whereupon, State's Exhibit Nos. 26 and 27 were
25 admitted into evidence.)

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 Q So law enforcement tells you we've got a missing
2 person. Pull her bank records. When you do so you find her
3 very last transaction was a \$500 ATM withdrawal, August
4 19th?

5 A August 19th.

6 Q At 3:36 a.m.?

7 A At 3:36 a.m.

8 Q Go ahead. I'm sorry.

9 A What I was going to say is this is a snapshot of the
10 entire transaction. So our records are going to show when
11 that ATM card goes into the ATM, and then we're going to
12 have a whole video of this individual through that
13 transaction. So this is just one snapshot of the
14 transaction.

15 Q I've never seen the video. Are you able to pull the
16 video?

17 A We do pull video, if requested.

18 Q So do you remember providing law enforcement the video
19 or just the snapshot?

20 A I don't recall. I would have provided them with a
21 snapshot if that's that had asked for.

22 Q But it's your testimony that that is a snapshot from
23 whatever video the ATM produced that was generated at 3:36
24 a.m., August 19th?

25 A Absolutely. Yes, sir.

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 Q And you're telling me that Myranda Southern's bank
2 records correlate to that picture and that \$500 was drawn
3 from that bank account around 3:30 a.m. at that location?

4 A Yes, sir.

5 Q So what we learned from that is this person is
6 withdrawing money from Myranda Southern's bank account at
7 3:30 a.m.?

8 A Yes.

9 Q And were you able to get multiple, I guess, angles?

10 A Yes. There's an interior and exterior camera on an
11 ATM. So it takes different pictures.

12 Q Okay. State's No. 29. Do you recognize that?

13 A Yes.

14 Q So that would have been just a different angle of the
15 same transaction?

16 A It would have been a different angle of the same
17 transaction from our exterior camera.

18 Q Okay. Were you able to determine, I guess, any
19 transaction that were immediately precedent to the \$500
20 withdrawal?

21 MR. SCOTT: And, Your Honor, State offers 29 for
22 admission into evidence.

23 THE COURT: Okay. What says the Defense?

24 MR. ABLE: Exhibit 29? No objection.

25 THE COURT: Without objection, 29 for the State into

1 evidence.

2 (Whereupon, State's Exhibit No. 29 was admitted into
3 evidence.)

4 Q Before I go any further, let me show you State's No. 28
5 real quick. Now, aside from the \$500, tell me what the last
6 two transactions were, and also the times that Myranda's
7 bank card was used.

8 A Let me be clear what you're asking, because I don't
9 want to answer the wrong thing. So you're asking the last
10 two transactions on this document that you just showed me?

11 I just want to make sure I have the right question. Sorry.

12 Q All right. What is State's No. 27?

13 A That is an account statement that you would get at the
14 end of a monthly billing cycle.

15 Q Linked to Myranda Southern's bank account?

16 A Linked to Myranda Southern's bank account.

17 Q Linked to that card that is only associated with her?

18 A Yes.

19 Q Go to the very last transaction on there. You already
20 testified there's a \$500 ATM withdrawal from a BB&T in
21 Berea, or Berea -

22 A Correct.

23 Q -- at 3:30 a.m. August 19th?

24 A Yes, sir.

25 Q What was the transaction just before that?

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 A Before that there was a pin-based transaction done at a
2 7-Eleven on Wade Hampton in Taylors, South Carolina.

3 Q What's a pin based transaction as opposed to an ATM
4 transaction?

5 A With your ATM card you can use several different kinds
6 of transaction. You can do the ATM, that's with your pin
7 number. You can do a signature based transaction. That
8 would be when you use it at a grocery store. And then a pin
9 based transaction would be where you have to actually enter
10 your pin. And I always equate that with, you know, when you
11 go to the gas station and you get a better price if you use
12 cash. And so, if you run your card as a pin based
13 transaction then you get it at the cash price. So that's
14 what that would be.

15 Q So when was that and where was it, one more time?

16 A On the 19th at the 7-Eleven on Wade Hampton in Taylors.

17 Q And what time was that?

18 A Well, on the statement it shows 8:19 is when it shows
19 on the statement. But it was actually done on the 18th.
20 And when you come over here to another transaction report,
21 which was your Exhibit 28, you see that it was done at 20:03
22 on the 18th.

23 MR. ABLE: What exhibit is she referring to, Your
24 Honor?

25 THE COURT: I think she's referring to No. 28.

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 THE WITNESS: Right now I'm referring to No. 28.

2 Q One more time, just because we -- 20:08. What time is
3 that? I don't do military time.

4 A Well, 20 -- it's 20:03 and --

5 Q Subtract two, I guess?

6 A Well, I always have to go --

7 Q Is it 8:00?

8 A 3:00 is 15:00? Is that -- don't ask me. I'm sorry.

9 I'm not military, so I have to figure that out. So let me
10 think. 13:20 would be --

11 JUROR: 8:03.

12 THE WITNESS: 8:03. Thank you, sir.

13 Q Is that the --

14 MR. ABLE: I don't think a juror can --

15 THE COURT: Yeah. Appreciate your help, but we can't
16 have jury participation. Thank you.

17 MR. SCOTT: Just a judicial notice, Your Honor, 20 --

18 Q What was it?

19 A 20:03.

20 MR. SCOTT: 20:03, we're talking about 8:03 p.m.

21 Q And then what was the date?

22 A It was the 18th of August.

23 Q 18th of August, 8:03 p.m., Myranda transaction. At
24 where?

25 A At the 7-Eleven on Wade Hampton in Taylors, South

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 Carolina.

2 Q What about just before that? What was the next one?

3 A It was another pin based transaction at the same
4 location.

5 Q Do you have a time?

6 A 13:20.

7 MR. SCOTT: Your Honor, judicial notice. That would be
8 1:20 p.m.

9 THE COURT: That's correct.

10 Q Is that also on the 18th?

11 A Yes, sir. It is.

12 Q 1:20 p.m. Is it the same location?

13 A No. I'm sorry. On the statement it shows the first
14 location was 3301 Wade Hampton, Taylors, South Carolina, and
15 the second location was 3440 Wade Hampton, Taylors, South
16 Carolina.

17 Q 3301 Wade Hampton. And then 33 what?

18 A And then 3440 Wade Hampton.

19 Q All right. I'm looking at State's -- when you reviewed
20 the information and the documentation concerning the ATM
21 withdrawal, what other sources of -- depicted in State's 26,
22 what other information were you able to gather about this
23 transaction?

24 A What we talked about. It was --

25 Q Let me ask you this. What, if anything, did you learn

1 about balance inquiries?

2 A I believe that there was a -- well, I know that I
3 pulled a report that was part of her account. We see it
4 online. And it shows that there were balance -- anytime you
5 do something with an ATM, you put your card in there and you
6 check your balance, we're going to get that. It's going to
7 show on our report what was done. So when your card is in
8 there, if there's a balance inquiry, it shows. And my
9 recollection is on her account there were two balance
10 inquiries and then a withdrawal of \$500 on the 19th.

11 Q So this person made two balance inquiries on that
12 checking account before ultimately making a \$500 withdrawal?

13 A Yes.

14 Q And the balance inquiry is what, just to see how much
15 money the account holds?

16 A To check your balance. Could be how much is available.
17 You know, when you make a mistake and back out and then you
18 put it back in and do it again. There's different reasons.
19 But a balance inquiry is to tell you the balance in that
20 account.

21 Q I got a question. How much can you withdraw out of an
22 ATM at any one given time?

23 A BB&T has a limit of \$500 --

24 Q \$500?

25 A \$500 that you can withdraw a day.

MARY ELLEN CERVETTI: DIRECT EXAMINATION

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1 Q That's the max?

2 A That's the maximum.

3 Q And he withdrew how much?

4 A \$500.

5 MR. SCOTT: I think that's all. Please answer any
6 questions -- well, before I -- Your Honor, just to make
7 sure. State's 29, State's --

8 THE COURT: 29 is already into evidence.

9 MR. SCOTT: Okay. 27, 28 and 26?

10 THE COURT: The only one that's not into evidence is
11 28.

12 MR. SCOTT: Okay. Your Honor, State does offer 28 for
13 admission.

14 THE COURT: And what says the Defense?

15 MR. ABLE: I just want to make sure.

16 THE COURT: Solicitor, show Mr. Able that --

17 MR. SCOTT: Yes, sir.

18 THE COURT -- before he responds. Without objection, 28
19 is evidence for the State.

20 MR. ABLE: Yes, sir. Without objection.

21 (Whereupon, State's Exhibit No. 28 was admitted into
22 evidence.)

23 THE COURT: Cross-examination, Mr. Able?

24 MR. ABLE: Yes, ma'am -- yes, sir. I'm sorry. Yes,
25 ma'am. Thank you.

MARY ELLEN CERVETTI: CROSS-EXAMINATION

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1 CROSS-EXAMINATION

2 BY MR. ABLE:

3 Q Now, after that \$500 withdrawal on -- during the early
4 morning hours of August 19th, 2013 that left a balance of
5 \$2,196.58 in that account, correct?

6 A That's what it shows on the account statement. But if
7 I can explain that. The account statement is a picture in
8 time. That may not be the legitimate balance that was when
9 that withdrawal was done. But this is the account
10 statement. We have daily records. But yes, that's what it
11 shows in there as of that day.

12 Q You're referring to, I believe, Exhibit 26? 27, I'm
13 sorry.

14 A Yes, sir.

15 Q So Exhibit -- let me ask you this way. Exhibit 27 --

16 A Uh-huh.

17 Q You have to say yes or no.

18 A Yes, sir. I'm sorry.

19 Q Exhibit 27, which is the, I believe, August 2013
20 statement on that account, correct?

21 A Yes, sir.

22 Q It shows an ending balance of \$2,196.58?

23 A Yes, sir.

24 Q And that's after the \$500 withdrawal during the early
25 morning hours of August 19, 2013?

MARY ELLEN CERVETTI: CROSS-EXAMINATION

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1 A Yes, sir.

2 Q Subsequent to that withdrawal there were no -- you
3 don't have any records showing there were any attempted
4 withdrawals on August 20, 21, 22? Do you have anything
5 showing that?

6 A I don't have anything in front of me that shows that.
7 No, sir.

8 Q Do you recall in your investigation any attempted
9 withdrawals from that account with that card on August 20,
10 21, 22, 23?

11 A Without the documents in front of me, I don't recall.

12 Q Now, Ms. Southern's card -- and I don't know if you
13 have an exhibit showing that. But her card ended with 9468;
14 is that correct?

15 A Yes, sir.

16 Q And Mr. Southern's card ended with 3147?

17 A Yes, sir.

18 Q Now, when you use these ATM cards there is a
19 transaction time?

20 A Correct.

21 Q And that's when the actual transaction, when you swipe
22 the card, the time that that card is used?

23 A That's the time that the card would be put into the
24 system, whether it be the ATM or the grocery store or the
25 gas station. That would be the time that the card was put

MARY ELLEN CERVETTI: CROSS-EXAMINATION

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1 in, yes.

2 Q So swiped?

3 A Yes.

4 Q If you swipe the card, that's the time the card's put
5 in?

6 A Correct.

7 Q And then in the processing date and time, that would be
8 when the bank actually processes that transaction?

9 A Yes. There's a -- the processing time -- it's the
10 date, not so much the time. There's a date of when the
11 transaction actually hits the account and is reconciled. So
12 if transactions are done over a weekend, those are not going
13 to show up until the date on Monday. But we have the ATM
14 record which will show the actual day and actual time that a
15 transaction is done.

16 Q So I want to make sure I understand. The transaction
17 time being the time actually when the purchase is made or
18 the withdrawal is made is always going to be before the
19 processing time.

20 A Not always. But the transaction time is the real time
21 that that purchase was made.

22 Q So it can be processed before it's transacted?

23 A No. The process time could be the same time as the
24 transaction time. It's not going to be prior to the
25 transaction time.

MARY ELLEN CERVETTI: CROSS-EXAMINATION

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1 Q So the -- I want to make sure I understand. The
2 processing time is either going to be the time of the
3 transaction or afterwards?

4 A Correct.

5 Q Let me show you this document. This is a transaction
6 inquiry result. Is that something the bank would have
7 produced?

8 A Yes.

9 Q And that shows that this was Ms. Southern's card
10 number, correct?

11 A Correct.

12 Q I'm going to show you this transaction down here to
13 Hardee's.

14 A Uh-huh.

15 Q And it shows a processing time of August 19 --

16 A I see it. August 19, 2013.

17 Q And what time was it?

18 A At 13:02:24.

19 Q Okay. So that would have been 1:00 -- that would have
20 been at 1:02:24 in the p.m. on August 19th?

21 A Correct.

22 Q And the transaction time being the time that a purchase
23 or a withdrawal had been made would have been earlier?

24 A In a case like this, because this is what we call --
25 this would be a signature based transaction. So this would

1 be Hardee's - when you run it through their strip, this
2 would be the time that day -- this would have been the
3 process they take it. This would have been the time it was
4 -- it went through their system, which there could be a
5 delay. This is different than our ATM.

6 Q But from what you told me before, this being August 19
7 at 1:00 in the afternoon, this would have -- this
8 transaction would have been August 18th?

9 A No. This transaction would -- let me look at the
10 statement. But what I was answering you before was the ATM.
11 I thought your question related to our ATM transaction and
12 processing time. When you do a debit card in a merchant
13 situation, it's really the merchant's system that does the
14 transaction and processing time, and then it hits us.

15 Q But my point being, the merchant has to first do the
16 transaction, correct?

17 A Yes.

18 Q So the merchant first has to do the transaction,
19 because there's no reason to process a transaction until
20 it's actually done, correct?

21 A Well, the word means something different based on how
22 you're using the card. So let me -- what I need to do is
23 look at the statement and see that particular charge. So
24 let me do that so I answer correctly, because I don't want
25 to be confusing. I can't answer as to why that happens

MARY ELLEN CERVETTI: REDIRECT EXAMINATION

296

1 other than it's a system, and that charge does not actually
2 show up on this statement. So I would have to have
3 additional bank documents to explain what this is versus
4 what's on the account.

5 Q Okay. But can't you tell me that the processing time
6 would have been after the transaction time? And this being
7 the transaction time for that Hardee's purchase would have
8 been August 18 at 11:56 in the evening?

9 A Based on this report, which is the merchant's
10 transaction, that's what that says. The processing
11 transaction time.

12 Q Thank you. So with the transaction time being on
13 August 18, 2013 at 11:56, that would show somebody was using
14 that card at that time?

15 A It's possible.

16 MR. ABLE: Thank you.

17 THE COURT: Any redirect, Solicitor?

18 REDIRECT EXAMINATION

19 BY MR. SCOTT:

20 Q What was that last -- on August 18th somebody was using
21 the card? What was the time?

22 A I think -- I think he has the form.

23 Q Don't worry about it. All I want to know, what time
24 was this man in this picture using Myranda's ATM card
25 and on what date?

MARY ELLEN CERVETTI: REDIRECT EXAMINATION

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1 A That was done on August 19th at our Berea branch.

2 Q Any doubt whatsoever, according to those records, that
3 that was 3:30 a.m. in the morning, August 19th at an ATM in
4 Berea?

5 A Yeah.

6 Q Immediately proceeding that transaction, is there any
7 doubt whatsoever that Myranda Southern's bank card was used
8 --

9 MR. ABLE: Your Honor, He's just going back over what
10 she testified -

11 MR. SCOTT: I was confused.

12 MR. ABLE: I object.

13 THE COURT: I'm going to allow him to go back over it,
14 even though he did cover that in direct.

15 MR. ABLE: All right, sir.

16 Q Is there any doubt -- I don't know what you all were
17 talking about a minute ago. But 8:03 p.m., that Myranda's
18 card was used at a 7-Eleven at 3440 Wade Hampton? According
19 to the records?

20 A No, there's absolutely no doubt.

21 Q Is there any doubt, according to the records, that her
22 bank card was used at 1:20 p.m. in a transaction at 3301
23 Wade Hampton Boulevard?

24 A No, there's no doubt.

25 MR. SCOTT: Thank you. That's all I have.

JAMES PERRY: DIRECT EXAMINATION

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1 THE COURT: Recross?

2 MR. ABLE: No, sir. I recrossed on that. Thank you.

3 THE COURT: Thank you, ma'am, for your testimony. You
4 can step down.

5 THE WITNESS: Thank you.

6 THE COURT: You're welcome to remain with us or you're
7 free to leave.

8 (Whereupon, the witness stepped down from the witness
9 stand.)

10 MR. SCOTT: The State calls Jim Perry.

11 JAMES PERRY, having first been duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q State your name for the record.

16 A James Perry.

17 Q Mr. Perry, you are employed with the Greenville
18 Sheriff's Department?

19 A Greenville County Sheriff's Office, correct.

20 Q Okay. Greenville County Sheriff's Department. And
21 what unit are you in?

22 A I'm in the Computer Crime Investigations Unit.

23 Q So what do you do on a day-to-day basis?

24 A Oh, wow. We do -- we do anything from online
25 predators. We do the computer forensics, cell phone

1 forensics dealing with any kind of case. We're also members
2 of the ICAC, which is the Internet Crimes Against Children's
3 Task Force out of the Attorney General's Office. So we have
4 a -- we wear several different hats on a daily basis.

5 Q So on a day-to-day basis you're digging through other
6 peoples' computers and other peoples' phones and everything?

7 A Phones, correct.

8 Q August of 2013, did you have an occasion to become
9 involved with -- started off as a missing person's case up
10 in Greenville County of Myranda Southern?

11 A Correct.

12 Q And how did you come to get involved with that case?

13 A On the 22nd Investigator Antonio Bailey brought us this
14 cell phone and a consent to search for that cell phone. We
15 began the search of the cell phone. What we have to do is
16 we have to hook it up to a machine that does a forensic
17 image of that machine -- of the phone. And what ended up
18 happening was -- it'll give you an estimated amount of time
19 needed to download that phone. I believe it was telling us
20 it was going to be about 59 hours to download it.

21 Q Is there a reason that it would take so long on certain
22 phones to download?

23 A Different -- every phone, depending on the make, the
24 model, the carrier, the size of the hard drive and the
25 amount of data that that phone will hold, it could take that

JAMES PERRY: DIRECT EXAMINATION

300

1 long.

2 Q August 22nd, that's when Mr. Raines came in and gave a
3 statement. At that time you all obtained his phone?

4 A On the 22nd.

5 Q What is the -- what's the system you do to do an
6 abstraction on the phone? Is it Cellebrite?

7 A Yes, sir. It's a cell phone forensic machine called
8 Cellebrite.

9 Q So Mr. Raines handed over his phone to you guys and
10 then you hook it up to the Cellebrite machine, and it does
11 what from there?

12 A Once we hook it up we locate that particular make and
13 model phone on the Cellebrite machine. Then you decide
14 which kind of extraction you want. You want a physical
15 extraction, a file system, which just determines the amount
16 of data you're going to get. We chose the files physical
17 extraction because that captures the most data. It gets
18 deleted text messages and other deleted information.

19 Q Wait a minute. So you can actually find the deleted
20 stuff on there?

21 A That is correct.

22 Q So we were talking earlier about some cell phone
23 records we get from Sprint and Verizon and everything.

24 A Uh-huh.

25 Q Would that show deleted calls?

JAMES PERRY: DIRECT EXAMINATION

301

1 A Would the phone records show the deleted calls?

2 Q Yeah. If Verizon sent me some records, would it show
3 deleted information?

4 A It'll show you everything they have, but it won't say
5 it was deleted. In other words, when you get -- when you
6 get phone records of a person's call, it gets all the calls
7 that that person made. So it's going to have everything.

8 Q But it wouldn't show text messages, would it?

9 A No. The text messages -- if the text messages are
10 deleted normally the carrier can't supply those to us.

11 Q Okay. So if I got my phone and I delete a bunch of
12 texts, you ask for my Verizon records, those deleted texts
13 wouldn't show up?

14 A No. It would show that a text message might have been
15 sent.

16 Q But not the content?

17 A Not the content.

18 Q But now, if you hooked it up to your Cellebrite machine
19 could you get my deleted texts?

20 A Very possible.

21 Q That's scary. Did you do that in this case?

22 A We did in this case.

23 Q Let me show you State's No. 30. Do you recognize that?

24 A I do.

25 Q What is that?

JAMES PERRY: DIRECT EXAMINATION

302

1 A This is a disc of the report I generated from the cell
2 phone.

3 Q So this would be the content of the cell phone
4 extraction you performed on the phone?

5 A This is the report that I generated from the
6 extraction.

7 Q Okay.

8 MR. SCOTT: Your Honor, the State would offer State's
9 30 for admission into evidence.

10 THE COURT: What says the Defense?

11 MR. ABLE: Let me see it, Judge. No objection.

12 THE COURT: All right. Without objection, I'll put 30
13 for the State into evidence.

14 (Whereupon, State's Exhibit No. 30 was admitted into
15 evidence.)

16 Q Were you able to review your report that you generated
17 from that cell phone extraction?

18 A Have I reviewed it?

19 Q Yeah.

20 A Yes, I have.

21 Q And what kind of -- does it -- does it show, aside from
22 the calls and text messages and everything else, would it
23 show, I don't know, like Internet searches and everything
24 like that?

25 A It'll show Internet searches, different Face book

1 things. It just totally depends on what you're looking for
2 and what type phone it is.

3 Q Were you able to find Face book information for Darrell
4 Raines?

5 A There was some Face book information on there.

6 Q Face book searches by Darrell Raines?

7 A Correct.

8 Q You were even able to find his Face book password,
9 weren't you?

10 A I found a password for a Face book account.

11 Q What was his password for Face book?

12 A All4Lisa.

13 Q All4Lisa?

14 A Yeah with the 4 being -- not f-o-r but the letter -- or
15 the number 4.

16 Q Lisa Hamlett. You're familiar with that name in your
17 search of his phone at all?

18 A Yes. Yes. There was searches for that name.

19 Q There were searches for Lisa Hamlett?

20 A Correct.

21 Q Did you find searches for a Jason Gillespie?

22 A I did.

23 Q Did you find deleted messages and calls?

24 A There were deleted messages and calls. That's correct.

25 MR. SCOTT: Judge, can I take some time to -- can we

JAMES PERRY: DIRECT EXAMINATION

304

1 approach?

2 THE COURT: Sure, yeah.

3 (Whereupon, a sidebar was held.)

4 THE COURT: Mr. Foreman, ladies and gentlemen of the
5 jury, I think the attorneys need a few minutes to review
6 some evidence. Consequently, we're going to take break.
7 And I ask that you go back to the jury room and don't begin
8 any discussions about this case among yourselves and we'll
9 get you back out shortly.

10 (Whereupon, the jury exited the courtroom at 2:55 p.m.)

11 THE COURT: We'll be at recess about 10, 15 minutes.

12 (Whereupon, a recess was held from 2:55 p.m. to 3:14
13 p.m.)

14 (Whereupon, the jury entered the courtroom at 3:14
15 p.m.)

16 THE COURT: Let the record reflect the jury's back in.
17 Solicitor, you may proceed, sir.

18 MR. SCOTT: Yes, sir.

19 Q Mr. Perry, just to back up two steps what we were
20 talking about. State's No. 30 was your report generated
21 from the phone extraction of Mr. Raines' phone?

22 A Correct.

23 Q And then I was showing you something. Well, let me
24 back up. The times listed on that phone when you generate
25 your report, does it show up standard eastern time?

JAMES PERRY: DIRECT EXAMINATION

305

1 A Daylight time.

2 Q What is that?

3 A That's basically Daylight time which is -- depending on
4 what time of year it is, it's either four hours or five
5 hours different than our time. On Eastern time. If it's
6 daylight savings time, it's four hours standard time. Like
7 it is now, it's minus five hours.

8 Q So in August, if you were looking at what he was doing
9 --

10 A It would be four hours.

11 Q Four hours. So what you would do -- if it said he sent
12 a text message at 4:00 p.m, you back up and say it was
13 actually 12:00 p.m.?

14 A Correct.

15 Q And I want to show you State's 31. Have you reviewed
16 that document?

17 A I have.

18 Q What is that?

19 A It's basically an excerpt from my report. My lengthy
20 report.

21 Q Because if you print your report out this would just be
22 a portion of it. Is that safe to say?

23 A That's safe to say. We normally don't print them out.

24 Q Well, it's thousands of pages?

25 A It's thousands of pages.

JAMES PERRY: DIRECT EXAMINATION

306

1 Q But if you're looking at a snapshot in time, is that an
2 accurate summary of that snapshot around August? Some of
3 the text thing that Darrell Raines and Myranda Southern were
4 doing?

5 A Yeah, that's correct. This is an excerpt out of there.
6 It's a snapshot of the particular dates that are listed on
7 here.

8 Q And they're accurate according to your phone extraction
9 information?

10 A That is correct.

11 Q And they're adjusted for standard eastern time?

12 A Correct.

13 Q And, you know, when you print them up on here are they
14 necessarily in order? Like do they say Dale Scott sent this
15 to Jim Perry, then Jim Perry responded to this, then Dale --
16 I mean, is it in order like chronological?

17 A Depending on how the person's using the phone, but not
18 usually.

19 Q But has that been adjusted to --

20 A It's been adjusted to dictate these two people.

21 MR. SCOTT: Your Honor, the State would offer that
22 exhibit, but the number escapes me. But we would offer it.

23 THE COURT: It would be 31.

24 MR. SCOTT: Okay. The State would offer State's 31.

25 And we would do so basically as a summary of a voluminous

1 report under Rule 1006, Rules of Evidence.

2 THE COURT: What says the Defense?

3 MR. ABLE: Your Honor, as to those portions generated
4 by my client there would be no objection. But I believe the
5 Solicitor just said those were text messages by Myranda
6 Southern. Those would be objectionable as hearsay.

7 THE COURT: Okay. Does the actual summary 31 contain
8 text contents?

9 MR. SCOTT: It does.

10 THE COURT: And so, what Mr. Able has objected to is
11 anything that Myranda may have said in a text message; is
12 that correct?

13 MR. ABLE: Yes, sir.

14 THE COURT: The State's response?

15 MR. SCOTT: I don't see it anything that's going to the
16 truth of the matter ascertained, again, Your Honor. These
17 are -- these are things that Mr. Raines has provided law
18 enforcement from his own phone and they were generated from
19 his phone.

20 MR. ABLE: Under the rule that doesn't matter. It's
21 hearsay.

22 MR. SCOTT: I'm not finished. None of it -- none of it
23 is to the truth of the matter asserted. I guess we could
24 review it in-camera if we needed to, but --

25 THE COURT: Well, I guess probably what I need to do is

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1 to not review the entire report but just review a sampling
2 to kind of get an idea of what is there for me to determine
3 whether or not it's being offered for the truth of the
4 matter asserted or not. So Mr. Foreman, ladies and
5 gentlemen of the jury, be patient with us, but this is
6 something I want to review with the lawyers to make a ruling
7 whether or not this will come in in full or not.
8 Consequently, that means you'll have to go back to your jury
9 room. And again, please be patient with us. Don't begin
10 any discussions about this case. Thank you.

11 (Whereupon, the jury exited the courtroom at 3:30 p.m.)

12 THE COURT: Solicitor, if you will just give me several
13 examples of what this report shows these text messages.

14 MR. SCOTT: Yes, sir. And this is just kind of the
15 same thing but in a blown up, I guess, version of it.

16 What we have undertaken to do to make it, I guess,
17 reader friendly, blue would be Darrell Raines, pink would be
18 Myranda Southern.

19 THE COURT: Okay.

20 MR. SCOTT: The yellow indicate deleted texts. And
21 again, this is from a phone extraction of Mr. Raines' phone.
22 And this is going to make sense with subsequent witnesses.
23 But here's what Darrell text on August 16th around 9:33 p.m.
24 "Thought. If he isn't there tonight, he's home right now,
25 and we send the messages tonight and she confronts him. I

1 know how I'd react to something like that and went to drive
2 over immediately. Think we should plant phase two either
3 way." She says, "I know. I can't -- I can't use my
4 computer." He says, "Huh". She says, "I can't use my
5 computer here to plug in the charger, and I need to think
6 about that," referencing his thought. He goes, "Only two
7 more hours before you get off. If your battery is low, turn
8 your data off and it might save some battery." She says,
9 "Yea." And then he says, "If you go under settings and then
10 under networks, mobile networks, uncheck data," that turns
11 off the Internet portion." Then she says, "Are you
12 anxiously awaiting me to get off - lol." He says, "Yes -
13 lol." And she says "Lol. I will when I get a sec." Then
14 he says, "Will what A-M-A-O." And then she says the thing
15 about my battery. It goes on. It's just really kind of
16 laying the groundwork. You ultimately get down to -- if I
17 could fast forward. I'm going to start about August 17th,
18 10:08. He's out, I think, downtown drinking liquor or
19 something, and she says, "Wow, sounds like quite the party."
20 10:08 he says, "Not really." And then she does a Emoticon.
21 It looks like a frowny face. He says, "Oh, well. Maybe one
22 more drink and that's it for me. The slushies suck. The
23 waitress is cute though. Too bad she looks a lot like
24 Lisa." As you know, Lisa is going to be a name you're going
25 to be hearing a lot of. She says, "Geez. I could possibly

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1 get out at 11:00 if you need or want company." He says, "I
2 don't know." She says, "Maybe you need some alone time.
3 Try a different type of slushy," and he says, "The slushies
4 are 750 each - lol -- or \$7.50 each."

5 Here you have Myranda calls Darrell and the call lasts
6 24 seconds. That's August 18th, 11:03 p.m. 11:49 p.m. he
7 says, "You off?" And she says, "Hey, you, 10 minutes." And
8 then he does a smiley face.

9 Now, here's the critical time right here, Judge. 12:03
10 a.m. there's an outgoing call from Myranda to Darrell's
11 phone and it lasts six minutes and 12 seconds, and then it
12 just goes off. And we're going to have like -- what we
13 intend to show as some animation. What her phone -- the
14 location she's traveling after she gets off work. Regarding
15 her testimony, between 1:00 and 1:30 there's a gunshot.
16 Then you heard testimony at 3:30 a.m. he's at the bank using
17 her card. 2:56 a.m. his phone sends a text message to hers.
18 "Can't sleep. You," question mark. What we now know, or
19 what the State's proposition is, this is him using her phone
20 to text back, because she's dead. 3:00 a.m. from her phone
21 you get, "I'm still with Shawn. He's being an ass. I'm not
22 giving him what he wants. I'll call you tomorrow." Then
23 Darrell says, "Okay. Just let me know when you make it
24 home. I'm headed to bed. Good night." It all fits into a
25 larger theory that the the State is trying to show. None of

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1 this, Your Honor, is really being offered for proof of the
2 content or proof of what --

3 THE COURT: Well, and I'm going to -- I'm going to
4 allow it in. Two grounds, one is it does not appear from --
5 we didn't go through the entire record. But you gave me a
6 sampling, and based upon the sampling it does not appear
7 it's being offered for the truth of the matter asserted,
8 which would make it hearsay. And two, the comment is
9 similar to that of the Face book postings wherein the
10 State's theory is that the Face book postings were created
11 by the Defendant and not by Myranda. And so, their theory,
12 as far as these last texts from Myranda's phone, is based
13 upon their theory that the Defendant created those text
14 messages.

15 MR. ABLE: And I understand that, Judge.

16 THE COURT: Right.

17 MR. ABLE: I mean, but if over my objection you're
18 wanting to allow the last few lines into that, I could
19 understand that based upon -- but my objection is to the
20 whole thing.

21 THE COURT: Right. I understand.

22 MR. ABLE: I don't know what it would be offered for
23 except for the truth of the matter asserted.

24 THE COURT: Well, just for example. I mean, they
25 talked about her computer going dead and then recharging it.

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1 I mean, because I don't know where -- how that is really
2 helpful to the State's case. But, you know, offered for --
3 it's not offered for the truth of the matter asserted that
4 she had a dead computer. You see what I'm saying? So based
5 upon the sampling that the Solicitor gave me -- and it's the
6 same kind of stuff, correct, throughout this whole --

7 MR. SCOTT: Yes, sir. I mean, Your Honor, I'm not
8 going to introduce it now. I want him to ID it, because
9 there's still a lot of information that needs to come in to
10 make some of this stuff relevant. I was telling you some of
11 this stuff that hadn't been testified to yet. So I don't
12 want to publish this to a jury yet. What I can do -- let me
13 get him to ID it and I'll provide Your Honor with a copy to
14 sort of review.

15 THE COURT: Let's do that.

16 MR. SCOTT: This is the same thing. This is --

17 MR. ABLE: Yeah, it's the same thing. So what are you
18 talking about putting in, that or this, or having ID?

19 MR. SCOTT: Probably what I'm -- yeah, I'm just going
20 to ID them for now regardless.

21 MR. ABLE: Both of them?

22 MR. SCOTT: Yeah, I want them to be able to sit around
23 and look at that together. So I'm going to introduce that
24 ultimately. So what I'll do is I'll get -- I'm just showing
25 this. It's the same thing. I'll show you this. I'm going

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1 to get you to ID and then --

2 MR. ABLE: Well, I'm going to just state for the
3 record, Judge, I object, to both of them.

4 THE COURT: But it's the --

5 MR. ABLE: They're the same exhibit.

6 THE COURT: Right. Well, let's -- if you want to ID
7 that, why don't you ID the 31 for right now. And then at
8 least that resolves the objection right now. And then once
9 you get some other witnesses in and then certainly the
10 objection will be renewed. Okay?

11 MR. ABLE: Okay.

12 THE COURT: So Madam Court Reporter, if you will
13 designate -- well, I think 31 has not been offered yet
14 anyway.

15 MR. ABLE: No, sir. It hasn't. I don't think 31 has
16 been --

17 THE COURT: 31. Both for ID at this time?

18 MR. ABLE: For ID, yeah. They haven't been offered
19 yet.

20 THE COURT: Good enough for you, Solicitor?

21 MR. SCOTT: Yes, sir. Yes, sir. Both for ID.

22 (Whereupon, State's Exhibit No. 31 and 32 were marked
23 for identification.)

24 MR. ABLE: And, Dale, you're just going to have him ID
25 that, correct?

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1 MR. SCOTT: Yes.

2 THE COURT: All right. Mr. Bolt, bring the jury out,
3 please.

4 (Whereupon, the jury entered the courtroom at 3:30
5 p.m.)

6 THE COURT: Solicitor, you may proceed.

7 MR. SCOTT: Thank you, Your Honor.

8 Q We were talking about State's 31. Have you reviewed
9 that?

10 A I have.

11 Q And that is an accurate summary of text messages
12 between Darrell Raines and Myranda Southern from August 16th
13 up to August 19th, 2013?

14 A That is correct.

15 Q And it has standard eastern times on it?

16 A Standard -- no. Daylight.

17 Q What is that? The time we're in right now?

18 A No. We're in standard now.

19 Q The times --

20 A -- times here, correct.

21 Q For the South Carolina time?

22 A At that time. South Carolina time at that time.

23 Q And does it accurately reflect messages sent by Darrell
24 Raines?

25 A Correct.

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1 Q And then does it accurately reflect responses sent by
2 Miranda Southern?

3 A It does.

4 Q And does it accurately show the text messages that
5 Darrell Raines has deleted from his phone?

6 A It does show the ones deleted.

7 Q And that a fair and accurate representation summary
8 then. Is that what you're saying?

9 A It is.

10 Q And likewise, 32, just to ID it, that is the same
11 document but just in a format on a poster board?

12 A That is correct.

13 Q Let me show you State's 33. Have you seen that
14 document?

15 A I have.

16 Q And have you reconciled that against your report that
17 you generated from State's 30?

18 A I did.

19 Q And is that a fair summary of phone calls that Darrell
20 Raines made between August 18th, 2013 and August 21st, 2013
21 to two specific businesses?

22 A It does.

23 Q And does it accurately reflect -- does it accurately
24 reflect which calls were deleted?

25 A It shows them all being deleted.

DR. JANET ROSS: DIRECT EXAMINATION

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1 Q And is that accurate as far as your review of that
2 summary -

3 A It is.

4 Q -- and then the report you generated?

5 A It is.

6 Q Thank you.

7 MR. SCOTT: Jim Perry, answer any questions Mr. Able
8 has for you, please.

9 THE COURT: Cross-examination?

10 MR. ABLE: No questions, Your Honor.

11 THE COURT: Thank you for your testimony, sir. You can
12 step down. You're welcome to remain with us or you're free
13 to leave.

14 THE WITNESS: Thank you, sir.

15 (Whereupon, the witness stepped down from the witness
16 stand.)

17 MS. BOYKIN: Your Honor, the State would call Dr. Ross.

18 DR. JANET ROSS, having first been
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. BOYKIN:

22 Q Dr. Ross, could you please state your full name for the
23 record.

24 A Janice Edwards Ross.

25 Q And, Dr. Ross, what do you do?

DR. JANET ROSS: DIRECT EXAMINATION

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1 A I'm a forensic pathologist in Newberry, South Carolina.

2 Q And what is a forensic pathologist?

3 A I'll give you my background. I have a degree -- a

4 Bachelor's degree from the University of South Carolina and

5 my M.D. from Upstate Medical Center in Syracuse, New York

6 where I had further training in the field of pathology.

7 Pathology is the study of disease. We learn in general

8 pathology how to do an autopsy, find a cause of death. We

9 learn how to identify diseases like cancers and anemias,

10 infections. We learn how to use information from a clinical

11 laboratory of a hospital to identify disease states. And I

12 did further training in the field of forensic pathology

13 which -- the word forensic means legal, where we use a

14 medical knowledge of legal matters like homicides, suicides,

15 accidents and rapes. We learn how to do a specific autopsy

16 to find patterns of injury and to collect specimens for a

17 court of law and for toxicology. We take photographs and

18 find a cause of the manner of death.

19 Q You mentioned cause and manner of death. What are --

20 are there different types of causes?

21 A yes. The cause of death is what actually caused the

22 death. Just like it says. The manner of death is how that

23 cause came about. There are five manners of death. One's

24 natural, like a heart attack. One's suicide, one is

25 homicide, one is accidents, and then if we can't determine,

DR. JANET ROSS: DIRECT EXAMINATION

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1 it's undetermined.

2 Q And you mentioned part of your job is to conduct an
3 autopsy. What exactly is an autopsy?

4 A Yes. An autopsy -- you do autopsies for coroners of
5 the counties. They're authorized, and they send us the
6 person, patient, in a body bag at the morgue at Newberry
7 County Memorial Hospital. We open the body bag, identify
8 clothing, identify name and -- that we have. We identify
9 clothing. We then take the clothing out. Take photographs
10 of everything. We take photographs of the body and identify
11 any kind of injury on the external side. Then we do a
12 general thorough internal examination.

13 Q And about how long have you been a forensic
14 pathologist?

15 A Thirty-nine years.

16 Q Have you ever testified in court before?

17 A Yes.

18 Q About how many times?

19 A Two hundred.

20 Q And have you been qualified as an expert those 200
21 times?

22 A Yes.

23 MS. BOYKIN: Your Honor, at this time I would offer Dr.
24 Ross as an expert in forensic pathology.

25 THE COURT: Mr. Able, do you have any examination of

DR. JANET ROSS: DIRECT EXAMINATION

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1 Dr. Ross related to qualifications?

2 MR. ABLE: No, sir. I'm familiar with Dr. Ross and
3 have no problem with her being qualified as an expert.

4 THE COURT: All right. Let me explain to the jury
5 concerning expert witnesses. Normally a person a person
6 cannot give opinion testimony. Normally when a person
7 testifies they must testify to what they either saw, heard,
8 or sensed by smell or something of that nature. However,
9 there's an exception. When someone is qualified because of
10 education or experience they are committed to give their
11 opinion in certain areas if the court qualifies them that
12 way. I find that Dr. Ross is qualified in the area of
13 forensic pathology and is entitled to give opinion testimony
14 in that particular area. Now, it does not mean that you
15 must accept her opinion. But it is evidence. Her testimony
16 is evidence for you to use in any way you see fit and give
17 it the weight and credibility that you believe is just and
18 appropriate.

19 You may proceed, Solicitor.

20 MS. BOYKIN: Thank you, Your Honor.

21 Q Now, Dr. Ross, did you happen to become involved in an
22 autopsy on August 24th, 2013?

23 A Yes.

24 Q And did that autopsy involve a body found off Bramlett
25 Church Road in Laurens County?

DR. JANET ROSS: DIRECT EXAMINATION

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1 A Yes.

2 Q If you wouldn't mind, just tell us a little bit how you
3 became involved and where it went from there.

4 A Nick Nichols, the Coroner, called and authorized and
5 asked for a time for the autopsy. And they brought the
6 patient to us on that date, August 24th, 2013. We found
7 that the patient had some clothing on, which we photographed
8 and then we took off. The patient also had changed into
9 decomposition. There are certain things that happen after
10 death, especially in the heat. There's changes in the
11 tissue. In this case there was also skeletal -- what we
12 call skeletonization. There was some tissue actually
13 absent off of part of the head and the neck area. So we did
14 -- because of that, because you couldn't see a lot of
15 external injuries, we did x-rays.

16 Q Could you tell if this was a man or a woman?

17 A It was female, yes.

18 Q Could you tell the race?

19 A It appeared to have Caucasian skin and hair. What hair
20 was there.

21 Q And you mentioned you took x-rays. Did you also take
22 pictures?

23 A Yes.

24 Q What did you observe while performing this autopsy?

25 Any damage to the body besides decomposition?

DR. JANET ROSS: DIRECT EXAMINATION

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1 A All I could see was decomposition externally.

2 Q And once you performed the x-rays did you see something
3 else?

4 A Yes. We found a bullet in the area of the upper neck.

5 Q Dr. Ross, I'd like to show you what has been marked as
6 State's Exhibit 34. Do you recognize that?

7 A Yes. It's a photograph of the x-ray we performed at
8 the autopsy.

9 Q Are there any measurements or anything on there?

10 A Well, there's a -- there are a few -- there's -- our
11 number is put on a marker that has it's an inch long. There
12 may be some distortion about the neck because it's an x-ray.
13 But it does show the bullet at the top of the neck.

14 Q And you mentioned your number. Is there a lab number
15 specific for this case?

16 A This is -- the new number is FA, Forensic Autopsy, 13,
17 which is the year, 2013, and it was number 595 for the year.

18 Q And so, you are certain that this is the picture that
19 you took?

20 A Correct.

21 MS. BOYKIN: State would offer State's Exhibit 34 for
22 admission into evidence.

23 THE COURT: And what says the Defense?

24 MR. ABLE: Your Honor, the only objection I would raise
25 would be Dr. Ross has said a couple of times that we took x-

DR. JANET ROSS: DIRECT EXAMINATION

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1 rays I would just -- if there would be inquiry made as to
2 whether or not it was an x-ray that she took or she was
3 present when the x-ray was taken.

4 THE COURT: All right. You want to pursue that with
5 Dr. Ross?

6 MS. BOYKIN: Of course, Your Honor.

7 Q Were you the only person there that took this picture?
8 This x-ray?

9 A When we do an autopsy we have a morgue assistant who
10 helps with the dissection, and I have a person putting
11 information into the computer for our evidence forms, et
12 cetera. So altogether with the person doing the autopsy,
13 the morgue assistant and myself do the x-rays.

14 MR. ABLE: You Honor, I have no objection.

15 THE COURT: Without objection, 34 into evidence for the
16 State.

17 (Whereupon, State's Exhibit 34 was admitted into
18 evidence.)

19 MS. BOYKIN: Your Honor, permission to publish.

20 THE COURT: Sure.

21 Q Dr. Ross, while this is coming up I want to show you
22 what has been marked as State's Exhibit 19. So you
23 recognize this?

24 A Yes. That's the bullet we retrieved from the neck of
25 -- at that time it was Jane Doe from the autopsy that we're

DR. JANET ROSS: DIRECT EXAMINATION

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1 talking about, 13-595.

2 Q And what did you do with this bullet after you

3 retrieved it from the body?

4 A We sealed it in material just as it is, and Jeff Crooks
5 from SLED took the evidence.

6 THE COURT: Dr. Ross, could you speak up just a little
7 bit, please, ma'am?

8 THE WITNESS: Yes, sir.

9 THE COURT: Thank you.

10 Q State's Exhibit 34. Dr. Ross, if you could just point.

11 A The bullet is right there. This is the side view of
12 the head. The neck here, and this -- and this is basically
13 the jaw. And this is the bullet right here.

14 Q Whereabouts in the body is this?

15 A It's the right side of the upper neck. Just underneath
16 the skull.

17 Q Based on this can you tell directionality of the
18 bullet?

19 A It looks like it's going sort of upward and backward.
20 But because of the condition of the tissue, there's a lot of
21 tissue that's lacking there and this was embedded in the
22 soft tissue, I can't say for sure. It could have moved
23 around while the patient was being moved.

24 Q So based on just an x-ray you can't -- it's not
25 determined what direction the bullet came from, from the

DR. JANET ROSS: DIRECT EXAMINATION

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1 front or the back?

2 A That is correct. There's no -- there was no soft
3 tissue there, skin to show me an entrance wound.

4 Q Now, would this shot be fatal?

5 A Yes.

6 Q And was it fatal?

7 A Yes.

8 Q Dr. Ross, was there any other evidence relating to
9 bullet wounds or evidence on the body that would show damage
10 similar to that of a bullet?

11 A No. No.

12 Q What about on the clothing.

13 A The cervical vertebra number one is scratched. But in
14 the clothing -- part of the clothing was a hooded sweatshirt
15 that was unzipped. But in the back of that hood there was a
16 hole that could have been a hole where the bullet came out.

17 Q Do you happen to remember the color of that sweatshirt?

18 A It was kind of a pinkish red color.

19 Q And after you found this bullet what did you do next?
20 Did you take any samples?

21 A We -- no. The general autopsy we try to take samples
22 for drug analysis. In a case like this there was no blood
23 to be retrieved because of the state of the body. So we
24 collect brain and liver tissue for SLED to analysis for
25 drugs. There was some urine also that we sent to -- for

1 drug analysis.

2 Q If you could, just tell us what you sent off to SLED to
3 be analyzed.

4 A We went brain and liver and urine. The -- we also sent
5 fingernails. We sent hand tissue for fingerprinting. And I
6 said brain, liver and urine.

7 Q And in your opinion, what was the cause of death?

8 A The gunshot wound to the neck.

9 Q And in your opinion, what was the manner of death?

10 A Homicide.

11 MS. BOYKIN: Thank you. Please answer any questions
12 Mr. Able has.

13 THE COURT: Mr. Able.

14 CROSS-EXAMINATION

15 BY MR. ABLE:

16 Q Doctor, you receive a report back after you send off
17 this tissue to be analyzed for drugs?

18 A Yes.

19 Q And did you receive a report back in this case?

20 A Yes.

21 Q And did that have any affect upon your conclusions in
22 this case?

23 A No, it did not.

24 Q What drugs did she have in her system?

25 A They analyzed the urine and all they could say was what

DR. JANET ROSS: REDIRECT EXAMINATION

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1 was there. It doesn't necessarily mean how much was there.
2 There were drugs. For instance, there was methamphetamine,
3 amphetamine, pseudoephedrine, hydrocodone, hydromorphone,
4 some marijuana metabolites, clonazepam, alprazolam, and
5 hydroxyalprazolam.

6 Q To make sure I understood, you said methamphetamine?

7 A Yes.

8 Q Thank you, Doctor.

9 MR. ABLE: That's all I have, Your Honor.

10 THE COURT: Anything on redirect?

11 MS. BOYKIN: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. BOYKIN:

14 Q Of those drugs you just named are any of those
15 prescription drugs?

16 A Yes. The hydrocodone could be, the pseudoephedrine
17 could be. Some of the others, yes.

18 Q Thank you, Dr. Ross\

19 THE COURT: Thank you, Dr. Ross. And, Solicitor, how
20 about letting the court reporter see this document she read
21 off of so we can get -- she can get a complete list of those
22 drugs.

23 MS. BOYKIN: Of course, Your Honor.

24 THE COURT: I don't think that's in evidence.

25 Okay. Ladies and gentlemen, we're going to take an

JEFF CROOKS: DIRECT EXAMINATION

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1 afternoon break for about 10 minutes. About 10 till 4:00.

2 So go back to your jury room and don't discuss anything

3 about this case and we'll get you back out shortly.

4 (Whereupon, the jury exited the courtroom at 4:00 p.m.)

5 (Whereupon a recess was held from 4:00 p.m. to 4:17

6 p.m.)

7 (Whereupon, the jury entered the courtroom at 4:17

8 p.m.)

9 THE COURT: Solicitor, you may proceed.

10 MS. BOYKIN: Thank you, Your Honor. The state calls

11 Jeff Crooks.

12 JEFF CROOKS, having first been duly

13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BOYKIN?

16 Q Mr. Crook, where do you work?

17 A With the South Carolina State Law Enforcement Division
18 commonly referred to as SLED.

19 Q And what are your duties there?

20 A I am currently the Lieutenant of the Latent Print
21 Department. I supervise the department.

22 Q Were you working SLED back in 2013?

23 A Yes, ma'am. I was.

24 Q And did you happy to become involved in the case with
25 Myranda Southern?

KEITH MCINTOSH: DIRECT EXAMINATION

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1 MR. ABLE: No, sir. I have questions.

2 THE COURT: Thank you for your testimony, sir. You can
3 step down. You're free to leave or you're welcome to remain
4 with us.

5 THE WITNESS: Thank you.

6 (Whereupon, the witness stepped down from the witness
7 stand.)

8 MR. SCOTT: The State calls Lieutenant Keith McIntosh,
9 Your Honor.

10 LIEUTENANT KEITH MCINTOSH, having
11 first been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. SCOTT:

14 Q State your full name.

15 A Joseph Keith McIntosh.

16 Q And you're an investigator with Laurens County?

17 A Yes, sir.

18 Q And we've been talking about this case. It originates
19 as a missing person out of Greenville County. At what point
20 does Laurens County come into the mix here?

21 A We became involved on August 23rd of 2013. We received
22 a call from the complaint had called this in about the body
23 in the field. And myself along with Investigator Cheeks and
24 Investigator Franklin responded to the location.

25 Q So you actually went out into the -- you went out to

KEITH MCINTOSH: DIRECT EXAMINATION

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1 the field on Bramlett Church Road?

2 A Yes, sir. I did.

3 Q And the 23rd, that's when Laurens County gets the call
4 that there was something found in the field? State's No.
5 13?

6 A Yes, sir. We was dispatched at 11:48 in the morning.

7 Q And were you able to walk the field out there?

8 A Yes, sir. I did.

9 Q Can you see the general area of the field where the
10 body was?

11 A Yes, sir.

12 Q Point to it for me. Somewhere in here?

13 A Yes, sir.

14 Q And when you go up there were you aware of the missing
15 person report out of Greenville County?

16 A Yes, sir. I was aware through news media and news
17 outlets that there was -- Greenville County had a missing
18 person. They had put on the news that it was a white
19 female. A younger person.

20 Q From what you could tell, was this consistent with what
21 Greenville County was looking for?

22 A All I could tell was that it was a white female.

23 Q Did you immediate contact authorities up in Greenville
24 County?

25 A Yes, sir. I called dispatch -- Greenville County

KEITH MCINTOSH: DIRECT EXAMINATION

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1 dispatch to let them know where we was at and what we had
2 discovered and asked them to get into the -- get to the
3 proper investigators who was working the missing person case
4 up there and have them to contact me.

5 Q Did you speak with the neighbors around there?

6 A Yes, sir. I did. I spoke with the lady that testified
7 this morning, Christine -- Christine Yates.

8 Q Or Christian Yates?

9 A Christian Yates.

10 Q All right. And that's her home right there?

11 A Yes, sir.

12 Q And did she -- did she speak with you about hearing the
13 gunshots and everything?

14 A Yes, sir. She did. She gave a statement to that
15 effect.

16 Q Now, once Greenville County got down there did they
17 share some information with you of what they had done up to
18 that point?

19 A Yes, sir. They did. We began to converse with one
20 another about this -- their case and our case. They began
21 to tell me some things that they had already discovered as
22 far as, you know, the picture and the video.

23 Q So you knew about Darrell Raines?

24 A Yes, sir.

25 Q You knew about this picture here in State's 26?

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1 A Yes, sir.

2 Q And so, you knew about the transactions, using Myranda
3 Southern's card?

4 A Yes, sir.

5 Q And you knew the last time she was seen?

6 A Yes, sir. I knew that from a missing person report
7 that they told us that she had went to work on Sunday
8 afternoon and she was supposed to get off at 12:00.

9 Q So when was the last time she was accounted for?

10 A To my knowledge it was Sunday evening at 12:00.

11 Midnight.

12 Q So Sunday at midnight, or Monday morning at midnight,
13 just however you want to put it?

14 A Yes.

15 Q That's the last time she could be accounted for?

16 A Yes.

17 Q And then it's a missing person up in Greenville until
18 the 23rd and that's when she's found in that field in
19 Laurens County?

20 A Yes, sir.

21 Q Now, what does Laurens County do at that point when you
22 all pick up the investigation?

23 A Greenville County investigations - The first thing we
24 need to do is try to identify the person in the field. So
25 we sought to obtain some records, dental records. She

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1 didn't have any dental records around here, so we sought
2 dental records from a Dr. Goldstein in Florida and
3 eventually was able to obtain those dental records to
4 positively identify. We continued to work with Greenville
5 County on investigations as far as the other evidence that
6 they already had.

7 Q And were you aware of her car being found on the 23rd
8 as well?

9 A Yes, sir. I was. I was contacted, I believe, by
10 Investigator Antonio Bailey that they had located the car at
11 the Bi-Lo parking lot.

12 Q And then were you able to go to the autopsy on the
13 24th?

14 A Yes, sir. I did. I attended. Myself and Lieutenant
15 Cheek.

16 Q Tell me about -- now, we talked about the bank records
17 that Greenville County shared with you. And we had a BB&T
18 representative here that talked about two other transactions
19 made using Myranda Southern's card on August 18th.

20 A Yes, sir.

21 Q We've got one at 1:20 p.m. and then one at 8:03 p.m.
22 Were you able to follow-up on that information?

23 A Yes, sir. I did. I actually -- myself and, again,
24 Lieutenant Blackmon, we went to -- it's a 7-Eleven now. To
25 the different stores and asked them to bring up the video

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1 for that particular date and particular time. The manager
2 was very helpful. She brought up the video at the time of
3 the transaction that Ms. Southern had made at that
4 particular time, and we was able to see her swipe her card
5 and purchase --

6 MR. ABLE: I make the same objection I did as the last
7 time. There was no videotape mentioned. The videotape is
8 not here. I haven't had the opportunity to review it and
9 cross-examine him on it, so I'm going to object to it.

10 THE COURT: Is that the --

11 MR. SCOTT: It's the video.

12 THE COURT: -- video? Just to show to Mr. Able. You
13 certainly can view it.

14 MR. ABLE: Yes.

15 THE COURT: So we have the video. Are you still
16 objecting?

17 MR. ABLE: I mean, yes, sir. Yes, sir.

18 THE COURT: In light of the fact that we have the
19 video, which we did not have in the other situation that we
20 discussed, I'm going to overrule your objection.

21 Q I show you State's 35, Mr. McIntosh. Do you recognize
22 that?

23 A Yes.

24 Q And that was -- you were able to obtain this?

25 A Yes, sir. Through Greenville County. The manager was

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1 not able to download, so we asked one of their forensic
2 department to come and assist us and they were able to
3 download the videos for us.

4 Q Were you able to watch it at the store?

5 A I was able to watch it at the store.

6 Q And this would depict the 1:20 p.m. transaction?

7 A It's either the 1:20, or I believe it's 8:03.

8 Q You're right.

9 MR. ABLE: What --

10 THE COURT: I couldn't hear what he said.

11 MR. SCOTT: I've got to backtrack. I was showing him
12 the wrong one, I think.

13 Q Which one was the one -- I'm going to show you State's
14 35 and 36.

15 A Exhibit 36 is the second video, at 8:00.

16 Q So this was the second time she used her card?

17 A Yes, sir.

18 Q State's 35 is what?

19 A That's 3440 Wade Hampton, Taylors, South Carolina. It
20 was used at 1:20 in the afternoon.

21 Q Thank you. And you've reviewed these?

22 A Yes, sir.

23 Q And they fairly and accurately represent what you
24 yourself witnessed on -- or whenever you pulled these to
25 review them?

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1 A Yes, sir.

2 MR. SCOTT: Your Honor, the State would publish these
3 videos now.

4 THE COURT: Now, you're moving 36 into evidence as
5 well? You're moving --

6 MR. SCOTT: Yes, sir. I'm going to -- I'm going to
7 move 35 and 36 for admission.

8 THE COURT: Okay. Over the objection of Mr. Able, I
9 will allow those in. I think Officer McIntosh did state
10 that he was at the store viewing these videos, correct,
11 Solicitor?

12 MR. SCOTT: Yes, sir. That was his testimony.

13 THE COURT: Admitted into evidence over Mr. Able's
14 objection.

15 (Whereupon, State's Exhibit Nos. 35 and 36 were
16 admitted into evidence.)

17 MR. SCOTT: Beg the Court's indulgence.

18 THE COURT: Sure, take your time. Which one is this,
19 35 or 36 that you're playing first?

20 MR. SCOTT: This is 35, Your Honor. And we're calling
21 it the 1:20 p.m. transaction.

22 Q Do you recognize that car, Mr. McIntosh, that pulls
23 into the spot?

24 A Yes, sir. I do.

25 Q And what is that automobile?

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1 A That appears to be what Myranda Southern was driving at
2 the time.

3 Q Can you see the time on there at the bottom left
4 corner, Mr. McIntosh?

5 A I believe it's 1:17.

6 Q P.m.?

7 A P.m.

8 Q That's August 18th?

9 A Yes, sir. August 18th, 2013.

10 Q Mr. McIntosh, were you able to identify the person in
11 this video?

12 A Yes, sir.

13 Q And in conjunction with the car, who did you determine
14 that to be?

15 A Myranda Southern.

16 Q And for the record, what was the time at the bottom
17 left-hand corner of the video at this point?

18 A 1:18.

19 Q 1:18 p.m.?

20 A 1:18 p.m.

21 Q And this, again, is this a different angle? Is this
22 the inside of that gas station?

23 A Yes, sir.

24 Q And who is this at the counter paying?

25 A I believe it to be Myranda Southern.

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1 Q And the time at this point is what?

2 A 1:20, 19 seconds.

3 Q And did that correspond with the bank records you had
4 of her using her BB&T card?

5 A Yes, sir. It did.

6 Q Okay. And you clearly see her using her ATM card on
7 the video?

8 A Yes, sir.

9 Q This person here. Who is this, Mr. McIntosh?

10 A This is Myranda Southern.

11 Q The time is what? What time did she enter that
12 building?

13 A 8:00.

14 Q And then we went to another clip. Is that her paying
15 at the counter there?

16 A Yes, sir.

17 Q Can you read the time stamp?

18 A 8:03. 8:03.

19 Q 8:03 p.m. is when she pays and then leaves?

20 A Yes, sir.

21 Q And that corresponds with the bank records that BB&T
22 provided you?

23 A Yes, sir.

24 Q So you're able to account for her using her bank card
25 as late as 8:00 p.m. on August 18th?

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- 1 A Yes, sir.
- 2 Q So just to clarify. By the time you guys would come
- 3 involved you got the bank information. You don't have phone
- 4 information yet, do you?
- 5 A No, sir.
- 6 Q That's still being worked on?
- 7 A Yes, sir.
- 8 Q But -- and you don't have the results -- or do you have
- 9 the results back of the identity of Myranda at this time?
- 10 A No, sir.
- 11 Q You've already spoken with Ms. Yates about the 1:00 to
- 12 1:30 a.m. gunshot?
- 13 A Yes, sir.
- 14 Q All right. What else are you doing around this time?
- 15 You go to the autopsy on the 24th, and what's the next
- 16 thing?
- 17 A Yes, sir. We do go to the autopsy on the 24th, which
- 18 is on a Saturday. We continue, there again, to work with
- 19 Greenville County. Soon after that receive some more
- 20 information about cell phone towers and phone records and
- 21 that type of thing.
- 22 Q Well, I know you eventually were able to sit down and
- 23 interview Darrell Raines on the 29th; is that right?
- 24 A Yes, sir. On the 29th.
- 25 Q Anything else leading up to that that you were doing in

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1 your investigation at this time?

2 A No, sir. Not that I can say that stands out a whole
3 lot. We just continued to work on it.

4 Q Well, I know at one point when she's missing you all
5 are trying to figure out is this Miranda Southern. Were you
6 involved with collecting -- there's some testimony about a
7 toothbrush and a hairbrush that was collected to see if they
8 could test that DNA, which was known to be Miranda's,
9 against the DNA taken from the body at the autopsy?

10 A Lieutenant Blackmon, along with Investigator Antonio
11 Bailey was able to -- Antonio Bailey, I believe, got a
12 search warrant at her residence and was able to obtain that.
13 He turned it over to Lieutenant Blackmon.

14 Q And you didn't have --

15 A And I ended up turning it over to SLED.

16 Q So you took the hairbrush and the toothbrush up to
17 SLED?

18 A I believe that's the way it was.

19 Q Explain to the jury, what's the reason for that?
20 Because you know that stuff has her DNA on it.

21 A Yes, sir. DNA comes from just about any source. It
22 comes from hair fibers. Even your toothbrush. You can get
23 DNA from a toothbrush. So to be able to positively identify
24 her at that time we needed to get her hairbrush because we
25 need to -- we got her hair. Plus the toothbrush that she

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1 was known to use. So we obtained those -- Lieutenant Bailey
2 from Greenville County obtained those items so we could send
3 them to SLED.

4 Q Okay. They collected them and then you transported
5 them on to SLED?

6 A I believe Lieutenant Blackmon met him in Greenville
7 and brought them back to autopsy and we took them to the
8 autopsy.

9 Q What's the address right there at the field on Bramlett
10 Church Road?

11 A It's

12 Q Did you have the address of where Mr. Raines lived?

13 A Yes, sir. He lived at Saluda Ridge in Greenville,
14 South Carolina.

15 Q And where did Ms. Southern work?

16 A Ms. Southern, she worked at Charter Communications just
17 off 385, off of Bridges Road, I believe is the name of that
18 road.

19 Q And where was the BB&T that Mr. Raines was seen making
20 that transaction?

21 A He was in Berea.

22 Q About how far away was that from his house?

23 A About 15 minutes.

24 Q Then where was the Bi-Lo where her car was found?

25 A It was just off 14 in Simpsonville. The Bi-Lo Super

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1 Center is what they call it. Super store.

2 Q I show you State's 37. Does that accurately reflect
3 where some of those locations are on that map?

4 A Yes, sir. It does.

5 Q So here's 385. Here's Greenville. We're down here in
6 Laurens. And Bramlett Church Road was, what, the Gray Court
7 area of Laurens County?

8 A Yes, sir. It is, but it's a Greenville address.

9 Q / . I think that's where Christian Yates lives; is
10 that right?

11 A Yes, sir.

12 Q The field was the -- just the lot without the address,
13 I guess, right next door?

14 A Yes, sir.

15 Q Bi-Lo is up here in Simpsonville where her car is
16 found?

17 A Yes, sir.

18 Q And then Charter is up here kind of in between
19 Simpsonville and Mauldin?

20 A Yes, sir.

21 Q And then you go up here. What's it called, Berea?

22 A It is, sir. I believe it's Berea.

23 Q And that's where that BB&T was?

24 A Yes, sir. I believe that's what they -- I believe it
25 is.

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- 1 Q And then just right here is where Darrell Raines lives?
- 2 A Yes, sir. On Saluda Ridge Road.
- 3 Q Now, let me ask you this. I think this came up
- 4 earlier. Right here on Bramlett Church Road there's some
- 5 kind of country store down the road, Kellett's or something?
- 6 A Yes, sir. Kellett's Quick Stop.
- 7 Q Did you go -- I think you -- did you go try to get some
- 8 video from there to see if you could see her?
- 9 A Yes, sir. I did.
- 10 Q What did you see when you -- were you able to obtain
- 11 any useful information from those videos?
- 12 A Just the some headlights.
- 13 Q So you did make an attempt to get some surveillance --
- 14 A Yes, sir.
- 15 Q -- but it was just headlights is all you could see.
- 16 From multiple cars?
- 17 A Yes, sir.
- 18 Q Never able to make any kind of identification --
- 19 A No, sir.
- 20 Q -- that was helpful for you? Then ultimately you say
- 21 on the 29th though is when you sit down and you have, what,
- 22 about an hour and a half conversation with Darrell Raines?
- 23 A Yes, sir.
- 24 Q Right here. What did he say in regards to his
- 25 knowledge about who was the last person to speak with

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1 Myranda?

2 A Right at the beginning of the interview he made mention
3 that he knew that he was -- he said he was the last person
4 to talk to her while she was alive.

5 Q Did you tell him that?

6 A No, sir.

7 Q Do you have any idea how he knew that?

8 A I don't.

9 Q What was his explanation as far as the ATM thing?

10 Where he's at the ATM at 3:30 a.m. in the morning using her
11 card?

12 A He said he had gotten the ATM card from Myranda
13 Southern on Sunday -- late Saturday night, Sunday morning,
14 and that they had made an agreement that he could get some
15 money out of her account. That she was going to loan him or
16 give him \$200.

17 Q So he says he gets it Sunday morning? August 18th,
18 Sunday morning?

19 A Sunday night or Sunday morning.

20 Q You mean Saturday night --

21 A Saturday night, Sunday morning.

22 Q -- Sunday morning?

23 A Yes, sir.

24 Q And his explanation was what? That she just gave it to
25 him and let him keep it for a while?

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1 A Yes, sir. That they was -- she was going to help him
2 out with his bills.

3 Q His bills, okay. And did he have an explanation of why
4 she didn't just go withdraw the money and give it to him?

5 A No, sir.

6 Q Did he have an explanation -- what did he tell you that
7 -- how much money she was supposed to loan him?

8 A Well, to start off with I believe they agreed 200, but
9 he said whenever he was talking to her on the phone while he
10 was at the bank she said, well, get me -- get me 300 and you
11 200.

12 Q So she changed it to 500 total --

13 A Yes, sir.

14 Q -- while he was at the bank?

15 A Yes, sir.

16 Q Where did he say he was that night before he went to
17 get the money from the bank?

18 A I believe he told us he was at home.

19 Q Did he ever mention going down to Gray Court?

20 A No, sir.

21 Q So when was the last time he said he actually saw
22 Myranda?

23 A That would have been Saturday night -- late Saturday,
24 early Sunday morning whenever he left her apartment.

25 Q Did he say he ever saw her again Sunday?

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1 A No, sir. He said he didn't.

2 Q He said he would have gotten her ATM card that morning?

3 A Yes, sir. Late Saturday night, Sunday morning.

4 Q What did he say his education was in?

5 A He said he had a degree in computer science.

6 Q Did he describe what computer science was to you guys?

7 A He just said he worked on computers and he was -- the
8 terminology that he could make them talk.

9 Q He could make computers talk?

10 A Yeah, he was --

11 Q By the way, you've got all this recorded, don't you?

12 A Yes, sir.

13 Q And we're going to watch that tomorrow morning.

14 A Okay.

15 Q But you recorded this whole thing we're talking about?

16 A Yes, sir.

17 Q All right. Now, did he describe if she gave him the
18 card Sunday morning why he would wait all day and into 3:30
19 a.m. that night and into Monday morning to actually just get
20 up and go out and use the card? Did he describe why he'd do
21 that?

22 A He didn't really know an explanation that I can recall.

23 Q Well, at some point did he tell you where that money
24 was he got?

25 A Yes, sir.

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1 Q He went ahead and turned it over to you then, didn't
2 he?

3 A Turned what over?

4 Q The money he took out of the ATM out of Myranda's
5 account?

6 A He -- during the course of the interview he told us
7 where it was at, and that was at his mother's house --

8 Q So you went up there and you went -- where did he say
9 it was going to be?

10 A At one of the end tables -- excuse me. One of the end
11 tables in the living area.

12 Q So the next part of the story is law enforcement went
13 to where he said it was going to be and you all got it,
14 right?

15 A They went there. Probably they obtained a search
16 warrant, they went there. And some of the other
17 investigators. I didn't go. But there was no money or the
18 card there.

19 Q So he said it was going to be there and it wasn't?

20 A Yes, sir. That's correct.

21 Q So you asked him about a gun at some point?

22 A Yes, sir. Toward the end of the interview I believe it
23 was Lieutenant Cheek brought it up, or myself one, did he
24 own a firearm, which he responded he did.

25 Q What kind of gun did he say he --

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1 A He said he owned a 9 millimeter Hi Point.

2 Q A 9 millimeter? Did he mention any other gun to you

3 all?

4 A No, sir. No, sir.

5 Q So you said do you own a gun, and he said I do, a 9

6 millimeter?

7 A He said that.

8 Q He didn't mention any other gun to you?

9 A No, sir.

10 Q And you very clearly asked him if he had a gun?

11 A Yes, sir.

12 Q Were you guys ever able to obtain that 9 millimeter

13 from him?

14 A Yes, sir.

15 Q What, if anything, did he say about -- he said he had a

16 background in computers. Did he mention anything about

17 working on Myranda's computer?

18 A I believe he told us that he bought a hard drive for a

19 computer to put it in.

20 Q So he had worked on her computer?

21 A Yes.

22 Q Did you find the 9 millimeter he had?

23 A Yes, sir. It was Greenville County took care of that.

24 Q What else did he say to you in regards to the 9

25 millimeter? Where did he say he got it from?

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1 A We asked him where he purchased this and he told us he
2 purchased it from Trader's, which is a gun shop in
3 Greenville County.

4 Q Did you all go to Trader's?

5 A The next day or the day after myself and Lieutenant
6 Blackmon went to Trader's.

7 Q Did you speak with anybody there?

8 A Yes, sir. We spoke to James Frazier, and I believe
9 he's the store owner.

10 Q Did James Frazier have some information regarding
11 Darrell Raines for you?

12 A Yes, sir. He said he remembered him coming into the
13 store.

14 Q He specifically remembered Darrell Raines?

15 A Yes, sir.

16 Q And as a result of speaking with James Frazier what did
17 law enforcement do?

18 A Well, we took a statement from him and got records from
19 where he -- Darrell Raines purchased the gun from him there.

20 Q Do you have the -- do you have knowledge of when he
21 purchased the 9 millimeter?

22 A I've got the records. I believe it was the -- it was
23 on the 20th of August.

24 Q So you were able to determine he bought the 9
25 millimeter on the 20th of August. Now, after you spoke

1 with Frazier and you took a statement from Frazier who did
2 law enforcement call next?

3 A Who did law enforcement call next?

4 Q Did you all call Hi Point maybe?

5 A Oh, yes, sir. We learned the information and we called
6 Hi Point to discover a little bit more about -- Mr. Frazier
7 had made mention in his statement --

8 MR. ABLE: Objection to what Mr. Frazier said.

9 THE COURT: Sustained.

10 Q So not what Mr. Frazier said, but what did you all do
11 after you spoke with Mr. Frazier and you took his statement?

12 A We called Raines -- excuse me. We called Hi Point.

13 Q What did you ask them.

14 A We asked them had the Defendant, Darrell Raines,
15 shipped the gun to them. And they told us --

16 MR. ABLE: Objection.

17 THE COURT: Don't repeat what was told to you. Is this
18 Hi Point?

19 Q Yeah. What is Hi Point, by the way?

20 A Oh, it's the gun -- where they make the Hi Point guns.
21 The manufacturer of Hi Point guns.

22 Q Where are they out of?

23 A I don't know.

24 Q But you called them and you asked them had he shipped a
25 gun to them?

KEITH MCINTOSH: DIRECT EXAMINATION

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- 1 A Greenville County, but I was there.
- 2 Q And the question was had Darrell Raines shipped a gun
- 3 to you guys?
- 4 A Yes, sir.
- 5 Q After that were you involved with getting a search
- 6 warrant?
- 7 A Along with, again, Antonio Bailey with Greenville
- 8 County.
- 9 Q What was the search warrant for?
- 10 A We obtained records that it was coming back.
- 11 Q The gun was coming back?
- 12 A It was getting shipped back.
- 13 Q Okay. Were you ever able to learn what the gun was
- 14 that he shipped to Hi Point that you called about?
- 15 A Yes, sir. It was a Hi Point .380.
- 16 Q A .380?
- 17 A Yes, sir.
- 18 Q All right. Now, when you all asked him do you have a
- 19 gun he said a 9 millimeter?
- 20 A Yes, sir.
- 21 Q He never said anything about a .380?
- 22 A No, sir. He didn't.
- 23 Q And were you privy to the caliber of the clip that was
- 24 found out in the field on Bramlett Church Road?
- 25 A Yes, sir. It was a .380.

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1 Q That was a .380?

2 A Yes, sir.

3 Q And did the clip have a manufacturer on it?

4 A I don't recall. I believe it did, but I don't recall.

5 Q Okay. But it was a .380 caliber?

6 A Yes, sir.

7 MR. SCOTT: I think that's all.

8 Q Well, let me ask you this real quick. I don't think
9 we've done this. This field, Bramlett Church Road. What
10 county is that in?

11 A Laurens County.

12 Q You did the -- you did the interview on the 29th. You
13 filmed it and recorded it and we're going to show that in
14 the morning. But when was he arrested?

15 A The 29th. That night.

16 Q And when was the body identified as Myranda Southern?

17 The 29th?

18 A Yes.

19 Q What did you charge him with?

20 A Murder and possession of a weapon in the commission of
21 a violent crime.

22 MR. SCOTT: Thank you. Judge, I think this would be a
23 good time to stop for the day.

24 THE COURT: Okay. Mr. Foreman, ladies and gentlemen of
25 the jury, as indicated in the Officer's testimony, you will

1 be back up here in the morning for purposes of this
2 interview of the Defendant and any other matters that need
3 to be brought out through his testimony. And the interview,
4 as I understand it, takes about an hour, hour and a half.
5 So that would really push us up to about 6:30, and we're
6 going to go ahead and break for the day and start back at
7 9:30 in the morning. Be promptly back at the jury room and
8 we will continue this case. Appreciate your patience with
9 us. And maybe some of you have enjoyed the little walk to
10 and from. And I remind you again not to engage in
11 conversation with anyone this evening or in the morning
12 before you get back here. Again, I remind you don't do any
13 research on your own. Don't read any accounts of this case.
14 You notice we've had a camera in the courtroom, and I don't
15 know what is intended to be done there, but don't consider
16 to look at any media accounts of any kind. Okay? And we'll
17 start back at 9:30, and get another good night's rest.
18 Okay? Thank you.

19 (Whereupon, the jury was released for the day at 5:06
20 p.m.)

21 THE COURT: We'll be at recess until 9:30 in the
22 morning. Officer McIntosh, I know you know this, but I need
23 to remind you anyway. Since we're in the middle of your
24 testimony you cannot discuss anything related to this case
25 with any of the Solicitors or your fellow officers, anybody

1 concerning your testimony. Okay?

2 THE WITNESS: Yes, sir.

3 THE COURT: Thank you very much. See you in the
4 morning at 9:30. Off the record.

5 (Whereupon, court was adjourned at 5:06 p.m.)

6 TRIAL DAY 3-12/09/15

7 THE COURT: The videotape of the interview.

8 MR. ABLE: I understand that would be the next --

9 THE COURT: Right.

10 MR. ABLE: What we had talked about that last night
11 where the State would be willing to -- Judge, I was going to
12 object to the introduction of the video on several grounds.
13 Number one, there are -- I understand the State is wanting
14 to put it in through Officer McIntosh. He is in the video.
15 There are other persons in the video, law enforcement
16 officers. Mr. Bryant Cheeks of the Laurens County Sheriff's
17 Office, and then Mr. Cooper, I believe, of the Greenville
18 County Sheriff's Office. He speaks to my client during the
19 video. And then there are people in and out of the room who
20 I don't identify or didn't know. I would object, of course,
21 on the basis of hearsay. These persons, I don't believe,
22 are listed -- especially Mr. Cheeks, and I don't believe Mr.
23 Cooper. I believe that's his name, Cooper, are not listed
24 as witnesses. And, of course, I think it would be hearsay
25 and possibly unsworn testimony for a court -- for a jury to

1 see that.

2 The video -- and I don't attribute some of these things
3 to anybody there. I'm just saying that this is some of the
4 things that were addressed. I'm not saying it's Mr.
5 McIntosh, Mr. Cheeks or who. The -- some of the things
6 mentioned in the video that would be an introduction or
7 would allude to facts that are not into evidence. They at
8 many times discuss the possibility of there being videos.
9 Videotape recordings of my client's movements on the --
10 during the morning hours of August 19th, 2013 which I have
11 not, during the course of my representation, been presented
12 with any videos concerning that. Any type of -- they keep
13 discussing videos taken from the cameras on the interstates.
14 Things like that. And I haven't seen anything like that.
15 There are several times in there they make improper
16 conclusions of law. So they just are telling my client
17 things that I believe are inappropriate conclusions of law.
18 The end of it -- which I think that portion could be easily
19 redacted, but shows my client's arrest, handcuffs being
20 placed on him which I think, of course, would go toward a
21 question of presumption of innocence and a jury to be
22 influenced to believe that the Defendant is guilty just
23 because the police -- the police arrest him at that time.
24 Throughout the video several times they call my client my
25 liar. Tell him he's a bad liar. Demand that he tell the

1 truth. Again, they make misrepresentations. This goes back
2 to the video issues I was talking about a moment ago.
3 Misrepresentations as to the strength and existence of
4 evidence against him. They reportedly misrepresent the fact
5 that they have these interstate videos showing him his
6 movements that morning of August 19th. They repeatedly ask
7 him the same thing, or ask him to explain the same thing
8 over and over. At some points they make threatening
9 statements. At one point he's told he'll never see his
10 child again. And at one point -- I think it's Mr. Cooper
11 from the Greenville Sheriff's Office informs my client or
12 tells my client, state's to my client, that they have enough
13 to have him sit in the chair. I assume alluding to the fact
14 that they were going to seek a death penalty case against
15 him. And then parts of it they're telling him, or someone
16 -- again, I'm not attributing these to any one person. That
17 there are mention that he needs to get right with his heart
18 and do the right thing and that kind of stuff. So for those
19 reasons, I would ask that the court suppress the videotape
20 as a whole and keep it out. There are certain parts, I
21 guess, that there's not anything like that said, but it runs
22 -- these type things run throughout the video, and it's a
23 pretty lengthy video.

24 THE COURT: Well -- and I'll hear from the State in
25 just a second. On a purely hearsay objection, I don't think

1 anything that the officers say are being offered to the
2 truth of the matter asserted. However, if you are arguing
3 -- or your basis for the suppression is that whatever was
4 said by the Defendant was not voluntary, that it was coerced
5 in some manner, if that's what you're kind of getting at,
6 because of these statements that you claim to be
7 misrepresentations statements as to law, maybe references to
8 the death penalty and things of that nature, then I think we
9 need to take a long hard look at this interview, if that's
10 where you're coming from.

11 Again, on a purely hearsay argument, I'm not real
12 concerned -- of course, I'm going to have to look at the
13 video evidently, but I'm not so certain that it's going to
14 be a hearsay situation. But we may have a coercion type
15 involuntary situation.

16 Is that kind of where you're coming from? I mean, I'm
17 not trying to speak for you, Mr. Able, but I'm trying to get
18 a good feel for where we are with this interview.

19 And I will -- let me just say this. Of course, I
20 realize in Newberry two weeks ago, whenever it was, when we
21 dealt primarily with a cell phone issue, we didn't deal with
22 this. And, of course, I issued an order finding that the
23 statement was voluntarily made and admissible. However,
24 that was in a motion for limine and I don't think that would
25 necessarily prevent you from litigating this.

1 MR. ABLE: Yes, sir.

2 THE COURT: Because we really didn't get into that.
3 The arguments you're making now. We really didn't -- I
4 think it was a pretty short Jackson vs. Denno --

5 MR. ABLE: Yes, sir.

6 THE COURT: -- hearing if I recall correctly.

7 MR. ABLE: Judge, I don't think I'm -- the basis of my
8 motion is not so much that the responses from my client are
9 coerced or that he didn't -- you know, that he be compelled
10 to make certain responses to certain questions. My
11 objection is as to the questions that -- the questions
12 themselves. The statements made. A jury being -- having --
13 seeing the manner in which these questions are being asked.
14 I'm not saying that I think his responses were coerced or
15 forced. I'm saying that it's just that these statements
16 being made in the way that they are, and the statements
17 themselves I think would influence a jury.

18 THE COURT: Let me hear from the State your response.
19 It's not necessarily, if I understood them correctly, you're
20 not arguing that the behavior was necessarily coercive in
21 obtaining involuntary statements by the Defendant. But what
22 you're saying is that the statements were inappropriate in
23 some fashion that could be -- that could carry some
24 prejudicial influence on the jury. Is that --

25 MR. ABLE: Yes. I mean, them calling him a liar

1 repeatedly. That's something that wouldn't -- if they were
2 -- if they were being taking life testimony that wouldn't be
3 allowed. That's exactly what my point is. The manner about
4 which they asked these questions. The comments they make to
5 him I think would be inappropriate and would cause the jury
6 to be -- it would be highly prejudicial of him.

7 THE COURT: Solicitor?

8 MR. SCOTT: If I was a defense attorney I'd argue the
9 reverse. I'd say look at this law enforcement who's overly
10 aggressive, foaming at the mouth, acting like a jerk, you
11 know, and here he is being cool, calm and collective.
12 That's kind of how I would argue it if I was a defense
13 attorney. I think there's a flip side to this whole thing.
14 I don't know how I can control the way these guys interview
15 these people. But I don't see it as being overly
16 prejudicial where the jury should be kept from seeing this
17 interview, and I'm certainly not interested in anything the
18 officers are saying. I want to focus on what he's talking
19 about, and I think that's what the jury is going to do as
20 well. If they call him a liar, I don't remember that. I
21 plan on calling him a liar in my closing. I mean, so I
22 don't know -- that's not really in evidence. And I don't
23 know that the jury would be persuaded by the fact they're
24 calling him a liar. I just -- I can't figure out a way to
25 chop the video up where get rid of like some of these

1 tactics. And maybe I can, on direct, you know, question
2 McIntosh about some police procedures as far as
3 interrogation. Like they might have to play good cop, bad
4 cop in order to ascertain a certain statement. Ultimately
5 I'll tell the court that there really wasn't any confession.
6 There's some inconsistencies in his statement and what we
7 now know to be true through surveillance and everything
8 else. But ultimately they were unsuccessful if they were
9 trying to scare him into some kind of confession. But I
10 don't see that. I think the vast majority of these
11 interrogations involve some sort of behavior like this. And
12 as far as the video cameras, I think that's a police ruse
13 type thing. From what I remember they're telling him, well,
14 you know, you better go ahead and come clean because we got
15 cameras up and down the interstate filming all the cars that
16 we're going to catch you, and ultimately it was unsuccessful
17 because he wasn't persuaded into saying, well, yeah, you're
18 right. I was down in Gray Court. I just don't see -- for
19 those reasons I don't see any reason they should keep the
20 video out.

21 If Bryan can provide a time stamp on the electric chair
22 reference we could perhaps, with some time, cut that out or
23 edit it somehow. I don't recall that specifically. But
24 it'll take some time. And again, I had hoped to address
25 this when we did the statement -- or the Denno in Newberry

1 on some of these issues. But I understand that this might
2 have been called later on.

3 But as far as an office just kind of being
4 heavy-handed, I think that is to be expected in an
5 interrogation of a murder suspect.

6 THE COURT: Well, you know, the dilemma that I'm in at
7 the present is, you know, in order to make a proper ruling,
8 you know, do I need to view this video. I think it's, what,
9 about an hour and a half --

10 MR. ABLE: Yes, sir.

11 THE COURT: -- is what you said yesterday, to make an
12 appropriate ruling. You know, it does not -- Mr. Able,
13 since you are not arguing coercion that caused some
14 involuntary statements to be made, I'm not necessarily real
15 concerned about police tactics. I almost have to, to some
16 extent, agree with Solicitor Scott that that might be
17 working in your advantage. The police give you some
18 arguments to make to the jury to really cast some --
19 something against the police. But I think in all fairness
20 for me to intelligently, you know, make a ruling, I think
21 I'm going to have to look at the video in-camera.

22 MR. SCOTT: Well, perhaps if Mr. Able had the specific
23 time points. He did reference a couple things that he was
24 concerned with. Maybe we don't have to watch the entire
25 thing in-camera, but --

1 THE COURT: Well, I think Mr. Able kind of said this.
2 His concerns kind of go throughout the whole video.

3 MR. ABLE: There are certain points. Judge, as far as
4 like -- I think Officer Cooper alluding to we have enough to
5 put you in the chair, that's at the end. I can tell you
6 that. And then the part about you need to get right with
7 your heart, or something like that. That's at the end. So
8 those can be identified. But some of these others are kind
9 of throughout the video. Talking about video cameras and --

10 THE COURT: Well, of course, regardless if I keep the
11 video in, even with whatever redactions that may come about,
12 certainly I would instruct the jury that anything said by
13 the police officers during the entire interview are not
14 evidence, because they are to -- the interview is -- their
15 consideration of the interview is what the Defendant either
16 said or did not say. That is their focus and not on
17 whatever the police officers may have said and that's not
18 evidence. So, I mean, I'll definitely do that.

19 So, you know, here's our choice. We can go ahead and
20 let me look at the interview in its entirety, or if you want
21 to try to get with the Solicitor and try to collect some of
22 the main things and redact those, then we can go on with it.

23 MR. ABLE: I think that would be very difficult, Your
24 Honor.

25 THE COURT: All right. And let me just say this, and

1 I'm not prejudging. But from what I'm hearing, probably I
2 will not suppress it. But again, I'm not prejudging your
3 motion without seeing it. So here's what I'm going to do.
4 I'm going to bring the jury out and tell them that -- to
5 avoid them having to sit back there for probably an hour and
6 a half to two hours, I'm going to go ahead and cut them
7 loose and have them come back in a couple of hours. Okay?
8 So that's what we're going to do.

9 And just for your information, one of the jurors, Lynn
10 -- is it Hoefer? Lynn Hoefer, that's juror number 85, has
11 been excused. She called in and indicated she had a stomach
12 virus all night, and even though she wanted to remain on the
13 jury she could not be able to be here today. So alternate
14 one, which is Tonya Littleton, juror number 115, will be
15 replaced -- or be the replacement. Okay?

16 So what that means is, if I have them come back at
17 12:00 they're just going to have to get their early lunch
18 and we may even miss lunch because we need to -- we need to
19 plow ahead the best we can. Okay?

20 Anything else before we bring the jury out to excuse
21 them?

22 MR. SCOTT: Yeah, Walter tells me we got a Kodak --
23 some kind of -- something installed in the laptop that
24 allows us to play the video. So we've got two laptops that
25 will play them. So I guess we can just play it out here,

1 Your Honor, or else send one of our laptops back with you to
2 watch them.

3 THE COURT: What -- you mean show it on the screen?

4 MR. SCOTT: Yes, sir.

5 THE COURT: Yeah, let's -- what do you think is going
6 to be better for us? Do it out here or go back in chambers?

7 MR. SCOTT: Well, the way -- I think we can just do it
8 out here, because Walter's got it hooked up where it's --
9 the audio is real good on it and we should just --

10 THE COURT: All right. Mr. Bolt, let's bring the jury
11 out so I can cut them loose for a couple of hours.

12 (Whereupon, the jury entered the courtroom at 10:00
13 a.m.)

14 THE COURT: Good morning, ladies and gentlemen. A
15 couple of things. One, and you probably have already
16 realized this, Lynn Hoefer is not here with us today. She
17 called into the Clerk's Office and indicated she had a
18 stomach virus last night and still has it. And even though
19 she wanted to continue serving, she just was not able to
20 physically. So I have excused her, and I will appoint the
21 first alternate. Ms. Littleton, you are now on the 12. So
22 the next time you come back in then just sit with the 12.
23 Okay?

24 Secondly, I've got a matter that has arisen that's
25 probably going to take anywhere from an hour and a half to

1 two hours outside of your presence, and I would assume that
2 you would rather not sit back in the jury room for an hour
3 and a half to two hours. Okay? So what I'm going to do,
4 I'm going to go ahead and excuse you for two hours. It's
5 five after 10 right now. I'm going to need for you to come
6 back about 12:00. Consequently that means you need to take
7 a little early lunch. I think we're probably going to end
8 up missing lunch today. But that's fine. That's fine.
9 That's all part of the job. So get you something to eat
10 before you get back and come back to the jury room at 12:00.
11 Okay?

12 Again, don't discuss anything related to this case
13 among yourselves or anybody that you come into contact with
14 during this unexpected two hour break. Okay? Thank you
15 very much.

16 (Whereupon, the jury exited the courtroom at 10:06
17 a.m.)

18 THE COURT: We'll take a short little recess and give
19 you a chance to get set up. And then when it's ready to go,
20 if -- just let Mr. Bolt or somebody -- Officer Turner know
21 to come get me. Okay?

22 (Whereupon a recess was held from 10:06 a.m. to 10:27
23 a.m.)

24 (In-Camera viewing of August 29, 2013 Police Interview
25 from 10:27 a.m. to 1:17 p.m.)

1 THE COURT: We're back on the record. We have
2 concluded the in-camera viewing of the August 29th interview
3 with the Defendant by law enforcement.

4 Mr. Able, do you want to put this on the record?

5 MR. ABLE: Yes, sir. Just reiterate the -- my client's
6 position concerning the video now that the Court has seen it
7 in-camera. I think the points that I had made earlier this
8 morning before the Court watched it I think were obviously
9 present in the video as far as my objection on the hearsay
10 issue. Mr. Cheek, Mr. Bryant Cheek of the Laurens County
11 Sheriff's Office, essentially testifies for most of the
12 video. From the point -- and I'm going to use -- there was
13 a point that the Court will remember where Mr. McIntosh of
14 the Sheriff's Office, he leaves the room for the first time
15 and Mr. Cheek is asking -- questioning my client about the
16 make and model of the vehicle he drives. That's pretty much
17 the dividing point for me when I watched the video. Pretty
18 much everything prior to that, from the beginning of the
19 video up to where Mr. McIntosh leaves I don't see that as
20 objectionable. From that point, Mr. Cheek is in the room
21 with my client by himself. And then from that point to the
22 end of the video I think would be objectionable. Basically,
23 as I said, the hearsay objection with Mr. Cheek over and
24 over again saying this is what we know. These are the
25 facts. The -- numerous times. I lost count of the times my

1 client was essentially called a liar. Told him many times
2 he was a bad liar, demanding that he tells the truth. I
3 think, Judge,, on that, I think it would essentially shift
4 the burden. I mean, of course, that would be improper in a
5 courtroom to say something like that. And I think what it
6 is going to do in the mind of this jury is to say, okay, the
7 police have said he's a liar. They told him he's a liar.
8 It essentially shifts the burden from the State to the
9 Defendant to prove his innocence. I think it's a violation
10 of the Fifth Amendment of the U.S. Constitution where my
11 client -- it's almost compelling him to testify so he can
12 deny, you know, the fact that they're saying over and over
13 and over again repeatedly that he's a liar.

14 The next thing I'd mention is when the
15 misrepresentations as to the strength and the existence of
16 the evidence against Mr. Raines repeatedly misrepresented by
17 telling him -- I've made notes, but it's a voluminous list.
18 But it's primarily the issues dealing with the video saying
19 that they have -- I think at one point he says, look, we can
20 pull it up on the computer. We've got your tag. A picture
21 of your tag going down the interstate, and then that pulls
22 up a picture of your -- you know, a picture of you and
23 matches the two. And at one point Mr. Cheek says something
24 to the effect that 385 knows you're a liar, talking about
25 the videos and how they can just, you know, dial it up on

1 the computer and they can pull it up and see, track the
2 movements of anyone. And they're implying to my client that
3 they were tracking his movements at that time.

4 Up to the point where I mentioned a moment ago where
5 it's kind of like the breaking point in the video from me,
6 beginning to where Mr. McIntosh first leaves the room.
7 Really, if you look at the video, from that point on it's
8 basically just repeating over and over and over again what
9 they accomplish in that first part of the video. So I think
10 it's just repetitively asking the same questions and getting
11 the same answers. We would object on that basis.

12 And then, of course, I mentioned the directing
13 statements where -- and I think I misquoted it this morning,
14 but we have enough essentially to place you into the
15 electric chair. I didn't think he said electric chair. And
16 then alluding -- I think at one point he said something
17 after that that you'll never see your child again, or
18 somebody said on that you'll never see your child again.

19 Judge, in support of our position, I would point to the
20 case of State vs. Brewer, a South Carolina case, 411 S.C.
21 401, decided this year, 2015. But for those reasons, we
22 would ask that the video be excluded.

23 THE COURT: What does State vs. Brewer say?

24 MR. ABLE: Judge, in a lot of -- it basically -- it's
25 kind of giving the Court -- or giving the Court's directive

1 as to on these type things where -- it basically just --
2 it's a cautionary opinion, in my opinion. It didn't really
3 just come down and say this is a hard and fast rule.
4 Basically it says that. It says "Caution must be exercised
5 in the admission of such evidence to ensure that out of
6 court statements are either admissible or a valid
7 non-hearsay purpose or as an exception to the hearsay rule
8 in order to safeguard against an end run around the
9 evidentiary and constitutional proscriptions against the
10 admission of hearsay." And in all fairness it does say, "To
11 that end, we remind --" and they're quoting from a North
12 Carolina case, which is in this case. "To that end, we
13 would like to remind trial courts that questions -- that the
14 questions police pose during suspect's interview may contain
15 false accusations, inherently unreliable, unconfirmed or
16 false statements, inflammatory remarks that constitute
17 legitimate points of inquiry during a police investigation
18 but that would otherwise be inadmissible in open court. The
19 wholesale publication of a recording of a police interview
20 to the jury, especially law enforcement's investigation
21 investigatory questions might very well violate the
22 proscriptions against admitting hearsay or Rule 403 causing
23 trial courts to be vigilant -- and cautioning trial courts
24 to be vigilant and redacting it excluding problematic
25 portions of law enforcement's investigatory questions." It

1 goes on to say, "Law enforcement's ad nauseam insistence
2 that Brewer -- in this case Brewer prove his innocence has
3 no place before a jury." I would -- I would take the
4 position that essentially saying -- calling him a liar,
5 saying over and over again you're a liar and you are a bad
6 liar, I think that -- to me that equates to prove your
7 innocence. And the court here said that that's something
8 that has no place in front of a jury. Thank you, sir.

9 THE COURT: Let me take a look at this. Anything from
10 the State? Let me take a look at this Brewer case.

11 (Whereupon, a brief pause was held.)

12 THE COURT: From what I'm hearing Mr. Able say is that
13 he's -- State vs. Brewer was dealt with the situation where
14 the investigators kept stating to the defendant that he had
15 to prove his innocence. I think that was the main crux of
16 that opinion. Correct, Mr. Able?

17 MR. ABLE: Yes, sir.

18 THE COURT: But what I'm hearing Mr. Able say is that
19 he is equating the numerous references that the defendant in
20 this case was lying, or not telling the truth, and Mr. Able
21 is equating that to be the same thing as saying you must
22 prove your innocence. Would that be a fair statement, Mr.
23 Able?

24 MR. ABLE: Yes, sir.

25 THE COURT: Solicitor?

1 MR. SCOTT: Well, Your Honor, as the Court would
2 probably recognize, I deal with analogies. So if he was to
3 take a stand here, certainly I will be able to cross-examine
4 him. I would not be able to shift the burden and ask him to
5 prove his innocence. However, I would question different
6 inconsistencies with his story as compared to the evidence
7 we were able to produce at trial. And I would equate a
8 situation like that to what's going on in our interrogation
9 of Mr. Raines. At no time do they ask the man, you know,
10 prove your innocence. You can prove your innocence, can't
11 you, and ask him where were you that night. What did you do
12 with the money. Why did you get the ATM card Saturday in
13 one statement and you said Sunday in the other. I won't
14 equate that to them shifting the burden on him. It's a
15 ask/answer type situation.

16 What's troubling in the Brewer case, which I think
17 really kind of got the Court of Appeals riled up, was the
18 defendant in that case attempts to stop the interrogation
19 multiple times, and that seems to be the one glaring issue
20 in that case.

21 You're right though. In the Brewer case multiple times
22 they say, well, you know, saying that gun -- I'm saying that
23 gun will prove you are absolutely innocent, along with, help
24 me prove you're innocent. You're the only one out here
25 that -- and you just absolutely don't want to prove yourself

1 innocent. That seems to be in stark contrast to what we
2 have here with -- all I really heard in the interrogation
3 was just posing questions and then asking him for answers.
4 I don't -- I don't really equate that with shifting the
5 burden.

6 THE COURT: No. I think what the -- I counted 14, and
7 probably there's maybe more, but I counted 14 different
8 statements, primarily by Officer Cheek, that either, Mr.
9 Raines, you're lying. Mr. Raines, you're not telling the
10 truth. Words to that. And I think what Mr. Able is saying,
11 those statements are saying that, Mr. Raines, prove your
12 innocence.

13 MR. SCOTT: Judge, let me answer that. If Raines takes
14 the stand tomorrow and he gets up there and tells his side
15 of the story and I go to him and say that's just not the
16 truth though, is it. That's not the truth. You're telling
17 me that's the truth. That's not the truth, is it. I can
18 cross-examine him all day long saying -- that's not shifting
19 the burden. And that would be a proper cross-examination.

20 THE COURT: What I'm going to do, I'm going to deny the
21 motion to suppress. I will -- consistent with what I told
22 the lawyers back in chambers, I will want the statement made
23 by the officer at the end that there's enough evidence to
24 give him the electric chair, I believe that is totally
25 improper. It causes the Court great concern that that

1 statement was made. And also redact the arrest. All that
2 taking place at the very end. And presumably Mr. Bentley
3 has already cut it off.

4 I would ask when it's played again maybe the volume
5 turned down just a little bit --

6 MR. SCOTT: Yes, sir.

7 THE COURT: -- because of the numerous instances of
8 talking over everybody, and it was so loud it was kind of
9 hard to sit through. But nonetheless, that's my ruling.

10 And I am going to instruct the jury several things when
11 they come back out before they see the video. One is I will
12 explain that there is a small portion at the very end that
13 was redacted. That was done by agreement. They should
14 place no significance to that. Two, that anything said by
15 the police officers is not evidence and not to be considered
16 by them. And again, I'll just reaffirm the fact that the
17 State has the burden of proof.

18 Anything else?

19 MR. ABLE: No, sir.

20 MR. SCOTT: No, sir.

21 THE COURT: All right. Mr. Bolt, bring the jury out,
22 please.

23 (Whereupon, the jury entered the courtroom at 1:40
24 p.m.)

25 THE COURT: Ladies and gentlemen, first of all, thank

1 you for your patience, and I know you all are probably in
2 agreement that I didn't do a very good job of estimating the
3 amount of time that we needed to deal with several matters.
4 Sometimes the Court is not correct in estimating time. So,
5 nonetheless, we've been working, and just a very little bit
6 of time that we allowed anybody to go get lunch, and I don't
7 think anybody has because we've been working.

8 In just a moment the State is going to, as far as their
9 case, play a video of an interview that was conducted by law
10 enforcement with Mr. Raines. And let me explain several
11 things to you. One, by agreement there's a portion at the
12 very end of this video that was what we call redacted or
13 taken out. So at the very end if it looks like it just kind
14 of stops at a funny place, that is the reason for that. You
15 are to place absolutely so significance in the fact that a
16 portion -- a small portion, but nonetheless a portion of
17 that video was taken out and not for your viewing.

18 Secondly, anything that the police officers say during
19 the course of this interview is not evidence and is not to
20 be considered whatsoever as evidence in this case.

21 Thirdly, I'll remind you, and we'll explain this in
22 great detail at the conclusion of this case, but it's
23 already been mentioned at the outside, the State has the
24 burden of proof to prove each and every element of these two
25 offenses beyond a reasonable doubt is standard. The

1 Defendant has no obligation whatsoever to prove anything.
2 It's to the State to prove each and every element beyond a
3 reasonable doubt. Keep that in your mind as we continue
4 through this case. Okay?

5 All right. This video is about an hour and 45 minutes
6 long roughly, Solicitor?

7 MR. SCOTT: Yes, sir.

8 THE COURT: So we will play that. And after that is
9 played we'll certainly take a break after that is done.

10 All right. Solicitor, Mr. Bentley if you would assist
11 to get the video ready.

12 MR. SCOTT: Your Honor, this is State's 47 and we're
13 admitting into evidence at this point.

14 THE COURT: Mr. Able, subject to the objections made?

15 MR. ABLE: Yes, previously objections and the previous
16 ruling. Yes, sir.

17 (Whereupon, State's Exhibit No. 47 was admitted into
18 evidence.)

19 THE COURT: Right.

20 MR. ABLE: Thank you.

21 THE COURT: If you believe that the sound is a little
22 bit too high or too low speak up.

23 (Whereupon, State's Exhibit No. 47, August 29, 2013
24 Police Interview, was published to the jury.)

25 THE COURT: All right. Ladies and gentlemen, we're

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1 going to take a break. And again, as I told you at the
2 outset of this video, anything that the police officers said
3 during this entire interview is not evidence for you to
4 consider in this case. Go back to the jury room, take a
5 break, and we'll get you back out shortly. Again, no
6 discussions among yourselves about this case.

7 (Whereupon, the jury exited the courtroom at 3:33 p.m.)

8 THE COURT: All right. We'll be at recess about 15
9 minutes.)

10 (WHEREUPON, a recess was held from 3:33 p.m. to 3:55
11 p.m.)

12 THE COURT: We're back on the record. Are we ready for
13 the jury?

14 MR. SCOTT: Yes, sir.

15 THE COURT: Okay. Mr. Bolt, bring the jury out,
16 please.

17 (Whereupon, the jury entered the courtroom at 3:55
18 p.m.)

19 THE COURT: Officer McIntosh, I'll remind you you're
20 still under oath from yesterday, sir.

21 THE WITNESS: Yes, sir.

22 THE COURT: You may proceed, Solicitor.

23 Q State's 47. That's what we just watched?

24 A Yes, sir.

25 Q And that was the entirety of the interview you

KEITH MCINTOSH: DIRECT EXAMINATION

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- 1 conducted on the 29th of August?
- 2 A Yes, sir.
- 3 Q And that was you giving him his Miranda warnings in the
- 4 beginning?
- 5 A Yes, sir.
- 6 Q And he seemed to understand his rights not to answer
- 7 any questions or continue answering questions?
- 8 A Yes, sir.
- 9 Q And did he seem to be under the influence of anything?
- 10 A No, sir. Not at all.
- 11 Q And you recall that interview?
- 12 A Yes, sir.
- 13 Q So you recall on there where you talked about working
- 14 on Myranda's laptop?
- 15 A Yes, sir.
- 16 Q And, let's see. He said the last time he saw her was
- 17 the morning of the 18th, Sunday morning; is that correct?
- 18 A Yes, sir. Sunday morning.
- 19 Q And that's when he told you he got her ATM card?
- 20 A Yes, sir.
- 21 Q You asked him if he owned a gun and he said what kind
- 22 of gun did he have?
- 23 A He said he had a 9 millimeter Hi Point.
- 24 Q And it was in his truck?
- 25 A Yes, sir. It was.

KEITH MCINTOSH: CROSS-EXAMINATION

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1 Q Did you participate in retrieving that 9 millimeter?

2 A No, sir. Greenville County did that.

3 Q Did you ever get to see it?

4 A No, sir.

5 Q Just really the last thing. But up there he talked
6 about getting \$500 in total from the ATM. And where did he
7 say he put the money after he left the ATM?

8 A In an end table at the corner of a couch.

9 Q And where did he say he put Myranda's ATM card?

10 A With the money.

11 MR. SCOTT: Lieutenant, answer any questions Mr. Able
12 has for you.

13 THE COURT: Cross-examination.

14 MR. ABLE: Thank you, sir.

15 CROSS-EXAMINATION

16 BY MR. ABLE:

17 Q Lieutenant you're the lead investigator on this case?

18 A Yes, sir.

19 Q And you were one of the first ones out there on
20 Bramlett Church Road?

21 A Yes, sir. Along with -- well, first responding
22 deputies was already there, then myself. And then the two
23 other investigators showed up.

24 Q Mr. Blackmon and Mr. Cheek?

25 A Yes, sir.

KEITH MCINTOSH: CROSS-EXAMINATION

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- 1 Q All right. And that was when Ms. Yates, who testified
2 yesterdays, she came out? She's the one that called 911
3 that day, correct?
- 4 A Yes, sir. I believe it was her or either her
5 boyfriend.
- 6 Q Mr. Bohannan?
- 7 A Bohannan, yes, sir.
- 8 Q And that was August 23rd of 2013?
- 9 A Yes, sir.
- 10 Q And that's not the first time there had been a call
11 about this problem out there on Bramlett Church Road, was
12 it?
- 13 A No, sir. It wasn't.
- 14 Q The day before Ms. Yates had called and reported
15 something in that field, hadn't she?
- 16 A Yes, sir.
- 17 Q And a deputy responded?
- 18 A Yes, sir.
- 19 Q And there was a report done?
- 20 A Yes, sir.
- 21 Q And the deputy went out there and didn't bother to even
22 walk over in the field to see what was in the -- what the
23 problem was?
- 24 A Right.
- 25 Q All right, sir. Now, you understand, of course, that

1 the magazine and the bullets that were found in that
2 magazine, Exhibit -- State's Exhibits 18 and State's Exhibit
3 14, there was no fingerprints on those?

4 A Right. Only small ridges.

5 Q And there was no DNA evidence on those?

6 A No, sir.

7 Q That's right?

8 A Right. That's correct.

9 Q Now, after SLED had done what they needed to do that
10 day and your office had done what they needed to that day
11 you thought it wise to go up to Kellett's store right up
12 there on 101, correct?

13 A Yes, sir. I believe it was the same day.

14 Q You went up there and you spoke to Mr. -- I think his
15 name is David Kellett?

16 A Yes, sir. He's the owner of the store.

17 Q Right. And you were aware that there were video
18 surveillance cameras outside?

19 A Yes, sir. I've -- with my experience I've used those
20 cameras before in incidents; the gas drive offs, or a car
21 was stolen one day during the daytime and we was able to
22 pull video.

23 Q And that store sits right into Highway 101, correct?

24 A Yes, sir. It's almost --

25 Q It sits right there at the intersection?

KEITH MCINTOSH: CROSS-EXAMINATION

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- 1 A Just a little ways up on Bramlett Church.
- 2 Q It sits right almost right there --
- 3 A You have to go Bramlett Church and the store is on the
- 4 left, coming out of Gray Court.
- 5 Q Right there on the left?
- 6 A Yes, sir.
- 7 Q And there's quite a number of -- Mr. Kellett has a lot
- 8 of -- quite a number of cameras?
- 9 A He has, of course, inside cameras, and he has outside
- 10 cameras that point toward the gas pumps, and that's -- would
- 11 be toward the road. Yes, sir.
- 12 Q And you reviewed all those videos?
- 13 A Yes, sir. I did.
- 14 Q And from reviewing those videos you couldn't place my
- 15 client's vehicle on Highway 101 turning there at Bramlett
- 16 Church Road during the morning hours of August 19th, 2013?
- 17 A No, sir. Not at night. It was the way the headlights
- 18 and the speed it's unable to determine. I did see
- 19 headlights, but I was not able to determine whether it was a
- 20 truck or car.
- 21 Q And it didn't show -- for that fact, it didn't show Ms.
- 22 Southern's car either? You couldn't make out --
- 23 A No, sir. I couldn't -- I couldn't determine. During
- 24 daytime the camera is good, but at nighttime it's different.
- 25 Q And in looking at the video a few moments ago when

KEITH MCINTOSH: CROSS-EXAMINATION

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1 Officer Cheek says -- he's talking about videos, he said
2 even in Gray Court, and I assume he was talking about Mr.
3 Kellett's video?

4 A I can't answer that. I don't know if he was talking
5 about Gray Court or if he was talking about Kellett's or
6 not. We had viewed the video the best we could, so it could
7 --

8 Q But you don't know of any other videos that were viewed
9 by your office in relation to this investigation other than
10 those of Mr. Kellett's at Gray Court?

11 A And other than the Bi-Lo in Simpsonville.

12 Q Right. No, I'm just asking about Gray Court for right
13 now.

14 A Right, yes.

15 Q He made mention, you know, about the camera and he
16 said, you know, you can't even go through Gray Court without
17 a camera seeing you.

18 A Yes, sir. He did.

19 Q All right. And Officer Cheek said something about --
20 in the video about he had my client's picture in his truck
21 going down the highway. Going down the road that morning.
22 There's no picture of him in the truck, is there?

23 A Other than the one at the ATM.

24 Q Right. You know what I'm talking about. He was
25 telling my client on that video I've got a picture of you in

KEITH MCINTOSH: CROSS-EXAMINATION

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1 your truck going down the road that night, and there's no
2 such picture, is there?

3 A No, sir.

4 Q And on the video you're telling my client, you and him
5 both, about -- you know, we got you going down 385 coming
6 and going on these Highway Department cameras that are on
7 these poles on the interstate. There's no such videos, are
8 there?

9 A There is video out there but it's not recordable.
10 There is cameras on the interstate but it's not recordable.

11 Q My point is, you all are saying we've got videos of you
12 going up and down the highway. You all don't have those
13 videos of my client going up and down the highway?

14 A No, sir. There's no video there.

15 Q And you mentioned a moment ago about the Bi-Lo video.
16 There's nothing on that Bi-Lo video, is there? Surveillance
17 video?

18 A Only at one part we did see headlights and that's all.
19 You couldn't see anything or make anything out as far as car
20 or truck.

21 Q And on August 28th of this year -- I'm sorry. August
22 28th of that year, 2013, you examined Ms. Southern's vehicle
23 firsthand?

24 A No, sir. Greenville -- Greenville County processed the
25 car when it was found. I did -- I did view the car.

KEITH MCINTOSH: CROSS-EXAMINATION

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1 Q Right. That's what I'm asking.

2 A Afterwards. Yes, sir.

3 Q You viewed it.

4 A Yes, sir.

5 THE COURT: Let me stop you all. Try not to talk over
6 one another --

7 MR. ABLE: I'm sorry.

8 THE COURT: -- Mr. Able, Officer McIntosh.

9 THE WITNESS: Okay. I'm sorry.

10 Q But you went and viewed the video -- I mean, viewed the
11 vehicle?

12 A Yes, sir.

13 Q But Greenville processed it?

14 A Yes, sir.

15 Q Do you know the results of that?

16 A No, sir. I mean, there is no results. They took what
17 they did out of the car.

18 Q Took what they did out of the car?

19 A Yes, sir. I've got the -- I've got what they took out
20 of the car.

21 Q And they processed it for fingerprints and DNA and
22 everything they do. I guess blood, fibers, hairs, things
23 like that?

24 A Mostly looking, I'm sure, for blood and fibers of that
25 thing -- of that type.

KEITH MCINTOSH: CROSS-EXAMINATION

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1 Q And there was nothing from Ms. Southern's vehicle to
2 put my client in that vehicle?

3 A No, sir.

4 Q All right. And likewise with my client, you're aware
5 that -- with his vehicle you're aware that Greenville
6 processed his vehicle?

7 A Yes, sir. I was aware of it.

8 Q And they issue a report? Or they took stuff out and
9 did the same type investigation?

10 A Yes, sir.

11 Q Same type forensic investigation looking for DNA,
12 fingerprints. And there's nothing from your investigation,
13 or through your investigation, that you've learned that
14 would place Ms. Southern in my client's vehicle? No blood,
15 hair, DNA, fingerprints, anything of that nature?

16 A Nothing at that time that we could -- as far as DNA.
17 But we had known previously that she had been with him.
18 Previous testimony.

19 Q I'm saying in that vehicle you couldn't find anything
20 to say that she'd been in that vehicle?

21 A Not -- no, sir. The way you put it, no, sir. You're
22 correct.

23 Q All right, sir. And when you asked my client in the
24 video had he had any prior criminal problem, I think Mr.
25 Cheek said he's never been in trouble before? My client

KEITH MCINTOSH: CROSS-EXAMINATION

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1 doesn't have a prior criminal record, does he?

2 A Yes, sir. I believe that's what he said.

3 Q Does your investigation reveal differently?

4 A No, sir. No, sir.

5 Q And through your investigation there's -- you don't
6 have any eyewitness who can say my client and Ms. Southern
7 were together the morning hours of August 19th --

8 A Eyewitness, no, sir.

9 Q -- 2013? There's no witnesses?

10 A No, sir. No eyewitness.

11 Q Now, were you present when Detective Hoover interviewed
12 my client for the first interview?

13 A No, sir.

14 Q So you don't know what the two of them talked about?

15 A Only what I read in his statement. That's all.

16 Q And when my client said that he was the last one to
17 talk to Ms. Southern on the telephone that night, do you
18 know if Detective Hoover told him that? That he was the
19 last one to talk to her that night?

20 A I couldn't -- not that I know of. I couldn't really
21 say.

22 Q And you had asked him about a gun, and he told you he
23 owned a gun, right?

24 A Yes, sir. He owned 9 millimeter Hi Point.

25 Q And right after you had asked him about the 9 -- or

KENT TATHAM: DIRECT EXAMINATION

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1 asked him about a gun and he said, yes, I own a 9
2 millimeter, I think the next question, I think from Officer
3 Cheek, was where's the gun. Where is that gun, or something
4 of that nature.

5 A Yes, sir.

6 Q And I think that you and Mr. Cheek and Mr. Raines
7 started talking about that gun and the shells he had and
8 where it was and it was under a hat. You never came back
9 and asked him did he have another gun, did you?

10 A Not at that time I didn't, no.

11 MR. ABLE: Thank you, sir. That's all I have.

12 THE COURT: Anything on redirect, Solicitor?

13 MR. SCOTT: No, Your Honor.

14 THE COURT: Okay. Thank you for your testimony.

15 Officer, you can step down.

16 THE WITNESS: Thank you.

17 (Whereupon, the witness stepped down from the witness
18 stand.)

19 MS. BOYKIN: The State calls Kent Tatham.

20 KENT TATHAM, having first been duly
21 sworn, testified as follows:

22 MR. ABLE: Judge, can we approach for a moment?

23 THE COURT: Sure can.

24 (Whereupon, a sidebar was held.)

25 DIRECT EXAMINATION

KENT TATHAM: DIRECT EXAMINATION

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1 A They have to provide their name, address, place of
2 birth, height, weight, date of birth, Hispanic, not
3 Hispanic, the state they live in, and if they're a United
4 States citizen.

5 Q And once they fill that out what do you do with that
6 form?

7 A We call it into ATF and they give you either a proceed,
8 a delay or a denial to proceed with the purchase.

9 Q Now, after someone fills this out and someone purchases
10 a gun what do you do with that form?

11 A It's kept on our -- in our store, in our records.

12 Q Are you required to keep that form?

13 A Yes.

14 Q For how long?

15 A I think forever.

16 Q Forever, okay. If you wouldn't mind, look at that
17 State's Exhibit 48 for me, please. Does that indicate that
18 a gun was purchased?

19 A Yes.

20 Q Can you tell me what type of gun was purchased?

21 A A Hi Point .380 pistol.

22 Q Can you tell me the name of the purchaser?

23 A Darrell Ervin Raines, Jr.

24 Q Can you tell me the date that it was purchased?

25 A 8/17/2013.

JAMES FRAZIER: DIRECT EXAMINATION

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1 A Yes.

2 MR. ABLE: Thank you, sir.

3 THE COURT: Redirect, Solicitor?

4 MS. BOYKIN: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. BOYKIN:

7 Q Were you the only one that sold that particular gun to
8 Darrell Raines?

9 A Yes.

10 MS. BOYKIN: Thank you.

11 THE COURT: Thank you for your testimony, sir. You can
12 step down. You are free to leave the courthouse or you're
13 welcome to remain with us.

14 THE WITNESS: Thank you.

15 (Whereupon, the witness stepped down from the witness
16 stand.)

17 JAMES FRAZIER, having first been
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SCOTT:

21 Q State your full name for the record.

22 A My name is James R. Frazier, F-r-a-z-i-e-r.

23 Q Mr. Frazier, what is your occupation?

24 A I'm actually retired, but I sell guns. I've been
25 working in gun stores since I retired from the fire service.

JAMES FRAZIER: DIRECT EXAMINATION

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1 Q August 2013 were you working at a -- I guess a gun
2 dealer --

3 A Yes, sir.

4 Q -- called Traders?

5 A Traders Gun Shop. Yes, sir.

6 Q Where is Traders Gun Shop?

7 A It's on Wade Hampton Boulevard in Greenville, South
8 Carolina. Well, actually it's Taylors, South Carolina.

9 Q And we were just talking about Form 4473.

10 A Yes, sir.

11 Q And what is that?

12 A Form 4473 is the federal form that has to be filled out
13 to do the background check on all firearms purchases.

14 Q So you're familiar with filling those out and --

15 A Yes, sir.

16 Q -- and selling guns to people and them having to fill
17 those forms out? Let me show you State's 49. Do you
18 recognize that?

19 A Yes, sir. This one was done at our shop. The shop I
20 worked at at that time. It has our stamp on it and also the
21 federal firearms license number on the back. It was sold by
22 one of the employees that worked for me.

23 Q And who is the -- I guess the person who purchased the
24 weapon on that particular 4473?

25 A Darrell Ervin Raines, Jr.

JAMES FRAZIER: DIRECT EXAMINATION

399

1 Q And what type of pistol did he purchase?

2 A Purchased a Hi Point 9 millimeter compact. It was a
3 pistol, which means it's a semiautomatic.

4 Q Does it show when he purchased it?

5 A Purchase date was 8/20 of 2013.

6 Q August 20th he purchased a 9 millimeter. August --

7 A August 20th.

8 Q -- 20th.

9 MR. ABLE Judge, I'm going to lay an objection at this
10 time as far as the relevance. I don't know what this line
11 of questioning as to a 9 millimeter has any relevance to any
12 testimony as to what -- in earlier testimony in the case a
13 .380, and my objection is to the line of relevance as to the
14 9 millimeter.

15 MR. SCOTT: Three or four questions and it will be very
16 relevant.

17 THE COURT: I'm going to overrule the objection at this
18 point in time and get the Solicitor to delve a little bit
19 deeper. And if you feel compelled to object then, Mr. Able,
20 then feel free to do so.

21 Q Does that have a serial number on it?

22 A Serial number is P, as in pappa, 1233801.

23 Q Can you find the serial number on State's 43?

24 A Serial number is P, as in pappa, 1343801.

25 Q So is that the pistol Traders sold Darrell Raines on

JAMES FRAZIER: DIRECT EXAMINATION

400

1 August 20th, 2013?

2 A By serial number it is. Yes, sir.

3 Q At some point in August 2013 do you recall law
4 enforcement coming into your shop, Traders, to speak with
5 you about Darrell Raines?

6 A I do.

7 Q And do you recall some information you gave them about
8 Darrell Raines?

9 A I do.

10 Q Tell this jury what exactly you told them about Darrell
11 Raines.

12 A Well, on the 29th of August Mr. Raines came into the
13 shop and brought the firearm in that we just identified. He
14 said that the gun was jamming, was not working properly, and
15 wanted to know if we would take the gun back.

16 Q Now, at this time he's talking about the 9 millimeter?

17 A The 9 millimeter. This is correct.

18 Q All right. He said my 9 millimeter is jamming, and he
19 wants you to do what with it?

20 A He wants us to, you know, refund his money. You know,
21 if we would take it back.

22 Q What did you say?

23 A At that point I informed him that all warranties were
24 by the manufacturer of the individual firearm. Whatever
25 company it would be. In this case, Hi Point.

JAMES FRAZIER: DIRECT EXAMINATION

401

1 Q So you say no, we're not going to refund your money,
2 but Hi Point has their own --

3 A Yeah, they warranty the firearm. And I offered to send
4 the firearm back for him at that point in time. He stated
5 that he was very familiar with their warranty policies
6 because he had just sent a .380 handgun back to Hi Point
7 himself.

8 Q Let me get it straight. So he said, you're right. I
9 understand Hi Points policy. I'm familiar with it. I've
10 sent a Hi Point .380 back to them?

11 A That's correct.

12 Q And then you told law enforcement that?

13 A I did.

14 Q What else did you provide law enforcement at that time?

15 A They asked me how they could get in touch with -- you
16 know, to find out about whether or not the gun was still
17 there. I have a book or -- that has all the manufacturers
18 listed in it. I looked up their phone number and gave them
19 the phone number. The officer that was there pulled out his
20 cell phone, stepped over to the side, called and they had a
21 conversation. I was not privy to that conversation.

22 Q So just I want to be clear. Law enforcement comes to
23 you to talk about the 9 millimeter and you tell them that
24 little story about Darrell Raines being in there and telling
25 you that he had previous sent a .380 to Hi Point?

1 A That is correct.

2 Q And did that appear to be information that was new to
3 law enforcement?

4 A They asked me if I would give them a written statement.

5 MR. ABLE: Objection to speculation, Your Honor.

6 THE COURT: Hold it just a second.

7 MR. ABLE: It's calling for -- it's calling for
8 speculation as to how law enforcement -- what it meant to
9 them when he said what he said.

10 THE COURT: Repeat the question, Solicitor.

11 Q As a result of that story what did law enforcement do?

12 A Asked me if I would --

13 THE COURT: If he had personal knowledge of what they
14 did?

15 Q Did you see what they did after you told them that
16 story?

17 A I gave them a phone number and they called that number.
18 I did not hear that conversation.

19 Q That number was the Hi Point --

20 A That was the Hi Point factory number. Yes, sir.

21 Q Do you know where Hi Point is based out of?

22 A Ohio, I believe.

23 MR. SCOTT: Beg the Court's indulgence.

24 THE COURT: Sure.

25 Q You said Mr. Raines came in there to speak with you --

JAMES FRAZIER: CROSS-EXAMINATION

403

1 A On the 29th.

2 THE COURT: What month and year?

3 THE WITNESS: August of 2013.

4 Q Do you remember was it early in the day, was it later
5 in the day?

6 A I do not remember the exact time. No, sir.

7 MR. SCOTT: Thank you, Mr. Frazier. Answer any
8 questions Mr. Able has for you.

9 THE COURT: Mr. Able, cross?

10 MR. ABLE: Yes, sir. Thank you.

11 CROSS-EXAMINATION

12 BY MR. ABLE:

13 Q Mr. Frazier, you were the manager or are you the
14 manager of Traders?

15 A I was the manager at Traders Gun Shop at that point in
16 time. Since I have changed to another gun shop in town.
17 I'm now their purchasing manager.

18 Q All right, sir. And how long have you been involved in
19 this line of work as far as gun shops?

20 A I retired from the fire service in -- on April 30th of
21 2005. I went to work for Traders the following week. I
22 worked there nine and a half years before moving.

23 Q And Traders sells the line of Hi Point firearms?

24 A And many others. Yes, sir.

25 Q And many others. Like a lot of --

1 A Yeah, most gun shops.

2 Q Yeah. And Hi Point firearms are not a very expensive
3 line of firearm, are they?

4 A They are an inexpensive line. Yes, sir.

5 Q I mean, the retail cost on one of these .380s is about
6 a little over \$100?

7 A At that -- they range -- MSRP on them is actually 175,
8 200, \$225. Most places sell them for 100 to 150.

9 Q And Traders sold the Hi point CF-.380? They sold that
10 particular gun?

11 A We sold that. But now, we did not sell that -- the one
12 we sold to Mr. Raines was a 9 millimeter.

13 Q I understand. I'm sorry. I asked you a bad question.
14 You all sell that type of gun? Not that --

15 A That is correct, yes.

16 Q And I believe, as far as the .380, there's like four
17 different models of that gun?

18 A Hi Point made a variety of models of each of their
19 guns. Yes, sir.

20 Q So the Hi Point gun, even the Hi Point CF-.380, it's a
21 pretty common gun around here?

22 A Fairly common. Yes, fairly common.

23 Q And I would imagine, like you said, a lot of stores
24 sell those around here. How many -- would you have any idea
25 how many CF-.380s made by Hi Point your store would have

JAMES FRAZIER: CROSS-EXAMINATION

405

1 sold in a month?

2 A Normally not many. Most people would purchase, you
3 know, a little higher quality firearm. I might sell, of the
4 .380s, maybe one every two months. As far as the 9s,
5 roughly the same.

6 Q And that's just --

7 A It's not an item that I stocked all the time.

8 Q And that's just in your store?

9 A That was in the store that I was manager.

10 Q All right. And as far as with your background in that
11 area, I mean, not only are there stores, I mean, there's a
12 lot of gun shows that sell these type weapons, too?

13 A That is correct, sir.

14 Q I mean, did Traders ever go to any gun shows or
15 anything like that?

16 A When they first opened 25 years ago they did, but they
17 hadn't been to a gun show in probably the last 15 years.

18 MR. ABLE: Thank you, sir.

19 THE WITNESS: You're very welcome, sir.

20 THE COURT: Redirect?

21 MR. SCOTT: Your Honor, only to -- just to enter that
22 4473 for admission into evidence.

23 THE COURT: And that's going to be State's Exhibit 49?

24 MR. SCOTT: Yes, sir.

25 THE COURT: Any objection, Mr. Able?

BEN BLACKMON: DIRECT EXAMINATION

406

1 MR. ABLE: Which one is the -- that, okay. No, sir.

2 THE COURT: Okay. 49 into evidence for the State.

3 (Whereupon, State's Exhibit No. 49 was admitted into
4 evidence.)

5 MR. SCOTT: Nothing further for this witness, Your
6 Honor.

7 THE COURT: You can step down, sir, and you're free to
8 leave the courthouse or you're welcome to remain with us,
9 either way.

10 THE WITNESS: Thank you, sir.

11 THE COURT: Thank you for your testimony.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. SCOTT: The State calls Ben Blackmon, Your Honor.
15 I'm sorry.

16 THE COURT: That's all right.

17 MR. SCOTT. Went to go get him. I didn't call his
18 name.

19 THE COURT: That's okay.

20 BEN BLACKMON, having first been
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q State your name for the record.

25 A Ben Blackmon.

BEN BLACKMON: DIRECT EXAMINATION

407

1 Q And, Mr. Blackmon, you are with the Laurens County
2 Sheriff's Department?

3 A That's correct.

4 Q How long have you been with that agency?

5 A Since 1999.

6 Q And you an investigator?

7 A Yes, sir.

8 Q August 2013 did you have occasion to become involved
9 with a -- what started off as a missing person in Greenville
10 and then ended up being a homicide investigation in Laurens
11 County?

12 A That's correct. I assisted Lieutenant McIntosh in the
13 investigation.

14 Q And do you recall -- we just had a witness from a
15 Traders Gun Shop. Did you go to Traders to talk to him
16 about a weapon?

17 A Yes, sir. I did.

18 Q And that was a 9 millimeter?

19 A Yes, sir. It was -- came to our attention that I
20 believe the Defendant had purchased a 9 millimeter from that
21 facility. We went to inquire about the acquisition of that
22 gun, and while there the individual we spoke with stated
23 that the Defendant had brought up the fact that he had owned
24 a .380 caliber pistol of the similar make of what he had
25 purchased recently, and that he had sent it back to the

BEN BLACKMON: DIRECT EXAMINATION

408

1 manufacturer for modifications.

2 Q Tell me why the fact that Mr. Raines had sent back a
3 .380 for modifications was significant to you in August of
4 2013?

5 A At that time, I believe, the -- during the incident
6 that we're speaking of in which the victim was found
7 deceased in our county, that she was, to our understanding,
8 shot with a .380 caliber pistol. We also recovered a
9 magazine on the crime scene.

10 Q Are you talking about that, State's No. 8?

11 A Yes, sir. And that was recovered by the State Law
12 Enforcement Division during the processing of the crime
13 scene.

14 Q So the field where Ms. Southern was found you found
15 this clip as depicted in State's 8, and that was a .380 --
16 or, I say clip. A magazine from a .380?

17 A Yes.

18 Q All right. So then after you investigate the 9
19 millimeter that was purchased from Traders, it's at that
20 point that you discover that Mr. Raines had a .380 that he
21 had sent back to have some work done on; is that right?

22 A That's correct.

23 Q So as a result of this what do you do?

24 A From that point we made contact with the manufacturer,
25 which is Hi Point Manufacturing Company, or whatever their

BEN BLACKMON: DIRECT EXAMINATION

409

1 official title is, that made the -- made the gun, and also
2 that he supposedly shipped it to, and they did confirm that
3 they had received --

4 MR. ABLE: Objection to confirmation hearsay.

5 THE COURT: It's sustained.

6 Q How about this. Let me ask you, what did you tell Hi
7 point to do when you got them on the phone?

8 A To see if the Defendant in this matter had recently
9 sent them a gun for modification or repairs or, you know,
10 sent back to the shop, so to speak.

11 Q After speaking with the representatives from Hi Point
12 what did law enforcement do?

13 A We learned that the firearm had been taken in there at
14 this store -- or the manufacturer and it had requested
15 repairs or requested modifications done and had been sent
16 back to the Defendant's residence. At that point, a search
17 warrant was acquired by the Greenville County Sheriff's
18 Office for that residence. We went there and watched the
19 FedEx truck deliver the package to the home. It was signed
20 for by, I believe, the Defendant's mother. We walked up to
21 the residence, announced our presence. Spoke with them
22 about, you know, the package that had just been received,
23 and she wasn't sure what was in the package. And we asked
24 her if she understood that she was possibly signing for the
25 return of a firearm. She didn't know that. So at that

BEN BLACKMON: DIRECT EXAMINATION

410

1 point we opened the package to identify the contents as a
2 firearm and --

3 Q This is State's No. 46. Do you recognize that?

4 A Yes, sir.

5 Q What is it?

6 A That's the box that was signed for that day.

7 Q Who's it addressed to?

8 A It's addressed to Darrell Raines, and down below it it

9 says Darrell Raines, Saluda Ridge, Greenville, South

10 Carolina, 29611.

11 Q Is that the box you opened that day?

12 A Yes, sir.

13 Q Is that the box you intercepted that day?

14 A , Yes, sir.

15 MR. SCOTT: Your Honor, the State offers 46 for

16 admission into evidence.

17 THE COURT: Defense?

18 MR. ABLE: Without objection.

19 THE COURT: Without objection, No. 46 into evidence for
20 the State.

21 (Whereupon, State's Exhibit No. 46 was admitted into
22 evidence.)

23 Q When you opened it up what did you find?

24 A We found a .380 ACP Hi Point pistol.

25 Q Look at this, Investigator Blackmon. This is State's

BEN BLACKMON: DIRECT EXAMINATION

411

1 44. Do you recognize that?

2 A Yes, sir.

3 Q What is that?

4 A That is a -- looks to be a .380 caliber Hi Point
5 pistol.

6 Q And is that the pistol that was in the box that you
7 intercepted at Mr. Raines' residence?

8 A As far as I can identify. Yes, sir. It's got an
9 evidence tag on it.

10 Q Let me show you State's 45. Do you recognize that?

11 A Yes, sir. This was also enclosed in the package, which
12 is a copy of Mr. Raines' driver's license, and it has a
13 handwritten note below it. It says, "My license does not
14 reflect my current address. The SC DMV does not require you
15 to get a new license when you move provided that you update
16 them with a correct one. My address is listed on the other
17 form and listed below. Darrell Raines, Saluda Ridge,
18 Greenville, South Carolina 29611."

19 Q What's on the other page?

20 A On the attached page is a typed or printed paper and it
21 says, "Please answer in all fields and once you complete the
22 form print a copy of it and include it with the firearm you
23 send to Hi Point for repair."

24 Q Let me stop you. What is the work that was done on his
25 .380?

BEN BLACKMON: DIRECT EXAMINATION

412

1 A Reamed chamber, replace live clip, firing pin and
2 springs. Test fired, no problems. Sent extra clips," and
3 it's signed "Thanks Rocky" in handwriting.

4 Q They sent him back extra clips and then they reamed the
5 whole barrel out?

6 A Reamed the chamber. Yes, sir..

7 MR. SCOTT: Judge, at this point I'm going to go ahead
8 and introduce State's 44 which is the .380. It's been
9 identified a number of times.

10 THE COURT: And what says the Defense?

11 MR. ABLE: This is No. what?

12 THE COURT: 44, the .380.

13 MR. ABLE: No objection.

14 THE COURT: All right. Without objection, 44 comes
15 into evidence for the State.

16 (Whereupon, State's Exhibit No. 44 was admitted into
17 evidence.)

18 MR. SCOTT: I'm going to also introduce 45 which is the
19 form which he just testified to.

20 MR. ABLE: No objection.

21 THE COURT: Without objection, 45 is in evidence on
22 behalf of the State.

23 (Whereupon State's Exhibit No. 45 was admitted into
24 evidence.)

25 Q State's 44, the pistol, did you do anything with the

BEN BLACKMON: DIRECT EXAMINATION

413

1 gun after that?

2 A Logged it into evidence.

3 Q So you took possession of it? Logged it into evidence?

4 A Turned it over to the evidence custodian where it was
5 taken to the South Carolina Law Enforcement Division.

6 Q So you took it, logged it in, went to the evidence
7 custodian and then they took it to SLED to do some testing
8 on it?

9 A Yes, sir.

10 Q All right. Did you participate in the search warrant
11 of Darrell Raines' home?

12 A Yes, sir. The one we spoke of concerning the firearm
13 was the latter incident in which a search warrant was
14 executed there. We also went, I believe, on the -- I don't
15 want to speak out of turn, but I believe the 29th.

16 Q Do you have your report?

17 A Yes, sir. If I may reference it, I can look it up for
18 you.

19 Q Yeah, certainly. When was the search warrant of his
20 home?

21 A August the 29th, Thursday.

22 Q Were you looking -- I guess you were looking for any
23 evidence that would link him. But specifically was an ATM
24 card significant when you were doing your search?

25 A Yes, sir. During the interview the Defendant in this

BEN BLACKMON: DIRECT EXAMINATION

414

1 case, myself and other investigators from the Greenville
2 County Sheriff's Office went to Mr. Raines' residence and
3 executed the search warrant based also on information that
4 Mr. McIntosh had learned during the interview that Mr.
5 Raines still had \$300 that was taken from the victim's
6 account at an ATM machine, and that it should be around a
7 night stand, or an end table, if you will, that was near a
8 couch where he slept.

9 Q I show you State's 51. Do you recognize that?

10 A Yes, sir. That's the end table or night stand.

11 Q And that's beside --

12 A Near the couch.

13 Q -- a couch?

14 A Yes, sir.

15 MR. SCOTT: Your Honor, the State would offer 51 for
16 admission into evidence.

17 (Whereupon, a brief pause was held.)

18 MR. SCOTT: State's 51, Your Honor, we're offering for
19 admission.

20 MR. ABLE: Judge, I would object to 51 right now. The
21 -- there's a notepad with -- well, it appears to be a
22 notepad with writing on it. There's been no claim that the
23 writing is my client's. I don't know what relevance it
24 would have to this case or if it's been authenticated as
25 him.

BEN BLACKMON: DIRECT EXAMINATION

415

1 THE COURT: Let me see 51. I'm going to allow --

2 Exhibit 51 is now Exhibit 50 for the State. Over the

3 objection, Mr. Able, I'm going to allow it in.

4 Q Investigator Blackmon, in State's 50 what is this?

5 A That's the end table or night stand next to the -- next
6 to the couch in the livingroom of Defendant's residence.

7 Q Did you open the drawer?

8 A Yes, sir. We looked in the drawer based on the
9 information that Lieutenant McIntosh had provided to us from
10 the interview with Mr. Raines.

11 Q Can you speak up a little bit louder? Maybe sit a
12 little bit closer to the mic.

13 A I'm sorry. Yes, sir. We did open the drawer and
14 examined the inside of the drawer based on the information
15 that Mr. McIntosh had provided us from the interview with
16 the Defendant that it was supposed to be the remaining --
17 debit card that belonged to the victim and, I think he
18 stated to them, that there was still \$300 in that drawer
19 from an ATM withdraw.

20 Q Did you find \$300?

21 A No, sir.

22 Q Did you look thoroughly through the drawers of that --

23 A Yes, sir.

24 Q In fact, did you look through other drawers in that
25 room?

BEN BLACKMON: DIRECT EXAMINATION

416

1 A Yes, sir. We looked around the immediate area as well
2 thinking maybe he was mistaken where he placed it. We never
3 found any amount of money, you know, her debit card or
4 anything.

5 Q Did you find Myranda Southern's bank card?

6 A No, sir. We did not. I just wanted to be sure. I'm
7 referencing my report.

8 Q Let me show you State's 40.

9 THE COURT: Did you say 40?

10 MR. SCOTT: Yes, sir.

11 Q I'm not asking you to read it. But do you recognize
12 that?

13 A Yes, sir.

14 Q And what is it?

15 A That's a notepad that was inside the home.

16 Q Do you remember where it was?

17 A Yes, sir. I believe it was right around that same area
18 with the --

19 Q You're talking about the dresser here that's State's
20 50?

21 A Yes, sir. The end table. Yes, sir.

22 Q I'm looking at these. I think you've got pictures of
23 them. Do you remember whether you found bills or anything
24 that would indicate Darrell Raines used that drawer?

25 A Yes, sir. I believe those items are pieces of mail

BEN BLACKMON: DIRECT EXAMINATION

417

1 addressed to the Defendant.

2 Q And that notepad which you got, No. 40, is that this
3 notepad here?

4 A Yes, sir. It appears to be that notepad.

5 MR. SCOTT: Judge, the State would offer State's No. 40
6 for admission into evidence. The notepad that was found on
7 the dresser.

8 MR. ABLE: Judge, for the reasons I mentioned a moment
9 ago, relevance. I don't think there's any testimony that my
10 client produced that document and I would object on that
11 basis.

12 THE COURT: Okay. I just need to take a look at it.
13 Can you get it, Solicitor?

14 Let me see the lawyers.

15 (Whereupon, a sidebar was held.)

16 THE COURT: No. 40 for the State is in evidence on
17 behalf of the State over the objections of Mr. Able.

18 (Whereupon, State's Exhibit No. 40 was admitted into
19 evidence.)

20 Q Would you read to the jury what that notepad amongst
21 Mr. Raines' belongs said? It's got two columns it looks
22 like. Read for me the first column.

23 A The column on the left says "want", below it it says,
24 "house; new car, motorcycle," and "Lisa."

25 Q On the right, what is that column?

BEN BLACKMON: DIRECT EXAMINATION

418

1 A "How to get there." And the first line is skipped.

2 The second one says "new job" and below that it says "save".

3 Q So there's no entry on how to get there as far as a new
4 house or Lisa, but for a new car, whoever wrote this needs a
5 new job and for a motorcycle they just need to save?

6 A That appears correct.

7 Q Did I ask you to find some phone numbers for me for, a
8 Bi-Lo?

9 A Yes, sir.

10 Q State's No. 25 is the Bi-Lo in Simpsonville on Highway
11 14. Do you have those numbers?

12 A I believe they're on the board that we provided the
13 investigator from your office.

14 Q You don't have them with you?

15 A No, sir. But I can identify them from those boards.

16 Q I don't know what board you're talking about. Are you
17 talking about this?

18 A Yes, sir.

19 Q Tell us what numbers you have for the Bi-Lo in
20 Simpsonville.

21 A 864-967-9029 and 864-927 --

22 Q Hold on. Whoa, whoa, whoa. 864-967 what?

23 A 9029.

24 Q Then what else?

25 A 864-967-4986.

BEN BLACKMON: DIRECT EXAMINATION

419

1 Q 49 --

2 A 86.

3 Q Those are two numbers that you have confirmed were
4 phone numbers for the Bi-Lo at Highway 14 in Simpsonville?

5 A Yes, sir.

6 Q Thank you. There was a toothbrush and a hairbrush that
7 were retrieved from Myranda Southern's home?

8 A Yes, sir.

9 Q Did you have any involvement in that?

10 A Those were retrieved by investigators from Greenville
11 County Sheriff's Office on the night the victim was located
12 in our county and I picked them up from them after being
13 with them in Simpsonville and turned them over to Lieutenant
14 McIntosh.

15 Q So Greenville County retrieved a hairbrush and a tooth
16 brush from Myranda Southern's apartment and they handed it
17 over to you?

18 A Yes, sir.

19 Q And you handed it over to McIntosh?

20 A Yes, sir.

21 Q And then he took it to SLED?

22 A I'm assuming.

23 Q State's 15. What is that?

24 A White and purple striped Reach toothbrush returned from
25 SLED.

BEN BLACKMON: CROSS-EXAMINATION

420

1 Q All right. State's 16?

2 A Swabs from toothbrush and hairbrush and debris from
3 hairbrush returned from SLED.

4 Q 17?

5 A Description is the hairbrush returned from SLED.

6 Q All right. Thank you. These were items that you would
7 have, I guess, transferred from one person to another and
8 ultimately it went to SLED?

9 A Yes, sir.

10 MR. SCOTT: Thank you. Mr. Blackmon, answer any
11 questions that Mr. Able has for you.

12 THE COURT: Cross-examination?

13 MR. ABLE: Yes, sir. Thank you. Just briefly.

14 CROSS-EXAMINATION

15 BY MR. ABLE:

16 Q Lieutenant Blackmon, the notepad marked as State's
17 Exhibit No. 40, you don't know when that was produced, do
18 you?

19 A No, sir.

20 Q And then -- now, do you have --

21 MR. ABLE: I'm sorry. Mr. Scott, do you have the
22 exhibit?

23 Q Officer I'm going to show you State's Exhibit No. 45.

24 A Yes, sir.

25 Q Now, you had read from the second page of that as to

BEN BLACKMON: CROSS-EXAMINATION

421

1 the things that Hi Point did to this particular gun. That
2 was the things that they -- they did to correct the
3 problems, correct?

4 A I would assume that -- that kind of looks like a work
5 order and a return.

6 Q Over to the left of it right here it says, "Please
7 state the nature of your request."

8 A Uh-huh.

9 Q Is that correct?

10 A Yes, sir.

11 Q And this is a form that shows the name of Darrell
12 Raines at the top, correct?

13 A Yes, sir.

14 Q And right there beside where it says "state the nature
15 of your request" it was typed in there "gun consistently
16 jams. I've been able to get the rounds out manually. Spent
17 casings consistently become lodged in exit as well." This
18 that was produced that you read out before, "Reamed the
19 chamber, replacing the slide in the clip," that was done by
20 the Hi Point people, correct?

21 A Yes, sir. It appears that way.

22 Q Nowhere on here does it say that Mr. Raines requested
23 that they ream the chamber or anything like that?

24 A No, sir.

25 Q He just stated what problems he was having with the gun

BEN BLACKMON: REDIRECT EXAMINATION

422

1 and that was it?

2 A That appears correct on here.

3 Q Didn't request any particular work to be done?

4 A No, sir.

5 MR. ABLE: All right. Thank you, sir.

6 THE WITNESS: Thank you.

7 THE COURT: Finished with your cross?

8 MR. ABLE: Yes, that's all.

9 THE COURT: Anything on redirect?

10 MR. SCOTT: No, sir.

11 THE COURT: All right. Let me see the lawyers again.

12 (Whereupon, a sidebar was held.)

13 THE COURT: Anything on redirect, Solicitor?

14 MR. SCOTT: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. SCOTT:

17 Q The Exhibit No. 46, do you recall the date that you all
18 went to the house and retrieved -- or intercepted the
19 firearm?

20 A Yes, sir. It's in our report. If you'll give me one
21 moment to look it over. It appears on the -- on the
22 supplement to the incident report, it looks like Tuesday,
23 September the 3rd.

24 Q My calendar only goes to August. Right here on the
25 31st. September what?

SUZANNE CROMER: DIRECT EXAMINATION

423

1 A 3rd.

2 Q 3rd.

3 A It was a Tuesday.

4 Q Intercept FedEx package containing .380.

5 MR. SCOTT: Thank you. Your Honor, that's all I have.

6 THE COURT: Anything on recross?

7 MR. ABLE: No.

8 THE COURT: Okay. Thank you, Officer Blackmon for your
9 testimony. You can step down. You're free to leave or
10 you're welcome to remain with us.

11 THE WITNESS: Thank you, Your Honor.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. SCOTT: Your Honor, the State calls Suzanne Cromer.

15 SUZANNE CROMER, having been first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SCOTT:

19 Q What is your name for the record?

20 A My name is Suzanne Cromer.

21 Q And, Ms. Cromer, where are you employed?

22 A I'm employed by the South Carolina Law Enforcement
23 Division commonly referred to as SLED.

24 Q And tell me what you do at SLED.

25 A I'm a firearm and tool mark examiner in the forensic

1 services laboratory.

2 Q What type of things do you do in that unit over at
3 SLED?

4 A What we do is called firearms identification. We look
5 at ammunition components, bullets, cartridge cases, shotgun
6 shells, cartridges, to determine whether they were fired by
7 or loaded into and extracted from a specific firearm. If we
8 don't have a specific firearm we can look at the rifling
9 marks on a projectile, on a bullet, and give investigators a

10 list of possible firearms that could have fired that bullet.

11 We also do serial number restoration, tool mark exams, bolt
12 cutters on padlocks. We do destruction of firearms for all
13 over the state, and we also do Integrated Ballistics
14 Identification System, which is a database of images of
15 cartridge cases that is searchable. So we can put cartridge
16 cases in and see if they could be related to any other
17 crimes.

18 Q May 30th of 2014 did you have an occasion to examine, I
19 guess, some different items involved with a case of Miranda
20 Southern and Darrell Raines?

21 A Yes. I authored a report on May 30th of --

22 Q That's SLED lab number L13-11094?

23 A Yes, sir.

24 Q What were some of the items that you examined?

25 A I received a magazine. I received four unfired .380

SUZANNE CROMER: DIRECT EXAMINATION

425

1 auto caliber cartridges. I received a fired bullet from
2 autopsy, and I received a Hi Point .380 auto caliber pistol.

3 Q What kind of training have you had to do to get to your
4 position?

5 A I have a Bachelor's degree from Clemson University. I
6 did some graduate work at the University of South Carolina.
7 While there I did an internship in the SLED laboratory in
8 the firearms department. I was hired on at SLED. It'll be
9 17 years ago next week. I started the in-house training
10 program in 2000 for firearm and tool mark examiners. It is
11 an intense study program. It takes three to five years to
12 be trained in this discipline. We take written tests, oral
13 tests, practical exercises. It's more of an apprenticeship,
14 if you will. We work under other examiners. Upon
15 completion of the written training modules we are given a
16 comprehensive final examine which is graded on by your
17 training officer and your lieutenant before you deemed
18 competent. I have taken classes and attended seminars with
19 the Association of Firearm and Tool Mark Examiners which is
20 an international organization for our profession. They meet
21 once a year for a week long seminar and offer extra classes.
22 I've taken through them familiarization of Hi Point firearms
23 with Mr. Tom Deeb. I have taken machine gun conversion,
24 barrel making, gunshot residue. I've also taken classes
25 with the South Carolina chapter of the International

SUZANNE CROMER: DIRECT EXAMINATION

426

1 Association of Identification. Most pertinent being
2 forensic photography, forensic anthropology, and a three day
3 shooting scene reconstruction workshop. I've taken classes
4 with the Bureau of Alcohol, Tobacco and Firearms, commonly
5 referred to as the ATF on serial number restoration and the
6 Integrative Ballistics Identification System which runs on
7 the National Integrative Ballistics Identification Network.
8 I have been invited and represented North and South Carolina
9 several times in their workshops.

10 Q Did you just say the name Tom Deeb?

11 A Yes, sir. I did.

12 Q Who's that?

13 A He is the owner of Hi Point firearms.

14 Q You did what with him?

15 A I took a Hi Point firearm familiarization class with
16 him.

17 Q I want to get back to that. But you're talking about
18 your experience now and your role with SLED. Have you
19 testified in Court before?

20 A Yes, sir. I have.

21 Q Do you know about how many times?

22 A Approximately 88 times.

23 Q In big court? General Sessions Court?

24 A General Sessions Court, Federal Court, Family Court.

25 Q And qualified as an expert in all those times?

SUZANNE CROMER: DIRECT EXAMINATION

427

1 A Yes, sir. I have.

2 Q And what were you qualified as?

3 A An expert in the field of firearm and tool mark
4 identification.

5 MR. SCOTT: Your Honor, at this time we're going to
6 offer Ms. Cromer as an expert in firearms and tool work
7 identification.

8 THE COURT: You said too work?

9 MR. SCOTT: I think it's tool mark.

10 THE WITNESS: Tool mark.

11 MR. SCOTT: Tool mark.

12 THE COURT: Tool mark?

13 MR. SCOTT: Yes, sir.

14 THE COURT: Okay. Mr. Able, do you have any
15 qualification questions?

16 MR. ABLE: No, sir. No objections.

17 THE COURT: Okay. Without objection, this witness is
18 qualified as an expert in the area of firearm and tool mark
19 identification.

20 Q So, now you've taken some training where Tom Deeb
21 helped train some of the people in the class?

22 A He taught the class.

23 Q And who was he, one more time?

24 A He is the owner of Hi Point Firearms.

25 Q He owns Hi Point, the manufacturer who made the .380

SUZANNE CROMER: DIRECT EXAMINATION

428

1 that you examined in this case?

2 A Yes, sir.

3 Q All right. Tell me -- tell me about Hi Point pistols
4 and projectiles that are fired out of Hi Point pistols.
5 Tell me how they're different than a lot of other pistols.

6 A Well, Hi Point firearms is a brand of firearm. They're
7 a little unique in that -- especially in the 9 millimeter
8 and .380 auto caliber firearms, they use -- commonly, they
9 use 9 left rifling. So if I see a projectile that is in 9
10 millimeter Luger or .380 auto caliber and it has 9 left
11 rifling on it, then I know that we're looking for a Hi Point
12 firearm because no other manufacturer at this time uses that
13 type of rifling. And when I say rifling, rifling is what's
14 put in the gun barrel by the manufacturer to make the bullet
15 spin. It gives it a rotary motion. Very similar to a
16 quarterback when he throws the football. He wants it to go
17 into a tight spiral so it goes more accurately to it's
18 target. That's the premise of rifling. It's made up of
19 raised and depressed areas that we call lands and groves.
20 And you can have any number of those. But at this time Hi
21 Point firearms is the only one that uses 9, and when I say
22 left, meaning which way is that bullet going to spin. Is it
23 going to spin to the right or to the left. At this time
24 he's the only manufacturer to use 9 left rifling in 9
25 millimeter Luger and .380 auto handguns.

SUZANNE CROMER: DIRECT EXAMINATION

429

1 Q So, I guess in essence, it makes a very easily
2 identifiable projectile?

3 A Well, what it does is it makes it easier to eliminate
4 certain firearms. When I'm looking at fired bullets in a
5 case, it's kind of like a step ladder. First, is it the
6 same caliber. Then if it is, does it have the same rifling.
7 Is it the same number of lands and grooves? If it is, then I
8 can go is it the same twist. Is it spinning to the left or
9 to the right. So it helps me get up that ladder.

10 Q Now, I guess the lands and grooves, they leave an
11 impression on the fired projectile?

12 A That's correct.

13 Q And you said you were able to receive a number of
14 items. One of them was a fired projectile in this case; is
15 that right?

16 A Yes, sir. That is.

17 Q Let me show you State's No. 19. Do you recognize what
18 that is?

19 A Yes, sir. State's No. 19 was my item four. It is a
20 fired bullet, and it's still in a sealed container with my
21 initials and seal date.

22 Q And did you have information that was found in the neck
23 of our victim in this case?

24 A Yes, I did.

25 Q And what were your findings regarding that projectile

SUZANNE CROMER: DIRECT EXAMINATION

430

1 that was found in the neck of Miranda Southern?

2 A I determined it to be most consistent with .380 auto
3 caliber. That's based on weight and the diameter of the
4 bullet, and it had 9 left rifling on it.

5 Q And 9 left rifling is significant why?

6 A The only known manufacture to use 9 left rifling is Hi
7 Point firearms.

8 Q Any other -- did you have any other findings regarding
9 that piece of evidence?

10 A I compared it to test fired bullets that I fired from
11 the Hi Point I received in this case.

12 Q And what were your findings then?

13 A My findings were inclusive with that Hi Point. This
14 projectile had some damage to it. If you look closely you
15 can see some black marks that wouldn't come off. It was
16 kind of oxidized. It had wear and tear on it, possibly from
17 being out in the elements. So it didn't have enough of
18 those individual markings that are left on the bullet from
19 the rifling for me to say yes or no to the particular Hi
20 Point that I had.

21 MR. SCOTT: Your Honor, the State would offer State's
22 No. 19 for admission into evidence.

23 THE COURT: Yes. That was still marked for
24 identification. What says the Defense?

25 MR. ABLE: Without objection, Your Honor.

SUZANNE CROMER: DIRECT EXAMINATION

431

1 THE COURT: Without objection, 19 is now into evidence
2 for the State.

3 (Whereupon, State's Exhibit No. 19 was admitted into
4 evidence.)

5 Q Let me show you State's No. 44. Do you recognize this?

6 A Yes, I do. And what I'm doing is I'm looking for my
7 markings. I scribed on this firearm my lab number, my item
8 number and my initials in several locations. This was the
9 firearm I received in this case.

10 Q And that's the weapon you test fired?

11 A Yes, sir. It is.

12 Q And it produced some inclusive findings, is what you're
13 saying?

14 A It was inclusive with this projectile.

15 Q And you stated some of the reasons were some heavy
16 damage to the projectile; is that right?

17 A That's correct.

18 Q If the chamber -- after that bullet was fired, let me
19 ask you if the chamber had been reamed, a slide had been
20 replaced, a clip, a firing pin and springs had been

21 replaced, would that -- would that have any affect on you
22 being able to match that weapon with that fired bullet?

23 A The only thing that would -- that would have come in
24 contact with the bullet that's listed there would have been
25 the reams chamber. But that should not have had any affect

1 on the rifling. The slide, which is this portion of the
2 gun, does not come in contact with the bullet. It was
3 mostly because of the wear and tear on this bullet that I
4 could not identify.

5 Q Was that uncommon as far as matching? Being able to
6 match a pistol with a fired projectile?

7 A It depends on many different factors. You could have
8 differences in type of ammo can affect a positive
9 identification. Being left out in the elements can affect a
10 positive identification. What's happened to the firearm in
11 the meantime can affect identification. There are numerous
12 different factors.

13 Q Well, let me just ask you. If I took that gun right
14 now and you watched me load a bullet into it and I fired it
15 into that door, even though we know that projectile came
16 from that gun, you may not necessarily be able to use your,
17 I guess, testing to match that projectile with the gun?

18 A That's correct.

19 Q Just because it might be so heavily damaged that it's
20 unable to be identified?

21 A That is correct.

22 Q But what you're testing showed was that that -- it was
23 inconclusive, I guess?

24 A Meaning I could not say it didn't come from this gun
25 and I could not say it did.

SUZANNE CROMER: DIRECT EXAMINATION

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- 1 Q But what you could say is the fired bullet was a .380?
2 Consistent with a .380 caliber?
- 3 A That's correct.
- 4 Q And it was consistent with a Hi Point -- being fired
5 from a Hi Point weapon?
- 6 A With 9 left rifling. That's correct.
- 7 Q And then you -- let me show you State's 14.
- 8 A State's 14 was part of my item one. It is a detachable
9 box magazine that was consistent with being a Hi Point
10 magazine.
- 11 Q And was it tested on that weapon?
- 12 A This magazine would fit and function in this firearm.
- 13 Q So it was suitable for that firearm?
- 14 A Yes, sir.
- 15 Q And did you have knowledge that that was a magazine
16 that was found in the field where the body was found?
- 17 A Yes, sir.
- 18 Q State's 18.
- 19 MR. SCOTT: Well, first of all, let me -- Your Honor,
20 if I haven't already, I'm going to admit State's No. 14 for
21 admission into evidence.
- 22 THE COURT: I have 14 already into evidence.
- 23 MR. SCOTT: Okay.
- 24 Q State's 18. What did you do with those?
- 25 A State's 18, I examined them and they are .380 auto

SUZANNE CROMER: CROSS-EXAMINATION

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1 caliber cartridges.

2 Q Thank you. Ms. Cromer -

3 MR. SCOTT: Well, let me -- I think these are already
4 in, too, Your Honor, but just in case. State's 18.

5 THE COURT: 18 is into evidence.

6 MR. SCOTT: That's all I have for you. Answer any
7 question Mr. Able has, please.

8 THE COURT: Cross-examination?

9 MR. ABLE: Thank you, sir.

10 CROSS-EXAMINATION

11 BY MR. ABLE:

12 Q Ms. Cromer, the magazine which you just held up, as I
13 understand it there are four different models of the Hi
14 Point .380.

15 A The four different models that are listed are two 9
16 millimeter and 3 -- and two .380 autos.

17 Q All right. And that magazine would fit in any of those
18 guns?

19 A That's correct.

20 Q And again, Hi Points are very common firearms?

21 A That is correct.

22 Q Inexpensive firearms?

23 A Can you say that again, please?

24 Q Inexpensive? I mean, they're --

25 A Oh, yes. They are.

SUZANNE CROMER: CROSS-EXAMINATION

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1 Q -- not a very unique high priced weapon?

2 A No, they're not.

3 Q Now, the four cartridges you just identified, those
4 could have been used in any firearm chamber for a .380 auto
5 caliber ammunition?

6 A That's correct.

7 Q Now, in your report, as I understand it, you took the
8 bullet that had been recovered from the deceased and
9 compared it with bullets -- you did tests, correct?

10 A That's correct. That's how we examine. I will shoot
11 this firearm into a bullet recovery tank. I mark those
12 projectiles before I shoot them. I load it into a magazine.
13 I shoot it in this firearm, pull those bullets out and
14 microscopically compare them to each other.

15 Q And you do a comparison to see if that bullet -- the
16 bullet that was recovered was fired from that firearm?

17 A That's correct.

18 Q And what you just told this jury was that the result of
19 those tests were inclusively?

20 A That is correct.

21 Q And you actually put the bullets under a microscope and
22 look at them and try to -- try to decide whatever it is as
23 far as the bullets being fired from a particular weapon?

24 A That is correct. We have a comparison microscope.

25 It's like you're looking through binoculars and you get to

SUZANNE CROMER: CROSS-EXAMINATION

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1 see two stages at the same time. So it's pretty similar to
2 putting a 360 degree puzzle together. I'm looking at each
3 one of those land and groove impressions on this bullet to
4 each one of the test specimens I fired to each other.

5 Q And the reason it was inclusive was the damage to the
6 bullet that was recovered? There wasn't -- there wasn't any
7 problem with the test bullets?

8 A The test bullets were fine. This bullet may or may not
9 be suitable, because it just had limited markings that I
10 needed from the rifling.

11 Q And there was no problem with the firearm as far as the
12 use of it?

13 A No, sir.

14 Q And you could fire it --

15 A The firearm fires well.

16 Q So your conclusion is that the bullet recovered from
17 the deceased could have been fired by another firearm with
18 similar rifling specifications?

19 A That's correct.

20 Q So simply stated, there's a lot of firearms that bullet
21 could have come from?

22 A It could have come from another Hi Point firearm.

23 Q Another Hi Point firearm?

24 A That's correct.

25 Q Which you agree with me is a very common firearm in

SUZANNE CROMER: REDIRECT EXAMINATION

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1 this area? Everywhere?

2 A That's correct.

3 Q You also stated in your report that the fired bullet -
4 the item four bullet could have been fired by the item 134
5 pistol or another firearm, parenthesis, gun barrel, closed
6 parenthesis, with similar rifling specifications?

7 A That's correct. If this barrel had been removed from
8 the firearm and put on a different firearm it could have
9 been fired by that gun barrel. That's the part that we need
10 to look at for a bullet that's been fired.

11 Q So the lack of identification is the result of the
12 bullet that was retrieved, not because of anything that was
13 done to that gun?

14 A I had no problem with examining these test specimens to
15 each other. Now, I do not know what happened to this
16 firearm. But it was in pristine condition with I received
17 it.

18 Q So it goes -- as you say, it goes back to the condition
19 of the bullet that was recovered?

20 A That's correct.

21 MR. ABLE: Thank you.

22 THE COURT: Solicitor, any redirect?

23 REDIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q I hate to beat a dead horse. But you say you can't say

SUZANNE CROMER: REDIRECT EXAMINATION

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1 with certainty that that gun fired the bullet, but on the
2 flip side you can't say that it didn't?

3 A That's correct.

4 Q And that's just because of the damage to the bullet?

5 A That's correct.

6 MR. SCOTT: Nothing further, Your Honor.

7 THE COURT: Okay. Thank you, ma'am, for your
8 testimony. You're free to leave.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 THE COURT: Let me see --

12 (Whereupon, a sidebar was held.)

13 THE COURT: Mr. Foreman and ladies and gentlemen of the
14 jury, after talking with the lawyers it appears that this is
15 a good stopping point for the day. You worked very hard,
16 even though it hasn't been a full day when you've been here,
17 then spending some time back in the jury room. You've
18 worked very hard and we appreciate that. Appreciate your
19 patience with us. So we're going to recess for the day, and
20 please be back at 9:30 in the morning.

21 And again, I remember you don't have any discussions
22 whatsoever about this case among yourselves or with anybody
23 that you coming into contact with. I also remind you, don't
24 do any independent research on the Internet or social media
25 or the like about this case or any aspect related to the

SUZANNE CROMER: REDIRECT EXAMINATION

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1 case, and any media accounts, whether it's TV, radio,
2 Internet, newspapers, whatever. Don't look at it. Don't
3 consider it. And we'll see you bright and early 9:30 in the
4 morning. Have a good evening.

5 (Whereupon, the jury was released for the day at 5:28
6 p.m.)

7 THE COURT: A very brief matter. Let me state for the
8 record, the notepad found on the end table at the
9 Defendant's home, Exhibit No. 40, Mr. Able, you had objected
10 to that basically on relevance grounds, and at sidebar I
11 indicated I would overrule your objection. I believe it
12 goes more towards the weight of that document, because
13 there's no proof that that was -- the writing on there is
14 the Defendant's handwriting. I believe it goes more toward
15 the weight in the admissibility simply because it was at the
16 end table that was discussed by the Defendant during his
17 interview.

18 Anything else for the record before we break for the
19 day?

20 MR. SCOTT: Nothing from the State, Your Honor.

21 MR. ABLE: No, sir.

22 THE COURT: Okay. Thank you very much. Appreciate
23 your all's hard work. We'll see you in the morning at 9:30.

24

25 (Whereupon, court was adjourned at 5:28 p.m.)

SARAH DUCKWORTH: DIRECT EXAMINATION

441

1 Q How did you know Myranda Southern?

2 A Myranda was one of my team members.

3 THE COURT: Ma'am, can you speak up just a little bit,
4 please?

5 THE WITNESS: Yes.

6 THE COURT: Maybe you could sit closer to the
7 microphone if that would help.

8 THE WITNESS: Okay.

9 THE COURT: Could you repeat that question, Solicitor?

10 Q Who is Ms. Southern?

11 A Myranda was one of my team members. I was her
12 supervisor.

13 Q So you would -- I guess you were her supervisor. That
14 would mean you would kind of have to keep track of her hours
15 and when she worked and everything?

16 A Yes.)

17 Q I specifically asked about August 18th of 2013. Do you
18 recall that day?

19 A Yes.

20 Q And you were asked about that day by law enforcement at
21 the time, weren't you, when Ms. Southern went missing?

22 A Yes.

23 Q And what was Ms. Southern's working hours that day?

24 A From 3:00 p.m. until midnight.

25 Q And can you account for her up until midnight that day?

SARAH DUCKWORTH: CROSS-EXAMINATION

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1 A Yes. My hours are the same. I was there.

2 Q And you remember Ms. Southern working that day?

3 A Yes.

4 Q Thank you.

5 A She sat right next to me.

6 MR. SCOTT: Thank you, Ms. Duckworth. Answer any
7 questions Mr. Able has for you.

8 THE COURT: Mr. Able, any cross-examination?

9 MR. ABLE: One moment, Your Honor.

10 THE COURT: Sure. Take your time.

11 CROSS-EXAMINATION

12 BY MR. ABLE:

13 Q Ms. Duckworth, how long have you been the supervisor of
14 Ms. Southern?

15 A I was her supervisor for about six weeks. She came out
16 of training in July of 2013 and she was with me through that
17 August.

18 Q And when -- did her work hours always correspond with
19 yours, or did you all have some different days off or what?

20 A No. We have the same work hours. The whole team did.

21 Q So you got to know her pretty well?

22 A Yeah, I would say so.

23 Q You discussed with her a lot of the trouble she was
24 having with her husband, Shawn, correct?

25 MR. SCOTT: Your Honor, object to any impermissible

TOM DEEB: DIRECT EXAMINATION

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1 hearsay at this point.

2 THE COURT: Okay. Agreed.

3 MR. ABLE: That's all I have. Thank you.

4 THE COURT: Thank you, ma'am, for your testimony. You
5 can step down. You're free to leave, or certainly you can
6 remain with us if you like.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness stepped down from the witness
9 stand.)

10 MR. SCOTT: The State calls Tom Deeb, Your Honor.

11 TOM DEEB, having first been duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q Please state your name for the record.

16 A Thomas E. Deeb.

17 Q Mr. Deeb, where did you come from to be here today?

18 A From Mansfield, Ohio.

19 Q And what do you do for a living?

20 A At the present time I'm a consultant for a company that
21 I founded named Hi-Point Firearms.

22 Q You helped create the company Hi-Point?

23 A Yeah. I'm the founder. I designed all the firearms
24 and started the company in the early '90s.

25 Q And where is Hi-Point based out of?

TOM DEEB: DIRECT EXAMINATION

444

- 1 A Mansfield, Ohio.
- 2 Q What types of guns does Hi-Point manufacture?
- 3 A Pistols. We make .380s, 9 millimeter, 40 S&W and 45
- 4 ACP. We also make the same caliber -- the same in rifles.
- 5 Q I'm going to show you, this is State's No. 44. You
- 6 might not recognize that specific gun, but do you recognize
- 7 that -- what that is?
- 8 A Yeah, it's one of my .380s.
- 9 Q And any other -- is there a model or is there anything
- 10 --
- 11 A Yeah, it's a model CF-.380.
- 12 Q What was it? CF what?
- 13 A Model CF-.380.
- 14 Q Now, do you recall being contacted about this specific
- 15 case in August 2013?
- 16 A Yes.
- 17 Q And were you asked about this specific gun?
- 18 A Yes. From -- I can't remember the gentleman's name
- 19 offhand.. But, yeah, we were asked to look for it. We had
- 20 just sent it. We had just shipped it.
- 21 Q And what was the -- what was your company's involvement
- 22 with that particular pistol?
- 23 A I actually had to rework it to repair it.
- 24 Q Let me show you State's No. 45. Do you recognize what
- 25 that is?

1 A Yes. Yes, I do. This is one of our -- an information
2 sheet that we pass out. People write what's wrong with the
3 firearm and send it in with it.

4 Q And what was the requested work to be done?

5 A Apparently the gun was jamming and spent casing
6 consistently lodged in the exit. It kind of would indicate
7 that there was something wrong with the barrel.

8 Q And what -- as a result of that work request what did
9 you guys do with the gun?

10 A We reamed the chamber. Well, whenever somebody sends a
11 gun in for repair we go over it completely, because we don't
12 want them to send it back. We don't have to have troubles.
13 So if something is wrong, we literally will just fix
14 everything that there is on it and replace the slide or
15 whatever and make it look like a new gun.

16 Q Did you all do that in this case?

17 A Yes, we did.

18 Q You did pretty much a complete overhaul on the gun?

19 A Yes.

20 Q Do your records indicate when you guys received that
21 gun?

22 A August the 13th, 2013.

23 Q August 13th?

24 A I had it written down here. The 13th or the 23rd. No,
25 23rd. I'm sorry. Not the 13th.

TOM DEEB: DIRECT EXAMINATION

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1 Q So you guys at Hi-Point received the gun on August
2 23rd?

3 A Uh-huh.

4 Q Let me just show you something and see if you recognize
5 that.

6 A Yeah, these are the shop phone numbers.

7 Q Phone numbers for the shop? How many phone numbers do
8 you guys have at Hi-Point?

9 A (No verbal response)

10 THE COURT: Mr. Deeb, could you sit closer to the
11 microphone, please, sir.

12 THE WITNESS: Oh, I'm sorry.

13 MR. ABLE: I didn't hear that answer, Judge.

14 THE COURT: Would you repeat the question, Solicitor,
15 and allow Mr. Deeb to answer it?

16 Q How many phone lines do you guys have at Hi-Point?

17 A Five lines.

18 Q I'll ask you, are you familiar with the phone number
19 419-747-9444?

20 A That's our main line.

21 Q That's the main line?

22 A Yes.

23 Q What about 419-747-6095?

24 A That's our second line. And by the way, if one line is
25 busy, if 9444 is busy, it switches over to 6095.

TOM DEEB: DIRECT EXAMINATION

447

1 Q Okay. Finally let me ask you about 419-468-3746.

2 A That's the -- I think that's my - I think that's the

3 -- I'm pretty sure that's Jim Cole's number.

4 Q Who's Jim Cole?

5 A He's the gentleman that manufactures the 40 S&W

6 pistols.

7 Q Is that a phone number listed on your website?

8 A Yes, it is.

9 Q So if somebody was looking to call Hi-Point and they

10 got on your website, all three of those numbers would be

11 ones they'd find?

12 A Oh, yeah. Yes.

13 Q August 2013, was that a particular busy month and year

14 for you guys?

15 A Absolutely.

16 Q Why was that?

17 A Well, there was kind of a -- the President had done a

18 few things as far as firearms are concerned and caused some

19 scares. And the history of, not just my company but all the

20 other manufacturers, too, it's easily the busy year we've

21 ever had for everyone. It was enormously busy. A lot of

22 people buying guns, trading guns. But mostly new gun sales.

23 Q Well, if -- would there be a reason that somebody

24 within an hour, hour and a half period of time would call

25 your phone number 20 times? What happens if I call your

TOM DEEB: DIRECT EXAMINATION

448

1 phone number and it's -- is it busy? Does it go to a voice
2 mail, or what happens if I call you during a busy time?

3 A It'll just ring busy.

4 Q And then I could try to call a different number and
5 possibly get somebody that way?

6 A Possibly, yes.

7 Q I don't know if you know this. But you said you
8 received the gun on the 23rd. And do you know when you sent
9 it back?

10 A It would either be the 29th or -- let's see. There's
11 -- or the following Thursday.

12 Q You think it might have been the 29th?

13 A Most likely. Let me explain that. We do all of our
14 repairs, the vast majority of them --

15 THE COURT: One second, Mr. Deeb.

16 MR. ABLE: It's non-responsive to a question.

17 THE COURT: Not responsive to the question?

18 MR. ABLE: It's non-responsive to a question that was
19 posed. I think the question was when did you send it back
20 and he answered it. Non-responsive to any question.

21 THE COURT: Well, it may be an explanation to the
22 answer, so I will allow it. Overruled.

23 Go ahead, Mr. Deeb.

24 A When we're very busy we manufacture thousands of guns
25 per week. So on Wednesday, any repairs that come in we work

1 on them, get them finished up, and then Thursday they're
2 shipped. All of them are shipped together. It's just
3 generally the way we do it. Wednesday actually ends our
4 week, and Thursday is the first day of the next week. It
5 all has to do with shipping, but it's -- so traditionally we
6 ship our repairs on Thursdays.

7 Q Well, if we received it back in Laurens on September
8 3rd, which was the next Tuesday, then we can safely say that
9 Thursday the 29th is when you sent it back?

10 A Yes.

11 Q It's in a bag, but can you recognize State's No. 14, or
12 does that have any identifiable characteristics?

13 A It's a magazine that I design and manufacturer.

14 Q So that is a Hi-Point specific magazine?

15 A Yes, it is.

16 Q Will it fit in other models?

17 A It fits in two models. The CF-.380 and the model C-9.

18 Q Does it fit in any other gun?

19 A No.

20 Q So the only two guns that this magazine will fit into
21 are two Hi-Point models, one of which is a CF-.380?

22 A Correct.

23 MR. SCOTT: Okay. Thank you very much. Answer any
24 questions Mr. Able has for you.

25 THE COURT: Mr. Able, any cross?

TOM DEEB: CROSS-EXAMINATION

450

1 MR. ABLE: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. ABLE:

4 Q Good morning, Mr. Deeb, how are you?

5 A I look terrible, but I'm fine.

6 Q You look fine, sir. Now, a Hi-Point, they've very
7 popular firearms, correct?

8 A Yes.

9 Q And they're very portable firearms?

10 A Yes.

11 Q When you designed them --

12 THE COURT: You need to verbally respond, Mr. Deeb.

13 Don't nod your head. Verbally respond.

14 MR. ABLE: I think he said yes.

15 THE WITNESS: Yes.

16 THE COURT: All right. I just didn't hear it.

17 MR. ABLE: All right, sir. I'm sorry.

18 Q You need to make sure you speak up for us. Okay? And
19 when you designed these weapons you designed them with an
20 idea that you were going to design a portable weapon for
21 protection?

22 A Absolutely.

23 Q And did you say a moment ago that you all repair or
24 produce thousands of weapons in a week?

25 A We manufacture -- of this particular model, .380 and 9

TOM DEEB: CROSS-EXAMINATION

451

1 millimeter, we manufacture approximately 2,000 per week of
2 that model.

3 Q All right. Of that -- of the gun you just identified?

4 A Yes, sir.

5 Q I assume the reason being, they're very affordable
6 weapons. I looked on your website and the CF-.380 sells for
7 under \$150 retail, doesn't it?

8 A Yes, sir.

9 Q Now, you said 2013 was a very popular year, very busy
10 year for your company?

11 A Yes, it was.

12 Q And going back to a moment ago you said of this
13 particular style gun you produced 2,000 -- I think you said
14 2,000 a week?

15 A Of this particular model -- literally this weapon is a
16 certain size, and that size is the same exact size as the 9
17 millimeter. Well, we sell many more 9s than we do .380s.
18 So the most I make in .380s would be 500 a week. 1,500 of
19 them would be 9s. Only 500 would be .380s.

20 Q Is that now or was that back in 2013 when I understand
21 you're talking about --

22 A I'm talking about 2013.

23 Q You're talking about 2013, okay.

24 A Yes.

25 Q So even with that you would have produced, what, a

TOM DEEB: CROSS-EXAMINATION

452

- 1 quarter of a million of that CF-.380 that year?
- 2 A Not hardly. That's -- you're a digit or two off there.
- 3 Q 25,000.
- 4 A The most I could possibly make would be 20,000.
- 5 Q So is that about what you believe -- my math is wrong.
- 6 Is that what you believe you produce?
- 7 A I would -- probably closer to 18,000 or so. If you do
- 8 the math, 500 times 50, there's 52 weeks in a year, we only
- 9 work 50 of them, five times -- five times 500 would be --
- 10 you're right, 25. So I'm going to guess around 23,000 or
- 11 so.
- 12 Q All right, sir. And also on your website you list the
- 13 dealers that are in this area. And I counted, and just in
- 14 the state of South Carolina, 45 different dealers that sell
- 15 Hi-Point weapons.
- 16 A I'm not familiar with the area.
- 17 Q But this is information I found on the website. Would
- 18 you dispute that?
- 19 A Oh, no, not at all.
- 20 Q And then within 100 miles of Greenville, South Carolina
- 21 it shows 57 different dealers on the website. Would that
- 22 sound about right to you?
- 23 A It's very possible, yes.
- 24 Q Now, when a gun is sent in for repair to Hi-Point -- do
- 25 you still have -- let me see the documents you have, sir.

TOM DEEB: CROSS-EXAMINATION

453

1 This one right here. I'm sorry. Is this -- this is a
2 document -- I'm referring to State's Exhibit No. 45. This
3 is a document that somebody prints off the website?

4 A Yes, sir.

5 Q And again, I went on your website and looked at it and
6 the information that is required is your -- the personal
7 information of the individual sending the gun in, the serial
8 number of the gun, the model of the firearm, and a
9 description of the needed repairs. Now, referring to

10 Exhibit 45 you have here an area that says, "Please state
11 the nature of your request." And that's just basically a
12 description of what's wrong with the gun?

13 A For the most part, yes.

14 Q And on State's Exhibit No. 45 it was stated by Mr.
15 Raines, "Gun consistent jams. I have been able to get the
16 rounds out manually. Spent casings consistently become
17 lodged in exit as well." He didn't say anything about I
18 believe it needs to be -- have the chamber reamed out or
19 anything like that?

20 A You just read it. No, I didn't read anything --

21 Q But I'm saying -- but the handwritten portion down
22 here, it looks like it was written by somebody named Rocky.
23 This is what the gunsmith did in response to the description
24 that Mr. Raines gave about what was wrong with his firearm?

25 A Yes.

TOM DEEB: REDIRECT EXAMINATION

454

1 Q The point I'm making is Mr. Raines didn't say this is
2 what I want you to do to fix my gun?

3 A Obviously not.

4 Q All right, sir. Now, talking about the telephones. I
5 think you may have answered this. But if a number is busy
6 it rolls over to a second number?

7 A Yes, sir.

8 Q And then if the lines are all busy -- and you mentioned
9 that August of 2013 was probably one of the company's
10 busiest times?

11 A It was a busy year.

12 Q The entire year? So my point is, if somebody is
13 calling in, they get a busy signal, they call back, correct?

14 A Ordinarily, yes.

15 Q I'm sorry?

16 A Ordinarily, yes.

17 Q And if they keep getting a busy signal they keep trying
18 to call back. It's just a busy signal, right?

19 A Yes.

20 MR. ABLE: All right, sir. That's all I have. Thank
21 you, Judge.

22 THE COURT: Any redirect, Solicitor.

23 MR. SCOTT: One or two.

24 REDIRECT EXAMINATION

25 BY MR. SCOTT:

TOM DEEB: REDIRECT EXAMINATION

455

1 Q This clip only fits two guns in the world; is that
2 correct?

3 A That's correct.

4 Q The CF-.380, and what was the other one?

5 A The 9 millimeter.

6 Q What 9 millimeter?

7 A The C-9 millimeter that I manufacture.

8 Q And this wouldn't fit a Ruger?

9 A No.

10 Q Would it fit a Smith and Wesson?

11 A No.

12 Q Would it fit a Glock?

13 A No.

14 Q The only thing it will fit is the CF-.380 and a 9
15 millimeter you make?

16 A Correct.

17 Q If somebody bought that gun on the 17th and they said
18 it was misfiring and you received it on the 23rd, I guess
19 they would have shot it sometime between the 17th and the
20 23rd?

21 A That would make sense.

22 MR. SCOTT: Thanks. Nothing further.

23 THE COURT: Anything on recross?

24 RECROSS-EXAMINATION

25 BY MR. ABLE:

GINNY REINMAN: DIRECT EXAMINATION

456

1 Q If it only fits -- if the magazine only fits the
2 CF-.380 and the C-9, and you said you produced about 2,000
3 of those guns a week?

4 A Total. Yes, sir.

5 Q So for the year 2013 you would have produced 100,000 of
6 those two model guns?

7 A Approximate. Well, because of holidays and short days
8 and --

9 Q Approximately.

10 A Usually around 80,000. 80 to 85.

11 Q And that would be in a normal year?

12 A That would be in a normal year.

13 Q So 80 to 85,000 of the guns would have been
14 manufactured for that magazine to fit in any calendar year?

15 A Correct.

16 MR. ABLE: All right, sir. That's all I have. Thank
17 you, sir.

18 THE COURT: Thank you for your testimony, Mr. Deeb.
19 You can stand down. You're welcome to stay with us or
20 you're free to leave.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 MR. SCOTT: The State calls Ginny Reinman.

24 GINNY REINMAN, having first been
25 duly sworn, testified as follows:

GINNY REINMAN: DIRECT EXAMINATION

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1 DIRECT EXAMINATION

2 BY MR. SCOTT:

3 Q Ms. Reinman, what do you do for a living?

4 A I am special ed aid at Riley Child Development Center.

5 Q And how old are you?

6 A I'm 41.

7 Q How do you know Darrell Raines?

8 A We went to high school together.

9 Q You were a little bit older than him?

10 A Yes, sir.

11 Q And I guess you were in the color guard; is that right?

12 A Color guard.

13 Q And you're friends with his mother?

14 A Yes.

15 Q You talked with her a good bit?

16 A Off and on.

17 Q You talked to her last night?

18 A Yes.

19 Q And you've been -- she's been telling you about the
20 case a little and everything, how it's going?

21 A Just a bit, yes.

22 Q She's been passing messages to you from Darrell?

23 A Not really. Just, you know, saying hey.

24 Q He's a good friend of yours though; is that right?

25 A It is.

GINNY REINMAN: DIRECT EXAMINATION

458

- 1 Q Now, how far back to do you all go? Just high school?
- 2 A Just high school.
- 3 Q And did you all maintain a friendly relationship after
- 4 that?
- 5 A Well, we lost contact until Face book came back, and
- 6 then we found each other back on Face book.
- 7 Q And you all reconnected through Face book?
- 8 A Yes, sir.
- 9 Q And who were some of your other friends? Who is --
- 10 who's Crystal -- is it Crystal Smith?
- 11 A Crystal Smith is my sister's best friend, so she's like
- 12 a sister to me.
- 13 Q And then there's Jackie Johnson?
- 14 A Yes, sir.
- 15 Q And are you married?
- 16 A I'm divorced.
- 17 Q Is Jackie married to --
- 18 A Jackie is married.
- 19 Q What about Crystal?
- 20 A Crystal is not married.
- 21 Q Was you girls and then Darrell kind of like a group of
- 22 friends?
- 23 A Yes, sir.
- 24 Q And you hang out with women and kind of go out and
- 25 drink and carry on in Greenville; is that right?

GINNY REINMAN: DIRECT EXAMINATION

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1 A We go out a couple of times.

2 Q City Tavern, is that a place you all would go
3 sometimes?

4 A City Tavern. I forgot the name of the other bar.

5 Q Is it safe to say you're fairly protective of Darrell?
6 Is he kind of like a little brother to you?

7 A Yeah.

8 Q Crystal is kind of like a little sister to you?

9 A Yes, sir.

10 Q Do you remember August 2013?

11 A Vaguely.

12 Q Vaguely? Do you know why we're here?

13 A Well, yeah.

14 Q Do you remember something that happened August 2013?

15 A Well, yeah.

16 Q Okay. Something rather significant happened in 2013,
17 didn't it?

18 A Yes, sir.

19 Q That's not vague to you, is it?

20 A No.

21 Q Around that time do you remember doing a lot of texting
22 with Darrell?

23 A I texted him every day.

24 Q Tell me his general mood in 2013 as far as
25 relationships were concerned?

GINNY REINMAN: DIRECT EXAMINATION

460

1 A Well, I mean, he did say he was going on a date and if
2 it worked out, he'd go, okay, this worked out, and if didn't
3 work out he'd be bummed about it. But, I mean, it's your
4 normal dating scene.

5 Q Did you find that you were -- you would attempt to
6 cheer him up by taking him out because he was sort of
7 forlorn over somebody?

8 A No, not really. We'd just all go out all the time.

9 Q Let me ask you about Lisa Hamlett. Okay? And I've got
10 a text message. You remember Lisa Hamlett?

11 A I heard of her but --

12 Q Did you --

13 A -- I didn't know her.

14 THE COURT: Let her finish her answers now.

15 A I don't know her. I never met her. So I know of her.

16 Q How do you know of her?

17 A Because he talked about her.

18 Q Who's he?

19 A Darrell.

20 Q How often did he talk about Lisa Hamlett?

21 A Every now and then. It'd be like, you know, I miss
22 Lisa or, you know -- you know. I don't -- I've never met
23 her.

24 Q I'm not asking you that. I'm asking you how do you
25 know of Lisa Hamlett?

GINNY REINMAN: DIRECT EXAMINATION

461

1 A Because Darrell would talk about her here and there.

2 Q And what did he tell you about Lisa?

3 A That they dated and then that they parted ways and he
4 still loved her.

5 Q He loved her? And you said they'd dated?

6 A Yeah.

7 Q And did he say about how long they'd dated? Did you
8 tell me before they dated about a year?

9 A Maybe.

10 Q What did he do for a living? Do you know?

11 A As far as I know he was IT tech.

12 Q ITT what? IT tech?

13 A IT tech.

14 Q What does that mean?

15 A Working on computers.

16 Q Did he ever work on your computer?

17 A No. He worked on my phones.

18 Q He worked on your phone?

19 A Yes. Computer, phone. They're all the same.

20 Q What is a -- do you ever do laser tag?

21 A Yes.

22 Q What is a Zombie Apocalypse? I'm sorry. Never mind.

23 You do laser tag. Is there a zombie hunt in Anderson that
24 you would ever do?

25 A No. It came up but we never went.

GINNY REINMAN: DIRECT EXAMINATION

462

1 Q Is that something you've -- you know what I'm talking
2 about?

3 A Yes.

4 Q Around that time do you recall Darrell becoming
5 interested in guns?

6 A We've talked about it, but nothing -- nothing anybody
7 else wouldn't be talking about.

8 Q What does that mean?

9 A Well, I mean, back then everybody was interested in
10 everything going on. Everybody was talking about getting a
11 gun or getting...

12 Q What was in the news?

13 A Shoot, I don't remember, sir. That was --

14 Q I'm not asking you to -- you just testifying as a
15 witness. Okay?

16 A Okay.

17 Q I'm just asking you a simple thing about him talking
18 about guns. Do you remember that?

19 A Vaguely.

20 Q Do you remember him sending you pictures of guns?

21 A 9 millimeter.

22 Q You do remember that?

23 A I remember that.

24 Q And what was he -- what his issue as far as wanting
25 this gun and trying to get this gun? What was stopping him

GINNY REINMAN: DIRECT EXAMINATION

463

1 from getting a gun?

2 A Money.

3 Q Do you remember mentioning to him he ought to go to a
4 pawn shop to buy one?

5 A No.

6 Q If I showed you some text messages would it help
7 refresh your memory?

8 A Maybe.

9 Q August 15th of 2013. Read to yourself just right
10 there.

11 A Okay.

12 Q Do you remember that?

13 A Not really.

14 Q Well, August 15th of 2013 what did you suggest to
15 Darrell Raines he do?

16 A This says go to the pawn shop.

17 Q Do you remember him becoming disappointed because he
18 couldn't afford the gun at the time?

19 A No.

20 Q Let me show you down here August 16th, 2013, just down
21 at the bottom.

22 A I knew he was looking for a job.

23 Q But then do you remember him just being disappointed he
24 couldn't get the money together to buy the gun?

25 A No.

GINNY REINMAN: DIRECT EXAMINATION

464

- 1 Q But you don't deny you talked to him about that?
- 2 A I don't deny it.
- 3 Q He's like a little brother to you. I know. Say yes or
- 4 no.
- 5 A Yes.
- 6 Q But you do recall him mid-August talking to you about
- 7 purchasing a gun?
- 8 A Yeah.
- 9 Q And you do recall multiple conversations about him
- 10 wanting this gun?
- 11 A Yeah. There wasn't one particular gun.
- 12 Q Well, what kind did he say? What all kinds did he
- 13 want?
- 14 A Well, I don't know. I mean, he was just looking.
- 15 Q Were you looking for guns, too?
- 16 A No.
- 17 Q Did he tell you why he suddenly wanted that gun?
- 18 A No.
- 19 Q But he told you about Lisa Hamlett, right?
- 20 A Yes.
- 21 Q And he mentioned her multiple times, didn't he?
- 22 A Yes.
- 23 Q He talked about her a lot, didn't he?
- 24 A Yes.
- 25 Q And he was upset about her, wasn't he?

GINNY REINMAN: CROSS-EXAMINATION

465

1 A Yes, because he loved her.

2 Q And how long did he say they dated?

3 A A year, I guess. I don't really remember.

4 Q Did he ever tell you all they lived together?

5 A No.

6 Q He didn't say that to you?

7 A No.

8 MR. SCOTT: All right. Answer any question Mr. Able
9 has for you.

10 THE COURT: Cross-examination.

11 CROSS-EXAMINATION

12 BY MR. ABLE:

13 Q Ms. Reinman, have you ever -- you've known Darrell
14 Raines 15 -- 18 years?

15 A Yes, sir.

16 Q Have you ever known him to be a violent person?

17 A No, sir.

18 Q Have you ever known him to display any violent
19 tendencies toward women or anything like that?

20 A No, sir.

21 MR. ABLE: Thank you.

22 THE COURT: Thank you, ma'am, for your testimony. You
23 may step down. You're free to leave or you're welcome to
24 remain with us.

25 (Whereupon, the witness stepped down from the witness

CRYSTAL SMITH: DIRECT EXAMINATION

466

1 stand.)

2 MS. BOYKIN: The State calls Crystal Smith.

3 CRYSTAL SMITH, having first been
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. BOYKIN:

7 Q Ms. Smith, please state your full name for the record.

8 A It's Crystal Ann Smith.

9 Q Now, Crystal, do you know Darrell Raines?

10 A Yes.

11 Q How do you know him?

12 A From high school. At middle school, high school.

13 Q And were you all friends?

14 A Yeah.

15 Q Back in 2013 would you all message each other?

16 A Yeah. We reconnected on Face book.

17 Q About what time?

18 A I'd say maybe the beginning of that year, maybe.

19 Q Beginning of 2013?

20 A Yeah.

21 Q Tell me about y'all's conversation?

22 A I mean, we were both going through some break ups. I
23 went through a really bad break up. He went through a
24 really bad break up. We pretty much confided in one another
25 about what we were going through. How we were feeling.

CRYSTAL SMITH: DIRECT EXAMINATION

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1 What we were doing to cope getting over what I was, you know

2 --

3 Q In that break up?

4 A Yeah.

5 Q Who did Darrell break up with?

6 A Lisa.

7 Q Do you know Lisa's last name?

8 A Hamlett.

9 Q What all did Darrell tell you about Lisa?

10 A He just said that, you know, he was in love with her.

11 Something about they had been together. He had had a crush

12 on her since we were in high school. They finally started

13 dating and everything was going well. Then some girl came

14 into play saying that she was pregnant. At one point I

15 thought it was his ex-wife, but it wasn't. I'm not really

16 sure about that. So he would just tell me, you know, how

17 much he missed her and loved her and how he wanted to be

18 back with her. And I understood what he was going through

19 because, like I said, I was going through the same thing

20 myself.

21 Q So did his love seem to grow towards Lisa in your text

22 messages?

23 A It did.

24 Q And so, obsessive?

25 A At one point I would say yes.

CRYSTAL SMITH: DIRECT EXAMINATION

468

- 1 Q Did he ever tell you how long they'd been dating?
- 2 A I believe he said eight months.
- 3 Q Did he ever tell you they lived together?
- 4 A I believe that they did.
- 5 Q Did he tell you that?
- 6 A Seems like he did. Again, this was 2013, so I'm going
- 7 to say yes.
- 8 Q Did he tell you about any Face book messages or letters
- 9 he would send Lisa?
- 10 A Yeah. He would send them to me to read. I would read
- 11 them. And, you know, they were kind of sweet.
- 12 Q He would send you the letters? What for?
- 13 A Just for me to read over and say what do you think.
- 14 Q About how many letters, do you know?
- 15 A I'd say maybe three or four, depending on, you know, if
- 16 he found a problem or added something, you know.
- 17 Q Do you remember the last letter he got you to look
- 18 over?
- 19 A It was -- the last one that I believe where she had
- 20 started seeing somebody and he had wrote her a letter trying
- 21 to give himself closure.
- 22 Q Do you know who Lisa was seeing?
- 23 A I think his name was Chris. I don't know the last
- 24 name. But I don't -- I didn't know him personally. Just
- 25 know from Face book.

CRYSTAL SMITH: DIRECT EXAMINATION

469

1 Q And would Darrell tell you things about this man that
2 Lisa was seeing?

3 A I mean, other than what he saw on Face book, because I
4 didn't know him.

5 Q But you did see him on Face book?

6 A Yeah.

7 Q Crystal, tell me -- have you talked to Darrell about
8 this case?

9 A Not -- well, not recently. But when it first -- when
10 it first came into play I talked to two day -- or a day
11 after when he called me from jail.

12 Q Now, what did he tell you?

13 A Well, I asked him. I flat out asked him, you know,
14 what's going on, because I saw on the news. We talked. He
15 said that he didn't do it. I asked him something about the
16 ATM video. And I said, well, you know, what about this,
17 because it was -- you know, they said on the news that they
18 saw the video. He said that Myranda was in the car and that
19 she was afraid to get out and he got money out of the ATM
20 for him -- for her.

21 Q Let me stop you right there. I want to show you
22 State's Exhibit 26. Do you recognize the person in this
23 picture?

24 A Yeah, it's Darrell.

25 Q That's Darrell. Do you see anyone else in that car?

CRYSTAL SMITH: CROSS-EXAMINATION

470

1 A No.

2 Q But he told you that Myranda was in that car?

3 A That's what he told me.

4 Q The night of -- the morning of the 19th, when he took
5 the money out, he told you Myranda was in the vehicle?

6 A That's to my understanding, yes.

7 MS. BOYKIN: Thank you. Please answer any questions
8 Mr. Able has.

9 THE WITNESS: Sure.

10 THE COURT: Cross-examination, Mr. Able?

11 MR. ABLE: Yes, sir. One moment.

12 THE COURT: Sure, take your time.

13 CROSS-EXAMINATION

14 BY MR. ABLE:

15 Q Now, Ms. Smith, how long have you known Darrell?

16 A Since middle school, high school. We were in band
17 together.

18 Q And in all that time had you ever known him to display
19 violent tendencies toward women?

20 A No, never.

21 Q Have you ever seen him violent toward anyone?

22 A No.

23 Q Now, when you spoke with him on the telephone about --
24 and you report that he said that Myranda was in the car with
25 him, did he say specifically at the ATM machine or --

CRYSTAL SMITH: REDIRECT EXAMINATION

471

1 A All I know is that I was confused about what was going
2 on, because this is totally not him. And, you know, when I
3 asked him what was going on and what about this ATM, I -- I
4 thought he had told me -- he had told me that she was in the
5 car. I mean --

6 Q Are you just not sure?

7 A I'm really not sure. I mean, this is back in 2013. A
8 lot of things have changed. And, you know, I can't remember
9 what happened two, three years ago.

10 MR. ABLE: Thank you. That's all.

11 THE COURT: Redirect, Solicitor?

12 MS. BOYKIN: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. BOYKIN:

15 Q You asked Darrell about going to the ATM?

16 A Right.

17 Q After you were discussing him being arrested; is that
18 correct?

19 A Yes.

20 Q And what did he tell you about going to the ATM and
21 using Myranda's card?

22 A He said that she was with him, I mean, but I -- she
23 might not have been in the car. I don't know.

24 Q But he told you that she was in the car?

25 A She was in the vicinity. It's on the recorded thing of

CRYSTAL SMITH: REDIRECT EXAMINATION

472

1 jail. It was --

2 Q But that's what he told you, that she was there?

3 A Yeah.

4 MS. BOYKIN: Thank you.

5 THE WITNESS: Thanks.

6 THE COURT: Thank you for your testimony, ma'am. You
7 can step down.

8 THE WITNESS: Thank you.

9 THE COURT: You're free to leave or you're welcome to
10 remain with us.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 MR. SCOTT: Can we take just five -- just brief? I'm
14 lining up one of my witnesses.

15 THE COURT: That's fine. Mr. Foreman, ladies and
16 gentlemen of the jury, we're going to take a short morning
17 break. So if you'll go back to the jury room. Again, I
18 remind you, don't begin any discussions about this case and
19 we'll get you back out shortly.

20 (Whereupon, the jury exited the courtroom at 10:31
21 a.m.)

22 THE COURT: We'll be at recess about 10 minutes.

23 (Whereupon, a recess was held from 10:31 a.m. to 11:28
24 a.m.)

25 (Whereupon, the jury entered the courtroom at 11:28

MIA MCCARTER: DIRECT EXAMINATION

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1 a.m.)

2 THE COURT: Ladies and gentlemen, I had Mr. Bolt tell
3 you that the delay was caused by we were waiting on some
4 witnesses. So that's why the originally anticipated short
5 break turned into about an hour break. Okay?

6 Solicitor, you may proceed, sir.

7 MS. BOYKIN: The State calls Mia McCarter.

8 MIA MCCARTER, having first been
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. BOYKIN:

12 Q Mia, if you could, just state your full name for the
13 record.

14 A Mia Jane McCarter.

15 Q Now, Mia, do you know Darrell Raines?

16 A I do.

17 Q How do you know him?

18 A He took our volleyball pictures for my volleyball team
19 when I was 16.

20 Q For a school volleyball event?

21 A It was actually a tournament week my team went to. He
22 was actually doing photos for the other school.

23 Q Do you know what year that was?

24 A I don't know the year. I know how old I was, but I
25 don't what year. It was when I was 16, so four years ago.

MIA MCCARTER: DIRECT EXAMINATION

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1 Q What happened after he took the pictures?

2 A He took the pictures for the team. We got our pictures
3 back. And then about a year later he contacted me via Face
4 book.

5 Q And you were 17 at the time?

6 A Yes, ma'am.

7 Q What did he say on -- did he message you or just friend
8 request or --

9 A Sent me a friend request. I don't know that it was a
10 year that he sent the friend request, but it was a year
11 between when he actually contacted me with a message.

12 Q So was that late 2013, thereabout?

13 A Yes, ma'am.

14 Q How did your all's relationship progress?

15 A It started off very casual. Just kind of hey, how are
16 you. You know, I took your volleyball pictures. Just very
17 casual and it kind of progressed more romantically. We
18 never actually met in person other than when he did our
19 pictures, but there were many Face book messages and text
20 messages back and forth.

21 Q So it was a romantic relationship?

22 A Yes.

23 Q Did he seem to have other thoughts toward another
24 relationship?

25 A Yes, ma'am. There were other thoughts. A lot of the

1 times he would seem interested in me, but at the same time
2 he would talk about another girl named Lisa, and this person
3 was someone that he was very interested in being with.

4 Q Do you know Lisa's last name?

5 A I do not.

6 Q What did he tell you about Lisa?

7 A I assumed they had some kind of relationship only
8 because he had said that there would have been something
9 that went on. Something happened where the relationship
10 ended. But that was the relationship he wanted and he was
11 very much determined to get back with her.

12 Q Very determined?

13 A Yes.

14 Q Did he ever send you anything over Face book to look at
15 for him?

16 A He sent me a letter once or twice actually to read that
17 he was going to give to her, yes.

18 Q Why did he send them to you?

19 A Just to proof read them to see if it sounded good. See
20 if it sounded like something that could get her back maybe.

21 Q How did they sound to you?

22 A I mean, as a girl, if a guy sent me that and everything
23 was normal, then I would probably say okay, yeah. someone
24 though that if you think someone's interested in you but
25 they're sending you a letter for another person, that's kind

MIA MCCARTER: CROSS-EXAMINATION

476

1 of strange to me.

2 Q How did y'all's relationship end?

3 A I actually at the time was going through several health
4 issues, so I was in and out of the hospital with surgeries
5 and everything and just kind of -- there would be times when
6 he wouldn't say anything for a while and then he'd reappear.
7 And then I get a call from one of my friends saying that
8 he's on the news, so...

9 Q And that call that he's on the news, around that point
10 was he still talking about Lisa to you?

11 A Yes. That was an ongoing thing for a year or so.

12 Q So that was the majority of your conversation with
13 Darrell was about Lisa?

14 A Yes.

15 MS. BOYKIN: Thank you. Please answer any questions
16 Mr. Able has.

17 THE COURT: Mr. Able, any cross-examination?

18 MR. ABLE: One moment, Your Honor.

19 THE COURT: Sure.

20 CROSS-EXAMINATION

21 BY MR. ABLE:

22 Q Now, Ms. McCarter, you said you met my client on one
23 occasion?

24 A Yes, sir.

25 Q And that was four years ago?

MIA MCCARTER: CROSS-EXAMINATION

477

1 A Yes, when he took our volleyball pictures..

2 Q I'm sorry?

3 A When he took our volleyball pictures. So yes, it was
4 about four years ago.

5 Q And that's the only time you've ever physically met
6 him?

7 A Yes.

8 Q And you and he became Face book friends?

9 A Yes, sir.

10 Q And you characterized it as a romantic relationship but
11 you never met him?

12 A We never actually met. It was more the subject in
13 which we would talk about. There was a lot of flirting,
14 sometimes sexual conversations, yes.

15 Q And that's what you term romantic?

16 A That's what I -- well --

17 Q There was never a physical relationship?

18 A There was never a physical relationship. No, sir.

19 MR. ABLE: Thank you. That's all I have..

20 THE COURT: Redirect?

21 MS. BOYKIN: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. BOYKIN:

24 Q Would he send any pictures of himself?

25 A Yes, ma'am.

LISA HAMLETT: DIRECT EXAMINATION

478

1 MR. ABLE: Judge, that should have been in direct
2 examination. I mean, that's not -- that's not cross.

3 MS. BOYKIN: Your Honor, it's what he crossed.

4 THE COURT: I'll overrule it. I'll allow it.

5 Q Did he send you pictures of himself?

6 A Yes, ma'am.

7 Q Romantic pictures?

8 A Yes, ma'am.

9 MS. BOYKIN: Thank you.

10 THE COURT: Thank you, ma'am, for your testimony. You
11 can step down. You are free to remain with us or you're
12 free to leave, either way.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 MR. SCOTT: Your Honor, the State calls Lisa Hamlett.

17 LISA HAMLETT, having first been
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SCOTT:

21 Q State your full name for the record.

22 A Lisa Marie Hamlett.

23 Q Lisa, how old are you?

24 A Thirty-four.

25 Q And where are you from?

LISA HAMLETT: DIRECT EXAMINATION

479

1 A Originally Greenville. I'm from Simpsonville, South
2 Carolina is where I currently live.

3 Q And you grew up in Greenville?

4 A Yes.

5 Q And did you go to school there?

6 A Yes.

7 Q And, of course, you know why you are here. And you
8 were subpoenaed to be here?

9 A Yes.

10 Q Who is Darrell Raines?

11 A As in --

12 Q Who is he? How do you know him?

13 A I've known Darrell Raines since I was in third grade.

14 Approximately third grade. Eight-years-old. We lived in

15 the same neighborhood. I know him. I know his brothers.

16 His family. My mother has been friends with his mother for

17 years. Went to the same schools. Went to elementary,

18 middle, high school. I've always known him.

19 Q Were you all really close in elementary school?

20 A No. He's a couple -- he is a couple years older than

21 me, so we were never in the same classes.

22 Q So you all weren't even contemporaries as far as

23 school? I mean, you all weren't in the same grades?

24 A No.

25 Q And then when he was in your neighborhood were you all

LISA HAMLETT: DIRECT EXAMINATION

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1 good friends then?

2 A We would ride the bus. Like I said, we were two years
3 apart. However, we would ride the bus home in elementary
4 school up until middle school, I believe. I can't --

5 Q Was that the extent of your, I guess, dealings with him
6 back in the neighborhood days?

7 A Well, when we were kids we would hang out. As far as
8 -- like I said, Debbie and my mother, Nancy, are -- were
9 friends, you know. We -- Debbie would be at my house. My
10 mom would be at Debbie's house. There was a relationship
11 there.

12 Q And when you say Debbie, you're talking about Debbie
13 Zick who is Darrell Raines' mother?

14 A Right.

15 Q So his mother and your mother were friends?

16 A Right.

17 Q And through that relationship you would come into
18 contact with Mr. Raines from time to time?

19 A Right.

20 Q Getting into school, were you all boyfriend and
21 girlfriend?

22 A No.

23 Q You all never were?

24 A No.

25 Q High school? Were you all in high school at the same

1 time?

2 A Uh-huh.

3 Q And -

4 MR. ABLE: Is that a yes, Your Honor?

5 A That's a yes.

6 Q Thank you, Lisa.

7 A You're welcome.

8 Q Were you in color guard; is that right?

9 A Correct.

10 Q And then he was in the marching band or something like
11 that?

12 A Yes.

13 Q And then at that time did you all interact with one
14 another?

15 A To the extent we had practices and competitions and
16 things like that. He was in marching band. I was in color
17 guard. So, yes.

18 Q But was it ever of a -- I guess I'll term it a romantic
19 type relationship?

20 A No.

21 Q Did he at that time profess any feelings for you?

22 A No.

23 Q After high school and you graduated what did you do
24 with your life after that?

25 A I have two children. I went to nursing school. I'm a

LISA HAMLETT: DIRECT EXAMINATION

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1 registered nurse now. I haven't spoken or had any contact
2 with Darrell for 15 to 20 years. I mean, I would have to
3 look back. I mean, it's been a long time. After high
4 school we didn't cross paths.

5 Q You went your separate ways? Is that what you're
6 saying?

7 A Right.

8 Q So to the extent you even knew him in high school,
9 after high school was over he did his thing and you went and
10 did your thing?

11 A Yes.

12 Q And then tell me when was it that he decided to reach
13 back out and try to reconnect with you.

14 A We became Face book friends - and I don't have the
15 date. I can't remember. This has been years ago. And we
16 had talked on Face book about the family, of course, because
17 we -- our families knew each other. And then eventually we
18 met at an Applebee's in Simpsonville where I live just to
19 kind of catch up.

20 Q Do you remember about when that was?

21 A It would have to have been at the end of 2012, I
22 believe.

23 Q So at the end of 2012 you all had a -- would you call
24 it a date? What was it?

25 A It was kind of like you would meet -- I mean, you would

1 catch up with someone that you haven't seen for so long that
2 -- family friend and that sort of thing. I don't know if
3 you would call it a date. I don't know really what you
4 would call that.

5 Q Well, did you hope it would become a romantic type
6 relationship when you ate at Applebee's with him?

7 A No, at the time. I mean, you can't judge that you're
8 going to be in a relationship with somebody at an
9 Applebee's.

10 Q It was just catching up is what you kind of termed it
11 already?

12 A Right, yes.

13 Q Then after you ate at Applebee's what did he do? He
14 gave you a kiss, didn't he?

15 A Yes.

16 Q What did you think about that?

17 A In the parking lot.

18 Q What did you think about that?

19 A I didn't really think anything of it. I mean, it was
20 just what it was.

21 Q Did he say anything to you at that time?

22 A Not that I can recall, no. No.

23 Q Now, tell me after the Applebee's meeting. Did he
24 contact you anymore through text or Face book or anything?

25 A Yeah.

LISA HAMLETT: DIRECT EXAMINATION

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1 Q And what was the tone of those communications?

2 A We talked back and forth. He had -- he told me about
3 his daughter and, you know, I was at the time a single mom.
4 We talked about football and that sort of thing. I just --
5 I don't want to say anything that -- you know, I can't
6 remember exactly what we specifically spoke about that many
7 years ago.

8 Q Did you ever get to meet in person again?

9 A We did, yeah.

10 Q Do you remember when that was?

11 A it had to be sometime during, like I said, the end of
12 the year in 2012, because I'm a Clemson fan and he came to
13 my house to watch a football game.

14 Q Tell me about that. Where were -- were your children
15 there?

16 A They were there.

17 Q Were they with you and Darrell?

18 A No. They were asleep.

19 Q Did he ever get a chance to meet your children?

20 A He never met -- as far as that night?

21 Q Yeah.

22 A I don't -- there was no meeting the kids. As far as if
23 he ever ran across them that I don't know of through some
24 other means, I don't know, but no. There was no
25 introduction made, if that's what you're asking.

LISA HAMLETT: DIRECT EXAMINATION

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1 Q What else happened that night?

2 A Well, we watched football. Some other things happened.

3 Do you want me to be specific? How specific do I need to be
4 about what happened?

5 Q Were you all together, I guess --

6 A Yes.

7 Q -- romantically that night?

8 A Yes.

9 Q Was that the only time you all were?

10 A Yes.

11 Q Tell me, did he stay the night?

12 A No.

13 Q Did he leave?

14 A He left.

15 Q After that did you ever meet with him again in person?

16 A I think there may have been a time -- my sister has a
17 pet rescue and we were at the Greenville Humane Society,
18 Furman Hall Road, and I believe he may have given me a ride
19 home, back to my house, because I was with her. She's a
20 hospice nurse and had a phone call. So he took me back to
21 my house.

22 Q Did this relationship progress any further than that
23 night?

24 A No. Can -- can I explain a few things or am I --

25 Q Please do.

LISA HAMLETT: DIRECT EXAMINATION

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1 A Okay. Like I said, I've known Darrell pretty much my
2 entire life. I always thought he was a great guy, you know.
3 Never felt that there was anything to be afraid of with him
4 growing up, obviously. He's very intelligent. You know, we
5 did have conversations. Things like that. I'm sorry. I'm
6 sorry. When I found out -- after what happened at my house
7 that night, I found out that not only was he still married
8 to Amber, I believe is her name, he also had a girlfriend
9 that he worked with. And finding out all of that
10 information I no longer wanted, obviously, to pursue any
11 kind of a relationship with him regardless of what happened.
12 And I'm not sure anybody who would. I was, like I said,
13 completely unaware that all of that was going on.

14 Q So after the night of the Clemson game you discovered
15 some of these things is what you're saying?

16 A Right.

17 Q And then what steps did you take to kind of let him
18 know it ain't going any further?

19 A Well, I questioned him about it. I can't remember if
20 it was text messages or Face book. I don't know. I can't
21 remember which. It was one or the other. But I did make it
22 clear that obviously I would not want to be in that type of
23 situation with all of that continuing to go on. There was
24 even talk of this person possibly being pregnant. I mean,
25 you know, it really -- I mean, as you can imagine, finding

1 that out after-the-fact. (And so, yeah, there was no further
2 desire for any kind of a relationship after that fact.

3 Q So you expressed to him pretty much that you weren't
4 interested in seeing him anymore?

5 A Right.

6 Q How did he take that?

7 A Well, there were a series of letters, text messages,
8 Face book posts.

9 Q Tell me what was the gist of the -- tell me about the
10 letters. How would you receive these letters? Were they in
11 the mail?

12 A No, they would -- I received some blank cards in the
13 mail. But most of the letters -- all of the letters
14 actually were either cross-posted to an instant message on
15 my Face book account, and also left in an envelope on my
16 front porch at my home.

17 Q How many times did that happen?

18 A I couldn't even tell you.

19 Q Let me show you something. . State's 42. Have you seen
20 these before?

21 A Yes.

22 Q Do you recognize them?

23 A Uh-huh. I do, yeah.

24 Q And what are those?

25 A These are the letters that were left on my porch. This

LISA HAMLETT: DIRECT EXAMINATION

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1 is actually a letter written from Laurens County. These are
2 pretty much all the letters that were left on my porch.
3 There's a lot.

4 Q How frequently was he leaving these letters on your
5 porch?

6 A Daily to every couple of days.

7 Q So every day when you walk out on your porch you're
8 either going to find a letter from Darrell Raines --

9 A Uh-huh.

10 Q -- or what other kinds of things was he leaving on your
11 porch?

12 A Candy, Build-A-Bears.

13 Q Hold on a second. Candy? What's the significance of
14 that?

15 A They were Jolly Ranchers.

16 Q Why is that? Why would he think to leave Jolly
17 Ranchers on your porch?

18 A Well, because at Applebee's that's what I -- I had one
19 in my purse and that's what I ate was a Jolly Rancher and --

20 Q He remembered that?

21 A I suppose.

22 Q Didn't he create some kind of a vase or something out
23 of Jolly Ranchers for you?

24 A Yes. It was --

25 Q Tell the jury about that.

LISA HAMLETT: DIRECT EXAMINATION

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1 A It was in a dish. Like an ice cream Sunday dish. And
2 it had some sort of Styrofoam in the middle with Jolly
3 Ranchers glued all of it.

4 Q Did it look like it would take some time to make?

5 A Yes.

6 Q What did you think about that?

7 A It's kind of hard to know the difference between
8 somebody just really having a hard time getting over
9 something and something being -- going to the next level.

10 Q This is after two times meeting with you, correct?

11 A Right.

12 Q And then what else did he do with candy? Did he throw
13 it all over your porch or something and cover the whole
14 porch up?

15 A Yes.

16 Q Tell the jury about that.

17 A I came home -- I either came home or woke up, because I
18 never saw him leaving these things. I never saw this. But
19 there would be like hundreds of the wrapped Jolly Rancher
20 candies all over my front porch. Covering my porch.

21 Q So was he doing this at nighttime while you were in the
22 bed, or when was he doing it?

23 A I was either asleep or not home, because I never saw
24 him actually do it. But I would get messages, you know.

25 The Build-A-Bear was in a box. That's what they come in. I

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1 went outside. I found that. And I have cats, so they had
2 already taken it out of the box and pretty much -- I mean,
3 the box was on my porch. The bear is laying over, you know,
4 off the side of my porch in the bushes. But as far as I can
5 remember, he would, I mean, obviously claim the fact that
6 that was his doing.

7 Q Would he text you and just kind of reference the
8 Build-A-Bear?

9 A Right.

10 Q Now, Build-A-Bear, he would have had to take himself
11 into a toy store and actually build the bear for you?

12 A Right.

13 Q Is that how those things work? So he went to the toy
14 store and made a bear for you?

15 A I suppose.

16 Q When would you find these items on your porch those?
17 I'm saying, was it in the middle of the day or was it when
18 you got up to leave for work in the morning, or when was it?

19 A It would be in the morning most of the time. Sometimes
20 I would come home and -- you know, I would come home at
21 10:00 or 11:00 and there would be letters there. But like I
22 say, most of the time it would be -- you know, I would wake
23 up and they would be there. I have this table. I have two
24 rocking chairs on my front porch, and in the middle I have a
25 table with a plant, and that's where they were every time,

1 in the same spot.

2 Q He even left some money out there, too, didn't he?

3 A Yes.

4 Q He'd just leave cash money on the porch?

5 A He made an offer to me to -- that he was going to leave

6 a debit card at my house. And that's on my Face book

7 messages. And I said absolutely not. I wouldn't accept it.

8 So I'm assuming that from that is where the cash came from.

9 Q Do you recall being in your neighborhood and seeing him

10 drive around?

11 A Yes.

12 Q How many times did that happen?

13 A I probably passed him five or six times. And I live on

14 a circle. There's one way -- there's one way -- well, it's

15 a circle. There's pretty much -- I mean, there's no

16 connecting road. If you're going to go to my house you're

17 going to go --

18 Q So it wouldn't be like a cut through from one road to

19 another?

20 A No.

21 Q So both entrances come out on this same road?

22 A Right.

23 Q And to your knowledge, did he live in that

24 neighborhood?

25 A No.

LISA HAMLETT: DIRECT EXAMINATION

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1 Q Do you know where he lived?

2 A I assumed he lived with him mother.

3 Q He did. But -- well, if he did, do you know where she
4 lived?

5 A No, I don't know where she lived.

6 Q To your knowledge, any reason that he would be in your
7 neighborhood then?

8 A No.

9 Q Did he ever send you text messages telling you he was
10 in your yard?

11 A Yes.

12 Q Tell us about that.

13 A I as asleep one morning and I got a text message that
14 said that he was outside and he wanted to talk. So I looked
15 outside of my bedroom window and he was there. And I
16 responded that I was not coming outside and I was not going
17 to talk about anything and that he just needed to leave. I
18 didn't go out. I didn't talk to him. Twenty, 25 minutes
19 goes by and he left.

20 Q What affect did all this have on you?

21 A Well, at this point it's a little strange. Like I
22 said, there's a line that you can cross. And at that point,
23 when I started seeing him in my neighborhood and coming to
24 my house and in my driveway, that's a little -- that's
25 crossing the line.

LISA HAMLETT: DIRECT EXAMINATION

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1 Q And at some point did -- you moved on pretty quick.

2 There wasn't anything to move on from, was there?

3 A No.

4 Q And you started dating somebody else?

5 A Yeah, I think -- like I said, I can't remember. But
6 several months later I did.

7 Q Do you remember Jason Gillespie?

8 A Yes.

9 Q And you remember why you kind of had a falling out with
10 him?

11 A I started receiving messages from Myranda on Face book.

12 We were not Face book friends. I never knew Myranda.

13 However, on Face book you can message someone without being

14 friends. I started receiving messages that -- from her, I

15 assumed at the time, that she was having a relationship with

16 my, at that time, boyfriend Jason Gillespie.

17 Q That was the gist of the message that was supposedly
18 from Myranda Southern?

19 A Yes.

20 Q Hold on one second. Did Darrell Raines ever live with
21 you?

22 A No.

23 Q Did he ever ask if he could live with you?

24 A Yes.

25 Q Tell us about that.

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1 A He offered to pay me to live -- I have an extra room in
2 my house downstairs. That he wanted to rent out a room from
3 me and I said no. I mean, this is way -- this is -- you got
4 to think. The time-frame that all of this happened and when
5 he's making this offer. This is -- this is -- I mean,
6 there's quite a bit of time has gone by.

7 Q So a lot of time has gone by since your all's two
8 encounters?

9 A Yeah.

10 Q Time's gone by and he's still making these offers and
11 everything?

12 A Yes.

13 Q Well, tell us more of this. You said he wanted to rent
14 a room?

15 A Yes.

16 Q And you live there with your two children?

17 A Right.

18 Q And what was he proposing?

19 A To rent a room from me, which is -- no.

20 Q Just take care of you and your kids?

21 A There's actually a reference to it in one of these
22 letters. I mean, there's so much I could go through and --

23 Q Did he ever, to your knowledge, go to your mother's
24 house looking for you?

25 A Yes.

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1 Q How many -- that just happened one time, to your
2 knowledge?

3 A Yes.

4 Q Did his mother ever contact you on his behalf?

5 A Yes.

6 Q How many times did that happen?

7 A Countless. That's all on Face book also. It's all
8 messages.

9 Q Have you ever had anybody react like this to you
10 before? Any guys that have done this to you before?

11 A No.

12 Q Am I missing anything besides these two dates? There
13 was no other encounters between you two?

14 A Other than the ride home from the Humane Society, no.

15 Q Did you tell him you loved him?

16 A No.. I'm looking through all this stuff just --

17 Q Well, just trying to -- if you could help this jury
18 understand how this reaction came to be. We're all trying
19 to figure out why he reacted like this. If you have
20 anymore --

21 A Well, I would like to figure that out as well.

22 Q I want to show you State's 52.

23 THE COURT: Did you say 52?

24 MR. SCOTT: Yes, sir.

25 Q Is that what you were alluding to as far as the message

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1 from Myranda?

2 A It is.

3 Q And did you have any idea who Myranda Southern was at
4 the time?

5 A No. When I saw this on TV, this -- these are from
6 August 17th.

7 Q Hold on one second. August 17th is when you get Face
8 book messages supposedly from Myranda Southern?

9 A Yes.

10 Q You have no idea who Myranda Southern is, do you?

11 A No.

12 Q What time are those messages sent? Just when the first
13 post is. What was the time on it?

14 A The first one was posted August 17th at 6:38 a.m.

15 Q 6:38 a.m.

16 MR. SCOTT: Your Honor, with permission from the Court,
17 we would offer State's 52 for admission into evidence.

18 Also, permission to publish.

19 THE COURT: Okay.

20 Q Read what the --

21 THE COURT: Wait a minute. Mr. Able, any objection?

22 MR. ABLE: No objection.

23 THE COURT: All right. 52 is into evidence on behalf
24 of the State.

25 (Whereupon, State's Exhibit No. 52 was admitted into

1 evidence.)

2 Q Read for the jury what the text -- or the Face book
3 message says supposedly from Myranda Southern.

4 A Okay. "Hi. I've been debating telling you this for a
5 couple of days and I hate that I didn't know, but being
6 someone who has been cheated on and found out too late, I
7 thought you should know. Your boyfriend, Jason, cheated on
8 you with me a few nights ago. I didn't know at the time he
9 had a girlfriend or I would never have slept with him. I'm
10 sorry that I did -- that I did it now that I know. If I had
11 known, I wouldn't have done it. I hate cheaters and can't
12 stand that he tries -- can't stand that he did this to you
13 and me. I felt like I had to say something. I do have
14 children, and if you could please not mention my name as he
15 and I have many mutual friends, or at least be as discreet
16 as possible, I would greatly appreciate it. I'm truly
17 sorry." Continue?

18 Q Well, so did this come as a surprise to you that this
19 Myranda Southern person is saying that she slept with Jason
20 Gillespie?

21 A Of course.

22 Q Did you have any reason to believe they knew one
23 another?

24 A No.

25 Q And she is basically telling you to confront him about

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1 this?

2 A Right. I asked my question. The next message that I
3 sent. This was at 11:00. I respond to this, because this was
4 sent at 6:30 in the morning. I ask, where did this happen
5 and when, because I'm trying to figure out what -- I mean,
6 you know, I've never met her. I don't know her. And
7 obviously it's odd.

8 Q Right.

9 A And her message goes on to read, "His house, Wednesday
10 night." From there it says, "I was hoping you would be
11 discreet. I just blocked him. I see his house is up for
12 sale now. I hope you don't end up realizing things a little
13 too late. Again, I'm sorry. If I had known, I wouldn't
14 have."

15 Q Does it continue?

16 A Yes. My response was, "If someone told you that your
17 boyfriend was cheating on you would you confront him with a
18 name? He denies even knowing you." Of course, I had asked
19 Jason what is this, you know. Who is this person. I don't
20 know this person. He doesn't know this person.

21 Q Myranda Southern?

22 A Yes. And her response was, "We went to Wade Hampton
23 together. I'm just worried about my kids. I've known too
24 many crazy people in my life and I don't want it all coming
25 back on them." She says, "My ex is bipolar. I don't know

1 if you know what this is like, but I'm just worried
2 something bad might happen." And I told her, "Yes, I'm
3 familiar with mental disorders. It's my profession. I'm a
4 psych nurse. Tell me how this happened with Jason. I need
5 to know," is what I asked. I said, "He denies everything.
6 Says it's his ex-girlfriend, Robin, maybe playing some type
7 of game or whatever." I don't know. Let's see. And then I
8 said, "I would appreciate it if you could explain this to
9 me. I'm not angry with you in the least. I just want to
10 know how this happened." This -- then from Myranda says,
11 "We ran into each other Wednesday and started chatting. He
12 invited me over and we sat and talked a good bit. Then he
13 kissed me and I just kind of went with it." And I said,
14 "Where did you run into him. If I end a relationship, I
15 have to know this is the truth. I don't give second
16 chances. I realize you didn't know about me, but he and I
17 have known each other for a long while." And then again
18 from -- a post from Myranda. "At the gas station near his
19 house. I live a little further down the road than he does
20 so I stop there a lot." And can I add as far as what I said
21 with Jason's house being for sale? That home had just been
22 put for sale the day before. So this is not information
23 that somebody would know that had not been to that house.
24 Q Oh, really?
25 A Yes.

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1 Q So whoever is writing that would have to be familiar
2 with Jason's home and --

3 A The fact that it was listed for sale by owner, by sign
4 in his front yard the day before. So I said, "So that's it,
5 like a one night stand or something or had it been going on
6 longer." At this -- you know, at this point I'm trying to
7 figure out what's going on. Then another post from
8 Myranda's account says, "Well, I had hoped it would be
9 longer, but I saw that he was in a relationship with you on
10 Face book and obviously I didn't want anything to do with
11 him afterward." And then I said, "Let's confront him." She
12 says, "Listen, this is making me feel worse about the whole
13 thing, I'm assuming is what was meant to be said. "I feel
14 terrible as is and kind of want to forget it. I'm sorry
15 about all of it and I hope you can forgive me." And I ask
16 if she was angry and she said, "Very, but that's not the
17 point. My job is to keep my kids' lives as stable and
18 protected as possible. I told you because I thought that
19 was right, but I'm done now. I have -- I have given you the
20 information and it's your choice what to do with it. I'm
21 sorry, but I can't risk my kids' happiness or their safety."
22 And I said, "I understand. This will be something we will
23 discuss with a counselor for sure. Jason is selling the
24 house because we are starting a life together. I'm not sure
25 where this goes from here. But thank you for your messages.

1 I needed to know." And the last response was Myranda's
2 account was, "Wow. Well, good luck. I wouldn't give him
3 another chance because I've been cheated on before many
4 times and finally had to say enough. You are much more
5 forgiving than I am. Maybe really foolish, too, but that's
6 just looking at it through my experiences. You're welcome
7 though. Maybe a counselor will help. I hope for your sake
8 it does." And that's it.

9 Q So that person seemed to be wanting you to break up
10 with Jason?

11 A Yes. That's what I gathered.

12 Q Well, in fact, it had that effect. It kind of drove
13 you all apart, didn't it?

14 A Yes.

15 Q Because you were in a position to have to accuse him,
16 weren't you?

17 A Yes.

18 Q And did you ever -- looking back, did it ever seem like
19 that was something that happened to you?

20 A No. But at the time that I'm reading this and went --
21 you know, I wake up and I start reading this on my Face book
22 and it doesn't make any sense to me. But looking back, this
23 doesn't even seem like anything -- I mean, it doesn't seem
24 like a response that you would get from someone being
25 Myranda Southern.

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1 Q You had never known her. But is that Myranda Southern
2 saying she looked on your Face book page and saw that you
3 were dating Jason?

4 A Which would be difficult to do considering that we
5 weren't friends. She could have -- this came from
6 messaging, which is what Face book allows. She and I were
7 never friends on Face book. And my privacy settings, she
8 couldn't see that information.

9 Q So then people who don't really know how Face book
10 works, somebody who was friends with you, I guess, would
11 have to be friends with you to get that information?

12 A Right.

13 Q And you had been friends with Darrell Raines, right, on
14 Face book?

15 A I blocked him at some point. I'm not sure when. But I
16 still am friends with his mother, and also his sister.

17 Q But his mother is who I want to talk to you about. His
18 mother, who had contacted you on his behalf a number of
19 times, she would still be able to see your profile, wouldn't
20 she?

21 A Yes.

22 Q But Myranda was not your friend on Face book because
23 you didn't know her?

24 A No.

25 Q And that was the 17th?

1 A Correct.

2 Q Do you remember the next week? Do you remember what
3 was in the news that next week up in Greenville?

4 A (Nods head affirmative.)

5 Q What was on the news?

6 THE COURT: You need to verbally respond, ma'am.

7 A Yes, I remember what was on the news.

8 Q What was on the news?

9 A That Myranda Southern had gone missing. And here I am

10 receiving messages from Myranda Southern, who I don't know,
11 and then Myranda Southern's missing. So to me that's
12 obviously an issue. Because I'm being contacted by this
13 person who is now missing.

14 Q What did you do with that information?

15 A I took it to Greenville County.

16 Q Did you take that Face book posting with you?

17 A I did. I also gave them all permission to have any --
18 to go through anything and everything on my Face book
19 account, and it's been kept exactly the same. Everything's
20 still there.

21 Q And then you gave them the letters that you'd been
22 getting from Darrell?

23 A Yes.

24 Q Did you -- did he contact you after that week? You
25 said something about Laurens County. Did he send you

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1 letters after he was arrested?

2 A Yes. There's a letter here that's stamped from jail.

3 Laurens County jail.

4 Q So he's still trying to contact you?

5 A November 20 -- November 20th, 2013.

6 Q He's still trying to contact you even then?

7 A Yes, at this point.

8 Q Did he ever try to call you?

9 A He did call.

10 MR. SCOTT: Your Honor, I'm going to offer State's 42
11 for admission into evidence.

12 THE COURT: That's one packet of all the letters?

13 MR. SCOTT: Yes, sir.

14 MR. ABLE: I haven't seen it.

15 THE COURT: Would you show those to Mr. Able, please.

16 MR. ABLE: What number, Solicitor?

17 THE COURT: 42.

18 MR. ABLE: Judge, this is going to take me a moment.

19 THE COURT: Sure.

20 MR. ABLE: I need to provide -- see what I've been
21 provided versus what's -

22 THE COURT: Okay. Let me see the lawyers first before
23 you start doing that.

24 (Whereupon, a side bar was held.)

25 Q All right. You said you spoke with law enforcement

1 after you came forward to them?

2 A Correct.

3 Q At some point were you made aware of some of the things
4 that were found on Mr. Raines' phone?

5 MR. ABLE: Objection. Calls for hearsay.

6 THE COURT: Well, it hasn't gone into the specifics of
7 what she may have learned, so I will overrule the objection
8 at this point in time. You may proceed. You may answer the
9 question, ma'am.

10 Q Pictures and whatnot?

11 A I'm sorry. Can you repeat that?

12 Q Did you become aware of pictures and things of that
13 nature that were found on Mr. Raines' phone?

14 A I was made aware that there were things. I wasn't
15 given specific details, but I was told that there were other
16 -- there were other issues in evidence that --

17 MR. ABLE: Objection, she was made aware of, Judge.

18 Q Have you seen pictures of children on his phone?

19 MR. ABLE: Objection.

20 THE COURT: Well, I think what he's -- I think the
21 question is has she seen pictures that were on his phone.
22 But now, she would have had to have been told that it was on
23 his phone, correct?

24 MR. SCOTT: Yes, sir. And his phone, I guess, dump is
25 in evidence. And she would have to identify these people as

LISA HAMLETT: DIRECT EXAMINATION

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1 being her relatives.

2 MR. ABLE: The issue of relevance, Judge.

3 MR. SCOTT: Res gestae would be the argument, Your
4 Honor.

5 THE COURT: If the objection is relevance I'm going to
6 overrule the objection. You may proceed.

7 MR. ABLE: Your Honor, I'm saying it was hearsay, too,
8 Judge.

9 THE COURT: Well, I think the Solicitor has made the
10 point that the -- all the information off the cell phone is
11 already into evidence. And if that is a correct statement
12 then I will overrule the objection based on that.

13 MR. SCOTT: State's No. 30 is the complete phone dumb,
14 Your Honor.

15 Q Who is that?

16 A That's my youngest son.

17 Q Who is that?

18 A My oldest son.

19 Q Do you -- have you seen that picture before? Who is
20 that and what is going on in the picture?

21 A That's a picture of me from several years ago that was
22 posted to my Face book.

23 Q Tell me if you recognize this Facebook post?

24 A Yes, I recognize it.

25 Q Do you recall when you responded to the post if you

1 could write a note to your younger self what would you say
2 in only two words?

3 A My response was trust carefully.

4 Q And on that same, I guess, thread what was Darrel
5 Raines' response?

6 A Choose Lisa.

7 Q If he could give two words of advise to his younger
8 self it would be choose Lisa?

9 A Yes.

10 Q Let me ask again. Did you become aware of pictures of
11 your children, pictures of you on Darrel Raines' phone?

12 A Now, yes. Yes. I mean, this is obviously -- this is
13 me. This is my children. This is my son. This is my other
14 son. Yes.

15 MR. SCOTT: Thank you. Nothing further. Please answer
16 any questions Mr. Able has for you.

17 THE COURT: So Mr. Able needs a few minutes to look
18 through those letters. So I don't really want to break for
19 lunch yet until we finish up with this witness. Mr. Able
20 needs a few minutes to go through those letters. So what I
21 want to do, Mr. Foreman, ladies and gentlemen, I'm going to
22 ask you to go back to your jury room. And Mr. Able says he
23 will not take that long to look through those letters. And
24 we'll get back out and hopefully finish with this witness
25 here.

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1 (Whereupon, the jury exited the courtroom at 12:20
2 p.m.)

3 THE COURT: We'll be at ease for a few moments.

4 (Whereupon, a recess was held from 12:20 p.m. to 12:38
5 p.m.)

6 THE COURT: You ready?

7 MR. ABLE: Yes, sir. Without any objection, Your
8 Honor.

9 THE COURT: Without objection, 42 will be in evidence
10 on behalf of the State. Mr. Bolt, if you'd bring the jury
11 back out, please.

12 (Whereupon, State's Exhibit No. 42 was admitted into
13 evidence.)

14 (Whereupon, the jury entered the courtroom at 12:38
15 p.m.)

16 THE COURT: Let me see the lawyers for just a sec,
17 please.

18 (Whereupon, a sidebar was held.)

19 THE COURT: Mr. Able, are you ready for your cross?

20 MR. ABLE: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. ABLE:

23 Q How are you, Ms. Hamlett?

24 A I'm just fine. Thank you.

25 Q Good. I just want to ask you a few questions. Now,

LISA HAMLETT: CROSS-EXAMINATION

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1 concerning your boyfriend at the time, Jason Gillespie. Is
2 that his name?

3 A That would be his name, yes.

4 Q And you and he met on Match.com?

5 A Yes.

6 Q And you discovered after you had received these Face
7 book messages from Myranda Southern that Mr. Gillespie and
8 Ms. Southern were, in fact, friends on Face book, weren't
9 they?

10 A I'm not sure about that.

11 Q Didn't you make that statement at one time that Mr.
12 Gillespie and her were Face book friends?

13 A I believe he stated they went to high school together.
14 I don't know that I knew they were Face book friends.

15 Q Now, she had stated that to you in the message, right?
16 That they had gone to --

17 A Talking about this one that I just read?

18 Q Yeah.

19 A It doesn't say anything that they were Face book
20 friends in this message.

21 Q No. I'm saying they said that they went to high school
22 together.

23 A Yes.

24 Q But I thought in an early statement you had said that
25 they were, in fact -- after you got this message you went to

LISA HAMLETT: CROSS-EXAMINATION

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1 his Face book and found that they were Face book friends
2 together?

3 A I don't remember. I can't say either way.

4 Q You can't say either way?

5 A I mean, if you can show me something. I mean, this was
6 three years ago. I'll be glad to answer the question you
7 have.

8 Q I'm just referencing what I believe to be your prior
9 statement.

10 A Okay.

11 Q So you don't know either way?

12 A No.

13 Q You can't say no, you can't say yes?

14 A No.

15 MR. SCOTT: Asked and answered, Your Honor.

16 Q Now, the night you and Mr. Raines were at Applebee's
17 you left there and you went to a movie?

18 A I don't believe we went to a movie.

19 Q Saw a movie -- ma'am?

20 A I don't remember going to a movie.

21 Q You didn't go and see Taken 2 that night?

22 A I don't recall going to a movie.

23 Q And you and he kissed out in the parking lot?

24 A Yes. I've stated that already.

25 Q And he told you at that time he should have done that

LISA HAMLETT: CROSS-EXAMINATION

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1 20 years before, correct?

2 A I believe so, yes.

3 Q And he at one time -- he did meet one of your children,
4 Jonathon. He brought over a pizza and you and he drank beer
5 and Jonathan was there and ate with you all?

6 A That is not true.

7 Q Now, this incident at your home with the Clemson game.
8 You and he had sex at that time?

9 A Yes. I've already stated that.

10 Q Well, I'm asking.

11 A Yes.

12 Q You and he had sex. And there was another time you and
13 he had asexual relationship, too?

14 A No, that's not correct.

15 Q Didn't he come to your house a couple of times and
16 y'all had sex?

17 A No.

18 Q Now, about the -- you're saying that the -- you had
19 found out about him having a wife and a girlfriend and that
20 made you not want to have a relationship. He had told you
21 that right at the very beginning that he had a -- still had
22 a wife.

23 A He was still married and they had been separated for
24 quite some time. He was living with his mother. That his
25 daughter's name is Amber. I'm sorry. His ex-wife, or wife

LISA HAMLETT: CROSS-EXAMINATION

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1 is Amber, correct? I don't know. But no, I did not know
2 there was any girlfriend at the time.

3 Q But when you -- when you first contacted him -- you all
4 connected back together on Face book, correct?

5 A Correct.

6 Q And at that time you had stated something, or asked
7 him, hey, I thought you were married. And he said we aren't
8 together anymore. Haven't been for a while.

9 A Okay.

10 Q Is that true?

11 A Yes.

12 Q So you knew he was married the entire time?

13 A Yes. What I didn't know is that in addition to being
14 married he also had a girlfriend is what I stated. That's
15 what I stated.

16 Q And you had stated at some point he had left you some
17 money out on the porch?

18 A Yes.

19 Q And he had left you money because you had lost your
20 job, hadn't you?

21 A I was placed -- I had an injury at work that's
22 completely unrelated to any of this. When he and I were
23 together he had MRSA.

24 Q You're talking about he --

25 A Darrell.

1 Q Mr. Raines, okay.

2 A Had MRSA, and at that time I had developed it on my
3 skin and was unable to attend a training session that I was
4 required to attend from my current employer. I was on light
5 duty due to the injury that had occurred long before any of
6 this. If that's what you're referring to.

7 Q And that was the reason he left the money?

8 A I can't tell you why he left the money. He offered his
9 debit card and I said I didn't want it. That's also in all
10 of these messages.

11 Q Now, you never believed Mr. Raines to be a threat to
12 you?

13 A Not at first, no, obviously. I wouldn't have had him
14 in my home.

15 Q Well, I mean, obviously you liked him. You had sex
16 with him?

17 A Well, yeah. I've known him my entire life. I felt
18 comfortable with him. He's always been a good guy. He's
19 never been aggressive, never been in any trouble to my
20 knowledge. No.

21 Q And the things you've talked about as far as leaving
22 the candies and the letters, you believed it was just a
23 crush and it would eventually wane, correct?

24 A Yes.

25 Q And eventually it waned?

LISA HAMLETT: CROSS-EXAMINATION

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1 A No. Eventually -- it went on for eight months past the
2 point of me speaking to him, and this continued. This
3 continued. We did not -- there was no conversation between
4 the two of us. This continued. You can look at the Face
5 book messages. This continued. This was a one-sided
6 conversation for many, many, many months after he and ended
7 any conversations between the two of us.

8 Q And these letters that have been made an exhibit, he
9 never threatened you in those letters?

10 A No. He didn't threaten me. Do I need -- I would be
11 more than willing to read them all, if you would like.

12 Q Did you read them before you came here today?

13 A I've read the letters. They were left at my house,
14 yes.

15 Q But I'm saying did you read them in preparation for
16 your testimony today?

17 A No, I haven't -- I haven't read through all this stuff.

18 Q Do you recall if he in any way threatened you in the
19 letters?

20 A No. I was a little creeped out towards the end when he
21 asked me if when he died to bury him under a cherry tree,
22 because for somebody to tell you that when you're not even
23 having contact with them is a little strange. That's in the
24 letters.

25 Q You said if he died?

LISA HAMLETT: CROSS-EXAMINATION

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1 A Yes.

2 Q To bury him with a cherry tree?

3 A Yes. And to me that all seems -- I don't know if it
4 was suicidal. I don't know if he was referring to some type
5 of illness he may have had. I --

6 Q Well, you were aware he had --

7 THE COURT: Wait a minute. Let her finish, Mr. Able.
8 You may continue. Finish your answer.

9 A I didn't know if that was in reference to him hurting
10 himself. If he was -- had some type of terminal illness.
11 Who knows. That's not what was explained in that particular
12 letter. It says if I die I want for you to -- I believe it
13 said cremate my body and bury me under a cherry tree.

14 Q And you were aware during the time of your relationship
15 with him he had leukemia?

16 A No. No. I don't even know to this day what extent --
17 I don't know what to believe. I don't know if he has
18 leukemia. I don't know -- he didn't tell me any of this to
19 begin with. I don't even know his current physical
20 situation.

21 Q Didn't you discuss it with his mother?

22 A Yes.

23 MR. SCOTT: That's fine. It's been answered as far as
24 any other hearsay. I don't think what she discussed with
25 his mother is permissible.

1 MR. ABLE: That's all, Your Honor.

2 THE COURT: Anything on redirect, Solicitor?

3 MR. SCOTT: No, sir. Not for this witness, Your Honor.

4 THE COURT: Thank you, ma'am, for your testimony. You
5 can step down. You're free to leave or you're welcome to
6 remain with us.

7 (Whereupon, the witness stepped down from the witness
8 stand.)

9 MR. SCOTT: Can we approach, Your Honor?

10 THE COURT: Sure.

11 (Whereupon, a sidebar was held.)

12 THE COURT: All right. Mr. Foreman, ladies and
13 gentlemen of the jury, I think the next witness for the
14 State may be somewhat lengthy and it's almost ten till 1:00,
15 so it would be a good time to break for lunch. And so, if
16 you'll be back at 2:00. And again, I remind you as I have
17 been not to discuss this case or any aspect of this case
18 among yourselves or anybody that you come into contact with.
19 And be sure to keep your juror button on if you're out in
20 public and I will see you back at 2:00. Have a good lunch.

21 (Whereupon, the jury exited the courtroom at 12:49
22 p.m.)

23 THE COURT: Solicitor, we've got how many more total
24 witnesses?

25 MR. SCOTT: Four.

1 THE COURT: Four?

2 MR. SCOTT: Yes, sir.

3 THE COURT: And we've got one witness, because of some
4 illness he can't be here until in the morning?

5 MR. SCOTT: Yes, sir.

6 THE COURT: Three other witnesses. You can get those
7 done this afternoon?

8 MR. SCOTT: Yes, sir. I hate that. He's got kidney
9 stones and he's got a doctor's appointment at 1:00. It's

10 kind of one of these Murphy's Law.

11 THE COURT: Does he anticipate that he's going to be
12 well enough in the morning?

13 MR. SCOTT: Oh, I told him I didn't care. He's got to
14 be here. He's going to be here tomorrow morning, Your
15 Honor. We're going to provide transportation here and
16 everything.

17 THE COURT: All right. Well, we'll be in recess until
18 2:00.

19 MR. SCOTT: Thank you, Judge.

20 (Whereupon, a recess was held from 12:49 p.m. until
21 2:13 p.m.)

22 (Whereupon, the jury entered the courtroom at 2:13
23 p.m.)

24 THE COURT: Solicitor, you ready?

25 MR. SCOTT: Yes, sir. Your Honor. The State calls

GARLAND BLUE: DIRECT EXAMINATION

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1 Garland Blue.

2 GARLAND BLUE, having first been
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SCOTT:

6 Q Mr. Blue, where are you employed?

7 A I'm currently employed at the Postal Service,
8 specifically the Clemson office.

9 Q At some point were you employed at the Post Office in
10 Greer?

11 A Yes. I was over at that office for an interim post
12 master to be hired here recently.

13 Q And you are a post master?

14 A Yes.

15 Q And what does that mean? What does a post master do?

16 A We receive and deliver mail, all operations of our
17 office that are assigned; delivery, selling stamps.

18 Q So you're familiar with the policies of the postal
19 service and transit times and things of that nature?

20 A Yes.

21 Q Let me show you State's 44. Would you pick that up for
22 me?

23 A Okay.

24 Q What is that? It's a pistol, right?

25 A Yes.

GARLAND BLUE: DIRECT EXAMINATION

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1 Q Now, do pistols get shipped through the mail?

2 A Yes, they do. They do.

3 Q And are there certain guidelines you guys use whenever
4 pistols are being shipped?

5 A Yes. The guidelines are that they're shipped priority
6 mail or overnight, express mail.

7 Q Priority mail. And you all have weight restrictions as
8 far as what determines whether it could be priority mail?

9 A Yes. Basically once something is 16 ounces or higher
10 the first class mail option goes away and it's going to be
11 priority or express.

12 Q Is that 16 ounces or more?

13 A Yes.

14 Q I want to ask you -- I've asked you to look into
15 transit times in this case, haven't I?

16 A Yes.

17 Q If I were to tell you that a -- or I have told you that
18 that pistol was received by Hi-Point Firearms in Mansfield,
19 Ohio on August 23rd --

20 A Correct.

21 Q -- it being a pistol and it weighing over 16 ounces,
22 you're telling me it would have to be priority postage?

23 A Yes, sir.

24 Q Mash that button right there. That would be the laser.
25 I say to you that it was received in Mansfield on the 23rd.

GARLAND BLUE: DIRECT EXAMINATION

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1 A Uh-huh.

2 Q Tell me if it was shipped by U.S. mail when would it --
3 when would it have been, I guess, taken out of upstate South
4 Carolina?

5 A If it was shipped on the 23rd, it was shipped express
6 in our overnight service. That would have gone as late as
7 the 22nd.

8 Q It could have been shipped on the 22nd if it was
9 overnight. What if it was just standard priority mail?

10 A If it was priority mail it would have been either the
11 21st or the 20th.

12 THE COURT: Could you give me those dates again,
13 please.

14 THE WITNESS: Yes, sir. The 21st or the 20th for
15 priority mail. The 22nd for express mail.

16 Q Priority shipped on the 21st or 20th, right?

17 A 20th or 21st, yes.

18 Q Or 21st. If overnight it would have been shipped on
19 the 22nd. Those are the only two choices for that weight
20 class and then the fact that it's a firearm; is that right?

21 A Correct.

22 MR. SCOTT: Thank you. Answer any questions Mr. Able
23 has, please.

24 MR. ABLE: No questions, Your Honor.

25 THE COURT: Thank you for your testimony, sir. You can

ANTONIO BAILEY: DIRECT EXAMINATION

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1 step down and you are free to leave or you are welcome to
2 remain with us.

3 THE WITNESS: Thank you, sir.

4 (Whereupon, the witness stepped down from the witness
5 stand.)

6 MR. SCOTT: The State calls Antonio Bailey.

7 ANTONIO BAILEY, having first been
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. SCOTT:

11 Q Mr. Bailey, you work with the Greenville County
12 Sheriff's Department?

13 A Yes, sir.

14 Q And you were involved in this case, the disappearance
15 of Myranda Southern out of Greenville County?

16 A Yes.

17 Q And at what point did you become involved in the case?

18 A On August 22nd.

19 Q August 22nd?

20 A Yes, sir.

21 Q Now, let me backtrack, because -- on the poster board.
22 What did you learn on the 22nd, and how did you become
23 involved with the case, I guess, on the 22nd?

24 A When I was notified -- I work for the homicide unit in
25 Greenville County. We were currently investigating a

ANTONIO BAILEY: DIRECT EXAMINATION

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1 missing persons report, or missing persons case. I was
2 informed by one of the missing persons -- one of the missing
3 persons investigators that they had a witness that was
4 coming in that knew -- or that used our victim's credit
5 card. So I was asked to sit in on that interview, which I
6 did.

7 Q Looking at State's 26. At that point were you made
8 aware of this?

9 A Yes, sir.

10 Q And then were you made aware that at that transaction
11 this individual had done two balance inquiries and then
12 withdrew \$500?

13 A That's correct.

14 Q Tell me what else you were made aware of at that time?

15 A During the interview with Mr. Raines he indicated that
16 he had met our victim approximately two weeks prior. He
17 said he met her on a dating website called Plentyoffish.
18 That he -- they communicated back and forth via text up
19 until, I believe, the week of the -- I believe on the 6th.
20 The 6th was the first time, I believe, they met. And the
21 7th is the actual time they actually got together.

22 Q They met -- now, you say met on Plentyoffish on the
23 6th?

24 A No, sir. They actually -- they physically -- they
25 actually met, I believe.

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Q Let me show you State's No. 1. See if this refreshes
2 your memory as to when they met.

3 A August the 13th.

4 Q So they meet online on the 6th and then one week later
5 they meet in person?

6 A That's correct.

7 Q Tell me -- tell me what else.

8 A He indicated that after they met on the 13th -- after
9 they met on the 13th he actually went to her house, I

10 believe, on the 14th. He said they had had sex. After that
11 he talked about -- he, being Mr. Raines, talked about our
12 victim getting into an argument with her husband in the
13 parking lot and busting up her phone. He told us about
14 actually going -- he told me about going to the bank on the
15 morning of the 18th. He indicated that she had spoken with
16 him previously and asked him to withdraw some money out of
17 the bank.

18 Q I don't mean to interrupt. Sorry about that. But when
19 did he indicate that he had gotten the card from her?

20 A A couple of weeks prior. He may have even said a
21 couple of days prior.

22 Q Correct me if I'm wrong. Did he say it was the morning
23 of the 18th that he received the card?

24 A No, sir.

25 Q Review his statement if you will and just refresh your

ANTONIO BAILEY: DIRECT EXAMINATION

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1 memory.

2 MR. ABLE: Judge, I don't think the witness has
3 indicated he needs to have his memory refreshed. He's
4 answering the questions and he hasn't indicated any
5 necessity of reading the statement.

6 THE COURT: Solicitor, ask this witness does he need to
7 review the statement.

8 Q Do you need to review the statement to see when he told
9 --

10 A Yes, sir.

11 Q If I ask you a question you don't know the answer, just
12 ask to review any kind of records you need.

13 A Solicitor, could you repeat your question, please.

14 Q At the interview on the 22nd is that the first time he
15 was interviewed?

16 A Yes, sir.

17 Q Surely you talked to him about having knowledge of him
18 using the ATM card?

19 A Yes, sir.

20 Q Did he have an explanation for that?

21 A He did.

22 Q What did he tell you?

23 A He indicated that he spoke with -- he spoke with our
24 victim and she asked him to withdraw some money out of the
25 bank for her -- for him, rather, because he had to pay a car

ANTONIO BAILEY: DIRECT EXAMINATION

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1 payment. He had to make a car payment.

2 Q Do you recall -- and if you don't recall, don't answer.

3 But do you recall when he said Ms. Southern transferred the
4 card to him?

5 A A couple days, I believe. But he made it -- he made it
6 clear to us that it was not on the 18th.

7 Q And, Mr. Bailey, I just want to -- do you know when --
8 do you know when Ms. Southern went missing?

9 A I believe it was on the 5th, I believe.

10 Q 5th?

11 A Hold on. I want to make sure. The 18th. The night of
12 the 18th.

13 Q Then we've got this right here showing him using the
14 ATM card at 3:30 in the morning?

15 A Yes, sir.

16 Q And then on the 22nd you interviewed him?

17 A That's correct.

18 Q He indicated sometime prior to this that she gave him
19 the card but you don't remember when?

20 A Yes, sir.

21 Q As a result of that interview did you retrieve his
22 phone?

23 A We did.

24 Q And what was the purpose of that?

25 A A cell phone, either knowingly or unknowingly obtains

ANTONIO BAILEY: DIRECT EXAMINATION

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1 -- well, stores a whole lot of data, whether we know it or
2 don't. So at the time when we brought him in, based on the
3 information I had, he was probably one of the few people --
4 one of the last persons that had spoken to Ms. Southern. So
5 I just wanted to see how much information was on his phone.

6 Q Did he voluntarily hand over his phone?

7 A He did.

8 Q At that time did you all perform, I guess, through Jim
9 Perry, a phone extraction?

10 A We did.

11 Q And were you made aware of the results?

12 A I was.

13 Q And do you recall when Ms. Southern was scheduled to
14 get off work on the 18th?

15 A Yes, sir.

16 Q What time was that?

17 MR. ABLE: Foundation needs to be laid, Your Honor.

18 THE COURT: Would you list a foundation, Solicitor?

19 Q Through your investigation, you had to learn a lot of
20 things to get up to speed in searching for this missing
21 woman. Is that fair to say?

22 A Yes, sir.

23 Q And you had to speak with a lot of people, right?

24 A That's correct.

25 Q Some of those were her supervisors at work, correct?

ANTONIO BAILEY: DIRECT EXAMINATION

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1 A That's correct.

2 Q And multitudes of other information that you can't
3 possibly really cover in the time it's going to take you to
4 testify; is that correct?

5 A That's correct.

6 Q It's part of an investigation. You've got to gather
7 information as much as possible; is that right?

8 A That's right.

9 Q So in doing so, you had to ascertain how long people
10 can account for Ms. Southern on the night of the 18th,
11 right?

12 A Yes, sir.

13 Q In doing so you had to talk with coworkers, you had to
14 review surveillance, you had to talk with the supervisors.
15 How long can we account for her on the 18th?

16 A How long, sir?

17 Q Until what point on the 18th can you account for Ms.
18 Myranda Southern?

19 A Midnight.

20 Q Midnight on the 18th?

21 A Yes, sir.

22 Q Did you review the phone extraction?

23 A I did.

24 Q And did you review her phone calls and did you review
25 Mr. Raines' phone calls around that time period?

ANTONIO BAILEY: DIRECT EXAMINATION

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1 A I did.

2 Q And what did you determine as far as phone calls
3 between Mr. Raines and Ms. Southern around that midnight
4 time period of the 18th going into the 19th?

5 MR. ABLE: Judge, I'm going to object to this question.
6 The phone extraction that he's referring to was done by Mr.
7 Perry. Mr. Perry has testified. I understand that. But
8 it's his report. All his words would be -- he's essentially
9 reading the report of Mr. Perry that was introduced -- or it
10 should have been introduced with Mr. Perry. So I would
11 object to this witness basically entering a report and just
12 reading on it. That's what he's doing.

13 MR. SCOTT: It has been introduced, Your Honor. I put
14 the entire -- the entire report is encapsulated in State's
15 --

16 THE COURT: I thought it had been, too.

17 MR. SCOTT: State's No. 30 is the entire phone dump,
18 Your Honor.

19 MR. ABLE: I stand -- I was mistaken, Your Honor. I'm
20 sorry.

21 THE COURT: Okay. That's fine. Not a problem.

22 MR. ABLE: I thought it had just been marked.

23 THE COURT: Yeah, 30 is the -- well, 30 is the CD of
24 the cell phone extraction. The summary I still have marked
25 as for identification.

ANTONIO BAILEY: DIRECT EXAMINATION

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1 MR. SCOTT: That's correct. Yes, sir.

2 MR. ABLE: Okay, that's fine. Is he -- which one is he
3 reading from? Is he reading -

4 THE COURT: Well, I don't know.

5 Q The way to read the disk is -- it's thousands of pages
6 long. So what I'm asking, did you review the results of the
7 phone extraction?

8 A I did.

9 Q And were you able to, I guess, view phone activity
10 between Mr. Raines and Ms. Southern around midnight on the
11 18th leading into the 19th?

12 A Yes, sir.

13 THE COURT: Let me ask. Do you still have an objection
14 or is that withdrawn, Mr. Able? You're still standing, so
15 that's why I wanted to go ahead and ask.

16 MR. ABLE: Judge, I think if -- I need to know what
17 he's referring to. Whether he's referring to he viewed the
18 actual report that's, you know, so voluminous, or if he just
19 referred to the synopsis that hasn't been introduced yet.

20 THE COURT: Can you ask him -- or do you know what he
21 is referring to?

22 Q Mr. Perry did a phone extraction. Is that your
23 recollection?

24 A Yes, sir.

25 Q And he hooked it up to a Cellebrite machine. Is that

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1 -- is that how they do it?

2 A Yes, sir.

3 Q And then there was a -- an enormous report that was
4 generated; is that correct?

5 A That's correct.

6 Q And were you able to review the substance, the contents
7 of Mr. Raines' cell phone at the time?

8 A Yes, sir.

9 Q I ask you again, were you able to look at phone calls
10 between Mr. Raines' phone and Ms. Southern's phone the night
11 of the 18th leading into the 19th around the time she would
12 have gotten off work?

13 A Yes, sir.

14 MR. ABLE: From what's been referred as a phone dump,
15 many, many pages. I'm asking if that's what you're
16 referring to.

17 THE COURT: I guess what you're asking is he referring
18 to Exhibit 30, 31, 32, 33. Is that what you're --

19 MR. ABLE: No, sir. I'm saying is the information he's
20 getting ready to provide us from -- yeah, State's Exhibit
21 30. If that's what he reviewed, or if he reviewed the items
22 that had not yet been introduced into evidence.

23 THE COURT: Well, I don't know.

24 MR. ABLE: That's my objection, Your Honor, is I don't
25 know what he's referring to as far as the documents that

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1 he's looked at to tell us -- or to testify from.

2 MR. SCOTT: I thought he answered that. But he hooked
3 it up to the Cellebrite machine.

4 Q Is that right, Mr. Bailey?

5 A That's correct.

6 Q And then it generated a vast report of all the contents
7 of Mr. Raines' phone; isn't that right?

8 A 106 pages.

9 Q Were you able to go through those pages of information?

10 A Yes, sir.

11 Q Were you able to see what Mr. Raines was up to as far
12 as phone calls in the early morning hours of the 19th?

13 A Yes, sir.

14 MR. ABLE: That answer is..

15 THE COURT: All right.

16 Q As far as you can tell, who was the last person who had
17 contact with Myranda Southern after she left work?

18 A Mr. Raines.

19 Q And were you able to review text messages between the
20 two of them leading up to her getting off work?

21 A Yes, sir.

22 Q And who was the last person to text with her as she was
23 getting off work?

24 A Mr. Raines.

25 Q Did you respond to Bramlett Church Road on the 23rd

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1 when Ms. Southern's body was found?

2 A I did.

3 Q And did you observe the magazine they found out in the
4 field?

5 A I did not physically observe it. I heard that they had
6 collected it.

7 Q What did you do while you were out there?

8 A When I arrived I met -- I met with several of the
9 Laurens County investigators. They basically indicated that
10 -- they were asking me about a missing person from
11 Greenville. They wanted to inquire as to whether or not the
12 person that they just found in the field could be the
13 missing person from Greenville.. So they were asking me
14 about clothing description, if I knew -- if I knew the last
15 -- what the last thing she was wearing, things of that
16 nature, which I -- which I provided to them. There was a --
17 do you want me to tell what I saw?

18 Q Yeah, I think -- I don't know what you're going to say,
19 but, yeah, go ahead. What did you see?

20 A Well, when I got -- when I got there there was a -- it
21 was actually in the middle of a field and the field had been
22 freshly cut with the exception of an area of uncut grass
23 probably about waste high. Waist high cut grass. And
24 within that -- within that patch of weeds I found -- or I
25 observed a body, badly decomposed, extensive insect

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1 activity. And I met with one of the homeowners in the area
2 that indicated that on Monday evening he was cutting -- he
3 was cutting that field.

4 MR. ABLE: Objection, hearsay.

5 THE COURT: Don't repeat what someone else told you.

6 Q Let me show you State's No. 10. Is that what you're
7 describing?

8 A Yes, sir.

9 Q Myranda Southern had been missing at this point one,
10 two, three -- about four days?

11 A That's correct.

12 Q And you may have had a hunch that was her, but you were
13 unable to identify her at that point; is that right?

14 A That's correct.

15 Q Were you involved in retrieving the toothbrush and the
16 hair brush from her home?

17 A Yes, sir.

18 Q Tell the jury -- I don't know if we really explained
19 that. But tell them why that would be important in trying
20 to -- trying to identify somebody who you were unable to
21 ascertain who they were at that point.

22 A One of the first things that we did on the scene was we
23 tried to get -- we tried to obtain some fingerprints from
24 the body, which we did when we ran it through a system we
25 call IAFIS, which came back negative. So the other thing --

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1 the only thing that we had available to us was to possibly
2 match the individual through DNA. One of the ways that --
3 we needed something to extract that DNA from. So with her
4 being from Greenville, I responded back to her apartment,
5 met with the young lady who initially reported her missing
6 who gave me access to the apartment and I obtained her
7 toothbrush, and -- toothbrush and a hair comb, I believe it
8 was.

9 Q Let me show you. Is that what you're talking about,
10 State's 17? What is that?

11 A That's the hair brush.

12 Q State's 15?

13 A That's the toothbrush.

14 Q Did you get swaps off of them or did you just take the
15 whole hairbrush and toothbrush?

16 A I took the whole thing. I went in the house, put some
17 gloves on. Placed both items in separate -- in separate
18 brown paper bags, and then delivered it to the Laurens
19 County investigator.

20 Q So you would have taken them to Ben Blackmon or Keith
21 McIntosh?

22 A Yes, sir.

23 Q Do you remember when they found her car?

24 A I believe they found her car on the night of the 23rd.

25 Q Were you there whenever they were processing the car?

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1 A No, sir.

2 Q Do you have knowledge of DNA swabs being taken?

3 A It's standard. It's listed in the search warrant that
4 was prepared there were some swabs taken and there was some
5 DNA swabs collected.

6 Q At some point -- I don't want to -- at some point did
7 the presence of her DNA in that car become less important in
8 your mind?

9 A Yes, sir.

10 Q And I know that's an odd thing to say, but explain to
11 the jury why suddenly the presence of her DNA in the truck
12 wouldn't be as important as in other cases?

13 A During the interview -- or during the initial interview
14 when I spoke with Mr. Raines he indicated that our victim
15 had been in the pickup truck. It's no different than we're
16 all sitting in these chairs in this room. It may -- I can
17 test that chair. That chair may -- I may can get your DNA
18 from that chair but it won't necessarily tell me how long it
19 had been in that chair. It will just indicate that you sat
20 in that chair. So with her -- with us having the
21 information that she was already -- that she was in the
22 truck, it wouldn't have served any purpose.

23 Q So he admitted to riding her around in that truck on
24 prior occasions. So if you find DNA on the passenger seat,
25 well, he says, I told you she had been riding with me.

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- 1 A That's correct.
- 2 Q Getting back to the phone extraction. That became an
- 3 important aspect of your investigation at some point, didn't
- 4 it?
- 5 A Yes, it did.
- 6 Q Did you -- what did you find on his phone as far as
- 7 Lisa Hamlett?
- 8 A Several searches that were made.
- 9 Q Did you -- did you speak with Lisa Hamlett at some
- 10 point?
- 11 A I did.
- 12 Q And I guess you found out about the Face book posts
- 13 supposedly from Myranda Southern?
- 14 A Yes, sir.
- 15 Q And what did you find on his phone about Jason
- 16 Gillespie who was her boyfriend at the time?
- 17 A Also searches.
- 18 Q Searches for Jason Gillespie on his phone?
- 19 A Yes, sir.
- 20 Q This is something. I don't know if you explained this.
- 21 But did you find Myranda Southern's phone number saved in
- 22 Darrell Raines' phone?
- 23 A We did.
- 24 Q And was it saved under Myranda Southern?
- 25 A No, sir.

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1 Q What was it saved under?

2 A Jessica.

3 Q Jessica?

4 A Yes, sir.

5 Q Do you have any information about that being a known
6 nickname for Myranda Southern?

7 A No, sir.

8 Q Did Mr. Raines provide any explanation as to why he had
9 her name saved as Jessica in his phone?

10 A No, sir.

11 Q Did you find any information in his phone about
12 firearms that you recall?

13 A Not that I can recall.

14 Q The .380, the pistol that he had, how were you involved
15 in obtaining the pistol? The .380 he had shipped to
16 Hi-Point?

17 A Once we found out about -- once I found out about the
18 pistol possibly being shipped I contacted FedEx and found
19 out the tracking number on the weapon. They gave me a --
20 they gave me a tracking number along with a possible
21 delivery date. Once I got that information I went to the
22 magistrate and obtained a search warrant to intercept the
23 package when it was delivered, which that's what we did.

24 Q were you there on September 3rd when it was
25 intercepted?

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- 1 A Yes, sir.
- 2 Q Did you interview Shawn Southern?
- 3 A I did.
- 4 Q Did he provide an alibi for you?
- 5 A He did.
- 6 Q Did you ever consider him a suspect in this case?
- 7 A Initially.
- 8 Q And when was that ruled out?
- 9 A As more information came in about -- it kept pointing
10 me toward Mr. Raines. And after -- after I spoke with him
11 and checked his alibi for that night.
- 12 Q I want to show you State's No. 31. Have you seen that
13 document before?
- 14 A I have.
- 15 Q And have you -- you said you reviewed the phone
16 extraction found in State's 30. Is that a true and accurate
17 synopsis of text messages found in the phone extraction of
18 Darrell Raines?
- 19 A Yes, sir.
- 20 Q And does it accurately reflect the times they were sent
21 and the order they were sent in?
- 22 A Yes, sir.
- 23 Q Does it further and accurately reflect the text
24 messages that had been deleted by Mr. Raines prior to the
25 phone extraction?

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1 A Yes, sir.

2 MR. SCOTT: Your Honor, I do want to publish this now,
3 and at this time State would offer State's 31 for admission.
4 The foundation being laid through Jeff Perry and then
5 further identified by --

6 THE COURT: 31 is offered into evidence. Do you need
7 to look at something? Do you need to see something?

8 MR. ABLE: I do. Without objection.

9 THE COURT: All right. Without objection, 31 into
10 evidence on behalf of the State.

11 (Whereupon, State's Exhibit 31 was admitted into
12 evidence.)

13 MR. SCOTT: Your Honor, it is a -- just a different
14 display and -- it's 32. It's just on the poster board. But
15 the State would offer 32 for admission as well. It's the
16 same thing.

17 MR. ABLE: No objection.

18 THE COURT: Without objection, 32 is in evidence on
19 behalf of the State.

20 (Whereupon, State's Exhibit No. 32 was admitted into
21 evidence.)

22 Q Now, what I want you to do, Mr. Bailey, I want you to
23 read it, and the way I want you to do it is to indicate when
24 you're reading a text from Darrell Raines -- this is going
25 to be a lot, but I want you to also indicate the time it was

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1 sent. Then I want you to indicate when Myranda Southern is
2 replying.

3 MR. SCOTT: Judge, beg the Court's indulgence for one
4 minute. I'm going to get Mr. Able a copy of this while we
5 go over it.

6 THE COURT: Okay.

7 Q You ready, Mr. Bailey?

8 A Yes, sir.

9 Q If we look at the top, the blue, that is a text from
10 Darrell and the day is August 16th. The time is 9:33.

11 Would you publish that for the jury?

12 A Darrell, "Thought. If he isn't there -- if he isn't
13 there tonight, he's home right now, and we went the message
14 tonight and she confronts him, I know how I'd react to
15 something like that and want to drive over immediately.
16 Think we should plant phase two either way."

17 Q All right. Stop for one minute. I want to show you
18 State's 52. Do you recognize that?

19 A Yes, sir.

20 Q What is it?

21 A It's a copy of a Face book post.

22 Q From who?

23 A It looks like it's from Myranda.

24 Q Is that the one to Lisa Hamlett that she told you
25 about?

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1 A Yes, sir.

2 Q And I know the lights are dim. Can you read when that
3 was posted?

4 A It looks like August 17th.

5 Q August 17th the Face book message from Myranda Southern
6 -- of Myranda Southern to Lisa Hamlett was posted on August
7 17th?

8 A Yes, sir.

9 Q And this is August 16th, this Face book message that
10 you're reading?

11 A Yes, sir.

12 Q You read Darrell's, and then -- now go ahead and read
13 Myranda's responses.

14 A "I know."

15 Q Keep going.

16 A Myranda -- indicate the time or just --

17 Q Just keep reading. I think the jury can read all the
18 times and everything. "I can't use my computer." Darrell,
19 "Huh." Myranda, "I can't use my computer here to plug in
20 the charger," and "Hmm, I need to think -- I need to think
21 about that." Darrell, "Only two more hours before you get
22 off." Darrell, "If your battery is low turn your data off
23 and it might save some battery." Myranda, "Yaw." Darrell,
24 "Settings. More in the networks, mobile networks, uncheck
25 data enable. Just turns off the Internet portion."

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1 Q All right. Stop right there. The far right column in
2 yellow. What does that indicate?

3 A That indicates that those texts that I'm reading have
4 been deleted.

5 Q At some point before he turned his phone over to you he
6 had deleted these texts?

7 A Yes, sir.

8 Q Now, August 16th, Miranda, at 9:42 p.m. Continue
9 reading.

10 A Miranda, "Are you anxiously awaiting me to get off,
11 lol." Darrell, "Yes, lol." Miranda, "Lol." Miranda, "I
12 will be -- I will when I get a sec." Darrell, "Will what
13 LMAO." Miranda, "The thing about my battery." Darrell,
14 "Oh, lol." Miranda, "Lol." Darrell, "P". Miranda, "I
15 can't even find settings IMAO." Miranda, I don't have my
16 key, hmm." Miranda. "I turned off my wifi."

17 Q Wait a minute. So after he gives the instruction on
18 the phone she turns off her wifi on her phone is what you're
19 saying?

20 A Yes, sir.

21 Q And these are all deleted, right?

22 A That's correct.

23 Q Continue on this 10:02 p.m. post on August 16th.

24 A Darrell, "Lol. So got to teach you how to use that
25 thing. Want me to run by and walk her." Miranda, "If you

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- 1 really wouldn't mind. Then remind me to look for that key."
2 Darrell, "Headed there now." Miranda, "Thank you."
3 Darrell, "Np." Darrell, "Cable doesn't work." Miranda,
4 "Yes. It just needs a signal sent to that box." Miranda,
5 "Hang on." Darrell, "No rush. It just shows reference code
6 S0900." Miranda, "I know. Hang tight." Darrell,
7 "Uh-huh." Miranda, "It would be funny except I just
8 realized it and it is completely true, but also kind of
9 funny now that I don't have to worry about it." Darrell;
10 "What's there to worry about. It's a TV." Miranda, "I
11 meant Shawn would be yelling and losing his temper with me
12 and now I don't have to worry about it." Miranda, "And I
13 need a contact picture for you and more than half my phone.
14 I thought that it would somehow download from FB for some
15 people." Darrell, "Face book doesn't do that on Android."
16 Darrell, "I'll have to wait until I have a decent signal."
17 Miranda, "Didn't use it -- didn't it used to." Darrell --
18 continue?
19 Q Yeah. So all of these are deleted still?
20 A Yes, sir.
21 Q Continue. If you could look up on August 17th at 5:50
22 a.m.
23 A Darrell calls Miranda.
24 Q 6:13 a.m.
25 A Darrell calls Miranda.

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1 Q August 17th, 2013 at 6:38 a.m. what is denoted at that
2 time?

3 A Myranda's Face book message to Lisa.

4 Q Again, does that correspond with the Face book message
5 sent on Myranda Southern to Lisa Hamlett that we heard
6 about, State's 52? If you look at the times, is that the
7 time that message was sent?

8 A Yes, sir.

9 Q August 17, 2014, later on that morning, you mentioned
10 some searches on there where he's searching for Lisa's Face
11 book and Jason Gillespie. Did you notice an entry at 10:42
12 where Darrell searches Lisa on Face book?

13 A I did.

14 Q Well, continue after that. What happens next?

15 A Darrell, Darrell calls Myranda. Myranda, Myranda calls
16 Darrell.

17 Q On the 17th Myranda calls him. 1:19 on the 17th

18 --

19 A Darrell calls Myranda.

20 Q I want you to read this for the jury. 2:56 on the
21 17th. After that Face book message that was sent to Lisa
22 Hamlett what does Myranda Southern say at 2:56?

23 A "You didn't tell me you messaged her back."

24 Q And then what did Darrell Raines do with that text
25 message?

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1 A Delete it.

2 Q What was his response?

3 A "Oh, sorry. Yeah, too much."

4 Q 2:57, directly after that text message exchange what
5 did Miranda do?

6 A Miranda calls Darrell.

7 Q Five minutes later what's Darrell -- what's Darrell
8 doing on Face book?

9 A Searching for Justin Gillespie on Face book.

10 Q Jason Gillespie?

11 A Yes, sir.

12 Q Do you know who Jason Gillespie is?

13 A Yes, sir.

14 Q Who is that?

15 A That's Lisa's boyfriend.

16 Q That was the boyfriend she was dating when this Face
17 book message was sent to Lisa Hamlett?

18 A Yes, sir.

19 Q Darrell is searching him on Face book. Fifteen minutes
20 later who is he searching on Face book?

21 A He's searching for Lisa on Face book.

22 Q Now, pick up at 3:36 p.m. on August 17th.

23 A Darrell, "Couldn't sleep. Oh, well. I'm okay by the

24 way." Miranda, "So what are you up to." Darrell, "Watching

25 Netflix." Miranda, "We have both had shitty days. Wish I

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1 didn't have to be here." Darrell, "True, and wish you
2 didn't either. On the plus side, there is doubt on either
3 side now. Who knows. Things can still go either way."

4 Q I want you to read August 17th at 4:00 p.m. Read that
5 text from Darrell to Myranda one more time, please.

6 A "True, and wish you didn't either. On the plus side,
7 there is doubt on either side. Who knows. Things can still
8 go either way."

9 Q You're reading an "either" in there I just don't see.
10 I'm reading, "On the plus side there's doubt and her side
11 now?. Is that what you're reading?"

12 A You're reading at 8/17/2013 at 4:00 p.m.?

13 Q Yes, sir.

14 A "True, and wish you didn't either. On the plus side,
15 there is doubt on either -- there is doubt -- there is doubt
16 on her side now. Who knows. Things can still go either
17 way."

18 Q Now, that's the same day this message was sent to Lisa
19 Hamlett from Myranda Southern?

20 A Yes, sir.

21 Q Continue.

22 A Myranda, "True." Myranda, "Just don't drive by there
23 today."

24 Q All right. Wait a minute. Wait a minute. August 17th
25 at 4:00 what does Myranda say to him?

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1 A "True."

2 Q Then what?

3 A "Just don't drive by there today."

4 Q Just don't drive by there today. And what did he do
5 with that message?

6 A Deleted it.

7 Q Keep going, please.

8 A Darrell, "Wasn't planning on it. Even if I did it
9 wouldn't be in my truck, LOK." Myranda, "Lol. What would

10 you be in." Darrell, "Left the house and came to the gun

11 show. Not that I can really afford any of these even as

12 cheap as they are, but still." Myranda, "I didn't know

13 there was a gun show, and are they really cheaper at a

14 sale." Myranda," Myranda, "The weather fits my mood."

15 Darrell, "Oh, yes. And big convention for sellers."

16 Myranda, "Where." Darrell, "On Pleasantburg at TV

17 Convention Center." Darrell, "They have bulletproof

18 backpacks." Myranda, "I never saw it went I was over there

19 today." Myranda, "What, seriously, backpacks." Darrell,

20 "Yep. And even popular kids' stuff like Mario Cart, lol."

21 Darrell, "If I had 200 extra right now I swear." Myranda,

22 "Lol. What would go to school with a bulletproof backpack."

23 Myranda, "I want to go shooting but I haven't shot a gun

24 since I was a kid."

25 Q Wait a minute. Wait one minute. I think you skipped

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1 one. I want you to look at August 17th at 4:21 p.m.

2 A "Lol. That, too. Found a nice one I would love."

3 Q Then Myranda at 4:25, what did she say?

4 A "I want to go shooting but I haven't shot a gun since I

5 was a kid." Darrell, "If I can -- if I can even afford one

6 I'll take you." Myranda, "Lol, thank you. And you will be

7 able to afford one soon." Darrell, "I wish, lol. They do

8 have stun guns, lol." Myranda, "LOK." Myranda, "Lol."

9 Myranda, "Just think positive thoughts." Darrell, "Nothing

10 but, lol." Myranda, "Yeah, me too, lol." Darrell, "Lol,

11 people keep playing with stun guns waiting for someone to

12 get stunned." Myranda, "Lol. You should be ready to record

13 and post in YouTube when they do." Darrell, "Who says I'm

14 not." Myranda, "I'm sorry, but what would be awesome -- I'm

15 sorry, but that would be awesome." Darrell, "So what's --

16 so what's up." Myranda, "I was just on the brink -- I was

17 just on break. No biggy." Myranda, "Just going to chat

18 you." Darrell, "Nothing much. Jenny and them are

19 practically begging me to go out tonight." Myranda, "Maybe

20 you would have fun." Darrell, "Maybe. I'm definitely

21 thinking about it." Myranda, "It may be just what you need.

22 If you needed a sober ride you know I'll give you."

23 Myranda, "Or not. I'm not trying to invade your space."

24 Darrell, "Lol, haven't decided yet." Myranda, "What. I

25 just don't want you to think I'm trying to monopolize your

1 time or something crazy." Darrell, "Lol. I know."
2 Myranda, "Well, just make sure you are still invited to that
3 hot shower though either way, lol." Darrell, "Hmm."
4 Myranda, "You don't have to choose. I may just like
5 driving, Darrell, LMFAO." Darrell, "LMAO driving."
6 Myranda, "K." Myranda, "Is it okay if I talk you on lunch."
7 Darrell, "Yeah, may be in shower. Then just -- then just
8 fair warning." Myranda, "Hmm, lol." Myranda, "I'm sorry.
9 I feel like maybe I'm being clingy to you. You would say
10 something to me if you felt like that, right." Myranda, "Or
11 maybe I'm just crazy and over anxious." Darrell, "Lol,
12 you're fine, and maybe crazy, but definitely exhausted."
13 Myranda, "Lol." Myranda, "I'm sorry." Darrell, "For."
14 Darrell, "Heading downtown." Myranda, "Have fun. I've got
15 a -- I've got a few monsters, lol." Darrell, "Lol."
16 Myranda, "Monsters." Darrell, "Save me." Darrell, "Lol."
17 Myranda, "Lol, already." Myranda, "Stop being a party
18 pooper." Darrell, "Lol." Myranda, "Are you having -- are
19 you having any fun." Darrell, "Not really. Mind stuck on
20 other things, even after two beers." Myranda, "It's still
21 early. Maybe it will be better or you have to at least stay
22 a polite amount of time." Myranda, "Right." Darrell,
23 "True. Dinner is finishing and they want to go to the bar.
24 They want slushies that are 180 proof." Myranda, "Wow,
25 they're serious. And remember, they don't know about your

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- 1 shitty day." Darrell, "Day isn't over -- Day isn't over
2 with yet." Miranda, "So maybe it won't turn out to be a
3 shitty day." Darrell, "10 to 1 it does." Miranda, "Huh.
4 Why is it you will not let me be in a crappy mood but you
5 are allowed." Darrell, "LMAO. There's a difference. A
6 crappy mood and the truth." Miranda, "There's no way to
7 know if you got the truth today, and yes it does suck -- it
8 does suck and you are allowed the rest of today, but then no
9 more." Miranda, "I understand how you feel, but you always
10 make me smile when I'm down and I just want you to smile."
11 Darrell, "P." Darrell, "Vodka slushy." Miranda, "Oh, boy.
12 Having a better time." Darrell, "Not cold anymore LMAO.
13 Still stuck on my mind." Miranda, "LMAO. I know. It
14 doesn't go away. But I'm glad you see more chipper and
15 aren't cold. You're a hot mess." Darrell, "No. I'm still
16 cold. Not enough vodka, lol. 180 proof Ever Clear in my
17 future." Miranda, "Wow, sounds like quite the party."
18 Darrell, "Not really." Darrell, "Oh, well. Maybe one more
19 drink and that's it for me. The slushy sucks. The waitress
20 is cute though. Too bad she looks a lot like Lisa."
21 Q All right. Wait a minute. August 17th 10:10. Were
22 you familiar with Miranda Southern's work schedule and work
23 hours?
24 A Yes, sir.
25 Q And on the 17th where would she have been at around

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1 that time, 10:00 at night?

2 A At work.

3 Q So read one more time -- and this is -- Darrell is
4 texting Myranda about this?

5 A At 10:10 p.m.

6 Q What's he saying to her, Myranda?

7 A "Oh, well. Maybe one more drink and that's it for me.
8 The slushies suck. Waitress is cute though. Too bad she
9 looks a lot like Lisa."

10 Q Lisa. And then what's Myranda's response to all that?

11 A "Geez." Myranda, "I could possibly get out at 11:00 if
12 you need/want company." Darrell, "I don't know." Myranda,
13 "Maybe you need some alone time." Myranda, "Try a different
14 type of slushy." Darrell, "The slushies are \$750 each --
15 7.50 -- 7.50 each, lol." Myranda, "Lol, grab a beer."
16 Myranda, "Any improvements." Darrell, "I'm feeling like --
17 I'm feeling the Clemson orange Ever Clear slushy. It tastes
18 like crap but oh well." Myranda, "enjoy. Do you dance."
19 Darrell, "Hmm, not -- not even Ever Clear. And no, I don't
20 dance." Myranda, "Are you enjoying yourself at all."
21 Darrell, "Not really. It's what we discussed before. All I
22 am doing is thinking of why I am married to begin with."
23 Sure, the alcohol is kicking in, but it's not taking my mind
24 off of thing which I knew it wouldn't." Myranda, "Of course
25 it won't. I wish I could say something to help. I know how

ANTONIO BAILEY: DIRECT EXAMINATION

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1 you're feeling." Darrell, "It's okay. I just need time to
2 adjust and heal a bit." Myranda, "True, but you always
3 helped me feel at least a little better." Darrell, "Hmm."
4 Myranda, "That's a fake smile." Darrell, "Maybe. Liquor
5 and I typically do not get along." Myranda, "Well, it
6 sounds like your night might get interesting." Darrell,
7 "Maybe, who knows." Myranda, "Only you know D." Darrell,
8 "We will see." Myranda, "I can't tell if you're being
9 sarcastic." Darrell, "I'm not sure myself. Like I said,
10 liquor and I don't get along." Myranda, "Would you prefer
11 to just stop texting." Darrell, "No, it's fine. It's good
12 to talk to someone who isn't trying to make me happy and
13 avoid the subjects." Myranda, "I don't see the point in
14 that, acting like you're not upset when you have the right
15 to be is silly. I have to work through it." Darrell,
16 "Yep." Myranda, "You figure it out for yourself in your own
17 way and time, and if you need someone to listen or talk to
18 you know how to find me -- you know how to find me."
19 Darrell, "Hmm." Myranda, "Bella has been at Laurie's and
20 Ms. J House since my lunch and he had some -- and he had
21 some company." Myranda, "Be safe." Darrell, "I will. You
22 too." Myranda, "I will." Darrell, "You better." Myranda,
23 "Or what." Darrell, "I won't spank you, lol." Myranda,
24 "Lol, that's not -- that's not nice. And remember, I can
25 start using my talent, too." Darrell, "True." Myranda,

- 1 "But it's doubtful I would." Darrell, "Lol." Myranda,
2 "Because I'm a cheap whore, remember, lol." Darrell, "True.
3 True that, lol." Myranda, "Lol, you are an ass." Darrell,
4 "Lol, P." Darrell, "Two Bud Lites followed by a vodka slush
5 and then a 180 proof Ever Clear slushy equals what the fuck
6 was I thinking." Myranda, "Unless you plan on using that
7 tongue, keep it in your mouth." Myranda, "Oh, shit."
8 Myranda, "Can you drive." Darrell, "Yes." Darrell, "You
9 still at work." Myranda, "Leaving now." Darrell, "Care to
10 drive by." Myranda, "Where." Darrell, "Her house. Just
11 curious if there was any impact."
12 Q Wait a minute. Read that one more time.
13 A "Her house. Just curious if there was any impact."
14 Q 12:04 on the 18th he says, care to drive by, question
15 mark, and she says where and he says her house, just curious
16 if there was an impact?
17 A That's correct.
18 Q And what did he do with those messages?
19 A He deleted it.
20 Q Now, August 18th, that's at 12:05 a.m.?
21 A Yes, sir.
22 Q So that's the 17th going into the 18th?
23 A Yes.
24 Q And the 18th is going to be that Sunday morning.
25 Continue.

ANTONIO BAILEY: DIRECT EXAMINATION

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- 1 A Myranda, "Where are you." Myranda, Myranda calls
2 Darrell. The call lasts one hour, six minutes, 54 seconds.
3 Myranda, "Hi." Darrell, "Hey." Darrell, "Just woke up,
4 lol." Darrell, "And it's 1:11."
5 Q Now, that's 1:11 p.m.?
6 A 1:11 p.m.
7 Q So this is the afternoon of August 18th, that Sunday?
8 A That's correct. Myranda, "Lol. I figured you were
9 asleep and TD time is weird -- TGE time is weird." Darrell,
10 "Lol." Darrell, "Hoping in shower." Myranda, "Me too,
11 lol." Darrell, "It made an impact. She has posted more on
12 Face book in the last few hours than all week."
13 Q Stop one minute. August 18th about 2:00 p.m. So the
14 afternoon of the 18th he's posting that, and then the 17th
15 would have been the Face book messages that Lisa Hamlett
16 received from Myranda Southern?
17 A Yes, sir.
18 Q Read one more time on the 18th at 2:00 -- 1:59 p.m.
19 what he text to Myranda.
20 A "It made an impact. She has posted more on Face book
21 in the last few hours than all week." Myranda, "Hmm."
22 Q You skipped one, Antonio.
23 A The last I have on this page is Myranda at 2:00 p.m.
24 Q Okay, I'm sorry. Go ahead.
25 A Darrell, "Thoughts." Myranda, "What has she posted."

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Darrell, "Nothing relationship-wise but has liked a ton of
2 stuff today and is commenting a fair amount on her stuff and
3 others. Stuff she hasn't done in a while." Myranda,
4 "Trying to take her mind off things maybe." Darrell,
5 "Maybe." Myranda, "Maybe debating messaging me." Darrell,
6 "Good question." Myranda, "Lol." Myranda, "Bored at work."
7 Darrell, "Lol, it'll be over soon." Myranda, "Are you
8 having fun." Darrell, "Yes, we are." Darrell, "Headed home
9 shortly and then going to take a long nap. Will you call

10 and wake me up around 11:00." Myranda, "Sure, not a
11 problem." Myranda, "I want a nap. I'm jealous." Darrell,
12 "Awesome. You get off at 12:00, right." Myranda, "Yes,
13 12:00." Darrell, "Good." Myranda, "Will I be seeing you,
14 sir." Darrell, "Who knows, lol."

15 Q 6:48 p.m. on the 18th she would have been at Charter on
16 duty at that time?

17 A That's correct.

18 Q And she asked will I be -- she said she gets off at
19 12:00 and asked will I be seeing you, sir. And then his
20 response is what?

21 A "Who knows, lol." Myranda, "Lol." Myranda, "No
22 pressure. Just thought you seemed glad that I got out at
23 12:00, lol." Darrell, "Lol." Myranda, "This night is
24 moving slow. I don't think my lunch will ever get here."
25 Myranda, "Are you driving out past my job this evening."

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Darrell, "I don't plan on passing your work tonight. Why?"

2 Myranda, "Lol, because you -- because you COMFD what time I

3 got off and I'm waking you up at 11:00. I was curious."

4 Myranda, "And I can't wait to --" it says, "Get off this

5 phone. It doesn't send notification to my iPhone."

6 Darrell, "Lol, I'll get -- I'll get it fixed for you."

7 Myranda, "Thank you, lol." Myranda, "Finally lunch hour."

8 Darrell, "Wow, lol."

9 Q Let me ask you this. 7:00 -- her weird hours. 7:00,
10 is that what she considered her lunch hour, I guess?

11 A Yes, sir.

12 Q And you were able to review bank records you talked
13 about earlier?

14 A I did.

15 Q Are you aware of her using her bank card at
16 approximately 8:00 during that lunch break?

17 A Yes, sir.

18 Q You reviewed some of that videos and stuff we watched
19 in here?

20 A I did.

21 Q So you got her using her bank card around 8:00 during
22 this lunch break?

23 A Yes, sir.

24 Q Again, this is August 18th and -- August 18th. I just
25 want to keep the timeline in order. That's the night she

1 goes missing, or into the early morning hours of the 19t; is
2 that right?

3 A That's correct.

4 Q Still at work here -- or on break rather. What happens
5 at 8:00? 8:02, sorry.

6 A Darrell calls Myranda. The call lasts two minutes and
7 26 seconds. Myranda, Myranda calls Darrel. The call lasts
8 24 seconds. Darrell, "You off?" Myranda, "Hey you."
9 Myranda, "10 minutes." Darrell, "K." Myranda, Myranda

10 calls Darrell. The call lasts six minutes and 12 seconds.

11 Q All right. Wait a minute. 12:03 a.m. Now, it's August
12 19th by three minutes, right?

13 A That's correct.

14 Q Why is that time significant?

15 A Because she gets off at 12:00 midnight.

16 Q When's the last time anybody ever sees Myranda
17 Southern?

18 A 12:00 midnight.

19 Q And what's going on at 12:03 a.m.? What's going on?

20 A Myranda calls Darrell.

21 Q And we don't know what they talked about, do we?

22 A No, sir.

23 Q Never will, will we?

24 A No, sir.

25 Q What time did the neighbor over there off Bramlett

ANTONIO BAILEY: DIRECT EXAMINATION

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- 1 Church Road say she hears those gunshots?
- 2 A She just said the early morning. Early morning.
- 3 Q Was it between 1:00 and 1:30 a.m.?
- 4 A Yes, sir.
- 5 Q 2:56 a.m. what's going on?
- 6 A "Darrell, I can't sleep. You?" Miranda, "I'm still
- 7 with Shawn. He's being an ass. I'm not giving him what he
- 8 wants. I'll call you tomorrow." Darrell, "Okay. Just let
- 9 me know when you make it home. I'm headed to bed.
- 10 Goodnight." Miranda, "Okay, good night." Darrell, "Oh, I
- 11 forgot to run by the bank like you asked. I'm going to do
- 12 it real quick before I go to bed." Miranda, "That's fine,
- 13 and thank you so much for doing that. I'm headed home now."
- 14 Darrell, "You're welcome. What are friends for." Darrell,
- 15 "Be careful." Miranda, Miranda calls Darrell. The call
- 16 lasts 35 minutes, 22 seconds. Darrell, "Good morning."
- 17 Darrell, "Hey. Hey, you okay? All my calls are going to
- 18 voice mail and you haven't text back. Laurie and Ms. V. say
- 19 they haven't heard from you either. Call me. I'm worried."
- 20 Q 12:03 a.m. Miranda is calling Darrell. She's getting
- 21 off work. And then there's about a three hour gap. Is that
- 22 what you're reading?
- 23 A Yes, sir.
- 24 Q Did you ever find Miranda's phone?
- 25 A No, sir. Did not.

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Q Do you have any idea who was sending these texts from
2 Myranda's phone after she passed away?

3 MR. ABLE: Objection, speculative.

4 Q Do you have any knowledge who would be using that
5 phone?

6 A No knowledge but speculation.

7 Q I don't want you to speculate. But you don't have any
8 knowledge of who was using it though?

9 A No, sir.

10 Q But you did get his phone; is that right?

11 A Yes, sir.

12 Q Let me show you State's 41. How many phones did you
13 get from him?

14 A Just one.

15 Q Do you recognize that?

16 A Yes, sir.

17 Q State's 41. You retrieved that from Mr. Raines?

18 A Can I open it?

19 Q Yeah.

20 A Yes, sir.

21 MR. SCOTT: Your Honor, State offers 41 for admission
22 into evidence.

23 THE COURT: Solicitor, would you allow Mr. Able to take
24 a look at it. Any objection, Mr. Able?

25 MR. ABLE: It's offered as No. 41, Your Honor?

ANTONIO BAILEY: DIRECT EXAMINATION

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1 THE COURT: That's what --

2 Q Look at this State's No. 41 again. Do you recognize
3 that?

4 A Yes, sir.

5 Q And what is it?

6 A It's the phone we took from Mr. Raines.

7 Q And that's the phone that ultimately, I guess, you did
8 the phone dump with?

9 A Yes, sir.

10 THE COURT: Is that --

11 MR. ABLE: Without objection.

12 THE COURT: Without objection, 41 into evidence on
13 behalf of the State.

14 (Whereupon, State's Exhibit No. 41 was admitted into
15 evidence.

16 Q Do you know what the last time Darrell called Myranda's
17 phone was?

18 A Call or the last text?

19 Q Well, do you have any information on the last call?
20 And if you don't know -- I don't know if it's in that
21 summary. But do you have any knowledge of that last time he
22 called her?

23 A The last text was sent beginning at 11:50 p.m.

24 Q I didn't hear the time.

25 A 11:50 p.m.

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Q On what date?

2 A I have early morning hours. Sunday early morning
3 hours. That would be going into Monday morning.

4 Q Are you referring to this?

5 A 11:50. Ten minutes. That's what I have in my notes.

6 Q Well, I just -- I didn't understand that answer. What
7 was it?

8 A 12:00 midnight with the last text being sent at 11:50
9 p.m.

10 Q On what day?

11 A August 18th.

12 Q Now we're getting -- somehow getting sideways here.

13 What did you just read here? What's this? August 19, what
14 is this?

15 A Which one are you -- which one are you referring to?

16 Q My question is, do you have any other texts or phone
17 calls after that from him?

18 A No, sir.

19 Q Is this still a time when -- I guess the 19th, 20th,
20 21st, 22nd, that was when people were still unsure of Ms.
21 Southern's whereabouts; is that right?

22 A That's correct.

23 Q That was a summary of some text messaging. Let me show
24 you State's No. 33. Have you seen that document before?

25 A Yes, sir.

ANTONIO BAILEY: DIRECT EXAMINATION

562

1 Q What is that?

2 A It's a list of deleted phone calls.

3 Q Now, have you reviewed that and reconciled it with the
4 State's No. 30 which is the entire phone extraction and
5 found that to be a true and accurate representation of phone
6 calls he was making?

7 A Yes, sir.

8 MR. SCOTT: Your Honor, the State now would offer --
9 this is State's 33. The foundation was laid through Mr.
10 Perry and further identified through Mr. Bailey.

11 MR. ABLE: Without objection.

12 THE COURT: Without objection, 33 into evidence for the
13 State.

14 (Whereupon, State's Exhibit No. 33 was admitted into
15 evidence.)

16 MR. SCOTT: Your Honor, the State also offers No. 38
17 for admission into evidence.

18 THE COURT: 38?

19 MR. SCOTT: Yes, sir.

20 THE COURT: Is 38 and 33 the same?

21 MR. SCOTT: Yes, sir. It is the same.

22 THE COURT: Without objection. In evidence on behalf of
23 the State, 38.

24 Q Where was Ms. Southern's vehicle ultimately found?

25 A The Bi-Lo in Simpsonville.

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Q Highway 14?

2 A Yes, sir.

3 Q And do you recall when it was found?

4 A I believe it was Friday night.

5 Q Is that the Friday the 23rd?

6 A That's correct.

7 Q What I want you to do, and you've got a copy of it,
8 August 18th. Is that, I guess, the day and then the night
9 that Ms. Southern went missing?

10 A Yes, sir.

11 Q Going through this list I want you to talk about the
12 date, the time, and then who Mr. Raines is calling. Okay?

13 A What date? Call off date and times?

14 Q Well, yeah. There's only one entry for August 18th.
15 That's the first one. So August 18th on the top one. Who
16 is he calling at 3:59 p.m.?

17 A Hi-Point.

18 Q And what did he do with that phone call?

19 A Deleted it from his phone.

20 Q Now, on the 19, go with the times, and how is he
21 calling?

22 A 19th at 2:20, Hi-Point deleted from the phone. The
23 19th, 2:21 Hi-Point, deleted from the phone. The 19th, 2:59
24 p.m. to Hi-Point, deleted from his phone. 2:59 a call from
25 Hi-Point, deleted from his phone. August 19th at 3:03 p.m.,

ANTONIO BAILEY: DIRECT EXAMINATION

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1 a call made to Hi-Point, deleted from his phone. August
2 19th, 3:03 p.m., a call to Hi-Point deleted from his phone.
3 August 19th at 3:04, a call made to Hi-Point, deleted from
4 his phone. A call on the 19th, August 19th, 3:05 p.m., a
5 call made to Hi-Point also deleted from his phone. Another
6 call August 19th, 3:05 p.m., a call made to Hi-Point deleted
7 from his phone. August 19th, 3:16 p.m., a call made to
8 Hi-Point, deleted from his phone. A call on the 19th, made
9 at 3:17 to Hi-Point also deleted from his phone. A called
10 made on the 19th at 3:33 p.m. made to Hi-Point also deleted
11 from his phone. Another call August 19th at 3:33 p.m. made
12 to Hi-Point also deleted from his phone. August 19th, 3:34
13 p.m., a call made to Hi-Point deleted from his phone. A
14 call made August 19th, 3:34 p.m., made to Hi-Point, deleted
15 from his phone. August 19th, 3:34, call made to Hi-Point,
16 deleted from his phone. August 19th, 3:54 p.m., made to
17 Bi-Lo, call deleted from his phone. August 19th, 3:56, call
18 made to Bi-Lo, also deleted from his phone.

19 Q Now, wait just one minute. August 19th, that's a
20 significant date why? Isn't that the night that Ms.
21 Southern went missing and isn't that the night or early
22 morning where Ms. Yates heard the gunshots?

23 A Yes, sir.

24 Q And 3:54 and 3:56 on the 19th, that afternoon, later
25 that afternoon, this is after Ms. Southern fails to come

ANTONIO BAILEY: DIRECT EXAMINATION

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1 home, he's calling Bi-Lo out on Highway 14 where her car is
2 ultimately found?

3 A Yes, sir. In Simpsonville.

4 Q He's making that call on the 19th. You all didn't even
5 find her car until the 23rd; ain't that right?

6 A That's correct.

7 Q And he did what with those phone calls?

8 A He deleted it from his phone. August 19th, 4:21 p.m.,

9 a call made to Hi-Point, deleted from his phone. A call

10 made on the 19th at 4:21 p.m. made to Hi-Point deleted from

11 his phone. A call on the 19th at 4:22 p.m. made to Hi-Point

12 deleted from his phone. August 19th, 4:26 p.m., a call made

13 to Hi-Point, also deleted from his phone. A call on the

14 20th, August 20th at 1:37 p.m., a call made to Hi-Point.

15 It's also deleted from his phone. A call on the 20th at

16 1:37 p.m. A call made to Hi-Point, deleted from his phone.

17 August the 20th, 1:45, a call made to Hi-Point, deleted from

18 his phone. August 20th, 1:45 p.m., a call made to Hi-Point

19 which is deleted from his phone. August 20th, 3:20 p.m., a

20 call made to Hi-Point, deleted from his phone. August 20th,

21 3:21 p.m., a call made to Hi-Point, also deleted from his

22 phone. August 21st, at 9:21 a.m., a call made to Hi-Point.

23 It's also deleted from his phone.

24 Q This .380 that you all recovered in the intercept?

25 A This is a Hi-Point. It's a clip. A magazine.

ANTONIO BAILEY: DIRECT EXAMINATION

566

1 Q And it was found where?

2 A It was found at the scene of the -- where we found Ms.
3 Southern's body.

4 Q Phone calls to Bi-Lo on the 19th. You said those phone
5 calls to Hi-Point were the 18th, 19th, 20th, and one on the
6 21st?

7 A Yes, sir.

8 Q For a total of how many calls?

9 A I count 30.

10 Q And the key at the bottom, is that correct? It states
11 that there was 30 calls to Hi-Point, all of them deleted?

12 A All of them deleted.

13 Q And two calls to Bi-Lo?

14 A That's correct.

15 MR. SCOTT: Judge, also at this time I'm going to offer
16 our calendar, State's 39, for admission into evidence.

17 THE COURT: Okay. Mr. Able?

18 MR. ABLE: Judge, I'm going to object. I believe the
19 information contained within the exhibits have been
20 testified to. There's no purpose in it.

21 THE COURT: Is your argument that it's cumulative to
22 what is already been --

23 MR. ABLE: It's already been testified to. Yes, sir.

24 MR. SCOTT: Judge, what I've got here is a bunch of
25 stuff that's happened in a two, three week period. What

ANTONIO BAILEY: DIRECT EXAMINATION

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1 I've done is very meticulously built this calendar witness
2 by witness, and as they testified the dates I've put it on
3 here. This is nearly impossible for any person to remember
4 all these dates and why each one of these dates are
5 important. I believe this to be highly important for the
6 entire fact of this case and I think it's --

7 THE COURT: Let me just take that objection under
8 advisement at this point.

9 MR. SCOTT: Answer any questions Mr. Able has for you.

10 THE COURT: Let's take a 10 minute afternoon break
11 before we start cross-examination. Mr. Foreman, ladies and
12 gentlemen of the jury, let's take about a 10 minute break.
13 I advise you don't bring any discussions about this case.
14 I'll get you back out shortly.

15 (Whereupon, the jury exited the courtroom at 3:38 p.m.)

16 THE COURT: We'll be in recess about 10 minutes.

17 THE COURT: We're back on the record. Let me just make
18 my ruling concerning the calendar. That's basically
19 demonstrative. The evidence which routinely does not go
20 back to the jury room as evidence. Certainly, Solicitor
21 Scott, you can use that all you want to, which I know you
22 will when you make your closing. But it is demonstrative
23 evidence and would not be admissible as part of the record.
24 So I grant Mr. Able's objection or motion to exclude it.

25 All right. Mr. Bolt, if you'll bring the jury out,

ANTONIO BAILEY: DIRECT EXAMINATION

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1 please. And we are in cross-examination with -- okay.

2 You're sitting over in the corner there. If you want to
3 come on over, please, sir.

4 MR. SCOTT: Are we in direct or are we in
5 cross-examination, Your Honor?

6 THE COURT: I think we're ready for Mr. Able's cross.

7 MR. ABLE: The last thing you said was answer any
8 questions Mr. Able has.

9 THE COURT: Now, if there's something -- I don't have a
10 problem if there's something else that you want to cover?

11 MR. SCOTT: I would, Your Honor. Just basically based
12 on the ruling I would like to ask one more question.

13 (Whereupon, the jury entered the courtroom at 4:14
14 p.m.)

15 THE COURT: Solicitor, you indicated you had another
16 question for Officer Bailey.

17 Q I show you State's 39 and ask you to review it, please.
18 Take as much time as you need.

19 A Okay.

20 Q You were one of the lead investigators out of
21 Greenville County on this case, were you not?

22 A Yes.

23 Q And did you continue to work with Laurens County once
24 it became a homicide case?

25 A I did.

ANTONIO BAILEY: DIRECT EXAMINATION

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1 Q Have you reviewed all the dates that are listed there
2 and some of the events that happened on those dates in
3 August 2013?

4 A Yes, sir.

5 Q And were you privy to all those entries and all those
6 things that occurred on those dates?

7 A Yes.

8 Q And is it a true and accurate reflection of what you
9 investigation found out, and as far as you know what the
10 testimony of this trial has been, is it a fair and accurate
11 presentation of all those things?

12 A Yes.

13 MR. ABLE: Judge, I'm going to enter an objection at
14 this time. I don't have an accurate count right in front of
15 me. We've gone through 20 some odd witnesses in the last
16 few days. The question being did he personally view each of
17 these entries upon this board, and there's been no testimony
18 elicited from him other than did you witness all these.
19 There hasn't been any testimony as to each even and what he
20 saw. I would object to it.

21 Q To your knowledge, that is a fair and accurate
22 representation of August 2013, as far as your involvement?

23 A Yes, sir.

24 MR. SCOTT: Thank you.

25 THE COURT: Cross-examination, Mr. Able?

ANTONIO BAILEY: CROSS-EXAMINATION

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1 MR. ABLE: Yes, sir. Just briefly. Thank you, Judge.

2 CROSS-EXAMINATION

3 BY MR. ABLE:

4 Q Officer, you were at the initial interview of my
5 client, correct?

6 A Yes, sir.

7 Q And it was at that time he was informed he was the last
8 person to speak to Ms. Southern that night on the telephone?

9 A I'm not sure if he was told that particular day.

10 Q But he was at some time told that?

11 A Yes, sir.

12 Q Now, you had mentioned in direct examination that my
13 client had Ms. Southern listed on his phone as Jessica?

14 A Yes, sir.

15 Q And that he never offered any explanation as to why?

16 A No, sir.

17 Q No one ever asked him why, did they?

18 A I don't recall if I asked or not.

19 Q And these Exhibits Nos. 31 and 33, this being No. --
20 State's Exhibit 31, being the text messages that you read
21 and published for the jury and it shows a number of these
22 text messages -- text messages having been deleted. He
23 didn't just delete these particular messages? He deleted a
24 lot of messages according to the phone dump, correct?

25 A I knew that those messages that have been pointed out

ANTONIO BAILEY: CROSS-EXAMINATION

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1 were deleted. Now, whether or not there were some more, it
2 could very well be.

3 Q I thought you said you'd reviewed the entire document
4 of hundreds of pages of documents?

5 A 106 pages of it.

6 Q So you don't know whether or not he deleted any other
7 text messages?

8 A I'm sure he did.

9 Q And the same thing with State's Exhibit No. 33. You

10 have the phone calls to Hi-Point and the phone calls to
11 Bi-Lo. Again, the document that was produced as far as
12 what's been referred to the phone dump, a hundred page
13 document --

14 A Yes, sir.

15 Q -- there were other telephone calls on his phone that-
16 had been deleted as well?

17 A Yes, sir.

18 Q These two exhibits just reflect a small portion of the
19 ones that were deleted?

20 A That's correct.

21 Q I mean, that's not unusual for people on a cell phone
22 to delete messages or delete -- I'm sorry, text messages or
23 phone calls?

24 A I would venture to say probably not.

25 Q And as far as the substance of those phone

ANTONIO BAILEY: REDIRECT EXAMINATION

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1 conversations, we don't know what the substance of those
2 were, do we?

3 A None other than what I've read.

4 Q I'm saying, the text messages. But the phone calls
5 that were shown deleted on that exhibit, we don't know what
6 the substances of those were?

7 A. No, sir.

8 Q I meant to ask you one more question about this
9 particular exhibit. Exhibit 31. Again, the text messages.
10 These are the ones that obviously between Myranda and
11 Darrell. There were other text messages between my client
12 and other people during these periods of time, correct?

13 A That's correct.

14 Q I mean, we're not just showing -- from these exhibits
15 we're just not showing Darrell to Myranda, Myranda to
16 Darrell and that's all that was on the phone?

17 A That's correct.

18 Q I mean, there were other entries on the phone?

19 A That is correct.

20 Q And then back here where we had -- there was some
21 discussion about the August 19, 2013 date, 12:03 a.m., I
22 want to make sure I understand. Myranda calls Darrell. It
23 wasn't Darrell calling Myranda?

24 A That's correct.

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

1 Honor.

2 THE COURT: Any redirect, Solicitor?

3 REDIRECT EXAMINATION

4 BY MR. SCOTT:

5 Q But there were other texts and other phone calls. But
6 State's 32, as referenced in State's 31, this represents
7 kind of the critical time period of your investigation,
8 doesn't it?

9 A Yes, sir.

10 Q It represents just before and just after the Face book
11 message to Lisa, right?

12 A Yes, sir.

13 Q And then it references the critical time point from
14 when she gets off work and is never seen again, doesn't it?

15 A That's correct.

16 Q It accurately reflects the text message going on then,
17 doesn't it?

18 A Yes, sir.

19 Q Again, State's 38. We're calling it the critical time
20 period because this represents the day before and then the
21 whole day she's gone missing, and then the day after?

22 A That's correct.

23 Q And it's a snapshot on his phone calls and kind of what
24 Darrell Raines was doing in that critical time in this
25 investigation, doesn't it?

KATHERINE LEISY: DIRECT EXAMINATION

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1 A Yes, sir.

2 MR. SCOTT: Thank you.

3 THE COURT: Recross.

4 RE CROSS-EXAMINATION

5 BY MR. ABLE:

6 Q And just again, Investigator, just to follow-up. And
7 during those what have been termed critical times there were
8 other phone calls made by my client, other text messages
9 made and received by my client as reflected upon the
10 records?

11 A Yes, sir.

12 Q Thank you, sir.

13 THE COURT: Thank you, sir, for your testimony. You
14 can step down. You are free to leave or you're certainly
15 welcome to remain with us.

16 (Whereupon, the witness stepped down from the witness
17 stand.)

18 THE COURT: Your next witness.

19 MS. BOYKIN: Thank you, Your Honor. The State calls
20 Katherine Leisy.

21 KATHERINE LEISY, having first been
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. BOYKIN:

25 Q And I asked you this earlier. Is it Leisy or Leisy?

KATHERINE LEISY: DIRECT EXAMINATION

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1 A Leisy.

2 Q Leisy. Ms. Leisy, if you could, tell us where you
3 work.

4 A I work for the South Carolina Law Enforcement Division
5 more commonly known as SLED.

6 Q And what do you do there?

7 A I am a forensic scientist assigned to the DNA and
8 serology unit.

9 Q How long have you been in that position?

10 A For about nine and a half years.

11 Q Do you have any education and background that enables
12 you to get that position?

13 A I have a Bachelor of Science degree in genetic
14 engineering from Cedar Crest College in Allentown,
15 Pennsylvania. And prior to my experience with SLED I spent
16 approximately four years working as a forensic DNA analyst
17 at a private testing facility that at the time was in
18 Germantown, Maryland where I performed the same type of test
19 and analysis that I do with SLED.

20 Q About how many cases have you been involved with?

21 A Throughout the course of my career I would estimate at
22 least 1,000.

23 Q And have you ever testified in court before?

24 A I have.

25 Q How many times?

KATHERINE LEISY: DIRECT EXAMINATION

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1 A Over 50 in various jurisdictions throughout South
2 Carolina, California, Massachusetts, New Jersey, the
3 District of Columbia, and United States Federal Court in
4 Florence.

5 Q Have you been qualified as an expert in all of those
6 times?

7 A Yes.

8 Q What were you qualified as an expert in?

9 A Typically in forensic DNA identification testing.

10 MS. BOYKIN: Your Honor, at this time I would offer Ms.
11 Leisy as an expert in forensic DNA testing.

12 THE COURT: Okay. Mr. Able, do you have any questions
13 concerning qualifications or any objections to her being
14 found an expert?

15 MR. ABLE: None, Your Honor.

16 THE COURT: All right. This witness will be deemed an
17 expert in the area of forensic DNA with analyzing and
18 identification; is that correct?

19 MS. BOYKIN: That's correct, Your Honor.

20 THE COURT: Very good. You may proceed.

21 MS. BOYKIN: Thank you, Your Honor.

22 Q Ms. Leisy, have you -- were you working at SLED in
23 2013?

24 A Yes, I was.

25 Q And did you happen to become involved in the case of

KATHERINE LEISY: DIRECT EXAMINATION

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1 Myranda Southern?

2 A I did.

3 Q If you could, what was your lab number regarding that
4 case?

5 A SLED lab number is L13-11094.

6 Q And what were you asked to do in this case?

7 A I was asked to develop a DNA profile from items that
8 were submitted as what we refer to as alternate known
9 standards, items that were identified as belonging to a

10 Myranda Southern, and compare them to several items of
11 evidence including what was identified as a piece of liver
12 tissue from a Jane Doe.

13 MR. ABLE: Judge, if I could -- if the witness could
14 move closer to the microphone. I've got this air blowing
15 over me and I --

16 THE COURT: If you could sit a little closer, ma'am.
17 Thank you.

18 Q I need to step back for a second. If you could, kind
19 of explain DNA to the jury and how that is relevant to try
20 to figure out who this Jane Doe was in this case.

21 A DNA stands for deoxyribonucleic acid. It's the genetic
22 material found in all of our body cells with the exception
23 of our red blood cells. DNA is packaged into structures
24 called chromosomes which contain our genes. And genes are
25 simply strains of DNA that make up our physical

KATHERINE LEISY: DIRECT EXAMINATION

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1 characteristics such as our height or our eye color. We
2 receive one copy of DNA from our mother and one from our
3 father, and therefore have two copies of every gene. And
4 approximately 99.9 percent of an individual's DNA is
5 identical to that of everyone else's. It's the variation in
6 that remaining .1 percent that allows us to tell different
7 people apart. So for an identification such as this we
8 would try to develop an DNA profile from an item removed
9 from the remains and compare it to the DNA profile developed
10 from an item that is believed to have belonged to the
11 individual that we're trying to identify.

12 Q Thank you. I'd like to show you what has been marked
13 as State's Exhibit 15. Do you recognize that?

14 A I recognize the SLED case number and the item number.
15 This particular item was not in my custody during testing.

16 Q If you could, just read off what SLED -- I'm sorry,
17 State's Exhibit 15 is. I believe it has on the back what it
18 contains.

19 A This is indicated as SLED item number 10 which was
20 identified as a white and purple striped Reach toothbrush.

21 Q And if you could, do the same, please for State's
22 Exhibit 17.

23 A Again, I recognize the SLED case number on this
24 particular item. It is identified as SLED item number 11
25 and it is described as a hair brush.

KATHERINE LEISY: DIRECT EXAMINATION

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1 Q Thank you. And now State's Exhibit 16. Do you
2 recognize this?

3 A I do.

4 Q And what is that?

5 A This pouch contains swabs that were taken by a forensic
6 technician of both the hair brush and the tooth brush.
7 There were also possible hairs collected from the hair
8 brush.

9 Q And how do you know what that is?

10 A Again, I can identify this with case number, as well as
11 my initials on the pouch, and can identify the item numbers
12 as they are labeled on the envelopes within the pouch.

13 Q How did you originally get these swabs?

14 A These swabs were passed to me by the forensic
15 technician who took them. They were passed directly to my
16 custody.

17 Q And is it in the same quality as when you had it last?

18 A It is. When we receive items of evidence they're
19 placed within a heat sealed pouch. They are sealed. The
20 individual who seals the pouch initials and dates that seal.
21 And the fact that the pouch was intact when it was taken
22 into my custody indicates that it was not in any way
23 tampered with.

24 MS. BOYKIN: Your Honor, at this time State would offer
25 State's Exhibit 16 for admission into evidence.