

VOL. I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Greenville County

Honorable John C. Hayes, Circuit Court Judge

WILLIAM JOE PHILLIPS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000002

APPENDIX

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
)
 -VS-)
)
 WILLIAM JOSEPH PHILLIPS,)
)
)
 DEFENDANT.)
 _____)

2013-GS-23-00094A

TRANSCRIPT OF RECORD
(Volume One of Three)

JUNE 10 - 12, 2013
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE C. VICTOR PYLE, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

HOWARD STEINBERG, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME: Victor C. Pyle Jr. VALUES (Ret)

TRIAL TYPE: Criminal

PANEL ID: PYLE 6/10/2013

DESCRIPTION: PYLE 6/10/2013

Sorted by: Random Nbr

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF Chal Strk	DEFENDANT Chal Strk	Court	Remarks
✓1 Barber, John M ?	9	16010	() ()	() ()	()	WM
✓2 Crocker, Rebekah C	46	72706	() ()	() ()	()	WF
✓3 Powell, James N	247	257237	() ()	() ()	()	WM
✓4 Finn, Jennifer C	70	103004	() ()	() ()	()	WF
SX5 Reilly, Sharon H	190	266878	() ()	() ()	()	WF
DX6 Webb, Randy D	233	339022	() ()	() ()	()	WM
✓7 Kinsey, Timothy D	122	179186	() ()	() ()	()	WM
✓8 Drew, Keith	60	89072	() ()	() ()	()	WM
✓9 Chapman, Hallie D	32	56931	() ()	() ()	()	BF
○10 Trakas, Elaine S (F)	228	325515	() ()	() ()	()	WF
✓11 Halvorsen, Emily J	89	133377	() ()	() ()	()	WF
✓12 Skipper, Kenneth D	210	295260	() ()	() ()	()	WM
✓13 Hagler, Krista M	87	132014	() ()	() ()	()	WF
SX14 Coker, Molly R	39	63851	() ()	() ()	()	WF
✓15 Chemell, Michael D	34	58283	() ()	() ()	()	WM
✓16 Hudson, Jason N (A)	100	156005	() ()	() ()	()	WM
DX17 Meggs, Jordan C	159	217930	() ()	() ()	()	WM
✓18 Jenkins, Laura A (A)	108	164336	() ()	() ()	()	WF
19 Calder, Samantha K	23	48023	() ()	() ()	()	
20 Domingo, Alma K	58	87311	() ()	() ()	()	
21 Henderson, Belinda W	95	143674	() ()	() ()	()	
22 Hester, Earl D	98	146435	() ()	() ()	()	
○23 Harvey, Thomas E	93	139786	() ()	() ()	()	
24 Mckissick, Julia B	157	215524	() ()	() ()	()	
25 Whims, Tyler J	234	342010	() ()	() ()	()	

Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Victor C. Pyle Jr. VALUES (Ret)

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : PYLE 6/10/2013

DESCRIPTION : PYLE 6/10/2013

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strk	Chal	Strk		
26 Moore, Hugh C	164	225954	()	()	()	()	()	
27 Feigel, Evie G	66	101031	()	()	()	()	()	
28 Cronin, Susan J	47	73014	()	()	()	()	()	
29 Bernier, Brent D	14	23900	()	()	()	()	()	
30 Russell, Michael W	198	278861	()	()	()	()	()	
31 Johnson, Eli S	111	166364	()	()	()	()	()	
32 Carroll, Joseph W	25	52579	()	()	()	()	()	
33 Russell, Betty J	197	278655	()	()	()	()	()	
34 Price, Stacy J	185	258636	()	()	()	()	()	
35 Smith, Margaret J B	211	299586	()	()	()	()	()	

Total Number of Jurors:

35

** END OF REPORT **

1 Monday, June 10, 2013:

2 (Whereupon State's exhibits 1 and 2 were marked for
3 identification)

4 **THE COURT:** Be seated, please. Be seated. Okay.
5 Anything before I bring up the panel of jurors?

6 **MR. STEINBERG:** Your Honor, would you want to do juror,
7 I mean, motions prior to that?

8 **THE COURT:** What kind of motions do you have?

9 **MR. STEINBERG:** Thank you, Your Honor. We have a
10 couple of pretrial motions. Myself and Ms. Gorton have a
11 number of -- this is going to be a long trial, Judge, a
12 lengthy -- a long trial. Ms. Gorton and I have had a number
13 of meetings to try to omit those issues.

14 We're going to dispose of a Jackson versus Denno issue
15 because on -- from July 9th because the defense attorney
16 doesn't want -- the suspect was also not in custody. The
17 other Jackson versus Denno, we're going to have a very brief
18 Jackson versus Denno hearing on.

19 The State also moves to exclude any third party guilt
20 information with the exception of a co-defendant. The co-
21 defendant is going to admit he was involved, but we do
22 object to any other third party names being thrown out
23 there.

24 And there were reasons the State's asking for this.
25 The Defendant has raised various names and issues in the

1 community while on bond. We do object to all of that under
2 standard case law dealing with third party guilt.

3 **THE COURT:** Okay.

4 **MR. STEINBERG:** Another issue will be the State's going
5 to object to any of my -- the victim's prior bad dealings.
6 This has no relation to the case. Anything involving any
7 interjection to who his relationships were and -- outside of
8 Christina Gentry, obviously, or to any drug use or anything
9 of this nature. We object to anything as to disparage the
10 victim's character for no reason.

11 **THE COURT:** Okay. All right. What's your position,
12 Ms. Gorton?

13 **MS. GORTON:** Judge, as to the victim, first of all,
14 Jackson versus Denno, I don't think there is an issue. We
15 can do a brief hearing, but we're not opposing that ---

16 **THE COURT:** Well, I mean, do you want to waive the
17 Jackson/Denno hearing?

18 **MS. GORTON:** Sure.

19 **THE COURT:** All right. Yes, ma'am.

20 **MS. GORTON:** But as to the victim, I think that we do
21 need to go into a little bit about his pill usage. He was
22 apparently prescribed some Lortabs he had ---

23 **THE COURT:** Now who is this you're talking about?

24 **MS. GORTON:** The victim.

25 **THE COURT:** Okay.

1 **MS. GORTON:** He had been prescribed some Lortabs. He
2 had a back injury in the -- one of the statements that the
3 co-defendant, I think the State's key witness, says. He
4 says that this was over a pill deal, that he was selling the
5 victim some additional Lortabs.

6 And I think that's relevant. It goes to the co-
7 defendant's first statement and goes to what he alleges that
8 actually occurred.

9 **MR. STEINBERG:** Your Honor, limited to just that, I
10 won't object. If that's the limitation.

11 The next issue involves -- do you have anything else?

12 **MS. GORTON:** There might be -- I don't know how the
13 testimony's going to come out ahead of time, but there might
14 be some testimony about Charlie having other women. Charlie
15 being the victim.

16 **THE COURT:** No, I ---

17 **MS. GORTON:** Nothing in detail.

18 **THE COURT:** I don't believe that's going to be
19 admissible.

20 **MS. GORTON:** All right.

21 **THE COURT:** All right.

22 **MR. STEINBERG:** Your Honor, there's still some more.
23 We had a number of issues. We've limited significantly the
24 number of issues.

25 Jerry Allen, JJ Allen is the co-defendant. He's

1 actually the one that will admit that he pulled the trigger
2 and killed Charlie Roberts. We are going to object to any
3 of these charges of un-charged crimes and incidents that
4 reflect on his bad character. They are irrelevant to this
5 case, what he did in 2008 and 2009.

6 Unless they are -- carried over a year, they are
7 inadmissible. I would say that they are inadmissible and it
8 shouldn't come in. It'll just poison the jury ---

9 **THE COURT:** How about that?

10 **MS. GORTON:** I completely disagree with Mr. Steinberg.
11 This is a murder for hire, okay? And we have -- their key
12 witness gave three different statements.

13 The first statement he says he acted on his own. The
14 second statement says it was all my guy who pulled the
15 trigger. We found out later that that couldn't have
16 possibly been the case. And then he gives a third
17 statement.

18 So the key issue here is whether this man acted on his
19 own volition in killing the victim. I mean, Mr. Allen, he's
20 the trigger guy, whether he acted on his own volition or
21 whether he acted because my client encouraged, counseled or
22 advised him to do so. So I think his prior bad acts of
23 violence, of aggression, of attacking people are completely
24 relevant.

25 Furthermore, there's an additional issue. Jerry Allen

1 had a ---

2 THE COURT: What you've told me so far doesn't comply
3 with the law.

4 MS. GORTON: It goes to his motive and inclination to
5 act alone versus with the counsel and advice of ---

6 THE COURT: The facts ---

7 MS. GORTON: --- my client. Excuse me?

8 THE COURT: The facts are similar in the other events?

9 MS. GORTON: Yes, I believe that they were in that he
10 explodes over issues of his father.

11 THE COURT: Well, we'll cross that bridge when we come
12 to it. I think you're a little ---

13 MS. GORTON: I ---

14 THE COURT: --- off track on that. All right.
15 Anything else?

16 MR. STEINBERG: Yes, sir, very briefly.

17 MS. GORTON: I did have a second issue on that.

18 THE COURT: Okay.

19 MR. STEINBERG: Ms. Gorton.

20 THE COURT: All right.

21 MS. GORTON: The second issue, and I think we're about
22 to address it, is that the State's witness had a competency
23 exam because he was charged with murder. And in that exam
24 Mr. Steinberg has agreed not to make any hearsay objections.
25 So then our issue is how much of that exam report do I

1 get to get in? Well, it's an expert's opinion. And part of
2 the basis of their opinion in the competency evaluation were
3 those past acts.

4 So I believe that even if I don't get to get them in
5 based on showing his motive to act alone or his inclination
6 to act alone, I do get to bring them in under the competency
7 exam in that those were specific acts cited by the examiner
8 as a basis for the diagnosis and the resulting issuance of
9 competency. And I do have case law with regard to that.

10 **THE COURT:** All right. Mr. Steinberg.

11 **MR. STEINBERG:** Your Honor, I -- the State, again,
12 strongly disagrees. This trial is about Jobo Phillips and
13 what occurred. JJ Allen was found to be competent.

14 I have no objection if counsel wants to say were you
15 found to be antisocial, whatever those things are. I just
16 don't want this to be a very belayed competency evaluation
17 on an unrelated matter. JJ Allen was found to be competent.
18 He can testify.

19 And to account the cases opposing counsel has, but my
20 case law is that these issues should not be coming in during
21 a trial on a co-defendant. Other cases having addressed the
22 same subject has said courts have great power, the trial
23 court has great power to determine if these issues are
24 irrelevant. They're going to obfuscate the matter. They're
25 going to belay the matter.

1 **THE COURT:** All right. What we're going to do, when
2 you come to this, we'll excuse the jury and we'll -- I'll
3 pass on it at that time, okay?

4 **MS. GORTON:** All right. Thank you, Judge.

5 **MR. STEINBERG:** The next issue also ties in with Jerry
6 Allen. The defense attorney informed me she wishes to go
7 into a matter involving JJ Allen having written an alleged
8 letter where he admits telling two to three other people.

9 This letter, I don't believe, ever exists. I've asked
10 that counsel provide it to us. It was sent to her client's
11 family. I don't think it exists. If it does, it has not
12 been turned over.

13 And finally, it is irrelevant. It is a letter where JJ
14 Allen says I've also killed two to three other people
15 unrelated to this matter.

16 **MS. GORTON:** Judge, I would think that him killing
17 people on his own would certainly be relevant in this case.
18 I wasn't going to go into it other than to ask him did you
19 write a letter in which you admitted killing two to three
20 other people. He can either admit it or deny it. If he
21 denies it, I believe that I can then introduce ---

22 **THE COURT:** That's ---

23 **MS. GORTON:** --- evidence.

24 **THE COURT:** That's not going to come in now.

25 **MS. GORTON:** All right. Thank you.

1 **THE COURT:** Okay.

2 **MR. STEINBERG:** We're almost done, Judge. Your Honor,
3 there was an incident which the State has a number of
4 witnesses. This killing happened on July 8th. That's not
5 going to be in much dispute.

6 On June 12th, less than a month before, this Defendant
7 went to the victim's residence at nighttime, confronted the
8 victim, who was then sleeping, did not confront him because
9 he was still sleeping, and confronted the girlfriend who was
10 present. Her name was Christina Gentry.

11 And he yelled and he screamed. He made some threats
12 both there and immediately after he left. This is proven by
13 Ms. Gentry, who is still in the courtroom. This can be
14 proven by an officer, who actually spoke with Jobo Phillips
15 on the phone that night.

16 Jobo Phillips called the victim up. The victim got
17 scared, handed the phone to the deputy. The deputy spoke to
18 him, confirmed there was a dispute, confirmed it was over a
19 woman. And about that same time we have Jobo making
20 additional statements.

21 And in an accessory before the fact the State should be
22 allowed to prove that less than a month prior there were
23 statements by this Defendant that continued on with other
24 statements in June and on July 4th that led very definitely
25 to the death on July 8th. Does Your Honor have any

1 questions about this time-line that we're trying to get in?

2 **THE COURT:** No.

3 **MS. GORTON:** Judge, I believe that's putting my
4 client's character in evidence. And he won't be testifying.
5 And the -- his character hasn't been submitted. It also
6 goes to the victim's belief of what was occurring at that
7 time.

8 The officers responded. They responded. This was a
9 non-criminal act. I can be angry and yelling at somebody,
10 that's a non-criminal act.

11 He -- the officers are going to be saying that they
12 talked to Jobo and said, is there a problem? And he said,
13 what? No. No, there's no problem. I'm not going to let a
14 woman come between our friendship.

15 So basically Mr. Steinberg is wanting to bring in my
16 client's statement of no problem to say he was lying, that
17 there was a problem, he was pretending like there was no
18 problem so that he could continue being friends.

19 **THE COURT:** I'm not in a position to rule on that right
20 now.

21 **MS. GORTON:** All right.

22 **MR. STEINBERG:** Well, the reason I bring this up, one
23 of my first witnesses, in fact, the State's first witness is
24 Ms. Gentry. And she's going to testify to what she actually
25 saw and heard right there. She was actually present during

1 that conversation.

2 THE COURT: Okay.

3 MR. STEINBERG: I don't want to surprise the Court. I
4 don't want to surprise opposing counsel with this.

5 MS. GORTON: Judge, that is different than presenting
6 officers who are, quote, in a legal authority to present
7 that testimony. If Ms. Gentry wants to testify about that,
8 you know, I'm going to make the same objection in that it's
9 too remote ---

10 THE COURT: All right. You can object when it comes
11 up, okay?

12 MS. GORTON: All right. Thank you.

13 THE COURT: All right. Anything else?

14 MR. STEINBERG: Go ahead.

15 MS. GORTON: I was going to ask to sequester the
16 witnesses.

17 THE COURT: Okay.

18 MS. GORTON: Howard and I have talked about that. I'd
19 like to make an exception for a couple of members of the
20 victim's family. Their testimony is really not tied into
21 everything else.

22 THE COURT: If we're going to -- if we're going to
23 sequester, we're going to sequester. Okay?

24 MR. STEINBERG: Your Honor, this is the victim's
25 family. And if opposing counsel has no objection, I also

1 have no objection to the victim's family -- they're
2 testifying to some isolated things. Unless the Court has a
3 particular -- a particular concern, both parties agree these
4 people should be allowed to stay in.

5 **THE COURT:** All right. If you agree on that, I've got
6 no objection to that.

7 **MR. STEINBERG:** Yes, sir.

8 **MS. GORTON:** I think everything else I have can be
9 raised -- Judge, there is a small issue as to that June
10 incident that you haven't ruled on. There were two officers
11 who responded. Do we agree that the statement of the second
12 officer comes in?

13 There's one who was serving in Afghanistan. I served a
14 subpoena. It came back that he was in service and not
15 available. He's since back. I think Mr. Steinberg has
16 agreed that if the first officer comes in, which is the only
17 reason why I would be introducing this, the second officer's
18 written statement can come in as evidence.

19 **MR. STEINBERG:** In the interest of fairness, the State
20 will ---

21 **THE COURT:** All right.

22 **MR. STEINBERG:** --- waive objection.

23 **THE COURT:** Okay. Bring our panel of jurors up. Ms.
24 Gorton, I can't read -- Ernest Harris. Is it Horn, H-o-r-n?

25 **MS. GORTON:** I'm sorry, Judge. It's Ernest Hamilton.

1 He's actually a member of the bar.

2 **THE COURT:** Oh, Ernie -- okay.

3 **MS. GORTON:** Ernie, yeah.

4 **THE COURT:** All right. I got you.

5 **MS. GORTON:** And, Judge, just so you know, as you can
6 see, Mr. Steinberg's list was quite extensive. There's a
7 number of people that I was going to call as witnesses that
8 I'm probably just going to cross his -- his. They were
9 people he was calling anyway. So I'll just cross them and
10 ---

11 **THE COURT:** Okay.

12 **MS. GORTON:** Your Honor?

13 **THE COURT:** Yeah.

14 **MS. GORTON:** Can we do two alternates? It's a five day
15 trial. Is two alternates okay?

16 **THE COURT:** Yes. I'll do that. Sure.

17 **MS. GORTON:** All right. Thank you.

18 (Whereupon a bench conference was held off the record)

19 (Whereupon the bench conference was ended)

20 **MS. GORTON:** One more issue, Judge.

21 (Whereupon a bench conference was held off the record)

22 (Whereupon the bench conference was ended)

23 (Whereupon the jury panel entered the courtroom at
24 11:34 am)

25 **THE COURT:** Ladies and gentlemen, if I could have your

1 attention. At this time we will select a jury in the case
2 of the State against William Joe Phillips. Mr. Phillips,
3 would you stand up and turn around and face the jury panel a
4 moment for me, please. Thank you. You can be seated.

5 He is indicted for accessory before the fact of murder.
6 The indictment alleges that on or about July 8, 2011 he did
7 aid, hire, counsel or procure the commission of a felony,
8 that being, alleged to be the murder of Charles Roberts by
9 Jerry Leonard Allen, Jr.

10 I'm going at this time to call out a long potential
11 list of witnesses in the case. And I'm going to need to
12 know if you are related by blood or marriage to this
13 Defendant or to any particular witness in the case. So if
14 you would give me your attention. And I may be repeating
15 some of the witnesses.

16 Christina Gentry, Deputy Ryan Conlon, Deputy John
17 Duncan, Dakota Oliver, Travis Rider, Roy White, Tammie
18 Timmons, T-Bird Starling, Roy Barrett, Bobby Sweet, Sandra
19 Shirley, Jimmy Poole, JoAnn Phillips, Deputy James Wilson,
20 Lieutenant Chris Taylor, Carl Rider, Deputy Dorsey Lay,
21 Officer Caleb Gamble, Officer John Hamilton, Officer John
22 Derby, Sergeant Dar Shaw, Lieutenant Ron Lendway, James
23 Armstrong, Dr. Michael Ward, Frank Eppes, Charles
24 Marchbanks, Jr., Investigator Eric Whaley, Cortney
25 Hollingsworth, Emily Gentry, Investigator Shawnee Peeples,

1 Sergeant Dave Weiner, Karen Milbrodt, Investigator Joe
2 Whitmire, Investigator Chris Miller, Investigator Chris
3 Hammett, Jerry Allen, Karen Caldwell, Christina Gentry,
4 Deputy Jonathan Reece, Deputy Ryan Smith, Crystal Herring,
5 Karen Caldwell, Gail Gilbert, Ernest Hamilton, Joe Roberts,
6 Rosa Petit, Chris Taylor.

7 Now, again, I will inquire if any member of the jury
8 panel is related by blood or marriage or connected by
9 employment to the Defendant or to any potential witness in
10 the case? Are you sensible or aware of any bias or any
11 prejudice with respect to the Defendant, to the State or to
12 the subject matter of the case or do you know any reason why
13 you could not give this Defendant and the State a fair and
14 impartial trial based on the law and evidence to be
15 presented? If so, would you please stand and give me your
16 name.

17 (No response)

18 **THE COURT:** Do I have any member of the panel who has
19 any connection now or formerly with Walt Wilkins, the
20 Solicitor, or any member of his staff, including Howard
21 Steinberg, who is the assistant handling this case, or with
22 law enforcement, whether that be Federal, State, County or
23 Municipal? If so, would you please stand and give me your
24 name.

25 (No response)

1 **THE COURT:** Cass Gorton represents the Defendant in
2 this case. Do I have any clients now or formerly of her?
3 If so, please stand and give me your name.

4 (No response)

5 **THE COURT:** Do I have any member of the panel or any
6 member of your family who has been the victim of a violent
7 crime? If so, would you please stand and give me your name.

8 (No response)

9 **THE COURT:** All right. Strikes, five for the State,
10 five for the Defense.

11 **MR. STEINBERG:** Yes, sir, Your Honor. Your Honor, can
12 we approach?

13 **THE COURT:** Sure.

14 (Whereupon a bench conference was held off the record
15 in the presence of the jury panel, but out of their hearing)

16 **THE COURT:** Ladies and gentlemen, do I have any member
17 of the panel or any member of your family who has or had any
18 connection, family business or otherwise with Charles
19 Roberts, the alleged victim in this case or with Jerry
20 Leonard Allen, Jr.? If so, would you please stand and give
21 me your name.

22 (No response)

23 **THE COURT:** All right. Ladies and gentlemen, as your
24 name is called I'll ask that you please come forward to the
25 podium up front, turn around and face counsel and await

1 further instructions. Thank you.

2 **MADAME CLERK:** Please bring any personal items with you
3 should you be selected for jury trial. Juror number 9, John
4 Barber.

5 (Whereupon John Barber, a white male, came forward)

6 **MADAME CLERK:** What says the State?

7 **MR. STEINBERG:** Please present this juror.

8 **MADAME CLERK:** Thank you. What says ---

9 **MS. GORTON:** John?

10 **MR. STEINBERG:** Barber.

11 **MADAME CLERK:** Barber.

12 **MS. GORTON:** Yes.

13 **MADAME CLERK:** You may have a seat in the jury box.
14 Juror number 46, Rebekah Crocker.

15 (Whereupon Rebekah Crocker, a white female, came
16 forward)

17 **MADAME CLERK:** What says the State?

18 **MR. STEINBERG:** Please present this juror.

19 **MADAME CLERK:** Thank you. What says the Defendant?

20 **MS. GORTON:** Yes.

21 **MADAME CLERK:** You may have a seat in the jury box.
22 Juror number 247, James Powell.

23 (Whereupon James Powell, a white male, came forward)

24 **MS. GORTON:** What juror number?

25 **MADAME CLERK:** 247. What says the State?

1 **MR. STEINBERG:** Please present this juror.

2 **MADAME CLERK:** Thank you. What says the Defendant?

3 It's in alphabetical order.

4 **MS. GORTON:** And what's the last name?

5 **MADAME CLERK:** James Powell.

6 **MS. GORTON:** Yes.

7 **MADAME CLERK:** Thank you. You may be seated. Thank
8 you. Juror number 70, Jennifer Finn.

9 (Whereupon Jennifer Finn, a white female, came forward)

10 **MADAME CLERK:** What says the State?

11 **MR. STEINBERG:** Please present this juror.

12 **MADAME CLERK:** Thank you.

13 **MS. GORTON:** Yes.

14 **MADAME CLERK:** You may be seated in the jury box.

15 Juror number 190, Sharon Reilly.

16 (Whereupon Sharon Reilly, a white female, came forward)

17 **MADAME CLERK:** What says the State?

18 **MR. STEINBERG:** Please excuse this juror.

19 **MADAME CLERK:** Thank you. You may be seated. You're
20 excused from the trial of this case. Juror number 233,
21 Randy Webb.

22 (Whereupon Randy Webb, a white male, came forward)

23 **MADAME CLERK:** What says the State?

24 **MR. STEINBERG:** Please present this juror.

25 **MADAME CLERK:** Thank you. What says the Defendant?

1 MS. GORTON: Strike.

2 MADAME CLERK: You may be seated. You're excused from
3 the trial of this case. Juror number 122, Timothy Kinsey.

4 (Whereupon Timothy Kinsey, a white male, came forward)

5 MR. STEINBERG: Please present this juror.

6 MADAME CLERK: Thank you. What says the Defendant?

7 MS. GORTON: He's fine.

8 MADAME CLERK: You may be seated. You're -- in the
9 jury box. Juror number 60, Keith Drew.

10 (Whereupon Keith Drew, a white male, came forward)

11 MADAME CLERK: What says the State?

12 MR. STEINBERG: Please present this juror.

13 MADAME CLERK: Thank you.

14 MS. GORTON: Yes.

15 MADAME CLERK: Okay. Thank you. You may be seated in
16 the jury box. Juror number 32, Hallie Chapman.

17 (Whereupon Hallie Chapman, a black female, came
18 forward)

19 MADAME CLERK: What says the State?

20 MR. STEINBERG: Please present this juror.

21 MADAME CLERK: Thank you. What says the Defendant?

22 MS. GORTON: Yes.

23 MADAME CLERK: You may be seated in the jury box.

24 Juror number 228, Elaine Trakas.

25 (Whereupon Elaine Trakas, a white female, came forward)

1 **MADAME CLERK:** What says the State?

2 **MR. STEINBERG:** Please present this juror.

3 **MADAME CLERK:** Thank you. What says the Defendant?

4 **MS. GORTON:** Yes.

5 **MADAME CLERK:** You may be seated in the jury box.

6 Juror number 89, Emily Halvorsen.

7 (Whereupon Emily Halvorsen, a white female, came
8 forward)

9 **MR. STEINBERG:** Please present this juror.

10 **MADAME CLERK:** Thank you. What says the Defendant?

11 **MS. GORTON:** Yes.

12 **MADAME CLERK:** You may be seated in the jury box.

13 Juror number 210, Kenneth Skipper.

14 (Whereupon Kenneth Skipper, a white male, came forward)

15 **MR. STEINBERG:** Please present this juror.

16 **MADAME CLERK:** Thank you. What says the Defendant?

17 **MS. GORTON:** Yes.

18 **MADAME CLERK:** You may be seated in the jury box.

19 Juror number 87, Krista Hagler.

20 (Whereupon Krista Hagler, a white female, came forward)

21 **MADAME CLERK:** What says the State?

22 **MR. STEINBERG:** Please present this juror.

23 **MADAME CLERK:** Thank you. What says the Defendant?

24 **MS. GORTON:** Yes.

25 **MADAME CLERK:** You may be seated in the jury box.

1 Juror number 39, Molly Coker.

2 (Whereupon Molly Coker, a white female, came forward)

3 MR. STEINBERG: Please excuse this juror.

4 MADAME CLERK: Thank you. You may be seated. You're

5 excused from the trial of this case. Juror number 34,

6 Michael Chemell.

7 (Whereupon Michael Chemell, a white male, came forward)

8 MADAME CLERK: What says the State?

9 MR. STEINBERG: Please present this juror.

10 MADAME CLERK: Thank you. What says the Defendant?

11 MS. GORTON: I'm sorry, how are you spelling your last
12 name?

13 MR. CHEMELL: C-h ...

14 MADAME CLERK: C-h-e-m-e-l-l.

15 MS. GORTON: Yes.

16 MADAME CLERK: You may be seated in the jury box.

17 THE COURT: Ms. Trakas, please take the first seat and
18 serve as the foreperson on this case for me, please, ma'am.

19 MADAME CLERK: Juror number 100, Jason Hudson.

20 THE COURT: One for the State, one for the Defense.

21 (Whereupon Jason Hudson, a white male, came forward)

22 MADAME CLERK: What says the State?

23 MR. STEINBERG: Please present this juror.

24 MADAME CLERK: Thank you. What says the Defendant?

25 MS. GORTON: Last name spelling?

1 **MADAME CLERK:** H-u-d-s-o-n.

2 **MS. GORTON:** Yes.

3 **MADAME CLERK:** You may be seated in the jury ---

4 **THE COURT:** All right. You're alternate number one.

5 **MADAME CLERK:** Juror number 159, Jordan Meggs.

6 (Whereupon Jordan Meggs, a white male, came forward)

7 **MADAME CLERK:** What says the State?

8 **MR. STEINBERG:** Please present this juror.

9 **MADAME CLERK:** Thank you. What says the Defendant?

10 **MS. GORTON:** Strike, please.

11 **MADAME CLERK:** You may be seated. You're excused from
12 the trial of this case. Juror number 108, Laura Jenkins.

13 (Whereupon Laura Jenkins, a white female, came forward)

14 **MR. STEINBERG:** Please present this juror.

15 **MADAME CLERK:** Thank you.

16 **MS. GORTON:** Yes.

17 **MADAME CLERK:** Thank you. You may be seated in the
18 jury box.

19 **THE COURT:** All right. Swear the jury, please.

20 **MADAME CLERK:** Yes, sir. Would you please stand and
21 raise your right hand. The response to the oath is I will.
22 You shall well and truly try the case 2013-GS-23-94A, the
23 State versus William Joe Phillips, indicted for accessory
24 before the fact and a true verdict rendered according to the
25 law and the evidence so help you God?

1 **THE JURY:** I will.

2 **MADAME CLERK:** Thank you. You may be seated.

3 **THE COURT:** Now, ladies and gentlemen, I'll give you a
4 short recess before we start this case. While on recess do
5 not talk about the case. You don't do that until you've
6 heard all the testimony, the arguments by the attorneys and
7 my charge on the law. So if you'll be at ease, follow the
8 bailiff, we'll start just as soon as we can. Thank you.

9 (Whereupon the jury exited the courtroom at 11:57 am)

10 **THE COURT:** I'll ask that the balance of the panel
11 report back downstairs to the jury assembly room. Thank
12 you.

13 (Whereupon the remaining jurors exited the courtroom)

14 **THE COURT:** All right. Now, do you wish to make brief
15 opening statements to the jury?

16 **MR. STEINBERG:** Yes, sir.

17 **THE COURT:** Opening statements?

18 **MS. GORTON:** Very brief, Your Honor.

19 **THE COURT:** All right. Now, please remember that I do
20 not allow any arguing in your opening statement. You can
21 tell the jury what this case is about, but don't argue your
22 case in the opening statement. If so, then I'll have to
23 call you down.

24 **MR. STEINBERG:** Yes, Your Honor.

25 **THE COURT:** All right. As soon as they're ready bring

OPENING STATEMENTS - MR. STEINBERG

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1 them back.

2 (Pause)

3 **THE COURT:** All right. We'll take a short recess. I'm
4 going to order lunch for the jury. And it'll take a few
5 minutes to do that. So just be at ease, please.

6 **MR. STEINBERG:** Thank you, Your Honor. For the Court,
7 the first witness will probably be one of the longer
8 witnesses. I'm ---

9 **THE COURT:** Okay.

10 **MR. STEINBERG:** --- not sure before or after lunch.

11 **THE COURT:** All right.

12 (Whereupon court was in recess at 12:01 pm)

13 (Whereupon court resumed at 12:14 pm)

14 **THE COURT:** Okay. Bring the jury.

15 (Whereupon the jury entered the courtroom at 12:15 pm)

16 **THE COURT:** All right, solicitor, brief opening
17 statement.

18 **MR. STEINBERG:** Thank you, Your Honor. Good morning,
19 ladies and gentlemen, might be afternoon or this morning.
20 My name is Howard Steinberg. I'm a prosecutor at the
21 Solicitor's Office. That's the same thing as a district
22 attorney or state's attorney.

23 At the State table is Rita McIntyre. She is my lead
24 investigator. She's essentially a paralegal. Also,
25 Investigator Christopher Hammett. He's with the Sheriff's

OPENING STATEMENTS - MR. STEINBERG

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1 Office. He is the lead investigator on this case.

2 During the course of this trial you're going to meet
3 some people you're unfamiliar with, some circumstances
4 you're unfamiliar with. You're going to meet some witnesses
5 that might be hesitant to testify. I say this only so that
6 you can get some background on this case and you're prepared
7 for this case because Jobo Phillips, the individual in the
8 white shirt at this table, was unwilling to accept a breakup
9 in a relationship, we had a crime.

10 Christina Gentry, who will testify, had at one time
11 dated, an on and off again relationship with Jobo Phillips.
12 She then broke that relationship off. She moved away to a
13 different house, moved and then started dating another
14 individual named Charlie Roberts.

15 Jobo could not accept that. Jobo hired a man named JJ
16 Allen to stop that from occurring. JJ Allen will admit to
17 what he did. He killed Charlie Roberts. JJ's also related
18 to him. JJ is a house-mate, I guess, for Jobo Phillips.
19 And JJ's also the adopted brother of Christina Gentry.

20 JJ will testify that he used Jobo's gun, took Jobo's
21 money and Jobo's drugs and did Jobo's bidding and followed
22 Jobo's advice. When I say Jobo, William Joseph Phillips
23 goes by Jobo. That's how he'll be referred to in the trial.

24 He then took his money, took his advice, took his gun,
25 got a ride from him and did kill Charlie Roberts. He then

OPENING STATEMENTS - MS. GORTON

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1 continued -- JJ continued to follow Jobo's advice in getting
2 rid of the body, attempting, and getting rid of, attempting,
3 to get rid of the truck that the victim owned.

4 He then turned himself in once the body was found
5 because it was hidden very amateurishly. And he wound up
6 turning himself in and doing what essentially -- a false
7 confession. He was lying. Turned himself in, but lied
8 about the circumstances.

9 **THE COURT:** Now, you're arguing.

10 **MR. STEINBERG:** Yes, sir.

11 **THE COURT:** Solicitor, please just move on.

12 **MR. STEINBERG:** Thank you, Your Honor. I'm going to
13 ask you to listen to the witnesses, listen to the motives,
14 listen to what the Defendant did beforehand, and said
15 beforehand, and did and said afterwards.

16 At the end we're going to present you the law in this
17 case. The law in this case is accessory before the fact to
18 a murder. That means that if Jobo Phillips did knowingly
19 assist, or procure, or direct or do anything to assist JJ
20 Allen in the killing of Charlie Roberts, then you would find
21 him guilty. Again, any involvement that is knowingly would
22 lead to a verdict of guilty. Thank you. And we respect
23 your time here. Thank you.

24 **THE COURT:** All right, Ms. Gorton.

25 **MS. GORTON:** Thank you, Judge. Good afternoon. My

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1 name's Cass Gorton. And Cass is short of Cassandra. I'm a
2 court appointed attorney, which means I'm committed to
3 serving the poor.

4 And today I'm here representing Joe Phillips. Some
5 people call him Joe. Some call him -- you'll hear a lot
6 about Jobo. That's him. His full name is William Joseph
7 Phillips. He's thirty-three years old. And he's lived in
8 Marietta all of his life.

9 The case you're here on today is an accessory before
10 the fact. And you are going to hear -- there's many things
11 that the State and I agree on. And in some ways this is a
12 very simple case. Number one, Charlie Roberts is dead.

13 The State and I agree as to who killed him. It was
14 Jerry Allen. You're going to hear JJ. That's Jerry Allen.
15 We agree as to who killed Charlie Roberts. We also agree
16 how he killed him, when, what date, and what time. We agree
17 on all those things. What we don't agree on is why.

18 This is the man who killed Charlie Roberts. He's a
19 killer. And you are going to meet him. He's going to sit
20 in that chair right there. And he's going to try to
21 convince you that what he did was not his fault.

22 **THE COURT:** Now, that's not in evidence yet, ma'am.

23 **MS. GORTON:** All right. Thank you. The Judge doesn't
24 want us to argue our case, but to only tell you what the
25 facts are. And I apologize, Your Honor.

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1 Joe Phillips did help Jerry Allen. He helped him a
2 lot. And he was facing being in a lot of trouble for what
3 he did, but he helped him. You're going to hear that he
4 helped him after JJ did what he did. He was an accessory
5 after the fact, not before. And that case is not before you
6 today. The accessory after the fact is not what you're
7 deciding.

8 What you're deciding is whether he helped JJ before JJ
9 did what he did. And that's where I'd like for you to keep
10 your focus when you hear the jail calls, when you hear the
11 witness testimony.

12 Was Jobo Phillips upset that Christine was seeing --
13 Tina, Christina, Tina, the same person, was seeing Charlie
14 Roberts? Yeah. They had a couple of kids together. Was he
15 willing to have Charlie Roberts killed? No.

16 There's a saying, what you see is what you believe.
17 And in some ways the way the trial is conducted, the State's
18 version is the one that will be the easiest and most obvious
19 to see. They go first. They present their witnesses first.

20 And what they're trying to show you will be obvious.
21 It's kind of like looking at this picture. It's a frog.
22 It's obvious it's a frog. But our version is different than
23 the State's. I look at this drawing and I see a horse. Do
24 you see it? No, not yet? The frog's pretty obvious.

25 But your task is to be fair, impartial jurors and keep

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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1 an open mind. You have promised to maintain a presumption
2 of innocence, which means you've promised to keep trying to
3 see that horse I'm telling you is there until this trial is
4 over, to keep believing in Mr. Phillips' innocence as the
5 State adds color and highlight to their case and present
6 witnesses. The picture becomes even more obvious.

7 But I'll be making some marks of my own. And they
8 might seem random. But I assure you that there's a purpose.
9 This trial, more than others -- you see the horse yet? This
10 trial more than others is a matter of perception. And I'm
11 confident when we're done you'll be able to see what I see,
12 this is a horse and Mr. Phillips is not guilty.

13 **THE COURT:** All right. First witness, solicitor.

14 **MR. STEINBERG:** The State would call Christina Gentry.

15 **MADAME CLERK:** Ms. Gentry, if you'd come forward to be
16 sworn in, please.

17 **Christina Gentry,** being
18 duly sworn testified as follows:

19 **MADAME CLERK:** Thank you. You may be seated. Would
20 you please state your name for the record.

21 **MS. GENTRY:** Christina Gentry.

22 **MADAME CLERK:** Thank you.

23 **Direct Examination by Mr. Steinberg:**

24 Q. Good afternoon, Ms. Gentry. How are you today?

25 A. (Affirmative nod).

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. I understand. Can I call you Christina?
- 2 A. (Affirmative nod).
- 3 Q. How old are you, Christina?
- 4 A. Twenty-seven.
- 5 Q. And where are you from originally?
- 6 A. Greenville, from Travelers Rest.
- 7 Q. And what's your highest level of education?
- 8 A. I have an associate's degree in nursing.
- 9 Q. And where do you currently work?
- 10 A. Mary Black Hospital System.
- 11 Q. And did you ever have a relationship with William Joe
- 12 Phillips? And if so, please tell us about that.
- 13 A. Yes, sir. We were together for six years. We have
- 14 children together.
- 15 Q. How many children do you have together?
- 16 A. Two.
- 17 Q. Have you ever been married to Jobo Phillips?
- 18 A. No, sir.
- 19 Q. When did you last live with him? When have you last
- 20 shared a residence with Mr. Phillips?
- 21 A. It was around March, 2011.
- 22 Q. During the time before that was it a continuous
- 23 relationship or had you ever moved out before?
- 24 A. Several times, in and out.
- 25 Q. Once you moved out in March of 2011 where did you move?

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. To my mom's.
- 2 Q. Who did the children stay with?
- 3 A. They stayed with me mostly, but he did get 'em some.
- 4 Q. Please tell us about your relationship to Jerry Allen.
- 5 A. He is my -- he's -- he was my step-brother and then he
- 6 was adopted. So he was my -- legally my brother.
- 7 Q. Were you raised together?
- 8 A. Yes.
- 9 Q. What name does Jerry go by in the community?
- 10 A. JJ.
- 11 Q. Have you ever known JJ to have any drug problems?
- 12 A. Yes.
- 13 Q. How serious were the drug problems?
- 14 A. They were pretty bad. He started missing teeth and
- 15 everything from it.
- 16 Q. Did he ever live with you when you resided with Jobo
- 17 Phillips?
- 18 A. Kind of in and out, yes, sir.
- 19 Q. Okay. When you moved out did he live in that
- 20 residence?
- 21 A. Yes, sir.
- 22 Q. What was the address of that residence?
- 23 A. [REDACTED] Long Shoals Road.
- 24 Q. After you moved out did JJ continue to live there?
- 25 A. Yes.

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. What was his relationship like with Jobo Phillips?

2 A. He said he would do anything for him. He was like his
3 brother.

4 THE COURT: Will you lean in a little closer to the
5 microphone?

6 Q. And you can move the microphone also. What role, what
7 functions, what jobs did JJ do at that residence on Long
8 Shoals?

9 A. He would help with everything. He would drive if Joe
10 needed to go somewhere or help cut grass, clean house.

11 Q. Did JJ know the victim in this case, Charlie Roberts,
12 to the best of your knowledge?

13 A. He had seen him, but I don't believe him to know him.

14 Q. Okay. Have you known of any hostilities between them
15 outside of what happened on July 8th?

16 A. No, sir.

17 Q. Let's talk about Charlie Roberts. How long had you
18 known him?

19 A. I've known him as long as I've known William Phillips.

20 Q. And do you remember his telephone number?

21 A. I do. It was [REDACTED]-6990.

22 Q. Approximately how tall and how large was Charlie?

23 A. He was about 5'9, hundred and eighty pounds.

24 Q. What was your relationship like with Charlie Roberts?

25 A. It was great.

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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1 MR. STEINBERG: Beg the Court's indulgence.

2 (Pause)

3 Q. Again, what was the nature of your relationship with
4 Charlie Roberts?

5 A. It was great.

6 Q. And when you say great, were you dating at the time?

7 A. Yes.

8 Q. I'm not sure it was an official date, but do you recall
9 when you started dating Charlie?

10 A. It was shortly after I moved out from over there with
11 Jobo.

12 Q. Did you ever live with Charlie Roberts?

13 A. No. I ---

14 Q. Did you ever spend -- go on.

15 A. I stayed over there a couple of days out of the week.

16 Q. I don't want to go into too much information about
17 Charlie, but I do want you to say is he the kind of person
18 that would assist another individual?

19 A. Yeah, always. You can ask anybody that ever knew him.
20 He would just do anything for anybody.

21 Q. Well, that might be answering this question. Would he
22 have helped you if you had needed assistance?

23 A. Of course.

24 Q. Let me ask you a seemingly unrelated question. During
25 the time of Charlie's disappearance did your car have any

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 vehicular problem, mechanical problems?
- 2 A. Yes.
- 3 Q. Where did Charlie work?
- 4 A. He worked for JPS Glass, the old mill.
- 5 Q. And do you remember what shift he worked?
- 6 A. Third.
- 7 Q. And what does third mean?
- 8 A. Night shift. He worked from 12:00 at night until eight
- 9 in the morning.
- 10 Q. Do you know how long he had worked there?
- 11 A. Twenty plus years.
- 12 Q. I asked you what Jobo's phone number was, I mean,
- 13 pardon me, Charlie's number. What was Jobo's phone number
- 14 at the time, if you remember?
- 15 A. It was 48 something. It was like 5750.
- 16 Q. You said the last part was 5750?
- 17 A. Yes, sir.
- 18 Q. What was your phone number at the time?
- 19 A. It was [REDACTED].
- 20 Q. Do you remember JoAnn Johnson's?
- 21 A. [REDACTED].
- 22 Q. Did she have a land line as well, if you know?
- 23 A. She did. I don't remember the number though.
- 24 Q. Okay. And who is JoAnn Johnson?
- 25 A. It's Jobo's mom.

CHRISTINA GENTRY - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. How close does the rest of the family live to Jobo's
2 property, residence?

3 A. There's not even -- it's not even as big as this
4 courtroom, the space between his house and his mom's.

5 Q. Are they the same plot of land?

6 A. It's separate plots, but it's -- they're very, very
7 close.

8 Q. Okay. Did you ever have any discussions with your
9 former boyfriend, Jobo Phillips, about you dating other
10 individuals once you left?

11 (Pause)

12 A. I'm sorry. Kind of, yes.

13 Q. Christina, there is -- there is a water pitcher right
14 there. If you need something, you just stop and let us
15 know.

16 A. Okay.

17 Q. Let me ask you -- let me narrow it down to Charlie
18 Roberts. What did Jobo ever say, anything about Charlie
19 Roberts and you having a relationship?

20 A. He was not happy about it. He would call him names, me
21 names, I was a whore.

22 Q. And during the course of this trial, I understand we're
23 in a courtroom that has a great decorum, but I want you to
24 use the actual language, if you remember the actual
25 language. If you remember someone saying a certain word, I

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1 want you to say I remember this person saying that
2 particular word. And that would go for the rest of your
3 answers. Do you remember anything in particular Jobo
4 referred to as Charlie?

5 A. A pussy mother fucker.

6 Q. Did he ever call Charlie by his name?

7 A. (Negative nod).

8 Q. The court reporter has to write down what's being said.

9 A. No, sir.

10 Q. Do you remember an incident at Charlie's residence?

11 A. Yes, sir.

12 Q. I'd like you to please tell the jury ---

13 MS. GORTON: Objection.

14 THE COURT: What's your objection?

15 MS. GORTON: The incident he's about to go to is too
16 remote in time to be relevant to this case.

17 MR. STEINBERG: This is June 12th. The death happened
18 July 8th, Your Honor.

19 MS. GORTON: It's a matter we addressed in pretrial
20 motions, Your Honor.

21 MR. STEINBERG: Your Honor, counsel said she had no
22 objection to this witness, she had an objection to the
23 deputy.

24 THE COURT: All right. Go ahead.

25 MR. STEINBERG: All right.

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1 Q. Please continue on.

2 A. I was at Charlie's house. And he had already laid
3 down. He was -- he had to go to work that night. And I
4 locked the door behind me and was sitting on the front
5 steps. And Jobo pulled up in the van he was driving. And
6 he was very upset about me being there.

7 And he had -- he went to the door and started knocking,
8 you know, kind of beating on the door. And he called
9 Charlie is a pussy for not coming out to fight him and
10 stuff. And I told him to let's just go. And we got in the
11 van and we left.

12 Q. Were you supposed to leave with Jobo? Were you dating
13 him at the time?

14 A. No. My mom was supposed to come and get me, but when
15 we left we pulled out of Charlie's driveway to the right and
16 my mom's truck was broke down just a little ways down. She
17 had broke down on the way to get me.

18 Q. As you left with Jobo what, if anything, did he say
19 about you being there and what, if anything, did he say
20 about Charlie?

21 A. He said he was going to beat his eyeballs out of his
22 sockets. He was very upset about me being there.

23 Q. Did you see the police respond that night?

24 A. We ---

25 MS. GORTON: Objection.

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1 **THE COURT:** What's your objection?

2 **MS. GORTON:** Judge, this is the pretrial motions that
3 we had before you, Your Honor.

4 **MR. STEINBERG:** The question is did she see police
5 officers come by.

6 **THE COURT:** That's all right. Go ahead.

7 A. We were at my mom's truck trying to hook the battery
8 cables up. And the police officer stopped and asked us did
9 we need any help, ---

10 Q. Okay.

11 A. --- actually.

12 Q. What road was that on?

13 A. Lions Park.

14 Q. Is that where Charlie lived?

15 A. Yes.

16 Q. Was anybody else with Jobo during this incident?

17 Anybody in the vehicle when he pulled up?

18 A. (Negative nod).

19 Q. After this incident did you ever speak with -- did you
20 ever speak with Jobo about Charlie?

21 A. Yeah.

22 Q. Please tell us what was said.

23 A. He's the pussy that wouldn't come to the door and fight
24 him. He said that -- he said, I guess your boy called the
25 cops on me. He said that he was a pussy for calling the

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1 cops on him.

2 Q. Did you ever speak with Jobo when he was incarcerated
3 on the jail phone calls?

4 A. Yes.

5 Q. Did he make any mention about this incident to the best
6 of your recollection?

7 A. Not while he was in jail, no, sir.

8 Q. Okay. Approximately how long before Charlie went
9 missing did this incident happen?

10 A. Just a couple of weeks.

11 Q. After this incident do you remember any time when Jobo
12 would try to talk to you about your relationship and
13 restarting or reuniting a relationship with him?

14 MS. GORTON: Objection. This is getting to be leading.

15 THE COURT: Overruled. Go ahead.

16 A. Yes, sir, all the time.

17 Q. Okay. And when he -- when that conversation would come
18 up did he ever raise Charlie Roberts' involvement?

19 A. Yes, sir. He would make little comments, like if we
20 were somewhere he'd say -- he actually did tell me one time
21 that I would rather spend time with him than to be with my
22 family.

23 Q. You ever hear him make -- ever hear Jobo make any
24 threats to or about Charlie Roberts?

25 A. Yes, sir.

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1 Q. What were those threats, if you can remember some of
2 the dates or times?

3 A. Like when I was out on the porch ---

4 Q. Outside of the incident, do you remember any times
5 after that?

6 A. Yes, sir. He's took my phone from me several times and
7 cussed me for every whore in the book, about Charlie and
8 him, every mother fucker and everything.

9 Q. What was this incident about taking the phone?

10 A. We were actually at a friend of ours, this little girls
11 birthday party. And I was texting Charlie. And Joe,
12 actually in front of everybody, took my phone from me.

13 Q. Did he ever tell you why?

14 A. Because I was texting Charlie.

15 Q. Do you recall an incident where your phone was actually
16 stolen, not taken from you, but actually stolen?

17 A. Yes, sir. I had had some dental work done and I
18 actually fell asleep. And both of our phones, mine and
19 Jobo's phones went missing.

20 Q. Did you ever accuse anyone of taking that phone?

21 A. I accused Joe of taking it.

22 Q. How did he respond at that time?

23 A. That his was missing, too.

24 Q. Okay. Did you ever see that telephone again?

25 A. Not mine. I saw the one of his that went missing

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1 though.

2 Q. When you were speaking to him on the jail telephone
3 calls did he ever mention that or did you ever mention that
4 to him?

5 A. Yes, sir. His mom had brought a box of stuff that she
6 thought was mine from his house to where I live now. And
7 the phone of his that had went missing at the time was in
8 there, but mine was not. And I brought it up to him wanting
9 to know where mine was.

10 Q. And what did Joe have -- Jobo have to say about that?

11 A. He denied it at first. And then he admitted that it
12 was because he wanted to see if I was talking to Charlie.

13 Q. I'm going to bring you to July 4th of 2011. Do you
14 remember what you were doing on this day?

15 A. We had went to the racetrack.

16 Q. Which racetrack would that be?

17 A. The one in Travelers Rest, Travelers Rest Speedway.

18 Q. And who were you with?

19 A. My kids. And my dad actually was there at one time
20 with his son.

21 Q. Was Jobo Phillips there?

22 A. Yes, sir.

23 Q. Were you there together as a couple?

24 A. No, sir.

25 Q. Was Charlie Roberts there?

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1 A. Yes, sir. He came later after the race, but before
2 they started the fireworks.

3 Q. Was he there with you?

4 A. No, sir.

5 Q. I'm going to ask you almost a two-part question. Did
6 Jobo make any statements about Charlie Roberts in particular
7 when you were out there?

8 A. Yes, sir. He said that he -- he was upset because he
9 thought that I had invited him. And he -- that's when he
10 told me that I would -- that I can't leave him alone long
11 enough to spend time with my own family. And he had said
12 that Roy White was upset with Charlie ---

13 Q. I'm sorry, who was that?

14 A. Roy White was upset with ---

15 MS. GORTON: Objection ---

16 A. --- Charlie.

17 MS. GORTON: --- to hearsay.

18 THE COURT: I sustain the objection to that.

19 Q. Don't repeat what someone else said with the exception
20 of Jobo Phillips.

21 A. Right.

22 Q. I'd like you to -- did he make any comments about
23 Charlie in particular? Jobo make any comments about Charlie
24 in particular?

25 A. Yeah. He was just mad and he'd cuss him.

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- 1 Q. Did he describe him at all?
- 2 A. Red headed mother fucker.
- 3 Q. Let me ask you a question. Was Charlie red headed or
- 4 could he be looked at as being red headed?
- 5 A. He was actually -- he had brown hair, but his facial
- 6 hair had a really bright red tint to it. So when he had his
- 7 hat on you could mistake him for a red head.
- 8 Q. When did you first notice that Charlie Roberts was no
- 9 longer returning phone calls or involved?
- 10 A. Friday -- that Friday.
- 11 Q. Was anything unusual about what caused you to realize
- 12 he was not answering phones at all?
- 13 A. He just -- he always -- he always texted me. He always
- 14 called me. And I just didn't hear from him.
- 15 Q. And were you supposed to see him that night?
- 16 A. Yes, sir. He was supposed to come and pick me up, and
- 17 I was supposed to go to my grandfather's.
- 18 Q. Did he ever show up?
- 19 A. No.
- 20 Q. Who did drive you to your grandfather's?
- 21 A. Jobo.
- 22 Q. Were your children also there?
- 23 A. Yes. I was going to babysit my aunt's children.
- 24 Q. Do you remember speaking to officers the next day?
- 25 A. Yes, sir.

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1 Q. And did you meet them in person, over the telephone or
2 how was this ---

3 A. In person. Jobo is actually the one that called me
4 when they found Charlie's truck. He said Leroy had told
5 him. And so I went down there to where the truck had been
6 found. And I went with officers to the detention center.

7 Q. I'm going to bring you back to July 9th. While you
8 were riding or going with Jobo Phillips did he make any
9 comments about your relationship with Charlie Roberts?

10 A. I kept checking my phone. And he said, what, you ain't
11 heard from your boy today?

12 Q. Did Jobo make any comments or send any messages
13 concerning you and him, Jobo and you?

14 A. Yeah, he asked me out.

15 Q. Okay. Did he ever send you any texts that night?

16 A. Yeah, telling me that he loved me.

17 Q. Did you respond to him, that text?

18 A. I don't think I responded to that one.

19 Q. Okay. Move on to Saturday. What did Joe do on
20 Saturday?

21 A. He called me and told me that they had -- he asked me
22 had I heard from Charlie yet. I told him, no. And he said
23 that they had found his -- he said that Leroy, Charlie's
24 brother, had called him and told him they found his truck up
25 there in River Falls.

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1 Q. Okay. At that point did Joe ever ask you about your
2 relationship with Jobo as opposed to Charlie?

3 A. No. Whenever I left -- when I left the detention
4 center Joe had called my phone several times while I was in
5 there. And I just -- just let it out. I told him that we
6 had been together, Charlie and I had, and it was -- sorry.

7 Q. What caused you to have that -- what was his statement
8 or question that caused you to tell him that you were in a
9 relationship with Charlie?

10 A. I just was upset. I don't know. Sorry.

11 Q. Did Jobo ever ask you out?

12 A. Yes, sir.

13 Q. When did he ask you out?

14 A. That's when he asked me out is when I told him that me
15 and Charlie were together and I needed to be worrying about
16 that.

17 Q. How did Mr. Phillips respond when you told him this?

18 A. He hung up on me.

19 Q. After that time did Jobo ever ask you out again or talk
20 about your relationship again?

21 A. Yes, sir, several times.

22 Q. What did he want you to do?

23 A. Move back in and be back together.

24 Q. Do you remember any incident where JJ expressed any
25 animosity or hatred towards Charlie Roberts?

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1 A. No, sir.

2 Q. Did you have the opportunity to speak to your brother
3 alone during the time period after Charlie went missing?

4 A. No. Joe would come over to my mom's nearly every day.
5 He'd just show up. And sometimes JJ would come. But when
6 he left, JJ had to go with him. Like, JJ, are you ready?
7 Are you ready? Are you ready?

8 Q. Did Jobo ever tell you why he didn't let -- he didn't
9 want JJ to be around you?

10 A. No.

11 Q. How many times do you think you've spoken to JJ since
12 he's been locked up?

13 A. I think twice.

14 Q. This is going to be difficult, but do you recall the
15 day that Charlie's body was recovered?

16 A. Yes, sir.

17 Q. Are you familiar with the area where it was recovered?

18 A. Yes, sir.

19 Q. Have you ever been there? And if so, tell us the
20 circumstances.

21 A. Yes, sir, we have. Joe's -- Joe's aunt and her husband
22 at the time, Carl Rider, used to live down there. And we
23 would go down there to go hunt. And I actually would wind
24 up staying with Lisa in the car while he would hunt.

25 Q. Do you know is there -- is there a residence there now

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1 ---

2 A. It burned down.

3 Q. After Jobo was taken into custody and jail and you
4 spoke -- do you remember speaking with him?

5 A. Yes, sir. I spoke to him several times.

6 Q. Did you visit him?

7 A. Yes, sir. I took my kids down there, too.

8 Q. Did you know that you were having some jail phone calls
9 that were being recorded?

10 A. Yes, sir.

11 Q. And how did you know that the phone calls were being
12 recorded?

13 A. Because there's an automated message on there that says
14 that this call is being recorded and monitored.

15 Q. Did Jobo ever talk about Charlie?

16 A. Yes, sir.

17 Q. Did he ever use Charlie's name?

18 A. No, sir.

19 Q. While he was incarcerated did he ask you -- what did
20 Jobo ask concerning your residence, where you were living?

21 A. What do you mean?

22 Q. While he was in jail did Jobo ever ask you to move back
23 in with him?

24 A. Yes.

25 Q. Did you ever speak with your brother on the jailhouse

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1 telephone calls?

2 A. Yes, sir.

3 Q. Did you ever have a meeting with him in the jail?

4 A. Yes, sir.

5 Q. And were those -- were those recorded?

6 A. Yes, sir.

7 Q. Do not repeat what JJ had to say, but did you ask him
8 any questions concerning this death?

9 A. I did.

10 Q. Did he respond?

11 A. Yes, sir.

12 Q. Did you listen to any phone calls in this case in the
13 Solicitor's Office in the last couple of weeks?

14 A. Yes, sir.

15 **MR. STEINBERG:** I beg the Court's indulgence.

16 (Whereupon a bench conference was held off the record
17 in the presence of the jury, but out of their hearing)

18 (Whereupon the bench conference was ended)

19 **MR. STEINBERG:** I'd like these disks marked as State's
20 1 and 2 -- State's 3 and 4.

21 (Whereupon State's exhibits 3 and 4 were marked for
22 identification)

23 (Whereupon the CD was played for the jury)

24 (Whereupon the CD was ended)

25 Q. Who are the two voices on that phone?

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1 A. Mine and JJ's.

2 Q. I'm going to ask you to listen to one more phone call.

3 (Whereupon the CD was played for the jury)

4 (Whereupon the CD was ended)

5 Q. Who were the two voices?

6 A. Mine and JJ's.

7 **MR. STEINBERG:** The State would move disks marked

8 September 3rd, 2011, 19:25 hours on both, number 1 and

9 number 2, into evidence.

10 **THE COURT:** All right. They're in evidence.

11 (Whereupon State's exhibits 3 and 4 were admitted into
12 evidence)

13 **MS. GORTON:** Same objections, Your Honor.

14 Q. Ms. Gentry, after Joe's release on bond did you ever
15 speak to him again after that?

16 A. Yes, sir.

17 Q. What did he try to say or do as far as your
18 relationship with him?

19 A. He tried to be back together.

20 Q. Did you, in fact, get back together with him after he
21 was released?

22 A. No, sir.

23 Q. Thank you, Christina. Please answer any of opposing
24 counsel's questions.

25 **Cross Examination by Ms. Gorton:**

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1 Q. Just so we're clear, those two phone calls you listened
2 to, that all occurred on the same day, correct? It was the
3 same phone call?

4 A. No, ma'am.

5 Q. Excuse me?

6 A. I don't -- I don't remember, but I don't think so.

7 **MR. STEINBERG:** Your Honor, I'll consent to that. I'll
8 stipulate to that.

9 **MS. GORTON:** Please let the record reflect that the
10 State so stipulates that that was during the same phone
11 conversation.

12 Q. The calls from the jail, those were approximately
13 fifteen minutes apiece, is that correct?

14 A. Yes, ma'am.

15 Q. All right. And every time you accepted a call it costs
16 you something, correct?

17 A. Yes, ma'am.

18 Q. And you accepted -- that was the first call that you
19 accepted from JJ?

20 A. No, ma'am.

21 Q. It wasn't?

22 A. No, ma'am.

23 Q. You talked to JJ before then?

24 A. I think so, yes, ma'am.

25 Q. During that same conversation did he say you were the

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1 only person I was scared to talk to?

2 A. The first conversation?

3 Q. Yes, this conversation.

4 A. Yes, ma'am.

5 Q. Okay. Now, didn't he say to you at the beginning, I'm
6 looking at the death penalty?

7 A. Yes, ma'am. That wasn't actually a phone call. I went
8 to visit him during that.

9 Q. Okay. Well, let's play it.

10 (Pause)

11 (Whereupon the CD was played for the jury)

12 (Whereupon the CD was ended)

13 Q. So did you hear that at the beginning, tried to see you
14 two times? This appears to be your first conversation with
15 JJ, is that correct?

16 A. Yes, ma'am.

17 Q. So you hadn't seen him and this conversation occurred
18 during that phone call, is that correct?

19 A. Yes, ma'am.

20 Q. Okay. And does he tell you during this conversation,
21 I'm looking at the death penalty?

22 A. I'm not sure.

23 Q. Okay.

24 **MS. GORTON:** Judge, I'm sorry, I'm on a different
25 computer. And I was trying to stop it before we got to the

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1 part that you ruled on. And I'm going to ---

2 (Whereupon the CD was played for the jury)

3 (Whereupon the CD was ended)

4 Q. So he says death penalty there, correct?

5 A. Yes, ma'am.

6 Q. Did you also say to him during that phone conversation,
7 I don't see you doing it JJ? And he says, you were the only
8 person I was scared to call?

9 A. Yeah. Yes, ma'am.

10 Q. Now, you told the solicitor that you had known Charlie
11 as long as you had known -- as long as you'd known Joe, my
12 client, correct?

13 A. Within a few month's difference, yes, ma'am.

14 Q. Okay. Did you give a statement on July 9th?

15 A. Yes, ma'am.

16 Q. And just to clarify, what do you mean by you say you
17 knew Charlie that long? Were you guys friends that long?

18 A. No, ma'am.

19 Q. Okay.

20 A. I mean, we were all -- we all hung out.

21 Q. Well, you'd only started talking to Charlie about five
22 and a half months ago, wasn't that correct?

23 A. Yes, ma'am, in that manner.

24 Q. What do you mean in that manner?

25 A. We were actually friends. We spoke and had

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1 conversations instead of just passing, hello, how are you?

2 Q. So you're saying you and Charlie started getting
3 romantically involved five and a half months prior?

4 A. No, ma'am.

5 Q. Okay. Because you did write that you and Charlie had
6 only been dating about a month and a half prior to his
7 disappearance, correct?

8 A. Yes, ma'am.

9 Q. Didn't you also tell law enforcement that as of right
10 now I think that Joe thinks Charlie and I are just friends?

11 A. Yes, ma'am.

12 Q. So he thought you were just friends?

13 A. Yes, ma'am.

14 Q. And, in fact, you also said that Charlie did mention
15 you were going to have to figure out about how you were
16 going to tell Joe about you guys dating?

17 A. Yes, ma'am.

18 Q. That this hadn't been done yet?

19 A. Yes, ma'am.

20 Q. Now, you and Joe have a couple of children together,
21 right?

22 A. Yes, ma'am.

23 Q. All right. You have Bubba?

24 A. Bubba is my oldest son. He's not Jobo's.

25 Q. He's not really Jobo's, but has Joe taken him and treat

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- 1 him as a father?
- 2 A. He has.
- 3 Q. Is Joe really the only father that Bubba knows?
- 4 A. Yes, ma'am.
- 5 Q. And how old is Bubba?
- 6 A. He'll be ten next month.
- 7 Q. All right. And there's Billy?
- 8 A. Yes, ma'am.
- 9 Q. And how old's Billy?
- 10 A. Six.
- 11 Q. There's Ben?
- 12 A. Yes, ma'am.
- 13 Q. How old's Ben?
- 14 A. Three.
- 15 Q. Now, those aren't Joe's only children, right?
- 16 A. No, ma'am.
- 17 Q. Who are his other children?
- 18 A. Lee P[REDACTED] and Levi P[REDACTED].
- 19 Q. Okay. Lee P[REDACTED], who's his mother?
- 20 A. Gail Gilbert.
- 21 Q. And has she been on again, off again with Joe?
- 22 A. Yes and no. I mean, it was before I came along. But,
- 23 yes.
- 24 Q. Okay. Well, who is she married to now?
- 25 A. Joe's dad, Ken Gilbert.

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- 1 Q. So she left Joe and went to his dad?
- 2 A. Yes, ma'am.
- 3 Q. What about Joe's other child you mentioned, Levi?
- 4 A. Yes, ma'am.
- 5 Q. And how old is he?
- 6 A. He's -- he'll be ten as well. He's close in age with
- 7 my oldest one.
- 8 Q. And who's his mother?
- 9 A. Amanda Roberson.
- 10 Q. Is she still in Marietta?
- 11 A. Yes, ma'am.
- 12 Q. And you did mention to the prosecutor that you and Joe
- 13 had gotten together and broke up several times?
- 14 A. Yes, ma'am.
- 15 Q. And each of you had boyfriends and girlfriends during
- 16 those times, correct?
- 17 A. No, ma'am, not until this -- the last time that we
- 18 split up.
- 19 Q. Now, you and Joe talked several times while he was in
- 20 jail, correct?
- 21 A. Yes, ma'am.
- 22 Q. In fact, you talked to Joe five times in just one day
- 23 on September 2nd, correct?
- 24 A. Yes, ma'am.
- 25 Q. And we've already talked about how these calls costs

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1 every time someone calls. And you accepted and spoke with
2 him five times that day, correct?

3 A. Yes, ma'am. I didn't pay for the phone. His mom would
4 put time on there so he could call me.

5 Q. All right. And certainly you have the option of just
6 refusing the call?

7 A. Yes, ma'am.

8 Q. Did anyone with law enforcement ask you to make these
9 five calls in one day?

10 A. No, ma'am.

11 Q. You ---

12 A. And I didn't make the calls, he had to call me. You
13 can't call the detention center.

14 Q. Okay. I stand corrected. Anyone in law enforcement
15 tell you to accept his calls when he called?

16 A. No, ma'am.

17 Q. You were hiding these calls from your family, though,
18 right?

19 A. Yes, ma'am.

20 Q. You were hiding them from your dad?

21 A. Yes, ma'am.

22 Q. You didn't want your family to know that you were
23 talking to Joe?

24 A. No, ma'am.

25 Q. And you knew that Joe had other women. You knew about

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1 Amanda, right?

2 A. Yes, ma'am.

3 Q. And, in fact, you and Joe had an argument on the phone
4 while he was in jail about him being with Amanda, correct?

5 A. Yes, ma'am.

6 Q. And you also knew that he'd been with Kendra?

7 A. Yes, ma'am.

8 Q. While you guys were split up?

9 A. Yes, ma'am.

10 Q. And you and Joe had an argument about him and Kendra
11 being together while you guys were split up?

12 A. Yes, ma'am.

13 Q. So Joe had other women?

14 A. Yes, ma'am.

15 Q. When Joe was in jail you went to a lawyer's office with
16 his family, correct?

17 A. Yes, ma'am.

18 Q. And this is shortly after Charlie's body was
19 discovered?

20 A. Yes, ma'am.

21 Q. And you went and spoke with Ernie Hamilton about
22 getting Joe a bond?

23 A. Yes, ma'am.

24 Q. And you indicated to him that you were willing for the
25 family to pay money toward Joe's bond rather than going

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1 towards you?

2 A. I went with his mom, because she couldn't read and
3 write, to the attorney.

4 Q. That's a good point. His mom is who?

5 A. JoAnn Johnson.

6 Q. And do you know what level of education she has?

7 A. Not past elementary school, surely.

8 Q. Surely. And what about Joe, how does he do?

9 A. He can't read and write either.

10 Q. Can he read texts?

11 A. Yes, ma'am.

12 Q. Okay. But reading these notes, could he do that?

13 A. No, ma'am.

14 Q. So you went and assisted her because she couldn't read?

15 A. Yes, ma'am.

16 Q. Did you make statements to Ernie that you wanted to
17 help get Joe out of jail?

18 A. I told him that what we were there for. It was a we
19 statement, not an I, yes, ma'am.

20 Q. Okay. The family referred to you at that time as Joe's
21 girlfriend?

22 A. Yes, ma'am.

23 Q. Did you ever correct them?

24 A. I did.

25 Q. In front of Ernie?

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1 A. No.

2 Q. Now ---

3 A. But I did introduce myself to Ernie as his ex-
4 girlfriend.

5 Q. You did?

6 A. Yes, ma'am.

7 Q. Now, the State asked you something about the calls
8 being recorded. When you talked to Joe and you and he were
9 having this argument about Amanda and Kendra and him being
10 with these other women, ---

11 A. Um-hum (affirmative).

12 Q. --- did you tell Joe that the call -- he said to you,
13 the calls are being recorded, and you said to him that they
14 couldn't, that it was illegal? Do you remember saying that?

15 A. I don't know. I was probably arguing with him and just
16 saying stuff.

17 Q. Well, I can play it.

18 (Whereupon the attorneys were conferring off the
19 record)

20 MS. GORTON: My date is 9/2/11. The time of the call
21 is 18:38.

22 MR. STEINBERG: 9/2/11?

23 MS. GORTON: 9/2/11. The time is 18:38. Oh, I'm
24 sorry, 9/2/11. The time is 15:18. It was in an earlier
25 call.

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1 Q. You know what, I've got too wide of a span here. Would
2 you agree that you might have told him that?

3 A. Sure.

4 Q. Okay. I don't want to have to play all six minutes.

5 A. That's fine.

6 Q. All right. Now you also, besides Charlie, you had
7 another boyfriend, a boyfriend named Carl?

8 A. Yes, ma'am. That wasn't until later.

9 Q. And had you had prior boyfriends when you and Joe were
10 broke up?

11 A. No, ma'am.

12 Q. So he had other women, but you didn't have other men?

13 A. No.

14 Q. And would you agree that you spoke with Joe that
15 September 5th and then on September 3rd you spoke with him
16 again? You had a twenty-seven minute call. And then you
17 had or twenty-seven minute visit ---

18 A. Um-hum (affirmative).

19 Q. --- with Joe. So you went and visited him as well?

20 A. I did.

21 Q. Okay. So first we're talking September 2nd. And the
22 very next day you have a visit? Yes?

23 A. Yes, ma'am.

24 Q. And then you have a call at nine at -- for fifteen
25 minutes, another call for fifteen minutes, one, two, three,

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1 four, five, six calls in the same day, does that sound
2 right?

3 A. Yes, ma'am, 'cause he wouldn't only just call me, he
4 would call his kids as well.

5 Q. All right. But it was to your home?

6 A. Yes, ma'am.

7 Q. All right. And some of those calls the kids didn't
8 ever get on the phone, correct?

9 A. Yes, ma'am.

10 Q. It was you and him talking?

11 A. Yes, ma'am.

12 Q. But it's your testimony today that you guys weren't
13 back together?

14 A. No.

15 Q. And those calls continued through November? Yes?

16 A. Yes, ma'am.

17 Q. Every day?

18 A. Yes, ma'am.

19 Q. Several times a day?

20 A. Yes, ma'am. He's very persistent. You just don't --
21 if I didn't answer, he'd call back. Or he'd send his mom to
22 my house to see where I was, why I wasn't answering the
23 phone. So I would just answer it and get that over with.

24 Q. So you were just trying to get these calls over with?

25 A. Yes, ma'am.

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1 Q. Well, how about we play one of those calls just so we
2 can get a feel for it.

3 (Whereupon the attorneys were conferring off the
4 record)

5 MS. GORTON: November 4th. And it's at 20:09, this
6 call.

7 THE COURT: This might be a good time to take a recess.
8 I understand ---

9 MS. GORTON: Thank you, Judge.

10 THE COURT: --- lunch is here. Ladies and gentlemen,
11 we'll recess at this time so that you can have your lunch.
12 And while on recess and having your lunch, do not talk about
13 this case. Take the jury out, please.

14 (Whereupon the jury exited the courtroom at 1:17 pm)

15 THE COURT: Okay. You can step down now. All right.
16 You can find that during the recess.

17 MS. GORTON: I hope so, Judge, yes.

18 THE COURT: And I want to start back at 2:00.

19 MR. STEINBERG: Yes, sir. Thank you, Your Honor.

20 MS. GORTON: Yes, sir. Thank you.

21 THE COURT: All right.

22 (Whereupon court was in recess at 1:18 pm)

23 (Whereupon court resumed at 2:03 pm)

24 MS. GORTON: Judge, we're having difficulty finding a
25 disk with that call on it. I know it exists.

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1 **THE COURT:** Do you have a transcript?

2 **MS. GORTON:** I do not. These were hundreds of hours,
3 it's no exaggeration. I do not.

4 **THE COURT:** Solicitor, do you have a transcript?

5 **MR. STEINBERG:** Actually, we're looking to get opposing
6 counsel a copy if we have one. We might not have it.

7 **THE COURT:** Do you know when it was and ---

8 **MS. GORTON:** Yes, ---

9 **MR. STEINBERG:** Your Honor, the State was not planning
10 on playing this. We're going to see if we have the full
11 evidentiary copy of all -- of all phone calls. We're going
12 to let opposing counsel introduce -- play that portion if
13 she wishes.

14 **MS. GORTON:** Did you hand it to the Judge? Did we
15 already hand it to the Judge?

16 **MR. STEINBERG:** No, we didn't hand it to the Judge.

17 (Whereupon the attorneys were conferring off the
18 record)

19 **MS. GORTON:** Judge, I know we need to move along.
20 Here's what I would propose, is that I be allowed to call
21 Christine back for cross. I could just go ahead and proceed
22 with everything else. And if I need to and we find the
23 disk, then I'd like the opportunity to recall her for cross.

24 **THE COURT:** All right. Let's just do that then. All
25 right. Come back around. You're still under oath, Ms.

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1 Gentry. All right. Bring the jury.

2 (Whereupon the jury entered the courtroom at 2:08 pm)

3 **THE COURT:** All right. You may proceed, Ms. Gorton.

4 **MS. GORTON:** Thank you, Judge.

5 **Cross Examination by Ms. Gorton Continued:**

6 Q. We were talking about a phone call that you and Joe had
7 after your daily phone calls. And do you recall one where
8 you and him talk about a time you got angry and hit him with
9 a beer mug?

10 A. Yes, ma'am.

11 Q. And throughout that call you were laughing with him?

12 A. Yes, ma'am.

13 Q. Talking in a soft voice?

14 A. Yes, ma'am.

15 Q. And your kids never got on the phone that night?

16 A. Yes, ma'am.

17 Q. And when you finished that call you actually said to
18 Joe that you loved him first. Usually it was the other way
19 around. But on that particular call you said I love you
20 first, correct?

21 A. I don't remember.

22 Q. Okay. Now, the prosecutor asked you something and I
23 wanted to go back to it for just a minute before I go on.
24 He asked you about Joe asking you to move in while he was in
25 jail?

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1 A. Um-hum (affirmative).

2 Q. He certainly didn't mean for you to move into the jail
3 with him, right?

4 A. Right.

5 Q. Okay. As you had described, his mom's house and his
6 house is closer than this courtroom, correct?

7 A. Right.

8 Q. And what he was asking you to do, correct, was to move
9 into the empty house where he no longer was?

10 A. Yes, ma'am.

11 Q. Okay. So -- and when he made that suggestion, it's
12 pretty accurate to say you were stressed out?

13 A. Yes, ma'am.

14 Q. You were stressed out that he was in jail?

15 A. Yes, ma'am.

16 Q. And you were stressed out trying to take care of the
17 kids?

18 A. Yes, ma'am.

19 Q. And during that time you were finishing up your
20 associate's degree in nursing, correct?

21 A. Yes, ma'am.

22 Q. So you were working full-time or going to school full-
23 time.

24 A. I was working and going to school full-time.

25 Q. Right. You were doing both.

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1 A. Right.

2 Q. Okay. And his solution to you while he was in jail and
3 while JJ was in jail, there's an empty house, why don't you
4 just move back in. Mom will be right there to help you with
5 the kids. Isn't that what he said?

6 A. Yes, ma'am.

7 Q. Okay. Going back to you and Jojo -- Jobo. Isn't it
8 fair to say that while -- when Charlie died, the time of his
9 death, you and Joe still spent a great deal of time
10 together, as much as you had anyway. You were going to
11 school, you were working, ---

12 A. Um-hum (affirmative).

13 Q. You were seeing Charlie.

14 A. Um-hum (affirmative).

15 Q. But you and Joe were still spending a good deal of time
16 together, right?

17 A. Yes, ma'am. We did a lot of things together,
18 especially with our kids. We went to the river. We'd go to
19 the park or we'd watch a movie or, you know, go to Burger
20 King.

21 Q. Exactly. And the day Charlie died, actually, you had
22 spent most of that day with Joe?

23 A. No, ma'am. I woke up and he was there. And then we
24 did run a couple of errands. And then he took me to my
25 grandfather's.

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1 Q. Okay. Well, let's back up a little bit. You didn't
2 initially tell the detectives that, right?

3 A. That we had spent the day together?

4 Q. Yeah. Let me back up. You went -- Charlie's car was
5 found Friday night, correct? Truck was found Friday night?

6 A. I'm not sure.

7 Q. Okay. You first learned of it Saturday?

8 A. Yes, ma'am.

9 Q. And Joe takes the kids so you can go down and find out
10 what's going on?

11 A. Yes, ma'am.

12 Q. Okay. And so you go down to where his truck's been
13 found?

14 A. (Affirmative nod).

15 Q. And was it -- which one of Charlie's brothers had
16 already talked to law enforcement?

17 A. Leroy.

18 Q. Leroy had already told law enforcement that he had
19 talked to you, correct?

20 A. I hadn't spoken to Leroy. I did -- I did call right
21 before -- now, I did call right before I got there and asked
22 him where they were, and he told me.

23 Q. Right. And did you proceed to tell Leroy about you and
24 Charlie?

25 A. Yeah.

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1 Q. Okay. And then when you got to the scene law
2 enforcement already knew that there was some issue about you
3 and Charlie, correct?

4 A. Yes, ma'am.

5 Q. And they start asking you about that?

6 A. Yes, ma'am.

7 Q. You didn't have a chance to tell them. They already
8 knew when you got there?

9 A. Yes, ma'am.

10 Q. All right. So you -- they asked you to go give a
11 statement, correct?

12 A. Yes, ma'am.

13 Q. And the statement you gave, was that with Shawnee
14 Peebles, the female?

15 A. Yes, ma'am.

16 Q. All right. And so you gave a statement and you left,
17 correct?

18 A. Yes, ma'am.

19 Q. And then they talked to Joe, correct?

20 A. I'm not sure when they spoke to him. I know they spoke
21 to him that evening.

22 Q. All right. And after they spoke with him they called
23 you back up, right?

24 A. Yes, ma'am.

25 Q. And they said they needed to talk to you again, right?

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1 A. Yes, ma'am.

2 Q. And the thing that they needed to talk to you about was
3 your statement about where you were and who you were with,
4 correct?

5 A. Yes, ma'am.

6 Q. They were upset with you because Joe had told you --
7 told them that ---

8 MR. STEINBERG: Objection to ---

9 Q. --- he was with you, ---

10 MR. STEINBERG: --- whether counsel ---

11 Q. --- correct?

12 MR. STEINBERG: --- thinks ---

13 THE COURT: Wait. Hold on. What?

14 MR. STEINBERG: Objection to whether counsel thinks
15 that an officer's upset.

16 THE COURT: Go ahead.

17 MS. GORTON: I'll rephrase.

18 MR. STEINBERG: Mischaracterization.

19 MS. GORTON: I'll rephrase.

20 Q. The officer wanted to ask you about what you initially
21 said you were doing that day and what Joe said you were
22 doing that day, correct?

23 A. They didn't really go into a whole lot of detail about
24 what I was doing that day. They asked me -- as far as I can
25 remember, when I went back the second time they did ask me

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- 1 where -- where I was the evening before and stuff like that.
- 2 Q. Hadn't they asked you that the first time?
- 3 A. I would guess so.
- 4 Q. And you didn't tell them that you were with Joe?
- 5 A. I think they asked me where I was. I -- I really don't
- 6 remember.
- 7 Q. The truth of the matter is is that you were with Joe
- 8 Friday, July 8th?
- 9 A. Um-hum (affirmative).
- 10 Q. You did not wake up until noon, correct? Around noon?
- 11 A. Yeah, it was a little before then.
- 12 Q. Okay.
- 13 A. Yes.
- 14 Q. And when you woke up Joe was already there at your
- 15 mother's house, correct?
- 16 A. Yes, ma'am.
- 17 Q. And he had been sitting on the porch with her?
- 18 A. Yes, ma'am.
- 19 Q. Any idea how long he'd been there?
- 20 A. My mom said he'd been there for a while.
- 21 Q. A while, what does that mean?
- 22 A. I don't know. I guess all morning.
- 23 Q. Your mom's not going to be here today, correct?
- 24 A. No. My mom passed away a few weeks ago.
- 25 Q. I know. I'm sorry.

CHRISTINA GENTRY - CROSS EXAMINATION BY MS. GORTON

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1 (Pause)

2 Q. So your mom said he'd been there a while?

3 A. Yes.

4 Q. And this time-line is really, really important right
5 now. So you think you woke up around noon?

6 A. Between eleven and twelve, yes.

7 Q. Okay. And your mom said he'd been there a while?

8 A. Yes, ma'am.

9 Q. So when you woke up, then you and he went and ran some
10 errands together?

11 A. It was a little bit later in the day, yes, ma'am.

12 Q. He was around the whole time, though, right?

13 A. Yes, ma'am.

14 Q. You know he didn't go out and do anything, he stayed on
15 the property, correct?

16 A. Right.

17 Q. And you and him went and ran some errands. Went to the
18 park?

19 A. Yes, ma'am.

20 Q. And you had some cousins with you?

21 A. Not that day, no, ma'am.

22 Q. Didn't you tell Detective Peeples that you had cousins
23 with you, that you went and ran -- got pictures developed
24 with some cousins?

25 A. No. My cousins were the ones that I was actually

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1. babysitting. And the park that we went to was one that I
2 walk to below my grandpa's.

3 Q. So you went to the park with the cousins or without,
4 just so I'm clear?

5 A. With cousins, but it was after I'd already gotten to my
6 grandpa's. The park is actually right across the road from
7 his house.

8 Q. So if Investigator Peeples wrote that you told her you
9 were with your cousins, is that correct or incorrect?

10 A. It's correct.

11 Q. You were with your cousins?

12 A. Yes, ma'am.

13 Q. Okay. And Joe?

14 A. I think he had come down for a little while. Yes,
15 ma'am.

16 Q. Okay. And who else? Anyone?

17 A. Our kids.

18 Q. Okay. And you were around Joe more or less for the
19 whole day up until about six pm, correct?

20 A. I would say so, yes, ma'am.

21 Q. All right. Now I'm going to go back to what you did
22 and didn't tell Detective Peeples. You told the detectives
23 you and Joe were not together anymore when Charlie
24 disappeared. Although you've admitted to us that you were
25 hiding that you were talking to Joe after he was arrested,

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1 correct?

2 MR. STEINBERG: Objection to this characterization ---

3 THE COURT: Yes. Just ask the questions and let her
4 answer.

5 MS. GORTON: All right.

6 Q. You told them in great detail about the calls and texts
7 you and Charlie had shared the night of the 7th, early
8 morning of the 8th, right before he died, correct?

9 A. Yes, ma'am.

10 Q. And you have a pretty good memory of what those were?

11 A. I'd say so.

12 Q. All right. And you were aware that they subpoenaed
13 your phone records to confirm this, correct?

14 A. Yes, ma'am.

15 Q. Now, your phone records also showed that you called Joe
16 as well?

17 A. Yes, ma'am. He had called me first. And I returned
18 the call.

19 Q. All right. And you called -- you returned his call not
20 just once, but twice or three times, correct?

21 A. Yes, ma'am.

22 Q. At one in the morning?

23 A. Yes, ma'am.

24 Q. Now, it's still your testimony today under oath that
25 you and Joe have not been together since Charlie died?

CHRISTINA GENTRY - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Yes, ma'am.
- 2 Q. Was there an incident with you kicking in a door?
- 3 A. I didn't kick in the door. There was an incident.
- 4 Q. An incident involving what?
- 5 A. There was a girl there. And I ---
- 6 Q. There meaning?
- 7 A. At Joe's. They were together. And I did say
- 8 something, but when I said something it was that I couldn't
- 9 be happy and move on with my life, but he could, was that
- 10 incident. That wasn't me kicking in his door. I knocked on
- 11 the door and he answered it.
- 12 Q. And when was that?
- 13 A. It was early in the morning one morning. I was about
- 14 to go on my son's field trip.
- 15 Q. I'm sorry. In the context of Charlie being killed,
- 16 when was it?
- 17 A. After.
- 18 Q. Since then. And then he has -- we talked before, there
- 19 was Kendra?
- 20 A. Yes, ma'am.
- 21 Q. And who else was there?
- 22 A. Amanda.
- 23 Q. Amanda. And this incident that you're talking about,
- 24 that was Alicia Durham?
- 25 A. Yes, ma'am.

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1 Q. All right. And then there's also been Emily, correct?

2 A. Yes, ma'am.

3 Q. And you and Emily, you actually got into a physical
4 altercation with Emily?

5 A. Yes, ma'am.

6 Q. And you knocked out her teeth?

7 A. I didn't knock out her tooth. Her child actually
8 knocked out her tooth.

9 Q. Busted up her nose?

10 A. Yes, ma'am.

11 Q. Were you arrested for that?

12 A. I was.

13 Q. And that was pretty recently?

14 A. Yes, ma'am.

15 **MR. STEINBERG:** Your Honor, I'm going to have to object
16 to this prior bad ---

17 **THE COURT:** Yeah, I sustain ---

18 **MR. STEINBERG:** --- act. This ---

19 **THE COURT:** --- the objection. Instruct ---

20 **MR. STEINBERG:** --- is all irrelevant.

21 **THE COURT:** --- the jury to disregard that last
22 question and answer.

23 **MS. GORTON:** Judge, if I may. She's pretty much opened
24 the door by ---

25 **THE COURT:** No

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1 MS. GORTON: Okay.

2 THE COURT: Move on.

3 Q. And we talked about your mom being deceased. At the
4 time Charlie disappeared Joe was there a fair bit of time,
5 right? It wasn't just this day?

6 A. Yes, ma'am.

7 Q. He was there to visit his children?

8 A. Yes, ma'am, to pick them up. He'd come and stay some.
9 He was -- he would stay and chat with my mom some.

10 Q. Is it fair to say that transportation is a problem up
11 there? I mean in Marietta.

12 A. Yes.

13 Q. Okay. And people are often -- their cars are broke
14 down and they have to rely on each other for rides, is that
15 correct?

16 A. Yes, ma'am.

17 Q. All right. Who else was living -- you were living with
18 your mom, correct?

19 A. Yes, ma'am.

20 Q. Who else was living there with you?

21 A. My brother, my older brother.

22 Q. I wanted to clarify, not JJ?

23 A. Yes, not JJ.

24 Q. JJ was still living at Joe's house, correct?

25 A. Yes, ma'am.

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1 Q. Okay. Your older brother, Chris?

2 A. Yes, ma'am.

3 Q. And he's married -- was sort of married, separated at
4 that time from Emily?

5 A. Yes, ma'am.

6 Q. And they share children?

7 A. Yes, ma'am.

8 Q. Who else lived in that house?

9 A. And their step-dad.

10 Q. Okay. Did you and JJ have another sister? Was she
11 living there as well?

12 A. No, ma'am.

13 Q. What did ---

14 A. She come and she had stayed for -- I think she stayed
15 for about seven or eight days. And then my mom told her she
16 had to go. Her name is Lita.

17 Q. Okay. Did JJ actually stay at your mom's house for a
18 while?

19 A. He did back a few years ago.

20 Q. And did he have to leave as well?

21 A. He did have ---

22 **THE COURT:** Now what's the relevance of this, please?

23 Let's move on.

24 Q. JJ is your younger brother or older?

25 A. He's younger.

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1 Q. So you're familiar with his background and his history?

2 A. I am.

3 Q. Just so that we're clear, when did he start living with
4 Joe? Do you remember?

5 A. I don't remember specifically, no.

6 Q. Did it start off as just kind of staying there every
7 now and then and then he basically moved in?

8 A. It did.

9 Q. Okay. Can you give us a rough idea in context to let's
10 say when you left? You said you left March of 2011, is that
11 correct?

12 A. Yes, ma'am.

13 Q. That's when you left and moved to your mom's house?

14 A. Yes, ma'am.

15 Q. In that context, before March 2011, when did JJ move
16 in?

17 A. At least a year before that.

18 Q. Okay.

19 A. But he didn't -- I'm saying he would come and stay,
20 then go, come and stay, then go.

21 Q. Okay. But at least a year?

22 A. Yes, ma'am.

23 Q. Now, during that time did he pay any rent?

24 A. No, ma'am.

25 Q. No?

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1 A. (Negative nod).

2 Q. Did he work?

3 A. No, ma'am.

4 Q. Did he do odd jobs?

5 A. He did occasionally. He would leave -- he'd leave for
6 days and he would come back. And he'd have cigarettes, you
7 know, ---

8 Q. That's exactly where I was going with this. JJ would
9 leave, disappear, no one would know where he was, correct?

10 A. Yes, ma'am.

11 Q. And then he'd come back?

12 A. Yes, ma'am.

13 Q. And he had done that right before Charlie died, hadn't
14 he?

15 A. I wouldn't know.

16 Q. It was -- was it so common it's hard to keep track?

17 A. Yes, ma'am.

18 Q. Okay. So the whole time he was living there that year
19 he never paid rent?

20 A. No, ma'am.

21 **THE COURT:** That's been asked and answered.

22 Q. You guys fed him, clothed him?

23 A. (Affirmative nod).

24 Q. You did his laundry?

25 A. He would help around the house. Yes, ma'am.

CHRISTINA GENTRY - CROSS EXAMINATION BY MS. GORTON

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1 Q. And what was the relationship between JJ and Joe? Now
2 you talked earlier that JJ worshiped Joe, but wasn't it a
3 two way street?

4 A. I would guess so. They were friends.

5 Q. And Joe called him brother?

6 A. Yeah.

7 Q. And JJ called his mom, mom, is that correct?

8 A. No, that is not correct. JJ was not -- he thought the
9 world of JoAnn, that's true, but he didn't call JoAnn mom.

10 Q. But they did call each other brothers?

11 A. Yes, ma'am.

12 Q. And there was a phone call that you and Joe had where
13 he said I'd go to hell and back for JJ, do you know that?

14 A. Um-hum (affirmative).

15 Q. He did say that, didn't he?

16 A. Yes, ma'am.

17 Q. And he said I love your brother to death, but he's
18 really put me in a bad spot, basically?

19 A. Yes.

20 Q. Right?

21 A. Yes.

22 Q. I want to talk just a little bit about the Rider
23 property. You talked a little bit about it when the
24 prosecutor was asking you questions. The Rider property is
25 where Charlie's body was found, correct?

CHRISTINA GENTRY - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. And it's where Carl Rider used to live, but then the
3 house burned down, correct?

4 A. Yes, ma'am.

5 Q. And when Charlie's body was found, Carl Rider had
6 stayed the night there and that's how Charlie's body was
7 found, right?

8 A. Yes, ma'am.

9 Q. Now, you said that Joe used to go there a lot, that you
10 used to go there ---

11 A. That we, yes, ma'am.

12 Q. We. So the whole family really went there a lot?

13 A. Yes, ma'am.

14 Q. And that includes JJ?

15 A. JJ had never actually been down there with us together.
16 I know he had been down there before though.

17 Q. So you did know he had been down there?

18 A. Yes, ma'am.

19 Q. All right. Now, do you know anything about JJ dating a
20 girl named Shelly McCall?

21 **MR. STEINBERG:** Objection, Your Honor.

22 **THE COURT:** I sustain the objection. Move on, please.

23 Q. Do you know if JJ did odd jobs on Gap Creek Road?

24 A. I don't know for sure.

25 Q. Could have, you're not sure?

CHRISTINA GENTRY - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Yes, ma'am.
- 2 Q. Do you know if he was friends or dated anyone up off of
- 3 Gap Creek Road?
- 4 A. Yes, ma'am.
- 5 Q. He did?
- 6 A. Yes, ma'am.
- 7 Q. All right. When I'm talking about areas I also need to
- 8 ask you about the river area where JJ buried the guns. You
- 9 were familiar with that area, correct?
- 10 A. Yes, ma'am.
- 11 Q. And what did you all call that? Was it called a
- 12 special name?
- 13 A. Just down in the rock.
- 14 Q. The rock?
- 15 A. Yes, ma'am.
- 16 Q. Okay. And you were aware that JJ was very familiar
- 17 with that area as well?
- 18 A. Yes, ma'am.
- 19 Q. Not just Jobo?
- 20 A. (Affirmative nod).
- 21 Q. We were talking about how JJ would disappear. And this
- 22 occurred before Charlie died, would occur often throughout
- 23 that whole year, disappear for days at a time, correct?
- 24 A. Yes, ma'am.
- 25 Q. I know you were distraught after Charlie disappeared,

CHRISTINA GENTRY - CROSS EXAMINATION BY MS. GORTON

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1 but did you have an opportunity to observe JJ's behavior
2 during that time?

3 A. Not as much as I'd liked to have been.

4 Q. Do you know if he disappeared again?

5 A. No, ma'am. I went to stay with my dad when Charlie
6 went missing.

7 Q. So wouldn't know?

8 A. Yes, ma'am.

9 Q. Okay. And the same question about the period of time
10 between when Charlie's body was discovered and when JJ
11 turned himself in, you were at your dad's? You weren't
12 familiar with what JJ was doing or where he was going,
13 correct?

14 A. That's correct.

15 Q. Can you tell me what your brother's reputation in the
16 community was for truthfulness?

17 **MR. STEINBERG:** Objection, Your Honor. This ---

18 **THE COURT:** I sustain the objection. Instruct the jury
19 to disregard that question.

20 **MS. GORTON:** Judge, this goes as to statement ---

21 **THE COURT:** I sustained ---

22 **MS. GORTON:** --- number one.

23 **THE COURT:** --- the objection. Move on.

24 **MS. GORTON:** No, I was getting ready to ask a question.
25 I'm prefacing that this has to do ---

CHRISTINA GENTRY - REDIRECT EXAMINATION BY MR. STEINBERG

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1 **THE COURT:** All right.

2 **MS. GORTON:** --- with statement number one.

3 Q. Has your brother ever made seventy-five thousand
4 dollars a year?

5 A. No. I mean, I would really have no way to confirm
6 that, but I wouldn't think so, no.

7 Q. All right. And has he ever owned a motorcycle as nice
8 as Charlie's?

9 A. He has.

10 **MS. GORTON:** Nothing further.

11 **THE COURT:** All right. Anything else, solicitor?

12 **MR. STEINBERG:** Yes, Your Honor, very, very briefly.

13 **Redirect Examination by Mr. Steinberg:**

14 Q. On this Friday, July 8th, when Charlie went missing, do
15 you know why Jobo came over that day ---

16 A. No.

17 Q. --- to your house? Did you invite ---

18 A. There was no reason.

19 Q. Did you invite him over?

20 A. No.

21 Q. And opposing counsel asked whether you were lying to
22 officers. On July 9th, Saturday, did you ever lie to
23 officers?

24 A. No, sir.

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

JOHN DUNCAN - DIRECT EXAMINATION BY MR. STEINBERG

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1 **THE COURT:** Step down.

2 A. Thank you.

3 **MR. STEINBERG:** Your Honor, the next witness is down
4 the hall, who is sequestered. Your Honor, the State calls
5 Deputy John Duncan.

6 **MADAME CLERK:** Please come forward to be sworn in.

7 John Duncan, being duly
8 sworn testified as follows:

9 **MADAME CLERK:** Thank you. You may be seated.

10 Direct Examination by Mr. Steinberg:

11 Q. You have -- your phone is off?

12 A. Yes, sir.

13 Q. I don't want the Judge holding me in contempt. I don't
14 want him to hear your phone. Deputy Duncan, can you tell us
15 where you're from originally?

16 A. The northern part of the County, Travelers Rest, all my
17 life.

18 Q. And where did you go to high school?

19 A. Blue Ridge High School.

20 Q. And in addition to being a deputy do you have any other
21 major jobs you do?

22 A. I still own a logging business.

23 Q. How long have you been in law enforcement?

24 A. Four years.

25 Q. And what did you do before you were with the Sheriff's

JOHN DUNCAN - DIRECT EXAMINATION BY MR. STEINBERG

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1 Office?

2 A. The logging business.

3 Q. Okay. Did you ever work as a constable for Judge
4 Hudson?

5 A. I did.

6 Q. You have any prior military experience?

7 A. Yes, sir.

8 Q. What did you do there?

9 A. I was an Army Ranger Medic.

10 Q. Are you familiar with Marietta and its citizens?

11 A. Yes, sir.

12 Q. Have you lived there or patrolled there?

13 A. All four years, actually been assigned to there. I've
14 lived there all my life.

15 Q. Do you recall an incident involving Charlie Roberts on
16 June 12th, 2011?

17 A. I do.

18 **MS. GORTON:** Judge, I'm required to preserve my
19 objection to the pretrial motions at this time. I'd object,
20 for your ruling.

21 **THE COURT:** Your objection to what?

22 **MS. GORTON:** That this is the June 12th incident. It's
23 too remote in time.

24 **MR. STEINBERG:** He's going to confirm what Jobo
25 Phillips had to say on June 12th.

JOHN DUNCAN - DIRECT EXAMINATION BY MR. STEINBERG

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1 **THE COURT:** Go ahead.

2 Q. Do you recall that incident on June 12th, 2011?

3 A. Yes, sir.

4 Q. Where did you go and what caused you to go there?

5 A. I was dispatched to [REDACTED] Lions Park Road to speak with
6 Mr. Charlie Roberts. After arriving on the scene I was
7 advised that he had received some harassing ---

8 **MS. GORTON:** Objection.

9 **THE COURT:** I sustain the objection.

10 Q. Do not repeat ---

11 **THE COURT:** Instruct the jury to disregard that.

12 A. Okay.

13 Q. During the course of my questioning do not repeat what
14 Charlie Roberts may or may not have said.

15 A. Okay. Yes, sir.

16 Q. How did he appear?

17 A. I arrived on-scene, Mr. Roberts was -- seemed
18 intimidated and scared.

19 Q. While you were there did Mr. Roberts receive a
20 telephone call?

21 A. Mr. Roberts received a telephone call. I had him to
22 put the telephone call onto a speaker. I spoke with the
23 Defendant and asked him was this Jobo. Didn't hear anything
24 for a second.

25 Advised him this was Deputy Duncan with the Greenville

JOHN DUNCAN - DIRECT EXAMINATION BY MR. STEINBERG

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1 County Sheriff's Office again and said, Jobo. He
2 acknowledged that it was Jobo. I asked him what the problem
3 was. And he said there was no problem. He mentioned that
4 -- that he didn't want any trouble to come between two
5 friends over a woman.

6 I advised him not to be riding back in front of the
7 house, up and down the road or to call Mr. Roberts and if
8 the matter was at rest, it would be at rest. He
9 acknowledged that it was and it was over with and he
10 wouldn't bother him anymore.

11 Q. Did he -- did Jobo Phillips happen to say what this
12 incident was about?

13 A. Jobo mentioned that it was over a girl, and that he
14 didn't want any trouble to come between two friends.

15 Q. You may have already answered this. When you told him
16 not to come over anymore how did he respond to that?

17 A. Just a long silence. And then he agreed that the
18 matter was at rest and that he wouldn't bother Mr. Roberts.

19 Q. Did you happen to see Jobo Phillips earlier that night?

20 A. Earlier that night I received a call that there was a
21 suspicious vehicle approximately a half mile down the road
22 from the Roberts' residence at the intersection. And -- it
23 was a suspicious vehicle called in by one of the local
24 residents.

25 And I got out and noticed that antifreeze or water was

JOHN DUNCAN - CROSS EXAMINATION BY MS. GORTON

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1 running from under the truck. I was skeptical that they
2 were having trouble, but once I saw that I realized that
3 they were, in fact, having trouble. I assisted them by
4 telling them that they should add coolant to the overflow
5 jug. And they ended up jumping the truck off and leaving.

6 Q. Who was the male that was there?

7 A. It was Jobo, Mr. Phillips.

8 Q. All right. Is Mr. Phillips in the courtroom today?

9 A. That is.

10 Q. This gentleman in the white shirt?

11 A. Yes, sir.

12 Q. That's all the questions I have. Please answer any ---

13 **THE COURT:** All right. Any questions, Ms. Gorton?

14 **Cross Examination by Ms. Gorton:**

15 Q. So, just so we're clear, he told you there was no
16 problem?

17 A. Excuse me, ma'am?

18 Q. He told you there was no problem?

19 A. He -- that's right.

20 Q. Okay. And the two women that he was with, was -- the
21 one you just passed in the hall, was that one ---

22 A. That's right.

23 Q. --- of them? Yeah?

24 A. Yes, ma'am.

25 Q. Okay.

DAKOTA OLIVER - DIRECT EXAMINATION BY MR. STEINBERG

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1 MS. GORTON: Nothing further.

2 **THE COURT:** Thank you. Step down.

3 MR. STEINBERG: Your Honor, the State calls Dakota

4 . Oliver to the stand.

5 **MADAME CLERK:** Mr. Oliver, if you'd come forward to be

6 sworn in. Please raise your right hand.

7 Dakota Oliver, being duly

8 sworn testified as follows:

9 **MADAME CLERK:** Thank you. You may be seated. Please

10 state your name for the record.

11 MR. OLIVER: Dakota Oliver.

12 **MADAME CLERK:** Thank you.

13 Direct Examination by Mr. Steinberg:

14 Q. Dakota, would you please tell us how old you are and

15 where you currently work?

16 A. I work at Pizza Inn in Travelers Rest.

17 Q. And how old are you?

18 A. I am seventeen years old.

19 Q. So you're still in school?

20 A. Yes, sir.

21 Q. Do you know Jobo Phillips?

22 A. Yes, sir.

23 Q. Are you aware of any incidents that occurred where Jobo

24 Phillips made statements concerning Christina or about his

25 girlfriend?

DAKOTA OLIVER - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yes, sir.

2 Q. Let me narrow it down. Do you remember any incident
3 involving a telephone where Jobo Phillips made comments?

4 A. Yes. I remember he was talking on the phone to
5 somebody. And he kept saying that he was -- he was
6 frustrated. And he kept saying that he had to do something
7 about -- like he asked somebody what they would do if it was
8 their old lady or something like that.

9 Q. How was he acting? What was his mannerisms at the
10 time?

11 A. I mean, he was frustrated.

12 Q. Did he do anything physically?

13 A. Just stomping around. That was it.

14 Q. Do you recall any conversation -- do you remember when
15 that incident happened, that telephone call?

16 A. Not exactly, but I remember.

17 Q. Okay. Just give us an approximation. How much earlier
18 before July 8th, 2011 did this incident happen?

19 A. A month, month and a half.

20 Q. Okay. Do you remember an incident that occurred on
21 Jobo Phillips' porch?

22 A. Yes, sir.

23 Q. Please tell us who was present during this
24 conversation.

25 A. Me, Jobo, JJ and Travis.

DAKOTA OLIVER - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. What is Travis' last name?
- 2 A. Rider.
- 3 Q. Do you know where Travis lives now?
- 4 A. No, sir.
- 5 Q. Do you know what Travis' relationship with Jobo is?
- 6 A. I believe he's his cousin.
- 7 Q. During this incident when was -- what was Jobo's
- 8 demeanor during this incident, this conversation?
- 9 A. He was frustrated.
- 10 Q. Okay. What did Jobo have to say about his -- about any
- 11 -- about his girlfriend at the time?
- 12 A. He just kept saying that he had to do something about
- 13 this guy seeing his old lady.
- 14 Q. How many times did he say that?
- 15 A. Just a couple. I didn't stick around too long, me and
- 16 Travis. I stayed there on the porch and they walked inside
- 17 for a minute. And then after that I walked in and told them
- 18 that I wanted to go down to the river. So we left.
- 19 Q. I'm trying to write this down. You said he had to do
- 20 something about this guy seeing his old lady?
- 21 A. Yes, sir.
- 22 Q. Did he ever say what he was going to do?
- 23 A. No, sir.
- 24 Q. Did he ever say when he was going to do it?
- 25 A. No, sir.

DAKOTA OLIVER - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Did he ever say why?

2 A. No, sir.

3 Q. What did he say about his concerns concerning Christina
4 Gentry?

5 A. I mean, I think he just thought that she was talking to
6 another guy or something.

7 Q. Who was he talking to during this time period?

8 A. When we were on the porch?

9 Q. Yes, sir.

10 A. I believe JJ and Travis. I was kind of out of the
11 conversation, off to the side smoking a cigarette.

12 Q. They were all on the porch. Was he speaking to one of
13 them over the other?

14 A. I think it was just more like a group conversation.

15 Q. Did this statement by Jobo come back to concern you?

16 A. No, sir. I never really thought anything about it
17 after that.

18 Q. When Charlie Roberts was missing, did you have a
19 conversation with -- do not repeat it, but did you have a
20 conversation with Travis Rider?

21 A. Not that I can recall, sir.

22 Q. Do you remember saying anything at all about ---

23 MS. GORTON: Objection. Leading.

24 THE COURT: He said he didn't recall. What's your next
25 question?

DAKOTA OLIVER - CROSS EXAMINATION BY MS. GORTON

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1 Q. Did you ever speak to anybody about -- about this
2 conversation you had with Jobo Phillips?

3 A. No, sir. I never gave it anymore thought after ...

4 Q. Okay. Do you remember speaking to Officer Hammett at
5 his -- at your residence?

6 A. Yes, sir.

7 Q. Was he more or less upset during the incident on the
8 telephone or on the incident on the porch?

9 A. He seemed more upset on the phone.

10 Q. And the incident on the porch, do you remember when
11 that was?

12 A. Sometime in June.

13 Q. Thank you. Please answer any of opposing counsel's
14 questions.

15 A. Yes, sir.

16 **THE COURT:** All right. Ms. Gorton.

17 **Cross Examination by Ms. Gorton:**

18 Q. I'm trying to understand the sequence of what he just
19 asked you.

20 A. Yes, ma'am.

21 Q. The first incident was about in what?

22 A. Let's see here.

23 Q. The first incident was the phone incident, correct?

24 The second incident is the porch incident, is that right?

25 A. Yes, ma'am.

ROY WHITE - DIRECT EXAMINATION BY MR. STEINBERG

105

1 Q. Okay. And was he more upset on the porch incident or
2 the phone incident?

3 A. He was more -- he seemed more upset on the phone.

4 Q. So the first one?

5 A. Yes, ma'am.

6 Q. So the closer we get to Charlie's death, dying or
7 disappearing, the less upset he is?

8 A. Yes, ma'am.

9 Q. Okay.

10 MS. GORTON: Nothing further.

11 THE COURT: Step down.

12 A. Yes, sir.

13 MADAME CLERK: Place your left hand on the Bible and
14 raise your right.

15 Roy White, being duly
16 sworn testified as follows:

17 MADAME CLERK: Thank you. You may be seated. Would
18 you please state your name for the record.

19 MR. WHITE: Roy White.

20 MADAME CLERK: Thank you.

21 **Direct Examination by Mr. Steinberg:**

22 Q. Good afternoon, Mr. White. How are you today?

23 A. I'm doing all right.

24 Q. Where are you from originally, Mr. White?

25 A. Marietta.

ROY WHITE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. And where do you currently live?
- 2 A. Jonesville, Virginia.
- 3 Q. And are you in the federal prison at that location?
- 4 A. Yes, sir.
- 5 Q. What's your charge in that federal prison?
- 6 A. Counterfeit money.
- 7 Q. What's your highest level of education?
- 8 A. Eighth grade.
- 9 Q. And when you're not in jail what is your primary
- 10 occupation that you have?
- 11 A. I'm a mechanic.
- 12 Q. In addition to the current charges do you have prior
- 13 convictions on your record?
- 14 A. Yes.
- 15 Q. And when were you transported down to the Greenville
- 16 County Detention Center?
- 17 A. Last Wednesday.
- 18 Q. Did you know at that time what you were going to come
- 19 down here for?
- 20 A. No.
- 21 Q. When are you scheduled to be released from the federal
- 22 prison?
- 23 A. July the 2nd.
- 24 Q. Do you have any deals to testify in this case, any
- 25 promises?

ROY WHITE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. No, sir.
- 2 Q. Thank you, sir. Are you willing to testify?
- 3 A. Yes, sir.
- 4 Q. Do you have any bias against Jobo Phillips?
- 5 A. No.
- 6 Q. Have you ever lived in Jobo Phillips' house?
- 7 A. Yes.
- 8 Q. How long have you known Jobo?
- 9 A. About fifteen years.
- 10 Q. Did you know Charlie Roberts?
- 11 A. Yes, I did.
- 12 Q. And how did you know Charlie?
- 13 A. We went to grammar school together and worked together
- 14 at Slater.
- 15 Q. And how long did he work there at Slater?
- 16 A. About twenty-five years.
- 17 Q. Before July of 2011 had you seen Charlie recently?
- 18 A. Yes.
- 19 Q. Okay. And do you know Tammie Timmons?
- 20 A. Yes.
- 21 Q. And what was she related to you at the time?
- 22 A. My girlfriend.
- 23 Q. Do you recall an incident at the racetrack in TR?
- 24 A. Yes, sir.
- 25 Q. If you would, please tell us about that incident.

ROY WHITE - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. I was standing against the fence. Jobo approached me
2 and said, I'll give you a hundred dollars to knock that red
3 headed mother fucker out. And I told him I couldn't do
4 nothing, I was on probation for the Feds. And that was the
5 extent of the conversation.

6 Q. How close was Tammie to this conversation?

7 A. She was pretty close. She probably heard it.

8 Q. Have you spoken to her recently?

9 A. No.

10 Q. Now the statement that you gave, is that accurate? Is
11 that what you recall?

12 A. Yes.

13 Q. How well do you recall it?

14 A. Pretty well. Pretty good.

15 Q. How much did he offer you?

16 A. A hundred dollars.

17 Q. And what was -- what were you supposed to do with it,
18 one hundred dollars?

19 A. Knock the red headed mother fucker out.

20 Q. What color of hair did Charlie appear to have?

21 A. Red.

22 Q. Was it bright red, dark red?

23 A. Light red.

24 Q. Okay. When Charlie first disappeared did you think
25 that this might have something to do with that statement?

ROY WHITE - DIRECT EXAMINATION BY MR. STEINBERG

109

- 1 A. When I first found out that Charlie was missing, the
2 day they found Charlie, I went to Mr. Phillips' house and
3 asked him was that who he wanted me to knock out.
- 4 Q. What did he say?
- 5 A. He said, yes, that's who I wanted you to knock out.
- 6 Q. Did he say why?
- 7 A. He didn't say why.
- 8 Q. Did you speak to Officer Joe Whitmire about this case?
- 9 A. Yes, sir.
- 10 Q. Did you tell him everything you knew?
- 11 A. Yes, sir.
- 12 Q. Do you remember approximately when that was?
- 13 A. It was on the 13th of July.
- 14 Q. Did you later give a written statement to officers in
15 this case?
- 16 A. Yes, I did.
- 17 Q. Did you tell them the same story?
- 18 A. Yes, sir.
- 19 Q. Did you meet with Investigator Hammett?
- 20 A. Yes, sir.
- 21 Q. Last week? Did you tell him the same story?
- 22 A. Yes, sir.
- 23 Q. When Jobo made that statement did he ever tell you
24 about what he wanted you to do to the red headed MF-er? Did
25 he ever say what reason he gave for it?

ROY WHITE - CROSS EXAMINATION BY MS. GORTON

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1 A. Never gave me a reason.

2 Q. Thank you. Please answer any of opposing counsel's
3 questions.

4 **THE COURT:** Ms. Gorton.

5 **Cross Examination by Ms. Gorton:**

6 Q. What did you take that to mean, knock him out?

7 A. I just thought he meant to whip his ass.

8 Q. Exactly, right? That's what you thought. He didn't
9 ask you to kill him?

10 A. No, sir [sic].

11 **MS. GORTON:** Nothing further.

12 **THE COURT:** Thank you. Step down.

13 **MADAME CLERK:** Ma'am, would you please place your left
14 hand on the Bible and raise your right.

15 **Tammie Timmons,** being
16 duly sworn testified as follows:

17 **MADAME CLERK:** Thank you. You may be seated. Would
18 you please state your name for the record.

19 **MS. TIMMONS:** Tammie Timmons.

20 **MADAME CLERK:** Thank you.

21 **Direct Examination by Mr. Steinberg:**

22 Q. Good afternoon, Ms. Timmons. How are you today?

23 A. Fine.

24 Q. Where are you from originally?

25 A. Greenwood.

TAMMIE TIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

111

1 Q. Have you ever lived in the Marietta community?

2 A. Yes, I have.

3 Q. Do you know Jobo Phillips?

4 A. Yes.

5 Q. And if so, for how long?

6 A. For a lot of years, just not real good.

7 Q. Do you know Charlie Roberts? And if so, how long have
8 you known him?

9 A. I knowed Charlie. He was a good dude. I hadn't seen
10 him in many years though.

11 Q. Before July of 2011 had you seen Charlie recently?

12 A. Just at the racetrack that one time.

13 Q. Yes, ma'am. If you need some water, there is a ---

14 A. I've got bronchitis. And I'm not ---

15 Q. I'm sorry about that. Did you happen to see Charlie
16 Roberts at the racetrack on ---

17 A. Yes, I did.

18 Q. Did you also see Roy White at the racetrack?

19 A. Yes.

20 Q. Were you with him at the time?

21 A. Yes.

22 Q. And did you see Jobo Phillips at the racetrack?

23 A. Yes.

24 Q. Who was Jobo with?

25 A. I'm not really sure. I can't really recall on that,

TAMMIE TIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

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1 who all he was with.

2 Q. Do you recall Jobo walking up to Roy White, your
3 boyfriend at the time, and making any statements?

4 A. Yes.

5 Q. I understand this is -- I want you to tell the jury
6 using the words that you heard, what you heard Jobo Phillips
7 say.

8 A. He just said I'll give you a hundred dollars if you'll
9 knock that red headed MF-er out.

10 Q. How well do you recall that language?

11 A. Just vaguely, really.

12 Q. Okay. But is it accurate?

13 A. Yes.

14 Q. Okay. At that time did you know who they were talking
15 about?

16 A. No. I thought he was talking about Chris Coggins, some
17 red headed person I know.

18 Q. Does Charlie, in fact, have red hair or red face -- red
19 facial hair?

20 A. When I seen him he had a hat on.

21 Q. Okay.

22 A. And he's always had like a reddish colored beard.

23 Q. Did you happen to see Charlie that night?

24 A. Yes.

25 Q. How did Roy White respond when Charlie made that, I

TAMMIE TIMMONS - DIRECT EXAMINATION BY MR. STEINBERG

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1 mean, pardon me, Jobo made that offer?

2 A. The same way any of us would, like he was just joking
3 around like we all do.

4 Q. When Charlie Roberts first disappeared did you go to
5 law enforcement?

6 A. No. I didn't know Charlie was missing until they found
7 him.

8 Q. Okay. Did you go to law enforcement after that?

9 A. No, I did not.

10 Q. Did you cooperate with law enforcement when they came
11 to you?

12 A. Yes, I did.

13 Q. Do you recall an incident at Jobo's residence involving
14 questioning of Jobo?

15 A. No.

16 Q. Did you ever go up to Jobo's residence on Long Shoals
17 Road with Roy White?

18 A. Yes.

19 Q. Please tell us what happened there.

20 A. We just pulled up because Jobo had bought a car from
21 the race car [sic]. We went to talk to him about it. And
22 Roy got out of the car and they talked. And then we left.

23 Q. Did you hear any of that conversation?

24 A. No.

25 Q. That comment that Jobo made about I'll give you a

TAMMIE TIMMONS - CROSS EXAMINATION BY MS. GORTON

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1 hundred dollars, did Joe ever explain why he wanted this
2 done?

3 A. No. A lot of people have made those comments in
4 Marietta like that.

5 Q. But you still remember it two years later?

6 A. Why wouldn't I? I remember making comments like that
7 myself.

8 Q. And are you friends or have been friends with Jobo's
9 family in the past?

10 A. I wouldn't say like close friends, but we all live in a
11 small town and we all know each other.

12 Q. And how close of a town is it? How close did you live
13 to them at the time?

14 A. Probably about less than a mile.

15 Q. Okay. Thank you, Ms. Timmons. Please answer any of
16 opposing counsel's questions.

17 A. Okay.

18 **Cross Examination by Ms. Gorton:**

19 Q. Didn't sound to you like Joe was serious, did it?

20 A. No.

21 Q. Okay. And you said a lot of people make comments like
22 that?

23 A. Yes.

24 Q. And you said you've made comments like that?

25 A. Yes.

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

115

1 Q. Okay. There was -- was there anything at all that led
2 you to believe he seriously wanted anyone to beat up Charlie
3 Roberts?

4 A. No.

5 Q. All right. Thank you.

6 **THE COURT:** Step down.

7 **MADAME CLERK:** Would you come forward to be sworn in.

8 Place your left hand on the Bible, raise your right.

9 **T-Bird Starling,** being

10 duly sworn testified as follows:

11 **MADAME CLERK:** Thank you. You may be seated. Please
12 state your name for the record.

13 **MR. STARLING:** T-Bird Starling.

14 **MADAME CLERK:** Thank you.

15 **Direct Examination by Mr. Steinberg:**

16 Q. Mr. Starling, where are you from originally?

17 A. Berea, Greer.

18 Q. What do you do for a living, sir?

19 A. I'm a cook.

20 Q. And where do you cook?

21 A. Waffle House.

22 **THE COURT:** Can you pull in a little closer, please, or
23 pull the microphone to you.

24 Q. And how long -- and you know Joseph Phillips, Jobo
25 Phillips?

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. I know of him.
- 2 Q. And how long have you known him?
- 3 A. It's been a while.. I mean, a long time. I've met him
- 4 a few times.
- 5 Q. Did you have any prior disputes, or fights or anything
- 6 with Jobo?
- 7 A. No, sir.
- 8 Q. Did you know Charlie Roberts?
- 9 A. I know of the name. I can't put a face on him. I
- 10 couldn't tell you if I know him or not, but I heard of the
- 11 name before somewheres.
- 12 Q. Do you remember speaking with Investigator Chris
- 13 Hammett in this case?
- 14 A. Yes, sir.
- 15 Q. Did you contact him or he contact you?
- 16 A. He contacted me.
- 17 Q. And where were you at that time?
- 18 A. Greenville County. I was incarcerated for child
- 19 support.
- 20 Q. For what?
- 21 A. For child support.
- 22 Q. Yes, sir. Did you give a statement and speak to
- 23 Investigator Hammett?
- 24 A. Yes, sir.
- 25 Q. And did the officer allow you to read over your

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 statement before you signed it?
- 2 A. Yes, sir.
- 3 Q. Okay. Was it a truthful statement?
- 4 A. Yes, sir.
- 5 Q. Were you offered any promises or any threats at that
- 6 point?
- 7 A. No, sir.
- 8 Q. I'm going to bring you back to, I guess, the earlier
- 9 part of July of 2011. Do you remember any incidents
- 10 involving Jobo Phillips?
- 11 A. No, sir, just other than running into him at the store.
- 12 Q. I'd like you to tell us what happened at the store,
- 13 which store it was and what happened.
- 14 A. Me and Roy Barrett stopped at the Spinx, he was working
- 15 on my truck, and to get a pack of cigarettes. When I come
- 16 out of the store Jobo pulled up beside us, was talking to
- 17 us, talking to Roy. And that's the only thing I remember
- 18 since then. I mean, that's the last time I seen Jobo.
- 19 Q. What did Jobo have to say when you were there?
- 20 A. The best I recall, everything's kind of blurry that
- 21 night. I don't remember everything precise, but he
- 22 mentioned that did I have a gun for sale or if Roy had a gun
- 23 for sale or me. I don't know which one he was directing it
- 24 to, but I heard that part. And the conversation was no,
- 25 didn't have one.

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. How close in time to Charlie Roberts' disappearance did
2 this conversation happen?

3 A. I really ain't -- I don't know. A month, two months,
4 somewheres around there.

5 Q. Let me hand you this statement. Please identify this
6 statement. That's your signature on there?

7 A. Yes, sir.

8 Q. I'm going to ask you to read -- first of all, give the
9 date when it was you made this and then say -- start reading
10 with I don't remember.

11 A. I can't read that. I don't have my glasses. I'm
12 sorry.

13 Q. Okay. I'm going to read this to you since you don't
14 have your glasses. I don't remember exactly when it was,
15 but it was somewhere around the time that guy was missing
16 and murdered in Marietta. I overheard Jobo trying to buy a
17 gun. Was it a couple of months, or a couple of days or when
18 was it?

19 A. Months, like a month before or a month after.

20 Q. You say before, do you remember whether it was before
21 or after?

22 A. No, sir. That's what I was saying. I don't remember
23 whether it's before or whether it was after. I really don't
24 know. I mean, I don't know what the time -- right now I
25 don't know when the guy got, you know, when that happened.

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Are you afraid to testify in this trial, sir?

2 A. No, sir. I'm just being truthful. I mean, I really
3 don't know. I know it was approximately around a year and a
4 half, two years ago.

5 Q. Okay. And when Jobo came up, what kind of car was he
6 in? And if so, was anybody else in the vehicle with him?

7 A. He was in either a station wagon, or a small mini-van,
8 something like that. He had his kids with him, I believe.
9 He was talking about his kids, how they was growing up.

10 Q. Do you remember the language Mr. Phillips used in
11 saying what kind of gun, what he would want with a gun?

12 A. No, sir.

13 Q. Did he ever say why he wanted it?

14 A. No, sir.

15 Q. Did you find it curious that he just came into the car
16 and asked to buy a gun?

17 A. No, sir. I was just actually coming out of the store
18 getting cigarettes. I didn't know what the conversation was
19 going on. I really didn't know, I mean.

20 Q. Was the conversation with you or with Roy Barrett?

21 A. That's what I was saying. I don't know whether it was
22 directed towards me or Roy Barrett. I mean, I'd been up all
23 day that day working on my truck, that day and that night
24 and didn't have no sleep. And it's all been a blur.

25 Q. Well, and again, I have your statement here. If you

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

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1 need to refresh yourself, just let me know and I'll read
2 parts to you.

3 A. Okay.

4 Q. On that same date that Jobo came up to you did you
5 speak to Bobby Sweet?

6 A. Yes, sir.

7 Q. And who is Bobby Sweet? And tell us about the
8 conversation you had with Mr. Sweet.

9 A. Bobby's a friend of Pam and all live up in Marietta. I
10 can't remember the other girl's name that's on that paper.
11 I'm sorry. What is her name?

12 Q. If you hold your statement up close to you do you think
13 you can read it better?

14 A. I might be able to. I'm sorry, I just worked ---

15 Q. That's okay.

16 A. --- the third shift.

17 (Pause)

18 **THE COURT:** You can read it to him ---

19 **MR. STEINBERG:** Yes, Your Honor.

20 **THE COURT:** --- if he can't read it.

21 A. Thank you.

22 Q. Would you agree that you gave this statement?

23 A. Yes, sir.

24 Q. And it's your signature?

25 A. Yes, sir.

T-BIRD STARLING - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Your signature is in large writing?

2 A. Yes, sir.

3 Q. Is it true that you said later on I went to Pam Goff's
4 trailer in Marietta? Bobby Sweet was there. And I
5 overheard Bobby saying he was trying to sell a gun. I never
6 saw the gun or heard what kind of gun.

7 I told Bobby I had heard Jobo, the long haired guy, was
8 trying to buy a gun earlier. I really don't remember what
9 Bobby said after that. I don't know if Bobby knows Jobo or
10 not. I do not know. Pam Goff was there when I talked to
11 Bobby. She was throwing Bobby out of the trailer at the
12 time.

13 A. Yes, sir.

14 Q. That's the same day?

15 A. Yes, sir.

16 Q. Did you contact -- did you contact Jobo Phillips that
17 day?

18 A. No, sir. I seen him at the store.

19 Q. I'm sorry, after the store, when you were with Bobby
20 Sweet, did you call Jobo Phillips up?

21 A. No, sir. I didn't call, but I think Bobby did. And
22 one of them was on the phone with him.

23 Q. Okay. Were you present when that conversation
24 happened?

25 A. There was so much commotion going on and, yeah, I was

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 present there, but I don't -- I don't know what the
2 conversation was said. I was worried about Bobby showing
3 out because he was getting throwed out of the place and all
4 that and my truck was still broke down. I was trying to get
5 it straight. And there was all kinds of stuff going on
6 there.

7 Q. All right. Thank you. Please answer any of opposing
8 counsel's questions.

9 THE COURT: Any questions, Ms. Gorton?

10 MS. GORTON: No questions, Your Honor.

11 MR. STEINBERG: I call Roy Barrett next, Your Honor.

12 THE COURT: You can step down.

13 MR. STEINBERG: Your Honor, the State calls Roy Barrett
14 to the stand.

15 MADAME CLERK: Mr. Barrett, would you come forward to
16 be sworn in.

17 Roy Barrett, being duly
18 sworn testified as follows:

19 MADAME CLERK: Thank you. You may be seated. Please
20 state your name for the record.

21 MR. BARRETT: Roy E. Barrett.

22 MADAME CLERK: Thank you.

23 **Direct Examination by Mr. Steinberg:**

24 Q. Good afternoon, Mr. Barrett. How are you today?

25 A. Pretty good.

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. Could you put the microphone a little bit closer to
2 your mouth, please. Mr. Barrett, what do you do for a
3 living?
- 4 A. I own a collision repair service, wrecker service.
- 5 Q. And how long have you done that?
- 6 A. Since 1976.
- 7 Q. What's the primary area you do your towing?
- 8 A. Well, Travelers Rest, Marietta, Cleveland, Echo Valley,
9 Greenville.
- 10 Q. Is that the northern part of the County?
- 11 A. Zone 10, what they call zone 10, yeah.
- 12 Q. Do you know Jobo Phillips? And if so, how long?
- 13 A. Yeah, I know him. Several years, I guess. I'm not
14 really sure.
- 15 Q. Have you known him his entire adult life?
- 16 A. Not his whole entire adult life, no.
- 17 Q. You know his family?
- 18 A. Who?
- 19 Q. His family?
- 20 A. I know his mother. I know who his mother is. I know
21 his -- maybe an uncle or two.
- 22 Q. Do you know his dad, Ken Gilbert?
- 23 A. Yeah, I know Ken.
- 24 Q. Do you know Charlie Roberts?
- 25 A. Yeah.

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Do you know if Charlie Roberts had any disputes with
2 Jobo Phillips?

3 A. Not as I know of.

4 Q. Do you know where Charlie worked?

5 A. JP Stevens and Slater, I think, is where he was
6 working.

7 Q. Do you remember an incident where Jobo Phillips
8 contacted you over the telephone?

9 A. Yes, sir.

10 Q. Please tell the jury approximately when and
11 approximately what the conversation consisted of.

12 A. I don't remember dates. It was -- like he called me.
13 I was riding down the road turning into a friend of mines
14 yard. He called me and asked me did I have a pistol for
15 sale. I told him, no, not really. I didn't have none I
16 wanted to sell. He said, well, he was looking for one. He
17 knew I had some pistols that I would sell. But I told him I
18 didn't have nothing that I wanted to sell right then.

19 Q. What kind of pistol did he say he wanted?

20 A. Well, he didn't at that -- at that time he didn't say.
21 He just said he wanted -- looking to buy a pistol.

22 Q. I'm going to hand you a document dated October 11th,
23 2011. Please tell us if that's your signature on the very
24 bottom of it.

25 A. Yes, sir.

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. And how did you describe it to the officers?

2 A. Well, they've got it written down almost like that.

3 And I just said, yeah. After that we had left my buddy's
4 house, went to Kentucky Fried Chicken in Travelers Rest, got
5 what we was going to eat, stopped back at Spinx in Marietta
6 to get cigarettes and drinks.

7 And we was sitting there at the ice machine. I was
8 waiting on T-Bird to come out. As he was getting in the
9 truck, I heard some tires, you know, sliding up. And me and
10 T-Bird was about to exit and it was Jobo.

11 He gets out and asked me had I found a pistol yet for
12 sale, that, you know, he needed a throw-away gun. He'd paid
13 a man to do a job and he was going to have to furnish the
14 gun. And I told him, no, ---

15 Q. What language was that, sir?

16 A. That he had paid a man to do a job, and the man didn't
17 have a gun, and he was going to have to furnish it. And I
18 told him I wouldn't sell him one for no amount of money,
19 that we had to go. I didn't want to hear no more about it.
20 So we left. That's the last time I talked to Jobo.

21 Q. Now, this telephone conversation, was that the same day
22 as the in-person conversation?

23 A. A few hours before, yeah. I'd say a couple of hours.

24 Q. Now, I showed you your statement. Do you agree that
25 you told the officers that Jobo asked you if you had a

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 throw-down gun, I mean, throw-away gun?

2 A. No, not then, he didn't. He didn't ask me that. He
3 just said he needed to buy a pistol.

4 MR. STEINBERG: In that case, Your Honor, the State
5 would move to introduce this document.

6 THE COURT: Any objection?

7 MS. GORTON: Not to the one he's handing me, Your
8 Honor. Thank you.

9 (Whereupon State's exhibit 5 was marked and admitted
10 into evidence)

11 Q. So you remember he asked for a gun, but you don't
12 remember the term throw-away gun on the phone?

13 A. He didn't -- he didn't say that then.

14 Q. Do you know why -- did he say it later?

15 A. He said it, yeah, when we was talking there at the
16 Spinx.

17 Q. Okay. Was that his words or your words, throw-away
18 gun?

19 A. It was his words.

20 Q. How soon after that was Charlie found to be missing?

21 A. As far as I can remember it was -- I think it -- I seen
22 it on the news I thought the next morning. I could be
23 mistaken. But it was on the news that Charlie Roberts, a
24 Marietta man, was missing. And they was -- was looking for
25 him. And ---

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. So would you agree that the conversation occurred with
2 you -- that you had with Jobo occurred before Charlie was
3 found missing?

4 A. Yeah.

5 Q. Okay. Now, at the Spinx, how did Jobo get there?

6 A. I believe a van.

7 Q. Was anybody with him?

8 A. I think a couple of his little boys.

9 Q. Have you spoken to T-Bird outside of today?

10 A. Today was the first time I've seen T-Bird in probably
11 six months or so, or eight, maybe -- I don't know. The last
12 time I seen him was when we was working on his truck. And
13 it was that night.

14 Q. When Jobo made the statement, let me make sure I get
15 the statement correct, he said I need a man to do a job or
16 he said he had a man to do a job?

17 A. No, he said he had a man, he'd done paid a man to do
18 the job.

19 Q. Did he say who the man was?

20 A. No, he didn't.

21 Q. Did he say what the job was he wanted done with this
22 gun?

23 A. No, he didn't. Not to me, he didn't.

24 Q. After Charlie was found to be missing and the news
25 reports came out, did you think about this incident again?

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. I just, you know, I mean, I knew Charlie good. And I
2 didn't -- I just thought to myself, I hope it ain't got
3 anything to do with, you know, Jobo, what me and him had
4 said there to each other at the Spinx that night.

5 Q. Do you think it maybe did have a connection?

6 A. That's the way it was looking, but, I mean, I don't
7 know. I can't say because I don't know.

8 Q. Did you ever go and contact law enforcement to tell
9 them what you knew?

10 A. I never contacted law enforcement. They contacted me.
11 They came to my shop looking for me.

12 Q. How many months after Charlie went missing?

13 A. A few months, three or four. I mean, it's been a while
14 since this thing went down.

15 Q. You agree you gave a statement on October 11th, 2011?

16 A. If it's -- if that's what's written on there, I guess I
17 did.

18 MR. STEINBERG: Madame Court Reporter, has this been
19 introduced or ...

20 (Pause)

21 MR. STEINBERG: Your Honor, the State would move to
22 introduce this statement.

23 MS. GORTON: No objection.

24 (Whereupon State's exhibit 5 had been previously
25 admitted into evidence)

ROY BARRETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Were you willing to speak with the officers about this
2 case?

3 A. Well, when they come in they said they needed to talk
4 to me about something. And they started telling me what was
5 going on and said they'd done took statements from T-Bird
6 and that he was in jail, you know, on child support. And
7 they'd done took his statements and stuff and wanted to know
8 what I knew. And I told them. I said, well, what I knew
9 was right there on that paper.

10 Q. Why were you willing to speak with the officers?

11 A. Why was I willing?

12 Q. Yes, sir.

13 A. It was either do it or, I guess, go to jail. I mean,
14 they was asking me questions and, I mean, I ain't going to
15 jail.

16 Q. Did any officers threaten you to go to jail if you
17 didn't write a statement?

18 A. Uh-uh (negative).

19 Q. Why did you -- why did you have that belief?

20 A. Well, I mean, look, we're talking about a small town
21 where a lot of people live in. And everybody knows
22 everybody's business. And a lot of stuff gets said. It
23 don't mean a whole lot, but people like to talk.

24 And talk gets you in more trouble than you can get out
25 of. I don't need no trouble. I've been doing this junk

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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1 for, like I said, since 1976. I hear a lot of bull-crap. I
2 hear stuff from the police. I hear stuff from the County,
3 the State. I hear stuff from everybody. So ...

4 Q. You don't want to be here today, did you?

5 A. No, I don't.

6 Q. Did you try to avoid my service of a subpoena in this
7 case?

8 A. Yes, I did.

9 Q. Were you eventually served?

10 A. Yeah, you and the U.S. Marshal and Greenville County
11 come and got me.

12 Q. Thank you, sir. Please answer any of opposing
13 counsel's questions.

14 **THE COURT:** All right. Any questions, Ms. Gorton?

15 **Cross Examination by Ms. Gorton:**

16 Q. Have you -- have you and Jobo had any business dealings
17 before with a wrecker, him buying a wrecker from you?

18 A. What do you mean in buying a wrecker?

19 Q. Had he bought a wrecker from you?

20 A. He was going to.

21 Q. He was going to and then something happened and that
22 didn't work out so well, is that right?

23 A. Yeah.

24 Q. Okay. We don't need to go into details. It's just
25 you've dealt with him before?

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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1 A. I've worked on his motorcycle, towed his truck in for
2 him, sold him parts. I mean, ---

3 Q. Okay.

4 A. --- you know, worked on his mother's car, you know.

5 Q. Okay. And that wrecker, he tried to buy it from you
6 and then you wound up back with it, correct?

7 A. Well, he tried to buy a wrecker. He went to do a job,
8 then they had paperwork to do. And then the guy comes down
9 there and the man had sold them stuff that didn't belong to
10 him. So the next day Jobo goes to get his wrecker, he's got
11 a radiator gone, battery's gone, tires busted. I don't know
12 what all else.

13 So they sent my other truck to go pull it into another
14 boy's yard. It sat, and sat, and sat, and sat down there.
15 And so I think Joe was in jail or something, I don't even
16 know, but couldn't get in touch with him. And so I had him
17 to bring it to my lot and sit it there and nothing was ever
18 said anything else about it.

19 Q. Okay. So basically he was trying to buy the wrecker.
20 He went and got some property. It turned out that the
21 property that he got it from was stolen. The other people
22 that had him haul the property and then it was a big mess.

23 A. Well, yeah, but he did have the paperwork, legal
24 paperwork. That's what saved him.

25 Q. Right. Exactly.

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Yeah.
- 2 Q. So -- but it caused a lot of problems for you, right?
- 3 A. Well, not that much for me. But, I mean, it did for
- 4 him. And, well, I mean, you know, I guess being in this
- 5 business with all the problems could mean a lot of different
- 6 stuff.
- 7 Q. Okay. When the prosecutor first started asking you
- 8 questions and you were talking about being at the Spinx?
- 9 A. Um-hum (affirmative). Yes.
- 10 Q. Did I understand you correct that you and T-Bird walked
- 11 out together?
- 12 A. No.
- 13 Q. Okay.
- 14 A. I was sitting in the truck waiting on T-Bird to go in
- 15 and get cigarettes and drinks. As he opens the door to get
- 16 in ---
- 17 Q. As who opens the door?
- 18 A. T-Bird.
- 19 Q. All right.
- 20 A. As he opens the door to get in my truck, we were
- 21 sitting at the -- the ice box was there at the end. I heard
- 22 some tires slide up, you know, and everything. And it
- 23 sounded like he was coming in. I'm wanting to get out of
- 24 the truck. T-Bird's wanting to come across to get out of
- 25 the truck. And you look around and it's Jobo.

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. What I'm trying to get at is T-Bird was with you
2 the whole time you were talking to Jobo at the Spinx,
3 correct?

4 A. He come out when Jobo come up, yes.

5 Q. Right.

6 A. Yeah.

7 Q. So he was there for the whole conversation?

8 A. Yeah, well, it wasn't much conversation.

9 Q. Well, you talk about him saying he needs a throw-away
10 gun.

11 A. That's about -- he said, hey, man, you found -- you
12 find me a gun yet? I said, man, look, no, you don't need
13 one, you know, I'm out of here, ---

14 Q. That would certainly get my attention.

15 A. And he said, hey, yeah, but I need one. I says, I'm
16 out, see ya.

17 Q. And you said that that was the same conversation where
18 you say Jobo said, I've paid a man to do a job and I need a
19 gun?

20 A. That's what he said.

21 Q. And T-Bird was with you when he said that?

22 A. T-Bird was -- yeah, he was at the truck, getting in the
23 truck, trying to get in the truck. I think I had it in
24 reverse leaving.

25 Q. Okay. Now, have you talked to the solicitor before

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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- 1 today about your statement? The prosecutor?
- 2 A. He asked me about it. And ---
- 3 Q. Did he tell you there was a problem with it?
- 4 A. What do you mean there's a problem?
- 5 Q. Well, in your statement at the very end you say the
- 6 next day I heard on TV that Charlie Roberts was missing.
- 7 A. Well, it could -- well, yeah, I did say that. But
- 8 you've got to understand something, how long has this been?
- 9 Q. Exactly.
- 10 A. A long time.
- 11 Q. Exactly. So ---
- 12 A. So I'm -- I'm answering your questions the best I can
- 13 with my ability.
- 14 Q. Right. And when you wrote this statement, when you
- 15 said ---
- 16 A. I didn't write that statement.
- 17 Q. You didn't write this statement? Oh, ---
- 18 A. No, ma'am.
- 19 Q. When you signed this statement?
- 20 A. Right.
- 21 Q. Do you read and write okay? I'm not trying to -- I'm
- 22 not trying to embarrass you.
- 23 A. What do you mean can I read and write okay?
- 24 Q. No. Can you ---
- 25 A. I can read and write college ---

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay.

2 A. --- on college level.

3 Q. I'm not trying to offend you, sir..

4 A. Well, you ain't offending ---

5 Q. We're ---

6 A. Hey, you ain't offending me, lady, 'cause, listen, I
7 own a body shop.

8 Q. Okay. Did you -- did you read over this before you
9 signed it?

10 A. I didn't read for word for word. I just scanned it
11 over.

12 Q. All right. As you point out, you didn't sign this
13 until October 11th, correct?

14 A. Ever what the date is on there. If the signature's on
15 there, I guess it's true.

16 Q. Okay. And October 11th would have been a good three
17 months after Charlie went missing?

18 A. Yeah.

19 Q. All right.

20 A. Proximity.

21 Q. And at that point you say the next day I heard. So
22 let's allow for that mistake.

23 A. Well, ---

24 Q. It was around ---

25 A. --- could be.

ROY BARRETT - CROSS EXAMINATION BY MS. GORTON

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1 Q. --- that time.

2 A. Could be. I mean, like I said, this has happened a
3 long time, ---

4 Q. Could it have ---

5 A. --- all this stuff has went down. You don't understand
6 where we come from.

7 Q. I probably don't.

8 **THE COURT:** All right. Let's move on, please.

9 Q. Could it have been after Charlie Roberts went missing?

10 A. That he asked me about the gun? No, ma'am.

11 Q. But you could be mistaken about it being the next day?

12 A. Could be.

13 **MS. GORTON:** Just a moment.

14 (Pause)

15 **MS. GORTON:** All right. Nothing further.

16 **THE COURT:** Step down.

17 **MR. STEINBERG:** Your Honor, we ask that Mr. Barrett be
18 excused. ---

19 **THE COURT:** Any objection? Any objection to excusing
20 this witness?

21 **MS. GORTON:** Oh, no, Your Honor.

22 **MR. STEINBERG:** Your Honor, the next witness is in
23 jail. He's being brought upstairs as we speak.

24 **THE COURT:** All right. We'll take a short recess.

25 (Whereupon the jury exited the courtroom at 3:18 pm)

BOBBY SWEET - DIRECT EXAMINATION BY MR. STEINBERG

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1 (Whereupon court was in recess at 3:18 pm)

2 (Whereupon court resumed at 3:30 pm)

3 **THE COURT:** All right. Would counsel approach just a
4 minute, please.

5 (Whereupon a bench conference was held off the record)

6 (Whereupon the bench conference was ended)

7 **THE COURT:** Bring them on. And tell them we'll try to
8 stop at five.

9 (Whereupon the jury entered the courtroom at 3:34 pm)

10 **THE COURT:** All right, solicitor.

11 **MR. STEINBERG:** Thank you, Your Honor. The State calls
12 Bobby Joe Sweet -- Bobby Gene Sweet.

13 **MADAME CLERK:** Mr. Sweet, please come around and be
14 sworn in. Place your hand -- left hand on the Bible and
15 raise your right.

16 **Bobby Sweet,** being duly
17 sworn testified as follows:

18 **MADAME CLERK:** Thank you. You may be seated. Could
19 you please state your name for the record.

20 **MR. SWEET:** Bobby Sweet.

21 **MADAME CLERK:** Thank you.

22 **Direct Examination by Mr. Steinberg:**

23 Q. Thanks for being here, Mr. Sweet. You're obviously
24 incarcerated at this point. Where are you incarcerated and
25 what's the charge?

BOBBY SWEET - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. At Kershaw Correctional for grand larceny.
- 2 Q. And when are you expecting to be released?
- 3 A. In May of 2-15.
- 4 Q. And do you -- have you received any benefit or any plea
5 offer in this case related to this matter?
- 6 A. No.
- 7 Q. Before you were in prison what's your primary form of
8 occupation? What's your job?
- 9 A. I was -- brick mason work and remodeled homes.
- 10 Q. Thank you, sir. What part of town did you live in
11 before you went to prison?
- 12 A. In Marietta, between Marietta and Dacusville, South
13 Carolina.
- 14 Q. And do you know Jobo Phillips? And if so, for
15 approximately how long?
- 16 A. Yeah, I know him, for a few years.
- 17 Q. Did you know Charlie Roberts?
- 18 A. No, I never met Charlie.
- 19 Q. Had you ever heard of him?
- 20 A. Yeah, I've heard of Charlie.
- 21 Q. Did you know Christina Gentry?
- 22 A. Um-hum (affirmative).
- 23 Q. Did you have an opportunity to speak with Christopher
24 Hammett, investigator with the Sheriff's Office back in
25 2011?

BOBBY SWEET - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yes, sir.

2 Q. And where were you when that happened?

3 A. Transylvania County Sheriff's Department.

4 Q. When you say Sheriff's Department, you mean in their
5 jail?

6 A. Yes, sir.

7 Q. Did you call them or did they just come and see you?

8 A. They came to see me.

9 Q. Did you know they were coming?

10 A. No, sir.

11 Q. At that time did you give them a statement?

12 A. Yes, sir.

13 Q. And did you -- were you offered any promises or rewards
14 to give that statement back in 2011?

15 A. No, sir.

16 Q. Did you tell the officers what you had heard?

17 A. Yes, sir.

18 Q. What you knew?

19 A. Um-hum (affirmative).

20 Q. Do you know T-Bird Starling?

21 A. Yes, sir.

22 Q. And approximately how long have you known him?

23 A. Probably ten years.

24 Q. I'm going to bring you to early July of 2011. Did you
25 have an opportunity to speak to T-Bird?

BOBBY SWEET - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. Yes, sir.
- 2 Q. Please tell us where that was and what transpired then.
- 3 A. Well, I stopped by Pam Goff's house in Travelers Rest,
- 4 I mean, Marietta, and T-Bird was there. And he'd asked --
- 5 I'd seen him a couple of days earlier, and I had a pistol to
- 6 sell. And he -- that particular night he asked me if I
- 7 still had it. And I told him, yeah. And then he said,
- 8 okay, he'd get rid of it for me.
- 9 Q. What happened? How did he get rid of it for you?
- 10 A. He got a cell phone from Pam and called Jobo on the
- 11 phone and put me on the phone with him.
- 12 Q. And are you familiar enough with Jobo's voice that you
- 13 could tell it was Jobo?
- 14 A. Yeah.
- 15 Q. And what, if anything, did Jobo have to say?
- 16 A. Wanted to know if I still had the gun, not to mention
- 17 his name, and bring it to Castle Gate Trailer Park.
- 18 Q. Castle Gate Trailer Park?
- 19 A. Yeah.
- 20 Q. And what did he say about his name?
- 21 A. Not to mention his name on the phone.
- 22 Q. Did he tell you to call him anything different?
- 23 A. Huh?
- 24 Q. Did he tell you to call him any different name?
- 25 A. James.

BOBBY SWEET - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. Did he say why he wanted you to call him James?
- 2 A. No, sir.
- 3 Q. Where in Castle Gate Park did he tell you to come?
- 4 A. He told me to come in the first entrance, take the
- 5 first road to the left and go all the way to the back where
- 6 his van would be parked and he'd be waiting on me.
- 7 Q. What kind of vehicle was it?
- 8 A. A van.
- 9 Q. Did you, in fact, have a firearm for sale?
- 10 A. Yes, sir.
- 11 Q. How long have you had that weapon?
- 12 A. Probably a week or two.
- 13 Q. And why would you want to get rid of it?
- 14 A. 'Cause I'm a convicted felon and I didn't -- I wasn't
- 15 even supposed to have it.
- 16 Q. What kind of firearm was it?
- 17 A. A .380, Hi-Point .380.
- 18 Q. Approximately what color was it?
- 19 A. Black.
- 20 Q. At the time you sold it did it have any ammunition with
- 21 it?
- 22 A. Um-hum (affirmative).
- 23 Q. How many rounds did it have when you last gave it to
- 24 him?
- 25 A. Four or -- four or either five.

BOBBY SWEET - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Did you see Jobo at Castle Gate and did you, in fact,
2 sell that weapon to him?

3 A. Yes, sir.

4 Q. What did he say when he obtained it from you?

5 A. When I gave it to him he asked me if there was -- if I
6 had any shells for it. I told him the ones that were in it
7 and to be careful with it because it was loaded.

8 Q. Did anybody come outside with him to speak with you?

9 A. No, sir.

10 Q. Did you ever get out of your car?

11 A. No, sir.

12 Q. How much did Jobo give you?

13 A. A hundred and twenty-five dollars.

14 Q. Did Jobo ever say why he needed this firearm?

15 A. No, sir.

16 Q. Did you hear about Charlie Roberts being missing in
17 this case?

18 A. Yeah, a few days later.

19 Q. Now, how did you find out about that?

20 A. There were people at Spinx gas station handing out
21 fliers. And then several other people I knew were talking
22 about Charlie was missing.

23 Q. Okay. And how much -- how far after you sold the gun
24 did you start seeing these fliers and hearing this
25 conversation?

BOBBY SWEET - CROSS EXAMINATION BY MS. GORTON

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1 A. Just a few days.

2 Q. When you started seeing these fliers did you start
3 thinking about that firearm you sold?

4 A. Yes, sir, because when I was told that Charlie was
5 missing it was also told that Jobo ---

6 Q. No, don't repeat what rumors were. I can't go down
7 that road. Did it concern you that maybe this firearm may
8 have been ---

9 A. Yes, sir.

10 Q. --- used? At any point after that have you ever seen
11 or spoken with Jobo Phillips?

12 A. No, sir.

13 Q. I'm not sure if I asked this question before. Did Jobo
14 ever say what he intended to do with that firearm?

15 A. No, sir.

16 Q. Thank you. Please answer any of opposing counsel's
17 questions.

18 **Cross Examination by Ms. Gorton:**

19 Q. You're certain that it had four rounds left, correct?

20 A. Four or five, yes, ma'am.

21 Q. Four or five?

22 A. Um-hum (affirmative).

23 Q. And you gave this statement on August 3rd, which was
24 before Charlie's body was found, correct?

25 A. Uh-huh (affirmative).

BOBBY SWEET - CROSS EXAMINATION BY MS. GORTON

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- 1 Q. Right? He was just missing at that point?
- 2 A. Yes, ma'am.
- 3 Q. All right. So it was approximately not even three
- 4 weeks after he actually went missing?
- 5 A. I guess.
- 6 Q. But you don't know how long it was before you learned
- 7 about it? He could have been missing a week. He could have
- 8 been missing two weeks when they were passing out fliers at
- 9 Spinx?
- 10 A. Right. Yes, ma'am.
- 11 Q. Correct?
- 12 A. Correct.
- 13 Q. All right. Now, nowhere in your statement do you say
- 14 anything about him telling me to use the name James,
- 15 correct?
- 16 A. That's correct.
- 17 Q. Have you seen your statement?
- 18 A. Yes, ma'am.
- 19 Q. And at the time you wrote the statement you already
- 20 knew that they were looking for Jobo and a gun and about
- 21 Charlie, right?
- 22 A. Yes, ma'am.
- 23 Q. You didn't say anything about use a different name, did
- 24 you?
- 25 A. I may not have wrote it in the statement.

BOBBY SWEET - CROSS EXAMINATION BY MS. GORTON

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1 Q. Yeah, that's new today, isn't it?

2 A. I don't know. He just told me not to use his name. I
3 think I wrote that in the statement.

4 Q. You didn't mention that to anyone before?

5 A. No, ma'am.

6 Q. Now, again, this is only less than three weeks after
7 Charlie goes missing. And you're saying that you think you
8 sold the gun a week or two prior, right?

9 A. I said I sold the gun, I heard about Charlie being
10 missing a few days after I sold the gun. I didn't know -- I
11 don't know.

12 Q. A few days, not a few weeks?

13 A. A few days, yes, ma'am.

14 Q. A few days. Do you know -- he asked you how you got a
15 hold of Jobo.

16 A. Um-hum (affirmative).

17 Q. And you said you used whose cell phone?

18 A. T-Bird Starling used Pam Goff's cell phone.

19 Q. Okay. And did you tell law enforcement that?

20 A. Huh?

21 Q. Did you ---

22 A. Yes, ma'am.

23 Q. --- tell law enforcement that?

24 A. Yes, ma'am.

25 Q. To your knowledge were cell phone records checked to

SANDRA SHIRLEY - DIRECT EXAMINATION BY MR. STEINBERG

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1 find out what date that call occurred?

2 A. I don't know.

3 Q. Did you know what Pam Goff's phone number was so they
4 could check that record?

5 A. No.

6 Q. Do you know if they checked to see what Pam Goff's
7 number was so they could check that record?

8 A. No, ma'am.

9 Q. All right. But it definitely was a cell phone?

10 A. Yeah.

11 Q. And it definitely called Jobo?

12 A. Um-hum (affirmative).

13 Q. So there should be a record of when that call occurred,
14 correct?

15 A. I suppose.

16 Q. You suppose so? All right. Thank you.

17 **THE COURT:** Thank you. Step down.

18 **MADAME CLERK:** Ma'am, please come forward to be sworn
19 in. Place your left hand on the Bible and raise your right.

20 **Sandra Shirley, being**

21 duly sworn testified as follows:

22 **MADAME CLERK:** Thank you. You may be seated. Please
23 state your name for the record.

24 **MS. SHIRLEY:** Sandra Shirley.

25 **MADAME CLERK:** Thank you.

SANDRA SHIRLEY - DIRECT EXAMINATION BY MR. STEINBERG

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1 Direct Examination by Mr. Steinberg:

2 Q. Good afternoon, Ms. Shirley. How are you today?

3 A. Fine.

4 Q. Would you please tell us where you work?

5 A. I work at JP Stevens Slater Plant.

6 Q. And did you work there with Charlie Roberts when he was
7 still alive?

8 A. Yes, I did.

9 Q. And do you have any relationship with Charlie Roberts?

10 A. He's my cousin.

11 Q. But am I correct in that you've known him your whole
12 life?

13 A. Yes, sir.

14 Q. Do you know Jobo Phillips?

15 A. I know of him.

16 Q. Okay. How long has Charlie worked for JP Stevens?

17 A. Over twenty something years.

18 Q. What was his role? What was his title there?

19 A. He was the smash hand.

20 Q. For people who aren't familiar with a mill, what is a
21 smash hand?22 A. Smash hands is where we draw warps and he takes them
23 out there and puts them in the loom to be run.24 Q. I take it on occasion people smash their hands on it,
25 on the press?

SANDRA SHIRLEY - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yeah, they -- they take them out and load them on the
2 machine. And then they -- the fixer starts them up and they
3 weave cloth.

4 Q. What shift did he work?

5 A. He worked third shift.

6 Q. And is third shift at ...

7 A. Twelve to eight.

8 Q. Twelve to eight in the morning?

9 A. Yes, sir.

10 Q. Before Charlie was missing did you know him to be
11 dating anyone?

12 A. No. He was dating Karen, but they broke up.

13 Q. Okay. On the last day that you remember seeing
14 Charlie, what day was that?

15 A. It was on a Friday before 8:00.

16 Q. Okay. And what was Charlie wearing, if you remember?

17 A. Charlie was wearing a gray Chopper shirt, light blue
18 jeans, steel boot shoes. He had a black hat on with a
19 silver emblem. And he wore a gold chain with a cross on it.

20 Q. Do you remember what was on the -- on the hat?

21 A. Sir?

22 Q. You remember what was on the hat?

23 A. It was Michelin, I believe. It was a silver emblem,
24 Michelin.

25 Q. How did Joe -- how did Charlie seem on the day ---

SANDRA SHIRLEY - CROSS EXAMINATION BY MS. GORTON

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1 A. Charlie wasn't Charlie that Friday. He used to smile a
2 lot and talk to me every morning. But he was kind of like
3 he had something on his mind. He wasn't -- he wasn't
4 talking much. And he always looked at his phone. He never
5 looked at it. And we talked every morning, every morning
6 before shift change for twenty something years.

7 Q. Did he talk to you this day?

8 A. Sir?

9 Q. Did he talk to you this day?

10 A. He talked to me some, a little bit, but not much. I
11 asked him was he working over because he was running a
12 little late. And he said, no, I'm going to the house. And
13 he stood at the door and waved at me. And that's the last I
14 seen of him.

15 Q. Now, you said he was wearing a Chopper shirt. What
16 color was that shirt?

17 A. Gray.

18 Q. And when you said Chopper, is that Orange County
19 Chopper?

20 A. Yeah.

21 Q. Okay. Thank you, Ms. Shirley. Please answer any of
22 Ms. Gorton's questions.

23 THE COURT: Any questions?

24 MS. GORTON: Briefly, Your Honor.

25 **Cross Examination by Ms. Gorton:**

SANDRA SHIRLEY - CROSS EXAMINATION BY MS. GORTON

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1 Q. You said normally you and Charlie would talk. Normally
2 he would also check his phone when he got off work?

3 A. Yeah, just about every morning, but he didn't that
4 morning.

5 Q. He did not?

6 A. Uh-uh (negative).

7 Q. Okay. And his other routine is he'll kind of blow off
8 his clothes, and wash his hands ---

9 A. Yeah.

10 Q. --- and get ready to leave. Did he do that that
11 morning?

12 A. Yeah, he blowed his clothes off and went over there to
13 the sink to wash his hands.

14 Q. Okay. And you said that he was waving goodbye. Was he
15 having a conversation with his boss?

16 A. No. He was standing at the door by hisself. And I
17 asked him was he working over. And he said, no, I'm going
18 to the house. And then he -- I said, bye, Charlie. And he
19 just throwed his hand up, bye.

20 Q. Okay. I'm really not trying to pick on you. And I
21 know that it's been two years, but I need to approach with
22 your statement. Is this your statement? Is that your
23 signature?

24 A. That's my signature, yes. Yeah, he went to the boss
25 and looked at him, but he didn't say nothing. He just

SANDRA SHIRLEY - CROSS EXAMINATION BY MS. GORTON

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1 looked and -- he was -- he was blowing his clothes off. He
2 might have said a few words to him, but I wasn't paying them
3 no attention.

4 Q. Okay. And -- just a moment.

5 (Pause)

6 MS. GORTON: May we -- Your Honor, may we approach?

7 THE COURT: Sure.

8 (Whereupon a bench conference was held off the record
9 in the presence of the jury, but out of their hearing)

10 (Whereupon the bench conference was ended)

11 MS. GORTON: Sorry. We have rules we have to follow.

12 Q. Did you know anything about Charlie having a bad back,
13 having a back injury of some sort?

14 A. I never knowed of him having a bad back, but he had one
15 of his legs that kind of bothered him a little bit. But the
16 doctor had done give him some medicine for it.

17 Q. Okay. Do you know if he was prescribed pain medication
18 for that?

19 A. I don't know if that's what he had or not.

20 Q. Okay.

21 MS. GORTON: I have nothing further.

22 A. Okay.

23 THE COURT: Thank you. You can step down.

24 MR. STEINBERG: Your Honor, the State's next witness
25 will be Jimmy Poole.

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 **MADAME CLERK:** Mr. Poole, would you come forward to be
2 sworn in, please. Please place your left hand on the Bible
3 and raise your right.

4 **THE COURT:** Raise your right hand.

5 **Jimmy Poole,** being duly
6 sworn testified as follows:

7 **MADAME CLERK:** Thank you. You may be seated. Please
8 state your name for the record.

9 **MR. POOLE:** Jimmy Poole.

10 **MADAME CLERK:** Thank you.

11 **Direct Examination by Mr. Steinberg:**

12 Q. Good afternoon, Mr. Poole. Thanks for being here
13 today.

14 A. Yes, sir.

15 Q. What part of town do you live in?

16 A. Marietta.

17 Q. And where do you work, if at all?

18 A. Sir?

19 Q. Do you work anyplace now?

20 A. No, sir, not right now. I'm trying -- I'm getting --
21 going through getting my disability.

22 Q. Yes, sir. And where did you -- what's the longest job
23 you've ever had?

24 A. WR Grace, twenty-two years.

25 Q. How many years?

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. Twenty-two.
- 2 Q. Thank you, sir. Where do you currently live? Who do
3 you live with? Who do you currently live with?
- 4 A. My daughter.
- 5 Q. Okay. And are you related to Jobo Phillips?
- 6 A. Yes, sir.
- 7 Q. And how are you related to him?
- 8 A. My uncle is his step-dad.
- 9 Q. Did you know JJ Allen?
- 10 A. Yes.
- 11 Q. And what roles or what did JJ do for Jobo?
- 12 A. Well, I mean, I stayed around up there a lot. And JJ,
13 he would do chores for, you know, for staying with Jobo, you
14 know what I'm saying? Watching kids, maybe cutting grass,
15 just whatever, you know what I'm saying?
- 16 Q. Has he ever done anything for you?
- 17 A. Yes, sir. He helped me put a transmission in my truck
18 one time.
- 19 Q. All right. And do you know Charlie Roberts?
- 20 A. I knew him, but I didn't -- I knew his brother more
21 than I knew him. But I know him through his brother, you
22 know what I'm saying?
- 23 Q. Yes, sir.
- 24 A. I mean, every time I see him, he would speak and all
25 that, you know.

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. Did you know if Joe and Christina were dating in 2011
2 or what the status of their relationship was?
- 3 A. Well, it -- they was separated for six or, you know.
- 4 Q. Did Charlie make or did Jobo make any statements about
5 Christina, about trying to get her back?
- 6 A. Well, I mean, he would, I mean, I know that he was
7 trying to get her back. I mean, he'd go out and try, you
8 know, he'd go out and eat and -- or whatever and get her
9 every once in a while.
- 10 Q. Did you ever hear him make any statements about Charlie
11 Roberts or about being jealous of Christina?
- 12 A. No, sir.
- 13 Q. Did you come forward to law enforcement in this case?
14 Did you ever contact law enforcement in this case?
- 15 A. I can't -- I'm hard of hearing.
- 16 Q. Yes, sir. I'm sorry. Did you come forward and speak
17 to law enforcement officers in this case?
- 18 A. Yes, sir.
- 19 Q. Please tell us when that was and why you did this.
- 20 A. My daughter and my sister told me that -- I didn't know
21 that Christina was seeing Charlie. But the day that I let
22 Dana LaClair borrow my bike, which was June the 7th, and
23 June the 8th, that morning of June the 8th ---
- 24 Q. June or July?
- 25 A. The morning of June the 8th or July 8th, JoAnn, which

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 is Jobo's mom, came and was going to take -- came to take me
2 up to River Falls to check on -- to see if he was at home.
3 Jobo knew where Dana LaClair lives. And so Jobo rode up
4 there with us.

5 All the way up through there, don't know whether he got
6 a call, whether he got a text, but he told JoAnn that ---

7 Q. You say ---

8 A. --- need to go pick Charlie up. Huh?

9 Q. Who are you referring to when you say he?

10 A. JJ.

11 Q. No, who got -- who was in the car with you?

12 A. Jobo, one of his little sons, and JoAnn and me.

13 Q. Who was in the front seat?

14 A. Me and JoAnn.

15 Q. Okay. Who was driving?

16 A. JoAnn.

17 Q. And she gave you a ride up to River Falls area?

18 A. River Falls area.

19 Q. Before you got there did anything happen? Did Joe --
20 did, pardon me, did Jobo ever say anything?

21 A. Yes, sir. He told JoAnn that JJ was through with that
22 job and we needed to go up there and pick him up.

23 Q. Did he say why he had to pick up JJ?

24 A. He was up there working for Kevin.

25 Q. Did you know this going up there before you were up

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 there?

2 A. No, sir.

3 Q. How'd you feel about that moving away from your desired
4 location finding your motorcycle?

5 A. Yes, sir. We was going to Old Camp Creek where Dana
6 LeClair lives.

7 Q. Did you see JJ walking that day?

8 A. Yes, sir.

9 Q. What was he doing?

10 A. Didn't know it at the time, didn't know where Kevin
11 lived at, but when we picked JJ ---

12 **MS. GORTON:** Objection.

13 A. --- up, he was walking ---

14 **MS. GORTON:** Objection.

15 **THE COURT:** Hold on. What's your objection?

16 **MS. GORTON:** He said I didn't know it at the time. So
17 I don't want him to testify to anything that's beyond his
18 personal knowledge or based on ---

19 **THE COURT:** All right. He can't testify to anything
20 that he doesn't have knowledge of.

21 **MR. STEINBERG:** Yes, sir.

22 Q. Just testify to what you know, what you saw, what you
23 heard, what ---

24 A. Right.

25 Q. --- you did. Did you see JJ?

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. Yes, sir.
- 2 Q. And did he get in the car?
- 3 A. Yes, sir.
- 4 Q. How was Jobo and JJ acting at this time?
- 5 A. At that time, I mean, they were, I mean, I didn't hear
- 6 them speak. I mean, I was in the front. JJ got in the
- 7 back. But, I mean, everything, you know, to me, I didn't
- 8 see nothing suspicious, you know?
- 9 Q. Okay. Had you ever picked up JJ on this road before?
- 10 A. No, sir.
- 11 Q. Had you ever been on this road with JJ before?
- 12 A. No, sir.
- 13 Q. Did JJ make any statements or Jobo make any statements
- 14 once JJ got back in the car?
- 15 A. No, sir, he didn't.
- 16 Q. What caused you to come to law enforcement? What made
- 17 you think that trip ---
- 18 A. Well, like I said, I didn't know that Christina was
- 19 seeing Charlie. I was told she was seeing Becky's brother,
- 20 ---
- 21 MS. GORTON: Objection.
- 22 A. --- Jessie.
- 23 THE COURT: Yeah, I sustain the objection. Instruct
- 24 the jury to disregard that.
- 25 A. Okay. Anyway, the day that I was up on River Falls and

JIMMY POOLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 we went and picked JJ up is when I went looking for my bike,
2 which Dana LaClair had. And me, I figure if I didn't come
3 forward and say something, but I was in the car when we went
4 up there to pick JJ up and that -- that night the truck was
5 found.

6 Q. So you're saying the same day that you're talking about
7 when you were driving is the same day the truck was found?

8 A. Yes, sir.

9 Q. Okay. When you say the truck, you talking about ---

10 A. Yes, sir.

11 Q. --- Charlie Roberts?

12 A. Truck. Charlie's truck.

13 Q. Did you ever have any conversations with Jobo after
14 this, any conversations about your trip up to River Falls?

15 A. No, sir.

16 Q. Do you remember him talking to you on the jail phone
17 calls about this?

18 A. Yes, sir.

19 Q. What did he say then?

20 A. Well, he tried to contradict my story that I went in
21 there and said, you know.

22 Q. Are you confident ---

23 A. I can't remember what he was -- he said I didn't -- I
24 can't remember exactly what it was, but I do know he tried
25 to contradict me and said we didn't do it. But I didn't --

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 he didn't -- do this and I didn't do that, you know what I'm
2 saying?

3 Q. Thank you, Mr. Poole. Please answer any of opposing
4 counsel's questions.

5 **Cross Examination by Ms. Gorton:**

6 Q. You provided a statement about this on August 29th,
7 2011, correct?

8 A. Do what now?

9 Q. Did you sign ---

10 A. I'm sorry, I can't hear.

11 Q. That's okay. I'll try to talk louder.

12 A. Okay. Thank you.

13 Q. Is this your signature?

14 A. Yes, ma'am.

15 Q. Did you sign this statement?

16 A. Yes, ma'am.

17 Q. Is it dated August 29th, 2011?

18 A. Yes, ma'am.

19 Q. Can you read what it says here? Or do you need me to
20 read it for you, sir?

21 A. Yes. Yes, ma'am.

22 Q. Okay. It says ---

23 (Whereupon the attorneys were conferring off the
24 record)

25 Q. It says on Saturday, August 27th, 2011 I was up there

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 at JoAnna and Moe's house and had a conversation, had come
2 up. And Moe said that he thought about the time when JoAnn
3 took me up to River Falls it was around the same time, the
4 disappearance of Charlie. But I don't remember. Did you
5 say that, that you don't remember when it occurred?

6 A. I don't remember when it -- when it happened, but I do
7 know the truck was -- I do remember the truck was found that
8 evening that we was up there that morning to pick -- to go
9 look for my bike.

10 Q. Well, let's approach it this way. What was the time-
11 frame? Did you call JoAnna to ---

12 A. Yes, ma'am.

13 Q. You called her?

14 A. Yeah, I called her to come pick ---

15 Q. How did ---

16 A. --- me up.

17 Q. --- you call her?

18 A. Ma'am?

19 Q. How did you call her?

20 A. On my cell phone.

21 Q. On your cell phone?

22 A. Yes, ma'am.

23 Q. Okay. And what was your cell phone number?

24 A. If I'm not mistaken, it was [REDACTED]-5859 or something like
25 that.

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1 Q. You certainly had that information when you gave this
2 statement, right?

3 A. Yeah. Well, that's been a while. It's been two years.
4 I've had a lot of different cell phones since then.

5 Q. Right. And you would have remembered your cell phone
6 back then, right? Your cell phone number?

7 A. Not really.

8 Q. Okay. Well, you called her on your cell phone and you
9 called her on her cell phone?

10 A. Yes, ma'am.

11 Q. Okay. So there would be a record if you ---

12 A. Yeah, I reckon so.

13 Q. So all we have to do is look at the cell phone records
14 ---

15 A. Yes, ma'am.

16 Q. --- and verify the day that you called JoAnn?

17 A. Yes, ma'am.

18 Q. All right. Now, you called JoAnna about what time?

19 A. Around 7:00.

20 Q. All right. And then what did you do after you called
21 her?

22 A. Well, she said that she would come and pick me up and
23 take me up there to see about my bike. And she did. She
24 come down there and picked me up around 7:30.

25 Q. Came down where to pick you up, sir?

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 A. At -- there on -- Steve and Crystal Robbins' place. I
2 think it's -- I can't -- Bates (phonetics) Road.

3 Q. That's where you were staying?

4 A. That's where I was at all week, that week.

5 Q. Okay. Crystal Herring?

6 A. Crystal Robinson.

7 Q. Do you know Crystal Herring and Steve Chapel? Are you
8 talking about ---

9 A. That's probably who you talking about. I mean, I don't
10 know their last names, but I do know their first.

11 Q. All right. Well, and then JoAnn came and picked you up
12 around 7:30 and then what happened?

13 A. Yes, ma'am.

14 Q. Then what happened, sir?

15 A. We continued. Her -- the electric fan on her car had
16 shorted out, wasn't working. So we went back up there. And
17 she told me that she ---

18 Q. Up where? I've got to interrupt you because I've got
19 to be able to follow your story.

20 A. Okay. So ---

21 Q. We heard the electric fan shorted out and you went back
22 up where, sir?

23 A. We went to -- to her house and they fixed it. I mean,
24 they brung a wire set and one fan.

25 Q. Who fixed it?

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Moe and -- Moe fixed it. And I helped a little bit.
- 2 And I don't know, we just say where's the fan on the car.
- 3 Q. Okay. Well, I've never fixed a fan on the car. So how
- 4 long did that take?
- 5 A. We left from there to go up there about a quarter to
- 6 nine or something.
- 7 Q. About a quarter til nine. 8:45 then, right?
- 8 A. Yeah. It was about that time, yeah.
- 9 Q. And you left there with who and where did you go?
- 10 A. We continued to go until you get to 276 and started
- 11 headed toward Cleveland.
- 12 Q. Okay. Well, who?
- 13 A. Me, JoAnn, Jobo and his little boy.
- 14 Q. And that's about 8:45 you think?
- 15 A. Yeah. I'm thinking that's about what time it was,
- 16 yeah.
- 17 Q. Okay. And how did Jobo get involved in this?
- 18 A. JoAnn said that -- asked me did I know where Dana lived
- 19 at. And I said, no. She said Jobo said he knew and he
- 20 would go out and ride up there with us.
- 21 Q. And so how did he wind up in the car?
- 22 A. He was around. And we was ready to go and asked him
- 23 was he ready to go. And he said, yeah.
- 24 Q. He was already at his mom's house?
- 25 A. He lives next door.

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. Well, did you yell or how did you get ---

2 A. No, he was already out in the yard. I asked -- We
3 asked him was he ready to go.

4 Q. He was already out in the yard?

5 A. Yes, ma'am.

6 Q. And this would have been about 8:45?

7 A. Yeah.

8 Q. Did he have his phone with him?

9 A. Yep.

10 Q. Okay. And when you got in the car at 8:45 or
11 thereabouts, was there already a plan to pick up JJ or did
12 that come later?

13 A. No, there wasn't no plan to pick up JJ at all. We
14 started out going up there to see if Dana was at home to
15 pick my bike up.

16 Q. Okay. So I know from your statement that you guys went
17 to a lot of different places looking for your motorcycle.

18 A. The night -- the night before, that morning, yes,
19 ma'am.

20 Q. What do you mean the night before?

21 A. I mean, I went, I mean, I went to four or five places
22 looking for it that night, but on -- on the phone
23 continuously.

24 Q. Okay. Let me clarify. What I'm asking you about when
25 I'm asking you to explain is the places that you went when

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 you left JoAnn's house at 8:45 with Jobo and Billy in the
2 car.

3 A. When we left from there we was stopped at the Cleveland
4 store. But before we got to the Cleveland store, don't know
5 whether it was a text or phone call, but Jobo was telling
6 his mama that we needed to go on up to River Falls to pick
7 JJ up, that he was through.

8 Q. Well, hang on just a minute. You said you don't know
9 which it was, a text or a phone call. Were you in the car?

10 A. Yes, ma'am.

11 Q. Did you hear him talking to anyone?

12 A. Like I say, I was busy worrying about my bike. I'm on
13 the phone trying to find out where he was.

14 Q. Okay. So you don't know whether you heard him having a
15 conversation ---

16 A. No, ma'am.

17 Q. Okay.

18 A. But I do know that he told his mom that we needed to go
19 pick JJ up, that he was through with that job that he was
20 doing for Kevin.

21 Q. Well, let me ask you this. Why are you so certain it
22 was around 8:45 that you left?

23 A. I mean, I just gave you a time-frame. I mean, we left
24 about that time. It was early when she came and picked me
25 up. And it was done getting a little late when we started

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 out.

2 Q. Okay. Did you ever hear Joe call Charlie that day?

3 A. Ma'am?

4 Q. Did you ever hear Joe call Charlie that morning?

5 A. No.

6 Q. Okay. And you don't know whether you heard Joe have a
7 conversation with anyone?

8 A. No. Like I say, I just remember him saying we need to
9 go pick JJ up.

10 Q. But you're in the car with Joe this whole time?

11 A. Ma'am?

12 Q. You're in the car with Joe this whole time?

13 A. Yes, ma'am.

14 Q. So if he said anything like, kill him, or hide it
15 behind the hill, ---

16 A. No, no.

17 Q. No, nothing like that?

18 A. (Negative nod).

19 Q. Anything about parking a car or hiding it behind a
20 hill, hear any of that?

21 A. No, ma'am. No, ma'am.

22 Q. Now, did you -- when you picked up JJ did he have
23 anything in his hand?

24 A. Like I told Harold or -- no, I don't remember seeing
25 nothing that he had with him, one thing. He usually carries

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1 -- he's got a paddle thing that he carries around for
2 sharpening his knife and all that. But I do not remember
3 him having anything with him, you know what I'm saying?

4 Q. Could he have had a tool bag in his hand? Is there any
5 reason that you'd say, no, that didn't happen?

6 A. I don't remember seeing -- I remember him getting in
7 the car, he didn't have nothing with him, I mean.

8 Q. Okay. Is it that you don't recall or that you're
9 pretty sure he didn't?

10 A. Don't recall.

11 Q. Because, again, you were distracted. You ---

12 A. Yes, Yes.

13 Q. --- were upset about your bike?

14 A. I was more interested in getting my bike than picking
15 JJ up.

16 Q. Okay. Now, Mr. Steinberg asked you a couple of
17 questions about whether you had ever picked up JJ up there,
18 whether you'd ever taken -- but was this kind of a different
19 situation where you and JoAnn are up in that area ---

20 A. Yes, ma'am, ---

21 Q. --- anyway?

22 A. --- exactly.

23 Q. So it could have been that he worked up there all the
24 time, you just wouldn't know?

25 A. I was -- I went up there enough to know that that'd be

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 the first time I'd know Kevin, I mean, JJ working for Kevin,
2 you know what I'm saying?

3 Q. Did anyone say anything about Kevin?

4 A. Jobo said we needed -- that's where he was doing the
5 job at.

6 Q. You said that when JJ got in there was nothing
7 suspicious about him?

8 A. No, ma'am. If there was, I didn't hear it.

9 Q. There wasn't any odd behavior by my client either?

10 A. I didn't see none. You know, like I say, I'm -- at
11 that time I was wanting to get my bike. I thought we was
12 going to go there first, you know. And I was all upset
13 about my bike, done spent all night long ---

14 Q. Okay. Well, I can't let you off the hook just yet
15 about this time-frame. We still have a little bit more to
16 go.

17 THE COURT: All right. Don't make statements now.

18 Just ---

19 MS. GORTON: Oh, okay.

20 THE COURT: --- ask questions.

21 Q. Were you -- you said you left the house around 8:45, is
22 that right?

23 A. I'm thinking that'd be about what time, yeah.

24 Q. And you stopped at the Cleveland store first?

25 A. Yes, ma'am.

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 Q. And you think that's about when he got the call from JJ
2 to come pick him up?

3 A. Like I say, we left -- left his house around 8:45. I'm
4 saying about maybe 9:00 'cause he got the call before we got
5 to the store.

6 Q. Okay. So ---

7 A. Or a text, whichever.

8 Q. --- it'd be before 9:00? All right. And then where
9 did you guys go after Cleveland store? Did you go ---

10 A. Left -- we left and hit 276, started up to River Falls
11 and went through. I thought we was going to go check on the
12 bike first, but we went to pick JJ up first and then went up
13 to Devil's Fork ---

14 Q. So using your time-frame, what time do you think you
15 picked JJ up?

16 A. I'm saying it took about maybe forty minutes from the
17 time we left JoAnn's house, stopped at the store and picked
18 JJ up.

19 Q. I'm honestly not trying to put words in your mouth, but
20 are you saying that was around 9:30 that you picked ---

21 A. Yes.

22 Q. --- JJ up?

23 A. Yes. It was around 9:30 or so, yeah.

24 Q. And then after you picked JJ up, Jobo, and JJ, Billy,
25 and you and JoAnn are still going places, correct?

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 A. Yeah, we're still going to check on my bike.. We come
2 back down.

3 Q. Okay. How -- was there a point where JJ and Jobo got
4 out of the car?

5 A. No. The only time we got out is when I went back down
6 to Steve and Crystal's. My bike was supposed to have been
7 there, but it wasn't. But my keys was there. And JJ got
8 out with me down there.

9 Q. Okay. JJ got out there at Steve and Crystal's?

10 A. Yeah.

11 Q. Did Jobo?

12 A. No.

13 Q. Just JJ?

14 A. Yeah.

15 Q. And what did JJ do when he got out?

16 A. I really -- he talked to Steve.

17 Q. Okay. Did you wind up leaving him there?

18 A. No.

19 Q. How long did he talk to Steve?

20 A. We was in there about ten minutes or so.

21 Q. Did he go in the house to talk to Steve ---

22 A. Yes, ma'am.

23 Q. Do you know what they were doing in there?

24 A. Yes.

25 Q. Can you tell me what they were doing? I already know,

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 but go ---

2 A. Oh, okay. I mean, he -- he scored there, you know what
3 I'm saying? He picked up some -- picked up some dope.

4 Q. All right. So JJ went in to pick up some dope?

5 A. Yeah.

6 Q. And he went in alone?

7 A. Me and him was together. When we went in -- we went
8 in, I was looking for Dana. He was supposed to have been
9 there, but he wasn't.

10 Q. All right. So what time are we up to when JJ gets back
11 in the car?

12 A. I'm saying now we close to maybe 10:30, some to eleven,
13 you know what I mean? Matter of fact, I had my ex-wife --
14 called her and had her to go up there and sit and make sure
15 that Dana didn't leave with my bike before I got there. And
16 she said it was around her dinner break, you know what I'm
17 saying?

18 Q. All right. So that's why you're pretty certain at that
19 time?

20 A. Yeah.

21 Q. And then what did you do after you left Steve and
22 Crystal's?

23 A. We went back up there to JoAnn's. And JJ and Jobo and
24 the little boy -- and Jobo's boy got out. And my bike, I
25 had the keys for it. I mean, they was somebody at Steve and

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 Crystal's that gave me the keys instead of the bike and said
2 it was up on Beaver Dam. So I went back up to Moe's and
3 JoAnn and they got out and Moe rode up to Beaver Dam with us.

4 Q. All right. So Joe and JJ stayed behind, Moe gets in
5 and then you guys go get your bike?

6 A. Right.

7 Q. All right. What time was it that you let JJ and Jobo
8 off at their house?

9 A. I'm saying it wasn't 12:30. It was a little after
10 twelve or so or something.

11 Q. Twelve or 12:30?

12 A. Yeah.

13 Q. How certain are you that it was sometime after twelve?

14 A. Like I said, it was my ex-wife's dinner break. She
15 takes a dinner break at 12:00.

16 Q. Okay. So that leads me back to your certainty of the
17 day. And in this statement you said you don't remember
18 when.

19 A. I -- like I say, I know my ex-wife was there at dinner.
20 She was up there watching. She said it was -- it was a
21 quarter -- best I remember, she said it was about her dinner
22 break and she'd go ahead and go up there and sit to make
23 sure that -- see, the bike was in mine and her both names.
24 She was responsible for it.

25 Q. In anywhere in your statement do you tell the officers

JIMMY POOLE - CROSS EXAMINATION BY MS. GORTON

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1 -- you do say you're not sure when it was. Do you ever say
2 it's the same day the truck was found? Anywhere in your
3 statement do you say that?

4 A. I think I did.

5 Q. Can you show me where?

6 THE COURT: He can't see it.

7 MS. GORTON: Oh, do you want me to read the whole thing
8 out loud?

9 THE COURT: No. Point out or read -- the question
10 asked is the question you just asked.

11 MS. GORTON: The question I'm asking is anywhere in his
12 statement did he say that this occurred the same day that
13 the truck was found.

14 THE COURT: All right. Do you know?

15 A. Yes, I did. I mean, it was ---

16 Q. It was in this statement?

17 A. I'm pretty sure I told -- I told the officer that I was
18 up on River Falls the same day I picked JJ up and the truck
19 was found.

20 THE COURT: Is it in there, solicitor?

21 MR. STEINBERG: Your Honor, I'm looking for that
22 portion. I cannot tell yet.

23 A. I remember saying ---

24 THE COURT: Just a minute.

25 A. --- that ---

JAMES WILSON - DIRECT EXAMINATION BY MR. STEINBERG

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1 **THE COURT:** Wait, wait, wait. Is it in there or not,
2 solicitor?

3 **MR. STEINBERG:** Your Honor, I believe it is under the
4 same language opposing ---

5 THE COURT: All right. Read it.

6 MR. STEINBERG: He said he thought that when JoAnn took
7 me to River Falls it was around the same time around the
8 disappearance of Charlie, but I don't remember -- but I do
9 remember going to River Falls and riding up there with JoAnn
10 and Jobo.

11 **THE COURT:** All right.

12 MR. STEINBERG: States around that time.

13 THE COURT: All right.

14 MS. GORTON: Nothing further.

15 **THE COURT:** Thank you. Step down.

16 **MR. STEINBERG:** Your Honor, the next witness will be
17 Deputy Jimmy Wilson.

18 **MADAME CLERK:** Deputy Wilson, will you come forward to
19 be sworn in please. Please place your left hand on the
20 Bible and raise your right.

21 James Wilson, being duly
22 sworn testified as follows:

23 **MADAME CLERK:** Thank you. You may be seated. Please
24 state your name for the record.

25 MR. WILSON: Jim Wilson.

JAMES WILSON - DIRECT EXAMINATION BY MR. STEINBERG

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1 **MADAME CLERK:** Thank you.

2 Direct Examination by Mr. Steinberg:

3 **MR. STEINBERG:** Madame Court Reporter, I need these
4 marked for identification.

5 (Whereupon State's exhibits 6 and 7 were marked for
6 identification)

7 **MR. STEINBERG:** Thank you, ma'am.

8 Q. Deputy Wilson, tell us how long you've had experience
9 with the Greenville County Sheriff's Office?

10 A. I've been with the Sheriff's Office for a little over
11 two years now.

12 Q. And where did you work before that?

13 A. I was -- I retired from the Greenville City Police
14 Department. And I was with them a little over twenty-five
15 years.

16 Q. Twenty-seven years total experience, you think?

17 A. That's correct.

18 Q. Were you dispatched to the Gap Creek Road area on July
19 8th?

20 A. I was.

21 Q. And what was the nature of that -- of that call?

22 A. It was an abandoned vehicle left on somebody's
23 property.

24 Q. And what time did you get there?

25 A. I got the call around seven or, I think, it was

JAMES WILSON - DIRECT EXAMINATION BY MR. STEINBERG

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1 probably a little after seven. I probably got there 7:45,

2 7:50, somewhere around there.

3 Q. Now, had a prior officer been up there to look for the
4 vehicle?

5 A. That's correct. And he wasn't able to locate it.

6 Q. Were you able to actually see this vehicle?

7 A. I didn't see it right off. When I -- I came up 25, I
8 came down Gap Creek Road, I did not see the vehicle. I
9 talked to our dispatch again. I didn't actually see the
10 property owner. And then I'd found out he had to leave, but
11 he came back and he pointed the vehicle out to me, which had
12 sat up off the road. It wasn't like on the road.

13 Q. For the jurors who aren't familiar with Gap Creek Road,
14 how close is that to North Carolina?

15 A. It's -- if you're familiar with 25 going towards
16 Hendersonville, Gap Creek Road is the very last road that
17 you can actually turn on or turn to the left going towards
18 Hendersonville. And I would say just a mile or two. I
19 mean, it's not far off from the North Carolina line.

20 Q. Okay. And you said you had trouble seeing this truck
21 at first?

22 A. Correct. You couldn't see it at all coming from 25
23 down Gap Creek.

24 Q. Did you eventually see that vehicle? Did you
25 eventually see that vehicle?

JAMES WILSON - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. I eventually did see the vehicle.

2 Q. And approximately what time was law enforcement
3 notified about the -- about the car being missing over there
4 or being found over there?

5 A. I think the first officer -- I'm not a hundred percent
6 sure, but I think it was around 5:30 or so ---

7 Q. Okay.

8 A. --- if I remember right when the first officer went up
9 there, but couldn't locate it.

10 Q. Please tell us about the vehicle that you eventually
11 did find there.

12 A. It was a gold colored, I believe, it's a 1997 or '98
13 Mazda pickup truck.

14 Q. And did you see license plates on there? And if so,
15 what do license plates tell you?

16 A. It did have a license plate. I ran the license plate.
17 It came back to a Charlie Roberts. I believe the address
18 was [REDACTED] or [REDACTED] Lions Park Road in Marietta.

19 Q. How close was this car or this truck, I should say, to
20 highway 25?

21 A. Less -- I don't know, probably a mile, a half a mile,
22 maybe a little less.

23 Q. What was the condition of the vehicle?

24 A. It was good. The windows were down. There was no
25 damage to the vehicle that I could tell.

JAMES WILSON - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Were the doors locked?

2 A. The doors weren't locked. The keys were laying in the
3 front passenger's seat.

4 Q. Did this seem suspicious to you?

5 A. Yes, it did -- it -- I think what caught my attention
6 was the way the truck was pulled in. There was a little
7 logging road that went off of this. And it didn't look like
8 somebody just parked it there to park and go for a walk by
9 the keys being left in the seat and the windows down.

10 Q. Were any search units contacted? And if so, which
11 search units came out?

12 A. We did. After running this -- the tag and finding out
13 who it came to I had a deputy go to that address to see if
14 we could locate a -- the owner of the vehicle. He wasn't
15 able to locate anybody at home. He checked with neighbors.
16 None of the neighbors were at home.

17 Q. Do you know if they went inside Mr. Roberts' house?

18 A. I think -- the first deputy that went over there did
19 not. I believe later on as time went by and we weren't able
20 to locate the owner, some deputies did go and go inside the
21 house.

22 Q. Were there any search units called?

23 A. Yes, sir.

24 Q. What kind of search units were called?

25 A. We -- our first call, we called our K-9 unit out that

JAMES WILSON - DIRECT EXAMINATION BY MR. STEINBERG

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1 tried to obtain a track around the logging road from the
2 truck and weren't able to find any tracks from there as far
3 as from the truck. Later on a rescue group, that was way
4 later in the morning, a rescue group showed up and tried to
5 search the area with rescue dogs.

6 Q. In addition to you were there other deputies that were
7 working on this case?

8 A. Correct.

9 Q. Did forensics show up and process this truck?

10 A. Forensics did show up and process the scene and all.
11 The vehicle was actually towed to a dry storage unit, I
12 believe, by Hale's Towing. And you'll have to check with
13 forensics, but I think they may have responded during the
14 process.

15 Q. I'm going to show you State's exhibits numbers 6 and
16 number 7. Please identify these.

17 A. That's the same truck in the same location where I
18 located it.

19 Q. Okay.

20 **MR. STEINBERG:** The State would move to introduce
21 numbers 6 and 7.

22 **THE COURT:** Any objection to these photos?

23 **MS. GORTON:** No objection, Your Honor.

24 (Whereupon State's exhibits 6 and 7 were admitted into
25 evidence)

JAMES WILSON - CROSS EXAMINATION BY MS. GORTON

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1 **MR. STEINBERG:** Just for the benefit of the jury to see
2 how the vehicle was parked. Could you turn the lights off,
3 please, sir.

4 (Pause)

5 **MR. STEINBERG:** Turn the lights back on, please. Thank
6 you. We're just going to show these to the jury.

7 **Q.** This first picture that you've shown as State's
8 exhibits number 6, is this how the car was parked when you
9 first saw it?

10 **A.** That's correct.

11 **Q.** And this State's exhibit number 7, was it moved from
12 the time you found it?

13 **A.** No, it's still in the same place.

14 **Q.** And on that -- on the vehicle was the vehicle ever sent
15 away to another location to be examined?

16 **A.** That's correct. That was at Hale's Towing.

17 **Q.** Do you remember who the officers were who went inside
18 Mr. Roberts' house?

19 **A.** Deputy Smith is the first one that I -- I had go by to
20 see if he could make contact. And then Deputy Reece was --
21 I believe two went, but Deputy Reece is the one I recall
22 going.

23 **Q.** Thank you. Please answer any of Ms. Gorton's
24 questions.

25 **Cross Examination by Ms. Gorton:**

JAMES WILSON - CROSS EXAMINATION BY MS. GORTON

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1 Q. Was it around 7:00 Friday night that the truck was
2 found by you? I know that you said that another deputy went
3 out first and didn't see it, but was it about 7:00 when you
4 got there?

5 A. It was probably a little closer to eight by the time I
6 got there.

7 Q. Okay.

8 A. I got the call around seven.

9 Q. And there were keys in the car?

10 A. The keys were in the passenger front seat.

11 Q. This about what it looked like when you saw the keys?
12 I think this is the bench.

13 A. Yeah, that'd be about right.

14 Q. Okay. Did you at any point check to see if his house
15 key was on there?

16 A. No, ma'am.

17 Q. Do you know if anyone after you checked to see if his
18 house key was on there?

19 A. No, ma'am. We tried not to touch the vehicle much.

20 Q. All right. Do you know what happened to those house
21 keys? Did they get towed off with the vehicle or did it get
22 handed over to someone?

23 A. You'd have to check with forensics on that.

24 Q. You don't recall?

25 A. No, ma'am.

JAMES WILSON - CROSS EXAMINATION BY MS. GORTON

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1 Q. All right. You certainly didn't hand them over to
2 anyone?

3 A. No, ma'am.

4 Q. All right. Now, initially it appears that there was
5 thoughts that this might be a suicide. Did you have
6 dispatch call Verizon?

7 A. I think we tried to make contact with the phone
8 company, but we didn't have any luck with that.

9 Q. And the purpose of that was to do what?

10 A. To see if we could locate a cell phone or anything in
11 ---

12 Q. How could you ---

13 A. --- that area.

14 Q. How would you do that? How would you do that?

15 A. I have no clue. Our dispatch might know.

16 Q. Okay. But as a law enforcement officer you're
17 instructed that if somebody's missing you can call a cell
18 phone company if you know what their cell phone is and see
19 if the cell phone company could locate them, correct?

20 A. I assume so. I've never -- I didn't have that luxury
21 back in the old days.

22 **THE COURT:** Okay. Move on, please.

23 Q. Did you receive information from your dispatch that
24 there had been no activity on the cell phone?

25 A. I don't recall.

CARL RIDER - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. All right. Do you know when the first news cast was
2 about Charlie being missing?

3 A. No, ma'am.

4 Q. Did you send out anything?

5 A. No, ma'am.

6 Q. Did you request that anything be sent out?

7 A. No, ma'am.

8 Q. So to the best of your knowledge there was no news
9 media, missing person that night?

10 A. No, ma'am.

11 Q. All right.

12 **MS. GORTON:** Nothing further.

13 **THE COURT:** Step down.

14 **MR. STEINBERG:** Your Honor, I believe the next witness
15 will be the last witness for the day.

16 **THE COURT:** Okay.

17 **MR. STEINBERG:** The next witness is Carl Rider.

18 **MADAME CLERK:** Mr. Rider, please come forward to be
19 sworn in. Come forward. Place your hand on the -- your
20 right hand on the Bible -- your left hand on the Bible and
21 raise your right.

22 **Carl Rider,** being duly
23 sworn testified as follows:

24 **MADAME CLERK:** Thank you. You may be seated. Please
25 state your name for the record.

CARL RIDER - DIRECT EXAMINATION BY MR. STEINBERG

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1 MR. RIDER: Name?

2 MADAME CLERK: State your name for the record.

3 MR. RIDER: Carl Avery Rider.

4 MADAME CLERK: Thank you.

5 Direct Examination by Mr. Steinberg:

6 Q. Thank you for being here today, Mr. Rider. Could you
7 please tell us where you live, what county you live in?

8 A. I live in Easley, South Carolina, [REDACTED] Chandler Road.

9 Q. Where are you from originally?

10 A. Travelers Rest.

11 Q. What's your highest level of education?

12 A. Seventh grade.

13 Q. And what kind of jobs have you had in your adult life?

14 A. I've always done construction work. Here lately I'm
15 just doing what I can to make a dollar.

16 Q. Okay. Do you have any children?

17 A. Yes, sir.

18 Q. Is Travis R [REDACTED] one of your children?

19 A. Yes, sir.

20 Q. Do you know where he lives or who he's living with?

21 A. No, sir. I hadn't talked to him in a while, about two
22 weeks.

23 Q. Do you know JJ Allen?

24 A. I know of him. I know who he is.

25 Q. Okay. Do you know -- do you know Jobo Phillips? And

CARL RIDER - DIRECT EXAMINATION BY MR. STEINBERG

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1 if so, how long have you known him?

2 A. I do. He's my nephew.

3 Q. He's your nephew? Am I correct you've known him your
4 whole life then?

5 A. Yes, sir.

6 Q. Do you remember what you were doing on August 14th, the
7 day before the body was found?

8 A. Yes, sir. I fell and hurt my arm. And I went to North
9 Greenville Hospital. I couldn't get no one to come and pick
10 me up from the hospital. So I walked up to my house where I
11 used to live. It burnt down. And I slept in my daughter's
12 old playhouse.

13 Q. Did you have a, your own home at the time, did you have
14 a residence of your own at that time?

15 A. No, sir. I was staying with a friend of mine.

16 Q. Okay. Was your friend able to come and get you that
17 night?

18 A. No, sir. He had his phone turned off. He had to work
19 the next morning.

20 Q. And how far is your home -- was your old home from --
21 what's the address of that old home?

22 A. [REDACTED] Geer Highway.

23 Q. And is that actually on Geer Highway or is that off of
24 Geer Highway?

25 A. It's off of Geer Highway.

CARL RIDER - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Okay. And you said you slept in your daughter's old
2 playhouse?

3 A. Yes, sir, it was my daughter's playhouse.

4 Q. And when was the last time you'd actually been on this
5 residence?

6 A. On that property?

7 Q. Yes, sir.

8 A. It was -- December was two years ago til I went up
9 there on the 15th.

10 Q. What did you do when you woke up on the morning of the
11 15th, August 15th?

12 A. I woke up and I finally got in touch with my -- well,
13 my friend, he called me and asked me what I was doing, asked
14 if I needed a ride back to his house. I told him, yeah.
15 And he said he'd send his wife to pick me up in about
16 twenty, thirty minutes.

17 And I was just walking around smoking a cigarette. And
18 I figured I'd walk down to the creek and look to see if any
19 old bottles had washed up. And I walked down there and was
20 looking for old bottles and that's when I come up on the
21 body.

22 Q. And in case the jurors are not familiar with this area,
23 why would you look for bottles there? What kind of bottles
24 were you looking for?

25 A. Well, back when I lived there before, lots of times old

CARL RIDER - DIRECT EXAMINATION BY MR. STEINBERG

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1 Vernon Spring Coca-Cola bottles would wash up on the creek.
2 They washed up several times. You can get anywhere from
3 twenty-five to forty dollars apiece. And I was just seeing
4 if any had washed up.

5 Q. And is there an actual junkyard or place that buys
6 antiques right over there?

7 A. Yes, sir. Right there, right next to where I was at.
8 They's a fellow there, David Bailey. He runs the antique
9 store. He'll buy them. They's a lot of people messes with
10 antiques will buy them.

11 Q. Okay. And how close was that to your old homestead?

12 A. Within walking distance, less than an eighth of a mile.

13 Q. Okay. You say you found a -- you found a body there?

14 A. Yes, sir.

15 Q. What was the condition of the body?

16 A. It scared me so bad, I ran. The only thing I seen was
17 a pair of blue jeans, and a tennis shoe, a pair of blue
18 jeans connected to it, and I was gone. I ran and called
19 911. After I ran probably thirty or forty yards I finally
20 got settled down enough to dial 911.

21 Q. And did you cooperate with law enforcement when they
22 arrived?

23 A. I didn't hear you, sir.

24 Q. Did you cooperate with law enforcement when they
25 arrived?

CARL RIDER - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yes, sir, I did.

2 Q. And at that time did you know that it was Charlie
3 Roberts in that creek?

4 A. No, sir. I didn't know who it was.

5 Q. Thank you, Mr. Rider. I appreciate you answering my
6 questions. Please answer any of Ms. Gorton.

7 THE COURT: Any questions?

8 MS. GORTON: No, Your Honor.

9 THE COURT: Thank you. Step down. You can step down
10 now.

11 A. Okay. Thank you, sir. I'm hard of hearing.

12 THE COURT: All right. Ladies and gentlemen, at this
13 time we will suspend. We'll pick back up tomorrow morning
14 at 9:00.

15 Now, when you leave, please do not talk about this case
16 among yourselves or with anyone else. This includes members
17 of your own family. You can tell family members that you
18 are on this case, what kind of case it is, but don't discuss
19 the facts with them or, as I said, anybody else. If anybody
20 contacts you and tries to talk to you about this case, get
21 their names and addresses and report that to me.

22 I ask that you keep your badges on. Have them on when
23 you come back in the morning. I ask that you do that so
24 that everyone involved with this case will know that you are
25 a juror and it would be highly improper for them to talk

1 about or discuss this case in your presence.

2 So I'll ask that you be back tomorrow at 9:00. And I
3 also suggest to you that maybe we'll work maybe a little
4 later tomorrow than we did today, maybe til around six, if
5 that's necessary. So if you would be prepared to do that.
6 So see you back at 9:00 in the morning. Thank you.

7 (Whereupon the jury exited the courtroom at 4:36 pm)

8 **THE COURT:** All right. Now, solicitor, how many more
9 witnesses do you have? Are you going to be able to
10 eliminate some of these?

11 **MR. STEINBERG:** Thank you, Your Honor. The State is
12 going to call -- we're not going to call Lieutenant Chris
13 Taylor or Deputy Dorsey Lay. We are going to call all the
14 way down to Frank Eppes. We might not call Mr. Eppes, Mr.
15 Marchbanks or Mr. Whaley. We will be calling Ms. Gentry and
16 Ms. Hollingsworth. That will be done tomorrow.

17 We might can get in some more witnesses. We will
18 definitely get to Karen Milbrodt. And she is a Verizon
19 person. She's only available tomorrow. So as soon as she
20 comes in we're going to bring her ---

21 **THE COURT:** All right. So you can conclude your case
22 tomorrow?

23 **MR. STEINBERG:** No, sir. We have the investigators and
24 the co-defendant, I think will be on Wednesday. I'll try to
25 get the investigator in tomorrow, perhaps.

1 **THE COURT:** Well, both of you are asking a lot of
2 questions that really don't have any relevance to this case.

3 **MR. STEINBERG:** Yes, sir.

4 **THE COURT:** I think you can shorten up your examination
5 and your cross examination and get to the meat of this case.

6 **MR. STEINBERG:** Yes, sir.

7 **THE COURT:** All right? All right. Be back at 9:00 in
8 the morning.

9 (Whereupon court was in recess at 4:38 pm)

10 (End of Volume One of Three)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 WILLIAM JOSEPH PHILLIPS,)
)
 DEFENDANT.)
 _____)

2013-GS-23-00094A

TRANSCRIPT OF RECORD
(Volume Two of Three)

JUNE 10 - 12, 2013
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE C. VICTOR PYLE, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

HOWARD STEINBERG, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Tuesday, June 11, 2013 (Volume Two):

2 (Whereupon State's exhibits 8 - 31 were marked for
3 identification)

4 (Whereupon court resumed at 9:21 am)

5 **THE COURT:** All right. You ready, solicitor?

6 **MR. STEINBERG:** Yes, sir, Your Honor.

7 **THE COURT:** All right. Bring the jury.

8 (Whereupon the jury entered the courtroom at 9:22 am)

9 **THE COURT:** Good morning.

10 **THE JURY:** Good morning.

11 **THE COURT:** All right. Solicitor, you may proceed.

12 **MR. STEINBERG:** Thank you, Your Honor. The State calls
13 Officer Caleb Gamble.

14 **MADAME CLERK:** Officer Gamble -- I'm sorry. Officer
15 Gamble, if you'd come forward to be sworn in. Place your
16 left hand on the Bible and raise your right.

17 **David Caleb Gamble, being**
18 **duly sworn testified as follows:**

19 **MADAME CLERK:** Thank you. You may be seated. Would
20 you please state your name for the record.

21 **MR. GAMBLE:** David Caleb Gamble.

22 **MADAME CLERK:** Thank you.

23 **Direct Examination by Mr. Steinberg:**

24 Q. Officer Gamble, what's your highest level of education?

25 A. Bachelor's degree.

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. And do you have any experience in law enforcement?

2 A. Yes, sir, six and a half years.

3 Q. And how long have you been in -- what's your current
4 position?

5 A. I'm a crime scene investigator for Greenville County.

6 Q. And how often -- how long have you been in that
7 position?

8 A. Four and a half years.

9 Q. Did you respond to the Marietta part of Greenville
10 County on August 15th?

11 A. Yes, sir, I did.

12 Q. And please tell us about the location that you went to,
13 the address and just general description of it.

14 A. The address that I was dispatched to that day was [REDACTED]
15 Geer Highway in Travelers Rest. When I pulled up on the
16 scene there were marked deputies, had cordoned off what
17 appeared to be a crime scene. And there was a long driveway
18 leading down into the woods. And there was a big tree over
19 that driveway. And once I was talking to investigators on
20 the scene I was directed down the path to a creek area.

21 Q. Did the tree block your ability to drive down that
22 road?

23 A. That is correct.

24 Q. When you got down to the creek what did you see?

25 A. As soon as I got to the creek I observed what appeared

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 to be skeletal remains in the creek.

2 Q. Did you locate anything else besides the skeletal
3 remains at that location?

4 A. At that location, it was just the skeletal remains in
5 the creek. Before I got there there were several buildings,
6 barns and what appeared to be a burned down residence before
7 I got to the actual creek in the field.

8 Q. Did you later, along with other officers, locate any
9 additional items?

10 A. That is correct. Sergeant Shaw and Investigator Derby
11 with the forensics division located a bag, and a hat, and, I
12 believe, later on a cartridge casing.

13 Q. Did any additional officers assist you in this case?

14 A. Sergeant Shaw and Officer John Derby assisted in this
15 investigation at that scene on that day.

16 **MR. STEINBERG:** I beg the Court's indulgence.

17 Q. I'm going to ask you to identify a couple of documents.
18 I'm going to show you State's exhibits numbered 10 through
19 17. Please just see if you recall seeing those pictures or
20 recall that scene.

21 A. Yes, sir.

22 Q. What do these scenes reflect?

23 **MS. GORTON:** Excuse me.

24 (Whereupon Mr. Steinberg presented the exhibits to Ms.
25 Gorton)

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Officer Gamble, what do these scenes reflect?

2 A. They reflect -- appear to be the pictures that I
3 secured of the crime scene that day.

4 (Whereupon Mr. Steinberg presented the exhibits to Ms.
5 Gorton)

6 **THE COURT:** Any objection?

7 **MS. GORTON:** No objection, Your Honor.

8 (Whereupon State's exhibits 10 - 17 were admitted into
9 evidence)

10 **MR. STEINBERG:** If these are admitted, I would publish
11 these to the jury.

12 Q. Officer Gamble, what does this scene represent to you?
13 This is the photograph you took. What is the item in the
14 middle of the screen?

15 A. That would be the victim, the skeletal remains of the
16 victim in the creek.

17 Q. I'm going to show you State's exhibit number 11. What
18 does this general scene show you?

19 A. It shows one of the barns or sheds that was on the
20 scene that I passed before I got to the creek, in between
21 the creek and the roadway.

22 Q. What does this scene show you?

23 A. It appears to be a further of that picture, of the
24 previous one, but also showing an additional shed on the
25 left.

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Let me show you State's exhibit number 9.

2 A. See, that's the picture of the -- or remnants of the
3 burned down, appeared to be, house that was to the right of
4 the trail as I walked down towards the creek before the
5 sheds that he showed in those previous pictures.

6 **MR. STEINBERG:** Madame Court Reporter, I think I
7 mistakenly spoke and said 10 through 17. That included
8 number 9, if there's no objection.

9 **MS. GORTON:** No objection.

10 (Whereupon State's exhibit 9 was admitted into
11 evidence)

12 Q. Let me show you State's exhibit number 12. What does
13 this ---

14 A. It's the inside of one of the sheds that was on the
15 scene.

16 Q. How large was this shed compared to the other sheds?

17 A. This shed was the largest shed that was out on the
18 scene. The other sheds or outbuildings appeared to be a
19 smaller one. And this one if I -- I believe, Sergeant Shaw
20 has the actual measurements of this shed, but, I believe, it
21 was probably about twenty feet long by fifteen feet wide.

22 Q. Okay. Could you tell by looking at it what it was used
23 for?

24 A. In this picture it's hard to tell, but from other
25 pictures it looked like it used to be for like a garage.

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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1 There was lots of paint and miscellaneous car part items
2 inside on -- at least on one half.

3 Q. Thank you, sir. I'm going to show you State's exhibit
4 number 13.

5 A. Yes, sir. That is the inside of the same picture that
6 you just showed. It was -- standing, looking at it to the
7 front, it was the smaller room on the left with all the
8 spray paint.

9 Q. And what is this?

10 A. That appears to be the right side of that same shed
11 that we've been talking about that had the open air on the
12 right side. It had an open door and two open-type window
13 areas. It wasn't fully, I guess, enclosed.

14 Q. Okay. Do you recall what this item was right here in
15 the middle?

16 A. It looks like the big potato sack, or rug sack, seed
17 sack that Sergeant Shaw and Officer Derby collected.

18 Q. And how close -- was there anything else found at that
19 -- in that shack that was taken into evidence?

20 A. I believe right next to that item right there was a hat
21 that was collected. And that also is probably the -- I
22 believe that's the room where they later found the cartridge
23 casing.

24 Q. I'm going to present to you State's exhibit number 15.
25 Did you take this photograph?

DAVID CALEB GAMBLE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. I believe I did, yes.
- 2 Q. What is this item in the middle of the picture?
- 3 A. That is a hat.
- 4 Q. Do you remember what the insignia was on that hat?
- 5 A. I do not without looking through the photos.
- 6 Q. Okay. And what is this item on the very bottom of this
- 7 picture?
- 8 A. That is the sack that was next to the hat that was
- 9 previously pointed out.
- 10 Q. I'm going to show you State's exhibit number 7, pardon
- 11 me, 16 and ask you, this might be the light on the picture,
- 12 what is this item right here?
- 13 A. That is a hat that you previously asked about.
- 14 Q. And what is this location right here?
- 15 A. The location or what's on it?
- 16 Q. What's on that location?
- 17 A. It appeared to be maggots were on the ground.
- 18 Q.. I'm going to show you this State's exhibit number 17.
- 19 Are these the maggots you referred to?
- 20 A. Yes, sir.
- 21 Q. Thank you, Officer Gamble.
- 22 A. Yes, sir.
- 23 **MR. STEINBERG:** Turn the lights on, please.
- 24 Q. Outside of assisting other officers did you do anything
- 25 else in this case?

DAVID CALEB GAMBLE - CROSS EXAMINATION BY MS. GORTON

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1 A. No, sir. I was the first one on the scene. And I took
2 the additional or the beginning photos. And then after
3 Sergeant Shaw and Officer Derby with the Greenville County
4 forensics arrived on scene, they determined that we needed
5 more tools to work the crime scene. So I left the crime
6 scene to go back to our office to get everything else that
7 was required to finish and complete our investigation.

8 Q. Okay. Thank you for your testimony. Please answer any
9 of opposing counsel's questions.

10 A. Yes, sir.

11 **THE COURT:** All right.

12 **MS. GORTON:** I have just a couple.

13 **Cross Examination by Ms. Gorton:**

14 Q. You said that there were car parts in that shed?

15 A. I believe there were, yes, ma'am.

16 Q. Okay. Did you take an inventory or know of anybody who
17 took an inventory of what car parts there were?

18 A. No, ma'am, I'm not familiar.

19 Q. Are you familiar with what an alternator looks like?

20 A. I believe I could probably point one out if I saw a
21 picture ---

22 Q. Okay. Do you happen to know if you saw an alternator
23 in that shed?

24 A. No, ma'am, to my recollection I don't remember that.

25 Q. Okay. Are you a road deputy or a part of forensics?

DAVID CALEB GAMBLE - CROSS EXAMINATION BY MS. GORTON

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1 A. I'm part of forensics division.

2 Q. Okay. And did you participate in the search for the
3 shell cartridge?

4 A. No, ma'am.

5 Q. Is there a reason why you didn't?

6 A. They did that on a separate day, I believe.

7 Q. So as best as you know there was no search for a shell
8 cartridge that day?

9 A. We looked for everything that we believed may be
10 related to the incident that day, but a lot of that was done
11 while I was off-scene gathering tools to bring back.

12 Q. Okay. Were among those tools a metal detector?

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

14 Q. To help look for a shell cartridge?

15 A. Yes, ma'am.

16 Q. And so your testimony today, did you help look for a
17 shell cartridge, or no, or did you just get the tools to ---

18 A. I just got the tools, yes, ma'am. As far as other than
19 looking with the naked eye, that's all I did.

20 Q. Okay.

21 A. Yes, ma'am.

22 Q. But as far as when they got out the metal detector and
23 they're looking for real, ---

24 A. No, ma'am, I ---

25 Q. --- you weren't part of that?

JONATHAN HAMILTON - DIRECT EXAMINATION BY MR. STEINBERG

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

2 MS. GORTON: I don't have any further questions.

3 THE COURT: Thank you. Step down.

4 A. Yes, sir.

5 (Whereupon the court reporter spoke with the Court off
6 the record)

7 THE COURT: Solicitor, call out the numbers of your
8 exhibits for the court reporter. Call out the numbers.

9 MR. STEINBERG: State's exhibit 10, 11, 8, 9, 12, 13,
10 14, 15, 16 and 17. And if any of those were not already
11 moved into evidence, I would move those into evidence.

12 THE COURT: And that's the order in which you showed
13 them, is ---

14 MR. STEINBERG: Yes, sir.

15 THE COURT: --- that correct? Okay.

16 (Whereupon State's exhibit 8 was admitted into
17 evidence)

18 MADAME CLERK: Sir, would you raise your right hand.

19 Jonathan Hamilton, being
20 duly sworn testified as follows:

21 MADAME CLERK: Thank you. You may be seated. Would
22 you please state your name for the record.

23 MR. HAMILTON: Sergeant Jonathan Franklin Hamilton.

24 MADAME CLERK: Thank you.

25 **Direct Examination by Mr. Steinberg:**

JONATHAN HAMILTON - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. Okay, Sergeant?
- 2 A. Yes, sir.
- 3 Q. You got promoted since I last spoke to you, didn't you?
- 4 A. About six weeks ago.
- 5 Q. Very good. Congratulations. If you would tell the
- 6 jury how long you've been in law enforcement, sir.
- 7 A. Twelve years.
- 8 Q. And how long have you been in forensics?
- 9 A. Forensics, six.
- 10 Q. What was your role in this case, sir?
- 11 A. I was contacted to conduct a execution of a search
- 12 warrant on a Mazda truck as well as go to Mr. Roberts' home
- 13 to execute another search warrant.
- 14 Q. What was your role on -- what did you do on Saturday,
- 15 July 9, 2011?
- 16 A. July 9th I was contacted by Investigator Miller at the
- 17 time, reference to executing a search warrant on a Mazda
- 18 truck, which had been towed to our office, the crime scene
- 19 office.
- 20 Q. Did you find anything of possible evidentiary value in
- 21 the car? Did you seize it?
- 22 A. I did collect swabs from possible DNA. I also
- 23 collected a steering wheel cover from the steering wheel and
- 24 a Monster can from the bed of the truck, on that date.
- 25 Q. Did you see any -- seize any keys or any other items

JONATHAN HAMILTON - DIRECT EXAMINATION BY MR. STEINBERG

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1 from inside the vehicle?

2 A. I did. On the following date the Lieutenant with the
3 Violent Crimes Unit with the Sheriff's Office responded to
4 our office to verify. I always like to get a second --
5 second opinion, make sure everything is covered.

6 So the Lieutenant came over at the time and he took a
7 look at the vehicle. We discussed it. And he advised me of
8 some other things he wanted to collect, which was a Burger
9 King receipt and a -- and two sets of keys.

10 Q. What did you do on Sunday, July the 10th, in addition
11 to that?

12 A. I responded to -- bear with me just one second.

13 Q. Yes, sir.

14 A. I responded to [REDACTED] Lions Park Road in Marietta, South
15 Carolina to execute a search warrant on Mr. Charles Roberts'
16 home.

17 Q. Did you meet any officers up there?

18 A. I did. I had -- Investigator Miller was there along
19 with some other units from the Sheriff's Office.

20 Q. What kind of residence was this?

21 A. It was a -- a trailer-style home, but it was sectioned
22 off with A being on the left side, B being on the right
23 side. It was like a duplex-style home.

24 Q. When you got there were the doors locked?

25 A. Yes, they were, at that time, yes, sir.

JONATHAN HAMILTON - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Do you know how the officers were able to enter that
2 residence?

3 A. I was advised that they had prior -- when the missing
4 person came out that they went to the home to see if they
5 could locate Mr. Roberts. And they had come -- gained entry
6 to the kitchen rear window of the home. And they went in,
7 checked the home to see if there was anyone there. And then
8 they locked it back when they left.

9 On this date, they did the exact same thing. They
10 climbed through the same window, unlocked the door so we
11 could gain entry into the house.

12 Q. Were there any signs of forced entry?

13 A. Didn't find any noticeable signs of forced entry.
14 Nothing -- nothing -- no damage except for the raised window
15 from the kitchen.

16 Q. Did you see any visible signs of a burglary or a
17 robbery at that location?

18 A. No, I didn't.

19 Q. Anything unusual about the home?

20 A. No. Male's home. Had motorcycle paraphernalia,
21 jackets, helmets, that kind of thing. There was just odds
22 and ends there. Didn't look like it had been touched.
23 Nothing of value appeared to be stolen.

24 Q. Did you see any jewelry there?

25 A. Yes, we did.

JONATHAN HAMILTON - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Was there a television there?

2 A. Yes, it was.

3 Q. Were there any drugs there?

4 A. Yes, there were.

5 Q. You also talked about motorcycle equipment. That was
6 still there?

7 A. Yes, both in the home itself and the storage building,
8 which is right next to it, but detached from the home.

9 Q. Let's talk about that building. What kind of building
10 is that and was it secure?

11 A. It was a storage-shed-style building. Had a door on
12 the front, two windows in the front. And it was shut. And
13 a vehicle was actually pushed up against the door to keep
14 anybody from getting inside of it. Inside it housed
15 motorcycles, motorcycle -- more paraphernalia, figurines,
16 that kind of thing inside of it.

17 Q. Did you take any photographs in this case?

18 A. Yes, sir, I did.

19 Q. I'm going to ask you to look at State's exhibits 29, 30
20 and 31 just to give an overview of these pictures.

21 A. Yes, sir.

22 (Pause)

23 A. Yes, sir.

24 Q. Are those the photographs you took in this case?

25 A. Yes, sir.

JONATHAN HAMILTON - DIRECT EXAMINATION BY MR. STEINBERG

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1 **MR. STEINBERG:** The State would move State's exhibits
2 29, 30 and 31 into evidence.

3 **THE COURT:** Any objection?

4 **MS. GORTON:** No objection.

5 (Whereupon State's exhibits 29 - 31 were admitted into
6 evidence)

7 Q. Officer Hamilton, what is this picture, State's exhibit
8 number 29?

9 A. It's the side of the 1997 Mazda truck, which was towed
10 to our office at the crime scene office at 23 Winterberry
11 Court.

12 Q. What is this little mark right here, this little object
13 right here?

14 A. Whenever we secure a vehicle to be towed to our office,
15 we always place evidence tape on the doors so that way we
16 can -- whoever executes the search warrant can look at that
17 tape and tell whether it's been breached or not, whether
18 it's been broken open.

19 Q. Just to give the jury some context, what is -- what
20 does this photograph show and what building was this taken
21 in?

22 A. This was at 309 B Lions Park in Marietta. This is that
23 storage shed I was telling you about next to the house.
24 This is from the doorway looking in.

25 Q. What is this item back here?

JONATHAN HAMILTON - CROSS EXAMINATION BY MS. GORTON

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1 A. Some -- a motorcycle.

2 Q. Was there another motorcycle in there?

3 A. Yes. I believe there was another one to the left. And
4 then there's two on the right side.

5 Q. Okay. Are those motorcycles or mini-bikes right there?

6 A. They're -- they look like mini-dirt bikes or dirt
7 bikes.

8 Q. Let me show you State's exhibit number 31.

9 A. This is going -- this is going to be the front of the
10 home. So if you're standing at the roadway looking at the
11 house, if you can see the truck to the far right, that's
12 going to be the truck that was against the door of the shed.
13 And then you have the shed. And then you have the home.
14 And the front door is at that porch area.

15 MR. STEINBERG: Turn the lights on, please. Thank you,
16 sir.

17 Q. Thank you, Sergeant Hamilton. Please answer any of
18 opposing counsel's questions.

19 A. Yes, sir.

20 **Cross Examination by Ms. Gorton:**

21 Q. You mentioned the keys in the truck. Did you ever
22 determine if the victim's house key was on that key ring?

23 A. No, ma'am. I just collected the evidence and ---

24 Q. I correct myself here. You said there were two sets of
25 keys. No house key on either side -- either set?

JONATHAN HAMILTON - CROSS EXAMINATION BY MS. GORTON

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1 A. I'm not sure about whether it was house keys or not.

2 It was just two sets of keys that we collected.

3 Q. All right. Now when you conducted this search of the
4 house, ---

5 A. Um-hum (affirmative).

6 Q. --- how many days was that after his truck was found?

7 A. Unsure when the vehicle was actually towed to our
8 office. All I know is that I received a call from
9 Investigator Miller on the 9th to say I need the vehicle
10 searched.

11 Q. Okay. The vehicle searched. My question is about the
12 house and the search warrant you executed there. What day
13 did you execute it?

14 A. The date that I executed the search warrant that I went
15 out to the scene was on 7/10/2011.

16 Q. Okay. So two days after his truck was found?

17 A. Yes, ma'am, I ---

18 Q. Okay. And during that time was the house secured in
19 any way by law enforcement?

20 A. All I know is that when they initially was trying to
21 find him, they went into the home. And then when they
22 couldn't find him, they locked everything back. That's what
23 I was told. I had no prior knowledge of that.

24 Q. And you all were able to get in the house the same way
25 they did, correct?

JONATHAN HAMILTON - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. Through the kitchen window?

3 A. Yes, ma'am.

4 Q. No screen?

5 A. I can't remember if there was a screen on the back.

6 I'd have to look and review the picture.

7 Q. You certainly have no way of knowing if anybody else
8 was gaining entry to the house the same way?

9 A. There's no way for me to know, no, ma'am.

10 Q. Okay. Now, the home layout -- I'm showing you what the
11 State has marked exhibit 31.

12 A. Yes, ma'am.

13 Q. The home layout, it's a duplex, correct?

14 A. Duplex-style, yes, ma'am.

15 Q. And Mr. Roberts' unit was on which side?

16 A. If you're looking from the roadway up, it'll be the
17 right side.

18 Q. All right. And was there a street running in front of
19 his property?

20 A. It's a roadway right in front of it. I think it kind
21 of circled a tad bit. It was right there in front of the
22 home.

23 Q. Okay. And is there woods across from that roadway?

24 A. I'd have to -- there again, I'd have to review the case
25 file. I remember it was in a wooded area, that whole area

JONATHAN HAMILTON - CROSS EXAMINATION BY MS. GORTON

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1 was, but I can't remember if it was directly across or if
2 there was another street next to it.

3 Q. Okay. But the property that the house is sitting on,
4 ---

5 A. Um-hum (affirmative).

6 Q. --- do you recall if this is a hill here that you're
7 seeing?

8 A. It's a slight incline, yes, ma'am.

9 Q. Almost like a grassy knoll?

10 A. (Affirmative nod).

11 Q. So a hill that you have to come up to get to the
12 duplex?

13 A. Yes, ma'am.

14 Q. And there's a row of bushes in front?

15 A. Yes, ma'am.

16 Q. Okay. So certainly if you were at the front looking
17 out, if someone's approaching, you can see it? There's no
18 obstruction between the front door and the roadway?

19 A. Not from my knowledge, no, ma'am.

20 Q. Okay. When you did this search you found a number of
21 pill bottles?

22 A. If you'll give me one second, I'll ---

23 Q. Well, let me clarify which search I'm talking about.
24 First of all, you did the search of the truck?

25 A. Yes, ma'am.

JONATHAN HAMILTON - CROSS EXAMINATION BY MS. GORTON

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1 Q. And you found two pill bottles there? I believe it's
2 in your report, sir.

3 (Pause)

4 A. Yes, ma'am. I do see here I stated that there was two
5 prescription pill bottles in the center -- container of
6 pills was empty. The glove compartment.

7 Q. And one of those bottles was empty?

8 A. Yes. One completely empty and one still containing
9 pills.

10 Q. Do you recall what the prescriptions were for either
11 one, if there were any?

12 A. No, ma'am.

13 Q. All right. Now, going to the house, ---

14 A. Okay.

15 Q. --- in the search of the house, were there a number of
16 pill bottles located there?

17 A. I don't have it notated down in my report, a reference
18 to the pill bottles. I ---

19 Q. Do you ---

20 A. --- know we were in the bathroom taking photographs.

21 And I believe there may have been some in the bathroom, but,
22 there again, I'd have to look through the whole case file,
23 photographs to make sure.

24 Q. Okay. And did you make any notations as to those pill
25 -- prescription names and how much was left in which ones?

JONATHAN HAMILTON - CROSS EXAMINATION BY MS. GORTON

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1 A. Not in my report, no, ma'am.

2 Q. Do you know if you did at the time?

3 A. Ma'am?

4 Q. Did you do it at the time?

5 A. No, ma'am. Normally when it comes to prescription
6 drugs, if we take photographs, we'll take photographs of
7 those containers, that kind of thing. But, no, ma'am, I
8 normally don't notate them.

9 Q. Okay. One last thing to ask you about, guns. Were
10 there a number of guns throughout the house?

11 A. I -- I do remember seeing two air rifles, pellet guns.
12 And there was a rifle. I don't know the caliber. That was
13 in the closet. And there was some knives. That's what I
14 remember from the weapons.

15 Q. All right. Do you happen to recall if you saw a 12
16 gauge, a .410 or a .22?

17 A. There again, there was a rifle -- I remember the rifle
18 because I placed it on the bed and took photographs of it.
19 Shotgun, I don't remember seeing a shotgun. I'm unsure.

20 **MS. GORTON:** Nothing further.

21 A. Okay.

22 **THE COURT:** Thank you. Step down.

23 **MR. STEINBERG:** Madame Court Reporter, if I could get
24 you to mark these items.

25 (Whereupon State's exhibits 32 - 35 were marked for

JOHN DERBY - DIRECT EXAMINATION BY MR. STEINBERG

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1 identification)

2 **John Derby**, being duly

3 sworn testified as follows:

4 **MADAME CLERK:** Thank you. You may be seated. Sir,

5 would you, please, state your name for the record.

6 **MR. DERBY:** John Derby.

7 **MADAME CLERK:** Thank you.

8 **Direct Examination by Mr. Steinberg:**

9 Q. Officer Derby, can you tell us a little bit about your
10 law enforcement background?

11 A. Certainly. I've worked for Greenville County for five
12 years now in the crime scene section. Prior to that I
13 worked for the police department as a forensic technician
14 for two years. And before that I worked for Florida
15 Department Law Enforcement for two years.

16 Q. Did you respond to the Marietta portion of Greenville
17 on August 15th of 2011?

18 A. Yes, I did.

19 Q. What was your role at that point?

20 A. I assisted Officer Gamble with processing the scene.

21 Q. What does processing a scene mean?

22 A. Photographing, collecting evidence, documenting the
23 scene, measurements.

24 Q. Did you speak with any deputies while you were up
25 there?

JOHN DERBY - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. No, sir. My main communication was with investigators
2 and Officer Gamble and ---

3 Q. I'm sorry. When I say deputies, I mean investigators
4 too. Did you speak to any investigators?

5 A. Yes, sir, I did.

6 Q. And did they show you anything?

7 A. Yes, they did.

8 Q. Did you happen to go to the creek where the body was
9 located?

10 A. Yes, sir.

11 Q. And what did you see in the creek?

12 A. Skeletal remains partially clothed.

13 Q. Did you see any jewelry in that location?

14 A. Yes, sir, I did.

15 Q. What kind of jewelry did you see?

16 A. A gold necklace around the victim.

17 Q. I'm going to show you JD-1, State's exhibit number 34.

18 Have you seen this before? Is that your signature on the
19 back?

20 A. Yes, it is.

21 Q. Open this up. What is this item that is inside?

22 A. This is the gold necklace. Helped to collect it from
23 the scene.

24 Q. What's in the middle of the cross? Just to fully
25 identify it.

JOHN DERBY - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. A small -- appears to be a jewelry diamond.
- 2 Q. Okay. And where was that in relation to the body?
- 3 A. This was on top of the body, on the chest area, the rib
- 4 cage area.
- 5 Q. And you said this body was in what part of the -- was
- 6 located where?
- 7 A. In a small creek on the backside of the property.
- 8 Q. And was there actual water running through this creek
- 9 or was it a dry creek bed?
- 10 A. A small amount.
- 11 **MR. STEINBERG:** The State would move to introduce
- 12 State's exhibit number 1 [sic].
- 13 **THE COURT:** Any objection?
- 14 **MR. STEINBERG:** State's exhibit number 34.
- 15 **MS. GORTON:** No objection.
- 16 **THE COURT:** Without objection.
- 17 (Whereupon State's exhibit 34 was admitted into
- 18 evidence)
- 19 Q. After the body was removed from the creek did you do
- 20 anything to look for additional evidence?
- 21 A. Yes, we did. We sifted and used metal detectors around
- 22 where the body was removed.
- 23 Q. After discussing the case with any investigators did
- 24 you go anyplace else on this plot of land?
- 25 A. Yes, we did, to a small, kind of shed, barn that you

JOHN DERBY - DIRECT EXAMINATION BY MR. STEINBERG

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1 would see prior to where the victim was recovered.

2 Q. Do you remember which investigator you spoke with?

3 A. Investigator Miller.

4 Q. And what did you see inside that location?

5 A. Covered area with a bunch of gravel and dirt, a lot of
6 miscellaneous things, trash, spray paint on the walls. Two
7 items of interest found there was a hat and a plastic sack.

8 Underneath that was suspected bodily fluids and hair up
9 underneath the sack.

10 Q. What kind of hair?

11 A. Brown hair, head hair.

12 Q. Do you remember what kind of emblem was on that hat?

13 A. Yes, sir, Michelin.

14 Q. Do you know what kind of emblem was on the shirt the
15 victim was wearing?

16 A. No, I do not.

17 Q. Okay. And did you seize these items, the bag, the hair
18 and the hat?

19 A. Yes, sir.

20 Q. Did you perform any tests on the bag? And if so, why
21 did you perform a test on it?

22 A. Yes, I did. I did a Phenolphthalein, which is a
23 presumptive blood test. That was conducted at the office.

24 Q. And what did you conclude?

25 A. The areas to the bag that had a dark color on them were

JOHN DERBY - DIRECT EXAMINATION BY MR. STEINBERG

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1 positive for suspected blood.

2 Q. Did you also test on the -- on the hat as well?

3 A. Yes, sir.

4 Q. And what were the results of that?

5 A. The same, positive for suspected blood.

6 Q. I'm going to show you what's been marked as State's
7 exhibits number 32, 33 and 35. What is this item in here?

8 Well, let me get a pair of gloves. Please identify the
9 items in State's exhibit number 33.

10 A. Exhibit 33 is item JD-3, dark colored suspected hair.

11 Q. And how was that marked and how was that placed into
12 evidence or the procedure you used?

13 A. The item from the scene was collected using sterile
14 gloves and placed in a unused sterile paper bag.

15 Q. And how do you seal it for later court introduction?

16 A. It is sealed on the back with evidence tape with my
17 signature, date and unit number.

18 Q. And until I just cut it open had it been opened?

19 A. No, sir.

20 **MR. STEINBERG:** Your Honor, the State moves State's
21 exhibit number 33 into evidence.

22 **THE COURT:** Any objection?

23 **MS. GORTON:** No objection.

24 (Whereupon State's exhibit 33 was admitted into
25 evidence)

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1 Q. I'm going to show you State's exhibit number 4 [sic],
2 which is marked as clothing, dark colored Michelin hat with
3 suspected blood. How is that marked on the back?

4 A. With evidence tape with my signature, date and unit
5 number.

6 Q. And what does the evidence tape do to secure the
7 evidence?

8 A. It secures that at the last time that I packaged it, it
9 was sealed with evidence tape, and it wasn't opened.

10 Q. Pull this hat out, please. Is that the hat you
11 located?

12 A. Yes, sir, it was.

13 (Whereupon Mr. Steinberg presented the exhibit to Ms.
14 Gorton)

15 THE COURT: Any objection?

16 MS. GORTON: No objection, Your Honor. We're prepared
17 to stipulate to all ---

18 THE COURT: All right. Thank you.

19 MADAME COURT REPORTER: What exhibit number was that?

20 MR. STEINBERG: State's exhibit number 35.

21 (Whereupon State's exhibit 35 was admitted into
22 evidence)

23 Q. I'm going to open up State's exhibit number 32. I'll
24 cut along the evidence tape line. I'm not going to open it
25 all the way up. And I'm not going to ask you to bring it

JOHN DERBY - CROSS EXAMINATION BY MS. GORTON

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1 out. What is this item that's in here?

2 A. This is going to be the sack that was located inside
3 the barn.

4 Q. Is there mold and dirt on this?

5 A. It appears so, yes.

6 Q. Okay.

7 **MR. STEINBERG:** The State would introduce State's
8 exhibit number 32.

9 **MS. GORTON:** No objection.

10 (Whereupon State's exhibit 32 was admitted into
11 evidence)

12 Q. Did you assist Sergeant Shaw with taking any
13 measurements in this case?

14 A. Yes, I did.

15 Q. Please answer any of opposing counsel's questions.

16 **Cross Examination by Ms. Gorton:**

17 Q. Your background -- you're a hundred percent forensics,
18 correct?

19 A. Yes, ma'am.

20 Q. You're not a road deputy, your training's in science,
21 correct?

22 A. That's correct.

23 Q. Okay. And the point of all this, I presume, is to show
24 that this is where the death occurred, correct?

25 A. This is where I was called to process the scene.

JOHN DERBY - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. So you're not in charge of making those
2 conclusions, that this is where he died?

3 A. No, ma'am.

4 Q. But -- all right. Now, did you also conduct a search
5 -- you said you searched the area where the body was found
6 with the metal detector, is that correct?

7 A. That's correct.

8 Q. How far out did you go?

9 A. Maybe ten, fifteen feet in either direction.

10 Q. In each direction?

11 A. That's correct.

12 Q. So a pretty big area?

13 A. (Affirmative nod).

14 Q. All right. What about the shed, did you use the metal
15 detector up at the shed?

16 A. One of us did. I don't know if I actually did it or
17 took turns using it up there.

18 Q. And what area would you have searched in the shed?

19 A. Around where the bag and the hat were -- and hair were
20 located.

21 Q. Would you have gone ten, fifteen feet out from that
22 area as well?

23 A. Yes.

24 Q. All right. And y'all are trained to do that. So you
25 -- do you have a grid system or something that you use when

JOHN DERBY - REDIRECT EXAMINATION BY MR. STEINBERG

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1 you use a metal detector? Is there a procedure that you
2 follow?

3 A. There would be on a larger scale, like a grid system.
4 This is a smaller area we're looking for.

5 Q. All right. So what procedures do you follow to make
6 sure you don't miss anything?

7 A. Having an extra set of eyes. Once you go through the
8 area you have someone come behind to look over the same
9 areas.

10 Q. All right. And did y'all do your normal thorough job
11 on this case?

12 A. Yes, we did.

13 Q. And did you locate a shell cartridge?

14 A. I did not, no.

15 Q. Did anyone that day locate a shell cartridge that you
16 know of?

17 A. No, ma'am.

18 **MS. GORTON:** Nothing further.

19 **MR. STEINBERG:** Very briefly.

20 **Redirect Examination by Mr. Steinberg:**

21 Q. On this or on other cases have officers gone back out
22 on another day to locate evidence?

23 A. Yes.

24 Q. Have you done that yourself on a homicide before?

25 A. Yes, I have.

DARWIN SHAW - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Thank you.

2 MR. STEINBERG: I have no further questions.

3 THE COURT: Thank you. Step down.

4 MADAME CLERK: Sir, please place your left hand on the
5 Bible and raise your right.

6 Darwin Shaw, being duly
7 sworn testified as follows:

8 MADAME CLERK: Thank you. You may be seated. Would
9 you please state your name for the record.

10 MR. SHAW: Darwin Shaw, S-h-a-w.

11 MADAME CLERK: Thank you.

12 **Direct Examination by Mr. Steinberg:**

13 Q. Sergeant Shaw, please tell us how many years you've had
14 in law enforcement.

15 A. It'll be thirty-six years next month.

16 Q. And how long have you been in forensics?

17 A. Fourteen and a half years.

18 Q. And in August of 2011 what was your role?

19 A. I'm a supervisor and a sergeant. And so I answer calls
20 and I also assist other officers if they need help.

21 Q. Did you go out to this location in Marietta on the
22 15th?

23 A. Yes, I did.

24 Q. And what did you do? What was your role?

25 A. Primarily it was to oversee the investigation. Knowing

DARWIN SHAW - DIRECT EXAMINATION BY MR. STEINBERG

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1 the two officers that responded out, both of them had said
2 they'd had -- did not have any prior experience with a
3 skeletal recovery. And I went up as a supervisor and also
4 to assist.

5 Q. And did you take any measurements or make any drawings
6 in that location?

7 A. Yes, I did.

8 Q. Did you again go back to that location on August 19th,
9 four days later?

10 A. Yes, I did.

11 Q. And what was your purpose for that -- at that time?

12 A. Went back to the scene to get some additional
13 measurements. I had had measurements of the building where
14 some evidence had been found, but I also wanted to obtain
15 some additional measurements from the building to where the
16 victim had been found.

17 And I'd also -- I had spoken with Investigator Miller
18 who said he had received information, additional information
19 that the victim had been shot inside the building at that
20 location. So the intent was to see if we could try to find
21 a -- any shell casings.

22 Q. And who did you go up there with on August 19th?

23 A. Lieutenant Lendway. He was a sergeant at that time.

24 Q. I'm going to ask you to take a look at State's exhibits
25 22, and 23 and 24. Please explain what those items are.

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1 A. 22 is an overall diagram of the scene showing the
2 foliage, tree growth. There's a creek that ran behind this
3 utility building or this garage where the victim had been
4 found. And it also shows the dimensions or the dimensions
5 of the building as well as the distance from that building
6 to where the body was found.

7 Q. What's the next document?

8 A. 23 is a -- it's an unscaled drawing of the -- where the
9 body was found in the creek. What I had done was take
10 points of reference and blocked off a particular area around
11 the body to -- so we could take measurements and look for --
12 whether it be projectiles, shell casings, additional bone
13 fragments, whatever from that confined area. And that's
14 just a -- a diagram of the -- of the body and its location
15 in the creek.

16 24 is a -- it's an unscaled diagram of the building
17 where evidence had been found on the 15th. And it's also --
18 on that same diagram is a location of a shell casing that
19 was found inside the building on the 19th.

20 Q. Did you take measurements where each item was?

21 A. I did. We used two reference points, corners of the
22 building and triangulated to each piece of evidence.

23 Q. Thank you, sir. I'm going to show you State's exhibits
24 25, 26 and 27. Please identify these items.

25 A. 25 is a photograph of a shell casing with a placard

DARWIN SHAW - DIRECT EXAMINATION BY MR. STEINBERG

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1 number 1. We normally use placards to identify particular
2 pieces of evidence.

3 26 is a photograph of the interior of this utility
4 building or shed taken from a side door, which had a
5 swinging door, just a photograph to show the overall
6 interior.

7 And then 27 is, again, it's a little closer photograph
8 of the interior of the building with the number placard and
9 the shell casing as far as where it had been located.

10 Q. Thank you.

11 (Whereupon Mr. Steinberg presented exhibits to Ms.
12 Gorton)

13 MS. GORTON: Judge, I have an objection to 24. And
14 it's going to need me to make a record. May we approach?

15 THE COURT: Sure.

16 (Whereupon a bench conference was held on the record in
17 the presence of the jury, but out of their hearing)

18 MS. GORTON: Judge, my objection on number 24 is that
19 it's a diagram that overlaps two separate days. The other
20 officer testified that they seized the bag, which is
21 reflected in this diagram. I'm sorry, the bag and something
22 else that's reflected in this diagram.

23 Those things were recovered on the 16th, I believe.
24 And this shell casing wasn't recovered until three days
25 later. This diagram represents that those two things

DARWIN SHAW - DIRECT EXAMINATION BY MR. STEINBERG

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1 existed at the same time. And there's nobody who can say
2 that that occurred.

3 For that reason I have to object because it's
4 misleading to the jury. It's showing them that these things
5 all existed at the same time together. And that has not
6 been established.

7 **THE COURT:** All right. Subject to your objection. It
8 goes to the weight, not otherwise. So you can cross examine
9 him on it.

10 **MS. GORTON:** Okay.

11 **THE COURT:** Okay.

12 (Whereupon the bench conference was ended)

13 **MR. STEINBERG:** The State would move 22 -- State's
14 exhibits 22, 23, 24, 25, 26 and 27 into evidence.

15 **THE COURT:** Subject to objection, put them in.

16 (Whereupon State's exhibits 22 - 27 were admitted into
17 evidence)

18 Q. When you were out at this location did you -- did you
19 -- on the first day, I believe, August 15th did you see the
20 hat that's been referred to?

21 A. Yes, I did.

22 Q. And how close was that to the -- the bag?

23 A. It was right next to it.

24 Q. Okay. And were there any -- was there any animal
25 activity in that area?

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1 A. There was insect activity under the -- that large -- it
2 was like a five foot bag. There was insect activity under
3 it.

4 Q. And were any shell casings found at that location?

5 A. Not at that time, no.

6 Q. Were shell casings later located?

7 A. Yes, sir.

8 Q. Where were they? Where was it located?

9 A. It was approximately twelve feet farther away from
10 where the bag and the hat had been -- had been found.

11 Q. And did you look over the scene with a metal detector
12 on the 15th or on the 19th?

13 A. Both 15th and the 19th.

14 Q. Were you able to locate anything?

15 A. On the 15th we did not. Because of the building, it is
16 like an old garage, we ---

17 MS. GORTON: Objection.

18 THE COURT: Hold on. What's your objection?

19 MS. GORTON: Objecting as to explaining why it wasn't
20 recovered. That is purely ---

21 THE COURT: I sustain the objection to the form of that
22 question.

23 MR. STEINBERG: Thank you, sir.

24 Q. Please tell us about the layout of that building. What
25 did it appear to have been in the past?

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1 A. It was a dirt floor. There were no windows. There
2 were openings. There were different smaller rooms off of
3 that building, which all was a dirt floor. There were auto
4 parts. There were screws, nails, various metal parts
5 scattered throughout the building.

6 Q. I'm going to show you what's been marked as --
7 introduced as State's exhibit number 1 [sic]. It's not very
8 clear, but what is this item next to this placard?

9 A. That is a shell casing that was found in that building
10 on the 19th.

11 Q. And what caliber?

12 A. .380.

13 Q. Do you remember the model that was -- the brand of
14 that?

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

16 Q. Would that be in your report?

17 A. It would be in the lieutenant's report.

18 Q. Okay. What is this?

19 A. That is a photograph of the inside of this outbuilding.

20 Q. I'm going to show you State's exhibit number 27. What
21 does this placard number 1 contain?

22 A. Placard 1 is -- it's showing the same photograph as the
23 one previously, however, in this photo it shows where the
24 shell casing was located inside, with inside the building.

25 Q. I'm going to show you State's exhibit number 22. What

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1 is this item right here on the far right in the middle of
2 the page, the structure?

3 A. That is the outbuilding in which the evidence had been
4 recovered.

5 Q. And this area right here where I'm pointing on the --
6 which is the upper left hand side of the photograph.

7 A. That is a creek that runs down. And where those two
8 lines triangulate, that is where the victim was found in the
9 creek.

10 Q. And these two numbers, numbers 168 and 144, what do
11 those indicate?

12 A. That is the distance from the edge -- there were two
13 points of the building from the left front corner, the left
14 rear corner of that building to where the body was found in
15 the creek.

16 Q. I'm going to show you State's exhibit number 23. What
17 does this item in the middle of the page show?

18 A. That is a blowed up photograph or, correction, a
19 diagram showing the victim in the creek as well as the
20 dimentions of the area where we had secured, had blocked it
21 off with rope and permanent markers to allow us to later on
22 go back, if need be, to put the body in the same position.

23 Q. I'm going to show you State's exhibit number 24.

24 A. That is a -- it's an unscaled diagram of the
25 outbuilding and basically showing the dimensions across the

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1 -- across the front and along the sides, again, with each
2 room being separated as well as evidence that was found
3 inside the building and the dimensions of those -- those
4 items being measured from a point A and a point B.

5 Q. What is this item right here?

6 A. That is the -- a shell casing. That's where the shell
7 casing was located inside of the building.

8 Q. I'm going to show you -- it's kind of hard to see on.
9 this, and you may recall seeing it with the lights on, what
10 is this item right here?

11 A. That is the -- that plastic bag, about a four or five
12 foot -- not a potato sack, but some type of a fabric. It
13 was a woven, plastic bag.

14 Q. What is the other items that were located over there?

15 A. That's the ball cap that was found right next to the --
16 to the bag.

17 Q. And was the -- how close was that to the larvae found?

18 A. Actually, the -- on the -- as you're viewing the
19 photograph on the right -- on the right portion of that bag,
20 in that area, when the bag was flipped over, the mealworms
21 or the insect activity was mainly in -- focused in that
22 area.

23 Q. Thank you.

24 **MR. STEINBERG:** Turn the lights on, please, sir.

25 Q. Sergeant Shaw, did you also attend the autopsy in this

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1 case?

2 A. I did.

3 Q. And did you collect the victim's clothes and other
4 items?

5 A. Yes, I did.

6 Q. And were they consistent with the clothes that were
7 found on the victim at the -- in the creek?

8 A. Yes, they were.

9 Q. Thank you. Please answer any of opposing counsel's
10 questions.

11 **Cross Examination by Ms. Gorton:**

12 Q. On the 15th you said you were a supervisor and you went
13 to make sure that the two other officers did their job
14 right, correct?

15 A. I went there to assist them with doing the job, yes.

16 Q. Okay. And you said that they didn't have experience
17 with skeletal remains. You don't have a lot of opportunity
18 to have skeletal remains, do you?

19 A. In my fourteen and a half years here, yes, ma'am, I
20 have.

21 Q. In your fourteen and a half years, but for people who
22 have only worked for two or three years, they don't have
23 that much opportunity for skeletal remains, correct?

24 A. I don't know what their -- they said that they had not
25 worked in it.

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1 Q. Okay. But there's certainly a lot of opportunity for
2 looking for shell casings and bullets, right?

3 A. Yes, ma'am.

4 Q. Lots of opportunity?

5 A. Yes, ma'am.

6 Q. All right. Now, I want to clarify something before I
7 forget about this diagram. And I am referring to State's
8 exhibit 24, the one that was up on the screen showing where
9 you located the shell casing, and the bag and the hat.

10 A. Yes, ma'am.

11 Q. You drew this diagram, but that diagram doesn't depict
12 what you saw on any given day, does it?

13 A. No, ma'am, it does not.

14 Q. The hat and the bag were seen on the 15th, correct?

15 A. That's correct.

16 Q. And the hat and the bag were taken into, I don't want
17 to say custody, but what do you call it when you take it,
18 and you process it and you put it in the bags?

19 A. They were collected.

20 Q. They were collected on the 15th?

21 A. That's correct.

22 Q. And on the 15th you were there and your two other
23 people were there. And they were looking for shell casings,
24 correct?

25 A. Yes, ma'am.

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1 Q. Now, in your fourteen and a half years experience,
2 seeing a clump of hair, seeing maggot or mealworm activity,
3 did you need Detective Miller to tell you that it appeared
4 that the shooting occurred inside the shed?

5 A. That's just part of the investigation.

6 Q. You didn't need him to tell you that, though, did you?

7 A. No, ma'am.

8 Q. It was pretty apparent to you that that's where the
9 shooting occurred, correct?

10 A. No, ma'am.

11 Q. You saw hair material and mealworm material. What did
12 you conclude from that?

13 A. That a body was there, but did not know where the
14 incident had taken place.

15 Q. Okay. But you've certainly got to check for shell
16 casings around that area, correct?

17 A. Yes, as we did where the body was found.

18 Q. And when you checked for shell casings out where the
19 body was found, how far out did you go?

20 A. You talking where the -- at the creek?

21 Q. Yes.

22 A. We checked in the water.

23 Q. Sure.

24 A. We checked in an area on both sides of the creek, three
25 or four feet. Typically, if a firearm, if -- unless it's a

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1 revolver, if it's a semi-automatic, a lot of times the shell
2 casing will kick to three or four feet. And so that is the
3 area that we focused on in case the victim had been in the
4 creek when he was shot.

5 Q. Sure. Would you agree that y'all checked ten to
6 fifteen feet out from the body?

7 A. In -- yes.

8 Q. Okay. And then same question as to the back and that
9 area. How far out did you check?

10 A. Six, eight feet from where the bag was found and where
11 the hat was found.

12 Q. So you searched a smaller area?

13 A. I guess if you're looking six feet in each direction,
14 that still comes out twelve to sixteen feet from the -- from
15 the body.

16 Q. Now, do you use a system to make sure you're not
17 missing anything when you're looking for a shell casing?

18 A. You do the best you can. And there have been times
19 when they have been missed. You do what you can with the
20 equipment you have and with your visibility, with
21 flashlights, you do what you can to try to ---

22 Q. Y'all are trained to do this?

23 A. Yes, ma'am.

24 Q. All right. Do you have a grid system that you use?

25 A. We did not use a grid system here. We did with the

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1 body, but not in -- where he was found, but not in the
2 building because there was no body there and there was just
3 a hat and the bag.

4 Q. But you had evidence that the body had been there,
5 right?

6 A. We felt the body had been there, yes.

7 Q. All right. So the diagram, we've already covered.
8 That's two different dates. There was no point where you
9 observed the shell casing, the bag and the hat all at the
10 same time?

11 A. That's correct.

12 Q. What time did you clear the scene on the 15th?

13 A. I believe 5:30 -- I would have to look at the report to
14 -- to do that. 5:30, quarter to six.

15 Q. And do you know if anybody stayed behind to make sure
16 nobody bothered that area between the 15th and the 19th?

17 A. No, ma'am.

18 Q. In fact, it wasn't guarded, was it?

19 A. We were not part of it. And I don't think the question
20 was ever asked.

21 Q. All right. So you don't know who came to that scene
22 between the 15th and the 19th?

23 A. That's correct.

24 Q. All right.

25 MS. GORTON: Nothing further.

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1 **THE COURT:** Thank you. Step down.

2 **MR. STEINBERG:** The State calls Lieutenant Ronald
3 Lendway.

4 **MADAME CLERK:** Come forward to be sworn, please.
5 Please place your left hand on the Bible and raise your
6 right.

7 Ronald Lendway, being
8 duly sworn testified as follows:

9 **MADAME CLERK:** Thank you. You may be seated. Sir,
10 would you, please, state your name for the record.

11 **MR. LENDWAY:** Ronald David Lendway.

12 **MADAME CLERK:** Thank you.

13 Direct Examination by Mr. Steinberg:

14 Q. Lieutenant Lendway, please tell the Court what
15 experience you have in law enforcement, how many years.

16 A. I've been with the Crime Scene Unit for twelve years.
17 Before that I was with the Greer Police Department for five
18 years. Before that I was in the U.S. Coast Guard.

19 Q. How many officers do you supervise as a lieutenant?

20 A. Twelve.

21 Q. What was your title and role on August 19th of 2011?

22 A. At that time I was a sergeant in the Crime Scene Unit.

23 Q. Did you go to this location when the body was first
24 found?

25 A. No, I did not.

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1 Q. When did you go to this location?

2 A. I went to that location a few days after that on August
3 19th, 2011.

4 Q. What did you do on August 19th at that location?

5 A. Prior to that, Sergeant Shaw had mentioned that he was
6 going to that location to get some -- some measurements. I
7 offered my assistance to help, which he -- which he took.
8 And we both rode out to that location to get some additional
9 measurements that he was wanting to get. On the way there
10 he had contacted one of the investigators to see if there
11 was any information as far as the possible caliber of a
12 weapon.

13 Q. When you get out to that location, tell us about the
14 description of the location that you searched.

15 A. Upon pulling up to that location it was a little pull-
16 in spot off of the roadway, and there was a large tree that
17 was downed in front of it where you couldn't pull down into
18 there, although, there was -- it was asphalt once you walked
19 down there past the large tree, the asphalt turned into a
20 dirt road.

21 And going down to the dirt road there was -- there was
22 almost like a meadow off to the right hand side. And there
23 was a couple of small little outbuildings kind of scattered
24 around in that area. And further down the pathway, it led
25 to a small creek.

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1 (Whereupon State's exhibit 36 was marked for
2 identification)

3 Q. Lieutenant Lendway, while you were inside this -- the
4 shed did you locate anything or did you search for anything?

5 A. Yes.

6 Q. And did you locate anything?

7 A. Yes, I did.

8 Q. What did you locate and please describe it.

9 A. Inside the shed, the shed has a dirt floor. And while
10 searching the area I located a spent .380 casing that had
11 been fired.

12 Q. What was the condition of the spent .380 shell casing?

13 A. It was down in the dirt and the mud. It had a film of
14 dirt covering the whole outside of the casing. It was
15 pretty dirty.

16 Q. I'm going to show you what's been marked as State's
17 exhibit number 36. I'm going to show you what's been marked
18 and it's in a plastic bag. How did you submit this item
19 into evidence?

20 A. Upon collecting the casing I would put it in a tissue
21 and then into a plastic container, put red evidence tape
22 over it and then put my initials over the red evidence tape
23 and put it into this manilla folder here where, again, I put
24 red evidence tape over this side so that -- and also the
25 back.

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1 What I packed -- this clear plastic was not done by me.
2 When I packaged it, this is the plastic container that I --
3 the casing, I put it, as I said, into a tissue. I put that
4 tissue with the casing in it into this hard plastic
5 container, sealed with evidence tape.

6 And here I put the item number, which I labeled this as
7 RL1, RL-1. RL is just my initials. I put the dash and then
8 the number of the evidence, which is number 1 in this case.
9 Put the evidence tape around here, put my initials and then
10 put it into this manilla folder where I -- where, again, I
11 put the red evidence tape around the sides of it and, again,
12 put my initials over that tape.

13 Q. What is located in RL1?

14 A. It's the spent casing that I found inside the shed on
15 the dirt floor.

16 **MR. STEINBERG:** I move to introduce RL-1.

17 (Pause)

18 Q. Have you and I reviewed the drawing in this case?

19 A. The sketch?

20 Q. Yes, sir. I'm going to show you State's exhibit ...

21 **MS. GORTON:** I think it was 24.

22 Q. State's 24 where this says RLR, is this the location
23 where you found the .380 shell casing? And if so, why is
24 there a discrepancy between the ---

25 A. Right. This diagram here, it was done by Sergeant

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1 Shaw. This is the correct location of where the -- where I
2 located the casing inside of the shed. However, Sergeant
3 Shaw had mislabeled the item number where he put RLR-1 where
4 I actually put RL-1.

5 **MR. STEINBERG:** The State would ---

6 **MS. GORTON:** Judge, I have to preserve an objection.

7 **THE COURT:** What's your objection?

8 **MS. GORTON:** That -- well, I renew the earlier
9 objection about the diagram.

10 **THE COURT:** All right.

11 **MS. GORTON:** And ...

12 **THE COURT:** All right. Subject to your objection, put
13 it in.

14 (Whereupon State's exhibit 36 was admitted into
15 evidence)

16 Q. On August 25th, 2011 did you also go back into the
17 Marietta portion of Greenville County?

18 A. Yes, I did.

19 Q. What was your reason for going up there on that day?

20 A. I was called up to that location. And it was off of
21 Long Shoals Road in Marietta. And I was given information
22 that there was a -- there was a person that had stated that
23 they had buried some evidence along a creek or along a
24 river. And I was given the location. I was given a
25 description of where they -- the investigators were parked

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1 at.

2 They -- it was a ten minute walk into the woods along
3 this river. They weren't right there by the -- by their
4 vehicle when I pulled up, but I did see their vehicles.
5 They mentioned that there was a culvert down by the river
6 and if I were to stay to the side of the culvert and just
7 follow the path along the river for approximately ten
8 minutes that there was -- they were seeking some buried
9 evidence along the river.

10 So at that time I parked there and let them know that I
11 was there and that I would be there shortly. I took my
12 camera bag, all the equipment that I thought that I may
13 need. And I also took a shovel so I could dig up anything
14 that could be retrieved.

15 Q. Did you meet up with any officers or anybody else?

16 A. Yes, I did.

17 Q. In addition to officers, who else was out there?

18 A. Investigator Chris Miller and Investigator Chris
19 Hammett. There was also -- Mr. Allen was out there. And I
20 believe there was one or two others that were with the
21 investigators. And I'm not sure of their -- their names.

22 Q. And without repeating anything that Mr. Allen may have
23 said, how cooperative was Mr. Allen?

24 A. He was very cooperative.

25 Q. Did you locate any items?

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1 A. Yes, I did.

2 Q. I'm going to show you what's been marked as State's
3 exhibits number 18, 19, 20 and 21. Please tell me if you
4 had taken those photographs or you were present when they
5 were taken.

6 A. Yes. These are some of the photographs that I did
7 take.

8 MR. STEINBERG: The State moves State's exhibits 18,
9 19, ---

10 THE COURT: Any objection?

11 MR. STEINBERG: --- 20 and 21 ---

12 MS. GORTON: No objection, Your Honor.

13 MR. STEINBERG: --- into evidence.

14 THE COURT: Without objection.

15 (Whereupon State's exhibits 18 - 21 were admitted into
16 evidence)

17 Q. Lieutenant Lendway, what is this item up here?

18 A. That is a black t-shirt.

19 Q. And what connection does that have with this case?

20 A. When I dug into the sand, I found -- both of those guns
21 right there were inside that black shirt. That brown bag
22 that the guns are laying on, that was my bag that was an
23 unused bag that I had brought with me. I laid that down on
24 the sand, placed both guns that I took out of that black t-
25 shirt and put them on there to take the photograph.

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1 Q. This weapon on top, do you remember which weapon this
2 was?

3 A. That was the Ruger 9mm.

4 Q. And this weapon on the bottom?

5 A. That was the Hi-Point .380.

6 Q. I'm going to show you State's exhibit number 19. What
7 does this show?

8 A. This shows the black t-shirt with the handguns inside
9 of it. And as I was digging, this photograph right here was
10 just prior to the one that was just shown.

11 Q. I'm next going to show you State's exhibit number 20.

12 A. That's Mr. Allen. This is prior to digging. And he
13 had -- he was pointing to the area right there where I --
14 where I had dug.

15 Q. I'm going to show you State's exhibit number 21.

16 Please tell us, generally, what this is.

17 A. Right. This is the part of the path that leads up to
18 -- if you look further into it, that's where the river is
19 right there. And walking straight ahead towards the river
20 just to the left, there was a sandbar right there. And the
21 photographs where I was -- where I had dug, it was straight
22 ahead and just a few feet to the left is where I had dug on
23 that sandbar. It's just a photograph leading right up to
24 that area.

25 Q. Thank you.

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- 1 **MR. STEINBERG:** Turn the lights on, please.
- 2 Q. Let's discuss this firearm.
- 3 **MR. STEINBERG:** Madame Court Reporter, do you have the
- 4 firearms?
- 5 (Whereupon the firearms were handed to Mr. Steinberg)
- 6 Q. Let me hand to you State's exhibit number 1. Please
- 7 take a look at that and tell us how it's marked.
- 8 A. You want me to take it out?
- 9 Q. That's the 9mm, right?
- 10 A. Correct.
- 11 Q. No, you just keep that in there.
- 12 A. Okay.
- 13 Q. Was that one of the firearms that was taken into ---
- 14 A. Right. This is a silver handgun that was previously
- 15 shown on there that I had dug up from the sandbar.
- 16 Q. Okay.
- 17 A. And this is the box that I had secured it in. And this
- 18 has all my writing on here with the evidence tape and my
- 19 initials on it.
- 20 Q. I'm going to hand you State's exhibit number 2.
- 21 A. This is the black handgun that was in the photograph.
- 22 It was the Hi-Point .380. And this is the box that I had it
- 23 packaged in and wrote the information on here, sealed it
- 24 with evidence tape and put my initials.
- 25 Q. Are you able to open that box?

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1 A. (Whereupon the box was opened.)

2 Q. What is in this box?

3 A. This is the black Hi-Point .380 handgun and one live
4 round separated in the bag.

5 Q. Thank you.

6 MR. STEINBERG: Your Honor, in observance of court
7 rules, this does have a bolt through the ---

8 THE COURT: All right. Good. Any objection?

9 MS. GORTON: No objection, Your Honor.

10 MR. STEINBERG: The State is moving State's exhibit
11 number 2 into evidence.

12 THE COURT: Without objection.

13 (Whereupon State's exhibit 2 was admitted into
14 evidence)

15 Q. Did you check this for fingerprints? And if so, were
16 any fingerprints located?

17 A. Yes, I did. I checked it for fingerprints. And there
18 was none found.

19 Q. Did you also check the 9mm for fingerprints?

20 A. Yes, I did.

21 Q. Any found?

22 A. No.

23 Q. Is it unusual not to find fingerprints on a firearm?

24 A. It's not that unusual.

25 Q. Did you check for any blood on the .380?

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1 A. No. I checked for blood on the 9mm.

2 Q. Okay. Was there any blood on the 9mm?

3 A. It tested negative, not.

4 Q. This evidence in here alongside of the -- alongside of
5 the firearm, what is this, and what is the caliber and what
6 is the headstamp on it?

7 A. This is the live round that was with the .380 handgun
8 that was buried. The headstamp is WIN, which is short for
9 Winchester, .380 auto. On the flat side of the cartridge or
10 cartridge casing is what we call a headstamp. The headstamp
11 is a way we can determine what type of caliber weapon fired
12 this or if -- this ammunition is used for what type of
13 weapon.

14 Q. And what kind of shell casing did you find at the old
15 shed, the old garage?

16 A. At the garage it was a spent casing. And it was WIN
17 .380 auto.

18 Q. Similar to this one?

19 A. Yes. Same headstamp as this one here.

20 Q. At the time you did your research in this case and your
21 work in this case were you familiar with all the facts in
22 the case?

23 A. As I mentioned before, I didn't initially go out to the
24 scene on August 15th. So I wasn't -- I wasn't familiar with
25 everything going on involved with the case, but I did know

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1 -- I do know some things about it.

2 Q. Okay. Please answer any of opposing counsel's
3 questions.

4 **Cross Examination by Ms. Gorton:**

5 Q. Let me start with the shed. You went out on the 19th?

6 A. Yes.

7 Q. Which was four days after the initial search?

8 A. Right.

9 Q. And had the area been guarded in any way?

10 A. I -- to my knowledge, I do not know.

11 Q. There certainly was no way to lock up the shed, was
12 there?

13 A. It had open sides.

14 Q. There was nothing there to lock. There were no doors,
15 correct?

16 A. There was a door, but, like I said, there was other
17 areas of that larger shed that were open.

18 Q. Would you agree there was no way to secure that area
19 short of leaving an officer there?

20 A. I would say that's correct.

21 Q. All right. And I'm handing you State's exhibit 27,
22 which shows the placard on the dirt floor where you found
23 it.

24 A. Right.

25 Q. Would you agree that there's not an excessive amount of

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1 metal objects around there?

2 A. This picture here, it may not show the overall of the
3 whole floor, but while I was there there were multiple metal
4 parts throughout that property.

5 Q. Did you move anything from around here?

6 A. When I was there, no. My ---

7 Q. Okay.

8 A. --- search started at -- in a different area.

9 Q. Okay. So this accurately depicts what this one foot
10 area looked like when you saw the shell casing, correct?

11 A. When I was there -- now, initially I wasn't there on
12 the 15th. So I'm not ---

13 Q. I understand that. But when you saw it it was -- this
14 accurately depicts the one area spot around the shell
15 casing? Accurately depicts what it looked like when you saw
16 it, correct?

17 A. Right.

18 Q. And this is a photo of the shell casing close up.

19 Pretty obvious, right?

20 A. Right.

21 Q. You hadn't removed it or done anything with it at that
22 point, ---

23 A. Actually, ---

24 Q. --- correct?

25 A. --- when I first noticed it I wasn't sure what it was.

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1 I knelt down, I did confirm that it was a shell casing. And
2 then at that time I notified Sergeant Shaw that I had
3 located a fire casing.

4 Q. Well, you knelt down, but did you dig it out or do
5 anything ---

6 A. It was ---

7 Q. --- else?

8 A. It was partially -- it was partially in the dirt. And
9 I did have to look and make sure -- confirm that it was the
10 spent casing.

11 Q. Well, where did you remove it from the dirt? Where's
12 the hole that you removed it from?

13 A. It wasn't all the way down. So there wasn't -- it
14 wasn't a hole. It was almost like a little troff.

15 Q. Well, you didn't move it, did you?

16 A. I -- I had to confirm that it was a shell casing.

17 Q. Okay. Where did you ---

18 A. And it was right here ---

19 Q. --- move it from?

20 A. From right -- it was right where it is.

21 Q. All right. So did you use any special tools to detect
22 that? Were you wearing any special glasses, or using a
23 metal detector or anything?

24 A. Using a metal detector in that area would have been
25 useless just because of all the small pieces of metal that

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1 were in and around that area.

2 Q. Can you show me where the small pieces of metal are
3 right around here?

4 A. Well, this is a zoomed in, close photograph of just a
5 couple of inches. And ---

6 Q. Well, can you show me where there's metal anywhere
7 within a foot of that?

8 A. It's hard to tell with this photograph.

9 Q. Is there any way of telling how long that shell had
10 been there?

11 A. No.

12 Q. And you said that you also went with Officer Hammett
13 and Investigator Miller to meet with JJ to recover these two
14 weapons. What date did that occur?

15 A. I'm not sure who JJ is.

16 Q. Mr. Allen.

17 A. Mr. Allen? Okay.

18 Q. Do you know what date that occurred?

19 A. August 25th.

20 Q. So six days after you find the shell casing?

21 A. No. Yes, it was six days.

22 Q. All right. And you actually recovered two firearms,
23 correct?

24 A. That's right.

25 Q. And did Mr. Allen make any statements to you, any

RONALD LENDWAY - CROSS EXAMINATION BY MS. GORTON

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1 admissions to you about why there were two and not one?

2 A. I didn't ask him any questions.

3 Q. After you recovered that 9mm weapon did you or anybody

4 that you know of go back to the shed to find out if there

5 were any 9mm shell casings?

6 A. Not to my knowledge.

7 Q. When you were at the shed and you found this single

8 shell casing did you keep looking for additional casings?

9 A. No.

10 Q. Once you found this one you stopped?

11 A. We had -- yeah, that's right.

12 Q. Okay. And to the best of your knowledge, no one ever

13 went back to see if there were any 9mm's?

14 A. Not to my knowledge.

15 Q. And Mr. Allen never explained to you why the 9mm was

16 buried?

17 A. I wasn't there to interrogate Mr. Allen. I was there

18 to dig up some evidence.

19 Q. Did you hear anyone else ask Mr. Allen that question?

20 A. Which question?

21 Q. Why he buried a 9mm as well.

22 A. I didn't hear any questions like that, no.

23 Q. Did you run any tests on these shell casings?

24 A. Did I run any tests?

25 Q. Yes.

RONALD LENDWAY - CROSS EXAMINATION BY MS. GORTON

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1 A. I did not run any tests on those.

2 Q. Did you run any backgrounds on the .380 or the 9mm?

3 A. On -- as far as an NCIC?

4 Q. Yeah. What do you do when you check NCIC on a -- on a

5 ---

6 A. That's not part of what I do.

7 Q. It's not?

8 A. No.

9 Q. Okay. Who would do that?

10 A. That would be the investigator or an officer.

11 Q. The shirt that these guns were buried in, did you hear

12 Mr. Allen make any explanation as to that shirt?

13 A. No.

14 Q. Do you know what size that shirt was?

15 A. It was double XL.

16 Q. Is Mr. Allen a double XL person?

17 A. Not unless he wears large baggy shirts.

18 Q. All right.

19 MS. GORTON: Nothing further.

20 THE COURT: Thank you. Step down.

21 MR. STEINBERG: No further questions.

22 THE COURT: We'll take a short recess. Take the jury
23 out for a recess. You can step down.

24 (Whereupon the jury exited the courtroom at 10:48 am)

25 THE COURT: All right. Short recess.

1 (Whereupon court was in recess at 10:48 am)

2 (Whereupon court resumed at 11:01 am)

3 (Whereupon State's exhibits 37 - 41 were marked for
4 identification)

5 **THE COURT:** Does this need to be on the record?

6 **MS. GORTON:** Yes, Your Honor.

7 **THE COURT:** All right.

8 **MS. GORTON:** We're trying to avoid an interruption
9 later by addressing an issue we anticipate ---

10 **THE COURT:** Okay.

11 **MS. GORTON:** --- coming. Mr. Steinberg is going to be
12 calling Emily Gentry. She's listed as one of my witnesses
13 as well.

14 **THE COURT:** Who?

15 **MS. GORTON:** Emily Gentry.

16 **THE COURT:** Okay.

17 **MS. GORTON:** My objection would be to any questions
18 that Mr. Steinberg asks her about what Mr. Phillips said as
19 they were reviewing the discovery. As you've already heard,
20 Mr. Phillips is functionally illiterate. He can't read or
21 write other than very brief text messages.

22 And Emily and Joe were dating at the time I was
23 appointed to represent him. I don't know if you've seen how
24 many notebooks I have with the discovery in this case, it's
25 massive. It was not practical for me to sit there and read

1 all of this discovery to Mr. Phillips.

2 So he asked if Ms. Gentry could take the trial
3 notebooks, my trial notebooks, home and read them to him,
4 which she did. Now Mr. Steinberg wants to call her as a
5 witness as to his reaction as she was reading him these
6 trial notebooks.

7 I would move to exclude all of that. My knowledge is
8 it's like asking a deaf person to have their deaf
9 interpreter testify as to what they said. She was necessary
10 at that time. And at that time we did not realize she was
11 going to be a witness for me or for him. So I would object
12 to any questions about his reaction to the discovery
13 material as it was being read.

14 **THE COURT:** Okay.

15 **MR. STEINBERG:** Normally I would agree with opposing
16 counsel if this was a case involving a deaf person in
17 cooperating with the attorney. But here, this is his
18 girlfriend, this is his confidant.

19 The general rule is that if you bring another person in
20 with you, you're destroying the attorney/client privilege.
21 Here, she is his confidant, his girlfriend.

22 She is confronting him about some of the things, not
23 just reading, she's confronting him. That'll be her
24 testimony. I confront him, I said, I thought you told me
25 the truth. And then he says the magic words. He says, I

KAREN MILBRODT - DIRECT EXAMINATION BY MR. STEINBERG

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1 screwed up this time. I'm going to jail for life after
2 being read the most critical pieces of evidence.

3 **MS. GORTON:** Judge, I ---

4 **THE COURT:** I'm not -- no, I'm not going to allow that.

5 **MR. STEINBERG:** Thank you, Your Honor.

6 **THE COURT:** All right. Bring the jury.

7 (Whereupon the jury entered the courtroom at 11:04 am)

8 **THE COURT:** All right, solicitor.

9 **MR. STEINBERG:** Thank you, Your Honor. The State's
10 next witness is Karen Milbrodt.

11 **MADAME CLERK:** Ma'am, would you please come forward to
12 the stand. Please place your left hand on the Bible and
13 raise your right.

14 **Karen Milbrodt, being**
15 duly sworn testified as follows:

16 **MADAME CLERK:** Thank you. You may be seated.

17 **MS. MILBRODT:** Good morning.

18 **MADAME CLERK:** Would you, please, state your name for
19 the record.

20 **MS. MILBRODT:** Yes. Karen Milbrodt.

21 **MADAME CLERK:** Thank you.

22 **Direct Examination by Mr. Steinberg:**

23 Q. Ms. Milbrodt, where do you live?

24 A. I live in Alpharetta, Georgia, which is a suburb of
25 Atlanta.

KAREN MILBRODT - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. And what is your current occupation? Who is your
2 employer?

3 A. Verizon Wireless.

4 Q. And what do you do for Verizon?

5 A. I am -- my title is an analyst. And one of my
6 responsibilities of an analyst is to be a records custodian.

7 Q. Have you brought some records with you today?

8 A. I did.

9 Q. Please show them to me.

10 A. Yes, sir.

11 Q. I'll grab this subpoena.

12 **MR. STEINBERG:** I'd like to have these files marked
13 State's exhibit.

14 **THE COURT:** Any objection to this?

15 **MS. GORTON:** I haven't seen them.

16 (Pause)

17 **MS. GORTON:** No objection.

18 **THE COURT:** Without objection.

19 (Whereupon State's exhibit 42 was marked and admitted
20 into evidence)

21 Q. Ms. Milbrodt, I'm going to keep these separate ---

22 A. Yes, sir.

23 Q. --- from this exhibit. Ms. Milbrodt, what are these --
24 in general, what are these documents that you brought us
25 here today?

KAREN MILBRODT - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yes. I brought call records, call detail records for
2 two specific phone numbers that were included in a subpoena.
3 These records include coming and outgoing calls, date and
4 time. I also brought cell tower address locations. And I
5 believe the subpoena itself is included.

6 Q. Did Verizon provide this information to the Sheriff's
7 Office on an earlier date?

8 A. Yes, it did.

9 MR. STEINBERG: The State moves State's exhibit number
10 42 ---

11 THE COURT: Without objection.

12 MS. GORTON: No objection.

13 (Whereupon State's exhibit 42 had been previously
14 introduced)

15 Q. I'm very briefly going to ask you a couple of questions
16 about this.

17 A. Sure.

18 Q. What is this document entitled Realtime Tools?

19 A. This is just a ledger that goes along with one of the
20 documents that are in here. A Realtime Tool is records that
21 we take of calls -- call transactions realtime, meaning as
22 they're happening. This goes along with when we receive an
23 extrogent request, meaning there's an emergency, the law
24 enforcement needs realtime tracking of our customers'
25 incoming and outgoing calls.

KAREN MILBRODT - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. And what records are these I'm handing you? It starts
2 off with cellular number [REDACTED]-6990.

3 A. The first is the emergency packet that we received
4 saying -- from law enforcement, saying they need information
5 about one of our customers.

6 Q. And does that information include who's making the
7 phone call and how long it's making the phone call for?

8 A. Well, the phone -- it's just giving us a telephone
9 number.

10 Q. The documents under -- the documents that you provided,
11 do they include who makes the phone call and how long the
12 phone call is for?

13 A. It does include how long the call was for and what
14 telephone number made the phone call, not necessarily who
15 made the phone call ---

16 Q. Okay. Does it indicate where the phone call's made to?

17 A. By telephone number, yes, sir.

18 Q. And does it include the cell phone tower that was used?

19 A. Yes, it does.

20 Q. I'm going to ask you the same question on this document
21 entitled cellular number [REDACTED]-5750. Does that also
22 include that same information?

23 A. Yes, it will.

24 Q. Do you include the text messages for the July 7th, 8th
25 and 9th period on those documents?

KAREN MILBRODT - CROSS EXAMINATION BY MS. GORTON

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1 A. We have.

2 Q. I'm going to show you this other document that starts
3 on the top left with MTX7. What is that document?

4 A. This is addresses of certain cell towers that are
5 included in these records.

6 Q. Okay.

7 MR. STEINBERG: I beg the Court's indulgence.

8 (Pause)

9 Q. Thank you, Ms. Milbrodt. Please answer any of opposing
10 counsel's questions.

11 **Cross Examination by Ms. Gorton:**

12 Q. I couldn't see the documents you were referring to as
13 Mr. Steinberg was asking you the questions. Can you show me
14 the realtime tracking?

15 A. This one here. It belongs with this -- this document.
16 This is the ledger that belongs with that document.

17 Q. Okay. The Realtime Tool tracking. And can you explain
18 to me what this is reflecting here?

19 A. Yes. This is information of when calls are made on our
20 number. And it tells the date and the time of the call, the
21 cell tower that was used, the antenna that was used on the
22 cell tower, how long the call lasted and the distance from
23 the cell tower where the phone was.

24 Q. Okay. This record appears to start on July 7th at 029.
25 So that's a little after military or after midnight military

KAREN MILBRODT - CROSS EXAMINATION BY MS. GORTON

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- 1 time?
- 2 A. Correct.
- 3 Q. And then this record ends July 8th at -- it looks like
- 4 access time is 10:17 and release time is 10:22. What does
- 5 that mean?
- 6 A. Access time is when the call started, release is when
- 7 the call ended.
- 8 Q. And the call length is reflected as 249. Is that
- 9 seconds?
- 10 A. It is seconds.
- 11 Q. So roughly six minutes?
- 12 A. Yes.
- 13 Q. Okay. Why does it end there?
- 14 A. That's when the call left our network.
- 15 Q. Right. But why is there no more records after July 8th
- 16 at 10:22?
- 17 A. There would either be no more traffic or that was when
- 18 we were asked in the subpoena to stop where ---
- 19 Q. Can you check your subpoena and see if that's the case?
- 20 A. The tracking asked or the subpoena asked or the
- 21 extrogent form asked for July 7th, 2011 at 1930 hours until
- 22 7/8/2011 at 1930 hours.
- 23 Q. Okay. Til 1930 hours. And just so we're clear in real
- 24 time that's 7:30 pm, correct?
- 25 A. Correct.

KAREN MILBRODT - CROSS EXAMINATION BY MS. GORTON

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1 Q. And the last thing you reflect here is 10:22?

2 A. This one, 10:17 -- 10:22 on the 8th, correct.

3 Q. Okay. So the reason why you don't have anything after
4 10:22 is because there is no more activity after that time?

5 A. (Affirmative nod).

6 Q. And for clarification, this pertains to which cell
7 phone number?

8 A. This cell phone number -- [REDACTED]-6990.

9 Q. And for further clarification, that is the cell phone
10 belonging to Charlie Roberts?

11 A. I don't know that.

12 Q. You don't know that?

13 A. I don't know his ...

14 Q. And as far as the other cell phone, which we know to be
15 my client's cell phone, the other number, what was your
16 request for -- for records, the time-frame and the date
17 frame?

18 A. 7/8/2011 at 08 -- 0100 hours, which would be midnight
19 until 7/8/11 until 1930 hundred hours.

20 Q. So nobody asked you to bring records from before?

21 A. Not that I'm aware of, no.

22 Q. Okay. And you've already explained that there was no
23 activity whatsoever. What does that mean when you say no
24 activity whatsoever after 10:22 on the victim's phone? What
25 does that mean?

KAREN MILBRODT - REDIRECT EXAMINATION BY MR. STEINBERG

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1 A. As far as ---

2 Q. Does that mean the phone was turned off or just that
3 there were no phone calls?

4 A. There would be -- I wouldn't know if it was turned off,
5 just that there was no -- no more calls.

6 Q. Okay. That's all those records show?

7 A. Right.

8 Q. All right. Thank you.

9 MR. STEINBERG: I beg the Court's indulgence.

10 **Redirect Examination by Mr. Steinberg:**

11 Q. Are you familiar with -- how familiar are you with this
12 case?

13 A. Not at all.

14 Q. Okay. Let's look at some other records. You said the
15 victim's phone had not been used since 10:22. Do you not
16 have any additional documents after this?

17 A. I could look and see if there's text content.

18 Q. Looking for telephone content. What is this over here?
19 Whose phone number is this?

20 A. Number ending [REDACTED]-6990.

21 Q. Let's talk about this number here, July 8th at 10:49.
22 Who made this phone call?

23 MS. GORTON: Objection. It's the number, not the
24 person.

25 THE COURT: What's the objection?

KAREN MILBRODT - REDIRECT EXAMINATION BY MR. STEINBERG

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- 1 MR. STEINBERG: I'll rephrase the question.
- 2 MS. GORTON: Thank you.
- 3 Q. This 207 number, the calling number, who made this
4 phone call at 10:49 on this page?
- 5 A. I would have to answer by the telephone number, not the
6 ---
- 7 Q. Yes, ma'am.
- 8 A. --- person.
- 9 Q. I understand.
- 10 A. Okay.
- 11 Q. Who ---
- 12 A. What was ---
- 13 Q. What does this number here MBM mean at 10:49?
- 14 A. This is the telephone -- these records pertain to that
15 particular ---
- 16 Q. Okay.
- 17 A. --- telephone number.
- 18 Q. And on 10:49, I know it's difficult to track because
19 I'm going all the way across, what number was called?
- 20 A. [REDACTED]-5752.
- 21 Q. Is that the number that defense attorney has just
22 referred to as the Defendant's phone number, right here?
- 23 A. Yes.
- 24 Q. And which number made that phone call at 10:49?
- 25 A. [REDACTED]-6990.

KAREN MILBRODT - RECROSS EXAMINATION BY MS. GORTON

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1 Q. So apparently at 10:49 that phone call was used to make
2 a telephone call?

3 A. There was a call.

4 Q. Thank you, ma'am.

5 **THE COURT:** Step down.

6 A. Pardon me?

7 **THE COURT:** Can we excuse this witness now?

8 **MR. STEINBERG:** Yes, sir, Your Honor.

9 **THE COURT:** Thank you. You're excused.

10 **MR. STEINBERG:** And we would ask that Ms. Milbrodt be
11 excused to go back to Atlanta.

12 **Recross Examination by Ms. Gorton:**

13 Q. I just need to clarify that that was the last call
14 made.

15 A. That was the last call that was made. There were other
16 calls made after, but they were all forwarded to voicemail.

17 **MS. GORTON:** Nothing further.

18 **THE COURT:** Thank you.

19 **MR. STEINBERG:** Thank you, Ms. Milbrodt.

20 A. Thank you. I'm released?

21 **THE COURT:** You can leave. Thank you.

22 A. Thank you.

23 **MR. STEINBERG:** I beg the Court's indulgence. I want
24 to make sure the documents aren't out of order.

25 **THE COURT:** Sure.

JAMES ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

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1 (Pause)

2 **MR. STEINBERG:** I beg the Court's indulgence.

3 (Pause)

4 **MR. STEINBERG:** Your Honor, the State's next witness
5 would be James Armstrong.

6 **MADAME CLERK:** Sir, would you come forward to be sworn.
7 Please place your left hand on the Bible and raise your
8 right.

9 **James Armstrong,** being
10 duly sworn testified as follows:

11 **MADAME CLERK:** Thank you. You may be seated. Would
12 you, please, state your name for the record.

13 **MR. ARMSTRONG:** James William Armstrong.

14 **MADAME CLERK:** Thank you.

15 **Direct Examination by Mr. Steinberg:**

16 Q. Thank you for being here today, Mr. Armstrong. Would
17 you please tell the Court and the jury what your title is.

18 A. I'm a criminalist employed with the Greenville County
19 Department of Public Safety, forensics division, crime
20 laboratory.

21 Q. Please explain what a criminalist is.

22 A. A criminalist, for me, I actually have a dual
23 responsibility as a firearm examiner and a forensic drug
24 chemist.

25 Q. And how long have you been in law enforcement?

JAMES ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. In law enforcement, a little over nineteen years.

2 Q. Do you have any specialized training in the field of
3 ballistics or firearms?

4 A. Yes, sir, I have.

5 Q. Do you keep up with the training and the updates in
6 this field?

7 A. Yes, sir, I do.

8 Q. Have you attended any training courses in firearms
9 identifications?

10 A. Yes, sir, I have.

11 Q. Approximately how many firearms have you examined?

12 A. Thousands of firearms.

13 Q. Does your training include the examination of fired
14 cartridges and fired projectiles?

15 A. Yes, sir, it does.

16 Q. Have you ever been qualified as a firearms examiner in
17 a State or Federal court?

18 A. Yes, sir, I have.

19 Q. Approximately how many times?

20 A. Thirty-four times.

21 **MR. STEINBERG:** The State moves to qualify Mr.

22 Armstrong as an expert in both firearms and ballistics.

23 **THE COURT:** Any voir dire?

24 **MS. GORTON:** No, Your Honor.

25 **THE COURT:** He's qualified. Proceed.

JAMES ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

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1 **MR. STEINBERG:** Thank you.

2 Q. Mr. Armstrong, did you have the opportunity to examine
3 any of the items in this case?

4 A. Yes, sir, I did.

5 Q. And what is the procedure you use? How do you get the
6 items out of evidence?

7 A. To receive the items out of evidence I go to the
8 property and evidence room, which is in the basement of the
9 Law Enforcement Center, ask them to bring me cases that have
10 been requested from the officer that are related to firearms
11 for me to sign them out.

12 And they will scan the items over or sign them over to
13 me by way of a property sheet or by way of a electronic
14 property chain of custody right now. And I will sign for
15 those and then take them to my office and do my examination.

16 Q. I'm going to hand to you State's exhibit number 36.
17 Please identify what this item is.

18 A. State's exhibit 36 was noted as what I classified as
19 item RL-1. It is a fired cartridge case, .380 auto.

20 Q. I'm going to show you State's exhibit number 2.

21 **MR. STEINBERG:** Again, Your Honor, this item has been
22 cleared.

23 Q. What is this item?

24 A. This is a Hi-Point model CF .380 semi-automatic pistol
25 with serial number P8007862.

JAMES ARMSTRONG - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. And have you examined this firearm?

2 A. Yes, sir, I have.

3 Q. Did you find it to be operable or inoperable?

4 A. It was operable.

5 Q. And did you compare the shell casing that's next to
6 you, the empty fired shell casing with this firearm?

7 A. Yes, sir, I did.

8 MS. GORTON: Objection. I need to make an objection
9 just to preserve the record as to relevance.

10 THE COURT: Irrelevance. All right. What's the
11 relevance?

12 MR. STEINBERG: Your Honor, relevance is this round was
13 fired -- we'll argue this round was fired by this weapon and
14 they were both collected. And JJ Allen is going to ---

15 THE COURT: All right. Why is that not relevant?

16 MS. GORTON: Because the bullet wasn't recovered until
17 four days after the scene was searched.

18 THE COURT: All right. Subject to your objection.

19 MS. GORTON: Thank you.

20 THE COURT: Go ahead.

21 Q. Mr. Armstrong, did you compare this pistol to the empty
22 shell -- fired casing?

23 A. Yes, sir, I did.

24 Q. And how do you do that? What's your examination
25 technique?

JAMES ARMSTRONG - CROSS EXAMINATION BY MS. GORTON

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1 A. When I receive the item I inventory the contents of the
2 package. I then mark the evidence with the item number and
3 my initials. And with the firearm, I actually took it and
4 test fired it, collected it and test fired for myself and
5 placed the test fired components that I recovered on a right
6 side of the comparison microscope and the evidence piece on
7 the left side of the comparison microscope and overlapped
8 the images and looked at both images at the same time. It
9 was a side by side comparison to make my identification.

10 Q. And what caliber was that round that you looked at?
11 And what is the headstamp on it?

12 A. The item RL-1 is a .380 auto fired cartridge case.
13 It's marketed by Winchester.

14 Q. After examining these items could you determine whether
15 this firearm fired that projectile?

16 A. Well, it's actually a fired cartridge case, but, yes,
17 sir, this pistol was used to fire this fired cartridge case.

18 Q. Thank you. Please answer any of opposing counsel's
19 questions.

20 THE COURT: All right. Ms. Gorton.

21 **Cross Examination by Ms. Gorton:**

22 Q. Did you do any of the background check on that pistol
23 to see if it had been registered?

24 A. No, ma'am.

25 Q. Not your job?

JAMES ARMSTRONG - CROSS EXAMINATION BY MS. GORTON

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1 A. No, ma'am.

2 Q. Okay. Someone else's job?

3 A. Yes, ma'am.

4 Q. All right. And when you test this, you can't tell when
5 it was fired last, can you?

6 A. No, ma'am.

7 Q. All right. And you can't tell that from the shell
8 casing or the firearm itself, correct?

9 A. That's correct.

10 Q. And when you received the firearm did you say how many
11 rounds were left in it?

12 A. When I received the firearm it was submitted with one
13 cartridge, which was also marketed by Winchester.

14 Q. All right. When you shot it off did you use that one
15 cartridge that was left or did you use ---

16 A. No, ma'am.

17 Q. --- something else?

18 A. I used stock inventory, which is in my office.

19 Q. Okay.

20 MS. GORTON: Nothing further.

21 THE COURT: Thank you. Step down.

22 MS. GORTON: Oh, -- yeah, nothing further.

23 MR. STEINBERG: The State's next witness will be Dr.

24 Michael Ward.

25 MADAME CLERK: Dr. Ward, if you'll come forward to be

MICHAEL WARD, M.D. - DIRECT EXAMINATION BY MR. STEINBERG

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1 sworn in, please.

2 Michael Ward, M.D., being
3 duly sworn testified as follows:

4 **MADAME CLERK:** Thank you. You may be seated. Please
5 state your name for the record.

6 **DR. WARD:** Michael Eugene Ward.

7 **MADAME CLERK:** Thank you.

8 **Direct Examination by Mr. Steinberg:**

9 Q. Dr. Ward, could you, please, tell us what your title
10 is, who your employer is.

11 A. I'm the Chief Medical Examiner for Greenville County.
12 I'm employed by Pathology Associates of Greenville, which is
13 a private pathology group here in Greenville. And I'm also
14 employed by the County of Greenville.

15 Q. And how long have you been the medical examiner?

16 A. Eighteen years.

17 Q. Tell us a little bit about your background, both your
18 educational and your medical background.

19 A. I have a -- received my bachelor's degree in biology
20 from the University of Alabama. I have a master's degree in
21 forensic science from the University of Alabama in
22 Birmingham.

23 I received my medical degree from the University of
24 South Alabama, which is in Mobile. I did a four year
25 anatomic pathology residency at the Medical University of

MICHAEL WARD, M.D. - DIRECT EXAMINATION BY MR. STEINBERG

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1 South Carolina in Charleston and a one year fellowship in
2 forensic pathology at the University of New Mexico. I'm
3 certified by the American Board of Pathology in anatomic and
4 forensic pathology.

5 Q. Dr. Ward, have you -- how many autopsies have you
6 performed in your career?

7 A. Well over five thousand.

8 Q. Have you ever been qualified as an expert in a criminal
9 trial before?

10 A. Yes, I have.

11 **MR. STEINBERG:** The State would move to qualify Dr.
12 Ward as an expert in the field of forensic pathology.

13 **THE COURT:** Any voir dire?

14 **MS. GORTON:** No objection.

15 **THE COURT:** He's qualified. Proceed.

16 Q. Did you conduct an autopsy of Charlie Roberts?

17 A. Yes, I did.

18 Q. Do you remember when you conducted it?

19 A. It was over a several day period, but it began on
20 August 16th, 2011.

21 Q. Due to the condition of the body were you able to
22 determine weight?

23 A. No, I was not.

24 Q. Just tell us, generally, what was the condition of the
25 body when you examined it?

MICHAEL WARD, M.D. - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Mr. Roberts was in a -- what we would call a marked
2 state of decomposition. In fact, he was nearly completely
3 skeletonized. There was -- there was some soft tissue left
4 on the upper and lower extremities, but for the most part
5 Mr. Roberts had become a skeleton.

6 Q. Were you able to determine a time of death considering
7 the skeletonized remains?

8 A. No, I was not.

9 Q. Was the body consistent with a body that had been left
10 out in the open or a semi-open position for over a month?

11 A. Absolutely, yes.

12 Q. Did you examine the skull of Mr. Roberts?

13 A. I did.

14 Q. And what did you observe?

15 A. Again, this was a skeletonized skull. There was no
16 soft tissue remaining. There was remote or old trauma,
17 which was present to the bones of the right forehead with
18 evidence of surgical correction.

19 In fact, that's one of the ways that we were able to
20 make a positive identification of Mr. Roberts was comparing
21 his medical records from his previous accident to the
22 changes that we saw on his skull. Those were old injuries.
23 The more recent injury that we saw was a gunshot wound to
24 the head, which involved the bones of the face as well as
25 one of the cervical vertebra.

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1 Q. Were you able to determine what type of injury that
2 was?

3 A. Yes.

4 Q. What type of injury was that?

5 A. This was a gunshot wound to the head.

6 Q. Were you able to determine in your medical opinion the
7 direction that this round went?

8 A. Yes, I was.

9 Q. Please tell us which way it went and the trajectory.

10 A. This wound went through Mr. Roberts' right eye. There
11 was fracture of the bones behind the right eye, then passed
12 from his right to his left impacting and damaging one of the
13 bones on the undersurface of the skull through the region of
14 the upper cervical spinal cord and brain stem, which are
15 components of our brain that control vital components of our
16 like heartbeat and respiration.

17 As it goes through those, it then exited out the back
18 portion of the first cervical vertebrae. The skull actually
19 sits on top of this first cervical vertebrae. So the
20 gunshot wound goes through the right eye, backward, very
21 slightly to the left and downward and would have exited out
22 the back of the neck just below the skull.

23 Q. How far down -- was it a marked or is it a minor
24 deviation?

25 A. No, this is not significantly downward. This is just a

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1 downward direction.

2 Q. So is it your testimony that a round went through the
3 front of the head and exited the back of the head?

4 A. That is correct.

5 Q. And was any -- any parts of the projectile found inside
6 the body or did it pass through?

7 A. We performed x-rays on all of the skeletal components
8 that were recovered. And there was no metallic foreign
9 material present.

10 Q. Were you able to determine the caliber of the size of
11 this weapon that was used?

12 A. I was not, no.

13 Q. Is it unusual not to find a projectile in the body?

14 A. No. We frequently have both entrances and exit wounds
15 with none of the missile remaining in the body.

16 Q. Is it unusual for a .380 round, due to its size, to
17 travel through a body, through a skull?

18 A. It's not unusual. This is a medium caliber weapon.
19 This gunshot wound path is through basically soft tissue
20 until it hits -- the bones behind the right eye are very
21 thin. And until it hit the back portion of the first
22 cervical vertebrae, which again, is a fairly thin bone, it
23 was passing only through soft tissue. So it would not
24 surprise me at all that this missile had exited the body.

25 Q. With the condition of the body did you notice any burn

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- 1 marks or gunpowder residue on it?
- 2 A. No. There was no indication of range of fire because
- 3 there was no soft tissue present or around the wound.
- 4 Q. Did you examine the clothes in this case?
- 5 A. I did.
- 6 Q. And was there anything unusual about the shirt, about
- 7 the location of the shirt?
- 8 A. The shirt had been pulled up off of the torso such that
- 9 it was still on the -- on components on the -- on the arms,
- 10 but it was -- in the back was pulled up and over the head.
- 11 So it was only on the front portion of the body.
- 12 Q. What could you conclude from that?
- 13 A. Well, the clothing had been moved. And it could have
- 14 been moved immediately after the time of death or it could
- 15 have been moved as the body was being relocated.
- 16 Q. Let me show you some photographs. Dr. Ward, I'm going
- 17 to show you what's been marked as State's 15, 16 and 17.
- 18 Please take a look at those in that order, 15, 16 and 17.
- 19 A. Yes, sir.
- 20 Q. Do you see the hat in that -- the Michelin hat in that
- 21 case -- in that photograph?
- 22 A. I do.
- 23 Q. And do you see any animal activity in that photograph?
- 24 What are the photographs associated with it?
- 25 A. Oh, yes, I'm sorry. There is a hat that's -- a close-

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1 up of a hat is in State's exhibit 15, and 16, and 17, which
2 are similar views, just further away. There are what appear
3 as larvae present on the ground adjacent to the hat.

4 Q. What information, knowing that there's a hat there,
5 what information does that larvae activity that's been
6 referred to as mealworm activity in the past, what does that
7 indicate to you?

8 A. Well, one indication is that this body had been present
9 at this location, had undergone some degree of decomposition
10 with the gentleman's hat being left there at the scene.

11 There's discoloration of the ground or the dirt around this
12 wound, which would also be consistent with decompositional
13 fluids exuding themselves or coming out of the body as it
14 decomposes. And then these larvae being attracted to this
15 decompositional fluids and other tissues that would be
16 present.

17 Q. And why would they go to -- what parts of the body
18 would the larvae or the mealworms go to when they're
19 attracted to a deceased body?

20 A. These animals are going to, I'm sorry, these insects
21 are going to be attracted to blood. They like to consume
22 blood and blood products. And so my guess -- my opinion
23 would be that this area where they are concentrated would be
24 where Mr. Roberts' head would have been. This would have
25 been a great deal of blood coming out of the wound following

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1 his gunshot.

2 Q. Before we move on, you mentioned earlier prior medical
3 intervention to the head. Did you find any other medical
4 intervention to the body?

5 A. Yes, I did.

6 Q. Where was that?

7 A. Within the region of the right knee. So it's the
8 distal or the far end of the right femur and the upper
9 portion of the right tibia had orthopaedic screws consistent
10 with previous surgical intervention from trauma.

11 Q. Considering these two injuries to both the skull and to
12 the leg, would these typically result in a need for,
13 perhaps, prescribed pain killers?

14 A. It's certainly possible that there was chronic pain
15 resulting from these prior injuries, yes.

16 Q. Were you able to determine within the bounds of
17 reasonable medical certainty what caused the death of
18 Charlie Roberts?

19 A. Yes, I was.

20 Q. And what was that?

21 A. It was a gunshot wound to the head.

22 Q. And what was the manner of death?

23 A. The manner of death is most consistent with homicide.

24 Q. Thank you, Dr. Ward. Please answer any of opposing
25 counsel's questions.

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1 Cross Examination by Ms. Gorton:

2 Q. Is there any way to tell whether this gunshot wound was
3 caused by a 9mm or a .380?

4 A. No, ma'am. From examination of the skeletal elements I
5 would not be able to rule out either of those two calibers.

6 Q. How about a shotgun? Can you eliminate a shotgun as
7 causing it?

8 A. Yes, I can.

9 Q. Okay. That causes a different kind of injury, is that
10 correct?

11 A. That is correct.

12 Q. All right. So you can definitely rule out a shotgun,
13 but you cannot rule out a 9mm?

14 A. No, I cannot.

15 Q. And can you tell me anything about the proximity of
16 which the shooter would have been when this was done based
17 on what you observed?

18 A. No, ma'am. There is no indication of range of fire on
19 these skeletal remains.

20 Q. Okay. And you talked about how it was very, very
21 slightly from right to left. Did you make any diagrams or
22 anything to help you indicate that?

23 A. I have diagrams and I have photos that would
24 demonstrate the right to left deviation. Basically it's
25 from the right eye, which is just to the right of midline to

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1 the midline. So over about six or eight inches it moves an
2 inch and a half.

3 Q. When you talk about midline you're saying if you draw a
4 line straight down your body?

5 A. That's correct.

6 Q. And you're saying that it never at any point crossed
7 the midline?

8 A. It did not. It exited at the midline.

9 Q. Okay. So we are talking about a very slight angle?

10 A. From right to left, that's correct.

11 Q. Yes. Now, the angle going downward, are you certain
12 about that?

13 A. Yes, ma'am.

14 Q. All right. So obviously the angle was downward,
15 whether it was slight or not, it was definitely downward?

16 A. The orientation of this -- I'm sorry, the determination
17 of this angle downward is given the skull in what we would
18 call the anatomic position, which basically means that my
19 head is level and I'm looking outward this way. So as the
20 -- as I'm looking at the path through the skull, it is going
21 from the level of my eye to the level just below my skull
22 and the back of my neck. That's in the anatomic position.

23 You can put the head in various different positions.

24 such that a gunshot wound path that may or may not have been
25 level can now be going downward through the skull. So if I

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1 lean my head forward, a gunshot wound which is traveling
2 horizontal or parallel to the earth can now be going
3 downward through my skull.

4 If I look upward like this, then one that is traveling
5 parallel to the earth flat is now going upward through my
6 skull. So I can move my head and vary the direction of fire
7 both up and down.

8 Q. Is it fair to say that the person would have had to be
9 aiming at the face area to have this entry wound? Whether
10 the person was looking down or up the entry wound was
11 definitely to the face?

12 A. That's correct. I can't say what the shooter was
13 aiming at, but the impact is to the face, yes.

14 Q. Certainly wasn't lower?

15 A. I'm sorry?

16 Q. Certainly wasn't lower towards the abdomen or anything
17 like that?

18 A. That's correct.

19 Q. All right. Did you, in looking at the medical records
20 of Mr. Roberts, did you happen to research anything about
21 his pain medication, his dosage or anything like that?

22 A. No, ma'am, I did not.

23 Q. And did you research his height? I know you said you
24 couldn't determine that because of his remains. Did you
25 research his height?

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1 A. I didn't research it. My understanding is that we
2 probably have that somewhere in the file, but I do not
3 recall what it is.

4 Q. Okay. And can you tell me, my last question, with a
5 reasonable degree of medical certainty that Mr. Roberts was
6 not shot in the back of the head?

7 A. Mr. Roberts was not shot in the back of the head. That
8 is inconsistent with the findings at autopsy.

9 Q. Thank you.

10 THE COURT: Thank you, doctor.

11 MR. STEINBERG: No further questions.

12 THE COURT: Can we excuse Dr. Ward?

13 MR. STEINBERG: Yes, Your Honor.

14 THE COURT: Thank you, sir.

15 A. Thank you.

16 MR. STEINBERG: The State calls Ms. Emily Gentry.

17 MADAME CLERK: Ms. Gentry, come forward to be sworn in.

18 Please place your left hand on the Bible and raise your
19 right.

20 Emily Gentry, being duly
21 sworn testified as follows:

22 MADAME CLERK: Thank you. You may be seated. Would
23 you, please, state your name for the record.

24 MS. GENTRY: Emily Gentry.

25 MADAME CLERK: Thank you.

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1 Direct Examination by Mr. Steinberg:

2 Q. Ms. Gentry, approximately how old -- how old are you?

3 A. I'm twenty-three.

4 Q. Are you married? Do you have any children?

5 A. Yes, I am married. And I have four children.

6 Q. How many children? Four?

7 A. Um-hum (affirmative).

8 Q. Do you know Jobo Phillips, the Defendant in this case?

9 A. Yes, I do.

10 Q. Approximately how long have you known him?

11 A. About seven years.

12 Q. And have you ever been in a relationship with Mr. "

13 Phillips?

14 A. Yes, I have.

15 Q. And when did that start and when did it stop?

16 A. It started around August of 2012. And it ended in --
17 or in May.

18 Q. Okay.

19 A. Whenever he was arrested.

20 Q. All right. In May of 2013?

21 A. Um-hum (affirmative).

22 Q. Did you live with him?

23 A. Yes, I did.

24 Q. What road does he live on?

25 A. Long Shoals Road.

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1 Q. And how close are his relatives and his other family
2 members to him?

3 A. Very close.

4 Q. Were you ever engaged to Mr. ---

5 A. We had discussed it and he had bought a ring, but I was
6 never really proposed to. There were no dates or anything
7 like that set.

8 Q. Were you married at that time?

9 A. Yes.

10 Q. Your last name is Gentry. What relationship are you to
11 Christina Gentry?

12 A. She's my sister-in-law.

13 Q. And how are you her sister-in-law? How is the
14 connection?

15 A. Through my husband. It's her brother.

16 Q. Your husband?

17 A. My husband is her brother.

18 Q. Okay.

19 **MADAME COURT REPORTER:** Let me get you to pull up to
20 the microphone, please.

21 Q. Did you know Charlie Roberts?

22 A. I did. Not that well, but I knew him.

23 Q. Did you ever hear Jobo Phillips ever make any
24 statements concerning Charlie Roberts or Charlie and
25 Christina's relationship?

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- 1 A. Like before?
- 2 Q. Yes, before Charlie died did you ever hear ---
- 3 A. Before Charlie died I just knew that he was upset
- 4 because Christina was seeing someone. And he -- he asked me
- 5 several times if I knew and that he had -- I'd met him on
- 6 White Horse Road at the Spinx.
- 7 Q. Right.
- 8 A. And he was with Gerald Childs. And he asked me if I
- 9 knew who she was seeing because he was really upset about
- 10 it. And after about ten, fifteen minutes going back and
- 11 forth, I finally told him that, you know, everyone knew who
- 12 Christina was seeing, that he just needed to leave her
- 13 alone. And he just wanted to know who it was. And I told
- 14 him it was Charlie. And he knew that. And then ---
- 15 Q. You said he seemed upset. Give us an example. What
- 16 was he doing?
- 17 A. He was sitting in the car. He wouldn't really -- he
- 18 didn't get out. He just -- he was really upset. You could
- 19 tell that it was really bothering him.
- 20 Q. Did you see his eyes?
- 21 A. Um-hum (affirmative).
- 22 Q. Was there anything unusual about his eyes?
- 23 A. You could see how mad he was.
- 24 Q. Okay.
- 25 A. That's about it. He just -- other than that he was

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1 just kind of blank.

2 Q. After you -- after you told him that it was Charlie,
3 how did he react?

4 A. He just balled his fist up and put it on his -- like
5 rested his chin on it. He just sat there. He didn't really
6 say anything else.

7 Q. Do you remember approximately when this date was, this
8 time period?

9 A. It was around early -- early June.

10 Q. Of 2011?

11 A. Of 2011.

12 Q. Did Jobo ever make any specific comments about an
13 incident that occurred at Charlie's own house?

14 A. Yes.

15 Q. Please tell us about that.

16 A. When I went with Joe to his lawyer's office we ---

17 **MS. GORTON:** Objection.

18 **THE COURT:** Hold on.

19 Q. Yes. I'm going to ask you about what you were told by
20 Jobo, not about any ---

21 A. Okay. Just that when they had gotten into a fuss at
22 his house he had just said that the pussy faggot wouldn't
23 come outside. That was about it about that part.

24 Q. Did he tell you why he went to Charlie's house that
25 night?

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1 A. Well, I knew that Christina was there. And I believe
2 that -- he had told me that Carolyn Long had told him that
3 Christina was there, and he showed up over there.

4 Q. You said he shot up over there?

5 A. Showed up.

6 Q. Showed up over there?

7 A. Um-hum (affirmative).

8 Q. Who was Carolyn Lollis and is she still alive?

9 A. No, Carolyn's passed away. It's Christina's mother.

10 Q. After Charlie Roberts' body was found did Jobo make any
11 statements about Charlie and Charlie's [sic] relationship
12 with Christina?

13 A. Yes.

14 Q. Please tell the jury about those statements.

15 A. Statements were made when they would fuss and fight and
16 they would scream and argue over the phone. And Joe would
17 say all the time that he would call Charlie pussies and
18 faggots. And he would say that Charlie got what he deserved
19 and stuff like that.

20 Q. Did he make any specific statements about the
21 relationship with Christina and whatever terminology he used
22 for Christina?

23 A. He would call Christina a bitch all the time. I mean,
24 then he would say that the pussy shouldn't have been fucking
25 his old lady.

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1 Q. Was that your -- was that your word or his word, old
2 lady?

3 A. His.

4 Q. Until May of this year were you willing to speak with
5 law enforcement?

6 A. Yes.

7 Q. What condition did you want? Did you want Jobo to know
8 about it?

9 A. No.

10 Q. Did you, in fact, speak to Investigator Hammett with
11 myself present at your house?

12 A. Yes.

13 Q. Had you spoken to law enforcement about this case at
14 all until May of 2013?

15 A. No.

16 Q. Did you call us up or did we call you up?

17 A. You called me.

18 Q. In fact, weren't you served with a subpoena to testify
19 for the defense?

20 A. Yes.

21 Q. How long ago?

22 A. April, I believe. May. I think it was in April.
23 April 8th, I think.

24 Q. Do not repeat what was said, but did you meet with the
25 defense attorney in preparation for this trial?

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1 A. Yes.

2 Q. Thank you, Ms. Gentry. Please answer any of Ms.
3 Gorton's questions.

4 **Cross Examination by Ms. Gorton:**

5 Q. When I asked you if you were aware of anything that Joe
6 had said or knew about Charlie, did you tell me that you
7 were not aware of anything?

8 A. Yes.

9 Q. And it's only been since you and Joe broke up that
10 you've decided that you are now saying that you did know of
11 something?

12 A. Um-hum (affirmative). Yes, ma'am.

13 Q. Now, you're related to Jerry Allen by marriage as well,
14 correct?

15 A. Yes, ma'am.

16 Q. Chris Gentry is who to JJ?

17 A. His brother.

18 Q. And how long have you been married and in the family?

19 A. Me and Chris got married in 2006. And we've been
20 together since 2004.

21 Q. At the time Charlie disappeared was Joe around
22 Carolyn's house a lot?

23 A. Yes.

24 Q. You had previously told me about it -- what happened
25 the morning Charlie was found. Is that -- are you still

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1 going to testify ---

2 A. The morning he was found or the morning that he went
3 missing?

4 Q. The morning he went missing, I'm sorry.

5 A. Yes.

6 Q. And he was killed.

7 A. Um-hum (affirmative).

8 Q. Okay. Now, first of all, where did Carolyn Lollis live
9 at that time?

10 A. She lived off of Geer Highway in a trailer park called
11 Castle Gate.

12 Q. Where was that in relation to Long Shoals Road where
13 Joe lived?

14 A. Long Shoals Road is the next street up.

15 Q. Okay. Is it fair to say that when you get to Joe's
16 house, after you turn off Geer Highway and you go down Long
17 Shoals Road, how far would you say that is?

18 A. Maybe a mile, mile and a half.

19 Q. All right. And so Carolyn's house, when you come out
20 of Long Shoals Road you're going to turn just slightly to
21 the South, is that right?

22 A. Whenever you pull off of Long Shoals Road you'll take a
23 left and it's more North.

24 Q. Okay. Slightly to the North?

25 A. Yes.

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- 1 Q. So when we look at Geer Highway we see Long Shoals Road
2 ---
- 3 A. If you pull out of Long Shoals and take a left,
4 Carolyn's house, you could pretty much see from the end of
5 Long Shoals Road.
- 6 Q. Okay. Great. Later on we'll be looking at maps and we
7 need to know where that is. I want to talk about that time-
8 frame of the morning Charlie was discovered to be missing.
- 9 A. Yes, ma'am.
- 10 Q. Okay. Are you talking Friday morning?
- 11 A. I believe so.
- 12 Q. They found his truck later that night?
- 13 A. Yes.
- 14 Q. Where were you that day?
- 15 A. I was in Berea.
- 16 Q. What were you doing there?
- 17 A. Me and my husband had split up. And I was living in
18 Berea.
- 19 Q. Where were your children?
- 20 A. At Carolyn's house.
- 21 Q. All right. And what, if anything, did you do when you
22 woke up?
- 23 A. I got up. I overslept. I was supposed to pick the
24 kids up around 8:00 that morning because my husband was
25 working. Carolyn was watching them. She had something to

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1 do. So I called and couldn't get anyone else to answer the
2 phone. And I figured Joe would be around. So I called his
3 phone.

4 Q. Who did you call before you called Joe?

5 A. I called Carolyn.

6 Q. And who else?

7 A. And I called Lita, which is Christina's sister.

8 Q. And did ---

9 A. I called her.

10 Q. --- any of them answer?

11 A. No, ma'am.

12 Q. When you called Joe why did you think he was going to
13 be at the house?

14 A. Because Christina was there. He was ---

15 Q. Was he often ---

16 A. --- always there.

17 Q. --- at the house?

18 A. Yes, ma'am.

19 Q. When you say always at the house, what do you mean by
20 that?

21 A. Every day.

22 Q. Every day, all day?

23 A. All day, every day. If Christina was there, he was
24 there until she was going to bed.

25 Q. All right. And so when did she have a chance to see

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1 Charlie?

2 A. I'm sorry?. What?

3 Q. When did she have a chance to see Charlie?

4 A. She seen him when she would go to school. When she
5 would get out early she would go see him and stuff like
6 that. He would pick her up.

7 Q. What time was it that you called Joe that morning?

8 A. About 9:38.

9 Q. All right. And that's reflected in the cell phone
10 records?

11 A. Yes, ma'am.

12 Q. And so you're certain ---

13 **MR. STEINBERG:** Objection. Counsel doesn't know if
14 it's reflected in cell phone records.

15 Q. Would that be reflected in the cell phone records?

16 A. Yes, ma'am.

17 Q. You used your cell phone?

18 A. Yes, ma'am.

19 Q. You called his cell phone?

20 A. Yes, ma'am.

21 Q. And is that why you're so certain of the time?

22 A. Yes, ma'am. I knew it was around 9:30-ish, 9:45.

23 Q. And when you called him was he at Carolyn's?

24 A. Yes, ma'am.

25 Q. And ---

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1 **MR. STEINBERG:** Objection. How does he -- how is she.
2 going to know where the person was located at that time?

3 A. He told me that's where he was.

4 **THE COURT:** Go on.

5 **MR. STEINBERG:** So he told you this?

6 A. Um-hum (affirmative).

7 **THE COURT:** Go ahead.

8 Q. So then what conversation did you have with him?

9 A. I asked him if he was around my kids, if he was around
10 Carolyn's house and if my kids were okay and to tell Carolyn
11 that I was on my way to pick them up.

12 Q. All right. And did you go there?

13 A. Yes, ma'am.

14 Q. And was he there when you arrived?

15 A. Yes, ma'am.

16 Q. Approximately what time would that have been?

17 A. I was in Berea. I left maybe fifteen minutes later, if
18 that. And it doesn't take but about twenty minutes to get
19 there.

20 Q. Okay. So you would have got there around ten or 10:15?

21 A. I got there about 10:15, 10:20.

22 Q. All right. Did you stay?

23 A. Yes, ma'am.

24 Q. And did Joe stay?

25 A. Yes, ma'am.

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1 Q. Do you know where he was from then until noon?

2 A. Yes, ma'am.

3 Q. Where?

4 A. He was at Carolyn's. We had -- my kids were there and
5 his were there. Christina was asleep. And the only time me
6 and him left were -- we went to the Mountain Gift Shop. I
7 drove him down there. And we got the kids some drinks and
8 stuff like that and we come back.

9 Q. All right. At any point did Joe go off by himself?

10 A. No, ma'am.

11 Q. And then Christina woke up?

12 A. Yes, ma'am.

13 Q. And then did they go anywhere?

14 A. Yes, ma'am. I knew they were leaving together.

15 Q. And do you know about what time Joe left that night or
16 that day?

17 A. I left when they left. They left around twelve, I'm
18 going to say between 11:30, 12:00, they left.

19 Q. To go on their errands?

20 A. Yes. And I left.

21 Q. Do you know where they went after that? If you ---

22 A. They ---

23 Q. --- don't, that's ---

24 A. No, she said something about they had to run to
25 Travelers Rest. That's all I knew, ---

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- 1 Q. Okay.
- 2 A. --- then.
- 3 Q. Do you know what time they got back from that?
- 4 A. No, ma'am.
- 5 Q. Okay. If you don't know the answer, please don't try
- 6 to guess. Now, was Tina and Joe ever back together after
- 7 Charlie disappeared that you are aware of? If you don't
- 8 have knowledge, then don't guess.
- 9 A. What do you mean back together? They didn't live
- 10 together.
- 11 Q. Did they ever get back romantically?
- 12 A. Yes, ma'am.
- 13 Q. And how were you aware of that?
- 14 A. Because I would go to his house where she would be
- 15 before because she would go to school in the mornings and
- 16 then in the evening she would go back to her school to work
- 17 at the library.
- 18 Q. And just so I'm clear and so that you're clear, this is
- 19 after Charlie disappeared?
- 20 A. Um-hum (affirmative).
- 21 Q. And what made you think that they were together? You
- 22 saw them together or maybe he was just there for the kids.
- 23 A. No, I seen ---
- 24 Q. What did you observe?
- 25 A. --- them together. She told me that they were still

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1 sleeping together and stuff like that, but they just
2 couldn't live together.

3 Q. All right. Did that cause a problem for you and Joe
4 once you guys got together?

5 A. Yes, ma'am.

6 Q. Did it continue to cause a problem?

7 A. Yes, ma'am.

8 Q. Why?

9 A. Because we were together and they were still talking to
10 each other.

11 Q. I'm going to talk a little bit about JJ. How well do
12 you know JJ?

13 A. Very well.

14 Q. How do you know him so well?

15 A. Because I married into the family. And I met JJ in
16 November of 2004. And I'm not sure exactly how long after
17 that. I know it was after me and my husband got married.
18 It was in 2007 JJ moved up here, I believe. And -- 'cause I
19 had my daughter. And he lived with me and Chris a few
20 times.

21 Q. He lived with you and Chris a few times?

22 A. Yeah, for months at a time.

23 Q. Okay. And did he pay any rent while he lived with you?

24 A. No, ma'am. No. He watched my daughter while I worked
25 and while Chris worked. Chris' aunt also stayed there. So

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1 she helped.

2 Q. Are you aware of the time-frame where JJ lived with
3 Joe?

4 A. Yes, ma'am.

5 Q. What time-frame was that?

6 A. It was after -- I know it was after we kicked him out,
7 which was around -- the last time he lived with us, I know
8 for sure, was -- I'm going to say June-ish, maybe, of 2009,
9 a little after.

10 Q. Why did you kick him out?

11 A. Because I went to work and when I come in ---

12 **MR. STEINBERG:** Your Honor, I have to object to ---

13 **THE COURT:** I sustain the objection.

14 **MS. GORTON:** Okay.

15 Q. June 2009 and then he went to go live with Joe?

16 A. Um-hum (affirmative).

17 Q. Was Christine and Joe together then?

18 A. Yes, ma'am.

19 Q. And he lived there from June 2009 onward?

20 A. As far as I know, yes, ma'am. I didn't really see him
21 or talk to him that much then.

22 Q. Were there any episodes where he disappeared and y'all
23 were looking for him?

24 A. Yes, ma'am.

25 Q. How often did that happen?

EMILY GENTRY - REDIRECT EXAMINATION BY MR. STEINBERG

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1 A. Quite a few times. He would just leave and go on about
2 his business and doing whatever it is that he did for a
3 couple of days at a time.

4 Q. When was the last time that occurred in relation to
5 when Charlie disappeared?

6 A. Right before. Yeah, I'm going to say a week or two
7 before he had left.

8 Q. Okay. Now, I'm going to also ask you, and we haven't
9 discussed this, but the time between Charlie disappearing
10 and Charlie's body being found did -- do you recall if JJ
11 disappeared at any time during that time?

12 A. Not that I'm aware of, no.

13 Q. The time that -- from the time period between when
14 Charlie's body was found and the next day when he turned
15 himself in do you know where JJ was that night?

16 A. No, I don't.

17 MS. GORTON: Just a moment.

18 (Pause)

19 MS. GORTON: Nothing further.

20 MR. STEINBERG: Very briefly.

21 THE COURT: All right.

22 **Redirect Examination by Mr. Steinberg:**

23 Q. You answered a couple of questions. I want to make
24 sure we can determine your knowledge of these. When you
25 said where Jobo was at certain times, when Joe was not in

EMILY GENTRY - RECROSS EXAMINATION BY MS. GORTON

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1 your sight do you know where he was?

2 A. No.

3 Q. Okay. Thank you, ma'am.

4 **THE COURT:** Thank you. Step down.

5 **MS. GORTON:** Redirect [sic].

6 **THE COURT:** Hold on.

7 Recross Examination by Ms. Gorton:

8 Q. Was he in your sight from the time you arrived at 10:20
9 until around noon-time?

10 A. Yes, ma'am, except for, you know, he might -- he might
11 have went out to his van a couple of times, to his car, but
12 other than that he was there with me.

13 Q. Okay. And I don't believe I did ask you this, but what
14 is your cell phone number?

15 A. Mine?

16 Q. At that time what was your cell phone number, if you
17 recall?

18 A. 43 -- it's on the records. I'm not exactly sure what
19 ---

20 Q. If I ---

21 A. --- it was.

22 Q. --- showed you the record, would it ---

23 A. Um-hum (affirmative).

24 Q. --- refresh your recollection?

25 A. It is -- I know what time it was.

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Here you go. There's the highlight going across. And
2 then it goes to ---

3 MADAME COURT REPORTER: You've got to keep your voices
4 up.

5 MS. GORTON: Sorry.

6 A. Yeah, that one's it.

7 Q. What ---

8 A. [REDACTED].

9 MS. GORTON: Nothing further.

10 THE COURT: Thank you. You can step down.

11 MR. STEINBERG: Your Honor, the State's next witness
12 will be Investigator Joe Whitmire.

13 MADAME CLERK: Sir, would you, please, come forward to
14 be sworn in. Please place your left hand on the Bible and
15 raise your right.

16 Joseph Whitmire, being
17 duly sworn testified as follows:

18 MADAME CLERK: Thank you. You may be seated.

19 (Whereupon State's exhibit 43 was marked for
20 identification)

21 **Direct Examination by Mr. Steinberg:**

22 Q. Investigator Whitmire, would you tell us about your
23 educational background and highest level of education.

24 A. I have a bachelor's degree from Clemson University.

25 Q. Do you have any military experience?

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. Yes, sir, eight years in the Marine Corp.
- 2 Q. And how many years in law enforcement do you have?
- 3 A. Ten years, about ten years.
- 4 Q. What's your primary investigative area, geographically?
- 5 A. Well, I'm a property crimes investigator. At this
- 6 current point in time I'm assigned to trailer thefts
- 7 throughout the County.
- 8 Q. Okay. Let's start with what's your primary
- 9 investigative area?
- 10 A. It was what we call area 10, which goes from Highway 25
- 11 By-pass north to the State line and from Highway 25 west to
- 12 the Pickens County line.
- 13 Q. Are you familiar with the Long Shoals Road, Lions Park
- 14 Road area?
- 15 A. Yes, sir.
- 16 Q. During the missing persons portion of this case, before
- 17 Charlie was found, what was your role?
- 18 A. I assisted the investigators from CID in locating,
- 19 identifying people that they wanted to talk to.
- 20 Q. Did you have an opportunity to interview Roy White?
- 21 A. Yes, sir.
- 22 Q. Where's Roy currently a resident?
- 23 A. I believe he's in federal prison.
- 24 Q. Okay. And where did you interview Mr. White? What are
- 25 the circumstances about that conversation?

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. I was assisting the Pickens County Sheriff's Office in
2 trying to locate a vehicle. And the subject said it
3 possibly stolen some items out of Pickens County. I'd gone
4 to Army Source Scrap Yard over on Sulphur Springs Road
5 earlier in the day. And then I got a call from the manager
6 that the truck that fit that description was currently
7 there. I responded over to the scrap yard and met Mr. White
8 there.

9 Q. Was Mr. White driving this stolen vehicle?

10 A. It was not a stolen vehicle. It was some kind of a
11 stolen farm implement that had been -- he had allegedly
12 taken over there.

13 Q. Was he charged, Mr. White ---

14 MS. GORTON: Objection. I'm having a hard time
15 understanding where ---

16 THE COURT: I sustain. Move on, please, sir.

17 Q. Did you speak with Mr. White?

18 A. Yes, sir.

19 Q. Did he give you any -- do not repeat what he said. Did
20 he give you any statements in this case?

21 MS. GORTON: Objection, cumulative. We've heard from
22 Mr. White.

23 THE COURT: He can answer that question. Did he give
24 you a statement?

25 A. He spoke to me, yes, sir.

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. Okay. Did you later speak with Tammie Timmons?
- 2 A. Yes, sir.
- 3 Q. Where did you interview her and was she cooperative at
- 4 that time?
- 5 A. Yes, sir. I interviewed her about three months ago in
- 6 my office.
- 7 Q. Did you have to give her any benefit or any reward to
- 8 get her to speak with you?
- 9 A. No, sir.
- 10 Q. Have you listened to some cell phone conversations?
- 11 I'm showing you State's exhibits 40 and 41. Did you hear
- 12 the voice of JoAnn Phillips Johnson on that?
- 13 A. I've listened to some phone calls, yes, sir.
- 14 Q. And are you familiar with JoAnn Johnson's voice?
- 15 A. Yes, sir.
- 16 Q. Was her voice on there?
- 17 A. Yes, sir.
- 18 Q. Okay. Did you review any cell phones in this case, ---
- 19 A. I ---
- 20 Q. --- cell phone records?
- 21 A. Yes, sir, I did.
- 22 Q. Have you reviewed cell phones in prior cases?
- 23 A. Yes, sir, I have.
- 24 Q. Were you able to determine who the phone numbers
- 25 belonged to?

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. That information was provided to me. Yes, sir, I had
2 that information.

3 Q. I'm going to show you these records that have been
4 marked from Verizon. That's State's exhibit number 42.
5 Have you had the opportunity to review records in this case?

6 A. Yes, sir, I have.

7 Q. Did you review records back in the, I guess, the Summer
8 of 2011?

9 A. It was in October of 2011.

10 Q. Okay. And did you review those records that were
11 provided through digital means last week?

12 A. Yes, sir.

13 Q. Did you look at any particular dates and times when you
14 were doing your analysis of this?

15 A. I looked at the phone records from two different
16 numbers, primarily for July 8th of 2011.

17 Q. What was your reason for looking at July 8th, 2011?

18 A. That was the day that Mr. Roberts was reported missing
19 and his truck found.

20 Q. Did you prepare or have other officers help you prepare
21 a map in this case?

22 A. I prepared the data and turned it over to our Technical
23 Services Unit that plotted the data on the map.

24 Q. Were you able to determine tower location?

25 A. Yes, sir.

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Were you able to determine location of other items such
2 as the victim's truck and the victim's residence?

3 A. Yes, sir. We visited each one of those locations.

4 Q. How about where the body was found?

5 A. Yes, sir.

6 Q. How about where Jobo Phillips lives?

7 A. Yes, sir.

8 Q. Would it assist you in explaining this to the jury if
9 you use that aerial photograph?

10 A. I think it'd be easy -- easier.

11 **MR. STEINBERG:** Thank you, Your Honor. The State's
12 going to show opposing counsel, then move to introduce
13 State's exhibit number 43.

14 **THE COURT:** Any objection?

15 **MS. GORTON:** No objection, Your Honor.

16 (Whereupon State's exhibit 43 was admitted into
17 evidence)

18 Q. If you could, step around, please.

19 (Whereupon the witness left the witness stand)

20 Q. Investigator Whitmire, if you'd orient the jury to
21 this. Where is North Carolina on this map?

22 A. North Carolina is in the area above this green line up
23 here.

24 Q. And could you, please, tell us basically where Marietta
25 or the center of what you knew Marietta to be?

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Marietta is basically down here near the intersection
2 of 288 and 276.

3 Q. Where is the Defendant's residence?

4 A. On Long Shoals Road, which is off of 276, right here.

5 Q. You have something else next to that. It says trail
6 and to gun recovery. How close is that? Does it seem to be
7 overlapping?

8 A. To -- how close is it to Phillips' residence?

9 Q. Yes, sir.

10 A. Within a hundred and fifty yards.

11 Q. And where is the victim's residence?

12 A. Right here on Lions Park Road.

13 Q. And it says incident location, [REDACTED] Geer Highway.

14 When you say incident location, what do you mean?

15 A. Well, that's the location where Mr. Roberts' remains
16 were located.

17 Q. Okay. What's another name for Geer Highway for people
18 that aren't familiar with northern Greenville?

19 A. It's U.S. Highway 276. It's the one that runs above --
20 runs over Caesar's Head into North Carolina.

21 Q. By reviewing cell phone records are you able to
22 determine how many times and at what time Jobo Phillips'
23 telephone call -- telephone called Charlie Roberts' cell
24 phone?

25 A. Yes, sir.

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 Q. When was that and how many times?
- 2 A. It started at 9:22 on the 8th of July. And the last
- 3 phone call ---
- 4 Q. Let me stop you right there. What was -- was that
- 5 phone call from Jobo Phillips' phone number to Charlie
- 6 Roberts' phone number?
- 7 A. Yes, sir, from Phillips' phone to Roberts' phone.
- 8 Q. Do we have any other phone calls form Jobo Phillips'
- 9 phone to Charlie Roberts' phone?
- 10 A. No, sir.
- 11 Q. So that's the first and last phone call?
- 12 A. The only phone -- phone call between 9:22 and
- 13 approximately 11:15.
- 14 Q. And where was that phone call made and how were you
- 15 able to determine that?
- 16 A. Based on the Verizon records that identified the target
- 17 or the tower which handled that cell phone call, which was
- 18 identified as cell tower number 132 at this location here.
- 19 Q. To be accurate -- to explain this to the jury, this is
- 20 a cell phone tower location, correct?
- 21 A. Yes, sir.
- 22 Q. You were not able to determine from Verizon's records
- 23 where the actual phone was located?
- 24 A. No, sir.
- 25 Q. And that was at 9:22. What other phone numbers were

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 called from Charlie Roberts' phone number at that point?

2 A. After 9:22?

3 Q. Yes, sir.

4 A. I believe the only phone number -- the only phone
5 numbers that were called that actually connected were to the
6 -- Mr. Phillips' phone.

7 Q. Well, what times were those?

8 A. Starting at 10:05, 10:14, 10:17 and 10:49.

9 Q. Okay. Let's look at this. This cell phone tower
10 carried the 9:22. Which cell phone tower carried the 10:05
11 and 10:06 phone calls?

12 A. From which phone?

13 Q. For Charlie's phone calling Jobo's phone.

14 A. For Charlie's phone, tower number 45 down here. At
15 10:05 Roberts' phone called Phillips' phone.

16 Q. How close is that to the incident location where the
17 body was found?

18 A. I really haven't measured it, but this is where the
19 body was found. And this is the cell -- cell tower
20 location.

21 Q. Is that the closest cell phone tower?

22 A. Yes, sir.

23 Q. And when was the next time Charlie Roberts' cell phone
24 was used to call Jobo Phillips?

25 A. The next time was at 10:06 also from this same tower

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 location. Although, I don't think the phone call connected
2 because I have no reciprocal phone here.

3 Q. Okay.

4 A. There was no received phone at 10:06. And then there
5 was another phone call at 10:14 to Phillips' phone. And
6 that still came from tower 45.

7 Q. What was the next cell phone call from Charlie's phone
8 to Jobo's phone?

9 A. I believe it was 10:17 off of Phillips' phone. It was
10 working off of tower 518.

11 Q. And where was Charlie Roberts' phone operating off of
12 at 10:17? I'd ask you to look under -- on the aerial
13 photograph.

14 A. It was tower 132.

15 Q. What was the next telephone call from Charlie Roberts'
16 cell phone to Jobo Phillips' cell phone?

17 A. 10:49, I believe, if I've got that in sequence.

18 Q. Where is this 10:49? Where is this located?

19 A. This is tower 644. It's located just across the North
20 Carolina State line or South Carolina State line. The City
21 name is Zirconia, North Carolina.

22 Q. Is that the closest tower to where the victim's truck
23 was located?

24 A. Yes, sir, it is.

25 Q. After 9:22 -- I've already asked you that. After

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 eleven pm or thereabouts did Jobo Phillips ever call Charlie
2 Roberts' phone number again?

3 MS. GORTON: Objection as to the form of the question.

4 Q. Did Jobo Phillips' phone ever dial Charlie Roberts'
5 phone again?

6 A. Not after 9:22.

7 Q. Did other people -- other numbers dial Charlie Roberts'
8 phone?

9 A. Between ---

10 Q. After 9:22 or that ---

11 A. 9:22 -- not that I'm aware of.

12 Q. How about after -- in the afternoon on that day?

13 A. Yes, sir. After -- the afternoon, there were a number
14 of phone calls to Mr. Roberts' phone.

15 Q. How many phone calls total did Jobo Phillips' phone
16 receive from Charlie Roberts' phone?

17 A. One, two, three, four -- I'm showing four.

18 Q. Okay. And looking at your map at least two of these
19 phone calls were 10:17 and the 10:49 were made north of the
20 Defendant's and victim's respective residences, is that
21 correct?

22 A. Yes, sir.

23 Q. Did Jobo Phillips receive any telephone calls utilizing
24 this 644 number?

25 A. I'm not aware of any phone calls he received. He did

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 call his voicemail ---

2 Q. Okay.

3 A. --- four times. And it came off of this tower, 644.

4 Q. Tell us about the terrain in that area.

5 A. It's mountainous and hilly. If you're familiar with
6 the area, Jones Gap State Park is back here. This area is
7 called Gap Creek Road. This area is called River Falls.
8 Caesar's Head is basically up here. So it's hilly and ...

9 Q. Could you check to see if whether Mr. Phillips' phone
10 had been either called or received any phone calls in this
11 area or utilizing this cell phone tower after that?

12 A. After -- after the phone calls up here?

13 Q. No, before. Between these times of 10:00 ---

14 A. 9:22 and ---

15 Q. --- and 10:49.

16 A. Yes, he did receive other phone calls.

17 Q. And where was that -- those phone calls being made?

18 A. These phone calls came through -- they're not displayed
19 on the map. Tower -- one of them came from tower 518. The
20 number that called Phillips' phone was 254-8064.

21 Q. Do you know whose number that is?

22 A. I believe it's JoAnn Johnson.

23 Q. Okay. And could you tell where Jobo received that
24 phone call? Which tower he received that phone call?

25 A. I believe it was at 518. I don't have the records for

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Ms. Johnson.

2 Q. Let's move on to -- from this information what could
3 you tell about Charlie's phone -- not Charlie necessarily,
4 but Charlie's phone's movement?

5 A. Charlie's phone movement came from, I believe, the
6 first phone call was here at tower 518. The next phone call
7 was down here from tower 45. And then the phone traveled
8 north up to this location here at approximately 10:49 to
9 10:51.

10 Q. Any phone calls made at all from Charlie's phone after
11 10:49?

12 A. No, sir.

13 Q. What is this number right here, 10:51? What is this?

14 A. I understand that to be a router number that Verizon
15 uses, that if you make a phone call it goes to a router
16 number. I'm not an expert on the cell system, but it's an
17 internal cell phone number or a cell system number.

18 Q. What could you determine from looking at this cell
19 phone and the map about Jobo Phillips' movements, Joe
20 Phillips' phone movements?

21 A. His phone?

22 Q. Yes, sir.

23 A. From 9:22 it moved south from Marietta down to about
24 the area of tower 45. He made one phone call. It came off
25 of that tower there. And then his phone moved back up north

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 up to using this tower located in Zirconia.

2 Q. Did you examine any text messages in this case?

3 A. Yes, sir, I did.

4 Q. And did Jobo Phillips send any text messages to
5 Christina Gentry on the date in question? And at what time
6 was that phone call made?

7 A. I'd have to -- it's going to take me a minute to go
8 through these.

9 Q. I'm going to direct you to the 23:05 phone call.

10 A. 23:05?

11 Q. Yes, on July 8th.

12 MS. GORTON: Objection as to relevance of this 23:05 on
13 the 8th.

14 MR. STEINBERG: Yes. Its relevance will become
15 apparent ---

16 THE COURT: Go ahead.

17 (Pause)

18 THE COURT: I understand lunch for the jury is here.
19 So I'm going to go ahead and recess. That'll give him time
20 to ---

21 MR. STEINBERG: Yes, sir, Your Honor.

22 THE COURT: --- find what he's looking for.

23 MR. STEINBERG: Thank you, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, we're
25 going to take a recess at this time. Please, during this

315

1 recess don't talk about this case. Thank you. You can step
2 down now.

3 A. Thank you, sir.

4 (Whereupon the jury exited the courtroom at 12:22 pm)

5 **THE COURT:** All right. Let's try to start back at 1:00
6 or shortly after that. 1:00.

7 (Whereupon court was in recess at 12:23 pm)

8 (Whereupon State's exhibits 44 and 45 were marked for
9 identification)

10 (Whereupon court resumed at 1:09 pm)

11 **MS. GORTON:** Judge?

12 **THE COURT:** Yes.

13 **MS. GORTON:** Could we address an issue before the jury

14 ---

15 **THE COURT:** Sure.

16 **MS. GORTON:** --- comes in? Trying to minimize the
17 interruptions, Your Honor.

18 (Whereupon a bench conference was held off the record)

19 (Whereupon the bench conference was ended)

20 **THE COURT:** All right. Mr. Whitmire, come back around.
21 You're still under oath. And bring our jury.

22 (Whereupon a bench conference was held off the record)

23 (Whereupon the bench conference was ended)

24 (Whereupon the jury entered the courtroom at 1:13 pm)

25 **THE COURT:** Okay, solicitor.

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 MR. STEINBERG: Thank you, Your Honor.

2 Direct Examination by Mr. Steinberg Continued:

3 Q. Mr. Whitmire -- Investigator Whitmire, you were
4 looking, when we broke, for a message at the 23:05 mark on
5 July 8th. Did you find that?

6 A. Yes, sir.

7 Q. And what was that message, and who was it from and who
8 was it to?

9 A. The originating dial number was Mr. Phillips' phone.
10 The terminating dial number was [REDACTED]-0045. The text
11 message read, I love you very, very much, Joe.

12 Q. Okay. I'm going to ask you to walk back over here very
13 briefly.

14 (Whereupon the witness left the witness stand)

15 Q. Stand over here so the court reporter can hear you.
16 I'll try not to block the view. Have you looked at
17 telephone call seizure times or call -- how long the calls
18 were?

19 A. Yes, sir.

20 Q. How long was the 9:22 phone call from Jobo Phillips'
21 phone to Charlie Roberts' phone?

22 A. Six hundred and ninety-seven seconds.

23 Q. And how long was the phone call at the 10:49 mark from
24 Charlie Roberts' phone to Jobo Phillips' phone?

25 A. Two hundred and forty-eight seconds.

JOSEPH WHITMIRE - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Thank you. Please have a seat over here.

2 (Whereupon the witness returned to the witness stand)

3 Q. Investigator Whitmire, did you go out to the location
4 of the -- a body on August 15th?

5 A. Yes, sir.

6 Q. Did you speak with Carl Rider out there?

7 A. Yes, sir.

8 Q. Did you know Carl Rider?

9 A. Yes, sir.

10 Q. And can you confirm that Carl Rider, in fact, once
11 lived out there before it burned down?

12 A. Yes, sir, I can.

13 Q. Are you familiar with the -- the actual property that's
14 out there?

15 A. Yes, sir.

16 Q. I'm going to show you what's been marked as State's
17 exhibit number 9 that's already been introduced.

18 MS. GORTON: Yes.

19 Q. Have you seen this before?

20 A. Yes, sir. That's the remains of Mr. Rider's residence.

21 Q. This might not appear relevant at first, but I'd ask
22 you to take a look at an item on this map. Did you go out
23 to this location with myself last year?

24 A. Either last year or earlier this year, yes, sir.

25 Q. What is this tall item right here?

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 A. That's the chimney to the house.

2 Q. Do you remember seeing any other item right over here?

3 A. Yes, sir.

4 Q. What is that item?

5 A. That's the well head.

6 Q. And ---

7 **THE COURT:** Wait just a ---

8 **MR. STEINBERG:** I'm good. Just turn the lights back
9 on.

10 **THE COURT:** All right.

11 Q. You said that's a well?

12 A. Yes, sir.

13 Q. And at that time did you know any relevance of that at
14 that particular time?

15 A. No, sir, I did not.

16 Q. Okay. That's all the questions I have. Please answer
17 any questions that opposing counsel might have.

18 **Cross Examination by Ms. Gorton:**

19 Q. First of all, ---

20 **MS. GORTON:** The map, where'd it go?

21 **THE COURT:** You need to put it back up?

22 **MS. GORTON:** Yes.

23 Q. Would you come on down here?

24 A. Yes, ma'am.

25 (Whereupon the witness left the witness stand)

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 Q. And I know that you said you're familiar with this
2 area. Could you show us on this map -- are you familiar
3 with Castle Gate Trailer Park?

4 A. Yes, ma'am.

5 Q. And it's no longer there, correct?

6 A. Well, they are rebuilding it. There are some
7 structures there now.

8 Q. In 2011 it was one set of structures that was removed
9 and now they're rebuilding, is that correct?

10 A. Yes, ma'am.

11 Q. Okay. Can you show us where it's located?

12 A. Approximately right there.

13 Q. Okay. So a little bit to the east and north of my
14 client's house?

15 A. Yes, ma'am.

16 Q. All right. And did you know whether Carolyn Lollis
17 lived there in Castle Gate?

18 A. Not at that time.

19 Q. Okay. Now, you talked a lot about -- this is labeled
20 Defendant's residence, correct?

21 A. Yes, ma'am.

22 Q. Was JJ Allen living at that same residence?

23 A. I have no personal knowledge of that at that time.

24 Q. All right.

25 **THE COURT:** All right. Now can he sit back down now or

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 you need him?

2 **MS. GORTON:** I might be referencing it. So I can set
3 it aside, Judge.

4 (Whereupon the witness returned to the witness stand)

5 Q. Now, you said that you reviewed the days and the times
6 contained in those records. Who restricted those days and
7 times?

8 A. I -- the records were requested on July 10th by another
9 investigator.

10 Q. Okay. And did you have the opportunity to request
11 additional records if you so needed?

12 A. No, ma'am, I did not request any.

13 Q. All right. Did you take a statement from Jimmy Poole?

14 A. No. I believe that was Investigator Miller. I
15 believe.

16 Q. All right. So you had ---

17 A. I did -- I did meet with Jimmy Poole ---

18 Q. So you were the one who initially met with Jimmy Poole?

19 A. He called me, came to my office, told me what he wanted
20 to talk about. And I drove him down to CID.

21 Q. Okay. So Jimmy Poole basically told you he thought he
22 may have been with Joe that day, is that correct?

23 **MR. STEINBERG:** Objection. Mr. Poole's already
24 testified.

25 **MS. GORTON:** It's laying the foundation for my next

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 question.

2 THE COURT: Go ahead.

3 Q. He told you that he may or may not have been with Joe
4 that day, that there was a day where he went and looked for
5 his motorcycle and Joe was with him ---

6 A. He told -- he told me he went to look for his
7 motorcycle with Mr. Phillips. And during that trip they
8 picked up Jerry Allen.

9 Q. Okay. I've got a couple of questions to ask you about
10 that. First of all, did you request any additional records
11 to verify whether Jimmy Poole had called JoAnn Johnson to do
12 that?

13 A. No, ma'am.

14 Q. Do you know if anyone else requested those additional
15 phone records to confirm the day that that occurred?

16 A. No, I'm not aware of any.

17 Q. All right. And Jimmy Poole's testimony was was that or
18 his statement to you was that he was in the car with JoAnn
19 and with Joe, correct?

20 A. Yes, ma'am.

21 Q. Now, you've had an opportunity to review these records
22 of my client, correct?

23 A. The phone records?

24 Q. Yes.

25 A. Yes, ma'am.

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 Q. And as you have already testified, somebody made a call
2 from his phone to Charlie Roberts at 9:22, correct?

3 A. Yes, ma'am.

4 Q. Okay. And could you review these records and look at a
5 phone call occurring on 9:38?

6 A. On Mr. Phillips' phone?

7 Q. Yes, sir.

8 A. Yes, ma'am.

9 Q. And that number was coming into Mr. Phillips' phone?

10 A. Yes, ma'am. It was a phone call from [REDACTED].

11 Q. Who does that phone number belong to?

12 A. I don't know.

13 Q. You made a chart of phone calls -- of phone numbers,
14 didn't you?

15 A. That chart?

16 Q. Did you make a list of phone numbers? Did you
17 investigate who that phone number belonged to?

18 A. No, ma'am, I did not.

19 Q. Do you see a series of phone numbers beginning at --
20 phone calls, I mean, beginning at 10:03, I believe?

21 A. Yes, ma'am.

22 Q. And those calls appear to be involving what phone
23 number?

24 A. [REDACTED].

25 Q. Who does that phone number belong to?

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 A. I believe that's Ms. Johnson's phone number.

2 Q. Okay. So you're saying that Joe's phone called JoAnn
3 Johnson's phone?

4 A. At 10:03 JoAnn Johnson called Mr. Phillips' phone.

5 Q. And then what happened? Were there three phone calls?

6 A. Yes, ma'am. I'm showing at 10:03 in twenty-nine
7 seconds there was a phone call from JoAnn Johnson to
8 Phillips. At 10:03 and fifty-two seconds there was a phone
9 call from Phillips' phone to JoAnn Johnson's phone.

10 Q. That would be a bit unusual if they were in a car
11 together, wouldn't it?

12 A. Of -- if they were in a car together?

13 Q. Yes, sir.

14 A. I wouldn't know why they would do that.

15 Q. I wouldn't know either. At 11:05, forgive me if I am
16 wrong on these times. We've got two sheets we're trying to
17 line up. At 11:05 there's another phone call to Mr.
18 Phillips from 395-6975, is that correct?

19 A. Yes, ma'am.

20 Q. And do you know who that number belongs to?

21 A. Not right off-hand.

22 Q. Could it belong to Carolyn Lollis?

23 **THE COURT:** He said he didn't know now.

24 Q. I'm also going to direct you to your text message --
25 the text messages that you were referring to earlier.

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. And as we discussed earlier, I'm going to be directing
3 you to those text messages. Time, 7:08 or date 7/8, which
4 is the morning of Friday, July 8th. And I believe the times
5 were at one am. Do you have that paper we discussed in
6 front of you?

7 A. I have it in front of me. I have a message starting on
8 7/8 starting at 00:47.

9 Q. And what does that message say, sir?

10 A. Your phone is out of minutes, Gentry.

11 Q. Okay. How about this message? Can you state the date
12 and the time and what the message says?

13 A. On July 8th, 2011 at 00:47:59 the message says you have
14 insufficient funds to send message.

15 Q. Who does that appear to be from?

16 A. Appears to be from the cell phone carrier.

17 Q. Okay. Next message.

18 A. July 8th, 2011 at 1:09:19, you had an incoming call or
19 attempted to make a call, but your account has insufficient
20 funds. Please add money to your balance.

21 Q. Who is that message from?

22 A. It appears to be from the cell phone carrier.

23 Q. And I have one more.

24 A. It's July 8th, 2011 at 1:11:50. Attention, your
25 balance has reached zero. Refill and save any minutes

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 remaining and extend your expiration date.

2 Q. In reviewing these records do you see anything that
3 indicates any calls coming in, going out, text messages, any
4 activity on the phone whatsoever between that last message
5 going out at what time?

6 A. The message received on Mr. Phillips' phone was at
7 1:11:50 am on June -- July 8th.

8 Q. 1:11 am and 9:22 am, is there any activity in any form
9 involving Mr. Phillips' phone?

10 (Pause)

11 A. I have to take these apart to lay them side by side.
12 What was that first time, ma'am?

13 Q. I believe you said it was 1:11 am.

14 A. Yes, ma'am. At -- according to these records at 47
15 minutes after midnight there was an outgoing to [REDACTED] ---

16 Q. That's before 1:11.

17 A. Yes, ma'am.

18 Q. I didn't mean to interrupt you, but the time between
19 1:11 am and 9:22 am is the area I'm looking for, whether
20 there's any activity ---

21 A. Yes, ma'am, there is. At 1:12:49 am there was contact
22 with [REDACTED]. There was contact back at 1:38. There were
23 two calls at 1:38 and 1:39. There was additional phone
24 calls at 1:43. I apologize, it's hard to line these up.

25 Q. It is.

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1 A. There were phone calls -- looks like most of the phone
2 calls were between Mr. Phillips' phone and [REDACTED].

3 Q. I understand that. I'm asking about times. I'm trying
4 to ---

5 A. Yes, ma'am. The last call made was at two am.

6 Q. Okay. So -- now let me ask a question now. Between
7 two am and 9:22 am was there any activity whatsoever in any
8 form with Mr. Phillips' phone?

9 A. I'm not seeing any here.

10 Q. Okay. So if somebody said they called Mr. Phillips on
11 that phone at five am, that is not correct?

12 A. It's not showing on this.

13 Q. It couldn't have happened?

14 A. It's not showing in the records.

15 Q. All right. Now, when you were up there testifying
16 about the cell phone calls and the cell phone, it's a little
17 bit confusing, but did I understand you to say that when
18 these calls start going from the victim's phone to Mr.
19 Phillips' phone, the phone is moving northward?

20 A. From the victim's phone to Mr. Phillips' phone?

21 Q. Yes.

22 A. Yes.

23 Q. It is already moving northward?

24 A. Yes, ma'am.

25 Q. Okay. So is it safe to say that the victim was already

JOSEPH WHITMIRE - CROSS EXAMINATION BY MS. GORTON

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1 dead when these calls were being made?

2 A. I would -- given the totality of the circumstances, I
3 would make that assumption, yes, ma'am.

4 Q. Okay. And as to the 9:22 call, is there any way now
5 for you to determine who actually made that call? If we
6 assume, since you said you didn't know, if we assume that
7 Mr. Phillips and Mr. Allen shared the same house, is there
8 any way to determine who made that call at 9:22?

9 A. No, ma'am.

10 Q. Is there any way now to recreate what that phone
11 conversation was?

12 A. No, ma'am.

13 Q. I asked you whether you researched phone records or
14 requested phone records or whether you knew anyone who
15 requested phone records to verify the date that Jimmy Poole
16 described as far as this motorcycle hunt, correct?

17 A. Yes, ma'am.

18 Q. And you said that, no. I'm going to ask you the same
19 question about records indicating a sale of a gun. Now,
20 whether you know about a sale of a gun, I just need you to
21 answer did you ---

22 A. I'm not aware of any records related to the sale of a
23 gun.

24 Q. And you certainly didn't request any, did you?

25 A. I did not, no, ma'am.

JOSEPH WHITMIRE - REDIRECT EXAMINATION BY MR. STEINBERG

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1 MS. GORTON: Just a moment.

2 (Pause)

3 MS. GORTON: Nothing further.

4 MR. STEINBERG: Briefly.

5 Redirect Examination by Mr. Steinberg:

6 Q. Make sure I've got these times down correctly. The
7 phone call between Jobo's phone and Jobo's mother's phone,
8 that is the early phone calls around 10:00 or so? Might be
9 in your records. It's not on here.

10 A. Yes, sir.

11 Q. And the phone calls from Jobo's phone to Jobo's
12 voicemail were made at 11:08 to 11:13?

13 A. Yes, sir.

14 Q. Thank you.

15 **THE COURT:** Step down.

16 A. Thank you, sir.

17 **MR. STEINBERG:** The State's next witness will be .
18 Investigator Christopher Miller.

19 **MADAME CLERK:** Investigator Miller, come forward to be
20 sworn in, please. Please place your left hand on the Bible
21 and raise your right.

22 Christopher Miller, being
23 duly sworn testified as follows:

24 **MADAME CLERK:** Thank you. You may be seated. Would
25 you please state your name for the record.

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 **MR. MILLER:** Christopher Todd Miller. .

2 **MADAME CLERK:** Thank you.

3 **Direct Examination by Mr. Steinberg:**

4 **Q.** Investigator Miller, what is your current title and
5 current job?

6 **A.** I'm a sergeant in the Criminal Investigations Division,
7 supervisor of the Auto Theft Division, Juvenile Division and
8 victim witness advocates.

9 **Q.** What was your job in August, pardon me, July and August
10 of 2011?

11 **A.** I was a homicide investigator at that time.

12 **Q.** How long do you have in law enforcement? How many
13 years?

14 **A.** Eighteen total years. And I've been with the
15 Greenville County Sheriff's Office since 1999.

16 **Q.** How were you personally involved with this case? How
17 were you first notified of this incident?

18 **A.** I was on call for homicide for that week. And I got a
19 call from then Lieutenant Jones, who just wanted to advise
20 me that there was a missing persons call, and that the
21 vehicle had been found off the roadway, and the keys had
22 been left in it, and the windows were down and it looked
23 suspicious.

24 **Q.** Who handled this case on the night of Friday, July 8th?

25 **A.** Uniform patrol handled the case at that point.

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. On Saturday, July 9th what did you do?

2 A. At that -- on Saturday the 9th I decided to come in and
3 start working on the case myself. And I contacted another
4 investigator, which was Shawnee Peeples.

5 Q. What made you think it was not a -- just a missing
6 person, a guy wandered off in the woods?

7 A. Well, I've been doing this for a long time and just the
8 circumstances of the vehicle being left, the keys being left
9 in it, the windows down. It just didn't sound right.

10 Q. Did you speak with Christina Gentry, the victim's
11 girlfriend?

12 A. Yes. We spoke with her and her family members when we
13 started calling people down to the Law Enforcement Center
14 and began taking statements.

15 Q. How cooperative was Ms. Gentry, Christina Gentry?

16 A. She was very cooperative. She answered all the
17 questions, gave a statement to Investigator Peeples and
18 continually called us while we were conducting our
19 investigation.

20 Q. Where did you go next after that?

21 A. Next after that Investigator Peeples and I went to Mr.
22 Phillips' house and met with him at the door.

23 Q. And did you speak with Mr. Phillips?

24 A. We did.

25 Q. And did you speak with him there or elsewhere?

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1 A. The initial contact was there at the house. And we
2 advised him why we were there and that we would like to talk
3 to him. And we asked him would he go to the Northern Area
4 Command with us or he could get his own ride.

5 And the reason we picked that area was because it was a
6 lot closer than to the Law Enforcement Center. It's over
7 there by Furman in case you don't know where it's at. So we
8 would be a lot closer to Travelers Rest.

9 Q. And you said Northern Area Command. Is that a
10 Sheriff's Office facility?

11 A. It's a satellite office of the Sheriff's Office.

12 Q. Was he in custody?

13 A. No, he was not. He was told that it was completely
14 voluntary.

15 **MR. STEINBERG:** Madame Court Reporter, if I could have
16 this marked for identification at this point.

17 (Whereupon State's exhibit 46 was marked for
18 identification)

19 Q. Officer Miller, I'm going to show you a document and
20 have you identify this document. Have you ever seen it
21 before?

22 A. Yes, sir, I have.

23 Q. State's exhibit number 46, whose signature is on the
24 bottom?

25 A. On the bottom is my signature, Investigator Peeples,

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 William J. Phillips, Frank Eppes. And it's signed attorney
2 for Jobo Phillips.

3 Q. Okay. That brings up my next question. When you were
4 at the Northern Command interviewing Mr. Phillips after
5 you've complied with Miranda Rights did anybody show up?

6 A. Mr. Eppes, Frank Eppes, who I knew as a local attorney,
7 showed up at the door at the Northern Area Command.

8 Q. And what was he in relation to Jobo Phillips?

9 A. He stated that he was his attorney.

10 Q. Did Jobo continue to answer questions?

11 A. He did.

12 Q. Did he give a written statement?

13 A. He did.

14 Q. Who typed it up?

15 A. I typed it up.

16 Q. Does it accurately reflect what Jobo Phillips told you?

17 A. Yes. And his attorney went over it after it was typed.

18 Q. In fact, who read it back to Mr. Phillips?

19 A. Mr. Eppes did.

20 Q. Were you aware of Mr. Phillips' literacy issues?

21 A. He advised us of that, yes.

22 Q. I'm going to ask that you read this statement.

23 **THE COURT:** Is it in evidence?

24 **MR. STEINBERG:** Your Honor, ---

25 **MS. GORTON:** I wouldn't object.

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1 **THE COURT:** All right. It's into evidence.

2 (Whereupon State's exhibit 46 was admitted into
3 evidence)

4 **MR. STEINBERG:** Thank you.

5 Q. The State would ask you to read State's exhibit number
6 46. Just skip down to the part where it says my attorney,
7 Frank Eppes, read the statement to me.

8 **MS. GORTON:** Judge, just so that I'm clear, I'm
9 objecting to his reading it, not that it's in evidence. I'm
10 objecting to the officer reading the statement that's in
11 evidence. It is in evidence. And I would suggest ---

12 **THE COURT:** What's your objection to him reading it?

13 **MS. GORTON:** It's cumulative and that it gives the
14 appearance of cooperation.

15 **THE COURT:** All right. Overruled.

16 **MS. GORTON:** Thank you.

17 **THE COURT:** Go ahead.

18 Q. Please read Mr. Phillips' statement.

19 A. My attorney, Frank Eppes, has read this statement to
20 me. I am currently taking pain medication for a bad back.
21 The last time I took the medication was this morning. I am
22 coherent and understand what I'm being asked.

23 Me and Christina Gentry have two kids together. And we
24 have lived together for five years off and on. We share
25 joint custody of the children. We have been separated for

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 two months now.

2 I did not know that Christina and Charlie Roberts were
3 seeing each other. The last time I talked to Charlie
4 Roberts was either Thursday or Friday on the phone. He
5 called me about going to the race tonight. I talked to him
6 earlier in the week on Monday when he asked if I was going
7 to the race. I told him that I was already at the race.
8 He wanted to know if I wanted to drink a beer with him. I
9 could not drink with him because I had my kids.

10 I have known Charlie for about two years. I have never
11 had a problem with Charlie. But I would not like it if
12 Charlie and Christina were dating because he is my friend
13 and she is my ex-girlfriend. But she is free to date
14 whoever she wants.

15 I last saw Christina last night when I dropped
16 Christina off at her grandpa's house. I spent most of the
17 day with Christina and the kids from around twelve pm til
18 eight pm. We also picked up our cousins, John John and
19 Corey. They went to Walgreens with us to get some pictures
20 developed.

21 After that I left there and went to my mother's house.
22 I stayed there until about twelve am when me and my father
23 and step-mother went to Blue Ridge Bar and Grill. We stayed
24 there about an hour or so.

25 I left there and then went back home. I did not leave

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1 the house again until this morning when I went to
2 Christina's grandpa's house to pick up the kids. End of
3 statement.

4 Q. In that statement the suspect said that he was not
5 aware that Charlie and Christina were seeing each other?

6 A. That's in the statement, yes, sir.

7 Q. Did he inform you about an incident that happened at
8 Charlie Roberts' residence on June 12th?

9 A. No, sir.

10 Q. At that time were you aware of that incident?

11 A. I was not aware at that time.

12 Q. Did you later become aware of that?

13 A. Yes. In fact, it was later that evening.

14 Q. What happened later that evening?

15 A. That was -- Investigator Peeples made me aware of that
16 later that evening.

17 Q. At that point had you told Jobo Phillips what you knew
18 about this case?

19 A. No, I did not.

20 Q. Had you told him what Christina Gentry had already told
21 you?

22 A. I purposely did not let him know that I'd spoken with
23 Christina Gentry.

24 Q. What's your reasoning for that?

25 A. Well, we want to be able to corroborate someone's

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 statements. So we don't tell the person we're taking the
2 statement from who we took a statement from before because
3 we want their statement to be accurate.

4 Q. Did you request that officers obtain cell phone records
5 on both Jobo Phillips and Charlie Roberts?

6 A. Actually, that was a combination of myself and
7 Lieutenant Jones.

8 Q. Okay. Let's talk about the search for Charlie Roberts.
9 You said it was suspicious earlier?

10 A. Yes.

11 Q. What did you do to attempt to locate Mr. Roberts?

12 A. We contacted our K-9 units, our uniform patrol
13 deputies, our community patrol deputies who were very
14 familiar with the area. We also had the helicopter flying
15 above to see if they could locate anything. We also called
16 the K-9 search and rescue people. They're a volunteer place
17 out of Mauldin. And they have a cadaver dog.

18 Q. Now what part of Greenville did they search?

19 A. The northern area of Greenville. We were able to
20 determine that's where Mr. Roberts mainly was most of the
21 time.

22 Q. Did you bring them to or did they go to where the
23 vehicle -- his truck was located?

24 A. Yes, that's where it started.

25 Q. Did you also participate in the search of Charlie

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1 Roberts' house?

2 A. I did.

3 Q. And what was the purpose of that?

4 A. The purpose of that was to try to find any evidence
5 that we could try to relate to him being missing because at
6 this point in time we still don't know why he's missing.

7 Q. When you got to the house did anything seem unusual
8 about the location? Did it appear to be broken into or
9 anything?

10 A. No. There was no signs of forced entry. There was --
11 the house wasn't tossed. There wasn't, you know, broken
12 furniture or drawers pulled out and clothes on the floor.
13 It appeared to be in a normal state.

14 Q. Did you speak with witnesses in that area, residents of
15 that area?

16 A. I attempted to, but no one was home at the time.

17 Q. Did you speak with other witnesses or potential
18 witnesses in this case to try to follow up on Charlie
19 Roberts' whereabouts?

20 A. I did.

21 Q. What are some other things that you did to help locate
22 or assist in locating Charlie Roberts?

23 A. We followed up on the leads. And we then continued to
24 search the areas that we thought he may be.

25 Q. What did you do to get the word out to the

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 neighborhood, the word out to Marietta of Charlie Roberts'
- 2 disappearance?
- 3 A. We had brochures printed up ---
- 4 Q. Okay.
- 5 A. --- and placed them around the area.
- 6 Q. And did you speak with any other agencies?
- 7 A. Yes. We spoke with, of course, Pickens County,
- 8 Henderson County, which is not too far from, you know, where
- 9 the Cliffs at Glassy are. And that's not too far from where
- 10 the truck was found in that area. And the local hospitals
- 11 and the hospitals up in Henderson County.
- 12 Q. In July of 2011 did you have to go out on medical leave
- 13 for any reason?
- 14 A. I did. I left right after the search of the victim's
- 15 house. A couple of days after that I had to leave on
- 16 medical leave.
- 17 Q. And who took over your case after that?
- 18 A. Investigator Chris Hammett.
- 19 Q. I'm going to bring you to August 15th of 2011. What
- 20 was your role that day?
- 21 A. That day I was -- I believe that was the day I was
- 22 contacted by Attorney Frank Eppes. Or correction, that was
- 23 the day I was contacted by Sergeant Richard Lane from
- 24 uniform patrol.
- 25 Q. And where did you go and what was your reason?

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1 A. I went to [REDACTED] as in [REDACTED] Geer Highway in Travelers
2 Rest. And I was advised by Sergeant Lane that there were
3 what appeared to be human skeletal remains.

4 Q. We've already gone over this, so I'm going to make this
5 kind of quick. Were there other structures out there?

6 A. There were. There were some buildings, what I call --
7 it was kind of like a garage or a barn. There was remnants
8 of a house that had burned down.

9 Q. Did you locate anything in any of these buildings?

10 A. I was looking through the garage and I happened to
11 notice a hat lying on the ground.

12 Q. What was near the hat?

13 A. There was a pile of mealworms.

14 **MS. GORTON:** Objection. This is cumulative.

15 **MR. STEINBERG:** He's the officer that found it, Your
16 Honor.

17 **THE COURT:** Go ahead.

18 Q. I'm going to skip over some of these things, but what
19 are some of the things that you located in that barn? Did
20 you see any other items there?

21 A. There was a -- a bag, like a -- like you would think --
22 it looked like what grass seed or maybe some rice would come
23 in. It was lying there near where the hat was found and
24 what I recognized to be bodily fluid on the ground.

25 Q. And what type of hat was this, if you recall?

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. It was a -- like a baseball cap. And it had the
2 Michelin emblem.

3 Q. And had you spoken to any of the victim's family by
4 that time?

5 A. I had spoken to the victim's family, yes.

6 Q. And did that Michelin hat concern you?

7 A. It did. And I verified through Investigator Peeples
8 'cause we were both working together. And I confirmed that
9 he wore a Michelin hat because that's what I remembered.

10 Q. Did you assist in searching or did you see officers
11 searching that barn for additional evidence?

12 A. Yes.

13 Q. And did they find anything else outside of the hat, the
14 hair and the bag?

15 A. Not on that day.

16 Q. Okay. Did they later go back?

17 A. Yes, they did.

18 Q. In your experience has forensics ever gone back later
19 on to check on locations?

20 A. It's routine.

21 Q. The day after the body was found, August 16th, did you
22 get a call from anyone?

23 A. I got a call from Attorney Frank Eppes.

24 Q. The same attorney ---

25 A. The same attorney that showed up at Northern Command.

CHRISTOPHER MILLER - DIRECT EXAMINATION BY MR. STEINBERG

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1 Q. Following that phone call where did you go?

2 A. I responded to Judge Cagle's office; which is on White
3 Horse Road.

4 Q. Were there any other attorneys there with Mr. Eppes?

5 A. A gentleman -- he told me his name was Chuck
6 Marchbanks. And he said he was an attorney.

7 Q. An attorney?

8 A. Um-hum (affirmative).

9 Q. Did you meet JJ Allen there?

10 A. I did. He was introduced as JJ Allen by Mr. Eppes.

11 Q. And had you ever spoken to Mr. Allen by this time?

12 A. No, I had not.

13 Q. Did you know who he was, what his relationship to the
14 families were?

15 A. I knew that he was Christina's brother. I knew that
16 name.

17 Q. Did you know where he lived?

18 A. Yes, I did.

19 Q. Had he been a suspect up to this point?

20 A. No, he had not.

21 Q. Did you speak with JJ Allen about this case?

22 A. I did, in the presence of both attorneys.

23 Q. Did either of the attorneys attempt to stop you from
24 speaking to JJ?

25 A. No, they did not.

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1 Q: After speaking with JJ Allen did you take him into
2 custody?

3 A. I did.

4 Q: And what was the charge?

5 A. The charge was murder.

6 Q: How willing was Mr. Allen to answer your questions?

7 A. He was very cooperative.

8 Q: Did you then bring him back to the Law Enforcement
9 Center?

10 A. I did. I advised the attorneys that we would need to
11 take a written statement at the office.

12 Q: And had he been Mirandized?

13 A. Yes.

14 Q: How did JJ Allen describe his relationship with Jobo
15 Phillips?

16 A. He described himself in his words as his watch-dog.

17 Q: You answered the next question. You're confident
18 that's his word, not your word?

19 A. That's not my words, that's his word.

20 Q: What did JJ say he did after he parked the truck on --
21 near Gap Creek?

22 A. He said that he -- it took him about four, four and a
23 half hours to walk home or walk back to Mr. Phillips' house
24 where he was residing.

25 Q: We'll have Mr. Allen here. So I'm not going to ask you

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1 some of the rest of these questions, I'll ask Mr. Allen.

2 Let me ask you a question that only you can answer. Before
3 getting his statement had you told JJ Allen about all the
4 evidence you had in this case?

5 A. No, I had not.

6 Q. About the witnesses you'd spoken to?

7 A. No.

8 Q. About the cell phone information?

9 A. I did not.

10 Q. And what was your reason for that?

11 A. Again, we want to be able to corroborate what the
12 witness is telling us. We don't want them to give us, you
13 know, a statement that's not his.

14 Q. Did you speak -- did you offer Mr. Allen any benefit,
15 any offer, any reward, any promise to give you a statement?

16 A. Nothing at all.

17 Q. Were you empowered or authorized to give somebody an
18 offer?

19 A. No, absolutely not.

20 Q. Did you interview Mr. Allen again on the 25th?

21 A. I did.

22 Q. The same questions, any offers, any promises?

23 A. No.

24 Q. How did that go about? How did the interview on the
25 25th come about?

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1 A. He -- I believe he sent message to us that he wanted to
2 talk to us from detention.

3 Q. Did he give you a written statement on the -- on the
4 16th?

5 A. I'm pretty sure he did.

6 Q. How about on the 25th, did he give you a statement that
7 day as well?

8 A. Yes. Well, I know he did on -- I'm sorry, the 25th,
9 I'm pretty sure he did.

10 Q. On that same day of the 25th did he also accompany you
11 to Marietta?

12 A. He did.

13 Q. And -- are all these addresses that you see on this map
14 over here on the State's exhibit, are all those in
15 Greenville County?

16 A. Yes, sir.

17 Q. Okay. And when JJ accompanied you, who else was with
18 you on the 25th?

19 A. Investigator Hammett, I believe, Investigator Campbell
20 may have been with us, too.

21 Q. Okay. And what did JJ Allen show you on the 25th?

22 A. He took us to a location right near Mr. Phillips' house
23 near a river. And we walked along the banks of the river.
24 And he brought us to a sandy place and showed us where he
25 buried some guns.

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1 Q. Were you present when Investigator Lendway took those
2 guns out?

3 A. Yes.

4 Q. Did you go anyplace else that day with Mr. Allen?

5 A. We went back to the location where Mr. Roberts was
6 found. And Mr. Allen demonstrated what happened when Mr.
7 Roberts was killed.

8 Q. Where did he demonstrate what happened?

9 A. Inside the barn.

10 Q. That same barn where you found the hat?

11 A. The same place.

12 Q. Were you present for a third interview on the 29th?

13 A. Yes.

14 Q. By that time who was the lead investigator on this
15 case?

16 A. Investigator Hammett.

17 Q. Thank you. Please answer any of opposing counsel's
18 questions.

19 **Cross Examination by Ms. Gorton:**

20 Q. Before I get into the series of questions, are you
21 familiar with the north end? This area?

22 A. Pretty familiar.

23 Q. Okay. Could you show the jury where the Mountain View
24 Store is? You can come up and show them.

25 A. I'm not sure on the map where the Mountain View Store

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1 is.

2 Q. Well, do you know what the address is? This is 276,
3 correct?

4 A. That's correct.

5 Q. Okay. Well, in relation to 276 and this is the
6 Defendant's residence, correct?

7 A. Yes.

8 Q. Okay. Well, in relation to the Defendant's residence
9 which direction would the Mountain View Store be?

10 A. I've never been to the Mountain View Store.

11 Q. You don't know where it's located?

12 A. No, ma'am.

13 **THE COURT:** He said he doesn't know.

14 Q. All right. You first -- let's go to when Charlie's
15 truck was found. You said you interviewed Emily first? You
16 were with Emily during her first interview?

17 A. No, ma'am.

18 Q. You didn't say that you interviewed -- I'm sorry,
19 Christina.

20 A. I was there in the office when Investigator Peeples was
21 interviewing her.

22 Q. And so she was interviewed before Joe?

23 A. Yes.

24 Q. And did you or Detective Peeples ask her where she had
25 been?

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- 1 A. I did not myself.
- 2 Q. Did you hear Detective Peeples ask her that?
- 3 A. I cannot recall that.
- 4 Q. Okay. Would that normally be asked?
- 5 A. It would -- it normally would be.
- 6 Q. Okay. Did Emily say anything about being with Joe
- 7 during that first statement?
- 8 A. Emily -- you're referring to Christina?
- 9 Q. Yes. I'm sorry. I keep saying Emily. I mean
- 10 Christina. They're both Gentry.
- 11 A. Could you repeat the question, please?
- 12 Q. Did Christina say anything about being with Joe during
- 13 that first statement?
- 14 A. During this time or ...
- 15 Q. During her first statement.
- 16 A. No, I mean, as far as being with him and having
- 17 children with him?
- 18 Q. No. I meant in the proximity to Charlie's
- 19 disappearance. For example, Friday the 8th, did she say
- 20 anything about being with Joe on Friday the 8th?
- 21 A. I don't have that statement in front of me. She did
- 22 talk to us about that he kept her children. That's all I
- 23 remember.
- 24 Q. Okay. Well, you did talk to Joe after you talked to
- 25 Christina the first time, correct?

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1 A. Yes.

2 Q. And Joe's statement, as we've already heard, indicated
3 that he was with Christine from around noon that day until
4 eight pm, correct?

5 A. He did.

6 Q. And you were with Peeples when she called Emily [sic]
7 back to give a second statement, correct?

8 A. I was -- we actually left from Northern Command and
9 went to her mother's house. So we ---

10 Q. But you were present?

11 A. --- I was -- yeah, I was present.

12 Q. And when you arrived at her mother's house what was her
13 mother's demeanor? You can refer to your report if you need
14 to.

15 A. She was cooperative.

16 Q. Her mother was?

17 A. Yes. She was -- from what I remember, a little
18 intoxicated.

19 MS. GORTON: I'll need just a minute, Your Honor, to
20 find a report.

21 (Pause)

22 Q. You don't recall her acting suspicious, refusing to
23 open the door, holding the door shut, being nervous,
24 repeatedly looking in the trailer? You don't recall any of
25 that?

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1 A. No, ma'am.

2 Q. And who were you with?

3 A. Investigator Peeples.

4 Q. Okay. As the investigator in this case have you had
5 the opportunity to review reports by other investigators?

6 A. Yes, ma'am.

7 Q. Have you had the opportunity ...

8 MR. STEINBERG: Your Honor, I'm going to have to object
9 if she's going into any hearsay of any other ---

10 THE COURT: Yes. She's not going to do that.

11 MS. GORTON: I was just going to ask if reviewing
12 Officer Peeples report would refresh his recollection ---

13 THE COURT: No.

14 MS. GORTON: --- as to what occurred.

15 THE COURT: No, ma'am.

16 Q. You went to her mother's trailer to interview
17 Christina. Did Christina basically verify what Joe had told
18 you about where he was from noon to eight pm?

19 MR. STEINBERG: Your Honor, I have to object. We've
20 already had Christina Gentry testify. So now it'll be
21 hearsay.

22 THE COURT: What's the question?

23 MS. GORTON: He's been testifying ---

24 THE COURT: Just tell me what the question is.

25 MS. GORTON: Asking him if he heard Christina say --

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1 verify that Joe had been with her from noon until eight pm.

2 **THE COURT:** All right. I'll allow that. Go ahead.

3 A. Yes.

4 Q. And were you also present when Peeples explained to her
5 that she needed to have told you that the first time?

6 A. Yes.

7 Q. So when you say you were talking -- when the prosecutor
8 was asking you these questions you said that you don't give
9 people a lot of information because you want to be able to
10 corroborate what they said, correct?

11 A. That's correct.

12 Q. And when you talked to Joe, what he had to say didn't
13 really match up with what Christina had initially told you,
14 correct?

15 A. Yes, that's correct.

16 Q. And then when you talked to Christina the second time
17 she was able to corroborate what Joe had told you, correct?
18 As far as where he was and who he was with, she corroborated
19 that when you talked to her the second time, correct?

20 A. At that point, yes.

21 Q. When was the first media release about Charlie being
22 missing? His truck was found seven pm, eight pm, maybe
23 later on Friday, July 8th. When was the first media
24 released?

25 A. It would have probably been that next day or maybe that

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1 Monday morning.

2 Q. Okay. So either Saturday, Sunday or Monday?

3 A. Yes. I don't have that information in front of me.

4 Q. Who would have that information, do you know?

5 A. That would be our public information officers.

6 Q. Okay. So it's nowhere in your file as lead

7 investigator?

8 A. No. And I don't have my whole file here.

9 Q. You don't have your whole file there?

10 A. No.

11 Q. When you took JJ into custody did he appear to be under

12 the influence of anything?

13 A. He -- I don't remember. I would have notated it on his

14 statement, but I don't have his statement in front of me.

15 Q. Well, would looking at his statement refresh your

16 recollection?

17 A. Yes, ma'am. That's the waiver. I'm talking about his

18 actual written statement.

19 (Pause)

20 A. I didn't note it on his statement.

21 Q. And you would have if he were visibly under the

22 influence or if you had knowledge of him being under the

23 influence, wouldn't you?

24 A. That's correct.

25 Q. Okay. The prosecutor asked you questions about JJ's

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1 statement on that day. And I believe he said that he called
2 himself -- well, on that first statement, was he essentially
3 saying that he acted alone?

4 A. He did.

5 Q. And was he essentially saying that he'd gone to sell
6 Charlie some pills?

7 MR. STEINBERG: Your Honor, this is hearsay. We're
8 going to have that witness come up next.

9 MS. GORTON: The door was opened. The prosecutor ---

10 THE COURT: Go ahead.

11 MS. GORTON: All right.

12 Q. Did he essentially say that he had gone to sell Charlie
13 some pills?

14 A. He did.

15 Q. And did he say that he talked to Charlie about going
16 down to the Rider property to show him his deer feeders and
17 deer stand?

18 A. He talked about taking him to show him a deer stand,
19 yeah.

20 Q. Down at the Rider property?

21 A. Yes.

22 Q. And did he say that they started having a discussion
23 about what Jerry calls his past life where he made seventy-
24 five thousand dollars a year and had nice motorcycles?

25 A. Yes.

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1 Q. And that Charlie didn't believe him, is that correct?

2 A. That's correct.

3 Q. And JJ explained to you that he got mad at Charlie for
4 not believing him and then he swore on his daddy's grave,
5 correct?

6 A. Yes, that's what he said.

7 Q. And that he said that whenever he swears on his daddy's
8 grave he's telling the truth, correct?

9 A. Correct.

10 Q. And what did he say that he did when Charlie still
11 didn't believe him when he swore on his daddy's grave?

12 A. He said that he started to flip out.

13 Q. And do what?

14 A. He said that before he knew it he blanked out.

15 Q. And did what?

16 A. And he said, I don't remember doing it, but I must have
17 shot him.

18 Q. Did he say where?

19 A. In the back of the head.

20 Q. You now know that to not be true?

21 A. As far as what?

22 Q. That he wasn't shot in the back of the head?

23 A. I'm aware of Dr. Ward's opinion.

24 Q. And then he said he did what?

25 A. He said he freaked out and got in the truck and left.

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- 1 Q. Did he say he came back to move the body?
- 2 A. Yes. I believe he said it was about a week later.
- 3 Q. And did he say he did that alone?
- 4 A. Yes.
- 5 Q. And did he tell you that he had acted alone and that
- 6 Joe had nothing to do with it?
- 7 A. That's what he said.
- 8 Q. Okay. Did he indicate that he took pills after he did
- 9 both of these acts?
- 10 A. Yes.
- 11 Q. Did he also explain to you that he had got these pills
- 12 to sell Charlie for having an abscess in his back, he had a
- 13 prescription?
- 14 A. He did say he had a prescription.
- 15 Q. Did you ever do anything to verify whether or not JJ
- 16 had that prescription and had access to those pills?
- 17 A. I did not at the time when I was the lead investigator,
- 18 no.
- 19 Q. Okay. And are you aware of anybody doing that?
- 20 A. I'm not sure.
- 21 Q. And he also said they were laughing and getting along
- 22 and talking when this occurred?
- 23 A. Yes.
- 24 Q. And he just snapped?
- 25 A. That's what he said.

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1 Q. And he indicated that he snaps -- has snapped before
2 whenever he swears on his daddy's grave and someone doesn't
3 believe him, is that correct?

4 A. That's in his statement.

5 Q. That was his statement to you?

6 A. Yes.

7 Q. Was this statement under oath?

8 A. It was.

9 Q. The prosecutor asked you about his second statement
10 taken on August 25th.

11 A. I believe that's correct.

12 Q. Is that the statement you weren't sure if it was in
13 writing or not?

14 A. Yes.

15 Q. Would looking at this document refresh your
16 recollection as to whether you obtained a written statement?

17 A. This -- this was written by or typed by Investigator
18 Hammett. So that's why I was not sure.

19 Q. Okay. Did Jerry Allen sign that statement?

20 A. He did.

21 Q. Were you present when you -- when he gave it?

22 A. I was.

23 Q. And the prosecutor was asking you questions about this
24 statement. Is this the statement where he says, it was all
25 Jobo's doing?

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- 1 A. Yes.
- 2 Q. Jobo was the trigger-man?
- 3 A. That's what he said.
- 4 Q. Did you later learn that wasn't true?
- 5 A. Yes.
- 6 Q. In this statement he says that -- he also says that Joe
- 7 arranged the buying of the pistol in this statement, yes?
- 8 The .380?
- 9 A. Yes.
- 10 Q. And this is the first he mentions that, is in this
- 11 statement?
- 12 A. That's the first he mentioned of it.
- 13 Q. And he says that Joe told him to use this .380. This
- 14 is the first he mentions that as well, right?
- 15 A. I don't have that statement in front of me.
- 16 (Pause)
- 17 A. Yes.
- 18 Q. And this is the first statement that he talks about Joe
- 19 paying him to be quiet, correct?
- 20 A. I believe that's correct.
- 21 Q. And then he says that Joe makes him move the body,
- 22 correct?
- 23 A. Yes.
- 24 Q. And that also you later learned is a lie, is that
- 25 correct?

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1 A. Yes. He said that ---

2 Q. Okay. Now ---

3 A. --- he moved it.

4 Q. --- this statement is obviously a hundred and eighty
5 degrees different than the first statement?

6 A. Yes.

7 Q. Did you go over with him the first statement line by
8 line to figure out which was the truth and which was the
9 lie?

10 A. Yes, Investigator Hammett and I both did.

11 Q. Line by line over this first statement?

12 A. I don't know if it was exactly line by line, but to key
13 points of the statement we were -- we went over it with him.

14 Q. So there's nothing in his second statement, obviously,
15 about whether or not he flips out when he swears on his
16 daddy's grave if someone doesn't believe him?

17 A. Not that I just read.

18 Q. Did y'all question him about that, whether that part
19 was true?

20 A. I'm sure we did.

21 Q. You don't remember the answer?

22 A. I don't remember exactly what we spoke to him about
23 other than the fact that why was his statement different
24 than it was the first time.

25 Q. Okay. In the second statement that we now know to be

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1 untrue -- well, the first statement we now know -- well,
2 you're saying is untrue, he said that he got a phone call to
3 meet him up at River Falls, correct? JJ is saying that he
4 got a phone call from Jobo to meet him up at River Falls,
5 correct?

6 A. I don't have that information in front of me.

7 Q. And in this second statement that you now know to be
8 untrue, that is where he says Jobo gave me close to five
9 hundred dollars in cash over a period of time, is that
10 right?

11 A. I do remember him saying that.

12 Q. Now, in this second statement doesn't he also talk
13 about three shotguns, a 12 gauge, a .410 bolt and a .22
14 rifle? Keep that one. I'll see if I've got a copy.

15 A. He does speak of three different rifles, sorry, long
16 guns.

17 Q. What does he say about those shotguns?

18 A. He said one of the shotguns was sawed off.

19 Q. And what does he say that he did with those?

20 A. He said he hid them behind Mr. Phillips' house.

21 Q. So he's saying this was all Mr. Phillips, but he hid
22 these shotguns behind Mr. Phillips' house?

23 A. That's correct.

24 Q. Now, I want to back up on this particular statement,
25 second full paragraph where he's talking about the .380.

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1 The time-frame he gave during that second statement was --
2 he kept hearing Jobo talk about having Charlie killed. A
3 couple of weeks went by and that's when I noticed Jobo had
4 bought a .380 pistol. He showed me the pistol. It was
5 black. Another week goes by. So we're up to two weeks,
6 right?

7 A. Yes.

8 Q. And then that's when I started seeing Jobo act kind of
9 weird. The next week went by and Jobo told me, come on,
10 we're going to get Charlie. So we're up to three weeks,
11 correct?

12 A. Correct.

13 Q. So certainly not within a day or two of Charlie
14 disappearing according to JJ's statement, correct?

15 A. Correct.

16 Q. And at the time you got this statement from JJ, people
17 had already spoke with Bobby Sweet, correct?

18 A. That I'm not aware of because I was not part of that
19 investigation.

20 Q. You weren't the detective in charge at that time?

21 A. No.

22 Q. I want to back up just a minute to the first statement.
23 I missed something here. In the first statement that he
24 gave you did he tell you -- right there. Did he tell you
25 that he had gotten into an argument with Charlie before?

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- 1 A. Yes. He said it was a petty argument.
- 2 Q. Okay. But that he had gotten into it with Charlie
- 3 before?
- 4 A. Yes, that's what he said.
- 5 Q. When you got his statement, the second statement, on
- 6 the 25th you were testifying with the prosecutor -- this is
- 7 actually two pages, you were testifying with the prosecutor
- 8 that that's when you took JJ out to look at the guns?
- 9 A. Yes.
- 10 Q. And so on this 25th date you were aware that two guns
- 11 were buried?
- 12 A. Yes.
- 13 Q. A 9mm and the .380?
- 14 A. Correct.
- 15 Q. Okay. Did you have any way of verifying other than
- 16 JJ's say-so that that .380 was the murder weapon?
- 17 A. At that point, no.
- 18 Q. Did you receive any explanation as to why the 9mm was
- 19 buried as well?
- 20 A. I cannot recall what his explanation was.
- 21 Q. Is it this second statement that he explains that the
- 22 shirt that he buried the guns in was the same shirt he was
- 23 wearing when he killed Charlie Roberts?
- 24 A. That's correct.
- 25 Q. Did he offer any explanation -- well, let me back up.

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1 Did he also say he burned the pants and the boots he was
2 wearing when he shot Charlie Roberts?

3 A. I believe so.

4 Q. Did he offer any explanation as to why he would burn
5 the pants and boots, but keep the shirt?

6 A. Not that I recall.

7 Q. Did he have any explanation as to why he kept the shirt
8 and deliberately used the same shirt that he shot Charlie
9 Roberts in to bury both of these guns?

10 A. I don't recall.

11 Q. You also said that he demonstrated to you how this
12 occurred on the 25th?

13 A. Yes.

14 Q. And you later learned that was false, is that correct?
15 Did he demonstrate to you how Joe shot Charlie?

16 A. Yes, he did.

17 Q. Was that later learned to be false?

18 A. According to Dr. Ward's opinion he was shot in the
19 front of the head. So ...

20 Q. Well, hasn't it also been determined that Joe wasn't
21 there at all?

22 A. That's -- yeah.

23 Q. Okay. So his re-enactment that he showed you didn't
24 really happen?

25 A. That was his version of it.

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1 Q. At that time?

2 A. Yes.

3 Q. And then you confront him four days later. Who
4 confronts him?

5 A. I believe that was Investigator Hammett.

6 Q. Were you with Investigator Hammett?

7 A. Yes.

8 Q. And y'all confront him with the evidence that what he
9 told you in statement number two was a lie, correct?

10 A. That's correct.

11 Q. And the prosecutor asked you about conversations
12 regarding deals that he was making after each of these
13 statements or prior to each of these statements. Were there
14 any promises to help him out or work with him?

15 A. No.

16 Q. Was there any change in what was indicated as far as
17 promising or helping him out between statement one and
18 statement two?

19 A. No.

20 Q. Was there any change or indication of promises between
21 statement two and statement three?

22 A. There was no promises ever made.

23 Q. Were there any consequences for lying twice?

24 A. No, I mean, the charge stayed as it was. No further --
25 no other charges were placed on him.

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1 Q. Could you have placed charges on him?

2 A. It wasn't my investigation at that time.

3 Q. Was it possible? Did he qualify for a charge?

4 A. Yes.

5 Q. So then he gave statement number three. Is that
6 correct?

7 A. Yes.

8 Q. And on each of these statements he swore under oath it
9 was the truth?

10 A. He did.

11 Q. And on at least two of these statements it wasn't?

12 A. According to Mr. Allen, yes.

13 Q. In statement number one does he use the language, I
14 volunteered myself to shoot Charlie?

15 (Pause)

16 Q. Statement number three. You need help?

17 A. Yeah.

18 Q. That's where we're going to start. Okay. Statement
19 number three actually had the date 25th. You crossed it out
20 and put in 29th, correct?

21 A. Yes, it was changed.

22 Q. Or somebody did.

23 A. Somebody did.

24 Q. Okay. So I'm going to start with the part where he
25 says I volunteered myself to -- I volunteered myself to

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1 shoot Charlie.

2 A. Yes.

3 Q. Well, whether he volunteered or not, it was -- does he
4 then go on to describe this plan that he and Joe have for
5 getting Charlie and going to Charlie's house about five am
6 in the morning?

7 A. Yes.

8 Q. And that he was going to break in the window. Is that
9 correct?

10 A. Yes.

11 Q. And he says Jobo drove him over there where Charlie
12 lived, let him out. He went down and got between the
13 building and the house and waited. And he was going to be
14 in the house and waiting for Charlie when he got home. Did
15 he say that in this statement?

16 A. Yes.

17 Q. And then he said he was going to take something out,
18 can't really read what it is, and wrap it around his neck
19 after I held him at gunpoint and break his neck. This is
20 their plan, correct, according to Mr. Allen?

21 (Pause)

22 Q. I'm in the same section, sir. I'm just going
23 sequentially. Right here.

24 A. Oh, okay.

25 Q. So he said he was -- the plan was he was going to break

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1 in the window, correct?

2 A. That's correct.

3 Q. And y'all already knew that the window had been opened,
4 correct?

5 A. Correct.

6 Q. And so he knows about the open window. Joe drives him
7 over to the end of the road where Charlie lived and let me
8 out. And I went down and got between the building and the
9 house and waited. Does he say that?

10 A. Yes.

11 Q. And he says he was going to wait in the house and wait
12 for Charlie. And then he was going to take something and
13 wrap it around his neck while he held him at gunpoint and
14 break his neck. Is that what he told you? That was the
15 plan?

16 A. That was the -- that's what he said.

17 Q. And that after that ---

18 **MR. STEINBERG:** Your Honor, I'm going to have to
19 object. Unless she introduces this document, we have a
20 witness here that would testify to this. He cannot testify
21 ---

22 **THE COURT:** All right.

23 **MS. GORTON:** He opened the door when he started ---

24 **THE COURT:** Go ahead.

25 **MS. GORTON:** Okay.

CHRISTOPHER MILLER - CROSS EXAMINATION BY MS. GORTON

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1 Q. So then he choked and he ran back up to the end of the
2 road. And he says he called JJ -- he called Jobo to pick
3 him up on the little AT&T prepaid phone he had. Did he say
4 that?

5 A. Yes.

6 Q. Okay. And then he runs all the way back. And he waits
7 there for Jobo to pick him up, correct? This is his
8 statement.

9 A. Correct.

10 Q. And he says then that Jobo picked him up. They wait
11 for light to come, correct?

12 A. Yes.

13 Q. So somewhere on July 8th between five am and sunrise
14 he's saying he called Joe, correct?

15 A. Yes.

16 Q. Do you now know that to not be true?

17 **THE COURT:** Now, that -- I'm not going to allow ---

18 **MS. GORTON:** I'm just asking ---

19 **THE COURT:** --- that question.

20 **MS. GORTON:** --- if he knows.

21 **THE COURT:** I'm not going to allow that question.

22 **MS. GORTON:** Okay.

23 Q. And then he talks about a second attempt, part of the
24 same plan, where he hides in the woods and is going to
25 ambush Charlie as he pulls up, correct?

CHRISTOPHER MILLER - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Yes.
- 2 Q. And he says he choked again?
- 3 A. Yes.
- 4 Q. And then he says that he walks back and through all
5 this he also, while he was in the woods, saw Charlie get
6 home because he was hiding in the woods. Does he say that?
- 7 A. Yes.
- 8 Q. But he also says that after he sees Charlie get home he
9 walks all the way back to Jobo's house and confesses he's
10 choked up again?
- 11 A. Yeah.
- 12 Q. He tells you that they're in the shed telling -- and
13 he's telling Charlie that he's looking for an alternator?
- 14 (Pause)
- 15 Q. We're in the second page.
- 16 A. Yes.
- 17 Q. Okay. And he also says that -- he says in this
18 statement as well that he shot Charlie in the back of the
19 head, correct?
- 20 A. Correct.
- 21 Q. He basically says that he was pressured into doing
22 this, he didn't want to do it, he chickened out twice and
23 then when he finally does do it he shoots him in the back of
24 the head, correct?
- 25 A. That's correct.

CHRISTOPHER MILLER - CROSS EXAMINATION BY MS. GORTON

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1 Q. That's the general gist of it, correct?

2 A. Yes.

3 Q. He also says he mentions taking the keys out of the
4 pocket and the cell phone, too? Yes?

5 A. Yes.

6 Q. And he tells you that he got that cell phone at Joe's
7 request so Joe could check cell phones? The cell phone ---

8 A. Yeah.

9 Q. --- for a message.

10 A. That's correct.

11 Q. And you might have some memory of this independently.
12 Does he tell you that Joe -- he watches Joe bury that cell
13 phone?

14 A. That, I don't recall.

15 Q. Do you recall if he ever showed you where Joe allegedly
16 buried that cell phone?

17 A. Not that I recall.

18 Q. Did he ever show you where these shotguns that he says
19 Joe had him hide at his house were?

20 A. No. He just told us where they were at.

21 Q. Now, if you had obtained the victim's cell phone would
22 you have been able to ask for it to be forensically examined
23 to see when it was last accessed?

24 A. Yes.

25 Q. So had you been able to obtain the victim's cell phone

CHRISTOPHER MILLER - CROSS EXAMINATION BY MS. GORTON

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1 you would have known once and for all whether Joe accessed
2 those messages, correct?

3 A. It's possible.

4 Q. Now, when you talked to JJ on this third statement,
5 part of the reason you went to him was because you'd already
6 received the statement from Jimmy Phillips or Jimmy Poole,
7 correct? About this motorcycle hunt?

8 A. I had nothing to do with that.

9 Q. Were you aware of it?

10 A. No.

11 Q. Did you hear anyone discuss or mention Jimmy Poole's
12 name to JJ prior to him giving this third statement?

13 A. No.

14 Q. Did JJ admit to you that he told the people in the car
15 that he was doing electrical work at River Falls?

16 A. He may have said, but I don't recall.

17 Q. He gives a statement about moving the body about a week
18 after, is that correct?

19 A. That's correct.

20 Q. And you weren't able to recover any of the items that
21 he said that he was wearing at that property, is that
22 correct?

23 A. The items that who was wearing?

24 Q. Forgive me for my language. Says I grabbed him by his
25 pants legs at his feet and drug him. I covered the body up

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1 with yellow round shovel. And I was wearing red and black
2 gloves and a long sleeved shirt. All that shit's back in
3 the woods about two hundred yards. Is that what he said?

4 A. Yes. And we -- we did an article search for those
5 items and didn't locate them.

6 Q. You weren't able to locate them?

7 A. No.

8 Q. And he says that after he did this he walked back -- he
9 then stopped at Ingles, which is right there by the death
10 scene, correct?

11 A. There is an Ingles right there.

12 Q. Right across the street basically, right?

13 A. Right.

14 Q. But he says in this statement he walked back to Spinx
15 to call Joe.

16 A. Yes.

17 Q. Did you ever get anything from Spinx, video, anything
18 to indicate whether that occurred or not?

19 A. I didn't personally.

20 Q. Do you know if anyone did?

21 A. I'm not sure.

22 Q. Did you check Joe's phone records to see if he'd
23 received a call from Spinx?

24 A. I didn't personally.

25 Q. Know anyone that did?

CHRISTOPHER MILLER - CROSS EXAMINATION BY MS. GORTON

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1 A. I'm not sure if any other investigator did, but I did
2 not.

3 Q. Now, it's interesting language that's in here. It says
4 Jobo paid me around five hundred dollars in all to kill
5 Charlie. And then the next sentence says Jobo gave me money
6 over time to go buy dope and pills or whatever I wanted to
7 satisfy me. Jobo also paid me money to confess to killing
8 Charlie -- to killing Charlie to keep him out. Jobo put me
9 up to killing Charlie. Did you ask him what period of time
10 Joe made these payments?

11 A. No, I didn't.

12 Q. Did you ask him if -- that he meant anymore than what
13 he'd given him in the past?

14 A. My understanding was that he gave him five hundred
15 dollars for this.

16 Q. A lump-sum or over time?

17 A. My understanding was he gave him five hundred dollars.
18 And it wasn't all in -- no, it was not all in one lump-sum.
19 It was a little bit here and a little bit there.

20 Q. Well, did he describe what agreement they had as far as
21 how much money would be paid when and for what?

22 A. No.

23 Q. Is there anything different about the oath he took in
24 giving this third statement that was different than the oath
25 he took in giving the first statement?

CHRISTOPHER MILLER - REDIRECT EXAMINATION BY MR. STEINBERG

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1 A. No, It's the same language at the beginning of the
2 statement.

3 Q. Same question as to this second statement, anything
4 different?

5 A. No.

6 MS. GORTON: Nothing further.

7 MR. STEINBERG: Very briefly.

8 **Redirect Examination by Mr. Steinberg:**

9 Q. Do you agree that JJ Allen lied in his first two
10 statements?

11 A. Yes.

12 Q. And did JJ ever say why he used Frank Eppes, who was
13 Jobo's attorney, to turn himself in?

14 A. He was familiar with him is all I remember.

15 Q. Did he say why he wanted to turn himself in on August
16 16th, what his reasoning was?

17 A. He said it'd been weighing on him. He felt like he
18 needed to do the right thing.

19 Q. And on that statement where -- the first statement
20 where he says there were two calls to Charlie, were there,
21 in fact, two calls to Charlie from Jobo's phone that morning
22 or just one?

23 A. I don't have the records in front of me. So I don't
24 recall.

25 Q. Do you recall how adamant or how persistent Mr. Allen

CHRISTOPHER MILLER - RECROSS EXAMINATION BY MS. GORTON

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1 was that Jobo Phillips was not involved on August 16th?

2 A. He was adamant on the 16th.

3 Q. That story he told about using a cutting torch to cut
4 the weapons, was that true?

5 A. No.

6 Q. How about walking back four hours from Gap Creek, was
7 that true?

8 A. No.

9 MS. GORTON: Objection. No way of knowing whether
10 that's true or not.

11 THE COURT: Overruled.

12 Q. That's all the questions I have. Thank you very much,
13 sir.

14 THE COURT: Thank you. Step down.

15 MS. GORTON: Redirect, please. Or recross. I can make
16 it brief.

17 **Recross Examination by Ms. Gorton:**

18 Q. Do you have any way of knowing whether that walk was
19 true or false?

20 A. My knowledge of that area, it would take considerably
21 longer than four and a half hours.

22 Q. But you don't have any hard evidence, phone records,
23 anything like that that indicates that statement was false?

24 A. No.

25 Q. And other than this story about the guns, is there

CHRISTOPHER MILLER - RECROSS EXAMINATION BY MS. GORTON

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1 anything that indicates to you that the first statement was
2 the false one ---

3 THE COURT: Now, you're going beyond ---

4 Q. --- versus the third?

5 THE COURT: You're going beyond the redirect. Anything
6 else?

7 MS. GORTON: Judge, I would respectfully submit that
8 the record reflects he asked about the third -- the first
9 statement being false. That's an ---

10 THE COURT: All right.

11 MS. GORTON: --- improper characterization.

12 THE COURT: Overruled. Anything else?

13 MS. GORTON: No, Your Honor.

14 THE COURT: Thank you. Step down. Take the jury out
15 for a recess.

16 (Whereupon the jury exited the courtroom at 2:38 pm)

17 THE COURT: All right. One of our jurors on the back
18 row, a fellow with the glasses and the green shirt on, he's
19 been doing a little sleeping. You want me to address that
20 with him or ---

21 MS. GORTON: I have no wish to embarrass him in front
22 of everyone else, Your Honor.

23 MR. STEINBERG: However Your Honor wishes to handle it.

24 THE COURT: All right.

25 MS. GORTON: Can we quietly excuse him without other

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1 people knowing or ...

2 MR. STEINBERG: Well, I mean, I think if he can excuse
3 him, he has to.

4 THE COURT: No, maybe he'll wake up. We'll give him
5 some water in there.

6 MS. GORTON: Judge, I would ask that he be excused if
7 he's been sleeping through part of the trial. We've got two
8 alternates. We're close.

9 (Whereupon court was in recess at 2:39 pm)

10 (Whereupon court resumed at 2:51 pm)

11 THE COURT: Okay. Bring the jury.

12 (Whereupon the jury entered the courtroom at 2:55 pm)

13 THE COURT: Okay, solicitor.

14 MR. STEINBERG: Thank you, Your Honor. The State's
15 next witness is Lead Investigator Chris Hammett.

16 MADAME CLERK: Please come forward to be sworn in.

17 Henry Christopher Hammett,

18 being duly sworn testified as follows:

19 MADAME CLERK: Thank you. You may be seated. Would
20 you, please, state your name for the record.

21 MR. HAMMETT: Henry Christopher Hammett.

22 MADAME CLERK: Thank you.

23 **Direct Examination by Mr. Steinberg:**

24 Q. Investigator Hammett, where are you from originally?

25 A. Greenville.

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- 1 Q. And where did you go to high school?
- 2 A. Berea High School.
- 3 Q. And how long have you been in law enforcement?
- 4 A. Fifteen years.
- 5 Q. What was your role on July -- the time period around
- 6 July 8th through July 10th of 2011?
- 7 A. As far as regarding this case, ---
- 8 Q. Yes, sir.
- 9 A. --- I was assisting the investigation of the missing
- 10 person case that Investigator Miller had started over that
- 11 weekend.
- 12 Q. Were you, yourself, an investigator in that division?
- 13 A. Yes, sir.
- 14 Q. How long total have you been an investigator with the
- 15 Sheriff's Office?
- 16 A. About ten years now.
- 17 Q. Did you assist in obtaining phone records in this case?
- 18 A. I did.
- 19 Q. Did you ask for assistance of other officers to include
- 20 Investigator Whitmire in plotting and planning this?
- 21 A. Yes, sir, I did.
- 22 Q. Were you able to get any GPS information concerning the
- 23 phones? Not the phone towers, but the phones?
- 24 A. No, sir, not from the phones themselves.
- 25 Q. Okay. Did you attempt?

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1 A. Yes.

2 Q. Did you attempt to obtain any bank records for Charlie
3 Roberts? And if so, what was your reasoning for that?

4 A. Typically missing persons case we want to see if
5 there's been any withdrawals or anything that would indicate
6 this person has left or anything suspicious with their bank
7 accounts. So we did obtain a court order for his bank
8 records, which revealed nothing suspicious or out of the
9 ordinary.

10 Q. Did you speak with family members of Charlie Roberts as
11 well as employers?

12 A. Yes, we did.

13 Q. And what was the reasoning for that?

14 A. To try to find out any reason that Mr. Roberts would
15 have had for leaving unexpectedly or any issues he was
16 having with anyone who may have had a grudge against him for
17 any reason.

18 Q. Did you speak to Christina Gentry?

19 A. Yes, I did.

20 Q. And was she cooperative?

21 A. Yes, sir, she was.

22 Q. Were you later assigned as the lead investigator once
23 the body was located?

24 A. Actually, it was prior to the body being located. I
25 believe it was July the 11th when Investigator Miller had a

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1 medical reason he had to leave. Our lieutenant asked me if
2 I would assume the lead role in trying to locate the body or
3 find wherever Mr. Roberts had gone to.

4 Q. Were you part of the initial arrest of JJ Allen?

5 A. No, sir, I was not.

6 Q. When did you first interview Mr. JJ Allen?

7 A. The first time I spoke with Mr. Allen was on August
8 25th, 2011.

9 Q. Is that the same date as counsel referred to as the
10 second statement?

11 A. Yes, sir. That's correct.

12 Q. How did that come about?

13 A. Basically, I was -- if I remember correctly, I was at
14 the Detention Center and an inmate there named Aleeki
15 (phonetics) Jefferson approached me as he was in the
16 transport area as I walked by and happened to just --
17 coincidentally it was me he stopped to talk to and said that
18 Jerry Allen, or JJ, I think is what he said, wanted to talk
19 with law enforcement again.

20 Q. And did you, in fact, speak with Mr. Allen?

21 A. Yes, sir. Myself and Investigator Miller went back to
22 the Detention Center and escorted him to the Law Enforcement
23 Center.

24 Q. Did you Mirandize him?

25 A. Yes, sir.

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1 Q. Did Mr. Allen want an attorney?

2 A. No, sir, he did not.

3 Q. In fact, what did Mr. Allen tell you about his prior
4 attorney, Mr. Eppes?

5 A. He said that Mr. Eppes was ---

6 **MS. GORTON:** Objection as to characterization. Mr.
7 Eppes never represented Mr. Allen.

8 **THE COURT:** Overruled. Go ahead.

9 A. I'm sorry?

10 Q. What did Mr. Eppes -- what did Mr. Allen say about Mr.
11 Eppes?

12 A. He said that he was not his attorney and was not
13 representing him.

14 Q. Okay. Did JJ give you a statement?

15 A. Yes, sir, he did.

16 Q. Was it a typed statement?

17 A. Yes, sir.

18 Q. In preparation after this case have you reviewed
19 discovery with the State?

20 A. Yes.

21 Q. And have you turned over three statements that JJ Allen
22 gave?

23 A. That is correct. Yes, sir.

24 Q. After JJ gave a statement on the 25th did you go to
25 Long Shoals Road area?

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- 1 A. Yes, sir, we did.
- 2 Q. How cooperative was Mr. Allen?
- 3 A. He was extremely cooperative.
- 4 Q. Up to this point had you spoken to Jimmy Poole on the
- 5 25th?
- 6 A. No, sir, I had not.
- 7 Q. Let's discuss this firearm. Opposing counsel's asking
- 8 questions about gun checks. Have you checked this weapon to
- 9 see if it's stolen?
- 10 A. Yes, sir, I did.
- 11 Q. Please tell the jury what type of checks you used on
- 12 this weapon.
- 13 A. Basically, we run it through NCIC, which is the
- 14 National Crime Information Center or Criminal Information
- 15 Center. It's a computerized system that will -- if a gun's
- 16 stolen in Greenville and it's entered on that system, you
- 17 could check it nationwide, and if it's stolen it will show
- 18 up. It's basically how everything that is stolen, if you
- 19 have a serial number for it, is registered.
- 20 Q. Are records of gun ownership kept in the United States?
- 21 A. No, sir, not to my -- there's no database to my
- 22 knowledge that you can have all the gun ownership in.
- 23 Q. Did JJ ever accompany you to Carl Rider's old property?
- 24 A. Yes, he did.
- 25 Q. And what did he do there?

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1 A. There, when we arrived, he showed us basically the
2 property where he was standing, where the victim was
3 standing at the time that this -- the murder occurred.

4 Q. Did he try to show you anything else or attempt to find
5 anything else at that location?

6 A. Yes, sir. He said that he had dropped some gloves and
7 I believe it was a shovel from when he had gone back the
8 second time to move the body. And he attempted to take us
9 to those items, but it's a large vast heavily wooded area.
10 And we walked through it probably a mile or so in different
11 directions with the Forensics Unit, too, and were unable to
12 locate those items.

13 Q. Did JJ Allen demonstrate for you inside of this barn
14 that we've discussed how this killing occurred?

15 A. Yes, sir, he did.

16 Q. Had you already told him about where the .380 had been
17 located?

18 A. The weapon or the shell casing?

19 Q. The .380 shell casing.

20 A. No, sir.

21 Q. What was your reasoning for that?

22 A. We typically don't reveal the things that we know to
23 people who we are going to interview. Again, as
24 Investigator Miller said, we want to be able to corroborate
25 that information independently so we know that they're not

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1 just regurgitating what we've told them.

2 Q. Had you told Mr. Allen about the cell phone tower
3 information?

4 A. No, sir.

5 Q. Following this interview on August 26th did you obtain
6 a warrant for murder for Jobo Phillips?

7 A. I'm sorry, you said following?

8 Q. Yes.

9 A. Yes.

10 Q. What were the -- what was the basis of the arrest
11 warrant for Jobo Phillips?

12 A. It was based on several things, the statement,
13 obviously, from Mr. Allen as well as the locating of the
14 weapons to corroborate what he had told us as well as other
15 statements that were -- had been obtained.

16 Q. Had you already obtained a statement from Bobby Sweet?

17 A. Yes.

18 Q. How about from Christina Gentry?

19 A. Yes.

20 Q. On August 29th of 2011 did you speak to JJ Allen at the
21 Detention Center?

22 A. Yes, sir, I did.

23 Q. What was your reason for speaking to him this third
24 time?

25 A. Additional information had been received via

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1 Investigator Whitmire about a gentleman who claimed to have
2 picked up Mr. Allen, which proved some of the things he had
3 told us in his statement were not accurate.

4 Q. How cooperative was JJ Allen during this third meeting?

5 A. He was, again, extremely cooperative, very talkative,
6 did not want an attorney present and basically said he
7 wanted us to -- to tell us the truth and get the story
8 right.

9 Q. Did you promise him anything as part of the case?

10 A. No, sir.

11 Q. What language do officers use when they speak to
12 somebody about promises, and benefits or rewards?

13 A. Basically, we advise them that we don't have the
14 authority to promise them anything as far as giving a
15 statement or even cooperating with us or talking to us. We
16 don't have the authority to do that. And then we make that
17 known that we can't do that.

18 Q. Did you speak with Roy White, a federal prisoner?

19 A. Yes, sir, I did.

20 Q. Actually, let me correct myself. Was he a federal
21 prisoner when you spoke with him?

22 A. No, sir, he was not at that time.

23 Q. And where did you interview him?

24 A. At a residence in Marietta. I don't recall the exact
25 address, but it was his residence in Marietta.

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1 Q. Did he give a written statement?

2 A. Yes, sir, he did.

3 Q. Was he promised anything?

4 A. No, sir, he was not.

5 Q. What did you do to confirm Roy White's statement?

6 A. We followed up by speaking with Tammie Timmons was Mr.
7 White -- at that time was Mr. White's girlfriend who he
8 claimed had been present when he had spoken to the Defendant
9 at the racetrack.

10 Q. And at that time did Tammie Timmons cooperate?

11 A. Yes, sir.

12 Q. How about Bobby Sweet, where did you interview him?

13 A. Initially, the first time we interviewed Mr. Sweet was
14 -- I believe it's Transylvania, North Carolina in the jail
15 facility there at the Sheriff's Office.

16 Q. And who was with you?

17 A. It was myself and Investigator Peeples.

18 Q. How cooperative was he?

19 A. He was very cooperative.

20 Q. Prior to going to Transylvania did you tell him that
21 you were going to come and meet him?

22 A. No, sir.

23 Q. Tell us how that -- tell us how that contact occurred.

24 A. We had information that a female who was arrested had
25 possibly some knowledge about this. And when we spoke with

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1 her she provided us Mr. Sweet's name and that -- and some
2 additional information that we went to follow up on. And he
3 had just been arrested that day and transported to
4 Transylvania.

5 Q. Did he give a statement in this matter?

6 A. Yes, sir, he did.

7 Q. Did he have an opportunity to review his statement?

8 A. He did.

9 Q. Prior to giving that statement did you tell him the
10 make or the caliber of the weapon used in this case?

11 A. No, sir, we did not.

12 Q. And what was your reason for that?

13 A. I don't believe we knew it at that time.

14 Q. Did you interview -- did you interview T-Bird Starling?

15 A. Yes, sir, we did.

16 Q. Where was he and what was he there for?

17 A. Mr. Starling was an inmate at the Greenville County
18 Detention Center. And he was in there for -- I believe it
19 was a child support warrant.

20 Q. Were you able to determine his demeanor when you spoke
21 with him at the Detention Center?

22 A. He was cooperative, but somewhat hesitant. Appeared to
23 be kind of nervous and afraid. Basically just talked to us.

24 Q. Did he give you information?

25 A. Yes, sir, he did.

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1 Q. How did you come to speak to T-Bird?. What caused you
2 to go speak to T-Bird Starling?

3 A. Based on Mr. Sweet's information, the statement we
4 obtained from him.

5 Q. Let's move on to -- did you do anything to confirm Mr.
6 Starling's statement to you?

7 A. Yes, sir. We located Mr. Barrett, whose name had been
8 provided by Mr. Starling.

9 Q. Okay. In addition to Mr. Barrett did you ever
10 interview a Pam Goff or Sherry Holcombe?

11 A. Yes, sir, we did.

12 Q. Did you speak with them and were they cooperative?

13 A. Yes, sir. Well, Ms. Holcombe was not initially. We --
14 she wouldn't come forward initially 'cause she had some
15 active warrants, but we did eventually locate her.

16 Q. From T-Bird Starling you said you spoke with Roy
17 Barrett. Where did you speak to Roy Barrett?

18 A. We spoke with Mr. Barrett at his residence and place of
19 business in Marietta.

20 Q. Did you tell Mr. Barrett you were coming to see him?

21 A. No, sir.

22 Q. Did you tell him why you wanted to see him?

23 A. Once we arrived there, yes, sir.

24 Q. How cooperative was he at that time?

25 A. He was also very cooperative, was willing to speak with

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1 us.

2 Q. What was his demeanor like then as compared to when he
3 was here yesterday?

4 A. Totally different when we initially spoke.

5 Q. Did he give a statement?

6 A. Yes, sir, he did.

7 Q. Was he in trouble? Did he have any reason to get a
8 benefit or reward from the State?

9 A. No, sir, not to my knowledge.

10 Q. Did you interview Dakota Osborne?

11 A. You referring to Oliver, Dakota Oliver?

12 Q. I'm sorry, Dakota Oliver.

13 A. Yes, sir, we did.

14 Q. And was he cooperative?

15 A. Yes, sir.

16 Q. Did you attempt to interview Travis Rider?

17 A. Yes, sir, we did attempt to locate him. However, he
18 was not staying at one permanent address, was staying at
19 several different locations. And we were never able to
20 locate him.

21 Q. More recently, were you able to interview Emily Gentry?

22 A. Yes, sir, I did.

23 Q. Had you been able to interview her prior to this?

24 A. No, sir.

25 Q. How cooperative was she when you finally interviewed

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1 her?

2 A. She was very cooperative also.

3 Q. Were Jobo's relatives around during this conversation?

4 A. No, sir, just her and her -- I believe it was her son
5 -- or daughter.

6 Q. I'm going to show you some documents that were
7 premarked as -- let me ask you some questions about
8 jailhouse phone calls. Are jail phone calls monitored in
9 Greenville County?

10 A. Yes, sir.

11 Q. What do you mean by monitored? How do you explain
12 that?

13 A. They're basically recorded. All phone calls from the
14 Detention Center are recorded.

15 Q. Can people call into the jail to speak to an inmate?

16 A. No, sir. It has to be an outgoing call from the inmate
17 to whoever they call.

18 Q. Do you know how long the phone calls are kept?

19 A. For a year. On, I believe, from my understanding, it's
20 on a separate server, but it is kept for a year.

21 Q. Have you made any audiotapes of jail recordings in this
22 case or disks of audio recordings?

23 A. Yes, sir, I have.

24 Q. Have you provided the defense attorney with copies of
25 JJ Allen's phone calls?

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- 1 A. Through the Solicitor's Office, yes, sir.
- 2 Q. And how about Jobo Phillips' phone calls?
- 3 A. Yes, sir, the same, through the Solicitor's Office, we
- 4 did.
- 5 Q. Are the numbers that were dialed related to the numbers
- 6 that Jobo Phillips had in his family?
- 7 A. Yes, sir.
- 8 Q. Are you familiar with the voices?
- 9 A. Some, yes, sir.
- 10 Q. Okay. Except for the ones that have already been
- 11 discussed by Investigator Whitmire, 40 and 41, do these
- 12 accurately reflect Jobo's voice?
- 13 A. The disks there?
- 14 Q. Yes, sir.
- 15 A. Yes, sir.
- 16 Q. And Courtney Hollingsworth, do they reflect Courtney
- 17 Hollingsworth's voice?
- 18 A. Yes, sir.
- 19 Q. Are you familiar with her voice?
- 20 A. Yes, sir.
- 21 Q. Are you familiar with Jobo Phillips' voice?
- 22 A. Yes, sir, I am.
- 23 Q. In fact, do they make mention of some of the people
- 24 involved in this case?
- 25 A. As far as ---

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1 Q. Do they talk about this case at all?

2 A. Yes.

3 Q. Are the people who are being recorded, are they told
4 they're being recorded?

5 A. Yes, sir. There's an automated prompt prior to being
6 able to speak to each other that will inform you you're
7 being recorded, the person calling as well as the inmate, I
8 believe.

9 Q. Have you made selective phone calls or listened to
10 selective phone calls in this case?

11 A. Yes, sir, I have.

12 MR. STEINBERG: Your Honor, the State would move to
13 introduce State's exhibits, I'll put it in order, 37, 38,
14 39, 40 and 41 into evidence.

15 THE COURT: Any objection?

16 MS. GORTON: Yes, Your Honor. I have to renew my
17 objection as to the September 3rd call citing rule 106.
18 That is the -- my request to play the call in its entirety.
19 You ruled yesterday, Your Honor, ---

20 THE COURT: Yeah, ---

21 MS. GORTON: --- and I'm simply ---

22 THE COURT: I understand.

23 MS. GORTON: --- preserving the record.

24 THE COURT: All right. Subject to that.

25 MS. GORTON: Thank you.

HENRY HAMMETT - DIRECT EXAMINATION BY MR. STEINBERG

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1 (Whereupon State's exhibits 37 - 41 were admitted into
2 evidence)

3 Q. And I'm not sure I've asked this question already. Did
4 you provide the entirety of phone calls to the Solicitor's
5 Office or the defense attorney?

6 A. Yes.

7 Q. Did you hold anything out?

8 A. No, sir.

9 Q. Okay. Before I play these, have you listened to phone
10 calls, both these and others?

11 A. Yes, sir.

12 Q. Does Jobo Phillips ever confess to this crime?

13 A. No, sir, he doesn't.

14 Q. I'm playing State's exhibit number 39. Before this
15 plays, who is JoAnn Johnson?

16 A. It's Mr. Phillips' mother.

17 Q. Well, what is Courtney Hollingsworth's relationship?

18 A. I believe it's his step-sister or referred to as half
19 sister sometimes.

20 (Whereupon the CD was played for the jury)

21 (Whereupon the CD ended)

22 Q. Whose voice was that?

23 A. The male voice was the Defendant, Mr. Phillips. And
24 the female was Ms. Hollingsworth, Courtney Hollingsworth.

25 **MR. STEINBERG:** I'm going to play State's exhibit

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1 number 40, September 3rd, 2011.

2 (Whereupon the CD was played for the jury)

3 **MR. STEINBERG:** Skipping to the 3:16 mark on this disk.

4 (Whereupon the CD was ended)

5 Q. Again, whose voice was that along beside Jobo?

6 A. I'm sorry?

7 Q. Whose voice was that alongside Jobo?

8 A. Courtney Hollingsworth.

9 **MR. STEINBERG:** Putting in State's exhibit number 38,
10 dated September 4th, 2011.

11 (Whereupon the CD was played for the jury)

12 (Whereupon the CD was ended)

13 **MR. STEINBERG:** Placing in State's exhibit number 37,
14 September 9th, 2011.

15 (Whereupon the CD was played for the jury)

16 (Whereupon the CD was ended)

17 **MR. STEINBERG:** Putting in the final disk, State's
18 exhibit number 41, dated September 11th, 2011.

19 (Whereupon the CD was played for the jury)

20 (Whereupon the CD was ended)

21 Q. Investigator Hammett, were there other calls of similar
22 nature?

23 A. Yes, sir.

24 Q. Before Jobo was arrested did he speak to JJ Allen when
25 JJ Allen was in jail?

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, sir.

2 Q. Have you provided those tapes to the State as well?

3 A. Yes, sir.

4 Q. In fact, who was the very first person that JJ Allen
5 called when he was arrested?

6 A. The Defendant, Mr. Phillips.

7 Q. When Jobo Phillips was arrested did he make any phone
8 calls to Christina Gentry?

9 A. Yes, sir.

10 Q. What was the nature of those calls? What was he
11 attempting to do with those phone calls?

12 A. To get her to move back with him or, well, back to his
13 house.

14 Q. Did she agree?

15 A. No, sir.

16 Q. The two individuals, Courtney and JoAnn, do those
17 voices later on pass along messages to JJ Allen?

18 A. Yes, sir.

19 Q. How often?

20 A. Frequently. I don't know exactly how often.

21 Q. Those are all the questions I have. Please answer any
22 questions that Ms. Gorton might have.

23 **Cross Examination by Ms. Gorton:**

24 Q. In listening to those phone calls between my client and
25 JJ do you recall JJ telling him, I appreciate everything

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 you're doing, when I get out I'll get a job, and I'll pay
2 you back?

3 A. Honestly, I don't remember that.

4 Q. Would it refresh your recollection if we played that?

5 A. Sure.

6 **THE COURT:** Do you have a transcript of it?

7 **MS. GORTON:** Huh?

8 **THE COURT:** Do you have a transcript of it?

9 **MS. GORTON:** I don't. I have the recording, Your
10 Honor.

11 **THE COURT:** Okay.

12 **MS. GORTON:** There were no transcripts for all these
13 calls.

14 **MR. STEINBERG:** Your Honor, if counsel's going to play
15 an audiotape, it's obvious it's going to have to be
16 admitted.

17 **MS. GORTON:** Under 610 I'm using it to refresh his
18 recollection.

19 **THE COURT:** You're going to run it down to the very
20 question you've asked him he said he didn't know?

21 **MS. GORTON:** I said, do you recall? And he said, I'm
22 not sure. I don't recall. I said, would listening to it
23 refresh your recollection? He said, yes.

24 **THE COURT:** All right.

25 **MR. STEINBERG:** Your Honor, if I may, this would

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1 broadcast it to the jury. I think if we broadcast it to the
2 jury, it's published -- if it's published it has to be
3 introduced.

4 MS. GORTON: We ---

5 THE COURT: All right. Take the jury out. Take the
6 jury out.

7 (Whereupon the jury exited the courtroom at 3:35 pm)

8 THE COURT: All right. Go ahead and play that out of
9 the presence of the jury.

10 (Whereupon the CD was played)

11 MS. GORTON: It's going to play just a little bit,
12 Judge. We only have thirty second increments.

13 (Whereupon the CD was ended)

14 MR. STEINBERG: Your Honor, if that's the amount,
15 certainly that's not used to refresh your memory.

16 THE COURT: Let me back up here now. What was the
17 question you asked the witness?

18 MS. GORTON: The first question was do you recall if my
19 client said or if JJ said to my client when you -- when I
20 get out I will get a job and pay -- pay you back.

21 THE COURT: And you're saying does he remember saying
22 that to the ---

23 MS. GORTON: Does he ---

24 THE COURT: --- the detective?

25 MS. GORTON: --- remember because he's reviewed all the

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1 calls. And he said he doesn't recall. And I said would
2 listening to the recording refresh your recollection?

3 **THE COURT:** And this is what JJ told him?

4 **MS. GORTON:** As to what JJ said on these tapes that
5 he's listening to.

6 **THE COURT:** No, no, no, no, no. I'm not going -- no,
7 no, no. I thought you -- was on the conversation with this
8 witness.

9 **MS. GORTON:** No. The solicitor was asking questions
10 about what he heard said on these tapes. So I was also
11 asking what he heard said on this tape. And so I was
12 following up with what he said he heard with what else was
13 also on there. And that is JJ saying when I get a job --
14 when I get out I'll get a job and pay you back.

15 **MR. STEINBERG:** Your Honor, first of all, I don't think
16 Investigator Hammett said he listened to all the phone
17 calls. In fact, I don't believe he has listened to all the
18 phone calls. So he can't refresh -- this is totally an
19 attempt to publish to the jury. I'd ask that ---

20 **THE COURT:** No, I'm not going ---

21 **MS. GORTON:** I'm not going to publish ---

22 **THE COURT:** I'm not going to publish it to the jury. I
23 thought she had it in there and that she was going to ask
24 him if that would help refresh his memory.

25 **MS. GORTON:** Refresh his recollection under 612, yes,

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 Your Honor.

2 THE COURT: All right. Please go ahead and find that
3 and play it so he can hear it and then see whether or not he
4 can answer the question.

5 Q. Did what I just play refresh your recollection?

6 A. I can't specifically say. I'm sorry. I just -- I
7 don't know that I specifically listened to that or took ---

8 THE COURT: All right. So he doesn't know. All right.
9 Do you have any other similar type -- similar questions that
10 you're going to ask that we can do out of the presence of
11 the jury while they're out?

12 MS. GORTON: I'm going to ask him -- yes, Judge. I'm
13 going to ask him if he ever heard JJ say that he still
14 swears on his daddy's grave that he is the only one who did
15 this?

16 THE COURT: Can you answer that?

17 A. No, sir. I'm sorry. I don't ---

18 THE COURT: Okay.

19 A. I really -- I don't remember.

20 MS. GORTON: Okay. That's not in the first phone call
21 that he already said he listened to between JJ and Joe. So
22 I'll save it for Jerry Allen.

23 THE COURT: All right. So you're through with the tape
24 now?

25 MS. GORTON: I think so.

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1 **THE COURT:** All right. Bring the jury.

2 (Whereupon the jury entered the courtroom at 3:41 pm)

3 **THE COURT:** All right. You may continue.

4 **Cross Examination by Ms. Gorton Continued:**

5 Q. I'll ask the question for you to answer. Do you recall
6 if JJ said to Jobo when I get out, I'll get a job and pay
7 you back?

8 A. No, ma'am, I don't specifically remember that.

9 Q. Okay. Could have happened, you just don't recall?

10 A. Correct.

11 Q. Okay. Now, on those recordings that we listened to,
12 some of them were hard to understand. Have you had the
13 opportunity to play them several times to understand what
14 was being ---

15 A. Yes, ma'am.

16 Q. And what Joe is saying is he has a plan to get JJ out
17 of this mess, correct?

18 A. Yes.

19 Q. And that it might take pushing it off on someone else,
20 but that he just needs to keep his mouth shut, ---

21 A. Correct.

22 Q. --- he's got a plan, correct?

23 A. Yes.

24 Q. There's no mention of payment or anything like that?

25 A. No, ma'am.

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 Q. Okay. And the gist of those calls isn't he's got a
2 plan to get himself out, he's got a plan to get JJ out of
3 trouble?

4 A. I think he at one point says that when I can get us
5 both out of this.

6 Q. Most of this conversation's about JJ, correct?

7 A. Correct.

8 Q. And I believe we listened to the one call between the
9 two of them, is that correct, where they call each other
10 brother?

11 A. Yes, I believe.

12 Q. Okay. Now, I'm going to leave the jail calls for a
13 minute and go back to some other things. Do you know where
14 the Mountain View Store is on that map?

15 A. Can I step ---

16 Q. Sure.

17 A. --- down here?

18 Q. Sure.

19 (Whereupon the witness left the witness stand)

20 A. I don't know if I can ...

21 Q. I was using the Defendant's residence ---

22 A. I would say it's right where the bottom part of Long
23 Shoals Road comes into -- I would say, maybe, right here.

24 Q. Okay.

25 A. But I'm -- that's kind of a rough guess.

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 Q. Now, ---

2 A. I'm not sure.

3 Q. --- you've heard me review the testimony of both Joe
4 and Christine giving testimony that between noon and eight
5 pm on the 8th they took some cousins to a park?

6 A. Yes, ma'am.

7 Q. Do you know which park that was?

8 A. I do not, no.

9 Q. Do you know if it was up there?

10 A. (Negative nod).

11 Q. You don't know?

12 A. I -- honestly, I do not know which park she was
13 referring to.

14 Q. You don't know if it was Pleasant Ridge?

15 A. I don't know. Sorry.

16 Q. There are parks up there, right?

17 A. Yes.

18 Q. Okay.

19 (Whereupon the witness returned to the witness stand)

20 Q. And you are aware that both of them verified that,
21 correct?

22 A. Yes, ma'am.

23 Q. Now, you explained to the solicitor what you did with
24 the .380 and the background search that you conducted on
25 that, ---

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 A. Correct.

2 Q. --- and the NCIC search?

3 A. Yes, ma'am.

4 Q. What search did you do on the 9mm?

5 A. The same.

6 Q. And did you find anything different with that?

7 A. No, ma'am.

8 Q. No records on that?

9 A. No, ma'am.

10 Q. Did you ever get an explanation as to why both guns
11 were buried together?

12 A. Mr. Allen said that the Defendant had told him to bury
13 both of them because he was afraid that the police were
14 going to come to his house, and he didn't want the gun at
15 his house, the 9mm also.

16 Q. Which of his three statements did he give that ---

17 A. I believe he told us that when we were -- when he took
18 us out there to the actual location and where he pointed out
19 where the guns were buried.

20 Q. So that was right after statement number two?

21 A. Yes.

22 Q. So not during statement number three?

23 A. No, ma'am.

24 Q. And during statement number two, of course, he's saying
25 that my client is the trigger-man and he's responsible for

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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- 1 everything?
- 2 (Pause)
- 3 A. Yes.
- 4 Q. Okay.
- 5 A. Sorry.
- 6 Q. So no other explanations other than ---
- 7 A. No, ma'am.
- 8 Q. --- the statement we know to be false?
- 9 A. Correct.
- 10 Q. Okay. Now, were you ever able to determine whether
- 11 both those guns did, in fact, belong to my client?
- 12 A. No, ma'am.
- 13 Q. You were able to determine that Mr. Allen and my client
- 14 shared the same residence?
- 15 A. Correct. Yes.
- 16 Q. And so Mr. Allen would have had equal access to his
- 17 guns?
- 18 A. Correct.
- 19 Q. And also equal access to Mr. Phillips' phone?
- 20 A. Correct.
- 21 Q. And also during this same demonstration, which is after
- 22 statement number two, before statement number three, the
- 23 prosecutor was asking you about this re-enactment that Mr.
- 24 Allen did for you?
- 25 A. Um-hum (affirmative).

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 Q. And whether that was consistent with where you found
2 the shell casing?

3 A. Correct.

4 Q. Only in that re-enactment he stood where we now know he
5 was standing ---

6 A. Yes, ma'am.

7 Q. --- and claiming it was Joe standing there?

8 A. Correct.

9 Q. So Mr. Allen knew, of course, where he was standing?

10 A. Correct.

11 Q. Okay. Was there any -- at some point after JJ gives
12 this second statement, y'all realize he lied to you? Right?

13 A. Yes, ma'am.

14 Q. In that period of time was there any un-arrest of Mr.
15 Phillips?

16 A. No, ma'am.

17 Q. Did you ever release him?

18 A. No, ma'am, I did not.

19 Q. Did you ever ask to have him released or suggest that
20 he be released now that you know that statement number two
21 is false?

22 A. No, ma'am.

23 Q. Did you do anything other than go back to the same
24 person who had already lied to you and get a third
25 statement?

HENRY HAMMETT - CROSS EXAMINATION BY MS. GORTON

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1 A. I don't believe so. I think it was -- once Mr. Poole
2 came forward, then we went back and re-interviewed Mr.

3 Allen.

4 Q. Have you reviewed Mr. Allen's first statement?

5 A. Yes, ma'am.

6 Q. Is there anything about that statement that you can
7 definitively point to as being a lie except for the part
8 where he says he destroyed the guns?

9 A. I'd have to review it again just to be sure. If I
10 could read through it again, I'll ---

11 Q. Please do.

12 A. Sure. Now you said you're referring to the first
13 statement?

14 Q. Yes, sir, the one on the 16th.

15 (Pause)

16 A. And I'm sorry, can you ask the question one more time.

17 Q. Sure. Is there anything about statement number one
18 that you can definitively say is false other than the part
19 about how he destroyed the guns?

20 A. No.

21 Q. He was in custody the whole time for statement number
22 one, correct, until statement number two and statement
23 number three?

24 A. Mr. Allen?

25 Q. Yes.

HENRY HAMMETT - REDIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yes.

2 Q. So ---

3 A. I believe so.

4 Q. When he told you that he destroyed those guns, you now
5 know that he knew where they were the whole time they were
6 actually buried? They were already buried when he gave you
7 that statement, right?

8 A. Yes. Yeah.

9 Q. It would have had to ---

10 A. Yeah.

11 Q. --- have been ---

12 A. Yes. Correct. I'm sorry.

13 Q. So the only thing that you can definitely say he lied
14 about is where those guns went?

15 A. Yes, ma'am.

16 MS. GORTON: Nothing further.

17 MR. STEINBERG: Very briefly.

18 THE COURT: All right.

19 **Redirect Examination by Mr. Steinberg:**

20 Q. Counsel asked you how well you heard those recordings
21 we played and whether it only referred to Jobo trying to
22 help out JJ. Did Jobo Phillips' voice say, I am going down
23 the river if Jobo -- if JJ speaks on ---

24 A. I think he said going down the road, I believe.

25 Q. I'm sorry. Did he ever say don't talk about me, Jobo?

HENRY HAMMETT - RECROSS EXAMINATION BY MS. GORTON

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1 A. Yes.

2 Q. Did he ever say, I hope he sticks with the story he
3 first told or the first -- the first version?

4 A. Yes, sir.

5 Q. Opposing counsel asked you whether there was -- why you
6 didn't release Mr. Phillips following JJ's false statement.
7 Did you see anything at that time or anything now why you
8 should have released him in this case?

9 A. No, sir.

10 Q. The statement you just read, asked you if anything was
11 false, is anything in that first statement truthful?
12 Outside of the obvious death of Charlie Roberts.

13 A. Not to my knowledge.

14 Q. Thank you.

15 MS. GORTON: Recross.

16 **Recross Examination by Ms. Gorton:**

17 Q. As far as going down the road, is there such a charge
18 as accessory after the fact?

19 A. As far as is there a legal charge for accessory after
20 the fact?

21 Q. Yes.

22 A. Yes, ma'am.

23 Q. And what is the penalty for accessory ---

24 A. I ---

25 Q. --- after ---

HENRY HAMMETT - RECROSS EXAMINATION BY MS. GORTON

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1 THE COURT: No, no.

2 A. --- don't ---

3 THE COURT: No, no.

4 A. I'm sorry, I don't know.

5 Q. Let me ask you, is it a felony offense?

6 MR. STEINBERG: Your Honor, I'm going to have to ---

7 THE COURT: No, no. I won't allow that.

8 Q. Third question, would you go down the road if you were
9 convicted of accessory after the fact?

10 MR. STEINBERG: Your Honor, ---

11 THE COURT: I sustain ---

12 MR. STEINBERG: --- I have to object. This is ---

13 THE COURT: --- the objection. I sustain the
14 objection. Instruct the jury to disregard those questions.

15 MS. GORTON: Nothing further.

16 THE COURT: Step down.

17 A. Thank you, Your Honor.

18 MR. STEINBERG: Your Honor, the State's next witness
19 will be the co-defendant, JJ Allen.

20 THE COURT: All right.

21 MADAME CLERK: Mr. Allen, please come around to be
22 sworn.

23 THE COURT: The other one. Put your other hand ...

24 MADAME CLERK: Raise your right hand, please.

25 Jerry Allen, being duly

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1 sworn testified as follows:

2 MADAME CLERK: Thank you. You can have a seat. Sir,
3 would you, please, state your name for the record.

4 MR. ALLEN: My name is Jerry Leonard Allen, Jr.

5 MADAME CLERK: Thank you.

6 THE COURT: Pull in a little closer, please.

7 MR. ALLEN: My name is Jerry Leonard Allen, Jr.

8 MADAME CLERK: Thank you.

9 **Direct Examination by Mr. Steinberg:**

10 Q. Good afternoon, Mr. Allen. How are you today?

11 A. I'm all right. How about you?

12 Q. Thank you, sir. Tell us a little bit about yourself.
13 How old are you?

14 A. I'm twenty-six.

15 Q. And where are you from originally?

16 A. I'm from Georgia.

17 Q. How old were you in July of 2011?

18 A. Twenty-four.

19 Q. How long have you lived in Greenville?

20 A. About six years.

21 Q. Did you acquire jobs in your adult life?

22 A. Yeah.

23 Q. What kind of jobs, sir?

24 A. I was an electrician.

25 Q. Are you married?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. I'm divorced.
- 2 Q. Do you have any children?
- 3 A. I got two.
- 4 Q. Do you know what we're here for today, Mr. Allen?
- 5 A. Yes, sir.
- 6 Q. And have you pled guilty in this case?
- 7 A. Yes, sir.
- 8 Q. What have you pled guilty to?
- 9 A. Thirty to life.
- 10 Q. Okay. What's the name of the charge?
- 11 A. Murder.
- 12 Q. And do you know what you face?
- 13 A. Thirty to life.
- 14 Q. Is there any chance of parole?
- 15 A. No, sir.
- 16 Q. Who makes the decision as to your sentence?
- 17 A. The judge.
- 18 Q. Do you understand that the State is going to make a
- 19 recommendation and it's only a recommendation?
- 20 A. Yes, sir.
- 21 Q. And what's the recommendation going to be?
- 22 A. Thirty years.
- 23 Q. Prior to your arrest where did you live, Mr. Allen?
- 24 A. Jobo's house.
- 25 Q. And what was the address, if you recall?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 A. [REDACTED] Long Shoals Road.
- 2 Q. Could you lean a little forward? I'm going to try to
- 3 get this -- you're a little bit soft spoken.
- 4 A. [REDACTED] Long Shoals Road.
- 5 Q. And who else lived at that house?
- 6 A. Jobo.
- 7 Q. Did any of his children live there?
- 8 A. Off and on, yes, sir.
- 9 Q. And had Christina Gentry ever lived there?
- 10 A. She's lived there before, yes.
- 11 Q. And to refresh the jury's memory, what is Christina
- 12 Gentry's relationship to you?
- 13 A. It's my sister.
- 14 Q. Who lived next to Jobo?
- 15 A. JoAnn.
- 16 Q. Any other family members?
- 17 A. Moe, Snuffy, Courtney.
- 18 Q. Moe. What was the second one?
- 19 A. Moe Johnson.
- 20 Q. What was the second one?
- 21 A. Snuffy and Courtney.
- 22 Q. Do you remember when -- when your sister moved out?
- 23 A. Yes, sir.
- 24 Q. Approximately when was that? How many -- how long
- 25 before this incident involving Charlie Roberts, how long did

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

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- 1 that occur?
- 2 A. About a month, month and a half.
- 3 Q. Have you been sent down for a mental exam?
- 4 A. Yes, I have.
- 5 Q. Have you been found to be competent?
- 6 A. Yes, I have.
- 7 Q. How good is your clarity now? How well do you recall
- 8 this incident?
- 9 A. Pretty well.
- 10 Q. Are you taking the appropriate medication ---
- 11 A. Yes, I am.
- 12 Q. --- prescribed by a doctor?
- 13 A. Yes, I am.
- 14 Q. Let's talk to you about your relationship with Jobo
- 15 Phillips in 2011. How did you look upon him?
- 16 A. As a mentor.
- 17 Q. Why did you look upon him as a mentor?
- 18 A. Because he helped bond me out of jail, and he helped me
- 19 when I needed to be helped.
- 20 Q. How did Jobo act around or about Christina Gentry?
- 21 A. Infatuated.
- 22 Q. Please explain what you mean by infatuated.
- 23 A. Everything that happens revolves around her.
- 24 Q. Approximately when did you live with Jobo?
- 25 A. About a year before the incident happened.

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- 1 Q. Do you remember when you moved out?
- 2 A. I never moved out.
- 3 Q. Okay. Did you live there on the day you were arrested?
- 4 A. Yes.
- 5 Q. Did you have a drug problem in 2011?
- 6 A. Yes.
- 7 Q. What was your drug problem?
- 8 A. Meth and pills.
- 9 Q. What kind of pills were they?
- 10 A. Lortabs, Roxies and Xanaxes.
- 11 Q. When you say meth, you talking about methamphetamine?
- 12 A. Yes, sir.
- 13 Q. Who gave you those drugs?
- 14 A. Jobo.
- 15 Q. How often would he give you those drugs?
- 16 A. Very often.
- 17 Q. How did you act towards -- in your words, in your
- 18 language, how would you -- how did you act towards Jobo?
- 19 A. I really -- I looked up to him.
- 20 Q. Did you do any services or perform any functions for
- 21 Jobo?
- 22 A. Yes.
- 23 Q. What did you do?
- 24 A. I did remodeling, I'd watch the kids.
- 25 Q. After Christina moved out who did the cooking?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

413

- 1 A. Usually JoAnn did.
- 2 Q. Who did the cleaning?
- 3 A. I did.
- 4 Q. Did you ever do any other jobs or services for Jobo?
- 5 A. Just be the watch-dog.
- 6 Q. What word?
- 7 A. Watch-dog.
- 8 Q. What does that mean?
- 9 A. I did everything that he needed me to do while he was
- 10 gone.
- 11 Q. Did he put a roof over your head?
- 12 A. Yes, he did.
- 13 Q. Did you ever do any automotive work for him?
- 14 A. Yes, I have.
- 15 Q. What type automotive work?
- 16 A. Transmission.
- 17 Q. Want to go back to this methamphetamine. What effect
- 18 does methamphetamine have on you for people who aren't
- 19 familiar with it?
- 20 A. It makes you very persistent.
- 21 Q. What does that -- what do you mean by that? Can you
- 22 give me an example?
- 23 A. Makes you not want to give up on what you're doing.
- 24 Q. What effects did the pill use have on you at the time?
- 25 A. The pill use made me want to clean or made me -- made

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

414

1 me more active than just focusing on one thing with meth.

2 Q. Did you know the victim in this case, Charlie Roberts?

3 A. No, I didn't.

4 Q. Had you ever met him before?

5 A. I met him before one time at the end of the driveway.

6 Q. And tell us about that conversation. What was that
7 about?

8 A. That was just about Jobo and Christina. It was a
9 friendly conversation.

10 Q. Had you ever had any prior fights with him?

11 A. No, I haven't.

12 Q. Had prior arguments with him?

13 A. No, I haven't.

14 Q. Have any prior business deals?

15 A. No, I haven't.

16 Q. You ever have any prior drug deals of any sort?

17 A. No, I haven't.

18 Q. With Charlie? Did you ever tell officers that you'd
19 had ---

20 A. No.

21 Q. --- a drug deal?

22 A. Oh, yes, I have.

23 Q. Was that a truthful statement?

24 A. No, it wasn't.

25 Q. Why did you tell an untruthful statement to the

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

415

1 officers?

2 A. Because I was told to say that.

3 Q. By who?

4 A. Jobo.

5 Q. I don't know how to ask this, but do you do what Jobo
6 says?

7 A. I did.

8 Q. Did you ever have any discussions with Jobo Phillips
9 about Charlie Roberts?

10 A. Yes, I have.

11 Q. When was the first time Jobo found out about Charlie
12 Roberts seeing Christina?

13 A. When Christina got dropped off at a Texaco in Travelers
14 Rest and some people saw her getting picked up on a
15 motorcycle. And Jobo found out about it through the people
16 at the store.

17 Q. Were you there when Jobo found out about it?

18 A. I was at home, yes.

19 Q. You were what?

20 A. I was at home, yes.

21 Q. Okay. What did Jobo do when he found out? What did he
22 say?

23 A. He got furious. He made threats.

24 Q. What kind of threats?

25 A. First he was threatening to fight, but ...

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

416

- 1 Q. You said -- I think you said but?
- 2 A. Yeah.
- 3 Q. What ---
- 4 A. Threatened to fight.
- 5 Q. Any other threats?
- 6 A. Yes. There was one threat to kill over the phone.
- 7 Q. How long was this after Christina had moved out?
- 8 A. Not long.
- 9 Q. After she moved out how often did Jobo bring up
- 10 Christina and Christina having a relationship?
- 11 A. Pretty often.
- 12 Q. Did you ever drive Jobo past Charlie's house?
- 13 A. Yes, I have.
- 14 Q. What was the reason for that?
- 15 A. To see if Christina was there.
- 16 Q. What time of day or night was that, would that be?
- 17 A. Most of the time it was at night.
- 18 Q. You say most of the time, how often did that happen?
- 19 A. How often did it happen?
- 20 Q. Yes, sir.
- 21 A. About -- I'd probably say very often.
- 22 Q. What would Jobo Phillips say when you were driving him
- 23 past Charlie Roberts' house?
- 24 A. Christina better not be there.
- 25 Q. Did he say anything else?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

417

1 A. He said if Christina was there then -- well, there was
2 going to be a fight.

3 Q. Did you ever have any discussions or present when Jobo
4 had any discussions concerning an incident at Charlie's
5 house in June of 2012?

6 A. Yes, sir.

7 Q. Please tell us what Jobo said.

8 A. He wanted me to go and break in Charlie's house first
9 thing in the morning.

10 Q. Let me bring you back to June of 2012. Do you remember
11 an incident where Jobo, himself, went over to Charlie's
12 house?

13 A. Jobo, himself?

14 Q. Yeah.

15 A. Yes, sir. That was when the police officer talked to
16 him over the phone.

17 Q. Okay. Were you present with Jobo when the police
18 officers called?

19 A. Yes, sir, I was.

20 Q. Okay. How did Jobo act during that conversation?

21 A. He was furious.

22 Q. What did Jobo do after he hung up the phone? What did
23 he say?

24 A. He just made threats.

25 Q. Threats to who?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

418

- 1 A. Made threats about Charlie.
- 2 Q. When Jobo would talk about Christina how would he
- 3 react? How would -- physically, how would he be?
- 4 A. How would he react?
- 5 Q. Yes, sir.
- 6 A. He would just -- he'd just act outrageous and
- 7 infatuated.
- 8 Q. After the incident where the deputy got involved do you
- 9 remember if Jobo and Charlie had ever spoken together after
- 10 that?
- 11 A. Yes, they have.
- 12 Q. Please tell us about that.
- 13 A. They'd spoken at a race and over the phone.
- 14 Q. Okay. Was it a hostile or was it a friendly
- 15 conversation?
- 16 A. The last conversation I heard was it was friendly.
- 17 Q. And did Jobo ever discuss why he was acting in a
- 18 friendly way?
- 19 A. To put on a front.
- 20 Q. Do you recall an incident on a porch on Long Shoals
- 21 Road where Jobo made any statements?
- 22 A. Yes, I do.
- 23 Q. Who is Travis Rider and what is his nickname in the
- 24 community?
- 25 A. Grover.

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

419

- 1 Q. What's Grover's relationship with ---
- 2 A. Jobo's cousin.
- 3 Q. Was Dakota Oliver there?
- 4 A. Yes, sir.
- 5 Q. What did Jobo say?
- 6 A. He wanted to kill Charlie or have somebody kill
- 7 Charlie.
- 8 Q. Who was he talking to?
- 9 A. He was talking to me.
- 10 Q. At that time did you accept?
- 11 A. No.
- 12 Q. How old were [REDACTED] and [REDACTED]?
- 13 A. About fifteen.
- 14 Q. Did Jobo ever follow up on that request? Did he ever
- 15 ask you again?
- 16 A. Later on.
- 17 Q. And did he ever offer you anything in exchange for
- 18 this?
- 19 A. Money and -- money and drugs.
- 20 Q. How much money?
- 21 A. Two hundred dollars, five hundred dollars.
- 22 Q. And what kind of drugs? Did he say what type of drugs?
- 23 A. It was just whatever I wanted.
- 24 Q. What words would he say when you -- when he would ask
- 25 you for that?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

420

- 1 A. Words he said to me?
- 2 Q. Yeah. What would he say? Did he ever talk to you
- 3 about why you should do this?
- 4 A. No, sir.
- 5 Q. Did he ever make any plans to kill Charlie Roberts?
- 6 A. Yes, sir.
- 7 Q. Did he offer you anything what he'll do after you
- 8 committed the crime? Did he ever say anything?
- 9 A. Yes, sir.
- 10 Q. What was that?
- 11 A. That I wouldn't have to have anything to worry about,
- 12 that my kids would have child support and everything paid
- 13 for.
- 14 Q. Did you have your own house at the time or did you only
- 15 live at Jobo's house?
- 16 A. I lived at Jobo's house.
- 17 Q. Did Jobo make any statements about his house?
- 18 A. Yes, sir. He said ---
- 19 Q. What did he say?
- 20 A. --- that his house is my house.
- 21 Q. Did he ever discuss a lawyer or paying for a lawyer?
- 22 A. Yes, sir.
- 23 Q. What did he say?
- 24 A. He said that he would pay for me to have a lawyer for
- 25 me to make bond.

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

421

- 1 Q. Did you have enough money for an attorney?
- 2 A. No.
- 3 Q. Did Jobo have enough money for an attorney?
- 4 A. Yes.
- 5 Q. Let's talk about the day of July 8th, 2011. What
- 6 triggered this day for you to get involved in this matter?
- 7 A. Jobo didn't want to wait any longer.
- 8 Q. Were you under the influence of any drugs at this time?
- 9 A. Yes, I was.
- 10 Q. What did Jobo tell you to do?
- 11 A. Go to Charlie's house, break in through the window,
- 12 hold him at gunpoint when he come in and wrap a tie around
- 13 his neck and break his neck.
- 14 Q. Did he give you a gun?
- 15 A. Yes, he did.
- 16 Q. Do you remember what kind of gun it was?
- 17 A. A .380 Hi-Point pistol.
- 18 Q. Do you remember how many bullets it had in it at the
- 19 time you ---
- 20 A. Two.
- 21 Q. --- received it? How many?
- 22 A. Two bullets.
- 23 Q. Had you ever seen this particular gun before?
- 24 A. No, sir.
- 25 Q. Specifically, what did -- did you go over to Charlie

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

422

- 1 Roberts' house on this day, July 8th?
- 2 A. Yes, I did.
- 3 Q. Approximately what time was this?
- 4 A. The first time was 5:00 in the morning.
- 5 Q. Did you, in fact, go through with this plan?
- 6 A. No, I didn't.
- 7 Q. Why didn't you go through with this?
- 8 A. Because I thought it was stupid.
- 9 Q. Why did you think it was stupid?
- 10 A. Because there's a bunch of trailers around.
- 11 Q. Did you speak to Jobo later that morning?
- 12 A. Yes, I did.
- 13 Q. Did you give the gun back or did you keep it?
- 14 A. I kept the gun.
- 15 Q. Did Jobo say anything to you about not going through
- 16 with this act?
- 17 A. He was mad.
- 18 Q. Did you make a second attempt?
- 19 A. Yes, I did.
- 20 Q. What day?
- 21 A. The same day it happened.
- 22 Q. Okay. And what was the plan this time?
- 23 A. To wait across in the woods and catch him when he come
- 24 home from work and walk across the street, hold him at
- 25 gunpoint and kill him in his house.

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

423

- 1 Q. Did you think -- did you go through with this plan?
- 2 A. No, I didn't.
- 3 Q. What did you think about this plan?
- 4 A. Well, I didn't think very much because walking out in
- 5 the open in daylight is kind of crazy.
- 6 Q. Did you then go back to Jobo's house?
- 7 A. Yes, I did.
- 8 Q. And did you talk to Jobo about this?
- 9 A. Yes, I did.
- 10 Q. Did he change the plan at all?
- 11 A. Yes, he did.
- 12 Q. I'm going to bring you to Friday morning, July 8th,
- 13 2011. What was the plan now?
- 14 A. Get Charlie to take me over to Carl Rider's old
- 15 property and act like I'm looking for an alternator and
- 16 shoot him.
- 17 Q. Did -- what was the reason for getting an alternator at
- 18 Carl Rider's property?
- 19 A. That was the place that -- would have found a place to
- 20 actually follow through.
- 21 Q. What was the reason for getting the alternator?
- 22 A. To fake like we needed it to fix the van.
- 23 Q. Whose van?
- 24 A. Jobo's van.
- 25 Q. Well, what kind of van did Jobo have and what kind of

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

424

1 van did Christina have?

2 A. Dodge Grand Caravan.

3 Q. And what kind of car did Christina have?

4 A. Dodge Grand Caravan.

5 Q. What did Jobo say to Charlie, if you heard the -- heard
6 the conversation?

7 A. What he said to Charlie?

8 Q. Yes, sir.

9 A. He told Charlie, he said he needed somebody -- he
10 needed to see if he'd take his old lady's brother to go get
11 an alternator for the van, said the van was tore up. When
12 he agreed he said he'll be over there in a little bit
13 walking.

14 **MR. STEINBERG:** I beg the Court's indulgence.

15 (Pause)

16 Q. Which color was the van that Christina drove?

17 A. It was red.

18 Q. Which color was the van that Charlie -- that Jobo
19 drove?

20 A. Gray.

21 Q. On any of your reports did you ever say that this was
22 for Christina's van?

23 A. Yes.

24 Q. What reason did Jobo give for him not getting the
25 alternator himself?

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425

1 A. Because he couldn't be seen with Charlie.

2 Q. Okay. What reason -- what reason did he tell Charlie?

3 A. What reason did he tell Charlie? He told Charlie that
4 -- that he's got to watch the kids.

5 Q. What specific offer or demand did Jobo make for you at
6 that time? What specifically did he tell you?

7 A. He told me he'd give me money and whatever else I
8 needed.

9 Q. Did he give you any drugs at that point?

10 A. Yes.

11 Q. What drugs?

12 A. Pills.

13 Q. Any methamphetamine?

14 A. Yes.

15 Q. What kind of methamphetamine?

16 A. Methamphetamines is -- it's ice.

17 Q. Well, did you smoke it, shoot it, snort it? What do
18 you do?

19 A. I shot it.

20 Q. What effect does shooting methamphetamine have on you?

21 A. It just -- it's -- it has more of an effect than
22 smoking it and snorting it, way more.

23 Q. And where were you supposed to go with Charlie?

24 A. To Carl Rider's old place off Geer Highway.

25 Q. How did you get down to Charlie's house?

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426

1 A. Jobo drove me and dropped me off at the end of the
2 driveway.

3 Q. Did he drive you all the way up to Jobo's [sic] house?

4 A. No, he dropped me off on Chestnut.

5 Q. What is Chestnut? Is that a road nearby?

6 A. The road right up from Lions Park Road.

7 Q. Do you know why Jobo chose that particular location?

8 A. Because that was the easiest spot to get anything
9 really done.

10 Q. Had you ever been there with Jobo before?

11 A. Yes.

12 Q. What were you supposed to do with Charlie Roberts once
13 you got down there?

14 A. Shoot him.

15 Q. Did you still have the gun with you?

16 A. Did I -- yes, sir, I still had the gun with me.

17 Q. Is there a well on this property?

18 A. Yes, sir, there is.

19 Q. Did Jobo ever instruct you what to do with Charlie once
20 he got -- once you got him down there?

21 A. Shoot him and then pick him up and put him in the well.

22 Q. How high is that well?

23 A. Three -- three feet.

24 Q. Did Jobo ever tell you to do anything with Charlie's
25 property, that is, the stuff he had with him?

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427

- 1 A. To take his phone, and take his keys, take his wallet.
- 2 Q. Did he say why he wanted the phone?
- 3 A. To see if Christina and Charlie were having sex.
- 4 Q. What were you supposed to do with the car keys?
- 5 A. Take them with me, throw them in the woods.
- 6 Q. Did you ever -- did you ever go up to Gap Creek?
- 7 A. Yes, I did.
- 8 Q. Okay. Why did you go up to Gap Creek?
- 9 A. To drop the truck off.
- 10 Q. And who told you to do that?
- 11 A. Jobo.
- 12 Q. Did he tell you any particular place?
- 13 A. He told me there was a place in the woods that you
- 14 could take it and run it off -- run the truck off the side
- 15 of the hill into a ravine.
- 16 Q. And then what were you supposed to do?
- 17 A. Wipe the truck down.
- 18 Q. And then what were you supposed to do after you wiped
- 19 the truck down?
- 20 A. Actually get it in the ravine.
- 21 Q. How were you supposed to get it back to -- how were you
- 22 supposed to get back down to Marietta?
- 23 A. I told Jobo to pick me up.
- 24 Q. So that's what your plans were. Let's talk about what
- 25 you actually did. You got down to Charlie's house. Did you

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

428

- 1 speak to Charlie?
- 2 A. Yes.
- 3 Q. Was it a hostile conversation?
- 4 A. No, it was a friendly conversation.
- 5 Q. Did he give you a ride?
- 6 A. Yes, he did.
- 7 Q. Did he seem willing to cooperate?
- 8 A. Yes, he did.
- 9 Q. Do you recall anything about the conversation you had
- 10 with him?
- 11 A. We were talking about fishing and hunting.
- 12 Q. Were you still under the influence at this time?
- 13 A. Yes, I was.
- 14 Q. Did you go all the way down Carl Rider's driveway?
- 15 A. No, we parked at the end.
- 16 Q. Why did you park at the end instead of driving all the
- 17 way down?
- 18 A. Because there was a big tree down.
- 19 Q. A what?
- 20 A. A big tree down.
- 21 Q. Blocking the driveway?
- 22 A. Yes.
- 23 Q. Once you went down there did Charlie accompany you down
- 24 there?
- 25 A. Yes, he did.

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

429

- 1 Q. Did y'all look for any alternator?
- 2 A. Yes, we did.
- 3 Q. Was, in fact, there an alternator down there?
- 4 A. No, there wasn't.
- 5 Q. You agree that was a falsehood you told?
- 6 A. Yes.
- 7 Q. And did you ever meet up with Charlie at any of the
- 8 sheds, or barns, or garages out there?
- 9 A. Yes, I did.
- 10 Q. What was he doing?
- 11 A. He was -- he was actually looking for something that
- 12 wasn't there. And then he actually turned his head, and
- 13 that's, you know, that's when I shot him.
- 14 Q. Approximately how far were you standing from him?
- 15 A. About twenty-five to thirty feet.
- 16 Q. Okay. Was he inside or outside of this garage
- 17 building?
- 18 A. Inside.
- 19 Q. Did you go over to the body?
- 20 A. Yes, I did.
- 21 Q. Did you check his pulse?
- 22 A. Yes, I did.
- 23 Q. Okay. In your report I think you said you shot Charlie
- 24 in the back of the head.
- 25 A. Yes, I did.

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430

- 1 Q. Is that correct?
- 2 A. Yes.
- 3 Q. How confident are you that you shot him in the back of
- 4 the head instead of the front?
- 5 A. One hundred.
- 6 Q. What?
- 7 A. One hundred percent.
- 8 Q. One hundred. And what was Charlie wearing at the time,
- 9 if you recall?
- 10 A. Pants, shirt and a hat. He was wearing jeans, shirt
- 11 and a hat.
- 12 Q. In your statement did you say you believe you shot him
- 13 in the -- in the back of the head when you saw blood coming
- 14 out of his eye?
- 15 A. Yes.
- 16 Q. Did you make any phone calls after that?
- 17 A. Yes, I did.
- 18 Q. On whose phone?
- 19 A. Charlie's.
- 20 Q. And who did you call?
- 21 A. Jobo.
- 22 Q. Why would you call Jobo?
- 23 A. To tell him that I did it.
- 24 Q. How did Jobo respond?
- 25 A. He got sick to his stomach and started crying.

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

431

- 1 Q. Did you keep the phone?
- 2 A. Yes, I did.
- 3 Q. Did you go back up to the truck?
- 4 A. Yes, I did.
- 5 Q. Did you have to go back to the body that day?
- 6 A. Yes.
- 7 Q. Return to the body that day?
- 8 A. Yes, I did.
- 9 Q. What was your reasoning?
- 10 A. For getting the keys out of his pocket.
- 11 Q. When you went back there did you see any -- I call it a
- 12 government surplus bag, but a large fabric type bag?
- 13 A. Yes, sir.
- 14 Q. And did you do anything with that?
- 15 A. Not until after I moved the body.
- 16 Q. Did you move the body that day or a different day?
- 17 A. It was a week later.
- 18 Q. Okay. Do you remember exactly when or approximately
- 19 when you spoke to Jobo using Charlie's phone?
- 20 A. It was about -- it was about ten, 9:30, 10:00.
- 21 Q. Did you drive anyplace in Charlie's truck?
- 22 A. Yes, I did.
- 23 Q. Where did you go?
- 24 A. To Gap Creek Road.
- 25 Q. Do you remember which road you took to get to Gap

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

432

- 1 Creek? Highway 25 or Highway 276?
- 2 A. Highway 276, Geer Highway.
- 3 Q. How close did you get rid of the truck to the North
- 4 Carolina border?
- 5 A. Not very far.
- 6 Q. Did Charlie have a wallet? And if so, what did you do
- 7 with it?
- 8 A. Yes, he did. I threw it in the -- I threw it in the
- 9 creek.
- 10 Q. Do you know where in the creek you threw it?
- 11 A. No, sir, I don't. I threw it while I was driving.
- 12 Q. Who was supposed to pick you up?
- 13 A. Jobo.
- 14 Q. And was anybody else supposed to be with him?
- 15 A. No, there wasn't.
- 16 Q. As far as you know did anybody else know about this?
- 17 A. Not at that time.
- 18 Q. Did -- as far as you know did Jimmy Poole or JoAnn
- 19 Johnson know anything about this?
- 20 A. No.
- 21 Q. Did you call Jobo?
- 22 A. Yes, I did.
- 23 Q. And where did you call him from?
- 24 A. Charlie's phone up on Gap Creek Road.
- 25 Q. How long did you speak to him for?

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433

- 1 A. For about a minute.
- 2 Q. What did you tell him?
- 3 A. To come and pick me up, be by yourself.
- 4 Q. Did he, in fact, come and pick you up?
- 5 A. Yes, he did.
- 6 Q. Who was with him?
- 7 A. His mama, his uncle, and his son, Billy.
- 8 Q. His son, Billy, was that a minor or a small child?
- 9 A. Yes.
- 10 Q. Did you expect them?
- 11 A. No, I didn't.
- 12 Q. Did you say anything in the car about the killing? Did
- 13 you mention it?
- 14 A. No, sir. I made a motion.
- 15 Q. Why did you make a motion instead of saying anything?
- 16 A. Because I didn't think his mama and them knew anything
- 17 about it.
- 18 Q. And what was the motion?
- 19 A. I brought my fingers across my neck.
- 20 Q. How did Jobo respond?
- 21 A. He looked at me and just shook his head.
- 22 Q. Where did you go after that?
- 23 A. Where did I go after that? I went to Steve and
- 24 Crystal's house to get some dope.
- 25 Q. And who gave you the money for the dope?

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434

- 1 A. Yes.
- 2 Q. Who gave you the money ---
- 3 A. Oh.
- 4 Q. --- for the dope?
- 5 A. Jobo.
- 6 Q. Did you have the money outside of Jobo to get that
- 7 dope?
- 8 A. No.
- 9 Q. Remember how much money Jobo gave you?
- 10 A. Not at the time.
- 11 Q. What did you do with the cell phone?
- 12 A. What did I do with the cell phone? I gave it to Jobo.
- 13 Q. Did he ask you to do anything with the cell phone?
- 14 A. He asked me to read the messages to him.
- 15 Q. This has already been gone over. Is Jobo able to text?
- 16 A. He can text minor words.
- 17 Q. All right. Did you read him the texts that were in the
- 18 -- in the phone?
- 19 A. Yes, I did.
- 20 Q. And how did he react?
- 21 A. He was -- there wasn't none in there about the sex
- 22 parts.
- 23 Q. What did he do with the phone?
- 24 A. Broke it in half and buried it.
- 25 Q. Did you ever see that phone again after that?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

435

- 1 A. No.
- 2 Q. What did you do with the gun, this .380 pistol?
- 3 A. I kept it on me.
- 4 Q. And why did you keep it on you?
- 5 A. I kept it on me for protection.
- 6 Q. Did Jobo ever give you another gun?
- 7 A. No, he didn't.
- 8 Q. Did Jobo ever ask you to get rid of another gun?
- 9 A. Yes, he did.
- 10 Q. What kind of gun was it?
- 11 A. It was a 9mm Smith & Wesson.
- 12 Q. Did Jobo say why he had that gun?
- 13 A. Yes.
- 14 Q. Why?
- 15 A. Because Leroy Roberts always made a threat to Jobo.
- 16 And Leroy always carried a .38 in his pocket.
- 17 Q. Who is Leroy?
- 18 A. Leroy Roberts is Charlie Roberts' brother.
- 19 Q. Did Jobo say why he wanted it buried?
- 20 A. Yes.
- 21 Q. Why?
- 22 A. To get it off the property.
- 23 Q. Why did he say he wanted it off the property?
- 24 A. Because he knew he couldn't have guns.
- 25 Q. Okay. Did he tell you where to hide it?

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- 1 A. Yes, he did.
- 2 Q. And did -- and how close was that to Jobo's trailer?
- 3 A. It was a good ways off. It was ...
- 4 Q. What did you bury it in?
- 5 A. I buried it in a large ET shirt that was ripped.
- 6 Q. Okay. You say ripped?
- 7 A. It was ripped.
- 8 Q. Okay. And was that an extra large shirt?
- 9 A. Yes, it was.
- 10 Q. And whose shirt was that?
- 11 A. That was Jobo's shirt.
- 12 Q. Jobo is here. Is he larger than you?
- 13 A. Yes.
- 14 Q. Would you call him a large person, though?
- 15 A. No.
- 16 Q. Compared to me?
- 17 A. No.
- 18 Q. Did you know who wore that shirt normally or if anybody
- 19 wore that shirt?
- 20 A. Nobody wore that shirt.
- 21 Q. Did you once tell officers that you had worn that shirt
- 22 before?
- 23 A. No. I told them I kept my knives wrapped up in it.
- 24 Q. Okay. Did you ever go back to the murder scene at Carl
- 25 Rider's house again?

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- 1 A. Yes, I did.
- 2 Q. And why did you go back to this location?
- 3 A. To move the body.
- 4 Q. How did you feel about going back to this location?
- 5 A. I felt paranoid and, you know, just awful.
- 6 Q. What did Jobo tell you?
- 7 A. He told me -- told me to take the body and put it in
- 8 the well.
- 9 Q. Why didn't you put it in the well the first time?
- 10 A. Because I couldn't pick it up.
- 11 Q. Okay.
- 12 A. Because it was -- for one, it was dead. And I didn't
- 13 want to touch a dead body.
- 14 Q. Were you still using drugs at this time?
- 15 A. Yes, I was.
- 16 Q. Which drugs?
- 17 A. Meth and Xanaxes.
- 18 Q. Who gave you the drugs?
- 19 A. Jobo.
- 20 Q. What did Jobo say about you not putting the body in the
- 21 well the first time?
- 22 A. He was mad about it.
- 23 Q. How about the second time, did you put the body in the
- 24 well the second time?
- 25 A. No. The second time is when I drug the body to the

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1 creek bed.

2 Q. When you dropped it in the creek bed did you put it --
3 did you do anything else to hide it?

4 A. I threw some limbs on top of it and threw some dirt on
5 top of it.

6 Q. Was there -- was a lot of water in the stream when you
7 were ---

8 A. No.

9 Q. Did you think that had covered it up?

10 A. No.

11 Q. Okay. And did you -- how did you get it down there?
12 How did you get it down to the creek?

13 A. I drug it myself. I grabbed him by his pants legs and
14 dragged him.

15 Q. Why did you drag him by the pants legs?

16 A. Because I didn't want to touch his body.

17 Q. Was there anything unusual about the body? Was it ---

18 A. It was bloated.

19 Q. What's the word?

20 A. It was bloated, had bees, yellow jackets flying around
21 it.

22 Q. I'm sorry, the second one was bees?

23 A. Yes.

24 Q. Did anyone else go to this location?

25 A. Nobody.

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- 1 Q. Who?
- 2 A. Nobody.
- 3 Q. And how did you get down there?
- 4 A. I got dropped off by Jobo in his mama's car.
- 5 Q. How far away from the property did you get dropped off?
- 6 A. I got dropped off right down actually below the
- 7 property.
- 8 Q. Were you able to move this body down -- down the hill?
- 9 A. Yes, I was.
- 10 Q. How were you able to move it down the hill, but not up
- 11 into the well?
- 12 A. 'Cause I was persistent.
- 13 Q. Does the meth make you stronger or anything?
- 14 A. No, it don't.
- 15 Q. What does it do?
- 16 A. It makes you persistent.
- 17 Q. Okay. Were you using any other drugs at the time?
- 18 A. Yes.
- 19 Q. What is a totem pole?
- 20 A. A totem pole is a Xanax.
- 21 Q. Any particular form of Xanax?
- 22 A. It's a stronger version.
- 23 Q. After getting rid of the -- moving the body did you do
- 24 anything else at that location?
- 25 A. After I got rid -- no, I didn't.

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1 Q. Did you go back to your home or to Jobo's home?

2 A. Yes, sir.

3 Q. Did Jobo ask you what happened?

4 A. Yes.

5 Q. What did he say?

6 A. He asked me if I buried the body. And I said, yes.

7 Q. I'm going to bring you back to July 9th, Saturday, the

8 day after Charlie was killed. Did officers come up to

9 Jobo's property?

10 A. Yes, they did.

11 Q. Were you there?

12 A. I was there, but I went up to his mama's house with the
13 kids.

14 Q. Did Jobo say anything to you when the officers came up?

15 A. He told me to take the kids and go up to his mama's
16 house.

17 Q. Did he tell you why?

18 A. No, he didn't tell me why.

19 Q. Where were you when you found out about Charlie's body
20 being recovered?

21 A. Where was I?

22 Q. Yes, sir.

23 A. I was with Jobo.

24 Q. And what caused Jobo to be aware of this?

25 A. Carl Rider.

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- 1 Q. And how did Jobo react?
- 2 A. He was white as a ghost. He was scared.
- 3 Q. Did -- what were you doing? Were you at his house, in
- 4 the car, where were you?
- 5 A. I was in the car. I was driving in a van.
- 6 Q. Who was driving?
- 7 A. I was.
- 8 Q. What did Jobo tell you?
- 9 A. Man, I can't -- I thought you got rid of the body. I
- 10 can't believe it. I thought you got rid of the body.
- 11 Q. Did he make anymore comments about you leaving the body
- 12 out in the open?
- 13 A. Yeah, he was mad. He was -- he just ...
- 14 Q. At that time who were you living with?
- 15 A. Jobo.
- 16 Q. Did Jobo own that house?
- 17 A. He had two more payments left on it.
- 18 Q. How many? Two more payments?
- 19 A. Yes.
- 20 Q. Did you decide to turn yourself in to law enforcement?
- 21 A. No.
- 22 Q. Did you, in fact, turn yourself in to law ---
- 23 A. Yes, I did.
- 24 Q. Who made the decision to turn yourself in to law
- 25 enforcement?

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1 A. Jobo.

2 Q. And to which attorney?

3 A. Frank Eppes.

4 Q. Who chose that attorney?

5 A. Jobo.

6 Q. Please tell the jury why you turned yourself in if you
7 had not even been interviewed by officers yet?

8 A. I turned myself in so that way when Jobo asked me -- he
9 told me, I got five kids. I can't go down for something. I
10 can't go down for it. So he told me to turn myself in.

11 Q. Did he offer you anything?

12 A. He told me that my kids would never have anything to
13 worry about 'cause child support would be paid and that I
14 would have money on my canteen.

15 Q. Do you believe you were thinking clearly when you made
16 this decision?

17 A. No, I wasn't.

18 Q. Did you turn yourself in that day, August 15th?

19 A. I turned myself in the next day.

20 Q. And who did you meet and where were you?

21 A. I met Frank Eppes over at Judge Cagle's office.

22 Q. Okay. Was there another attorney there?

23 A. Yeah. Yes, sir. He had another attorney.

24 Q. Who drove you down there?

25 A. JoAnn.

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- 1 Q. Was Jobo in the car with you?
- 2 A. No.
- 3 Q. On August 16th, 2011 did you tell the officers the
- 4 truth about why you killed Charlie Roberts?
- 5 A. No.
- 6 Q. Do you agree that you killed Charlie Roberts?
- 7 A. Yes.
- 8 Q. Do you agree that you're the one that actually pulled
- 9 the trigger?
- 10 A. Yes.
- 11 Q. Do you agree that the reasons you gave on August 16th
- 12 were false?
- 13 A. Yes.
- 14 Q. And why did you tell the officers falsehoods on August
- 15 16th?
- 16 A. Because I was told to say it.
- 17 Q. By who?
- 18 A. Jobo.
- 19 Q. On that first statement did you give officers -- what
- 20 was the general description of what you did per the August
- 21 16th statement?
- 22 A. I said me and Charlie got into an argument talking
- 23 about motorcycles and I got mad and shot him.
- 24 Q. Was that truthful?
- 25 A. No.

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1 Q. In your statement did you say more than one time Jobo
2 had nothing to do with this, I just -- I did this by myself?

3 A. Yes.

4 Q. Why did you make those statements more than once?

5 A. To try to cover up for Jobo.

6 Q. Did you ever call yourself a watch-dog in a statement?

7 A. Yes, I did.

8 Q. Did you give another statement -- pardon me, were you
9 under the influence of drugs when you gave that August 16th
10 statement?

11 A. Yes, I was.

12 Q. Who provided those drugs?

13 A. Jobo.

14 Q. While you were in jail on August 25th did you give
15 another statement?

16 A. Yes, I did.

17 Q. Why did you give that statement?

18 A. Because I was mad because I figured out that I was
19 going to be left in jail to rot without any kind of money on
20 my books or my kids being taken care of.

21 Q. Does Jobo call you brother when you're out in the
22 streets?

23 A. Not really. He called me his old lazy brother.

24 Q. When you were in jail does he refer to you as my
25 brother?

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1 A. Yes.

2 Q. Do you know why he changed the language he used?

3 A. To -- to bribe me and make me feel like it's --
4 everything's good and close.

5 Q. You said earlier, I just want to explain this to the
6 jury, you said you looked at him as a mentor?

7 A. Yes.

8 Q. Please explain that. What do you mean by a mentor?
9 Why did you look up to Jobo?

10 A. I looked up to Jobo because he put a roof over my head
11 and he bonded me out of jail.

12 Q. On August 25th what was your statement, the second
13 statement you gave, the second written statement you gave?

14 A. The second statement I gave, that was the one where I
15 lied and said Jobo was the trigger-man. And instead --
16 instead it was me -- it was him in my place.

17 Q. You said him in my place, was the general statement you
18 gave on August 25th correct?

19 A. No.

20 Q. What part was false?

21 A. The part about Jobo pulling the trigger.

22 Q. In fact, you're the one that pulled the trigger?

23 A. Yes.

24 Q. Was Jobo even present at Carl Rider's property on this
25 day?

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1 A. No.

2 Q. What was your reason for changing your story?

3 A. The reason for changing my story is because I was mad.
4 And I knew I wasn't going to have what I needed or what I
5 wanted like money on my canteen or my kids being taken care
6 of. I figured it out after a while.

7 Q. Did you feel like you'd been played for a fool?

8 A. Yes, I do.

9 Q. I'm going to bring you to August 29th. Did you speak
10 to officers on August 29th?

11 A. Yes, I did.

12 Q. And did you give the officers a written statement on
13 that date?

14 A. Yes, I did.

15 Q. In that second statement, the statement where you said
16 that Jobo was the trigger-man, did you mention Jimmy Poole?

17 A. No, I didn't.

18 Q. Did you know the officers had spoken to Jimmy Poole
19 after that?

20 A. No.

21 Q. When officers came to speak to you were you willing to
22 speak to them?

23 A. Yes.

24 Q. Why were you willing to speak to them on August 29th?

25 A. To tell them the actual truth.

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- 1 Q. Had you been promised anything?
- 2 A. No, I didn't.
- 3 Q. Did they offer you any lower sentence or anything?
- 4 A. No, they didn't.
- 5 Q. Did they threaten you in any way?
- 6 A. No, they didn't.
- 7 Q. On some of the jail calls you said you'd gotten better
- 8 deals or you were going to get a better deal in the future?
- 9 A. Because I was listening to the words people were
- 10 talking about, the other inmates.
- 11 Q. Do you know if they knew what they were talking about?
- 12 A. (Negative nod).
- 13 Q. Did you have an attorney at the time?
- 14 A. No, I didn't.
- 15 Q. Did you later get an attorney?
- 16 A. Yes, I did.
- 17 Q. Did your attorney ever relate to you a plea offer in
- 18 this case from me, the solicitor?
- 19 A. She told me that the plea offer would be thirty years.
- 20 Q. And how -- when was that? How long after you first got
- 21 arrested when the offer was first made?
- 22 A. It was well over a year or over a year.
- 23 Q. Outside of that have you gotten any other offer other
- 24 than the thirty year recommendation subject to a judge's
- 25 decision?

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1 A. No.

2 Q. This last statement was taken about ten days after your
3 arrest. Were you still using any illegal drugs?

4 A. No, I wasn't.

5 Q. Were you thinking a little bit more clear headed at
6 this point?

7 A. Yes, I was.

8 Q. I'm not sure if you've read the statement recently, but
9 is this statement generally correct, the third statement,
10 August 29th statement?

11 A. Yes. It's one hundred percent correct.

12 Q. Okay.

13 MR. STEINBERG: I'd like to have the August 29th
14 statement marked.

15 MS. GORTON: No objection.

16 MR. STEINBERG: Handing up August 29th statement.

17 (Whereupon State's exhibit 47 was marked for
18 identification)

19 MR. STEINBERG: State's exhibit number 47.

20 Q. Have you read this statement? When it was first made,
21 first typed, obviously, you were in jail, you didn't have a
22 typewriter or a computer. Did you read over it?

23 A. I read over it one time.

24 Q. All right. Was it substantially accurate?

25 A. Yes.

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1 **MR. STEINBERG:** The State would introduce State's
2 exhibit number 47.

3 **THE COURT:** Is that ---

4 **MS. GORTON:** No objection.

5 **THE COURT:** --- without objection?

6 (Whereupon State's exhibit 47 was admitted into
7 evidence)

8 Q. After this incident did you have any conversations with
9 Courtney Hollingsworth and JoAnn Johnson?

10 A. Yes.

11 Q. What did they relate to you? What did they say?

12 A. They were giving me little hints to keep my mouth shut,
13 to not say nothing to, you know, not to crack. They were
14 actually, you know, calling me his brother or ...

15 Q. Mr. Allen, are you easily misled when using drugs?

16 A. Yes, I am.

17 Q. I hate to ask the question, do you make very poor
18 decisions when using drugs?

19 A. Yes.

20 Q. Who was the first person you called from jail, if you
21 recall?

22 A. Jobo.

23 Q. Do you recall that pretty well?

24 A. Yes, I do.

25 Q. Why did you call him?

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1 A. Because I was scared that I wasn't going to be able to
2 get ahold of nobody and wasn't going to have nobody to come
3 and see me.

4 Q. Did you know that the phone calls were being recorded?

5 A. Yes, I did.

6 MR. STEINBERG: Your Honor, the State would move to
7 introduce State's exhibits number 44 and 45 and play it for
8 the jury.

9 THE COURT: Any objection?

10 (Whereupon the attorneys were conferring off the
11 record)

12 MS. GORTON: Judge, I have to make the objection as to

13 ---

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

15 (Whereupon the jury exited the courtroom at 4:43 pm)

16 MS. GORTON: I was going to have to ask for a break
17 anyway.

18 THE COURT: Now, tell me first what it is that you want
19 to do, solicitor.

20 MR. STEINBERG: Thank you, Your Honor. The State would
21 like to play these two conversations of JJ Allen speaking to
22 the actual Defendant while in jail. This was some of the
23 first phone calls made when he was arrested. JJ's in jail
24 and Jobo's out in the street.

25 THE COURT: All right. And you object to that?

1 **MS. GORTON:** I object to it because he's got partial
2 calls on there. And there's no polygraph discussion that I
3 know of on either one of these calls. I believe under rule
4 106, the recorded oral statement, I'm entitled to have the
5 entire -- the entire conversation.

6 **THE COURT:** About a polygraph?

7 **MS. GORTON:** There should be no mention of a polygraph
8 in there.

9 **MR. STEINBERG:** Rule 106 only requires including the
10 entire thing, there's a fifteen minute or a thirty minute
11 call, if there's something out of context. I am not doing
12 anything out of context unless counsel can correct me on
13 that.

14 **MS. GORTON:** Well, I don't know what parts he's
15 planning on playing or not playing, but certainly I think
16 the whole call is relevant. On 13:00 JJ says I appreciate
17 everything. I thought you were ignoring my calls. Can't
18 put Christine on visitation.

19 They talk about what's real family and what real family
20 does. They talk about references to being family. And Joe
21 says to him we love you. And JJ again says I appreciate
22 everything. I appreciate everything you're doing.

23 That's a whole different tone than murder for hire, the
24 other direction. I think the context and the tone of the
25 entire conversation certainly as to this 8/19 call has to

1 come in.

2 **MR. STEINBERG:** Judge, if the entire call wants to come
3 in, counsel is allowed to do that. Your Honor has a right
4 to exclude irrelevant things, duplicative things. I made
5 these calls so that it's only the relevant. I've ignored
6 the irrelevant. If counsel disagrees she should be able to
7 put something in on her own.

8 **THE COURT:** All right. Tell me what you want played.

9 **MS. GORTON:** I want the entire call played, Your Honor.
10 Under 106 it's not my duty to introduce the whole thing,
11 it's his duty. An adverse party may require the
12 introduction at that time of any other part or any other
13 writing or recorded statement, which ought in fairness be
14 considered contemporaneously with it.

15 **MR. STEINBERG:** This also includes ---

16 **MS. GORTON:** 106.

17 **MR. STEINBERG:** --- reference to mental -- mental
18 hearings, which Your Honor's already excluded. I'd also
19 point out that last part -- the last part of that sentence
20 clearly says if it ought to be included. Just because
21 counsel wants it doesn't mean it ought to be included.

22 Is it contextual? If I take something out of context I
23 should be stopped from playing -- playing something out of
24 context. Just because I'm not playing the portion she wants
25 to, which might be unrelated to this, the State's not

1 responsible for that, Judge.

2 **THE COURT:** All right. I'm not going to allow the
3 whole thing. I will allow you parts of things that are
4 important to rebut what he's bringing out. So ---

5 **MS. GORTON:** Then what I would specifically request is
6 from 11:40 onward to include 13:00 and 15:28, which is the
7 conclusion of the call. Those conversations from 11:40
8 forward are talking about family, I appreciate everything.
9 When we're talking about a murder for hire case, him saying
10 I appreciate everything, in all fairness, ought to be
11 considered.

12 **THE COURT:** All right. Okay.

13 **MR. STEINBERG:** Judge, the State's already made its
14 copy. I can't go back and re-edit it.

15 **THE COURT:** Well, you can do it by tomorrow morning,
16 can't you?

17 **MR. STEINBERG:** Yes, sir, I can do that, if that's what
18 you wish.

19 **THE COURT:** Okay.

20 **MR. STEINBERG:** Okay. August 24th ---

21 **THE COURT:** All right. How much more do you have now?

22 **MR. STEINBERG:** Judge, I do have a little bit more.

23 **THE COURT:** All right. So we can go ahead and finish
24 you on direct. Y'all can resolve the tape after we adjourn.
25 And then you can cross examine tomorrow morning.

1 MS. GORTON: Yes. He's going to play the tape as part
2 of his case, though, right?

3 MR. STEINBERG: Yes.

4 MS. GORTON: I'm not ---

5 THE COURT: Did you have other questions you can ask
6 and then play that last?

7 MS. GORTON: You can play mine and just start it at
8 this time.

9 MR. STEINBERG: Do you have the tape all ready?

10 MS. GORTON: Yeah, I have a JJ tape.

11 MR. STEINBERG: Okay.

12 MS. GORTON: And how I did it was by minutes.

13 MR. STEINBERG: Okay.

14 MS. GORTON: You did it by percentage.

15 MR. STEINBERG: You have that. We'll try to introduce
16 that.

17 (Whereupon the attorneys were conferring off the
18 record)

19 MR. STEINBERG: Sorry for the delay, Judge. We thought
20 we had these things worked out.

21 (Whereupon the attorneys were conferring off the
22 record)

23 MR. STEINBERG: Your Honor, I've got to object to the
24 -- the last portion of this just talks about prior bad acts.
25 This talks about ---

1 **THE COURT:** I'm not going to allow any prior bad acts.

2 (Whereupon the attorneys were conferring off the
3 record)

4 **MS. GORTON:** I don't see anything in here that I can
5 specifically cite other than the rule whereas the other one
6 that were specific passages that I felt were appropriate. I
7 didn't make any note of it.

8 **THE COURT:** So what are you going to do?

9 **MR. STEINBERG:** August 24th, I guess, we'll just play
10 my edited version. August 19th, we're going to play the
11 full -- absent the last five seconds or so involving mental
12 health treatment.

13 **MS. GORTON:** I'd like the record to reflect my
14 objection as to the 24th and then to reflect your ruling.

15 **THE COURT:** Okay. All right. So we're going to do
16 that now?

17 **MR. STEINBERG:** Yes, sir. And we're going to, I guess,
18 leave the record open for me to play the entire or the
19 edited version on the 19th tomorrow?

20 **THE COURT:** Okay.

21 **MS. GORTON:** I thought you were going to use mine.

22 (Whereupon the attorneys were conferring off the
23 record)

24 **THE COURT:** All right. We're going to take a -- we're
25 going to take a recess.

1 MS. GORTON: Thank you.

2 THE COURT: Y'all get together and resolve it. And
3 then we'll do it when we come back.

4 MS. GORTON: I have to spend just a couple of minutes
5 down the hallway.

6 THE COURT: Okay. I understand.

7 MR. STEINBERG: Thank you, Judge.

8 THE COURT: All right. Short recess. You can step
9 down.

10 (Whereupon court was in recess at 4:51 pm)

11 (Whereupon court resumed at 5:01 pm)

12 MS. GORTON: Judge, there's a part in there -- first of
13 all, I can see that we need to move it up to, was it
14 thirteen minutes even, not the 11:40 to get in the part that
15 I was talking about. So we start at 13:00.

16 There's a part at about 14:30 where JJ starts talking
17 about the mental hospitals he's been in, Patrick B. Harris
18 and Marshall Pickens. Now, he's already testified that he
19 had a competency exam. We're going to be able to get into
20 that, I believe, under the case law and under the rules
21 anyway. That ---

22 THE COURT: Well, what does he say?

23 MR. STEINBERG: He says, Jobo asks him, where have you
24 been? His response is, I've been in Marshall Pickens two
25 times and Patrick B. Harris. And then it's asked again.

1 **THE COURT:** So what -- in the view of what's been
2 testified to, what's wrong with that?

3 **MR. STEINBERG:** He's only been sent to a competency
4 evaluation. I don't want to go into delayed mental health
5 problems and mental health incidences.

6 **THE COURT:** No, I'm going to allow that.

7 **MR. STEINBERG:** Will you allow -- so we won't have to
8 send the jury out again, how much farther are you going to
9 allow in other than letting in the Marshall Pickens?

10 **MS. GORTON:** I'm -- well, when we get to my cross my
11 intent is is to try to introduce anything that was relied
12 upon by the competency examiner, which includes ---

13 **THE COURT:** No, I'm not going to allow that.

14 **MS. GORTON:** Okay.

15 **THE COURT:** I'll let in the part she ---

16 **MS. GORTON:** I believe that we agreed that diagnosis
17 would come in. He's got a diagnosis of borderline
18 personality, antisocial personality disorder ---

19 **THE COURT:** All right. I'll allow that.

20 **MS. GORTON:** --- and polysubstance. And then tomorrow
21 when I do my cross I'm going to have to make a record of
22 trying to get in there and the proffer of why ---

23 **THE COURT:** Sure.

24 **MS. GORTON:** --- I think it's relevant ---

25 **THE COURT:** That's fine.

1 MS. GORTON: --- in this particular case.

2 THE COURT: That's fine.

3 MS. GORTON: Okay.

4 MR. STEINBERG: And, Judge, I guess we're going to put
5 on the record that the -- this disk that we're playing has
6 -- we're going to have an isolated portion. There's
7 probably a hundred phone calls on here, more phone calls.
8 That's not going to be left for the jury. There's going to
9 be things about Defendant's prior criminal record that,
10 obviously, I know is improper.

11 THE COURT: So ...

12 MR. STEINBERG: That phone call has -- that disk has
13 probably a hundred phone calls on it.

14 MS. GORTON: We're not going to let the jury have that.
15 We agree on that.

16 THE COURT: Okay.

17 MR. STEINBERG: And I'm going to read into the record
18 what portion I'm starting -- what portion I'm starting in.
19 case we have to come back again ---

20 THE COURT: That's fine.

21 MR. STEINBERG: --- to replay it.

22 THE COURT: All right. Are you prepared to do that
23 now?

24 MR. STEINBERG: Yes, sir.

25 THE COURT: And then how much longer you think you'll

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1 need?

2 **MR. STEINBERG:** Just a few -- just a few minutes.

3 **THE COURT:** Okay.

4 **MR. STEINBERG:** I have one disk that's going to be
5 played, a small portion.

6 **THE COURT:** Okay.

7 **MR. STEINBERG:** And then this longer one.

8 **THE COURT:** All right. Bring the jury.

9 (Whereupon the jury entered the courtroom at 5:04 pm)

10 **Direct Examination by Mr. Steinberg Continued:**

11 **THE COURT:** All right. Are you going to tell us now
12 what ---

13 **MR. STEINBERG:** Thank you, Your Honor. The State is
14 going -- Your Honor, the State is going to play, with
15 counsel's agreeance, an August 19th, 2011 phone call at
16 19:42 hours, and we'll start playing at the thirty-nine
17 percent mark.

18 **THE COURT:** Okay.

19 (Whereupon the CD was played for the jury)

20 **MR. STEINBERG:** Stopping it at the fifty percent mark.
21 And starting it at the eighty-three percent mark.

22 (Whereupon the CD was played for the jury)

23 **MR. STEINBERG:** Stopping at the ninety-seven percent
24 mark. I'm playing August 24th. Ms. Gorton, I'm playing the
25 August 24th ---

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

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1 MS. GORTON: Yes, sir. Subject to objection.

2 MR. STEINBERG: Playing State's exhibit number 45,
3 August 24th, 2011 call.

4 (Whereupon the CD was played for the jury)

5 (Whereupon the CD was ended)

6 MR. STEINBERG: While counsel's doing this, I'm going
7 to hand up State's exhibit number 44.

8 THE COURT: All right.

9 MR. STEINBERG: State's exhibit 24 -- State's exhibit
10 number 45, has that been moved into evidence?

11 THE COURT: Okay. And that's ---

12 MS. GORTON: That's the one we discussed that you're
13 receiving.

14 THE COURT: All right. And that's for the record. All
15 right.

16 (Whereupon State's exhibit 45 was admitted into
17 evidence)

18 (Whereupon State's exhibit 48 was marked for
19 identification)

20 Q. All right. Mr. Allen, a couple of questions. You
21 heard the recordings there. Marshall Pickens and Patrick
22 Harris, what are they?

23 A. Those are mental institutions.

24 Q. And have you been in those mental institutions prior to
25 this incident, prior to this incident involving Charlie?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Before, yes.

2 Q. In addition to those two phone calls did Jobo ever make
3 any other statements to you on the phone?

4 (Pause)

5 Q. Or did he make similar statements to you over the
6 phone?

7 A. Yeah.

8 Q. And did you speak with Jobo's family members? Courtney
9 and JoAnn?

10 A. Yes.

11 Q. Did they also tell you to keep your mouth shut? You're
12 shaking your head. You have to say yes or no.

13 A. Yes.

14 Q. Thank you, sir. Did JoAnn Phillips ever put any money
15 on your canteen?

16 A. Yes.

17 Q. Who put the most money in your canteen?

18 A. JoAnn and Jobo.

19 Q. Did your own family put any money on your canteen as
20 far as you could tell?

21 A. Not until later on, no.

22 Q. Did you speak with your sister in jail, while you were
23 in jail?

24 A. Yes.

25 Q. Are you close to your sister?

JERRY ALLEN - DIRECT EXAMINATION BY MR. STEINBERG

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1 A. Yes, sir.

2 Q. How do you look at your sister? Christina is the
3 sister I'm talking about.

4 A. I look at her like a mama figure.

5 Q. Did she ask you what happened?

6 A. Yes.

7 Q. Did you tell Christina what happened?

8 A. Yes.

9 Q. Did you ever lie to Christina about what happened?

10 A. No.

11 Q. Thank you, Mr. Allen. I'm going to ask you to answer
12 any questions that Ms. Gorton might have either today or
13 tomorrow.

14 **THE COURT:** Okay. Now, ladies and gentlemen, I think
15 the Defendant's cross examination will be lengthy. And so
16 we'll go ahead and suspend for today. And we'll pick back
17 up tomorrow morning at 9:00 at which time she will cross
18 examine this witness.

19 Please remember when you leave do not talk about this
20 case among yourselves or with anyone else, including members
21 of your own family. If anybody contacts you, keep -- please
22 advise me of that fact. Keep your badges on. And have them
23 on when you come back in the morning.

24 And with that I'll ask that you be back at 9:00 in the
25 morning, promptly at nine. Thank you so much.

1 (Whereupon the jury exited the courtroom at 5:17 pm)

2 MR. STEINBERG: Judge, any instructions? Be here at
3 nine?

4 THE COURT: All right. Anything now before we recess?

5 MR. STEINBERG: Not from the State, Your Honor.

6 MS. GORTON: No.

7 THE COURT: All right. Now, do you know whether you'll
8 have any ---

9 MS. GORTON: I don't yet know, but at this point I'm
10 inclined to say I won't. And ---

11 THE COURT: I'll need to examine your client.

12 MS. GORTON: Exactly. But at this point I'd have to
13 say no.

14 THE COURT: Okay. Well, we'll take care of that then
15 tomorrow.

16 MS. GORTON: Okay. And I think he's prepared to make a
17 decision about testifying or not.

18 THE COURT: Okay. Well, you can discuss that and we'll
19 cross that bridge tomorrow.

20 MS. GORTON: We have. So, okay.

21 THE COURT: Okay. Thank you.

22 (Pause)

23 THE COURT: Okay. Counsel?

24 MR. STEINBERG: Yes, sir.

25 THE COURT: Susan needs y'all's help.

1 **MR. STEINBERG:** Yes, sir.

2 (Whereupon the court reporter was discussing the
3 exhibits with the attorneys)

4 **MR. STEINBERG:** State's exhibit number 44 is not
5 introduced as an exhibit. State's exhibit number 45 is
6 introduced as an exhibit. And this is State's exhibit
7 number 48 -- court's exhibit, but you already have it as
8 State's exhibit. That is introduced subject to not going
9 back to the jury.

10 **MADAME COURT REPORTER:** It's in evidence, but just not
11 going to go back?

12 **MR. STEINBERG:** Correct.

13 **MADAME COURT REPORTER:** Okay.

14 **MR. STEINBERG:** Anything else?

15 **MADAME COURT REPORTER:** No, that's it. Thank you.

16 (Whereupon State's exhibit 48 was admitted into
17 evidence)

18 (Whereupon court was in recess at 5:19 pm)

19 (End of Volume Two of Three)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 WILLIAM JOSEPH PHILLIPS,)
)
 DEFENDANT.)
 _____)

2013-GS-23-00094A

TRANSCRIPT OF RECORD
(Volume Three of Three)

JUNE 10 - 12, 2013
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE C. VICTOR PYLE, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

HOWARD STEINBERG, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CASSANDRA GORTON, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

1 Wednesday, June 12, 2013 (Volume Three):

2 (Whereupon court resumed at 9:06 am)

3 **THE COURT:** Good morning. Be seated.

4 **MS. GORTON:** Good morning, Judge.

5 **THE COURT:** Good morning.

6 **MS. GORTON:** We have a little bit of drama that we need
7 to address.

8 **THE COURT:** All right.

9 **MS. GORTON:** We need to go ahead and put it on the
10 record.

11 **THE COURT:** Sure.

12 **MS. GORTON:** Judge, late last night I received a
13 voicemail when my phone rang at 11:00 at night. I did not
14 answer it. But I had a voicemail from Mr. Phillips' father,
15 Ken Gilbert. That voicemail said that Emily Gentry had
16 posted information about the trial on her Facebook account.
17 You might recall, Emily was the young lady in the black
18 dress who testified. She's one of Joe's two ex-girlfriends
19 that testified.

20 He was very upset about it, said it was posted on
21 Facebook for witnesses to see. And he insisted that I tell
22 the Court about it, which, of course, I am. I would have to
23 move for a mistrial on that basis. I think Mr. Steinberg
24 has a response to that.

25 **MR. STEINBERG:** Your Honor, ---

1 **THE COURT:** Your concern is whether or not any of the
2 jurors ...

3 **MS. GORTON:** It's not only the other -- the jurors, but
4 also the other witnesses. Assuming that I were to go
5 forward and present witnesses, the other witnesses would
6 potentially ---

7 **THE COURT:** Well, I think you need to tell me first
8 whether or not you're going to present any witnesses.

9 **MS. GORTON:** I don't know that. I don't think so, but
10 I can't definitely decide that until after I'm finished with
11 my cross examination. ---

12 **THE COURT:** I understand.

13 **MS. GORTON:** --- of Mr. Allen. My thought is no at
14 this point.

15 **THE COURT:** Okay.

16 **MR. STEINBERG:** Thank you, Your Honor. We have no
17 proof this occurred. We have no proof that it's serious.
18 Is it a threat or is it just an offhand comment, like hard
19 day at trial. That doesn't mean anything. If it's more
20 than that, maybe the Court has an issue.

21 But at this point there's no evidence that it occurred,
22 no evidence that anybody heard it. Your Honor gives an
23 instruction, I'm confident, at the end saying not to have
24 listened to anything outside of the record, social media,
25 Justice Toal's typical language.

1 **THE COURT:** Yeah.

2 **MS. GORTON:** And just so that the PCR issue is clear.

3 I did make every reasonable effort to ascertain whether this
4 posting had been made, and if so, what it was.

5 As you know, the courthouse blocks Facebook. I stopped
6 at my office on my way in. I attempted to look up Emily
7 Lewis, Emily Gentry. Those are the only two names I know
8 her by. I was not able to find a public account. There
9 might be a private account, but, obviously, I have no access
10 to that.

11 **THE COURT:** Okay.

12 **MS. GORTON:** Mr. Gilbert indicated that Joe's family
13 would be here for that to give me that information, ---

14 **THE COURT:** Well, I ---

15 **MS. GORTON:** --- but they just came in.

16 **THE COURT:** Frankly, I'm not concerned about any
17 witness or potential witness in this case. That doesn't
18 bother me. The only concern I have is whether or not any
19 juror would be last night looking at Facebook and know the
20 -- remember the witness' name who testified.

21 Now, if you want me to poll the jury and ask them if
22 they watched Facebook, and if so, if they saw anything on
23 whatever her name is, I'll do that.

24 **MS. GORTON:** I think for the record we're going to have
25 to do that.

1 **THE COURT:** All right. What's ---

2 **MS. GORTON:** And while we're talking about jurors, is
3 that -- if your ruling is final. While we're talking about
4 jurors, I also wanted to address the issue of the juror that
5 was seen falling asleep during trial.

6 **THE COURT:** All right.

7 **MS. GORTON:** I don't think I made myself clear. I am
8 asking Your Honor to excuse him. I just didn't want him
9 publicly humiliated in front of the other jurors. But I
10 would like Your Honor to excuse him. We're near the end.
11 We have two alternates. And I would like for him to be
12 excused.

13 **MR. STEINBERG:** I'll leave it to Your Honor's
14 discretion. I don't take a position on this. I guess in
15 the interest of caution, perhaps we should do that.

16 **THE COURT:** All right. Do we know his name?

17 **THE BAILIFF:** I'm not sure. I can find out, sir,
18 though. You want me to find out ---

19 **THE COURT:** Yeah, find out.

20 (Pause)

21 **THE BAILIFF:** John M. Barber.

22 **THE COURT:** All right. Bring Mr. Barber in.

23 **THE BAILIFF:** Yes, sir.

24 **MS. GORTON:** And, Judge, while we're waiting for him to
25 come in, as I told you yesterday, there's going to be a

1 point in my cross examination that I believe Mr. Steinberg
2 is going to object. I have a lengthy two page proffer that
3 I'm going to want to make.

4 THE COURT: Okay. Let me take care of this other
5 matter.

6 MS. GORTON: All right.

7 (Whereupon the juror entered the courtroom)

8 THE COURT: Mr. Barber, ---

9 MR. BARBER: Yes.

10 THE COURT: --- yesterday during the day and during the
11 course of this trial you were sleeping very much. And
12 counsel is concerned that you missed out on a lot of
13 important information about this trial.

14 MR. BARBER: Okay.

15 THE COURT: So what I'm going to do, I'm going to
16 relieve you from any further duty on this trial.

17 MR. BARBER: Okay.

18 THE COURT: I'm going to ask that you go report back
19 downstairs to the jury assembly room and tell them that I've
20 dismissed you for this trial. And I don't know what the
21 balance of the week holds for you. So ---

22 MR. BARBER: All right.

23 THE COURT: --- just report back downstairs to the jury
24 assembly room.

25 (Whereupon the juror exited the courtroom)

1 **THE COURT:** All right. Now we have two alternates.
2 Alternate number 1 was Jason Hudson. And alternate number
3 two, Laura Jenkins. Normally I take the first alternate and
4 bring he or she up.

5 There is a rule that says something about putting the
6 alternates in the hatbox and drawing them out. Now, do you
7 want ---

8 **MR. STEINBERG:** Your Honor, I'd prefer a hatbox.

9 **THE COURT:** All right. Okay. Put the two -- what we
10 can do -- okay, you're just going to write them? Okay. I
11 don't have a hat.

12 (Laughter)

13 **MR. STEINBERG:** We can just put them in a cup, Judge.

14 **MS. GORTON:** You waive your objection and allow it to
15 be in a cup?

16 **MR. STEINBERG:** We'll put them in a cup and just shake
17 it up, I guess.

18 **THE COURT:** All right. Let me have it. All right.
19 You want to look at it before I put them in?

20 **MR. STEINBERG:** No, sir, Your Honor.

21 (Whereupon the names were shaken)

22 **THE COURT:** All right. Madame Clerk, please pull one
23 of these out for me.

24 **MADAME CLERK:** Laura Jenkins.

25 **THE COURT:** All right. Now, what other matter did you

1 have? You have another matter?

2 **MS. GORTON:** No, Judge. It was just to let you know
3 about the proffer, remind you about the proffer that's ---

4 **THE COURT:** All right. So we'll just send the jury out
5 at the time you make your objection and we'll rule on that.

6 **MR. STEINBERG:** Yes, sir.

7 **THE COURT:** All right. Bring the jury, please. Come
8 back around, Mr. Allen. You're still under oath.

9 (Whereupon the jury entered the courtroom at 9:16 am)

10 **THE COURT:** Good morning.

11 **THE JURY:** Good morning.

12 **THE COURT:** Ladies and gentlemen, it's been necessary
13 for me to relieve Mr. Barber from further service on this
14 case. Mr. Hudson and Ms. Jenkins, you're the two
15 alternates. I have put your names in a hat and drawn one
16 out, and that's Ms. Jenkins.

17 So, Ms. Jenkins, you will now be a member of this
18 panel. Mr. Hudson, if you'll trade places with her. And
19 you will continue to be an alternate juror on this case.
20 All right.

21 You ready to cross examine, counsel?

22 **MS. GORTON:** Yes, Your Honor.

23 **THE COURT:** Would counsel approach just a minute?

24 (Whereupon a bench conference was held off the record
25 in the presence of the jury, but out of their hearing)

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 **THE COURT:** Ladies and gentlemen, it's come to my
2 attention that sometime during last night a witness, Emily
3 Gentry, who testified in this case yesterday, I think, that
4 she allegedly posted on her Facebook account her experience
5 in this court in this case as a witness. And I need to
6 inquire if any member of the jury panel looked at Facebook
7 last night? If so, did you see any posting by Emily Gentry
8 about her experience during this trial? Would anyone
9 respond? If so, raise your hand if they saw it.

10 (No response)

11 **THE COURT:** All right. You may continue now, counsel.

12 **MS. GORTON:** Thank you, Judge.

13 **Cross Examination by Ms. Gorton:**

14 Q. Mr. Allen, when we ended yesterday the solicitor played
15 a couple of jail calls to you. Was your voice the stronger
16 of the two voices in the first call you made to Joe?

17 A. Yes, ma'am.

18 Q. So that was your voice calling him brother?

19 A. Yes, ma'am.

20 Q. Not once, but twice?

21 A. Yes, ma'am.

22 Q. That was your voice saying I really appreciate
23 everything you've done for me?

24 A. Yes, ma'am.

25 Q. Was it your voice telling him that you were going to

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 get a job and pay him back?
- 2 A. Yes, ma'am.
- 3 Q. You were going to pay Joe back?
- 4 A. Yes, ma'am.
- 5 Q. That same day, and I'm talking about that first call
- 6 made on August 18th, this was three days after your arrest?
- 7 A. Yes, ma'am.
- 8 Q. So you've been in jail the whole time?
- 9 A. Yes, ma'am.
- 10 Q. Hadn't had any drugs except the medication. ---
- 11 A. Yes, ma'am.
- 12 Q. --- the jail gave you?
- 13 A. Yes, ma'am.
- 14 Q. How much medication was the jail giving you at that
- 15 time?
- 16 A. Not much at all.
- 17 Q. Really? Did you tell Snuffy that you were taking
- 18 eleven different medications?
- 19 A. Yes, ma'am, but I lied about that, though.
- 20 Q. Were you put in the shoe immediately after your arrest?
- 21 A. No, ma'am.
- 22 Q. You were not put in the shoe?
- 23 A. I was kept in isolation for a couple of days.
- 24 Q. What's the difference between the isolation and the
- 25 shoe?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 A. Well, isolation is because I had staph in my leg. I
2 had staph at the time.

3 Q. So you were in medical isolation?

4 A. Yes, ma'am.

5 Q. What does that mean when you're in isolation?

6 A. It means you're isolated from everybody that -- there's
7 something wrong and that you could be watched all the time.

8 Q. Okay. What about yard time? Do you get any yard time?

9 A. Ma'am?

10 Q. Do you get any yard time?

11 A. What do you mean?

12 Q. Do you get let out of your cell?

13 A. To go and take a shower.

14 Q. How much time out of every twenty-four hours do you get
15 let out?

16 A. Maybe not even an hour.

17 Q. Not even an hour. Do you get to make phone calls?

18 A. Yes, ma'am.

19 Q. Did you make any phone calls during those three ---

20 A. Yes, ma'am.

21 Q. Before the 18th you made phone calls?

22 A. No, ma'am.

23 Q. So you didn't make any phone calls for those three
24 days?

25 A. The first phone call I made was to Jobo.

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 Q. On the 18th?
- 2 A. Yes, ma'am.
- 3 Q. Three days after your arrest?
- 4 A. Yes, ma'am.
- 5 Q. After you got out of medical isolation?
- 6 A. Yes, ma'am.
- 7 Q. So during medical isolation you didn't make any phone
- 8 calls?
- 9 A. No, ma'am.
- 10 Q. Can you get canteen while you're in isolation?
- 11 A. No, ma'am.
- 12 Q. Why is canteen a big deal?
- 13 A. 'Cause it's food. It's just all there is, it's food.
- 14 Q. Okay. Canteen has other items, correct?
- 15 A. Yes, ma'am. They have hygiene items and stuff like
- 16 that.
- 17 Q. Is it correct to say that in your many phone calls to
- 18 JoAnn and Joe and other people you talked an awful lot about
- 19 canteen?
- 20 A. Yes, ma'am.
- 21 Q. About soups?
- 22 A. Yes, ma'am.
- 23 Q. That's a big deal when you're in jail?
- 24 A. Yes, ma'am.
- 25 Q. Now when Courtney answers during that 8/18 call she

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 tells you that Jobo hasn't been staying there, right?

2 A. Yes, ma'am.

3 Q. And when she says he hasn't been staying there, she
4 means the house that you and Joe shared together, correct?

5 A. Yes, ma'am.

6 Q. The house that's right next door to JoAnn Johnson, his
7 mother's?

8 A. Yes, ma'am.

9 Q. And she -- and you tell Courtney that you're worried
10 about Joe, is that right?

11 A. Yes, ma'am.

12 Q. You're worried about him?

13 A. Yes, ma'am.

14 Q. And you tell her, he's not used to me being -- not
15 being around, that you guys are real close. You tell her
16 that, don't you?

17 A. Yeah. Yes, ma'am.

18 Q. And you say, I know she hurts him. Do you remember
19 saying that?

20 A. Yes, ma'am.

21 Q. Who were you talking about?

22 A. I was talking about my sister at the time.

23 Q. You were talking about Christina?

24 A. At the time, yes, ma'am.

25 Q. Hurting Joe?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Yes, ma'am.
- 2 Q. Why did that bother you?
- 3 A. I don't know. It was because me and Joe were close at
- 4 the time.
- 5 Q. You know about hurt, don't you?
- 6 A. Yes, ma'am.
- 7 Q. You call JoAnn mom?
- 8 A. A mother figure.
- 9 Q. What about your own mom? And I'm sorry, I know she
- 10 recently died. I'm not trying to hurt you. But why was
- 11 JoAnn a mother figure to you?
- 12 A. She acted just like my mama did.
- 13 Q. Did your mama treat you well?
- 14 A. Yes, ma'am.
- 15 Q. Had you made statements about being abused?
- 16 A. Yes, ma'am.
- 17 Q. By whom?
- 18 A. By my biological mother.
- 19 Q. To what extent were you abused?
- 20 A. I was kicked around and grabbed by the hair and thrown
- 21 on the floor when I was three years old.
- 22 Q. What else?
- 23 A. I was molested.
- 24 Q. What else?
- 25 A. That's it.

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 Q. Did you tell someone that you were kept in a dog cage?

2 A. No, ma'am.

3 Q. You never told anyone that?

4 A. No, ma'am.

5 Q. Do you remember -- I believe the solicitor asked you
6 about getting a mental exam ---

7 A. Yes, ma'am.

8 Q. --- while you were in the jail.

9 A. Yes, ma'am.

10 Q. Have you had a chance to review that exam?

11 A. Not entirely.

12 Q. You went over it with your lawyer, didn't you?

13 A. She told me what -- what's going on with it. And all I
14 remember is that they said that I had ...

15 Q. Antisocial personality ---

16 A. Yes, ma'am.

17 Q. --- disorder?

18 A. Yes, ma'am.

19 Q. Do you remember how they explained what that was?

20 A. Yes, ma'am.

21 Q. What did they explain that ---

22 **MR. STEINBERG:** Your Honor, ---

23 Q. --- was?

24 **MR. STEINBERG:** --- I'm going to have to ---

25 **THE COURT:** I sustain the objection. Instruct the jury

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 to disregard that question.

2 MS. GORTON: Judge, I don't want to stop now, but I'd
3 like to make the proffer later.

4 THE COURT: All right.

5 MS. GORTON: Would that be all right?

6 THE COURT: All right.

7 MS. GORTON: The record would reflect I'm not waiving,
8 correct?

9 THE COURT: All right.

10 MR. STEINBERG: The State stipulates that.

11 MS. GORTON: All right. Thank you.

12 Q. Did you refuse to put Christine on your visiting list?

13 A. Yes, ma'am, at first.

14 Q. And you refused to call her until that first call on
15 9/3/11?

16 A. Yes, ma'am.

17 Q. She knows you pretty well?

18 A. Yes, ma'am.

19 Q. And during that call did she tell you she didn't
20 believe you?

21 A. Yes, ma'am.

22 Q. And that was the call you were telling her basically
23 the same statement as your third statement?

24 A. Yes, ma'am.

25 Q. Yesterday the solicitor asked you about the

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 understanding of your plea and sentence and what he will
2 recommend. Was there any discussion of perjury charges?

3 A. No, ma'am.

4 Q. Now, in one of your phone calls you talk about getting
5 charges for writing false statements, don't you?

6 A. Yes, ma'am, but that was a lie.

7 Q. So you were aware that was possible?

8 A. Yes, ma'am.

9 Q. You were aware that was possible when you gave your
10 second statement?

11 A. Yes, ma'am.

12 Q. And you were aware that was possible when you gave your
13 third?

14 A. Yes, ma'am.

15 Q. Now, you've not actually been sentenced yet, have you?

16 A. No, ma'am.

17 Q. Your sentence depends on how your testimony at this
18 trial goes, is that correct?

19 A. Not entirely.

20 Q. What do you mean not entirely?

21 A. That I wasn't promised anything about how this trial
22 goes.

23 Q. Your sentence was deferred, correct?

24 A. Yes, ma'am.

25 Q. Meaning postponed, put off?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 A. Yes, ma'am.
- 2 Q. What were they waiting to see happen?
- 3 A. Oh, the trial.
- 4 Q. Your testimony?
- 5 A. I guess, yes, ma'am.
- 6 Q. Were you required to testify consistently with your
- 7 third statement?
- 8 A. Yes, ma'am.
- 9 Q. So that's a requirement?
- 10 A. Yes, ma'am.
- 11 Q. For their recommendation?
- 12 A. Yes, ma'am. Because the last statement was true.
- 13 Q. Yesterday, in fact, you said it was one hundred percent
- 14 accurate, is that right?
- 15 A. Yes, ma'am.
- 16 Q. Nothing to change?
- 17 A. Nothing to change.
- 18 Q. Nothing to amend?
- 19 A. Nothing to amend.
- 20 Q. When did you last review that statement?
- 21 A. Here about almost two weeks ago.
- 22 Q. And you went over that with your lawyer?
- 23 A. Yes, ma'am.
- 24 Q. Was Mr. Steinberg also there?
- 25 A. Yes, ma'am.

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 Q. Did you go over it line by line?

2 A. Yes, ma'am.

3 Q. And you are a hundred percent sure it's a hundred
4 percent accurate?

5 A. Yes, ma'am.

6 Q. Was there any discussion of allowing you to withdraw
7 your plea after this trial?

8 A. No, ma'am.

9 Q. After you provided that third statement you called your
10 aunt Pam on 9/8/2011 at 1:20 in the afternoon -- did you
11 call your aunt Pam on September 8th at one in the afternoon
12 and tell her you were going to work with the detectives to
13 get leniency?

14 A. Yes, ma'am, I told her that, but that was a lie. I
15 told her what she wanted to hear.

16 MR. STEINBERG: Could counselor repeat that date,
17 please?

18 MS. GORTON: 9/8.

19 MR. STEINBERG: Thank you.

20 Q. You told her what she wanted to hear?

21 A. Yes, ma'am.

22 Q. Three days later on 9/11 did you call JoAnn and tell
23 her you were going to get ten to fifteen years?

24 A. Yes, ma'am.

25 Q. Why'd you do that?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 A. I was doing that just to make them feel better at the
2 time. It was a lie.

3 Q. So you tell people lies because that's what they want
4 to hear?

5 A. Yes, ma'am. Not entirely, though.

6 Q. You were aware from the beginning that detectives
7 thought that Joe was the one who did this?

8 A. Yes, ma'am.

9 Q. And you even said that they had said that if a body was
10 found Joe would be arrested, is that correct?

11 A. Yes, ma'am. That's what Joe had said to me.

12 Q. And you believed that?

13 A. Yes, ma'am, I did at the time.

14 Q. So after you gave your first statement you were aware
15 that detectives did not believe you?

16 A. Yes, ma'am.

17 Q. That's true?

18 A. Yes, ma'am.

19 Q. Did they tell you that?

20 A. Yes, ma'am.

21 Q. They did tell you that?

22 A. Yes, ma'am.

23 Q. They told you, we don't believe this?

24 A. Yes, ma'am.

25 Q. They let you know that they wanted a different story?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 A. I recommended to see them after the first statement.

2 Q. I understand that. But at the time you gave the first
3 statement, at the end, they told you they didn't believe
4 you, correct?

5 A. Yes, ma'am.

6 Q. Did they tell you they expected a different statement?

7 A. Yes, ma'am.

8 Q. You also told your aunt Pam and JoAnn that you had two
9 lawyers because this was such a high profile case, is that
10 correct?

11 A. Yes, ma'am.

12 Q. Was that true?

13 A. No, ma'am.

14 Q. You have a court appointed attorney, one?

15 A. Yes, ma'am.

16 Q. Just like Joe?

17 A. Yes, ma'am.

18 Q. You had Caroline at the time of your plea?

19 A. Yes, ma'am.

20 Q. Caroline Horlbeck is your court appointed lawyer?

21 A. Yes, ma'am.

22 Q. And she was your attorney who asked for this mental
23 exam to be done?

24 A. Yes, ma'am.

25 Q. She's still your attorney today?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. Is she present in the courtroom?

3 A. No, ma'am.

4 Q. Now yesterday we talked a lot about the first
5 statement. Is there anything in that first statement that's
6 true?

7 A. No, ma'am.

8 Q. Okay. So when you say I did not finish the ninth
9 grade, but I can read and write, that's a lie, ---

10 A. No, ---

11 Q. --- or that's true?

12 A. That's true.

13 Q. So some of what you put in your first statement is
14 true?

15 A. Yes, ma'am.

16 Q. Okay. And you say I have known Charlie for about
17 eleven months, true or false?

18 A. False.

19 Q. The first time I met him I saw him at the bottom of the
20 driveway on a motorcycle, true or false?

21 A. That's true.

22 Q. You testified to that yesterday?

23 A. Yes, ma'am.

24 Q. So that is true. How about that you went to school in
25 Thomasville, Georgia, true or false?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 A. True.

2 Q. How about using the gun for protection? You walk a lot
3 and dogs bother you sometimes, is that true or false?

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

5 Q. You testified to that yesterday, didn't you?

6 A. Yes, ma'am.

7 Q. That after you shot Charlie you walked around with the
8 murder weapon?

9 A. Yes, ma'am.

10 Q. You write I have been up four days straight and
11 anything can set you off, true or false?

12 A. False.

13 Q. You weren't up four days straight?

14 A. No, ma'am.

15 Q. How about it was a week before I went back to where the
16 body was, true or false?

17 A. True.

18 Q. There are things in the statement that are true,
19 correct?

20 A. Yes, ma'am.

21 Q. When I got there the body was swelled up. I moved it
22 by myself, true or false?

23 A. True.

24 Q. I grabbed him by the feet and I dragged him down to the
25 creek, true or false?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 A. True.
- 2 Q. I took about four totem poles before I moved him, true
3 or false?
- 4 A. True.
- 5 Q. I did this at night. I did not have any help, true or
6 false?
- 7 A. True.
- 8 Q. I don't remember doing it, but I must have shot him in
9 the back of the head, true or false?
- 10 A. False.
- 11 Q. You remember doing it?
- 12 A. Yes, ma'am.
- 13 Q. You shot him in the back of the head?
- 14 A. Yes, ma'am.
- 15 Q. You shot him in the back of the head?
- 16 A. Yes, ma'am.
- 17 Q. I freaked out, got in his truck and left, true or
18 false?
- 19 A. True.
- 20 Q. You were all freaked out. Whose phone did you use?
- 21 A. Charlie's.
- 22 Q. Didn't you have an AT&T prepaid phone?
- 23 A. I did at the time, but it was out of minutes.
- 24 Q. When did it run out of minutes?
- 25 A. Just the next day after I got it.

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1 Q. The next day after you got it?

2 A. Yes, ma'am.

3 Q. Well, we'll talk about that when we get to statement
4 number three.

5 A. Okay.

6 Q. You say when I swear on my daddy's grave, I'm telling
7 the truth. Your daddy's dead?

8 A. Yes, ma'am.

9 Q. That's true?

10 A. Yes, ma'am.

11 Q. What about when you swear on his grave, are you always
12 telling the truth?

13 A. No, ma'am.

14 Q. You are aware that you told Courtney you swore on your
15 daddy's grave that Joe had nothing to do with this?

16 A. Yes, ma'am.

17 Q. Did the prosecutor point that out to you?

18 A. Yes, ma'am.

19 Q. When did he point that out to you?

20 A. Here a couple of weeks ago.

21 Q. A couple of weeks ago. You knew that question was
22 going to be ---

23 A. Yes, ma'am.

24 Q. --- asked of you?

25 A. Yes, ma'am.

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 Q. But in this statement you say whenever I tell -- swear
2 on my daddy's grave, I'm telling the truth, correct?

3 A. Yes, ma'am.

4 Q. And you say you flip out if you swear on your daddy's
5 grave and someone doesn't believe you?

6 A. No, ma'am.

7 Q. You don't say that?

8 A. I mean, yes, ma'am, I say that, but I don't do that.

9 Q. Have you ever done that?

10 A. No, ma'am.

11 Q. Your second statement. In your second statement --
12 hang on just a minute. I'm trying to keep this in order. I
13 need to make sure there's nothing else before we get to the
14 second statement. Let me back up. When you made this first
15 statement, that was the same day you turned yourself in to
16 Judge Cagle's office, correct?

17 A. Yes, ma'am.

18 Q. And who was your attorney?

19 A. Frank Eppes.

20 Q. It wasn't Chuck Marchbanks?

21 A. No, ma'am.

22 Q. Didn't you say in a phone conversation to JoAnn that
23 Frank Eppes was not your lawyer and that you were mad at
24 Frank Eppes?

25 A. Yes, ma'am.

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 Q. You told JoAnn that you would have hit Frank if they
2 had not had shackles on you, is that correct?

3 A. Yes, ma'am.

4 Q. Because he said that you should go away and not come
5 out, correct?

6 A. He told me that he would make sure I was buried if he
7 was my lawyer and not have -- never see daylight again.

8 Q. If he was your lawyer?

9 A. Yes, ma'am.

10 Q. But he wasn't your lawyer?

11 A. No, ma'am.

12 Q. Chuck Marchbanks was your lawyer?

13 A. No, ma'am.

14 Q. Who was Chuck Marchbanks?

15 A. Frank Eppes' partner.

16 Q. Partner?

17 A. Or he works at Frank Eppes' law firm.

18 Q. Well, what was he doing there?

19 A. He was -- he was another one that Frank Eppes called in
20 there when I went to go give him my statement.

21 Q. So if the officers testified that Chuck Marchbanks was
22 there as your lawyer, that's incorrect?

23 A. Yes, ma'am.

24 Q. And you just said that Frank Eppes said if he was your
25 lawyer he'd make sure you went away?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 A. Yes, ma'am.

2 Q. And is it fair to say you did say you would have hit
3 him if you hadn't been in shackles?

4 A. Yes, ma'am.

5 Q. Now, would you describe Frank Eppes?

6 A. Frank Eppes is a big man.

7 Q. Greenville's version of Andre the Giant, would you
8 agree?

9 A. I would agree.

10 Q. 6'9"?

11 A. Yes, ma'am.

12 Q. Well over three hundred pounds?

13 A. Yes, ma'am.

14 Q. He's a big man?

15 A. Yes, ma'am.

16 Q. But you were going to hit him because you were that
17 mad?

18 A. Yes, ma'am.

19 Q. You were so upset you would have done it even if it
20 wasn't a good idea?

21 A. No, ma'am. I wouldn't have done it, but at the time
22 that's how I was feeling.

23 Q. We were talking about how you and JoAnn were and how
24 she was a mother figure to you. Did she say to you during
25 that first phone call that you made to her -- that first

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 visit you had with her that we are here for you, you are our
2 family?

3 A. Yes, ma'am.

4 Q. Was that something new?

5 A. No, ma'am.

6 Q. That was the way they had treated you for the past
7 year, is that correct?

8 A. Yes, ma'am.

9 Q. It wasn't about you killing Charlie?

10 A. No, ma'am.

11 Q. That's the way you were?

12 A. Yes, ma'am.

13 Q. JoAnn would do whatever you asked, is that right?

14 A. Yes, ma'am.

15 Q. She drove you wherever you wanted to be driven whenever
16 she could?

17 A. Yes, ma'am.

18 Q. JoAnn was actually the one who took you to turn
19 yourself in, is that correct?

20 A. Yes, ma'am.

21 Q. And what did you tell JoAnn about why she was taking
22 you to Judge Cagle's office?

23 A. 'Cause I told her Frank Eppes said that I had another
24 warrant on me.

25 Q. Was that true?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 A. No, ma'am.
- 2 Q. Why'd you tell her that?
- 3 A. I told her that to cover up for why I was really going
- 4 down there.
- 5 Q. You didn't want her to know?
- 6 A. No, ma'am.
- 7 Q. Now, did you also say in that first visit with JoAnn
- 8 that you had been borderline schizophrenic, that you were
- 9 hearing shit, seeing shit? Sorry, your words, not mine.
- 10 A. Yes, ma'am. That was a lie at the time.
- 11 Q. It was a lie at the time?
- 12 A. Yes, ma'am.
- 13 Q. Well, why were you saying it?
- 14 A. I was saying that because that's what they wanted me --
- 15 that's what they wanted to hear.
- 16 Q. JoAnn is your mother and she wants -- is like your
- 17 mother and she wants to hear that ---
- 18 A. She wanted me ---
- 19 Q. --- you were freaking out?
- 20 A. --- to get out on the streets.
- 21 Q. Excuse me?
- 22 A. She wanted me to get back out on the streets.
- 23 Q. How was you being freaked out, hearing stuff, seeing
- 24 stuff going to get you back out on the streets?
- 25 A. At the time I was -- I thought it would because that's

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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1 what people told me.

2 Q. That's what people told you?

3 A. Yes, ma'am, in the -- in the jailhouse.

4 Q. What people?

5 A. Other inmates.

6 Q. Well, how would JoAnn know this?

7 **THE COURT:** Now that's an improper question. Please
8 move on.

9 Q. Have you had hallucinations before?

10 A. No, ma'am.

11 **MR. STEINBERG:** Your Honor, I'm going to have to object
12 to this entire line of questioning.

13 **MS. GORTON:** We're getting ---

14 **THE COURT:** Yeah, let's move ---

15 **MS. GORTON:** --- close.

16 **THE COURT:** Let's move on, please.

17 **MS. GORTON:** Objection preserved, Your Honor?

18 **THE COURT:** Yes.

19 **MS. GORTON:** Can you stipulate the objection's
20 preserved for a later proffer?

21 **MR. STEINBERG:** Yes, I agree her objection is
22 preserved.

23 **MS. GORTON:** Well, my proffer to your objection. Okay.

24 Q. Did you tell JoAnn that you turned yourself in because
25 I can't let an innocent person go down for my actions?

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- 1 A. Yes, ma'am.
- 2 Q. You told JoAnn you had to turn yourself in because Joe
- 3 didn't do anything?
- 4 A. Yes, ma'am.
- 5 Q. You told her that you had done it all?
- 6 A. Yes, ma'am.
- 7 Q. And then you said I know they're recording, I don't
- 8 care because it's true. Is that ---
- 9 A. Yes, ma'am.
- 10 Q. --- what you said? Now, you and JoAnn were talking
- 11 about your relationship with Joe. Yesterday you told us
- 12 that Joe only started calling you brother after you killed
- 13 Charlie for him, but that's not true, is it?
- 14 A. No -- yes, ma'am, it is true.
- 15 Q. It is true?
- 16 A. Yes, ma'am.
- 17 Q. You were calling him bro in your first phone
- 18 conversation?
- 19 A. Yes, ma'am.
- 20 Q. And it was your testimony this morning that you were
- 21 treated as family the whole year that you were there?
- 22 A. Yes, ma'am, I was.
- 23 Q. You told JoAnn that you and Joe were best friends,
- 24 correct?
- 25 A. Yes, ma'am.

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1 Q. Was that true?

2 A. Yes, ma'am, that was true.

3 Q. During that visit did you ask JoAnn about how Joe and
4 Tina were?

5 A. Yes, ma'am.

6 Q. And you asked JoAnn if Tina was still on good terms
7 with Joe?

8 A. Yes, ma'am.

9 Q. Still on good terms with Joe?

10 A. Yes, ma'am.

11 Q. They were on good terms?

12 A. They were on speaking terms.

13 Q. And she told you they were having a conflict?

14 A. Yes, ma'am.

15 Q. And this alarmed you and you asked her, it ain't about
16 me, is it? Did you say that?

17 A. Yes, ma'am.

18 Q. It ain't about me, is it?

19 A. Yes, ma'am.

20 Q. You didn't want to cause Joe any problems, did you?

21 A. No, ma'am.

22 Q. You loved him like a brother, right?

23 **THE COURT:** Now, that's been asked and answered several
24 times. Please move on.

25 Q. How long had you known Joe when Charlie was killed? We

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- 1 know that you'd been living with him a little more than a
2 year. How long had you known him?
- 3 A. I've known him the whole time I've been up here.
- 4 Q. When did you come up here?
- 5 A. Back when I turned -- I had turned twenty-two.
- 6 Q. I'm sorry, I don't know what year that would be. Do
7 you?
- 8 A. It's ---
- 9 Q. How old are you now?
- 10 A. How old am I now? I'm twenty-six.
- 11 Q. So when you killed Charlie you were twenty-four?
- 12 A. Yes, ma'am.
- 13 Q. And that was 2011?
- 14 A. Yes, ma'am.
- 15 Q. And you came up two years before that when you were
16 twenty-two?
- 17 A. Yes, ma'am.
- 18 Q. So roughly 2009?
- 19 A. Yes, ma'am.
- 20 Q. I'm not trying to trick you with math. Is that ---
- 21 A. I know.
- 22 Q. So does that sound right?
- 23 A. Yes, ma'am.
- 24 Q. You started living with Joe a year prior. Did you ever
25 pay him rent?

JERRY ALLEN - CROSS EXAMINATION BY MS. GORTON

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- 1 A. No, ma'am.
- 2 Q. Would he give you money?
- 3 A. Yes, ma'am.
- 4 Q. He would give you money to buy groceries?
- 5 A. No, ma'am.
- 6 Q. Would he give you money with any specific instructions;
- 7 this is what you're to do with it?
- 8 A. Sometimes, yes, ma'am.
- 9 Q. Like what?
- 10 A. Buy dip, buy cigarettes.
- 11 Q. For you or for him?
- 12 A. Buy dip for him and cigarettes for me.
- 13 Q. What else would he do for you?
- 14 A. Give me pills.
- 15 Q. You didn't say anything about him giving you pills in
- 16 any of your statements, did you?
- 17 A. No, ma'am, I didn't.
- 18 Q. What you said was he gave you money that you used to
- 19 buy drugs?
- 20 A. Yes, ma'am.
- 21 Q. Correct?
- 22 A. Yes, ma'am.
- 23 Q. Even in the third statement that's what you said?
- 24 A. Yes, ma'am.
- 25 Q. But your third statement is a hundred percent accurate?

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1 **THE COURT:** Now that's been asked and answered several
2 times. Please move on.

3 Q. Then I would ask which was it, did he give you money to
4 buy drugs or did he give you drugs?

5 A. Both.

6 Q. Were there any conditions that you had to follow to
7 stay in that house for the first year?

8 A. Just be the nanny of the house, watch the house, take
9 care of the kids, clean clothes, clean the house.

10 Q. Did you have to kill anybody?

11 A. No, ma'am.

12 Q. Beat up anybody?

13 A. No, ma'am.

14 Q. Was there any difference between how he treated you
15 that first year and how he treated you afterward?

16 A. No, ma'am.

17 Q. None?

18 A. (No response).

19 Q. You also told us yesterday that Joe had bought you out
20 of jail before?

21 A. Yes, ma'am.

22 Q. What were you in jail for?

23 A. A simple assault.

24 Q. A simple assault ---

25 **MR. STEINBERG:** Your Honor, I'm going to have to object