

ORIGINAL

VOLUME I OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Thomas A. Russo, Circuit Court Judge

RECEIVED

JUN 14 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEREMY SELDON BRADY,

APPELLANT

APPELLATE CASE NO 2016-000895

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

PAGES 1-500

INDEX

INDEX	i
PRE-TRIAL HEARING TRANSCRIPT DATED JUNE 10, 2015	1
<u>JACKSON V. DENNO HEARING</u>	31
ROY MEFFORD	31
SHAWN SPIVEY	39
SHAWN GRANT	62
TRIAL TRANSCRIPT DATED JUNE 15-19, 2015.....	101
JURY VOIR DIRE	112
JURY SELECTION	139
RULING BY THE COURT ON <u>JACKSON V. DENNO</u>	155
OPENING REMARKS BY THE COURT	159
OPENING STATEMENT BY MS. RANKIN	172
OPENING STATEMENT BY MS. RUSSELL.....	175
TESTIMONY	
NICHOLAS SCOTT WILLIAMS.....	186
AMANDA ANDERSON.....	264
WILLIAM WHITE.....	277
VANESSA DINKINS.....	292
VANESSA DEPUTY	299
DAVID PRITCHARD	303
MARGARET MCKAY	306
ROBERT LOUIS MITCHELL, JR.....	311

JOHN PAUL.....	318
JANICE ROSS.....	322
MARLO MCCANN.....	332
MARC MIRAMONTES.....	335
CATHY ETHEREDGE.....	345
ADAM ROBERSON.....	349
MARSHA RENEE STRICKLAND.....	358
SANDRA BLACK.....	387
JESSE LAINTZ.....	391
RENEE STRICKLAND (RECALLED).....	400
GLENN ROSS.....	408
MICHELLE WEBB.....	414
MICHAEL PHIPPS.....	431
DON MCRAE.....	469
BETH HOLLIMAN.....	472
CANDY KYZER.....	481
AMY STEPHENS.....	483
JENNIFER CLAYTON.....	489
JEANETTE JONES.....	527
TERRI GLEASON CYPHER.....	538
MOTION FOR A DIRECTED VERDICT.....	550
RULING BY THE COURT.....	550
COLLOQUY REGARDING DEFENDANT’S RIGHT TO TESTIFY.....	551

RULING BY THE COURT ON ADMISSIBILITY OF STATEMENTS	567
TESTIMONY	
LATONYA WARREN	571
EUGENE JOHNSON	577
SHAWN GRANT (PROFFER)	582
RULING BY THE COURT ON ADMISSIBILITY OF EVIDENCE	597
TESTIMONY	
SELDON BRADY	604
MICHAEL SPENCE	617
JEREMY BRADY	661
DEFENSE REQUEST FOR CURATIVE INSTRUCTION	752
CURATIVE INSTRUCTION TO THE JURY	756
DEFENSE RESTS	786
TESTIMONY	
SHAWN GRANT (REPLY)	787
RENEWAL OF MOTION FOR A DIRECTED VERDICT ON EACH OF THE CHARGES ..	796
RULING BY THE COURT	797
CLOSING ARGUMENT BY MS. CLEARY	802
CLOSING ARGUMENT BY MR. GRAHAM	822
CHARGE ON THE LAW	836
VERDICT	860
SENTENCING	868
MOTION FOR A NEW TRIAL TRANSCRIPT DATED FEBRUARY 4, 2016	870

TESTIMONY

KIMBERLY WHITE.....	883
ANGELA LANE	905
ARCHIE GOODWIN	917
JOE PUTNEY	968
CAL THOMAS.....	972
AMANDA HARLEY	977
PAMELA NORRIS	982
ROY MEFFORD	987
DEFENDANT’S ARGUMENT	1008
STATE’S ARGUMENT.....	1028
EXHIBITS FROM FEBRUARY 4, 2016 HEARING	
STATE’S EXHIBIT #1 (CERTIFIED CONVICTION).....	1041
STATE’S EXHIBIT #2 (LETTER).....	1044
STATE’S EXHIBIT #3 (LETTER).....	1046
STATE’S EXHIBIT #4 (LETTER).....	1051
STATE’S EXHIBIT #5 (LETTER).....	1054
MOTION FOR A NEW TRIAL FILED JUNE 29, 2015.....	1058
STATE’S RESPONSE TO DEFENSE MOTION FOR A NEW TRIAL FILED JULY 1, 2015	1061
MOTION FOR A NEW TRIAL BASED ON AFTER-DISCOVERED EVIDENCE FILED JULY 13, 2015.....	1063
STATE’S REPLY TO THE MOTION FILED ON AUGUST 12, 2015	1076
ORDER DENYING POST-TRIAL MOTIONS FILED APRIL 21, 2016.....	1183

INDICTMENTS AND SENTENCE SHEETS.....1188

CERTIFICATE OF COUNSEL 1200

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT

2012-GS-32-02249; 2250;
2251; 2015-GS-32-01421

State of South Carolina	)	
	)	
Plaintiff,	)	
	)	
v.	)	Transcript of Record
	)	
Jeremy S. Brady,	)	
	)	
Defendant.	)	
	)	
	)	

June 10, 2015
Lexington, South Carolina

B E F O R E:

The Honorable Thomas A. Russo, Judge

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

Shawn Graham, Esquire
Attorneys for the State

Ms. Clary, Esquire
Attorneys for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

State v. Brady

6/10/15

2

I N D E X

Pre-trial matters 3

Jackson v Denno Hearing 31

WITNESS/DESCRIPTIONPAGE NO.

Roy Mefford direct..... 31

Roy Mefford cross..... 36

Shawn Spivey direct..... 39

Shawn Spivey cross..... 56

Shawn Grant direct..... 62

Shawn Grant cross..... 72

Shawn Grant redirect..... 79

Shawn Grant recross..... 80

EXHIBITS:

Court's Exhibit No. 1 35

Court's Exhibit No. 2 35

Court's Exhibit No. 3 45

Certificate of Court Reporter 100

State v. Brady

6/10/15

3

1 THE COURT: All right. This is in the matter of
2 the State versus Jeremy S. Brady. Wait a minute. What is
3 this file?

4 THE CLERK: That's just got a warrant in it. It's
5 not been indicted, Your Honor.

6 THE COURT: Oh, okay.

7 THE CLERK: It's not been indicted.

8 THE COURT: All right. You get to have that one
9 back so I don't get it confused.

10 THE CLERK: All right, sir.

11 THE COURT: All right. And so what I have ladies,
12 and gentlemen is a -- appears to be three indictments:
13 Indictment 2012-GS-32-2249, charging Mr. Brady with the
14 charge of murder; 2250, charging Mr. Brady with the offense
15 of burglary in the first degree; and, 2251, charging Mr.
16 Brady with armed robbery. And then a 2015-GS-32-1421
17 indictment charging Mr. Brady with criminal conspiracy. Are
18 those the indictments we're dealing with, with regards to
19 this?

20 MS. CLARY: Yes, sir.

21 MR. GRAHAM: Yes, Your Honor.

22 THE COURT: All right. And I appreciate y'all
23 making the time this afternoon. A couple of reasons that I
24 wanted to do things, number one is, Monday's get very hectic
25 when we have to qualify the jury panel, then select a jury,

1 and then take up pre-trial matters and just things get
2 delayed. So hopefully, we'll clear some of that up today.
3 The other thing is, I have made a commitment before I knew
4 we would be having this case. Monday afternoon, I've got a
5 group of young people that are coming in from the community
6 with the Leadership Lexington Group or whatever, doing a
7 mock trial. And I'm heading that up or presiding on that.
8 And so I did -- I've already blocked Monday afternoon off.
9 So normally we would take up these matters Monday afternoon,
10 but we won't have that available. And so I thought we could
11 maybe do some things today that'll help us move things
12 along. So what have we got? What pre-trial matters can we
13 resolve?

14 MR. GRAHAM: Your Honor, the State has a Jackson
15 v. Denno hearing that we need to do. That's one. I know
16 that the Defense has a motion for -- she wants to obtain the
17 rap sheets that the State uses for jury -- during jury
18 qualification.

19 THE COURT: Okay.

20 MR. GRAHAM: And those are the only two things. I
21 have some items that we were going to introduce into
22 evidence that I was trying to finish up and let her review,
23 which are maps. I mean, we've talked a little bit about
24 things like that. We can either do it on the record or we
25 can do it after the hearing's over.

State v. Brady

6/10/15

5

1 THE COURT: Yeah, I mean, I don't -- things that
2 y'all can get together on and maybe resolve, I certainly --
3 that y'all do that. If you need my help on anything, I'm
4 happy to try to help out. But if you can get matters
5 resolved, if there's anything you can agree or stipulate to,
6 you know, that's fine.

7 MR. GRAHAM: Right. There are a couple. The 2015
8 indictment is a criminal conspiracy indictment. I had sent
9 the Defense a copy of that prior to it going to the Grand
10 Jury in the first week of June. I think June 1st was when
11 it was true billed. I have given her a true bill copy by
12 mail. I've got a true bill copy here that I was going to
13 give her. And she has waived arraignment, so we don't need
14 to do anything further on that.

15 THE COURT: Okay.

16 MR. GRAHAM: We also talked about sequestration of
17 witnesses. That's something I think she wanted to do.
18 We've agreed on that as well.

19 THE COURT: Okay.

20 MR. GRAHAM: We do have some people who are
21 potential witnesses who are -- who fall under the victims'
22 bill of rights though that -- specifically, I'm thinking
23 about the victim's family. And that allows for sure the
24 victim's son and I think the daughter -- blood relative, I
25 think the bill of rights says that they can't be excluded

1 from the courtroom even if they not testifying. I wanted to
2 make sure that was there and we can argue that if that's an
3 issue. And then we have stipulations about the
4 admissibility of phone records for both of the Defendants
5 without the need of a records custodian. I believe that
6 that's probably it.

7 THE COURT: Okay.

8 MR. GRAHAM: All of the stipulations that we've
9 been able to enter. I know that we had asked -- Ms. Rankin
10 had, I believe, talked with -- oh, and also -- I'm sorry.
11 There's also the CVS records of our victim for the drugs
12 that he had purchased. And they are stipulating to those
13 records as well, the admissibility of those without a
14 records custodian. And then I think that -- and I can't
15 remember the name. We we're trying to see if they would
16 stipulate -- we've got a witness who is in Georgia who is in
17 the chain of custody on the DNA that was taken -- that
18 developed a profile of our victim. And we we're trying to
19 see if they would stipulate that that individual -- and not
20 having to have us bring that individual back from Georgia,
21 dealing -- the chain that there in is --

22 THE COURT: What is that person --

23 MR. GRAHAM: It goes to identify the victim's
24 blood when they use that on DNA comparisons. It goes to the
25 DNA standard of the deceased. I haven't gotten a positive

State v. Brady

6/10/15

7

1 answer. I know -- we have got a positive answer? I don't
2 know what we have.

3 MS. HENRY: Your Honor, I think that's something
4 that we need to -- we need to talk about after this because
5 I'm a little unclear about what that was.

6 THE COURT: Yeah. That's fine.

7 MR. GRAHAM: Other than that, Your Honor, I know
8 that the Defense has said that they may have a motion for
9 suppressing DNA evidence, that I don't believe that they're
10 prepared to address at this time. My understanding is they
11 might need more time to speak to their expert, but that's a
12 guess on my part and I don't have the answer to that.

13 THE COURT: Okay.

14 MR. GRAHAM: But other than that we are prepared
15 to do a Jackson v. Denno hearing and we are prepared to hear
16 the Defense motion about the juror rap sheets.

17 THE COURT: All right. Ms. Clary, let me just --
18 the DNA matter is that something you need more time to
19 develop before we can hear that?

20 MS. CLARY: Yes, Your Honor, you know, we've hired
21 the expert May 14th.

22 THE COURT: Right.

23 MS. CLARY: And he says he's in trial right now,
24 but he's working on a written report for me. I'm not sure
25 if we're going to want to do a motion, but I need to have

1 that written report to --

2 THE COURT: Yes, okay. We can deal with that some
3 other time.

4 MS. CLARY: All right. Thank you. You want me to
5 address the others?

6 THE COURT: Yes, let's go ahead and start with
7 that if you would, please?

8 MS. CLARY: And we are prepared to go forward with
9 the Jackson v. Denno hearing today. And then on
10 sequestration, we don't have any objection to Robert
11 Mitchell, Jr. staying in.

12 THE COURT: Okay.

13 MS. CLARY: But we would ask that our
14 investigator, Chris Watkins, be allowed to stay, even though
15 he will probably at one point in the case be testifying
16 about some phone records.

17 THE COURT: Any objection to that investigator?

18 MR. GRAHAM: No. I mean, the lead investigator
19 for the State gets to stay in with us.

20 THE COURT: Sure. Okay.

21 MR. GRAHAM: I don't have a problem with that.

22 THE COURT: Well, that won't be an issue.

23 MS. CLARY: And then the other thing about that is
24 we would ask that our DNA expert, who probably would not be
25 able to be here for the DNA testimony, but that he'd be

State v. Brady

6/10/15

9

1 allowed to review that transcript before he testifies.

2 THE COURT: Well, I don't know about that now
3 because that -- I'm not a court reporter and --

4 MS. CLARY: Yeah. Well, if we can discuss it with
5 her.

6 THE COURT: Sure. Well --

7 MS. CLARY: We just don't want him sequestered
8 from that testimony so he can respond to it.

9 THE COURT: Would he be here for that testimony?
10 Is that your concern?

11 MS. CLARY: I'm thinking that won't be cost-
12 effective for him to come for that testimony and then
13 testify.

14 THE COURT: Yeah, because I didn't know when the
15 State's witness would testify?

16 MR. GRAHAM: Your Honor, it would be -- right now
17 we're planning on near the end of the case. I don't know
18 exactly where. I know -- and I don't know and maybe I
19 shouldn't address it. And sequestration, I don't have any
20 problem and I think it's appropriate if we have an expert
21 testifying and they have somebody, that their expert can
22 hear it. And if they have an expert, we can have somebody
23 hear it, regardless of sequestration. I'm not sure about
24 typing the transcript time that --

25 THE COURT: Let me ask this and this is kind of

1 going to be a little different. But you don't think your
2 expert will be here when the State's expert testifies; is
3 that correct.

4 MS. CLARY: Well, Your Honor, if he puts his
5 expert toward the end of their case --

6 THE COURT: He may be.

7 MS. CLARY: -- and I put mine at the beginning.

8 THE COURT: He may be here.

9 MS. CLARY: Then that would probably be best.

10 THE COURT: Is it a he?

11 MS. CLARY: Yes.

12 THE COURT: Okay. If he's here, then clearly he
13 can be present during the witness's testimony, okay. If he
14 is not, if he's coming from another State and he won't be
15 here until after that's over, of course we'll know at that
16 point, is there any objection to -- because I know -- I
17 don't know who the court reporter is next week, but all of
18 them, if I'm not mistaken, record the proceedings; correct?

19 COURT REPORTER: That's correct.

20 THE COURT: All court reporters record the
21 proceedings.

22 COURT REPORTER: There's a backup recording --

23 THE COURT: There's a backup.

24 COURT REPORTER: -- as well as the front. And you
25 will have Steven LeBlanc.

State v. Brady

6/10/15

11

1 THE COURT: Okay. So Steven is here. And I know
2 he does. Would there be any objection to their expert, if
3 he's not present for your expert's testimony, that he be
4 allowed to listen to the audio?

5 MR. GRAHAM: None, not at all.

6 THE COURT: So he'll hear the testimony one way or
7 the other, whether he hears it live or whether we'll replay
8 it outside the jury presence for him to listen to. And then
9 he can testify.

10 MS. CLARY: And I don't object to anything their
11 expert does.

12 THE COURT: Okay. And I think that'll fix that
13 issue if there is an issue, okay?

14 MS. CLARY: Okay.

15 THE COURT: All right. So we'll do that.

16 MS. CLARY: One more thing on that though is I
17 would like to ask if the lay witnesses, not law enforcement,
18 be instructed not to talk to each about their testimony
19 until all the testimony is finished.

20 THE COURT: You mean like after someone steps off
21 the stand?

22 MS. CLARY: Correct. And then as far as the juror
23 list, I had asked Mr. Graham if we could have copies of the
24 rap sheets for the jurors. And I'm not -- he had stated it
25 would be too cost prohibitive for them to redact the

1 identifying information from those rap sheets. But it's our
2 position that we're entitled to the same information that
3 they have about the jurors, you know, in order to
4 intelligently, you know, exercise our right to select a jury
5 and to use peremptory challenges. And obviously, those rap
6 sheets include arrests and charges that don't necessarily
7 preclude jury service. And they do give, you know, a lot of
8 information about the jurors. I don't think they do have to
9 redact information. There may be Social Security Numbers
10 but as officers of the Court, Ms. Russell and I, of course,
11 we would not share that information with others, certainly
12 not misuse anybody's Social Security Numbers. As far as
13 birthdays and things like that on the rap sheets, I believe
14 we're entitled to know the juror's birthday.

15 THE COURT: Well, I think that's on the jury
16 information you get anyway.

17 MS. CLARY: But that would not have to be
18 redacted. So that's my motion in terms of that.

19 THE COURT: Okay. Mr. Graham?

20 MR. GRAHAM: Your Honor, we've never given -- as
21 far as I know in the eighteen years I've been here, we've
22 never provided that to any defense attorney before. I don't
23 know that there is a law or statute that says that we can or
24 cannot.

25 THE COURT: There is something. I know this.

State v. Brady

6/10/15

13

1 There is something about handling those rap sheets that SLED
2 has --

3 MR. GRAHAM: I believe there's both federal and
4 state laws, and I believe Justice Toal sent something out.
5 We do have to -- in discovery that we send out or anything
6 that gets sent out of our office, we have to redact
7 identifying information, which I know includes things like
8 addresses, dates of birth, Social Security Numbers --

9 THE COURT: Okay. But those things, when it comes
10 to jurors -- now probably not the social security numbers,
11 but that other identifying information appears in the jury
12 information that they get. Doesn't it, Hope?

13 THE CLERK: The only thing on that list is --

14 THE COURT: Address and birth dates.

15 THE CLERK: -- address and occupation. It doesn't
16 have birth -- the phone numbers and birth dates and all of
17 that.

18 THE COURT: Well, everything I look at has their
19 birth date on it.

20 THE CLERK: Unless it's the original attorney
21 list; is that what you're talking about?

22 THE COURT: Yeah.

23 THE CLERK: The original attorney list, I think it
24 does have birth dates.

25 THE COURT: It does because I've seen it.

1 THE CLERK: But we can't have Socials on there for
2 sure.

3 THE COURT: I think the Social might be the only
4 thing that's not on there. So a lot of that information
5 you'll have on your attorney list.

6 THE CLERK: Yes, sir.

7 THE COURT: Now, let me ask this. I get --
8 because every time we do a criminal trial, if anyone has a
9 rap sheet, y'all end up pulling those to show to me so that
10 we can --

11 MR. GRAHAM: If they were disqualified. Yes, Your
12 Honor.

13 THE COURT: And, of course, we review that, but
14 there are some that we don't show because there's no
15 disqualifying --

16 MR. GRAHAM: There are people who have arrest and
17 convictions that are not disqualifying.

18 MS. CLARY: Your Honor, if I may?

19 THE COURT: Yes, ma'am.

20 MS. CLARY: Let me just make sure. I want to
21 state it right. I'm making this motion under the Sixth and
22 the Fourteenth Amendment and State v. Woods that says that,
23 you know, parties have a right to questions on voir dire.
24 And I'm sort of making analogy of the voir dire. We have a
25 right to know as much information, you know, as reasonable -

State v. Brady

6/10/15

15

1 - as reasonable to elicit facts that will enable us to
2 intelligently exercise our strikes. And if the State has
3 that information, then I believe that we should be entitled
4 to that information as well. And alternatively, if the
5 State feels that they can't provide that information because
6 they don't have time to redact it, then we would think
7 because this is an indigent case, we would request that we
8 be allowed funding so that we can pull it from the SLED
9 website for twenty-five dollars a piece, so that we're on
10 equal footing with the State. And, again, I would just
11 emphasize that we have no interest in those Social Security
12 Numbers.

13 THE COURT: Oh, I know. I know that.

14 MR. GRAHAM: Honestly, maybe she can answer this
15 question. I don't know that she can go to SLED and get
16 those rap sheets. I don't think private citizens can go get
17 -- run rap sheets on people. You have to have a consent by
18 the people. She would have to have each juror's consent.

19 MS. CLARY: I run rap sheets all the time.

20 MR. GRAHAM: Okay.

21 MS. CLARY: You just have to have the information
22 to go on SLED. For example, employers use it. And I have
23 to pay twenty-five dollars each time I do it.

24 THE COURT: Right.

25 MS. CLARY: I don't know if it has, you know,

1 exactly the same information as he has on his. I suspect
2 it's not as much. But it often comes up with arrest and
3 things that were not convicted, Magistrate Court offenses.

4 THE COURT: Okay. I'm just asking now, okay? And
5 I realize that obviously it varies from term to term to
6 term, but we usually have anywhere from sixty-five to a
7 hundred people that are empaneled. Of those folks, and I'm
8 talking about any kind of criminal arrest or history like
9 that, half maybe? Less than that?

10 MR. GRAHAM: It would be a total guess. I have no
11 idea what. I know --

12 THE COURT: I'm sure y'all review them all.

13 MR. GRAHAM: What we do and actually for this, my
14 understanding it was three hundred people whose names are
15 currently on the jury list, so --

16 THE COURT: Half of them may show up.

17 MR. GRAHAM: But we don't know that beforehand.

18 THE COURT: Correct.

19 MR. GRAHAM: So we end up running three hundred
20 rap sheets.

21 THE COURT: Correct.

22 MR. GRAHAM: Some of those people don't have
23 records, some of them do. And then we review them to see
24 what their convictions are. And then whatever convictions
25 are disqualifying. I can't tell you whether it's a half or

State v. Brady

6/10/15

17

1 less or more. It varies. I don't know what the average is.

2 THE COURT: Okay. All right.

3 MR. GRAHAM: I don't know the rules --

4 THE COURT: Here's the thing. Barring there being
5 a prohibition to it, I agree with Ms. Clary. Barring there
6 being some third -- some SLED protocols prohibition or
7 whatever.

8 MR. GRAHAM: And I'm sorry to interrupt, that's
9 actually what somebody just wrote down. And they said it's
10 a SLED security risk. We could actually lose our ability to
11 run rap sheets. I don't know the truth of that but I can
12 check into that.

13 THE COURT: I know that -- I can remember the
14 Solicitor in Florence -- there was a lot of hoops to jump
15 through to get certain people in their office qualified to
16 run rap sheets. But once they're run, they're distributed
17 through the office to any lawyer that has a case. So any
18 lawyer in the Solicitor's Office who has a case can have
19 this information, I don't understand why the Defense counsel
20 can't have the information. But we need to look at that
21 because I don't want to violate the law. But barring there
22 being any issue with regards to that, I think they're
23 entitled to it unless there's some, again, reason not to.
24 Of course, they have to pay for any copying of that, of the
25 records under the rules. The Defense lawyer might agree if

1 we were to approve that funding. But I wouldn't think it's
2 that much just to make copies of existing records. I guess
3 I'm going to have to hold it in abeyance, Ms. Clary, until
4 Mr. Graham can look into that for me.

5 MS. CLARY: Yes, sir.

6 THE COURT: And, you know, I certainly would
7 encourage you to look into it as well. But I know that
8 there's -- there are certain restrictions regarding those
9 rap sheets being run and then how they are used after they
10 are run. And I want to comply with that.

11 MR. GRAHAM: Would you allow -- for a voir dire,
12 would you allow the question of the jury have you ever been
13 arrested by the police before?

14 THE COURT: I usually -- I think I've asked that
15 several times.

16 MR. GRAHAM: And have you ever been convicted?
17 And then the question is would it effect your ability, I
18 guess.

19 THE COURT: Right. Right. I mean, that's --
20 But, you know, we always have this when we ask that
21 question. Is there any member of the jury panel who's ever
22 been convicted of a crime that carries more than a year and
23 you've not had your civil rights restored by pardon or
24 amnesty. If so, please stand. Some stand. Then at the
25 end, many times, you folks come up and say, Judge, we've got

State v. Brady

6/10/15

19

1 these four people who didn't stand. These are four that
2 haven't. So simply asking the question doesn't assure you
3 of an honest response.

4 MS. CLARY: Your Honor, if I could just stay --
5 again, the rap sheet's going to tell us sort of the nature
6 of the offense as well. And I know you don't want to take
7 the time to go into that with every juror. But it does say
8 they've been arrested. And I don't think -- it wouldn't
9 provide us the same information --

10 THE COURT: I'm inclined to give you that
11 information if there's no other prohibition to it.

12 MS. CLARY: Yes, sir.

13 THE COURT: If there's no legal bar to it. But
14 you'd check on that and we'll deal with that. And I'm going
15 to be in Columbia tomorrow and Friday for that drug trial
16 but I'll be accessible. So y'all can email me if you have
17 some questions regarding it, okay?

18 MS. CLARY: Yes, Your Honor.

19 MR. GRAHAM: Yes, sir.

20 THE COURT: So I'll hold that ruling in abeyance,
21 Ms. Clary, until I get any further -- some further
22 information. But as I said, barring there being another
23 reason -- a legal reason not to, I'm inclined to give you,
24 grant that motion.

25 MS. CLARY: Thank you. I do have one more. It's

1 really just a motion to renew our discovery motion, but to
2 ask the Court to -- and I just want to make sure I put this
3 on the record. But ask the Court to please provide us the
4 discovery that they have and to provide in a timely manner.
5 We received yesterday some statements that were taken in May
6 and the trial is Monday. And we also received jail calls
7 that they apparently received in 2014. And Ms. Russell has
8 spent well over twenty hours now listening to jail calls.
9 We're obviously getting right down to the wire. And I would
10 just ask that they be reminded to give us, you know, as much
11 as they can. And, also, we have learned through another
12 source that two more witnesses have been spoken to. I asked
13 Mr. Graham if they had spoken to that witness. And they
14 said yeah, but she didn't have any important information.
15 And I would just ask that the Court instruct them that they
16 need to give us all information related to the
17 investigation, whether they intend to use it or not so that,
18 you know, we can do a thorough investigation.

19 THE COURT: Is there anything else that the State
20 has that the Defense doesn't have at this point?

21 MR. GRAHAM: Judge, I've tried to turn over
22 everything to them that I have. I try to turn it over in a
23 timely manner. If I can address what she's saying.

24 THE COURT: Well, just give me one second before
25 you answer. And I want to say this with some law

State v. Brady

6/10/15

21

1 enforcement folks here. I'm getting this routinely and I'm
2 getting tired of it. The State, the Solicitor's Office,
3 whether it be here, Richland, Florence, Greenville,
4 anywhere, you're responsible for Rule 5 and Brady, and the
5 information given to the Defense. And I'm hearing routinely
6 well, Judge, we just got it. Now, the case is three years
7 old. But Judge, we just got it. And we turned it over when
8 we just got it. If law enforcement is holding stuff and not
9 giving it to you, I'm going to excluded it, because law
10 enforcement's playing a game.

11 MR. GRAHAM: I don't believe -- well, I don't
12 know. I don't believe anything that she's talking about are
13 things that law enforcement has held.

14 THE COURT: Well, why are statements or phone
15 records from 2014 just now coming to light.

16 MR. GRAHAM: The jail phone records I can tell you
17 about because -- The jail phone records, and I don't know
18 the exact dates, they go from April or May of 2013 to about
19 a year later in 2014. We requested those for her client and
20 also for Mr. Brady -- I mean -- excuse me -- for Mr.
21 Williams. We got those. Somebody in my office listened to
22 them. There was nothing on there that we intended to use
23 and there was nothing on there that was exculpatory. So
24 nothing to do with this case. I had thought that it was
25 going to be sent. When Ms. Clary started asking about jail

1 calls, I found out that they had not been sent and I sent
2 them to her.

3 THE COURT: Okay. Why aren't they sent? That's
4 the problem.

5 MR. GRAHAM: I have no idea. They should have
6 been sent. That's my -- I mean ultimately, it's my fault
7 they were sent. They were in my possession, in our office's
8 possession and they weren't sent. The truth is they're not
9 under -- as far as I know from being listened to, they don't
10 fall under Rule 5 and Brady. They're not -- there wasn't
11 anything inculpatory. There wasn't anything exculpatory,
12 nothing I planned on using, nothing impeachment. Her client
13 knows what he said. So a tape of his client -- a tape of
14 her client that I have on a conversation that I don't plan
15 on using, I agree that she would like to have it. If I was
16 going to use something off of it and I held it, I would
17 agree that we have a problem. But under the rules of
18 evidence -- and honestly, Judge, my philosophy is to give
19 it. I would have -- I meant to give it.

20 THE COURT: Well, I know how it is.

21 MR. GRAHAM: I give way more and I don't play with
22 the rules very often. I usually give way more than needs to
23 be given. And that's part of the problem in this case is
24 she asked, I gave it to her. I don't think it's -- I don't
25 think it was discoverable, but I meant to give it to her.

State v. Brady

6/10/15

23

1 This statement that she's talking about I believe is a
2 supplemental report. I don't remember the exact date but
3 when I have a member of law enforcement with me, which I try
4 to do every time I talk with somebody, they document it up.
5 It has to go to a supervisor. It has to be reviewed and it
6 has to be put in the system before I can turn it over. The
7 review date on, I believe, the one she's talking about was
8 May 29th. So we got in -- although we talked to the person
9 May-something, earlier in the month --

10 THE COURT: Yeah.

11 MR. GRAHAM: -- I didn't get the report until May
12 29th. I don't remember what that exact report is. I know
13 that a lot of stuff if it's Brady, I'm clearly turning it
14 over. A lot of time I've been turning it over and she
15 should -- I think she would tell you a lot of stuff is
16 evidence that I do plan on using that hurts her client that
17 the rules do not require me to turn over. I could easily
18 have those people testify and tell her after they testify
19 whether they changed their story in any way. They're not
20 written statements by people. They're my interview --
21 really, interview notes with law enforcement there.

22 THE COURT: Right.

23 MR. GRAHAM: And I can't remember what the third
24 thing that she was asking about.

25 That was everything. I know --

1 THE COURT: Listen, here's the thing. My
2 experience, at least for the last two and a half years that
3 I've been here, is you guys are great in getting things
4 turned over. Things -- don't get me wrong. Nobody's
5 perfect. Things fall through the cracks, something doesn't
6 get done or whatever. But as far as you know, in this
7 particular case, right now as we sit here, as far as you
8 know, they've got everything that you believe --

9 MR. GRAHAM: There's some stuff -- I did tell her,
10 Your Honor, we do have a few things that we're getting ready
11 to turn over now. There may be -- I believe there's another
12 interview with somebody else in there. That one -- I don't
13 know, she would probably consider it Brady material. We've
14 given her the name of the person. It has to do with
15 somebody saying that they saw something that may or may not
16 have been blood on the clothes of the co-defendant. I know
17 they've already got some information related to that. But
18 it's no physical evidence. It's nothing that could be
19 tested. It's just somebody saying they saw something that
20 looked like blood. But there's a name. I don't know
21 whether -- we may have the person under subpoena. We do
22 have the person under subpoena so if they want to bring her
23 to court we can have them here in court. But I don't try to
24 hide evidence. I don't try to -- I don't wait.

25 THE COURT: I know.

State v. Brady

6/10/15

25

1 MR. GRAHAM: I know they've got a difficult job.
2 I know if I was on the defense, I would want every thing in
3 the entire world.

4 THE COURT: Sure.

5 MR. GRAHAM: When she has questions and she had
6 asked, I try to answer them. The truth is I don't think the
7 rules require me to answer them. I could say you've got
8 discovery, go look. But I don't think that's a search for
9 the truth, which is what we're all trying to do.

10 THE COURT: Sure.

11 MR. GRAHAM: I don't know. I guess I -- I'm
12 trying. I'm doing my best to comply and go above and beyond
13 what's required. If there's a specific thing that she
14 want's to suppress, I would just say that that's what she
15 needs to do, is make a motion on a specific item.

16 THE COURT: Okay.

17 MS. CLARY: Your Honor, if I could just address
18 briefly. Mr. Graham represents my interpretation of Brady,
19 but it's not my interpretation, Your Honor, it's the Supreme
20 Court's interpretation is that it's not just exculpatory on
21 inculpatory information. It's information that could help
22 us with our own investigation pursuant to Kyles v. Whitley,
23 and in terms of them listening to the calls and deciding
24 that was not Brady material. What he failed to mentioned
25 was that we have the calls of the co-defendant, who is the

1 number one, a witness against my client. My client does not
2 know what the co-defendant said in his jail calls and now we
3 do. And there is certainly a lot of impeachment material in
4 those phone calls.

5 THE COURT: Okay.

6 MS. CLARY: And we received those Friday
7 afternoon. And then I understand and I am certainly not
8 trying to say that Mr. Graham is trying to, you know, do
9 anything wrong. But I understand that there's a, you know,
10 that the report has to be processed. But he said it was --
11 he received it on the 29th and I got it on the 9th. And
12 that would be fine if this were two years ago. But since
13 we're right up against the trial, and we get a new statement
14 from a new witness, you know, potential incriminating
15 information, you know, that sets off our schedule
16 tremendously. So I guess my -- and I don't -- at this point
17 I don't have a motion to suppress that statement and I don't
18 want to suppress the phone records because obviously, I want
19 to use those phone records. But my concern is if they talk
20 to a witness today and it takes them two weeks to get it to
21 me -- I mean, you know, that's what he's basically saying is
22 that, you know, in order to have a report approved before he
23 can send it out, then, you know, I get it after trial. I
24 mean, my concern is I -- you know, I think they're
25 continuing to interview witnesses, which is their

State v. Brady

6/10/15

27

1 prerogative, but I need to get these things quicker than --

2 THE COURT: But clearly you're not entitled to
3 everybody they interview?

4 MS. CLARY: Yeah, I believe I am.

5 THE COURT: No, ma'am. But the law doesn't say
6 that everybody they've talked to they've got to tell you
7 they've talked to them. They do if they're going to use
8 them.

9 MS. CLARY: Well, I'm --

10 THE COURT: Or if -- I mean --

11 MS. CLARY: Well, for example, the one that I just
12 got was a witness that I don't know whether they're going to
13 use them or not. I mean, you know --

14 THE COURT: Well, right. But that's why that has
15 to be turned over under the rule because there is
16 information involving this case. But if law enforcement
17 investigates a case, good gosh, there's no telling how many
18 witnesses they talk to who don't know anything. They're
19 supposed to give you the names of everybody they've talked
20 to, even if the person doesn't know anything?

21 MS. CLARY: Well --

22 THE COURT: Not that the person didn't know
23 something they thought was important, didn't know anything?
24 They're supposed to give you that name?

25 MS. CLARY: Well, that isn't what's come up. I

1 mean, we have a case --

2 THE COURT: Well, then if there's specific things
3 that have come up, let's deal with those.

4 MS. CLARY: Okay.

5 THE COURT: But just to paint with a broad stroke
6 and say Judge, they're supposed to turn over everybody
7 they've talked to, to us. That's not the case. That's not
8 the rule.

9 MS. CLARY: Well, you know, I mean, the
10 constitution, you know, guarantees us a meaningful
11 opportunity to present a complete defense.

12 THE COURT: Sure.

13 MS. CLARY: And the example I gave with the person
14 they interviewed where they said it wasn't anything
15 important, well, she did have hearsay information, the
16 people that she had talked to where she had heard this. And
17 I do think that's discoverable because those are people that
18 we could talk to and try to figure out this puzzle, which is
19 what this case is. So I believe that that is discoverable.
20 It's not that she said I know nothing about this case.

21 MR. GRAHAM: That one, Your Honor, we talked with
22 Michelle Webb, I believe, is who she's referring to. Ms.
23 Webb came in and told me that she had no direct knowledge of
24 the case. She said that she had received a phone call from
25 somebody else and that that person had told her that the

State v. Brady

6/10/15

29

1 Defendant in this case beat and robbed somebody. And then
2 shortly afterward, she saw something on the news and her
3 heart sank. That's pretty much what she told us. It's
4 double hearsay. I can't use double hearsay at trial and it
5 implicates her client in being involved. She does have the
6 name and I believe she already had a written statement from
7 the person who that hearsay supposedly came from. I didn't
8 turn it over. I didn't have a report written because I
9 wasn't going to use it. And I don't see how it's Brady
10 information. I don't see how somebody implicating her
11 client by hearsay is anything that can go anywhere. So I
12 didn't turn it over. When she asked, I told her what was
13 said.

14 MS. CLARY: Your Honor, they did subpoena that
15 witness and that's how we found out she might be relevant.

16 THE COURT: Well, how did you know they subpoenaed
17 her?

18 MS. CLARY: I'm sorry? What?

19 THE COURT: How did you know they subpoenaed her?

20 MS. CLARY: Oh, one of the -- everybody's involved
21 with everybody else in this case and so one of the other
22 witnesses --

23 THE COURT: My point is you did know.

24 MS. CLARY: Right. And so at that point --

25 THE COURT: Hey, here's the thing. The rules of

1 discovery don't preclude you from having to do your work.
2 So you have to investigate it. You have to talk to people.
3 You can't rely on them to do all the work and just pass it
4 over to you.

5 MS. CLARY: We most certainly have, but --

6 THE COURT: Okay. And so you found out they
7 subpoenaed this lady.

8 MS. CLARY: Well, I just asked him what, you know,
9 what her statement was.

10 THE COURT: And he told you?

11 MS. CLARY: Yesterday.

12 THE COURT: Okay. And you can talk to that lady;
13 correct?

14 MS. CLARY: Yes, Your Honor. You know, I
15 understand what you're saying but I just -- I mean, he has
16 repeated said that he only has to provide us things that
17 they're going to put forward or that are exculpatory. And
18 that's not the rule.

19 MR. GRAHAM: I don't think that's what I've said
20 and I think that's the only things the rules require me to
21 send. Actually, I've sent a bunch of stuff -- if it's
22 exculpatory, I've sent that over under Brady like I'm
23 supposed to. I mean, I send her reports of people that we
24 talk to that are going to testify that are going to
25 implicate her client in this. I do not have to send those

State v Brady Roy Mefford - Direct 6/10/15 31

1 statements over. I don't. The rules do not require me to
2 do that. But I sent them over because it's the truth and I
3 really don't play ambush.

4 THE COURT: All right. Here's what we're going to
5 do. We're going to start dealing with specific items. If
6 you've got something specific that we need to deal with,
7 that you feel needs to be dealt with, we'll deal with it.
8 And let's do that rather than just this broad strokes and
9 stuff.

10 MS. CLARY: Yes, sir.

11 THE COURT: All right. Anything else then?

12 MS. CLARY: No, Your Honor.

13 THE COURT: All right. You ready to proceed on
14 that Jackson v. Denno then.

15 MR. GRAHAM: Yes, Your Honor.

16 THE COURT: All right.

17 JACKSON V. DENNO HEARING

18 UNIDENTIFIED ASSISTANT SOLICITOR: The State calls
19 Roy Mefford.

20 (WHEREUPON, Roy Mefford was sworn
21 to tell the truth.)

22 ROY MEFFORD - DIRECT EXAMINATION

23 BY UNIDENTIFIED ASSISTANT SOLICITOR:

24 Q Sergeant Mefford, did you have an opportunity to speak
25 with the Defendant in this case?

1 A I did.

2 Q What day was that?

3 A That was on August 1st, 2012.

4 Q Okay. And where were you guys at?

5 A We were at the apartments, the Quail Hollow Apartments
6 in the West Columbia area, near the hospital.

7 Q Okay. Is that where the Defendant lived?

8 A Yes.

9 Q Okay.

10 A I'm sorry. I said the 1st. It would have been the
11 2nd.

12 Q August the 2nd?

13 A Yes.

14 Q Okay. And you said you were at Quail Hollow Apartments
15 where the Defendant lived?

16 A Yes.

17 Q Can you tell me the facts and the circumstances
18 surrounding you speaking with the Defendant?

19 A Yes. At that time we were following up on information
20 we had, that the Defendant was involved in this case. We
21 had a Crime Stoppers tip. And we also had some credit card
22 usage. We had just found out that the victim's credit cards
23 were used at the Walmart on Bush River Road and they were
24 also used at the gas station in front of the Walmart. We
25 obtained surveillance video from the Walmart, which revealed

State v Brady Roy Mefford - Direct

6/10/15

33

1 an individual that fit the description of the Defendant. At
2 that point we gathered information and went to make contact
3 with the Defendant, ask him about the credit cards.

4 Q Did you make the initial contact with him?

5 A I did not. Myself, Detective Stout and Detective
6 Spivey went to the apartment complex. Detective Grant was
7 on the way to meet us over there. He was the lead
8 investigator at the time. And we arrived -- the three of us
9 arrived initially in front of Detective Grant. The three of
10 us went to the apartment building where Mr. Brady was
11 supposedly living at that time or we had information that he
12 was living there. Detective Spivey and Detective Stout went
13 up the stairs to the apartment where he was staying. And I
14 stayed downstairs. And they made initial contact and you
15 know explained why we were there and asked him if he would
16 like to speak with us.

17 Q Okay. And did he speak with you?

18 A He did. At that point, once they made initial contact,
19 he agreed to come downstairs. And at that point we were a
20 little distance from our vehicle in the parking lot. We
21 began to walk -- Mr. Brady -- I introduced myself when he
22 came downstairs. We began to walk through the parking lot.
23 And while we were walking through the parking lot -- I had
24 obtained two still photographs. One of an individual that
25 fit his description at the Walmart, actually in the Walmart

1 that had used the credit cards of the victim and and a
2 vehicle we believed to be associated with the person at the
3 Walmart. I showed him the initial photograph while we were
4 walking and asked him if he recognized or knew who that
5 person was. At that point, he said it looks like me. And I
6 also showed him the photograph of the vehicle. And he
7 identified the vehicle as Michelle Webb's. And at that
8 point, I didn't ask him any more questions. We were walking
9 towards the parking lot as we were talking. And Detective
10 Stout and Detective Spivey had walked over to Detective
11 Stout's vehicle, which is a truck. It's a county vehicle.
12 And I motioned towards them and said that the detectives
13 here would like to talk to you about some credit cards from
14 the Walmart and he agreed to walk over there and talk to
15 them.

16 Q Okay. And did you ask him any more questions?

17 A I did not. At that point, Detective Grant, who we were
18 waiting on because he was the lead investigator, so we
19 waited on him to come give the interview with Mr. Brady. At
20 that point -- shortly after, I walked over to Detective
21 Grant. We started speaking and then he went over and joined
22 the conversation with Detective Spivey and Detective Stout.

23 Q Was the Defendant in custody?

24 A He was not.

25 Q Was he free to leave?

State v Brady Roy Mefford - Cross

6/10/15

35

1 A He was at that time, yes.

2 Q Okay. And the response to your questions about the
3 photographs, did those appear to be freely and voluntarily
4 given?

5 A They did. They were in a very casual conversation as
6 we were walking towards the parking lot, towards the
7 vehicle.

8 UNIDENTIFIED ASSISTANT SOLICITOR: Beg the Court's
9 indulgence?

10 THE COURT: Yes, ma'am.

11 (Court's Exhibit No. 1, photograph,
12 was marked.)

13 (Court's Exhibit No. 2, photograph,
14 was marked.)

15 COURT REPORTER: Court's 1 and 2, Judge.

16 BY UNIDENTIFIED ASSISTANT SOLICITOR:

17 Q Sergeant Mefford, I'm handing you what's been marked
18 Court's 1 and 2. Do you recognize those?

19 A I do.

20 Q Those are the photographs that you showed to Jeremy
21 Brady?

22 A They are.

23 Q Court's 1 is a picture of what?

24 A 1 is a picture of an individual walking out of the exit
25 doors of Walmart. That was obtained from the surveillance

1 video, which was later identified as Mr. Brady. And the
2 second one, is a vehicle, which was later identified as a
3 vehicle belonging to Michelle Webb that was associated with
4 the person leaving Walmart where the cards were used.

5 Q When you asked him the questions, did you make any
6 promises or any threats?

7 A I did not.

8 Q Thank you, Sergeant Mefford. I don't have anything
9 further.

10 THE COURT: Ms. Clary.

11 MS. CLARY: May it please the Court.

12 RAY MEFFORD - CROSS-EXAMINATION

13 BY MS. CLARY:

14 Q Sergeant Mefford, at the point that you talked to Mr.
15 Brady, you had information that the victim's credit cards
16 had been used?

17 A Yes, ma'am.

18 Q So at that point Mr. Brady was a suspect for financial
19 card transaction theft?

20 A He was a potential suspect. It was a combination of he
21 was a -- we got a Crime Stoppers tip. However, we didn't
22 know for sure the circumstances of that credit card usage.

23 Q Okay. But you had pictures of him using --

24 A Someone we believed to be him, yes.

25 Q Someone you believed to be a deceased person's credit

State v Brady Roy Mefford - Cross

6/10/15

37

1 card?

2 A Yes. His physical description based on a driver's
3 license photo matched the description of the individual who
4 died.

5 Q And you had also received information that he was
6 possibly involved in the murder of Mr. Mitchell?

7 A From a Crime Stoppers tip, yes.

8 Q Right. So at that point, he was a possible suspect for
9 both murder and financial card transaction theft?

10 A Potentially, yes.

11 Q And he was free to leave?

12 A He was.

13 Q If he had decided to leave at that point?

14 A At that point we didn't have any positive information
15 to place him under arrest until he admitted to using the
16 cards. At that point that decision was made, later on,
17 after the interview with Detective Grant. But at that
18 point, he was not in custody. And we did not have enough
19 information. We had an individual that appeared to be him
20 leaving the Walmart and a Crime Stoppers tip. At that
21 point, we had no physical evidence or any other evidence
22 linking him to the crimes.

23 Q But you had information that around the time that those
24 photos were taken, the dead person's credit card was used or
25 attempted to be used?

1 A Yes. We believe the person in the video used the
2 cards. However, we needed to positively identify him, which
3 he did at that point give further information to where we
4 felt comfortable making an arrest. At that point, he was
5 not in custody until we were able to get further information
6 implicating him in the crime. At that point the only crime
7 that was discussed with him was the credit card usage.

8 Q And you were not involved with any discussions with
9 Kimberly White prior to this?

10 A No. I know she was interviewed. We did gather
11 information from her.

12 Q And had they provided that information to you before
13 you talked to Mr. Brady?

14 A What's that -- We all discussed that information, yes.

15 Q And she had identified Jeremy's photo?

16 A I'm not sure. She may have. She may have identified
17 him in the photo. I'm not sure.

18 Q Okay. And what time was it that you arrived at Quail
19 Hollow? I don't see that in your report.

20 A I don't have a time here.

21 Q Okay. Do you remember about how long you talked to
22 him?

23 A It was just from walking from the parking lot or from
24 the building to the parking lot.

25 Q Okay.

State v Brady , Shawn Spivey - Direct

6/10/15

39

1 MS. CLARY: That's all the questions I have.

2 Thank you.

3 THE COURT: Anything further of this witness?

4 UNIDENTIFIED ASSISTANT SOLICITOR: Nothing further
5 from the State, Your Honor.

6 THE COURT: Thank you very much, sir. You may
7 step down.

8 MR. GRAHAM: The State calls Detective Shawn
9 Spivey.

10 THE COURT: All right. Detective Spivey if you
11 would please come around.

12 (WHEREUPON, Shawn Spivey was sworn
13 to tell the truth.)

14 SHAWN SPIVEY - DIRECT EXAMINATION

15 BY MR. GRAHAM:

16 Q It is actually Sergeant Spivey now; isn't that correct?

17 A Yes, sir.

18 Q So currently, what are your job duties?

19 A I am a property crime sergeant.

20 Q In one of the regions?

21 A Yes, sir.

22 Q Back at the time of this murder investigation that
23 we're here about today, in 2012 what were your job
24 responsibilities?

25 A My role was a detective for major crimes.

1 Q At some point did you end up over at Quail Hollow
2 apartments or Quail Hollow Apartments P-3, looking for
3 Jeremy Brady?

4 A Correct.

5 Q Do you remember what day that was and what time?

6 A According to the report, it's August the 2nd. I'd have
7 to go back and look as far as the exact time. But it was in
8 the evening hours. I can tell you that.

9 Q When you arrived on scene, what other law enforcement
10 was with you?

11 A Sergeant Mefford, who was my direct supervisor at the
12 time. We had Detective Chris Stout and the defendant and
13 just us at the very -- at that moment.

14 Q Tell me about your initial contact with Mr. Brady?

15 A Myself and Detective Stout, we went up to the apartment
16 complex. He actually answered the door when we knocked. He
17 didn't have a shirt on at the time. He asked if he could
18 get a shirt on because we asked him if he would come down
19 and talk to us and he agreed to do so. He then came
20 downstairs and at that point we met Sergeant Mefford. And
21 that's whenever Sergeant Mefford proceeded to show him the
22 pictures and everything.

23 Q And are you talking about the pictures that's Court's
24 Exhibit 1 and 2. You were standing right there in front of
25 you, I believe?

State v Brady Shawn Spivey - Direct

6/10/15

41

1 A That's correct.

2 Q Okay. At the time that you made contact with him and
3 when he was walking and Sergeant Mefford was talking to him,
4 was he in custody?

5 A He was not.

6 Q Was he detained?

7 A He was not.

8 Q Was he free to leave?

9 A He was.

10 Q After Sergeant Mefford showed Mr. Brady those
11 photographs, Court's 1 and 2, what happened next?

12 A At that time when we showed him the pictures, he
13 basically said it was him, that he was in the vehicle that
14 we showed him as well as Michelle Webb's vehicle. At that
15 point in time, Sergeant Mefford directed myself and
16 Detective Stout to go over to the truck where we actually
17 proceeded to talk to him a little further, just kind of
18 casual conversation, basically, just kind of doing a report
19 with him at that point until Detective Grant arrived.

20 Q You did not have a warrant for him?

21 A We did not.

22 Q And he was not in custody?

23 A He was not.

24 Q Why were you all waiting for Detective Grant?

25 A He's the lead detective on the case and we knew he was

1 actually en route and should be there shortly.

2 Q So when that time period where you're with Mr. Brady
3 after Sergeant Mefford has talked to him, are you
4 questioning him about the murder of Robert Mitchell or the
5 use of Mr. Mitchell's credit cards?

6 A No. We was just kind of doing a report with him at the
7 time. We knew Detective Grant was minutes out. Once he
8 arrived at that point -- because I kind of came into the
9 picture later as far as during the investigation. And
10 Detective Grant and Detective Stout were more involved from
11 day one. Actually, at that point in time, I bowed out.

12 Q Do you remember what you did after that point?

13 A I went and stood by as -- Sergeant Mefford and just
14 kind of, you know, weighed what we were going to actually do
15 next.

16 Q So at this point Detective Grant came over and he was
17 now speaking with Mr. Brady and you were at a different part
18 of the parking lot, basically waiting and watching?

19 A That's correct.

20 Q At some point, after Detective Grant spoke with Mr.
21 Brady, was there a decision made to place Mr. Brady under
22 arrest?

23 A Yes.

24 Q Okay. And he was transported back to headquarters?

25 A He was.

State v Brady Shawn Spivey - Direct

6/10/15

43

1 Q Okay. You did not have any more contact with Mr. Brady
2 on scene, other than what you've described so far?

3 A That's correct.

4 Q At some point, did you go back to headquarters and have
5 -- did you interview Mr. Brady?

6 A I did.

7 Q Where are we at time-wise now?

8 A We actually -- as soon as I made the decision to make
9 the arrest, myself, and Detective Grant went back not long
10 after, we're still in that same evening. And actually we --
11 we actually -- before that, we actually made a decision to
12 do a search warrant at the apartment complex. So we
13 actually stood by as far as waiting on a search warrant to
14 arrive first before we went back. Brady, at that point, had
15 already been transported to the detention center.

16 Q Do you remember -- back at headquarters did you and
17 Detective Grant have an opportunity to interview Mr. Brady?

18 A We did.

19 Q Do you remember what time your contact with him started
20 at the sheriff's department?

21 A I believe it was in that morning, early morning. I
22 want to say it was like 6:00 or 7:00 in the morning,
23 somewhere in that area.

24 Q Okay. At this time he is in custody?

25 A He is.

1 Q He was arrested under warrants for financial
2 transaction card fraud?

3 A Correct.

4 Q Tell me about the first time you met him. He's in
5 custody. Did you all read him his rights?

6 A Yeah. We walked him over. We actually went and got
7 him from the jail. We walked him over to one of the
8 interview rooms for us at the sheriff's department, which is
9 next door. They're tied together. At that point in time, I
10 went over before talking to him, it's a standard way that I
11 do it. Anybody that's in custody, they're obviously not
12 free to go at that point so I read over Miranda to them.

13 Q Let me show you a document and ask if you recognize
14 this document?

15 A I do.

16 Q Is that the document you actually used to advise Mr.
17 Brady of his rights?

18 A Yes.

19 MR. GRAHAM: Your Honor, the State would make this
20 Court's Exhibit at the time. This is the -- I think it's an
21 eight-page statement that was alleged to be a written
22 statement from Mr. Brady. And this would be another Court's
23 Exhibit.

24 THE COURT: All right. We'll make it Court's
25 Exhibit.

State v Brady Shawn Spivey - Direct

6/10/15

45

1 COURT REPORTER: Court's three.

2 (Court's Exhibit No. 3, Statement
3 of Jeremy Brady, was marked.)

4 COURT REPORTER: Court's 3, Judge.

5 THE COURT: All right.

6 BY MR. GRAHAM:

7 Q Looking at Court's Exhibit 3, how do you know that you
8 used that to advise Mr. Brady of his rights?

9 A It's an habit that I do, especially a protocol that I
10 actually do whenever I read Miranda to a suspect or anybody
11 that's -- potential as far as that's under arrest. I
12 actually initial, I put my initials by each line that I go
13 over with them.

14 Q So at this time, how did you actually advise him of his
15 rights?

16 A I actually read each line verbatim.

17 Q Would you do it exactly like you did it then?

18 A You have the right to remain silent. Anything you say
19 can and will be used against you in a court of law. It said
20 I have a right to talk to a lawyer for advice or ask any
21 questions and have him or her present with me during
22 questioning. If I have no money for lawyer's fees, the
23 Court will appoint one to represent me without any cost, if
24 I wish. If I decide to answer any questions now without a
25 lawyer present, I will still have the right to stop

1 answering questions at any time. I also have the right to
2 stop answering any questions at any time until I talk with a
3 lawyer. And then the last part is I have read this
4 statement of my rights and I understand what my rights are
5 and I make the following statements. At that point I also
6 ask him, you know, if he is agreeing to talk with us. And
7 it's either at that point yes or no.

8 Q For each of those rights that you read, to the left of
9 those rights on the printed form on Court's Exhibit No. 3,
10 there are initials that appear to be SS. Do you recognize
11 those?

12 A I do.

13 Q Whose initials are those?

14 A Those are mine.

15 Q Why do you put them there?

16 A Just to show that I actually went over each line with
17 them.

18 Q To the right there is a line and there are initials
19 over there. What are those initials?

20 A Those are Jeremy Brady's initials.

21 Q And what's the purpose of -- why did -- did you ask him
22 to write his initials there?

23 A Basically, at that point, when he started filling out
24 the statement, we asked him to read each line, you know,
25 again, as far as -- and initial each line as he understands

State v Brady Shawn Spivey - Direct

6/10/15

47

1 them.

2 Q Is there anything about your dealing with him that lead
3 you to believe that he did not understand what was going on?

4 A No.

5 Q Anything that would make you think he did not
6 understand his rights?

7 A No.

8 Q Do you have an opinion as to whether he understood his
9 rights?

10 A In my opinion, he clearly understood his rights.

11 Q Do you have an opinion as to whether he chose to -- he
12 did choose to speak with you; correct?

13 A He did.

14 Q Did he make that decision voluntarily and of his own
15 will?

16 A He did.

17 Q Did you do anything to threaten him to get him to talk?

18 A No, we did not.

19 Q Did you make any promises to him to get him to speak
20 with you?

21 A No, we didn't.

22 Q After you read his rights and he initialed him, your
23 testimony is he understood them. Can you tell me about the
24 content of the conversation at that time?

25 A At the beginning we were asking him questions about the

1 credit cards. We, you know, advised him they were linked to
2 a guy that had been killed. At the beginning time we were
3 actually talking to him about it, of course, his response
4 was he didn't know anything about it. He didn't do
5 anything. But you could tell as far as when you're talking
6 to him that clearly -- I mean, we were actually telling him
7 that we found a gun at the apartment. We found -- we were
8 told that they did all of this. And he basically at that
9 point in time -- you could tell in his -- from my
10 understanding is I could tell he wanted to talk to us.

11 Q Let me interrupt you for just one second. Did you
12 interview him one time or two times that morning?

13 A We actually interviewed him twice.

14 Q Okay. Because you had made a comment about talking to
15 him about a gun. Did you know about the gun the first time
16 you interviewed him at the sheriff's department that
17 morning?

18 A Yes. We did a search warrant. We did a search warrant
19 prior to coming over there.

20 Q Okay. So you were questioning him about the use of a
21 card and the murder at that time?

22 A Yes.

23 Q And what did he say?

24 A He basically said that he didn't shoot anybody. He
25 didn't -- he wasn't involved in any kind of murder or

State v Brady Shawn Spivey - Direct

6/10/15

49

1 anything like that.

2 Q Well, what did he say about finding -- his possession
3 of the credit cards?

4 A At the beginning he said that he found them at the 44
5 Truck Stop as far as, you know, just kind of laying around.

6 Q That's basically your first interview with him?

7 A Correct.

8 Q Do you remember approximately when that interview
9 ended?

10 A I don't have the exact times as far as it ended. But
11 as far as going back, as far as looking at the time for the
12 statement, he -- Detective Grant went to walk him back.
13 After he started walking him back, I went and started
14 talking to Sergeant Mefford. Sergeant Mefford gained some
15 information, additional from other detectives that were
16 actually out still and about, locating Michelle Webb based
17 on -- because of the vehicle. And while they were talking
18 to Michelle Webb some additional information came our way
19 that they would pass on to me. So at that point in time I
20 called Detective Grant and asked him to walk him back, you
21 know, we had some additional information we need to talk to
22 him about.

23 Q Well, in the first interview with Mr. Brady, did it end
24 because he said that he wanted to stop talking to you?

25 A No.

1 Q Did he ever ask for a lawyer?

2 A No.

3 Q Why did that first interview end?

4 A At the point Detective Grant made the decision to end
5 it. It's fair to say that, you know, he just would not tell
6 us anything.

7 Q How long -- so when the first interview ended, what did
8 you do and what happened to Brady at that point?

9 A Detective Grant was in the process of walking him back
10 and he hadn't even gotten back there yet. And it was at
11 that time I went and talked to Sergeant Mefford. He passed
12 on some additional information in regards to what Detective
13 Stout and Detective Lance were getting at the time. And so
14 I called Detective Grant over the phone and asked him to
15 walk him back.

16 Q And so you and Detective Grant and Mr. Brady are back
17 in the interview room now?

18 A Yes.

19 Q Was he re-Mirandized again?

20 A He was.

21 Q And who read Miranda to him this time?

22 A Detective Grant.

23 Q Do you know how it was given?

24 A I believe he actually gave it to him, the same thing.
25 He went over the -- statement for him as well, gave it to

State v Brady Shawn Spivey - Direct

6/10/15

51

1 him verbally.

2 Q Gave it to him verbally?

3 A Yes.

4 Q Did he indicate that he understood his rights again?

5 A He did.

6 Q And did he waive his rights and agree to continue
7 speaking with you?

8 A He did.

9 Q At that time did you or Detective Grant make any
10 threats to him?

11 A No, we didn't.

12 Q Any promises?

13 A No.

14 Q Was his decision to speak to you voluntarily?

15 A It was.

16 Q Of his own free will?

17 A (Nods head in the affirmative.)

18 Q I didn't ask this earlier, during any of your contact
19 with him, did he seem to be under the influence of drugs or
20 alcohol such that he didn't know what he was doing?

21 A No, he didn't.

22 Q So after reading him the second, the rights the second
23 time, when you began the second interview with him, he again
24 agreed to speak with you?

25 A Yes.

1 Q And tell me about that interview?

2 A Well, we started basically passing on information that
3 we gained from Michelle Webb, as far as that was passed on
4 to us through Sergeant Mefford. And we, at the time, when
5 we started kind of sharing some information that he had,
6 that we'd gained from Michelle Webb -- and eventually,
7 Michelle Webb actually -- I don't know if he believed us as
8 far as that we were actually taking to Michelle Webb. But
9 eventually, Michelle Webb actually passed by the window
10 because they were actually bringing her up to the
11 headquarters to talk to her as well. At that point in time,
12 he saw Michelle Webb pass by and anything we said at that
13 point, he became very quiet. We then asked him about if he
14 knew that -- if he knew that Nick actually was going to go
15 over there and rob the guy. And at that point he said he
16 didn't know. He said he thought that they were going over
17 there that morning to go buy drugs. It was Nick's contact.
18 It was a person he buys from. He's very paranoid. He
19 basically says that Nick told him to stay outside, but then
20 they go down to the 44 Truck Stop.

21 Q At that point after interviewing him did you and
22 Detective Grant have him write a statement up?

23 A We did.

24 Q Looking at Court's Exhibit No. 1 [sic], you've
25 identified where your handwriting is insofar as the rights.

State v Brady Shawn Spivey - Direct

6/10/15

53

1 Do you see your handwriting in other places?

2 A I do.

3 Q Where else?

4 A Where it says "in" and at the very bottom where I
5 initialed as far as a witness. And also a copy was given to
6 Jeremy.

7 Q And is that the same on all the pages?

8 A It was.

9 Q All right. Do you recognize -- which handwriting on
10 here is Mr. Brady's?

11 A It's everything else with the exception of who was
12 actually making the statement known to.

13 Q So at the top of the statement form on the first page
14 it says before answering any questions or making any
15 statements. And there's a blank. It appears to read
16 Detective S. Grant/Detective S. Spivey. Whose handwriting
17 is that?

18 A That's going to be Detective Grant's.

19 Q And the handwriting below that, it says the person who
20 identified himself or herself as -- and it says detectives.
21 And it has W slash LCSD, whose handwriting is that?

22 A That's also Detective Grant's as well. Basically, at
23 that point in time we have -- Jeremy Brady actually go over
24 ever line as far as we actually help him write out, you
25 know, telling him what needs to be on these lines.

1 Q Okay. And are you telling him what to say or is that
2 what he told you all?

3 A No, these are actually -- no. Actually, when we go
4 over the line we basically tell him the date. This is the
5 date today. This is the place where we're at. We actually
6 give him -- you know, this is the time that everything is
7 going on. You know, basically this is what each line says
8 and everything as well.

9 Q All right. So when you're talking about helping him
10 fill it out, you're talking about the top of it where it's
11 got the date, the location, his name?

12 A Correct.

13 Q Address and things like that?

14 A That's correct.

15 Q As far as what happens down at the bottom half of the
16 statement form on page one through the rest of them, do you
17 tell him what to say?

18 A No.

19 Q Okay. There's also questions and answers that are back
20 on some of the other pages. Do you recognize whose
21 handwriting is back there?

22 A That's going to be Detective Grant's.

23 Q Okay. So the questions later on in the statement form
24 is Detective Grant's handwriting?

25 A The part back-- the next two where it says Q, that is

State v Brady Shawn Spivey - Cross

6/10/15

55

1 going to be Jeremy Brady's.

2 Q And then anywhere -- all the JB's that are on there for
3 those statements and also at the beginning and end of the
4 written words as far as what happened, whose initials are
5 those?

6 A Those are going to Jeremy's as well. We basically have
7 him initial at the beginning and the very end of each answer
8 that he gives.

9 Q So he wrote his own statement; is that correct?

10 A He did.

11 Q Okay. After he finished that statement, did you
12 actually continue to interview him and what about?

13 A We did. At that point in time I wasn't comfortable as
14 far as with what he was saying about how he was at 44 Truck
15 Stop and he was actually half a mile down the road when he
16 heard the gunshots. He heard three gunshots while he was
17 riding down the road, half a mile away and with the window
18 rolled down, and you hear three gunshots go off. I wasn't
19 comfortable with that. At the same time, I also was not
20 comfortable with the fact that he says that as he was
21 leaving the house as Nick -- he saw Nick knock on the door
22 and then go inside. The problem I had with that was the
23 fact that this is a long driveway. The house kind of sits
24 to the left, around behind some trees. So he's really
25 exiting the driveway at that point in time. My

1 understanding of it as far as really was how was he going to
2 be able to see Nick go inside if he wasn't, in fact, there?

3 Q And did you confront him with those concerns?

4 A I did.

5 Q And what was the response to that?

6 A He said basically what he's telling us was true. And
7 the whole thing about, you know, hearing the gunshots going
8 off as far as driving down the road, half a mile away. And
9 my -- basically with wind going in, you know, your ear and
10 all of that, I don't see how it's possible that he would
11 have heard the gunshots unless he was there. And I also
12 made the comment to him, I said, you know, you've got people
13 that were staying twenty feet behind that were in a camper
14 and they didn't even hear the gunshots, according to them.

15 Q And he continued to maintain that he heard it?

16 A Correct.

17 Q Okay. I believe that's all the questions I have.

18 Thank you, Sergeant.

19 THE COURT: Cross?

20 MS. CLARY: Yes, yes, sir.

21 SHAWN SPIVEY - CROSS-EXAMINATION

22 BY MS. CLARY:

23 Q Sergeant Spivey, what time did y'all first arrive at
24 Quail Hollow?

25 A It was some time in the middle of the night. It was

State v Brady Shawn Spivey - Cross

6/10/15

57

1 during the evening hours. I'd have to go back and look. I
2 never went back to look but I can if you need me to.

3 Q It was the evening of August 2nd; is that right?

4 A It was August 1st going into the 2nd or either August
5 2nd. It was nighttime. I can tell you that. I'd have to
6 go back and look. I want to say --

7 Q But it was before midnight?

8 A Let me look back, so I'm not telling you something -- I
9 don't think it actually even says. We actually just -- we
10 were kind of just jumping from one thing to the next, but it
11 was August the 2nd when we went out there. Some time in the
12 middle of the night.

13 Q And Jeremy was -- Mr. Brady was booked at 3:00 a.m. on
14 August 3rd; does that sound about right?

15 A That's correct.

16 Q Okay. So it was some time before midnight on August
17 2nd that you got there?

18 A Yes. Some time in the middle of the night. We were
19 non-stop --

20 Q But it was on August 2nd, so that would be before
21 midnight?

22 A Correct.

23 Q Okay. And you stated that you and Stout met Sergeant
24 Mefford in the parking lot?

25 A We did.

1 Q Okay. And that you knocked on the door and talked to
2 Jeremy?

3 A Yes.

4 Q And then y'all brought him out to the parking lot and
5 talked to him?

6 A That's correct.

7 Q Okay. And at that point did you ask him where he'd
8 gotten the credit cards from?

9 A I believe it was then as far as he said that he
10 actually found them lying around.

11 Q He said he found them at the -- where did he say he
12 found them lying around; did he say?

13 A I believe he said the 44 Truck Stop. It may have been
14 during that time he actually said he found that.

15 Q And had you received any information from Kimberly
16 White, a jail visit with Kimberly White?

17 A We talked to Kimberly White at some point in time and
18 basically we were kind of asking -- she got locked up, I
19 think, that same night. So, yes, we did talk to Kimberly
20 White.

21 Q So when you talked to Mr. Brady there out at the Quail
22 Hollow parking lot, he was a suspect in a murder case?

23 A Well, he was a potential suspect.

24 Q Okay. And he was a potential financial card
25 transaction theft?

State v Brady Shawn Spivey - Cross

6/10/15

59

1 A Right. He was a potential.

2 Q Okay. And you stated that Michelle Webb passed by the
3 window and he became quiet?

4 A He did.

5 Q And you didn't put that in your report?

6 A I did not. But I do remember for a fact that she
7 passed by the window.

8 Q Did he say anything about her?

9 A No.

10 Q In response to that?

11 A No. He just saw her pass by.

12 Q Okay. And -- all right. And you stated that you
13 asked Grant to walk him back; is that correct?

14 A Detective Grant made the decision to end the interview
15 at the point. You talking about the very beginning, the
16 first interview we did? Is that what you're referring to?

17 Q Uh-huh. (Affirmative response.)

18 A And Detective Grant made the decision to end the
19 interview. At that point, he started walking him back.

20 Q Okay. So he started walking him bak.

21 A Correct.

22 Q And then you telephone Grant?

23 A I did, after talking to Sergeant Mefford.

24 Q Okay. And you told him -- what did you tell him?

25 A Actually, we had some additional information that

1 Sergeant Mefford received from Detective Stout as well as
2 Detective Lance, who were talking to Michelle Webb at the
3 scene.

4 Q Okay. And so the first interview with Mr. Brady was
5 about 7:00 a.m.; does that sound right?

6 A That sounds about right.

7 Q Okay. So he was booked at 3:00 and the first interview
8 was at 7:00, so he had been there for four hours. Do you
9 know what kind of cell he was in?

10 A I do not.

11 Q You have not seen the cell? Are you familiar with the
12 cells at the jail?

13 A I am.

14 Q Okay. Does it have a place for him to sleep?

15 A We actually go -- when we actually go up there, we
16 don't go get them typically from where they're at. They
17 could be in, possibly in booking. They could be already
18 back in the cell. I don't recall where he was at at the
19 time. But we don't -- we typically go to the booking desk
20 and we ask for the individual to be brought up is what we
21 do.

22 Q Okay. But you're familiar with those?

23 A I am.

24 Q And from 3:00 in the morning to 7:00 in the morning, do
25 they -- have you ever known them to offer food or drink to

State v Brady Shawn Spivey - Cross

6/10/15

61

1 the people that are in that holding cell?

2 A I don't really get involved as far as what they do on a
3 day-to-day basis back there.

4 Q Of your personal knowledge, do you know if there's a
5 bed in the holding cell?

6 A In the holding cell in the booking area, there's chairs
7 to sit in in the booking area if that's where he was at.

8 Q And would there have been numerous people in there or
9 you don't --

10 A I don't know at the time.

11 Q Okay. What day of the week was this? Do you know?

12 A I don't recall.

13 Q That's fine. Okay. So it was when you were talking to
14 him at Quail Hollow that he said that he had found those
15 cards at the 44 Truck Stop?

16 A I believe it was there. It was either at that point in
17 time or it was at the time when we first initially started
18 to him. But it was at one point in time he initially said
19 that..

20 Q Okay.

21 MS. CLARY: Beg the Court's indulgence.

22 THE COURT: Yes, ma'am.

23 MS. CLARY: That's it, Your Honor. Thank you.

24 THE COURT: Okay. Anything further?

25 MR. GRAHAM: Nothing from the State, Your Honor.

State v Brady Shawn Grant - Direct

6/10/15

62

1 THE COURT: Thank you very much, sir. You may
2 step down.

3 MR. GRAHAM: The State calls Special Agent Shawn
4 Grant.

5 (WHEREUPON, Shawn Grant, was sworn
6 to tell the truth.)

7 SHAWN GRANT - DIRECT EXAMINATION

8 BY MR. GRAHAM:

9 Q Agent Grant where are you currently employed?

10 A South Carolina Law Enforcement Division.

11 Q And how long have you been with SLED?

12 A One year.

13 Q Prior to working with SLED were you a detective with
14 the Lexington County Sheriff's Department?

15 A Yes, sir.

16 Q Back in July and August of 2012 were you, in fact, the
17 lead investigator on the case that we're here for today?

18 A Yes, sir.

19 Q Can you tell the Court about your first time that you
20 came in contact with Mr. Jeremy Brady?

21 A It was in the parking lot of Quail Hollow Apartments.

22 Q And do you remember what time it was?

23 A Going on midnight. I believe it was August -- late
24 night August 2nd, early morning August 3rd of 2012.

25 Q When you arrived on the scene what was your

State v Brady Shawn Grant, - Direct

6/10/15

63

1 understanding of the situation at Quail Hollow Apartments?

2 A We were already in the process of speaking with Mr.
3 Brady.

4 Q When you pulled up, where was Mr. Brady?

5 A He was near a truck, near one of our investigators. It
6 was Detective Stout's vehicle.

7 Q Was it your understanding whether he was under
8 detention or not at that time?

9 A He was not.

10 Q After you arrived on scene, did you then make contact
11 with Mr. Brady?

12 A Yes, sir.

13 Q So tell me about that?

14 A I made contact with Mr. Brady and we inquired about,
15 you know, the credit cards.

16 Q When you were speaking with him, was he free to go at
17 that time?

18 A Yes, sir. He was.

19 Q Did you threaten him?

20 A No, sir.

21 Q Did you make any promises to him?

22 A No, sir.

23 Q You didn't Mirandize him there because he wasn't in
24 custody; correct?

25 A Yes, sir.

1 Q Tell me about your conversation with him regarding the
2 credit cards?

3 A I inquired about, you know, how he found the credit
4 cards. And he made this story about, you know, he found a
5 wallet at 44 Truck Stop. In addition to him about, you
6 know, finding the credit cards while waiting for somebody.
7 He was there waiting for his boss, he had gone through the
8 credit cards.

9 Q At some point did he acknowledge that he actually --
10 that was him in the video, and he actually did use the
11 cards?

12 A Yes, sir.

13 Q What was his final story of where he got the cards at
14 that time?

15 A He stated that he found the credit cards in a wallet at
16 the 44.

17 Q And did he acknowledge to you that he actually did use
18 those cards?

19 A He did.

20 Q Did you continue to talk to him at that point on scene?

21 A Yes, sir.

22 Q What did you continue to talk to him about?

23 A Just, you know, information about -- we were trying to
24 get information about the credit cards.

25 Q At some point, did you go over -- end your conversation

State v Brady Shawn Grant - Direct

6/10/15

65

1 with him and go speak with Sergeant Mefford who was on
2 scene?

3 A I did.

4 Q And at that time is there a decision as to whether to
5 place Mr. Brady under arrest?

6 A Yes.

7 Q What was the decision?

8 A Basically, we decided to do so because of Mr. Brady's
9 voluntary admission of using and possessing the credit
10 cards.

11 Q After he was placed under arrest, did you question him
12 anymore at the scene?

13 A No, sir.

14 Q What happened with Mr. Brady and what did you do next?

15 A Mr. Brady was transported by one of our road deputies
16 away from the scene. And I stood by waiting on a search
17 warrant for the apartment and vehicle.

18 Q At some point did you go back to headquarters and make
19 contact with Mr. Brady again?

20 A Yes, sir.

21 Q Can you tell the Court when that was and how that
22 contact occurred?

23 A We made contact with Mr. Brady at the detention center.
24 We told him we wanted to speak with him so we asked him if
25 we could interview him back at the sheriff's department.

1 You know, we advised him of his rights. And Detective
2 Spivey and I we did an interview.

3 Q How was Mr. Brady advised of his rights?

4 A Using a suspect information voluntary statement form.

5 Q And at this time he is in custody; correct?

6 A Yes, sir.

7 Q He's under arrest?

8 A Yes, sir.

9 Q Looking at Court's Exhibit Number 3, do you recognize
10 that form?

11 A Yes, sir.

12 Q And that's a statement form that the Lexington County
13 Sheriff's Department uses for suspects?

14 A Yes, sir.

15 Q In the middle of page number one, there are Miranda
16 Rights; is that correct?

17 A Yes, sir. That's correct.

18 Q Is this the form that Detective Spivey used to
19 administer rights to Mr. Brady?

20 A Yes, sir.

21 Q How did Mr. Brady indicate that he understood those
22 rights?

23 A He acknowledged by initialing.

24 Q So the initials -- the purpose of his initials were for
25 what?

)

State v Brady Shawn Grant - Direct

6/10/15

67

1 A You know, he was letting us know that he understand,
2 that he understood his rights. That's his acknowledgment.

3 Q At that time to get him to speak with you, did you
4 threaten him?

5 A No, sir.

6 Q Did Detective Spivey threaten him?

7 A No, sir.

8 Q Did you make any promises to him?

9 A No, sir.

10 Q Did Detective Spivey make any promises to him?

11 A No, sir.

12 Q Did he appear to be under the influence of alcohol or
13 drugs such that he didn't know what he was doing?

14 A No, sir.

15 Q Do you have an opinion as to whether his decision to
16 speak with you all after Miranda was given to him was free
17 and voluntary?

18 A It was.

19 Q And at that point you began to speak with him and
20 interview him?

21 A Yes, sir.

22 Q And what did he tell you at that time?

23 A He claimed to not have any involvement with, you know,
24 the murder. And he was admitting to the credit card usage
25 but he didn't do -- wouldn't give us much information. You

1 know, we continued to kind of, you know, as him different
2 questions. He wouldn't give us an answer so you know, after
3 -- we just decided to end the interview.

4 Q Was he denying any knowledge or was he remaining quiet
5 or what?

6 A A little of both. He was saying I didn't have anything
7 to do with it. I don't want to talk about it. You know,
8 just -- you know, wouldn't answer the questions.

9 Q At some point did you end that first interview at the
10 sheriff's department with Mr. Brady?

11 A Yes, sir.

12 Q Did he request for it to end?

13 A No, sir.

14 Q Did he ever request a lawyer?

15 A No, sir.

16 Q Who made the decision to end the first interview?

17 A I did.

18 Q After that first interview was ended, what did you do
19 with Mr. Brady?

20 A Escorting him back to the detention center.

21 Q At some point, either your escorting him back or after
22 you escorted him back, was there a decision made to attempt
23 to re-interview him again?

24 A Yes, sir.

25 Q And why was that?

State v Brady Shawn Grant - Direct

6/10/15

69

1 A Well, while I was escorting Mr. Brady back, Detective
2 Spivey called me and said, you know, requested I bring him
3 back because he spoke with Sergeant Mefford and he had some
4 additional information.

5 Q And so basically on your conversation with Detective
6 Spivey, did you, in fact, bring Mr. Brady back to the
7 interview room?

8 A Yes, sir.

9 Q And who was present for the second interview with Mr.
10 Brady?

11 A It was Detective Spivey, Detective Spivey and myself.

12 Q Did you all re-Mirandize Mr. Brady again?

13 A Yes, sir.

14 Q And how was that done?

15 A On the same form.

16 Q Who gave him his rights this time?

17 A I did.

18 Q And how did you do it?

19 A Just read his rights to him, Mr. Brady.

20 Q So you used Court's Exhibit No. 3 where he had
21 previously been given his rights and initialed. You just
22 verbally re-read his rights and got verbal answers from him?

23 A Yes, sir.

24 Q Did he acknowledge his rights again?

25 A Yes, sir.

1 Q Did he waive his rights again and speak with you?

2 A No, sir. He spoke with us voluntarily.

3 Q He did speak to you voluntarily?

4 A Yes, sir.

5 Q At that second interview did you threaten if he didn't
6 speak?

7 A No, sir.

8 Q Did you promise him anything to get him to speak?

9 A No, sir.

10 Q He again waived his rights to voluntarily speak to you.
11 If you can tell me about the second interview at the
12 sheriff's department?

13 A He gave me, you know, a little of the detail about, you
14 know, what happened. He implicated that, you know, it was
15 mostly Nick's idea.

16 Q Did he tell you what his involvement was?

17 A He said that he drove Nick there.

18 Q Did he say whether he knew there was going to be a
19 robbery or not?

20 A No, sir.

21 Q So he didn't or he denied?

22 A He denied it. Have no idea of it.

23 Q Denied that there was going to be a robbery?

24 A Yes, sir.

25 Q And basically Court's Exhibit No. 3, what's written in

State v Brady Shawn Grant - Cross

6/10/15

71

1 the statement form, that's what he told you during that
2 second interview?

3 A Yes, sir.

4 Q And the handwriting is his in the main body of it, the
5 statement form and also where it says answers in the
6 subsequent pages?

7 A Yes, sir.

8 Q There are Q's, which I'm going to refer to as
9 questions. At some point, it goes into a question and
10 answer; written questions and written answers?

11 A Yes, sir.

12 Q The written answers are Mr. Brady's handwriting?

13 A Yes, sir.

14 Q The written questions are whose handwriting?

15 A (Inaudible)

16 Q Looking at Court's Exhibit No. 3?

17 A Yes, sir. The questions goes to my handwriting.

18 Q The questions later on in the statement form is your
19 handwriting?

20 A Yes, sir.

21 Q After he read that statement, was there any continuing
22 interview of him regarding anything that he had put in --

23 A No, sir.

24 Q Do you remember whether there was any questions to him
25 regarding the feasibility of him, his claim that he heard

1 the shotgun blast when he was halfway to the 44 Truck Stop?

2 A Yes, sir.

3 Q That question was asked?

4 A It was during the interview. Yes, sir.

5 Q But he stuck with the story that is written down?

6 A Yes, sir.

7 Q And at some point did he ever ask for the interview to
8 end?

9 A No, sir.

10 Q Did he ever ask for an attorney at all?

11 A No, sir.

12 Q At some point did you just end the interview?

13 A Sir?

14 Q At some point after you had gotten the written
15 statement from him and you'd asked all the questions you
16 have answered, and he has told you his story did you decide
17 to end the interview?

18 A Yes, sir.

19 Q I believe that's all the questions. Please answer any
20 questions the defense has.

21 A Okay.

22 MS. CLARY: Court's indulgence?

23 THE COURT: Yes, ma'am.

24 SHAWN GRANT - CROSS-EXAMINATION

25 BY MS. CLARY:

State v Brady Shawn Grant - Cross

6/10/15

73

1 Q Special Agent Grant?

2 A Yes, ma'am.

3 Q Were you the chief investigator on this case at that
4 time?

5 A Yes, ma'am. I was.

6 Q And when did you leave the sheriff's department?

7 A In the middle May of 2014.

8 Q And you testified that you arrived some time around
9 midnight on August 2nd to the Quail Hollow --

10 A Yes, ma'am.

11 Q Okay. And at that point there was Sergeant Spivey and
12 Sergeant Mefford, Detective Stout and Detective Lance were
13 there?

14 A Yes, ma'am.

15 Q Okay. So there were five officers there?

16 A Yes, ma'am.

17 Q How many police cars? Were they marked police cars?

18 A Unmarked.

19 Q And how many cars?

20 A I don't recall -- maybe -- some may have rode together.
21 I don't know how many exactly. I don't remember.

22 Q Okay. And at 10:00 on August 2nd you interviewed Kim
23 White at the jail?

24 A Yes, ma'am. Well, at the sheriff's department in an
25 interview room.

1 Q Okay. Right. She was incarcerated but you brought her
2 to an interview room?

3 A Yes, ma'am.

4 Q Okay. And she told you that Nick and Jeremy hung out
5 together and you showed her a picture from the Walmart?

6 A I don't recall showing her a picture.

7 Q Okay. And at that point you were trying to get
8 information from her about the murder of Robert Mitchell?

9 A Just about mostly linking Jeremy.

10 Q Okay. And she told you at that point that she had
11 called Jeremy and asked him to go pick up Nick that night
12 that she was arrested on September -- I mean on July 27th,
13 28th?

14 A I don't recall that in detail. I know she mentioned
15 they spoke a lot.

16 Q Okay. But she established that Nick Williams and
17 Jeremy Brady knew each other?

18 A Yes, ma'am.

19 Q Okay. All right. And you said in your statement that
20 it was at the Quail Hollow location that Brady gave the
21 story about finding the credit card at the 44 Truck Stop?

22 A Yes, ma'am.

23 Q Okay. And you stated in your statement that Stout and
24 Grant, which is you and Stout, inquired about Jeremy's
25 whereabouts this weekend. Did you ask about the whereabouts

State v Brady Shawn Grant - Cross

6/10/15

75

1 when the credit card was used or when the murder occurred?

2 A Oh, just a general -- that's a general question.

3 Q Okay. And the murder occurred on July 28th; is that
4 correct? 2012?

5 A Yes, ma'am.

6 Q And the credit card was used on July 30th, 2012?

7 A I'm not sure of the exact date.

8 Q Well, you don't doubt me when -- If I tell you it was
9 July 30th, you don't doubt me; right?

10 A Well --

11 Q My question is though, it says you asked about his
12 whereabouts. Did you say where were you on July 30th or did
13 you say where were you on July 28th?

14 A It was more likely where was you at this past weekend?

15 Q Okay. And he gave you an answer to that; correct? He
16 told you that he'd been hanging out with Brenda White and --

17 A And --

18 Q Okay. But you didn't ask him about any specific --

19 A No, ma'am. No, ma'am.

20 Q Okay. All right. I noted that you said you held him
21 for financial card transaction theft. Was he ever charged
22 with that offense?

23 A No, ma'am.

24 Q Okay. And so he was booked at 3:00 a.m. on August 3rd
25 2012?

1 A I believe he was.

2 Q Okay. And you said you first started interviewing him
3 around midnight, so that would be three hours. And then he
4 was booked.

5 A Yes, ma'am.

6 Q And then you went and talked to him at 7:00 a.m. You
7 and Spivey talked to him in the interview room; is that
8 correct?

9 A Yes, ma'am.

10 Q And are you familiar with the facilities at the
11 Lexington County Detention Center?

12 A Yes, ma'am.

13 Q And is there a bed in those rooms?

14 A I'm not sure about, you know, the other areas. But in
15 the -- there's a sitting area like. When somebody first
16 goes in there's like benches. I wouldn't call it a bed.

17 Q Do you know if they allow people to drink or eat?

18 A I'm not sure.

19 Q Okay. So at that point you told him there was evidence
20 connecting him to the murder?

21 A Yes, ma'am.

22 Q And when you brought him back the second time, you told
23 him -- the first time you said he didn't really want to talk
24 to you; correct?

25 A Yes, ma'am.

State v Brady Shawn Grant - Cross

6/10/15

77

1 Q You brought him back the second time, after you talked
2 on the phone. And you told him that you were brining Nick
3 in. Did you tell him that? That y'all had found Nick
4 Williams and were going to bring him in?

5 A No, ma'am.

6 Q But you told him that you'd talked to Michelle Webb?

7 A I didn't talk to Michelle Webb at that time. I hadn't
8 talked to her.

9 Q Did you see when Michelle Webb walked by the window and
10 he saw that?

11 A I don't recall.

12 Q But you told him that you'd found the gun at Brenda
13 White's house?

14 A Yes, ma'am.

15 Q And you told him that if he talked and helped y'all
16 that y'all would let him go home?

17 A I didn't tell him that.

18 Q So what was it that changed between the first time you
19 talked to him and the second time you talked to him? What
20 made him willing to speak?

21 A I'm not sure what -- but he was -- he did talk the
22 second time.

23 Q Okay. And you stated just now on direct that the
24 answers in that statement include everything that he stated
25 after he was Mirandized?

1 A Yes, ma'am.

2 Q Okay. Now, you were the case manager so you know that
3 Nick was arrested August 3rd in the evening?

4 A Yes, ma'am.

5 Q Okay. Did you ever go back and talk to Jeremy after
6 you talked to Nick Williams?

7 A No, ma'am.

8 Q To verify Jeremy's story or Nick's story?

9 A No, ma'am.

10 Q Okay. All right.

11 MS. CLARY: I beg the Court's indulgence.

12 THE COURT: Yes, ma'am.

13 BY MS. CLARY:

14 Q Just one more question. Special Agent Grant, do you
15 know at what point you told Mr. Brady that the person who
16 had used it -- or that those credit cards belonged to
17 someone who had been murdered?

18 A It would have had to have been during -- once we let
19 him know he was being charged with murder.

20 Q It was not at the Quail Hollow location

21 A No.

22 Q Okay.

23 MS. CLARY: Nothing else. Thank you.

24 MR. GRAHAM: Two very brief questions, Your Honor.

25 THE COURT: Yes, sir.

State v Brady Shawn Grant - Redirect 6/10/15

79

1 SHAWN GRANT - REDIRECT EXAMINATION

2 BY MR. GRAHAM:

3 Q When you arrived on the scene and you spoke with Mr.
4 Brady at the apartments, what other police officers were
5 there?

6 A It was Sergeant Mefford, Sergeant Spivey, Detective
7 Stout and Detective Lance.

8 Q Are you sure whether Detective Lance was there at that
9 time or do you remember him being there when he came later
10 to execute the search warrant?

11 A I'm not sure exactly when he got there.

12 Q Were there any other -- were there any patrol officers
13 there?

14 A CSI Strickland arrived once the search warrant was --

15 | 0 | He was --

16 A We was already gone.

17 Q Okay. And then I think Defense Counsel asked you about
18 when you came up on scene that Detective Spivey and
19 Detective Stout were with Mr. Brady. And I believe that
20 that was at the back of the pickup truck; is that correct?

21 A Yes, sir.

22 Q Do you know what they were talking to him about?

23 A Not entirely.

24 Q Thank you.

25 THE COURT: Anything further?

1 MS. CLARY: Yes, just briefly.

2 SHAWN GRANT - RECROSS-EXAMINATION

3 BY MS. CLARY:

4 Q Mr. Grant, you've had a chance to review your case
5 summary?

6 A Yes, ma'am.

7 Q And this is true and accurate?

8 A Huh?

9 Q This is the report dated November 7th, 2012?

10 A Uh-huh. (Affirmative response.)

11 Q And you have that up there with you? Do you have that
12 report with you?

13 A You know what page number about?

14 Q Yeah, page ten.

15 A Okay.

16 Q Let me make sure I'm on the right page. And you see
17 about a quarter of the way through where it says Detectives
18 Spivey and Lance arrived at Quail Hollow Apartments?

19 A Uh-huh. (Affirmative response.)

20 Q All right. So does that -- this is your report.
21 Evidently Detective Lance was there, was at the scene at
22 Quail Hollow when you questioned --

23 A Okay.

24 Q Is that correct?

25 A Yes, ma'am. Detective Spivey --

State v Brady

6/10/15

81

1 Q Yes, sir.

2 A Yes, ma'am.

3 Q Okay. So at the scene when Jeremy Brady was being
4 talked to at Quail Hollow apartments, it's Detective Spivey,
5 Detective Lance, Sergeant Mefford, Sergeant Stout and I; is
6 that correct?

7 A Uh-huh. (Affirmative response.)

8 Q And then you said Strickland came later. But she was
9 not there when you questioned Brady; is that correct?

10 A No, ma'am. She wasn't on the scene.

11 Q Okay. That's all I have. Thank you.

12 A Okay.

13 THE COURT: Thank you very much, sir. You may
14 step down.

15 MR. GRAHAM: Your Honor, the State has no more
16 witnesses on the issue.

17 THE COURT: All right. Ms. Clary, Defense have
18 anything?

19 MS. CLARY: Your Honor, can I have about two
20 minutes to talk to my client?

21 THE COURT: yeah.

22 MS. CLARY: Thank you.

23 THE COURT: All right. We're going to take just a
24 few minutes recess. If anybody needs to use the restroom or
25 take a short break you can do that now. And we'll start

1 back in a minute.

2 MS. CLARY: Okay.

3 (Court in recess for short break.)

4 (Court in session after short
5 break.)

6 THE COURT: All right. Ready to proceed?

7 MS. CLARY: Yes, sir.

8 THE COURT: Okay. Yes, ma'am.

9 MS. CLARY: We have no evidence we want to put up.

10 THE COURT: All right. Be happy to hear from you.

11 MS. CLARY: All right. Your Honor, in terms of
12 those statements that were made at Quail Hollow Apartments.

13 THE COURT: Okay.

14 MS. CLARY: The standard whether statements made
15 without the benefit of Miranda warnings, the standard is not
16 whether the officer thinks that they were custodial or
17 whether the person was free to leave or even whether Mr.
18 Brady thinks that he was free to leave but it's from an
19 objective standard of whether he was deprived of his freedom
20 of action in a significant way. And also, and I'll go
21 through those the tests on those is whether the contact was
22 initiated by law enforcement officers. I don't think
23 there's any doubt about that. And that they were clearly
24 interrogating him when they were asking him questions,
25 showing him pictures, you know, asking about his

State v Brady

6/10/15

83

1 whereabouts. But then when the issues of whether he was
2 deprived of his freedom, there were five police officers; he
3 was a suspect, a potential suspect in the murder and in
4 financial fraud transaction theft. It's just unreasonable
5 to think that he was free to leave. He clearly could not
6 have just run off when he's a suspect in two crimes. They
7 already have -- they have information and I think an
8 anonymous tip saying that he and Nick Williams were involved
9 in the murder. Then they get the Walmart, the photos from
10 Walmart that show that he used the murder victim's credit
11 card around that time. You know, they stated that they
12 didn't think that that was probable cause to arrest but
13 clearly, he was not free to leave at that point. Again,
14 five police officers.

15 THE COURT: How do you say that? How do you say
16 that, clearly he was not free to leave? Just simply because
17 five police officers were there?

18 MS. CLARY: Well, no. Because he's a suspect in a
19 murder case. And I think under an objective standard,
20 regardless of how anybody characterizes it, he was not going
21 -- he was not going to be allowed to walk away from five
22 police officers who are all standing around talking to him
23 and questioning him.

24 THE COURT: That's -- Go ahead. I'm listening.

25 MS. CLARY: Well, let me go back and give an

1 example -- in State versus Eastler, which is a felony DUI
2 case, the question was whether the defendant volunteered or
3 gave information about his involvement in a car accident,
4 whether that was custodial at that point. And the Court --
5 which is -- the Court noted in that case that at this point
6 they only knew that a car accident had happened when they
7 gave his statement. But at the point that they arrived at
8 the scene and saw it was a deadly car accident, then at that
9 point, you know, questioning becomes custodial. So what
10 that leads to is that when they have, you know, information
11 that somebody is involved in a crime, a serious crime, any
12 questioning initiated by them -- not a spontaneous statement
13 from Mr. Brady, but any answers to questions initiated by
14 the police is custodial.

15 THE COURT: So you think the law is that if I'm a
16 police officer and I suspect you have committed a crime -- I
17 don't know, but I've got suspicions, so I'm investigating.
18 And I come up to you and I go Ms. Clary, we need to ask you
19 about your whereabouts last night. You mind telling me? In
20 your analysis of the law, that's a custodial stop.

21 MS. CLARY: No, I'm sorry. I didn't mean to
22 misstate that. Let me go on and go with the rest of the
23 factors.

24 THE COURT: Sure.

25 MS. CLARY: Okay. Another one of the factors, and

State v Brady

6/10/15

85

1 this is from the Eastler case is the place of interrogation.
2 So I would just argue that, you know, in the police
3 department or on the tailgate surrounded by officers goes to
4 that. Also, the purpose, the purpose of the interrogation.
5 In this case, you know, it's not just to find out about a
6 traffic accident or something like that. It's to find out
7 about a murder case. But more importantly, it directly --
8 your question though is the length of interrogation and this
9 went on from some time right before midnight to possibly
10 2:30 that they arrested him and took him in. So we're
11 looking at a couple of hours. We're not looking at like
12 five minutes of questioning or just a few minutes of
13 questioning, where I certainly agree with you that that
14 would not necessarily be custodial. But when you combine
15 all the factors, the length of the interrogation --

16 THE COURT: But at any time -- is there any
17 testimony or evidence that at any time during that time --
18 well, first of all, and maybe I missed something. I didn't
19 get the impression that they had a two and a half hour
20 conversation. But at any time was there any indication that
21 he tried to leave?

22 MS. CLARY: No, Your Honor. But I mean that goes
23 to -- it also goes to show he wasn't free to leave. I mean,
24 he didn't feel like he was free to leave, but --

25 THE COURT: Well, there's no evidence of that.

1 MS. CLARY: I understand that but I'm just trying
2 to think from an objective standpoint, you know, because the
3 test isn't a subjective --

4 THE COURT: But see, here -- I don't know what
5 you're considering an objective standpoint. It sounds to me
6 like you're saying an objective standpoint is if there's
7 more than one or two police officers and nobody's free to
8 go.

9 MS. CLARY: Oh, well --

10 THE COURT: Is that the objective?

11 MS. CLARY: No. No. What I'm saying is going
12 through all the factors, looking at whether it was initiated
13 by law -- in order to determine whether it's custodial.

14 THE COURT: Sure.

15 MS. CLARY: Whether it was initiated by law
16 enforcement; whether under an objective standard a person
17 would not feel -- they would feel that they had not -- not
18 that they were just free to leave, but whether they were
19 deprived of their freedom of action in any significant way.
20 But, you know, also whether there was expressed questioning,
21 formal questioning, you know, where they did testify that
22 they had asked him, you know, more than just about the
23 pictures but, you know, his whereabouts and that sort of
24 thing. That the police would know that those questions are
25 reasonably likely to elicit an incriminating response.

State v Brady

6/10/15

87

1 Well, clearly, the arrest came after his spoke. So that
2 prong is met, but also then looking at the factors of the
3 place, purpose and length. They testified that they came
4 and talked to him around midnight and then decided that, you
5 know, they had enough to arrest him around 3:00. Just the
6 number of officers that were asking him questions and the
7 amount -- you know, they asked him, you know, is this you?
8 Whose car is this? But also, you know, what did you do with
9 these credit cards? What were your whereabouts on this
10 date? I mean, that there was -- it was more than just a
11 casual or, you know, an informal, you know, one question. I
12 mean, clearly, they were interrogating him for the purpose
13 of being able to get enough evidence to be able to arrest
14 him.

15 THE COURT: They were investigating.

16 MS. CLARY: Exactly.

17 THE COURT: Right.

18 MS. CLARY: And I mean, but there's no reason in
19 the world that they couldn't have given him Miranda Rights
20 once they turn -- once it becomes an interrogation. And,
21 you know, it's obviously initiated by them not some
22 spontaneous statements that he's making. And I think the
23 evidence does show that it went on for at least two hours.
24 And then combining that with the fact that you have five
25 police officers and that they're investigating a murder

1 that, you know, under Eastler and the other cases on that
2 issue that under an objective standard he was in custody.
3 And primarily, I'm relying -- I'm relying Eastler because
4 the court talks about, you know, they did not know he had
5 committed a crime by the time that they start talking to
6 him. And they have more than just a suspicion that Mr.
7 Brady is involved. They have evidence that he is involved
8 with Nick Williams who --

9 THE COURT: What's the Eastler?

10 MS. CLARY: 489 S.E.2d 617. But, you know, they
11 have more than just a suspicion at this point. They have a
12 tipster who says that Brady and Nick may have been involved
13 in this crime or were involved in this murder. And that
14 they're hanging around with Kim White. And that the -- then
15 they get information from Walmart that the decedent's credit
16 card has been used. And they pull the tapes from the time
17 that the credit card was used and it's Mr. Brady. So it was
18 certainly more than a suspicion. It's not like when you
19 have a traffic stop and you stop, you know and ask -- sort
20 of several questions. This was something initiated by them
21 that was clearly an interrogation for the purpose of finding
22 enough evidence to arrest him.

23 THE COURT: How does that compare to an officer
24 who has a vehicle that runs through a stop sign, weaves in
25 the road, goes off the road, comes back on, and the officer

State v Brady

6/10/15

89

1 based on all of that believes I've got reasonable suspicion
2 to believe that this person's under the influence of
3 something. And they stop the person and they start asking
4 questions. How is this different?

5 MS. CLARY: Well, I mean, certainly, you know, at
6 some --

7 THE COURT: There that officer has information
8 that brings this person under the guise of a suspect?

9 MS. CLARY: Well, and he smells the distinct odor
10 of alcohol about this person?

11 THE COURT: Well, say he doesn't.

12 MS. CLARY: Well, again, I mean, I think it
13 depends on how much questioning he does. If he says how
14 much have you had to drink, I think that that -- and it's
15 sort of limited to that, -- I think it's very
16 distinguishable --

17 THE COURT: So the length, the length of time.

18 MS. CLARY: Right. But also, you know, continued
19 questioning over the two hours by five officers. I think,
20 you know, distinguishes that from --

21 THE COURT: Were all these officers questioning
22 the Defendant?

23 MR. GRAHAM: My understanding from the testimony,
24 Your Honor, is that two officers went to his door and asked
25 him if he would come out and talk to them voluntarily and

1 that he did. And then at that point, Sergeant Mefford talks
2 to him as they're walking and he shows him the pictures.
3 And that's when he says the picture of the person from the
4 Walmart video it looks like me, I believe are the words that
5 Detective Mefford said.

6 THE COURT: Right.

7 MR. GRAHAM: And they showed him the car. And he
8 said that's Michelle Williams car. At that point, the
9 testimony is that the two officers who went to go get him,
10 which were Detective Stout and Detective Spivey took him to
11 the back of a pickup truck and made small talk with him
12 until Detective Grant came, who is the lead detective. They
13 said they didn't interview him about the case. Detective
14 Grant comes over. Detective Spivey leaves and Detective
15 Stout and Detective Grant interview Mr. Brady at the back of
16 that pickup. And at that point, after that conversation, is
17 when he says that is me. I did use the card. And I believe
18 they talked about where he got the card from. Detective
19 Grant goes to Sergeant Mefford, his supervisor, and that's
20 when the agreement is to go ahead and place him under
21 arrest. And then he is -- so I think, to answer your
22 question, I don't believe -- I think at most there was only
23 two people ever talking with him at one time.

24 THE COURT: Okay. Anything further, Ms. Clary?

25 Other -- you know, the other cases you referred to, are

State v Brady

6/10/15

91

1 those cited is Eastler?

2 MS. CLARY: Yes. Yes, sir.

3 THE COURT: Okay.

4 MS. CLARY: Okay. Yes, sir. That's fine.

5 THE COURT: All right. Mr. Graham?

6 MR. GRAHAM: Briefly, Your Honor. All the
7 testimony that's before the Court does not -- as if he was
8 not under custody. They did not show up with a search
9 warrant. They did not place him in handcuffs. They asked
10 him to come speak with them. He agreed voluntarily to come
11 speak with them. There is no testimony by the officers or
12 anyone that he ever asked to leave or tried to leave, just
13 that he stayed there voluntarily and spoke with people. My
14 understanding is, and I think the testimony is, that they
15 got there around midnight. At least that's when Detective
16 Grant, I believe, testified when he got there. And my
17 understanding is the testimony is that he was booked at
18 3:00. So that would be transporting and going through the
19 process of booking. I don't know how long he was actually
20 questioned. I don't know how much was conversation, as they
21 said, you know, the detectives coming and just made small
22 talk with him. There is no testimony that he ever asked to
23 leave, that he ever wanted to leave. There's no testimony
24 that they ever told him that he couldn't leave. All the
25 testimony is, is that we didn't have a warrant. What we had

1 was a tip that he might have been involved, which is a -- I
2 mean, that's an unverified tip with no evidence. They just
3 identified his name. And then they have the use of a credit
4 card at a Walmart where they went and got the video. So at
5 that point, they have a name where somebody says he might be
6 involved or we hear he's involved. And they have a
7 photograph of an individual using the card. Nobody thought
8 that they had probable cause to get a warrant or they would
9 have gone out and got one. What they had was an
10 investigative lead that they went to go follow. So
11 basically with that, they go to speak with him and they ask
12 him if he will speak with them and he says that he will. It
13 was initiated -- I don't have the Eastler case in front of
14 me. If I understood correctly, though, it sounds like that
15 case is a car wreck and the officers show up on scene. They
16 see the defendant there and there's a dead body. So I think
17 it is a little bit different than the situation we're in,
18 where we're talking -- we've got a murder and we're talking
19 to a suspect in a different location four or five days
20 later, based on what we've got. The police don't know what
21 is involved in this. That's why they're there. He's not in
22 -- all the testimony is is that he's not in custody. The
23 location is not at the sheriff's department in an interview
24 room. Nobody's pointing guns at him. Nobody's threatened
25 to lock him up. There's no testimony to anything like that.

State v Brady

6/10/15

93

1 They are interviewing the use of the credit card. The
2 initial hold that they put on him, it was for use of a
3 credit card. The hold was not for murder. It is not for
4 burglary. It's not for armed robbery, although they didn't
5 ultimately a warrant for financial transaction card fraud,
6 the testimony is that they got the hold -- the reason they
7 place him under arrest for the card and that was after he
8 admitted he used it and how he described how he got it.

9 THE COURT: I didn't hear any testimony regarding
10 --

11 MR. GRAHAM: And maybe I didn't --

12 THE COURT: Nobody had any weapons out?

13 MR. GRAHAM: Correct, Your Honor.

14 THE COURT: And they were all plainclothes
15 officers; they were not uniformed officers? They're
16 investigators.

17 MR. GRAHAM: That is the testimony.

18 THE COURT: They're investigators.

19 MR. GRAHAM: All of their opinions, I mean, which
20 is what you've got, Your Honor, is their testimony is that
21 he spoke with them of his own accord, that they didn't
22 deprive him of his freedom. And they're not required to
23 tell a suspect or a person they're talking to you can leave
24 at any time. They don't have to do that. They didn't.
25 They talked to him somewhere between midnight and him being

1 transported and booked at 3:00. There's a length of time
2 there, but there's no evidence that he was deprived of his
3 freedom. All the testimony is that he could have left if he
4 wanted to. There's no testimony he tried to. I think that
5 addresses what happened at Quail Hollow because there's
6 really four sets of -- there's four areas you have to make a
7 ruling on, Your Honor. I believe, Your Honor,
8 independently. The first one is Detective Mefford showing
9 him the pictures and his comments. That looks like me, as
10 far as Court's -- and I believe it's 1 -- as the individual
11 using the card. And then the Court's 2, which is the photo
12 of the car where he says Michelle Webb. Those are the first
13 statements. The second set that you have to rule on
14 independently is going to be the conversation that Detective
15 Grant had with him at Quail Hollow. And that ultimately
16 ends with him admitting that was me. I did use the card.
17 And him describing, I believe, how he got it. At that time
18 I don't believe we have any information -- I think the
19 testimony is that there was no conversation about a murder,
20 just the use of the card. At that point -- so there's that
21 conversation that Your Honor needs to rule on. At that
22 point, there's a decision made to arrest him. After he's
23 arrested, they take him to the sheriff's department and all
24 the testimony is that they review him twice. The first time
25 --

State v Brady

6/10/15

95

1 THE COURT: All right. Let me stop you there.

2 MR. GRAHAM: Yes, sir.

3 THE COURT: Because I want to hear from Ms. Clary
4 on the post custody matter.

5 MR. GRAHAM: Yes, Your Honor.

6 THE COURT: As to the pre-custody issue, what I'm
7 going to do is I'm going to -- I'm not going to give you my
8 ruling today because I don't know. That's what I've got to
9 decide. I'm going to look at Eastler. And in the meantime,
10 all of y'all have my email address, right? And I've got --
11 if I don't have yours, I'll have it before we leave. I'm
12 going to take my time to read through Eastler and look at
13 it. If there's any other case you want me to consider, you
14 can email that to me. And then I'll get back with y'all --
15 I'll email back with y'all as far as my ruling on it after I
16 have a chance to review those cases, okay?

17 MS. CLARY: Okay, Your Honor.

18 THE COURT: And now I want to hear from you -- I'm
19 sorry. Are we done with the --

20 MS. CLARY: Well, Your Honor, I don't have an
21 argument to make to the post-Miranda statements.

22 THE COURT: Okay. Well --

23 MS. CLARY: But I would like to ask, since you are
24 going to take it under advisement, is that -- we didn't
25 really realize we were going to be doing this today. And I

1 thought that Lance and Stout would be here to testify. And
2 I would just ask that, as part of your ruling abeyance, if
3 you would just give me a day or so to go -- you know,
4 because I notice that he was emphasizing that all these
5 people didn't speak to him. And I guess I have that in
6 their statements, I thought that they were going to
7 testify. And I mean, that's obviously my mistake. Since
8 it's not an emergency that you rule on it right now, if you
9 could possibly give us time to just submit a brief -- a
10 brief on the --

11 THE COURT: I don't want to -- here's what I don't
12 want to run into. I don't want to run in -- I don't mind
13 doing that. And I'll give you until Friday, close of
14 business Friday. Or I don't mind giving you until Monday.
15 But the thing is, what I don't want to have to entertain
16 then is some motion based on well, Judge, we didn't have
17 enough time to prepare after your ruling. And, you know. I
18 mean, that's the whole reason for getting things done early.
19 So that you have the benefit of my ruling as we prepare for
20 next week. You know what I'm saying?

21 MS. CLARY: I understand. And I'm going to assume
22 that everything's admissible as I prepare.

23 THE COURT: Okay. Well, I'll be more than happy
24 to receive anything you want to submit. But I would imagine
25 -- well, I'll give you until prior -- let's say Sunday night

State v Brady

6/10/15

97

1 at 6:00, okay?

2 MS. CLARY: Yes, sir. And I'll --

3 THE COURT: Because what I hope to do is be able
4 to give y'all an answer as to my ruling so that you have
5 some idea of going into Monday morning what my ruling is.

6 MS. CLARY: Okay. Thank you, sir.

7 THE COURT: Okay. And, of course, anything
8 anybody submits, please copy the other side on it obviously.
9 All right. And so with regards to the post-custody, the
10 Miranda statements, you don't have any problem with those,
11 no issues with those?

12 MS. CLARY: Yes, sir.

13 THE COURT: You do?

14 MS. CLARY: I have no problem, no, sir.

15 THE COURT: Okay. So we don't need to deal with
16 those then. Anything else?

17 MR. GRAHAM: The only thing -- I don't want to say
18 it's the final answer because I don't know. But I was
19 handed up some SLED regulations regarding the dissemination
20 of rap sheets. So I will just pass this out. It'll be
21 something for us to look at.

22 THE COURT: Okay. Yeah, sure. That would be
23 helpful.

24 MR. GRAHAM: And other than that, that's all I
25 have a this time, Your Honor.

1 THE COURT: Okay. Ms. Clary, that's all the
2 Defense has on anything pre-trial? I mean,

3 MS. CLARY: Uh, I do --

4 THE COURT: I mean the State?

5 MR. GRAHAM: For the State, yes, sir.

6 THE COURT: The State. Okay.

7 Ms. Clary, I'm sorry. Go ahead.

8 MS. CLARY: I do want to see if you had time to
9 take up a quick ex-parte motion. It's a motion that we have
10 previously filed.

11 THE COURT: Have I got it?

12 MS. CLARY: Yes, sir.

13 THE COURT: And have I not responded to it or
14 something?

15 MS. CLARY: Right.

16 THE COURT: Shame on me. All right. Well, I'm
17 done with y'all then as far as anything. I've got an ex-
18 parte matter I'm going to take up with them.

19 MR. GRAHAM: If I can take three minutes and hand
20 her the documents that we're going to go over and that way
21 she'll have them.

22 THE COURT: Good. Good. And then if y'all want to
23 -- y'all just get what you need there. Then step back here
24 in chambers and I'll hear from you on the matter okay?

25 MS. CLARY: I will. Thank you.

State v Brady

6/10/15

99

1 THE COURT: Hope, let me give you these.

2 THE CLERK: Yes, sir. And I will need to get the
3 Court's Exhibits, take custody of those since Hilda's not
4 going to be the court reporter.

5 (This proceeding was concluded.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

State v Brady

6/10/15

100

C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDING IN THE CAPTIONED CAUSE, IN THE COURT OF GENERAL SESSIONS FOR LEXINGTON COUNTY, SOUTH CAROLINA, ON THE 10 DAY OF JUNE, 2015.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



Hilda M. Jordan, CVR-M

March 25, 2017

1 State of South Carolina) In the Court
2 County of Lexington) Of General Sessions
3) Case No.: 2012-GS-32-2249,
4 State of South Carolina,) 2250 & 2251
5) 2015-GS-32-01421
6 vs. Plaintiff,) Transcript of Record
7 Jeremy Seldon Brady,)
8 Defendant.)

9 June 15 through June 19, 2015
10 Lexington, South Carolina
11

12 BEFORE:

13 The Honorable Thomas A. Russo, Judge, and Jury

14 APPEARANCES:

15 Shawn Graham, Assistant State Solicitor
16 Casey Rankin, Assistant State Solicitor
17 Attorneys for the State

18 Eleanor Duffy Cleary, Esquire
19 Brie Rust Russell, Esquire
20 Attorneys for the Defendant

21 ALSO PRESENT:

22 Jeremy Seldon Brady
23
24
25

1	INDEX	
2	June 15, 2015	
3	JURY SELECTION	
4	June 16, 2015	
5	OPENING STATEMENT	PAGE
6	By Ms. Rankin	72
7	By Mr. Russell	75
8	WITNESS	PAGE
9	NICHOLAS SCOTT WILLIAMS	
10	Direct Examination by Mr. Graham	87
11	Cross Examination by Ms. Cleary	121
12	Redirect Examination by Mr. Graham	155
13	Recross Examination by Ms. Cleary	157
14	AMANDA ANDERSON	
15	Direct Examination by Mr. Graham	164
16	Cross Examination by Ms. Cleary	170
17	Redirect Examination by Mr. Graham	173
18	WILLIAM WHITE	
19	Direct Examination by Mr. Graham	177
20	Cross Examination by Ms. Cleary	183
21	Redirect Examination by Mr. Graham	190
22	VANESSA DINKINS	
23	Direct Examination by Ms. Rankin	192
24	Cross Examination by Ms. Russell	196
25	Redirect Examination by Ms. Rankin	199

1	VANESSA DEPUTY	
2	Direct Examination by Ms. Rankin	200
3	DAVID PRITCHARD	
4	Direct Examination by Ms. Rankin	203
5	MARGARET MCKAY	
6	Direct Examination by Mr. Graham	206
7	ROBERT L. MITCHELL	
8	Direct Examination by Mr. Graham	211
9	Cross Examination by Ms. Cleary	216
10	JOHN PAUL	
11	Direct Examination by Ms. Rankin	218
12	JANICE ROSS, M.D.	
13	Direct Examination by Ms. Rankin	222
14	Cross Examination by Ms. Cleary	226
15	Redirect Examination by Ms. Rankin	230
16	MARLO McCANN	
17	Direct Examination by Ms. Rankin	232
18	MARC MIRAMONTES	
19	Direct Examination by Ms. Rankin	235
20	Cross Examination by Ms. Cleary	238
21	June 17, 2015	
22	CATHY ETHEREGDE	
23	Direct Examination by Mr. Graham	245
24	Cross Examination by Ms. Cleary	248
25	ADAM ROBERSON	

1	Direct Examination by Ms. Rankin	250
2	Cross Examination by Ms. Cleary	257
3	RENEE STRICKLAND	
4	Direct Examination by Ms. Rankin	258
5	Cross Examination by Ms. Cleary	280
6	Redirect Examination by Ms. Rankin	285
7	SANDY BLACK	
8	Direct Examination by Mr. Graham	287
9	JESSE LAINTZ	
10	Direct Examination by Mr. Graham	291
11	Cross Examination by Ms. Cleary	296
12	RENEE STRICKLAND (Recalled)	
13	Redirect Examination Continued by Ms. Rankin	300
14	Recross Examination by Ms. Cleary	305
15	Redirect Examination Continued by Ms. Rankin	307
16	GLENN ROSS	
17	Direct Examination by Ms. Rankin	308
18	Cross Examination by Ms. Cleary	313
19	Redirect Examination by Ms. Rankin	314
20	MICHELLE MARIE WEBB	
21	Direct Examination by Mr. Graham	315
22	Cross Examination by Ms. Russell	324
23	Redirect Examination by Mr. Graham	327
24	MICHAEL PHIPPS	
25	Direct Examination by Mr. Graham	331

1	Cross Examination by Ms. Cleary	360
2	Redirect Examination by Mr. Graham	367
3	DON McRAE	
4	Direct Examination by Ms. Rankin	369
5	BETH HOLLIMAN	
6	Direct Examination by Mr. Graham	372
7	CANDY KYZER	
8	Direct Examination by Ms. Rankin	381
9	AMY STEPHENS	
10	Direct Examination by Mr. Graham	384
11	JENNIFER CLAYTON	
12	Direct Examination by Mr. Graham	391
13	Cross Examination by Ms. Cleary	403
14	JEANETTE JONES	
15	Direct Examination by Mr. Graham	427
16	Cross Examination by Ms. Russell	432
17	June 18, 2015	
18	TERRI GLEASON CYPHER	
19	Direct Examination by Ms. Rankin	438
20	Cross Examination by Ms. Cleary	444
21	Redirect Examination by Ms. Rankin	449
22	PLAINTIFF RESTS	449
23	LATONYA WARREN	
24	Direct Examination by Ms. Russell	471
25	Cross Examination by Mr. Graham	475

1	EUGENE JOHNSON	
2	Direct Examination by Ms. Cleary	478
3	SHAWN GRANT (Proffered)	
4	Direct Examination by Ms. Cleary	483
5	SELDON BRADY, JUNIOR	
6	Direct Examination by Ms. Cleary	504
7	June 19, 2015	
8	WITNESS	PAGE
9	MICHAEL J. SPENCE	
10	Direct Examination by Ms. Cleary	517
11	Cross Examination by Mr. Graham	531
12	Redirect Examination by Ms. Cleary	557
13	JEREMY S. BRADY	
14	Direct Examination by Ms. Cleary	562
15	Cross Examination by Mr. Graham	622
16	Redirect Examination by Ms. Cleary	676
17	Recross Examination by Mr. Graham	686
18	DEFENDANT RESTS	686
19	PLAINTIFF REPLY	
20	SHAWN GRANT	
21	Direct Examination by Mr. Graham	687
22	PLAINTIFF RESTS ON REPLY	695
23	CLOSING ARGUMENT	
24	By Ms. Cleary	702
25	By Mr. Graham	722

1	CHARGE OF THE COURT	735
2	VERDICT OF THE JURY	760
3	SENTENCE OF THE COURT	768
4	CERTIFICATE OF REPORTER	769
5	EXHIBITS	
6	COURT'S	
7	NO. DESCRIPTION ID EVDS.	
8	#1 Jeremy Brady Sprint Texts Unredacted 437	
9	STATE'S	
10	NO. DESCRIPTION ID EVDS.	
11	#1 Photo Phone 58 275	
12	#2 Photo Pill Bottle 58 275	
13	#3 Photo 2x Pill Bottle 58 275	
14	#4 Photo CPAP 58 275	
15	#5 Photo Pellets 58 275	
16	#6 Photo 3x Shot Shell 58 220	
17	#7 Photo Door Knobs 58 266	
18	#8 Photo Door Knobs Swab 58 266	
19	#9 Photo Victim's Bedroom 58 275	
20	#10 Photo Bedding 58 265	
21	#11 Photo Victim's CPAP Mask 58 275	
22	#12 Photo Victim's Residence 58 161	
23	#13 Aerial Photo 58 234	
24	#14 Aerial Photo 58 205	
25	#15 Walmart CD 58 275	

1	EXHIBITS			
2	#16	Photo At Walmart	58	275
3	#17	" At Walmart	58	275
4	#18	" At Walmart	58	275
5	#19	" At Walmart	58	275
6	#20	" At Walmart	58	275
7	#21	" At Walmart	58	275
8	#22	" At Walmart	58	275
9	#23	Calendar (Not Entered)	58	
10	#24	Photo Sharon Church Road	58	161
11	#25	" Old Orangeburg	58	91
12	#26	" Two Notch Road	58	101
13	#27	" Shotgun	58	275
14	#28	" Nick Williams	58	96
15	#29	" Jeremy Brady	58	96
16	#30	" Michelle Webb's Car	58	97
17	#31	" Paperwork	58	275
18	#32	" Harley Tin	58	216
19	#33	" Safe	58	215
20	#34	" Trunk	58	275
21	#35	" Roadside Phone (Not Entered)	58	
22	#36	" Roadside Phone (Not Entered)	58	
23	#37	" NRA Card (Not Entered)	58	
24	#38	" DNR Card (Not Entered)	58	
25	#39	" Wallet (Not Entered)	58	

1	EXHIBITS			
2	#40	" Feather Run	58	114
3	#41	" Feather Run	58	275
4	#42	" Shotgun	58	275
5	#43	" Feather Run (Not Entered)	58	
6	#44	" Shotgun (Not Entered)	58	
7	#45	" Unfired Shell	58	275
8	#46	" Unfired Shell	58	275
9	#47	" Shoes	58	275
10	#48	" Shirt	58	275
11	#49	" Juniper Springs (Not Entered)	58	
12	#50	" Juniper Springs	58	208
13	#51	" Defendant's Truck (Not Entered)	58	
14	#52	" Juniper Springs	58	220
15	#53	" Victim's CPAP Mask	58	275
16	#54	" Victim's CPAP Mask (Not entered)	58	
17	#55	Phone Sprint Records Nick	58	437
18	#56	Phone Sprint Records Jeremy	58	437
19	#57	Remarked as Court's #1	58	
20	#58	Sprint Texts Jeremy's Redacted	58	340
21	#59	Sprint Texts Jeremy 463-6256 Redacted	58	431
22	#60	Cell Tower Map	58	343
23	#61	Phone Call Summary	58	343
24	#62	Chase Records	58	289
25	#63	CVS Records	58	253

1	EXHIBITS		
2	#64 Shot Shell Casings BEST	58	268
3	#65 Swab Shotgun and 3 Casing Swabs BEST	58	268
4	#66 Pill Bottle Furosemide	58	233
5	#67 Pacemaker	58	272
6	#68 Pellets from Bed	58	266
7	#69 Three Empty Pill Bottles	58	269
8	#70 Kyocera Phone	58	299
9	#71 Swab Doorknob BEST	58	267
10	#72 Unfired Shot Shell BEST	58	275
11	#73 Victim's Bedroom Diagram	58	275
12	#74 Victim's House Diagram	58	275
13	#75 Defendant Medical Paperwork	58	299
14	#76 Harley Tin	58	299
15	#77 CPAP Mask	58	271
16	#78 Remarked as Defendant's #1		
17	#79 Pill Minder	58	234
18	#80 Striped Polo	58	299
19	#81 Nike Shox	58	299
20	#82 Nick's Clothing (Not Entered)	58	
21	#83 Safe	58	299
22	#84 Jeremy's Property from Jail (Not Entered)	58	
23	#85 CPAP Machine	58	267
24	#86 Envelope With Swabs (Not Entered)	58	
25	#87 Envelope Test Fires	58	441

1	EXHIBITS		
2	#88 NRA Card	58	237
3	#89 DNR Card	58	237
4	#90 Broken LG Flip Phone	58	237
5	#91 Broken LG Phone	58	237
6	#92 Wallet	58	237
7	#93 Gray Top Test Tube (Not Entered)	58	
8	#94 Shot Gun	58	182
9	#95 Jeremy Brady Buccal Swab	58	299
10	#96 Nick Williams Buccal Swab	58	299
11	#97 Photo Victim	58	203
12	#98 Bottle/Pills Empty	58	237
13	#99 Shot Shell Swabs	58	268
14	#100 Gun Swabs	58	268
15	#101 Doorknob Swab	58	270
16	#102 Photo Trunk	58	275
17	#103 Photo of Items In Trunk	58	275
18	#104 Instore Credit Walmart	58	275
19	#105 DNA Chart	58	545
20	DEFENDANT'S		
21	#1 BB Gun	121	154
22	#3 Victim's Door	244	473
23	#5 Victim's Door	244	473
24	#6 Victim's Door	244	473
25	#9 Panties and Flip Flop	244	305

* * * * *

Thereupon, the following proceedings were had,

BAILIFF: All rise.

THE COURT: Thank you. Please be seated. All right. Folks, we are ready to begin so I would recognize the State to call the first case for trial.

MR. GRAHAM: Thank you, Your Honor. The State calls indictment 2015-GS-32-1421, The State versus Jeremy Seldon Brady, indicted for criminal conspiracy, indictment 2012-GS-32-2251 an indictment for armed robbery, indictment 2012-GS-32-2250 an indictment for burglary first, and indictment 2012-GS-32-2249 an indictment for murder.

THE COURT: Thank you, sir.

MR. GRAHAM: Thank you, Your Honor.

THE COURT: All right. Folks, you have heard the Solicitor call the first case for trial that being the State of South Carolina versus Jeremy Seldon Brady. Now, let me give you a little bit of instruction before we get started. And I don't mean to insult anyone's intelligence but I have to assume when I'm dealing with folks that don't typically work in the criminal justice system I have to assume that there are some terms that we use and you may not be aware of the definition of those terms.

1 One of the terms, it's a simple term, but you may
2 not be aware of what an indictment is. You have heard
3 the Solicitor call out these charges and he's said
4 indictment number so and so. Ladies and gentlemen, an
5 indictment is simply a piece of paper that contains the
6 charge or the allegations the State has made against a
7 defendant. It is the formal document that brings the
8 case into court. Now, I will tell you that it contains
9 the charge against the defendant and it contains the
10 allegations that the State has made against the
11 defendant. To these indictments Mr. Brady has pled not
12 guilty and so that plea of not guilty places upon him the
13 presumption of innocence and it places upon the State the
14 burden of proving the elements of these charges beyond a
15 reasonable doubt.

16 Now, the allegations that are contained in these
17 indictments are not evidence against Mr. Brady. It is
18 simply the allegations that the State has made against
19 him. I'm going to read to you the allegations that are
20 contained in this indictment, but the reason I'm reading
21 this to you is so that I can ask you questions as it
22 relates to this case.

23 Indictment 2012-GS-32-2249 is an indictment for
24 allegation of murder. And that indictment alleges that
25 Jeremy Seldon Brady did in Lexington County on or about

1 July the 28th of 2012 did willfully, feloniously and with
2 malice of forethought kill one Robert Mitchell by
3 shooting the victim and the victim died as a result
4 thereof in violation of section 16-3-10 of the code of
5 laws of South Carolina 1976 as amended. That's the
6 allegations contained in that indictment.

7 Indictment 2012-GS-32-2250 is an indictment charging
8 or alleging that Mr. Brady violated the law with regards
9 to burglary in the first degree and it alleges as
10 follows. That Jeremy Seldon Brady did in Lexington
11 County South Carolina on or about July the 28th of 2012
12 did knowingly and willfully enter a dwelling to wit [REDACTED]
13 [REDACTED] being the dwelling of Robert
14 Mitchell without consent and with the intent to commit a
15 crime therein and when in effecting entry or while in the
16 dwelling or in immediate flight he or she or another
17 participant in the crime was armed with a deadly weapon
18 or explosive and/or caused physical injury to a person
19 who is not a participant in the crime and/or used or
20 threatened the use of a dangerous instrument and/or
21 displayed what appeared to be a knife, pistol, revolver,
22 shotgun, machine gun or other type of firearm all in
23 violation of section 16-11-311 of the code of laws of
24 South Carolina 1976 as amended.

25 The next indictment contains the allegation of armed

1 robbery and it charges in indictment 2012-GS-32-2251 that
2 Jeremy Seldon Brady did in Lexington County, South
3 Carolina on or about July the 28th of 2012 knowingly and
4 willfully while armed with a deadly weapon and/or having
5 possession of an object which the victim reasonably
6 believed to be a deadly weapon and alleging by actions or
7 words that he was armed did to wit with a firearm did
8 feloniously take from the person or the presence of
9 Robert Mitchell by means of force, threats or
10 intimidation did take goods or monies being described as
11 follows. U.S. currency and/or credit cards and/or
12 prescription medication with the intent to deprive the
13 owner of such use of such property in violation of
14 section 16-11-330(a) of the South Carolina code of laws
15 1976 as amended.

16 And then the final allegation or indictment is
17 indictment 2015-GS-32-1421 and that alleges or charges
18 that Jeremy Seldon Brady did in Lexington County, South
19 Carolina on or about July the 28th of 2012, did
20 knowingly, unlawfully and willfully unit, combine,
21 conspire, confederate, agree or have a tacit
22 understanding with Nicholas Scott Williams for the
23 purpose of committing armed robbery and/or burglary in
24 violation of section 16-17-410 of the South Carolina code
25 of laws 1976 as amended.

1. Now, ladies and gentlemen, those are the four
2 indictments or the charges that the State has brought
3 against Mr. Brady to which he has pled not guilty. As I
4 said earlier, that plea of not guilty places upon him the
5 presumption of innocence and upon the State the burden of
6 proving the elements of these crimes beyond a reasonable
7 doubt.

8 Based on the information that I have shared with you
9 in these indictments, is there any member of the jury
10 panel who knows anything about this case? If so, please
11 stand. All right. Ma'am, come forward if you would.

12 BAILIFF: 214, Your Honor.

13 NANCY OLDHAM: I could be totally wrong about this,
14 but there is another boy in our neighborhood who grew up
15 with my child Jeremy Brady. I know that he was arrested
16 several years back. I don't know.

17 THE COURT: This was a couple years back so it's
18 probably the same person. Would that affect your ability
19 to be fair and impartial?

20 NANCY OLDHAM: I think so.

21 THE COURT: Okay.

22 NANCY OLDHAM: He and my kids grew up with him.

23 THE COURT: I'm going to excuse you from
24 participation in this trial and maybe we can use you in
25 another case but for this one I'll set your name aside so

1 just have a seat just if you would. Just don't talk with
2 anyone about the case.

3 NANCY OLDHAM: Yes, sir.

4 THE COURT: Thank you. Ladies and gentlemen, if you
5 would, I'm going to ask to recognize the attorneys
6 beginning with the State. I'm gonna have them stand and
7 identify themselves and if you will just observe and
8 listen. Start with the State.

9 MS. RANKIN: Good morning. I'm Casey Rankin. I'm
10 Assistant Solicitor here in Lexington County. I work for
11 Donny Myers, and I'm one of the attorneys on the case.

12 MR. GRAHAM: I'm Shawn Graham. I'm a deputy
13 Solicitor here in the Lexington County Solicitor's
14 Office. Other members of the Solicitor's Office that may
15 be in court assisting on the case is Pam Dukes who is a
16 victim advocate, Roberta Robinson who is a paralegal on
17 the case and Kevin Wilson who is an investigator who
18 works for the Solicitor's Office.

19 MS. CLEARY: My name is Eleanor Cleary. I have a
20 solo practice in Columbia, South Carolina.

21 MS. RUSSELL: My name is Brie Russell. I have as
22 well a solo practice in Columbia, South Carolina.

23 MS. ELLIOTT: My name is Erin Elliott. I'm a
24 paralegal for Ms. Cleary.

25 MR. HORN: I'm Woody Horn. I'm clerking in Ms.

1 Cleary's firm.

2 THE COURT: All right. Folks, you have met the
3 attorneys and other staff that are going to be involved
4 in the presentation of this case. Is there any member of
5 the jury panel who is related by blood, connected by
6 marriage or who has any close business or personal
7 relationship with any of the folks who you have just been
8 introduced to or if you have ever been represented by any
9 of these attorneys or prosecuted by any of these
10 attorneys? If so. Please stand.

11 All right. Your name please.

12 MICHAEL BRUNNEMER: Michael Brunnemer, juror 41.

13 THE COURT: All right, sir. Who is it that you
14 know?

15 MICHAEL BRUNNEMER: Mrs. Robinson, the paralegal on
16 this case. She is my landlord.

17 THE COURT: All right. Let me ask you this: The
18 fact that Ms. Robinson is your landlord, would that in
19 any way affect your ability to be fair and impartial
20 listening to the testimony giving both the State and the
21 defense a fair and impartial trial?

22 MICHAEL BRUNNEMER: No, sir.

23 THE COURT: Thank you very much, sir. You may have
24 a seat. Anyone else? Okay. Now, Mr. Brady, I'll ask if
25 you don't mind, sir, to stand and just face the jury just

1 for a moment and let them get a look at you and then you
2 can have a seat, sir. That's fine. I always ask that if
3 people are in the courtroom, that they stand and let you
4 look at them because there are several people who I
5 recognize by face but I may not know their name and so I
6 always want you to do that. If we have the opportunity
7 for you to eyeball the folks, I like to do that.

8 MR. BRADY: (Complies.)

9 THE COURT: You met Mr. Brady, folks. Is there any
10 member of the jury panel who is related by blood,
11 connected by marriage or who has any close business or
12 personal relationship with Mr. Brady? If so, please
13 stand. Thank you. There are none.

14 Now, folks, that question that I just asked you as
15 it related to Mr. Brady, that is are you related by
16 blood, connected by marriage or have any close business
17 or personal relationship with, that's the question that
18 I'm going to be asking you as it relates to the names
19 that I'm getting ready to call out. I'm going to call
20 out numerous names. All right. These are folks that are
21 possible or potential witnesses that may appear during
22 the course of this trial.

23 Now, I'm fairly confident all of these people will
24 not testify but it is possible that they may so it's
25 important so that we don't eliminate anybody that we call

1 out the names of all potential witnesses. Keeping that
2 question in mind that I just asked you, are you related
3 by blood, connected by marriage, have any close business
4 or personal relationship, that's the question that I will
5 be asking as I go through these names.

6 Now, I'm just going to call out these list of names.
7 If any of these folks are in the courtroom, I would ask
8 that you stand and face the panel briefly and then have a
9 seat. Please listen carefully. If you hear a name and
10 that question applies to you, go ahead and stand. But if
11 you do stand, please continue to listen because it may be
12 that you know more than one of these folks who are listed
13 as potential witnesses.

14 All right. The following, and if I mess up anyone's
15 name, please correct me, okay? These are the following
16 folks that may appear during the course of this trial as
17 a witness. Sandy Black, Heather Clary, Cathy Etheredge,
18 Shawn Grant, Jesse Laintz, Marlo McCann, Roy Mefford,
19 Brad Melton, Marc Miramontes, John Paul, Michael Phipps,
20 David Prichord, Glenn Ross, Shawn Spivey, Renee
21 Strickland, Chris Stout, David Wood, Beth Holliman, Candy
22 Kyzer, Terri Gleason, Christine Barrickman, Don McRae,
23 Gary Watts, Jennifer Clayton, Amy Stephens, Doris
24 Yarbrough, Adam Roberson, Laura Wellborn, Leslie Godden,
25 Corky Spires, Dr. Janice Ross, Nicholas Williams, Amanda

1 Anderson, Elizabeth Anderson, Zachary Decleene, Vanessa
2 Deputy, Vanessa Dinkins, Kathleen Hampton, Jeanette
3 Jones, Shawn Kline, Hunter McCary, Margaret McKay, Bobby
4 Mitchell, Bill Morgan, James Shawver, Brian Thompson,
5 Michelle Webb, Brenda White, Donny White, Kimberly White,
6 James White, William White, Heather Brooks, Marvin M.J.
7 Brooks, William Cash, Ronnie Corley, Brian Griffin, Mike
8 Griffin, Cody Lee Horbick, Orlando James Hodges, Trey
9 Jennings, Eugene Johnson, Alan Knight, Michelle Melton,
10 Christine Shawver, Michael Spence, Latonya Warren, Chris
11 Watkins, Joseph Andalora.

12 MS. CLEARY: Yes.

13 THE COURT: Andalora. And David Pritchard. All
14 right. I'm going to start over on this side and work my
15 way across. Your name please.

16 KRYSTIN JENKINS: Juror 7, Krystin Jenkins.

17 THE COURT: Ms. Jenkins, who on that list?

18 KRYSTIN JENKINS: Jennifer Clayton.

19 THE COURT: All right. Are you related to Ms.
20 Clayton or you know her?

21 KRYSTIN JENKINS: I know her, yes.

22 THE COURT: The fact that you have met Ms. Clayton
23 and you have whatever relationship that may be, would
24 that in any way affect your ability, if she were to
25 appear as a witness in this case, would that affect you

1 in any way your ability to give both the State and the
2 defense a fair and impartial trial?

3 KRYSTIN JENKINS: I don't know if for sure if it's
4 like the Jennifer Clayton that I know. It's hard to do
5 say.

6 THE COURT: Well, let's say it is. Would that
7 affect your ability to be fair and impartial?

8 KRYSTIN JENKINS: It's potential that's the trainer
9 of my husband at SLED so I want to make sure it's not the
10 same Jennifer.

11 THE COURT: I'll be honest with you. I don't know
12 Ms. Clayton.

13 MS. CLEARY: Yes, Your Honor.

14 THE COURT: Y'all tell me if that's who it is.

15 MS. CLEARY: Yes, Your Honor.

16 THE COURT: It is. All right. This is juror number
17 7, Ms. Jenkins. It sounds like you would have a
18 struggle?

19 KRYSTIN JENKINS: Yes. It's my husband's trainer.

20 THE COURT: All right. Well, I'm gonna excuse you
21 from participating in this trial, ma'am. Have a seat and
22 just remain with us. Ma'am, your name please?

23 NANETTE HUNEAU: Nanette Huneau, juror 147. Renee
24 Strickland. I don't know her personally. I know of her.

25 THE COURT: Ma'am, let me just ask, if, and as I

1 said, I don't know if she would appear and testify or
2 not, but she's certainly a potential witness, if she were
3 to appear and testify during the course of this trial,
4 would that in any way affect your ability to give both
5 the State and the defense a fair trial?

6 NANETTE HUNEAU: No.

7 THE COURT: Thank you very much, ma'am. Have a
8 seat. Sir, your name please.

9 MARVIN GRAVINO: Marvin Gravino.

10 THE COURT: Juror number?

11 MARVIN GRAVINO: 117.

12 THE COURT: Okay. Yes, sir. Who on that list?

13 MARVIN GRAVINO: Gary Watts.

14 THE COURT: All right, sir.

15 MARVIN GRAVINO: I played college football with a
16 Gary Watts.

17 THE COURT: Would that in any way have any affect on
18 your ability to be fair and impartial giving both the
19 State and the defense a fair trial?

20 MARVIN GRAVINO: No, sir.

21 THE COURT: Thank you very much, sir. You may have
22 a seat. And just for the record your name again, sir.

23 MICHAEL BRUNNEMER: Michael Brunnemer. Corky
24 Spires. He's my dad's best friend and he lives next door
25 to my grandparents.

1 THE COURT: If that individual were to testify,
2 would that in any way affect your ability to give both
3 the State and the defense a fair trial.

4 MICHAEL BRUNNEMER: No, sir.

5 THE COURT: Thank you, sir. You may have a seat.

6 MR. GRAHAM: Your Honor, if I can approach?

7 THE COURT: Yes, sir.

8 (Side bar off the record.)

9 THE COURT: Folks, I left off one name on the list.
10 Please listen carefully. Seldon Edward Brady. All
11 right. That's Mr. Brady back there, so if you want to
12 get a look. Is there any member of the panel related by
13 blood, connected by marriage or have any close business
14 or personal relationship with Mr. Brady? If so, please
15 stand. Thank you. There are none. Thank you, Mr.
16 Brady. Have a seat, sir.

17 Are there any members of the jury panel who is a
18 resident or lives in the Gilbert area of Lexington
19 County? If so, please stand.

20 All right. I'll start on the far end over here.
21 Ma'am, your name please.

22 ROBIN MORRISON: Juror 206, Robin Morrison.

23 THE COURT: All right. Ms. Morrison -- Let me
24 inquire real quick before I go any further. Let me get
25 y'all to step up here real quick.

1 (Side bar off the record.)

2 THE COURT: All right. Folks, I was just inquiring
3 of the attorneys the reason for that question is this
4 event occurred in that area of the county. So, ma'am,
5 the fact that it occurred in that area of the county,
6 would that in any way affect your ability to be fair and
7 impartial giving both the State and the defense a fair
8 trial?

9 ROBIN MORRISON: No, sir.

10 THE COURT: Thank you very much. You may have a
11 seat. Ma'am, your name please.

12 ANDREA FAULKNER: 102, Andrea Faulkner.

13 THE COURT: All right. Ms. Faulkner, would that in
14 any way affect your ability to be fair and impartial,
15 ma'am.

16 ANDREA FAULKNER: No, sir.

17 THE COURT: Thank you. Yes, ma'am.

18 RACHEL RISINGER: Number 234, Rachel Risinger.

19 THE COURT: Ma'am, would that in any way affect your
20 ability to be fair and impartial?

21 RACHEL RISINGER: No, sir.

22 THE COURT: Thank you very much, ma'am. I
23 appreciate that. Is there any member of the jury panel
24 or member of your immediate family or close friends
25 either know or have any personal relationship with the

1 victim in this case Robert Mitchell? If so, please
2 stand. Thank you. There are none.

3 Is there any member of the jury panel or member of
4 your family who either in the past or is currently
5 employed with any law enforcement department whether it
6 be local police, Sheriff, SLED, FBI, secret service, any
7 type of law enforcement employment? Let me begin over
8 here. Sir, your name please.

9 DANIEL MCCORMICK: Daniel McCormick, 194.

10 THE COURT: 194. Member of your family?

11 DANIEL MCCORMICK: My brother-in-law works for
12 Richland.

13 THE COURT: Would the fact that your brother-in-law
14 works for Richland, would that in any way affect your
15 ability to be fair and impartial?

16 DANIEL MCCORMICK: No, sir.

17 THE COURT: Thank you, sir. You may have a seat.
18 Yes, ma'am.

19 DAWN DAVENPORT: 73, Dawn Davenport. My father is a
20 retired state trooper.

21 THE COURT: Ma'am, would that in any way affect your
22 ability to be fair and impartial?

23 DAWN DAVENPORT: No.

24 THE COURT: Thank you. Yes, ma'am.

25 KRYSTIN JENKINS: My husband. Juror 7, Krystin

1 Jenkins.

2 THE COURT: Ms. Jenkins, I have excused you from
3 this trial. I should have made that clear. The
4 remainder of these questions won't apply to you.

5 KRYSTIN JENKINS: Okay.

6 THE COURT: Thank you, ma'am. Yes, ma'am.

7 SHERRILL CLARKSON: Number 61, Sherrill Clarkson.
8 My son-in-law is a police officer for West Columbia.

9 THE COURT: All right. Ma'am, would that affect in
10 any way affect your ability to be fair and impartial?

11 SHERRILL CLARKSON: No.

12 THE COURT: Thank you so much. I appreciate that.
13 Ma'am, your name please.

14 MYRA WRIGHT: My name is Myra Wright, juror 296. My
15 father was a police officer and a deputy in Aiken
16 County.

17 THE COURT: All right. And would that, ma'am, in
18 any way affect your ability to be fair and impartial?

19 MYRA WRIGHT: No, sir.

20 THE COURT: Thank you very much.

21 RACHEL RISINGER: Number 234. Rachel Risinger. My
22 son-in-law is a state constable.

23 THE COURT: Ma'am, would that in any way affect your
24 ability to be fair and impartial?

25 RACHEL RISINGER: No, sir.

1 THE COURT: Thank you very much, ma'am. Over here.

2 Yes, ma'am.

3 IRENE MAHELKY: Juror 184, Irene Mahelsky. My
4 husband is a retired police officer from New York.

5 THE COURT: Ma'am, would that in any way affect your
6 ability to be fair and impartial giving both the State
7 and the defense a fair trial?

8 IRENE MAHELKY: No, sir.

9 THE COURT: Thank you, ma'am. You may have a seat.
10 Yes, sir.

11 ROBERT SCHNEIDER: 246, Robert Schneider. My
12 brother-in-law works for Columbia PD.

13 THE COURT: Would that in any way affect your
14 ability to be fair and impartial?

15 ROBERT SCHNEIDER: No, sir.

16 THE COURT: Thank you, sir. Yes, ma'am.

17 CAROLYN CARROLL: Number 48, carolyn Carroll. My
18 brother-in-law is an FBI investigator.

19 THE COURT: Ma'am, would that in any way affect your
20 ability to be fair and impartial?

21 CAROLYN CARROLL: No, sir.

22 THE COURT: Thank you very much. Folks, is there
23 any member of the jury panel who has been a contributor
24 either by way of financial means or by way of
25 volunteering of your time who has been a contributor to

1 any member or group that has as its purpose the promotion
2 of law enforcement or the promotion of victims' rights
3 and I'm just going to give you some examples of
4 organizations and this is just a small example of these
5 types. You have heard of MADD, Mothers Against Drunk
6 Drivers. You have heard of the Fraternal Order of
7 Police, Citizens Against Violence, CAV, any of those
8 types of organizations whether you have been a
9 contributor either through volunteering of your time or
10 through financial means? If so, please stand.

11 All right. I'll start with the front here. Ma'am,
12 your number again.

13 NANETTE HUNEAU: 147, Nanette Huneau. We have
14 donated to the State Police Department.

15 THE COURT: All right. Would that in any way affect
16 your ability to be fair and impartial, ma'am?

17 NANETTE HUNEAU: No.

18 THE COURT: Thank you very much. You may have a
19 seat. And, folks, I know some of you are standing for a
20 second or third time. I don't mean to get you to keep
21 repeating your number, but I need that for the record.
22 So, ma'am, if you would again.

23 MYRA WRIGHT: 296, Myra Wright. My husband and I
24 contribute to the Fraternal Order of Police.

25 THE COURT: Would that, ma'am, in any way affect

1 your ability to be fair and impartial?

2 MYRA WRIGHT: No, sir.

3 THE COURT: Thank you, ma'am. You may have a
4 seat.

5 MARVIN GRAVINO: 117, Marvin Gravino.

6 THE COURT: All right, sir.

7 MARVIN GRAVINO: I have given money to various law
8 enforcement organizations.

9 THE COURT: Sir, would that in any way affect your
10 ability to be fair and impartial?

11 MARVIN GRAVINO: No, sir.

12 THE COURT: Thank you, sir. You may have a seat.
13 Is there any member of the panel and again either through
14 financial means or through volunteering of your time
15 supported any groups which have as their prime purpose
16 the focus on criminal defense. Just examples would be
17 the Innocence Project or the ACLU, any of those types of
18 organizations? If so, please stand. Thank you. There
19 are none.

20 Is there any member of the panel who has appeared as
21 a witness in a criminal case whether or not that case
22 actually went to a trial or whether it resulted in a
23 plea? Is there any member of the panel who has been a
24 witness in a criminal case? If so, please stand. All
25 right. We'll start at the front here. Yes, ma'am, your

1 name please.

2 MEGHAN PARKER: Meghan Parker, 218. I'm uncertain
3 if this meets the requirement of the question but I have
4 testified in a criminal trial.

5 THE COURT: Miss Parker, let me ask, the fact that
6 you have had that experience would that in any way have
7 any affect on your ability to give both the State and the
8 defense a fair trial if you were to sit on this panel?

9 MEGHAN PARKER: No, sir.

10 THE COURT: Thank you very much, ma'am. You may
11 have a seat. Yes, ma'am.

12 CHERYL AMSDEN: Juror 6, Cheryl Amsden.

13 THE COURT: All right. Ma'am, the fact that you
14 have had that experience, would that in any way affect
15 your ability to be fair and impartial?

16 CHERYL AMSDEN: No, sir.

17 THE COURT: Thank you very much. Again, sir, just
18 for the record please.

19 MARVIN GRAVINO: 117, Marvin Gravino. I was a
20 witness in a criminal case.

21 THE COURT: And the fact that you have had that
22 experience as a witness in a criminal case would that in
23 any way affect your ability to be fair and impartial if
24 you were selected in this panel, sir?

25 MARVIN GRAVINO: No, sir.

1 THE COURT: Thank you very much. You may have a
2 seat. Is there any member of the jury panel or member of
3 your immediate family who has ever been a victim of a
4 violent crime? If so, please stand. All right. And
5 I'll start over here and I'll work my way across. Yes,
6 ma'am.

7 CHERYL AMSDEN: Is there a way I can come up there?

8 THE COURT: Sure. I'm not going to ask any details
9 about it.

10 CHERYL AMSDEN: Okay.

11 THE COURT: I just need to know if it's you or a
12 member of your family and then I'm going to ask as to
13 whether or not it would affect your ability to be fair
14 and impartial.

15 CHERYL AMSDEN: Okay.

16 THE COURT: Okay?

17 CHERYL AMSDEN: Sure.

18 THE COURT: Because I'm not here to embarrass
19 anybody or pry into anyone's private affairs. I do want
20 to know, of course, if that experience would have any
21 affect on your ability to perform as a juror in this
22 case. Your number?

23 CHERYL AMSDEN: 6, Cheryl Amsden.

24 THE COURT: Yourself, or a member of your family?

25 CHERYL AMSDEN: Both myself and my sister.

1 THE COURT: Ma'am, would that in any way affect your
2 ability to be fair and impartial giving both the State
3 and defense a fair trial?

4 CHERYL AMSDEN: No, sir.

5 THE COURT: Thank you very much. You may have a
6 seat. Yes, ma'am.

7 DEBBIE VANOVER: Juror 279, Debbie Vanover. It was
8 family.

9 THE COURT: All right. Ma'am, would that in any way
10 affect your ability to be fair and impartial?

11 DEBBIE VANOVER: No, sir.

12 THE COURT: Thank you, ma'am. You may have a seat.
13 Yes, ma'am.

14 MYRA WRIGHT: 296, Myra Wright. It was my
15 son-in-law's parents. My husband and I were witnesses.
16 They were murdered.

17 THE COURT: Would that in any way, ma'am, affect
18 your ability to be fair and impartial?

19 MYRA WRIGHT: Yes, sir, it would.

20 THE COURT: All right. I'm going to excuse you from
21 service in this case. If you will remain with us maybe
22 we can use you in another case. We'll take you off of
23 this. Yes, sir, your name please.

24 KENNETH CLINE: Kenneth Cline.

25 THE COURT: Yourself or a member of your family?

1 KENNETH CLINE: Me.

2 THE COURT: Would that in any way affect your
3 ability to be fair and impartial?

4 BAILIFF: Juror 62, Your Honor.

5 THE COURT: I'm going to excuse you from service in
6 this case, sir. Yes, ma'am, in the back there.

7 SUSAN PRICE: 228, Susan Price. Crime involved my
8 brother.

9 THE COURT: All right. Would that, ma'am, in any
10 way affect your ability to give both the State and the
11 defense a fair trial?

12 SUSAN PRICE: No, sir.

13 THE COURT: Thank you very much, ma'am.

14 MARTHA PARLER: Martha Parler, 219.

15 THE COURT: Ma'am, would that in any way affect your
16 ability to be fair and impartial?

17 MARTHA PARLER: No.

18 THE COURT: Thank you. You may have a seat. Yes,
19 ma'am.

20 MELISSA THURSTON: 272, melissa Thurston. My
21 husband's grandmother was murder in the commission of a
22 robbery and yes, it would affect me.

23 THE COURT: I'll excuse you from service in this
24 case.

25 JUDY MCPHERSON: Judy Mcpherson, 199. My daughter

1 was robbed twice.

2 THE COURT: Ma'am, would that in any way affect your
3 ability to be fair and impartial?

4 JUDY MCPHERSON: No.

5 THE COURT: Thank you very much. You may have a
6 seat. Yes, sir.

7 KEVIN ATKINSON: Number 9, Kevin Atkinson. My
8 father.

9 THE COURT: Sir, would that affect your ability to
10 be fair and impartial?

11 KEVIN ATKINSON: It would be a struggle, yes, sir.

12 THE COURT: I'll excuse you from service in this
13 case.

14 MS. CLEARY: Your Honor, I'm sorry. I must have
15 missed the number on the last one before him?

16 THE COURT: On the one right before him?

17 THE CLERK: 199.

18 DARIN CASTLE: 53, Darin Castle. Family member
19 murdered.

20 THE COURT: Would that, sir, in any way affect your
21 ability to be fair and impartial in this case?

22 DARIN CASTLE: Yes, sir. It would.

23 THE COURT: All right. I'll excuse you from service
24 in this matter.

25 MICHAEL BRUNNEMER: Juror 41, Michael Brunnemer. My

1 grandmother was murdered and I would have trouble.

2 THE COURT: All right. We'll excuse you from
3 service in this case. Yes, ma'am.

4 CHERYL AMSDEN: Juror 6, Cheryl Amsden. Myself and
5 yes.

6 THE COURT: Thank you very much ma'am. I'll excuse
7 you. I have asked if you or any member of your family
8 have been a victim of a violent crime. Let me now ask
9 the counter to that. Is there any member of the panel
10 either yourself or a member of your family who has been
11 accused of committing a violent crime? If so, please
12 stand. And again, I'm not looking for details. I'm just
13 looking to see if that would have an effect. Is there
14 any member of the panel who has a member accused of
15 committing a violent crime? Thank you. There are none.

16 Folks, in every case tried here whether it be a
17 civil case or a criminal case the Court at the close of
18 the case will charge you the law that is applicable, the
19 law in South Carolina and part of that charge states that
20 this is the law as it currently is in South Carolina and
21 you must apply the law to the facts as you find the facts
22 to be, and that you must follow the law whether or not
23 you agree with it. The question is not that you agree
24 with the law or but that it is currently the law in this
25 state and you would be required to follow the law that is

1 currently, as it currently appears in this state. Is
2 there any member of the panel who feels that you would
3 not be able to set aside your own personal feelings about
4 the law but follow the law as the court instructs it? Is
5 there any member of the jury panel who believes you would
6 not be able to do that? If so, please stand. Thank you.
7 There are none.

8 As you have observed as I have gone through
9 questions any time anyone has responded to a question
10 that I have asked, I have always done that follow up
11 question and that is would it affect your ability to be
12 fair and impartial and, of course, obviously the reason
13 for that is our purpose in going through these questions
14 and going through jury selection is that it is our hope
15 to empanel a jury that can set aside your own personal
16 experiences outside the courtroom and listen to the
17 evidence presented during the course of this trial and as
18 a collective group decide what the facts are of this case
19 based on that presentation of evidence and to those facts
20 apply the law as the court gives it to you and give both
21 the State of South Carolina and the defense at the bar
22 a fair and impartial trial. That's our goal any time we
23 seat a jury whether it's a civil case or a criminal case.

24 I guess I could ask questions all afternoon to try
25 to determine if anyone has any certain bias or prejudices

1 or whatever that would have an adverse affect on that.
2 But let me just simply ask it this way: Whether or not I
3 have asked the question, is there any member of the jury
4 panel who knows of any reason why you would not be able
5 to listen to all of the evidence, listen to the law and
6 give both the State and the defense a fair and impartial
7 trial? If so, please stand.

8 All right, sir. Let me get you to come forward if
9 you would.

10 BAILIFF: 291, your Honor.

11 THE COURT: Yes, sir.

12 TAYLOR WILLIAMS: I don't know if this really plays
13 in anything but I don't support the death penalty at all.

14 THE COURT: That's not a factor in this case.

15 TAYLOR WILLIAMS: Then I'm okay.

16 THE COURT: Okay. Thank you, sir. Juror 291 will
17 remain with us. Thank you. Any additional questions or
18 voir dire from the State?

19 MR. GRAHAM: None from the State, Your Honor.

20 THE COURT: Anything from the defense?

21 MS. CLEARY: None from the defense.

22 THE COURT: All right. Now, ladies and gentlemen,
23 what we are going to do is we are going to proceed to
24 jury selection and while the clerk is preparing that list
25 let me explain to you how that works in General Sessions

1 Court. Your names appear essentially in alphabetical
2 order on this jury list. This is a list of all your
3 names and it's in alphabetical order. What Madam Clerk
4 will do now is they have got a computer program that will
5 take this list and those of you who have been excused
6 from service in this matter, your names have been
7 eliminated. The remainder of you it will take this list
8 and it will completely and randomly reorder your names.

9 So like, for example, I could be Tommy Russo juror
10 number 134 on this main list, but I may appear on this
11 new list as Tommy Russo juror 14. It's completely
12 random. There is no order to it. But she will take that
13 new list, that random list and she will start at the very
14 top of that list and call the first name that appears on
15 that new list. If your name is called, I would ask you
16 that you come forward and come through the swinging doors
17 right here where the deputy is standing. Just as he's
18 standing there, you will stand right there and you will
19 face the back of the courtroom as he's doing and you will
20 stand there and you'll probably be uncomfortable because
21 everybody is looking at you. I'm just kidding. You will
22 stand there and first the clerk will inquire of the State
23 words to this effect. What say you for the State? The
24 State has two options, folks. They can either excuse
25 you, and if they excuse you, you'll go back and have a

1 seat with the panel or they can present you. If they
2 present you, you will just remain standing. She will
3 then inquire of the defense words along the line, what
4 say you for the defense? The defense has two options,
5 folks. They can either excuse you and if they excuse
6 you, you go back and have a seat in the jury panel or
7 they can seat you. If they seat you, you will come
8 around and you will have a seat right over here in the
9 jury box.

10 Now, we'll go through that procedure until we have
11 selected our panel. Now, folks there is no way of
12 knowing, first of all, if your name is even going to be
13 called. But if your name is called, there is still no
14 way of knowing whether you're going to be selected until
15 we go through tat process. So if your name is called,
16 please bring with you any personal items that you brought
17 to the court whether it's a book, a pocketbook, a
18 sweater, an umbrella, whatever you brought of your
19 personal items bring that with you if your name is
20 called. Now it may be that you hauled it up here for no
21 reason because you my be excused and have a seat back
22 where you were. But it may be that you're not going to
23 return to your seat and you're gonna have a seat over
24 here. So go ahead and just bring those items with you in
25 case you end up seated over here in the jury box, okay?

1 All right. Is the State ready to proceed to jury
2 selection?

3 MR. GRAHAM: The State is ready, Your Honor.

4 THE COURT: Defense ready?

5 MS. CLEARY: Yes, Your Honor.

6 THE COURT: Five and ten folks.

7 THE CLERK: Proceed?

8 THE COURT: Yes, ma'am.

9 THE CLERK: Number 5, Michael Ames.

10 (Whereupon, Michael Ames, a white male, was called
11 forward.)

12 THE CLERK: What say for the State?

13 MR. GRAHAM: Please present Mr. Ames.

14 THE CLERK: What say for the defense?

15 MS. CLEARY: Please seat Mr. Ames.

16 THE CLERK: Number 146, Ann Marie Hubbard.

17 (Whereupon, Ann Marie Hubbard, a white female, was
18 called forward.)

19 THE CLERK: What say for the State?

20 MR. GRAHAM: Please present Ms. Hubbard.

21 THE CLERK: What say for the defense?

22 MS. CLEARY: Please seat Ms. Hubbard.

23 THE CLERK: Have a seat in the jury box, ma'am.

24 208, Lawrence Nelson.

25 (Whereupon, Lawrence Nelson, a white male, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MR. GRAHAM: Please present Mr. Nelson.

4 THE CLERK: What say for the defense?

5 MS. CLEARY: Please seat Mr. Nelson.

6 THE CLERK: Have a seat in the jury box, sir. 68
7 Charles Crane.

8 (Whereupon, Charles Crane, a white male, was called
9 forward.

10 THE CLERK: What say for the State?

11 MR. GRAHAM: Please present Mr. Crane.

12 THE CLERK: What say for the defense?

13 MS. CLEARY: Please excuse Mr. Crane.

14 THE CLERK: Return to your seat please, sir. Number
15 262, Linda Soulia.

16 THE CLERK: What say for the State?

17 MR. GRAHAM: Please present Ms. Soulia.

18 THE CLERK: What say for the defense?

19 MS. CLEARY: Please seat Ms. Soulia.

20 THE CLERK: Have a seat in the jury box, ma'am.
21 295, Kurt Woodruff.

22 (Whereupon, Kurt Woodruff, a white male, was called
23 forward.)

24 THE CLERK: What say for the State?

25 MR. GRAHAM: Please present Mr. Woodruff.

1 THE CLERK: What say for the defense?

2 MS. CLEARY: Please seat the juror.

3 THE CLERK: Have a seat in the jury box, sir. 206,
4 Robin Morrison.

5 (Whereupon, Robin Morrison, a white female, was
6 called forward.)

7 THE CLERK: What say for the State?

8 MR. GRAHAM: Please present Ms. Morrison.

9 THE CLERK: What say for the defense?

10 MS. CLEARY: Please excuse Ms. Morrison.

11 THE CLERK: Return to your seat, please, ma'am.
12 Number 40, Christina Brucke.

13 (Whereupon, Christina Brucke, a white female, was
14 called forward.)

15 THE CLERK: What say for the State?

16 MR. GRAHAM: Please present Ms. Brucke.

17 THE CLERK: What say for the defense?

18 MS. CLEARY: Please seat Ms. Brucke.

19 THE CLERK: Have a seat in the jury box, ma'am.
20 185, Mary Holley Markley.

21 (Whereupon, Mary Holley Markley, a white female, was
22 called forward.)

23 THE CLERK: What say for the State?

24 MR. GRAHAM: Please present Ms. Markley.

25 THE CLERK: What say for the defense?

1 MS. CLEARY: Please seat Ms. Markley.

2 THE CLERK: Have a seat in the jury box, ma'am.

3 Number 159, Stephen Jones.

4 (Whereupon, Stephen Jones, a white male, was called
5 forward.)

6 THE CLERK: What say for the State?

7 MR. GRAHAM: Please present Mr. Jones.

8 THE CLERK: What say for the defense?

9 MS. CLEARY: Please excuse Mr. Jones.

10 THE CLERK: Return to your seat please, sir. Number
11 230, Joshua Reckord.

12 (Whereupon, Joshua Reckord, a white male, was called
13 forward.)

14 THE CLERK: What say for the State?

15 MR. GRAHAM: Please present Mr. Reckord.

16 THE CLERK: What say for the defense?

17 MS. CLEARY: Please seat Mr. Reckord.

18 THE CLERK: Have a seat in the jury box, sir. 194,
19 Daniel McCormick.

20 (Whereupon, Daniel McCormick, a white male, was
21 called forward.)

22 THE CLERK: What say for the State?

23 MR. GRAHAM: Please present Mr. McCormick.

24 THE CLERK: What say for the defense?

25 MS. CLEARY: Please seat Mr. McCormick.

1 THE CLERK: Have a seat in the jury box, sir. 113,
2 Karlinda Glenn.

3 (Whereupon, Karlinda Glenn, a black female, was
4 called forward.)

5 THE CLERK: What say for the State?

6 MR. GRAHAM: Please present Ms. Glenn.

7 THE CLERK: What say for the defense?

8 MS. CLEARY: Please seat Ms. Glenn.

9 THE CLERK: Have a seat in the jury box, ma'am.
10 274, Sherie Todd.

11 (Whereupon, Sherie Todd, a white female, was called
12 forward.)

13 THE CLERK: What say for the State?

14 MR. GRAHAM: Please excuse Ms. Todd.

15 THE CLERK: Return to your seat please, ma'am. 248,
16 Steven Schulz.

17 (Whereupon, Steven Schulz, a white male, was called
18 forward.)

19 THE CLERK: What say for the State?

20 MR. GRAHAM: Please present Mr. Schulz.

21 THE CLERK: What say for the defense?

22 MS. CLEARY: Please excuse Mr. Schulz.

23 THE CLERK: Return to your seat please, sir. Number
24 246, Robert Schneider.

25 (Whereupon, Robert Schneider, a white male, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MR. GRAHAM: Please present Mr. Schneider.

4 THE CLERK: What say for the defense?

5 MS. CLEARY: Please excuse Mr. Schneider.

6 THE CLERK: Return to your seat please, sir. 184,
7 Irene Mahelsky.

8 (Whereupon, Irene Mahelsky, a white female, was
9 called forward.)

10 THE CLERK: What say for the State?

11 MR. GRAHAM: Please present Ms. Mahelsky.

12 THE CLERK: What say for the defense?

13 MS. CLEARY: Please excuse Ms. Mahelsky.

14 THE CLERK: Return to your seat please, ma'am. 284,
15 Rhett Wehunt.

16 (Whereupon, Rhett Wehunt, a white male, was called
17 forward.)

18 THE CLERK: What say for the State?

19 MR. GRAHAM: Please present Mr. Wehunt.

20 THE CLERK: What say for the defense?

21 MS. CLEARY: Please seat Mr. Wehunt.

22 THE CLERK: Have a seat in the jury box, sir.

23 Number 14, Heather Ballou.

24 (Whereupon, Heather Ballou, a white female, was
25 called forward.)

1 THE CLERK: What say for the State?
2 MR. GRAHAM: Please present Ms. Ballou.
3 THE CLERK: What say for the defense?
4 MS. CLEARY: Please seat Ms. Ballou.
5 THE CLERK: Have a seat in the jury box, ma'am.
6 Alternates, Your Honor.
7 THE COURT: Two. One and two each.
8 THE CLERK: Number 48, Carolyn Carroll.
9 (Whereupon, Carolyn Carroll, a white female, was
10 called forward.)
11 THE CLERK: What say for the State?
12 MR. GRAHAM: Please present Ms. Carroll.
13 THE CLERK: What say for the defense?
14 MS. CLEARY: Please excuse Ms. Carroll.
15 THE CLERK: Return to your seat please, ma'am. 71,
16 Jessica Cunningham.
17 (Whereupon, Jessica Cunningham, a white female, was
18 called forward.)
19 THE CLERK: What say for the State?
20 MR. GRAHAM: Please present Ms. Cunningham.
21 THE CLERK: What say for the defense?
22 MS. CLEARY: Please seat Ms. Cunningham.
23 THE CLERK: Have a seat in the jury box, ma'am.
24 Alternate one, Your Honor. Number 110, Kristin Gabriel.
25 (Whereupon, Kristin Gabriel, a white female, was

1 called forward.)

2 THE CLERK: What say for the State?

3 MR. GRAHAM: Please present Ms. Gabriel.

4 THE CLERK: What say for the defense?

5 MS. CLEARY: Please excuse Ms. Gabriel.

6 THE CLERK: Return to your seat please, ma'am. 218,
7 Willis Gray.

8 (Whereupon, Willis Gray, a white male, was called
9 forward.)

10 THE CLERK: What say for the State?

11 MR. GRAHAM: Please present Mr. Gray.

12 THE CLERK: What say for the defense?

13 MS. CLEARY: Please seat Mr. Gray.

14 THE CLERK: Have a seat in the jury box, sir.

15 That's alternate number 2, your Honor.

16 THE COURT: All right. Any motions regarding jury
17 selection from the State?

18 MR. GRAHAM: Not from the State, Your Honor.

19 THE COURT: Anything from the defense?

20 MS. CLEARY: No, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, those
22 of you who remain in the panel, I'm going to excuse you
23 for the balance of the day and for all of tomorrow. Now,
24 after that I don't know what to tell you other than to do
25 this. You have the card that has the phone number or the

1 website. You don't have to access both. They both have
2 the same information. Just access one of those after
3 6:30 tomorrow night, okay? So make that call or access
4 that website after 6:30 tomorrow night and just follow
5 the instructions that you will get there, okay?

6 Now, let me - I have been on the bench for a long
7 time and have rarely had to do this but it's odd, the
8 last two court terms I have had to do it for several
9 people. My instruction to you is to access the site
10 after 6:30 tomorrow night and follow those instructions.
11 If those instructions and I don't know what they are
12 going to be yet, but if they are to return at a certain
13 time, I need you to do that. The last two terms of court
14 we have had folks who just didn't bother to check back.
15 I guess they thought they could slip by or get away with
16 it, and I have had to send Sheriff deputies out to pick
17 them up off their jobs. That's going to happen for you
18 if you're supposed to be back and you don't show back up.
19 We're gonna send the Sheriff out to get you. Now, we're
20 not trying to be jerks about it, but all of you are
21 required to be here and it's not fair for all of the
22 folks that show up and one or two decide they try to beat
23 the number system and think they won't get found out.

24 We do check roll when you come back so it's going to
25 be known if you don't come back so... And I'm going to

1 be honest with you, all of the people that we have had to
2 go pick up, it's just been they forgot so I don't know
3 how for you to remind yourself, put it on the mirror in
4 the bathroom when you get up in the morning and it's
5 looking at you in the face, put it on your phone and have
6 your phone alert you tomorrow night after 6:30 to access
7 the number, but however you need to do it, figure out
8 a way to do it and just access the site and follow the
9 instructions. It will either give you a time to be back
10 or it will give you a time to call back or check back,
11 okay? And as I told you before, we are not going to have
12 you come back unless we need you to come back, okay? So
13 we are not going to jerk you around. We really do try to
14 be sensitive to your schedules.

15 So having said that, everyone else please remain
16 seated. The members of the jury panel, you're excused to
17 call back tomorrow night after 6:30.

18 (Whereupon, the remaining members of the jury venire
19 were released from the trial of this case at 12:25 p.m.)

20 THE COURT: So you folks don't have to be totally
21 envious of them in just a moment I'm gonna excuse you for
22 the rest of the day. We're gonna actually start this
23 trial tomorrow morning. We're gonna use the balance of
24 the day to do some work. We have pretrial matters and
25 things that we are going to take up that by taking those

1 up ahead of time and will make the trial go smoother and
2 quicker and it will just make everything go a lot easier.
3 So we are going to continue doing those matters today,
4 but all of those are matters that we don't need your help
5 with so I'm not going to make you sit up here for no
6 reason so I'm going to excuse you in just a minute, but I
7 need to send you away with some further instructions.

8 First of all, when you leave, if you will just
9 follow the bailiff. He's gonna show you where your jury
10 room is and when you come back tomorrow, you'll just
11 report, come straight back up here to the fourth floor
12 and they'll direct you back into the jury room.

13 Now, it is extremely important, folks, that you have
14 no conversation with anybody about this case. Now, I'm
15 pretty confident family, friends or loved ones will be
16 curious as to whether or not you were selected to be on a
17 case. You can tell them that you have been selected to
18 be on a case and that you have to be back in the morning
19 but that's really all you need to say. Saying something
20 as innocent as, yeah, I was selected on a case. It
21 involves a burglary or a guy is charged with murder or
22 the guy is charged with armed robbery, whatever the
23 charges are, saying, just saying something innocent like
24 that could possibly elicit a response that may compromise
25 your ability to be fair and impartial.

1 Your whole purpose between now and when you come
2 back tomorrow is to very sternly guard your ability to
3 remain fair and impartial so because of that I'm
4 instructing you to have no conversation with anybody
5 outside of the fact that, yes, I was selected to be a
6 case. I have to be back in court tomorrow. That needs
7 to be the end of it.

8 Also, you're going to take an oath to try this case
9 and to judge this case based solely upon the evidence
10 that is presented during the course of this trial. I
11 used to not have to tell juries this but we live in a day
12 and age now where these things that we call phones are
13 actually little pocket computers. These things have
14 access to the World Wide Web. We all know that most of
15 what's on that World Wide Web is hooaha and junk. So it's
16 very important and I can't stress this enough under your
17 oath you're going to try this case based solely on the
18 evidence and things that are presented during the course
19 of this trial. It would be highly improper for you to
20 try to go on the Internet and look up anything about this
21 case or try to do any of your own investigation. That
22 would be extremely improper.

23 What I encourage you to do is when you leave here,
24 is just go back about your normal duties in life and
25 enjoy the rest of your day. I will say this. This

1 evening if you can try to have a good meal and get a good
2 night's rest. Jury service I think you will find over
3 the course of the next several days is not going to be
4 physically taxing from a muscular standpoint but it will
5 be from a mental standpoint. So obviously you're gonna
6 function much better mentally and you will be more alert
7 if you get a good night's rest. So please try to get
8 that accomplished before you come back in the morning.
9 When you get back here in the morning and we get
10 reassembled, we'll begin.

11 I'll ask if you would please be back here tomorrow
12 morning at 9:00. Report to the jury room at 9:00. When
13 everyone is reassembled, we'll begin. Please, if you are
14 anything like my wife, you would be an outstanding person
15 but there is one area that my wife struggles a little bit
16 with and that is her belief that if we have to be across
17 town for something at 7:00, she thinks we are on time if
18 we leave the house at 7:00. She is an incredible lady
19 but that's one thing that she and I will butt heads on.
20 If you need to be here tomorrow at 9:00 and you leave
21 your house at 9:00, you're late, folks, okay? So do
22 yourself a favor. Leave early enough to find parking,
23 come into the building, come up and get in the jury room.
24 Once we have everyone reassembled we'll get started first
25 thing in the morning, okay?

1 Last thing and this is, I probably could have said
2 it all telling you this one little phrase. When you show
3 back up tomorrow, you should know nothing more about this
4 case than you know right now. That should wrap it all up
5 right there. So every one else please remain seated.
6 Folks, we'll see you back at 9:00 tomorrow morning, okay?

7 (Whereupon, the jury was excused for the remainder
8 of the day at 12:30 p.m.)

9 THE COURT: All right. Let me inquire here. Is
10 there anything we need to take up? Let me first inquire
11 from the State. Is there anything we need to take up
12 before tomorrow morning?

13 MR. GRAHAM: The only thing, Your Honor, is we
14 complied with your order regarding the juror rap sheets.
15 We did supply those to defense at 12:00 yesterday. Now
16 that the jury selection is over we would like them back
17 so we can shred them.

18 THE COURT: Sure. They'll do that. Anything from
19 the defense before tomorrow morning that we need to take
20 up?

21 MS. CLEARY: Your Honor, did you want to put the
22 Jackson v. Denno issue on the record today?

23 THE COURT: Yeah.

24 MS. CLEARY: I don't have additional arguments.

25 THE COURT: Let's do that. Thank you, Ellen. We

1 need to do that. Last week, last Wednesday I believe it
2 was we held a Jackson v. Denno hearing with regards to
3 some statements made by the defendant prior to Miranda.
4 If, again correct me if I'm misquoting anything, we
5 didn't have a hearing as it related to any of the
6 statements made post Miranda because there was no
7 objection to those as far as the voluntariness of those,
8 but there was the issue of a couple of the statements
9 that were made prior to Miranda being given and we held a
10 Jackson v. Denno hearing on that. I heard from both
11 sides as to their position on that and, of course, the
12 State's position was that they were freely and
13 voluntarily given, they weren't in violation of the
14 defendant's constitutional rights and that they should be
15 admissible. The defense's position was that they were in
16 violation of his rights based on numerous issues that we
17 fleshed out on the record as to the length of the
18 investigation, the length of the questioning, the number
19 of officers present for that and the other factors that
20 we covered during that Wednesday hearing.

21 I got a couple of case cites from the attorneys that
22 I wanted to review before giving my ruling and told them
23 that I would review those cases and then give them my
24 ruling which I think was, I think I did Saturday morning
25 via e-mail and so I want to put that ruling on the record

1 now and I have ruled that the statements, assuming that
2 the proper foundation is made, that the statements would
3 be admissible. They did appear based upon the testimony
4 and the evidence presented during the course of that
5 hearing were pre-custodial. I don't believe there was
6 any violation of the defendant's constitutional rights.
7 There didn't seem to be any reasonable belief that the
8 defendant would have believed that he was not free to
9 exercise his rights to either remain silent or to not
10 cooperate and that it all appeared to be done freely and
11 voluntarily and without any coercion and so I'm going to,
12 that's the ruling of the Court and I'm going to note
13 throughout the exception that the defense has taken and
14 note their objections to that ruling. If at any time,
15 Ms. Cleary, during the course of the trial that that
16 issue arises and you want to renew that objection
17 certainly feel free to do that but I do want to note that
18 those objections are noted for the record. Anything
19 else?

20 MS. CLEARY: No, Your Honor.

21 THE COURT: All right.

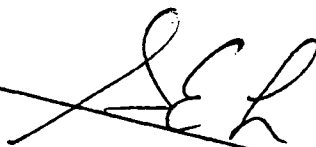
22 MR. GRAHAM: The only thing I was going to propose,
23 Your Honor, if we can meet at 2:00 in the grand jury room
24 and go through exhibits and pre-mark everything?

25 THE COURT: Folks, I would highly encourage that.

1 It may be 2:00. I don't think it has to be etched in
2 stone if it's later and y'all need to get something to
3 eat, but I would highly encourage y'all to get back
4 together this afternoon and do that, pre-mark things. I
5 would hope that you could pre-mark everything. If you
6 can agree on anything, that's great, but at least
7 pre-mark stuff. Marking it does not mean that it's in
8 evidence. It's not in evidence unless you either move it
9 into evidence or unless it's stipulated to. So but
10 everything needs to be marked so if we can do that so,
11 Shawn, I appreciate you mentioning that. If y'all would
12 do that this afternoon. I'm going to be tied up with the
13 mock trial thing, but if you need me, I talked to Kate.
14 I don't anticipate that taking but a couple of hours so
15 if you need me after that, I'll be around. You let me
16 know, okay? But if I don't hear anything from you, then
17 I'll just see everybody back here ready to go tomorrow
18 morning at 9:00. All right. Court will be in recess
19 then.

20 (Whereupon, court was adjourned for the day at 12:45
21 p.m.)

22
23
24
25



1 June 16th, 2015

2 (Whereupon, State's exhibits number #1 through #105
3 marked for identification.)

4 BAILIFF: All rise.

5 THE COURT: All right. Please be seated. Good
6 morning, everyone. Anything we need to take up before we
7 get started?

8 MR. GRAHAM: There is, Your Honor. Last night or
9 late afternoon we received an e-mail from defense counsel
10 asking us to agree to the admission of a photograph. The
11 photograph was taken from the co-defendant's phone Nick
12 Williams and I didn't print it out but it appears to be a
13 picture of him with a handgun in his hand. We informed
14 them that we object to that coming in. Once we did that,
15 defense counsel said that they are withdrawing their
16 stipulation about records custodians for phone records.

17 THE COURT: All right. Let's step back and we'll
18 find a chambers back here.

19 (Short recess.)

20 BAILIFF: All rise.

21 THE COURT: Okay. Please be seated. We're back on
22 the record. All right. Folks, are we ready for the
23 jury.

24 MR. GRAHAM: The State's ready, Your Honor.

25 THE COURT: Defense?

1 MS. CLEARY: The defense is ready.

2 THE COURT: All right. We'll bring them out. I'm
3 going to give them a little, some preliminary words and
4 please don't forget to remind me of the things that we
5 talked about for me to tell them, okay? All right.
6 Let's bring them in.

7 (Whereupon, the jury entered the courtroom at 10:10
8 a.m.)

9 THE COURT: All right. Ladies and gentlemen, thank
10 you for your courtesy in allowing us to make changes. I
11 appreciate your courtesy to do that. We are ready to get
12 started. Before we do that, let me say a few things.

13 I want to mention to you there is no way any of the
14 attorneys nor I can tell you how long it takes to try a
15 case. We can give you our best guess based on the
16 witnesses and the evidence that needs to be presented but
17 it would just be that, just a best guess so I say that to
18 tell you this. In a case that's going to only last a
19 day, day and a half, I don't make this offer to the jury
20 because I don't think it's necessary, but on a case
21 that's going to take longer than that I'll give you an
22 option individually, this is completely individual so
23 whoever of you want to do it, if any of you want a note
24 pad and you want to take notes during the course of the
25 trial, I'll have the clerk provide you with that. I have

1 jurors that want to do that. I have jurors that don't
2 want to do that. It is a positive and negative thing
3 depending on how you view it. From the positive aspect
4 you can jot down things so that later on when it comes
5 time for you to be able to recall those things you might
6 can do that. But the negative aspect is that while
7 you're writing something down the witness is probably
8 continuing to talk so you're missing something else
9 possibly.

10 So it depends on you as an individual. If you're a
11 note taker or not, I'll make those available to you, to
12 those who would like a pad and pencil if there is anyone
13 that does want to take notes and that's fine. What I
14 need you to do though is as you come in and out of the
15 courtroom, I need you to leave the note pad turned upside
16 down in your chair. You're not allowed to take those
17 back into the jury room with you at this point. I told
18 you yesterday before we got started yesterday that you're
19 not to have any conversation with anybody about the case
20 and I explained to you about going home and what to tell
21 your family, friends and loved ones. But I may have
22 neglected, if I didn't tell you yesterday, let me make
23 sure I tell you this this morning and this will apply
24 throughout the course of the trial. When I say you are
25 not to have any conversation with anybody about the case,

1 that includes amongst yourselves. And some jurors will
2 look at me kind of funny and think, well, I thought
3 that's what we are supposed to do. Well, it is what you
4 are supposed to do when the time is appropriate. But
5 until that time when all of the evidence has been
6 presented, the lawyers have had an opportunity to argue
7 to you their closing arguments and I have given you the
8 law in the case, only then is it appropriate to have any
9 conversation with anybody about the case.

10 So as we take breaks and you step back into the jury
11 room and things of that nature, please always keep in
12 mind that you are to have no conversation with anybody
13 and don't talk about the case amongst yourselves. If at
14 any time you are uncomfortable at all with the
15 temperature, you let us know and we'll try to fix it to
16 the extent that we can.

17 Also, and I don't know if there is any delicate way
18 to put this. There are times when mother nature calls
19 and you have got to answer the call. If that happens,
20 let me know and we'll let you answer the call, okay? I
21 mean that sincerely. Sometimes there will be a witness
22 on the witness stand and if you really need to use the
23 restroom, you say, well, I'll wait until this witness is
24 done before I let the Court know and that witness may be
25 lengthy. Then what happens is instead of paying

1 attention to the witness and the testimony, you're
2 sitting there wondering how long is this person going to
3 talk. I've got to go. Don't do that. If you feel like
4 you need a break, get the bailiff's attention or mine or
5 any of the courtroom personnel.

6 I don't know if I introduced you all. This is
7 Lauren. This is my law clerk. She is a licensed
8 attorney and has been working with me for the past year
9 and she is going to be, this is her last week. She is
10 leaving and going to bigger and better things. And then
11 Ashley is a law student also at university and she is in
12 law school and she is interning with us this week so
13 these folks help me do my work.

14 So get the bailiff's attention, get my attention,
15 get their attention if you need a break and they will let
16 me know and we'll stop. We can always start back where
17 we left off. That's not a problem stopping in the middle
18 of a witness' testimony. We can certainly do that.

19 Also, Mr. Reckord. Mr. Reckord, I'm gonna get you
20 to do me a favor. I will ask that you serve as foreman
21 over the jury. I'll explain that real quickly. While I
22 do that, if I could get you and this young lady here to
23 swap seats. Folks, there is no assigned seating in the
24 jury box except for the foreperson and the alternates.
25 The alternates will occupy those two seats and you will

1 occupy that seat and everyone else can sit wherever you
2 fall in and out. That's fine.

3 Let me explain to you, the role of the foreperson is
4 simply this. Any time you deal with a group of people
5 it's easier to deal with one person on behalf of the
6 group than dealing with everybody individually so the
7 main role of the foreperson is to basically be the
8 communicator or contact person between the jury panel and
9 the Court so that if at any time during this week anyone
10 has any questions about anything, let the foreperson know
11 and he'll write that question out and pass it to me.
12 Depending on the question, I may just respond back with a
13 writing or I may bring you out as a panel and respond to
14 the question. But that's the main role of the
15 foreperson.

16 Some of you may have heard that, well, the
17 foreperson presides over the deliberations. Well, kind
18 of yes and no. If the deliberations stall, if like, and
19 I have never had this happen, but if like 12 people get
20 back there and just stare at each other and nobody is
21 talking, then the foreperson needs to get the ball
22 rolling. That usually doesn't happen. Usually
23 conversation flows back and forth. But what is important
24 is you to understand this, your verdict in this and in
25 all cases whether this case or civil cases, it doesn't

1 matter, in this state we require our jury verdicts to be
2 unanimous. So in other words, you must all agree on the
3 verdict.

4 So having said that, that tells you that you are all
5 equal members of the jury. No one person has any more
6 authority than anyone else and no one person's opinion or
7 thoughts carries any more weight than anyone else. You
8 are all equal members of the jury. I tell juries all the
9 time that the process requires you to be open, to listen
10 to each other's thoughts and opinions as you deliberate
11 when that time comes and be willing to revisit your
12 thoughts and opinions based on what other people think.

13 In other words, have good conversation. But the
14 point is no one person's thoughts or opinions carry any
15 more weight than anyone else. You are all equal members
16 of the jury. So thank you for your willingness to serve
17 in that capacity.

18 Now I'm going to turn you over briefly to Ms. Frick.
19 She is going to place you under your oath for your role
20 as jurors in this case, okay?

21 (Whereupon, the jury was duly sworn by the Clerk of
22 Court at 10:20 a.m.)

23 THE COURT: Here's what I'm going to get you to do.
24 Have you got a stack?

25 THE CLERK: Yes, sir.

1 THE COURT: We are going to start here with the
2 foreman and if you all want to just pass this down the
3 front row and then down the back row. The bailiff will
4 collect them when it gets to the end. Those of you who
5 want a pad, take one. Those that don't want to fool with
6 it, pass it on. There's pencils and pens so just take
7 one of each if you like to take notes and then pass it
8 on. If you don't like to, just pass it on and we'll
9 collect the box at the end.

10 All right. Ladies and gentlemen, we are about to
11 begin the trial of the case of the State of South
12 Carolina versus Jeremy Seldon Brady. Before we begin,
13 let me just explain to you this. I don't know how many
14 of you have ever served on a jury or an actual jury
15 trial. Most people, I will tell you most people don't
16 have the opportunity to do what you are doing this week.
17 Most folk's experience as it relates to jury trials is
18 what they have seen on television, what they have read in
19 books and what they have seen on TV. And as we all know
20 those trials are always filled high drama and intense
21 action. It's Hollywood.

22 Now, while any number of those things may occur
23 during the course of this trial, the thing to keep in
24 mind is this; that this trial is not for your
25 entertainment. This trial is a fundamental part of our

1 democracy. It is oftentimes in a real jury trial it
2 oftentimes can be slow. Sometimes it's very deliberate.
3 It can be repetitive. In other words, it's very
4 different from what you have seen on television or read
5 in books or what you have seen in the movies.

6 This courtroom is a place of honor that is dedicated
7 to the protection and to the preservation of citizens'
8 rights through what many have called the greatest justice
9 system ever created. The attorneys that appear before
10 you are advocates for the parties that they represent.
11 But first and foremost they are officers of the Court
12 sworn to uphold the integrity and the fairness of our
13 judicial system. You should expect them to be
14 professional, competent and ethical in the performance of
15 their duties and in the representation of their client's
16 interest.

17 Now, remember you have just taken an oath to try
18 this case and to reach a fair and a just verdict. You
19 are also expected to be professional and reasonable and
20 ethical in the performance of your duties which I have
21 absolutely no doubt you will do and I want to take this
22 opportunity to thank you for your role in our system of
23 justice here in Lexington County.

24 Now, I'm going to share with you some thoughts that
25 are meant to serve as a introduction to the trial of the

1 case. This not a charge on the law. I will charge you
2 the law that is applicable to this case at the end of the
3 trial before you begin your deliberations. But right now
4 I want to just basically explain to you the procedures
5 that we're gonna follow so that you can better understand
6 what's going on as we go through the course of the week.

7 The defendant Mr. Brady is charged by these
8 indictments which I read to you yesterday. He's charged
9 with the allegations of murder, burglary in the first
10 degree, armed robbery and criminal conspiracy. The
11 elements of those charges I will explain to you when I
12 give you the charge on the law. What is important for
13 you to understand, ladies and gentlemen, is that the
14 indictment as I told you yesterday is simply the formal
15 document that brings the case into this courtroom. It is
16 the formal charge. It is not in any sense evidence of
17 the allegations that it contains.

18 To these charges, to these indictments Mr. Brady has
19 pled not guilty and that therefore places the burden of
20 proof on the State to prove the elements of these crimes
21 beyond a reasonable doubt and it will be your duty to
22 determine whether or not the State has met their burden.

23 The purpose, your purpose as jurors is to determine
24 the facts of this case. You are the sole judges of the
25 facts of this case. If at any time during the course of

1 this trial I make any comment about the testimony or the
2 evidence that's presented, you must disregard those
3 comments because only you the jury can determine what the
4 facts are in this case. You determine those facts from
5 the testimony that you hear and any other evidence that
6 may be presented during the course of this trial. It is
7 going to be up to you to determine what inferences that
8 you feel may be properly drawn from this evidence. It is
9 especially important, folks, that you determine the facts
10 diligently and conscientiously because ordinarily there
11 is no way that I can correct and erroneous determination
12 of the facts by a jury.

13 Now, on the other hand but with equal emphasis the
14 same law that makes you the judges of the facts makes me
15 the judge of the law. The law as given by this Court is
16 the only law that you may consider. You must accept and
17 follow it even though you may disagree with it. I cannot
18 tell you what I think about the facts in this case and
19 you are not allowed to disagree with me about what the
20 law is or what you think the law should be. Your job is
21 to take the law as I give it to you and apply it to the
22 facts as you find the facts to be from the testimony of
23 the witnesses and any other items that may come in during
24 the course of the trial.

25 Now, until I advise you that it is appropriate to

1. begin your deliberations, you must not discuss this case
2. with anyone and that as I said earlier includes amongst
3. yourselves. It is important that throughout this trial
4. that you keep an open mind and that you do not decide any
5. issue in this case until all of the evidence has been
6. presented, the parties have made their closing arguments
7. and I have instructed on you the law. It is going to be
8. your solemn responsibility to determine the guilt or
9. innocence of the defendant and your verdict must be based
10. solely on the evidence as it is presented to you during
11. this trial and on the law as I instruct you.

12. Now, in just a moment I'm going to recognize the
13. Solicitor and he or she, one of the Solicitors will make
14. what we call an opening statement. In that statement
15. they will basically explain to you or tell you what they
16. believe the evidence in this case will show. Once they
17. have concluded their opening remarks, I'll then recognize
18. defense counsel and one of them will make an opening
19. statement or not. They are not required to make opening
20. statements. What's important for you to remember though
21. is this: Whatever statements are made by lawyers during
22. opening statements is not evidence. They are not under
23. oath. They are not testifying. It is merely their
24. contention as to what they think or what they believe the
25. evidence will show.

1 The evidence in this case that you will use in
2 arriving at your verdict will be presented to you by the
3 testimony of witnesses who are placed under oath and
4 testify from this witness stand and any exhibits that may
5 come in during the course of the trial.

6 Now, during the course of the trial, folks, from
7 time to time you may hear one of the attorneys say,
8 "Judge, may we approach the bench?" Or, "Your Honor, may
9 we take up a matter of law with the Court?" If that
10 occurs, if I can resolve something here at the bench, I
11 will do it. But if I need to go into more depth
12 regarding an issue of law, I may ask you to step back
13 into the jury room while I do that. If I ask you to do
14 that, there is only one reason why I would ask you to do
15 that. As I told you earlier, I'm not to have any
16 influence over you with regards to the testimony or the
17 evidence. The facts are solely up to you to decide. But
18 sometimes when I'm having to deal with an issue of law,
19 it requires me to make some comment about the testimony
20 or the evidence that was presented in connection with the
21 ruling that I'm required to make. So to protect you from
22 those comments I may have you step back into the jury
23 room, allow me to resolve that matter of law and then
24 bring you back out and we'll proceed from where we left
25 off.

1 In determining what the true facts in this case are
2 you are going to have to decide whether or not the
3 testimony of a witness is believable. It's going to be
4 my job to rule as a matter of law whether certain
5 testimony is allowed into this record at all or not. But
6 once testimony is allowed into the record, whether or not
7 you believe it is solely up to you to decide. In
8 deciding whether to believe a witness, you have the right
9 to consider the interest of a witness, the bias of any
10 witness, the opportunity for the witness to have seen the
11 matters and the things about which that witness
12 testifies, the way the witness acts on the witness stand.
13 You have the right, ladies and gentlemen, to consider
14 anything that is in this record that will help you in
15 evaluating the credibility or the believability of the
16 witnesses. That means that it is your duty to pay close
17 attention to the witnesses, observe them, listen very
18 carefully to their testimony, pay close attention to the
19 attorneys as well as to the Court. Please do not let
20 your thoughts wonder but pay close attention to all of
21 the testimony and the evidence so that at the close of
22 the evidence, the lawyers have an opportunity to argue to
23 you what they believe the evidence will show, and I have
24 given you the law, you will then be in a position to go
25 back into your jury room and then for the first time

1 discuss the things that you have heard and the things
2 that you have observed this week and discuss the case,
3 deliberate and arrive at a verdict.

4 Now, before I turn it over to the attorneys, let me
5 first inquire of the State. Are there any objections or
6 exceptions to the Court's opening remarks?

7 MR. GRAHAM: No, Your Honor.

8 THE COURT: Anything from the defense?

9 MS. CLEARY: No, Your Honor.

10 THE COURT: All right. Thank you, folks. Now,
11 ladies and gentlemen, please give the attorneys your
12 close and undivided attention as they address you with
13 their opening remarks. Yes, ma'am.

14 MS. RANKIN: Thank you, Your Honor. May it please
15 the Court.

16 July 28th, 2012 the defendant Jeremy Brady, the
17 co-defendant Nicholas Williams, they needed drugs.
18 Jeremy Brady, Nicholas Williams needed money. The victim
19 Robert Mitchell, a 72 year old man asleep in his bed with
20 a breathing mask on was murdered and all for a
21 prescription of oxycodone and a few dollars.

22 Around 3:00 a.m. on July 28th, 2012, Kim White, Nick
23 Williams' girlfriend at the time, gets arrested.
24 Bondsman comes to the house on Old Orangeburg Road and
25 picks her up. A little while later Nick Williams gets a

1 phone call from Kim White telling him to get out of the
2 outside and that Jeremy Brady, the defendant, is coming
3 to pick him up.

4 Now, Jeremy Brady has a relationship with Kim White
5 as well. They have a child together. They were
6 boyfriend and girlfriend at one time. Jeremy Brady at
7 that time also lived with Kim White's mother and Michelle
8 Webb. The defendant gets in Michelle Webb's car, drives
9 over to Old Orangeburg and he picks up the co-defendant
10 and they do drugs together but they don't have enough and
11 they don't have any money to get more. But Nick
12 Williams, he knew where to get more drugs. Jeremy Brady,
13 he knew where to get a gun. Jeremy drives himself and
14 Nick over to Amanda Anderson's house and she's there
15 packing. Several other people are there as well helping
16 her pack. They are moving. And the defendant and Nick
17 Williams are asking about a gun and they find out the gun
18 is not there anymore. It's with William White.

19 Jeremy drives himself and Nick over to Will White's
20 house on Sharon Church Road and they're asking about the
21 gun and they finally get what they want to get what they
22 need. They get a sawed off shotgun pistol grip to get
23 drugs and to get money. The defendant, he drives them
24 over to [REDACTED] to the victim's house where
25 he's asleep in his bed with a CPAP mask on. The

1 defendant, the co-defendant, they go in the house and
2 they have that shotgun, one, two, three shots. Every
3 single one of them hits the victim. They grab, scramble,
4 grab what they can and they leave. Jeremy is driving.
5 Nick Williams is in the passenger seat rifling through
6 what they have gotten and throwing out the window what
7 they don't want. But what they do have is what they went
8 for. They do have drugs and they do have money.

9 They head to the defendant's apartment on Feather
10 Run Trail. Jeremy takes a duffel bag upstairs to the
11 apartment. He speaks to Kim White's mother Brenda White
12 and Michelle Webb whose car he's been driving and the
13 defendant and Nick leave again and go to a pawnshop.
14 When they come back, they part ways. William White comes
15 and gets Nick Williams and takes him to Old Orangeburg.
16 Jeremy Brady stays at Feather Run but he's not done. A
17 couple days later he's on surveillance at Wal-Mart on
18 Bush River Road attempting to use a credit card that
19 belonged to the victim. They get a search warrant for
20 his apartment. They go in. They find the sawed off
21 shotgun in the apartment. They search Michelle Webb's
22 car, the car that he was driving to all these different
23 places, to the victim's house and they find items in that
24 car that belonged to Robert Mitchell.

25 In this case you are going to hear from a lot of

1 people and you're gonna see a lot of things. I want you
2 to pay close attention to what they have to say and what
3 you guys see. I also want you to remember the key points
4 of the defendant using that victim's credit card at
5 Wal-Mart. The shotgun that killed the victim is in his
6 apartment. The items from the victim's home is in the
7 car that he was driving. And at the close of this case
8 we'll come back and we're gonna ask that you find Jeremy
9 Brady guilty of murder. Guilty of criminal conspiracy.
10 Guilty of burglary first. And guilty of armed robbery.
11 Thank you.

12 MS. RUSSELL: May it please the Court.

13 THE COURT: Yes, ma'am.

14 MS. RUSSELL: Proof beyond a reasonable doubt.
15 That's a phrase that we have all heard. You have
16 actually heard it a few times today, but you might not
17 have taken the time to consider what it actually means.
18 As we have all heard you have a right to confront
19 witnesses against you. You have a right to a jury trial
20 just like this. You have a right to have an attorney
21 represent you. Many of those rights actually guarantee
22 the fact that the State has to reach its burden and prove
23 guilt beyond a reasonable doubt. Unfortunately, there is
24 no exact formula to determine whether a doubt is
25 reasonable or not. It is a subjective test that each and

1 every one of you will have to decide. Is my doubt
2 reasonable?

3 One way to think about this is to consider other
4 levels of proof in different courts in the United States
5 today. Two levels of certainty which are other terms I'm
6 sure you have heard are by the clear and convincing
7 evidence or by the preponderance of the evidence. Clear
8 and convincing evidence is evidence that simply
9 establishes a high probability that the facts sought to
10 be proved is true. Simply a high probability. By a
11 preponderance of the evidence means that one side has
12 evidence in its favor more than the other even if it's
13 only by the smallest degree.

14 Criminal convictions, however, are held to the
15 highest standard of proof because the outcomes of these
16 trials are much more severe than simple money damages.
17 The risk of a deprivation of the accused's entire rights
18 and liberties are on the line. The State also must prove
19 doubt beyond a reasonable doubt because they have access
20 to law enforcement tools and techniques that are not
21 available to anyone representing themselves alone. It
22 will be up to each of you to decide whether or not the
23 State has met this burden.

24 As the Judge has previously explained we each have
25 roles today and he stated that he is the finder of fact,

1 the finder of law, excuse me, whereas you are the finder
2 of fact. This can be simply thought of as he explained
3 is he lets you know whether or not the evidence is
4 admissible whereas you decide whether or not it's
5 reliable. We are here not only as advocates for Mr.
6 Brady but to ensure that the State has reached that
7 burden and proved guilt beyond a reasonable doubt.

8 Unfortunately, just as the Judge explained, most
9 people today, many of you I'm sure, don't have a lot of
10 familiarity with the criminal justice system. Most of
11 your exposure is through the media, television and
12 movies, maybe books. That is simply an unrealistic
13 portrayal. Over the next few days you will see the stark
14 differences between television and reality. You will
15 learn that we are not characters with a script based on
16 ratings, drama and suspense. We are all simple everyday
17 people just like you. This is a very stressful time for
18 us all and we are all a little nervous. Just as the
19 Judge might have mentioned yesterday, these witnesses are
20 actual human beings with real memories. They are not
21 characters.

22 Also on TV you get to see lawyers make eloquent
23 statements in front of the jury arguing the facts as if
24 they were actually present the day of the crime. That's
25 not legal. Additionally, you might hear people testify

1 to what other people told them. That too will not happen
2 in this courtroom today. As you just heard the Judge may
3 ask you to step out to the jury room so that he can
4 consider a matter of law. That is not because the State
5 or myself is trying to hide anything from you. It is
6 simply because he has to make that decision based on
7 statutes and rules and previous court rulings that you
8 haven't had an opportunity to see.

9 Now, a little bit more about why we are here today.
10 The State will be unable to prove this case to you beyond
11 a reasonable doubt because of a lax, untimely and
12 inadequate investigation. We are here today approaching
13 the three year anniversary of Mr. Mitchell's death and
14 his family sits here today hoping for justice and answers
15 which they will not receive. Mr. Mitchell and his family
16 deserved a better investigation. The evidence presented
17 through witness testimony and physical items and reports
18 will show that the entire crime scene was released after
19 48 hours although zero arrests had been made. There were
20 at least nine suspects throughout the course of this
21 investigation. There were so many officers working on
22 this case that at times it was difficult for them to
23 communicate with each other regularly. It was hard for
24 them to maintain accurate reports and it was difficult
25 for them to preserve crucial evidence.

1 Throughout this investigation they learned about a
2 possible attempt to steal Mr. Mitchell's truck but it was
3 never processed for DNA or for fingerprints. They
4 learned that items that were stolen from Mr. Mitchell's
5 home could be at a local pawnshop but they failed to go
6 there to investigate. After you listen all day every day
7 to everything that is presented to you, you will have
8 more questions than you could ever expect from a
9 department that has 400 employees.

10 During the course of this investigation
11 investigators questioned dozens of people and found
12 suspects to be evasive. Many attempts to run or to evade
13 them were made. Jeremy Brady, however, opened the door
14 to law enforcement and immediately agreed to speak to
15 them. He admitted to using some cards at Wal-Mart.

16 MR. GRAHAM: Objection, Your Honor. May we
17 approach?

18 THE COURT: Yes, sir.

19 (Side bar off the record.)

20 MS. RUSSELL: Mr. Brady was confronted with a
21 picture of himself at the Wal-Mart. At that point law
22 enforcement learned that he did use those cards. When
23 the State later came before Mr. Brady and asked for his
24 DNA, he also submitted that. Did not demand a hearing or
25 attempt to conceal anything. However, with regards to

1 this murder he did not have any answers to close their
2 investigation. He knew very minimal about the entire
3 situation because he simply drove an acquaintance over to
4 a house to buy some pills.

5 MR. GRAHAM: Objection, Your Honor. This is exactly
6 what we were talking about at the bench. If you can have
7 the jury step out please, Your Honor.

8 THE COURT: All right. Let me get you -- Have no
9 conversation about the case.

10 (Whereupon, the jury entered the jury room at 10:47
11 a.m.)

12 THE COURT: If I understand the objection correctly
13 it is, Ms. Russell, I think the objection is that you can
14 comment in opening statements about what you believe the
15 State is going to try and show or disprove, but you can't
16 testify as to what -- It's like you're getting in things
17 about the defendant that would be improper unless the
18 defense is actually - the defendant is going to take the
19 stand and put that evidence in. Go ahead, and I'm not
20 sure I fully understand your objection but I saw you
21 going down a path that was very questionable.

22 MR. GRAHAM: My concern was, Your Honor, back last
23 Wednesday we had hearings about the admissibility of the
24 statements. There were four statements. There was the
25 one made to Detective Mefford where he showed him the

1 photographs. He said that looks like me and the other
2 one is Michelle Webb's car. And then he admitted after
3 he gave different stories about where the card came from
4 but he ultimately admitted to the card to Shawn Grant and
5 then he was taken back and he was Mirandized and in the
6 State's opinion it's a self-serving statement. He admits
7 that he was there but says he doesn't know anything.
8 Those are all statements that are admissible to us to use
9 if we want to. That's our decision. Once the defense
10 goes up in opening statement, she is trying to say that
11 he admitted using the card, I don't know that I'm going
12 to put that statement in. And then she goes further and
13 she starts saying about how he had no useful information
14 to give the police and that he did something, and I think
15 that's about where I objected because to me it sounded
16 like she was getting ready to tell Mr. Brady's statement
17 that he gave after Miranda which unless he's going to
18 testify is improper. And if they know he's going to
19 testify, then I'm jumping the gun but I'm assuming since
20 you haven't read him his rights and they haven't
21 announced that decision to the Court that we don't know
22 if that's going to happen. If they're assuming that
23 we're gonna put the statements in and they using it in
24 opening statement, that's improper because that's our
25 decision to do. I don't have to put those statements in

1 and they can't put those statements in without him taking
2 the stand. I think it's improper for her to basically
3 get up and tell the jury my client told the police he
4 wasn't guilty and he said this story.

5 THE COURT: Yeah. And here's the thing. I'm just
6 going to make a general statement here. Opening
7 statements pretty much are generally - we no longer
8 follow the appropriate rules and regulations regarding
9 opening statements. Everybody gets up and does a closing
10 argument. What Ms. Rankin shared with the jury was a
11 closing argument. It wasn't an opening statement. But
12 nobody objected. What you are doing is you are doing
13 closing argument. You're not doing opening statement.
14 Opening statements are to basically tell a jury these are
15 the kind of things that we think you are going to hear
16 and what we want you to keep and what we want you to
17 understand is to keep an open mind. The State has this
18 burden. All of that introductory stuff was perfect. I
19 mean, that's what you do. But when you start going into
20 the evidence and start going into testimony and details
21 about what you are going to hear, that's closing argument
22 stuff. That's not opening statements. It's not
23 appropriate for opening because as Mr. Graham has
24 mentioned, if the State puts in none of that, then the
25 jury is not going to hear any of it unless Mr. Brady

1 takes the stand.

2 Now, I'm not here to ask you right now is he taking
3 the stand. That's his choice at an appropriate time.
4 But right now I don't know what's going to happen so...

5 MS. RANKIN: Yes, Your Honor. And I would just
6 briefly state that the statements that I have made are
7 only things that I was able to get out of the testimony
8 of the officers during our previous hearings so that's
9 why I imagined that we would hear these things through
10 the testimony of the officers.

11 THE COURT: If that's what they're gonna do. I
12 don't know what they're gonna do and that's why opening
13 statements are supposed to be more generalized and not so
14 specific because nobody knows what's going to happen
15 prior to the trial unfolding. So just keep that in mind
16 as you complete your opening. All right. Bring them
17 back in.

18 (Whereupon, the jury returned to the courtroom at
19 10:53 a.m.)

20 THE COURT: All right. Folks, we'll proceed now and
21 continue with Ms. Russell's opening.

22 MS. RUSSELL: I apologize for that. Uhm, as you
23 just heard, there's going to be a lot of testimony here
24 before you and that's why the opportunity to take notes
25 was given. The State and us have worked together to

1 ensure that we move this trial along as quickly and
2 seamlessly as possible, however, there is a potential of
3 70 people coming before you over the course of the next
4 few days. I know that it's gonna be really challenging
5 to pay attention all the time during all of the
6 testimony, but that is what justice requires and I
7 believe that's what each and every one of you would want
8 if this was your trial or a trial for you loved ones.

9 Remember that it is your job as was previously
10 stated to judge the credibility, the reliability and the
11 motivations of every person that takes this stand before
12 you. Every person regardless of their job title
13 testifying must be judged, critiqued and analyzed. The
14 facts they testify to taken together as a whole must
15 prove to you the guilt of Mr. Brady for each offense
16 beyond a reasonable doubt. Consider who is providing an
17 alibi for who. Why they might want to do that. Who
18 knows who and has what to gain from protecting their
19 relationships with one another.

20 I also want to take a second to explain to you
21 something called sequestration. Some witnesses are not
22 allowed to stay in the courtroom until they are able to
23 testify. That way we know that what they say has not
24 been affected by other people in the trial. Mr. Brady
25 has a few friends and family here but other witnesses may

1 testify on his behalf and they are not allowed to stay in
2 here just as the State's witnesses are not until they are
3 ready to testify.

4 Along those same procedural grounds I will
5 reintroduce myself, my teammates, Ms. Ellen Cleary is my
6 co-counsel and lead counsel. Hayward Horn is our law
7 clerk and Karen Elliott is our paralegal.

8 In closing I just want to remind you that after all
9 the evidence has been presented and you're finally
10 allowed to go in the back and deliberate, discuss the
11 case amongst yourselves, there is simply no doubt in my
12 mind that you will have many unanswered questions. As
13 you finally talk about the witnesses that have come
14 before you and all the evidence that has been introduced,
15 you will each have maintained different perceptions,
16 interpretations and different details. You each come to
17 this day with different life experiences. A different
18 family background. A different job. You each have
19 different specialized areas of knowledge. But it is your
20 job to make a unanimous decision today regarding the
21 guilt of only one man, Jeremy Brady.

22 I have previously heard Solicitor Graham say that it
23 is a search for the truth. That is what we are all
24 trying to do. In analyzing all the evidence please
25 consider his statement. Every one here today hopes to

1 learn and to enforce justice on behalf of Mr. Mitchell
2 and his family. It is a simple search for the truth but
3 you must decide the truth as presented only by the
4 evidence presented in this room on this stand and through
5 these witnesses and if that is the truth that proves that
6 Mr. Brady committed these crimes beyond a reasonable
7 doubt. Remember that proof meeting the standard that is
8 required by the Constitution's Fifth Amendment due
9 process clause.

10 Additionally, the Supreme Court has said that this
11 highest standard of proof is grounded on a fundamental
12 value determination by our society and it is far worse to
13 convict an innocent man than to send - to let a guilty
14 man go free. Your decision at the end of this case must
15 be unanimous. If any one of you has a reasonable doubt
16 or a lingering question making you wonder if Jeremy Brady
17 committed these crimes beyond a reasonable doubt, your
18 verdict must be not guilty.

19 THE COURT: Thank you, ma'am. You may call your
20 first witness.

21 MR. GRAHAM: The State calls Nick Williams.
22 Thereupon,

23 NICHOLAS SCOTT WILLIAMS
24 after having been first duly sworn, testified as follows,

25 THE CLERK: Please have a seat. After you're

1 seated, please state your full name spelling your last
2 name for the record.

3 THE WITNESS: Nicholas Scott Williams,
4 W-i-l-l-i-a-m-s.

5 DIRECT EXAMINATION

6 BY MR. GRAHAM:

7 Q. Mr. Williams, how old are you?

8 A. 29.

9 Q. Where were you born and raised?

10 A. Tampa, Florida.

11 Q. Pull that microphone a little bit closer to you.

12 A. Tampa, Florida.

13 Q. How long have you been in South Carolina?

14 A. Since '08.

15 Q. You're wearing orange and have chains on right now.

16 Are you staying over at the detention center?

17 A. Yes, sir.

18 Q. Have you been incarcerated on the charges that we
19 are here for today?

20 A. Yes, sir.

21 Q. You are currently charged with criminal
22 conspiracy?

23 A. Yes, sir.

24 Q. You're charged with armed robbery?

25 A. Yes, sir.

1 Q. You're charged with burglary first?

2 A. Yes, sir.

3 Q. And you are charged with murder?

4 A. Yes, sir.

5 Q. And your co-defendant is Jeremy Brady; is that
6 correct?

7 A. Yes, sir.

8 Q. Do you see Mr. Brady in the courtroom?

9 A. Yes, sir.

10 Q. Where is he?

11 A. (Indicating.)

12 Q. The individual wearing the suit at the defense
13 table?

14 A. Yes, sir.

15 Q. How long did you know Jeremy Brady?

16 A. Since '08.

17 Q. When you first moved to South Carolina?

18 A. Yes, sir.

19 Q. Let me ask you some questions. You were convicted
20 of shoplifting in 2009; is that correct?

21 A. Yes, sir.

22 Q. You were convicted of breach of trust and fraudulent
23 intent in 2010?

24 A. Yes, sir.

25 Q. You were convicted of shoplifting in 2011?

1 A. Yes, sir.

2 Q. You were convicted of shoplifting again in 2013?

3 A. Yes, sir.

4 Q. In Florida in 2007 you had two convictions for
5 drugs; is that correct?

6 A. Yes, sir.

7 Q. How did you first come in contact with Jeremy
8 Brady?

9 A. I had - I had moved up here with my great uncle and
10 during that time I had met Jessica Gardner and next door to
11 Jessica Gardner lived Kimberly White and Jeremy Brady.

12 Q. You said Kimberly White?

13 A. Yes, sir.

14 Q. Is that Kim White?

15 A. Kim White, yes, sir.

16 Q. What was the relationship between the defendant and
17 Kim White at that time when you were living next door to
18 them?

19 A. Uhm, boyfriend and girlfriend.

20 Q. At some point did you move into the house with Kim
21 and Jeremy?

22 A. Yes, sir.

23 Q. Do you remember when that was?

24 A. Shortly after I moved up here. A couple months.

25 Q. How long did you live with Kim and Jeremy?

1 A. About three months.

2 Q. When you first moved in with them, what was your
3 relationship with Jeremy Brady and Kim White?

4 A. Me and Jeremy were really good friends and me and
5 Kim at first we didn't have a relationship. We weren't
6 friends too much.

7 Q. Did something happen that changed that?

8 A. Yes, sir.

9 Q. What happened?

10 A. We - me and her got intimate.

11 Q. Did Jeremy Brady find out about it?

12 A. Yes, sir.

13 Q. What happened with the three of you living together
14 at that point?

15 A. Uhm, well, we split up and me and Kim went and lived
16 with my great uncle out in Pelion.

17 Q. Do you know where Jeremy went?

18 A. No, sir.

19 Q. Do you remember when that was?

20 A. It was - it was still in '08. I'm not too sure of
21 the month.

22 Q. What was your relationship with Jeremy at that
23 time?

24 A. After?

25 Q. Yes.

1 A. We really didn't talk.

2 Q. In July of 2012 were you together with Kim?

3 A. Yes, sir.

4 Q. And where were you all staying?

5 A. Me and Kim were staying at Old Orangeburg with a guy
6 named Anthony.

7 Q. Let me show you an exhibit. This has been
8 pre-marked as State's number 25.

9 MS. CLEARY: No objection.

10 BY MR. GRAHAM:

11 Q. Do you recognize that as being the residence that
12 you and Kim White stayed at?

13 A. Yes, sir.

14 Q. That's at [REDACTED]?

15 A. Yes, sir.

16 MR. GRAHAM: Your Honor, the State would offer this
17 into evidence at this time.

18 THE COURT: Any objection?

19 MS. CLEARY: No objection.

20 THE COURT: Without objection State's 25.

21 BY MR. GRAHAM:

22 Q. How long did you all live in this house?

23 A. About a month.

24 Q. What kind of house was it?

25 A. It was a dope hole.

1 Q. What does that mean? What was going on at that
2 house?

3 A. Drugs were running in constantly. Everybody in
4 there was high and --

5 Q. Who all lived at that house at that time?

6 A. Anthony Porjano, Bill Morgan, myself, Kim White,
7 Michael Griffin and Cody Orbuch.

8 Q. And at that time was there a -- Kim had charges on
9 her at that time, didn't she?

10 A. Yes, sir.

11 Q. Criminal charges?

12 A. Yes, sir.

13 Q. Did she, in fact, miss showing up to court some?

14 A. No, sir. She had a bench warrant for her.

15 Q. She had a bench warrant for her arrest?

16 A. Yes, sir.

17 Q. Did you and Kim know that she had a bench warrant
18 for her arrest?

19 A. Yes, sir. We knew.

20 Q. The night of July 27th, 2012 and the early morning
21 hours of July 28th, 2012, what, if anything, happened to
22 Kim?

23 A. Excuse me.

24 Q. What, if anything, happened to Kim?

25 A. What happened to her?

1 Q. On the early morning hours of July 28th, 2012?

2 A. We was asleep in one of the bedrooms there and she
3 was sleeping on my lap and at the time the bondsmen came in
4 and they had their guns on us and they put her in handcuffs.
5 I gave her some shirt and some socks and she went to jail.

6 Q. She went to jail on a bench warrant?

7 A. Bench warrant, yes, sir.

8 Q. Is there is a bond on a bench warrant? Can you get
9 out on a bench warrant?

10 A. No, sir. There's no bond.

11 Q. After she was taken by a bondsman, did you have an
12 opportunity to speak with her once she was at the jail?

13 A. I did.

14 Q. Based on what she told you, what did you do?

15 A. Tried to get out of there as soon as possible.

16 Q. Why were you trying to get out of there?

17 A. She told me when she left with the bondsmen, that
18 they had talked to the police and said that they were going to
19 raid the house because of all the drugs and all the
20 paraphernalia that was laying out so she said that I needed to
21 leave.

22 Q. What did she try to do to help you leave out of the
23 Old Orangeburg house?

24 A. At the time our car was broke down so she tried to
25 get me a ride. She called her mother and tried to get me a

1 ride.

2 MS. CLEARY: Your Honor, object to hearsay what Kim
3 told him.

4 THE COURT: Sustained as to any hearsay as to what
5 someone else told him.

6 BY MR. GRAHAM:

7 Q. You can't repeat what she told you. Did she make
8 efforts on your behalf to get you away from that address?

9 A. Yes, sir.

10 Q. Did you make efforts to get away?

11 A. Yes, sir.

12 Q. At some point because of those efforts, did you end
13 up speaking with Jeremy Brady?

14 A. I did.

15 MS. CLEARY: I object to leading the witness.

16 THE COURT: All right. Just watch the leading.

17 BY MR. GRAHAM:

18 Q. Based on the efforts that you made and based on the
19 efforts that Kim made to get you away from the house, what, if
20 anything, happened? Who did you speak to?

21 A. I spoke to Kimberly White.

22 Q. In addition, what, if any, conversations did you
23 have with Jeremy Brady?

24 A. The conversation that I had with Jeremy Brady was
25 that he was going to come pick me up to get me away from the

1 house.

2 Q. The number 803-800-9258, do you recognize that
3 number?

4 A. Yes, sir. That was my cell phone.

5 Q. The telephone number 803-800-0649, do you recognize
6 that number?

7 A. It was Jeremy's.

8 Q. So your conversation with Jeremy was what? What did
9 he say he would do?

10 A. He said he was gonna come get me.

11 Q. Did he, in fact, come and get you?

12 A. Yes, sir.

13 Q. Do you remember whether it was light or dark when he
14 came and got you?

15 A. It was dark.

16 Q. Let me show you State's 28 and 29 that have been
17 previously marked and ask you if you recognize these
18 photographs?

19 A. This one is myself. This one is Jeremy Brady.

20 Q. Do those fairly and accurately depict the way you
21 looked and the way that Jeremy looked at the time?

22 A. Yes, sir.

23 MR. GRAHAM: Your Honor, the State would offer those
24 into evidence. That would be State's 28 and 29.

25 THE COURT: Any objection?

1 MS. CLEARY: No objection.

2 THE COURT: Those items are in evidence without
3 objection.

4 BY MR. GRAHAM:

5 Q. Did, in fact, Jeremy come pick you up that morning
6 of July 28th, 2012?

7 A. Yes, sir.

8 Q. Did he have -- What vehicles did Jeremy have access
9 to?

10 A. He had access to his truck and Michelle Webb's
11 car.

12 Q. Which one did he come over and pick you up in?

13 A. Michelle Webb's car.

14 Q. Who is Michelle Webb?

15 A. She is a friend of Kimberly Brady's, or Kimberly
16 White and Jeremy Brady.

17 Q. Who was Jeremy living with at the time? What
18 apartment?

19 A. Brenda. He was living with Brenda White, Kimberly's
20 mom.

21 Q. Do you know whether Michelle was living there?

22 A. She was living there, too. Yes, sir.

23 Q. Let me show you another photograph which is State's
24 number 30 and ask you if you recognize this?

25 A. That's Mitchell Webb's car.

1 MR. GRAHAM: Your Honor, the State would offer 30
2 into evidence at this time.

3 THE COURT: Any objection?

4 MS. CLEARLY: No, Your Honor.

5 THE COURT: State's 30 without objection.

6 BY MR. GRAHAM:

7 Q. Is this the vehicle that Jeremy Brady came and
8 picked you up in --

9 A. Yes, sir.

10 Q. -- from the Old Orangeburg address?

11 A. Yes, sir.

12 Q. Once he picked you up, where did you all go?

13 A. We left and when we left, we - I had some drugs. I
14 had meth and heroin and I offered him some and we started to
15 get high. We left out of Old Orangeburg and took a left on
16 Platt Springs and came up to number 6.

17 Q. Did you have any money at the time?

18 A. No, sir.

19 Q. So what you had was --

20 A. I had a little bit of drugs.

21 Q. Meth and heroin?

22 A. Yes, sir.

23 Q. Do you know whether Jeremy Brady had any money at
24 that time?

25 A. No, sir.

1 Q. How do you use meth and heroin?

2 A. We used it -- Well, you don't use them together a
3 lot of the time, but when you do, it's called speed balling
4 and it really messes you up. You're not in the right state of
5 mind. You're extremely high and we shot meth and heroin at
6 the same time.

7 Q. Michelle Webb, what was your relationship with
8 Mitchell Webb?

9 A. She was just an acquaintance through Kim.

10 Q. Did she like you? Dislike you?

11 A. She didn't like me.

12 Q. She did not like you?

13 A. No, sir. She didn't.

14 Q. Were you ever able -- What, if any, access did you
15 have to her vehicle?

16 A. None whatsoever.

17 Q. Would she have let you use her car?

18 A. Never. No, sir.

19 Q. After you and Mr. Brady used meth and heroin, what
20 happened next?

21 A. We were - we were driving around and we didn't have
22 no money and we were - we were going to need something to come
23 down off of which is to come down off the meth and the heroin
24 so you wouldn't feel all paranoid and sketchy so we, then I
25 suggested that we go rob somebody and I had met Robert

1 Mitchell a week prior to that and I told him that I knew
2 somebody with some roxies that we could get and come down off
3 of and that we could rob him.

4 Q. Let me interrupt you for a second. You had met
5 Robert Mitchell the week before you testified?

6 A. Yes, sir.

7 Q. How did you meet him the week before?

8 A. Through a girl named Chris Tasuichi. She introduced
9 -- Well, she brought me over there and I got some roxies from
10 him.

11 Q. When you say roxies, what are roxies?

12 A. Oxycodone. It's a form of - it's an opiate. It's a
13 form of - it's a synthetic. It can be used for heroin
14 substitute.

15 Q. So if you were able to get roxies, how would you and
16 Jeremy have used roxies?

17 A. Shot them. Injected them.

18 Q. How do you do that?

19 A. You would have to take them and you get a spoon, you
20 take the pill and you crush the pill up and you would put some
21 water in there and put a piece of cotton in it, you'd pull it
22 back into the needle and inject it into your vein.

23 Q. Just to be very clear, whose idea was it to rob
24 Robert Mitchell?

25 A. It was mine.

1 Q. Once you proposed that idea to Jeremy Brady, what,
2 if anything, did Mr. Brady say?

3 A. Mr. Brady asked me if I had a gun and I --

4 Q. Did you have one?

5 A. No, sir.

6 Q. Did you have a BB gun?

7 A. Yes, sir. I had a BB gun.

8 Q. Did you tell him that?

9 A. Yes, sir.

10 Q. Once you told Mr. Brady that you had a BB gun, what,
11 if anything, did he say?

12 A. He asked me if I had a real gun and I told him that
13 I didn't and then he knew - he stated he knew where to get
14 one.

15 Q. Did he tell you where he could get one?

16 A. Yes, sir.

17 Q. Where did he tell you he could get one?

18 A. From Kim's brother. His brother-in-law William
19 White.

20 Q. Do you know what -- Did he tell you at that time
21 what kind of gun it was going to be?

22 A. No, sir.

23 Q. So after he told you that he knew where to get a
24 gun, where did you all go?

25 A. We went to Amanda Anderson's house on Old Two Notch

1 Road.

2 Q. Let me show you a photograph that's State's number
3 26 and ask you if you recognize that?

4 A. It's Amanda Anderson and James White's house.

5 Q. And that's located [REDACTED] in
6 Lexington?

7 A. Yes, sir.

8 MR. GRAHAM: Your Honor, the State would offer
9 State's 26 into evidence.

10 THE COURT: Any objection?

11 MS. CLEARY: No objection.

12 THE COURT: Without objection State's 26.

13 BY MR. GRAHAM:

14 Q. So who drove to Amanda Anderson's house?

15 A. Jeremy Brady.

16 Q. Did you ever drive that vehicle?

17 A. No, sir.

18 Q. Ever in your life?

19 A. No. Never.

20 Q. What, if anything, was going on with Amanda
21 Anderson? Who lived there with her at that Two Notch
22 address?

23 A. At the time James White, her boyfriend.

24 Q. James White is related to?

25 A. Kimberly White. It's her brother.

1 Q. And related to Will White?

2 A. Will White. Yes, sir. William White.

3 Q. Do you know whether or not they were having to move
4 out of that residence?

5 A. Yes, sir. They were in the process of moving out.

6 Q. When you arrived at the house, do you remember who
7 you saw?

8 A. Amanda Anderson.

9 Q. Do you remember anybody else?

10 A. No, sir.

11 Q. Do you remember whether it was still dark or whether
12 it was becoming light?

13 A. It was becoming light.

14 Q. Had the sun actually come up yet?

15 A. No, sir.

16 Q. Your purpose of going there was what?

17 A. To receive a gun.

18 Q. Were you or Jeremy able to get a gun from that
19 residence on Two Notch?

20 A. No, sir. We wasn't.

21 Q. Where did you all go after the Two Notch residence,
22 Amanda Anderson's house?

23 A. We went to [REDACTED] where William was
24 staying with Vanessa Dinkins and her mother and William's
25 father to receive the gun that William had.

1 Q. What, if anything, did Jeremy tell you about why you
2 were going to [REDACTED]?

3 A. He told me the gun wasn't at the house that we first
4 went to and he said we needed to go somewhere else to get it
5 which we did.

6 Q. State's number 24. Do you recognize State's 24?

7 A. Yes, sir.

8 Q. Is that [REDACTED]?

9 A. Yes, sir.

10 Q. Whose residence was that?

11 A. Vanessa Dinkins and William White's, Donny White and
12 Vanessa's mother.

13 Q. So when you left the Two Notch residence that was
14 Amanda Anderson's house and drove to the Sharon Church address
15 which was the home of Will White and Vanessa Dinkins, why were
16 you all going there?

17 A. To receive a gun.

18 Q. Whose vehicle were you in?

19 A. Michelle Webb's.

20 Q. Who was driving?

21 A. Jeremy Brady.

22 Q. Who, if anyone, do you remember seeing at the Sharon
23 Church Road house?

24 A. I only seen William White.

25 Q. Do you remember any conversations between you or

1 Jeremy and Will White about a gun?

2 A. No, sir. I stayed in the vehicle.

3 Q. You stayed in the vehicle. What did Jeremy do?

4 A. He went inside.

5 Q. How long was he inside?

6 A. A couple minutes. Not very long.

7 Q. When he came outside -- Well, let me ask you this
8 question. Will White's relationship to Jeremy is what?

9 A. It's his brother-in-law and they're really good
10 friends.

11 Q. Will's relationship to you?

12 A. We were friends. You could say we were friends.

13 Q. Amanda Anderson's relationship to you?

14 A. Just acquaintances. We weren't friends.

15 Q. Amanda Anderson's relationship to Mr. Brady?

16 A. They were really good friends.

17 Q. Vanessa Dinkins relationship to you?

18 A. Just an acquaintance through Kim.

19 Q. And do you know about her relationship with Mr.
20 Brady?

21 A. They were friends.

22 Q. So how long was Jeremy Brady in the residence with
23 Will White at Sharon Church Road?

24 A. Just a few minutes.

25 Q. When he came out, what, if anything, did he have

1 with him?

2 A. I don't remember him having anything with him. I'm
3 sure he had the gun with him because when he got in the car,
4 he had the gun.

5 MS. CLEARY: Your Honor, I object to this, his
6 characterization.

7 THE COURT: Sustained as to any speculation. If he
8 knows, he can testify to what he knows.

9 BY THE WITNESS:

10 A. Okay. When we arrived there, we didn't have the
11 gun. When we got back in the car - when he got back in the
12 car, he had the gun.

13 BY MR. GRAHAM:

14 Q. So when Jeremy Brady got back in the car, the
15 shotgun was there?

16 A. Yes, sir.

17 Q. Did you get the shotgun?

18 A. No, sir.

19 Q. So who got the shotgun?

20 A. Jeremy Brady.

21 Q. Once Jeremy brought the shotgun into Michelle Webb's
22 car, where did you all go?

23 A. We drove towards Gilbert, the Gilbert area.

24 Q. Did you eventually arrive at Robert Mitchell's
25 house?

1 A. Yes, sir.

2 Q. Did you know the roads in that area well?

3 A. I did not.

4 Q. Do you know whether you arrived on a paved road or a
5 dirt road?

6 A. We arrived on a dirt road.

7 Q. When you came in on the dirt road to Mr. Mitchell's
8 house, was his house on the left or on the right?

9 A. When we came in from the dirt road, it was on the
10 left.

11 Q. Let me show you another photograph. This is State's
12 exhibit 12. Do you recognize that?

13 A. It's the back porch of Robert Mitchell's house.

14 Q. State's number 12 is whose house?

15 A. Robert Mitchell's.

16 Q. And that's at [REDACTED]?

17 A. Yes, sir.

18 Q. What is this picture showing us here?

19 A. Showing the back porch which is the way we went
20 up.

21 Q. So when you go up his back porch, where was Mr.
22 Mitchell's door?

23 A. To the right.

24 Q. Did he have more than one door to the house do you
25 know?

1 A. I did not know. No, sir. I only went to that one
2 because it's the one I previously went to.

3 Q. What was the plan about robbing Mr. Mitchell?

4 A. There wasn't a plan. We -- I mean, I told him, you
5 know, about we should go rob him, but we never actually
6 planned it out. We just went in there and we winged it.

7 Q. Who had the gun?

8 A. Jeremy Brady.

9 Q. How did you all get in the house?

10 A. The door was shut, but it was not locked and we
11 opened it and we went in.

12 Q. Do you know what time of day it was at this time?

13 A. The sun was up. It was very early in the morning.

14 Q. So who went in first?

15 A. Jeremy went to the right when we walked in and
16 I went to the left.

17 Q. When you went to the left, what did you do?

18 A. I started -- Well, I was looking for anything that I
19 could see that was valuable or anything that I could grab and
20 I went and I started walking, that's when I started walking to
21 the left.

22 Q. Did you grab some stuff?

23 A. Yes, sir.

24 Q. Do you remember what it was?

25 A. No.

1 Q. After you grabbed those items and were walking,
2 what, if anything, did you hear?

3 A. Two gunshots.

4 Q. When you heard the gunshots, what did you do?

5 A. I then turned around and observed Jeremy Brady
6 holding the shotgun.

7 Q. How far away were you from Mr. Brady at that time?

8 A. From me to this gentleman here (indicating.)

9 Q. I'm sorry. To who?

10 A. The gentleman in the white shirt (indicating.)

11 Q. Say nine or ten feet sound about right?

12 A. Yes, sir. About ten feet. Yes, sir.

13 Q. So when you're standing nine or ten feet away and
14 you see Jeremy Brady, you said he had the gun?

15 A. Yes, sir.

16 Q. All right. You've already heard two shots?

17 A. I heard two shots.

18 Q. What happens next?

19 A. When I turned around and I observed he had the gun,
20 then I heard another shot and I observed him shooting.

21 Q. Where was he at at that time?

22 A. He was standing in between the bedroom door and the
23 door that we came in.

24 Q. He's in the hallway between the door you entered and
25 the bedroom door?

- 1 A. Yes, sir.
- 2 Q. Did you see what he was shooting at --
- 3 A. No, sir.
- 4 Q. -- at that time?
- 5 A. No, sir.
- 6 Q. After he fired that third shot, what, if anything,
- 7 did you say or do?
- 8 A. I ran.
- 9 Q. Why?
- 10 A. I was - I was in shock. I - I just ran. I was
- 11 trying to get out of there as fast as I could.
- 12 Q. Where did you go?
- 13 A. I jumped into a white pickup truck that was in the
- 14 driveway.
- 15 Q. Why did you jump in that white pickup truck?
- 16 A. I was trying to leave.
- 17 Q. Were you able to?
- 18 A. No, sir.
- 19 Q. What happened next?
- 20 A. Jeremy had followed me out and he was telling me
- 21 that we didn't get what we came for. We didn't get the pills
- 22 or the money that we came for. So by that time I had been
- 23 calmed down and entered the house. We went back in the
- 24 house.
- 25 Q. So you and Jeremy went back into the house?

1 A. Yes, sir.

2 Q. When you went back in the house, what happened?

3 A. We went into the bedroom. We went into the house
4 and we took a right and we went into the bedroom and I
5 observed Robert Mitchell was laying on the bed and a lot of
6 blood everywhere and I grabbed his cell phone that was on the
7 dresser and I know that Jeremy was going through the pants.
8 They were off of him. He was going through the pants and he
9 found the pills and he grabbed his wallet and we grabbed a
10 couple more things and we left.

11 Q. So where was Mr. Mitchell when you entered the room
12 and where was he when you left?

13 A. He was on the bed when we entered and on the bed
14 when we left.

15 Q. Do you know what a CPAP machine is?

16 A. I do, sir. Yes.

17 Q. Could you tell whether Mr. Mitchell was using a CPAP
18 at the time?

19 A. Yes, sir. He was wearing it.

20 Q. How do you know that?

21 A. I observed it on his face.

22 Q. He had a mask on his face?

23 A. Yes, sir.

24 Q. Was he alive when you left?

25 A. To my knowledge, no, sir.

1 Q. Did you check?

2 A. No, sir.

3 Q. Did Jeremy Brady check?

4 A. No, sir.

5 Q. How many trips did you make from the house to
6 Mitchell Webb's car carrying things that you and he had
7 stolen?

8 A. Well, the first time that I went out to the white
9 truck and that was the only time that I left the house other
10 than when we left the second time so we only went in once.

11 Q. The second time you went in do you remember what you
12 took?

13 A. I don't remember exactly what I took, no, sir. I
14 know I grabbed a cell phone off the dresser.

15 Q. How about other things?

16 A. I know there was a safe grabbed and a couple of tin
17 things, round tin things and stuff.

18 Q. Did you take those?

19 A. Yes, sir.

20 Q. Do you know what Jeremy took from the house?

21 A. He had the safe in his hand and he had the gun and
22 he had the pills and the wallet from Mr. Mitchell's pants.

23 Q. Do you know if he got anything else from the
24 house?

25 A. Not to my knowledge. No, sir.

1 Q. So after the two of you leave the house, Mr.
2 Mitchell is shot in his bed and you're carrying his stuff out,
3 you put it in Michelle Webb's car?

4 A. Yes, sir.

5 Q. Do you remember what goes where in the car?

6 A. I'm not too clear, sir. I don't remember where we
7 put everything at.

8 Q. Do you remember whether it was in the passenger
9 compartment or the trunk?

10 A. I believe - I believe it was in the trunk. I think
11 it was in the trunk, sir.

12 Q. When you left there, do you remember where
13 you went?

14 A. We - when we left, we took a left out of his
15 driveway the way we didn't come in we took and then we took a
16 left on the road. As soon as we came to the main road we took
17 a left and we were driving down that road and was throwing
18 stuff. I was throwing stuff out the window.

19 Q. So who was driving?

20 A. Jeremy Brady.

21 Q. Who was throwing stuff out the window?

22 A. I was.

23 Q. What kind of things were you throwing out the
24 window?

25 A. I threw a cell phone which I broke in half. I threw

1 a wallet and some pill bottles.

2 Q. After you were driving - after Jeremy was driving
3 away and you threw those items out, what, if anything, did you
4 all do?

5 A. We then stopped and we did some of the pills we got
6 from Robert Mitchell. We stopped and we shot them up.

7 Q. How many -- At some point did you all divide up the
8 money and the pills?

9 A. Yes, sir.

10 Q. Tell me about that.

11 A. Well, we got, I want to say we got about \$65.00
12 apiece and probably about 20 pills apiece.

13 Q. So each of you got about \$65.00 and each of you got
14 about 20 pills apiece?

15 A. Yes, sir.

16 Q. And then you shot up the pills?

17 A. Yes, sir.

18 Q. When you left, do you know where you shot the pills
19 up at?

20 A. I don't remember, sir.

21 Q. After you and Jeremy shot up the pills, where did
22 you all go?

23 A. We went to Brenda White's house, her apartment.

24 Q. Is that [REDACTED] at [REDACTED]?

25 A. Yes, sir.

1 Q. Let me show you a photograph and ask if you
2 recognize that?

3 A. Yes, sir. That's the stairwell. She stays on the
4 second floor to the back.

5 MR. GRAHAM: Your Honor, the State would offer
6 State's 40 into evidence.

7 THE COURT: Any objection?

8 MS. CLEARY: No objection.

9 THE COURT: Without objection.

10 BY MR. GRAHAM:

11 Q. So looking at this photograph, if you were walking
12 up the stairs, where would Brenda White, Jeremy Brady and
13 Michelle Webb live?

14 A. When you get to the top, you would have to turn
15 immediately right and then another immediate right and then
16 come back and it would be the last one on the left.

17 Q. Are they facing the parking lot or away from the
18 parking lot?

19 A. Facing the parking lot.

20 Q. So when you arrived over at Michelle's and Jeremy's
21 and Brenda's apartment, what happened?

22 A. I stayed in the car and shot some pills, some
23 roxies, some more roxies and Jeremy got some stuff and went
24 inside.

25 Q. Do you know what he got?

1 A. I'm not too sure exactly what he got. I was doing
2 pills.

3 Q. He carried some items inside?

4 A. Yes, sir. The items that we got from -- I don't
5 remember what he took inside. I know he grabbed some stuff.
6 I was doing the pills.

7 Q. Do you remember whether he had any bags?

8 A. Yes, sir.

9 Q. Do you remember what the bags looked like?

10 A. It was a black duffel bag.

11 Q. Why didn't you go inside?

12 A. Brenda and Michelle do not like me at all because of
13 my relationship with Kimberly White.

14 Q. They blame you for Kim getting hooked on drugs,
15 don't they?

16 A. Yes, sir.

17 Q. So did you ever go into the house that day, Jeremy's
18 house?

19 A. No, sir.

20 Q. That apartment?

21 A. No, sir.

22 Q. You stayed out in the car?

23 A. Yes, sir.

24 Q. Or outside?

25 A. Yes, sir.

1 Q. How long did you stay out there?

2 A. I stayed out there for maybe about five to ten
3 minutes when Jeremy went in and then he came back out and we
4 went to a pawnshop in Triangle City.

5 Q. Whose car did you all take?

6 A. We took Michelle Webb's car.

7 Q. Who drove?

8 A. Jeremy Brady.

9 Q. Why were you all going to a pawnshop?

10 A. I had a camcorder and a Nintendo DS that I was going
11 to try to get some money for.

12 Q. Was that anything that you had gotten from Robert
13 Mitchell?

14 A. No, sir.

15 Q. Was that something you stole somewhere else?

16 A. Yes, sir.

17 Q. Were you able to get any money for those items?

18 A. No, sir. The camera didn't have a charger and the
19 Nintendo DS didn't turn on.

20 Q. After you went to the pawnshop, where did you guys
21 go?

22 A. We met up with Flip which is a heroin dealer and we
23 got some heroin.

24 Q. How did you all pay for the heroin?

25 A. With the money that we got from Robert Mitchell.

1 Q. After you got that heroin, what did you all do?

2 A. We went to Brenda White's house back to her
3 apartment.

4 Q. Did you go in that time?

5 A. No, sir.

6 Q. What happened after you got back to Brenda's and
7 Jeremy's and Michelle's apartment?

8 A. I had got out of the car. Jeremy left me outside.
9 I stayed on the stairwell which you just showed me a picture
10 of. I stayed out there on the stairwell.

11 Q. How long did you stay out there?

12 A. I stayed out for about 45 minutes.

13 Q. Eventually where did you go?

14 A. William White had came. I seen him. He was coming
15 in and I asked him if he would take me back to the house on
16 Old Orangeburg and I offered him a couple pills and I smoked
17 some weed with him for that.

18 Q. And he took you where?

19 A. He took me back to the house on Old Orangeburg where
20 I came from.

21 Q. A few days later were you placed under arrest?

22 A. Yes, sir. About a week.

23 Q. And charged with this?

24 A. Yes, sir. About a week later.

25 Q. Did you see Jeremy again after you all split up the

1 morning of the 28th?

2 A. I did. I seen him, after Saturday I seen him Sunday
3 morning with him and his father loading up Kimberly White's
4 car out in Old Orangeburg at that house.

5 Q. What kind of car did Kim have?

6 A. She had a '96 Honda Accord.

7 Q. Was it driveable at the time?

8 A. No, sir.

9 Q. Did you have any vehicles at the time?

10 A. No, sir.

11 Q. Were you surprised that Jeremy came and got you that
12 morning?

13 A. Very surprised.

14 Q. Why?

15 A. Because me and Jeremy ever since me and Kim had got
16 together we did not talk or get along at all.

17 Q. When you were arrested, did you talk to the
18 police?

19 A. Yes, sir. I did.

20 Q. Did you tell them the truth at the time?

21 A. No, sir.

22 Q. Why not?

23 A. I was scared and I really didn't know. I have never
24 been in anything like this so I really didn't know what to say
25 so I just told a lie.

1 Q. To try to get out of trouble?

2 A. Yes, sir.

3 Q. You eventually ended up, after you were arrested,
4 you got an attorney, correct?

5 A. Yes, sir.

6 Q. And she is in the courtroom today?

7 A. Yes, sir.

8 Q. Is that Ms. Henry that's sitting back on the second
9 row?

10 A. Yes, sir.

11 Q. At some point after meeting with her did you contact
12 or did she contact the Solicitor's Office?

13 A. Yes, sir.

14 Q. And did you come in and speak with us?

15 A. I did.

16 Q. Has either anybody in law enforcement or anybody
17 with the Solicitor's Office ever made a promise to you about
18 what, if any, benefit you would get if you testified in
19 court?

20 A. No, sir.

21 Q. Did anybody promise you that any charges would be
22 dismissed?

23 A. No, sir.

24 Q. Did anybody promise you that any charges would be
25 reduced?

1 A. No, sir.

2 Q. So why did you contact the Solicitor's Office and
3 why did you talk to me and why are you here today?

4 A. Well, after a year or so went by, Ms. Henry had
5 drilled it in my head that I'm guilty of these charges. I'm
6 guilty under the hand of one hand of all of armed robbery,
7 burglary first and murder I'm guilty and I think it would be
8 better off if the truth had came out so that's why I'm here
9 today.

10 Q. Did you shoot Robert Mitchell?

11 A. No, sir.

12 Q. Who did?

13 A. Jeremy Brady.

14 Q. Are you guilty of criminal conspiracy?

15 A. Yes, sir.

16 Q. Are you guilty of armed robbery?

17 A. Yes, sir.

18 Q. Are you guilty of burglary first?

19 A. Yes, sir.

20 Q. Are you guilty of murder?

21 A. Yes, sir, under the hand of one hand of all.

22 MR. GRAHAM: Thank you, Mr. Williams. Please answer
23 any questions the defense has for you.

24 (Whereupon, Defendant's Exhibit #1 marked for
25 identification.)

1 THE COURT: Ms. Cleary.

2 CROSS EXAMINATION

3 BY MS. CLEARY:

4 Q. Mr. Williams, I'm Ellen Cleary, Mr. Brady's lawyer.

5 How long have you lived in South Carolina?

6 A. Since '08.

7 Q. And why did you move up here?

8 A. I was getting into a little bit of trouble in
9 Florida.

10 Q. Okay. And you mentioned in your testimony that you
11 had a drug charge from Florida, correct?

12 A. Yes, ma'am.

13 Q. And that's a felony drug charge, right?

14 A. Yes, ma'am.

15 Q. Okay. All right. So you moved in with Jeremy and
16 Kim in 2009; is that right?

17 A. I believe it was '08.

18 Q. '08.

19 A. Yes, ma'am.

20 Q. Okay. All right. So you didn't have a place to
21 live, right?

22 A. I did.

23 Q. Okay. So you moved in with them because you
24 couldn't stay with Jessica Gardner?

25 A. I couldn't stay with Jessica Gardner. I could have

1 stayed with my uncle, but Mr. Brady, me and him were really
2 good friends and he offered me to stay there and I stayed
3 there.

4 Q. So he let you live in his trailer?

5 A. Yes, ma'am.

6 Q. And did he offer to help you get work if you needed
7 it?

8 A. Yes, ma'am.

9 Q. Did you have to pay rent to him?

10 A. No, ma'am.

11 Q. Okay. And did he buy your food and cigarettes and
12 that kind of thing?

13 A. Yes, ma'am.

14 Q. Okay. And so then at some point you started having
15 sex with his wife or his fiancée; is that right?

16 A. Yes, ma'am.

17 Q. Okay. You said that you all became intimate; is
18 that right?

19 A. Yes, ma'am.

20 Q. Okay. And that you were blamed for getting her
21 hooked on drugs; is that right?

22 A. Yes, ma'am.

23 Q. And that's the IV drugs that you were talking
24 about?

25 A. Yes, ma'am.

- 1 Q. And heroin?
- 2 A. Heroin, roxies.
- 3 Q. All right. So before she met you, she hadn't done
- 4 that sort of drug?
- 5 A. Correct.
- 6 Q. Okay. So you introduced her to that world?
- 7 A. Yes, ma'am.
- 8 Q. Okay. All right. At some point you and her needed
- 9 money to support your drug habit and you began being her pimp;
- 10 is that correct?
- 11 A. Yes, ma'am.
- 12 Q. Okay. And Jeremy and Kim had a child together; is
- 13 that right?
- 14 A. That's correct. Yes, ma'am.
- 15 Q. And so you had, you were pimping out the mother of
- 16 his child and had gotten her hooked on drugs; is that
- 17 correct?
- 18 A. Yes, ma'am.
- 19 Q. All right. So that's pretty much why Jeremy doesn't
- 20 like you, right?
- 21 A. Correct.
- 22 Q. Okay. Now, you also mentioned that William White
- 23 didn't like you, right? Is that right?
- 24 A. No. I didn't.
- 25 Q. Okay. So y'all are friends?

1 A. Yes.

2 Q. Okay. Because he went and picked you up, right, to
3 take you to Old Orangeburg?

4 A. Yes.

5 Q. All right. So and then you told investigators that
6 the trailer y'all were staying at was a dope house?

7 A. Yes, ma'am.

8 Q. And you were concerned it was going to be raided
9 possibly?

10 A. Yes, ma'am.

11 Q. Okay. So at that point you and Kim were sort of
12 jumping from place to place?

13 A. Yes, ma'am.

14 Q. Okay. So where did you keep your belongings?

15 A. With me.

16 Q. Okay. In what form? Did you keep them in a bag?

17 A. A backpack and a knapsack.

18 Q. What size backpack?

19 A. Regular size JansSport backpack.

20 Q. Okay. And then a knapsack?

21 A. Yes, ma'am. A Nike knapsack.

22 Q. And that's where you kept all your belongings?

23 A. Yes, ma'am.

24 Q. Okay. All right. So in July 2012 you didn't have
25 any kind of employment, stable employment; is that right?

1 A. Correct.

2 Q. Other than pimping Kim, right?

3 A. That's right.

4 Q. Okay. So you got money from that when she would
5 turn tricks?

6 A. Yes, ma'am.

7 Q. Did you advertise her on the Back Page; is that
8 right?

9 A. Yes, ma'am.

10 Q. Okay. All right. Let me go over some of your prior
11 statements. And I understand you just testified that you were
12 scared and you didn't know what to say, but you actually told
13 the police four or five different versions of the events; is
14 that correct? Let me go through them with you. In your first
15 statement, do you remember when you first talked to Officer
16 Grant I believe it was?

17 A. I remember briefly. It's been three years. I do.

18 Q. Okay. And you, that was shortly after you had been
19 arrested?

20 A. Right after I was arrested.

21 Q. Right after you were arrested. And at that point
22 you told him you didn't know anything about any kind of
23 murder, right?

24 A. Correct.

25 Q. Or any kind of robbery, right?

1 A. That's right.

2 Q. And you said that Jeremy, as far as you knew Jeremy
3 didn't have anything to do with it, right? Is that right in
4 your first statement?

5 A. That's right.

6 Q. Okay. And then when they asked if you -- I think at
7 some point you said that Jeremy had gone into the house but
8 you hadn't gone into the house; is that correct?

9 A. That's right.

10 Q. Okay. And you said if Jeremy had shot him, you
11 would have known?

12 A. Correct.

13 Q. By his reaction. But he didn't have a reaction?

14 A. That's correct.

15 Q. Is that correct?

16 A. That's right.

17 Q. All right. So then a little bit later you're
18 talking to the police again and they said you were
19 hyperventilating. Do you remember that?

20 A. No, ma'am.

21 Q. Okay. All right. So by this point you told the --
22 Let me just get my sequence right. Okay. So first you told
23 them that you didn't know anything about any murder or robbery
24 and then you told them that Jeremy had gone in by himself and
25 gotten the evidence or gotten the --

1 A. I told them that we went up together and then I went
2 back to the car.

3 Q. Okay. So then finally the third story you said
4 y'all have got this man, referring to Brady, y'all have got
5 this man with the gun and the cards; is that right?

6 A. That's right.

7 Q. So you realized that they had evidence on Jeremy at
8 that point, right?

9 A. Yes, ma'am.

10 Q. They had told you --

11 A. I had read the warrant.

12 Q. Right. And in the course of talking to you they
13 told you that they had found out he had used the victim's
14 card; is that right?

15 A. I - I don't - I don't remember if they told me
16 that.

17 Q. Okay. That's fine. That's fine. All right. So at
18 that point you said that the old guy had a mask on; is that
19 right?

20 A. That's right.

21 Q. But then you said that he could barely talk, right?
22 And he was talking to you.

23 A. All the stuff I said there were lies.

24 Q. Okay. I understand that, but we still need to go
25 through this.

1 A. Okay.

2 Q. Okay. So at this point you said that the man was
3 talking to y'all, right?

4 A. Yes, ma'am.

5 Q. Okay. And you said that the old man came running
6 out and Jeremy shot him; is that correct?

7 A. No. I never said nothing like that.

8 Q. You never said anything like that?

9 A. No. (Witness shaking head.)

10 Q. So if that's in --

11 A. I think - I think it might have been a
12 misunderstanding or something, but he never came running out
13 or anything like that.

14 Q. So you never said that the man talked to y'all?

15 A. I think they misunderstood me when I said Jeremy
16 came running out. I think they misunderstood me.

17 Q. Okay. But you did say that the man talked to
18 y'all?

19 A. Yes, ma'am. I did.

20 Q. Okay. So you said that, but now today you're saying
21 he was asleep?

22 A. That's right.

23 Q. Okay. So you said that you heard three gunshots at
24 that point?

25 A. Yes, ma'am.

- 1 Q. Is that correct?
- 2 A. Yes, ma'am.
- 3 Q. All right. Now, you told them at this point that --
- 4 And this is back in early August 2012, right?
- 5 A. Yes, ma'am. August 3rd or 4th.
- 6 Q. You said Mr. Mitchell obviously knew Jeremy.
- 7 A. Right.
- 8 Q. Is that correct?
- 9 A. That's right.
- 10 Q. But that was wrong, right? That was a lie?
- 11 A. That was a lie.
- 12 Q. Okay. He actually knew you?
- 13 A. Yes, ma'am.
- 14 Q. And you just testified that you had talked to him a
- 15 week early?
- 16 A. That's right. Yes, ma'am.
- 17 Q. Okay. And had you ever been there before?
- 18 A. I had.
- 19 Q. Okay. So you had been there a number of times?
- 20 A. No. Once.
- 21 Q. Okay. So you had only been there with Chris
- 22 Tasuichi?
- 23 A. Yes, ma'am.
- 24 Q. You had never been there with Michelle Melton?
- 25 A. No.

1 Q. Okay. But you had talked to him on the telephone,
2 right?

3 A. Robert Mitchell?

4 Q. Yes.

5 A. No, ma'am. I think, I believe I've called, but I
6 don't think I've ever talked to him on the telephone.

7 Q. But you had called him?

8 A. Yes, ma'am.

9 Q. You had made contact with him?

10 A. Yes.

11 Q. So you knew Robert Mitchell, right?

12 A. Yes, ma'am.

13 Q. Jeremy didn't know him?

14 A. That's right.

15 Q. All right. So then you told officer or Detective
16 Grant at that point you said the old man didn't feel
17 comfortable having house guests that he didn't know; is that
18 correct?

19 A. That's right.

20 Q. And so you went on to explain that he didn't want
21 you to come in because Jeremy was the contact with Mr.
22 Mitchell?

23 A. That's right.

24 Q. Correct?

25 A. That's right.

1 Q. But, in fact, your testimony today is that you were
2 the contact, right?

3 A. Yes, ma'am.

4 Q. So Mr. Mitchell didn't want Jeremy to come in?

5 A. That's not true.

6 Q. Okay. So was it true that Mr. Mitchell didn't like
7 people he didn't know to come in?

8 A. I'm - I'm not too sure. I only met him that once
9 and it was for a brief couple minutes.

10 Q. Okay. So you just made that up?

11 A. What? Made what up?

12 Q. You just made up that part about the old man didn't
13 like having strangers come in his house?

14 A. Right. Yes, ma'am. I made that up.

15 Q. All right. And so you also stated that originally
16 at this time on October 3rd or 4th, I'm sorry, August 4th, you
17 said that you never saw the trunk of the car at all, right?

18 A. The trunk?

19 Q. The trunk of Michelle Webb's car?

20 A. Correct.

21 Q. All right. But, in fact, you were texting with
22 Jeremy a few days later saying that you knew your stuff was in
23 his trunk and that --

24 A. I believe --

25 Q. -- everybody saw you put that in the trunk?

1 A. I believe it was in Kimberly White's car which him
2 and his father came and got.

3 Q. Okay.

4 A. The car that was at Old Orangeburg with me and
5 Kim.

6 Q. Okay. So do you know -- So I'm just asking you from
7 your own personal knowledge, do you know why they went and got
8 that car?

9 A. Uhm --

10 Q. Just do you know?

11 A. I don't know.

12 Q. You don't.

13 A. I'm not too sure why they came and got the car. No,
14 ma'am.

15 Q. Okay. So the car wasn't running and it was at the
16 Old Orangeburg, the meth house, right?

17 A. That's right.

18 Q. And Kim had to leave it there because she got
19 arrested?

20 A. That's right.

21 Q. Okay. So at some point when Jeremy went to pick you
22 up later on, you were going through Kim's car; is that right?
23 When he picked you up in the early morning like you just
24 testified to, he picked you up from Old Orangeburg Road?

25 A. Mm-hmm.

1 Q. Were you going through Kim's car at that point?

2 A. No.

3 Q. Okay. So did Kim have any valuables in that car?

4 A. Just clothes.

5 Q. Okay. But there were parts in that car?

6 A. Yes, ma'am.

7 Q. Okay. So were you going to get some of those parts
8 out and sell them?

9 A. Yes, ma'am. I had purchased those parts on my
10 father's account at Advanced and I took them out.

11 Q. Okay. So you were gonna take her car apart for
12 parts, right?

13 A. Well, they were mine. Yeah. I bought them to fix
14 her car.

15 Q. Well, whose car was it?

16 A. Hers.

17 Q. Okay. All right. Now, you have been in the
18 detention center ever since this happened, correct?

19 A. Yes, ma'am.

20 Q. All right. And you testified earlier that you had
21 met with your attorney Sally Henry numerous times; is that
22 correct?

23 A. Yes, ma'am.

24 Q. And Ms. Henry provided you with your discovery in
25 the case, your motion?

1 A. Yes, ma'am.

2 Q. And that's all the evidence that the State has that
3 they have turned over to the defense, correct?

4 A. Yes, ma'am.

5 Q. Okay. So at some point you said that y'all decided
6 to go in and give another statement to the prosecutor and this
7 is in September of 2014, correct? Because as you said you
8 realized that you were guilty under the hand of one --

9 A. Hand of all. Yes, ma'am. And I thought the truth
10 needed to come out.

11 Q. All right. And you realized at that point that your
12 initial - or your statement when you first admitted knowing
13 about Mr. Mitchell's murder that you said he was wearing a
14 CPAP machine, right?

15 A. Yes, ma'am.

16 Q. Okay. So you would have had to been in the house to
17 know that obviously, right?

18 A. Yes, ma'am. I seen him.

19 Q. So you knew that you had put yourself in the house,
20 right?

21 A. That's right.

22 Q. Because as you just said so you would be guilty of
23 murder?

24 A. That's right.

25 Q. Even if you weren't the shooter, right?

1 A. That's right.

2 Q. So you figured out that you needed to try to work
3 out a plea agreement?

4 A. No, ma'am.

5 Q. Okay. So you wanted to talk to the Solicitor's
6 Office for what purpose? You weren't interested in a plea
7 agreement?

8 A. I mean, I haven't got offered any kind of a plea.

9 Q. No. That's not what I'm asking you. I understand
10 you have not, you do not have an agreement with Mr. Graham.

11 A. Right. Right.

12 Q. Okay. But when you went to talk to them, your
13 purpose was to get a plea agreement?

14 A. No. That's not my purpose.

15 Q. Okay. So you --

16 A. My purpose is, ma'am, that I know I'm guilty along
17 with Jeremy Brady of these charges and that I would rather the
18 truth be coming - to come out than somebody to point a finger
19 at me and said that I did it which when I didn't do it.

20 Q. So you're saying that you just went in there because
21 you needed the truth to come out, right? You weren't
22 interested in a deal for yourself; is that right? Is that
23 what you're testifying to?

24 A. That's right.

25 Q. Just out of the goodness of your heart because

1 you're just that kind of guy, right?

2 A. I guess so if you want to say that, ma'am.

3 Q. Right. But you stole his girlfriend and you pimped
4 her out and you got her hooked on IV drugs, but you're just
5 that good of a guy, right?

6 A. That's right.

7 Q. And Jeremy is the bad one who planned all of this
8 and murdered a man in cold blood for no reason? That's what
9 you're saying?

10 A. That's what I'm saying.

11 Q. Okay. So let me go back. So you had the discovery
12 in your case, right?

13 A. Yes, ma'am.

14 Q. And when you read that discovery, you knew that
15 Jeremy had told them that when you first came out of the house
16 from Mr. Mitchell's trailer, that you were going - you went
17 and got into his white truck, right?

18 A. White truck. Right. Repeat that.

19 Q. You had your discovery. In your discovery you read
20 Jeremy's statement?

21 MR. GRAHAM: Objection, Your Honor. Can we
22 approach?

23 THE COURT: All right.

24 (Side bar off the record.)

25 THE COURT: All right. Proceed, ma'am.

1 MS. CLEARY: Thank you.

2 BY MS. CLEARY:

3 Q. Okay. So you had the discovery which is all these
4 boxes and papers and stuff?

5 A. Yes, ma'am.

6 Q. Okay. And you have all of that in the jail
7 with you?

8 A. Yes, ma'am.

9 Q. Right. And in that discovery is a statement, and
10 at this point I'm not asking you to tell me the content of
11 that statement, from Jeremy, right?

12 A. Mm-hmm. Excuse me.

13 Q. But to this extent I will ask you do you remember
14 reading that Jeremy said that you ran out into the white truck
15 like you were gonna take it away?

16 A. I got that statement the first day I was arrested.
17 And yes, I do remember that.

18 Q. Okay. So you got that statement the first day you
19 were arrested?

20 A. Yes, ma'am.

21 Q. Okay. So then in none of your previous statements
22 up until September 14th had you said anything about the white
23 truck, right? You had never said anything about the white
24 truck?

25 A. That's right.

1 Q. All right. So you said that the only gun that you
2 had ever had was a BB pistol, right?

3 A. Right.

4 Q. Okay. And did you have it with you that day?

5 A. I believe I did.

6 Q. All right. Because you carry it around in your two
7 knapsacks?

8 A. Right. It's stuff that I had with me. Yes, ma'am.

9 Q. And that's a pretty realistic looking BB pistol,
10 right?

11 A. Far away, yes, ma'am.

12 Q. Far away. All right. But I mean, you would agree
13 that if you were to hold that to somebody, they could think it
14 was real?

15 A. No.

16 Q. Or that would be a reasonable belief by someone who
17 is not familiar with guns?

18 A. No.

19 Q. Okay. All right. That's fine. All right. So all
20 right. Now, I understand you testified that Mr. Graham has
21 not promised you that you're gonna get any amount of time for
22 your testimony?

23 A. That's correct.

24 Q. All right. But it's true that it's your
25 understanding that you are going to get no more than ten

- 1 years?
- 2 A. No. It's not true.
- 3 Q. Your understanding?
- 4 A. No. That's not true.
- 5 Q. So have you told other people on the -- Or you talk
- 6 on the phone in the jail?
- 7 A. I believe - I believe that --
- 8 Q. Wait a minute. Let me go one step at a time. You
- 9 talk on the phone --
- 10 A. I do.
- 11 Q. -- from the jail. And you understand those calls
- 12 are recorded?
- 13 A. That's right.
- 14 Q. Right. Okay. And then sometimes you and other
- 15 inmates may exchange pin numbers?
- 16 A. That's right.
- 17 Q. All right. But that all of those calls are recorded
- 18 regardless; is that right? You understand that?
- 19 A. They are all recorded. They are all recorded and
- 20 monitored, yes, ma'am.
- 21 Q. And they say that at the very beginning?
- 22 A. Yes, ma'am.
- 23 Q. They say that at the very beginning of the call?
- 24 A. Yes, ma'am.
- 25 Q. Okay. So did you or did you not say on one of those

1 phone recordings that you weren't going to get any more than
2 ten years?

3 A. I probably did. I probably said I'm going home,
4 too, which I hope to.

5 Q. All right. So you admit you're hoping to get
6 considerably less?

7 A. Hope. Yes, ma'am.

8 Q. Okay. And you know what the maximum penalty is?

9 A. Life.

10 Q. Life in prison?

11 A. Yes, ma'am.

12 Q. Life plus, right --

13 A. Yes, ma'am.

14 Q. -- when you add up all the charges and do it --

15 A. That's correct.

16 Q. -- consecutively. Okay. But you have already been
17 in there for three years, right?

18 A. That's right.

19 Q. So you know that you would be out in a couple of
20 years; is that right?

21 A. For what?

22 Q. If you were to plead to a ten year sentence
23 depending on the charge you know that you don't have too much
24 longer?

25 A. If I was to plea to something like that?

1 Q. If you were to get ten years.

2 A. Well, I'm not too sure about how much time you get,
3 but ten years is not that much longer. Take away three would
4 be seven.

5 Q. All right. And you know Mr. Shawver, right? James
6 Shawver?

7 A. Yes, ma'am. I do.

8 Q. And you were friends with him on the outside before
9 you ever went into the detention center; isn't that correct?

10 A. No. That's wrong.

11 Q. You had never met him?

12 A. No, ma'am.

13 Q. You had never met him at all?

14 A. On the street never.

15 Q. Okay. But you were roommates at the detention
16 center at some point?

17 A. We were. Yes, ma'am.

18 Q. Okay. And you and he exchanged pin numbers; is that
19 correct? Sometimes you would use his pin?

20 A. I believe - I believe I gave him my pin number to
21 use. Yes, ma'am.

22 Q. Okay. And you talked to his mother on the phone; is
23 that right?

24 A. That's right.

25 Q. And you had her research the different penalties for

1 different offenses; is that correct?

2 A. I don't remember.

3 Q. Okay. Did you have her research the hand of one is
4 the hand of all? Do you remember doing that?

5 A. I don't. No, ma'am.

6 Q. Okay.

7 A. I don't remember that.

8 Q. Do you want me to play the tape for you?

9 A. I mean, I'm not saying that I didn't do it, but I'm
10 saying I don't remember. I have been there three years. I
11 have talked to her a very lot.

12 Q. Okay. And did you talk to her about the legal
13 issues related to your case?

14 A. Right. Well, I have talked to my lawyer Sally Henry
15 about the hand of one the hand of all and I understand it
16 completely.

17 Q. Okay. And then did you also have her research the
18 different prison facilities in South Carolina?

19 A. Yes, ma'am. I did.

20 Q. So you could pick out which one you wanted to go
21 to?

22 A. Yes, ma'am. I did.

23 Q. Okay. So again you're saying that no one has ever
24 suggested to you that if you come forward with this
25 information and you testify today, that you're gonna get ten

- 1 years?
- 2 A. Nobody has suggested that.
- 3 Q. Nobody at all?
- 4 A. No, ma'am.
- 5 Q. But you may have said that on the phone to somebody?
- 6 You agree to that, right?
- 7 A. I have said that I'm going home on the phone.
- 8 Q. All right.
- 9 A. I have said -- Yes. I have said a lot of things.
- 10 Q. Okay. So if you said to one of your friends on the
- 11 phone I've talked to my lawyer and I'm getting ten years, you
- 12 just were making that up?
- 13 A. I would be lying.
- 14 Q. You were just lying?
- 15 A. Yeah.
- 16 Q. Okay. All right. So now I know that you talked
- 17 about that you had talked about hand of one is the hand of
- 18 all, but you have realized from your initial statements to the
- 19 police that you couldn't go back and deny that you were in the
- 20 trailer, right?
- 21 A. That's correct.
- 22 Q. So then you in your September 2014 statement you
- 23 said both of you went into this trailer; is that right?
- 24 A. Yes, ma'am.
- 25 Q. And Jeremy went this way - Jeremy went to the right

1 and you went to the left?

2 A. Yes, ma'am.

3 Q. Okay. So in your discovery you saw that it said
4 that Mr. Mitchell was wearing a breathing mask?

5 A. Yes, ma'am.

6 Q. And did you see where it said that it had been
7 disconnected when he got shot or a bullet had gone through?

8 A. I don't recall seeing that in the discovery. No,
9 ma'am.

10 Q. Okay. All right. And you were reading some of your
11 discovery over the phone as well, right? I mean you have been
12 --

13 A. I don't remember that.

14 Q. -- researching and keeping up with this case,
15 right?

16 A. Yes, ma'am.

17 Q. And you have been figuring out your options; is that
18 right?

19 A. I don't - I don't --

20 Q. Well, I mean, that's what you do --

21 A. -- hold the options in my hand but...

22 Q. Okay. So you don't think, from testifying today you
23 don't think that you're gonna get any benefit?

24 A. I know I'm going to prison and I don't see that as
25 beneficial.

1 Q. Okay. But you would agree there is a big difference
2 from going to prison for ten years and going to prison for
3 life plus, right?

4 A. I see there is a difference in that. Yes, ma'am.

5 Q. Okay. So you're honestly telling this jury today
6 that you don't think there's any benefit for you testifying
7 here, right, because you know you're going to prison?

8 A. I mean, I can't answer that question. I mean, I'm
9 not the Solicitor. I don't -- I --

10 Q. No. I'm asking what you believe. Do you believe --

11 A. I hope. I don't believe. I hope. I hope that
12 something does come good out of it which I didn't come here to
13 tell you that. I came here to tell the truth because I wasn't
14 always this bad drug addict person. I came from a good family
15 and I got mixed up in that when I became 16 or 17 years old so
16 I haven't always been a bad person.

17 Q. Okay. So let me ask you one more thing now.

18 A. Yes, ma'am.

19 Q. You stated today that y'all only went to Mr.
20 Mitchell's house one time, right, on the morning of July --

21 A. That's right. That's correct.

22 Q. Okay. All right. And you had your telephone
23 with you?

24 A. That's right.

25 Q. All right. In your original statement you said it

1 was, or in your September of 2014 statement, right, which is
2 more than two years after your first statement, you said that
3 Jeremy picked you up at 4:00 a.m.?

4 A. Somewhere around that time. I'm not too sure of the
5 exact time.

6 Q. Right. But you had your cell phone with you?

7 A. Right.

8 Q. So you could look at that and see what time it is?

9 A. Right.

10 Q. Okay.

11 A. I don't remember what time it was exactly.

12 Q. All right. And now what time are you saying he
13 picked you up?

14 A. I know it was dark.

15 Q. It was dark. And then do you have any idea what
16 time it was that y'all arrived at Mr. Mitchell's house?

17 A. No, ma'am. But the sun was up.

18 Q. And you had never been to Mr. Mitchell's house other
19 than a week prior, right?

20 A. That's correct.

21 Q. Okay. And you said that you and Michelle Webb don't
22 like each other --

23 A. That's right.

24 Q. -- is that right? Okay. So do y'all ever do drugs
25 together, intravenous drug use?

1 A. We have in the past, but we don't hang out together,
2 no, ma'am.

3 Q. Okay. And had you pimped her out?

4 A. No, ma'am.

5 Q. Okay. So just Kim?

6 A. Yes, ma'am.

7 Q. All right. So you testified just a few minutes ago
8 though that that BB gun was, that a reasonable person wouldn't
9 think it was real, right?

10 A. Up close you could definitely tell, but from far
11 away you could definitely, you would definitely believe it was
12 a gun, a real gun.

13 Q. Like how far away?

14 A. From me to the officer, the officer right there.
15 You couldn't tell if it was a real gun or not. You could tell
16 it was - you could tell it was real. You could say it was
17 real. But from me to you you can definitely see it's a fake
18 gun. It's got holes in it. It's cracked in half.

19 Q. All right. Were you proud of that gun?

20 A. No, ma'am.

21 Q. All right. Mr. Williams, do you recognize this
22 picture?

23 A. I do.

24 Q. Where does this picture come from?

25 A. That is a picture that I took in Florida when I was

1 staying at my dad's car lot.

2 Q. All right. But it was on your cell phone --

3 A. That's right.

4 Q. -- when you were arrested?

5 A. That's right.

6 Q. Is that the BB gun?

7 A. No, ma'am. That's a different one.

8 Q. Oh, that's a different handgun?

9 A. Yes, ma'am.

10 Q. That's a real handgun?

11 A. No. That actually is another BB gun.

12 Q. Oh, okay. So it's a different one?

13 A. Yes, ma'am. That one's my brother's.

14 Q. But you would agree that that one could probably
15 fool somebody?

16 A. That one definitely could up close.

17 Q. Okay. But you're proud of it, right?

18 A. No, ma'am.

19 Q. You took a picture of it?

20 A. No, ma'am.

21 Q. You're not proud of it?

22 A. No, ma'am.

23 Q. You kept this on your phone all this time. Have you
24 had a lot of different phones?

25 A. Yes. I have.

1 Q. Okay. But this one you're now saying is from
2 Florida, right?

3 A. That picture is from Florida.

4 Q. It was on your phone in 2012 when you were
5 arrested?

6 A. Right. That picture was from Florida.

7 Q. So how did you transfer it to the new phone? You
8 had them all up in the cloud or something, your photos?

9 A. I think you can send what's called a picture text
10 message.

11 Q. Okay. So it was important enough for you to save
12 this picture, right?

13 A. I guess you could say that. I mean, I sent it to my
14 phone.

15 Q. All right. But you agree that this is you in the
16 photograph?

17 A. That's me. Yes, ma'am.

18 MS. CLEARY: Your Honor, I would like to admit this
19 photograph that I have pre-marked.

20 MR. GRAHAM: Object to relevance, Your Honor.

21 THE COURT: Folks, let me get you to step back in
22 the jury room. Let me take up this matter of law.

23 Please have no conversation about the case.

24 (Whereupon, the jury entered the jury room at 12:05
25 p.m.)

1 THE COURT: All right. Let me hear from you now
2 that the jury is out.

3 MR. GRAHAM: I guess, Your Honor, I don't understand
4 what the relevance is of a BB gun or him having one in
5 Florida before 2008. I don't see how that's relevant to
6 what we are talking about today. I believe that -- I
7 mean, I don't know what her purpose in offering it is,
8 but it's prejudicial talking about something -- I mean, I
9 don't know what she's going to do with it.

10 THE COURT: What is the relevance, Ms. Cleary?
11 There's no -- I mean, you all can correct me. Obviously
12 we are early in the trial, but it sounds like any
13 evidence in this case as far as the murder weapon is that
14 it was a shotgun. There is no evidence that it was a
15 handgun so what's the relevance of the picture?

16 MS. CLEARY: Right. There was evidence that he also
17 had a BB gun that looked liked a shotgun, but he's saying
18 that's not this one. But I don't think, I mean, this is
19 on his phone now so I don't think the remoteness matters,
20 but he's trying to paint it as if Jeremy is the cold
21 blooded murderer who is violent rather than him and so
22 this is relevant to show that this is the sort of guy
23 that he is because what he's saying is --

24 BY THE WITNESS:

25 A. It's a BB gun.

1 MS. CLEARY: This one is a BB gun?

2 BY THE WITNESS:

3 A. Yes. It's a BB gun.

4 THE COURT: Yes. He testified that that was a BB
5 gun.

6 MS. CLEARY: Okay. Yeah. Right. I'm sorry. So
7 it's relevant to show that he's the one that is the --

8 THE COURT: Here's the thing. You know, and I
9 understand things can be taken the way an individual
10 thinks of it, but I mean, his testimony is that - his
11 testimony is that your client is the one who shot the
12 victim. He didn't come out and call him cold blooded.
13 He just said that he's the one who shot the victim. I
14 mean, I don't see the relevance in this photograph to any
15 issue in this case. Now, that's the problem I have got
16 with it. It's a picture that was taken back in 2007 in
17 Florida.

18 BY THE WITNESS:

19 A. No, sir. That was -- I had went back to Florida.
20 That was taken in 2012.

21 THE COURT: Okay. But regardless of when it was
22 taken, I'm not sure of the relevance to any issue in this
23 case. I don't know what it goes to show. I mean,
24 evidence is admitted into trial that goes to show some
25 relevant issue in the trial.

1 MS. CLEARY: Well, I mean, I think --

2 THE COURT: I mean, I can see it being relevant if
3 the weapon that killed the victim was a handgun.

4 MS. CLEARY: Right. No doubt about that. I think
5 maybe what we are trying to do is to, you know, by
6 testifying --

7 THE COURT: You're trying to show him as the bad
8 guy.

9 MS. CLEARY: Right. Right. Because he's putting
10 his character, you know, into it, I mean.

11 THE COURT: I don't think he's putting his character
12 into evidence. He's just taking the stand, sworn to tell
13 the truth which all witnesses do. I mean, there is no
14 character evidence in this case at this point.

15 MS. CLEARY: Well, I mean, I think he testified that
16 he's just doing this just because he's a nice guy.

17 THE COURT: No. He's just saying he's doing it
18 because he's telling the truth.

19 MS. CLEARY: Sorry. I'll remember that.

20 THE COURT: At this point I'm going to sustain the
21 objection. I don't see any relevance. If it becomes
22 relevant at some point, we'll certainly revisit it.

23 MS. CLEARY: All right. Okay. That's fine. Thank
24 you.

25 THE COURT: All right. Bring the jury back in

1 please.

2 (Whereupon, the jury to the courtroom at 12:10 p.m.) /

3 THE COURT: All right. I'll sustain the objection.

4 Ms. Cleary, you may continue your examination, ma'am.

5 MS. CLEARY: Thank you.

6 BY MS. CLEARY:

7 Q. Okay. So you testified that you may have had the BB
8 gun with you that day, right, in your knapsack?

9 A. Yes, ma'am.

10 Q. But you didn't hold it on anybody or anything like
11 that?

12 A. No, ma'am.

13 Q. And you didn't bring it into the trailer?

14 A. No, ma'am.

15 Q. So you said that it's not particularly realistic; is
16 that right?

17 A. Excuse me.

18 Q. You said it's not a realistic looking gun; is that
19 right?

20 A. From up close, yes, ma'am.

21 Q. All right. But you could use it to hold somebody up
22 or they would have to be blind, is that what you're saying?

23 A. I mean, if you was to hold it up to your head, I
24 mean, you can definitely tell it's a fake gun.

25 Q. All right. All right. Let me ask you if you

1 recognize this?

2 A. That's it.

3 Q. This is it?

4 A. That's it.

5 Q. And this is your gun and this is the one that you
6 say wasn't very believable, right?

7 A. That's correct.

8 Q. All right. Uhm, and this is the gun that you had
9 with you on the day that Mr. Mitchell was killed?

10 A. In my knapsack. Yes, ma'am.

11 Q. In your knapsack?

12 A. Yes, ma'am.

13 MS. CLEARY: Your Honor, I would like to move
14 defendant's exhibit 1 into evidence at this time.

15 THE COURT: Any objection?

16 MR. GRAHAM: To defense 1, no, Your Honor.

17 THE COURT: Okay. That is marked as defense 1 and
18 that is in evidence without objection.

19 BY MS. CLEARY:

20 Q. Okay. So once again you would agree that you gave
21 Detective Grant several different stories, right?

22 A. Yes, ma'am.

23 Q. And they were conflicting stories, right?

24 A. Yes, ma'am..

25 Q. But you were scared I think is what you testified

1 to, right?

2 A. Yes, ma'am.

3 Q. All right. And just one final question. You
4 testified that you're only testifying here today because
5 you want to tell the truth, right?

6 A. That's correct. Yes, ma'am.

7 Q. Just out of the kindness of your heart?

8 A. That's right.

9 Q. Because you're that kind of person?

10 A. (Witness nodding head.)

11 MS. CLEARY: All right. Thank you. That's all I
12 have.

13 BY THE WITNESS:

14 A. You're welcome. Thank you.

15 THE COURT: Any redirect?

16 MR. GRAHAM: Just a few.

17 THE COURT: Okay.

18 REDIRECT EXAMINATION

19 BY MR. GRAHAM:

20 Q. How many times did you talk to the police?

21 A. Once.

22 Q. And the time that you talked to the police, who did
23 you have present at Mr. Mitchell's house?

24 A. Excuse me.

25 Q. When you talked to the police for the very first

1 time, who did you tell them was at Mr. Mitchell's house?

2 A. Mr. Brady.

3 Q. And who?

4 A. Me. Myself.

5 Q. Have you ever wavered from that, that the two of you
6 were together?

7 A. No, sir.

8 Q. Did you tell somebody that you were going to get ten
9 years on this?

10 A. I said that I was hoping to get somewhere around
11 there. Yes, sir. I did.

12 Q. And why did you say that?

13 A. I mean, I don't -- I'm not sure why I said that. I
14 mean, that's what I'm hoping for. I was hoping to get
15 something like that.

16 Q. Has anybody given you an idea of whether that's
17 realistic?

18 A. No. No, sir.

19 Q. Sitting here today do you think it's realistic?

20 A. No. Not really.

21 Q. And you understand that you've admitted that you are
22 guilty of murder under hand of one, hand of all, burglary,
23 armed robbery and that the punishment for that is up to life
24 in prison?

25 A. Yes, sir.

1 Q. You're hoping that that doesn't happen?

2 A. I'm hoping, yes, sir, that that doesn't happen.

3 MR. GRAHAM: Thank you.

4 MS. CLEARY: May I?

5 THE COURT: Yes, ma'am.

6 MS. CLEARY: Just very briefly.

7 THE COURT: Yes, ma'am.

8 RECROSS EXAMINATION

9 BY MS. CLEARY:

10 Q. All right. You just testified that you in your very
11 first statement you told the police that you and Jeremy were
12 in Mr. Mitchell's house. That's not correct, is it?

13 A. Repeat the question.

14 Q. You just testified that in your very first statement
15 to the police that you told them that you and Jeremy had gone
16 into the man's house?

17 A. That's correct.

18 Q. Now, isn't it correct that you first told Grant that
19 you knew nothing about any of this?

20 A. Well, see, that was all at the same time.

21 Q. Okay. So your initial statement --

22 A. Initially I said I didn't know nothing about it.

23 Q. That you didn't know anything about it, right? All
24 right. So when you finally admitted some involvement to the
25 police, right?

1 A. Yes, ma'am.

2 Q. You told them that you had been inside the house and
3 that the man was wearing a CPAP machine, right?

4 A. That's correct.

5 Q. So you had put yourself right there in the scene of
6 the murder?

7 A. Yes, ma'am.

8 Q. All right. So regardless of what you say today, at
9 that point you had already put yourself in the scene of the
10 crime --

11 A. That's correct.

12 Q. -- is that right? So you just testified that you
13 understand that you're not necessarily going to get a benefit,
14 right?

15 A. That's correct.

16 Q. And that you testified because this is the way it
17 happened, right?

18 A. That's right.

19 Q. But you understand that once you had made that
20 statement saying that, you know, you had been in the house,
21 right, that you were going to be convicted one way or the
22 other of this crime or that's what you believed, right?

23 A. I'm guilty, too.

24 Q. Right. So this story today is not necessarily a
25 benefit to you, is that what you're saying?

1 A. I haven't been promised anything. I mean...

2 Q. Okay.

3 A. I don't know how the judicial system thing works
4 with all that, but nothing has been promised to me and I'm not
5 gonna sit and not come testify and have somebody telling them
6 that I did it which would be a lie.

7 Q. Okay. All right. So in your initial statement you
8 did put yourself there, right?

9 A. Yes, ma'am.

10 MS. CLEARY: Okay. That's all I have. Thank you.

11 THE COURT: All right. Thank you very much, sir.

12 You may step down.

13 MR. GRAHAM: Can we approach?

14 THE COURT: Let me get y'all to step up here please.

15 (Side bar off the record.)

16 THE COURT: All right. Folks, we'll take just a
17 short break and let the staff use the restroom and things
18 like that so please have no conversation about the case
19 and we'll take about ten minutes and then we'll start
20 back.

21 (Whereupon, the jury entered the jury room at 12:20
22 p.m.)

23 (Short recess.)

24 BAILIFF: Please keep your seats. Please come to
25 order.

1 THE COURT: All right. I'm being serious, okay?
2 You may think I'm kidding but I'm not. We are going to
3 take, I think we'll be able to get one more witness in
4 and then we're gonna break for lunch and when we
5 reconvene, we're gonna reconvene back upstairs. We're
6 gonna move it back upstairs. The jury has complained to
7 the bailiff that the courtroom is hot. Not the jury room
8 but the courtroom and so I went upstairs with Dee and he
9 and I, we got up on a chair and felt up there. There is
10 cool air coming out of the vents in the jury room. The
11 jury room is comfortable but, of course, it's empty. But
12 I think it will remain that way because I don't think
13 they're gonna be in it that often this afternoon and
14 listen, I apologize to Steve mainly and to defense
15 counsel. I think y'all have several boxes. Anybody that
16 has to haul stuff, I apologize. But I just think in the
17 long run we're gonna be better off upstairs if the
18 temperature is gonna allow it to be that way and I
19 wouldn't have done that but for their comment that they
20 would rather be upstairs because they think that
21 courtroom is cooler than this one and they're right, it
22 is. All right. Yes, sir.

23 MR. GRAHAM: Just briefly, Your Honor, there's some
24 confusion about whether State's 12 and 24 were actually
25 introduced into evidence. I have conferred with

1 co-counsel and we all agree that they have been
2 introduced into evidence.

3 THE COURT: Okay. I didn't have 12 or 24. I
4 remember you referencing 24, but I didn't remember it
5 being moved in but anyway we'll let the record reflect
6 that State's 12 and 24 are in evidence and I think
7 defense 1 is in evidence and that was without objection
8 as well. All right. Are we ready to begin then?
9 State's ready?

10 MR. GRAHAM: The State's ready, Your Honor.

11 THE COURT: Defense ready?

12 MS. CLEARY: Defense is ready, Your Honor.

13 THE COURT: Let's bring our jury back.

14 (Whereupon, the jury returned to the courtroom at
15 12:35 p.m.)

16 THE COURT: Ladies and gentlemen, I meant to mention
17 this to you when we got started and I forgot. I'll
18 mention it to you now. You may have noticed as you come
19 in and out of the courtroom that the attorneys and the
20 parties at the tables are not standing and I want you to
21 know that that's at my request. And just a quick story.
22 When I was practicing law, I was working over in Aiken
23 and there was a trial going on and one of the attorneys
24 during the course of the trial, you know, when you're out
25 and we're in here taking up a matter of law, when we get

1 done, the lawyers oftentimes will take that opportunity
2 to confer with each other and during that trial when the
3 jury would come back in, the lawyers at one of the
4 tables, they were conferring with each other and they
5 weren't paying attention and they didn't stand and the
6 other side stood and when the trial was over, a couple of
7 the jurors complained; didn't complain, but they noted
8 that they thought that the one side was very respectful
9 of the jury and the other side seemed to not care about
10 the jury and that wasn't the case at all. And so once I
11 became a judge I thought the good practice is to keep
12 everybody on the same page and so I routinely ask the
13 attorneys to not stand so that everybody is on the same
14 page and we don't have some standing and some not.

15 Also, and I don't know if you'll have this occasion,
16 but you're in a courthouse and y'all come and go and they
17 come and go and you may run into them in the hallway or
18 coming up the elevator or whatever. The lawyers are
19 under an ethical obligation to have no communication with
20 the jury. So if you run into any of these folks out in
21 the hall or somewhere and they don't speak to you, they
22 are not being rude. They are doing what they're supposed
23 to do and that is to not have any communication. I can
24 tell you that I have worked with all of these folks and
25 they're all incredibly pleasant and nice people. They're

1 not being rude. They're just doing what they're supposed
2 to do and that is to not have any communication with the
3 jury panel, okay?

4 Now, the other thing is I was going to make a Bible
5 reference. I won't do that. I was gonna say I've heard
6 the cry of the people and we're gonna take another
7 witness and then we're gonna break for lunch. When we
8 come back from the lunch break, we're gonna reconvene
9 back upstairs on the fourth floor, okay? I have been
10 informed that the jury room is good. The courtroom is
11 good. And as it turns out it's a little warm in here I
12 think. So I think everyone will be more comfortable
13 upstairs. The only reason we came down was because I was
14 very concerned about your jury room. It got very hot in
15 there yesterday. You weren't here for that but, and we
16 were very concerned about it but I think they have got it
17 under control so we're gonna do that.

18 All right. If you recall when we took the break a
19 moment ago, we were on the State's case and we will
20 recognize the State for their next witness.

21 MR. GRAHAM: Thank you, Your Honor. The State calls
22 Amanda Anderson.

23 Thereupon,

24 AMANDA ANDERSON

25 after having been first duly sworn, testified as follows,

1 THE CLERK: Please have a seat. After you're
2 seated, please state your full name spelling your last
3 name for the record.

4 THE WITNESS: Amanda K. Anderson, A-n-d-e-r-s-o-n.

5 DIRECT EXAMINATION

6 BY MR. GRAHAM:

7 Q. Amanda, can you pull that microphone just a little
8 bit closer to you.

9 A. (Witness complies.)

10 Q. You're upset today. What's wrong?

11 A. I'm - I'm ready for this all to be over and this is
12 the first time I have seen my brother in three years.

13 Q. How long have you known Jeremy Brady?

14 A. Almost nine years.

15 Q. How about Nick Williams?

16 A. Uhm, about eight.

17 Q. What was your relationship with Nick?

18 A. We were just close friends.

19 Q. How about Jeremy?

20 A. Jeremy was my brother, not blood, but he was my
21 brother. We were very, very close. I did things with his
22 daughter. He did things with my son and we were a family.

23 Q. Back in July of, end of July of 2012 where were you
24 living?

25 A. I was living at [REDACTED].

- 1 Q. State's number 26, is that your house at the time?
- 2 A. Yes, sir.
- 3 Q. Who were you living at that house with?
- 4 A. I lived there with my son and my boyfriend James
- 5 White.
- 6 Q. James White?
- 7 A. James White, yes.
- 8 Q. Does James White have a sister?
- 9 A. Yes, he does. Kimberly White.
- 10 Q. Kim White?
- 11 A. Mm-hmm.
- 12 Q. And that's the one who Jeremy had a relationship
- 13 with and then Nick had a relationship with?
- 14 A. Yes.
- 15 Q. Is there also, does James have another brother?
- 16 A. Yes.
- 17 Q. And who is that?
- 18 A. William or Will.
- 19 Q. Back in July, end of July of 2012 how would you
- 20 describe the relationship between Nick and Jeremy?
- 21 A. They tolerated each other but they didn't like each
- 22 other.
- 23 Q. The end of July of 2012, were you having to move out
- 24 of that house on Two Notch?
- 25 A. Yes.

1 Q. Why was that?

2 A. Uhm, there was a couple reasons of why. Mainly we
3 were a little behind on our rent and we just figured it was
4 just time to move on. We had been there for a while.

5 Q. Do you remember during the end of the month as you
6 were moving out, were you actually packing up things and
7 getting ready to actually put them in trucks the next day?

8 A. I was.

9 Q. Do you remember Nick and Jeremy coming to your
10 house?

11 A. I do.

12 Q. Was it light or dark when they came?

13 A. It was dark.

14 Q. Was it nighttime or was it early morning?

15 A. It was -- I would say it was in the a.m. It was
16 past 12:00.

17 Q. How did they get to your house?

18 A. They drove a friend of ours car, Michelle's car.

19 Q. That's Michelle Webb?

20 A. Yes.

21 Q. Do you recognize State's 30?

22 A. (Witness nodding head.)

23 Q. Who was driving Michelle's car?

24 A. Jeremy.

25 Q. Other than Jeremy and Nick was there anybody else in

1 the car?

2 A. No.

3 Q. What did you think about it when you saw the two of
4 them together?

5 A. I'd seen them together before, but I mean, I didn't
6 really -- I mean, it was a little weird, but it didn't really
7 make me question anything because it had happened before. I
8 had seen them together before a few times. A few times I had
9 seen them together before.

10 Q. Did they stay in the car or did they come out of the
11 car or did they come in your house? What happened?

12 A. Nick came in my house.

13 Q. Did Jeremy ever come in the house?

14 A. No.

15 Q. Do you know what they were looking for?

16 A. I knew Nick came in my house and I was in the
17 hallway and he - I was away from everyone and he asked me
18 where our shotgun was or the shotgun was.

19 Q. What did you tell him?

20 A. I told him that I didn't know where the gun was
21 because I had made my boyfriend get rid of the gun a couple
22 weeks before that and I told him to - I told him to ask Will
23 where the gun was.

24 Q. You told Nick to ask Will where the gun was?

25 A. Yes, sir.

1 Q. After you told Nick to ask Will where the gun is,
2 did you go outside?

3 A. I went to my porch and then Nick and Will and
4 Vanessa was his girlfriend at the time, you know, they were
5 talking on the porch and Jeremy was still in the car.

6 Q. Did you go over and speak with Jeremy?

7 A. I did.

8 Q. How was Jeremy acting?

9 A. He wasn't really saying much.

10 Q. Was that usual or unusual for you and him?

11 A. I mean, like I say, we're very close, but I mean, he
12 was going through a lot at the time. He really didn't say
13 much. It was unusual for him, but he was going through a lot
14 because Kim had just got put in jail.

15 Q. What, if anything, did you ask Jeremy about a
16 shotgun?

17 A. I just asked him what - what they were looking for a
18 gun for.

19 Q. And what was his response?

20 MS. RUSSELL: Objection. Hearsay.

21 MR. GRAHAM: It's the defendant, Your Honor.

22 THE COURT: The question was what did you ask the
23 defendant?

24 MR. GRAHAM: What did you ask the defendant and what
25 did he answer?

1 THE COURT: Okay. Overruled. It's a statement of
2 the defendant.

3 BY MR. GRAHAM:

4 Q. So you asked Jeremy Brady what he and Nick needed a
5 shotgun for?

6 A. I -- That wasn't my exact words. My exact words
7 were what's going on, was my exact words.

8 Q. Do you remember -- You did not ask him any questions
9 about a shotgun or about a gun?

10 A. I just asked him why they needed it.

11 Q. Why they needed what? You have to say the words.

12 A. Why they needed a gun.

13 Q. After you asked him why they needed a gun, what did
14 he respond?

15 A. He just told me not to worry. That everything would
16 be okay because he knew I was upset.

17 Q. Did they shortly leave after that?

18 A. (Witness nodding head.) They stayed for a little
19 bit longer, but yeah, shortly after that they left, yeah.

20 Q. Do you remember, you had mentioned somebody named
21 Vanessa. Who is Vanessa?

22 A. Vanessa Dinkins. She was Will's girlfriend at the
23 time.

24 Q. Do you remember who left first, whether Nick and
25 Jeremy left first or whether Will and Vanessa left?

1 A. I think Will and Vanessa left first.

2 Q. Do you know where Nick and Jeremy were going? Did
3 they say?

4 A. (Witness shaking head.) They didn't say it to me
5 where they were going. No.

6 MR. GRAHAM: Thank you, Amanda. Please answer any
7 questions they have for you.

8 CROSS EXAMINATION

9 BY MS. RUSSELL:

10 Q. Ms. Anderson, I'm Brie Russell here with Mr. Brady.
11 I'm sorry that you're having such a hard time getting through
12 today. I'll try to ask you as few questions as possible. You
13 said that Nick is the person that came inside your house
14 first, right?

15 A. Yes.

16 Q. Okay. And he's the person that asked where the
17 shotgun was --

18 A. Yes.

19 Q. -- is that right? Okay. And you provided a written
20 statement to law enforcement; is that right?

21 A. I did.

22 Q. And that was in April of 2014; is that right?

23 A. Yes.

24 Q. Okay. And during that time did you have a broken
25 leg?

1 A. I did.

2 Q. And you were under prescription medications for
3 that?

4 A. Yes.

5 Q. Pain relievers?

6 A. Yes.

7 Q. And I believe you also take a depressive or an
8 anti-depressive medication; is that right?

9 A. I do and I take Xanax as well.

10 Q. Okay. So the day that you made your statement in
11 2014 were you under the influence of both of those drugs?

12 A. I was.

13 Q. Okay. And in that statement I believe that you said
14 that Nick came back to your house the following day; is that
15 right?

16 A. Yes.

17 Q. And, uhm, I believe you described him as having
18 chest pains; is that right?

19 A. Yes.

20 Q. Or he was acting like it was hard to breathe?

21 A. (Witness nodding head.) Yes.

22 Q. Okay. And also when you made that written
23 statement, were you the person that was writing down the
24 facts?

25 A. I was the person writing.

1 Q. Okay. And then later on in May of 2015 did law
2 enforcement contact you about this again?

3 A. (Witness nodding head.)

4 Q. And at that time you were in Lexington County
5 Detention Center?

6 A. I was.

7 Q. And you got to Lexington County because you were
8 arrested in your driveway; is that correct?

9 A. Basically, yeah..

10 Q. What do you mean by basically?

11 A. I was -- I would say I was about two feet from my
12 driveway.

13 Q. Okay. And then you said that Will and Vanessa left
14 before Nick and Jeremy; is that right?

15 A. Yes.

16 Q. Okay. The next day when Nick came to your house,
17 did you guys get high together?

18 A. We did.

19 Q. So you also used street drugs sometimes; is that
20 correct?

21 A. (Witness nodding head.)

22 Q. And on the night that you were moving out on July
23 27th and 28th, had you guys been doing drugs at your house
24 that night?

25 A. Yes.

1 Q. Do you think that that has had any affect on your
2 memory being able to recall the exact events of that day?

3 A. I do.

4 MS. RUSSELL: Thank you.

5 THE COURT: Redirect.

6 MR. GRAHAM: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. GRAHAM:

9 Q. Amanda, do you remember going to Jeremy and asking
10 him what he and Nick needed with a gun?

11 A. I do.

12 Q. You're sure?

13 A. I'm positive.

14 Q. The fact that you were on pain medication at some
15 time doesn't have anything to do with the truth, does it?

16 A. No, sir.

17 MR. GRAHAM: Thank you.

18 THE COURT: All right. Thank you very much, ma'am.
19 You may step down. Any objection to this witness being
20 excused?

21 MR. GRAHAM: No, Your Honor.

22 THE COURT: Anything from the defense to her being
23 excused?

24 MS. CLEARY: We may want to recall her.

25 THE COURT: Okay. What I will do is, ma'am, I'll

1 get you to go ahead and step down and then during the
2 lunch break y'all can talk to her about whether or not
3 you will need her back, okay? Thank you very much. You
4 may have a seat. All right. Folks, I think we're gonna
5 break at this time for lunch. I'm gonna ask you to
6 please be back in the jury room but go ahead and report
7 to the fourth floor at 2:30, okay? That gives you a
8 little over an hour and a half. But please report
9 back up at 2:30 to the fourth floor. During the lunch
10 break enjoy your time, relax. Please have no
11 conversation with anybody. Do not allow anyone to talk
12 with you about the case. If you would, I'm going to get
13 you to, I don't think I said this earlier either, those
14 of you who do have a little pad for note taking, please
15 put your name at the top of the pad there and then as you
16 leave go ahead and I'm going to let the bailiff collect
17 the pads, then when we return after lunch, we'll have
18 your pads up in the courtroom upstairs. So everyone else
19 please remain seated and, ladies and gentlemen, we'll see
20 you back her at 2:30, or we'll see you upstairs at 2:30.

21 (Whereupon, the jury was released for lunch.)

22 THE COURT: All right. Anything we need to take up
23 before we adjourn for recess?

24 MR. GRAHAM: Nothing from the State.

25 MS. CLEARY: Your Honor, if I could just ask. I

1 know we're all about seeking the truth and everything.
2 If they could give us a general idea of the afternoon's
3 witnesses and with all of our notebooks. I know they're
4 not under an obligation to.

5 THE COURT: Is there anything --

6 MR. GRAHAM: I don't know.

7 THE COURT: -- earth shattering?

8 MS. CLEARY: I mean, so we can access that folder
9 without pulling out notebooks in front of the jury.

10 MR. GRAHAM: I think the next several witnesses are
11 lay witnesses that would have been a continuation
12 chronologically of the story where we're at right now.

13 MS. CLEARY: Thank you. That helps.

14 THE COURT: Do y'all need any help moving anything?

15 MS. RUSSELL: We're good.

16 THE COURT: I'm sorry. I want to tell you this will
17 be the last move but it's gonna really be dictated by the
18 heating and air folks. All right. We'll start back at
19 2:30 then. Court will be in recess until that time.

20 (Luncheon recess.)

21 BAILIFF: Come to order. Court is now in session.
22 Keep your seats.

23 THE COURT: All right. Anything we need to take up
24 before we begin from the State?

25 MR. GRAHAM: Nothing, Your Honor.

1 THE COURT: Anything from the defense?

2 MS. CLEARY: Yes. I'm sorry. I didn't get a chance
3 to talk to Mr. Graham about this, but our investigator,
4 he wants to know if he can get a general idea of when the
5 telephone guy is going to testify so he can be here for
6 that and the ballistics guy. And I know you don't know
7 exactly but....

8 MR. GRAHAM: It won't be today I know that.

9 THE COURT: On either one of those?

10 MR. GRAHAM: For the --

11 MS. CLEARY: Gleason and Phipps.

12 MR. GRAHAM: Neither of those are today I know for
13 sure. They may be -- Well, I mean, we need to evaluate
14 but I would think tomorrow afternoon.

15 MS. RUSSELL: I would just also say he's working the
16 bakery murder over in Richland County so he's trying to
17 balance that so whatever help you can give us.

18 THE COURT: Okay.

19 MS. CLEARY: Thank you.

20 THE COURT: All right. Let's bring the jury in
21 please.

22 (Whereupon, the jury returned to the courtroom at
23 2:42 p.m.)

24 THE COURT: All right. Welcome back, folks. If you
25 recall, when we broke for lunch we were still on the

1 State's case and we'll continue and pick up where we left
2 off. You may call your next witness.

3 MR. GRAHAM: Thank you, Your Honor. The State calls
4 William White.

5 THE COURT: Mr. White, would you please come around
6 to be sworn, sir.

7 Thereupon,

8 WILLIAM WHITE
9 after having been first duly sworn, testified as follows,

10 THE CLERK: Please have a seat. After you're
11 seated, please state your full name spelling your last
12 name for the record.

13 THE WITNESS: William White, W-h-i-t-e.

14 DIRECT EXAMINATION

15 BY MR. GRAHAM:

16 Q. Mr. White, how old are you?

17 A. 21.

18 Q. William, right? Or Will?

19 A. Yes, sir.

20 Q. How are you related to Kim White?

21 A. My sister.

22 Q. And James White?

23 A. My brother.

24 Q. How about your relationship with Jeremy Brady?

25 A. He's my brother-in-law, my sister's baby's father.

1 Q. How long have you known Jeremy Brady?

2 A. Since 2004, I believe. 2004.

3 Q. Do you care about him?

4 A. Yes, sir.

5 Q. How about Nick Williams?

6 A. How long have I known him?

7 Q. Yes, sir.

8 A. I think 2008.

9 Q. What's your relationship with him?

10 A. Uhm, he was my sister's boyfriend.

11 Q. And what do you think about him?

12 A. Uhm, I mean, everybody has their own beliefs, you
13 know, but I mean, he kind of did mess up my sister's life, you
14 know, honestly.

15 Q. The end of July, last weekend of July 27th and 28th
16 of 2012 were you over at [REDACTED] and that would
17 have been James' wife Amanda, right?

18 A. Yes, sir.

19 Q. You were over there that weekend?

20 A. I was over there that night.

21 Q. Okay. When we say night, it was after midnight into
22 the early morning?

23 A. After, it was about, I was over there from like 1:00
24 to 6:00 or 7:00.

25 Q. 1:00 to 6:00 or 7:00 in the morning?

1 A. Yeah.

2 Q. At some point did you see -- Do you know Michelle
3 Webb?

4 A. Yes, sir.

5 Q. And you know Michelle Webb's car?

6 A. Yes, sir.

7 Q. Did Michelle Webb's car show up over at Amanda's
8 house that morning?

9 A. Yes, sir.

10 Q. Who was in that car?

11 A. Jeremy and Nick.

12 Q. Do you know why they were there?

13 A. I mean --

14 Q. When they showed up, did you know why they were
15 there?

16 A. No.

17 Q. Looking at State's 30, that's Michelle's car?

18 A. Yes.

19 Q. Who was driving the car?

20 A. I'm not sure.

21 Q. At some point did you talk with Jeremy and Nick when
22 they were at Amanda's house that morning?

23 A. Yeah.

24 Q. Were both of them there together at the same time
25 when they were talking to you?

1 A. Uhm, I believe so.

2 Q. What, if anything, did they say to you about a
3 shotgun?

4 A. Uhm, they just asked where it was at.

5 Q. Did they call it a shotgun or did they call it
6 something else?

7 A. I mean, they might have called it something else.

8 Q. Did you have a shotgun at that time?

9 A. Uhm, kind of sort of. I mean, not really but yeah.
10 I bought it, but I mean, I didn't want it no more. It was at
11 my brother's house, but it got moved back to my house.

12 Q. Did you tell them that the gun had been moved from
13 that house?

14 A. Yes, sir.

15 Q. Where did you tell Nick and Jeremy where the gun
16 was?

17 A. At [REDACTED].

18 Q. That's the house that you and Vanessa Dinkins were
19 staying in at the time?

20 A. Yes, sir.

21 Q. Did you leave Amanda's house and go home and go back
22 to Sharon Church?

23 A. Not immediately but yeah.

24 Q. Who went with you when you left?

25 A. Me and Vanessa.

1 Q. Where did you go?

2 A. To the store and then to Sharon Church.

3 Q. When you got to Sharon Church, what, if anything,
4 did you do with the shotgun?

5 A. Uhm, I moved it to the back bedroom and I wiped it
6 off.

7 Q. Why did you wipe it off?

8 A. Because, I mean, I moved it because I didn't want
9 no one to see it and I didn't want no one - and I wiped it off
10 because I didn't want it no more honestly.

11 Q. You didn't want what?

12 A. I didn't want it. I didn't want the shotgun.

13 Q. You didn't want it. I'm gonna show you a shotgun
14 and ask you if you recognize it?

15 A. Mm-hmm.

16 Q. Is that your shotgun and the shotgun you had at the
17 time?

18 A. Yeah.

19 MR. GRAHAM: Your Honor, the State would offer this
20 into evidence at this time.

21 THE COURT: Any objection?

22 MS. CLEARY: No objection.

23 MR. GRAHAM: For the record, Your Honor, it is
24 unloaded and there is a safety lock on it to prevent it
25 from being used.

1 THE COURT: All right, sir.

2 MR. GRAHAM: This is State's 94 into evidence.

3 THE COURT: State's 94 in evidence without
4 objection.

5 BY MR. GRAHAM:

6 Q. This is the shotgun that you had that you said that
7 you took out from the back bedroom, wiped off and put under
8 your bed?

9 A. Mm-hmm. Yes, sir.

10 Q. Shortly after you wiped that gun off and put it
11 under the bed, who showed up at your house?

12 A. Jeremy and Nick.

13 Q. And did they again ask you about that gun?

14 A. Yeah.

15 Q. What, if anything, did you say to them about the
16 gun?

17 A. I just told them that it was in the back bedroom.
18 I went in the back bedroom, turned the light on and left.

19 Q. Do you know who got the gun?

20 A. No. I don't. I'm not positive.

21 Q. Did they leave right after that though?

22 A. Yeah.

23 Q. Was the gun gone after they left?

24 A. Yep.

25 MR. GRAHAM: Thank you, Will. Please answer any

1 questions they have for you.

2 THE COURT: Cross.

3 CROSS EXAMINATION

4 BY MS. CLEARY:

5 Q. Mr. White.

6 A. Yes, ma'am.

7 Q. You testified, or do you remember when you made a
8 written statement with Detective Grant?

9 A. Yes, ma'am.

10 Q. And that was April 16th, 2014?

11 A. Yes, ma'am.

12 Q. Okay. And they came out to see you?

13 A. Yes, ma'am.

14 Q. Did you call them and say you wanted to talk to
15 them?

16 A. No, ma'am.

17 Q. They came out and said they wanted to talk to you?

18 A. Yes, ma'am.

19 Q. And that was in 2014?

20 A. Yes, ma'am.

21 Q. All right. And in that statement do you remember
22 that you told them that Nick had his BB gun visible in his
23 pocket when he came to the house?

24 A. No. I don't remember telling them that.

25 Q. So you don't remember saying that to Detective

1 Grant?

2 A. No, ma'am.

3 Q. Had you ever seen Nick with that BB gun?

4 A. I have seen him with a BB gun before, yeah.

5 MS. CLEARY: May I approach the witness?

6 THE COURT: Yes, ma'am.

7 BY MS. CLEARY:

8 Q. I'm showing you what's been marked as defense
9 exhibit 1. Do you recognize this?

10 A. Uhm, no. I mean, it's a BB gun obviously.

11 Q. Do you recognize it as Nick's?

12 A. Not particularly.

13 Q. This is not the one that you saw in his pocket?

14 A. I mean, not particularly. No.

15 Q. Okay. That's fine. All right. And the first
16 statement that you gave, the written statement, you didn't
17 tell them anything about what date any of this happened,
18 right?

19 A. No.

20 Q. Okay. And now when they came and talked to you,
21 where were you, at your house?

22 A. I was sleeping.

23 Q. Okay. So you were at wherever you were living at
24 that time?

25 A. Oh, I was at [REDACTED].

1 Q. Okay. So they woke you up and it was Detective
2 Grant and another detective?

3 A. Yes, ma'am.

4 Q. All right. And they told you that they knew that
5 that gun was, the sawed off shotgun was yours?

6 A. Yes, ma'am.

7 Q. And they told you that you could get ten years for
8 possession of a sawed off shotgun?

9 A. They told me that I could get ten years for it being
10 sawed off and ten years for it being just, or the butt being
11 sawed off also.

12 Q. Did they tell you you could get ten years for
13 transferring it or giving it to another person?

14 A. I'm not positive. I know that it was like 20 years
15 total.

16 Q. Right. But they told you you would be facing 20
17 years?

18 A. Yeah.

19 Q. All right. And did they tell you that you could be
20 charged with accessory before the fact of murder?

21 A. Uhm, I believe so. Yes.

22 Q. All right. And that carries life in prison,
23 right?

24 A. Yes, ma'am.

25 Q. All right. So after they told you all that, then

1 you gave them a statement; is that right?

2 A. Yes, ma'am.

3 Q. And they told you they would give you immunity if
4 you do testify, right?

5 A. Yes, ma'am.

6 Q. Did the Prosecutor's Office --

7 A. Yes.

8 Q. -- tell you that they would give you immunity? So
9 it's your understanding that if you don't testify, then you're
10 not going to have immunity, right?

11 A. Yes, ma'am.

12 Q. All right. So how many times have they brought you
13 up here after that initial statement that you made on April
14 16th, 2014?

15 A. Brought me to?

16 Q. To the Solicitor's Office or to the Sheriff's
17 Department?

18 A. It was one time, but that night I got off a 12 hour
19 shift and I was there for four or five, four hours. I was
20 there past 1:00 in the morning.

21 Q. That was the 2014 statement?

22 A. Yes. No. That's -- This was recently.

23 Q. Oh, okay. So you came in and made another statement
24 just recently on April 28th, 2015, right?

25 A. Yes, ma'am.

1 Q. And how long did you stay? How long did they talk
2 to you?

3 A. Like Michelin is right down the road from Lexington
4 County so like 30 minutes away so I got off 7:30 so 8:00 until
5 like 1:00.

6 Q. And where were you when they questioned you?

7 A. Inside of Lexington County.

8 Q. Inside of the Sheriff's Department or was it this
9 building?

10 A. No. It was inside the Sheriff's Department.

11 Q. Or was it inside the jail or just the Sheriff's
12 Department?

13 A. Sheriff's Department.

14 Q. Okay. And then they had you come up again on May
15 4th, 2015; is that correct?

16 A. Uhm --

17 Q. Did you talk to the prosecutor on May 4th, 2015?

18 A. I don't believe so.

19 Q. All right. Well, if Detective Grant has noted that
20 -- Sorry. Okay. So on May 4th, 2015 you met with Solicitor
21 Graham here and Assistant Solicitor Rankin and their
22 paralegal. If that's in Sergeant Mefford's report, you don't
23 doubt the accuracy of that, right? You met with them several
24 times, correct? Have you ever met with them here in this
25 building in the Solicitor's Office?

1 A. No, ma'am. No, ma'am.

2 Q. Okay. So they came over and talked to you at the
3 Sheriff's Department?

4 A. I came to the Sheriff's Department and talked to
5 them, yeah. They told me I had to come.

6 Q. Okay. So you met with these people here?

7 A. Yes.

8 Q. Okay. And then again on -- Then did you meet with
9 them any time since then?

10 A. Uhm, later on that night I had to come back in.

11 Q. How long were you here then?

12 A. That was when I was questioned the night after I got
13 off of work. I had to go back in and talk to them again.
14 After I already gave my statement or talked to them once, I
15 had to go back in and talk to them for another like 45
16 minutes.

17 Q. Okay. And you have never seen Jeremy rob anyone
18 with a gun, have you?

19 A. No, ma'am.

20 Q. And Jeremy had given and sold you pills before July
21 28th, 2012, right?

22 A. I mean --

23 Q. I mean, you all had done pills together?

24 A. Yeah.

25 Q. Okay. That's fine. And you stated Jeremy and Nick

- 1 are not friends, right?
- 2 A. No.
- 3 Q. And they didn't hang out together?
- 4 A. No, ma'am.
- 5 Q. Because Nick had turned your sister into a drug
- 6 addict, right?
- 7 A. Yes, ma'am.
- 8 Q. And he was pimping out your sister; is that
- 9 correct?
- 10 A. Yes, ma'am.
- 11 Q. You said he kind of messed up your sister's life,
- 12 right?
- 13 A. Yes, ma'am.
- 14 Q. And Jeremy didn't like that, did he?
- 15 A. No, ma'am.
- 16 Q. And Jeremy and your sister have a child together,
- 17 right?
- 18 A. Yes, ma'am.
- 19 Q. Do you know how old she is?
- 20 A. Yes, ma'am.
- 21 Q. How old is she?
- 22 A. Nine.
- 23 Q. Jeremy wanted to make a life for he and Kim?
- 24 A. Yes, ma'am.
- 25 Q. And Lexi?

1 A. Yes, ma'am.

2 Q. And Nick got in the way of that?

3 A. Yes, ma'am.

4 Q. One more question. Have you ever seen Nick carry a
5 big duffel bag that he keeps his stuff in?

6 A. He would like when him and my sister had a car, they
7 carried their clothes around with them everywhere they go
8 because they're basically homeless.

9 Q. Right. They were homeless?

10 A. Yes.

11 Q. So all of their possessions they would have to
12 carry?

13 A. Yes.

14 Q. So they would have to carry a big duffel bag?

15 A. I'm not sure exactly what it is, you know, but they
16 carried it in a bag so yeah.

17 Q. Okay.

18 A. But, yeah.

19 MS. CLEARY: Okay. All right. No further
20 questions.

21 THE COURT: Any redirect?

22 REDIRECT EXAMINATION

23 BY MR. GRAHAM:

24 Q. Do you remember Nick having a little knapsack and a
25 backpack?

1 A. Uhm, I remember him having like a knapsack he always
2 carried around, like a Nike bag.

3 Q. When you came in and met with myself and Sergeant
4 Mefford and Assistant Solicitor Rankin in May, that was at the
5 Sheriff's Department?

6 A. Yes, sir.

7 Q. We were, actually meeting with you and who else?

8 A. Me, my brother, my sister, and my mom.

9 Q. Okay. What, if anything, did I tell you about
10 having immunity which means you not being charged for anything
11 to do with the sawed off shotgun?

12 A. You said if I tell the truth, I would have immunity
13 or something, or something.

14 MR. GRAHAM: Thank you.

15 THE COURT: All right. Thank you very much, sir.
16 You may step down.

17 MR. GRAHAM: Your Honor, from the State Mr. White
18 can be excused from the subpoena.

19 THE COURT: Does he need to stay? Is he excused?
20 Do y'all need him or need him to stay or stand by?

21 MS. CLEARY: Keep him.

22 THE COURT: All right. Have him stand by.

23 MR. GRAHAM: He's still under subpoena?

24 THE COURT: Yes.

25 MR. GRAHAM: Okay.

1 MS. RANKIN: The state calls Vanessa Dinkins.

2 Thereupon,

3 VANESSA DINKINS

4 after having been first duly sworn, testified as follows,

5 THE CLERK: Please have a seat. After you're
6 seated, please state your full name spelling your last
7 name for the record.

8 THE WITNESS: Vanessa Dinkins, D-i-n-k-i-n-s.

9 DIRECT EXAMINATION

10 BY MR. RANKIN:

11 Q. Ms. Dinkins, are you a little nervous?

12 A. I'm so very nervous.

13 Q. Ms. Dinkins, how old are you?

14 A. I'm 28 years old.

15 Q. Ms. Dinkins, what was your relationship with Amanda

16 Anderson?

17 A. She was a friend of mine.

18 Q. Were you at her house the end of July --

19 A. Yes, ma'am. I was.

20 Q. -- 2013?

21 A. Yes, ma'am.

22 Q. What was your relationship with Will White?

23 A. He was an on and off boyfriend at the time.

24 Q. Was he on at the time?

25 A. He was.

1 Q. What were y'all doing at Amanda Anderson's that
2 night?

3 A. We had went like late at night or either the middle
4 of the night to hang out and help her move.

5 Q. I'm handing you State's 26.

6 A. Yes, ma'am.

7 Q. Is that the house?

8 A. The residence. Yes, ma'am.

9 Q. Ms. Dinkins, at some point in time while y'all were
10 there did Nick and Jeremy show up?

11 A. Yes, ma'am. They did.

12 Q. How do you know Nick?

13 A. Uhm, he had a relationship with my best friend
14 Kim.

15 Q. How do you know Jeremy?

16 A. I have known him since middle school and he also had
17 a child with my best friend.

18 Q. I'm showing you State's 28 and 29. Do you recognize
19 those?

20 A. Yes, ma'am. I do.

21 Q. What are they?

22 A. That's Nick and that's Jeremy.

23 Q. And they showed up at the house while you were
24 there?

25 A. Yes, ma'am.

1 Q. While you were at the house did you hear mention of
2 a lick?

3 A. Uhm, I knew they arrived and there was something
4 going on. You know, now thinking back I don't remember if I
5 heard it that morning or in hindsight like looking back if I
6 heard about it afterwards, but it was to my knowledge that
7 they were going to be involved in some type of lick so...

8 Q. What does a lick mean to you?

9 A. Uhm, a lick means just getting over on someone.
10 Maybe say if you're in the drug world and you're going to
11 purchase drugs, uhm, a lot of times people go in on it
12 together and like one person will distract the person while
13 the other one takes the drugs or money and that's always been
14 my understanding of a lick and that's what I was under the
15 impression was gonna happen that morning.

16 Q. Was Will going to go with Jeremy and Nick?

17 A. When they pulled up, we just so happened to be
18 leaving, Will, myself, my two children and Amanda Anderson's
19 young son Shawn and I was putting all three of the children in
20 the back of the car and I seen William over there talking to
21 Nick and Jeremy at the car and I just had the intuition and
22 the feeling that something wasn't right and when Will come
23 back to the car, he then stated to me that, you know --

24 MS. RUSSELL: Objection. Hearsay.

25 BY MS. RANKIN:

1 Q. Without saying what Will told you --

2 A. Okay.

3 Q. -- was it your understanding that he was going to go
4 with them?

5 A. It was my understanding that he was asked to go or
6 maybe --

7 MS. RUSSELL: Objection.

8 BY THE WITNESS:

9 A. Sorry. I'm sorry. It was my understanding that he
10 was going to go. He stated to me that --

11 MS. RUSSELL: Objection.

12 THE COURT: Ma'am, you cannot say what someone else
13 told you.

14 BY THE WITNESS:

15 A. I don't know. I have never done this before.

16 THE COURT: Well, I'm telling you now.

17 BY THE WITNESS:

18 A. Yes, sir. I'm sorry. I'm sorry. It was my
19 understanding that he was gonna go. That was my understanding
20 that he was gonna go.

21 BY MS. RANKIN:

22 Q. And did you stop him?

23 A. I did.

24 Q. Why did you stop him?

25 A. I just had an intuition and feeling that I just

1 didn't think -- I don't know how to state it. I just had a
2 bad feeling about it. I had a bad feeling and I didn't -- I
3 just didn't want him to go. I didn't want him to go.

4 Q. Did you and Will leave and go back to where y'all
5 were staying on Sharon Church Road?

6 A. Yes, ma'am. We did.

7 Q. State's 24.

8 A. Yes, ma'am.

9 Q. Is that the house?

10 A. That's the house.

11 Q. And at some point in time did Nick and Jeremy show
12 up there?

13 A. Yes, ma'am. They did.

14 Q. Did you want them there?

15 A. Uhm, it didn't bother me that Jeremy was there. I
16 didn't want Nick there. No, ma'am. I didn't.

17 Q. Were they told to leave?

18 A. They were.

19 Q. Ms. Dinkins, do you have - were you convicted in
20 2014 of manufacturing methamphetamine?

21 A. Yes, ma'am. I was.

22 MS. RANKIN: Thank you. Please answer any questions
23 the defense has.

24 CROSS EXAMINATION

25 BY MS. RUSSELL:

1 Q. Ms. Dinkins, the time that we're talking about that
2 you met with the Lexington County Sheriff's or investigators,
3 that was not until 2014, correct?

4 A. Yes, ma'am.

5 Q. And at that time your bail had been revoked, in
6 fact, on your 2013 case; isn't that right?

7 A. Yes, ma'am. That morning.

8 Q. And so on that exact same day you also received an
9 order to be released on bail right after your statement was
10 made; is that correct?

11 A. No, ma'am. I wasn't released until six months later
12 in September.

13 Q. But your bail was lifted on the 2013 charge?

14 A. No, ma'am. I was revoked and I had to sit there.
15 There was no way I could bond out, get out or anything.

16 Q. On the 2014 charges?

17 A. No. Okay. So you're getting them mixed up. I got
18 charged in 2013. I sat there for four months and then I got
19 out in January. I went back in April, April 7th of 2014 and
20 they came and spoke with me on April 22nd of that year and
21 they came right after I got back from bond court and they - I
22 didn't want to speak with them and I told them that I wanted
23 an attorney present and they hounded me for about an hour
24 until I finally broke and wrote a statement about what I could
25 remember because it had been three years.

1 Q. Right.

2 A. Yes, ma'am. And it had been just --

3 Q. And in that statement you told them that you did not
4 see anybody leave with a gun; is that correct?

5 A. Yes, ma'am. And I didn't.

6 Q. Okay. And actually in that statement you said I had
7 no idea they were trying to get a gun?

8 A. I didn't. Afterwards I heard rumors and hearsay
9 that that happened, but at that particular moment, no, ma'am.
10 It all happened really quickly. They weren't there long and,
11 uhm, I was really upset because Nick was at my mother's house
12 and I didn't care for him or want him there so...

13 Q. Okay. So like you said just a few minutes ago, this
14 all could have been stuff that you learned in hindsight after
15 watching the news and after talking to everybody?

16 A. Yes, ma'am. I believe most of it was and I kind of
17 regret like writing the statement and signing my initials by
18 things that I can't in my heart of hearts put my right hand to
19 God and say that I know for sure that is how it happened
20 because it's been three years. I suffered from substance
21 abuse. I was at a very bad place in my life which I've now I
22 have turned it around and I'm living differently, but my life
23 has been so chaotic in like substances then and I have had so
24 much going on and also it's just been three years and I just
25 at the time I was very oblivious to everything that was going

1 on around me so I just didn't know what was going on. I just
2 told and wrote a statement about what I remembered and a lot
3 of it was, most of it was in hindsight.

4 MS. RUSSELL: Thank you. No further questions.

5 REDIRECT EXAMINATION

6 BY MS. RANKIN:

7 Q. Ms. Dinkins, did anybody promise you anything for
8 your statement?

9 A. No, ma'am. Not at all.

10 Q. And what you testified here to today --

11 A. Yes, ma'am.

12 Q. -- not what's in your statement, but what you
13 testified to here today, is that true?

14 A. Yes, ma'am. That's the God's honest truth.

15 MS. RANKIN: Thank you. Nothing further.

16 THE COURT: Thank you very much, ma'am. You may
17 step down.

18 MS. RANKIN: The State calls Vanessa Deputy.

19 Thereupon,

20 VANESSA DEPUTY

21 after having been first duly sworn, testified as follows,

22 THE CLERK: Please have a seat. After you're
23 seated, please state your full name spelling your last
24 name for the record.

25 THE WITNESS: My name is Vanessa Elaine Deputy,

1 D-e-p-u-t-y.

2 DIRECT EXAMINATION

3 BY MS. RANKIN:

4 Q. Ms. Deputy, how old are you?

5 A. 32.

6 Q. Ms. Deputy, did you have a relationship with Robert
7 Mitchell?

8 A. Yes.

9 Q. What was the nature of that relationship?

10 A. Sexual and, uhm, friends.

11 Q. And at the time did you know Robert Mitchell to have
12 a prescription for oxycodone in 2012?

13 A. Yes.

14 Q. Ms. Deputy, were you using prescription pills at
15 that time?

16 A. Yes.

17 Q. Was that part of your relationship with Robert?

18 A. It wasn't like a part. It was involved.

19 Q. Did you get oxycodone from Robert?

20 A. Yes.

21 Q. Are those known as roxies?

22 A. Yes.

23 Q. Do you know when Robert Mitchell would have had his
24 prescription filled?

25 A. On the 15th, 16th of the month.

1 Q. And do you know if he had his prescription filled
2 around that time in July of 2012?

3 A. Yes.

4 Q. How do you know that?

5 A. I saw the bottle myself and I actually got some from
6 him.

7 Q. Do you know about how many you got?

8 A. About 30.

9 Q. Do you know about how many were left?

10 A. Probably about 90.

11 Q. And you had gotten them from him before?

12 A. Yes.

13 Q. When was that in relation to Mr. Mitchell's death?

14 A. A week prior.

15 Q. And had you seen him since that day that you got
16 them from him?

17 A. No.

18 Q. Ms. Deputy, do you know if the victim had been
19 selling, Robert had been selling his oxy?

20 A. He would keep them mostly for himself. He would
21 sell a handful a month to help pay for bills.

22 Q. And had that been a recent thing?

23 A. Yes.

24 Q. Ms. Deputy, did you speak with law enforcement after
25 the death of Mr. Mitchell?

1 A. Yes.

2 Q. Did you tell them everything you knew?

3 A. Yes.

4 Q. I'm handing you State's 12. Is that Robert's front
5 porch?

6 A. Yes, ma'am.

7 Q. Did you love Robert?

8 A. Yes.

9 Q. Do you miss him?

10 A. Yes.

11 Q. Ms. Deputy, do you have a shoplifting conviction in
12 2001?

13 A. Yes.

14 Q. A carrying a concealed weapon in 2003?

15 A. Yes.

16 Q. And two more shopliftings in 2003?

17 A. Yes.

18 Q. Possession of meth from 2012?

19 A. Yes.

20 Q. And a theft less than 500?

21 A. Yes.

22 Q. Ms. Deputy, I'm handing you what's marked as State's
23 exhibit 97. Do you recognize that?

24 A. Yes.

25 Q. Who is that?

1 A. It's Robert Mitchell.

2 MS. RANKIN: At this time the State would introduce
3 State's 97.

4 MS. CLEARY: No objection.

5 THE COURT: Without objection State's 97 is in
6 evidence.

7 MS. RANKIN: Thank you, Ms. Deputy. I have no
8 further questions. Please answer any questions that the
9 defense might have.

10 MS. CLEARY: No questions, Your Honor.

11 THE COURT: All right. Thank you very much, ma'am.
12 You may step down.

13 MS. RANKIN: The State calls David Pritchard.

14 Thereupon,

15 DAVID PRITCHARD

16 after having been first duly sworn, testified as follows,

17 THE CLERK: Please have a seat. After you're
18 seated, please state your full name spelling your last
19 name for the record.

20 THE WITNESS: David Pritchard, P-r-i-t-c-h-a-r-d.

21 DIRECT EXAMINATION

22 BY MS. RANKIN:

23 Q. Sergeant Pritchard, where do you work?

24 A. Lexington County Sheriff's Department.

25 Q. How long have you worked there?

1 A. 18 years.

2 Q. What's your rank?

3 A. Sergeant.

4 Q. Sergeant Pritchard, did you know Robert Mitchell?

5 A. Yes, ma'am.

6 Q. How did you know him?

7 A. I met him probably about 17 years ago. We were more
8 of acquaintances. I met him through the truck stop right
9 there at the 44 mile marker off Interstate 20 and also at the
10 I-20 Speed Way that used to be running several years ago.

11 Q. Sergeant Pritchard, were you working on July 28th of
12 2012?

13 A. Yes, ma'am.

14 Q. Did you see Robert Mitchell?

15 A. Yes, ma'am.

16 Q. What time did you see him?

17 A. I would say it was approximately 2:50 a.m. I was
18 doing some extra duty work there at the truck stop and I
19 usually worked until about 3:00 a.m. As I recall he came in
20 about ten minutes before I left.

21 Q. And did you speak with him?

22 A. Yes, ma'am.

23 Q. Was he by himself?

24 A. Yes, ma'am.

25 Q. How long did he stay?

1 A. He stayed for about -- Well, I was there for about
2 ten minutes and then I left and whenever I left, he was still
3 there so how long after that I'm not sure.

4 Q. Okay. And about what time did you leave?

5 A. 3:00.

6 Q. I'm handing you what's been marked for State's ID
7 14. Do you recognize that?

8 A. Yes, ma'am.

9 Q. What is that?

10 A. It is an aerial photo of the location of the truck
11 stop and also it's been pinpointed the location of Mr.
12 Mitchell's residence.

13 MS. RANKIN: Your Honor, at this time the State
14 would move 14 into evidence.

15 THE COURT: Any objection to 14?

16 MS. CLEARY: No objection.

17 THE COURT: Without objection State's 14 is in
18 evidence.

19 BY MS. RANKIN:

20 Q. You said you left around 3:00?

21 A. Yes, ma'am.

22 Q. That was July 28th, 2012?

23 A. Yes, ma'am.

24 Q. Did you see him again?

25 A. After that, no, ma'am.

1 MS. RANKIN: Thank you. I have no further
2 questions.

3 THE WITNESS: Thank you.

4 MS. CLEARY: No questions.

5 THE COURT: Thank you very much, sir. You may step
6 down.

7 MR. GRAHAM: The State calls Margaret McKay.
8 Thereupon,

9 MARGARET MCKAY
10 after having been first duly sworn, testified as follows,

11 THE CLERK: Please have a seat. After you're
12 seated, please state your full name spelling your last
13 name for the record.

14 THE WITNESS: My name is Margaret McKay, M-c-K-a-y
15 is the last name.

16 DIRECT EXAMINATION

17 BY MR. GRAHAM:

18 Q. Margaret?

19 A. Yes, sir.

20 Q. Back at the end of July of 2012 what was your
21 boyfriend's name?

22 A. Sir?

23 Q. Your boyfriend's name at the time?

24 A. Shawn Kline.

25 Q. Who was Shawn's grandfather?

- 1 A. Robert Mitchell.
- 2 Q. Did you know Robert?
- 3 A. Briefly for about two months. Maybe two and a half
- 4 months.
- 5 Q. Had you been over to his house?
- 6 A. Yes..
- 7 Q. That's over at [REDACTED]?
- 8 A. Mm-hmm.
- 9 Q. Let me show you State's 12. I believe it is already
- 10 in evidence and ask you if you recognize that?
- 11 A. Yes. That's his back porch.
- 12 Q. That's Robert's back porch?
- 13 A. Mm-hmm.
- 14 Q. How many doors did Robert have in this house that
- 15 was used?
- 16 A. One.
- 17 Q. Was it that door --
- 18 A. The back door.
- 19 Q. -- on the back porch? Why wasn't the other one
- 20 used?
- 21 A. He had it blocked off.
- 22 Q. Let me show you what's been marked for ID State's
- 23 number 50 and ask you if you recognize that?
- 24 A. Yes. That's the back porch.
- 25 MR. GRAHAM: Your Honor, the State would offer that

1 into evidence.

2 MS. CLEARY: No objection.

3 THE COURT: State's 50 without objection.

4 BY MR. GRAHAM:

5 Q. Margaret, that's just the same picture of that back
6 door just instead of looking up the stairs it's looking
7 straight at the door?

8 A. Mm-hmm.

9 Q. Had you or Shawn talked with Robert on Friday the
10 27th?

11 A. Yeah. We had. Actually Shawn had been over there
12 earlier that day working on jet skis.

13 Q. What was the plan for that next Saturday on July
14 28th? What was supposed to happen?

15 A. We were all supposed to meet over at Mr. Mitchell's
16 house and go out to the lake to grill out and then ride jet
17 skis.

18 Q. What was your understanding of what time everybody
19 was supposed to start showing up?

20 A. Around 9:00.

21 Q. Do you remember what time it was when you and Shawn
22 arrived?

23 A. It was about 8:45.

24 Q. When you got there to Robert's house, what did you
25 and Shawn find?

1 A. Well, like I said, he was working on jet skis and
2 Shawn had a couple more things to do to one of them so that's
3 the reason we were there early. Shawn went in the house to
4 let him know we were there and he was - I stayed out in the
5 car because we were going to be outside and then Shawn was
6 like a minute later comes out to the car and he says granddad
7 is dead.

8 Q. How long was he inside the house?

9 A. Not even a minute. Maybe a minute if that.

10 Q. How was he acting when he came out?

11 A. He was very white. Just stunned. He really didn't

12 -- All he could say was grandpa is dead. Granddad is dead.

13 Q. What did you do at that point?

14 A. I got out of the car and ran into the house.

15 Q. What did you see when you went inside?

16 A. Uhm, went into the back door and over to the right
17 which is where his bedroom was, I saw Mr. Mitchell laying
18 there and I saw his hands on his chest and his stomach. He
19 had blood running down his legs and his feet. He still had
20 his CPAP machine on and there was, and you could see blood on
21 the side of the bed, on the dresser and just that was pretty
22 much it.

23 Q. Had he already passed?

24 A. I pretty much believe so. I mean, I didn't touch
25 the body or anything because I was just kind of just - I was

1 in shock. Uhm, you know, it's not everyday you see something
2 like that.

3 Q. Do you know if Shawn had to unlock the door to get
4 in the house?

5 A. No. The door was open.

6 Q. Was it open standing open or open unlocked?

7 A. Just unlocked.

8 Q. Had there been other times when Robert was expecting
9 you all that the door would be open --

10 A. Yes.

11 Q. -- or locked or unlocked?

12 A. Several times if he knew me and Shawn were coming
13 over, he would leave the door unlocked.

14 Q. After you found Shawn's grandfather on the floor,
15 what did you do?

16 A. I called 911.

17 Q. And after you called 911, did people start to show
18 up?

19 A. Not at the time I hung up with them, of course. As
20 soon as I hung up with 911, shawn called his uncle Bobby and
21 Bobby got there just before the ambulance. He was already on
22 his way and he got there just before the ambulance and the
23 police.

24 MR. GRAHAM: All right. Thank you, Margaret.

25 Please answer any questions they have for you.

1 MS. CLEARY: No questions.

2 THE COURT: Thank you very much, ma'am. You may
3 step down.

4 MR. GRAHAM: Your Honor, the State would ask that
5 Ms. McKay be excused.

6 THE COURT: Any objection to her being excused?

7 MS. CLEARY: No, Your Honor.

8 THE COURT: Okay. You're free to go. Thank you
9 very much, ma'am.

10 MR. GRAHAM: The State calls Bobby Mitchell.

11 Thereupon,

12 ROBERT L. MITCHELL, JUNIOR
13 after having been first duly sworn, testified as follows,

14 THE CLERK: Please have a seat. After you're
15 seated, please state your full name spelling your last
16 name for the record.

17 THE WITNESS: My name is Robert Louis Mitchell,
18 Junior, M-i-t-c-h-e-l-l.

19 DIRECT EXAMINATION

20 BY MR. GRAHAM:

21 Q. You have the same name as your daddy?

22 A. Yes, sir.

23 Q. What was the plan for you and your dad and others
24 for the morning of July 28th, 2012?

25 A. To go out and go to the lake for the weekend and he

1 loved for me to cookout for him.

2 Q. Is that something that you did often or was this
3 something special?

4 A. We always did it for him. He loved cookout food and
5 he loved to eat.

6 Q. As you were driving over to your daddy's that
7 morning and that was, his address was [REDACTED]?

8 A. Yes, sir.

9 Q. And that's in Lexington County?

10 A. Yes, sir.

11 Q. As you were driving over there, did you get a phone
12 call?

13 A. I got a phone call from my nephew Shawn. He said my
14 dad was dead. He had been shot to death.

15 Q. How much longer did it take you to get to the
16 house?

17 A. I was at the four way stop sign, I had a minute. I
18 seen the ambulance and fire truck coming and I ran in, I
19 mean.

20 Q. When you arrived at your dad's house, what
21 happened?

22 A. I ran past Margaret and Shawn and inside and seen my
23 dad lying in a pool of blood and --

24 Q. Had your daddy already passed?

25 A. Yes. I could tell he was dead. His color was gone

1 and I guess the redneck in me I ran to the living room to see
2 if he was shot for some guns. I mean, I didn't know what
3 happened and by then the police come in and escorted me out.

4 Q. When you were -- I hate to ask this. Can you tell
5 me when you were in his room and saw his body where at in the
6 room was the blood?

7 A. The blood was all over his chest and his legs, feet.
8 There was a good amount of blood everywhere. I mean, it was
9 on the door, on his dresser. A lot on the bed.

10 Q. Your dad used a CPAP machine, didn't he?

11 A. Yes, sir. He did. It was on his face.

12 Q. Did your dad use that machine often and when did he
13 use it and how did he use it?

14 A. He used it every night because he had the sleepiness
15 where he quit breathing and wouldn't wake up so he had to use
16 it every night. It wasn't something that he had to use
17 because he was having problems because it was hot that day and
18 he couldn't breathe. That's why we was going to stay at the
19 lake and he was gonna go home that night and come back the
20 next Sunday. We make it an all weekend thing.

21 Q. If I say the number 803-397-0509, do you recognize
22 that number?

23 A. That is my dad's phone number.

24 Q. Did you have any knowledge of your dad taking pain
25 pills?

1 A. Yes, sir. I did.

2 Q. What did he take them for?

3 A. His arthritis and other complications that he had.

4 Q. After you got there, did the police arrive shortly
5 thereafter?

6 A. Yes, sir. They was right on my heels. As I turned
7 onto the street, I cut them off to get there first.

8 Q. At some point after the police came did you realize
9 that there were items missing from your dad's house?

10 A. Yes, sir. I did.

11 Q. What, if anything, were you able to find about his
12 wallet and his cash and his credit cards?

13 A. Well, after I was escorted outside and after they
14 took the body off, I asked the detective, I think his name is
15 Grant, the black officer and I asked him was the safe in the
16 house and was his wallet there. I believe he got a loan or
17 something that Friday or something to work on the jet skis.
18 He called me and told me he was at the Chinese restaurant
19 fixing to go home Friday and he would see me the next day.

20 Q. Were you ever able to find his wallet or his --

21 A. No, sir. I wasn't.

22 Q. -- credit card in the house?

23 A. When I was let back in the house, no, I could not.

24 Q. You had mentioned a safe. Where was that safe
25 kept?

1 A. Right above his head next to the machine.

2 Q. Let me show you what's been marked State's number 33
3 for identification and ask if you recognize the safe in that
4 photo?

5 A. Yes, sir. That's my dad's safe.

6 MR. GRAHAM: Your Honor, the State would offer that
7 into evidence at this time.

8 THE COURT: Any objection?

9 MS. CLEARY: No objection.

10 THE COURT: Without objection that's 33 in
11 evidence.

12 BY MR. GRAHAM:

13 Q. Where did you your dad keep that safe in the
14 house?

15 A. Up on his headboard right there. He had a multi
16 shelf headboard.

17 Q. In addition to the safe, was there also a collector
18 tin that you found was missing from the house as well?

19 A. Yes, sir.

20 Q. Let me show you State's number 32 for identification
21 and ask you if you recognize that?

22 A. Yes, sir. That's one of my dad's Harley tins and I
23 believe it was full of car keys.

24 Q. But after your dad was murdered, that was missing
25 from the house, correct?

1 A. Yes, sir.

2 MR. GRAHAM: The State would offer 32 in evidence.

3 MS. CLEARY: No objection.

4 THE COURT: Without objection State's 32.

5 BY MR. GRAHAM:

6 Q. How about your dad's phones, his cell phones, were
7 you able to determine if any of those had been missing?

8 A. No. I could not find either phone.

9 Q. After you were let back into the house, what about
10 your dad's pain pills?

11 A. They were gone.

12 Q. Your dad liked to hunt and fish or did he like to
13 fish?

14 A. Yes, sir. He sure did. He just joined the National
15 Rifle Association and he was very proud of it.

16 Q. Did he also have a DNR card?

17 A. Yes, sir.

18 MR. GRAHAM: Thank you, Mr. Mitchell.

19 THE WITNESS: You're welcome.

20 THE COURT: Any questions on cross?

21 MS. CLEARY: Just a couple of questions.

22 CROSS EXAMINATION

23 BY MS. CLEARY:

24 Q. Mr. Mitchell, uhm, when you made a statement to
25 Detective Grant on August 1st, 2012, uhm, did you talk to him

1 about your nephew Shawn Kline? Do you remember talking to the
2 detective about Shawn Kline?

3 A. Yes. I do.

4 Q. And do you know where Shawn is living now?

5 A. Do I know where he is now?

6 Q. Yes.

7 A. Not right now I don't. He was in the courtroom
8 earlier.

9 Q. Okay. That's fine. And did you tell the detective
10 that Shawn and your father had a rocky relationship in the
11 past?

12 A. Yes. Yes. I did.

13 Q. Did you say that you hadn't seen Shawn shed any
14 tears?

15 A. No. I didn't.

16 Q. You didn't say that?

17 A. Yes. I mean, I didn't see him shed no tears.

18 Q. Okay. Thank you. All right. So you did, you told
19 the officers that you were suspicious of Shawn?

20 A. Yes. I was suspicious of Shawn. Yes. I was at
21 first.

22 MS. CLEARY: No further questions.

23 THE COURT: Anything further?

24 MR. GRAHAM: NO questions, Your Honor.

25 THE COURT: All right, sir. Thank you very much.

1 You may step down.

2 MS. RANKIN: The State calls John Paul.

3 Thereupon,

4 JOHN PAUL

5 after having been first duly sworn, testified as follows,

6 THE CLERK: Please have a seat. After you're
7 seated, please state your full name spelling your last
8 name for the record.

9 THE WITNESS: My name is John Paul. Last name
10 P-a-u-l.

11 DIRECT EXAMINATION

12 BY MS. RANKIN:

13 Q. Deputy Paul, where do you work?

14 A. Lexington County Sheriff's Department.

15 Q. What's your rank?

16 A. Master deputy currently.

17 Q. How long have you worked at the Sheriff's
18 Department?

19 A. Seven years July 20th.

20 Q. Deputy Paul, did you respond to [REDACTED]

21 [REDACTED] on July 28th, 2012?

22 A. I did.

23 Q. What was the nature of that call?

24 A. For a cardiac arrest.

25 Q. When you got there, was anyone else there?

1 A. There were several other parties on scene but I was
2 the first responding deputy.

3 Q. So you were the first law enforcement there?

4 A. That is correct.

5 Q. What did you do when you got there?

6 A. When I arrived on scene, I was met by several other
7 parties at the back door. They pointed me into the house.
8 When I went into the back door, I turned right immediately to
9 the bedroom and what I saw was Mr. Mitchell laying on the
10 floor with his arms across his chest between the bed and the
11 dresser.

12 Q. [REDACTED], is that in Lexington County?

13 A. It is.

14 Q. Did you know Robert Mitchell?

15 A. Not personally but I have dealt with him before.

16 Q. When you saw the body in the bedroom, what did you
17 do after that?

18 A. I immediately had everybody exit the house that was
19 still in there and called my supervisor advising him that I
20 need the crime scene unit because I believed I had a
21 homicide.

22 Q. Deputy Paul, I'm handing you State's exhibit 6 and
23 52. I believe they have been marked for identification. Take
24 a look at those.

25 A. (Witness complies.)

1 Q. Do you recognize those?

2 A. I do. Yes, ma'am.

3 Q. What are they?

4 A. The 52 represents the front door that was blocked by
5 boxes. The only access was the rear door of the residence.
6 And exhibit number 6 shows Mr. Mitchell's feet and the three
7 shotgun shells that I noticed standing in the door.

8 MS. RANKIN: Thank you. Your Honor, at this time
9 the State would move State's 6 and 52 into evidence.

10 MS. CLEARY: No objection, Your Honor.

11 THE COURT: Without objection.

12 BY MS. RANKIN:

13 Q. Deputy Paul, did you stay on scene until back up
14 arrived?

15 A. Yes, ma'am. I did not leave the crime scene until
16 about 6:30 in the evening.

17 Q. Did anybody else go in and out before law
18 enforcement came?

19 A. I believe there was some family members that were on
20 scene that were actually in the house when I arrived, but
21 after I got there, I made everybody stand outside.

22 Q. And no one else entered?

23 A. No one else entered other than law enforcement and
24 EMS.

25 MS. RANKIN: Thank you. I have no further

1 questions. Please answer anything the defense has.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Any cross?

4 MS. CLEARY: No, Your Honor.

5 THE COURT: All right. Thank you very much, sir.

6 You may step down. All right. Folks, we're gonna take a
7 little kind of a mid afternoon break here. Please have
8 no conversation about the case. If you need anything
9 back there, let the bailiff know and we'll just take a
10 short break and we'll start back, okay?

11 (Whereupon, the jury entered the jury room at 3:45
12 p.m.)

13 (Short break.)

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

16 MS. RANKIN: We are, Your Honor.

17 THE COURT: Is the defense ready to proceed?

18 MS. CLEARY: We are, Your Honor.

19 THE COURT: All right. Let's bring the jury back in
20 please.

21 (Whereupon, the jury returned to the courtroom at
22 4:03 p.m.)

23 THE COURT: All right. Folks, we're ready to
24 continue so we recognize the State for your next
25 witness.

1 MS. RANKIN: Thank you, Your Honor. The State calls
2 Dr. Janice Ross.

3 Thereupon,

4 JANICE ROSS, M.D.
5 after having been first duly sworn, testified as follows,

6 THE CLERK: Please have a seat. After you're
7 seated, please state your full name spelling your last
8 name for the record.

9 THE WITNESS: Janice Edwards Ross, R-o-s-s.

10 DIRECT EXAMINATION

11 BY MS. RANKIN:

12 Q. Good afternoon, Dr. Ross.

13 A. Good afternoon.

14 Q. Dr. Ross, where do you work?

15 A. At Newberry Pathology Associates in Newberry, South
16 Carolina.

17 Q. And you're a pathologist?

18 A. Yes.

19 Q. What is a pathologist?

20 A. A pathologist -- Let me go backwards then. I went
21 to -- I got a Bachelor's Degree from the University of South
22 Carolina and my M.D., Doctor of Medicine from Upstate Medical
23 Center in Syracuse, New York and did further training in the
24 field of pathology. Pathology is the study of disease where
25 we learn how to diagnose tumors and different diseases by

1 looking at tissue under the microscope or using the
2 laboratory. We're also are trained to do an autopsy to find
3 the cause of death. I did further training in forensic
4 pathology. The word forensic means legal so this is legal
5 matters. We learn how to do an autopsy specifically to
6 identify patterns of injury, cause of death, collect specimens
7 for toxicology, and photograph and document injuries for the
8 court of law.

9 Q. Dr. Ross, have you been qualified as an expert in
10 forensic pathology?

11 A. Yes.

12 Q. About how many times?

13 A. In the State of South Carolina over 125 sometimes.

14 MS. RANKIN: Your Honor, at this time the State
15 moves to qualify Dr. Ross as an expert in forensic
16 pathology.

17 THE COURT: Any objection?

18 MS. CLEARY: No objection.

19 THE COURT: All right. Thank you very much,
20 ma'am.

21 BY MS. RANKIN:

22 Q. Dr. Ross, as part of your job do you issue a report
23 on autopsies?

24 A. Yes.

25 Q. Did you have, did you observe, examine the body of

1 Robert Mitchell?

2 A. Yes.

3 Q. Okay. What did you observe?

4 A. The body was brought to us in a body bag. We do
5 photographs and we found three shotgun wounds to the body.

6 Q. Can you explain those shotgun wounds, where they
7 were located?

8 A. Yes. We document more so with x-rays of these cases
9 when it's gunshot wounds or shotgun wounds. One gunshot wound
10 was in the right shoulder. It was gone from front to back and
11 slightly downward. It did lacerate one of the lungs and blood
12 vessels. No. It didn't go in the lung but it lacerated blood
13 vessels of that shoulder. Then there were two shotgun wounds
14 in the chest - in the back that went into the chest. One went
15 into the chest from the right back and hit the right lung and
16 the liver and the diaphragm. The other one in the back was in
17 the left lower back and it went downward and actually did not
18 go into the abdomen but it did go into the buttocks area.

19 Q. Dr. Ross, based on your examination could you tell
20 approximate distance?

21 A. Yes. At least one of the wounds, the one in the
22 right back had some scalloping which puts it about, the barrel
23 of the shotgun about three feet away from the body. The other
24 two, the one in the right shoulder and the one in the left
25 lower back had some evidence of spread of birdshot and a

1 shotgun filled with birdshot, they're very packed very tightly
2 and as they come out of the gun they stay tight to a certain
3 point and afterwards they start spreading apart and when you
4 start seeing individual pellet wounds along with a major hole,
5 then you can talk about range a little bit. So the one in the
6 right back probably was three feet away. The other two could
7 have been a little bit further away like four feet.

8 Q. Dr. Ross, what is your opinion about the cause of
9 death of Robert Mitchell?

10 A. It was exsanguination which means to bleed out due
11 to laceration of the liver and lung due to the shotgun wound
12 of the back.

13 Q. Is there any way to tell which shot killed him?

14 A. That would be the primary one, the one in the right
15 back, yes. The one in the right shoulder was potentially
16 fatal.

17 Q. There was another shot in the back. Was that
18 potentially fatal as well?

19 A. It didn't really hit any major -- It hit some blood
20 vessels. I suppose if he just never got medical care, it
21 could have been fatal.

22 MS. RANKIN: Thank you, Dr. Ross. I have no further
23 questions. Please answer anything the defense has.

24 MS. CLEARY: Thank you.

25 THE COURT: Yes, ma'am.

1 CROSS EXAMINATION

2 BY MS. CLEARY:

3 Q. Dr. Ross, I'm Eleanor Cleary. You indicated to our
4 investigator sometime earlier this year that you don't
5 determine the time of death, correct?

6 A. Correct. We just go by what witnesses say or what
7 the coroner gives us as far as information when the person was
8 last seen, when he was found and what the circumstances were
9 and the coroner usually estimates the time of death.

10 Q. Do you remember what the time of death was that you
11 got from them that you indicated on your report?

12 A. Uhm, well, it was estimated to be injured at 5:00
13 a.m. and it would have taken him probably five minutes to
14 die.

15 Q. So it's estimated 5:05?

16 A. Correct.

17 Q. All right. I know you don't determine the time of
18 death but as a forensic pathologist you understand why it
19 might be important to determine the time of death?

20 A. Yes.

21 Q. Okay. And that's so that they can, so that the
22 investigators can focus on the right suspects if someone has
23 an alibi or something like that, correct?

24 A. Correct. Yes.

25 Q. Okay. And I know there is no guaranteed accurate

1 method to determine exact time of death, right? Is that
2 correct?

3 A. That's correct.

4 Q. But is it reasonable in certain circumstances to get
5 maybe a two hour range?

6 A. Yes.

7 Q. And you are familiar with different methods that are
8 used to determine the time of death?

9 A. Yes.

10 Q. Because as you agreed it's important to figure out
11 precise time of death if possible, right?

12 A. If possible, yes.

13 Q. Okay. So you would agree that the time that the
14 victim was last seen alive would be relevant to determining
15 the time of death?

16 A. Yes. And any other circumstances around the
17 scene.

18 Q. And what time the victim was found?

19 A. Yes.

20 Q. And the environment where found?

21 A. Yes.

22 Q. And what about the body temperature, is that an
23 important indicator?

24 A. Not necessarily. There have been all kind of
25 researches done with temperature and how fast body temperature

1 decreases but number one, you don't know what you start with.
2 You don't know if the person had a fever to begin with so the
3 temperature coming down would be different. It depends on the
4 environmental temperature. It's too variable to be very
5 distinct.

6 Q. But you agree that it would be relevant to the whole
7 picture determining the time of death to take the body
8 temperature or is it not necessary at all?

9 A. It's rarely done anymore.

10 Q. Okay. I know you said that there is, you don't know
11 what you started at or how fast the temperature is dropping,
12 but if you took the temperature at intervals, wouldn't that
13 give you a better idea of the rate of loss of the body
14 temperature?

15 A. It may.

16 Q. Okay. I mean, you would agree that the best
17 temperature for use in determining the time of death would be
18 a core temperature?

19 A. Yes. Well, yeah. But there's been a lot of -- A
20 lot of that has been disapproved. They used to, when they
21 found a corpse, they would stick a thermometer in the liver to
22 get a core body temperature but it's been found that that's
23 not - it's meaningless.

24 Q. So it's your testimony that there would be no reason
25 to take the temperature at all?

1 A. Correct.

2 Q. So that wouldn't help at all in determining the time
3 of death?

4 A. No. It would not.

5 Q. All right. But how about the stages of rigor, is
6 that determinative or does it help determine? I mean, I know
7 we have already established it's going to be a range unless
8 someone was right there witnessing the death.

9 A. Yeah. No. Rigor mortis, rigor mortis is stiffening
10 of the muscles and it has to do with the use of energy inside
11 the cells themselves. So, for instance, in general rigor
12 mortis starts, it completes in about 12 hours and then it
13 releases in 12 hours. But if you are running from somebody
14 because they're shooting you and you're using up that energy,
15 you can go into full rigor mortis in five minutes. So again
16 --

17 Q. So is the converse true that if you are sleeping and
18 you are shot, then the rigor is going to start slower. It's
19 not gonna start if five minutes?

20 A. It's going to be slower. Yes.

21 Q. All right. So are there different stages of rigor,
22 classifications that you use?

23 A. Well, we just generally say mild, moderate or
24 severe, yeah.

25 Q. But that would be important to notate to determine

1 the time of death, not for you, but for anyone who was trying
2 to determine the time of death?

3 A. It might help in some cases.

4 Q. Okay. And so if the arms are hard to move, does
5 that help you determine the amount of rigor? Is that
6 considered severe or which stage is that?

7 A. That would be marked if they can't be bent.

8 Q. Marked?

9 A. Mm-hmm.

10 Q. And that's marked rigor?

11 A. Yes.

12 Q. All right. So, oh, yes, one more question. Your
13 autopsy report, I think the report that came along with it,
14 you indicated that there was no alcohol in the victim's
15 system; is that correct?

16 A. I believe so. The intox was all negative, correct.

17 MS. CLEARY: Okay. Thank you. That's all I have.

18 THE COURT: Any redirect?

19 REDIRECT EXAMINATION

20 BY MS. RANKIN:

21 Q. Dr. Ross, hypothetically if someone used an infrared
22 HVAC gun for temperature and pointed it at a body and used
23 that to determine time of death, would that be accurate?

24 A. No.

25 Q. You said that temperature is rarely used anymore and

1 why is that?

2 A. Because there's so many variations and just really
3 doesn't hold true even if you know the environmental
4 temperature.

5 Q. So there's a lot of different factors that go into
6 determining time of death?

7 A. Correct.

8 Q. But you can't tell just from body temperature?

9 A. Correct.

10 Q. And using rigor hypothetically if someone had rigor
11 in their jaw, does that mean anything to you?

12 A. Well, rigor starts with the smaller muscles, uhm,
13 more noticeable in the smaller muscles early on which would
14 mean jaw, for instance, uhm, but again it's too variable to
15 indicate a certain time.

16 Q. Dr. Ross, the 5:00 on your report, do you know where
17 that came from?

18 A. From the coroner.

19 Q. Do you know what that's based on?

20 A. Not exactly. I guess what he found at the scene and
21 when he was last seen alive and when he was found.

22 MS. RANKIN: Thank you, Dr. Ross.

23 MS. CLEARY: Nothing further.

24 THE COURT: Nothing further. Thank you very much,

25 Dr. Ross. Any objection to Dr. Ross being dismissed?

1 MS. CLEARY: No.

2 THE COURT: Thank you, ma'am. You're free to go.

3 MS. RANKIN: The State calls Marlo McCann.

4 Thereupon,

5 MARLO McCANN

6 after having been first duly sworn, testified as follows,

7 THE CLERK: Please have a seat. After you're
8 seated, please state your full name spelling your last
9 name for the record.

10 THE WITNESS: Marlo McCann, M-c-C-a-n-n.

11 DIRECT EXAMINATION

12 BY MS. RANKIN:

13 Q. Investigator McCann, where do you work?

14 A. Lexington County Sheriff's Department.

15 Q. Your title is investigator?

16 A. Yes.

17 Q. Investigator McCann, did you respond to Hayes
18 Crossing Road in this case?

19 A. Yes. I did.

20 Q. For what purpose?

21 A. To collect a pill bottle that had been found
22 roadside with the victim's name on it.

23 Q. I'm handing you what's been marked State's ID 66.

24 Do you recognize that?

25 A. Yes, ma'am.

1 Q. Is that the pill bottle?

2 A. Yes, ma'am.

3 Q. You collected it where?

4 A. At the corner of Hayes Crossing Road and Two Notch
5 Road in Gilbert.

6 Q. And when you collected that, what did you do with
7 it?

8 A. I took it and turned it into evidence at the
9 Sheriff's Office.

10 MS. RANKIN: At this time the State would move
11 State's 66 into evidence.

12 THE COURT: Any objection to State's 66?

13 MS. CLEARY: No objection.

14 THE COURT: Without objection.

15 BY MS. RANKIN:

16 Q. Detective McCann, I hand you State's exhibit 13 for
17 ID. Do you recognize that?

18 A. Yes, ma'am.

19 Q. Is that an aerial of Hayes Crossing?

20 A. It is.

21 Q. Is that where you found the pill bottle?

22 A. Yes, ma'am.

23 MS. RANKIN: At this time the State would move
24 exhibit 13 into evidence.

25 MS. CLEARY: No objection.

1 THE COURT: Without objection.

2 BY MS. RANKIN:

3 Q. Investigator McCann, did you receive another piece
4 of evidence in this case, a pill minder?

5 A. Yes, ma'am.

6 Q. Who did you receive that from?

7 A. Bobby Mitchell.

8 Q. Where did that come from?

9 A. Out of Robert's truck.

10 Q. I'm handing you State's 79. Open that up and take a
11 look at it.

12 A. (Witness complies.)

13 Q. Is that the pill minder?

14 A. Yes, ma'am.

15 Q. You said you received it from Bobby Mitchell?

16 A. That's correct.

17 Q. And that it came from Robert Mitchell's truck?

18 A. Yes, ma'am.

19 MS. RANKIN: At this time the State would move 79
20 into evidence.

21 THE COURT: Any objection?

22 MS. CLEARY: No objection.

23 THE COURT: Without objection.

24 MS. RANKIN: Thank you, investigator. That's all
25 the questions I have.

1 THE COURT: Any cross?

2 MS. CLEARY: No, Your Honor.

3 THE COURT: All right. Thank you very much. You
4 may step down. Call your next witness.

5 MS. RANKIN: The State calls Detective Miramontes.
6 Thereupon,

7 MARC MIRAMONTES

8 after having been first duly sworn, testified as follows,

9 THE CLERK: Please have a seat. After you're
10 seated, please state your full name spelling your last
11 name for the record.

12 THE WITNESS: My name is Marc Miramontes,
13 M-i-r-a-m-o-n-t-e-s.

14 DIRECT EXAMINATION

15 BY MS. RANKIN:

16 Q. Where do you work?

17 A. I'm employed with the Town of Lexington Police
18 Department.

19 Q. What's your rank?

20 A. I'm an investigator.

21 Q. Did you assist on this case?

22 A. Yes, ma'am.

23 Q. What was part of your assistance?

24 A. At the time I was part of NET team with Lexington
25 County and that morning of this incident I was asked to assist

1 searching, walking down Two Notch Road searching for any type
2 of articles that we might be able to find, any evidence.

3 Q. I'm handing you what's been marked for ID as State's
4 88. Do you recognize that as items you found on the
5 roadside?

6 A. Yes, ma'am.

7 Q. 89, do you recognize that?

8 A. Yes, ma'am.

9 Q. What does that appear to be?

10 A. These were several business cards that we found
11 laying close to a wallet. Also an NRA card. I distinctly
12 remember that one.

13 Q. Does it have a name on it?

14 A. It's got the name of Robert Mitchell.

15 Q. Okay. State's exhibit 90.

16 A. Yes, ma'am.

17 Q. What is that?

18 A. This is one of the cell phones that was located on
19 the side of the road.

20 Q. 91?

21 A. Also a second cell phone located on the side of the
22 road.

23 Q. And 92?

24 A. And this is the, yes, this is the wallet that was
25 also located on the side of the road.

1 Q. Once these were collected, what did you do with
2 them?

3 A. They were collected, they were photographed and they
4 were locked into evidence at Lexington County.

5 MS. RANKIN: At this time the State would move
6 State's 88, 89, 90, 91 and 92 into evidence.

7 MS. CLEARY: No objection.

8 THE COURT: Without objection.

9 BY MS. RANKIN:

10 Q. I'm handing you State's 98 for ID. Do you recognize
11 that?

12 A. Yes, ma'am.

13 Q. What is that?

14 A. This is the pill bottle that I located on the side
15 of the road.

16 Q. Once it was collected, where did it go?

17 A. It went into evidence to Lexington County.

18 MS. RANKIN: At this time the State would move
19 State's 98 into evidence.

20 MS. CLEARY: No objection.

21 THE COURT: Without objection.

22 BY MS. RANKIN:

23 Q. Looking at State's 88, can you tell me what that
24 is?

25 A. It's one of the NRA cards that was located.

1 Q. What's the name on that NRA card?

2 A. It says Robert Mitchell.

3 Q. Looking at State's 89, is that Robert Mitchell's DNR
4 card?

5 A. Yes.

6 Q. State's 98, does that pill bottle have Robert
7 Mitchell's name on it?

8 A. Yes, ma'am.

9 Q. Looking at State's 13, do you recognize that?

10 A. Yes, ma'am. This is the area that we looked, we
11 searched on Two Notch Road.

12 Q. Can you tell us about where this stuff was found?

13 A. It was between the 3500 block of Two Notch and 4000
14 block.

15 Q. Okay. Between these two pins?

16 A. Yes, ma'am.

17 MS. RANKIN: Thank you. I have no further
18 questions.

19 MS. CLEARY: Just real briefly.

20 CROSS EXAMINATION

21 BY MS. CLEARY:

22 Q. Investigator Miramontes?

23 A. Yes, ma'am.

24 Q. Did you write a written report about your
25 investigation?

1 A. I did not, ma'am.

2 Q. Okay. That's good. And I just wanted to clarify,
3 that was August 3rd, 2012 that you went and did the canvassing
4 of Two Notch Road?

5 A. I can't recall the date.

6 Q. Have you had a chance to look at Cage Barnes' report
7 where she goes through the list of things?

8 A. Yes, ma'am.

9 Q. It says August 3rd, 2012 that you and she --

10 A. Yes, ma'am.

11 Q. So that would be the right date?

12 A. Yes.

13 Q. August 3rd, 2012?

14 A. Yes, ma'am.

15 Q. Are you familiar with the Two Notch Road area?

16 A. A little bit.

17 Q. Is it pretty well traveled?

18 A. Yes.

19 Q. And did you find any items that weren't admitted
20 today?

21 A. Yes, ma'am. I mean, there is a lot of trash.

22 Q. There was a lot of trash?

23 A. There is a lot of trash up and down that road.

24 Q. But you turned those over to --

25 A. All we did is photograph.

1 Q. Okay. Got you. All right.. Did you find anything
2 though that you thought was worth preserving that you gave to
3 the investigators?

4 A. No, ma'am.

5 Q. Only the items that she introduced?

6 A. Yes, ma'am. There was another item but everything
7 was logged in.

8 Q. Okay. But there were a number of other items as
9 well?

10 A. Yes, ma'am.

11 MS. CLEARY: All right. No further questions.

12 THE COURT: All right. Thank you very much, sir.
13 You may step down. Any further questions?

14 MS. RANKIN: Nothing further.

15 THE COURT: All right.

16 (Side bar off the record.)

17 THE COURT: Folks, I have a matter of law that I
18 need to take up that won't take terribly long but the
19 next witness might be a little lengthy so we're gonna
20 stop a little bit early today and adjourn for the
21 afternoon.

22 Now, the same instructions, you will get sick of me
23 saying this, but it's just important. I can't over
24 stress the importance that you not talk with anyone about
25 the case.

1 Now, today is the first day that we have actually
2 taken testimony so family, friends, loved ones may
3 continue to be curious. You need to continue to let them
4 know that when the trial is over, you will share
5 everything with them. But until that time you are not
6 allowed to share anything. So just ask them to continue
7 to be patient. Try to get a good night's rest. As you
8 can see from your experience today it can get mentally
9 taxing so try to do that if you are able to. If you
10 would, be back here at 9:00 in the morning back in the
11 jury room. Come up here. We have already made a request
12 that the building superintendent be up here before 9:00
13 to make sure that everything is working. So I don't
14 anticipate having any problems so if you would come up
15 here to the fourth floor and report here by 9:00. So
16 everyone else remain seated. Ladies and gentlemen, we'll
17 see you back here tomorrow morning at 9:00.

18 (Whereupon, the jury was released for the evening.)

19 MS. RANKIN: Your Honor, just quickly, the court
20 reporter does not have State's exhibit 13 as being moved
21 into evidence.

22 THE COURT: I have that it was moved into
23 evidence.

24 MS. RANKIN: I have it as well but we would move
25 again. They have no objection.

1 THE COURT: All right. I wrote down that it was
2 moved but out of an abundance of caution there is no
3 objection, correct?

4 MS. CLEARY: Right.

5 THE COURT: So State's 13 is in evidence.

6 MS. RANKIN: Thank you, Your Honor.

7 THE COURT: All right. Do we have any issues that
8 we need to -- Do y'all need to talk before we discuss
9 issues or --

10 MR. GRAHAM: I don't think Your Honor needs to stay
11 on the bench anymore. I think we need to talk about some
12 issues and if there is a problem, we'll bring it to your
13 attention.

14 THE COURT: Okay. Well, I'll be here for a little
15 while so if you need me, I'll be here but y'all can work
16 it out I'm sure.

17 MR. GRAHAM: One of the issues that we have, Judge,
18 is that we have to bring a custodian of records from
19 Chase Credit Card Company out of New York and she was
20 supposed to fly in today. Her plane got cancelled
21 yesterday for some reason. She is supposed to be here
22 tomorrow at 11:00 and I don't know if that plane is
23 cancelled as well or not but it's my understanding at
24 1:00 apparently. I know a lot of our witnesses we can't
25 really go forward until we get past her so we're gonna

1 have to see -- We will reorganize and move it but there
2 actually may be some dead time or we may have to do
3 people for a little bit and then bring them back later
4 for something else.

5 THE COURT: Okay. Well, let's try to minimize any
6 dead time. Let's be productive if we can.

7 MR. GRAHAM: Yes, sir.

8 THE COURT: But I'll certainly understand the
9 scheduling issue and we'll try to work around that, okay?

10 MR. GRAHAM: Thank you, Your Honor.

11 THE COURT: All right. Court is in recess until
12 9:00 tomorrow.

13 MS. RANKIN: Thank you, Your Honor.

14 (Whereupon, court was adjourned for the day at 4:40
15 p.m.)

16

17

18

19

20

21

22

23

24

25

1 June 17th, 2015

2 (Whereupon, Defendant's exhibits #3, #5, #6 and #9
3 marked for identification.)

4 BAILIFF: All rise. The Honorable Thomas A. Russo
5 presiding.

6 THE COURT: Thank you. Good morning, ladies and
7 gentlemen. Please have a seat. Folks, anything we need
8 to take up before we get started?

9 MR. GRAHAM: Nothing from the State, Your Honor.

10 MS. CLEARY: Nothing from the defense, Your Honor

11 THE COURT: Okay. Let's bring the jury in please.

12 (Whereupon, the jury returned to the courtroom at
13 9:40 a.m.)

14 THE COURT: Good morning, folks. I apologize for
15 the delay. I had a matter not affiliated with this case.
16 I'm the chief administrative judge for this circuit in
17 criminal court and I had other matters to deal with this
18 morning and it caused us some delay here and I apologize
19 for that.

20 We are ready to start and pick up where we left off
21 yesterday. We are still on the State's case so we'll
22 proceed at this point with the State's next witness.

23 MR. GRAHAM: Thank you, Your Honor. The State calls
24 Sergeant Cathy Etheredge.

25 Thereupon,

CATHY ETHEREDGE - DIRECT BY MR. GRAHAM

245

1 CATHY ETHEREDGE

2 after having been first duly sworn, testified as follows,

3 THE CLERK: Please have a seat. After you're
4 seated, please state your full name spelling your last
5 name for the record.

6 THE WITNESS: My name is Cathy Etheredge,
7 E-t-h-e-r-e-d-g-e. I'm a sergeant the with Lexington
8 County Sheriff's Department.

9 DIRECT EXAMINATION

10 BY MR. GRAHAM:

11 Q. What do you -- As a sergeant what are your job
12 responsibilities?

13 A. I'm a sergeant in internal affairs with the
14 Sheriff's Department. I'm one of the investigators over
15 complaints and anything that people may have against officers
16 with the Sheriff's Department.

17 Q. How long have you worked for the Sheriff's
18 Department?

19 A. Since 2003.

20 Q. Let me show you a document and ask you if you
21 recognize this document?

22 A. Yes, sir. This is one of our Lexington County
23 statement forms that whenever we are interviewing a witness or
24 a suspect to get them to give us a statement we use this
25 form.

1 Q. Do you remember if you were involved with
2 interviewing a young lady named Vanessa Dinkins back on April
3 23rd of 2014?

4 A. I was working in major crimes at that time and that
5 evening Detective Grant had asked me if I would go into the
6 jail to interview Ms. Dinkins. I told him that I would. This
7 is a practice that we use. Anytime a male officer is speaking
8 with or interviewing a female, another officer will be with
9 them or a female and I accompanied him at that time to go and
10 interview Ms. Dinkins.

11 Q. Were you present for the whole time that Ms. Dinkins
12 was interviewed?

13 A. I was. On our way over there, I usually, we always
14 Mirandize them and on this form it has Miranda on it where
15 they will initial it stating they understand Miranda and as we
16 were walking over there I was discussing with Detective Grant
17 that I would Mirandize her and just stand by as he interviewed
18 her.

19 Q. At any time -- Do you remember how long you and
20 Detective Grant talked to her?

21 A. Probably a little over an hour maybe.

22 Q. How would you describe the tone of the interview
23 between Detective Grant, yourself and Ms. Dinkins?

24 A. When we went in, we - she was already in there on
25 other charges and we Mirandized her and told her we were just

1 there to ask questions about this case and she agreed and she
2 agreed to talk to us and she gave him a verbal statement and
3 after he interviewed her, she wrote down her statement for
4 us.

5 Q. At any did she say that she did not want to talk
6 with you or Detective Grant?

7 A. No. She did not.

8 Q. At any time did she ask for a lawyer?

9 A. No. She did not. One of the things that she
10 initialed that we make sure we explain to everyone that we
11 Mirandize that any time during this questioning she can stop
12 the questioning and she never did, uhm, but when he finished,
13 she continued by putting her statement in writing.

14 Q. Did you make any promises or Detective Grant make
15 any promises to her to get her to talk to you?

16 A. No. I did not and I do not make promises.

17 Q. Did y'all help her out on her other charges that she
18 had?

19 A. No, sir.

20 Q. Did you all threaten her in any way?

21 A. No, sir.

22 Q. Did you harass her?

23 A. No, sir.

24 Q. Did she speak to you of her own free will?

25 A. She did.

1 MR. GRAHAM: Thank you, sergeant.

2 THE COURT: Any cross examination.

3 CROSS EXAMINATION

4 BY MS. CLEARY:

5 Q. Sergeant Etheredge, did you make a written statement
6 about this incident?

7 A. No. I did not.

8 Q. Okay. Do you usually keep written statements?

9 A. If I participate in the interview other than my
10 initials being on this form stating that I was a witness
11 there, if I do anything outside of that scope, I would write a
12 supplemental.

13 Q. It's part of your regular job duties to do these
14 interviews or accompany other officers as you were saying?

15 A. When needed. If there is no other female present, a
16 female will go or a male officer.

17 Q. So do you do several a week or can you give me any
18 idea how many you do?

19 A. No. I can't give you an idea of how many because it
20 just depends on what crimes we get that week.

21 Q. But it's routine, sort of a routine part of your
22 job?

23 A. To do what?

24 Q. To accompany another officer when someone is making
25 a statement?

1 A. It is a routine part of every officer that works for
2 the Sheriff's Department's job if needed to accompany another
3 officer whenever they are interviewing a female or a
4 juvenile.

5 Q. You interviewed her on April 23rd, 2014; is that
6 correct?

7 A. No, ma'am. I stood by --

8 Q. I'm sorry. You stood by at the interview --

9 A. -- as Detective Grant interviewed her.

10 Q. -- on April 23rd, 2014?

11 A. Correct.

12 MS. CLEARY: Thank you.

13 THE COURT: Anything further?

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: Thank you very much, ma'am. You may
16 step down.

17 MS. RANKIN: The State calls Adam Roberson.

18 Thereupon,

19 ADAM ROBERSON

20 after having been first duly sworn, testified as follows,

21 THE CLERK: Please have a seat. After you're
22 seated, please state your full name spelling your last
23 name for the record.

24 THE WITNESS: My name is Adam Roberson,
25 R-o-b-e-r-s-o-n.

1 DIRECT EXAMINATION

2 BY MS. RANKIN:

3 Q. Agent Roberson, where do you work?

4 A. I'm a diversion investigator with the Drug
5 Enforcement Administration, DEA, assigned here in Columbia,
6 South Carolina.

7 Q. And what is your?

8 A. I'm an investigator. I'm a senior diversion
9 investigator. I'm the senior investigator in this state.

10 Q. Okay. Investigator Roberson, how long have you been
11 in law enforcement?

12 A. 26 years.

13 Q. You said you do pharmaceutical diversion. How long
14 have you been doing that?

15 A. For 16 years. I'm in a special group assigned to do
16 solely investigate a diversion of legitimate pharmaceuticals
17 predominately prescription drugs that get diverted from the
18 legitimate course to the street basically. It could be a
19 forgery or an armed robbery or any way those drugs end up on
20 the street a diversion investigator is responsible for that
21 investigation.

22 Q. Can you give us a little bit of your background and
23 experience in law enforcement.

24 A. I attended the University of South Carolina where I
25 received a Bachelor's Degree in criminal justice. I then went

1 to the Beaufort County Sheriff's Office where I spent two
2 years, attended the South Carolina Criminal Justice Academy
3 then. I then ended up moving as a narcotics agent to
4 Fairfield County, South Carolina for the Sheriff's Department.
5 I spent six years there. During the course of that time I
6 attended numerous trainings throughout the eastern United
7 States related to narcotics trafficking, narcotics
8 investigations, undercover techniques. I attended all the
9 narcotics trainings offered at the South Carolina Criminal
10 Justice Academy. I then was hired by DEA in 1999. I attended
11 the Quantico, Virginia. I attended the DEA Training Academy
12 for three months where I was trained in specific
13 investigations related to the diversion of pharmaceutical
14 controlled substances. After completing that training I
15 continued with my career and attended advanced diversion
16 trainings. I ultimately became an instructor and I teach
17 diversion of pharmaceuticals to not only federal officers and
18 investigators but I assist the court systems in interpretation
19 of federal law as it relates to pharmaceuticals. I also have
20 taught at the Criminal Justice Academy, the DEA Academy in
21 Quantico, Virginia and various schools throughout the United
22 States from Virginia to St. Louis to Miami.

23 Q. Investigator Roberson, have you ever been qualified
24 as an expert witness before?

25 A. I have not.

1 Q. Have you ever testified in court regarding
2 pharmaceuticals?

3 A. Numerous occasions in both state, local and federal
4 court.

5 MS. RANKIN: Your Honor, at this time the State
6 would move to have Agent Roberson qualified as an expert
7 witness in pharmaceutical diversion.

8 THE COURT: Any objection? Or do you wish to voir
9 dire the witness on any matter?

10 MS. CLEARY: I'm sorry. Can you tell me one more
11 time, expert in what?

12 MS. RANKIN: Pharmaceutical diversion.

13 MS. CLEARY: Can I ask him?

14 THE COURT: Yes.

15 MS. CLEARY: You said you have never testified as an
16 expert?

17 THE WITNESS: Not as an expert, no, ma'am.

18 MS. CLEARY: Okay. No objection at this time.

19 THE COURT: All right. Thank you, ma'am. You may
20 proceed without objection.

21 BY MS. RANKIN:

22 Q. Investigator Roberson, I'm handing you what's been
23 marked as State's exhibit 63. Do you recognize that?

24 A. Yes, ma'am. I do.

25 Q. What does that appear to be?

1 A. It appears to be a printout from a CVS pharmacy
2 showing a pharmacy printout of drugs received by a patient
3 issued by a CVS pharmacy here locally.

4 MS. RANKIN: Your Honor, at this time the State
5 would move State's 63 into evidence.

6 THE COURT: Any objection?

7 MS. CLEARY: No objection.

8 THE COURT: Without objection.

9 BY MS. RANKIN:

10 Q. Agent Roberson, what's the name on those records?

11 A. The patient name is listed as Robert Mitchell of
12 Gilbert, South Carolina.

13 MS. RANKIN: Your Honor, for the record, both sides
14 have agreed by stipulation that those are the victim's
15 CVS records.

16 THE COURT: Is that correct, ma'am?

17 MS. CLEARY: Yes, Your Honor.

18 THE COURT: All right.

19 BY MS. RANKIN:

20 Q. Agent Roberson, if you could look on those records.
21 Do you see a prescription for oxycodone?

22 A. Yes, ma'am. I see several towards the bottom of the
23 sheet.

24 Q. Is an oxycodone and a roxie the same thing?

25 A. They have the same active ingredient. Oxycodone is

1 the actual drug. Roxycodone is a brand name that contains
2 oxycodone so there are many generics. Regularly when I deal
3 with investigations roxie is a street verb used to describe
4 all oxycodone products without acetaminophen in them.

5 Q. The victim has an oxycodone prescription on there.
6 Is that the same, is that the equivalent of a roxie?

7 A. Yes. It lists it as oxycodone 30 milligrams is
8 what's listed on these documents that the victim was
9 prescribed and filled. That would be a generic form. The
10 brand name of that would be roxie. So on the street when
11 someone refers to a roxie, it could be the brand roxie or this
12 form oxycodone 30 milligram.

13 Q. What exactly is a roxie or an oxycodone?

14 A. An oxycodone is a schedule II controlled substance.
15 There are five schedules. Schedule I being something you
16 don't use for medicine like heroin, something like that.
17 Schedule II, and DEA determines these things, schedule II is
18 the most potential for abuse in a pharmaceutical so your heavy
19 schedule II drugs, methadone, morphine, oxycodone, dilaudid,
20 strong narcotics, and they enter methylphenidate like Adderall
21 and ritalin also fall into that category.

22 Q. Okay. Why do people want it?

23 A. It's abused heavily. Because it is a narcotic it's
24 a schedule II opiate. It acts in the body similar to heroin.
25 When it's in its tablet form taken orally as prescribed it's a

1 pain relieving control substance used for severe, acute or
2 chronic pain but it's 30 milligrams of the drug so if you
3 crush that table and snort it which is what they do a lot of
4 times or mix it with a liquid and inject it, it's very similar
5 in how it reacts in the body as heroin. It's a euphoric
6 response. It gets them high basically. The difference with
7 this drug versus heroin is you know what you get with an oxy
8 30. They're all the same. So that's why people ask for roxie
9 because a roxie is always either 15 or 30 milligrams of the
10 drug. So if somebody on the street wanting to buy it they
11 refer to it as roxie versus another oxycodone product which is
12 Percocet is also commonly seen on the street which is a
13 smaller amount of drug, five or 10 milligrams and it's bigger
14 because it has tylenol in it, acetaminophen. So when you have
15 a big tablet and try to crush that and shoot it through a
16 syringe or snort it, it's harder. There's more of it. So
17 versus a five milligram percocet and 30 milligram oxycodone
18 you get more drug and less binder, more high.

19 Q. Investigator Roberson, do you know what the street
20 value of a roxie would be in 2012?

21 A. Yes. I have been working cases like this in the
22 midlands for 16 years. Currently, and even back to about 2010
23 our street value in this area was about 25 to \$30.00 per
24 tablet so it really correlates to one dollar a milligram is
25 about the average so in this case 30 milligram tablets, \$30 is

1 our high retail street price.

2 Q. You mentioned Percocet earlier. A Percocet with no
3 Tylenol, what would that mean to you?

4 A. There is not a percocet with no Tylenol.

5 Q. Is it safe to say that if someone was asking for
6 Percocet with no tylenol that they would mean a roxie?

7 A. They probably know that Percocet is oxycodone but
8 they don't want the big pill with the tylenol so if they say
9 Percocet 30 or something like that, they're probably meaning a
10 roxie or a pure oxycodone like listed on this sheet. There is
11 no Percocet 30.

12 Q. You mentioned that roxie is a synthetic alternative
13 to heroin?

14 A. Yes.

15 Q. So if you can't get heroin, roxie would be a good
16 alternative for you to go to?

17 A. Or vice versa. A lot of times people that are on
18 oxys switch to heroin when the oxy supply is short or if
19 they're on heroin and they can't get heroin, they'll find an
20 oxy supply. They'll use them back and forth. They both can
21 be shot up or snorted so if you're an addict to either of
22 these one will suffice and fill the gap for the other.

23 MS. RANKIN: Thank you, Investigator Roberson.

24 That's all the questions I have.

25 MS. CLEARY: May it please the Court.

1 THE COURT: Yes, ma'am.

2 CROSS EXAMINATION

3 BY MS. CLEARY:

4 Q. Investigator Roberson, did you provide a written
5 report about what you just testified to today?

6 A. No, ma'am.

7 Q. Are you're testifying using notes or just from your
8 experience?

9 A. My experience, ma'am.

10 Q. And you testified the street value of roxie is
11 \$25.00 to \$30.00 per tablet?

12 A. For a 30 milligram tablet, that's correct.

13 Q. And is that in Columbia or --

14 A. I work throughout the state. That's pretty
15 regularly the price throughout the state. I have worked from
16 Beaufort to Greenville to Aiken to Spartanburg and that's
17 pretty standard.

18 Q. But you would agree that some people would charge
19 less or some people would charge more depending on the supply
20 and demand?

21 A. I would agree. I would like to explain that. A lot
22 of times when we work a case, if someone has a large quantity
23 of oxycodone, maybe their own prescription or a whole bottle,
24 it's easier for them to sell it at a lower price to one person
25 because they can move the whole thing at once, less risk. So

1 that's kind of a wholesale price. We'll see that less. But
2 if you're buying it individually by tablet on the street,
3 you're gonna pay that premium, that 25, \$30.00 a piece. So if
4 you're selling in bulk, we will see a wholesale price 10,
5 \$15.00 per tablet.

6 Q. So it's kind of like the Sam's Wholesale Club, buy
7 in bulk?

8 A. Pretty much.

9 MS. CLEARY: That's all I have. Thank you.

10 THE COURT: Anything further?

11 MS. RANKIN: Nothing further, Your Honor.

12 THE COURT: Thank you very much, sir. You may step
13 down. Call your next witness.

14 MS. RANKIN: The State calls Renee Strickland.
15 Thereupon,

16 MARSHA RENEE STRICKLAND
17 after having been first duly sworn, testified as follows,

18 THE CLERK: Please have a seat. After you're
19 seated, please state your full name spelling your last
20 name for the record.

21 THE WITNESS: My full name is Marsha Renee
22 Strickland, S-t-r-i-c-k-l-a-n-d.

23 DIRECT EXAMINATION

24 BY MS. RANKIN:

25 Q. Where do you work?

1 A. I currently work for Midlands Technical College.

2 Q. What do you do?

3 A. I'm a campus police officer and victim advocate.

4 Q. What's your rank?

5 A. Police officer.

6 Q. Officer. Officer Strickland, where were you working
7 in 2012?

8 A. Lexington County Sheriff's Department.

9 Q. How long did you work there?

10 A. I started there in 2009 and worked there until
11 January 31st of 2014.

12 Q. What were you doing for the Sheriff's Department in
13 2012?

14 A. I was a crime scene investigator.

15 Q. Okay. Tell us a little bit about your duties as
16 crime scene investigator?

17 A. My duties as a crime scene investigator include
18 responding to crime scenes and documenting and preserving
19 evidence, collecting evidence and then processing that
20 evidence and submitting it to the evidence department.

21 Q. You said responding to crime scenes. Can you take
22 us through kind of the typical process of responding to a
23 crime scene and processing what you would do?

24 A. Yes, ma'am. Typically we respond and the first
25 thing we do is take photographs, photographs of the scene as

1 it is and then from there we identify items of evidence,
2 things that we would consider to be probative to the case that
3 would yield evidence and then mark those with placards,
4 photograph them again and there is a specific way we
5 photograph. General, mid range and close up. Then we would
6 gather that evidence and either tag it or identify it in some
7 way and then take it back to our lab and if it needs
8 processing, process it there and then submit it to our
9 evidence department.

10 Q. Okay. What do you mean by processing?

11 A. If we are looking for latent prints to process,
12 there are many different ways to process items for latent
13 prints. Whatever way that would yield the best result or is
14 appropriate for that material we would process it for latent
15 prints or swab it for DNA, things of that nature.

16 Q. Okay. And did you respond to the crime scene in
17 this case?

18 A. I did. Yes.

19 Q. Okay. Were you one of the primary CSI officers?

20 A. I was. Yes, ma'am.

21 Q. You said the first thing that you would do is go in
22 and take photos?

23 A. Yes, ma'am. That's correct.

24 Q. I'm handing you what's been marked as State's 6. Do
25 you recognize that?

1 A. I do. Yes, ma'am.

2 Q. What is that?

3 A. That is a picture of the threshold of the victim's
4 bedroom inside his residence and a picture of three spent shot
5 shell cases or fired shot shell cases.

6 Q. Did you observe those shot shell cases when you
7 responded to the scene?

8 A. I did. Yes, ma'am.

9 Q. I'm handing you what's been marked for ID as State's
10 64. Can you tell me what that is?

11 A. This is an evidence bag from the Richland County
12 Sheriff's Department which contains eight shot shell cases for
13 comparison and three shot shell cases double X super sport
14 seven and a half 20 gauge from the crime scene located at
15 Juniper Springs Road.

16 Q. Did you collect those?

17 A. I did. Yes.

18 Q. When you collected them, what did you do?

19 A. When I collected the shot shell cases, I brought
20 them back to the lab and then conducted further examination on
21 them as far as a visual examination for latent prints and then
22 I processed them with black powder for latent prints as well.
23 I also swabbed the brass, the breech face, the brass part of
24 the shell where the firing pin would strike it for DNA.

25 Q. Did you create three swabs for that?

1 A. I did. Yes.

2 Q. When you took that to the lab, did you then give it
3 to Beth Holliman?

4 A. Yes. I submitted it to the evidence custodian.

5 Q. At some point did you get that back from Ms.
6 Holliman?

7 A. Yes, ma'am.

8 Q. Take it to the Sheriff's Department in Richland
9 County?

10 A. Yes.

11 Q. Did you give it to Don McRae?

12 A. I did. Yes.

13 Q. Is he an evidence custodian at Richland County?

14 A. He is.

15 Q. At some point did you go to Richland County and get
16 that evidence back?

17 A. I did. Yes, ma'am.

18 Q. Did you resubmit that evidence?

19 A. I did.

20 Q. To Beth Holliman?

21 A. Yes, ma'am.

22 Q. I'm handing you what's been marked for ID as State's
23 65. Do you recognize that?

24 A. I do. Yes, ma'am.

25 Q. What is that?

1 A. This is a State Law Enforcement Division or SLED
2 evidence bag containing swabs from shot shell case, swab from
3 the brass head of a shot shell, swab from the trigger of
4 shotgun, swab from the grip of shotgun, and swab from the
5 forestock of shotgun.

6 Q. Okay. Those are the swabs that you created from
7 those shot shell casings and then also from the shotgun
8 itself?

9 A. Yes.

10 Q. Okay. And at some point in time did you take those
11 swabs and turn them into evidence?

12 A. I did. Yes.

13 Q. Okay. Did you get them back from evidence and take
14 them to Richland County Sheriff's Department?

15 A. Actually these went to SLED. This is a SLED bag.

16 Q. You can cut that bag open.

17 A. (Witness complies.)

18 Q. I'm handing you what's been marked as State's 99.
19 Tell me what are those?

20 A. These are three swabs from shot shell casings from
21 Juniper Springs Road.

22 Q. 100, tell me what that is.

23 A. These are swabs from the brass head of the shot
24 shell which would be an unfired shotgun shell. Swabs from the
25 trigger of shotgun. A swab from grip of shotgun and swab from

1 forestock of shotgun.

2 Q. The swabs from the shot shell casings, 99, you said
3 you turned them into evidence. At some point did you get
4 those back out of evidence and take those to Richland
5 County?

6 A. I got these out of evidence.

7 Q. Did you give them to Don McRae and eventually get
8 them back from Don McRae?

9 A. I did give swabs to Don McRae. Yes. It did show on
10 the evidence form from Richland County.

11 Q. Did you get those swabs back from Don McRae?

12 A. I did.

13 Q. Did you take those items to SLED?

14 A. Yes.

15 Q. Okay. Who did you give them -- Did you give them to
16 Doris Yarbrough at SLED?

17 A. Yes, ma'am.

18 Q. I'm handing you what's been marked for State's ID 10
19 and 68. Do you recognize 10?

20 A. I do. Yes, ma'am.

21 Q. What is that?

22 A. It's a picture of the victim's bed and specifically
23 what's contained in the picture is blood pooling on the bed
24 along with human tissue in the bed and imbedded in that human
25 tissue are a number of bird shot pellets.

RENEE STRICKLAND - DIRECT BY MS. RANKIN

265

1 Q. Does that fairly depict what you observed that
2 day?

3 A. It does. Yes, ma'am.

4 MS. RANKIN: Your Honor, at this time the State
5 moves State's 10 into evidence.

6 THE COURT: Any objection?

7 MS. CLEARY: If I can just clarify, is that the
8 photo?

9 MS. RANKIN: Yes.

10 MS. CLEARY: No objection.

11 THE COURT: State's 10 without objection.

12 BY MS. RANKIN:

13 Q. And State's 68?

14 A. This is a container containing a number of pellets
15 that I collected actually out of that bed in that human tissue
16 in the bed.

17 Q. Did you turn those into evidence?

18 A. I did.

19 Q. Okay. They were in your care, custody and
20 control?

21 A. Yes.

22 MS. RANKIN: Your Honor, at this time we would move
23 State's 68 into evidence.

24 THE COURT: Any objection to State's 68?

25 MS. CLEARY: No objection.

1 THE COURT: All right. Without objection.

2 BY MS. RANKIN:

3 Q. Officer Strickland, did you take swabs from the
4 doorknob of the victim's house?

5 A. Yes, ma'am.

6 Q. I'm handing you what's been marked as State's 7 and
7 8. Do you recognize that?

8 A. I do. Yes, ma'am.

9 Q. Does that fairly and accurately depict the doorknob
10 and the swab from the doorknob from Robert Mitchell's house?

11 A. It does. Yes, ma'am.

12 MS. RANKIN: Your Honor, at this time the State
13 would move 7 and 8 into evidence.

14 MS. CLEARY: No objection.

15 THE COURT: Without objection State's 7 and 8.

16 BY MS. RANKIN:

17 Q. I'm handing you what's been marked as State's 71.
18 Do you recognize that?

19 A. I do. Yes, ma'am.

20 Q. What is that?

21 A. This is a SLED evidence bag containing a cigarette
22 butt, swab from doorknob, another swab from doorknob, and a
23 swab from wall.

24 Q. Okay. The swabs from the doorknob came from the
25 victim's house?

1 A. Yes, ma'am.

2 Q. Did you turn that into evidence?

3 A. I did. Yes, ma'am.

4 Q. I'm handing you what's been marked for ID as State's
5 exhibit 85. Would you open that up?

6 A. (Witness complies.)

7 Q. What does that appear to be?

8 A. A CPAP machine.

9 Q. Okay. Did you collect that from the victim?

10 A. I did. Yes, ma'am.

11 Q. Okay. Did you turn that into evidence?

12 A. I did.

13 MS. RANKIN: Your Honor, at this time the State
14 would move State's 71 and 85 into evidence.

15 MS. CLEARY: No objection.

16 THE COURT: Without objection State's 71 and 85.

17 MS. RANKIN: Your Honor, we would also move 99, 100,
18 and 64 into evidence at this time and also 65.

19 THE COURT: Any objection to those?

20 MS. RUSSELL: I got 99 and 100. What were the
21 others?

22 MS. RANKIN: 64 and 65, shot shell cases.

23 MS. CLEARY: No objection.

24 THE COURT: Okay. That was 99, 100, 64, 65?

25 MS. RANKIN: Yes, sir.

1 THE COURT: Okay. All those without objection.

2 BY MS. RANKIN:

3 Q. I'm handing you what's been marked as State's 69.

4 Do you recognize that?

5 A. I do. Yes, ma'am.

6 Q. What is that?

7 A. These are three empty pill bottles all collected
8 from Juniper Springs Road crime scene.

9 Q. That's the victim's house?

10 A. It is. Yes, ma'am.

11 Q. Okay. Did you test those for latent prints?

12 A. I did.

13 Q. What were the results?

14 A. They were negative for latent prints which means
15 there were no latent prints found on the items.

16 Q. What process did you use to test those?

17 A. I used a process which involves cyanoacrylate and
18 black powder. Cyanoacrylate is just a scientific name for
19 Super Glue. You heat Super Glue and it becomes a gas and it
20 will adhere to any latent prints on an item and then you
21 powder the item with black powder to make the print more
22 visible and to be able to lift it for examination.

23 Q. You said it was negative?

24 A. Yes, ma'am.

25 Q. When you tested those for latent prints, did you

1 turn those into evidence?

2 A. I did. Yes, ma'am.

3 MS. RANKIN: Your Honor, at this time the State
4 would move State's 69 into evidence.

5 MS. CLEARY: No objection.

6 THE COURT: Without objection State's 69.

7 BY MS. RANKIN:

8 Q. I'm handing you State's 71. Can you cut that
9 open?

10 A. (Witness complies.)

11 Q. What are the items?

12 A. This item is a swab from the wall at Feather Run
13 Trail. This item is a cigarette butt collected on Juniper
14 Springs Road at the crime scene. This bag contains the swabs
15 from the doorknob at the victim's residence on Juniper Springs
16 Road.

17 Q. I'm handing you State's 101. Is that the swab from
18 the doorknob?

19 A. Yes, ma'am. It is.

20 Q. Did you collect those?

21 A. I did.

22 Q. Did you turn those into evidence?

23 A. Yes, ma'am. I did.

24 MS. RANKIN: Your Honor, at this time the State
25 would introduce State's 101 in evidence.

1 MS. CLEARY: No objection.

2 THE COURT: Without objection State's 101.

3 BY MS. RANKIN:

4 Q. I'm handing you what's been marked for ID as State's
5 93. Can you tell me what that is?

6 A. This is what we would commonly refer to as an
7 autopsy package. It contains bodily fluids collected at
8 autopsy on the victim. Specifically it contains a gray top
9 tube containing blood from the iliac vein, a plastic bottle
10 containing aortic blood collected from the victim's aorta, a
11 tube of vitreous fluid, a plastic bottle containing again
12 aortic blood and a plastic bottle containing gastric fluid.

13 Q. Okay. Did you collect those from autopsy?

14 A. I collected those from the pathologist at autopsy,
15 yes, ma'am.

16 Q. Okay. Of Robert Mitchell?

17 A. Yes.

18 MS. RANKIN: Your Honor, the defense and the State
19 have stipulated to the chain and that the standard, the
20 gray top is the victim's blood, Robert Mitchell,
21 stipulated to the chain that it went from Renee to SLED
22 DNA analysis.

23 THE COURT: Is that correct?

24 MS. CLEARY: Yes, Your Honor.

25 THE COURT: Okay. The chain is stipulated to or

1 agreed upon. Ladies and gentlemen, a stipulation is
2 merely an agreement so both sides agree on that.

3 BY MS. RANKIN:

4 Q. I'm handing you what's been marked as State's 77.
5 Do you recognize that?

6 A. Yes, ma'am.

7 Q. Open it up and tell me what it is.

8 A. (Witness complies.) It's a CPAP mask or facial
9 portion of a CPAP that goes over the mouth and the tubing that
10 goes with it.

11 Q. Where did you collect that?

12 A. From the autopsy as well.

13 Q. When you collected that, did you turn it into
14 evidence?

15 A. I did. Yes, ma'am.

16 MS. RANKIN: Your Honor, at this time the State
17 would move 77 into evidence.

18 MS. CLEARY: No objection.

19 THE COURT: Without objection.

20 BY MS. RANKIN:

21 Q. I'm handing you State's 67. Do you recognize
22 that?

23 A. Yes, ma'am. I do.

24 Q. What is that?

25 A. This is a pacemaker removed from the victim during

1 autopsy.

2 Q. When you collected that, did you put it into
3 evidence?

4 A. I did. Yes, ma'am.

5 MS. RANKIN: Your Honor, at this time the State
6 would move 67 into evidence.

7 MS. CLEARY: No objection.

8 THE COURT: Without objection. Ladies and
9 gentlemen, let me get you to step back into the jury
10 room. I want to take up a very quick matter. It won't
11 take long and then I'll bring you right back out. Please
12 have no conversation about the case.

13 (Whereupon, the jury entered the jury room at 10:30
14 a.m.)

15 THE COURT: Folks, I'm just trying to help move
16 things along. If y'all have stipulated to all of this
17 crap, can't we just stipulate to it and we don't have to
18 go through all this showing it here, showing it over
19 here? Judge, we move it. Is there any objection? No
20 objection. Can we not get together and make stipulations
21 and put those stipulations on the record? I would
22 appreciate an answer from somebody.

23 MS. CLEARY: I'm sorry.

24 THE COURT: Everybody is looking at me like I'm not
25 even talking.

1 MS. RANKIN: Your Honor, we did stipulate to some of
2 the items. I have no problem doing that.

3 THE COURT: Well, I don't know. Look at the items.
4 If you have an issue, that's fine but...

5 MR. GRAHAM: I know per your request on Monday
6 afternoon we went in and pulled all the items that we
7 were going to introduce and put them on the table. I
8 know that they have looked through them. I don't know if
9 they do have any objections, and if so, to which items.

10 THE COURT: If you have objections, I'm more than
11 happy to not have them stipulated to but it just seems
12 like this morning we have gone through I don't know how
13 many and there's no objection to any of them and so if it
14 can be stipulated to, that just moves things along,
15 folks. I'm just trying to move things along.
16 That's all.

17 MS. CLEARY: Your Honor, can I have about five
18 minutes to go through with Stacy to make sure.

19 THE COURT. Sure. And listen, don't hesitate, if
20 you have an issue with anything, don't stipulate to it.
21 But if you don't, if it's stuff that you got no issue
22 with, let's make a list. And they're all marked, right,
23 for ID purposes? Let's just make a list and those items
24 you can stipulate to, we'll put that on the record and
25 those that we don't have a stipulation to, we'll just

1 continue and handle it that way, okay? So we will be at
2 ease then for a few minutes while we look at that.
3 Ma'am, if you need to step down, you're welcome to but
4 just don't have any conversation.

5 (Short break.)

6 THE COURT: We're back on the record now. When we
7 took the break, it appeared that there were several
8 exhibits both State and defense exhibits that neither
9 party had any objection to and that I felt like we were
10 could maybe make the trial to the jury move along quicker
11 if there were stipulations or agreements that we could
12 come to and so the State and the defense have gotten
13 together and so what I'm going to do is I'm gonna get Ms.
14 Rankin, all the exhibits have been marked for
15 identification purposes and so at this point, Ms. Rankin,
16 if you would, just read into the record the exhibit
17 numbers of the those items that the parties have
18 stipulated to and, Ms. Cleary, if you would, you or Ms.
19 Russell would listen carefully and compare your notes so
20 that we can make sure that we are in agreement, okay?

21 MS. RUSSELL: Yes, sir.

22 THE COURT: Go ahead, Ms. Rankin.

23 MS. RANKIN: Thank you, Your Honor. State's --

24 THE COURT: Take them kind of slow because I'm gonna
25 mark them and Steve is gonna be marking his too.

1 MS. RANKIN: State's 1, 2, 3, 4, 5, 9, 11, 53, 42,
2 47 and 48. State's 72. State's 62. State's 15.
3 State's 41, 45, 46, 27, 18, 21, 16, 20, 17, 19, 22.
4 State's 73, 74, 102, 103, 31, 34, 104.

5 THE COURT: Is that all of them?

6 MS. RANKIN: 104.

7 MS. RUSSELL: Okay.

8 THE COURT: Defense agrees with those stipulations?

9 MS. CLEARY: Yes, Your Honor.

10 THE COURT: They're in evidence. Any defense
11 exhibits? Are we ready to do that or do you need some
12 time to do that at a later time?

13 MS. RUSSELL: Elizabeth hasn't come back yet.

14 MS. CLEARY: We gave her the list.

15 THE COURT: That's nothing we have to deal with
16 right now. We'll deal with that at a later time, okay?
17 The stipulations on the defense exhibits.

18 MS. CLEARY: Okay.

19 THE COURT: Okay. Because right now we are still on
20 the State's case so I don't imagine it would come up. If
21 it does, we'll deal with it. All right. Let's bring the
22 jury in.

23 (Whereupon, the jury returned back to the courtroom
24 at 11:05 a.m.)

25 THE COURT: All right. Folks, thank you for your

1 patience. What we did and hopefully it will speed up
2 matters as we continue to go forward, there were numerous
3 exhibits that neither the State nor the defense objected
4 to so rather than continuing to go through that process
5 of talking with the witness about the item, then showing
6 it to defense counsel, moving it in, and then asking
7 defense do they have any objection and stuff, we went
8 through many of these things and as I told you earlier, a
9 stipulation is simply an agreement and so we went ahead
10 and we put on the record numerous exhibits both State and
11 defense exhibits that there were no objections to and we
12 have gone ahead and put those exhibit numbers and we put
13 that into the record that those items are in evidence
14 without objection. So what we will be doing from here
15 forward is just as the State or the defense handles these
16 exhibits we won't have to be moving them into evidence.
17 They are in evidence. Now, there are some exhibits that
18 are not agreed upon and we'll deal with those. But there
19 were many that were agreed upon so we'll hopefully
20 shorten things up in the long run. So, Ms. Rankin, and I
21 apologize for interrupting your direct examination, but
22 hopefully you know where you were at and so you may
23 proceed with that.

24 MS. RANKIN: Thank you, Your Honor.

25 BY MS. RANKIN:

1 Q. I'm handing you State's 69, pill bottles collected
2 from the house at Juniper Springs. Did you process those for
3 prints?

4 A. I did. Yes, ma'am.

5 Q. What were the results?

6 A. They are negative for latent prints which means
7 latent prints were not developed.

8 Q. Okay. I'm handing you State's 2 and 3. Are those
9 photos of the pill bottles?

10 A. Yes, ma'am.

11 Q. Where were they located?

12 A. They were located inside the victim's bedroom. One
13 was actually located on top of the, the original location was
14 on the top of his body and then the other two were on the
15 dresser.

16 Q. I'm handing you State's 5. Do you recognize that?

17 A. I do. Yes, ma'am.

18 Q. What is that?

19 A. That's a picture of the metal tin that contains the
20 pellets, bird shot pellets.

21 Q. Where did the pellets come from?

22 A. The pellets came from the bed and the human tissue
23 that was located in the bed area of the victim's bedroom.

24 Q. State's 68, are those the same pellets?

25 A. They are. Yes, ma'am.

1 Q. State's 85 and State's 4. Would you pull that out?
2 State's 85.

3 A. (Witness complies.)

4 Q. Okay. Is that the CPAP machine?

5 A. It is. Yes, ma'am.

6 Q. Where was that located?

7 A. It was located on the bed area, on the headboard
8 area of the bed.

9 Q. State's 77, is that the CPAP mask?

10 A. It is. Yes, ma'am.

11 Q. When you collected that, where was it?

12 A. It was still attached to the victim's face.

13 Q. State's 11 and 53?

14 A. Yes, ma'am.

15 Q. Did you observe that CPAP on his face?

16 A. I did. Yes, ma'am.

17 Q. State's 1. Do you know what that is?

18 A. Yes, ma'am. It's a phone that we located inside the
19 residence in the kitchen area.

20 Q. Was that phone collected?

21 A. It was. Yes, ma'am.

22 Q. State's 9, can you tell us what that is?

23 A. This is a picture of the inside of the victim's
24 bedroom specifically the side of the bed closest to the
25 doorway and the area where the victim was lying.

- 1 Q. Is that after the body had been removed?
- 2 A. It is. Yes, ma'am.
- 3 Q. I'm handing State's 88, the victim's NRA card and
- 4 various other papers in there. Did you process those items?
- 5 A. I did. Yes, ma'am.
- 6 Q. Okay. What were they processed for?
- 7 A. They were processed for latent prints.
- 8 Q. What was the result of that?
- 9 A. They were negative for latent prints.
- 10 Q. State's 89, the victim's DNR card. Did you process
- 11 that item?
- 12 A. I did. Yes, ma'am.
- 13 Q. What were the results?
- 14 A. They were also negative for latent prints.
- 15 Q. State's 90, did you process that item?
- 16 A. Yes, ma'am.
- 17 Q. What were the results?
- 18 A. It was also negative.
- 19 Q. State's 91, did you process that item?
- 20 A. Yes, ma'am.
- 21 Q. What were the results?
- 22 A. Negative for latent prints.
- 23 Q. State's 92, did you process that item?
- 24 A. Yes, ma'am.
- 25 Q. What were the results?

1 A. It was also negative for latent prints.

2 Q. 66 and 98, what are those items?

3 A. These are two pill bottles.

4 Q. Did you process those items?

5 A. Yes, ma'am.

6 Q. What were the results?

7 A. Negative for latent prints.

8 Q. Officer Strickland, when you were processing the
9 victim's house, did you find any oxycodone in the victim's
10 house?

11 A. No. I did not.

12 MS. RANKIN: Thank you. I don't have anything
13 further.

14 THE COURT: Cross.

15 CROSS EXAMINATION

16 BY MS. CLEARY:

17 Q. Thank you for your patience, Officer Strickland.
18 Let me show you what's been marked as defense exhibits 2, 3,
19 4, 5. Do you recognize that photo? And if you don't, please
20 tell me. These are pictures provided by the State.

21 A. Yes, ma'am. It appears to be the back door of the
22 residence.

23 Q. At Juniper Springs Road?

24 A. At Juniper Springs Road. Yes, ma'am.

25 Q. Does this accurately display the way it was that

1 day, the day of the crime scene?

2 A. From what I recall.

3 MS. CLEARY: I would like to move Defendant's
4 exhibit 3 into evidence.

5 MS. RANKIN: Sorry. Was there testimony that that's
6 the way it looked at the time?

7 MS. CLEARY: I'm sorry.

8 BY MS. CLEARY:

9 Q. Officer Strickland, is this the way that the door
10 looked at the time when y'all were taking these pictures on
11 September 28th, 2012?

12 A. To be completely sure I would have to see the
13 picture that I took myself that day. I recognize it as being
14 the back door but whether it's in the exact same condition
15 that it was at the time.

16 MS. CLEARY: Let me hold onto - I'll withdraw this
17 one just for a moment.

18 BY MS. CLEARY:

19 Q. This photo here, is that the same? Do you recognize
20 that photo from Juniper Springs Road?

21 A. I recognize that as the back door. Yes, ma'am.

22 Q. Okay. And does that look the way that it did on
23 that day on July 28, 2012?

24 A. Again without seeing my photographs, I can't say
25 that it's exactly the same. It appears to be but I can't say

1 that it's exactly the same.

2 Q. Did you take all the photographs that day or were
3 there other people taking photographs?

4 A. The responding officer took some photographs and I
5 believe maybe the coroner took some photographs but as far as
6 crime scene photographs, I took all those photographs.

7 Q. So somebody else may have taken these photographs?
8 We just received the picture so...

9 A. They may have.

10 Q. All right.

11 A. I may have taken them myself. But like I said,
12 unless I see the actual photographs I can't tell.

13 Q. Thank you. Thank you. I'm sorry. I'll figure that
14 out. You testified that you tested a number of items for
15 latent prints?

16 A. Yes, ma'am.

17 Q. And you would agree that you only need a very small
18 amount of material in order to test an item for DNA? Like
19 less than a nanogram can be tested for DNA?

20 A. I'm not a DNA analyst so I can't speak
21 scientifically to that. To collect DNA we basically either
22 collect blood or some kind of bodily fluid or what's called
23 touch DNA. As to how much it takes to yield a result I can't
24 testify to that.

25 Q. But you can swab an item even if it's not bloody or

1 has obvious tissue on it you can swab it and hopefully get DNA
2 that's enough to test, to send to SLED for testing?

3 A. That's correct. Yes, ma'am.

4 Q. Okay. Did you -- Let me make sure I have all my
5 numbers right. The wallet, State's exhibit 92, did you try to
6 swab any material for DNA from the wallet?

7 A. No, ma'am.

8 Q. And how about from those pill bottles, 98. Well,
9 State's exhibit 98, pill bottle retrieved from Two Notch Road,
10 did you swab those for DNA?

11 A. No, ma'am.

12 Q. Did you swab any of the pill bottles for DNA?

13 A. No, ma'am.

14 Q. And the Samsung phone. I'm sorry. I have too much
15 stuff here. Let me move past that. I can't find it. The NRA
16 card, did you swab it for DNA?

17 A. No, ma'am. That item was processed with a chemical
18 for latent prints.

19 Q. For latent prints. So once you processed it with
20 the chemical, does that mean you can't get any DNA off of
21 it?

22 A. Correct.

23 Q. So any of the items that - and let me just go
24 through this real quick - the NRA card, the DNR card and the
25 broken phone, those were processed for latent prints?

1 A. Yes, ma'am.

2 Q. So you wouldn't be able to swab those for DNA?

3 A. Yes, ma'am. That is correct.

4 Q. Okay. I believe you testified there was a dresser
5 that one of the phones was taken off of?

6 A. A kitchen counter.

7 Q. The kitchen counter?

8 A. Yes, ma'am.

9 Q. Did you attempt to try to get any DNA or
10 fingerprints off of that kitchen counter?

11 A. No, ma'am.

12 Q. There was a dresser in the room as well next to --

13 A. There was. Yes, ma'am.

14 Q. -- where the victim slept. Did you try to get any
15 kind of DNA or fingerprints off of that dresser?

16 A. We did not. We did process areas in the house for
17 latent prints. We did not lift any. Did not swab for DNA
18 other than the door knobs in the house.

19 MS. CLEARY: Your Honor, may I retrieve the items?

20 THE COURT: Yes..

21 BY MS. CLEARY:

22 Q. Officer, I'll try to speed this up a little bit.

23 Are there any items that you have tested for or swabbed for

24 DNA other than the ones that you have testified to on direct

25 examination? Are there additional items that you participated

1 in swabbing for DNA?

2 A. Yes.

3 Q. There are?

4 A. Yes. There are.

5 Q. From this scene?

6 A. From this scene.

7 Q. I mean from the Juniper --

8 A. Not from Juniper Springs.

9 Q. Not from Juniper Springs?

10 A. Right.

11 Q. And which location were they from?

12 A. Feather Run Trail.

13 MS. CLEARY: Okay. That's all the questions that I
14 have. Thank you.

15 THE COURT: Anything on redirect?

16 REDIRECT EXAMINATION

17 BY MS. RANKIN:

18 Q. Officer Strickland, what determines whether you swab
19 for DNA versus fingerprints?

20 A. Basically I examine the piece of evidence and how I
21 examine the piece of evidence is I first start out with a
22 visual examination or I examine with natural light and then
23 oblique lighting which is side lighting and depending on the
24 type of material or the object sometimes you can see if there
25 is a latent print. Other times if you are dealing with -- It

1 also depends on whether the item is porous or nonporous.
2 Something like paper is porous or it absorbs liquid or
3 nonporous would be like a varnished surface or plastic or
4 something glass or something of that nature. So on porous
5 items such as paper, we process with a chemical and heat. A
6 chemical called anhydrate. If you were dealing with something
7 that's got a finished surface like a painted surface or like I
8 said granite or glass or something like that, you can simply
9 either process that with a Super Glue with fuming that I
10 talked about earlier and black powder and lift a print or just
11 black powder. Sometimes the condition of the piece of
12 evidence prevents you from either doing latent print
13 examination, if it's a rough surface. If the item is old and
14 weathered. If it's textured. In those cases if I determine
15 that DNA would yield a better result, then my ultimate goal is
16 to obtain forensic evidence that's going to link someone to it
17 or identify them whether that be through DNA or latent prints
18 so I make the judgment call of what would yield the best
19 result.

20 Q. So you chose latents because you thought that would
21 prove to be a better result?

22 A. Exactly. Yes, ma'am.

23 MS. RANKIN: Thank you. I have nothing further.

24 THE COURT: Thank you very much, ma'am. You may
25 step down. All right. You may call your next witness.

SANDY BLACK - DIRECT BY MR. GRAHAM

287

1 MS. RANKIN: The State calls Sandy Black.

2 Thereupon,

3 SANDRA BLACK

4 after having been first duly sworn, testified as follows,

5 THE CLERK: Please have a seat. After you're
6 seated, please state your full name spelling your last
7 name for the record.

8 THE WITNESS: Sandra Black, B-l-a-c-k.

9 DIRECT EXAMINATION

10 BY MR. GRAHAM:

11 Q. Detective Black, where are you employed, ma'am?

12 A. Lexington County Sheriff's Department.

13 Q. What do you do there?

14 A. I'm a major crimes investigator.

15 Q. How long have you worked for the Lexington County
16 Sheriff's Department?

17 A. 18 years.

18 Q. How long have you worked in major crimes?

19 A. Five years.

20 Q. Back in July, end of July and August 2012, you were
21 in major crimes at that time?

22 A. Yes, sir.

23 Q. Did you have involvement in this case regarding
24 credit card activity of Robert Mitchell?

25 A. Yes, sir.

1 Q. Can you explain to the jury what you did in regards
2 to contacting Chase Credit Card Company on Mr. Mitchell's
3 accounts?

4 A. I called the Chase Credit Card Company and asked
5 them if they could provide me with information on whether a
6 credit card had been used since the 28th of July. I gave them
7 the credit card number. Do you want me to read the credit
8 card number?

9 Q. Yes.

10 A. The credit card number was [REDACTED]. The
11 person I spoke to said they would have to ask security if they
12 could give me that information over the phone. They asked
13 security. Security said go ahead and give me that information
14 so she told me that on July 30th at 8:00 p.m. that credit card
15 was used at a Wal-Mart store number 4379 for a purchase of
16 53.94 but the card was declined.

17 Q. I believe you are holding a document from Chase
18 that's marked State's 62; is that correct?

19 A. Yes, sir.

20 MR. GRAHAM: Your Honor, it's my understanding that
21 has been admitted into evidence by stipulation, the
22 actual records from Chase regarding the credit card usage
23 of Mr. Mitchell's Chase credit card.

24 THE COURT: That's State's what?

25 MR. GRAHAM: State's 62.

SANDY BLACK - DIRECT BY MR. GRAHAM

289

1 THE COURT: All right. Yes, sir.

2 BY MR. GRAHAM:

3 Q. Detective Black, looking at State's number 62, these
4 are the records of the victim in this case?

5 A. Yes, sir.

6 Q. And where, looking at the last or the next to last
7 page of State's 62, what does it tell us about Mr. Mitchell's
8 card being used at a Wal-Mart?

9 A. It says that the card was used on July 30th, 2012 at
10 8:00 p.m. for a purchase of 53.94 and Wal-Mart number 4379 and
11 the last line, the last box says it was declined.

12 Q. Based on that information did you contact
13 Wal-Mart?

14 A. Yes, sir. I did.

15 Q. What did you talk to Wal-Mart about?

16 A. I asked, I spoke to the security officer there and
17 asked him if they had video and asked him if the video
18 recorded. He said that they do have video and the video does
19 record and I asked him if he would still have that date of
20 July 30th and he said that they did.

21 Q. Were you able to supply him the store number to be
22 at the right store, the dollar amount and the time?

23 A. Yes, sir.

24 Q. And based on the information was Wal-Mart able to
25 pull video related to that transaction or attempted

1 transaction?

2 A. Yes, sir.

3 Q. Do you have a DVD or a CD with you as well?

4 A. Yes, sir.

5 Q. What exhibit is that marked as?

6 A. 15.

7 MR. GRAHAM: Your Honor, the State, my understanding
8 is that that exhibit is in evidence at this time as
9 well.

10 THE COURT: It is.

11 BY MR. GRAHAM:

12 Q. Detective Black, is it your understanding that that
13 video is what Wal-Mart made that shows the attempted
14 transaction once the suspect completing that transaction was
15 identified it shows the individual coming into the store,
16 leaving the store and then also any vehicles associated with
17 it?

18 A. Yes, sir.

19 MR. GRAHAM: That's all the State has, Your Honor.
20 Thank you, Detective Black.

21 THE COURT: Cross?

22 MS. CLEARY: No, Your Honor.

23 THE COURT: All right. Thank you very much, ma'am.
24 You may step down. Call your next witness.

25 MR. GRAHAM: The State calls Jesse Laintz.

JESSE LAINTZ - DIRECT BY MR. GRAHAM

291

1 Thereupon,

2 JESSE LAINTZ

3 after having been first duly sworn, testified as follows,

4 THE CLERK: Please have a seat. After you're
5 seated, please state your full name spelling your last
6 name for the record.

7 THE WITNESS: Jesse Laintz, L-a-i-n-t-z.

8 DIRECT EXAMINATION

9 BY MR. GRAHAM:

10 Q. Sergeant Laintz, where are you employed?

11 A. I work for the Lexington County Sheriff's
12 Department.

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

14 A. Nine years.

15 Q. Currently as a sergeant which area of the Sheriff's
16 Department do you work in?

17 A. Major crimes.

18 Q. Back in July and August 2012, were you also in major
19 crimes at that time?

20 A. Yes. I was.

21 Q. Were you involved with the investigation of the case
22 that we are here on today?

23 A. Yes, sir.

24 Q. Let me show you State's number 15 which is already
25 in evidence which is a disk from Wal-Mart showing a declined

1 credit card usage of the victim's credit card. Do you
2 recognize that disk?

3 A. Yes, sir. I do.

4 Q. Have you had an opportunity to look at it?

5 A. Yes, I have.

6 Q. Let me show you State's 18, 21, 16, 20, 17, 19 and
7 22. Do you recognize all of those?

8 A. Yes, sir. I do.

9 Q. And are all of those items that are still shot
10 photos of State's 15?

11 A. Yes. They are.

12 Q. Based on the credit card usage at Wal-Mart and other
13 information, was law enforcement able to identify the
14 defendant Jeremy Brady as a suspect?

15 A. Yes, sir.

16 Q. And did you respond over to the defendant's
17 apartment on what date?

18 A. On August 2nd, 2012 I responded.

19 Q. Do you remember that location?

20 A. It's Quail Hollow. I believe it's Feather Trail.
21 It's apartment P, as in papa, 3.

22 Q. When you arrived on scene on August 2nd, were you
23 aware that the defendant, Mr. Brady, had been placed under
24 arrest for the credit card?

25 A. Yes.

1 Q. Was a search warrant obtained for his residence at

2 [REDACTED], [REDACTED]

3 A. It was.

4 Q. Let me show you what's in evidence as State's 41 and
5 ask you if you recognize that?

6 A. That is the outside of the apartment.

7 Q. Was it on the first floor or the second floor? Did
8 it face the parking lot or away from the parking lot?

9 A. It was on the second floor facing the parking lot.

10 Q. Did you assist in the search warrant?

11 A. I did.

12 Q. Tell me about your involvement in the search
13 warrant.

14 A. When I went upstairs, there was already people
15 searching the house because we prior searched a vehicle
16 outside. When I went upstairs, there were people in several
17 rooms inside in the house so I went in and there was a balcony
18 to the right when you first walk in. I went out to that
19 balcony and I started searching the balcony area. There was a
20 door outside the balcony that was to your right again. Once
21 you go through the sliding glass door, there is another door
22 out there that doesn't attach to the apartment but it was
23 connected to the balcony itself.

24 Q. Let me show you three other photographs that are in
25 evidence, State's 27, 45 and 46, and ask if you recognize

1 those?

2 A. Yes, sir. I do.

3 Q. Are those items that you found out in the storage
4 room on the balcony at that apartment?

5 A. Yes, sir.

6 Q. State's 27, what are we looking at?

7 A. That is a sawed off shotgun. It was actually, when
8 you went to the storage area to the right, it was wrapped up
9 in that blanket that you see underneath it.

10 Q. Once you found it, when you find a weapon, what's
11 the first thing that you do to secure it?

12 A. Clear it to make sure there's no ammunition in it.

13 Q. Did you do that in this case?

14 A. Absolutely. Yes. I did.

15 Q. What did you find when you went to clear the
16 weapon?

17 A. There was a yellow what we call low brass, the
18 backside of it. The brass isn't very high. It's called low
19 brass. It had two capital A's on it and it said, I believe it
20 was Super Sport and seven and a half on it.

21 Q. Is that what's depicted in State's 45 is you
22 actually holding the shells that you cleared from the
23 weapon?

24 A. Yes, sir. It is.

25 Q. And then in State's 46, what's the purpose of that

1 photo?

2 A. That's showing the back of the shell itself to show
3 that the primer has not been hit. The thing right in the
4 center, that's your primer that would make it go off and so
5 it's not indented so it hasn't been shot and it also shows the
6 caliber and everything else.

7 Q. What caliber and manufacturer?

8 A. It says 20 gauge Winchester, W-i-n.

9 Q. So you found the shotgun, you cleared out the shell
10 and then those items were collected into evidence; is that
11 correct?

12 A. Yes, sir.

13 Q. Let me show you State's number 72 which I believe is
14 in evidence as well. Do you recognize that as being the shell
15 that you cleared out of that weapon?

16 A. Yes, sir.

17 Q. Let me show you State's 94 already in evidence and
18 ask you if you recognize that?

19 A. Yes. That's the shotgun that was found.

20 Q. So this is the shotgun that you found in the
21 apartment where Jeremy Brady lived?

22 A. Yes, sir.

23 Q. That's State's 94. And State's 72 is the shell that
24 you cleared out of this weapon?

25 A. Yes, sir.

1 Q. In addition to the search warrant at the house, did
2 you also assist in locating another individual who had lived
3 at the house named Michelle Webb?

4 A. Yes. I did.

5 Q. Did you come in contact with her?

6 A. Yes. I did. I believe it's right here.

7 Q. Do you remember what kind of a vehicle that she was
8 driving?

9 A. It was a goldish kind of gray weirder color when you
10 see it in different suns it looks different but it was a
11 Pontiac Grand Am.

12 Q. Did she voluntarily drive her car to the Sheriff's
13 Department?

14 A. Yes. She did.

15 Q. And allow it to be searched?

16 A. She did.

17 MR. GRAHAM: Thank you, sergeant. Please answer any
18 questions they have for you.

19 MS. CLEARY: Can we approach for one second?

20 THE COURT: Yes.

21 (Side bar off the record.)

22 CROSS EXAMINATION

23 BY MS. CLEARY:

24 Q. Is it Investigator Laintz?

25 A. That's fine. Sergeant Laintz.

1 Q. Sergeant. The sawed off shotgun in the photo
2 State's exhibit number 87, uhm, I have got it number 87. This
3 photo here?

4 A. Yes, ma'am.

5 Q. This is the way the gun was when you found it?

6 A. No. It was not.

7 Q. Okay. So did they show you a picture of how the gun
8 was when you found it?

9 A. They did not.

10 Q. Okay. So but the gun was wrapped in this blanket I
11 believe was your testimony?

12 A. It was. It was wrapped inside that blanket and was
13 inside that doorway to the right.

14 Q. Okay. And you seized this blanket?

15 A. I do not know if that was collected by CSI or not.

16 Q. Okay. And you conducted the search, the consent
17 search of Michelle Webb's vehicle?

18 A. I did not.

19 Q. I'm sorry. Did just testify -- Oh, you executed - I
20 mean, you wrote the search warrant? You got the search
21 warrant? Obtained the search warrant?

22 A. No, ma'am. I did not.

23 Q. Okay. Just a minute. All right. So you didn't
24 have anything to do with the search of Michelle Webb's car?

25 A. Searching the car, no.

1 Q. Okay. And you were present when -- Let me just
2 clarify this. You were present, well, at the time earlier
3 than this search. Were you present there when Mr. Brady was
4 on the scene?

5 A. I was.

6 Q. Okay. How long were you there?

7 A. I don't know. Probably about an hour maybe if that.
8 I was jumping around from place to place talking to people in
9 different places and getting search warrants so I can't tell
10 you exactly how long.

11 MS. CLEARY: Thank you. No further questions.

12 THE COURT: Any redirect?

13 MR. GRAHAM: No, Your Honor.

14 THE COURT: All right. Thank you very much, sir.
15 You may step down.

16 MS. RANKIN: Your Honor, if we could approach?

17 THE COURT: Yes, ma'am.

18 (Side bar off the record.)

19 THE COURT: Let me get you to step back into the
20 jury room for a second and have no conversation about the
21 case.

22 (Whereupon, the jury entered the jury room at 11:50
23 a.m.)

24 (Short break.)

25 BAILIFF: Keep your seats. Court is now in session.

1 THE COURT: All right. Folks, where are we at?

2 MS. RANKIN: Your Honor, the additional items are
3 State's 83 --

4 THE COURT: These are items that are stipulated to;
5 is that right?

6 MS. RANKIN: Yes, sir, Your Honor.

7 THE COURT: Okay. 83.

8 MS. RANKIN: 83. Your Honor, 80, 76, 75, 70, 96,
9 95, 83, 81. Okay. Okay. I think we're good.

10 THE COURT: They're in. How about defense wise?
11 Have you got anything to report at this point?

12 MS. CLEARY: No, sir. We're good.

13 THE COURT: Okay. All right. Let's bring the jury
14 in. Do we have a witness on the stand?

15 MS. RANKIN: No, sir. We do not.

16 THE COURT: All right. You ready with your next
17 one?

18 MS. RANKIN: Yes, sir.

19 THE COURT: Okay.

20 (Whereupon, the jury returned to the courtroom at
21 12:15 p.m.)

22 THE COURT: All right. Ladies and gentlemen, we're
23 ready to proceed now. We recognize the State for your
24 next witness.

25 MS. RANKIN: Thank you, Your Honor. The State calls

1 Renee Strickland.

2 THE CLERK: Your Honor, is she still under oath?

3 MS. RANKIN: She's a recall, Your Honor.

4 THE COURT: She just got off the stand, didn't she?

5 MS. RANKIN: Yes, sir.

6 THE CLERK: Two witnesses ago. Yes, sir, Your
7 Honor.

8 THE COURT: Ms. Strickland, you are still under
9 oath, ma'am.

10 REDIRECT EXAMINATION CONTINUED

11 BY MS. RANKIN:

12 Q. Officer Strickland, did you assist in a search
13 warrant at Feather Run Trail in this case?

14 A. I did. Yes, ma'am.

15 Q. State's 100, what are those?

16 A. These are swabs. A swab collected from the brass
17 head off a shot shell. Swab from the trigger of shotgun.
18 Swab from grip of shotgun, and swab from forestock of
19 shotgun.

20 Q. Were those swabs taken, State's 94, from this gun?

21 A. Yes.

22 Q. When you took those swabs, did you hand them into
23 evidence to Beth Holliman?

24 A. I did. Yes.

25 Q. Did you get those swabs back?

- 1 A. I did.
- 2 Q. From Candy Kyzer?
- 3 A. Yes.
- 4 Q. Did you turn those swabs over to Doris Yarbrough at
- 5 SLED?
- 6 A. I did. Yes.
- 7 Q. I'm showing you State's 72. What is that?
- 8 A. This is an unfired shot shell.
- 9 Q. Okay. Did you process that?
- 10 A. I did.
- 11 Q. Did you swab that for DNA?
- 12 A. I did.
- 13 Q. Did you receive that shot shell from Jesse Laintz?
- 14 A. I did. Yes.
- 15 Q. Did you turn those swabs over to evidence?
- 16 A. I did.
- 17 Q. Is that the swabs?
- 18 A. The swab from the brass head of shot shell. That
- 19 would have been the swab from this item of evidence.
- 20 Q. Okay. From that item of evidence goes with item
- 21 100?
- 22 A. Yes. Correct.
- 23 Q. Okay. Thank you. Did you turn that into Beth
- 24 Holliman at the Sheriff's Department?
- 25 A. I did.

1 Q. Did you get that back from Beth Holliman at some
2 point?

3 A. I did. Yes, ma'am.

4 Q. Did you take that to Don McRae at Richland County
5 Sheriff's Department?

6 A. Yes. I did.

7 Q. Did you eventually get that back from Don McRae?

8 A. Yes.

9 Q. And turn it back into Beth Holliman?

10 A. Yes.

11 Q. State's 80 and 81, cut that open for me.

12 A. (Witness complies.)

13 Q. What are those items?

14 A. A pair of shoes. Would you like me to take them
15 out?

16 Q. Yes. Go ahead and take them out.

17 A. (Witness complies.) And a striped Polo shirt.

18 Q. Where were those items collected?

19 A. They were collected from the address on Feather Run
20 Trail.

21 Q. After you collected them, did you put them into
22 evidence?

23 A. I did. Yes.

24 Q. State's 42, 47, 48, do you recognize those?

25 A. I do.

1 Q. What is that?

2 A. The first is a picture of the shotgun where it was
3 collected on scene at Feather Run Trail. The second picture
4 are the shoes that were just in the bag also collected at
5 Feather Run Trail. And the third is the striped Polo shirt
6 which was in the bag also collected at Feather Run Trail.

7 Q. State's 70, did you receive that phone from Shawn
8 Grant?

9 A. I did. Yes.

10 Q. When you got that phone, did you place it into
11 evidence?

12 A. I did. Yes, ma'am.

13 Q. Where did that phone come from?

14 A. Feather Run Trail. The address at Feather Run
15 Trail.

16 MS. RANKIN: Your Honor, the defense and the State
17 have stipulated that that's the phone that came from
18 Feather Run Trail that belonged to Jeremy Brady.

19 THE COURT: All right.

20 BY MS. RANKIN:

21 Q. State's 94. Did you collect this?

22 A. I did. Yes, ma'am.

23 Q. What did you do with it once you collected it?

24 A. I brought it back to the Sheriff's Department where
25 I processed it, swabbed it, and then submitted it to evidence.

1 Once it was logged into evidence, I then received it back from
2 evidence and transported it to the Richland County Sheriff's
3 Department for ballistic examination.

4 Q. State's 72, did you collect that?

5 A. I did.

6 Q. Did you collect that from Feather Run?

7 A. Yes. I did.

8 Q. I think you said you swabbed that for DNA?

9 A. I did. Yes, ma'am.

10 Q. Did you turn that into Beth Holliman at the
11 Sheriff's Department?

12 A. Yes. I did.

13 Q. Did you get that back from her and turn it into
14 Richland County to Don McRae?

15 A. Yes, ma'am.

16 Q. Did you eventually get that back from Don McRae at
17 the Sheriff's Department at Richland County?

18 A. I did. Yes, ma'am.

19 Q. And turn it into Beth Holliman at the Lexington
20 County Sheriff's Department?

21 A. Correct. Yes, ma'am.

22 MS. RANKIN: Thank you. I have nothing further.

23 THE COURT: Recross.

24 MS. CLEARY: May it please the Court.

25 THE COURT: Yes, ma'am.

1 RECROSS EXAMINATION

2 BY MS. CLEARY:

3 Q. Investigator Strickland, let me show you what's been
4 previously marked as defense exhibit 9. Do you recognize
5 this?

6 A. Yes.

7 Q. Okay. That's some items that you collected?

8 A. Yes, from the scene at Juniper Springs Road.

9 Q. From the victim's house?

10 A. Yes.

11 MS. CLEARY: At this time, Your Honor, I move to
12 admit this as defense exhibit 9.

13 THE COURT: Any objection to defense 9?

14 MS. RANKIN: None from the State, Your Honor.

15 THE COURT: All right. Defense 9 is in without
16 objection.

17 BY MS. CLEARY:

18 Q. Officer Strickland, would you mind identifying that,
19 telling us what's in that packet? You can open it up.

20 A. (Witness complies.) Would you like me to open the
21 other package?

22 Q. Yes, please.

23 A. This package contains a pair of floral panties.

24 Q. So one of the bags contained in defense exhibit 9 is
25 a floral panties; is that correct?

1 A. Yes.

2 MS. CLEARY: Your Honor, if I could publish this to
3 the jury while she is opening that?

4 THE COURT: Yes, ma'am.

5 BY THE WITNESS:

6 A. This one is what appears to be a lady's brown
7 sandal. That's the only two items contained in this bag.

8 MS. CLEARY: Okay. Thank you. At this time I would
9 like to publish defense exhibit 9 to the jury, one shoe
10 and one pair of underwear found from [REDACTED]
11 [REDACTED] found on July 28th, 2012.

12 BY MS. CLEARY:

13 Q. Could you tell us where those were found?

14 A. They were found in the victim's bedroom on the
15 floor.

16 Q. In the victim's bedroom. And there was just the one
17 shoe?

18 A. Yes.

19 Q. Because you would have collected the other shoe if
20 there were two of them, right?

21 A. Right. Correct.

22 Q. So tell us what you did with those items once you
23 collected them?

24 A. I submitted those items to evidence.

25 Q. Do you know what happened to them after that?

1 A. I took them to Richland County.

2 Q. Do you know if they were processed for DNA or
3 anything?

4 A. I'm not sure. They were sent there for processing
5 but I'm not sure.

6 Q. If they had been processed, would you have received
7 a report back of that or the State would have received a
8 report?

9 A. The case investigator would have received the
10 report.

11 MS. CLEARY: Thank you very much. Thank you.

12 That's all I have.

13 MS. RANKIN just briefly Your Honor.

14 REDIRECT EXAMINATION CONTINUED

15 BY MS. RANKIN:

16 Q. Item 100, those swabs were taken from the shotgun
17 and the brass head of the shot shell?

18 A. Yes, ma'am.

19 Q. When you collected those, you turned those into the
20 Sheriff's Department to Beth Holliman?

21 A. Yes.

22 Q. Did you get them back from Candy Kyzer?

23 A. I did. Yes.

24 Q. Did you take them to SLED and leave them with Doris
25 Yarborough?

1 A. Yes.

2 MS. RANKIN: Thank you. I have nothing further.

3 THE COURT: All right. Thank you very much, ma'am.

4 You may step down.

5 MS. RANKIN: The State calls Glenn Ross.

6 Thereupon,

7 GLENN ROSS

8 after having been first duly sworn, testified as follows,

9 THE CLERK: Please have a seat. After you're
10 seated, please state your full name spelling your last
11 name for the record.

12 THE WITNESS: Glenn Ross, R-o-s-s.

13 DIRECT EXAMINATION

14 BY MS. RANKIN:

15 Q. Where do you work?

16 A. Lexington County Sheriff's Department.

17 Q. What do you do there?

18 A. Crime scene investigator.

19 Q. What is your rank or your title?

20 A. Crime scene investigator.

21 Q. CSI?

22 A. Yes, ma'am.

23 Q. How long have you been doing that?

24 A. Between Lexington and the City of Columbia 12
25 years.

1 Q. Did you assist on a search warrant in this case for
2 Michelle Webb's car?

3 A. In the front parking lot of headquarters?

4 Q. Yes.

5 A. Yes, ma'am.

6 Q. Tell me about how you would go through processing a
7 car?

8 A. The first thing I would do is check and make sure
9 the search warrant matches the identifiers on the car, the
10 VIN, the tag and things such as that. Then I would take
11 photographs outside the vehicle and then inside the vehicle
12 before we touch or do anything to that and then we would
13 identify evidence we think is relevant to the case. I would
14 put placards by that evidence to put in my notes in reference
15 to 1, 2, and 3 to keep records and then collect the items.

16 Q. State's 30, is that the car?

17 A. Yes, ma'am.

18 Q. Did you collect items out of that car?

19 A. Yes, ma'am. I did.

20 Q. State's 83. What is that?

21 A. It's a safe.

22 Q. Was that item found in the car?

23 A. Yes, ma'am.

24 Q. Where was that found?

25 A. In the trunk.

1 Q. State's 33 and 34, are those pictures of the safe in
2 the trunk?

3 A. Yes, ma'am.

4 Q. State's 102 and 103, is that photos of the trunk as
5 well?

6 A. Yes, ma'am. I had to do it in layers.

7 Q. Okay. So it's safe to say 34 and 33 were found
8 under 102 and 103?

9 A. Yes, ma'am.

10 Q. Item 83, the safe, did you process that item?

11 A. Yes, ma'am.

12 Q. What was the results?

13 A. Negative results for latent prints.

14 Q. What process did you use on that?

15 A. Fingerprint powder in the crime lab.

16 Q. State's 76.

17 A. Yes, ma'am.

18 Q. What is that?

19 A. Harley Davidson tin.

20 Q. Where was that found?

21 A. Also in the trunk.

22 Q. Was that processed for prints?

23 A. Yes, ma'am. The same process.

24 Q. What were the results?

25 A. Negative for latent prints.

- 1 Q. State's 75.
- 2 A. Medical papers.
- 3 Q. State's 31, is that the same papers?
- 4 A. Yes, ma'am.
- 5 Q. Where were those found?
- 6 A. Pocket behind the driver's seat.
- 7 Q. State's 104.
- 8 A. Wal-Mart card.
- 9 Q. Where was that found?
- 10 A. From the driver's door pocket.
- 11 Q. State's 75, medical records, were those processed
- 12 for prints?
- 13 A. No, ma'am.
- 14 Q. State's 95 and 96.
- 15 A. Are these the buccal swabs you're asking me about,
- 16 ma'am?
- 17 Q. You can cut it open.
- 18 A. No. I'm just checking on the report. This is my
- 19 writing.
- 20 Q. Okay. You can cut it open.
- 21 A. (Witness complies.) These are buccal swabs I
- 22 collected.
- 23 Q. And what are they?
- 24 A. Buccal swabs that were collected at the jail.
- 25 Q. Okay. Who were they collected from?

1 A. Collected from Jeremy Brady and Nicholas Williams.

2 Q. When you collected those, did you turn them into
3 Candy Kyzer at evidence?

4 A. Yes, ma'am. As soon as they were collected from the
5 jail, I took them straight over to evidence and turned them
6 in.

7 Q. State's 73, what is that?

8 A. It's a diagram I did of the scene, incident scene.

9 Q. Okay. Can you explain that a little bit?

10 A. It's just basically the master bedroom, shows the
11 bed, the dresser, just general measurements of the size of the
12 room.

13 Q. All right. Tell us what we are looking at.

14 A. The master bedroom.

15 Q. You have got some markings, some notations on
16 there?

17 A. That was where the victim was lying and measurements
18 were made of the general dynamics of the room and where he was
19 lying also.

20 Q. Okay. Item 74.

21 A. That's a bigger diagram that was done of the mobile
22 home and because of the body measurements and then all of the
23 evidence that's collected, you can't put all of that in one
24 diagram so I did a separate diagram to show where all the
25 evidence was collected from and that is this diagram. It

1 would be too confusing to do it all in one.

2 Q. And these numbers?

3 A. Those are items of evidence that were collected.

4 Q. Okay. Are those listed on this legend?

5 A. Yes, ma'am.

6 MS. RANKIN: Thank you. I have nothing further.

7 Please answer anything the defense might have.

8 CROSS EXAMINATION

9 BY MS. CLEARY:

10 Q. CSI Ross, how are you doing?

11 A. Fine.

12 Q. I'm going to try to find the things I need to refer
13 to here. You testified that you conducted the search through
14 Michelle Webb's car's trunk, the trunk of her car?

15 A. Yes, ma'am.

16 Q. And I was hoping I could find that exhibit quickly
17 but I'm sorry. State's exhibit 102 and 103, I think she just
18 showed you a picture of it. You said y'all searched those in
19 layers; is that correct?

20 A. Yes. The first picture just showed the trunk was
21 full. We had to take some items out and take more pictures.
22 Then it was decided what we believed was pertinent to the case
23 and that was collected.

24 Q. All right. Okay. So I'm going to show you what's
25 already been admitted as State's exhibit 102, and is that the

1 view of the trunk when you first opened it? That would be
2 like the first picture you would take?

3 A. Yes, ma'am.

4 MS. CLEARY: I believe that's all I have. Thank
5 you.

6 THE COURT: Any redirect?

7 REDIRECT EXAMINATION

8 BY MS. RANKIN:

9 Q. What is a buccal swab?

10 A. It's a swab between, in the cheek basically is what
11 that stands for. Buccal just means in the cheek area. We
12 just take a swab and you rub it on both sides of the cheek to
13 collect DNA from whoever you are collecting the swab from.

14 MS. RANKIN: Nothing further.

15 THE COURT: Thank you, sir. You may step down.
16 Y'all come up here for a second.

17 (Side bar off the record.)

18 THE COURT: Yes, sir. You may call your next
19 witness.

20 MR. GRAHAM: The State calls Michelle Webb.
21 Thereupon,

22 MICHELLE WEBB

23 after having been first duly sworn, testified as follows,

24 THE CLERK: Please have a seat. After you're
25 seated, please state your full name spelling your last

1 name for the record.

2 THE WITNESS: Michelle Marie Webb, W-e-b-b.

3 DIRECT EXAMINATION

4 BY MR. GRAHAM:

5 Q. Ms. Webb, how old are you?

6 A. 27.

7 Q. Do you know the defendant Jeremy Brady?

8 A. Yes.

9 Q. How do you know him?

10 A. He was a friend of my baby's father and we were good
11 friends as well at one time.

12 Q. Would that be Kim White?

13 A. Yes.

14 Q. How long were you and Kim, or how long have you an
15 Kim been friends?

16 A. Uhm, 15 years now.

17 Q. The end of July and beginning of August 2012 where
18 were you living?

19 A. Uhm, at Quail Hollow Apartments in West Columbia.

20 Q. Is that On Feather Run?

21 A. Yes.

22 Q. Is that [REDACTED]

23 A. Yes, sir.

24 Q. Who all lived in that apartment with you?

25 A. Uhm, me, Jeremy and Brenda, Kim's mother.

1 Q. Brenda White?

2 A. Yes, sir.

3 Q. That Friday night July 27th, 2012, what did you
4 do?

5 A. I went to, uhm, a bar that was called The Rock then
6 with a friend of mine Michael.

7 Q. What time did you arrive home?

8 A. Uhm, it was between 1:00 and 2:00 a.m., I believe.
9 I'm not really sure because I had gotten pretty intoxicated
10 and I don't really remember coming home that night.

11 Q. So that would have been on the early morning of July
12 28th that Saturday?

13 A. Mm-hmm.

14 Q. Do you know whether the defendant was home when you
15 came home that night?

16 A. I don't remember coming home so no.

17 Q. The next morning or that morning on the 28th do you
18 remember about when you woke up?

19 A. It was about 7:00 a.m.

20 Q. What did you notice when you woke up at 7:00 a.m.?

21 A. Uhm, Jeremy wasn't there. My car wasn't there. My
22 keys were gone.

23 Q. Was that usual or unusual for Jeremy to use your
24 car?

25 A. I mean, he used it a good bit, but he usually asked

1 before he took it, yeah.

2 Q. What, if anything, did you do once you realized that
3 your car was missing that morning?

4 A. Uhm, I got on the phone and tried to call him a good
5 bit, but the phone kept going to voicemail. I wasn't able to
6 reach him.

7 Q. So you kept trying to call Jeremy Brady and it kept
8 going to voicemail that morning?

9 A. Mm-hmm.

10 Q. At some point later that morning did your car come
11 back?

12 A. Yes. He ended up coming back around I think it was
13 8:30 or 9:00, something like that.

14 Q. Let me show you a statement and ask you if you
15 recognize that?

16 A. Yes, sir.

17 Q. And if you read right here, does that refresh your
18 memory as to the time?

19 A. 10:30 or 11:00, yeah. I don't remember the exact
20 time. Yes..

21 Q. I understand. That's the car we are talking
22 about?

23 A. Yes.

24 Q. State's 30. What happened when Jeremy came back to
25 the apartment that morning at around 10:30 or so?

1 A. He walked into the apartment. Uhm, he was carrying
2 a black duffel bag and had offered us some pain medication.
3 He said they were roxies and --

4 Q. Did -- Go ahead.

5 A. I'm sorry. He had just asked me if he could run
6 down the street to the pawnshop real quick for about ten
7 minutes.

8 Q. So he also wanted to borrow the car again?

9 A. Mm-hmm.

10 Q. He came in carrying a black duffel bag. How long or
11 how big was the duffel bag?

12 A. Uhm, it was just a big duffel bag. I don't know.

13 Q. The pain pills. What did he say about the pain
14 pills?

15 A. He just asked if we wanted any or offered us some.

16 Q. You're saying -- Who else was present then?

17 A. Brenda and me.

18 Q. Did he offer -- Did he say what kind of pain pills
19 they were?

20 A. Roxies.

21 Q. Did you see how many of them he had?

22 A. I just - I don't know how many there were. It was a
23 lot.

24 Q. There were a lot?

25 A. Yeah.

1 Q. Where did the duffel bag -- He came in with a duffel
2 bag. Where did the duffel bag end up?

3 A. In the bedroom where he was staying.

4 Q. After he put the duffel bag in there and offered you
5 the roxies, is that when he left again?

6 A. Right.

7 Q. At some point later did he come back?

8 A. Yeah.

9 Q. When he came back, what happened?

10 A. Well, before that, uhm, a friend of mine Michael
11 that was at the house had went to the pool to swim, uhm, when
12 Jeremy left the first time. Well, when he left that time,
13 uhm, he came back up and said there was a guy in the car that
14 looked like Nick and so I, you know, called him and told him I
15 didn't want Nick in my car. I didn't like Nick. I didn't
16 care for Nick. He's not a good person and I didn't want him
17 in my vehicle. Uhm, basically, you know, I was just trying to
18 get him to get rid of Nick. Uhm, when he came back, Nick
19 tried to enter the apartment and I told him he wasn't welcome
20 and Nick sat on the stairs crying hysterically and acting like
21 he was sick. He looked pretty high on some type of drug. I'm
22 not sure what, uhm, but he was pretty out of it.

23 Q. Did Nick ever come into the apartment?

24 A. No. He tried to, but I told him --

25 Q. When he tried to was after --

1 A. They came the second time.

2 Q. -- when Jeremy went to the pawnshop and came back
3 the second time?

4 A. Mm-hmm.

5 Q. What, if anything, did you say to Brenda White about
6 Jeremy carrying in the duffel bag?

7 A. I don't know. I just thought it was odd. And I
8 told her to go see what was in the bag and when they left and
9 when she looked in there, that's when she saw a gun and she
10 had wrapped it in a blanket and put it in the balcony
11 closet.

12 Q. So did you see her actually carry the gun and put it
13 out in the closet outside?

14 A. Mm-hmm.

15 Q. Sometime after that were there any phone
16 conversations between Brenda White and Jeremy about that
17 duffel bag?

18 A. Yeah. She called him and asked him why --

19 MS. RUSSELL: Objection. Hearsay.

20 THE COURT: Sustained as to any hearsay.

21 BY MR. GRAHAM:

22 Q. Was there a conversation -- What, if anything, do
23 you know about Jeremy admitting or denying anything of the
24 contents of the duffel bag? What did you hear him say?

25 A. The only thing I know that he said was why are you

1 going through my stuff. That's what I remember.

2 Q. Nick, you don't like Nick?

3 A. No. I never have. He's not a good person.

4 Q. You didn't let him in your house?

5 A. No.

6 Q. Would Brenda let him in the house?

7 A. No.

8 Q. Did he come in that house that day?

9 A. No.

10 Q. How about using your car?

11 A. No.

12 Q. Later on did the police get in touch with you and
13 want to search your car?

14 A. Later that day?

15 Q. Or the next today maybe?

16 A. It was a couple days later.

17 Q. A few days later?

18 A. Mm-hmm.

19 Q. Did you go back and drive your car to the Sheriff's
20 Department and let them search it?

21 A. Yes, sir.

22 Q. Looking at State's 102, do you recognize that as
23 being the trunk of your car?

24 A. Yes, sir.

25 Q. Do you recognize what those items are that you are

1 seeing there?

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

3 Q. Do you know who any of those items belong to?

4 A. If anything, the table maybe, but other than that I
5 don't know. The boxes, I don't know where those came from,
6 but they could have easily been put in there by Nick if he was
7 in my car that day. I don't know.

8 Q. Who borrowed your car though? Was it just you and
9 Jeremy?

10 A. I'm sorry.

11 Q. Who borrowed your car besides you? You said Jeremy
12 had use of your car, right?

13 A. I'm saying that day I don't know when him and Nick
14 were in the car together. Could have been something Nick put
15 in there. I don't know who put it in there. But other than
16 Jeremy, Brenda was about the only other person that ever used
17 it.

18 Q. So whatever was in the trunk of the car you don't
19 recognize it as being yours except for the table, right?

20 A. Right.

21 Q. Any of that other stuff is either --

22 A. Well, underneath there were some Dish Network boxes
23 and stuff that were ours and some clothes that were
24 Jeremy's.

25 Q. Okay. But you don't know whose -- The other items

1 that we are seeing in this photo, you don't know who those
2 items belong to?

3 A. No, sir.

4 Q. State's number 33 is one of the other things that
5 you were talking about. Do you recognize that?

6 A. No, sir.

7 Q. The safe that's here in the middle, do you know who
8 that belonged to?

9 A. I have no idea.

10 Q. Had you ever scene that in your car?

11 A. No, sir.

12 Q. You were talking about clothes that are around the
13 safe?

14 A. Mm-hmm.

15 Q. Do you see those up there?

16 A. Yes.

17 Q. Whose clothes are those?

18 A. Those are Jeremy's.

19 Q. You had mentioned that the Dish Network box --

20 A. Those were ours.

21 Q. The police also found a collector's Harley tin in
22 the trunk of your car. Do you know anything about that?

23 A. No, sir.

24 Q. I want to show you some photographs that were
25 printed from a video from a Wal-Mart store. You have had an

1 opportunity to view all of these before and have initialed
2 them?

3 A. Correct.

4 Q. State's number 16, who is that right there?

5 A. Jeremy.

6 Q. State's 17?

7 A. Jeremy.

8 Q. State's 18, the vehicle right there?

9 A. That's my car.

10 Q. State's 19?

11 A. Jeremy.

12 Q. 20?

13 A. Jeremy.

14 Q. 21?

15 A. Jeremy.

16 Q. 22?

17 A. My car.

18 MR. GRAHAM: Thank you, Michelle.

19 MS. RUSSELL: May it please the Court.

20 THE COURT: Yes, ma'am.

21 CROSS EXAMINATION

22 BY MS. RUSSELL:

23 Q. Good afternoon, Ms. Webb. You just testified that
24 you didn't like Nick or care for him; is that right?

25 A. Yes.

1 Q. Have you ever spent any time with him?

2 A. Briefly, yeah. I mean, in the past, yes. I spent
3 time with him, but I don't like him. I don't care for him. I
4 didn't choose to.

5 Q. And have you ever gotten high together with him and
6 Kim?

7 A. In the past, yes.

8 Q. Okay. And the night that Jeremy borrowed your car
9 you said that you were intoxicated when you returned home; is
10 that right?

11 A. Yes, ma'am.

12 Q. So is it possible that he did ask you to borrow the
13 car and you just don't recall that?

14 A. I'm pretty sure I went straight to sleep when I got
15 back.

16 Q. Okay.

17 A. But he could have.

18 Q. He could have?

19 A. I mean...

20 Q. Okay. Also your car came back to your house with
21 you that night, but you didn't drive it; is that right?

22 A. Right.

23 Q. So when you went to sleep the car was at the
24 apartment. You said it was odd to see Jeremy with a duffel
25 bag. Have you ever seen him with a duffel bag before?

1 A. Not -- I mean, yeah, but not -- I don't know. It
2 just -- The circumstances, I don't know, just seemed odd.

3 Q. Did he regularly have a duffel bag with him?

4 A. No.

5 Q. How about Nick? Have you ever seen Nick with a
6 duffel bag or carrying his stuff around with him?

7 A. Yeah.

8 Q. And did you actually see Nick at the apartment that
9 day?

10 A. Yes.

11 Q. Okay. Did you see him in the car?

12 A. I never saw him in the car per se. Like I said, my
13 friend Michael was down at the pool swimming at the apartment
14 complex.

15 Q. And that's how you found out Nick had been in the
16 car?

17 A. Yeah. Right.

18 Q. Okay. And did you ever see the actual items that
19 were in the bag? Did you go through the bag?

20 A. No.

21 Q. Just Brenda?

22 A. Yeah. Yes.

23 Q. Okay. When he came to the door, when Nick came to
24 the door and tried to come inside, where was Brenda?

25 A. I believe she was sitting on the couch. I'm not

1 sure.

2 Q. Okay. And did Nick try to speak with her at all
3 that morning?

4 A. I don't remember. I just remember asking him to sit
5 on the steps. I didn't want him in the apartment.

6 MS. RUSSELL: No further questions. Thank you.

7 THE COURT: Redirect.

8 REDIRECT EXAMINATION

9 BY MR. GRAHAM:

10 Q. Did you take -- Where did you take Jeremy Brady
11 later that Saturday afternoon?

12 MS. RUSSELL: Objection. Outside the scope of
13 cross.

14 THE COURT: Sustained. She's right.

15 MR. GRAHAM: What was the objection, Your Honor?
16 I'm sorry.

17 THE COURT: Outside the scope of cross.

18 MR. GRAHAM: Nothing further, Your Honor.

19 THE COURT: All right. Thank you, ma'am. You may
20 step down. All right. Folks, we are going to break for
21 lunch today and we brought lunch in for you. We are
22 gonna -- What I'm gonna ask you to do is and, of course,
23 just as always have no conversation about the case, but
24 I'm gonna get you to go back and enjoy your lunch. Now,
25 during the lunch break if anybody wants to step outside

1 to get some hot fresh air, if you would like to do, or if
2 you want to step out and get out of that room, you can do
3 that but you must remain together. That doesn't mean if
4 one person goes, everybody has to go, but it just means
5 those who do decide to go, you need to remain together
6 and with one of the bailiffs, okay? Or you may decide
7 you just want to rest and sit in there. Whatever you
8 want to do is fine but it's just that those of you who do
9 wish to go out of the room, you're gonna have to remain
10 together and with the bailiff and what we're gonna do is
11 I'm trying to maybe help things move along a little bit
12 so let's take, let's see if we can eat and do lunch and
13 get back started in 40, 45 minutes, okay? Members of the
14 jury, everyone else remain seated, you're excused for
15 now.

16 (Whereupon, the jury entered the jury room for
17 luncheon recess.)

18 THE COURT: Okay. Folks, let's see if we can start
19 back about a quarter to two, okay? Anything we need to
20 take up? Nope? All right.

21 (Lunch recess.)

22 BAILIFF: Keep your seats. Come to order.

23 THE COURT: Anything we need to take up now?

24 MR. GRAHAM: If I can, Your Honor, the defense and
25 the State have been going back on text messages from the

1 defendant's phones and the redactions. I have an
2 unredacted copy that I think should be made a Court's
3 exhibit just so that the Court will have the entire
4 thing.

5 THE COURT: Okay. All right. So what you are
6 submitting right now is an unredacted version of all
7 those text messages?

8 MR. GRAHAM: Off the defendant's phone from the
9 records. Yes, sir.

10 THE COURT: Okay. We'll make that a Court's exhibit
11 and that will be made part of the record. Not the record
12 for the jury, but a part of the record for the case.

13 MR. GRAHAM: Our next witness is going to introduce
14 - is the cell phone person. He's gone through the
15 records. I know one of the issues is the defense counsel
16 had e-mailed us a list of texts that they wanted in. We
17 went through and blocked and unblocked theirs and then
18 it's the State's contention that all of the texts back
19 and forth to that person around there needs to come in so
20 I went back and unblocked all of those and Ms. Cleary is
21 looking at those right now.

22 MS. CLEARY: It's just a lot of them and I haven't
23 -- I just got it so I haven't reviewed some of those
24 pages where he added in the full page of conversation.

25 MR. GRAHAM: She had sent an isolated text and so

1 what we had done was gone back around there to show the
2 text around there to try to explain as best as anybody
3 can what that text conversation was. I think there were
4 two sets of them. She had already looked at one of them
5 and she was okay with those. She is looking at the
6 others. So really what it would be for the State's
7 presentation we're good. For their presentation on cross
8 and what they want to introduce she's still looking at
9 those.

10 THE COURT: How long do you think it will take you,
11 Ellen?

12 MS. CLEARY: Five minutes.

13 THE COURT: Okay.

14 MS. CLEARY: Three minutes.

15 THE COURT: Okay. As quick as you can but be
16 thorough and we'll give you whatever time you need.

17 (Short recess.)

18 THE COURT: Ready to go, folks?

19 MR. CLEARY: Yes, Your Honor.

20 MR. GRAHAM: Yes, Your Honor.

21 THE COURT: All right. Let's bring the jury in.

22 (Whereupon, the jury returned to the courtroom at
23 2:15 p.m.)

24 THE COURT: All right. Ladies and gentlemen, we'll
25 pick up now and recognize the State for the next

1 witness.

2 MR. GRAHAM: Thank you, Your Honor. The State calls
3 Mike Phipps.

4 Thereupon,

5 MICHAEL PHIPPS

6 after having been first duly sworn, testified as follows,

7 THE CLERK: Please have a seat. After you're
8 seated, please state your full name spelling your last
9 name for the record.

10 THE WITNESS: Michael Stuart Phipps, P-h-i-p-p-s.

11 DIRECT EXAMINATION

12 BY MR. GRAHAM:

13 Q. Mr. Phipps, where are you employed, sir?

14 A. With the Lexington County Sheriff's Department.

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

16 A. 17 years.

17 Q. For the last several years have you had experience
18 with reviewing and analyzing cell phone records from providers
19 like Sprint as to text content and cell phone activities?

20 A. Yes, sir.

21 Q. Can you talk a little bit about what kind of
22 information -- Let's talk about a little bit how long have you
23 been doing that and what kind of education and training and
24 classes you have had on that?

25 A. I have been in our crime scene unit, assigned to our

1 crime scene unit for about 12 years. For about the last three
2 to four years I have been actively pursuing sort of
3 specialized area of the forensics of digital evidence. As
4 part of that I have also been sent to training classes that
5 involve both the recovery of that information from the
6 physical device, the cell phone itself, but also analyzing the
7 records that the service provider gives us.

8 Q. What kind of information can you get from the
9 records?

10 A. Typically they provide, of course, the subscriber
11 information, who took out the account, the name of the person,
12 the billing address, the phone number for the device that's
13 assigned to that particular phone. Then additionally there
14 will be something called the CDR or call detailed record and
15 that's sort of a chronological table that shows calls and
16 texts that were sent or received on that device.
17 Additionally, in some instances you can also see some of the
18 content of the text and they'll provide that in a separate
19 document as well.

20 Q. How about tower location?

21 A. Yes. Whenever you, of course, place a call on a
22 cell phone, that call is routed through a cell tower.
23 Everyone sees them in the country side here. That information
24 is logged in the service provider's computers, the date and
25 time that the call is routed through that tower, in addition

1 to certain aspects of where on that tower that call was routed
2 from.

3 Q. Did you have an opportunity to do some of that
4 regarding phone records on this case?

5 A. Yes, sir. I did.

6 Q. Let me show you what's been marked as State's number
7 55 into evidence by agreement of the defense that are records
8 for Nick Williams' phone. Do you recognize those?

9 A. Yes, sir. I do.

10 Q. What kind of information -- Well, what's the
11 subscriber information on that?

12 A. It lists a billing address which is a name and a
13 P.O. Box.

14 Q. What's the name on that account?

15 A. Nick Nick.

16 Q. What's the phone numbers that's attributed to Nick
17 Williams' phone records?

18 A. The phone number on this one is 803-800-9258.

19 Q. Then what kind of records are provided in that
20 exhibit?

21 A. There's a cover letter supplied by the service
22 provider listing some of the account information. There's a
23 key document that goes along with it that kind of explains
24 because they abbreviate a lot of their information so that we
25 can understand, you know, what certain columns and spread

1 sheet mean. There's some tables for various codes that they
2 use within those tables. There's the CDR which is a call
3 detail record. We have -- What else? There's a list of tower
4 information that shows basically all their towers and the
5 associated physical aspects of those towers meaning the
6 sectors and bases of those, what direction they point
7 geographically. That's the extent of this document that I
8 see.

9 Q. You talked about sectors and places. Can you talk a
10 little bit about -- Is a cell tower a single thing or what is
11 it?

12 A. Well, you can see -- Cell sites can be mounted on
13 buildings. They can be stand alone out in a field on a tower.
14 There's usually what they call bases to those sites meaning
15 that there's various antenna, an array of antennas around that
16 structure and the antennas have a viewing angle and you kind
17 of equate to it if you were to look straight ahead and not
18 move your eyes or move your head and just look left and right,
19 that field of view that you have is sort of like the sector.
20 It's what that antenna can see. So once you get out of view
21 of that one sector and into another sector, then you're sort
22 of traveling along different bases of that tower until you get
23 out of range of that tower.

24 Q. Is it fair to say there's really three, on one tower
25 there's actually three different receivers and the coverage is

1 shaped out to do a circle?

2 A. In a traditional layout, yes. There's three sectors
3 usually numbered 1, 2 and 3 and they're numbered counter
4 clockwise or clockwise, excuse me, but they don't have to have
5 three. Depending on the needs in the area, that service
6 provider might just need a tower in one location and the base
7 is towards a densely populated area, a big housing area where
8 they need extra support so in theory you could have a tower
9 that just has one sector on it but it could have two.

10 Q. For Nick Williams' records here on State's number
11 55, was Sprint able to provide the content of text messages?

12 A. Yes. They were.

13 Q. The content?

14 A. Oh, of Nick's?

15 Q. Yes.

16 A. No.

17 Q. Okay. In the calling though, you called them CDR,
18 call detail records, what are in the call detail records?

19 A. The call detail record has all the records that that
20 service provider has for activity on that account for that
21 particular device and it will show both the voice calls that
22 are made on it in addition to potentially data activity if you
23 are going online and you're looking at something on the
24 Internet or also text messaging. It can show you the fact
25 that there was activity that was attributed to a text message.

1 It won't necessarily have tower data associated with the text
2 message. That's just the way they have their system set up.

3 Q. So just looking at some of the columns in the call
4 detail record can you go across and just let the jury
5 understand what kind of information you were actually
6 provided?

7 A. It's a spread sheet format and it has, the first
8 column in this particular layout has the calling number and
9 the calling number would be who initiated that phone call
10 whether it's the person with that particular phone with this
11 account or someone on the outside calling in to them. Then it
12 has the call number which would be if the person using the
13 device made a call outbound, you would see the number they
14 were calling to. If it was the other way around, then you
15 would actually see the number for the person who owns the
16 phone. Then dial digits. Some of it is kind of repetitive.
17 The dial digits meaning the actual numbers that were punched
18 on the key pad like when the call was placed. Then an MR
19 number which indicates whether it's an outbound call, an
20 inbound call, a routed call, then a start date and time, and
21 an end date and time, duration and seconds for the call, then
22 something they call a repoll number which you have to refer to
23 another table they provide us which lists the three digit code
24 and repoll number you can look up on the table and it will
25 tell you what type of switch handled the call. And the

1 significance there is you will see whether it was a text
2 message using that repoll number or a voice call. Then the
3 next two columns are the first cell and the last cell. The
4 cell site codes, again it's a five digit number in this
5 instance. The first digit of this number pertains to the base
6 of the call so geographically what direction was that call
7 received on that antenna and then the last three or four
8 digits are a code for the actual cell site. Again you have to
9 go to another table and look up that site and that will tell
10 you the physical address, latitude, longitude of that physical
11 lower.

12 Q. What is the date range of coverage for the records
13 for Nick Williams?

14 A. I left my glasses in the other - July 20th of 2012
15 through August 7th, 2012.

16 Q. So July what? I'm sorry.

17 A. 20th.

18 Q. To August?

19 A. 7th.

20 Q. Now, the times that are recorded in those records,
21 are they in eastern standard time?

22 A. This is again where it gets a little more confusing
23 because for whatever reason different service providers have a
24 different format for how they assemble their records and
25 that's the reason they provide such an extensive key. On this

1 particular document for Sprint the voice calls, the times that
2 are referenced here are eastern standard or where the device,
3 where the calls were being made. The lines on here that
4 reference a text message, those dates and times are actually
5 stored or logged in central time so you would actually have to
6 add an hour back to the time you would see on this chart to
7 correlate into eastern time which is a little confusing
8 because they provide it all in one document and it is what
9 appears to be in a date time sequence but that's not really
10 the case when you view it that way.

11 Q. What I would ask is on the very front page of that
12 exhibit if would you write down if the text needed to be
13 adjusted. You can do it on the very front cover sheet or
14 wherever you want, if it needs to be adjusted by adding one
15 hour.

16 A. (Witness complies.) We use the term SMS for text.
17 You may see it referred to that in the document.

18 Q. Let me show you State's 56 which is in evidence of
19 Jeremy Brady's phone records. Do you recognize that
20 document?

21 A. Yes, sir. I do.

22 Q. Is that the same type of document that we were just
23 talking about in State's 55?

24 A. They are Sprint records as well so they are very
25 similar.

1 Q. Who is the subscriber on that account?

2 A. The subscriber number is 803-800-0649.

3 Q. How about who is the individual on that account?

4 A. It lists according to our records the subscriber is
5 Jeremy Brady with an address of [REDACTED], West
6 Columbia, South Carolina.

7 Q. The difference between -- Is that similar as far as
8 what's contained in there as far as the detail records and the
9 explanations and the ability to use cell tower information
10 that we discussed previously?

11 A. Correct. It has the same keys, same tower
12 references as the other document.

13 Q. The phone calls in the call detail record in State's
14 number 56, is that in eastern standard time?

15 A. Yes. The voice calls on that document are correct
16 for eastern time.

17 Q. The text messages, are those in central time as
18 State's 55 was?

19 A. Yes, sir.

20 Q. Would you please write on there that as well?

21 A. (Witness complies.)

22 Q. By looking at the record how can you tell if it's a
23 phone or a text?

24 A. The key that they provide us tells you that
25 information and what they tell you is any references that you

1 see on the spread sheet, show a duration of zero seconds with
2 no cell site information and then you would look at that
3 repoll number and you can confirm by looking back at the table
4 that the repoll number corresponds to an SMS search.

5 Q. Now, on Jeremy Brady's records did Sprint provide
6 text content?

7 A. They did.

8 Q. Let me show you a document and ask if you recognize
9 that?

10 A. I do.

11 MR. GRAHAM: Your Honor, for the record this is
12 State's and really defense's 58. We have redacted by
13 blacking out the content of what we agreed was irrelevant
14 to this case and there are other ones that the State has
15 wanted in, the defense has wanted in. This is what we
16 agreed upon.

17 THE COURT: All right. That's in. State's 58.

18 BY MR. GRAHAM:

19 Q. The time that is on this document, is it in eastern
20 standard time?

21 A. Unfortunately not.

22 Q. Okay. The time in that document, what is it in?

23 A. According to the key that Sprint provides us the
24 actual content record for text is maintained in Pacific time
25 so you have yet another conversion that you have to go

1 through.

2 Q. So how many hours need to be added to make that
3 document to be in eastern standard time?

4 A. Three hours to this time.

5 Q. Would write that on the top of that page?

6 A. (Witness complies.)

7 Q. The jury will have all this back there to read but
8 just if you could look at this transaction that I'm pointing
9 to, here it says that it's July 28, 2012, 9:49:25 a.m. What
10 time would that really be?

11 A. That would be 12:49 in the afternoon.

12 Q. Can you tell whether this text was sent from
13 Mr. Brady's phone or whether it was received by his phone?

14 A. It says the sender is 803-800-0649.

15 Q. Which are these records that belong to Mr. Brady,
16 correct?

17 A. Correct.

18 Q. Can you read what that text says?

19 A. It says, "Can U", just the letter U, "sell some
20 roxy" r-o-x-y, "30's?" with a question mark.

21 Q. Looking down on here where it says same day,
22 Saturday, July 28th, 2012, 10:48:51, we would again add three
23 hours?

24 A. Yes, sir.

25 Q. 1:48 p.m. on Saturday, did Mr. Brady send out

1 another text and what is the content of that text?

2 A. He did. It's the same number. That number in the
3 center column and that's, "'Sup, bro? About to sell some 30
4 milligram percs roxy 30's. Then I'll lighten you up some."

5 Q. Down at the bottom of page 16 on this document, July
6 28th, 2012, the time recorded here is 2:18:59, adding three
7 hours, would be 5:18:59 p.m., correct?

8 A. That's correct.

9 Q. On that Saturday. Does Jeremy Brady's phone send
10 out another text?

11 A. Yes. That's correct.

12 Q. What is the content of that?

13 A. "Have 15" the numerals 1,5, "but they sell for 20
14 all day."

15 Q. Let me show you two exhibits and ask you if you
16 prepared these two exhibits?

17 A. Yes, sir. I did.

18 Q. And would this assist you in explaining to the jury
19 your analysis of the detail records and movements of Mr.
20 Brady's phone and Mr. Williams' phone?

21 A. It will.

22 MR. GRAHAM: Your Honor, these, I believe, have
23 already been agreed into evidence as State's 60 and 61.

24 THE COURT: I don't have those as marked but is
25 there any objection to those?

1 MS. CLEARY: No, Your Honor.

2 THE COURT: Without objection 60 and 61.

3 MR. GRAHAM: Your Honor, if I could have Mr. Phipps
4 step down from the stand?

5 THE COURT: Yes.

6 BY MR. GRAHAM:

7 Q. Looking at State's 61, what is this?

8 A. That's a snapshot. This is a snapshot in time for
9 the CDR's or call detail records. There are no texts
10 represented in this so there is no confusion on times or
11 anything here. This is combining both the call detail records
12 from Mr. Brady and Mr. Williams for the period of time of
13 12:01 a.m. to 9:19 a.m. on July 28th, 2012.

14 Q. Now, we were talking about the records over there
15 and problems with times. Is this in eastern standard time?

16 A. Right. We are dealing with just voice calls on this
17 document so everything is correct with eastern time.

18 Q. And we are doing voice calls because there was not
19 cell tower information on the texts?

20 A. That's correct. Sprint doesn't maintain cell site
21 information when you send or receive a text so you have
22 location.

23 Q. How have you designated -- I see up here you have
24 the name Jeremy Brady and a phone number. Is that the phone
25 number associated with Mr. Brady from these records?

1 A. It is. Yes, sir.

2 Q. That's in black. In green which is Nick Williams
3 and a different number?

4 A. Right.

5 Q. Is that the number associated with Mr. Williams from
6 those records?

7 A. Yes, sir.

8 Q. What was your purpose of having two different
9 colors?

10 A. Just visually so you can identify, since we are
11 combining both documents into one, without having to look at
12 the number itself to try to figure out who is making the call,
13 you would be able to see who is placing the call and who is
14 receiving the call.

15 Q. What information did you contain on here that is
16 useful in explaining the movements of those phones?

17 A. Of course, the date and time. We kind of truncated
18 the time a little bit here and removed the seconds. You will
19 see seconds on some of the documents. Then I added phone
20 belonging to even though we've got it in a color just to make
21 sure in case some people need to distinguish the colors
22 whether it's Nick's or Jeremy's phone that was being used.
23 The next column is called direction. Again just trying to
24 make it a little easier. Even though the MR record has
25 outbound or inbound, sometimes it just makes it easier and

1 clearer in people's minds. They are either receiving a call
2 from or making a call to so we added that column to kind of
3 explain the next column which is the MR column. Then we have
4 a column for phone associated with meaning usually who is
5 making the call to this person or who is Nick placing the call
6 to. Of course, we know their numbers so when the two are
7 either trying or actually speaking to each other, I have
8 highlighted those in yellow so you can actually see
9 communication or attempted communication between the two. We
10 have also added the name of a particular contact here that we
11 have knowledge of.

12 Q. I'll go ahead and ask you about that. That says
13 Securus. What is Securus?

14 A. Securus is the vendor for our phone system in our
15 detention center.

16 Q. So when we see Securus, is that denoting there was a
17 call outside from the jail, from the jail to outside?

18 A. Right. We can't necessarily say it was our specific
19 jail. Securus has various accounts. But they are our vendor.
20 I'm not familiar with any others local to our area here that
21 have Securus.

22 Q. The numbers behind those in the records were all
23 local numbers though; is that correct?

24 A. That is correct. 803 numbers.

25 Q. Continue.

1 A. The calling number, again there's some duplication
2 in the records so if it's a call made by Nick outbound, it's
3 still gonna have his number because he is the one placing the
4 call, the calling number. Then the call number will be who,
5 if it's outbound, who he was calling. If it was an inbound
6 call, the calling number would be who was calling into that
7 particular person. Then we have the duration in seconds. The
8 dial digits again which can be a little bit redundant, but
9 it's what was actually punched in on the key pad, the device
10 either inbound or outbound. Then you have cell site
11 information. It's broken down with originating cell tower
12 meaning when the call was first initiated, what tower did that
13 phone hit, then we have an azimuth and I'll explain that in a
14 little more detail. But azimuth is a compass direction. So
15 north being zero or 360, going around clockwise so you kind of
16 know what direction the call was being fed in and out to.
17 Terminating cell phone, cell site, the same information. And
18 those numbers that are listed here are the actual cell
19 numbers, cell site numbers that Sprint uses that are detailed
20 on the map. And again a terminating azimuth. Now, in theory,
21 you know, if you sit in one spot and place a call, it probably
22 will be the same when you started and ended all on the same
23 tower. If you're going down I-26 at 70 miles an hour and it's
24 a really long call, you may actually go through several towers
25 before the end of your call so we really don't know what

1 occurred in between. We just know where it started and where
2 it ended.

3 Q. The yellow blocks, I don't know if you have already
4 testified about the yellow. What does that show?

5 A. Again, that's communication or attempted
6 communication. There's some calls on here that aren't
7 complete between both Jeremy Brady and Nick Williams.

8 Q. So in those cases you're gonna see an entry in green
9 from Nick Williams' record and you're gonna see almost a
10 repetitive entry in black from Jeremy Brady's records when
11 they are trying to contact each other?

12 A. Yeah. If they're back and forth trying to get in
13 touch with each other.

14 Q. The gray that you have denoted over here with the
15 date and time, what is that information?

16 A. That was information that I was given and told was
17 the last time our victim was seen through the point that he
18 was found so just missing time.

19 Q. So approximately from, there was previous testimony
20 that the victim was seen last alive a little bit after 3:00.
21 Is that why you started there?

22 A. Yes, sir.

23 Q. And that his body was found at 8:45 or 8:50. That's
24 what that denotes?

25 A. Yes, sir.

1 Q. Okay. Once you had that information, what can you
2 start telling us about the movement of the phones?

3 A. Well, simply starting with the first line here, we
4 would find our first cell site. In this instance we have got
5 the first call record is from Nick Williams and it's a routed
6 call. A routed call is designated here under the MR number.
7 And then on routed calls we have an 11 that's added to the
8 area code in this column. That also denotes a routed call. A
9 routed call being that someone made it. In this instance it
10 was an incoming call and someone was trying to call Nick, but
11 for whatever reason his phone wasn't seeing the network
12 meaning he was either in a location where he just didn't have
13 coverage or he physically had the phone turned off or the
14 battery was dead or for whatever reason it just wasn't seeing
15 it.

16 Q. Let me ask you a question. The first one you're
17 talking about you're saying it's a routed call but there is
18 tower information so doesn't that mean that that call actually
19 reached the tower and reached his phone?

20 A. Right. I'm sorry. You're correct. On this one
21 this is a call with a 13 second duration does have calling
22 information.

23 Q. So that would be - would an example of that be a
24 telephone call that rings, hits a tower, rings on the phone
25 and doesn't get answered and goes to voice mail?

1 A. Correct. If it's the same instance a routed call
2 and it is seeing the network, it isn't turned off, then you
3 still have a record of it but in this instance the white blank
4 here showing that there was no tower information. The phone
5 wasn't active enough to be able to record any tower data.

6 Q. Looking at Nick Williams' phone calls starting at
7 12:01 a.m. to 3:26 a.m., what towers was this phone using?

8 A. Just a couple towers as you were seeing kind of
9 color coded to try to visually give you a representation to,
10 primarily off of towers 290 and 221.

11 Q. 290 and 221?

12 A. Yes, sir.

13 Q. Are there any other towers associated with any times
14 between those times?

15 A. Tower 86 right there.

16 Q. Tower 86 is actually not for Nick Williams; is that
17 correct?

18 A. That's correct.

19 Q. All right. So that's the first one. So from 12:01
20 a.m. to 3:26 a.m. you recorded every phone call on the
21 record?

22 A. Mm-hmm.

23 Q. And it's showing Nick Williams' phone was active
24 down on tower 290 and 221; is that correct?

25 A. Yes, sir.

1 Q. Looking over at this map can you point out, this is
2 State's 60 for reference, [REDACTED], Robert
3 Mitchell's house where he was killed, can you show the jury
4 where that is?

5 A. We have it indicated right here right next to tower
6 132 and set off to the side.

7 Q. There's been previous testimony that Nick Williams
8 was living at [REDACTED], where you put that; is
9 that correct?

10 A. Yes, sir.

11 Q. There was also testimony about Amanda Anderson's
12 house at [REDACTED]. Have you reflected that on the
13 map as well?

14 A. Yes, sir.

15 Q. There is also [REDACTED]. Is that
16 reflected on this map accurately?

17 A. Yes, sir. It is.

18 Q. And then finally Jeremy Brady's house, there has
19 been testimony that that was [REDACTED], [REDACTED]

20 [REDACTED]. Is that accurately reflected on here as well?

21 A. It is.

22 Q. All right. So from 12:01 until 3:26 all the calls
23 and you can see the duration and the number of calls Nick
24 Williams is down here using, his phone using these towers,
25 correct?

1 A. Yes, sir.

2 Q. The first call from Jeremy Brady at 3:33 a.m. or a
3 received call from him, where does it show his location?

4 A. Tower 86.

5 Q. And that's up here?

6 A. Yes, sir.

7 Q. All right. The next one at 3:51 for Nick Williams,
8 where is his phone?

9 A. Again tower 221.

10 Q. 221. Now that phone call is showing it's from
11 Securus; is that correct?

12 A. Yes, sir. It is.

13 Q. The next phone call at 4:05 a.m., where is that?
14 Whose phone is that and where is it from?

15 A. It's from -- Well, it's Jeremy Brady's phone, 4:05
16 and it's a received call from Securus again on tower 86.

17 Q. The next call?

18 A. 3:51 Nick Williams received a call from Securus
19 tower 221.

20 Q. The next one?

21 A. And then Jeremy Brady is a routed call from Securus
22 so it would have gone to voice mail or something to that
23 effect from tower 86.

24 Q. Going down until there's 4:17 and 4:22 are two
25 additional calls from Securus. Again one with each of them,

1 correct?

2 A. Yes..

3 Q. Have they moved location yet at this time?

4 A. No. They're still the same..

5 Q. Okay. 4:34 a.m., what is that call showing?

6 A. It's in yellow so it's indicating a call between the
7 two. It's on Nick Williams' phone and Jeremy Brady is being
8 called by Nick.

9 Q. All right. And then the next call after that?

10 A. It's a Securus call that's on Jeremy's phone and an
11 inbound call from a detention center.

12 Q. The next call after that is a call between Jeremy
13 and Nick again; is that correct?

14 A. Yes.

15 Q. Who's calling who at that time?

16 A. The first call is Jeremy calling Nick and then Nick
17 calling Jeremy and Jeremy calling Nick back to back.

18 Q. Has there been any movement or are they still
19 sitting at the same tower?

20 A. Same location. 86, 221, Two Notch.

21 Q. 4:36 through 4:44 there are several calls which
22 would be outbound calls attributed to Nick. Has he moved at
23 this point yet?

24 A. No. He's still in that same tower.

25 Q. The two next calls at 4:45 a.m. and 4:47, those are

1 all from Jeremy's phone records. Where are those calls to and
2 from as he moved up?

3 A. The first is an outbound call to Securus and when
4 someone calls, you can't call someone in our detention center
5 from the outside. You can call and set up, make payments,
6 that kind of thing, but you can't actually speak to someone.
7 So that's an outbound call but it's going through the Securus
8 vendor's phone system. The next one is an inbound call from
9 the Securus system as well and it's a much longer call. Its
10 934 seconds in duration and again the same area
11 geographically.

12 Q. After that call, there's calls at 4:47 and 4:49.
13 That's Nick making outbound calls and he's still not moving.
14 He's still transmitting off of tower 221, correct?

15 A. Yes, sir.

16 Q. The next two calls appear to be calls back and forth
17 or an outgoing call from Nick to Jeremy?

18 A. Correct.

19 Q. And Jeremy's records are showing the same. Still
20 both in the same location?

21 A. Correct.

22 Q. 4:51 Nick makes an outbound call. Still has not
23 moved?

24 A. That's correct.

25 Q. 4:55 a.m., a call, I believe, that shows contact

1 again between Nick and Jeremy. Who is calling who?

2 A. Nick - in the first call Nick calls Jeremy 37
3 seconds in duration and Jeremy makes an outgoing call to Nick
4 and it's a nine second call.

5 Q. Continuing now we are showing continued contact
6 between the two of them with no movement, correct?

7 A. Correct.

8 Q. Then between 5:03 and 5:15 a.m. Nick is making some
9 outbound calls and there's still no movement; is that
10 correct?

11 A. Correct. Still 290, 221.

12 Q. At 5:15 a.m. the records show what?

13 A. The first call is Jeremy with an outbound call to
14 Nick and then Nick with a routed call from Jeremy and back and
15 forth. Jeremy again outbound call to Nick and then Nick with
16 an inbound call to Jeremy.

17 Q. Here you said it was a routed call so Jeremy is
18 calling Nick. It shows where Jeremy was at which is tower 86,
19 right?

20 A. Correct.

21 Q. The next one shows Nick, the phone call Nick is
22 receiving from Jeremy and it has no information and it has 11
23 showing it's routed so what does that mean when there is no
24 information there?

25 A. No tower information means again the device just

1 isn't seeing it, not working and it could be for a number of
2 reasons. It's turned off or it's in a location that doesn't
3 have coverage. The battery is dead. Whatever.

4 Q. Could he be using the phone?

5 A. That's not my understanding. If he's using the
6 phone, then we would see coverage and there would be tower
7 information.

8 Q. Continuing on from 5:15 a.m., Jeremy called - who is
9 he calling and where is his phone, what tower is his phone
10 using at that time?

11 A. At 5:15 Jeremy makes an outbound call to Nick and
12 it's again a routed call that has no tower data associated
13 with it.

14 Q. 5:21 what information is there?

15 A. Jeremy makes an outbound call to Nick. Okay. 5:15,
16 Jeremy makes a call outbound to Nick.

17 Q. How long is the call?

18 A. Just five seconds with no data on that.

19 Q. The next one.

20 A. It's 571 seconds, tower 86. Begins on 86 and ends
21 on 165.

22 Q. So it begins on tower 86 here and is moving and is
23 utilizing tower 165?

24 A. Right.

25 Q. Going from there there's phone calls from Nick at

1 5:15 either received or made from Nick at 5:15 or 5:16. Where
2 is Nick at that time? Where is his phone?

3 A. It starts out --

4 Q. Between the yellow and the green?

5 A. Starts out on 221, 290 which is the same location he
6 has been in and it ends in the same location 290.

7 Q. The next phone call at 5:30 a.m. is a call from
8 Jeremy so an inbound call again from Securus, correct?

9 A. It is.

10 Q. And the length of that call is how long?

11 A. 507 seconds.

12 Q. The tower that Jeremy's phone is using at that time
13 is what?

14 A. It starts out on tower 131.

15 Q. Which is reflected here on the map?

16 A. Yes, sir.

17 Q. Where does the call end?

18 A. It terminates on 221.

19 Q. Over here?

20 A. Yes, sir.

21 Q. Now, is tower 221 one of the same towers that Nick
22 Williams had been hitting all up until this point?

23 A. Yes, sir.

24 Q. Because he had been hitting off of 221 and 290,
25 correct?

- 1 A. Correct.
- 2 Q. The next phone call is at 5:38. That's another call
3 from Jeremy calling who?
- 4 A. An outbound call to Nick.
- 5 Q. Where does it show Jeremy's phone at that time?
- 6 A. 81 second call that originates on tower 290 and ends
7 on 290.
- 8 Q. The next call after that are two phones calls from
9 Nick's records. What do they show?
- 10 A. The first one Nick receives a call inbound from
11 Jeremy for 80 seconds again 290, 290 tower. Then he makes a
12 call outbound to Jeremy and that incident is tower 221 for
13 beginning.
- 14 Q. So the first call begins and ends on 290 and the
15 second call begins and ends on 221?
- 16 A. Yes, sir.
- 17 Q. 5:40 a call from Jeremy's phone is a routed call
18 with no tower information?
- 19 A. That's correct.
- 20 Q. The final call between Nick and Jeremy is at 5:41
21 a.m. Who is calling who?
- 22 A. Jeremy is calling Nick.
- 23 Q. Is that a routed call again?
- 24 A. It is.
- 25 Q. With no more tower information?

1 A. That's correct.

2 Q. For the rest of the chart, Jeremy's record is
3 showing inbound or I guess they are all received calls at 7:09
4 a.m., 7:09 a.m., 7:14, 7:20, 7:21, and 8:21. Is there any
5 tower information for any of those calls for Jeremy Brady's
6 phone?

7 A. There are none.

8 Q. What is your understanding of what that means?

9 A. It means the phone is turned off, the battery is
10 dead or he's in a location where he can't receive cell
11 coverage.

12 Q. Okay. After there is no more contact, the last
13 contact between Nick and Jeremy is approximately 5:40 a.m.,
14 what movement do we see on Nick Williams' phone?

15 A. The towers start to change a little bit. The first
16 one here at 5:49 it's an inbound call on tower 123 is where it
17 starts to the eastern edge of the map and it terminates on
18 tower 131. Following that at 5:53 there's an inbound call,
19 tower 131 it starts on and it ends on the same tower. Then
20 there's the third call is an outbound call. It begins on
21 tower 132.

22 Q. 132 is a tower that's right next to Robert
23 Mitchell's house?

24 A. It is. And then it ends on 132 as well.

25 Q. What was the time on that?

1 A. That was 210 second call.

2 Q. I'm sorry. What time was the call placed or
3 received?

4 A. That was at 6:46 a.m.

5 Q. The call before that -- I'm sorry. What's the next
6 call after that as well as Nick continues to move?

7 A. 6:47 Nick places an outbound call, initiates a call
8 on tower 165 which is the gray tower.

9 Q. Back up here?

10 A. Yes, sir. And then it ends on 132.

11 Q. And then what?

12 A. 6:59. You have a received call at 6:59 and it
13 initiated on tower 291, the very southernmost tower and it
14 ends on tower 288 which is to the east.

15 Q. Continuing his movement, what's next?

16 A. It moves back up to towers 290, 221 and then
17 eventually goes back up to 132 and finally the last record is
18 tower 86.

19 Q. Right over there?

20 A. Mm-hmm.

21 MR. GRAHAM: Thank you, Mr. Phipps. Please answer
22 any questions they may have.

23 MS. CLEARY: May it please the Court.

24 THE COURT: Yes, ma'am.

25 CROSS EXAMINATION

1 BY MS. CLEARY:

2 Q. Agent Phipps, how are you doing?

3 A. Just fine. Thanks.

4 Q. All right. Let me ask you a couple things to clear
5 it up. You said that the text messages in this document,
6 State's exhibit 58, those are Pacific times so we add three
7 hours? Is that what you testified to?

8 A. That's correct.

9 Q. And then, but you were saying in this document when
10 it shows a text message, we just add one hour?

11 A. Right. The key that Sprint provides specifically
12 tells you which time zones the documents are referencing.

13 Q. All right. So do they provide that, did they
14 provide a document that stated that these are in Pacific time,
15 these text messages in 58?

16 A. Yes. They do.

17 Q. Was it included with this record? I'm asking
18 because I see it in this one where it says central time, but I
19 just haven't seen it in the other one. I was trying to clear
20 that up.

21 A. Give me one moment and I'll try to find it in my
22 records.

23 Q. Okay.

24 A. It's not actually in the key. They provided it in
25 their cover letter and I can show you in this document.

1 Q. Okay. That's fine. I just wanted to clear that up.
2 Okay. And could you tell us was it for Nick Nick's phone,
3 right, that was a California address he provided?

4 A. It was.

5 Q. Okay. And let me -- I swear it's really not gonna
6 be that long. You would think it would be with all that
7 testimony but I don't have that much. Uhm, would you agree
8 that from looking at these records that it looks like Nick
9 Nick, assuming that this is Nick Nick on the phone, that he
10 was pretty steady making calls starting about midnight at
11 least? Possibly before, right? He's making a bunch of calls
12 all night?

13 A. Yes. I mean, we chose a specific period of time.
14 The document shows you before and after.

15 Q. Right. And it looks like Jeremy doesn't make his
16 first phone call until - Jeremy doesn't make a phone call
17 until 4:45. Does that look right?

18 A. Sounds correct.

19 Q. All right. It shows that Nick has called Jeremy --
20 Okay. Nick has called Jeremy several times before 4:45,
21 correct?

22 A. I would have to get my glasses to read my copy or
23 stand up there.

24 Q. You want to stand up here?

25 A. Sure.

1 Q. Okay. So Jeremy receives a call, right? But he's
2 not making calls; is that correct? Like at 3:33 a.m.

3 A. Between the time period we chose to represent on the
4 chart, the first instance of Jeremy is a received call.

5 Q. Okay. So this is at 4:05 Jeremy received a call
6 from Securus which you just testified was the service our jail
7 uses, right?

8 A. Yes, ma'am.

9 Q. And then Jeremy receives a call from the jail at
10 4:17. Jeremy receives a call from the jail at 4:34. Then he
11 receives a call from Nick Williams at 4:34. Another call from
12 Nick at 4:36 and then Nick is making calls to other people and
13 then Jeremy made his first call at 4:45 a.m.; is that
14 correct?

15 A. Yes.

16 Q. Okay. Let me go back to Securus for a minute. Are
17 you the person that -- I know that Securus is a system used by
18 our jail for when inmates want to make phone calls to people
19 on the outside, correct?

20 A. Yes, ma'am.

21 Q. And they have to have a pin number?

22 A. Yes.

23 Q. Are you the person that obtains those calls, the
24 recordings of those calls?

25 A. Our crime scene unit has six people assigned to it.

1 Any one of the six people are capable of obtaining calls. I'm
2 one of the six.

3 Q. And those calls are recorded at the jail?

4 A. Yes.

5 Q. So if you had a phone call from Securus to Nick or
6 Jeremy, you could get a recording of that phone call, right?

7 A. The inbound calls would be recorded. The times when
8 someone on the outside calls Securus it's usually for the
9 purpose of setting up an account or putting money on an
10 account. Those aren't recorded.

11 Q. Okay. So when somebody calls from the jail, they're
12 recorded?

13 A. Correct.

14 Q. And they tell them from the very beginning this is
15 recorded?

16 A. Yes, ma'am.

17 Q. Okay. So have you requested those recordings in the
18 past?

19 A. In this case I don't have a recollection of exactly
20 -- I know that certain calls have been pulled, but I don't
21 have a recollection. Again I'm not the only person who would
22 have pulled calls from this case or potentially pulled calls
23 from this case.

24 Q. Okay. But you have done that in other cases in the
25 past?

1 A. Oh, yes.

2 Q. It's fairly easy to do?

3 A. Mm-hmm.

4 Q. You would do that just so you would have a record of
5 the actual content of the call in case you needed to prepare a
6 file?

7 A. This is actually the first case I have worked on
8 where we have had calls from our jail pertaining to a case.

9 Q. Right. But I'm switching up on you a little bit.

10 A. Sure.

11 Q. In another case if you needed to get records from
12 the jail, the reason that you get the records of recordings is
13 because then you have got the words out of the horse's mouth,
14 right?

15 A. Right.

16 Q. So those could be part of a law enforcement tool; is
17 that correct?

18 A. Yes.

19 Q. Okay. I'll move on from that. And so these shaded
20 areas on this map, these are municipalities and towns?

21 A. Yes. I used a base map provided to me. I didn't
22 generate that. That was already made up.

23 Q. So you're not able to provide like the range of
24 these patterns?

25 A. No. I'm not.

1 Q. Okay. And is this the sort of information going
2 through these State's exhibit 56, 58 and 55, is this the kind
3 of information that an above average lay person can figure out
4 if they are given the proper instructions?

5 A. It gives you a headache if you try to figure it
6 out.

7 Q. I'm not saying I would want to. All right. Let me
8 just go over and point out a couple of things. The last call
9 we had that it looks like Jeremy's phone is on or off, that
10 his phone is on is 5:38; is that correct? We don't have cell
11 data here for 5:38?

12 A. The previous call would be the last reference.

13 Q. So 5:38 looks like he made a call to Nick Williams
14 at that point so they must have been not with each other at
15 5:38. That's fine. Thank you. You don't have to answer.
16 Okay. So and then it looks like the cell tower number 132,
17 identified by 132, it shows up right here around 6:44, 6:46,
18 but then we have it again at 7:30, 7:46?

19 A. Mm-hmm.

20 Q. All the way until 7:47; is that correct?

21 A. Yes, ma'am.

22 Q. Let me refer you to Nick Nick's phone records. You
23 want to come back on the stand?

24 A. Sure. (Witness complies.)

25 Q. That is 55. If we can go to look at State's exhibit

1 55, the records that indicate that Nick was the owner. If you
2 could look at page 12.

3 A. What portion? Because here the numbers are
4 repeated.

5 Q. I'm sorry. Of the part where it shows the call
6 record, the dialed calls. I have got it listed as 12. Oh, do
7 you have it? If I could get you to read that second line
8 there. Let me go through it with you. So the calling number
9 and that's the person who made the phone call and that's
10 803-800-9258?

11 A. Yes, ma'am.

12 Q. And that's the number we established was associated
13 with Nick Nick; is that right?

14 A. Yes.

15 Q. Okay. And then the called number, that means that
16 he dialed those. Or no. Whoever had that phone dialed those
17 digits? The second column.

18 A. The record showing the party being called.

19 Q. So that's 803-397-0509?

20 A. Correct.

21 Q. Then the dialed digits, that's sort of duplicative?
22 That's the same thing, right? The same number listed there?

23 A. Yes.

24 Q. And so then that's just an outbound call and that's
25 on July 26th, 2012?

1 A. Yes, ma'am.

2 Q. At 7:59 p.m.

3 A. Correct.

4 Q. 53 seconds in duration?

5 A. Yes, ma'am.

6 MS. CLEARY: Okay. Thank you. That's all I have.

7 THE COURT: Redirect?

8 MR. GRAHAM: Just a few questions, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. GRAHAM:

11 Q. Investigator Phipps, regarding Securus, when an
12 inmate makes a call, the call is recorded; is that correct?

13 A. It is. Yes, sir.

14 Q. How long -- Securus is what kind of company?

15 A. They are a vendor that is specific to providing
16 services to - inmate services to the detention centers and
17 jails primarily for phone services.

18 Q. So somebody the Sheriff's Department contracts
19 with?

20 A. Yes. They're a contracting company.

21 Q. Does the Sheriff's Department actually have
22 computers and hard drives that have all this information or
23 does Securus?

24 A. The system is one hundred percent deployed and
25 maintained by Securus. They own the equipment, they support

1 it and they replace it when it breaks.

2 Q. Under the contract that the Sheriff's Department has
3 with Securus, how long are those phone calls that have been
4 recorded, how long are they kept and maintained?

5 A. The record of the call is maintained indefinitely.
6 The actual content or the recording itself is archived for one
7 year. Has a one year retention.

8 Q. So if a request is not made within one year, is it
9 possible to go back and get the contents of a phone call today
10 from 2012?

11 A. No, sir. It's not possible.

12 Q. Besides investigators with the Sheriff's Department,
13 who all can make requests for the content of those calls and
14 ask that they be preserved and copied?

15 A. Anybody under subpoena from the outside can subpoena
16 our records or Securus's records and we'll supply that
17 information.

18 Q. So defense counsel could have sent a subpoena; is
19 that correct?

20 A. Yes, sir.

21 MR. GRAHAM: Thank you.

22 THE COURT: All right. Thank you very much, sir.

23 You may step down.

24 MS. RANKIN: The State calls Don McRae.

25 Thereupon,

DON McRAE - DIRECT BY MS. RANKIN

369

1 DON McRAE
2 after having been first duly sworn, testified as follows,

3 THE CLERK: Please have a seat. After you're
4 seated, please state your full name spelling your last
5 name for the record.

6 THE WITNESS: Don McRae, M-c-R-a-e.

7 DIRECT EXAMINATION

8 BY MS. RANKIN:

9 Q. Mr. McRae, where do you work?

10 A. Currently I am the business owner of ETS Enterprises
11 in Columbia, South Carolina.

12 Q. Where were you working in 2012?

13 A. Richland County Sheriff's Department. I was the
14 evidence custodian.

15 Q. What are some of your duties as the evidence
16 custodian of Richland County?

17 A. I collect evidence, turned in evidence. I collect
18 the evidence for the Sheriff's Department. People bring me
19 the evidence and I hold it in our evidence room.

20 Q. How long were you there?

21 A. As the evidence custodian right at two years. I was
22 at the Sheriff's Department for a total of 12.

23 Q. Does the Richland County Sheriff's Department
24 sometimes maintains evidence for other agencies?

25 A. Yes, ma'am.

1 Q. Did they maintain some evidence in this case?

2 A. Yes. They did.

3 Q. I'm handing you State's 99. Did you receive that
4 item?

5 A. I did.

6 Q. Okay. What is that item?

7 A. It would have been three items which were logged in
8 under our case number. We assign a case number for assisting
9 another agency. It would have been on our case number,
10 Richland County case number 1207951530, items 2, 3, and 4
11 which are three swabs, floral panties and brown lady's shoe.

12 Q. And State's 99, does that reflect item 6 for
13 Richland County Sheriff's Department? I'm sorry. Item 2?

14 A. Item 2, yes, ma'am. Three swabs from shot shell
15 cases.

16 Q. Okay. Who did you receive those from?

17 A. Those were received by me from Renee Strickland and
18 those were received by me from her on July 31st, 2012.

19 Q. Okay. Did you do anything with those swabs other
20 than keep them?

21 A. No.

22 Q. Were they turned back over to Renee Strickland?

23 A. Yes. All the evidence was released from Richland
24 County Sheriff's Department evidence room back to Renee
25 Strickland on August 20th, 2012.

1 Q. Okay. State's 72, what does that item reflect?

2 A. This is our item number 10 which is one 20 gauge
3 shot shell.

4 Q. Okay. State's 64?

5 A. Those are our items 5 and 6 which were logged in, 18
6 shot shell cases and three shot shell cases. Items 5 and 6.

7 Q. State's 94?

8 A. This is our item number 11 which is a Revelation 20
9 gauge pump shotgun.

10 Q. Were all those items received from Renee
11 Strickland?

12 A. Yes.

13 Q. State's 94 should be items 10, 11, and 6. Did those
14 items go to Terri Gleason?

15 A. Items 10 and 11 were transferred to the ballistics
16 lab, Terri Gleason on August 3rd, 2012 and item 6 was
17 transferred to Terri Gleason from our ballistics lab at
18 Richland County on August 1st, 2012.

19 Q. Okay. And you said all these items were released
20 back to Renee Strickland?

21 A. Yes, ma'am.

22 MS. RANKIN: Thank you, Mr. McRae. I have no
23 further questions.

24 MS. CLEARY: No questions, Your Honor.

25 THE COURT: All right. Thank you very much, sir.

1 You may step down.

2 MR. GRAHAM: The State calls Beth Holliman.

3 Thereupon,

4 BETH HOLLIMAN

5 after having been first duly sworn, testified as follows,

6 THE CLERK: Please have a seat. After you're
7 seated, please state your full name spelling your last
8 name for the record.

9 THE WITNESS: Margaret Elizabeth Holliman,
10 H-o-l-l-i-m-a-n.

11 DIRECT EXAMINATION

12 BY MR. GRAHAM:

13 Q. Ms. Holliman, where are you employed, ma'am?

14 A. I'm employed by the Lexington County Sheriff's
15 Department.

16 Q. What do you do there?

17 A. Currently I'm assigned as an evidence custodian.

18 Q. How long have you been an evidence custodian?

19 A. I have been an evidence custodian since January of
20 2005. I have been employed with the Sheriff's Department
21 since October of 2002.

22 Q. What are your job duties and responsibilities as an
23 evidence custodian?

24 A. We are responsible for maintaining the care, custody
25 and control of all of the evidence that's turned into the

1 evidence room. That evidence can come from officers on the
2 road, crime scene investigators or regular investigators.

3 Q. Now, in your job as an evidence custodian, do you
4 actually perform any tests? Do you manipulate it? Or do you
5 just keep custody of it?

6 A. We maintain care, custody and control. We are not
7 certified to test anything.

8 Q. Let me show you some items and see if we can figure
9 this out. This is State's number 99. If you can take a look
10 at those items. I handed you a SLED package with several
11 other brown envelopes in it and also a plastic bag with
12 capsules as well.

13 A. That is correct.

14 Q. Okay. State's 99 is a swab from the shot shell
15 casings and you had it as, your number was a PR number. What
16 does PR stand for?

17 A. Property room.

18 Q. 65310; is that correct?

19 A. That is correct. Yes.

20 Q. What is 65310 which is also State's 99?

21 A. 65310 is under case number 12013779. It's a swab
22 from a shotgun shell case.

23 Q. Who do you show collecting, originating that item?

24 A. Originally Renee Strickland.

25 Q. And who did Renee Strickland give that item to?

1 A. She gave it to me on July 31st, 2012 at
2 approximately 9:26 in the morning.

3 Q. Gave it to you?

4 A. That's correct.

5 Q. When she gave it to you, would you have done
6 anything other than keep custody of it?

7 A. No, sir. I would not.

8 Q. The next movement for that item, what do we see?

9 A. The next movement of this item shows that Candy
10 Kyzer retrieved it from the evidence room. She is also an
11 evidence custodian and she released it to Renee Strickland to
12 be taken to the State lab for testing which is SLED. I
13 apologize. I have it out of order.

14 Q. The records you're looking at are the records of the
15 transfers that the Sheriff's Department and you and the other
16 evidence custodian maintain to keep track of the items; is
17 that correct?

18 A. That is correct. I apologize. Barbara McMullen who
19 was our sergeant at the time retrieved the item and gave it to
20 Renee Strickland to be sent to another lab, not SLED.

21 Q. So it's sent to another lab, not SLED. Could that
22 have been the Richland County Sheriff's Department?

23 A. Yes. It could have.

24 Q. At some point does that item come back to the
25 Lexington County Sheriff's Department?

1 A. Yes. It does. It leaves on July 31st and comes
2 back August the 20th. Renee Strickland gave it back to me.

3 Q. Once you have possession of it again and it's back
4 in the evidence storage area at the Sheriff's Department, what
5 happens to that item next?

6 A. Candy Kyzer retrieved it, gave it to Renee
7 Strickland to be sent to SLED for testing. Renee Strickland
8 then gave it to Doris Yarbrough who is an evidence technician
9 at SLED.

10 Q. We're now looking at your PR number which is 65425.

11 A. PR number 65425 correlates with a 20 gauge pump
12 shotgun retrieved by Renee Strickland, released to me on
13 August 3rd of 2012 when I accepted it into the evidence
14 room.

15 Q. What's the next movement that the Sheriff's
16 Department shows for that item?

17 A. I signed it back out to Renee Strickland to be sent
18 to another lab for testing.

19 Q. And at some point is that received back by the
20 Sheriff's Department?

21 A. It is. It was released to Renee Strickland and she
22 returned it back to me.

23 Q. Let me show you what's been marked as State's 64 and
24 ask if you recognize that as your PR number 65342?

25 A. That is correct.

1 Q. What is that item?

2 A. PR 65342 is actually several items. It's a shotgun
3 shell case and that actually is three of those.

4 Q. Specifically the fired shot shell casings, who
5 collected those items?

6 A. Renee Strickland.

7 Q. And what did she do with them?

8 A. She brought them to the evidence room where I
9 accepted them in the evidence room.

10 Q. At some point later what happened to those items?

11 A. I released them to Renee Strickland to be sent to
12 another lab for testing.

13 Q. At some point did they come back?

14 A. They did.

15 Q. Who brought them back?

16 A. Renee Strickland.

17 Q. Let me show you another item which is State's 72 and
18 ask you if you recognize that as your PR number 65426?

19 A. Yes. I do.

20 Q. What is that item?

21 A. PR number 65426 is a shot shell, AA Super Sport
22 seven and a half.

23 Q. And that's the unfired shot shell; is that
24 correct?

25 A. That's correct.

- 1 Q. Who turned this into evidence?
- 2 A. Renee Strickland.
- 3 Q. She turned that into who?
- 4 A. To me.
- 5 Q. She turned that into who? I'm sorry.
- 6 A. To me.
- 7 Q. Was there anymore movement on that one?
- 8 A. Yes. I released it back to Renee Strickland to be
- 9 sent to another lab for testing. She also returned that shell
- 10 casing to our office.
- 11 Q. Have we talked about PR number 65428 yet?
- 12 A. No, sir.
- 13 Q. We have not?
- 14 A. No, sir.
- 15 Q. Let me show you State's exhibit 100 and ask you if
- 16 you recognize that?
- 17 A. Yes. I do.
- 18 Q. That is your PR number 65428?
- 19 A. That's correct.
- 20 Q. What are those items?
- 21 A. They are swabs from various locations. One is a
- 22 swab from a brass head of shot shell. A swab from trigger of
- 23 shotgun. A swab from grip of shotgun. And swab from
- 24 forestock of shotgun.
- 25 Q. Who created those items?

1 A. All of these items were turned in by Renee
2 Strickland.

3 Q. Who did she turn those items into?

4 A. To myself.

5 Q. Subsequently after they were received at the
6 Sheriff's Department, was there further movement on those?

7 A. There was.

8 Q. Who released them out from custody of the Sheriff's
9 Department?

10 A. Candy Kyzer released them to Renee Strickland to be
11 taken to SLED for testing.

12 Q. And who did Renee Strickland turn them into?

13 A. Renee Strickland gave them to Doris Yarbrough at
14 SLED.

15 Q. As part of your job have you taken items out to
16 SLED?

17 A. Yes. I have.

18 Q. Can you describe the process of someone from,
19 yourself or another evidence custodian from the Sheriff's
20 Department turning over evidence to SLED and how that works?

21 A. SLED requires that evidence be turned into their
22 evidence control area. Their intake, for lack of a better
23 term, has to have paperwork that's filed out and also required
24 to have a copy of the incident report for them. That
25 paperwork is completed by the evidence custodians, either

1 , myself or Candy Kyzer. We are the only two that have access
2 to that program. Once we complete that paperwork and get the
3 copy of the report, we then take it to SLED ourselves or we
4 can sign it out to the officer or the crime scene person who
5 is going to take it out there. Once that property is released
6 to SLED, SLED actually accepts that property. It's kept in
7 their evidence control room until it's sent to various labs
8 for testing. SLED does ballistics. They do toxicology. They
9 do many different tests that an agency may not have the
10 funding to do or may not have the equipment or people to do
11 that.

12 Q. When you take something out to SLED, for instance,
13 looking at State's 65, there's a bag, a clear bag. What is
14 that bag?

15 A. That's a SLED bag. SLED works off of a said to
16 contain policy. If we tell them we are bringing out a swab
17 from a shotgun, for example, we have to have that package and
18 labeled according to our policies and procedures, however,
19 they don't verify that that is what is actually turned in.
20 They are going on the said to contain policy that what we said
21 we brought out there is what we have contained in their
22 package.

23 Q. When you go out there and let's say that there were
24 two items which there were in this bag, I think it was 99 and
25 100, in the bag that's marked 65, when you or another person

1 from the Sheriff's Department as we talked about you took them
2 out there, when you turn them over to them, do you just hand
3 them to them?

4 A. Absolutely not. We take the BEST bags they provide
5 us, a SLED bag. We fill out the top of that SLED bag and
6 indicate who the sealing official is and the date that it was
7 sealed. They seal that in our presence and then we initial
8 the top seal of that bag.

9 Q. So looking at 65, there's like initials and a date.
10 Is that what you are talking about?

11 A. That's correct.

12 Q. Did we already talk about the shotgun? We did,
13 didn't we?

14 A. Yes. We did.

15 MR. GRAHAM: I believe that's all the questions,
16 Your Honor.

17 THE COURT: Cross.

18 MS. CLEARY: None, Your Honor.

19 THE COURT: All right. Thank you very much, ma'am.
20 You may step down.

21 MS. RANKIN: The State calls Candy Kyzer.
22 Thereupon,

23 CANDY KYZER
24 after having been first duly sworn, testified as follows,

25 THE CLERK: Please have a seat. After you're

CANDY KYZER - DIRECT BY MS. RANKIN

381

1 seated, please state your full name spelling your last
2 name for the record.

3 THE WITNESS: Candy Kyzer, K-y-z-e-r.

4 DIRECT EXAMINATION

5 BY MS. RANKIN:

6 Q. Ms. Kyzer, where do you work?

7 A. Lexington County Sheriff's Department.

8 Q. What do you do?

9 A. I'm an evidence custodian.

10 Q. What are your duties as an evidence custodian?

11 A. We get in evidence from the deputies and
12 investigators, crime scene investigators and sign it in and
13 keep it until it's necessary for court or for testing.

14 Q. Who has access to the evidence?

15 A. It's just the three of us. It's Sergeant Novack,
16 Beth Holliman and myself.

17 Q. I'm handing you State's 96 and 95. Do you recognize
18 those items?

19 A. I do.

20 Q. Okay. What are those items?

21 A. They're buccal swabs.

22 Q. Okay. Who did you receive those from?

23 A. From Glenn Ross.

24 Q. Okay. At some point, Ms. Kyzer, did you take those
25 items to SLED?

1 A. I did.

2 Q. Okay. Who did you leave them with at SLED?

3 A. I'm not sure. I don't have my SLED paperwork.

4 Q. Did you leave them with Amy Stephens? When you
5 leave them at SLED, who would you leave them with? Would you
6 just drop them in a box?

7 A. No. There are three individuals over there that
8 take in evidence. Amy Stephens, Dodie Yarbrough and
9 Jennifer.

10 Q. (Proffering.) Does that item refresh your memory?

11 A. Yes. It was Amy Stephens.

12 Q. You left both of these items with Amy Stephens?

13 A. Yes. I did.

14 MS. RANKIN: Thank you, Ms. Kyzer. I don't have
15 anything further.

16 THE COURT: Okay.

17 MS. CLEARY: No questions.

18 THE COURT: All right. Thank you very much, ma'am.
19 You may step down. Let's take a break, ladies and
20 gentlemen. We have been going for a little while here.
21 We'll take about 10 or 15 minutes. If you need anything
22 while you're back there, just let the bailiffs know and
23 we'll get started back in just a little bit. Please have
24 no conversation about the case.

25 (Whereupon, the jury entered the jury room at 3:45

1 p.m.)

2 (Short break.)

3 BAILIFF: Please remain seated. Court is now back
4 in order.

5 THE COURT: Is the defense ready?

6 MS. CLEARY: Yes, Your Honor.

7 THE COURT: Is the State ready?

8 MR. GRAHAM: Yes, Your Honor.

9 THE COURT: All right. Let's bring the jury in.
10 (Whereupon, the jury returned to the courtroom at
11 4:05 p.m.)

12 THE COURT: Let me get y'all to step up here real
13 quick.

14 (Side bar off the record.)

15 THE COURT: All right. Call your next witness.

16 MR. GRAHAM: The State calls Amy Stephens.

17 Thereupon,

18 AMY STEPHENS

19 after having been first duly sworn, testified as follows,

20 THE CLERK: Please have a seat. After you're
21 seated, please state your full name spelling your last
22 name for the record.

23 THE WITNESS: Amy Elizabeth Stephens,
24 S-t-e-p-h-e-n-s.

25 DIRECT EXAMINATION

1 BY MR. GRAHAM:

2 Q. Ms. Stephens, where are you employed, ma'am?

3 A. I'm employed with the South Carolina Law Enforcement
4 Division also known as SLED.

5 Q. How long have you worked for SLED?

6 A. A little over nine years.

7 Q. What do you do for SLED?

8 A. I'm a forensic technician in the evidence control
9 department and our daily responsibilities are to log in,
10 package and transfer evidence for forensic analysis.

11 Q. Did you bring a chain of custody form related to
12 this case and the movement of items at SLED?

13 A. Yes. I did.

14 Q. Let's go through some items and talk about them.
15 State's 95 which is a buccal swab of Jeremy Brady, do you
16 recognize that item?

17 A. The lab number that's affixed to this heat sealed
18 pouch corresponds with the chain of custody.

19 Q. When that item was turned into SLED, who was it
20 turned - who brought that item to SLED?

21 A. Candy Kyzer with the Lexington County Sheriff's
22 Department.

23 Q. And what day?

24 A. On April 15th, 2015.

25 Q. How would she have turned that item over to SLED?

1 A. She would have brought it in in the inside package
2 that's located inside this heat sealed pouch. I actually
3 received this evidence from Candy Kyzer. I would have then
4 placed the evidence into the SLED heat sealed pouch sealed up
5 top and have her initial and date the seal as well as sign and
6 date the front and the back.

7 Q. So you give her the bag, she puts it in the bag,
8 it's sealed, you seal it in her presence?

9 A. That's correct.

10 Q. And then she would initial across it and date it?

11 A. She would initial and date across the seal and sign
12 and date the front and the back of the bag.

13 Q. The purpose of putting it in a heat sealed bag is
14 what?

15 A. It's to make sure the evidence is tamper proof.

16 Q. Once you took possession of it, where did it go?

17 A. After I took possession of it, I actually
18 transferred the evidence directly to the forensic scientist on
19 this case which was Jennifer Clayton.

20 Q. Other than carry the bag up there, did you do
21 anything with the contents of the bag?

22 A. No. I did not.

23 Q. Let me show you State's 96 and ask you if you
24 recognize that item? That's a buccal swab from, I believe,
25 Nick Williams.

1 A. Yes. The lab number that's affixed to this package
2 corresponds with the chain of custody for this case.

3 Q. What's the SLED number for that item?

4 A. It's L12-09166, SLED item number 17.

5 Q. Can you tell me about the chain of custody of that
6 item and how it was received by SLED and where it went?

7 A. I received the evidence from Candy Kyzer with the
8 Lexington County Sheriff's Department on April 15th, 2015. I
9 would have placed that manila envelope into the SLED heat
10 sealed pouch, sealed the SLED heat sealed pouch and then Candy
11 would have initialed and dated the seal and signed and dated
12 the front of the bag. Once that was complete, I then
13 transferred the evidence to forensic scientist Jennifer
14 Clayton.

15 Q. So it was sealed, you took possession of it, gave it
16 directly to Jennifer Clayton?

17 A. That's correct.

18 Q. Let me show you another item and ask you if you
19 recognize this. This is a bag, a SLED bag of State's 71 and
20 also State's 101 which is a swab from a crime scene.

21 A. State's exhibit 101 was actually physically located
22 inside the SLED heat sealed pouch which is State's exhibit
23 number 71.

24 Q. What's the SLED number that goes with the swab?

25 A. It's SLED item number 14.

1 Q. What is it described as?

2 A. It is a swab from a doorknob.

3 Q. Who brought that item to SLED?

4 A. This item was submitted to SLED by Beth Holliman of
5 the Lexington County Sheriff's Department on July 18th,
6 2013.

7 Q. Would that have been done the same way that we have
8 been talking about the previous items?

9 A. That's correct.

10 Q. Once that item was put in the heat sealed bag, where
11 did that bag and item go?

12 A. Once I received the evidence and entered the
13 information into our computer system, I would have then
14 transferred the evidence to a DNA intake shelf located in our
15 evidence room.

16 Q. After that, where did it go?

17 A. I then retrieved that evidence from the DNA intake
18 shelf and transferred it to forensic scientist Jennifer
19 Clayton.

20 Q. And you gave her the bag sealed in the same way and
21 condition that you got it, correct?

22 A. Yes. I did.

23 Q. All right. Let me show you State's 65 which is a
24 SLED bag, State's 99 which are multiple swabs, and State's 100
25 which are multiple swabs and ask you if you recognize those

1 items?

2 A. The items contained in this bag correspond with the
3 chain of custody for this case.

4 Q. What items were contained in that bag, in the SLED
5 bag?

6 A. SLED item number 6 which was a swab from a shot
7 shell case, SLED item 7 which is a swab from a shot shell
8 case, SLED item number 8 also a swab from a shot shell case,
9 SLED item number 9 which is a swab from the brass head of a
10 shot shell, SLED item number 10 which is a swab from the
11 trigger of a shotgun, SLED item number 11 which is a swab from
12 the grip of a shotgun, SLED item number 12 which was a swab
13 from the forestock of a shotgun.

14 Q. Can you tell me when those items were brought to
15 SLED and who by?

16 A. These items were submitted to SLED by Renee
17 Strickland of the Lexington County Sheriff's Department on
18 September 13th, 2012.

19 Q. Who received them from SLED?

20 A. Forensic technician Doris Yarbrough received these
21 items from Renee Strickland.

22 Q. And that would have been sealed the same way we have
23 been talking about all the other times?

24 A. That's correct.

25 Q. What happened with the package after that?

1 A. Doris Yarbrough then transferred the evidence to DNA
2 intake shelf 79 and then after transferring that evidence,
3 Doris Yarbrough also retrieved the evidence from that location
4 and transferred the evidence to forensic scientist Jennifer
5 Clayton.

6 Q. And the bag would have been in the same condition
7 again when it got to Jennifer Clayton?

8 A. Yes.

9 MR. GRAHAM: Thank you. Please answer any questions
10 the defense has.

11 MS. CLEARY: No questions, Your Honor.

12 THE COURT: All right.

13 MR. GRAHAM: We ask that Ms. Stephens be excused,
14 Your Honor, from her subpoena.

15 MS. CLEARY: No objection.

16 THE COURT: Thank you very much, ma'am. You're free
17 to go.

18 MR. GRAHAM: The State calls Jennifer Clayton.
19 Thereupon,

20 JENNIFER CLAYTON

21 after having been first duly sworn, testified as follows,

22 THE CLERK: Please have a seat. After you're
23 seated, please state your full name spelling your last
24 name for the record.

25 THE WITNESS: Jennifer Clayton, C-l-a-y-t-o-n.

1 DIRECT EXAMINATION

2 BY MR. GRAHAM:

3 Q. Ms. Clayton, where are you employed, ma'am?

4 A. I am currently employed by the South Carolina Law
5 Enforcement Division also known as SLED.

6 Q. What do you do there?

7 A. I am currently a forensic DNA analyst.

8 Q. Have you ever been qualified as an expert in DNA and
9 serology before?

10 A. Yes, I have.

11 Q. What is DNA and serology?

12 A. Serology is the testing for body fluids such as
13 blood, semen or saliva and DNA analysis is testing for the
14 presence of DNA and then attempting to develop a DNA profile
15 from an item of evidence and also from standards. Standards
16 are known samples that are taken directly from a particular
17 individual so that the DNA profile developed from that item is
18 known to be from a particular individual.

19 Q. Can you talk about your educational background and
20 experience as it relates to DNA and serology?

21 A. I earned a Bachelor's of Science in biology from the
22 University of North Carolina at Chapel Hill. I have also
23 taken classes at NC State and USC. My course work includes
24 molecular biology, genetics, biochemistry and statistics. I
25 completed an internship with the North Carolina State Bureau

1 of Investigations Molecular Genetics Department which is the
2 equivalent of SLED's DNA department. I originally hired on
3 with the DNA department as a forensic technician. I worked as
4 a forensic technician for two years before being hired as a
5 DNA analyst. Once I was hired as a DNA analyst, I completed a
6 one year training program under another qualified analyst and
7 worked case work under his supervision before I was allowed to
8 work case work on my own.

9 Q. So how long have you been working case work on your
10 own now?

11 A. Approximately eleven years.

12 Q. How many times have you been qualified as an expert
13 in DNA and serology?

14 A. Approximately 40 times.

15 MR. GRAHAM: Your Honor, the State would offer
16 Jennifer Clayton as an expert in the field of DNA and
17 serology.

18 MS. CLEARY: No objection, Your Honor.

19 THE COURT: Without objection.

20 BY MR. GRAHAM:

21 Q. Ms. Clayton, did you have an opportunity to do DNA
22 work on the case that we are here for today?

23 A. Yes. I did. I do need to make a correction though.
24 I just thought about it. I actually have been doing it for
25 approximately ten years on my own, eleven years total.

1 Q. Okay. Let me show you some items and ask if you
2 recognize these items. Well, first of all, let me talk about
3 item 4.1.1. What is that?

4 A. May I refer to my notes?

5 Q. Please do.

6 A. SLED item 4.1.1 is a dried blood standard from
7 Robert Mitchell.

8 MR. GRAHAM: Your Honor, by stipulation the defense
9 has agreed that what Ms. Clayton analyzed was in fact the
10 blood standard from our victim in this case.

11 THE COURT: All right.

12 BY MR. GRAHAM:

13 Q. Once you got Mr. Mitchell's blood standard, what do
14 you do with it?

15 A. For DNA analyses for blood standard, the first step
16 is to separate the DNA from everything else. In this case the
17 standard was dried down. It was liquid blood and it was dried
18 on a piece of sterile paper. So the DNA is extracted from
19 that paper so that what is left is just DNA in a tube in a
20 liquid. It doesn't have any parts of the paper or other parts
21 of the cell or anything else that might be in blood. At that
22 point I develop a DNA profile from it for comparison to
23 evidence.

24 Q. How do you develop a profile? What do you mean by
25 that?

1 A. There are several steps. As I said, the first one
2 is to extract it to separate it from everything else. The
3 next step is to do a quantification step to determine how much
4 DNA is present in the sample because the instruments that we
5 use have a certain concentration of DNA that they need to use
6 to obtain optimal results. If there's too little DNA, the
7 instrument will either give no results on our final steps of
8 the testing or it will give additional results that aren't
9 correct results. It will make basically phantom results so
10 it's important to have the right amount of DNA in a sample.

11 Once I have determined how much DNA is present in
12 the sample, then I can move forward with the next step and
13 that step is to make copies of sections of the DNA. Rather
14 than copying the entire DNA strand, and DNA is a long chain of
15 chemicals so it's in a strand, rather than copying all the
16 DNA, 15 locations are copied typically and then it's run on
17 this final instrument and the results are displayed as a
18 sequence of numbers.

19 Q. Briefly when you are doing this, are you looking at
20 -- DNA is what? Can you describe the chain and what that
21 means very briefly?

22 A. DNA is just a, it's a long chain chemical and it's
23 grouped into what are called chromosomes and so it's actually
24 a very long molecule and testing the entire molecule would be
25 cost prohibitive. That's why we test a certain number of

1 locations. We test locations that are specific, human
2 specific and they also vary between individuals giving
3 individuals that are not identical siblings unique DNA
4 profiles.

5 Q. And do you get half of your DNA from your mom and
6 half from your dad?

7 A. That's correct.

8 Q. Let me show you -- Well, were you able to develop a
9 full profile for Mr. Mitchell?

10 A. Yes. I was.

11 Q. Let me show State's number 96 which is SLED 17 and
12 ask if you recognize that?

13 A. Yes. I do. It has the SLED lab number that was
14 assigned to this case as well as the SLED item number that was
15 assigned to this item. It also has the date and my initials
16 of when I resealed this heat sealed pouch after opening it.

17 Q. That was a buccal swab from Nicholas Williams; is
18 that correct?

19 A. That's correct.

20 Q. What's a buccal swab and what did you do with it?

21 A. A buccal swab or buccal swab is a type of standard.
22 It basically is a sterile cotton swab that is taken and rubbed
23 on the inside of someone's cheeks. It collects the loose skin
24 cells and from that I can do the same process as I do with a
25 dried blood standard and develop a DNA profile for comparison

1 to evidence.

2 Q. When you received that item, was it properly sealed
3 like it was supposed to be?

4 A. Yes. It was.

5 Q. Let me show you State's 95 which I believe is SLED's
6 16 ask if you recognize that?

7 A. Yes. I do. Again, it has the SLED lab number, the
8 item number, and my initials and the date of when I resealed
9 the heat sealed pouch.

10 Q. What is that item number?

11 A. Item 16 is buccal swabs from Jeremy Brady.

12 Q. Were you able to develop a DNA profile from that
13 buccal swab?

14 A. Yes. I was.

15 Q. Let me show you State's number 65 which is a SLED
16 bag and it contains two sets of items, State's 99 and State's
17 100 and ask if you recognize those?

18 A. Yes. I do. This time rather than having an item
19 number on the pouch it has a letter which indicates that the
20 pouch contains multiple items and the items, the pouches
21 containing the items also have the lab number, the item
22 numbers that are contained in that item, and my initials and
23 that is the case for both items that were in this pouch.

24 Q. Those items that were in the pouch I think which was
25 State's 65, was that properly sealed when you received it?

1 A. Yes. They were.

2 Q. What was contained within that bag which you
3 analyzed and can you tell us what the SLED numbers are with
4 those corresponding items?

5 A. It contained multiple items. It contained SLED item
6 6, 7 and 8 which were all swabs from shot shell cases. It
7 contained SLED item 9 which was a swab from a brass head of
8 shot shell. Item 10 which was a swab from trigger of a
9 shotgun. Item 11 which was a swab from a grip of a shotgun.
10 And item 12 which was a swab from a forestock of a shotgun.

11 Q. And did you attempt to extract DNA and develop
12 profiles on those items as well?

13 A. Yes. I did.

14 Q. Let me show you one more item. State's 71 is a SLED
15 bag containing a swab which is State's 101 and ask if you
16 recognize that item?

17 A. Yes. I do. This is SLED item number 14 which is
18 swabs from a doorknob.

19 Q. Did you receive that item properly sealed in a SLED
20 bag?

21 A. Yes. I did.

22 Q. Were you able, did you attempt or were you able to
23 develop a profile from that item?

24 A. Yes. I was.

25 Q. Comparing item 14 which is a swab from the doorknob,

1 what were you able to determine regarding that in comparison
2 to the known standards of Mr. Mitchell, Mr. Brady or Mr.
3 Williams?

4 A. The DNA profile developed from SLED item 14 matches
5 the DNA profile of Robert Mitchell. The probability of
6 randomly selecting an unrelated individual having a DNA
7 profile matching this item is approximately one in 1.8
8 quintillion and what that probability does means is that if I
9 were to go out anywhere in the population and choose one
10 individual at random unrelated to the individual that left the
11 profile on the item, the probability of that individual by
12 random chance would have the same DNA profile as the item of
13 evidence would be approximately one in 1.8 quintillion.

14 Q. Items 6, 7 and 8 were what?

15 A. Items 6, 7 and 8 were swabs from shot shell cases.

16 Q. Were you able to develop a profile from those
17 items?

18 A. No. No DNA profile was developed from those
19 items.

20 Q. What does that mean?

21 A. Sometimes an item either does not have enough DNA on
22 it or it has no DNA at all and so the result of the testing is
23 that no DNA profile is developed. The instrument does not
24 give a result that can be compared to anything.

25 Q. Just because somebody touches something, does that

1 mean that they will be able to collect DNA that you will be
2 able to find?

3 A. No. Touch DNA is the type of testing that you're
4 talking about. That's when you hold an item, handle an item,
5 touch an item, you can leave DNA behind on it. Sometimes an
6 individual can handle an item but not leave enough DNA for it
7 to be detected. That's actually a very common result with
8 touch DNA. It's very difficult to obtain the results with
9 touch DNA. Sometimes we do develop very good results from
10 touch DNA. Very often we develop partial profiles, no
11 profiles or a mixture of profiles.

12 Q. Item number 9, that was a swab from the brass head
13 of a unfired shot shell, correct?

14 A. Correct.

15 Q. Were you able to develop a profile from that item?

16 A. No. I was not.

17 Q. Item number 10, the swab from the trigger of a
18 shotgun, were you able to develop a profile from that item?

19 A. No. I was not.

20 Q. Item number 11 was what?

21 A. Item number 11 was a swab from the grip of a
22 shotgun.

23 Q. Were you able to develop a profile from that item?

24 A. Yes. I was.

25 Q. Tell me about what kind of a profile was developed

1 from the grip of the shotgun?

2 A. The DNA profile developed from item 11 is a mixture
3 of at least four individuals and Robert Mitchell and Nicholas
4 Williams are excluded as possible contributors to this
5 mixture. However, due to the complexity of the mixture no
6 conclusive statement can be made regarding the inclusion or
7 exclusion of Jeremy Brady as a contributor to this mixture.

8 Q. How are you able to tell that it's a mixture of four
9 or more people?

10 A. As I said earlier, we typically get half of our DNA
11 from our mom and half of our DNA from our dad and as I said
12 earlier DNA profiles are typically recorded as a string of
13 numbers. So at the 15 locations that we typically test I
14 would expect to get either one number at each location if it's
15 the same. For instance, if someone got an 8 from their mother
16 and an 8 from their father, it would be recorded as just one
17 8. Or two numbers. For instance, if they received an 8 from
18 their mother and an 8 from their father, or I mean a 9, then
19 they would be an 8/9 at that location. So at every location
20 for a single profile, a single person's profile you would
21 expect not more than two numbers at a location.

22 So in this case I had locations that had 8 numbers
23 which would indicate a minimum of at least four people.
24 Because there's a limited number of results at a location, for
25 instance, it might be possible to have numbers ranging from 8

1 to 15 at the location, but not 27. There's only so many
2 possible number combinations and therefore multiple
3 individuals could contribute so it may look like a four person
4 mixture, but may actually be more than a four person mixture.
5 But I know there are at least four people contributing to the
6 mixture.

7 Q. When you compared the victim Robert Mitchell's DNA
8 profile to the profile -- I guess, was it a partial profile
9 that you developed?

10 A. Yes.

11 Q. From the trigger. Excuse me. From the grip of the
12 shotgun?

13 A. Yes. That's correct.

14 Q. How were you able to exclude him?

15 A. I ran two kits. The second kit gave me a large
16 amount of information indicating at least four individuals.
17 However, he was missing information from several of those
18 locations and I was therefore able to exclude him as a
19 contributor to the mixture.

20 Q. Nick Williams, were you able to exclude him as
21 well?

22 A. Yes. Again, I had a lot of information indicating
23 at least four individuals. However, his information was
24 missing at several locations again.

25 Q. Jeremy Brady, what was your finding with regard to

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Thomas A. Russo, Circuit Court Judge

RECEIVED

JUN 14 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEREMY SELDON BRADY,

APPELLANT

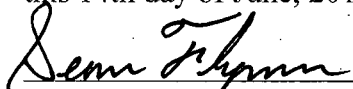
CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of June, 2017.



George Vlas
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of June, 2017.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022.