

ORIGINAL

230 51

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

NOV 28 2016

Appeal from Abbeville County

Honorable Frank R. Addy, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KARLITA DESEAN PHILLIPS,

APPELLANT

APPELLATE CASE NO. 2015-002334

RECORD ON APPEAL

ROBERT M. PACHAK
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

MARK FARTHING
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street
Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit

Post Office Box 516
Greenwood, SC 29648
(864) 842-8800

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JULY 20-23, 2015	1
JURY VOIR DIRE	4
JURY SELECTION	21
OPENING STATEMENT BY MR. BROWN	34
OPENING STATEMENT BY MS. BOLEN	39
TESTIMONY	
KIMBERLY WELLS	
Direct Examination by Mr. Stumbo	42
DALE PHILLIPS, SR	
Direct Examination by Mr. Stumbo	45
Cross Examination by Ms. Bolen	56
Redirect Examination by Mr. Stumbo	58
MARTHA PHILLIPS	
Direct Examination by Ms. Brown	60
Cross Examination by Ms. Bolen	69
MARY STAMPS	
Direct Examination by Mr. Brown	70
GARY PARRMAN	
Direct Examination by Mr. Stumbo	74
Cross Examination by Ms. Bolen	81
CRAIG BIRCHMORE	
Direct Examination by Mr. Brown	83
RONNIE ASHLEY	
Direct Examination by Mr. Stumbo	89
SAM FERGUSON	
Direct Examination by Mr. Brown	93

VICKIE HALLMAN	
Direct Examination by Mr. Stumbo.....	96
Cross Examination by Ms. Bolen	123
BRETT WOODARD	
Direct Examination by Mr. Brown	128
Cross Examination by Ms. Bolen	137
KENYA GRIFFIN	
Direct Examination by Mr. Brown	139
Cross Examination by Ms. Bolen	142
NICK MARSHALL	
Direct Examination by Mr. Stumbo.....	142
MOTION TO SUPPRESS TIRE TRACKS	151
RULING BY THE COURT.....	151
TESTIMONY	
NICK MARSHALL (Continued)	
Direct Examination by Mr. Stumbo.....	151
Cross Examination by Ms. Bolen	170
Redirect Examination by Mr. Stumbo	183
Recross Examination by Ms. Bolen.....	185
DAVID GRUBBS	
Direct Examination by Mr. Stumbo.....	187
Cross Examination by Ms. Bolen	194
LILLY GALLMAN	
Direct Examination by Mr. Stumbo.....	194
Cross Examination by Ms. Bolen	207
MICHELLE EICHENMILLER	
Direct Examination by Mr. Stumbo.....	210
MOTION TO SUPPRESS PHOTOGRAPH OF GUNS.....	219
RULING BY THE COURT.....	220

TESTIMONY

MICHELLE EICHENMILLER (Continued)	
Direct Examination by Mr. Stumbo.....	221
Cross Examination by Ms. Bolen	222
LASHAY HIGGINS	
Direct Examination by Mr. Stumbo.....	225
ANTHONY MOSS	
Direct Examination by Ms. Brown	230
ASHANTI POLK	
Direct Examination by Mr. Stumbo.....	234
Cross Examination by Ms. Bolen	238
MICHAEL JAMES COLLINS	
Direct Examination by Mr. Brown	239
Cross Examination by Ms. Bolen	253
NATALIE TALBERT	
Direct Examination by Mr. Brown	258
Cross Examination by Ms. Bolen	269
Redirect Examination by Mr. Brown.....	273
BO BARTON	
Direct Examination by Mr. Stumbo.....	276
Cross Examination by Ms. Bolen	297
DALE PHILLIPS, SR.	
Direct Examination by Mr. Brown	300
Cross Examination by Ms. Bolen	306
AMANDA FALLAW	
Direct Examination by Mr. Brwon	308
Cross Examination by Ms. Bolen	312
Redirect Examination by Mr. Brown.....	314
TAVARIUS SETTLES (In Camera)	
Direct Examination by Mr. Stumbo.....	317
MOTION IN LIMINE.....	345

TESTIMONY

TAVARIUS SETTLES	
Direct Examination by Mr. Stumbo.....	348
Cross Examination by Ms. Bolen	355
STATE RESTS.....	364
MOTION FOR DIRECTED VERDICT.....	365
RULING BY THE COURT.....	370
DEFENSE RESTS.....	371
CLOSING ARGUMENT BY MR. STUMBO.....	373
CLOSING ARGUMENT BY MS. BOLEN.....	398
CHARGE ON THE LAW.....	405
VERDICT	411
SENTENCING	415
INDICTMENTS AND SENTENCE SHEETS	416
STATE'S EXHIBIT #1A (STATEMENT).....	422
STATE'S EXHIBIT #51 (STATEMENT).....	423
STATE'S EXHIBIT #53 (STATEMENT).....	427
STATE'S EXHIBIT #54 (STATEMENT).....	429
CERTIFICATE OF COUNSEL.....	431

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 KARLITA DESEAN PHILLIPS,)
)
 DEFENDANT.)
 _____)

CASE NO.: 2014-GS-01-212
2014-GS-01-213

TRANSCRIPT OF RECORD

JULY 20-23, 2015
ABBEVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE, AND A JURY

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

ATTORNEY FOR PLAINTIFF:

DAVID STUMBO, SOLICITOR
YATES BROWN, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

PATRICIA BOLEN, ESQUIRE
JANNA NELSON, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

1 TRIAL DAY 1-07/20/15

2 THE COURT: Ladies and gentlemen, we're now about to
3 begin the selection of a jury on the case that we're going
4 to try this week. Solicitor, if you would, go ahead and
5 call the case, please.

6 MR. STUMBO: Thank you, Your Honor. If it please the
7 Court, State calls the case of *State vs. Karlita Desean*
8 *Phillips*, indictment number 2014-GS-01-213. That's an
9 indictment for accessory before the fact of murder. Second
10 indictment, 2014-GS-01-212. Your Honor, that is an
11 indictment for using a minor to commit a felony. Both of
12 these indictments were presented true bill to the Abbeville
13 County Grand Jury on May 23rd, 2014. Your Honor, the State
14 is ready for trial. If I may approach, please.

15 THE COURT: Is the Defense ready to proceed?

16 MS. BOLEN: Yes, Your Honor.

17 THE COURT: Very good. Ladies and gentlemen, we're
18 about to begin the trial of the *State of South Carolina vs.*
19 *Karlita D. Phillips*, and I've been handed two indictments to
20 charge Ms. Phillips with the offenses of accessory before
21 the fact to murder, and using a minor to commit felony. In
22 this case, ladies and gentlemen, I'm going to begin by
23 instructing you that these indictments, of course, are not
24 evidence of any of the allegations contained in the
25 indictments. These indictments are just pieces of paper.

1 They're the method by which the case is brought before the
2 Court, and the fact that the person has been indicted or
3 charged with a crime, of course, is not in any way, shape or
4 form proof of any of the allegations contained in the
5 indictment. In this case Ms. Phillips has pled not guilty
6 to these charges and that plea, of course, puts the burden
7 of proof on the State to prove her guilt beyond a reasonable
8 doubt. Now, in this case Ms. Phillips is being represented
9 by Ms. Patricia Bolen of the Abbeville Bar and Ms. Janna
10 Nelson of the Greenwood Bar. Ms. Bolen, if you would care
11 to introduce yourself, and certainly your client and Ms.
12 Nelson to the jury panel, please.

13 MS. BOLEN: Thank you, Your Honor. My name is Patricia
14 Bolen. I'm a lawyer in Greenwood County. I practice in
15 both Greenwood and Abbeville County. Together with Janna
16 Nelson we represent Karlita Phillips.

17 THE COURT: Thank you very much, Ms. Bolen. The State
18 of South Carolina is being represented in this case by Mr.
19 David Stumbo and Yates Brown. Mr. Stumbo, if you would care
20 to introduce yourself to the jury panel, and certainly
21 anyone seated at the counsel table with you.

22 MR. STUMBO: Thank you, Your Honor. My name is David
23 Stumbo. I'm your elected Solicitor for the Eighth Circuit,
24 which is not only Abbeville but Greenwood, Laurens, and
25 Newberry County. So we have four counties in our circuit.

1 Our job is essentially as solicitor in our state, a district
2 attorney who prosecutes all cases that are generated by law
3 enforcement agencies. This case is one of those that came
4 out of Abbeville County. Seated to my direct -- or standing
5 here to my direct left is Deputy Solicitor Yates Brown, and
6 one of our investigators Courtney Smith. Deputy Solicitor
7 Brown runs our docket in Greenwood and Abbeville.
8 Investigator Smith is one of our investigators that works on
9 Greenwood and Abbeville cases. We present this case to you.
10 Thank you.

11 THE COURT: Thank you. We now have specific questions
12 that I need to ask you with regard to this particular case.
13 We'll use the same process as before. So if any question
14 applies to you, I'm going to ask that you just stand up and
15 tell me how that question applies to you. Okay?

16 The first question, very simple. Is there any member
17 of the jury panel who has previously been represented or is
18 currently being represented by any of the attorneys involved
19 in this case, either Ms. Bolen, Ms. Nelson, Mr. Stumbo or
20 Mr. Brown. If so, please stand.

21 (Whereupon, jury panel remains seated.)

22 THE COURT: No one is standing. Is there any member of
23 the jury panel who has any close family, business or social
24 relationship with any of the members -- or any of the
25 attorneys that are going to be trying this case? If so,

1 please stand.

2 (Whereupon, jurors stand.)

3 THE COURT: Yes, sir. What's your name?

4 THE JUROR: My name is Kevin Allen. I'm juror number
5 two.

6 THE COURT: Yes, sir.

7 THE JUROR: My brother actually works for the
8 Solicitor's Department.

9 THE COURT: In Greenwood?

10 THE JUROR: Yes, sir.

11 THE COURT: What's your brother's name?

12 THE JUROR: Dale Allen. He works with the PTI program.

13 THE COURT: So he is employed by Mr. Stumbo; is that
14 correct?

15 THE JUROR: Yes, sir.

16 THE COURT: All right. And you reside -- does your
17 brother reside here in Abbeville or does he live in
18 Greenwood?

19 THE JUROR: Calhoun Falls.

20 THE COURT: He lives in Calhoun Falls?

21 THE JUROR: Yes, sir.

22 THE COURT: And you reside on New Road In Abbeville,
23 correct?

24 THE JUROR: Yes, sir.

25 THE COURT: Mr. Allen, the fact that your brother is

1 employed by the Solicitor's Office, would that affect your
2 ability to be fair and impartial in this case?

3 THE JUROR: No, sir.

4 THE COURT: You're absolutely certain of that?

5 THE JUROR: Yes, sir.

6 THE COURT: Very good. You can have a seat, sir.

7 And yes, ma'am. What's your name, please?

8 THE JUROR: Naomi Nelson.

9 THE COURT: Ms. Nelson. Do you remember your juror
10 number, Ms. Nelson?

11 THE JUROR: Number 95.

12 THE COURT: 95. And yes, ma'am. Who do you know?

13 THE JUROR: I know Patricia Bolen.

14 THE COURT: And how do you know Ms. Bolen?

15 THE JUROR: I know her socially. I work with her
16 husband.

17 THE COURT: At Erskine?

18 THE JUROR: At Erskine.

19 THE COURT: The fact that you know Ms. Bolen socially
20 and that you work with her husband, would that affect your
21 ability to be fair and impartial to the State and the
22 Defense in this case?

23 THE JUROR: I don't think so.

24 THE COURT: Very good. So you can remain fair and
25 impartial and decide this case based solely on the evidence?

1 Is that correct, ma'am?

2 THE JUROR: Yes, sir. It is.

3 THE COURT: Very good. Thank you. The Defendant in
4 this case is Karlita Phillips. Is there any member of the
5 jury panel who has any close business or social
6 relationships or is related by blood or marriage to Ms.
7 Phillips? If so, please stand.

8 (Whereupon, jury panel remains seated.)

9 THE COURT: No one is standing. The decedent in this
10 case is named Jamil Phillips. Is there any member of the
11 jury panel related by blood or marriage or has any -- or
12 have any close business or social relationships with the
13 decedent in this case, Jamil Phillips? If so, please stand.

14 (Whereupon, a juror stands.)

15 THE COURT: Yes, ma'am. What is your name, please?

16 THE JUROR: Mary Johnson.

17 THE COURT: Ms. Johnson. And you knew Mr. Phillips?

18 THE JUROR: Yes, sir.

19 THE COURT: How did you know Mr. Phillips?

20 THE JUROR: We're related.

21 THE COURT: You are related? What's the relationship,
22 ma'am.

23 THE JUROR: We're cousins, but I'm not exact sure what,
24 you know.

25 THE COURT: Not first cousins then?

1 THE JUROR: No, sir.

2 THE COURT: Second or third cousins?

3 THE JUROR: No, sir.

4 THE COURT: Even more distant than that?

5 THE JUROR: Yes.

6 THE COURT: The fact that you are related to the
7 decedent in this case, would that affect your ability to be
8 fair and impartial to either the State or the Defense?

9 THE JUROR: No, sir.

10 THE COURT: You're certain of that?

11 THE JUROR: I'm certain.

12 THE COURT: Very good, ma'am. You can have a seat.
13 Anyone else?

14 (Whereupon, jury panel remains seated.)

15 THE COURT: No one is standing. And what was your
16 number again, ma'am?

17 THE JUROR: 64.

18 THE COURT: 64. Thank you. Potential witnesses in
19 this case, ladies and gentlemen, are the following
20 individuals. And I may read these names out more than one
21 time. I need you to pay close attention to this list
22 because at the end of me reading this list of possible
23 witnesses I'm going to ask whether or not you're related by
24 blood or marriage to any of these folks or you have any
25 close business or social relationships with any of these

1 individuals. Okay? Again, these are just possible
2 witnesses. Not all these folks are going to testify. But
3 these are just possible witnesses who might testify during
4 the case this week. Here are the potential witnesses. Jeff
5 Kindley, K-I--d-l-e-y, who works with SLED. Kevin Suggs,
6 who works with SLED. David Grubbs with SLED. Michael
7 Collins of SLED. Steve Gambrell with SLED. Nick Marshal
8 with the Abbeville Sheriff's Office. Lynn Pickard with the
9 Abbeville Sheriff's Office. Neddra Singleton with the
10 Abbeville County Sheriff's Office. Richard Birchmore,
11 B-I-r-c-h-m-o-r-e, with the Abbeville Sheriff's Department.
12 Natalie Talbert with the Sheriff's Department. Ronnie
13 Ashley who is the Coroner here in Abbeville. Ken Smith,
14 also with Abbeville Sheriff's Department. Dale Phillips,
15 Sr., Dale Phillips, Jr., Martha Phillips, Sheila Campbell,
16 Charles Scroggs, Gary Parrman, Mary Paige Stamps, Terrell
17 Campbell. T-e-r-r-e-l-l, Campbell. Kareem Phillips, Kerry
18 Ray Parrman. Kimberly Wells with Abbeville 911. Sharmelle
19 Miller with 911. Sam Ferguson who is the Deputy Coroner.
20 Dr. Brett Woodard, who is a pathologist. Ashanti Polk.
21 A-s-h-a-n-t-I, Polk, P-o-l-k. Emyle McDuffie. E-m-y-l-e,
22 McDuffie. Kenya Griffin. Brian Picard, P-I-c-a-r-d, with
23 the Anderson Sheriff's Department. Vickie Hallman with
24 SLED. Haley Quam, Q-u-a-m, with SLED. Lilly Gallman also
25 with SLED. Bo Barton of SLED. Brittany Burke of SLED. Don

1 Claycomb with SLED. Mindy Worley with SLED. Michelle
2 Eichenmiller, E-I-c-h-e-n-m-I-l-l-e-r, also with SLED.
3 Thomas Darnell of SLED. Courtney Smith of SLED. Amy
4 Stephens of SLED. Marquitta, -a-r-q-u-I-t-t-a, Shay
5 Higgins, H-I-g-g-I--s, Anthony Moss, Henry Buchanan, Deondre
6 Wideman, Dayleshia, D-a-y-l-e-s-h-I-a, Wideman, Amanda
7 Fallaw, Pierce Sullivan, Tavorious Settles, T-a-v -- I'm
8 sorry, Tavarious, T-a-v-a-r-I-o-u-s, Settles. Marquita
9 Higgins, Ashanti Polk, Natalia Talbert, Nick Marshal. Both
10 of those last two are with the Sheriff's Department.
11 Sheriff Ray Watson with the Sheriff's Department. Chris
12 Wilkie with the Solicitor's Office. Andrew Hodges who is an
13 attorney in Greenwood. Deandre Wideman, Dayleisha,
14 D-a-y-l-e-I-s-h-a, Wideman, Damon Kato, Charles Scroggs,
15 Gary Parrman, P-a-r-r-m-a-n, Mary Stamps, Brittany Davis,
16 Willie Lanier, Victor Paul, Todd Allen, Michael Alewine,
17 Deborah Batson, Josh Sellers, Ed Smith, Terry Phillips,
18 Xavier Jones, Roselyn Crawford, David Grubbs, Anthony Moss.
19 Michael Collins with SLED. Bo Barton with SLED. Lynn
20 Picard. Sergeant Gambrell with SLED. Markese Moore. M-a-
21 r-k-e-s-e, Moore, M-o-o-r-e. Renee Donalds, Kathy Wideman,
22 and Tavarious Settles.

23 Again, ladies and gentlemen, is there any member of the
24 jury panel who is related by blood or marriage or has any
25 close business or social relationship with any of those

1 potential witnesses? If so, please stand.

2 (Whereupon, jurors stand.)

3 THE COURT: Yes, ma'am. What's your name, please?

4 THE JUROR: Veronica Crawford.

5 THE COURT: Ms. Crawford, juror number 29. And which
6 of those witnesses do you know, Ms. Crawford?

7 THE JUROR: Dale Phillips, Jr.

8 THE COURT: Dale Phillips, Jr.?

9 THE JUROR: Yes, sir.

10 THE COURT: How do you know Mr. Phillips?

11 THE JUROR: He's one of my best friends.

12 THE COURT: He's a best friend of yours?

13 THE JUROR: Yes, sir.

14 THE COURT: If Mr. Phillips were to testify in this
15 case, would that affect your ability to be fair and
16 impartial to either side, either the State or the Defense?

17 THE JUROR: Yes.

18 THE COURT: It would? Okay. Ms. Crawford, then I'll
19 let you sit this one out. Okay? We will not use Ms.
20 Crawford. Just stay where you are, Ms. Crawford. I'm not
21 excusing you from the courtroom. I just need you to stick
22 around. Okay?

23 Yes, ma'am. What's your name?

24 THE JUROR: Jenette Kennedy. I know Neddra Singleton.

25 THE COURT: Say again, ma'am.

1 THE JUROR: Neddra Singleton.

2 THE COURT: Yes. Neddra, N-e-d-d-r-a, Singleton with
3 the Abbeville Sheriff's Department. Do you know that
4 individual?

5 THE JUROR: Yes, sir.

6 THE COURT: How do you know her?

7 THE JUROR: She's my niece by marriage.

8 THE COURT: Your niece by marriage?

9 THE JUROR: Yes, sir.

10 THE COURT: And what's your name, please, ma'am?

11 THE JUROR: Jenette Kennedy.

12 THE COURT: King?

13 THE JUROR: Kennedy.

14 THE COURT: Kennedy. Which number? 67. Ms. Kennedy,
15 if that witness were to testify, would that affect your
16 ability to be fair and impartial to both the State and the
17 Defense?

18 THE JUROR: No.

19 THE COURT: Very good, Ms. Kennedy. Thank you. You
20 can have a seat. Anyone else?

21 (Whereupon, jury panel remains seated.)

22 THE COURT: No one is standing. Is there any member of
23 the jury panel how has any close business or social
24 relationship with anyone who works with the Eighth Circuit
25 Solicitor's Office or any law enforcement agency here in

1 Abbeville County? Any close relationship with anyone who
2 works either at the Solicitor's Office or with the Sheriff's
3 Department?

4 (Whereupon, a juror stands.)

5 THE COURT: Yes, sir. What's your name?

6 THE JUROR: Benji Taylor.

7 THE COURT: Mr. Taylor?

8 THE JUROR: Yes. My father is with the Abbeville
9 Sheriff's Department.

10 THE COURT: How long has he been there, sir?

11 THE JUROR: Three or four years now, I believe.

12 THE COURT: And what's your father's name?

13 THE JUROR: John Taylor.

14 THE COURT: Mr. Taylor. He was not on the witness
15 list, was he?

16 THE JUROR: No, sir.

17 THE COURT: Okay. And what was your name again, sir?

18 THE JUROR: Benji Taylor.

19 THE COURT: Number 133.

20 THE JUROR: I didn't recognize any of the names from
21 the ---

22 THE COURT: Very good. Thank you for that information,
23 Mr. Taylor. You can have a seat. Anyone else?

24 (Whereupon, jury panel remains seated.)

25 THE COURT: No one is standing. Is there any member of

1 the jury panel who has ever been involved with the political
2 campaign for either Sheriff Ray Watson or Solicitor David
3 Stumbo? Anybody who ever made contributions to the
4 campaign, financial contributions to their campaigns or put
5 out yard signs, that kind of a thing? If so, please stand.

6 (Whereupon, jury panel remains seated.)

7 THE COURT: No one is standing. Is there any member of
8 the jury panel who is either a member of or has a very close
9 relative who is a member of any victims advocacy groups such
10 as Mothers Against Drunk Driving, or Students Against Drunk
11 Driving, or CAVE, C-A-V-E? If so, please stand.

12 (Whereupon, jury panel remains seated.)

13 THE COURT: No one is standing. Is there any member of
14 the jury panel who has a close family member, very close
15 relative or close friend who has ever been the victim or
16 charged with a serious or violent crime? If so, please
17 stand.

18 (Whereupon, jury panel remains seated.)

19 THE COURT: No one is standing. Is there any member of
20 the jury panel who has any strongly held feelings against
21 attorneys or lawyers, particularly persons or attorneys who
22 either prosecute or defend criminal cases? If so, please
23 stand.

24 (Whereupon, jury panel remains seated.)

25 THE COURT: No one is standing. Is there any member of

1 the jury panel or any close member of your family or close
2 friend who has ever been a civilian or military law
3 enforcement officer? If so, please stand.

4 (Whereupon, jurors stand.)

5 THE COURT: We've got you. If you're talking about
6 your dad, we've got you, Mr. Taylor.

7 And yes, ma'am. What's your name, please?

8 THE JUROR: Whitney Giles.

9 THE COURT: Ms. Giles. And who do you have in your
10 family?

11 THE JUROR: Howard Giles was the Sheriff of Abbeville
12 County was my grandfather.

13 THE COURT: That was a long time ago. But he's your --

14 THE JUROR: Grandfather. It was a long time ago.

15 THE COURT: That's your grandfather, I suppose?

16 THE JUROR: Yes, sir.

17 THE COURT: I was just taking a guess based upon your
18 youthful appearance. Very good, ma'am. Thank you for that
19 information. You may have a seat.

20 Yes, ma'am. What's your name again?

21 THE JUROR: Naoma Nelson. My two brothers are retired
22 police officers.

23 THE COURT: Where did they work, Ms. Nelson?

24 THE JUROR: In Missouri, Arkansas.

25 THE COURT: Thank you very much for that information.

1 Does anybody -- does any member of the jury panel have
2 a deeply held belief that a criminal defendant is guilty of
3 the crimes just because that defendant has been accused or
4 charged with committing a crime? Anyone who feels that an
5 individual is guilty of a crime merely because they have
6 been charged with it? If so, please stand.

7 (Whereupon, jury panel remains seated.)

8 THE COURT: No one is standing. As I explained a
9 moment ago, ladies and gentlemen, in this state and in our
10 country the burden of proof is always on the State to prove
11 a defendant guilty. Is there any member of the jury panel
12 who believes that a person charged with a crime should be
13 required -- or that you have a need to hear from that person
14 charged with that crime in order to make a decision?
15 Anybody who believes that the defendant has any burden of
16 proof in a criminal case or that you have to hear a defense
17 or from the defendant themselves in any criminal case? If
18 so, please stand.

19 (Whereupon, jury panel remains seated.)

20 THE COURT: No one is standing. Now, ladies and
21 gentlemen, from time to time during the trial sometimes
22 matters do get somewhat emotional. Is there any member of
23 the jury panel who would be affected substantially by any
24 witness who displayed emotional or cried on the witness
25 stand during the course of their testimony? If so, please

1 stand.

2 (Whereupon, jury panel remains seated.)

3 THE COURT: No one is standing. Is there any member of
4 the jury panel who would place more or less weight on a
5 person's statement or a witness' testimony if that witness
6 had engaged in an adulterous relationship, or was engaging
7 in an adulterous relationship at the time that they gave a
8 statement or gave testimony? If so, please stand.

9 (Whereupon, jury panel remains seated.)

10 THE COURT: No one is standing. Now, in this case,
11 ladies and gentlemen, the basic allegations are that Ms.
12 Phillips conspired with a young man by the name of Tavarious
13 Settles -- the State, again, is alleging and has not, of
14 course, proven any of this. But the State is essentially
15 alleging that the Defendant in this case, Ms. Phillips,
16 conspired with Mr. Settles, who was 17 at the time of this
17 incident, to have Mr. Settles kill a Dale Phillips, Jr., who
18 was the Defendant's estranged husband. It is alleged that
19 the two of them basically conspired to have Mr. Settles kill
20 Mr. Phillips, the Defendant's husband. Is there any -- and
21 there's also been from time to time some press coverage
22 about this particular case in the local media. Is there any
23 member of the jury panel who thinks that they may know
24 anything about this case or may have heard anything about
25 this case, or has formed or expressed any opinion

1 concerning the underlying allegations involved in this case?
2 If so, please stand. Anyone who thinks that they may know
3 anything about these allegations whatsoever either from the
4 newspaper, people talking, TV, Internet, media, whatever?
5 Anybody who thinks that they may know anything about these
6 particular allegations? If so, please stand.

7 (Whereupon, jury panel remains seated.)

8 THE COURT: No one is standing. Ladies and gentlemen,
9 have there been any -- is there any member of the jury panel
10 who has heard any news stories or heard any news events,
11 current events in recent years about particular crimes or
12 specific crimes which would affect your ability to be fair
13 and impartial or would cause you any bias against either the
14 State of South Carolina or the Defendant in this particular
15 case? If so, please stand.

16 (Whereupon, jury panel remains seated.)

17 THE COURT: No one is standing. Is there any member of
18 the jury panel who knows of any reason whatsoever why you
19 cannot give both the State of South Carolina and the
20 Defendant in this case a fair and impartial trial? Any
21 reason whatsoever why your ability to judge this case based
22 solely on the evidence and the facts, why that could be
23 affected, whether you have any bias whatsoever? If so,
24 please stand.

25 (Whereupon, jury panel remains seated.)

1 THE COURT: Is there any member of the jury panel who
2 has any deeply held moral or religious beliefs which would
3 prevent you from sitting on a jury, such as a religious
4 belief which would prevent you from sitting in judgment of
5 another citizen? If so, please stand.

6 (Whereupon, jury panel remains seated.)

7 THE COURT: No one is standing. Is there any member of
8 the jury panel who went through a contested divorce or a
9 rather contentious divorce? And if we need to discuss the
10 specifics of this, what I'm going to do is give you an
11 opportunity to come forward and speak with me down front.
12 Okay? So is there any member of the jury panel who has been
13 involved in a contested or particularly contentious divorce?
14 If so, please stand.

15 (Whereupon, jury panel remains seated.)

16 THE COURT: No one is standing. Is there any member of
17 the jury panel who again knows of any reason whatsoever why
18 you cannot be fair and impartial in this particular case or
19 feel that you may have heard anything or know anything about
20 this particular case? And if anybody wants to come forward
21 and speak privately with me down front that's perfectly
22 fine. Again, that's always the last thing that I do during
23 jury qualifications. So if there's any person who has
24 anything that they need to tell me about their knowledge of
25 this case, or anything that could affect their ability to be

1 fair and impartial, simply stand and I'll invite you to come
2 forward and speak privately down here with me up front. If
3 so, please stand.

4 (Whereupon, jury panel remains seated.)

5 THE COURT: All right. No one is standing. Counsel,
6 approach, please.

7 (Whereupon, a sidebar was held.)

8 THE COURT: Ladies and gentlemen, we're going to
9 proceed with selecting a jury on this particular case. In
10 this case the Defense, of course, will have 10 strikes. The
11 State has five. The way that we select a jury in a criminal
12 case, ladies and gentlemen, is a little bit different from
13 how they're picked in a civil case. If your name is called,
14 what I need you to do is come forward with any items that
15 you brought to the courthouse today, pocketbooks, books,
16 what have you, and just come forward and stand right here
17 down front where this copy machine is. This gray copy
18 machine. And then turn around and face towards the back of
19 the courtroom. Okay? At that point in time the State will
20 have an opportunity to seat you or excuse you, and the
21 Defendant will have a similar opportunity. Okay?

22 I'm going to tell you what I tell every jury, ladies
23 and gentlemen. If for some reason one of the lawyers
24 excuses you, do not take offense at it. Okay? Every lawyer
25 has a different way of picking a jury, and it could be

1 something as simple as the kind of shirt that you have on
2 today. So please do not take offense if for some reason
3 somebody asks that you not serve on this particular jury.
4 Again, it ain't personal. It's just business. All right?
5 So with that, Madam Clerk, at your leisure.

6 You all approach, please.

7 (Whereupon, a sidebar was held.)

8 THE COURT: Corrections. Strikes will be five and
9 five.

10 MADAM CLERK: 56, Joseph Helms. What say you for the
11 State?

12 MR. STUMBO: Please excuse Mr. Helms from the trial.

13 MADAM CLERK: You may take a seat back in the
14 courtroom.

15 MADAM CLERK: 57, Heather Hembree. What say you for
16 the State?

17 MR. STUMBO: Please present Ms. Hembree.

18 MADAM CLERK: What say you for the Defense?

19 MS. BOLEN: Please seat Ms. Hembree.

20 MADAM CLERK: You may take a seat in the jury box.

21 (Whereupon, juror takes seat in jury box.)

22 MADAM CLERK: Number 3, Richard Anderson. What say you
23 for the State?

24 MR. STUMBO: Please present Mr. Anderson.

25 MADAM CLERK: What say you for the Defense?

1 MS. BOLEN: Please seat Mr. Anderson.

2 MADAM CLERK: You may take a seat in the jury box.

3 (Whereupon, juror takes seat in jury box.)

4 MADAM CLERK: 34, Betty Edwards. What say you for the
5 State?

6 MR. STUMBO: Please present Ms. Edwards.

7 MADAM CLERK: What say you for the Defense?

8 MS. BOLEN: Please seat Ms. Edwards.

9 MADAM CLERK: You may take a seat in the jury box.

10 (Whereupon, juror takes seat in jury box.)

11 MADAM CLERK: 33, Marquita Donaldson. What say you for
12 the State?

13 MR. STUMBO: Please present Ms. Donaldson.

14 MADAM CLERK: What say you for the Defense?

15 MS. BOLEN: Please seat Ms. Donaldson.

16 MADAM CLERK: You may take a seat in the jury box. 24,
17 William D. Collins. What say you for the State?

18 MR. STUMBO: Please present Mr. Collins.

19 MADAM CLERK: What say you for the Defense?

20 MS. BOLEN: Please excuse Mr. Collins.

21 MADAM CLERK: You may take your seat back in the
22 courtroom. 54, Mary Johnson. What say you for the State?

23 MR. STUMBO: Please present Ms. Johnson.

24 MADAM CLERK: What say you for the Defense?

25 MS. BOLEN: Please excuse Ms. Johnson.

1 MADAM CLERK: You may take your seat back in the
2 courtroom. 77, Samantha Lohr. What say you for the State?

3 MR. STUMBO: Please present Ms. Lohr.

4 MADAM CLERK: What say you for the Defense?

5 MS. BOLEN: Please seat Ms. Lohr.

6 MADAM CLERK: You may take a seat in the jury box.

7 (Whereupon, juror takes seat in jury box.)

8 MADAM CLERK: 128, Elaine Sparks. What say you for the
9 State?

10 MR. STUMBO: Beg the Court's indulgence.

11 THE COURT: Yes, sir.

12 MR. STUMBO: Please excuse Ms. Sparks from the trial of
13 this case.

14 MADAM CLERK: You may take your seat back in the
15 courtroom. 35, John Ellis. What say you for the State?

16 MR. STUMBO: Please present Mr. Ellis.

17 MADAM CLERK: What say you for the Defense?

18 MS. BOLEN: Please seat Mr. Ellis.

19 MADAM CLERK: You may take a seat in the jury box.

20 (Whereupon, juror takes seat in jury box.)

21 MADAM CLERK: 41, David Fogle. What say you for the
22 State?

23 MR. STUMBO: Please present Mr. Fogle.

24 MADAM CLERK: What say you for the Defense?

25 MS. BOLEN: Please seat Mr. Fogle.

1 MADAM CLERK: You may take a seat in the jury box.

2 133, Benjamin Taylor. What say you for the State?

3 MR. STUMBO: Please present Mr. Taylor.

4 MADAM CLERK: What say you for the Defense?

5 MS. BOLEN: Please excuse Mr. Taylor.

6 MADAM CLERK: You may take a seat back in the
7 courtroom. 130, Whitney Stone. What say you for the State?

8 MR. STUMBO: Please present Ms. Stone.

9 MADAM CLERK: What say you for the Defense?

10 MS. BOLEN: Just one moment.

11 THE COURT: Certainly.

12 MS. BOLEN: Please seat Ms. Stone.

13 THE COURT: You may take a seat in the jury box.

14 (Whereupon, juror takes seat in jury box.)

15 MADAM CLERK: 75, Emily Little. What say you for the
16 State?

17 MR. STUMBO: Please present Ms. Little.

18 MADAM CLERK: What say you for the Defense?

19 MS. BOLEN: Please seat Ms. Little.

20 MADAM CLERK: You may take a seat in the jury box.

21 (Whereupon, juror takes seat in jury box.)

22 MADAM CLERK: 67, Jeanette Kennedy. What say you for
23 the State?

24 MR. STUMBO: Please present Ms. Kennedy.

25 MADAM CLERK: Say you for the Defense?

1 MS. BOLEN: Please seat Ms. Kennedy.

2 MADAM CLERK: You may take a seat in the jury box.

3 (Whereupon, juror takes seat in jury box.)

4 MADAM CLERK: 90, Betty Moore. What say you for the
5 State?

6 MR. STUMBO: Please present Ms. Moore.

7 MADAM CLERK: What say you for the Defense?

8 MS. BOLEN: Please excuse Ms. Moore.

9 MADAM CLERK: You may take a seat back in the
10 courtroom. 66, Jordan Kendrick. What say you for the
11 State?

12 MR. STUMBO: Please excuse Mr. Kendrick from the trial
13 of this case.

14 MADAM CLERK: You may take a seat back in the
15 courtroom. 147, Le'tavious Williams. What say you for the
16 State?

17 MR. STUMBO: Please present Mr. Williams.

18 MADAM CLERK: What say you for the Defense?

19 MS. BOLEN: Please seat Mr. Williams.

20 MADAM CLERK: You may take a seat in the jury box.

21 (Whereupon, juror takes seat in juror box.)

22 MADAM CLERK: 141, Frances Veach. What say you for the
23 State?

24 MR. STUMBO: Please present Ms. Veach.

25 MADAM CLERK: What say you for the Defense?

1 MS. BOLEN: Please present Ms. Veach.

2 MADAM CLERK: You may take a seat in the jury box.

3 (Whereupon, juror takes seat in jury box.)

4 THE COURT: All right. We're going to select two

5 alternates. Strikes will be one for the State, two for the

6 Defense on each alternate.

7 MADAM CLERK: 112, Marie Rodriguez. What say you for

8 the State?

9 MR. STUMBO: Please present Ms. Rodriguez.

10 MADAM CLERK: What say you for the Defense?

11 MS. BOLEN: Please present Ms. Rodriguez.

12 MADAM CLERK: You may take a seat in the jury box.

13 (Whereupon, juror takes seat in the jury box.)

14 MADAM CLERK: 13, Don Brown. What say you for the

15 State?

16 MR. STUMBO: Please present Mr. Brown.

17 MADAM CLERK: What say you for the Defense?

18 MS. BOLEN: Please excuse Mr. Brown.

19 MADAM CLERK: You may take a seat back in the

20 courtroom. 69, Christine Kimsey. What say you for the

21 State?

22 MR. STUMBO: Please present Ms. Kimsey.

23 MADAM CLERK: What say you for the Defense?

24 MS. BOLEN: Please seat Ms. Kimsey.

25 MADAM CLERK: You may take a seat in the jury box.

1 THE COURT: All right. Any issues concerning selection
2 or composition of the jury from the State?

3 MR. STUMBO: None from the State, Your Honor.

4 THE COURT: None from the Defense?

5 MS. BOLEN: No.

6 THE COURT: Very good. Ladies and gentlemen of the
7 jury, I'm going to ask that you adjourn to the jury room in
8 the back. The bailiff will show you where that is. Don't
9 get too comfortable, because after a few moments, after I
10 excuse the rest of the jury panel, I'm going to have you
11 back out here. I'm going to give you some additional
12 instructions and then probably release you for lunch. So if
13 you would, adjourn to the jury room. Don't discuss the case
14 though. I will tell you when you can talk about it. That
15 will be a common refrain. I'm going to be telling you that
16 every time that you go and take a break. Obviously that
17 should be very easy at this point in time because you know
18 absolutely nothing about this particular case. All right?
19 So adjourn to the back. Talk about the heat, but not this
20 case. We'll have you back in a moment.

21 (Whereupon, the jury exits the courtroom at 11:49 a.m.)

22 THE COURT: Solicitor, Ms. Bolen, would you all
23 approach, please, real quick.

24 (Whereupon, a brief sidebar was held.)

25 THE COURT: Well, ladies and gentlemen who were

1 summoned for jury duty this morning and not picked, all I
2 can say is I'm sorry. I just consulted with the Solicitor
3 and Ms. Bolen and the Solicitor tells me that should this
4 case conclude early -- earlier than we have anticipated, we
5 have enough work to do in terms of guilty pleas, bond
6 matters and other things to occupy my time. So I see no
7 reason whatsoever to put you on a call in system where you
8 call back. Okay? So what that means, ladies and gentlemen,
9 is that you are free to go about your business and your
10 life. Before you go though let me mention this. You will
11 get paid -- how much?

12 MADAM CLERK: 15, a check.

13 THE COURT: You will be getting a check for \$15 big
14 dollars from the Clerk of Court to compensate you for the
15 inconvenience that we have caused you this morning. You
16 know, many people -- I'll go ahead and mention this to you
17 because I think it is important. But a lot of folks, I'm
18 sure, when you got this jury summons you were not terribly
19 excited. More often than not people don't like their
20 schedules disrupted and their day disrupted. Think about it
21 this way though, ladies and gentlemen. In the grand scheme
22 of things we live in a country where the government can only
23 make you do three things. Okay? They can make you show up
24 every April the 15th and pay your taxes. If we're attacked
25 by another country they can put a gun in your hand and draft

1 you and force you to go off to war. And they can also force
2 you to serve on a jury. In the grand scheme of things, in
3 light of how painful paying taxes is and how miserable going
4 to war must be, maybe jury duty isn't so bad in the grand
5 scheme of things. Okay? So please except that as just my
6 general observation. And truly, I do hope that you get an
7 opportunity to serve at some point in the future, because
8 I've talked to people who loathed the idea of jury service
9 and ultimately they got picked on a jury and they said it
10 was one of the best experiences of their lives. Okay? They
11 said it was one of the most educational and interesting
12 times of their lives. So I will hope that you get a chance
13 or an opportunity in the future to serve on a jury. But it
14 will not be this week. If you need an excuse for work or
15 for school, the Clerk can provide one of those to you. Just
16 feel free to come forward and we'll get you an excuse for
17 work or school. Look for that check in the mail. It is in
18 the mail. And when you get it, cash it, and -- you're not
19 going to be able to buy 15 bucks -- much with 15 bucks, so
20 just blow it on something. All right?

21 Hope you all stay cool, have a lovely summer, and I
22 hope I have a chance to see you all again. Take care. If
23 you need the work excuse, come on down.

24 We'll be at ease for about five minutes.

25 (Whereupon, the jury pool was released at 11:52 a.m.)

1 (Whereupon, a recess was held from 11:52 a.m. to
2 12:06.)

3 THE COURT: We're back on the record in the *State vs.*
4 *Phillips*. Before we proceed, I know that we have a number
5 of things that need to put on the record, including one
6 issue concerning the strikes that the Court afforded to the
7 Defense. We put that on the record. But I want to go ahead
8 and let the jury leave for lunch. In light of discussions
9 in chambers, I'm going to have them back here at 2:15. I
10 think that should be enough time for us to take up what we
11 need to take up. And if we run over into the lunch hour
12 I'll just have the jury either hang around or let them
13 wonder around the square for 15 minutes.

14 Let's have the jury out, please.

15 (Whereupon, the jury entered the courtroom at 12:06 pm)

16 THE COURT: Let the record reflect that the jury is
17 back and seated. Ladies and gentlemen of the jury, don't
18 get too comfortable. I'm about to release you for a lunch
19 break because there are a few matters that don't involve you
20 that I need to take up concerning this case before we
21 proceed with the trial in earnest and I see no reason to
22 keep you all in the back there while we're addressing those
23 purely strictly legal matters. So what I'm going to do is
24 ask that you be back at the courthouse at a quarter after
25 2:00. That should give you plenty of time to grab something

1 to eat, and also give court personnel a chance to grab a
2 bite.

3 I will tell you, of course, while on break don't
4 discuss the merits of this case with anyone. Okay? And
5 while the case is going on it will be very important to not
6 read or conduct any sort of independent research about any
7 of the facts involved in this case. Ladies and gentlemen, I
8 will assure you that you're going to get every bit of
9 information that you need from this witness stand in order
10 to make a decision concerning this case, and obviously you
11 cannot allow your opinion, or your vote once it is submitted
12 to you, to be affected by anything somebody else says to you
13 or something else that you might see in the media,
14 newspaper, et cetera. Okay? So go ahead and take your
15 lunch break. And if you would, be back here at the
16 courthouse by 2:15. I anticipate that should be enough time
17 to get all the legal issues done. If we need additional
18 time though, I'll have one of the bailiffs simply meet you
19 at the top of the stairs and probably give you another 15
20 minutes or so to wonder around the square and do maybe a
21 little bit of light shopping. Okay? So just be back at the
22 courthouse at 2:15. I see you then, and I hope you enjoy
23 your lunch. You are excused. Thank you.

24 (Whereupon, the jury exited the courtroom at 12:09 pm)

25 THE COURT: The record should reflect that the jury is

1 out. One housekeeping matter that we do need to put on the
2 record. After the jury is qualified with regard to this
3 particular case, the Court erroneously stated the Defense
4 would be entitled to 10 peremptory challenges. I had a
5 sidebar at the bench. The court reporter's microphone was
6 closely -- was very close to me, and I basically stated into
7 the microphone the Defense was protected with their
8 objections and would be able to put on the record after jury
9 selection the fact that they felt that they were entitled to
10 10 challenges toward the jury. And I showed them the
11 provision of law 14-7-1110 that basically listed the crimes
12 for which the Defense was entitled 10 peremptory challenges.
13 Obviously accessory before the fact of murder carries the
14 exact same potential penalty as does murder, and Ms. Nelson
15 and Ms. Bolen were of the opinion that they were entitled to
16 10 challenges for that reason.

17 Am I correctly stating what we said at the sidebar, Ms.
18 Bolen?

19 MS. BOLEN: Yes, sir. It is our position that we would
20 have been entitled to 10, given that accessory before the
21 fact carries the same as murder, has the same penalty.

22 In addition, Your Honor, just to make the record
23 complete, there are persons on the jury that had we had the
24 10 strikes we would have struck. We know we had one -- we
25 had one left, but we were being careful of those strikes

1 since we were limited to the five. In particular, Your
2 Honor, the young woman whose grandfather was an Abbeville
3 County Sheriff is someone we would have struck had we had
4 the 10 strikes.

5 THE COURT: That was Ms. Stone?

6 MS. BOLEN: Yes, sir.

7 THE COURT: Whitney Stone.

8 MS. NELSON: And just to be clear, Your Honor, we were
9 specifically saving our fifth strike for a very specific
10 person that we had information about that we knew we did not
11 want on the jury. So we weren't just being cautious. We
12 were specifically saving that one for a person who ended up
13 not being called.

14 THE COURT: Okay. I do appreciate your position. I
15 understand the objection at the time I informed you that is
16 noted. The record is protected and you are protected on
17 appeal for that issue.

18 The record should also reflect that last week in
19 Greenwood we did engage in a *Jackson vs. Denno* hearing at
20 the courthouse in Greenwood. The court reporter on that
21 case was Ms. Holston. Joy Holston, who is Judge Griffith's
22 court reporter normally. Certain exhibits were introduced
23 into the record during the course of that hearing. My clerk
24 has delivered those to the Clerk of Court here. She gave
25 them to Tara. She gave them to the current court reporter

1 wondering. Instead, give strict attention to the testimony
2 so that at the conclusion of the trial you'll be in as best
3 a position as possible to determine what the true facts are
4 and thus render a verdict.

5 Now, in order to preserve everyone's rights, I'll give
6 the parties an opportunity to object to anything that I've
7 said to you during these opening remarks, and then we'll
8 proceed with opening statements.

9 Any objections from the State?

10 MR. STUMBO: No objections from the State, Your Honor.

11 MS. BOLEN: No objections. But if we may just approach
12 for just a moment, Your Honor.

13 THE COURT: Certainly, come on up.

14 (Whereupon, a sidebar was held.)

15 MR. STUMBO: And, Your Honor, Deputy Solicitor Brown
16 will be addressing the jury on opening.

17 THE COURT: Very good. Mr. Brown, you're recognized
18 for your opening, sir.

19 MR. BROWN: May it please the Court.

20 THE COURT: Yes, sir.

21 OPENING STATEMENT

22 BY MR. BROWN: A nightmare. What comes to mind when
23 you hear the word nightmare? A situation that's terrifying,
24 horrifying. A situation that's hard to deal with. You
25 might also think, wake up. Wake up from that nightmare.

1 Wake up from your sleep and realize it's just a dream.

2 Ladies and gentlemen, on March 25th, 2013, the Phillips
3 family real life nightmare began. The Phillips sitting on
4 the second row, who live at [REDACTED] Highway.
5 And they've been living that nightmare ever since, all
6 because that lady, Karlita Phillips, wanted her estranged
7 husband killed.

8 Now, to give you background. Dale Phillips, Jr., who's
9 in the cream shirt, he and Karlita were going through a
10 divorce. Dale was living with his parents, Dale Phillips,
11 Sr., and Ms. Martha Phillips, at their house at 1522 Old
12 Douglas Mill Highway. His younger brother, Jamil, was also
13 living at that location. Jamil started a new job at CarMax
14 of Greenwood. He was getting his feet back under him. He
15 was living at the house as well.

16 On March 25th, 2013, that evening, Mr. Dale Phillips,
17 Sr. and Ms. Martha Phillips were at their house at 1522 Old
18 Douglas Mill Road. Ms. Martha had gotten home a little
19 earlier, around 8:00, and knew her son, Jamil, would be
20 getting home from work at CarMax and be home. So she goes
21 to her kitchen and prepares him a meal that was one of his
22 favorite meals; baked salmon filet, greens, and mashed
23 potatoes. She had it waiting on him. Put it on the stove
24 waiting for him to get home. She and Mr. Phillips were in
25 their front den watching television, waiting on their two

1 boys to come home, when they hear one of the boys come up on
2 the porch. It sounded like he got his key out, about to
3 come in the house. Before that door opened gunfire rang
4 out.

5 Jamil was gunned down on the front porch. His parents
6 hop to their feet, ran out to the front door and what do
7 they see. They see their son lying face down on their front
8 porch bleeding and dying. Ms. Phillips called 911 and begs
9 and pleads for them to come help. Jamil died in their arms
10 that night.

11 That night law enforcement got involved. They quickly
12 responded. Abbeville County Sheriff's Office. SLED got
13 involved. They came out and began their investigation.
14 They talked to neighbors which saw a getaway car take off.
15 A light colored car, one said silver, take off up the road.
16 It was parked on a neighboring property and pulled off on
17 the driveway. Law enforcement also went out to where that
18 car was parked and found tire marks. They got tire
19 impressions that night. They went through the cut of the
20 wood line and what do they find? They found cigarette
21 butts. Four of them. You'll hear through this trial
22 through testimony and through evidence presented that the
23 cigarette butts had DNA on them. They had DNA belonging to
24 the shooter. Belonging to the killer, Purp Settles.
25 Tavarious Settles, also known by Purp. You'll also hear

1 that law enforcement gathered other information. They
2 talked to the Phillips family and asked them what was going
3 on. What was going on right now. They learned that Dale
4 Phillips, Jr. and Karlita were going through a divorce. She
5 had a silver Camry. Law enforcement goes to her house that
6 night and gets a statement from her. She lied. She lied
7 that night. My car's never been in Abbeville. Later on she
8 gave other statements.

9 Throughout this trial, through the testimony coming
10 from that stand, you'll see those statements and hear about
11 those statements and you'll hear how they changed from that
12 first night.

13 Ladies and gentlemen, through this trial you'll find
14 out and you'll see Karlita Phillips is the person
15 responsible for the death of Jamil Phillips. She convinced,
16 persuaded Purp Settles to go to his parents' house at 1522
17 Old Douglas Mill Highway to murder her estranged husband.
18 But instead, Purp shot Jamil.

19 So what's Karlita charged with? She's charged with
20 accessory before the fact of a felony. In this case,
21 murder. She's also charged with the use of a minor to
22 commit a violent felony. So what are those? What does that
23 mean? Accessory before the fact of murder, a person who
24 aids in the commission of a felony, who was an accessory
25 before the fact of commission of a felony by counseling, by

1 hiring, or otherwise procuring the felony to be committed.
2 What's use of a minor to commit a violent felony? It's
3 unlawful for any person at least 18 years of age or old to
4 knowingly and intentionally use, solicit, direct, hire,
5 persuade, induce, entice, coerce, or employ a person under
6 the age of 18 to commit a violent felony. Those are the two
7 charges.

8 The State in this case has the burden of proof to prove
9 to you all beyond a reasonable doubt that Karlita Phillips
10 did do what we say she did. That she was an accessory
11 before the fact of murder, and also she used a minor under
12 the age of 18 to commit a violent felony. The burden of
13 proof is proof beyond a reasonable doubt, and that's the
14 proof that leaves you firmly convinced of the Defendant's
15 guilt. Firmly convinced of the Defendant's guilt.

16 Now, ladies and gentlemen, after you hear testimony on
17 the stand and see the evidence, we ask you to listen
18 carefully. To look at the evidence. And at the end of the
19 trial we'll come back before you and ask that you find
20 Karlita Phillips guilty as charged on these two charges.

21 THE COURT: Thank you, Mr. Brown. Ms. Bolen, you are
22 recognized for your opening.

23 MS. BOLEN: Thank you, Your Honor. May it please the
24 Court?

25 THE COURT: Yes, ma'am.

1 OPENING STATEMENT

2 BY MS. BOLEN: The State came and said this case is a
3 nightmare. And one thing I want to be up front from the
4 very beginning with you all is, yes, this case is a
5 nightmare. It's an absolute tragedy. No family should have
6 to go through what the Phillips family went through. And
7 we're not disputing that what happened to Jamil was a
8 tragedy. But what happened to Jamil Phillips, him being
9 gunned down on his front porch. He was gunned down because
10 Tavarious Settles did that, and he did that on his own. He
11 did that without any aid or assistance from Karlita.

12 This is also a nightmare for Karlita, because she is a
13 woman who had no idea how far someone else would go. She
14 had no idea that Tavarious would do this. And because he
15 did it, she is now in a nightmare, too. This is an
16 emotional case. Again, it's a tragedy. No family should
17 have to go through what the Phillips went through that night
18 and continue to go through. But don't let the emotions of
19 the case cloud your judgment.

20 Mr. Brown said the State has the burden of proof in
21 this case. Karlita is presumed innocent. She's presumed
22 innocent. She's presumed innocent of having any involvement
23 in what happened to Jamil that night. The State has to
24 prove to you the evidence. They have to show you through
25 evidence, through facts, that what Tavarious did, he did

1 because of her, and they basically can't show you that.
2 What he did, he did on his own. Not because of anything
3 Karlita said or asked him to do.

4 Now, again, the emotions of the case -- it's hard to
5 separate emotions in a case like this. But your job, your
6 duty as jurors is to look at the facts. To look at the
7 facts and the evidence. Not to look at emotions, not to
8 look at how hard this might be on either side, but to look
9 at the facts. Our position is the State simply doesn't have
10 the facts to back up the allegations that they're making.

11 Now, what they do have, as Mr. Brown told you, they
12 believe Tavarious Settles, also goes by Purp, came in,
13 waited at this tree line and shot Jamil. There's also some
14 statements that Karlita made. And again, you can see and
15 hear in her statements that she had no intent of Tavarious
16 doing anything like this. She had absolutely no intent to
17 have Tavarious go and shoot anyone. Now, she did do
18 something bad. And again, I'm going to be up front about
19 that. She does make the statement to law enforcement that
20 she asked Tavarious to go beat up her ex-husband. She was
21 angry. They were in the middle of a nasty divorce. Again,
22 emotions were high. She was upset, and she did something
23 she shouldn't have done. She said, yeah, can you go beat
24 him up. But that's it. That is the extent of her
25 involvement. She never asked go kill him. She never did

KIMBERLY WELLS-DIRECT EXAMINATION

136

1 anything to try to get Tavarious to do anything other than
2 beat him up.

3 Your job as jurors is to listen carefully to the facts
4 in evidence that come from that witness stand. There might
5 be physical evidence. There will certainly be testimonial
6 evidence. But each one of you -- each one of you as jurors
7 has taken an oath to evaluate that evidence. It's your job
8 and your duty to stick to what your interpretation of what
9 that evidence is. And we ask you to do that. Listen
10 carefully to the evidence and the facts presented, and to
11 not let the emotions of this case cloud your judgment.
12 Because I think when you've heard what the state presents to
13 you, you'll find that they simply don't have the evidence to
14 back up the allegations. Not as cut and dry as the State
15 wants you to think it is. Karlita is not guilty of this
16 simply because they say she is. The State saying she's
17 guilty does not make her guilty. Again, she is presumed
18 innocent. We ask you to listen to the facts of the
19 evidence, to evaluate it in a logical manner without letting
20 your emotions cloud your judgment. And we think when you
21 hear the facts of the evidence the State has, you'll find
22 that there's simply not nearly enough to overcome their
23 burden of proof beyond a reasonable doubt and we're asking
24 you to find Karlita is not guilty. Thank you.

25 THE COURT: Thank you, Ms. Bolen. Solicitor, if you'd

KIMBERLY WELLS-DIRECT EXAMINATION

137

1 call your first witness, please.

2 MR. STUMBO: Judge, the State calls Kimberly Wells.

3 KIMBERLY WELLS, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. STUMBO:

7 Q Good morning, Ms. Wells.

8 A Good morning.

9 Q I take it by that jacket you're wearing there, you work
10 for Abbeville County?

11 A Yes, sir.

12 Q What do you do for Abbeville County?

13 A I'm a 911 dispatcher. I'm also a supervisor.

14 Q You supervise the dispatch unit for the county?

15 A Yes, sir.

16 Q Basically you get calls --

17 A Yes, sir.

18 Q -- all day long? People dial 911 it comes straight to
19 your unit, correct?

20 A Yes, sir.

21 Q And what do you all do when you get a 911 call? Just
22 generally if you could tell the jury.

23 A I take the call, get the address, the phone number, the
24 name, the call information and dispatch it out to the
25 correct responders.

KIMBERLY WELLS-DIRECT EXAMINATION

138

1 Q Okay. So when a call comes in your gather the
2 information and then you can send law enforcement, fire
3 service --

4 A Police, medical. Yes, sir.

5 Q -- EMS?

6 A Yes, sir.

7 Q As part of your job with Abbeville County did you have
8 occasion to take in, or your unit have occasion to take in a
9 call on the homicide on [REDACTED] Road?

10 A Yes, sir.

11 Q And do you remember what date that was?

12 A March 25th.

13 Q March 25th of --

14 A 2013.

15 Q -- 2013. Okay. And that was what time of day?

16 A I'm not sure.

17 Q Evening hours?

18 A Yes.

19 Q And which dispatcher in your unit took the call?

20 A India White. India.

21 MR. STUMBO: If I may approach the witness, Your Honor.

22 THE COURT: Please.

23 Q I hand you what's been marked for ID as State's Exhibit
24 No. 1. Ms. Wells, have you had a chance to review the
25 contents of that disk?

KIMBERLY WELLS-DIRECT EXAMINATION

139

1 A Yes, sir.

2 Q And is it a clear and accurate depiction of a call
3 taken in by your unit?

4 A Yes, sir.

5 Q And it's kept in the regular course of business of --
6 for Abbeville County?

7 A Yes, sir.

8 Q And it is a fair and accurate representation of a call
9 made coming from the residence at [REDACTED] Road
10 to the dispatch that night?

11 A Yes, sir.

12 Q And what was the nature of that call?

13 A It was her son who had been shot on their front porch.

14 Q And her son. And that's Ms. Phillips?

15 A No. It's the resident at the address.

16 Q So she did not identify her name? She just said --

17 A I believe she did, but I don't remember.

18 MR. STUMBO: Your Honor --

19 Q Well, let me ask you one more question, Ms. Wells. You
20 had a chance to review it. Those are your initials on the
21 disk?

22 A Yes, sir.

23 MR. STUMBO: Your Honor, at this time the State would
24 offer State's 1 into evidence.

25 THE COURT: Any objection?

DALE PHILLIPS SR-DIRECT EXAMINATION

140

1 MS. BOLEN: No, sir.

2 THE COURT: Very good. State's 1 will be in evidence.

3 (Whereupon, State's Exhibit No. 1 was admitted into
4 evidence.)

5 THE COURT: Do you wish to publish?

6 MR. STUMBO: Permission to publish, please. I beg the
7 Court's indulgence to get it set up.

8 THE COURT: Go ahead.

9 (Whereupon, State's Exhibit No. 1, 911 audio, was
10 published for the jury.)

11 MR. STUMBO: No further questions of this witness, Your
12 Honor.

13 THE COURT: I don't know if Ms. Bolen intends to use
14 that in her cross, but if she does, leave it up.

15 MS. BOLEN: I have no cross, Your Honor.

16 THE COURT: Very good. Ma'am, thank you. You can step
17 down. You are free to go.

18 THE WITNESS: Thank you.

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

21 THE COURT: Solicitor, call your next witness.

22 MR. STUMBO: Thank you, Your Honor. The State calls
23 Dale Phillips, Sr.

24 THE COURT: While he's coming up, I meant to ask before
25 the other witness -- previous witness came up here. If we

DALE PHILLIPS SR-DIRECT EXAMINATION

141

1 could go ahead and sequester any fact witnesses and asked
2 that they step out. I don't know who -- who will be called
3 to testify or which witnesses might be in the courtroom at
4 this point in time. So if you intend to testify in this
5 case, you need to step out, with the exception of the lead
6 investigator, of course, parents of the decedent and his
7 brother.

8 DALE PHILLIPS, SR., having been
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STUMBO:

12 Q Tell this jury where you grew up, where you're from?

13 A I'm from Abbeville County.

14 Q Born and raised here?

15 A Yes. The Taylor Town community.

16 Q And you got married here?

17 A Yes. Me and my wife got married in the courthouse.

18 The court right up here. Just came and visited from the

19 Navy.

20 Q So you were in the military?

21 A In the Navy at the time, yes.

22 Q How long did you do in the Navy? How many years?

23 A Total -- it was six years total.

24 Q And you and Ms. Martha got married in the middle of
25 that?

DALE PHILLIPS SR-DIRECT EXAMINATION

142

1 MS. BOLEN: Your Honor, I would object as to leading.

2 THE COURT: Overruled. This is just in the way of
3 background.

4 MR. STUMBO: Thank you, Your Honor.

5 Q When did you and Ms. Martha get married? What year?

6 A I think it's '77, I believe. August 4th, [REDACTED]

7 Q So if my math is correct, that's about 38 years?

8 A Yes. It'd be 39 August 6th.

9 Q Now, how many kids you and Ms. Martha have?

10 A Three sons.

11 Q And who was the firstborn?

12 A Dale, Jr.

13 Q How old is Dale? How old is Dale, Jr.?

14 A I think he's 38 now, I believe.

15 Q Who was the second born?

16 A Jamil Phillips.

17 Q And when was Jamil born?

18 A He was born on March 2nd, 1982.

19 Q And how was the third born?

20 A Kareem Phillips.

21 Q Is Kareem here in court today?

22 A Yes.

23 Q How old is Kareem?

24 A Kareem is 31, I believe. 31.

25 MR. STUMBO: If I could have a picture marked for ID,

DALE PHILLIPS SR-DIRECT EXAMINATION

143

1 Judge.

2 THE COURT: Please.

3 (Whereupon State's Exhibit No. 42 was marked for
4 identification purposes.)

5 MR. STUMBO: If I may approach the witness, Your Honor.

6 Q I show you a picture that's just been marked for ID
7 purposes as State's No. 42. Do you recognize the people in
8 that picture, Mr. Phillips?

9 A Yes, sir.

10 Q And who are the picture in -- who are the three young
11 men in this picture?

12 A Dale, Jr., Jamil Phillips and Kareem Phillips.

13 MR. STUMBO: Judge, at this time we'd offer State's 42
14 into evidence.

15 THE COURT: Any objection?

16 MS. BOLEN: Your Honor, we have no objection other than
17 just wanting to note for the record that that hadn't been
18 previous disclosed. But no objection.

19 THE COURT: All right. Without objection then it is in
20 evidence.

21 (Whereupon, State's Exhibit No. 42 was admitted into
22 evidence.)

23 MR. STUMBO: Thank you, Your Honor.

24 Q Mr. Phillips, I'm going to go back and -- before we do
25 this, I'm going to say we're going to go back to March 25th,

DALE PHILLIPS SR-DIRECT EXAMINATION

144

1 2013. That night. Okay? Where were you and Ms. Martha
2 living at that time?

3 A Living at home in the den.

4 Q Okay. But what's the address? What was your address
5 there?

6 A [REDACTED] Road.

7 Q Where is that? That's in Abbeville County?

8 A Yes. It's 4.5 miles from Abbeville going towards
9 Hodges.

10 Q So is this the road that goes straight shot to
11 Abbeville?

12 A Straight to Abbeville High School. Straight from
13 Abbeville High School.

14 Q Past the high school on --

15 A It's straight. No turns. Yeah, it's straight. Yeah.

16 Q What kind of area is this? Is it out in the country?
17 Would that be fair to say?

18 A It's out in the country area. Yes.

19 Q Have any houses around you all out there?

20 A Some out maybe quarter mile, half mile. The closest --
21 it's a house right across the road. It's not very close.
22 We're about 220 feet from our road and they're about another
23 180 feet right across the road. Both houses not close.

24 Q On the day of March 25th, 2013 -- and I think you said
25 a second ago you were in the den at the house. What did you

DALE PHILLIPS SR-DIRECT EXAMINATION

145

1 do that day? Could you tell the jury what you did that day?

2 A We went out during the day. I can remember all we
3 done, you know, because I had a - at that time I had a major
4 stroke. I remember the last hour or two before -- most of
5 the day we went to different stores. I think we went out to
6 eat or something, I believe.

7 Q So a normal day for you and Ms. Martha?

8 A Yes. Yes.

9 Q Was she working that day or not?

10 A I think she was off that day.

11 Q And by the evening hours around March 25th were you all
12 back at the house at that point?

13 A Yes. We went back home. A couple more hours, I think,
14 she went with her mother and her aunt to do some work at the
15 house. Her brother, did some work. She was gone for a
16 couple of hours. I was home by myself.

17 Q Ms. Martha came home later? Is that -- was she at home
18 when this incident --

19 A After we came home she left and went with her momma and
20 her brother to do some work on some stairs at her aunt
21 house.

22 Q And she was back home by dinner time? Is that --

23 A She came back home about -- I think she came home about
24 maybe 8:00. 7:00 or 8:00, something like that maybe. Yeah.

25 Q What were you doing at that point?

DALE PHILLIPS SR-DIRECT EXAMINATION

146

1 A I was sitting and just relaxing, looking at TV.

2 Q And after Ms. Martha got home what was she doing while
3 you were watching TV?

4 A Well, she was making dinner for Jamil when he come
5 home.

6 Q You all -- did you expect him home that night, Jamil?

7 A He always come home around -- every night he always
8 come home around about 10:00. He get out of work at 9:00
9 from CarMax. He was a buyer.

10 Q He worked for CarMax?

11 A Yeah, he was a buyer.

12 Q And where at CarMax? What city was he in working?

13 A Greenville.

14 Q The CarMax in Greenville?

15 A Greenville, yes.

16 Q I want you to describe, Mr. Phillips, for the jury what
17 happened around 10:00 when Jamil was due home. If you can
18 tell them what happened.

19 A We just sitting looking at TV, and looking at the TV
20 serious come on called Dallas. After the show, about five
21 or 10 minutes after 10:00 when the show went off, that when
22 we heard about three or four shots on the porch. And it was
23 real loud. And it startled us, you know. It was like a
24 flashing. A real bright flashing. And both of us jumped up
25 and we went to the door. We cut the outside light on. I

DALE PHILLIPS SR-DIRECT EXAMINATION

147

1 think my wife went out there first. And my wife said, Dale,
2 Dale, Dale shot. Dale shot. Then we looked around and I
3 said no -- I told my wife, I said, that's not Dale. That's
4 Jamil. That's Jamil laying there, you know, so...

5 Q She said Dale's shot?

6 A She said Dale three times. She said, Dale, Dale got
7 shot, you know.

8 Q By Dale she meant Dale, Jr.?

9 A Yeah. She thought -- we thought that was Dale out
10 there, you know.

11 Q And at this point was Dale, Jr. living at home with you
12 all?

13 A Yes.

14 Q Did you all expect him home that night?

15 A Yes.

16 Q And was he working at the time? Dale, Jr.?

17 A Yeah, he was working. Yes.

18 Q Where was he working?

19 A He work at Eaton.

20 Q Eaton, that plant over in Greenwood --

21 A Yeah.

22 Q -- off of 72?

23 A Yes. And then, you know, he works -- he works for --
24 in the evening, too. He work in the evening, too, also.

25 Q And when you got out on the porch what did you see,

DALE PHILLIPS SR-DIRECT EXAMINATION

148

1 when you got out on your front porch? Can you tell the jury
2 what you saw at that point.

3 A I was just shocked. I seen Jamil laying there face
4 down. And he was making a noise. He was trying to catch
5 his breath. My wife, she got on the phone and called 9-1-1.
6 While she was on the phone with 9-1-1 I was -- I was
7 comforting him, you know. Rubbing his back, holding him,
8 because, you know, really I was shocked. I didn't know to
9 move him or not, you know. So I rubbed him. He was still
10 breathing, you know. So I think about five, 10 minutes he
11 was breathing and all of a sudden he stopped breathing. And
12 then during the 911 operators, they were telling
13 instructions. Things to do. Turn him over. Turn his body
14 over. I looked at his face, you know. His face, you know,
15 his eyes and -- he was real big and we would turn around a
16 couple of times and he almost fell off the porch. It took
17 both of us to bring him back off the porch, you know,
18 because he keep turning around. So I hold him for a long
19 time. But I was just in shock. It was like a nightmare. I
20 thought it was dream.

21 Q You say he was breathing when you first got to him, or
22 trying to breath?

23 A Yeah. Yes, he was laying face down. And I came down -
24 - I was on my knees around him. His momma -- my wife's on
25 the phone and he was -- she was doing all she can to dial 9-

DALE PHILLIPS SR-DIRECT EXAMINATION

149

1 1-1 and get some peoples to come in. All I was doing was
2 comforting him as best I can. I comforted him for a long
3 time, you know. That's what I was trying to do was to
4 comfort him while she was on the phone.

5 Q Was he able to say anything to you?

6 A No. He was making a noise. He was gurgling. He was
7 crying, too, you know. He was making a whole lot of noise.
8 Then after the noise was over with you could still feel him
9 breathing. He was breathing heavy, you know. And I hold
10 his hand and I could feel he was still breathing. I was
11 holding him as long as he's still living, you know. Then
12 after five, 10 minutes it's like -- it just stopped, you
13 know.

14 Q Mr. Phillips, did you see anyone out in the yard at
15 that time or anything that when you went out -- I know your
16 attention was with Jamil, but did you see anything else?

17 A When we first got there, opened the door, my wife was
18 first. I heard footsteps going towards the woods. And I
19 seen a car. A car -- back lights of the car. Like a --
20 Like they on brakes. And we heard a slam -- slam door
21 closed and the car sped off going towards Abbeville.

22 Q Going towards Abbeville would have been turning in
23 which direction --

24 A You couldn't see the turn going towards Stevenson Cross
25 Roads Road left or right because of the woods and

DALE PHILLIPS SR-DIRECT EXAMINATION

150

1 everything. You can't see if you turn left or right. But I
2 know they go straight as far as I can see.

3 Q To go to -- so this is -- you're if you're looking out
4 your front porch, the direction was --

5 A If you're going left you're going toward Abbeville.

6 Q On the left?

7 A Yeah.

8 Q EMS arrived while Ms. Martha was still on the phone
9 with 9-1-1, or do you remember?

10 A Yeah. She was still on the phone with them. I was --
11 I was shocked. I couldn't stand it no more.. What I did was
12 I -- I was at my computer in my chair -- office chair. I
13 just sit there. I just sit there with, you know -- still in
14 shock, you know. My wife was on the porch with EMS or
15 whatever still talking. I just stood there.

16 Q. Who was your son, Dale Phillips, Jr., married to
17 at this time?

18 A. Karlita Phillips.

19 Q. That's the Defendant? Is she in the courtroom
20 today?

21 A. Yes.

22 Q. Can you identify her for the jury?

23 A. Yes.

24 (Whereupon, Witness identifies Defendant.)

25 Q. Sitting at this table over here with her lawyer?

DALE PHILLIPS, SR-CROSS-EXAMINATION

151

1 A. Yes.

2 THE COURT: Let the record reflect the witness has
3 identified the Defendant.

4 Q And you said Dale Phillips, Jr., your son, was living
5 with you all at this time, correct?

6 A At that time, yes.

7 Q Were he and the Defendant, Karlita Phillips, separated?

8 A Yes, they had separated.

9 Q But they were not divorced, correct?

10 A They hadn't got divorced yet, no.

11 Q How long had they been separated?

12 A I think about Mother's Day, 2012. Around Mother's Day.
13 Mother's Day, 2012. That's when he came back home.

14 Q So he had been home for several months at this point?

15 A Yes.

16 MR. STUMBO: Beg the Court's indulgence, Your Honor.

17 THE COURT: Yes, sir.

18 MR. STUMBO: Thank you, Mr. Phillips. Please answer
19 any questions that Ms. Bolen or Ms. Nelson may have for you,
20 sir.

21 MS. BOLEN: Just very briefly, Your Honor.

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MS. BOLEN:

25 Q Mr. Phillips, I just have a very few follow-up

DALE PHILLIPS, SR-CROSS-EXAMINATION

152

1 questions. You said that Dale, Jr. and Karlita separated
2 Mother's Day, 2012?

3 A Around that time. Around that time, yes.

4 Q Okay. And Dale started living with you when they
5 separated; is that right?

6 A Yes, he moved in. He moved around the same time when
7 they separated. Dale came straight home.

8 Q Okay. So he was living with you about 10 months?

9 A How long he lived there?

10 Q Yeah. About 10 months, May to March?

11 A Dale came back home around Mother's Day, around that
12 area, 2012 until my son's death, Jamil got killed. We left.
13 My mother-in-law's house is in the country. Left early
14 morning around about 2:00, 3:00 in the morning. We got out
15 clothes and we leave all our vehicles there. We've been
16 there ever since.

17 Q And so, they separated in May, right? But they weren't
18 divorced at that point?

19 A No. They weren't divorced yet, no.

20 Q And Karlita initiated the separation, right?

21 A Say again?

22 Q Karlita initiated the separation?

23 A I don't know what expired from that, but I know --

24 Q You don't know?

25 A I don't know what -- he came home, but --

DALE PHILLIPS, SR-REDIRECT EXAMINATION

153

1 Q You said on direct that Jamil was a big fellow? He was
2 tall?

3 A Yes.

4 Q He was taller than Dale, right?

5 A Yes.

6 Q And also a little bit bigger in stature than Dale?

7 A Yes.

8 MS. BOLEN: I don't have anything further. Thank you.

9 THE COURT: Thank you, sir.

10 MR. STUMBO: Just one more.

11 REDIRECT EXAMINATION

12 BY MR. STUMBO:

13 Q You said you changed out of your clothes? You
14 indicated that?

15 A Say it again?

16 Q You changed out of your clothes later that night?

17 A Yeah, changed clothes.

18 Q At 2:00 or 3:00 in the morning, you said?

19 A No, no. I say we went to leave coats and everything to
20 go to our mother-in-law's house. We couldn't -- we couldn't
21 move our cars, because the investigation was ongoing. We
22 had to leave. I think my son, Dale, and some other people
23 was outside. We couldn't -- people couldn't come down the
24 driveway to move us. So we -- I stayed with my regular
25 clothes on. I didn't change no clothes. We had to carry

DALE PHILLIPS, SR-REDIRECT EXAMINATION

154

1 our coats. We left for a couple days. We wouldn't go back
2 to our house.

3 Q Did you have any blood on your clothes that night?

4 A Yeah, I had blood on my clothes. I had to -- I slept -
5 - I slept a couple days with the blood on my clothes. I
6 couldn't no kind of sleep or nothing. I just -- I didn't
7 sleep. I didn't change my clothes. I had just blood on --
8 in the bed and everything.

9 MR. STUMBO: Thank you, Mr. Phillips. No further
10 questions.

11 THE COURT: Thank you. You may step down.

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

14 THE COURT: Ladies and gentlemen, we'll take a quick
15 five minute break. You can use the facilities, get
16 something to drink. But, of course, don't discuss the case.
17 We'll be at ease for a few moments. If any of you smoke,
18 let the bailiff know and he'll take you downstairs so you
19 can have a cigarette.

20 (Whereupon, the jury exited the courtroom at 11:27
21 a.m.)

22 (Whereupon, a recess was held from 11:28 a.m. to 11:43
23 a.m.)

24 THE COURT: Let's have the jury back in, please.

25 State, call your next witness.

MARTHA PHILLIPS-DIRECT EXAMINATION

155

1 MR. BROWN: The State calls Martha Phillips.

2 (Whereupon, the jury entered the courtroom at 11:43

3 a.m.)

4 THE COURT: Let the record reflect that the jury is
5 back and seated and is present. Mr. Brown, if you'll call
6 the next witness, please.

7 MR. BROWN: The State calls Ms. Martha Phillips.

8 MARTHA PHILLIPS, having been first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BROWN:

12 Q Ms. Martha, let me first -- where do you live?

13 A [REDACTED] Road in Abbeville, South
14 Carolina. [REDACTED] Road, Abbeville, South
15 Carolina.

16 Q All right. Ms. Martha, I'm going to move this
17 microphone a little bit closer to you so everybody can hear
18 you. Ms. Martha, where do you live?

19 A [REDACTED] Road, Abbeville, South Carolina.

20 Q And, Ms. Martha, how long have you been living at that
21 location?

22 A Oh, we've been there 30 some years. Thirty some years.

23 Q And who do you live in that house with?

24 A My husband.

25 Q And your husband is?

MARTHA PHILLIPS-DIRECT EXAMINATION

156

1 A Dale Phillips.

2 Q How long have you all been married?

3 A Thirty-eight years. It'll be 39 this year. In August
4 this year.

5 Q Thirty-nine this year?

6 A Uh-huh.

7 Q And, Ms. Martha, are you working?

8 A Yeah.

9 Q Where do you work at?

10 A I work at Harris Plant in Greenwood.

11 Q And what do you do there?

12 A I make cloth. I'm a cloth maker.

13 Q And, Ms. Martha, you said you were married for 39 years
14 coming up. Do you have any children?

15 A Three.

16 Q And what are their names?

17 A I had three. Dale, Jr., Jamil Phillips and Kareem
18 Phillips.

19 Q Ms. Phillips, I'm going to stand back here, and you can
20 talk to me kind of a little bit louder so everybody can --

21 A Dale Phillips, Jamil Phillips and Kareem Phillips.

22 Q And, Ms. Phillips, what are their -- what are their
23 ages and what were they doing?

24 A Jamil -- when Dale was born December the 3rd, [REDACTED] and
25 Jamil was born March the 2nd, 1982, and Kareem was born

MARTHA PHILLIPS-DIRECT EXAMINATION

157

1 October the 7th, [REDACTED]

2 Q Jamil was the middle one?

3 A The middle child.

4 Q Now, Ms. Phillips, that year before this event took
5 place, March 25th, 2013, what was the health of your
6 husband, Dale Phillips, Sr.?

7 A Well, on May the 3rd, 2012 I was getting ready to go to
8 work that day and Dale -- there wasn't something quite right
9 about the way he acting. And I called my sister and I asked
10 her something and she say get him to the hospital. He
11 having a stroke. So I took him to the hospital and he was
12 having a stroke.

13 Q And was he, at the time Jamil was killed, was he still
14 recovering from that stroke?

15 A Yeah.

16 Q Is he to this day still recovering from the stroke?

17 A Yeah.

18 Q Ms. Phillips, can you tell me what your day was like on
19 March 25th of that year, 2013?

20 A Yeah. I remember I got up that morning and Jamil was
21 sitting on the side of the bed, and I say, Hey, Jamil, and I
22 say -- I stopped at the door and I said, Jamil, you want
23 some breakfast? And he say, yeah, momma. So I went in the
24 kitchen and I cooked some scrambled eggs and grits and
25 sausages, and I say, Jamil, let me fix your plate first.

MARTHA PHILLIPS-DIRECT EXAMINATION

158

1 Because Dale had went to the store. And I say, I don't know
2 when Dale -- I call him Dale. I say, I don't know when Dale
3 get back. And I say, you go fix your plate first. And he
4 say, okay, momma. And he fix his plate and I fixed my
5 plate, and I left the food on the stove for Dale, you know.
6 His part to eat. And after that I was sewing. Because I
7 sew a little bit. Making some slips and stuff. And Jamil
8 was at home. He stayed at home until he got ready to go to
9 work that evening. He left about -- he had to be at work
10 about 6:00, I think. So I think he left about 4:00, 4:30,
11 something like that. But I had already left, because I went
12 down to my aunt's house where my mom and my brother was
13 going to be, because my brother was building ramp for my
14 aunt. And so, I stayed down there until about -- I guess it
15 was about 8:00. A little after 8:00 or something. And I
16 came from Abbeville direction. From the direction of
17 Abbeville, because my aunt stay down that way. And I got
18 home. I fixed Jamil some salmon. Because Jamil loved
19 salmon. He lived baked salmon. I cooked some baked salmon
20 and mashed potatoes and had collard greens and corn bread.
21 And I had told Jamil that I was going to fix it before he
22 left to go to work, because he loved that. It was his
23 favorite. And when I left the house I remember saying, bye,
24 Jamil. Have a good day. And that was the last time I seen
25 him alive. And, like I say, I got home -- I got home about

MARTHA PHILLIPS-DIRECT EXAMINATION

159

1 8:00. I fixed him some baked salmon. And I heard -- I
2 heard some -- one of them come home. I didn't know which
3 one it was really, if it was Dale or Jamil, because I had to
4 look out. I just heard somebody come home. And I was
5 watching TV, because our -- our couch is faced this way for
6 the window. The window is right behind us and the couch is
7 faced this way, and the door is right here. And when I
8 heard somebody come home I heard -- I see -- I heard a key
9 go in the door and took it out. And then I'm sitting up
10 there, you know, watching TV, and hmmm, which one put the
11 key in the door and took it out. And I was saying that, you
12 know. I'm not thinking nobody outside the home, because we
13 never had any kind of confrontation out there because it
14 just the country area. You know, nobody come out that far,
15 you know. And he put his key in the door and he took it
16 out. I was sitting there, why did he do that. I didn't
17 know whether Dale or Jamil. And then I started back
18 watching TV not thinking nothing about it and then I started
19 saying to myself, whose taking so long fixing to come in the
20 house. And then when I realized, I started saying to
21 myself, there must be somebody out there.

22 (Whereupon, there was a loud beeping noise from the
23 courtroom sound system.)

24 THE COURT: Sorry to interrupt. Go ahead.

25 A I wasn't thinking nobody out there would harm him.

MARTHA PHILLIPS-DIRECT EXAMINATION

160

1 Just like a mother's intuition. I felt like there was
2 somebody out there. But I didn't think it was nobody home.
3 I just maybe -- you know, I don't know what. But anyway,
4 we're still watching TV, you know. And then all of a sudden
5 we heard a shot. And Dale said Mot. My nickname is Mot.
6 Mot, that's a shot. And I jumped up and I put my hand on my
7 head. I didn't know what to do. And then before I could
8 get to the door I heard some more shots. And by the time I
9 got to the door, opened the door, I seen Jamil -- the first
10 thing I say was Dale, Dale, Dale. First thing, I see a body
11 on the porch, I say, Dale, Dale, Dale. And then we turned
12 him over. When we turned him over to see who it was it was
13 Jamil. And Dale say, Mot, it's Jamil. And I called 9-1-1,
14 and I talked to the dispatch and everything. She's sending
15 somebody out, you know. I pulled his shirt up, you know,
16 and I see a hole in his back where he got shot in his back.
17 And I really wasn't worried, because I thought, oh, you
18 know, he just got shot in the back. He'll be all right.
19 He'll be all right. So I wasn't worried, you know. And
20 then I heard -- I see a little -- just a little blood on his
21 forehead, a crease on his forehead or something. And I seen
22 where he got shot in the back. And I really wasn't worried.
23 I figured he was going to be all right, because I didn't see
24 no more -- at the time I didn't see no more bullet holes,
25 you know. I didn't think to pull up his shirt in the front.

MARTHA PHILLIPS-DIRECT EXAMINATION

161

1 I just seen the bullet hole in the back, and I say he going
2 to be all right. You know, I thought that. I would listen
3 to him breath and talking to dispatch the whole time. And I
4 say -- I say -- talking to the dispatch. And he just -- I
5 tell her to hurry up, you know, because he started breathing
6 funny. He started making kind of funny noise like his
7 throat was filling up full of blood. Like his throat was
8 filling up full of something I assumed was blood, you know.
9 His throat was filling up. And he made this kind of
10 gurgling noise. And a little before the ambulance came he
11 just stopped breathing. He passed.

12 Q Ms. Martha, how long -- was it a pretty short time
13 between when you heard him coming up on the porch and when
14 gunfire rang out?

15 A I couldn't -- see, that's the thing. I know it was a
16 few minutes, but I don't know how many minutes. Because,
17 see, I started -- after I heard putting the key in the door,
18 taking it out the door, I know it wasn't no lot of minutes,
19 but I know it was a few minutes that I didn't hear nothing.
20 And so, I was just wondering why -- did he come in the
21 house, you know? Why did he come in the house? And then we
22 heard the shots. I didn't realize nobody was out there.

23 Q Ms. Phillips, when you and Mr. Dale, Sr. went out the
24 door was your outside light on?

25 A We cut it on.

MARTHA PHILLIPS-DIRECT EXAMINATION

162

1 Q You cut it on?

2 A We cut it on and went out.

3 Q So it was pretty dark?

4 A We cut the light on and went out. I cut it on. We cut
5 it on. We cut the light on and then we went outside. When
6 we had come to the door the light was not on.

7 Q Now, when you all went out on the front porch did you
8 see anything else, or notice anything besides --

9 A We went out on the front porch. I went out first. I
10 heard somebody running sounded like they were light on their
11 feet. Like somebody that wasn't real heavy that was
12 running, because you could hear him running. And then I
13 heard, you know, the door slam, and heard a car speeding
14 around. Almost like it was getting stuck or something, and
15 then it took off.

16 Q Where?

17 A Down the road towards Abbeville.

18 Q Where was that car? Where was that car parked?

19 A It was on the other side of the fence at our house.
20 There was a lot of trees. A lot of trees and stuff, you
21 know, on this side where you can't see good, you know. You
22 can't see. You know, you can see -- you can see -- I seen
23 the light and everything and we heard the car, but you could
24 not see -- at that time I didn't see the car, you know, or
25 nothing. I didn't see what color the car was. And then I

MARTHA PHILLIPS-DIRECT EXAMINATION

163

1 was so busy trying to call 9-1-1 and get Jamil some help.

2 And my first thought was to get him help. But I did think

3 about going after the people that did this. But then I

4 said, no, I got to stay here and make sure Jamil is all

5 right.

6 Q And, Ms. Martha, when you first went out the door and

7 you saw Jamil laying there you said you initially thought it

8 was Dale?

9 A First thing I said, Dale, Dale, Dale.

10 Q And why did you think it was Dale?

11 A Because he was having a nasty divorce. That's all. He

12 was going through -- he was having problems.

13 Q Did they also -- did Dale and Jamil resemble each

14 other?

15 A Yeah. Jamil was a little taller and about 20 pounds

16 heavier than Dale. They look a lot alike.

17 Q Ms. Phillips, that night while you were calling 9-1-1,

18 did Jamil die there that -- with you and Mr. Phillips?

19 A Yes, he did. He did. He died a little before the

20 ambulance came. A few -- I guess a few minutes before the

21 ambulance came, or about the same time. And I told them, I

22 say, he's gone now. They couldn't say nothing. They put

23 the little thing on to check his heartbeat and everything

24 and they took it off and they walked away because they knew

25 he was dead.

MARTHA PHILLIPS-CROSS-EXAMINATION

164

1 Q Ms. Phillips, I'm going to show you what's been marked
2 State's Evidence 42. Do you recognize that picture?

3 A Yeah, those my boys. Pride and joy.

4 Q Ms. Phillips, you're going from your left to your right
5 what's -- who's in that picture?

6 A Kareem, Dale, Jr. and Jamil.

7 Q I show you what's been marked State's Evidence 42. Ms.
8 Phillips, is that picture a picture of your boys?

9 A Yeah, those are my boys.

10 Q Which one is Jamil?

11 A The one on the right. The tallest one. The tallest
12 and the biggest one.

13 Q March 25th, 2013 Jamil died --

14 A Yeah.

15 Q -- on your front porch?

16 A Yeah.

17 MR. STUMBO: I beg the Court's indulgence. No further
18 questions.

19 THE COURT: Ms. Bolen.

20 MS. BOLEN: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MS. BOLEN:

23 Q Ms. Phillips --

24 MS. BOLEN: Permission to approach, Your Honor.

25 THE COURT: Yes.

MARY STAMPS-DIRECT EXAMINATION

165

1 Q Let me just look at this picture with you. So that's
2 Jamil and that's Dale, Jr., and that's Kareem. Do you
3 remember when this picture was taken?

4 A No.

5 Q I've just gone one follow-up question, Ms. Phillips. I
6 just want to make sure I understand correctly. You said
7 that when you went outside that night you turned the porch
8 light on?

9 A Either I turned it on or Dale turned it on. It wasn't
10 on. It was not on. I don't think it was already on. I
11 don't think it was.

12 MS. BOLEN: Nothing further. Thank you.

13 THE COURT: Thank you. You may step down.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 THE COURT: Call your next witness, please.

17 MR. BROWN: The State calls Mary Stamps.

18 MARY STAMPS, having been first duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. BROWN:

22 Q Ms. Stamps, please state your full name for us.

23 A Mary Paige Stamps.

24 Q Ms. Stamps, where do you live?

25 A [REDACTED] Old Douglas Mill Road.

MARY STAMPS-DIRECT EXAMINATION

166

- 1 Q Here in Abbeville County?
- 2 A Yes, sir.
- 3 Q Ms. Stamps, do you know the Phillips?
- 4 A Yes, sir.
- 5 Q And where do they live?
- 6 A Right across the road from me.
- 7 Q So the Phillips are just directly across the road from
- 8 you?
- 9 A Over at my house, a little bit over to the left of me.
- 10 Q Now, Ms. Stamps, how long have you lived there?
- 11 A About 40 years, 35 years, I guess.
- 12 Q So you've all known each other a long time?
- 13 A Yes, sir.
- 14 Q Ms. Stamps, do you remember March 25th, 2013?
- 15 A Yes, sir.
- 16 Q Do you remember speaking to law enforcement that night?
- 17 A Yes, sir.
- 18 Q Ms. Stamps, that night, March 25th, 2013, what do you
- 19 remember about that night?
- 20 A I remember that we heard something that we -- my
- 21 husband thought it might have been firecrackers. And then a
- 22 little bit later my dog got in the window. And I looked out
- 23 the window because I was right there at my window, and I
- 24 seen -- I seen a car with its lights shining on my -- up the
- 25 road. And it sit there for just a couple of minutes and it

MARY STAMPS-DIRECT EXAMINATION

167

1 went toward Abbeville.

2 Q So the lights were shining at your house?

3 A Toward my house.

4 Q Were you able to see what color car it was?

5 A It was a light colored car.

6 Q And car, do you mean was it an SUV or truck, or was it
7 some type of car?

8 A I think it was a car.

9 Q And now, your house, again, you're across -- kind of
10 diagonal across the street from the Phillips' house?

11 A Yes, sir.

12 Q And Ms. Sheila Campbell's property is more directly
13 across from you?

14 A Yeah. They're actually -- yeah, their property is,
15 yeah.

16 Q So you're really in front of both the Campbell's and
17 the Phillips?

18 A In between them, yeah.

19 Q And -- but you did -- but that night -- what time of
20 night was this that you ended up seeing that car?

21 A It was late. Around 10:30, I guess, or so. It was
22 late.

23 Q Sometime after 10:00?

24 A Uh-huh.

25 Q And when did you speak with law enforcement that night?

GARY PARRMAN-DIRECT EXAMINATION

168

1 A I can't remember.

2 Q Sometime --

3 A Sometime after, yeah.

4 Q And again, you saw that car parked -- how far away is
5 your house from Old Douglas Mill Road?

6 A I'm off the road like, I'd say, at least 400 feet or
7 more. Four hundred, 500 feet off the road. I'm back off
8 the road.

9 Q And do you have any lights in your yard?

10 A I do have a light in my yard, yeah.

11 Q Did that help you --

12 A That's the only way I could tell, you know, that the
13 car was a light colored car that I seen.

14 Q And again, the light colored car, the headlights were
15 shining down towards your house?

16 A Toward my house, yeah.

17 MR. BROWN: No further questions.

18 THE COURT: Ms. Bolen?

19 MS. BOLEN: No cross, Your Honor.

20 THE COURT: Thank you, ma'am. You may step down.

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

23 THE COURT: Call your next witness, Solicitor.

24 MR. STUMBO: The State calls Gary Parrman.

25 GARY PARRMAN, having been first

GARY PARRMAN-DIRECT EXAMINATION

169

1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. STUMBO:

4 Q Good morning, Mr. Parrman. You live here in Abbeville?

5 A Yes, sir.

6 Q You work here in Abbeville?

7 A Yes, sir.

8 Q Where do you live?

9 A 1525 Old Douglas.

10 Q 1525?

11 A Old Douglas Mill Road. Yes.

12 Q That's what part of the county here in relation to

13 Abbeville?

14 A Sir?

15 Q What part of the county is it? Where is it in --

16 A Out past the high school.

17 Q Go past the high school towards Hodges?

18 A Towards Hodges. Go straight. I think it's like three

19 miles out.

20 Q And just to orient us, Mr. Parrman --

21 MR. STUMBO: Judge, beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 (Whereupon, State's Exhibit No. 43 as marked for

24 identification.)

25 Q I'm going to show you what's been marked just now as

GARY PARRMAN-DIRECT EXAMINATION

170

1 State's 43 for ID purposes.

2 A Uh-huh.

3 Q It's satellite imaging. Just take your time and look
4 at it.

5 A Uh-huh. All right.

6 Q Does this area look familiar here?

7 A Yeah.

8 Q And is it a fair and accurate depiction of the area you
9 live out on --

10 A Yes.

11 Q -- Old Douglas Mill?

12 A Yes.

13 MR. STUMBO: Judge, we'd offer State's 43 into
14 evidence.

15 THE COURT: Any objection?

16 MS. BOLEN: No objection, Your Honor.

17 THE COURT: Without objection, State's 43 is in
18 evidence.

19 BY MR. STUMBO:

20 Q No, Mr. Parrman, just so we can -- I'm going to try to
21 position myself here where the jury can see this. This
22 roadway here. What road is that?

23 A That's Old Douglas.

24 Q And where do the Phillips live? Your neighbor?

25 A Right over here, on this side of the road.

GARY PARRMAN-DIRECT EXAMINATION

171

1 Q This house with the car in front of it?

2 A Yes. My house is straight across.

3 Q You're here?

4 A Uh-huh.

5 Q The way these parcels are drawn out, this parcel right
6 here?

7 A I'm straight across the -- my driveway connects to
8 theirs.

9 Q Okay. Their road is directly to the right of you if
10 you're facing out -- facing out --

11 A If I'm facing out you have the -- it's an empty house.
12 It's my landlord's house. And then the house next to that
13 is Ms. Stamps.

14 Q Ms. Mary?

15 A Ms. Mary. Yes, sir.

16 Q And that's this driveway here --

17 A Uh-huh.

18 Q -- that's across --

19 A Straight across.

20 Q -- the little driveway there?

21 A Yes, sir.

22 Q And this area on the Phillips' property, are these
23 woods here?

24 A Uh-huh.

25 Q What kind of trees are those?

GARY PARRMAN-DIRECT EXAMINATION

172

- 1 A Just little pine trees, shrubs, a few cedars. Stuff of
2 that sort, right along the fence line.
- 3 Q I'm going to take you back, Mr. Parrman, to March 25th,
4 2013. What did you do that day?
- 5 A Mainly been working.
- 6 Q And you said you work in Abbeville. Where do you work?
- 7 A At that time I was working for John Martin. Martin
8 Wrecker Service.
- 9 Q And what time did you get off work that day?
- 10 A Right at about dark. Right around there.
- 11 Q Who else lived at the house with you at the time?
- 12 A My son. I got Danny, Robert, Charles and my wife.
- 13 Q Did you drive home from work, somebody pick you up or
14 --
- 15 A Yes. Well, he come back out and picked me up at work.
16 He had the truck that day.
- 17 Q You said he. Who is --
- 18 A My son, Charles.
- 19 Q Charles?
- 20 A Uh-huh.
- 21 Q What's his last name?
- 22 A Scroggs.
- 23 Q So Charles Scroggs came to pick you up?
- 24 A Uh-huh.
- 25 Q What did you all do after that?

GARY PARRMAN-DIRECT EXAMINATION

173

1 A We went by Subway and picked up some, you know, supper,
2 because it was so late that evening, afternoon, and headed
3 back toward the house.

4 Q You were going to eat at the house?

5 A Uh-huh.

6 Q You got it to go?

7 A Yeah, got it to go.

8 Q Leaving the house, or coming back to the house, did you
9 notice anything out of the ordinary?

10 A Well, when we got down there, just right in front of
11 the house, right in front of Ms. Stamps, there was a little
12 light colored car backed off the road up by the edge of them
13 trees. Didn't pay it no attention. Thought it might just
14 be somebody broke down and they just shoved it off the road.
15 You know, up in that little clearing. We went on in the
16 house, sat down and was getting ready to eat.

17 Q Is there a little driveway there where that car was
18 pulled off?

19 A Yeah, a little pull off like. It looked like an old
20 house place or something.

21 Q Is that reflected on the map here?

22 A Uh-huh.

23 Q Let me position myself.

24 A Yeah. Just about right across from Ms. Stamps' yard.

25 Right here is her driveway. And you see this little spot

GARY PARRMAN-DIRECT EXAMINATION

174

1 right there? Right in there is that little concrete. It's
2 like an asphalt pad coming off the edge of the road right
3 there. It kind of goes right up to the edge of the woods
4 right here.

5 Q If you can show the jury where the car was parked.

6 A It was parked right -- right in there. Right at the
7 edge of the tree line.

8 Q Which direction was it facing?

9 A It was pointed out toward the road.

10 Q Pointed back out towards the road?

11 A Yes. The headlights was coming toward the road.

12 Q And you said this was what time? About dusk?

13 A Just dusky dark whenever we -- whenever we, you know,
14 got to the yard.

15 Q And you went back up to the house and to eat?

16 A Yeah. We just had run in the house. Sat down. Two of
17 the boys went in the bedroom and turned the TV on to eat
18 their sandwiches. I just had opened mine up and getting
19 ready to take a bite when they were -- when we heard
20 gunshots.

21 Q Have you heard gunshots before this?

22 A Oh, yeah. Oh, yeah.

23 Q Was it distinct to you that it was a gunshot?

24 A Oh, yeah. It was a gunshot. There was no denying it.
25 It was a land cannon. That sucker rang out.

GARY PARRMAN-DIRECT EXAMINATION

175

1 Q What did you and Charles do after you heard those
2 shots?

3 A Well, whenever heard the gunshots initially, I went
4 toward the door, and my son -- other two sons was coming out
5 of the bedroom and we all converged. Me and Charles went
6 out across the yard, because we didn't know what it was. We
7 didn't know where it come from. But we know that it was a
8 large gun that had been fired.

9 Q Did you hear anybody talking at that point?

10 A The next door neighbor was -- well, I guess she had
11 made it to the yard or on her porch or what have you, but
12 she yelled somebody -- somebody shot him. They killed him.
13 That's all I -- you know, and she was frantic. I'm talking
14 frantic. Yelling they've shot him, they've shot him,
15 they've shot him.

16 Q And that's coming from whose house?

17 A From the next door neighbor. Directly across from us.

18 Q Directly across. Ms. Phillips?

19 A Uh-huh, Ms. Phillips.

20 Q Did you see anything?

21 A We made it -- I was about halfway across the yard when
22 she started yelling. And caddy-corner off that little
23 wood spot, there was a car pulled out from there and
24 headed back toward Abbeville wide open. Just as hard
25 as it could go it was going that way.

GARY PARRMAN-CROSS-EXAMINATION

176

1 Q And describe that car for us.

2 A It was a little like silverish blue, either a Toyota,
3 Nissan, something like that. Little bitty ole car like
4 that.

5 Q Some kind of Japanese made? It was a small --

6 A Yeah, just a small compact car.

7 Q It was silverish color, you said?

8 A Silverish blue. Something like that. Like I said, it
9 was dusky dark when I seen it. So it was just a light
10 colored car. It was either like a silver blue or -- you
11 know, something like that.

12 Q How long was this -- did this car pull out from the
13 time you heard the gunshot?

14 A It was -- it took long enough they shot, boom, boom,
15 long enough for me to get up from where I was at, make it
16 about midway in my yard and it was taking off.

17 Q Did you give law enforcement a statement that night as
18 to what you saw?

19 A Yes, sir.

20 MR. STUMBO: No further questions. Mr. Parrman, please
21 answer any questions Ms. Bolen may have for you.

22 THE WITNESS: Yes, sir.

23 CROSS-EXAMINATION

24

25 Q A few quick questions, Mr. Parrman.

GARY PARRMAN-CROSS-EXAMINATION

177

1 A Yes, ma'am.

2 Q So you had come home from work, right?

3 A Uh-huh.

4 Q And you were -- I believe your testimony was that you
5 were eating and your sons were watching TV?

6 A Yes.

7 Q And it was on your way home that you saw a car sitting?

8 A Uh-huh.

9 Q And you thought maybe it had been broken down or
10 something?

11 A I thought it -- you know, it just looked like, you
12 know, like somebody broke down and they just pushed it off
13 the edge of the road, you know, back up in that little
14 clearing.

15 Q And Solicitor Stumbo had asked you, you did give a
16 statement to law enforcement that night, right?

17 A Yes.

18 Q But you didn't put in that statement that you'd seen a
19 car on your way home from work, right?

20 A No.

21 Q And the car that you see, you said I think, wide open
22 coming out of the car --

23 A Uh-huh.

24 Q -- out of the road. In your statement you just
25 described it as a car, right, without any color?

CRAIG BIRCHMORE-DIRECT EXAMINATION

178

1 A Uh-huh.

2 Q And no make or model or anything in your statement?

3 A Yes. They asked me what I seen and I told them.

4 MS. BOLEN: Thank you.

5 THE WITNESS: They didn't give me no details..

6 THE COURT: Thank you, sir. You can step down.

7 THE WITNESS: Yes, sir.

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

10 THE COURT: Call your next witness, Solicitor.

11 MR. STUMBO: The State calls Craig Birchmore. Your
12 Honor, obviously Mr. Parrman can be released at this time.

13 THE COURT: Certainly.

14 CRAIG BIRCHMORE, having been first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BROWN:

18 Q Good afternoon, Mr. Birchmore.

19 A Good afternoon.

20 Q Mr. Birchmore, what's your full name?

21 A Richard Craig Birchmore.

22 Q And what do you go by?

23 A Craig.

24 Q And first of all, where do you work now?

25 A I work at Due West Police Department now.

CRAIG BIRCHMORE-DIRECT EXAMINATION

179

1 Q And how long have you worked for Due West?

2 A Since March of this year.

3 Q And before you went to Due West Police Department where
4 did you work?

5 A Abbeville County Sheriff's Office.

6 Q And how long did you work with the Sheriff's Office?

7 A Two and a half years maybe.

8 Q Back on March 25th, 2013 were you with the Sheriff's
9 Office?

10 A I was.

11 Q And what were your duties as a Sheriff's -- working
12 with the Sheriff's Office?

13 A I was on uniform patrol.

14 Q And on the 25th of March, 2013, were you on uniform
15 patrol then?

16 A Yes, sir.

17 Q And did you have any occasion to respond to 1522 Old
18 Douglas Mill Road?

19 A Yes, I did.

20 Q And what was that call about?

21 A We received a call through 911 that an individual had
22 been shot and was on the front porch, and I was first on the
23 scene.

24 Q And when you pulled on the scene what did you do?

25 A I observed an individual laying face down to the right

CRAIG BIRCHMORE-DIRECT EXAMINATION

180

1 of the front door on the porch. Two other individuals
2 outside around it, that I later learned were his parents.

3 Q And when you arrived was -- the individual, was he
4 still breathing or had he --

5 A He was not.

6 Q He had already passed away?

7 A Yes.

8 Q Had 911 gotten there yet -- or had EMS gotten there
9 yet?

10 A They were a couple minutes behind me, to the best of my
11 knowledge.

12 Q To the best of your knowledge though and what you
13 remember, by the time you got there he was already gone?

14 A Yes.

15 Q Now, Mr. Birchmore, I want to show you what's been
16 marked for ID purposes as State's ID 2 through 9 and ask if
17 you recognize these photos.

18 A Yes, sir.

19 Q And what are those photos show?

20 A These are the incident location of the call I went to,
21 and it's also the victim I was describing.

22 Q Do these pictures clearly and accurately reflect what
23 you saw that night?

24 A Yes, sir.

25 MR. BROWN: The State moves in what's marked for ID

CRAIG BIRCHMORE-DIRECT EXAMINATION

181

1 purposes State's ID 2 through 9 as State's Evidence 2
2 through 9.

3 THE COURT: Any objection?

4 MS. BOLEN: No, sir.

5 THE COURT: Without objection, they're entered into
6 evidence.

7 (Whereupon, State's Exhibit Nos 2 through 9 were
8 admitted into evidence.)

9 Q Officer Birchmore, I want to show you State's Evidence
10 2. What does that -- what's State's Evidence 2 show?

11 A That's the mailbox of the incident location.

12 Q What's the address on that location?

13 A [REDACTED] Road.

14 Q And that -- what county is that in?

15 A Abbeville County.

16 Q State's Evidence 3?

17 A That's the actual residence, [REDACTED]
18 Road.

19 Q And when you arrived that night is that how the cars
20 were parked in the drive?

21 A Yes.

22 Q State's Evidence 4. What does that depict?

23 A That's [REDACTED] Road.

24 Q State's Evidence 5?

25 A That's the victim I observed at their residence.

CRAIG BIRCHMORE-DIRECT EXAMINATION

182

- 1 Q And when you arrived at [REDACTED] that
2 night is that the position --
- 3 A Yes, sir.
- 4 Q -- Mr. Phillips was lying in?
- 5 A Yes, sir.
- 6 Q And that's what you saw that night?
- 7 A Yes, sir.
- 8 Q And when you arrived the victim was already gone --
- 9 A Yes, sir.
- 10 Q -- passed away? State's Evidence 6. Again, what does
11 that picture show?
- 12 A That's [REDACTED] Road, and also that's the
13 front of the residence and the victim lying to the right of
14 the front door.
- 15 Q State's Evidence 7?
- 16 A That would be the victim's right hand.
- 17 Q On the porch?
- 18 A Yes.
- 19 Q State's Evidence 8?
- 20 A The victim's keys and some blood.
- 21 Q Lastly, State's Evidence 9?
- 22 A Also blood near the front door.
- 23 Q And in relation to this picture where is Jamil Phillips
24 lying?
- 25 A He would be off to the right.

CRAIG BIRCHMORE-DIRECT EXAMINATION

183

1 Q And, Officer Birchmore, once you arrived, you said you
2 were the first one on the scene?

3 A Yes, sir.

4 Q Did other officers arrive at that location?

5 A Yes. Interim Sheriff Ashley was probably 10 seconds
6 behind me, and Sergeant Neddra Singleton was also right
7 there behind him.

8 Q And the EMS arrived also?

9 A Yes.

10 Q Once officers arrived at that location what was the
11 next step?

12 A EMS started trying to work with him anyway. And we
13 roped the crime scene off and started calling in other units
14 as we needed.

15 Q What was the purpose of roping off the crime scene?

16 A To secure evidence and make sure nobody tampered with
17 it.

18 Q And shortly after you arrived on scene that was done?

19 A That's correct.

20 Q The whole yard roped off?

21 A Yes.

22 Q No other people coming in or out?

23 A No.

24 MR. BROWN: No further questions.

25 MS. BOLEN: No cross, Your Honor.

RONNIE ASHLEY-DIRECT EXAMINATION

184

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

2 (Whereupon, the witness steps down from the witness
3 stand.)

4 THE COURT: Call your next witness.

5 MR. STUMBO: Your Honor, the State calls Coroner Ronnie
6 Ashley.

7 CORONER RONNIE ASHLEY, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. STUMBO:

11 Q Good morning, Coroner, how are you doing?

12 A Good morning. How you doing?

13 Q How long you been the Coroner of Asheville County?

14 A Fifteen years.

15 Q And for a short period of time you were actually the
16 Sheriff of Abbeville County, correct?

17 A For five months.

18 Q And that was when? What year was that?

19 A 2013.

20 Q Two years ago?

21 A Two years ago.

22 Q And this was between the time that Sheriff Goodwin had
23 left and Sheriff Watson --

24 A Correct.

25 Q -- was elected to take over, correct?

RONNIE ASHLEY-DIRECT EXAMINATION

185

1 A Correct.

2 Q Now, March 25th, 2013 you were the Sheriff at that
3 point, correct?

4 A Yes.

5 Q Interim Sheriff.

6 A Yes.

7 Q And you recall an incident that your department
8 responded to out at 1522 Douglas -- Old Douglas Mill Road?

9 A Yeah.

10 Q And what was the nature of that incident?

11 A The call came in that somebody had been shot, laying on
12 the porch. Three deputies and myself responded. We was
13 there in seven minutes from the call. Got there and Mr.
14 Phillips was laying on the front porch.

15 Q Just to refer you to what's already in evidence. It's
16 State's 2 through 9. I'm going to show you what's in as
17 State's -- State's 4. Is that how the residence appeared
18 that night? Is that a --

19 A Yes.

20 Q -- fair representation?

21 A Yes.

22 Q State's No. 6.

23 A That's correct.

24 MS. BOLEN: Your Honor, I objection as being cumulative
25 because another witness has already testified as to all of

RONNIE ASHLEY-DIRECT EXAMINATION

186

1 these.

2 MR. STUMBO: Well, I'll move on soon, Judge. It won't
3 take me long.

4 THE COURT: Overruled. Go ahead.

5 Q Coroner Ashley, is this how the body appeared when you
6 appeared on the scene?

7 A It was.

8 Q Now, you were in the role of Sheriff at this point but
9 you have been a Coroner for 15 years, correct?

10 A Yes, sir.

11 Q So do you have experience responding to death scenes?

12 A Yes, sir.

13 Q Was he checked by EMS while you were there?

14 A Yes. Well, as soon as I got there I checked it, and
15 then EMS checked him. There was no pulse.

16 Q And were you all able to ascertain that he had passed
17 away?

18 A Yes.

19 Q And who was the decedent?

20 A Jamil Phillips.

21 Q He was the son of those who lived in the house?

22 A Correct.

23 Q What decision did you make as to how the investigation
24 would proceed at that point?

25 A As soon as we knew he was deceased I called my Deputy

RONNIE ASHLEY-DIRECT EXAMINATION

187

1 Coroner, which was the acting Coroner at the time, Sam
2 Ferguson, and then I turned around and called SLED and asked
3 for a forensic team supervisor and an investigation team to
4 come down.

5 Q And why did you call SLED?

6 A Because it's a criminal case. When my -- when my
7 Coroner -- or as acting Sheriff, if I have a death scene
8 that's -- I always call SLED in.

9 Q And their crime scene --

10 A Crime scene.

11 Q -- team responded?

12 A Correct.

13 Q And ultimately did other investigators from SLED
14 respond --

15 A Yes.

16 Q -- as well?

17 A Yes.

18 Q Your agency, the Sheriff's Office, assisted SLED --

19 A Correct.

20 Q -- in the investigation?

21 A Correct.

22 Q Once they got involved, Coroner, who would you consider
23 the lead agency at that point? Would it have been the
24 Sheriff's Office or SLED?

25 A SLED.

SAM FERGUSON-DIRECT EXAMINATION

188

1 Q By the time arrests were made in relation to this case
2 you were no longer Sheriff at that point?

3 A No, sir.

4 Q At that point it was Sheriff Watson who had taken
5 office?

6 A Sheriff Watson.

7 MR. STUMBO: No further questions of the Coroner, Your
8 Honor.

9 MS. BOLEN: No cross.

10 THE COURT: Thank you very much, Mr. Ashley. You are
11 free to go.

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

14 THE COURT: Does anybody need five? Are you okay?
15 Call your next witness, please.

16 MR. BROWN: The State calls Sam Ferguson.

17 SAM FERGUSON, having been first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Good afternoon, Mr. Ferguson.

22 A Good afternoon.

23 Q Mr. Ferguson, where do you work?

24 A I work for the Coroner's office in Abbeville.

25 Q And what's your position there?

SAM FERGUSON-DIRECT EXAMINATION

189

1 A Chief Deputy Coroner.

2 Q And how long have you been Chief Deputy Coroner?

3 A About 18 years.

4 Q Back in 2013, about a five month span, were you the
5 Coroner?

6 A Yes, sir.

7 Q Why was that?

8 A The Coroner was taking over as Sheriff.

9 Q On March 25th, 2013 did you respond to 1522 Old Douglas
10 Mill Road?

11 A Yes, sir. I did.

12 Q And, you know, what was the nature of that call?

13 A It was just reported to me as a homicide.

14 Q What time did you arrive that night?

15 A I was on scene at 10:27. Oh, I'm sorry. That's when I
16 got the call. I was on scene at 10:44. Excuse me.

17 Q Once you arrived on scene did you talk with Sheriff
18 Ashley at the time?

19 A Yes, I did.

20 Q And once you were on the scene what was your job there
21 that night?

22 A Just check the victim to see that he was deceased and
23 pronounced him as deceased. And then we backed out of the
24 scene to wait on SLED. We didn't want to contaminate the
25 scene.

SAM FERGUSON-DIRECT EXAMINATION

190

1 Q So after you all pronounced him dead you all did back
2 off and let SLED take over?

3 A Yeah. We backed off until SLED got there and then
4 worked with SLED.

5 Q After SLED performed their investigation later on that
6 night, or early the next day on March 26th, 2013, did you
7 end up taking custody of Jamil Phillips?

8 A Yes, sir.

9 Q What did you do with his body at that time?

10 A It was placed in a body bag and sent to the morgue in
11 Anderson at AnMed.

12 Q And the purposes of that was for --

13 A Autopsy.

14 Q And when was that autopsy scheduled?

15 A The next day, if I'm not mistaken, or that day. The
16 26th.

17 Q And ultimately was an autopsy performed?

18 A Yes, sir.

19 Q I want to show you State's Evidence 6. Do you remember
20 -- does that look familiar? That picture?

21 A Yes.

22 Q And who is that on the porch?

23 A That's Mr. Phillips.

24 Q And is that who you ended up taking custody of and
25 taking to AnMed?

VICKIE HALLMAN-DIRECT EXAMINATION

191

1 MR. BROWN: No further questions, Your Honor.

2 THE COURT: Cross?

3 MS. BOLEN: No cross, Your Honor.

4 MS. BOLEN: No cross, Your Honor.

5 THE COURT: Mr. Ferguson, you may step down.

6 (Whereupon, the witness stepped down from the witness
7 stand.)

8 THE COURT: Call your next witness.

9 MR. STUMBO: The State calls Vickie Hallman.

10 THE COURT: You are free to go. You don't have to hang
11 around if you don't want to.

12 VICKIE HALLMAN, having been first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. STUMBO:

16 Q Good afternoon, Ms. Hallman.

17 A Good afternoon.

18 Q Or should I say Lieutenant Hallman?

19 A No. Special Agent.

20 Q Special Agent. Agent Hallman, you work for SLED?

21 A Yes, I do.

22 Q And what is your role currently at SLED?

23 A About nine months ago I transferred to the Regulatory
24 Department and I currently do lottery investigations.

25 Q Where did you transfer out of? What department?

VICKIE HALLMAN-DIRECT EXAMINATION

192

1 A I started at SLED in April of 2004 in the latent prints
2 crime scene unit and continued to work there until that
3 transfer.

4 Q Were you a crime scene investigator at SLED?

5 A Yes, sir. I was.

6 Q And what agency did you come from before joining SLED?

7 A I actually worked from 1991 until 2004 at the Lexington
8 County Sheriff's Office.

9 Q So from 1991 until today you've been in law
10 enforcement?

11 A Yes, sir.

12 Q The time you were at Lexington County and SLED, an
13 estimate, how many crime scenes have you worked over the
14 years?

15 A Probably over -- I know it's over a 1,000. I couldn't
16 give you a definitive number, but over 1,000.

17 Q And does that include homicide scenes?

18 A Yes, sir.

19 Q Did you have occasion while in the SLED crime scene
20 unit to work the homicide of Jamil Phillips?

21 A Yes, sir. I did.

22 Q And that would have been March, 2013?

23 A Yes, sir.

24 Q Where were you when you were called out to that scene?

25 A I was actually at home, because the call came in a

VICKIE HALLMAN-DIRECT EXAMINATION

193

1 little bit before 11:00 that night. So I was at home that
2 night.

3 Q What area of the state do you live in?

4 A I actually live in the Batesburg-Leesville area.

5 Q So when you got the call you got dressed and went
6 straight -- came straight to Abbeville?

7 A I would have gotten dressed. The young lady who worked
8 the scene with me, the other agent, Whitney Bark, was fairly
9 new to the unit, so I would have gone to Columbia and met
10 her and we would have ridden up together.

11 Q About what time did you arrive at the scene?

12 A Approximately 12:45 in the morning. So it would have
13 took us, I think, about, what, two hours to get up -- to get
14 ready -- get up, get ready and to actually get to the scene.

15 Q When you arrived at the scene -- well, let me back up a
16 little bit. Have you ever been qualified as an expert in
17 courts of this state in crime scene investigations?

18 A Yes, sir. I have.

19 Q How many times?

20 A With crime scenes probably roughly 10 times.

21 Q And have you ever been qualified as an expert in
22 footwear or tire impressions --

23 A Yes.

24 Q -- in the courts of this state?

25 A Yes, sir. I have.

VICKIE HALLMAN-DIRECT EXAMINATION

194

1 Q How many times?

2 A Approximately five.

3 Q And you've worked hundreds of crime scenes?

4 A Yes, sir. And I have -- just to give you a little bit
5 more of a background, I have an undergraduate degree from
6 the University of South Carolina. I also have a Master's
7 degree from the University of South Carolina. All total
8 I've spent approximately 14 and a half years of my career in
9 law enforcement in the area of working crime scenes. And
10 that includes latent print processing. I did do latent
11 print comparisons at one point. Footwear, tire tread
12 comparison and blood stain pattern analysis.

13 Q And during that 14 and a half years you received
14 additional training in those areas?

15 A Absolutely.

16 MR. STUMBO: Your Honor, at this time we would offer
17 Agent Hallman as an expert in two areas. One, crime scene
18 investigations, and secondly in footwear and tire
19 impressions.

20 THE COURT: All right. Any questions or objections to
21 her qualifications?

22 MS. BOLEN: May I have a moment, Your Honor?

23 THE COURT: Certainly.

24 MS. BOLEN: Your Honor, we do object on the tire
25 analysis grounds because we don't believe a proper

VICKIE HALLMAN-DIRECT EXAMINATION

195

1 foundation has been laid to qualify her as an expert in that
2 area.

3 THE COURT: All right. Solicitor, would you care to
4 ask some additional questions?

5 MR. STUMBO: I can, Your Honor.

6 Q What specific training have you had in tire
7 impressions, footwear impressions?

8 A Some of the basic training that we receive at SLED when
9 we come to the crime scene unit is the two year in-house
10 training program with other court qualified examiners. And
11 those areas of that, I've spoken of previously the latent
12 prints, the footwear, tire tread and the blood stain pattern
13 analysis. On top of doing that two year in-house training
14 program, I've attended two 40 hour courses. One
15 specifically for footwear and tire tread -- or one
16 specifically for footwear and then another week specifically
17 for tire tread. As part of being qualified as an expert and
18 doing those disciplines within the SLED laboratory I have
19 also been required to do a year proficiency as part of the
20 ASCLD, or the certification of the laboratory itself that is
21 graded by an outside agency.

22 Q ASCLD. What is -- that's the certification agency?

23 A It is. It's the certification agency for laboratories,
24 or for forensic laboratories. It basically means that --
25 ASCLD has a governing set of rules and regulations and SLED

VICKIE HALLMAN-DIRECT EXAMINATION

196

1 -- the SLED forensic laboratory has to be audited every two
2 years, and every time it's been audited it has received the
3 accreditation. And those things that we do in the
4 laboratory are actually monitored and we have to complete
5 those testings in order to be deemed proficient in order to
6 issue reports.

7 Q Are you certified through the training agency to do
8 foot and tire impressions?

9 A I've completed all the training within the SLED
10 laboratory. I do the yearly proficiencies. I'm also a
11 certified senior crime scene analysis -- or analyst through
12 the International Association for Identification.

13 Q And five different courts in this state have qualified
14 you as an expert in foot and tire impressions --

15 A Yes, sir.

16 Q -- to date?

17 A Yes.

18 MR. STUMBO: Your Honor, I believe there's sufficient
19 foundation.

20 THE COURT: Same objection, any objection, Ms. Bolen?

21 MS. BOLEN: No, sir.

22 THE COURT: All right. Ladies and gentlemen, in this
23 case the Court has found that this witness is an expert in
24 the field of crime scene investigations, as well as footwear
25 and tire impressions. Okay? And I anticipate that we'll

VICKIE HALLMAN-DIRECT EXAMINATION

197

1 hear from additional expert witnesses throughout the trial,
2 so I'll go ahead and explain this to you.

3 Normally when a witness testifies, like the other
4 witnesses we've heard from this morning, they have to
5 testify as to something they've seen, observed, smelled,
6 heard, et cetera. Something they observed with one of their
7 five senses. Okay? An exception to this rule exists for
8 witnesses who by some experience, education or training are
9 found to be experts in a science or a field. In those
10 cases, an individual who is qualified as an expert can give
11 opinion testimony based upon their experience and their
12 qualifications. Of course, it does not mean that you have
13 to accept their opinion, but it is evidence for you to use
14 as you deem appropriate. Okay? So expert witnesses are
15 permitted to give opinion testimony as opposed to just
16 simply factual testimony to prove something that they have
17 observed.

18 Go ahead, Solicitor.

19 MR. STUMBO: Thank you, Your Honor.

20 Q When you arrived at [REDACTED] Road that
21 night to the crime scene, who was with you?

22 A Special Agent Brittany Burke.

23 Q And was the scene secure when you arrived, to your
24 estimate?

25 A Yes, sir. It was.

VICKIE HALLMAN-DIRECT EXAMINATION

198

1 Q And which agency had requested your assistance?

2 A I had -- after hours we have a 24 hour number that
3 agencies can call in and request our assistance. We call it
4 OD, or officer of the day. I had been notified by SLED OD
5 and had been given the contact information for -- at the
6 time it was Sheriff Ashley, Ronnie Ashley, that he needed
7 our assistance. I actually called him before I left my home
8 and spoke to him on the phone about what had occurred and
9 what specifically that he needed before we responded.

10 Q And you were able to do a complete workup of the crime
11 scene that night?

12 A Yes, sir.

13 Q And you generated a report as a result of your all's
14 findings that night?

15 A Yes, sir.

16 Q The crime scene team?

17 A Yes, sir.

18 Q You have that report with you?

19 A Yes, sir.

20 Q Feel free to refer to that and refresh your memory at
21 any point.

22 A Okay.

23 Q Now, Agent Hallman, as part of your report, did you
24 generate a sketch -- a computer generated sketch of the
25 scene?

VICKIE HALLMAN-DIRECT EXAMINATION

199

1 A Yes, we did.

2 Q And you have the original copy of that sketch with you
3 on the scene?

4 A I have a copy of it. Yes, sir.

5 Q Is it a color or a black and white copy?

6 A I believe I have a color copy. Let me get to it.
7 There's the color copy.

8 Q What you've just handed me --

9 MR. STUMBO: If I may mark it for ID, Your Honor.

10 Q I'm going to mark this as State's 44, Agent Hallman.

11 A Okay.

12 (Whereupon, State's Exhibit No. 44 was marked for
13 identification.)

14 Q I'm going to hand you what we've just marked as State's
15 44. Does that fairly and accurately represent -- or depict,
16 maybe not to scale, but the crime scene that night?

17 A Yes, sir. It does.

18 MR. STUMBO: We move 44 into evidence, Your Honor.

19 MS. BOLEN: Without objection, Your Honor.

20 THE COURT: State's 44 is in evidence.

21 (Whereupon, State's Exhibit No. 44 was admitted into
22 evidence.)

23 Q Agent Hallman, I'm going to place State's 44 here on
24 the overhead projector. Can you see that from where you're
25 sitting, Agent Hallman?

VICKIE HALLMAN-DIRECT EXAMINATION

200

1 A Yes, sir. I can.

2 Q I'm going to hand you a little laser pointer as well,
3 if you need that. That's right in the middle, if you need
4 to refer to any point on the sketch.

5 A Okay.

6 Q And If you could describe for the jury, you know, where
7 the positioning of the house is at this point.

8 A Okay. The main road, which is Old Douglas Mill,
9 actually would run parallel here. This is actually the
10 driveway up to the front of the house. There were several
11 cars located at the residence. They're actually all marked
12 on the sketch. There was an older model pickup truck here
13 that did not appear that it was being driven at the time.
14 It was just kind of parked in the yard. This is actually a
15 Chrysler Sebring which we were able to determine belonged to
16 Mr. Phillips. There was like a little branch off, and this
17 is like a covered garage area, and there were three vehicles
18 sitting in that area. This is a red in color Toyota Camry.
19 That's a blue Ford Mustang, and then we had a Honda Accord.
20 And I believe that one was kind of silver in color. And
21 then there was a green Escalade parked right here, right
22 beside the front porch. There's a wood line. If you're
23 facing the house it would be to the right side of the
24 residence. And along those wood lines you can see we have
25 marker one. And I'm not sure which is which from here. But

VICKIE HALLMAN-DIRECT EXAMINATION

201

1 there are four markers located here. Those were actually
2 cigarette butts that were found at the scene. They appeared
3 to be fairly fresh. They were not wet, and it had been
4 raining earlier in that evening, so they attracted our
5 attention. So we collected those as evidence. And then the
6 victim was actually located here on the front porch of the
7 residence.

8 Q Thank you, Agent Hallman. I'm going to hand you know a
9 series of pictures which have been marked for ID purposes as
10 State's No. 10 -- 10 through 32. If you'll just review
11 those briefly, Agent Hallman.

12 A Okay.

13 Q Do you recognize those pictures?

14 A Yes, sir. I do.

15 Q And do they fairly and accurately depict --

16 MS. BOLEN: We think we know what she's looking at, but
17 can we just --

18 Q Do they fairly and accurate depict images from your
19 investigation that night and the next day?

20 A Yeah. Actually I think it was two -- or the day later.
21 We actually got the initial call on the 26th, and then we
22 also did some work on the 28th. So the two scenes that I
23 was involved in, yes, they do accurately depict some of the
24 information and the scenes from those days.

25 Q The first scene was the house, correct?

VICKIE HALLMAN-DIRECT EXAMINATION

202

1 A That's correct.

2 Q The second scene, second set of pictures here, involve
3 what?

4 A They involve a vehicle that the Sheriff's Office had
5 obtained a search warrant on. And during the course of our
6 investigation at the house and the area around the house we
7 had found some tire treads, and they had a vehicle that they
8 wanted us to take tire tread impressions from to compare to
9 the impressions that we found at the scene. So that was the
10 second scene that we went to the next day or the day after
11 was the actual vehicle to do the impressions of the tires.

12 MS. BOLEN: And, Your Honor, we just want to renew our
13 prior motion on that matter.

14 THE COURT: Subject to the earlier ruling, objection
15 noted.

16 MR. STUMBO: Your Honor, we would move 10 through 32
17 into evidence at this time.

18 MS. BOLEN: If I could see the numbers. Your Honor,
19 it's without objection as to 10 to 18 -- actually, 10
20 through 20. But I don't believe a foundation has been laid
21 for the remaining, so we would object to those.

22 THE COURT: Show her.

23 Q 19 through 32, those pictures depict what, Agent
24 Phillips?

25 A They depict --

VICKIE HALLMAN-DIRECT EXAMINATION

203

1 Q Agent Hallman. Excuse me.

2 A I'm sorry. They depict a silver in color Toyota Camry
3 that a search warrant was obtained for by the Abbeville
4 County Sheriff's Office that we were requested to come and
5 process and roll the tires on the -- or from the vehicle to
6 make impressions on the 28th of March.

7 Q And you did this search of the car?

8 A Yes, sir. I did. Along with a couple other agents
9 from SLED, but I was present for the whole time.

10 Q Okay. Then I'll ask you again. Do they fairly and
11 accurately depict your work which you did on this car that
12 day?

13 A Yes, sir. They do.

14 MR. STUMBO: We'll move them into evidence, Your Honor.

15 THE COURT: State's 10 through 32 are in evidence.

16 MS. BOLEN: Again, just to --

17 THE COURT: Subject to your earlier objections.

18 (Whereupon, State's Exhibit Nos. 10 through 32 were
19 admitted into evidence.)

20 MR. STUMBO: Thank you, Judge.

21 Q Now, Agent Hallman, you indicated these markers one,
22 two, three and four, those yellow markers, were cigarette
23 butts that were found at the scene?

24 A That's correct.

25 Q I'm going to show you what's in evidence as State's 10.

VICKIE HALLMAN-DIRECT EXAMINATION

204

1 Can you describe that for the jury, please.

2 A Basically, when we process a crime scene, we go around
3 and we take general photographs once we arrive on the scene
4 before anything is moved. Then we move to areas and start
5 looking for evidence. We'll put those yellow markers down
6 to mark those so that they're more visible in photographs,
7 and then we'll do a set of general photographs with those
8 markers in. And then we come back and we do what's called
9 closeup photograph, which is basically -- we try to get as
10 much of just that one area in the frame as you can so you
11 can see with the marker and the item what specifically we're
12 looking for and what we're getting ready to collect as
13 evidence. And that photograph would be a closeup of the
14 cigarette butt at marker one.

15 Q And the cigarette butt's there to the right of the
16 marker?

17 A That's correct.

18 Q State's 11?

19 A That's basically a photograph of the cigarette butt.
20 It's just to the left of the marker that we collected from
21 marker number two.

22 Q State's 12? Describe that.

23 A Same principal. The cigarette butt is going to be to
24 the right-hand side of the marker, but that's the cigarette
25 butt from marker three.

VICKIE HALLMAN-DIRECT EXAMINATION

205

1 Q State's 13?

2 A Same thing. This is a cigarette butt. It's actually a
3 little bit to the right of the marker from marker number
4 four.

5 Q State's 14?

6 A That's a general photograph so that you can kind of see
7 the area where those -- where actually all four cigarette
8 butts were located. At the time we had only located three
9 of the cigarette butts. The fourth one was actually located
10 when we were picking up the other three, so there's only
11 three markers that are shown in that particular photograph.

12 Q Was the fourth cigarette butt found in close proximity
13 to these three?

14 A Yes, sir. It was.

15 Q And that was, according to the crime scene sketch,
16 right along the wood line?

17 A Yes, sir.

18 Q State's 15?

19 A Basically that shows when it gets cool -- I believe it
20 was around freezing. Around 30 something degrees, maybe a
21 little bit warmer, when we processed this crime scene. You
22 get dew on the grass. And what we saw in this photograph is
23 that a vehicle had left an area where the dew had come up in
24 the grass. And you can see the outline of a tire -- or a
25 tire impression that was left in the dirt in the grass.

VICKIE HALLMAN-DIRECT EXAMINATION

206

1 Q So State's 16?

2 A That would be kind of just the general so you can see
3 what the makeup of the ground is in that particular area.
4 And that's where that tire impression would have been
5 located.

6 Q Just briefly, 17?

7 A It's kind of a little bit more of a closeup photograph
8 so you can see it. And you can also tell that there's some
9 -- there appear to be enough force behind the tire that once
10 you hit the highway, where the white mark is, you can
11 actually see that it left some rubber on the roadway. So
12 they probably left at a high rate of speed.

13 Q And on the left side of the picture here? Is that
14 anything significant?

15 A There's actually some mud and dirt --

16 Q And what I'd be referring to, Agent Hallman, is this
17 area here.

18 A I'm not -- you're talking about right here?

19 Q Correct.

20 A It just appears that there's -- I believe that's
21 actually another impression that would have been muddy as it
22 left. So one side has mud, one side does not, and you get
23 the different textures here as opposed to here.

24 Q And that -- would that depict which direction a car was
25 leaving this area?

VICKIE HALLMAN-DIRECT EXAMINATION

207

1 A It would appear that the vehicle at this point is
2 moving this way. So to the --

3 Q It's facing out turning left out of that --

4 A Yes. Or it could -- yes, that's correct. I had to
5 think about that. I'm sorry. I'm not good at left and
6 right.

7 Q That's all right. I turned you around there a little
8 bit. State's 18?

9 A Basically that's just a little bit more of a distant
10 shot from the one that you just saw.

11 Q State's 19.

12 A As a part of what we do with doing footwear or tire
13 tread comparisons, if we have an impression we can actually
14 photograph it. There's different types of lighting
15 techniques that we use. The big thing for us is that we
16 have to make sure that we have a scale in it, which is this
17 L-shaped scale, so that the person who develops the
18 photographs for us can make it -- make the photograph one-
19 to-one, which means true to size. So this would be a
20 photograph that we took to use for comparison. It does have
21 the L-scale. And then there's also another scale that we
22 put alongside. If the impression is fairly long we'll try
23 to divide the impression up, but we want to make sure that
24 we have overlap. So this scale actually helps us to have
25 that overlap to make sure that we get a full impression.

VICKIE HALLMAN-DIRECT EXAMINATION

208

1 Q State's 20? Is this similar to State's 19 --

2 A Yes.

3 Q -- in nature?

4 A Yes, sir. It is.

5 Q And were you able to develop tire impressions from both
6 sets of tires coming out?

7 A I don't recall right offhand.

8 Q I think we're out of order here a little bit, but 21.

9 A That would be -- we actually came back -- we actually
10 came back on the 28th, that morning, to the Abbeville County
11 Sheriff's Office and met with them there. They had obtained
12 a search warrant, and this was the vehicle that we actually
13 executed the search warrant on. And it's a silver Toyota
14 Camry.

15 MS. BOLEN: And, Your Honor, we just have a continuing
16 -- subject to our earlier objection.

17 THE COURT: You have a continuing objection to anything
18 with regard to that issue we addressed last week concerning
19 the Camry and the search warrant and you do not need to
20 object further. You are protected. Go ahead.

21 MR. STUMBO: Thank you, Your Honor.

22 Q State's 22?

23 A When we do any type of search on a vehicle we're going
24 to do those same general photographs that we do at a crime
25 scene. So we would start maybe at the front of the vehicle

VICKIE HALLMAN-DIRECT EXAMINATION

209

1 and basically photograph all sides of the vehicle. If we're
2 going to do a search inside the vehicle, we're going to open
3 up each door and take a series of photographs so you can see
4 what the contents of the vehicle is. So this would be just
5 one of the photographs that we use as part of the general
6 photographs of the exterior of the vehicle.

7 Q Anything of evidentiary note to you in this picture?

8 A We just noticed we had the mud that was present at the
9 scene, and we've also got something -- some mud on the tires
10 that could be similar. They appeared to be similar just by
11 glancing at it or looking at it to what we had on the scene
12 the night -- that evening when we worked the initial scene.

13 Q And when you do the search on the car the -- this is
14 the next day from then -- when you were at the scene?

15 A Yes. Because we actually got the call on the 26th. We
16 didn't clear it until technically the 27th. So this is the
17 28th.

18 Q And similarly, State's 23. Is that another picture of
19 the outside of this vehicle?

20 A Yes, sir. It is.

21 Q And what make and model of car was this?

22 A It is a Toyota Camry.

23 Q What color is it?

24 A Silver.

25 Q State's 24.

VICKIE HALLMAN-DIRECT EXAMINATION

210

1 A Excuse me. One of the things that we do if we find
2 items in the vehicle is we take those items out and
3 photograph them. In this case, this was a -- it's actually
4 -- this is just a closeup photograph. It's -- I believe
5 it's a change of address label that was on a piece of mail
6 that was in the vehicle.

7 Q And what name is on that change of address label?

8 A Karlita Phillips.

9 Q State's 25?

10 A The label that you saw is this -- from the last
11 photograph is here. Basically we pull out all the insurance
12 and registration information and just document it, because
13 it gives us the tag number and the vehicle identification
14 number, the VIN number, and gives us some information about
15 the person who owns the vehicle.

16 Q Okay. And who did this vehicle appear to belong to,
17 Agent Hallman? I could zoom it in if we need to.

18 A Dale Cleveland -- wait a minute. Let's see. Dale
19 Cleveland Phillips, Jr. or Karlita -- and I don't want to
20 mispronounce, but I think it's Desean Phillips of Greenwood.

21 Q Thank you, Agent Hallman. State's 26?

22 A Those were actually three separate receipts that were
23 found in the vehicle. One of them is the -- this one on the
24 left-hand side. It's from the Dollar General. I don't
25 remember specifically where it's located. The middle one is

VICKIE HALLMAN-DIRECT EXAMINATION

211

1 from a Chick-fil-A, and then the one on the right is from a
2 McDonald's.

3 Q State's 27?

4 A Part of what we do when we do the tire tread comparison
5 -- I'm sorry. I'm used to saying footwear and tire tread
6 together. When we do a tire tread comparison we want to
7 actually take photographs of the tires. We take photographs
8 of the outside of the tire, and then also the actual tread
9 itself. And this photograph would be the tread from one of
10 the tires. We put the scale in it just in case the
11 photograph needed to be enlarged, just so we could see what
12 the actual tread looks like in a photograph.

13 Q And I'm going to show you 28 and then 29. Are these
14 depicting the same thing on different tires?

15 A Yes, sir. Part of what we do is we would do that for
16 each tire that we have on the vehicle. So in all there
17 should have been four photographs taken from the front
18 driver, front passenger, rear driver, rear passenger.

19 Q State's 30, 31. Again, pictures of -- closer up
20 pictures of the tires and mud on the tire?

21 A Yeah. Specifically because we knew -- because I had
22 worked the scene and I knew what the scene looked like and
23 because there was mud at the scene, we took some photographs
24 just so you could see that there was actually some mud and
25 dirt left on the tire itself. And I wanted to make sure

VICKIE HALLMAN-DIRECT EXAMINATION

212

1 that you could see that in photographs. And we actually did
2 collect the sample of the dirt from the tire well.

3 Q And you put all that into evidence?

4 A Yes, sir. I did.

5 Q State's 32?

6 A When we roll the tires it's kind of a tedious process.
7 We use cork chart boards because they're fairly sturdy, and
8 we actually get down on our hands and knees and we ink up
9 the tire just like you would somebody who's going to be
10 fingerprinted. And this is basically just the general setup
11 so you can see how it was done. The vehicle -- the tire
12 would be inked and it would -- we would actually just
13 physically push the vehicle so that the ink from the tire
14 would come off on these boards. And we would do it for all
15 four tires.

16 Q Thank you, Agent Hallman.

17 MR. STUMBO: I'm going to bring this package up now and
18 have it marked for ID, if I could, Judge.

19 THE COURT: Please.

20 (Whereupon, State's Exhibit No. 45 was marked for
21 identification.)

22 Q Agent Hallman, I'm going to show you what's just been
23 marked for identification purposes as State's 45. Take a
24 look at that. What are State's 45?

25 A State's 45, the last photograph that was shown with the

VICKIE HALLMAN-DIRECT EXAMINATION

213

1 cork presentation board, or whatever, this would be the
2 actual presentations that we collected that day from that
3 vehicle.

4 Q You collected these yourself?

5 A Yes. Along with several other agents, but yes.

6 Q And what was in State's 32 is the car about to drive
7 over this white looking board? Is that what was going on?

8 A Yes.

9 Q Now, these were made in your possession until you were
10 able to make a comparison with the impression that you found
11 at the scene?

12 A Yes.

13 Q And you were able to make such a comparison?

14 A Yes, sir. I was.

15 MR. STUMBO: Your Honor, I would ask for State's 45 to
16 be introduced into evidence at this time.

17 THE COURT: Any objection?

18 MS. BOLEN: Just subject to our previous, Your Honor.

19 THE COURT: Subject to the earlier objection, State's
20 45 will be in evidence.

21 (Whereupon, State's Exhibit No. 45 was admitted into
22 evidence.)

23 Q Based on State's 28 and 20 -- or 19 and 20, I'm sorry,
24 which were found -- excuse me, pictures that you took at the
25 scene. Are these the impressions that were taken to be

VICKIE HALLMAN-DIRECT EXAMINATION

214

1 compared to the impressions off the car?

2 A We actually also pulled a tire cast. We actually use
3 dental stone, which is basically if you've ever had braces
4 or had a cast made at the dentist, we use the same thing,
5 and we actually pour that into those impressions that are
6 left, because the dental stone is really good at holding
7 minute detail and reproducing that detail. So if we pulled
8 a cast that night at the scene on top of doing the
9 photographs, and I did a report and a comparison of the
10 impressions from the scene to the impressions that we
11 collected from the vehicle.

12 Q Do you have an opinion as to the comparison of the mold
13 at the scene and the tread from the Toyota Camry?

14 A When we do footwear and tire tread comparisons you can
15 have several different results. You can have a result that
16 says known on the -- in this case, these impressions, which
17 are State's --

18 Q 45.

19 A -- 45 would be my known standards, because I collected
20 them from a known source. We can say that the unknown
21 impression that we had, which would be my cast from the
22 crime scene, could actually be identified to these, which
23 means that it's the same size, shape, tread design, and
24 there's actually even something else that went a little bit
25 farther, like a gash or a cut that was reproduced in the

VICKIE HALLMAN-DIRECT EXAMINATION

215

1 unknown impression that matched what I had in my known
2 impression. So that would be identified. We have another
3 result basically saying that it had the same size, shape,
4 tread design and even a wear pattern. Because when people
5 drive their cars the tires on the car wear, depending on
6 whether your alignment is on or off, in different ways. We
7 have a combined class characteristics, which means that it
8 has the same size, shape and tread design, but those other
9 two elements that push it a little bit farther for the other
10 two results aren't present in this one, which basically
11 means that the impression could have been made by my known
12 standard, or if somebody else had those same tires, it could
13 have been their tires. And then we have something that is
14 basically a total elimination. Usually the biggest thing is
15 if the tread design is not the same then I can automatically
16 say that tire did not produce that impression. And in this
17 case, with the tire cast that we collected, I had one of the
18 -- I selected two different impressions in the cast. One of
19 those impressions I basically said could have been made by
20 the item 42 tire, which was from the front driver's tire,
21 the Toyota Camry, which means it met -- it was the same
22 size, shape and tread design. There was nothing else there
23 that I could go any farther. So it could have made it, but
24 it could have been made by another tire that looked the
25 same. And then the other impression I had I excluded item

VICKIE HALLMAN-DIRECT EXAMINATION

216

1 45, or State's 45, from making that impression.

2 Q So one impression was consistent with the design --

3 A That's correct.

4 Q -- and the other one was not?

5 A That's correct.

6 MR. STUMBO: Mark this for ID purposes, Your Honor, as
7 State's 46.

8 (Whereupon, State's Exhibit No. 46 was marked for
9 identification.)

10 Q Agent Hallman, I'm going to hand you for ID State's 46.
11 If you can take a look at that. Do you recognize that
12 package?

13 A When we collect evidence at SLED we have different
14 types of containers that we put items in. In this case, the
15 night that we collected the cigarette butts I used these
16 little small boxes. They're each marked. And I'm not sure
17 you can see them. I put like marker one, and then I put
18 cigarette butt. The other ones would say marker two, marker
19 three, marker four. I did seal them up with evidence tape,
20 and then they went into a heat sealed pouch at SLED which
21 was also sealed up with my initials and the date, and they
22 were logged into the forensic laboratory for processing.

23 Q You submitted those to the lab?

24 A I did.

25 Q And you all collected these at the scene that night?

VICKIE HALLMAN-CROSS-EXAMINATION

217

1 A Yes, sir. We did.

2 Q And this is markers one through four in the pictures
3 we've already seen?

4 A That's correct.

5 Q They were submitted for DNA?

6 A Yes.

7 MR. STUMBO: Beg the Court's indulgence, Your Honor.

8 Just briefly, Your Honor.

9 Q It looks like it's getting rattled around in there.

10 Does this look familiar?

11 A Yes.

12 Q What are those? The markings on the outside?

13 A Basically just like the heat sealed pouch. If it
14 doesn't fit in a pouch we'll put it in some type of box.

15 All areas are covered in tape and then we put the sealed

16 tape, or tamper tape, on top of that tape, and it's logged

17 into the laboratory to go to whatever department needs to do

18 the analysis. And the tamper tape you can actually -- we

19 would be able to tell if somebody had cut the tape. So

20 basically it maintains the integrity of the evidence.

21 Q Does it appear as if that tape's been cut?

22 A No, it does not.

23 Q Did you put the contents of this box in here? Does
24 this tire -

25 A It was the tire cast in probably one piece, but it

VICKIE HALLMAN-CROSS-EXAMINATION

218

1 doesn't feel like it's in one piece.

2 Q It was in one piece and you made a comparison to these

3 --

4 A Yes, sir. And because we use dental stone when we do
5 those casts, you can actually put the puzzle pieces back
6 together and you would not lose any detail that's actually
7 in the impression itself because of the way the dental stone
8 is made.

9 Q And is that like when the dentist puts a mold in your
10 mouth?

11 A Absolutely. It's the same type of material.

12 MR. STUMBO: No further questions of Agent Hallman at
13 this time.

14 THE COURT: Ms. Bolen.

15 MS. BOLEN: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. BOLEN:

18 Q Agent Hallman, I've just got a couple questions for
19 you. With respect to the tires. So you got four tire
20 impressions from the car, correct, one from each wheel?

21 A That's correct.

22 Q And then you've got -- you were comparing those to two
23 tire impressions, right, that you had gotten previously?

24 A Yes.

25 Q And you were -- on direct you were talking about how

VICKIE HALLMAN-CROSS-EXAMINATION

219

1 there's basically -- there's several different options when
2 you do a comparison, right?

3 A Yes.

4 Q There's the option that no, it's not from this car,
5 right?

6 A That's correct.

7 Q There's the option that yes, it's identifying because
8 of, you said --

9 A Size, shape --

10 Q -- size, shape --

11 A -- tread design. And usually it has another -- like an
12 accidental -- what's classified as an accidental
13 characteristic, which would be like a cut or a gash, a
14 thumbtack, a nail in the case of the tire. That kind of
15 thing.

16 Q And then there's a third option where there's size,
17 shape, but no other identifying characteristics, right?

18 A That's correct.

19 Q And are those the three options or are there more?

20 A There's another one just under the identified. They
21 actually -- because wear shoes in different ways, and cars
22 wear tires in different ways, there's also a step in between
23 the identified and the class, which means that there are
24 wear patterns that are present on both the unknown and the
25 known that are identical.

- 1 Q So there's four categories, and if we kind of go in
2 order of the least up to the most it would be no, not from
3 this car, and then it would be maybe, or could be --
- 4 A Could be.
- 5 Q And then there's --
- 6 A Enough to include them as a possibility.
- 7 Q So it could be.
- 8 A Yes.
- 9 Q That's number two. And then we have number three which
10 would be some kind of wear --
- 11 A Yeah. It's a little bit more of a step above the
12 actual class characteristic, because you have that added
13 element of the wear, and then you have the identified.
- 14 Q Okay. And so, in this case it fell into that one right
15 about no, right? The could?
- 16 A Yes.
- 17 Q And you didn't make any comparisons to any other cars,
18 correct?
- 19 A I didn't -- I was not told of any other cars I needed
20 to make comparisons to. So no, ma'am.
- 21 Q And I believe you stated you issued a report, right?
- 22 A That's correct.
- 23 Q And you also said you had collected some soil from the
24 tire?
- 25 A Yes.

1 Q And that was not analyzed, right? On your report it
2 was not examined?

3 A It wouldn't be something that falls under my area to
4 analyze. I logged it into the laboratory. I'm not sure
5 what happened to it after that.

6 MS. BOLEN: I don't have anything further. Thank you.

7 THE COURT: All right. Thank you very much. You may
8 step down.

9 THE WITNESS: Thank you, sir.

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

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, as I mentioned yesterday I have to be in Charlotte to
14 pick up my wife from the airport. Her flight actually got
15 pushed up, and so she's arriving at 4:00. So I need to be
16 in Charlotte at 4:00. I'll cross my fingers. We're going
17 to go ahead and break for the evening. I'm going to ask
18 that you be back tomorrow morning in the jury room, please,
19 at 9:15. Okay. The same thing I said yesterday. Please
20 don't talk about this case with anyone. We'll resume
21 tomorrow morning at 9:15 and continue with this trial. I'm
22 still very confident we are on schedule. So the afternoon
23 is yours. You have a pleasant afternoon, lovely evening,
24 and I'll see you all back tomorrow. You are excused. Thank
25 you.

DR. BRETT WOODARD-DIRECT EXAMINATION

222

1 (Whereupon, the jury exited the courtroom at 1:24 p.m.)

2 THE COURT: Is that everybody? See you all in the
3 morning.

4 MR. STUMBO: Thank you, Judge.

5 (Whereupon, proceedings adjourned at 1:24 p.m.)

6 TRIAL DAY 3-07/22/15

7 THE COURT: We'll go back on the record in *State vs.*
8 *Karlita Phillips*. The record should reflect the Defendant
9 is present with counsel. I am told that the jury is
10 present. Anything before we bring them out from the State
11 or Defense?

12 MR. STUMBO: Nothing from the State, Your Honor.

13 MS. BOLEN: Nothing from the Defense, Your Honor.

14 THE COURT: You want to go ahead and get your next
15 witness in here. I'll have the jury come on out.

16 (Whereupon, the jury entered the courtroom at 9:19
17 a.m.)

18 THE COURT: The record should reflect that the jury is
19 back and seated. Ladies and gentlemen of the jury, I trust
20 that you all had a pleasant evening last night. Thank you
21 for being back here with us. Of course, we're still engaged
22 in the case of the *State vs. Ms. Phillips*. And at this
23 point in time we, of course, are still in the State's case
24 in chief. So, Solicitor, if you would call your next
25 witness.

DR. BRETT WOODARD-DIRECT EXAMINATION

223

1 MR. BROWN: The State calls Dr. Brett Woodard.

2 DR. BRETT WOODARD, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BROWN:

6 Q Good morning, Dr. Woodard.

7 A Good morning.

8 Q Dr. Woodard, where do you work?

9 A I work with Piedmont Pathology Associates in Anderson,
10 South Carolina.

11 Q And how long have you been there?

12 A Since 1982.

13 Q And, Dr. Woodard, what is your job description there?

14 A I'm a pathologist, and by speciality training I'm a
15 forensic pathologist with that group.

16 Q And, Dr. Woodard, to become a forensic pathologist,
17 what type of education have you received?

18 A You have to receive a Baccalaureate degree and then a
19 medical degree, and you have to do a four year residency in
20 anatomic and clinical pathology, and then you have to do
21 fellowship training and forensic pathology.

22 Q And, Dr. Woodard, where did you do your undergraduate
23 work?

24 A I went -- I got my Baccalaureate degree from the
25 University of Pittsburgh. I attended medical school and got

DR. BRETT WOODARD-DIRECT EXAMINATION

224

1 my degree from Tulane University in New Orleans. I did
2 general residency in pathology at Duke University Medical
3 Center in Durham, North Carolina, and I did forensic
4 pathology training through the North Carolina Medical
5 Examiner's Office.

6 Q And to be a pathologist in the state of South Carolina
7 do you have to be board certified?

8 A No, but you have to have a medical license.

9 Q And you are current through your medical license?

10 A Yes, I am. And I am board certified by the American
11 Board of Pathology in both anatomic clinical and forensic
12 pathology.

13 Q And after you go through school do you have to keep up
14 with continuing education?

15 A Yes, you do. You have to maintain a certain number of
16 continuing medical education courses both in general
17 pathology and then your subspecialty area. In my case,
18 forensic pathology.

19 Q Dr. Woodard, roughly how many -- if you can recall the
20 number. How many autopsies have you done over your career?

21 A I do anywhere from 200 to 300 autopsies a year. On
22 average about 250. I've done that since the early '80s.

23 Q And, Dr. Woodard, what exactly is forensic pathology?
24 What does that entail?

25 A Forensic pathologist is a special area of pathology

DR. BRETT WOODARD-DIRECT EXAMINATION

225

1 that deals with injuries and their affect of injuries on the
2 human body up into the place of death, and the causation of
3 those injuries.

4 Q Dr. Woodard, have you ever been deemed an expert in
5 forensic pathology in the courts of South Carolina?

6 A Yes, I have.

7 Q Roughly how many times?

8 A Multiple times.

9 MR. BROWN: Judge, at this time the State offers Dr.
10 Woodard as an expert in forensic pathology.

11 MS. BOLEN: Without objection, Your Honor.

12 THE COURT: Again, ladies and gentlemen, an expert
13 witness normally is not able to -- or normally a witness has
14 to give testimony about something that they've observed, but
15 in this case the parties have agreed that Dr. Woodard is an
16 expert in the field of forensic pathology. So he can give
17 opinion testimony in that area that you may use as you deem
18 appropriate.

19 Go ahead, Mr. Brown.

20 MR. BROWN: Thank you, Your Honor.

21 Q Dr. Woodard, on March 26th, did you have an opportunity
22 to perform an autopsy on Jamil Phillips?

23 A Yes. I received the body from the Abbeville County
24 Coroner's Office, and Deputy Coroner Sam Ferguson authorized
25 a complete autopsy.

DR. BRETT WOODARD-DIRECT EXAMINATION

226

1 Q And what time was that autopsy conducted?

2 A Approximately 11:30 a.m.

3 Q Dr. Woodard, how -- when you first received Mr.
4 Phillips how did the autopsy go? If you could just go
5 through --

6 A The body is received as it was discovered and
7 pronounced dead at the time. In this particular case he was
8 dressed in clothing. He had a jacket with a logo for CarMax
9 on it and he had a shirt with a logo for CarMax on it. He
10 had some khaki pants, a belt, appropriate underclothing,
11 shoes and socks.

12 We examined the clothing to see if there were any
13 defects or abnormalities with the clothing. If there were,
14 then we look specifically under those areas of defect or
15 abnormality for evidence of an injury to the surface of the
16 body. When we looked at the clothing we saw two defects.
17 One associated with the right armpit area. The other
18 associated with the right posterior hip. And underlying the
19 body we saw two defects consistent with entry wounds by
20 gunshot, and then we saw a separate gunshot across the
21 forehead.

22 Q Dr. Woodard, I want to show you what's been previously
23 marked as State's ID 33, 34, 35, 36 and 37. Take a look at
24 these and tell me if you recognize these pictures.

25 A Yes. 33 represents a general identification photo that

DR. BRETT WOODARD-DIRECT EXAMINATION

227

1 shows the clothing of the upper body, and it also shows the
2 injury to his left side of his forehead. Picture 35 shows a
3 gunshot wound to his right hip, and picture 34 shows a
4 gunshot wound that's going into the armpit area, the axilla,
5 on the right side into his chest. Then picture number 36
6 shows a relatively intact copper clad lead projectile, and
7 picture number 37 shows a badly deformed copper jacket. In
8 this particular case, that was removed from the hip area.

9 Q Dr. Woodard, do those pictures clearly and accurately
10 reflect what you saw that day during your autopsy?

11 A Yes.

12 MR. BROWN: At this time the State moves in State's ID
13 33 through 37.

14 THE COURT: Any objection?

15 MS. BOLEN: Without objection, Your Honor.

16 THE COURT: Without objection, State's 33 through 37
17 will be in evidence.

18 (Whereupon, State's Exhibit Nos. 33 through 37 were
19 admitted into evidence.)

20 Q Dr. Woodard, I'm going to give you a pointer. I show
21 you what's been marked as State's Evidence 33.

22 THE WITNESS: May I stand?

23 THE COURT: Please, go ahead. Feel free to move about,
24 Doctor, if you need to.

25 Q If you can tell me what we're seeing in that picture.

DR. BRETT WOODARD-DIRECT EXAMINATION

228

1 A This is essentially how we received the body. The
2 CarMax logo jacket, CarMax logo shirt that I spoke of. And
3 here you can see the left side of his forehead. There's --
4 right here in his left eyebrow is an entry wound, and here
5 is an exit wound along the edge of the forehead. The bullet
6 passed underneath disattached skin and then back out on this
7 edge above the temple area on the left.

8 Q Dr. Woodard, that is a photo of Jamil Phillips?

9 A That's correct.

10 Q I show you what's been marked State's Evidence 35.

11 A This represents his right hip. We've removed the
12 clothing. You can see an entry wound into the right hip
13 area here. This is our number of our autopsy for
14 identification. This bullet will go forward and fracture
15 the sacrum, and we'll recover that copper jacketed material
16 in that area.

17 Q I show you what's been marked State's Evidence 37.

18 A This, again, is our number. Identification number.
19 And here's the copper jacket material. You can see it's
20 bent back and deformed. But we removed that from the hip
21 area. The jacket material is important, because when the
22 bullet goes down the down barrel the markings, or the shape
23 of the inside of the barrel, are stamped on that material,
24 and then it can be tied back to a specific gun.

25 Q State's Evidence 34.

DR. BRETT WOODARD-DIRECT EXAMINATION

229

1 A This shows a gunshot wound going into the armpit area
2 on the right side. We see a slight scrap here in the arm.
3 This tells us the arm was somewhat lifted at the shoulder at
4 the time the gunshot wound went in because the arm's gotten
5 out of the way. And this projectile will pass through the
6 center of the chest and hit the aorta, and then pass into
7 the soft tissues of the left arm where we'll retrieve the
8 projectile.

9 Q State's Evidence 36.

10 A Again, this is our identification number. Here you see
11 the projectile. It's in really excellent condition. You
12 can see the copper material that covers the lead material of
13 the bullet.

14 Q Now, Dr. Woodard, seeing the bullets in those photos,
15 were those bullets packaged up?

16 A Yes. I placed them into hard plastic tubes, put our
17 identification label on the outside, and then sealed them in
18 a tamper proof bag. They were given to a SLED agent who
19 took them to SLED for additional evaluation.

20 Q Dr. Woodard, I want to show you what's been marked
21 State's -- for ID purposes as State's ID 47.

22 A This is a SLED evidence bag. Inside the evidence bag
23 are my two tubes that bear the number, the deceased's name,
24 some other identifying marks on the sides of the tubes, and
25 then two removed projectile. One is the intact projectile

DR. BRETT WOODARD-DIRECT EXAMINATION

230

1 and one is the jacketed material that we removed from the
2 hip area.

3 Q And again, these items were packaged up, you said, in
4 those tubes inside?

5 A That's correct.

6 Q And given to a SLED agent?

7 A And then placed in our tamper proof bag. They've
8 substituted theirs once they did their examination.

9 Q Now, Dr. Woodard, you mentioned there were three entry
10 wounds to Mr. Phillips?

11 A That's correct.

12 Q Entry wound to the rear-end, again, or to the upper or
13 lower back, what damage did that --

14 A It broke the sacrum. The sacrum is a big black bone
15 that your spinal column attaches to, and then the sacrum is
16 used as an anchor for the sides of your pelvis. It broke
17 that bone and tore some soft tissues.

18 Q And then the second gunshot wound to the lower
19 underarm?

20 A It went into the chest. Went through the upper portion
21 of the right lung through the aorta, right before the
22 branches come off that go to your arms and to your head.
23 And then went through the upper portion of the left lung,
24 broke the rib and passed into the soft tissues at the back
25 of the arm on the left side where we recovered the bullet.

DR. BRETT WOODARD-CROSS-EXAMINATION

231

1 Q Dr. Woodard, that shot and the bullet going through the
2 aorta, what would that have done to Jamil?

3 A Very quickly he would not have been able to maintain
4 enough blood pressure going to his brain so his brain could
5 tell him to stay erect. So he would have lost control of
6 his ability to stand. He would have collapsed. And then
7 over a short time period, between two maybe three minutes,
8 he would go into irreversible shock and then ultimately die
9 in five, six minutes.

10 Q Dr. Woodard, would this shot and these type of
11 injuries, is it out of -- is it normal to hear noises of
12 somebody that sustained that type of injury?

13 A Breathing, even though the person would be unconscious
14 or have -- their level of consciousness would be below, it
15 normally would -- they would continue to breath. Blood
16 would be accumulating in the lungs because of the holes the
17 bullet produced in the lungs. So there would be gurgling
18 type sounds that somebody who might be listening to them
19 might hear. Early on in the first couple of minutes the
20 person may even attempt to speak.

21 Q And based on your opinion, how long would somebody be
22 able to live after sustaining some type of wound like that?

23 A Five, six minutes if they were in excellent physical
24 condition.

25 Q Dr. Woodard, you were able to find two bullets. Those

KENYA GRIFFITH-DIRECT EXAMINATION

232

1 were located in the lower back, or in the abdomen area, and
2 then also one in the soft tissue of the left arm. Were you
3 able to recover the third bullet?

4 A No. That bullet passed. It went into the skin right
5 above the eyebrow, passed underneath the skin over the
6 surface of the skull, and then came out the temple area. It
7 would have produced a concussive type blow. A hit to the
8 head. But it didn't fracture the skull and it didn't bruise
9 the underlying brain. So it wouldn't have produced instant
10 unconsciousness, but it would have been a stunning injury.
11 It would be at least equivalent to a reasonable blow to the
12 head.

13 Q Dr. Woodard, based on a reasonable degree of medical
14 certainty, do you have an opinion as to the cause of death
15 in this case?

16 A Yes. The gunshot wound to the chest which resulted in
17 the hole in the aorta and that he died by hemorrhage, blood
18 loss into the chest cavity.

19 Q How did you rule this death?

20 A A homicide.

21 MR. BROWN: No further questions.

22 THE COURT: Any questions?

23 CROSS-EXAMINATION

24 BY MS. BOLEN:

25 Q Dr. Woodard, as part of your autopsy you also get a

KENYA GRIFFITH-DIRECT EXAMINATION

233

1 decedent's height and weight, correct?

2 A That's correct.

3 Q And in this case the height was a little bit over six
4 feet?

5 A Yeah. It was 72 and a half inches, so just a hair over
6 six feet.

7 Q And the weight was?

8 A Approximately 300 pounds.

9 MS. BOLEN: Thank you. Nothing further.

10 THE COURT: Thank you, Doctor, you may step down.

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

13 THE COURT: Call your next -- no objection to excusing
14 Dr. Woodard?

15 MS. BOLEN: No objection, Your Honor.

16 THE COURT: Sir, you are free to go. Call your next
17 witness, please.

18 MR. BROWN: The State calls Kenya Griffin.

19 KENYA GRIFFIN, having been first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BROWN:

23 Q Good morning, Officer Griffin.

24 A Good morning.

25 Q Where do you work?

KENYA GRIFFITH-DIRECT EXAMINATION

234

1 A The Greenwood City Police Department.

2 Q And how long have you been with Greenwood City?

3 A For 12 years.

4 Q And what are your duties there at Greenwood City?

5 A I'm the crime scene evidence technician.

6 Q And how long have you been the crime scene evidence
7 technician?

8 A For a little over seven years.

9 Q Now, Ms. Griffin, you didn't have any involvement in
10 the Abbeville investigation --

11 A No.

12 Q -- that we're here for today, right?

13 A No.

14 Q Ms. Griffin, did you have on occasion to investigate a
15 case out of Greenwood County concerning Tavarious Settles?

16 A Yes, sir. I did.

17 Q And when did that case -- what was the nature of that
18 case?

19 A It was a murder investigation.

20 Q And when did that murder investigation begin?

21 A May the 30th of 2013, I believe.

22 Q And who -- do you know who -- what was the
23 circumstances in that case?

24 A There was a Hispanic male that was walking alone, I
25 believe it was Franklin Street in the city limits of

KENYA GRIFFITH-DIRECT EXAMINATION

235

1 Greenwood. He was robbed and shot and he succumbed to his
2 injuries.

3 Q Now, as part of your investigation on the Greenwood
4 case were DNA samples taken from Mr. Settles?

5 A They were, yes.

6 Q When was that sample taken from Mr. Settles?

7 A Looks like September 27th, 2013.

8 Q And were those samples -- what would you call that
9 sample?

10 A It's called a buccal swab.

11 Q And how do you obtain those samples?

12 A We just take a sterile Q-tip and swab inside of the
13 cheeks.

14 Q And after you swab inside the cheeks what do you do
15 with that Q-tip?

16 A It's put into what's called a swab box, which basically
17 is just a little slender cardboard box and then it's sealed
18 into an envelope.

19 Q Were these -- or was this swab ever taken to SLED?

20 A They were. Yes, sir.

21 Q When was it taken to SLED?

22 A October the 4th, 2013.

23 Q Do you have a SLED lab number?

24 A Yes, sir. I do. SLED lab number is L13-07501.

25 Q And that was the buccal swab of Tavarious Settles' DNA?

KENYA GRIFFIN-CROSS-EXAMINATION

236

- 1 A That's correct.
- 2 Q When you took it down to SLED -- you said what date did
3 you take it to SLED?
- 4 A October the 4th, 2013.
- 5 Q Do you know who you turned it over to?
- 6 A It was given to Amy Stephens in the SLED login
7 department.
- 8 Q Now, Ms. Griffin, the case we're talking about in
9 Greenwood County, has that case been court?
- 10 A Yes, sir. It has.
- 11 Q And do you know the outcome of that case?
- 12 A Mr. Settles was found guilty.
- 13 Q Of?
- 14 A Murder.
- 15 Q I'm going to show you -- show you what's been marked
16 for ID purposes State's ID 48. Take a look at that and tell
17 me what that is.
- 18 A These are the buccal swabs from Mr. Settles.
- 19 Q And how do you know those are buccal swabs?
- 20 A These are my initials and the date on the back, and
21 also my handwriting that has his name and date of birth on
22 the front of the envelop.
- 23 Q And are those the items that you sent down to SLED on
24 October 4th, 2013?
- 25 A That's correct.

NICK MARSHALL-DIRECT EXAMINATION

237

1 Q And that -- tell me again what that lab number is.

2 A It's L13-07501.

3 MR. BROWN: No further questions.

4 THE COURT: Cross.

5 CROSS-EXAMINATION

6 BY MS. BOLEN:

7 Q Ms. Griffin, the murder that you took the buccal swab
8 from Tavarious Settles in, that's unrelated to this, right?

9 A Correct.

10 Q And it was -- you said it took -- it was -- the murder
11 was somewhere around May, 2013?

12 A That's correct.

13 MS. BOLEN: Thank you.

14 THE COURT: Thank you. You may step down.

15 (Whereupon, the witness stepped down from the witness
16 stand.)

17 THE COURT: Call your next witness.

18 MR. STUMBO: Thank you, Judge. The State calls
19 Detective Nick Marshall to the stand.

20 NICK MARSHALL, having been first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. STUMBO:

24 Q Good morning, Detective Marshall.

25 A Good morning, Mr. Stumbo.

NICK MARSHALL-DIRECT EXAMINATION

238

1 Q I take it from that star on your chest you work with
2 the Sheriff?

3 A Yes, sir.

4 Q What do you do for the Sheriff of Abbeville County?

5 A I am an investigator for the Sheriff's Office in
6 Abbeville.

7 Q How long have you been working at the Sheriff's Office?

8 A I'd say about five years.

9 Q The time you've been there, did you start out as a
10 detective -- or tell the jury about what you've done there
11 --

12 A Well, I actually started out working in the jail, and
13 worked there for a while. The previous Sheriff gave me an
14 opportunity to go on the road, which I did complete the
15 Academy. Went on the road for a couple of years. And then
16 requested to go in investigations and they gave me an
17 opportunity to get in there and prove myself. So that was
18 about three years ago.

19 Q So you've been in investigations for about three years?

20 A Yes, sir.

21 Q What kind of cases have you investigated?

22 A with the caseload we had, we investigated larcenies,
23 burglaries, assaults, domestics, murders. You name it, we
24 get it. It's -- you know.

25 Q One of the murders you were able to investigate was the

NICK MARSHALL-DIRECT EXAMINATION

239

1 one involving Jamil Phillips as the victim?

2 A Yes, sir.

3 Q Where did that occur at?

4 A It was at [REDACTED] Road.

5 Q That's out in the county towards Hodges?

6 A Yes, sir. Just past Stevenson road headed down there
7 toward your way to Hodges.

8 Q When did this homicide occur?

9 A This would have been on March 25th, 2013.

10 Q What time of day?

11 A It was at night. Based on what I was told by people on
12 the scene, it was estimated to be around 10:00, 10:15 that
13 night.

14 Q About what time did you get there?

15 A I don't recall exactly what time I got there, but it
16 couldn't have been shortly thereafter because I live within
17 miles of the incident location, so...

18 Q You heard it go out over the radio?

19 A I got called by dispatched and they advised me I needed
20 to respond.

21 Q Describe for the jury the scene that you find when you
22 get there at [REDACTED]

23 A Well, when I responded there was already responding
24 officers on scene. They had started a crime scene log, just
25 to keep track of who's coming in and out, what time they get

NICK MARSHALL-DIRECT EXAMINATION

240

1 there, and stuff like that. I could see from the road when
2 I pulled up a human being laying on the front porch. To the
3 right side of the front porch. I was already advised by
4 Coroner Ronnie Ashley that this victim was deceased at that
5 time.

6 Q And did you find out who it was that was deceased?

7 A Yes, sir. It was Jamil Phillips.

8 Q How was he related to the homeowners there?

9 A He is the son -- one of the sons of the homeowners, Mr.
10 and Mrs. Phillips, that live there.

11 Q What's already in evidence as State's 2 through 9. I'm
12 just going to show those to your briefly, if you want to
13 look at them. Just let me know when you're done.

14 A Yes, sir. I'm done.

15 Q Do those fairly and accurately depict what you saw that
16 night at the scene?

17 A Yes, sir.

18 Q I'm also going to show you here on the screen,
19 Detective Marshall, what's been marked as State's 44. It's
20 already in evidence. Who worked the crime scene that night?

21 A We secured it for SLED. SLED came down. Was requested
22 by Ronnie Ashley to come down and process the scene.

23 Q And obviously what was just on the screen, you didn't
24 produce that image, did you?

25 A No, sir.

NICK MARSHALL-DIRECT EXAMINATION

241

1 Q And that's part of the investigation though? SLED
2 produced that?

3 A Yes, sir.

4 Q While you were on the crime scene that night did you
5 have opportunity to interact with some of the SLED agents?

6 A Yes, sir. I did.

7 Q Did you have an opportunity to observe the items of
8 evidence that were being taken by the SLED agents?

9 A Yes, sir.

10 Q Were you able to interview witnesses?

11 A Yes, sir. I was.

12 Q Did you interview the family members?

13 A I did. Yes, sir.

14 Q And based on the information that had been gathered
15 early on in the crime scene, did you have any suspects early
16 on in this case?

17 A I wouldn't necessarily say that we had a definite
18 suspect.

19 Q Persons of interest maybe?

20 A Maybe a person of interest. Yes, sir.

21 Q Who were those?

22 A That would have been Karlita Phillips.

23 Q And were there descriptions given by neighbors of a car
24 at the scene?

25 A Yes, sir.

NICK MARSHALL-DIRECT EXAMINATION

242

1 Q How did they describe this car?

2 A Well, I actually spoke with -- well, I didn't speak to
3 him myself. I spoke with Lieutenant Smith. He was one of
4 the responding officers, Ken Smith with the Sheriff's
5 Office. He had spoken with a neighbor that actually lives
6 just across -- if you're standing in front of the incident
7 -- on the front porch, you could look across and see Mr.
8 Charles Scroggs' house. After I spoke with Mr. and Mrs.
9 Phillips in the home, I spoke with Lieutenant Smith who
10 advised me that he had spoken with Mr. Charles Scroggs
11 before I got there and stated that around 9:30-ish that
12 night Mr. Scroggs told him that he had left out of his home,
13 and when he did --

14 MS. BOLEN: Your Honor, at this point I am objecting as
15 to hearsay.

16 Q And maybe we can back up here a little bit,
17 Investigator Marshall. We'll ask another question. Based
18 on the information you received, was there a car you all
19 were looking for?

20 A There was. Yes, sir.

21 Q And what kind of car was that?

22 A What was described to me by different people as either
23 a silver car or a light in color car.

24 Q And you said Karlita Phillips was a person of interest
25 here. Was that a name given by family members to you?

NICK MARSHALL-DIRECT EXAMINATION

243

1 A Yes, sir.

2 Q Was there a connection made to a light colored car that
3 she may have been driving?

4 A I don't remember anybody telling me that she drove a
5 light colored car. But I did speak with one of the victim's
6 brothers, Kareem Phillips.

7 MS. BOLEN: Your Honor, again, I would just object as
8 to hearsay.

9 THE COURT: Sustained. We need to shy away from there
10 unless you can give me an exception.

11 MR. STUMBO: Understood, Judge.

12 Q Did you go to Greenwood that night?

13 A Yes, sir. We did.

14 Q Who were you looking for in Greenwood?

15 A I was with SLED Agent Michael Collins.

16 Q You were with Agent Collins. Who were you looking for?

17 A Looking for Ms. Karlita Phillips.

18 Q And where did you go to look for her?

19 A We went to an apartment on Haltiwanger Road. We had --
20 I had actually run her information through dispatch while I
21 was on the scene and got her address. She lived in an
22 apartment on Haltiwanger Road in Greenwood County.

23 Q You were with SLED Agent Collins at that point?

24 A Yes, sir.

25 Q He was already involved in the case?

NICK MARSHALL-DIRECT EXAMINATION

244

1 A Yes, sir. He had arrived a short time later. He was
2 one of the field agents working the case.

3 Q When you get to the address at Haltiwanger, tell the
4 jury what you did?

5 A So we pulled up. Like I said, I had already run her
6 information through DMV, South Carolina Department of Motor
7 Vehicles, and I had found that she had, among other
8 vehicles, a 2004 Toyota Camry registered to her. When we
9 got -- and they gave me the tag number for the car. When we
10 got there we pulled up to where her apartment was, and we
11 actually did see this car parked out front. In front of the
12 apartment. I verified it with the tag number that I had
13 already been given, which was on the vehicle.

14 Q So that vehicle was parked outside of the apartment?

15 A Yes, sir.

16 Q Was there anything of significance that you saw on the
17 outside of that vehicle at that time?

18 A Nothing that I saw.

19 Q Detective Marshall, what were the conditions at the
20 scene? What were the weather conditions?

21 A It was very cold. It was a very cold night. And dew
22 had started to set in the grass. And we actually had -- I
23 believe we had some rain the night -- or the day before, so
24 the ground was still kind of wet.

25 Q Was it muddy anywhere?

NICK MARSHALL-DIRECT EXAMINATION

245

1 A Yes, sir.

2 Q I'm going to show you what's already in evidence as
3 State's 21, 22, 23. What's in those pictures?

4 A This is Ms. Phillips' car. The Toyota Camry.

5 Q The same one you saw outside the apartment that night?

6 A Yes, sir.

7 Q It was at night. What time did you get there at the
8 apartment?

9 A We -- SLED arrived on scene around 12:30. So it was
10 between there and -- it could have been between there and
11 3:00 maybe that morning. Sometime between there. But I'm
12 not exactly sure exactly what time we got to the apartment.

13 Q Is there anything that you and/or Agent Collins were
14 looking for on the car?

15 A Yes, sir. They were looking for any kind of like mud
16 or dirt that may have been slung up on the vehicle.

17 Q And that was based on what?

18 A That was based on -- well, like I was saying when I was
19 on the scene, before we had went to Greenwood, through
20 speaking with the neighbors and whatever I actually had gone
21 -- there's a property that sits next to the incident
22 location, [REDACTED] It's a big lot. And I had
23 observed along the tree line that separates these two
24 properties tire tracks in the grass. And also, where this
25 property meets the road there's like an asphalt pull-off.

NICK MARSHALL-DIRECT EXAMINATION

246

1 And in that pull-off there was actually -- there was wet
2 dirt. And I had -- I had observed for myself very prominent
3 tire tracks in the dirt. In the wet dirt, wet mud.

4 Q Did they appear to be fresh?

5 A Yes, sir.

6 MS. BOLEN: Your Honor, just for the record, I just
7 want to renew our objection.

8 THE COURT: You are protected.

9 MS. BOLEN: Thank you, Your Honor.

10 Q Now, did you observe any of that? Anything of note on
11 the outside of her car when you saw it in the parking lot
12 that night?

13 A That night I myself did not look on it to see that.

14 Q Now, did anybody answer the door at the apartment?

15 A Yes, sir.

16 Q Tell the jury about how that went.

17 A So we pulled up at Ms. Phillips' apartment. Like I
18 said, we verified that the vehicle was hers. The lights
19 inside the apartment were on, and Agent Collins went to the
20 front door to try to get contact with somebody. I did go
21 around to the backside of the apartment. You know, we
22 stayed out there for a few minutes, you know, trying to get
23 somebody to the door. Couldn't get anybody to answer.
24 Agent Collins was announcing himself as state law
25 enforcement while he was knocking. A short while later the

1 lights turned off, and I did call Greenwood dispatch to
2 request a marked unit to come over there with us. One of
3 their guys. Because we were out of our -- I was out of my
4 jurisdiction, but I was a SLED agent. A short time after
5 that, when I called them, they advised me that Ms. Phillips
6 was actually on the phone with them at the same time. But a
7 marked unit did eventually come to the apartment with us and
8 we did get her to the door.

9 Q How long did that take for all of that to happen?

10 A It could have been 30 minutes. Thirty, 35 minutes.

11 Q At least 30 minutes?

12 A I would say at least thirty minutes.

13 Q When the marked unit came Ms. Phillips answered the
14 door and you were able to -- she did let you all into the
15 apartment?

16 A Yes, sir.

17 Q Did you and Agent Collins speak with her at that point?

18 A Yes, sir. We did.

19 Q Was she --

20 MS. BOLEN: Just renewing our previous objection.

21 Q Was she arrested at that point?

22 A No, sir.

23 Q Had you -- I mean, she wasn't in handcuffs or anything?

24 A No, sir.

25 Q She was in her own home?

NICK MARSHALL-DIRECT EXAMINATION

248

- 1 A Sitting on her furniture in the livingroom.
- 2 Q At that point in this case if she had asked you all to
- 3 leave what would you have done?
- 4 A We would have left.
- 5 Q She gave you all a statement?
- 6 A Yes, sir. She did.
- 7 Q I'm going to show you for State's ID purposes as
- 8 Exhibit 1A. Do you recognize that document?
- 9 A Yes, sir. I do.
- 10 Q And is this a statement she wrote out for you all that
- 11 night?
- 12 A Yes, sir. It is.
- 13 Q At the top of that statement, what's in the printed
- 14 portion, not her handwritten portion, could you read that
- 15 for the jury?
- 16 A Yes, I will. "A person who identified himself as SLED
- 17 Agent Michael Collins duly warned and advised me and I know
- 18 and understand that I have the following rights. That I
- 19 have the right to remain silent and I do not have to answer
- 20 any questions or make any statements at all. That any
- 21 statement I make can and will be used against me in a court
- 22 of law for the offense or offenses concerning which the
- 23 following statement is hereinafter made. That I have the
- 24 right to consult with a lawyer of my own choice before or at
- 25 any time during any questioning or statements I make. That

NICK MARSHALL-DIRECT EXAMINATION

249

1 if I cannot afford to hire a lawyer I may request and have a
2 lawyer appointed for me by the proper authority before or at
3 any time during any questioning or statements that I make
4 without cost or expense to me. That I can stop answering
5 any questions or making any statements at any time that I
6 choose and call for the presence of a lawyer to advise me
7 before continuing any more questioning or making any more
8 statements whether or not I have already answered some
9 questions or make some statements. I do not want to talk to
10 a lawyer and I hereby knowingly and purposely waive my right
11 to remain silent and my right to have a lawyer present while
12 I make the following statement to the aforesaid person.
13 Knowing that I have the right and privilege to terminate any
14 interview at any time hereafter and have a lawyer present
15 with me before answering any more questions or making any
16 more statements if I choose to do so. I declare the
17 following and voluntary statement is made of my own free
18 will without promise or hope of reward without fear or
19 threat of physical harm, without coercion, favor, without
20 leniency or offer of leniency by any person or persons
21 whomever."

22 Q And then the handwritten portion of that statement is
23 written in whose handwriting?

24 A That would be Karlita Phillips' handwriting.

25 Q And did she sign the statement?

NICK MARSHALL-DIRECT EXAMINATION

250

1 A Yes, sir.

2 Q Is your signature on there anywhere?

3 A Yes, sir. Down here as a witness.

4 Q Is this a fair and accurate copy of the statement that
5 you got that night?

6 A Yes, sir.

7 MR. STUMBO: Judge, we'd offer State's Exhibit 1A into
8 evidence at this time.

9 THE COURT: Subject to the earlier objection last week?

10 MS. BOLEN: Yes, sir.

11 THE COURT: Very good. It is in evidence.

12 (Whereupon, State's Exhibit No. 1A was admitted into
13 evidence.)

14 Q Let's go ahead and read what she wrote for the jury,
15 please, Detective Marshall.

16 A Yes, sir. It states, "I woke up around 12:35 p.m.
17 Around 2:30 p.m. left with daughter. We went to Greenwood
18 County Sheriff. Got incident report for break-in that
19 occurred in Apartment --" I can't read that word. I can't
20 read that word.

21 Q That's fine.

22 A "Around --" oh, it says went. "Went around to local
23 pawn shops and went to Chick-fil-A and Captain D's. Came
24 back home. Watched TV. Then me and daughter went up and
25 down driveway teaching her to drive. Been in house watching

NICK MARSHALL-DIRECT EXAMINATION

251

1 TV. Was in and when police was knocking at door called
2 Greenwood County Sheriff and let them in and talking about
3 what occurred in Abbeville County. I've been at home scared
4 to leave my aunt home alone. Apache Gun and Pawn, Greenwood
5 Pawn Brokers, Lakeland's Gun and Pawn, we buy -- we buy gold
6 pawn shop up - alley. I did not go -- I did not go
7 Abbeville, South Carolina on the night in question. I do
8 not have any knowledge of anyone shooting Jamil Phillips and
9 no one borrowed my car."

10 Q The last line was no one borrowed my car?

11 A Yes, sir. That's correct.

12 Q Thank you. Did you stay on this case after that point?
13 After the night of the incident?

14 A My involvement was not as direct as I would say SLED's
15 involvement. I was aware of things that were going on with
16 it, but --

17 Q Okay. You stayed involved though? Is that --

18 A Yes, sir.

19 Q -- fair to say? Who was the lead agency --

20 A SLED was the lead agency.

21 Q Did you participate in any other interviews with the
22 Defendant, Karlita Phillips?

23 A Yes, sir. I did.

24 MR. STUMBO: Beg the Court's indulgence.

25 THE COURT: Yes, sir.

NICK MARSHALL-DIRECT EXAMINATION

252

1 Q What date was the next time that you interviewed Ms.
2 Phillips?

3 A My next encounter with her would have been on December
4 18th, 2013.

5 Q Where did that take place?

6 A This would have been at the Abbeville County Sheriff's
7 Office.

8 Q And at that point was she in custody?

9 A Yes, sir. She was.

10 Q She had been charged?

11 A Yes, sir.

12 Q Who interviewed Ms. Phillips on December 18th?

13 A It would have been myself and Captain Natalie Talbert
14 with the Abbeville County Sheriff's Office.

15 Q On the 18th were you able to advise Ms. Phillips of her
16 Miranda rights?

17 A Yes, sir. She was advised of her Miranda rights.

18 Q I'm going to hand you what's been marked for ID as
19 State's 49. Do you recognize that document, Detective
20 Marshall?

21 A Yes, sir. I do.

22 Q What is that?

23 A This is the Miranda form that we filled out and
24 presented to her and had her sign. Read to her.

25 Q Did you read her her rights?

NICK MARSHALL-DIRECT EXAMINATION

253

1 A I did not. Captain Talbert did.

2 Q Were you there when Captain Talbert --

3 A Yes, sir. I was present during that time.

4 Q What rights were read to Ms. Phillips?

5 A A statement of Miranda rights. "You have the right to
6 remain silent. Anything you say can and will be used
7 against you in a court of law. You have the right to talk
8 to a lawyer. If you cannot afford to hire a lawyer one will
9 be appointed to represent you before any questions, if you
10 wish. You can decide at any time to exercise these rights
11 and not answer any questions or make any statements."

12 Q Okay. And did she appear to understand her rights?

13 A Yes, sir.

14 Q Did she exercise her right to a lawyer?

15 A No, she did not.

16 Q Did she exercise her right to remain silent?

17 A No, she did not.

18 Q Did she initial those on that page?

19 A Yes, sir.

20 Q Who signed it at the bottom?

21 A My Captain, Captain Talbert, signed it, and I also
22 signed it. And she signed it here as well.

23 MR. STUMBO: Judge, we move State's 49 into evidence.

24 THE COURT: Subject to the earlier objection?

25 MS. BOLEN: Yes, sir.

NICK MARSHALL-DIRECT EXAMINATION

254

1 THE COURT: State's 9 is in evidence.

2 MR. STUMBO: It's 49, Judge.

3 THE COURT: Sorry. 49? State's 49 is in evidence.

4 (Whereupon, State's Exhibit No. 49 was admitted into
5 evidence.)

6 Q I'm going to hand you what's been marked as State's 50.
7 After the 18th did you have an opportunity to review Ms.
8 Phillips?

9 A Yes, sir.

10 Q When was that?

11 A That would have been December 19th, 2013.

12 Q And were her rights read to her again?

13 A Yes, sir.

14 Q Did she appear to understand them?

15 A Yes, sir.

16 Q Did she exercise her right to a lawyer?

17 A No, sir. She did not.

18 Q Did she appear to understand those rights as they were
19 read to her?

20 A Yes, sir.

21 Q And what were those rights again, if you could --

22 A State Miranda rights. "You have the right to remain
23 silent. Anything you say can and will be used against you
24 in a court of law. You have the right to talk to a lawyer.
25 If you cannot afford to hire a lawyer one will be appointed

NICK MARSHALL-DIRECT EXAMINATION

255

1 to represent you before any questions, if you wish. You can
2 decide at any time to exercise these rights and not answer
3 any questions or make any statements."

4 Q Did she appear to understand those rights?

5 A Yes, sir.

6 Q And who's signature is on the bottom of that --

7 A Ms. Phillips. Karlita Phillips, and my signature.

8 Q This is, I believe, the original of that waiver form --

9 A Yes, sir. I believe so.

10 Q -- out of your file?

11 MR. STUMBO: We move State's 50 into evidence, Your
12 Honor.

13 THE COURT: State's 50 is just the Miranda form?

14 MR. STUMBO: It is.

15 THE COURT: Okay. Subject to your earlier objections,
16 State's 50 will be in evidence.

17 (Whereupon, State's Exhibit No. 50 was admitted into
18 evidence.)

19 Q Now, during these interviews on the evening of the 18th
20 and the morning of December 19th, 2013, who were -- who was
21 asking the questions? Who was talking to Ms. Phillips?

22 A Both myself and the Captain. Captain Talbert.

23 Q Did you all record either of these interviews, or both
24 of them?

25 A Yes, sir. We recorded both interviews.

NICK MARSHALL-DIRECT EXAMINATION

256

- 1 Q How did you record them?
- 2 A I used my county issued -- it's like a little Sony
- 3 digital recorder.
- 4 Q And did that document from beginning to end both
- 5 interviews of Karlita --
- 6 A Yes, sir.
- 7 Q How long did these interviews last?
- 8 A They're very long. I believe the first one is just shy
- 9 of three hours long.
- 10 Q The one on the 18th that was --
- 11 A Yes, sir.
- 12 Q -- three hours?
- 13 A Yes, sir.
- 14 Q How about the one on the morning of the 19th?
- 15 A I want to say it's over two hours long as well.
- 16 Q And as part of those audio recordings, is there any
- 17 dead time during either one of those interviews?
- 18 A In both really, yes. But the majority of the dead
- 19 space is in the second one. It would be the 19th.
- 20 Q And what's going on during the dead space?
- 21 A It would be when Ms. Phillips is filling out a
- 22 statement form.
- 23 Q And would it be fair to say two plus hours of that
- 24 video, a good portion of that was silence with her writing
- 25 out the statement for you all?

NICK MARSHALL-DIRECT EXAMINATION

257

1 A Yes, sir.

2 Q And Captain Talbert also was there with you for the
3 taking of that written statement --

4 A Yes, sir.

5 Q -- on the 19th? You mentioned the audio recordings.

6 I'm going to show you what's been marked just for ID at this
7 point as State's 2A. Do you recognize that disk?

8 A Yes, sir.

9 Q Does it have anybody's initials on the front of it?

10 A It has mine and Captain Talbert's initials on the
11 front.

12 Q You had an opportunity to review the contents?

13 A Yes, sir.

14 Q Does it fairly and accurately depict the interviews on
15 the 18th and the 19th?

16 A Yes, sir.

17 Q And this would be just five hours -- or five hours
18 worth of --

19 A Yes, sir.

20 Q -- audio recordings?

21 MR. STUMBO: Your Honor, we'd offer 2A into evidence at
22 this time, although we're not publishing it. But we would
23 move it into evidence.

24 THE COURT: All right. Very good. Ladies and
25 gentlemen of the jury, I do need to address one point of law

NICK MARSHALL-DIRECT EXAMINATION

258

1 with the attorneys involved in this, and it's probably a
2 good time for a break because you've been there roughly an
3 hour. So we'll go ahead and take a brief break, and I hope
4 to have you back out here in 10 minutes. Okay? Don't
5 discuss the case.

6 (Whereupon, the jury exited the courtroom at 10:11
7 a.m.)

8 THE COURT: You may step down.

9 THE WITNESS: Okay, thank. You.

10 (Whereupon, the witness steps down from the witness
11 stand.)

12 THE COURT: The record should reflect that the jury is
13 out. Solicitor, just one point of clarification. Are you
14 introducing this -- the way you seem to be moving State's 2A
15 into evidence, is it your intention that the jury have
16 access to this, or are you simply making it an exhibit for
17 identification purposes for future reference? Because this
18 is the tape that we had that email exchange about over the
19 weekend and we haven't addressed redaction or anything like
20 that.

21 MR. STUMBO: That's correct, Judge. I was moving it in
22 essentially -- as I said, not publishing it. Because
23 ultimately I think there's a number of ways you can play it
24 and not have -- and do redactions. If that makes sense.
25 You can play a tape out in open court, kill the volume

NICK MARSHALL-DIRECT EXAMINATION

269

1 obviously --

2 THE COURT: You would.

3 MS. BOLEN: -- subject to redaction?

4 THE COURT: Correct. You would be.

5 MS. BOLEN: I just wanted to make sure that was
6 available.

7 THE COURT: That is available. Make that Court's 1.

8 (Whereupon, Court's Exhibit No. 1 was marked for
9 identification.)

10 THE COURT: I think we've covered all the housekeeping
11 matters. Let's have the jury back in, please.

12 (Whereupon, the jury entered the courtroom at 11:21
13 a.m.)

14 THE COURT: Let the record reflect that the jury is
15 back and is seated. Ladies and gentlemen, when we left off
16 -- and I realize that that was a little bit longer than 10
17 minutes that I promised you. What I've basically done, when
18 we left off the State was moving into evidence State's 2A,
19 which was an audio recording of several interviews which
20 were conducted of Ms. Phillips. Because -- as the witness
21 testified, because there are substantial gaps and breaks and
22 other parts that discuss just irrelevant information and
23 inadmissible information, stuff that's not important, what
24 I'm asking the Solicitor to do is to basically -- they're
25 not going to play that tape for you. I don't anticipate the

NICK MARSHALL-DIRECT EXAMINATION

270

1 actual audio interview being played for you at this
2 particular point in time. But we're not going to introduce
3 the one that has all the dead space in it. They're going to
4 clean it up tonight is what's going to happen. Okay?
5 They're going to try and clean up those audiotapes, and
6 those will come into evidence at some point in the future.
7 And we also dealt with some additional housekeeping matters
8 concerning evidence going forward. So I think we may have
9 actually helped by taking that 50 minutes. We may have
10 actually helped move things along a little bit for you. So
11 I think my ruling is clear with regard to State's 2A.

12 The last witness who was up here, Mr. Marshall -- is he
13 around?

14 DET. MARSHALL: Right here, Your Honor.

15 THE COURT: Oh, I'm sorry. Have a seat. You're still
16 under oath, Mr. Marshall. And you may continue your direct,
17 Solicitor.

18 MR. STUMBO: Thank you, Judge.

19 Q Detective Marshall, I'm going to hand you what's been
20 marked for ID as State's 51. Take a look at that document,
21 please, sir. The interview on the 19th of the Defendant,
22 Ms. Phillips. Is there a written statement produced from
23 that?

24 A Yes. Yes, sir.

25 Q State's 51 contains the written statement?

NICK MARSHALL-DIRECT EXAMINATION

271

1 A Yes, sir.

2 Q Now, with the exceptions of the blocked out portions,
3 blocked out as being inadmissible, is this a fair and
4 accurate --

5 A Yes, sir.

6 Q -- copy of the statement that was given by the
7 Defendant on the 19th?

8 A Yes, sir.

9 Q Is your signature at the bottom?

10 A Yes, sir.

11 Q Signed as a witness on all four pages? Now, when Ms.
12 Phillips wrote this statement out did you threaten her in
13 any way?

14 A No, sir. I did not.

15 Q Did you promise her a bunch of rewards if she wrote a
16 statement to you all?

17 A No, sir.

18 Q Did she ever ask for a lawyer at any time while she was
19 writing this statement?

20 A No, sir.

21 Q Is it your estimation it was freely and voluntarily
22 given?

23 A Yes, sir.

24 Q The other people in the room at the time. You
25 mentioned Captain Natalie Talbert, correct?

NICK MARSHALL-DIRECT EXAMINATION

272

1 A Yes, sir.

2 Q Did anybody else come in the room during either
3 interview -- on the 18th. Let's start there. Did anybody
4 else come in the room?

5 A Yes, sir. Sheriff Watson, Ray Watson, came in. Two or
6 three times came in the door.

7 Q And on the 19th who was in the room?

8 A I believe it was just myself and Captain Talbert on the
9 19th.

10 Q When the Defendant was writing out this four page
11 statement were both of you all in the room the entire time?

12 A I believe we were. I believe we were in there the
13 whole time.

14 Q How long did it take her to write this? An estimate?

15 A It's over an hour, I would say.

16 Q It's a good portion of that audio recorded interview;
17 is that correct?

18 A Yes, sir.

19 MR. STUMBO: Judge, we offer State's 51 into evidence.

20 MS. BOLEN: Just subject to our previous motion.

21 THE COURT: Subject to the previous *Jackson vs. Denno*
22 and the other ruling that was made a short while ago, it is
23 into evidence, State's 51.

24 MR. STUMBO: Thank you, Your Honor.

25 (Whereupon, State's Exhibit No. 51 was admitted into

NICK MARSHALL-DIRECT EXAMINATION

273

1 evidence.)

2 MR. STUMBO: Thank you, Your Honor.

3 Q And just to clarify, I think we identified before the
4 break, this State's 2A for ID. You initialed that disk?

5 A Yes, sir.

6 Q And that's around five hours of audio recorded --

7 A Yes, sir.

8 Q -- footage? During the course of that five hours, did
9 this Defendant ever admit to you having any involvement with
10 the death of Jamil Phillips?

11 A No direct involvement.

12 Q During the time you all interviewed her did she ever
13 draw any connection between herself and Purp Settles?

14 A Yes, sir.

15 Q Did she ever draw any connection between her and Purp
16 Settles back in March, the night this thing happened, when
17 you and Agent Collins talked to her?

18 A Yes, sir.

19 Q She said she didn't have any knowledge?

20 A You're asking me did she say that the night --

21 Q Right, back in March.

22 A No, she did not.

23 Q The first --

24 A No. I'm sorry. I misunderstood your question. I'm
25 sorry. No, she did not.

NICK MARSHALL-CROSS-EXAMINATION

274

1 MR. STUMBO: Beg the Court's indulgence, Your Honor.

2 THE COURT: Yes, sir.

3 Q Just to clarify, Detective Marshall, what we just
4 discussed. The night of the incident when you and Agent
5 Collins go to Karlita Phillips apartment, that night did she
6 give any admission that she had any knowledge of the killing
7 of Jamil Phillips?

8 A No, sir.

9 Q When you talked with her on December 19th, or the 18th
10 and 19th, ultimately she does say she had some involvement,
11 correct?

12 A Yes, sir.

13 Q To people that could have been involved with --

14 A Right. Yes, sir.

15 Q One last bit of information here for the jury,
16 Detective Marshall. How old was Tavarious Settles on March
17 25th, 2013?

18 A Sixteen.

19 Q Do you know his date of birth?

20 A I believe it's [REDACTED].

21 Q So he was going to turn 17 on April 18th --

22 A The next month he would have turned -

23 Q The next month.

24 A -- 17. Yes, sir. I believe that's correct.

25 Q How old was Karlita Phillips, the Defendant, the night

NICK MARSHALL-CROSS-EXAMINATION

275

1 of the murder?

2 A She was born January 5th, . So she would have been
3 39-years-old.

4 MR. STUMBO: No further questions at this time,
5 Detective Marshall. Please answer any questions that
6 Defense counsel may have for you.

7 THE COURT: Cross.

8 CROSS-EXAMINATION

9 BY MS. BOLEN:

10 Q Mr. Marshall, going back to March -- I think it was
11 March 26th. It was when you went out to Karlita's apartment
12 in Greenwood. That was, you said, between 12:30 and about
13 3:00 --

14 A Yes, ma'am. I believe.

15 Q -- in the morning?

16 A Yes, ma'am.

17 Q And you went out there with Agent Collins, right?

18 A Yes, ma'am.

19 Q And you said you all got there first and knocked on the
20 door?

21 A Yes, ma'am.

22 Q And you actually went to the back door and Agent
23 Collins went to the front door, right?

24 A That's correct. Yes, ma'am.

25 Q And again, this is sometime 1:00, 2:00, 3:00 in the

NICK MARSHALL-CROSS-EXAMINATION

276

1 morning?

2 A Yes, ma'am.

3 Q And you said that Karlita had actually called the
4 Greenwood 9-1-1, right?

5 A That's correct.

6 Q And Greenwood 911 arrived at her apartment where you
7 were, right?

8 A Yes. Yes. Greenwood County.

9 Q Greenwood County.

10 A I think it was Greenwood County Sheriff's Office, I
11 think.

12 Q And she answered the door, right?

13 A Yes, ma'am. She came to the door.

14 Q And the statement that Solicitor Stumbo asked you about
15 she gave that statement, the time on that is given as 3:50
16 in the morning, right?

17 A I believe that's correct. Yes, ma'am.

18 Q And she told you that she had been going to some pawn
19 shops that day, right?

20 A Yes, ma'am.

21 Q And she said that was because she was looking for
22 jewelry that had been stolen from her house --

23 A Yes, ma'am.

24 Q -- earlier that week; is that right?

25 A Yes, ma'am.

NICK MARSHALL-CROSS-EXAMINATION

277

1 Q Moving on to when you spoke with Karlita. You said
2 first on December 18th, correct?

3 A Yes, ma'am.

4 Q 2013?

5 A Yes, ma'am.

6 Q And that was at the Abbeville County Sheriff's Office,
7 right?

8 A Yes, ma'am. That's correct.

9 Q And that was with you, Captain Talbert, correct?

10 A Yes, ma'am.

11 Q And I think Sheriff Watson is in and out a little bit,
12 right?

13 A Yes, ma'am.

14 Q And at that time she was already under arrest, right?

15 A That's correct.

16 Q And she was under arrest for solicitation of a minor to
17 commit a felony, right?

18 A Yes, ma'am.

19 Q And that's the only warrant she was under arrest for?

20 A I believe so. I believe that's correct.

21 Q And she was willing to talk to you on the 18th,
22 correct?

23 A Yes, ma'am.

24 Q And you testified on direct that you read her her
25 rights. You had her -- showed her a form. She signed that

NICK MARSHALL-CROSS-EXAMINATION

278

1 form, correct?

2 A Yes, ma'am.

3 Q And at no time did she say, "I don't want to talk to
4 you. I want a lawyer." right?

5 A No, ma'am.

6 Q She never said that? She was willing to talk to you,
7 right?

8 A Yes, ma'am.

9 Q And she talked to you for about three hours, just
10 under?

11 A It was roughly three hours. Yes, ma'am.

12 Q And that started sometime in the afternoon, right,
13 maybe 3:00 or so?

14 A I believe it was around 3:30.

15 Q Okay. And it ended sometime between 5:30 and 6:00?

16 A That's fair to say.

17 Q And it's also fair to say that the conversation ended
18 because you and Captain Talbert a little tired, wanted to go
19 home. It was the end of the day, right?

20 A Yes, ma'am.

21 Q And you went back to meet with her the morning of
22 December 19th, right?

23 A That's correct.

24 Q And that, again, is at the Abbeville County Sheriff's
25 Office?

NICK MARSHALL-CROSS-EXAMINATION

279

- 1 A Yes, ma'am.
- 2 Q And you went to meet with her at about 7:00, 7:30 in
- 3 the morning?
- 4 A Roughly 7:30. Yes, ma'am.
- 5 Q And that's another two hours, 20 minutes though, two
- 6 and a half?
- 7 A I believe so, yes.
- 8 Q And again, she's willing to talk to you, right?
- 9 A Yes, ma'am.
- 10 Q And you again read her her rights? Tell her she
- 11 doesn't have to talk to you and can get a lawyer, right?
- 12 A Yes, ma'am.
- 13 Q And at no time did she invoke those rights, right?
- 14 A That's right.
- 15 Q She was willing to talk to you?
- 16 A That's correct.
- 17 Q And it was both you and Captain Talbert who were doing
- 18 the majority of the questioning, correct?
- 19 A Yes, ma'am.
- 20 Q So the two of you, and you're in uniform, right, and
- 21 she knows you're officers?
- 22 A Yeah. I would have been wearing a Polo shirt with a
- 23 badge on it and khakis.
- 24 Q And the she's the only other one in the room, right?
- 25 A Yes, ma'am.

NICK MARSHALL-CROSS-EXAMINATION

280

1 Q I want to talk a little bit about what you all talked
2 about. On the 18th she gives you some background
3 information, right? She said she works as a CNA in Wesley
4 Commons?

5 A Yes, ma'am.

6 Q She had worked there, I think, 12 years? Twelve, 14
7 years?

8 A Yes, ma'am. A long time.

9 Q And you mentioned on direct that she said she knows
10 Tavarious Settles, right?

11 A Yes, ma'am.

12 Q And he also goes by Purp?

13 A Purp.

14 Q So interchangeably --

15 A That's the way -- yes, ma'am.

16 Q -- Tavarious, Purp? Okay. And she tells you that she
17 knows Tavarious because he's related to her kids, correct?

18 A Yes, ma'am. I don't recall the exact relation, but I
19 do remember she says --

20 Q They're some sort of cousin but not first cousin
21 relationship?

22 A Yes, ma'am.

23 Q And, in fact, Tavarious and her daughter are about the
24 same age, right?

25 A I believe that's correct.

NICK MARSHALL-CROSS-EXAMINATION

281

1 Q So Tavarious would have come over to her house before
2 to see her kids, right?

3 A Yes, ma'am.

4 Q During this two and a half to three hours that you
5 talked to her on December 18th she denies having any
6 involvement with having anyone murder Jamil Phillips,
7 correct?

8 A She -- yes, ma'am.

9 Q She does admit to talking to Purp about going and
10 jumping on him, jumping on Dale, correct?

11 A She first stated that she had talked to a guy named
12 Derrick.

13 Q About just jumping on him?

14 A About beating him up or jumping on him.

15 Q But it was always in the context of jumping on him,
16 correct?

17 A Yes, ma'am.

18 Q Beating him up. And she said over and over, "I never
19 intended no murder," correct?

20 A Yes, ma'am.

21 Q And she denied ever, ever talking to anyone about
22 murdering anyone, correct?

23 A The only time I remember -- you know, not murder. But
24 I do remember that she told us that she told her daughter
25 that she wished Dale was dead.

NICK MARSHALL-CROSS-EXAMINATION

282

1 Q And she -- and at this point she gets -- she gets kind
2 of emotional in the interview, right? She starts crying at
3 one point?

4 A Yes, ma'am.

5 Q And at one of the points where she's crying she tells
6 you that she and Dale were involved in a divorce, right?

7 A Yes, ma'am.

8 Q That she had -- they had separated in May of 2012?

9 A I can't remember the exact dates. But they were
10 separated and going through a divorce.

11 Q And she does tell you, while crying, that yeah, one
12 time she said to her daughter, "I wish he was dead," right?

13 A I do -- yes, I do remember her saying that. That she
14 told her daughter that.

15 Q And she tells you that she said that on November -- I
16 believe it was November 12th of 2012, correct, after a court
17 hearing in her family court case? It was a good while
18 before the incident, correct? She said that she said that
19 because of some stuff that was going on in family court?

20 A I do recall her saying something about a court hearing,
21 too, involved with that. Yes.

22 Q But it had been a good couple of months prior, right?

23 A Yeah, I suppose. If that was -- if that's the date of
24 it.

25 Q And again, she's crying while telling you that, right?

NICK MARSHALL-CROSS-EXAMINATION

283

1 A Yes, ma'am. She cried a good bit, yeah.

2 Q And she does admit though at one point she talked to at
3 least one person about wanting somebody to jump on Dale,
4 right?

5 A Yes, ma'am.

6 Q But she keeps saying, "I never meant no murder, I never
7 intended no murder," correct?

8 A She kept saying, "I never just went to anybody and said
9 I wanted him dead," basically is what she was saying.

10 Q And she said she didn't know anything about a gun,
11 right?

12 A She did mention that Derrick -- I think she -- this
13 Derrick individual she kept referring to. She said that he
14 had told her he could get her a gun.

15 Q And she said no, right?

16 A I believe she said --

17 Q She said --

18 A That's correct. Yes, ma'am.

19 Q And then she said she didn't know anything about Purp
20 having a gun, right?

21 A Not that I recall.

22 Q Do you recall her saying that about one hour, 53
23 minutes into the interview on December --

24 A What did she say? Can you repeat it? I'm sorry.

25 Q She didn't know anything about a gun?

NICK MARSHALL-CROSS-EXAMINATION

284

1 A Right. Yes, ma'am. Yes, ma'am.

2 Q Also on the 18th -- so the 18th is the first since
3 March you've talked to her, right?

4 A That's correct. Yes, ma'am.

5 Q And this is the one that takes place kind of in the
6 late afternoon, early evening?

7 A That's right.

8 Q And at that time she does tell you that she had let
9 Purp use her car?

10 A She did say that. Yes, ma'am.

11 Q And that he had left with a guy named Mike, correct?

12 A She said that she had let Purp take it and with Mike
13 and some guys, I believe is what she said. The night of the
14 incident.

15 Q And she also says several times, "I didn't bring it to
16 him," right? I didn't bring this to Tavarious, correct?
17 She said that about two hours, 19 minutes in?

18 A When you say this, you mean like --

19 Q The murder.

20 A The proposition, I guess, or whatever?

21 Q Right, yeah.

22 A Right. Yes, ma'am. Correct.

23 Q So she said multiple times I did not bring this
24 proposition to him?

25 A Yes, ma'am.

NICK MARSHALL-CROSS-EXAMINATION

285

1 Q To Tavarious. She said, "I can't tell you I told him
2 to do that," right?

3 A Yes, ma'am.

4 Q And she tells you that after letting Tavarious, or
5 Purp, use the car, that later that evening he came back to
6 her house, gave her her keys and left, right?

7 A That's correct.

8 Q And other than the time that you spoke to Karlita in
9 March and then these two conversations you had with her on
10 the 19th you didn't have a lot of direct involvement in this
11 case, correct?

12 A Besides, you know, responding that night and then that
13 -- yes, ma'am. That's correct. That's fair to say.

14 MS. BOLEN: If I could just have a moment, Your Honor.

15 THE COURT: Certainly.

16 Q Mr. Marshall, on the 18th, that's again the first time
17 you talked to her at the Sheriff's Office, about halfway
18 through there you get a little agitated with her, correct?

19 A We get frustrated.

20 Q Okay. And at one point you tell her that you could get
21 a search warrant for her person and strap her down and make
22 her take a polygraph, correct?

23 A Yes, ma'am. I did.

24 Q And she does agree to take a polygraph, right?

25 A She does.

NICK MARSHALL-CROSS-EXAMINATION

286

1 Q And one is never offered to her?

2 A Not to my knowledge.

3 Q And that's about halfway through the interview?

4 A That's fair to say.

5 Q So even after you tell her I can strap you down and do
6 this to you, she's still willing to keep talking to you,
7 right?

8 A That's correct.

9 Q Then on the 19th -- and the 19th I think you've already
10 testified a good portion of that is her writing her
11 statement, right?

12 A Yes, ma'am.

13 Q But on the 19th you go and talk to her about 7:00, 7:30
14 in the morning, correct?

15 A That's correct.

16 Q And that's you and Captain Talbert, right?

17 A Yes, ma'am.

18 Q And again she's willing to talk to you?

19 A Uh-huh.

20 Q And again she maintains, I did not tell him to do this,
21 right?

22 A Yes, ma'am.

23 Q And she said that she did not take him to the house,
24 correct?

25 A That's correct.

NICK MARSHALL-REDIRECT EXAMINATION

287

1 Q And again, she talks about what she told you the
2 previous night, right?

3 A It was pretty much a continuance, basically, I guess
4 what you would say. But yes, ma'am.

5 Q And you all --

6 A The same type of stuff. I'm sorry. Go ahead.

7 Q I'm sorry. I didn't mean to interrupt you. I'm sorry.

8 A Go ahead. I'm sorry.

9 Q You all went to her on the 19th, right?

10 A Yes, ma'am.

11 Q And you went to her on the 18th?

12 A Yes, ma'am.

13 Q So you went to talk to her. She was willing to talk to
14 you?

15 A Yeah. We had her brought in when she was -- after she
16 had gotten arrested and come in.

17 Q But during both of those interviews -- and the total
18 time for that is somewhere around five hours, right?

19 A Yes, ma'am.

20 Q She maintains that she never asked anyone to kill her
21 husband, correct?

22 A That's correct.

23 Q That she ask somebody to go jump on him?

24 A Yes, ma'am.

25 Q And she never intended any kind of murder or anything

NICK MARSHALL-REDIRECT EXAMINATION

288

1 like that, correct?

2 A That's correct. Yes, ma'am.

3 MS. BOLEN: Nothing further, Your Honor.

4 THE COURT: Redirect.

5 REDIRECT EXAMINATION

6 BY MR. STUMBO:

7 Q Detective Marshall, polygraph evidence is inadmissible
8 in court, isn't it?

9 A Yes, sir.

10 Q It's not, is it?

11 A It's not.

12 Q So even if she had taken a polygraph we wouldn't be
13 putting into evidence whatever happened in that polygraph?

14 A That's correct.

15 Q Have you ever said that before in an interview with a
16 Defendant, that you could polygraph?

17 A Yes, sir. I have.

18 Q I want to talk about specifics of what happened in this
19 interview on the 18th. Remember at the two hour and 26
20 minute point that the Defendant said, "Dale made me sick"?

21 A Yes, sir. I do.

22 Q Two hour and 27 minute point where she said, "I wish he
23 was dead"?

24 A She stated she had told her daughter she wished he was
25 dead.

NICK MARSHALL-RECROSS-EXAMINATION

289

1 Q Two hour and 35 minute point she admits that she let
2 Purp borrow her car?

3 A Yes, sir. That's correct.

4 Q To take the car that night with a guy named Mike; is
5 that correct?

6 A Yes, sir. That's correct.

7 Q State's 51, which is in evidence, would you read for
8 the jury, Detective Marshall, what's said the sentence
9 beginning on page one of State's 51. It stays, "I said."

10 A "I said," quote, "the bastard can eat shit and die,"
11 end quote, "for all I care."

12 Q Thank you. Page four of State's 51, written in the
13 Defendant's own handwriting. Would you please read the
14 sentence that begins, "I didn't pull."

15 A "I didn't pull the trigger."

16 Q What's the next sentence?

17 A "I took him to the house" -- or, excuse me, "I took him
18 to house."

19 Q What's the next sentence?

20 A "I got the ball rolling."

21 MR. STUMBO: Thank you, Detective Marshall. No further
22 questions.

23 THE COURT: Recross.

24 MS. BOLEN: Yes, sir.

25

RECROSS-EXAMINATION

NICK MARSHALL-RECROSS-EXAMINATION

290

- 1 BY MS. BOLEN:
- 2 Q Detective Marshall --
- 3 A Yes, ma'am.
- 4 Q -- back on page four -- I'm sorry. Do you still have
- 5 that?
- 6 A I don't. I don't have it. No, ma'am.
- 7 MS. BOLEN: May I approach, Your Honor?
- 8 THE COURT: Please.
- 9 Q Page four of the statement you were just looking at.
- 10 A Uh-huh.
- 11 Q Actually, if I could just hold on a minute.
- 12 A All right.
- 13 MR. STUMBO: 51.
- 14 MS. BOLEN: Thank you.
- 15 A Page four, you said?
- 16 Q Yes, sir. And again, looking at where Mr. Stumbo just
- 17 directed your attention. "I didn't pull the trigger. I
- 18 took him to house. I got the ball rolling, as one sheriff
- 19 said," correct?
- 20 A Yes, ma'am.
- 21 Q And those terms, "pull the trigger, got the ball
- 22 rolling," those were terms that were used by one of you in
- 23 questioning her that day, correct?
- 24 A Yes, ma'am. We did say those things.
- 25 Q You said those phrases, correct?

DAVID GRUBBS-DIRECT EXAMINATION

291

1 A Yes, ma'am.

2 Q And then the next line she writes, "Again, I didn't
3 force or tell him to do anything," correct?

4 A That's correct.

5 Q She writes, "I've never been in no trouble like this in
6 my life," correct?

7 A That's correct.

8 MS. BOLEN: Nothing further. Thank you.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Thank you very much. You may step down.

11 THE WITNESS: Thank you, Your Honor.

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

14 THE COURT: As far as the Court is concerned, you are
15 free to go. Call your next witness.

16 MR. STUMBO: Thank you, Judge. State calls David
17 Grubbs to the stand.

18 THE COURT: Solicitor, just for housekeeping, you did
19 not -- you have not yet moved, according to my records,
20 State's 2 through 9 into evidence. They were photographs
21 that were alluded to. I didn't know if you intended to.

22 MR. STUMBO: I believe we moved those in through -

23 THE COURT: Maybe I'm wrong.

24 MR. STUMBO: -- Mr. Birchmore yesterday, Judge.

25 THE COURT: They are in evidence? All right. We're

DAVID GRUBBS-DIRECT EXAMINATION

292

1 good.

2 MR. STUMBO: Without objection.

3 THE COURT: My apologies.

4 MR. STUMBO: Yes, sir.

5 DAVID GRUBBS, having first been
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. STUMBO:

9 Q Good morning. You go by Agent Grubbs?

10 A Yes, sir.

11 Q Okay. Agent Grubbs, you work for SLED?

12 A Yes, sir.

13 Q And what division do you work at SLED?

14 A The computer crime unit.

15 Q And that's located in Columbia?

16 A Yes, sir.

17 Q How long have you been with SLED?

18 A Since 2013.

19 Q And have you worked in the computer crimes unit for
20 that entire time?

21 A Yes, sir.

22 Q What kind of training have you received in computer
23 crime?

24 A Numerous classes in computer forensics and mobile cell
25 phone forensics in the National White Collar Crime Center,

DAVID GRUBBS-DIRECT EXAMINATION

293

1 as well as the SANS Forensic Institute.

2 Q And you're certified to conduct computer forensics?

3 A Yes, sir. They provide certificates after the classes.

4 Q SLED's computer crimes lab, is it licensed, or
5 certified --

6 A We're currently going through CALEA certification.

7 Yes, sir.

8 Q CALEA, that's --

9 A Yes, sir.

10 Q -- stands for --

11 A It's our entire laboratory certification system through
12 SLED.

13 Q And they work nationwide?

14 A Yes, sir.

15 Q To certify. The work you do at the computer crimes
16 lab, do you all comply with those protocols?

17 A Yes, sir.

18 Q If you could, describe for the jury, just for their
19 education, on how you would -- if you take a computer or a
20 cell phone in to your division, what steps what you would
21 take to extract the data off of that.

22 A Yes, sir. We hook it up -- we have a multitude of
23 different ways that we can extract data from a cell phone or
24 a computer. We have one thing that's called a Cellebrite
25 UFED machine where you plug the cell phone into it and it

DAVID GRUBBS-DIRECT EXAMINATION

294

1 basically takes every bit of data that's on there and
2 extracts it off, if it's compatible. In this case, the
3 phones were not compatible with our machine, so what I had
4 to do was take the micro SD card that was within the cell
5 phones out and plug it into our computer to image it. What
6 we have in place to prevent us altering or changing any of
7 the data that's on any of these devices are things called
8 write blockers which will not allow our computer to send any
9 signal at all to that media. So when we plug it in, no
10 signal will go to it. It will only give us the data that's
11 on there. So we guarantee that we don't alter it in any way
12 doing that.

13 THE COURT: And what's the name of that program again,
14 or that device, Cellebrite?

15 THE WITNESS: That one was Cellebrite. Yes, sir. For
16 this particular case I used an EnCase program to image the
17 media.

18 Q And EnCase is spelled E-n --

19 A C-a-s-e.

20 Q -- C-a-s-e?

21 A Yes, sir.

22 Q Did you generate an EnCase report --

23 A I did.

24 Q From your exam in this case?

25 A Yes, sir.

DAVID GRUBBS-DIRECT EXAMINATION

295

1 Q And that's to preserve the integrity of the evidence --

2 A Correct.

3 Q -- is that correct? So, in other words, if you were to
4 use some kind of program that showed you going into it, or
5 going into the cell phone or computer, that it would -- that
6 would show up?

7 A Yes, sir. One thing that EnCase does is it runs all of
8 the data that is on the SD card in this case through a
9 mathematical algorithm, and that spits out a unique number.
10 It's kind of like a fingerprint for all that data. So if I
11 were to go in and alter anything at all in there it would be
12 a different number. So it gets that -- it's called a hash
13 value. It gets that at the beginning, and then it verifies
14 that again at the end to make sure that they're the same and
15 nothing was changed at all.

16 Q So if anything was changed it would come out with a
17 different hash value?

18 A Yes, sir.

19 Q All right. Did you take in evidence in relation to the
20 case we're here for today? The homicide of Jamil Phillips?

21 A I did not intake it personally, but I did examine it.

22 Q And the computer crimes unit -- in relation to this
23 case, who brought in evidence to be looked at?

24 A Special Agent Collins.

25 Q Michael Collins?

DAVID GRUBBS-DIRECT EXAMINATION

296

- 1 A Yes, sir.
- 2 Q And what did he bring your unit for analysis?
- 3 A Two cell phones.
- 4 Q And who was identified as the suspect on those cell
5 phones?
- 6 A On the intake sheet that I received it was Tavarious
7 Settles.
- 8 Q And I'm going to refer you -- basically hand you your
9 report to refresh your memory. What were these two cell
10 phones that were brought in?
- 11 A There was a Samsung SCHR390 cell phone and an HTC cell
12 phone as well.
- 13 Q Did you do an imaging of both of those phones?
- 14 A I did.
- 15 Q And generated an EnCase report?
- 16 A Yes, sir.
- 17 Q Were you able to extract anything of evidentiary value
18 off those phones?
- 19 A Yes, sir. Photographs.
- 20 Q I'm going to show you what's going to be marked for ID
21 as State's 38, 39, 40 and 41. Take a look at those, Agent
22 Grubbs. Do these photographs look familiar?
- 23 A Yes, sir. They are on the report I generated.
- 24 Q These are clear and accurate copies of what you
25 extracted off the cell phones?

DAVID GRUBBS-DIRECT EXAMINATION

297

1 A Yes, sir. They are.

2 MR. STUMBO: Your Honor, at this time we'd offer

3 State's 38 through 41 into evidence.

4 MS. BOLEN: That's without objection, Your Honor.

5 THE COURT: Without objection, State's 38 through 41
6 are in evidence.

7 (Whereupon, State's Exhibit Nos. 38 through 41 were
8 admitted into evidence.)

9 Q In the four photographs we've looked at what -- which
10 phone were those taken off of?

11 A They were taken off of item one, which was the Samsung
12 cell phone.

13 Q Okay. I'm going to show you State's 38. What -- are
14 you able to ascertain what file off the phone these are
15 taken out of? Is it kind of like a computer hard drive? It
16 has a file --

17 A Yes, sir. It's very similar. I can ascertain the path
18 of where it was taken. So where it was located on the
19 storage media.

20 Q And State's 38, which we're looking at, what file
21 folder off the Samsung phone were those taken off of -- or
22 was this image taken off of?

23 A It was located in his My Images folder.

24 Q My Images, you said?

25 A Yes, sir.

DAVID GRUBBS-CROSS-EXAMINATION

298

1 Q And is there some kind of other identifier in terms of
2 when the image was created and --

3 A Yes, sir.

4 Q When was that file created?

5 A The file was created at January 1st. It says at 12:00
6 a.m.

7 Q January 1st what year?

8 A 2013.

9 Q State's 39. What file fold off the Samsung phone was
10 this found?

11 A Yes, sir. That's also located in his my images folder
12 and was created on March 9th, 2013 at 9:51 in the morning.

13 Q March what day?

14 A 9th.

15 Q March 9th --

16 A Yes, sir.

17 Q -- 2013? State's 50. It appears to be a different
18 angle of the same as State's 39.

19 A Yes, sir.

20 Q When was that file created?

21 A Yes, sir. That one, it's stated, was created on
22 February 22nd, 2013 at 8:22 p.m.

23 Q And this was also found in my images?

24 A Yes, sir.

25 Q State's 41. And where was that found on the Samsung

DAVID GRUBBS-CROSS-EXAMINATION

299

1 phone?

2 A That one is found in his thumbnails folder and was
3 created April 23rd, 2013 at 9:31 p.m.

4 MR. STUMBO: Beg the Court's indulgence, Your Honor.

5 THE COURT: Yes, sir.

6 MR. STUMBO: Agent Grubbs, no further questions.

7 Please answer any questions that Ms. Bolen may have for you.

8 CROSS-EXAMINATION

9 BY MS. BOLEN:

10 Q Agent Grubbs, you said you did a thorough analysis of
11 the phone, right?

12 A Yes, ma'am.

13 Q And that the evidentiary value obtained from the phone
14 were the photographs, correct?

15 A Yes, ma'am.

16 MS. BOLEN: That's all I have. Thank you.

17 THE COURT: Thank you, sir. You may step down.

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

20 THE COURT: Call your next witness.

21 MR. BROWN: The State calls Lilly Gallman.

22 MR. STUMBO: Your Honor, I don't see him still in here,
23 but obviously we would ask that Agent Grubbs --

24 THE COURT: I think he's already left.

25 MR. STUMBO: -- be released so he can head back to

LILLY GALLMAN-DIRECT EXAMINATION

300

1 Columbia.

2 THE COURT: It looks like he's already gone.

3 LILLY GALLMAN, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BROWN:

7 Q Good morning, Ms. Gallman.

8 A Good morning.

9 Q Ms. Gallman, where do you work?

10 A I work for the South Carolina Law Enforcement Division,
11 better known as SLED.

12 Q And how long have you worked with SLED?

13 A I've been with SLED since January of 1990, so it's been
14 over 25 years.

15 Q And what's your job at SLED?

16 A I'm employed at SLED as forensic DNA analyst. I
17 receive evidence for the purpose of developing a DNA profile
18 from it and then I compare it to any standards that are
19 submitted in a given case.

20 Q Ms. Gallman, what's your educational background to be
21 able to be a DNA analyst?

22 A Well, I have a degree in biology from the University of
23 South Carolina. Once I received my degree I continued
24 working at the University in the area of research doing
25 genetics research, and then I began working with SLED. And

LILLY GALLMAN-DIRECT EXAMINATION

301

1 once I started working with SLED I attended the FBI DNA
2 typing class. I was also trained in the area of serology.
3 I was trained in being able to process forensic samples,
4 which is samples that come from a crime scene.

5 Q Now, have you ever been qualified as an expert in the
6 fields of serology and DNA analyst?

7 A Yes, I have.

8 Q And how many times?

9 A It's over 60.

10 Q And what's the -- since you brought up serology. What
11 is serology?

12 A Serology -- in serology we're testing for body fluids.
13 So we're looking for blood, semen, saliva, that sort of
14 thing.

15 Q And what is DNA?

16 A DNA we go further than just looking at the body fluids.
17 We identify who this body fluid is coming from by developing
18 a DNA profile from that body fluid.

19 Q And again, how many times -- have you ever been
20 qualified as an expert in a court of South Carolina?

21 A Yes. Approximately 16.

22 MR. BROWN: Your Honor, at this time we move Ms. Lilly
23 Gallman as an expert in the field of forensics and DNA
24 analysis.

25 MS. BOLEN: Without objection, Your Honor.

LILLY GALLMAN-DIRECT EXAMINATION

302

1 MR. BROWN: Judge, also add in an expert in the field
2 of population frequencies.

3 THE COURT: Population --

4 MR. BROWN: Population frequencies.

5 THE COURT: Population frequencies. Any objection to
6 that qualification as well?

7 MS. BOLEN: No, sir.

8 THE COURT: Again, ladies and gentlemen, the parties
9 agree that Ms. Gallman is an expert in these particular
10 fields so she can give opinion testimony that you use as you
11 deem appropriate. Go ahead, Solicitor.

12 Q Ms. Gallman, as it relates to this case, did you do any
13 DNA -- or did you receive evidence in this case to do a DNA
14 analysis?

15 A Yes, I did.

16 Q And what did you receive?

17 A Initially I received cigarette butts that were
18 collected from a crime scene.

19 Q And when you received cigarette butts what's the
20 standard practice for SLED? Is there a number assigned to
21 those items?

22 A Yes. Each case that is submitted from an agency is
23 given a SLED laboratory identification number.

24 Q And in this case was there an identification number
25 given?

LILLY GALLMAN-DIRECT EXAMINATION

303

1 A Yes.

2 Q What is that number?

3 A Well, this particular case is L13-4031.

4 Q And after that lab number is given -- does that lab
5 number cover all the evidence that's brought in for this
6 particular case?

7 A Under that particular case, yes.

8 Q And are the individual cigarette butts given other
9 itemized numbers?

10 A Yes they are. You break them down. So I received four
11 cigarette butts, and so they were given like item one, two,
12 three and four.

13 Q Now, Ms. Gallman, I'm going to show you what's been
14 marked State's ID 46. You can take a look at that and tell
15 me if you recognize those.

16 A Yes. These are the cigarette butts that were
17 submitted. You can tell that they were in my custody at one
18 time, because I sealed the envelope and then there's my
19 initials and the date that I sealed them. That I sealed it.

20 Q Now, Ms. Gallman, once these items are sent to SLED is
21 there a chain of custody generated to -- so you can identify
22 who's handled these items?

23 A Yes. When the evidence is submitted it's logged into
24 our evidence control area, and at that point the evidence is
25 put in a sealed pouch, just like that, and then it is sealed

LILLY GALLMAN-DIRECT EXAMINATION

304

1 by the submitting agency. And whoever would need to analyze
2 that evidence, it would be passed to that person, and you
3 would see that it's in their custody at a certain time.

4 Q And ultimately it came to your custody to do the
5 analysis on it?

6 A Yes, because there was a DNA request on the cigarette
7 butts. And I believe I was the only one that opened that
8 after it was sealed by the submitting agency.

9 Q And to go along with what you were saying about only
10 one to open that. When you get items such as these
11 cigarette butts, what do you look for in the packaging?

12 A Well, first thing, I look to see if the pouch is sealed
13 properly and initialed and dated properly. And if it is,
14 then I proceed with my testing. If it is not, then I would
15 backtrack, doing back to evidence control to try to
16 establish what could have happened that it's not sealed
17 properly.

18 Q And the purpose of doing that is to make sure that the
19 integrity of the evidence is intact and nobody's tampered
20 with it?

21 A That's correct. That the evidence is sealed and
22 intact, and also that the chain is proper.

23 Q And before you tested these cigarette butts was there
24 any appearance of these boxes or the pouches that they came
25 in were tampered with in any way?

LILLY GALLMAN-DIRECT EXAMINATION

305

1 A No.

2 Q And, Ms. Gallman, do you know who brought these items
3 to SLED, based on your internal chain at SLED?

4 A I could tell by the chain. The chain is computerized,
5 so whoever is -- whoever submitted it, their name would be
6 there and then it goes from person to person.

7 Q See if this refreshes your memory.

8 A Like I said, the cigarette butts were given a number
9 one, two, three and four. So each one of those items has
10 their own chain. And the chain would be the same for each
11 one because they're in the same packet. But when you
12 separate them out then they all have their own chain. The
13 chain starts with Michael Collins, and then it goes to
14 Vickie Hallman, then Nicky Hughes, which is pulls in
15 evidence log-in area. Evidence control area. And then
16 items eventually came to me.

17 Q And again, when items ultimately came in your
18 possession there was no damage to the packaging that these
19 came in?

20 A No, sir. It was not.

21 MR. BROWN: Judge, at this time State moves in State's
22 ID 46 as evidence.

23 THE COURT: Any objection?

24 MS. BOLEN: No, sir.

25 THE COURT: Without objection, State's 46 is in

LILLY GALLMAN-DIRECT EXAMINATION

306

1 evidence.

2 (Whereupon, State's Exhibit No. 46 was admitted into
3 evidence.)

4 Q Now, Ms. Gallman, when you received those cigarette
5 butts into your custody, what did you do with those
6 cigarette butts?

7 A The cigarette butts were submitted individually so I
8 can conduct the same testing on each one. I'm cutting from
9 the filter portion of the cigarette, the portion that would
10 have gone in the person's mouth, and I extract the DNA from
11 the cigarette portion -- the cigarette filter portion of the
12 cigarette butt, and then I develop a DNA profile from that
13 DNA that was extracted from there.

14 Q And when you say DNA profile, what does that mean?

15 A That means that I'm looking at -- everyone leaves some
16 portion of them every place they touch or where they go. It
17 depends on how many cells are there. So once I'm able to
18 extract the DNA, and as I said, I develop a DNA profile, I'm
19 looking at 16 different loci, or 16 different area on this
20 person's DNA. Part of the DNA is found from the person's
21 mother and part from the father. I can't tell you just by
22 looking at it. But if I had the mother and father there I
23 could compare it and say, well, you're getting this part
24 from your mother and this part from your father. And then
25 the DNA profile is developed from the evidence. And if

LILLY GALLMAN-DIRECT EXAMINATION

307

1 there's a standard submitted, meaning I have -- I'm able to
2 get a sample from the person in question, then I can compare
3 those two and tell you whether you have a match or you do
4 not have a match between the evidence.

5 Q And were these cigarette butts that were submitted
6 during your testing to get that DNA profile, did all four
7 cigarette butts match the same profile?

8 A Yes. All four cigarette butts came from the same
9 person.

10 Q And does everybody have the same DNA or everybody has
11 different DNA?

12 A Everyone except identical twins have different DNA.

13 Q Now, Ms. Gallman, you stated that this lab number of
14 this particular case was L13-4031.

15 A That's correct.

16 Q Now, were you able to ultimately get a standard -- test
17 a standard to your profile -- DNA profile generated off the
18 cigarette butts?

19 A Yes. Initially I did not have a standard that matched
20 the profile. There were other standards submitted but they
21 did not match that particular profile. And then I was able
22 to utilize a standard from another one of our lab number
23 cases and compare that to the cigarette butts.

24 Q I'm going to show you what's been previously marked as
25 State's ID 48. If you can take a look at that and see if

LILLY GALLMAN-DIRECT EXAMINATION

308

1 you can recognize --

2 A Yes. This is from our lab number L13-7501, item number
3 16. You can see where it's been in my custody because my
4 initials and the date that I sealed it is on the side.

5 Q Now, Ms. Gallman, that was -- that was generated -- or
6 that standard -- whose standard is that?

7 A This standard is from Tavarious Settles.

8 Q And that was from an unrelated case to this one?

9 A That's correct.

10 Q Generated out of Greenwood? The city of Greenwood
11 County -- or the city of Greenwood, South Carolina?

12 A That's correct.

13 Q Once you got that item were you able to get the profile
14 from Mr. Settles?

15 A Yes.

16 Q And after you generated that profile what do you do
17 next?

18 A Once I generate the profile then I did a comparison
19 between that profile and the DNA profile of the cigarette
20 butts.

21 MR. BROWN: Judge, at this time the State moves in ID
22 48. States Evidence 48.

23 THE COURT: No objection?

24 MS. BOLEN: None, Your Honor.

25 THE COURT: Without objection, 48 is in evidence.

LILLY GALLMAN-DIRECT EXAMINATION

309

1 (Whereupon, State's Exhibit No. 48 was admitted into
2 evidence.)

3 Q Now, Ms. Gallman, you said that once you get a profile
4 -- you had a DNA profile from the cigarette butts from this
5 particular case, the four cigarette butts, and then the
6 standard was submitted of Tavarious Settles to you to
7 generate a standard from Mr. Settles, you said you then
8 compared those two items?

9 A Yes, I did.

10 Q And with comparing those two items what were your
11 results?

12 A My results was that the DNA profile developed from the
13 cigarette butts matched the DNA profile of Mr. Settles.

14 Q Ms. Gallman, when you're looking to determine a match,
15 is there some type of printout or some type of analysis that
16 shows a match where you can compare them?

17 A Yes. We issue a report with the DNA profile of the
18 evidence, and a DNA profile of the standards, and all of
19 that information is placed in the chart.

20 Q I'm going to show you what's been marked for
21 identification purposes as State's ID 52. Can you identify
22 that?

23 A It's one of the pages of the chart from my report.

24 Q And does it -- even though it's blown up a bit, does it
25 clearly and accurately reflect your report, or a copy of it?

LILLY GALLMAN-DIRECT EXAMINATION

310

1 A Yes, it does.

2 MR. BROWN: Judge, at this time State moves in State's
3 Exhibit 52 as State's Evidence..

4 MS. BOLEN: No objection.

5 THE COURT: Without objection, 52 is in evidence.

6 (Whereupon, State's Exhibit No. 52 was admitted into
7 evidence.)

8 Q Ms. Gallman, I'm going to position myself here. If
9 you'd like to, if you'd like to, if you want to -- if you
10 can explain what this report chart shows.

11 A This is a blown up portion of my report which is --
12 we're talking about the chart. You can see that it's page
13 three of three. So when we issue a report and we send it
14 back and we make it available to the agency, the submitting
15 agency, they get all this information plus our results. On
16 here you can see -- if you look in the first column -- look
17 in the first column you'll see all the descriptions of
18 what's going across in the rows. So if you look down here
19 where you see Tavarious Settles and, as I said, he came from
20 L13-7501. That's where -- that's what case I got his
21 standard from. If you go across the -- across the row you
22 see his DNA profile. If you look at column number one you
23 see a 14-15, and then you go down to the cigarette butt you
24 see a 14-15 there also. You're also seeing other standards
25 that were submitted, but you can tell that they do not match

LILLY GALLMAN-CROSS-EXAMINATION

311

1 the cigarette butts. So what we do is develop a DNA profile
2 from the evidence, and then a DNA profile from the
3 standards, and then we compare them to see whether they
4 match or they do not match. And in this particular case the
5 DNA profile available from the cigarette butts match the DNA
6 profile of Mr. Settles.

7 Q Now, Ms. Gallman, after looking over that chart, you
8 said there were other pages in your report. Is there -- did
9 you printout or come to a result or a finding on probability
10 of randomly selecting another individual with that same DNA
11 profile?

12 A Yes, I did. The initial report that I submitted states
13 that the DNA profile developed from items one, two, three
14 and four matches the DNA profile of Tavarious Settles, and
15 also that he -- that it has been entered into the combined
16 DNA inmate system. It also gives you the probability of
17 that particular match. Because the first thing you have to
18 establish, that you have a match, and then we are required
19 to give a statistic value to that. The frequency of seeing
20 that particular profile. And at that time my report read as
21 one in 150 quadrillion. Since that time the database had
22 been updated and I recalculated the statistics and it's one
23 in 140 quadrillion.

24 Q Now, Ms. Gallman, when I hear 140 quadrillion, I know
25 that's a large number. How many people is the current

LILLY GALLMAN-CROSS-EXAMINATION

312

1 population of earth right now?

2 A Approximately seven billion.

3 Q How many earths would it take populated at seven
4 billion people to get the number of 140 quadrillion?

5 A Twenty million.

6 Q And your results say that the probability of randomly
7 selecting another unrelated individual having that same DNA
8 profile is one in 140 quadrillion?

9 A That's correct.

10 Q So another to say it, that's one in 20 million earths?

11 A Yes.

12 MR. BROWN: No further questions.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MS. BOLEN:

16 Q Ms. Gallman, when you analyze DNA, you say you analyze
17 them against standards that are submitted to you from law
18 enforcement, correct?

19 A When I compare them to --

20 Q Compare. Yes, compare.

21 A Yes.

22 Q So a law enforcement agency would give you a standard
23 to compare against, correct?

24 A Yes, it could be blood or what's called a buccal swab
25 where you swab on the inside of someone's mouth.

LILLY GALLMAN-CROSS-EXAMINATION

313

1 Q And that's from a known individual, correct?

2 A That's correct.

3 Q And in this case you compared -- you were looking at
4 the cigarette butts, right? The DNA on the cigarette butts?

5 A Yes. I developed the DNA profile from the DNA on the
6 cigarette butts.

7 Q And you compared that to, you said, more than one
8 standard, right? I think you said a few standards had been
9 submitted?

10 A That's correct.

11 Q And just looking at this chart --

12 MS. BOLEN: May I approach, Your Honor?

13 THE COURT: Please.

14 Q Looking back at the chart there's 16, 46, 47, 48,
15 correct? And 16 is Tavarious Settles, right?

16 A Uh-huh. Yes.

17 Q And then you also have a standard from a Deandrae
18 Wideman, correct?

19 A Yes.

20 Q And a standard from a James Jones?

21 A Yes.

22 Q And a standard from Avery Roman, right?

23 A That's correct.

24 Q So all of these would have been standards that law
25 enforcement asked you to compare against the cigarette

MICHELLE EICHENMILLER-DIRECT EXAMINATION

314

1 butts, correct?

2 A That's correct.

3 Q And the cigarette butts came back to matching with
4 Tavarious Settles, correct?

5 A That's correct.

6 MS. BOLEN: Nothing further, Your Honor.

7 THE COURT: Thank you, ma'am. You may step down.

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

10 THE COURT: Ladies and gentlemen, we're going to take a
11 very brief break and we'll back on the record for about five
12 minutes. Don't discuss the case.

13 (Whereupon, the jury exited the courtroom at 12:18
14 p.m.)

15 THE COURT: We're at ease.

16 (Whereupon, a recess was held from 12:18 p.m. to 12:35
17 p.m.)

18 THE COURT: We're going to go back on the record, if we
19 may. Let's go ahead and have the jury back in here, please.

20 (Whereupon, the jury entered the courtroom at 12:35
21 p.m.)

22 THE COURT: We're going to go back on the record.
23 Solicitor, if you could call your next witness, please, sir.

24 MR. STUMBO: Thank you, Your Honor. The State calls
25 Michelle Eichenmiller.

MICHELLE EICHENMILLER-DIRECT EXAMINATION

315

1 MICHELLE EICHENMILLER, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. STUMBO:

5 Q Good afternoon, Ms. Eichenmiller. Do you work with
6 SLED?

7 A I do.

8 Q How long have you been with SLED?

9 A I've been with SLED about nine and a half years.

10 Q What division do you work in there?

11 A I work in the forensic laboratory. I work in the
12 firearms department.

13 Q What kind of education, training, experience have you
14 received to work as a firearms analyst?

15 A To work at SLED you need a Bachelor's degree. I have a
16 Bachelor's degree in biology. I also have a Master's in
17 science and forensics science. In order to be a firearms
18 examiner you need to go through an in-house training
19 program. It's like an apprenticeship. It's three to five
20 years where I studied. I read a lot. I did a lot of
21 microscope practice. I worked with the examiners that were
22 already trained and I learned how they did their job. At
23 the end I took a competency test and they let me work on my
24 own after that.

25 Q Where did you go to school?

MICHELLE EICHENMILLER-DIRECT EXAMINATION

316

1 A I went to Case Western Reserve University in Cleveland,
2 Ohio for my undergrad, and Marshall University in West
3 Virginia.

4 Q Did you get a Master's at Marshall?

5 A Yes.

6 Q Now, in the time that you've worked nine and a half
7 years at SLED how many cases have you worked on, Ms.
8 Eichenmiller?

9 A Hundreds if not thousands by this point.

10 Q And was one of those cases that you worked in relation
11 to this case, the homicide of Jamil Phillips?

12 A Yes.

13 Q Have you ever been qualified as an expert in firearms
14 analysis, or I believe where it's called firearm
15 identification, in the courts of this state?

16 A Yes, I have. About 25 times.

17 Q That's been statewide in state courts?

18 A Yes.

19 Q And in those times that you've been qualified as an
20 expert have you made comparisons between projectiles and
21 particular guns and that sort of thing?

22 A Yes. That's what we do.

23 Q Could you explain to the jury just briefly what your
24 job consist of? If you get in an alleged projectile that's
25 come out of a gun, a bullet, or a gun itself, can you

1 explain to the jury how that process works?

2 A Firearms identification is a branch of forensic science
3 that deals with firearms and bullets and cartridge cases
4 that come from firearms. There's a couple other tests that
5 we can do, too. But primarily we're concerned with did this
6 firearm fire this cartridge case and/or this bullet. If we
7 don't get a firearm then we can look at the bullet, measure
8 the different characteristics that it has, and then generate
9 a list of manufacturers that use those, like widths and
10 height, and give that to the investigators.

11 Q So, in other words, not every case that you work is
12 there a firearm submitted that's alleged to be a possible
13 weapon used in --

14 A Correct.

15 Q But you can look at bullets that are given and tell
16 what caliber they are?

17 A Yeah, we would do -- if we didn't get a firearm, we
18 would look at what we received. We would measure it. We
19 would weigh it. We would look under the microscope at the
20 width of the lands and grooves. We can measure those as
21 well. Those are called general characteristics, and
22 manufacturers choose those just however they -- whichever
23 number or width they want. We have a database that we can
24 put in the measurements and it will give us a list of
25 possible manufacturers.

MICHELLE EICHENMILLER-DIRECT EXAMINATION

318

1 Q When you say lands and grooves, when a bullet that's
2 fired from a rifle or a pistol does it spin the bullet? Is
3 that what you're talking about? The markings where the
4 bullet passes through the barrel of the gun?

5 A Yeah. Manufacturers will put riffling in the barrel in
6 order to -- bullets accurately. It's like a football. A
7 quarterback is throwing a football. The rotary motion of
8 the football gets it to go to its target instead of flopping
9 end over end. So that's what riffling is for..

10 Q Microscopically you can examine the lands and grooves
11 and make comparisons?

12 A Yes.

13 MR. STUMBO: Your Honor, at this time the State would
14 offer Ms. Eichenmiller as an expert in the field of firearms
15 identification.

16 MS. BOLEN: No objection, Your Honor.

17 THE COURT: Again, ladies and gentlemen, Ms.
18 Eichenmiller has been certified as an expert in the field of
19 firearms identification, so she can give opinion testimony
20 in that area that you can use as you deem appropriate.

21 Go ahead, Solicitor.

22 MR. STUMBO: Thank you, Judge.

23 Q Ms. Eichenmiller, did you take in evidence in relation
24 to this case, the homicide of Jamil Phillips?

25 A I did.

MICHELLE EICHENMILLER-DIRECT EXAMINATION

319

1 Q And what evidence did you receive for analysis?

2 A In this case I received one fired bullet jacket and one
3 fired bullet.

4 Q I'm going to hand you what's been marked for ID at this
5 point as State's 47.

6 A This is what I examined.

7 Q And those containers have your markings on them?

8 A Uh-huh. I put my -- the case number, the IN numbers
9 and my initials on any packaging or evidence that I receive.

10 So those all have those identifiers.

11 Q So where it says, obviously, M.E. there, that's your
12 initials?

13 A My initials, yes.

14 Q And when you received this packet that contained these
15 -- the fired jacket and the -- it was in one -- or basically
16 two -- two tubes here?

17 A Correct.

18 Q Okay. But it was in one -- essentially what you've
19 done is we've packaged it up in one small bag?

20 A Yes.

21 Q So the jacket that's, I guess, somewhat damaged here
22 and the bullet that's intact are in the same small bag now
23 and resealed in this packet?

24 A Correct.

25 Q And when you received the two tubes in this case, who

MICHELLE EICHENMILLER-DIRECT EXAMINATION

320

1 submitted those to SLED lab for evidence -- or for analysis?

2 A According to our paperwork, Investigator Michael
3 Collins with SLED.

4 Q He's one of your all's field agents?

5 A Yes.

6 Q And essentially when you got the two bullets that were
7 in these containers did it look they had been tampered with
8 from the time that they had been submitted for evidence?

9 A No. We always receive sealed containers with initials
10 on the seals from evidence log-in.

11 Q And with you all's agency, Courtney L. Smith, does she
12 work for State Law Enforcement Division?

13 A She did at the time.

14 Q And Courtney Smith was a -- is a tech at SLED?

15 A Yes. She's in our log-in department.

16 Q How about Patricia Crooks?

17 A She's also in our log-in department. She primarily
18 deals with handing out evidence. Once evidence comes into
19 SLED they log it in, they put it in the vault, and then when
20 I get case assignment I'll go down there and pick it up.

21 And Ms. Crooks was the one that gave me the evidence.

22 Q Ms. Crooks is retired now?

23 A Yes.

24 Q And when you received SLED 17 and 18, which were in the
25 packet, which is State's 47, they had not been opened, from

MICHELLE EICHENMILLER-DIRECT EXAMINATION

321

1 what you can tell, by the attendants? By either Ms. Smith
2 or Patricia Crooks?

3 A Correct.

4 Q And if it appeared they had been tampered with you
5 would have tried to get to the bottom of that, correct?

6 A Right.

7 Q Now, and you did analyze the bullet and the bullet
8 jacket that's in this bag?

9 A I did.

10 MR. STUMBO: Your Honor, at this time the State would
11 offer State's 47 into evidence.

12 THE COURT: Any objection?

13 MS. BOLEN: No, sir.

14 THE COURT: Without objection, State's 47 is in
15 evidence.

16 Q Did you generate a report from the analysis which you
17 did on those two bullets?

18 A I did.

19 Q And as to the bullet jacket and the whole bullet, did
20 they appear to be the same caliber, the same type of gun?

21 A Item 17 is the -- well, my item 17, the jacket, was
22 pretty damaged. But based on the measurements that I could
23 do, it was consistent with being the same caliber as item
24 18, which is the fired bullet, which was pretty complete and
25 I could get really good measurements off of that. So they

MICHELLE EICHENMILLER-DIRECT EXAMINATION

322

1 both appear to be the same caliber.

2 Q What caliber were these bullets?

3 A They were either a .38 Special or a .357 Magnum. They
4 both have the same diameter. Basically the one -- they just
5 have different characteristics as to how the bullet is made
6 for their purposes. They were both the same though.

7 Q .38 or a .357 Magnum, is that a revolver type handgun?

8 A Typically it's a revolver caliber.

9 Q Did you weight the bullets?

10 A I did. As part of our general examinations we'll weigh
11 them. We'll measure them. I weighed both of them. The
12 jacket was missing its core, which is basically the inside.
13 The jacket is -- think of an M&M. It's like the shell. So
14 it would hold the core together. This one was missing the
15 shell -- or the core, and it weighed less than I would have
16 expected. But the complete bullet I was able to weigh as
17 well.

18 Q And would the weights of the bullets be consistent with
19 a revolver or a semi-automatic type gun?

20 A The weight of the bullet was consistent with being a
21 .38 Special or a .357 Magnum, which is consistent with being
22 a revolver caliber. That's the most common firearm that
23 would fire, a .38 Special or .357 Magnum.

24 Q What types -- or what manufacturers were you able to
25 ascertain that the gun could have been that fired these two

MICHELLE EICHENMILLER-DIRECT EXAMINATION

323

1 bullets? Did you compile a list, Ms. Eichenmiller?

2 A We did.

3 Q What manufacturers could those have come -- could the
4 bullets have been fired from?

5 A The manufacturers that make firearms, the .38 Special,
6 are Alamo, Alpha, Century Arms, Aris Body, Herbert Schmidt,
7 INA, Llama, Ruger, Smith and Wesson, Sport Arms or Taurus.
8 And then a .357 Magnum, the manufacturers that make firearms
9 with those measurements are Kunan Arms, Kassnar, Ruger,
10 Smith and Wesson and Taurus.

11 Q Thank you, Ms. Eichenmiller.

12 MR. STUMBO: If I may approach the witness, Your Honor.

13 THE COURT: Please.

14 Q I'm going to show you State's -- what's in evidence
15 already as State's 39, 40, 41. Take a look at those. In
16 State's 39, 40, 41 those are pictures of firearms, correct?

17 A Correct.

18 Q And one of these were submitted to you for analysis?

19 A No. I didn't receive a firearm in this case.

20 MS. NELSON: We have a matter of law at this time, Your
21 Honor.

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, let me take a quick -- we need to take a quick break
24 to take up an issue of law. If you would, adjourn to the
25 back. I'll have you back out here as soon as possible.

MICHELLE EICHENMILLER-DIRECT EXAMINATION

324

1 Please don't discuss the case.

2 (Whereupon, the jury exited the courtroom at 12:49
3 p.m.)

4 THE COURT: The jury is out. You have an issue of law?

5 MS. NELSON: Your Honor, it seems like where they are
6 going to go is to ask Ms. Eichenmiller to comment or make
7 identifications about these pictures of guns that were taken
8 from Mr. Settles' home. Our objection would be that those -
9 - she's not actually looked at those guns, and she's already
10 testified as to what types of manufacturers make guns that
11 these -- that this casing and bullet she examined could have
12 come from. We object on 403 grounds that allowing the State
13 to elicit testimony from her that somehow connected what she
14 examined to these photographs would let the jury make
15 inferences that these are photographs of the actual gun that
16 was used when there's been no comparison, when we don't know
17 when those pictures were taken. We don't know if they were
18 before or after this incident. We don't know who they
19 belong to. We only know that they were on Mr. Settles'
20 phone. And we just -- it's just our position that allowing
21 this kind of connection would just go too far and
22 potentially allow the jurors to make inference that they
23 should not be making from the rest of the evidence, Your
24 Honor.

25 THE COURT: Solicitor, for purposes of this motion I'm

1 assuming that one of the photographs is a .38?

2 MR. STUMBO: Yes, sir. Well, there's three
3 photographs. Two of them are essentially the same. One of
4 them has what appears to be a different revolver that looks
5 to be a .38 caliber. Ms. Eichenmiller is an expert in this
6 area. She can identify by sight the type of gun it is.
7 Maybe not the manufacturer based on these pictures, but she
8 can identify the exact type of gun. That's the only kind of
9 identification she's going to --

10 THE COURT: All right. I think your objection goes to
11 perhaps the weight as opposed to the admissibility of this
12 testimony, Ms. Nelson. I'll permit the witness to testify,
13 to the extent that she is able, about the caliber of the
14 caliber of the firearms depicted, or firearm depicted in the
15 photos, if she's able to make that identification.
16 Obviously you can address your points on cross.

17 Let's have the jury back out.

18 (Whereupon, the jury entered the courtroom at 12:53
19 p.m.)

20 THE COURT: Solicitor, you may continue.

21 MR. STUMBO: Thank you, Judge. What we'll do, Judge,
22 is I'm going to pass these around to the jury so we don't
23 have to listen to that beep, if that's okay.

24 THE COURT: Sure.

25 Q Ms. Eichenmiller, in State's 39, 40 and 41, are there

MICHELLE EICHENMILLER-CROSS-EXAMINATION

326

1 any firearms in those pictures that would be consistent with
2 a .38 or a .357 Magnum?

3 A In both of these -- in all of these pictures, there's
4 one revolver and one semi-auto firearm. The .38 Special is
5 the revolver caliber.

6 Q And the bullets that you analyzed in State's 57 -- or,
7 excuse me, 47 that are in evidence, would they be consistent
8 with any of the revolvers in the pictures here?

9 A Without having to see it closer --

10 MS. BOLEN: Objection. Objection, Your Honor, 403
11 relevance. Ms. Eichenmiller did not examine these weapons
12 and can't testify with certainty that those bullets could
13 have been fired from either of those guns pictured.

14 MR. STUMBO: Your Honor, I think it's the same thing we
15 just talked about in the motion.

16 THE COURT: Overruled. You can --

17 MR. STUMBO: Thank you, Judge.

18 THE COURT: You can deal with that on cross.

19 Q Anything in these pictures that are consistent with a
20 .38 Special, Ms. Eichenmiller?

21 A There's no way for me to tell from these pictures if
22 it's a .38 caliber. I can't see the diameter of the barrel.
23 Based on my experience, I've seen firearms that look like
24 this in .38 caliber.

25 Q The revolvers, not the semi-automatic?

MICHELLE EICHENMILLER-CROSS-EXAMINATION

327

1 A Correct.

2 Q Obviously you've not been able to test these guns
3 because they weren't submitted for your analysis?

4 A Correct.

5 Q But based on your training and experience they would be
6 consistent with a .38 Special?

7 A Correct.

8 Q Okay. Thank you.

9 MR. STUMBO: No further questions at this time. Please
10 answer any questions Ms. Bolen may have for you.

11 THE COURT: Ms. Bolen.

12 CROSS-EXAMINATION

13 BY MS. BOLEN:

14 Q Ms. Eichenmiller, you testified on direct that you have
15 created a report, correct?

16 A Yes.

17 Q And in that report you said you analyzed item 17, which
18 is the jacket, and 18 which is the actual bullet, correct?

19 A Correct.

20 Q And in that report you said that you couldn't determine
21 if those were fired by the same firearm or two different
22 firearms, correct?

23 A Correct.

24 Q And you also talked about the possible makes of
25 firearms that that bullet could come from?

MICHELLE EICHENMILLER-CROSS-EXAMINATION

328

- 1 A Yes.
- 2 Q And you read out, I believe, 16 different types?
- 3 A I think 17.
- 4 Q Seventeen. You're right. It's 17. Seventeen
- 5 different types, correct?
- 6 A Yes.
- 7 Q And you also state in your report that those 17 are not
- 8 the only ones? That it could be from another kind beyond
- 9 that 17, correct?
- 10 A Correct.
- 11 Q And you have not examined any guns in this case, right?
- 12 A I have not.
- 13 Q None have been submitted to you to examine?
- 14 A I haven't received any.
- 15 Q And with respect to the pictures that Mr. Stumbo showed
- 16 you, you don't have any idea where those pictures were
- 17 taken, right?
- 18 A No.
- 19 Q Or when?
- 20 A No.
- 21 Q Or whose guns they are?
- 22 A No.
- 23 Q And you said you can't -- there's no way to tell if
- 24 that gun in that picture is a .38?
- 25 A Yeah, without having to see it a little bit closer.

LASHAY HIGGINS-DIRECT EXAMINATION

329

1 Q And it's true that you can't identify what make of gun
2 that is, right, or a brand?

3 A No. It's a little blurry. Just based on general
4 characteristics I can make an educated guess.

5 Q But if were to print a picture of a .38 off the
6 Internet and hand it to you, your testimony would be the
7 same, right? That that bullet could have been from that gun
8 as well, right?

9 A Possibly.

10 MS. BOLEN: Nothing further. Thank you.

11 THE COURT: Thank you. You may step down and you are
12 free to go.

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

15 THE COURT: Ladies and gentlemen, we're going to go
16 ahead and take our lunch break at this point in time. I'm
17 going to ask that you be back in the jury room, if you
18 would, around 2:15 and we'll continue with the trial of the
19 case. The same rules as before. Don't talk about the case
20 with anyone, but I do hope you have the chance to have a
21 good lunch. All right? See you all back at 2:15. We are at
22 ease.

23 (Whereupon, the jury exited the courtroom at 12:58
24 p.m.)

25 THE COURT: We'll be at ease until around 2:15. See

LASHAY HIGGINS-DIRECT EXAMINATION

330

1 you all then.

2 MS. BOLEN: Thank you, Your Honor.

3 (Whereupon, court was in recess from 12:58 p.m. to 2:23
4 p.m.)

5 THE COURT: We'll go back on the record. The jury
6 isn't here. Let's go ahead and bring them in if there's
7 nothing to address the Court.

8 (Whereupon, the jury entered the courtroom at 2:24
9 p.m.)

10 THE COURT: The record should reflect that the jury is
11 back and is seated. The Defendant is present with counsel.
12 Solicitor, if you'll call your next witness, please, sir.

13 MR. STUMBO: Thank you, Your Honor. The State calls
14 Shay Higgins.

15 Lashay Higgins, having been first
16 duly sworn, testified as follows:

17 MS. BOLEN: Your Honor, I just wanted to, just for the
18 record, renew our previous objection.

19 THE COURT: Noted. Same ruling as before. You're
20 protected. You do not need to contemporaneously object.

21 Proceed Solicitor.

22 MR. STUMBO: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. STUMBO:

25 Q Shay, you came over here from Greenwood today; is that

LASHAY HIGGINS-DIRECT EXAMINATION

331

1 correct?

2 A Yes.

3 Q And do you know, Tavarious Dequan Settles, also known
4 as Purp?

5 A Yes.

6 Q And how do you know Purp?

7 A He's my cousin.

8 Q And you've known Purp his whole life?

9 A Yes.

10 Q Now, you said he's your cousin. How is -- what's --
11 your father's side or your mother's side?

12 A Mother.

13 Q This was your mother's sister or brother that is his
14 parent?

15 A His mom is my first cousin.

16 Q His mom is your first cousin? Your second cousin?

17 A Yeah.

18 Q Got you. Now, Shay, do you know Karlita Phillips?

19 A Yes.

20 Q And she -- would you consider her a close friend, or
21 acquaintance, or how would you describe her?

22 A Acquaintance.

23 Q Acquaintance. How many times have you been around
24 Karlita Phillips?

25 A Probably about two or three.

LASHAY HIGGINS-DIRECT EXAMINATION

332

- 1 Q Do you know her by another last name before Phillips?
2 Her prior name Purdy; is that correct?
3 A Uh-huh.
4 Q Yes?
5 A Yes.
6 Q Now, to your knowledge, what relationship developed
7 between Purp and Karlita?
8 A To my knowledge they were seeing each other.
9 Q Seeing each other. What does that mean to you?
10 Describe to the jury what your understanding of them seeing
11 each other was.
12 A They was having some type of relationship.
13 Q Physical relationship?
14 A Yes, I guess.
15 Q And did you ask your cousin, Purp, about that, or did
16 he tell you?
17 A He told me about it.
18 Q He volunteered that information to you?
19 A Yes.
20 Q And that information was that he was physically
21 involved with Karlita?
22 A Yes.
23 Q Did he say we're messing around? I mean, how did he
24 say that?
25 A He just told me that -- he asked me what was she doing

LASHAY HIGGINS-DIRECT EXAMINATION

333

1 at my house, and he was saying that they basically deal with
2 each other.

3 Q And she -- I'm going to give you, just maybe to refresh
4 your memory -- and you did give a statement to law
5 enforcement in this matter?

6 A Uh-huh.

7 THE COURT: Yes.

8 Q Say yes or no.

9 A Yes.

10 Q Okay. And the first line of that statement did you --
11 how did you describe your understanding of their
12 relationship?

13 A I said that they was messing around, or having sex.

14 Q , So you did tell them you understand that they were
15 having sex, correct? Yes or no.

16 A Yes.

17 Q And did you ever have a conversation with Karlita
18 Phillips about this relationship between her and your
19 cousin?

20 A Yes. I asked her about it, and she basically confirmed
21 yeah, they was messing around.

22 Q That they were having a sexual relationship?

23 A She never said that they was having a sexual
24 relationship, but she pretty acknowledged the fact that they
25 were --

ANTHONY MOSS-DIRECT EXAMINATION

334

- 1 Q Messing around?
- 2 A -- seeing each other. Spending time with each other.
- 3 Q Now, Ms. Higgins, you said she had been at your house.
- 4 Purp approached you about her being at your house. Was she
- 5 there for -- what was she there for?
- 6 A For a couple of hours.
- 7 Q Okay. She was there for a couple of hours. But what
- 8 was the nature of this? Was it a party or did you privately
- 9 invite her over? Was it a get-together?
- 10 A It was a get-together.
- 11 Q Purp came, too, to that particular party?
- 12 A Yeah. Yes.
- 13 Q When did you find all this out? What was the time-
- 14 frame of this?
- 15 A The time-frame was -- what, the party?
- 16 Q Well, the party and these conversations that you had
- 17 with Purp and Karlita?
- 18 A This was earlier part of the year. Probably around
- 19 January, February. Something like that.
- 20 Q And when did you find out they were -- that was when
- 21 the party took place. When did you have these conversations
- 22 with them about them messing around with each other?
- 23 A Probably about a week or so afterwards.
- 24 Q Okay. Your prior statement, would that -- look at
- 25 that, if that would refresh your --

ANTHONY MOSS-DIRECT EXAMINATION

335

1 A That says early March.

2 Q Early March of 2013, correct?

3 A Yes.

4 MR. STUMBO: No further questions, Ms. Higgins. Answer
5 any questions that the Defense may have for you.

6 MS. BOLEN: No cross, Your Honor.

7 THE COURT: Thank you, ma'am. You may step down. Call
8 your next witness.

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

11 MR. BROWN: The State calls Anthony Moss.

12 MR. STUMBO: And, Your Honor, Ms. Higgins may be
13 released obviously at this time. I think she has a doctor's
14 appointment. Thank you.

15 MS. BOLEN: And, Your Honor, objection subject to our
16 prior motion.

17 THE COURT: Same objection. Same ruling. No need for
18 objections when she testifies. When he testifies.

19 ANTHONY MOSS "DRE", having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BROWN:

23 Q Good afternoon, Mr. Moss. What's your full name?

24 A Anthony Moss.

25 Q And what do you go by?

ANTHONY MOSS-DIRECT EXAMINATION

336

- 1 A Dre.
- 2 Q Dre. Dre, do you know Tavarious Settles?
- 3 A My cousin.
- 4 Q And how old are you?
- 5 A Twenty-four.
- 6 Q How old is Tavarious Settles?
- 7 A Eighteen now.
- 8 Q So two years ago he would have been 16?
- 9 A Uh-huh.
- 10 Q And how long have you known him?
- 11 A My whole life.
- 12 Q And who is your sister?
- 13 A Shay.
- 14 Q Shay Higgins?
- 15 A Higgins, yeah.
- 16 Q Now, Dre, do you remember talking to law enforcement
- 17 about this case?
- 18 A Yes.
- 19 Q Did you ever have a conversation with your cousin,
- 20 Tavarious Settles -- what other names does he go by?
- 21 A Quan.
- 22 Q Does he also go by Purp?
- 23 A Yeah.
- 24 Q And did Tavarious ever tell you about a relationship he
- 25 had with Karlita?

ANTHONY MOSS-DIRECT EXAMINATION

337

1 A Yeah. He just told me they were having sex.

2 Q That they were having sex?

3 A Yeah.

4 Q What time did they start seeing each other? What time
5 of year was that and what year was it?

6 A I can't -- I can't remember exactly.

7 Q Was it 2013?

8 A Yeah.

9 Q Was it before Mr. Jamil Phillips was killed?

10 A Yes.

11 Q So was it a short time before that date, March 25th of
12 2013?

13 A Probably so.

14 Q Probably so. Did Tavarious, or Quan, or Purp -- what
15 do you call him, Quan?

16 A Yeah, I call him Quan.

17 Q Quan. Did Quan ever tell you of anything that Karlita
18 bought him or gave --

19 A Some shoes. Shoes.

20 Q Shoes?

21 A Yeah.

22 Q Did she ever give him any money?

23 A From time to time. That what he told me.

24 Q She'd just give them these kind of as gifts or
25 presents?

ASHANTI POLK-DIRECT EXAMINATION

338

- 1 A I guess. I guess so.
- 2 Q Again, at that time how old was Quan?
- 3 A Sixteen.
- 4 Q Had you ever seen Quan and Karlita at the same location
- 5 together?
- 6 A Yeah, once. At my sister's party. Like a kickback
- 7 like. A little get-together.
- 8 Q A little get-together at your sister's apartment?
- 9 A Yeah.
- 10 Q And were they together?
- 11 A No, they weren't together.
- 12 Q But you all were in this same apartment together?
- 13 A Yeah.
- 14 Q Did you know they were seeing each other then?
- 15 A Not then, no.
- 16 Q So it was after that you found out that they were -- or
- 17 that Quan and Karlita were having sex? And again, it was
- 18 after that you found out that Karlita bought your cousin,
- 19 Quan -
- 20 A Yeah.
- 21 Q -- shoes and gave him some money?
- 22 A Yeah.
- 23 Q And that's what Quan told you?
- 24 A Yeah.
- 25 Q Before Jamil Phillips died?

ASHANTI POLK-DIRECT EXAMINATION

339

1 A Yeah.

2 MR. STUMBO: No further questions.

3 MS. BOLEN: No cross, Your Honor.

4 THE COURT: Thank you, Mr. Moss. You can step down,
5 sir.

6 (Whereupon, the witness stepped down from the witness
7 stand.)

8 THE COURT: Call your next witness.

9 MR. STUMBO: Ashanti Polk. Judge, we ask that Mr. Moss
10 be free to go.

11 THE COURT: Certainly.

12 ASHANTI POLK, having been first
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. STUMBO:

16 Q Good afternoon. You go by Ashanti?

17 A Yes.

18 Q How old are you, Ashanti?

19 A Twenty.

20 Q And you live in Greenwood?

21 A Yes.

22 Q Tell me if you know an individual by the name of
23 Tavarious Purp Settles.

24 A Yes. We were dating.

25 Q What did you call him?

ASHANTI POLK-DIRECT EXAMINATION

340

1 A Purp.

2 Q You called him Purp? Do you know where that nickname
3 came from?

4 A From friends in the neighborhood.

5 Q Now, how long -- when did you start dating Purp? How
6 old were you at the time?

7 A I was around 15, 16.

8 Q How old was he?

9 A Around 14, 15.

10 Q Now, Ashanti, how long did you and Purp go out?

11 A For about three years off and on.

12 Q Now, after that three years tell us why you all broke
13 up.

14 A Because it was rumors that he was cheating with
15 somebody else.

16 MS. BOLEN: Objection, Your Honor.

17 THE COURT: Sustained as to rumors, but she can testify
18 as to her understanding of why they broke up.

19 MR. STUMBO: Right.

20 Q Why did you all break up?

21 A Because he was cheating.

22 Q Did you confront him about this?

23 A Yes.

24 Q What did he tell you?

25 MS. BOLEN: And, Your Honor, just for the record,

ASHANTI POLK-DIRECT EXAMINATION

341

1 subject to our previous motion.

2 THE COURT: Overruled.

3 MR. STUMBO: Thank you, Judge.

4 Q What did he tell you, Ashanti?

5 A He told me he was cheating and told me the person he
6 was cheating with.

7 Q He admitted to you he was cheating on you?

8 A Yes.

9 Q Who did he say he was cheating with?

10 A Karlita.

11 Q Did he describe her? Did you know Karlita at the time?

12 A No. He just said she was an older woman.

13 Q He was cheating with an older woman named Karlita?

14 A Yes.

15 Q What else did he tell you that was of note in relation
16 to this case? What did he tell you he had done?

17 A Told me that he shot Jamil.

18 Q So he told you he shot Jamil? That's the name he used?

19 A Yes.

20 Q Did he tell you who drove him there to do it?

21 A He told me his friend took him up there.

22 Q When did these conversations take place, or when did he
23 tell you these things? Do you remember what time it was?

24 A When?

25 Q Yeah.

ASHANTI POLK-CROSS-EXAMINATION

342

1 A It was in June of 2013.

2 Q June of 2013. That was -- that date sticks out to you
3 why? What was like shortly before? What happened after
4 that?

5 A Well, the month -- the month does because he got locked
6 up a few days after that, so -- and I know he got locked up
7 in June.

8 Q He got locked up over in Greenwood?

9 A Yes.

10 Q And that was for the --

11 A For the --

12 Q -- murder of a Guatemalan person over there?

13 A Yes.

14 Q Did you know the Phillips family, Jamil's family at
15 all? Did you know Jamil Phillips?

16 A No.

17 Q Do you know anybody in his family?

18 A No.

19 Q And you said at the time you didn't know Karlita
20 Phillips either?

21 A No.

22 Q Never met her?

23 A No.

24 Q And you -- when law enforcement came to see you, you
25 were honest with them and tell them what you knew?

MICHAEL COLLINS-DIRECT EXAMINATION

343

1 A Yes.

2 MR. STUMBO: No further questions, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. BOLEN:

5 Q Ms. Polk, you just said that you were honest when law
6 enforcement came to see you, correct?

7 A Yes.

8 Q But you didn't call law enforcement after Tavarious
9 told you --

10 A No.

11 Q -- you shot someone, correct?

12 A Correct.

13 Q And that conversation between you and Tavarious took
14 place in your house, right?

15 A Yes.

16 Q After school? You were already out of school, right?

17 A Yes, I was out of school.

18 Q He was still in school?

19 A Yes.

20 Q And that conversation took place in June?

21 A Yes.

22 Q And you didn't call the police, right?

23 A Right.

24 Q And you didn't make him leave your house or anything,
25 right?

MICHAEL COLLINS-DIRECT EXAMINATION

344

1 A Right.

2 Q And when you talked to law enforcement that was in
3 December of 2013, right?

4 A Yes.

5 Q Nothing further. Thank you.

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

7 (Whereupon, the witness stepped down from the witness
8 stand.)

9 THE COURT: Solicitor, call your next witness.

10 MR. STUMBO: The State calls Michael Collins. And,
11 Your Honor, we just ask that Ms. Polk be released at this
12 time.

13 MICHAEL JAMES COLLINS, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. BROWN:

17 Q Mr. Collins, please state your full name.

18 A My name is James Michael Collins.

19 Q And where do you work?

20 A I work for the South Carolina Law Enforcement Division,
21 also known as SLED.

22 Q How long have you been with SLED?

23 A I've been with SLED two and a half years now. Before
24 that I was with Anderson County Sheriff's Department for six
25 years.

MICHAEL COLLINS-DIRECT EXAMINATION

345

1 Q And what are your duties with SLED now?

2 A I'm an investigator with Piedmont Region Investigation
3 Division.

4 Q And were you in that same capacity back in March, 2013?

5 A That's correct. I was.

6 Q And, Investigator Collins, did you get called out on
7 March 25th, 2013 to a location at [REDACTED]
8 Road?

9 A I was.

10 Q And what was the nature of that call?

11 A The nature of the call was my training officer at the
12 time contacted me and stated that they had received a
13 request for us to assist Abbeville County in a homicide
14 investigation.

15 Q And did you respond to that location?

16 A I did. I responded to [REDACTED] Road here
17 in Abbeville.

18 Q What time did you get there that night?

19 A It would have been sometime after midnight. It was a
20 little bit of a drive for me. I actually live in Oconee
21 County, and this would have happened after hours. I would
22 have had to get up, get dressed. Unfortunately I didn't
23 know my way around Abbeville County, so I had to rely on my
24 GPS and it actually put me a little bit further away than I
25 thought I was going to be. So I got there sometime 12:30,

MICHAEL COLLINS-DIRECT EXAMINATION

346

1 12:45, 1:00. Somewhere around there.

2 Q So 12:30, 1:00. So it would be March 26th when you got
3 there?

4 A That is correct.

5 Q It's actually the next day early?

6 A Yes.

7 Q Once you got to the location at [REDACTED]
8 Road what did you find at that location?

9 A When I arrived at [REDACTED] Road, basically
10 what I -- because of my capacity at the time of assisting, I
11 made contact with the investigators that were there on the
12 scene. They had already roped off the area of the crime
13 scene. Had already conducted a neighborhood canvas. Talked
14 to -- talked to some witnesses. So basically what I did was
15 I talked to them, what I call a briefing, and then they
16 provided me with the information that they had already
17 received at that point. Through that information, they
18 stated that they had some neighbors who said that they had
19 seen a either light in color car or a silver car speeding
20 away around the time of the gunshots, and also that they had
21 located some cigarette butts that were inside the wood line.
22 Just as part of what I do, I walked the crime scene.
23 Observed for myself what they were talking about. Observed
24 Mr. Phillips on the front porch of the residence. Observed
25 the cigarette butts. And also on the other side of the wood

MICHAEL COLLINS-DIRECT EXAMINATION

347

1 line, also observed the tire treads.

2 Q Now, based on all of this information you were
3 gathering that night, were you -- did you ultimately become
4 the lead investigator on this case?

5 A That is correct. Originally I was in an assisting
6 capacity, but kind of as time went on and the transition
7 that the Sheriff's Office was going through at the time,
8 they had an interim Sheriff, I just kind of naturally became
9 the lead investigator on the case.

10 Q And after you all -- you and the rest of the
11 investigators that night, who else was there at the location
12 besides SLED?

13 A Abbeville County Sheriff's Office were there, SLED
14 crime scene was there, and then myself, and at the time,
15 Agent Kindley.

16 Q Now, Investigator Collins, after you received or kind
17 of gathered this information about the cigarette butts, the
18 color of the car, did you also talk with the Phillips
19 family?

20 A We did. As part of that briefing, when I spoke to the
21 Abbeville County Sheriff's Office investigator, they also
22 informed me -- informed me that they had spoken with members
23 of the family and received some information. I, myself,
24 spoke with the family and received that same information, as
25 far as who may have possibly been in possession or driving a

MICHAEL COLLINS-DIRECT EXAMINATION

348

1 light in color or silver colored car.

2 Q Ultimately as part of the investigation, did you or
3 other law enforcement ultimately run to find out -- or run
4 through DMV to find out what cars belonged to who?

5 A We did. Investigator Nick Marshall with Abbeville
6 County, he ran some information. Got some information as
7 far as the vehicle that came back to Ms. Karlita Phillips
8 and Dale Phillips, Jr., and it was registered to an
9 apartment in Greenwood off Haltiwanger.

10 Q After you received that information that -- about the
11 color of the car, and then also based that a similar kind of
12 car belonging to Ms. Phillips, Karlita Phillips, did you go
13 to that apartment complex?

14 A We did. After I did my walk-around of the crime scene
15 and the crime scene technicians came in, Ms, Vickie Hallman
16 and her -- and the other two technicians, they came in,
17 there really wasn't a lot for us to do as work but let them
18 just work the scene. At that point we decided that we would
19 follow up on the information. Because at that point in the
20 investigation our best source of information at that time is
21 the family and we are, at that moment, accepting any and all
22 information that we can get, so we have to follow-up on it.
23 We received that information, had a little bit more to do
24 with it, so we decided we'll go out and it'll be -- or try
25 to make contact with Ms. Karlita Phillips.

MICHAEL COLLINS-DIRECT EXAMINATION

349

1 Q And ultimately that night -- where was her apartment?
2 Do you know what apartment complex that was, or what the
3 location?

4 A It's [REDACTED] Haltiwanger in Greenwood and it's apartment
5 [REDACTED]

6 Q Now, what time of night or early morning did you all --
7 did you and -- who went with you at that location?

8 A Myself and Investigator Nick Marshall with the
9 Abbeville County Sheriff's Office. We actually went
10 together. He drove. Again, I didn't -- I don't know much
11 about Abbeville or Greenwood, so he drove. And he was going
12 to get outside of his jurisdiction, so it was nice to have
13 -- I have statewide jurisdiction, so we went together. We
14 arrived on -- we arrived at that apartment complex. We
15 observed a silver in color vehicle sitting hear the
16 apartment that we thought we were going to. Investigator
17 Marshall, he ran the information on the tag. It came back
18 to Ms. Karlita Phillips and Mr. Dale Phillips, Jr., and
19 registered to apartment [REDACTED]

20 The way we parked, he pulled in, the car would have
21 been on my side. I was on the front passenger side. As
22 soon as I -- when we pulled in there were lights on inside
23 the apartment that we thought that we were going to. I get
24 out of the car and I -- I get out of his car. I notice that
25 there's mud around the wheels and a little bit down the side

MICHAEL COLLINS-DIRECT EXAMINATION

350

1 of the silver colored car that was of interest to us at the
2 time. He called in. Investigator Marshall was talking to
3 dispatch. When they relayed the information back to him he
4 had his radio turned up and then that's when the lights
5 inside the residence went off.

6 Q So when you first arrived lights were on inside the
7 apartment?

8 A That is correct.

9 Q Apartment [REDACTED]

10 A Yes.

11 Q And when you arrived where did -- where did you go
12 after you noticed the car and kind of inspected the car,
13 what it had on it, there was mud around the tires and on the
14 side, what did you do?

15 A What I did was I just kind of looked at the vehicle for
16 a second. I told Investigator Marshall that the lights had
17 gone out. He said, "I saw that, too." At that point I went
18 to the front door. Yeah, he went around to the backside to
19 see if there was a back door or anything. I knocked on the
20 door. Announced who I was. I think I referred to myself as
21 state police. Knocked several times with no answer. At
22 that point, you know, a few minutes later, or a little while
23 later, a Greenwood County or City, I can't remember which
24 one he was, he arrived on the scene. And when we saw him
25 pull up he was coming to the same apartment that we were at.

MICHAEL COLLINS-DIRECT EXAMINATION

351

1 And he said he had received a call from a female inside
2 saying that someone was banging on her door identifying
3 themselves as police.

4 Q Now, Investigator Collins, when you were knocking on
5 the door were you banging it down like you were going to
6 knock the door down or were you simply knocking on the door?

7 A I was simply knocking on the door.

8 Q What's your recollection? Was Nick Marshall with
9 Abbeville County, was he banging on any doors in the back or
10 was he simply around there to make sure nobody ran out the
11 back?

12 A From what I remember, he was -- he was not banging on
13 any doors. Basically the reason why he went around back is
14 just to make sure that no one ran out. At that time we
15 didn't know what we were getting into. And we knew that the
16 lights inside the house -- or inside the apartment had gone
17 off, so we had a reasonable suspicion that someone was
18 inside. And when the lights shut off we didn't know exactly
19 what was going to happen at that point, so he went around
20 back to make sure that nobody ran out. I was around front.
21 And I think -- pretty sure that was the only two exits out
22 of that apartment.

23 Q Now, once Greenwood responded, city police -- or county
24 deputies arrived, did Ms. Karlita Phillips come to the door?

25 A She did. The officer actually -- he knocked on the

MICHAEL COLLINS-DIRECT EXAMINATION

352

1 door, advised through the door who he was. She opened the
2 door. And at that point that's when we -- I made contact
3 with her.

4 Q Was Ms. Phillips placed under arrest or anything like
5 that?

6 A She was not.

7 Q Was she free to go if she wanted to?

8 A She was free to go. She was free to tell us to leave.
9 At that point we would have had to comply.

10 Q When you made contact with Ms. Karlita Phillips did you
11 tell her why you were there?

12 A Yes. Again, I'm knocking on somebody's door at 2:30,
13 3:00 in the morning, and I understood why she -- nobody
14 would want to open the door. At that point when she opened
15 the door I introduced myself again. Told her who I was.
16 Told her that we had -- there was an incident that happened
17 over in Abbeville County. That Mr. Jamil Phillips had been
18 killed. And that we had received some information that led
19 us to come talk to her.

20 Q Now, after you relayed that information to her,
21 ultimately that night did she give a statement?

22 A She did.

23 Q And she was not under arrest at this time?

24 A No, she was not.

25 Q Did she freely and voluntarily give this statement to

1 you?

2 A She did.

3 Q I'm going to show you what's been marked in as evidence
4 as Evidence 1A. If you can take a look at that and see if
5 you recognize it. If you can take a look at that and see if
6 you recognize it.

7 A I do.

8 Q And what is that?

9 A This is a statement that Ms. Karlita Phillips provided
10 written on a SLED statement form. Voluntary statement form.

11 Q And the jury has already heard what's in that
12 statement. But did she ever admit to having anything to do
13 with it that night?

14 A No. Initially when I talked to her it was basically
15 like a question and answer session, and that statement came
16 way after that -- way after those conversations, and this is
17 the information that she allotted. Even at the end where
18 there's a list of pawn shops and stuff where she went that
19 day, I specifically asked her if she had any knowledge or
20 information, you know, relevant to the investigation. At
21 that point she said that she didn't know anything about it.

22 Q What did she say about her car that night?

23 A Again, because of the tire treads that were seen and
24 the mud that I saw on her car, I did specifically ask her
25 where her car had been that night. She gave -- again, she

MICHAEL COLLINS-DIRECT EXAMINATION

354

1 gave me a list of places that she had been. She ended up
2 being at home. She said that she and her daughter were
3 driving up and down the apartment complex, teaching her
4 daughter how to drive. And so, I asked her if anybody had
5 borrowed her car or used her car, and at that point, that's
6 in the statement, she said that nobody had used her car, or
7 borrowed her car.

8 Q Now, after -- and what time did that conversation end
9 or did she finish with this statement?

10 A She finished with that statement, I believe it's
11 indicated, at around 3:50.

12 Q So it's early morning hours?

13 A Yes, sir.

14 Q Now, Investigator Collins, after she gave that written
15 statement and you noticed the car being there with -- and
16 going back. When you first saw that car with that mud, did
17 it look like that mud had been there for a long time or did
18 it look fresh?

19 A It looked relatively fresh, just from my knowledge and
20 experience of analyzing mud. It looked like it had just
21 been put on there.

22 Q Now, after you got the statement from Karlita Phillips
23 and you'd seen the car, what did you do next?

24 A It's all kind of mix-matched together, because while I
25 was talking to her I was also speaking with the -- a

MICHAEL COLLINS-DIRECT EXAMINATION

355

1 Solicitor at the Solicitor's Office about the car. Just
2 based on the fact that we had the tire tracks at the scene
3 and that it was a muddy situation, and then seeing the mud
4 on the vehicle itself, I did make contact with the
5 Solicitor's Office and advised them of the information. At
6 that time he actually typed up the search warrant as I was
7 giving him the information for the probable cause.

8 MS. BOLEN: Your Honor, we just renew our prior motion.

9 THE COURT: Same ruling as before.

10 Q Ultimately after you got that search warrant, did you
11 just leave the car there that night or did something -- did
12 you all get the car that night?

13 A No. It actually took a little while to get the search
14 warrant and get it signed. We had to wait for the judge,
15 you know, in the middle of the night and everything of that
16 nature. We actually left a -- again, I can't recall if it's
17 Greenwood city or Greenwood county. We left a deputy there
18 with the vehicle. Once we got the search warrant signed off
19 we went back and we had that vehicle towed to the Abbeville
20 County Sheriff's Office where they kept it in their impound.

21 Q After you had the car towed to the Abbeville County
22 impound did you go to attend the autopsy of Jamil Phillips
23 --

24 A I did attend --

25 Q -- that day?

MICHAEL COLLINS-DIRECT EXAMINATION

356

1 A I did attend the autopsy of Mr. Phillips.

2 Q And there's been talk about the bullets that were
3 retrieved from Jamil Phillips, State's Evidence 47. Did you
4 ultimately take that down to SLED?

5 A I did. That's indicated by my name and date, and
6 that's my handwriting and initials across the seal.

7 Q And Dr. Woodard would have given these to you after he
8 retrieved these from Jamil?

9 A Yes, sir. He would have.

10 Q Investigator Collins, ultimately was there -- when the
11 cigarette butts -- you alluded to cigarette butts.
12 Ultimately was there a comparison made on those cigarette
13 butts?

14 A There was a comparison made on those cigarette butts.
15 After some time we did receive a report that stated that
16 those cigarette butts -- the DNA on those cigarette butts
17 were a match to Tavarious Dequan Settles.

18 Q And during that investigation on Mr. Dequan Settles, or
19 Quan Settles, or he's been referred to here as Purp, was a
20 search warranted executed for phones belonging to Purp
21 Settles?

22 A That's correct. Once we got the information, as far as
23 the DNA match, I did do an interview with Mr. Settles. He
24 -- at the time he was at the Greenwood --

25 Q Just if you would go on to -- about the search warrant

MICHAEL COLLINS-CROSS-EXAMINATION

357

1 on the phone.

2 A Yes. I did complete it and obtain a search warrant for
3 Mr. Settles' phone.

4 Q And that search was done -- a forensic search was done
5 by David Grubbs with SLED?

6 A That is correct.

7 Q I want to show you what's been marked as State's
8 Evidence 38. Do you recognize the person in that photo?

9 A That is Mr. Tavarious Settles.

10 Q And just through this investigation you know that to be
11 Tavarious Settles?

12 A That is correct.

13 MR. BROWN: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 Q Now, Investigator Collins, after you received all the
16 information back from SLED testing did you ultimately make
17 an arrest in this case?

18 A We did.

19 Q And Purp Settles, what was he arrested for?

20 A He was arrested for the murder itself.

21 Q Of Jamil Phillips?

22 A Of Jamil Phillips.

23 Q And Karlita Phillips, was she ultimately arrested?

24 A She was ultimately arrested.

25 Q She was arrested in December -- I believe December

MICHAEL COLLINS-CROSS-EXAMINATION

358

1 18th, or right around that date?

2 A Sometime around there. Yes, sir.

3 Q 2013?

4 A That's correct.

5 Q And what was she arrested for?

6 A The original arrest warrant was for using a minor to
7 commit a felony, and then a follow-up warrant was accessory
8 before the fact of murder.

9 MS. BOLEN: Your Honor, we have objection on a matter
10 of law actually at this time.

11 THE COURT: You all approach before we decide this.

12 (Whereupon, a sidebar was held.)

13 Q Investigator Collins, actually the accessory before the
14 fact of murder, that was actually a direct indictment,
15 correct, instead of a warrant being issued?

16 A I'm sorry. Yes, that's correct.

17 Q That was a direct indictment?

18 A That's right.

19 MR. BROWN: No further questions.

20 THE COURT: Cross.

21 CROSS-EXAMINATION

22 BY MS. BOLEN:

23 Q Investigator Collins, so you first got involved in this
24 case the 25th, 26th of March, right?

25 A Yes, ma'am.

MICHAEL COLLINS-CROSS-EXAMINATION

359

1 Q And you went out to Karlita's apartment in Greenwood,
2 you said, sometime around 2:30 in the morning --

3 A That's correct.

4 Q -- on the 26th?

5 A That's about what time we would have been there.

6 Q And can you describe the apartment complex?

7 A There are -- I think they're brick apartments. You
8 pull in, and I think hers was somewhere back to the left, I
9 believe.

10 Q And you said her apartment was [REDACTED] I believe that's
11 what you said.

12 A I believe it was.

13 Q And her car was parked up front, right?

14 A I don't know if it was right in front of the door of
15 [REDACTED] but it was pretty close to it.

16 Q And you said there was visible mud right on that car,
17 right?

18 A Yes.

19 Q And it was right out in the parking lot?

20 A Yes.

21 Q And you arrived there in an unmarked car, right? You
22 don't drive the police car with sirens and lights?

23 A To be honest with you, I didn't -- it wasn't my
24 vehicle, and I'm not sure what Investigator Marshall was
25 driving at the time.

MICHAEL COLLINS-CROSS-EXAMINATION

360

1 Q And you testified you got there very early on in the
2 morning, somewhere around 2:30, you think?

3 A That would have been correct.

4 Q And you said you and Detective Marshall -- Detective
5 Marshall went to the back, you went to the front, and you
6 didn't know what was going to happen, right?

7 A Excuse me?

8 Q I think you testified on direct that Detective Marshall
9 went to the back and you knocked on the front door and you
10 said something about we didn't know what was going to
11 happen, right?

12 A Right. We didn't know what -- because the lights were
13 originally on inside the house until his radio -- until
14 dispatch got back in contact with him and that blared out
15 very loudly, that's when the lights went out inside that --
16 inside the apartment. At that point he saw it. I stated it
17 to him. He said that he saw it. And I went to the front
18 door and he went to the back door, and at that point I
19 knocked on the door. That's correct.

20 Q And what ended up happening is that Karlita called the
21 police herself, right? She called Greenwood 9-1-1?

22 A She did.

23 Q And then she opened the door for you, right?

24 A That is correct.

25 Q That's what ended up happening? And you said he first

MICHAEL COLLINS-CROSS-EXAMINATION

361

1 went to the incident location, right?

2 A Yes, I did.

3 Q And you went there before going to her apartment,
4 right?

5 A Yes, ma'am.

6 Q And you talked a little bit about some information.
7 The information you had gotten is that she and Dale were
8 separated and in the midst of a divorce, right?

9 A That was part of the information that we received,
10 amongst other information.

11 Q And then moving onto -- after that night you continued
12 to work on this case, right? You were the lead
13 investigator?

14 A Yes, ma'am.

15 Q And it's fair to say this investigation didn't end that
16 night, right?

17 A Oh, it didn't. No, ma'am. It did not.

18 Q So you continued to investigate over the next couple of
19 months following up on leads, right?

20 A Yes, ma'am.

21 Q And at the end of that you said you arrested Tavarious
22 for murder, correct?

23 A Yes.

24 Q And you got a warrant for him, right?

25 A Yes.

NATALIE TALBERT-DIRECT EXAMINATION

362

1 Q And the procedure for getting a warrant is you go to a
2 magistrate judge, right?

3 A Yes, you go to a judge.

4 Q Okay. You go to a judge and you present the judge with
5 what you think is probable cause and a judge would return a
6 warrant, right?

7 A That's correct.

8 Q And the warrant you got for Purp was for murder, right?

9 A I didn't get it myself. Captain Talbert of the
10 Abbeville County Sheriff's Office, she actually presented
11 the case and obtained the warrants and signed the warrants.

12 Q But you worked with her, right?

13 A Yes.

14 Q Throughout the investigation?

15 A Well, not throughout. Again, there was a transition
16 happening --

17 Q I see.

18 A -- with the Sheriff's Office, so they came -- Sheriff
19 Watson and Captain Talbert, they came in on the later end of
20 the investigation. So when you said worked throughout, at
21 the point of which they took over the Sheriff's Office I
22 worked with them.

23 Q Okay. There was a transition in personnel, right, at
24 the Sheriff's Office during that time period?

25 A Yes, ma'am.

NATALIE TALBERT-DIRECT EXAMINATION

363

1 Q People leaving, other people coming in. Okay. But you
2 worked with Investigator Talbert and Investigator Marshall
3 the last couple of months of this investigation, right?

4 A Yes.

5 Q And got the -- went to a judge to get a warrant on Purp
6 for murder and you went to a judge to get a warrant on
7 Karlita for solicitation of a minor to commit a felony,
8 correct?

9 A Yes. Captain Talbert, actually presented that case.

10 MS. BOLEN: Nothing further. Thank you.

11 THE COURT: All right, sir. You may step down.

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

14 THE COURT: Call your next witness, please.

15 MR. BROWN: The State calls Captain Natalie Talbert.

16 NATALIE TALBERT, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BROWN:

20 Q Good afternoon, Captain Talbert.

21 A How are you?

22 Q Doing well. Captain Talbert, where do you work?

23 A The Abbeville County Sheriff's Office.

24 Q And how long have you been with the Sheriff's Office?

25 A For two years.

NATALIE TALBERT-DIRECT EXAMINATION

364

1 Q When did you actually begin at Abbeville County
2 Sheriff's Office?

3 A I'd say around May 22nd, 21st of 2013.

4 Q So after this incident had already taken place?

5 A That's correct.

6 Q And you came in at the same time who came in?

7 A Sheriff Watson.

8 Q That's when he was elected to be Sheriff here in
9 Abbeville County?

10 A That's correct.

11 Q Captain Talbert, after you were brought over to
12 Abbeville County did you have an opportunity to become
13 involved in this case?

14 A Yes, I did.

15 Q And did you have the opportunity to speak with Karlita
16 Phillips?

17 A Yes, I did.

18 Q And when did you speak with Karlita Phillips?

19 A The first time I spoke with her was December the 18th
20 of 2013.

21 Q And was that after she was already in custody?

22 A That's correct.

23 Q Ms. Talbert, when you spoke with Karlita Phillips that
24 day where did that conversation take place?

25 A That happened in the conference room at the law

NATALIE TALBERT-DIRECT EXAMINATION

365

1 enforcement center.

2 Q Who else was with you at that time?

3 A That would have been Sergeant Nick Marshall.

4 Q And at that time, as already stated, Ms. Phillips --
5 Karlita Phillips was in custody?

6 A Yes, she was.

7 Q And before you began interviewing her or had a
8 discussion with Karlita Phillips did you or Investigator
9 Marshall provide her with her Miranda rights, or read her
10 her Miranda rights?

11 A Yes. I actually did that.

12 Q I show you what's been marked State's Evidence 49 and
13 see if you recognize that.

14 A Yes. This is the Miranda rights that I read to Ms.
15 Phillips.

16 Q And did she freely and voluntarily speak with you all?

17 A Yes, she did.

18 Q And it appeared that she understood all of her rights?

19 A Yes, she did.

20 Q After she signed, and at the bottom of that -- whose
21 signature is at the bottom of the page of the Miranda
22 report?

23 A At the bottom of the page it would be my signature and
24 Sergeant Marshall.

25 Q Is Karlita Phillips' signature on there as well?

NATALIE TALBERT-DIRECT EXAMINATION

366

- 1 A That's correct. It is.
- 2 Q And what time of day was this interview conducted, or
- 3 when did she sign the Miranda form?
- 4 A That would have been 15:38 p.m.
- 5 Q So that's 3:38 in the afternoon?
- 6 A That's correct.
- 7 Q After she signed the Miranda form did you begin a
- 8 conversation with her?
- 9 A Yes, I did.
- 10 Q And was that conversation recorded?
- 11 A It was an audio recording.
- 12 Q During your conversation with Ms. Phillips was it hard
- 13 to understand her?
- 14 A It was very hard to understand her. She was sort of
- 15 mumbling in her words.
- 16 Q But how long did this conversation or this interview go
- 17 on?
- 18 A It was a very lengthy conversation.. Almost three
- 19 hours.
- 20 Q Did during this -- or during this conversation did
- 21 Karlita Phillips give any type of written statement?
- 22 A On that particular day she did not.. It was just
- 23 verbal.
- 24 Q During that conversation with Karlita Phillips did she
- 25 ever admit to sending Tavarious Settles over there that

NATALIE TALBERT-DIRECT EXAMINATION

367

1 night?

2 A Yes, she did.

3 Q Now, how -- in what context was that that she said, or
4 did she ever say she had a relationship with Purp Settles?

5 A Could you repeat that question?

6 Q How did that conversation come up or how did she say
7 she knew Purp and what she did? Give me a summary of what
8 she said.

9 A She said that she actually knew him through her
10 daughter. She said that she had spoken with her daughter
11 about how much she hated her husband. And she also said
12 that -- initially she actually sort of said that she -- she
13 indicated that her daughter may have been involved in this,
14 and she said that she spoke to her daughter about that. How
15 much she hated her husband. How she wanted him dead. And
16 she said that Mr. Settles was a friend of her daughter's.
17 Evidently her -- her daughter may have said something to him
18 is what she said initially.

19 Q Did she say anything about her giving her car to
20 Settles that night?

21 A Yes, she did.

22 Q During that first interview?

23 A She did.

24 Q Was that essentially what she said during that
25 interview?

NATALIE TALBERT-DIRECT EXAMINATION

368

1 A Yes.

2 Q Now, the next day did you interview Ms. Phillips again?

3 A Yes, I did.

4 Q And who was with you during that interview?

5 A That was also Sergeant Nick Marshall.

6 Q What time of day did this interview take place?

7 A That was in the morning, like 7:00-ish. Between 7:30,
8 8:00 in the morning. Early morning.

9 Q I show you what's been marked State's Evidence 50. If
10 you can tell me what that is.

11 A This is also a Miranda rights that was read to Ms.
12 Phillips at 7:57 a.m. on December the 19th, 2013, and
13 Sergeant Marshall actually gave her her Miranda rights on
14 that particular day.

15 Q Is that the same form that was filled out on December
16 18th, 2013? Is it essentially the same form as State's
17 Evidence 49?

18 A It's the same form, yes. It's the same form. It's
19 just --

20 Q It says the same rights?

21 A It says the same thing.

22 Q Can you read what you read to Karlita Phillips?

23 A Sure. This is Abbeville County Sheriff's Office
24 Statement of Miranda rights. "You have the right to remain
25 silent." She initialed that. "Anything you say can and

NATALIE TALBERT-DIRECT EXAMINATION

369

1 will be used against you in a court of law." She initialed
2 that, that she understood. "You have the right to talk to a
3 lawyer." She initialed that as well saying that she
4 understood her rights. "If you cannot afford a lawyer, to
5 hire a lawyer, one will be appointed to represent you before
6 any questioning, if you wish." She also initialed that.
7 "You can decide at any time to exercise these rights and not
8 answer any questions or make any statements," and she
9 initialed that. At the bottom is the waiver of her rights.
10 "I've read the above statement of my rights and I understand
11 each of those rights, and having these rights in mind I
12 waive them and willing make a statement." And she signed
13 that and was witnessed by Sergeant Marshall.

14 Q And that particular waiver of rights, that was which
15 day?

16 A That was in December the 19th, 2013.

17 Q And what was the date on that -- or the time on that?

18 A 7:57 a.m.

19 Q And she did the same thing for the day before on
20 initialing each right?

21 A That's correct. She did.

22 Q And her signature was on that as well?

23 A That's correct.

24 Q Captain Talbert, after you read her her Miranda rights
25 did Ms. Phillips write a statement on December 19th?

NATALIE TALBERT-DIRECT EXAMINATION

370

1 A Yes, she did.

2 Q I show you what's been marked --

3 MS. BOLEN: Subject to our objection, Your Honor.

4 THE COURT: Subject to the earlier objection and the
5 Court's earlier ruling on *Jackson v. Denno* on the other
6 issues. Go ahead.

7 Q I show you what's been marked State's Evidence 51. Do
8 you recognize that?

9 A Yes. This is the voluntary statement that was written
10 by Karlita Phillips.

11 Q And during the second -- on December 19th of 2013, was
12 that statement also audio recorded?

13 A Yes, it was.

14 Q But the majority of that time was it silence based on
15 her writing this statement?

16 A A very large portion of it was silent because she was
17 writing the statement. That's correct.

18 Q Captain Talbert, if you wouldn't mind, would you read
19 what Ms. Karlita Phillips wrote in her statement that day.

20 A I have to take my glasses off.

21 THE COURT: And this, of course, is subject to the
22 earlier objection.

23 A "On December 18th, 2013 I was arrested for using a
24 minor to commit a violent crime. I talked with two
25 Sheriff's yesterday and some things I said were not meant

NATALIE TALBERT-DIRECT EXAMINATION

371

1 the way it came out, like my conversation with my daughter.
2 Her and my son mean the world to me and they know that I say
3 things when I'm angry, like in reference to my ex-husband.
4 I said the bastard could sit and die for all I care.
5 Bringing up a person named Derrick and jumping my ex --" I
6 think that's ex-husband or something "-- never happened. I
7 never hang at the laundry mat. I can say I never meant to -
8 - meant for Jamil Phillips to die. I was not out just
9 asking people will you kill my husband. I'll give you some
10 money. And Purp was never alone. People was always around.
11 I'm not a bad person, and I know you say things in the heat
12 of the moment. But I never just took him to Abbeville and
13 said this is the house, because I didn't know if my husband
14 was staying there any longer or not. The only thing I'm
15 guilty of was looking for someone --" I cannot make out that
16 word right there, "-- after my apartment was broken in and I
17 was told I could get it out. That never occurred and I left
18 that conversation alone. I want to stress that I in no way
19 involved my daughter in this situation. I wasn't the
20 mastermind behind this plan. This is all on him and Mike.
21 They are already charged with murder. An unknown male. So
22 it's easy to lie. And, of course, the family wants me to be
23 in anyway possible. I want to take the lie detector but was
24 told no because I would fail. I want to do the right thing.
25 But the Camry left my house twice that day. In the store

NATALIE TALBERT-DIRECT EXAMINATION

372

1 and make a smoke run for cigarettes. I didn't pull the
2 trigger. I didn't drive no one to Abbeville that night.
3 After me and my daughter kept driving up and down the
4 parking lot we came and watched TV, and around 3:00 a.m. an
5 Abbeville came telling me Jamil dead and not Dale. They
6 took my car and at the end of the week I was told to come
7 get it. But I was told yesterday the soil on the car and
8 the soil from the crime scene matched. So why give me the
9 car back if it was involved in a murder. I never saw Purp
10 with a gun. I didn't bring it to him. It's all on him and
11 Mike. On the 9th of March 25th, 2013 a murder occurred in
12 Abbeville County at the parents' residence of my estranged
13 husband. At the time I was not in Abbeville when this
14 happened. I never took him to Abbeville, South Carolina.
15 He was making accusations of a sexual relationship, but it
16 wasn't that. I made statement that him and Mike was in the
17 car. That was earlier. The car was --" and I can't read
18 that. I'm sorry. "My apartment got broke in and I really
19 without -- I was at my breaking point because I felt my
20 husband was and is going on with everything that happened
21 since our separation. Things was said in the heat of the
22 moment but it was never spoken of again. Even when it
23 happened he never say anything to me that he did it, and no
24 questions were asked. I did say to my daughter the bastard
25 can eat shit and die for all -- for all he put us through,

NATALIE TALBERT-CROSS-EXAMINATION

373

1 but I never brought -- never brought the crime or murder to
2 him. It's like he was high all the time and he was mad, but
3 I never seen him with a gun or anything. In reference to
4 the page of a shooting that occurred, like I said, I wasn't
5 at the crime scene. I wasn't the trigger man. And if he
6 won't -- if he won't admit to the murder, that's on him.
7 But I never asked him to do anything that involved going to
8 Abbeville on that night. And this has involved my son,
9 daughter. Even the kids' father saying we was involved in
10 the murder. I truly want this over, but I'm not going down
11 for this, and it's not all on me. I put this on my life.
12 Even the Sheriff believe I didn't pull the trigger. I took
13 him to house. I got the ball rolling, as one Sheriff
14 stated. But again, I didn't force or tell him to do
15 anything. I never been in no trouble like this in my life."
16 End of statement.

17 Q After that statement was written was your interview
18 with Karlita Phillips done for the day?

19 A Yes, it was.

20 Q And is her name signed on each page, that this was her
21 complete statement?

22 A Her signature is on each page.

23 Q And on that particular day, December 19th, 2013, those
24 four pages is what she wrote that day?

25 A That's correct.

NATALIE TALBERT-CROSS-EXAMINATION

374

1 MR. BROWN: Beg the Court's indulgence. No further
2 questions.

3 CROSS-EXAMINATION

4 BY MS. BOLEN:

5 Q Ms. Talbert, you spoke with Karlita on December 18th
6 for about two and a half to three hours, right?

7 A That's correct.

8 Q And you spoke with her again the next morning for
9 another two, two and a half, right?

10 A It was a good while, yes.

11 Q And on the -- on the 18th it started sometime in the
12 mid-afternoon, 3:30 or so?

13 A That's correct.

14 Q And the next morning it started around 7:00, 7:30, I
15 think you said, right?

16 A 7:57.

17 Q That's when she initialed the Miranda form?

18 A That's correct.

19 Q All right. And at no time did she say she didn't want
20 to talk to you or invoke her right to an attorney, correct?

21 A That's correct.

22 Q So she talked to you on the 18th. She talked to you
23 again on the 19th, right?

24 A That's correct.

25 Q And, in fact, you got her on the 18th and then you went

NATALIE TALBERT-CROSS-EXAMINATION

375

1 back and talked to her more on the 19th, right?

2 A That's correct.

3 Q On the 18th, the first time you talked to her -- on the
4 18th you get a little bit of background from her, right?

5 She's a CNA at Wesley Commons, correct?

6 A That's correct.

7 Q She worked there for something like 12 years?

8 A Yes.

9 Q And she -- on the 18th and on the 19th she tells you
10 she didn't bring this to Tavarious, right?

11 A Yes, that's what she said.

12 Q That she never asked him to murder anyone, right?

13 A That's correct.

14 Q That she never intended any murder, she never wanted
15 anyone murdered, correct?

16 A That's what she said, yes.

17 Q She does tell you on the 18th, the first day you talked
18 to her, that she let Tavarious use her car, right?

19 A She did.

20 Q And she also told you on the 18th, the first time you
21 talked to her, that she had made this comment to her
22 daughter, right? This comment about I wish he would die, or
23 something like that, right?

24 A Yes.

25 Q But that was in the context of -- she told you she said

NATALIE TALBERT-CROSS-EXAMINATION

376

1 that sometime during some of their family court proceedings,
2 correct? That she had said it back in like November?

3 A I don't recall that part.

4 Q You don't recall that?

5 A No.

6 Q She said that her daughter was the only person she ever
7 said that to, correct?

8 A That's correct.

9 Q And she also tells you on the 18th, again the first
10 time you talk to her, that she had talked to someone about
11 jumping on her ex-husband, right?

12 A Yes, she did say that.

13 Q But she maintained she never talked to anyone about
14 killing anyone, right?

15 A That's correct.

16 Q And in the statement that she handwrote and you just
17 read, she said something in there about that she had been
18 told the day before. So she writes that on the 19th, right?

19 A That's correct.

20 Q And she puts in there that she had been told the day
21 before, which would be the 18th, that the soil matched,
22 right?

23 A Yeah, I did read that. Yes, that's what she said.

24 Q Do you recall telling her that the soil on her car
25 matched?

NATALIE TALBERT-REDIRECT EXAMINATION

377

1 A I don't recall saying that. I could have. I mean,
2 three hours is a long time of talking.

3 Q Okay. But you don't -- the soil -- there was never any
4 analysis done on the soil, correct?

5 A That's correct.

6 Q When you go back to talk to her on the 19th -- so you
7 stop on the 18th because you and Detective Marshall are
8 getting tired? It's past 5:00, right, and everyone is
9 getting a little tired?

10 A Not because it was past 5:00.

11 Q Well, I didn't mean --

12 A It was exhausting. It was a long day.

13 Q It was a long interview, right?

14 A Yes.

15 Q So you go back the next morning, fairly early in the
16 morning, right?

17 A That's correct.

18 Q And it was another fairly lengthy interview, right?

19 A It was long, yes.

20 Q And she maintains on the 19th as well that she never
21 brought this to Tavarious, correct?

22 A That's what she said, yes.

23 Q She never asked anyone to kill anyone, correct?

24 A That's correct.

25 Q And that she never had any intent of any kind of

NATALIE TALBERT-REDIRECT EXAMINATION

378

1 murder, correct?

2 A That's what she said, yes.

3 MS. BOLEN: Thank you. That's all I have.

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

6 Q Captain Talbert, Ms. Bolen was asking about the
7 December 18th, 2013 questioning that the soil matched. Was
8 that said, that you stated? Told Karlita that the soil or
9 whatever had been matched or been compared? Was that
10 brought up?

11 A It could have been. Solicitor, there were a lot of
12 things that were said.

13 Q In that statement with Karlita, did Karlita make the
14 statement, "Dale made me sick"?

15 A Yes, she did.

16 Q She made the statement, "I wish he was dead"?

17 A Yes, she did.

18 Q She made the statement, "Purp left in a car from her
19 house and said he was going to get up with Mike"?

20 A Yes, she did.

21 Q And then she tried to put it on her daughter saying, "I
22 guess my daughter asked him to do it"?

23 A Yes, she did.

24 Q And then the following day, when she wrote her
25 statement, she then changed her mind and said her daughter

NATALIE TALBERT-REDIRECT EXAMINATION

379

1 didn't have anything to do with it?

2 A She did.

3 Q And then she decided to say her car did leave her house
4 that day?

5 A That's correct.

6 Q So in a matter of hours between December 18th, that
7 night, December 19th, that morning, Karlita's mind is
8 already changed on what she wanted to tell you?

9 A That's correct.

10 MR. BROWN: No further questions.

11 MS. BOLEN: No, sir.

12 THE COURT: Ms. Talbert, thank you very much. You may
13 step down.

14 THE WITNESS: Thank you.

15 (Whereupon, the witness stepped down from the witness
16 stand.)

17 THE COURT: We're going to take a brief five minute
18 break. I need to confer with the attorneys. Don't discuss
19 the case, and I'll have you back out here probably in about
20 five or 10 minutes. Okay? So adjourn to the jury room.

21 (Whereupon, the jury exited the courtroom at 3:31 p.m.)

22 THE COURT: The jury was out. How many more witnesses
23 do you all have, three?

24 MR. STUMBO: Three, Judge.

25 THE COURT: Who are they?

BO BARTON-DIRECT EXAMINATION

380

1 MR. STUMBO: Bo Barton from SLED, Dale Phillips, Jr.,
2 we will probably call. I think we'll be calling him. And
3 Amanda Fallaw from Wesley Commons. And possibly -- there
4 again, Judge, we have -- and I asked during the lunch break,
5 or actually shortly after the lunch break, for Mr. -- for my
6 Investigator Courtney Smith to have Tavarious Settles
7 brought back over here. And quite frankly, the reason for
8 that is we heard from them Monday morning. I want to make
9 sure the record is clear. I know once we close our case his
10 opportunity to testify is done. So he was brought up here.
11 When I say we had three witnesses, that's assuming he
12 decides not to testify.

13 THE COURT: Those witnesses are present --

14 MR. STUMBO: They are.

15 THE COURT: -- and are ready to go this afternoon?

16 MR. STUMBO: Yes, sir.

17 THE COURT: All right. Very good. We'll be at ease
18 for a few moments and then we'll just keep moving.

19 (Whereupon, a recess was held from 3:31 p.m. to 4:02
20 p.m.)

21 (Whereupon, State's Exhibit Nos. 53 and 54 were marked
22 for identification.)

23 THE COURT: I think Yates is on his way back in,
24 Solicitor. Can we go ahead and bring the jury out and
25 start? Are you on --

BO BARTON-DIRECT EXAMINATION

381

1 MR. STUMBO: That's fine, Judge. I'm calling the next
2 witness, so we can do that.

3 THE COURT: All right. Let's have the jury then,
4 please.

5 (Whereupon, the jury entered the courtroom at 4:02
6 p.m.)

7 THE COURT: The record will reflect that the jury is
8 back and is seated. Defendant is present with counsel.
9 Solicitor, you may continue, sir.

10 MR. STUMBO: Thank you, Judge. The State calls Bo
11 Barton to the stand.

12 BO BARTON, having been first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. STUMBO:

16 Q What's your rank with SLED?

17 A Lieutenant.

18 Q All right. So I'll refer to you as Lieutenant Barton,
19 if that's okay.

20 A Yes, sir.

21 Q How long have you been at SLED?

22 A Twenty-seven years.

23 Q And your time at SLED what divisions have you worked in
24 with the State Law Enforcement?

25 A I've been bloodhound tracking team, SWAT team. I was

BO BARTON-DIRECT EXAMINATION

382

1 in narcotics for 10 years. Then I was in the region --
2 Midlands region where I had Aiken, Edgefield, McCormick and
3 Saluda were my counties. Upon receiving notification that
4 I'd be trained as a criminal profiler I went through the
5 training for board certification as a criminal profiler.
6 And I'm now the Lieutenant in charge of the behavioral
7 science unit at SLED.

8 Q Behavioral science unit consists of -- how many agents
9 are in that?

10 A Three.

11 Q And you're one of three?

12 A Yes, sir.

13 Q You work statewide?

14 A Statewide. That's right.

15 Q You said you've been certified as a criminal profiler?

16 A Yes, sir. Board certified.

17 Q Have you had any other kind of advanced training in
18 interviews, interrogations, that sort of thing?

19 A Yes, sir. That's part of the board certification is
20 you have to be trained and you have to actually instruct as
21 well, and interview interrogation throughout the state I
22 teach, and Tennessee, Georgia and Florida I teach interview
23 interrogation.

24 Q You work homicide cases as a criminal profiler?

25 A Yes, sir.

BO BARTON-DIRECT EXAMINATION

383

1 Q Just in this state or other places?

2 A Other states. There are only 35 board certified
3 criminal profilers in the United States. Therefore, we do
4 work outside the state of South Carolina upon request from
5 the outside agency.

6 Q I believe you told me you ended up in Canada at one
7 point --

8 A I did.

9 Q -- on a witness stand?

10 A I did.

11 Q Now, Lieutenant Barton, did you have occasion to work
12 on a case involving the homicide of Jamil Phillips?

13 A I did.

14 Q And when were you called in to conduct work on this
15 case?

16 A I was called in on December the 20th, 2013.

17 Q Was that the -- at that point was the first day you
18 came into work on this case?

19 A That was the first day I came to Abbeville. I had seen
20 the -- one of the prior statements made by the Defendant,
21 and that was my only knowledge of that case to that point,
22 when I came here on the 20th.

23 Q You were given a statement that she had made before?

24 A Correct.

25 Q Were you briefed by other agents on the case?

BO BARTON-DIRECT EXAMINATION

384

1 A When I arrived in Abbeville I was briefed by Captain
2 Talbert.

3 Q Did you ultimately interview the Defendant?

4 A I did, on the 20th.

5 Q Okay. She's in the courtroom here today?

6 A She is.

7 Q And where is she sitting?

8 A In -- she has a blue shirt on.

9 (Whereupon, the witness identifies the Defendant.)

10 Q Where did you interview Karlita Phillips?

11 A At the Abbeville County Sheriff's Office.

12 Q And this was on December 20th; is that correct?

13 A Yes, sir.

14 Q And in the office was there an interview room of some
15 sort?

16 A There was. It was an interview room, or a room that
17 was set up with audio and video recording capabilities.

18 Q Had you ever used that room before? Had you ever come
19 to Abbeville and used that room?

20 A No, sir.

21 Q Were you the one in charge of the audio and video
22 recording part of this?

23 A No, sir.

24 Q Essentially you went in the room with her and your
25 understanding it was being video and audio recorded?

BO BARTON-DIRECT EXAMINATION

385

1 A I actually saw a separate room two doors down that --
2 where they could view live what was going on in the
3 interview room. It had a monitor with the recording
4 equipment, and I ensured that it was recording before I went
5 into the room.

6 Q Okay. Now, how long did this interview last?

7 A Three and half hours.

8 Q And were you interviewing her the whole three and a
9 half hours?

10 A No, sir. I interviewed her one hour and 25 minutes.

11 Q Total?

12 A Total.

13 Q Now, what were the breaks for? The break or breaks.

14 A It was a one hour break. It wasn't actually a break.

15 It was a point of which I asked her to provide a written

16 statement. That was the first written statement that she

17 gave me. We talked in between. And then she provided the

18 second statement which took an hour and five minutes for her

19 to write.

20 Q And while she's writing the statement were you with her
21 the whole time?

22 A No, sir.

23 Q So you did leave the room at times and come back?

24 A I did. Yes, sir.

25 MR. STUMBO: If I may approach the witness, Your Honor.

BO BARTON-DIRECT EXAMINATION

386

1 Q I'm going to hand you what's been marked just for ID
2 purposes as State's 5A. Do you know what's on this disk?

3 A Yes, sir. This is the interview that I conducted on
4 December the 20th. I know that because my initials were on
5 it where I viewed the tape -- or the DVD.

6 Q Now, tell the jury about, after reviewing it, what
7 ultimately was the audio quality of this disk.

8 A The audio quality was very poor. In that the -- it was
9 just low. You have to really strain to hear exactly what's
10 going on. Ms. Phillips doesn't speak really loudly, and I'm
11 not speaking really loudly as well either. So that was
12 compounded by the fact that the microphone was some distance
13 away. So it's -- you have to strain to understand what's
14 being said.

15 Q You have only used that room that day for the first
16 time?

17 A That was the first time.

18 Q You didn't realize the microphone was further away?

19 A I didn't.

20 Q And the audio quality was not very good?

21 A No, sir.

22 Q In reviewing the tape can you hear the things you say
23 on the tape?

24 A I can.

25 Q Can you hear everything that she says?

BO BARTON-DIRECT EXAMINATION

387

1 A No, sir.

2 Q Now, you said it was two periods of time where she's
3 writing a statement out. That's in her own handwriting?

4 A That is in her own handwriting. Yes, sir.

5 Q I hand you --

6 MR. STUMBO: If I may approach the witness, Your Honor.

7 THE COURT: Please.

8 Q -- what's been marked for ID, right now, as State's 53
9 and 54. If you could look at those.

10 A Yes, sir.

11 Q And if you could --

12 A Those are the statements.

13 Q -- identify those.

14 A Yes, sir. Those are the statements that Ms. Phillips
15 gave that day to me. 53 being the first statement that
16 started at 13:05, which is 1:05 in the afternoon, and
17 concluded at 14:05, which is 2:05 in the afternoon. It is
18 witnessed by me. That is my signature. That's how I can
19 identify that one. State's Exhibit 54 is a statement that
20 was -- the second statement that was given at -- beginning
21 at 14:50, which is 2:50 in the afternoon, and concluded at
22 15:55, which is 3:55 in the afternoon, and is witnessed by
23 me. That is my signature.

24 Q And these are fair and accurate copies of those written
25 statements that you took that day?

BO BARTON-DIRECT EXAMINATION

388

1 A Yes, sir. They are.

2 MR. STUMBO: Your Honor, we'd offer State's 53 and 54
3 into evidence at this time.

4 THE COURT: Subject to your earlier objection?

5 MS. BOLEN: Yes.

6 THE COURT: All right. Subject to your earlier
7 objection made under *Jackson vs. Denno* those will be in
8 evidence, 53 and 54.

9 (Whereupon, State's Exhibit Nos. 53 and 54 were
10 admitted into evidence.)

11 Q Now, before Ms. Phillips gives these statements did you
12 read her her rights?

13 A Yes, sir. I did.

14 Q How did you do that?

15 A Read it from a card.

16 Q And what were those rights?

17 A She has a right to remain silent. Anything she can --
18 anything she says can and will be used against her in a
19 court of law. She has a right to an attorney. If she
20 cannot afford an attorney, one will be appointed to
21 represent her, if she wished. She could stop answering any
22 questions at any time until she's retained an attorney.
23 Having those rights in mind, did she wish to talk to me.

24 Q How did she respond?

25 A She responded in the affirmative.

BO BARTON-DIRECT EXAMINATION

389

1 Q She waived her right to remain silent?

2 A She did.

3 Q She didn't ask for a lawyer?

4 A No, sir.

5 Q Did you make her any promises or any kind of reward for
6 her giving you that statement?

7 A No, sir. Did not.

8 Q Did you threaten to punish her in any way if she didn't
9 give you these statements?

10 A No, sir. Like I said, the entire interview process,
11 interrogation process, was a conversation tone. Was very
12 matter of fact, back and forth. No loud voices, no raised
13 voices, no threats or implied threats or coercion used at
14 all.

15 Q If she needed to use the bathroom, the facilities, were
16 those available to her?

17 A Yes, sir.

18 Q If she was thirsty, would you have given her something
19 to drink?

20 A We actually did give her something to drink.

21 Q If she was hungry would you give her something to eat?

22 A We gave her something to eat.

23 Q And is that recorded even on video?

24 A It is recorded on videotape.

25 Q What did she eat?

BO BARTON-DIRECT EXAMINATION

390

1 A I want to say it was McDonald's, but it's been a while.

2 But it was a hamburger. I do remember that.

3 Q And that was while she was writing one of her
4 statements?

5 A That's correct.

6 Q To the best of your perception of her -- everything she
7 did and writing these statements and talking to you, was it
8 freely and voluntarily done?

9 A Yes, sir.

10 Q Now, if you could, just summarize for the jury, what
11 was the progression of how you conducted this interview with
12 Ms. Phillips?

13 A When I initially went in, upon review of her initial
14 statement, the one that was provided to me by Captain
15 Talbert with Abbeville, was that her statement did not
16 really say what she did that night. It said a lot about
17 what she didn't do, or claims that she didn't do. But it
18 didn't really tell us what she actually did. So the first
19 purpose when I came in after introducing myself and telling
20 her why I was there was to find out what actually she claims
21 that she did that night. The night in question when the
22 victim was murdered. So that was what the initial
23 interaction was. Just write me a statement and tell me
24 exactly what you did that night so I can have a better
25 understanding, because right now I don't even know what you

BO BARTON-DIRECT EXAMINATION

391

1 did that night. So please write me a statement. At that
2 point she started the statement. I come in and out of the
3 interview room while she's writing the statement. That
4 would be the first statement that was an hour long. After
5 coming back in I spoke with her about her statement, after
6 reading her statement, and said that, you know, there were
7 some -- I saw some issues in her first statement to me that
8 I saw that were troubling where I detected some issues that
9 we needed to discuss. I actually introduced to her the idea
10 that there was -- that she did talk to these individuals.
11 That she did ask them to go because she was upset about her
12 house being broken into, and that she asked them to go over
13 there to take care of her ex-husband, and then it got out of
14 hand.

15 Q Now, Lieutenant Barton, you said some of the things she
16 said in prior statements is stuff she didn't do, and you
17 were able to review the written statement that she had given
18 the day before --

19 A Yes, sir.

20 Q -- to Captain Talbert?

21 A Right.

22 Q And in that statement she says twice I didn't pull the
23 trigger, or I wasn't the triggerman?

24 A That's correct.

25 Q What significance was that to you in how you conducted

BO BARTON-DIRECT EXAMINATION

392

1 you interview the second time?

2 A Because it, again, it doesn't say I wasn't involved.

3 It says I'm not the triggerman. Basically what she says to

4 the reader is -- you know, the questioning and why you're

5 being interviewed is are you involved and the answer

6 becomes, you know, I wasn't the triggerman. I didn't pull

7 the trigger. I wasn't there. Statements to that effect,

8 which indicate to me a deception that you're not telling the

9 whole truth. That you're holding --

10 MS. BOLEN: Your Honor, I have to object at this time

11 as it being testimony.

12 THE COURT: Sustained.

13 Q Okay. Well, let's back up to that. At that point, as

14 an interviewer, you're looking for more of the story?

15 A Correct.

16 Q And as part of your training, is that -- is that normal

17 to go in and say, okay, tell me everything that happened,

18 and then make a decision to go forward from there?

19 A Correct.

20 Q Is that an official technique that's used in law

21 enforcement?

22 A No. Parts of it. Some people refer -- or use what's

23 referred as to the Reid Technique. This -- what we usually

24 -- what we in behavioral science use is what we call a

25 hybrid. We use part of behavioral analysis interview as

1 well as the Reid Technique, as well as techniques that we've
2 learned over our years of experience that we integrate into
3 the interview process. And one of the things that I use
4 personally, and have used during my entire career, was I
5 need to establish what their story is so I can go through
6 and find out what -- what is inconsistent. What is not
7 consistent with the facts that we already know about the
8 case. And that's what I did in this case.

9 Q So the first statement at 14:05, the first part where
10 she writes out, that's two pages, that's essentially when
11 you just say tell me what happened?

12 A Literally open-ended question. Just tell me what
13 happened. No prompts, no anything. Just tell me what
14 happened.

15 MR. STUMBO: Permission to publish, Your Honor.

16 Q If you could -- if you could read the statement.

17 A Sure. "On the day my apartment was broken, me and my
18 daughter, Dayleshia Wideman, and her friend, Sandy Gary,
19 went to Augusta, Georgia shopping. It was raining that day
20 and my car got muddy. When we arrived back home I found my
21 apartment had been broken in. I remained at the house until
22 the next day. On March 25th, 2013 I went out several times
23 throughout the day. Later that evening I went to the New
24 Way store by my house looking for the Straw-Ber-Ritas that
25 just came out. They didn't have them, so I went to the

BO BARTON-DIRECT EXAMINATION

394

1 Kangaroo store across from Taco Bell and found them there.
2 I came back to the house where my daughter and her friend
3 was in the livingroom. Then after a while me and Day got in
4 the car and he was letting her practice driving up and down
5 our parking lot until I got frustrated and told her we will
6 do this another day. I came -- I was watching TV and joking
7 with my daughter. Between 9:30 and 10:30 I went to car wash
8 to wash car. Always washes car at night. But only sprayed
9 car off. I started feeling sick from drinking beer and
10 those Straw-Ber-Ritas. Around 10:30 or so my friend,
11 Tamika, called me and told police was at my -- at estranged
12 husband's house. Come ride with her back through there. I
13 said hell, no. I'm not going near there. And then she
14 would call me back. She did and said that Jamil had been
15 killed, and we exchanged some more words and hung up. Then
16 around 3:00 a.m. SLED was about to knock my door down. I
17 was in bed but not asleep. I was watching Transformers. My
18 favorite movie. My daughter woke up scared. I called
19 Greenwood Sheriff to come out because this man keep
20 hollering state law enforcement and he wasn't going
21 anywhere. When Greenwood police arrived I let them in.
22 SLED Agent Collins immediately stated Jamil is dead, not
23 Dale, and he asked about car, where I'd been. That
24 witnesses stated they saw my car at scene. He asked me did
25 I smoke. I said yes. Because cigarettes was in the ash

BO BARTON-DIRECT EXAMINATION

395

1 tray. He asked me who driving my car. Have I shot a gun
2 recently. I said no. Go get the kit out car that show if I
3 fired a gun. He ignored me and kept stating witness saw me
4 and my car in Abbeville. He was very rude and getting on my
5 nerves, because he already was saying I did it. He asked
6 about my son. He was in McCormick at the time. Even the
7 Sheriff's Office checked son room and walked and checked the
8 other rooms. I can't recall everything he said because the
9 more he talked to me the more I didn't like him and he made
10 me angry. He kept saying that me and Dale having a nasty
11 divorce. Him and son had problems. Just a few examples.
12 Then around 6:00 a.m. a wrecker came and snatched my Camry
13 up. He had left a Sheriff outside until he came back with
14 the wrecker, I guess to make sure I didn't leave in car. So
15 from that Tuesday until Friday he called and told me to come
16 get the car. I didn't come get the car. I had a wrecker go
17 get it. I was stepping foot in Abbeville -- I wasn't -- was
18 stepping foot in Abbeville County because I knew from that
19 moment Agent Collins wasn't going to stop until he put this
20 murder on me. This family has hates me ever since me and my
21 ex-husband separated and they was out talking as well.
22 Between the house that this murder occurred, Karlita
23 Phillips and her silver Camry was in Greenwood, South
24 Carolina. I went to two stores, car wash, back home to [REDACTED]
25 Haltiwanger Road, Apartment T3, and a silver car is nowhere

BO BARTON-DIRECT EXAMINATION

396

1 near a white colored car witness seen driving up and down
2 Old Douglas Mill Road that night in question. At home
3 drinking and smoking my cigarettes."

4 MR. STUMBO: And, Your Honor, I hadn't moved in State's
5 53. I think I did but --

6 THE COURT: You did.

7 MR. STUMBO: Did I? Okay. I just wanted to make sure
8 it was officially in evidence.

9 Q Agent Barton, or Lieutenant Barton, is there anything
10 in this statement about Purp Settles?

11 A No.

12 Q Anything about Purp Settles borrowing Karlita's car?

13 A No.

14 Q Just to reiterate, she said something about going to a
15 car wash that night, right?

16 A She does.

17 Q Between 9:30 and 10:30?

18 A Yes, sir.

19 Q Now, at that point you had reviewed the statement she
20 had given the previous day, right?

21 A Yes, sir.

22 Q And was this statement consistent with that?

23 A Parts.

24 Q Did she say something the previous day about Purp
25 Settles borrowing her car that day?

BO BARTON-DIRECT EXAMINATION

397

1 A Yes.

2 Q Now, when you come back in the room you have a chance
3 to review State's 53 --

4 A Yes.

5 Q -- that you just read?

6 A Yes.

7 Q And at that point you reinitiate the interview again
8 with Ms. Phillips?

9 A That's correct.

10 Q You continue it --

11 A Just really continue. Because I'm in and out of the
12 room.

13 Q Would you tell the jury about how that back and forth
14 went after you come back in the room?

15 A Like I said, I come back in the room after reviewing
16 this latest statement that she had provided me. The first
17 statement that I just read to you. And there were some
18 glaring differences between the two statements that we had
19 already seen. It's at that point that I advise her that
20 there are some inconsistencies in her statements and that
21 she needs to explain herself. That this -- you know, this
22 won't go well if, you know, it continues in this way. That
23 people won't understand because of the inconsistencies if
24 she doesn't explain herself. And is it possible that after
25 the house was broken into that she was upset and she went

BO BARTON-DIRECT EXAMINATION

398

1 across the street and spoke with these individuals and asked
2 them to go beat up her ex-husband and then it went too far.
3 Is that something that could have happened. At that point
4 she responded yes in the affirmative, that that's what
5 happened.

6 Q So ultimately after you indicate there's
7 inconsistencies and say how can this be explained, she
8 latches onto this hypothesis, I guess, or suggestion that
9 you were mad and have him go beat him up?

10 A Yes, sir. This is what we refer to as an out.

11 Q And was she willing to write that?

12 A Yes.

13 Q Write a new version of what happened?

14 A I asked her to in her own words write that -- the
15 statement of what transpired. What actually transpired that
16 night.

17 Q Did you get her another statement form?

18 A I did.

19 Q And that's State's 54?

20 A That is correct.

21 Q Did she write that in her own writing?

22 A She did write it in her own writing.

23 Q Was it during this statement she was eating a hamburger
24 from McDonald's?

25 A That's correct.

BO BARTON-DIRECT EXAMINATION

399

1 MR. STUMBO: Permission to publish State's 54, Your
2 Honor.

3 THE COURT: You may proceed.

4 MS. BOLEN: Subject to my --

5 THE COURT: Subject to the earlier objection.

6 Q If you could, Lieutenant Barton, read --

7 A Okay.

8 Q -- what the Defendant wrote.

9 A This is the second statement. "On March 24th, 2013,
10 after seeing my apartment broke in, and I seen that all the
11 jewelry that Dale bought me was gone, and my other jewelry
12 was still there, I felt in gut that he had something to do
13 with it. This was my breaking point. Every since we
14 separated he kept Abbeville Sheriff at my house, and he was
15 trying to make me look like a bad person. So the crowd of
16 young guys was across the parking lot. I asked them had
17 they seen anybody around the apartment. They said no.
18 Well, after the Sheriff left I called Purp to ask him about
19 those guys that was breaking in the apartments in
20 Georgetown. He said maybe. But I told him they didn't take
21 all my jewelry, just only what Dale bought me. He said if
22 it was one -- if it was those dudes from Georgetown all my
23 jewelry would be gone -- would been gone. So then I said my
24 husband did it then, dammit. He makes me sick. I wish I
25 had someone to just beat his ass good and maybe he would

BO BARTON-DIRECT EXAMINATION

400

1 leave me the hell alone for good. Purp rely I can make it
2 happen. Me, okay. Purp, I'm serious. You know my boys
3 don't play no games. We can do it. He said where he live
4 and be at. I stated he work at Eaton but you can't go out
5 there jumping on nobody. You will go to jail. Probably be
6 better to jump him at his house. We can do it Monday. That
7 day I really didn't -- I really didn't think Purp was going
8 to do it. But my daughter said they will -- they will.
9 They love fighting and jumping on people. As it was getting
10 darker I figured okay, it's not happening today. But I did
11 want him jump on. Me and my daughter had just came back in
12 the house. Purp knocked at the door and said they will
13 handle this nigga. He will remember this ass whopping. Me
14 replied good. Hell, I'm still mad about my jewelry and
15 everything that this man put me through and I was with him
16 14 years. I keep repeating that I only wanted him beat up.
17 Purp was laughing. But I was serious because my daughter --
18 some of those boys say they shot people. I will say I
19 didn't see any gun if he had it. I told him address and
20 directions to the house, because from my house to their
21 house is straight shot from Hodges. I told him Dale drive a
22 white Cadillac and he is short and on the heavy side. He
23 said okay. He said I need -- I ask why because I don't need
24 my car to be seen near here -- near there. He said it won't
25 have to get -- it won't have to get rest of boys. Mike car

BO BARTON-CROSS-EXAMINATION

401

1 wasn't big enough. Mike drove off in his car, Purp in
2 mine's, and I was at the house with daughter. I started
3 drinking my Straw-Ber-Ritas when Purp returned. He knocked
4 on door, gave me my key and walked very fast as if he
5 heading to Georgetown. I was wondering did they jump him or
6 not because he left in a hurry and just gave me my keys.
7 Then when Tamika called me and said police at Dale house I
8 was like they beat him up and I know he will say my wife did
9 it, in my mind. Then she called me back and Jamil was
10 killed. I didn't know what to say, but I told my daughter
11 Jamil is dead, Day. Purp didn't jump Dale. What the hell
12 they did. Then SLED came around 3:00 a.m. Purp never
13 really said anything else and I didn't ask no questions, and
14 nothing else was said until I got arrested on Wednesday
15 morning. I never wanted my ex-husband murdered by Purp.
16 Just jump on him. Everything else that occurred he did on
17 his own."

18 Q Thank you, Lieutenant Barton. After she writes this
19 statement out do you conclude the interview?

20 A I do.

21 Q Any time she's writing this statement and you coming in
22 and out of the room did you make any threats to her?

23 A No, sir.

24 Q She wrote this statement of her own free will?

25 A She did.

BO BARTON-CROSS-EXAMINATION

402

1 MR. STUMBO: Beg the Court's indulgence, Your Honor.

2 THE COURT: Yes.

3 MR. STUMBO: No further questions, Lieutenant Barton.
4 Please answer any questions the Defense may have.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MS. BOLEN:

8 Q Lieutenant Barton, you just met with Karlita on
9 December 20th, right?

10 A Yes, ma'am.

11 Q And that was your one time meeting with her, right?

12 A Yes, ma'am.

13 Q And I think you said you had looked at her prior
14 statements?

15 A I did. One of the prior statements.

16 Q The written one?

17 A Yes, ma'am.

18 Q You never looked at the -- you never listened to the
19 audio recordings?

20 A No, ma'am.

21 Q And you met with her on the 20th, and all told it was
22 about three and a half hours, right?

23 A Three and a half hours. Yes, ma'am.

24 Q And she was willing to talk to you, right?

25 A Yes, ma'am.

BO BARTON-CROSS-EXAMINATION

403

1 Q And she never said she didn't want to talk or said she
2 wanted a lawyer, right?

3 A No, ma'am.

4 Q You said on direct that one of the phrases or words you
5 were concerned about was her -- that she wrote, "I wasn't
6 the triggerman," right? You talked about that?

7 A Yes, ma'am.

8 Q But you hadn't listened to the audio interview that
9 were conducted on the 18th and the 19th, right?

10 A No, ma'am.

11 Q So you weren't aware that that was the words used by
12 law enforcement to her?

13 A No, ma'am. It was just the words that were written on
14 the statement.

15 Q And when you spoke with her in between the two
16 statements, before she writes the second statement, you said
17 that you suggested things to her, correct?

18 A Yes, ma'am.

19 Q And you suggested she was angry about her apartment
20 being broken into, right?

21 A That's correct.

22 Q That jewelry had been taken? That she was angry about
3 that, right?

24 A I don't remember the jewelry. I do remember the
25 breaking in.

DALE PHILLIPS JR-DIRECT EXAMINATION

404

1 Q The break-in.

2 A The break-in. Yes, ma'am.

3 Q And you suggested to her that she was upset and that
4 she went to these boys, I think, across the apartment
5 complex or something like that?

6 A Yes, ma'am.

7 Q And you said maybe you asked them to jump on your
8 husband, right?

9 A Yes, ma'am.

10 Q And then the statement she ends up writing she
11 maintains throughout that that she asked them to jump on her
12 ex-husband, correct?

13 A Yes, ma'am.

14 Q And it's clear from her statement, or conversation with
15 you, that she meant beat him up, right?

16 A Yes, ma'am.

17 Q So never any mention of anyone getting killed, right?
18 She never says I asked them to kill someone?

19 A She never says she asked them to kill someone.

20 Q And in her written statement she tells you, she writes
21 in that statement twice, she didn't Purp with a gun,
22 correct?

23 A She says she did not see Purp with a gun.

24 Q And your involvement pretty much ended on the 20th,
25 right?

DALE PHILLIPS JR-DIRECT EXAMINATION

405

1 A Yes, ma'am.

2 Q You never sought out a warrant for Karlita after

3 speaking with her, correct?

4 A No, ma'am. She was already in custody at that point.

5 Q And so, you never got a warrant on her, correct?

6 A No, ma'am.

7 MS. BOLEN: Thank you, Your Honor.

8 THE COURT: Thank you, sir. You may step down, or do

9 you have --

10 MR. STUMBO: I don't have any redirect.

11 THE COURT: Thank you, sir. And you are free to go.

12 THE WITNESS: Thank you.

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

15 THE COURT: Call your next witness.

16 MR. BROWN: The State calls Dale Phillips, Jr.

17 DALE PHILLIPS, JR., having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Mr. Phillips, what's your full name?

22 A Dale Cleveland Phillips, Jr.

23 Q Mr. Phillips, do you recognize the lady sitting at the
24 Defense counsel table?

25 A Yes.

DALE PHILLIPS JR-DIRECT EXAMINATION

406

- 1 Q Who is that?
- 2 A My ex-wife.
- 3 Q What's her name?
- 4 A Karlita Desean Phillips.
- 5 Q How long were you all married?
- 6 A Nine and a half years.
- 7 Q How long were you all together overall?
- 8 A Fourteen years.
- 9 Q Now, Mr. Phillips, March 25th, 2013 were you still
- 10 technically married to Karlita?
- 11 A Yes.
- 12 Q Were you all going through a divorce at that time?
- 13 A Yes.
- 14 Q Were you and Karlita still living together at that
- 15 time?
- 16 A No, sir.
- 17 Q Where were you living?
- 18 A [REDACTED] Road, Abbeville, South Carolina.
- 19 Q And who were you living with?
- 20 A My parents, Martha and Dale Phillips.
- 21 Q Was anybody else living there with you at that time?
- 22 A Yes. My brother Jamil Phillips.
- 23 Q How close in age are you and Jamil?
- 24 A Me and Jamil are about five years apart.
- 25 Q I show you State's evidence 42. Do you recognize that

DALE PHILLIPS JR-DIRECT EXAMINATION

407

1 picture?

2 A Yes, sir.

3 Q Who's in that picture?

4 A Me and my brothers, Kareem Phillips and Jamil Phillips.

5 Q Dale, with you all living together at that location,

6 what was -- generally what time of night did you all get

7 home together? Where do you work?

8 A Eaton Corporation.

9 Q Where did Jamil begin working at?

10 A CarMax.

11 Q And what time of night would you normally get home?

12 A Different times. That particular night I had a

13 meeting. I do a business in which I see life insurance and

14 do financial services. So the meeting started at 7:30 and

15 was over about a little after 9:00 that night. I would have

16 probably would have got home close to 10:00.

17 Q Did you get home after Jamil got home that night?

18 A Yes, I did.

19 Q How close in time did you get home that night after

20 Jamil did?

21 A It was maybe 10 to 15 minutes after him.

22 Q Which way on Old Douglas Mill Highway, or Road, did you

23 drive from Greenwood?

24 A I came from -- if the house was sitting facing the

25 road, I was coming from the left side.

DALE PHILLIPS JR-DIRECT EXAMINATION

408

- 1 Q Would that be the Hodges' side?
- 2 A From Abbeville.
- 3 Q From Abbeville?
- 4 A Yeah.
- 5 Q If you had gotten home at 9:50 would you pass that pull
- 6 off area the car was parked in?
- 7 A Yes, sir.
- 8 Q Would you have seen that car?
- 9 A Yes, sir.
- 10 Q What kind of car did Karlita drive?
- 11 A 2004 Toyota Camry.
- 12 Q Was that car registered to both you and Karlita?
- 13 A Yes, sir.
- 14 Q But in fact, you actually got home after Jamil, right?
- 15 A Yes, sir.
- 16 Q By the time you got home law enforcement was already
- 17 there?
- 18 A Yes, sir.
- 19 Q Dale, that night you talked to law enforcement and tell
- 20 them what you were going through in your divorce?
- 21 A Yes, sir. I did.
- 22 Q Told them what kind of car Karlita had?
- 23 A Yes, sir.
- 24 Q Dale, working at Eaton Corporation, are you insured
- 25 there?

DALE PHILLIPS JR-DIRECT EXAMINATION

409

1 A Yes, sir.

2 Q Do you have life insurance?

3 A Yes, sir.

4 Q March 25th, 2013 did you have life insurance?

5 A Yes, sir. I did.

6 Q Did you have a beneficiary named on that policy at that
7 time?

8 A No, sir. I did not.

9 Q So based on your understanding of the policy you had
10 with Eaton, you had no beneficiary listed, who is your
11 beneficiary?

12 A My current spouse.

13 Q And who is your current spouse?

14 A Karlita Desean Phillips.

15 Q And she is your current spouse because you had not yet
16 been divorced, or had been a final order or family court
17 ruling on your divorce, right?

18 A Yes, sir.

19 Q How much life insurance did you have?

20 A It was around half a million.

21 Q Had you and Karlita talked over your nine and a half
22 years of being married, did she know that you had that life
23 insurance?

24 A Yes, sir.

25 Q After your brother, Jamil, was gunned down on the front

DALE PHILLIPS, JR-CROSS-EXAMINATION

410

1 porch did you later change who the beneficiary was on that
2 policy?

3 A Yes, sir.

4 Q When did you change who the beneficiary was?

5 A It was in April.

6 Q April 3rd, 2013?

7 A Yes, sir.

8 Q Who is your beneficiary now?

9 A My mother, Martha C. Phillips.

10 Q So at the time your brother was shot and killed and
11 murdered Karlita was the beneficiary?

12 A Yes, sir.

13 MR. BROWN: Beg the Court's indulgence.

14 Q Dale, that night when you got home and you saw the area
15 roped off, who did you believe that intended bullet was for?

16 A At the time I thought --

17 MS. BOLEN: Objection as to speculation.

18 THE COURT: I'm sorry. What was the question again,
19 please?

20 MR. BROWN: Who did he believe the intended bullet --
21 who that bullet was intended for.

22 THE COURT: Sustained.

23 Q Dale, you were going through a divorce with Karlita?

24 A Yes, sir.

25 Q Was it a contentious divorce?

DALE PHILLIPS, JR-CROSS-EXAMINATION

411

1 A Yes, sir.

2 Q You were living with your parents at the time?

3 A Yes, sir.

4 MR. BROWN: No further questions.

5 CROSS-EXAMINATION

6 BY MS. BOLEN:

7 Q Mr. Phillips, you had actually been separated from
8 Karlita since May of the previous year, right?

9 A May the 12th.

10 Q May the 12th of 2012?

11 A 2012.

12 Q So that was about 10 months?

13 A Roughly.

14 Q And you had been living with your parents that time --
15 that whole time?

16 A Yes, sir -- yes, ma'am. Excuse me.

17 Q And you all had a family court -- family court case
18 that was ongoing, correct? The divorce?

19 A Yes.

20 Q And that started in November of 2015, right?

21 A I don't remember exactly --

22 Q I mean 2012. I'm sorry. November, 2012?

23 A Yes -- no. It started in June.

24 Q In June?

25 A Yes.

AMANDA FALLAW-DIRECT EXAMINATION

412

1 Q And Karlita was the one to file the first set of family
2 court documents, right?

3 A She filed for divorce in May.

4 Q Okay. She filed for divorce in May?

5 A 2012.

6 Q And you all didn't have any kids together, correct?

7 A No.

8 Q And in November of 2012 you went to court and you
9 worked out some property ownership of some cars, correct?

10 A I believe so.

11 Q And a timeshare?

12 A Yes.

13 Q And you didn't have any like real estate together,
14 correct?

15 A Just a home. That's it.

16 Q And there was no -- at the time of this incident there
17 was no named beneficiary on your life insurance policy,
18 correct?

19 A It did not have to be an actual name. By default my
20 spouse would receive the benefits. But there was no actual
21 name, no.

22 MS. BOLEN: Thank you. Nothing further.

23 THE COURT: Thank you, sir. You may step down.

24 (Whereupon, the witness stepped down from the witness
25 stand.)

AMANDA FALLAW-DIRECT EXAMINATION

413

1 THE COURT: Solicitor, call your next witness.

2 MR. BROWN: The State calls Amanda Fallaw.

3 THE COURT: I'm assuming Ms. Fallaw is a brief witness?

4 MR. BROWN: Yes, sir.

5 AMANDA FALLAW, having been first
6 duly sworn, testified as follows:

7 (Whereupon, State's Exhibit No. 55 was marked for
8 identification.)

9 DIRECT EXAMINATION

10 BY MR. BROWN:

11 Q Good afternoon, Ms. Fallaw. Ms. Fallaw, where do you
12 work?

13 A Wesley Commons.

14 Q How long have you worked at Wesley Commons?

15 A Since March of 2007.

16 Q Do you know Karlita Phillips?

17 A Yes, I do.

18 Q How do you know Ms. Phillips?

19 A We worked together at Wesley Commons.

20 Q And, Ms. Fallaw, what is your job description at Wesley
21 Commons?

22 A I'm human resources manager; hiring, firing,
23 discipline.

24 Q As human resources manager do you also deal with the
25 records of your employees?

AMANDA FALLAW-DIRECT EXAMINATION

414

1 A Yes, I do.

2 Q Are you family with whether or not -- does Wesley
3 Commons provide insurance --

4 A We do.

5 Q -- for your employees?

6 A Uh-huh.

7 Q And were you familiar if Karlita Phillips had insurance
8 as an employee of Wesley Commons?

9 A Yes, she did.

10 Q Ms. Fallaw, what is open enrollment at Wesley Commons
11 for employees to sign up for insurance for that next year?

12 A September. Our benefits run October the 1st through
13 September 30th, so we have open enrollment every year during
14 September.

15 Q And that year did Karlita Phillips fill out insurance
16 paperwork?

17 A Yes. She was a full-time employee and all full-time
18 employees are required to complete paperwork each year.

19 Q I show you what's been marked for ID purposes as
20 State's ID 55. Can you tell me what that paperwork is?

21 A This is our enrollment election form that we use for
22 our employees at that time for open enrollment purposes.

23 Q And at that time did all the employees handwrite their
24 signature on those forms?

25 A Yes.

AMANDA FALLAW-DIRECT EXAMINATION

415

1 Q Now, what is it? What's the method?

2 A Last year we started electronic open enrollment where
3 they elected everything and had an electronic signature with
4 their submissions.

5 Q But again, at that time they handwrote their name?

6 A That's correct.

7 Q Did they also check their own boxes of what they
8 elected to have their insurance?

9 A Yes, they do, or they did at that time.

10 Q And are these records kept in the ordinary course of
11 business there at Wesley Commons?

12 A Yes.

13 Q Does that clearly and accurately reflect the records
14 that are kept at Wesley Commons based on their insurance?

15 A Yes, it is.

16 MR. BROWN: Judge, at this time State moves State's ID
17 55 as Evidence 55.

18 THE COURT: Any objection?

19 MS. BOLEN: Your Honor, we still have an objection as
20 to relevance.

21 THE COURT: Objection as to relevance?

22 MS. BOLEN: Yes, sir.

23 THE COURT: May I see the document, please. Objection
24 is overruled and I'll put the reasoning on the record at a
25 later point in time.

AMANDA FALLAW-CROSS-EXAMINATION

416

1 So State's 55 is in evidence.

2 (Whereupon, State's Exhibit 55 was admitted into
3 evidence.)

4 Q Ms. Fallaw, down at the bottom, second to the last
5 block, states "Voluntary Life." Can you check -- or can you
6 check -- or can you say what boxes Ms. Karlita Phillips
7 checked during open enrollment?

8 A For voluntary life employee only, the amount of
9 \$75,000, spouse, 25,000, and children -- children or
10 children coverage \$10,000.

11 Q So spouse coverage she requested a \$25,000 life
12 insurance on her husband?

13 A Yes.

14 Q And is that her signature?

15 A Yes.

16 Q And the date?

17 A September 14th, 2012.

18 Q And benefit enrollment for 2012 signed on September
19 14th of that year. What year would that cover?

20 A Those benefits would have been effective October 1st of
21 2012 until September the 30th of 2013.

22 Q So it would cover March 25th, 2013?

23 A That's correct.

24 MR. BROWN: No further questions.

25 CROSS-EXAMINATION

AMANDA FALLAW-CROSS-EXAMINATION

417

1 BY MS. BOLEN:

2 Q Ms. Fallaw, you've been the HR manager at Wesley
3 Commons since 2007?

4 A Yes.

5 Q And Karlita has worked there for quite a few years,
6 right?

7 A Uh-huh.

8 Q And did you -- you always did open enrollment?

9 A I helped with that, yes, in my position.

10 Q And in addition to how they -- the \$25,000 policy in
11 2012, Karlita also had that \$25,000 spousal life insurance
12 policy in 2011, correct?

13 A She did.

14 Q And that was part of open enrollment, right?

15 A That's correct.

16 Q Just check the box. And she had the same policy in
17 2010, correct?

18 A I'm pretty sure. I would need to refer to her
19 employment file. But I don't think there were any changes
20 during that time.

21 Q So there were no changes?

22 A Uh-huh.

23 Q From when you took HR management in 2007 there were no
24 changes in her insurance policy, correct?

25 A for the '11 to '12 and '12 to '13, those enrollment

AMANDA FALLAW-REDIRECT EXAMINATION

418

1 forms I know there was not a change. I would need to refer
2 back to her file.

3 Q Would it help to refresh your memory if I showed you
4 her open enrollment form?

5 A Sure.

6 MS. BOLEN: Permission to approach the witness, Your
7 Honor.

8 THE COURT: Go ahead.

9 Q Ms. Fallaw, just to refresh your memory I'm handing up
10 some forms to you. Can you look at them and tell me if you
11 recognize them?

12 A Yes. These are annual forms that we use during open
13 enrollment.

14 Q And are those Karlita Phillips' annual forms?

15 A Yes, it is.

16 Q And what years were those from?

17 A 2010 -- '09, '10 -- '07, '08, '09 and '10.

18 Q And on all of those she has checked the \$25,000 spousal
19 insurance, correct?

20 A She did.

21 Q So that was the same insurance policy she had --

22 A Yes. She continued the coverage each year during open
23 enrollment.

24 MS. BOLEN: No more questions. Thank you.

25 MR. BROWN: One follow-up question.

1 THE COURT: Please.

2 REDIRECT EXAMINATION

3 BY MR. BROWN:

4 Q Ms. Fallaw, how many employees work at Wesley Commons?

5 A Approximately 285.

6 Q Is it common for an employee who is going through a
7 divorce to elect the life insurance on their spouse at that
8 time?

9 MS. BOLEN: Your Honor, it calls for speculations what
10 someone may or may not do.

11 THE COURT: I'm going to sustain. Everybody had
12 different reasons for something like that, and she can only
13 speak to employees at Wesley Commons who perhaps -- I can't
14 say that she has enough knowledge what's going on in an
15 employee's personal life, all the employees, in order to
16 answer that question --

17 MR. BROWN: I'll withdraw the question.

18 THE COURT: -- at least for statistical accuracy.

19 MR. BROWN: Withdraw the question. Nothing further.

20 THE COURT: Thank you. You may step down. Thank you
21 very much for coming.

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

24 THE COURT: Ladies and gentlemen, we're going to take a
25 break for the evening. We've covered a great deal of ground

1 today on this case. I want to ask that you continue to
2 abide by the rules that I've set down. Don't talk to anyone
3 about the case, but do have a pleasant evening. Okay? I
4 will ask that you be back in the jury room, if you would,
5 tomorrow morning at 9:15. I anticipate resuming with the
6 trial of the case at that particular point in time, and
7 there may be a few housekeeping matters I need to take up
8 with the attorneys before we begin. So if you would be back
9 in the jury room at 9:15. I'll see you in the morning.
10 Don't talk about the case with anyone and have a great
11 evening.

12 (Whereupon, the jury was released for the day at 4:56
13 p.m.)

14 THE COURT: All right. The jury is out. We'll be at
15 ease for the evening. But if I could see -- I don't need to
16 see all four of you, but maybe just one could meet aside
17 briefly just to clarify one quick point. Okay? But we'll
18 be at ease until tomorrow morning.

19 (Whereupon, court adjourned at 4:56 p.m.)

20 (Whereupon, court came back on the record at 5:02 p.m.)

21 THE COURT: I think there was one more matter that the
22 State requested we address this afternoon before we break
23 for the day. Mr. Brown, do you all want to speak to that,
24 of where we are?

25 MR. STUMBO: Judge, we want to proffer the testimony of

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

421

1 Tavarious Settles outside the presence of the jury.
2 Obviously I think we probably need to put him under oath and
3 put him on the stand. Subject to cross-examination, I
4 guess, tonight, or we can do that, and then we will -- he
5 has agreed to testify. So he will be offered to testify.

6 THE COURT: All right. So it's the State's desire to
7 go ahead and proffer his statement?

8 MR. STUMBO: Correct, Judge.

9 THE CROSS: Any objection at this point in time for the
10 Defense? No?

11 MS. BOLEN: Not to a proffer, no.

12 THE COURT: Very good. Mr. Settles is -- the record
13 should also reflect that Mr. Settles' counsel on the charges
14 that he's facing in Abbeville, Mr. Nassrollahi, he is also
15 present as well.

16 TAVARIOUS SETTLES, having been
17 first duly sworn, testified as follows:

18 MR. NASSROLLAHI: Judge, for the record, Mr. Tinsley is
19 here. He was Mr. Settles' counsel on the Greenwood cases,
20 as Your Honor knows. We have gone over -- prior to his
21 taking the stand today we have gone over his Fifth Amendment
22 rights.

23 THE COURT: I'd assumed as much from the statements you
24 made on Monday. But, Mr. Settles, you do understand that
25 anything you say under oath here in this courtroom, of

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

422

1 course, can be used against you in any subsequent
2 proceedings? You do understand that, sir?

3 MR. SETTLES: Yes, sir.

4 THE COURT: And you are Tavarious Settles, correct,
5 sir?

6 MR. SETTLES: Yes, sir.

7 THE COURT: Mr. Stumbo.

8 MR. STUMBO: Thank you, Your Honor.

9 PROFFER IN-CAMERA

10 DIRECT EXAMINATION

11 BY MR. STUMBO:

12 Q Mr. Settles, we were here Monday. You stood with your
13 attorney, Mr. Nassrollahi, and indicated that you were not
14 going to testify in this case and exercising the Fifth.
15 You've changed your mind today?

16 A Yes, sir.

17 Q And go back to March 25th, 2013. Who were you with
18 that day?

19 A Karlita.

20 Q Earlier that day who were you with?

21 A School.

22 Q You went to school that day? I believe it was a
23 Monday?

24 A I don't know.

25 Q You were in school that day, right?

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

423

1 A (Non verbal response)

2 Q And later that evening you said you ended up with

3 Karlita, the Defendant?

4 A Yeah.

5 Q And what kind of conversation did you have with her

6 that day?

7 A It was arranged about a murder.

8 Q You say arranged about a murder. What was she asking

9 you to do?

10 A Kill her husband.

11 Q Do you know her husband's name?

12 A No.

13 Q What was the nature of your relationship with Karlita

14 at that time?

15 A I mean, we had a sexual relation a couple of times.

16 Q So you had sex with Karlita before that time?

17 A Yeah.

18 Q She asked you to kill her husband. Did she offer to

19 give you anything to kill her husband?

20 A Yeah, insurance money.

21 Q How much?

22 A Like \$13,000.

23 Q Now, you said you were with her at that time. Who went

24 to Abbeville?

25 A Me and her.

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

424

- 1 Q Whose car were you in?
- 2 A Hers.
- 3 Q Had you ever been over there on that road before?
- 4 A No, sir.
- 5 Q Who was driving?
- 6 A Her.
- 7 Q By her you mean Karlita?
- 8 A (Non verbal response)
- 9 Q Anybody else in the car?
- 10 A No, sir.
- 11 Q Now, if you could, just on the record here, how did
- 12 this -- what was the plan when you got there?
- 13 A Kill her husband.
- 14 Q Where did you park the car?
- 15 A On a road. I don't know.
- 16 Q Was it off on the other side of the woods; is that
- 17 right?
- 18 A (Non verbal response)
- 19 Q And where did you hang out and wait for her husband to
- 20 get home?
- 21 A The bushes.
- 22 Q Did you smoke some cigarettes?
- 23 A Yeah.
- 24 Q Well, what happened after you smoked those cigarettes?
- 25 A A car pulled up. I just ran up and started shooting.

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

425

1 Q Whoever got out of the car, you went and shot whoever
2 that was?

3 A (Non verbal response)

4 Q Who did you think that was?

5 A Her husband.

6 Q Make sure when I ask yes or no, so she can take it down
7 just say yes or no. You said you thought it was her husband
8 --

9 A Yes.

10 Q -- that you shot? What kind of gun did you use?

11 A A .38.

12 Q Revolver or semiautomatic?

13 A Revolver.

14 Q .38 revolver. Is that your gun?

15 A Yeah.

16 Q Where was Karlita Phillips when you ran up and shot
17 this person in the yard?

18 A The car.

19 Q She was sitting in the car?

20 A Yeah.

21 Q In the driver's seat?

22 A Yeah.

23 Q Where did you all go after you got back in the car?

24 A I got dropped off.

25 Q Where did she drop you off that night?

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

426

1 A In Georgetown.

2 Q Is that where you were living at the time?

3 A No.

4 Q Who were you going to see in Georgetown?

5 A I just got dropped off out there.

6 Q Now, Mr. Settles, the first time I've ever had a
7 conversation with you was downstairs just a few moments ago,
8 correct?

9 A Yeah.

10 Q Now, did I make you any promises down there for you to
11 tell the truth in this case?

12 A No.

13 Q You're doing this on your own free will and accord?

14 A Yes.

15 Q Now, there was some discussion that your attorneys
16 raised about the statute, where there's a state statute
17 where you could get possibly a downward departure in a
18 sentence, right?

19 A No.

20 Q Well, that was mentioned by your attorneys or by me at
21 the time?

22 A That was before the other trial.

23 MS. BOLEN: We can't hear.

24 MS. STUMBO: He said that was before the other trial.

25 Q You sitting up here today, I have not made you any

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

427

1 promises to what might happen to you on these charges or
2 what might happen to the Greenwood sentence or anything like
3 that, have I?

4 A No.

5 Q Now, I did tell you, Tavarious, I think you're doing
6 the right thing. Did I tell you that?

7 A Yeah.

8 Q I did tell you that I didn't think by doing the right
9 thing that could hurt you in any way. Did I tell you that?

10 A No.

11 Q One more question, Mr. Settles. Did Karlita ever tell
12 you why she wanted to have her husband killed?

13 A (Nonverbal response.)

14 Q Can you say yes or no? She didn't tell you that?

15 A No.

16 MS. BOLEN: I'm sorry. We're having a hard time
17 hearing. Could you just repeat what your question was?

18 Q Did she ever tell you why --

19 A No.

20 Q -- she wanted her husband killed? But she did tell you
21 there would be life insurance money that she would pay you?

22 A Yeah.

23 Q And that was \$13,000?

24 A Yeah.

25 Q How old were you the night you shot this man down at

TAVARIOUS SETTLES-DIRECT EXAMINATION (IN CAMERA)

428

1 this house?

2 A Sixteen.

3 Q How old were you when you shot the fellow over in
4 Greenwood? Or how old were you when you were alleged that
5 incident to occur? Was it after this or before this?

6 A After.

7 Q Did you turn 17 by that time?

8 A Yeah.

9 Q You were 16 on this night though, right?

10 A Yes.

11 Q Do you know how old Karlita was?

12 A No.

13 Q Is she older than you?

14 A Yeah.

15 MR. STUMBO: I don't have anything else for the
16 purposes of the proffer.

17 MS. BOLEN: No cross at this time, Your Honor.

18 THE COURT: Mr. Nassrollahi, I know it's a little
19 unusual. You're not really a party to this action. But is
20 there anything you need to clarify with your client at this
21 point in terms of the questioning, or would you --

22 MR. NASSROLLAHI: If I could confer with Mr. Tinsley
23 briefly.

24 THE COURT: Sure.

25 (Whereupon, there was a pause in the proceedings.)

1 MR. NASSROLLAHI: I have no questions for him, Your
2 Honor.

3 THE COURT: Mr. Settles, thank you. You can step down,
4 sir.

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 THE COURT: Very good. Please stand at ease until
8 9:15.

9 MR. STUMBO: Thank you, Judge.

10 (Whereupon, court was adjourned at 5:15 p.m.)

11 TRIAL DAY 4-07/23/15

12 THE COURT: We'll go back on the record in State vs.
13 Ms. Phillips. I'm told the jury is present. The Defendant,
14 of course, is present with counsel. And I'm assuming
15 everyone is ready to proceed, correct?

16 MR. STUMBO: We are, Your Honor.

17 THE COURT: Very good.

18 MS. BOLEN: I think we have a few brief things for the
19 record.

20 THE COURT: Certainly.

21 MS. BOLEN: Our first matter, Your Honor, is that it is
22 our understanding, based on yesterday, that Tavarious
23 Settles would be testifying for the State today. We're
24 objecting to his testimony on due process grounds as Mr.
25 Settles came in on Monday, was sworn in on the record,

1 testified asserted his Fifth Amendment rights, Your Honor,
2 that he would not be testifying in this trial. The defense
3 -- our defense has been tailored based on the fact that he
4 would not be testifying, and it's our position that it's,
5 therefore, a due process violation to now allow him to
6 testify after the record was open and he said he would not
7 be testifying. So we'd ask that he be not permitted to
8 testify.

9 THE COURT: Your objection is noted. Obviously he has
10 changed his mind and is now electing to testify, and he has
11 that right. He was named as a witness. He was called out
12 on the witness list and he may testify.

13 MS. BOLEN: Thank you, Your Honor.

14 MS. NELSON: One other thing in relation to Mr.
15 Settles' testimony. We have been informed at all times up
16 until yesterday that the State was not offering any
17 consideration in exchange for Mr. Settles' plea. We filed a
18 Rule 5 Brady request early on in this case, as we always do,
19 and that -- if there is any kind of deal, Your Honor, that
20 information would certainly be discoverable under Rule 5
21 Brady, *Kyles vs. Whitley*. Nothing like that has been
22 disclosed to us. It seemed that from Mr. Settles' proffer
23 yesterday, and discussions that I have had both yesterday
24 and in the past with his attorney, Josh Nassrollahi, that at
25 least prior to the trial in Greenwood, where he was

1 convicted, that there was discussion of some deal or
2 agreement at that time that has never been disclosed to us.
3 My understanding is that if Mr. Settles pled to both the
4 Greenwood and Abbeville charges and allocuted on the record
5 against Ms. Phillips, that the State was kind of giving a
6 wink and a nod or a know -- and an understanding that they
7 would not object to him receiving the minimum 30 year
8 sentence. Your Honor probably knows more about it than I
9 do, because it's also my understanding you were involved in
10 all those in chambers discussions since you, I believe, were
11 the trial judge in that Greenwood case. So as I've said,
12 Your Honor may have more information about the situation.

13 What we find in our circuit is that often when there is
14 a testifying co-defendant there is kind of -- it's always
15 the State's position that there is no deal, yet there's
16 always some sort of implicit understanding with the attorney
17 representing the testifying co-defendant that there is going
18 to be consideration after they take the stand. I've
19 represented people in that situation. Ms. Bolen has
20 represented people in that situation. I actually have -- I
21 have one of the co-defendants who testified against Mr.
22 Settles in his Greenwood trial who I am certain is going to
23 -- has not yet been, but I am certain will be given some
24 sort of consideration for taking the stand and helping the
25 State convict Mr. Settles in that case.

1 Your Honor, I am just trying to make a record of what
2 our understanding is, that nothing has ever been disclosed
3 to us, and that we heard at one point that Mr. Settles was
4 going to come in and pled guilty this morning. It appears
5 that's not happening. So now there are all kinds of
6 possibilities left open to him that this case -- charges
7 could even potentially be dismissed. He could be -- he is
8 in a position if he testifies for the State to file a motion
9 for downward departure, as the Court well knows. I have
10 ever reason to believe that one or both if his attorneys is
11 going to ask the State to do just that and reduce the 45
12 year sentence that he is currently serving.

13 Your Honor, I'm asking you to allow us to keep a record
14 open on this case. We can file a motion for -- if Ms.
15 Phillips, that we can file a motion for new trial and/or
16 motion for reconsideration. that motion not be heard until
17 Mr. Settles' Abbeville charges are resolved so that if the
18 State does end up giving him some consideration in exchange
19 for his testimony that that could be -- that could be a part
20 of our motion for new trial. Because if he ends up getting
21 something, anything less than 45 years at the end of all
22 this, that would have been something that we should have
23 known about at the time of Ms. Phillips trial when he's
24 testifying against her and that is our only opportunity to
25 cross him on bias.

1 So, Your Honor, I'm asking that you retain jurisdiction
2 of this case, that we -- that the record be held open, and
3 that any motion -- any post-trial motion that we might make
4 if Ms. Phillips is convicted, that that be not heard until
5 Mr. Settles' case is resolved before Your Honor. Not in
6 some other county. Not in front of some other judge, but --
7 so that the record is clear on whatever benefit he may end
8 up ultimately getting that the State is not disclosing at
9 this point.

10 THE COURT: All right. Well, I can speak to the
11 discussions that were had concerning the Greenwood charges
12 involving the Sis case, S-I-s is how you spell Sis, and the
13 discussions that I had with the attorneys in chambers, just
14 so that the record is clear. At some point in time, and I
15 cannot give you an exact day, but I did have discussion with
16 the lawyers involved concerning both cases and indicated
17 that if a plea was entered on both cases, if Mr. Settles was
18 inclined perhaps to accept responsibility on both cases,
19 that the Court would be open to the minimal sentence on the
20 charges. So you are correct in your discussions that you've
21 had with other attorneys. Obviously Mr. Settles elected to
22 proceed to trial, which is his right. The sentence which
23 was imposed in Greenwood after trial obviously took into
24 account a number of factors and the Court decided that a 45
25 year sentence was most appropriate. At no point in time did

1 the Court punish Mr. Settles for exercising his
2 constitutional rights. But contrary, the Court had an
3 opportunity to get a full picture of how heinous that
4 particular homicide was and elected to impose a 45 year
5 sentence on that charge. So what you are referring to, Ms.
6 Nelson, is essentially water under the bridge as it related
7 to Mr. Settles because, quite honestly, there was no deal
8 arrived at. There was no understanding, and he proceeded to
9 trial in Greenwood some months ago, I can't recall when that
10 was, and elected to exercise his constitutional rights as is
11 his right, of course.

12 The testimony yesterday did indicate that Mr. Settles
13 acknowledged that he could get a downward departure of that
14 45 year sentence. And I'm looking at the provisions of
15 17-25-65 which allow for a downward departure of a sentence,
16 and under that section it would appear to be discretionary
17 with the Court. The State may make the motion within one
18 year of sentencing. The Court may reduce the sentence of
19 the Defendant's -- of a Defendant after sentencing provided
20 it provides substantial assistance in investigating or
21 prosecuting another person. And then subsection two doesn't
22 apply here. So it would look like we would be under
23 subsection A. It looks like whether or not the Court were
24 to elect to reduce his sentence, that would be entirely
25 discretionary with this Court. I would like to believe that

1 it would be most appropriate for this judge to hear that
2 matter. Since I was the trial judge, I doubt some other
3 judge is going to mess with my sentence. I'm not going to
4 mess with some other judge's sentence. So clearly that
5 matter would be brought back in front of me.

6 The other point that you raised about what might happen
7 post-trial assuming a conviction, let me suggest that
8 perhaps the appropriate time to make that motion or put that
9 on the record would be assuming that the State is able to
10 meet its burden of proof in this case. So I think that
11 motion is premature.

12 With regard to her inquiry, Solicitor, about any
13 additional deals, guarantees, et cetera, would you care to
14 speak to that for the record.

15 MR. STUMBO: Your Honor, I think that it's based on --
16 I think we asked these questions of Mr. Settles yesterday
17 and it's consistent with what we told the defense. There's
18 been no plea offer. I mean, there is none. Just like there
19 was none from our office initially on the Greenwood charges.
20 I believe there was a chambers meeting as Your Honor
21 indicated. I think you indicated to some degree if he was
22 cooperative at that point what you would be open to
23 sentencing him to. But that certainly, even at that point,
24 we had not made an offer to Mr. Settles. We indicated that
25 we'd let -- you know, we wouldn't ask for any amount of time

1 and sentencing would obviously be at your discretion, just
2 like it would in any straight out plea.

3 I think we're in the same position here, Your Honor.
4 In fact, yesterday the one thing I told Mr. Settles when I
5 entered the room -- which was the first time I'd ever met
6 him yesterday evening after we broke. Mr. Tinsley was there
7 and Mr. Nassrollahi was there. Both this lawyer on the
8 Greenwood case and the Abbeville case. And the first thing
9 I told him is quite frankly, you know, we didn't need his
10 testimony to convict Ms. Phillips here. Certainly doing the
11 right thing can never hurt you. And that's the only
12 indication I gave him, Judge. If that was -- you know,
13 that's -- what I said, if they want to interpret that as a
14 wink and a nod or giving him a deal, they can certainly
15 cross him on that. I want to make that clear for the record
16 that that's essentially the way we went forward. But I
17 couldn't promise him anything in terms of sentencing. In
18 terms of downward departure, that came up in the room just
19 in the sense that I know he had discussed it with his
20 attorneys. And essentially we said we can't make any
21 promises as to what you got on the Greenwood case. I can't
22 make -- I'm not making you any deals right now as to what's
23 going to happen on the Abbeville case. And so, that's where
24 we are at this point.

25 Certainly that's -- I think that this is kind of a

1 reveal the deal motion. I think that's -- I'm not putting
2 on the record what we said. I'm sure that Mr. Nassrollahi
3 and Mr. Tinsley would verify all that and all the other --
4 Sheriff Watson and all the other folks in the room. But no
5 deals have been made.

6 Quite frankly, Your Honor, I think what I'm hearing
7 from Ms. Nelson, it's almost wanting to ask the Court to
8 force me as the prosecutor to exercise my discretion as to
9 what's going to happen to Mr. Settles now, and I'm not
10 really sure I'm in a position to do that at this point,
11 Judge. Certainly we're not going to make a decision on this
12 until we have a good opportunity to sit down with the
13 Phillips family, with law enforcement on the Abbeville case.
14 As to the Greenwood case, then sit down with the victim and
15 law enforcement in that case, if there's anything to be done
16 on that case. And we just haven't had an opportunity to do
17 that. So I don't know if I can prospectively reveal a deal
18 that hasn't been made. I just -- I don't think we're -- I
19 don't know if I artfully argued that, Judge, but I'm not
20 sure exactly what Ms. Nelson is asking.

21 THE COURT: Well, I believe I understand what she is
22 asking.

23 MR. STUMBO: And I'm not sure how -- you know, I know
24 we're putting the cart before the horse as Your Honor said,
25 that that motion needs to be made maybe after a conviction

1 and sentence if we have one. But I'm not sure how a
2 conviction and sentence as to Ms. Settles, as we sit here
3 today if there is one, affects -- has anything to do with
4 what's done with Mr. Settles at some point in the future.
5 I'm not sure we can tie those --

6 THE COURT: Well, here is how I am taking everything
7 that's being said and everything that has been represented
8 to the Court. The Court has -- obviously Mr. Tinsley, who
9 represented Mr. Settles on the Greenwood charges, he was
10 present yesterday and had conversations with Mr. Settles. I
11 don't see him in the courtroom today, although I see his
12 son. Clearly Mr. Tinsley has informed -- I would anticipate
13 that he has informed Mr. Settles that cooperation in this
14 case would respectively entitle him to relief under that
15 portion of Title 17 where he could request a downward
16 departure of his 45 year sentence. The Solicitor has
17 represented that obviously there are no deals in this case,
18 but his testimony can't hurt him at this point in time. It
19 would appear to me that based upon the evidence that's been
20 presented, the case against Mr. Settles, to put it mildly,
21 is not the weakest case in the world in Abbeville on these
22 charges that we are currently trying. His DNA has been
23 found on cigarette butts. He's given confessions to police.
24 They're case is clearly not the weakest against Mr. Settles,
25 just based on what I have heard so far. And as we discussed

1 in chambers earlier this week, when I had suggested that the
2 State was going to -- if Mr. Settles was going to testify,
3 perhaps some kind of immunity or something like that would
4 have to be given to him, and I saw the shock on Mr. Brown's
5 face when I even suggested that, and I took his reaction to
6 mean that obviously the State of South Carolina would not be
7 inclined to give an individual who has admitted to killing
8 two people within a three month period of time a great deal
9 of leniency. So I think that's where we stand.

10 Apparently Mr. Settles is clearly going to be entitled
11 to a downward departure if he were to testify. Under Title
12 17, that's discretionary with the trial court. I'm trying
13 to avoid becoming a witness in this case, but that's my
14 understanding of what he would be entitled to. There have
15 been no assurances made on this particular case is what the
16 Solicitor has represented to the Court. But obviously Mr.
17 Settles can't hurt himself by testifying in the Solicitor's
18 viewpoint.

19 I'll take under advisement or address your motion to
20 delay sentencing or new trial, what have you -

21 MS. NELSON: If we would need to.

22 THE COURT: -- if we get to that point.

23 MS. NELSON: I understand that, Your Honor. Just -- I
24 understand what your ruling is. Just so the record is
25 clear, my understanding -- and I don't dispute that they

1 have a strong case against Mr. Settles. But my
2 understanding is that he has not confessed, and that the
3 first time he actually admitted to anything was yesterday
4 afternoon during the proffer.

5 THE COURT: I haven't seen the statements that Mr.
6 Settles gave to law enforcement, so I do not know. You all
7 are privy to that. I am not.

8 MR. STUMBO: They weren't a full confession, Your
9 Honor. He did give a statement where he indicated a
10 conversation with Ms. Phillips where she offered to pay him
11 to kill her husband. But he ultimately said I didn't do it
12 at that point. So that's where it's changed now. But
13 certainly we agree with Your Honor that based on the
14 physical evidence and the other witnesses, we feel like we
15 had a strong case on Mr. Settles before he came in here
16 yesterday and admitted he did it.

17 THE COURT: All right. Apparently he did not confess
18 to law enforcement and I was mistaken and assuming that he
19 had.

20 Ms. Bolen, you have something else?

21 MS. BOLEN: Just out of abundance of caution, Your
22 Honor, I just want to put this on the record to serve as a
23 motion in limine. But yesterday when Solicitor Stumbo was
24 doing the proffer of Mr. Settles, and then again today when
25 Solicitor Stumbo was talking about his conversations with

1 him, he said that he had told Mr. Settles yesterday that he
2 thought he was doing the right thing to come and testify,
3 and we would obviously ask that that not be something that
4 is part of his testimony or any questions of that nature are
5 asked in front of the jury as I think it improperly is a
6 comment on both one's Fifth Amendment right, and it's
7 hearsay, and it's also a comment on one's right to a jury
8 trial. So we would ask that that sort of questioning not be
9 elicited.

10 THE COURT: I would agree, and the main reason I would
11 agree is it sounds like the Solicitor would be making a
12 comment on the veracity of the witness who is testifying and
13 that he is doing the right thing. So I would ask that that
14 question not be put to Mr. Settles.

15 MR. STUMBO: At most I may ask him why he's doing this
16 today and let him say whatever he says.

17 THE COURT: Why he's doing it is something I'm sure
18 that's going to be explored at length --

19 MR. STUMBO: Yes, sir.

20 THE COURT: -- on direct and cross.

21 MR. STUMBO: Yes, sir.

22 THE COURT: Let's have the --

23 MS. NELSON: Thank you, Your Honor.

24 MS. BOLEN: Thank you.

25 THE COURT: Let's have the jury, please.

TAVARIOUS SETTLES-DIRECT EXAMINATION

442

1 (Whereupon, the jury entered the courtroom at 9:47
2 a.m.)

3 THE COURT: Ladies and gentlemen, I apologize for
4 keeping you all waiting back there. The bailiff did tell me
5 you were here at 9:15, 9:20. I thank you very much for
6 being on time. There were a few matters that I did need to
7 take up with the attorneys.

8 The bailiff also told me this morning that some of you
9 desired to perhaps take notes while the case continues, and
10 that's perfectly fine. If you want to take notes, that's
11 fine. We can provide you with notepads. I don't see any in
12 your laps at this point in time. But if you want to take
13 notes, that's perfectly okay. I would simply ask that you
14 not allow any note taking to affect your attention that you
15 give to any witnesses involved in this particular case.
16 Okay? And obviously your notes are your private property.
17 So if you do take notes, take them with you and dispose of
18 them, or keep them as a souvenir, what have you, when you
19 get home. But they're private property for your eyes only.
20 Okay?

21 We are still in the State's case in chief. At this
22 point in time, Solicitor, if you'll call your next witness,
23 sir.

24 MR. STUMBO: Thank you, Judge. The State calls
25 Tavarious Dequan Settles.

TAVARIOUS SETTLES-DIRECT EXAMINATION

443

1 THE COURT: Mr. Settles, if you'll come forward and be
2 sworn, please.

3 MS. NELSON: Subject to our motion, Your Honor.

4 THE COURT: Subject to your earlier objection.

5 MS. NELSON: Thank you, Your Honor.

6 TAVARIOUS DEQUAN SETTLES, having
7 been first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. STUMBO:

10 Q Good morning, Quan. You go by Purp?

11 A Yes, sir.

12 Q Okay. Make sure you speak up in the microphone so this
13 young lady here in front of you can hear you.

14 Purp, how old are you today?

15 A Nineteen.

16 Q When is your birthday?

17 A April 18th.

18 Q April 18th, [REDACTED]

19 A Yes, sir.

20 Q So in March of 2013 that would have made you 16-years-
21 old at the time, correct?

22 A Yes, sir.

23 Q Back in that time period did you know Karlita Phillips?

24 A Yes, sir.

25 Q What was the nature and how did you meet her? Who did

TAVARIOUS SETTLES-DIRECT EXAMINATION

444

1 you meet her through?

2 A Well, I'm kin of her children.

3 Q And what was the nature of your relationship with Ms.
4 Phillips back in March of 2013?

5 A Sexual relation.

6 Q You all were having sex?

7 A Yes, sir.

8 Q And was she older than you?

9 A Yes, sir.

10 Q Now, Purp, right now you're serving a 45-year sentence;
11 is that correct?

12 A Yes, sir.

13 Q And that was from a conviction over in Greenwood? The
14 city of Greenwood?

15 A Yes, sir.

16 Q And when that incident happened it was allegedly after
17 March of 2013, correct?

18 A Yes, sir.

19 Q Purp, I'm going to ask you this question. If you could
20 tell the jury who killed Jamil Phillips?

21 A I did.

22 Q And how did you kill Jamil Phillips?

23 A Shot him.

24 Q What did you shoot him with?

25 A A revolver.

TAVARIOUS SETTLES-DIRECT EXAMINATION

445

- 1 Q Do you remember what caliber?
- 2 A .38.
- 3 Q Was Jamil Phillips your intended target that night?
- 4 A No.
- 5 Q Who was your intended target?
- 6 A His brother.
- 7 Q Jamil's brother?
- 8 A Yes, sir.
- 9 Q And who was he -- how is he related to Karlita?
- 10 A Her husband.
- 11 Q Purp, who, if anyone, asked you to do this?
- 12 A Karlita.
- 13 Q And did she tell you why she wanted her husband killed?
- 14 A Insurance money.
- 15 Q Insurance money?
- 16 A Yes, sir.
- 17 Q Did she promise you anything for killing him?
- 18 A Like 13,000.
- 19 Q \$13,000?
- 20 A Yes, sir.
- 21 Q Now, you said you shot Jamil that night. And where did
- 22 -- this was out towards Abbeville; is that correct?
- 23 A Yes, sir.
- 24 Q Had you ever been out in that area before?
- 25 A No.

TAVARIOUS SETTLES-DIRECT EXAMINATION

446

- 1 Q Who took you out there?
- 2 A Karlita.
- 3 Q Who was driving the car?
- 4 A Karlita.
- 5 Q And who's car was it?
- 6 A Her's.
- 7 Q Now, how did you -- how did you do this? Where were
- 8 you at before you shot Jamil?
- 9 A The bushes.
- 10 Q And where was that in relation to the car? Were you
- 11 between the car and the house?
- 12 A Out on the side.
- 13 Q And where the car was parked was on the other side of
- 14 some woods from the house?
- 15 A Yeah.
- 16 Q Did you smoke any cigarettes that night?
- 17 A Yes, sir.
- 18 Q How many?
- 19 A I don't know.
- 20 Q And where did you smoke them?
- 21 A Right there by the bushes.
- 22 Q Where you were hiding?
- 23 A (Non verbal response.)
- 24 Q Now, if you could, tell the jury what you did when you
- 25 saw a car pull in the driveway.

TAVARIOUS SETTLES-DIRECT EXAMINATION

447

- 1 A I ran up and started shooting.
- 2 Q Just ran up and started shooting at him?
- 3 A Yes, sir.
- 4 Q Where was he standing when you shot him?
- 5 A The porch.
- 6 Q On the front porch?
- 7 A Yes, sir.
- 8 Q Was the front porch dark when you shot him?
- 9 A Yes, sir.
- 10 Q There was no light on the front porch at that time?
- 11 A (Non-verbal response.)
- 12 Q Where was Karlita Phillips when you were hiding in the
- 13 bushes and then afterwards ran up to shoot Jamil?
- 14 A In the car.
- 15 Q The car was parked some distance away?
- 16 A Yes, sir.
- 17 Q And that was on the other side of some trees?
- 18 A Yeah.
- 19 Q When did you find out that who you shot was the wrong
- 20 guy?
- 21 A Later on that night.
- 22 Q Who told you that?
- 23 A Karlita.
- 24 Q Is there anything else you all talked about?
- 25 A No.

TAVARIOUS SETTLES-DIRECT EXAMINATION

448

1 Q Was there anybody else in the car with you all when you
2 went over to Abbeville?

3 A No.

4 Q It was just you and Karlita?

5 A Yeah.

6 Q She was driving?

7 A Yeah.

8 Q Would you have known how to find that house if she
9 wasn't driving?

10 A No.

11 Q Now, you keep -- you've referred to Karlita and said
12 what kind of relationship with her. Is she in the courtroom
13 here today?

14 A Yes.

15 Q Where is she sitting?

16 A Over there.

17 (Whereupon, the witness identifies the Defendant.)

18 Q Over at the Defense table?

19 A Yeah.

20 Q Beside her lawyer?

21 A Yes, sir.

22 MR. STUMBO: Let the record reflect, Your Honor, the
23 witness has identified the Defendant.

24 THE COURT: The record shall so reflect.

25 Q Now, Purp, yesterday late evening is the first time you

TAVARIOUS SETTLES-CROSS-EXAMINATION

449

1 and I have ever met or talked, correct?

2 A Yeah.

3 Q And yesterday evening for the first time you disclosed
4 this to law enforcement and to my office, correct?

5 A Yes, sir.

6 Q And you had given a statement to law enforcement
7 sometime back, right?

8 A Yes, sir.

9 Q But you didn't admit all that you've told us here
10 today?

11 A No.

12 Q And when you talked to law enforcement before that was
13 while you were charged with this Greenwood crime, too,
14 correct?

15 A Yes, sir.

16 Q Have I made you any promises of any kind of plea offer
17 in exchange for you doing this here today?

18 A No, sir.

19 Q Do you hope to get some kind of plea offer?

20 A No, sir.

21 Q Why did you change your mind last night to come and do
22 this?

23 A Honestly, I ain't trying to withstand another trial.

24 Q You're coming in and admitting your guilt --

25 A Yes.

TAVARIOUS SETTLES-CROSS-EXAMINATION

450

1 Q -- to this today?

2 A Yes, sir.

3 Q Manning up for it?

4 A Yes, sir.

5 MR. STUMBO: No further questions, Your Honor.

6 THE COURT: Ms. Bolen.

7 CROSS-EXAMINATION

8 BY MS. BOLEN:

9 Q Mr. Settles, you're charged with murder in this case,
10 correct?

11 A Yes, sir.

12 Q And that charge is still --

13 A Yes, ma'am.

14 Q Sorry. And that charge is still pending, correct?

15 A Yes, ma'am.

16 Q You haven't pled to it, right?

17 A No, ma'am.

18 Q And you haven't gone to trial on it, right?

19 A No, ma'am.

20 Q And just to make clear, the Greenwood crime that you're
21 serving a 45-year sentence on is murder, correct?

22 A Yes, ma'am.

23 Q You were convicted of murder a few months ago, right?

24 A Yes, ma'am.

25 Q And that probably was what, March or April?

TAVARIOUS SETTLES-CROSS-EXAMINATION

451

1 A It was March.

2 Q And since March you've been in the Department of
3 Corrections, right?

4 A Yes, ma'am.

5 Q Which is prison?

6 A Yes, ma'am.

7 Q I want to talk to you a little bit about where you're
8 saying here today. Okay? Back in March of 2013 you were in
9 high school, right?

10 A Yes, ma'am.

11 Q You were a sophomore?

12 A Yes, ma'am.

13 Q You went to Greenwood High?

14 A Yes.

15 Q And you knew Karlita and her family and are related to
16 her children, right?

17 A Yeah.

18 Q And those are her children over there, right?

19 A Yes, ma'am.

20 Q And you're saying now that you were also in a sexual
21 relationship with her, right?

22 A Yes, ma'am.

23 Q And that day, the 25th, you went to her house after
24 school, right?

25 A Yes, ma'am.

TAVARIOUS SETTLES-CROSS-EXAMINATION

452

- 1 Q You got out of school, what, 2:15-ish?
- 2 A 3:00.
- 3 Q 3:00, okay. And you went straight to her house?
- 4 A No. Not straight there. I went -- it was later.
- 5 Probably around 6:00.
- 6 Q So you got to her house around 6:00?
- 7 A (Non-verbal response.)
- 8 Q Okay. And your testimony today is that sometime after
- 9 you get to her house she talks to you about doing this?
- 10 That's what you're saying today?
- 11 A No. We talked about it before.
- 12 Q And then you testified just now that you were the one
- 13 to shoot Jamil, right?
- 14 A Yes, ma'am.
- 15 Q And the car was parked next to the bushes, right?
- 16 A On the other side.
- 17 Q And you were in the bushes?
- 18 A Yes, ma'am.
- 19 Q And you saw a car drive up, right?
- 20 A Yes, ma'am.
- 21 Q And you ran up to the porch, right?
- 22 A Yes.
- 23 Q And you started shooting, right?
- 24 A Yeah.
- 25 Q So you intended to shoot the person that was on the

TAVARIOUS SETTLES-CROSS-EXAMINATION

453

1 porch, right?

2 A Yes.

3 Q And you were 16-years-old at the time?

4 A Yeah.

5 Q And then the Greenwood murder was a few months later,
6 right?

7 A Yes.

8 Q And in that case you were convicted of gunning down a
9 Hispanic man by the name of Mr. Sis?

10 A Yes.

11 Q Now, the first time you have given this statement that
12 you shot Jamil was yesterday, right?

13 A Yes.

14 Q But it's not the first time you've talked to law
15 enforcement about this case, right?

16 A No.

17 Q And just to make clear. You were in police -- state
18 custody from the time you were arrested in May, 2012, right?

19 A June, 2013.

20 Q June. I'm sorry. So June, 2013 you were arrested on
21 the Greenwood murder, right?

22 A Yeah.

23 Q And you've been in state custody ever since, right?

24 A Yes.

25 Q And back on December 10th of 2013, you've already

TAVARIOUS SETTLES-CROSS-EXAMINATION

454

1 talked a little bit about this, but you've met with law
2 enforcement, right?

3 A Yes.

4 Q And you've met with them in the Greenwood Sheriff's
5 Office conference room?

6 A Yes.

7 Q And you met with Agent Collins, right, with SLED, Agent
8 Gamble with SLED, right?

9 A Yes.

10 Q And one of your lawyers, Mr. Tinsley, right?

11 A Yes, ma'am.

12 Q And the purpose of that meeting was to talk to you
13 about this case, right?

14 A Yes, ma'am.

15 Q And you remember talking with them, right?

16 A Yes, ma'am.

17 Q And in that meeting you told them that Karlita had
18 approached you, right?

19 A Yes.

20 Q And you said I turned her down, right?

21 A Yes.

22 Q That you did not do any kind of shooting, correct?

23 A Yes.

24 Q That you did not take her up on any kind of offer,
25 correct?

TAVARIOUS SETTLES-CROSS-EXAMINATION

455

1 A Yes, ma'am.

2 Q And then you started talking about how, although you
3 turned it down and didn't do it, that you told one of your
4 friends, a Markece Moore, about her offer, correct?

5 A Yes.

6 Q And so, you tell the two SLED agents and your attorney,
7 I told Markece about this, right?

8 A Yes.

9 Q And you tell them that Markece said give her my phone
10 number, right?

11 A Yes.

12 Q And you gave it to her, right? That's what you told
13 them back then?

14 A Yep.

15 Q And you also told them that Markece was a friend of
16 yours, right?

17 A Uh-huh.

18 Q You guys would hang out together after school?

19 A Yeah.

20 Q That you smoked, right? You smoked cigarettes?

21 A Yeah.

22 Q And that Markece didn't often have a lot of money,
23 right?

24 A Yes.

25 Q And you told them back on December 10th that sometimes

TAVARIOUS SETTLES-CROSS-EXAMINATION

456

1 Markece would pick up your cigarette butts and kind of mush
2 them together and form a cigarette that he could smoke,
3 right?

4 A Yep.

5 Q And you told them that you think -- thought that that's
6 how cigarette butts with your DNA ended up there, right?

7 A Yep.

8 Q And you also told them that someone else in the
9 Greenwood jail, a guy by the name of Trey, and told you that
10 Markece told you that, right?

11 A Yep.

12 Q That he told this Trey fellow who then told you that he
13 had killed Jamil Phillips and had framed you with cigarette
14 butts, right?

15 A Yep.

16 Q And then you also told the agents and your lawyer that
17 Markece himself came by to your jail cell and apologized for
18 framing you with cigarette butts, right?

19 A Yep.

20 Q And it turns out that none of that was true, right?

21 A Nope.

22 Q Because Markece was in New York, right?

23 A No.

24 Q And you went to trial, you said, in April, right?

25 A March 30th.

TAVARIOUS SETTLES-CROSS-EXAMINATION

457

- 1 Q March 30th. That was in Greenwood, right? .
- 2 A Yes.
- 3 Q And at that time there was some discussion between you
- 4 and your lawyers and the State's lawyers who are the same --
- 5 the same Solicitor's Office, right?
- 6 A Yeah.
- 7 Q There was some discussion of you pleading to both
- 8 murders, correct?
- 9 A Yeah.
- 10 Q And at that time you did not, correct?
- 11 A No.
- 12 Q And you never told them at that time anything about
- 13 being involved in this, right?
- 14 A No.
- 15 Q You maintained you were not involved, correct?
- 16 A Yes.
- 17 Q And that was just a few months ago?
- 18 A Yes.
- 19 Q And then you got convicted and you went down to prison,
- 20 right?
- 21 A Yep.
- 22 Q And you're serving a 45-year sentence, right?
- 23 A Yep.
- 24 Q And this charge is still pending, correct?
- 25 A Yes.

TAVARIOUS SETTLES-CROSS-EXAMINATION

458

1 Q And you're aware that there is a statute that allows
2 you to seek what's called a downward departure, correct?

3 A Yeah.

4 Q Which would allow your sentence to be reduced based on
5 your testimony today, correct?

6 A No.

7 Q You're not aware that that statute exists knowing your
8 attorneys told you about that?

9 A Yes, but it has nothing to do with my testimony.

10 Q But you are aware that --

11 A Yes.

12 Q -- such a motion could be filed, correct?

13 A Yes.

14 Q And your sentence of 45 years could be reduced, right?

15 A Yeah.

16 Q And since your charge here is still pending, you
17 haven't pled to it, you haven't gone to trial on it, right?

18 A No.

19 Q So you are also aware that that charge could be
20 reduced, correct?

21 A Yeah.

22 Q It could be dismissed, right? It could be, correct?

23 A Could.

24 Q And, in fact, when you talked to the officers on
25 December 10th, you remember telling them that the only way

1 you knew Karlita Phillips was through her daughter,
2 Dayleshia?

3 A Yeah.

4 Q You didn't mention anything about any kind of a
5 relationship with her, right? You just said I know her
6 through her kids, correct?

7 A I did mention it.

8 Q But you also denied having any involvement in this
9 murder, correct?

10 A Yeah.

11 MS. BOLEN: Nothing further. Thank you, Your Honor.

12 THE COURT: Redirect.

13 MR. STUMBO: None, Your Honor.

14 THE COURT: Thank you, Mr. Settles, you may step down.

15 (Whereupon, the witness stepped down from the witness
16 stand.)

17 THE COURT: Call your next witness.

18 MR. STUMBO: Your Honor, that's the State's case. We
19 rest at this time.

20 THE COURT: Ladies and gentlemen of the jury, I need to
21 take up a few motions. I don't anticipate this will take
22 terribly long. Probably about five or 10 minutes. I need
23 you to adjourn to the back while I address those. And, of
24 course, don't talk about the case.

25 (Whereupon, the jury exited the courtroom at 10:07

1 a.m.)

2 THE COURT: The record should reflect that the jury is
3 out. At this point in time the Defense moves for a directed
4 verdict; is that correct?

5 MS. BOLEN: Yes, Your Honor. If I may just pull up on
6 case, Your Honor.

7 THE COURT: Certainly.

8 MR. NASSROLLAHI: While Ms. Bolen is doing that is it
9 okay if we release Mr. Settles?

10 THE COURT: Does anyone intend to recall Mr. Settles at
11 some future point at this --

12 MS. BOLEN: No, sir.

13 THE COURT: -- juncture?

14 MR. STUMBO: We don't, Your Honor. Now, I would say
15 that, I guess, it's always theoretically possible that
16 before the end of business tomorrow or sine die tomorrow
17 where you may deal with a plea with him. I don't know. I
18 just don't know the answer to that right now. Maybe as long
19 as -- and we'll take care of that, Judge. Make sure that
20 he's released from Court here, but that we'll have him
21 retained at Greenwood for the next couple of days.

22 THE COURT: That's what I was going to suggest. Just
23 ask for them to hold him in Greenwood until tomorrow and
24 then they can ship tomorrow afternoon at SCDC if we do not
25 address this case.

1 MR. NASSROLLAHI: I apologize for --

2 THE COURT: No, quite all right.

3 MR. STUMBO: And I think Sheriff Watson can make that
4 happen, Judge. Very good.

5 THE COURT: Ready when you are.

6 MS. BOLEN: Thank you, Your Honor. The State is moving
7 for a directed verdict at this time on both charges.
8 Specifically, Your Honor, to bring this in both a directed
9 verdict motion, as well as a corpus delicti motion, Your
10 Honor, the State has not presented sufficient evidence, or
11 really any evidence at this point, of my client's absence
12 from the scene, which is a requirement for accessory after -
13 - before the fact. The two cases, Your Honor, that discuss
14 the absence from the scene is part of the corpus delicti of
15 accessory before the fact are *State vs. Gentry*, 363 S.C. 93.
16 That's a 2005 case. And *State vs. Smith*, 316 S.C. 53. Both
17 of those require that the State, to survive a DV and as part
18 of their corpus delicti, have to show proof that the accused
19 in an accessory charge has to be absent. And, Your Honor,
20 the reason I bring up corpus delicti is for the purposes of
21 DV the state has to establish the elements of the crime
22 without the Defendant's statement. So removing her
23 statement from the State's case, Your Honor, the only
24 evidence about her absence or presence is Mr. Tavarious
25 Settles saying that she was present, which is -- there's not

1 even conflicting evidence about this, Your Honor. When the
2 corpus delicti line of cases that discuss corpus delicti say
3 that, you know, if there's conflicting evidence then, you
4 know, it can maybe go to jury here. When you consider the
5 requirement that the State has proof aliunde of the corpus
6 without the Defendant's statements or admissions there is no
7 other conclusion when you take out her statement then that
8 she was there. That's the only thing they presented on
9 that. That is an essential element of the accessory before
10 the fact, Your Honor. So we would ask for a directed
11 verdict on that charge, and we'd also ask for a directed
12 verdict on both charges on the basis that there have not
13 been sufficient evidence of the elements charge.

14 THE COURT: And the Defense also renews all prior
15 motions, correct?

16 MS. BOLEN: Yes, sir, Your Honor. I renew prior -- all
17 prior motions pretrial and trial and all of our objections
18 both pretrial and trial.

19 THE COURT: Solicitor, would you care to speak to the
20 corpus delicti argument?

21 MR. STUMBO: I would, Your Honor. I think that even if
22 you take -- and this is obviously one of the reasons why I
23 wanted to clarify this with Mr. Settles on the stand is
24 where Ms. Phillips was located while he lie in wait and then
25 ultimately ran across the yard to shoot Jamil Phillips who

1 he thought was Dale Phillips. And, Your Honor, we put into
2 evidence -- this was introduced as State's 43 through one of
3 the neighbors. And, Your Honor, if you look at this
4 property, 1522, which I believe Mr. Gary Parrman who
5 testified identified this being their property, here's the
6 property line and the woods are very thick here, Your Honor.
7 And I've walked this property and it's as it appears on here
8 and as it was described by the witnesses. The woods between
9 where the car was parked on a separate piece of property and
10 the house are very thick. There's absolutely no way you can
11 even see really through these woods to where the murder
12 occurred. So I think it's a matter of fact, and really
13 there's an argument here, quite frankly, that she wasn't
14 present at the scene. She was parked some distance away
15 where she couldn't even see what was going on. And she
16 essentially -- my argument would be, Judge, is if she were
17 present Jamil may not have even been shot, because she would
18 have known the difference between Jamil and Dale. She knew
19 what cars they drove and so forth. So, in fact, I would
20 argue here, Judge, that it's still a dispute of fact for the
21 jury to -- it's a matter of fact for the jury to determine.
22 I think it goes to weight. But essentially, Judge, I would
23 say based on Mr. Settles' testimony there's still a fact
24 issue for the jury to have to determine even whether she was
25 technically present at the scene or not, if that makes

1 sense. And according to her testimony she wasn't.

2 MS. BOLEN: She didn't testify.

3 MR. STUMBO: I'm sorry. According to statements that
4 were introduced and admissible, Your Honor, she wasn't
5 present. So quite frankly, Judge, I think that these would
6 be the fact issues that need to be determined by the jury.
7 There is a -- I think we're in kind of a little gray area
8 here. Is she an accomplice and a principal, or is she an
9 accessory who wasn't present. I mean, based on Mr. Settles'
10 testimony, quite frankly, the jury could find -- could still
11 find, based on the facts, that she was not present at the
12 scene. That would be our argument on the corpus delicti.

13 THE COURT: Follow-up?

14 MS. BOLEN: Thank you, Your Honor. And our response is
15 that she's not charged as an accomplice to murder. She's
16 charged with accessory before the fact which has specific
17 elements which have to be met.

18 Responding to what Solicitor Stumbo has brought up.
19 The neighbors said that the car was parked by the tree line
20 facing out. And Purp testified that he could not have
21 gotten there without her. She drove him there. She was on
22 the other side of the bushes, by his testimony, and he said
23 he couldn't have gotten there without her. I don't know how
24 that makes her absent from the scene. And so, by the
25 State's own witnesses, Your Honor, there is -- and again,

1 for the corpus delicti argument, which goes to directed
2 verdict, her statements have to be taken out of
3 consideration. The State has to prove the corpus
4 independent of her statements, and there's simply nothing to
5 say that she was absent. So we would ask for a directed
6 verdict on that ground, Your Honor.

7 THE COURT: All right. Your motion is noted. The
8 Court will deny the Defense motion for a directed verdict.
9 I do find there is substantial circumstantial evidence and
10 direct evidence which would indicate that the Defendant, Ms.
11 Phillips, could be found guilty of both of the charges for
12 which she's accused. Clearly the jury is entitled to
13 believe a part of the testimony of a witness and reject the
14 remaining part of the testimony of that same witness. I'm
15 quite certain that if the Defense presents a Defense then
16 that would be something that would be addressed. And
17 obviously I realize that we are at the directed verdict
18 stage at this point. But there is evidence for which the
19 jury could conclude that she was not present at the scene of
20 the crime, even independent of her statements. So the Court
21 would deny your motion under *Gentry* and *Smith* and we will
22 submit both charges to the jury.

23 I assume that you have discussed at length your
24 client's right to testify or to present a defense, Ms.
25 Bolen?

1 instructions is a correct statement of the law under these
2 facts.

3 MR. STUMBO: Judge, we're fine with the verdict form.
4 I was able to review it again.

5 MS. BOLEN: And no objection from us either, Your
6 Honor.

7 THE COURT: Nothing further before we bring the jury
8 out. Of course, the State would argue first. The Defense
9 second. Let's have the jury, please. When they come out,
10 I'll turn to you all and you rest on the record.

11 MS. BOLEN: Yes, sir.

12 (Whereupon, the jury entered the courtroom at 11:07
13 a.m.)

14 THE COURT: Ladies and gentlemen, sorry to keep you
15 waiting. I went ahead and addressed a few issues of law
16 with the attorneys that relate to this case. Still, of
17 course, involved in the trial of this case.

18 At this point in time, Ms. Bolen, the Defense case.

19 MS. BOLEN: Thank you, Your Honor. At this time the
20 Defense rests and we renew all of our previous objections
21 and motions both pretrial and trial.

22 THE COURT: Very good. Ladies and gentlemen, we've
23 reached that portion of the trial where you have received
24 all the evidence that you're going to have in order to judge
25 this case. Okay? So the testimony and evidentiary aspect

1 of this trial has concluded. At this point in time you'll
2 have the opportunity to hear the closing arguments of
3 counsel for the State. The way we'll proceed is -- from the
4 State and Defense, of course. The way that we'll proceed is
5 that the State will argue to you first to be followed by the
6 Defense. Okay? As I mentioned to you on Tuesday, I
7 believe, you understand that, of course, what the attorneys
8 say during their closing arguments is not evidence. It's
9 simply their contention as to what has been proven or has
10 not been proven. It's perfectly normal for them to refer to
11 facts or testimony during the course of their closing
12 argument. However, if at any point in time any of the
13 lawyers say something about the facts and their statement
14 about the facts differs from what you recall the facts
15 being, you should go with your recollection of the facts
16 because, again, you are the sole judges of the facts in this
17 particular case. For example, if the lawyers were to say
18 that yesterday it was a very cold 50 degrees and you recall
19 the weather yesterday being closer to 95 or 100 degrees, you
20 should go with your recollection of the weather yesterday as
21 opposed to what the attorneys say it was. Okay? Just by
22 way of an example.

23 With that, Solicitor, you are acknowledged for your
24 closing, sir.

25 MR. STUMBO: Yes, sir.

1 CLOSING ARGUMENT

2 BY MR. STUMBO: Wake up. Wake up. Isn't that what we
3 tell ourselves when we're in the middle of a nightmare?
4 Isn't that what we tell ourselves when something is going
5 through our head? We just want to wake up and everything is
6 back to normal. I guarantee you, ladies and gentlemen, that
7 over the past two plus years Mr. Dale Phillips, Sr., and
8 Mrs. Martha Phillips have told themselves over and over and
9 over again to wake up. The problem is, they're awake and
10 this isn't just a bad dream. This really happened and this
11 is really something that they've been living in day, after
12 day, after day. And if I could do anything in this case to
13 bring Jamil Phillips back, and a lot of people in this
14 courtroom, if we could just say wake up, snap our fingers,
15 wave a wand and have these three brothers standing together
16 again, if we could wave a wand and snap our fingers and have
17 Ms. Phillips able to cook dinner for Jamil again as she did
18 that night. He never made it inside that night. If I could
19 bring him back, folks, I would do it, but I can't. This is
20 real life. This is as horrific as it gets. And all we're
21 left with, ladies and gentlemen, are the four walls of this
22 courtroom, the 12 of you, and Mr. Brown and I with a high
23 burden of proof to prove to you who's responsible for
24 creating the nightmare that took that young man on the right
25 side of that screen away from his brothers, away from his

1 momma, away from his daddy. That's what we're left with.
2 We can't say wake up and snap our fingers and have him back.

3 What we can do is we can seek justice. We can seek the
4 truth. And we can make sure that the evidence that's been
5 put before you with the people that have sat on the stand
6 have convinced you beyond a reasonable doubt that the person
7 responsible for this nightmare is sitting right over there
8 by her lawyer. Without her none of this happens.

9 Now, beyond a reasonable doubt. Mr. Brown talked a
10 little bit about this in his opening statement to you about
11 what does that mean. And I'm sure you've all heard of it.
12 You've watched law TV shows. The Judge told you at the
13 beginning this isn't TV. This is real court. But I'm sure
14 you've heard the term proof that leaves you convinced beyond
15 a reasonable doubt. But what is that? It's not something
16 you all have heard every day. It's probably not something
17 that just comes to mind in daily conversation. Proof beyond
18 a reasonable doubt, simply, ladies and gentlemen -- and
19 we're going to talk a little bit about the law here. I'm
20 going to refer you to the screen. That you remember two
21 words when the Judge instructs you about what proof beyond a
22 reasonable doubt is. And it's our burden to prove each and
23 every element to you to the point that you are firmly
24 convinced. Okay? I want you to remember those two words,
25 firmly convinced. This is not -- the Judge is going to say

1 that twice. This phrase in his instructions to you which
2 we'll hear in a few moments. The term proof that leaves you
3 firmly convinced in the Defendant's guilt. This is not some
4 kind of mathematical equation. This is not some kind of
5 scientific experiment in the lab where you can put stuff
6 together and it come out and spit out this firm answer.
7 When we're in court and the way we work in here is that some
8 of those, ladies and gentlemen, you're taking a 20,000 foot
9 view. You're in an airplane going over an area and you get
10 to see the whole picture. And after you see the whole
11 picture what does that tell you. What do you see below you.
12 If you focus in -- I know you've heard the term before, you
13 can't see the forest through the trees. What firmly
14 convinced means is after you've taken a look back, a step
15 back from those individuals trees and look at the whole
16 forest, you're firmly convinced that Karlita Phillips did
17 what we said she did and what she's charged with. That's
18 all it means. Don't make this burden any difficult than
19 what it is. It's not complicated, folks. What it is, is
20 after you've seen all this evidence and have heard from all
21 these witnesses, you're firmly convinced that she did what
22 we said she did, what she's alleged to have done. That's
23 all it means.

24 Now, what are the elements of these crimes? Accessory
25 before the fact. The Judge will charge you that if a person

1 aids in the commission of a felony, or is an accessory
2 before the fact of a felony my counseling, hiring or
3 otherwise procuring the felony to be committed is guilty of
4 a felony. Now, that's a lot of -- it says felony a lot in
5 there, and that's kind of a word to say that essentially
6 that the person didn't actually commit the crime themselves,
7 but they planned it and they got someone else to carry it
8 out for them. And that's what this means to be an accessory
9 before the fact, ladies and gentlemen. Now, there's three
10 elements to this. The person that did the -- is the
11 accessory who advised, agreed, urged, counseled, hired or in
12 some way aided or abetted some other person to commit the
13 crime. The Judge is going to unpack some of those terms for
14 you, what aiding and abetting means and that sort of thing.
15 The second element was not present when the crime was
16 committed. And thirdly, that the principal carried out the
17 crime. So, in other words, if someone asked someone to kill
18 someone and they don't actually do it, that's still a crime.
19 And that's what's called a solicitation to commit a murder
20 if an act is not complete. Here the act, you heard, ladies
21 and gentlemen, here the actually target of transferred
22 intent which we'll talk about in a second. The target in
23 this crime was lucky. He's sitting out here. Dale, Jr.,
24 the brother of the victim in this case.

25 Now, the other things we have to prove to you is what

1 murder is. The Judge is going to explain in our law what
2 murder is. It's the killing of another person, a homicide.
3 That's the first one. That's the easy part. The second
4 element, in South Carolina what we have to prove is that the
5 killing is done with malice aforethought. And you may have
6 seen TV shows where they talk about premeditated murder.
7 Well, premeditation is not what we go by in South Carolina.
8 Our law says aforethought, which is similar in concept to
9 premeditation. But what is malice? Let's talk about that.
10 Simply malice is often commonly defined as hate, but
11 under the law it's an intentional doing of a wrongful act
12 without just cause or excuse and with the intent to inflict
13 an injury. So there has to be some kind of intent that's
14 formed in the mind of the person who wants to commit this
15 crime beforehand. And aforethought, we use instead of
16 premeditation, is that it can actually be conceived -- look
17 at this last line, at the moment the assault occurs. So
18 this doesn't have to be some long plan. Now, we would argue
19 and propose, ladies and gentlemen, based on the facts of
20 this case and what you've heard, this was planned out long
21 before it actually happened. And you've seen that from the
22 witnesses, and we're going to talk a little bit more about
23 that as the facts apply here in a moment. But it's malice
24 aforethought. That's what it takes to have a murder here in
25 South Carolina.

1 Transferred intent. Where a defendant with malice
2 aforethought intends to unlawfully kill or seriously injure
3 one person but by mistake or inadvertence kills a different
4 person from the one he intended to kill, the law holds that
5 the defendant is responsible for his felonious intent.
6 Merely transferring the intent from the original person the
7 defendant intended to kill to the person that they actually
8 killed. So folks, what this means is -- and we believe this
9 is -- the Judge is going to charge you on this is completely
10 appropriate to this case. The intended person here that
11 Karlita Phillips wanted dead, and she said several times in
12 her statement, I want her dead, was her husband, Dale
13 Phillips, Jr. Now, what kind of nightmare do you think Dale
14 Phillips, Jr. has been living the last couple of years? The
15 brother that he loved took a bullet for him. Do you think
16 he wants to wake up right about now? He was the intended
17 target here. That's clear from the statements, even from
18 Ms. Phillips that were put into evidence. She wanted her
19 husband dead. She said he makes me sick. She said at some
20 point he can eat shit and die. You all remember seeing
21 that? She wanted Dale Phillips, Jr. dead. So the intent
22 that she had to kill him was transferred to his brother,
23 Jamil, and it makes him just as guilty as if Dale, Jr. had
24 been killed.

25 The second charge here is using a minor to commit a

1 felony. This is fairly straightforward, folks. You
2 solicit, direct, hire, persuade, induce, entice, coerce or
3 employ a person under the age of 18 to commit a violent
4 crime. And the Judge will charge you that murder is defined
5 as a violent crime in South Carolina.

6 Now, ladies and gentlemen, the facts that we believe in
7 this case, and the Judge is going to talk to you about
8 direct evidence versus circumstantial evidence. Okay? And
9 the direct evidence and the circumstantial evidence in this
10 case, ladies and gentlemen, will leave you firmly convinced
11 that she's guilty of each and every element of these crimes.

12 Now, how about direct evidence? What is that? The
13 Judge is going to tell you that direct evidence is from an
14 eyewitness. Someone who actually saw what happened. Now, I
15 would submit to you, ladies and gentlemen, there's only two
16 people in this world -- well, there's one person left in
17 this world. But there were only two people that saw and
18 were eyewitnesses to this murder. One person is no longer
19 with us, and that's Jamil Phillips. He's the one that saw
20 Purp Settles coming at him. Charging him with the gun and
21 shooting him three times. And the other one is Purp
22 Settles. Now, we heard from Purp Settles at the end of this
23 case. Now, ladies and gentlemen, I'm going to tell you.
24 He's charged with murder in this case and he is the one that
25 killed him. Already been convicted of one over in

1 Greenwood. The evidence is very, very strong here.
2 Obviously he's charged with the murder in this case, and his
3 day in court will come. But, ladies and gentlemen, he saw
4 what happened, and he sat up here and very calmly told you
5 what happened. And he told you that he wasn't doing that
6 because he was getting some kind of plea offer or a deal.
7 He was doing it -- I said why are you doing this. He said
8 just not go to trial. I think he just brought up his hands
9 and said I'm admitting to this. I'm not contesting it
10 anymore. That's what I heard from him.

11 But who is the other direct evidence from in this case?
12 It's the person who conspired with Purp Settles to carry
13 this event out. And who is that? The person that asked
14 Purp Settles to commit this murder was Karlita Phillips, and
15 what did she say? Let's go through her statements here,
16 folks and talk about that. Think that shows a malice
17 intent? I'm going to call this Karlita Phillips' journey to
18 a confession and I'll put a question mark by it because of
19 this, folks. I don't think she's arrived. When you look at
20 these statements she never really arrived at what happened.
21 She told the officers what they wanted to hear.

22 Let's go to the first statement. What did she say?
23 First statement, don't know anything about it. First she
24 didn't even answer the door. She had said she went out that
25 afternoon to get an incident report about someone breaking

1 into her apartment, which she was accusing her husband of
2 doing that, without any evidence. She came home to watch
3 TV. And very firmly said I did not go to Abbeville on the
4 night in question. I do not have any knowledge of anyone
5 shooting Jamil Phillips. And thirdly, no one borrowed my
6 car. That's the night that this happened. Complete denial.
7 Let's see how her story changes. After she's arrested on
8 the initial charge, December 18th, this is months later, she
9 sits down for an interview. And what you've all heard from
10 the officers in this case some of the stuff she said, and
11 we've seen it in the State's exhibit. You all will have
12 that in the jury room. That written statement from her own
13 words that contains the statements from the next day. But
14 the officers testified as to what she said here. And she
15 said Dale made me sick. I wish he were dead. She confirms
16 that she was over at Shay Higgins' house for a party. You
17 all heard from Shay Higgins. She testified and corroborated
18 that. Purp left in the car from my house and said he was
19 going to get up with Mike. So now for the first time she's
20 bringing Purp into this. Of course, the first night don't
21 know who did this. Don't have any connection to it. And
22 now she's saying Purp left in her car, but continued to deny
23 that she had anything to do with this. But oh, yeah. Maybe
24 my daughter knows something. So this night she's going to
25 throw her daughter under the bus. The next day she has

1 another interview and submits this written -- four page
2 written statement which you all will have in the jury room.
3 She said the bastard can eat shit and die. She says I can
4 say that I never meant for Jamil to die. There again, going
5 back to our transferred intent doctrine. Denies a sexual
6 relationship with Purp Settles, which now we have not only
7 Purp himself admitting to this sexual relationship, but we
8 have other witnesses who have testified to that. Shay
9 Higgins says that Karlita told her herself she was sleeping
10 with Purp. Messing around with Purp. Listen to this
11 though. This is when things change a little bit. For the
12 first time Karlita says I took him to the house. I got the
13 ball rolling, I think, as she says as one sheriff says. She
14 affirmed something that she said to her. So she's starting
15 to come off with a little bit of truth here. She says twice
16 -- and this is in the written statement. You all will have
17 this back in the jury room. She says, I didn't pull the
18 trigger. I wasn't the triggerman. She says it twice. Now,
19 if someone says that, isn't there an implicit statement
20 there that she knows who is the triggerman? Why would she
21 say I'm not -- I wasn't the triggerman unless she had some
22 knowledge of who was? Does that make sense? That's what
23 she said twice in that statement on the 19th. She said it
24 was like Purp was high all the time and was bad, but I never
25 brought the crime of murder to him. So there again, she's

1 starting to get a little bit closer. She's talking in
2 circles, but starting to come around to involvement in what
3 happened here. Now, we get to the 20th and Lieutenant
4 Barton from SLED comes in the room and interviews here.
5 Ladies and gentlemen, I wish you could review that whole
6 three and a half hour videotape, but quite frankly, as
7 Lieutenant Barton testified to, you can't really hear
8 anything she says on it. But she does give two witnessed
9 statements during that interview, which took most of the
10 interview, and what does she say. She said in the first
11 written statement -- there again, she's backing up, because
12 before she said, well, Purp borrowed my car. Well, now
13 she's saying the next day she's reversing course and going
14 back to Karlita Phillips and her silver Camry was in
15 Greenwood, South Carolina and all I was doing was at home
16 drinking Straw-Ber-Ritas and smoking cigarettes. That's in
17 the written statement, folks. You all will have that back
18 in the jury room. But after Lieutenant Barton comes back in
19 the room and says basically I saw inconsistencies in this
20 statement and I was going to offer her something to maybe
21 latch onto. So what we get is Karlita now agreeing with
22 something that even she knows is not true, but something she
23 can say, well, at least I can admit to this and maybe I
24 won't be in trouble for it. But what she didn't realize at
25 that time was she was admitting to knowledge. She was

1 admitting to sending Purp over there. And she even admits
2 in this statement, folks, and we'll get into this here. She
3 says, I called Purp to talk about missing jewelry. She said
4 my husband makes me sick. I wish someone would beat his ass
5 good. Gives details of this agreement and conversation she
6 has with Purp Settles. What does Purp say in response? He
7 said I can make it happen. I'm serious. You know my boys
8 don't play no games. We will handle this nigga. He will
9 remember this ass whipping. Can you all picture the guy you
10 all saw sitting on this stand saying that? He's a hard
11 killer, guys, and that's exactly the kind of -- kind of
12 statements he would make. Now, all of that to say, we think
13 it went beyond that. It wasn't just about an ass whipping
14 here. Karlita says at this point, I kept repeating I only
15 wanted him beat up. Purp was laughing but I was serious.
16 Some of those boys say they shot people. So you're going to
17 send somebody over there who says they're going to beat him
18 up good and you know they're known to shoot people, but you
19 didn't do anything wrong. Did you? And that's what Karlita
20 was trying to say there. What -- this just got out of hand.
21 But she acknowledged in her own words there, folks, that she
22 knew these guys were known to shoot people. So even if you
23 believe her version of what happened she's guilty of these
24 crimes. I told Dale -- I told him the address, the
25 directions to the house. She acknowledges aiding and

1 abetting him in going over there and committing this act. I
2 told him that Dale drives a white Cadillac and he's short --
3 he's short and on the heavy side. And she describes that
4 Purp left in her car and this guy named Mike left in his
5 own.

6 Folks, that's the direct evidence in this case. But
7 you have seen a large amount of circumstantial evidence in
8 this case that backs up and corroborates not only the direct
9 evidence that came from Purp Settles and him telling you
10 what happened that night, but what she said herself.

11 A buccal swab from Tavarious Settles. We've got
12 cigarette butts found at the crime scene. A match here. A
13 confirmed match the SLED agent told you about that this was
14 one in 140 quadrillion. Folks, what that means is the guy
15 that smoked the cigarettes that night was Purp Settles.

16 Now, he came in to court this morning and told you
17 something that we completely didn't expect. That he was
18 there. He smoked the cigarettes. We already knew that.
19 But that Karlita was the one sitting behind the wheel in the
20 car on the other lot. The bullets are circumstantial
21 evidence. The Judge will tell you what circumstantial is.
22 It's facts that lead to -- tend to prove another fact.
23 Okay? That's, in a nutshell, what that is. I would submit,
24 ladies and gentlemen, that the direct evidence in this case,
25 circumstantially, the bullets are .38 caliber bullets. Look

1 at the pictures off Purp Settles' gun. All of the
2 circumstantial evidence corroborates exactly what Purp
3 Settles sat up here and coldly told you he did this morning.
4 That he murdered Jamil Phillips. That he meant to murder
5 Dale Phillips, Jr. That he did because she asked him to.
6 And he confirmed why. Because there was money behind it.
7 How much money? Dale Phillips, Jr. testified to you his job
8 at Eaton provides him through his benefits with over a half
9 million dollar insurance policy. By default, if he were to
10 die, that insurance money would have gone to Karlita
11 Phillips on March 25th, 2013. Karlita herself, even after
12 they were separated -- think about this. Dale testified on
13 the stand that Karlita initiated divorce proceedings and
14 they were filed May of 2012. You heard from Karlita
15 Phillips' employer over at Wesley Commons that said she
16 actually elected this \$25,000 insurance policy with her as
17 the beneficiary four or five months after that. September
18 and October of 2012. So after they're separated and she's
19 filing for divorce she's actively going and getting an
20 insurance policy on her still husband that she's going to
21 benefit from. Is that \$13,000 figure that Purp Settles
22 talked about now mean something? They're going to basically
23 split the money. Even if she didn't know about the half
24 million that Dale, Jr. had. Let's just assume she didn't
25 know about that. There's still \$25,000 here on the line.

1 She's going to keep 12, Purp's going to get 13. Something
2 went wrong. She didn't get that money. And why? Because
3 Purp ran up and shot Jamil Phillips. Killed him in cold
4 blood with malice. It was premeditated. There was malice
5 aforethought. Folks, the direct and circumstantial evidence
6 in this case points conclusively to the guilt of this woman.

7 Folks, you're going to have an opportunity in a few
8 minutes to go back into the jury room, and what the Judge is
9 going to instruct you on is that when you go back and you
10 reason together as 12 people as the consciousness of this
11 community in Abbeville County, you'll reason together and
12 you will ultimately decide on a verdict in this case. A
13 verdict is a word that comes from two Latin words, verus
14 dictum, which simply means to speak the truth. It's all
15 verdict means. Verdict means that you as the jury are
16 coming back in the courtroom when you have a verdict and
17 that verdict will speak the truth. And folks, there is
18 absolutely no question what the truth is in this case. That
19 Karlita Phillips decided to kill her husband, Dale Phillips,
20 Jr. That she started sleeping with a 16-year-old boy, and
21 having sex with a 16-year-old tenth grader in high school
22 named Purp Settles, that she offered to pay him \$13,000 to
23 kill her husband, that she drove him over, parked in the lot
24 across the woods, sat in the driver's seat. So she wasn't
25 present at the crime. There again, there's that element.

1 I'm sure -- Ms. Bolen and Ms. Nelson are fine attorneys.
2 And I'm sure what they're going to get up here and try to
3 argue here is, well, he wasn't -- she was actually present
4 at the scene, so she's not an accessory before the fact of
5 murder, if you believe Purp Settles.

6 Folks, these woods here, as the neighbors testified,
7 separate these thick -- thick woods separate the house and
8 the front porch where Jamil Phillips was killed. The car
9 was parked over here on the other side of those woods. So
10 we would propose to you, ladies and gentlemen, she wasn't
11 present at the scene. And, in fact, if she had been, if she
12 had been sitting there with Purp Settles in the woods while
13 he was smoking those cigarettes, Jamil Phillips may still be
14 alive. She wasn't present. But she said I want you to go
15 kill Dale, and he puts three bullets in Jamil Phillips
16 killing him dead.

17 Folks, that is a parents worst nightmare to bury your
18 child. One that was completely innocent. Had done no wrong
19 in this case, and was killed in cold blood because of what
20 she did.

21 (Whereupon, audio of 9-1-1 call played for the jury)

22 Now, do you think that Ms. Martha Phillips would have
23 been any less distraught if that had been Dale, Jr. laying
24 on that porch? It's a nightmare either way, folks.

25 As I said before, we don't have the opportunity at this

1 point to snap our fingers and wake up from this nightmare.
2 But what we do have the opportunity to do here today is to
3 at least have a dawn of a new day for this family where the
4 court part of this is behind them and they can focus on
5 healing and grieving the loss of Jamil. I'm going to ask
6 you to go back in that jury room and reason, 12 minds coming
7 together as one, and come back with a verdict that speaks
8 the truth that Karlita Phillips is guilty. Thank you.

9 THE COURT: Thank you, Solicitor. Ms. Bolen, you are
10 recognized for your closing.

11 MS. BOLEN: Thank you, Your Honor.

12 CLOSING ARGUMENT

13 MS. BOLEN: The statements prove two things. There's
14 two things you should be firmly convinced about. Number
15 one, Tavarious Settles is a murderer. And number two,
16 Tavarious Settles is a liar. The State has proved both of
17 those. Remember when I talked to you a few days ago in
18 opening and I said right off the bat, we are not contesting
19 at all that this is an awful tragedy that no family should
20 not have to go through, and the Phillips family shouldn't
21 have to go through. And we're not contesting that Karlita
22 did something she shouldn't have done. Okay? And we're
23 still not contesting this. But what the State has shown
24 you, that Tavarious is a liar and he's a murderer.

25 Tavarious didn't need anyone, Karlita or anyone else,

1 to tell him to go kill Jamil. Tavarious did that on his
2 own. And you know that from the State's own evidence. He's
3 already serving a 45-year sentence for a murder that
4 happened in Greenwood that he did after this. Three months
5 after. And you heard from one of the State's witnesses,
6 Officer Kenya Griffin, that in that case he was convicted of
7 gunning a man down as he was walking down the sidewalk.
8 Just gunning him down. And he testified to you today that
9 he ran up to the porch and just started shooting. He didn't
10 care. He didn't care who he kills. He's a murderer. He
11 doesn't need anyone to tell him to do that. That's
12 something he did on his own. And yet Tavarious Settles,
13 this murderer and this liar, this is the person that the
14 State wants you to believe.

15 The State has presented you with 24 witness. 24 people
16 came up and took the stand and told you what they knew about
17 this case. Of those 24 we've heard from only one person,
18 only one person said that Karlita talked to Tavarious and
19 asked him to kill her husband, and that one person was
20 Tavarious, and that was this morning.

21 Now, I'm going to show you how you know Tavarious is a
22 liar, but I first want you to look at the circumstances of
23 him testifying. Okay? He came up here this morning and he
24 said, yep, Karlita asked me to kill her husband for
25 insurance money and we went there and I ran up on the porch

1 and I just started shooting. He also said the first time
2 he's said this to anyone was yesterday. Yesterday, well
3 after trial had started. And he admitted he had plenty of
4 time to talk to police. He's been in state custody since
5 June of 2013. So why did he come up here and talk about
6 this today? Well, he's been in prison for the past couple
7 of months. He's gotten convicted of murder for gunning down
8 that guy in Greenwood. He's spent a couple of months in
9 prison. He knows what prison now feels like, and he knows
10 he's facing 45 years of that. And it's important to know he
11 hasn't pled guilty to this charge. He hasn't received a
12 sentence. And he acknowledged that, yeah, his attorneys can
13 file what's called a downward departure motion to get that
14 45 years reduced. But yeah, after today his charges could
15 get reduced. They could get dismissed. He's got everything
16 to gain and nothing to lose by coming in here and talking to
17 you today. He's got nothing to lose. He's already doing
18 45. He had everything to gain. He can get that sentence
19 reduced.

20 Now look at what he actually told you. Let's discuss
21 why what Karlita says is the truth and is credible and why
22 what Tavarious says is -- there's a number of reasons.
23 First of all, we didn't need Tavarious to come in here today
24 and say that he's the one that shot Jamil. We already knew
25 that. Again, we told you that in opening. It's pretty

1 clear. His cigarette butts were there. Pretty clear that
2 he did.

3 Now, let's talk about how he said he gets there. He
4 says Karlita drove him and that he was in the bushes and she
5 was parked on the other side. Imagine that. Remember the
6 State's own witnesses, two of the neighbors came in and said
7 they saw the car parked outward facing the street and it was
8 close enough to the road that they noticed it. It's not
9 where he says it is. It's absolutely not. It can't be,
10 because we've got those neighbors, Mr. Parrman and Ms.
11 Stamps who say it's parked there facing out and they see it
12 as they're driving in.

13 Think about the rest of his statement. Not only is
14 today the first time that he says he killed Jamil, it's also
15 the first time he's made any mention of Karlita driving him
16 there. You already know from what he told you today that
17 Purp, Tavarious is capable of making up incredible stories.
18 He made one up on December 10th, 2013. Remember what he
19 tells the officers that day? He tells them I don't know
20 anything. I didn't do that. Yeah, she approached me about
21 it. I turned it down. I turned it down. But hey, I told
22 my friend Markece about it, and then Markece starts smoking
23 my cigarette butts and, hey, I think he jammed them together
24 and framed me. And, in fact, he told -- Markece told the
25 guy in the jail, yeah, I framed him. And then Markece came

1 and apologized to me in jail for framing me with cigarette
2 butts. That's an incredible story, right? So is the one he
3 tells you today.

4 The State's own witnesses prove to you that what he's
5 saying isn't true. He says she drove him there. He says
6 she parked on the other side of the trees. We know from the
7 neighbors that's not true. We also know that from another
8 one. Remember they called 24 witnesses. One of them was
9 Ashanti Polk. You may not remember who she is. She was in
10 the middle. I think she was around number 18. Ashanti Polk
11 came and took the witness stand and she told you she had
12 dated Tavarious Settles for about three years off and on.
13 That she had broken up with him sometime in the spring of
14 2013 and she tells you that she broke up with him because
15 she heard he was cheating on her. And then she tells you
16 that she and Tavarious met one day after school in June,
17 before he was locked up on the Greenwood charge, and they
18 talked and he said, yeah, I'm cheating on you with an older
19 woman named Karlita, and, hey, I killed a guy named Jamil.
20 And then what she said he said. Mike drove me there. Mike
21 drove me there. That's what he tells Ashanti, his
22 girlfriend, in the privacy of her own home. Not in front of
23 law enforcement. But that's a believable statement. Mike
24 drove me there. He has no reason to lie to her about that.
25 He's already telling her he killed someone. Why would he

1 lie about her driving him there. No reason. No reason for
2 him to lie about what he tells her, which is that Mike drove
3 him there. Remember that's what Karlita says, too. Purp
4 comes to her house. She gives him the car and he leaves
5 with a guy named Mike.

6 Now, think about what Karlita says happened and look at
7 the evidence and see. They match up. Now, what she's
8 saying that all she asked Purp to do was go beat up her
9 husband, that's the truth. Okay? First of all, look at the
10 circumstances about that. Did she really ask this 16-year-
11 old kid to go murder her husband, she's going to send him
12 out to do it at his own home where she knows his parents are
13 home, the neighbors are about. Is she going to do it where
14 there's going to be witnesses? No. That doesn't make any
15 sense at all to say, hey, I want you to go kill this person.
16 Go do it on the front porch. Parents are home, neighbors
17 are about. Do it there. That doesn't make any sense that
18 what you're doing is telling somebody to go do. It does
19 make more sense if you're saying, hey, go beat him up. Go
20 beat him up there. That makes sense. Killing him on the
21 porch? No.

22 Let's look at Karlita's statement when she talks to
23 police a couple of times. She talks to them most
24 extensively on the 18th, 19th and 20th of December, 2013.
25 She also talks to him the night of. Remember that's a

1 situation where you can look at her statement on March 26th
2 and know she did not intend for Purp to kill anyone. Why?
3 Because she called the police out to her house that night.
4 If she had been there to the scene, or she had told Purp to
5 go kill him, would she really have called the police and
6 said come to my house? No. And let's look at the evidence
7 that the State's witnesses gave you about the circumstances
8 of them going to her house. Her car -- again, what the
9 State wants us to believe is true, that either she drove him
10 there -- they want you to believe that's true because that's
11 what Purp says today, right? That's what he says today.
12 She drives me there. Well, if that's true, is she going to
13 park her car right out in front of her apartment? Is she
14 going to not wash off mud from her wheels? No. Her actions
15 that night show it's much more consistent with what she's
16 saying. No reason to try to cover it up because she thinks
17 all Purp has done is what she asked him to do, which is to
18 beat up Dale. And again, I am not -- from the beginning she
19 has said that that's bad. Shouldn't have done that and that
20 was bad. But that does not mean she asked him to go kill
21 anyone.

22 Look at her statements on the 18th, 19th and 20th. And
23 if you put those altogether you're looking at something like
24 eight and a half hours of her talking to law enforcement.
25 She doesn't say no, I'm not going to talk to you. She

1 doesn't say no, I want a lawyer. She talks to them. She
2 keeps talking to them. She keeps giving the statements.
3 She's willing to talk to them. On the 18th she gives a
4 verbal statement. An oral statement only, not written, and
5 she tells them, and you know this from Detective Nick
6 Marshall and Captain Natalie Talbert, she says yeah. Yeah,
7 I had said to my daughter back in November I wish he was
8 dead. And yeah, I talked to someone about beating him up.
9 Jumping on him I think is the term she used on the 18th. I
10 had talked to someone about jumping on him. And yeah, I let
11 Purp use my car. On the 19th she says the same thing. The
12 important statement, the important interview, happens on the
13 20th with Lieutenant Bo Barton with SLED. Remember the
14 State presented Lieutenant Bo Barton to you. He's got 27
15 years of experience. He's a criminal behaviorist profiler
16 and he's brought in to talk to people, right? And he said,
17 yeah, I was just called in that day. That's it. I was
18 called in. I reviewed some of the statements. And what
19 does he tell you? He said I reviewed the statements and
20 there was some stuff that wasn't right. There was some
21 issues that we have in some of the statements. He pointed
22 towards the triggerman language and some other pieces of the
23 language and he said just something wasn't right. I needed
24 to clarify. So he talks to her. Right? She gives the
25 first of her written statements, and then he tells you he

1 reviews them. He reads her own statements. And what did he
2 tell you after that? That he notices more issues in that
3 written statement. He says, Karlita, you're not telling me
4 everything. You're not telling -- this isn't all of it.
5 You got to tell me -- you're not telling me everything.
6 Remember this is a man with 27 years experience. Criminal
7 profiler, criminal behavior, says this isn't -- this isn't
8 it, and talks to her some more. Talks to her about how
9 maybe she asked these guys to go over and beat up her
10 husband because she was mad about this burglary. Then she
11 writes a two page statement, which you'll have in evidence.
12 She writes it out, and Lieutenant Barton comes back in the
13 room, and what does he do. Does he review it and say nope.
14 Nope. You're not telling me everything, Karlita. There's
15 stuff missing. I've still got issues. Does he do that like
16 he did with the other ones? No. He stops. He stops
17 talking to her. You can draw your own inference from that.
18 All of you can draw your own inference from that. This is a
19 man who's looking at these other statements and saying nope,
20 not enough. This isn't it. He looks at this one and -- He
21 knows that's the statement. That's what she did. She asked
22 Purp to go beat him up, jump on him because she was made.
23 And again, that's not a good thing. But he knows that's
24 what she did. That's her involvement. And we further know
25 that by how law enforcement charges her. You've heard

1 testimony that the only thing she was understand arrest for
2 was solicitation of a minor to commit a felony. A violent
3 crime. That's what law enforcement got a warrant for. I
4 think on the 17th was the testimony. December 17th. They
5 talked on the 18th, 19th and 20th. Did they go get any more
6 warrants? No. Not a single one of those officers tell you
7 that after that they go and get another warrant on her for
8 accessory. So that warrant is the correct one.

9 Let's look also -- we've talked a little bit about how
10 we know Tavarious is lying. We know he's a liar. Okay? He
11 tells one thing to Ashanti, which I think is probably
12 closest to the truth, that he killed Jamil and that Mike
13 drove him there. He said something else on December 10th
14 and he says another thing to you here today. How do you
15 know that what he's saying now just doesn't make any sense?
16 Let's look at some more that the State introduced that came
17 out of the State's witnesses. Karlita and Dale had been
18 separated since May, 2012. Karlita initiated the court
19 proceedings. You heard that from Dale. They had some kind
20 of family court hearing that resolved issues of property
21 months before this. There was not a custody dispute. They
22 did not have children together. You didn't hear any -- you
23 didn't hear any testimony about any building animosity or
24 anything like that. They'd been separated for 10 months.
25 They were on their way to a divorce. They had both moved

1 on. She had clearly moved on. I've seen no reason, no
2 reason for her to wanting to kill her husband at that point.
3 None.

4 The State has tried to distract you with his insurance
5 money. Well, you need to look at that really critical. You
6 heard from Ms. Fallaw, who's the Wesley Commons Human
7 Resources manager. Been there since 2007. Karlita didn't
8 take out a \$25,000 policy on Dale weeks or months or days
9 before this. No. Every year annual enrollment, which is
10 something all employees go through of pretty much every job,
11 she checked the box that she had checked every other year.
12 She didn't do anything to change her policy. She just
13 checked the same boxes that she had checked. If she was in
14 this for insurance money don't you think she would have made
15 it something more than 25,000? Taken out a policy two
16 months before? It just doesn't make any sense that when
17 they'd been separated for this long and they've moved on and
18 they don't have any custody disputes, they don't have any
19 property disputes, that she would decide she needed to kill
20 her husband. That wouldn't make sense that she would go and
21 ask Purp, Tavarious, to go do this. So you know from those
22 circumstances both the implausibility of asking someone to
23 go kill someone on their front porch as opposed to saying,
24 yeah, all right, beat him up. You wouldn't ask him to go
25 kill someone that way. You know that what she's saying is

1 what happened. She talked to Purp. She asked him to go
2 beat Dale up, and he did what he did in the Greenwood case.
3 He just decided I'm going to go gun this guy down.

4 The State also released to you some pictures from
5 Tavarious' cell phone. And again, look at the witness who
6 introduced those pictures. His name was David Grubbs. He
7 was a forensic -- certified forensic cell phone expert from
8 SLED. He told you about his qualifications. Tells you he
9 gets two cell phones from Tavarious Settles, and he tells
10 you he does a forensic analysis of those phones. And what
11 does he pull that's of evidentiary value? Four pictures.
12 Four pictures of evidentiary value he finds on Tavarious'
13 phone. Those pictures are guns and there's a picture of
14 Tavarious. And he tells you date of those pictures. One of
15 them was January 1st, 2013. One is February, I think, 2nd,
16 2013. One is early March, 2013, one is April, 2013.
17 Tavarious had these pictures of guns on his phone long
18 before this. He didn't need anyone to tell him, hey, take a
19 gun and go kill this person so I can get some money. No.
20 He did that on his own. He likes guns and he likes killing
21 people. Nothing to look at with Mr. Grubbs' testimony. If
22 this really happen the way the State wants you to think it
23 did, if Karlita really arranged this with Tavarious, there
24 would be more. There would be more corroboration. There
25 would be text messages. There would be emails. There would

1 be a call log. Karlita would at least be listed as a
2 contact in his phone. You didn't hear any testimony about
3 that. She's not even listed. No evidence she's even listed
4 as a contact. No evidence of any money. Anthony Moss, a
5 cousin, says, oh, yeah, Tavarious said she got him shoes and
6 paid him twenty bucks. Tavarious didn't get up here and say
7 yeah, she gave me a down payment, or we had a payment plan.
8 There's nothing on those phones indicating anything like
9 that happened. There's nothing else to corroborate what he
10 is saying. All the evidence shows that what she says, what
11 she tells Lieutenant Barton, and what she tells the officers
12 on the 18th is the truth. She asked him to go beat up Dale
13 and he just went further than she ever could have imagined.
14 He just went and gunned him down like he did in Greenwood.

15 Another thing to think about when you're considering
16 what the State wants you to think happened. If it really
17 happened the way Purp said, she really drives him there and
18 is sitting in the car the way the neighbors say so, she
19 would have known that it wasn't Dale. Right? You heard
20 testimony from Dr. Woodard Dale was just over -- that Jamil
21 was just over six feet and over 300 pounds. You saw Dale.
22 He's not that stature. Again, that just shows the
23 implausibility of what the State is trying to make you
24 believe here. Trying to make you believe from the mouth of
25 someone that we know is a murderer and a liar.

1 In addition to not having any emails, text messages,
2 call logs, payment, there's no evidence, no testimony that
3 Karlita did anything to get Tavarious a gun. In fact, the
4 evidence is to the contrary. He has guns on his own. He
5 didn't say anything about anybody actually got me a gun or
6 she gave me money for a gun. And the reason that's
7 important is that shows you he is the kind of person where
8 you can say, hey, go beat him up and he decides I'm just
9 going to go -- I'm just going to do something a little
10 different. He doesn't need anyone to entice him or coerce
11 him or help him in any way. He just does that on his own.

12 So as you're reviewing all the evidence, and there's
13 some physical exhibits you'll have and then there's the
14 testimony you heard, what you know is that Tavarious is a
15 murderer, Tavarious is a liar. What you know is that
16 Karlita asked him to go jump on or beat up her husband. And
17 what you know is that that's what those law enforcement
18 officers got a warrant for. Solicitation of a minor to
19 commit a violent crime. That's the warrant they got. At
20 best -- there hasn't been any testimony about what
21 constitutes a violent crime. If you feel like beating
22 someone up is a violent crime, jumping on them is a violent
23 crime, then at best what the State has proven to you is that
24 Karlita is guilty of solicitation of a minor to commit a
25 violent crime. At best that's the most you can find her

1 guilty of. She is not guilty of the accessory before the
2 fact of murder. She just isn't. Her statement, Lieutenant
3 Barton, shows she's not guilty of asking Purp to kill
4 anyone. She maintains that throughout. Never intended no
5 murder. Never asked him to kill anyone. His statement is
6 all over the place. You know he lies because of what
7 Ashanti says. I killed a guy named Jamil. Mike drove me
8 there. That statement that he makes Ashanti -- again, not
9 to law enforcement, not to his lawyer, but to a friend of
10 his in the privacy of their own home where he has no reason
11 to lie to her. That's probably the most credible thing that
12 came out of his mouth. And you know what, it's also totally
13 consistent with what she's saying, because she tells them --
14 she tells law enforcement, I asked him to go beat him up. I
15 gave Purp my car and Mike went with him.

16 As you review all the evidence, review all the
17 testimony, we're asking you to do your duty as jurors and to
18 find that the State has not proved to you beyond a
19 reasonable doubt that Karlita ever asked Purp or did
20 anything to encourage Purp to kill anyone, and at best what
21 she did was ask Dale -- ask Tavarious to beat Dale up, which
22 at best makes her guilty of the solicitation of a minor
23 charge. Thank you.

24 THE COURT: Thank you very much, Ms. Bolen. Let me see
25 y'all briefly over here at the side, please.

1 (Whereupon, a sidebar was held.)

2 THE COURT: Now, ladies and gentlemen, as I mentioned a
3 moment ago, you've received all the evidence that you have
4 in this particular case. You've now heard the arguments of
5 counsel and it's my obligation to instruct you on the law
6 that applies. Just a few things at first here, ladies and
7 gentlemen.

8 At this point in time, of course, it's not possible to
9 reintroduce -- or to reopen the record and reintroduce
10 additional evidence in this case, so you're going to have to
11 judge this case based solely on the evidence that has been
12 presented. If you have any questions about the evidence,
13 odds are I'm not going to be able to assist you, okay, for
14 that very reason. Because you'll have to rely upon your
15 recollection of the testimony and things of that nature in
16 deciding this case. But if you have any questions or any
17 issues with these instructions I can -- I'll be more than
18 happy to try and help you if there's some part of these
19 instructions that you do not understand.

20 Additionally, when I first started practicing law 22
21 years ago the way that this had been always done and the way
22 that some judges still do it, is that basically the judge
23 would sit up here and read you numerous pages of what the
24 law is and you're supposed to sit there and simply absorb it
25 all and get it right on the first try. Well, I always found

1 that a little bit unreasonable, because like most people it
2 took me three years to get through law school and I don't
3 think it's fair to ask you all to learn something in 15
4 minutes that it took me three years to learn. So long story
5 short, you'll have a copy of these instructions in the jury
6 room that you can refer to during your deliberations if you
7 need to. Please don't pay just attention to part of the
8 instructions to the detriment of the other instructions but,
9 of course, read these as a whole. And again, if you have
10 any problems understanding any of this or anything that I
11 say about the law, you can send me out a note and I'll try
12 and help you along those lines. Okay?

13 Now, ladies and gentlemen, I instruct you that the
14 indictments in this case charge the Defendant, Ms. Phillips,
15 with the offense of accessory before the fact of murder and
16 using a minor to commit a felony. I remind you of the fact
17 that Ms. Phillips was charged, arrested and indicted in this
18 case is not evidence and cannot be considered by you as
19 evidence of guilt. Nor does it create any presumption or
20 inference of guilt. These indictments, these documents, are
21 simply the formal written instruments which contain the
22 charges made against Ms. Phillips. They're the formal
23 documents by which this case is brought to court.

24 In this case, ladies and gentlemen, the Defendant has
25 pled not guilty to these indictments and that plea puts the

1 burden of proof on the State to prove the Defendant guilty.
2 I instruct you that a person charged with committing a
3 criminal offense in South Carolina is never allowed to prove
4 herself innocent. It's an important rule of law that the
5 Defendant in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be presumed to
7 be innocent of the crime for which the indictments were
8 issued unless guilt has been proven by evidence satisfying
9 you of her guilt beyond a reasonable doubt. This
10 presumption of innocence does not end when you begin your
11 deliberations but accompanies the Defendant throughout the
12 trial until you reach a verdict of guilt based upon evidence
13 of satisfying you of that guilt beyond a reasonable doubt.

14 Ladies and gentlemen, the presumption of innocence is
15 like a robe of righteousness placed about the shoulders of
16 the Defendant. It remains with her until it's been stripped
17 from her by evidence satisfying you of her guilt beyond a
18 reasonable doubt. The presumption of innocence, ladies and
19 gentlemen, is not merely a legal theory. It's not just a
20 legal phrase. It's a substantial right to which every
21 defendant is entitled unless you, the jury, are satisfied
22 from the evidence of her guilt beyond a reasonable doubt.

23 Well, what is a reasonable doubt in the eyes of the
24 law. A reasonable doubt is the kind of doubt that would
25 cause a reasonable person to hesitate to act. The State has

1 the burden of proving the Defendant guilty beyond a
2 reasonable doubt. And some of you may have served as jurors
3 in civil cases where you were told that it's only necessary
4 to prove that a fact is more likely true than not true, such
5 as by the greater weight or the preponderance of the
6 evidence. In criminal cases the State's proof must be more
7 powerful than that. It must be beyond a reasonable doubt.
8 Proof beyond a reasonable doubt is proof that leaves you
9 firmly convinced of the Defendant's guilt.

10 Now, there are very few things in this world that we
11 know with absolute certainty, and in criminal cases the law
12 does not require proof that overcomes every possible doubt.
13 If, based upon your consideration of the evidence, you're
14 firmly convinced that the Defendant is guilty of the crime
15 charged, you must find her guilty. If, on the other hand,
16 you think there is a real possibility you think the
17 Defendant is not guilty, you must give the Defendant the
18 benefit of the doubt and find her not guilty.

19 Now, ladies and gentlemen, I remind you that during
20 this trial you and I have certain duties to perform. As the
21 trial judge it's my responsibility to preside over the trial
22 of this case, and I also have the obligation to rule on the
23 admissibility of evidence offered during the trial. You are
24 to consider only the competent evidence before you. Any
25 testimony which was ordered stricken from the record you

1 must disregard that testimony because you're to consider
2 only the testimony which has been presented from the witness
3 stand and any exhibits which have been made a part of the
4 record in this case. The additional duty to charge the law
5 applicable in this case, and as the presiding judge I'm the
6 sole judge of the law. It's your duty to accept and apply
7 the law as I now state it to you. So if you already have
8 any ideas as to what the law is or what the law ought to be
9 and it disagrees with what I now tell you the law is, you
10 must abandon the idea this idea because you're sworn to
11 accept and apply the law exactly as I state it to you now.

12 Every case tried in this Court before a jury the jury
13 becomes the sole and exclusive judge of the facts in a case.
14 A trial judge cannot intimate, state, comment on or make any
15 statement to a trial jury about the facts in a case. And
16 since you, the jury, are the sole judges of the facts,
17 you're not to infer from what I've said during the progress
18 of this trial in ruling upon the admissibility of evidence
19 or otherwise, or anything that I say to you now during the
20 course of these instructions that I have any opinion about
21 the facts in this case. Ladies and gentlemen, the law does
22 not permit me to have an opinion about the facts in this
23 case. This is a matter solely for you to determine, as it
24 is your duty to determine the effect, value, weight and
25 truth of the evidence presented during the trial.

1 Now, ladies and gentlemen, there are two types of
2 evidence which are typically presented during a trial.
3 Direct evidence and circumstantial evidence. Direct
4 evidence directly proves the existence of a fact and does
5 not require deduction. Circumstantial evidence is proof of
6 a chain of facts and circumstances indicating the existence
7 of a fact. I instruct you that crimes may be proven by
8 circumstantial evidence. The law makes no distinction
9 between the weight or value to be given to either direct or
10 circumstantial evidence. However, to the extent the State
11 relies upon circumstantial evidence, all the circumstance
12 must be consistent with each other and when taken together
13 point conclusively to the guilt of the accused beyond a
14 reasonable doubt. If these circumstances merely portray the
15 Defendant's behavior as suspicious then the proof has
16 failed. The State has the burden of proving the Defendant
17 guilty beyond a reasonable doubt and this burden rests with
18 the State regardless of whether the State relies upon direct
19 evidence, circumstantial evidence, or some combination of
20 the two.

21 Now, necessarily, ladies and gentlemen, you must
22 determine the credibility of the witnesses who have
23 testified in this case. Credibility simply means
24 believability. It becomes your duties as jurors to analyze
25 and to evaluate the testimony in determining which evidence

1 convinces you of its truth. In determining the
2 believability of witnesses who have testified, you may
3 believe one witness over several witnesses or several
4 witnesses over one witness. You may believe a part of the
5 testimony of a witness and reject the remaining part of the
6 testimony of that same witness. You may believe the
7 testimony of a witness in it's entirety or reject a witness
8 in its entirety. You may consider whether any witness has
9 exhibited to you any bias, prejudice or other motive in this
10 case, and you may also consider the way that a witness acts
11 or the appearance or manner of a witness while on the
12 witness stand.

13 Now, as I've previously instructed you, ladies and
14 gentlemen, normally the rules of evidence do not permit
15 witnesses to testify to opinions or conclusions, but an
16 exception to this rule exists for witnesses known as expert
17 witnesses. A witness who by education and experience has
18 become expert in some art, science, profession or calling
19 may state an opinion as to relevant and material matters in
20 which the witness claims to be an expert, and they may also
21 state the reasons for their opinion. You should consider
22 any expert opinion received in evidence in this case, and
23 like any other evidence, give it the weight you think it
24 deserves. If you decide the opinion of an expert witness is
25 not based upon sufficient education and experience, or if

1 you conclude that the reasons given in support of the
2 opinion are not sound, or that the opinions are outweighed
3 by other evidence, you can disregard the opinion entirely.
4 An expert witnesses testimony is to be given no greater
5 weight than that of any other witness simply because the
6 witness is an expert. Further, you're not required to
7 accept an expert's opinion even though it's not
8 contradicted.

9 Now, ladies and gentlemen, I further instruct you that
10 a person who has a past criminal record is competent to
11 testify during a trial. A past record does not effect the
12 ability of that witness to testify. A past record may only
13 be considered by you, if at all, in determining the
14 witnesses believability. Remember you're the sole judges of
15 the facts in this case and of the believability of any and
16 all of the witnesses.

17 Furthermore, I instruct you and emphasize that the fact
18 the Defendant in this case did not testify is not a factor
19 to be considered by you in any way in your deliberation and
20 in your consideration on the question of the guilt or the
21 innocence of the Defendant. It must not be considered by
22 you in any manner whatsoever. A Defendant has the
23 constitutional right to remain silent, and the assertion of
24 this right must not be considered by you in your
25 deliberations. I repeat, under your oath you are to draw no

1 conclusions whatsoever from the fact that the Defendant in
2 this case did not testify. The fact that she did not
3 testify should not even be discussed in the jury room. The
4 burden of proof, as I have stated to you, is on the State.
5 The Defendant is not required to prove her innocence. The
6 burden of proof remains on the State to proof guilt beyond a
7 reasonable doubt.

8 Now, ladies and gentlemen, in this case, several
9 statements made by the Defendant have been introduced or
10 admitted into evidence. And while the Court has determined
11 that the statements are admissible, I instruct you that you
12 may make the ultimate decision of whether or not the
13 Defendant made the statements. If the Defendant did make
14 the statement, determine whether the statement was made by
15 the Defendant voluntarily and of your own free will. This
16 means that the statement was not caused by pressure, force,
17 fear, threats, coercion or intimidation, or by hope or a
18 promise of leniency or reward of any kind in determining
19 whether the statement was voluntary. You should consider
20 both the characteristics of the Defendant and the details of
21 the questioning. Some of the factors that you must consider
22 are the age of the Defendant, the Defendant's education or
23 lack thereof, the Defendant's mental ability or capacity,
24 her IQ or intelligence, her background and environment, the
25 place and length of detention, the nature of the

1 questioning, and the advice or lack thereof to the Defendant
2 of her constitutional rights including, but not limited to,
3 the right to remain silent, that any statement could be used
4 against her in court, the right to have a lawyer present,
5 and that if she couldn't afford a lawyer, a lawyer would be
6 appointed to represent her without cost, and that she could
7 stop making statements at any time. You must carefully
8 consider all the surrounding circumstances before you give
9 any weight to an alleged statement. The State has the
10 burden of proving beyond a reasonable doubt that the alleged
11 statement was voluntary. If you determine it was, you may
12 give a statement any further consideration you deem proper.
13 You must decide what weight, if any, should be given to the
14 alleged statement. If you determine the alleged statement
15 was not a free and voluntary statement of the Defendant, you
16 shouldn't consider the statement at all.

17 Now, ladies and gentlemen, in this case the Defendant,
18 Ms. Phillips, is charged with being an accessory before the
19 fact of murder. In order to prove this crime the State must
20 prove beyond a reasonable doubt the Defendant either
21 advised, agreed, urged, counseled, hired or in some way
22 aided or abetted another person to commit a crime, and that
23 the Defendant was not present when the offense was
24 committed. Aid means to help, to promote, to coerce, or
25 accomplish of, to give support to or give assistance to.

1 Abet means to encourage, to appear to favor or support. To
2 prove accessory before the fact the State must also prove
3 beyond a reasonable doubt that the crime of murder was, in
4 fact, committed. Murder is defined as the killing of
5 another person with malice aforethought. Malice is defined
6 is hatred, ill will or hostility towards another person.
7 The intentional doing of a wrongful act without just cause
8 or excuse and with an intent to inflict an injury or under
9 circumstances that the law will infer enable intent. Malice
10 aforethought does not require that malice exists for any
11 particular time before the act is committed, but malice must
12 exist in the mind of the Defendant just before and at the
13 time the act is committed. Therefore, there must be a
14 combination of the previous evil intent and the act. Malice
15 aforethought may be expressed or inferred. Now, these terms
16 express or inferred do not mean different kinds of malice
17 but merely the manner in which malice may be shown to exist.
18 That is either by direct evidence or by inference from the
19 facts and circumstances which are proved. Expressed malice
20 is shown when a person speaks words which express hatred ill
21 will for another person, or when the person prepared
22 beforehand to do the act which was later accomplished. For
23 example, laying in wait for a person or any other act of
24 preparation going to show that the deed was within the
25 Defendant's mind with the expressed malice. Malice may be

1 inferred from conduct showing a total disregard for human
2 life. Inferred malice may also arise when the deed is done
3 with a deadly weapon. A deadly weapon is any articular
4 instrument or substance which is likely to cause death or
5 greatly bodily harm. Whether an instrument has been used as
6 a deadly weapon depends upon the facts and circumstances of
7 each case. The following, ladies and gentlemen, are
8 examples under the law of instruments which may be deadly
9 weapons. A pistol, shotgun, rifle, dirk, dagger, knife,
10 slingshot, metal knuckles, a razor, gasoline, fire bomb or
11 Molotov cocktail, and lighter fluid. A gun may be a deadly
12 weapon even if it's not operative. If facts are proven
13 beyond a reasonable doubt sufficient to raise an inference
14 of malice to your satisfaction, this inference would simply
15 be an evidentiary fact to be considered by you along with
16 the other evidence in this case and you may give it the
17 weight you think it deserves.

18 Now, ladies and gentlemen, I instruct you that if the
19 Defendant in this case with malice aforethought -- or if a
20 defendant with malice aforethought attempted to kill another
21 person but by mistake injures or kills a different person,
22 that defendant still has the intent to kill. The intent to
23 kill is merely transferred from the original person, the
24 person they attempted to kill, with the actual person who
25 was killed or injured. The individual would be guilty of

1 murder just as if the attempt had resulted in the death of
2 the person the defendant attempted to kill.

3 Ladies and gentlemen, I instruct you that the Defendant
4 is charged with using or employing a minor to commit a
5 felony. In order to prove this crime, the State must prove
6 beyond a reasonable doubt that the Defendant in this case,
7 Ms. Phillips, was at least 18 years of age and knowingly and
8 intentionally used, solicited, directed, hired, persuaded,
9 induced, enticed, coerced or employed a person under the age
10 of 18 years of age to commit a violent crime. Under the
11 laws of our state murder is classified as a violent crime.

12 Ladies and gentlemen, finally, you've heard testimony
13 concerning the penalty a person may receive or a person can
14 serve for the crimes alleged in the indictments in
15 determining the guilt or the innocence of the Defendant.
16 You cannot consider any possible penalty for any particular
17 crime. The punishment for the crimes is a matter for me to
18 determine and should never be considered by you in any way
19 whatsoever in arriving at an impartial verdict as to the
20 guilt or the innocence of the Defendant.

21 Now, ladies and gentlemen, there are basically two
22 possible verdicts which you can find in this case and what -
23 - Madam Forelady, I've worked up this verdict form that you
24 can use to help guide your deliberations. Okay? The first
25 part of the verdict form makes the following statement. "We

1 the jury in the above-captioned case on the charge of
2 accessory before the fact of murder unanimously find Karlita
3 Phillips," and then there are two blanks for you to initial.
4 Okay? Either guilty or not guilty. Now, there's no
5 significance to the order in which I state these verdicts.
6 It's just that one's got to be said first. Okay? If you
7 find that the State has met its burden of proving the
8 Defendant is guilty beyond a reasonable doubt on the
9 accessory charge, you would initial guilty. If you find,
10 however, that the State has failed to meet its burden of
11 proving the Defendant's guilt beyond a reasonable doubt, you
12 would initial not guilty and move on to the second question
13 or the second statement.

14 The second statements says, "We the jury in the above-
15 captioned case on the charge of using a minor to commit a
16 felony unanimously find Karlita Phillips," and again the
17 same two options. The same two things. If the State has
18 proven her guilt beyond a reasonable doubt, initial guilty.
19 If they fail to prove it beyond a reasonable doubt, initial
20 not guilty. And then there's a spot here for you to sign,
21 okay, as the foreperson.

22 Now, ladies and gentlemen, your verdict has to be a
23 unanimous one. That means all 12 of you agree. We do not
24 have in South Carolina majority verdicts and I do believe we
25 should never have majority verdicts. So all 12 of you must

1 agree on the verdict.

2 I remind you, ladies and gentlemen, you have no enemies
3 to punish in this case. You have no friends to award.
4 You've been selected as fair and impartial jurors, fair and
5 impartial citizens who have no interest in the outcome of
6 this case other than to judge the facts of this case and
7 render a true verdict.

8 Now, at this time, ladies and gentlemen -- excuse me.
9 At this time I'm going to -- or in a few moments I'm going
10 to ask you to return to the jury room, but don't start your
11 deliberations yet. Okay? I want to make sure I've reviewed
12 everything. I think I've gone over everything with you I
13 need to go over with you. But I want to review everything
14 that I've instructed you on the law with the attorneys.
15 Your cue to begin your deliberation will be receipt of these
16 instructions in the jury room, as well as the verdict form,
17 and the other items of evidence which have been introduced
18 into the record and my asking the alternate to step out.
19 Okay? So that will be your cue to begin your deliberations.

20 We're bumping up against the lunch hour here. If you
21 want to you can adjourn to the back and take a quick survey
22 and see if you all want to begin your deliberations or if
23 you want to break for lunch. I have a basic rule, and that
24 is once the jury gets the case our timetable is entirely up
25 to the jury. So you get to dictate whether we take a break

1 for lunch or you want to begin your deliberations. And if
2 you start your deliberations and it looks like it's going to
3 take a little bit, then we can break for lunch. Okay? So
4 it's going to be entirely up to you on how you want to
5 proceed with that.

6 So at this point in time go ahead and adjourn to the
7 jury room, but don't begin your deliberations until we send
8 the evidence in and these instructions, and I ask you all to
9 step out.

10 (Whereupon, the jury exited the courtroom at 12:28
11 p.m.)

12 THE COURT: The jury is out. Additions or exceptions
13 from the State?

14 MR. STUMBO: No objections, Your Honor.

15 THE COURT: With the exception of the earlier motions
16 that you put on the record, any additions to make?

17 MS. BOLEN: No, other than the objection to
18 transferring.

19 THE COURT: Very good. Let's be very careful with the
20 evidence and make sure that only what is supposed to go back
21 there is, in fact, going back there, because I know we have
22 some stuff that's just for the Court's record and some stuff
23 that has already been introduced for purposes of the jury.
24 So you all do look through that, please.

25 (Whereupon, there was a pause in the proceedings.)

1 (Whereupon, the jury entered the courtroom at 12:32
2 p.m.)

3 THE COURT: The bailiff tells me that you all want to
4 go ahead and break for lunch, and I think that's probably a
5 good idea because I'm a little bit hungry, too. So if you
6 would, we'll take about an hour for lunch. Just try and be
7 back here at 1:30. Obviously the same rules go as before.
8 Don't discuss the case with anyone over the lunch break.
9 And when you get back here don't begin discussing the case.
10 I need you to come back just in case something -- in case
11 one of them gets sick all of a sudden over lunch. Okay? So
12 I need you to come back again. So don't start talking about
13 the case until all 13 of you are in there, I've pulled her
14 out and I've sent the evidence in. Okay?

15 Enjoy your lunch. I'll see you all back at 1:30.

16 (Whereupon, the jury exited the courtroom at 12:32
17 p.m.)

18 THE COURT: The jury is out. If you all want, you can
19 go ahead and grab something to eat and we can review the
20 evidence after lunch. However you want to do it.

21 MR. STUMBO: I think what's on the table here will be
22 ready to go back when they get back.

23 THE COURT: Good enough. Around 1:30 we'll confirm
24 that and get it square. We're at ease.

25 (Whereupon, a lunch break was taken from 12:32 p.m. to

1 1:40 p.m. Jury began deliberations at 1:40 p.m.)

2 THE COURT: I'm informed that the jury has reached a
3 verdict. Anything before the jury is received back in the
4 courtroom, Solicitor?

5 MR. STUMBO: Nothing from the State.

6 THE COURT: Ms. Bolen?

7 MR. STUMBO: Let me just caution anyone. And I
8 typically say this any time we've had an emotional case or
9 perhaps a case that invokes strong emotions. You're welcome
10 to stay here. Obviously I do not want to see the jury's
11 decision -- I don't want to see any displays of disrespect
12 by the -- of the jury's decision when they do render their
13 verdict. So, of course, no audible signs of pleasure or
14 displeasure of the verdict. If you find yourself to contain
15 your emotions just feel free to quietly stand where you are
16 and exit through the back of the courtroom. So if anybody
17 feels that they have difficulty controlling their emotions,
18 feel free to simply exit the courtroom. Okay? Let's have
19 the jury in, please.

20 (Whereupon, the jury entered the courtroom at 3:21
21 p.m.)

22 THE COURT: Let the record reflect that the jury is
23 back and seated. Madam Forelady, I am told that the jury
24 has reached a verdict. Is that correct?

25 MADAM FORELADY: Yes, sir.

1 THE COURT: If you would, hand the verdict form,
2 please, to the bailiff. And Madam Clerk, will you publish,
3 please.

4 MADAM CLERK: State of South Carolina, County of
5 Abbeville, case number 2014-GS-01-212, 2014-GS-01-213. The
6 State of South vs. Karlita D. Phillips. We the jury in the
7 above-captioned case on the charge of accessory before the
8 fact of murder unanimously find Karlita Phillips guilty. We
9 the jury in the above-captioned case on the charge of using
10 a minor to commit a felony unanimously find Karlita Phillips
11 guilty. Marquita D. Donaldson, Forelady, July 23rd, 2015.

12 Madam Forelady, ladies and gentlemen of the jury, is
13 this your verdict, so say you? Please signify by raising
14 your right hand.

15 (Whereupon, jury raises hands.)

16 THE COURT: All right. Let the record reflect that all
17 12 jurors did indicate this was their verdict by raising
18 their right hand. Anything further from the jury before
19 they're discharged from the State?

20 MR. STUMBO: Nothing from the State.

21 THE COURT: From the Defense?

22 MS. BOLEN: No, sir.

23 THE COURT: Ladies and gentlemen of the jury, I want to
24 thank you for your service here this week. I sincerely
25 appreciate it. I know that this was a difficult case and

1 MR. WIDEMAN: Wideman.

2 THE COURT: Wideman. Thank you, Mr. Wideman. Ms.
3 Phillips, is there anything that you would care to say,
4 ma'am?

5 THE DEFENDANT: No.

6 THE COURT: No?

7 THE DEFENDANT: No.

8 THE COURT: I believe your client was taken into
9 custody December the 19th?

10 MS. BOLEN: I believe it was the 18th. Yes, sir.

11 THE COURT: Sorry, 18th. All right. Ms. Phillips,
12 I've taken into account all the evidence that has been
13 presented throughout the course of this trial and I agree
14 with your attorney that there are redeemable aspects to you,
15 that you do in all likelihood possess good qualities. Ms.
16 Phillips, candidly, ma'am, for you to involve a child in the
17 commission of any crime, even if, as your attorney argued,
18 your only intention was to have your husband beaten up, the
19 Court finds that, candidly, ma'am, quite reprehensible. And
20 I'm at a loss for words how you could be of the mindset, or
21 how one could come to be of the mindset where this seemed
22 like anything remotely like a good idea. By their verdict,
23 the jury clearly indicated that you had the primary hand in
24 planning this, encouraging this, making sure that this
25 happened. And I have to think that this is not some split

1 second decision where one evening you decide to encourage
2 Mr. Settles to take retribution against your husband. This
3 clearly had to have required some thought, some planning on
4 your part. And the Court, Ms. Phillips, has a very, very
5 difficult time showing leniency to someone who, although
6 they have led largely a crime free life, and obviously you
7 have been a special person to many people and you have many
8 good qualities, the Court is at a loss for words as to how
9 you can all of a sudden decide that this is a good idea or a
10 good thing to do to involve someone who's only 16. And it's
11 not lost upon the Court that only three months after this
12 incident took place Mr. Settles took it upon himself to kill
13 someone else. And it occurs to me that maybe he thought,
14 well, I'd gotten away with it once before for three months.
15 They're not going to catch me the second time.

16 Ms. Phillips, by your actions you've destroyed the life
17 of Mr. Phillips. You've wrecked the life of his parents and
18 his brothers. And it's a hard thing for any parent to have
19 to bury their child, ma'am, and I know that. And, Ms.
20 Phillips, by your actions you may very well have set Mr.
21 Settles on a course where another life ended up getting
22 taken and he ended up getting a sentence of 45 years. At
23 least on the Greenwood charge.

24 The Court finds that truly reprehensible, Ms. Settles.
25 Therefore, on indictment -213, that's the accessory before

1 the fact to murder charge, the sentence of the Court is that
2 you're to be committed to the Department of Corrections for
3 life. On the use of a minor to commit a violent crime, the
4 sentence of the Court is 15 years concurrent.

5 Ms. Phillips, good luck, ma'am.

6 MS. BOLEN: Thank you, Your Honor.

7 MR. STUMBO: Thank you, Judge.

8 THE COURT: We'll be at ease on this case. I'd ask
9 that the bailiff escort the jury out first and the family
10 have a seat over to the side. Ms. Bolen, if you'll have
11 them go to the back, please.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

WITNESSES

Natalie Talbert
Abbeville County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

May Term, 2014

Indictment # 14GS01-0212

WARRANT NUMBER

2013A0110200162

TRUE BILL

Jacob Carter
Foreman of the Grand Jury
Date: MAY 29 2014

THE STATE

Karlita Desean Phillips

VERDICT

Guilt
Nazgato Dand Demals
Foreman
Aug 23, 2015

INDICTMENT FOR

USING A MINOR TO COMMIT A FELONY
16-03-1045

CDR: 2443

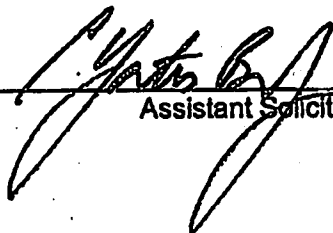
TRUE COPY
BY *Shandae Booge*
ABBEVILLE COUNTY CLERK OF COURT

THE STATE OF SOUTH CAROLINA**INDICTMENT FOR****USING A MINOR TO COMMIT A FELONY****16-03-1045****COUNTY OF ABBEVILLE**

At a Court of General Sessions, convened on the 23rd day of May, 2014, the Grand Jurors of Abbeville County present upon their oath:

That Karlita Desean Phillips, in Abbeville County, on or between the dates of February 1, 2013 and March 25, 2013, did willfully, unlawfully and knowingly being a person at least eighteen (18) years of age, did use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under eighteen years of age, to wit: Tavirous Dequan Settles, to commit a violent crime as defined in Section 16-1-60, murder, in violation of Section 16-3-1045 of the South Carolina Code of Laws, 1976 as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Assistant Solicitor

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Abbeville

VS.

Karlita Desean Phillips

AKA:

Race: AFRICAN AME Sex: F Age: 41

DOB: SS#:

Address:

City, State, Zip: Greenwood, SC 29649

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Minor / Person over 18 Y old use minor (under 18) to commit violent and drug cri

in violation of § 16-03-1045(1) of the S.C. Code of Laws, bearing CDR Code # 2443

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Brown, C. Yates Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14-65-01-213☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. December 18, 2013☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$5.00
3% to County (if paid in installments)	\$	\$3.90
TOTAL		\$133.90

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 14GS01-0212

A/W#: 2013A0110200162

Date of Offense: 2/1/2013

S.C. Code § : 16-03-1045(1)

CDR Code #: 2443

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14-65-01-213☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. December 18, 2013☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$5.00
3% to County (if paid in installments)	\$	\$3.90
TOTAL		\$133.90

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning _____

\$ paid to Public Defender Fund

Other:

TRUE COPY

BY Shandal Boag
ABBEVILLE COUNTY CLERK OF COURT☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2159

Sentence Date:

July 23, 2015

WITNESSES

Natalie Talbert
Abbeville County Sheriff

WARRANT NUMBER

2014D0100100121

TRUE BILL

Joel Cohen
Foreman of the Grand Jury
Date: MAY 23 2014

VERDICT

Guilty
Margaret Anne Donaldson
Foreman *July 23 2015*

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

May Term, 2014
Indictment # 14GS01-0213

THE STATE

vs.
Karlita Desean Phillips

INDICTMENT FOR
ACCESSORY BEFORE THE FACT
§16-01-0040

CDR: 0002

TRUE COPY
BY: *Shandae Bump*
ABBEVILLE COUNTY CLERK OF COURT

THE STATE OF SOUTH CAROLINA**INDICTMENT FOR****COUNTY OF ABBEVILLE****ACCESSORY BEFORE THE FACT
§16-01-0040**

At a Court of General Sessions, convened on the 23rd day of May, 2014, the Grand Jurors of Abbeville County present upon their oath:

That Karlita Desean Phillips, on or between the dates of February 1, 2013 and March 25, 2013, in Abbeville County, did feloniously, willfully and unlawfully aid in the commission of a felony or was an accessory before the fact in the commission of a felony by counseling, hiring, or otherwise procuring the felony to be committed, to wit: murder, in violation of Section 16-01-0040 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

421

COUNTY OF
STATE

Abbeville

VS.

Karlita Desean Phillips

AKA:

Race: AFRICAN AME Sex: F

Age: 41

DOB: SS#

Address:

City, State, Zip: Greenwood, SC 29649

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Accessory / Accessory before the fact to a Felony, general provision (violent if

in violation of § 16-01-0040 of the S.C. Code of Laws, bearing CDR Code # 0002

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES

Brown, C. Yates, Solicitor

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14-65-01-212
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. December 18, 2013

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/cn	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

TRUE COPY

BY Shandal Boop
ABBEVILLE COUNTY CLERK OF COURT

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk Court Reporter:

SCCA/217 (03/2011)

Presiding Judge Judge Code: 2159Sentence Date: July 23, 2015

SLED
CF001 5/95

VOLUNTARY STATEMENT

PAGE NO. 1 OF 1 PAGES

STATE OF SOUTH CAROLINA

COUNTY OF GreenwoodPERSONALLY appeared before me KARITA D. PHILLIPS, who states:My name is Karita Phillips My address is 551 HATHAWAY RD. APT. F3Date of Birth 1-5-74 Social Security Number: 578-82-1298 Phone Number 844-227-7483I completed the 12th grade in school, and I can cannot read and write.

Before answering any questions or making any statements

a person who identified himself as SLED Agent Michael Collins duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statements that I make, without cost or expense to me; that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so.

I declare that the following voluntary statement is made of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, without leniency or offer of leniency, by any person or persons whomsoever.

Woke up around 12:35 pm Around 2:30 pm left with daughter KIE KENT to Greenwood County Sheriff Got incident report for break in that occur in Apt. K Kent Around to local pawn shops and went to Chic-a-filo and Captain D's Come back home watch TV then KIE and daughter went up and down driveway teaching her to drive. Been in house watching tv was in bed when police KRS knocking at door Call Greenwood Sheriff and let them in and talking about what occurred in Abbeville County. I been at home scared to leave my Aunt home alone. Aparent Gun + Pawn Greenwood Pawn Brokers, Lakeside Gun + Pawn LDE. I buy Gold Pawn Shop up Bowling alley. I did not go Abbeville SC on the night in question. I do not have any knowledge of my one shooting Jamil Phillips and no on borrowed my car.

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.

This statement was completed at 3:50 a.m. on the 26th day of March 20 13

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS 26 DAY OF MARCH, 20 13

Karita Phillips
Signature of person giving voluntary statement

/ SARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

WITNESS: [Signature]
WITNESS: Nick Marshall

I certify that I have been given a copy of this statement consisting of _____ pages.

VOLUNTARY STATEMENT

PAGE 1 OF 4 PAGES

DATE Dec 19 2013 TIME _____ M. PLACE 21610 Calhoun Rd
 I, Kaelida Phillips AM 34 YEARS OLD, MY ADDRESS IS 501 Lillian Gerald

I AM GIVING THIS STATEMENT TO Steve Marshall ID _____
 WHO HAS BEEN IDENTIFIED AS A Detective

And he/she has duly warned me that I have the following rights: that I have the right to remain silent; Anything I say can be used against me in a court of law; I have the right to an attorney and have him/her present with me while I am being questioned; if I cannot afford an attorney, one will be appointed to represent me before any questioning, if I wish; I can decide to at any time to exercise my rights and not answer any questions or make any statements.

Prior to and during the making of this statement, I have and do hereby knowingly, intelligently and voluntarily waive the above explained rights and I do make the following statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whatsoever:

On Dec 19, 2013 I was arrested for using a minor to commit a violent crime. I talked with 2 Sheriff's yesterday and some things I said were not meant the way it came out. Like my conversation with my daughter her and my son mean the word to me and they know that I say things when I'm angry like in reference to my ex husband I said "the bastard can eat shit and die" for all I care. Bringing up a person named Derrick about dumping on my ex husband never happened. I never heard at the bar/night

I can say I never meant for Jamil Phillips to die

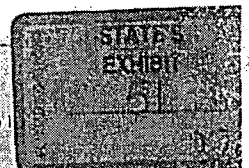
was not out just asking people will you kill my ex husband I'll give you some money and they was never alone people was always around. I'm not a bad person and I know you say things in the heat of the moment. But I never just took him to Acaville and said this is the house because I didn't know if my ex husband was staying there and longer or not. The only thing I'm guilty of was looking for some collection after my apt was broken in. And I was told I could get it but that never occurred and I left that conversation alone. I want to stress that I'm no way involving my daughter in this situation. I

I have read this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and certify the all of the facts and statements contained herein are true and correct. This statement was completed at 10:01 a.m.

SWORN TO AND SUBSCRIBED TO BEFORE ME Kaelida Phillips
 ME THIS _____ DAY OF _____ 20____ Signature of person making this statement

NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: 1/1

The above warnings were given by and this voluntary statement was taken
Wah Mian 114
 WITNESS (this must be one and the same person as named above)



VOLUNTARY STATEMENT

PAGE 2 OF 4 PAGES

DATE Dec 16 2017 TIME _____ M. PLACE 21 Old Calhoun Rd
 I, Kaelia Phillips, AM 36 YEARS OLD, MY ADDRESS IS 501 Hawthorne Rd. F3

I AM GIVING THIS STATEMENT TO Nick Marshall ID _____
 WHO HAS BEEN IDENTIFIED AS A Detective

And he/she has duly warned me that I have the following rights: that I have the right to remain silent; Anything I say can be used against me in a court of law; I have the right to an attorney and have him/her present with me while I am being questioned; if I cannot afford an attorney, one will be appointed to represent me before any questioning, if I wish; I can decide to at any time to exercise my rights and not answer any questions or make any statements.

Prior to and during the making of this statement, I have and do hereby knowingly, intelligently and voluntarily waive the above explained rights and I do make the following statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whatsoever:

Wasn't the mastermind behind this plan.

all on him and Mike they are already charged with murder of an
unknown male. So its easy to lie. And of course the family wants me to be
id in anyway possible. I want to ^{take} lie detector but was told no because
I'll fail. I want to do the right thing. But

The Camry left my house
while that drive to the store and make a smoke run for
cigarettes. I didnt pull the trigger I didnt drive noone to
Rockville that night. After ^{my} me and my daughter kept driving
up and down parking lot. We came to watch tv and around 3am Ste
and Abawille came telling me Jamil dead and not Dale. They took
my car and at the end of the week I was told to come get it. But
I was told yesterday the soil on car and soil from crime scene
match. So why give me the car back if it was involved in a murder /
crime scene. I never saw Pulo with a gun.

I didnt bring it to him its all on him + Mike will

I have read this statement consisting of 2 page(s); each page of which bears my signature, and corrections, if any, bear my initials. hrs.
 and certify the all of the facts and statements contained herein are true and correct. This statement was completed at 10:01 am

SWORN TO AND SUBSCRIBED TO BEFORE ME
 ME THIS _____ DAY OF _____ 20____

Kaelia Phillips
 Signature of person making this statement

NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: _____

The above warnings were given by and this voluntary statement was taken by
Nick Marshall 114
 WITNESS (this must be one and the same person as named above)

VOLUNTARY STATEMENT

PAGE 3 OF 4 PAGES

DATE Dec 19 2013 TIME _____ M. PLACE 21 Old Calhoun Rd
 I, Karlita Phillips, AM 29 YEARS OLD, MY ADDRESS IS 501 Hollinger Rd #3

I AM GIVING THIS STATEMENT TO LICK Marshall ID _____
 WHO HAS BEEN IDENTIFIED AS A Detective

And he/she has duly warned me that I have the following rights: that I have the right to remain silent; Anything I say can be used against me in a court of law; I have the right to an attorney and have him/her present with me while I am being questioned; if I cannot afford an attorney, one will be appointed to represent me before any questioning, if I wish; I can decide to at any time to exercise my rights and not answer any questions or make any statements.

Prior to and during the making of this statement, I have and do hereby knowingly, intelligently and voluntarily waive the above explained rights and I do make the following statement in the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whatsoever:

On the night of March 25, 2013 a murder occurred in Abbeville County, SC
the parents' residence of my estranged husband at the time. I WAS NOT IN
Abbeville when this happened.

I never took him to

Abbeville SC.

He was making accusations of a sexual relationship but
it wasn't that I made a statement that him and Mike
was in car hit that was in car was
car was

Mike got broke in and I really
was at my breaking point. Because I felt my husband was burdened it
along with everything that happened since our separation. Things
said in the heat of moment. But it was never spoken of again. Even when
it happened he never said anything to me that he did it. And no questions
were asked. I did say to my daughter "the bastard can eat shit and die"
for all he put us through. But I never brought the crime of murder
to him. It's like he was high all the time and he was bad. But
I never seen him with a gun or anything.

I have read this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and certify the all of the facts and statements contained herein are true and correct. This statement was completed at 10:00 a.m.

SWORN TO AND SUBSCRIBED TO BEFORE ME
 ME THIS _____ DAY OF _____ 20____

Karlita Phillips
 Signature of person making this statement

NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: 1/1

The above warnings were given by and this voluntary statement was taken by
[Signature]
 WITNESS (this must be one and the same person as named above)

VOLUNTARY STATEMENT

PAGE 4 OF 4 PAGES

DATE Dec 19, 2012 TIME _____ M. PLACE 21 Old Calhoun Rd
 I, Karelda Phillips, AM 39 YEARS OLD, MY ADDRESS IS 501 Hattaway Rd. T3

I AM GIVING THIS STATEMENT TO NICK MARSHALL ID _____
 WHO HAS BEEN IDENTIFIED AS A Detective

And he/she has duly warned me that I have the following rights: that I have the right to remain silent; Anything I say can be used against me in a court of law; I have the right to an attorney and have him/her present with me while I am being questioned; if I cannot afford an attorney, one will be appointed to represent me before any questioning, if I wish; I can decide to at any time to exercise my rights and not answer any questions or make any statements.

Prior to and during the making of this statement, I have and do hereby knowingly, intelligently and voluntarily waive the above explained rights and I do make the following statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whatsoever:

In Reference to the page of the shooting that occurred like I said I wasn't at the crime scene I wasn't the trigger man. And if he would admit to the murder that on him. But I never ask him to do anything that involved going to Abbeville on that night. [REDACTED]

[REDACTED] And this has involved my son, daughter, even his father saying we was involved the murder. I truly want ~~to be~~ ^{to be} this over but I'm not going down for this. [REDACTED]

[REDACTED] And it's not all on me I put this on my life even the Sheriff believe I didn't pull the trigger. I took him to house. I got the ball rolling. AS one Sheriff stated But again I didn't force or tell him to do anything. I've never been in no trouble like this in my life. [REDACTED]

END of Statement

I have read this statement consisting of 4 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and certify the all of the facts and statements contained herein are true and correct. This statement was completed at 10:01 am

SWORN TO AND SUBSCRIBED TO BEFORE ME
 ME THIS _____ DAY OF _____ 20____

Karelda Phillips
 Signature of person making this statement

NOTARY PUBLIC FOR SOUTH CAROLINA
 MY COMMISSION EXPIRES: _____

The above warnings were given by and this voluntary statement was taken by
Nick Marshall
 WITNESS (This must be one and the same person as named above)



VOLUNTARY STATEMENT

CASE# 11-13-0090

LEAD# _____

LAST NAME Phillips	FIRST NAME Mari-jo	MIDDLE NAME Deann	AGE 39	D.O.B. 1/5/1974
NICKNAME/AKA LITA	M ☐ F ☒	SSN 578-82-1278	STREET ADDRESS 501 HATTIWAUX RD. APT. 3	
CITY GREENWOOD	STATE SC	ZIP 29649	MAILING ADDRESS IF DIFFERENT	
HOME TELEPHONE 864-337-0343	WORK TELEPHONE	CELL TELEPHONE	OCCUPATION CNA	
EMPLOYER Wesley Commons		EMPLOYER ADDRESS GREENWOOD, SC		
DRIVER'S LICENSE NUMBER/STATE		DATE AND TIME OF INTERVIEW 12/20/13 1305		
LOCATION OF INTERVIEW Abbeville County S.O.				
INTERVIEWING AGENT LT. BARTON	DEPARTMENT BSU	INTERVIEWING AGENT	DEPARTMENT	

I, Karita Phillips understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can ☐ cannot ☒ read and write and completed the 14 grade in school.

On the day my apartment was broken me and my daughter Dayleshia Wiedeman and my friend Sandy Galy went to Augusta GA shopping. It was raining that day and my car got muddy. When we arrived back home I found my apartment had been broken in. I remained at the house until the next day. On March 25, 2013 I went out several times throughout the day. Later that evening I went to the Nu-Way Store by my house looking for the Strawberry ~~chocolate~~ ^{chocolate} Rikis that just came out they didn't have them so I went to the Kangaroo Store across from Taco Bell and found them there. I came back to the house where my daughter and her friend was in the living room. Then after awhile me and Day got in the car and we was letting her practice driving up and down our parking lot until I got frustrated and told her I would do this another day. I came I was watching tv and joking with my daughter. Between 9:30-10:40 I went to car wash to wash our always Leanos car at night. But only sprayed car off I started feeling sick from drinking beer and those Strawberry Rikis ~~that~~ ^{that} around 10:30 or so my friend Tamika called me and told police was at strong a husband house one ride with her back through there. I said hell no I'm not going near here and then she would call me back. She did and said that Jamil had been killed. And we exchange some more words and hung up. Then around 3am (K)

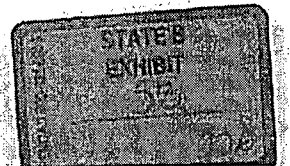
I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 12/20/13 Time: 1405

Signature of person giving voluntary statement

WITNESS: _____

WITNESS: _____

I certify that I have been given a copy of this statement consisting of 2 pages.

SLED
CF003 5/95VOLUNTARY STATEMENT
SUPPLEMENTALPAGE NO. 2 OF 2 PAGESKarlita Phillips

Statement of, Continued.

Skid was about to knock my door down. I was in bed but not asleep. I was watching Transformers my favorite movie. My daughter woke up scared. I call Greenwood Sheriff to come out because this man keep hollering State Law Enforcement and he wasn't going anywhere. When Greenwood Police arrive I let them in. SLED Agent Collins immediately stated Jamil is dead not Dale. Then he asked about car where I been. That witness stated they saw my car at scene. He asked me did I smoke. I said yes the cigarettes was in the ash tray. He ask me who driving my car. I have I shot a gun recently. I said no go get the kit out car that show if I fired a gun. He ignored me and kept stating witness said me and my car in Abbeville. He was very rude and getting on my nerves. Because he already was saying I did it. He ask about my son he was in McCormick at the time. Even the Sheriff office check son room and walk and check the other rooms. I can't recall everything he said because the more he talked to me the more I didn't like him and made me angry. He kept saying that me + Dale having a nasty divorce him and son had problems just a few examples. Then around 11am a Killeckel came and snatch my family up he had left a Sheriff outside until he came back with Killeckel. I guess to make sure I didn't leave in car. So from that Tues - until Friday he called and told me to come get the car. I didn't come get the car I had a Killeckel go get it. I was stepping foot in Abbeville County because I knew from that moment Agent Collins wasn't going to stop until he put this murder on me. This family makes me feel since me + my ex husband separate. And they was talking as well. Between the hours of that this murder occurred Karlita Phillips and her Silver Camry was in Greenwood SC. I went to 2 stores car wash back home to 501 H. H. H. Rd Apt F3. And a Silver car is in where near a white ~~colored~~ colored car witnesses seen driving up and down Old Douglas Mill Rd. that night in question. At home drinking and smoking my cigarettes. (K)

Karlita Phillips

Signature of person giving voluntary statement



VOLUNTARY STATEMENT

CASE # 11-13-0090

LEAD # _____

LAST NAME Phillips		FIRST NAME Kathia		MIDDLE NAME De Sean	AGE 39	D.O.B. 1/5/74
NICKNAME/AKA LITA		M ☐	F ☐	SSN 578-82-1298	STREET ADDRESS 501 Haltemann Rd Apt F-3	
CITY GREENWOOD		STATE SC	ZIP 29649		MAILING ADDRESS IF DIFFERENT	
HOME TELEPHONE	WORK TELEPHONE		CELL TELEPHONE 864-337-0343		OCCUPATION CNA	
EMPLOYER Wesley Commons			EMPLOYER ADDRESS GREENWOOD, SC			
DRIVER'S LICENSE NUMBER/STATE			DATE AND TIME OF INTERVIEW 12/20/13 1450			
LOCATION OF INTERVIEW ABBEVILLE SO						
INTERVIEWING AGENT LT. BARTON		DEPARTMENT BSU		INTERVIEWING AGENT		DEPARTMENT

I, Kathia Phillips understand I do not have to say anything, and I volunteer the following information of my own free will, for whatever purposes it may serve. I can read and write and completed the 14 grade in school.

On March 24, 2013 after seeing my apartment broke in and I seen that all the jewelry Dale brought me was gone and my other jewelry was still there. I felt in gut that he has something to do with it. This was my breaking point. Ever since we separated he kept Abbeville Sheriff at my house and he was trying to make me look like the bad person. So the crowd of young guys was across the parking lot. I asked them had they seen anybody around the apt they said no. Well after the Sheriff left I called Purp to ask him about those guys that was breaking in the apartments in Georgetown he said maybe but I told him they didn't take all my jewelry just only what Dale brought me. He said if it was those dudes from Georgetown all my jewelry would be gone. So then I said my husband did it then commit. He makes me sick. I wish I had someone to just beat his ass good and maybe he would leave me the hell alone for good. Purp reply I can make it happen me okay. Purp I'm serious u know my boys don't play no games. We can do it. He said where he live and be at. I stated he work at Eaton but you can go out there jumping on nobody you will go to jail. Probably be better to jump him at his house. We can do it tomorrow. That day I really didn't think Purp was going to do it. But my daughter said they will they love fighting and jumping on people. As it getting close

I have read each page of this statement consisting of 2 page(s), each page of which bears my signature, and corrections, if any, bears my initials, and I certify that the facts contained herein are true and correct.

Date: 12/20/13 Time: 1555

Kathia Phillips
Signature of person giving voluntary statement

WITNESS: [Signature]

WITNESS: [Signature]

I certify that I have been given a copy of this statement consisting of 2 pages.



VOLUNTARY STATEMENT
SUPPLEMENTALPhillips, Karlita D.

Statement of, Continued.

Chapter I figured Dray its not happening today But I did want
 him jump on me And my daughter had just came back in
 the house. Purp knocked at the door and said they will handle
 dis wloga he will remember this ass whooping. Me reply good
 well I'm still mad about my jewelry and EVERYTHING this man put
 me through and I was with him 14 yrs. I keep repeating
 that I only wanted him beat up Purp was laughing but I
 was serious because my daughter. Some of those boys say they shot
 people. I will say I didnt see any gun if he had it. I told him
 address and directions to house. Because from my house to their house
 is straight shot from Hodges. I told him Dale drive a white
 Cadillac and he is short and on the heavy side. He said Dray
 He said I did I ask why because I don't need my car to be
 seen near there. He said it won't have to get rest of boys Mike
 car wasn't big enough. Mike drove off in his car Purp in mines
 and I was at the house with daughter. I started drinking my
 Strawberry-Rites. When Purp returned he knocked on door gave
 me my key and walked very fast as if he heading to Gastown.
 I was wondering did they jump him or not because he left in
 hurry and just gave me my keys. Then when Tamika called me
 and said police at Dale house I was like they beat him up and
 I know he will say my wife did it in my mind. Then she
 called me back and Jamil was killed. I didnt know what
 to say but I told my daughter Jamil is dead Dray. Purp didnt
 jump on Dale what the hell they did. Then Sled came around 3am
 Purp never really said anything else and I didnt ask no
 questions. And nothing else was said until I got arrested on Wed
 morning. I never wanted my exhusband murdered by Purp
 just jump on. Everything else that occurred he did in his
 own mind.

Karlita Phillips

RECEIVED

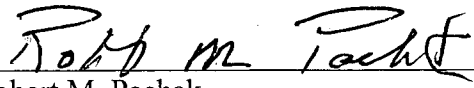
431

NOV 28 2016

SC Court of Appeals CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of November, 2016.