

ORIGINAL

VOLUME I OF III

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

R. Knox McMahon, Circuit Court Judge

RECEIVED

FEB 13 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WORTH EDWARD COOK, III,

APPELLANT

APPELLATE CASE NO 2016-000546

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

PAGES 1 - 500

INDEX

INDEX i

TRIAL TRANSCRIPT DATED FEBRUARY 29 – MARCH 4, 2016.....1

JURY VOIR DIRE12

JURY SELECTION.....28

MOTION TO AMEND INDICTMENT.....39

RULING BY THE COURT.....40

MOTION TO SEQUESTER WITNESS40

RULING BY THE COURT.....41

JACKSON V. DENNO HEARING

TESTIMONY

 DOUGLAS NOVAK (IN CAMERA).....46

 JAMES KEMFORT (IN CAMERA).....56

 WORTH EDWARD COOK (IN CAMERA).....65

RULING BY THE COURT.....73

JACKSON V. DENNO HEARING

TESTIMONY

 DOUGLAS NOVAK (IN CAMERA).....75

 JAMES KEMFORT (IN CAMERA).....90

 WORTH EDWARD COOK (IN CAMERA).....99

 CAIN MAYRANT (IN CAMERA).....110

RULING BY THE COURT.....123

JACKSON V. DENNO HEARING

TESTIMONY

MICHAEL GOODING (IN CAMERA).....125

MARTY LONGSHORE (IN CAMERA).....137

WORTH EDWARD COOK (IN CAMERA).....144

MICHAEL GOODING (IN CAMERA).....167

CHARLES ROBERT LINT (IN CAMERA)172

MARTY LONGSHORE (IN CAMERA).....175

RULING BY THE COURT.....181

JACKSON V. DENNO HEARING

TESTIMONY

JAMES KEMFORT (IN CAMERA).....183

WORTH EDWARD COOK (IN CAMERA).....189

JACKSON V. DENNO HEARING

TESTIMONY

CHARLES ROBERT LINT (IN CAMERA)198

RULING BY THE COURT.....204

OPENING REMARKS BY THE COURT205

OPENING STATEMENT BY MR. CASKEY214

OPENING STATEMENT BY MS. HENRY216

TESTIMONY

MARK CALHOUN DIBLASI218

JAMES E. KEMFORT225

AMY LASLEY230

L. BRIAN MILLER240

MOTION TO EXCLUDE PHOTOGRAPH.....250

RULING BY THE COURT.....254

DAMIAN HOFFMAN.....262

MELINDA GLADDEN281

DOUGLAS NOVAK.....287

JOSEPH CHAPPELL332

KAYCEE TURNER341

KAREN MILBRODT364

THOMAS KOCH367

JACKSON V. DENNO HEARING

TESTIMONY

MICHAEL GOODING (IN CAMERA).....371

MARTY LONGSHORE (IN CAMERA).....389

WORTH EDWARD COOK (IN CAMERA).....401

ROBBIE LINT (IN CAMERA).....424

RULING BY THE COURT.....430

JACKSON V. DENNO HEARING

TESTIMONY

MICHAEL GOODING (IN CAMERA).....434

MARTY LONGSHORE (IN CAMERA).....448

WORTH EDWARD COOK (IN CAMERA).....456

RULING BY THE COURT.....	467
TESTIMONY	
MICHAEL PHIPPS	472
CANDY KYZER.....	543
SHEREE BROWN.....	552
KANDY KYZER.....	558
ANDRENA HARRISON.....	561
SAMUEL STEWART	577
KAYLA MATTONI	593
MICHAEL GOODING.....	602
JANICE ROSS.....	662
MOTION FOR DIRECTED VERDICT.....	674
RULING BY THE COURT.....	675
COLLOQUY REGARDING DEFENDANT’S RIGHT TO TESTIFY	675
RULING REGARDING DEFENDANT’S PRIOR RECORD	683
TESTIMONY	
SHANNON TART.....	692
WORTH EDWARD COOK, III.....	752
RENEWAL OF MOTION FOR DIRECTED VERDICT	893
RULING BY THE COURT.....	895
CHARGE CONFERENCE.....	895
CLOSING ARGUMENT BY MS. HENRY	904
CLOSING ARGUMENT BY MR. GRAHAM.....	911

CHARGE ON THE LAW	941
VERDICT	974
POLLING OF THE JURY.....	974
MOTION FOR A NEW TRIAL	978
RULING BY THE COURT.....	978
SENTENCING	990
STATE'S EXHIBIT # 1 (STATEMENT).....	1113
STATE'S EXHIBIT # 2 (STATEMENT).....	1115
STATE'S EXHIBIT # 3 (MEDICAL SCREENING).....	1119
STATE'S EXHIBIT # 4 (ADVISEMENT OF RIGHTS)	1124
STATE'S EXHIBIT # 5 (REQUEST FORM).....	1125
STATE'S EXHIBIT # 6 (ADVISEMENT OF RIGHTS)	1129
STATE'S EXHIBIT # 23 (ADVISEMENT OF RIGHTS)	1130
STATE'S EXHIBIT # 24 (STATEMENT).....	1131
STATE'S EXHIBIT # 25 (ADVISEMENT OF RIGHTS).....	1142
STATE'S EXHIBIT # 26 (STATEMENT).....	1143
DEFENDANT'S EXHIBIT # 1 (STATEMENT).....	1149
DEFENDANT'S EXHIBIT # 2 (ARTICLE)	1151
AMENDED INDICTMENT.....	1192
SENTENCE SHEET.....	1194
CERTIFICATE OF COUNSEL	1195

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

State of South Carolina)
County of Aiken)
In the Court
Of General Sessions

Indictment No.: 2014-GS-32-00228

State of South Carolina,)
Plaintiff.)
vs.) Transcript of Record
WORTH EDWARD COOK, III,)
Defendant.)

Monday, February 29 - Friday, March 4, 2016
Lexington, South Carolina

B E F O R E:

The Honorable R. Knox McMahon, Judge and a jury.

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

D. Shawn Graham, Deputy Solicitor
Micah Caskey, Assistant Solicitor
Attorneys for the State

Sally Henry, Esquire
Beth Fullwood, Esquire
Attorneys for the Defendant

Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

I N D E X

		<u>Page</u>
1	<u>MONDAY, FEBRUARY 29, 2016</u>	
4	Jury Voir Dire.....	12
5	Jury Selection.....	28
6	Pretrial Motions.....	39
7	Jackson v Denno Hearing	
8	Doug Novak	
9	Direct Examination In Camera by Mr. Graham....	46
10	Cross-Examination In Camera by Ms. Fullwood...	53
11	James Kemfort	
12	Direct Examination In Camera by Mr. Caskey....	56
13	Cross-Examination In Camera by Ms. Fullwood...	62
14	Worth Edward Cook, III	
15	Direct Examination In Camera by Mr. Graham....	65
16	Cross-Examination In Camera by Ms. Fullwood...	68
17	Doug Novak	
18	Direct Examination In Camera by Mr. Graham....	75
19	Cross-Examination In Camera by Ms. Fullwood...	86
20	Redirect Examination In Camera by Mr. Graham..	88
21	Recross-Examination In Camera by Ms. Fullwood.	89
22	James Kemfort	
23	Direct Examination In Camera by Mr. Caskey....	90
24	Cross-Examination In Camera by Ms. Fullwood...	97
25	///	

I N D E X

	<u>Page</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page

TUESDAY, MARCH 1, 2016

Jackson v Denno Hearing Continued

James Kemfort

Direct Examination In Camera by Mr. Caskey..... 184

Cross-Examination In Camera by Ms. Fullwood... 187

Worth Edward Cook, III

Direct Examination In Camera by Ms. Fullwood 189

Cross-Examination In Camera by Mr. Caskey... 192

Robbie Lint

Direct Examination In Camera by Mr. Graham.. 198

Opening Remarks by the Court..... 205

Opening Statements

By Mr. Caskey..... 214

By Ms. Henry..... 216

Mark Diblasi

Direct Examination by Mr. Graham..... 219

Cross-Examination by Ms. Fullwood..... 223

James Kemfort

Direct Examination by Mr. Caskey..... 225

Amy Lasley

Direct Examination by Mr. Caskey..... 230

Brian Miller

Direct Examination by Mr. Caskey..... 240

I N D E X

1			
2			<u>Page</u>
3	Juror Issue.....		258
4	Damian Hoffman		
5	Direct Examination by Mr. Graham.....		262
6	Cross-Examination by Ms. Fullwood.....		274
7	Redirect Examination by Mr. Graham.....		280
8	Melinda Gladden		
9	Direct Examination by Mr. Graham.....		281
10	Doug Novak		
11	Direct Examination by Mr. Graham.....		287
12	Cross-Examination by Ms. Fullwood.....		318
13	Doug Novak		
14	Direct Examination by Mr. Graham.....		327
15	Joe Chappell		
16	Direct Examination by Ms. Fullwood.....		332
17	Kaycee Turner		
18	Direct Examination by Mr. Caskey.....		341
19	Cross-Examination by Ms. Fullwood.....		359
20	Karen Milbrodt		
21	Direct Examination by Mr. Caskey.....		364
22	Thomas Coch		
23	Direct Examination by Mr. Caskey.....		368
24	///		
25	///		

I N D E X

	<u>Page</u>
1	
2	
3	Jackson v Denno Hearing Continued
4	Michael Gooding
5	Direct Examination In-Camera by Mr. Graham.... 371
6	Cross-Examination In-Camera by Ms. Fullwood... 385
7	Marty Longshore
8	Direct Examination In-Camera by Mr. Caskey.... 389
9	Cross-Examination In-Camera by Ms. Fullwood... 398
10	Worth Edward Cook, III
11	Direct Examination In-Camera by Ms. Fullwood.. 401
12	Cross-Examination In-Camera by Mr. Graham..... 409
13	Robbie Lint
14	Direct Examination In-Camera by Mr. Graham.... 424
15	Cross-Examination In-Camera by Ms. Fullwood... 427
16	Michael Gooding
17	Direct Examination In-Camera by Mr. Graham.... 434
18	Cross-Examination In-Camera by Ms. Fullwood... 441
19	Marty Longshore
20	Direct Examination In-Camera by Mr. Graham.... 448
21	Cross-Examination In-Camera by Ms. Fullwood... 454
22	Worth Edward Cook, III
23	Direct Examination In-Camera by Ms. Fullwood.. 456
24	Cross-Examination In-Camera by Mr. Caskey..... 461
25	///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page

WEDNESDAY, MARCH 2, 2016

Mike Phipps

Direct Examination by Mr. Graham..... 472

Cross-Examination by Ms. Fullwood..... 531

Redirect Examination by Mr. Graham..... 536

Recross Examination by Ms. Fullwood..... 540

Candy Kyzer

Direct Examination by Mr. Graham..... 543

Sheree Brown

Direct Examination by Mr. Graham..... 552

Candy Kyzer

Direct Examination by Mr. Caskey..... 558

Andrena Harrison

Direct Examination by..... 561

Samuel Stewart

Direct Examination by Mr. Graham..... 578

Cross-Examination by Ms. Fullwood..... 588

Kayla Mattoni

Direct Examination by Mr. Caskey..... 594

Michael Gooding

Direct Examination by Mr. Graham..... 602

Cross-Examination by Ms. Fullwood..... 654

///

I N D E X

	<u>Page</u>
1	
2	
3	Janice Ross
4	Direct Examination by Mr. Graham..... 662
5	Cross-Examination by Mr. Fullwood..... 672
6	Mid-Trial Motions..... 674
7	Questioning of Defendant by the Court..... 675
8	Shannon Tart
9	Direct Examination by Ms. Henry..... 693
10	Cross-Examination by Mr. Graham..... 709
11	Redirect Examination by Ms. Fullwood..... 741
12	Recross Examination by Mr. Graham..... 745
13	<u>THURSDAY, MARCH 3, 2016</u>
14	Worth Edward Cook, III
15	Direct Examination by Ms. Henry..... 752
16	Cross-Examination by Mr. Graham..... 820
17	<u>FRIDAY, MARCH 4, 2016</u>
18	Closing Arguments
19	By Ms. Henry..... 904
20	By Mr. Graham..... 911
21	Jury Charge..... 941
22	Verdict..... 974
23	Polling of the Jury..... 974
24	Post Trial Motions..... 978
25	Sentence..... 979

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page

Certificate of Reporter.....	991
Keyword Index.....	992

E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>PAGE</u>
S-1	Statement 04/03/2013.....	51	293
S-2	Statement 04/03/2013.....	79	309
S-3	Intake Medical Screening.....		118
S-4	Advise of Rights 04/04/2013.....		127
S-5	Inmate Request Form.....	184	889
S-6	Advise of Rights 04/16/2013.....	200	
S-7	Photo of Victim.....	221	
S-8	TD Bank Records.....	231	234
S-9	Wal-Mart Transactions.....	242	243
S-10	Wal-Mart Photographs.....	246	247
S-11	Photograph.....		290
S-12	Cook's Cell Phone.....	316	328
S-13	Photograph.....		317
S-14	Photograph.....		317
S-15	Photograph.....		318
S-16	Photograph.....		318
S-17	Verizon Phone Records.....	336	
S-18	Phone Texts - 1 page.....		338

1	S-19	Phone Texts - 1 page.....	340	
2	S-20	Phone Texts - 1 page.....	340	
3	S-21	CD of Verizon Phone Records.....	365	
4	S-22	CD of Sprint Phone Records.....	368	
5	S-23	Advise of Rights 04/05/2013.....	375	613
6	S-24	Statement 04/05/2013.....	381	619
7	S-25	Advise of Rights 04/05/2013.....	435	640
8	S-26	Statement 04/06/2016.....	438	644
9	S-27	Photograph.....		476
10	S-28	Photograph.....		476
11	S-29	Photograph.....		476
12	2-30	Photograph.....		476
13	S-31	Photograph.....		476
14	S-32	Photograph.....		476
15	S-33	Photograph.....		476
16	S-34	Photograph.....		476
17	S-35	Photograph.....		476
18	S-36	Photograph.....		476
19	S-37	Photograph.....		476
20	S-38	Photograph.....		476
21	S-39	Photograph.....		486
22	S-40	Photograph.....		486
23	S-41	Photograph.....		486
24	S-42	Photograph.....		486
25	S-43	Photograph.....		542

1	S-44	Photograph.....	542
2	S-45	Photograph.....	542
3	S-46	Photograph.....	542
4	S-47	Large Map of Cell Towers.....	513
5	S-48	Large Map of Cell Towers.....	509
6	S-49	Wal-Mart Bag.....	484
7	S-50	Blood Standard from Victim.....489	554
8	S-51	DNA Swabs - Wall.....	489
9	S-52	Four Swabs.....	522
10	S-53	Not Entered	
11	S-54	Diagram of Phone Calls.....	522
12	S-55	Diagram of Phone Calls.....	522
13	S-56	Shower Curtain.....	497
14	S-57	Bags from Head of Victim.....	501
15	S-58	Box - SLED.....568	569
16	S-59	Anatomical Drawing.....	665
17	D-1	Trailer Statement.....145	
18	D-2	Article.....	443
19	D-3	Photograph.....	532
20	D-4	Photograph.....	532
21	D-5	Photograph.....	532
22	D-6	Photograph.....	532
23	C-1	Certified Copy of Indictment.....	680
24	C-2	Certified Copy of Indictment.....	680
25			

1 MONDAY, FEBRUARY 29 2016

2 THE COURT: All right. Solicitor, you may call
3 your first case for trial.

4 MR. CASKEY: Thank you, Your Honor, may it please
5 the Court?

6 THE COURT: Yes, sir.

7 MR. CASKEY: This is the case of the State of South
8 Carolina versus Worth Edward Cook, III, who's been indicted
9 for murder, Indictment 2014-GS-32-228.

10 THE COURT: Thank you. Ms. Henry, Ms. Fullwood,
11 y'all represent Mr. Cook?

12 MS. HENRY: We do, Your Honor.

13 THE COURT: And is Mr. Cook present?

14 MS. HENRY: Mr. Cook is present at the defense
15 table.

16 THE COURT: All right. And ready for trial?

17 MS. HENRY: We are ready.

18 THE COURT: All right. Thank you. Thank you very
19 much.

20 **JURY VOIR DIRE**

21 THE COURT: Ladies and gentlemen of the jury panel,
22 if you'll please give me your complete and undivided
23 attention. As you recall, we went through a process this
24 morning to qualify you generally to serve as jurors in this
25 court. Now, we're going through a process to determine

1 your eligibility and your qualifications to serve as fair
2 and impartial jurors in this specific case. That is our
3 goal in selecting a jury panel, a jury panel that will be
4 fair and impartial to both Mr. Cook and to the State.

5 I will ask you a series of questions to determine
6 your eligibility and qualifications. As far as that
7 process and because of certain questions I have to ask you,
8 I will read or publish the indictment to you.

9 Ladies and gentlemen, the indictment is not
10 evidence. The indictment is the formal charging document
11 by which an individual is placed on notice of charges that
12 have been brought against him or her. It contains mere
13 allegations and is no sense evidence of the allegations
14 contained therein.

15 The Indictment 2014-GS-32-00228 reads that Worth
16 Edward Cook, III, did in Lexington County on or about
17 February 25th, 2013 willfully, feloniously, and with malice
18 aforethought kill one David Diblasi -- I will spell that,
19 D-I-A-B-L-A-S-I -- by stabbing him to death in violation of
20 16-3-10 of the Code of Laws of South Carolina, 1976 as
21 amended. That is an indictment for murder.

22 The State is represented by Assistant Solicitors
23 Shawn Graham and Micah Caskey.

24 If y'all would please stand, introduce yourselves
25 to the jury panel and any other member of the solicitor's

1 staff that may assist you in the prosecution of this case.

2 MR. GRAHAM: I'm Shawn Graham, Deputy Solicitor
3 here in Lexington County. This is Micah Caskey. He's an
4 assistant solicitor, he will be helping me with this case.
5 Bill Smith is an investigator with the Lexington County
6 Solicitor's Office and Rhonda Robinson is my paralegal here
7 at the solicitor's office.

8 THE COURT: Thank you. Thank you, Solicitor.

9 Mr. Cook is represented by Ms. Henry and
10 Ms. Fullwood.

11 If y'all would please stand, introduce yourselves
12 to the jury panel and your client.

13 MS. HENRY: I'm Sally Henry, Lexington County Bar.
14 This is Ms. Fullwood, Elizabeth Fullwood also of the
15 Lexington County Bar and this is Worth Edward Cook, our
16 client.

17 THE COURT: Thank you. Thank you, Ms. Henry,
18 Ms. Fullwood, and Mr. Cook.

19 Is any member of the jury panel related by blood or
20 marriage, close personal friends, have any social,
21 business, or professional relationship with any of the
22 attorneys in the case, either being Assistant Solicitor
23 Graham, Assistant Solicitor Caskey, Ms. Henry or
24 Ms. Fullwood? If so, please stand.

25 (No one stood.)

1 THE COURT: Is any member of the jury panel related
2 by blood or marriage or close personal friends with anyone
3 employed by the 11th Circuit Solicitor's Office? If so,
4 please stand.

5 (No one stood.)

6 THE COURT: Is any member of the jury panel related
7 by blood or marriage, have any social, business,
8 professional relationship with the named defendant who has
9 been introduced to you, Worth E. Cook, III? If so, please
10 stand.

11 (No one stood.)

12 THE COURT: Has any member of the jury panel ever
13 been a party to a lawsuit or a criminal case or any member
14 of your immediate family or close personal friends in which
15 either Mr. Graham, Mr. Caskey, Ms. Henry, or Ms. Fullwood
16 were attorneys on the case either for you, family member,
17 close personal friend? If so, please stand.

18 (No one stood.)

19 THE COURT: The indictment alleges an incident that
20 occurred 25 February, 2'13, alleging that Mr. Cook
21 willfully, feloniously, and with malice aforethought kill
22 one David Diblasi, again, D-I-B-L-A-S-I, by means of
23 stabbing him to death. Does any member of the jury panel
24 have any knowledge about the case from any source
25 whatsoever? If so, please stand.

1 (No one stood.)

2 THE COURT: Does any member of the jury panel have
3 any bias or prejudice towards the parties, that being
4 either Mr. Cook or the State or toward the subject matter
5 involved in the case? If so, please stand.

6 (No one stood.)

7 THE COURT: Has any member of the jury panel heard
8 or know anything about the case from any source whatsoever?
9 If so, please stand.

10 (No one stood.)

11 THE COURT: Is any member of the jury panel related
12 by blood or marriage, or close personal friends with anyone
13 employed by the state, local, or federal law enforcement
14 agency? If so, please stand.

15 (Several jurors stood.)

16 THE COURT: Your number and name, please.

17 THE JUROR: Number 57, Wendy Coplen, my uncle and
18 cousin are law enforcement --

19 THE COURT: Your uncle and cousin are what now?

20 THE JUROR: Law enforcement in Sumter.

21 THE COURT: Given that fact, can you be a fair and
22 impartial juror in the trial of this case for both the
23 State and Mr. Cook.

24 THE JUROR: Oh, yes.

25 THE COURT: Thank you, you may be seated.

1 Yes, ma'am, your number and name, please.

2 THE JUROR: 240, Patricia Shankle. My son's a
3 police officer with Berkeley County.

4 THE COURT: All right. Given the fact that your
5 son is so employed, can you be a fair and impartial juror
6 in the trial of this case for both Mr. Cook and the State?

7 THE JUROR: Yes.

8 THE COURT: Thank you.

9 In the back? Yes, ma'am.

10 THE JUROR: 236, Nancy Senn. My husband is a
11 Deputy Sheriff for the Richland County Sheriff's
12 Department, 33 years.

13 THE COURT: Is Rocky equivalent -- is Robert
14 equivalent to Rocky.

15 THE JUROR: Yes, sir.

16 THE COURT: All right. Given that fact, can you be
17 a fair and impartial juror in the trial of this case for
18 both the State and the defense?

19 THE JUROR: No.

20 THE COURT: Thank you. I'll set you aside for the
21 trial of this case. You may be seated.

22 Yes, your number and name, please.

23 THE JUROR: 112 Greta Hayes. My oldest son is law
24 enforcement in Prosperity.

25 THE COURT: Given that fact can you be a fair and

1 impartial juror in the trial of this case for both Mr. Cook
2 and the State?

3 THE JUROR: (The Juror nodded head.)

4 THE COURT: Is that a yes?

5 THE JUROR: Yes.

6 THE COURT: Thank you. You may stay with us. You
7 may be seated.

8 Has any member of the jury panel ever been employed
9 by a law enforcement agency? If so, please stand.

10 (Several jurors stood.)

11 THE COURT: All right. Yes, I believe you said you
12 were a retired officer?

13 THE JUROR: I'm a retired police officer, pretrial
14 release, but I was a police officer with Charleston County
15 for 12 years.

16 All right. Given that fact can you be a fair
17 and -- tell me your number again.

18 THE JUROR: 240.

19 THE COURT: All right. And given that fact can you
20 be a fair and impartial juror in the trial of this case for
21 both the State and the defense?

22 THE JUROR: Yes, Your Honor.

23 THE COURT: Thank you.

24 Yes, your number and name.

25 THE JUROR: 209, James Quint. I was a 9-1-1

1 dispatcher employed with the sheriff's department -- County
2 in Missouri.

3 THE COURT: Given that fact can you be a fair and
4 impartial juror in the trial of this case for both Mr. Cook
5 and the State?

6 THE JUROR: Yes, I can.

7 THE COURT: Thank you, you may stay with us.

8 Is any member of the jury panel a member of,
9 contributor to any organization that has as its primary
10 purpose the the prevention of crime and advocacy of
11 victim's rights such agencies as MADD, SADD, CAVE, CADRE?
12 If so, please stand.

13 (No one stood.)

14 THE COURT: Is any member of the jury panel or any
15 of your immediate family or close personal friends ever
16 been the victim of or investigated or charged with the
17 commission of a crime of personal violence? If so, please
18 stand.

19 (No one stood.)

20 THE COURT: Has any member of the jury panel lost a
21 family member or a close personal friend as a result of
22 homicide? If so, please stand.

23 (No one stood.)

24 THE COURT: I'm going to call a list of names of
25 potential witnesses in the trial of this case. I would

1 advise the panel that witnesses do not have to be here
2 during this procedure.

3 I would ask if there are witnesses here, when your
4 names are called, if you would please stand and face the
5 jury panel.

6 The question, of course, is any member of the jury
7 panel related by blood or marriage, close personal friends,
8 have any social, business, or professional relationship
9 with any of these individuals whose names I call and/or who
10 stand before you. If so, please stand. I'll call them in
11 groups of five.

12 The first five, Joe Chappell, formerly with
13 Lexington County Sheriff's Department. The next four are
14 all with the Lexington County Sheriff's Department:
15 Sargent Mike Gooding, Detective James Kemfort, Sargent
16 Robby Lint, Deputy John Mishoe.

17 The next five, Deputy Johnny Nesbitt, Daniel
18 Shearer, formerly with Lexington County Sheriff's
19 Department; Deputy Shawn Spivey, Deputy Jonathan Brock,
20 Sargent Doug Novak, Lexington County Evidence.

21 The next five: Candy Kyzer, Lexington County
22 Sheriff's Department Evidence, Beth Holliman, Lexington
23 County Sheriff's Department Evidence. The next three are
24 all with Lexington County Sheriff's Department Crime Scene
25 Investigation: Glenn Ross, Mike Phipps, David Day.

1 Again, is any member of the jury panel related by
2 blood or marriage, close personal friends, have any social,
3 business, or professional relationship with any of those
4 individuals whose names I just called? If so, please
5 stand.

6 (Several jurors stood.)

7 THE COURT: Yes, sir, your number and name?

8 THE JUROR: I'm Juror Number 84. You said Glenn
9 Ross. He used to go to my church, a long time ago.

10 THE COURT: Glenn Ross?

11 THE JUROR: Yeah, that was probably about 10 years
12 ago, I guess.

13 THE COURT: All right. And how long was he at that
14 church with you?

15 THE WITNESS: Probably 6, 7 years.

16 THE COURT: All right. And have you maintained
17 contact with Mr. Ross?

18 THE JUROR: No, sir.

19 THE COURT: Given the fact that you were members of
20 the same church for that period of time and that length of
21 time ago, can you be a fair and impartial juror in the
22 trial of this case for both Mr. Cook and the State?

23 THE JUROR: Yes, sir.

24 THE COURT: Thank you. You may stay with us.

25 Thank you.

1 Yes, your number and name?

2 THE JUROR: 116 Carol Hoffman. I went to high
3 school with Daniel Shearer.

4 THE COURT: Let's see when did you graduate? 2015?

5 THE JUROR: 2007. We don't speak on a regular
6 basis. I just didn't want to not say it.

7 THE COURT: All right. Given that fact, can you be
8 a fair and impartial juror in the trial of this case for
9 both Mr. Cook and the State?

10 THE JUROR: Yes, sir.

11 THE COURT: Thank you. You may stay with us.

12 Any others?

13 (No one stood.)

14 THE COURT: The next five, Roger Gilland, formerly
15 with Lexington County Sheriff's Department, Crime Scene
16 Unit; Emily Conrad-Homer, former Lexington County Sheriff's
17 Department Chemical Analyst; Deputy Marty Longshore,
18 Lexington County Sheriff's Department -- excuse me that's
19 Detective Marty Longshore, Lexington County Sheriff's
20 Department; Mario McCann, Lexington County Sheriff's
21 Department; Lieutenant Cain Mayrant, Lexington County
22 Sheriff's Department.

23 The next five, Dr. Janice Ross, Newberry Pathology;
24 Brian Miller, formerly with Wal-Mart, LPO. I'm not sure I
25 know what that means.

1 MR. GRAHAM: Loss Prevention Officer.

2 THE COURT: Loss Prevention Officer, thank you.

3 Amy Lasley, TD Bank Lexington Branch; Karen
4 Milbrodt, M-I-L-B-R-O-D-T, Verizon Wireless; Thomas Koch
5 with Sprint.

6 Again is any member of the jury panel related by
7 blood or marriage, close personal friends, have any social,
8 business, or professional relationship with any of those
9 individuals whose names I just called? If so, please
10 stand.

11 (Several jurors stood).

12 THE COURT: Yes, sir, right here on the front, your
13 number and name?

14 THE JUROR: 248, my name is Royce Wallace. Brian
15 Miller used to work with me about 15 years ago.

16 THE COURT: All right. Given that fact, can you be
17 a fair and impartial juror in the trial of this case --

18 THE JUROR: Yes, sir.

19 THE COURT: -- for both Mr. Cook and the State.

20 THE JUROR: Yes, sir.

21 THE COURT: Thank you, you may be seated.

22 Yes, sir, your number and name?

23 THE JUROR: Number 263, Madison Stack. Cain
24 Mayrant. I deal with him daily with the inmates.

25 THE COURT: Step up here for me, please.

1 (The juror approached the front of the courtroom
2 for an in-camera hearing with the Court.)

3 THE COURT: All right. And tell me your number and
4 name again.

5 THE JUROR: Number 263 Madison Stack.

6 THE COURT: All right.

7 THE JUROR: Cain Mayrant, he's the inmate -- inmate
8 work release supervisor, sargent; and where I work at, at
9 Central Stores for the County, we use an inmate to work
10 with daily.

11 THE COURT: All right. How long have you been
12 employed there.

13 THE JUROR: 16 years.

14 THE COURT: 16 years. Has Lieutenant Mayrant been
15 in that position for that period of time or --

16 THE JUROR: He has -- I don't know, the last 5 or 6
17 years, moved up to Lieutenant.

18 THE COURT: Given that fact, can you be a fair and
19 impartial juror in the trial of this case for both Mr. Cook
20 and the State?

21 THE JUROR: Yes, sir.

22 THE COURT: All right. Thank you. I believe you
23 can stay with us. Thank you very much.

24 Any others?

25 (No one stood.)

1 THE COURT: The next five names all appear to be
2 employed with the State Law Enforcement Division in various
3 positions. I will tell you what position they're in.

4 Samuel Stewart, DNA; Andrena Harrison, Latent Prints; Tracy
5 McKinnon, Toxicology; Ashley Bell, Serology; Sheree Brown,
6 DNA; again are all with the State Law Enforcement Division.

7 The next five names: Christopher "Chuck" Buffkin;
8 Crystal Bright, Damian Hoffman, Diana Shoener,
9 S-H-O-E-N-E-R; Jacqueline Boyer.

10 The next five names: Jennifer Boyer; Samuel Jerry
11 Padgett, Johnny Darby; Kaycee Turner; Kayla Mattoni,
12 M-A-T-T-O-N-I.

13 Again, is any member of the jury panel related by
14 blood or marriage, close personal friends, have any social,
15 business, or professional relationship with any of these
16 individuals whose names I just called? If so, please
17 stand.

18 (No one stood.)

19 THE COURT: The next five names: Jim Barnes; Mark
20 Diblasi; Melinda Gladden; Raymond Boyer, Sr.; Raymond
21 Boyer, Jr.

22 The next six names: Richard Earl Barnes; Jack Rick.
23 Fletcher; Shannon Tart; Terry Goins, Sr.; Wade Ryan; Katie
24 Fox.

25 Again is any member of the jury panel related by

1 blood or marriage, close personal friends, have any social,
2 business, or professional relationship with any of those
3 individuals whose names I called? If so, please stand.

4 (No one stood.)

5 THE COURT: Any additional requested voir dire from
6 the State.

7 MR. GRAHAM: None, Your Honor.

8 THE COURT: From the defense?

9 MS. HENRY: No, Your Honor.

10 THE COURT: All right. And finally, ladies and
11 gentlemen of the jury panel, I published the indictment to
12 you alleging an incident that occurred 25, February, 2013
13 in Lexington County, alleging the defendant, Mr. Cook
14 stabbed one, Mr. Diblasi, first name David. I have called
15 a list of names of witnesses, the potential witnesses in
16 the case; I have asked you concerning any knowledge you may
17 have about the case from any source whatsoever and asked
18 you a number or series of questions concerning your ability
19 to be fair and impartial.

20 I have found you know yourselves best. With that
21 background and with that being said, is there any member of
22 the jury panel that knows any reason whatsoever why you
23 feel like you could not be a fair and impartial juror in
24 the trial of this case for both the State and Mr. Cook? If
25 so, please stand.

1 (A juror stood.)

2 THE COURT: Is this Ms. Senn.

3 THE JUROR: Yes, sir.

4 THE COURT: I think I set you aside already

5 Ms. Senn.

6 THE JUROR: I didn't hear you, sir.

7 THE COURT: Ma'am?

8 THE JUROR: I couldn't hear what you said.

9 THE COURT: I have set you aside already for the
10 trial of this case. Thank you.

11 Perhaps I did not ask specifically, is any member
12 of the jury panel related by blood or marriage or was close
13 personal friends or have any business, social, or
14 professional relationship with the alleged victim in the
15 matter, David Diblasi? If so, please stand.

16 (No one stood.)

17 THE COURT: All right. Strikes, Solicitor?

18 MR. GRAHAM: Ten and five, Your Honor.

19 THE COURT: Correct, Ms. Henry?

20 MS. HENRY: That is correct.

21 THE COURT: All right. Madam Clerk, if you'd give
22 us a panel, please.

23 THE CLERK: Yes, Your Honor.

24 Excuse us for a second, we're having computer
25 errors, here.

1 (The clerks retrieved a strike list from the
2 computer.)

3 THE CLERK: Proceed, Your Honor?

4 THE COURT: Yes, ma'am, please.

5 JURY SELECTION

6 THE CLERK: As I call your name, bring your
7 personal items with you and come forward and stand where
8 Mr. Dan is until I explain to you whether to have a seat or
9 to have a seat in the jury box.

10 Number 68, jasmine Drain. (Black female)

11 What say for the State?

12 MR. GRAHAM: Please excuse the juror for the trial
13 of this case.

14 THE CLERK: Return to your seat, please, ma'am.

15 109 Christy Harrell. (Black female)

16 What say for the State?

17 MR. GRAHAM: Please present the juror.

18 THE CLERK: What say for the defense?

19 MS. HENRY: Please seat the juror.

20 THE CLERK: Have a seat in the jury box, please
21 ma'am.

22 261 Linda Sox. (White female)

23 What say for the State?

24 MR. GRAHAM: Please present the juror.

25 THE CLERK: What say for the defense?

1 MS. HENRY: Please excuse the juror for the trial
2 of this case.

3 THE CLERK: Return to your seat, please, ma'am..
4 150 DeeDee Lattimore -- excuse me, Laramore. (White
5 female)

6 What say for the State?

7 MR. GRAHAM: Please present the juror.

8 THE CLERK: What say for the defense?

9 MS. HENRY: Please seat the juror.

10 THE CLERK: Have a seat in the jury box, please
11 ma'am.

12 235 Jean Senn. (White female)

13 THE CLERK: That's the one that was set aside,
14 wasn't it?

15 THE COURT: No, ma'am.

16 THE CLERK: That's the other Senn. Jean Potts
17 Senn. (White female)

18 Where did she go.

19 THE COURT: Right here.

20 THE CLERK: Wow, she's -- I didn't see you. You
21 came forward so fast.

22 I apologize, Your Honor.

23 What say for the State?

24 MR. GRAHAM: Please present Ms. Senn.

25 THE CLERK: What say for the defense?

1 MS. HENRY: Please seat the juror.
2 THE CLERK: Please have a seat in the jury box,
3 ma'am..
4 126 Vivian Jeffcoat. (White female)
5 What say for the State?
6 MR. GRAHAM: Please present Ms. Jeffcoat.
7 THE CLERK: What say for the defense?
8 MS. HENRY: Please seat the juror.
9 THE CLERK: Have a seat in the jury box, please
10 ma'am.
11 229 Clyde Sanders. (White female)
12 What say for the State?
13 MR. GRAHAM: Please present Ms. Sanders.
14 THE CLERK: What say for the defense?
15 MS. HENRY: Please excuse the juror for the trial
16 of this case.
17 THE CLERK: Return to your seat, please, ma'am.
18 Number 13, Elnoria Bates. (Black female)
19 What say for the State?
20 MR. GRAHAM: Please excuse Ms. Bates.
21 THE CLERK: Return to your seat, please, ma'am.
22 102 Douglas Hair. (White male)
23 MR. GRAHAM: I'm sorry, Madam Clerk, number?
24 THE CLERK: 102..
25 MR. GRAHAM: Thank you, ma'am.

1 THE CLERK: What say for the State?

2 MR. GRAHAM: Please present Mr. Hair.

3 THE CLERK: What say for the defense?

4 MS. HENRY: Please excuse the juror for the trial
5 of this case.

6 THE CLERK: Return to your seat, please, sir.

7 289 Steven Watkins. (White male)

8 What say for the State?

9 MR. GRAHAM: Please present Mr. Watkins.

10 THE CLERK: What say for the defense?

11 MS. HENRY: Please seat this juror.

12 THE CLERK: Have a seat in the jury box, sir.

13 83 Katrina Garvin. (Black female)

14 What say for the State?

15 MR. GRAHAM: Please present Ms. Garvin.

16 THE CLERK: What say for the defense?

17 MS. HENRY: Please seat this juror.

18 THE CLERK: Have a seat in the jury box, please
19 ma'am.

20 117, Jon Hollingsworth. (White male)

21 What say for the State?

22 MR. GRAHAM: Please present Mr. Hollingsworth.

23 THE CLERK: What say for the defense?

24 MS. HENRY: Please excuse this juror.

25 THE CLERK: Return to your seat, please, sir.

1 232 Amber Scarborough. (White female)
2 What say for the State?
3 MR. GRAHAM: Please present Ms. Scarborough.
4 THE CLERK: What say for the defense?
5 MS. HENRY: Please seat this juror.
6 THE CLERK: Please have a seat in the jury box,
7 ma'am.

8 272 Bonnie Taylor. (White female)
9 What say for the State?
10 MR. GRAHAM: Please present Ms. Taylor.
11 THE CLERK: What say for the defense?
12 MS. HENRY: Please excuse this juror.
13 THE CLERK: Return to your seat, please, ma'am.

14 137 Jennifer Karlovich. (White female)
15 What say for the State?
16 MR. GRAHAM: Please present Ms. Karlovich.
17 THE CLERK: What say for the defense?
18 MS. HENRY: Please excuse this juror.
19 THE CLERK: Return to your seat, please, ma'am.

20 48, Melanie Clamp. (White female)
21 What say for the State?
22 MR. GRAHAM: Please present Ms. Champ -- I'm sorry,
23 Ms. Clamp.
24 THE CLERK: What say for the defense?
25 MS. HENRY: Please excuse this juror.

1 THE CLERK: Return to your seat, please, ma'am.

2 122 Joel Humble. (White male)

3 What say for the State?

4 MR. GRAHAM: Please present Mr. Humble.

5 THE CLERK: What say for the defense?

6 MS. HENRY: Please seat this juror.

7 THE CLERK: Please have a seat in the jury box,

8 sir.

9 Number 30, Warner Buchman. (White female)

10 What say for the State?

11 MR. GRAHAM: Please present Ms. Buchman.

12 THE CLERK: What say for the defense?

13 MS. HENRY: Please seat this juror.

14 THE CLERK: Have a seat in the jury box, please

15 ma'am.

16 170 Genny McDaniel. (White female)

17 What say for the State?

18 MR. GRAHAM: Please excuse Ms. McDaniel.

19 THE CLERK: Return to your seat, please, ma'am.

20 58 Stephanie Corley. (White female)

21 What say for the State?

22 MR. GRAHAM: Please present Ms. Corley.

23 THE CLERK: What say for the defense?

24 MS. HENRY: Please seat this juror.

25 THE CLERK: Please have a seat in the jury box,

1 ma'am.

2 240 Patricia Shankle. (White female)

3 What say for the State?

4 MR. GRAHAM: Please present Ms. Shankle.

5 THE CLERK: What say for the defense?

6 MS. HENRY: Please excuse this juror.

7 THE CLERK: Return to your seat, please, ma'am.

8 112 Greta Hayes. (White female)

9 What say for the State?

10 MR. GRAHAM: Please excuse Ms. Hayes.

11 THE CLERK: Return to your seat, please, ma'am.

12 263 Madison Stack. (White male)

13 What say for the State?

14 MR. GRAHAM: Please present Mr. Stack.

15 THE CLERK: What say for the defense?

16 MS. HENRY: Please excuse this juror.

17 THE CLERK: Return to your seat, please, sir.

18 153 Donald Layden. (White male)

19 What say for the State?

20 THE COURT: How many strikes was that Madam Clerk?

21 THE CLERK: Nine -- nine for the defense, Your

22 Honor.

23 What say for the State?

24 MR. GRAHAM: Please present Mr. Layden.

25 THE CLERK: What say for the defense?

1 MS. HENRY: Please seat this juror.

2 THE CLERK: Have a seat in the jury box, please
3 sir.

4 36 Misty Burroughs. (White female)

5 What say for the State?

6 MR. GRAHAM: Please present Ms. Burroughs.

7 THE CLERK: What say for the defense?

8 MS. HENRY: Please seat this juror.

9 THE CLERK: Have a seat in the jury box, please
10 ma'am.

11 Alternates, Your Honor?

12 THE COURT: Two alternates. Strikes are one for
13 the State, two for the defense per alternate.

14 THE CLERK: Yes, sir, Your Honor.

15 Number 218, Dakota Richardson. (White male)

16 MR. CASKEY: Madam Clerk, could you repeat the
17 number.

18 THE CLERK: 218.

19 MR. CASKEY: Thank you.

20 THE CLERK: What say for the State?

21 MR. GRAHAM: Please excuse Mr. Richardson.

22 THE CLERK: Return to your seat, please, sir.

23 299 Deborah Wright. (White female)

24 What say for the State?

25 MR. GRAHAM: Please present Ms. Wright.)

1 THE CLERK: What say for the defense?
2 MS. HENRY: Please seat this juror.
3 THE CLERK: Please have a seat in the jury box,
4 ma'am.
5 That's Alternate Number One, Your Honor.
6 Number 44 Matthew Cassidy. (White male)
7 What say for the State?
8 MR. GRAHAM: Please present Mr. Cassidy.
9 THE CLERK: What say for the defense?
10 MS. HENRY: Please excuse this juror.
11 THE CLERK: Return to your seat, please, sir.
12 283 Skylar Walker. (White male)
13 What say for the State?
14 MR. GRAHAM: Please present Mr. Walker.
15 THE CLERK: What say for the defense?
16 MS. HENRY: Please seat this juror.
17 THE CLERK: Have a seat in the jury box, please
18 sir.
19 That's Alternate Number Two, Your Honor.
20 THE COURT: Any motions regarding the jury
21 selection process from the State?
22 MR. GRAHAM: No, Your Honor.
23 THE COURT: From the defense?
24 MS. HENRY: No motions, Your Honor.
25 THE COURT: All right. Thank you.

1 Juror number 158, Mr. Layden?

2 THE JUROR: Yes, sir.

3 THE COURT: I'm going to appoint you as foreperson
4 for the jury panel. Thank you for volunteering for that
5 very important position. Upon your return, you will take
6 this seat closest to the bench.

7 THE JUROR: Yes, sir.

8 THE COURT: You don't have to do that now.

9 Six o'clock as far as the remainder of the panel?

10 Call after six?

11 MR. GRAHAM: Yes, Your Honor.

12 (The jury venire was released for the day at 12:14
13 p.m.)

14 THE COURT: All right. Mr. Foreman, and ladies and
15 gentlemen of the jury panel, I'm going to release you
16 momentarily from your jury service for the remainder of the
17 day. This case is no different from many cases that are
18 tried, there are certain pretrial matters I must take up
19 before I need the jury panel. They will probably take the
20 remainder of the day, so I'm not going to bring you back,
21 for example, late this afternoon and not get finished and
22 hold you captive unnecessarily.

23 Hopefully I'll get through all the motions today
24 and that will clear the decks where we can start promptly
25 at 9:30 in the morning. We can start promptly at 9:30 in

1 the morning.

2 I must advise you that throughout the course of
3 this trial, you may not discuss the case with others. That
4 includes your fellow jurors, family, friends, or anyone
5 else. If anyone tries to talk with you about the case,
6 please report that to me.

7 You may not read, watch, or listen to any news
8 reports about the case. When not in attendance in court,
9 you may not use a computer, cellular phone or other
10 electronic device with communication capabilities or any
11 other method to obtain information about the case which is
12 prohibited. Information about the case which is prohibited
13 includes, but is not limited to the following: Anything
14 about a party, a witness, an attorney or a court officer,
15 news accounts of the case, past or present; information
16 collected through juror research on any topics raised or
17 testimony offered by any witness or information collected
18 through juror research on any other topic which the juror
19 might think would be helpful in deciding the case. You
20 decide the case as the judges of the facts based on the
21 evidence and the testimony presented to you from the sworn
22 witnesses testifying from this witness stand and any
23 physical items, documents, photographs that may be
24 introduced into evidence.

25 So don't do any independent research, do not do any

1 research on the internet or otherwise. Any questions?

2 Questions?

3 (There was no response from the jury panel.)

4 All right. The bailiff will show you how and where
5 to report back to in the morning to get to your new
6 temporary home, your jury room. As I say, I'm going to
7 release you for the remainder of the day. I would ask you
8 to please be back promptly at 9:30 in the morning.

9 No questions?

10 Thank you very much, you may now go with your
11 bailiff.

12 (The jury left the courtroom at 12:18 p.m.)

13 **PRETRIAL MOTIONS**

14 THE COURT: All right. Motions, Solicitor and
15 Ms. Henry?

16 MR. GRAHAM: Your Honor, I guess I would start just
17 as a housekeeping, Your Honor read the indictment. The
18 State had made a motion to amend the indictment and taking
19 the language, "along with Richard Barnes up at Your Honor's
20 bench, Ms. Henry agreed that that was appropriate in this
21 case. So just for the record, the indictment was amended.

22 THE COURT: Any objections, Ms. Henry?

23 MS. HENRY: That's correct, Your Honor. We have no
24 objections.

25 THE COURT: And I don't have the original

1 indictment. When I get it, I will certainly delete that
2 language.

3 (The solicitor gave the indictment to the Court and
4 the indictment was amended.)

5 THE COURT: Thank you.

6 All right. I have stricken the language and
7 written the word deleted above, along with Richard Barnes
8 and initialled my initials and the indictment has been
9 amended as consented to by the parties.

10 All right. Anything further, Solicitor?

11 MR. GRAHAM: The only motions, Your Honor, the
12 defendant has five or six statements made to law
13 enforcement so there's probably six or seven officers and
14 multiple Jackson v Denno hearings that we need to have on
15 that.

16 THE COURT: All right. You want to start that now
17 and go until one o'clock or you just want to start it after
18 lunch or...

19 MR. GRAHAM: Your Honor's pleasure.

20 THE COURT: All right. Are there any -- no other
21 motions, Solicitor?

22 MR. GRAHAM: Other than -- we were contemplating
23 making a sequestration motion, but I haven't talked with
24 Ms. Henry.

25 She's nodding her head, so I guess by consent we'll

1 have sequestration of any witnesses.

2 THE COURT: Ms. Henry?

3 MS. HENRY: Yes, Your Honor, we were planning on
4 making that motion as well, Your Honor.

5 THE COURT: All right. And y'all want the same
6 motion?

7 MR. GRAHAM: That's fine, Your Honor.

8 THE COURT: All right. Well, it's up to y'all to
9 police it. I don't know who the witnesses are. Well, I
10 know their names, but I don't know them.

11 Any other motions then, Ms. Henry from the defense?

12 MS. HENRY: As he -- Mr. Graham indicated there are
13 several statements in the Jackson v. Denno. There's also a
14 motion to exclude any expert testimony that comes in as a
15 result of people who are not trial experts in the field. I
16 don't know how to couch that.

17 And then 404(b) motion. Ms. Fullwood is going to
18 be handling the motions.

19 THE COURT: All right. Are you referring to
20 specific experts that aren't experts, Ms. Henry?

21 MS. HENRY: We have information during the course
22 of discovery provided by the State that one of the
23 detectives who interrogated Mr. Cook used some type of
24 abstract treatise that he was familiar with, having to do
25 with identification of a right-handed versus left-handed

1 person by the nature of the stab wounds. We don't believe
2 he's competent to testify to that. And that would be
3 specifically what we're looking at, Your Honor.

4 THE COURT: And then third, you have a 404(b)
5 motion?

6 MS. HENRY: Yes, sir.

7 THE COURT: All right. What -- who is the
8 detective you're referring to, Ms. Henry?

9 MS. HENRY: Gooding.

10 THE COURT: Gooding?

11 MS. HENRY: G-O-O-D-I-N-G.

12 THE COURT: All right. Thank you.

13 Ms. Fullwood?

14 MS. FULLWOOD: Just as to 404(b), there's some
15 discovery in the case about -- basically unrelated theft of
16 a trailer by Mr. Cook. There is also reference in some of
17 the discovery materials people saying that he's a bad
18 person, that he's rough with his girlfriend and things of
19 that nature that we might could get -- move in limine, to
20 exclude prior to the taking of the testimony.

21 THE COURT: All right. Thank you. So as to the
22 theft of the trailer, he's a bad person and he's rough with
23 his girlfriend.

24 MS. FULLWOOD: Yes, sir. And I'll tell you this,
25 Your Honor. There's going to also be evidence about

1 illegal drug use that would involve all of the principals
2 in this scenario that surrounds this incident and I -- to
3 be frank, I don't see how anybody can get around having
4 some testimony about that because it's sort of tied up with
5 what was going on that day. Of course, we would move in
6 limine to exclude any different times that are completely
7 unrelated to this incident that he was -- Mr. Cook was
8 participating in this type of activity.

9 THE COURT: Thank you Ms. Fullwood. Tell me about
10 the expert, Solicitor.

11 MR. GRAHAM: There is no expert. You'll hear him
12 in the Jackson v. Denno. Detective Gooding confronted
13 Mr. Cook with something that he had printed off the
14 internet that had to do with determining wounds and whether
15 they were right- or left-handed and he told him that by
16 looking at it he knew that it was one way or the other and
17 when he confronted Mr. Cook with that, Mr. Cook tried to
18 say that the codefendant was a right hand -- whichever one
19 it was right or left hand that was appropriate. The
20 detective said no, that's not true and at that point -- I
21 could be wrong, at that point, they ended the discussion
22 for the day and he came back the next day and then he made
23 a confession saying that he killed the victim.

24 THE COURT: So Detective Gooding -- let me make
25 sure I'm tracking -- and I'll hear all that in-camera any

1 way, correct.

2 MR. GRAHAM: Correct, Your Honor.

3 THE COURT: It's not being offered as an expert,
4 but it's being offered that this is a technique that he
5 used during the course of the interrogation of Mr. Cook.

6 MR. GRAHAM: Correct, Your Honor.

7 THE COURT: All right. Well, since it's going to
8 be in-camera, Ms. Henry, I'll be able to listen to it.

9 MS. HENRY: Thank you.

10 MS. HENRY: All right. What about the theft of the
11 trailer under 404(b).

12 MR. GRAHAM: I don't believe that that's an issue,
13 Your Honor. I don't see that coming up.

14 THE COURT: And what about being a bad person?

15 THE WITNESS: I don't think -- depends on -- we
16 have some witnesses that may say that -- or we may want to
17 elicit testimony that when they said that he was -- the
18 victim was going to go over to Mr. Cook's house, they told
19 him not to, but I don't think it's our intention to go into
20 anything particular about why they said that.

21 THE COURT: And what about Mr. Cook being rough
22 with his girlfriend.

23 MR. GRAHAM: I don't expect it to come in unless we
24 start getting into character evidence, Your Honor.

25 THE COURT: All right. Does that take care of the

1 404(b), Ms. Fullwood?

2 And, of course, if during the course of the trial,
3 you know, you see it there in that dusty trail, you just
4 stand up, as you know, and you say you have a matter of law
5 to take up --

6 MS. FULLWOOD: Yes, sir.

7 THE COURT: -- and I'll send the jury out.

8 MS. FULLWOOD: Your Honor, I believe that covers
9 it.

10 THE COURT: All right. Well, we'll start on the
11 Jackson versus Denno at two o'clock. Two o'clock. Thank
12 you. Thank you very much.

13 Mr. Cook's in custody, correct, Sheriff?

14 THE OFFICER: Yes, sir.

15 THE COURT: All right. Court will be in recess
16 until two.

17 (A recess for lunch was observed.)

18 THE COURT: All right. This is Jackson versus
19 Denno --

20 MR. GRAHAM: Yes, sir.

21 THE COURT: Is that right?

22 All right. Solicitor. You may call your first
23 witness.

24 **JACKSON V DENNO HEARING**

25 MR. GRAHAM: Your Honor, for housekeeping, if you

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 could give us some direction. We have seven different
2 statements as a combination of verbal and written
3 statements. For instance the first two statements are with
4 the same two officers. One is out at an address on the
5 road and it's later the same day at the detention center.
6 My thought was that we would do it event by event so it
7 won't be confusing; even though we will have to have
8 officers come up at different times for different
9 statements.

10 THE COURT: All right. I'll do it -- and I take it
11 event by event chronologically?

12 MR. GRAHAM: Correct, Your Honor.

13 THE COURT: All right. I can probably track it
14 better like that.

15 MR. GRAHAM: That's what I was thinking, it would
16 be easier for everyone, Your Honor.

17 THE COURT: All right.

18 MR. GRAHAM: State would call Sargent -- Detective
19 Novak.

20 DOUGLAS NOVAK,
21 having been duly sworn, testified as follows:

22 THE CLERK: Seated Be seated. State your full
23 name; spell your last name for the record.

24 THE WITNESS: Douglas Novak, N-O-V-A-K.

25 **DIRECT EXAMINATION - IN CAMERA**

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 BY MR. GRAHAM:

2 Q Sargent Novak, where are you employed and what do
3 you do?

4 A I'm currently employed with Lexington County
5 Sheriff's Department as the Forensic Service Supervisor. I
6 supervise evidence, CSI, and the drug lab.

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

8 A 18 years.

9 Q Back in April of 2013, what was your job title and
10 responsibilities?

11 A Major Crime Investigator, I investigate crimes
12 against persons.

13 Q Did you have an opportunity to come in contact with
14 the defendant, Worth Cook on April 3rd, 2013?

15 A Yes, I did.

16 Q Can you tell the Court how that came about.

17 A We have a missing person's report that came in on a
18 David Diblasi and we were given a name of Worth Cook as
19 being one of the last people who had been in contact with
20 him. Detective Kemfort and myself went out to Mr. Worth
21 Cook's residence numerous times and left our business card
22 there and on this date, Mr. Cook called Detective Kemfort
23 and made arrangements for us to meet him at [REDACTED]
24 Road in Gaston.

25 Q And did you, in fact, along with Detective Kemfort,

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 go meet the defendant, Worth Cook, at [REDACTED]?

2 A Yes.

3 Q Now, you said that was in Gaston?

4 A Yes, sir.

5 Q What kind of place is [REDACTED]?

6 A It was a residence. It had a fence in the
7 backyard. Mr. -- it was not Mr. Worth Cook's residence.
8 He was doing work there and he had asked the homeowner if
9 we could come out to speak with him. And he was working on
10 a vehicle there.

11 Q So he selected the residence?

12 A Yes, he did.

13 Q When you got there, where did the -- where did the
14 conversation take place?

15 A Outside in the driveway.

16 Q At that time that you spoke with him, was he under
17 arrest?

18 A No, sir.

19 Q Was he in custody?

20 A No, sir.

21 Q Was he being detained at all?

22 A No, sir.

23 Q Did you advise him of his rights?

24 A No, sir.

25 Q Why not?

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 A Because he was not in custody.

2 Q Have you had the opportunity in your law
3 enforcement experience to deal with people who were under
4 the influence of alcohol or drugs?

5 A Yes, sir.

6 Q And did Mr. Cook appear to be under the influence
7 of alcohol or drugs at that time?

8 A No, sir.

9 Q At any time during your conversation with him, did
10 he say he didn't want the talk with you?

11 A No, sir.

12 Q At any time did he ask for an attorney?

13 A No, sir.

14 Q Did you make any promises to him?

15 A No, sir.

16 Q Any hope of reward for him speaking with you?

17 A No, sir.

18 Q Did you threaten him?

19 A No, sir.

20 Q Did you coerce him in any way to speak with you?

21 A No, sir.

22 Q Tell me about the conversation that you and
23 Detective Kemfort had with him.

24 A When we began, we told him why we were there and
25 that we were looking into -- David Diblasi had been

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 reported missing and we had gotten word that he was the
2 last person that had been seen with him; and we were asking
3 him if he knew the whereabouts of Mr. Diblasi.

4 Q And what did he tell you when you asked him that
5 question?

6 A He went through that he had been working on
7 Mr. Diblasi's motorcycle at his residence and that he did
8 know of him, but the last time he saw him one night that he
9 was leaving to go to Orangeburg to see a girl.

10 Q Did he state where he met David Diblasi?

11 A At Jackie Boyer's house.

12 Q Did he say when?

13 A It had been a few weeks prior to us talking to him.

14 Q Did he meet him on the same day that he did the --
15 that he actually did the work for him or that he saw him
16 last?

17 A Yes.

18 Q What were -- what type of work did he say he was
19 going to do?

20 A He was going to attempt to repair the motorcycle.

21 Q And did he say anything about repairing a truck?

22 A Yes, he did.

23 Q Did he say whether he received any money or any
24 kind of remuneration from David Diblasi in payment for
25 working on his bike and truck?

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 A He said he was given \$80 and some heroin.

2 Q Did he state whether there was anyone else at home
3 while the work on the truck or bike was going on?

4 A He said he was there -- it was just him and David.

5 Q And did he say whether anybody else was there when
6 David Diblasi left Worth Cook's house?

7 A He said it was just him.

8 Q Now, after your conversation with him orally, did
9 you get him to -- did he voluntarily write a statement?

10 A Yes, he did.

11 Q And do you have that with you?

12 A Yes, sir.

13 Q Let me see it.

14 MR. GRAHAM: Your Honor, for the purposes of this
15 hearing, the State would mark this voluntary statement form
16 as State's 1 for ID.

17 MS. FULLWOOD: No objection to marking it for ID.

18 THE COURT: All right.

19 (State's Exhibit Number 1 was marked for
20 identification.)

21 BY MR. GRAHAM:

22 Q Sargent Novak, looking at State's Exhibit 1 for ID,
23 can you tell me what that is?

24 A It's our -- called the Lexington County Sheriff's
25 Department Voluntary Statement when you're not under

Douglas Novak - Direct Examination In Camera by Mr. Graham

1 arrest.

2 Q And he was not under arrest at the time he wrote
3 that statement?

4 A No, he was not.

5 Q The handwriting on that statement at the top --
6 whose handwriting is on that form?

7 A Mr. Cook's. Mr. Cook wrote his name and date of
8 birth. Detective Kemfort wrote his name, his age was
9 written by Mr. Cook and the address that he lives at was
10 written by Mr. Cook and the rest of -- the telephone
11 numbers and statement were written by Mr. Cook.

12 Q So everything on that two page document was written
13 by Mr. Cook except for --

14 A Except for where it says made known to Detectives
15 J. Kemfort and dated at [REDACTED] in Gaston.

16 Q And did he write that statement voluntarily?

17 A Yes, sir.

18 Q Did y'all tell him what to write?

19 A No, sir.

20 Q Did you threaten him or coerce him to write that
21 statement?

22 A No, sir.

23 Q Did you make any promises of a reward to write that
24 statement?

25 A No, sir.

Douglas Novak - Cross-Examination In-Camera by Ms. Fullwood

1 Q He wrote that statement of his own free will?

2 A Yes, sir.

3 Q After that statement, what is the next thing that
4 happened in your dealings with Mr. Cook on April 3rd, 2013
5 at [REDACTED]?

6 A I had his driver's license and I ran his driver's
7 license through our dispatch and it came back that Mr. Cook
8 was wanted.

9 Q Based on that was he placed into custody at that
10 time and taken to the sheriff's department?

11 A Yes, he was.

12 Q After he was transported --

13 MR. GRAHAM: I guess what we're going to do, Your
14 Honor is stop for right now. That's the first statement,
15 is Detective Novak and Detective Kemfort at the time having
16 that conversation and receiving that statement while
17 Mr. Cook was not in custody on April 3rd, 2013 at [REDACTED]
18 [REDACTED] in Gaston.

19 THE COURT: All right. Ms. Henry, Ms. Fullwood?

20 MS. FULLWOOD: Thank you, Your Honor.

21 **CROSS-EXAMINATION - IN-CAMERA**

22 BY MS. FULLWOOD:

23 Q Hi, Detective Novak.

24 A Hello.

25 Q What were the warrants for that were outstanding?

Douglas Novak - Cross-Examination In-Camera by Ms. Fullwood

1 A I believe it was for a false pretense -- obtaining
2 goods under a false pretense.

3 Q Okay. And for several days, you folks had been
4 trying to get in touch with him, leaving your cards and all
5 that?

6 A Yes.

7 Q Okay. And didn't you know prior to going out and
8 meeting with him on Doe Trail that, in fact, he had
9 outstanding warrants?

10 A No, ma'am, it wasn't until I ran it.

11 Q Okay. Why didn't you do any background check on
12 him before you went to talk to him?

13 A We do go out and do background checks on them.
14 There was nothing in there at the time. When I got to the
15 scene and we ran it, it had been put in. The warrant had
16 been put in.

17 Q All right. On that day on the 3rd, didn't he also
18 tell you that Mr. Diblasi had given him some credit cards
19 to hold as security for payment in full?

20 A That's in the next statement.

21 Q Are you sure now?

22 A In his written statement, he does not mention the
23 credit cards.

24 Q Okay. I --

25 A I'm going through my summary.

Douglas Novak - Cross-Examination In-Camera by Ms. Fullwood

1 Q Right. I'm looking at your supplement. Do you
2 want me to just hand it to you? And it's sort of down in
3 there.

4 A Which part?

5 Q Okay. On this paragraph you're talking about going
6 to Doe Trail, right?

7 A Yes, ma'am.

8 Q Oh, I see. Okay. You're right.

9 A It's two different statements.

10 Q Two different statements. Okay. I'm sorry it
11 confuses me sometimes, there's so many of these.

12 MS. HENRY: No further questions.

13 THE COURT: Redirect?

14 MR. GRAHAM: Not on this, Your Honor.

15 THE COURT: One thing I wasn't tracking, he also
16 testified Mr. Cook was working on the motorcycle at his
17 residence. Which -- is that his, Mr. Cook's residence? or
18 is that his, Mr. Diblasi's residence?

19 MR. GRAHAM: I'm sorry, Your Honor, it would have
20 been Mr. Cook saying he was working on Mr. Diblasi's truck
21 and bike at Mr. Cook's residence.

22 THE COURT: I just wanted to make sure I had
23 that -- I don't know what that is -- pronoun or something,
24 I was tracking it right. All right.

25 You want me to rule on them as I go?

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 MR. GRAHAM: We have one more witness on this first
2 hearing, Detective Kemfort, Your Honor needs to hear.

3 THE COURT: All right. Thank you, Sargent Novak.

4 MR. CASKEY: Your Honor, the State would call
5 Detective James Kemfort.

6 THE COURT: All right.

7 JAMES KEMFORT,

8 having been duly sworn, testified as follows:

9 THE CLERK: Be seated. State your full name; spell
10 your last name for the record.

11 THE WITNESS: James Kemfort, K-E-M-F-O-R-T.

12 DIRECT EXAMINATION - IN-CAMERA

13 BY MR. CASKEY:

14 Q Detective Kemfort, where are you employed and what
15 do you do there?

16 A I work at Lexington County Sheriff's Department. I
17 am a major crimes investigator.

18 Q How long have you been in law enforcement?

19 A I've been in law enforcement since 2001.

20 Q What were you -- what was your employment situation
21 in 2013?

22 A I was a major crimes investigator for Lexington
23 County Sheriff's Department.

24 Q And on April 3rd, 2013, did you have occasion to
25 talk with the defendant, Worth Cook?

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 A I did.

2 Q And was that at [REDACTED]?

3 A It was.

4 Q Okay. Who was with you that day?

5 A Detective Novak was with me.

6 Q Okay. And what was the purpose of making contact
7 with Mr. Cook?

8 A We were -- we needed to talk to him in reference to
9 a missing person, David Diblasi. We had heard that
10 Mr. Cook was either the last person to see him or last
11 person to be with him and so we needed to try to see if he
12 would remember his last encounter with Mr. Diblasi so we
13 could try to locate the missing person.

14 Q Okay. Tell the Court a little about the
15 circumstances leading up to your conversation with
16 Mr. Cook. How did you come to be in contact with the
17 defendant on April 3rd, at [REDACTED]?

18 A At approximately -- a couple of days before that,
19 Mr. Cook had actually called us back. We had tried to make
20 contact with him at his residence at [REDACTED].
21 We had left a business card -- I had left a business card
22 with my phone number on it and he had called me and left a
23 message with his number. We played phone tag for a couple
24 of days; finally got in touch with him by phone and he was
25 willing to come talk to us, however at the time, he was

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 doing some work for a friend and he had checked with his
2 friend to make sure it was okay, but he said that we could
3 come out there and talk with him at that location. So he
4 invited us out there.

5 Q Okay. And that location was at the [REDACTED]
6 Road in Gaston address?

7 A Yes.

8 Q Okay. When you approached the defendant at that
9 point, how were you dressed?

10 A I was dressed similar to the way I am now with a
11 shirt and tie without a coat on, but I have my identifier,
12 my badge, and my belt and gun and such.

13 Q Did you put -- was the defendant under arrest at
14 that point?

15 A He was not.

16 Q Was the defendant in custody?

17 A He was not.

18 Q Was he free to leave that conversation?

19 A Yes.

20 Q Okay. Did you advise him of his rights?

21 A No.

22 Q Did you hear Detective Novak do so?

23 A He did not.

24 A Okay. Have you ever dealt with people that are
25 under the influence of drugs or alcohol.

James Kemfort - Direct Examination In-Camera by Mr. Caskey

- 1 A Yes.
- 2 Q Did the defendant appear to be under the influence
3 of drugs or alcohol?
- 4 A No.
- 5 Q At any time did he ask for an attorney to be
6 present?
- 7 A No.
- 8 Q Did he invoke his right to remain silent?
- 9 A No.
- 10 Q Did he agree to speak with you?
- 11 A Yes.
- 12 Q Did he answer questions for you?
- 13 A He did.
- 14 Q Did you make any promises in exchange for that
15 conversation?
- 16 A No.
- 17 Q Did you make any threats?
- 18 A No.
- 19 Q Did you coerce him?
- 20 A No.
- 21 Q Tell the Court a little bit about what he told you
22 then, that afternoon.
- 23 A We spoke to him briefly. He was telling us -- told
24 myself and Detective Novak that he had met Dave on that
25 day. He didn't know the exact date, but he had met Dave

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 that day at Jackie Boyer's house which was on Lawrence
2 Drive and that they had -- he had agreed to do some work on
3 David Diblasi's motorcycle and even on his truck as well,
4 but primarily the motorcycle. They spoke, then went to
5 meet a woman to get some money on Thor Road and David --
6 they followed David to the Knight's Inn where he met up
7 with somebody else there; went back to David's house,
8 loaded the motorcycle onto his truck; went to the address
9 on Lee Gunter Road.

10 Barnes left -- the other person they were with --
11 Mr. Richard Barnes left and went to -- home and David
12 and -- Diblasi and Worth Cook went to Worth's residence on
13 Lee Gunter Road where he says he did work on the motorcycle
14 and the truck and that David had loaded the motorcycle in
15 the truck and left to go visit a woman in Orangeburg.

16 Q Okay. At the conclusion of your conversation, did
17 the defendant write -- give you a written statement?

18 A He did.

19 Q I'm handing you what's marked as -- for purposes of
20 identification as State's Exhibit Number 1. Do you
21 recognize that document?

22 A I do.

23 Q What does that appear to be?

24 A It's a written statement.

25 Q Okay. How do you recognize that?

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 A It's on our Lexington County Sheriff's Department
2 Voluntary Statement form and it's the statement that Worth
3 Cook gave to us at [REDACTED].

4 Q On what day?

5 A It was April 3rd, 2013.

6 Q Do you recognize your handwriting anywhere on this
7 document?

8 A Yes, I do.

9 Q Where at?

10 A At the very top where I wrote my name where it says
11 I am about to make known to, I wrote my name in there and
12 at the very bottom where it was dated at, the location and
13 date.

14 Q The rest of the handwriting that appears on the
15 document, who wrote that, if you observed it?

16 A I did observe it. Worth Cook wrote, I believe, the
17 remaining -- the remainder of all the -- he wrote
18 everything else on there.

19 Q Okay. After the statement was completed, what
20 happened?

21 A He wrote the statement and at that time Detective
22 Novak got his ID and ran it for information and at that
23 point we realized he had an outstanding warrant on
24 unrelated charges.

25 Q And what did you do with the results of that?

James Kemfort - Cross-Examination In-Camera by Ms. Fullwood

1 A Due to that outstanding warrant, we placed him
2 under arrest and transported him back to the sheriff's
3 department.

4 Q Thank you, no further questions.

5 THE COURT: Ms. Fullwood?

6 MS. FULLWOOD: Beg the Court's indulgence for just
7 one minute.

8 THE COURT: Yes, ma'am.

9 **CROSS-EXAMINATION - IN-CAMERA**

10 BY MS. FULLWOOD:

11 Q Good afternoon, Detective.

12 A Good afternoon.

13 Q At some point you and Detective Novak were out at
14 Doe Trail Court, didn't one of you show Mr. Cook pictures
15 of himself and Richard Barnes in a Wal-Mart?

16 A I -- I believe we did.

17 Q Do you remember at what point you did so?

18 A Not exactly.

19 Q Would it have been before or after you took him
20 into custody for --

21 A I don't recall exactly what time.

22 Q Do you remember if it was before or after he wrote
23 out the statement?

24 A Again, I don't remember at what point we showed him
25 those pictures.

James Kemfort - Cross-Examination In-Camera by Ms. Fullwood

1 Q Well, how long do you think you and Detective Novak
2 were at Doe Trail Court or Drive talking to Mr. Cook?

3 A Ma'am, it would be an estimate.

4 Q Right. I understand.

5 A About -- maybe 45 minutes.

6 Q Okay.

7 A I mean, give or take. I can't recall exactly how
8 long we were there.

9 Q Okay. And did you have to call a county patrol car
10 to take him in or were you two equipped with --

11 A No, ma'am, we --

12 Q -- with handcuffs and everything to --

13 A -- we actually placed him in a, what's called a
14 belly restraint. It's a belt that goes around the front so
15 he can be handcuffed in the front and we transported him
16 ourselves.

17 Q Okay. And you two drove together?

18 A Yes, ma'am.

19 Q Okay. Did you have any conversation with Mr. Cook
20 about either Mr. Diblasi's whereabouts or about him and
21 Rick Barnes in the Wal-Mart while you were driving from Doe
22 Trail Drive to the sheriff's department?

23 A No, ma'am, I know he asked us what -- he would try
24 to ask questions. We always emphasized, we'll talk about
25 it when we get there. We'll sit down and talk when we get

James Kemfort - Redirect Examination In-Camera by Ms. Caskey

1 there. So, no, ma'am, we did not have any conversations
2 with him.

3 Q Okay.

4 MS. FULLWOOD: No further questions.

5 THE COURT: Redirect, Solicitor?

6 MR. CASKEY: One very briefly, Your Honor.

7 **REDIRECT EXAMINATION - IN-CAMERA**

8 BY MR. CASKEY:

9 Q Detective Kemfort, when you went to Doe Trail that
10 afternoon, did you have any warrants with you at that time?

11 A We did not.

12 Q Okay. Thank you.

13 MR. CASKEY: No further questions, Your Honor.

14 THE COURT: Any recross, Ms. Fullwood?

15 MS. FULLWOOD: No, Your Honor.

16 THE COURT: All right. Thank you, Detective. You
17 may step down.

18 MR. GRAHAM: Your Honor, that's all the State has
19 on the April 3rd, 2013, statement at Doe Trail and the
20 written statement that was taken at Doe Trail.

21 THE COURT: All right. I'll be glad to hear from
22 you, Solicitor.

23 MR. GRAHAM: I don't know whether --

24 MS. FULLWOOD: Your Honor, I would like to call
25 Mr. Cook to testify at this time.

Worth Edward Cook - Direct Examination In-Camera by Ms. Fullwood

1 THE COURT: Sure. Yes, ma'am, of course.

2 MS. FULLWOOD: Defense calls Worth Cook.

3 WORTH EDWARD COOK,

4 having been duly sworn, testified as follows:

5 THE CLERK: Be seated. State your full name; spell
6 your last name for the record.

7 THE WITNESS: Worth Edward Cook, III, C-0-0-K.

8 **DIRECT EXAMINATION - IN-CAMERA**

9 BY MS. FULLWOOD:

10 Q Okay. Mr. Cook, do you remember talking to
11 Detective's Novak and Kemfort that day on Doe Trail Drive?

12 A Yes, ma'am.

13 Q Can you tell the Court what your state of sobriety
14 was?

15 A I was high.

16 Q And what do you mean by that?

17 A I'd been doing meth that morning and I was high.

18 Q Okay. How much meth had you been using?

19 A Probably quarter gram at least within an hour of
20 the incident.

21 Q Okay. And what -- in layman's terms, somebody that
22 doesn't know anything about meth, what does that mean? A
23 quarter gram? Is that like drinking a beer or is that like
24 drinking a fifth or what?

25 A At that point for me it probably would have been --

Worth Edward Cook - Direct Examination In-Camera by Ms. Fullwood

1 in other words everybody varies, you know, it would have
2 been maybe like a six pack case of beer.

3 Q Okay. What do you mean by at that point it would
4 have been?

5 A Well, I mean -- you know, I had not been asleep the
6 night before --

7 Q Why not?

8 A -- and part of the day before because I had been
9 high prior to that, you know, and so I had been -- I might
10 have been -- it might have been a little worse than that,
11 Your Honor. I wouldn't even -- I don't -- excuse me, but I
12 don't really know how to measure it compared to alcohol.

13 Q But you said that you had not slept the night
14 before?

15 A No, no, ma'am.

16 Q And that was because why?

17 A Because I was high.

18 Q On what?

19 A Meth.

20 Q Okay. Do you remember how much meth you'd done the
21 day before?

22 A Probably half a gram.

23 Q Okay. And so when was the last time you had slept?

24 A It would have been probably at least 36 hours prior
25 to that.

Worth Edward Cook - Direct Examination In-Camera by Ms. Fullwood

1 Q Okay. Is it fair to say you had been on a meth
2 binge?

3 A Yeah.

4 Q Okay. And how does that affect a person? How
5 does -- what's a person like when they have used that much
6 of that substance?

7 A You don't really think clearly. Tend to be
8 sometimes paranoid, you know. Things just don't really
9 come out, you know, in your mind, you know, keeping track
10 of things don't work out that well sometimes.

11 Q Okay. Do you remember seeing photographs from
12 Wal-Mart out there on Doe Trail?

13 A Yes, ma'am.

14 Q Do you remember who showed them to you and when?

15 A I believe it was -- best I remember it was Novak.
16 Detective Novak, he'd brought out the photographs.

17 Q Okay. And what, if anything, did he say about
18 them?

19 A He asked me if these -- if it was me, you know, and
20 he had a picture of me as me and Rick -- a couple of
21 different points at Wal-Mart. And he asked what we was
22 arguing about and he showed me at the cash register with,
23 you know, my wallet with the chain, you know, using the
24 card and putting the card back in my wallet.

25 Q How much discussion did you folks have about those

Worth Edward Cook - Cross-Examination In-Camera by Mr. Graham

1 pictures while you were out at Doe Trail?

2 A You know, they -- they talked about -- they talked
3 to me about it -- talked to me about this for about 15 or
4 20 minutes and then right around that time was when I was
5 arrested.

6 Q Okay. So was it after you'd given the written
7 statement?

8 A Yes, ma'am.

9 Q Okay. And what's your memory of how you got from
10 Doe Trail to the sheriff's department?

11 A The two detectives were in separate vehicles.

12 Q Uh-huh.

13 A They handcuffed me with a strap around my waist
14 like the detective stated and I road in the front seat with
15 Novak.

16 Q Okay.

17 MS. FULLWOOD: Beg the Court's indulgence.

18 (There was a pause in the proceedings.)

19 MS. FULLWOOD: No further questions.

20 Answer any questions that one of the solicitor's
21 has.

22 THE COURT: All right. Solicitor.

23 MR. GRAHAM: Thank you, Your Honor.

24 CROSS-EXAMINATION - IN-CAMERA

25 BY MR. GRAHAM:

Worth Edward Cook - Cross-Examination In-Camera by Mr. Graham

1 Q Mr. Cook, you were on probation at the time; is
2 that correct?

3 A Yes, sir.

4 Q And it's your testimony right now that you were
5 high on April 3rd, 2013?

6 A Yes, sir.

7 Q And that you'd been on a meth binge for how long?

8 A At least 36 hours.

9 Q And how long had it been since the detectives had
10 left the card in your door looking for you?

11 A I'm not sure.

12 Q Had it been longer than 36 hours?

13 A I'm pretty sure.

14 Q So you picked a time to -- you talked with the
15 detectives voluntarily, right? You called them?

16 A No, the detectives called me first that day and I
17 returned their call and when I talked with them -- at first
18 I talked to them and told them, you know, that I would meet
19 them at my home later that evening. But then I decided the
20 call them back and have them come meet me there.

21 Q So they called you and you decided to call them
22 back, correct?

23 A (Witness nodded head.)

24 Q And when you spoke with them, you decided, of your
25 choice, that they would come meet you and speak with you at

Worth Edward Cook - Cross-Examination In-Camera by Mr. Graham

1 Doe Trail, correct?

2 A (Witness nodded head.)

3 Q And that's while you're on probation?

4 A Yes, sir.

5 Q And it's your testimony today that you chose a time
6 of your own choice while you're on probation to speak to
7 them while you're high; is that correct?

8 A Yes. I was afraid if I didn't speak to them that I
9 would be in a probation violation for not cooperating with
10 the officers.

11 Q But you chose to talk to them while you were high?

12 A Due to the fear of probation violation for not
13 cooperating with the officers.

14 Q Did you tell the officers that you were high?

15 A I do not recall.

16 Q You do not recall.

17 A I do not recall if I mentioned that or not.

18 Q Because you said that when you're on a meth binge,
19 it makes you not think very clearly?

20 A Uh-huh.

21 Q So you don't -- do you or don't you have a
22 recollection of what happened during that conversation at
23 Doe Trail?

24 A I do have a recollection of having it. I do not
25 recall if I mentioned I was high. I probably did not.

Worth Edward Cook - Cross-Examination In-Camera by Mr. Graham

1 Q Well --

2 A You know, it's just not something you tell
3 officers.

4 Q Right. Because if you had told them you were high,
5 you were worried about a probation violation so they would
6 have arrested you, right? Is that what you thought?

7 A Uh-huh.

8 Q So your memory is you're not sure if you told them
9 high -- whether you were high. You think that Detective
10 Novak showed you photographs?

11 A I know that Detective Novak did --

12 Q You know he showed you.

13 A -- show me the photographs.

14 Q All right. But you did testify that you were on a
15 meth binge and that makes you not think very clearly?

16 A I did say that.

17 Q And you have prior convictions within the last 10
18 years, I believe, two of them for burglary; is that right?

19 A Yes. That would have been -- I was arrested when I
20 was 16.

21 Q Was it also manufacturing of meth as well?

22 A That was a separate occasion, years later.

23 Q Okay. And did you ever file a complaint against
24 any of these officers for taking -- for interviewing you
25 while you were high?

1 A No, sir.

2 Q Thank you, Mr. Cook.

3 THE COURT: Redirect, Ms. Fullwood?

4 MS. FULLWOOD: None, Your Honor.

5 THE COURT: Thank you. Thank you, Mr. Cook, you
6 may step down.

7 All right. You may call your next witness, Ms.
8 Fullwood.

9 MS. FULLWOOD: No further witnesses, Your Honor.

10 THE COURT: Thank you.

11 Anything in reply, Solicitor?

12 MR. GRAHAM: No, Your Honor.

13 THE COURT: All right. I'll be glad to hear from
14 you, Solicitor.

15 MR. GRAHAM: Your Honor, I think that the testimony
16 is that he was not in custody. He did get arrested
17 afterward, but they did not have warrants when they were
18 out there. He never testified that he thought he was in
19 custody, Your Honor. And he was not -- the officers
20 testified that they did not believe that he was under the
21 influence of drugs or alcohol when they spoke to him. They
22 didn't threaten him or coerce him or make any promises to
23 him. He spoke to them freely of his own free will.

24 He didn't inform them that he was high, according
25 to his testimony today. And, Your Honor, the State would

1 say that these statements were free and voluntary and they
2 would be admissible, both the oral statements made to
3 Detective Kemfort and Detective Novak, as well as the
4 written statement that was taken on April 3rd, 2013 out at
5 Doe Trail.

6 THE COURT: All right. Thank you. May I see
7 State's one for identification, please.

8 (The statement was given to the Court.)

9 THE COURT: All right. Ms. Fullwood?

10 MS. FULLWOOD: Your Honor, admittedly this is not a
11 situation of custodial interrogation and he wasn't under
12 arrest. I really don't have any 5th or 14th Amendment
13 arguments for this statement because of those two
14 circumstances. I think some of his testimony at this point
15 and perhaps later sets the stage -- or might set the stage
16 for suppression of some subsequent statements. That's all
17 I have to say at this point.

18 THE COURT: All right. Thank you, Ms. Fullwood.

19 (The Court is reading the statement.)

20 THE COURT: All right. As to the statement on
21 4/3/13, taken at [REDACTED], Gaston, I will find that
22 Mr. Cook was not in custody and that the officers have
23 testified that he was not under the influence of alcohol or
24 drugs. Not being in custody, there's no requirement for
25 Miranda.

1 Further, he called the officers that day and they
2 called back. He set up the time, the location to meet with
3 and talk with the officers. Further, they have stated that
4 there's no threats, coercion, promises, hope of reward, or
5 the like.

6 I further -- if he was high on meth, the written
7 statement in his handwriting is coherent. It tracks the
8 English language correctly. There's a noun, there's verbs.
9 It tracks -- it's chronologically, I should say.

10 Further, he claims to have repaired a motorcycle
11 and a truck that day, although being high on meth. And
12 further, his memory seems somewhat selective because he can
13 remember details of photographs shown to him with him and
14 Ricky from the Wal-Mart at the cash register and the wallet
15 with the chain on it; and yet he says meth affects his
16 mental ability. That's my words, not his.

17 So it's freely, voluntarily, knowingly and
18 intelligently given. That's the statement 4/3/13 at [REDACTED]
19 [REDACTED] given to Sargent Novak and Detective Kemfort. I
20 find that by a preponderance of the evidence.

21 All right. Solicitor.

22 MR. GRAHAM: The State would recall Sargent Novak,
23 Your Honor.

24 THE COURT: All right. If you would come around
25 please, sargent. You're still under oath.

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 THE WITNESS: Yes, sir.

2 DIRECT EXAMINATION - IN-CAMERA

3 BY MR. GRAHAM:

4 Q Sargent Novak, you're still under oath.

5 A Yes, sir.

6 Q After Mr. Cook was placed under arrest and
7 transported to the sheriff's department on unrelated
8 charges, did you have an opportunity to interview him
9 again?

10 A Yes, sir.

11 Q And where did that take place?

12 A In our interview room at headquarters.

13 Q And who was present during that interview?

14 A Myself and Detective Kemfort.

15 Q And again, did he appear to be under the influence
16 of alcohol or drugs at the time that you interviewed him at
17 the sheriff's department on the after-- or I'm sorry, at
18 the sheriff's department on April 3rd, 2013?

19 A No, sir.

20 Q Did you advise him -- he was in custody at that
21 time though, correct?

22 A Yes, sir.

23 Q And did you advise him of his rights?

24 A Yes, I did.

25 Q And what, if anything did you use to advise him of

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 his rights?

2 A We have a Lexington County Sheriff's Department
3 Statement form which has all of the above where he can
4 write his name, address, date of birth; and it also has
5 down here your rights. And I read each one of them one by
6 one.

7 Number one just says, I have the right to remain
8 silent and next to that is a placer where he the
9 initialed -- he initialled it with a W.C.

10 Number two is: Anything you say can and will be
11 used against you in a court of law. He initialled next to
12 that, W.C.

13 You have a right to talk to a lawyer for advice
14 before asked any questions or have him or her present with
15 you during questioning. He again initialled W.C.

16 Number four: If I have no money for a lawyer's
17 fee, the Court will appoint one to represent you without
18 cost if you wish. He initialled W.C. next to that.

19 And number five: If you decide to answer questions
20 now without a lawyer present, you still have the right to
21 stop answering questions at any time. You also have the
22 right to stop answering questions at any time until you
23 talk to a lawyer. And he initialled W.C. next to that.

24 And then the last one -- well, we haven't gotten to
25 that part yet. But I also ask him after I read each one of

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 them that if he had any question of any of his rights at
2 that point in time he needed to ask me any questions.

3 Q The fifth right on that form, what does that one
4 say?

5 A The fifth one?

6 Q Yes, sir.

7 A If you decide to answer questions now without a
8 lawyer present, I still have the right to stop answering
9 questions at any time. I also have the right to stop
10 answering questions at any time until you talk to a lawyer.

11 Q So the five rights on the statement form, you went
12 through each right individually with him?

13 A Yes.

14 Q Did he appear to understand them?

15 A Yes.

16 Q And how did he indicate that he understood them?

17 A He placed his initials next to them.

18 Q So there are initials at each of those five rights
19 that you just read?

20 A Yes, sir.

21 Q And whose initials are those?

22 A Mr. Cook's.

23 Q The top part of the statement, who filled the
24 statement out?

25 A Mr. Cook did.

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 Q Did he indicate what his education was?

2 A I'm sorry?

3 Q Did he indicate what his education level was?

4 A Tenth grade and he initialled next to that.

5 Q At any time -- did he waive those rights and agree
6 to speak with you?

7 A Yes, he did.

8 Q At any time did he invoke his right to remain
9 silent?

10 A No, sir.

11 Q Did he invoke his right to an attorney?

12 A No, sir.

13 Q Did he agree to answer your questions?

14 A Yes, sir.

15 Q Did you or any other detective with you make any
16 promises or threats to get him to make or write his
17 statement?

18 A No, sir.

19 Q Did you or any other detective threaten him or
20 coerce him to make a statement at headquarters on April
21 3rd, 2013?

22 A No, sir.

23 Q Was the oral statement and the written statement
24 that he gave freely and voluntarily made of his own free
25 will?

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 A Yes, sir.

2 MR. GRAHAM: Your Honor, for purposes of this
3 hearing, I'm going to mark this document as State's Number
4 2 for identification.

5 THE COURT: All right. Ms. Fullwood?

6 MS. FULLWOOD: No objection.

7 THE COURT: All right. Thank you.

8 (State's Exhibit Number 2 was marked for
9 identification.)

10 BY MR. GRAHAM:

11 Q So you and -- who read the rights to him? You or
12 Detective Kemfort?

13 A I did.

14 Q You did. And after he waived his rights and spoke
15 with you, did he immediately start writing the statement or
16 did he talk to you?

17 A He talked with us.

18 Q Tell us about that conversation.

19 A It started off, he stated that he had done work on
20 David's bike and truck and David had given him that 80
21 bucks and a few bags of heroin; and David didn't have all
22 to money for the labor; and David wanted to go so he could
23 make a sale to a woman that would allow him to double up
24 when he went back up North.

25 David left him two kinds of prepaid type of bank

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 cards to hold until he came back to pay him the rest of the
2 money. When David did not come back, a few days, maybe a
3 week, he decided to use them to try to make a buck.

4 He was with Rick one night. Rick picked him up and
5 he told Rick he could put gas in his van, he being
6 Mr. Cook.

7 Since Dave did not come back and pick up the cards,
8 he used the cards to put gas into Rick's van. Later that
9 night, Rick gave him a ride to Wal-Mart. Cook used the
10 cards to pay some -- for some diapers and wipes to see if
11 the card still worked. He got diapers because if Wal-Mart
12 would not let him return them for money, he would be able
13 to use them.

14 Rick knew he had the cards and they argued about
15 the usage of the cards. He said that Dave owed him money
16 and it was not his fault that he did not come back and pay
17 him, so he used the cards. He then signed a fake name to
18 the receipt. He did not initially tell us about using the
19 cards while at the Doe Trail address because David had left
20 the cards with him to hold for money that he owed. After
21 he did not come back for several days, maybe a week, he
22 used them to purchase \$100 worth of stuff. He did not want
23 to get in trouble for using the cards without direct
24 permission from David.

25 Q Let me interrupt you there for just a second. Did

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 you all -- did you or Detective Kemfort show him any
2 photographs during the interview at the sheriff's
3 department on 4/3 related to the card use at Wal-Mart?

4 A At the sheriff's department? I don't recall when,
5 but we showed them to him -- I believe they were shown to
6 him at the -- when we were doing this interview.

7 Q Okay. Did -- at any time during this interview or
8 previous interview did he tell you that he was high on
9 meth?

10 A No, he didn't.

11 Q Did at any time he tell you he hadn't slept in 36
12 hours?

13 A No.

14 Q After talking about the credit card, what else did
15 he go on to tell you about Rick Barnes?

16 A He said that Rick drives a white Chrysler van.
17 Rick lives in the South Congaree in a trailer behind a
18 white house on a road near Rocks Camaro and Tire. David
19 was driving his truck with the bike in the back of it when
20 he left the house.

21 Q When he left whose house?

22 A When he left Mr. Cook's house.

23 He did not know where the truck or the bike is
24 located at this time. David said he was going to
25 Orangeburg to make some monies from a chick and then he was

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 going up North. Mr. Cook said he works for himself doing
2 odd jobs and bike and car repair. He averages about \$500 a
3 week. His girlfriend's name the Shannon Tart. Shannon
4 lives between Jackie's and his house. She lives mostly at
5 his house since the baby was born and the last few months
6 of pregnancy.

7 Jackie is Jackie Boyer who is Shannon's aunt who
8 lives across the street -- across from the Village Store on
9 Platt Springs Road. He used David's card at Hillview Gas
10 Station at Exit 39 and I-20. This is the same day that he
11 used David's cards at the Wal-Mart. They believed he threw
12 the cards out, but he's not sure. He did not know where
13 David was now.

14 He had met David at Jackie's house the day he
15 worked on his truck. After meeting David at Jackie's
16 house, David road his bike to his house. His mother and
17 brother lived there. Once there, David got into his truck
18 and wanted Rick and him to follow him. Rick and he were in
19 Rick's white van and David was driving his white truck.
20 David went to a hotel on Bush River Road near
21 Heartbreakers. David had a bunch of drugs on him and met
22 with a female at the hotel. After he was in the room for
23 about 10 minutes, he and Rick went inside the room. The
24 girl was a prostitute.

25 From the hotel, they went back to David's house and

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 loaded David's bike on the back of the truck. Rick then
2 left in his van. He got into David's truck and drove to
3 his house, as in Mr. Cook's house, to work on the bike and
4 truck.

5 This was before his girlfriend had been arrested.
6 Shannon was arrested on March 1st 2013. Cook provided a
7 written statement saying the same.

8 Q So orally, that's what he told you?

9 A Yes, sir.

10 Q And in addition he provided a written statement?

11 A Yes, sir.

12 Q State's Number 2 at the top part for ID, we were
13 talking about the rights. Does State's Number 2 ID also
14 include the written statement?

15 A Yes.

16 Q And who wrote that statement?

17 A Mr. Cook.

18 Q And did you or Detective Kemfort tell him what to
19 say?

20 A No, sir.

21 Q And did he write the contents of that of his free
22 will?

23 A Yes.

24 Q And at any time during the oral interview or the
25 part that he was writing that, did he say that he didn't

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 want to talk to you anymore?

2 A No.

3 Q Or did he say this he wanted an attorney?

4 A No.

5 Q On page -- starting on page 2, I believe of State's
6 ID Number 2, it goes into a question and answer; is that
7 correct?

8 A Yes, sir.

9 Q Whose handwriting do we see there?

10 A Mine are the questions with a Q next to them; and A
11 is Mr. Cook's handwriting.

12 Q So the sentencing with the Q followed by a
13 question, that's your handwriting?

14 A Yes.

15 Q And then there's an A followed by handwriting;
16 that's Mr. Cook's handwriting?

17 A Yes.

18 Q Are there are signatures on the statement itself?

19 A Yes, sir.

20 Q Whose signatures do we see?

21 A Mr. Cook's.

22 Q What pages are Mr. Cook's signatures on?

23 A Page number 1, page number 2, number 3, and number
24 4.

25 Q Are there initials -- are Mr. Cook's initials on

Douglas Novak - Direct Examination In-Camera by Mr. Graham

1 there beside the advisement of rights?

2 A Yes, I have them initial at the end of each page,
3 at the end of the questions and answers session on page 4.
4 On page 3, he initialled at the end of it. That's to make
5 sure when I do that is that he has read it and he
6 understands what he just wrote. And --

7 Q Actually going back to 3, is that for the page or
8 is that for a cross -- a typo? I mean where he crossed
9 something else out?

10 A Any time somebody crosses something out, they
11 initial above it.

12 Q Okay. So there's a final -- on page 4, there's a
13 final initial that Mr. Cook did?

14 A Yes, sir.

15 Q Okay. How about at the beginning on page 1?

16 A At page 1, no.

17 Q Okay. How about was it witnessed by anybody?

18 A By Kemfort.

19 Q And that's contained on page 1 as well?

20 A Yes.

21 Q All the oral statement that he gave to you at
22 headquarters on April 3rd and the written statement, did he
23 give you those statements voluntarily and freely?

24 A Yes, sir.

25 Q After the advisement of rights?

Douglas Novak - Cross-Examination In-Camera by Ms. Fullwood

1 A Yes, sir.

2 Q Which he understood?

3 A Yes, sir.

4 Q Thank you, Detective.

5 THE COURT: All right. Ms. Fullwood?

6 MS. FULLWOOD: Thank you, Your Honor.

7 **CROSS-EXAMINATION - IN-CAMERA**

8 BY MS. FULLWOOD:

9 Q Detective Novak, you and Detective Kemfort in the
10 interview room -- both of you the entire time?

11 A Yes.

12 Q Okay. And really by the time you decided you
13 wanted to talk to Mr. Cook, just informally, started
14 leaving your cards and all, you folks thought that he knew
15 something about the disappearance of David Diblasi?

16 A Yes.

17 Q Okay. Because witnesses had told you that he was
18 one of the last people they saw him with; is that right?

19 A Yes, ma'am.

20 Q All right. And so he was a suspect in Diblasi's
21 disappearance, correct?

22 A He was a person of interest. He was the last
23 person who seen him, so we were trying to figure out if he
24 knew where he was.

25 Q Okay. And in this interview you had with him or

Douglas Novak - Cross-Examination In-Camera by Ms. Fullwood

1 interrogation on the 3rd at the sheriff's department, you
2 confronted him with the fact that he had been the last
3 person to see Diblasi, correct?

4 A I think he was the one that brought up that he
5 was -- the last time he was seen was at his house.

6 Q Okay.

7 A And he was -- when he left his house, there was no
8 one else there, which puts him the last person that seen
9 him.

10 Q And you pointed out to him that after Mr. Diblasi
11 had disappeared, he was videotaped at Wal-Mart using his
12 credit card, correct?

13 A Yes.

14 Q All right. And you told him that if you found out
15 that he knew something as to Mr. Diblasi's disappearance or
16 his whereabouts and he lied to you about it, you were going
17 to make sure he got prosecuted to the fullest extent of the
18 law, correct?

19 A No.

20 Q You didn't say that?

21 A No.

22 Q Did you videotape this interview?

23 A No, ma'am.

24 Q Did you audiotape it?

25 A No, ma'am.

Douglas Novak - Redirect Examination In-Camera by Mr. Graham

1 Q Do you have State's Exhibit 2 up there?

2 A Yes, ma'am.

3 Q Okay. One thing that's not filled out on this form
4 is the start time. Can you explain to us why you didn't
5 note that?

6 A Clerical error. It was after we got him from the
7 Doe Trail back to the office to the headquarters.

8 Q To -- okay.

9 A Just a clerical error.

10 Q Do you mean you just forgot to do it?

11 A Yes, ma'am.

12 Q Okay. Do you know what time it was?

13 A If I looked up the CAD reports, I could get a good
14 point of time.

15 Q A guesstimate?

16 A I wouldn't call it a guesstimate, it would have
17 been the time we arrived at the headquarters.

18 Q All right. But you wouldn't -- if you talked to
19 him first, you wouldn't necessarily accurately remember
20 what time he started writing that statement, would you?

21 A No.

22 Q Okay.

23 MS. FULLWOOD: Nothing further.

24 THE COURT: Redirect, solicitor?

25 **REDIRECT EXAMINATION - IN-CAMERA**

Douglas Novak - Redirect Examination In-Camera by Mr. Graham

1 BY MR. GRAHAM:

2 Q Detective Novak, do you have any idea of how long a
3 time that you or Detective Kemfort would have spent with
4 Mr. Cook in the interview room on April 3rd, 2013?

5 A For the questions and answers, for the two pages or
6 four pages that were written, I'd say no more than two
7 hours at the top.

8 Q Thank you.

9 THE COURT: Recross examination Ms. --

10 MS. FULLWOOD: Briefly, Your Honor.

11 **RECROSS EXAMINATION - IN-CAMERA**

12 BY MS. FULLWOOD:

13 Q But that entire two hours wasn't him writing that
14 statement, was it?

15 A No, we would be talking.

16 Q All right. And before he started writing the three
17 of you talked, correct?

18 A All three of us were in the room, yes, ma'am.

19 Q Well, there was some discussion about what he was
20 going to say before he wrote the statement, right?

21 A We would give advisement of his rights and ask him
22 what he was going to say. That's his verbal part and then
23 he writes down what he said.

24 Q Right. So first you get the verbal part and then
25 you have him to commence to writing, correct?

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 A Yes, ma'am.

2 Q All right.

3 MS. FULLWOOD: Nothing further.

4 THE COURT: Thank you, Sargent. You may step down.

5 May I see State's 2?

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you.

8 You have a third witness? Or do you have another
9 witness?

10 MR. CASKEY: Yes, Your Honor. The State would
11 call James Kemfort.

12 DIRECT EXAMINATION - IN-CAMERA

13 BY MR. CASKEY:

14 Q Detective Kemfort, you understand you're still
15 under oath?

16 A I do.

17 Q Detective Kemfort, after the defendant was
18 transported to the Lexington County Detention Center on
19 April 3rd, 2013, did you have further interaction with him?

20 A We did.

21 Q Where was that?

22 A In the interview room down at Lexington County
23 Sheriff's Department headquarters.

24 Q Who was present?

25 A Myself and Detective Novak, with Worth Cook.

James Kemfort - Direct Examination In-Camera by Mr. Caskey

- 1 Q And at this point, was the defendant under arrest?
- 2 A Yes, he was.
- 3 Q Was he in custody?
- 4 A Yes, he was.
- 5 Q Was he free to leave?
- 6 A No.
- 7 Q Was he advised of his rights?
- 8 A He was.
- 9 Q When was that advisement given?
- 10 A When we arrived in the interview room, we sat down.
- 11 He was advised of his rights at that time.
- 12 Q What if anything did you use to advise him of his
- 13 rights?
- 14 A We used our Lexington County Sheriff's Department
- 15 Statement form. Our general statement form has an
- 16 advisement of rights on it on the front.
- 17 Q All right. So I'm handing you what's been marked
- 18 for purposes of identification as State's Number 2. Do you
- 19 recognize that document?
- 20 A I do.
- 21 Q What is that?
- 22 A This is our statement form that we use.
- 23 Q What is at the top portion here? Describe the top
- 24 portion of this document.
- 25 A The top portion is biographical information: Name,

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 address, date of birth, that kind of thing, of the person
2 giving the statement. And immediately below that is the
3 advisement of rights.

4 Q Okay. Who filled out that section?

5 A Worth Cook did.

6 Q Did you watch him write that?

7 A I did.

8 Q The rights there, do you recognize those?

9 A I do.

10 Q Were those rights covered with the defendant?

11 A Yes.

12 Q During the interview?

13 A Yes.

14 Q Okay. Did the defendant indicate that he
15 understood those rights?

16 A He did.

17 Q How did he acknowledge that he understood those
18 rights?

19 A The rights were read one at a time and he
20 acknowledged and initialled next to each one. He was
21 asked, Do you understand; and he said yes; and he
22 initialled each one.

23 Q At any point did he ask for an attorney?

24 A No.

25 Q Did he invoke his right to remain silent?

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 A He did not.

2 Q Earlier you had testified that you had dealt with
3 people that are under the influence of drugs or alcohol and
4 my understanding was that you have in the past; is that
5 correct?

6 A Yes.

7 Q And my understanding from your testimony earlier
8 was that you did not see or you did not identify the
9 defendant as being under the influence of drugs or alcohol;
10 is that correct?

11 A That is correct.

12 Q Okay. Did the defendant tell you he was high on
13 methamphetamine that day?

14 A He did not.

15 Q Did the defendant agree to speak with you after he
16 was advised of his rights?

17 A He did.

18 Q Did he answer questions for you?

19 A Yes.

20 Q Did you make any promises or did you hear any
21 promises made to him in exchange for that conversation?

22 A Never.

23 Q Was he threatened in any way?

24 A No.

25 Q Coerced in any way?

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 A No.

2 Q Told that if he cooperated or failed to
3 cooperate -- cooperated or failed to cooperate that there
4 would be a consequence of any kind?

5 A No.

6 Q Was the defendant giving you this statement freely
7 and voluntarily?

8 A Yes, he was.

9 Q And again who else was present when that statement
10 was made?

11 A Detective Novak was with us.

12 Q All right. Looking again at what's been marked for
13 ID State's Number 2; do you recall who wrote these letters
14 W.C. next to all these rights?

15 A Worth Cook.

16 Q Okay. And the text of -- or the body of the
17 statement, who wrote that portion?

18 A Worth Cook.

19 Q Did -- is there any other handwriting that appears
20 on that front page?

21 A My handwriting.

22 Q And where does your handwriting appear?

23 A Under the line that says they personally identified
24 him or herself as, I wrote my name, Detective James Kemfort
25 and D. Novak.

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 Q Okay. Anywhere else on the page?

2 A I signed the witness for it at the bottom.

3 Q Okay. Looking at the remaining pages of the
4 document, does any handwriting other than the defendant's
5 appear?

6 A Detective Novak's.

7 Q Where is that?

8 A He asked each of the questions and it appears the
9 biographical information too. I can't tell if that one's
10 his or not.

11 Q Detective Kemfort, prior to the execution of that
12 written statement, prior to the point in which the
13 defendant wrote that statement, had there been any
14 conversation between either yourself or Detective Novak and
15 the defendant, Mr. Cook?

16 A Prior to this written statement?

17 Q Yes, sir. Did you have a conversation before it
18 was written?

19 A Earlier in -- yes, earlier we did.

20 Q Okay. When you got to the interview room, did you
21 have a conversation with the defendant?

22 A No, not that I recall.

23 Q Okay. Do you have your supplemental report with
24 you?

25 A I do.

James Kemfort - Direct Examination In-Camera by Mr. Caskey

1 Q Take a second and review that.

2 A (Reading.)

3 Q Detective Kemfort does that refresh your memory?

4 A Yes, where he talked to us after signing the advise
5 of rights, he talked with us.

6 Q Okay. My understanding is that you not --

7 A I'm sorry, I misunderstand what you were asking. I
8 actually gave the advise of rights. We had an oral
9 statement and then the written statement.

10 Q Okay. I may have asked the question in a
11 cumbersome way. So let me give you an opportunity to
12 clarify.

13 Describe for the Court the sequence of events after
14 Mr. Cook was transported to the Lexington County Detention
15 Center.

16 Q Okay. After we got to the detention center, we
17 went to the interview room one, where he was provided his
18 advise of rights. At that point, we spoke about the
19 incident involving -- excuse me about the credit cards,
20 involving the credit cards and then after we spoke and he
21 gave oral statements, he provided a written statement.

22 Q And that conversation you had was after the
23 defendant had waived the rights that we just talked about
24 just a second ago?

25 A That's correct, yes, sir.

James Kemfort - Cross-Examination In-Camera by Ms. Fullwood

1 Q And then after the oral conversation, the
2 defendant, in his own handwriting completed that statement
3 there that's been identified as State's Number 2 for the
4 purposes of identification?

5 A That's correct.

6 Q Thank you Detective Kemfort. Please answer any
7 questions that Ms. Fullwood may have for you.

8 A Thank you.

9 THE COURT: Thank you, Solicitor.

10 Ms. Fullwood?

11 **CROSS-EXAMINATION - IN-CAMERA**

12 **BY MS. FULLWOOD:**

13 Q Detective Kemfort, were you in the interview room
14 the entire time that Mr. Cook was in there?

15 A The entire time that he was being questioned, yes,
16 ma'am.

17 Q Okay. Well, is there something else that was going
18 on in there that you might not have been in there for?

19 A No, ma'am, I can't say for sure.

20 Q Okay.

21 A I mean, there are times during interviews that we
22 will step out of the interview room.

23 Q All right.

24 A Off to check for a message or something. And that
25 may have happened. I can't tell you for sure. But any

James Kemfort - Cross-Examination In-Camera by Ms. Fullwood

1 time that he was being questioned or interviewed, yes,
2 ma'am, I was in there.

3 Q Okay. And how long did this interrogation -- how
4 long was this conversation -- interrogation?

5 A I did not document exactly how long it was in my
6 notes. I know that it wasn't too terribly long. I don't
7 recall exactly the length of it.

8 Q Okay. Do you remember approximately what time it
9 started?

10 A I know we arrived at the sheriff's department late
11 afternoon --

12 Q Uh-huh.

13 A -- early evening hours and it was -- I want to say
14 it was around supper time that we wanted to get him back to
15 the jail because we wanted to make sure that he had
16 something to eat.

17 Q All right. I mean what's --

18 A That would have been around 7'ish, between 6 and 8
19 is when they feed -- supper time.

20 Q Okay.

21 A So from late afternoon, evening until then.

22 Q Okay. So was he booked in first?

23 A No, ma'am. No, ma'am, we had to get him booked in.

24 Q Okay. So you went to the interrogation room first?

25 A Correct.

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 Q And then you took him to booking?

2 A Correct.

3 Q Okay.

4 MS. FULLWOOD: No further questions.

5 THE COURT: Redirect, Solicitor?

6 MR. CASKEY: No, Your Honor.

7 THE COURT: Thank you. Thank you, Detective. You
8 may step down.

9 All right. Solicitor, you may call your next
10 witness.

11 MR. GRAHAM: There's nothing else from the State on
12 this statement, Your Honor.

13 THE COURT: All right. Ms. Fullwood?

14 MS. FULLWOOD: I have no further questions for this
15 witness.

16 THE COURT: You don't want to call any witnesses?

17 MS. FULLWOOD: Yes, sir, I'd call Worth Cook.

18 THE COURT: All right. Would you come back around,
19 Mr. Cook, you're still under oath.

20 **DIRECT EXAMINATION - IN-CAMERA**

21 BY MS. FULLWOOD:

22 Q Mr. Cook, do you remember talking with Detective's
23 Novak and Kemfort on April 3rd at the sheriff's department?

24 A Yes, ma'am.

25 Q Okay. Was that in an interrogation room?

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 A Yes, ma'am.

2 Q Okay. First of all, were both of them in the room
3 during the entire conversation you had?

4 A No, ma'am.

5 Q Can you -- can you explain that for me?

6 A When I first arrived in the interrogation room,
7 Novak was the only one -- Detective Novak was the only one
8 that stayed in the room.

9 Q Okay.

10 A And we talked first and then Kemfort come later.

11 Q About how long did you talk to Detective Novak?

12 A I would say at least 10 or 15 minutes minimum, at
13 least.

14 Q After that did you talk some more with Novak and
15 Kemfort there?

16 A Yes, ma'am.

17 Q And what was the tone to the conversation?

18 A When -- when I first went in the interrogation
19 room, Detective Novak was really rough with me, you know,
20 talking about, you know, he wanted -- he knew I used the
21 credit cards. He had shown the pictures prior to this, you
22 know, and you know, and he wanted to know where David was,
23 you know, and if I didn't cooperate with him that he would
24 make sure that I was charged; and due to the fact that I
25 was the last one seen him and had used his credit cards,

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 he'd make sure I was convicted.

2 Q Of what?

3 A He didn't specify.

4 Q Okay. And -- what kind of effect did that have on
5 you?

6 A I was -- it scared me, and I was nervous. I didn't
7 want the catch any more charges. I already had one charge
8 and, you know, I didn't want the get stuck in jail.

9 Q And so he told you that if you didn't cooperate --

10 A You know, he was going to make sure that I got
11 charged with some more stuff.

12 Q Okay. At that point did you feel like you --

13 A I was afraid.

14 Q Okay. Afraid of what?

15 A Afraid of getting another charge. Afraid if I
16 didn't cooperate, you know what I'm saying, you know, that
17 I was going the get more charges and be stuck in jail and
18 then I wouldn't be able to -- all my family's finances
19 depended on me and I wouldn't be there to take care of
20 them.

21 Q Okay. Well, what was your state of sobriety during
22 that conversation?

23 A I was high.

24 Q Okay. And how long does it take to get not high if
25 you've used meth like you used it during that period of

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 time?

2 A Sometimes, you know, 24 to 72 hours.

3 Q Okay. Are -- are there any after effects or
4 withdrawal symptoms when you use a lot of methamphetamine?

5 A Yes, ma'am.

6 Q Can you ex -- describe them for us?

7 A When you're coming off of methamphetamine, you're
8 really tired, you know, your brain is really fogged up.
9 You know, you don't think very well, you know, and you're
10 still real paranoid and all. I guess that's the basics.

11 Q Okay. Did you tell the detectives you were high?

12 A I don't -- I don't think so.

13 Q Okay.

14 A I'm pretty sure I didn't.

15 Q Why wouldn't you tell them you were high?

16 A Because I was on probation.

17 Q Okay. Is there anything else about that particular
18 interrogation that you think needs to be explained?

19 A Well, you know, Kemfort was -- when Kemfort was in
20 there, it was just me and him. He was really aggressive,
21 you know. He was really aggressive, you know and I get --
22 I get -- when people get aggressive with me verbally and
23 stuff, I get real scared and shaky, you know. I had a lot
24 of rough experiences in my childhood and I get like that,
25 you know. It really makes me afraid, you know. I just

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 kind of give in to whatever they've got going on, usually.

2 Q So if somebody's just aggressive towards you, you
3 just submit?

4 A Yeah, yes, ma'am.

5 Q Okay. Thank you. No further questions.

6 THE COURT: All right. Solicitor?

7 **CROSS-EXAMINATION IN-CAMERA**

8 BY MR. GRAHAM:

9 Q So was it Detective Kemfort or Detective Novak that
10 you're testifying they threatened you?

11 A Novak.

12 Q All right. So it wasn't a good cop, bad cop
13 situation because Kemfort was aggressive too?

14 A No, Kemfort wasn't in there at the time.

15 Q Oh, I thought later on -- didn't you just testify
16 that Kemfort was aggressive with you?

17 A No, Kemfort wasn't aggressive with me. It was
18 Novak that was aggressive with me. Kemfort would come
19 afterwards.

20 Q Did Kemfort threaten you?

21 A No, sir.

22 Q Just Novak?

23 A Yes, sir.

24 Q And what was his threat?

25 A He told me that if I didn't cooperate, that due to

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 the fact that I was the last person to see Diblasi and
2 had -- they knew I used his credit cards, that he would
3 make sure I was prosecuted and convicted.

4 Q Did you report him to internal affairs?

5 A No, sir.

6 Q Did you -- in that statement, State's ID Number 2,
7 you wrote that, correct?

8 A This statement right here sir? Yes, sir.

9 Q And where it has all the rights, you understood
10 your rights?

11 A Yes, sir, I wrote these after -- they had me sign
12 this in front of both of them after the situation with
13 Mr. Novak.

14 Q Okay. So when they went through the rights, they
15 asked you -- they explained to you that you had the right
16 to remain silent and you understood it. I mean you
17 initialled, correct?

18 A (Witness nodded head.)

19 Q They asked you if anything I can say will be used
20 against me in a court of law. Did you understand that?
21 And you initialled that?

22 A Yes, sir.

23 Q I have the right to talk to a lawyer for advice
24 before asked any questions and have him or her present with
25 me during questioning; did you understand that one?

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 A Uh-huh.

2 Q And you showed that by initialling, right?

3 A Yes, sir.

4 Q If I have no money for a lawyer's fee, the Court
5 will appoint one to represent me without cost to me if I
6 wish. Did you understand that right?

7 A Yes, sir.

8 Q And you initialled that?

9 A Yes.

10 Q If I decide to answer questions without a lawyer
11 present, I will still have a right to stop answering
12 objections (sic) at any time. I also have the right to
13 stop answering questions at any time until I talk with a
14 lawyer; you understood that one?

15 A Yes, I did. And when I initialled every one of
16 those, it was after the thought that I had to cooperate to
17 keep from getting pressed with any additional charges and
18 being prosecuted. The threat I received from Novak.

19 Q Well -- but that's on you. That was your decision
20 to talk, right? You made that decision?

21 A Well, I had -- I give in to the threat.

22 Q Well, did you write that down there about being
23 threatened anywhere?

24 A Well, how would -- that would have been in
25 violation of what he wanted me to do and then I would have

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 had to be in fear of getting charged and convicted.

2 Q So the answer is, no, you did not write down that
3 you were threatened?

4 A No.

5 Q So except for your testimony today, there's nothing
6 to show that you were threatened except for you saying it
7 today; right? There's nothing on this document, correct?

8 A No, sir.

9 Q And you didn't file any complaints against
10 Detective Novak to internal affairs that he did anything
11 wrong, correct?

12 A I never even knew that was something I could do.

13 Q Well, you talked with your attorney about this,
14 didn't you?

15 A Yes.

16 Q Is that a yes or a no?

17 A Yes, sir.

18 Q When did you talk to her about it?

19 A There's been several times that we had discussed it
20 and it come up, you know.

21 MR. GRAHAM: Just one second, Your Honor.

22 THE COURT: Yes, sir.

23 BY MR. GRAHAM:

24 Q Do you remember when you were booked into the
25 sheriff's department on this day?

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 A I remember I was booked in.

2 Q Do you remember if they interviewed you before you
3 were booked in?

4 A I'm fairly sure it was before I was booked in, yes,
5 sir.

6 Q So you spoke with them in an interview room and
7 then after the interview, they took you to booking,
8 correct?

9 A Yes, sir.

10 Q When you go to booking, you go and deal with a
11 booking officer, correct?

12 A (Witness nodded head.)

13 Q I want to show you a document and ask you if you
14 recognize that document.

15 A (Reading the document.) They asked these questions
16 on a computer screen.

17 Q Right. So you --

18 A And you sign on an automated signature pad. I've
19 actually never seen the document.

20 Q Do you remember the process, though?

21 A Yes, sir.

22 Q So the process is they ask you questions, they type
23 in the answers, then you review it and then you sign on --

24 A You don't review anything. They ask you the
25 questions and then you tell them the answers and then they

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 ask you to sign at the end.

2 Q Do you recognize your signature?

3 A Yes, sir.

4 Q So did you tell Booking Officer Durant on April 3rd
5 of 2013 at booking time of 1818 hours that you did not use
6 drugs not prescribed by a physician? You had an
7 opportunity to tell the booking officer that you used meth.
8 Did you tell the officer that or not?

9 A I'm looking to see what it says because I don't
10 remember what I told them. Do you know what question that
11 is?

12 Q That's question number 12.

13 A Question number 12. It says that I referred -- no.

14 Q Do you remember if you were high, would you have
15 told him you were high?

16 A Probably not.

17 Q So you would have lied to them?

18 A I would have not admitted I was high to an officer.

19 Q So you would lie to them?

20 A Yes, sir.

21 Q To protect yourself?

22 A Yes, sir.

23 Q Are you lying to protect yourself today when you
24 say Detective Novak threatened you?

25 A No, sir.

1 MR. GRAHAM: I think that's all the questions I
2 have, Your Honor.

3 THE COURT: All right any redirect, Ms. Fullwood?

4 MS. FULLWOOD: No, Your Honor.

5 THE COURT: Thank you. Thank you very much,
6 Mr. Cook.

7 MR. GRAHAM: Your Honor, I don't know -- I'm sorry.

8 MS. FULLWOOD: No further witnesses, Your Honor.

9 THE COURT: Thank you.

10 All right. Solicitor.

11 MR. GRAHAM: Your Honor, the only thing that we
12 could offer if Your Honor wants to hear it -- and I have
13 the officer coming over from the detention center now --
14 would be the specific times of when he was booked in as
15 well as where -- explaining the process of where he
16 indicated that he was not using drugs not prescribed by a
17 physician and also the observations of the booking officer,
18 stating that Mr. Cook was not under the influence of
19 alcohol or drugs. I believe he's on his way and he will be
20 here in 10 minutes if Your Honor wants to wait for that.

21 THE COURT: All right. Yes, sir. I'll be glad to
22 do that. You want to take about a 10 minute recess?

23 MR. GRAHAM: Thank you, Your Honor.

24 THE COURT: All right. We'll take about a 10
25 minute recess. Thank you.

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 (A brief recess was observed .)

2 THE COURT: All right. Solicitor.

3 MR. GRAHAM: Thank you, Your Honor, the State would
4 call Lieutenant Cain Mayrant.

5 THE COURT: All right. If you would come around,
6 Lieutenant.

7 CAIN MAYRANT,

8 having been duly sworn, testified as follows:

9 THE CLERK: Have a seat. Once you're seated, state
10 your full name, spelling your last, please.

11 THE WITNESS: Lieutenant Cain Mayrant,
12 M-A-Y-R-A-N-T.

13 **DIRECT EXAMINATION IN-CAMERA**

14 **BY MR. GRAHAM:**

15 Q Lieutenant, where are you employed?

16 A Lexington County Sheriff's Department.

17 Q And in what capacity?

18 A I'm the booking and squad services manager and
19 custodian of records.

20 Q And how long have you been in that position?

21 A 15 and a half years.

22 Q How long have you been in law enforcement?

23 A 20 years.

24 Q So for 15 years, is it fair to say that among all
25 of your duties, one of them is you're the records custodian

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 for the jail?

2 A That's correct.

3 Q In that capacity, did I ask you to bring over a
4 document relating to a medical screening for Worth Cook?

5 A Yes, sir.

6 Q And do you have that with you?

7 A I do.

8 Q What was the date of the -- what is the medical
9 screening, in general?

10 A The medical screening is completed by a nurse
11 observing the observations of the inmate and also asking
12 him any questions relating to their medical health.

13 Q So when somebody's booked in, the screening officer
14 asks questions and makes observations?

15 A Yes, sir.

16 Q How do they record it?

17 MS. FULLWOOD: Your Honor, I object to this
18 witness's testimony. This witness isn't the booking
19 officer, this witness isn't the nurse, this witness did not
20 fill out this form and my position would be that most of
21 this so called responses, would constitute hearsay, unless
22 we have the witness who -- who took the responses, it's not
23 admissible.

24 THE COURT: All right. Solicitor?

25 MR. GRAHAM: This is going to be a business record

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 exception, Your Honor.

2 THE COURT: All right. Well, you need to lay the
3 foundation for that.

4 MR. GRAHAM: Yes, Your Honor.

5 THE COURT: And then I'll take that back up Ms.
6 Fullwood.

7 BY MR. GRAHAM:

8 Q So the screening officer -- who is the screening
9 officer in general?

10 A The screening officer is the nurse that asks
11 questions that makes the observations.

12 Q That's a nurse?

13 A Yes, sir.

14 Q Like a registered nurse?

15 A Yes.

16 Q So the questions they ask and the observations they
17 make, how are those answers and observations recorded?

18 A They're recorded in the medical records keeping
19 system.

20 Q Is that -- at this time in 2013 was that a written
21 system or is that a computer system?

22 A It's going to be an automated computer system.

23 Q So at the time that an inmate is being booked, a
24 nurse is asking questions, correct?

25 A That's correct.

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 Q And the nurse is recording the answers, how?

2 A In the medical part of the system and she is
3 inputting the information directly into the system.

4 Q So her entries or his entries are recorded at the
5 time the questions are being asked?

6 A That's correct.

7 Q The same thing for the observations of the officer?

8 A That's correct.

9 Q And does the sheriff's department, the jail and you
10 specifically, do you keep these records in the regular
11 course of your business?

12 A We do.

13 Q And you have been designated as a custodian for
14 those records?

15 A That's correct.

16 Q And specifically you were asked to bring over the
17 record for the Inmate Medical Screen for Worth Edward Cook
18 on his booking date of 4/3/2013 and that's what you have?

19 A Yes, sir.

20 Q And that is a report that you are the custodian of?

21 A That's correct.

22 MR. GRAHAM: Your Honor, that would be the
23 foundation for him being the records custodian.

24 THE COURT: All right. Ms. Fullwood?

25 MS. FULLWOOD: My position is even if this is a

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 business record, the nurse -- the hearsay rule still would
2 apply to those parts of its contents that are subjective,
3 impressions, diagnoses, and things of that nature. And
4 that's basically what he's trying to -- a fact -- the facts
5 he's trying to prove are hearsay facts. It's not something
6 that he's trying to prove the day he was arrested,
7 administerial type of data entries.

8 THE COURT: Thank you, Ms. Fullwood.

9 Solicitor?

10 MR. GRAHAM: I'm sorry, Your Honor?

11 THE COURT: Solicitor?

12 MR. GRAHAM: I guess the response, Your Honor, is
13 that that's the whole purpose of a business records
14 exception. These questions are asked in the regular course
15 of business and they're records and they're kept. That's a
16 hearsay exception. Additionally, if there is a question,
17 which I don't believe there is, Your Honor, but if I'm not
18 mistaken, for purposes of a hearing, Your Honor --

19 THE COURT: Can what?

20 MR. GRAHAM: For the purposes of a hearing -- an
21 in-camera hearing like this, Your Honor can consider
22 hearsay.

23 THE COURT: Let's look at that first. You're
24 teaching me something, Solicitor; or either Ms. Fullwood
25 is, one or the other.

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 MS. FULLWOOD: Sir? I'm sorry.

2 THE COURT: I say either the solicitor is teaching
3 me something or you are.

4 MS. FULLWOOD: I think it's rule 803.

5 THE COURT: It's 803(6) and there's a case on it,
6 Kershaw versus McCaskill with Kershaw being -- first I want
7 to see -- the solicitor said in a hearing like this, the
8 rules of hearsay do not apply. Rule 1101 says rules of
9 evidence apply generally to civil actions and proceedings
10 and criminal cases and proceedings and contempt proceedings
11 except those in which the Court may ask summarily. And
12 then 1013 says proceedings for extradition, preliminary
13 hearings and criminal cases, sentencing, except in the
14 penalty case of capital trials as required by statute;
15 dispositional hearings in juvenile delinquency matters or
16 search warrants, revoking probation; the issuance of
17 warrants for arrests, criminal summons and search warrants
18 and proceedings with respect to release on bail or
19 otherwise, the rules are inapplicable. So I think they do
20 comply and I think under 803(6), the last part of it
21 indicates records of regularly conducted activity -- it
22 goes on to say provided however the subjective opinions and
23 judgments found in business records are not admissible,
24 citing Kershaw County Department of Social Services versus
25 McCaskill.

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 I do not think subjective opinions are admissible.
2 Of course subjective opinions in the records are admissible
3 under the business records exception.

4 Now, if it's statements by Mr. Cook, it might be
5 admissible under 801(D)2 admission by a party opponent, the
6 statement is offered against the party and is the party's
7 own statement in either an individual or representative
8 capacity.

9 I take it, Ms. Fullwood your objection is to
10 subjective opinions by the nurse?

11 MS. FULLWOOD: Well, unless we have the nurse here
12 we wouldn't know to what extent the data entered were her
13 subjective opinions or some statement that he made.

14 THE COURT: I don't know if we would or not. I
15 mean, it may be split up on the record itself. There may
16 be questions that were asked and his answers and then there
17 may be observations by the nurse. I don't know, I haven't
18 looked at them.

19 Solicitor?

20 MR. GRAHAM: In light of Your Honor explaining that
21 the subjective opinions are not allowed, the only question
22 that would be relevant that I would want to go forward on
23 would be a factual question and it would be question --
24 Number 12 says: Do you use drugs not prescribed by a
25 physician, question mark; if yes, what kind, question mark;

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 the mode of use, question mark; how much, question mark;
2 how often, question mark; last use, question mark. That's
3 a question that was asked and the answer is no.

4 THE COURT: What about that, Ms. Fullwood?

5 MS. FULLWOOD: Your Honor, I apologize I was
6 conferring with Ms. Henry. If he could read --

7 MR. GRAHAM: Question Number 12.

8 MS. FULLWOOD: Again, unless the -- the official
9 who actually compiled the document was here, it's not
10 correctly authenticated would be my position.

11 THE COURT: Say that last part again, Ms. Fullwood.

12 MS. FULLWOOD: Unless the person who prepared --
13 who conducted this so-called interview they supposedly had
14 with Mr. Cook at the booking, unless they are here, I think
15 that person has to authenticate that they -- they
16 themselves got this answer.

17 THE COURT: I don't agree with that under 803(6).
18 I think that's not subjective. I think that's the purpose
19 of 803(6). But again, I think the statement's offered --
20 statements by a party opponent against the party opponent
21 are not hearsay under 801(D)2.

22 Would you have that -- Lieutenant, would you have
23 that marked as State's 3 for identification.

24 MR. GRAHAM: I have not yet. I can at this point.

25 THE COURT: Would you mark it for me and let me

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 look at what I'm not talking about. Or not look at what I
2 am talking about.

3 (State's Exhibit Number 3 was marked for
4 identification.)

5 (The Court is looking at the document.)

6 THE COURT: Anything further, Ms. Fullwood?

7 MS. FULLWOOD: Your Honor, I apologize, no. No.

8 THE COURT: All right. I think Question Number 12
9 and the response to Number 12 is not hearsay under 801(D)2.
10 If some court somewhere ever decides that it is hearsay, I
11 think it's admissible under 803(6) because it is not a
12 subjective opinion.

13 All right. Solicitor.

14 MR. GRAHAM: Thank you, Your Honor.

15 BY MR. GRAHAM:

16 Q Lieutenant, what time does it show Mr. Cook was
17 booked in and what date?

18 A 2155, April 3rd, 2013.

19 Q And what was the time of the booking itself?

20 A The time of the booking itself was 1818.

21 Q And for us people who don't know police time, what
22 time is that?

23 A 6:18 p.m.

24 Q During the questioning by the screening officer,
25 Question Number 12 -- what is Question Number 12?

Cain Mayrant - Direct Examination In-Camera by Mr. Graham

1 A Question number 12 asks: Do you use drugs not
2 prescribed by a physician? If yes, what kind? Mode of
3 use? How much? How often? Last used? And the answer
4 given -- the answer listed is no.

5 Q So Question Number 12, if I understand the process,
6 Question Number 12 would have been read to Mr. Cook and the
7 answer that was recorded that he would have given is no?

8 A That's correct.

9 Q And then the last page of State's Number 3, the
10 bottom right there's a signature. Who -- what does that
11 appear to be to you and what's the purpose of that
12 signature?

13 A It appears to be Worth E. Cook, III and that's the
14 signature of the inmate stating that the answers given were
15 correct.

16 Q Thank you, Lieutenant.

17 THE COURT: All right. Ms. Fullwood?

18 MS. FULLWOOD: No questions.

19 THE COURT: Thank you. Thank you very much for
20 being with us. You may step down.

21 Any objection to the officer being excused for
22 purposes of this hearing?

23 MR. GRAHAM: No, Your Honor.

24 MS. FULLWOOD: No, Your Honor.

25 THE COURT: All right. You may be excused.

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 All right. Solicitor, you may call your next
2 witness.

3 MR. GRAHAM: That's all the State has on this, Your
4 Honor.

5 THE COURT: All right. Thank you, Solicitor.

6 MS. FULLWOOD: Ms. Fullwood?

7 MS. FULLWOOD: We'd call Worth Cook, Your Honor.

8 THE COURT: All right. Mr. Cook, come back around,
9 please. You're still under oath.

10 DIRECT EXAMINATION - IN-CAMERA

11 BY MS. FULLWOOD:

12 Q Okay. Mr. Cook, what is your recollection of this
13 statement that you gave at the sheriff's department on the
14 3rd?

15 A In --

16 MR. GRAHAM: Your Honor, I may be confused, but --

17 MS. FULLWOOD: I'm confused. I withdraw the
18 witness. I withdraw the witness. That was a reply
19 witness. I didn't have a surreply. I thought we were on
20 the next statement.

21 I apologize, Your Honor.

22 THE COURT: He could reply if you want him to, Ms.
23 Fullwood, to Lieutenant Mayrant's testimony.

24 MS. FULLWOOD: I understand that, Judge, but we
25 don't have a reply to Mr. Mayrant.

1 THE COURT: All right. Thank you.

2 All right. Solicitor?

3 MR. GRAHAM: Thank you, Your Honor. Looking at the
4 statement given in the afternoon or the evening of April
5 3rd, 2013; at the detention center, you've heard two
6 officers and also the defendant himself saying that he was
7 read his rights and he understood his rights and he waived
8 his rights. He has claimed that he was under the influence
9 of methamphetamines, but appears to have selective memory.
10 Both officers say that he did not appear to be under the
11 influence of drugs.

12 The screening document, he was asked at his booking
13 time by a nurse whether he used drugs not prescribed and he
14 decided to answer no. That's the answer that's recorded.
15 That would have been given outside the presence of the
16 officers and that's what he answered.

17 He claims that officer Novak threatened him.
18 Detective Novak denies that he threatened him. Detective
19 Kemfort denies that there were any threats. The defendant
20 doesn't report any threats to the sheriff's department or
21 to SLED or to any agency at any time and makes that
22 accusation for the first time today.

23 He's admitted under oath, Your Honor, that he would
24 have lied if he answered no about the drugs to the officer
25 saying that he was. So I'm not sure what that says for his

1 credibility, Your Honor.

2 Taking the totality of the circumstances, Your
3 Honor, the State would argue that his statement was given
4 in accordance with Miranda and was freely and voluntarily
5 given and that was both his oral statements to Detective
6 Novak and Kemfort, as well as the written statement, which
7 is State's Exhibit Number 2.

8 THE COURT: Thank you, Solicitor.

9 Ms. Fullwood?

10 MS. FULLWOOD: Our position is that this statement
11 was involuntary. You heard Mr. Cook's testimony:
12 Detective Novak threatened him saying unless he cooperated
13 with them that he was going to make sure he was going to
14 be charged, that he would do everything he could to be
15 convicted. You heard his testimony about being intoxicated
16 on methamphetamines. He said that when he gets that way
17 and people are confrontational with him and he's in the
18 situation where he doesn't have an equal footing with his
19 opponent, that he gets frightened, he gets afraid and he
20 tends to cave in and do what people -- he thinks people
21 want him to do rather than stand up for himself.

22 I would just point out to the Court as something
23 that tends to corroborate what Mr. Cook testified to, if
24 Your Honor would compare the handwriting on the first
25 statement given on April 3rd, and the second statement

1 given on April 3rd, they're quite different. The second
2 statement's handwriting is much harder to read. It looks
3 like whoever wrote it was a lot shakier and less sure than
4 the writer of the first statement given on that day.

5 THE COURT: All right. Looking at the totality of
6 the circumstances, that he is a 26-year-old male with a
7 tenth grade education, that there's no indication --
8 although there's no start time -- that this is a prolonged
9 custodial interrogation; and prior to custodial
10 interrogation he fills out the top of the Lexington County
11 Sheriff's Department Statement form first thing in State's
12 Exhibit Number 2; and he is advised of his rights one
13 through 5; on each of those rights, he initials W.C.

14 The testimony from the officers is that there is a
15 conversation and thereafter Mr. Cook writes out the
16 statement. At the end of the statement -- midway through
17 the second page -- there's a question and answer, the Q is
18 indicated from the testimony as the writing of Detective
19 Novak and the A is the writing of Mr. Cook. That goes to
20 the bottom of page 2 through the bottom of page 3, where
21 the initials appear Worth Cook. And he's initialled before
22 questioning that he has read this statement of my rights
23 and understand what my rights are and he initials that and
24 he signs each page, or actually four pages, all signed and
25 initialled by -- by Mr. Cook.

1 I find there was no police coercion. I find by a
2 preponderance of the evidence there's no indication that he
3 was under the influence of drugs whether meth or alcohol.
4 So by the totality of the circumstances, based on the
5 preponderance of the evidence, I would find the statement's
6 freely and voluntarily and knowingly given. That's State's
7 Exhibit Number 2. The second statement.

8 All right. Solicitor?

9 MR. GRAHAM: Your Honor, before we move onto the
10 next statement, I did want to maybe address the 404(B)
11 argument. How does the defense propose the issue of him
12 being placed under arrest for unrelated charges and then
13 taken into custody? I don't want to step where we
14 shouldn't.

15 THE COURT: Ms. Fullwood?

16 MS. FULLWOOD: I don't think there's any way
17 that -- beg the Court's indulgence.

18 THE COURT: I think for purposes of this hearing,
19 you can get into it fully and completely to set the stage
20 and it's already been testified to in this hearing by
21 Detective Novak. He gets his driver's license, goes back
22 and checks, takes him into custody for false pretenses that
23 he's wanted. Let me ponder on that as far as -- y'all
24 ponder on that too as far as -- if -- how to handle that
25 one.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 MR. GRAHAM: In the meantime, Your Honor, we'll
2 continue on then?

3 THE COURT: Yes, sir, I think we can press on.

4 MR. GRAHAM: The State would call Sargent Gooding.

5 THE COURT: All right. And this is the third
6 statement?

7 MR. GRAHAM: Correct, Your Honor. It's the
8 statement of April 4th, 2013 at the sheriff's department.

9 MICHAEL GOODING,
10 having been duly sworn, testified as follows:

11 THE CLERK: Have a seat.

12 THE WITNESS: Thank you, ma'am.

13 THE CLERK: Once you're seated, state your full
14 name, spelling your last, please.

15 THE WITNESS: My name the Michael Gooding, G-O-O-D,
16 as in Delta, I-N-G.

17 **DIRECT EXAMINATION - IN-CAMERA**

18 **BY MR. GRAHAM:**

19 Q Mr. Gooding, it's actually Sargent Gooding
20 currently, correct?

21 A Yes.

22 Q How long have you been in law enforcement?

23 A I've been in law enforcement about 16 years, sir.

24 Q And how long with the sheriff's department?

25 A Since 2010.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Q Your current job as a sargent, what does that
2 entail?

3 A Currently, sir, I'm assigned as a sargent in major
4 crimes. Major crimes is the area of the sheriff's
5 department that's responsible for investigating crimes
6 against persons. As a sergeant, I supervise a team of five
7 detectives.

8 Q Back in April of 2013, what job did you hold with
9 the sheriff's department?

10 A I was a major crimes investigator, sir.

11 Q And part of being in major crimes in April of 2013,
12 did you have the opportunity to interview the defendant,
13 Worth Cook?

14 A I did.

15 Q Can you describe how that came about?

16 A On April 4th of 2013, I was directed by Sargent
17 Lint to conduct an interview with Worth Cook in the
18 Lexington County Sheriff's Department.

19 Q And did you do that?

20 A I did, sir.

21 Q And who went with you?

22 A Detective Marty Longshore.

23 Q And when you spoke with Mr. Cook, he was in
24 custody, correct?

25 A He was.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Q And did you advise him of his rights?

2 A I did.

3 Q What, if anything, did you use to advise him of his
4 rights?

5 A I used the Lexington County Sheriff's Department
6 Advisement of Rights form. I actually have it here in
7 front of me, which includes the date and time, as well as
8 the rights of Miranda.

9 Q And that's the original form that you used?

10 A It is, sir.

11 MR. GRAHAM: Your Honor, the State would mark that
12 as State's Exhibit 4 for identification.

13 THE COURT: All right. Any objections, Ms.
14 Fullwood? For ID?

15 MS. FULLWOOD: I'm sure we don't, it's just we
16 don't have that. To our knowledge, we don't have it.

17 (Ms. Fullwood was looking at the document.)

18 MS. FULLWOOD: I just wanted to see it.

19 MR. GRAHAM: Okay.

20 MS. FULLWOOD: No objection.

21 (State's Exhibit Number 4 was marked for
22 identification.)

23 THE COURT: All right. You may proceed, Solicitor.

24 BY MR. GRAHAM:

25 Q I'm going --

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 MR. GRAHAM: Just for the record so we'll get that
2 straightened out later, but the copy I have in front of you
3 says that it was page 28 of 256 that were sent in discovery
4 marked May 31st of 2013.

5 THE COURT: All right.

6 BY MR. GRAHAM:

7 Q Detective -- excuse me, Sargent Gooding, the
8 State's Exhibit 4, I believe, that you have in front of
9 you; what is that?

10 A That is the advisement of rights form I used when I
11 advised Worth Cook of his Miranda Rights.

12 Q And describe how you use that form to advise
13 Mr. Cook of his rights.

14 A The first thing I do is generally put the date and
15 the time of the interview, whenever that's going to take
16 place. I place the form in front of the person that I'm
17 speaking with and explain that this is an advisement of
18 your Miranda Rights. I begin to read through the rights
19 one at a time for them. Generally, I will ask them to read
20 one of those rights to me, that way I can be assured that
21 the person has the ability to read.

22 When I finish, I make sure that they understand
23 that -- I ask the question, do you understand what your
24 rights are and are you willing to speak with me at this
25 time.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 As we're going through this form, there's a place
2 for all that on the form and then they sign that form that
3 they agree to waive -- that they understand and waive those
4 rights. As a matter of fact, he signed it twice. And that
5 form was witnessed by myself with my signature and the time
6 it was witnessed was placed on the bottom.

7 Q So specifically when you advised Mr. Cook of his
8 rights, what day was this event on?

9 A This would have been on April 4th, 2014.

10 Q And what time was the advisement of rights?

11 A 8:43 p.m.

12 Q And that's when it began. That's at the top. At
13 the bottom, there's another time, what is that time?

14 A That would have been the time that I witnessed the
15 form -- that after he indicated that he understood his
16 rights and waived them and I signed as a witness.

17 Q So again, did you let him read this, did you read
18 it to him? did he read them out loud? or how did it
19 actually occur?

20 A Generally, the way I do it is kind of a combination
21 of all of the above. In other words, I place the form in
22 front of somebody where they can read it. I will begin to
23 read some of those rights to them. I will ask them to --
24 generally, random, I'll pick one of the rights and say,
25 Will you read that out loud to me. And then I will

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 continue to finish reading the form. There on the bottom,
2 there's a signature line for the -- they have read the
3 statement of their rights, understand what their rights
4 are. I ask them to sign there. And then below that is a
5 waiver where they agree to make a statement after being
6 advised of their Miranda Rights.

7 Q So did you have Mr. Cook -- if Mr. Cook would not
8 have been able -- do you remember whether he was able to
9 read?

10 A He was.

11 Q And did you -- between him reading them and you
12 reading them, did you go over all the rights on this form?

13 A I did, sir, in order.

14 Q And did you ask him if he understood each and every
15 right on that form?

16 A I did, sir.

17 Q And what did he indicate?

18 A That he did.

19 Q And how did he indicate it?

20 A Verbally.

21 Q Did he also indicated it by putting his name on
22 there in the middle of the page?

23 A He did, sir.

24 Q And that's where it says, I've read this statement
25 of my rights and I understand what my rights are?

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 A That's correct. And I observed him signing it.

2 Q And then below that, what does that waiver of
3 rights say?

4 A It says that I am willing to make a statement and
5 answer questions. I do not want a lawyer at this time. I
6 understand and know what I'm doing. No promises or threats
7 have been made to me and no pressures or coercion of any
8 kind has been used against me.

9 Q So you read him his rights and he waived his
10 rights?

11 A He did, sir.

12 Q There's a witness signature on State's Number 4 for
13 identification, what is that?

14 A That's my signature, sir.

15 Q That's your signature.

16 So have you dealt with people under the influence
17 of alcohol or drugs in your career in law enforcement?

18 A Yes, sir.

19 Q April 4th at 2042 hours or 43 hours, whatever it
20 was, do you have an opinion of whether Mr. Cook was under
21 the influence of alcohol or drugs?

22 A I do, sir.

23 Q And what -- was he or was he not?

24 A He was not.

25 Q Did he make any comments to you about being on a

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 meth binge?

2 A Not at any point.

3 Q What, if anything did he say to you about being
4 high during your conversation with him -- at the time that
5 you were interviewing him?

6 A He never said anything about being under the
7 influence of any kind of drugs during the interview, sir.

8 Q At any time during your conversations did he invoke
9 his right to remain silent?

10 A He did not.

11 Q At any time during your conversation or interview
12 with him did he ask for an attorney?

13 A He did not.

14 Q At any time did you make any promises to him or
15 give him any hopes of reward if he spoke to you?

16 A I did not, sir.

17 Q At any time did you threaten him -- make any
18 threats or coerce him in any way to speak with you?

19 A No, sir.

20 Q Did he agree to answer your questions of his own
21 free will?

22 A He did.

23 Q And do you have an opinion as to whether his
24 statement was freely and voluntarily given?

25 A I do, sir.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Q And what's that opinion?

2 A That it was.

3 Q Specifically, then, after you read him his rights,
4 he waived his rights; what did you ask him and what did he
5 tell you?

6 A The initial interview that took place on the 4th
7 was a relatively brief interview. It was somewhat really
8 an investigation. We were wanting to speak to Mr. Cook at
9 this point in time to kind of determine if he may have had
10 an involvement in the victim's death. We had learned some
11 potential evidence had been located at Mr. Cook's home.

12 That item was a bag with what was believed to be
13 blood on it, which had tested -- what I'd been told was
14 presumptively positive for blood. Mr. Cook denied any
15 involvement with the disappearance of the victim. He told
16 us at that time that the victim had left his home that
17 night of his own free will with both his truck and his
18 motorcycle.

19 We confronted him with some of the evidence and he
20 said that he believed that might be a tactic -- an
21 investigative tactic that we were telling him that we had
22 found things that we hadn't found. That interview was
23 relatively short and ended about 2215, which would have
24 been about 10:15 that night and then Mr. Cook was taken
25 back to the detention center.

Michael Gooding - Cross-Examination In-Camera by Ms. Fullwood

1 Q Thank you, Sargent. Please answer any questions
2 Ms. Fullwood has for you?

3 THE COURT: Thank you, Solicitor.

4 Ms. Fullwood?

5 MS. FULLWOOD: Thank you, Your Honor.

6 **CROSS-EXAMINATION - IN-CAMERA**

7 BY MS. FULLWOOD:

8 Q Okay. This interview began at 8:43 and ended
9 between 10:15 and 10:30?

10 A Yes, ma'am.

11 Q So it lasted between an hour and a half, hour and
12 45 minutes?

13 A Yes, ma'am. I mean, we began his advisement of
14 rights at about 8:43 and it ended about 10:15. Probably
15 the first, you know, 15 minutes of it would be going
16 through the advisement explaining who we were and why we
17 were there, that type of thing. But, yes, ma'am.

18 Q Okay. And why didn't you take any statement in
19 writing that night?

20 A That's not in my notes. I don't know why we didn't
21 take a written statement. My belief and it's based on
22 memory, is that he didn't wish to provide one. And at that
23 point in time, our role was still sort of somewhat
24 preliminary. We didn't know what Mr. Cook's involvement
25 was. We just knew that some evidence had been potentially

Michael Gooding - Cross-Examination In-Camera by Ms. Fullwood

1 found in the house. And as much as anything, it was an
2 initial interview to determine if potentially Mr. Cook had
3 had something to do with this or not?

4 Q Okay. And you told him that y'all had found things
5 at his house?

6 A Yes, ma'am.

7 Q And that's because they were in the process of
8 executing a search warrant out there, correct?

9 A Yes, ma'am.

10 Q And isn't it correct that the only thing that had
11 been found was a plastic bag that presumptively had blood
12 on it?

13 A That's what I have in my notes. I also believe at
14 that point in time that we may have known that Mr. Cook was
15 believed to have used the victim's credit cards at the
16 Wal-Mart.

17 Q Okay. Okay. When you testified earlier, you told
18 him that you folks had found things. Did you tell him
19 other than the plastic bag, the other things that you in
20 law enforcement had found at his residence?

21 A I don't recall. Not on that night on the 4th, no,
22 ma'am.

23 Q Well, did you maybe insinuate that you had found
24 some things that you hadn't?

25 A It's possible. The only thing that I have

Michael Gooding - Cross-Examination In-Camera by Ms. Fullwood

1 documented in my notes was the blood on the bag. But
2 specifically in regards to any other items that we may have
3 found, I don't know.

4 Q Okay. And wasn't this interrogation somewhat
5 confrontative?

6 A The first one? No, ma'am.

7 Q Well, you -- your -- your report indicates that he
8 accused you guys of making things up and --

9 A That was really more -- that incident was more in
10 regards to an answer of a question I asked because I told
11 Mr. Cook that we had found items in the house and, you
12 know, he was going to have to explain those items. And he
13 seemed as though he didn't believe that we had found things
14 in his house and I asked him, Do you believe that we're
15 making this up in some effort to get you the tell us
16 things; and he said, Yeah, I think you're making it up to
17 try to get me to tell you things.

18 Q Okay. And -- but the only thing y'all had found
19 was that bag with blood, right?

20 A Ma'am, I'm not sure. I know that the search
21 warrant was being executed at that time and that we had
22 pulled Mr. Cook into an interview room to begin to
23 interview him. So what specifically had been discovered or
24 not been discovered at that point, I'm not sure.

25 Q Okay. But that's all that's mentioned in your

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 report is the plastic bag?

2 A Yes, ma'am.

3 Q All right. And why so late in the day to
4 interrogate?

5 A Ma'am, that's -- Sargent Lint asked me to conduct
6 an interview and that's when he asked me and when I was
7 able to conduct it.

8 Q Okay. All right. No further questions.

9 THE COURT: Thank you. Redirect, Solicitor?

10 MR. GRAHAM: No, Your Honor.

11 THE COURT: Thank you Sargent Gooding. You may
12 step down.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: All right. You may call your next
15 witness.

16 MR. CASKEY: Thank you, Your Honor. The State
17 would call Detective Marty Longshore.

18 MARTY LONGSHORE,

19 having been duly sworn, testified as follows:

20 THE CLERK: Have a seat, sir. Once you're seated,
21 state your full name, spelling your last on the record,
22 please.

23 THE WITNESS: Marty Longshore, L-O-N-G-S-H-O-R-E.

24 DIRECT EXAMINATION - IN-CAMERA

25 BY MR. CASKEY:

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 Q Deputy Longshore, where do you work and in what
2 capacity are you employed there?

3 A Lexington County Sheriff's Department and I'm
4 currently in the Community Services Division of the
5 department.

6 Q In April of 2013, what was your role?

7 A I was a major crimes investigator.

8 Q And on April 4th, 2013, did you have occasion to
9 speak with the defendant, Worth Cook?

10 A Yes, sir, I did.

11 Q Where was that?

12 A That was in the interview room with Detective
13 Gooding at the sheriff's department.

14 Q Do you recall how that conversation began? Let me
15 ask you this: What were the circumstances that surrounded
16 the beginning of the conversation? Was the defendant
17 advised of his rights?

18 A Yes. Yes, he was.

19 Q Okay. Who did that?

20 A Detective Gooding basically took the lead with the
21 interview process. He advised him of his rights on the
22 advisement of rights form, as well as the suspect statement
23 form.

24 Q Okay. Just to your right, I believe is document
25 which has been marked for ID as State's Number 4. Do you

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 recognize what that document is?

2 A I do.

3 Q What is that?

4 A That's the advisement of rights that was taken from
5 Mr. Cook on the 4th of April, 2013.

6 Q Is that the document that you're referring to when
7 you said that you had heard Sargent Gooding advise the
8 defendant of his rights?

9 A Yes.

10 Q What do you recall about that conversation?

11 A Just the process in general?

12 Q Yes, sir.

13 A We were advised to go talk to Mr. Cook. As soon as
14 we got him from the jail, took him back to one of the
15 interview rooms, we initially gave him the advisement of
16 rights form where he was interviewed by Detective Gooding
17 and I -- if I can refer to the statement here -- I'm sorry,
18 the supplemental here.

19 He was advised of his rights on a Lexington County
20 Sheriff's Department Advisement of Rights form. He
21 indicated he understood what his rights were and waived the
22 rights in writing.

23 Q Let me stop you right there. Do you have an
24 independent recall of the defendant waiving those rights?

25 A I was in the room when I observed him waive his

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 rights.

2 Q Did you see the defendant -- or do you recall the
3 defendant acknowledging each of these rights?

4 A Yes. Included is the signature that -- below the
5 rights that he did understand his rights.

6 Q Did you observe the defendant signing this
7 document?

8 A Yes.

9 Q Okay. Did you sign that document at all?

10 A No, sir, I didn't.

11 Q Okay. And what time did that conversation -- the
12 interview begin?

13 A We began, according to supplemental here at 2043
14 hours, so about 8:43.

15 Q All right. Was the defendant promised anything in
16 exchange for providing -- for having a conversation with
17 you?

18 A No, sir.

19 Q Was he coerced in any way?

20 A No.

21 Q Threatened?

22 A No, sir.

23 Q Any hope of reward held out?

24 A No, sir.

25 Q Do you have an opinion as to whether the

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 defendant's statement to you that day was knowingly and
2 voluntarily given? And freely?

3 A Yes, sir.

4 Q And what is that opinion?

5 A That he wished to speak to us and waived his rights
6 and continued to speak with us.

7 Q Thank you. I don't have any further questions.
8 Please answer any that defense counsel may have for you.

9 THE COURT: Thank you, Solicitor.

10 Ms. Fullwood?

11 MS. FULLWOOD: Thank you, Your Honor.

12 **CROSS-EXAMINATION - IN-CAMERA**

13 BY MS. FULLWOOD:

14 Q Deputy Longshore, I noticed you were looking at
15 some reports to refresh your memory; is that correct?

16 A Yes, ma'am.

17 Q May I see what you're looking at?

18 A Yes, ma'am.

19 Q Okay. And these are reports that were prepared by
20 Detective Gooding?

21 A Yes, ma'am.

22 Q Did you prepare your own report of that
23 interrogation?

24 A No, ma'am. Our reports would be exactly the same
25 and Detective Gooding included me in his supplemental

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 reports.

2 Q Okay. So you didn't do one?

3 A No, ma'am.

4 Q Okay. Do you remember, just using your own
5 recollection, what the conversation was?

6 A After the Miranda Rights?

7 Q That's right.

8 A Basically that we were trying to set him up, that
9 he had no knowledge of the homicide or anything to do with
10 that, that the deceased was at his residence and he left on
11 his own will and accord in a pick-up truck with some kind
12 of dirt bike in the back of it. But he didn't have
13 anything to do with anything.

14 Q Okay. And am I correct in believing that earlier
15 that day you'd been out at Mr. Cook's residence?

16 A Yes, ma'am, briefly.

17 Q And then you came back to the sheriff's department?

18 A Yes, ma'am.

19 Q And did you or Detective Gooding confront him with
20 the fact that the sheriff's department had seized items at
21 his house that incriminated him?

22 A I'm not sure if it was that day or the following
23 day.

24 Q Okay.

25 A I don't recall off the top of my head.

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 Q Okay. Do you remember why you didn't take a
2 written statement that night?

3 A That first night was just an oral interview.

4 Q Okay. Were -- were you satisfied with his
5 statement that Diblasi had driven off on his own from
6 Mr. Cook's house and that was the last that he'd seen of
7 him?

8 A I can't say that I was satisfied with that answer
9 because I believed at that point in time new information
10 was coming in. Obviously, we were not satisfied because we
11 interviewed him two other nights after that occasion.

12 Q So basically he didn't give you anything you
13 considered useful that evening?

14 A Correct.

15 Q No further questions.

16 THE COURT: Redirect, Solicitor?

17 MR. CASKEY: No, Your Honor, no further questions.

18 THE COURT: Thank you. Thank you very much -- is
19 it Sargent Longshore?

20 THE WITNESS: Marty is fine.

21 THE COURT: Thank you very much Sargent Marty.

22 THE WITNESS: Yes, sir.

23 THE COURT: You may step down.

24 All right. Solicitor, you may call your next
25 witness.

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 MR. GRAHAM: Your Honor, that's all the witnesses
2 on the April 4, 2013 statement at the Lexington County
3 Sheriff's Department.

4 THE COURT: All right. Ms. Fullwood?

5 MS. HENRY: The defense calls Worth Cook.

6 THE COURT: All right. You're still under oath.

7 **DIRECT EXAMINATION - IN-CAMERA**

8 BY MS. FULLWOOD:

9 Q All right. Mr. Cook, do you remember the day of
10 March (sic) 4, 2013?

11 A Yes, ma'am.

12 Q Okay. Was this 8:43 p.m. interrogation with
13 Detectives Longshore and Gooding the first time you'd
14 talked to the police that day?

15 A No, ma'am.

16 Q Okay. When did you first talk to a sheriff's
17 deputy that day about anything?

18 A It had been early in the morning about 9:30.

19 Q Okay.

20 A Come by at the time of checking.

21 Q All right. And what was that -- do you remember
22 who you talked to?

23 A I don't remember the detective's name, but it was
24 over the charge with the trailer at first.

25 Q That false pretense -- is it a false pretense --

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 A False pretense --

2 Q Is it a false pretense charge?

3 A Yes, ma'am.

4 Q Okay. And let me show you this and ask you if you
5 recognize it.

6 A Yes, ma'am.

7 Q And is that a statement that you gave to those
8 detectives?

9 A Yes, ma'am.

10 Q All right. And what detectives does it say that
11 you talked to?

12 A Detective R. Williams and detective R. Hill.

13 Q Okay.

14 THE COURT: What was that last -- that second name?

15 MS. FULLWOOD: Hill, H-I-L-L.

16 THE COURT: All right.

17 MS. FULLWOOD: Your Honor, I would ask that this be
18 marked as a defense exhibit simply for purposes of this
19 hearing.

20 THE COURT: All right. Solicitor?

21 MR. GRAHAM: No objection, Your Honor.

22 THE COURT: Defense 1 for purposes of this hearing.

23 (Defense Exhibit Number 1 was marked for
24 identification.)

25 BY MS. FULLWOOD:

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 Q So you talked to these two detectives about this
2 other charge close to ten o'clock that morning?

3 A Yes, ma'am.

4 Q How long did they talk to you?

5 A To be honest with you I would want to say 30 or 45
6 minutes.

7 Q All right.

8 Q And then you gave them that written statement we
9 just put in as an exhibit?

10 A Yes, ma'am.

11 Q Okay. And later that morning or afternoon, did you
12 talk to any other police officers?

13 A Yes, ma'am. After I talked to these guys, some
14 detectives come and talked to me a little bit.

15 Q About what?

16 A Regarding the Diblasi case; you know, Diblasi
17 missing. They asked me some questions about that and
18 then --

19 Q So wait -- which detectives?

20 A Honestly, I'm not exactly sure. I didn't -- at
21 that point, I didn't talk to them very long because they
22 wanted -- they come and told me I had to go to bond court.

23 Q Okay. So you didn't talk to them long at all?

24 A No, not that long.

25 Q Okay. Did it get to the point where they were

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 advising you of your rights and everything like that?

2 A Yes, ma'am.

3 Q Did they start talking to you about the -- about
4 facts of that situation or did bond court happen first?

5 A They was talking to me about the facts of that
6 situation and then the bond courts come by.

7 Q But you don't remember who they were?

8 A Not -- no, ma'am.

9 Q And you never gave them a statement?

10 A I believe I did write a statement out. There's two
11 or three statements that I made during this period of time
12 that are not here.

13 Q And what were -- by saying not here, what do you
14 mean by that?

15 A We -- I don't have a copy of them and we don't have
16 them in the motion.

17 Q The motion --

18 A The information by the detectives. But I did write
19 some statements that we don't have.

20 Q And when you say in the motion, you mean the
21 discovery materials that you've seen?

22 A Yes, ma'am, motion discovery, yes, ma'am.

23 Q Okay. So you talked to some -- two detectives
24 before bond court?

25 A Yes, ma'am.

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 Q And you went to bond court?

2 A Yes, ma'am.

3 Q And then after bond court, you talked to detectives
4 Gooding and Longshore?

5 Q And can you tell the Court how that interrogation
6 occurred?

7 A Yes, ma'am. I was speaking to Mr. Gooding and
8 Mr. Longshore, Detective Longshore, he wasn't even there at
9 first, you know, he come in once or twice, maybe three
10 times and talked to me and called Detective Gooding out to
11 the hallway and then -- and would go somewhere else. He
12 wouldn't stay -- he wasn't in the room like that.

13 I wrote a statement that went along the lines of
14 the things that they talked about in their summary, you
15 know, kind of went along the same kind of stuff I wrote
16 that was on the statement on the 3rd. And then
17 Mr. Gooding, after talking to detective Longshore out in
18 the hallway, he comes back in and he tells me that they
19 have found evidence in my home with blood and stuff on it
20 and blood in my house separate from that.

21 And at that point in time, I tell him that I feel
22 like he's just trying to use stuff against me they don't
23 have and I tell him at that point that I want a lawyer.

24 Q Okay. And once you said that, what happened?

25 A Mr. Gooding, he got upset and he says, Now you done

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 wasted all this time, because we'd been there for a while.
2 He takes his pen on the statements I wrote. He writes big
3 X's on all the statements and the original waiver of rights
4 form. He writes requested lawyer on there, slides them
5 across the table and he sits there for a minute and he's
6 mad, you know what I'm saying, he's being loud.

7 He tells me -- he tells me, You know, you need the
8 rethink this whole wanting to see a lawyer thing because,
9 you know, if you want to follow that route, then I'm going
10 the go to your house and because there's blood found in
11 your house, I'm going to arrest Shannon and then we're
12 going to take your kid and turn -- our little girl -- and
13 turn her over to DSS or social services.

14 Q All right. Well, now, State's Exhibit 4 did you
15 have anything crossed off or anything like that. How
16 did --

17 A This --

18 Q -- how did it happen that there's a clean copy of
19 it?

20 A Because after he made this threat to lock Shannon
21 up and have our child put in, you know, protective services
22 or DSS, however you want to refer to it. You know, and he
23 told me, you want to cooperate or not? You know what I'm
24 saying? Or I'll go lock her up. You know, so I said, all
25 right then I'll cooperate. And he hands me -- now he says,

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 now I got to start -- We got to start all over with new
2 statements and he slides this across the table. He says
3 fill this back out. I fill it back out. He signs it and
4 then when we talked for a few minutes. Detective Longshore
5 calls him back to the hallway. He talks with Detective
6 Longshore and comes back in and then sends me back to the
7 jail. The interview is over. I never get to write another
8 statement.

9 Q Okay. And when -- when did you tell Detective
10 Gooding that the last you saw of David Diblasi is he was in
11 his truck on the way the Orangeburg? Before or after he
12 tore up that first advise of rights form?

13 A That would have been before.

14 Q Okay. No further questions.

15 THE COURT: All right. Solicitor?

16 **CROSS-EXAMINATION - IN-CAMERA**

17 BY MR. GRAHAM:

18 Q Mr. Cook, April 4th, 2013, your testimony is that
19 you talked with officers about a trailer?

20 A Uh-huh, yes, sir.

21 Q And that's Defense Exhibit Number 1?

22 A Yes, sir.

23 Q And it looks like -- did they read you your rights?
24 It looks like they did and it looks like you initialled by
25 them saying you understood them?

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 A Yes, sir.

2 Q Okay. Nobody threatened you during this?

3 A No, sir.

4 Q Okay. And you spoke to them freely and
5 voluntarily, of your own free will and it looks like you
6 handwrote a statement again?

7 A Yes, sir.

8 Q Okay. You weren't under the effects of meth
9 anymore when you wrote this?

10 A Yes, I was still feeling effects of -- the lasting
11 effects from being high, yes, sir.

12 Q Okay. But you went ahead and talked to them even
13 though nobody threatened you, correct?

14 A Yes, sir. It was a case that I had evidence to
15 prove that I wasn't guilty of.

16 Q That wasn't the question I asked you. You talked
17 to them of your own free will, even though you were high?

18 A Yes, sir.

19 Q And nobody threatened you to get you to talk, did
20 they?

21 THE COURT REPORTER: I didn't get that answer.

22 THE WITNESS: Yes, sir.

23 BY MR. GRAHAM:

24 Q Next, you say that some officers came and spoke to
25 you about the disappearance of Mr. Diblasi and it was not

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Detective Gooding or Detective Longshore, correct?

2 A Yes, sir.

3 Q Do you remember who those officers were?

4 A I'm not really sure, but it may have been Novak.
5 I'm not sure because it was just a real quick thing.

6 Q Did they read you your rights that time?

7 A Yes, sir.

8 Q Did you waive your rights again to speak with them?

9 A Yes, sir.

10 Q Did you understand your rights?

11 A Yes, sir.

12 Q Even though you were high?

13 A Yes, sir.

14 Q Do you remember -- you think it might be Novak,
15 you're not sure. Was he by himself or with somebody else?

16 A He was by himself.

17 Q Did he do an advise of rights form in writing or
18 was it verbally?

19 A It was in writing.

20 Q And you wrote a written statement?

21 A Yes, sir.

22 Q Do you remember what that statement said?

23 A No, sir. It would have been along the lines of the
24 stuff I wrote on the 3rd. You know, I was sticking to that
25 story.

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Q Okay. So then would you have told that officer at
2 that time the same thing that Novak testified to before at
3 the detention center that David was over at your house,
4 nobody else was home? Did you tell them that?

5 A Yeah, I'm sure -- if -- yes, sir.

6 Q Did you tell them that you did work on Dave's truck
7 and Dave's motorcycle?

8 A Yes, sir.

9 Q Did you tell them that Dave drove off in his truck
10 with the motorcycle in the back?

11 A Yes, sir.

12 Q Did you tell them that you were paid money?

13 A Yes, sir.

14 Q You remember how many you told them?

15 A \$80 and heroin.

16 Q \$80 and heroin? Do you remember if you told that
17 person, maybe Novak, how much heroin you got?

18 A No, sir, I don't remember if I told him that, no,
19 sir.

20 Q Did you tell them that you were -- did you tell
21 them anything else at that time?

22 A No, sir.

23 Q Did you tell that investigator, maybe Novak, on the
24 morning of April 4th after your advisement of rights, did
25 you talk about with Wal-Mart card and the use of the

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Wal-Mart card? Or the use of the TD Bank at Wal-Mart? Did
2 you talk about that again?

3 A No, sir. I'm going to tell -- I'm not honestly
4 sure. Maybe, maybe not. You know, like I said, it wasn't
5 that long before they got me to take me to bond court.

6 Q Okay. But you are sure that you told the same
7 story that David was at your house, you did work on his
8 motorcycle and on his truck?

9 A Yes, sir.

10 Q And that David left you driving away and that was
11 the last time you saw him, correct?

12 A Yes, sir.

13 Q And that that happened at your house on [REDACTED] I
14 think [REDACTED]; is that right?

15 A Yes, sir.

16 Q When you made that oral statement to whatever
17 officer it was, they advised you of your rights and you
18 understood your rights, correct? You didn't ask to speak
19 to an attorney at that point, did you?

20 A No, sir.

21 Q And you didn't -- you agreed to talk?

22 A Yes, sir.

23 Q Your own choice?

24 A Well, given -- yes, sir.

25 Q At that time nobody threatened you? It's your

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 testimony now that nobody threatened you from that unknown
2 officer on the morning of April 4th, 2014 that interviewed
3 you about this case, correct?

4 A Yes, sir.

5 Q The answer was yes?

6 A Yes.

7 Q Did you write something down on that one?

8 A Yes, sir, I do remember writing something, writing
9 stuff down for them.

10 Q Okay.

11 A I made a statement.

12 Q But you didn't see a copy of it in your discovery
13 motion that we --

14 A No, I didn't.

15 Q -- provided you, right?

16 A No, sir.

17 Q State's Exhibit Number --- Defense Exhibit Number 1,
18 this is a yellow copy, isn't it?

19 A Yes, sir.

20 Q This is a copy that you were given to by the
21 officer when you were interviewed, right?

22 A Yes, sir.

23 Q In fact, the law requires that you be given a copy
24 of your interviews. Do you -- where's your copy from this
25 interview from this officer who interviewed you on the

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 morning of April 4th?

2 A I don't have it. It wasn't given to me.

3 Q It wasn't given do you.

4 A No.

5 Q It's not that you lost it, it just wasn't given?

6 A It wasn't given.

7 Q Okay. Well, let's move onto Detective Gooding and
8 Longshore later that night. It's your testimony that you
9 were brought over from the detention center. Did you go
10 back to an interrogation room? An interview room?

11 A Yes, sir.

12 Q Okay. So who got you from the jail and moved you
13 over there?

14 A I believe it was Gooding.

15 Q You know or you think or you --

16 A I'm pretty sure.

17 Q -- or you're sure?

18 A It was Gooding.

19 Q It was Gooding. And where did he take you?

20 A To the interrogation room.

21 Q And when you got to the interrogation room, who was
22 there?

23 A Just him.

24 Q Just him. And did he read you your rights?

25 A Yes, sir..

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Q Okay. So you went over an advise of rights form.
2 How quickly was that advise of rights form done from the
3 time that you left the detention center?

4 A Not very long afterwards. It would have been
5 shortly after we go into the interrogation room.

6 Q All right. So you get out of the detention center,
7 you walk across through the jail and through the sheriff's
8 department, go to an interview room and Detective Gooding
9 sits down and does an advise of rights form?

10 A Yes, sir.

11 Q He read you your rights? You understood your
12 rights?

13 A Yes, sir.

14 Q And you waived your rights and agreed to speak to
15 him?

16 A Yes, sir.

17 Q You didn't ask for a lawyer at that time? And you
18 didn't rely on your right to remain silent, correct?

19 A Not at that point.

20 Q Was Detective Longshore in the room when that
21 advisement of rights was read?

22 A No, sir.

23 Q And it's your testimony that what happened -- what
24 is it that caused Detective Gooding to tear up the
25 advisement of rights form and statement?

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 A He didn't tear them up. He wrote X's on them and
2 wrote on them that I wanted -- requested lawyer and put his
3 initials right by it. He didn't tear it up.

4 Q So what -- I'm sorry go ahead.

5 A Go ahead. I don't know what you --

6 Q What was he asking you?

7 A I had wrote a statement and after we had talked,
8 you know it was all the same stuff that I had wrote on the
9 3rd, that evening before. And the same stuff I had talked
10 about earlier that morning; and when he come to the point
11 where he went out in the hallway and talked to Longshore,
12 come back, you know what I'm saying, started talking about
13 we found evidence, DNA evidence at the house, blood, a
14 plastic bag with some blood on it and stuff and at that
15 point, he's like, What do you want to say about that.

16 And I said, like, I don't like that stuff. I feel
17 like y'all are using that to get me to make statements and
18 I want a lawyer. All in the same sentence.

19 Q Detective Longshore is not in the room for any of
20 this?

21 A No.

22 Q He wasn't in there for the first advisement of
23 rights and he wasn't in there for this conversation with
24 Detective Gooding?

25 A No, sir.

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Q He wasn't in there for you writing the statement?

2 A He would come in and go out. Every time he would
3 come in, he would get Gooding and they'd go out in the
4 hallway and talk for a second and then he'd come back and
5 then he would -- he never sat down there and stayed for any
6 period of time.

7 Q So did he know that you were writing a statement?

8 A I would assume so.

9 Q Okay. I mean, you believe he did? He should have?

10 A Possibly. He come in and left.

11 Q And you -- was Detective Longshore in the room when
12 Detective Gooding confronted you about the blood -- about
13 them finding blood in your house?

14 A No, sir.

15 Q All right. So Detective Longshore should have
16 known that you were writing the statement. How long do you
17 think you were in there between the time that Detective
18 Gooding advised you of your rights and to the time that
19 you -- that he X'd out your advise of rights and your
20 written statement?

21 A Long enough for me to write the statement and we
22 discussed it before I wrote it.

23 Q And so how long?

24 A If I had to guess, I'd say 45 minutes, maybe an
25 hour.

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Q 45 minutes to an hour,.

2 And during that time, Longshore was not part of the
3 interview, but he would come in and go out and when he
4 grabbed Detective Gooding and pulled him outside, was he by
5 himself.

6 A He would open the door and Gooding would go out the
7 door and they would talk and Gooding would come back in and
8 that would be -- and Longshore would not come in.

9 Q So when you said I want a lawyer, when you were
10 confronted -- when Gooding confronted you with the blood in
11 your house and you said I think you're making it up, I want
12 a lawyer, who was in the room?

13 A Just Mr. Gooding.

14 Q And when you told him that, he X'd the documents
15 out and said requested a lawyer?

16 A Yeah.

17 Q And he gave you a copy of those?

18 A No, sir.

19 Q He did not. And you've seen your discovery; you
20 haven't seen those documents in your discovery, have you?

21 A No, sir.

22 Q So did you ever file an internal affairs compliant
23 against Detective Gooding for destroying evidence?

24 A No, sir.

25 Q Or for taking your rights in violation of Miranda?

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 A No, sir.

2 Q So when they come back in, do they do another
3 advise of rights form?

4 A Nobody -- nobody ever left out between the time of
5 it getting scratched up -- getting X'd out and the next
6 advise of rights form. It's just Mr. Gooding --

7 Mr. Gooding when he threatens me and stuff about locking
8 Shannon up and sending our baby to DSS. And after that I
9 agreed to comply with him for that reason and then that's
10 when we did this.

11 Q All right. So he said, you want a lawyer and now
12 we're going to go lock Shannon up and take your baby from
13 you?

14 A That's a good summary of it.

15 Q Don't let me put words in your mouth. What did he
16 say?

17 A He said -- he said -- he sit back; he's mad after
18 he's X'd the sheets out talking about all the time we've
19 wasted and slings the papers half way across the desk. He
20 sits back and he's quiet for a minute and then he says now
21 we done wasted all this time, it's busted, you know for a
22 second. And then he goes, You know, you might want to
23 rethink this whole requesting a lawyer thing because if you
24 follow through with this, then I'm going a have the go lock
25 Shannon up and I'm going to take the baby and I'm going a

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 put her in DSS.

2 Q And based on that threat, it's your testimony that
3 you talked to him again?

4 A That's when we signed this.

5 Q All right. So when you say this, you're talking
6 about State's Number 4 for identification?

7 A State's Exhibit Number 4, yes, sir.

8 Q All right. The times on here are correct?

9 A I have no clue, sir.

10 Q Well, you signed it, so you're not saying that it
11 was true?

12 A I signed it after being threatened by Mr. Gooding
13 of having my old lady and my child -- my old lady locked up
14 and my child taken away.

15 Q And nobody else heard that?

16 A Nobody else heard it.

17 Q And Detective Longshore was not in the room for the
18 first advisement of rights and he was not in the room for
19 this advisement of rights?

20 A No, sir.

21 Q And he was not in there when Detective Gooding
22 crossed out --

23 A No, sir.

24 Q -- your written statement, which we don't have, and
25 the first advisement of rights which we don't have; is that

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 correct?

2 A Yeah.

3 Q Did Detective Longshore come into the room during
4 any point of the conversation after -- after the -- your
5 testimony of the second advisement of rights?

6 A He -- after me and Gooding talked for a few minutes
7 after I signed the second advisement of rights, Longshore
8 comes in, they go out in the hallway, then comes back in
9 and says that's good, you know, we'll go back to jail and
10 we'll continue the interview the next day.

11 Q All right. So they did an advisement of rights --
12 excuse me -- Gooding does another advisement of rights,
13 Longshore comes in and the interview ends?

14 A Yes. Within a few minutes after that.

15 Q So they don't ask you anymore questions after --

16 A Gooding talks to me for a minute and we talk about
17 some stuff and he's trying to get, you know, talk and I
18 don't really know what to say, you know -- you know because
19 I don't know what to do. So -- and then Longshore comes
20 and gets him and that ended the interview.

21 Q All right. So prior to you saying you want a
22 lawyer, you stuck to the same story that you've been
23 telling all along, right?

24 A Yes, sir.

25 Q And you were confronted with blood in your house

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 and you said I don't know anything about it, it's a tactic,
2 you're making it up?

3 A And I want a lawyer.

4 Q And you want a lawyer. That's where it ended?

5 A Yes, sir.

6 Q And then after that point -- that's when you say
7 they did another advisement of rights because he crossed
8 that one out, threatened you, but they didn't interview you
9 again? They didn't ask you anymore questions?

10 A We did talk for a few minutes and it didn't go
11 nowhere. Then he went and talked to Longshore and left and
12 ended up the interrogation and took me back to the jail.

13 Q You ever left with Detective Longshore by yourself?

14 A No, sir.

15 Q Who took you back over to the jail?

16 A Not sure. I would assume Longshore -- I mean
17 Gooding.

18 Q You don't remember?

19 A I'm not.

20 Q Did you ever ask to speak the Longshore by
21 yourself?

22 A No, sir.

23 Q When you got back -- and you don't remember whether
24 Gooding took you back or somebody else did?

25 A I don't remember.

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 Q When you got back over to the jail, did you send
2 any kind of request form that you wanted to file a
3 complaint?

4 A No, sir.

5 Q And you never did file a complaint, correct?

6 A No, sir, I wanted to comply with Gooding so my old
7 lady wouldn't get threatened or wouldn't get locked up and
8 my kid get taken away. You know when somebody tells you
9 something like that, you comply with them so that it don't
10 happen. You don't -- you don't -- you don't say you're
11 going a comply with them and then go complain about it so
12 they go lock your old lady up and take your kid.

13 Q What was the threat again?

14 A That if I followed through with my request for a
15 lawyer and didn't cooperate that he was going the lock
16 Shannon up due to the blood found in the house and take our
17 child and have her picked up by DSS or child protective
18 custody or whatever.

19 Q All right. So you and -- according to you, you
20 invoked your right to an attorney, then he threatened you
21 and then you talked to him some more, but you didn't tell
22 him anything different than you'd already told him, right?

23 A Didn't get a chance, no.

24 Q So -- you said he asked you a few more questions;
25 but nothing new and it ended. You didn't tell him anything

Worth E. Cook - Cross-Examination In-Camera by Mr. Graham

1 different after he threatened you, right?

2 A It didn't last long enough to get anything. He was
3 asking me questions and I wasn't giving him any answers --
4 I was trying to answer him, but beating around the bush
5 because I didn't know what to say.

6 Q You didn't tell him anything that you hadn't
7 already told him, correct?

8 A I'm not sure. I don't think so, not at that point.

9 Q And the truth is, if he threatened you, he never
10 followed through with that threat, did he?

11 A It's because I complied. I followed through on the
12 next investigation and the one after that.

13 Q How did you comply because he was trying to get you
14 to admit to something at that time and you didn't tell him
15 anything.

16 A He ended the investigation, the interrogation.
17 They ended the interrogation, not me. I was going to
18 comply. They ended the interrogation and brought me back
19 to jail.

20 Q So --

21 A That's when they had said they was going a come
22 back the next day and follow up.

23 Q They told you -- so they threatened you and didn't
24 really ask any more questions and said they were going the
25 come back the next day?

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Q They threatened me, asked me some more questions
2 and I couldn't come up with what I wanted -- an answer that
3 was good for them and then he went and talked to Longshore
4 in the hallway and ended the investigation.

5 Q You said they threatened you. Is it really they
6 threatened you or is it Gooding --

7 A No. It's Gooding threatened me.

8 Q Okay.

9 MR. GRAHAM: I don't have any further questions,
10 Your Honor.

11 THE COURT: All right. Redirect?

12 MS. FULLWOOD: No, Your Honor.

13 THE COURT: Thank you. Thank you, Mr. Cook.

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Your next witness, Ms.
16 Fullwood?

17 MS. FULLWOOD: No further witnesses, Your Honor.

18 THE COURT: Thank you.

19 Solicitor?

20 MR. GRAHAM: The State would recall Sargent
21 Gooding.

22 DIRECT EXAMINATION - IN-CAMERA

23 BY MR. GRAHAM:

24 Q Sargent Gooding, you're still under oath.

25 Do you know -- do you have any knowledge of

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Mr. Cook being interviewed by other detectives about a
2 stolen trailer earlier on this morning of April 4, 2013?

3 A In the course of preparing for the case, I'm aware
4 that an interview took place, but I wasn't involved in that
5 interview. I don't know the specifics, I don't know the
6 details of that interview.

7 Q Do you know or do you have any knowledge of any
8 members -- any other members of the sheriff's department
9 interviewing Worth Cook -- I believe on the morning -- or
10 at least any time before you and Detective Longshore on the
11 date of April 4th, after the trailer? Anybody interview
12 him regarding David Diblasi?

13 A No, sir. Not that I'm aware of.

14 Q If somebody had interviewed him what would have
15 happened?

16 A I would have been told. It would have been
17 documented in a supplemental report. As an investigator,
18 it would be important for me to know if an interview had
19 taken place prior to mine so I would know what took place,
20 what was said so that I could appropriately interview
21 Mr. Cook based on previous statements.

22 Q So if he was interviewed by a detective, there
23 should be some type of a supplemental report?

24 A Correct, sir.

25 Q Sargent Lint directed you to do the interview on

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 April 4th, correct?

2 A That's correct, sir.

3 Q Was he at that time directing who did interviews at
4 what time and when and how?

5 A Yes, sir.

6 Q Moving onto your interview of Mr. Cook on April
7 4th, when you got -- what's the procedure for getting an
8 inmate out of jail and taking them over to an interview
9 room?

10 A Are we talking about the interview on the 4th or
11 the 5th, sir.

12 Q The 4th.

13 A On the 4th I would have gone over to the detention
14 center. We leave our weapons outside. There's a lock box.
15 We would go inside to the booking desk area. We would
16 inform, generally the booking sargent, that we need to
17 speak with an inmate and then there's a sign-out log. I
18 would put the inmate's name, who was requesting that, which
19 agency was requesting, my name as the investigator, the
20 time out, all that kind of stuff.

21 Q So the time of the advisement of rights of State's
22 4 that I'm holding in my hand, when it says 2043 hours, how
23 long, roughly, would it take you to sign him out and take
24 him over to a room and read him his rights.

25 A It depends on how busy the jail is. Generally,

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 that wouldn't take any longer than -- are you asking from
2 the time I'm physically at the jail speaking with the
3 booking sargent?

4 Q When you would have signed -- I believe you had to
5 sign him out; is that correct?

6 A That's correct, sir.

7 Q From the time you signed him out.

8 A From the time I signed him out, it would probably
9 be 10 minutes.

10 Q When you took him into an interview room, were you
11 with somebody or by yourself at the time you advised him of
12 his rights?

13 A I was with Detective Longshore.

14 Q Is there more -- did you execute more than one
15 advisement of rights on April 4, 2013 --

16 A I did not.

17 Q -- with Mr. Cook?

18 A No.

19 Q Did you ever -- did you X one out?

20 A No, sir.

21 Q If you had X'd it out, would you have thrown it
22 away or would you have kept it?

23 A I would have kept it for my file.

24 Q If somebody requests a lawyer and you S it out and
25 wrote requested a lawyer, you would have kept that or you

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 would have thrown it away?

2 A I would have kept it.

3 Q And it would become part of the case file?

4 A It would, sir.

5 Q Did you do that in this case?

6 A No, sir.

7 Q What would happen to your career if somebody
8 requested a lawyer and you threatened them?

9 A It'd be over. I'd lose my career, potentially go
10 to jail. There's no way, it's not worth it.

11 Q Did you threaten Mr. Cook in this case?

12 A No, sir.

13 Q What, if anything, did you say to him about
14 arresting Shannon Tart, his girlfriend and taking his child
15 away from him?

16 A I didn't.

17 MR. GRAHAM: That's all the questions.

18 Thank you, Sargent.

19 THE COURT: Ms. Fullwood?

20 MS. FULLWOOD: No questions, Your Honor.

21 THE COURT: Thank you. Thank you, again, Sargent.

22 You may step down.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: All right. Your next witness,

25 Solicitor.

Charles Robert Lint - Direct Examination In-Camera by Mr. Graham

1 MR. GRAHAM: I'd like to call Sargent Lint at this
2 time, Your Honor.

3 THE COURT: All right. On this same --

4 MR. GRAHAM: On this same issue, Your Honor.

5 THE COURT: All right.

6 CHARLES ROBERT LINT,
7 having been duly sworn, testified as follows:

8 THE CLERK: Have a seat. Once you're seated, state
9 your full name, spelling your last for the record.

10 THE WITNESS: Full name is Charles Robert Lint, Jr.
11 Last name Lint is spelled L-I-N-T.

12 DIRECT EXAMINATION

13 BY MR. GRAHAM:

14 Q Sargent Lint, where are you employed and what do
15 you do?

16 A I'm employed with the Lexington County Sheriff's
17 Department. I'm currently a sargent in the major crime
18 unit.

19 Q And how long have you been a sargent in the major
20 crimes division?

21 A Since July of 2011.

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

23 A Since 1997, roughly almost 19 years.

24 Q Back in April of 2013, were you involved in the
25 investigation of the missing person of David Diblasi?

Charles Robert Lint - Direct Examination In-Camera by Mr. Graham

1 A I was.

2 Q And in fact, on April 4th of 2013, the 3rd, the
3 4th, the 5th, in that time period, were you directing the
4 investigation?

5 A Correct. Yes, sir.

6 Q So you directed Detective Gooding and Detective
7 Longshore to interview Mr. Cook on the evening of April
8 4th, 2013?

9 A Yes, sir.

10 Q And earlier on April 3rd, 2013, you and
11 investigate -- you had sent Detective Kemfort and Detective
12 Novak; is that correct?

13 A Yes, sir.

14 Q Did you send anybody on the early morning hours --
15 or anybody, on the day of April 4th, 2013 to interview
16 Mr. Cook prior to Detective Gooding and Detective Longshore
17 interviewing him at approximately 8:40 in the evening?

18 A I did not.

19 Q If somebody had done that, what would the procedure
20 be as far as him documenting the interview?

21 A They would -- whoever conducted the interview,
22 whatever investigator I instructed to do so, would write a
23 supplemental report with the facts of what happened during
24 that interview.

25 Q So you didn't instruct anybody to do it, correct?

Charles Robert Lint - Direct Examination In-Camera by Mr. Graham

1 A No, sir.

2 Q What would have happened if somebody who took that
3 step without you telling them to do it when you're
4 directing the case?

5 A They would be -- they would have to answer to me
6 for it.

7 Q Are you aware of anybody doing that?

8 A No, sir.

9 Q Are you aware of any supplemental reports relating
10 to an interview prior in the day?

11 A No, sir.

12 Q Specifically, are you aware -- have you seen or are
13 you aware of any documents showing an advisement of rights
14 or a statement that were crossed out saying that Mr. Cook
15 requested an attorney on April 4, 2013?

16 A No, sir, I do not.

17 Q Are you aware of any complaints to internal affairs
18 or anything related to this kind of incident?

19 A Thank you, Sargent.

20 THE COURT: Ms. Fullwood?

21 MS. FULLWOOD: No questions, Your Honor.

22 THE COURT: Thank you. Thank you, Sargent. You
23 may step down.

24 All right. Solicitor?

25 MR. CASKEY: Thank you, Your Honor. The State

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 would recall Deputy Marty Longshore.

2 THE COURT: All right.

3 DIRECT EXAMINATION - IN CAMERA

4 BY MR. CASKEY:

5 Q Deputy Longshore, you're still under oath.

6 Were you present when the -- when Sargent Gooding
7 advised Worth Cook of his rights on April 4th, 2013?

8 A Yes, sir.

9 Q During the conversation regarding -- the
10 conversation which was reflected in -- preceded State's
11 Number 4 for ID?

12 A Yes, sir.

13 Q What we were talking about earlier?

14 A Yes, sir.

15 Q You were present for that?

16 A Yes, sir, I was.

17 Q And you're sure about that?

18 A I'm positive.

19 Q Did you remain in the interview room during the
20 entirety of that conversation?

21 A Yes, sir.

22 Q Did you leave at all?

23 A I don't recall leaving.

24 MR. CASKEY: Thank you, I don't have any further
25 questions, Your Honor.

Marty Longshore - Cross-Examination by Ms. Fullwood

1 THE COURT: Ms. Fullwood.

2 MS. FULLWOOD: Just briefly, Your Honor.

3 CROSS-EXAMINATION - IN-CAMERA

4 BY MS. FULLWOOD:

5 Q Detective, were you and Detective Gooding getting
6 information from the team you had out searching Mr. Cook's
7 property while you were interrogating Mr. Cook?

8 A I don't remember.

9 Q Well, you -- he was confronted with some of the
10 items that -- that they found, right?

11 A I'm not sure what he was confronted with that first
12 night.

13 Q Okay.

14 A Let me -- I think we knew from being there about
15 certain things and that's what we asked him originally and
16 that's when he basically decided -- said that he had
17 nothing to do with it.

18 Q Okay. But if you were getting word -- new
19 developments in the case, would one or the other of you
20 have stepped out of the room to get it privately?

21 A It would have been a brief step out and then step
22 back in, yes, ma'am.

23 Q All right. Thank you.

24 MS. FULLWOOD: No further questions.

25 THE COURT: Redirect, Solicitor?

1 MR. CASKEY: Nothing, from the State, Your Honor.

2 THE COURT: Thank you. Thank you very much,

3 Detective Longshore.

4 MR. GRAHAM: Your Honor, that's all on this matter.

5 THE COURT: All right. Do you have any surreply?

6 MS. FULLWOOD: No, Your Honor.

7 THE COURT: Thank you. Thank you very much.

8 All right. Solicitor?

9 MR. GRAHAM: Your Honor, again, looking at the
10 totality of the circumstances, he was read his rights. He
11 understood his rights. There's an advisement of rights
12 form that says that. Even if you believe what he's saying
13 right now, what he said orally would still come in for that
14 statement because his testimony is -- the defendant's
15 testimony is at the end he said it was a trick and he
16 wanted a lawyer. And as far as this statement, that's
17 where -- short of I want a lawyer, that's what the
18 testimony is.

19 So for this statement, itself, it's indication of
20 if you believe he invoked his right, it doesn't change
21 anything that was testified to here, Your Honor.

22 THE COURT: All right. Thank you.

23 MR. GRAHAM: More troubling, Your Honor, is the
24 allegations that he is making against Detective Gooding at
25 the time, now Sargent Gooding. He's already -- Mr. Cook

1 has already admitted that he's lied on what he said to
2 people under oath. He never reported Detective Gooding to
3 internal affairs, even though at no time was his girlfriend
4 placed under arrest; at no time was his child taken away as
5 a result of cooperating or not cooperating with law
6 enforcement. It sure didn't happen that night. He never
7 filed an interim affairs report on him. Detective Gooding
8 would have to be outright lying in this court.

9 Detective Longshore would have to be lying to this
10 court. He states that he was present when the rights were
11 read and Mr. Cook says that he was not -- that he was --
12 that it was Detective Gooding by himself.

13 In addition to that, you would have who he thinks
14 may be Detective Novak or somebody else stating that they
15 came and interviewed him earlier in the day that he was
16 read his rights, he waived his rights and he gave them a
17 statement that was consistent with everything else he said.
18 Prior he said that those statements, the first and second
19 statement on the 3rd and the third statement he was saying,
20 those were taken by threats by Novak, but he's saying the
21 person he thinks was Novak on the morning of the 4th didn't
22 threaten him, but yet he told him the same thing.

23 There is -- Sargent Lint testified that he was the
24 one directing the investigation. He didn't direct anybody
25 else to go talk to Mr. Cook that day except for Detective

1 Longshore and Detective Gooding. He would be aware if it
2 did. There would be supplements, there would be reports
3 that it occurred. Detective Gooding -- I mean, I don't
4 know, Your Honor, it's a credibility issue.

5 I don't believe -- I think the testimony is clear
6 that what Mr. Cook was testifying to didn't happen.

7 THE COURT: Would you hand me State's 4 and Defense
8 1, the advise of rights form.

9 MR. GRAHAM: Defense Exhibit 1 was a statement
10 earlier that morning, Your Honor; and State's 4 is the
11 advisement of rights that Detective Gooding states that he
12 used on April 4th.

13 (The Court is looking at the documents.)

14 THE COURT: And this yellow copy is the
15 defendant's -- the defendant's copy?

16 MS. FULLWOOD: That's right, Your Honor.

17 THE COURT: All right. Anything further,
18 Solicitor?

19 MR. GRAHAM: No, Your Honor.

20 THE COURT: Ms. Fullwood?

21 MS. FULLWOOD: Our position is they haven't met the
22 burden of showing that he made a knowing and intelligent
23 waiver of his rights prior to making the statement that
24 they want to put in. Here's why: His testimony is that he
25 talked with the detectives, says stuff that they want to

1 put in and then it got confrontational, he became -- he
2 started getting threats and he finally said I want a
3 lawyer. At that point, the detective puts an X through the
4 waiver that he's already signed and it's never been seen
5 again.

6 Then even though he has asserted his right to
7 counsel, the detective cajoles and threatens him and gets
8 him to sign a second replacement waiver of his rights under
9 duress and I don't think -- you know, once -- they need
10 that waiver of rights to prove that aspect of getting it
11 in, but it's gone and I don't think that they can do it
12 with a document that -- my client's testimony was sort of
13 signed nunc pro tunc and under coercion. So I think their
14 level of proof fails and that statement shouldn't come in.

15 THE COURT: Yes, sir?

16 MR. GRAHAM: The only thing for Your Honor's
17 consideration that I would point out is in the earlier
18 hearings on the different statements, he stated that
19 when -- I don't remember his words, Your Honor will
20 remember better than I do, but when the officers became
21 aggressive with him and he was threatened he did what they
22 wanted. This time his testimony is now suddenly he wants
23 a lawyer, which he didn't do before so it would be out of
24 character for him to say he wanted a lawyer when he didn't
25 do it before because he could have done it before and

1 didn't.

2 Just an observation, Your Honor.

3 THE COURT: Well, under the totality of the
4 testimony so far about 4/4/13 at 8:20, 45, or 43 -- I can't
5 quite read that last number -- that would have been the
6 third time he would have been advised of his rights. The
7 first time was on the 3rd by Sargent Novak. The second
8 time was on the morning of the 4th by Detective Williams
9 and Detective Hill. And then the third time was by
10 Detective Gooding. Even if I were to believe -- I'm not
11 saying -- even if I were to believe Mr. Cook's testimony,
12 this would actually be the fourth time, if I believe his
13 testimony.

14 But not -- in not believing his testimony, this
15 would still have been the third time he had been advised of
16 his rights in two days. Quite frankly as I track the
17 statement itself, what's different? Except presumptive
18 blood on the bag and him saying I think you're trying to
19 trick me. I'm paraphrasing. I mean what's different in
20 the statement?

21 MR. GRAHAM: My understanding is the same as yours,
22 Your Honor.

23 THE COURT: Sir.

24 MR. GRAHAM: Mine's the same as yours.

25 THE COURT: Yeah, I'm not tracking what is the

1 difference that -- it's not a confession. It's not a
2 confession. If you read the older cases, you know they're
3 talking about confessions. I guess that language has now
4 moved to statements. If the defense was trying to offer
5 it, it might even be a self-defense-serving statement. I
6 don't know. I think under the burden of proof under to
7 totality of the circumstances of the preponderance of the
8 evidence, the statement is admissible in its totality.

9 All right.

10 MR. GRAHAM: We have a statement on the 5th now,
11 Your Honor.

12 THE COURT: I have a commitment, Solicitor. Y'all
13 want to start at nine in the morning?

14 MR. GRAHAM: We can start at nine, yes, Your Honor.
15 Even if we don't get through those, we can probably arrange
16 our witness order that we can take it up another time after
17 we get started.

18 THE COURT: All right. Anything further before we
19 take our recess?

20 MR. GRAHAM: No, Your Honor.

21 THE COURT: Ms. Fullwood?

22 MS. FULLWOOD: No, Your Honor.

23 THE COURT: All right. Thank you very much. Court
24 will be in recess until nine o'clock in the morning.

25 THE COURT: Thank you.

James E. Kemfort - Direct Examination In-Camera by Mr. Caskey

1 (Court was in recess for the day.)

2 TUESDAY, MARCH 1, 2016

3 THE COURT: Good morning.

4 All right. Solicitor, you ready to call your first
5 witness?

6 MR. GRAHAM: We are, Your Honor. We have four more
7 statements for the Jackson v. Denno. We thought because of
8 the time frame and the jury coming in that we would
9 actually skip to the last two, which we think are shorter.

10 THE COURT: All right.

11 MR. CASKEY: State calls James Kemfort.

12 JAMES E. KEMFORT,

13 having been duly sworn, testified as follows:

14 THE CLERK: Have a seat, sir. Once you're seated,
15 state your full name, spelling your last, please.

16 THE WITNESS: James E. Kemfort, K-E-M-F-O-R-T.

17 **DIRECT EXAMINATION - IN-CAMERA**

18 BY MR. CASKEY:

19 Q Good morning Detective Kemfort. If you would,
20 please, just state again for the record where you work and
21 what do you do?

22 A I work for the Lexington County Sheriff's
23 Department and I am a major crimes investigator.

24 Q As a major crimes investigator do you have an
25 opportunity to talk with inmates at the Lexington County

James E. Kemfort - Direct Examination In-Camera by Mr. Caskey

1 Detention Center?

2 A Yes, I do.

3 Q Okay. Are you familiar with the inmate request
4 form?

5 A I am.

6 Q If you would please describe what that process is.
7 Well, first of all, what is the inmate request form?

8 A The inmate request form is a form that an inmate
9 housed at Lexington County Detention Center fills out
10 whenever they want to speak with a detective or any
11 employee at the sheriff's department.

12 On May 29th, of 2013, I received an inmate request
13 form from Worth Cook.

14 Q Okay. To your knowledge on May 29th, 2013, was
15 Mr. Cook an inmate at the Lexington County Detention
16 Center?

17 A He was.

18 (State's Exhibit Number 5 was marked for
19 identification.)

20 BY MR. CASKEY:

21 Q Okay. I'm going to hand you what's been marked for
22 identification purposes as State's Number 5.

23 Detective Kemfort, what is that document?

24 A This is the Lexington County Detention Center
25 Inmate Request form from Worth Cook.

James E. Kemfort - Direct Examination In-Camera by Mr. Caskey

1 Q Okay. If you would, please, identify the
2 information at the top of the page. What does it say at
3 the top?

4 A It says Lexington County Detention Center Inmate
5 Request form.

6 Q Okay. And is there a date on that document?

7 A May 29th, 2013.

8 Q All right. And the inmate name listed there?

9 A Worth Edward Cook, III.

10 Q Is there a number associated with Mr. Cook?

11 A Yes.

12 Q What is that number?

13 A Number 17395.

14 Q How many pages are in that document?

15 A There's two pages.

16 Q All right. Is writing contained on both pages?

17 A Yes, both pages, front and back.

18 Q Okay. How did you come into possession of that
19 document?

20 A The detention center staff forwards it through
21 inner office mail and it ends up in my inner office
22 mailbox. So I picked it up on the following morning.

23 Q Which would be what date?

24 A May 30th.

25 Q Okay. As a result of receiving that document, what

James E. Kemfort - Direct Examination In-Camera by Mr. Caskey

1 did you do?

2 A I then proceed to go to the detention center and
3 requested Worth Cook be brought from where he was being
4 housed to the front booking area. From there, we stepped
5 into a laundry room, which is sort of -- its off to the
6 side, allows us some privacy from everybody else. And I
7 spoke with him there.

8 Q Okay. When you spoke with him there, did you
9 advise him of his Miranda Rights?

10 A Yes, I did.

11 Q At that time in the laundry room?

12 A Yes, I did.

13 Q Did he indicate he wished to waive his rights?

14 A He did.

15 Q All right. Tell us about that conversation.

16 A After I advised him of his rights and told him he
17 didn't have to talk to me, he said he wanted to talk to me.
18 I asked him -- I showed him the inmate request form and
19 asked him if everything in here was true, that he wrote
20 this; and he said he did and everything in here was true
21 and that I could find -- he claimed that -- in the
22 statement that he did not kill David Diblasi, but the other
23 guy did and that we could find the murder weapon at the
24 other guy Ricard Barnes' residence, his father's residence
25 in a book bag. And he said he would have another witness.

James E. Kemfort - Cross-Examination In-Camera by Ms. Fullwood

1 from the jail call us soon.

2 Q So was there any difference between the
3 conversation that was had and the substance of that
4 document?

5 A No, there was no difference at all.

6 Q Okay. How long was the conversation in the laundry
7 room?

8 A No more than 5 minutes.

9 Q Okay. Did you talk about the details that are in
10 the document?

11 A No. I just confirmed simply that these details
12 were accurate and he said that it was.

13 Q And did Mr. Cook, in fact, say that it was?

14 A Yeah.

15 Q That he had written that document, State's ID,
16 Number 5?

17 A Yes, he did.

18 Q Okay. Thank you, sir.

19 MR. CASKEY: I don't have any further questions,
20 Your Honor.

21 Please answer any questions the defense counsel may
22 have for you.

23 THE COURT: Thank you, Ms. Fullwood?

24 **CROSS-EXAMINATION - IN-CAMERA**

25 **BY MS. FULLWOOD:**

James E. Kemfort - Cross-Examination In-Camera by Ms. Fullwood

1 Q You didn't go over this inmate request form with
2 him line by line?

3 A No, ma'am.

4 Q Okay. And, in fact, someone at the sheriff's
5 department had already searched Rick Barnes' vehicle,
6 correct?

7 A Yes, ma'am.

8 Q And there was some sort of bag in that vehicle,
9 right?

10 A There was.

11 Q And in that bag there was a knife, at least one
12 knife, correct?

13 A There was.

14 Q Okay. And really that's all you did to verify the
15 contents of that -- of the statements made in that inmate
16 request form?

17 A Yes, ma'am.

18 MS. FULLWOOD: No further questions.

19 THE COURT: Redirect?

20 MR. CASKEY: No further questions, Your Honor.

21 THE COURT: All right. May I see State's 5.

22 THE WITNESS: Yes, sir.

23 THE COURT: You may step down.

24 All right. You may call your next witness.

25 MR. CASKEY: The State has no further witnesses as

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 to this statement, Your Honor.

2 (The Court is reading the document.)

3 THE COURT: All right. Ms. Fullwood, any evidence
4 or testimony?

5 MS. FULLWOOD: We'd call Worth Cook.

6 THE COURT: All right. Mr. Cook, come around,
7 please.

8 WORTH E. COOK,

9 having been duly sworn, testified as follows:

10 THE CLERK: Please have a seat. Once you're
11 seated, state your name, spelling your last, please.

12 THE WITNESS: Worth Edward Cook, III, C-0-0-K.

13 **DIRECT EXAMINATION - IN-CAMERA**

14 BY MS. FULLWOOD:

15 Q Okay. Mr. Cook, you understand that what we're
16 talking about right now is the May 29th inmate request
17 form?

18 A Yes, ma'am.

19 Q All right, sir. Yesterday, I believe we left off
20 with them questioning you on April 4.

21 A Yes, ma'am.

22 Q All right. Between that day and May 31, had you
23 been interrogated between those times?

24 A Yes, ma'am.

25 Q How many times?

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 A Two more times. On the 4th and the 6th.

2 Q What about the 5th?

3 A I mean the 5th and 6th of April.

4 Q Okay. And without getting into too much detail,
5 what were your concerns during that interrogation -- those
6 interrogations. Just in general, what were you concerned
7 about?

8 A Just trying to give them something that would go
9 along with the evidence they were presenting, to make sure
10 that, you know, Shannon didn't get arrested and that it
11 looked like Shannon wasn't around and everything lined up
12 with what they were presenting to me as the evidence that
13 they had at the time.

14 Q Okay. We can go into more detail when we're having
15 a hearing about those days, but is it fair to say that what
16 was mostly in your mind is the threats that were made
17 before about prosecuting your wife?

18 A Yes, ma'am.

19 Q Okay. And at that point -- when you were arrested,
20 how many people were in your nuclear family? It was you,
21 your girlfriend, and any other people?

22 A And the baby. We had our little girl. It was just
23 me and our little girl at the time. We wasn't associated
24 with any of the rest of our family.

25 Q All right. So your nuclear family was you, your

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 wife and an infant?

2 A Yes, ma'am.

3 Q And back in the first part of April, how old was
4 that baby?

5 A Two-and-a-half-weeks old.

6 Q Okay. What motivated you to send that inner office
7 form to Mr. Kemfort?

8 A Due to the things that was said on the 6th, I
9 wanted to bring up the fact that there was stuff that was
10 disposed of on Rick's property and you know to put the
11 blame on Rick Barnes.

12 Q Okay. And did some of that -- was that motivated
13 by some things that had happened on the 5th and 6th?

14 A Yes, ma'am.

15 Q Okay. To the best of your recollection, what
16 happened the next day on May 30th between you and
17 Mr. Kemfort?

18 A Sally Henry, she came to see me early in the
19 morning.

20 Q On the 30th?

21 A On the 30th. She come to see me early that morning
22 and said she had received a call from the detectives about
23 the request form and me and Sally went to a lawyer visit
24 room on the older side of the jail and met with
25 Mr. Kemfort.

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 Q Is that one of those rooms where you meet face to
2 face.

3 A It's got like a screen thing in the middle. Sally
4 would have been on the other side. The detective would
5 have been on the other side. I would have been on the jail
6 side.

7 Q Okay. And is that when you had the conversation
8 with him?

9 A Yes, ma'am.

10 Q And is it correct it was only about a 10 minute
11 conversation?

12 A Yes, ma'am.

13 Q All right. And is that basically all that
14 happened?

15 A We had some good talk and then that was pretty much
16 it.

17 Q Okay. No further questions.

18 THE COURT: All right. Solicitor?

19 MR. CASKEY: Thank you, Your Honor.

20 **CROSS-EXAMINATION - IN-CAMERA**

21 BY MR. CASKEY:

22 Q Good morning, Mr. Cook.

23 A Morning.

24 MR. CASKEY: Your Honor, may I approach the
25 witness?

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 THE COURT: Yes, sir.

2 BY MR. CASKEY:

3 Q Mr. Cook, do you recognize this document that's
4 been marked for purposes of identification as State's
5 Number 5?

6 A Yes, sir, I do.

7 Q What is that?

8 A It's a request form that I wrote.

9 Q You wrote that document?

10 A Yes, sir.

11 Q You just testified a second ago that you had had a
12 conversation with law enforcement on April 5th, and April
13 6th; is that correct?

14 A Yes, sir.

15 Q And you didn't have another conversation for the
16 purposes of this case until the 29th; is that correct?

17 A I believe it would have been the 30th. It would
18 have been after I turned the request form in. I turned in
19 the report on the 29th. I believe it would have been the
20 30th, the next day that I talked to the detective and my
21 lawyer at the same time.

22 Q I'm sorry, I didn't mean to cut you off?

23 A That's all right.

24 Q Immediately preceding the time that you had written
25 that document, how -- what was the most recent time that

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 you had talked with anyone about this case?

2 A The time -- you talking about after I turned in
3 this document?

4 Q Before you wrote that document, what -- when had
5 been the most recent time you had talked with anybody from
6 law enforcement?

7 A It had been the 6th of April.

8 Q Okay. So about 2 months, approximately? A little
9 less than 2 months?

10 A Yes, sir.

11 Q And you did write that document?

12 A Yes, sir.

13 Q Okay. Anybody coerce you to write that document?

14 A No, sir.

15 Q Anybody promise you anything to write that
16 document?

17 A No, sir.

18 Q All right. Also before we go any further, I just
19 want to clarify, Shannon Tart, -- what is your relationship
20 to her?

21 A She is my fiance, girlfriend.

22 Q You're not married, though?

23 A Not legally, no.

24 Q Okay. Just wanted to make sure we were clear.

25 Okay. So you wrote that document without being

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 coerced, without being threatened. Is everything in that
2 document true?

3 A No, sir.

4 Q It's not true. Okay. When you wrote in that
5 document that you had told some lies, believe it or not, I
6 told some lies; is that true?

7 A Yes, sir.

8 Q Okay. So you had lied to law enforcement?

9 A Yes, sir.

10 Q All right. And now you're telling us that
11 everything in that document is not true; is that correct:
12 Yes, sir.

13 Q Okay. So you lied in that document as well?

14 A Yes, sir.

15 Q All right. You're -- you wrote that that document
16 that Richard Barnes killed David Diblasi; is that true?

17 A No, sir.

18 Q What is the truth, Mr. Cook?

19 MS. FULLWOOD: Objection, that's outside the scope
20 of this hearing, Your Honor.

21 THE COURT: Right. This is a hearing solely on the
22 voluntariness of the statement. I would sustain the
23 objection.

24 BY MR. CASKEY:

25 Q Mr. Cook, your testimony today is that what you

1 wrote in that document about Richard Barnes killing David
2 Diblasi is not true; is that correct?

3 A Yes, sir.

4 Q Okay. Thank you. If I could just have that
5 document back.

6 I'm going to hand you that again. That's State's
7 Number 5 for purposes of identification.

8 I just want to make sure I understand what is true
9 and what is not true, so if you would --

10 THE COURT: That -- really, that doesn't go to the
11 voluntariness. The substance of the statements don't go to
12 the voluntariness. Whether or not he gave the statement
13 freely and voluntarily.

14 MR. CASKEY: Yes, sir, I don't have any further
15 questions, then.

16 THE COURT: Redirect, Ms. Henry?

17 MS. FULLWOOD: No, Your Honor.

18 THE COURT: Excuse me, Ms. Fullwood. I apologize.

19 MS. FULLWOOD: That's okay.

20 THE COURT: You may step down, Mr. Cook.

21 THE WITNESS: Yes, sir, thank you.

22 MS. FULLWOOD: No further witnesses.

23 THE COURT: All right. Thank you. Thank you very
24 much.

25 Now, Ms. Fullwood, since you bring up 4/5 and

1 4/6/13, are you tying that to the statement of 5/30/13.

2 MS. FULLWOOD: Your Honor, I didn't hear that
3 completely.

4 THE COURT: All right. Since you brought up the
5 fact that he talked to law enforcement, alledgedly on 4/5
6 and 4/6/13 --

7 MS. FULLWOOD: Yes, sir.

8 THE COURT: Are you tying those facts on what may
9 have occurred on 4/5 and 4/6 to the voluntariness of the
10 statement on 5/30/13?

11 MS. FULLWOOD: Yes, sir, I am.

12 THE COURT: All right.

13 MS. FULLWOOD: And perhaps Your Honor would want to
14 hold your ruling in abeyance until we have hearings on
15 those two days.

16 THE COURT: All right. Thank you.

17 Do y'all have any evidence or testimony in reply,
18 Solicitor.

19 MR. GRAHAM: Just one moment, Your Honor.

20 THE COURT: Yes, sir.

21 MR. CASKEY: Your Honor, I don't think we have
22 anything further on this matter other than to point out
23 that the defendant's testimony is that he had written this
24 free and clear of any contact with law enforcement for
25 approximately 2 months.

Charles Robert Lint, Jr. - Direct Examination In-Camera by Mr. Graham

1 THE COURT: I understand. I understand it was from
2 4/6 to 5/30, but if the record's not complete because of
3 whatever occurred on 4/5 or 4/6/13, I will hold my ruling
4 in abeyance.

5 All right. Now you have number 7; is that right?

6 MR. GRAHAM: Yes, Your Honor, number 7, the last
7 one, Your Honor.

8 The State would call Sargent Robbie Lint.

9 THE COURT: All right. Sargent, if you would come
10 around and be sworn.

11 CHARLES ROBERT LINT,

12 having been duly sworn, testified as follows:

13 THE CLERK: Have a seat. Once you're seated, state
14 your full name, spelling your last.

15 THE WITNESS: Charles Robert Lint, Jr. Lint is
16 spelled L-I-N-T.

17 DIRECT EXAMINATION - IN-CAMERA

18 BY MR. GRAHAM:

19 Q Sargent Lint, you are a major crimes sargent and
20 you were a major crimes sargent on this case back in 2013,
21 correct?

22 A On April 16th of 2015, so April 16th of last year,
23 what was your involvement in meeting with Mr. Cook? And
24 explain how that occurred.

25 A Yes, sir. I was contacted and advised by yourself

Charles Robert Lint, Jr. - Direct Examination In-Camera by Mr. Graham

1 that Mr. Cook and his attorney, Ms. Sally Henry requested a
2 meeting at the sheriff's department for an interview in
3 reference to this case.

4 Q And did that meeting occur?

5 A It did. It did occur on April 16th, 2015 at around
6 4:41 p.m. in the afternoon hours.

7 Q And where did that occur at?

8 A I escorted Mr. Cook from the detention center over
9 to the sheriff's department and we went into Interview Room
10 1 where yourself, myself, Ms. Sally Henry; and a Tricia
11 Reece -- I think I've seen her name on --

12 Q She was the investigator for the public defender's
13 office?

14 A Correct.

15 Q And those were the people who were all present?

16 A Yes, sir.

17 Q Even though Ms. Henry was there and Ms. Henry was
18 Mr. Cook's and is Mr. Cook's attorney, did you advise
19 Mr. Cook of his rights?

20 A I did.

21 Q And what if anything, did you use to do that?

22 A I used what's called the Lexington County Sheriff's
23 Department advisement of rights form.

24 Q And do you have that in front of you?

25 A I do.

Charles Robert Lint, Jr. - Direct Examination In-Camera by Mr. Graham

1 Q And that's the form that you used at the time?

2 A I did, yes, sir.

3 MR. GRAHAM: Your Honor, the State would offer that
4 for identification for the purpose of this hearing.

5 MS. FULLWOOD: No objection.

6 THE COURT: All right.

7 MR. GRAHAM: It's State's Number 6, Your Honor.

8 (State's Exhibit Number 6 was marked for
9 identification.)

10 BY MR. GRAHAM:

11 Q Can you explain the advisement of rights and how
12 you went about advising Mr. Cook of his rights in the
13 presence of his attorney?

14 A Yes, sir, I did. The advisement of rights form at
15 the top of the form has a date and time. I dated it on
16 April 16, of 2015. The time I notated on it was 4:41 p.m.
17 At that time, I would read each line word for word to
18 Mr. Cook, advising him of his rights. Once I was finished
19 with this then I would have turned around and give it to
20 him and asked him to read it himself and if he would to
21 please initial beside each line that he had -- of each
22 right that he understood those, which he did by indicating
23 with a W.C. by each line.

24 At the end of the statement, it states, I have read
25 the statements of my rights and understand what my rights

Charles Robert Lint, Jr. - Direct Examination In-Camera by Mr. Graham

1 are, which he initialled as well and signed. I had him
2 sign the document. He signs it Worth Edward Cook, III.

3 At the bottom of it, I also had him time stamp it
4 so we would know how long it took from the time he -- these
5 rights were read to him and when they were finished and
6 that time stamp is at 4:45 p.m.

7 Q Could you pass that up to the judge so he can look
8 at that?

9 THE COURT: Thank you.

10 THE WITNESS: Yes, sir.

11 BY MR. GRAHAM:

12 Q All right. So he was advised of his rights before
13 any questions began?

14 A Yes, sir.

15 Q And then it's your understanding that who requested
16 this meeting?

17 A He did, with his attorney.

18 Q So after advising him of his rights, and him
19 waiving his rights, can you tell the Court what Mr. Cook
20 said?

21 MS. FULLWOOD: Objection, that's outside the scope
22 of this hearing.

23 THE COURT: I would sustain the objection.

24 BY MR. GRAHAM:

25 Q So regardless, whatever he said on April 16, 2015,

Charles Robert Lint, Jr. - Direct Examination In-Camera by Mr. Graham

1 he said voluntarily to you?

2 A Correct, yes, sir.

3 Q That conversation was initiated by him and it was
4 done in the presence of his attorney?

5 A Yes, sir.

6 Q Did he appear to be under the influence of alcohol
7 or drugs?

8 A No, sir.

9 Q At any time during that conversation with him did
10 you, myself, or anyone else threaten him or coerce him to
11 make those statements?

12 A No, sir.

13 Q Did you or myself make any promises to him?

14 A No, sir.

15 Q Any hopes of reward for telling whatever he said?

16 A No, sir.

17 Q In your opinion was his statement given freely and
18 voluntarily on April 16th, 2015?

19 A Yes, sir.

20 Q At any time during that conversation did he request
21 that you or myself leave so that he could speak with his
22 attorney?

23 A No, sir.

24 Q Okay. Thank you, Sargent. Please answer any
25 questions that they have for you.

1 THE COURT: Thank you, Solicitor.

2 Ms. Fullwood?

3 MS. FULLWOOD: No questions.

4 THE COURT: Thank you. Thank you very much, you
5 may step down, Sargent.

6 You may call your next witness, Solicitor.

7 MR. GRAHAM: That's all on this matter, Your Honor.

8 THE COURT: All right. Any evidence or testimony
9 from the defense, Ms. Fullwood?

10 MS. FULLWOOD: No, Your Honor.

11 THE COURT: All right. Thank you.

12 All right. Ms. Fullwood, as to this statement,
13 does it tie in at all to 4/5 or 4/6?

14 MS. FULLWOOD: No, sir, it does not.

15 THE COURT: All right. Solicitor?

16 MR. GRAHAM: Your Honor, as far as this statement,
17 you heard that he requested the meeting, we arranged the
18 meeting. His attorney was present during the meeting and
19 he was advised his rights. He waived his rights. He had
20 no promises, he had no threats made to him. He never
21 invoked his right. His attorney was there and he talked to
22 the end of the conversation. Everything he said during
23 there was made freely and voluntarily.

24 THE COURT: Anything in response, Ms. Fullwood?

25 MS. FULLWOOD: No, sir. In all candor, I don't see

1 any 5th, 6th or 14th Amendment implications in this
2 particular interrogation or meeting.

3 THE COURT: All right. Based on the totality of
4 the circumstances as to the statement given on May (sic)
5 16th of 2015, I find that it was freely and voluntarily and
6 knowingly made. It was given in the -- after the
7 advisement of rights in the presence of his attorney,
8 Ms. Henry. Therefore, it would be admissible. So
9 statement 1, 2, 3, and 7 I have ruled on and then we'll
10 still have to take testimony on 4 and 5; is that correct,
11 Solicitor?

12 MR. GRAHAM: Correct, Your Honor.

13 THE COURT: All right. Thank you.

14 All right. Anything further before we bring in our
15 jury from the State.

16 MR. GRAHAM: No, Your Honor.

17 THE COURT: From the defense?

18 MS. FULLWOOD: No, Your Honor.

19 THE COURT: All right. Thank you.

20 Is our jury present.

21 THE BAILIFF: Yes, Your Honor.

22 THE COURT: All right. Would you bring our jury,
23 please.

24 THE BAILIFF: Yes, Your Honor.

25 (The jury entered the courtroom at 9:30 a.m.)

1 THE COURT: Madam Clerk, would you swear our jury,
2 please.

3 THE CLERK: Yes, sir, Your Honor. Please stand and
4 raise your right hand.

5 (The jury was sworn at 9:31 a.m.)

6 THE CLERK: Be seated, please.

7 Was there anyone not able to take the oath as it
8 was administered?

9 Panel under oath, Your Honor.

10 THE COURT: Thank you, Madam Clerk.

11 **OPENING REMARKS BY THE COURT**

12 THE COURT: Mr. Foreman, ladies and gentlemen of
13 the jury, good morning.

14 THE JURY: Good morning.

15 THE COURT: The case we are about to try is the
16 case of the State versus Worth Edward Cook, III, the
17 defendant to my front left. What I will now say is
18 intended to serve as an introduction to the trial of this
19 case. These remarks are not an instruction on the law in
20 this case. I will instruct you on the law applicable to
21 this case during and at the end of the trial before you
22 retire to consider your verdict. This is merely an
23 explanation of the procedure that we will follow in the
24 trial so that you may better understand what may be
25 happening.

1 The defendant is charged by an indictment filed in
2 this court with the crime of murder, the elements of which
3 will be explained to you later. The indictment, ladies and
4 gentlemen is simply the formal charging document by which
5 the case is brought before the Court and it is not in any
6 sense evidence of any of the allegations contained.

7 The defendant has pled not guilty to the
8 indictment. The State, the parties to my front right,
9 therefore, has the burden of proving each of the elements
10 of the indictment beyond a reasonable doubt and it will be
11 your duty, ladies and gentlemen to decide whether the State
12 has met that burden. Your purpose as jurors is to find and
13 determine the facts. You are the sole judge of the facts.

14 If at any time I make any comment regarding the
15 facts, you must disregard it. You are to determine the
16 facts from the testimony you hear and the other evidence
17 introduced in the court. It is up to you to determine the
18 inferences which you feel may properly be drawn from the
19 evidence. It is especially important that you perform
20 your duty of determining the facts diligently and
21 conscientiously because ordinarily there is no way to
22 correct an erroneous determination of the facts by a jury.

23 On the other hand and with equal emphasis, the same
24 law that makes you the judges of the facts, make me the
25 judge of the law. The law as given by the Court is the

1 only law you may consider. You must accept and follow it,
2 even though you may disagree with it. I cannot tell you
3 what the facts are and you cannot disagree with me about
4 what the law is or what the law should be. Your job is to
5 take the law as I give it to you and apply it to the facts
6 as you find them from the testimony of the witnesses and
7 any other evidence that may be introduced. After doing
8 that, you will render your verdict, a true and just verdict
9 under the solemn oath that you just took as jurors.

10 Until I've advise you to begin your deliberations,
11 you must not discuss this case with anyone. That includes
12 your fellow jurors, family, friends or anyone else. After
13 the case is submitted to you, you must discuss it only in
14 the jury room with your fellow jurors.

15 During the trial, do not read, listen to, or watch
16 any news reports about the case. This includes anything
17 that may be in the newspapers or on the internet, radio or
18 television. You must not consider anything you may have
19 read or heard about the case outside the courtroom whether
20 before or during the trial. It is important that you keep
21 an open mind and not decide any issue in the case until all
22 of the evidence has been presented, the parties have made
23 their closing arguments and I have instructed you on the
24 law in this case; and then you have been advised to begin
25 your deliberations with your fellow jurors in your jury

1 room.

2 It is your solemn responsibility to determine the
3 guilt or innocence of the defendant and your verdict must
4 be based on the evidence as it is presented to you in this
5 trial and on the law as I instruct you during and at the
6 close of the trial.

7 Now in just a moment, the solicitor will make what
8 is called an opening statement, in which the solicitor will
9 explain to you the issues in the case, or at least what the
10 solicitor thinks the issues are in the case.

11 Ms. Henry or Ms. Fullwood, one of the attorneys for
12 the defendant may also make an opening statement, although
13 they are not required to do so. A criminal defendant in
14 South Carolina is always presumed to be innocent,
15 regardless of the seriousness of whatever the charge may
16 be.

17 What the attorneys tell you during their opening
18 statement is not evidence in the case. It is only their
19 contention as to what the issues are. What the attorneys
20 tell you in their closing arguments is not evidence in the
21 case. It is their contention as to what the facts may be
22 and how those facts may apply to the law as I tell you the
23 law is.

24 The questions by the attorneys is not evidence. It
25 is the frame work by which is evidence is extracted from

1 the sworn witnesses under oath, it's how that testimony
2 comes to you, the responses of the witnesses, not the
3 questions of the attorneys.

4 The evidence will be presented by that testimony,
5 the sworn witnesses from this witness stand and/or by
6 exhibits that may be introduced into evidence. From time
7 to time during the trial, you may hear one of the attorneys
8 say something like: Your Honor, I believe we have a
9 question of law or a matter of law to discuss with you; or:
10 Your Honor may we approach the bench; or sometimes I myself
11 might find it necessary to excuse you from the courtroom
12 for a short while so the attorneys and I can discuss a
13 matter of law.

14 This is not to hide anything from you. The reason
15 for this is because you are the judges of the facts in the
16 case and sometimes when I am discussing matters of law with
17 the attorneys, it may be necessary for me to make some
18 comment as to the fact in conjunction with ruling whether
19 or not a particular law applies. I am not supposed to tell
20 you what I think the facts are, so I will excuse you from
21 the courtroom while these discussions take place so that in
22 no way will you be influenced by anything that I might say
23 or do in connection with the facts. In determining what
24 the true facts are in this case, you must decide whether or
25 not the testimony of the witnesses is believable. It will

1 be my responsibility to rule as a matter of law as to
2 whether certain testimony is admissible at all or not; in
3 other words whether you hear it or not. But once the
4 testimony is admitted, whether or not you believe it is
5 solely for you, the jury, to determine.

6 In deciding whether to believe a witness with the
7 background of your good judgment and your common sense, you
8 have the right to consider the interest of any witness, the
9 bias of any witness, the prejudice of any witness, the
10 opportunity for the witness to have seen matters and things
11 about which the witness may testify, and the manner or the
12 demeanor of the witness while on the witness stand. You
13 may consider whether the witness is hesitant or
14 forthcoming; whether the testimony of the witness is
15 corroborated by the testimony of other witnesses or whether
16 the testimony of the witness is not corroborated or whether
17 or not the testimony of the witness is impeached in any
18 manner.

19 You have the right to consider anything that is in
20 the record that will help you evaluate the testimony of the
21 witnesses. That means it will be your duty to pay close
22 attention to the witnesses, to observe the witnesses, to
23 listen to the witnesses, to pay close attention to the
24 attorneys and to the Court. Don't let your thoughts
25 wander, but give strict attention to the testimony in this

1 case so that at the end of all of the testimony, after the
2 arguments of the counsel and the charge on the law by the
3 Court, you will then be in that position to determine what
4 the true facts are and to apply those facts to the law and
5 thus render that true and just verdict.

6 It will be your added responsibility, Mr. Foreman,
7 to preside in the jury room and be the jury spokesperson
8 here in court. It will also be your duty to write the
9 verdict, but I will give you further instructions about
10 that at the conclusion of the case.

11 And just very briefly, administratively, there is a
12 speaker system in the courtroom; however, if you cannot
13 hear a witness, please get my attention, the attention of
14 one of the bailiffs or the clerk and I will have that
15 witness speak up or sit up in some manner.

16 Also many times, of course, there's so much
17 technology in the courtroom nowadays, but at times if
18 photographs are introduced or the like -- and I don't know
19 what may or may not be -- many times they're handed to your
20 foreperson while you're out here in your jury box and
21 passed among members of the jury panel. You may look at
22 those items all you wish. Please keep in mind if I allow a
23 photograph or physical item into evidence that will not be
24 the only opportunity you will have to view those items.
25 You will also have any and all items that are introduced

1 during the course of the trial with you in your jury room
2 at the time of your deliberations.

3 Again, you look at those items all you wish out
4 here in the courtroom. That will not be the only
5 opportunity you will have to review -- to review those
6 items.

7 As far as seating, I need to keep up with fourteen
8 people. I would ask that our foreperson always maintain
9 the seat he is now in and that our alternates always
10 maintain those two seats. The other members of the jury
11 may sit wherever you would like to sit within the jury box.
12 I have observed over the course of years that many times
13 jurors can be territorial, very territorial. They like the
14 same view and the same vision of the courtroom each and
15 every time throughout the trial of the case. I'm the same
16 way. I like it. I like sitting in the same place each and
17 every time. You may certainly do so, sit in the same seat;
18 however you're not required to do so. I'll leave that up
19 to the jury.

20 From time to time, you may see me on my computer.
21 I don't e-mail, snap talk or hash tag -- I don't know what
22 that is. I stay focused on the case. These are very good,
23 experienced trial attorneys. If I see what I perceive to
24 be a -- perhaps a legal issue down that dusty trial, I will
25 do some research. If that annoys you in any way with me

1 being on the computer, please let me know and I will use
2 another method.

3 Finally, what am I really in charge of? Taking
4 breaks. Taking breaks. This, ladies and gentlemen, is not
5 some type of judicial marathon. This is a very important
6 case to both Mr. Cook and to the State. The way I
7 generally take breaks is when I want a break, we take a
8 break. It works out good. As I say it's not a judicial
9 marathon. If you sit out here too long, your thoughts
10 start to wander, please, you're probably not the only one
11 in the courtroom. Raise your hand. Y'all will take your
12 break, we will take our break.

13 Again, it's an important case to the State and to
14 Mr. Cook. So please, please keep that in mind. And as I
15 say, if at any time you wish to take a break, again raise
16 your hand, y'all will take y'all's break, we will take our
17 break.

18 Any objections to anything I've told the jury from
19 the State, Solicitor?

20 MR. CASKEY: None from the State.

21 THE COURT: From the defense, Ms. Henry?

22 MS. HENRY: Nothing from the defense.

23 THE COURT: All right. Thank you very much.

24 We will now begin our opening statements.

25 Solicitor you may address the jury.

1 MR. CASKEY: Thank you, Your Honor, may it please
2 the Court?

3 THE COURT: Certainly.

4 **OPENING STATEMENTS**

5 MR. CASKEY: Ms. Henry, Ms. Fullwood. Ladies and
6 gentlemen, what I'm about to tell you is brutal, it's
7 gruesome, savage, it's stuff of nightmares. As you heard
8 the judge say this morning and as you heard yesterday, this
9 is a murder trial. You're going to hear testimony and
10 evidence in this case that establishes that the victim,
11 David Diblasi was last seen alive with Worth Cook, February
12 25th, 2013. You're going to hear officers tell you how
13 that investigation began.

14 A week or so later after his disappearance, a
15 missing person's report was filed. Officers during the
16 course of their investigation found the bank records of
17 David Diblasi, identified that his credit card had been
18 used after the 25th. You'll hear testimony that the
19 defendant -- that the victim's credit card was used at
20 Wal-Mart. You're going to see the photos of that
21 transaction. You're going to see a photo of the defendant,
22 Worth Cook, using that credit card.

23 Officers are going to take the stand and they're
24 going to tell you that that investigation led them to [REDACTED]
25 [REDACTED], the residence of Worth Cook. Officers are

1 going to tell you that when they got there, they found
2 blood on the wall. That they found a bloody bag bunched up
3 in a corner. Experts from SLED are going to take the stand
4 and they're going to tell you that blood is David
5 Diblasi's. Brutal, gruesome, and savage.

6 You're going to hear testimony about phone records,
7 cell phone towers that establish on the night of February
8 25th, 2013, Dave Diblasi and Worth Cook were together.
9 You're going to hear testimony and see evidence that when
10 officers found Dave Diblasi's body, it was dumped into a
11 hole, an unmarked shallow grave in Worth Cook's backyard.
12 Brutal, gruesome, and savage.

13 You're going to hear from Dr. Janice Ross, who
14 performed the autopsy on Dave Diblasi's body. She's going
15 to tell you that he was stabbed again and again and again
16 and again and again and again and again. She's going to
17 tell you that the fatal blow, the stroke that killed Dave
18 Diblasi, was a stab wound through the eye and into the
19 brain of Dave Diblasi.

20 You're going to have an opportunity to hear the
21 words of the defendant and his web of lies. At the
22 conclusion of this case, you're going to have an
23 opportunity -- pay attention to the testimony, pay
24 attention to the evidence, pay attention to the defendant's
25 lawyers trying to confuse you; because you're going to have

1 an opportunity to tell the world that Worth Cook is a
2 murderer.

3 Thank you.

4 THE COURT: Thank you, Thank you, Solicitor.

5 Ms. Henry?

6 MS. HENRY: Thank you, Your Honor, may it please
7 the Court?

8 THE COURT: Yes, ma'am.

9 MS. HENRY: Good morning ladies and gentlemen of
10 the jury. My name is Sally Henry and I along with
11 Elizabeth Fullwood seated at the table over there represent
12 Mr. Cook in this matter.

13 Now, you've heard the State say that you're going
14 to hear some disturbing, upsetting things, characterized as
15 brutal and gruesome. We do not disagree with that. This
16 is a very somber moment, a very serious crime. Seated at
17 the table with Ms. Fullwood is Worth Cook. And I'd like to
18 ask Mr. Cook to come over for a moment so that you can meet
19 him.

20 Mr. Cook's a 29-year-old resident of the Leesville
21 area. He has spent most of his life here in Lexington
22 County and he is admitting that he is responsible for David
23 Diblasi's death. He admits that.

24 Thank you, Mr. Cook. You can return to the table.

25 He admits he is responsible, but only because he

1 was defending himself, his fiance, their unborn child and
2 his home against an unprovoked attack by David Diblasi. As
3 this trial unfolds, you will hear the story behind these
4 events and I would ask you please to keep an open mind as a
5 the trial progresses so that you understand and hear all of
6 the evidence.

7 One of our closely held beliefs in this nation is a
8 right to defend ourselves. Not only ourselves, but our
9 loved ones, our homes from attack; from assailants. We can
10 use force to do that, even lethal force as happened in this
11 case.

12 How many of us have ever been in that type of
13 situation where you are attacked by someone and really have
14 no choice but to defend yourself or defend your loved ones.
15 Fortunately for us, not many of us have ever been in that
16 situation. But on February 25th of 2013, Mr. Cook found
17 himself exactly in that position and he responded as he
18 did.

19 Now, you have been selected as the jury to
20 determine the facts in the situation as Judge McMahon just
21 told you. That means that you listen to all of the
22 evidence. You observe the physical evidence. But you keep
23 your minds open in order that you can have all the facts
24 before you make a judgment call because you are the sole
25 determiner of the facts of the case. You bring to this

1 courtroom and to the jury box your life experiences, your
2 compassion, your common sense. It's what makes us who we
3 are. You don't leave that at the courthouse door.

4 The burden of proof in this case to prove murder is
5 on the government. Mr. Cook doesn't have to prove or
6 disprove anything. But we want you to hear his story. The
7 State's burden, of course, is beyond a reasonable doubt.
8 It's the highest standard we have in law. The indictment
9 reads that Worth Cook did willfully and feloniously with
10 malice aforethought kill David Diblasi.

11 As the judge will explain to you later, those are
12 the elements of the offense. Please keep those in mind:
13 Willfully, feloniously with malice aforethought,
14 aforethought. And we believe once you have heard the
15 entire story as it's presented to you, you will agree with
16 us that Mr. Cook did not murder David Diblasi and you will
17 find him not guilty of that charge.

18 Thank you.

19 THE COURT: Thank you. Thank you, Ms. Henry.
20 Solicitor.

21 MR. GRAHAM: Thank you, Your Honor.

22 The State calls Mark Diblasi.

23 THE COURT: If you would come around and be sworn
24 for us, please.

25 MARK CALHOUN DIBLASI,

Mark C. Diblasi - Direct Examination by Mr. Graham

1 A He was the baby of the family.

2 Q All right. Your brother's full name is what?

3 A David Jonathan Diblasi.

4 Q And when was his -- when was his date of birth?

5 A [REDACTED]

6 Q And how tall was he?

7 A About 5'7", 5'8".

8 Q And how much did he weigh?

9 A About 150 pounds.

10 Q Let me show you a photograph and ask you if you
11 recognize this photograph?

12 A Yes, I do.

13 Q And is that a fair and accurate depiction of David?

14 A Yes.

15 MR. GRAHAM: Your Honor, the State would offer this
16 into evidence.

17 MS. FULLWOOD: Objection, Your Honor. No
18 relevance.

19 THE COURT: All right.

20 MS. FULLWOOD: Or potentially calculated to
21 encourage decision making on an inculpable basis.

22 THE COURT: All right. Solicitor?.

23 MR. GRAHAM: I mean, Your Honor, a man was killed,
24 this is who it was. I don't think there's anything
25 inflammatory about this photo. There are some witnesses

Mark C. Diblasi - Direct Examination by Mr. Graham

1 that I very well may show this photo to, to make sure we're
2 talking about the right person.

3 THE COURT: All right. Mark it for identification
4 purposes only at this time in light of State versus
5 Livingston, a Beaufort case and we'll give you an
6 opportunity and Ms. Fullwood an opportunity to review that.
7 So for identification purposes only.

8 (State's Exhibit Number 7 was marked for
9 identification.)

10 THE COURT: Thank you, Solicitor. You may
11 continue.

12 BY MR. GRAHAM:

13 Q Back in February of 2013, where were you living,
14 Mr. Diblasi?

15 A [REDACTED], Lexington County, South
16 Carolina.

17 Q And who was living with you at that house?

18 A It was my mother and me and my brother, David.

19 Q The last day that you saw David, do you remember
20 the date?

21 A February 25th.

22 Q Of which year?

23 A 2'13.

24 Q Do you remember filing a missing person's report on
25 March 9th of 2013?

Mark C. Diblasi - Direct Examination by Mr. Graham

1 A Yes, I did.

2 Q And at that time you informed the police that David
3 was missing and how long he'd been missing?

4 A Yes.

5 Q David also had a white pick-up truck, didn't he?

6 A Yes.

7 Q And did that truck disappear with him as well?

8 A Yes.

9 Q What kind of a truck was that, do you remember?

10 A It was a '96 Isuzu pick up, two door.

11 Q And you remember the color?

12 A White.

13 Q In addition to that, was there also a motorcycle
14 that disappeared as well?

15 A Yes, a Honda 200.

16 Q Your brother had bank accounts with credit and
17 debit cards, correct?

18 A Yes.

19 Q Do you remember what bank that was with?

20 A TD Bank.

21 Q February 25th, 2013, was the last time that you saw
22 your brother or that you ever saw his body, is that
23 correct?

24 A Right.

25 Q Thank you, Mr. Diblasi.

Mark C. Diblasi - Cross-Examination by Ms. Fullwood

1 THE COURT: Thank you, Solicitor.

2 Ms. Fullwood?

3 CROSS-EXAMINATION

4 BY MS. FULLWOOD:

5 Q Mr. Diblasi, your brother had lived for quite some
6 time in Philadelphia; is that correct?

7 A That's correct.

8 Q And he'd been a cab driver up there?

9 A Yes.

10 Q And did he retire, so to speak from driving a cab
11 and moving back down the South Carolina?

12 A Yes.

13 Q And how long had he been living in South Carolina
14 before he died?

15 A I believe it was about 2003.

16 Q Okay. So about 10 years?

17 A Yeah.

18 Q And even though he lived down here, he very
19 frequently made trips up to the Philadelphia area; is that
20 correct?

21 A Yes, ma'am.

22 Q And you and the rest of your family knew that he
23 associated with some undesirable people up there; is that
24 correct?

25 MR. GRAHAM: Objection. Relevance.

Mark C. Diblasi - Cross-Examination by Ms. Fullwood

1 THE COURT: Sustained.

2 BY MS. FULLWOOD:

3 Q You and your family were aware that he frequently
4 got heroin and stuff --

5 MR. GRAHAM: Objection.

6 THE COURT: Sustained.

7 MS. FULLWOOD: No further questions.

8 THE COURT: Thank you. Thank you, Ms. Fullwood.
9 Anything on redirect?

10 MR. GRAHAM: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. GRAHAM:

13 Q Mr. Diblasi, do you recognize the telephone number
14 267-449 --

15 MS. FULLWOOD: Objection. Outside the scope of
16 redirect.

17 THE COURT: I'll allow it under 611.

18 Go right ahead, Solicitor.

19 MR. GRAHAM: Thank you, Your Honor.

20 BY MR. GRAHAM:

21 Q Do you recognize the number 267-449-4731?

22 A No.

23 Q You don't recognize that?

24 MR. GRAHAM: Thank you.

25 THE COURT: Any in recross-examination, Ms.

James E. Kemfort - Direct Examination by Mr. Caskey

1 Fullwood?

2 MS. FULLWOOD: No, Your Honor.

3 THE COURT: Thank you. Thank you very much, sir.

4 You may step down.

5 You may call your next witness.

6 MR. CASKEY: Your Honor, the State would call

7 Detective James Kemfort.

8 THE COURT: All right. And ladies and gentlemen,
9 many of the witnesses are sequestered. When they call
10 them, it takes a minute for them to get to the courtroom.
11 They're not being disrespectful to you or the Court in any
12 manner.

13 JAMES E. KEMFORT,

14 having been duly sworn, testified as follows:

15 THE CLERK: Have a seat, sir. Once you're seated,
16 state your full name, spelling your last, please.

17 THE WITNESS: My name is James E. Kemfort,
18 K-E-M-F-O-R-T.

19 DIRECT EXAMINATION

20 BY MR. CASKEY:

21 Q Detective Kemfort, if you would please, tell the
22 jury what where you work and what do you do there?

23 A I work at the Lexington County Sheriff's
24 Department. I am a major crimes investigator with the
25 special victim's unit.

James E. Kemfort - Direct Examination by Mr. Caskey

1 Q And where were you employed and in what capacity in
2 the February time frame of 2013?

3 A I was still at Lexington County Sheriff's
4 Department and I was a major crimes detective.

5 Q Okay. So what's a major crimes detective do?

6 A We investigate personal crimes, crimes against
7 people, whether it be homicide, sexual assaults, physical
8 assaults, anything that's a crime against a person, we
9 investigate it.

10 Q How did you become -- were you involved in the case
11 against Worth Cook?

12 A Yes, I was.

13 Q Okay. Tell the jury how you came to be involved in
14 the case?

15 A The incident report was filed and I was assigned as
16 the detective over the case on March 9th.

17 Q Let me just ask you, what do you mean by incident
18 report?

19 A An incident report was filed, I believe, on -- he
20 was reported missing on March 9th. A missing person's
21 report was filed on March 9th, by Maria Branham and Mark
22 Diblasi.

23 Q Okay. And as a result of that report, what did you
24 do?

25 A I got the report and I initially tried to make

James E. Kemfort - Direct Examination by Mr. Caskey

1 contact with the complainants who filed the report, Maria
2 Branham and Mark Diblasi. I came to finally make contact
3 with them on March 18th and met with them at their
4 residence.

5 Q Who was the subject of that missing person report.

6 A The subject was Maria Branham's son, David Diblasi,
7 which is Mark Diblasi's brother.

8 Q So Maria Branham is David Diblasi's mother; is that
9 correct?

10 A That's correct.

11 Q Okay. As a result of that conversation, what did
12 you do?

13 A I was able to get some information as far as cell
14 phone information that we used, as well as bank record
15 information.

16 Q Okay. What exactly did you obtain about bank
17 information?

18 A What bank he utilized.

19 Q Which was?

20 A TD Bank.

21 Q Okay. And the cell phone number; what was that?

22 A They gave me two cell phone numbers: 267-449-4731
23 and 267-273-3327. They weren't sure which one was the
24 correct one, but --

25 Q Okay. And as a result of that information, what

James E. Kemfort - Direct Examination by Mr. Caskey

1 did you do next?

2 A At that time I went to -- we got a search warrant.
3 I called TD Bank and spoke with them and got a search
4 warrant for his bank account records, as well as a search
5 warrant for the phone records?

6 Q And did you receive those records?

7 A We did.

8 Q And as a result of having received these records,
9 did you review them?

10 A Yes.

11 Q Okay. And what did you do -- how did you receive
12 those records and review them?

13 A I -- we noticed a charge on -- that was processed
14 on March 6th, so it was after he was reported missing and
15 at the Wal-Mart store, 4521, which is in Red Bank,
16 Lexington, South Carolina.

17 Q Okay. With that information, what did you do?

18 A Okay. At that point, I went to -- I contacted the
19 Wal-Mart and requested that they -- asked them to try to
20 locate any kind of receipts of transactions that that card
21 was used around that date and time. I spoke with the store
22 manager Brian miller, who assisted in obtaining the records
23 of that transaction.

24 Q Did you obtain records of the transaction you're
25 referring to?

James E. Kemfort - Direct Examination by Mr. Caskey

1 A I did.

2 Q Okay. Did you obtain anything else?

3 A Yes. We got video surveillance over the cash
4 register of the person using -- making that transaction as
5 well as the receipts and a video of that incident.

6 Q Did you do anything with that -- with the materials
7 that you had obtained from Wal-Mart?

8 A Yes. We got still photos which we utilized to help
9 identify the people who were using the card at that time.

10 Q What do you mean by used to help identify? How did
11 you use them?

12 A We took these still photographs and we interviewed
13 some of the last people that saw David Diblasi before he
14 was reported missing.

15 Q Do you recall the names of the people that you
16 showed them to?

17 A Yes. I showed them to a Damian Hoffman and a
18 Melinda Gladden.

19 Q Thank you, Detective Kemfort. I don't have any
20 more questions for you at this time. Please answer any
21 questions the defense may have.

22 THE COURT: Thank you, Solicitor.

23 Ms. Fullwood?

24 MS. FULLWOOD: I don't have any questions for this
25 witness at this time either.

Amy Lasley - Direct Examination by Mr. Caskey

1 THE COURT: Thank you. Thank you very much,
2 Detective Kemfort.

3 THE WITNESS: Yes, sir.

4 THE COURT: You may step down.

5 MR. CASKEY: State would call Amy Lasley.

6 AMY LASLEY,

7 having been duly sworn, testified as follows:

8 THE CLERK: Have a seat, please, ma'am. Once
9 you're seated, state your full name, spelling your last,
10 please, on the record.

11 THE WITNESS: Amy Lasley, L-A-S-L-E-Y.

12 DIRECT EXAMINATION

13 BY MR. CASKEY:

14 Q Ms. Lasley, where do you work and what do you do
15 there?

16 A I work for TD Bank. I am the branch manager on
17 Columbia Avenue in Lexington.

18 Q What does the branch manager do?

19 A We oversee the daily operations of the branch.

20 Q And what sort of operations regularly go on at TD
21 Bank?

22 A Transactional operations, along with audits and
23 various interactions with customers.

24 Q And you establish new accounts?

25 A We do establish new accounts.

Amy Lasley - Direct Examination by Mr. Caskey

1 Q Okay. And as a manager, you do all this by
2 yourself or do you have a staff?

3 A I have a staff of six at that branch.

4 Q You're the supervisor of those people?

5 A Yes, I am.

6 Q All right. Where were you -- excuse me, in the
7 course of your business, do you regularly access records
8 and transactions?

9 A Absolutely.

10 Q Okay.

11 (State's Exhibit Number 8 was marked for
12 identification.)

13 BY MR. CASKEY:

14 Q Ms. Lasley, I'm handing you what's been marked as
15 State's Number 8. Do you recognize those documents?

16 A Yes, I do.

17 Q Okay. Let's go through them. What does the top
18 one appear to be?

19 A The top one is a personal account form. This is
20 what we use when we are opening accounts. The customer
21 will give us their information, date of birth, social
22 security number, address, phone number, and then they'll
23 sign the signature card and date it. That -- we will use
24 that signature to reference identity of checks that might
25 be signed to make sure that it's the same person.

Amy Lasley - Direct Examination by Mr. Caskey

1 Q Is that particular sheet created at the time the
2 account is open?

3 A Yes, it is.

4 Q And how do you record that? How is that sheet
5 created?

6 A We create the sheet on a computer, of course. We
7 fill it all out, the customer signs it and then we send it
8 up to imaging so that it will be on the screen when the
9 customer does a transaction.

10 Q Okay. Let's go to the next pages of the bundle
11 that I handed you. Do you recognize those pages?

12 A Yes, I do. These are screen shots from our
13 computer. We work on the Encore System and it will give
14 you a screen shot of the customer's folder. So it will
15 have the customer's name and address and then it will list
16 the accounts that they have open with us.

17 Q And the information in that screen shot comes from
18 what system?

19 A The Encore System.

20 Q Is it -- how is that information entered into the
21 Encore System?

22 A From our back office system. So we would send the
23 signature card up for screening. They would do the image,
24 screen it and load it all into the system. At that point
25 it will give you account numbers and debit card numbers and

Amy Lasley - Direct Examination by Mr. Caskey

1 anything else pertaining to that opening sheet.

2 Q Okay. And is that information compiled from
3 information that you collect in your daily course of your
4 business?

5 A Yes.

6 Q All right. Let's look at the next sheets that I
7 handed you.

8 A Okay.

9 Q What do those documents appear to be?

10 A These are the transactions on a debit card. We get
11 this information from our Metavante System. So every time
12 the customer uses the card, it's -- they swipe the card,
13 the information gets loaded into this system and we can see
14 exactly what the customer is doing with their debit card.

15 Q Where does the information come from that's
16 reflected on those pages?

17 A It would come from the merchant.

18 Q Does it occur -- is it something that occurs by
19 hand or is it something that occurs automatically?

20 A It occurs automatically.

21 Q Okay. And that's kept in what system you said?

22 A Metavante.

23 Q Okay. Let's turn then to the last set of documents
24 that I handed you.

25 A Yes.

Amy Lasley - Direct Examination by Mr. Caskey

1 Q What do those appear to be?

2 A These are -- also come from the Metavante System.
3 They give us the information from the merchant saying what
4 the name of their company, their company's codes the
5 terminal IDs and exactly what they're doing. So they would
6 swipe the card and get an authorization, then there should
7 be a follow-up sheet exactly like this showing when the
8 authorizations come through and post it to the account.

9 Q Okay. Now, I realize I handed you a whole stack of
10 documents there. If you would let's go back to the first
11 one and tell me if you can identify the account, the name
12 of the person whose account this is?

13 A On this -- I do. It's David Diblasi, is the name.

14 Q Okay. All right. Now, look through the other
15 documents and tell me if those documents are associated
16 with the same account?

17 A With the same card number?

18 Q Yes, ma'am.

19 A Yes, they are.

20 MR. CASKEY: Your Honor, at this time, State would
21 move State's Number 8 into evidence.

22 MR. CASKEY: No objection.

23 THE COURT: All right. State's 8 is in evidence
24 without objection.

25 (State's Exhibit Number 8 was entered into

Amy Lasley - Direct Examination by Mr. Caskey

1 evidence.)

2 BY MR. CASKEY:

3 Q Now, Ms. Lasley, that first sheet you said was
4 created at the time the account was open, what was the
5 birth date associated on that sheet with Mr. Diblasi?

6 A [REDACTED].

7 Q Okay. Turning to the screen shot pages, do you see
8 a name and birth date appear?

9 A Yes.

10 Q And ha are those?

11 A David J. Diblasi, [REDACTED].

12 Q Okay. And on the lower end of the page there,
13 there's three line items. What are those identifying?

14 A The first line item is the checking account that
15 was open on this sheet with the signature card. The second
16 line item is the debit card that was opened at the time
17 that he opened the account, but I -- apparently he either
18 lost it or whatever, years before. And then a new card was
19 issued on February 16th, 2013.

20 Q What is the card number associated with that?

21 A [REDACTED].

22 Q Okay. And just one more time for the court
23 reporter's ease, let's identify the last four digits of
24 that card number.

25 A 4636.

Amy Lasley - Direct Examination by Mr. Caskey

1 Q 4636; is that correct?

2 A Yes.

3 Q Okay. Turning to the transaction history pages, do
4 you see any transactions after the date of February 25th,
5 2013?

6 A Yes, I do.

7 Q Okay. Tell the jury what you observe about those
8 transactions?

9 A On March 4th, 2013, there was a slight -- which --
10 it's from the Marathon Petroleum. When you swipe your
11 debit card at a gas station, they take a dollar as
12 authorization and hold it. Then later when the transaction
13 actually posts, it will post for the full amount.

14 So on March 4th, there's a dollar authorization
15 from the Marathon Petrillium. On March 5th, there is an
16 authorization from Wal-Mart for 56.32.

17 Q Do you see these transactions later post to the
18 account?

19 A Yes.

20 Q I'm sorry?

21 A Yes.

22 Q If you would also explain what post means.

23 A Okay. When you swipe your card at a gas station or
24 at a Wal-Mart, they get an immediate authorization -- they
25 get an immediate authorization, pending authorization, but

Amy Lasley - Direct Examination by Mr. Caskey

1 they don't actually post until the merchant batches their
2 machine. So luckily a gas station or a Wal-Mart will
3 post -- will batch their machine every day. But normally,
4 it's the next day out, so --

5 Q Is posting when the money is actually transferred?

6 A Right. We put a hold on money, so as a bank we can
7 see that 56.32 from Wal-Mart is coming out. That becomes a
8 pending transaction. But it won't hard post to your
9 account until the merchant batches the machine.

10 Q Ms. Lasley, a minute ago you said that there was a
11 \$1 transaction and you said that it came from Marathon.
12 How did you know that?

13 A Because when I look at the transaction number --

14 Q Which is? If you would, please.

15 A It is 306322489029. It comes in as a \$1
16 transaction and it also gives the terminal number where the
17 machine -- where the card was swiped and you can go back
18 and see the approval code, the transaction ID, and the
19 sequence number will -- and the terminal number will remain
20 the same.

21 Q Okay. If you would, just so that the record is
22 clear, if you would read slowly the sequence number again.

23 A 306322489029.

24 Q And the transaction ID, please.

25 A The transaction ID is 003064132123918.

Amy Lasley - Direct Examination by Mr. Caskey

1 Q Okay. If you would please start in the transaction
2 detail associated with the Wal-Mart transaction you
3 referred to.

4 A Okay. So --

5 Q What was the date that that card was swiped you
6 said?

7 A That was March 5th.

8 Q And the amount?

9 A \$56.32.

10 Q The sequence number, please.

11 A 306406771245.

12 Q And the transaction ID?

13 A 283064239259860.

14 Q And where did that transaction take place?

15 A At Wal-Mart number 4521 in Lexington. And I
16 believe that's the Red Bank location.

17 Q Thank you. I'm almost done, I promise.

18 Let's talk about the other transactions we see on
19 the transaction log. What are those?

20 A Okay. So we see that their card was swiped again
21 on March 5th 2013, for an amount of 148.73, but it was
22 rejected because the funds were not available.

23 Q How do you know it was rejected?

24 A Because we have a reject code of AF which means
25 it's rejected because of the availability of funds.

Amy Lasley - Direct Examination by Mr. Caskey

1 Q All right. Please continue.

2 A And that same transaction was swiped again. So
3 apparently wanted to try it again. Again, the same day
4 almost right after that. The next transaction, or the next
5 swipe is March 5th, again rejected for \$105.93, March 5th
6 2013, another attempted swipe, rejected for availability of
7 funds for \$1. March 5th, another sweep, rejected for \$40,
8 rejected for availability of funds. March 6, is the hard
9 posting of the Wal-Mart transaction for \$56.32. March 6th
10 the hard posting of the Marathon gas station \$67.25 and
11 March 6th another swipe for \$1 rejected for availability of
12 funds.

13 Q Ms. Lasley, was the card number that ends in 4636
14 used at the Wal-Mart number 4 -- what number was the
15 Wal-Mart store used? Was it 4521?

16 A Yes, it was.

17 Q Okay. Was the card that ended at 4636 used at that
18 Wal-Mart on March 5th, 2013?

19 A Yes, it was.

20 Q Thank you, ma'am. Please answer any questions the
21 defense may have for you.

22 THE COURT: Thank you, Solicitor.

23 Ms. Fullwood or Ms. Henry?

24 MS: FULLWOOD: No questions, Your Honor.

25 THE COURT: Thank you. Thank you very much,

L. Brian Miller - Direct Examination by Mr. Caskey

1 Ms. Lasley. Thank you for being here today. You may step
2 down.

3 Any objection to this witness being excused?

4 MS. FULLWOOD: None, Your Honor.

5 MR. CASKEY: None from the State, Your Honor.

6 THE COURT: All right. Thank you. You may be
7 excused:

8 All right. You may call your next witness.

9 MR. CASKEY: Thank you, Your Honor, the State would
10 call Brian Miller.

11 L. BRIAN MILLER,

12 having been duly sworn, testified as follows:

13 THE CLERK: Have a seat, these, sir. Once you're
14 seated, speak up loud and clear. State your full name,
15 spelling your last, please.

16 THE WITNESS: Larry Brian Miller, M-I-L-L-E-R.

17 **DIRECT EXAMINATION**

18 **BY MR. CASKEY:**

19 Q Mr. Miller where, do you work and what do you do
20 there?

21 A Currently I work with Khol's Stores Incorporated in
22 Irmo, South Carolina.

23 Q In March of 2013, where did you work?

24 A The Wal-Mart located at 1780, South Lake Drive in
25 Red Bank.

L. Brian Miller - Direct Examination by Mr. Caskey

1 Q What did you do there?

2 A I was is Asset Protection Manager.

3 Q What does an asset protection manager do?

4 A Responsible for safety, security of the facility,
5 also we conduct investigations that relates to theft issues
6 and work with law enforcement with investigations that they
7 have as well.

8 Q In the course of your duties as a loss prevention
9 officer, do you have reason to access records of
10 transactions?

11 A Yes, I do.

12 Q Okay. Are you familiar with how transactions are
13 recorded at Wal-Mart?

14 A I am.

15 Q Okay. If you would, please, tell the jury a little
16 bit about how that system works.

17 A We have a system that's called -- excuse me -- a
18 Smart System. It captures any transaction that comes
19 through our registers and it will do that 24/7. When those
20 records are recorded, we're able to retrieve that
21 information in any situation, wherever we're called for,
22 but we are able to retrieve that.

23 Q Okay. I want to talk specifically then about
24 transactions.

25 (State's Exhibit Number 9 was marked for

L. Brian Miller - Direct Examination by Mr. Caskey

1 identification.)

2 BY MR. CASKEY:

3 Q Mr. Miller, I'm handing you what's been identified
4 or marked as State's Exhibit Number 9. Can you identify
5 those documents?

6 A Yes, sir. This is a signature slip from the store,
7 located here on South Lake, Wal-Mart, 4521. This signature
8 slip is from a credit card transaction which occurred on
9 March 5th, 2013.

10 Q How are signature slips created?

11 A We request those through the Smart System that we
12 use. With that information after we are able to pull up an
13 actual transaction and recognize it as a correct
14 transaction, we can print that signature slip upon request.

15 Q And those signature slips are generated in your
16 computer system, the Smart System at the time of the
17 transaction?

18 A They are generated and then we print that whenever
19 need be. But it's held in that system until it's needed.

20 Q Okay. If you would, look at the next two pages.
21 What do those documents appear to be?

22 A The second document is the actual transaction that
23 took place on March 5th, 2013. I see where the pampers
24 were purchased, some diapers were purchased; and then
25 socks, as well as a slow cooker. And that's, again,

L. Brian Miller - Direct Examination by Mr. Caskey

1 generated the same way as the signature slips that's held
2 in that data base.

3 Q Okay. And on that last page?

4 A Again, another credit card transaction. It was
5 attempted, however, it was denied and that, again, was
6 generated the same way as the previous two documents.

7 Q All this is computer generated into the Smart
8 System?

9 A That is correct, sir.

10 Q Okay.

11 MR. CASKEY: Your Honor, at this time the State
12 would move State's Number 9 into evidence.

13 MS. FULLWOOD: No objection.

14 THE COURT: State's 9 is in evidence without
15 objection.

16 (State's Exhibit Number 9 was entered into
17 evidence.)

18 BY MR. CASKEY:

19 Q Mr. Miller, I want to talk first about that top
20 sheet there. What do you call that with the red writing?

21 A Signature slip -- signature slip.

22 Q Okay. Can you identify which Wal-Mart store this
23 signature slip would generate from?

24 A I can, sir. At the very top it says number 4521,
25 Wal-Mart Store 4521, which is the one here in Red Bank

L. Brian Miller - Direct Examination by Mr. Caskey

1 South Carolina.

2 Q And is there a name associated with the card that
3 was run?

4 A There is, sir.

5 Q Which is -- what is the name?

6 A Diblasi.

7 Q Okay. There -- I see on the receipt a line that
8 says account number. What is that generally referring to
9 and what is the specific number?

10 A The account number would be the last four of the
11 credit card number.

12 Q All right. And what is that last four in this
13 case?

14 A 4636.

15 Q The next line below the name it says transaction
16 ID. What is that number?

17 A The transaction ID number itself?

18 Q Yes, sir.

19 A I believe it was generated just for that
20 transaction itself, unique to that one.

21 Q Okay. And if you would please just read that
22 slowly for the court reporter.

23 A Yes, sir. 0283064239259860.

24 Q And what time was this transaction processed? Date
25 and time, please.

L. Brian Miller - Direct Examination by Mr. Caskey

1 A March 5th, 2013, at 0139.12 hours.

2 Q Is that 1:39 in the morning?

3 A It is, yes, sir.

4 Q Okay. Let's talk about those two receipts. You
5 mentioned one a second ago with diapers listed. What was
6 the total for that transaction? The amount?

7 A 56.32.

8 Q That's \$56.23?

9 A Yes, it is.

10 Q Okay. And what was the card number associated with
11 that?

12 A The credit card number 4636; that is the last four
13 of that number.

14 Q Thank you. And what time -- what date and time was
15 that transaction processed?

16 A March 5th, 2013 at 1:39 in the morning.

17 Q All right. The last sheet you have. What was the
18 amount attempted to be processed?

19 A 148 -- \$148.73.

20 Q And the card number associated with that?

21 A Last four, credit card number 4636.

22 Q What's the date and time of that transaction?

23 A March 5th, 2013, at 1:53 in the morning.

24 Q All right. I'm going to hand you some more
25 documents.

L. Brian Miller - Direct Examination by Mr. Caskey

1 (State's Exhibit Number 10 was marked for
2 identification.)

3 BY MR. CASKEY:

4 Q Mr. Miller, I'm handing you what's been marked as
5 State's Exhibit Number 10. If you would please, take a
6 second and look through those and tell me if you recognize
7 those documents.

8 A Yes, sir, I do.

9 Q What do those documents appear to be?

10 A These are video snapshots, printouts from March
11 5th, 2013.

12 Q Tell us a little bit about the system which records
13 those or takes those -- takes the images.

14 A Yes, sir, the system is used -- it's a 24 hour
15 system that does record for the facility. What we're able
16 to do is pull digitally from our computer any video that is
17 needed and review the video playback and again -- but we
18 can also print the still photos, as is the case with these
19 here, when requested.

20 Q Okay. I noticed that a couple of those photos,
21 there appears to be a text box. Do you see that?

22 A Yes, sir, I do.

23 Q What is that?

24 A That is a caption box, so it allows us to type in
25 information as it -- that is important maybe for that

L. Brian Miller - Direct Examination by Mr. Caskey

1 particular shot. But we can type that in and generate
2 that.

3 Q Did -- are those text boxes automatically added to
4 the photo?

5 A I have to ask, command it to do that, so --

6 Q In this case, with those photos, did you add that
7 text box?

8 A Yes, sir, I did.

9 Q Those photos come from a system that's records
10 automatically?

11 A Yes, sir.

12 MR. CASKEY: Your Honor, at this time, the State
13 would move Exhibit Number 10 into evidence.

14 MS. FULLWOOD: No objection, Your Honor.

15 THE COURT: State's 10 is in evidence without
16 objection.

17 (State's Exhibit Number 10 was entered into
18 evidence.)

19 BY MR. CASKEY:

20 Q If you would please, find in there, the most clear
21 picture you can of the transaction taking place.

22 A (Looking.) That one.

23 Q If you'll hand that to me, please.

24 A Yes, sir.

25 (Solicitor is putting the picture up on the

L. Brian Miller - Direct Examination by Mr. Caskey

1 screen.)

2 BY MR. CASKEY:

3 Q Mr. Miller, what does this appear to be?

4 A The item or -- this appears to be the transaction
5 that occurred that we pulled the video for from our system.

6 Q And what is the time of that transaction?

7 A 1:36:40 in the morning.

8 Q Well, this isn't appearing very clear. That's all
9 right.

10 Just, if you could, just describe what that is.

11 And maybe it would be best if I just hand these to you
12 because the monitor is not particularly clear.

13 A This shot that I'm holding now is the grocery
14 vestibule entrance to that Wal-Mart and it's time stamped
15 March 5th, 2013, at 1:28 in the morning. And I have two
16 gentlemen that are pictured here entering this -- entering
17 this store.

18 Q Okay. And the series of photographs you have
19 there, what is it depicting? Why those photographs?

20 A The two individuals that are entering the store
21 that these photographs are depicting, their travels in the
22 store, along with the merchandise that was purchased.

23 Q Okay. And if you would tell us what merchandise
24 was purchased. You may find it on the receipt.

25 A The purchase that was actually -- that did actually

L. Brian Miller - Direct Examination by Mr. Caskey

1 go through was the pampers wipes, the diapers, and then
2 socks, and the slow Cooker.

3 Q And the total for that transaction?

4 A \$56.32.

5 Q The last four of the credit card associated with
6 that?

7 A 4636.

8 Q Thank you. I don't have any further questions.
9 Please answer any the defense has for you.

10 THE COURT: Ms. Fullwood?

11 MS. FULLWOOD: No questions, Your Honor.

12 THE COURT: Thank you, Ms. Fullwood.

13 Thank you, Mr. Miller for being with us. You may
14 step down.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Any objections to this witness being
17 excused?

18 MS. FULLWOOD: No, Your Honor.

19 MR. CASKEY: None from the State, Your Honor.

20 THE COURT: All right. Perhaps now ladies and
21 gentlemen, would be a good time for us to take our morning
22 recess. I generally work about an hour 15 minutes, hour
23 and a half. We were here at nine this morning, so it would
24 be an appropriate time to take that recess. We'll take
25 about 15 minutes. Please do not discuss the case during

1 this brief recess.

2 Thank you very much. You may go with your bailiff.

3 (The jury left the courtroom at 10:40 p.m.)

4 THE COURT: All right. Solicitor, on State's 1 for
5 identification (sic), the photograph of Mr. Diblasi, I
6 looked at 488, SE 2d 313, which is Livingston, which has
7 been distinguished by State versus Bennett.

8 I'm trying to get the cite. 632 SE 2d. If you and
9 Ms. Fullwood can look at that and I'll be glad to revisit
10 the relevancy of State's 1.

11 THE COURT REPORTER: It's State's 7, Your Honor.

12 THE COURT: Ma'am?

13 THE COURT REPORTER: It's State's 7 for ID.

14 THE COURT: We're not going in order?

15 THE COURT REPORTER: Well, we've got those that
16 were ID'd at the --

17 THE COURT: Oh, for identification. All right.
18 State's 7. Thank you, thank you very much.

19 Yes, sir.

20 MR. GRAHAM: One other question, Your Honor, before
21 we break, one of our next witnesses and one probably before
22 we break again will be Detective Novak. Detective Novak
23 was one of the officers that met with Mr. Cook at Doe Trail
24 and then after that conversation placed him under arrest
25 and then interviewed him again at the detention center and

1 I wanted to know how to address the issue of the defendant
2 being taken into custody.

3 THE COURT: Ms. Fullwood?

4 MS. FULLWOOD: Well, it's got to be explained why
5 he was in custody, because obviously you can't jump from
6 being at Doe Trail to all of a sudden being in jail. I'd
7 ask -- while I don't like it, it's just a part of the
8 case -- and so I would just ask that the limited testimony,
9 we took him into custody on an unrelated outstanding
10 warrant.

11 THE COURT: All right. Solicitor?

12 MR. GRAHAM: That's fine. We'll take care of it.
13 We'll just lead him through that.

14 THE COURT: Well, you lead so well, Solicitor.

15 MS. FULLWOOD: Doesn't he though.

16 THE COURT: All right. We'll take about a 15
17 minute recess. Thank you. Thank you very much.

18 (A brief recess was observed.)

19 THE COURT: All right. Anything before we bring in
20 our jury from the State?

21 MR. GRAHAM: Yes, Your Honor, after Ms. Lasley
22 testified, she was the TD Bank records custodian, she
23 informed members of my office that she was, I believe, good
24 friends with Juror 126 which is Vivian Jeffcoat. We just
25 wanted to bring that -- we informed that to the defense.

1 We wanted to bring that to Your Honor's attention.

2 THE COURT: All right. Ms. Henry, Ms. Fullwood?

3 MS. FULLWOOD: I would ask that Your Honor call the
4 juror in and conduct an inquiry as to whether or not she
5 recognized the witness and if so why she didn't respond
6 when the witness's name was read by Your Honor yesterday
7 prior to jury selection.

8 THE COURT: All right. I'll do that in just a
9 moment.

10 MS. FULLWOOD: And when Your Honor is ready, we
11 have some argument about the State's Exhibit 7.

12 THE COURT: All right. Give me just a moment.

13 Madam Court Reporter, will you hand me State's
14 Exhibit 7, please.

15 (The Court is looking over the photograph.)

16 THE COURT: Yes, ma'am, as to State's Exhibit 7,
17 Ms. Fullwood?

18 MS. FULLWOOD: Your Honor, I think the State be
19 limited -- this photograph, there is no reason for it to be
20 in the record that is relevant to what's going to be at
21 issue in this case as to the identity of the victim. The
22 picture does not make any fact that may be at issue more or
23 less probable. The position of the picture, it is the type
24 of evidence that is calculated to inflame the passion and
25 prejudice of the jury and to encourage them to return a

1 verdict based on improper factors. If you remember I don't
2 believe that the case of State v Bennett is applicable.
3 That concerned admissions of similar type of photographs in
4 the context of the penalty phase of a death penalty trial
5 and once you get to the penalty phase, pain comes in and
6 the State is allowed to introduce victim impact evidence.
7 That is not admissible in the innocent phase of a death
8 penalty trial and it should not be admissible in the -- in
9 a non death penalty murder trial.

10 In addition, Your Honor, we were never provided a
11 copy of that photograph in the discovery process, to my
12 knowledge. And Ms. Henry can correct me if I'm wrong. So
13 admission of the photograph would be a Rule 5 violation
14 because they have violated Rule 5 by not providing us with
15 that photograph.

16 THE COURT: Thank you.

17 Solicitor?

18 MR. GRAHAM: Your Honor, it's a DMV photo, they
19 were provided that on the DMV driving record, it's a
20 blown-up photo of that.

21 The State's purpose of putting that in Your Honor
22 was to use that photograph with other people to make sure
23 that we're talking about the right person. If they are
24 never going to question that when a witness talks about
25 Dave then I think we're fine. The only other issue it

1 might be used if somebody -- and I don't expect it, but if
2 somebody doesn't know who Dave is, but they know the face,
3 then I think it's relevant.

4 THE COURT: All right. Ms. Fullwood?

5 MS. FULLWOOD: We certainly don't dispute
6 Mr. Diblasi's identity or say he's been confused with
7 someone else. And if a witness is confused, it's already
8 been marked for identification, they can show that to them.

9 THE COURT: All right. Well, I'll leave it as
10 State's for identification; and of course, if it arises
11 where it becomes an issue of identification by a witness --
12 in other words, if it's shown to a witness and that's the
13 only way they can identify Mr. Diblasi, we'll revisit it.
14 But right now, it's 7 for identification.

15 I agree with you about Bennett, obviously. The
16 only reason I brought that up was because it was flagged
17 that they distinguished it. Livingston, of course, has
18 Lexington County connections because the victim of
19 Livingston is a former employee of, I think, the Lexington
20 County Sheriff's Department. Maybe it was 9-1-1, I'm not
21 sure. So be that as it may, 7 is for identification at
22 this time.

23 All right. Would you bring me Juror Number 126.

24 MS. FULLWOOD: Your Honor?

25 THE COURT: Yes.

1 MS. FULLWOOD: I am sorry to interrupt you. I just
2 wanted to let the Court know there's one other matter we're
3 going to ask the Court to address before the jury comes in.

4 THE COURT: Yes, ma'am, I'll be glad to address it.

5 MS. FULLWOOD: Your Honor, this morning, the State
6 provided us with a color-coded chart of telephone calls and
7 you know, numbers -- they're basically color coded in red
8 and blue, one for Mr. Diblasi and one for Mr. Cook. It is
9 my understanding Ms. Ethridge has been scouring these
10 records for quite some time and she's double checked. We
11 have been given the phone records of Mr. Diblasi for his
12 number 267-449-4731. However, he had a second phone
13 number -- well, wait a minute.

14 We got phone records for 267-449-4731 for the time
15 period of March 10, 2013 through March 19, 2013. However,
16 we did not have these phone numbers for the date of
17 February 25, '13. We were given the -- his phone numbers
18 for his number that was 267-273-3327 and we've got those
19 phone records between the dates of 2/17/13 through 3/19/13.
20 Today, we have gotten some new material that shows his
21 phone records on the date of 2/25/13. We had not received
22 that information before. Additionally, we did not get the
23 information in this form.

24 What I would simply ask is that given that we've
25 been given some new discovery, that the State not put up

1 phone call evidence that would utilize this information
2 before, say, the overnight recess.

3 THE COURT: All right. Solicitor?

4 MR. GRAHAM: Your Honor, just so I make sure --
5 which phone number are you saying, Ms. Fullwood that you
6 did not receive?

7 MS. FULLWOOD: We're talking about the phone number
8 267-449-4731. We have the records for that phone for the
9 time periods between 3/10 and 3/19/2013. And today, we got
10 the telephone records for that same number for February 25,
11 2013. Wait a minute, I'm confusing myself.

12 (There was a pause in the proceedings.)

13 MS. FULLWOOD: Today is the first time we got the
14 time period for the later dates, the February date for
15 448-4731 -- today is the first time we got this information
16 for February of 2013.

17 MR. GRAHAM: Your Honor, we sent the discovery that
18 had those records back in August of 2014. It's not that we
19 just sent it to them. We did this in the summary form,
20 which is what they're looking at. What we did was combine
21 the victim's phone, which we had his calls and cell tower
22 information, with his; as well as time and dates of texts.

23 And we combined the defendant's, Mr. Cook's phone,
24 which we also had his phone records -- all those phone
25 records have been sent earlier.

1 That will be introduced through Mike Phipps. She's
2 looking at the summary chart which we would get in under
3 1006. They have got it. I don't mind giving them time to
4 take a look at it. We didn't just give it to them now. I
5 don't know -- I'll have a better idea probably at our lunch
6 break where Mr. Phipps's testimony will fall and my thought
7 would be that we address the timing of it. We may --

8 Your Honor, we still have those two other Jackson
9 v. Denno hearings if Your Honor wants to quit early -- mid
10 afternoon and handle those, that would help push our
11 witnesses off and also give them time to look at them.

12 THE COURT: All right. Ms. Fullwood?

13 MS. FULLWOOD: That's all -- we just want a chance
14 to look at it. We're not trying to get it excluded, we
15 just want to be able to look at this in this form.

16 THE COURT: All right. If we have to revisit it,
17 and like you say at the lunch break you may be able to tell
18 me and tell Ms. Fullwood a little bit more of how Officer
19 Phipps -- is that --

20 MR. GRAHAM: Michael Phipps, Your Honor.

21 THE COURT: Phipps, all right.

22 MR. GRAHAM: Now, we will -- we do plan, I believe
23 this afternoon to introduce both the records custodians and
24 put the raw records in as evidence, but there wouldn't be
25 any analysis of it.

1 MS. FULLWOOD: That wouldn't be a problem, Your
2 Honor.

3 THE COURT: All right. Thank you. Anything
4 further before I bring out the Juror Jeffcoat?

5 MR. GRAHAM: Not from the State.

6 MS. FULLWOOD: No, Your Honor.

7 THE COURT: All right. Would you bring me Juror
8 126, please, Ms. Jeffcoat.

9 (The juror entered the courtroom.)

10 JUROR ISSUE

11 THE COURT: All right. This is Ms. Jeffcoat?

12 THE JUROR: Yes, sir.

13 THE COURT: Juror Number 126?

14 THE JUROR: Yes, sir.

15 THE COURT: Ms. Jeffcoat, do you know Ms. Laskey
16 g(sic) that testified?

17 THE JUROR: I recognized her when she come in
18 today. I'm sorry.

19 THE COURT: There's no right or wrong. Don't think
20 I'm fussing. I'm not at all.

21 Do you recall her name being called out during
22 the --

23 THE JUROR: Not really, no.

24 THE COURT: All right. So you don't recall the
25 name being called out. If you had heard the name and the

1 question I asked concerning those names, what would your
2 response have been if you --

3 THE JUROR: That I know her in passing. I mean I
4 don't -- I haven't been like -- I know she works at the
5 bank, but I don't know anything about what she does at the
6 bank. I met her through a friend of mine. I don't see her
7 that often. In fact, it's probably been over a year since
8 I've seen her.

9 THE COURT: All right. And how long have you known
10 her in passing.

11 THE WITNESS: Seven years or so. I don't -- like I
12 say, I don't see her on a regular basis. You know, I
13 just --

14 THE COURT: And y'all -- the last time you saw her
15 was about a year ago and that would have been in a social
16 setting?

17 THE WITNESS: Oh, yeah, yes, sir. Just a social
18 setting, nothing --

19 THE COURT: All right. Given those facts, can you
20 be a fair and impartial juror to both Mr. Cook and the
21 State?

22 THE JUROR: Yes, sir.

23 THE COURT: Any doubt in your mind about that?

24 THE JUROR: No, sir.

25 THE COURT: All right. Thank you. Ms. Jeffcoat.

1 I'm going to ask you to just step out the door just for a
2 moment with the bailiff.

3 THE JUROR: Okay.

4 (The juror left the courtroom.)

5 THE COURT: Any additional voir dire you would like
6 for me to ask Ms. Jeffcoat, Ms. Fullwood.

7 THE WITNESS: No, Your Honor.

8 THE COURT: Solicitor?

9 MR. GRAHAM: No, Your Honor.

10 THE COURT: Your position, Solicitor?

11 MR. GRAHAM: I'll leave it so Your Honor's
12 discretion.

13 THE COURT: Ms. Fullwood?

14 MS. FULLWOOD: I think it's within the Court's
15 discretion. We don't have any motions concerning that.

16 THE COURT: All right. Thank you. Thank you very
17 much.

18 Would you have her come back in, please.

19 (The juror entered the courtroom.)

20 THE COURT: Thank you, thank you Ms. Jeffcoat.
21 I've ruled that you're going to stay with us on the jury.

22 THE JUROR: Okay.

23 THE COURT: Please do not discuss this conversation
24 that me and you have had with any of your fellow jurors.

25 THE JUROR: I won't.

1 THE COURT: All right. Thank you. Thank you very
2 much. You may return to your jury room.

3 THE JUROR: What do I do if they ask me if I'm in
4 trouble?

5 THE COURT: If they ask that, I don't think you
6 were, Ms. Jeffcoat.

7 THE JUROR: Okay.

8 THE COURT: I'll take that under advisement.

9 F.

10 (The juror left the courtroom.)

11 THE COURT: All right. Anything additional before
12 we bring in our jury from the State?

13 MR. GRAHAM: No, Your Honor.

14 THE COURT: Defense?

15 MS. FULLWOOD: No, Your Honor.

16 THE COURT: All right. Thank you.

17 (The jury entered the courtroom at 11:20 a.m.)

18 THE COURT: Welcome back, ladies and gentlemen.
19 We're continuing the trial of the case by the presentation
20 of the evidence and testimony by the State in its case in
21 chief. Please continue to give all the parties your
22 complete and undivided attention.

23 Solicitor, you may call your next witness.

24 MR. GRAHAM: Thank you. The State calls Damian
25 Hoffman.

Damian Hoffman - Direct Examination by Mr. Graham

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DAMIAN HOFFMAN,

having been duly sworn, testified as follows:

THE CLERK: Have a seat, sir. Once you're seated,
State your full name, spelling your last on the record,
please.

THE WITNESS: Damian Hoffman, H-O-F-F-M-A-N.

DIRECT EXAMINATION

BY MR. GRAHAM:

Q Mr. Hoffman, how old are you?

A 38.

Q And how long have you lived in Lexington?

A All my life.

Q Back in February of 2013, where were you living?

A [REDACTED] Pelion, South Carolina.

Q And who was living with you at that address?

A My gave girlfriend, Melinda Gladden and -- or
Hodge -- and my dad, Guy Hoffman.

Q Did you know Dave Diblasi?

A Yes, sir.

Q Prior -- up until February of 2013, how long had
you known Dave?

A Three years, around then, a little over three
years.

Q Can you pull that microphone a little bit closer to
you. You've got a soft voice and I'm --

Damian Hoffman - Direct Examination by Mr. Graham

1 A Three years. I'm sorry, I'll speak up. Around
2 three years.

3 Q Now, you've been convicted of possession of a
4 stolen vehicle; is that correct?

5 A Yes, sir.

6 Q Do you remember the last time that you saw Dave?

7 A Yes, sir.

8 Q Where was it at?

9 A It was at my house in the driveway.

10 Q That's the address on Thor Road?

11 A Yes, sir.

12 Q And was he there -- tell me about how you saw him?

13 A He was -- me and my dad and my girlfriend were
14 coming back from the grocery store or something like that,
15 I can't remember exactly where we were coming from, but we
16 pulled up and Dave was supposed to meet me there because I
17 owed him some money. He was sitting in a van that I didn't
18 recognize at the time. I got out -- he was sitting out
19 there with two other people that I didn't know and I pretty
20 much ran them off and got --

21 Q Later on did you -- at that time did you know who
22 those people were?

23 A No, sir.

24 Q The other two people with him?

25 A No, sir.

Damian Hoffman - Direct Examination by Mr. Graham

1 Q At some point -- well, let's back up for a second.
2 David was involved with distributing heroin, correct?

3 A Yes, sir.

4 Q And is that part of the relationship that you had
5 with him?

6 A Yes, sir, it was drug related.

7 Q Tell the jury why he was over there that day.

8 A Me and my girlfriend had gotten some heroin from
9 Dave and I owed him some money and he came by to get his
10 money, basically. And it had -- he had come by like a week
11 prior and gave us an amount and I had like a week to pay
12 him so he was coming by. It wasn't like he was coming by
13 to do me any harm or anything, he just came by to collect
14 his money.

15 I called him and told him I had it and he got there
16 before I did so he had to sit there and wait. And I guess
17 they followed him there or whatever to wait with him.

18 Q So how many -- when you pulled up with your dad and
19 your girlfriend, how many vehicles were there in your
20 driveway?

21 A Three. Well, my dad has another truck also, so
22 there was -- one was under the carport and three in the
23 driveway eventually.

24 Q The ones in the driveway, whose -- describe those
25 vehicles for me.

Damian Hoffman - Direct Examination by Mr. Graham

1 A Dave's truck, there's a white minivan that I didn't
2 recognize and my father's Silverado. He has a blue
3 Silverado Chevrolet pick-up truck.

4 Q A white minivan you didn't recognize?

5 A Yes, sir.

6 Q And you said Dave's truck. Do you remember what
7 kind of truck it was or how many doors or what color?

8 A It was a two-door white Nissan, Mitsubishi? I
9 didn't -- I mean I rode in the truck a couple of times, I
10 just didn't pay -- it was a standard --

11 Q Was it new or old?

12 A Old. It was an older truck.

13 Q So when you came up to the house, who was where
14 doing what?

15 A Dave was sitting in the back -- the mini van didn't
16 have a back seat, like tubbed out. It didn't have -- they
17 had all the seats taken out of the back where there was a
18 passenger and driver's seat. He was sitting Indian style
19 in the back somewhere in between the passenger and the
20 driver's seat and they were getting high. They were
21 smoking meth in the yard. And my dad doesn't -- that's why
22 I remember it so vividly because I was pretty mad because
23 my dad doesn't tolerate that stuff.

24 Q So when you saw that going on, what did you do?

25 A I flipped out. Dave opened the door, he was still

Damian Hoffman - Direct Examination by Mr. Graham

1 sitting there like -- I guess trying to invite me in to get
2 high with them and I spazzed out and ran them off and I
3 made them get out of the yard and they were cussing and
4 whatnot. And he got out, trying to calm me down. After 5
5 or 8 minutes or so, they ended up leaving and me and David
6 conducted -- finished the business that he came to do.

7 Q The people that were in the car, the other two
8 people, those were the people that you ran off?

9 A Yes, sir.

10 Q So which vehicles -- who stayed and which vehicles
11 stayed; and who left, which vehicles left?

12 A The minivan and the two occupants left and Dave
13 stayed with us and we walked inside and I paid him then.

14 Q Now, at some point -- well, okay. So after they
15 had left, did Dave come back in the house?

16 A Yes, sir. After the other two people left, he came
17 inside and we handled what we had to handle, the money or
18 whatnot.

19 Q So how long did Dave stay with you do you think?

20 A It was an hour, probably 30, 45 minutes, something
21 like that.

22 Q Did you see Dave -- when Dave left, was he in
23 possession of money or drugs?

24 A Yes, sir.

25 Q How much money did you see Dave have?

Damian Hoffman - Direct Examination by Mr. Graham

1 A I gave him \$1,000 and he counted out another
2 thousand and put with it in the room and when we walked
3 outside, he was putting the rest of the heroin -- because I
4 had 900. I got another \$100 worth of heroin from him.
5 He -- I walked -- followed him outside. He popped his hood
6 and put his -- the drugs and the money under the hood. I
7 don't know how -- I know he had \$2,000 right then and the
8 rest of the money that he pulled out of the bag, I don't
9 know exactly how much it was. If I had to guess I'd say it
10 was probably at least another 2,000, something like that.
11 I mean, I know he had \$2,000 and some more heroin.

12 Q Well, let's talk about the heroin. How much heroin
13 did he have when he left?

14 A To my knowledge, he had like two bundles. That's a
15 gram per bundle. So as to grams -- I don't know exactly
16 what he had and he had some meth too. I mean, I'm not
17 sure -- I know he was getting low.

18 Q Hen you say a bundle -- you said he had two
19 bundles, what is a bundle?

20 A It's ten bags, ten bags of heroin. You sell them
21 individually. If you buy them by a bundle, it's cheaper,
22 really, I mean...

23 Q So each one, you can buy it as a bundle or you can
24 buy it as --

25 A It's in individual bags. A bundle is ten bags, it

Damian Hoffman - Direct Examination by Mr. Graham

1 would have been twenty bags; and that was what he took out
2 of his pocketbook back into the bag that he had under the
3 hood, that I don't have no idea what he had in it.

4 Q So you don't know exactly how much he had, whether
5 he had more or less, but you know that he had at least two
6 bundles.

7 A Yes.

8 Q What was your understanding of where he was going
9 when he left?

10 A He told me --

11 MS. FULLWOOD: Objection, hearsay.

12 THE COURT: Sustained.

13 BY MR. GRAHAM:

14 Q Without saying what he told you, were you expecting
15 to see him soon?

16 A No, sir. He was supposed to go back to
17 Pennsylvania or Philadelphia, Pennsylvania and get some
18 more heroin and bring it back.

19 Q And did you ever see Dave alive again after that
20 day?

21 A No, sir. He was supposed to -- he had a bad
22 manifold on his truck --

23 THE COURT: He had what?

24 MS. FULLWOOD: Objection, Your Honor.

25 THE WITNESS: Manifold -- the --

Damian Hoffman - Direct Examination by Mr. Graham

1 THE COURT: I'm sorry?

2 MS. FULLWOOD: This is based on hearsay.

3 THE COURT: All right.

4 THE WITNESS: No, the manifold is not.

5 THE COURT: Wait just a minute.

6 I would sustain the objection.

7 Rephrase the question, Solicitor.

8 BY MR. GRAHAM:

9 Q Do you know of your own knowledge whether either
10 David's bike or motorcycle or truck needed repair work?

11 A His truck did, the manifold leaked. When he
12 cranked it up it would backfire. It -- when you turn it
13 out of, it would sit and sputter and stuff before it
14 actually shut off, so he had to have some repair work done
15 to it. I know that. I don't know exactly if it got done
16 or where.

17 Q At some point did you realize that Dave was
18 missing?

19 A Yes, sir. He -- it was normal, typical for him
20 when he went up state to -- or up North or whatever, he
21 would not really respond to us for a couple of weeks or a
22 week or so. We wouldn't hear from him until he got back or
23 he was on the way back unless something happened and we'd
24 have to send him money or whatnot. One time he ran out of
25 gas, broke down, something and after -- well, he always

Damian Hoffman - Direct Examination by Mr. Graham

1 talked to his family. He talked to his brother and his mom
2 and whatnot and got money from them also.

3 So after about two weeks or so, we knew something
4 was wrong. He hadn't contacted me or my girlfriend and
5 then some other friends of ours Terry and Kayla hadn't
6 heard from him, they were calling us and we knew something
7 had happened. It was, you know, like Dave not to respond
8 for that period of time and not be out of town.

9 Q After that date, the last day that you saw Dave
10 with the two people -- I know you testified you didn't know
11 who those people were at the time -- did you meet and
12 become acquainted with either one of those people later?
13 Or did you will learn who they were?

14 A I met Worth Cook at Ms. Jackie's house shortly
15 after that, but I mean, I didn't -- no, I never really hung
16 out with him or anything like that; know him at that level.

17 Q So looking back to the two people who were in the
18 vehicle, now that you have met Worth Cook, do you know
19 whether either of those people were Worth Cook the last
20 time you saw Dave?

21 A Yes, sir. The driver of the minivan.

22 Q And at some point later, did police officers come
23 to you and show you photographs that they had got from a
24 Wal-Mart and ask if you recognized anybody?

25 A Yes, sir.

Damian Hoffman - Direct Examination by Mr. Graham

1 Q Let me show you what's State's 10 in evidence and
2 ask you if you recognize those as being what was shown to
3 you by the officers.

4 A Yes, sir. Yeah, this one right here is one. Yes,
5 sir, all these look like them.

6 Q So do you recognize -- go ahead and look through
7 all of them.

8 A Yes, sir, I was making sure.

9 Q Mr. Hoffman, do you recognize those as the
10 photographs that the officers showed you?

11 A Yes, sir.

12 Q Now, that you've had a chance to look through
13 State's Number 10, do you recognize anyone in there?

14 A I recognize the van and I recognize Worth Cook.

15 Q So the van -- which page did you recognize the van
16 on?

17 A Is this a page --

18 MR. GRAHAM: I'm going to ask the witness, Your
19 Honor, to initial the page so that the jury will know what
20 page he's talking about. It's a multipage document.

21 THE COURT: All right. Yes, sir.

22 THE WITNESS: (Marking the photograph.)

23 BY MR. GRAHAM:

24 Q Flipping through the other one, let me know when
25 you see Worth Cook?

Damian Hoffman - Direct Examination by Mr. Graham

1 A I see him there.

2 Q And if you would initial there.

3 A You want me the initial it -- I mean that's the --
4 I think that's the main photo that I got -- when I ID'd him
5 to begin with.

6 Q Can you describe -- in the photograph that you're
7 looking at, can you describe -- there's two individuals in
8 that paragraph. When you say you see Worth Cook, can you
9 describe the difference between the two people?

10 A Yes, sir. One's wearing a black, skull I call it,
11 like a stocking cap, and a black or dark blue jacket,
12 hooded jacket with a zipper. The other one is wearing like
13 a Carhartt brown, like a green or same style skull with
14 writing on it. Worth Cook has a darker beard.

15 Q Okay. You can continue looking through there.

16 A I mean --

17 Q Just put one more and draw an arrow to him. I mean
18 those that you are identifying as Worth Cook.

19 And then flipping through the rest of them, does
20 that -- do you continue to see him in there?

21 A Yes, sir. Well, there were two the first time I
22 talked to the officers. But there's a black and white
23 one -- that one. (Marking.)

24 I thought there was one of the van -- there it is.
25 They're getting out of the van. That was one of the first

Damian Hoffman - Direct Examination by Mr. Graham

1 ones I saw.

2 MS. FULLWOOD: Your Honor, we can't hear the
3 witness over here.

4 THE COURT: You need to speak up.

5 THE WITNESS: Sorry, I was mumbling to myself.

6 MR. GRAHAM: Your Honor, permission to publish this
7 to the jury?

8 THE COURT: You may publish.

9 MR. GRAHAM: This is State's Number 10.

10 BY MR. GRAHAM:

11 Q So we're looking at the first page and you
12 initialled that. What are you identifying in that page?

13 A The minivan that was -- or one similar van to the
14 van that was parked in my driveway that evening I came
15 home.

16 Q And that was the last day that you saw Dave?

17 A Yes, sir.

18 Q I'm showing another photograph that you initialled.
19 This is the one at the cash register. You recognize that?

20 A Yes, sir.

21 Q And you initialled because why?

22 A It's Worth. It looks like Worth Cook and the
23 driver of the minivan that was in the yard that evening.

24 Q Mr. Hoffman, please answer any questions that the
25 defendant has for you. Thank you?

Damian Hoffman - Cross-Examination by Ms. Fullwood

1 THE COURT: Thank you, Solicitor.

2 Ms. Fullwood?

3 MS. FULLWOOD: Thank you.

4 CROSS-EXAMINATION

5 BY MS. FULLWOOD:

6 Q Good morning Mr. Hoffman. How long had you known
7 David Diblasi?

8 A Around 3 years or so.

9 Q And is that due to the heroin trade?

10 A Yeah, drugs in general.

11 Q Okay. What other drugs did you two do?

12 A Meth.

13 Q Okay. And would -- was Mr. Diblasi the source of
14 the meth or the buyer of the meth?

15 A It was more or less a trade. I got meth from him
16 and heroin.

17 Q Okay. Okay.

18 A I just got them from him.

19 Q Okay. Did you trade your drugs with him for his
20 drugs or did you just --

21 A I just got from him.

22 Q You bought from him?

23 A Yeah.

24 Q All right. Now, it's my understanding your
25 testimony was that Mr. Diblasi had at least two bundles

Damian Hoffman - Cross-Examination by Ms. Fullwood

1 that day?

2 A Yes, ma'am. That's what I saw. I know he had more
3 drugs in -- there was a Crown Royal bag that he kept and he
4 just had it. There was stuff in it. I mean I know he had
5 more meth. I don't know if he had a lot more heroin or
6 not. I know he had two bundles left because I was trying
7 to get it from him. That's the reason I know. He wouldn't
8 let me get it because he said he had to give it to someone
9 else. It was already promised out.

10 Q So you knew he had meth?

11 A Yes, ma'am. They were smoking when I pulled up.

12 Q Pardon?

13 A They were smoking it when I pulled up.

14 Q Okay. And you wanted to buy that meth?

15 A No, I wanted to get the heroin.

16 Q You wanted to get the heroin. And was that what
17 was already pre sold?

18 A I didn't know where -- I don't know if he had sold
19 it or how, but he wouldn't let me have it because it was
20 already spoken for.

21 Q So now, a bundle takes ten bags?

22 A Yes, ma'am.

23 Q Okay. So how much is a bundle worth?

24 A That's -- it depends. His stuff -- he went up --
25 he got it -- it was out-of-state stuff, so I mean it was

Damian Hoffman - Cross-Examination by Ms. Fullwood

1 better. I mean, but normally like 15, \$15 a bag, \$20 a bag
2 and it can go all the way up to \$30 a bag if it's dry
3 around here.

4 Q Okay. And so how much heroin does a bag contain?

5 A .2 grams.

6 Q .2 grams?

7 A Yes, ma'am.

8 Q So one bundle --

9 A Is a gram.

10 Q -- is a gram?

11 A Yes, ma'am.

12 Q Okay. And is a gram a lot of heroin?

13 A Yeah. I mean it -- to a user, yeah, it's a --

14 Q What kind of supply is a gram? How many days
15 will --

16 A A gram will last somebody -- a gram will last me
17 like two days.

18 Q Two days?

19 A Yes, ma'am.

20 Q Okay. So did you -- so he was always back and
21 forth, right?

22 A He'd be gone several weeks at a time every now and
23 then.

24 A Two weeks is about as long as I saw him gone.

25 Well, he had another case going on up there. I'm not too

Damian Hoffman - Cross-Examination by Ms. Fullwood

1 familiar with it, but some -- some kind of lawsuit or
2 something.

3 Q Okay. Okay.

4 A And he had a connection up there, so when he was
5 going to get a bag he killed two birds with one stone. I
6 guess one day he figured out he could make some money or
7 trade out or whatever he did if he brought heroin back, so
8 he started doing that.

9 Q Okay. So did you buy from him in bulk since --

10 A He gave us a good price because we were friends
11 with him. So I didn't pay \$20 a bag and I'm a user so I
12 would -- yeah. I'd take a good deal and it was the better
13 stuff, so, yeah, I gave him a hundred bucks for the bundle.
14 So to answer your question, I guess, yes.

15 Q So you could get a bundle for \$100?

16 A Yes, ma'am.

17 Q Okay. All right. And on that day, he came by and
18 you owed him money?

19 A Yes, ma'am.

20 Q Okay.

21 A Fronts.

22 Q Pardon?

23 A Fronts -- like he would give me drugs on my face, I
24 guess, on my word and I would pay him when I got paid.

25 Q Okay. Now, when you say fronts is that an

Damian Hoffman - Cross-Examination by Ms. Fullwood

1 arrangement where a lesser distributor gets a quantity of a
2 drug and then it's fronted, so once they sell it, they can
3 pay back the money?

4 A Or user. It doesn't matter how you get it.
5 They're just doing it on like -- that would be more like
6 consignment. I'm talking about where they just give me --
7 he would give it to me because I would be sick and need
8 something and he was a friend and then I would pay him the
9 money when I got it.

10 Q Okay.

11 A But, yeah, I guess fronts can be looked at in
12 several different ways, but it's not just selling it that
13 gets fronted; users get fronts as well.

14 Q So you're telling us you did not engage in selling
15 heroin so you could get a discount or get a little off the
16 top or anything?

17 Q I can't say that I've never sold a bag of heroin,
18 but that wasn't my main interest, no, ma'am.

19 Q Okay. Now, you said he kept the money in a -- and
20 the drugs -- the dugs in a Crown Royal bag?

21 A Yes, ma'am.

22 Q Do you know what else he kept in the bag? Did you
23 ever see the contents of the bag?

24 A He had pipes, lighters. I mean just different
25 things. But mainly money and drugs.

Damian Hoffman - Cross-Examination by Ms. Fullwood

1 Q Did he ever keep knives in the bag? Had you ever
2 seen a knife in the bag.

3 A No, ma'am.

4 Q Okay. So you testified about him putting drugs and
5 money under the hood of the truck.

6 A Yes, ma'am.

7 Q Now, how do you do that without getting it all
8 ruined?

9 A The Crown Royal bag, basically.

10 Q Okay. But how do you get the bag to stay put while
11 you're driving down the road?

12 A Older model vehicles have a breather on top. It's
13 round, it's got a wing nut and you pop it off and there's
14 an air filter. You don't have to have that air filter for
15 your car to run. That's probably why he had problems with
16 it. But he would take the air filter out and stick the
17 Crown Royal bag in there, had it wrapped up in tin foil or
18 whatever. That's less likely if you get robbers that --
19 robbers are going to find it or the police if you get
20 pulled over, they're not going to check there. I mean if
21 they bring the dogs or something they find it, but that's
22 not standard procedure to look under the hood of a vehicle.

23 Q Okay. So that was what he did right before he left
24 yours house?

25 A Yes, ma'am.

Damian Hoffman - Redirect Examination by Mr. Graham

1 Q Okay. So he didn't do that in the presence of
2 Worth Cook or the other man?

3 A No, ma'am.

4 Q Okay.

5 MS. FULLWOOD: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 BY MS. FULLWOOD:

8 Q So on that day, what you paid David Diblasi was
9 \$1,000?

10 A Yes, ma'am. I owed for the nine bundles I got
11 previously and \$100 because he let me get one more bundle
12 before he left.

13 Q Okay. Thank you.

14 MS. FULLWOOD: No further questions, Your Honor.

15 MR. GRAHAM: Quickly, Your Honor.

16 **REDIRECT EXAMINATION**

17 BY MR. GRAHAM:

18 Q Damian, did David keep knives that you're aware of?

19 A No, sir. Mainly, I mean, he collected things like
20 torches and pipes and things of that nature to use drugs.
21 I mean that was his main objective. I never saw him
22 carrying a knife.

23 Q And what he collected was torches and pipes?

24 A Drug paraphernalia.

25 Q Thank you. That's all.

Melinda Gladden - Direct Examination by Mr. Graham

1 THE COURT: Recross examination, Ms. Fullwood?

2 MS. FULLWOOD: No, Your Honor.

3 THE COURT: Thank you. Thank you, Mr. Hoffman, you
4 can step down, sir.

5 MR. GRAHAM: The state would call Melinda Gladden.

6 MELINDA GLADDEN,

7 having been duly sworn, testified as follows:

8 THE CLERK: Have a seat right there, ma'am. Once
9 you're seated, state your full name, spelling your last,
10 please.

11 THE WITNESS: Melinda Hodge, Gladden, I'm sorry.
12 G-L-A-D-D-E-N.

13 THE COURT: You may have to speak up a little bit
14 for us, Ms. Gladden, okay.

15 THE WITNESS: Okay.

16 THE COURT: All right. Thank you.

17 **DIRECT EXAMINATION**

18 **BY MR. GRAHAM:**

19 Q Melinda are you nervous?

20 A Yes.

21 Q Your boyfriend is Damian Hoffman?

22 A Yes, sir.

23 Q Back in February of 2013, where were you living?

24 A In Pelion, [REDACTED].

25 Q Who were you living there with?

Melinda Gladden - Direct Examination by Mr. Graham

- 1 A Damian.
- 2 Q Anybody else?
- 3 A His dad.
- 4 Q Dave Diblasi, you know Dave?
- 5 A Yes.
- 6 Q And how long have you known Dave?
- 7 A Two or three years.
- 8 Q Okay. The last time you saw Dave, can you describe
9 under what circumstances that was? What were you doing and
10 how did you see him and where did you see him at?
- 11 A He had come out to the house in Pelion. We had
12 owed him money.
- 13 Can I ask you a question?
- 14 Q When you pulled up to the house, what did you see?
- 15 A It was a white van and Dave's truck and it was
16 Worth and that guy Rick and Dave were in the van, you know,
17 smoking dope in the van. And when we pulled up, Damian got
18 out of the truck and started cussing at them and telling
19 them they needed to leave and --
- 20 Q How many people -- when you -- truck, are you
21 talking about the truck or the van?
- 22 A I'm talking about the van.
- 23 Q How many people were in the van?
- 24 A There were three.
- 25 Q One of them was Dave?

Melinda Gladden - Direct Examination by Mr. Graham

- 1 A Yes, sir.
- 2 Q You called another name, who was that person?
- 3 A I said Worth and Rick -- is it Rick or -- Rick?
- 4 I'm not sure what the other guys name. And Richard, I
- 5 think.
- 6 Q Okay.
- 7 A Yes, sir.
- 8 Q Did you know either of those other two at the time?
- 9 A No, sir.
- 10 Q After Dave's disappearance, did you figure out who
- 11 they were?
- 12 A Yes, sir.
- 13 Q So after Damian got out, what happened?
- 14 A It was -- he was telling Dave that he didn't want
- 15 them there that he needed to make them leave. So they left
- 16 and Dave came inside.
- 17 Q And how long did Dave stay inside with y'all? Do
- 18 you remember?
- 19 A Maybe 30, 45 minutes, maybe an hour.
- 20 Q What was the purpose of Dave being over there that
- 21 day?
- 22 A Well, we owed him money and he came there to pick
- 23 up the money that he owed him.
- 24 Q Do you know of your own knowledge whether Dave's
- 25 motorcycle or Dave's truck needed repair work?

Melinda Gladden - Direct Examination by Mr. Graham

1 A Yes. Well actually both of them did.

2 Q Do you remember what the problems were?

3 A I'm not real sure about the motorbike, but his
4 truck kept cutting off, you know, it would run for a little
5 while and it would just kind of cut off. He was supposed
6 to go to Philadelphia the following day.

7 Q When Dave left that day, how much money did you see
8 that he had?

9 A About \$2,000.

10 Q You know where he put that money when he drove off?

11 A Yes, sir. Under the hood of the truck.

12 Q Do you know if he had any money in his pants?

13 A I don't think so.

14 Q How about drugs? Do you know what kind of drugs
15 and the amount he had when he left?

16 A He had some meth on him, about a gram of meth. I
17 would say right about 8 or 9 bundles of heroin.

18 Q Where -- when you say a bundle of heroin, what are
19 you talking about?

20 A It's ten individual bags.

21 Q And how much -- if you sold a bundle, what value
22 are those worth?

23 A \$100 is what -- yeah.

24 Q And if you sold the bags individually, how much is
25 each bag worth?

Melinda Gladden - Direct Examination by Mr. Graham

1 A \$20.

2 Q The eight or nine bundles that you say you saw,
3 where did you see them at?

4 A He had them in a Crown Royal bag. That's where he
5 kept his drugs and he'd -- he also put those underneath the
6 hood of the truck so if he got stopped or anything.

7 Q Now, later on, did the police come and show you
8 some photographs?

9 A Yes, sir.

10 Q Let me show you State's Number 10 and ask you to
11 flip through those photographs and ask if you recognize
12 those photographs of being the ones that the law
13 enforcement officers showed you.

14 A You want me to tell you yes on every one of them
15 or --

16 Q Just look through all of them and just say -- are
17 those -- however you want to do it.

18 A (Looking at the exhibit..) Yes, sir, these are the
19 same photos that I'd seen.

20 Q Do you recognize any of those individuals in those
21 photographs?

22 A Yes, sir.

23 Q And who do you recognize?

24 A I recognize Worth and the other guy, Richard and
25 also the van.

Melinda Gladden - Direct Examination by Mr. Graham

1 Q When the police came and showed you those
2 photographs, did you provide those names to law
3 enforcement?

4 A The names? No. At that time I wasn't sure of the
5 names.

6 Q Okay. At the time law enforcement came -- well,
7 let me ask you if you recognize those telephone numbers.
8 803-250-0349?

9 A That's my number.

10 Q That's your number?

11 A My old number.

12 Q And that was a number that you would have been
13 using in February of 2013?

14 A Yes, sir.

15 Q 267-449-47321. Do you recognize that number?

16 A I believe that's Dave's number.

17 Q Did you talk to Dave on the phone after he left
18 your house?

19 A Yes, sir.

20 Q Do you know approximately how many times?

21 A Maybe twice.

22 Q Did you text him that day as well?

23 A Yes, sir.

24 Q And did he respond to the texts.

25 A He responded all the way to that night -- or wait a

Doug Novak - Direct Examination by Mr. Graham

1 minute. Yeah. I'm sorry. He texted me late that night
2 and I texted him the next day and I didn't get a response.
3 Sorry.

4 Q So the last time that you had communication with
5 him, was it the same day that you last saw him?

6 A Yes, sir.

7 Q Thank you Melinda, please answer any questions they
8 have for you.

9 THE COURT: Thank you, Solicitor.

10 Ms. Fullwood?

11 MS. FULLWOOD: No questions, Your Honor.

12 THE COURT: Thank you. Thank you very much,
13 Ms. Gladden, you may step down.

14 MR. GRAHAM: Thank you Your Honor.

15 The State calls Sargent Doug Novak.

16 THE COURT: All right. If you'd come around and be
17 sworn for us, please.

18 DOUGLAS NOVAK,

19 having been duly sworn, testified as follows:

20 THE CLERK: Have a seat, once you're seated, state
21 your full name, spelling your last.

22 THE WITNESS: Douglas Novak, N-O-V-A-K.

23 **DIRECT EXAMINATION**

24 BY MR. GRAHAM:

25 Q Sargent Novak, where are you employed, sir.

Doug Novak - Direct Examination by Mr. Graham

1 Q Lexington County Sheriff's Department?

2 Q And what do you do there?

3 A I'm currently the sargent over forensic services
4 which consists of crime scene investigations, the drug lab
5 and evidence storage.

6 Q How long have you worked in law enforcement?

7 A Approximately 18 years.

8 Q Prior to being over evidence, what did you do?

9 A I was a major crimes investigator.

10 Q Back in February of 2013, what was your involvement
11 in this case?

12 A I assisted Detective Kemfort in an investigation of
13 the missing person of David Diblasi.

14 Q Based on your investigation, what if anything, was
15 your task on March -- excuse me April 3rd of 2013?

16 A On April 3rd, we had been trying to get in touch
17 with Mr. Cook at his residence. We hadn't been able to get
18 in touch with him. We left his -- Detective Kemfort left
19 his card at Mr. Cook's residence and Mr. Cook ended up
20 calling us and setting up a meeting with us to meet with
21 him at [REDACTED] Road in Gaston.

22 Q And did you, in fact, meet with Mr. Cook at that
23 residence?

24 A Yes, I did.

25 Q And do you see Mr. Cook in the courtroom, today?

Doug Novak - Direct Examination by Mr. Graham

- 1 A Yes, I do.
- 2 Q And could you point him out, please?
- 3 A He's wearing a gray suit with burgundy shirt.
- 4 Q The man sitting at the defense table?
- 5 A Yes.
- 6 Q When you went to go speak with him, Detective
- 7 Kemfort was with you, was he in custody at that time?
- 8 A No, sir.
- 9 Q Was he free to go at that time?
- 10 A Yes, sir.
- 11 Q Why were you going to speak with him?
- 12 A We were given information that Mr. Cook may know
- 13 where Mr. Diblasi was. That he was the last person to see
- 14 Mr. Diblasi, so we needed to get in contact with Mr. Cook
- 15 and determine what he knew and if he knew where Mr. Diblasi
- 16 was.
- 17 Q Did you advise him of his rights at that time?
- 18 A No, sir.
- 19 Q Why not.
- 20 A If you're not in custody and you're free to go, we
- 21 don't have to advise you of your rights.
- 22 Q He met you voluntarily there, though?
- 23 A Yes. He set up -- he set up the place for us to
- 24 meet. He chose the 209 -- he was going to work over there
- 25 at [REDACTED] for a person he was working on another

Doug Novak - Direct Examination by Mr. Graham

1 truck for and he set that up after asking that owner if it
2 was okay if we came over and spoke to him.

3 Q Let me show you a photograph and ask you if you
4 recognize those?

5 A Yes, I do.

6 Q And does that fairly and accurately depict the way
7 that Mr. Cook looked that day?

8 MR. GRAHAM: The State would offer this as
9 evidence, Your Honor.

10 MS. FULLWOOD: No objection.

11 (State's Exhibit Number 11 was marked and entered
12 into evidence.)

13 MR. GRAHAM: Permission publish State's 11, Your
14 Honor?

15 THE COURT: You may publish it.

16 BY MR. GRAHAM:

17 Q Can you tell the jury about your conversation --
18 yours and the detective's conversation with Mr. Cook --
19 well, before we get there, let me ask you, have you dealt
20 with people in your career in law enforcement who have been
21 under the influence of alcohol or drugs?

22 A Yes, sir.

23 Q And do have an opinion as to whether Mr. Cook was
24 under the influence of alcohol or drugs at the time you saw
25 him?

Doug Novak - Direct Examination by Mr. Graham

- 1 A Yes, I do.
- 2 Q And what is that opinion?
- 3 A He was not under the influence of any drugs or
4 alcohol.
- 5 Q Did he indicate to you that he was?
- 6 A No, he did not.
- 7 Q Did he say anything to you about him using drugs?
8 At that time.
- 9 A Not at that time.
- 10 Q Did he say -- at any time in your conversation with
11 him or Detective Kemfort's conversation at [REDACTED],
12 did you make any promises to him?
- 13 A No, sir.
- 14 Q Did you threaten him or coerce him in any way to
15 get him to talk with you or say anything?
- 16 A No, sir.
- 17 Q Did he speak with you of his own free will?
- 18 A Yes, sir.
- 19 Q Tell the jury the questions that you all asked him
20 that day.
- 21 A Well, the main thing we wanted to know, if he knew
22 who Mr. Diblasi was; if he knew where he was; or how we
23 could get in contact with him.
- 24 Q Once you asked him those questions, what were his
25 responses?

Doug Novak - Direct Examination by Mr. Graham

1 A He stated that he did know Mr. Diblasi, that he had
2 been doing work at his house on Mr. Diblasi's motorcycle
3 and truck. That Mr. Diblasi had given him \$80 for payment
4 and some heroin for payment for working on the truck and
5 the motorcycle, but he didn't have enough of the money
6 left, so he was going to go up to Orangeburg when he left
7 his house.

8 He said that he was at -- when Mr. Diblasi left his
9 house, he was the only one there; there was nobody else at
10 the house with him. And David left and he went to
11 Orangeburg.

12 Q Now, is that the extent of your conversation with
13 him at that time?

14 A Yes, sir.

15 Q And did he write a statement for you or was it just
16 an oral?

17 A Yes, he did.

18 Q He did write a statement?

19 I'm going to show you a what's been marked State's
20 Exhibit Number 1 for identification and ask if you
21 recognize that.

22 A Yes, I do.

23 Q And is that the statement that Mr. Cook wrote for
24 you at [REDACTED] on April 3, 2013?

25 A Yes, it is.

Doug Novak - Direct Examination by Mr. Graham

1 MR. GRAHAM: Your Honor, the State would offer this
2 into evidence at this time.

3 MS. FULLWOOD: No objection.

4 THE COURT: State's 1 is in evidence without
5 objection.

6 (State's Exhibit Number 1 was entered into
7 evidence.).

8 MR. GRAHAM: Permission to publish this to the
9 jury?

10 THE COURT: You may publish it.

11 BY MR. GRAHAM:

12 Q In general there are different types of forms.
13 There's a voluntary statement form and there's also a
14 statement for someone under arrest -- or in custody?

15 A Yes, sir.

16 Q Which one is this?

17 A That's the voluntary statement when you're not
18 under arrest.

19 Q So at the top of the voluntary statement form, how
20 would you go about -- or how did you and Detective Kemfort
21 go about getting this statement? Or how was this done by
22 Mr. Cook?

23 A The top part where it says: I, and then it was
24 filled out with Worth Edward Cook, III; his date of birth
25 on top was written by Mr. Cook. The next line that was

Doug Novak - Direct Examination by Mr. Graham

1 handwritten was Detective J. Kemfort. Investigator Kemfort
2 wrote that line. How old he was, which was 26, Mr. Cook
3 wrote that. And the address that he's presently living at,
4 Mr. Cook wrote it.

5 Q What was the address that Mr. Cook wrote that he
6 was living at.

7 A [REDACTED] in Leesville.

8 Q Below that, what are the next two entries. Those
9 are alternate phone numbers that we -- if we needed to get
10 in contact at a later date, we ask for an alternate person
11 or a name that we can get in contact with.

12 Q And did he indicate what his cell phone number was?

13 A Yes, he did.

14 Q And what was that?

15 A 803-454-4020.

16 Q 4020?

17 A 4020.

18 MR. GRAHAM: Beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 BY MR. GRAHAM:

21 Q Did he indicate an alternate contact below that?

22 A Yes, he did.

23 Q And who was that alternate contact?

24 A Shannon Tart.

25 Q And did he tell you who Shannon Tart was to him?

Doug Novak - Direct Examination by Mr. Graham

- 1 A That was his girlfriend.
- 2 Q And did he provide a number for Shannon Tart?
- 3 A Yes, he did.
- 4 Q And what was that number?
- 5 A 803-391-2996.
- 6 Q All right. Let me give you another copy of the
7 original and ask you if it's clear what the number is?
- 8 A 391-2496.
- 9 Q Okay. The handwriting as far as what's in here,
10 who wrote that?
- 11 A Mr. Cook did.
- 12 Q Did you or Detective Kemfort dictate to him what to
13 say?
- 14 A No, we did not.
- 15 Q On the bottom of page 1 on State's Exhibit Number
16 1, it says -- there's a line that says dated out and it
17 gives a time and location. What -- who wrote that and what
18 was it say?
- 19 A Detective Kemfort wrote that and that's the address
20 that we were actually at when the interview took place.
- 21 Q There's a signature at the bottom. The signature
22 on the bottom is whose signature?
- 23 A Mr. Cook's.
- 24 Q And on the last page there's also a signature.
25 Whose signature is that?

Doug Novak - Direct Examination by Mr. Graham

1 A Mr. Cook's.

2 Q Would you publish State's Exhibit Number 1 and read
3 it to the jury, please?

4 A Lexington County Sheriff's Department Voluntary
5 Statement. Above his name, it's a date of birth of
6 5/15/86.

7 Says, I, Worth Edward Cook, III, am not under
8 arrest, nor am I being detained for any criminal offenses
9 concerning the events I'm about to make known to Detective
10 J. Kemfort.

11 I volunteer the following information of my own
12 free will for whatever purposes it may serve. I am 26
13 years of age and I live at [REDACTED], Leesville,
14 South Carolina, 29070. Alternate contact name, my cell:
15 803-454-4020; alternate contact name, Shannon Tart, phone
16 number 803-391-2496. The statement begins:

17 I met David at Jackie Boyer's house. He was riding
18 a 82 Honda that wasn't charging the battery. I spoke up
19 that I was a mechanic and I worked on bikes and cars at my
20 home and probably -- Jackie backed me up saying that I did
21 mechanic work real good. So he decided that he could get
22 me to work on, not only his bike, but his truck.

23 So we left Jackie's and I followed him to his
24 house, mom's or brother's. One of their house, not sure who
25 owns it. He told me that he had to go meet a chick, so I

Doug Novak - Direct Examination by Mr. Graham

1 asked what he wanted me to do and he asked me and Rick to
2 follow him there and he would put gas in Rick's vehicle.
3 We did only because I needed the work and he was paying the
4 fuel. So we followed him through Pelion to a chick's
5 place, when he asked us to follow him to another chick's
6 place and it turned out to be on Bush River Road at the
7 hotel.

8 We sat there a little, then left and got back to
9 his mom's slash brother's house and then we loaded his bike
10 into his truck and he invited us to meet his mom. He was
11 proud of her age. She was in her 90's.

12 When we left to go outside from there, Rick left
13 and I helped David strap off his bike. Then me and him
14 loaded up and road to my place. When we got there, I put a
15 new, used battery and a ricket (phonetic) firer on the
16 bike. He went to test ride it and I started working on his
17 truck.

18 I had to remove the down pipe from the header and
19 weld the flex tube under the mount flange. After he got
20 back, he paid me in part with some cash and some heroin to
21 trade for cash later.

22 We loaded up the bike in his truck and he left; all
23 happy because he was going towards Orangeburg to meet some
24 chick to make enough money to pay some fine that he had
25 back up North and re up, double what he had -- what he had

Doug Novak - Direct Examination by Mr. Graham

1 in drugs.

2 End of statement, signed by Worth E. Cook, III.

3 Q Did he write that statement in your presence?

4 A Yes, he did.

5 Q Were you and Detective Kemfort with him the whole
6 time during the interview and the whole time he wrote that
7 statement at Doe Trail?

8 A Yes.

9 Q Did you or Detective Kemfort threaten him at all
10 during that time period?

11 A No, sir.

12 Q After the interview was over and after you got that
13 written statement, at that time did you run -- did you get
14 Mr. Cook's driver's license from him?

15 A Yes, I did.

16 Q And did you run his driver's license?

17 A Yes, I did.

18 Q And at that time did you realize that there was an
19 unrelated outstanding warrant?

20 A Yes, I did.

21 Q And was Mr. Cook placed under arrest at that time?

22 A Yes, he was.

23 Q Once he was placed under arrest and taken to the
24 sheriff's department, did you and Detective Kemfort go back
25 and meet with Mr. Cook again?

: Doug Novak - Direct Examination by Mr. Graham

- 1 A Yes, we did.
- 2 Q That time he is in custody, correct?
- 3 A Yes, sir.
- 4 Q And did you advise him of his rights at that time?
- 5 A Yes, I did.
- 6 Q Did you do that or did Detective Kemfort do that?
- 7 A I did that.
- 8 Q And what, if anything, did you use to advise
- 9 Mr. Cook of his rights?
- 10 A We have a form that's called the Lexington County
- 11 Sheriff's Department Form Statement Form and on the form
- 12 there are five lines that actually spell out your rights
- 13 and I read them individually to the person I'm interviewing
- 14 and go through each right with them.
- 15 Q Let me show you what's been marked as State's
- 16 Exhibit Number 2 for identification and ask if you
- 17 recognize that.
- 18 A Yes, I do.
- 19 Q And is that the form that you used to advise
- 20 Mr. Cook of his rights?
- 21 A Yes, it is.
- 22 Q Specifically, how did you go about advising him of
- 23 his rights?
- 24 A I would begin on line number -- number 1 says: I
- 25 have the right to remain silent. I read that to him; ask

Doug Novak - Direct Examination by Mr. Graham

1 him if he understands it; he initials next to him if he
2 understands it.

3 Line number 2 is: Anything I say can and will be
4 used against you in a court of law. I read that to him,
5 ask him if he understands it.

6 I have the right to talk to a lawyer for advice
7 before asked any questions or have him or her present with
8 you during your questioning.

9 Number 4 is: If I have no money for a lawyer's
10 fee, the Court will appoint me one to represent him without
11 cost if he wishes.

12 Number 5, if you decide to answer questions now
13 without a lawyer present, you still have the right to stop
14 answering questions at any time. You also have the right
15 the stop answering questions at any time until you talk to
16 a lawyer.

17 At the end of each one of these statements is a
18 line -- a little section where you can initial saying that
19 you understand it and after each one of those he initialled
20 the statement he understood his rights.

21 Q When you explained those rights to him, did he
22 understand his rights?

23 A I'm sorry?

24 Q Do you have an opinion whether he understood his
25 rights?

Doug Novak - Direct Examination by Mr. Graham

1 A Yes.

2 Q And how did he indicate that he understood his
3 rights?

4 A By initialling next to each one of the rights and
5 telling us he understood it.

6 Q After you explained his rights to him, did you ask
7 him if he was willing to speak with you?

8 A Yes.

9 Q And how was that indicated on the form?

10 A By him initialling next to -- each one of these has
11 a line where they initial next to it. When you advise him
12 of his rights, did he appear to be under the influence of
13 alcohol or drugs.

14 A No, he did not.

15 Q Did he make any statements to you telling you that
16 he was under the influence of alcohol or drugs?

17 A No, he did not.

18 Q To get him to speak with you did you or Detective
19 Kemfort make any promises to him or any hopes of reward if
20 he spoke to you?

21 A No.

22 Q Did you or Detective Kemfort threaten him or coerce
23 him in any way to get him to speak with you?

24 A No.

25 Q Do you have an opinion as to whether his decision

Doug Novak - Direct Examination by Mr. Graham

1 to speak with you and write that statement was free and
2 voluntary?

3 A Yes.

4 Q And what is your opinion?

5 A It was free and voluntary.

6 Q Tell the jury about the conversation that occurred
7 at this point when you were interviewing him; what you
8 asked and what did he say?

9 A Well, we were in the interview room and we read his
10 rights and he started out: Mr. Cook stated that after he'd
11 done the work on David's bike and truck, David had given
12 him \$80 or 80 bucks and the few bags of heroin.

13 David did not have all the money for the labor, so
14 David wanted to go so he could make a sell to a woman that
15 would allow him to double up and when he went back up
16 North -- when he went home back up North.

17 David left him two kinds of prepaid type bank cards
18 to hold until he came back to pay him the rest of the
19 money. When David did not come back a few days, maybe a
20 week later, he decided that -- to use them to try the make
21 a buck.

22 He was with Rick one night. Rick picked up --
23 picked him up and he told Rick he could put gas in his van.
24 Since David did not come and pick up the cards, he used the
25 cards to put gas in Rick's van. Later than night Rick gave

Doug Novak - Direct Examination by Mr. Graham

1 him a ride to Wal-Mart. Cook used the cards to pay for
2 some diapers and wipes to see if the cards still worked.
3 He got the diapers because if Wal-Mart -- if Wal-Mart would
4 not let him return them for money, he would keep them to
5 use.

6 Rick knew he had the cards and they argued about
7 the use of the cards. He said that David owed him money
8 and it was not his fault he did not come back the pay him,
9 so he used the cards and then he signed a fake name to the
10 receipt.

11 He did not initially tell us anything about the
12 cards while at the Doe Trail address because David had left
13 the cards with him to hold for money that he owed. After
14 he did not come back for several days, maybe a week, he
15 used the cards -- used them to purchase about \$100 Worth of
16 stuff. He did not want to be in trouble for using the
17 cards without direct permission from Dave.

18 Rick drives a white Chrysler van. Rick lives in
19 South Congaree in a trailer behind a white house by Brock's
20 Cameo -- Camaro and Tire.

21 David was driving his truck with the bike in the
22 back of it when he left his house. He does not know where
23 the truck or bike are located. David said he was going to
24 Orangeburg to make money from a chick and then he was going
25 up North.

Doug Novak - Direct Examination by Mr. Graham

1 He works for himself doing odd jobs and bike and
2 car repairs. He averages about \$500 a week. His
3 girlfriend's name is Shannon Tart. Shannon lives between
4 Jackie's and his house. She lives mostly at his house
5 since the baby was born and the last few months of
6 pregnancy.

7 Jackie is Jackie Boyer who is Shannon's aunt. And
8 she lives across from the Village Store on Platt Springs
9 Road. He used David's card at the Hillview Gas Station at
10 Exit 39 and I-20. This was the same day he used David's
11 card at the Wal-Mart. He believed he threw the cards out,
12 but he was not sure. He did not know where David was now.
13 He had met David at Jackie's house the day he worked on his
14 truck.

15 After meeting David at Jackie's house, David rode
16 his bike to his house. His mother and brother live there.
17 Once there, David got into his truck and wanted Rick and
18 him to follow him. Rick and he were in Rick's white van
19 and David was driving his white truck.

20 David went to a hotel on Bush River Road near Heart
21 Breakers. David had a bunch of drugs on him and met with a
22 female at the hotel. After he was in the room for about 10
23 minutes, he and Rick went inside the room. The girl was a
24 prostitute.

25 From the hotel, they went back to David's house.

Doug Novak - Direct Examination by Mr. Graham

1 They loaded David's bike on the back of his truck. Rick
2 then left in his van. He got into David's truck and drove
3 to his house to work on the bike and truck. This was
4 before his girlfriend had been arrested. Shannon was
5 arrested on March 1st, 2013 and Mr. Cook did provide a
6 written statement to the same.

7 Q State's -- the written statement itself, that's
8 what we were referring to is State's Number 2 that's now in
9 evidence, this is a statement form as opposed to a
10 voluntary form; is that different?

11 A Yes.

12 Q What are the differences?

13 A Well, this is -- you're usually under arrest and
14 there's advisement of rights on there and it's a little bit
15 more in-depth.

16 Q This one has the actual rights that you testified
17 to?

18 A Yes, sir.

19 Q There's also handwriting. This is a four-page
20 document. Once we get down passed the rights, whose
21 handwriting are we seeing?

22 A That's Mr. Cook's.

23 Q And then on the bottom page --

24 MR. GRAHAM: Your Honor, can I publish this to the
25 jury?

Doug Novak - Direct Examination by Mr. Graham

1 THE COURT: Yes, sir.

2 MR. GRAHAM: Thank you.

3 BY MR. GRAHAM:

4 Q On the bottom page on page number 1, there's a
5 witness signature, whose the witness?

6 A Investigator Kemfort.

7 Q On the bottom page is also a signature that says
8 person giving statement that day. Whose signature is that?

9 A Mr. Cook's.

10 Q And you saw him write that?

11 A Yes, sir.

12 Q All the handwriting that's in the main body of page
13 number 1, who wrote that?

14 A Mr. Cook.

15 Q Did you or Detective Kemfort tell him what to say?

16 A No, sir.

17 Q Did you threaten him in any way to get him to say
18 anything?

19 A No, sir.

20 Q Page number 1, the handwriting on that that's in
21 the black, the top half, whose handwriting is that?

22 A Mr. Cook's.

23 Q Below that it goes into blue ink. What's the
24 purpose of the blue ink?

25 A That was the color of ink I had in my pen.

Doug Novak - Direct Examination by Mr. Graham

1 Q The first blue after it says a Q and a colon and it
2 says: Detective Novak. What's the purpose of that?

3 A As I continued down a question and answering, all
4 the Q's will be the questions I asked the person, in this
5 case, Mr. Cook.

6 Q Next to that there is an A and a colon with Worth
7 Cook's name. Whose handwriting is that and what's the
8 purpose of that?

9 A That's my handwriting also. That's for who reads
10 the statement they'll know that A is the answer that Worth
11 Cook writes on the paper.

12 Q So for the rest of page 2, 3, and 4 when there's a
13 Q whose handwriting is that -- when there's an A whose
14 handwriting is that?

15 A Mr. Cook's.

16 Q On the bottom -- on the bottom of page 4, there are
17 initials in blue ink, what are the purpose of those
18 initials?

19 A That's where we ended the statement.

20 Q Okay. There is a statement -- I mean a signature
21 at the bottom of page 4, what's the purpose of that
22 statement?

23 A That's saying that Mr. Cook wrote the statement.

24 Q Did Mr. Cook have a chance to review this statement
25 before he signed it?

Doug Novak - Direct Examination by Mr. Graham

1 A Yes, he does.

2 Q Would you publish what Mr. Cook told you in the
3 written statement or what he wrote in a -- the questions
4 you asked and the answers he gave.

5 MS. FULLWOOD: Your Honor, may we approach?

6 THE COURT: Yes, ma'am.

7 (There was a bench conference out of the hearing of
8 the jury and the Court Reporter.)

9 BY MR. GRAHAM:

10 Q The statement that you're holding in your hand is
11 marked State's Number 2 for identification; the one we've
12 been talking about?

13 A Yes, sir.

14 Q Do you recognize that as the statement that had an
15 advise of rights forms and contained the actual writings of
16 Mr. Cook on that day?

17 A Yes.

18 Q Does it fairly and accurately represent and is it,
19 in fact, the exact copy of what he wrote? Is it the
20 original?

21 A It's the original.

22 MR. GRAHAM: Your Honor, the State would offer this
23 into evidence at this time.

24 MS. FULLWOOD: Subject to our previous objection.

25 THE COURT: State's 2's in evidence subject to

Doug Novak - Direct Examination by Mr. Graham

1 previous objection. And you may publish.

2 (State's Exhibit Number 2 was entered into
3 evidence.)

4 MR. GRAHAM: Thank you, Your Honor.

5 BY MR. GRAHAM:

6 Q Would you go ahead and publish that to the jury?

7 A Lexington County Sheriff's Department Statement
8 Form. Date: 4/3/13. Place: LCDC, which is Lexington
9 County Sheriff's Department. Time started -- I didn't put
10 the time start.

11 I, the under signed, Worth E. Cook, III, am 26
12 years of age. My date and place of birth being the [REDACTED]
13 [REDACTED], born in North Carolina. My present
14 address is [REDACTED], Leesville, South Carolina,
15 29070. I completed tenth grade in school. I can read and
16 write; space with his initials of W.C.

17 Contact number: Home number 803-454-4020.

18 Alternate contact name Shannon Tart, no number provided.

19 Before answering any questions or making any
20 statements, Detective's Kemfort and Novak, the person that
21 identified themselves as detectives duly warned and advised
22 me that: 1: I have the right to remain silent. Space for
23 his initials W.C.

24 Anything -- Number 2: Anything I say can and will
25 be used against me in a court of law. Space for -- area

Doug Novak - Direct Examination by Mr. Graham

1 for him to put his initials W.C.

2 I have the right to talk to a lawyer for advice
3 before asked any questions and have him or her present with
4 me during questioning. Another place W.C. initials.

5 I have no -- if I have no money for lawyer's fee,
6 the Court will appoint one to represent me without cost to
7 me if I wish. Space with W.C. initials.

8 Number 5: If I decide to answer questions now
9 without a lawyer present, I will still have the right to
10 stop answering questions at any time. I also have the
11 right to stop answering questions at any time until I talk
12 to a lawyer; W.C.

13 I have read this statement of my rights and I
14 understand what my rights are; another space for his
15 initials W.C.

16 I make the following statement: After I got done
17 working on the bike and truck, David gave me 80 bucks,
18 scratch out with W.C. above it; a few bags of heroin, but
19 didn't have all the money for the labor. He wanted to go
20 so he could make sales to a chick that would make him
21 enough to re up double when he went home up North.

22 He left me -- another scratch out with W.C. above
23 it -- two kinds of prepaid type -- another scratch out with
24 W.C. above it -- bank cards to hold until he came back to
25 pay me for the rest.

Doug Novak - Direct Examination by Mr. Graham

1 When he didn't come back for a few days, maybe a
2 week, I decided to use them and tried to make a buck. And
3 the bottom of this page has a place for a witness, which is
4 Investigator Kemfort's signature and the person giving the
5 statement, Worth Edward Cook, III, date 4/3 of '13.

6 Page 2: I was with Rick one night. He picked me
7 up and I told him I would get him gas in his van. Since
8 David didn't come pick up the cards and without Rick
9 knowing, I paid for the fuel in the van. Later that night
10 Rick gave me a ride to Wal-Mart and I used the card to pay
11 for some diapers and wipes to see if it still worked. I
12 got the diapers so if they didn't -- another scratch out
13 with W.C. above it -- let me return them for the money that
14 I would -- scratch out W.C. -- keep them and Rick argued
15 with me about usage. I said that David owed me the money
16 and it wasn't my fault he didn't come back and pay me and I
17 used it. And signed a fake name.

18 Q: Detective Novak; A: Worth Cook. Question:
19 Why didn't you tell us about using David's credit cards to
20 begin with.

21 Answer: Because David left me the cards to hold
22 for the money he owed me -- cross off W.C. -- and he didn't
23 come back for several days, maybe a week. I used them to
24 purchase maybe a hundred bucks worth of stuff and didn't
25 want to be in trouble for using the cards without direct

Doug Novak - Direct Examination by Mr. Graham

1 permission from David.

2 At the bottom of this page, it says, I have read
3 this page, initialled corrections or changes, if any, and
4 received a copy of this page. I certify that the facts
5 contained herein are true and correct to the best of my
6 knowledge. Signed: Worth E. Cook, III, 4/3 of '13.

7 Page 3, Question: Did David ever give you
8 permission to use his cards?

9 Not directly -- question -- Answer: Not directly.
10 He left them for me to hold for the value of the labor.

11 Question: What does Rick drive?

12 Answer: Scratch off W.C., white van Chrysler.

13 Question: What is Rick's last name.

14 Answer: I do not know.

15 Question: Where does Rick live.

16 Answer: In South Congaree in a trailer behind a
17 white house on a road beside Brock's Camaro and Tire. And
18 a cross of with W.C.

19 Question: Do you know where David's truck or
20 motorcycle are now?

21 Answer: He was driving his truck with bike in back
22 of it when he left my house, so no, underlined.

23 Question: Did he say where he was going?

24 Answer: To see a chick toward Orangeburg and he
25 was going to -- going up north to re up twice the heroin he

Doug Novak - Direct Examination by Mr. Graham

1 came down with.

2 Question: Do you work?

3 For myself -- Answer: For myself doing odd jobs
4 and bike and car repair. I average up to \$500 a week.

5 Question: What is your girlfriend's name?

6 Answer: Shannon Tart.

7 Where does she live?

8 Answer: Between Jake's -- between Jackie's and my
9 place, [REDACTED] -- cross off W.C. -- mostly my place
10 since the baby was born and the last few months of
11 pregnancy. W.C. at the end.

12 I have read this page, initialed the corrections
13 where changes, if any, and received a copy of this page. I
14 certify that the facts contained herein are true and
15 correct to the best of my knowledge, signed W. E. Cook,
16 III.

17 Page 4, Question: Who is Jackie?

18 Answer: Shannon's aunt, Boyer. Off Platt Springs
19 across from the Village.

20 Question: Where did you use David's card to fill
21 Rick's van up?

22 Answer: Hillview off I-20 at Exit 39 truck stop.

23 Question: Was this the same day you used the card
24 at Wal-Mart?

25 Answer: Yes.

Doug Novak - Direct Examination by Mr. Graham

1 Question: Which Wal-Mart did you use David's card
2 at?

3 Answer: Highway 6 and Platt Springs, Red Bank.

4 Question: What happened to the credit cards?

5 Answer: I threw them out after I used them. I was
6 high and don't have an idea where I threw them out because
7 they didn't work anymore.

8 Question: When did you realize the cards did not
9 work anymore?

10 Answer: At Wal-Mart when they didn't work the
11 second time.

12 Question: Where is David now?

13 Answer: I don't know.

14 Question: How did you meet David?

15 Answer: I met him at Jackie's house the day I
16 worked on his truck.

17 Question: Is there anything you would like to add
18 that we did not ask?

19 Answer: No, initials W.C.

20 I have read this page; initialled corrections or
21 changes, if any, received a copy of this page. I certify
22 the facts contained herein are true and correct to the best
23 of my knowledge, signed Worth E. Cook III.

24 Q Sargent Novak at the time you placed Mr. Cook under
25 arrest, did you seize a phone from him?

Doug Novak - Direct Examination by Mr. Graham

1 A Yes, I did.

2 Q Do you have that phone with you?

3 A Yes I do.

4 Q And is that the phone that you took from Mr. Cook?

5 A Yes, sir.

6 MR. GRAHAM: Your Honor, this State would offer
7 this into evidence?

8 THE COURT: Ms. Fullwood?

9 MS. FULLWOOD: May we approach?

10 (There was a bench conference out of the hearing of
11 the jury and the Court Reporter.)

12 THE COURT: Thank you, Solicitor.

13 Thank you, Ms. Fullwood.

14 See I warned y'all that would happen from time to
15 time.

16 Thank you, Ms. Fullwood.

17 Solicitor, you may ask your next question.

18 BY MR. GRAHAM:

19 Q Sargent Novak, do you recognize this to be the
20 phone that you took off of Mr. Cook at the time of his
21 arrest on April 3rd, 2015 (sic)?

22 A Yes I do.

23 MR. GRAHAM: The State would mark this for
24 identification at this time.

25 THE COURT: All right. This would be 12 for ID?

Doug Novak - Direct Examination by Mr. Graham

1 THE COURT REPORTER: Yes, sir.

2 (State's Exhibit 12 was marked for identification.)

3 BY MR. GRAHAM:

4 Q Sargent, in addition to speaking with Mr. Cook two
5 times that day, did you also go out to [REDACTED]
6 in regards to a search warrant? Or was that -- did you --
7 was that the following day on the 4th?

8 A It was the following day, April 4th.

9 Q And did you -- were you -- several members of the
10 sheriff's department were present when that search warrant
11 was executed out there?

12 A Yes, sir.

13 Q I'm going to show you a set of photographs and ask
14 if you recognize these photographs.

15 A Yes, I do.

16 Q And do they fairly and accurately depict what you
17 saw before the search warrant was executed when you were
18 outside the property for these two photos?

19 A Yes, sir.

20 MR. GRAHAM: Your Honor, the State would offer
21 these two into evidence at this time.

22 MS. FULLWOOD: No objection.

23 THE COURT: That will be 13 and 14?

24 THE COURT REPORTER: Yes, sir.

25 (State's Exhibit Numbers 13 and 14 were marked and

Doug Novak - Direct Examination by Mr. Graham

1 entered into evidence.)

2 MR. GRAHAM: Permission to publish them, Your
3 Honor?

4 THE COURT: Yes, sir.

5 BY MR. GRAHAM:

6 Q Sargent Novak, State's Number 13, what are we
7 looking at?

8 A That is the driveway into Mr. Cook's house, which
9 is located at [REDACTED], and it's a gate and it's
10 got a chain on it with a padlock.

11 Q That address [REDACTED], all that
12 property, is that in Lexington County?

13 A Yes, sir.

14 Q There's also a sign posted on the gate. What does
15 that sign say?

16 A No trespassing, violators will be prosecuted.

17 Q State's Number 14, what are we seeing there?

18 A That is how he had the gate secured with a chain
19 link with a combination lock.

20 Q So to go in past that gate, what did you or other
21 members of the sheriff's department have to do?

22 A Cut the lock.

23 Q The other three photographs that I've shown you,
24 once the search warrant was executed, did you go in the
25 house?

Doug Novak - Direct Examination by Mr. Graham

1 A Yes, I did.

2 Q And is that what the contents looked like at that
3 time that you went in at the execution of the search
4 warrant?

5 A Yes, sir.

6 Q And is it a fair and accurate picture of the layout
7 of the living room at this time?

8 A Yes, sir.

9 MR. GRAHAM: The State would offer those two
10 photographs into evidence, Your Honor.

11 MS. FULLWOOD: No -- no objection.

12 THE COURT: 15 and 16?

13 THE COURT REPORTER: Yes, sir.

14 THE COURT: They're in without objection.

15 (State's Exhibit Numbers 15 and 16 were marked and
16 entered into evidence.)

17 BY MR. GRAHAM:

18 Q Looking at State's Number 15, what are we looking
19 at?

20 A That is the living room.

21 Q The door that's on the upper right side, do you
22 know where that door goes to?

23 A It leads back into a -- I call it a storage area or
24 a catch-all.

25 Q Do you know from which vantage part of the house

Doug Novak - Cross-Examination by Ms. Fullwood

1 you're looking into this room in State's 15?

2 A When you're looking -- when you come through the
3 front door of the house, you're looking to the left and
4 then that door is to the right.

5 Q State's Number 16, the other photograph in front of
6 you, what is that photograph of?

7 A That's of the living room picturing back towards
8 the kitchen area.

9 Q Do you remember anything unusual about the flooring
10 in the kitchen?

11 A The flooring, it was in the middle of being
12 repaired or in the middle of -- in the midst of some type
13 of repair work being done.

14 Q Sargent, I appreciate you answering my questions.
15 Please answer any questions the defense may have for you.

16 THE COURT: Thank you, Solicitor.

17 Ms. Fullwood?

18 MS. FULLWOOD: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. FULLWOOD:

21 Q Mr. Novak, I hope this is going to be relatively
22 short.

23 I'm going to hand you State's Exhibit 2. Now, at
24 the bottom of every page, is the place for a notary public
25 to sign; is that correct?

Doug Novak - Cross-Examination by Ms. Fullwood

1 A Yes, ma'am.

2 Q Okay. And in this case, you did not have a notary
3 public swear him in and make it a sworn statement; is that
4 right?

5 A Correct.

6 Q Okay. And you did not video tape your conversation
7 with Mr. Cook in that interview room, did you?

8 A No, ma'am.

9 Q And you did not audio record your conversation with
10 him in the interview room; is that correct?

11 A That's correct.

12 MS. FULLWOOD: No further questions.

13 THE COURT: Redirect, Solicitor.

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: All right. Sargent, you may step down.
16 Subject to recall, Solicitor?

17 MR. GRAHAM: Yes, Your Honor.

18 THE COURT: All right. Thank you, Sargent.

19 All right, how long do you think your next witness
20 will be, Solicitor.

21 MR. GRAHAM: Your Honor, I think there's a matter
22 of law that we need to take up before that.

23 THE COURT: All right. Thank you.

24 All right. Mr. Foreman, ladies and gentlemen of
25 the jury perhaps now would be a good time to take your

1 luncheon recess. Again, I'll remind you during this recess
2 you're not to discuss this case with others, including your
3 fellow jurors, lunch mates, family, friends or anyone else.
4 Do not read, watch or listen to any news reports about the
5 case. Do not use your computer or cellar phone or any
6 other electronic device with communication capabilities or
7 any other method to obtain or disclose information about
8 the case.

9 Information about the case includes, but is not
10 limited to the following: Information about a party, a
11 witness, an attorney, a court officer, news accounts about
12 the case, past or present; information collected through
13 juror research on any topics raised or testimony offered by
14 any witness or information collected through juror research
15 on any other topic the juror might think would be helpful
16 in deciding the case. Remember to keep an open mind. Do
17 not begin your deliberations until you've heard all the
18 evidence, all the testimony, closing arguments by the
19 attorneys and instruction on the law by the Court and then
20 directed by the Court to begin your deliberations with your
21 fellow jurors.

22 I would ask you to please be back at two o'clock.
23 If you'd please be back at two o'clock, that should give
24 you 60 -- 70 minutes to enjoy Lexington lunchtime traffic.

25 All right. Thank you. Thank you very much, I hope

1 y'all have a pleasant lunch.

2 (The jury left the courtroom at 12:50 p.m.)

3 THE COURT: All right. Solicitor.

4 MR. GRAHAM: Our witness, Your Honor was going to
5 be Joe chapel. He would have been an officer who did a
6 forensic down load of that phone that was taken from
7 Mr. Cook. There are some texts on there that the State was
8 going to use.

9 THE COURT: All right. Ms. Fullwood?

10 MS. FULLWOOD: Yes, sir. It had always been my
11 impression that that phone had been put in the property of
12 the jail and then once they got a search warrant for the
13 phone it was taken out. My client's now telling me that
14 the phone, along with a number of other items were taken
15 from him down on Doe Trail Road and -- I'm -- it's unclear
16 to me whether that was taken simultaneously with the arrest
17 on an outstanding warrant or they just took his things.

18 THE COURT: All right. I believe he also wasn't
19 asked about when or where he took it, only that he seized
20 it from Mr. Cook. So -- that 's all that's in the record
21 right now. I don't think he testified where he seized it
22 or when he seized it. Chronologically he testified to it
23 within the chronology of the testimony -- that testimony
24 came up after -- after the statement at the interview room,
25 State's 2, and before the photographs of Lee Gunter Road.

1 At any rate, Solicitor?

2 MR. GRAHAM: Your Honor, I don't know the answer
3 whether he got it directly off of him at the time or if he
4 got it out of the property bag later. I don't have a case
5 in front of me, but they don't need a search warrant to
6 grab things out of the property bag once somebody's under
7 arrest. And I can find that over the break if we need to.

8 THE COURT: Well, I'd like to --

9 MR. GRAHAM: I'm sorry, Your Honor.

10 THE COURT: Go right ahead, I thought you were
11 finished.

12 MR. GRAHAM: I was going to say factually, I DON'T
13 know the answer to the question. Legally, I don't know
14 that it matters. Either way, I think it's still
15 admissible. I guess I'm not sure the end result of what
16 Ms. Fullwood's objection is.

17 THE COURT: Well, I don't know either. I thought
18 she was saying it was potentially an unlawful search. I
19 though she was -- is your objection Fourth Amendment?

20 MS. FULLWOOD: Well, I'm not trying to make a
21 mountain out of a mole hill, Judge, because there -- it's
22 my understanding that nobody looked in the phone until the
23 search warrant was executed. And perhaps that would make
24 irrelevant any irregularities that -- in the seizing itself
25 of the phone, unless of course, the phone was looked into

1 and these texts they want to -- use were discovered in that
2 manner and then, you know, the reason would have been that
3 search warrant.

4 THE COURT: All right. Solicitor?

5 MR. GRAHAM: Your Honor, the only thing I was going
6 to say, unless Your Honor wants to proceed now, what we can
7 do is explain to Ms. Fullwood the search warrant that was
8 gotten, the procedure, and how it happened and maybe that
9 would clear up her concerns. And that way nobody -- as far
10 as I know there's no -- there's no evidence or there's no
11 testimony that the phone was looked into -- the phone was
12 seized, it was transferred in evidence.

13 The search warrant was got on, I believe April 6th
14 2013, and they went in to the phone at that time. And then
15 they downloaded texts and call history and things like that
16 and that Joe Chappell will testify to that pursuant to a
17 search warrant he went into the phone and retrieved this
18 information.

19 MS. FULLWOOD: And if I could add, Judge, over the
20 break, I can look at the complete evidence sheets that
21 we've been given, that might resolve the issue.

22 THE COURT: All right. I'll give y'all the
23 opportunity over the recess, so court will be in recess
24 until 1:45.

25 Thank you very much, Solicitor. Anything further,

1 Solicitor.

2 MR. GRAHAM: Your Honor, I was just going to say,
3 it looks as if -- if we're continuing to move as we are, we
4 would reach Mike Phipps today, which I know they wanted to
5 look at the -- those summary charts over the night. My
6 suggestion would be is we work -- I think we have maybe
7 three or four more witnesses, I honestly believe they would
8 be short witnesses. My thought would be is when we're done
9 with that we send the jury home and continue with the
10 Jackson v Denno hearings for the afternoon.

11 THE COURT: And do Mr. Phipps tomorrow.

12 MR. GRAHAM: Per their request, that would give
13 them an opportunity to look at it and then we can start
14 back with Mr. Phipps tomorrow.

15 THE COURT: Ms. Fullwood?

16 MS. FULLWOOD: That would suit the defense, Your
17 Honor.

18 THE COURT: All right. All right. Thank you,
19 Solicitor.

20 All right. Court will be in recess until 1:45.

21 (A recess for lunch was observed.)

22 THE COURT: Ms. Fullwood?

23 MS. FULLWOOD: Your Honor, over the break I got
24 together with Mr. Caskey and between him showing me
25 evidence sheets and me comparing them with an inmate log

1 from the jail that I've been provided, I'm satisfied that
2 this phone was seized and put into evidence at the time he
3 was booked at -- you know -- about the same time he was
4 booked into the jail and I do not really believe -- and I
5 was also shown where that phone remained in the evidence
6 locker between April 3 and April 5, when the man who was
7 going to do the extraction took it out of evidence and the
8 next day he got the search warrant form, so I am satisfied
9 there is no Fourteenth Amendment problem here.

10 THE COURT: All right. And additionally, what
11 about the chain of custody? Does the solicitor need to
12 recall Sargent Novak?

13 MS. FULLWOOD: Only if they want to.

14 THE COURT: All right. Solicitor, anything further
15 from the State before we bring our jury.

16 MR. GRAHAM: No, Your Honor. If it's all right
17 with the Court, I was going to call Detective Novak back
18 and put this in evidence, set the chain and then we can
19 move on.

20 THE COURT: Certainly. That's all right.

21 Is our jury back?

22 THE BAILIFF: I'll check.

23 Yes, sir, Your Honor, they're all back.

24 THE COURT: All right. You can --

25 (The jury entered the courtroom at 1:56 p.m.)

Doug Novak - Direct Examination by Mr. Graham

1 THE COURT: All right. Welcome back, ladies and
2 gentlemen, I hope you all had a pleasant lunch.

3 To my left is an intern that is with me two
4 afternoons a week, Tuesday afternoons and Thursday
5 afternoons. She's a paralegal student and will graduate
6 December of this year.

7 All right. With that being said, we're continuing
8 to take evidence and testimony from the State in its case
9 in chief.

10 Solicitor, you may call your next witness.

11 MR. GRAHAM: Thank you, Your Honor. The State
12 recalls Sargent Novak.

13 THE CLERK: Still under oath, Your Honor?

14 THE COURT: Yes, ma'am.

15 **DIRECT EXAMINATION**

16 BY MR. GRAHAM:

17 Q Sargent Novak, when we had left off, I had showed
18 you a phone that was marked as State's Number 12 for
19 identification. Do you recognize that phone?

20 A Yes, sir.

21 Q And is that the phone that you took off of Worth
22 Cook when he was placed you were arrest?

23 A Yes, sir.

24 MR. GRAHAM: Your Honor, the State would offer this
25 into evidence at this time.

Doug Novak - Direct Examination by Mr. Graham

1 MS. FULLWOOD: No objection, Your Honor.

2 THE COURT: State's 12 is in evidence without
3 objection.

4 (State's Exhibit Number 12 was entered into
5 evidence.)

6 THE COURT: What is 12?

7 THE COURT REPORTER: The telephone.

8 THE COURT: Of?

9 THE COURT REPORTER: Cook's phone.

10 BY MR. GRAHAM:

11 Q Sargent Novak, back in April of 2013, you were a
12 detective, now you're a sargent; is that correct? I'm
13 sorry, back in April of 2013, you were a detective working
14 on this case, correct?

15 A Yes, sir.

16 Q Currently you are a sargent with the sheriff's
17 department; is that correct?

18 A Yes, sir.

19 Q What are your duties as a sargent?

20 A I am currently over CSI, crime scene
21 investigations, evidence storage, and the crime lab.

22 Q Can you explain to the jury how the sheriff's
23 department, now currently under your supervision and
24 before, kept track of the movement of property. So for
25 instance, this phone, when you seized it, what happened to

Doug Novak - Direct Examination by Mr. Graham

1 it?

2 A When I took the phone and seized it and took it
3 into my custody, I fill out a voucher form and I submit it
4 to evidence. I submitted this one to evidence after normal
5 business hours, so I put it into a locker and a portion of
6 it I put in the category which is under evidence which is
7 classification was, which is a phone; the -- where it gets
8 located and stored is done by the evidence staff the next
9 day. I was not in there at that time, but how they done,
10 they pull in -- they take it out of the lockers in the
11 morning and they assign it different places.

12 Q Can you tell the jury what the chain of custody was
13 on this phone?

14 A I --

15 Q When did you turn it in?

16 A I turned it in on April 3rd, 2013, at 1600 -- at
17 1800 hours, which is 6 p.m.

18 Q And you said that you put it in after hours and you
19 put it in some kind of locked container?

20 A Yes, sir.

21 Q And what happens the next morning?

22 A The next morning, the evidence custodians will come
23 in, open up the backside of the locker and they take it
24 out, check the vouchers, make sure it was checked in
25 correctly and all the initials are on the forms if needed

Doug Novak - Direct Examination by Mr. Graham

1 to be and then they assign it to an area. The lockers are
2 only accessible by the custodians. Once they -- at this
3 time if I lock a locker, no one else can gain access to it.
4 There are only three people have keys to the lockers. At
5 that time, it would have been Sargent MacMillan, Beth
6 Holliman and Candy Kyzer.

7 Q Now, every time something is seized and put into
8 evidence and moved around, is that recorded somehow?

9 A Yes, it is.

10 Q And how is that done?

11 A We -- through our computer, it's called RMS or
12 records management system. Any time we move an item going
13 from different places, if it's coming to court, we do a
14 chain of custody where a person signs -- if I'm signing it
15 out to another person, it goes with my name and a signature
16 and then the person I sign it out to also signs out --
17 signs the signature bad, so it will be transferred to that
18 person.

19 Q And then you keep all that information in the
20 regular course of your business?

21 A Yes, we do.

22 Q Who do your records reflect received that
23 information from the storage container that you left it in?

24 A It shows that Beth Holliman was the one that signed
25 it in the next morning.

Doug Novak - Direct Examination by Mr. Graham

1 Q And then turning -- did that phone stay under
2 evidence control or at some other point did it go out?

3 A It eventually went out on April 5th -- it was -- I
4 checked it in on April 3rd, 2013, and put it in the locker.
5 Beth Holliman signed it in and actually put it into
6 evidence on April 4th, 2013, at 8:11 in the morning and
7 then on April 5th, 2013, at 10:31 in the morning, Beth
8 Holliman signed it out at the time, to crime scene
9 investigator, Joe Chappell.

10 Q And Joe Chappell at this time was what?

11 A A crime scene investigator.

12 Q And then how long did he keep it and when did he --
13 what would he do with it?

14 A He would -- when he signed it out, there was a
15 search warrant to extract the data off of it. He signed it
16 out at 10:31 on the 5th and he returned it back to us on
17 April 8th, 2013, at 10:23, in the morning.

18 Q And who received it back into evidence for the
19 evidence department?

20 A Candy Kyzer.

21 Q Thank you, Sargent. Please answer any questions
22 they have for you.

23 THE COURT: Ms. Fullwood?

24 MS. FULLWOOD: No questions, Your Honor.

25 THE COURT: Thank you. Thank you very much,

Joseph Chappell - Direct Examination by Mr. Graham

1 Sargent. You may step down.

2 MR. GRAHAM: The State would call Joe Chappell.

3 JOSEPH CHAPPELL,

4 having been duly sworn, testified as follows:

5 THE CLERK: Have a seat, sir. Once you're seated,
6 state your full name, spelling your last on the record,
7 please.

8 THE WITNESS: Name is Joseph Chappell. Last name
9 is spelled, C-H-A-P-P-E-L-L.

10 DIRECT EXAMINATION

11 BY MR. GRAHAM:

12 Q Mr. Chappell where are you currently employed and
13 what do you do?

14 A Currently I'm employed with Norse Incorporate,
15 South Portland, Maine. Right now, I'm working as a service
16 manager over the -- actually it's over the Northern Maine,
17 Vermont, and New Hampshire territory.

18 Q And what kind of products does that company deal
19 with?

20 A Building integration for fire alarms, access
21 control, cameras, and security for commercial and
22 industrial facilities.

23 Q Prior to moving to Maine and taking that job, were
24 you employed with the Lexington County Sheriff's
25 Department?

Joseph Chappell - Direct Examination by Mr. Graham

1 A I was.

2 Q How long were you employed with the Lexington
3 County Sheriff's Department?

4 A From 2008 until, I believe, 2014, when I moved up
5 to Maine.

6 Q Until to 2014?

7 A I believe. That's a tough question. Yes, I'm
8 sorry.

9 Q Your total time in law enforcement, how much time
10 have you been in law enforcement?

11 A Six years with Lexington County Sheriff's
12 Department. Before that I was in the Air Force Security
13 Forces for 9 years. When I moved to Maine, I joined the
14 Portland Police Department for about 8 months before I took
15 the current position I'm in now.

16 Q Back in April of 2013, you were a crime scene
17 investigator; that correct?

18 A That's correct.

19 Q In general, what does a crime scene investigator
20 do?

21 A We're dispatched to a scene when our help is needed
22 for any major crimes or large property crimes to photograph
23 the scene how we found it, collect -- mark and collect any
24 evidence that would assist in solving that crime,
25 identifying who did the crime -- kind of what happened.

Joseph Chappell - Direct Examination by Mr. Graham

1 Pretty much collectors -- collectors of evidence and
2 documenting the scene of how we found it.

3 Q In addition to that or as part of that, did you --
4 were you also trained and involved in forensic evaluation
5 of phones? Cell phones?

6 A Correct. We had -- we have technology that could
7 take copies of cell phones, which is what I did for this
8 case.

9 Q When you say a copy of the cell phone, can you
10 describe the process and what you mean by that?

11 A It's Cellbrite system, a small box, basically. It
12 has several phones -- it has a data base of phones within
13 it. So whatever phones are attempted to make a copy of --
14 that's basically what it is, you're not modifying anything
15 on the phone, you're just basically taking a copy of what
16 material is on that phone and being able to print it out
17 and see it. You're not searching through the phone that
18 way.

19 So this time we plug this phone up to this machine,
20 plug it in, information as to what model phone this is and
21 it pretty much makes a copy of it.

22 Q Let me show you what's been marked as Exhibit
23 Number 12 that's in evidence and ask if you recognize that
24 phone?

25 A Yes, this would have been -- for this case, this

Joseph Chappell - Direct Examination by Mr. Graham

1 would have been the phone I downloaded.

2 Q Did you receive that item from the Lexington County
3 Sheriff's Department evidence room?

4 A Yes, I did.

5 Q And was a search warrant obtained to allow you to
6 go into that phone?

7 A Yes, it was.

8 Q And did you execute the search warrant and can you
9 be the the Cellbrite examination on that phone?

10 A Yes, I did.

11 Q Do you have a copy of the information that you were
12 able to download from that phone?

13 A Yes.

14 Q Can you tell me what the MDN number was, which is
15 the number associated with that phone?

16 A The MDN is 803-454-4020.

17 Q And you have a document in your hand. What is
18 that?

19 A This?

20 Q Yes, sir.

21 A It's pretty much what I said that it makes a copy
22 of everything on the phone. This is a printed-out version
23 of the copy.

24 MR. GRAHAM: Your Honor, the State would mark that
25 for identification at this time.

Joseph Chappell - Direct Examination by Mr. Graham

1 THE COURT: State's 13 for identification --

2 THE COURT REPORTER: That's --

3 THE COURT: Don't tell me -- 17.

4 THE COURT REPORTER: 17.

5 THE COURT: Brenda, I didn't mean to sound like I
6 was fussing at you. I didn't mean it to sound that way.
7 You know better than that.

8 THE COURT REPORTER: Okay.

9 THE COURT: State's 17 for identification.

10 (State's Exhibit Number 17 was marked for
11 identification.)

12 BY MR. GRAHAM:

13 Q Mr. Chappell, State's 17 is a printout of the
14 phone. Did you alter it in any way?

15 A No, sir.

16 Q So is this a copy of what was on the phone?

17 A That's correct.

18 Q And what kind of information would be included on
19 there?

20 A Depending on the capability of the system and
21 the -- some -- for this one, typical information is serial
22 number, phone number, contacts, like a phone book, it had
23 text messages that were capable of being downloaded. Text
24 messages being sent, received, photos that were saved on
25 the phone. There were different -- depending on the model

Joseph Chappell - Direct Examination by Mr. Graham

1 of the phone, sometimes Cellbrite didn't have the
2 capability to get all the information on a phone, but in
3 this case, contacts, pretty much the info about the phone,
4 the details as far as account number, phone number, contact
5 list, be a phone book, I see text messages, in going, out
6 going.

7 Q What's the date range from say the text messages
8 that were shown?

9 A Bear with me one second. It's like December 14 of
10 2012 until April 3rd of 2013.

11 Q Let me show you an item and ask if you recognize
12 this item. Have you seen that item before?

13 A Yes, it's the same report property heading has on
14 my report, a snippet with a -- a selection of some of it.
15 It looks like the sent text messages from the phone.

16 Q The specific text messages on there, have you gone
17 and verified that those were, in fact, off of the original
18 download, which is State's 17 for ID?

19 A Yes.

20 Q So --

21 A These are a select few of what's in this report,
22 the full report.

23 Q So the heading is the same and then there's five
24 specific text messages that were taken from State's ID
25 Number 17?

Joseph Chappell - Direct Examination by Mr. Graham

1 A Yes, those are just -- look to be just all sent
2 messages.

3 MR. GRAHAM: Your Honor, the State would offer this
4 into evidence at this time.

5 MS. FULLWOOD: No objection, Your Honor.

6 THE COURT: This being State's 18.

7 MR. GRAHAM: In evidence.

8 (State's Exhibit Number 18 was marked and entered
9 into evidence.).

10 MR. GRAHAM: Your Honor, at this time, I would ask
11 Mr. Chappell to publish State's 18.

12 THE COURT: All right. You may publish.

13 BY MR. GRAHAM:

14 Q If you would just go ahead and read the content of
15 the texts, the date and time and whether it was sent or
16 received in the actual content?

17 A You just don't want me to read the properties of
18 the text messages, correct?

19 A Yes.

20 Q For phone number log, it's 518 -- phone number
21 803-518-8550, at February 24th, 2013, 1955 hours. This was
22 a sent message. Says: Big Ray, give me a call, this is
23 Worth. All right. The next, 519 that's ID marked 519:
24 803-687-0938, sent February 25th, 2013 at 2302 hours, sent
25 messages saying I'm good, be done in 15, so head 20.

Joseph Chappell - Direct Examination by Mr. Graham

1 Text messages 520 for 803-787-0938, February 26th
2 2013, 1205 hours, sent message, good morning Brow, what you
3 doing.

4 Message 678 for 803-687-0938, March 11, 2013, at
5 2026 hours, sent message, We love y'all. Talk to you
6 tomorrow and there's letter I after.

7 For message 543 at 803-687-0938, sent March 4, 2013
8 at 1954 hours, sent message, she still hasn't had the baby
9 yet, so thank God.

10 Q The telephone numbers you read, what do those
11 numbers signify?

12 A The -- where they were sent -- where these messages
13 were sent.

14 Q Let me show you another document and ask if you
15 recognize that one.

16 A Yeah, same properties as was reported on the main
17 report snippet and these are two -- these are a select of
18 two messages that were on the inbox, received on this
19 phone.

20 MR. GRAHAM: Your Honor, the State would offer this
21 in for identification at this time.

22 THE COURT: State's 19 for identification, is that
23 what you're saying?

24 MR. GRAHAM: For identification, Your Honor, yes,
25 sir.

Joseph Chappell - Direct Examination by Mr. Graham

1 (State's Exhibit Number 19 was marked for
2 identification.)

3 BY MR. GRAHAM:

4 Q Let me show you one more and ask if you recognize
5 this and also again the content of that text contained on
6 there.

7 A Yeah, the phone properties and the selection is the
8 same as a main report and this is one sent message that was
9 in this main report here.

10 MR. GRAHAM: The State would offer this for
11 identification, Your Honor.

12 THE COURT: All right.

13 (State's Exhibit Number 20 was marked for
14 identification.)

15 MR. GRAHAM: Mr. Chappell, I appreciate it. Please
16 answer any questions they have for you.

17 THE COURT: Thank you, Solicitor.

18 Ms. Fullwood?

19 MS. FULLWOOD: No questions, Your Honor.

20 THE COURT: Thank you. Thank you very much,
21 Mr. Chappell. You may step down.

22 MR. GRAHAM: Your Honor, we ask that Mr. Chappell
23 be released from his subpoena so he can fly back home.

24 THE COURT: Any objections, Ms. Fullwood?

25 MS. FULLWOOD: No, sir, not at all.

Kaycee Turner - Direct Examination by Mr. Caskey

1 THE COURT: Thank you. Thank you very much for
2 being with us this afternoon; and you are excused from your
3 subpoena.

4 THE WITNESS: Thank you.

5 THE COURT: All right. Solicitor?

6 MR. CASKEY: Thank you, Your Honor. The State
7 would call Kaycee Turner.

8 KAYCEE TURNER,
9 having been duly sworn, testified as follows:

10 THE CLERK: Have a seat, please, ma'am. Once
11 you're seated, state your full name, spelling your last,
12 please.

13 THE COURT: All right. Solicitor?

14 THE WITNESS: Kaycee Turner. It's Kaycee Lynette,
15 T-U-R-N-E-R.

DIRECT EXAMINATION

16
17 BY MR. CASKEY:

18 Q Thank you, Kaycee. You a little nervous this
19 afternoon?

20 A Yes.

21 Q It's okay. Just make sure you speak clearly into
22 the microphone. If you need anything, water, just let me
23 know, okay?

24 A (Witness nodded head.)

25 Q All right. Kaycee, who is is Rick Barnes, if you

Kaycee Turner - Direct Examination by Mr. Caskey

1 know?

2 A My boyfriend.

3 Q Okay. How long have you and Rick been together --

4 THE COURT: Would you speak just a bit louder for
5 us, please, Ms. Turner.

6 THE WITNESS: Yes, sir.

7 14 years.

8 BY MR. CASKEY:

9 Q Okay. Where is Rick Barnes today; if you know?

10 A He's in Manning Correctional Facility.

11 Q Why is he there; if you know?

12 A He's pled to accessory after the fact.

13 THE COURT: I'm sorry, I can't -- A, I can't hear;
14 B, I can't understand. Please have her speak up,
15 Solicitor.

16 MR. CASKEY: Yes, sir.

17 BY MR. CASKEY:

18 Q Kaycee, just make sure you speak a little loud,
19 more loudly, so everyone in the courtroom can hear you.

20 A Yes, sir.

21 Q Okay. Would you repeat that last answer.

22 A He's in Manning Correctional Facility. He pled to
23 accessory after the fact.

24 Q Okay. And what case? Are you familiar with that
25 and why? Does it have to do with the matters we're talking

Kaycee Turner - Direct Examination by Mr. Caskey

1 about today?

2 A Yes, sir, yes.

3 Q Okay. Back in 2013, did you and Rick Barnes live
4 together?

5 A Yes, sir.

6 Q Okay. How long did you live together?

7 A 11 years.

8 Q Do you recognize the telephone number 803-687-0938?

9 A Yes, sir.

10 Q What is that number?

11 A That was our cell phone number. Rick's cell phone
12 number.

13 Q Okay. Do you know the defendant, Worth Cook?

14 A Yes, sir.

15 Q How long have you known Worth Cook?

16 A Not very long.

17 Q And early 2013, how long would you have known Worth
18 Cook?

19 A Probably a month or two.

20 Q All right. Do you know Shannon Tart?

21 A Yes.

22 Q Who is Shannon Tart?

23 A That's Worth's girlfriend.

24 Q How long had you known Shannon Tart?

25 A The same.

Kaycee Turner - Direct Examination by Mr. Caskey

- 1 Q Had you ever been to their home?
- 2 A Yes, sir.
- 3 Q How many times?
- 4 A Umm --
- 5 Q If you know.
- 6 A No, I'm not sure. It's several, I know that.
- 7 Q How frequently would you go to their home?
- 8 A Every day.
- 9 Q Okay. Kaycee, let me ask you, do you remember
10 February 25th, 2013?
- 11 A Yes, sir.
- 12 Q What do you remember about that day?
- 13 A I was at home washing clothes, waiting on Rick to
14 come home.
- 15 Q Okay. Did Rick come home that day?
- 16 A Yes, sir.
- 17 Q Do you recall about what time that was?
- 18 A I'm not sure. But I know it was later in the
19 afternoon.
- 20 Q Okay. Later in the afternoon. Do you recall
21 whether the sun was up or down?
- 22 A It was -- in between.
- 23 Q Okay. So when Rick came home, was there anybody
24 else home with you?
- 25 A No, sir.

Kaycee Turner - Direct Examination by Mr. Caskey

- 1 Q Once Rick got home that afternoon, what do you
2 recall happening next?
- 3 A We get a phone call.
- 4 Q And as a result of that phone call, what did you
5 do?
- 6 A We went and got Shannon.
- 7 Q Shannon Tart?
- 8 A Yes, sir.
- 9 Q Okay. Where did you go get Shannon Tart from?
- 10 A Her home.
- 11 Q All right. Let me show you a picture real quick
12 and ask you if you recall this. I am showing you what's
13 been marked as State's Number 13. Do you recognize that
14 photo?
- 15 A That's the home, but not the gate.
- 16 Q Okay. Let's talk about the home first?
- 17 A Okay. What -- what do you recognize about that
18 home.
- 19 A That's his house. That's where they live.
- 20 Q Who?
- 21 A Worth and Shannon.
- 22 Q Okay.
- 23 A And Chuck.
- 24 Q Okay. All right. And do you recall this being the
25 home as it existed in February of 2013?

Kaycee Turner - Direct Examination by Mr. Caskey

- 1 A No, no.
- 2 Q What's different?
- 3 A The gate.
- 4 Q Was the gate there in February, 2013?
- 5 A No.
- 6 Q Okay. Thank you.
- 7 Did anyone go with you and Rick to pick up Shannon
- 8 the afternoon, evening time of 2000 --
- 9 A No.
- 10 Q -- February 25th?
- 11 A No.
- 12 Q Okay. What do you remember about when you got to
- 13 their house the pick up Shannon?
- 14 A I noticed it was getting dark, but I was sitting in
- 15 the van and Rick went and knocked on the door and waited
- 16 for Shannon to open it.
- 17 Q Did you see Rick the entire time?
- 18 A Yes, sir.
- 19 Q Where was he?
- 20 A He was standing on the porch.
- 21 Q All right. And could you -- you said you could see
- 22 Rick the whole time?
- 23 A Yes, sir.
- 24 Q Do you recall how long he was on the porch?
- 25 A He kept walking -- he was standing on the porch and

Kaycee Turner - Direct Examination by Mr. Caskey

1 then he'd come over there to me and waited at the van.

2 Q How long were you there to pick up Shannon in
3 total?

4 A 10, 15, minutes.

5 Q All right. When you were there, do you recall
6 seeing any other vehicles?

7 A No.

8 Q Okay.

9 Q Once Shannon came outside, what did you do?

10 A We got in the van and we left and went back to our
11 house.

12 Q Did you go anywhere else?

13 A No, sir.

14 Q When you got back to your house, what did you do?

15 A We -- we ate and started watching movies.

16 Q Was anybody else there?

17 A No, sir.

18 Q Did anyone else come to the house that evening?

19 A Yes, sir.

20 Q Who was that?

21 A Rick's dad, Jim.

22 Q What purpose did Jim come over for, if you know?

23 A He was supposed -- Rick was supposed to work with
24 him on doing scrap the next day.

25 Q All right. When Jim came over, did anything

Kaycee Turner - Direct Examination by Mr. Caskey

1 change?

2 A No.

3 Q Do you remember what time Rick got -- excuse me,
4 that Jim got over there?

5 A No, sir, I don't remember.

6 Q Tell me where everyone is in your house at that
7 time.

8 A Okay. It's me and Shannon are sitting there on the
9 couch watching TV and then Rick and his dad, they go
10 outside and talk.

11 Q Do you remember how you felt that evening?

12 A I was mad. I was mad at Rick.

13 Q Why were you mad at Rick?

14 A Because he was supposed to get the money to pay the
15 rent, but he didn't.

16 Q All right. When Rick -- you said -- did you say --
17 what did you say Rick was doing at this time?

18 A He -- oh, at the house? He was talking to his dad.

19 Q Okay. Did he stay at the home the whole time?

20 A Yes, sir.

21 Q All right. Did Shannon stay at the house the whole
22 time?

23 A Yes, sir.

24 Q Okay. Tell us about how your time together at your
25 house ended.

Kaycee Turner - Direct Examination by Mr. Caskey

- 1 A I finally took the phone the Rick and told him he
2 had to call Worth and tell him to -- it was time for
3 Shannon to go home.
- 4 Q Okay. Why did you tell Rick that Shannon needed to
5 go home?
- 6 A Because I was tired and ready to go the bed.
- 7 Q All right. And as a result of you making that
8 comment to Rick, what did you see Rick do?
- 9 A He texted Worth.
- 10 Q Okay. What happened next?
- 11 A And then Worth texted back, give him 15 to 20
12 minutes and then bring her home.
- 13 Q All right. Okay, Kaycee. I'm showing you what's
14 been entered into evidence as State's Number 18. According
15 to line 519, what number do you see next to that?
- 16 A This is 68 -- 687-0938.
- 17 Q And whose number is that?
- 18 A That's Rick's number.
- 19 Q Okay. And do you recognize the text on the other
20 side of the page?
- 21 A Yes, sir.
- 22 Q What does that text say?
- 23 A I can't see it that good.
- 24 Q Look as close as you need to. You want my glasses.
- 25 A That's embarrassing.

Kaycee Turner - Direct Examination by Mr. Caskey

1 THE COURT: Here Ms. Turner.

2 (The Court gives the witness a magnifying glass.)

3 THE WITNESS: Thank you.

4 I'm good, I'm good, be done in 15 to 20 minutes --
5 15, so head 20 minutes.

6 BY MR. CASKEY:

7 Q Okay. If you'll give that back to the judge.

8 Do you remember hearing that -- or reading that
9 text message on the night of February 25th, 2013?

10 A Yes, sir.

11 Q Okay. After you received that text message, what
12 did you do?

13 A Waited 30 minutes and then I went back out there
14 and told Rick it's time to go.

15 Q All right. And how long -- did you leave at that
16 point?

17 A Yes, sir.

18 Q Who left?

19 A Me, Rick, and Shannon.

20 Q Was Jim still there?

21 A No, no, sir.

22 Q Did Jim ride with you?

23 A No.

24 Q What vehicle did you take to go to take Shannon
25 home?

Kaycee Turner - Direct Examination by Mr. Caskey

- 1 A Our van. Our van.
- 2 Q Do you remember what color the van was?
- 3 A It was white.
- 4 Q All right. How long did the drive take?
- 5 A I'd say 25 minutes.
- 6 Q You waited 30 minutes --
- 7 A Uh-huh.
- 8 Q -- and then you drove for 25 minutes?
- 9 A Yes, sir.
- 10 Q Do you recall what time it was when you got to
- 11 Shannon and Worth's house?
- 12 A It was pitch black by then. I mean it was dark. I
- 13 don't know, I'm not sure.
- 14 Q Okay. When you got to the house, what do you
- 15 remember?
- 16 A We all got out and Shannon knocked on the door and
- 17 kept beating on the door for Worth to come.
- 18 Q Where were you standing when Shannon was beating on
- 19 the door?
- 20 A On the porch.
- 21 Q Were you all on the porch together?
- 22 A Yes, sir.
- 23 Q How long did it take for Worth to come to the door?
- 24 A Maybe 10 minutes.
- 25 Q Okay. What do you remember -- what did you notice

Kaycee Turner - Direct Examination by Mr. Caskey

1 when Worth opened the door?

2 A He looked clean and he was out of breath and he had
3 a weird look in his eyes.

4 Q Why did that stand out to you?

5 A Because he doesn't usually take a bath.

6 Q Okay. What did you do next?

7 A It was Shannon and me and Rick and we all went in
8 there -- went in the house.

9 Q All right. Who went where in the house?

10 A It was Shannon first and then me and Rick and we
11 walked -- we got into the kitchen and walked to the living
12 room and then Worth stopped us.

13 Q Okay. Kaycee, I'm going to show you a couple more
14 pictures. I'm showing what's been marked as -- been
15 entered into evidence as State's 15 and State's 16. Do you
16 recognize those?

17 A Yes, sir.

18 Q What does that appear to be?

19 A A mess.

20 Q Do you know what is pictured in those photographs?

21 A What is --

22 Q Do you recognize this area?

23 A Yes, sir, I do.

24 Q Okay. What do you recognize it as being?

25 A Their living room.

Kaycee Turner - Direct Examination by Mr. Caskey

1 Q Whose living room?

2 A Worth and Shannon's.

3 Q All right. Now, inside the home, tell us again,
4 where did -- who went where in the house?

5 A Okay. We all stood -- we all stood right before
6 this chair right -- right before this chair right here and
7 Worth leaned over and said that Wade come and got the chair
8 and then I noticed that a chair was missing over here and
9 the furniture was pushed on close to the wall there.

10 Q Okay. When you talk about a chair that was
11 missing, do you remember what that chair looked like?

12 A It's the same pattern as that little one. It's
13 dirty and it's got flowers on it.

14 MR. CASKEY: Okay. Your Honor, can I have
15 permission to have the witness step down and show the jury
16 the photograph?

17 THE COURT: Yes, sir.

18 You may step down, Ms. Turner, just keep your voice
19 up while you're away from the microphone.

20 Give me just a second, Solicitor.

21 (The witness stepped down from the witness stand
22 and the Court walked over to see the testimony.)

23 MR. CASKEY: Thank you, Shannon -- excuse me,
24 Kaycee.

25 THE COURT REPORTER: She needs to face me, please.

Kaycee Turner - Direct Examination by Mr. Caskey

1 MR. CASKEY: Make sure -- let's all position
2 ourselves -- okay. This is better.

3 So we're holding up State's Number 16. Show us
4 which pattern chair.

5 THE WITNESS: That one.

6 BY MR CASKEY:

7 Q You've got to say it real loud.

8 A This one right here, the flower pattern.

9 Q Sure.

10 A I don't know what you call it, a little small
11 chair.

12 Q Your testimony is that there was a chair that
13 looked like this that's not pictured in this photograph?

14 A Yes, sir. Yes.

15 Q And you mentioned some things were moved.

16 A Yes.

17 Q Well --

18 A It was supposed to be right here in this corner,
19 but the couch is right here and it's moved all the way to
20 the end.

21 Q Anything else look different than what you remember
22 from your times at this address?

23 A There's a table that was missing right here.
24 There's no table now.

25 Q And if you would repeat what the comment was you

Kaycee Turner - Direct Examination by Mr. Caskey

1 heard from Worth Cook?

2 A That Wade come and got the chair.

3 Q Okay. Thank you. You can have a seat back on the
4 stand.

5 (The witness returned to the witness stand.)

6 BY MR. CASKEY:

7 Q Now, Kaycee, that evening when you were all in the
8 home, what do you remember, again, about who went where in
9 the house?

10 A Okay. It was Shannon, she -- it was Shannon, then
11 me and Rick. Shannon went to the bedroom --

12 Q Did -- during the entire time you were there, did
13 Shannon ever come out of that bedroom?

14 A No, sir.

15 Q Okay. Keep going?

16 A And I sat on the couch just right against the wall.

17 Q Which color couch was that?

18 A The pink dirty one.

19 Q Okay.

20 A Red, whatever.

21 Q Where -- what did Rick do?

22 A Rick went in and out the front door.

23 Q Okay. What was Worth doing?

24 A He was in the bedroom for a little while and then
25 he went to the back room.

Kaycee Turner - Direct Examination by Mr. Caskey

- 1 Q When you say the back room, what do you mean?
- 2 A That --
- 3 Q I'm showing you what's been marked as State's 15.
- 4 A This door right here.
- 5 Q This door here?
- 6 A Yes, sir.
- 7 Q What do you remember about that door?
- 8 A It was always locked.
- 9 Q Do you remember how long Worth was in this room?
- 10 A No, sir. It was a good while though.
- 11 Q Okay. When you said that Rick would go in and out,
- 12 how long would he be outside at a time?
- 13 A Less than 5 minutes. I mean, he was constantly in
- 14 and out.
- 15 Q Okay. What was the total amount of time you were
- 16 at Worth's house that night?
- 17 A I'd say 25 minutes at their house.
- 18 Q All right. Do you remember how the evening at
- 19 Worth's house concluded? What was the last thing you did
- 20 there?
- 21 A We smoked some meth.
- 22 Q When you say we smoked some meth, who was there
- 23 to -- who smoked?
- 24 A It was me, Rick and Worth.
- 25 Q Do you recall anything about Rick that evening once

Kaycee Turner - Direct Examination by Mr. Caskey

1 you got to Rick's (sic) house?

2 A He was okay until the last time that he came back
3 in.

4 Q Okay. How long had he been outside immediately
5 before he came back in?

6 A I'd say 10 minutes.

7 Q Okay. So he'd been outside for about 10 minutes
8 and he came back in and what was different?

9 A He just -- he looked like somebody had scared him.
10 He came in and he sat on me.

11 Q Sat on you?

12 A Yes.

13 Q Okay. Where were you sitting again at that point?

14 A It's a pink couch, it's really dirty.

15 Q During the time that Rick was outside that last
16 time, where was Worth?

17 A In the back room.

18 Q Did you see any injuries on Worth Cook that
19 evening?

20 A No, sir.

21 Q Any cuts?

22 A No.

23 Q Any bruises?

24 A No.

25 Q And he looked particularly clean?

Kaycee Turner - Direct Examination by Mr. Caskey

1 A Yes.

2 Q What, if anything, did Worth say to you about being
3 attacked?

4 A He never said anything to me about -- I never knew
5 anything.

6 Q What, if anything, did Worth Cook say to you about
7 killing anyone?

8 A No, he never did.

9 Q Did you hear Worth say anything to anyone about
10 killing anyone at all?

11 A I used to hear him make comments. I'm sorry --

12 Q Stop right there. I'm talking about specifically
13 that evening?

14 A Oh, No. No.

15 Q Okay. After you smoked meth together, what did you
16 do?

17 A Me and Rick left and went home.

18 Q Did you stop anywhere else?

19 A No, sir.

20 Q Was Rick with you for the duration of the night?

21 A Yes, sir.

22 Q Did he leave at all?

23 A No.

24 Q What do you recall about Shannon Tart physically at
25 that point in February 2013?

Kaycee Turner - Cross-Examination by Ms. Fullwood

1 A She was pregnant.

2 Q When you say she was pregnant, physically how did
3 she appear? Very -- close to term?

4 A Yes. She just looked fat. Real big. She was real
5 big.

6 Q Okay. Thank you I don't have any further
7 questions. Please answer any that defense counsel may have
8 for you?

9 A Yes, sir.

10 THE COURT: Thank you. Thank you, Solicitor.

11 Ms. Fullwood?

12 MS. FULLWOOD: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 BY MS. FULLWOOD:

15 Q Ms. Turner --

16 A Yes, ma'am.

17 Q When is the first time you discussed this event
18 with somebody in law enforcement?

19 A Was it -- a couple days ago. I'm really not sure.

20 Q Okay. So you -- you talked to them -- could it
21 perhaps be last week?

22 A Yes, ma'am.

23 Q Okay. And your -- is Rick Barnes still your
24 boyfriend?

25 A Yes, ma'am.

Kaycee Turner - Cross-Examination by Ms. Fullwood

1 Q Okay. And you testified he was convicted of
2 something in connection with this incident?

3 A Accessory after the fact.

4 Q Okay. And he is in SCDC?

5 A He's in Manning.

6 Q Okay. Well, that's part of the department of
7 corrections, right?

8 A Yes, ma'am. Okay.

9 Q Okay. And so there was a process where he was
10 facing charges until this case got taken care of?

11 A Yes, ma'am.

12 Q But during that time you never talked to law
13 enforcement about that night?

14 A No, ma'am.

15 Q All right. So once you became -- once you and Rick
16 became friends with Worth and Shannon, you said you went to
17 their house every day just about?

18 A Yeah, just about, yes.

19 Q And just about every day you would smoke meth,
20 right?

21 A Yes, ma'am.

22 Q All right. And did y'all do any other types of
23 drugs?

24 A No, ma'am.

25 Q No smoking marijuana?

Kaycee Turner - Cross-Examination by Ms. Fullwood

1 A No. I didn't, no.

2 Q Okay.

3 A Rick didn't either.

4 Q Okay. Drink alcohol?

5 A No.

6 Q Pills?

7 A Yeah, some. Not very many.

8 Q All right: Like what kind of pills?

9 A I'd say Lortab.

10 Q Okay. What kind of -- what do Lortabs do?

11 A It's pain -- it's a pain reliever.

12 Q Okay. So to kind of knock you out or whatever?

13 A No, it just numbs the pain.

14 Q Numbs the pain?

15 A Yes.

16 Q Okay. But it has mental affects too, right; or

17 else people wouldn't take them recreationally?

18 A Rick had been taking them for a long time and it

19 doesn't affect him.

20 Q Okay. He just takes them?

21 A Yeah, because he has a bad back.

22 Q Does he have a prescription?

23 A Yes, at one time he did, yes.

24 Q But not all the time he took them?

25 A I'm not sure.

Kaycee Turner - Cross-Examination by Ms. Fullwood

1 Q And so you spent -- you said you spent the
2 afternoon with Shannon Tart?

3 A Yes, ma'am.

4 Q Over at your house?

5 A Not that afternoon. At the morning time I was at
6 home by myself.

7 Q Okay. In the afternoon?

8 A Yes, she came over.

9 Q Okay. And did you smoke meth during that
10 afternoon?

11 A No, ma'am.

12 Q You positive about that?

13 A Yes, I'm positive.

14 Q Even though it was 3 years ago?

15 A I'm positive. I did it before she came and then
16 once she was there, I didn't do any.

17 Q Okay. Was that out of respect for her being
18 pregnant?

19 A Yes.

20 Q So you'd smoked meth before she came over?

21 A No, I had snorted it because I can't light it
22 myself.

23 Q Okay. Okay. Well, I don't know the different ways
24 you can do it. I just assumed people smoked it.

25 A Yes.

Kaycee Turner - Cross-Examination by Ms. Fullwood

1 Q Okay. So you did meth before she came?

2 A Yes.

3 Q And then while she was there, you didn't do it?

4 A No.

5 Q And then once you got over to her and Worth's house
6 and she went on back to bed, y'all smoked some more?

7 A Right. Before we got ready to leave; and it wasn't
8 even a full thing because there was some still left.

9 Q Okay. Okay.

10 MS. FULLWOOD: I beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 MS. FULLWOOD: No further questions, Your Honor.

13 THE COURT: Redirect, Solicitor?

14 MR. CASKEY: No, Your Honor. We'd ask that the
15 witness be excused.

16 MS. FULLWOOD: No objection.

17 THE COURT: All right. Thank you, thank you
18 Ms. Turner, you may step down.

19 THE COURT: Excused you say, Solicitor?

20 MR. CASKEY: I did. I did not mean to imply that
21 she be released from her subpoena. I apologize for not
22 being clear to the Court.

23 THE COURT: All right. You may step down. You're
24 still under subpoena, Ms. Turner.

25 Thank you, Solicitor.

Karen Milbrodt - Direct Examination by Mr. Caskey

1 MR. GRAHAM: Your Honor, if we can approach?

2 THE COURT: Yes, sir, of course.

3 (There was a bench conference out of the hearing of
4 the jury and the Court Reporter.)

5 THE COURT: All right. Mr. Foreman, ladies and
6 gentlemen of the jury, I have a rather lengthy --

7 MR. CASKEY: Your Honor, we had a brief scheduling
8 hick up. I think we're prepared to proceed with the next
9 two witnesses, which would be relatively brief and then the
10 matter we addressed at the bar.

11 THE COURT: All right. Well, you may call your
12 next witness.

13 MR. CASKEY: Thank you, Your Honor. At this time
14 the State would call Karen Milbrodt.

15 KAREN MILBRODT,

16 having been duly sworn, testified as follows:

17 THE CLERK: Have a seat up there, please ma'am.
18 Once you're seated, state your full name, spelling your
19 last, please.

20 THE WITNESS: Good afternoon. My name is Karen
21 Milbrodt and that's spelled M-I-L-B-R-O-D-T.

22 DIRECT EXAMINATION

23 BY MR. CASKEY:

24 Q Ms. Milbrodt, where do you work and what do you do
25 there?

Karen Milbrodt - Direct Examination by Mr. Caskey

1 A I work for Verizon Wireless and I am a records'
2 custodian for our business.

3 Q What does it mean to be a records' custodian?

4 A A records' custodian is a person that would either
5 produce records related to our business or we would also
6 appear at court appearance and describe -- authenticate our
7 records and also explain how to interpret if needed.

8 Q Were there records provided by your company in this
9 case?

10 A Yes, sir.

11 Q Okay.

12 (State's Exhibit Number 21 was marked for
13 identification.)

14 BY MR. CASKEY:

15 Q Ms. Milbrodt, I'm handing you what's been marked
16 for identification as State's Number 21. Do you recognize
17 that?

18 A I do.

19 Q What does that appear to be?

20 A This is a disk that was created from business
21 records that we sent responsive to a subpoena.

22 Q And have you had an opportunity to review the
23 contents of that disk?

24 A I did.

25 Q What are the contents of that disk?

Karen Milbrodt - Direct Examination by Mr. Caskey

1 Q There's quite a bit of information: Incoming,
2 outgoing phone calls, text messages content, cell tower
3 information, subscriber information, there's photo
4 transmission?

5 Q Okay. And what are the phone numbers associated
6 with the data on that disk?

7 A I'll have to pull it out. The numbers are
8 267-449-4731; 367-273-3327.

9 Q These records are created in the ordinary course of
10 your business?

11 A They are.

12 Q And are they created automatically by electronic
13 means?

14 A Yes, they are.

15 A Thank you. I don't have any further questions for
16 you. Please answer any questions the defense may have for
17 you.

18 A Yes, sir.

19 MS. FULLWOOD: No questions.

20 THE COURT: Thank you. Thank you very much Ms.
21 Milbrodt. Have you been to Georgetown.

22 THE WITNESS: Yes, sir. We've been there several
23 times together.

24 THE COURT: I thought I recognized you from a case
25 in Georgetown.

Karen Milbrodt - Direct Examination by Mr. Caskey

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you. Thank you very much.

3 Madam Reporter, what is State's 20.

4 THE COURT REPORTER: State's 20 is another partial
5 part of the phone records.

6 THE COURT: What is State's 19?

7 THE COURT REPORTER: Same thing just different text
8 messages.

9 THE COURT: What is State's 18.

10 THE COURT REPORTER: It's partial also. There's
11 three partials.

12 THE COURT: 17 is the full.

13 THE COURT REPORTER: Full, uh-huh.

14 THE COURT: 18 is partial, 19 is partial, 20 is
15 partial.

16 THE COURT REPORTER: That's what I have.

17 THE COURT: Thank you.

18 You may call your next witness, Solicitor.

19 MR. CASKEY: Thank you, Your Honor. The State
20 would call Thomas Koch.

21 THOMAS KOCH,

22 having been duly sworn, testified as follows:

23 THE CLERK: Have a seat, please, sir. Once you're
24 seated, state your full name, spelling your last, please.

25 THE WITNESS: My name the Thomas Koch, last name is

Thomas Koch - Direct Examination by Mr. Caskey

1 spelled K-O-C-H.

2 DIRECT EXAMINATION

3 BY MR. CASKEY:

4 Q Mr. Koch, where do you work and what do you do
5 there?

6 A I'm a records' custodian with Sprint.

7 Q As a records' custodian, what do you do?

8 A My group would comply with legal requests for
9 customer records, requests served by law enforcement and
10 private attorneys. Part of that is also to authenticate
11 those records at a later date in court.

12 Q Were records provided by your company in this case?

13 A Yes.

14 Q Okay.

15 (State's Exhibit Number 22 was marked for
16 identification.)

17 BY MR. CASKEY:

18 Q Mr. Koch, I'm handing you what's been marked as
19 Court's 22 (sic). Do you recognize that?

20 A Yes.

21 Q What does that appear to be?

22 A This is a disk that contains records.

23 Q Have you had an opportunity to review those
24 records?

25 A I have.

Thomas Koch - Direct Examination by Mr. Caskey

1 Q What kind of words are contained on that disk?

2 A This would -- this would contain records for a
3 specific phone number, account level or subscriber
4 information, as well as call detail records. It would also
5 include cell-site locations.

6 Q And does this disk contain all that?

7 A Yes.

8 Q Okay. And what is the phone number associated with
9 the account for which these records pertain to?

10 A May I see the hard copies?

11 Q Yes, sir.

12 A The phone number is 803-454-4020.

13 Q The records contained on the disk, are they
14 generated in the regular and ordinary course of your
15 business?

16 A Yes, they are.

17 Q Are those -- is that information recorded
18 electronically?

19 A Yes.

20 Q And you've had an opportunity to review those
21 records?

22 A Yes, I have.

23 Q And how do you know that you reviewed them?

24 A On the disk itself; I've initialled and dated the
25 disk itself.

1 Q Thank you very much. Answer any questions that
2 defense counsel may have for you.

3 MS. FULLWOOD: No questions, Your Honor.

4 THE COURT: All right. Solicitor?

5 MR. CASKEY: Your Honor, I think at this point, the
6 State is ready to take up the matter that we addressed at
7 the bar a little earlier.

8 THE COURT: All right. Thank you, Solicitor.

9 Mr. Foreman, ladies and gentlemen of the jury, I
10 have a matter of law to take up which may be very lengthy,
11 perhaps take the afternoon. Rather than hold y'all
12 captive, I'm going to release you for the remainder of the
13 afternoon.

14 Please remember your instructions. Do not discuss
15 the case with others do not read, watch, listen to any news
16 reports about the case. Do not do any independent
17 investigation or any investigation on the internet or any
18 investigation in any other manner.

19 Please remember to keep an open mind, do not
20 discuss the case until you've heard all the evidence, all
21 the testimony, closing arguments by the attorneys,
22 instruction of the law by the Court.

23 As I say, you're now released for the afternoon. I
24 would ask you to please be back promptly at -- as you were
25 this morning -- promptly at 9:30 in the morning. Promptly

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 at 9:30.

2 Thank you. Thank you very much. Hope y'all have a
3 pleasant evening.

4 (The jury left the courtroom at 2:52 p.m.)

5 THE COURT: Let's take about a 10 minute recess.

6 Thank you very much.

7 (A brief recess was observed.)

8 MR. GRAHAM: Your Honor, I think at this time, we'd
9 like to go back and finish the Jackson v. Denno hearings.

10 THE COURT: All right. Yes, sir.

11 **JACKSON V DENNO HEARING**

12 MR. GRAHAM: The State would call, or recall,
13 Sargent Michael Gooding.

14 THE COURT: All right.

15 **MICHAEL GOODING,**

16 having been duly sworn, testified as follows:

17 THE CLERK: Have a seat.

18 THE WITNESS: Thank you.

19 THE CLERK: Once you're seated, state your full
20 name, spelling your last, please.

21 THE WITNESS: My name is is the Michael Gooding,
22 G-0-0-D, as in delta, I-N-G.

23 **DIRECT EXAMINATION - IN CAMERA**

24 **BY MR. GRAHAM:**

25 Q Sargent Gooding, when we -- when you testified

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 yesterday, we finished up your advisement of rights and a
2 verbal statement that you took from Mr. Cook on April 4th,
3 2013, at the Lexington County Sheriff's Department, do you
4 remember that?

5 A I do, sir.

6 Q That was not the last time that you spoke with him,
7 was it?

8 A No, sir.

9 Q When was the next time that you spoke with him?

10 A The next day on the 5th.

11 Q Prior to speaking to him on the 5th, had he ever
12 invoked his right to an attorney with you?

13 A No, sir.

14 Q Had he ever invoked his right to remain silent?

15 A No, sir.

16 Q Would you please describe to the Court your contact
17 and how you came about to see Mr. Cook again on April 5,
18 2013.

19 A Yes. On April 5th, I had been out at [REDACTED]
20 [REDACTED] where a search warrant was being executed on
21 Mr. Cook's residence. I was directed to go back to the
22 sheriff's department when Sargent Lint got a phone call in
23 regards to the discovery of a body in the backyard that had
24 been located at that residence. Following that phone call,
25 Sargent Lint asked myself and Detective Longshore to

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 re-interview Mr. Cook again at this point in time based on
2 the discovery of a body, as well as some additional
3 physical evidence that had been found at the home.

4 Q So did you again approach Mr. Cook on April 5th,
5 2013, with that information?

6 A I did, sir.

7 Q And who was with you during that interview?

8 A Detective Longshore.

9 Q Where did that interview occur?

10 A It occurred at the Lexington County Sheriff's
11 Department.

12 Q Was Mr. Cook in custody at this time?

13 A He was, sir.

14 Q When you brought him out, did you re advise him of
15 his rights again?

16 A I did.

17 MS. FULLWOOD: If it please the Court, Your Honor,
18 we're having some -- a hard time hearing.

19 (A disturbance was taken care of in the hallway.)

20 THE COURT: Where was that inmate from? The
21 sheriff's department?

22 THE OFFICER: Down in 3-C.

23 THE COURT: Excuse me?

24 THE OFFICER: In 3-C. She must have caught some
25 time.

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 THE COURT: I got you.

2 THE OFFICER: They're taking her to probation.

3 THE COURT: All right. Must have not gotten
4 probation..

5 All right. Excuse the interruption, Solicitor, you
6 may continue.

7 BY MR. GRAHAM:

8 Q Sargent, can you pull the mic a little closer to
9 you as well.

10 A I'm sorry.

11 Q Thank you.

12 When you made contact again with Mr. Cook on April
13 5, 2013 at the sheriff's department, what time was that?

14 A At about 4:48 in the afternoon, sir.

15 Q When you got there, you said who was present with
16 you?

17 A Detective Longshore.

18 Q What, if anything, did you do to advise Mr. Cook of
19 his rights?

20 A I actually used two instruments to advise Mr. Cook
21 of his Miranda Rights. The first was a Lexington County
22 Sheriff's Department Advise of Rights Form that I went
23 through with Mr. Cook advising him of those rights; at
24 which time he signed that he understood what his rights
25 were. He also signed that he was willing to make a

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 statement at that time and answer questions and waive those
2 rights. That form was witnessed by both myself and
3 Detective Longshore.

4 Q Do you have that advise of rights form with you?

5 A Yes, sir.

6 Q Is that the original?

7 A It is, sir.

8 MR. GRAHAM: Your Honor, the State would offer this
9 as identification for the purposes of this hearing.

10 MS. FULLWOOD: No objection.

11 THE COURT: All right.

12 THE COURT REPORTER: It's Number 23, Your Honor.

13 BY MR. GRAHAM:

14 Q Sargent, looking at State's Number 23 for
15 identification, that's an advise of rights form; is that
16 correct?

17 A It is, sir.

18 Q Did you -- what date was that executed on?

19 A It was executed on the 5th.

20 Q And would you describe to the Court how you went
21 about advising Mr. Cook of his rights on April 5th, 2013?

22 A Yes, sir. Generally when I use the statement --
23 the advise of rights form to advise somebody of their
24 rights, I place it in front of them in such a position
25 where they're able to see it and read along as I read what

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 those rights are. I read them word for word, line by line,
2 what is printed on the page; and generally as I'm reading
3 those rights to them, I will have that person who I'm
4 advising read one of those rights back to me, just to make
5 sure that I know that they're capable of reading.

6 So I go line by line until I get to the bottom and
7 it's: I have read this statement of my rights and I
8 understand what my rights are. And then I ask the person
9 if they understand their rights to please sign.

10 And then below that is a waiver portion and I make
11 sure I read that line by line, word for word. It's that
12 portion of the waiver when they agree to speak with me and
13 I say if you agree to speak with me, if you want to speak
14 with me at this time, if you would sign; and they did and
15 then after that, I witnessed it.

16 I gave the form to Detective Longshore and he
17 witnessed Mr. Cook's signature as well.

18 Q Did he -- did Mr. Cook indicate that he under --
19 that he read the statement of his rights and that he
20 understood what his rights were?

21 A He did, sir.

22 Q And how did he do that?

23 A He signed the form at the appropriate place.

24 Q And then down below that, what, if anything, did he
25 do to indicate that he was willing to speak with you?

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 A The advise of rights form contains a statement at
2 the bottom that says: I am willing to make a statement and
3 answer questions. I do not want a lawyer at this time. I
4 understand and know what I am doing. No promises or
5 threats have been made to me and no pressures or coercions
6 of any kind has been used against me.

7 And then Mr. Cook signed to acknowledge that.

8 Q And then down below there, there are two witness
9 signatures. Whose signatures are those?

10 A One of them is mine and one of them is Detective
11 Longshore.

12 Q When you spoke with -- so is it fair to say that
13 you read him his rights and he understand -- he
14 acknowledged that he understood his rights?

15 A That's correct, sir.

16 Q Do you have an opinion as to whether he understood
17 his rights?

18 A I do.

19 Q What is it?

20 A That he did.

21 Q Do you have an opinion as to whether he waived
22 those rights and voluntarily spoke with you?

23 A That he did as well.

24 Q Did you make any promises to him to get him to
25 speak to you?

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 A No, sir.

2 Q Did you threaten him in any way?

3 A No, sir.

4 Q Did you threaten to have Shannon arrested?

5 A No, sir.

6 Q Did you threaten to take his child away from him if
7 he didn't speak with you?

8 A No, sir.

9 Q Did he appear to be under the influence of alcohol
10 or drugs at the time that you spoke to him on April 5th,
11 2013?

12 A He was not.

13 Q At any time did he invoke his rights to remain
14 silent?

15 A He did not.

16 Q At any time did he invoke his right and ask for an
17 attorney?

18 A He did not.

19 Q And did he agree to answer your questions?

20 A He did, sir.

21 Q Did you make any promises or threats to him?

22 A No, sir.

23 Q Now, that advisement of rights was at 4:48 p.m.; is
24 that correct?

25 A Yes, sir.

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 Q There's a written statement that you brought as
2 well. What time is that executed at?

3 A That is -- Detective Longshore filled out the
4 heading on that and it's timed at 5:15 p.m.

5 Q Okay. Why -- what happened between 4:48 and 5:15.

6 A We began to initially talk a little bit about what
7 had taken place. We explained to Mr. Cook the reason why
8 we were speaking with him and that is that additional items
9 of evidence had been recovered during the execution of a
10 search warrant at his residence. Based on what he had told
11 us the day before, we needed to speak with him again
12 because the physical evidence was inconsistent with the
13 story that Mr. Cook had told us and that's why we needed to
14 re-interview him.

15 Q Did you go into what that physical evidence was at
16 that time?

17 A I did, sir.

18 Q When -- what did you confront him with at that
19 time?

20 A At that time, we had -- there was blood that was
21 found, I believe -- what was believed to have been blood a
22 black dresser or a dresser that was located in the home.
23 Additionally there was what was believed to have been blood
24 located, I believe, on a shoe. Additionally, there was
25 what was believed to have been blood located on a wall in

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 the den area, probably behind a piece of furniture.

2 Additionally, the victim's body had been recovered in the
3 backyard.

4 Q The body was recovered when you interviewed him on
5 4/5?

6 A It was. I wasn't present when it was recovered. I
7 had already left the scene. I hadn't seen the body, but I
8 had gone back to the sheriff's department. Sargent Lint
9 had gotten a phone call indicating that it had been
10 discovered and that's when he asked us to re-interview the
11 the defendant.

12 Q Okay. Once you confronted him after the advisement
13 of rights at 4:48 p.m., what did he say to you in response
14 to the questions that you posed to him?

15 A He began to come up with another story to try and
16 explain the physical evidence that was in the home. At
17 this point in time, the story changed from Dave was here,
18 but that he had left with his truck and his motorcycle and
19 that everything was fine and that nothing had taken place.

20 MS. FULLWOOD: Your Honor, I object to any content
21 of the statements that's really irrelevant to the issue
22 that the Court has to decide.

23 THE COURT: All right. Sustained.

24 BY MR. GRAHAM:

25 Q So he -- is it fair to say that of his own free

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 will, in your opinion, he gave you -- he voluntarily spoke
2 with you after the advisement of rights at 1648 hours.

3 A That's correct, sir.

4 Q At some point, did you move -- and at no point
5 during that oral conversation with him did you make any
6 promises or any threats?

7 A No, sir, we did not.

8 Q At some point, did you move in to make any written
9 statement from him of that same interview?

10 A We did, sir.

11 Q And do you have a document that reflects that?

12 A I do, sir.

13 Q And is that the original document that was used to,
14 again, advise him of his rights and take a written
15 statement?

16 A It is, sir.

17 MR. GRAHAM: Your Honor, the State would mark this
18 for identification at this time.

19 THE COURT: All right.

20 (State's Exhibit Number 24 was marked for
21 identification.)

22 BY MR. GRAHAM:

23 Q State's Number 24 for identification, do you
24 recognize that, Sargent?

25 A Yes, sir, I do.

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 Q What is that?

2 A This is a statement that Mr. Cook provided on April
3 5, 2013, as a result of an interview by myself and
4 Detective Longshore. It's written on a Lexington County
5 Sheriff's Department Statement Form. That statement form
6 contains an additional advisement of Miranda Rights. Next
7 to each of those rights on the form, it's going -- it's
8 been initialled by Mr. Cook. Each of those rights, as well
9 as his statement that he understood what those rights were
10 and that he was agreeing to speak with us.

11 Q All right. What time was this executed?

12 A It started at about 5:15 in the afternoon, sir.

13 Q So the first advisement of rights was at 4:48?

14 A Yes, sir.

15 Q There was an oral statement, an oral interview and
16 then it changed into a written statement at 5:15 p.m., the
17 same day?

18 A Yes, sir.

19 Q And at that time, did you re-advise of his rights
20 again?

21 A The statement form we used had Miranda on it and
22 out of an abundance of caution, because we were using that
23 form, we went through each of those rights again, yes, sir.

24 Q And how did you use the statement form to advise
25 him of his rights?

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 A I use the statement form in much the same way as I
2 use the advise of rights form, in which generally, I will
3 place it in front of the person so that they're able to
4 read the rights as I read them out to him. I read them
5 line by line and generally have whomever I'm advising read
6 one of those lines out loud so I can be sure that they have
7 the ability to read.

8 I go through all of the steps and don't skip any
9 until I get down to the bottom. I have him initial beside
10 each one that he understood and he's read them, and I'm
11 going to make sure that he has an understanding of those
12 rights and that he's willing to speak with me at that time.

13 Q So the five rights that are listed on there, did
14 he, in your opinion, understand each of those rights?

15 A Yes, sir, and he actually initialled on the
16 statement form that he read the statement of his rights and
17 understood what they were.

18 Q And then after those five rights, is there also
19 another line? And what does that line say?

20 A The line -- line number 5 says: If I decide to
21 answer now -- excuse me, if I decide to answer questions
22 without a lawyer present, I will still have the right to
23 stop answering questions at any time. I also have the
24 right to stop answering questions at any time until I talk
25 with a lawyer. He initialled there.

Micahael Gooding - Direct Examination In Camera by Mr. Graham

1 The next line says I have read this statement of my
2 rights and I understand what my rights are. And he
3 initialled there; and then goes onto say, I make the
4 following statement.

5 Q And then the rest of the document before you for
6 identification is the statement that he wrote?

7 A That's correct, sir.

8 Q During that time, now moving not from the oral
9 statement from 4:48 to 5:15, but now from 5:15 onto the end
10 of the interview on April 5, of 2015, did he ever ask for
11 an attorney?

12 A No, sir.

13 Q During that time did he ever say that he didn't
14 want to talk anymore?

15 A No, sir.

16 Q In fact, how did he end that interview?

17 A He ended that interview, sir, by writing: I am
18 sorry for not being truthful in all things in my statement
19 and realize it's late and just wish to start over again
20 tomorrow with the two detectives I talked to today.

21 Q During that written interview, during that time
22 period, did he appear to be under the influence of alcohol
23 or drugs?

24 A He did not, sir.

25 Q During that written statement time period, did you

Micahael Gooding - Cross-Examination In Camera by Ms. Fullwood

1 ever make any promises to him?

2 A I did not.

3 Q Any hope of reward if he cooperated?

4 A No, sir.

5 Q Did you make any threats to him about what would
6 happen to him if he didn't cooperate and give you a
7 statement?

8 A No, sir.

9 Q Did you coerce him in any way to give you a
10 statement?

11 A I did not.

12 Q Do you have an opinion as to whether his written
13 statement on April 5 of 2013, was given to you freely and
14 voluntarily and of his own free will?

15 A I do, sir.

16 Q And what is that opinion?

17 A That it was.

18 MR. GRAHAM: Your Honor, I believe that's all as
19 far as the oral and written statement on April 5th, 2013
20 from Sargent Gooding.

21 THE COURT: Thank you, Solicitor.

22 Ms. Fullwood?

23 MS. FULLWOOD: Yes, sir.

24 **CROSS-EXAMINATION IN-CAMERA**

25 BY MS. FULLWOOD:

Micahael Gooding - Cross-Examination In Camera by Ms. Fullwood

- 1 Q Hi, Sargent Gooding.
- 2 A Hey, how are you.
- 3 Q Fine, how are you?
- 4 A Good.
- 5 Q Sargent, did you video tape or do an audio
6 recording of this interrogation?
- 7 A No, ma'am.
- 8 Q It lasted about four hours, correct?
- 9 A Let's see -- yes, ma'am.
- 10 Q All right. And you spoke to him informally for
11 roughly 25 minutes? Is that correct? From 4:48 to 5:15?
- 12 A Yes, ma'am.
- 13 Q Okay. And then he asked for a break at about 6:15,
14 right?
- 15 A During the course of the interview, he actually
16 asked for two breaks. One was from about 6:15 -- actually
17 I notate in my report 6:16 to 6:32 p.m.
- 18 Q So that's about 15 minutes?
- 19 A Yes, ma'am.
- 20 Q Then a couple of hours later, did he ask for
21 another break?
- 22 A Yes, ma'am, he did.
- 23 Q And you took about a 20 minute break?
- 24 A Yes, ma'am.
- 25 Q All right. So he wasn't writing for all these

Micahael Gooding - Cross-Examination In Camera by Ms. Fullwood

1 hours?

2 A No, ma'am.

3 Q Okay. Weren't you challenging what he had to say
4 and telling him that you knew he was lying?

5 A At certain points, I would say, yes, ma'am, I was
6 challenging what he had to say; that the physical evidence
7 was inconsistent with the statements that he was giving.

8 Q Specifically, what physical evidence?

9 A There -- I would have to get into the nature of the
10 statement at that point in time that he gave.

11 A Well, would it have something to do with the body?
12 Were you telling him at that time that you had some DNA
13 results or some autopsy results that refuted that.

14 A No, ma'am, no, ma'am.

15 Q Okay. Do you remember what specific pieces of
16 evidence that y'all had collected out on the -- his house?

17 A The items I was aware of in addition to the
18 Wal-Mart bag that had been recovered previously was blood
19 on a dresser.

20 Q Uh-huh.

21 A Blood on a shoe, I believe it was.

22 Q Uh-huh.

23 A Blood on the wall behind, I believe where a piece
24 of furniture was supposed to be, like close to a baseboard.

25 Q Where that dresser was supposed to be or something?

Micahael Gooding - Cross-Examination In Camera by Ms. Fullwood

1 A Yes, ma'am. I believe so.

2 A In addition, it appeared -- I think the floor in
3 the kitchen appeared to have been as if somebody pulled up
4 flooring.

5 Q Also that the body of the victim had been recovered
6 in the backyard?

7 A Correct.

8 Q Okay. So you talked to him -- when did the
9 interview end? I know that you talked -- you gave him a
10 break and it ended at about 8:50. After that break, about
11 how much longer did you talk to him?

12 A About an our hour.

13 Q One hour more?

14 A Yes, ma'am.

15 Q So that was basically a 5-hour interrogation then,
16 correct? 6 hours?

17 A We started about 5:15 p.m., ma'am, and we ended
18 about 9:56, or roughly ten o'clock, so roughly 5 hours.

19 MS. FULLWOOD: Beg the Court's indulgence.

20 No further questions.

21 THE COURT: Redirect, Solicitor?

22 MR. GRAHAM: No, Your Honor.

23 THE COURT: Thank you, thank you very much.

24 THE WITNESS: Thank you, Your Honor.

25 MR. CASKEY: Your Honor, the State would call

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 Detective Marty Longshore.

2 THE COURT: All right.

3 MARTY LONGSHORE,

4 having been duly sworn, testified as follows:

5 THE CLERK: Have a seat, please, sir. Once you're
6 seated, state your full name, spelling your last, please.

7 THE WITNESS: It's Marty Longshore,
8 L-O-N-G-S-H-O-R-E.

9 **DIRECT EXAMINATION IN-CAMERA**

10 BY MR. CASKEY:

11 Q Detective Longshore, do you recall yesterday we
12 were talking about Mr. Cook's oral statement to you and
13 Sargent Gooding on April 4th. You recall that?

14 A Yes, sir.

15 Q Okay. After that interview, did you have another
16 conversation with the defendant?

17 A The following day we did.

18 Q Let's talk about that then, April 5th, 2013, it
19 would be?

20 A Yes.

21 Q Prior to that conversation on April 5th, had the
22 defendant invoked his right to an attorney that you're
23 aware?

24 A No, sir.

25 Q Okay. Did he invoke his right to remain silent?

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 A No, sir.

2 Q How did you approach the defendant on April 5th?

3 A The day before, he had requested that we talk to
4 him again the following day which would have been the 5th.

5 Q Okay. Where was that interview or conversation
6 held?

7 A The sheriff's department interview room.

8 Q Okay. Do you recall about what time that was done?

9 A The second interview?

10 Q The interview on April 5th.

11 A I believe it was that afternoon sometime. I don't
12 remember specifically what time.

13 Q Do you have with you what's been marked for
14 purposes of identification State's 23 and State's 24? Do
15 you recognize those documents?

16 A Yes, sir, I do.

17 Q What do those appear to be?

18 A Advisement of Rights Form and a Suspect Statement
19 Form.

20 Q Okay. What time did your interview with Mr. Cook
21 begin on the 5th?

22 A On the 5th, 1640 hours, which would have been 4:48
23 in the afternoon.

24 Q Okay. What, if anything, was used -- was the
25 defendant in custody at that point?

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 A He was.

2 Q Was he advised of his Miranda Rights?

3 A Yes, sir, he was.

4 Q Do you recall by whom?

5 A By Detective Gooding.

6 Q Were you present for that?

7 A Yes, sir.

8 Q What, if anything, was used to aid in the
9 administration of those rights?

10 A It was two forms. The first was an Advisement of
11 Rights Form. The second one is a Suspect Statement Form
12 which has the suspect rights on the top portion of that
13 statement.

14 A How was -- how were the rights administered to the
15 defendant on the 5th? The form which was used earlier in
16 time.

17 A They were read by Detective Gooding, I believe, as
18 well as Mr. Cook and acknowledged by Mr. Cook as was -- he
19 signed that he understood his rights on the Advisement of
20 Rights Form.

21 Q Did the defendant indicate that he understood his
22 rights?

23 A Yes, sir.

24 Q How did he indicate he understood his rights?

25 A He signed below saying that he understood.

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 Q Can you read what exactly he signed?

2 A The advise of rights form?

3 Q Yes, sir.

4 A He signed -- it says before we ask you any
5 questions, you must understand your rights. You have the
6 right to remain silent. Anything you say can and will be
7 used against you in a court of law.

8 You have the right to talk to a lawyer for advice
9 before we ask you any questions and have him or her present
10 with you during questioning. If you have no money for
11 lawyer's fees, the Court will appoint one to represent you
12 without cost to you if you wish.

13 If you decide to answer questions now without a
14 lawyer present, you will still have the right to stop
15 answering the questions at any time. You also have the
16 right to stop answering questions at any time until you
17 talk with a lawyer.

18 I've read this statement of my rights and I
19 understand what my rights are. Signed, Worth Cook.

20 Q Were you present for -- let me see the statement.
21 My understanding from your testimony is that Detective
22 Gooding administered those rights to the defendant?

23 A Yes, sir.

24 Q And then you observe it had defendant sign below on
25 that line the statement that reads I have read this

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 statement of my rights and I understand what my rights are?

2 A Yes, sir.

3 Q Did the defendant indicate he wished to speak to
4 you?

5 A He did.

6 Q How did he do that?

7 A He -- well, the day before he put in writing that
8 he wanted to speak with us the following day. After we
9 read his writes, he was presented with a statement and he
10 began telling us a story and was willing to bring a
11 statement.

12 Q Okay. The signatures at the bottom of the advise
13 of rights form that was executed on April 5th, what
14 signatures are those?

15 A The top signature witnessed is Detective Gooding,
16 who was the lead and the second witness is my signature.

17 Q Did you -- I'm sorry?

18 A And then, of course, you have Worth Cook who signed
19 it as understanding his rights.

20 Q Do you have an opinion as to whether the defendant
21 understood those rights?

22 A I believe he did, yes, sir.

23 Q Do you have an opinion as to whether the defendant
24 wished to waive those rights and speak with you?

25 A He did not wish to -- right -- he did wish to speak

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 with us.

2 Q I'm sorry just so I'm clear?

3 A He did wish to speak to us.

4 Q He wished to waive his rights to speak with you?

5 He wished to waive his rights and speak with you?

6 A Yes, sir; yes, sir, I'm sorry.

7 Q Just so we're clear.

8 Did you promise the defendant anything in exchange
9 for talking with you.

10 A No, sir.

11 Q Did you threaten him with anything?

12 A No, sir.

13 Q Did you threaten action against his girlfriend
14 Shannon Tart?

15 A No, sir.

16 Q Threaten the child in any way?

17 A No, sir.

18 Q Did you coerce him in any way?

19 A No, sir.

20 Q After the administration of rights using the Advise
21 of Rights Form we just talked about, what was the other
22 form that you mentioned?

23 A That's the Lexington County Sheriff's Department
24 Statement Form we use for suspects.

25 Q Okay. How was -- tell us about what happened there

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 with that -- how was that form used?

2 A This form was used similar to the Advisement of
3 Rights Form before we -- after speaking with him briefly
4 about the procedures, we again went over the Advisement of
5 Rights Form on the Suspect Statement Form to begin the
6 written part of the statement.

7 Q Okay. What time was the statement form started?

8 A Around 5:15 p.m..

9 Q What had occurred between the 1648 time, 4:48 p.m.
10 and the 5:15 p.m. statement form?

11 A I believe that was just a --

12 Q Did you talk with the defendant?

13 A Yes, sir, we talked with him, but I couldn't tell
14 you specifically what about within that time frame.

15 Q Okay. With regard to the statement form, did the
16 defendant indicate he understood his rights?

17 A Yes, sir.

18 Q How did he indicate he understood his rights?

19 A Beside each right is a spot for the suspect or
20 defendant to initial the statement that he understands.
21 And with the five rights that are listed, out beside each
22 one, he initialled W.C. as understanding his rights.

23 Q Was anyone else present other than yourself and
24 Sargent Gooding?

25 A Just Detective Gooding and I, yes, sir.

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 Q In your opinion, did the defendant understand the
2 rights?

3 A Yes, sir.

4 Q Okay. And in your opinion did he wish to waive
5 those rights?

6 A Yes, sir.

7 Q The text that appears on the Sheriff's Department
8 Statement Form, who wrote those words in the body of the
9 document?

10 A In the body of the document? That would be
11 Mr. Cook's.

12 Q Do you know what time this interview concluded?

13 A Looks like 2156 hours, which would have been, I
14 believe, 9:56, p.m.

15 Q So would it be accurate to say that the duration of
16 this interview was approximately 5 hours?

17 A Yes, sir .

18 Q Were there any breaks taken during the interview?

19 A There were.

20 Q After the defendant started writing, did he ever
21 indicate to you or Detective Gooding, to your knowledge,
22 that he wanted an attorney?

23 A He never mentioned that.

24 Q Okay. Did he ever indicate to you or Detective
25 Gooding, to your knowledge, that he did not want to

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 continue writing?

2 A He didn't mention that, no, sir.

3 Q During the -- either the oral conversation or
4 during the period in which the defendant was writing, did
5 he appear to be under the influence of drugs or alcohol?

6 A No, sir.

7 Q Had you made any promises to him?

8 A No, sir.

9 Q Any threats?

10 A No, sir.

11 Q Any threats to his girlfriend, Shannon Tart?

12 A No, sir.

13 Q Threats to take some sort of action against their
14 child?

15 A No, sir.

16 Q Did you coerce him in any way?

17 A No, sir.

18 Q At the conclusion of that interview, what was your
19 understanding of -- well, let me just ask it this way:
20 What was your understanding of how that interview
21 concluded?

22 A He indicated in the statement that he was sorry for
23 not being truthful to us and he wished to start again on
24 the following day with the same detectives that he was
25 talking to, which was Detective Gooding and I.

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 Q Thank you. I don't have any further questions.
2 Please answer any Ms. Fullwood may have for you.

3 THE COURT: Thank you, Solicitor.

4 Ms. Fullwood?

5 MS. FULLWOOD: Thank you.

6 CROSS-EXAMINATION IN-CAMERA

7 BY MS. FULLWOOD:

8 Q Mr. Longshore, on direct, you testified that the
9 day before Mr. Cook had put in writing that he wanted to
10 speak to you on the next day. Actually, that writing that
11 you're talking about is what you just read; is that right?
12 He wrote that on the piece of paper on the 5th, after that
13 5 hours of interrogation, correct?

14 A Yes, ma'am, he did indicate that he was sorry for
15 not being truthful on all things in the statement, realized
16 that it's late and just wanted to start over again tomorrow
17 with the two detectives I talked to today.

18 Q So that's the day he said in writing that he wanted
19 to begin the next day, not before?

20 A Yes, ma'am.

21 Q He didn't say that before?

22 A Yes, ma'am.

23 Q Okay. I notice that you've been relying on some
24 notes. Again, are those yours or are those Sargent
25 Gooding?

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 A This is the supplemental that Detective -- Sargent,
2 I'm sorry, Gooding.

3 Q Okay. And we talked about this some yesterday.
4 You didn't prepare any report --

5 A No, no, ma'am.

6 Q -- during this interrogation?

7 A No.

8 Q But doesn't the sheriff's department have a policy
9 that when one of its employees conducts an activity of this
10 nature, regardless of how many employees are there, each
11 submits a report?

12 A I'm not familiar with a policy that says we have to
13 do it. Typically it's done, but in this case, our
14 statement forms would have been exactly the same and he
15 just included me on his statement.

16 Q Well, you seem to rely quite heavily on
17 Mr. Gooding's notes. Do you really have an independent
18 recollection of this 3-year-old interrogation apart from
19 what Sargent Gooding wrote down at the time?

20 A He was the lead on this interview and I did sit in
21 there and I have my own recollection, yes, ma'am.

22 Q Okay, but can you relate what happened that day
23 without relying on his notes? Can you relate what happened
24 just from your own memory?

25 A Yes, ma'am.

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 Q I'm not sure as to why you're relying so heavily on
2 his notes?

3 A It's just what I have in front of me at the time.

4 Q Okay. But if you remember it well, you wouldn't
5 really need to rely on something, would you?

6 MR. CASKEY: Objection.

7 THE COURT: You may answer the question, Detective.

8 THE WITNESS: This helps the memory, yes, ma'am.

9 BY MS. FULLWOOD:

10 Q Okay. Because it was 3 years ago.

11 A Yes, ma'am.

12 Q Okay.

13 MS. FULLWOOD: No further questions.

14 THE COURT: Redirect, Solicitor?

15 MR. CASKEY: Nothing, Your Honor.

16 THE COURT: Thank you. Thank you very much,
17 Detective Longshore.

18 All right. Solicitor, you may call your next
19 witness.

20 MR. GRAHAM: There's no more witnesses as to the
21 oral and written statement written April 5th, 2013, Your
22 Honor.

23 THE COURT: All right. Ms. Fullwood?

24 MS. FULLWOOD: The defense calls Worth Cook.

25 THE COURT: All right. If you'd come around and be

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 sworn, please.

2 WORTH COOK,

3 having been duly sworn, testified as follows:

4 THE CLERK: Have a seat. Once you're seated, state
5 your full name, spelling your last, please.

6 THE WITNESS: Worth Edward Cook, III, C-0-0-K.

7 DIRECT EXAMINATION IN-CAMERA

8 BY MS. FULLWOOD:

9 Q Mr. Cook, now, to be clear, we're talking about
10 them questioning you on April 5th of 2013, okay?

11 A Yes, ma'am.

12 Q Now, were you interrogated the day before?

13 A Yes, ma'am.

14 Q Did you ask for a lawyer at that time?

15 A Yes, ma'am.

16 Q Despite asking for a lawyer, the police continued
17 to talk to you?

18 A Yes, ma'am.

19 Q Were you eventually taken back to a cell or pod
20 or -- where were you housed at the jail? Had you been
21 arrested for murder at that point?

22 A No, ma'am.

23 Q Okay.

24 A On the night of the 4th, I spent the night in the
25 open. Soft -- because there's a soft pod in the jail,

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 B-Pod, I believe it was.

2 Q Okay. So you had a bed to sleep on?

3 A Yes, ma'am.

4 Q Okay. And do you remember the detectives coming to
5 get you that afternoon and talking to you?

6 A When -- by the time they would have come and got
7 me, I had been called ATW to be bonded out on the charges I
8 was held on.

9 Q And so you had that false pretense charge?

10 A Uh-huh.

11 Q You went to bond court?

12 A Uh-huh.

13 Q Got a bond set for it?

14 A Yes, ma'am.

15 Q Did you make bond?

16 A I believe I was also on the credit card charges at
17 the time too.

18 Q Okay.

19 A I'm not sure, but I know I was bonded out, I was
20 going to be released.

21 Q So what -- when you say you were ATW, what does
22 that mean?

23 A That's what they call -- I don't know what it
24 stands for, but it means that you're fixing to leave the
25 jail.

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 Q Okay. And did you leave the jail?

2 A No, ma'am.

3 Q What happened?

4 A They told me I had a hold for murder once they
5 brought me up to booking. And then they told me I was
6 going on max watch, which is similar to the suicide watch
7 housing. They take all your clothes, socks, boxers, give
8 you a green suit that's supposed to have Velcro straps that
9 holds over your shoulders. The Velcro was wore out on it.
10 And they put you in a cell and I had two other roommates
11 and I was in that cell for just a short period of time
12 before they come and took me to the interrogation room.

13 Q Okay. So what did you wear to the interrogation
14 room?

15 A They give me a uniform, my jail uniform to wear to
16 the interrogation room.

17 Q Okay. So you got a jumpsuit?

18 A Yes, ma'am.

19 Q And could you relate to the Court what happened
20 once you got to the interrogation room?

21 A Well, when I got to the interrogation room, I was
22 already upset because I got the hold for murder. I'm
23 scared. They're telling me about all this new evidence
24 that they got, you know, that they found a body on my
25 property. And now I'm worried now, because I'm -- now I'm

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 really worried that Shannon might get caught up in
2 something and, you know, I'm just -- I don't -- I really
3 don't know what to do at first, you know, I'm scared, you
4 know.

5 Q Okay. Well, just us go back. Why were you so
6 worried about Shannon and the police made you worry about
7 Shannon?

8 A Yes, well, see, the day before, you know, when I
9 asked for a lawyer, they had threatened Shannon and stuff,
10 you know.

11 Q Uh-huh.

12 A Because Shannon lived there and they had found
13 blood at the house. Well, they -- now they're talking
14 about they had found a body at the house, you know, and
15 this other evidence. So now I'm extremely worried about
16 Shannon, you know what I'm saying; and going to cooperate
17 with them as best I can because as of yesterday, the day
18 before had done been discussed as long as I was cooperating
19 and I felt like, you know, because what Mr. Gooding said
20 about Shannon and stuff there wasn't anything going to
21 happen to Shannon or the baby.

22 Q Okay. And so you -- you were advised of your
23 rights two times, right?

24 A Yes, ma'am, the Advisement of Rights Form and then
25 right here on the beginning of the statement.

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 Q Okay. And did you ask for a lawyer either time?

2 A Not here, no, ma'am.

3 Q Why not?

4 A Because I didn't want to violate the agreement to
5 cooperate so that nothing happened to Shannon and the baby.
6 You know, I didn't want to bring that back on the table,
7 you know.

8 Q So what do you think would have brought that back
9 on the table?

10 A If I would ask for a lawyer --

11 Q Okay.

12 A -- or attorney or refused to talk.

13 Q Okay. And so this took about 5 hours to talk to
14 them?

15 A It was a long time.

16 Q Were you mostly writing or were they challenging
17 you or what?

18 A They did a lot of challenging me because at first
19 we talked and they said, Well, you know, we know this
20 happened, we know that happened. We got people saying
21 that -- you know, that they believed that -- it was
22 something about they believed that heroin was taken from
23 David. And then they was talking about the body was at the
24 house and they said they was having the body flown by
25 helicopter or something to an autopsy place and they would

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 shortly know, you know, exactly when he died and all that
2 stuff, you know, they was telling me.

3 Q Okay. And did you feel intimidated by that?

4 A Yes. I mean, it was really overwhelming, you know,
5 and I was thinking, you know, all kind of different things.

6 Q And did you -- did you take those things as
7 threats?

8 A Yeah, I mean, I felt threatened because I knew I
9 had to cooperate with them and give them a story, but I
10 couldn't tell them, you know, what really happened because
11 then I'd had to tell them that Shannon was there, you know.
12 And I even asked several times if I could call Shannon and
13 talk to Shannon on the phone, you know. I felt if at that
14 time before I started writing the statements or stuff or
15 during the statements when they were, you know, telling me
16 they didn't believe this and that, that if I could go talk
17 to Shannon and tell them what had happened, you know, maybe
18 I would have went ahead and told them then.

19 Q Well, while you were writing the statement, did
20 they just leave you alone and let you write or were they
21 kind of supervising you writing it?

22 A They were supervising it. I would write
23 something --

24 Q In what way?

25 A I would write so much and we would be talking about

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 what I'm writing and I would write a page and they would
2 take it and look at it, you know, and then they would say,
3 well, what about this, or what about that, or didn't this
4 happen, or didn't that happen or -- and stuff like that,
5 you know, and it was just -- I was just trying to -- I was
6 trying to give them something, you know, it just wasn't
7 nothing really making them happy.

8 Q Okay. So did -- they did that sort of -- this
9 challenging and confronting and saying that didn't happen,
10 did that kind of lead up to what you wrote? Were you
11 trying to write something that appeased them?

12 A Yes, ma'am. Yes, ma'am. To go along with what
13 evidence they were saying and stuff. Yes, ma'am.

14 Q What did you think would happen if your statement
15 did not please them?

16 A That, you know, that -- that I would be in more
17 trouble or that maybe Shannon would get in trouble. You
18 know what I'm saying? Or they start messing with Shannon
19 and I didn't want that because somebody had to take care of
20 our child.

21 Q Did they say anything about Shannon that day?

22 A No, I mean from the day before, I was -- it was
23 implied to me, I felt it, you know what I'm saying, that
24 that was the way it was working, you know.

25 Q This is the same two people who had interviewed the

Worth E. Cook - Direct Examination In Camera by Ms. Fullwood

1 day before, right?

2 A Yes, yes, ma'am.

3 Q Did they seem to have the same attitude the next
4 day?

5 A Yes, ma'am. Even Mr. Kemfort -- I mean Longshore.
6 Mr. Longshore, just like the day before, he would leave out
7 the room and be in the hallway somewhere and then he would
8 come back and he'd go out into the hallway and talk to
9 other detectives and other people and then he would come
10 back -- he left the room several times.

11 Q Uh-huh?

12 A It was even a point in time when they brought
13 Barnes in and put him in the interrogation room next to me
14 and that really upset me because I could hear him in there,
15 you know, fussing and, you know, talking and them
16 questioning him and all kind of stuff too, you know.

17 Q Okay. So, Barnes is the boyfriend of Kaycee Turner
18 who testified today?

19 A Yes, yes, ma'am.

20 Q And he is the man who is in the Department of
21 Corrections for accessory after the fact in this case?

22 A Yes, ma'am.

23 Q How do you know he was in an adjacent interview
24 room?

25 A Because I could hear it -- his voice. He had been

Worth E. Cook - Cross-Examination by Mr. Graham

1 talking to him and hearing him saying just all kind of -- I
2 don't remember all it was. I remember it wasn't good. It
3 wasn't nice. It was really negative toward me, you know.

4 Q Okay. And do you know him well enough to know what
5 his voice is?

6 A Yes, yes, ma'am.

7 Q Okay.

8 A They even -- I even said something about hearing
9 him, you know, after it had been several minutes that he
10 was in the room next door talking and I kept saying
11 something about hearing him and stuff and they finally went
12 outside and talked to somebody and they moved -- they did
13 move him, but I was already extremely upset about the
14 situation by then too.

15 Q Okay.

16 MS. FULLWOOD: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 No further questions. Please answer any questions
19 that Mr. Graham may have for you.

20 THE COURT: All right. Solicitor?

21 **CROSS-EXAMINATION IN-CAMERA**

22 BY MR. GRAHAM:

23 Q Going back to where we started, or I guess ended
24 yesterday, April 4, 2013, what was the threat that was
25 given to you by Detective Gooding?

Worth E. Cook - Cross-Examination by Mr. Graham

1 A On the 4th?

2 Q Yes, sir.

3 A When I requested a lawyer, after saying I felt like
4 he was using stuff to lead me up and I requested to have an
5 attorney, you know, and he got mad and stuff and after he
6 was quiet for a minute, he told me that I needed to rethink
7 the whole requesting a lawyer thing and if I didn't want to
8 Shannon to get arrested and, you know, and your child end
9 up being put in DSS or child protective services, whatever
10 it is you call it, you know, I needed to cooperate.

11 Q All right. So he had -- you had told a story, he
12 didn't like your story and then you invoked your right to
13 an attorney and then he threatened you with that threat?

14 A I told a story, he brought up some evidence and I
15 didn't like the evidence, you know, and told him I wanted
16 an attorney over there. Then he threatened me. And
17 then --

18 Q But you knew at the time that you talked to him
19 that you had killed him, correct? You knew that you had
20 killed David at that time?

21 A Yes.

22 Q Okay. You knew that his body was in your backyard,
23 correct?

24 A Yes.

25 Q And from what your attorney claims, it was done in

Worth E. Cook - Cross-Examination by Mr. Graham

1 self-defense, correct?

2 A Yes.

3 Q Okay. The statement that you gave was not the
4 truth though?

5 A No, sir.

6 Q Because you -- even before were you trying -- why
7 didn't you tell the truth then?

8 A Because I was afraid to.

9 Q Why?

10 A Because by the time --

11 MS. FULLWOOD: Objection, Your Honor. This is
12 getting outside the scope of what happened that day.

13 THE COURT: Overruled.

14 BY MR. GRAHAM:

15 Q Why didn't you tell the truth?

16 A I was afraid.

17 Q Of what?

18 A Getting in trouble.

19 Q Because why?

20 A Because I had killed a man.

21 Q Okay. But your testimony is that it was done in
22 self-defense?

23 A It was.

24 Q But you were afraid to tell that to the police?

25 A Well, after it happened, you know, I was afraid and

Worth E. Cook - Cross-Examination by Mr. Graham

1 | panicked and Shannon had warrants and stuff like that and
2 | didn't want to call the police and had covered it up. And
3 | all this other stuff and I was just scared to get in
4 | trouble.

5 | Q Were you scared of Shannon getting in trouble?

6 | A Yes, Shannon too.

7 | Q Why would Shannon get in trouble for you killing
8 | someone in self-defense?

9 | A I can't explain why I would think that. I was
10 | scared, you know, who isn't scared. It's a very damaging
11 | thing to go through that situation. I was scared. I never
12 | been through anything like that before.

13 | Q What did Shannon do wrong that would get her in
14 | trouble with the law?

15 | A Nothing.

16 | Q So why would you be worried about Shannon being
17 | arrested if Shannon did nothing wrong?

18 | A I didn't even -- like at the time when it happened
19 | Shannon had warrants and I didn't call the police. That
20 | was one of the several reasons I didn't call the police. I
21 | didn't want to get arrested while she was pregnant with my
22 | child. At this time, I didn't want to get in no trouble
23 | and, you know, to -- you know, I just don't -- you know, it
24 | looks bad, man.

25 | Q April 5th, when they come and talk to you again,

Worth E. Cook - Cross-Examination by Mr. Graham

1 they don't threaten you at that time, correct?

2 A No. I feel it's implied from the day before,
3 though.

4 Q You're just carrying it over from Sargent Gooding's
5 threat from the day before where he said that he was going
6 to lock up Shannon and take away your baby?

7 A Yeah, if I didn't cooperate, yeah.

8 Q If you didn't cooperate.

9 You didn't tell them what they wanted to hear
10 though, did you? What you told them -- what you told them
11 April 4th is not what they wanted to hear?

12 A I didn't really get a chance to tell them after
13 that on April 4th because they talked to another detective
14 that was out in the hallway and decided to end the
15 interrogation.

16 Q Well --

17 A That's --

18 Q -- Shannon wasn't arrested on April 4, was she?

19 A No.

20 Q She wasn't arrested on April 5th?

21 A No.

22 Q In fact, she's never been arrested related to
23 anything to do with this crime, has she?

24 A No, sir.

25 Q You mentioned that on the 5th you used the words

Worth E. Cook - Cross-Examination by Mr. Graham

1 overwhelming, intimidating, and threatening talking about
2 the evidence that you were confronted with.

3 A Yes, sir.

4 Q Why were you intimidated by the fact that there was
5 a body found in your backyard? You knew that.

6 A I knew that, but it's still a scary thing. This
7 whole situation, you know, after it happened, I tried to
8 put it in the back of my mind and I think about it and move
9 on with my life. You know, I had -- I had other stuff --
10 had my child and done the same way. That's how I do with
11 problems, I try not to thinking them and just move on. I
12 hadn't had -- I hadn't really faced it, you know.

13 Q The threat from Gooding --

14 A And they're hollering murder charge and stuff too
15 at this time. And that's a scary thing, you know.

16 Q And I agree. It's a scary thing when they're
17 talking about murder -- you hadn't been charged yet,
18 though, right?

19 A You had a hold for murder.

20 Q You had a hold for murder. Did they tell you that?

21 A Yes.

22 Q Okay. So Gooding -- I'm sorry, go ahead.

23 A My bad.

24 Q Gooding had threatened you the night before and
25 said if you don't cooperate and tell us what happened,

Worth E. Cook - Cross-Examination by Mr. Graham

1 we're going to lock Shannon up and take away your baby; is
2 that right?

3 A Yes.

4 Q But you chose to talk to them because of that
5 threat, but you didn't tell them it was self-defense; is
6 that correct? At this time?

7 A To tell them it was self-defense directly like that
8 situation I'd have to tell them Shannon was there and I was
9 scared to do that. Because I was scared that that might
10 lead her to getting in trouble or being brought into it,
11 you know.

12 Q But you -- you're saying -- you said that Shannon
13 didn't do anything wrong?

14 A No. She was there.

15 Q But she didn't do anything wrong is what you said
16 earlier, correct.

17 A She didn't do anything wrong.

18 Q So it's your testimony that you're afraid that just
19 because she was there that she was going to get arrested?

20 A Yes, sir.

21 Q Okay. And the fact that she got arrested, so what?
22 If she didn't do anything wrong, the fact that she didn't
23 do anything wrong, what would that have mattered.

24 A If she would have gotten arrested and she didn't do
25 anything wrong what would that matter?

Worth E. Cook - Cross-Examination by Mr. Graham

1 Q Yes.

2 A If she would have gotten arrested for anything who
3 would have took care of our child. I love Shannon very
4 much and my little girl. This is a very hard situation
5 that we've had to live with, you know, and I promised her
6 after I covered everything up that I wouldn't let her -- I
7 would never say that she was there at any point in time if
8 anything went wrong.

9 Q As far as the statement on the 5th, you were read
10 your rights. You understood your rights. You waived your
11 rights, correct?

12 A Yes.

13 Q Everything you said was free and voluntary and your
14 testimony is that you were still operating under the threat
15 from Sargent Gooding on the 4th?

16 A Yes, sir.

17 Q Even though he didn't repeat the threat; is that
18 correct?

19 A Yes, sir.

20 Q Nobody else heard that threat, it was just you and
21 Sargent Gooding?

22 A Yes, sir.

23 Q You never filed any complaints on Sargent Gooding,
24 did you?

25 A No, sir.

Worth E. Cook - Cross-Examination by Mr. Graham

1 Q Did you ever, on the night of the 4th, did you get
2 on -- did you tell any of the inmates at the detention
3 center?

4 A That I was threatened?

5 Q Yes.

6 A Yes.

7 Q Who did you tell?

8 A Stacy Wade.

9 Q You told Stacy Wade?

10 A Yes, we talked about it.

11 Q Okay. And did you tell anybody else?

12 A Not that I can recall a name, no.

13 Q Do you know whether Stacy Wade ever came forward to
14 law enforcement to stand up on your behalf and tell them
15 that you told him that you were threatened?

16 A I wouldn't know.

17 Q Had you asked him too?

18 A No. I never even thought about that.

19 Q So on the night of the 5th or the day of the 5th,
20 did you tell anybody that Sargent Gooding had threatened
21 you?

22 A No. How about the 6th.

23 A No.

24 Q Did you ever tell anybody -- any other inmate at
25 the detention center that Sargent Gooding had threatened

Worth E. Cook - Cross-Examination by Mr. Graham

1 you?

2 A Yes. Stacy wade.

3 Q Who and when? Anybody other besides Mr. Wade?

4 A Not, not that I specifically remember, no.

5 Q Did you ever file a complaint against Sargent
6 Gooding?

7 A No.

8 Q Did you ever tell any member of law enforcement
9 with the sheriff's department that he had threatened you?

10 A No.

11 Q Did you contact SLED and tell SLED that Sargent
12 Gooding had threatened you?

13 A No, I didn't know any of this was an option or
14 something that I had done.

15 Q Did you tell me or anybody with the solicitor's
16 office that Sargent Gooding or any member with the law
17 enforcement, sheriff's department, SLED?

18 A Yes. I told you when we had the meeting that was
19 me, you, Gooding and my lawyer, present.

20 Q You told me and Sargent Lint --

21 A Sargent Lint. I apologize, it was Sargent Lint.

22 Q That Gooding -- that Gooding did what?

23 A That Gooding told me that I needed to cooperate,
24 you know, or that Shannon was going the get locked up after
25 I told him I waived my rights. You and -- or Sargent Lint

Worth E. Cook - Cross-Examination by Mr. Graham

1 even made a statement that maybe I just misunderstood and
2 he was talking if I didn't cooperate that Shannon would get
3 arrested or have to be arrested. We did discuss this.

4 Q You've seen Sargent Lint's report about that
5 interview, correct? You've had an opportunity to review
6 it?

7 A Yes, sir.

8 Q Is that contained in that interview?

9 A No, sir.

10 Q So Sargent Lint failed to put that in there?

11 A Apparently so, sir.

12 Q He failed to put the fact -- if I understand you
13 correctly, you told Sargent Lint and myself that Detective
14 Gooding said he was going to lock -- if you didn't
15 cooperate and tell him what he wanted to know, he was going
16 to lock away Shannon and take away your baby?

17 A Yes, when we had our meeting. That was after I
18 told him I wanted a lawyer. I told you that when we
19 reviewed before -- that little summary report that they
20 talked about on the 4th that they typed up right there in
21 front of Sally Henry, it was me, you and Detective Lint and
22 Detective Lint --

23 Q You told Sargent Lint that Detective -- that you
24 told Detective Gooding and Longshore that you wanted a
25 lawyer?

Worth E. Cook - Cross-Examination by Mr. Graham

1 A That I told Sargent Lint that Detective Gooding
2 told me these things after I told Sargent -- I mean
3 Detective Gooding that I had wanted a lawyer that day and
4 he had made those X's on the form and stuff.

5 Q So the story that you testified to the other day,
6 it's your testimony that while your own attorney was there
7 and their investigator and Sargent Lint and myself, that
8 you told them and us that Sargent Gooding, then Detective
9 Gooding, when you requested an attorney crossed out a form
10 and that you requested an attorney and he got upset?

11 A It come up about the whole I requested an attorney
12 and he threatened Shannon. Now, whether I mentioned the
13 crossed out form or not, I can't be -- I can't be
14 definitely sure if I talked about he crossed out that form
15 with both of y'all or just Sally Henry, but we did
16 definitely discuss the fact of Gooding telling me this
17 whole thing after I requested a lawyer on the 4th.

18 Q So other than Stacy Wade and your attorney,
19 Ms. Henry, who else have you told about Detective Gooding
20 violating your constitutional rights that you wanted a
21 lawyer and he crossed out an Advisement of Rights Form and
22 recreated another one? Who have you told?

23 A On the day when me, you and Lint met, we did
24 discuss it. I don't know if it came up with the whole
25 point with the crossed-out paper, but we did discuss the

Worth E. Cook - Cross-Examination by Mr. Graham

1 conversation that me and Gooding had when he threatened
2 Shannon if I didn't cooperate. We did do that.

3 Q Excuse me, did you talk to anybody else?

4 A No.

5 Q So you've never told that story to anybody else
6 other than Stacy Wade?

7 A If I discussed it with any other inmates, I
8 wouldn't remember their names to be able to say who it was.

9 Q How about Shannon, did you discuss that with
10 Shannon?

11 A I have said -- or there's been communication that
12 there was some threats going on, you know what I'm saying,
13 when I was writing statements.

14 Q Specifically what did you tell her?

15 A That's probably about the extent of it.

16 Q Well, testify it, I need to hear the words. What
17 did you tell her?

18 A You know, that they used her against me to get me
19 to write statements when I first got locked up, threatening
20 to lock her up.

21 Q And how did you communicate that to her?

22 A I'm quite sure that at least one time after she got
23 kicked out of her mom's house, the end of 2014 and I can't
24 tell you if it had been months after that. I did make that
25 statement to her at one time --

Worth E. Cook - Cross-Examination by Mr. Graham

1 Q But when it first --

2 A -- on the phone.

3 Q -- when it first -- do you know the particular
4 date?

5 A No.

6 Q The 4th -- the night that it happened? Who did you
7 talk to on the phone that night? After you were
8 threatened. You hadn't been arrested for murder yet, there
9 hadn't even been a hold on you yet. You go back to your
10 cell, Gooding has threatened you and who did you talk to on
11 the phone that night?

12 A Not that -- I didn't tell Stacy Wade that day. It
13 would have been later after -- when I told Stacy Wade.

14 Q Did you ever tell anybody other than Shannon and
15 Stacy Wade and your attorney?

16 A And you and Lint.

17 Q Anybody else?

18 A Not that I could give you a name of.

19 Q So --

20 A What I'm telling you now, I've discussed this with
21 my mother.

22 Q Okay. When did you discuss that with your mom?

23 A On one of the visits, after I was in D-Pod.

24 Q When? Give me an idea of when.

25 A It would have been 2013 when we still get window

Worth E. Cook - Cross-Examination by Mr. Graham

1 visits. You don't even get those anymore.

2 Q So what did you tell your mother?

3 A That -- that I was threatened to have Shannon
4 locked up and I had to write a bunch of statements to keep
5 her -- you know, to make sure that she didn't get in
6 trouble if it wasn't true.

7 Q Anything recorded -- you know your jail calls are
8 recorded. Are there any calls you want me to go try to
9 look at to see where you told somebody?

10 A There's probably -- there's probably been a couple
11 of times that I might have even mentioned it to my mother
12 on the phone. Because it was something that upset me since
13 the beginning, you know I didn't know that there was no --
14 I should have reported to internal affairs type deal or
15 nothing like that. The police are the police, you know
16 what I'm saying?

17 Q Well, based on your conversation with Ms. Henry
18 sometime, did you ever realize that was an option?

19 A I didn't even realize it was an option until we
20 started doing these Jackson Denno hearings and you kept
21 asking me have you ever filed a complaint, you know.

22 Q So I was the first person that ever told you you
23 could do that?

24 MR. GRAHAM: I think that's all, Your Honor.

25 THE COURT: Redirect, Ms. Fullwood?

Robbie Lint - Direct Examination In Camera by Mr. Graham

1 MS. FULLWOOD: Nothing further, Your Honor.

2 THE COURT: Thank you, Mr. Cook. You may step
3 down.

4 THE WITNESS: Yes, sir, thank you.

5 THE COURT: Any other witnesses, Ms. Fullwood?

6 MS. FULLWOOD: No further witnesses, Your Honor.

7 THE COURT: Solicitor?

8 MR. GRAHAM: Your Honor the State would recall
9 Sargent Lint to the stand.

10 THE COURT: All right. Come around and be sworn,
11 please.

12 ROBBIE LINT,

13 having been duly sworn, testified as follows:

14 **DIRECT EXAMINATION IN-CAMERA**

15 BY MR. GRAHAM:

16 Q Sargent Lint, you're still under oath.

17 A Yes, sir.

18 Q Yesterday at the end of the day, we did a Jackson
19 v. Denno hearing regarding a statement where you had an
20 opportunity to interview Mr. Cook; do you remember that?

21 A I do.

22 Q And what was the date and time of that?

23 A It was April -- I'm sorry I left my --

24 THE WITNESS: I apologize Your Honor.

25 (The solicitor handed him his notes).

Robbie Lint - Direct Examination In Camera by Mr. Graham

1 THE WITNESS: Thank you.

2 It would have occurred on April 16, 2015. It would
3 have occurred at 4:41 p.m. in the afternoon hours.

4 Q And again who was present for that interview.

5 A Myself, Solicitor Shawn Graham, Attorney Sally
6 Henry, and I believe the investigator for the public
7 defender's office, I think it was Trisha Reese. I wasn't
8 really clear if I documented the last name as Breeze or
9 Reese.

10 Q And we were there because of what reason?

11 A I was notified by yourself that the public
12 defender's office requested an interview with us at the
13 sheriff's department concerning this matter that we're here
14 for today.

15 Q And did you confirm that with the defendant,
16 Mr. Cook, before any conversation occurred?

17 A Yes, sir, I did.

18 Q And as we discussed yesterday, you read him his
19 rights and he went over his rights; never invoked his right
20 to remain silent; never requested an attorney; and his
21 attorney was actually there, correct?

22 A Correct.

23 Q At any time during that conversation, what, if
24 anything, did Mr. Cook say to you about this interview with
25 Michael Gooding, Detective Gooding, and requesting an

Robbie Lint - Direct Examination In Camera by Mr. Graham

1 attorney?

2 A Never came up.

3 Q What if any --

4 A That conversation didn't take place.

5 Q Mr. Cook never said anything about that?

6 A No, sir, he didn't.

7 Q What, if anything, did Mr. Cook say to you about --

8 so he didn't invoke his rights to an attorney with

9 Detective Gooding?

10 A Right.

11 Q What, if anything, did he say to you regarding
12 being threatened by anyone during any of the statements?

13 A He never said anything about being threatened.

14 Q What, if anything, did he say about Detective
15 Gooding threatening to lock up his girlfriend Shannon Tart?

16 A He never said such a thing.

17 Q What, if anything, did he say about Detective
18 Gooding threatening to take his newborn baby away from him?

19 A That conversation never took place.

20 Q If he would have told you that, what would you have
21 done?

22 A Certainly that was something that would have been
23 addressed. Some -- as me as a law enforcement officer, I
24 would probably have to make the proper notification to my
25 chain of command that such a statement took place that

Robbie Lint - Cross-Examination by Ms. Fullwood

1 included internal affairs.

2 Q Thank you, Sargent. Please answer any questions
3 the defense has for you.

4 THE COURT: All right. Ms. Fullwood?

5 MS. FULLWOOD: Beg the Court's indulgence.

6 THE COURT: Yes, ma'am, certainly.

7 **CROSS-EXAMINATION IN-CAMERA**

8 BY MS. FULLWOOD:

9 Q Mr. Lint, this interview wasn't recorded in any
10 way, was it?

11 A No, ma'am.

12 MS. FULLWOOD: No further questions.

13 THE COURT: Redirect?

14 MR. GRAHAM: Nothing further, Your Honor.

15 THE COURT: Thank you. Thank you, Sargent.

16 THE WITNESS: Thank you, sir.

17 MR. GRAHAM: Your Honor, that's all the State has.
18 Thank you.

19 THE COURT: All right.

20 All right. Solicitor?

21 MR. GRAHAM: Thank you, Your Honor, the evidence
22 before you is the accusation by the defendant, Mr. Cook,
23 that on April 4th, he was threatened by Sargent Gooding and
24 he invoked his right to remain silent. Sargent Gooding --
25 now, Sargent Gooding denies that. Marty Longshore denies

Robbie Lint - Cross-Examination by Ms. Fullwood

1 that. The defendant has not produced anybody other than
2 himself who says that that happened or that he told anybody
3 that that happened. He states that he told Sargent Lint,
4 myself, his own attorney, and Trisha Reese from the public
5 defender's office and they have not produced anybody to
6 back up that story, including Trisha Reese.

7 Sargent Lint testified, Your Honor, that he met
8 with Mr. Cook in 2015 -- and I don't remember the date, I
9 want to say it was April 16th of 2015, and that -- yes,
10 April 16, 2015. At that time, Mr. Cook --

11 THE COURT: This was in May 16, '15?

12 MR. GRAHAM: April 16 of 2015.

13 THE COURT: Excuse me.

14 MR. GRAHAM: April 16 of 2015.

15 THE COURT: That's the statement from yesterday?
16 From this morning?

17 MR. GRAHAM: The May statement was the handwritten
18 statement that he wrote to Detective Kemfort. We didn't go
19 into the contents of this one from this morning because Ms.
20 Fullwood objected to the contents of the April 16th. So we
21 just did the Jackson Denno here surrounding -- Your Honor's
22 already admitted that one into evidence.

23 THE COURT: All right.

24 MR. GRAHAM: But referring back to that, Your
25 Honor, Sargent Lint testified just now that Mr. Cook never

Robbie Lint - Cross-Examination by Ms. Fullwood

1 complained about any threats received by Detective Gooding.
2 He never told Sargent Lint that he invoked his right to
3 remain silent with Detective Gooding or that Detective
4 Gooding threatened him or threatened to lock up Shannon
5 Tart and take away their child. I've -- Your Honor, I
6 think -- Your Honor, he's not credible. I think the State
7 has met its burden and I think the statements are
8 admissible.

9 THE COURT: All right. Ms. Fullwood?

10 MS. FULLWOOD: Your Honor, our position is that the
11 interrogation in this case became tainted on April 4th,
12 2013, when Mr. Cook requested counsel and rather than honor
13 his request Sargent Gooding threatened him with prosecution
14 of his paramour and removal of their child from their home
15 if he sought counsel and did not give him a statement. You
16 see through Mr. Cook's testimony that he was motivated
17 solely by that fear the next day on the 5th.

18 He was afraid -- by then he knew that he was going
19 to be arrested for murder. He had asked for counsel, he
20 had seen what happened that day, the day before and
21 realized that he was going to exercise his Fifth and Fourth
22 Amendment Rights then he was running the risk that his
23 girlfriend would be incarcerated, his child would go the
24 foster care or worse, and nobody in his family was going to
25 survive this ordeal.

Robbie Lint - Cross-Examination by Ms. Fullwood

1 In addition, Your Honor, I would say that his
2 testimony this morning shows that that taint carried over
3 into motivating him to write the inmate request form on May
4 29th, 2013. So our position is that the statements on the
5 April 4 and 5, and on May 29 of 2013, were taken in
6 violation of his right to counsel.

7 And furthermore were involuntary because he had
8 been threatened with the loss of his child and the
9 incarceration of the woman he loved.

10 THE COURT: Thank you.

11 Can you hand me all the statements and all the
12 advise of rights, please.

13 (The exhibits were passed up to the Court. The
14 Court is reading the exhibits.)

15 THE COURT: I realize the defense is arguing that
16 three converges -- the third statement, which is the
17 statement to Detective Gooding and Longshore on April 4th
18 of '13, lays somewhat of a foundation for 4/5/13. However,
19 my notes indicate to me that I have already ruled on that
20 statement and found it to be admissible. The statement to
21 Detective Gooding and Longshore on the 4th of April, 2013.

22 MR. GRAHAM: My recollection on that, Your Honor,
23 is that you ruled the statement was admissible and we never
24 addressed specifically the issue of the invocation of his
25 rights and anything that happened after that. But that --

Robbie Lint - Cross-Examination by Ms. Fullwood

1 from the defendant's testimony, his story is that that
2 pretty much ended the interview and no additional
3 information was offered after that time.

4 So the statement itself up to that point, after
5 hearing all the testimony, you ruled that the oral
6 statement was admissible.

7 THE COURT: Well, my -- in ruling the way I did
8 that the statement was admissible -- and I think I
9 emphasized all the statement was admissible on the
10 statement of the 4th -- was that Mr. Cook could testify
11 both as to the ruse if there was one. There may not have
12 been one because that could have been reality as far as
13 presumptive test for blood on a bag at the Lee Gunter Road
14 residence.

15 And further, it wouldn't inhibit him from
16 testifying that, according to to his testimony the officer
17 threatened a third party. Shannon and his child and he --
18 I mean he can testify both as to his -- his statements,
19 Mr. Cook's statements about X'ing out the advise of rights
20 form, according to Mr. Cook and writing on there invocation
21 or what have you of the right to an attorney.

22 I just ruled it's admissible. I just want to make
23 it clear that it's entirely admissible. If it's a ruse,
24 there's some cases out there that say -- and that's when
25 the defendant offers a ruse, not necessarily for

Robbie Lint - Cross-Examination by Ms. Fullwood

1 voluntariness of the statement but otherwise, that it might
2 not be admissible. That's my reading. And Number 3 --
3 Statement Number 3 is admissible.

4 And as to Statement Number 4, the statement that
5 Detective Gooding and Longshore and Sargent Lint have now
6 testified to in reply, the statement of 4/5/13 -- there is
7 a case concerning the fact that testimony of officers who
8 witnessed oral statements from the defendant led the Court
9 to the conclusion that at the very least, the officers
10 coerced the defendant on the marijuana by means of veiled
11 threats against his family. A confession may not be
12 extracted by any sort of threats or violence or obtained by
13 any direct or implied promises, however slight or by the
14 exertion of improper influence. We find that the testimony
15 of the officers conceding they informed Corns, the
16 defendant; his wife could be arrested if she could be
17 involved in the marijuana and their children would be taken
18 away from them amounted to an exertion of improper
19 influence rendering Corns' statement involuntary.

20 I find this situation doesn't near meet that. It
21 is an issue of credibility and the totality of the
22 circumstances. Considering that he's been given the
23 facts -- excuse me, he's been given his rights on the 3rd,
24 on the 4th, by Hill and/or Williams, on the 4th by Gooding,
25 all of those in writing, all signed on the 5th by Detective

Robbie Lint - Cross-Examination by Ms. Fullwood

1 Gooding.

2 I find his testimony in light of the officers'
3 testimony -- I find his testimony incredible that he would
4 not have continued to sign and check off his rights form on
5 his advise of rights and sign each and every page of the
6 statements that he gives.

7 I do not believe there were any threats, coercion,
8 or promises made based on the testimony of both Detective
9 Gooding and Detective Longshore. Further, I think that's
10 corroborated by the testimony of Sargent Lint in reply when
11 the defense indicates that he has made this -- he had told
12 Stacy Wade, I believe, at the time an inmate at the
13 correctional center and that he had also told the
14 solicitor -- Solicitor Graham, Sargent Lint, his attorney,
15 Ms. Reese was there when he gave the statement of 4/16/15,
16 which I've already allowed in.

17 He had even testified, as I recall as to that
18 statement, but based on the totality of the circumstances,
19 the written rights, credibility of the witnesses involved,
20 the fact that there is a lack of any corroboration by the
21 defendant whatsoever, that it does not rise to the level of
22 State versus Corns, I find the statement of 4/5/13, given
23 to Detective Gooding and Longshore is admissible.

24 All right. Brenda, are you all right? We have one
25 more statement.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 THE COURT REPORTER: I'm good.

2 THE COURT: All right. And you have one more
3 statement, Solicitor?

4 MR. GRAHAM: Yes, Your Honor, there's one more
5 statement of April 6, 2013.

6 THE COURT: All right.

7 MR. GRAHAM: The State would recall Sargent Gooding
8 again.

9 THE COURT: All right.

10 THE CLERK: You're still under oath.

11 DIRECT EXAMINATION IN-CAMERA

12 BY MR. GRAHAM:

13 Q Sargent Gooding, did you have an opportunity to
14 interview Mr. Cook again on April 6th of 2013?

15 A I did, sir.

16 Q And how did that interview come about?

17 A At the end of the interview that took place on the
18 5th, Mr. Cook had indicated that he wished to speak to two
19 more detective -- excuse me, he wished to speak to the same
20 two detectives he was speaking with that night; that he was
21 tired, but that he wanted to tell it. He would tell it
22 tomorrow and he would speak with us.

23 Q So following that statement, did you and Detective
24 Longshore initiate a contact with Mr. Cook again on April 6
25 of 2013?

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 A Yes, sir.

2 Q What time did that occur?

3 A 10:49 a.m.

4 Q And again, was that in one of the interview rooms
5 at the sheriff's department?

6 A It was, sir.

7 Q And Mr. Cook was still in custody at that time?

8 A He was, sir.

9 Q Did he appear to be under the influence of alcohol
10 or drugs at that time?

11 A No, sir.

12 Q Did you advise him of his rights again at that
13 time?

14 A I did, sir.

15 Q And what, if anything, did you use to advise him of
16 his rights?

17 A I used the Lexington County Sheriff's Department
18 Advise of Rights Form form.

19 Q And do you have the original with you?

20 A I do, sir.

21 Q If I may see that?

22 MR. GRAHAM: The State will mark this for
23 identification for this hearing, Your Honor.

24 THE COURT: All right.

25 (State's Exhibit Number 25 was marked for

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 identification.)

2 MR. GRAHAM: That's 25, Your Honor.

3 THE COURT: All right. Thank you.

4 BY MR. GRAHAM:

5 Q Sargent, looking at State's 25 for identification,
6 what is that form?

7 A That is the standard Lexington County Sheriff's
8 Department Advise of Rights Form form. It's a form that we
9 use to advise somebody of their Miranda Rights.

10 Q And how did you go about advising Mr. Cook of his
11 rights on April 6, 2013, using that document?

12 A Generally, I place the form in front of them so
13 they can read along as I read out line by line, word by
14 word, what the advisement of their Miranda Rights are.
15 Also, as I read through the rights, I would generally ask
16 them to read one of them back to me so that I can be sure
17 that they have the ability to read.

18 I went through each of those lines one by one until
19 I got to the portion at the bottom that says, I have read
20 this statement of my rights and I understand what my rights
21 are. At that time, Mr. Cook signed that.

22 Q Okay. So again, similar to the 5th and the 4th
23 that we discussed, you read him his rights, you made him
24 read part of them to show he could read then?

25 A Yes, sir.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Q And then there are initials of W.C. after every
2 right; is that correct?

3 A Yes, sir.

4 Q And the purpose of the W.C., who wrote those?

5 A Worth Cook.

6 Q And the purpose of them being there?

7 A I just asked him to initial after each one.

8 Q Okay. Did he understand his rights?

9 A He did, sir.

10 Q Did he agree to speak with you?

11 A He did.

12 Q Did he indicate that by signing this document?

13 A That's correct, sir. At -- in the middle portions
14 where he states he understands his rights and that's where
15 he signed and then below that, there's a portion that says,
16 I am willing to make a statement and answer questions. I
17 do not want a lawyer at this time. I understand and know
18 what I am doing.

19 No promises or threats have been made to me and no
20 pressures or coercion of any kind has been used against me.
21 And he acknowledged that by signing below.

22 Q Below that on the document in front of you, there
23 are two different signatures for witnesses. What -- who
24 are those people?

25 A One of them is me and one of them is Detective

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Longshore.

2 Q What time did the advise of rights begin on April 6
3 of 2013?

4 A It began at 10:49, sir.

5 Q And what time did this advise of rights form
6 conclude?

7 A 10:50.

8 Q And after that, did you begin to have a verbal
9 conversation with Mr. Cook?

10 A I did, sir.

11 Q At some point later, did you move on to take in a
12 written statement?

13 A I did, sir.

14 Q What, if anything, did you use to document that?

15 A I used the Lexington County Sheriff's Department
16 Statement Form.

17 Q And do you have that original with you?

18 A I do, sir.

19 MR. GRAHAM: Your Honor, the State would mark this
20 for identification, I believe, it's 26.

21 THE COURT: All right.

22 (State's Exhibit Number 26 was marked for
23 identification.)

24 BY MR. GRAHAM:

25 Q Detective Gooding, looking at State's 26, what is

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 that again?

2 A Sir, this is the original statement that I took
3 from Worth Cook on April 6, 2013 during the course of the
4 interview.

5 Q What time does this statement form begin?

6 A 11 a.m., sir.

7 Q And then did you re-advise Mr. Cook again of his
8 rights?

9 A Yes, sir.

10 Q And how did you do that?

11 A The same way that I did previously in that I put
12 the statement form in front of him. I read through each
13 line of those rights. I asked him to read one of those
14 rights -- lines of rights out loud to me. I didn't skip
15 any lines nor did I skip any words.

16 Mr. Cook initialled after each of those rights
17 individually and then initialled that he understood what
18 those rights were and that he waived those rights and would
19 be willing to speak with us at this time.

20 Q Did he appear to understand his rights again prior
21 to writing the written statement?

22 A Yes, sir.

23 Q Any question in your mind that he didn't know what
24 he was doing?

25 A Not at all.

Michael Gooding - Direct Examination In-Camera by Mr. Graham

1 Q Did he do it freely and voluntarily?

2 A He did, sir.

3 Q Was the verbal statement that he gave you prior to
4 the written statement on the 6th -- after you read him his
5 right -- was that discussion free and voluntary on his
6 part?

7 A It was as well.

8 Q At any time on the 6th, did you threaten him and
9 tell him -- any kind of threats to get him to speak with
10 you?

11 A No, sir. No, sir.

12 Q Did you threaten to lock up Shannon?

13 A No, sir.

14 Q Did you threaten to take away his child?

15 A No.

16 Q Did you make any promises to him?

17 A No, sir.

18 Q Any hope of reward if he provided a statement?

19 A No, sir.

20 Q Did he appear to be under the influence of alcohol
21 or drugs at this time?

22 A He did not.

23 Q So do you have an opinion as to whether the oral
24 and the written statement taken on April 6, 2013 was freely
25 and voluntarily given by Mr. Cook?

Michael Gooding - Cross-Examination by Ms. Fullwood

1 A I did, sir.

2 Q And what is that opinion?

3 A That it was.

4 Q Thank you, Sargent, please answer any questions Ms.
5 Fullwood has for you.

6 THE COURT: Thank you, Solicitor.

7 Ms. Fullwood?

8 MS. FULLWOOD: Thank you, Your Honor.

9 **CROSS-EXAMINATION IN-CAMERA**

10 BY MS. FULLWOOD:

11 Q Sargent Gooding, this interrogation wasn't recorded
12 in any manner either, was it?

13 A No, ma'am.

14 Q Okay. Now, at some point during this
15 interrogation, you began to interrogate, I mean confront,
16 Mr. Cook with the evidence that your staff had gathered; is
17 that correct?

18 A Yes, ma'am.

19 Q And then you also confronted him with the fact that
20 some kind of computer analysis was going to be able to show
21 that he was the killer; is that correct?

22 A Ma'am, I used an investigative technique where I
23 presented a document to Mr. Cook in an attempt to help to
24 get him to tell the truth, in which I said that we knew
25 that the killer of David was right-handed and that he was

Michael Gooding - Cross-Examination by Ms. Fullwood

1 right-handed and Richard Barnes was left-handed.

2 Q Okay. So in other words, that's a fancy way to say
3 you tricked him?

4 A No, ma'am, I used an investigative technique.

5 Q Well, then the technique was a trick, right? A
6 lie?

7 A Yes, ma'am.

8 Q All right?

9 MR. GRAHAM: Objection, Your Honor.

10 MS. FULLWOOD: Well...

11 THE COURT: Objection.

12 MR. GRAHAM: The characterization of it.

13 THE COURT: All right. Overruled.

14 MR. GRAHAM: He's answered, he says it's an
15 investigative technique.

16 MS. FULLWOOD: Then he said yes the technique was a
17 lie.

18 THE COURT: Well, I guess evasive -- if the
19 underlying fact is not the truth, I think she can ask that,
20 but there's a number of cases where that is not -- it is an
21 investigative technique and not improper. So you may ask
22 your question, Ms. Fullwood.

23 BY MS. FULLWOOD:

24 Q Okay. Did you show him stuff on the computer?

25 A No -- well, yes, ma'am. Whenever he was brought

Michael Gooding - Cross-Examination by Ms. Fullwood

1 from the detention center to the sheriff's department for
2 the interview, I showed him what we commonly refer to as a
3 booking data on the computer. On the computer; it
4 indicated that Richard Barnes was left-handed. Mr. Cook
5 asked me what the significance was, and I said, just
6 remember that he's left-handed.

7 Q Okay. Now, that booking data, was that genuine
8 booking data?

9 A It was.

10 Q Okay. All right. Now, you also showed him this
11 article at some point in time, correct?

12 A Yes, ma'am.

13 Q Okay.

14 MS. FULLWOOD: And, Your Honor, I -- I'd like this
15 marked -- I guess it would be Defense Exhibit 2 for
16 identification.

17 (Defendant's Exhibit Number 2 was marked for
18 identification.)

19 THE COURT: All right.

20 BY MS. FULLWOOD:

21 Q And could you read into the record the title of
22 this article?

23 A Yes, ma'am.

24 Q State's Exhibit -- I mean Defense Exhibit 2.

25 A Assessing the Involvement of Anatomical Structures

Michael Gooding - Cross-Examination by Ms. Fullwood

1 in Penetrating Trauma Probabilistically.

2 Q Okay. And could you read into the record the
3 author of that article?

4 A I can try, ma'am, but I may butcher it.

5 Q You might want to spell it?

6 A Okay. Would you like me to spell it ma'am?

7 THE COURT REPORTER: Please.

8 THE WITNESS: O-M-O-L-O-L-A is the first name, the
9 last name is O-G-U-M-Y-E-M-I.

10 BY MS. FULLWOOD:

11 Q And could you tell us the date of publication?

12 A April of 1977 -- excuse me April of 1997.

13 Q Okay. So that's -- this article was what, 13 years
14 old back in 2013? Well maybe more; 16 years old.

15 A Yes, ma'am, that sounds about correct.

16 Q Yeah, yeah, yeah, okay. Do you have any idea what
17 it was published in? If it was published at all?

18 A Ma'am, it was out of the Center for Human Modelling
19 and Simulation Department of Computer and Information
20 Science, University of Pennsylvania in Philadelphia. But I
21 don't specifically recall --

22 Q Do you have any connection with them?

23 A No, ma'am.

24 Q Okay. And has this article that's full of
25 mathematical equations and calculation of probabilities and

Michael Gooding - Cross-Examination by Ms. Fullwood

1 anatomical diagrams and whatnot, right?

2 A Yes, ma'am.

3 Q Do you have any idea what it's about? I mean, do
4 you understand the math and all that stuff in there?

5 A By looking at the abstract, because it's generally
6 a review of the article, the best I can tell is what the
7 abstract says is the study is to determine the type and
8 magnitude of injuries involved in penetrating trauma from
9 gunshot and stab wounds, a working knowledge of the
10 relationship between human anatomy, physiology, and
11 physical manifestations acquired. That's about all I can
12 understand from the study is you have to have an
13 understanding of physiology and anatomy to understand the
14 magnitude and the type of injuries in penetrating trauma.
15 That's about what I get from it.

16 Q Okay. That's more than I do.

17 And what did you represent to Mr. Cook that this
18 article or the science underlying this article demonstrate?

19 A Well, I used that article as well as a physical
20 demonstration.

21 Q Okay. Well, first of all, tell us what you used --
22 how you used the article.

23 A Well, I started with the physical demonstration.

24 Q Okay. Well, then, start there.

25 A Okay. I said that we knew that the person that had

Michael Gooding - Cross-Examination by Ms. Fullwood

1 killed David had been right-handed based on the angle of
2 the stab wounds in the body that had been recovered. I
3 said that a right-handed person and a left-handed person do
4 things differently. For example -- and I used the example
5 from a football or a baseball or something like that.

6 Q Uh-huh.

7 A I said when a right-handed person throws an object,
8 the arm comes across the body in such a way at a particular
9 angle. That's different than a left-handed person. When a
10 left-handed person would throw a ball, the arm would move
11 across the body in a completely different way. Based on
12 the movement through space, the angles in the wounds would
13 be different. That a right-handed person and a left-handed
14 person would have different characteristics. And I said
15 this study was --

16 Q What was the source of that information?

17 A Common sense, ma'am.

18 Q Okay. So you just sort of made it up?

19 A No, ma'am. A person throws a ball right-handed
20 differently than a person throws a ball left-handed.

21 Q And of course, there's all sorts of variations in
22 how an arm might could position in the throwing of the
23 ball?

24 A I would have heard about that.

25 Q Okay. So proceed.

Michael Gooding - Cross-Examination by Ms. Fullwood

1 A And then I said that this study would report that,
2 that there's a difference in angles and trajectories from a
3 right-handed person to a left-handed person.

4 Q All right. And so, that's a demonstration?

5 A When I talked about moving my hand across the body
6 and demonstrated the right motion.

7 Q So that was you using your arm and hand to
8 demonstrate?

9 A Yes, ma'am, yes, ma'am. I just wanted to make sure
10 I was clear.

11 Q All right. And then how did you use Defense
12 Exhibit 2?

13 A Ma'am, the exhibit was on the table. After I told
14 Mr. Cook that that's what it said or that's what I believed
15 it to say. He picked it up, he looked at it for a moment.
16 He flipped through the pages. He set it down. He reached
17 across the table and grabbed a statement form and he began
18 to write.

19 Q Well, how did that article come to be on the table?

20 A I'm sorry?

21 Q How did the article come to be on the table?

22 A Oh, I placed it there.

23 Q As part of the interrogation techniques you were
24 using?

25 A Yes, ma'am.

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 Q Okay.

2 MS. FULLWOOD: No further questions.

3 THE COURT: Redirect, Solicitor?

4 MR. GRAHAM: No, sir, Your Honor.

5 THE COURT: Thank you, thank you, sir. You may
6 step down.

7 THE WITNESS: Thank you, Your Honor.

8 MR. CASKEY: Your Honor, the State would call Marty
9 Longshore.

10 MARTY LONGSHORE,

11 having been duly sworn, testified as follows:

12 THE COURT: All right. You can come around, you're
13 still under oath.

14 THE WITNESS: Yes, sir.

15 **DIRECT EXAMINATION IN-CAMERA**

16 **BY MR. CASKEY:**

17 Q Detective Longshore, did you have an opportunity to
18 interview the defendant, Worth Cook on April 6, 2013?

19 A Yes, sir.

20 Q Where did that interview take place?

21 A The sheriff's department interview room.

22 Q Who was present for that interview?

23 A Detective Gooding and I.

24 Q What was the origin of that meeting? Why did that
25 interview take place?

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 A Mr. Cook indicated in his last statement to us that
2 he wished to speak to us the following day.

3 Q And that was the statement on April 5th?

4 A Yes, sir.

5 Q If you would, please, take a look at what's been
6 marked for ID as State's 26 and State's 25. Do you
7 recognize those documents?

8 A Yes, sir.

9 Q What do those documents appear to be?

10 A The first one is an Advisement of Rights Form. The
11 second one is a Suspect Statement Form.

12 Q Are those documents dated?

13 A They are.

14 Q What are they dated as?

15 A 4/6 of 2013.

16 Q Okay. During the interview of Mr. Cook on April
17 6th, what, if anything, was used to advise the defendant of
18 his rights?

19 A Besides the Advisement of Rights Form, it was also
20 the Suspect Statement Form.

21 Q Okay. With regards to the advise of rights form,
22 did you follow the same procedure or was the same procedure
23 followed that you testified to just earlier?

24 A Yes, sir.

25 Q Was each of the rights read out loud to him?

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 A Yes, sir.

2 Q Did the defendant indicate that he understood those
3 rights?

4 A Yes, sir, by initialling.

5 Q And is each of those lines on that form initialled?

6 A Yes, sir.

7 Q Did you observe the defendant to initial each of
8 those lines?

9 A Yes, sir.

10 Q What time was that done? What time was it begun?

11 A 10:49.

12 Q Ten in the morning?

13 A a.m., yes, sir.

14 Q And what time did it finish? The Advise of Rights
15 Form?

16 A Advise of Rights Form took just a minute to do.
17 Probably within minutes; 10:50 hours, a minute later.

18 Q Did the defendant indicate that he wished to speak
19 with you?

20 A Yes, sir.

21 Q How did he indicate to you that he wished to speak?

22 A After the Advisement of Rights Form was completed,
23 the next form we used was a statement form which we also
24 went through and at the end of that, he indicated he wished
25 to speak to us.

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 Q Okay. On the Advise of Rights Form, there appears
2 to be some signatures at the bottom of the form. Do you
3 recognize those?

4 A Yes, sir.

5 Q What do those appear to be?

6 A The first one is the signature of Detective Gooding
7 as a witness and the second one is my signature as a
8 witness.

9 Q Do you have an opinion as to whether the defendant
10 understood his rights?

11 A I believe he did, yes, sir.

12 Q Do you have opinion as to whether the defendant
13 wished to waive his rights and speak with you?

14 A Yes, sir.

15 Q Did you promise him anything?

16 A No, sir.

17 Q Did you threaten him with anything?

18 A No.

19 Q Did you threaten a third party with anything?

20 A No, sir.

21 Q Did the defendant, in fact, speak with you after
22 the Advise of Rights Form was executed?

23 A Yes, sir.

24 Q Okay. During that time -- well, when he began
25 speaking with you was it verbal at first?

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

1 A Yes, sir.

2 Q At any point did he indicate he wished to invoke
3 his right remain silent?

4 A No, sir.

5 Q Did he indicate to you that he wished to invoke his
6 right to an attorney?

7 A No, sir.

8 Q Okay. The second form, when and why was that used?

9 A It was used before the written statement. A
10 portion was to be completed by Mr. Cook.

11 Q At what time is that form started?

12 A Eleven o'clock a.m.

13 Q On what date?

14 A The 6th of April, 2013.

15 Q Were you present when this form was completed?

16 A Yes, sir.

17 Q What, if any advisement of rights were made with
18 regard to this second form to the defendant?

19 A It's basically the same as the advise of rights.
20 He was read his Miranda Rights that's printed on this
21 Lexington County form and initialled beside each one.

22 Q Did you understand that those initials did indicate
23 that the defendant did, in fact, understand those rights?

24 A Yes, sir.

25 Q Okay. And is it your understanding that the

Marty Longshore - Direct Examination In-Camera by Mr. Caskey

- 1 defendant did indicate that he wished to waive those
2 rights?
- 3 A Yes, sir.
- 4 Q After waiving those rights, did the defendant
5 provide a statement?
- 6 A Yes, sir.
- 7 Q Whose words appear in the body of this form?
- 8 A The body would be Worth Cook's handwriting.
- 9 Q What time did the interview conclude?
- 10 A Interview was concluded at 12:31 hours.
- 11 Q Would it be fair to characterize that interview as
12 having lasted approximately 2-and-a-half hours?
- 13 A Yes, sir.
- 14 Q Were there any breaks that were taken during this
15 interview period?
- 16 A I believe there were.
- 17 Q With regard to the defendant's written statement,
18 were any promises made in exchange for his written
19 statement?
- 20 A No, sir.
- 21 Q Any hope of reward held out?
- 22 A No, sir.
- 23 Q And any threats to the defendant?
- 24 A No, sir.
- 25 Q Threats with regard to any third parties?

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 A No, sir.

2 Q Did you coerce him in any way?

3 A No, sir.

4 Q Did anyone else coerce him in any way that you're
5 aware of?

6 A No, sir.

7 Q At any point did the defendant reference any
8 earlier threats made to him?

9 A No, sir.

10 Q Did he reference any earlier invocation of his
11 rights?

12 A No, sir.

13 Q Thank you, Detective Longshore. Please answer any
14 questions the defense may have for you.

15 THE COURT: Thank you, Solicitor. Ms. Fullwood?

16 MS. FULLWOOD: Thank you, Your Honor.

17 **CROSS-EXAMINATION IN-CAMERA**

18 BY MS. FULLWOOD:

19 Q Mr. Longshore, do you remember Detective Gooding
20 showing Mr. Cook basically Mr. Richard Barnes booking
21 information during the course of this interrogation?

22 A I don't remember if he showed it to him or if he
23 referred to it.

24 Q Do you remember Detective Gooding demonstrating for
25 Mr. Cook with his right -- his being Mr. Gooding's -- right

Marty Longshore - Cross-Examination In-Camera by Ms. Fullwood

1 and left arms the way right-handed and left-handed people
2 would move their arms?

3 A I believe that was discussed, yes, ma'am.

4 Q Okay. And I'm handing you Defense Exhibit 2. I
5 want to ask you if you recognize this.

6 A Yes, ma'am.

7 Q Okay. What is that?

8 A It's a study that Detective Gooding researched and
9 pulled offline.

10 Q Okay. And how, if at all, was that used during the
11 course of interrogation?

12 A This was explained to Mr. Cook about the position
13 of left-handed versus right-handed, I guess, stab wounds.

14 Q All right. Have you ever read that article?

15 A No, ma'am. I haven't.

16 Q Okay. So you don't know what's in it?

17 A No, ma'am.

18 Q Okay.

19 A Not officially.

20 Q Okay.

21 MS. FULLWOOD: That's all the questions I have,
22 Your Honor.

23 THE COURT: Redirect?

24 MR. CASKEY: None from the State, Your Honor.

25 THE COURT: Thank you Detective Longshore.

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 You may call your next witness.

2 MR. GRAHAM: Nothing else on this matter, Your
3 Honor.

4 THE COURT: All right. Ms. Fullwood?

5 MS. FULLWOOD: We'd call -- the defense calls Worth
6 Cook.

7 THE COURT: All right. Mr. Cook, come around,
8 please, you're still under oath.

9 **DIRECT EXAMINATION IN-CAMERA**

10 BY MS. FULLWOOD:

11 Q Mr. Cook, where did you spend the night of April 5,
12 2013?

13 A In a room, a cell with two other men with -- you
14 don't get no mat, no blankets or sheets, they give you a
15 little green thing to kind of lay on that's maybe this
16 thick.

17 Q Okay. The court reporter can't write down this
18 thick.

19 A Okay. It's quarter of an inch --

20 Q Okay.

21 A -- you know, you got no clothes, no boxers, socks
22 or t-shirt. You got this little Velcro vest thing on that
23 don't stay on, you kind of have to hold it to yourself.
24 I'm sleeping in the floor, I've got two other cellmates.
25 One of them is snoring real loud and I didn't get much

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 sleep any way. I was really upset, you know. What bit
2 that I did sleep was -- really wasn't that good.

3 Q Okay. So do you remember talking to Sargent
4 Gooding and Detective Longshore on April 6th?

5 A Yes, ma'am.

6 Q Okay. And did you start talking to them that
7 morning?

8 A Yes, ma'am.

9 Q Okay. And could you tell us what happened. Did
10 they advise you of your rights?

11 A Yes, ma'am.

12 Q Okay. Did you request a lawyer at that time or
13 tell them that you didn't want to talk to them?

14 A No, ma'am.

15 Q Why?

16 A For the same reason I had cooperated the day
17 before.

18 Q Okay.

19 A I felt like cooperating with them -- the night
20 before when I asked to -- on the night of the 5th when I
21 verbally said before I wrote at the end of that statement
22 and I was ready to go the sleep, you know, I had been
23 laying my head down, they got aggravated and informed me
24 that I would be dealing with two different -- some
25 different investigators the next day and that scared me

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 because I was -- you know, under the impression that
2 working with Gooding particularly, you know, because he was
3 the one that made a threat was what was keeping Shannon out
4 of trouble. Wasn't nothing going to happen that way. And
5 the fact that they were talking about other detectives were
6 going to be coming the next day was probably because they
7 were upset with, you know, my actions.

8 Q So what did you think would happen if you refused
9 to talk with them or asked for a lawyer?

10 A That -- you know, there's a possibility that, you
11 know, Shannon could be charged or that it would come up of
12 me not cooperating with them.

13 Q Okay. Did Sargent Gooding show you anything on the
14 computer?

15 A Yes, ma'am. He showed me a -- it would have a
16 picture of Rick Barnes and there was several other
17 informations but he pointed out that Rick was left-handed.

18 Q Okay. Did he use his arms and tell you anything
19 about the way left-handed people inflicted injury versus
20 right-handed people inflicting an injury?

21 A When we got to the interrogation room, he had that
22 paperwork and I -- from what I remember it was a -- it was
23 a bigger stack of papers than that. You know, it was
24 claiming the same thing that it was -- he said he got it
25 from the autopsy people that -- and it was information that

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 indicated how somebody would do that, you know a
2 left-handed or right-handed person and angles and stuff and
3 he indicated in the paper -- the paperwork indicated that a
4 right-handed person had killed David Diblasi.

5 Q They told you that that article proved that you
6 were the killer?

7 A They told me that article proved that a
8 right-handed person did it.

9 Q Okay. Okay. And showing you the thing on the
10 computer about Rick Barnes, doing that demonstration and
11 showing you that article, what effect, if any, did it have
12 on you and you exercising your rights and your willingness
13 or what you felt about making a statement that day?

14 A I felt like that -- you know, they would bring all
15 this stuff together and that I was going to have to just --
16 go ahead and tell them, you know, tell them that I killed
17 him that matched up with what they wanted to hear.

18 Q Okay. So how did you know what they wanted to
19 hear?

20 A As -- you know, they were telling me what evidence
21 they got, you know, and stuff like that. You know, I
22 took -- I took a request form -- I was really tired, you
23 know, so -- I'm depressed too because of all those issues,
24 you know, with those charge --

25 Q Now, are we talking still about April 6th?

Worth E. Cook - Direct Examination In-Camera by Ms. Fullwood

1 A Yes, ma'am. That -- from the night I spent in the
2 torture thing and dealing with everything and kind of
3 having to face up with everything in my mind has me really
4 depressed, I didn't sleep much, so I'm tired, I got my head
5 down on the table like this, across my arm on the table.
6 And I take a form and I start writing and I'd write --
7 they'd take -- you know, I would try to go along with some
8 of the details from the day before and they would take the
9 form as I was writing, would read over it, would make
10 comments, you know, and they -- they re-informed me that
11 the autopsy would show exactly, you know, within the hour
12 or whatever that Diblasi died and stuff like that.

13 Q Okay. So April 4th, did you request a lawyer?

14 A April 4?

15 Q Yeah.

16 A Yes, ma'am.

17 Q After what happened did you feel that it was in
18 your best interest to continue making that request or did
19 you feel compelled to submit to what they want?

20 A I felt that I needed to submit to what they wanted
21 to be in compliance with them.

22 Q And if not, what?

23 A That Shannon would be charged, you know, in
24 connection with things because of the evidence at the house
25 and we would lose custody of our child.

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 MS. FULLWOOD: No further questions.

2 THE COURT: All right. Solicitor?

3 CROSS-EXAMINATION IN-CAMERA

4 BY MR. CASKEY:

5 Q Mr. Cook, on the morning of -- by the morning of
6 April 6th, how many times had you been advised of our
7 Miranda Rights.

8 A We had several, several times.

9 Q Had you been advised of your Miranda Rights at Doe
10 Trail on April 3rd?

11 A I don't believe I was advised at Doe Trail. I
12 think we discussed that and I wasn't under arrest.

13 Q Okay. Do you remember April 3rd at Lexington
14 County Detention Center, were you advised of your rights
15 then?

16 A Yes, sir.

17 Q And then on April 5th, with two other detectives,
18 Hill, I believe it was, on the form you provided Defense
19 Exhibit Number 1, you were advised of your rights then?

20 A Yes.

21 Q And you were advised of your rights April 4th when
22 you spoke with Gooding and Longshore?

23 A Yes, I was advised of my rights.

24 Q Twice according to your testimony?

25 A Yes, sir.

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 Q Okay. And then on the 5th, you were advised of
2 your rights?

3 A Yes, sir.

4 Q And on the 6th you were advised of your rights?

5 A Yes, sir.

6 Q And on each occasion you waived those rights?

7 A Yes, sir. Under certain compelling situations,
8 yeah.

9 Q A minute ago, you told your lawyer that they kept
10 telling me everything they got. Correct me if I'm wrong,
11 but I believe that was in reference to the evidence that
12 was presented to you by Detectives Gooding and Longshore?

13 A Yes, sir.

14 Q They were telling you the evidence they got?

15 A Yes, sir, and showed me pictures and stuff as well.

16 Q Okay. Did you know that there was blood found in
17 your house?

18 A At that point, yes, sir.

19 Q Did you know that David Diblasi was buried in your
20 backyard?

21 A Yes, sir, they showed me a photograph.

22 Q Did you know it independent of the photograph?

23 A Yes, sir.

24 Q You knew that David Diblasi had been cut, didn't
25 you?

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 A Yes, sir.

2 Q You knew that David Diblasi had been stabbed,
3 didn't you?

4 A Yes, sir.

5 Q You knew that David Diblasi had been stabbed in the
6 eye, didn't you?

7 A Yes, sir.

8 Q You knew that David Diblasi was stabbed in the eye
9 because you had done it, right?

10 MS. FULLWOOD: Your Honor, I'm going to object.

11 I'm not sure how this ties into voluntariness.

12 THE COURT: Solicitor?

13 MR. CASKEY: Your Honor, I believe the defense
14 opened the door to this line of questioning when she
15 elicited testimony from the defendant about the evidence
16 that he was presented with. In fact, he wasn't presented
17 with this evidence; he knew this evidence.

18 THE COURT: The issue in Jackson versus Denno is
19 purely voluntary.

20 MR. CASKEY: I understand that, Your Honor -- and I
21 certainly don't mean to cut you off, but to the extent that
22 defense is presenting presentation of evidence by law
23 enforcement to the defendant as a justification or reason
24 for his statements, I think it would be proper to elicit
25 testimony from the defendant as to what evidence, in fact,

Worth E. Cook - Cross-Examination In-Camera by Mr. Caskey

1 was new to him or otherwise compelled him to make this
2 statement and what way was not voluntary or willing as
3 they're contending it is.

4 THE COURT: If I'm tracking, there are dots to
5 connect them; is that the police confronted the defendant
6 with information that would be inculpatory, showing that --
7 showing the defendant the police had evidence against him.

8 MR. CASKEY: I certainly don't want to put words --

9 THE COURT: Let me finish, please.

10 MR. CASKEY: Yes, sir.

11 THE COURT: Then the defendant not only is
12 confronted with that, but he knows a whole lot more than
13 that; therefore, those facts that the police presented
14 would not render the statement involuntary because the
15 defendant had a greater wealth of knowledge? Is that -- am
16 I tracking that right? I don't know if I am or not.

17 MR. CASKEY: Yes, Your Honor, only that my line of
18 questioning is intended to address the issues that the
19 defense has raised as to potential sources of
20 involuntariness. The effect of the sleep, I believe. The
21 effect of the officers presenting evidence to the defendant
22 and the effect of the article in question.

23 THE COURT: I think you can ask him did you know A,
24 B, C, D, and E, but I think the ultimate issue, did you do
25 it, I don't think that goes to voluntariness.

1 MR. CASKEY: Yes, sir.

2 THE COURT: Okay. All right. So you may ask your
3 next question.

4 MR. CASKEY: Thank you.

5 Beg the Court's indulgence just one second.

6 (There was a pause in the proceedings.)

7 MR. CASKEY: I don't have any further questions,
8 Your Honor.

9 THE COURT: Redirect, Ms. Fullwood?

10 MS. FULLWOOD: No, Your Honor.

11 THE COURT: Thank you. Thank you, Mr. Cook.

12 Any other witnesses, Ms. Fullwood?

13 MS. FULLWOOD: No, Your Honor.

14 THE COURT: Any witnesses in reply, Solicitor.

15 MR. GRAHAM: No, Your Honor.

16 THE COURT: Thank you.

17 All right. Solicitor?

18 MR. GRAHAM: The argument would be the same as an
19 other statements, Your Honor, he was again advised of his
20 rights, he waived those rights and provided them two
21 different times. You've got two different witnesses both
22 Detective Gooding and Detective Longshore indicated
23 Mr. Cook was read his rights. He understood his rights,
24 he'd waived his rights, he spoke to them voluntarily and
25 clearly they said no promises or threats were made and that

1 he was not under the influence of drugs or alcohol, that he
2 never invoked his right to an attorney and he never asked
3 as they questioned him.

4 THE COURT: Thank you, Solicitor.

5 Ms. Fullwood?

6 MS. FULLWOOD: Your Honor, my argument is basically
7 the same too as the April 5 statement. In addition to
8 that, here, the police use a ruse of trickery in part to
9 get him to give the statement. They gave a demonstration
10 that was based on common sense rather than anything was
11 found to be true. They showed him the booking sheet to
12 demonstrate certain information; and they showed him what
13 to me is completely impenetrable and -- an article that is
14 something you can't understand it, to show that -- to
15 show -- to try to convince him that they could prove
16 scientifically that he was guilty.

17 Now, I understand that the law allows police to use
18 misrepresentations to a certain extent while interrogating
19 suspects; however, in this case, I think it is just one
20 more fact to add to the totality of the circumstances that
21 would render this statement involuntary and obtained in
22 violation of his Fifth and Fourteenth Amendment Rights and
23 comparable conditions of the State constitution, so we
24 would ask Your Honor to suppress it.

25 THE COURT: All right. Could I see those last

1 exhibits?

2 (The exhibits were passed to the Court.)

3 THE COURT: Thank you, Ms. Fullwood.

4 (There was a pause in the proceedings.)

5 THE COURT: All right. On April 5th, I believe the
6 testimony is there was about 5 hours that Mr. Cook spent
7 with officers Gooding and Longshore ending at 9:56 p.m.
8 Thereafter, the next day, the interview did not start until
9 ten o'clock -- eleven o'clock in the morning, which would
10 have been some 13 hours later. There's no indication as
11 far as his detention that that would be any different than
12 those other inmates that were in that same room with him
13 and that would solely be a function of the detention center
14 and not of the officers themselves that did the interview.
15 There's no indication whatsoever that that was somehow set
16 up by officers Gooding or Longshore as far as the details
17 of his overnight detention.

18 Additionally, as I say it was some 12, 13 hours
19 later he was advised of his rights. He initials all those
20 rights. He signs -- he signs his waiver. Further the
21 Lexington County Sheriff's Department statement form, again
22 at the top he's given his rights again. He waives those
23 rights each and every page of the statement given, being
24 State's Exhibit 26 for identification as signed by the
25 defendant.

1 I do look at the totality of the circumstances as I
2 did with all the statements and going back to the very
3 first day of 4/3/13, now being 4/6/13. And Ms. Fullwood
4 indicates there's an additional totality or additional
5 factors that should be considered, a ruse or trickery to
6 extract the statement, a demonstration, booking sheet, an
7 article convincing him in her words that scientifically
8 they could prove his guilt.

9 As our courts have said for many years, feel
10 compelled to confess to the police purely of their own
11 accord without any questioning at all. Thus it can almost
12 always be said that the interrogation caused the
13 confession. It is generally recognized that the police may
14 use some psychological tactics in eliciting a statement
15 from a suspect. These ploys may play a part in the
16 suspects decision to confess, but so long as that decision
17 is the product of the suspects own balancing of competing
18 consideration, the confession is voluntary.

19 When you look at the history of both this Court,
20 the South Carolina and the United States Supreme Court have
21 recognized that misrepresentation of evidence by the
22 police, although a relevant factor do not render an
23 otherwise voluntary statement admissible. The pertinent
24 inquiry is as always whether the defendant's will was
25 overborne.

1 Citing an entire line of cases that
2 misrepresentations -- if these are characterized as
3 misrepresentations, although relevant, do not render an
4 otherwise voluntary statement inadmissible citing Frazier
5 versus Cupp, confession voluntary despite police
6 misrepresentation that a suspect had confessed, State
7 versus Raybon, confession voluntary despite police
8 misrepresentation -- misrepresenting the evidence that had
9 been accumulated.

10 If you remember, a defendant's will is not
11 overborne when police misrepresent the facts leading him to
12 believe that information of his guilt is actually greater
13 than it is. Defendant's will was not overborne when police
14 misrepresented the evidence convincing him to confess.
15 That's Ledbetter versus Edwards. State versus Vondolyn,
16 record failed to establish the defendant's will was
17 overborne by police misrepresentation of evidence rendering
18 his confession involuntary.

19 I find that based on the totality of the
20 circumstances that this statement was freely and
21 voluntarily given after full advise of rights and is,
22 therefore, admissible.

23 All right. Next, Solicitor?

24 MR. GRAHAM: Your Honor, that is all the statements
25 as far as testimony. I believe that the written statement,

1 the May 29, 2013 statement we did this morning, it was my
2 understanding that a ruling was held off on that until you
3 had heard the 5th and 6th.

4 THE COURT: All right. Anything additional you
5 want is add as far as the 5/29/13 statement, Ms. Fullwood?

6 MS. FULLWOOD: I would simply add that the
7 testimony we presented this morning shows that the effect
8 of denying him his right to counsel and threatening him on
9 the 4th had a carryover effect all the way over to May
10 29th. And otherwise the argument is the same.

11 THE COURT: All right. And I would rule that that
12 statement is admissible, 5/29/13, based on the totality of
13 the circumstances as I find by a preponderance of the
14 evidence no threats, no coercion was made to the defendant
15 and it was not -- by a preponderance of the evidence there
16 was no invocation of his right to remain silent or request
17 for an attorney, right to an attorney.

18 All right, anything further, Solicitor.

19 MR. GRAHAM: No, Your Honor, that's all for this
20 evening.

21 THE COURT: All right. Anything further Ms.
22 Fullwood?

23 MS. FULLWOOD: No, Your Honor.

24 THE COURT: And y'all are straight on the records
25 that will come in tomorrow? Mr. Phipps?

1 MR. GRAHAM: I believe that we are or we will be,
2 Your Honor.

3 THE COURT: All right. Thank you very much, court
4 will be in recess until 9:30.

5 (Court was in recess until the following day:)

6 WEDNESDAY, MARCH 2, 2016

7 THE COURT: Anything from the State before we
8 bring in our jury, Solicitor?

9 MR. GRAHAM: Very quickly, Your Honor. The
10 evidence custodian for the sheriff's department -- the next
11 witness will be introducing evidence that was collected at
12 the crime scene. I know there's a sequestration order, but
13 to make things easier, I need the evidence custodian in
14 here with the evidence to be able to hand it up to the
15 witness testifying and I didn't know whether that was a
16 sequestration issue or not.

17 MS. FULLWOOD: We have no problem with that, Your
18 Honor.

19 THE COURT: All right. Thank you.
20 Anything else, Solicitor?

21 MR. GRAHAM: No, Your Honor.

22 THE COURT: Anything from the defense before we
23 bring in our jury?

24 MS. FULLWOOD: Nothing, Your Honor.

25 THE COURT: Thank you.

Michael Phipps - Direct Examination by Mr. Graham

1 (The jury entered the courtroom at 9:37 a.m.)

2 THE COURT: Good morning. Welcome back. We're
3 continuing the trial of the case by the presentation of
4 evidence and testimony by the State in its case in chief.
5 If you would please continue to give the parties your
6 complete and undivided attention.

7 Solicitor, you may call your next witness.

8 MR. GRAHAM: Thank you, Your Honor, the State calls
9 Mike Phipps.

10 THE COURT: Thank you. If you would come around
11 and be sworn for us, please.

12 MICHAEL PHIPPS,
13 having been duly sworn, testified as follows:

14 THE CLERK: Have a seat, sir. Once you're seated,
15 state your full name, spelling your last, please.

16 THE WITNESS: Michael Stuart Phipps, P-H-I-P-P-S.

17 **DIRECT EXAMINATION**

18 **BY MR. GRAHAM:**

19 Q Mr. Phipps, where are you employed and what do you
20 do?

21 A With the Lexington County Sheriff's Department,
22 within our Forensic Services Unit. Previously I was a
23 crime scene investigator. Currently, I'm working more with
24 digital evidence.

25 Q So when you say in the forensic unit, what does

Michael Phipps - Direct Examination by Mr. Graham

1 that mean?

2 A Our forensic services comprises our drug lab, the
3 evidence unit, and our crime scene unit. Previously, or
4 approximately the last 12 years, I've been working as a
5 crime scene officer. More recently, my job duties have
6 migrated over to doing exams on cell phones, computers,
7 that type of thing.

8 Q How long have you been in law enforcement?

9 A 17 years.

10 Q Back in April of -- excuse me back in April 2013,
11 what were your job responsibilities and duties, then?

12 A I was a crime scene investigator at that point.

13 Q And were you involved with the execution of a
14 search warrant at [REDACTED]?

15 A Yes, sir, I was.

16 Q Is that location in Lexington County?

17 A It is.

18 Q Do you remember that date that that search warrant
19 was first issued -- executed?

20 A April 4th is when it started.

21 Q So tell me how -- when you get a search warrant,
22 what's the first thing you do?

23 A You review the search warrant, read the affidavit,
24 make sure all signatures are present. The affidavit
25 portion tells us why we're there and then there's a field

Michael Phipps - Direct Examination by Mr. Graham

1 for what we're looking for. So that informs us as to
2 exactly what we're looking at at that location.

3 Q Let me show you what's already in evidence as
4 State's 13 and 14 and ask if you recognize those.

5 A Yes, sir, this is the location at [REDACTED]

6 [REDACTED]

7 Q And the photographs that we're looking at, did you
8 take those photographs?

9 A I did.

10 Q So prior to the execution of the search warrant, is
11 how the residence looked when you first came up?

12 A Yes, sir, we arrived late afternoon time period and
13 this was prior to actually having the warrant in hand, so
14 we were standing by. I was dispatched with the intention
15 of conducting a search warrant, but the search warrant
16 hadn't been delivered at that point.

17 Q State's 14, what does that show?

18 A It's a close up of the lock securing the gate at

19 [REDACTED].

20 Q Let me show you another set -- to get into the
21 residence, what did you do have to do.

22 A We had the cut that chain.

23 Q Let me show you a stack of photographs that have
24 each been individually marked and ask if you recognize --

25 THE COURT: Cut the lights back on for us, please.

Michael Phipps - Direct Examination by Mr. Graham

1 BY MR. GRAHAM:

2 Q See if you recognize those.

3 A These are all photographs that I took at [REDACTED]

4 [REDACTED].

5 Q What's the first thing you do or did in general
6 when you're executing a search warrant.

7 A Once a search warrant's in hand, we start -- well,
8 in this case since we're outside of the property, I took --
9 initially took a few photos. Once the search warrant was
10 in hand, we cut the lock. We made entry into the residence
11 and started taking general photographs. Just overall
12 photographs of the area.

13 Q The photographs that I showed you, do those fairly
14 and accurately represent what you saw and what you detailed
15 photographically on April 4, 2013 at [REDACTED]?

16 A Yes, sir, they do.

17 MR. GRAHAM: Your Honor, the State would offer all
18 those photographs into evidence at this time.

19 MS. HENRY: No objection, Your Honor.

20 THE COURT: What are the numbers.

21 MR. GRAHAM: They are 27, 28 -- should be 27
22 through 38, Your Honor.

23 THE COURT: 27 through 38?

24 MR. GRAHAM: Yes, sir.

25 THE COURT: All right. 27 through 38's in evidence

Michael Phipps - Direct Examination by Mr. Graham

1 without objection.

2 (State's Exhibit Number 27, Number 28, Number 29,
3 Number 30, Number 31, Number 32, Number 33, Number 34,
4 Number 35, Number 36, Number 37, Number 38 was entered into
5 evidence.)

6 BY MR. GRAHAM:

7 Q State's Number 27. What do we see there?

8 A That would be the main entrance to the residence.
9 That location was an unusual structure in that it had, I
10 guess, what you would consider a traditional mobile home
11 with an addition built onto the other side, the side
12 opposite from this entrance. But this was an entrance that
13 led into the kitchen.

14 Q Looking back at State's 13, the entrance we just
15 looked at, is that what's depicted there, the front of the
16 house?

17 A Yes, sir, there's a small covered porch there.

18 Q State's Number 28, let me show you that one. What
19 do we see there?

20 A The photo's a little dark, but it's the perspective
21 from standing in the entryway and looking into the kitchen.

22 MR. GRAHAM: Your Honor, if I can show the jury
23 that?

24 THE COURT: Of course.

25 BY MR. GRAHAM:

Michael Phipps - Direct Examination by Mr. Graham

1 Q Is there a method for how you take your photographs
2 when you're coming into a residence?

3 A Usually we just methodically as we enter the
4 residence start taking photos, different angles as we
5 progress throughout the building.

6 Q What do you -- what does this depict as far as the
7 condition of the floor as you're coming into the residence
8 into the kitchen?

9 A There was an area there where it looked like
10 flooring was in the process of being installed, but it was
11 only partially laid down. There was also a pile to the
12 left there that appeared to be just random items piled up
13 with -- there was a lot of flour busted open and strewn
14 about over that area.

15 Q State's Number 29, what do we see there?

16 A This is -- if you'd step just a few more feet into
17 the residence and turn to the left, again, you see the
18 separation where there's flooring and an area that isn't
19 covered yet. It's looking towards the direction of a
20 little pantry. You can see the items piled up off to the
21 left there and you can see the pantry doors.

22 Q There's a laser pointer up there on your right if
23 that would help you.

24 A This would be the pantry and these are the items
25 that are just piled into the corner.

Michael Phipps - Direct Examination by Mr. Graham

1 Q The item at the bottom on the floor of the pantry,
2 what is that item?

3 A This item right here appeared to be an unused crock
4 pot, slow cooker type device that still had part of the
5 wrapping pulled away and off to the side of it.

6 Q Let me show you State's Number 30 and ask if you
7 recognize that. Is that the item you're discussing?

8 A Yes, sir, that's a little bit closer view. It's a
9 little dark in that image.

10 Q State's Number 31 -- well, looking at State's
11 Number 30, what is that right there?

12 A That's a label, manufacture's label, and barcode on
13 a plastic, clear plastic wrap that had been around that
14 cooker.

15 Q Let me show you State's 31. Is that a close up of
16 that area?

17 A Yes, sir, it is.

18 Q And are you able to identify any words or pricing
19 or anything from that?

20 A Yes, sir, I believe I can.

21 Q What are you able to see from that?

22 A There's an area, on this particular print it's a
23 little difficult to see, but on the far left, starting at
24 the top, it says slow cooker.

25 Q Moving on to two other photographs that are already

Michael Phipps - Direct Examination by Mr. Graham

1 in evidence, let me ask if you recognize these and did you
2 take these as well. That's State's Number 15.

3 A Yes, sir, I took that.

4 Q What does that show and what part of the house are
5 we at now?

6 A That's -- if you had stepped through the kitchen,
7 the very next room -- it's not actually partitioned off,
8 but the very next area would be a den area. And that's
9 still looking down the hallway at the far end into the
10 master bedroom.

11 Q State's Number 16, do you recognize that one as
12 well?

13 A Yes, sir.

14 Q And what's -- what's the perspective of that?

15 A That's the reverse perspective from what we just
16 saw. If you'd walked down to the door to the master
17 bedroom and turned around, you're looking back at the
18 kitchen. The main entrance would be to the right of that
19 refrigerator.

20 Q State's Number 32. What does that show?

21 A That would be the left or the corner of the den.
22 It would be on the side facing the roadway, so standing in
23 the kitchen, it would be that left side of the...

24 Q State's 33?

25 A This is standing roughly towards the middle of the

Michael Phipps - Direct Examination by Mr. Graham

1 den looking towards the master bedroom there on the right
2 side.

3 Q Where -- when you said looking towards the master
4 bedroom, can you indicate where that is with the laser
5 pointer?

6 A (Indicating.) That's the door into the master
7 bedroom right there.

8 Q State's Number 34. What does that show us?

9 A That's the closet area. If you stepped into the
10 master bedrooms or diagonally across the room, there's a
11 closet at that side area.

12 Q And what type of items are we looking at there and
13 there?

14 A They're items -- newly purchased items for baby
15 supplies.

16 Q Looking back at State's 33, you had described the
17 structure. It is a single structure or how would you
18 describe it?

19 A It has a -- an unusual addition to the backside.
20 It's more of a covered, un-air-conditioned, unheated area
21 to the back that's been added onto it.

22 Q Where the laser pointer is there, what is that area
23 right there?

24 A That's a door that leads into that unfinished area.

25 Q I'm showing you now State's 35. Do you recognize

Michael Phipps - Direct Examination by Mr. Graham

1 that?

2 A Yes, sir, that's that door into that unfinished
3 area. It's got just a -- it had a clasp-type lock with a
4 pin or a nail through it to keep it shut.

5 Q State's Number 36. What are we looking at there?

6 A That's with that door opened now and it's the
7 perspective of standing in the doorway kind of looking to
8 the left at about a 45-degree angle through that door.

9 Q As you were executing the search warrant, what, if
10 anything, did you have knowledge or information about as
11 far as looking for a bag that may or may not have blood on
12 it?

13 A The affidavits say that there had been seen
14 previously a bag that someone believed that might have
15 blood on it and it was described as a Wal-Mart bag.

16 Q And was that one of the items that you were looking
17 for?

18 A Yes, sir, it was.

19 Q Did you, in fact, find it?

20 A We found a bag that had stain that was consistent
21 with blood on it, yes, sir.

22 Q Can you -- I know it's dark, but in general, can
23 you point with the laser where at that you found that bag?

24 A That perspective doesn't show it clearly. That's
25 more to the left.

Michael Phipps - Direct Examination by Mr. Graham

1 Q Let me show you the next item and that's State's
2 37. Does that help?

3 A Yeah -- well, that's more of the close up. The bag
4 that was located was in the lower corner right here.

5 Q And then specifically, State's 38. Is that a close
6 up of that item?

7 A Yes, sir, it is.

8 Q And did you collect that bag?

9 A We did.

10 Q Approximately what time did you begin the search
11 warrant at [REDACTED] on April 4th of 2013?

12 MS. HENRY: Your Honor, excuse me, we didn't hear
13 that question.

14 THE COURT: I'm sorry?

15 MS. HENRY: We didn't hear that question.

16 THE COURT: All right. Would you repeat the
17 question, Solicitor.

18 MR. GRAHAM: Yes, my apologies.

19 BY MR. GRAHAM:

20 Q Detective Phipps, at what time did you begin the
21 execution of the search warrant on April 4, 2013?

22 A 1812 hours.

23 Q And that would be what time for people who don't
24 know military time?

25 A 6:12 in the evening or afternoon.

Michael Phipps - Direct Examination by Mr. Graham

1 Q I'm going to show you an item and ask if you
2 recognize that?

3 A Yes, sir, I do.

4 Q And is that the actual Wal-Mart bag that we're
5 seeing in the picture?

6 A Yes, sir, it has my markings on it and it's labeled
7 Wal-Mart bag.

8 Q Okay. Your handwriting on it?

9 A Yes, sir, it is.

10 Q And where is your handwriting on on there?

11 A The two Wal-Mart bags and again my initials here,
12 where it was sealed.

13 MR. GRAHAM: Your Honor, the State would offer this
14 into evidence.

15 MS. HENRY: No objections Your Honor.

16 THE COURT: What number?

17 MR. GRAHAM: I don't know, Your Honor. This one
18 was not premarked.

19 THE COURT REPORTER: It is part of 49. It is the
20 sheet marked the box.

21 THE COURT: State's 49? Is that right?

22 MR. GRAHAM: Yes, Your Honor.

23 THE COURT: Without objection, Ms. Fullwood?

24 MS. FULLWOOD: There's no objection, Your Honor.

25 THE COURT: State's 49 is in evidence without

Michael Phipps - Direct Examination by Mr. Graham

1 objection.

2 (State's Exhibit Number 49 was marked and entered
3 into evidence.)

4 MR. GRAHAM: And just for the record, Your Honor,
5 State's 49 is going to be a box that was used to transport
6 this and other items to SLED, so -- but for the record,
7 this box, 49, will contain the two Wal-Mart bags that we're
8 currently discussing.

9 THE COURT: I'm not tracking. So the State's 49
10 that was just marked is going to be in a box that's marked
11 State's 49? Is that what we're saying.

12 MR. GRAHAM: That's the way it's currently marked.
13 I would prefer that the bag itself be marked as 49 and
14 let's not worry about the box because he didn't have
15 anything to do with the box.

16 THE COURT: Madam Court Reporter?

17 THE COURT REPORTER: The Wal-Mart bag will be
18 State's 49.

19 BY MR. GRAHAM:

20 Q After you collected State's 49, which is the
21 Wal-Mart bags that we see in the photograph, what, if
22 anything, did you do with that bag?

23 A That bag is secured at headquarters. Paperwork
24 filled out that would allow me to submit it to our evidence
25 unit and it was turned in.

Michael Phipps - Direct Examination by Mr. Graham

1 Q Because of the late start that you got that day,
2 were you able to finish the search of 85 Lee Gunter Road on
3 April 4th, 2013?

4 A We were not.

5 Q Did you resume the search the next day?

6 A Yes, sir, the decision was made to suspend the
7 search. The scene was held and we resumed our operations
8 the next morning.

9 Q Back the following day, what was your purposes for
10 going back out there on April 5th, of 2013?

11 A We knew we had found certain items that
12 corroborated the statements made in the affidavit. Due to
13 the poor lighting conditions within the home, the fact I
14 only had one person assisting me at that point in time and
15 usually for cases that involve larger areas like this, we
16 have more people become involved.

17 Q Let me show you a set of four photographs and ask
18 if you recognize these.

19 A Yes, sir. I took these photos.

20 Q And do they fairly and accurately depict what you
21 saw the day on April 5th, 2013?

22 A They do, yes, sir.

23 MR. GRAHAM: Your Honor, the State would offer
24 these photographs into evidence.

25 MS. FULLWOOD: No objection, Your Honor.

Michael Phipps - Direct Examination by Mr. Graham

1 THE COURT: What are the numbers?

2 MR. GRAHAM: 39, 40, 41, 42, Your Honor.

3 THE COURT: State's 39 through 42 is in evidence
4 without objection.

5 (State's Exhibit Number 39, Number 40, Number 41,
6 Number 42 was marked and entered into evidence.)

7 BY MR. GRAHAM:

8 Q Looking at State's 39, what is it we're looking at?

9 A There was an area in the den, that same area to the
10 left, as you stood basically in the center of the den,
11 there was a window on that wall that faced the roadway and
12 once we moved some items, we saw a stain that was
13 consistent with bloodstains on the wall. So at this point,
14 this representative samples of the stains have been marked,
15 not all of them. We do the marking prior to taking swabs
16 of those areas.

17 Q Just for general referencing, down at the bottom,
18 what is that?

19 A That's the floor of the den and at the very top
20 edge, you can barely say the window seal, the bottom of the
21 window seal.

22 Q Looking back at State's 32, or noting where you
23 found what you believed is be bloodstains that we're
24 looking at on 39, where is it on that photo?

25 A It's hard to see on the overhead, but right here is

Michael Phipps - Direct Examination by Mr. Graham

1 a window and it's right under that window.

2 Q Let me show you 32. Where at were you pointing at?

3 A This area at the bottom.

4 Q Where my finger is?

5 A It would be below that. It's right -- like right
6 underneath your finger.

7 Q State's 39 shows three markers. What are the
8 purpose of those markers?

9 A We mark areas that we're going to take forensic
10 samples from. Being that we believed they were
11 bloodstains, we were going to swab those and we
12 photographed the markers in place before taking the swabs
13 to show where the swabs were taken from.

14 Q 40, what is that?

15 A That's a close up of that one stain.

16 Q And the stain, is that right above where my finger
17 is, at this marker?

18 A Yes.

19 Q State's 41, what does that show?

20 A Again, it will be the number two stain that was
21 singled out for swabbing.

22 Q State's 42?

23 A And the number 3. We took three swabs from that
24 wall.

25 Q What if anything did you do once you identified

Michael Phipps - Direct Examination by Mr. Graham

1 those stains? As far as collecting evidence?

2 A We collected a swab from each one of those
3 locations, packaged it, it was submitted to our evidence
4 unit.

5 Q Let me show you an item and ask if you recognize
6 this item.

7 A Yes, sir, I do.

8 Q What is it about that that you recognize?

9 A The swab packaging. The swabs are still in the
10 packaging that I took them from. And the markings that are
11 on them as far as markings that I applied.

12 Q And do those correlate -- the swabs that are in
13 that packaging, do they correlate to the one, two, and
14 three that we saw in the photographs we just looked at?

15 A Let me see if I can find -- there's an additional
16 swab in this packaging that was taken from another
17 location, but this was returned from SLED grouped like
18 this.

19 Q But you do see your three swabs that you collected?

20 A Yes, sir, I do.

21 Q How do you go about collecting a swab?

22 A We glove up. We use a swab that's packaged in a
23 sterile packaging, something similar that you would have if
24 you went to a doctor's office. The swab, when it's opened
25 up has a little plastic vile-type container around the tip

Michael Phipps - Direct Examination by Mr. Graham

1 of it to protect it from any cross contamination. So we
2 glove up, we open the swab. If we need to, we apply a drop
3 of sterile water. We have little individual packets of
4 sterile water that we use to soften the material that we're
5 trying to swab. We'll take that swabbing, close the
6 capsule on the little vial on the end, place it back in the
7 original sterile packaging, fold it over, seal it, label it
8 where it came from, then we'll discard those gloves. Glove
9 up and continue with the next sample.

10 Q And is that what you did in the collection of these
11 three swabs?

12 A Yes, sir.

13 MR. GRAHAM: Your Honor, the State would offer the
14 bag and it's contents into evidence at this time.

15 MS. FULLWOOD: No objection, Your Honor.

16 THE COURT: Number?

17 MR. GRAHAM: 51, Your Honor.

18 THE COURT: All right. State's 51 is in evidence
19 without objection.

20 (State's Exhibit Number 51 was entered into
21 evidence.)

22 BY MR. GRAHAM:

23 Q When you turn these items and also the Wal-Mart bag
24 which was State's 49 into the sheriff's department, how
25 were they packaged? For instance 49, the Wal-Mart bag?

Michael Phipps - Direct Examination by Mr. Graham

1 A The Wal-Mart bag -- anything that's blood evidence
2 is usually -- we package it in a material or outer
3 container that's allowed to breathe so that blood doesn't
4 putrify. You don't want is seal it in plastic, so we use
5 a -- in this case, the Wal-Mart bag in a larger -- we used
6 a large brown paper bag.

7 The swabs are usually contained within the sterile
8 packaging because one side of it's plastic and one side's
9 paper and that's the outer packaging for the swab.

10 Q And do you -- are these things secured to prevent
11 tampering by people who shouldn't tamper with them?

12 A Yeah. When I place it back in the original
13 packaging, I fold the lip over and put evidence tape over
14 it and initial it, sign it, or date it. And then it may be
15 packaged in some larger container, just for convenience for
16 storage at the -- in our evidence unit.

17 Q Do you remember -- do you remember, for instance,
18 the Wal-Mart bag -- do you remember when and how you turned
19 that item in?

20 A The Wal-Mart bag was submitted to the evidence unit
21 on May 2nd.

22 Q Do you remember who you turned that item in to?

23 A It was turned -- the indication on the paperwork
24 says we turned it over directly. We have the option of
25 turning it into a locker, secured locker, or to an evidence

Michael Phipps - Direct Examination by Mr. Graham

1 custodian directly. In this instance, we turned it -- I
2 turned it into the evidence custodian directly.

3 Q You remember which custodian? Or do your records
4 reflect?

5 A It would be Beth Holliman.

6 Q The three swabs that we discussed, do you remember
7 when you turned those items into the evidence control for
8 the sheriff's department and who you turned those in to?

9 A The swabs were turned in April 5th. Those also
10 were turned directly into an evidence custodian. Let's
11 see -- that would be Beth as well.

12 Q Once you finished processing the inside of the
13 house, what do you and -- you weren't the only person who
14 was working at this crime scene, right?

15 A On the 4th, let's see -- on the 4th, I was assisted
16 by another crime scene investigator, CSI Shearer. The
17 following day, on the 5th, when we returned, Shearer again
18 accompanied by -- we had additional personnel that were
19 searching the outside of the residence. CSI Shearer and
20 myself concentrated on the inside. But then it evolved to
21 a search outdoors where more people were involved.

22 Q Specifically what were you looking for outside?

23 A Any evidence that would account for the
24 disappearance of the victim in the case.

25 Q What efforts were being done to actually locate

Michael Phipps - Direct Examination by Mr. Graham

1 Mr. Diblasi?

2 A There was a ground search being conducted in the
3 woods surrounding that location. I believe our helicopter
4 aviation unit was involved. We had numerous investigators
5 doing foot searches through the wood line. Other
6 investigators that were scouring the area right outside the
7 residence itself.

8 Q And at some point on April 5th, 2013, did you or
9 somebody assisting you lead you to begin to dig?

10 A Yes, when we -- CSI Shearer and myself had finished
11 inside. We went outside and consulted with everyone else
12 that had been searching. They relayed that they hadn't
13 found anything in the woods that looked disturbed. The
14 only area around the residence that kind of looked unusual,
15 there was a pit area that was recently constructed; and by
16 pit, it was like used for the purpose of auto mechanics, an
17 area dug down and steps where you could drive a vehicle
18 over and walk down in and service your vehicle, change the
19 oil, that type of thing.

20 Q Let me show you State's 43 and ask if that assists
21 you in describing what you're discussing.

22 A Yes, sir, there was a small shop to the rear of the
23 residence and as you look at the shop from that view, just
24 to the right of that is the depression pit that had been
25 dug. There were cinder blocks that had been set to shore

Michael Phipps - Direct Examination by Mr. Graham

1 up the sides of the pit.

2 Q So as you all began to look back in that area, what
3 did you find?

4 A We -- as the last thing to do before we cleared
5 that area, since it was freshly dug, we couldn't determine
6 how long -- when it was installed, so to determine if
7 anything had been buried there, I got down in the bottom of
8 it, used a shovel, started to dig, see if there was
9 anything stirred below the area that they had dug to. As I
10 dug down, it was obvious that nothing had been disturbed
11 below that surface.

12 So at that point, we started looking at the outer
13 perimeter of the pit, the area that was between the pit and
14 that little workshop there was a small corner of something
15 plastic that was protruding through the surface and we just
16 started digging around it just to see what it was.

17 Q And were you able to determine what it was?

18 A Yes. As we exposed more of it, it became obvious
19 it was like a plastic trash can and we were able to --

20 Q Let me show you State's 44. Do you recognize that?

21 A Yes, sir, that's the trash can that we removed from
22 that area that's between the cinder blocks and the workshop
23 that's built there.

24 Q What if -- the other items that are next to there,
25 do you remember what those items were?

Michael Phipps - Direct Examination by Mr. Graham

1 A The trash can had items in it, two batteries, some
2 clumps of mortar, I guess from the construction of the wall
3 itself.

4 Q Once you removed the trash can and the container
5 and mortar, what, if anything, did you notice?

6 A As we started to manipulate the can trying to get
7 it out of the hole, we broke a seal that was created
8 between the can and the soil and at that point, I could
9 detect a faint, foul smelling odor that emanated from the
10 area.

11 Q Once you detected the odor, what, if anything, do
12 you continue to do?

13 A We continued to dig. We removed the can. At that
14 point, we started seeing cloth items, again, we could
15 detect a little bit stronger smell. The cloth items -- we
16 didn't know if it was just trash that had been buried in
17 and filled in to get rid of it or not, so we continued to
18 dig.

19 Q As you continued to dig, what did you find?

20 A Ultimately, we got down to some fabric that looked
21 like clothing. At that point, there was a small hole in
22 sort of a knit material and looking through that hole, we
23 could see what we thought most likely was human skin. And
24 at that point, we stopped digging and notified the coroner.

25 Q State's Number 45, what is it that we're seeing

Michael Phipps - Direct Examination by Mr. Graham

1 there?

2 A Again, this is the perspective from standing on the
3 edge, looking down into the pit. The workshop would be to
4 the left of there. And you can see between the cinder
5 blocks and that area is an area that we had excavated to
6 expose that area.

7 Q That item right there, what is that?

8 A I believe -- and I have to see that up close
9 because that's a dark image, but the -- that is what turned
10 out to be a Clemson blanket. It's orange, white, and
11 purple.

12 Q Above that, what is that area of black?

13 A The -- it ended up being the human body.

14 Q State's Number 46, what does that show?

15 A It's a little bit closer view and the orientation
16 for this image would be -- the head would be at the top of
17 the photo and the feet at the very bottom about where the
18 blue bars come in across the bottom.

19 Q So the --

20 A The body is laying on it's back. I think the feet
21 are actually crossed there at the angle.

22 Q And the feet are pointed -- the body is just
23 oriented how to the house? To the back of the house?

24 A It's parallel to the workshop that was there and
25 parallel to the brick wall. That whole structure is kind

Michael Phipps - Direct Examination by Mr. Graham

1 of angled slightly, but it's pointed toward the house,
2 roughly.

3 Q And then -- so is -- the feet were down at the
4 bottom toward the house?

5 A Yes, sir.

6 Q And up here what are we seeing?

7 A The hands; the hands were over the head.

8 Q This item right here on top of the cinder blocks to
9 the right of the body, what is that?

10 A It's plastic material that we believe was a shower
11 curtain, like the clear liner of a shower curtain. It was
12 placed over that wall, the back fill was pinning it on the
13 backside. The part that flopped over into the pit was just
14 laying there.

15 Q Let me show you an item and ask if you recognize
16 this.

17 A Yes, sir, I do.

18 Q And is that the shower curtain?

19 A It is. It has my initials on it.

20 Q And you collected that item?

21 A Yes, sir, I did.

22 Q And then, you sealed it up in a brown bag for
23 potential biohazard?

24 A Correct, yes.

25 MR. GRAHAM: Your Honor, the State would offer this

Michael Phipps - Direct Examination by Mr. Graham

1 into evidence.

2 THE COURT: Number?

3 THE COURT REPORTER: 56.

4 THE COURT: 56?

5 THE COURT REPORTER: Yes, sir.

6 THE COURT: Are there any objections?

7 MS. FULLWOOD: No, Your Honor.

8 THE COURT: State's 56 is in evidence without
9 objection.

10 (State's Exhibit Number 56 was marked and entered
11 into evidence.)

12 BY MR. GRAHAM:

13 Q Once you collected this item, what did you do with
14 it?

15 A Again, that would have been sealed, the proper
16 paperwork filled out and turned into our evidence unit.

17 Q Do you remember when you turned it in and to who?

18 A April 5th, and this one went to Candy Kyzer.

19 Q Once the coroner's office came out, what was the
20 procedure for the removal of the body and what happened
21 next?

22 A The coroner got on scene, allowed us to continue
23 excavation. We continued to dig down. A decision was made
24 that instead of lifting the body up and over that wall, we
25 took out a couple courses of the cinder block just to make

Michael Phipps - Direct Examination by Mr. Graham

1 it easy that we could transfer the body into a body bag
2 without disturbing it any further.

3 Q And did that conclude your search warrant that was
4 done on the 4th and the 5th at [REDACTED] after
5 the removal of the body?

6 A Yes, sir.

7 Q The following day on April 6th, 2013, did you have
8 an opportunity to go to the autopsy?

9 A Yes, sir, I did.

10 Q And where was that done?

11 A At Newberry Hospital.

12 Q And who performed that autopsy?

13 A Doctor Ross.

14 Q And the body that you recovered from the 5th, that
15 was identified as being David Diblasi?

16 A Yes, sir, it was.

17 Q As part of your job of going to the autopsy, is it
18 for the collection of potential -- what is your purpose of
19 being at the autopsy?

20 A We attend the autopsy -- the pathologist, of
21 course, does their own investigation. They take their own
22 photos, so that we have access to some images for ourself,
23 for our investigation, I'm there to take photographs, to
24 take possession of any evidence that the pathologist
25 uncovers during their autopsy. It could be just about

Michael Phipps - Direct Examination by Mr. Graham

1 anything, but the pathologist doesn't retain any evidence.
2 And neither does the coroner. So anything that's
3 discovered that's relevant to the investigation, they
4 document it and then they actually document the paperwork
5 where I sign for it from the pathologist for chain of
6 custody transferring it to myself.

7 Q One of the things you collected or that you saw Dr.
8 Ross collect, would that have been blood taken from the
9 body of Mr. Diblasi that would be used for developing the
10 DNA standard yesterday -- I mean later on?

11 A Yes. The pathologist takes various biological
12 samples, one of which is blood for the purposes of DNA.

13 MR. GRAHAM: Your Honor, it's my understanding from
14 talking with Ms. Fullwood that the defense would stipulate
15 to the chain of custody of the blood taken from Mr. Diblasi
16 at the autopsy from the time that it was removed from
17 Mr. Diblasi until the time that it is a -- a blood standard
18 is created at SLED.

19 THE COURT: All right.

20 BY MR. GRAHAM:

21 Q In addition to blood that you took possession of,
22 did you also take possession of another item?

23 A Yeah, there were several items at autopsy that I
24 signed for.

25 Q Let me show you one of them and ask you if this was

Michael Phipps - Direct Examination by Mr. Graham

1 one of the items that you collected?

2 A Yes, sir, it is.

3 Q And what is that?

4 A It's a plastic bag that was removed from the
5 victim's head.

6 Q And did you package this and turn it into evidence
7 control at the sheriff's department?

8 A Yes, sir, I did.

9 Q And do you remember who you turned it into?

10 A My paperwork just notes that I turned it over to
11 evidence custodian. It doesn't print out the custodian's
12 name.

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

15 A Yes, sir. It would be Candy Kyzer.

16 Q And what date?

17 A That was on the 15th of April.

18 Q In addition to the items that we've discussed --
19 and I don't know if I have offered this into evidence,
20 apparently I have not.

21 MR. GRAHAM: At this time, Your Honor, the State
22 would offer the bags that were taken from Mr. Diblasi's
23 head at autopsy into evidence.

24 THE COURT REPORTER: It's marked as 57, Your Honor.

25 THE COURT: All right. Any objections, Ms.