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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WORTH EDWARD COOK, III,

APPELLANT

APPELLATE CASE NO 2016-000546

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

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

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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Michael Phipps - Direct Examination by Mr. Graham

1 Fullwood?

2 MS. FULLWOOD: The contents of that brown paper bag
3 are a plastic bag?

4 MR. GRAHAM: Yes.

5 MS. FULLWOOD: Then no objection.

6 THE COURT: State's 57?

7 THE COURT REPORTER: Yes, sir.

8 THE COURT: State's 57 is in evidence without
9 objection.

10 (State's Exhibit Number 57 was marked and entered
11 into evidence.)

12 BY MR. GRAHAM:

13 Q Detective Phipps, either at -- what's the process
14 for Mr. Diblasi's body being taken from [REDACTED]
15 to the Newberry pathologist? How is evidence preserved?

16 A The -- once the body is uncovered, the coroner
17 takes over at that point. The body is moved from where we
18 found it in the pit, transferred into a body bag by the
19 coroner. That body bag is zipped up and sealed with a
20 little identification tag, tamper-proof tag. The coroner
21 records that information.

22 The body is transported by contractor for the
23 coroner, maintaining the secure environment. I don't have
24 any knowledge of where this particular body was held. The
25 morning of the autopsy, the body's transferred to the

Michael Phipps - Direct Examination by Mr. Graham

1 location where the autopsy is going to occur and then the
2 coroner receives the body at that point and verifies that
3 the tag is still remaining intact.

4 Q When you were there collecting evidence, did
5 Mr. Diblasi's body have a wallet?

6 A I did not collect a wallet. There was not a wallet
7 found on his body.

8 Q Was there any money on his person?

9 A No, there was not.

10 Q Were there any drugs found on him?

11 A There were not.

12 Q Any kind of personal clothes other than the clothes
13 he was wearing?

14 A No.

15 Q What about shoes?

16 A Socks, but no shoes.

17 Q In addition to working on the crime scene and
18 discovering Mr. Diblasi's body and going to the autopsy,
19 did you also work on phone records for this case?

20 A Yes, sir, I did.

21 Q Let me show you two items and ask if you recognize
22 these items. Referring to State's 22, which is
23 identification and State's 21, which is in evidence?

24 A Yes, sir, I had an opportunity yesterday to verify
25 these.

Michael Phipps - Direct Examination by Mr. Graham

1 Q And what are those items?

2 A They're records that are supplied as a reply to a
3 search warrant to the service providers, Sprint or Verizon.
4 When we issue a search warrant to them for records
5 concerning a particular number, this is the information
6 they send back to us.

7 Q Have you had any education or training regarding
8 reviewing cell phone data and analyzing that data and
9 incorporating it and mapping it?

10 A Yes, sir. As I said, I started to migrate over to
11 doing the digital forensics, computers, cell phones. As
12 part of the training that I've received, I've had two
13 classes that are specific to cell phone data as far as the
14 service provider records and mapping those results out.

15 Q And how many different times on how many different
16 cases have you done cell phone mapping and record analysis?

17 A It's over two dozen so far.

18 THE COURT: Over what?

19 THE WITNESS: Two dozen, Your Honor.

20 BY MR. GRAHAM:

21 Q And have you testified in court before as an expert
22 in cell phone mapping and cell phone record analysis?

23 A I've been qualified as an expert in cell phone
24 examination, an expert in cell phone forensics would be the
25 two specific to cell phones themselves.

Michael Phipps - Direct Examination by Mr. Graham

1 Q Have you ever testified about cell phone mapping
2 before?

3 A Yes, sir, I have.

4 Q And what is cell phone mapping?

5 A Service provider gives us the records, which it
6 would be similar -- part of it would be similar to what you
7 receive in your bill, you know, on this date and time you
8 made a call, it lasted this long. That's information they
9 collect for the purpose of billing. Additionally, they can
10 also supply us with the towers that were used to make those
11 calls.

12 That information is a little confusing, but it's
13 supplied in a separate document, so we have to match those
14 two up together, so we can say on this date and time, a
15 particular tower, geographically in this area was being
16 used to make that call.

17 Q In addition to your training, have you done any
18 reading on cell phone mapping and record analysis?

19 A Yes, sir, I have.

20 Q Can you give us an idea of what that entailed?

21 A There's many things that you have to learn about
22 intricacies about providers: How they supply their
23 records; the towers; the way towers are laid out .
24 Everyone's familiar with seeing the towers around here and
25 I don't know if you paid attention, but they're triangular

Michael Phipps - Direct Examination by Mr. Graham

1 in shape at the top.

2 Each one of those flat bases is a sector, so that
3 sector points in a particular direction so that's -- when
4 we retrieve those information, those records from the cell
5 phone provider, they tell us which sector a particular call
6 is being received or sent on. Therefore, you can deduce
7 some degree of directionality to that call.

8 MR. GRAHAM: Your Honor, at this time, the State
9 would offer Mike Phipps as an expert in cell phone mapping
10 and cell phone record analysis.

11 THE COURT: Ms. Fullwood?

12 MS. FULLWOOD: No objection, Your Honor.

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

14 Ladies and gentlemen of the jury, normally a person
15 cannot give opinion testimony. Normally when a person
16 testifies, they must testify as to what they either saw,
17 heard, sensed by smell, or something of that nature.
18 However, there is an exception when someone is qualified
19 because of education, experience, or training. They are
20 permitted to give their opinions and the basis of their
21 opinions in certain areas if the Court qualifies them that
22 way.

23 This witness, also Mike Phipps, will be qualified
24 in the area of cell phone mapping and cell phone record
25 analysis to give opinion testimony in that area and the

Michael Phipps - Direct Examination by Mr. Graham

1 basis of those opinions. That does not mean that you must
2 accept the opinions, but it is evidence for you the jury to
3 use in any way you see fit.

4 Thank you, Solicitor, you may continue.

5 BY MR. GRAHAM:

6 Q Earlier, I referred to two items, State's 22 for
7 I'd, which are the Sprint phone records. What phone number
8 was that for?

9 A The Sprint records that they replied with were for
10 area code 803-454-4020.

11 Q And from previous testimony, you're aware that that
12 number is associated with Worth Cook?

13 A Yes. Through the course of the investigation that
14 was determined.

15 Q State's 21 in evidence, those are the Verizon
16 records. And what are the phone numbers associated with
17 those phone records?

18 A Verizon responded with two phone numbers, the first
19 being area code 267-449-4731; and then additionally, area
20 code 267-273-3327.

21 Q When you receive the records from those two
22 providers, what kind of information did the records
23 contain?

24 A There's various documents -- again that's -- well,
25 it's a little confusing and you have to match everything

Michael Phipps - Direct Examination by Mr. Graham

1 up. They provide what's called a CDR or Call Detailed
2 Record, more like what you get with your billing; date and
3 time, how long the call lasted, who it was to, who it was
4 from, that type of thing. Then they also respond with the
5 tower data so that they can match up what sector was used
6 and direction that sector actually points in.

7 They will also give us keys to their information
8 because the spreadsheets they provide, they use a lot of
9 codes, abbreviations, so to interpret that and understand
10 what it means, they give us a key so that we can decipher
11 it. Then, if it's available, they'll also provide the
12 billing information for the phone number.

13 Q Did the information that you were provided from
14 both Verizon and Sprint, did it include calls and texts?

15 A That varies. What the cell phone provider's able
16 to respond with varies depending on when we're requesting
17 the information and different providers provide different
18 information. Some -- Verizon may be able to provide
19 partial text messages where Sprint cannot and vice versa.
20 So if it's available, they will provide it to us.

21 Q In looking at that information, does text
22 information allow you to plot cell phone data -- how -- let
23 me ask you a question.

24 When a call is made, how is that processed?

25 A The call, of course, goes through the tower that

Michael Phipps - Direct Examination by Mr. Graham

1 you're communicating with and then through a switch for
2 that company. And the switch controls multiple towers for
3 a geographical area. The Call Detail Record or CDR will
4 have for an actual voice call -- when you call someone and
5 speak to them, it will record the tower that the call was
6 made on and again the sector I'm talking about.

7 When you text, the fact that you made a text on a
8 certain date and time is recorded, but it's not -- no tower
9 information is included. So there's not a way to tell
10 where someone physically is geographically, the sending or
11 the receiving of the text message.

12 Q When you talk about a tower, is there actually --
13 what's at the top of the tower?

14 A There's an antenna array. Again, if you look at
15 one, they're triangular in shape usually, they'll have a
16 series of antennas on each face of them. Certain towers
17 can have them at different levels, so you might see
18 something way at the top and then a little bit further
19 down. And some towers, are so crowded, it looks like
20 there's something all the way down.

21 There can be different cell phone providers on the
22 same towers, so you may have Verizon at the top, Sprint at
23 the bottom. T-Mobile somewhere in there. So sometimes
24 when we have those records and plot them, you may have a
25 Verizon and a Sprint record that look like they're

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1 originating from the same tower and that's because their
2 antennas are physically located on the same tower.

3 Q So how many antennas are there usually -- a
4 circle -- if I turn around in a circle you're encompassing
5 360 degrees.

6 A Right.. And let's say there's three faces, so
7 basically you have each face has a view of about 120
8 degrees. So 320's is 360, so it's divided up in pie shape.
9 It's not always 100 percent those proportions, but that's
10 sort of the ideal tower set up. It can vary slightly from
11 tower to tower.

12 Q Let me show you State's 48 and ask if you recognize
13 this?

14 A Yes, sir, that's a map I prepared using the cell
15 phone records that were supplied.

16 MR. GRAHAM: Your Honor, the State would offer this
17 into evidence at this time.

18 MS. FULLWOOD: No objection.

19 THE COURT: State's 48 is in evidence without
20 objection.

21 (State's Exhibit Number 48 was entered into
22 evidence.)

23 MR. GRAHAM: Your Honor, if I could have Mr. Phipps
24 step down from the stand to explain.

25 THE COURT: All right. Yes, sir, please step down.

Michael Phipps - Direct Examination by Mr. Graham

1 Please keep your voice up when you're away from the
2 microphone.

3 (Witness steps down from the witness stand.)

4 BY MR. GRAHAM:

5 Q What does State's 48 show?

6 A It's a map of Lexington County, the larger section
7 here is a blow up of this inset area here that encompasses
8 areas just below the town of Lexington and then over to
9 South Congaree. On it are mapped two cell towers. The red
10 we've color coded to be Verizon and we put a V in front of
11 the tower number just to keep them straight.

12 The blue or purple is Sprint, using an S for it.
13 And then the chart at the top is an excerpt from the Call
14 Detail Record where you see the actual date, time, number
15 that's being called or called from, how long the call
16 lasted, the actual tower number and then sector that was
17 used and then what they call an azimuth and an azimuth is
18 just the degrees off of that tower that the center of that
19 base points in.

20 So because we only -- these towers have three faces
21 to them, but in these call records, the other places
22 weren't utilized, so we just left them off for clarity.
23 The one face that was used is pointing in the direction and
24 in this case with the Sprint, it's showing an azimuth for
25 the sector that was used as 250 degrees. So the line that

Michael Phipps - Direct Examination by Mr. Graham

1 we've drawn here remits that 250 degrees.

2 And as I said earlier, that face has a view of 10
3 degrees. So you have roughly 60 degrees off of each side
4 of that line is sort of the view that that antenna has
5 pointing that direction.

6 Q State's 48 has a location in orange. What is that?

7 A [REDACTED] was an address that was
8 supplied to me during the course of the investigation as
9 being associated with David Diblasi.

10 Q All right. And you've indicated that some of this
11 information is in red, some is in blue or purple. What's
12 the difference in the colors.

13 A The red correlates on the chart here to the Verizon
14 phone records. For the area code 267-449-4731 phone that
15 we received records from Verizon and then the blue is the
16 Sprint, which is area code 803-454-4020.

17 Q So the Verizon records in red are associated with
18 what individual?

19 A David Diblasi.

20 Q And the blue or purple are associated with what
21 individual?

22 A Worth Cook.

23 Q What time does this show as far as Mr. Cook's phone
24 actually using a Sprint tower that would have been in the
25 vicinity of [REDACTED]?

Michael Phipps - Direct Examination by Mr. Graham

1 A The first entry in chronological order here is on
2 April 25th, 2013, at 1845 or 6:45 in the evening. It was
3 an inbound call on Mr. Cook's assigned phone number that
4 lasted for 24 seconds here. The call was from area code
5 803-687-0938.

6 Q And testimony revealed that that individual
7 associated with that number is who?

8 A Mr. Barnes.

9 Q Now, during that same time period, roughly, were
10 there calls associated with the tower that would have been
11 in the vicinity of [REDACTED] related to
12 Mr. Diblasi's Verizon phone?

13 A Yes, sir, there were two calls in that same time
14 period. The first, again, on the 25th, Sunday at 1906, so
15 7:06 in the evening there was an outbound call to 250 --
16 area code 803-250-3449. The call lasted for 30 seconds and
17 it originated on this tower 24. Sector 2, 150 degree
18 azimuth.

19 Q And that telephone number through testimony was
20 identified as belonging to an individual named?

21 A Melinda.

22 Q Melinda Hoffman -- well, Melinda.

23 Now, the last call that hit off of that tower from
24 Verizon, what was the date and time of that one?

25 A The next call was categorized as a mobile to

Michael Phipps - Direct Examination by Mr. Graham

1 mobile. It was a -- at 1910 hours or 7:15 in the evening
2 and the number called was area code 803-605-3236. It
3 lasted for 32 seconds.

4 Q In addition to that map, did you also produce
5 another one?

6 A Yes, sir, I did.

7 Q Let me show you that and ask if you recognize that
8 one.

9 A Yes, sir, that's the second map that I was using.

10 Q And does that also show different locations in the
11 county and calls involving both the Verizon and Sprint
12 records?

13 A Yes, very similar to this one.

14 MR. GRAHAM: Your Honor, the State would offer 47
15 into evidence.

16 MS. FULLWOOD: No objection, Your Honor.

17 THE COURT: State's 47 is in evidence.

18 (State's Exhibit Number 47 was entered into
19 evidence.)

20 BY MR. GRAHAM:

21 Q Detective Phipps looking at State's 47, what is
22 this map showing?

23 A Geographically which is an area to the south of the
24 county that goes over and shows an area into Aiken County.
25 The blow up here of that inset shows various towers that

Michael Phipps - Direct Examination by Mr. Graham

1 were used by the call records that were represented in call
2 detail records. Again, the same two phone numbers as the
3 other map on the Verizon phone and the Sprint phone.

4 Q In looking at -- there are two locations in orange.
5 What are the two locations in orange?

6 A These were points of interest that were identified
7 during the course of the investigation. The first,
8 obviously, our crime scene at [REDACTED],
9 associated with Worth Cook. And then [REDACTED],
10 Melinda and Damon.

11 Q Can you go through here and identify the calls that
12 would have been made in the vicinity of [REDACTED].

13 A Yeah. Chronologically, the first call, again,
14 April 25th, 2015 (sic) at 1412 hours, so 12 after 2 in the
15 afternoon. It was an outbound call and that originated on
16 Tower 534; so we're right here off to the side we've also
17 placed references for the calls and when they occurred for
18 those particular towers. So we've got 1412 time period
19 here. This particular tower faces, basically due south.
20 And again, considering that it covers roughly 60 degrees
21 either side of that -- that line.

22 Q Are there other Verizon calls made on Mr. Diblasi's
23 phone that would put him down in the vicinity of Thor Road
24 during that time?

25 A Yes, sir, the next call would be at 1413 hours.

Michael Phipps - Direct Examination by Mr. Graham

1 That was an outbound call to 803-250-0349, associated with
2 Melinda.

3 The next one after that would be at 1414 hours.
4 The towers changed at this point. It's indicating Tower
5 191, which faces almost due north; and again, considering
6 the angles that are involved, you have obviously some tower
7 overlap there. Obviously service providers want to give
8 you the best coverage so they don't -- they lay out their
9 tower patterns so that there's some overlap and double
10 coverage so you don't go losing your signal.

11 So it's possible to be in one location and be
12 stationary and make a call, immediately hang up and make
13 another call and it possibly be off of another tower
14 because you're in that overlap area.

15 Q Continuing on with those Verizon calls in that time
16 period.

17 A Again, another outbound call at 1414.

18 Q Can you red the next one?

19 A Again 1415, an outbound call to Melinda on Verizon
20 off of Tower 191, so -- and this is an example here where
21 we've indicated you've got a Sprint tower and a Verizon
22 tower or Sprint antenna and Verizon antenna on the same
23 tower location, hence, we split the color coding there.

24 Q Moving down, continuing at that time period, the
25 next Verizon call on Mr. Diblasi's phone?

Michael Phipps - Direct Examination by Mr. Graham

1 A Yes, at 1427 hovers off of Tower 191, again right
2 down here.

3 Q The next one?

4 A Point 7 is 1445, same tower.

5 Q The number that was called on that one to
6 Mr. Diblasi's phone?

7 A Area code 803-454-4020, again associated with Worth
8 Cook.

9 Q Continuing on the Verizon phone, the next call.

10 A Verizon would be same date, 1434 on Tower 479.
11 We're jumping up here. This is Tower 479. It faces sort
12 of southwest.

13 Q Switching back and doing the Sprint phone
14 associated with Mr. Cook, what activity do we have during
15 that time period that would show activity down at the [REDACTED]
16 [REDACTED] area?

17 A At 422, there's an outbound call and it's off of
18 Tower 285, so again the shared tower going north.
19 Following that on 1445, on 285, same tower.

20 Q This one says routed call, what does that mean?

21 A A routed call is when the call is -- a call attempt
22 is made to that phone number, but it doesn't go through for
23 whatever reason. It could be going to voicemail, phone
24 could be off, it could be out of range, the battery could
25 be dead. Any number of instances, it's just not making

Michael Phipps - Direct Examination by Mr. Graham

1 good connection.

2 Q The last call associated with the Sprint phone of
3 Worth Cook that was in the vicinity of Thor Road, what time
4 was that?

5 A 1454 on Tower 291.

6 Q Okay. In addition -- now those time periods were
7 all we've been talking about 1400 hours. What is that in
8 layman's terms?

9 A Two o'clock time period in the afternoon.

10 Q In addition to that time period activity on [REDACTED]
11 [REDACTED], did you also look at the phones to see what, if
12 any, activity occurred over in the Lee Gunter Road area?

13 A Yes, sir.

14 Q Does that show this as well.

15 A Right. Starting here, the first entry at 2103
16 hours on the 259 is an outbound call on the Verizon phone
17 and that's utilizing Tower 1650, which is --
18 geographically, it's located in Aiken County. It was this
19 sector that was utilized points back in the direction of
20 Lexington County.

21 Q Now, I note on your maps, you have lines indicating
22 the azimuth. Are you indicating how far the coverage is
23 for that tower?

24 A No, the line, physically itself, is approximately 4
25 miles. But the tower range, that's not the same -- that

Michael Phipps - Direct Examination by Mr. Graham

1 that's the exact range of that tower. Only Verizon or
2 Sprint can tell us that and the typical ranges for these
3 areas can be upwards of 10 miles.

4 Q The next call that we see concerning activity in
5 the Lee Gunter Road area, continuing on with David
6 Diblasi's phone and the Verizon phone, what do we see?

7 A Starting with the next one after that, would be
8 2104 hours. It's an outbound call to a number associated
9 with Melinda. Again this is Tower 479. This would be the
10 one just outside of Pelion again, but it's pointing back in
11 this direction.

12 So again, this could be an instance where you have
13 that 120 degree view in these two directions, so it doesn't
14 necessarily indicate movement because those sectors
15 overlap.

16 Q And in the next column?

17 A An outbound call again to Melinda at 2105 and
18 another at the same time to Melinda. The first one was 30
19 seconds, the second one was 58 seconds.

20 Q We're talking 2100 hours. Layman's terms what time
21 are we talking about?

22 A Nine, nine o'clock time.

23 Q And the date we're talking about?

24 A The 25th of 2013, April -- May -- February, I'm
25 sorry.

Michael Phipps - Direct Examination by Mr. Graham

1 Q Chronologically the next call is now a Sprint call
2 from Mr. Cook's phone, correct?

3 A Correct.

4 Q Where is that?

5 A That's an inbound call that occurs on Tower 631 --
6 wrong number. Inbound call Tower 287, which is this tower
7 right here.

8 Q And who is that -- that's an inbound call from who?

9 A Barnes.

10 Q Going chronologically, the next two calls are
11 Verizon calls, which would indicate Mr. Diblasi's phone,
12 correct?

13 A Yes, sir, they're both outbound calls the first at
14 2108 hours, the second 2125 hours. Both of them occurring
15 on this 1650 Tower down here.

16 Q The next call chronologically is a routed call from
17 the Sprint phone associated with Mr. Cook where is -- what
18 is the time on that and the tower used?

19 A 2212 hours. The tower is 287 and the same area
20 right in there.

21 Q And after that one, the next is a Verizon call?

22 A Yes, sir. 2237 an outbound call, lasted 35
23 seconds. Same tower down here at 1650 time.

24 Q Now were there any other calls, Verizon calls, that
25 were outbound made by David Diblasi's phone on February

Michael Phipps - Direct Examination by Mr. Graham

1 25th, 2013?

2 A No, sir.

3 Q Were there any outgoing calls ever after that date?

4 A No.

5 Q Were there ever any incoming received calls?

6 A No, sir.

7 Q The next -- so that was the last activity of that
8 phone being used, correct?

9 Q Going chronologically along with the records, what
10 else are you showing here on the map related to the Sprint
11 records of Mr. Cook.

12 A The Sprint records, here we're changing dates. It
13 flips over to the 26th. We have an outbound call for 79
14 minutes, area code 803-497-7167 occurs on tower 287. In
15 fact, all the remaining calls occur on this same location,
16 287.

17 Q You had said 79 minutes; is that correct or --

18 A Seconds, I'm sorry.

19 Q 79 seconds. So the one, two, three, four, five
20 remaining calls, what are the times for those calls?

21 A You have 33 minutes after midnight on the 26th.
22 Then you have 11:15 in the morning; 11:18; 12:23 in the
23 afternoon; 1346, or 3:46, 1355.

24 Q All right. All of those calls made from the Sprint
25 phone associated with Mr. Cook occur and are utilizing what

Michael Phipps - Direct Examination by Mr. Graham

1 time?

2 A Not three -- one o'clock. 1:46.

3 Q What tower are they using?

4 A All of those are located -- or coming off of the
5 Tower 287.

6 Q The last three calls that you put up here, who are
7 those -- are they incoming or outgoing? And who are they
8 made to? Or received by?

9 A The first four of them are outbound calls, the last
10 of which is a call to Barnes. And then there's an incoming
11 call from Barnes and then another outbound call to Barnes.

12 Q Did you also, in addition to mapping, did you also
13 combine the records that included the texts to look at
14 activity on the 25th of February, the 26th of February and
15 the 27th of February, regarding the phone usage for both
16 those Verizon phones associated with David Diblasi and the
17 Sprint phone of Edward Worth Cook?

18 A Yes, sir.

19 Q And is that what State's -- what's marked as
20 State's 54 currently and State's 55 show?

21 A Yes, sir.

22 MR. GRAHAM: Your Honor, the State would offer
23 40 -- excuse me, 54 and 55 into evidence.

24 THE COURT: All right. Ms. Fullwood?

25 MS. FULLWOOD: No objection. Your Honor.

Michael Phipps - Direct Examination by Mr. Graham

1 THE COURT: State's 54 and 55 are in evidence.

2 (State's Exhibit Number 54 and Number 55 were
3 entered into evidence.)

4 BY MR. GRAHAM:

5 Q Mr. Phipps State's 55 and 54 is -- what is this?

6 A Again, this is like a spreadsheet of Call Detail
7 Record. It has information like we're -- you know,
8 previously. This one actually shows we left the columns
9 for the latitudes and longitudes for those towers; distinct
10 for those to go to a map for the other charges.

11 Additionally, you'll see big blank areas where
12 there's no tower data and this usually is an indication
13 that text messaging is occurring because that tower data is
14 not captured.

15 Q So these two are a compilation of incoming,
16 outgoing calls and incoming, outgoing texts for both the
17 Verizon phone and the Sprint phone?

18 A Yes, sir.

19 Q Now, not labeled, but they are color coded. Do the
20 colors coordinate with the previous maps?

21 A Yes. Red's Verizon in this case. The blue is the
22 Sprint.

23 Q The time period that you covered for this -- these
24 two exhibits is what?

25 A February 25th at 6 in the -- 6:41 in the evening

Michael Phipps - Direct Examination by Mr. Graham

1 and then it ends at February 27th just after midnight, 24
2 minutes after midnight.

3 Q All right. For these -- those two exhibits, is
4 this every call and every text that you were provided
5 information for during those time periods?

6 A Yes, sir.

7 Q On the first entry, there's a column labeled
8 direction. What is that telling us?

9 A It tells you which way -- whether it was inbound or
10 outbound call and then referring to different providers
11 provide it in different ways. With Sprint they actually
12 spell it out. It tells if it was an inbound call. Verizon
13 uses a numerical code. You have to reference a key to
14 decipher that.

15 Q And what is the code?

16 A If I could refer to my notes here. Number 1
17 indicates an outbound call. The number 2 indicates a
18 mobile-to-mobile call. I believe that's all that we're --
19 Oh, 3 is also an outbound call. So 1 and 3 are outbound.

20 Q I want to give you a red marker and just ask that
21 you make a notation on there for the jury's benefit of what
22 1, 2, and 3 are.

23 And if you would also denote that those are with
24 the Verizon numbers associated with David Diblasi.

25 A (Marking the exhibit.)

Michael Phipps - Direct Examination by Mr. Graham

1 Q Thank you, Mr. Phipps. So this in general, can you
2 explain the table headings and what they mean.

3 A Start date and time, direction of the call, the
4 dialed digits, the actual -- if it was an outgoing call,
5 this would be the number that was called. If it was an
6 inbound call, this would be who they're calling, which if
7 it was inbound it was referred back to the Verizon phone
8 itself.

9 The calling number, again, it's a little confusing
10 because they give you both and sometimes it can be the
11 same. Duration and seconds; who the call is from, so if
12 it's the outbound call from Verizon, you'd actually see the
13 Verizon number there, if it's an inbound call, you'd see
14 who's calling that Verizon number. Call number, it's a
15 little bit repetitive, but that's the way their call
16 records indicate it. A REPOLL number is used to tell you
17 something about that call. You can see there's only
18 instances here with Sprint because Sprint's the only
19 provider that uses a REPOLL number. The 631 indicates that
20 it's a Columbia exchange. 294 and 291 indicate that it's
21 an SMS call or a text message call.

22 Then you have the first cell phone number or first
23 cell, the actual tower number. The credits off of -- the
24 azimuth of that sector, the direction it bounds, the
25 physical location of the tower itself and this is split up

Michael Phipps - Direct Examination by Mr. Graham

1 with originating and terminating information because
2 there's always that possibility if you have a real long
3 conversation and you're driving you could start it on one
4 tower and end it on another. Most of those calls start and
5 end on the same tower. So it's a little bit redundant in
6 most cases.

7 The last column here, we've indicated whose number
8 is associated with that's either calling from or to on that
9 particular entry.

10 Q And these are all the calls from the -- calls and
11 texts for the time period that's indicated from the first
12 entries to the start time of the last entry?

13 A Uh-huh, it is.

14 Q Moving on into the nighttime hours of the 25th,
15 what phone calls or texts do you see that are associated
16 with the call going to -- call going or texts going to Rick
17 Barnes? Whose calling or whose texting who and whose phone
18 it is; and the time.

19 A Okay. Well, the first is an inbound call from
20 Barnes on the Sprint phone.

21 Q And the Sprint phone would be associated with
22 Mr. Cook?

23 A Correct, yes, sir.

24 Q And the next call was Mr. Barnes?

25 A Yes, sir. Then we're -- chronologically we're

Michael Phipps - Direct Examination by Mr. Graham

1 switching to the Verizon phone.

2 Q Just referring to calls of Mr. Barnes --

3 A Okay.

4 Q -- the calls with Mr. Barnes.

5 A With Mr. Barnes. Then we'll go down to the 1924 on
6 the 25th.

7 Q Which is what time?

8 A 7:24.

9 Q Okay. Is that incoming or outgoing?

10 A That is an inbound call.

11 Q To Mr. Cook's phone?

12 A Correct. Then we have another inbound call to
13 Mr. Cook's phone from Barnes at 2107 hours.

14 Q And that is 9:07 p.m.?

15 A Yes.

16 Q The next call or text associated with Mr. Barnes?

17 A Call or text would be an outbound text from the
18 Sprint phone to Mr. Barnes.

19 Q And what time was that?

20 A 2202.

21 Q Previously there had been evidence submitted from
22 the phone -- forensic phone examination by Joe Chappell.

23 Are you familiar with the texts -- are you familiar with
24 State's Number 18?

25 A Yes, sir, I had an opportunity to look at this.

Michael Phipps - Direct Examination by Mr. Graham

1 Q What is -- you've done forensic examinations,
2 correct?

3 A Yes, sir.

4 Q In fact, you've been qualified as an expert in that
5 as well?

6 A Yes, sir.

7 Q Is there -- do you see that text that you just
8 referred to from these records reflected on that forensic
9 investigation to have Mr. Cook's cell phone, which is
10 State's 12 itself?

11 A The first entry here is showing on the 24th, at
12 1955. This particular phone I was asked to look at. When
13 a phone extraction is done, a time zone is associated with
14 a particular call. So there's records that are pulled off
15 of that phone or corrected for the time zone that the phone
16 is currently in.

17 In this instance, the extraction was actually
18 conducted, April 15th, which is a time period where
19 Daylight Savings had already started. But the calls, that
20 are being -- occurring, are occurring in February before
21 Daylight Savings time starts. So there's an incorrect time
22 offset associated with the calls. So what's actually
23 printed here is one hour off.

24 Q So specifically -- does State's 18 contain the
25 information that corresponds with the texts that we've

Michael Phipps - Direct Examination by Mr. Graham

1 discussed on State's 54 for the 2:25 text at 22 or 1002
2 hours an outbound text from Worth Cook's's phone?

3 A Yes.

4 Q All right. Do you see that one on there? The one
5 that would be associated with that?

6 A Yes, I do.

7 Q Okay. And the time that's recorded on State's 18,
8 is that correct or incorrect?

9 A The time of the report is incorrect in that it
10 shows an offset of four hours, which in Eastern Standard
11 Time without Daylight Savings implemented, it should be
12 minus four -- I mean minus five instead of minus four, so
13 you would have to offset it one hour.

14 Q So what would be -- to correct the time on that
15 document for that text on 225, 2013, the outbound text to
16 Rick Barnes, what would it be?

17 A You would have to subtract an hour from what's
18 displaced here. What's 2302. If you took another hour
19 off, it would be 22.

20 Q And what was the content of that text that was sent
21 from Mr. Cook's phone?

22 A The content reported is, I'm good, be done in 15,
23 so head 20.

24 Q Continuing on, State's 54, what other phone calls
25 or texts do you see between Mr. Cook and Mr. Barnes?

Michael Phipps - Direct Examination by Mr. Graham

1 A The next one would be another text that's an
2 outbound text on the Sprint phone to Mr. Barnes.

3 Q And what was the date and time of that one?

4 A That is on the 26th, at 11:05, the -- let me look
5 at the lines up there. It would be on the 26th, 12:23.
6 It's an outbound phone call; and then again at 1346; and
7 then again at 13 -- 1346 is an inbound phone call from
8 Barnes; and then 1355 is an outbound phone call from
9 Mr. Barnes. Subsequent to that is an outbound phone call
10 at 1728 to Mr. Barnes.

11 Q And then on State's 55, another phone call
12 associated with people we've known including Mr. Barnes and
13 Shannon Tart; what date and time were those calls on from
14 Mr. Cook's phone?

15 A The time period is 1906 hours and 2048 hours.

16 Q Now, going back to State's 54, the red indicated
17 the Verizon phone associated with David Diblasi, correct?

18 A Yes, sir.

19 Q The last incoming or outgoing -- let's do this:
20 The last outgoing call or text that was made from
21 Mr. Diblasi's phone was from what time?

22 A 13 -- 2237 hours and was 22 minutes.

23 Q And the one indicates that it was an --

24 A It was an outbound tone phone call.

25 Q So somebody used the phone to call out?

Michael Phipps - Direct Examination by Mr. Graham

1 A Correct.

2 Q After that time period, are there any more outgoing
3 calls or outgoing texts?

4 A No, sir.

5 Q In fact, in looking at State's 55, the last entry
6 is a Verizon entry associated with Mr. Diblasi's phone.

7 What does that show?

8 A It shows on the 27th, Direction Code F. I have to
9 look that up in there -- they're long. But it's a failed
10 call. It's a call that doesn't occur.

11 Q So what does that mean?

12 A It means that someone attempted to call that number
13 and it didn't go through.

14 Q What was --

15 Q Either the phone was off, the phone was broken, the
16 battery was dead, something. It just -- the phone is not
17 on the net work?

18 Q And for all the records that you have was there
19 anymore activity other than failed calls associated with
20 Mr. Diblasi's phone?

21 A That's it.

22 Q Thank you, Mr. Phipps, you can have a seat.

23 (The witness returned to the witness stand.)

24 BY MR. GRAHAM:

25 Q Mr. Phipps, I appreciate you answering my

Michael Phipps - Cross-Examination by Ms. Fullwood

1 questions. Please answer any questions defense counsel has
2 for you.

3 A Yes, sir.

4 THE COURT: All right. Ms. Fullwood?

5 MS. FULLWOOD: Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MS. FULLWOOD:

8 Q Mr. Chappell, (sic) one thing that you just
9 testified to was -- confused me a little bit. When you
10 talked about the time difference when it was not Daylight
11 Savings Time when these records were made and it was when
12 you did the extraction, are the times that are on the chart
13 you prepared the correct time?

14 A Yes.

15 Q Okay. So you already did the addition or
16 subtraction that was necessary?

17 A Yes, ma'am. The one document that was being shown
18 in reference to the content of texts was a report that I
19 did not generate. Someone else generated that.

20 Q Uh-huh.

21 A And that had an incorrect time associated with it.

22 Q But you corrected that?

23 A The chart shows the correct time for the -- it
24 doesn't show the content.

25 Q Right.

Michael Phipps - Cross-Examination by Ms. Fullwood

1 A But the chart shows the correct time for the call
2 that was placed, yes.

3 Q Okay. And when you say calls were made to or by
4 either Mr. Cook, Mr. Diblasi, Melinda or Mr. Barnes, you're
5 talking about to or from phones associated with these
6 individuals, correct?

7 A That's correct, yes, ma'am.

8 Q So you don't know who is actually using the phone?

9 A That is correct.

10 Q Because there would be no way for you to do so,
11 right?

12 A No.

13 Q Okay.

14 MS. FULLWOOD: Your Honor, I have these exhibits
15 that have been premarked Defendant's Exhibits 3 through 6.
16 I move to have them put into evidence at this time.

17 THE COURT: All right. Solicitor?

18 MR. GRAHAM: If I could just take a quick look at
19 them, Your Honor. I haven't seen them yet.

20 (The solicitor is looking at the exhibits.)

21 MR. GRAHAM: No objection, Your Honor.

22 THE COURT: All right. Defendant's 3 through 6 in
23 evidence without objection.

24 (Defendant's Exhibit Number 3, Number 4, Number 5,
25 Number 6 was entered into evidence.)

Michael Phipps - Cross-Examination by Ms. Fullwood

1 BY MS. FULLWOOD:

2 Q Mr. Chappell, let's --

3 THE COURT: This is Mr. Phipps.

4 MS. FULLWOOD: I'm sorry, Mr. Phipps.

5 THE COURT: Mr. Chappell testified and is probably
6 back in Maine right now.

7 MS. FULLWOOD: That is the truth. That is true.
8 Mr. Phipps. Excuse me.

9 BY MS. FULLWOOD:

10 Q Let's go back to April 4, okay.

11 A Okay.

12 Q And the CSI work you did that day on Lee Gunter
13 Road. Let me hand you Defendant's Exhibit Number 3 and ask
14 if you took this photograph?

15 A Yes, ma'am, I did.

16 Q Okay. And what is that a picture of?

17 A It's a picture of the entry way that door that
18 faces towards the roadway. That shows the door jam and the
19 interior of the residence.

20 MS. FULLWOOD: Your Honor, may I publish this to
21 the jury?

22 THE COURT: Yes, ma'am.

23 BY MS. FULLWOOD:

24 Q And let me show you Defendant's Exhibit Number 4.
25 What does that depict?

Michael Phipps - Cross-Examination by Ms. Fullwood

1 A It's a close up of that same door jam, the latch
2 where the door closes.

3 Q And does it appear that some repairs have been made
4 to that area of the door?

5 A Oh, yeah. Quite extensively.

6 Q Okay.

7 MS. FULLWOOD: May I publish it to the jury, Your
8 Honor.

9 THE COURT: Yes, ma'am, of course.

10 BY MS. FULLWOOD:

11 Q And I hand you Defendant's Exhibit Number 5 and ask
12 if you can identify it.

13 A Yeah, this should be the corresponding door for
14 that entry way.

15 Q So it's the other side of that entry way?

16 A Yes, ma'am.

17 Q Okay. Does it appear that that's a fairly new
18 replacement -- piece of hardware?

19 A Yeah, it's missing the internals to the upper
20 parts.

21 Q Okay.

22 MS. FULLWOOD: Your Honor, I'd ask to be able to
23 publish it to the jury.

24 THE COURT: Of course.

25 BY MS. FULLWOOD:

Michael Phipps - Cross-Examination by Ms. Fullwood

1 Q And then moving on the the next day, April 5, you
2 took some more interior photographs that day?

3 A Yes, ma'am.

4 Q Okay. I want to show you Defendant's Exhibit 6 and
5 ask if you can identify it.

6 A Yes, ma'am. It's a chest of drawers , I guess.

7 Q Okay. Now, had that chest of drawers been in that
8 position the day before?

9 A No, ma'am.

10 Q Okay. And could you tell us why it was moved to
11 that location?

12 A Through the course of the investigation, I was told
13 that there were witnesses that said that that chest of
14 drawers had been in that location previously and when we
15 found it, it was in the master bedroom, so we moved it to
16 that location just to show that it possibly could have been
17 in that location.

18 Q Okay. And did you see any markings or spots on
19 that piece of furniture?

20 A It has damage on this end here that was obvious.

21 Q Okay. And you used a regent on that furniture,
22 that piece of furniture, correct.

23 A Yeah, we applied a product that luminesces in the
24 presence of blood and we didn't get any conclusive hits off
25 of it. Normally when blood is present and wiped, you see

Michael Phipps - Redirect Examination by Mr. Graham

1 smear marks. In this case when we applied this product, we
2 just saw some small specks that we couldn't attribute to
3 blood because you can have some false positives.

4 Q So you've just got a small amount of luminescence?

5 A Correct, yes, ma'am.

6 Q And for that reason, you didn't take any swab from
7 that area?

8 A Correct.

9 Q Okay.

10 MS. FULLWOOD: Your Honor, I'd ask to publish this
11 one to the jury.

12 THE COURT: Of course.

13 MS. FULLWOOD: Beg the Court's indulgence, Your
14 Honor.

15 (There was a brief pause.)

16 THE COURT: Certainly, yes, ma'am.

17 MS. FULLWOOD: No further questions.

18 THE COURT: Thank you, Ms. Fullwood.
19 Redirect, Solicitor?

20 MR. GRAHAM: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. GRAHAM:

23 Q Defense Exhibit Number 6, what was your
24 understanding of the -- that dresser?

25 A Investigators informed us that they had been told

Michael Phipps - Redirect Examination by Mr. Graham

1 that the chest of drawers dresser was originally in that
2 location in days prior to us being on the scene. To prove
3 that it could have been there, we moved it into that
4 location, then we also applied a Blue Star -- which is a
5 chemical agent that luminesces in the presence of residue,
6 blood residue.

7 Q Did you see any evidence that indicates the blood
8 residue?

9 A Not -- none that we could attribute specifically to
10 blood. Again, when you spray that product, cleaning fluid
11 such as bleach, other products that have metals in them,
12 copper base, will cause false positives, little flickers of
13 light that you see kind of like a firefly going off. When
14 you see an area that has been cleaned up of blood you'll
15 actually see a swipe pattern. You'll see a large area.
16 Visually, you wouldn't see blood at all, but once it's
17 cleaned up and this product is applied to it, you'd
18 actually see this wide path where someone's wiped through
19 it and we didn't see any indication of that.

20 Q If the -- what would have happened if this item was
21 cleaned very thoroughly with bleach? Would you have been
22 able to locate blood?

23 A No. And most likely, the whole piece of furniture
24 would glow or luminesce itself.

25 Q Now, if that would have been done say 6 weeks

Michael Phipps - Redirect Examination by Mr. Graham

1 before, what would it have been like at this time? Any
2 idea?

3 A We haven't done any standards as if -- that much
4 time interval between the clean up, the bleach itself
5 probably wouldn't be reacting; but, of course, the blood
6 product would probably be sufficiently diluted and cleaned
7 up that it wouldn't react either.

8 Q Defense 3, 4, and 5, what again is that showing?

9 A It's the main entry where you enter the house
10 through the kitchen. It's -- Defense Exhibit Number 5 is
11 the actual door, the latch mechanism for the door itself
12 and then the other two exhibits are the door frame.

13 Q Now, are you able to see whether this door was ever
14 broken?

15 A It's somewhat typical of what we find in mobile
16 homes because the door construction is light. If entry has
17 been forced into the residence before, it causes damage.
18 People repair it and sometimes we'll see evidence of three
19 or four events such as that.

20 Q Is there any way to tell whether the -- when the
21 damage occurred?

22 A There's no way. The reason we didn't document it
23 any further is, there wasn't any obvious signs below it
24 like splintered wood. If it was present, it had been
25 cleaned up.

Michael Phipps - Redirect Examination by Mr. Graham

1 Q So there's no way to tell whether this was
2 recent --

3 MS. FULLWOOD: Objection to the leading, Your
4 Honor.

5 THE COURT: Rephrase your question, Solicitor.

6 BY MR. GRAHAM:

7 Q Do you have any opinion as to when this occurred?

8 A No.

9 Q Do you have any opinion as to whether or not it
10 could have occurred on April 25th, 2013?

11 A It could have occurred at any point in time if it
12 was cleaned up. There wasn't an indication that it was
13 freshly committed and not cleaned up.

14 THE COURT: Well, it couldn't have occurred on
15 April 5th because that photograph had to be taken on the
16 4th or the 5th.

17 MR. GRAHAM: I'm sorry, that was my bad question,
18 Your Honor. Thank you.

19 THE COURT: Just rephrase your question, sir.

20 BY MR. GRAHAM:

21 Q Do you have an opinion as to whether this --
22 whatever damage this shows, whether or not it occurred on
23 February 25th, 2013?

24 A No, sir.

25 Q Do you have an opinion as to whether it could have

Michael Phipps - Recross-Examination by Ms. Fullwood

1 occurred after?

2 A It -- again it could have occurred at any point in
3 time prior to us getting there if somebody cleaned up and
4 had taken the time to make the repairs. Again, usually
5 when we see something that's freshly committed, it's not
6 completely repaired and put back in place. In this
7 instance it actually appears to be one instance where the
8 door has been repaired because there's varying patches up
9 and down that door jam, so there's probably multiple
10 repairs that have been made over periods of time.

11 Q Thank you, Mr. Phipps.

12 THE COURT: Recross examination, Ms. Fullwood?

13 RECROSS EXAMINATION

14 BY MS. FULLWOOD:

15 Q Concerning the dresser, is it fair to say that
16 there was at least some degree of reaction with your regent
17 you put on it, however small it was? There's some small
18 degree of luminescence?

19 A Well, I characterized it that there wasn't anything
20 that was distinct with blood residue because there is
21 always to some degree some visible display of luminescence
22 when the product's applied to anything. You're trained on
23 how to interpret what you're seeing as to whether it could
24 be attributed to one stain or not.

25 Q Okay.

Michael Phipps - Recross-Examination by Ms. Fullwood

1 A In this instance it was not.

2 Q In your report, it states there were some small
3 spots of luminescence, correct?

4 A Correct.

5 MS. FULLWOOD: No further questions.

6 THE COURT: Thank you. Thank you very much
7 Mr. Phipps, thank you for being with us this morning. You
8 may step down.

9 (The court reporter takes the exhibits from the
10 witness.)

11 THE COURT: Y'all see who's really in charge,
12 right?

13 Perhaps now would be a good time to take our
14 morning recess, ladies and gentlemen. Please do not
15 discuss the case during this brief recess. We'll take
16 about 15 minutes.

17 (The jury left the courtroom at 11:21 a.m.)

18 THE COURT: All right. We'll take about a 15
19 minute recess. Thank you.

20 (A brief recess was observed.)

21 THE COURT: Anything from the State before we bring
22 in our jury, Solicitor?

23 MR. GRAHAM: Just for the record, Your Honor,
24 there's -- the court reporter had said that she was unsure
25 and I want to make sure I didn't screw up for the record,

1 State's 43, 44, 45 and 46 were agreed to be without
2 objection into evidence by the defense.

3 I know -- I thought that I put them in. I know
4 that I published them, I know that they had no objection to
5 them because we went over them beforehand.

6 THE COURT: All right. Is that correct, Ms.
7 Fullwood? No objections to 43, 44, 45 and 46?

8 MS. FULLWOOD: That's right, Your Honor.

9 THE COURT: All right. They're now in.

10 (State's Exhibit Number 43, Number 44, Number 45,
11 and Number 46 was entered into evidence.)

12 THE COURT: What about 22? Defendant's 22 ID?

13 MR. GRAHAM: I don't know that it needs to be in
14 evidence. It was just used for Mr. Phipps to be able to
15 generate his information.

16 THE COURT: All right. Anything from the State
17 before we bring in our jury?

18 MR. GRAHAM: No, Your Honor. The State's ready.

19 THE COURT: Defense?

20 MS. FULLWOOD: No, Your Honor.

21 THE COURT: Who's your next witness, Solicitor?

22 MR. CASKEY: Candy Kyzerer.

23 THE COURT: All right.

24 (The jury entered the courtroom at 11:41 a.m.)

25 MR. CASKEY: Your Honor, State would call Candy

Candy Kyzer - Direct Examination by Mr. Caskey

1 Kyzer to the stand.

2 THE COURT: Give me just a moment, please,
3 Solicitor.

4 What are we trying to do?

5 MR. GRAHAM: I was trying to put the screen up,
6 Your Honor, so that it wouldn't be a distraction.

7 Apparently, I'm creating a distraction, Your Honor.

8 THE COURT: Are you doing to me what I did to
9 Mr. -- one of the other solicitors? Every time he tried to
10 put it up, I'd push it over here.

11 I haven't done that this time, you want to try
12 again.

13 MR. GRAHAM: I'm going to put that in someone
14 else's capabilities, Your Honor.

15 THE COURT: All right. Your next witness you say
16 is Ms. Kyzer?

17 MR. CASKEY: Yes, Your Honor.

18 THE COURT: All right. Come around.

19 CANDY KYZER,

20 having been duly sworn, testified as follows:

21 THE CLERK: Have a seat, please, ma'am. Once
22 you're seated, state your full name, spelling your last,
23 please.

24 THE WITNESS: Candy Kyzer. K-Y-Z-E-R.

25 DIRECT EXAMINATION

Candy Kyzer - Direct Examination by Mr. Caskey

1 BY MR. CASKEY:

2 Q Ms. Kyzer, where do you work and what do you do
3 there?

4 A I work at the Lexington County Sheriff's
5 Department. I'm one of three evidence custodians.

6 Q How long have you been in law enforcement?

7 A I've been in law enforcement for 20 years.

8 Q Okay. And how long have you been with the
9 sheriff's department?

10 A 20 years.

11 Q And in what capacity did you work from 2013 to the
12 present?

13 A An evidence custodian.

14 Q If you would, please, tell the jury a little bit
15 about how or what an evidence custodian does?

16 A We get in items or evidence or found property for
17 safekeeping from the investigators, deputies; and we end up
18 putting it in the computer, printing out a barcode label
19 and properly packaging it, storing it until it is needed
20 for court or testing purposes.

21 Q Okay. So when evidence is collected at a crime
22 scene and brought to the evidence room, what happens?

23 A We look and make sure everything is documented
24 accordingly and accepted into the computer system, print
25 out a barcode label, which tells us where we're going to

Candy Kyzer - Direct Examination by Mr. Caskey

1 store it at and then package it and put it up into the
2 proper location until it's needed for SLED or court.

3 Q Would it be accurate to say that you keep track of
4 all of the evidence that's collected?

5 A Yes.

6 Q Okay. Who is Beth Holliman?

7 A She is also one of the evidence custodians.

8 Q Ms. Kyzer, did -- was evidence collected in this
9 case?

10 A Yes.

11 Q Okay. I'm going to hand you what's been marked or
12 entered into evidence as State's 49. Please take a look at
13 that and tell me if you recognize that.

14 A I do.

15 Q What does that appear to be?

16 A It's a Wal-Mart bag.

17 Q Was that item entered into evidence at the
18 Lexington County Sheriff's Department?

19 A It was.

20 Q Was it assigned a control number of any kind?

21 A It was.

22 Q What was that number?

23 A The PR Number is 70462.

24 Q What interaction did you have -- did you have with
25 that item?

Candy Kyzer - Direct Examination by Mr. Caskey

1 A I took it to SLED.

2 Q Before you took it to SLED, was that item in your
3 sole care, custody, and control in the evidence room?

4 A It was.

5 Q Is that a facility that's locked and secured?

6 A It is locked. Only the three of us have keys to
7 that and it is an alarm system.

8 Q When you took it to SLED, what did do with it?

9 A We take it to SLED and they either put it in a box
10 or some sort of packaging and then I have to sign and
11 initial the packaging.

12 Q Do you recall who you gave this item to at SLED?

13 A I gave it to Jennifer Aycock.

14 Q I'm going to hand you another series of items.

15 I'm handing you what's been entered into evidence
16 as State's 51. Do you recognize that item?

17 A I do.

18 Q What does that appear to be?

19 A It's a -- a SLED package that contains swabs.

20 Q Were those items entered into evidence at the
21 Lexington County Sheriff's Department?

22 A They were.

23 Q By whom?

24 A Beth Holliman.

25 Q And you said she's an evidence custodian?

Candy Kyzer - Direct Examination by Mr. Caskey

1 A Correct.

2 Q Did you have any interaction with that item?

3 A I did.

4 Q Or those items, I should be more specific.

5 What was your interaction with those items?

6 A I took them to SLED.

7 Q And what were the control numbers associated with
8 those items?

9 A It's -- the PR Number is 70467, 70468, 70449,
10 69886.

11 Q Okay. Ms. Kyzer, when you said PR Number, what
12 does that mean?

13 A It's our Property Room Number. Each case, we have
14 several different items or like in a homicide case, we have
15 numerous items, each item is given a particular Property
16 Room Number and that's how we can also look it up by.

17 Q Okay. And that number is electronically generated
18 by the computer system you referred to earlier?

19 A It is.

20 Q When you took it to SLED, who did you give it to?

21 A I gave it to Jennifer Aycock.

22 Q All right. And did you follow the same procedure
23 you described just a second ago with the earlier exhibit I
24 handed to you?

25 A Yes, I did.

Candy Kyzer - Direct Examination by Mr. Caskey

1 Q Okay. And at the time that this item was stored at
2 the Lexington County Sheriff's Department, was it kept in a
3 facility that was secured?

4 A Yes, it was.

5 Q Was it in your sole care, custody, and control?

6 A Yes.

7 Q Thank you, ma'am.

8 I'm handing you what's been marked as State's 56.

9 Do you recognize that item?

10 A I do.

11 Q What does that appear to be?

12 A It's a shower curtain.

13 Q Was that item take into evidence at the Lexington
14 County Sheriff's Department?

15 A It was.

16 Q Who received that item?

17 A I did.

18 Q What was done with that item when it was received?

19 A I placed a barcode label on it and properly stored
20 it until it was needed for SLED report.

21 Q Did you later take that item anywhere?

22 A I did.

23 Q Where did you take it?

24 A I took it to SLED.

25 Q To whom did you give it?

Candy Kyzer - Direct Examination by Mr. Caskey

1 A Jennifer Aycock.

2 Q Did you follow the same basic procedure that you
3 described just a moment ago with the other items we talked
4 about?

5 A I did.

6 Q And at the time they were stored at the Lexington
7 County Sheriff's Department, was it kept in your sole care,
8 custody, and control?

9 A Yes, it was.

10 Q I am handing you what's been marked and entered
11 into evidence as State's 57. Do you recall that item?

12 A I do.

13 Q What does it appear to be?

14 A It's a plastic bag.

15 Q Was that item entered into evidence in this case --
16 into the evidence room in this case?

17 A It was.

18 Q All right. By whom?

19 A I entered it or accepted it into the evidence room.

20 Q And just so the record is clear, who brought it to
21 the evidence room?

22 A Mike Phipps.

23 Q Okay. If you would just go back to the last two
24 items that we talked about. Who brought those to the
25 evidence room?

Candy Kyzer - Direct Examination by Mr. Caskey

1 A Mike Phipps brought those too.

2 Q So all of the items that we talked about were
3 brought to the evidence room by Mike Phipps?

4 A That's correct.

5 Q Once that item was entered into the evidence room
6 at Lexington County Sheriff's Department, was it kept in a
7 secure facility?

8 A It was.

9 Q Was it kept in your sole care, custody, and control
10 while it was at the sheriff's department?

11 A It was.

12 Q Did you later take it out of the evidence room?

13 A I did.

14 Q What did you do with it?

15 A I took it to SLED.

16 Q And what did you do with it at SLED?

17 A They properly packaged it and then I initialled and
18 dated the fields.

19 Q To who did you give it?

20 A To Jennifer Aycock.

21 Q And we've talked about Ms. Aycock a couple of times
22 now, what does she do?

23 A She is one of their evidence login staff members.
24 She accepts all the packaging that any of the agencies
25 bring over and they properly put them into the testimony

Candy Kyzer - Direct Examination by Mr. Caskey

1 and accept them.

2 Q At SLED?

3 A Yes.

4 Q Okay. Have you had occasion to deal with

5 Ms. Aycock or other evidence custodians at SLED?

6 A Yes.

7 Q Okay. Each of these items that we've talked about,

8 State's 57, 56, 51, and 49, did these eventually come back

9 to the evidence room at the Lexington County Sheriff's

10 Department?

11 A They did.

12 Q Who received those items when they came back the

13 Lexington County Sheriff's Department evidence room?

14 A I did.

15 Q Thank you Ms. Kyzer. Please answer any questions

16 the defense has 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 for

21 being with us Ms. Kyzer. You may step down.

22 MR. CASKEY: The State would call Sheree Brown to

23 the witness stand, Your Honor.

24 THE COURT: All right. Ms. Brown, if you would

25 come around and please be sworn.

1 SHEREE BROWN,
2 having been duly sworn, testified as follows:
3 THE CLERK: Have a seat, please, ma'am. Once
4 you're seated, state your full name, spelling your last,
5 please.
6 THE WITNESS: Sheree Brown, S. -- B-R-O-W-N.
7
8 DIRECT EXAMINATION
9 BY MR. GRAHAM:
10 Q Ms. Brown, where are you employed, ma'am?
11 A South Carolina Law Enforcement Division, also known
12 as SLED.
13 Q And how long have you worked for SLED?
14 A 20-and-a-half years.
15 Q And what do you do for SLED at this time?
16 A I'm a technician in the DNA Department as a
17 forensic technician.
18 Q As a forensic technician in the DNA department,
19 what kind of things do you do?
20 A One of my duties is to track and -- physically and
21 computer-wise, evidence that has come into the DNA
22 department to be analyzed.
23 Q And did you actually perform some activity on this
24 case?
25 A Yes, I did.
Q Let me show you what's been premarked as State's

Sheree Brown - Direct Examination by Mr. Graham

1 Number 50 and ask if you recognize this object and what it
2 is.

3 A Yes.

4 Q What is that object?

5 A This is a heat sealed pouch that has a coin
6 envelope in it.

7 Q And in addition to the coin envelope, is there
8 something else inside.

9 A Yeah, inside the coin envelope is a dried blood
10 standard.

11 Q Do you recognize that coin envelope?

12 A Yes, I do, because my initials are -- and my
13 handwriting is on the front of the coin envelope.

14 MR. GRAHAM: Your Honor, for the record, defense
15 counsel has stipulated the chain of custody as far as
16 Mr. Diblasi's blood that was taken from the autopsy until
17 Ms. Brown received it.

18 THE COURT: All right. Correct, Ms. Fullwood?

19 MS. FULLWOOD: That's correct, Your Honor.

20 THE COURT: All right. Thank you.

21 BY MR. GRAHAM:

22 Q Ms. Brown, once you received the blood from
23 Mr. Diblasi's autopsy, what, if anything, did you do with
24 it?

25 A It came into SLED in a blood tube, a purple top

Sheree Brown - Direct Examination by Mr. Graham

1 tube and our protocol says we need to take the liquid blood
2 and make it a dry standard, so I had to sub-itemize and I
3 created the blood standard on filter paper.

4 Q And how do you actually do that?

5 A You just take the purple top tube and poor a small
6 sample onto some filter paper and it dries and then it's
7 repackaged in this coin envelope that I created.

8 Q So the object before you is the actual blood
9 standard that you created on filter paper of Mr. Diblasi's
10 blood?

11 A Yes.

12 MR. GRAHAM: Your Honor, the State would offer that
13 bag and it's contents into evidence, State's 50.

14 MS. FULLWOOD: No objection, Your Honor.

15 THE COURT: All right. State's 50 is in evidence
16 without objection.

17 (State's Exhibit Number 50 was entered into
18 evidence.)

19 BY MR. GRAHAM:

20 Q Ms. Brown, once you create that, you let it dry,
21 you put it in the coin envelope, how do you seal that
22 envelope and how do you know that it's yours; that you were
23 involved with it?

24 A I would have just put it in a sealed envelope and
25 signed it and then it goes on to the -- back into our DNA

Sheree Brown - Direct Examination by Mr. Graham

1 intake to be -- to wait to be analyzed.

2 Q How does SLED keep track of movement of the
3 evidence that they receive and the movement through the
4 different departments at SLED?

5 A On this pouch, we have a label and it's a barcode
6 label. That label is scanned within our system and it
7 tracks every place it goes from person to holding bin to
8 another person.

9 Q Let me show you another object and ask you if you
10 recognize that.

11 A Yes. This is a copy of -- prepared for release of
12 chain of custody.

13 Q So every time an object is moved from one place to
14 another, it's movement is recorded?

15 A Yes. And each individual item is given a unique
16 barcode number that match their name and all so that when
17 you scan that it knows who it's coming from or to.

18 Q And have you been allowed by SLED to come and talk
19 about the chain of custody as far as this object and what
20 happened to it once you create it in SLED?

21 A Yes.

22 Q Can you tell the jury once you created -- well,
23 what was this object labeled? At SLED you assign different
24 numbers to evidence?

25 A Well, the initial blood sample from the autopsy

Sheree Brown - Direct Examination by Mr. Graham

1 came in as Item Number 1 related to this case and that's
2 the liquid blood, so when I sub-itemize it to do the
3 drug -- dried blood standard, it became 1.1.

4 Q Can you go ahead, since you created it, and explain
5 to the jury what happened to Item 1.1 after you created it?

6 A I created 1.1, so the chain of custody starts with
7 me. Then I took it and gave it to Nickie Hughs, physically
8 and electronically. She took it into her custody and then
9 she scanned it into a location, our DNA intake shelf 81.

10 Q And after the intake shelf, what happens?

11 A Then Amy Smith within the evidence control, put it
12 in a bin entitled Bin 9 Shelf F. Then Amy took it again
13 and returned it back to the agency.

14 Q Do you -- does your document show who picked it up
15 from the Lexington County Sheriff's Department?

16 A Candy Kyzer.

17 Q Candy Kyzer. At another point, do you see that
18 same item 1.1 coming back into SLED?

19 A Yes. It came back in and Jennifer Aycock within
20 our evidence control department, she took custody of it and
21 it was sent back into the DNA intake refrigerator. Then
22 Jennifer took custody of it again and gave it to Sam Smith,
23 which is a DNA analyst.

24 Q Samuel Stewart, maybe?

25 A Yeah, Stewart.

Sheree Brown - Direct Examination by Mr. Graham

1 Q He's an --

2 A He's a DNA analyst.

3 Q So once you created the envelope inside, how do you
4 prevent it from being tampered with?

5 A According to protocol at SLED, everything has to be
6 heat sealed with initials on it and I see all that's been
7 done.

8 Q So you create a coin envelope?

9 A Yes.

10 Q You seal it; then it go goes into a heat sealed
11 bag --

12 A Right and it gets transferred from wherever to
13 location it needs to go next.

14 Q What is the protocol at SLED if they -- if somebody
15 during all those people you talked about got it and it
16 wasn't sealed properly?

17 A It would be noted on the chain of custody that
18 something was improperly done. And I didn't see anything
19 on it.

20 Q Okay. Thank you Ms. Brown. Please answer any
21 questions they have for you.

22 MS. FULLWOOD: No questions, Your Honor.

23 THE COURT: Thank you. Thank you very much.

24 Thank you for being with us this morning Ms. Brown.

25 You may step down, you may be excused.

Candy Kyzer - Direct Examination by Mr. Caskey

1 THE COURT: All right. You may call your next
2 witness, Solicitor.

3 MR. CASKEY: Your Honor, the State would recall
4 Candy Kyzer.

5 THE COURT: She's still under oath.

6 All right. Solicitor?

7 DIRECT EXAMINATION

8 BY MR. CASKEY:

9 Q Ms. Kyzer, we just spoke a minute ago. You are, in
10 fact, or you were, in fact, the evidence custodian at
11 Lexington County Sheriff's Department?

12 A Yes.

13 Q I'm going to hand you what's been marked as State's
14 50. And we had an opportunity -- take a look at that and
15 tell me do you recognize that.

16 A I do. I do.

17 Q Okay. Did you receive that item into evidence at
18 the Lexington County Sheriff's Department?

19 Take your time. I know you've got a lot of
20 records.

21 A I did.

22 Q What is the PR Number associated with this item?

23 A It's 87907.

24 Q From whom did you receive this item?

25 A From Mike Phipps.

Candy Kyzer - Direct Examination by Mr. Caskey

1 Q Okay. And what -- let me see what you're looking
2 at exactly. What is the name of this document we're
3 looking at?

4 A That's our property report.

5 Q Okay.

6 A And that's a chain of custody report that's printed
7 out by our computer system.

8 Q Did you receive this item from SLED?

9 A In item -- I did. Originally it was sent over to
10 SLED, but then whenever it comes back, I actually get this
11 back, it's separated out.

12 Q Okay. And then you entered it into evidence at the
13 Lexington County Sheriff's Department?

14 A Yes.

15 Q And did you release it back to SLED at any point?

16 This item that we're talking about, State's 50,
17 does it have a marking from --

18 THE COURT: Wait a minute, wait a minute. Hold on.

19 There's a question on the table that hasn't been
20 responded to.

21 THE WITNESS: I'm showing I received it -- I'm not
22 seeing where I took it back to SLED.

23 BY MR. CASKEY:

24 Q Ms. Kyzer, I'm going to show you a document.

25 A I'm sorry.

Candy Kyzer - Direct Examination by Mr. Caskey

1 Q That's not a problem. There's a lot of documents,
2 Ms. Kyzer.

3 Can you identify what this is that I'm showing you?
4 What does that appear to be?

5 A It's a chain of custody report from SLED.

6 Q Okay. If you would, please, turn to the next page.
7 What do you see there?

8 A It's showing that -- it's -- I submitted it back to
9 SLED on November 21st of 2014.

10 Q Okay. And the entry that we're talking about, does
11 that refer back to this item, State's 50?

12 A Yes, it does.

13 Q And was this item in your sole care, custody, and
14 control while it was either in the Lexington County
15 Sheriff's Department evidence room and during the time you
16 took it back the SLED?

17 A It was.

18 Q Thank you, ma'am.

19 MR. CASKEY: Please answer any questions the
20 defense may have for you.

21 THE COURT: Ms. Fullwood?

22 MS. FULLWOOD: No questions, Your Honor.

23 THE COURT: Thank you. Thank you, Ms. Kyzer.
24 You're excused.

25 All right. You may call your next witness.

Andrena Harrison - Direct Examination by Mr. Caskey

1 MR. CASKEY: Thank you, Your Honor. The State
2 would call Andrena Harrison.

3 THE COURT: All right. Ms. Harrison, if you'd come
4 around and be sworn for us, please.

5 ANDRENA HARRISON,
6 having been duly sworn, testified as follows:

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

10 THE COURT: All right. Solicitor.

11 MR. CASKEY: Go ahead.

12 THE WITNESS: Andrena Harrison, H-A-R-R-I-S-O-N.

13 **DIRECT EXAMINATION**

14 BY MR. CASKEY:

15 Q Ms. Harrison, where do you work and what do you do
16 there?

17 A I work at South Carolina Law Enforcement Division,
18 also known as SLED. I'm a -- we have a lot of titles. You
19 call it criminalist, forensic scientist, senior agent in
20 the latent crime scene department.

21 Q Okay. And what do you do in those various
22 capacities.

23 A I process evidence as it comes through the door
24 from all the surrounding, counties within the state. I
25 also receive latent print cards and I examine those and I

Andrena Harrison - Direct Examination by Mr. Caskey

1 also run the AFIS machine.

2 Q Okay. In your capacity there at SLED -- well,
3 before you do that, if you would tell the jury a little bit
4 about your training, education, and experience,
5 particularly as it relates to law enforcement.

6 A I received my degree from Columbia College in
7 Prelaw in 2003. In 2007, I received my masters degree,
8 Public Administration. 2003, I began my career at South
9 Carolina Law Enforcement Division in the Records Department
10 as a fingerprint technician at the time. In 2007, I was
11 promoted to this department working as a fingerprint
12 examiner and forensic scientist.

13 Q What training have you had specifically with regard
14 to fingerprint analysis?

15 A Since my career in 2003, I have gone to a host of
16 trainings which include fingerprints where you compare the
17 fingerprints here, palm prints, tire treads, footwear,
18 blood spatter. I've also done chemical processing testing.
19 I have been trained inhouse for two years under court
20 qualified examiners as well.

21 Q If you would, just tell the jury a little bit about
22 where some of those trainings were held or -- by which
23 agencies provided that training to you.

24 A Some of the trainings would be held at SLED, South
25 Carolina Law Enforcement Division; some at highway patrol.

Andrena Harrison - Direct Examination by Mr. Caskey

1 I've been to California; I've been to Seattle; I've been to
2 Florida; Texas; a number of different states with all those
3 different trainings.

4 Q And does that training include specifically latent
5 print analysis?

6 A Yes. Some of it did and some of it also included
7 footwear, the tire tread, the blood spatter.

8 Q Okay. And what does -- what is a latent print?

9 A Before I can tell you about a latent print, I have
10 to explain to you what a fingerprint is. A fingerprint is
11 what you have -- of course, everybody has their fingers.
12 You have different pattern types. So a fingerprint is
13 known as a rolled impression. So when you roll it you can
14 do it voluntarily or involuntarily. So if you do it
15 voluntary -- if you're a teacher or an officer, you're
16 going to get fingerprinted. If you want to apply for an
17 adoption -- babies when they come out, they're
18 fingerprinted, well, they're footprinted. So that's
19 voluntary.

20 If it's involuntary, it's going to be when you get
21 arrested. You're fingerprints are going to be taken. If
22 you don't want them taken, that's involuntary. So that's a
23 fingerprint.

24 A latent print means -- it means in laymen terms,
25 hidden or not usually seen. So that means you didn't mean

Andrena Harrison - Direct Examination by Mr. Caskey

1 to leave it behind. You can't really see it with the human
2 eye. That's the difference between a fingerprint and a
3 latent print.

4 Q Have you ever testified in court as an expert in
5 fingerprint analysis.

6 A Yes, I have.

7 Q How many times?

8 A Ten plus.

9 Q Okay. Have you ever testified as a expert in
10 latent print analysis?

11 A Yes, I have.

12 Q How many times?

13 A Same amount.

14 MR. CASKEY: Your Honor, the State would offer
15 Ms. Harrison as an expert in fingerprint analysis and
16 latent fingerprint analysis.

17 THE COURT: All right. Ms. Fullwood?

18 MS. FULLWOOD: We have no objection, Your Honor.

19 THE COURT: Again, ladies and gentlemen, you heard
20 my instruction to you earlier, but normally a person cannot
21 testify to opinion evidence. However, there is an
22 exception when one is qualified because of training,
23 experience, education in a particular art, science, field,
24 or profession. They are qualified and permitted to give
25 their opinions if the Court qualifies them for certain

Andrena Harrison - Direct Examination by Mr. Caskey

1 areas. This witness, Agent Andrena Harrison will be
2 qualified in the area of fingerprint analysis and latent
3 fingerprint analysis to give opinion testimony in those
4 areas and the basis of those opinions.

5 That does not mean that you must accept the
6 opinions, but it is evidence for you to jury to use in any
7 way you deem fit.

8 Thank you, Solicitor, you may continue.

9 MR. CASKEY: Thank you, Your Honor.

10 BY MR. CASKEY:

11 Q Ms. Harrison, you testified a moment ago that you
12 were formerly a clerk of some kind to take in evidence at
13 SLED; is that correct?

14 A Not a clerk. As a forensic scientist, we do
15 have -- our secretary actually gets the evidence from
16 downstairs and she locks it up into our secured locker, so
17 I take my evidence from there.

18 Q My apologies. My word, not yours, clerk.

19 You're familiar with the evidence intake process at
20 SLED?

21 A Yes, sir.

22 Q You're familiar with the SLED chain of custody
23 forms?

24 A Yes, sir.

25 Q Do you have a copy of that with you?

Andrena Harrison - Direct Examination by Mr. Caskey

1 A Yes, I do.

2 Q Okay. I'm going to hand you what's been marked as
3 State's 56. Just take a moment and look at that.

4 Do you recognize that item?

5 A Yes, I do.

6 Q How do you recognize it?

7 A Per our policy and protocol, for each item that we
8 touch, we're to put our lab number, initials, and item
9 number on there. Here, you can see L134855, Item 9 AJH,
10 which would be my initials, and that's also my initial on
11 the seal with the date.

12 Q Are there any stickers or control numbers that you
13 recognize on that item?

14 A The only thing I recognize is that it says the
15 shower curtain, which was there when I first received it.

16 Q When that item was received into -- all right.

17 Let me hand you this, what's been marked as State's
18 58.

19 (State's Exhibit 58 was marked for identification.)

20 BY MR. CASKEY:

21 Q Do you recognize that item?

22 A I do.

23 Q This is -- in my notes, I have it is as the sealed
24 box that items 8 through 10 were received in. So it's
25 Container D from Lexington County Sheriff's Department.

Andrena Harrison - Direct Examination by Mr. Caskey

1 Q Okay. Was that item received into evidence at the
2 State Law Enforcement Division?

3 A Yes, it was.

4 Q In the evidence room there?

5 A Yes, it was.

6 Q Have you had an opportunity to review this SLED
7 chain of custody form with regard to that item?

8 A Yes, I did.

9 Q Do you recognize each of the names on that list?

10 A Yes, I do.

11 Q Does anything stand out to you as abnormal?

12 A No.

13 Q That item was kept in your social care, custody,
14 and control?

15 A Yes, it was.

16 Q Beginning with the top of that list, what is the
17 first name that you see? And do you recognize who that
18 person is?

19 A We talking about A or D or are we talking about
20 Item 9.

21 Q We're talking first about the box that you have
22 there?

23 A The box. Okay. I would have to go back to Item 3.
24 For container D, the first name is Jennifer Aycock.

25 Q When was the next time that item was moved or

Andrena Harrison - Direct Examination by Mr. Caskey

1 touched in any way at SLED?

2 A On November 21st, 2014, it was placed into the
3 Evidence Room 150 into latents evidence intake storage.

4 Q Okay. What next?

5 A On November 25th, 2014, forensic technician Amy
6 Stevens received it. You want me to keep going?

7 Q Yes, ma'am.

8 A Okay. And then the same date, November 25th, 2014,
9 forensic technician Lisa Chapman received it. On November
10 25th, 2014, it came into incoming latent print department
11 and on December 5th, 2014, I received it into my evidence.

12 Q Okay. Now, what was the relationship between
13 item -- State's 56 and State's 58. What was the
14 relationship between the two.

15 A Item -- State's 56, which is our Item 9 was located
16 inside of that box with items, with SLED's Item numbers 8
17 and 10.

18 Q Would it be accurate to tell you that this was the
19 box that was used to transport this item and others to
20 SLED?

21 A Yes.

22 MR. CASKEY: Your Honor, the State would offer
23 State's 58 into evidence.

24 MS. FULLWOOD: No objection, Your Honor.

25 THE COURT: State's 58 is in evidence without

Andrena Harrison - Direct Examination by Mr. Caskey

1 objection.

2 (State's Exhibit Number 58 was entered into
3 evidence.)

4 BY MR. CASKEY:

5 Q Okay. Let's return to talking about State's 56.

6 When did you open the box State's 58 to retrieve what's in
7 the bag in front of you?

8 A On November 5th, 2014.

9 Q And for what purpose did you remove that item?

10 A There was a latent print assignment on the items.

11 Q Did you, in fact, conduct an analysis on that item?

12 A Yes, I did.

13 MR. CASKEY: Your Honor, the State would offer
14 State's 56 into evidence.

15 MS. FULLWOOD: No objection, Your Honor.

16 THE COURT REPORTER: That's in.

17 MR. CASKEY: And so --

18 THE COURT: Give me just a minute, please,
19 Solicitor. I thought 56 was already in evidence.

20 THE COURT REPORTER: It was.

21 THE COURT: I just like to track my records. 56 is
22 already in evidence. You may continue.

23 MR. CASKEY: Thank you, Your Honor. The box threw
24 me off.

25 BY MR. CASKEY:

Andrena Harrison - Direct Examination by Mr. Caskey

1 Q Ms. Harrison, tell us about your analysis of that
2 item.

3 A Okay. Once I received the first State's Exhibit
4 58, I believe, that box, I opened it. Then I opened this
5 item as well. This is, again -- State's 56 is Item 9 for
6 SLED. It's listed as one shower curtain indicated as being
7 recovered from the grave sight and it was contained in a
8 sealed bag. Once I opened everything, I did a visual
9 examination and my results say no fingerprints observed.
10 So at that time I didn't see anything with the original
11 visual. Once I was done with my visual, I also had Special
12 Agent Stewart come down from the DNA Department because a
13 DNA assignment was also done -- requested on this
14 particular item.

15 Samuel Stewart decided to cut pieces of the shower
16 curtain out for DNA purposes before I began my chemical
17 processing. So that was done in my presence.

18 Q Ms. Harrison, if you would please, tell us about
19 that chemical analysis. What is involved in that?

20 A That would be my next step. So after he did that,
21 I did cyanoacrylate. Cyanoacrylate is just a fancy word
22 for super glue. And so at that time, I put it in a case, I
23 put my shower curtain in and it was tall since it was a
24 shower curtain.

25 I let the super glue in there and let it fume. It

Andrena Harrison - Direct Examination by Mr. Caskey

1 only takes 30 minutes, no longer than 45 minutes to do a
2 fuming. Once I was done with the cyanoacrylate, the super
3 glue, I did another visual and I didn't see anything at
4 this time. So that was another no fingerprint as well.

5 Once I was finished with that, I did MBD. MBD is a
6 fluorescent, so you spray the chemical on, you cut out the
7 lights, put on your goggles. What it does is it takes out
8 all the background noise. This shower curtain was covered
9 in a lot of dirt and mud. So with that fluorescent light I
10 was able to eliminate the background noise with my glasses.
11 And when I did that using my alternative light source, it
12 was no fingerprint observed as well. So on this particular
13 item, I didn't see a fingerprint.

14 Q But you tried pretty hard?

15 A I tried everything I had.

16 Q Okay. After you had analyzed this item, what did
17 you do with it?

18 A Once I was done analyzing it, I would have put my
19 lab number, initials, and item number onto that item and
20 then I sealed it back up.

21 Q Okay. And you returned it where?

22 A It would go back into our latent return.

23 Q If you would, please, just tell the jury what that
24 process was.

25 A Returning it?

Andrena Harrison - Direct Examination by Mr. Caskey

1 Q Yes, ma'am.

2 A Okay. Once you're done with an item, if you have
3 enough space, you can put your lab number, item number, and
4 your initials on it. If you don't have enough space where
5 you possibly could run it going somewhere else, you just
6 seal it, make sure everything is sealed and then you can
7 see my initials on the outside of the seal stating that I
8 did seal this evidence on this date. Once I'm done with
9 that and I had some other evidence with it, I put it all
10 back into State's 58, which was that box. I sealed that.
11 Once I was done with that, I put it back in our latent
12 return, which is secured and sealed. We have to use our
13 badge as well as a key to get in there. I placed it in a
14 locker and it stayed there until Lisa Chapman, which is our
15 forensic technician, she picked it up, put it in her
16 custody and took it downstairs for return.

17 Q All right. Whew. Let me hand you what's been
18 marked as State's 57. Do you recognize that item?

19 A Yes, I do.

20 Q How do you recognize that item?

21 A The lab number, initials, and item number.

22 Q Tell the jury what your interaction with that item
23 was. Just initially before your analysis?

24 A You want me to start with the chain.

25 Q Yes, ma'am.

Andrena Harrison - Direct Examination by Mr. Caskey

1 A Okay. Again, that was also located inside of
2 Container D with the first item we just went over. On
3 November 21st, it was received by forensic technician
4 Jennifer Aycock. On November 21st, 2014, it went to the
5 Evidence Room 150, latents evidence intake storage. On
6 November 25th, forensic technician Amy Stevens retrieved
7 it. And again on November 25th, 2014, forensic technician
8 Lisa Chapman received it. She then placed it into latent
9 incoming and on December 5th, 2014, I received the
10 evidence.

11 Q And once you received that piece of evidence, what
12 did you do with it?

13 A I opened the original box, which would be State's
14 Exhibit 58 and then I pulled that out as well; and I opened
15 it up.

16 MR. CASKEY: Your Honor, the State would offer
17 what's been marked as State's 58 into evidence.

18 THE COURT REPORTER: It's in.

19 MR. CASKEY: I'm sorry, what number are we on
20 there.

21 THE WITNESS: We're on 57.

22 MR. CASKEY: 57 into evidence.

23 THE COURT REPORTER: It's in.

24 MR. CASKEY: 57 is in all right.

25 BY MR. CASKEY:

Andrena Harrison - Direct Examination by Mr. Caskey

1 Q And okay -- and what did you do with 57 when you
2 analyzed it?

3 A Once I opened State's Exhibit 57, I described it as
4 one plastic bag, indicated as coming from the victim's
5 head, which was further contained in a sealed bag and
6 further contained in a sealed bag.

7 Q Okay. And what was the result of your analysis.

8 A No fingerprint was observed.

9 Q Did you follow the same process that you used with
10 the earlier item?

11 A Yes, I did.

12 Q Okay. And afterwards, what did you do it?

13 A Same exact thing, lab number, initials, item
14 number, sealed everything back up and placed it back into
15 State's 58, the box.

16 Q And State's 49. Do you recognize that item?

17 A Yes, I do.

18 Q Tell the jury how you came to be in contact with
19 that item.

20 A This would be SLED's Item Number 10. It was also
21 located inside of State's Exhibit 58.

22 Q When did you receive it?

23 A I received this on December 5th, 2014.

24 Q What did you do with it once you received it?

25 A Once I received it, I opened everything up and I

Andrena Harrison - Direct Examination by Mr. Caskey

1 get my description of what I saw on the inside.

2 Q And that item came in the box that we've been
3 talking about, State's 58?

4 A Yes, it did.

5 Q Did you analyze that for fingerprints?

6 A Yes, I did.

7 Q Did you use the same processes that you described
8 earlier?

9 A Yes, I did.

10 Q Did you reach a conclusion as to whether or not
11 fingerprints were discoverable?

12 A Yes, I did.

13 Q What was that opinion?

14 A No fingerprints observed.

15 Q Okay. What did you do with that item after you had
16 analyzed it?

17 A This item was also placed back into the box and
18 returned for latent return.

19 Q Did you create anything from the item?

20 A Yes, I did. I created swabs 10.1 and 10.2.

21 Q Okay. I'm handing you what's been marked as
22 State's 52: Do you recognize that item?

23 A Yes, I do.

24 Q What is that?

25 A These are the swabs that I created, which would be

Andrena Harrison - Direct Examination by Mr. Caskey

1 item 10.1 and 10.2.

2 Q What are 10.1 and 10.2?

3 A 10.1 and 10.2 are the swabs that came from the
4 handle areas for possible touch DNA of the two Wal-Mart
5 bags that was described in Item 10.

6 Q How did you go about creating those 10.1 and 10.2
7 as you call them?

8 A Because the first item SLED's Item Number 10 was
9 two Wal-Mart bags, I went ahead and separated them out to
10 label them Wal-Mart bag A and Wal-Mart bag B. And so I did
11 swabs 10.1 on one of the bags; swab 10.2 on the second bag.

12 Q Okay. And again, what was the purpose of creating
13 the swabs?

14 A This was a latent print DNA assignment on the Item
15 10.

16 Q What does that mean?

17 A That means that the submitted agency wanted latent
18 prints done they want to see if we can find fingerprints
19 and they also wanted DNA. And at the time they wanted
20 DNA -- and at the time, I believe, for the DNA -- touch DNA
21 as well as blood DNA.

22 Q Okay. And you created the swabs and what did you
23 do with them?

24 A Once I created the swabs, I put my seal on the bag,
25 on this envelope. I put the information, what the swab

Andrena Harrison - Direct Examination by Mr. Caskey

1 was, where it came from. On the back of the envelope, I
2 put my seal with the date and I sealed it and sent it -- I
3 can tell you exactly where it went.

4 I gave it directly to Sally Story.

5 Q Did you create cuttings as well?

6 A I did not. Samuel Stewart did the cuttings on Item

7 9. I can't remember which exhibit that was for the State.

8 Q Okay. We haven't seen those yet in evidence.

9 THE COURT: I have the shower curtain State's 56.

10 MR. CASKEY: Thank you, I don't have any further
11 questions for you. Please answer any that the defense may
12 have for you.

13 THE COURT: Ms. Fullwood?

14 MS. FULLWOOD: No questions, Your Honor.

15 THE COURT: Thank you. Thank you very much for
16 being with us this afternoon, Ms. Harrison.

17 THE WITNESS: Thank you.

18 THE COURT: You may be excused.

19 All right. Solicitor, you may call your next
20 witness

21 MR. GRAHAM: Thank you, Your Honor.

22 The State calls Samuel Stewart.

23 SAMUEL STEWART,

24 after being duly sworn, testified as follows:

25 THE CLERK: Have a seat, sir. Once you're seated,

Samuel Stewart - Direct Examination by Mr. Graham

1 state your full name, spelling your last, please.

2 THE WITNESS: Samuel Stewart, S-T-E-W-A-R-T.

3 DIRECT EXAMINATION

4 BY MR. GRAHAM:

5 Q Mr. Stewart, where are you employed, sir?

6 A I work for the South Carolina Law Enforcement
7 Division, commonly known as SLED.

8 Q And how long have you worked for SLED?

9 A Four years.

10 Q And what do you do at SLED?

11 A Forensic scientist assigned to the DNA case work
12 department.

13 Q What do you do as a forensic scientist assigned to
14 the DNA Case Work Department?

15 A As a forensic scientist, I'm responsible for
16 processing any evidence an known standards for DNA. My
17 purpose is to try to determine whether or not the DNA
18 profile from those known standards; which can come from a
19 victim or a subject, can be included or excluded as a
20 possible contributor to the DNA profile from the evidence.

21 Q Just in general, what is DNA?

22 A DNA stands for deoxyribonucleic acid. It is the
23 genetic material that is found in every person and is
24 responsible for certain traits such as our eye and our hair
25 color. DNA is contained in a dense packets known as.

Samuel Stewart - Direct Examination by Mr. Graham

1 chromosomes, which are found in every cell of the human
2 body, excluding red blood cells. We receive half of our
3 chromosomes from our mother and the other half from our
4 father. We target certain locations on those chromosomes,
5 known as STR. That stands for Short Standard Repeats and
6 we look at 16 different locations to develop what is known
7 as a DNA profile. We can usually identity a person from
8 another person, excludeing identical twins.

9 Q The term serology, what does that mean?

10 A That is the study of bodily fluids such as blood,
11 semen, or saliva.

12 Q What training or experience do you have in the
13 fields of serology and DNA?

14 A I'm also trained to answer in the field of
15 serology. I had to pass certain tests or competency tests
16 or oral tests and a mock trial to be certified in the area
17 as well as DNA.

18 Q What's your educational background?

19 A I received my bachelor of science in Biology from
20 Frances Marian University. I also received inhouse SLED
21 training under other court qualified analysts for over a
22 year and a half. Once again, I did complete written exams,
23 competencies and a mock trial. I have been deemed
24 competent as a DNA analyst.

25 Q How many DNA cases have you analyzed for SLED?

Samuel Stewart - Direct Examination by Mr. Graham

1 A Over hundreds.

2 Q How about looking for serological evidence?

3 A Hundreds, maybe thousands.

4 Q Have you ever been qualified as an expert before in
5 the field of serology and DNA.

6 A Yes, I have.

7 Q Approximately how many times?

8 A 13.

9 MR. GRAHAM: Your Honor, the State would offer
10 Samuel Stewart as an expert in the field of serology and
11 DNA.

12 MS. FULLWOOD: No objection, Your Honor.

13 THE COURT: All right. Again, ladies and
14 gentlemen, as Ms. Harrison and Mr. Phipps, I believe, this
15 witness, Samuel Stewart will be qualified as an expert in
16 the field of DNA and serology analysis.

17 Thank you, thank you, Solicitor, you may continue.

18 MR. GRAHAM: Thank you, Your Honor.

19 BY MR. GRAHAM:

20 Q Mr. Stewart, let me show you what's been marked as
21 State's Number 50 and ask if you recognize that.

22 A Yes, I do.

23 Q And also I'm going to pass up the certified chain
24 of custody. You've been authorized by SLED to discuss the
25 chain and the movement of evidence, correct?

Samuel Stewart - Direct Examination by Mr. Graham

1 A Yes, I am.

2 Q That item, State's Number 50, that's also known as
3 SLED Item 1.1; is that correct?

4 A That is correct.

5 Q What is SLED 1.1?

6 A It is a known standard from Mr. David Diblasi, from
7 a known prior blood sample.

8 Q And who did you receive that from?

9 A I received this from our forensic technician in our
10 Evidence Control Department on December 8th 2014.

11 Q Once you got that, what, if anything, did you --
12 was it -- was it sealed properly when you got it?

13 A Yes, it was.

14 Q Any evidence of tampering?

15 A No, there was not.

16 Q Once you got it, what did you do with item 1.1.

17 A I then processed it for DNA to develop a DNA
18 profile for Mr. David Diblasi.

19 Q And what does that mean?

20 A That just means that it's a known standard, meaning
21 that I'm developing a DNA profile for that individual so
22 that can be compared to the DNA profiles of the evidence to
23 see if a person can be included or excluded.

24 Q Let me show you State's 52 in evidence and ask if
25 you recognize this item?

Samuel Stewart - Direct Examination by Mr. Graham

1 A Yes, I do.

2 Q And where did -- at some point did you receive that
3 item?

4 A I received this into my custody on December 8th,
5 2014, from Ms. Andrena Harrison.

6 Q And she is in which department?

7 A Our Latent Prints Department.

8 Q So State's 52, the contents were handed directly to
9 you by her?

10 A That is correct.

11 MR. GRAHAM: Your Honor, the State would offer 52
12 into evidence.

13 MS. FULLWOOD: No objection, Your Honor.

14 THE COURT: State's 52 is in evidence without
15 objection.

16 (State's Exhibit Number 52 was entered into
17 evidence.)

18 BY MR. GRAHAM:

19 Q Specifically what -- there are multiple items
20 contained in SLED's -- I mean State's Exhibit 52 which is
21 SLED Container D, correct?

22 A That is correct.

23 Q As far as testimony here today, specifically, can
24 we discuss items 10.1 and 2. What are those?

25 A Those are swabs taken from the handle areas of a

Samuel Stewart - Direct Examination by Mr. Graham

1 Wal-Mart bag.

2 Q And what, if anything, did you do with those items?

3 A I also processed those for DNA to develop a DNA
4 profile.

5 Q And were you able to do that?

6 A Yes, I was.

7 Q Also that exhibit contains 10.2; is that correct?

8 A That is correct.

9 Q And what, if anything, did you do with SLED's 10.2
10 and what is 10.2 and what did you do?

11 A That is another swab taken from the handle area of
12 Wal-Mart bag B; and on the 10.1 was Wal-Mart bag A. I
13 apologize.

14 Q Okay. That exhibit also contains what's known as
15 SLED 10.3; is that correct?

16 A That is correct.

17 Q What, if anything, did you do with SLED's 10.3?

18 A I also performed DNA analysis on that item.

19 Q Now, what was 10.3?

20 A That was a cutting from Wal-Mart bag A.

21 Q Prior to developing a DNA profile, did you do any
22 presumptive testing?

23 A Yes, I did.

24 Q What is a presumptive test? What does that mean?

25 A It's a testing that we use. It does not confirm

Samuel Stewart - Direct Examination by Mr. Graham

1 the presence of a body fluid, but it does give us an
2 indication that body fluid is present.

3 Q And did you perform a presumptive test on the
4 cutting from the Wal-Mart bag A?

5 A Yes, I did.

6 Q And what were the results of that test?

7 A Presumptive test for blood was positive for that
8 item.

9 Q Item 10.4 was also contained in a same exhibit; is
10 that correct?

11 A Yes, it was.

12 Q And what was Item 10.4?

13 A It was a cutting from Wal-Mart bag B.

14 Q Did you perform any presumptive testing on that
15 item?

16 A Yes, did.

17 Q And what were the results of that test?

18 A Presumptive testing for that was positive on that
19 item.

20 Q And were you able to develop DNA profiles from all
21 four of those items, 10.1, 2, 3, and 4 that were taken from
22 Wal-Mart bag which SLED has labeled Wal-Mart bag A and B?

23 A Yes, I was.

24 Q In addition, let me show you another item and ask
25 if you recognize State's 51 as containing three swabs that

Samuel Stewart - Direct Examination by Mr. Graham

1 you analyzed.

2 A Yes, I do.

3 Q Can you tell me how this item, 51 and the bag
4 containing those, there are actually four but we're
5 discussing three, those three SLED -- those three swabs
6 came into your possession?

7 A I received those items in my custody on December
8 8th, 2014, from a forensic technician in our evidence
9 control department.

10 Q Can you give the chain of custody of these items
11 from when they came into SLED into your possession?

12 A Yes, I can. The chain starts with these items from
13 Ms. Candy Kyzer of the Lexington County Sheriff's
14 Department. She brought these in on November 21, 2014. It
15 was then logged in by our forensic technician in our
16 evidence control department on that same day.

17 And then she also housed it onto a DNA intake shelf
18 for processing. And as stated earlier, on December 8,
19 2014, she took that item back into her custody and then
20 transferred that item into my custody.

21 Q So does that chain of custody incorporate all three
22 of the swabs that we're talking about contained within
23 State's 51?

24 A Yes, they do.

25 Q When you received -- when these items would have

Samuel Stewart - Direct Examination by Mr. Graham

1 been brought into SLED, would they have been put into this
2 package?

3 A That is correct.

4 Q And this this again, is it a heat-sealed,
5 tamper-proof package?

6 A Yes, it is.

7 Q Prior to coming to you would any -- did anybody
8 else go into that bag?

9 A No, they did not.

10 Q If somebody would have tampered with it, would you
11 have known?

12 A I would have not performed any DNA testing on those
13 items.

14 Q Now, those are known -- what are the -- excuse me.
15 What are the SLED numbers associated with those swabs
16 there? And I'm referring to swab number 1, 2, and 3 as
17 designated by the Lexington County Sheriff's Department?

18 A The items are contained in the item -- I mean,
19 excuse me. I have the SLED lab numbers 12, 13, and 14.

20 Q And were you able to develop -- well, were you --
21 did you do any presumptive test on those three items.

22 A Yes, I did. I performed presumptive testing for
23 blood on each one of those items and the testing came back
24 positive for the presumptive test of blood.

25 Q After the presumptive test for blood on these three

Samuel Stewart - Direct Examination by Mr. Graham

1 swabs, were you able to develop a DNA profile from those
2 three items?

3 A Yes, I was.

4 Q Looking at the items before you, which is items,
5 SLED 1.1, which is a dried blood standard for David
6 Diblasi, Items 10.1, which is a swab from a handle area of
7 Wal-Mart bag A; 10.2, which is the swab from the handle of
8 the Wal-Mart bag B; 10.3, the cutting from Wal-Mart bag A
9 that was presumptive for blood; 10.4, cutting from Wal-Mart
10 bag B, that you created results for presumptive for blood
11 and swabs number 12, 13, and 14, which were the sheriff's
12 department 1, 2, and 3, taken from the wall in the den of
13 Mr. Cook's residence, what, if any opinion do you have as
14 to comparing the DNA profile of David Diblasi on 1.1 to
15 those other items?

16 A The DNA profile developed from Items 10.1, 10.2,
17 10.3, 10.4, 12, 13, and 14, matches the DNA profile of
18 David Diblasi. The probability of randomly selecting an
19 unrelated individual having a DNA profile matching these
20 items is approximately 1 in 13 quadrillion. It's a
21 significantly high number.

22 Q You know the population of the earth?

23 A Approximately 7 billion.

24 Q Is a quadrillion greater then the population of the
25 earth?

Samuel Stewart - Cross-Examination by Ms. Fullwood

1 A Several times higher.

2 Q Thank you Mr. Stewart, please answer any questions
3 the defense has for you.

4 THE COURT: All right. Ms. Fullwood.

5 MS. FULLWOOD: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. FULLWOOD:

8 Q Good afternoon Mr. Stewart?

9 A Good afternoon.

10 Q In doing your statistical analysis, did you amend
11 that at any point to account for some sort of corrections
12 made to your data base?

13 A Yes, the FBI data base that we use to develop our
14 probable statistics, they have an update to it, so I did go
15 ahead and regenerate the statistics for those items and
16 when I did regenerate the statistic, the statistic still
17 stayed the same.

18 Q Okay. So it stayed the same?

19 A Yes, it did.

20 Q Okay.

21 A Yes, ma'am.

22 Q Okay. Now, you were also given swabs from the
23 left -- a left and a right shoe to analyze, correct?

24 A That is correct.

25 Q All right. And concerning the left shoe, were you

Samuel Stewart - Cross-Examination by Ms. Fullwood

1 able to develop a DNA profile?

2 A Yes, I was.

3 Q Was it Mr. Diblasi's?

4 A Which I have two swabs from the left somehow?

5 Q Okay. I'm talking about 11.1.2?

6 A 11.1.2 is a mixture of at least two individuals --

7 MR. GRAHAM: Objection, Your Honor. I don't
8 know -- there hasn't been any discussion of the collection
9 of any shoe or --

10 THE COURT: All right. Do y'all have the shoes.

11 MR. GRAHAM: They're back at the office, Your
12 Honor. If you can give me a minute, maybe I can talk with
13 Ms. Fullwood and just make sure and we can probably submit
14 to it.

15 THE COURT: All right.

16 (There was a pause in the proceedings.)

17 MR. GRAHAM: No objection, Your Honor.

18 THE COURT: All right. Thank you.

19 Restate your question, please.

20 BY MS. FULLWOOD:

21 Q All right. When you -- you developed a DNA profile
22 from item 11.1.2, which was a swab from a left shoe; is
23 that right?

24 A That is correct.

25 Q And that profile was not the DNA profile of David

Samuel Stewart - Cross-Examination by Ms. Fullwood

1 Diblasi; was it?

2 A As I was stating, it was a mixture of these two
3 individuals and David Diblasi --

4 Q That's all we need.

5 THE COURT: Wait just a minute. Answer that
6 question again, I couldn't quite -- I wasn't tracking you
7 very good.

8 THE WITNESS: I was just stating that yes, David
9 Diblasi was excluded as a contributor.

10 THE COURT: All right. Thank you.

11 BY MS. FULLWOOD:

12 Q And you looked at item 11.2.2, which was a swab
13 from a right shoe; is that right?

14 A That is correct.

15 Q Okay. And in that -- on that swab, you only
16 develop a partial profile, right?

17 A That is correct.

18 Q And that was a partial profile that was a mixture
19 of at least two people, right?

20 A That is correct.

21 Q And -- but even though it was a partial profile,
22 you were able to exclude David Diblasi as one of the
23 contributors to that partial profile; is that correct?

24 A That is correct.

25 Q Okay. Thank you. No further questions?

1 THE COURT: Redirect, Solicitor?

2 MR. GRAHAM: No, Your Honor.

3 THE COURT: All right. Thank you, thank you very
4 much for being with us this afternoon, Agent Stewart.

5 THE WITNESS: Yes, sir.

6 THE COURT: You may step down, you may be excused.

7 MR. GRAHAM: Your Honor, if we could approach?

8 THE COURT: Yes, sir.

9 (There was a bench conference out of the hearing of
10 the jury and the Court Reporter.)

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen of the jury perhaps now would be a good time to
13 take our luncheon recess. Again, I remind you during the
14 recess do not discuss this case with anyone, fellow jurors,
15 lunch mates, family, friends, or anyone else.

16 Do not read, watch, or listen to any news accounts
17 of the case. Do not do any independent investigation or
18 any investigation on the internet or otherwise. Please
19 remember you base your verdict on the evidence and
20 testimony presented to you from the sworn witnesses
21 testifying here from the witness stand and any physical
22 items of evidence and any inferences which you think may
23 properly be drawn.

24 Keep an open mind. Do not begin your deliberations
25 until you've heard all that evidence, testimony, closing

1 arguments by the attorneys, instruction on the law by the
2 Court and then directed by the Court to begin your
3 deliberations.

4 With that being said, if you'd please be back
5 promptly at 2 o'clock, 1400 hours. Hope y'all have a
6 pleasant lunch.

7 (The jury left the courtroom at 12:47 p.m.)

8 THE COURT: All right. Anything further from the
9 State, Solicitor?

10 MR. GRAHAM: No, Your Honor, I would -- just for
11 the record, I would say that I do expect us to do the rest
12 of the case by the end of the day. We've got probably
13 approximately four witnesses. Our last witness is
14 scheduled to be Dr. Ross, who currently planned to testify
15 in Aiken County at two and we expect her to come here after
16 that.

17 THE COURT: All right.

18 MR. GRAHAM: I'm not exactly -- we may end up --
19 depending on how fast the other witnesses move, we can
20 break in between that or not, I don't know, Your Honor.

21 THE COURT: All right. Thank you, Solicitor.

22 Ms. Fullwood, anything from the defense before we
23 take our recess.

24 MS. FULLWOOD: No, Your Honor.

25 THE COURT: All right. Thank you very much, we'll

1 be in recess until two o'clock then.

2 (A recess for lunch was observed.)

3 THE COURT: Is all our jury here?

4 THE BAILIFF: Yes, sir.

5 THE COURT: Anything from the State before we bring
6 in our jury.

7 MR. GRAHAM: No, Your Honor.

8 THE COURT: Defense?

9 MS. FULLWOOD: No, Your Honor..

10 THE COURT: All right.

11 (The jury entered the courtroom at 2:03 p.m.)

12 THE COURT: All right. Welcome back, ladies and
13 gentlemen. I hope y'all had a pleasant lunch. We're
14 continuing the trial of the case by the presentation of
15 evidence and testimony by the State in its case in chief.
16 Please continue to give all the parties your complete and
17 undivided attention.

18 All right. Solicitor?

19 MR. CASKEY: Thank you, Your Honor, the State would
20 call Kayla Mattoni.

21 THE COURT: Say that name again.

22 MR. CASKEY: Kayla Mattoni.

23 THE COURT: Thank you.

24 KAYLA MATTONI,

25 having been duly sworn, testified as follows:

Kayla Mattoni - Direct Examination by Mr. Caskey

1 THE CLERK: Have a seat, please, ma'am. Once
2 you're seated, state your full name, spelling your last,
3 please.

4 THE WITNESS: Kayla Mattoni. M-A-T-T-O-N-I.

5 **DIRECT EXAMINATION**

6 BY MR. CASKEY:

7 Q Is it okay if I call you Kayla?

8 A Yes, sir.

9 Q Kayla, are you a little bit nervous today?

10 A Yes, sir.

11 Q Would you like a drink of water or anything?

12 A No.

13 Q It's right in front of you. Okay.

14 First things first, Kayla. Where are you currently
15 residing?

16 A The South Carolina Department of Corrections.

17 Q And you're there on methamphetamine related
18 charges, aren't you?

19 A Yes, I am.

20 Q Okay Kayla, did you know David Diblasi?

21 A Yes, I did.

22 Q How did you know David Diblasi?

23 A He was a good friend of mine and my boyfriend.

24 Q Who is your boyfriend?

25 A Terry Goins.

Kayla Mattoni - Direct Examination by Mr. Caskey

1 Q Did you know Dave to sell drugs?

2 A Yes, I did.

3 Q What kind?

4 A Heroin.

5 Q Okay. Do you know Worth Cook?

6 A Yes, I do.

7 Q How long have you known Worth Cook?

8 A Right about 5 years.

9 Q And what was your relationship like with Worth?

10 A Not very good. I was always on edge when I was
11 around him.

12 MS. FULLWOOD: Objection, Your Honor.

13 THE COURT: All right.

14 MS. FULLWOOD: Relevant --

15 THE COURT: The part, "not good" is fine. That may
16 be bias or prejudice, but the other is stricken, you may
17 ask your next question, Solicitor.

18 MR. CASKEY: Thank you, Your Honor.

19 BY MR. CASKEY:

20 Q You knew Worth about how long?

21 A Around 5 years.

22 Q Okay. I want to -- do you remember when the last
23 time you saw Dave Diblasi was?

24 A At mine and Terry's place.

25 Q Okay. Do you know when that might have been?

Kayla Mattoni - Direct Examination by Mr. Caskey

1 A No.

2 Q Okay.

3 A I don't know.

4 Q You recall that incident, though? You remember the
5 last time you physically saw him?

6 A Yes, yes.

7 Q Okay. Let me ask you, did you see Worth Cook after
8 that?

9 A Yes, I did.

10 Q Did you see him at a gas station?

11 A Yes, I did.

12 Q Okay. I'd like to talk about that specifically.

13 How long after the last time you had seen David did you see
14 Worth at the gas station?

15 A It was a couple of weeks.

16 Q How often did you keep in contact with Dave up
17 until the last time you had seen him?

18 A Every day.

19 Q Every day?

20 A You're talking about how often I kept in contact
21 with him?

22 Q Yes.

23 A Every day.

24 Q Okay. And then Dave -- you lost contact with Dave.

25 A Yes, I did.

Kayla Mattoni - Direct Examination by Mr. Caskey

1 Q Okay. And how long before you saw Worth at the gas
2 station?

3 A It was a couple of weeks.

4 Q When you say a couple of weeks, what do you mean by
5 that?

6 A One, two, somewhere in there.

7 Q Okay. Tell the jury what you remember about that
8 gas station?

9 A I was with my boyfriend at the time. Either we
10 both went in the gas station or he went in the gas station,
11 but when he come back to the vehicle, Worth and the other
12 guy, Rick, approached the car.

13 Q Let me stop you right there, so we're sure.

14 A Okay.

15 Q Do you recall where that gas station was?

16 A At the end of Platt Springs and Number 6.

17 Q How had you gotten to that gas station?

18 A With my boyfriend, Terry.

19 Q And Terry's last name is what?

20 A Goins.

21 Q Okay. What kind of -- did you use a vehicle to get
22 there?

23 A Yes. We were in his Infinity.

24 Q Okay. And I believe your testimony was you weren't
25 sure whether you or Terry or both of you had gone inside?

Kayla Mattoni - Direct Examination by Mr. Caskey

1 A Yes, sir.

2 Q All right. What happened next?

3 A When we were in the vehicle, Worth and Rick
4 approached the vehicle. Worth started talking to my
5 boyfriend, Terry Goins.

6 Q Who was driving your vehicle?

7 A My vehicle?

8 Q Or the Infinity that you were talking about?

9 A Terry Goins.

10 Q Okay. So who -- so Terry was in the driver's seat?

11 A Yes, sir.

12 Q Who approached you?

13 A Who --

14 Q Who approached the window where Terry was driving?

15 A Worth Cook and Rick Barnes.

16 Q All right. What happened then?

17 A Worth Cook proceeded to ask if Terry would like to
18 purchase any heroin that he had and reached in his pocket
19 and pulled out some bags of heroin.

20 Q Okay. Did you hear that?

21 A Yes, sir.

22 Q Okay. Have you bought or sold heroin yourself?

23 A Yes, sir.

24 Q You recognize what heroin looks like?

25 A Yes, sir.

Kayla Mattoni - Direct Examination by Mr. Caskey

1 THE COURT: How about break that question down. If
2 she bought and separately, has she sold.

3 MR. CASKEY: Yes, sir.

4 THE COURT: Please.

5 BY MR. CASKEY:

6 Q Have you bought heroin before?

7 A Yes, sir.

8 Q Have you sold heroin before?

9 A Yes, sir.

10 Q Do you recognize what heroin looks like?

11 A Yes, sir.

12 Q So when you say that Worth pulled out heroin, did
13 you recognize it?

14 A Yes, I did.

15 Q What did you recognize about it?

16 A The baggy.

17 Q When you say the baggy, what do you mean by that?

18 A It's a wax bag and it had a stamp imprint on it
19 that said First Call and the only ones that -- the only
20 person that I've ever seen with those bags was David.

21 Q You say David, is that Dave?

22 A Dave.

23 Q Okay. What do you recall about that first -- what
24 do you remember about the characteristic of that First Call
25 writing? Anything in particular.

Kayla Mattoni - Direct Examination by Mr. Caskey

- 1 You remember what color it was?
- 2 A Yes, it was red.
- 3 Q Do you remember what color the baggies themselves
- 4 were?
- 5 A They was white.
- 6 Q Okay. Do you remember how much you saw?
- 7 A When them or --
- 8 Q With Worth, the heroin you said he held out. How
- 9 much did you see?
- 10 A It was several bags.
- 11 Q Several bags. How were they contained?
- 12 A They were in a rubber band.
- 13 Q And whatever bags or a bundle or bags around in
- 14 rubber bound?
- 15 A That's a bundle.
- 16 Q Okay. How many bundlings did you see Worth with?
- 17 A How many bundles did I see him with?
- 18 Q Yes, ma'am.
- 19 A It was one bundle.
- 20 Q And how many baggies are in a bundle?
- 21 A Ten.
- 22 Q As a result of that, what did you do?
- 23 A We left.
- 24 Q Did you buy it?
- 25 A No, sir.

Kayla Mattoni - Direct Examination by Mr. Caskey

1 Q When you left, where did you go?

2 A We started towards our place. We were going to
3 Ms. Jackie's, but we didn't want to run into them.

4 Q Them being who?

5 A Worth Cook and Rick Barnes.

6 Q And why didn't you want to be there with them?

7 A I just -- I just ain't felt comfortable after that.

8 Q Is that because of what you saw?

9 A Yes.

10 Q What about?

11 A I knew those belonged to Dave.

12 Q Thank you, Ms. Mattoni. Please answer any
13 questions the defense lawyer may have for you?

14 THE WITNESS: Thank you.

15 THE COURT: Thank you, Solicitor.

16 Ms. Fullwood?

17 MS. FULLWOOD: No questions, Your Honor.

18 THE COURT: All right. Thank you. Thank you very
19 much. You may step down.

20 THE COURT: All right. Solicitor. You may call
21 your next witness.

22 MR. GRAHAM: Thank you, Your Honor. The State
23 would call Sargent Michael Gooding.

24 MICHAEL GOODING,

25 having been duly sworn, testified as follows:

Michael Gooding - Direct Examination by Mr. Graham

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

3 THE WITNESS: My name is Sargent Michael Gooding,
4 G-O-O-D-I-N-G.

DIRECT EXAMINATION

5
6 BY MR. GRAHAM:

7 Q Sargent, where are you currently employed?

8 A The Lexington County Sheriff's Department, sir.

9 Q And as a sargent with the Lexington County
10 Sheriff's Department, what do you do there?

11 A I supervise a team of five detectives that work in
12 the major crimes section. Major crimes would be the area
13 of the sheriff's department that's responsible for
14 investigating -- excuse me, investigating crimes against
15 persons.

16 Q And how long have you performed the duties of a
17 sargent at the sheriff's department?

18 A I've been an investigative sargent now for probably
19 just under a year. Prior to that, I was a supervisor on
20 the road for about a year as a sargent as well.

21 Q Prior to that service as a road sargent, what else
22 did you do with the Lexington County Sheriff's Department?

23 A Prior to that I was a major crimes detective. I
24 actually worked in that area and then prior to that I was a
25 call answering deputy.

Michael Gooding - Direct Examination by Mr. Graham

1 Q In addition to your service with the Lexington
2 County Sheriff's Department, do you also have other law
3 enforcement experience?

4 A I do, sir.

5 Q And what is that?

6 A I actually started in law enforcement in 1999.
7 Well, actually prior to that, I worked for the State Law
8 Enforcement Division in a non-sworn capacity as a forensic
9 technician and breath alcohol testing on a federal grant.
10 When that grant ran out in 1999, I went to work for the
11 University of South Carolina Division of Law Enforcement
12 and Safety. I worked for them for approximately 10 years,
13 until 2009.

14 In 2009 I left them to go overseas and teach Afghan
15 Police under State Department contract with the Military
16 over in Afghanistan. I did a tour there for about a year
17 training police and when I came back in 2010 was when I
18 started with the sheriff's department.

19 Q Back in April of 2013, what were you doing?

20 A I was a major crimes detective.

21 Q And were you involved in the investigation of this
22 case regarding the missing person and ultimately murder of
23 David Diblasi?

24 A I was, sir.

25 Q On April 4th, 2013, did you have an opportunity to

Michael Gooding - Direct Examination by Mr. Graham

1 come into contact with Mr. Cook?

2 A I did.

3 Q Tell me where that occurred.

4 A That occurred at the sheriff's department.

5 Q At that time, was Mr. Cook in custody?

6 A He was, sir.

7 Q When you saw him, did he appear to be under the
8 influence of alcohol or drugs?

9 A He did not.

10 Q Now, as he was in custody, did you advise him of
11 his constitutional rights?

12 A I did, sir.

13 Q And how did you go about doing that.

14 A I used a Lexington County Sheriff's Department
15 Advise of Rights Form.

16 Q Let me show you what's been marked as State's
17 Exhibit Number 4 for identification and ask if you
18 recognize that document.

19 A I do, sir.

20 Q And was that, in fact, the document that you used
21 to advise Mr. Cook of his rights on April 4th, 2013?

22 A It is.

23 MR. GRAHAM: Your Honor, the State would offer this
24 into evidence.

25 MS. FULLWOOD: Subject to our prior objection, Your

Michael Gooding - Direct Examination by Mr. Graham

1 Honor.

2 THE COURT: All right. State's 4 is in evidence
3 subject to previous objection.

4 (State's Exhibit Number 4 was entered into
5 evidence.)

6 MR. GRAHAM: Your Honor, if I can publish this,
7 please?

8 THE COURT: You may.

9 BY MR. GRAHAM:

10 Q In general, sargent, what is an advise of rights
11 form?

12 A An advise of rights form is a form that we would
13 use to advise somebody of their rights under Miranda.
14 Miranda is a protection afforded to everyone when they are
15 in custody and they are being questioned about an offense.
16 So prior to any questioning, we would advise someone of
17 what we call their Miranda Rights, make sure they
18 understood what those rights were and then they were
19 willing to speak with us at that time.

20 Q Looking at the overhead, are you able to see that?

21 A I can see it, but it's a little blurry.

22 Q Is that better now?

23 A Yes, sir.

24 Q I'm going to give you a laser pointer and ask if
25 you can go through -- if you need to step down, let me know

Michael Gooding - Direct Examination by Mr. Graham

1 and I'll ask Your Honor whether --

2 MR. GRAHAM: Your Honor, may he step down.

3 THE COURT: Of course, just keep your voice up when
4 you're away from the microphones.

5 THE WITNESS: Yes, sir.

6 (The witness steps down from the witness stand.)

7 BY MR. GRAHAM:

8 Q Wherever you can see.

9 A This is fine.

10 This is the form I showed Mr. Cook. As you can see
11 it's dated on 4/4/2013. The time we began is there at the
12 top. I believe that's 8:43 hours. It's military time, it
13 says 2043. That's the time we use in law enforcement so if
14 you subtract 12, it would be 8:43 in the evening. And then
15 it goes through each of the rights individually. What I
16 generally do is I will place the advise of rights form down
17 on the table in front of somebody so they can read along as
18 I read each of those rights to them.

19 At some point during the advise of rights, I will
20 stop and I will ask the person that I am advising to please
21 read one of those rights out loud and what that does is it
22 allows me to make sure that I know that somebody can read.
23 I'll go through all -- each of those steps.

24 And then it's kind of faded out, but if you look
25 right here, there's a last line and there's a signature

Michael Gooding - Direct Examination by Mr. Graham

1 block and what that last line says is: I have read this
2 statement of my rights and I understand what my rights are.

3 So at that point in time, I would ask, do you
4 understand what you're rights are. He would have explained
5 to me that he did and I would say, if so, then, can you
6 please sign here. What you see -- and it's faded out, but
7 right here is a signature of Worth Cook.

8 Directly below that, because now that I know that
9 he understands his rights, I need to make sure that he's
10 willing to speak with me at this point in time. So below
11 that is what's called a waiver of rights. And what it says
12 is -- and this will be the portion that is right here:

13 I am willing to make a statement and answer
14 questions. I do not want a lawyer at this time. I
15 understand and know what I am doing. No promises or
16 threats have been made to me and no pressures or coercion
17 of any kind has been used against me.

18 Below that, if they agree to waive those rights and
19 continue to talk to me -- waive means to give up in
20 court -- he would sign again, which he did right there.
21 That would be Mr. Cook's signature.

22 His signature is both there and they're were
23 witnessed here by myself, that's my signature. I signed
24 that he was advised and I witnessed that he signed it. And
25 then I timed it the time I finished it which was 8:45 or

Michael Gooding - Direct Examination by Mr. Graham

1 2045 military time.

2 Q Specifically, Sargent Gooding, using this advise of
3 rights form, what rights did you advise him that he had?

4 A I advised him that before he answered any
5 questions, he must understand his 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 to have him or her
10 present with you during questioning. If you have no money
11 for lawyer's fees, the Court will appoint one to represent
12 you without cost to you, if you wish.

13 If you decide to answer questions now without a
14 lawyer present, you still have the right to stop answering
15 questions at any time. You also have the right the stop
16 answering questions at any time until you talk with a
17 lawyer.

18 Q And did he indicate that he understood those
19 rights?

20 A He did, sir.

21 Q And how did he do that?

22 A By signing right there under the statement that
23 says: I have read this statement of my rights and I
24 understand what my rights are.

25 Q Did he ask you any questions about those rights and

Michael Gooding - Direct Examination by Mr. Graham

1 what they were?

2 A He did not, sir.

3 Q Following that, below that is a waiver of rights.

4 What is that?

5 A Once again, it's a two prong test. I have to make
6 sure they understand what their rights are and then I have
7 to make sure that keeping those rights in mind, are they
8 willing to speak with me. And so this portion, as I said
9 before is a waiver of those rights or an agreement to speak
10 with me having those rights in mind.

11 Q And what does that -- what is the waiver saying
12 that he would have read or you read to him?

13 A It says: I am willing to make a statement and
14 answer questions. I do not want a lawyer at this time. I
15 understand and know what I am doing. No promises or
16 threats have been made to me and no pressures or coercion
17 of any kind has been used against me.

18 Q And the signature below that?

19 A That belongs to Mr. Cook.

20 Q Okay. You can have a seat again.

21 (Witness returns to the stand.)

22 BY MR. GRAHAM:

23 Q So you advise him of his rights. Do you have an
24 opinion of whether he understood his rights?

25 A I do, sir.

Michael Gooding - Direct Examination by Mr. Graham

1 Q What is that opinion?

2 A That he did.

3 Q And do you have an opinion as to whether he waived
4 his right and spoke with you voluntarily?

5 A I do, sir.

6 Q And did he appear to be under the influence of
7 alcohol or drugs?

8 A Absolutely not.

9 Q Did he tell you whether he was under the influence
10 of alcohol or drugs?

11 A He did not.

12 Q At any time did he invoke his right to remain
13 silent?

14 A He did not.

15 Q At any time did he invoke his right to an attorney?

16 A He did not, sir.

17 Q Did you make any promises to him?

18 A No, sir.

19 Q Did you offer him any hope of reward if he would
20 cooperate and give you a statement?

21 A No, sir.

22 Q Did you threaten him in any way?

23 A I did not.

24 Q And did you coerce him in any way to give you a
25 statement?

Michael Gooding - Direct Examination by Mr. Graham

1 A I did not, sir.

2 Q In your opinion, did he speak to you freely and
3 voluntarily of his own free will?

4 A He did.

5 Q Based on that after advising him of his rights and
6 his waiver of rights, what if anything did he tell you?

7 A This was sort of an initial interview, it was on
8 the 4th so it was somewhat early in the investigation
9 still. Other officers or other detectives had begun to
10 execute a search warrant on his residence and we knew at
11 that time that there was an item that was found in the
12 house, a Wal-Mart bag, that was believed to have blood on
13 it. Also it was believed that he had used the victim's
14 credit cards.

15 So at this point in time, we're trying to determine
16 what involvement, if any, Mr. Cook had had and what had
17 taken place to the victim, David. So we asked him about
18 his knowledge of the victim. And what he told us at that
19 time was that the victim had driven away from his home that
20 night of his own free will with his truck and his
21 motorcycle. We confronted him with the limited evidence
22 that we had at that point in time.

23 I asked him -- and he was reluctant to give us more
24 details about what had happened. I asked him if he thought
25 me telling him that he was on video using the cards and

Michael Gooding - Direct Examination by Mr. Graham

1 that there was a bag with blood on it at the house was some
2 sort of police tactic. And he said, well, yeah, maybe it's
3 a police tactic, but that's it. That he had driven away
4 from the home with his truck and his motorcycle and nothing
5 had happened at the house.

6 Q Did he offer -- what kind of explanation did he
7 offer to you about the Wal-Mart bag or the bag with blood
8 on it?

9 A He didn't.

10 Q Was that the extent of your interview on April 4,
11 2013, with Mr. Cook?

12 A It was, sir.

13 Q The following day on April 5th, 2016 (sic) -- well,
14 let me ask a question before we move on, were you the only
15 officer on the interview on April 4th of 2013?

16 A No, sir.

17 Q Who else was with you?

18 A Detective Marty Longshore was with me when I
19 interviewed Mr. Cook.

20 Q Okay. Moving onto the next interview day, April
21 5th, 2013, did you have an opportunity again to speak with
22 Mr. Cook?

23 A I did, sir.

24 Q And again, did you advise Mr. Cook of his rights?

25 A I did, sir.

Michael Gooding - Direct Examination by Mr. Graham

1 Q I'm going to show you another document and ask if
2 you recognize this one.

3 A This is the original advise of rights form that was
4 used on the 5th.

5 MR. GRAHAM: Your Honor, the State would offer this
6 advisement of rights, which is State's 23 for ID, into
7 evidence.

8 MS. FULLWOOD: Subject to our previous objection,
9 Your Honor.

10 THE COURT: All right. State's 23 is in evidence
11 subject to previous objection.

12 (State's Exhibit Number 23 was entered into
13 evidence.)

14 BY MR. GRAHAM:

15 Q This is the same form that we just talked about
16 previously, sargent?

17 A It is, sir.

18 Q What's the difference between this form and the
19 other?

20 A The only differences between this one and the
21 other, sir, is the date in the upper left-hand corner has
22 changed from the 4th to the 5th because we're now at the
23 5th. The time of the interview has changed because this
24 interview is taking place at 4:48 in the the afternoon. It
25 says 1648 written in the upper-right-hand corner.

Michael Gooding - Direct Examination by Mr. Graham

1 Converting to regular time, that would be 4:48.

2 And on this form below my signature in the bottom
3 left-hand corner is the signature of Detective Longshore,
4 who also witnessed the advisement and waiving of his
5 rights?

6 Q The signatures again, two signatures on the right
7 side, whose signatures are those?

8 A Both of those signatures are the defendant,
9 Mr. Cook.

10 Q And did you advise Mr. Cook of his rights the same
11 way we just discussed on the 4th?

12 A Yes.

13 Q And you went through each and every one of his
14 rights listed on the Advisement of Rights Form?

15 A I did, sir.

16 Q Did he understand those rights?

17 A He did.

18 Q At any time did he ask any questions about those
19 rights?

20 A No, sir he did not.

21 Q And he indicated he understood his rights by
22 signing; is that correct?

23 A That is correct.

24 Q And then again, did he waive those rights and speak
25 to you voluntarily?

Michael Gooding - Direct Examination by Mr. Graham

1 A He did, sir.

2 Q At any time did he have any questions about what
3 his rights were?

4 A No, sir.

5 Q At that time on April 5th of 2013, did he appear to
6 be under the influence of alcohol or drugs?

7 A He did not.

8 Q At any time during the conversation on April 5th,
9 2013, did he invoke his right to remain silent?

10 A He did not.

11 Q At any time during the interview with him did he
12 ask for an attorney?

13 A He did not.

14 Q During that interview on April 5th, 2013, the
15 initial advise of rights form, or during any time that you
16 met with him on April 5th, 2013, did you make him any
17 promises to get him to speak with you?

18 A I did not, sir.

19 Q Did you offer him any hope of reward if he spoke to
20 you or provided the statement?

21 A No, sir.

22 Q Did you threaten him in any way?

23 A I did not.

24 Q Did you coerce him in any way?

25 A No, sir.

Michael Gooding - Direct Examination by Mr. Graham

1 Q Do you have an opinion as to whether his agreement
2 to speak with you and what he said was made freely and
3 voluntarily of his own free will?

4 A I do.

5 Q And what is that?

6 A That it was.

7 Q After you advise him of his rights and he waived
8 his rights, did you then have a verbal conversation with
9 him?

10 A We did.

11 Q Tell the jury about what you -- what you asked him
12 and what he said to you?

13 A The second conversation we had gathered some more
14 physical evidence at the house. The search warrant had
15 been ongoing at this time and we had learned that there was
16 some other potential items of evidence at the house. There
17 was, I believe, blood on a dresser, there was shoes that
18 had some blood on them. There was some blood on the wall
19 in the house, I think behind a piece of furniture. And
20 that David, the victim's body had been discovered in the
21 backyard.

22 We began to speak with him with this new additional
23 evidence because the story that we had been provided the
24 night before was that Dave had been at the house and left
25 on his own free will with nothing happening, driving away

Michael Gooding - Direct Examination by Mr. Graham

1 in his truck and his motorcycle was now not reasonable
2 based on this additional evidence.

3 So we asked him about that. This interview went on
4 for some time. He asked for some breaks and we gave him
5 some brakes. But at this time, to explain the evidence,
6 Cook denied killing the victim, although he knew the victim
7 had been killed and he blamed another person for Dave's
8 death. He admitted to being in a fight with the victim.
9 Cook said he got in a fight with David over drugs that the
10 victim was missing. He also admitted Dave had been cut
11 with a knife in his living room during a fight that had
12 taken place there in his house.

13 He said that Ricky, who was the person he blamed
14 for David's death must have come back to the house the next
15 day and buried the victim's body in his backyard,
16 apparently without his knowledge.

17 He admitted that the victim's truck that had been
18 cut up and sold in pieces for scrap and that he had helped
19 Ricky do this. He said the scrap had been sold to Temple
20 Scrap Yard, but he wasn't with Ricky when the scrap was
21 sold.

22 He also made some additional statements verbally
23 during this time, like God help me, man, God help me. He
24 also said he was scared and didn't know what to do, man.
25 What was I thinking. What the fuck was I thinking. He

Michael Gooding - Direct Examination by Mr. Graham

1 also told us that the victim had been stabbed in the eye by
2 Ricky, which was information that we had not provided to
3 him. He knew about a knife wound to the victim's eye. He
4 also admitted to having hit the victim at least twice in
5 the head with a hammer that he had picked up during a fight
6 with the victim. He also said he knew he was going to kill
7 him, referring to Ricky and that he just didn't --

8 Q Let me interrupt you for a second. That Ricky was
9 going to kill who?

10 A The victim, David. And he said -- and as the
11 interview continued, Cook indicated he wanted to stop for
12 the night, which we did. And he would just tell it
13 tomorrow.

14 At that point in time, he's trying to explain the
15 evidence that we had there at the house.

16 Q During that time that you met with him on April
17 5th, did he provide you a written statement?

18 A He did, sir.

19 Q Let me show you State's 29 that's been marked for
20 identification and ask if you recognize that. 24.

21 A Sir this is the original statement that I took from
22 Mr. Cook on the 5th.

23 MR. GRAHAM: Your Honor, the State would offer this
24 into evidence at this time.

25 MS. FULLWOOD: Subject to our previous objection.

Michael Gooding - Direct Examination by Mr. Graham

1 THE COURT: All right. State's 24 is in evidence
2 subject to previous objection.

3 (State's Exhibit Number 24 was entered into
4 evidence.)

5 BY MR. GRAHAM:

6 Q All right. Sargent, if I understand correctly, at
7 1648 hours and for myself and others who don't do military
8 time, what time is that?

9 A 4:48, sir.

10 Q This is actually referring to State's 24, the
11 statement form. What's the time that this was started at?

12 A 5:15 p.m.

13 Q And what's the difference between a statement form
14 and an advise of rights and voluntary statement form?

15 A An advise of rights form is just a form that
16 specifically advises somebody of their Miranda Rights, but
17 it's not a document that we can use to obtain a written
18 statement on. We have two different type of statement
19 forms that we use at the sheriff's department, depending on
20 what the circumstances are. For example, a victim or a
21 witness to a crime, somebody who's not in custody or not a
22 suspect would use just a voluntary rights statement form in
23 which we would ask you to please give us a written
24 statement. But it would not contain a Miranda warning at
25 the time.

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1 The second type of statement form would be what you
2 see in front of you and that is a statement form that would
3 contain the Miranda warning as well.

4 Q Did you advise -- prior to taking his written
5 statement, did you advise Mr. Cook of his rights again?

6 A I did, sir.

7 Q April 5th. And using this document, how did you do
8 it?

9 A Once again, I'll use this document in the same way
10 pretty much that I use the other one in that I generally
11 place it in front of somebody so that they can see the
12 document and read along as I go. The top portion of the
13 document, this portion right here is generally just
14 biological information in regards to who it is that we're
15 speaking to, but if you look at this point here, we
16 identify ourselves here as detectives with the Lexington
17 County Sheriff's Department; and it goes on to say that we
18 have advised them that they have the right to remain
19 silent. And right after that you see Mr. Cook's initials.

20 Anything I say can and will be used against me in a
21 court of law; Worth Cook once again initialled:

22 I have the right to talk with a lawyer for advice
23 before asked any questions and to have him or her with me
24 during questioning. And he initialled.

25 If I have no money for lawyer's fees, the Court

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1 will appoint one to represent me without cost to me if I
2 wish. Once again, he initialled that individual right.

3 If I decide to answer questions now without a
4 lawyer present, I will still have the right to stop
5 answering questions at any time.

6 I also have the right to stop answering questions
7 at any time until I talk with an attorney. Once again, he
8 initialled.

9 And then further, I have read this statement of my
10 rights and I understand what my rights are, which is where
11 he initials again right there and then he goes on to make a
12 statement.

13 I before also -- as I'm reading each of these
14 lines, once again, generally stop and ask him to read one
15 of those lines to me as opposed to me reading it to them,
16 so I can assure that they can read.

17 Q And did you do that with Mr. Cook?

18 A I did, sir.

19 Q And was he able to read?

20 A He was.

21 Q After you read him his rights, did you have an
22 opinion as to whether he understood those rights?

23 A I did, sir.

24 Q And what is it?

25 A That he did.

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1 Q Do you have an opinion as to whether he waived
2 those rights freely and voluntarily?

3 A I do sir.

4 Q And what is that?

5 A That he did.

6 Q Okay. This is a continuation of the verbal
7 conversation that you started 30 minutes prior to this
8 statement; is that correct?

9 A That is correct.

10 Q During this written time, when you're -- when he's
11 writing the statement, did you make any promises to him
12 about -- to him to get this statement?

13 A I did not.

14 Q Any hope of reward to get this statement?

15 A No, sir.

16 Q Any threats made to him to get this statement?

17 A No, sir.

18 Q Any coercion on your part to get the statement?

19 A No, sir.

20 Q Did you make any threats to take -- at any time
21 during your interviews with him, did you ever threaten to
22 take -- to have his girlfriend arrested?

23 A No, sir.

24 Q At any time did you ever make any threat during
25 your conversations with him that you would have his newborn

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1 baby taken into DSS custody?

2 A No, sir.

3 Q At any time during this conversation or prior or
4 any conversation with him, did he ever invoke his right to
5 an attorney?

6 A He did not.

7 Q Did he ever invoke his right to remain silent?

8 A He did not, sir.

9 Q Whose handwriting do we see in this statement?

10 A This is written by the defendant, Worth Cook.

11 Q And would you publish that and read it to the jury,
12 please.

13 A Would you like me to read the whole statement,
14 sir?

15 Q Yes, sir.

16 A I met with David at Jackie's and after a few hours
17 of getting high and following him around from one place to
18 the next, we finally ended up back at his place loading up
19 his bike. I was planning on getting higher on crystal meth
20 and maybe trying some heroin that David had. I didn't want
21 my pregnant old lady to be around us getting high on heroin
22 and meth, she had a bad addiction to it in the past and
23 Rick was already mad as hell because we had been having to
24 ride around following David all afternoon just so I could
25 work on his bike and truck.

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1 So Rick went ahead and left from David's house to
2 go pick up his old lady and my old lady from my place and
3 take them to hang out at his house so we could all get high
4 at my place without having to deal with the women bitching
5 or at least so I wouldn't have to be trying to hide getting
6 high from my old lady since she had been quit and I was
7 supposed to have already stopped, but hadn't well after.

8 Rick left Dave's. Me and Dave went to Jackie's to
9 get some more crystal meth. Dave got him a half gram and
10 me a half a gram from Jackie at first. Dave done his half
11 completely before we left and got another whole gram. He
12 didn't have to pay for it because Jackie and him -- Jackie
13 owed him money for a bunch of heroin he had fronted to her
14 to sell.

15 Because he was wanting to smoke while he was on the
16 way to my place and didn't know the way, I drove while he
17 road in the passenger seat. All the way to my place, he
18 smoked meth and heroin. He even held the steering wheel
19 for me to hit the meth a few times. At this point, I still
20 hadn't gotten the nerve to try the heroin yet so I hadn't
21 done any.

22 When we, me and David, got back to my place, we
23 went the house, my house, and smoked a little more meth.
24 By that point David was almost out of a gram -- excuse me,
25 by that point, David was almost out of meth and I only had

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1 maybe a quarter of a gram left of what he gave me, so since
2 I had a jar of Rick's liquid that hadn't been smoked off
3 yet, I told Dave about it and we went out there.

4 At that point, we unloaded the bike and I changed
5 the battery with a good one and it still didn't charge. So
6 I charged the rectifier, sometimes causes the change --
7 excuse me, the rectifier, sometimes called the voltage
8 regulator, and the bike started charging the battery
9 itself. I put a new gas tank on the bike that had come off
10 a Harley Sportster. He was very pleased with the work that
11 I had done. He went on a test drive on his bike. While he
12 was gone, I smoked off the liquid that Rick had left and
13 got about 2 grams of dope from it, maybe 3.

14 Dave pulled back up as I was drying the dope in a
15 coffee filter so it would be ready to smoke off some
16 aluminum foil. So then we went back into the living room
17 and smoked some.

18 Then David went back outside to look for his heroin
19 he had in his truck. I heard him as he was on his way back
20 in the house. He was cussing and raising hell. Accused me
21 and Rick, which at this point wasn't there, it was just me
22 and Dave at my house. I tried to reassure him I hadn't
23 taken none of his dope because we ended up getting kind of
24 loud and fighting because Dave was threatening me with a
25 knife.

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1 He ended up getting cut some where -- around his
2 right shoulder and saying he was done fighting, so we
3 stopped. He was real upset still, but I gave him a rag to
4 hold over the cut and started trying to calm him down,
5 reassuring him that I didn't have his dope and that I would
6 call 9-1-1. But he said he couldn't because he was on
7 probation in Philly and would get violated if he got in
8 trouble with that.

9 And since he admitted to being the one in the wrong
10 and with the knife that he wasn't going to get no shit
11 started. All he wanted was his dope back and he would
12 leave.

13 Well, I let him look anywhere he wished to prove I
14 didn't have it. And by this point I was pretty sure Rick
15 probably did if Dave hadn't lost it while he was high as
16 fuck. So there was a little blood here and there from us
17 fighting and I knew that my old lady would be back soon
18 with Rick.

19 Well, Dave said he wanted to just be alone because
20 he was hurting and he wanted to look through the truck
21 again for his dope and the shed. So I started wiping up
22 the mess that was made from the cut that Dave had and blood
23 from his lip, mouth, while I had hit him while we were
24 fighting.

25 At that point, we took -- he had requested a break,

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1 so we took a break from about 6:16 in the afternoon or the
2 evening until about 6:32. Then we started up again.

3 I had just changed my shirt where it got tore some,
4 then Rick pulled up. His old lady wasn't with him and my
5 old lady came inside. She knew instantly that I was high
6 and went into the room where the TV was. I went outside to
7 stop Rick on his way into the house so I could tell him
8 about what happened. About the second I did it, when Dave
9 came to me where we was standing. Rick was pissed about me
10 giving Dave all the rest of the dope, I had smoked without
11 Rick's permission.

12 Dave started asking about his heroin that was
13 missing. Rick told him that he had taken his heroin but he
14 didn't know why he had. Said he just done it because he
15 was high and that he would let him follow him to where he
16 had the dope. Dave was still mad, but said that he could
17 understand that sometimes you could do stupid shit while
18 you're high.

19 So we loaded up the bike and Dave gave me 80 bucks
20 and five small bags for working on his bike. He followed
21 Rick, and they left. It was a few hours before I heard
22 from Rick. Me and Shannon was in our room when I heard
23 Rick pull back up in Dave's truck. Shannon was asleep. I
24 went outside. Rick said he was going to leave Dave's truck
25 there until he got back. He had me unload -- help -- the

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1 bike and he left.

2 The next day Rick came back for a while and was
3 going to cook some dope, so I stayed in the house and laid
4 in the bed with Shannon for a little bit, but when she
5 dozed off, I got up -- I got up and sat in the living room
6 and listened to the radio. Shortly after that, Rick came
7 in the house. I asked him about the truck and he said that
8 it was cool that Dave didn't need it. We smoked some dope
9 and he hauled ass.

10 This happened during the morning, afternoon time.
11 He came back later with a torch that he uses to cut scrap
12 and started disabling parts from the truck. He got a good
13 chunk done and we ran out of oxygen. He left to go get
14 some more oxygen. While he was gone, I helped separate the
15 aluminum from the motor and since he asked me to and I
16 didn't want any trouble at this point, I was pretty nervous
17 about the truck and Dave and how Rick wouldn't talk about
18 any of it, just smiled and say Dave didn't mind.

19 Anyone else that he seen he just said that he
20 bought it from a junky and that's what I was supposed to
21 say if anyone asked me anything about it. When Rick got
22 back with the oxygen, he cut the truck up in a few more
23 pieces and had me help him load it up in his van. He
24 hauled it up to Temples. He took two loads that day. By
25 the time he was done, the only thing that was left was the

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1 cab of the truck. And then he went home.

2 Early the next day, the cops, dark and early
3 morning hours, showed up and my old lady got arrested for
4 unpaid fines. When I told Rick the police had been there
5 and looked all through the house and yard, he flipped and
6 came to get the cab cut up after I insisted that it had to
7 go.

8 He was pissed when he got there, asking a lot of
9 questions. The bike was taken apart in the van and he put
10 the truck cab in after cutting it in four pieces and left.
11 He left the '86, 450 rebel that I got from him even though
12 he kept arguing with himself about doing that.

13 I had taken a four wheeler apart -- I had taken a
14 four wheeler front end and put it on the rebel because when
15 Rick gave it to me to build a reverse three wheeler was
16 going along with a triple train wreck. But he told me not
17 to be letting people see me on it. At that time I didn't
18 really -- I didn't like the way he was talking about it but
19 already planned on riding it around because I didn't have a
20 way to go.

21 After he found out I had been riding it, he took it
22 and loaded it in the back of his van. That's when he told
23 me that he had made Dave walk the plank, which is his way
24 of saying he killed him.

25 He started telling me how he had knifed him with a

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1 handheld sorter knife type like he collects. He said he
2 had cut him and stabbed him and then said that Dave wasn't
3 moving anymore. He kept twitching and stuff, so he stabbed
4 him in the eye.

5 Q Let me interrupt you for a second. During your
6 conversation with him at any time, did you tell Mr. Cook
7 prior to him writing that that David Diblasi had been
8 stabbed in the eye?

9 A I did not.

10 Q Please continue.

11 A At that point, I made him stop talking about it.
12 It made me sick to think that Rick had truly killed Dave.
13 Dave wasn't a bad person, he just liked getting high like
14 the rest of us junkies. Later on I found out that Rick had
15 unloaded the bike in the woods near my house on some farm
16 property. I went and got it to take it apart and sold it
17 for junk because I wasn't sure about where he had got it
18 and just wanted all and anything Rick had at my place gone.

19 I told him about that and he got all pissed and
20 said he was going to stop cooking any dope around me
21 because he didn't trust me anymore. After that point, Rick
22 only came around to check on me now and then. He would
23 smoke a little dope with me, talk for a minute or two and
24 say that he had shit to do and didn't have time for someone
25 who doesn't want to be his pirate brother anymore while he

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1 road around stealing and finding abandoned scrap metal
2 anymore. That's when he started cooking at his house.

3 Before he done that, before I get the time messed
4 up, the day before this was a Sunday night, early Monday,
5 maybe Rick came up and picked me up and I and him could go
6 get high. He had some credit cards and told me that he had
7 got them from Dave's wallet. He first drove to the
8 Hillview Cafe Truck Stop at Exit 39 and I-20. He told me
9 to go fill up the gas tank with the card at the pump and he
10 would give me 50 cents on every dollar that it took. At
11 this point, I didn't know Shannon would be getting out on
12 time served from having contractions on the 5th, so I
13 needed the money. So I did so.

14 Then he tried to get me to get some cartons of
15 cigarettes on the same drill that he would give me 50 cents
16 on the dollar for them. He didn't because the card was
17 turned down. And then we went to Jackie's and Rick kept
18 pushing me to get other people to try to buy gas for 50
19 cents on the dollar off the card. No one would, so we left
20 and we went to Wal-Mart and he wanted to see if we could
21 buy more stuff on the card.

22 He said if they will let us pay a little bit of
23 stuff, then we will go back in and get a lot. I didn't
24 like it, but I did. I grabbed a crock pot first and then
25 he stopped me and told me that I should get baby stuff in

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1 case we can't take it back then I could keep it. We argued
2 about this because of the way he was acting was making me
3 very uncomfortable making me feel like I was having -- like
4 I was being pushed to do this. But it did. We were
5 allowed to buy almost 50 or 60 bucks worth of stuff. Then
6 we went in the van. We almost got in a fight because he
7 was wanting to go back in there and get more. I didn't.
8 Something just told me it wasn't right, but he got mad and
9 we ended up doing it again.

10 He suggested buying a crib and I didn't bother to
11 put up much of a fight because I just wanted to be done
12 with it. I feel now that he wanted me to get the baby
13 stuff -- I feel now that he wanted me to get the baby stuff
14 so that it would help tie me to the cards. We didn't get
15 to buy the crib and he never tried to carry the other
16 things.

17 We got to the Wal-Mart to get the money back on the
18 gift card like he said we would. We hadn't been close
19 since then and the next day when he found out that I found
20 the three wheeler, I hope and pray this get figured out
21 because he truly has a good story set to make me look like
22 he had.

23 When me and Dave was fighting over the heroin that
24 he was missing, he came at me with a knife and we started
25 fighting at some point. He got cut and said that he wanted

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1 to stop. But when I backed off, he just kept on trying to
2 cut me. He would stop and then stop over and over again.

3 I'm sorry for not being truthful on all things in
4 my statements and realize it's late and just wish to start
5 again -- start over again tomorrow with the two detectives
6 I talked to today.

7 Q All the handwriting that you read, whose
8 handwriting was that?

9 A The defendant, Mr. Cook's.

10 Q Even though there's a difference in the way that it
11 looks?

12 A That's correct.

13 Q What happened right here on page 10? The top part
14 is a continuous sentence and it says and then stop over and
15 over and over again and then a period. What happened
16 between there and what he wrote at the last.

17 A He had written that part -- I'm sorry, can you
18 clarify the question?

19 Q Yes, he had finished writing to here and then this
20 next one, you read it, it says he's sorry for being -- not
21 being truthful. So what happened between those two?

22 A He had written to that point where he finished and
23 then stopped over and over and over again and we began to
24 talk some more about the story that he was telling us.

25 At that point in time, he basically said, you know,

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1 I want to stop for the night. That's when he wrote on the
2 bottom of the statement that he wanted to stop for the
3 night and that he would talk to us tomorrow. He said that
4 he would tell it tomorrow is what he told us verbally.

5 And so we ended the interview at that point.

6 Q On the bottom of every page is a signature. Whose
7 signature is that?

8 A Worth Cook's.

9 Q And did he do that on each and every page?

10 A He did, sir.

11 Q In addition, attached to this is a drawing. Can
12 you explain to the jury what that is?

13 THE WITNESS: You mind if I step down?

14 THE COURT: Yes, sir, you may step down, of course.

15 (The witness stepped down from the witness stand.)

16 THE WITNESS: As Worth Cook was trying to explain
17 what took place at the house, he drew a diagram of the
18 house for us. He sort of gave us the layout of how
19 everything was situated at the home. The home is actually
20 unique that it's actually two very small single wide
21 trailers. The trailer closest to the road was the part
22 that was basically lived in and then there was a sort of
23 homemade addition that put the two halves together and then
24 there was a back trailer that was just basically studs and
25 some floor. It didn't look like anybody lived in it, but

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1 it looked like it was predominantly used for storage.

2 And so as he began to tell us the story, he would
3 draw very vigorously on the paper and demonstrate. This
4 would be the front porch of the first trailer and here he
5 shows where the fighting takes place and he goes around
6 here. The trailer is actually very very small so that when
7 you walk into it you're immediately in the kitchen and then
8 just a couple of feet to the left, you're within the area
9 of the living room and there's an opening that goes back to
10 that second trailer. So he's diagramming it all through
11 here where this fighting to taking place. He says there's
12 a white dresser, which is a white dresser where there was
13 blood found on it.

14 This would be what connected the two trailers
15 together. This is the area back here where we found out
16 that -- later that David's body had been left prior to
17 burial. There's a back with ramps and it goes down the
18 back of the second trailer. There's a shed right here
19 where they would cook meth and there's a dug out pit just
20 to the side of this trailer to the left of this ramp as you
21 came out back. That was where David's body was eventually
22 found over in this area. There was, I believe, a burn pit
23 area where some items had been burned and that was just his
24 scribbling of the scene and what was taking place and where
25 we were fighting as we were fighting.

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1 Q Does -- are you able to remember or recall where he
2 said the kitchen area was on that map?

3 A The kitchen area is the area almost directly in
4 front of the door, if I remember correctly, this area right
5 in here. When you walk in, I believe the kitchen is
6 basically in front of you and to your right. And then to
7 your left is what you would consider, I guess a living room
8 area.

9 Q Once you came in the front door, if you went to the
10 right what would be down that way?

11 A I don't believe I ever went to the right, so I'm
12 not sure that I know.

13 Q So, during your conversation -- you can have a
14 seat, I'm sorry, Sargent.

15 (The witness returned to the witness box.)

16 BY MR. GRAHAM:

17 Q During your conversation with Mr. Cook on April 5th
18 and the written statement, who did he say killed David
19 Diblasi?

20 A Richard Barnes.

21 Q He ended that by saying that he's sorry he lied and
22 he wanted to talk to you again, is that correct?

23 A Yes, sir.

24 Q And did you, in fact -- well, was there any other
25 detective present during the April 5th, 2013 oral interview

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1 and the written statement?

2 A There was, sir.

3 Q And who was that?

4 A Detective Longshore.

5 Q All right. Did you and Detective Longshore, after
6 ending this interview go back and speak with Mr. Cook again
7 on the following day, on April 6, 2013?

8 A We did, sir.

9 Q Prior to going and doing that, did you come up with
10 a strategy of how you wanted to conduct that interview?

11 A I did.

12 Q And what was that strategy?

13 A At this point in time, based on physical evidence
14 that we had and the story that had been provided to us by
15 the defendant, Mr. Cook, I believed it was reasonable that
16 Mr. Cook was the person who had actually killed the victim.
17 The blood had been found in multiple locations within his
18 house. The body had apparently been buried in his
19 backyard, allegedly without his knowledge; and the story
20 had changed over time from originally that I knew nothing
21 about anything essentially' and that David had left my
22 house with his truck and his motorcycle intact to as he was
23 confronted with the physical evidence, attempting to come
24 up with a story to justify why that evidence might be
25 there.

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1 So I felt as though if Mr. Cook could be given a
2 reason that he would tell it, that he would tell at that
3 time. He was getting to the point in the interview where
4 he had told us he was sorry for lying. He was getting to
5 the point that he would tell it tomorrow, but he just
6 needed something to kind of convince him that it was okay
7 to tell us.

8 So what I told him, I came up with an idea that we
9 would tell Mr. Cook that we knew that the killer was
10 right-handed. There were some wounds on the body that were
11 still very visible, even though it had been buried for, I
12 believe several months at that time and that you could
13 easily observe. I came up with -- and I pulled a study off
14 the internet that talked about anatomical and penetrating
15 trauma and the handedness and this kind of stuff. And I
16 pulled up Richard Barnes' booking information in our system
17 and Richard Barnes was left-handed and Mr. Cook was
18 right-handed.

19 We went into the interview room -- well, excuse me,
20 I pulled Mr. Cook -- Detective Longshore and I did -- from
21 the detention center and we came back to the sheriff's
22 department and I had Mr. Barnes' booking information on the
23 screen in my cubicle. We have a big area full of cubicles
24 where the detectives work near the interview rooms.

25 On that screen was Mr. Barnes' information and it

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1 said that he was left-handed. So when I brought Mr. Cook
2 in, I said look -- look here where it says that Mr. Barnes
3 was left-handed; and he said, Well, what's the significance
4 of that; and I said, Just remember that he's left-handed.

5 When we got in the interview room, I told him that
6 we knew that the killer had to be right-handed and not
7 left-handed.

8 Q Before we go in there, before you start asking him
9 questions, did you advise him of his rights again?

10 A I did.

11 Q What, if anything, did you use to advise him of his
12 rights on April 6th of 2013?

13 A The same advisement form that I had used previously
14 on the 5th and the 4th.

15 Q And let me show you State's 25 for identification
16 and ask if you recognize that?

17 A I do, sir.

18 Q And is that the form you used on the 6th of 2013
19 (sic)?

20 A It is.

21 MR. GRAHAM: Your Honor, the State would offer
22 State's 25 for I'd into evidence at this time.

23 MS. HENRY: Subject to our previous objection, Your
24 Honor.

25 THE COURT: State's 25 is in evidence subject to

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1 previous objection.

2 (State's Exhibit Number 25 was entered into
3 evidence.)

4 BY MR. GRAHAM:

5 Q All right. Sargent Gooding, what is this form and
6 what did you do with it?

7 A This is the same advise of rights form that I had
8 used on the 5th and the 4th. The only difference is that
9 at this point the time is in the upper left-hand corner,
10 the date had been changed to the 6th; the time has been
11 changed to -- I believe that's 1049 hours. This interview
12 actually took place in the morning. The rights are the
13 same on each of the forms that he had previously seen.

14 It was presented to him in the same way as the
15 previous two forms had been presented to him. He
16 initialled after each of those rights that he, you know,
17 had been advised of that right. Once again at the bottom
18 of the form, he indicated by his signature that he knew
19 what his rights were and this he was willing to speak with
20 us.

21 And then that form was witnessed in the bottom left
22 hand by the signature of both myself and Detective
23 Longshore.

24 Q During this advisement of rights on April 6, 2013,
25 did he appear to be under the influence of alcohol or

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1 drugs?

2 A He was not.

3 Q Did he appear to understand his rights?

4 A He did.

5 Q And do you have an opinion as to whether he
6 understood his rights?

7 A I do, sir.

8 Q And it is?

9 A That he did understand his rights.

10 Q Do you have opinion opinion as to whether he
11 voluntarily waived his rights?

12 A I do, sir.

13 Q And what is that opinion?

14 A That he did.

15 Q At any time during the conversation on April 6th,
16 2013, did you or Detective Longshore or anyone in law
17 enforcement threaten him in any way?

18 A We did not.

19 Q Did you coerce him in any way to give you this
20 statement?

21 A We did not.

22 Q Did you make any promises to him to get a statement
23 from him?

24 A We did not.

25 Q Any hope of reward if he gave this statement to

Michael Gooding - Direct Examination by Mr. Graham

1 you?

2 A No, sir.

3 Q Was this -- at any time did he invoke his right to
4 remain silent?

5 A He did not.

6 Q Any time did he invoke his right to an attorney.

7 A He did not.

8 Q Do you have an opinion as to whether this statement
9 given to you on April 6th 2013, was freely and voluntarily
10 and intelligently given on his part?

11 A I do, sir.

12 Q And what is that?

13 A That it was.

14 Q Now, there is also a written statement, but prior
15 to the written statement on April 6, tell the jury about
16 your verbal conversation with Mr. Cook.

17 A I indicated to Mr. Cook that we believed the killer
18 was right-handed and that we knew that he was right-handed
19 but Mr. Barnes was left-handed. At first he began to argue
20 the point about whether or not Ricky Barnes, or Richard
21 Barnes, was right-handed or left-handed and tried to tell
22 me that he was ambidextrous and I argued the point. I said
23 no, that Richard Barnes was left-handed and that has been
24 confirmed in our booking information.

25 I told him that, once again, there was science and

Michael Gooding - Direct Examination by Mr. Graham

1 everything behind it and we knew the killer was
2 right-handed in that I did a demonstration with him in that
3 I said when a person who is right-handed throws a baseball
4 or football or something like that, the arm travels across
5 the body in a particular fashion. There's certain angles
6 to the way the body moves. And then when a person who is
7 left-handed throws a ball, that the arm moves across the
8 body in a certain way and there's particular angles to that
9 as well. That there would be a difference in a
10 right-handed person and a left-handed person. I told him
11 that we knew that Richard Barnes was left-handed and that
12 he was right-handed and that we actually -- we knew that he
13 was the person who would have done it.

14 Q When he was confronted with that, what did he tell
15 you verbally.

16 A He really didn't say much at that point in time
17 other than the original arguing that Richard Barnes was
18 left-handed. He picked up a -- I Googled something off the
19 internet that talked about, like I said, wounds and
20 probabilities and penetrating trajectories. He picked that
21 document up. He looked at it a couple of seconds, sort of
22 flipped through those pages and then he set it down and
23 without really saying anything to us, he reached across the
24 table to where deputy -- or excuse me Detective Longshore
25 and I were sitting, grabbed the statement form off the top

Michael Gooding - Direct Examination by Mr. Graham

1 of the statements, blank statement forms that were sitting
2 in front of us and he began to write.

3 Q Let me show you State's Number 26 for
4 identification and ask if you recognize that.

5 A Yes.

6 Q And is that the statement that you're talking about
7 that Mr. Cook began to write?

8 A Yes.

9 Q And again, did you advise him of his rights on this
10 form?

11 A I did, sir.

12 Q And this is the original form?

13 A It is.

14 MR. GRAHAM: Your Honor, the State would offer
15 State's 26 for identification into evidence.

16 MS. FULLWOOD: Subject to our previous objection.

17 THE COURT: State's 26 is in evidence subject to
18 previous objection.

19 (State's Exhibit Number 26 was entered into
20 evidence.)

21 BY MR. GRAHAM:

22 Q And again, the initial advisement of rights on
23 April 6, 2013, was at what time?

24 A 10:49, sir.

25 Q And it was witnessed by yourself and Detective

Michael Gooding - Direct Examination by Mr. Graham

1 Longshore at what time?

2 A I'll have to go down and see. 10 -- I believe like
3 :51 maybe or :50? 10:50.

4 Q And then after you did the demonstration of the
5 right- and left-handed and had the article that you printed
6 off the internet and he reached for the statement form,
7 we're talking about State's 26, correct?

8 A That's correct, sir.

9 Q Are you able to see the time that that was executed
10 at?

11 A It was executed at 11 a.m.

12 Q So approximately 10 minutes after the advisement of
13 rights --

14 A That's correct.

15 Q -- on the other form.

16 Did you again advise Mr. Cook of his rights?

17 A Yes, sir.

18 Q And how did you do that using State's 26?

19 A I used it in the same manner I had used on the
20 previous forms where I placed it in front of him where he
21 could see what his rights were. I read those rights aloud
22 to him. I asked him to read one of those rights
23 individually to me to make sure that he could read. I
24 asked him to initial after each of those rights. When he
25 did that, there at the end, he initialled that he -- I

Michael Gooding - Direct Examination by Mr. Graham

1 asked, do you understand what your rights are and if so,
2 will you please initial here and he did. I said, you know,
3 if you'll read this and if you want to speak with us, if
4 you'll please initial here and he did. And then he started
5 the statement.

6 Q Again, did he understand his rights in your
7 opinion?

8 A He did, sir.

9 Q In your opinion, did he waive those rights of his
10 own free will?

11 A He did, sir.

12 Q Did he ever ask for an attorney during this portion
13 of the interview on April 6th?

14 A No, sir.

15 Q Did he ever invoke his right to remain silent
16 during this portion of the interview on April 6th?

17 A No, sir, he did not.

18 Q Did you make any promises or threats to him during
19 this time?

20 A No, sir.

21 Q Did he write the statement of his own free will?

22 A He did.

23 Q And the handwriting seen here, is that his
24 handwriting again?

25 A That's correct.

Michael Gooding - Direct Examination by Mr. Graham

1 Q If you would read this statement to them, please;
2 to the jury.

3 A Yes, sir.

4 When David realized that his heroin was gone he was
5 outraged. I heard him as he --

6 THE COURT: Would you cut those lights back on,
7 please.

8 THE BAILIFF: The solicitor did that.

9 THE COURT: The solicitor doesn't run the
10 courtroom.

11 THE BAILIFF: Yes, sir.

12 THE COURT: Thank you.

13 THE WITNESS: When David realized his heroin was
14 gone, he was outraged. I heard him as he made his way into
15 the door. When he came in, he had a knife in his hand. He
16 kept trying to fight me, so we ended up fighting. He got
17 cut fairly good in the tussle but wouldn't stop at first.
18 Then he said he wanted to stop, so I backed off of him.

19 He stood there a second and then tried again to get
20 at me with the knife. The knife had a double blade on it
21 that had a center-mount handle.

22 And then he drew a picture of the knife.

23 The knife had been on the counter in the kitchen
24 earlier that evening where we had used it to cut a few
25 lines of dope out to snort. When he came at me again, he

Michael Gooding - Direct Examination by Mr. Graham

1 tried to cut me again. But I had a hammer that I hit him
2 with in the head with the flat side of the hammer.

3 And then he drew a picture of the hammer and wrote
4 flat side.

5 When he fell after two blows to the head, he fell
6 on the floor. Instantly, I jumped on his back. He yelped
7 out in pain and then just laid there breathing heavily.
8 One of the blades was stuck in the lower front side of his
9 neck area. At that point, I was scared as a mother fucker.
10 He was bleeding a good bit onto my floor in the living room
11 and there was blood in other places. So at that point, I
12 dragged him in the back of the house so maybe my old lady
13 wouldn't see; and quickly covered up, cleaned up the mess
14 as best I could and changed my shirt. At that point, I do
15 believe that David was still alive because he was
16 breathing.

17 When Rick rolled up, my old lady came in the front
18 of house. She was mad because I was high and went to her
19 room. Rick came in and I got him to come outside and talk
20 to me. I told him about how David had attacked me and he
21 was upset. He was mad over his dope that I had given Dave
22 to try and that the dope was gone at this point.

23 Shortly after that Rick left, said he would be back
24 the next day. I went into the back of the house to check
25 on Dave. He was breathing and it was freaking me out.

Michael Gooding - Direct Examination by Mr. Graham

1 Then all of a sudden he kind of sat up, started thrashing
2 around and making a lot of noise. That's when I panicked.
3 I was really high and when he moved and sat up and was
4 thrashing his arms it scared me and I couldn't think of
5 nothing to do.

6 I pulled the knife out of his neck and stabbed him
7 a few more times. He quit moving so much. By that point,
8 I knew he was hurt too bad, way too bad. I was crying and
9 laying on top of him. Something just kept telling me that
10 I couldn't let him suffer anymore that it wasn't right for
11 him to be in that kind of pain; so I stabbed him in the
12 eye. Not because I was mad, not to be doing it, but just
13 to make it stop, to end the pain that by no means I
14 intended to cause. I liked Dave and I didn't -- and/or
15 hadn't thought that all would happen. I wish it hadn't.

16 Life hasn't been the the same since I did -- since
17 it did. I cry myself to sleep and wake up scared. I stay
18 so sad that I don't talk much. I buried him in the
19 backyard.

20 Rick is the only person that knew I killed Dave.
21 Rick helped me and done most of the stuff on scrapping the
22 truck and the bike. I never seen any of the money Rick
23 made on the dope he stole from Dave that caused this whole
24 thing to happen. From what Dave said, it was a whole lot.
25 And it was Rick that pushed me into the idea of using the

Michael Gooding - Direct Examination by Mr. Graham

1 credit cards.

2 The cards are gone. I through them out somewhere.

3 The knife most likely ended up at the scrap yard or
4 thrown out somewhere. I was such a nervous wreck after all
5 this, I couldn't figure out what to do or where to do it.
6 I really must say one more time that I department want this
7 to happen to no one. I didn't want to hurt Dave at all and
8 wouldn't have if he hadn't attacked me over the dope
9 getting stolen by Rick.

10 Then no one knew the truth or even had an idea
11 about what happened but me and Rick. We just told everyone
12 we seen the truck and bike before and while we was
13 scrapping it that we had bought it from a junkie. Rick was
14 always saying to just keep my mouth shut and it would all
15 go away.

16 I wasn't ever going to say a word. I was scared of
17 what would happen to my family and it was something that
18 happened so fast and so quick and so crazy that I was just
19 lost about what to do the whole time. I'm sorry and
20 relieved to be able to tell the truth. I hope that some
21 day Dave's family will forgive me just like I hope my
22 family will too.

23 I was just trying to stop him from hurting me and
24 it just went too far. I wish it didn't -- excuse me -- I
25 wish this was different, but I didn't see why it all had to

Michael Gooding - Direct Examination by Mr. Graham

1 happen to me and Dave. I didn't take his dope and he
2 didn't do anything to deserve Rick taking his dope. I wish
3 I could or would have just run away when Dave tried to
4 attack me, but I couldn't get away from him, he just
5 wouldn't stop.

6 And then there's some question and answer.

7 Q Going through the question and answer, explain
8 whose handwriting was whose.

9 A You're going to see my handwriting and that's going
10 to be, I'll ask a question and then I'll initial after the
11 question. And then below that, you'll see Worth Cook's
12 handwriting. And he'll initial after each of his answers
13 W.C. for Worth Cook.

14 Q If you'll go ahead and read that, please, sir.

15 A My question was: When did you put the bag over
16 Dave's head.

17 After I stabbed him in the eye to keep from making
18 too much of the mess. The bag was just laying on the floor
19 next to him and it didn't take much thought after I stabbed
20 it, I just did it.

21 The next question I asked him was: Did you bury
22 him that night right after you were done stabbing him.

23 He said: No, it was a whole day before I had a
24 chance to do it.

25 I asked him: Who did you bury in your backyard,

Michael Gooding - Direct Examination by Mr. Graham

1 first and last name.

2 He told me: David. I don't know his last name.

3 I asked him: How did Rick know David was dead when
4 he helped you with the truck?

5 Rick thought Dave was dead the night he came by to
6 drop Shannon off. He is one came up with scrapping the
7 truck at Temples. I told him what happened, but very
8 vaguely when he was talking outside when Shannon was in her
9 room and Dave was unconscious in the back of the house.

10 What did you tell Ricky specifically?

11 I told him that Dave had tried to cut me up -- cut
12 me over the dope Rick had stolen. Since Rick had already
13 at that point admitted he had taken it, I told him that
14 Dave was fucked up pretty bad and was most likely dead at
15 that point. It didn't seem to phase Rick at all when I
16 told him that.

17 I asked him: What is Rick's last name.

18 He told me, I don't know.

19 I asked him: Did you tell anybody else?

20 He said: No, never at any time did I tell anyone
21 about what happened to Dave except Rick until now in this
22 statement.

23 I said: Did anyone promise you anything or
24 threaten you in any way to make this statement?

25 And he said no.

Michael Gooding - Direct Examination by Mr. Graham

1 I said: Is this statement the truth?

2 He said: Yes this one is.

3 I asked: Is there anything you want to add that I
4 didn't ask?

5 And he said: No, not that I can think of.

6 Q The signatures on the bottom of this page and every
7 other page, whose signature is that?

8 A The defendant, Worth Cook.

9 Q And did he write this statement of his own free
10 will?

11 A He did.

12 Q And did this written statement conclude your
13 interview with him on April 6, 2013?

14 A After he finished the written statement, I gave him
15 a copy of each page of the statement. He initialled each
16 page, I gave him a copy. He asked me if he could have a
17 cigarette before I took him back to the jail. I smoke,
18 it's a bad habit; so we stepped outside and smoked a
19 cigarette.

20 He asked me if it would have made a difference if
21 he'd called 9-1-1 at the start of the incident. Before all
22 this got out of control and I told him yeah, I did think it
23 would have made a difference if you'd called 9-1-1 and he
24 just started to cry again. He finished his cigarette and I
25 walked him back over to the detention center.

Michael Gooding - Cross-Examination by Ms. Fullwood

1 Q Thank you Sargent Gooding, please answer any
2 questions the defense has for you.

3 THE COURT: Thank you. Thank you, Solicitor.
4 Ms. Fullwood?

5 MS. FULLWOOD: Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MS. FULLWOOD:

8 Q Good afternoon, Sargent Gooding?

9 A Good afternoon, ma'am.

10 Q You did written reports, case reports, every time
11 you interrogated Mr. Cook; isn't that right?

12 A I did a supplemental report, yes, ma'am.

13 Q That's what you call it supplement?

14 Q And is that standard department procedure?

15 A Yes, ma'am, generally, especially as a lead
16 investigator or investigator in an interview or something
17 like that. If I'm doing it, I'm going to write a report,
18 yes, ma'am.

19 Q Because it's important to document it?

20 A Yes, ma'am.

21 Q Okay. Now, you didn't video tape any of these
22 interrogations, correct?

23 A No, ma'am, we're not equipped.

24 Q Now, wait a minute, you're department does have
25 video cameras and tape recorders?

Michael Gooding - Cross-Examination by Ms. Fullwood

1 A Not in any of the interview rooms, no, ma'am.

2 Q Well, the department has it, correct? I mean...

3 A There's video cameras in our patrol cars, crime
4 scene might have one, I don't know, ma'am.

5 Q Well, at least at some point you've had them in
6 your interrogation room, correct?

7 A It's my understanding we haven't had cameras in the
8 interrogation rooms in probably 10 to 15 years or something
9 like that.

10 Q Uh-huh.

11 A They've never been there the whole time I've been
12 there.

13 Q Okay. Well, you would have tape recorders
14 available, correct?

15 A Correct.

16 Q All right. But you didn't tape record it either?

17 A No, ma'am.

18 Q Okay. Fine. Now, the first time you interrogated
19 Mr. Cook was on April 4, right?

20 A Yes, ma'am.

21 Q And that interrogation lasted approximately an hour
22 and 45 minutes; is that a fair statement?

23 A Yes, ma'am.

24 Q Okay. And then the next day, April 5th, you
25 interrogated him again, correct?

Michael Gooding - Cross-Examination by Ms. Fullwood

1 A Yes, ma'am.

2 Q All right. And that interrogation lasted 5 hours,
3 correct?

4 A With the addition of several breaks that he
5 requested. He requested a break at -- excuse me. Every
6 time he requested a break, we gave him a break. Every time
7 he requested something to eat, we gave him something to
8 eat. Every time he requested something to drink we gave
9 him something to drink.

10 We took breaks from 6:32; we took breaks from 8:30
11 to 8:50. We gave him three Mountain Dew soft drinks. He
12 asked for a pack of crackers, we gave him that. He had
13 also asked for several cigarettes at different points and
14 we gave him cigarettes as well.

15 Q So all total he had about 30 minutes or so or 30 or
16 40 minutes of break time?

17 A Yes, ma'am. Any time he indicated he was tired and
18 wanted a break, we gave him a break.

19 Q Right. And your -- your report shows that he had
20 one first, approximately a 15 minute break and then later,
21 about a 20 minute break; is that right?

22 A Yes, ma'am, we certainly met his requests.

23 Q All right. Now, when you talked to him on the 6th,
24 that was for a little less than 2 hours, maybe 2 hours --
25 an hour, 30 or 45 minutes; is that right?

Michael Gooding - Cross-Examination by Ms. Fullwood

1 A Let's see -- yes, ma'am, that was an hour and 45
2 minutes.

3 Q And you went in there that day with a plan to get
4 him to talk to you more?

5 A No, ma'am. I went in there with an investigative
6 technique to get him to tell me the truth.

7 Q Okay. Well, you said you had a strategy, right?

8 A Yes, ma'am.

9 Q All right. And basically you were trying to
10 convince him that you folks knew the killer was
11 right-handed so, therefore, if Ricky Barnes was left-handed
12 and he was right-handed; that it had to be him, right?

13 A If he had participated in the murder and was not an
14 innocent person and he was right-handed, and the victim had
15 been stabbed to death in his house, then yes, ma'am, we
16 suggested it would be as opposed to Ricky.

17 Q Okay. And -- but now, you're not a medical
18 pathologist, are you?

19 A No, ma'am.

20 Q And you don't have any advanced, like doctoral
21 training in anatomy or anything like that, right?

22 A No, ma'am.

23 Q Okay. But as an experienced detective, you surely
24 realize that the placement, directionality and so forth of
25 injuries depends on a myriad of factors. Right? People

Michael Gooding - Cross-Examination by Ms. Fullwood

1 move, their hands in different positions, it depends on a
2 lot of things?

3 A Yes, ma'am. I would say that's a factor.

4 Q And usually, even pathologists can't give you a
5 definitive answer for that reason.

6 A I would dis --

7 Q In most cases?

8 A -- I would disagree with that.

9 Q You would?

10 A Yeah.

11 Q Okay. You think they can?

12 A I think provided that there's substantial or at
13 least sufficient physical evidence that, you know, a body
14 is fairly well preserved and wounds can be examined that
15 they can give you some determinations. We see this a lot
16 of times, for example, not only with stab wounds, but we
17 also see it with gunshot wounds and stuff like that where
18 we look at entrance and exit wounds and differentiating of
19 which one was what. So there is determinations, I think,
20 that can be made.

21 Q All right. Now, you also ran an article off the
22 internet?

23 A I did.

24 Q All right. And let me show you what's been marked
25 Defendant's Exhibit 2 for identification.

Michael Gooding - Cross-Examination by Ms. Fullwood

1 A Okay.

2 Q And is that what you showed him?

3 A I did.

4 Q All right. And what's the name of that article?

5 A Assessing the Involvement of Anatomical Structures
6 and Penetrating Trauma Probabilistically.

7 Q All right. And it's by someone who appears to be
8 either someone from Japan or Japanese decent; is that
9 correct?

10 A Yes, ma'am, I think that would be pretty safe.

11 Q Okay. And you just found it with a web search,
12 right?

13 A Google.

14 Q Google search, right, right. And there's a little
15 map on that of the formula's and all sorts of stuff?

16 A It is.

17 Q Do you really know what it's saying?

18 A Ma'am, the reason I used it is I went to the
19 abstract of the study.

20 Q Uh-huh.

21 A And in the abstract, the first line of the
22 abstract, the first line of the abstract is to determine
23 the type and magnitude of injuries in penetrating trauma
24 from gunshot and stab wounds, a working knowledge of the
25 relationship between human anatomy, physiology and physical

Michael Gooding - Cross-Examination by Ms. Fullwood

1 manifestation of injury is required.

2 Q Did you read it at all?

3 A I actually didn't. I read the abstract, ma'am and
4 I flipped through a little bit, but calculus was never my
5 thing.

6 Q Right. I hear you. I know what you're saying.

7 Okay. So, that is another tool or technique you
8 used?

9 A Yes, ma'am.

10 Q To get him to tell you something?

11 A To tell the truth, yes, ma'am.

12 Q Okay. And he looked at it for a few minutes and
13 then --

14 A He did --

15 Q -- wrote a statement?

16 A He essentially -- he essentially picked it up, he
17 looked at it, he flipped through it a little bit, sat it
18 down, reached across and got a statement form.

19 Q Did you ever ask him his level of education?

20 A No, ma'am, not that I recall.

21 Q Okay. Okay. I've got -- I thought -- you folks
22 don't normally do that when --

23 A Not necessarily. The level of education isn't
24 necessarily as important to me as if somebody can read and
25 write.

Michael Gooding - Cross-Examination by Ms. Fullwood

1 Q Uh-huh.

2 A I had ascertained or verified that he was able to
3 read by, you know, having him read to me the advisement of
4 rights forms and he never indicated to me that any of the
5 documents that were presented to him he had difficult
6 understanding. So I wouldn't normally look at somebody and
7 go what's your grade in school unless it was something that
8 was perhaps relevant to what I was investigating.

9 Q Okay. Well, I guess from all the reading out loud
10 you've had to do today, Mr. Cook certainly can't spell, can
11 he?

12 A No, ma'am, he cannot.

13 Q Okay. And he doesn't really grasp the fundamentals
14 of grammar and composition, correct?

15 A He communicated in a ten page statement and a six
16 page statement in writing that I was able to understand.
17 He was able to articulate what he was trying to say and I
18 was able to understand what points he was making.

19 MS. FULLWOOD: All right. No further questions.

20 THE COURT: Redirect, Solicitor?

21 MR. GRAHAM: No, Your Honor.

22 THE COURT: Thank you, thank you very much,
23 Sargent. You may step down.

24 THE WITNESS: Thank you, Your Honor.

25 MR. GRAHAM: Your Honor -- our next witness is

Dr. Janice Ross - Direct Examination by Mr. Graham

1 here. I was going to ask for a break to go see if she was
2 here, but she is here. So we can either take a break or go
3 forward, Your Honor.

4 THE COURT: I'm good to go. Call your next
5 witness.

6 MR. GRAHAM: The State calls Dr. Janice Ross.

7 JANICE ROSS,

8 having been duly sworn, testified as follows:

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

11 THE WITNESS: Janice Edwards Ross, R-O-S-S.

12 THE COURT: Thank you for being with us this
13 afternoon, Doctor.

14 **DIRECT EXAMINATION**

15 **BY MR. GRAHAM:**

16 Q Dr. Ross, where are you employed and what do you
17 do?

18 A I'm employed with Newberry Pathology Associates of
19 Newberry, South Carolina.

20 Q What is pathology?

21 A Pathology is a discipline of medicine. I've gone
22 through 4 years of college and 4 years of medical school
23 and got my M. D. Degree; then went into the area of
24 pathology as opposed to surgery or pediatrics.

25 In pathology, we learn how to diagnose diseases by

Dr. Janice Ross - Direct Examination by Mr. Graham

1 Looking at tissue under the microscope, by using the
2 laboratory in the hospital. And we learn how to do
3 autopsies.

4 I further trained in the area of forensic pathology
5 where we do a more fine-tuned type of autopsy, identifying
6 patterns of injury and collecting evidence for the court of
7 law.

8 MS. FULLWOOD: Your Honor, I would stipulate to
9 Dr. Ross's qualifications as an expert in the field of
10 forensic pathology.

11 MR. GRAHAM: Your Honor, the only other question I
12 would ask her is:

13 BY MR. ROSS:

14 Q How many autopsies have you performed?

15 A Close to 10,000.

16 Q And how many times have you been qualified in
17 forensic pathology?

18 A In South Carolina, about 200.

19 MR. GRAHAM: And Your Honor, the State would offer
20 her as an expert.

21 THE COURT: Again, ladies and gentlemen, you heard
22 my charge several times on expert testimony. Dr. Janice
23 Ross will be qualified in the field of forensic pathology
24 to give opinion testimony in that regard.

25 Thank you. Solicitor, you may continue.

Dr. Janice Ross - Direct Examination by Mr. Graham

1 MR. GRAHAM: Thank you, Your Honor.

2 BY MR. GRAHAM:

3 Q Dr. Ross, have you had an opportunity to perform an
4 autopsy on David Diblasi?

5 A Yes.

6 Q In general terms can you describe how you go about
7 performing an autopsy?

8 A Yes, the -- first of all the county coroner calls us
9 and requests us to do the autopsy with proper
10 authorization. They bring us the patient in a body bag
11 into the morgue at Newberry County Memorial Hospital, where
12 we open the bag; we take photographs, externally; note down
13 any clothing or valuables. Then we look at the external of
14 the body and then the internal part of the body.

15 Q And the autopsy of David Diblasi, what day did you
16 perform that?

17 A April 6, 2013.

18 Q You said the very first thing you do is an external
19 examination; is that correct?

20 A Yes.

21 Q Can you tell the jury what you observed in your
22 external examination?

23 A Yes, he had a sweatshirt on and a couple of shirts
24 that were pulled up over his head and his arms were above
25 his head. He had some blue jeans on. He was covered with

Dr. Janice Ross - Direct Examination by Mr. Graham

1 dirt. When we took the shirts off, we found that the head
2 was within a plastic bag just kind of like what you get at
3 the grocery store. Then in cleaning the dirt off of him,
4 we found multiple stab wounds.

5 Q Let me show you a diagram and ask if you recognize
6 this.

7 A Yes.

8 Q Would that assist you in explaining the stab wounds
9 and the injuries that you observed on Mr. Diblasi?

10 A Yes. This is a diagram that I made at the time of
11 the autopsy.

12 MR. GRAHAM: Your Honor, the State would offer
13 State's 59 into evidence.

14 THE COURT: Ms. Fullwood?

15 MS. FULLWOOD: No objection.

16 THE COURT: State's 59 is in evidence without
17 objection.

18 (State's Exhibit Number 59 was entered into
19 evidence.)

20 BY MR. GRAHAM:

21 Q Dr. Ross, as you began your external examination of
22 Mr. Diblasi's body, what did you notice?

23 A We found a stab wound -- stab wounds in the head
24 area, one at the top of the right forehead that went in and
25 hit the bone and that was it.

Dr. Janice Ross - Direct Examination by Mr. Graham

1 There was one in the right cheek that was very
2 superficial. It just went in and hit the cheekbone.

3 There was one on the left jaw area, which was
4 superficial. It just went in and hit the bone.

5 And there was one that went right above the left
6 eye that went into the inside of the skull. There's a thin
7 bone on top of the eyeball, that -- as I say it's very thin
8 and fragile and can be pierced fairly easily. And that one
9 went into the area of the brain and caused hemorrhage
10 around the brain.

11 We found a series of four stab wounds in the right
12 side of the neck. One on the left side -- the side of the
13 neck. One of these four on the right side of the neck went
14 from right to left and slightly backwards and slightly
15 downward. Let me check that -- to go through the airway,
16 the larynx.

17 (There was a pause in the proceedings.)

18 THE WITNESS: Yes, it went downward a little bit.

19 Then we had one stab wound in the right side of the
20 abdomen, the belly that went slightly upward and went into
21 the liver.

22 And we had two stab wounds in the back that were
23 superficial, they didn't go too far. One was in the right
24 back, right, lower back; and one was in the left, lower
25 buttock area.

Dr. Janice Ross - Direct Examination by Mr. Graham

1 BY MR. GRAHAM:

2 Q So how many total stab wounds were there on
3 Mr. Diblasi's body?

4 A Twelve.

5 Q Were you able to form an opinion as to whether the
6 same instrument inflicted all of those twelve injuries.

7 A It's consistent with it being the same instrument.
8 I can't say 100 percent that it was because of the
9 decomposition changes.

10 Q And what kind of instrument was it?

11 A It looked to be a single-edged knife blade.

12 Q Are you able -- from the injuries themselves are
13 you able to determine whether the individual who made those
14 injuries was right- or left-handed?

15 A No, I cannot.

16 Q Was there any injury -- were there any injury to
17 the shoulder area of Mr. Diblasi?

18 A No.

19 Q Did you see any defensive injuries.

20 A No, I did not.

21 Q What is a defensive injury.

22 A These are injuries you usually see on the backs or
23 fronts of hands or the forearms. It just means, obviously,
24 a defensive motion by the deceased. If they saw a weapon
25 coming at them, they put their hand up. But I did not see

Dr. Janice Ross - Direct Examination by Mr. Graham

1 those.

2 Q So is that an instinctive reaction?

3 A Yes.

4 Q And Mr. Diblasi had no defensive injuries on his
5 hands?

6 A No, there was some decomposition there, but there
7 was no breakage of the skin that I could see.

8 Q Did you see any evidence of blunt force -- blunt --
9 what is blunt force trauma?

10 A Blunt force trauma is injury maybe it would cause a
11 laceration in the skin or a bruise, made by some instrument
12 that's not sharp; maybe like a baseball bat or the piece of
13 board, as opposed to a sharp instrument that makes an
14 incised wound in the skin.

15 Q Would a blow from a hammer be considered a blunt
16 force trauma blow?

17 A Yes.

18 Q Did you see any injury on your internal or external
19 examination of Mr. Diblasi's body that would be consistent
20 with blunt force trauma?

21 A No, I did not.

22 Q So when you did the external examination, what
23 would you have opinion looking for -- for the presence of
24 blunt force trauma, what kind of things would you have been
25 looking for?

Dr. Janice Ross - Direct Examination by Mr. Graham

1 A Well, any patterns of injury, a split of the skin,
2 contusion or -- which is a bruise. Now, with the
3 decomposition, it's hard to see sometimes the bruising, but
4 when you look at the tissue underneath the skin, you can
5 see bruising. There were some bruises and hemorrhage
6 underneath the skin around the stab wounds, but nothing
7 that I could say was definitely blunt force injury.

8 Q So now -- so on the external examination, you
9 didn't see any evidence of blunt force trauma on the --
10 what -- the internal examination, what would that do as far
11 as looking for blunt force trauma?

12 A Again, you would look for bruises and bleeding
13 inside --

14 Q Did you see any evidence of that?

15 A -- or fractures of bones.

16 No, I did not.

17 Q That would include fractures or marks to the skull
18 as well as bleeding on the brain underneath the skull?

19 A Correct.

20 Q And did you see any evidence of that?

21 A No.

22 Q You described a lot of these wounds as superficial.
23 Were there -- what were the wounds that were not
24 superficial?

25 A The one in the left eye that went into the -- the

Dr. Janice Ross - Direct Examination by Mr. Graham

1 area around the brain and the one in the abdomen that went
2 into the liver.

3 Q Can you --

4 A I'm sorry, there's one that went into the neck area
5 and one into the larynx.

6 Q Okay. Can you describe those three wounds in more
7 detail?

8 A The one in the left eye just went straight
9 backwards, maybe slightly upward to enter the brain cavity.
10 The one in the right neck that went deepest was -- went
11 right to left, slightly downward and backward. And the one
12 in the abdomen just went somewhat right to left and
13 backwards and upward.

14 Q Do you have an opinion as to the order of those
15 three injuries?

16 A No, I do not.

17 Q Which of these three injuries was the fatal injury?

18 A The one into the eye.

19 Q And tell me about the injury to the eye and how
20 death would occur and the time process for that.

21 A The injury went through the bone above the eye into
22 the brain cavity and caused some bleeding called subdural
23 hemorrhage. He may have been rendered unconscious fairly
24 quickly, but he would have taken several minutes to die.

25 Q Would have been rendered unconscious from that

Dr. Janice Ross - Direct Examination by Mr. Graham

1 injury; is that correct?

2 A I'm sorry?

3 Q He would have been rendered unconscious after the
4 stab to the eye?

5 A Yes.

6 Q The other two injuries, would that have rendered
7 him unconscious prior to the eye stab?

8 A No.

9 Q So it's your opinion that when the blow -- stabbing
10 Mr. Diblasi in the eye, he was conscious; is that correct?

11 A Yes, most likely.

12 Q Are you able to tell whether his eyes were open or
13 closed when that injury occurred?

14 A It was difficult to tell because the left upper lid
15 was involved in some of the injury. So he may have -- it
16 might have been somewhat open.

17 Q So as an expert in the field of forensic pathology,
18 what is your opinion as to the cause and mechanism of
19 death.

20 A It a fractured skull due to the stab wound to the
21 eye.

22 Q Thank you, Dr. Ross, please answer any questions
23 the defense has for you.

24 THE COURT: Thank you, Solicitor.

25 Ms. Fullwood?

Dr. Janice Ross - Cross-Examination by Ms. Fullwood

1 MS. FULLWOOD: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. FULLWOOD:

4 Q Good afternoon Dr. Ross.

5 A Good afternoon.

6 Q Do you know for sure that Mr. Diblasi was conscious
7 when he was stabbed in the eye?

8 A No, I do not.

9 Q Okay. Because it's hard to tell those kinds of
10 things?

11 A Correct.

12 Q Okay. Is it also sort of hard to make definite
13 conclusions about -- Mr. Graham asked you about whether
14 left- or right-handed person inflicted the wound; is that
15 typically a determination that's difficult to make due to
16 the fact that you can't predict how people are moving when
17 these unfortunate incidents happen?

18 A Yes. You can -- two people can be moving in
19 different directions and you can hold a knife in all kind
20 of ways.

21 Q Okay. As part of your autopsy, you had blood and
22 other samples drawn; is that correct?

23 A Correct.

24 Q And at least some of those samples were just sent
25 to the SLED laboratory for a tox screen, correct?

Dr. Janice Ross - Cross-Examination by Ms. Fullwood

1 A That's correct.

2 Q And you received the results; is that right?

3 A Yes.

4 Q And in this particular case, Mr. Diblasi tested
5 positive for methamphetamine; is that correct?

6 A Yes.

7 Q Okay. And had you been given a medical history
8 from an independent witness that saw him actually smoking
9 methamphetamine on that day; would these results be
10 consistent with that?

11 A Yes.

12 MS. FULLWOOD: No further questions.

13 THE COURT: Redirect, Solicitor?

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: Thank you. Thank you very much for
16 being with us this afternoon, Dr. Ross. You may step down.

17 Any objection to the doctor being excused,
18 Solicitor?

19 MR. GRAHAM: Not from the State, Your Honor.

20 THE COURT: Ms. Fullwood?

21 MS. FULLWOOD: No, Your Honor.

22 THE COURT: Thank you. Thank you very much.

23 All right. Perhaps now would be a good time to
24 take our afternoon recess.

25 Yes, sir.

1 MR. GRAHAM: Actually, Your Honor, that concludes
2 the State's case and the State would rest with Dr. Ross's
3 testimony.

4 THE COURT: All right. The State rests?

5 MR. GRAHAM: Yes, sir.

6 THE COURT: All right. Well, thank you very much.
7 Well, we'll take our afternoon recess, ladies and
8 gentlemen. Please do not discuss the case during this
9 brief recess. We'll take about 20 minutes.

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

12 (The jury left the courtroom at 3:42 p.m.)

13 THE COURT: All right. Any motions, Ms. Fullwood?

14 MID-TRIAL MOTIONS

15 MS. FULLWOOD: Yes, sir, at this time, we would
16 move for a directed verdict. Grounds for the motion is
17 that the State's case failed to produce any competent
18 evidence that tends to prove the crime charged.

19 THE COURT: All right. Solicitor?

20 MR. GRAHAM: Your Honor, I think taking all the
21 evidence, physical evidence, and the statements made by the
22 defendant in the light most favorable to the State, which
23 is the standard at this point, that there is ample evidence
24 that the jury could find Mr. Cook guilty of the crime of
25 murder.

1 THE COURT: All right. I would respectfully deny
2 the motion for the directed verdict. As is pointed out, I
3 look at the evidence in the light most favorable to the
4 nonmoving party, that being the State, and I'm only
5 concerned with the existence or nonexistence of the
6 evidence, direct or circumstantial evidence. I think that
7 it does meet that standard as to proof. There is both
8 direct and substantial circumstantial evidence. In
9 applying that standard, I would respectfully deny the
10 motion.

11 Any other motions, Ms. Fullwood?

12 MS. FULLWOOD: No, Your Honor.

13 THE COURT: Do you -- do you want me to interview
14 your client as to his right to testify or not testify?

15 MS. FULLWOOD: Yes, sir.

16 THE COURT: All right. If you'd come around,
17 please, to the podium, Mr. Cook.

18 (The defendant stepped up to the podium.)

19 **QUESTIONING OF THE DEFENDANT BY THE COURT**

20 THE CLERK: Would you like me to place him under
21 oath, Your Honor?

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

23 WORTH EDWARD COOK, III,

24 having been duly sworn, testified as follows:

25 THE COURT: Mr. Cook, I need to go over some things

1 with you. I do this with everyone who is on trial and I
2 need your responses to be under oath, that's why I had the
3 clerk place you under oath. Do you understand?

4 THE DEFENDANT: Yes, sir, yes, Your Honor.

5 THE COURT: We have now reached the stage of the
6 trial where the State has rested and your side, the
7 defense, although I believe you've already placed at least
8 one item into evidence, perhaps Defense Number 2, but you
9 have the opportunity to present additional evidence or
10 testimony for the jury to consider. Do you understand
11 where we're at in the trial?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: In that regard, you may call witnesses
14 to testify on your behalf and if you choose to testify
15 yourself, you may do so, do you understand?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: No one can force you to testify. You
18 have an absolute right to remain silent and if you choose
19 not to testify, I will tell this jury that they cannot hold
20 your silence against you in any way. I will tell them that
21 they are not to discuss that in the jury room. Do you
22 understand?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Should the defendant testify, does he
25 have any prior criminal history that would subject him to

1 impeachment under Rule 609.

2 MS. HENRY: He does, Your Honor, he has a -- and
3 I'm not certain about this one because I don't know when he
4 was released from parole. He has a 2003 burglary second
5 conviction.

6 THE COURT: An '03?

7 MS. HENRY: I'm sorry?

8 THE COURT: An '03? 2003?

9 MS. HENRY: Yes, sir, but he was given a YOA and a
10 grand larceny also accompanied that. Maybe the State has
11 information about this.

12 MR. GRAHAM: I don't -- I don't think that that
13 fell within the 10 year period, Your Honor.

14 THE COURT: All right. So your opinion does he or
15 does he not have a criminal history, Solicitor that would
16 subject him to impeachment under 609?

17 MR. GRAHAM: No, I think there are several other
18 crimes that do, just not that one.

19 THE COURT: All right. Tell me the others.

20 MR. GRAHAM: He has an April 29th, 2013 conviction
21 in magistrate's court. He pled guilty to obtaining
22 signature for property under false pretenses. That's a
23 crime of dishonesty, and under 609 does not require a
24 balancing test.

25 He also has an October 26, 2011, possession of

1 methamphetamines, which I do believe would require a
2 balancing test by Your Honor.

3 He has a March 14th, 2011; manufacturing meth
4 first, which I believe would be subject to the balancing
5 test.

6 He has two burglary first -- excuse me, two
7 burglary second nonviolent convictions of March 30 of 2009.
8 The indictments, Your Honor, don't specify what the crime
9 is; the warrants going underneath them show that they were
10 for larceny. And I honestly don't know if that leaves
11 it -- I don't know because of the indictments themselves
12 and I don't have a transcript of the hearing. I don't know
13 whether you have to do a balancing test on that or not.

14 MS. HENRY: Beg the Court's indulgence for a
15 moment.

16 THE COURT: Yes, ma'am, certainly.

17 (There was a pause in the proceedings.)

18 MR. GRAHAM: Your Honor, apparently I was mistaken.
19 The two -- I guess I need to change my position. Ms. Henry
20 discussed burglaries and grand larcenies from '03. I'm not
21 sure these burglaries that I have certified convictions are
22 the same. They have arrest dates or incident dates of 2002
23 on both of them. And I'm talking about, for the record,
24 Your Honor, Indictment 2009-GS-32-916 and Indictment
25 2005-GS-32-4575.

1 These are both YOA sentences, but the sentences
2 were imposed on March 30th of 2009, so I believe those do
3 still fall within the 10 year periods because it would be
4 my understanding it's the date of the imposition -- or
5 actually the end of the sentence. And the date of the
6 imposition itself is well within 10 years.

7 THE COURT: If I'm tracking, you have two
8 burglaries that occurred in 2002 and were not disposed of
9 for 7 years.

10 MR. GRAHAM: That's what the records and the
11 certified true copies indicate, Your Honor.

12 THE COURT: I'm going to make it real simple. I'm
13 not going to allow that. I'm not going to allow
14 burglaries -- I don't know why they didn't serve a warrant
15 for 7 years, but theoretically, the State could -- and I'm
16 not saying they did, I don't mean it like that, but
17 theoretically, the warrants could be held for a period of
18 time; and even though I realize that's what the 10 year
19 limit says, of course, that limit also says, I think -- let
20 me read it.

21 (There was a pause in the proceedings.)

22 THE COURT: It says evidence of a conviction --
23 well, that's not even a conviction -- you're saying they're
24 not in the time limit? Is that -- the time aspect of it,
25 right?

1 MR. GRAHAM: I do think they're timely, Your Honor,
2 I thought -- my understanding was that it goes from the
3 date of either the -- it goes from the date of -- that the
4 penalty ends. And obviously the penalty hasn't ended at
5 the time of the plea or the conviction in 2009. So I do
6 think from that aspect, it's timely.

7 MS. HENRY: But from the aspect of, this is a 14,
8 now-year-old charge, apparently it was not adjudicated in a
9 timely manner, I think it would indicate that the Court is
10 right in his --

11 MR. GRAHAM: Your Honor, the indictment going along
12 with 05-GS-32-4575, the certified warrant shows that that
13 warrant was served December 16th of '02. For the other
14 indictment, 2009-GS-32-916, the certified copy of the
15 warrant shows service of that warrant on January 7th of
16 2003.

17 Why they weren't prosecuted until 2009, that I do
18 not know.

19 THE COURT: May I see them, please?

20 MR. GRAHAM: Yes, Your Honor.

21 You want me to have them marked as a court exhibit?

22 THE COURT: Yes, you the can mark them, yes, sir.

23 (Court's Exhibits Number 1 and Number 2 were marked
24 for identification.)

25 THE COURT: Did you read this sentencing,

1 Solicitor, and Ms. Henry.

2 MR. GRAHAM: I did not, Your Honor.

3 THE COURT: On '09, 9/16, the sentence is:
4 Defendant is committed to the -- committed under the
5 Youthful Offender Act not to exceed 5 years. And then
6 probation is scratched out and it's got time served and in
7 the comments, it's got if YOA not accepted defendant's
8 sentenced to the Department of Corrections a year,
9 suspended on time served and then it's got time served
10 sentence 2003, 2004 Orangeburg County.

11 Do you -- do you know what that means?

12 MS. FULLWOOD: I could guess what it means.

13 THE COURT: I'm not sure I can.

14 MS. FULLWOOD: It could be if he caught a Y back in
15 '03 or so and those warrants were related to that plea and
16 somehow didn't get bundled up and taken care of at that
17 time, maybe the Court just thought that he'd already done
18 the time for that crime spree.

19 THE COURT: And the other one says time served
20 sentence, June of '03, 1.5 years, 2003, 2004 in Orangeburg
21 County. Kicked in the back door of a car lot on the first
22 one and took a car and it was later found in Orangeburg.

23 (There was a pause in the proceedings.)

24 THE COURT: And that was served in '02.

25 MR. GRAHAM: Well, what his rap sheet shows, Your

1 Honor, and I don't know if it shows the Y on it, it might.
2 It doesn't show any of the arrests. It shows on June 2nd
3 of 2013, there's an entry from the South Carolina
4 Department of Corrections saying that he was received June
5 2nd, 2003 for the charge burglary violent second degree,
6 nonviolent; 3 counts YOA not to exceed 6 years. Each were,
7 I guess concurrent.

8 Also has a court charge in '02, which is the grand
9 larceny value at 5,000 or more. The court disposition on
10 that was convicted on that YOA not to exceed 5 years.

11 THE COURT: All right. Given the timeliness of
12 these -- or lack of timeliness, I find that the probative
13 value does not outweigh the prejudicial effect on the
14 burglaries -- under 609 A(1).

15 All right. So obtaining signature under false
16 pretenses is admissible. And what about the March and
17 October '11 meth charges? The March and October of 2011
18 meth charges, Ms. Henry; Ms. Fullwood?

19 MS. HENRY: He did plead guilty to that, Your
20 Honor. He is currently on probation for that.

21 THE COURT: All right. The issue I have with those
22 and the balancing test is meth is -- and heroin and drugs
23 is so intertwined in the case that it reminds me of that
24 case of Judge Cottingham -- I can't pronounce it Raffelt,
25 but at any rate -- are both of those felonies, Solicitor?

1 MR. GRAHAM: I believe that the possession of meth
2 is a misdemeanor; is that correct?

3 MR. CASKEY: Yes.

4 MR. GRAHAM: So the October of 2011 possession of
5 meth is a misdemeanor and March 2011 is a felony.

6 THE COURT: All right and both of them carry over a
7 year?

8 MR. GRAHAM: Both carry over a year, Your Honor.

9 THE COURT: I'll allow you to ask if March '11 he
10 had a felony conviction and in October of '11 he had a --

11 MS. HENRY: Your Honor, I would -- before you make
12 your final ruling, if I just might? Due to the nature of
13 this case and the fact that it all centers around basically
14 the use of drugs. I think for the jury to know that he has
15 these prior convictions for meth is going to be horribly
16 prejudicial than it is probative as to whether or not he
17 commit it had murder.

18 THE COURT: All right. Well, I'll let you make
19 your tactical decision. I look at it differently, but
20 if -- I'm only ruling the State can't use it.

21 MS. HENRY: The State can't use it.

22 THE COURT: That's all I'm doing is the State can't
23 use possession of meth. The manufacturing -- I'm not
24 ruling --

25 MS. HENRY: I'm sorry, I didn't understand.

1 THE COURT: I made that -- I'm just thinking
2 through that. I'm not really ruling that the defendant
3 can't get up there and put up what he wants.

4 MS. FULLWOOD: Judge, we thought you said they
5 could use it.

6 THE COURT: I said they could use it as a felony or
7 as a misdemeanor, but not the label meth or manufacturing
8 meth because to me meth is such a part of this case --
9 maybe I did say that, but my mind wasn't connecting to what
10 I was saying then. But to me, it would say to me
11 potentially people could jump to the conclusion well,
12 meth -- meth, you know he was stealing the meth and the
13 drugs, you know, so -- that was just my concern.

14 But, Solicitor, you can ask him -- it's a felony
15 conviction or a misdemeanor conviction. All right?

16 MS. HENRY: Yes, sir.

17 THE COURT: Not the label.

18 All right. In that regard, Mr. Cook, if you were
19 to take the stand, the solicitor -- perhaps it could come
20 out through your attorneys, could ask you if you have a
21 conviction on April 29 of '13 for obtaining signature under
22 false pretenses; 3/14/11 for a felony conviction; and
23 10/26/11 for a misdemeanor conviction. If that were to
24 come out, I would tell the jury that they could not -- they
25 can only use that against you, if they used it at all, in

1 the consideration of your credibility and for no other
2 purpose.

3 In other words, whether your testimony is
4 believable or not. Do you understand?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: The decision about whether you testify
7 or not is your decision to make and yours alone. I expect
8 that you may confer with your attorney or attorneys or
9 others whose opinions you value on life's important
10 decisions, but whether or not you testify is your call to
11 make, your decision. Do you understand.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Has anyone exercised any undue
14 influence over you to get you to choose to testify or not
15 to testify?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Today are you under the influence of
18 any drugs, alcohol, medication, or anything that negatively
19 affects your thinking ability?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Do you suffer from any physical or
22 mental problems that affect your thinking today.

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Do you have any questions you would
25 like to ask me about your right to testify or not testify.

1 THE DEFENDANT: No, not at this time, Your Honor.

2 THE COURT: And do you understand your right to
3 testify and not -- or not testify.

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. Well, I'll give you -- we
6 haven't had our break, so we're going to take a few minute
7 recess and I will give you that recess to talk -- confer
8 with your attorneys one more time.

9 MS. Fullwood, do you know if there's going to be
10 any other evidence and testimony besides -- I'm not asking
11 what he's going to do, but are there any other witnesses?

12 MS. FULLWOOD: There should be and the ball is now
13 in his court.

14 THE COURT: All right. Can you give me a
15 guesstimate on the length of time.

16 MS. HENRY: Are you talking about for both
17 witnesses, Your Honor.

18 MS. FULLWOOD: All the witnesses?

19 MS. HENRY: I'm thinking 3 hours with
20 cross-examination.

21 THE COURT: All right. Thank you. Thank you very
22 much.

23 As far as --

24 Thank you, you may return to your seat, Mr. Cook.

25 (The defendant returned to his seat.)

1 THE COURT: As far as the control of these lights,
2 my only theory was he was talking and it split the jury's
3 focus and concentration. It certainly split mine. I'm not
4 going to get in the process of fooling with these lights at
5 all, but I just didn't like the -- whether listening to the
6 witnesses, they're trying to read, they're going to have
7 the statement back there in the jury room with them and
8 they can read it then.

9 That's my only theory and when another witness
10 comes up, for example, Dr. Ross, I don't expect -- I'm not
11 going to make a call on fooling or not fooling with the
12 lights, and I have no objection to the solicitor making
13 that call, I just didn't do it under those circumstances,
14 nor am I going to have anyone tell me how to run my
15 courtroom. If they don't like the way I run it, they can
16 go to another courtroom.

17 Thank you. Thank you very much, we'll be in recess
18 for 10 minutes.

19 (A brief recess was observed.)

20 THE COURT: All right. Mr. Cook, if you'd come
21 back around to the podium, please.

22 (The defendant stepped up to the podium.)

23 THE COURT: All right. You're still under oath.
24 Have you made your decision whether or not you're going to
25 testify?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And what is your decision?

3 THE DEFENDANT: Yes, that I will.

4 THE COURT: All right. Thank you. Thank you very
5 much. You may -- that's your decision?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Your call?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Thank you. Thank you very
10 much. You may return to your seat.

11 (The defendant returned to his seat.)

12 THE COURT: All right. Anything from the State
13 before we bring in our jury, Solicitor?

14 MR. GRAHAM: If I can approach, Your Honor?

15 THE COURT: Yes, sir.

16 (There was a bench conference out of the hearing of
17 the Court Reporter.)

18 THE COURT: All right. Is our jury back?

19 MS. HENRY: Your Honor, there's some question about
20 the criminal history of the witness that we're going to
21 call and the State is looking up to determine whether or
22 not out-of-state convictions carries more than a year in
23 2009.

24 MR. GRAHAM: Your Honor, I think -- my
25 understanding from reviewing her rap sheet, and it's hard

1 to read, 2009 conviction showing theft by lawful taking or
2 it says DISP out of Pennsylvania. They were discussing
3 whether it carried more than a year, it sounds like it's a
4 crime involving -- isn't theft dishonesty?

5 THE COURT: Ms. Henry?

6 MS. HENRY: Not knowing anymore about it than what
7 the State has given me, Your Honor, at this point, I really
8 can't say. I mean normally under our definition in South
9 Carolina, I believe theft is considered a crime of
10 dishonesty, but I don't know what it looks like in
11 Pennsylvania.

12 MS. FULLWOOD: If Your Honor please?

13 THE COURT: Yes, ma'am.

14 MS. FULLWOOD: I will refer the Court to the case
15 of State v. Broadnax.

16 THE COURT: That's Judge Cooper's case?

17 MS. FULLWOOD: Sir?

18 THE COURT: That's G. Thomas Cooper's case?

19 MS. FULLWOOD: It is.

20 THE COURT: I was just trying to look it up.

21 MS. FULLWOOD: And it's -- the cite is 779 SE 2d
22 789.

23 THE COURT: And that was like armed robbery or
24 something, wasn't?

25 MS. FULLWOOD: Right, it says that armed robbery is

1 not a crime of dishonesty. And then it says -- they're
2 talking about the State v. Bryant where it said a
3 conviction of robbery, burglary, theft beyond the basic
4 crime itself, is not probative of truthfulness. And then
5 they talk about crimes in the nature of *crimen falsi*.

6 THE COURT: Solicitor. This Broadnax case talks
7 about State versus *Al-Al min* and it says our Supreme Court
8 has stated that stealing is not always a crime of
9 dishonestly that there are no affirmative additional false
10 statements or acts of deceit beyond the crime itself.

11 MS. FULLWOOD: Are you talking about *al-al min*.

12 THE COURT: No, I'm citing from Broadnax.

13 MS. FULLWOOD: Oh, yes, sir.

14 THE COURT: It says we're not ruling that prior
15 armed robbery is per se inadmissible, however, there simply
16 must be something beyond the basic crime. In the present
17 case, the State did not show any other affirmative false
18 statements or acts of deceit beyond the basic crime itself.

19 So what's your position on the Pennsylvania charge
20 and what is it? Theft by taking?

21 MR. GRAHAM: Your Honor, I was having a hard time
22 hearing you.

23 THE COURT: What is your position on the
24 Pennsylvania charge? What was it? Theft by taking?

25 MR. GRAHAM: It says theft by taking or and it says

1 DISPO and then it's blank. And I don't --

2 What was the title --

3 THE COURT: Does she have other convictions.

4 MR. GRAHAM: No, Your Honor. I think just to make
5 it simple and not for there to be an error, the State won't
6 ask her anything about that.

7 THE COURT: All right. Anything further before we
8 bring in our jury?

9 MS. FULLWOOD: Not from defense.

10 MR. CASKEY: Nothing further from the State, Your
11 Honor.

12 (The jury entered the courtroom at 4:43 p.m.)

13 THE COURT: All right. Welcome back, ladies and
14 gentlemen. I apologize for the delay. Most South Carolina
15 circuit court judges have similar characteristics, one of
16 which -- I won't tell you all of them -- but one of which
17 is they cannot tell time. When you have a case with a lot
18 of moving parts, it's hard to predict the amount of time it
19 may take to resolve one issue to go to the next.

20 It has nothing whatsoever to do with the parties.
21 They're working very hard and very diligently and I would
22 certainly try to use your time more efficiently.

23 As you've heard, the State has rested. You've
24 heard all the evidence and all the testimony your going to
25 hear from the State in its case in chief. The defendant,

1 Mr. Cook, may present evidence and testimony if he chooses
2 to do so. As you recall previously, I've told you the
3 burden of proof is always on the State and remains with the
4 State to prove each and every element of the offense beyond
5 a reasonable doubt. The defendant has no burden whatsoever
6 to prove himself innocent.

7 A criminal defendant in South Carolina is always
8 presumed to be innocent unless and until the State proves
9 its case by evidence convincing you of that defendant's
10 guilt beyond a reasonable doubt. However, as I said, a
11 criminal defendant may present evidence and testimony if he
12 chooses to do so. So we'll turn our attention to Ms.
13 Henry.

14 Ms. Fullwood, does the defendant intend to present
15 any evidence or testimony? Ms. Henry?

16 MS. HENRY: We do, Your Honor.

17 THE COURT: All right. You may call your first
18 witness.

19 MS. HENRY: Defense calls Shannon Tart.

20 THE COURT: All right. If you'd come around and be
21 sworn, please. Just come on right up here to the clerk.

22 SHANNON TART,
23 having been duly sworn, testified as follows:

24 THE CLERK: Have a seat right there, ma'am. Once
25 you're seated, we need you to speak up loud and clear.

Shannon Tart - Direct Examination by Ms. Henry

1 State your full name, spelling your last.

2 THE WITNESS: My name is Shannon Tart. That's
3 T-A-R-T.

4 DIRECT EXAMINATION

5 BY MS. HENRY:

6 Q Good afternoon, Ms. Tart.

7 A Hi.

8 Q I'd like for the jury just to have a little bit of
9 your background so they'll know who is speaking to them.

10 Can you tell them where you were born, where you're from?

11 A Jacksonville, North Carolina, Camp Lejeune.

12 Q And how did you come to be in Lexington, South
13 Carolina?

14 A I moved here back and forth for a few years now.

15 Q And how long have you been here most recently?

16 A This time, a month.

17 Q You've only been in Lexington a month?

18 A For right now.

19 Q So you have not lived in Lexington County during
20 the past three or four years?

21 A Oh, yes, yes, I have. I'm sorry.

22 Q That's what I mean. How long have you been in this
23 area for the most recent time?

24 A I would say about five -- four or five years.

25 Q Okay. What level of education do you have?

Shannon Tart - Direct Examination by Ms. Henry

- 1 A I got to tenth grade.
- 2 Q Okay. And do you know a man by the name of Worth
- 3 Cook?
- 4 A Yes.
- 5 Q How do you know him?
- 6 A He's my boyfriend.
- 7 Q How long have you known him?
- 8 A Five years now.
- 9 Q So you and he have been in a boyfriend, girlfriend
- 10 relationship for five years or so?
- 11 A Yes.
- 12 Q Do you have any children in common?
- 13 A Yes. I have a daughter with him.
- 14 Q And how old is your daughter?
- 15 A She will be three March 18th.
- 16 Q So she has a birthday coming up?
- 17 A Yes.
- 18 Q Okay. I'm going to take you back to the date of
- 19 February 25th, 2013, and ask if you know or recall
- 20 something about the events of that day. Where were you
- 21 living then?
- 22 A With Worth Cook.
- 23 Q And what part of the County?
- 24 A It's in fair view -- I guess Leesville/Batesburg.
- 25 Q You were living with Mr. Cook; was that his place

Shannon Tart - Direct Examination by Ms. Henry

1 or you're place?

2 A It was his place.

3 Q Okay. Was there anybody else living there with
4 you?

5 A Chuck -- Chuck stayed there sometimes, but he was
6 only like -- he'd come and go.

7 Q Who is Chuck?

8 A It was Worth's friend.

9 Q Okay. Was he renting a room there or just crashing
10 or what?

11 A Right. He'd -- he was coming back and forth.

12 Q Okay.

13 A And -- so he'd stay sometimes days and he'd leave
14 days.

15 Q And what's Chuck's last name? Do you know?

16 A I can't remember his last name.

17 Q Okay. Do you know an individual named Richard
18 Barnes?

19 A Yes.

20 Q And how do you know Mr. Barnes?

21 A Through Worth -- through Worth Cook.

22 Q He was Mr. Cook's friend?

23 A Uh-huh.

24 Q Okay.

25 A Yes.

Shannon Tart - Direct Examination by Ms. Henry

1 Q And did you know a young woman who resided with him
2 as well?

3 A Yes. Casey.

4 Q Casey. Okay. What was your relationship -- you
5 and Mr. Cook, your relationship with Casey and Richard?

6 A Well, I guess we were -- we were friends, kind of.
7 I mean I didn't know them as well as he did, but...

8 Q Did -- do you know if he and Mr. Cook ever did any
9 type of work together?

10 A Yes.

11 Q And what would that have been?

12 A Fixing cars and selling tires and stuff like that.

13 Q Okay. Back on February 25th, 2013, did you have
14 occasion to see Mr. Barnes?

15 A Yes.

16 Q Do you recall when that was?

17 A It was dusk, seven o'clock, maybe.

18 Q Did you not see him earlier in the day?

19 A He came and got -- he came and got Worth Cook that
20 morning.

21 Q Okay.

22 A But I don't think I seen him that morning. I just
23 know he went with him because --

24 Q You know that he and Worth were gone together that
25 day?

Shannon Tart - Direct Examination by Ms. Henry

1 A Yes.

2 Q Okay. Did you ever know an individual by the name
3 of David Diblasi?

4 A No.

5 Q Okay. And do you know a woman by the name of
6 Jackie Boyer?

7 A Yes.

8 Q And how do you know her?

9 A She's my aunt.

10 Q Where does she live?

11 A Redbank.

12 Q Okay. And is that -- is that near by where you are
13 in Fairview?

14 A Off of Number 6, yeah.

15 Q Okay. Do you remember what Mr. Cook said he was
16 going to be doing that day with Mr. Barnes?

17 A He said he was selling tires. They were working on
18 somebody's truck or something.

19 Q Okay. And on that day -- well, for that matter at
20 any point, did you have an independent means of
21 transportation?

22 A No, I was there by myself.

23 Q Were you there pretty much the entire day by
24 yourself?

25 A Yes.

Shannon Tart - Direct Examination by Ms. Henry

1 Q Okay. After Mr. Barnes picked Mr. Cook up, you
2 said he got him sometime that morning. What did you fill
3 your day with? Your activities? Do you recall?

4 A Pretty much laid around, like every time I'd move
5 around, I -- you know I was pregnant so...

6 Q You were pregnant at the time. How far along were
7 you?

8 A Eight -- eight months. Seven, eight months.

9 Q Okay. Were you in contact with Mr. Cook at any
10 time during that day?

11 A No.

12 Q Okay. Do you remember how long he was gone?

13 A All day.

14 Q Okay. And at some point, you learned that
15 Mr. Barnes was coming to pick you up, did you not?

16 A Yes.

17 Q How did you learn that?

18 A He just showed up and he came -- because I was
19 hungry and stuff. I ain't ate nothing. So he -- I went to
20 his house.

21 Q Do you recall about what time of the day that was?

22 A It was like at -- just getting dark.

23 Q Okay. And this is the latter part of February, so
24 it'd be pretty much like it is now, around seven o'clock or
25 7:30 or so?

Shannon Tart - Direct Examination by Ms. Henry

- 1 A Yeah.
- 2 Q Was anybody with him?
- 3 A No. No.
- 4 Q So he came by himself to pick you up?
- 5 A I believe so, yes.
- 6 Q I'm just asking what you recall, so if you don't
- 7 recall that's fine. Where did you go from there?
- 8 A To his house.
- 9 Q Mr. Barnes' house. And --
- 10 A I -- Casey was with him. I remember now. She --
- 11 she was with him.
- 12 Q Okay. So his girlfriend slash wife was --
- 13 A Right.
- 14 Q -- also with him?
- 15 A Yes.
- 16 Q What part of Lexington County did the Barnes family
- 17 live in? Do you remember?
- 18 A I know about 25 minutes by a bar, near a bar. I
- 19 don't recall, no.
- 20 Q You think it might have been in West Columbia?
- 21 A No. It's in Lexington.
- 22 Q Or in the west of County, that way.
- 23 A It --
- 24 Q That's right. You say it was 20, 25 minutes away?
- 25 A Right.

Shannon Tart - Direct Examination by Ms. Henry

1 Q Do you estimate then that you arrived there around
2 eight o'clock?

3 A Yeah, probably.

4 Q Okay. And when you got there, what did you do?

5 A I ate something. They were fighting a little bit,
6 so I stayed in the living room and I fell asleep on the
7 couch after I ate.

8 Q Okay. Was anybody else in the house that night?

9 A There could have been. His niece --

10 Q Did you see anybody else in the house that night?

11 A No.

12 Q Okay. Did anybody else come over while you were
13 there?

14 A No.

15 Q So you did not see Mr. Barnes' father come over?

16 A No.

17 Q Could you have been asleep?

18 A I could have been.

19 Q Okay. At some point, Mr. Barnes took you home, I
20 believe; is that correct?

21 A Yes.

22 Q Do you remember about what time that was?

23 A Around eleven or something.

24 Q Okay. So you're traveling back to your house and
25 you say it was 20, 25 minutes away. So do you estimate

Shannon Tart - Direct Examination by Ms. Henry

1 about what time you got home?

2 A It was right around eleven, eleven'ish.

3 Q Around eleven?

4 A Around eleven.

5 Q Okay. When you got there, did you go right in the
6 house? Did Mr. Barnes -- tell the jury what happened then?

7 A When I got there, we went -- we came inside, walked
8 up the steps and came inside and --

9 Q Did Mr. Barnes come in with you?

10 A Yes.

11 Q Okay. And you came in the house. Was Mr. Cook
12 there?

13 A Yes.

14 Q When you came in the house, what did you do
15 immediately thereafter?

16 A Walked through the kitchen and Worth was in the
17 kitchen cleaning up milk or something he spilled.

18 Q Okay. Did you stay in the kitchen?

19 A Not -- not that long.

20 Q Okay.

21 A They were talking a little bit and I kind of
22 slipped out.

23 Q Where did you go?

24 A I went to take a shower -- take a bath.

25 Q And we've been shown the layout of your home or

Shannon Tart - Direct Examination by Ms. Henry

1 it's been described in earlier testimony. I believe that
2 is when you enter, you go into the kitchen. The living
3 room is to the left and then there's a hallway to the --
4 the master bedroom and the bath; is that right?

5 A It's to the left. Yes.

6 Q Okay. So that's where you went?

7 A Yes.

8 Q When you went in there to take your bath, did you
9 close the door?

10 A Yes.

11 Q So you had your privacy back there?

12 A Yes.

13 Q Okay. And you said you were taking a bath in the
14 tub.

15 A Yes.

16 Q You have any idea how long you were in there?

17 About? Just an approximation?

18 A I was soaking. Maybe ten, twenty minutes or so.

19 Q Okay. And what happened while you were in the tub
20 soaking?

21 A I was laying down and I heard a bunch of banging
22 and when I sat up, I started hearing yelling.

23 Q You heard a bunch of banging?

24 A Yes.

25 Q So what -- the noises that you heard were loud

Shannon Tart - Direct Examination by Ms. Henry

1 enough that you could hear them through your door?

2 A Right.

3 Q -- back there?

4 A Right.

5 Q So then what did you do?

6 A I put my robe on and I went out to see what it was.

7 Q What was making to noise. Okay. Describe what
8 happened, what you saw.

9 A When I opened the door I seen the guy on top of
10 Worth. He had his hand on his neck and he had a knife
11 over -- they were struggling.

12 Q Before we go any further with that, you said a man
13 was on top of Worth?

14 A Right.

15 Q Did you know who this man was?

16 A No.

17 Q He was not there when you got there?

18 A No.

19 Q It was not Mr. Barnes, was it?

20 A No.

21 Q So it was a complete stranger to you?

22 A (Witness nodded head.)

23 Q Okay.

24 A Yes, I'm sorry.

25 Q Were either -- without saying what you -- what they

Shannon Tart - Direct Examination by Ms. Henry

1 said -- were either of the men saying anything?

2 A He was yelling about a phone.

3 MR. GRAHAM: Objection, hearsay.

4 THE WITNESS: Excuse me?

5 THE COURT: Wait just a minute.

6 BY MR. HENRY:

7 Q Just the describe what you heard. Was there an
8 argumentative kind of thing going on?

9 A Yes. They were yelling at each other.

10 Q So they were -- they were yelling at each other in
11 loud tones; is that correct?

12 A Yes.

13 Q Okay. When you saw this fellow who you did not
14 know who it was at the time on top of Mr. Cook, what did
15 you do?

16 A I went to push him away from him because I thought
17 he was going to hurt him.

18 Q Okay. So you tried to push this man off of
19 Mr. Cook?

20 A Yes.

21 Q And Mr. Cook was where? On the floor?

22 A No, he was in a chair.

23 Q In a chair. Okay. When you tried to pull this
24 fellow off of Mr. Cook, what happened?

25 A He kicked me.

Shannon Tart - Direct Examination by Ms. Henry

- 1 Q The man on top kicked you?
- 2 A Yes.
- 3 Q Okay. And where on your person did he kick you?
- 4 A Right in my belly.
- 5 Q And you, at the time, were almost nine months
- 6 pregnant?
- 7 A Yes.
- 8 Q Okay. So what happened after he kicked you? Did
- 9 you fall down?
- 10 A Yes, it threw me back and I hit a dresser with the
- 11 back of my head.
- 12 Q You hit a dresser?
- 13 A Yes.
- 14 Q Okay. I want to show you what's been labeled as
- 15 Defense Exhibit Number 6 and ask you -- excuse me -- if you
- 16 recognize this.
- 17 A Yes.
- 18 Q And what is this?
- 19 A That's the dresser.
- 20 Q You need to speak up for the record.
- 21 A That's the dresser.
- 22 Q Is this a true, accurate representation of the
- 23 dresser that was in your home at that time?
- 24 A Yes.
- 25 Q Okay. And this cracked area here, was that in

Shannon Tart - Direct Examination by Ms. Henry

1 place before you were kicked into it?

2 A No.

3 Q So do you think that your head caused this damage?

4 A Yeah.

5 Q Okay.

6 MS. HENRY: We'd like to publish this to the jury,

7 Your Honor.

8 THE COURT: All right. You may do so.

9 (Showing the picture to the jury.)

10 BY MS. HENRY:

11 Q Did you lose consciousness -- do you recall, when
12 that happened?

13 A Yes, I did.

14 Q When did you come back to? Or describe what was
15 going on with you at that point.

16 A I seen Worth pick up a knife and he starts stabbing
17 Diblasi.

18 Q So you are -- you are at this time on the floor,
19 but you could see what was going on in the chair?

20 A Yes.

21 Q Okay. How did that make you feel? Were you
22 frightened or --

23 A Yes. I turned away.

24 Q Okay. So describe to the jury what you saw.

25 A He -- I was -- I was like in and out, but I seen

Shannon Tart - Direct Examination by Ms. Henry

1 him stab him right up in here.

2 Q You seen who stab who?

3 A Worth stab Diblasi.

4 Q Okay. Even though you didn't know this man's name
5 was Diblasi at the time.

6 A Right.

7 Q Did you think that some harm was going to come to
8 you?

9 A Yes.

10 Q And when he kicked you in your stomach, were you
11 afraid for your baby's life?

12 A Yes.

13 Q Okay. After this struggle ended and at some point,
14 I suppose it did, but tell me how it ended. Or tell the
15 jury -- I'm sorry. Tell the jury how the struggle ended.

16 A He actually stabbed him. Diblasi had been laying
17 in the chair. He was laying in the back of the chair and
18 he had a knife stuck in his neck.

19 Q Okay. So somehow Mr. Diblasi ended up in the chair
20 on his back and used -- the last time you saw him he was
21 there with a knife; is that correct?

22 A Yes.

23 Q Okay. Thereafter, what happened with you and
24 Mr. Cook?

25 A He -- or I seen Diblasi -- Worth came over to me

Shannon Tart - Direct Examination by Ms. Henry

1 and he picked me up and he brought me in the room -- in the
2 bedroom.

3 Q Into your bedroom?

4 A Yes.

5 Q And --

6 A He was checking for the baby to see if she was
7 moving and she was moving. She started moving.

8 Q Okay. So you were concerned about her condition as
9 well as yours and Mr. Cooks?

10 A (Witness nodded head.)

11 Q Okay. Thereafter, did Mr. Cook ever tell you what
12 happened to David Diblasi?

13 A No.

14 Q Okay. So you never had a conversation about what
15 happened to him?

16 A No.

17 Q Did you in any way participate in the burial of
18 Mr. Diblasi?

19 A No.

20 Q Did you realize that he was in your backyard?

21 A No.

22 Q Did you participate in any way in the cutting up of
23 the vehicles that happened in the next couple of days?

24 A No, ma'am.

25 Q Did you in any way participate in the use of his

Shannon Tart - Cross-Examination by Mr. Graham

1 credit cards?

2 A No, ma'am.

3 Q What about -- he had drugs. There's been testimony
4 that he had drugs. Did you in any way participate in
5 either using these drugs or selling these drugs?

6 A I took Rick to Jackie's house --

7 Q And you're talking about Mr. Barnes, Rick Barnes?

8 A Right. Because he wouldn't go to her house without
9 somebody with him.

10 Q And why was that?

11 A He wanted to get rid of some bags.

12 Q Okay. Did you know what the bags contained?

13 A No.

14 Q All right. Did you know at that time where they
15 came from?

16 A No.

17 Q Okay.

18 MS. HENRY: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 MS. HENRY: Ms. Tart, I don't have any more
21 questions for you. Please answer any questions the State
22 may have.

23 THE COURT: Thank you, Ms. Henry.

24 Solicitor?

25 CROSS-EXAMINATION

Shannon Tart - Cross-Examination by Mr. Graham

1 BY MR. GRAHAM:

2 Q Ms. Tart, you were brought home by Casey Turner and
3 Rick Barnes; is that correct? On the night of February
4 25th, when you get home around eleven o'clock --

5 A No, just Rick.

6 Q Just Rick. And it's your testimony that Casey
7 Turner was not there?

8 A Correct.

9 Q And did either Casey Turner or Rick Barnes come in
10 the house and stay in the house?

11 A No, Rick -- when he brought me back, he came in for
12 a little bit and then he left.

13 Q Do you know whether him and your boyfriend,
14 Mr. Cook smoked meth?

15 A Yes.

16 Q They did?

17 A Yes.

18 Q So how long did Mr. Barnes stay there?

19 A He just talked briefly from what I heard because I
20 left while they were still in the kitchen.

21 Q So you know that Mr. Barnes was gone or not?

22 A I'm pretty sure he was.

23 Q When you're --

24 A His van wasn't there.

25 Q His van was not there? There was a truck there

Shannon Tart - Cross-Examination by Mr. Graham

1 though, wasn't there?

2 A I didn't know that until the next day.

3 Q So the next day you did find out about a truck?

4 A Yes.

5 Q Okay. We'll come back and talk about that. It's
6 your testimony that you were in the bathtub and while in
7 the bathtub you heard banging and yelling; is that correct?

8 A Yes, sir.

9 Q When you go out, you see a guy who you don't know.

10 Do you now know that that was David Diblasi?

11 A Now, yes.

12 Q Now, he was on top of Worth, he had his hands on
13 Worth's neck and he had a knife at Worth's throat. Do you
14 know what kind of knife it was?

15 A Like a -- I don't know. It was just like -- I
16 couldn't really see, but I know it was a knife.

17 Q Do you know where the knife came from?

18 A No.

19 Q Had you ever seen that knife before?

20 A No.

21 Q It was not a knife that was at your house?

22 A No.

23 Q Do you recognize -- if I tried to describe a
24 double-bladed knife with a handle in the center, do you
25 recognize a knife like that that belonged to your

Shannon Tart - Cross-Examination by Mr. Graham

1 boyfriend, Worth?

2 A Yeah, it belonged to me.

3 Q That one was your knife? Is that the knife that he
4 had at his throat?

5 A No.

6 Q It was a different knife?

7 A Yes. He had a different knife.

8 Q And your story is that you went over to push the
9 individual off of Worth to protect Worth; is that right?

10 A Yes.

11 Q And you're seven and a half, eight months pregnant
12 at the time?

13 A Yes, sir.

14 Q And when you went over there, he pushed you away,
15 you went down on the ground and he kicked you in the
16 stomach; is that right?

17 A No.

18 Q No?

19 A He kicked me and I flew back into the dresser.

20 Q Okay. Did he kick you in the stomach?

21 A Yes.

22 Q Okay. He kicked you in the stomach and you flew
23 back into the dresser?

24 A Yes.

25 Q Now, did that kick to your stomach require you to

Shannon Tart - Cross-Examination by Mr. Graham

1 go to a hospital?

2 A No, I did not.

3 Q Weren't you concerned for your unborn child?

4 A Yes.

5 Q Why didn't you go to the hospital?

6 A She started moving.

7 Q And you thought that that was enough and you didn't
8 need to worry about anything?

9 A I did, yes.

10 Q You fell back into the dresser. We're talking
11 about a white dresser. And you hit the back of your head
12 and you went unconscious; is that right?

13 A Yes, sir.

14 Q Now, is that the same addresser that you asked
15 Jennifer Boyer to clean with bleach?

16 A I didn't ask her to clean it with bleach.

17 Q Jennifer Boyer is related to you, isn't she?

18 A Yes.

19 Q At the time that this happened, looking at
20 Defendant's Exhibit 6; is that the place where the dresser
21 was in the house on February 25th?

22 A Yes.

23 Q That crack in there, is that where you stated your
24 head went into that made you lose consciousness?

25 A Yes, sir.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q Didn't you later move that dresser into a bedroom
2 to use for baby supplies?

3 A No.

4 Q You didn't?

5 A I moved it out of the bedroom into the living room.

6 Q So after February 25th -- well, you were living
7 there on April 3rd -- April 4th when the police came,
8 right?

9 A No, they didn't come there.

10 Q The sheriff's department came to the house on April
11 4th?

12 A We wasn't there.

13 Q April 5th -- but you weren't living there at the
14 time?

15 A No -- yes, I was living there.

16 Q Or were you going back and forth between there and
17 your Aunt Jackie?

18 A Pretty much.

19 Q Okay. So you don't know where the dresser was at
20 the time when the sheriff's department went in in April; is
21 that right?

22 A When I went there, it was right there. And me and
23 my cousin moved it there.

24 Q I'm talking about -- not on February 25th. I'm
25 talking about in April.

Shannon Tart - Cross-Examination by Mr. Graham

1 A April, I was at somebody's house.

2 Q Well, you were there when the police did the search
3 warrant or you showed up at some point on April 5th of
4 2013?

5 A Okay. Yes. It was there then.

6 Q Okay. It's your testimony that it was here?

7 A Yes.

8 Q And it's your testimony and you deny that you asked
9 Jennifer Boyer to clean that with bleach?

10 A Yes. We cleaned it off, but we didn't use bleach.

11 Q You lost consciousness. How much -- how long did
12 you lose consciousness?

13 A I don't know exactly, but a few minutes or so.

14 Q Did you have any cuts to your head?

15 A Yes, I have a cut back here.

16 Q Okay. Did you go to the hospital or go to a doctor
17 to be treated or get stitches for that cut?

18 A No.

19 Q So you had been kicked in the stomach and you had
20 lost consciousness and you were seven and a half, months
21 pregnant and you did not go see a doctor?

22 A Correct.

23 Q Tell me again what you saw -- where were you at?
24 Is it in the living room?

25 A Yes.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q And you hit your head on that dresser in the living
2 room and you passed out.

3 A Yes.

4 Q And you wake up, you don't know how long that
5 you're out?

6 A A couple of minutes or something. I don't know, it
7 was -- it was like I was in and out.

8 Q So you wake up and what do you see?

9 A I seen Worth pick up the knife you were describing
10 and stab the guy right in this area.

11 Q Okay. That guy was doing what at that time? Was
12 he down on the ground on his back?

13 A No.

14 Q What was that guy doing?

15 A He -- I don't know, he was turned around at the
16 chair. Worth got away from him.

17 Q You don't know what happened. You woke up, the guy
18 that we're talking about, David, is at the chair. What
19 chair are we talking about?

20 A I just mean -- I remember seeing Worth stab him and
21 the guy fell in that chair.

22 Q Okay. Which chair are we talking about? Where at
23 in the living room is it?

24 A Where at? It was -- there's a little table here
25 and then the chair and then there was an air conditioner.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q State's Number 32, is that what we're talking
2 about?

3 A That's not the chair.

4 Q That's not the chair?

5 A No.

6 Q What happened to that chair?

7 A I don't know.

8 Q Okay. So looking through State's 32, is that the
9 location we're talking about where that flowered chair is?

10 A Yes.

11 Q So State's 32 with the flowered chair is the chair
12 you're talking about, but it is no longer there?

13 A Right. The chair that was there was checkered
14 like.

15 Q Looking at State's 33, it's not in that picture
16 either, is it?

17 A No.

18 Q The truth is Worth Cook took that chair out and
19 burned it in the backyard, didn't he?

20 A I don't know.

21 Q So the furniture in your house, you have no idea
22 what happened to it; is that correct?

23 A I don't know what happened to it, no.

24 Q And you didn't ask any questions?

25 A No, sir.

Shannon Tart - Cross-Examination by Mr. Graham

- 1 Q So is -- when you see -- when you wake up and
2 regain consciousness and you see Worth stabbing David
3 Diblasi, the knife that Worth was using was the one that --
4 your knife, the double handled knife with the -- I'm sorry,
5 the double-bladed knife with the handle in the center?
- 6 A Yes.
- 7 Q Any idea where that was -- where he got it from?
- 8 A No, it was on the air conditioner.
- 9 Q It was on the air conditioner. And is that over
10 by --
- 11 A Beside the chair.
- 12 Q Beside the chair and the couch?
- 13 A Yes.
- 14 Q Over underneath --
- 15 A No.
- 16 Q -- by the window area?
- 17 A By the window, yes. Near the window.
- 18 Q You don't know -- you don't know how Worth got it.
19 What you know is when you woke up you see Worth taking that
20 knife and he is stabbing Mr. Diblasi?
- 21 A Yes.
- 22 Q Where is he stabbing Mr. Diblasi?
- 23 A In this area.
- 24 Q In the neck and -- neck area is that what you're
25 indicating?

Shannon Tart - Cross-Examination by Mr. Graham

- 1 A Yes.
- 2 Q And Mr. Diblasi's hands are down by his side; isn't
- 3 that correct?
- 4 A I don't know, sir. I didn't pay attention.
- 5 Q And he didn't have a knife in his hand, did he?
- 6 A I don't know.
- 7 Q You didn't see it --
- 8 A I seen him when he was over Worth with the knife.
- 9 Q But when you regained consciousness, Mr. Diblasi
- 10 did not have anything in his hand, did he?
- 11 A I don't know, sir. When Worth came over to me, I
- 12 didn't see him anymore, I went back in the bedroom.
- 13 Q I understand, but the moment you regained
- 14 consciousness, you see Worth stabbing Mr. Diblasi, correct?
- 15 A Yes.
- 16 Q Multiple times about the neck?
- 17 A Yes.
- 18 Q And my question to you is what was Mr. Diblasi
- 19 doing other than getting stabbed?
- 20 A I don't know. He was -- I couldn't see that. I
- 21 just seen Worth stabbing him.
- 22 Q You don't know what, if anything, he had in his
- 23 hands?
- 24 A No. He might have, I don't know.
- 25 Q And so he is -- well, you didn't see -- Worth

Shannon Tart - Cross-Examination by Mr. Graham

1 didn't have any injuries from this, did he?

2 A Yes.

3 Q He did?

4 A But --

5 Q He had something over his eye? Now, did you take a
6 photograph of that? Do you have that with you?

7 A No.

8 Q Okay. Did you take him to the doctor and get
9 treated?

10 A No, he wore a -- he wore a Band-Aid over it.

11 Q He wore a Band-Aid on it. Do you know how that
12 happened?

13 A No, sir.

14 Q So you don't even know it's from that event, do
15 you?

16 A I assumed it was because he had a knife all over in
17 his face. It could have happened before I came out of the
18 bedroom.

19 Q Right. It could have happened the next day. You
20 don't know because you didn't talk to him about what
21 happened. That's your story, correct?

22 A Yes, sir.

23 Q So you don't know that that injury was from
24 anything?

25 A He had it when he came in the bedroom when he

Shannon Tart - Cross-Examination by Mr. Graham

1 brought me to the bedroom.

2 Q So you seen him stabbing Mr. Diblasi. You don't
3 see Mr. Diblasi doing anything to threaten him, do you?

4 A Yes, I did.

5 Q You said you didn't see what Mr. Diblasi was doing,
6 so how can you --

7 A He threatened, said he was going to kill him.

8 Q Well, you didn't testify to that earlier.

9 A I didn't -- I wasn't asked that.

10 Q Okay. So now, you're adding the fact that you
11 heard Mr. Diblasi say, I'm going to kill you?

12 A Worth told him, will you get the F out of his
13 house. He was yelling about a phone.

14 Q Okay. While he was being stabbed with a knife, he
15 said, I'm going to --

16 A I mean, I was hearing that when I was coming out --
17 coming through the door, when I was in the tub.

18 Q After you regained consciousness, you did not hear
19 Mr. Diblasi make any threats, correct?

20 A I don't know.

21 Q You did not see Mr. Diblasi do anything to threaten
22 Mr. Cook, did you?

23 A No he threatened me.

24 Q After -- I'm talking about after you regained
25 consciousness, you don't know how long you were out,

Shannon Tart - Cross-Examination by Mr. Graham

1 correct?

2 A I don't.

3 Q You regained consciousness and when you woke up,
4 you did not see Mr. Diblasi do anything threatening to
5 Mr. Cook, correct?

6 A I just seen Worth stabbing him when I came too.

7 Q You didn't see Mr. Diblasi do anything threatening,
8 correct?

9 A Correct..

10 Q You did not hear him make any threats to Mr. Cook
11 at that time, did you?

12 A I heard him scream and that was it.

13 Q As he was being stabbed?

14 THE COURT: Answer that question, please.

15 THE WITNESS: Yes.

16 BY MR. GRAHAM:

17 Q And then what happened -- what did you do next
18 after hearing Mr. Diblasi scream and seeing him be stabbed
19 in the neck? What did you do?

20 A I looked away.

21 Q I'm sorry?

22 A I looked away.

23 Q You looked away. So you have no idea what happened
24 next?

25 A I think Worth just came over to me and picked me up

Shannon Tart - Cross-Examination by Mr. Graham

1 and he brought me in the room. We was checking for the
2 baby to see if she was all right.

3 Q Okay. And then you never went back out to see what
4 happened?

5 A No, I stayed in the room.

6 Q And you never asked him what happened?

7 A No.

8 Q The next morning, you wake up. Do you not see
9 Mr. Diblasi's body in that back storeroom?

10 A No.

11 Q Do you not see the blood on the Wal-Mart bag?

12 A No.

13 Q Do you not see the blood spattered on the wall in
14 your living room?

15 A No.

16 Q You don't ask where the chair is?

17 A When I woke up, I came out. Everything was cleaned
18 up.

19 Q Well, on April 4th or 5th, the police came to your
20 house and they found the Wal-Mart bag in the storeroom that
21 had Mr. Diblasi's blood on it.

22 A I didn't know, sir.

23 Q You don't know. You never saw it?

24 A No.

25 Q The blood spatters on the wall in the living room

Shannon Tart - Cross-Examination by Mr. Graham

1 below the chair and the couch you're talking about, you
2 never saw those?

3 A No.

4 Q You never asked or found out what happened to the
5 chair that's now missing from your living room, correct?

6 A Correct.

7 Q And the next morning, you told me you saw a truck?

8 A Yes.

9 Q Where was that truck at? Was it in the backyard?

10 A Yes.

11 Q And it was a white, two-door older foreign pick up,
12 correct?

13 A Correct.

14 Q And at some point, you saw Worth driving that
15 truck, didn't you?

16 A No.

17 Q You never saw him drive the truck?

18 A No.

19 Q Did you see him and Rick torch and cut up that
20 truck for scrap?

21 A Yes.

22 Q And Worth told you that that was Mr. Diblasi's
23 truck, didn't he?

24 A No.

25 Q He did not? You also knew -- so, where did you

Shannon Tart - Cross-Examination by Mr. Graham

1 think that truck came from?

2 A I didn't know. They were always working -- they
3 took scrap all the time and cutting up cars and all kinds
4 of stuff in our backyard. It was like a garage. I lived
5 in a garage.

6 Q But heroin, you saw Worth with heroin, correct?

7 A I didn't know it was heroin.

8 Q You didn't see him have heroin?

9 A No, sir.

10 Q You don't know anything about him selling heroin
11 that belonged to David?

12 A No, sir.

13 Q The money that you used -- why did y'all redo your
14 floors in the kitchen?

15 A We were redoing the whole place, the whole house.

16 Q So how long had that been going on?

17 A A few months.

18 Q So looking at State's Number 29, is what I'm
19 referring too. You see how there's hardwood floor and then
20 there's some black paper underneath it?

21 A Yes.

22 Q So you had been doing this renovation for a couple
23 of months and this was the state of your house for a couple
24 of months?

25 A Yes, sir.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q Isn't it true this was done by Chuck Buffkin after
2 David Diblasi was killed to cover blood?

3 A No.

4 Q Now, when you heard the yelling, I didn't hear you
5 testify to anything about the door breaking in or anything
6 like that. You never heard the door breaking in, right?

7 A No. I heard a bunch of bangs. That's why I -- and
8 yelling -- and that's why I came out.

9 Q So there are some photographs that are in evidence
10 that show the door -- and I'm looking at Defense Exhibit 5,
11 3, and 4. Do you recognize those photographs?

12 A Yes. Yes.

13 Q The damage done to those doors, you don't know when
14 that damage was done, do you?

15 A I don't -- I believe it was that night. I'm --

16 Q Why --

17 A -- I'm not sure.

18 Q Why do you believe that?

19 A Because I heard a --

20 Q Wait, ma'am, I asked -- let me ask the question,
21 please.

22 A Okay. I'm sorry.

23 Q I asked you if you heard a door being broken in and
24 you said no.

25 A Right.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q And now you're trying to tell me that you know that
2 the damage was done that night. Explain that to me.

3 A I said I heard a bunch of banging, so I was
4 thinking it happened that night, yes.

5 Q I asked you if you heard the door being kicked in
6 or pushed in or broke in and you said no, correct?

7 A Okay. No.

8 Q So you have no idea when that damage was done, do
9 you?

10 A Correct.

11 Q You're saying you never saw Rick -- excuse me, you
12 never saw Worth with heroin?

13 A No.

14 Q You know what heroin looks like, though, correct?

15 A Yes.

16 Q So it's your testimony that David was -- did you
17 know he was dead?

18 A He looked dead. He was slumped over in the chair.

19 Q So the last time you saw him, David had been
20 stabbed multiple times in the neck area, he was slumped
21 over in that chair that was later missing?

22 A Yes.

23 Q So did you believe he was dead?

24 A I did not know.

25 Q Did you call 9 --

Shannon Tart - Cross-Examination by Mr. Graham

1 A He looked like it, yes.

2 Q Did you call 9-1-1 to get help?

3 A No.

4 Q It's your testimony that a man just attacked your
5 boyfriend in your house --

6 A I was scared.

7 Q You were scared? Why were you scared, ma'am?

8 A Because I thought they would take our baby my baby
9 and we were going to get in trouble and the man came in on
10 us.

11 Q Exactly. He came in on you. He's the one that
12 apparently came in, started an altercation -- attacked --
13 according to your testimony, attacked your boyfriend with a
14 knife and gets stabbed and is dead, you should call the
15 police, shouldn't you?

16 A I should have.

17 Q You'd been kicked in the stomach and you'd lost
18 consciousness, you should have called for an ambulance,
19 shouldn't you?

20 A Yes, sir.

21 Q The truth is, you didn't do that because what
22 you're saying isn't true, isn't it?

23 A No, sir, it's true.

24 Q Because there's nothing to be afraid of from the
25 story you told, is there?

Shannon Tart - Cross-Examination by Mr. Graham

1 A They were cooking meth and stuff all the time. I
2 didn't -- you know I didn't --

3 Q So maybe if you would have called, David Diblasi
4 would still be alive? Or you don't know?

5 A I don't know.

6 Q Did you see -- at the time you saw, did you see any
7 of the knife blows except to the neck area?

8 A No.

9 Q And you didn't see Mr. Cook stab Mr. Diblasi in the
10 eye, did you?

11 A I seen -- he was bleeding all in this area.

12 Q You said the neck area. My --

13 A Yeah.

14 Q -- my question to you is, did you see --

15 A I said all in this area.

16 Q So now it was -- tell me what area it is?

17 A All -- from here down, I seen...

18 Q And you're indicating where -- for the record --

19 A Face, neck --

20 Q Face and neck?

21 A Yes. Yes.

22 Q My question to you, is did you see Worth Cook stab
23 David Diblasi in the eye?

24 A Yes.

25 Q You did see that? You just didn't testify to that

Shannon Tart - Cross-Examination by Mr. Graham

1 earlier, correct?

2 A I said that he was up here.

3 Q And you didn't know anything about him being buried
4 in your backyard, correct?

5 A Correct.

6 Q What about the use of the credit card? Do you know
7 about that?

8 A No, sir.

9 Q So where did Worth come up with the money to get
10 the cooker that's in your house?

11 A The what?

12 Q State's 30. There's a slow cooker that was in your
13 pantry. Did you know not anything about that?

14 A I've seen it.

15 Q Did you wonder where it came from?

16 A I thought it was a gift or something. I didn't
17 know what -- where it came from.

18 Q Worth didn't tell you that he used a dead man's
19 credit card?

20 A No.

21 Q The baby supplies that you had that were up in your
22 closet in the master bedroom, State's 24, do you recognize
23 those?

24 A Yes.

25 Q Worth didn't tell you that he bought those with a

Shannon Tart - Cross-Examination by Mr. Graham

1 dead man's credit card, did he?

2 A No.

3 Q He didn't tell you that the truck that he was
4 scrapping belonged to David Diblasi?

5 A No, sir.

6 Q What about the motorcycle, Ms. Tart? You were
7 concerned about a motorcycle. Remember that motorcycle?

8 A I didn't see a motorcycle.

9 Q I'm sorry?

10 A I didn't -- our motorcycle. We had a Honda shadow.

11 Q Didn't you make some com -- you remember talking to
12 the police, correct?

13 A Yes.

14 Q And the story you're telling today, you never told
15 to the police, did you?

16 A No, sir.

17 Q Let's go back and talk about that. So this is the
18 first time that you've ever told anybody in law enforcement
19 about Worth Cook being attacked by David; is that right?

20 A Yes.

21 Q But you had opportunities to, didn't you?

22 A Yes, sir.

23 Q April 5th, 2013, Detective Shaun Spivey came out to
24 [REDACTED] in your house, and he met you. Do you
25 remember that?

Shannon Tart - Cross-Examination by Mr. Graham

1 A Yes.

2 Q There was also another detective and that was
3 Detective Kempfort. Do you remember meeting with both of
4 those detectives at your house?

5 A Yes, sir.

6 Q They asked you if you knew anything about David
7 Diblasi's disappearance or the whereabouts of his truck or
8 a motorcycle. Do you remember those questions?

9 A Yes, sir.

10 Q And you told both of those officers at that time
11 that you didn't know anything about it; isn't that true?

12 A Yes, sir.

13 Q So you had an opportunity to tell the police on
14 April 5th, 2013, that David Diblasi had broke into your
15 house and attacked Worth Cook and you didn't do it?

16 A Yes, sir.

17 Q And the reason you didn't do it is because it's not
18 true.

19 A Yes, sir, it's true.

20 Q Then why didn't you tell them?

21 A I was scared.

22 Q What are you scared about?

23 A I was --

24 Q A man came into your house and attacked your
25 boyfriend.

Shannon Tart - Cross-Examination by Mr. Graham

1 A I was getting threats. I mean, I even moved out of
2 state.

3 Q Well, did you move out of state or did you run out
4 of state to get away from the police?

5 A I moved out of state. I moved with my mother.
6 They could have contacted me. I was there.

7 Q Well, --

8 A I even gave them the number and everything.

9 Q Well, you talked to the police again later that
10 afternoon on April 5th, 2013 at the sheriff's department,
11 correct?

12 A Correct.

13 Q And those two officers again asked you the same
14 question. Did you know anything about David Diblasi --

15 A No, sir.

16 Q -- about his disappearance and you said no, didn't
17 you?

18 A Yes.

19 Q And, in fact, you ended the interview by saying you
20 wanted an attorney, correct?

21 A Yes.

22 Q And then after that you fled to North Carolina?

23 A A couple of days later, yes.

24 Q So you had two opportunities back in April of 2013
25 while Worth was in jail to set the record straight about

Shannon Tart - Cross-Examination by Mr. Graham

1 what happened and you chose not to do it?

2 A Yes, sir.

3 Q You had all the time since that date until today in
4 court to contact law enforcement and you chose not to?

5 A I contacted Sally.

6 Q You contacted Worth's attorney?

7 A Yes.

8 Q You did not contact law enforcement and say I need
9 to tell you what really happened, did you?

10 A I was scared.

11 Q You were scared. Why are you still scared?

12 A I was getting death threats and everything, sir.
13 They told me that they were going to kill my baby and me.

14 Q Who's they?

15 A I don't know who they was.

16 Q Well, you know that Worth killed Mr. Diblasi. So
17 who's threatening you?

18 A He said -- he said something about my brother on
19 the phone.

20 Q Why not set the record straight and tell the police
21 what happened?

22 A I have.

23 Q No, you haven't. You never have.

24 A I just -- yes, I have.

25 Q You did today.

Shannon Tart - Cross-Examination by Mr. Graham

1 A Yes.

2 Q But for three -- almost three years, you haven't
3 told this story to anybody in law enforcement?

4 A I was scared, sir.

5 Q You were scared because why?

6 A Because I didn't have nothing to do with this. I
7 don't even know why it happened.

8 Q You know he killed a man and he's charged with
9 murder and you sat on this information --

10 A He came in and attacked us.

11 Q Exactly my point, ma'am. You sat on this
12 information for three years. You didn't do anything to
13 clear his name. You didn't go to the police and say, I
14 lied to you on April 5th, 2013. I need to set the record
15 straight and tell you what really happened. You didn't do
16 that, did you?

17 A No.

18 Q You didn't do that --

19 A I was scared.

20 Q -- in 2013; you didn't do it in 2014; you didn't do
21 it in 2015. You haven't done it until today in court.

22 A I came to Sally -- I've been talking to Sally for a
23 while now about it.

24 Q But you didn't tell law enforcement, correct?

25 A Correct.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q You didn't contact me or my office and tell me,
2 Hey, I need to tell you what really happened. The truth is
3 because it really didn't happen; isn't that right?

4 A That is incorrect.

5 Q Don't you remember jail calls after Worth was in
6 custody on April 6th? You remember talking to him on the
7 phone?

8 A To who?

9 Q To Worth?

10 A Yes.

11 Q He didn't tell you what happened?

12 A He -- yes.

13 Q I thought you said he never told you what happened?

14 A What do you mean? I mean he said it was
15 self-defense.

16 Q I asked you earlier if he ever told you what
17 happened. You said you didn't ask him, you didn't know.
18 Now you're telling me he did tell you, so did you lie
19 earlier or are you lying now?

20 A No. It was self-defense.

21 Q Ma'am --

22 A A man came in on us.

23 THE COURT: Ma'am, answer the solicitor's question
24 that's on the table. Restate the question, Solicitor.

25 BY MR. GRAHAM:

Shannon Tart - Cross-Examination by Mr. Graham

1 Q My question was, in your testimony earlier, I asked
2 you and I believe Ms. Henry asked you if Worth Cook ever
3 told you what happened. You said no.

4 A Correct.

5 Q I asked you about jail calls when he was in custody
6 in April of 2013 and now you're saying he did tell you what
7 happened and that it was self-defense; is that right?

8 A Well, I misunderstood you then.

9 Q So did you talk to him on the phone and did he tell
10 you what happened?

11 A No, he did not.

12 Q Crystal bright, you know Crystal Bright?

13 A Yes.

14 Q She's a friend of yours, correct?

15 A Kind of.

16 Q You've known her for a long time?

17 A Yes.

18 Q Isn't it true that you told her that you helped
19 clean up the blood and the --

20 A No.

21 Q -- mess from David's killing?

22 A I sure didn't.

23 Q Isn't it true that you told her that you helped
24 bury Mr. Diblasi's body?

25 A No, sir.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q When you came in that night to the house, you say
2 Casey Turner wasn't with you, but Rick was, correct?

3 A Correct.

4 Q Isn't it true that you had to wait about 10 or 15
5 minutes before Worth would come to the door?

6 A No.

7 Q So it's not true?

8 A We came in.

9 Q You came straight in?

10 A Yes.

11 Q You weren't upset that the door was locked and you
12 weren't raising a fit because you had to wait 10 minutes
13 while you were pounding on the door before he would open
14 the door?

15 A No, sir.

16 Q Is it also not true that when he came to the door
17 that he had just taken a shower?

18 A No, sir.

19 Q You're not scared anymore; is that right?

20 A No.

21 Q That's why you're telling this story today is
22 because you're no longer scared?

23 A I don't know, sir.

24 Q I'm sorry, ma'am?

25 A I am scared, yes.

Shannon Tart - Cross-Examination by Mr. Graham

1 Q Well, then why are you telling the story now?

2 A Because this just ain't right what they --

3 Q So when did you overcome your fear? What was it
4 that made you overcome your fear?

5 A That nothing was being done.

6 Q Right. And telling the police might have changed
7 that, right?

8 A I didn't want to have nothing to do with it.

9 Q Well, you had a lot to do with it. The police
10 asked you if you knew what happened to the disappearance of
11 David and his truck and his bike and you said no. Now
12 you're testifying that you did. So you lied to the police.

13 A I didn't know where he was, no.

14 Q They asked you about his disappearance and if you
15 knew anything about where he might be. Didn't you tell
16 them as far as you know he got in his truck and left --

17 A No.

18 Q -- or do you deny saying that?

19 A I don't remember saying that.

20 Q You didn't tell the police --

21 A I never seen him. That's what I said -- I remember
22 saying that.

23 Q So you're going to play with words now. When the
24 police asked you if you knew anything about the
25 disappearance of David Diblasi and why he couldn't be

Shannon Tart - Cross-Examination by Mr. Graham

1 found, it's your testimony that you didn't know because you
2 didn't know where he was buried?

3 A No, sir.

4 Q That's your answer? That's why you didn't answer
5 the police?

6 A I don't understand.

7 Q April 5th, 2013, two different times, two different
8 officers asked you about the disappearance of David
9 Diblasi. Remember?

10 A Yeah.

11 Q We've already talked about that.

12 A I said I didn't know.

13 Q You didn't know anything about where he might be or
14 what happened to him?

15 A Right.

16 Q You have testified today that he was stabbed
17 multiple times by Worth; correct?

18 A Yes.

19 Q So you lied to the police, correct? When they
20 asked you if you knew anything about it and you said no,
21 that's a lie, correct?

22 A Yes.

23 Q But now you're expecting the jury to come in and
24 believe you when you've already been lying, correct?

25 A Yes.

Shannon Tart - Redirect Examination by Mr. Henry

1 Q February 25th, 2016, which would have been last
2 week, Friday afternoon, five o'clock, do you remember
3 Sargent Gooding with the sheriff's department approaching
4 you outside in the parking lot of the sheriff's office? He
5 and another officer came up. Do you remember that?

6 A Yes.

7 Q They asked you again if you would speak to them,
8 didn't they?

9 A I said I was speaking with Sally.

10 Q I understand that, but they gave you an opportunity
11 to tell them what happened, didn't they?

12 A Yes.

13 Q And you chose not to?

14 A Yes.

15 MR. GRAHAM: No more questions, Your Honor.

16 THE COURT: Redirect, Ms. Henry?

17 MS. HENRY: Yes, sir, just a few questions.

18 ///

19 **REDIRECT EXAMINATION**

20 **BY MS. HENRY:**

21 Q Ms. Tart, throughout your pregnancy, you didn't
22 seek medical treatment; is that correct?

23 A That's correct.

24 Q And was there a reason for that? Financial or
25 otherwise?

Shannon Tart - Redirect Examination by Mr. Henry

1 A Financially and transportation.

2 Q Okay. So would it have seemed rational to you at
3 the time that you were hurt on the floor and other things
4 were happening that you would go to the hospital without
5 any way to get there, without any insurance?

6 A Correct. I -- I just -- I mean I didn't think I
7 could get there anyways. You know, I was -- I mean we
8 would have called an ambulance if we had to, but...

9 Q Did you feel like that if you satisfied yourself
10 that the baby was still moving and you were okay and you
11 got a night's rest and you were okay in the morning that
12 everything was going to be okay?

13 MR. GRAHAM: Objection, leading.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Rephrase the question, Ms. Henry.

16 BY MS. HENRY:

17 Q What was your rationale for not going to the
18 hospital, not seeking medical attention?

19 A She was moving. She was okay.

20 Q Okay. And the fact is you don't often go to the
21 doctor or the hospital, do you?

22 A No, ma'am.

23 Q You mentioned one of the reasons that you did not
24 speak with law enforcement is because you were fearful?

25 A Yes.

Shannon Tart - Redirect Examination by Mr. Henry

1 Q And you're still fearful?

2 A Yes.

3 Q But at the time when the law enforcement first
4 approached you to talk to you about this, you said
5 something about there had been threats?

6 A Yes.

7 Q Can you elaborate on that?

8 A I was getting death threats and calls.

9 Q How -- and how were these threats coming?

10 A They were telling me that if Worth said anything or
11 did anything they were going to kill him -- kill me and
12 Heaven, my baby.

13 Q And I'm sure the solicitor would want to know why
14 you didn't report that to law enforcement?

15 A Yes.

16 Q Why didn't you?

17 A I had to -- I had told them when I did talk to them
18 at one time.

19 Q So you did speak to law enforcement?

20 A Yes.

21 Q And you told them there were threats?

22 A Yes.

23 Q And did they follow up on any investigation? Do
24 you know?

25 A No.

Shannon Tart - Redirect Examination by Mr. Henry

- 1 Q Did they take you seriously?
- 2 A I don't know. Apparently not.
- 3 Q You recall who you spoke to?
- 4 A I don't remember the officers name. He was in --
- 5 Q Maybe one of the two officers that came out on the
- 6 5th of April?
- 7 A Yes.
- 8 Q Spivey or Kempfort, I believe it was?
- 9 A Kempfort, maybe.
- 10 Q But he didn't follow up?
- 11 A Correct.
- 12 Q And when you left the county and went to North
- 13 Carolina, where did you go? And I'm not asking for an
- 14 address, I'm just -- with whom did you reside?
- 15 A With my mother.
- 16 Q With your mother. You felt safe there?
- 17 A Yes.
- 18 Q Okay. As to whether or not -- I asked you earlier
- 19 if you ever -- if Worth ever told you what happened to
- 20 Mr. Diblasi or if you ever knew and you said no and now
- 21 Mr. Graham has said, well you talked about it on the jail
- 22 call.
- 23 A Correct.
- 24 Q Okay. And you were saying he said self-defense,
- 25 self-defense-defense?

Shannon Tart - Recross-Examination by Mr. Graham

1 A Correct.

2 Q Did he tell you anything about the particulars of
3 why it was self-defense or what he was talking about?

4 THE WITNESS: No.

5 MR. GRAHAM: Objection, hearsay.

6 MS. HENRY: Just following up on the solicitor's
7 question, Your Honor.

8 THE COURT: I think 106 would cover that.

9 BY MS. HENRY:

10 Q And on February 25th, which is, you know, just last
11 week, when you were approached by law enforcement, at that
12 time, you -- did you know this trial was up coming?

13 A Yes.

14 Q Okay. And did you think that if at this point you
15 talked to law enforcement something bad might happen to
16 you?

17 MR. GRAHAM: Objection leading.

18 THE WITNESS: Yes.

19 MS. HENRY: Okay. I don't have any further
20 questions, Your Honor.

21 THE COURT: Recross examination?

22 MR. GRAHAM: Yes, Your Honor, briefly.

23 **RECROSS EXAMINATION**

24 BY MR. GRAHAM:

25 Q Ms. Tart, it's now your testimony that you told the

Shannon Tart - Recross-Examination by Mr. Graham

1 police that is you were threatened?

2 A Yes.

3 Q And you went to the sheriff's department and you
4 filed a report?

5 A No, I didn't file a report. When they interrogated
6 me, I told them.

7 Q When they interrogated you?

8 A Yes.

9 Q Who interrogated you?

10 A I don't remember the officer's name.

11 Q Where were --

12 A It was a woman and a male.

13 Q Okay. A woman and a man. Where was it at?

14 A At Lexington County.

15 Q Okay. Do you know what day it was?

16 A April something. Maybe it was -- it was in April.

17 Q Well, the two people I talked to you earlier about
18 were two people, Shaun Spivey and James Kempfort, the two
19 that talked to you at your house and at the sheriff's
20 department. Those are both men. So you're talking about
21 somebody else?

22 A There was a woman in there also when I was being
23 asked questions.

24 Q You don't know who it is?

25 A No, sir.

Shannon Tart - Recross-Examination by Mr. Graham

1 Q Okay. You don't have a copy of your --

2 A Excuse me Kentman? Is that what you said? That
3 sounds familiar.

4 Q Kempfort was one of them?

5 A Yes, sir.

6 Q You think you told Detective Kempfort about
7 receiving threats?

8 A Yes.

9 Q Okay. You don't have a copy of any document that
10 you wrote a statement about that, correct?

11 A Correct.

12 Q You didn't follow up on it as the threats
13 continued, I guess, either, did you?

14 A Yes -- no I haven't.

15 Q You didn't?

16 A No.

17 Q So there's no police report that you have that
18 shows that you were threatened?

19 A No.

20 Q Did you ever talk to anybody again about those
21 threats? With law enforcement?

22 A No.

23 Q Is -- did you ever turn over any telephone numbers
24 to law enforcement?

25 A No.

Shannon Tart - Recross-Examination by Mr. Graham

1 Q Did you ever save any texts or voicemail's so you
2 could give to law enforcement?

3 A I mean, no. They never asked either or, I mean,
4 you know, I would have.

5 Q Well, were there calls and texts? Were there
6 voicemail's?

7 A No, sir.

8 Q So how were the threats given to you?

9 A By his arrest I was getting phone calls.

10 Q You were getting phone calls?

11 A Yes.

12 Q Why didn't you give --

13 A I don't remember if I did or not, but I know that I
14 did tell them.

15 Q You did tell them --

16 A Yes.

17 Q -- you don't know who it was and you told it one
18 time?

19 A Correct.

20 Q Did you give them the telephone number?

21 A I might have. I don't know.

22 Q You had the number, though, right?

23 A I had the number, yes.

24 Q Okay. But you don't remember whether you gave it
25 to them or not. I mean you would have done that before you

Shannon Tart - Recross-Examination by Mr. Graham

1 fled to North Carolina?

2 A I did before I went to North Carolina, yes.

3 MR. GRAHAM: That's all, thank you.

4 THE COURT: All right.

5 MS. HENRY: Nothing further.

6 THE WITNESS: May I step down?

7 THE COURT: You may step down, Ms. Tart. Do not
8 leave the courtroom at this time.

9 THE WITNESS: Okay.

10 THE COURT: All right. Mr. Foreman, ladies and
11 gentlemen of the jury, perhaps now would be a good time to
12 take our evening recess. Please remember my instructions,
13 do not talk to anyone about the case. Do not read, watch,
14 or listen to any news reports. Do not do any investigation
15 independent on the internet or otherwise. Keep an open
16 mind. Remember you do not begin your deliberations until
17 you've heard all the evidence, all the testimony, the
18 closing arguments by the attorneys, the instructions on the
19 law by the Court.

20 With that being said, I have one issue I have to
21 take up in the morning. Typically, I start at 9:30. We'll
22 start at 10 in the morning. 10 in the morning. So with
23 that being said. I hope y'all have a pleasant evening.
24 Thank you very much for your focus and attention in this
25 case.

1 (The jury left the courtroom at 5:44 p.m.)

2 THE COURT: All right. As far as Ms. Tart, she's
3 under subpoena.

4 MR. GRAHAM: Yes, Your Honor.

5 THE COURT: You agree that she cannot be excused
6 from the subpoena.

7 MR. GRAHAM: I'm sorry, could she be excused?

8 THE COURT: Yes, I'm sorry. Any reason why she can
9 not excused from the subpoena.

10 MR. GRAHAM: I would like to keep her under
11 subpoena, Your Honor.

12 THE COURT: All right. Then, I wasn't sure, that's
13 why I didn't want to say something and somebody object. In
14 front of the jury. So she is still subject to subpoena and
15 would be -- must make herself available upon call of the
16 Court.

17 All right. You understand that, Ms. Tart.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. Thank you. Anything
20 further from the State, Solicitor?

21 MR. GRAHAM: No, Your Honor.

22 THE COURT: From the defense?

23 MS. HENRY: Nothing from the defense, Your Honor.

24 THE COURT: All right. If y'all have anything to
25 charge, specifically, if y'all would e-mail them to my law

1 clerk.

2 MR. GRAHAM: Certainly.

3 THE COURT: I mean if its general, like particular
4 defenses, I have standard charges, you can just let me know
5 which ones you want and I'll review them. If you have a
6 specific charge you want, send me that -- send it to my law
7 clerk.

8 All right. Thank you very much, ten o'clock in the
9 morning.

10 MR. GRAHAM: Thank you, Judge.

11 (Court was in recess for the day.)

12 THURSDAY, MARCH 3, 2016

13 THE COURT: Anything before we bring in our jury
14 from the State?

15 MR. GRAHAM: No, sir, Your Honor.

16 THE COURT: From the defense?

17 MS. HENRY: Your Honor, I would just ask if your
18 law clerk got the requested jury instructions.

19 THE COURT: He informed me that he did.

20 MS. HENRY: That's -- okay.

21 THE COURT: All right. Yes, ma'am.

22 MS. HENRY: Nothing else.

23 THE COURT: All right. Thank you.

24 (The jury entered the courtroom at 10:01 a.m.)

25 THE COURT: Good morning. Welcome back, ladies and

Worth Edward Cook - Direct Examination by Ms. Henry

1 gentlemen. We're continuing the trial in the case by the
2 presentation of evidence and testimony by the defense in
3 its case in chief. Again, if you'd please continue to give
4 the parties your complete and undivided attention.

5 Ms. Henry, you may call your next witness.

6 MS. HENRY: Thank you very much, Your Honor. If it
7 please the Court, defense would call Worth Edward Cook.

8 THE COURT: All right. Mr. Cook, if you'd please
9 come around and be sworn.

10 WORTH EDWARD COOK,
11 having been duly sworn, testified as follows:

12 THE CLERK: Thank you, sir. Once you're seated,
13 state your full name, spelling your last, please.

14 THE WITNESS: Worth Edward Cook, III, C-O-O-K.

15 **DIRECT EXAMINATION**

16 **BY MR. HENRY:**

17 Q Good morning, Mr. Cook. How are you?

18 A Good morning, I'm okay.

19 Q Now, I noticed that your name, Worth Edward Cook,
20 III; is that right?

21 A Yes, ma'am.

22 Q Who are you named after?

23 A My biological father.

24 Q All right.

25 THE COURT: Can you speak up a little bit for me,

Worth Edward Cook - Direct Examination by Ms. Henry

1 please.

2 THE WITNESS: My biological father.

3 BY MS. HENRY:

4 Q Where are you from originally?

5 A I was born in North Carolina.

6 Q Okay. And when did you come down to this area?

7 A As a small child in the early '90's.

8 Q All right. And you would have been about how old?

9 A Not over 3, 4, 5, something like that.

10 Q Okay. Do you still have family in this area?

11 A Yes, yes, ma'am.

12 Q And who would that be?

13 A My mom.

14 Q Any aunts, uncle's, cousins?

15 A I've got some aunts and uncles and stuff, but I
16 don't really associate with them well.

17 Q You're not that close to them?

18 A No, ma'am.

19 Q Okay. Where did you end up going to school then?
20 High school, I mean?

21 A For the most part, Gilbert. I did go the North
22 High School and Pelion High School at sometime.

23 Q Okay. And how far did you go the high school?

24 A Tenth grade -- tenth grade.

25 Q Okay. And so you left after tenth grade?

Worth Edward Cook - Direct Examination by Ms. Henry

1 A Yes, ma'am.

2 Q Okay. What kind of work do you do?

3 A Mechanic work. I've done construction work and
4 stuff like that too.

5 Q Okay. How did you learn to do mechanic work? Did
6 you go the school for it?

7 A No, ma'am. I didn't go to school for it, but you
8 know, I had opportunity to work with a lot of people who
9 really know the business well for years and learned a lot.

10 Q Did you make a decent living doing that?

11 A At times, yes, ma'am.

12 Q So when you weren't able to get mechanic work, how
13 did you supplement your income?

14 A I would just do side jobs and mechanic work,
15 anything like that that I could come across at any point in
16 time.

17 Q Okay. You're how old now?

18 A 29.

19 Q All right. And are you married?

20 A No, ma'am.

21 Q All right. You have a girlfriend or fiance, right?

22 A Yes, ma'am.

23 Q And that is?

24 A Shannon Tart.

25 Q Do you and she have any children together?

Worth Edward Cook - Direct Examination by Ms. Henry

- 1 A Yes, ma'am.
- 2 Q And who is that?
- 3 A Heaven Cook.
- 4 Q Heaven Cook?
- 5 A Yes, ma'am.
- 6 Q A little girl?
- 7 A Yes, ma'am, she's my little girl.
- 8 Q How old is she now?
- 9 A She'll be 3 March 18th of this year.
- 10 Q Okay. Now, Mr. Cook, you were convicted of a
- 11 misdemeanor in 2011?
- 12 A Yes.
- 13 Q Felony also in 2011; is that right?
- 14 A Something like that, yes, ma'am.
- 15 Q And you were also convicted of obtaining goods by
- 16 false pretenses I believe in 2013; is that right?
- 17 A Yes, ma'am.
- 18 Q I'll take you back to February of 2013, February
- 19 25th to be specific, 3 years ago. Where were you living
- 20 then?
- 21 A [REDACTED] in Leesville.
- 22 Q Who was living with you, if anybody, at that time?
- 23 A Shannon Tart.
- 24 Q Anybody else?
- 25 A I had a friend of mine that crashed in the room;

Worth Edward Cook - Direct Examination by Ms. Henry

1 he'd come and go.

2 Q What was his name?

3 A Chuck Buffkin.

4 Q So he was not a relative, just a friend?

5 A Just a friend, yes, ma'am.

6 Q So you just let him crash there when he had the
7 need; is that right?

8 A Yes, ma'am, yes, ma'am.

9 Q Do you recall knowing somebody named Richard
10 Barnes?

11 A Yes, yes, ma'am.

12 Q And how long had you known Richard Barnes?

13 A I had met Richard Barnes at the beginning of 2012,
14 but I hadn't seen him for a long time. We'd only become
15 friends for a couple -- you know, several months before
16 this incident.

17 Q So your relationship with him was one of
18 friendship?

19 A Yes, ma'am.

20 Q Was he married?

21 A I don't think he's married. He had a girlfriend.

22 Q All right. And what was her name?

23 A Kaycee --

24 Q Was she --

25 A -- Turner.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q All right. Well, you and she and Richard and
2 Shannon are all friends then?

3 A Yes, ma'am.

4 Q Do you recall seeing him February 25th, 2013?

5 A Yes, ma'am.

6 Q For what reason?

7 A He come by the house, picked me up and we was just
8 going to ride to Jackie Boyer's.

9 Q Okay. Who is Jackie Boyer?

10 A She's Shannon's aunt and a friend of mine as well.

11 Q How long have you known her?

12 A Possibly around 2 years.

13 Q Okay. So you and Mr. Barnes, you went to Jackie
14 Boyer's house?

15 A Yes, ma'am.

16 Q Did you meet anybody there?

17 A Yes, ma'am, that's where I met David Diblasi.

18 Q Did you know him before then?

19 A No, ma'am.

20 Q Can you briefly tell us what kind of conversation
21 you had with Mr. Diblasi without saying what he said or --
22 just the substance of that conversation.

23 A It did come out in conversation that I did mechanic
24 work and, you know, that I had -- he had a truck and a bike
25 that needed repairs.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q Okay. And as a result of that conversation, what
2 happened?

3 A He agreed to let me do those repairs at some point
4 in time that day.

5 Q To let you work on his vehicles?

6 A Yes, ma'am.

7 Q All right. Did you stay there at Jackie Boyer's
8 house all day? Did you leave? What?

9 A We left. Yes, ma'am.

10 Q Okay. Now, when you say we left, who left?

11 A It would have been me and Rick Barnes riding in
12 Rick's white minivan.

13 Q Okay?

14 A And David Diblasi riding the motorcycle of his.

15 Q So the three of you were going somewhere else
16 together?

17 A Yes, ma'am, we were going to Diblasi's house.

18 Q And the reason you were going to Diblasi's house
19 was what?

20 A He was going to drop the bike off and pick up the
21 truck.

22 Q Okay. So when you got to Mr. Diblasi's house, was
23 anybody there?

24 A Yes, that was the first time I met Diblasi's older
25 brother -- or brother. I don't know if he's older, but

Worth Edward Cook - Direct Examination by Ms. Henry

1 that was his brother.

2 Q Okay. And would that be the same person that was
3 earlier on the witness stand, do you think?

4 A I believe so. I'm pretty sure it was.

5 Q Okay. So what did you do while you were there at
6 Diblasi's house?

7 A I spoke with his brother some at that point, you
8 know, and we talked about the fact that the bike wasn't
9 charging the battery and stuff like that.

10 Q So you just discussed the business you were there
11 for?

12 A Yes, yes, ma'am.

13 Q Okay. Did you take the motorcycle at that point?

14 A No, ma'am, we did not.

15 Q Okay. So you left Mr. Diblasi's house then?

16 A Yes, ma'am. Diblasi didn't have the money at the
17 time to pay for the mechanic work and we were going
18 somewhere for him to pick up money that people owed him.

19 Q Okay. Where did you go from there?

20 A That --

21 Q Who was in what vehicle?

22 A David was in his truck. We were in Rick's van, me
23 and Rick. I was driving the van at the time.

24 Q You were driving Rick's van?

25 A Yes, yes, ma'am.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q Okay. So when y'all left, where did you go?

2 A We went to Pelion. That would have been the Thor
3 Road address.

4 Q Okay. You didn't go anywhere in between. You went
5 from Diblasi's house to the Thor Road address?

6 A Yes, ma'am.

7 Q And he was going there -- you were following him
8 there; is that correct?

9 A Yes, ma'am.

10 Q Had you ever been there before?

11 A No, ma'am.

12 Q So did you know these people?

13 A I didn't know the people, no.

14 Q Okay. When you got there what happened?

15 A When we pulled up, Diblasi was ahead of us, you
16 know, because we were following him. And an older
17 gentleman come out of the house and approached -- was
18 coming towards the vehicles and Diblasi got out and went to
19 talk to him and then it come out that the people we were
20 coming to see that owed Diblasi money weren't at the
21 residence at the time.

22 Q I'm sorry, I didn't hear that last part?

23 A The people we were coming to meet that owed Diblasi
24 money, they weren't at the residence at the time.

25 Q Okay. So did you sit there and wait on them?

Worth Edward Cook - Direct Examination by Ms. Henry

1 A Yes, yes, ma'am.

2 Q All right. When they arrived, what happened?

3 A They come up to the van, because at the time
4 Diblasi was in the van. And they talked to Diblasi and
5 then all -- Diblasi -- the male and the female that had
6 just arrived went into the house that the older gentleman
7 had come out and returned to earlier that day.

8 Q Okay. So how long were they -- how long were you
9 sitting out there waiting on them?

10 A At least 20 minutes or better, maybe 30 minutes.

11 Q 30 or 40 minutes?

12 A 20, maybe 30.

13 Q Okay.

14 A I don't know.

15 Q When Mr. Diblasi came out, was he by himself?

16 A No, the male gentleman come back out with him, you
17 know. And then Diblasi had told me, you know what I'm
18 saying, to follow him to the gas station because he was
19 going to put gas in the van; what was a prearranged
20 agreement from earlier that evening.

21 Q Okay. Did you see anything, any sort of activity
22 going on between this male you say -- that younger male you
23 did not know and Mr. Diblasi after they came out of the
24 house?

25 A No, ma'am.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q All right.

2 Q Now, you're going to the gas station to get gas; is
3 that correct?

4 A Yes, ma'am.

5 Q After that, what happened? Where did you go?

6 A While we were at the gas station, Diblasi came up
7 with the conversation that, you know, Diblasi needed to
8 pick up some more money because the people we had just left
9 from didn't have all the money they owed him and he
10 needed -- he wanted to make some more money to, you know,
11 be able to pay me for mechanic work and stuff. And we
12 ended up going to a motel on Bush River Road.

13 Q Did Mr. Diblasi, during all this time, did he ever
14 mention anything about returning to Pennsylvania?
15 Philadelphia specifically.

16 A Not at that point. I believe it did come up in
17 conversation later on that day.

18 Q Okay. But not at this point. Okay.

19 So you left the gas station and went to where?

20 A To Bush -- to a hotel on Bush River Road.

21 Q And what happened there?

22 A Well, when we pulled up -- by that time -- we
23 stopped on the way there at the gas station right off the
24 exit because David didn't know exactly where the hotel was
25 and Rick got in the truck with David and I stayed in the

Worth Edward Cook - Direct Examination by Ms. Henry

1 van and Rick showed him where the hotel was and we pulled
2 up, Dave went in the hotel, at first, alone. And then
3 shortly after that, several minutes later -- because Rick
4 had got out of the truck and sit in the van. He
5 motioned -- he opened the door back up and motioned for us
6 to enter the hotel room.

7 Q Now, who are you talking about opening what door?

8 A David opened the door at the hotel that he had
9 entered several minutes before and, you know, motioned with
10 his hand toward me and Rick to come inside the hotel room.

11 Q And did you?

12 A Yes, ma'am.

13 Q When you were inside, just very briefly, what
14 happened?

15 A There was a female in there and, you know, she --
16 we all kind of talked and stuff. I sat in a chair that was
17 by the door. They had went in the bathroom at some
18 point --

19 Q Who is they?

20 A Diblasi and the female. They went in the bathroom
21 area at some point and --

22 Q Now, is this the party that owed Diblasi some
23 money?

24 A I understand -- from what I understood she had owed
25 him money.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q Okay. About how long were you there at the motel,
2 the three of you?

3 A It was -- you know, a couple of hours, maybe an
4 hour or 2, maybe 2-and-a-half hours because the female had
5 to go somewhere for something and she had left and she come
6 back before we left.

7 Q You think you were there maybe 2, 3, hours?

8 A Approximately, yes, ma'am.

9 Q All right. Just trying to get an idea of the time
10 frame and this -- the chronology. We don't -- so at some
11 point you leave the motel; is that correct?

12 A Yes, ma'am.

13 Q And about what time of day? Afternoon? Do you
14 think it was?

15 A I want to say maybe 3, 4 o'clock maybe. It could
16 have been a little later than that. I really wasn't
17 keeping track of time.

18 Q But it was past noon and it wasn't dark yet --

19 A Yes, ma'am.

20 Q -- would you say that?

21 A Yes, ma'am.

22 Q All right. After you left motel, now, where did
23 you go?

24 A We went back to Diblasi's house.

25 Q And that was to do what?

Worth Edward Cook - Direct Examination by Ms. Henry

1 A To retrieve the motorcycle that needed repairs.

2 Q All right. So is that what happened?

3 A Yes, ma'am. You know, we talked to David's brother
4 some more while we was there, me and Rick and David and
5 went in the house for several minutes. David showed us his
6 room. I believe it was in the lower part of the house
7 maybe like a basement that's been converted.

8 Q But did you end up eventually taking the
9 motorcycle?

10 A Yes, ma'am.

11 Q Okay. And how was that -- we've got two vehicles,
12 we've got a motorcycle and a truck, and you and Mr. Barnes
13 in his van; so how did three people handle that?

14 A We -- we put the motorcycle in the bed of the
15 pick-up truck, borrowed some straps to strap it down from
16 Rick's brother. At this point, Rick held -- Rick left
17 right after we strapped the bike off --

18 Q And why did he leave?

19 A He was -- he was going to his home to meet his old
20 lady and then he was going to go pick Shannon up from my
21 house and take her back the his house.

22 Q Okay. And was that something that you two had
23 discussed earlier?

24 A Yes, ma'am.

25 Q So you asked him basically if he would pick up

Worth Edward Cook - Direct Examination by Ms. Henry

1 Shannon?

2 A Yes, ma'am.

3 Q So he leaves and then you and Mr. Diblasi are still
4 there and you don't have independent transportation; right?

5 A No, ma'am.

6 Q So explain to me who's in what vehicle?

7 A We're -- Rick's already gone, me and Diblasi are --
8 get inside his pick-up truck and we go to Jackie Boyer's.

9 Q Jackie Boyer, the same house you'd started your day
10 out?

11 A Yes, ma'am.

12 Q Okay. And what happened at Ms. Boyer's house then?

13 A Ms. Boyer had an arrangement with David, you know,
14 saying -- with heroin, that if she sold for him and we went
15 there for -- to retrieve some methamphetamine and then take
16 the pick-up to my house.

17 Q All right. So let me get this straight. Ms.
18 Boyer -- Mr. Diblasi fronted Ms. Boyer with heroin that she
19 sold for him?

20 A Yes. I mean from my understanding, yes, that's the
21 way the situation was.

22 Q All right. After you left Ms. Boyer's residence,
23 about what time of day was that?

24 A It would have still been daylight, but it would
25 have been in the later part of the day.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q All right. And from there, you went where?

2 A To my home, [REDACTED]

3 Q Did Mr. Diblasi at that point, know where you
4 lived?

5 A No, ma'am. Not at that point.

6 Q He'd never been to there?

7 A No, ma'am. No, ma'am.

8 Q And the reason that you went back to your house was
9 why?

10 A To do mechanic work --

11 Q You were going to do it that day?

12 A Yes, ma'am. I mean, there were -- they were
13 repairs that could have been done pretty quickly with my
14 knowledge.

15 Q Okay. Now, when you and Mr. Diblasi arrived at
16 your residence, anybody else there?

17 A No, ma'am.

18 Q And where was Shannon?

19 A She was already at Rick's.

20 Q Okay. After you and he got there, what happened?

21 A We did some crystal meth and I worked on his bike.
22 And then, he had brought a change of clothes with him
23 because he had some plans or something later that evening
24 and I let him use the spare bedroom and the bathroom in our
25 house to take a shower, wash up, you know, before.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q Okay. And I'm guessing -- I don't need to guess --
2 when you suggested that he could use your spare bathroom to
3 get ready, did he exhibit any kind of nervousness or
4 uncomfortable doing that or --

5 A No, ma'am, he just -- that was just -- he was cool
6 with it, you know. I worked on the truck while he was
7 doing that.

8 Q So you're outside working on the vehicle. And he's
9 inside changing his clothing?

10 A Yes, ma'am.

11 Q Did you finish up the work on his vehicles?

12 A Yes, ma'am, the stuff that we had agreed that I
13 would do, I did, yes, ma'am.

14 Q Okay. And after the vehicles were repaired and
15 Diblasi had had his shower, changed his clothes, what did
16 the two of you do? Or what happened there?

17 A When I -- I went in the living room in the house
18 and we were doing a little bit more -- we did a little bit
19 more meth and he was just about out and he was talking
20 about getting some more and he had gotten me some meth
21 while we were at Jackie Boyer's house and I was going to be
22 making some from some meth lab materials that me and Rick
23 Barnes had owned that were locked up in the back of my
24 property. And Mr. Diblasi sat in the living room while I
25 went in the back of the property to manufacture the meth.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q Okay. So you're actually -- because you were
2 running low or Mr. Diblasi was running low on meth, you
3 were going to, I believe they call it, smoke off --

4 A Yes, ma'am.

5 Q -- the liquid that you had to get some more?

6 A Yes, ma'am.

7 Q Okay. During the time that you and Mr. Diblasi
8 together and apparently it was the whole day, meeting at
9 Jackie Boyer's house, going to his house, going to the gas
10 station and to the motel and back to his house and then
11 Ms. Boyer's house again and to Thor Road, did you have any
12 altercations or arguments or disagreements with
13 Mr. Diblasi?

14 A No, ma'am.

15 Q How would you describe the relationship? I mean I
16 know you had just met, but --

17 A We were getting along pretty good. I'm like -- I
18 like to laugh and joke, you know, and we were both getting
19 high and just, you know, cutting up. I guess just sitting
20 there -- a good time.

21 Q Okay. At some point after you had smoked off the
22 meth and you got a little bit more, did Mr. Diblasi leave?
23 Did he stay around a while?

24 A Well, I got -- I was just about completely done
25 with the meth process. I texted Rick and told him because

Worth Edward Cook - Direct Examination by Ms. Henry

1 he knew I was going to be making the meth and letting him
2 know that I was almost done, you know, several minutes I'm
3 going to be done. I believe the message that was presented
4 to the court said 15 minutes. I'd be done to head my way
5 to bring Shannon home in about 20 minutes.

6 Q Okay. And that was in your text message from your
7 phone to Rick Barnes's phone?

8 A Yes, ma'am.

9 Q And that was the content that you -- when you sent
10 it that was what you were referring to?

11 A Yes, ma'am, yes, ma'am.

12 Q That would give you time to finish up, then, what
13 you were doing?

14 A Yes, ma'am.

15 Q Okay. So you texted Rick, and then what happened?
16 When did Mr. Diblasi leave?

17 A I went back in the house, we squared off from the
18 meth that I owed him that he got for me from Jackie's, you
19 know. We got even on -- he paid me for the mechanic work.
20 Some --

21 Q How much did he pay you?

22 A It was \$80 in cash and, a couple baggies of heroin
23 and then I had more meth than what I owed him and he give
24 me a couple bags of heroin in trade for the meth. He
25 didn't have the money to pay for the stuff.

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1 Q Okay. So he gave you bags of heroin?

2 A Yes, ma'am.

3 Q Can you describe what he gave you?

4 A They were really small bags, maybe like a square
5 inch, you know. One inch by one inch by one inch, little
6 tiny Ziplock bags.

7 Q Okay.

8 A And had some kind of blue material in them. I
9 never opened them, like a paper or something in there.

10 One -- from what I understand that paper that's in there is
11 where the -- the heroin's inside that paper.

12 Q Okay. Do you do heroin? Do you use heroin?

13 A No, ma'am.

14 Q But you admit you use meth; is that right?

15 A Yes, ma'am. Quite often.

16 Q Or did use?

17 A Yes, ma'am.

18 Q Okay. After you and he kind of settled your debts
19 there, what happened?

20 A He -- it wasn't long after that, he left.

21 Q Do you know about what time it was? About what
22 time of day?

23 A It would have -- it would have been maybe 20
24 minutes, 30 minutes after I made that text message to
25 Barnes, around that time. I'm not really sure. It

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1 wasn't -- it wasn't long. I mean --

2 Q Okay. So did anything happen between you and
3 Diblasi before he left?

4 A He had -- at one point, he'd been talking about the
5 battery was getting low on his phone and he had went out to
6 his truck when I was taking the meth out of the coffee
7 filters and putting it on a plate. And he come back in.
8 And right before he left -- you know, when he left to go
9 out to his truck, he was talking about if I seen his phone
10 laying around, you know. And I kind of looked and I --
11 then I remembered he had took the phone out to the truck
12 and I said, Well, you probably took it out to the truck,
13 you know. And he went back out to the truck and then he
14 left.

15 Q So he didn't come back in after this?

16 A No, ma'am.

17 Q All right. When did then -- what time did Shannon
18 return?

19 A It -- it wasn't too long after David left, maybe
20 10, 15 minutes, something like that. It wasn't long -- it
21 wasn't long at all.

22 Q What happened when she returned?

23 A When she come in the house -- she come in the house
24 and Rick come in the house and she was mad because she
25 knowed I'm high. You know, you can kind of smell the

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1 chemicals from the meth, you know. And she goes in the
2 bedroom.

3 Q All right. So she was just a little bit teed off
4 that -- you were still using?

5 A Yes, ma'am, she was -- she was clean, you know, due
6 to the pregnancy of the baby and she'd really been getting
7 on me about trying to stop using meth for the sake of our
8 family.

9 Q So do y'all have any kind of conversation at all or
10 does she just give you a look and leave?

11 A It was just like, you know, I don't remember. She
12 didn't say anything. She just looked at me, you know. She
13 was mad and she just gets this look.

14 Q Okay. Mr. Barnes brought her back. Did he come
15 inside with her?

16 A Yes, ma'am.

17 Q Did he stay after she went back to her bedroom?

18 A Not very long. I had -- I had the meth that I had
19 give him and I had owed him some money and I paid him \$40
20 out of the 80 that David had given me.

21 Q Okay. And after he left what did you do?

22 A I sat down in a chair and was watching a video on
23 my phone.

24 Q Okay. At some point did David Diblasi come back?

25 A Yes, ma'am.

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1 Q And were you expecting him?

2 A No, ma'am. I'm sitting in the chair and the door
3 just busted open on the house and I jump up and turn around
4 because I've got my back toward the kitchen area of the
5 house and it's David and he's raising hell. And, you know,
6 at this point I'm -- I was pretty angry because he just
7 kicked my door in and he was not supposed to be in my
8 house.

9 Q Okay. If we can stop right there for a moment. I
10 want to show you some photographs and ask if you
11 recognize --

12 A I'm sorry?

13 Q -- these.

14 A (Looking at photographs.)

15 Q The first one is actually a State's exhibit, it's
16 Exhibit Number 27. Do you recognize that photograph?

17 A Yes, ma'am. This is the front door to my house --

18 Q Okay. At [REDACTED]?

19 A Yes, ma'am.

20 Q And Defendant's Exhibit Number 3, do you recognize
21 what this is?

22 A Yes, ma'am. This is -- this is the area where
23 the -- the striker is what this piece I believe is called.
24 It catches the door to hold it shut and the doorknob
25 connects with this and I had made repairs to this the next

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1 day, right here in this area because it was busted out.

2 Q Okay. So you're saying this is where he came
3 through, he kicked the door open and caused damage to that
4 area?

5 A Yes, ma'am. Right through here where the new --
6 see the striker side --

7 Q And you repaired it --

8 A -- and the new board there, yes, ma'am.

9 Q Okay. And this is Defendant's Exhibit Number 4.
10 Do you recognize that?

11 A Yes, ma'am.

12 Q And can you explain to the jury what you're looking
13 at?

14 A This is -- this is a better view of the repairs
15 that I made. You can see the fresh nails, fresh wood, you
16 know. And the striker's are doubled up. There's actually
17 two strikers there to be able to back up while I made
18 repair.

19 Q And finally, this is Defendant's Exhibit Number 5.
20 Do you recognize that?

21 A Yes, ma'am.

22 Q Okay. Explain to the jury what we're looking at
23 now?

24 A This is -- this is the doorknobs and as you can
25 see, you know, there's -- there's damage to the door, but

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1 this doorknob is old, but if you look at it, this doorknob
2 is new because of the damage to the doorknob, I replaced --

3 Q Did you put that on?

4 A Yes, ma'am, I replaced this doorknob --

5 Q All right.

6 A -- after the accident.

7 Q Okay.

8 A The -- the lower doorknob.

9 MS. HENRY: These are already in evidence, aren't
10 they?

11 THE COURT REPORTER: Uh-huh.

12 BY MS. HENRY:

13 Q Okay. Let's get back to when Mr. Diblasi burst in
14 the door and explain to the jury what happened, the events
15 that happened then?

16 A He comes in the door. He's raising -- he's raising
17 Cain. He's screaming and hollering about his phone, he's
18 saying stuff about people taking advantage of him. A lot
19 of the stuff he's hollering really loud and kind of
20 belligerent and talking about he wanted the money back that
21 he had paid me. He wanted me to give him back the heroin
22 that he'd given me for the work in trade for the meth.

23 Q So what -- at that point, he had left and you said
24 earlier he was concerned about his phone?

25 A Yes, ma'am.

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1 Q By the time he comes back, 10 or 15 minutes later,
2 he's got all kind of concerns, doesn't he.

3 A Yes, ma'am.

4 Q Do you have any idea where that came from?

5 A No, ma'am, I don't. I mean, I don't.

6 Q And at that time you're still sitting in the living
7 room -- or when he came through you were still in the
8 living room? Were you by yourself?

9 A Yes, yes, ma'am. I was in the living room alone
10 when he busted in the door.

11 Q Okay. And after he comes in the door and is
12 approaching you, did you get up, did you meet him? Explain
13 to the jury what happened?

14 A Yes, I jumped up and turned and turned toward him
15 when he come in the house and he's standing in the kitchen
16 area and now I would be facing him facing toward the --
17 where the front door of the house is. And, you know, we
18 were -- I was telling him at first, you got -- I mean, what
19 are you doing. You get out of here, you know what I'm
20 saying. You bust my door in and stuff like that. I'm
21 upset at this point, you know.

22 But then, you know at this point, you know, in his
23 conversation about the phone, wanting his money back and
24 his drugs -- and the drugs he had paid me and me trying to
25 tell him I didn't have his phone and he wasn't getting his

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1 money back, you know, and stuff. That's when he starts
2 waiving his arms around and that's when I realized he had
3 the knife in his hand.

4 Q Before then had you -- when he came in the door,
5 did you originally see if he was armed or anything?

6 A I did not notice the knife when he first come in,
7 no, ma'am.

8 Q Okay. And go ahead. So he started swinging his
9 arms. Please continue.

10 A Then he's got the knife. He's waving a knife.
11 He's yelling, people taking advantage of him and about how
12 he wanted his phone and stuff and, you know, he's talking
13 about, if you don't give -- I need to give it back. And
14 I'm saying, I just want to see the knife. I ain't never
15 had nobody waving a weapon at me, you know what I'm saying.
16 And I'm getting scared, but I'm trying to calm down and
17 lowered my voice from where we were talking earlier before
18 I noticed the knife.

19 I said, Look, man, I don't got your phone. You
20 know, you just need calm down, dude, you know. Chill out,
21 man. And, you know, he was tweaking, which is a term we
22 use to, you know, talk about somebody that's kind of having
23 a really bad episode on meth. And I said, Man, you just
24 calm down, you know what I'm saying and he's yelling and
25 stuff. And then he rushes me with the knife and I grabbed

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1 him -- his hands, the one he's got the knife in. We were
2 tussling around with the knife for, you know, a good period
3 of time, it felt like and my pants are loose, you know,
4 down, sliding down my legs while we were wrestling around
5 and I ended up falling into the chair that I had originally
6 been sitting in, that the back of it faces the kitchen in
7 the house.

8 And so now, he's on top of me and he's got his
9 hand -- one of his hands on my throat and he's got this
10 knife, he's holding it and I've got both of my hands
11 holding his hands that's got the knife in it and he
12 screamed at me and stuff. And, you know, I can't breathe
13 that good because he's also got his knee in my ab -- the
14 stomach, chest area, one of his knees and he's screaming at
15 me and stuff.

16 Q At that point were you in fear for your life?

17 A Yeah, I was scared.

18 MR. GRAHAM: Objection, leading.

19 THE COURT: You may ask your next question.

20 BY MS. HENRY:

21 Q How did that make you feel?

22 A I was afraid. I mean I've got this guy on top of
23 me, you know. I can't breathe. You know, he has this
24 knife in my face and he's screaming, you know.

25 Q And at some point, did anybody else --

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1 A Yes.

2 Q At some point when --

3 MR. GRAHAM: Objection, leading.

4 THE COURT: Rephrase the question. What at some
5 point something happen? That's fine.

6 THE WITNESS: The -- you know, at this time, I'm in
7 the chair, he's on top of me and he's screaming and stuff.
8 And Shannon, she comes out of the bedroom and she, she may
9 have yelled or something, I really don't remember. But
10 she's coming -- I see her because I'm looking at the
11 bedroom door and she's coming out of it and he looks back
12 and he sees her, you know. And he kicks her. And when he
13 kicks her, she falls and hits the dresser and falls in the
14 floor.

15 And at that point, all I could -- all I could think
16 about, man, is he's kicked her and she's in the late end of
17 her pregnancy, you know. She's a little woman. Y'all have
18 seen her and she's fairly soft --

19 THE COURT: Don't refer to the jury like that
20 again, Mr. Cook.

21 THE WITNESS: Yes, sir, I'm sorry, Your Honor.

22 BY MS. HENRY:

23 Q Continue with --

24 A Okay. So you know she's laying in the floor and
25 all I can think about is, you know, it made me, he's just

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1 kicked her, killed our little baby or something, you know,
2 and it's like I got to stop him. I've got to stop him, you
3 know, I've got to stop the situation. And at the time when
4 he kicked her and she went and hit the dresser and landed
5 in the floor, he's got -- his knee was in my chest. It's,
6 you know, that's the leg he kicked her with. And when he
7 done that, you know, I twist sideways with the hand that
8 he's got his knife in and I'm cut now at this point,
9 slightly above my eye. This is the little scar.

10 Anyway, I twisted this way and he goes this way and
11 he's laying over me in the chair and there's this knife
12 that's got a handle in the middle. The handle's about that
13 long. It's got a blade that comes out of each end where
14 it's a sharp edge on side of each blade and I use it for,
15 you know, scraping dope up when I turned them out of
16 filters, the meth and stuff on the plate. And that's why
17 it's over there on the table. It's covered up with some
18 papers.

19 So I'm fumbling around and I get ahold of the
20 knife, you know, and I just -- I just brang it around, you
21 know, and I stabbed him several times. And at this
22 point -- at some point, I get the knife and it's in -- it's
23 in this area of his body and about the time I bring the
24 knife down in that area, he gets both his hands in my face
25 and he pushes back off of me and I lose grip of the knife.

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1 And he's now -- at this point, he's in between me
2 and Shannon and he looks at Shannon and he looks at me and
3 now I'm panicking trying -- I jerked my pants up and jump
4 up at the same time he's -- he grabs ahold of the knife
5 where it's stuck in his clothes. You know, he's got
6 several layers of clothes on and he pulls the knife out and
7 about that same time is when I get up. And this all
8 happened so fast, man. And I get ahold of the knife. He's
9 got his hands around the handle, I've got my hand around
10 the handle, and we're going back and forth for some time,
11 you know, he's shoving the knife at me, I'm shoving the
12 knife at him.

13 I'm screaming at him, you know, Stop; and he's
14 yelling and screaming too and we're yelling at each other,
15 you know, all kind of stuff getting yelled and it ends up
16 where he -- he gets slammed back toward the chair that he
17 was -- that he had originally had me pinned at and when he
18 comes out -- when he had shoved that knife back and forth
19 toward each one of our faces. I would shove it toward him,
20 he shoved it toward me and he falls down and then he flails
21 an arm out and when I come down on top of him is when I
22 stab him in the eye.

23 Q Why didn't you stop when he fell in the chair?

24 A I just -- I was, you know, in the movements, you
25 know, and when he hit the chair, within the instant that

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1 the knife hit him in the eye, it was -- one of his hands
2 come and hit me in the face, you know, across my face and I
3 just pulled it out and I got to stabbing at him.

4 Q Excuse me, were you injured at all during this
5 scuffle?

6 A Yes, yes, ma'am. And I --

7 Q What kind of injury did you get?

8 A I had a small cut above my eye.

9 Q Okay.

10 A And you know, I -- a little bleeding from my lip
11 and nose area and stuff from scuffling around.

12 Q Okay. And I know it's hard to estimate when
13 something like that happens, but about how long was that
14 struggle? A couple of minutes, 15 minutes?

15 A It was -- I mean a couple of minutes, easy. It
16 felt that way. It felt like it wasn't ever going to end.

17 Q And all this time, where is Shannon?

18 A You know, she's in the floor in our living room.

19 Q Okay. If you would stop right there, I want to
20 show you another defense exhibit and ask if you can
21 recognize this. This is Defense Exhibit Number 6.

22 A Yes, ma'am.

23 Q And what is that?

24 A That is the dresser that Shannon fell up against
25 when she was kicked, yes, ma'am. That damage that's there

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1 was caused from the incident. That's where Shannon ended
2 up before.

3 Q That was not there before?

4 A The damage was not there on that dresser before
5 this incident, no, ma'am.

6 Q Okay. And as we're looking at this dresser, your
7 position and Shannon's would have been in the floor in
8 front of this?

9 A Shannon would have been in this area.

10 Q And where would you and Mr. Diblasi have been?

11 A We'd have been further behind them a couple of feet
12 around that chair.

13 Q Okay. And this has already been published to the
14 jury.

15 After this struggle was over, what did you do?

16 A I -- at first, David, you know, he's not moving
17 anymore, I just kind of slide down in the floor and I sit
18 by the chair and trying to catch, you know, my breath and
19 kind of get my bearings and I'm looking at Shannon and
20 she's not really moving too much because she's kind of on
21 her side at this point, holding her belly where the baby is
22 at. And I come over to her and I started trying to check
23 on her asking her about the baby and ended up helping her
24 up and I helped her into the bedroom where she could lay in
25 the bed.

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1 We have a bed that the head board and the foot
2 board come up by remote and she also keeps the head up
3 because it's more comfortable for her while she's pregnant
4 to sit with the baby. And I sit her in there and we sit in
5 there for a pretty good while, I would say, 20 or 30
6 minutes at least. Talking, just make sure that she feels
7 that the baby's all right, you know.

8 Q And at that point was she comfortable? And were
9 you comfortable with the fact that the baby appeared to be
10 okay?

11 A Yes, ma'am, she's had two other children, you know
12 and she felt like the baby was all right.

13 Q Okay. She does not have two other children with
14 you though?

15 A No, ma'am, she has two other children from a prior
16 relationship.

17 Q Okay. Did you feel like you had to protect her and
18 that child?

19 MR. GRAHAM: Objection, leading, Your Honor.

20 THE COURT: Rephrase the question.

21 BY MS. HENRY:

22 Q What type of feelings did you have when you saw
23 Mr. Diblasi her and she fell to the floor and curled up her
24 side as you described?

25 A I was scared more her and I was scared for myself

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1 before that; but after he kicked Shannon, I was way more
2 worried about her and our baby and getting her safe than I
3 was about myself. That's all I could think, you know. It
4 just happened so fast. I just -- I could only think, I've
5 got to stop this guy, you know.

6 Q Before this incident happened, did you have any ill
7 will or bad feelings towards him?

8 A No, ma'am.

9 Q I believe you testified earlier that you were
10 having a good time with him?

11 A Yes, ma'am.

12 Q I want to get into what happened after this
13 incident.

14 What -- after you took Shannon back into the
15 bedroom and y'all determined or you thought you determined
16 the baby was okay, then what did you do?

17 A You know, I'm high at this time. You know, we had
18 been doing meth all day. And I'm scared, man. You know, I
19 got this dead guy in my living room.

20 Q Did you call the police?

21 A No, ma'am. I was just freaking out, you know. I
22 was just kind of worried about how I would explain the
23 whole situation.

24 Q Did you call 9-1-1?

25 A No, ma'am.

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1 Q And why didn't you do either of those things?

2 A Because I was scared to call either one. I just --
3 I don't know just panicking and -- and Shannon had some
4 misdemeanor bench warrants or some fines we didn't pay and
5 she's 2 months pregnant, you know. The cops come, she's
6 definitely going to jail. I'm on probation, I've got meth
7 labs on the property and --

8 Q So you were not in a real good position to have law
9 enforcement at your place at that time?

10 A No, ma'am.

11 Q Okay. When you realized that Mr. Diblasi was dead,
12 what were you feeling at that point?

13 A I mean, it scared me, you know what I mean. I
14 didn't know what to do. I done killed somebody. That's a
15 scary thing, for no matter what the reason is. And I was
16 afraid.

17 Q All right. And at some point, what did you do with
18 his body?

19 A I went -- I told Shannon we weren't calling the
20 cops, you know and I said, look, just stay right here in
21 the room, I'll take care of this. Just don't worry about
22 it, you know what I'm saying.

23 Q Did you tell her what you were going to do?

24 A No, I did not give her any details of what I was
25 going to do.

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1 Q All right. So at some point, then, you left her,
2 went out of that room?

3 A Yes, ma'am. I left the bedroom and shut the door.

4 Q Okay. What did you do with Mr. Diblasi's body at
5 that point?

6 A I had to get him out of the living room. The first
7 thing I do when I come to the living room, I seen that the
8 front door was still wide open. I went over to the front
9 door and, you know, it wouldn't shut because of the damage,
10 you know, it wouldn't stay shut. So I got a board that was
11 in the storage area in the back of the house an used it to
12 kind to have block the door shut, you know, wedge the door
13 at the handle and hold the door shut.

14 Q Okay. But at some point, did you bury
15 Mr. Diblasi's body?

16 A Yes, ma'am, but it wasn't at that point, not right
17 then.

18 Q Okay. How -- when did that happen?

19 A It would have been maybe a day or two later.

20 Q Did you do that by yourself?

21 A Yes, ma'am.

22 Q You didn't have anyone helping you?

23 A No, ma'am.

24 Q Did anybody know? Did tell anybody that you had
25 done that?

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1 A I didn't tell them what I had done with David
2 Diblasi.

3 Q Okay. At some point, you realize -- at some point
4 did you still have Mr. Diblasi's vehicles on your property?

5 A Yes, ma'am. I had cleaned up the living room and I
6 was thinking, I've got up the blood up, and had put
7 Diblasi's body in the back of the house and covered up
8 where it couldn't be seen. I moved the chair that the
9 incident occurred in and put it in the back of the house at
10 first where it couldn't be seen by nobody because, you
11 know, people come by, I didn't want anybody to just come by
12 and see all this.

13 Q All right. So you took care of the -- whatever
14 damage you had done on the inside.

15 A Yes, ma'am.

16 Q But the vehicles were still there?

17 A Yes, ma'am.

18 Q Where were they?

19 A I went to move the board and I opened the front
20 door because I thought about where his truck was at and it
21 was sitting in the front yard with the driver's door open
22 and the dome light on. But the truck wasn't running and I
23 went to -- I said, Man, I got to move the truck, you know,
24 because somebody could see the truck sitting like that.

25 Q So where did you put it?

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1 A I went to get the truck and the keys weren't in the
2 ignition.

3 Q And did you move it?

4 A Yes, I had to go get the keys out of Diblasi's
5 pocket to do so.

6 Q Okay. So ultimately what happened to those
7 vehicles? Did he still have the motorcycle in the back of
8 the truck?

9 A Yes, ma'am.

10 Q Ultimately what happened to those?

11 A Eventually, the next day, I called, or had texted
12 Rick, checking on him and we talked and he come by the
13 house with Kaycee Barnes (sic). She comes -- they come in
14 the house. And then me and Rick go out back and talk and I
15 tell Rick, man that I need some help getting rid of the
16 truck.

17 Q Okay. So he did not come then that day and assist
18 you in any way?

19 A Yes. Actually, me and Rick had another discussion,
20 you know, and he -- he went back in the house and took
21 Kaycee home, but he was going to go get the torches and
22 come help me get rid of the truck.

23 Q Okay. So did you end up cutting up Mr. Diblasi's
24 truck and the motorcycle?

25 A Yes, ma'am. We cut the truck up.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q And what happened to these cut up pieces?

2 A Eventually, or several trips to the scrap yard over
3 the next few days, they got hauled to the scrap yard, the
4 tin parts.

5 Q Did you take them to the scrap yard?

6 A No, ma'am.

7 Q Who did?

8 A Rick Barnes did.

9 Q Did he get money for that?

10 A Yes, ma'am, you get paid for scrap by the pound.

11 Q Do you know how much he got paid?

12 A Not exactly, it would have probably been around
13 \$200, maybe.

14 Q Did you get any of that money?

15 A No, ma'am, I agreed to let Rick have it all if he
16 would just help me get rid of the thing, you know.

17 Q Okay. Well, let's move along then to -- you said
18 Mr. Diblasi had heroin, in fact, he had given you some,
19 correct --

20 A Yes, ma'am.

21 Q -- for the payment?

22 What happened to that heroin?

23 A A couple of days later, Rick had texted me and
24 he -- by this time he knew I had the heroin and he had
25 talked to Jackie and they had --

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q This is Jackie Boyer?

2 A Yes, ma'am.

3 Q Okay.

4 A And they were wanting to buy the heroin and Rick
5 come by the house and -- I didn't want to go to Jackie's,
6 you know, I just -- at this time, this was --

7 Q Did he -- I'm sorry to interrupt, but did he have
8 the heroin at that point?

9 A Yes, I give him the heroin when he come -- I give
10 Rick the heroin when he come to the house.

11 Q The first time?

12 A When he come to the house after he texted me about
13 Jackie wanting to buy heroin, I give him the heroin.

14 Q Okay. And then he came back by your house
15 afterwards to get you to go with him or what?

16 A I mean, he come -- he texted me about Jackie having
17 the heroin. He comes by the house. He didn't know Jackie
18 that well at the time and you know, they can't really go
19 over there by themselves. You know, it's not really a good
20 place. And so -- and I didn't want to go so Shannon ends
21 up riding with them.

22 Q And did Shannon go because she knows Jackie better?

23 A Yes, yes, ma'am.

24 Q Jackie is her aunt?

25 A Yes, ma'am, yes, ma'am.

Worth Edward Cook - Direct Examination by Ms. Henry

1 Q Okay. So Rick went over there to sell the heroin,
2 do you know if he got paid?

3 A Yes, yes, he got paid.

4 Q Did you get any of that money?

5 A Yes, I did get some of that money.

6 Q How much? Do you recall?

7 A I don't know. I still owed Rick some money. It
8 may have been 40 or \$50 out of it.

9 Q All right. And finally, the credit cards or the
10 bank cards that Mr. Diblasi had. I believe there's been
11 earlier testimony that I think you heard there were --
12 there was a video of you and Mr. Barnes using those cards
13 at the Wal-Mart; is that correct?

14 A Yes, ma'am.

15 Q Why were you using those cards.

16 A At this point, Shannon had gotten picked up on
17 those fines that we had been worrying about that night and
18 her going to jail for.

19 Q Okay.

20 A Because -- she was in jail and you know, I had --
21 she was fixing to have the baby, you know, her due date was
22 before the time she finished. There was one or two times
23 that she actually seen the doctor the whole time she was
24 pregnant and, you know, I needed to get diapers and wipes
25 and stuff like that because I was going to try to

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1 hopefully, if they were going to let me pick the baby up if
2 she had the baby while she was in jail.

3 Q Okay. So you didn't have any means of paying for
4 that yourself that's why you used the cards?

5 A Yes, ma'am.

6 Q Okay. What happened to those cards, do you know?

7 A I threw them out somewhere, at some point.

8 Q All right. I want to move now to your interaction
9 with law enforcement. There's been testimony and evidence
10 presented that you spoke with law enforcement, I believe a
11 total of seven times, six or seven times. Do you recall
12 these conversations?

13 A Yes, ma'am.

14 Q Okay. There was a statement given by you on April
15 the 3rd?

16 A Yes, ma'am.

17 Q I believe this is in evidence. You gave this
18 statement to Detective Kemfort --

19 A Yes, ma'am.

20 Q -- at Doe Trail Road, do you recall that?

21 A Yes, ma'am. That day I had received a phone call
22 from the detectives and had talked to them at one point and
23 this phone call come right after I had got a phone call
24 from someone else that had told me that the detectives had
25 been by their house looking to talk to me.

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1 Q Okay. So you called them back and agreed to meet
2 with him?

3 A Yes, the first time I talked to him, that was
4 around six in the evening when I got done working at my
5 friends and then I got to thinking about it because Shannon
6 was at the doctor's visit with our baby and I had thought
7 if it was going to happen, I was going to have to confront
8 them because they were looking for me so much.

9 Q Okay. So they came over to where you were working
10 at Doe Trail?

11 A Yes, ma'am.

12 Q And you spoke to him, is that correct?

13 A Yes, ma'am.

14 Q When he showed up, was he in uniform?

15 A They were in, you know, kind of like dress shirt,
16 pants. They still had their badges and firearms. They
17 were just two detectives. They rode in two separate
18 vehicles.

19 Q So it was not only Kemfort, but he brought
20 another -- there was another detective come to?

21 A Yes.

22 Q Do you recall who that was?

23 A I believe it was Novak.

24 Q And you wrote this voluntary statement; is that
25 correct?

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1 A Yes, ma'am.

2 Q Let me show you the exhibit here. This is State's
3 Exhibit Number 1. Do you recognize this?

4 A Yes, yes, ma'am, I do.

5 Q Okay. And you wrote this statement for Detective
6 Kemfort?

7 A Yes, ma'am.

8 Q Okay. I'm just going to ask you a couple of very
9 brief questions about this.

10 A All right.

11 Q Okay. When you gave this statement to Detective
12 Kemfort, did you write it there out in the driveway, on the
13 car, what?

14 A We were out in the driveway. I might have beared
15 down maybe on the hood of the car or the back of my truck
16 or something.

17 Q Okay. But you wrote this voluntarily?

18 A Yes, yes, ma'am.

19 Q You were cooperating with him.

20 A Yes, ma'am.

21 Q Were you under arrest at that time?

22 A Not at that point.

23 Q Okay. So were you under oath?

24 A No, ma'am.

25 Q All right. Did Detective Kemfort tell you that you

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1 had the right to an attorney or anything like that?

2 A Not at that point, no.

3 Q Okay. So this was basically what you decided to
4 tell him on your own; is that right?

5 A Yes, ma'am.

6 Q When you finished, you wrote this stuff, you
7 completed it, signed it, then what happened?

8 A They run my driver's license, or one of them run my
9 driver's license while the other one was showing me photos
10 of me and Rick --

11 Q Wait a minute, let me stop you a minute. They were
12 showing you photos? What were the photos?

13 A They were photos of me and Rick Barnes at Wal-Mart.

14 Q Okay. Go ahead.

15 A Each one of them were showing me the photos of me
16 and Rick Barnes the night I bought the diapers and the
17 wipes and I believe a slow cooker.

18 Q Okay. And then you said they ran your driver's
19 license?

20 A Yes, yes, ma'am.

21 Q What happened with that?

22 A They come back that I had a warrant for an
23 unrelated charge.

24 Q Okay. Did they arrest you at that point?

25 A Yes, ma'am.

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1 Q Okay. I just want to ask you, was this statement
2 that you gave them completely truthful?

3 A No, ma'am.

4 Q Okay. What part was not truthful?

5 A The part that I didn't know where David Diblasi was
6 or what happened to him.

7 Q Okay.

8 A The part that he left my house and didn't come
9 back.

10 Q All right. Now, you were in custody then at that
11 time later on the afternoon of April the 3rd.

12 A Yes, ma'am.

13 Q Did you give another statement at that point?

14 A Yes, ma'am, I did.

15 Q Okay. Was this talking with Detective Kemfort also
16 or someone else?

17 A I believe it was Novak.

18 Q Okay. Let me show you State's to refresh your
19 memory -- this is State's Exhibit 2. And this is -- do you
20 recognize this?

21 A Yes, ma'am, I do.

22 Q Is that your handwriting?

23 A Yes, ma'am.

24 Q Okay. And this statement is four pages, correct?

25 A Yes, ma'am.

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1 Q Who took this statement?

2 A Novak and it's got Kemfort's name on it too.

3 Q Okay. So where was this statement taken?

4 A In the interrogation room at the Lexington County
5 Sheriff's Department.

6 Q Okay. So you're in the interrogation room with
7 Detective Novak and Detective Kemfort?

8 A Yes, ma'am.

9 Q Was anybody else in the room with you?

10 A No, ma'am.

11 Q All right. Did he review with you the rights that
12 you had before you gave this statement, the right to remain
13 silent, you didn't have to talk to them, you could have an
14 attorney present, that kind of thing?

15 A He did. I mean it was after he made a comment that
16 I needed to make sure if I knew anything and didn't tell
17 them the truth, you know, they had pictures that were
18 showing me with the credit cards. And --

19 Q Okay. So did you have a --

20 A -- I could get in trouble.

21 Q -- conversation with him before you wrote this
22 statement?

23 A Yes, ma'am. We had a conversation.

24 Q About how long did that conversation last?

25 A I don't know. 20 minutes maybe, something, 30

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1 minutes. I'm not sure at all.

2 Q Are you aware if he was recording this in any
3 fashion either video or audio?

4 A No, ma'am. But I didn't know that they weren't
5 recorded. There is a sign in the hallway that -- in the
6 area that says that all areas are subject to monitoring and
7 recording it, or something like that.

8 Q So did that leave you with the impression maybe
9 they were --

10 A Yes, ma'am.

11 Q --- recording that conversation?

12 A Yes, ma'am.

13 Q But, in fact they did not?

14 A No, ma'am.

15 Q Okay. This statement -- this four page statement
16 that you wrote on April 3rd, 2013, for Detective Kemfort
17 and Detective Novak; was this a completely true statement?

18 A No, ma'am.

19 Q Okay. Can you tell me what part was not true?

20 A The part where I said I didn't know where Diblasi
21 was and that he had given me the cards for the money he
22 owed me.

23 Q Okay. And what about the part where you didn't
24 know where the truck or the motorcycle was?

25 A Yes, that was not true as well.

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1 Q Okay. All right. During the time that either
2 before, during or after you gave this statement -- were
3 both of these detectives in the room the whole time?

4 A No, ma'am. Detective --

5 Q Can you tell me about that?

6 A Detective Kemfort would go in and out of the
7 interrogation room.

8 Q But Novak was in there with you the whole time?

9 A Yes, ma'am. It's -- maybe one time he might have
10 stepped out in the hallway and talked to Detective Kemfort,
11 but for the most part, you know, he was pretty much in
12 there all the time.

13 Q Okay. And when one of the detectives stepped out
14 and the other one was with you, did you still continue to
15 have a conversation with the one that was in the room?

16 A Yes, yes, ma'am, with Novak alone.

17 Q Okay. Did either of these detectives threaten you
18 or coerce you to give this statement?

19 A Mr. Novak, before I started writing the statement,
20 he did say that -- made the comment that I needed -- you
21 know, since they had pictures of me using the credit cards
22 and heard that I was the last person to be seen around
23 David that, you know, he could use that to prosecute me.
24 He didn't really say what charge, but he did say that.

25 Q Okay. And at that time you had not been charged

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1 with anything regarding Mr. Diblasi, right?

2 A No, ma'am.

3 Q Okay. I'd like to move along to the following day.

4 So this is the third conversation you've had with
5 detectives, correct?

6 A Yes, ma'am.

7 Q This is April the 4th?

8 A Yes, ma'am.

9 Q I'm going to show you State's Exhibit Number 4 and
10 ask if you recognize this.

11 A Yes, ma'am, I do recognize this. This is the
12 second advise of rights form that they had me seen that day
13 and during that interrogation.

14 Q Okay. So there was another advisement form you
15 signed?

16 A Yes, yes, ma'am.

17 Q And what -- did that come before this one or after?

18 A It would have been before that one.

19 Q Okay. So what -- what was that about? The
20 advisement form?

21 A The -- when I come in, it was Detective Gooding at
22 this time, not Novak. They -- we had a discussion and he
23 had me start with the first advisement form and I -- he had
24 me start writing a statement and on the statement that I
25 was writing at this time, I was telling him pretty much the

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1 same thing I was telling Novak the night before or the
2 evening before on the second -- at the same time that I
3 wrote on the 3rd.

4 Q Okay. Let me stop you a moment.

5 A Yes, ma'am.

6 Q You were there then with two different detectives
7 this time?

8 A Yes, yes, ma'am. It was -- I believe it was still
9 Kemfort, but Gooding was the one that stayed in there. The
10 other detective, he was -- he would go out of the room and
11 stuff and he'd be gone for several minutes at a time.

12 Q All right. The name on this advisement form
13 indicates Gooding and who?

14 A It's Longshore. Longshore would have been the name
15 of the second detective, yes, ma'am.

16 Q Okay. So --

17 A I forget.

18 Q -- please continue.

19 A So then he confronts me after -- he steps out in
20 the hallway and talks to Longshore for a minute and
21 Mr. Gooding comes and he tells me that they have evidence
22 with -- they found at my house with blood on it. And at
23 that point, you know, I -- it really worries me and I make
24 a comment about how I don't know nothing about the piece of
25 evidence and I believe they was using that for tactic to

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1 get me to confess and I told Mr. Gooding that I wanted an
2 attorney.

3 Q You told him you wanted an attorney?

4 A Yes, ma'am.

5 Q All right. So what did he do?

6 A He got mad and he took his ink pen and made an X
7 mark over the Advisement of Rights Form and the one or two
8 pages I had already wrote on the statement form and writes
9 requested attorney on it. And he slides it across the
10 table and makes a comment about how much time now he's done
11 wasted and he sits there for a minute and you know he's mad
12 at me and then he says, you know, you need to rethink the
13 whole requesting an attorney issue because if you don't
14 cooperate with us, I'm going to go and lock Shannon up and
15 we're going to -- and your little girl up because our
16 little girl was like 2-and-a-half weeks old at this point.
17 And your little girl is going to end up in, you know, DSS
18 and all because --

19 Q So at that point, did you foresee that as a
20 threat --

21 A Yes, ma'am.

22 Q -- if you continued to ask for counsel, an
23 attorney?

24 A Yes, ma'am.

25 Q That there were going to be consequences.

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1 A Yes, ma'am, the way he stated it, that I needed to
2 cooperate to keep Shannon from getting locked up. Somebody
3 had to be there to take care of our child.

4 Q Did you ever get a copy of that partial statement
5 that you say he drew the big X on?

6 A No, ma'am.

7 Q Do you know what happened to it?

8 A No, ma'am.

9 Q Okay. Finally -- or not finally, but the following
10 day, April 5th -- now this is the 3rd, 4th, 5th, the third
11 day in a row that they are questioning you; is that
12 correct?

13 A Yes, ma'am.

14 Q All right. And there's a statement -- and there's
15 a statement dated April 5th, and I'm going to show you
16 State's Exhibit 23 and 24. And ask if you recognize this.
17 This is 23?

18 A Yes, ma'am.

19 Q And what is that?

20 A This is the Advisement of Rights Form that --

21 Q Okay.

22 A -- I signed it.

23 Q That's your signature on it?

24 A Yes, yes, ma'am.

25 Q Okay. And State's Exhibit Number 24?

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1 A This is the statement that I wrote for Detective
2 Gooding and Longshore, you know to make sure I stayed in
3 compliance with the whole deal from the day before about I
4 had to cooperate, you know, to keep Shannon from being
5 arrested.

6 Q Okay. In the upper right hand corner, what time
7 does it say that the statement began?

8 A 5:15.

9 Q Okay. And on this advisement of rights, what time
10 does it state that they advised you of your rights?

11 A It says it's 1648.

12 Q And that's military time?

13 A Yes, that's military time. I'm not sure what time
14 it is. I think I heard somebody say that you subtract 12
15 from the number, so it would be 4:48, I think.

16 Q 4:48. Okay. So 4:48 you get your advisement of
17 rights. 5:15, you begin a statement. Were you in there
18 before 4:45, do you recall?

19 A There would have -- there's probably some time
20 there before I ever signed anything.

21 Q Did they talk to you before then? Before they
22 started an advisement of rights?

23 A Yes, ma'am, briefly. I don't remember exactly what
24 about. They just talked to me.

25 Q All right. And this is quite a lengthy statement

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1 you wrote. Ten pages; is that correct?

2 A Yes, it is, ma'am.

3 Q And also in addition to talking to them and writing
4 this statement, you also drew a diagram. Do you remember
5 that?

6 A Yes, yes, ma'am.

7 Q Diagram of your residence and what happened that
8 night; is that right?

9 A Yes, ma'am.

10 Q Okay. Late that afternoon, that night when you
11 produced this ten page statement, do you have any idea how
12 long you were in that interrogation room?

13 A No, ma'am.

14 Q And for the jury's benefit, is this just a
15 continuous process? In other words, you start writing and
16 you don't stop until you're at page 10?

17 A No, ma'am, you know, we would -- they would discuss
18 things with me and tell me we've got this evidence so we
19 believe that this happened or that it may have been
20 something, you know, ya da ya da ya.

21 Q So did they -- as you're writing this, are they
22 reading it?

23 A Yes, ma'am. As I would write up a page and, yeah,
24 just one page at a time and they got like carbon copy's on
25 them, so when you write it makes a couple of copies. You

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1 sign it, date it, then I would slide it over. One of them
2 would grab the next one or they would hand me the next one
3 and they would take it and then they would read it and then
4 they would stop me and discuss what was said on the prior
5 page.

6 Q Okay. Do you remember when you were taken back, or
7 left the interrogation room? How long had you been there?

8 A It had been a long time. Several, several hours.

9 Q Okay. Let's see if they have the time this was
10 ended on it. Here at the bottom of the last page of your
11 statement, there is a notation, a signature. Can you read
12 that?

13 A Yeah, it says nothing follows. It's got M.G. is
14 the initials, a date that says 4/5/13; and it says 2156
15 hours.

16 Q Okay. 2156, what time would that be?

17 A I don't know.

18 Q That's all right. It would be about ten o'clock,
19 9:56?

20 A 9:56, okay.

21 Q Is that right?

22 A Yes, ma'am.

23 Q So you were there 5 hours?

24 A Yes, ma'am.

25 Q On April 5th?

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1 A Yes, ma'am.

2 Q Okay. Yet again, the next day, April 6th, this is
3 the fourth day that you have been interrogated by Lexington
4 County Sheriff's Department detectives.

5 A Yes, ma'am.

6 Q Is that right? Do you recognize that you wrote a
7 statement -- and I'll show you this State's Exhibit -- on
8 the 6th of April, State's Exhibit 25. And this is what?

9 A This is Advisement of Rights Form.

10 Q Is this your signature at the bottom?

11 A Yes, ma'am. It's my signature.

12 Q Okay. And do you recognize the statement?

13 A Yes, ma'am. It's a statement I wrote.

14 Q Okay. And this goes on for how many pages?

15 A Six pages.

16 Q All right. It indicates it began at what time?

17 A 11 a.m.

18 Q And the notation at the end?

19 A It says it ended at 12:31.

20 Q Okay. So that would be an hour and a half again.

21 A Yes, ma'am.

22 Q And was this statement that you gave on April 6th
23 the truth?

24 A No, ma'am.

25 Q Okay. What part was not true?

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1 A There's several points that's not true. The point
2 that's going to stick out the most is how and where and I
3 didn't kill Diblasi. They were -- they had been telling me
4 that they had -- and they were getting his autopsy done and
5 they would know exactly within the hour what time Diblasi
6 had died. And that they had phone records and stuff that
7 they knew when we were where and what. You know and stuff.
8 I didn't -- I didn't want to get Shannon involved at the
9 time because I'm -- I know I shouldn't -- at this point I
10 been decided I shouldn't have covered it up when I did
11 and -- you know, I didn't want to get Shannon involved. I
12 didn't want to -- I can't tell them what happened. You
13 know. So I'm trying to write a statement --

14 Q Excuse me, if I may interrupt you.

15 A Yes, ma'am.

16 Q Who was the detective that was questioning you?

17 A Gooding. The second guy that I had been working
18 with in hopes of cooperating with them so they wouldn't
19 lock Shannon up and take our baby.

20 Q He instilled in you then some -- you were
21 comfortable with him?

22 A I wasn't comfortable with him, no, but I felt like
23 I needed to work with him, you know for this -- you know,
24 the prior reason they were angry with me because they
25 didn't believe what I was saying and told me that I was

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1 going to be dealing with some different detectives the next
2 day and that scared me because I felt like if I didn't deal
3 with them that, you know, that it was possible for Shannon
4 to get in trouble, you know, like they had said for me not
5 cooperating good enough. So I wrote only in the statement
6 that I requested to speak with them the next day and
7 cooperate and tell the truth or whatever to try to appease
8 them. I was really tired at that time too.

9 Q Again, do you know if this interview was recorded
10 in any way?

11 A They say it's not recorded, but I was under the
12 impression that it would have been due to the signs in the
13 hallway there by the door.

14 Q If it was recorded, you never heard it or saw a
15 video or anything?

16 A No, ma'am. I sure wish it was.

17 Q Okay. And that was the last statement that you
18 gave as a result of the interrogation by these four
19 detectives, Kemfort, Novak, Gooding and Longshore?

20 A Yes, ma'am.

21 Q Okay. Finally, on May 29th of 2013 --

22 THE COURT: Tell me that date again, Ms. Henry.

23 MS. HENRY: I'm sorry?

24 THE COURT: Tell me that date again.

25 MS HENRY: May 29, 2013.

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1 THE COURT: All right.

2 MS. HENRY: I don't see that that's in evidence.

3 It may be.

4 BY MS. HENRY:

5 Q You did send a request form?

6 A Yes, ma'am.

7 Q Is that correct?

8 A Yes, ma'am.

9 Q And I'm going to show you a copy of this request
10 form. Do you recognize this?

11 A Yes, ma'am. I do.

12 Q Is that your handwriting or your printing?

13 A Yes, ma'am, that's my printed handwriting.

14 Q Okay. And this is one, two, three, four pages --
15 well, two double front and back. And you wrote this to
16 Detective Kemfort. Why did you do that?

17 A For several reasons. I couldn't remember which
18 one's name was which that I had been dealing with prior to
19 that. But I was just really having a hard time, you know,
20 dealing with the fact that, you know, from the statements I
21 had wrote on the 6th and the outcome of those and --

22 Q Was this a true statement?

23 A No, ma'am. You know, Shannon had been receiving
24 threats and stuff and my mom as well over the situation and
25 I don't really -- couldn't say who was doing them because I

1 don't know, but I assumed it had been -- at the time it was
2 associated with Rick Barnes, maybe.

3 Q So in this statement did you try to place the blame
4 for Mr. Diblasi's death on Rick Barnes?

5 A Yes, ma'am.

6 Q Okay. On April 16th of last year -- these are all
7 2013?

8 A Yes, ma'am.

9 Q April 16 of last year, did you have a meeting with
10 Mr. Graham here, and Mr. Lint at the sheriff's department
11 where I was present also?

12 MR. GRAHAM: Objection, Your Honor, may we
13 approach?

14 THE COURT: Yes, sir.

15 (There was a bench conference out of the hearing of
16 the jury and the Court Reporter.)

17 THE COURT: Mr. Foreman, ladies and gentlemen of
18 the jury, I have a matter of law to take up, if y'all would
19 please step in the jury room, do not discuss the case
20 during this brief recess.

21 (The jury left the courtroom at 11:20 a.m.)

22 THE COURT: All right. Let me ask you this,
23 Ms. Henry, in what detail -- you don't have to tell me if
24 you don't want to, but if you can, what detail do you
25 intend to go into as to the 4/26/15 statements in your

1 direct.

2 MS. HENRY: To begin with, Your Honor. He's given
3 so many statements with so many different versions of the
4 facts, this was an opportunity for him to finally come
5 clean.

6 THE COURT: This is what? I'm sorry.

7 MS. HENRY: An opportunity for him to finally come
8 clean. So I don't believe it's consistent.

9 THE COURT: So what?

10 MS. HENRY: I don't believe it's consistent with
11 his earlier statements, or if it is it's because he's got a
12 nugget here and a nugget there and -- but he wanted the
13 opportunity to basically take Mr. Barnes off the table and
14 say he didn't know anything about it.

15 Beg the Court's indulgence.

16 THE COURT: So you're saying it's a prior
17 inconsistent statement and you're impeaching your own
18 witness.

19 MS. HENRY: Well --

20 THE COURT: Is that correct?

21 MS. HENRY: I don't intend to be.

22 THE COURT: Ma'am?

23 MS. HENRY: I do not intend to be. What I'm trying
24 to do here is get the truth out.

25 THE COURT: All right.

1 Solicitor?

2 MR. GRAHAM: Your Honor, his -- my understanding is
3 from his testimony today, Ms. Henry is now trying to go
4 back and use that 2015 interview with Detective Lint or
5 Sargent Lint and myself to bolster his testimony. He
6 hasn't been crossed and accused of recent fabrication yet.
7 My understanding is that a prior consistent statement only
8 comes in if you're accused of recent fabrication.

9 THE COURT: Is it prior consistent -- is the
10 statement -- I don't know what the statement says. By the
11 2015 statement, is it that his prior consistent statement
12 with his factual testimony today on the stand concerning
13 the event of 25, February, 13? Or whatever date.

14 MR. GRAHAM: In my opinion, there are some
15 differences, but the basic concept is that it was a -- it
16 was in self-defense that Shannon Tart was pregnant, that
17 Shannon Tart got kicked, that he killed Mr. Diblasi all in
18 one event, so it's consistent with that testimony they
19 first offered in court today.

20 THE COURT: Well, the case I was looking at cites
21 801(D)1(B) prior statement by a witness. A statement is
22 not -- I guess the objection is hearsay if consistent with
23 the declarant's testimony and is offered to rebut an
24 expressed or implied charge against the declarant of recent
25 fabrication or improper influence or motive, provided

1 however, the statement must have been made before the
2 alleged fabrication or before the alleged improper
3 influence or motive arose.

4 And solicitor, you're saying that it's not offered
5 to rebut an expressed or implied charge against the
6 declarant of recent fabrication because those questions
7 have not been asked on cross-examination yet.

8 MR. GRAHAM: Correct, Your Honor.

9 THE COURT: All right. Ms. Henry?

10 MS. HENRY: Your Honor, the reading of this is it's
11 not hearsay if it's consistent with his testimony. Being
12 offered to rebut an expressed or implied charge of the
13 declarant of a recent fabrication. I'm not sure what the
14 recent fabrication is unless the State is --

15 THE COURT: Well, I think recent fabrication is
16 when a witness is asked, for example on cross-examination,
17 when did you ever tell law enforcement what you testified
18 to today. And the implication, of course, is it's recently
19 fabricated in anticipation of litigation, so to speak,
20 because however much a period of time passes from the event
21 to the trial it's -- and of course, this doesn't just apply
22 to criminal law, of course, but there's never been -- we've
23 never heard that statement before, in other words.

24 And then if he -- this is just me trying to track,
25 Ms. Henry, if he's then asked about it, when did you ever

1 tell them this, that, and the other, perhaps if he's told
2 them this, that, and the other, he can then say, well, I
3 told them April 16th of 2015.

4 MS. HENRY: I understand, Your Honor.

5 THE COURT: I'm not sure I do, Ms. Henry, but I'm
6 glad you do.

7 The case that I looked at was State versus Foster,
8 282 SE 2d 426, 2003. That was a State's witness. However,
9 the prior consistent statement was inadmissible under rule
10 allowing for a mention of prior consistent statement made
11 by a witness before a motive to fabricate arose. There was
12 no expressed or implied charge against witness of recent
13 fabrication or improper influence or motive. And
14 defendant's cross-examination did not rise to a level of
15 charging fabrication, but instead amounted to calling the
16 witnesses credibility into question, i.e. simple
17 impeachment.

18 MS. HENRY: Your Honor, we'll withdraw our
19 question.

20 THE COURT: All right. Thank you. Thank you very
21 much.

22 Bring us our jury, please. I'd like to finish his
23 direct.

24 MR. GRAHAM: Your Honor, if I could go to the
25 bathroom real quick. I mean I think she's about done. So

Worth Edward Cook - Direct Examination by Ms. Henry

1 all right.

2 THE COURT: I'm not going to move so...

3 Are you done? Do you have more questions? I'm not
4 rushing you in that regard, Ms. Henry. I just want you to
5 finish your direct.

6 MS. HENRY: I'm just about done, Your Honor.

7 THE COURT: Ma'am?

8 MS. HENRY: I'd like to ask him one more question.

9 THE COURT: Sure, of course.

10 (There was a pause in the proceedings.)

11 (The jury entered the courtroom at 11:32 a.m.)

12 THE COURT: All right. Welcome back, ladies and
13 gentlemen. Thank you for your patience. I would like to
14 finish the direct testimony of Mr. Cook before we take our
15 morning recess, just a break.

16 MS. HENRY: Thank you, Your Honor.

17 BY MS. HENRY:

18 Q Just very briefly, Mr. Cook, when you were meeting
19 with these detectives during these statements that you gave
20 them, were you ever put under oath?

21 A I don't understand -- we're back to the 6th?

22 Q The first statements that you -- the first six
23 statements that you wrote, starting with Kemfort in the
24 driveway and then the last statement that you wrote, which
25 I believe was on the 6th, were you ever placed under oath.

Worth Edward Cook - Direct Examination by Ms. Henry

1 A Under oath? That's not included in the waiver
2 thing.

3 Q What I'm talking about is when Ms. Frick --

4 A Oh, no, ma'am.

5 Q -- swore you to tell the truth, were you ever --
6 was that ever done before?

7 A No, no, ma'am.

8 Q Okay. But you are under oath today, correct?

9 A Yes, ma'am.

10 Q And your testimony has been truthful?

11 A Yes, ma'am.

12 MS. HENRY: Thank you, Your Honor. I don't have
13 any other questions.

14 THE COURT: All right.

15 MS. HENRY: Please answer any questions the State
16 may have.

17 THE COURT: All right. I believe we will take a 15
18 minute recess, ladies and gentlemen, between direct and
19 cross-examination. Please do not discuss the case during
20 this brief recess. Thank you very much. You may return to
21 your jury room. 15 minutes.

22 (The jury left the courtroom at 11:33 a.m.)

23 THE COURT: All right. During this 15 minute
24 recess, Sheriff's, Mr. Cook is in the custody of the
25 Lexington County Sheriff's Department. He may not confer

Worth Edward Cook - Cross-Examination by Mr. Graham

1 with anyone. That includes his attorneys, also -- I make
2 that ruling under Perry versus Lee, 109 Supreme Court 594,
3 488 U.S. 272, 1989.

4 THE OFFICER: Yes, sir.

5 THE COURT: He may not confer with his attorneys or
6 anyone else. Any third party during this 15 minute recess.

7 THE OFFICER: Yes, sir.

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

9 THE WITNESS: Yes, sir.

10 THE COURT: Court will be in recess 15 minutes.

11 (A brief recess was observed.)

12 THE COURT: Anything from the State?

13 MR. GRAHAM: No, Your Honor.

14 THE COURT: Defense?

15 MS. HENRY: No, Your Honor.

16 THE COURT: All right. Can you get Mr. Cook for
17 us, Sheriff?

18 (The defendant entered the courtroom.)

19 THE COURT: All right. You may come back around to
20 the witness stand.

21 THE WITNESS: Yes, sir, Your Honor.

22 (The jury entered the courtroom at 11:47 a.m.)

23 THE COURT: All right. Solicitor, you may proceed.

24 MR. GRAHAM: Thank you, Your Honor.

25 CROSS-EXAMINATION

Worth Edward Cook - Cross-Examination by Mr. Graham

1 BY MR. GRAHAM:

2 Q Mr. Cook, you're a liar, aren't you?

3 A I have told lies, yes, sir.

4 Q Are you a liar or not?

5 A I have lied, so, yes.

6 Q And you're a thief, aren't you?

7 A There's times I've stolen things, so, yes, sir.

8 Q And you're a killer, aren't you?

9 A I wouldn't say by choice, sir.

10 Q You killed David Diblasi, didn't you?

11 A Not because I wanted to.

12 Q The answer is yes or no. Are you a killer and did
13 you kill David Diblasi?

14 A I can't -- I did kill David Diblasi.

15 Q Your testimony today -- let's go through that day.

16 You met Dave at Jackie Boyer's house and that's when it
17 first came up that you were going to work on his bike and
18 his truck?

19 A Yes, it is, sir.

20 Q Who was using drugs at that house?

21 A Everyone, sir.

22 Q Including yourself?

23 A Yes, sir.

24 Q And that was meth or heroin?

25 A Meth, sir.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q And did you know that Dave had heroin in his
2 possession at that time?

3 A I was under the impression that he did sell heroin,
4 sir.

5 Q And, in fact, you saw a bunch of that heroin,
6 didn't you?

7 A Not in his possession, sir, at that time, the only
8 person I seen with the heroin -- and matter of fact, it
9 would have been the second time we was at Jackie Boyer's
10 house when I was seeing any heroin at the house.

11 Q Did you see Dave in possession of a bunch of money
12 at that time when you first met him at Jackie Boyer's
13 house?

14 A No, sir.

15 Q Did you see him with any money at all? ---

16 A No, sir..

17 Q Did you see him sell heroin to anybody at Jackie's
18 house?

19 A I did not.

20 Q You said that he gave a bunch of heroin to Jackie,
21 correct?

22 A I was in the under the impression that Jackie was
23 already in possession of some heroin that belonged to
24 David.

25 Q So --

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A I didn't see him hand her anything.

2 Q And you didn't see Jackie give him any money for
3 that heroin?

4 A I would say, the second time we was at Jackie
5 Boyer's house. I know he received some meth for the heroin
6 she owed him. I'm really not sure whether he received any
7 or not. I don't think so.

8 Q So you go to Thor Road next, correct?

9 A Yes, sir.

10 Q And when you're sitting outside, it's you and Rick
11 Barnes and Dave, and you were sitting in Rick's van,
12 correct?

13 A Yes, yes, sir.

14 Q And everybody is smoking meth there, including
15 yourself.

16 A At that time, we didn't have any meth.

17 Q You didn't have any meth.

18 A Me and Rick didn't have any meth at this time.

19 Q Was Dave smoking meth?

20 A No.

21 Q The purpose of Dave going there was to get money,
22 correct?

23 A Yes, yes, sir.

24 Q And how much money did he get?

25 A I believe it come up in the conversation that it

Worth Edward Cook - Cross-Examination by Mr. Graham

1 was maybe like \$80 of some money that was owed. It wasn't
2 all the money that was owed to him.

3 Q Did you see how much money he got from either of
4 the two individuals on Thor Road?

5 A No, sir.

6 Q You didn't see 8 or \$900 or \$2,000 in a Crown Royal
7 bag?

8 A No, sir.

9 Q From there it says you testified that David went
10 and put gas in the van. Why did he put gas in the van?

11 A Because we was following him.

12 Q And he said he needed more money?

13 A Yes. He said he didn't get all his money. He
14 didn't have enough money there.

15 Q So then you all followed him to Bush River Road?

16 A Yes, sir.

17 Q How much money were you planning on charging him
18 for doing repairs?

19 A Probably somewhere below \$200 altogether, maybe 150
20 bucks.

21 Q Had he given you any drugs yet at that time?

22 A No.

23 Q When you go to Bush River Road, do you go to a
24 hotel over there?

25 A Yes.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q Are you using drugs over there?

2 A I didn't use any drugs there, no.

3 Q So Diana Schoener, this girl that was there --

4 well, Dave didn't give you any drugs and you didn't smoke

5 any meth at that hotel; is that correct?

6 A No, sir.

7 Q Did Rick smoke any meth?

8 A No, sir, we didn't have any meth on us at the time.

9 Q And did you see Dave in possession of a bunch of
10 heroin at that time?

11 A I never seen him with a heroin with my own eyes,
12 sir, no.

13 Q But you knew he was dealing heroin and getting
14 money?

15 A I was under the impression of that, yes, sir.

16 Q Well, under the impression, did you know it or not?

17 A Well, I mean -- we had talked about different
18 things as to how he was going to get money, so --

19 Q Did you see any money at this time at Bush River
20 Road?

21 A No, sir.

22 Q From there you go back to his house to get the
23 motorcycle, correct?

24 A Yes, sir.

25 Q And Rick left at that time and he went home. He

Worth Edward Cook - Cross-Examination by Mr. Graham

1 picked up Kaycee and then went over and picked up Shannon.

2 Is that your understanding of what happened?

3 A I don't know whether he picked up Kaycee or not. I
4 do know that he went to get Shannon?

5 Q And he picked up Shannon because why?

6 A Because I was going to be making some meth at the
7 house. I was high, I was going to be doing drugs. I
8 didn't want Shannon around for that. I didn't want her
9 around somebody with with heroin.

10 Q Well, the meth was already being made? Right?
11 Because I think you testified that it was Rick's meth out
12 in the shed, so that was already being made, correct?

13 A That -- when Rick showed up that morning, he had
14 his book bag in the van with his meth lab materials in
15 there and I didn't want to ride around with them in there.
16 We locked them up in the shed at that point. We don't --
17 it wasn't started at the house at this time.

18 Q But they were there all day long while Shannon was
19 there by herself, right?

20 A Locked in the shed -- locked in the shed in the
21 backyard.

22 Q So the reason that there was meth in the shed had
23 nothing to do with why you had Shannon go away, correct?

24 A No. I --

25 Q No?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A No.

2 Q So you just lied right there?

3 A How did I lie?

4 Q When I asked you the question about why Shannon
5 wasn't going to be there and you said because --

6 A Because I was going to be manufacturing it -- meth
7 that evening --

8 Q So from there you're not -- you're motivation for
9 being with Dave from what I understand from the beginning
10 was to do work to get money, correct?

11 A Yes, sir.

12 Q And now, all of a sudden, we're switching from
13 doing work to doing drugs and making drugs, correct?

14 A Where -- it wasn't switched from that, it was -- we
15 were just getting high all throughout the day and I had
16 already scored points there that day and I was -- that was
17 just planning on getting it made that evening.

18 Q When else did you get high? I thought that you
19 only used -- it wasn't throughout the day from your
20 testimony, it was only at Jackie's first thing in the
21 morning, correct?

22 A It was at Jackie's first thing in the morning and
23 Jackie's -- at the second visit at Jackie's.

24 Q So where did you get the money to buy drugs that
25 time?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A I didn't. David got some meth from Jackie and give
2 me some of it.

3 Q So did you decide that you didn't want to work for
4 money anymore and now you wanted to work for meth?

5 A No, sir, that was one of the reasons I was going to
6 manufacture -- finish manufacturing the meth so I could
7 actually return it to him, what he'd given me.

8 Q All right. You went to Jackie's the second time,
9 why?

10 A He was wanting to get some meth.

11 Q And you said that you used meth that time, correct?

12 A Yes, yes, sir.

13 Q So he gave you meth at that time?

14 A Yes, sir.

15 Q Why did he give you meth?

16 A Because I told him I'd give it back to him.

17 Q So why did this day switch from making money to
18 doing drugs and getting high?

19 A It didn't switch from making money to doing drugs
20 and getting high. We were getting high while we were
21 working toward the point where I would be making some money
22 doing the work.

23 Q So you and Dave go over to Jackie's house. Did you
24 see -- how much meth did Dave buy at that time?

25 A I -- he didn't buy it. Jackie give it to him

Worth Edward Cook - Cross-Examination by Mr. Graham

1 because she owed it to him from what I understand for
2 heroin that she was selling for him.

3 Q So did he give her more heroin again?

4 A I don't know, I don't think so, no, sir. No.

5 Q He just showed up and she gave him meth?

6 A Yes, yes, sir.

7 Q Why not just go to your house and get the meth
8 there?

9 A Because David had been wanting to get high the
10 whole time we'd been riding around. He wanted to get
11 something then.

12 Q And you and he smoked meth from Jackie's house back
13 to your house, correct?

14 A Yes, sir, we did.

15 Q When you get to your house, there's nobody there
16 and it's your story that Dave changes clothes and washes
17 up, correct?

18 A Yes, at some point, he sure did.

19 Q And at that time you're working on his truck?

20 A Yes, yes, sir.

21 Q Now, are you all doing crystal meth again at your
22 house yet or is that later?

23 A We had done some crystal meth when we arrived and
24 some a little later on.

25 Q All right. So at this point, you'd used crystal

Worth Edward Cook - Cross-Examination by Mr. Graham

1 meth at Jackie's house twice. You've used it once in the
2 car driving to your house and now you used it at your
3 house, correct?

4 A Yes, yes, sir.

5 Q The work you did on the truck, it had to do with
6 the air filter and the exhaust system?

7 A There was no work to be done with the air filter.
8 Just with the exhaust down type that comes off the
9 manifold. It was broke several inches below where it bolts
10 to the manifold.

11 Q So how long did it take you to fix that?

12 A Not long at all. I was originally going to weld it
13 but it wasn't going to weld good, the pipe was too thin.

14 So --

15 Q So --

16 A -- I put an end clamp on it. I'm sorry.

17 Q So how much time did you spend working on his
18 truck?

19 A Not very long at all. It wouldn't have took no 15,
20 20 minutes.

21 Q Okay. And then did you do any work on his bike?

22 A Yes, I had time to work on his bike prior to that.

23 Q And how much time did it take you -- I think you
24 said -- well, I don't know. What did you do to his bike?
25 Was it fixing something to do with the rectifier and the

Worth Edward Cook - Cross-Examination by Mr. Graham

1 charging of the battery?

2 A Yeah, the charging the battery, rectifier, the gas
3 tank had been leaking and I switched the gas tank too.

4 Q Okay. So how much time did you spend doing that.

5 A Maybe an hour. I don't -- it wasn't that long. It
6 didn't take long at all. It was a very simple process.

7 Q So total time you spent an hour and 15, hour to an
8 hour and 15 minutes working on his stuff?

9 A I mean -- we weren't in a rush. I don't really
10 know if it was that quick or not. You know, there was
11 times where we was -- we were talking and laughing and
12 cutting up and stuff like that too.

13 Q And this was supposed to be \$200 worth of work?

14 A If you went to a mechanic shop, it would have
15 probably been that much for the parts, if not more.

16 Q Well, if he went to a mechanic's shop, he'd still
17 be alive, wouldn't he?

18 A The fact that David Diblasi is dead has nothing to
19 do with some mechanic work, buddy.

20 Q It has to do with him coming to your house that
21 night, though, doesn't it?

22 A It has to do with him coming back to my house.

23 Q So how much more meth did you do after you finished
24 the work on his bike and his truck?

25 A We smoked some off the foil, but he was almost out

Worth Edward Cook - Cross-Examination by Mr. Graham

1 and that's when I went to the shed to make some more --
2 make what I had to make.

3 Q Okay. How much money did he pay you and how did
4 you all get right on meth and heroin?

5 A He paid me \$80 in cash. Five, maybe six bags of
6 heroin for the mechanic work and three or four bags -- I'm
7 not really sure -- for the meth I'd given him over the top
8 of whenever I owed him for what he give me at Jackie's.

9 Q All right. You wanted cash though, correct?

10 A I wanted it converted, yes, sir.

11 Q But instead you ended up taking cash and heroin --
12 five or six bags of heroin?

13 A Yes, he said he didn't have any more cash.

14 Q You say that he said that he didn't have anymore
15 cash?

16 A He said he didn't have anymore money to spend. He
17 said, I don't have any more money to spend.

18 Q But you knew that he was getting ready to go the
19 Philadelphia to re up, didn't you?

20 A He -- I don't know -- I don't really know that.

21 Q You --

22 A I knew at some point in time it come up in the
23 conversation that he got drugs from Philadelphia and stuff,
24 you know.

25 Q Wasn't it your understanding that he was leaving

Worth Edward Cook - Cross-Examination by Mr. Graham

1 your house to go the Philadelphia to re up and double his
2 money?

3 A From what I understand when he was leaving my
4 house, he was going to meet some chick.

5 Q Meet some chick that he what --

6 A You know, I -- he talked about selling her some
7 dope or something. I don't know. You know, I ain't got no
8 idea. He wasn't really all that clear, sir.

9 Q So you didn't know anything -- it's your testimony
10 now that you didn't know anything about him going to either
11 leave your house and go Philadelphia to buy more drugs or
12 you didn't know anything about that, correct?

13 A I mean, he said some stuff about that, yeah, in
14 conversation. I'm not going to say I didn't know, I
15 mean...

16 Q Well, did you not -- did you or did you not know
17 that he was -- what was his plan when he left? What did he
18 tell you he was going to do?

19 A He was going to some chick's house to make some
20 money and hang out or something there.

21 Q So you didn't know anything about him going to
22 Philadelphia to re up?

23 A I mean it come up in conversations that they might
24 have been a plan sometime in the future, I mean, I don't
25 know. I mean -- I don't know if it would have been that

Worth Edward Cook - Cross-Examination by Mr. Graham

1 day or not. It might have been a plan sometime in the
2 future, you know, I mean, I don't know if it would have
3 been that day or the next day or the next week.

4 Q To re up, he would need money, a lot of money,
5 wouldn't he?

6 A Well, I would assume so. Going on what he
7 considered re up.

8 Q If he was going to have a quantity of heroin that
9 he could sell, he would need a lot of money to go buy it,
10 wouldn't he?

11 A If you're paying for it up front, yeah, yes, sir.

12 Q And if he didn't have all the money up, he still
13 had a bunch of heroin to sell before he got the money and
14 went up, correct?

15 A I don't know about that. I don't know how much
16 heroin he would have had in total, sir.

17 Q So Dave was -- as Dave was leaving, what did you
18 testify about his phone? What was going on with his phone?

19 A He had went out to the truck or something talking
20 about his battery was dying or something like that. I
21 wasn't worried about that because I was dumping the meth
22 out of the filters where I was manufacturing, and, you
23 know, when you separate meth. And he comes back in and we
24 squared up at that point and then, you know, he gets ready
25 to leave and he goes outside and then he comes back in and

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1 he's looking around for his phone.

2 We looked around for it for a minute, then I said,
3 Dude didn't you just take it to your truck and, you know,
4 he said, maybe I did and so he goes back out to the truck
5 and he leaves, you know and he never comes back in. So I
6 assumed that he found it.

7 Q Did ever think about using your phone to call his
8 phone to see if you could help him find his phone?

9 A No. But he had made a statement about a battery
10 dying. You know, it wasn't that long looking for it, you
11 know, just, it wasn't that much.

12 Q I thought the second time he came if he was looking
13 for his phone?

14 A He was, but we didn't spend that much time looking
15 for it before I thought about him taking it out to the
16 truck.

17 Q So it's your story that he leaves at that point.
18 He -- his phone's having battery problems and he can't find
19 his phone, correct?

20 A That's -- that was the extent of the conversation,
21 yeah.

22 Q And shortly after that's when Shannon and Rick come
23 in, correct?

24 A Yes.

25 Q And it's your testimony that Kaycee Turner is not

Worth Edward Cook - Cross-Examination by Mr. Graham

1 with them and Kaycee Turner does not come in the house,
2 correct?

3 A No, sir, Kaycee Turner never come until the next
4 day.

5 Q And it's your testimony that you didn't have that
6 door locked and that Rick and Kaycee and Shannon were
7 pounding on the door trying to get in for 10 minutes; is
8 that correct?

9 A I seem to remember locking the door because She
10 would have had a key.

11 Q There were keys to that house?

12 A Yeah.

13 Q Well, yes or no?

14 A Yeah.

15 Q It's your testimony that Rick did not stay very
16 long?

17 A No, sir.

18 Q He smoked meth with you?

19 A No. I wanted to give him the meth I owed him and
20 some of the money I owed him.

21 Q You gave him \$40 and some meth?

22 A Yeah.

23 Q So you had meth left over from where?

24 A From where I manufactured the meth.

25 Q So you didn't -- when you were squaring up with

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Dave, you didn't give all of it to him?

2 A No.

3 Q So Shannon comes in, she's mad because she can tell
4 you're high -- which you are high, right?

5 A Yes, sir, I'm high.

6 Q You smoked meth four or five times, easy that day,
7 right?

8 A Yes, sir.

9 Q And you say she goes back to her room, you sit down
10 in a chair and all of a sudden the door busts open; is that
11 right?

12 A She goes back to her room and shortly after that
13 Rick leaves and there's some time that goes by and then he
14 busted in.

15 Q And Dave busted the door open?

16 A Yes, yes, sir.

17 Q In all the statements you gave to the police, are
18 there any written statements where you said that Dave
19 busted the door open that he damaged the door frame?

20 A I'm not -- I'm not -- I don't know.

21 Q I'm sorry?

22 A I said I don't know, I'm not sure. I don't think
23 so.

24 Q You don't -- you didn't, did you?

25 A No.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q And that's because it didn't happen, correct?

2 A No, it did happen.

3 Q You just didn't write it down to the police?

4 A No, sir.

5 Q It's your testimony that Dave comes in and has a
6 knife. He says -- what's he saying about his phone?

7 A He -- he's fussing about the phone and all because
8 he thinks that I have it.

9 Q Did you offer to call it and help him find it?

10 A I never had an opportunity to go to that situation,
11 sir. He caved my door in and was yelling at me.

12 Q And you're now saying he wants his money back and
13 his heroin back?

14 A Yes, sir.

15 Q Why does he want his money back and his heroin
16 back?

17 A Because he's fussing about people taking advantage
18 of him. I don't know. He's mad -- I don't know, it's just
19 raising hell, man.

20 Q What he's mad about is the phone. He thinks you
21 stole his phone?

22 A I mean I didn't have it. I mean...

23 Q Is that what he was mad about was his phone?

24 A He was mad about the phone and just raising hell
25 about wanting his money and screaming about people taking

Worth Edward Cook - Cross-Examination by Mr. Graham

1 advantage of him, just yelling in general, man. Some of it
2 wasn't even making sense to me at the time. He was
3 belligerent. I mean --

4 Q It's your testimony he pulled out a knife and
5 threatened you because he thought you had his phone and he
6 thought you were taking advantage of him somehow?

7 A Before I seen the knife, we were arguing and then I
8 was screaming at him get the -- out of my house and that I
9 wasn't giving him any of his money back or the coke that he
10 paid me and that I didn't have his phone. After that's
11 when he started waving his hands around and I seen the
12 knife.

13 Q You described him as tweaking. What does that
14 mean?

15 A It's just a term that people use to say these
16 people are like -- just really high, you know. Kind of
17 acting crazy sometimes.

18 Q Sometimes when you do a lot of meth, you about
19 crazy?

20 A Me, personally?

21 Q Well, we'll start with the general populations.
22 Sometimes people who take meth or do a lot of meth they act
23 crazy, correct?

24 A It -- people who have been up for a long time and
25 done a whole lots of dope for days and not eating good,

Worth Edward Cook - Cross-Examination by Mr. Graham

1 sometimes it does have a negative effect on people. Some
2 people it doesn't.

3 Q And I guess it doesn't have a negative effect on
4 you?

5 A I mean, no. I never had a bad moment that I know
6 of.

7 Q The next thing you say is that Dave has you penned
8 in a chair. He's choking you and he has a knife in your
9 face. What knife is he using?

10 A It's a folding type knife, dark colored handle.

11 Q Where did it come from?

12 A It was in his hand when I was noticing he was
13 waving it around and, you know, I don't know -- I can't
14 tell you where it come from. I assume he had it with him,
15 sir.

16 Q It wasn't your knife?

17 A No, sir.

18 Q And you didn't save that knife, did you?

19 A No, sir.

20 Q You threw it away and hid it somewhere? Got rid of
21 it?

22 A I got rid of everything, sir.

23 Q It would have been nice -- you would agree with me
24 that it would have been nice if you kept that and that had
25 Dave's fingerprints all over it to help back up your story,

Worth Edward Cook - Cross-Examination by Mr. Graham

1 wouldn't you agree with that statement?

2 A Sir, a lot of things would be nice at the time.

3 Q So the answer is yes, it would have been nice if
4 you would have kept that?

5 A Yes.

6 Q But you chose not to, correct?

7 A Yes, sir.

8 Q The written statements that you gave to the police,
9 where in any of those statements do you say that Dave
10 kicked Shannon in the stomach?

11 A In none of those written statements, sir.

12 Q Where in any of those statements do you talk about
13 Shannon falling into -- excuse me, falling into the
14 dresser?

15 A None of them, sir.

16 Q How about her losing consciousness?

17 A None of them, sir.

18 Q You say that the defendant -- you grabbed a knife
19 and you stabbed him several times; is that correct?

20 A Yes, yes, sir.

21 Q Is that his knife that he has in his hands or is it
22 a different knife?

23 A It's a different knife, sir.

24 Q Is that the double-bladed knife with a handle in
25 the middle?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Yes, sir.

2 Q That you all had been using to cut meth earlier in
3 the night?

4 A Yes, sir.

5 Q And you stabbed him several times where?

6 A I really can't be sure. I thought it was kind of
7 low, mid-body, you know, he's laying across me like this.
8 I started working my way up. You know.

9 Q What happened with the knife in his hand?

10 A I'm assuming that at some point he dropped it
11 because he pushed off my face with both of his hands to sit
12 up.

13 Q So -- I'm sorry go ahead.

14 A That was the end of my statement.

15 Q You stabbed him several times, he drops the knife
16 and then he pushes you away correct?

17 A He pushes up off of me. I'm still under him.

18 Q You're still on the chair?

19 A Yes, sir.

20 Q He pushes -- dropped the knife, you're stabbing on
21 him, he drops the knife and pushes off of you and stands
22 up, correct?

23 A I mean, I didn't see him drop the knife. It's just
24 with me stabbing him really quick like to his hands in my
25 face and him pushing himself off, sir.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q He didn't have the knife in his hands anymore?

2 A Not at that time, but my knife is stuck in his
3 clothes in the shoulder area.

4 Q And that's when he pulls it out and you all begin
5 to struggle over that knife?

6 A Yes, sir.

7 Q Now, Shannon is watching this or Shannon is not
8 watching this? Or do you know?

9 A I -- I don't know. She was laying in the floor,
10 you know.

11 Q So you all -- you and Dave are struggling over the
12 knife that was your knife that he pulled out of his throat
13 or his clothing area; is that correct?

14 A It had been -- I thought it -- I thought I had
15 stabbed him in the shoulder, but it must have just hit his
16 clothing.

17 Q So -- but both of your hands -- y'all are
18 struggling over that knife together?

19 A Yes, sir.

20 Q He falls?

21 A Yes, sir.

22 Q And your words are the knife hit him in the eye
23 when he fell, correct?

24 A When he was going down, I was coming down on top of
25 him. We had been -- we had been shoving the knife toward

Worth Edward Cook - Cross-Examination by Mr. Graham

1 each other back and forth and tussling over the knife.

2 That's when I stabbed him in the eye, yes, sir.

3 Q So your testimony was the knife hit him in the eye.

4 So I guess the question is did he fall on the knife or did
5 you stab him in the eye?

6 A I stabbed him on the way down. I mean, I was on
7 top of him coming down on top of him at that point, sir.

8 Q So what other stab wounds did you inflict on him?

9 A I stabbed him several times in the neck, sir, right
10 after then.

11 Q So after he fell, you fell on top of him and you
12 stabbed him in the eye. You took the knife out of his eye
13 and you stabbed him in the neck several times?

14 A He was -- he turned and -- well, just randomly or
15 repeated the motion.

16 Q How many more times did you stab him?

17 A I don't know. Until he wasn't moving, sir.

18 Q Once he fell down and the knife went in his eye, he
19 wasn't a threat anymore. Why did you keep stabbing him?

20 A Because when I come down on top of him and stabbed
21 him in the eye at the same time, you know, his hand come
22 across my face and it was just, I don't know, a reaction
23 kind of the motion of things, sir. It happened in a split
24 second, man, you know.

25 Q There's no hammer in the story that you're telling

Worth Edward Cook - Cross-Examination by Mr. Graham

1 today. You never hit him with a hammer?

2 A There -- there's a point after he'd -- that he's
3 dead when I was cleaning up everything I did pick up a
4 hammer and took a swing at him, but your forensic lady says
5 that didn't happen. But I did swing a hammer at him. If I
6 didn't hit him in the head, I was hitting the chair, you
7 know.

8 Q And you --

9 A Just twice. I was upset because -- I don't know,
10 man. I was high, I didn't know. He was already dead. I'm
11 sorry.

12 Q So you were high and you don't really remember what
13 happened? Is that what you just said?

14 A No. I said I was high and I just don't know why I
15 hit him with a hammer, actually. Man, that was 45 minutes
16 after, you know, I stabbed him.

17 Q So you took a hammer and hit a dead man two times
18 with a hammer, but because you're high, you're not really
19 sure whether you really hit him or not? Is that what you
20 just said?

21 A I was reaching right here. That's what your
22 evidence lady said, he didn't have a blow to the head, sir.
23 Just, I don't know...

24 Q You cleaned out the house without anybody else
25 knowing about it?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A I cleaned up the house alone, sir.

2 Q The blood that was found over by -- underneath the
3 window, three places of blood, how did those get there?

4 A When I -- in the altercation with me and Diblasi,
5 sir.

6 Q Where did that altercation happen?

7 A In that area around the chair in that corner of the
8 couch and stuff, sir.

9 Q That's the chair that you took out and burned?

10 A Yes, sir, I did burn that chair at a later time.

11 Q Both the knives, the one that you say Dave brought
12 that would have had his fingerprints on it -- and did you
13 get cut with that knife?

14 A Yes, sir.

15 Q So it would have had -- that knife would have had
16 his hand prints on it and your blood on it and you
17 destroyed that knife, correct?

18 A I don't remember what happened to the knife, sir.

19 Q The knife that you used to kill Dave, you threw
20 that knife away as well?

21 A Yes, sir, I don't remember where.

22 Q All this happened -- this attack happened on you
23 after Rick left the house, correct?

24 A Yes, sir.

25 Q Rick didn't know anything about it? Correct?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Not at that time, sir.

2 Q You didn't tell him -- you told -- I thought you
3 said you didn't tell anyone. Did you tell him later?

4 A I didn't tell him where I put him or what happened.

5 Q Did you tell anybody that you killed him? Did you
6 tell Rick that you killed him?

7 A Rick knew the next day that David was dead.

8 Q That's because you had to get rid of the truck,
9 correct?

10 A Yes, sir.

11 Q And the next day, I guess, or the day after, you're
12 getting rid of the truck, and at that time Dave's still
13 sitting in that storeroom?

14 A I didn't know what to do.

15 Q You didn't call the police, did you?

16 A No, sir.

17 Q You testified that you were worried about Shannon
18 getting in trouble and her getting caught. You could have
19 sent her away from the house and called the police, but you
20 didn't do that, correct?

21 A I mean, we didn't have any vehicle to send her away
22 from the house in.

23 Q You had Dave's truck, didn't you?

24 A Well, what would she look like leaving in Dave's
25 truck?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q You had a phone, you could call people and say come
2 pick up Shannon?

3 A I -- I just didn't want anybody to know, man. I
4 was high and upset. I was scared. I mean --

5 Q The answer is you didn't call the police, correct?

6 A No, sir.

7 Q When you're scrapping a car, that includes
8 separating the plastic and metal parts from each other and
9 recycling the metal parts, correct?

10 A Yes, sir.

11 Q That includes the engine?

12 A Yes, sir.

13 Q What about the air filter? Did you ever see the
14 money or drugs that were hidden in the air filter?

15 A No, sir. And if you do some mechanical research on
16 that model of pick-up truck, your friend that testified
17 that he seen people get rid of that style air filter, there
18 hasn't been that type air filter on those trucks since the
19 '80's. This was a late '90's pick-up truck that would have
20 an odd style air filter off to the side and some tube that
21 goes to the motor. Not a round one that connects with a
22 wing nut.

23 Q So he's a liar?

24 A From a mechanical knowledge of that truck, that is
25 a lie, yes, sir. That is a fact. You can text --- that

Worth Edward Cook - Cross-Examination by Mr. Graham

1 wasn't on that model vehicle, sir.

2 Q It's your testimony that you gave all the heroin to
3 Rick and had Rick sell it for you, correct?

4 A Yes, sir.

5 Q So you admit or deny that you had heroin that was
6 taken from Dave and attempted to sell to Kayla Mattoni and
7 Terry Goins.

8 A I did not ever have any heroin. It was taken from
9 Dave, sir. And I did not attempt to sell any heroin to
10 whatever her name is at that gas station she was talking
11 about. We were not friends. She was very upset and mad at
12 me because of Dave and the situation. So those people
13 are --

14 Q The credit card -- you had killed a man, you're
15 claiming it's in self-defense, you don't call the police,
16 you don't call an ambulance for your girlfriend who's
17 pregnant and kicked in the stomach and unconscious,
18 correct?

19 A No, sir.

20 Q Correct?

21 A Yes, sir.

22 Q And then, you rifle through his pockets? You go
23 through his car, correct?

24 A I had to go in his pockets to get the keys to his
25 truck and -- yes, I was going through his pockets. I took

Worth Edward Cook - Cross-Examination by Mr. Graham

1 his stuff out of his pockets, sir.

2 Q You took his wallet?

3 A Yes, sir.

4 Q You took anything he had in there. His money? How
5 much money did he have in there?

6 A \$20, sir.

7 Q How much more heroin did he have on him?

8 A None.

9 Q How about credit cards? You took those, didn't
10 you?

11 A They had been in his wallet, sir, so, yes.

12 Q And then you got rid of the wallet, correct?

13 A Yes, sir.

14 Q You got rid of his driver's license or anything
15 that could possibly identify him?

16 A Yes, sir.

17 Q You got rid of the car keys?

18 A Yes, sir.

19 Q You got rid of the truck?

20 A Yes, sir.

21 Q You got rid of the motorcycle?

22 A Yes, sir.

23 Q Where were his shoes? Why was he buried without
24 shoes?

25 A When I was removing him from the living room, his

Worth Edward Cook - Cross-Examination by Mr. Graham

1 shoes slipped off, sir.

2 Q So you just threw those away too?

3 A Yes, best I can remember, sir.

4 Q And then you buried him in a shallow, unmarked
5 grave in your backyard, correct?

6 A Yes. I didn't know what else to do. It was too
7 late now to call the cops. I'd already messed up starting
8 to cover up the situation. I was upset and high, man.

9 Q Well, let's talk about the things that you could
10 have done if your story is true. You could have called for
11 an ambulance, correct?

12 A Yes, sir.

13 Q You could have called for one for your girlfriend
14 and unborn baby who you were so worried about, correct?

15 A Yeah.

16 Q You could have called for an ambulance for Dave,
17 and you didn't do that either, did you?

18 A He was -- he was dead.

19 Q Well, you tried to make sure of that by using a
20 hammer on him twice, correct?

21 A Forensic evidence shows that I never made contact
22 with him with that hammer, sir.

23 Q You said you did.

24 A I thought I did. I was high. I swung the hammer
25 toward him.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q You were tweaking at the time?

2 A I was -- I was really high and afraid and panicked
3 and I just didn't know what to do.

4 Q You could have called the police at any time prior
5 to the police coming to you. You could have gotten Shannon
6 out of the house and called the police the next day;
7 couldn't you have done that?

8 A By the next day, I was cleaning up the scene
9 already, sir, and felt like it was too late. Once I got to
10 thinking about it, man, I cleaned up everything. I had a
11 family, so...

12 Q Because that story doesn't make sense to tell the
13 police, does it?

14 A (Witness shook head.)

15 Q I'm sorry, is that a no or --

16 A You're talking about what story?

17 Q After you -- kill somebody, clean up everything,
18 and call the police the next day, that story didn't make
19 sense, does it?

20 A No, sir.

21 Q But that's the story you want this jury to buy,
22 isn't it?

23 A That I didn't call the police? I didn't call the
24 police.

25 Q No, you want the story to be that you killed him in

Worth Edward Cook - Cross-Examination by Mr. Graham

1 self-defense and then you cleaned up, but you didn't call
2 the police. That's exactly what you're asking them to
3 believe today, correct?

4 A It wasn't like that, you know, in my mind when I
5 was thinking about cleaning up everything, sir. I was
6 just -- I didn't think -- my house -- I had drugs and meth
7 labs -- you know what I'm saying; and I don't know what I
8 was thinking, man. Can you even imagine the state of mind
9 of somebody in that situation like that and then being high
10 at the same time? Man, I don't know. I wasn't thinking
11 clearly, man. I'm sorry.

12 Q Let's talk about your contact with the police. So
13 from February 25th 2013, to April 3rd, 2013, the only
14 person you had told was Rick Barnes, correct?

15 A Not -- and not in detail, sir.

16 Q You didn't tell Rick in detail, correct?

17 A Yes, sir.

18 Q But you didn't tell anybody else at all, except for
19 Rick, correct?

20 A Yes, sir. Rick knew he was dead, nobody else.

21 Q You didn't talk to Shannon about it?

22 A Shannon -- I refused to discuss it with Shannon at
23 all, sir. You know, I just wanted to make it go away and
24 by the next morning, man, it was too late after I panicked
25 and cleaned up everything. I didn't know what to do.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q Well, let's go through your contact with the
2 police. April 3rd, 2013, at Doe Trail. You remember
3 Detective Novak and Detective Kemfort coming to speak with
4 you?

5 A Yes, sir, I do, sir.

6 Q You weren't under arrest when they talked to you at
7 the beginning, were you?

8 A No, sir.

9 Q During that original conversation, you didn't say
10 anything to them about self-defense, did you?

11 A No, sir.

12 Q That's not in that statement, is it?

13 A No, sir, it was just too late after I panicked and
14 cleaned everything up that -- I didn't know -- I thought
15 I -- I didn't know how it would work out. I don't know the
16 law. You're the one that told me the conversation one time
17 that it was the point after the fact that, you know, the
18 situation before; now, you point after the fact did not
19 count. You told me that one time in conversation. I
20 didn't -- I didn't know that day -- I was -- you know, what
21 am I supposed to do? I done screwed up while I was
22 panicking and I done covered up the situation now. You
23 know...

24 Q My question is very simple, so you --

25 A I'm, I'm -- I'm sorry, I'm rambling on and I didn't

Worth Edward Cook - Cross-Examination by Mr. Graham

1 notice any question, sir.

2 Q State's Number 1, the written statement that you
3 gave, there's nothing in there about you killing David
4 Diblasi in self-defense?

5 A There's nothing in the statement about me killing
6 David Diblasi, no, sir.

7 Q So anything in that statement that talks about
8 David leaving and going anywhere else, that's the lie?

9 A Talking about Dave leaving and not coming back and
10 stuff like that, yeah, it would be a lie, sir.

11 Q You've also got in there when he loaded his bike in
12 his truck and he invited us to meet his mom. He was proud
13 of her age?

14 A Yeah, we did meet his mother, sir, while we were at
15 his house. We were there for several minutes. We went in
16 his room and come back out and his mother happened to be in
17 the kitchen when we were leaving, sir.

18 Q And you got down in there that he left all happy
19 because he was going to Orangeburg to meet some chick to
20 make money to pay a fine he had back up north and to re up
21 and double up what he had in drugs, correct?

22 A That -- not all those points are the same. Those
23 are all little things that had come up in conversations.
24 That girl was earlier at the hotel, not Orangeburg. I just
25 assumed she was the one he was going to see.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q And you told the police in this written statement,
2 State's Exhibit Number 1, yes or no, he left all happy
3 because he was going towards Orangeburg to meet some
4 chick --

5 A That's --

6 Q -- to make a lot of money to pay some fine he had
7 back up north and re up -- double up what he had in drugs.
8 Isn't that what you wrote?

9 A That is exactly what I wrote, sir.

10 Q And you didn't say anything about a credit card,
11 did you?

12 A No, sir.

13 Q Now, you got arrested on unrelated charges and you
14 got taken to the sheriff's department and you were re
15 interviewed again, right?

16 A Yes, sir.

17 Q This time, they read you your rights. Looking at
18 State's Exhibit Number 2 in evidence, you recognize that?
19 Yes, sir, I do.

20 Q You understood your rights, didn't you?

21 A Yes, sir. Yes, sir.

22 Q You understood that you had the right to remain
23 silent, you had the right to an attorney, if you couldn't
24 afford one, one would be appointed to you. You had the
25 right to talk to an attorney and get advice before

Worth Edward Cook - Cross-Examination by Mr. Graham

1 questioning. If you don't have money, we'll get one for
2 you, you can stop talking at any time. You understand all
3 those rights, correct?

4 A Yes, sir.

5 Q You didn't invoke your right to remain silent, did
6 you?

7 A No, sir.

8 Q You didn't invoke your right to an attorney?

9 A No, sir, not on that day, sir.

10 Q So what you did was lie again, correct?

11 A Yes, sir. I was informed that if I -- the fact
12 that I used the credit cards, the last person seen with
13 David, that I could be brought up on some kind of charge
14 and prosecuted and I was just trying to cooperate and avoid
15 being in trouble.

16 Q Well, cooperate, you used a dead man's credit card
17 and you knew it, correct?

18 A I used the card. I really didn't know it was a
19 credit card. I thought it was a prepaid bank card, but,
20 yes, sir, yes, sir, I did.

21 Q You used a dead man's prepaid card?

22 A I used his cards, sir. Yes, I did.

23 Q And your idea of cooperating is to say what? That
24 David drove off and he gave you permission or he still owed
25 you money? That's your idea of cooperation?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A It was -- I was just trying to tell them something
2 that would, you know, satisfy them at this moment, sir.

3 Q Just like you're trying to tell the jury something
4 today that would satisfy you for the charge of murder,
5 correct?

6 A No, sir. We wouldn't be in here, sir, if you
7 hadn't told me at one point that --

8 MR. GRAHAM: Your Honor, could we give him an
9 instruction to not talk about that? He's not being
10 responsive to the questioning.

11 THE COURT: Yes, sir, Mr. Cook, listen to the
12 solicitor for a question and try to be -- and be
13 responsive. If you don't understand a question, tell him
14 you don't understand the question.

15 THE WITNESS: Okay. I feel like there's some more
16 I need to elaborate or not, so can I ask you at what point
17 I'm supposed to stop or something.

18 THE COURT: You can certainly answer the question
19 and you can explain your answers. However, the
20 explanation -- your answer and the explanation that you
21 give has to be responsive to his questions.

22 THE WITNESS: Okay.

23 THE COURT: If you -- if any time you think it may
24 not be responsive, you let me know, I'll send the jury out
25 and I'll address that. Okay?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 THE WITNESS: I guess I understand, sir.

2 THE COURT: You understand?

3 THE WITNESS: Yes, sir, I sure do.

4 THE COURT: Thank you.

5 THE WITNESS: Thank you, sir.

6 THE COURT: All right. Solicitor, you may ask your
7 next question.

8 MR. GRAHAM: Thank you, Your Honor.

9 BY MR. GRAHAM:

10 Q Mr. Cook, if I understand you correctly, when the
11 police confronted you with you using David Diblasi's
12 prepaid card, you lied to tell them something so that you
13 wouldn't get in trouble, correct?

14 A Yeah.

15 Q There's nothing in this statement -- any written
16 statement on 4/3, either at Doe Trail or at the sheriff's
17 department that talks about David Diblasi busting in your
18 house, is there?

19 A No, sir.

20 Q There's nothing about him attacking you; is there?

21 A No, sir.

22 Q You were specifically asked, where is David now and
23 your answer is, I don't know. That was a lie, correct?

24 A Yes, sir.

25 Q You were specifically asked is there anything that

Worth Edward Cook - Cross-Examination by Mr. Graham

1 you would like to add that we didn't ask and you answered
2 no, correct?

3 A Yes, sir.

4 Q And that's not true, is it?

5 A There was nothing I wanted to add, sir.

6 Q Because you didn't want to tell them the truth,
7 that's right? Isn't that correct?

8 A I walked into that, yeah.

9 Q April 4th, 2013, that's the first time you met
10 Detective Gooding and Detective Longshore. You're in
11 custody at the sheriff's department, correct?

12 A Yes, sir.

13 Q They came and they advised you of you are rights on
14 State's Exhibit 4. And this is where you're saying there
15 were two advisement of rights, correct?

16 A Yes, sir.

17 Q All right. You do recognize State's Exhibit 4?

18 A Yes.

19 Q So when they came in, they didn't have this form
20 under your testimony, they had another form, correct.

21 A It's just like that one, though, sir, yes.

22 Q They advise you of your rights and you waived those
23 rights again, saying you understand your rights, correct?

24 A Yes, sir.

25 Q And you spoke to them, correct?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Yes, sir. Well, yes -- just -- yes, sir.

2 Q And this is where you reiterated again that Dave
3 had driven away from your home on his own with his truck
4 and his motorcycle.

5 A That is correct.

6 Q That is what you told them, right?

7 A Yes, sir.

8 Q You said I didn't have anything to do with his
9 disappearance. That's what you told them, correct?

10 A Yes, sir.

11 Q And you lied then because you were trying to stay
12 out of trouble, correct?

13 A Yeah. Yes, sir. Yes, sir.

14 Q They also confronted you with what they said was a
15 bag found in your house that had blood on it. That really
16 wasn't a surprise to you, was it?

17 A I didn't know it was still in the house, sir.

18 Q Because you thought you had cleaned it all up?

19 A Yes, sir.

20 Q So you thought maybe they were lying to get you to
21 do what?

22 A I -- I guess give them more information than what
23 I'd given, sir.

24 Q They wanted you to say what happened to Dave
25 Diblasi, right?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Yes, sir.

2 Q And you knew, but you didn't tell them?

3 A No, sir, at that point, I requested a lawyer.

4 Q That's your testimony that you requested a lawyer,
5 correct?

6 A That's when it was.

7 Q And who was in the room when you requested a
8 lawyer?

9 A Gooding, sir.

10 Q Anybody else?

11 A No, sir.

12 Q So you requested a lawyer and after your
13 testimony -- Detective Gooding took the advise of rights
14 form that we do not have, crossed it out, wrote asked for
15 an attorney and that's when he threatened you?

16 A Yes, sir.

17 Q And his threat was what?

18 A That I needed to -- I asked that I wanted to see an
19 attorney and not cooperate because he would have to go lock
20 up -- go lock Shannon up and then take our baby away from
21 us.

22 Q Okay. And based on that threat you did what?

23 A Cooperated, sir. If you look on the form, you
24 don't see nobody else's signature but Gooding because he
25 was the only one in the room.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q So that day on April 4th, you're saying Detective
2 Gooding crossed out the first one, threatened you and did
3 this other form, right?

4 A Yes, sir.

5 Q And then after that, after this other form, you
6 told him the story that you're telling today because he
7 threatened Shannon, he threatened to take your baby, and
8 you had to cooperate?

9 A No, sir, but shortly after that Longshore came in
10 the room and they went out in the hallway and talked and
11 they come back in and decided they was going to restart the
12 interrogation the next day, sir.

13 Q But you were so worried about them arresting
14 Shannon and taking your baby away, didn't you say stop, I
15 need to tell you what happened? You didn't do that, did
16 you?

17 A No, sir, I said in interrogation and I was going
18 along with whatever they wanted, sir.

19 Q What they wanted was to know what happened to David
20 Diblasi, right?

21 A At that point, they wanted to end the
22 interrogation.

23 Q So after they threatened you, you continued to lie,
24 correct?

25 A We didn't have much of a conversation after that,

Worth Edward Cook - Cross-Examination by Mr. Graham

1 no.

2 Q Well, you came back the next day and you didn't
3 tell the truth then either, did you?

4 A No, sir.

5 Q So after you got threatened, which is your reason
6 to keep talking with them, you still told lies, correct?

7 A Yes, sir.

8 Q And you reported Detective Gooding to somebody for
9 violating your constitutional rights? Who did you report
10 him to?

11 A It never come up until a later conversation, sir,
12 between us --

13 THE WITNESS: Can I say that.

14 THE COURT: Yes, sir, if it's responsive to his
15 question, you may answer the question, Mr. Cook.

16 THE WITNESS: Yes, sir, it never come up with any
17 law enforcement until it come up in a conversation in a
18 meeting with you, sir.

19 BY MR. GRAHAM:

20 Q I didn't ask you if it ever came up, I asked you if
21 you ever reported it to anybody?

22 A That's reporting it to you, sir.

23 Q Okay. So it's your testimony you reported it to
24 me?

25 A And -- it come up in conversation with all of us

Worth Edward Cook - Cross-Examination by Mr. Graham

1 there, sir.

2 Q Sargent Lint, the man I have got my hand on sitting
3 at the table?

4 A He was sitting across the table with me, sir. He
5 never had a response to this --

6 Q Let me ask you a question first. In the presence
7 of myself, him, your attorney, Ms. Henry and also
8 Investigator Trisha Reese, it's your testimony that you
9 informed us that Sargent Gooding violated your
10 constitutional rights and you invoked an attorney. Is that
11 your testimony? Yes or no?

12 A My testimony is that I said that I was requesting
13 an attorney and was threatened with Shannon being locked
14 up. I didn't say his name because I did not remember
15 exactly which detective it was at that time. I had -- the
16 reason I know his name now is from reviewing paperwork from
17 who I talked to on that day, sir, and seeing him in court.

18 Q It's your testimony that you told Sargent Lint,
19 myself, Sally Henry, and Trisha Reese who is an
20 investigator for the public defender's office, that an
21 investigator with the sheriff's department violated your
22 constitutional rights when you invoked your right to an
23 attorney, correct?

24 A It did come out while y'all were meeting, sir.

25 Q And you also told all those people present in that

Worth Edward Cook - Cross-Examination by Mr. Graham

1 room that day that you had been threatened by an
2 investigator to have Shannon locked up and to have your
3 baby taken away?

4 A I'm pretty sure that come out in conversation. I
5 know I said that I requested a lawyer and was getting into
6 that. I was motioned with a finger to shh, shh because
7 y'all were arguing.

8 Q And it's your testimony that I told you that you
9 should report it?

10 A No, it's my testimony that you told me that you
11 couldn't hear what I said because I was talking too much,
12 sir.

13 Q I thought you testified earlier that that was the
14 first time that I told you to report it to law enforcement?

15 A That -- you didn't tell me to report it to law
16 enforcement. It come up in conversation because Trisha had
17 brought over a form from the 4th, sir.

18 Q So it's your testimony after talking to me, you
19 knew you should report that, correct?

20 A You didn't say nothing about reporting it. I was
21 told to be quiet because I was talking too much and you
22 could not hear my attorney.

23 MS. HENRY: Excuse me, Your Honor.

24 THE COURT: Yes, ma'am?

25 MS. HENRY: I think we have a matter of law that

1 needs to be taken up.

2 THE COURT: All right. Mr. Foreman, ladies and
3 gentlemen, please step out, do not discuss the case during
4 this brief recess.

5 (The jury left the courtroom at 12:42 p.m.)

6 THE COURT: All right. Yes, ma'am, Ms. Henry or
7 Ms. Fullwood?

8 MS. FULLWOOD: If I may, Your Honor?

9 THE COURT: Yes, ma'am.

10 MS. FULLWOOD: I understand that Mr. Graham's
11 entitled to cross-examine Mr. Cook fully and, you know, the
12 way he's got it outlined, but I'm concerned that we are
13 getting into it to the extent that it's being pitted that
14 not only Mr. Lint and Mr. Graham are witnesses against him,
15 but now, at least one of his counsel and a previous
16 investigator with the counsel's office are witnesses
17 against him. We -- the cross-examination is basically sort
18 of getting to the point where it's pitting Mr. Graham
19 himself as counsel against himself by implication pitting
20 one of his counsel against Mr. Cook as his witness.

21 I would ask the Court to, in some way, limit
22 Mr. Graham's exploration of this area.

23 THE COURT: All right. Solicitor?

24 MR. GRAHAM: I'll do whatever you want me to do,
25 Judge. I'm about done with that and ready to move on.

1 THE COURT: What do you want me to do Ms. Fullwood?

2 MS. FULLWOOD: Well...

3 THE COURT: What are you asking me to do? It's
4 come out before the jury on direct examination concerning,
5 dealing with another statement given April 16th of '15, in
6 which Sargent Lint, Solicitor Graham, Ms. Henry, Ms. Reese
7 and the defendant were present.

8 I -- I agree, Solicitor since I -- I was looking at
9 the rule. Actually the rules say a judge can't be a
10 witness nor a juror, but it doesn't say anything about an
11 attorney that's either prosecuting or defending the case.
12 However, I do not think you can put your credibility at
13 issue or the credibility of Ms. Henry or Ms. Fullwood, so
14 perhaps limit your questioning to the presence of Sargent
15 Lint and others.

16 Do you want me to give any type of instruction?
17 Either Solicitor or Ms. Fullwood or Ms. Henry? Or just
18 limit it in that regard and as the solicitor said, move on?

19 Of course, I tell jurors and I've already told
20 them, y'all are not the witnesses. It's the responses --

21 MS. FULLWOOD: Questions.

22 THE COURT: -- by the witnesses that's the
23 evidence, not the questioning by the attorneys.

24 MS. FULLWOOD: I'm not sure that we really want to
25 highlight this at this time.

1 THE COURT: All right.

2 MS. FULLWOOD: And I would hope -- I think we've
3 kind of nipped it at this point and maybe if it doesn't
4 continue in this vein, we'll be okay.

5 THE COURT: All right. With that being said, I'm
6 going to instruct Mr. Cook not to bring it up that it was a
7 meeting in which the solicitor and his attorney was
8 present.

9 THE WITNESS: Does that mean not to refer to it at
10 all?

11 THE COURT: Wait just a minute.

12 THE WITNESS: I'm sorry.

13 THE COURT: That's all right.

14 That he can refer to another time, but it's just in
15 the presence of Sargent Lint. He brings it up initially in
16 his responses during cross-examination.

17 MS. FULLWOOD: Yes, sir. Yes, sir.

18 THE COURT: So if the solicitor -- he's putting the
19 solicitor's credibility into evidence, so to speak by his
20 nonresponsive answers.

21 MS. FULLWOOD: Well, that is also a problem.

22 THE COURT: Yes, ma'am.

23 MS. FULLWOOD: But...

24 THE COURT: Well, it's cross-examination.

25 MS. FULLWOOD: I understand that. I understand

1 that. It would be best if we, I think the point's been
2 made about that day and I think everybody needs to stay
3 away from that. Because, you know, if it gets to the point
4 where -- if it gets to the point where Ms. Henry has to be
5 a witness, that's going to be a big problem.

6 THE COURT: Solicitor?

7 MR. GRAHAM: Judge, the only reason I went into it
8 is because he did.

9 THE COURT: I understand.

10 MR. GRAHAM: And I have no intention of going back
11 into it again.

12 THE COURT: You do.

13 MR. GRAHAM: I do not.

14 THE COURT: Well, let's move on. All right?

15 MS. FULLWOOD: We're not going to talk about that
16 anymore.

17 MR. GRAHAM: Okay.

18 THE COURT: And if you think it gets to a point
19 that you should ask the question -- you understand that
20 Mr. Cook?

21 THE WITNESS: Yes, sir, I understand that I
22 shouldn't talk about that anymore?

23 THE COURT: That's right. And if any time you
24 think you need to talk about that to be responsive to the
25 solicitor's question. You let me know, I'll send the jury

1 out and I'll address that.

2 THE WITNESS: Yes, sir.

3 MR. GRAHAM: Just to be clear, I do plan on going
4 into that interview and I'm just going to talk about
5 Sargent Lint being there. So I don't plan on me being
6 there. He had another opportunity to talk with the police.
7 He talked with Sargent Lint and he did or didn't tell
8 Sargent Lint certain things.

9 I will not bring my presence --

10 THE COURT: All right.

11 MR. GRAHAM: I don't know what do to about
12 Ms. Henry. I think I do need to mention that she was
13 there, or at least Trisha Reese, somebody, because
14 otherwise it looks like he's interrogating somebody who has
15 an attorney. I'm not quite sure how to do that.

16 THE COURT: Ms. Fullwood?

17 MS. FULLWOOD: The thing that I would suggest is
18 someone with the 11 Circuit Defender's Office.

19 THE COURT: Or an attorney present? He had his
20 attorney present? And then with no name.

21 MS. FULLWOOD: Well, that will work too.

22 THE COURT: What about that, Solicitor?

23 MR. GRAHAM: Perfectly fine, Your Honor.

24 THE COURT: Because he's been given his right to an
25 attorney.

1 All right. How much longer you going to be,
2 Solicitor? And I'm not rushing at all, I just ask the
3 questions, sometimes.

4 MR. GRAHAM: I was planning on going through the
5 rest of the statements and then being done. I don't know,
6 30 minutes maybe, Your Honor? 20 minutes.

7 THE COURT: No, no, I'm not limiting you. Let's
8 take about a 10 minute recess at this point.

9 Sheriff, I want Mr. Cook in the custody of the
10 sheriff's department, he's not to talk with anyone
11 including his attorney or any third party.

12 THE OFFICER: Yes, sir.

13 THE COURT: You may step down Mr. Cook.

14 THE WITNESS: Yes, sir.

15 THE COURT: We'll take 10 minutes and We'll get the
16 jury back.

17 (A brief recess was observed.)

18 THE COURT: Anything before we bring in our jury,
19 Solicitor?

20 MR. GRAHAM: No, sir, Your Honor.

21 THE COURT: Ms. Fullwood? Ms. Henry?

22 MS. FULLWOOD: No, Your Honor.

23 THE COURT: All right. Thank you.

24 Mr. Cook, you may better serve yourself also, when
25 you get too up close to the mic, it distorts your voice a

1 little bit. You've got to get close enough where they can
2 hear you, but not so close to where it gets that background
3 noise in there. All right?

4 THE WITNESS: Yes, sir.

5 THE COURT: This is your time on the witness stand.
6 You understand?

7 THE WITNESS: Thank you for the advice, sir.

8 THE COURT: Yes, sir. You're welcome.

9 (The jury entered the courtroom at 12:56 p.m.)

10 THE COURT: All right. Our jury is back in place.

11 Mr. Foreman, ladies and gentlemen, thank you very
12 much for your patience with the Court. As you know,
13 sometimes I have matters to take up and it's a lot of
14 moving parts sometime to try to keep up with and it just
15 takes a certain amount of time to get it done. I would
16 like to finish with Mr. Cook's testimony before we take our
17 luncheon recess. Anyone has any objections to that, please
18 let me know.

19 All right. No hands raised. I hear no voices,
20 except my own.

21 So with that being said, Solicitor, you may
22 continue.

23 MR. GRAHAM: Thank you, Your Honor.

24 THE COURT: Again, thank you very much, ladies and
25 gentlemen of the jury.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 BY MR. GRAHAM:

2 Q Let's move onto April 5th, 2013. Detective Gooding
3 and Detective Longshore came back and spoke with you again,
4 correct?

5 A Yes, sir.

6 Q And they advised you of your rights again and
7 that's on State's Exhibit 23. That's your signature
8 acknowledging your rights, correct?

9 A Yes, sir.

10 THE COURT: Make sure you speak up now.

11 THE WITNESS: Yes, sir. Yes, sir.

12 BY MR. GRAHAM:

13 Q And you understood your rights, correct?

14 A Yes, sir.

15 Q And you waived those rights and you spoke to them,
16 correct?

17 A Yes, sir. To comply with the day before
18 conversation and threats, sir.

19 Q So you didn't really -- your testimony is that you
20 didn't really waive your rights because you had already
21 invoked your rights and Mr. -- Detective Gooding threatened
22 you, correct?

23 A Yes, sir, I felt the waiver of rights at that point
24 would have been noncompliance to the threat, sir.

25 Q So you had to cooperate to stop Shannon from being

Worth Edward Cook - Cross-Examination by Mr. Graham

1 locked up and your baby taken, correct?

2 A That's the way I felt, sir.

3 Q But you didn't cooperate so much that you told them
4 the story that you're testifying to today, correct?

5 A No, sir.

6 Q I'm sorry?

7 A No, sir, sir.

8 Q And this statement, both orally and in writing,
9 this is where you go and try to frame an innocent man,
10 correct?

11 A Yes, sir.

12 Q A man who helped you out when you were down,
13 correct?

14 A He did, sir, but he also had -- I had also been
15 informed at that time that he'd told the detectives some
16 information they told me.

17 Q Well, what --

18 A I was mad at him, you know.

19 Q You were mad at him because why? What did he do?

20 A Talked to the cops.

21 Q What did he tell them? Or do you know? What do
22 you think he told them?

23 A He's -- from what I understand he's the one that
24 sent them to my house.

25 Q And so the fact that he told the police to go to

Worth Edward Cook - Cross-Examination by Mr. Graham

1 your house, you thought that was enough reason to frame an
2 innocent man for murder, correct?

3 A I'm not going to say that's my whole reason, sir.
4 I wasn't thinking really clearly. I had for several days
5 before being arrested to, sir.

6 Q So you'd been high for several days before being
7 arrested. So let's back up. So you didn't only use -- how
8 long have you been using drugs? Before you gave the
9 statements on the 3rd, 4th, 5th, 6th.

10 A Talking about the time I'd been doing drugs in a
11 run or as far as when I started doing drugs.

12 A Well, I guess we need to back up for a second.
13 When you first talked to Detective Novak and Detective
14 Kemfort, were you high then.

15 A Yes, sir.

16 Q Okay. You were high at the sheriff's department
17 later that day?

18 A Yes, sir.

19 Q Did you tell -- when you were booked in, they asked
20 you if you used drugs that were nonprescription and you
21 told them no, didn't you?

22 A Yes, sir.

23 Q So you lied then?

24 A Yes, sir.

25 Q So you lied to protect yourself, correct?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Just that particular lie, I'm just saying I didn't
2 do drugs it's just that I don't know, it's not something to
3 be proud about, sir, that you go around telling people that
4 don't do drugs, you know. It's usually something you only
5 share with other drug addicts.

6 Q So your reason for blaming Rick Barnes and telling
7 the police that he's the one that killed Dave was because
8 you were mad at him and you were still high and not
9 thinking clearly, correct?

10 A Afraid of prosecution, sir, yes, sir.

11 Q Because this one -- the attack is different the way
12 you described it, right?

13 A I don't know what you're referring to exactly, sir
14 to answer that question.

15 Q Well, in this one you talk about there being -- you
16 say Dave and it doesn't say anything about busting in the
17 door. Dave comes in the house and he accuses -- I guess --
18 is it both you and Rick of stealing the dope? It's not
19 about a phone in this one, it's about stealing dope, right?

20 A I -- this would have been, we had been called in --
21 me and the officers and you know, when I said this
22 statement and why he was upset, they centered on the phone
23 and this's what ended up getting wrote in the statement,
24 sir. That's compliance with them, sir.

25 Q All right. So it's your testimony that they told

Worth Edward Cook - Cross-Examination by Mr. Graham

1 you what to say?

2 A Sir, they were going over areas prior that I wrote
3 and talking about what they agreed with and didn't agree
4 with.

5 Q So is it your testimony that they told you to say
6 that he came in and was upset about you all stealing his
7 dope; yes or no?

8 A No, sir, that's not what I'm saying, sir, it's --
9 when they was talking about why he would have come in the
10 house mad, that centered on the dope and kept talking about
11 the dope and it just led to it being the one thing I
12 listened to, sir.

13 Q Nothing in there about a phone, correct?

14 A No, sir.

15 Q And it talks about you and Dave getting in a fight
16 and you cutting him and that Dave was hurting, correct?

17 A Yes, sir, I had to talk about us getting in a fight
18 because I had to explain the blood in the house, sir.

19 Q But you didn't think at that time to go in and tell
20 the whole story because you were still trying to stay out
21 of trouble, correct?

22 A I couldn't think of a way to tell the story without
23 saying Shannon was there, sir.

24 Q And so this lie ends with you blaming Rick Barnes
25 for killing David Diblasi, correct?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Yes, sir, I believe, sir. That was the statement
2 on the 5th, right, sir?

3 Q Yes, sir.

4 A That's -- only that's the last thing that was said,
5 if you could hand me a copy of it I believe I can go over
6 it a little better.

7 THE BAILIFF: Don't speak too close to the
8 microphone, it gets muffled over there.

9 THE WITNESS: I apologize, y'all, I apologize.

10 In this interview, up until page 9, at the end of
11 this, I was blaming Rick. At some point in time, they put
12 Rick in the interrogation room right beside me where I
13 could hear Rick. It was after they removed Rick from being
14 in there for several minutes that I start to write on page
15 10.

16 BY MR. GRAHAM:

17 Q Would you read what's on page 10, please.

18 A It says --

19 Q Starting at the top of the page?

20 A It does -- I did write when me and Dave was
21 fighting over the heroin that was missing, he came at me
22 with a knife and we were still fighting. At some point he
23 got cut and said he wanted to stop and the way he backed
24 off, he just kept on trying to cut me. He would stop and
25 then -- he would stop and then start over and over and over

Worth Edward Cook - Cross-Examination by Mr. Graham

1 again.

2 Q You would agree with me that even that which you
3 wrote -- for one it starts about heroin and not the phone,
4 correct?

5 A I'm still going with the heroin thing since that
6 was what the officers were centered on, sir.

7 Q Telling people what they want to hear to try to
8 stay out of trouble, correct?

9 A Telling people what they want to here to be in
10 compliance with the agreement I had, sir.

11 Q Even in this description that you just read, it has
12 Dave coming at you over and over again and it's starting
13 and stopping. That's what you wrote, right? It stopped
14 over and -- started and stopped over and over again,
15 correct?

16 A I stopped writing this, sir because it wasn't what
17 was happening and it wasn't coming together and I was
18 trying to tell how he attacked me, but I just couldn't
19 figure out a way to do it without telling about it being
20 with Shannon there, sir. And that's when I laid down my
21 head at this point. I'm tired because I'm still coming off
22 lots of, you know, meth, and they -- I told them I wanted
23 to sleep.

24 And that's when they got aggravated. I was
25 speaking with two other detectives the next day. And

Worth Edward Cook - Cross-Examination by Mr. Graham

1 that's when I wrote the part about sorry for being
2 untruthful, you know, so they would -- I would still be in
3 compliance with the agreement that me and Mr. Gooding had
4 and asked to see those two tomorrow and I would tell them
5 what they wanted.

6 Q So they're still threatening you or you're still
7 operating under that threat, but you're still lying,
8 correct?

9 A At this point, I want to tell about everything and
10 I just -- I just don't know how to do it without
11 causing more trouble. It's not Shannon's fault I covered
12 up this mess.

13 Q Okay. So at the point on the end of that
14 statement, you said you were sorry for not being truthful
15 and you're telling the Court and the jury -- I'm sorry,
16 you're telling the jury that you're ready to tell the
17 story, correct?

18 A At this point in this letter?

19 Q Correct.

20 A That that -- I mean that's what I was planning on
21 doing, I guess, you know.

22 Q Well, read that last part out loud again for me,
23 please.

24 A It says I'm sorry for not telling the truth in all
25 things in my statements and realize it's late and just wish

Worth Edward Cook - Cross-Examination by Mr. Graham

1 to start over again tomorrow with the two detectives I
2 talked to today and it doesn't say that I was going to tell
3 the truth in the morning. It's not there.

4 Q But you said that just now, correct? That it was
5 your plan to tell them the truth the next day?

6 A Well, I was thinking about it, sir.

7 Q Let's move onto the next day, April 6, 2013,
8 Detective Gooding and Longshore came back and saw you
9 again. State's Number 25. Do you recognize that as being
10 another Advisement of Rights Form for April 6th?

11 A Yes, sir.

12 Q And that's your signature and your initials saying
13 you understood your rights, correct?

14 A Yes, sir.

15 Q Are you still high now?

16 A No, sir. I'm really tired. I'm not sleeping well
17 and coming off the drugs, sir, takes three or four days to
18 get to that point after you've been doing without.

19 Q But you --

20 A You're not thinking clearly and fogged up you get
21 really tired, sir.

22 Q But you waived your rights and decided to speak to
23 them again, correct?

24 A Yes, sir.

25 Q Let me show you State's Number 26. This is a

Worth Edward Cook - Cross-Examination by Mr. Graham

1 statement that you wrote on April 6 of 2013, correct?

2 A Yes, sir.

3 Q And this time, you were going to tell the truth?

4 A No, sir.

5 Q So you lied again in this one?

6 A Yes, sir.

7 Q In this one, again, you talk about Dave coming in
8 and mad that his heroin was gone, correct?

9 A Yes, sir. I was still going on -- going on that
10 was apparently what they wanted to hear since they centered
11 on that when I told them that.

12 Q It says I heard him as he made his way into the
13 door. It doesn't say anything about busting the door or
14 breaking in, does it?

15 A Not directly, sir, but I mean that's what I was
16 kind of implying.

17 Q He came in, had a knife in his hand. He kept
18 trying to fight me so we ended up fighting. He got cut
19 fairly good but wouldn't stop at first. Isn't that --
20 that's what you said, right?

21 A Yes, sir.

22 Q Then he said he wanted to stop. So that's
23 different than what you've testified to today. And today
24 you're saying it all happened at one time, correct?

25 A And -- and -- yes, sir, and I can explain this,

Worth Edward Cook - Cross-Examination by Mr. Graham

1 sir.

2 Q Sure, explain why you lied in this statement?

3 A The detectives informed me that through the autopsy
4 that they would know exactly the hour, within the hour, of
5 the time David Diblasi died.

6 Q So then --

7 A So I couldn't tell them that he died before Shannon
8 got home because it also said that they had phone records
9 that proved everybody's whereabouts. But I couldn't say
10 that Shannon would not have heard anything if I said I
11 hadn't got in a fight in the house. How could I explain
12 that. So I was -- made it out that the fight happened
13 before Shannon got home, that I had cleaned up the mess
14 before Shannon got there and that David was already at the
15 back of the house.

16 And then he comes -- you know, Shannon comes home,
17 she goes in her room. And then I come to the point that,
18 you know, they know he's dead now and they're implying that
19 they're going to know exactly what hour and I don't want
20 them to know Shannon was there because I don't want her to
21 get in trouble because I covered this up. Because it was
22 not her fault that I covered this up. So then I had to
23 come up with a story to imply why he would have died at
24 that hour and not when we were fighting, sir.

25 Q Did they tell you what hour David Diblasi died?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A No, they said as soon as the autopsy was completed
2 that they would know exactly what hour he died. They had
3 pictures of him and stuff as well, sir.

4 Q That's when you talk about, page 2, he came at you
5 with a knife and it talks about you hitting -- hitting him
6 with the hammer in the head with the flat side of the
7 hammer. That would have been before you stabbed him,
8 correct?

9 A Yes, sir. I said that they was going to know every
10 wound that was on his body and I didn't know how to explain
11 the state of mind that I was in when I hit him -- or swung
12 the hammer at him. Apparently through the autopsy reports
13 it didn't contact with his head, but at that time, I was
14 under the impression that I did and I had to explain that
15 wound and didn't know how to explain it for something that
16 would have happened after the fight, sir.

17 Q The knife that you have Dave attacking you with is
18 the double-bladed knife that he ended up being killed with,
19 correct? The bottom of page one: He tried again to get at
20 me with the knife. The knife had a double blade on it that
21 had a center-mount handle. So in this story to the police
22 on 4/6/2013, you're saying Dave attacked you with a
23 double-bladed knife with a center mount handle, correct?

24 A Yes, sir, that would have been the knife that would
25 have inflicted the wounds, sir. It would have been kind of

Worth Edward Cook - Cross-Examination by Mr. Graham

1 hard to explain how that went from his knife to my knife
2 and leave Shannon out of the deal in the story, sir.

3 Q So you couldn't even put another knife in Dave's
4 hand in this story, you had to have murder weapon knife,
5 correct?

6 A That's just what come to my mind as the best thing
7 to say, sir, in the State of mind I was in.

8 Q Well, you said you weren't high anymore?

9 A I was coming off though and very tired, sir.
10 You're brain is fogged up, you don't think very clearly.

11 Q Your story this time is that he came at you with
12 that knife, you hit him in the head with a hammer twice and
13 he fell and as he fell one of the blades was stuck in his
14 neck, correct?

15 A Yes, sir. I had to explain how the blade bulged
16 out of his neck because they were telling me that they knew
17 the stab wound to the eye would have been what killed him,
18 so I had to make sure that when I was stabbing him that the
19 eye wound would have been the last wound inflicted later on
20 if I was going with the story where Shannon wasn't there,
21 sir. It would have had -- that's what they were
22 representing to me.

23 Q So your biggest concern was to not have Shannon
24 involved, right? Correct?

25 A Yes, sir.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q So couldn't you have told the police this entire
2 story and said that Shannon was asleep and didn't hear it?
3 Wouldn't that have solved everything?

4 A Do you think that somebody could sleep in a trailer
5 that small and not hear two grown men fighting and
6 screaming at each other, sir. I don't believe that would
7 have been the answer they would have bought either.

8 Q You could have told the police that though,
9 couldn't you.

10 A It didn't come to mind and I don't think it would
11 have worked. This apparently did because they left me
12 alone afterwards.

13 Q Well, this one ends -- this story's got Dave coming
14 in and attacking you, you hit him with a hammer, dragging
15 him into the storage room and then page 3 it says all of a
16 sudden, so he's unconscious and breathing and Shannon comes
17 in and Rick comes in, correct?

18 A Yes, sir.

19 Q This story has got everybody's gone, Dave sits
20 up -- all of a sudden, he kind of sits up thrashing around
21 and making a lot of noise, correct?

22 A Yes, sir. At this point, I'm trying to explain why
23 I would have killed him at a later time. It's just the
24 only thing I could come up with. You know, and there
25 contending that I was intending to kill this man and I just

Worth Edward Cook - Cross-Examination by Mr. Graham

1 didn't know what to say, but I was trying to make any story
2 come along with to line up with the time of death, sir.

3 Q And you said, I pulled the knife out of his neck
4 and stabbed him a few more times. He quit moving. By that
5 point I knew he was hurt too bad, way too bad. That's not
6 true from what your testimony is today, right?

7 A No, sir.

8 Q Something just kept telling me that I couldn't let
9 him suffer anymore and that it wasn't right for him to be
10 in that kind of pain so I stabbed him in the eye.

11 Q And you're saying that's not the way it happened?

12 A It's not the way it happened, sir. I said it like
13 that because I mean, I didn't know how to word it, you
14 know, because -- and then the situation, I didn't want to
15 kill the man, you know. How am I supposed to feel about
16 that, man?

17 Q Let me show you another exhibit and ask if you
18 recognize this. This is State's Number 5 for
19 identification.

20 A Yes, sir.

21 Q Do you remember that?

22 A Yes, sir, I do, sir.

23 Q And that's your handwriting, isn't it?

24 A Yes, sir.

25 Q The date on that is May 29th, 2013, correct?

Worth Edward Cook - Cross-Examination by Mr. Graham

1 A Yes, sir.

2 Q So the last time you talked to the police was
3 4/6/2013, and this is a month and 2 plus weeks later,
4 correct?

5 A Yes, sir.

6 Q They didn't come to you, you contacted them, right?

7 A I did, sir.

8 MR. GRAHAM: Your Honor, the State would move
9 State's 5 for ID into evidence at this time.

10 MS. FULLWOOD: Subject the our previous objection.

11 THE COURT: All right. State's 5 is in evidence
12 subject to previous objection.

13 (State's Exhibit Number 5 was entered into
14 evidence.)

15 BY MR. GRAHAM:

16 Q Mr. Cook, this is an inmate request form. You sent
17 this form to Detective Kemfort, right?

18 A Yes, sir, it was a name I got off of some of the
19 paperwork I had, sir.

20 Q And so without even the police contacting you, you
21 lied again and tried to blame Rick Barnes, didn't you?

22 A Yes, sir. Would you like me to explain why, sir.

23 Q No, not really.

24 A Oh.

25 THE COURT: You can explain your answer, Mr. Cook.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 THE WITNESS: I don't know what to do now.

2 THE COURT: You can explain your answer. If you
3 have an explanation. The solicitor asked you a question,
4 if you think you have an explanation you need to add to
5 your answer, you may do so.

6 THE WITNESS: Yes, sir. At this point in time, I'm
7 still incarcerated. Shannon has received several threats,
8 my mother has received several threats. I can't really say
9 who or what. They were in reference to this case and I
10 felt like they were coming from somebody associated with
11 Rick. I was very upset about that.

12 BY MR. GRAHAM:

13 Q So you were worried Shannon and your mother were
14 getting threats and you were concerned for their safety?

15 A I had been told by both of them they were at this
16 time. It actually states that in there, sir.

17 Q But I'm repeating what you said, you were concerned
18 for their safety because someone associated with Rick
19 Barnes was threatening them?

20 A Yes.

21 Q And you thought the way to handle that was to go
22 back and blame Rick for murder, that that would somehow
23 take the pressure off?

24 A No, sir. It would have been a ploy to get even
25 with him for threatening my family, sir.

Worth Edward Cook - Cross-Examination by Mr. Graham

1 Q Right. So what you chose to do when you think that
2 Rick Barnes or somebody on his behalf threatened your
3 girlfriend and your mother, you thought the thing to do was
4 blame him for a murder. You thought that was going to make
5 it better, correct?

6 Q I'm not saying it was a smart idea, sir. I'm
7 saying it's what I done.

8 Q I didn't ask you if it was smart, I asked you if
9 that's why you did it. You did it to get back at him?

10 A Yes, sir.

11 Q And you thought that would make it better?

12 A It's the only thing I could do to get back at him,
13 sir.

14 MR. GRAHAM: No other questions, Your Honor.

15 THE COURT: Redirect, Ms. Henry?

16 MS. HENRY: No redirect, Your Honor.

17 THE COURT: Thank you. Thank you very much,
18 Ms. Henry.

19 Thank you, Mr. Cook, you may step down.

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Mr. Foreman, ladies and
22 gentlemen of the jury panel, perhaps now would be a good
23 time to take our luncheon recess, please remember my
24 instructions. Do not discuss this case with anyone. Do
25 not read, watch, listen to any news accounts about the

1 case. Do not do any research independent or otherwise.
2 You decide the case based on the evidence and testimony
3 from the witnesses testifying under oath, any physical
4 items of evidence, the inferences you think may properly be
5 drawn and the law as I tell you the law is. I would ask
6 you to please be back at 2:30; 2:30 good? Just please be
7 back promptly at 2:30. Hope y'all have a pleasant lunch.

8 Thank you. Thank you very much.

9 (The jury left the courtroom at 1:24 p.m.)

10 THE COURT: Ms. Henry, Ms. Fullwood, do y'all
11 intend to call any other witnesses or present any other
12 evidence?

13 MS. HENRY: Not at this time, Your Honor.

14 THE COURT: And I should have said, I should have
15 prefaced that by you don't have to answer that question
16 right now if you don't want to.

17 MS. HENRY: We do not, Your Honor.

18 THE COURT: Why don't we be back about 2:15 and
19 I'll hear your motions, all right?

20 MS. HENRY: Yes, sir.

21 MS. FULLWOOD: Thank you, Your Honor.

22 THE COURT: Solicitor, does the State intend to
23 present any evidence or testimony in reply?

24 MR. GRAHAM: I think we probably will. We need to
25 go decide that on break. I believe we probably will.

1 THE COURT: All right. Not knowing precisely if
2 you will or won't, but you probably will. I take it at
3 this moment what amount of time that would --

4 MR. GRAHAM: I think that we would finish today for
5 sure if that's sufficient of an answer.

6 THE COURT: At this point, it's a good answer.
7 There's no right or wrong. Good trial lawyers can't tell
8 time. That's what I -- that man told me that.

9 All right. We'll be in recess then until 2:15.
10 Thank you. Thank you very much.

11 (A recess for lunch was observed.)

12 THE COURT: All right. Ms. Henry, is it still the
13 defense's position they're not going to call any other
14 witnesses or present any other evidence.

15 MS. HENRY: That's correct, Your Honor.

16 THE COURT: With that being said, do you object to
17 me hearing any motions now?

18 MS. HENRY: No, Your Honor.

19 THE COURT: All right. I'll be glad to hear
20 whatever motions you may have.

21 MS. FULLWOOD: Your Honor, at this time, we would
22 renew our motion for a directed verdict. The grounds for
23 the motion are the grounds set forth at the close of the
24 State's case. In addition at this time the State has not
25 produced competent evidence that reasonably tends to

1 disprove all the elements of self-defense.

2 THE COURT: Solicitor, anything?

3 MR. GRAHAM: Your Honor, I think it's a jury
4 question to both of those. I think the jury can either
5 believe him or not and I think in the light most favorable
6 to the State, he's not believable and that would go to the
7 charge itself and it would go to the elements of
8 self-defense. One of his statements, if the jury wants to
9 believe him, I'm not sure which, the April 6th statement,
10 if you take that as the truth, which the jury could do.

11 That statement, the written statement, if I
12 paraphrase it correctly is the victim comes in and makes an
13 argument about the dope being stolen and then a knife is
14 brought. He strikes him in the head with a hammer two
15 times and the victim falls on the knife in the neck area
16 and Mr. Cook drags him into the storeroom and he is left
17 there for a period of time and he goes back to check on him
18 and when he goes back to check on him, Mr. Diblasi sits up
19 and thrashes about, it freaks him out and he grabs the
20 knife out and proceeds to stab Mr. Diblasi and that would
21 be unprovoked at that time and stabs him over and over
22 again and then he realizes he's hurt so bad that he needs
23 to put him out of his misery, so he takes the knife and
24 drives it through the eye and the jury could believe that
25 statement in its entirety and convict him of murder and not

1 see self-defense.

2 THE COURT: Anything in response, Ms. Fullwood?

3 MS. FULLWOOD: No, Your Honor.

4 THE COURT: I think in light of both the various
5 conflicting statements, specifically that statement that he
6 gave concerning the victim being in the storage area,
7 additionally the pathologist testimony, the number of
8 wounds, the locations of those wounds and the fact that
9 there are no defensive wounds on the victim and even taking
10 Mr. Cook's testimony that there was this time consuming
11 struggle over a knife between two adult males that that's
12 inconsistent. I think at least that first element of
13 self-defense, the primary aggressor would be an issue.
14 He's obviously testified numerous times of his fear that he
15 was afraid. I think it's a question for the jury and I
16 would respectfully deny the motion for the directed
17 verdict.

18 MS. FULLWOOD: Thank you, Your Honor.

19 THE COURT: Yes, ma'am.

20 Do y'all request a charge on voluntary
21 manslaughter? Is that my understanding?

22 MS. FULLWOOD: Yes, sir, we do.

23 THE COURT: Do you have a position on that,
24 Solicitor?

25 MR. GRAHAM: Only that I don't know -- I didn't

1 hear any testimony to establish the heat of passion.

2 THE COURT: Ms. Fullwood?

3 MS. FULLWOOD: Well, he did testify that once
4 his -- first of all, he's testified the decedent came in
5 banging in his door and he was like what in the world and,
6 you know, there was a loud argument, shouting back and
7 forth that became physical. He also testified that when
8 the decedent kicked his wife and she fell over, knocked her
9 head that it changed things for him.

10 THE COURT: Anything in response, Solicitor?

11 MR. GRAHAM: Only I heard him say that he was
12 afraid, but I know that they have to establish heat of
13 passion to get the charge for it to be in there and I
14 didn't hear it, maybe it was there. I didn't hear it.

15 THE COURT: Well, of course, one time, he
16 testified, I never intended to kill this man. That's
17 inconsistent with any criminal intent as to murder or
18 voluntary manslaughter. And that's where I marked in my
19 notes the testimony from Mr. Cook that the victim kicked
20 his 5-month-plus pregnant wife in the stomach area and she
21 fell back and hit her head on the dresser and caused the
22 damages to the dresser.

23 And, of course, she testified she also had an
24 injury from that in the back of the head. And I've looked
25 at those cases where judges have charged self-defense and

1 not charged voluntary manslaughter and I think the cases
2 are, they are not mutually exclusive. So I think there is
3 some evidence -- that's in the record, for which I'd have
4 to charge voluntary manslaughter as a lesser-included
5 offense.

6 Then you want self-defense?

7 MS. FULLWOOD: Yes, sir.

8 THE COURT: You have any objection to that,
9 Solicitor?

10 MR. GRAHAM: No, Your Honor.

11 THE COURT: And what others?

12 MS. HENRY: Defense of others?

13 THE COURT: Excuse me?

14 MS. HENRY: Sorry. Defense of others and defense
15 of habitation.

16 THE COURT: Solicitor?

17 MR. GRAHAM: I guess under some of his stories both
18 of those would be, Your Honor.

19 THE COURT: All right. I will charge self-defense,
20 defense of others, defense of habitation and voluntary as a
21 lesser-included offense.

22 Is our jury back?

23 THE BAILIFF: I'll go check, Your Honor.

24 THE COURT: So if you'll rest formally in front of
25 the jury, Ms. Henry, I will put on the record, I'll note

1 your motions and that they are -- you're protected on the
2 record.

3 MS. HENRY: I'm sorry, Your Honor?

4 THE COURT: If you rest formally in front of the
5 jury and then your motions are noted, I'll note them on the
6 record and not say what my rulings are or what your motions
7 are, but you're protected on the record.

8 THE COURT: Yes, sir.

9 MR. GRAHAM: I was just going to inform the Court
10 that the State is going to rest and not call any reply
11 witnesses.

12 THE COURT: All right. Then y'all want to close?
13 Tell them to hold up the jury for a minute.

14 THE BAILIFF: They haven't left yet.

15 THE COURT: They haven't left yet?

16 THE BAILIFF: No, sir.

17 THE COURT: Thank you.

18 MR. GRAHAM: Whatever Your Honor wants to do. I
19 know Your Honor was concerned about commitments tonight at
20 6:30.

21 MS. HENRY: We're prepared in your discretion.

22 THE COURT: How long you need to argue, Solicitor?

23 MS. HENRY: I'm sorry?

24 MR. GRAHAM: I have no idea. I would like a few
25 minutes -- it probably would be 30 to 45 minutes, but

1 that's a total guess and I would need a few minutes to
2 organize the exhibits.

3 MS. HENRY: Probably not longer than 15 to 20
4 minutes on my part, Your Honor.

5 THE COURT: All right. We'll take a 10 minute
6 recess and then we'll go into closings. Thank you.

7 (A brief recess was observed.)

8 THE COURT: I've made a command decision. I'm
9 going to send the jury home. I don't think it's fair to
10 them. I'm not going to split closings and charge and my
11 commitment's at 6:30. It's very important to me. It's
12 actually a one time in my life commitment and I'm going to
13 keep it. So I'm going to send them home and we'll start
14 back at 9:30 in the morning. And we still have to go
15 through formal resting and from that point on.

16 All right. Anything before I bring in the jury?

17 MR. GRAHAM: No, Your Honor.

18 MS. HENRY: No, Your Honor.

19 (The jury entered the courtroom at 2:39 p.m.)

20 THE COURT: All right. Ms. Henry, you may call
21 your next witness.

22 MS. HENRY: Your Honor the defense has no more
23 witnesses.

24 THE COURT: All right.

25 MS. HENRY: We rest our case.

1 THE COURT: All right. Thank you. Thank you very
2 much.

3 Motions are noted for the record and I renew my
4 previous rulings thereon.

5 As you heard, Mr. Foreman, ladies and gentlemen of
6 the jury, the defense has rested. You have heard all of
7 the evidence, all of the testimony you're going to hear
8 from the defense in their case in chief. The State now has
9 the right to present any evidence, or any testimony in
10 reply if the State chooses to do so. So we'll direct our
11 attention to the solicitor and ask.

12 Does the State intend to present any evidence or
13 testimony in reply.

14 MR. GRAHAM: No, Your Honor.

15 THE COURT: All right. Thank you. Thank you very
16 much, Solicitor.

17 So you've heard all the evidence and all the
18 testimony you're going to hear in the trial of this case.
19 We're at the point of closing arguments by the attorneys
20 and the instruction on the law by the Court. That process
21 can take up to several hours, depending on the length of
22 closing arguments and the timeliness -- and the timeliness
23 of my charge to you.

24 Given that and the fact that our Supreme Court
25 frowns on us submitting a case to the jury at any time

1 after four o'clock, 1600 hours. I'm going to take an
2 evening recess. I don't like to break up closings and
3 charges. I think that would be the prudent thing to do.

4 So with that being said, momentarily, I'm going to
5 release you from your jury service for the remainder of the
6 day for your evening recess. I ask you to please, do not
7 discuss this case with anyone, that includes your fellow
8 jurors, family, friends, or anyone else. Do not read,
9 watch, listen to any news accounts about the case. Do not
10 do any independent research. Do not use your computer,
11 cellular phone or electronic device with communication
12 capabilities or any other method to obtain or disclose
13 information about the case which is prohibited.

14 Information which is prohibited includes but is not
15 limited to the following: Information about a party, a
16 witness, an attorney or a court officer, news accounts of
17 the case, past or present; information collected through
18 juror research on any topic raised or testimony offered by
19 any witness or information collected through juror research
20 on any other topic the juror might think would be helpful
21 in deciding the case. Please remember as you heard me say
22 numerous times, you decide the case based on the testimony
23 of the witnesses under oath, any physical items of evidence
24 and any inferences you think may properly be drawn from the
25 evidence. You determine the facts, apply those to the law

1 as I will tell you the law is and reach that true and just
2 verdict.

3 Again, thank you, thank you very much for your
4 service so far this week. I know y'all will comply with
5 your oath.

6 I would ask you to please back promptly at 9:30 in
7 the morning. Promptly at 9:30 in the morning. Thank you
8 thank you very much. Hope y'all have a pleasant evening.
9 Thank you.

10 (The jury left the courtroom at 2:44 p.m.)

11 THE COURT: Solicitor, you going to open on the
12 law?

13 MR. GRAHAM: No, Your Honor.

14 THE COURT: So it will be Ms. Henry or Ms.
15 Fullwood?

16 MS. HENRY: I'll be doing the closing, Your Honor.

17 THE COURT: All right. Ms. Henry and then the
18 solicitor.

19 Thank you. Thank you very much. Court will be in
20 recess until 9:30 in the morning.

21 (A recess was observed for the evening.)

22 FRIDAY, MARCH 4, 2016

23 THE COURT: Anything from the State before we bring
24 in our jury, Solicitor?

25 MR. GRAHAM: No, sir, Your Honor.

1 THE COURT: Ms. Henry?

2 MS. HENRY: No, Your Honor.

3 THE COURT: And Ms. Henry, you're closing correct?

4 MS. HENRY: That's correct.

5 THE COURT: All right.

6 (The jury entered the courtroom at 9:35 a.m.)

7 THE COURT: Good morning, ladies and gentlemen of
8 the jury. As you recall, we're at the point of the closing
9 arguments by the attorneys. The order of closing is
10 Ms. Henry will close on behalf of her client, Mr. Cook,
11 first, followed by Solicitor Graham on behalf of the State,
12 the State being the party bearing the burden of proving its
13 case beyond a reasonable doubt. After the closings by the
14 attorneys, I will then instruct you on the law that you're
15 to apply to the facts of the case as you find them to be
16 and then submit the case to you for your deliberation and
17 for your true and just verdicts.

18 I remind those in the gallery, I do not allow
19 anyone in or out of the courtroom while the attorneys are
20 addressing the jury. If you want to leave after
21 Ms. Henry's argument and before the solicitor's argument,
22 you may certainly do so, if you want the leave after both
23 closing arguments before I begin instructing the jury, you
24 may certainly do so.

25 That, of course, does not apply to staff members of

1 either Ms. Henry, Ms. Fullwood or the solicitor's staff.

2 All right. With that being said, again, ladies and
3 gentlemen, if you'd please give the attorneys your complete
4 and undivided attention as you have done throughout the
5 trial of this case.

6 Ms. Henry?

7 MS. HENRY: Thank you, Your Honor, may it please
8 the Court?

9 THE COURT: Yes, ma'am.

10 CLOSING ARGUMENTS

11 MS. HENRY: Good morning, once again, ladies and
12 gentlemen of the jury. I just want to briefly say with all
13 sincerity, I certainly appreciate your service. I'm sure
14 the State does as well. It's not been easy just to sit in
15 a chair all day long, all week long, not being able to say
16 anything, not being able to get up and move and taking time
17 away from your family and your job responsibilities as
18 well. So we do appreciate your service; and certainly the
19 fact that you've been attentive and have listened carefully
20 and have given this trial your complete attention. So
21 thank you.

22 This is -- it's really a horrific story and I'm
23 sure that you have heard things today that you've never
24 heard in your live during the course of this trial.
25 There's no sugar coating what happened. There was a death,

1 a horrific death. And as I told you in the beginning,
2 Mr. Cook accepts responsibility for the death of David
3 Diblasi. He stood here and told you that. This, you know
4 if this were a movie, it would be some, probably Class B
5 Thriller.

6 We've got a known heroin dealer who makes regular
7 trips back and forth from north to the south so he can
8 supply his users with heroin. Money is involved. There
9 was testimony that Mr. Diblasi had wads of cash. We never
10 saw that, it was never proven, but some witnesses say so.

11 Obviously, the drugs were heroin. And it ends up
12 with the tragic death of this drug dealer, alledgedly
13 for -- he was robbed, he was murdered, who knows what. But
14 that would be the plot. Unfortunately, it's not a Movie.
15 It's all too real and what happened is what you heard
16 unfold during the course of this week. It really is just a
17 simple story of two people who met randomly. They had
18 never known each other before February 25th, 2013. They
19 ran into each other at the drug house and found that they
20 had a common interest. Mr. Cook was a mechanic,
21 Mr. Diblasi had problems with his vehicle and his
22 motorcycle. So they worked out an arrangement where
23 Mr. Cook would work on it and repair that for him so he
24 could go on his way to wherever he was going.

25 Now, after that meeting, there was a series of

1 events and this was tracked by witnesses. During the day
2 where basically, Mr. Cook and his friend, Mr. Barnes,
3 followed Mr. Diblasi around from place to place so that
4 Mr. Diblasi could gather up some money from people who owed
5 him money before he left. And then ultimately, Mr. Diblasi
6 ended up at Mr. Cook's home where he had his truck and his
7 motorcycle repaired and then the death occurred. And the
8 question here is why. Why did all this happen? If
9 Mr. Cook as he does assumes responsibility for
10 Mr. Diblasi's death, why did he kill him? Why would he put
11 Mr. Diblasi's body in his own backyard? Why would he cut
12 up Mr. Diblasi's property and sell it at a metal recycling
13 place where he is well known?

14 All of this really makes no sense if this were a
15 deliberate and intentional murder. Now, when a crime is
16 committed in our community, it's the job of law enforcement
17 to basically solve the crime: Track down facts, gather
18 evidence to support the theory of whatever the case is that
19 they may have. But they gather evidence. And what
20 evidence they gather, they then present it to the
21 prosecutor, the solicitor in this case to further
22 investigate, to further form their theory of the case, how
23 and why the crime occurred and who committed it. So I
24 think what happened here is they kind of got the cart
25 before the horse.

1 They had a missing person's report that led to a
2 bank record examination, that lead to the Wal-Mart video
3 showing Mr. Diblasi's bank cards being used after he was
4 missing. And the people in that video were identified as
5 Richard Barnes and Mr. Worth Cook. That was basically it.
6 They zeroed in on Mr. Cook. They found that he was the
7 last person who was seen with Mr. Diblasi and from that
8 point on, it was the heavy weights against the lightweight.
9 Mr. Cook was incarcerated over a period of four days. He
10 was grilled, interrogated at length, for hours.

11 At all times, there were two detectives assigned,
12 not the same two, but two detectives assigned to carry out
13 the interrogation. And I'm not going to insult your
14 intelligence by going over the statements again, I'm sure
15 you'll recall what was in them. It will be back in the
16 jury room with you. But you'll see that Mr. Cook signed
17 these statements. He wrote them in his own handwriting.
18 He was advised of his rights time and time again. He
19 initialled that he understood his rights. He didn't have
20 to talk to them, he could have an attorney, he could stop
21 at any time. And so forth and so on.

22 And the detectives say they did things by the book
23 as they were supposed to. Mr. Cook's version's a little
24 different. He said at one point he was threatened with the
25 detective saying if he continues to ask for an attorney

1 that he might find himself in a situation where his
2 girlfriend, the mother of his newborn child would be
3 arrested and the baby taken from him. Law enforcement says
4 that's not the case.

5 In this day and age, it seems a simple thing to me
6 to just record the interrogation. That way it isn't a
7 question what goes on, it's very clear. Law enforcement
8 now is wearing body cameras, there are video camera's
9 everywhere, this courtroom is full of them. Wal-Mart has
10 thousands of them. It's simple technology to this day.
11 They could have just put it on a film. Why didn't they?

12 So all we have is the word of a law enforcement
13 officers what they heard there, how they got those
14 statements and Mr. Cook about how these statements were
15 obtained. Again, it was the heavy weights versus the
16 lightweights. Mr. Cook is a minimally educated,
17 26-year-old man sitting in that interrogation room by
18 himself. No contact with family. Turning down the
19 opportunity, so law enforcement says, to have an attorney;
20 sitting there trying to match wits with highly trained
21 investigators and investigators who took classes on
22 interrogation, take courses.

23 They're very good at what they do. In fact,
24 they're so good that one of the detectives was able to pull
25 up on the internet some bogus scientific study that even he

1 admits he did not understand, which purported to say that
2 you could tell whether an individual is right- or
3 left-handed from the wounds that were inflicted on the
4 body.

5 Doctor Ross, who is a certified pathologist, a
6 medical doctor, been in this field for years and years says
7 that's just simply not so. You can't. Nonetheless, as an
8 interrogation tool, the detective was able to use that and
9 somehow plant enough doubt in Mr. Cook's mind that he new
10 if he didn't come up with something, his family, his child,
11 his home were going to be gone they would be in danger.

12 Okay. So combined with the interrogation tool,
13 this law enforcement officer also used the booking photo of
14 his -- at that time codefendant -- left it up so that
15 Mr. Cook could see it indicating that the codefendant was
16 clearly left-handed and the killer right-handed. So again,
17 heavyweights versus lightweights. Mr. Cook was panicked.
18 He didn't know what to do. He tried to tell a story that
19 would satisfy law enforcement and protect Shannon Tart and
20 his child.

21 You heard Mr. Cook testify. You are the judge of
22 the witnesses who testify as to their demeanor, their
23 credibility, whether or not you believe what they're
24 saying. So this is in your hands. He did not have to
25 testify. He could have exercised his constitutional right

1 to silence, but he wanted you as twelve independent
2 unbiased jurors to hear his story of what happened that
3 night and come to an unbiased and unprejudiced decision.
4 So he testified.

5 Again, I would remind you as I did in my opening
6 and this will come back to you through the judges
7 discussion of the law, but murder is defined as the
8 unlawful killing of a human being willfully and feloniously
9 with malice aforethought. That's how our law defines
10 murder. Again, the judge will tell you what murder is, but
11 I am just familiarizing you with my version of it.

12 That means that the death of Mr. Diblasi, which Mr.
13 Cook assumes responsibility for, in order for that to rise
14 to the level of murder, as something that was unlawful, has
15 to mean that it had malice aforethought. This was not
16 something that Mr. Cook ever planned. He had no conspiracy
17 going on. There's been no testimony, no evidence -- it may
18 be insinuated, but there's no evidence about that.

19 And the last thing I would point out to you is the
20 unlawful killing; because when you look at this, you think
21 isn't killing unlawful? Well, as it turns out, the law
22 allows us to protect ourselves, our homes and our loved
23 ones and ask for grace in killing lawful -- an unlawful
24 killing means that you have no defense, you have no reason,
25 you just feloniously with malice aforethought, evil in your

1 heart kill another human being.

2 That simply did not happen here. And I ask you to
3 keep that in mind when you begin your deliberations and
4 review is evidence and we think you'll find Mr. Cook not
5 guilty of murder. Thank you.

6 THE COURT: Thank you. Thank you, Ms. Henry.
7 Solicitor.

8 MR. GRAHAM: Thank you, Your Honor.

9 Brutal, savage, the stuff of nightmares. That's
10 what you heard Micah Caskey say in his opening statement.
11 And that's the testimony you've heard over the course of
12 this week. The brutal savage stuff of nightmares that was
13 the death of David Diblasi and without a doubt was the
14 handy work of Worth Cook. He admitted to you that he was a
15 liar. He admitted to you that he was a thief. He said he
16 was a killer and the burden is on us to prove that he's a
17 murderer.

18 When you go back to deliberate, the burden will be
19 on you to make that decision. And all the evidence that
20 you heard will point to the fact that he is a murder.
21 David Diblasi was a drug dealer. He was a drug user. He
22 went up to Philadelphia, back and forth bringing heroin
23 down. It makes him a bad person, something that society
24 doesn't want to have happen. Something we don't want to
25 have here in Lexington County. If the police would have

1 known, they would have arrested David and David would be in
2 jail.

3 But no matter what he was doing and how much you
4 disagree with what he was doing, he didn't deserve what
5 happened to him. He didn't deserve to be stabbed twelve
6 times in the back, in the stomach, in the neck, in the
7 face, and the killing blow in the eye piercing his brain.
8 Brutal, savage, the stuff of nightmares.

9 The question is why. You want to know why, the
10 police want to know why. We're never going to know why or
11 exactly what happened. The only people who knew were David
12 and he's dead, and Mr. Cook. And if you believe his story,
13 Mr. Cook's not guilty and it's your job to let him go.

14 Melinda and Damian, they were the ones that said
15 they were selling heroin before David Diblasi, the day he
16 came over on the 25th. He was over in the van that Worth
17 Cook and Rick Barnes were in. I think one of them
18 testified that they were smoking meth in that van. They
19 were dealing heroin for Dave. Dave left there with \$2,000
20 and he still had eight or nine bundles of heroin and there
21 are about ten individual packages in a bundle. So 80 or 90
22 more doses of heroin.

23 Mr. Cook tells you they went over there to get
24 money. He wants to say it was \$80, something small. But
25 Dave still needed money and met with a woman, disappeared

1 in a bathroom to get more money. At one point, Mr. Cook
2 wanted to tell you he didn't know anything about him re
3 upping. And we went through the statements and he knew.
4 To re up means that David had money, was getting ready to
5 go to Philadelphia and buy more drugs. You don't do that
6 with \$80. Maybe the motive was that. We don't know about
7 the money. We know a little about money that was spent.

8 Kaycee Turner told you that that gate wasn't there
9 before. Why is there a gate in April when the police are
10 there and not in February? Because Worth Cook was hiding
11 Mr. Diblasi's body and the murder that he committed. No
12 trespassing. Do you hide self-defense? Do you hide
13 defending yourself? Do you hide defending your pregnant
14 girlfriend from somebody who's breaking in your house and
15 attacking you? No, you don't. You call the police.

16 Mr. Cook told you that he did \$200 Worth of work on
17 that truck that night, February 25th, 2013. And the only
18 thing he got paid was \$80 and some heroin. He admitted
19 taking heroin off of Dave. I believe, if not, you remember
20 what you remember. He says he gave the heroin to Rick
21 Barnes to sell because he didn't want to sell it.

22 Kayla Mattoni, the lady who was in the green that
23 was in the department of corrections, she said she saw him
24 with Dave's heroin. Why would she lie? Why would she lie
25 about seeing that. Nobody offered any motive for why she

1 would lie about that. But he told you he didn't have the
2 heroin and didn't do anything with the heroin because he
3 doesn't want you to think that maybe what happened was
4 because he stole heroin. Maybe it's the \$200 worth of
5 work. He needed money. Maybe he didn't want the heroin.
6 Maybe he had money -- he wanted money. He only got \$80,
7 but he needed money and he knew that Dave had more. We'll
8 never know for sure.

9 We know that sometime -- State's 16, you can see
10 the flooring. They're putting hardwood floor into this
11 trailer. And you've seen the pictures and you'll have them
12 back there. Where did the money come from and why are they
13 doing it? They need baby supplies. They have a baby on
14 the way and we're going to spend money on hardwood floors.
15 Where did the money come from and why are you doing it? Is
16 it to cover up the murder? Or just self-defense? That's
17 for you to decide.

18 You heard a term called tweaking. Worth Cook
19 wanted -- he's the one that brought it up and he wanted to
20 tell you that David Diblasi was tweaking that night because
21 of all the meth that he had used. Paranoid out of control,
22 what you're doing doesn't make sense. And that's what Dave
23 was doing when he came back in the house. He was tweaking.

24 Mr. Cook told you that he smoked heroin at Jackie's
25 house at two different times. He smoked in the car, he

1 smoked twice I believe at his own house. But he smoked
2 meth five times that day. No idea if he'd been smoking
3 before or not. Maybe he was the one that was tweaking that
4 night? Maybe it's as simple as that. Maybe that's what
5 happened. Maybe some kind of altercation happened between
6 him and Dave and he lost it. He went paranoid.

7 He even told you about taking a hammer and either
8 struck a chair or struck a dead body. That's his
9 testimony. His statements say that he struck with a hammer
10 while Dave was alive and it was the very first blows. The
11 pathologist said that she didn't see any evidence of it.
12 So who knows? It's a case about credibility. Worth Cook's
13 credibility. Shannon Tart's credibility.

14 Let's talk about their testimony because we can
15 talk about all the other things that you heard from the
16 defense when they went to prove its case. The Wal-Mart
17 card -- well, the State had to prove how we got there.
18 Who's using the card at Wal-Mart, buying a cooker which you
19 see in his house later. Is that Richard Barnes? No it's
20 the killer, Worth Cook. Do you kill somebody in
21 self-defense and go use their card? Do you use their card
22 at all? That's pretty stupid.

23 But for whatever reason he felt he was justified in
24 using that card. And what he wrote down was because he
25 didn't get enough money for the work that he'd done. Maybe

1 he never found that \$2,000? But we know that he used his
2 card. A man that he had killed brutally and buried in his
3 backyard. Stabbing him twelve times but the pathologist
4 told you no defensive wounds. No marks on his hand. He
5 never had a chance to defend himself. How does that fit
6 into the story that you heard? He never had a chance as
7 he's supposedly attacking Worth Cook with a knife; as he's
8 supposedly struggling over a knife; as he's supposedly
9 being stabbed twelve times. Where are the wounds on him
10 that match up for a struggle for his life? They don't.

11 It's because the story that you heard from Shannon
12 Tart and the story you heard from the stand isn't the
13 truth. Because the truth would have been told on February
14 25th, 2013. 9-1-1, a man just broke into my house and I
15 had to defend my girlfriend and my house and myself. I had
16 to kill him. He's here. I'm standing over his body. If
17 you're going to claim self-defense, you call the police,
18 you have the body there and you take responsibility for
19 what you did.

20 What he wants you to do is accept the fact that
21 it's okay to wait years later, come in and tell you a story
22 and have you believe it and say that the case hasn't proved
23 its case for murder. You decide on his credibility.

24 Let's talk about Ms. Tart, his girlfriend. Two
25 different officers, two times back in February of 2013,

1 they went and talked to her. Ms. Tart, what do you know
2 about David Diblasi being missing? What do you know about
3 his body? Do you know anything. She said, I don't know
4 anything. Two different officers two times when they
5 started to press her about the evidence they found about
6 the body in the backyard, she said, I want a lawyer and she
7 went to North Carolina and fled. Because she knew
8 something. And we may never know exactly what she knew.
9 Did she help clean up? Did she see something? Did he tell
10 her something? All you have is what she tells you almost
11 three years later. No police reports of being threatened.
12 No police reports about David Diblasi attacking her
13 boyfriend. No reports about busting into the house. You
14 take that and you give it whatever weight you think it
15 deserves.

16 Let's talk about what she said. On direct
17 examination she says she comes straight in the house, no
18 delay and she sees Worth Cook cleaning up milk. That's
19 what she said. Maybe he was cleaning up something else. I
20 find it curious that somebody's who's been smoking meth all
21 day long, who's been cooking meth in the shed in the
22 backyard picked that time to drink milk. But I guess milk
23 does a body good.

24 She says she goes straight to her room and she
25 doesn't come out until she hears a struggle. But at some

1 point, she said she knew -- she goes -- Kaycee wasn't
2 there. Kaycee Turner, Rick Barnes girlfriend wasn't there.
3 She said that she knew that Rick Barnes and Worth smoked
4 meth. But how is that possible if she was in the back room
5 from the moment she was there? But I don't know, maybe I'm
6 mistaken about that.

7 She said she heard noises, she heard screaming, she
8 heard yelling. She heard something about a phone. And
9 while we're talking about a phone, when you go back and
10 read the statements, there's nothing in there about the
11 phone. It's about drugs. Phones don't sound near as bad
12 as drugs.

13 The phone --- maybe we need to talk about the phone
14 because the sheriff's department got the phone records.
15 They know where David was at. They know when the phone
16 went dead, so I don't tell them -- I get confronted with
17 that evidence later and I come up with a story, which is
18 kind of his pattern, if you'll notice. He gets confronted
19 with something and he tells a lie to satisfy and try the
20 get out of trouble and satisfy that piece of evidence and
21 move on.

22 But anyway, Shannon says she comes out, she sees
23 Worth Cook in a chair, sitting down. She sees a guy she
24 doesn't know over him, I believe a hand on his -- Worth's
25 throat, and a knife in the hand. I don't know which knife

1 she said that the man had in the hand, whether it was a
2 folding knife or whether it was her knife, that
3 double-bladed knife with a center handle. If you go back
4 to Mr. Cook's statements, that's the knife he said was used
5 from the beginning; that they'd been using it to cut meth
6 earlier in the night when they were smoking. And she said
7 that was her knife. But anyway, she said she goes over to
8 help, to defend her man, all 8 months pregnant of her and
9 that the evil David kicks her in the stomach and she goes
10 back and goes unconscious; and she wakes up after some
11 period of time, we don't know. What she said on direct was
12 she wakes up and she sees Worth stabbing the victim in the
13 chest and the neck. Here and here. The last thing she
14 said she saw then was the knife in David's throat with
15 David sitting in the chair. She didn't say anything about
16 a knife. She didn't say anything about two different
17 knives. She talked about her knife.

18 On cross-examination, she says she wakes up and she
19 sees Worth Cook pick up the knife from the air-conditioning
20 unit or near the air-conditioning unit and that's her
21 double-bladed knife. She doesn't talk about a struggle
22 going back and forth over that knife, about the two of them
23 standing up and fighting and struggling over that knife.
24 She says she wakes up, sees him grab the knife, no
25 struggle, no back and forth, no falling down and she sees

1 Worth stabbing the victim in the neck and the face. It
2 doesn't match her story to Ms. Henry and it sure as heck
3 doesn't match Worth Cook's story.

4 So even after 3 years, what they want you to
5 believe doesn't match. It doesn't match each other, it
6 doesn't make sense. It doesn't match their own testimony.
7 She says she sees Worth stabbing the victim in the face and
8 the neck. When I asked her about the eye and y'all will
9 remember she went like this and we went from talking about
10 the neck all the sudden we're talking about with the face.
11 And she says the last thing she saw was a stab in the eye
12 because the pathologist told you that that's the stab that
13 killed him. That was the last thing she saw.

14 So it changed from the last thing from being the
15 knife in the throat to a stab in the eye. And those
16 stories don't match up with what Worth Cook wants you to
17 believe. And she waited 3 years to tell that story. She
18 was offered twice by two different officers in 2013 to tell
19 them what happened. She said I want an attorney. She was
20 offered last week to tell Detective Gooding what happened?
21 What do you know. She said I already talked with my
22 attorney.

23 What did Worth Cook say? Over and over on the
24 stand and in his statements, he changes the facts to fit
25 whatever he's confronted with. So 3 years later, he knows

1 what he's confronted with. And he comes up with this story
2 that he wants you to believe that will set him free.
3 Apparently he's not afraid of anything anymore. He's not
4 afraid of any drugs, he doesn't need to protect anybody
5 anymore. And he wants you to believe that the truth will
6 set him free and that's your choice.

7 He's confronted with a Wal-Mart photo, so he comes
8 and says, Yeah, I used the card, but he left it for
9 payment. He knows about David and Melinda and drugs,
10 getting money, yeah, I'll take that in. I'll own that.
11 I'll explain that.

12 He talks about the cell phone records and how it
13 showed he went up on Bush River Road, he says, yeah, I was
14 at a hotel. There was a lady there and they were doing
15 more business. He talks about going to Dave's mom's house,
16 he didn't tell the police that earlier.

17 But yeah, I went over there. I got the bike, I was
18 going to do bike work, went to my house. And you know that
19 phone, that phone -- it went dead. It's not because I took
20 the battery out. It's not because I turned it off, it's
21 not because I got rid of evidence. Let's talk about what
22 he says happened on direct examination. Here's the story
23 he wants you to believe.

24 David busted into the house arguing about a phone
25 and now we'll throw in a little bit of drugs; yeah, he was

1 upset about that too. I didn't steal anything from him,
2 but he said people were taking advantage of him. I don't
3 know he was tweaking. Somebody was tweaking that night.
4 Dave got him -- for some reason, the defendant's pants fell
5 down. He ends up in the chair with Dave having a knee on
6 him with a folding knife that we have no idea where it came
7 from. The people who knew Dave said he doesn't even have
8 knives. He said Dave comes up with a knife, he had a
9 folding knife in his face, Shannon comes over, Dave kicks
10 Shannon. Worth grabs a double-bladed knife and starts
11 stabbing David several times. At some point Dave uses both
12 his hands, so there's no knife in his hand anymore and he
13 pushes him off and stands up. So what threat is he right
14 now? You remember that story. What threat is he?

15 None. Even if you believe that, he's not a threat.
16 What does he do -- they start to struggle over the knife,
17 something that Shannon didn't see. They go back and forth
18 and back and forth and I think he said it lasted a couple
19 of minutes. On direct he says after struggling back and
20 forth and back and forth, they fall into the chair, he's on
21 top of Dave as they're going down in the chair and his
22 words were the knife hits him in the eye. Well, that
23 sounds like an accident. But let's talk about -- did he
24 say anything more about other stabbing? That's where he
25 ended his story.

1 Let's talk about, did he say anything more about
2 other stabbings? That's where he ended his story, the
3 knife hits him in the eye because the pathologist said
4 that's the one that kills him.

5 Let's move on to cross-examination. Dave had a
6 folding knife, Worth is in the chair, Worth grabs a knife,
7 the double-bladed knife. He says I start low, midbody and
8 work my way up. Dave pushes him off again, off of his face
9 and he kept nothing in his hand. The knife is caught in
10 the throat or in clothing or something like that. He pulls
11 the knife out, they struggle, they fall, Worth is on top.
12 He says he stabs David in the eye on cross-examination. He
13 admits it. He didn't -- not just that I did it, he says he
14 stabbed him.

15 That's where Shannon ended the story. He says he
16 pulled the knife out and stabs him in the throat over and
17 over and over again he didn't say that on direct
18 examination. So their story puts you in the position that
19 you're going to be considering several things. You're
20 going to be considering self-defense. What evidence of
21 self-defense? Their stories that don't match.

22 They want you to consider defense of others. He
23 was protecting Shannon. What evidence do you have of that?
24 There -- and it's our job to disprove all these. They
25 don't have to prove them, but they brought them up. And

1 when they tell you the story, you get to judge their
2 credibility. You get the judge if you believe what they're
3 saying. Defense of habitation, protecting their house,
4 kicking out trespassers.

5 He's also going to talk about voluntary
6 manslaughter. He said Shannon -- all I could think about
7 was my dead baby when Shannon got kicked in the stomach.
8 So he's mad, he's outraged. That testimony comes from him
9 from the stand and from that only. Nothing else.

10 So both of them wants you to find him not guilty on
11 those defenses for a lesser charge of voluntary
12 manslaughter based on -- based on what they said on the
13 stand; Shannon for never saying anything before and Worth
14 Cook for giving statement after statement after statement
15 that was different than self-defense.

16 Well, ladies and gentlemen you can give those
17 statements that you heard on the stand the weight you think
18 they deserve. And if you believe him and if you don't
19 think the State's proved the case, you find him not guilty
20 and let him go. If it's really self-defense, what do we
21 know. What would a reasonable person do in self-defense?
22 What should you do in self-defense? Like I said, you kill
23 somebody in self-defense when they break in your home. You
24 call 9-1-1. You stand over the body and you tell the
25 police what happened. You don't wait until the body is

1 found and then tell -- but he didn't do that either, did
2 he? He waits 3 years and tells you that story. Should
3 have called an ambulance for his girlfriend; 8 month
4 pregnant girlfriend kicked in the stomach, lost
5 consciousness, but she's okay. We don't want to call. Her
6 health is -- he keeps telling you he wants to protect her,
7 but her health must not be that important because he didn't
8 call. He didn't care. He didn't care enough to call
9 somebody else and say take her to the hospital. Maybe
10 because it didn't happen. Maybe that's why there was no
11 call. Do you call for an ambulance for yourself when
12 you're supposedly cut in the head? Do you call an
13 ambulance for Dave? Maybe he's still alive? Because
14 surely if it's self-defense, I didn't want to kill him. I
15 think he said that. I didn't mean to kill him, I had to
16 kill him.

17 Nobody called the police, nobody called the
18 ambulance. They want to talk about a broken door. Who
19 knows when that door was broken? That's not in any of the
20 statements that he wrote to the police. Shannon Tart
21 didn't say the door was broken. She wanted to say it was
22 but she backed out and, you know, I don't really know. I
23 just heard yelling. I didn't hear the door busted in.

24 What else would have been nice if it was really
25 self-defense? The story is that Dave Diblasi came,

1 threatened to kill him and had a folding knife in his hand
2 and he got cut in the struggle or injured. That knife if
3 he would have kept it, he would have called the police and
4 told them would have David's DNA or David's fingerprints
5 and it would have had his blood. It sure would have backed
6 up that story. But he chose to throw it away. He chose to
7 get rid of it. Or maybe it never existed. Because it
8 wasn't self-defense-defense.

9 Maybe they got into an argument over money or over
10 drugs. Maybe he was tweaking and he lost it. We don't
11 know what happened. We know David was stabbed twelve
12 times; brutally killed, stabbed in the eye and had no
13 defensive wounds. We do know that. We do know that he
14 didn't call 9-1-1. We know he didn't call an ambulance for
15 his girlfriend. We know he hid each and every piece of
16 evidence that anything happened that he could, although he
17 forgot some. He forgot the Wal-Mart bag in the back room
18 where the body was drug. He forgot the blood spatters on
19 the wall, Dave's blood in the house, showing the vicious
20 brutal attack. And although he hid Dave's body, the police
21 found him in a shallow unmarked grave wrapped in a shower
22 curtain. And but for the work of the police, his mama
23 would have never known where he was. But that's okay
24 because he wants you to believe it's self-defense. He
25 didn't do anything wrong. And if you think that's right

1 and we didn't disprove it, you let him go.

2 He got rid of the knife with the fingerprints and
3 the blood. He got rid of the murder weapon, the
4 double-bladed knife. He burned a chair, he cleaned the
5 house, looks like new flooring is put in. He cut up Dave's
6 truck for scrap. He got rid of the motorcycle. He used
7 his credit card. He stole whatever money he had on him.
8 He stole whatever heroin he had on him. He got rid of his
9 phone, he got rid of his wallet, he got rid of his shoes
10 and he buried Dave in his backyard. Is that self-defense
11 or is that murder? And that's your call.

12 Let's talk about all the statements that he gave.
13 I want you to remember Worth Cook over and over and over
14 and over again tells you that his reason, his sole thing in
15 life is to protect Shannon Tart and to protect either the
16 unborn baby or the newly born baby. Everything is driven
17 by that. What happened that night and everything he said
18 to the police.

19 April 3rd, 2013, he's at his house, he's not under
20 arrest. Does he say anything about self-defense? We all
21 know the answer is no. Dave drove off. Dave went away. I
22 don't know where Dave is. He left all happy. We all know
23 he didn't leave and he sure wasn't happy. He was going to
24 Orangeburg to meet up with some chick to earn money to pay
25 a fine. He was going back up north to double up. Where in

1 here does it say anything about self-defense? It doesn't.
2 He didn't call him on the night of February 25th and he
3 didn't tell them when he was confronted with the use of the
4 credit card.

5 He could have talked about Shannon because the
6 statement -- and we're going to get there. The statement
7 that he told Sargent Gooding that he wrote on April 6th,
8 Shannon's in the house. So if something happened and
9 Shannon was really there, he could have told at any time
10 and he didn't because that story you heard on the stand
11 isn't true. He's arrested on unrelated charges, he goes
12 back to the -- or to the sheriff's department for the first
13 time. They read him his rights. He understands his
14 rights. Nobody's threatening him this time. Nobody has
15 threatened him to do anything to Shannon. Nobody is
16 threatening to take away his baby under his theory about
17 what happened. He tells pretty much the same story. He
18 gave me 80 bucks, a few bags of heroin. He didn't have all
19 the money for the labor -- oh, yeah, that's why he left the
20 cards. That's why I used the card. He sure wanted to take
21 the monies and started to use them. He left them on
22 purpose and drove off.

23 Nothing in here about self-defense. Nobody's
24 threatening Shannon. He later says Shannon was home, but
25 if you think that's why he didn't tell the police at the

1 time because it was really self-defense, but he just wanted
2 to protect Shannon, you give it whatever weight you think
3 it deserves. If you think it's enough and we didn't prove
4 that he did this, he's not guilty and you let him go. But
5 Dave drove off.

6 April 5th, 2013 -- April 4th, 2013, there's an oral
7 statement. Sargent Gooding goes in to talk to him along
8 with Marty Longshore, another detective. He pretty much
9 sticks to the same story, Dave drove off again. Again, at
10 this point, even under his story, there's no threatening
11 Shannon. He still doesn't choose to tell the self-defense
12 story, because it's a lie. And he hadn't even come up with
13 it yet. He's confronted with a bag, up here he thought he
14 had gotten rid of it. But the Wal-Mart bag that was found
15 in the back room that had blood on it. They didn't have a
16 picture of it, they didn't have it to shove under his face.
17 They told him about it and he's like, you're just making
18 that up. You're just making it up. I know that I cleaned
19 the house well enough. You're just making it up.

20 He says that at that time when they're pushing him
21 on that issue, he invokes his right to an attorney. I'm
22 done talking to you and he says Sargent Gooding takes an
23 advise of rights form and says invoked an attorney. We
24 don't have a copy of that. On direct examination,
25 Detective Gooding said that didn't happen. He said I

1 didn't threaten him. So you're pitting Mr. Cook, who's an
2 admitted liar over and over again against Sargent Gooding
3 and you've got to figure out which one of them you believe;
4 and which one's credible. But he said he invoked his right
5 to an attorney and Sargent Gooding threatened him, which he
6 denied.

7 If you don't cooperate -- it wasn't ever a specific
8 threat -- if you don't cooperate, if you don't work with
9 us, Shannon's going to be arrested and we're going to take
10 your baby away. DSS is going to take your baby away. He
11 never once said, Tell me you murdered him. They're just
12 investigating Dave's disappearance. At that time the body
13 hadn't been found, there was just blood in the house. Did
14 he say self-defense at that time? No, because it's not
15 true. He stuck with the story that Dave drove off and
16 you're making up the blood because I know I cleaned it up.

17 The next day, April 5th, 2013, Detective Longshore
18 and Detective Gooding again, they come back and they talk
19 to him and he writes this nice ten page statement. It's a
20 long interview. And in this one -- again he doesn't say
21 self-defense. They've got a little more evidence now,
22 though and he's got to start explaining some stuff. I
23 think David's body's been found. They found what they
24 thought was blood in the house in addition to the bag.

25 So would this be the time, maybe, to tell

1 self-defense, if it's got to come out? You would think.
2 But the man who was up there and wants you to believe it
3 was self-defense and told you the story he did, it's not
4 written anywhere in here. He blames his friend. He blames
5 Rick Barnes and said Rick Barnes did it. He said, yeah,
6 Dave may have come in and done something to start with him,
7 you're welcome to read it back there, but Rick's the one
8 that killed him. And it goes on and on and on and on.

9 Even on the last page, when me and Dave was
10 fighting over the heroin, he came at me with a knife and we
11 started fighting. At some point, he got cut and said he
12 wanted to stop. Why would that even be in there? Maybe
13 that is a little bit of the truth. But when I backed off,
14 he just kept on trying to cut me. He was stopped and
15 started over and over and over and over again. Why are we
16 saying that? Maybe there's a little bit of truth because
17 it's not in the story that he told there. They confront
18 him with evidence -- or they confront him with questions
19 and he says, I'm sorry for not being truthful in all things
20 in my statements and realize it's late and just wish to
21 start over again tomorrow with the two detectives I talked
22 to today.

23 Now, the person he's blaming is Rick Barnes. They
24 want to talk about Shannon getting threats. And that's why
25 he didn't tell the police at the very beginning in those

1 earlier statements. They didn't tell Detective Novak.
2 They didn't tell him on the 4th. Rick Barnes was next to
3 him and he knew he was talking. Shannon was getting
4 threats. He's protecting Shannon. Well, what's he do? He
5 goes and blames Rick Barnes.

6 4/6/2013: Detective Gooding came up with an idea
7 to interview him. He printed off a document from the
8 internet that talked about stab wounds, gunshot wounds, and
9 directions of right- and left-handed people. He looked up
10 to figure out who was right-handed and who was left-handed.
11 And he went in and confronted Worth Cook. He read him his
12 advise of rights -- well, before they went to the room, he
13 said he walked by a monitor and he said look at that. Look
14 who's left-handed, look who's right-handed. And they go in
15 there. He gives his advise of rights. He waives his
16 rights and he says he's going the talk to him.

17 Worth Cook's come to lie again. But he starts
18 talking about directionality and how you throw a ball and
19 how it leaves a track with your arm with a right hand. It
20 leaves a different track with your left hand. Does he say,
21 you got me in self-defense? No. He wanted to argue, no,
22 you're wrong, Rick Barnes is really right-handed. He's not
23 left-handed. He's ambidextrous, whatever it is. And
24 Sargent Gooding's like no, no. Nothing about threats that
25 day. But he says he's still operating under the threat

1 from the 5th.

2 You'll go back in and read this again. It talks
3 about the heroin being stolen. It doesn't talk about a
4 phone. It talks about the knife that is used to cut drugs
5 earlier in the day being on the counter and that Dave
6 picked that up -- that knife, not a folding knife. Why lie
7 about a little detail like that? The folding knife didn't
8 appear until the stand, 3 years later. Maybe because it's
9 not true. Maybe though, that's the knife that was always
10 involved.

11 He talks about bringing a hammer after hitting him
12 in the head, the flat side of a hammer. I don't know
13 whether that happened or not. He's got it happening first.
14 He said Dave came to him and -- with the double-bladed
15 knife and he hit him with a hammer and that Dave fell down
16 and stabbed himself in the throat. That's an accident.
17 Maybe that's an even better story than what you heard on
18 the stand today.

19 But that didn't explain all the injuries. He says
20 that he took Dave and he drags Dave into the back room.
21 And he had to clean up before Shannon came home. Shannon
22 wants to say he was cleaning up spilled milk, maybe that's
23 really what he was cleaning up, was the blood that came
24 from that -- whatever happened, when you're stabbed in the
25 throat and drawn back.

1 Shannon is home in this statement. Shannon is home
2 in this statement that he wrote. So how is he protecting
3 Shannon if now he's going to show her in there. He's not
4 protecting her anymore. He's including her. He doesn't
5 have her knowing anything. And the reason is because she
6 didn't know anything. She told the police, I don't know
7 anything. When did she know something and does that story
8 make sense?

9 I do believe that David was still alive because he
10 was breathing when Rick pulled up -- my old lady came into
11 the front of the house and she was mad because I was high
12 and she went straight to her room. I went in to the back
13 of the house to check on Dave. He was breathing and it was
14 freaking me out.

15 Did he ever say that Detective Gooding told him
16 what to write or told him what to say? He did not. So
17 what he wrote, he wrote. The words he picked, he picked.
18 All of a sudden, he, being Dave, kind of sat up and started
19 thrashing around and making a lot of noise. I panicked. I
20 was really high. Maybe he was tweaking.

21 When he moved and sat up and was thrashing, it
22 scared me and I couldn't think of nothing to do. I just
23 pulled the knife out of his neck and I stabbed him a few
24 more times. He quit moving so much.

25 What was Dave doing. Even under this story, what

1 was David doing? Nothing except trying to live. He was no
2 threat to anybody. He stabbed him because he was high and
3 it scared him. And then it says, I know he was hurt too
4 bad, way too bad. I was crying and laying on top of him.
5 Something just kept telling me that I couldn't let him
6 suffer anymore; that it wasn't right for him to be in that
7 kind of pain, so I stabbed him in the eye, which is the
8 blow that killed him.

9 The pathologist said he was conscious when it
10 happened -- or she thought he was. That's her opinion.
11 Were his eyes open? Did he see that blade descend and
12 break into his brain? Was he killed out of mercy? That's
13 not mercy, that's murder.

14 This story is a story of murder on April 6th that
15 he wrote. You'll have it back there. He chose the words.
16 He picked the words. He includes Shannon in the house.
17 He's not protecting anybody. He may have thought that it
18 was self-defense because he started his story by David
19 attacking him and maybe he thought it was an accident
20 because he fell on the knife, but then he goes back to
21 check on him and Dave sits up and he's thrashing, and he
22 stabs him and he stabs him in the eye, that's nothing but
23 cold-blooded murder. An evil heart and evil man. The work
24 of a brutal killer. And if that's not malice, I don't know
25 what it.

1 This statement alone convicts him of murder. You
2 can believe all or part of it. And if you believe the part
3 where he drove it into the eye for no reason, then you'll
4 label him a murder. But he sure wasn't protecting Shannon,
5 because that statement's got Shannon in the house. But did
6 Shannon tell what happened? No, she'd run and got a lawyer
7 and run to North Carolina. She wasn't going to say
8 anything.

9 His statements continue on though because that
10 wasn't a good statement for him. May 29th, 2013.
11 Shannon's gone out of state. She hasn't been arrested.
12 She hasn't said a word about what happened. But she hasn't
13 been arrested. Nobody's taken the baby away. May 19th,
14 2013 -- but she says she's getting threats, I think. I
15 can't remember whether the threats were all here or maybe
16 somewhere in North Carolina or both places. May 29th,
17 2013, the police don't go to him, he goes to the police.

18 He writes this letter that says here's what really
19 happened. And what's he do? He goes back and blames Rick
20 Barnes. It wasn't me that killed him, it was Rick Barnes.
21 He did it. I don't know who's been threatening him if it
22 wasn't Rick Barnes for earlier saying he was guilty of
23 murder, but he's on Rick Barnes again. It's not
24 self-defense. That sure doesn't protect Shannon from Rick
25 Barnes.

1 But if you think that all those lies have to do
2 with protecting Shannon and protecting that baby and that's
3 what really drove that and it's really self-defense and you
4 didn't disagree with it and you let him go, you give it the
5 weight that you think that each and every statement
6 deserves.

7 You know, somebody that we haven't talked about is
8 Kaycee Turner, Rick Barnes's girlfriend. What did she tell
9 you? And did anybody ever say why she would lie? If you
10 heard something, you consider it, if you didn't, you
11 consider it as well. Kaycee says that she and Rick went
12 over there that night. And remember when I talked about
13 how Worth Cook has to adjust to the evidence? State's 18
14 has texts on there that were pulled off of Worth Cook's
15 phone. That night -- and this time is wrong, if y'all
16 remember, it's 2302. The officer says it's really 2202,
17 which is 10:02 p.m.. I'm good, be done in 15, so head 20.
18 She said she saw that text on her boyfriend's phone, not
19 that she heard about it throw years later from an
20 examination of Worth Cook's phone. She saw it. And she
21 went over there that night with Rick. But Shannon Tart
22 says that's not right. But you all get to judge her
23 credibility. Worth Cook says that's not right. You get to
24 judge his credibility.

25 But she says, I was there. We had to knock on the

1 door for 10 minutes to get in that house. That's not what
2 they say happened. They say Rick and Shannon came straight
3 in. What motive does she have to lie and make that up?

4 She can't do anything to help her husband. He pled
5 to accessory after the fact for what he did. He's doing
6 his time. What motive does she have to come lie? Ten
7 minutes to come to the door. When the door was open, Worth
8 was out of breath. He had a weird look in his eye and he
9 looked like like he just took a shower, she said, which is
10 unusual for him because he's usually covered in grease from
11 doing mechanic's work.

12 So what was Worth Cook doing? What was he doing?
13 If you go back to the statement on April 6th that he wrote,
14 something had already happened. Dave was already hurt,
15 Dave was in the back and he was cleaning up. Probably to
16 clean up blood off of himself. Cleaning up blood in the
17 house so that nobody else would know. Because that's what
18 Shannon told the police, I don't know anything.

19 She said Shannon goes straight to her room and she
20 doesn't see her again. She said without -- she says would
21 you tell us without any prompting, Worth Cook says this
22 chair that's normally here, Wade came and got it. She
23 didn't ask about the chair. He just wanted to say the
24 chair was gone because that was part of cleaning up. The
25 chair was gone when Shannon got home, when Rick Barnes got

1 there, when Kaycee Turner got there. Because he'd been
2 already cleaning up because Dave was lying in the back room
3 injured and bleeding with a knife in his neck just like
4 that April 6th statement.

5 And she showed you -- she said the chair -- there
6 was one of those chairs. There used to be another chair
7 over here. One of those chairs is gone. So a chair like
8 that one in that position was gone when she got there that
9 night.

10 She says that Worth goes back and checks on Shannon
11 in the back room. She says Rick goes back and forth around
12 in and out the front door several times. I don't know what
13 he's doing. The shed's in the back, maybe he's checking on
14 meth because that's what he wants to say that text means.
15 Remember how he adapted to the evidence that he's
16 confronted with that he goes over and over again? That
17 text isn't about give me time to clean up and you all come
18 back. That text is about, from what he said, that meth
19 that I'm cooking or that you started cooking is going to be
20 ready, you come get your meth.

21 She says Worth is going back to check on Shannon,
22 Rick is going in and out the front door several times.
23 Maybe the truck was in the back. It wasn't in the front
24 because Kaycee said she didn't see it. She didn't tell
25 anything about being a truck in the front. But the shed's

1 in the back, the pits in the back where the work is being
2 done. So maybe the bike and the truck are in the back
3 because she never sees it. Maybe, just maybe, when Rick's
4 going in and out, maybe he's going back in the shed to
5 check on the meth and maybe he sees the truck. Because
6 what she says is at some point, the last time Rick comes
7 in. He's acting different. She knows something's wrong.
8 He sitting on her lap and shortly thereafter they leave.

9 She said that was not like him. So why is Kaycee
10 lying? Her story matches up to everything happening before
11 Shannon gets there. You look at her credibility. You look
12 at Shannon's credibility. You look at Worth Cook's
13 credibility who told you over and over and over again that
14 he was a liar. He was caught over and over in lies again.
15 But maybe that April 6th statement is the truth. Maybe he
16 was tweaking. You can convict him on those written
17 statements alone. That is the statement that said I killed
18 him with malice. I killed him with murder. I am a
19 murderer.

20 Malice doesn't have to be planned beforehand. You
21 don't have to lie in wait for somebody. You don't have to
22 make up a grocery list. You don't have to go to the store
23 and buy things. It just means that the moment that you do
24 it, you've got an evil heart that you meant to hurt
25 something -- somebody. The judge is going to tell you the

1 law and that's what you're going to hear: You've got to
2 find malice to find murder. And you've got to find that
3 we've proved it beyond a reasonable doubt.

4 A lot of stuff that would have gone to that was
5 destroyed. He hid it. Do you hide self-defense or do you
6 call the police and stand over the body. David Diblasi was
7 missing for six weeks. He was found wrapped in a shower
8 curtain, stabbed twelve times, the fatal blow to the eye;
9 no shoes, no wallet, no phone, no truck. Buried in a
10 shallow grave in the defendant's backyard.

11 No defensive wounds. Never saw what happened.
12 Never saw it coming. It was brutal, it was savage, it's
13 the stuff of nightmares. And even he's admitted that it's
14 his handy work. He's a liar. He admitted it. He's a
15 thief. He admitted it. He's a killer.

16 Ladies and gentlemen, go back there and say he's a
17 murder. Find him guilty of murder. Thank you.

18 **JURY CHARGE**

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

20 Ladies and gentlemen, my instructions to you will
21 take about 30 minutes. They're not necessarily easy to
22 listen to. If anyone needs a break, please indicate to me
23 now by raising your hand. If not, we'll press on.

24 All right. Thank you. Thank you very much.

25 The way I instruct a jury in criminal cases, is I

1 charge the general criminal law that applies to all
2 criminal cases in South Carolina. After I instruct you on
3 the general criminal law, I will then instruct you on the
4 specific charge in the indictment, murder, the
5 lesser-included offense and I will explain that terminology
6 to you of voluntary manslaughter. I will then discuss the
7 various defenses, self-defense, defense of others, defense
8 of habitation. Finally, I will charge you that your
9 verdict must be unanimous and the form of the verdict.

10 Usually when I change from one subject to the next,
11 I will give you the caption of the particular subject
12 matter under the law that I'm fixing to discuss.

13 Charge, arrest, indictment not evidence: The
14 indictment charges the defendant with murder. I remind you
15 that the fact the defendant was arrested, charged and
16 indicted in this case, is not evidence and cannot be
17 considered by you as evidence of guilt in this case, nor
18 does it create any presumption or inference of guilt. The
19 indictment is the document, the formal written instrument
20 which brings the case before the Court and contains the
21 charges made against the defendant.

22 Presumption of innocence: The defendant has pled
23 not guilty to this indictment, and that plea puts the
24 burden on the State to prove the defendant guilty. A
25 person charged with committing a criminal offense in South

1 Carolina is never required to prove himself innocent.

2 I instruct you that it is an important rule of the
3 law that the defendant in a criminal trial, no matter what
4 the seriousness of the charge may be, will always be
5 presumed to be innocent of the crime for which the
6 indictment was issued unless guilt has been proven by
7 evidence satisfying you of that guilt beyond a reasonable
8 doubt. This presumption of innocence does not end when you
9 begin your deliberations, but it accompanies the defendant
10 throughout the trial until you reach a verdict of guilt
11 based on evidence satisfying you of that guilt beyond a
12 reasonable doubt.

13 The presumption of innocence is been said to be
14 like a robe of righteousness placed about the shoulders of
15 the defendant which remains with the defendant until it has
16 been stripped from the defendant by evidence satisfying you
17 of the defendant's guilt beyond a reasonable doubt.

18 The presumption of innocence is not a mere legal
19 theory. It is not just a legal phrase. It is a
20 substantial right to which every defendant is entitled
21 unless you, the jury, are satisfied from the evidence of
22 the defendant's guilt beyond a reasonable doubt.

23 Reasonable Doubt: What is a reasonable doubt in
24 the law? A reasonable doubt is the kind of doubt that
25 would cause a reasonable person to hesitate to act.

1 The state has the burden of proving the defendant guilty
2 beyond a reasonable doubt. Some of you in the past may
3 have served as jurors in civil cases, where you were told
4 that it is only necessary to prove that a fact is more
5 likely true than not true, such as by the greater weight or
6 the preponderance of the evidence. In criminal cases, the
7 state's proof must be more powerful than that. It must be
8 beyond a reasonable doubt.

9 Proof beyond a reasonable doubt is proof that
10 leaves you firmly convinced of the defendant's guilt.
11 There are very few things in this world that we know with
12 absolute certainty, and in criminal cases the law does not
13 require proof that overcomes every possible doubt. If,
14 based on your consideration of the evidence, you are firmly
15 convinced that the defendant is guilty of the crime
16 charged, you must find the defendant guilty. If on the
17 other hand, you think there is a real possibility that the
18 defendant is not guilty, you must give the defendant the
19 benefit of the doubt and find him not guilty.

20 Duties of trial jury and trial judge: I remind you
21 that during this trial, you and I have certain duties to
22 perform. As the trial judge, it is my responsibility to
23 preside over the trial of this case, and I also have the
24 duty to rule on the admissibility of the evidence offered
25 during the trial.

1 You are to consider only the competent evidence
2 before you. If there was any testimony ordered stricken
3 from the record in this case during this trial, you must
4 disregard that testimony. You are to consider only the
5 testimony which has been presented from the witness stand,
6 any exhibits which have been made a part of the record in
7 this case.

8 I have the additional duty to charge you the law
9 applicable to this case. As the presiding judge, I am the
10 sole judge of the law of this case, and it is your duty as
11 jurors to accept and apply the law as I now state it to
12 you. If you already have any idea as to what the law is or
13 what the law ought to be and it does not agree with what I
14 now tell you the law is, you must abandon your idea because
15 you are sworn to accept the law and apply the law exactly
16 as I state it to you.

17 In every case tried in this court before a jury,
18 the jury becomes the sole and exclusive judge of the facts
19 in a case. A trial judge cannot intimate, state, comment
20 on, or make any statement to a trial jury about the facts
21 in this case. Since you, the jury, are the sole judge of
22 the facts in this case, you are not to infer from what I
23 have said during the progress of this trial in ruling upon
24 the admissibility of evidence, or otherwise, or anything
25 that I say now during the course of this instruction to

1 you, that I have any opinion about the facts in this case.
2 The law does not allow me to have an opinion about the
3 facts in this case. That is a matter solely for you, the
4 jury, to determine.

5 As jurors, it is your duty to determine the effect,
6 the value, the weight, and the truth of the evidence
7 presented during this trial.

8 Direct and circumstantial evidence: There are two
9 types of evidence which are generally presented during a
10 trial - direct evidence and circumstantial evidence.
11 Direct evidence is the testimony of a person who claims to
12 have actual knowledge of a fact, such as an eyewitness. It
13 is evidence which immediately establishes the main fact to
14 be proved.

15 Circumstantial evidence is proof of a chain of
16 facts and circumstances indicating the existence of a fact.
17 It is evidence which immediately establishes collateral
18 facts from which the main fact may be inferred.
19 Circumstantial evidence is based on inference and not on
20 personal knowledge or observation.

21 The law, our law, makes absolutely no distinction
22 between the weight or value to be given to either direct or
23 circumstantial evidence. Nor is there a greater degree of
24 certainty required of circumstantial evidence than of
25 direct evidence.

1 You should weigh all of the evidence in the case.
2 After you weigh all of the evidence, if you are not
3 convinced of the guilt of the defendant beyond a reasonable
4 doubt, you must find the defendant not guilty. If after
5 weighing all of the evidence, if you are convinced, then
6 you must find a defendant guilty

7 Credibility of witnesses: In determining what the
8 facts are in the case, you, of necessity, must pass upon
9 the credibility of the witnesses who have testified.
10 Credibility in the law means believability. Can I believe
11 this witness? Is this witness credible? The value and
12 weight to be given to their testimony is in your sound
13 discretion and your good judgement and common sense. You
14 must decide the force and effect and the truth of the
15 testimony, the credibility of the witnesses who have
16 testified before you.

17 In making the determination as to the credibility
18 of a witness, there are many factors that you may or should
19 take into consideration, such as the appearance or manner
20 of the witness as he or she gave testimony from the witness
21 stand. This is known in the law as the demeanor of the
22 witness. You should consider did the witness have an
23 interest in the outcome of the trial? Was the witness
24 forthright or hesitant? Was the witness's testimony
25 consistent or did it contain discrepancies? What was the

1 ability of the witness to know about the facts concerning
2 which he or she gave testimony? Did the witness have cause
3 or reason to be biased or prejudiced in favor of the
4 testimony that he or she gave? Was the testimony of the
5 witness corroborated and made stronger by other testimony
6 and evidence or was it made weaker and impeached by other
7 testimony or evidence?

8 As jurors, you have the right to believe a small
9 portion of a witness's testimony and disregard the larger
10 portion. Or you may believe a larger portion of a
11 witness's testimony and disregard the smaller portion. You
12 may disregard a witness's testimony entirely if you have a
13 sound reason in the record for doing so. You may believe
14 the testimony of a single witness against that of many
15 witnesses or the many witnesses as against the one. Most
16 certainly, you do not determine the matter of credibility
17 or believability merely by counting the number of witnesses
18 for either side.

19 Throughout this entire process, you have but one
20 single objective and that is to seek the truth regardless
21 of from what source the truth may come.

22 Expert witnesses: You've already heard a somewhat
23 shortened version during the course of the trial, there
24 were several witnesses that were qualified in various fields
25 as expert witnesses. Again, the rules of evidence

1 ordinarily do not permit witnesses to testify to opinions
2 or conclusions. An exception to this rule exists for
3 witnesses we call expert witnesses. A witness who, by
4 education and experience, has become expert in some art,
5 science, profession, or calling or craft may state an
6 opinion as to relevant and material matter, in which the
7 witness claims to be an expert, and may also state the
8 reasons for the opinion.

9 You should consider any expert opinion received in
10 evidence in this case and like any other evidence, give it
11 the weight you think it deserves. If you decide that the
12 opinion of an expert is not based on sufficient education
13 and experience, or if you conclude that the reasons given
14 in support of the opinion are not sound, or that the
15 opinion is outweighed by other evidence, you may disregard
16 the opinion entirely.

17 An expert witness's testimony is to be given no
18 greater weight than that of any other witness simply
19 because the witness is an expert. Further, you are not
20 required to accept an expert's opinion, even though it is
21 not contradicted.

22 Statements of defendant: Statements alleged to
23 have been made by the defendant have been admitted into
24 evidence in this case. While the Court has determined that
25 the statement is admissible, I instruct you that you make

1 the ultimate decision of whether or not the defendant made
2 the statement. If the defendant did make the statements,
3 you must determine whether the statements were made by the
4 defendant voluntarily and of his own free will. This means
5 that the statement -- I'm going to use the singular as I go
6 through this rather than the plural, but of course, I'm
7 talking about plural as far as the numbers.

8 This means that the statement was not caused by
9 pressure, force, fear, threats, coercion, or intimidation,
10 or by hope or a promise of leniency or a reward of any
11 kind. In determining whether the statement was voluntary,
12 you should consider both the characteristics of the
13 defendant and the details of the questioning.

14 Some of the factors that you are to consider are:
15 The age of the defendant; the defendant's education or lack
16 of education; the defendant's mental ability or capacity;
17 the defendant's IQ or intelligence; the defendant's
18 background and environment; the place and length of
19 detention; the nature of the questioning; and the advice,
20 or lack thereof, to the defendant of his constitutional
21 rights including, but not limited to, the right to remain
22 silent, that any statement could be used against him in a
23 court of law; the right to have a lawyer present, that if
24 he could not afford a lawyer, a lawyer would be appointed
25 to represent him without any cost; and that he could stop

1 making a statement at any time. You must carefully
2 consider all -- all of the surrounding circumstances before
3 you give any weight to any alleged statement.

4 The State has the burden of proving beyond a
5 reasonable doubt that the alleged statement was voluntary.
6 If you determine it was, you may give the statement any
7 further consideration that you deem proper. You must
8 decide what weight, if any, should be given to any alleged
9 statement. If you determine the alleged statement was not
10 the free and voluntary statement of the defendant, you
11 should not consider the statement at all.

12 Prior record of defendant is limited for
13 impeachment: You have heard evidence that the defendant
14 was convicted of a crime other than the one for which the
15 defendant is now on trial. This evidence may be considered
16 by you, if you conclude it is true, only in deciding
17 whether the defendant's testimony is believable, or not,
18 and for no other purpose. You must not consider the
19 defendant's prior record as any evidence of the defendant's
20 guilt of the charge we are trying today.

21 Prior record of witness: A person who has a prior
22 criminal record is competent to testify during a trial.
23 The past record does not affect the ability of that witness
24 to testify. The past record may only be considered by you,
25 if at all, in determining the witness's believability.

1 Remember, you are the sole judges of the facts in the case
2 and of the believability of any and all of the witnesses.

3 Prior inconsistent statements: There has been
4 evidence presented that witnesses may have made prior
5 statements which are not consistent with the witnesses'
6 present testimony. You may use this evidence to decide
7 whether to believe the witness. You may also use the
8 evidence of the earlier contradictory statements to
9 determine the truth of those statements. It is up to you
10 to decide whether to believe the earlier statements or the
11 testimony given at trial.

12 If a witness is shown to have knowingly testified
13 untruthfully concerning any material matter, you may
14 consider this in determining whether to trust the witness's
15 testimony as to other matters. You may reject all
16 testimony of that witness or give all or part of the
17 testimony the weight you think it deserves.

18 Intent: In order to establish criminal liability,
19 criminal intent is required. For example, the mental state
20 required to be proven by the State for a particular crime
21 might be purpose, intent, knowledge, recklessness, or
22 criminal negligence. Criminal intent must be proven by the
23 State beyond a reasonable doubt. Criminal intent is always
24 a matter that must be determined by the jury from the
25 circumstances surrounding the situation.

1 There is no way to prove intent to a mathematical
2 certainty. There is no way medical science can dissect a
3 person's brain and determine what the person had in mind,
4 so the law, our law, says that criminal intent may be
5 inferred from the circumstances shown to have existed.
6 This is how you make your determination of whether or not
7 the element requiring intent was present. It is not
8 necessary to establish intent by direct and positive
9 evidence, but intent may be established by inference in the
10 same way as any other fact by taking into consideration the
11 acts of the parties and all the facts and circumstances of
12 the case.

13 Criminal intent is a mental state, a conscious
14 wrongdoing. It is up to you to determine what the
15 defendant intended to do based on the circumstances shown
16 to have existed.

17 Criminal intent can arise from action or a failure
18 to act. It may arise from negligence, recklessness, or
19 indifference to duty or to consequences that are considered
20 by the law to be the equivalent of criminal intent.

21 That covers the general criminal law that would
22 apply to all cases of this type. Again, charge, arrest,
23 indictment not evidence; presumption of innocence;
24 reasonable doubt; duties of trial jury and trial judge;
25 direct and circumstantial evidence; credibility of

1 witnesses; expert witnesses; prior record of defendant;
2 prior record of witness; prior inconsistent statement;
3 statements of the defendant; and intent.

4 I will now move to the next area, which is the
5 specific change in the indictment.

6 Again, ladies and gentlemen, as you have done,
7 please continue to give me your complete and undivided
8 attention.

9 Murder: The defendant is charged with murder. The
10 state must prove beyond a reasonable doubt that the
11 defendant unlawfully killed another person with malice
12 aforethought.

13 Malice in the law: Malice is hatred, ill-will, or
14 hostility towards another person. It is the intentional
15 doing of a wrongful act without just cause or excuse and
16 with intent to inflict an injury or under circumstances
17 that the law will infer an evil intent.

18 Malice aforethought does not require that malice existS for
19 any particular period of time before the act is committed,
20 but malice must exist in the mind of the defendant just
21 before and at the time the act is committed. Therefore,
22 there must be a combination of the previous evil intent and
23 the act.

24 Malice aforethought may be express or inferred.
25 These terms, express and inferred do not mean different

1 kinds of malice but merely the manner in which malice may
2 be shown to exist. That is either by direct evidence or by
3 inference from the facts and circumstances which are
4 proved. Express malice is shown when a person speaks words
5 which express hatred or ill will for another or when the
6 person prepared beforehand to do the act which was later
7 accomplished; for example, lying in wait for a person or
8 any other acts of preparation going to show that the deed
9 was within the defendant's mind would be express malice.
10 Malice may be inferred from conduct showing a total
11 disregard for human life based on the totality of the
12 circumstances shown to have existed.

13 Voluntary manslaughter: If you find that the State
14 has failed to prove beyond a reasonable doubt that the
15 defendant committed murder, you would then consider whether
16 the State has proved beyond a reasonable doubt that the
17 defendant committed voluntary manslaughter. Included
18 within the offense of murder is the lesser-included offense
19 of voluntary manslaughter.

20 To prove voluntary manslaughter, the State must
21 prove beyond a reasonable doubt that the defendant took the
22 life of another, unlawfully, in sudden heat of passion
23 based on sufficient legal provocation. Both heat of
24 passion and sufficient legal provocation must be present at
25 the time of the killing to constitute voluntary

1 manslaughter.

2 Sudden heat of passion may, for a time, affect a
3 person's self-defense-control and temporarily disturb a
4 person's reason. The sudden heat of passion must be the
5 type that would make an ordinary person unable to coolly
6 reflect on his or her actions and would produce an
7 uncontrollable impulse to do violence.

8 Sufficient legal provocation must be the type that
9 would make a person of ordinary reason and caution become
10 enraged and to lose control temporarily. The provocation
11 needed for voluntary manslaughter must come from some act
12 of, or related to, the victim.

13 Words alone, however vulgar or insulting, are not
14 enough to be legal provocation. Where death is caused by
15 the use of a deadly weapon, the words must be accompanied
16 by some overt act, threatening act which could have
17 produced the heat of passion.

18 The exercise of a legal right, no matter how
19 offensive it is to another, is never sufficient legal
20 provocation for voluntary manslaughter.

21 If the heat of passion has cooled, or if there was
22 enough time between the provocation, if any, and the
23 killing for the passion of a reasonable person to cool, the
24 killing would not be voluntary manslaughter. In deciding
25 whether a reasonable person would have had enough time to

1 cool off, you should consider all the circumstances
2 surrounding the killing. You may consider the nature of
3 the provocation, if any; the defendant's mental and
4 physical state; and the circumstances and relationships
5 between the parties.

6 That is the instruction on murder and the
7 lesser-included offense of voluntary manslaughter. I will
8 now charge the various defenses. If you would continue to
9 give me your undivided attention, I assure you the end of
10 these legal terms is in sight.

11 Self-defense-defense: The defendant has raised a
12 defense of self-defense-defense. Self-defense-defense is a
13 complete defense and if it is established, you must find
14 the defendant not guilty.

15 The State had the burden of disproving self-defense
16 defense by proof beyond a reasonable doubt. If you have a
17 reasonable doubt of the defendant's guilt after considering
18 all of the evidence, including the elements of self-defense
19 defense, then you must find the defendant not guilty.

20 If, on the other hand, you have no reasonable doubt
21 as to the defendant's guilt after considering all of the
22 evidence, including the evidence of self-defense defense,
23 then you must find the defendant guilty.

24 There are four elements required to establish
25 self-defense defense. First, without fault. The defendant

1 must be without fault in bringing on the difficulties. If
2 the defendant's conduct was the type which was reasonably
3 calculated to and did provoke a deadly assault, the
4 defendant would be at fault in bringing on the difficulty
5 and would not be entitled to an acquittal based on
6 self-defense defense.

7 The second and third elements, I'm going to explain
8 those somewhat simultaneously of self-defense defense is
9 that the defendant was actually in imminent danger of death
10 or serious bodily injury; or that the defendant actually
11 believed that he was in imminent danger of death or serious
12 bodily injury.

13 So it's either the defendant's actually in imminent
14 danger of death or serious bodily injury or the defendant
15 actually believed he was in imminent danger of death or
16 serious bodily injury.

17 If the defendant actually was in imminent danger,
18 it must be shown that the circumstances would have
19 warranted a person of ordinary firmness and courage to
20 strike the fatal blow to prevent death or serious bodily
21 injury. If the defendant believed he was in imminent
22 danger of death or serious bodily injury then it must be
23 shown that a reasonable prudent person of ordinary firmness
24 and courage would have had the same beliefs.

25 In deciding whether the defendant actually was or

1 believed he was in imminent danger of death or serious
2 bodily injury, you should consider all of the facts and
3 circumstances surrounding the crime, including the physical
4 conditions and characteristics of the defendant and the
5 victim.

6 And the final element: The final element of
7 self-defense defense is that the defendant had no other
8 probable way to avoid the danger of death or serious bodily
9 injury than to act as the defendant did in this particular
10 instance.

11 So to paraphrase those: Without fault; actual
12 imminent danger or belief or actual imminent danger; and
13 fourth, no other probable means to avoid the danger of
14 death or serious bodily injury than to act as the defendant
15 did in this particular circumstance.

16 Duty to retreat: If a defendant -- the defendant
17 was on his own premises, the defendant had no duty to
18 retreat before acting in self-defense-defense.

19 Increased risk of harm: The defendant had no duty
20 to retreat if, by doing so, the danger of being killed or
21 suffering serious bodily injury would increase.

22 Degree of force: A person cannot be required to
23 make an exact calculation as to the degree or amount of
24 force which may be needed to avoid death or serious bodily
25 harm. Therefore, in self-defense-defense, the defendant

1 has the right to use the force needed to avoid death or
2 serious bodily injury. The force used in
3 self-defense-defense does not have to be limited to the
4 degree or amount of force, if any used by the victim.

5 The defendant has a right to use so much force as
6 appeared to be necessary for complete
7 self-defense-protection, and which a person of ordinary
8 reason and firmness would have believed to be needed to
9 prevent death or serious bodily injury.

10 If the defendant is justified in defending himself
11 or others and, by example, in firing the first shot, then
12 the defendant is also justified in continuing to shoot
13 until it is apparent that the danger of death or serious
14 bodily injury has completely ended.

15 Defense of others: Under the law of
16 self-defense-defense, the defendant may take another's life
17 in the defense of others. The right to intervene to protect
18 another person is subject to the same rights and
19 limitations as the right of self-defense-defense. The
20 defendant may take the life of person who assaults a
21 friend, relative, or bystander if that friend, relative, or
22 bystander would have had the right of self-defense-defense.

23 To show that the person being defended had the
24 right to self-defense-defense, it must first be shown that
25 the person being defended and the defendant were both

1 without fault in bringing on the difficulties. If the
2 conduct of the person defended or the defendant was the
3 type which was reasonably calculated to, and did, provoke a
4 deadly assault, the person would be at fault in bringing on
5 the difficulty and would not have the right of
6 self-defense-defense. Therefore, the defendant would not
7 have the right to use deadly force in defending that
8 person.

9 The defense of another person is excusable if the
10 defendant had reasonable grounds to believe, and in good
11 faith did believe, that the person being defended was in
12 imminent danger of death or serious bodily injury from the
13 victim.

14 In deciding whether the person defended actually
15 was, or that the defendant actually believed the person
16 was, in imminent danger of death or serious bodily injury,
17 you should consider all the facts and circumstances
18 surrounding the crime, including the physical condition and
19 characteristics of the parties.

20 Right to act on appearances: The defendant does
21 not have to show that the person the defendant defended was
22 actually in danger. It is enough if the defendant believed
23 the person was in imminent danger. The defendant has the
24 right to act on appearances even though the defendant's
25 beliefs may have been mistaken. The defendant must show

1 that, under the circumstances as they appeared to the
2 defendant, the defendant believed the person defended was
3 in danger and that a reasonably prudent person of ordinary
4 firmness and courage would have had the same belief under
5 the same circumstances.

6 It is for you, the jury, to decide whether the
7 defendant's fear of immediate danger of death or serious
8 bodily injury to the person defended was reasonable and
9 would have been felt by an ordinary person in the same
10 situation. The defendant does not have to wait until the
11 victim gets the drop on the person defended; the defendant
12 has the right to act under the law of
13 self-defense-preservation to prevent the victim from
14 getting the drop on the person defended.

15 Words accompanied by hostile acts may, depending on
16 the circumstances, establish self-defense-defense.

17 Duty to retreat: In order to be entitled to defend
18 another person, the person defended must have had no other
19 probable way to avoid the danger of death or serious bodily
20 injury than to act as the defendant did in this particular
21 circumstance. Where the person being defended had no duty
22 to retreat, the defendant likewise would have no duty to
23 retreat.

24 If the person defended was on his or her own
25 premises, the defendant had no duty to retreat before

1 acting in defense of another.

2 Increased risk of harm: The defendant had no duty
3 to retreat if, by doing so, the danger of being killed or
4 suffering serious bodily injury would increase.

5 And finally, ladies and gentlemen, as to the
6 defenses, habitation: If the defendant, or a member of the
7 defendant's household, is attacked in the defendant's own
8 home, the defendant may use the force which appears to be
9 needed to protect himself or his household from death or
10 serious bodily injury.

11 If a trespasser refuses to leave the home when
12 asked to leave, the defendant may use the necessary force
13 to eject the trespasser. If, in the effort to eject the
14 trespasser, the life or safety of the defendant or a member
15 of the household is jeopardized, the defendant may take the
16 life of the trespasser. The kind and degree of force which
17 are justified depend on the conduct of the trespasser.

18 If a person entered the dwelling at the invitation of a
19 member of the household, and thereafter, the person becomes
20 a trespasser if the person refuses to leave when asked to do
21 so by the household.

22 If, while legitimately exercising in good faith the
23 right to eject a trespasser, the defendant is assaulted by
24 the trespasser and fears death or serious bodily harm, the
25 defendant would be without fault in bringing on the

1 difficulty. Whether the defendant was acting in good faith
2 in attempting to eject the victim and was assaulted in the
3 process is a question for you to determine.

4 That concludes both the charge of murder, voluntary
5 manslaughter, self-defense-defense, defense of another and
6 defense of habitation.

7 Regarding your verdicts in this case, there are
8 three possible verdicts that you may find.

9 Mr. Foreman, in addition to the evidence that has
10 been submitted, I'm going to have this form of verdict form
11 in the jury room with you. It's, I think, a very simple
12 form, self-defense-explanatory; however I will review it
13 briefly with you. It's got the case caption, case number.
14 It's got the indictment number, as to murder, we, the jury,
15 unanimously find and I have them listed -- the order in
16 which I have these listed has no significance whatsoever.
17 One must be listed first. There are three possible
18 verdicts you may find. I have them listed: Guilty of
19 murder, guilty of voluntary manslaughter or not guilty.

20 Your verdict, whichever one, must be unanimous one.
21 All twelve of you must agree with the verdict. If after
22 your determination of the facts in the case, comparing it
23 to the law as I have given you the law.

24 If you find the State has proven it's case beyond a
25 reasonable doubt as to murder and that is a unanimous

1 verdict, Mr. Foreman, I would ask you to check to the left
2 of the three words, guilty of murder. Circle both your
3 check mark and the three words. If in your determination
4 of the facts you find that the State has not met it's
5 burden of proof beyond a reasonable doubt as to the charge
6 of murder, I would ask you to then consider -- again,
7 there's no significance whatsoever the order. The next is
8 guilty of voluntary manslaughter. If you find that the
9 State has met it's burden of proof beyond a reasonable
10 doubt as to guilt of voluntary manslaughter and that is a
11 unanimous verdict, I would ask you to check to the left of
12 those five words and circle your check mark and those
13 words.

14 If you find that the State has failed to meet it's
15 burden of proof as to murder and as to voluntary
16 manslaughter and your verdict is unanimous not guilty, I
17 would ask you to check to the left of the two words, not
18 guilty and circle both your check mark and the two words,
19 not guilty.

20 There is a signature for the presiding juror and a
21 date line on there.

22 Again, ladies and gentlemen, your verdict must be
23 unanimous. Your verdict must not be based on passion,
24 prejudice, emotion, sympathy, or any other improper
25 condition not in evidence in this case. Once you have

1 reach that unanimous verdict and you have signed and dated
2 the form, Mr. Foreman, if you will then knock on the jury
3 room door and inform the bailiff that you have reached a
4 verdict. At that time, we will receive you back into the
5 courtroom.

6 Ladies and gentlemen, I'm going to momentarily send
7 you to your jury room. Do not begin deliberations until
8 you are instructed to do so by the bailiff, excuse me, by
9 the clerk or the Court.

10 The law requires I meet one final time with the
11 attorneys outside of your presence in case I may have to
12 review further with you. If I do not have to bring you
13 back out, everybody looks great today, so if I do not have
14 to bring you back out our two fine alternates will come out
15 of the jury room. The evidence will be brought to the jury
16 room and you will then be directed to begin your
17 deliberations.

18 If at any time during the course of your
19 deliberations, Mr. Foreman, you, the jury, has any
20 questions whatsoever, if you just write me out a note and I
21 will respond timely. I'm not leaving. I'll be right here.
22 So any questions just write out of a note and knock on the
23 door, give it to the bailiff and they'll get it to my
24 attention.

25 All right. Thank you, thank you very much for your

1 patience and attention. You may now go with your bailiff
2 to your jury room.

3 (The jury left the courtroom at 11:26 a.m.)

4 THE COURT: Solicitor?

5 MR. GRAHAM: No exceptions, Your Honor.

6 THE COURT: Ms. Henry? Ms. Fullwood?

7 MS. HENRY: Thank you, Your Honor under the charge
8 for self-defense, defense of habitation --

- 9 THE COURT: Yes, ma'am.

10 MS. HENRY: The charge -- requested charge that we
11 submitted included from State versus Rye 370 --

12 THE COURT: State versus Rye, that's the cat
13 killing in lower Richland County of the Beaufort County
14 deputy?

15 MS. HENRY: Yes, sir.

16 THE COURT: All right.

17 MS. HENRY: We requested that you instruct the jury
18 under both defenses, that is self-defense defense and
19 defense of habitation the State has the burden of
20 disproving beyond -- the defenses with proof beyond a
21 reasonable doubt. I did not hear that. I may have just
22 overlooked it.

23 THE COURT: Now, I did on self-defense defense..

24 MS. HENRY: You did.

25 THE COURT: All right. And you're asking me to do

1 it on defese of habitation?

2 MS. HENRY: And -- yes, sir.

3 THE COURT: And, I guess, defense of others.

4 MS. FULLWOOD: Yes, sir.

5 MS. HENRY: Yes.

6 THE COURT: And actually, please, Solicitor or
7 Ms. Henry or Ms. Fullwood, correct me, actually, they
8 disprove it if they disprove one element of the four.

9 MS. HENRY: Correct.

10 THE COURT: All four would have to -- they don't
11 have to disprove more than one, just one.

12 Do you have a copy of Rye in front of you with that
13 language?

14 I'll bring them back out.

15 You have any objection, Solicitor?

16 MS. HENRY: I do, Your Honor.

17 MR. GRAHAM: No, Your Honor.

18 THE COURT: May I see it?

19 Any other exceptions, Ms. Henry.

20 MS. HENRY: No, sir, Your Honor.

21 THE COURT: Thank you.

22 Let me see if I can read my writing, Ms. Henry and
23 Solicitor and make sure this would respond appropriately.

24 I'll tell the jury that I have instructed them on
25 three defenses, self-defense, defense of others, and

1 defense of habitation. I would further advise them that
2 the State has the burden of proof of disproving
3 self-defense and defense of others, and defense of
4 habitation by proof beyond a reasonable doubt.

5 I would then advise them as I instructed you on the
6 elements of each of these defenses; the State would only
7 have to prove beyond a reasonable doubt that one or more of
8 the elements as to each of these particular offenses was
9 not present, therefore, that defense would not apply. For
10 example, if they -- if the jury believes Mr. Cook -- which
11 is just an example was a primary aggressor and the State
12 proves that beyond a reasonable doubt, then self-defense
13 would not apply.

14 If the State -- if the jury believed that based on
15 the credibility of the witnesses that -- that Ms. Tart was
16 not subject to an attack then she would not have been in
17 actual danger or fear of actual danger, therefore, defense
18 of others would not apply. And they only have to disprove
19 one of the elements for a defendant not to have the benefit
20 of that particular defense.

21 MS. HENRY: Your Honor, I agree with that, but I
22 may have misheard. I thought you said the State must prove
23 one of the elements, not disprove it.

24 THE COURT: Okay. So they have to disprove beyond
25 a reasonable doubt that one or more of the elements of that

1 specific defense.

2 MS. HENRY: Correct, yes, sir. Thank you.

3 THE COURT: You agree with that, Solicitor?

4 MR. GRAHAM: Could the language be disprove at
5 least one element or more -- I just I don't want them --
6 confusing them that we had to do more.

7 THE COURT: Okay. Do you have any objection to
8 that Ms. Henry? And I think that's the law. I mean they
9 do have to prove at least one and I can issue that or more.

10 MS. FULLWOOD: I would prefer the language, at
11 least one.

12 THE COURT: All right.

13 MR. GRAHAM: To disprove one element.

14 MS. FULLWOOD: Yeah.

15 THE COURT: You had it or more.

16 MS. FULLWOOD: Well, they have to disprove.

17 MR. GRAHAM: To disprove at least one element.

18 THE COURT: Okay. All right. Bring our jury back.
19 I hope I can read this.

20 (The jury entered the courtroom at 11:36 a.m.)

21 THE COURT: All right. Ladies and gentlemen,
22 again, if you would give me your attention, I want to
23 address an issue as to the defenses. I instructed you as
24 to self-defense defense. Among other things in
25 self-defense defense,

1 the state has the burden of disproving self-defense defense
2 by proof beyond a reasonable doubt.

3 Hand-in-hand with that as far as defense of others,
4 The State has the burden of disproving defense of others by
5 proof beyond on a reasonable doubt.

6 Additionally, the State has the burden of
7 disproving habitation by proof beyond a reasonable doubt.

8 As I instructed you on those three defenses,
9 self-defense defense, defense of others, reasonable doubt,
10 each has certain elements. As I instructed you on those
11 elements of each of those defenses, the State would only
12 have to disprove beyond a reasonable doubt that one of
13 those elements is not present, therefore, the defendant
14 would not be entitled to that particular defense.

15 Again, ladies and gentlemen, if after -- if you
16 have a reasonable doubt of the defendant's guilt after
17 considering all the evidence, including the elements of
18 self-defense defense and or evidence of the defense of
19 others and evidence of defense of habitation, then you much
20 find the defendant not guilty.

21 On the other hand, if you have no reasonable doubt
22 as to the defendant's guilt after considering all the
23 evidence, including the evidence of self-defense defense
24 and defense of others and defense of habitation, then you
25 must find the defendant guilty.

1 With that being said, if you would return to your
2 jury room. Do not begin your deliberations until you are
3 instructed to do so.

4 (The jury left the courtroom at 11:39 a.m.)

5 THE COURT: All right. Solicitor?

6 MR. GRAHAM: No exceptions, Your Honor.

7 THE COURT: Ms. Henry?

8 MS. HENRY: No exceptions, Your Honor.

9 THE COURT: All right. Thank you very much. If
10 y'all would check the evidence, please.

11 (The attorneys went through the exhibits with the
12 court reporter.)

13 THE COURT: Here's the form of verdict.

14 All right. Y'all have checked the evidence,
15 Solicitor?

16 MR. GRAHAM: Yes, Your Honor.

17 THE COURT: You're satisfied with the exhibits?

18 MR. GRAHAM: Yes, sir.

19 THE COURT: Ms. Fullwood?

20 MS. FULLWOOD: Yes, sir.

21 THE COURT: And the form of verdict, Solicitor?

22 MR. GRAHAM: It's fine, yes, sir.

23 THE COURT: And Ms. Fullwood?

24 MS. FULLWOOD: Yes, sir, it's fine.

25 THE COURT: Madam Clerk, would you have the bailiff

1 deliver it and would you inform the jury to begin their
2 deliberations and bring the alternates out.

3 THE CLERK: Yes, sir, I will.

4 THE COURT: Thank you. Thank you very much, we'll
5 be awaiting the jury's verdict.

6 (The alternates came out of the jury room and were
7 dismissed by the Court.)

8 (The jury began deliberations at 11:45 a.m.)

9 (It was reported to the Court that the jury had
10 reached a verdict at 3:40 p.m.)

11 THE COURT: All right. I understand we have a
12 verdict. Anything from the State before we bring in our
13 jury.

14 MR. GRAHAM: No, sir, Your Honor.

15 THE COURT: Defense?

16 MS. HENRY: No, Your Honor.

17 THE COURT: All right.

18 (The jury entered the courtroom at 3:48 p.m.)

19 THE COURT: All right. Madam Clerk?

20 THE CLERK: Mr. Foreman, have you reached your
21 verdict?

22 THE FOREMAN: Yes, ma'am, we have.

23 THE CLERK: Please pass it up by the bailiff.

24 (The verdict form was passed to the Court by the
25 clerk.)

VERDICT

THE COURT: All right. Mr. Cook, if you'd please stand.

Madam Clerk, if you would publish the jury's verdict.

THE CLERK: Yes, sir. 2014-GS-32-00228, the State versus Worth E. Cook, III, indictment for murder, We, the jury, unanimously find the defendant guilty of murder and it is so signed by the foreperson, March 4th, 2016.

Mr. Foreman, ladies and gentlemen of the jury, if this is your verdict, please indicate each of you by raising your right hand.

THE CLERK: All hands are raised, Your Honor.

THE COURT: Thank you. Thank you very much.

Mr. Cook, you may be seated.

Anything further for the jury from the defense?

MS. HENRY: Your Honor, we'd like to have the jury polled, please.

THE COURT: All right. Thank you. Thank you, Ms. Henry.

Madame Clerk, would you please poll the jury. Explain that procedure to them and how you will conduct that procedure, please.

THE CLERK: Yes, sir, Your Honor.

POLLING OF THE JURY

1 THE CLERK: As I call your juror number, if you'll
2 hold up your hand so I can recognize you. I will ask you
3 as to the verdict, was this your verdict and is it still
4 your verdict and then you'll need to respond at the
5 conclusion of the question.

6 Number 109, as to the verdict, was this your
7 verdict and is it still your verdict?

8 THE JUROR: Yes, it is.

9 THE CLERK: 150, as to the verdict, was this your
10 verdict and is it still your verdict?

11 THE JUROR: Yes, it is.

12 THE CLERK: 235, as to the verdict, was this your
13 verdict and is it still your verdict?

14 THE JUROR: Yes, it is.

15 THE CLERK: 126, as to the verdict, was this your
16 verdict and is it still your verdict?

17 THE JUROR: Yes, ma'am.

18 THE CLERK: 289, as to the verdict, was this your
19 verdict and is it still your verdict?

20 THE JUROR: Yes.

21 THE CLERK: 83, as to the verdict, was this your
22 verdict and is it still your verdict?

23 THE JUROR: Yes, it is.

24 THE CLERK: 232, as to the verdict, was this your
25 verdict and is it still your verdict?

1 THE JUROR: Yes, it is.

2 THE CLERK: 2 -- excuse me 122, as to the verdict,
3 was this your verdict and is it still your verdict?

4 THE JUROR: Yes, ma'am.

5 THE CLERK: Number 30, as to the verdict, was this
6 your verdict and is it still your verdict?

7 THE JUROR: Yes, it is.

8 THE CLERK: 58, as to the verdict, was this your
9 verdict and is it still your verdict?

10 THE JUROR: Yes, it is.

11 THE CLERK: 153, as to the verdict, was this your
12 verdict and is it still your verdict?

13 THE JUROR: Yes, it is.

14 THE CLERK: Number 36, as to the verdict, was this
15 your verdict and is it still your verdict?

16 THE JUROR: Yes, ma'am.

17 THE CLERK: All jurors are polled, Your Honor.

18 THE COURT: Thank you. Thank you very much, Madam
19 Clerk.

20 Anything further from the jury from the defense,
21 Ms. Henry?

22 MS. HENRY: No, Your Honor.

23 THE COURT: All right. Anything further from the
24 State, Solicitor.

25 MR. GRAHAM: No, Your Honor.

1 THE COURT: Thank you, thank you very much.

2 All right. Momentarily, Mr. Foreman, ladies and
3 gentlemen of the jury panel, I'm going to release you from
4 your jury service, of course, for the remainder of the day
5 and the remainder of the week. Of course, I thank you very
6 much for your service this week. There are very difficult
7 decisions to be made week in and week out in our
8 courtrooms, not only in this county but throughout the
9 State of South Carolina.

10 And it takes citizens like yourselves sitting in
11 those seats of decision to resolve these issues whether
12 it's between the State and it's citizens or between citizen
13 versus citizen in civil court or citizens in businesses or
14 vise versa. We would not be able to be about the very
15 important business of administering your and our criminal
16 and civil justice system without you. I salute you for
17 your civic mindedness. I know this has disrupted both your
18 personal and professional lives and I further salute you
19 for the effort that you have put into this task in the
20 manner in which you have focussed your attention on all the
21 parties, all the witnesses, and that you've taken your job,
22 your oath, very seriously. Very seriously.

23 Sometime we see our country is very devisive, but
24 however, I certainly don't see it in the courtroom. I
25 trust the American people. It's that simple.

1 Thank you. Thank you very much for your service.
2 I hope you never find yourself part of the system again as
3 a party, a witness, or otherwise in any manner. But I want
4 you to know that if you ever come into the courtroom for
5 any reason and I hope you don't, that hopefully there will
6 be ladies and gentlemen, which I'm sure there will be, like
7 yourselves willing to perform that very important task for
8 all of our friends.

9 Thank you. Thank you very much, you're now
10 excused. I'm sure Mr. Neal has further instructions.

11 Mr. Foreman, will you meet the clerk out in the
12 hallway, please.

13 (The jury left the courtroom at 3:55 p.m.)

14 POST-TRIAL MOTIONS

15 THE COURT: All right. Ms. Henry, Ms. Fullwood,
16 any motions?

17 MS. FULLWOOD: Your Honor, at this time we'll move
18 for a new trial. The grounds for the motion are all
19 exceptions made and objections taken during the course of
20 the trial.

21 THE COURT: Thank you. Thank you very much, Ms.
22 Fullwood. I would respectfully deny the motion for new
23 trial. I would reaffirm all my previous trial rulings both
24 procedurally and evidentiary.

25 Any other motions?

1 MS. FULLWOOD: No, Your Honor.

2 THE COURT: Any reason sentence cannot be imposed
3 at this time?

4 MS. HENRY: No, Your Honor.

5 THE COURT: All right. Mr. Cook if you would come
6 around with your attorneys to the podium.

7 **SENTENCING**

8 THE COURT: Anything additional from the State,
9 Solicitor?

10 MR. CASKEY: Your Honor, I would just share the
11 defendant's prior criminal history. Convictions in 2003
12 for burglary second nonviolent, grand larceny, greater than
13 \$5,000. Looks like that was actually pled in 2009; 2010,
14 possession of methamphetamine; 2011 manufacturing
15 methamphetamine .

16 And the State's position, Your Honor, is, of
17 course, as you're aware of the facts and testimony of this
18 case, we won't take your time to address that, but I think
19 it's appropriate to underscore the brutality of this
20 killing and the defendant's unwillingness to accept
21 responsibility for that crime at every instance he has had
22 an opportunity to step forward and admit his culpability in
23 this crime. He has not done so and has tried to bend the
24 truth in such a way that he can return to his life of
25 criminality.

1 The testimony in the case was that he both used and
2 manufactured methamphetamine, in fact, did so between the
3 time of the murder and the time that he was ultimately
4 arrested; that he regularly engages in theft and other
5 illegal activity and this trial was not simply an exercise
6 of his constitutional rights, but rather was his attempt to
7 escape any responsibility for the murder of David Diblasi.

8 I share that and just ask that the Court impose an
9 appropriate sentence.

10 THE COURT: Thank you, thank you very much,
11 Solicitor.

12 Ms. Henry? Ms. Fullwood?

13 MS. HENRY: Thank you very much, Your Honor.

14 Mr. Cook as you've heard, is 29 years of age. He was
15 raised basically in this area. His mother and his step
16 father, as well as his biological father and his other
17 stepmother are in the courtroom in support of him. He has
18 family members in the area. He has a half brother in
19 Pelion. He has an 8-year-old son in addition to the
20 3-year-old daughter that was mentioned during the trial.

21 He was a high school student both middle and high
22 school at Gilbert High School and then when the family
23 moved to North, he continued his education at North High
24 School. He did drop out or leave school in the tenth grade
25 and he's earned a living with the skills of his hands as a

1 mechanic. He does some construction work and when things
2 were lean, he would sell scrap metal and that type of
3 thing.

4 He had a little trouble with the law, kind of got
5 on the wrong path at a young age, around 19, but his family
6 would like to give the Court a little bit of a fleshed out
7 picture of who he is. We do not think that he was trying
8 to thwart justice by, as the solicitor said, exercising his
9 constitutional right to have a trial. He's maintained the
10 position he took in the courtroom today or throughout the
11 week. And I'm sure the Court is aware that Mr. Diblasi was
12 a heroin dealer, that was established. He, himself had a
13 violent past and this was just an unfortunate coming
14 together of two people who never should have been together.

15 I want to ask for his father and his mother to come
16 forward. They want to speak.

17 THE COURT: All right. You may come around.

18 MS. HENRY: And I have an additional remark at the
19 end.

20 THE COURT: Of course.

21 Yes, ma'am, if you'd speak in the microphone and
22 tell me your full name.

23 MS. SPRYE: My name is Cassandra Amerson Sprye.

24 THE COURT: All right. I'll be glad to hear from
25 you. Yes, ma'am?

1 MS. SPRYE: Thank you for giving me this
2 opportunity.

3 THE COURT: Of course.

4 MS. SPRYE: I know that here in this courtroom, my
5 son has looked like a monster. But this is not who he is.
6 He's a good soul person. He just had this incident happen,
7 which -- it is very tragic, but I want to let you know the
8 kind of person that he is. In the neighborhood where I
9 live, there's a lot of elderly individuals in this
10 neighborhood. My son takes care of the lawns for them.
11 When their vehicles are broke down, he fixes them free of
12 charge. This is the kind of person my son is.

13 When my husband had triple bypass heart surgery,
14 was not able to work and I had to be out of work to take
15 care of my husband, not only did Worth pay the bills at his
16 own home and buy food in his own home, he did that for my
17 husband and myself as well. He paid our bills, he bought
18 food for us. He come over and took care of our animals.
19 It was during the summertime. He took care of our yard.
20 And he worked two jobs in order to take care of his own
21 family and to take care of me and my husband, which is his
22 step father.

23 And I just beg that you have mercy on him. I know
24 that he is depicted to be a horrible person and he's not.
25 He was just caught up in an incident here. And I know what

1 the ruling was here today, but I know in my heart, in my
2 soul that he would not intentionally murder anyone. Thank
3 you.

4 MS. SPRYE: Thank you for this opportunity.

5 THE COURT: Yes, ma'am, thank you, thank you very
6 much.

7 MS. HENRY: This is his father.

8 THE COURT: All right. And tell me your name, sir.

9 MR. COOK JR.: Worth Cook Jr..

10 THE COURT: All right. I'll be glad to hear from
11 you Mr. Cook.

12 MR. COOK JR.: I can't -- I can't say a lot about
13 my son and that's sad. I probably seen him five times
14 since he was in diapers. That's my fault. I can't say I'm
15 his dad. I can't say I'm his father. It's sad that we're
16 in this situation. He's been found guilty of a horrible
17 crime. I can't support that. I trust the judicial system.
18 What's happened, happened and none of it can change. The
19 one thing that bothers me most about this week that I've
20 been in court is the ease that people have come in court
21 and talked about doing heroin, doing crack. I mean
22 that's -- I can't fathom how that makes sense to anybody
23 and by me -- I don't know if I could have changed his life
24 or not. Don't know. Can't go back and see that. I know
25 that drugs -- he's an addict. That's no excuse, but maybe

1 keep in mind that that had something to do with it. I mean
2 he's admitted to doing this. It's horrible.

3 I love you and I'm sorry I couldn't -- you're 30
4 years old and I'm standing here and don't even know my son.
5 It's a sad situation. Thank you.

6 THE COURT: Well, I agree with you on several
7 points. It amazes me the ease of which people come in here
8 and talk about meth and heroin. It really does and
9 unfortunately, this is not the only case that I've heard
10 that you hear that. It truly is in epidemic proportions
11 and those attorneys, Solicitors, Ms. Fullwood, Ms. Henry,
12 they hear it both in trial court and plea court.

13 And it's like some folks go in their refrigerator
14 and get a diet coke, it's just epidemic proportions and I
15 know drugs, alcohol, whatever it is, drug, meth, heroin, is
16 not an excuse. Voluntary intoxication is never a defense.
17 It's a factor, obviously, but it's not an excuse. It's not
18 an excuse. And I certainly respect you and his mother. I
19 respect you for what you said today. And, of course, his
20 mother was very eloquent also, Mr. Cook.

21 Thank you. Thank you for being here.

22 MR. COOK JR.: Thank you.

23 THE COURT: Yes, sir. I'm sorry you had to be.

24 All right. Yes, ma'am?

25 MS. HENRY: Ms. Sprye wants to make one more

1 comment.

2 THE COURT: Uh-huh.

3 MS. SPRYE: I haven't hugged or touched my son for
4 over 3 years, could I please have the permission of this
5 Court to hug my son?

6 THE COURT: Any objection, Sheriff?

7 THE OFFICER: I have no objection, no, sir.

8 THE COURT: I don't have any objection to that.

9 (The defendant hugged his mother.)

10 MS. HENRY: Mr. Cook would like the address the
11 Court, Your Honor.

12 THE COURT: All right. Mr. Cook.

13 THE DEFENDANT: Your Honor, I'd just like to say,
14 you know, I appreciate everybody's time and that I'm sorry
15 that all this stuff happened. And that I didn't conduct
16 myself properly and notify the police or conduct myself
17 properly with the law and I wish to God none of this had
18 happened. I'm sorry. I just wanted to -- just, I don't
19 know. I guess that's it.

20 THE COURT: Thank you. Thank you, Mr. Cook.

21 Ms. Henry?

22 MS. HENRY: Your Honor, based on the defenses we
23 raised and issues that came before the Court, of course, we
24 respect the jury's verdict, but we're certainly asking for
25 the mercy of the Court to impose a minimum sentence in this

1 case. He's a young man. He has a life that can be, I
2 believe, restored, at some point in the future and he can
3 contribute to society. He very much regrets what happened
4 as he told you.

5 In addition, Your Honor, there is a probation
6 matter. He's currently on probation, I spoke to Mr. Rentz
7 downstairs, the warrant that violated his probation was
8 served actually a few days after he was arrested.
9 Mr. Rentz has the file and said he would send someone up to
10 handle this matter if it were a guilty verdict.

11 MS. FULLWOOD: We have someone here.

12 MS. HENRY: We'd like the Court to take this up
13 now.

14 PROBATION AGENT: Thank you Your Honor, may it
15 please the Court, as far as his probation matter goes, he
16 just has the one warrant from 2011 -- excuse me, 2013 for
17 failing to follow the advice and instructions of the agent
18 and moving from his reported address without consent or
19 knowledge of the agent. And admitting to using
20 methamphetamines, marijuana, and amphetamines on two
21 different occasions. There's some financial arrearage as
22 well.

23 MS. HENRY: Your Honor, if I could respond just
24 briefly. After speaking with Mr. Rentz and hearing this
25 here, I think Mr. Cook was just a few months shy of

1 completing that probationary sentence. He did have a
2 suspended sentence, 6 years, suspended on 2 years active in
3 the Department of Corrections and 2 years probation. And
4 aside from verbal reprimands, Mr. Rentz said on the
5 admission of drugs, he was reporting and he was a bit
6 behind in his fines and fees, that had to do with his
7 financial situation.

8 THE COURT: Thank you. Thank you, Ms. Henry.
9 Anything further, Ms. Henry?

10 MS. HENRY: No, Your Honor.

11 THE COURT: Ms. Fullwood?

12 MS. FULLWOOD: Your Honor, it bothers me a bit that
13 the State seeks to use the sentencing factor, the fact that
14 he exercised his right to trial by jury by characterizing
15 it as a failure to accept responsibility because we all
16 know every criminal defendant has that right and it's one
17 of those basic rights we as citizens have. I know though
18 that Your Honor is an experienced jurist and I feel sure
19 that this Court would not consider that in that way.

20 THE COURT: Thank you, thank you very much,
21 Ms. Henry.

22 Anything -- Ms. Fullwood, excuse me. Anything
23 further, Ms. Fullwood?

24 MS. FULLWOOD: That's it Your Honor.

25 MS. HENRY: No, Your Honor.

1 THE COURT: Anything further from the State,
2 Solicitor?

3 MR. CASKEY: Nothing further from the State, Your
4 Honor.

5 THE COURT: Thank you.

6 Mr. Cook, the sentencing range for a murder
7 conviction in South Carolina is a minimum mandatory of 30
8 years and a maximum life without the possibility of parole.
9 And of course, I can sentence anyone to whatever number of
10 years I choose, provided it's 30 years or above. I'm very
11 impressed with both your mother and your father, with their
12 statements to the Court. However, and I'm not going to
13 preach to you. I'm going to give you an explanation of the
14 sentence I impose.

15 However, I cannot turn a blind eye to the fact --
16 the facts of the case in that -- and don't take this as
17 berating you, but of course, I do not condone and I do
18 berate your actions of 25, February, '13. The claim of
19 self-defense in my mind is inconsistent with burying the
20 body of the victim in your backyard. It's inconsistent
21 with the cleaning up the crime scene. It's inconsistent
22 with concealing, hiding, throwing away, destroying
23 evidence. It's inconsistent with the destruction of the
24 vehicle, the motorcycle. Quite frankly, it's inconsistent
25 with going into a dead man's pocket to get the keys to

1 those truck -- that truck.

2 You know, there's so, so many things that you could
3 have done that would have changed this event, that would
4 have changed this event. If all those circumstances didn't
5 come together. If you'd made one choice different -- if
6 you'd called the police -- I mean you could have gone out
7 there and cleaned up our meth. You obviously did, there's
8 no testimony meth was found at your house and then call the
9 police.

10 As I said, I'm not preaching to you, I'm not a
11 preacher. I didn't preach to my own children, it didn't do
12 them any good. I'm not going to preach to you.

13 But obviously, you cleaned up your meth, there's no
14 testimony that you had meth. And you know, what can
15 happen, Mr. Cook, in a few days, sometime even in a single
16 day, can change the total course of one's life. It's going
17 to change the course of your life. And of course, in my
18 mind, you stole Mr. Diblasi's life. And that past would
19 have never gotten behind you, Mr. Cook. You may think you
20 buried the past, it finds a way to crawl right out. Claw
21 its way out.

22 You'll probably be around my age when you get out
23 of prison. That may seem like a long time, but I'm still
24 looking forward and I hope you do to.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: 2014-GS-32-00228, Worth Edward Cook,
2 III, the defendant having been convicted by the jury of
3 murder, the defendant is committed to the State Department
4 of Corrections for a determinate term of 35 years. He has
5 credit for time served since 4, April, 2013. His probation
6 is terminated.

7 Thank you. Thank you very much, good luck to you
8 Mr. Cook.

9 Thank you very much Ms. Henry and Ms. Fullwood.
10 And solicitors, thank you.

11 MR. CASKEY: Thank you, Your Honor.

12 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina }
2 County of Aiken } Certificate of Reporter

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6 I, THE UNDERSIGNED, Brenda J. Sigwald, Official
7 Court Reporter for the Eleventh Judicial Circuit of the
8 State of South Carolina, do hereby certify that I reported
9 the proceedings in the captioned case in the Court of
10 General Sessions in and for the State of South Carolina on
11 the dates of February 29 through March 4, 2016.

12 I FURTHER CERTIFY that the foregoing pages
13 constitute a true, accurate and complete transcript of said
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and
18 seal at Aiken County, this 25th day of July, 2016.

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Brenda J. Sigwald

Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020

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