

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Clarendon County
Honorable Roger M. Young, Circuit Court Judge

VOLUME I OF II

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHAD MORRIS,

APPELLANT

APPELLATE CASE NO 2016-001713

RECORD ON APPEAL

TAYLOR D. GILLIAM
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
S.C. Bar No. 8729
P. O. Box 11549
Columbia, SC 29211-1549
(803) 734-3727

EARNEST A. FINNEY, III
Solicitor, Third Judicial Circuit
P.O. Box 836
Sumter, South Carolina 29150
(803) 436-2185

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

COURT OF GENERAL SESSIONS

State of South Carolina,

PLAINTIFF,

v.

Chad Morris,

DEFENDANT.

TRANSCRIPT OF TRIAL
C/A No. 2014-GS-14-0329

VOLUME ONE

Clarendon County Courthouse
Monday, July 11-15, 2016

BEFORE:

THE HONORABLE ROGER YOUNG, PRESIDING

APPEARANCES:

Assistant Solicitor Chris Durant
Attorney for State of South Carolina

Shaun C. Kent, Esquire
Attorney for Chad Morris

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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1 duty. Or they would put tweeter or Twitter, all these
2 different little things. Those are the same things as if
3 you were talking about it, really as far as the law is
4 concerned and you can't do it. Whomever you want to, you
5 can post on media, on Face book, on all social media,
6 wherever you want to once the case is over. This isn't a
7 real long trial. We're not going to ask you to, hold
8 y'all in for months on end and be in isolation. This is
9 just a couple days. But it's important to not talk to
10 anybody about the case or putting any of these things on
11 the internet. Because that's the same as if you were
12 deliberating. So please don't do that. I'm going to
13 send you home tonight. Again, report back a little bit
14 before 10:00, maybe around 9:45, we'll start at 10:00
15 tomorrow. Enjoy your evening. You won't have to come
16 back tonight. You can do whatever you want to this
17 afternoon. But just go with the gentlemen right now and
18 they'll show you where to report to. If you could be
19 there by 9:45 and we'll get started at 10:00 tomorrow.
20 Thank you very much.

21 (Jury exits courtroom 1:21)

22 The Court: Okay now, the rest of you folks. While I
23 at this point, I do not believe we'll have any other
24 cases besides this one. I'm not going to excuse you for
25 the week just yet. I'm going to ask you to call the

1 telephone number after 6:00 tonight and it will tell you
2 whether or not you've got to report back tomorrow or it
3 may just say call back after 6:00 tomorrow night. Not
4 officially excusing you but it's entirely likely we will
5 need you, but you never know what's going to come up in
6 the course of the week of a trial. So until I officially
7 release you, I need you to keep calling that telephone
8 number after 6:00. But you're free for the rest of the
9 day. Thank you for your patience, in case I don't see
10 you again. Thank you so much for coming. We cannot do
11 it without you. I hope you enjoy the rest of your day.
12 Thank you very much.

13 (Panel excused 1:22)

14 The Court: Any of these issues that we need to take
15 up before tomorrow morning?

16 Mr. Durant: Your Honor, the State does not agree to
17 enter into by stipulation the autopsy report. Mr. Kent
18 and I had discussed whether, what I'd asked him whether
19 he consent or stipulate the boat collision was the cause
20 of Ms. Bordeaux's death. He request that we stipulate to
21 put the autopsy report into evidence. The State is not
22 willing to do that for a number of reasons, mostly
23 because there are two references in the report to the
24 manner of death, that being accident. Of course, the
25 medical definition and the legal definition of homicide

1 outside are different. So without the medical examiner
2 here to explain that, I'm not going to stipulate to put
3 the reporting. Additionally, the report includes a
4 reference to the victim's blood alcohol level, which I
5 don't believe is relevant in this case because she wasn't
6 the operator of a boat. So for those reasons, the State
7 does not stipulate to put in the autopsy report.

8 The Court: You want to put it in?

9 Mr. Durant: We do not. We do not stipulate.

10 The Court: You don't want to put it in and you want
11 to put it in?

12 Mr. Kent: No Judge, they had asked me to stipulate
13 to --- they weren't planning on calling a medical
14 examiner so they asked me to stipulate to the cause of
15 death since the medical examiner was not going to
16 testify. And I said if they don't want to call their
17 medical examiner, that's fine. However, if they're not
18 going to call the medical examiner, I would ask that the
19 autopsy report be put in. So they don't want to put the
20 autopsy report in and they don't want to call the medical
21 examiner, that's the State's choice. I'm not going to
22 try and tell them how to try their case but I won't be
23 stipulating to cause of death without the medical
24 examiner here. They can't have them both ways so ...

25 Mr. Durant: We'll have to call the medical examiner.

1 Mr. Kent: So they'll just call the medical examiner
2 and I'll just ask the medical examiner about the autopsy
3 report.

4 The Court: Alright, what else?

5 Mr. Durant: Your Honor, obviously we are opposed to
6 Mr. Kent's motion number 2 to prohibit the use of the
7 words speed and that witnesses not be allowed to testify
8 to speed.

9 Mr. Kent: We said limit not prohibit.

10 Mr. Durant: To limit. Your Honor, of course, we
11 would state that that's the one essential type of
12 evidence that is contemplated by rule 701 that lay
13 witnesses be allowed to testify to speed if they had a
14 reasonable opportunity to observe speed. Of course, we
15 understand we've got to lay that foundation but as far
16 as, of course, he said limit but we are intending to
17 introduce that type of testimony, Your Honor.

18 The Court: What ...

19 Mr. Kent: Your Honor --- and actually I don't know
20 if I mis-spoke on my motion. The first thing was
21 utilizing the word and utilizing the statement that the
22 defendant was speeding. The reason I said that they
23 can't use the phrase that the defendant was speeding or
24 have witnesses to say that the individual was speeding is
25 speeding, speeding is a legal term. If the ...

1 The Court: There's not a speed limit on the water.

2 Mr. Kent: There's not a speed limit so that was the
3 whole point that they can't say that this individual was
4 speeding because if they say speeding, you have to
5 establish a speed limit and there is no speed limit. So
6 the motion was just to limit the word speed. I know it
7 seems simple but I wouldn't want them testifying well he
8 was speeding that day because you can't say that when
9 there's no speed limits on the lake. I have no problem
10 with a witness saying it appeared to me that he was going
11 fast or something of that nature.

12 The Court: Or he was going at a high rate of speed.

13 Mr. Kent: He was going a high rate of speed in my
14 appearance but to use the phrase speeding or giving
15 exact, I believe he was going sixty-two miles an hour, I
16 don't think that's proper. But if they wanted to say to
17 me it appeared he was going fast, to me it appeared he
18 was going at a high rate of speed, I can't stop that.
19 But to utilize the phrase speeding, especially when they
20 don't have any expert who is going to be able to testify
21 about a speed limit anyway.

22 The Court: Are you referring to x number of miles
23 per hour.

24 Mr. Durant: We have several witnesses ...

25 The Court: ... or miles per hour.

1 Mr. Durant: Your Honor, first of all, Mr. Kent's
2 already made a bit different than his motion. His motion
3 said speed and that has already limited the use of the
4 word speeding, which is different. I would stipulate
5 that there's no speed limit on the lake and so we're not
6 going to have somebody say or not going to --- we don't
7 intend to elicit to testimony that he was speeding.
8 However we do intend to listen to testimony from lay
9 witnesses who had a reasonable opportunity to observe Mr.
10 Morris's boat as to their estimated rate of speed, as to
11 how fast they believe he was going. And I believe that
12 is proper lay witness testimony under rule 701.

13 The Court: Well, you know, here's my thoughts out
14 loud. I can see where you would be able to have a lay
15 person say well I thought he was going an excessive
16 amount or a high rate of speed. But can a layperson
17 actually estimate miles per hour? I don't even know if a
18 police officer can do that.

19 Mr. Durant: Your Honor, it is clear in this
20 jurisdiction as well as any other jurisdiction that lay
21 witnesses are allowed to testify and estimate number of
22 speed. It was a recent fourth circuit case that
23 prohibited an officer to testify as to an exact speed but
24 that case, he was testifying and the reason for the stop
25 was that he estimated the person going seventy-five in a

1 seventy and the Court said well he can't be that exact
2 basically. But...

3 The Court: Well, that's a police officer.

4 Mr. Durant: Our case law is clear that in the past
5 that lay witnesses have always been allowed to estimate
6 the speed of a moving object. That's something that they
7 do on a daily basis almost. Not intentionally but they
8 see and they register how fast vehicles and other objects
9 are moving. So that's ...

10 The Court: Do you have some of those cases?

11 Mr. Durant: I certainly --- I have them on my
12 computer Your Honor. I'll pull them for you.

13 The Court: Well email them to me.

14 Mr. Durant: Yes sir.

15 The Court: Alright.

16 Mr. Kent: Your Honor, can we agree that they will
17 not utilize the phrase first of all speed ...

18 The Court: I mean, speeding is probably not going to
19 be allowed because there is no speed limit, from what I
20 understand, on the water. But if he shows me case law
21 that they can estimate the speed the person was going,
22 then I might allow them to do that. Don't shut the door
23 yet. If he's got law, I want to listen to it. Obviously
24 speeding is different than speed.

25 Mr. Kent: And as far as that, I can make the rest of

1 my argument, I'll wait until they present the case law
2 before I make any further argument as far as what lay
3 witnesses testifying as to specific speeds when experts
4 couldn't do it. Your Honor, we'd make a standard motion
5 to sever, I mean, not to sever, to sequester all
6 witnesses that the State would intend on calling and we
7 understand that motion will be reciprocal. That any
8 witnesses that we would intend to call will be on our
9 witness list or at least witness be sequestered from the
10 courtroom during any portion of the trial.

11 Mr. Durant: No objection.

12 The Court: Alright.

13 Mr. Kent: Your Honor, I'd ask that there would be a
14 Lyle evidence, understanding there is no notice
15 requirement as to Lyle. I would ask if there would be
16 any Lyle information that the State would be intending on
17 utilizing against Mr. Morris. At this point in time,
18 understanding we're at the course of trial to see if
19 there's any Lyle evidence, they would intend to offer,
20 any prior bad act evidence.

21 Mr. Durant: No prior bad act evidence other than
22 subsequently used for impeachment, Your Honor. The only
23 charge that I'm aware of and it doesn't fall within the
24 ten year statute or it's not a common dishonesty, he has
25 a prior negligent boating conviction from 2002. In the

1 off-chance he testifies and made some remark about being
2 a safe boater, obviously Mr. Kent would have to make it
3 relevant, Your Honor. But I don't intend for that to
4 come in.

5 The Court: Well, subject to opening the door ...

6 Mr. Kent: Your Honor, would there be any statements
7 and I've been given one statement and we told you about
8 this in chambers that they indicated that Mr. Morris
9 utilized to Rusty Harrington to be a witness on the
10 witness list, there would be his specific statement that
11 he gave law enforcement, a written statement that we're
12 given a copy of. The question would be is there any
13 other statements on behalf of Mr. Morris that the State
14 will be intending on utilizing.

15 Mr. Durant: There are --- Mr. Morris gave two
16 statements to law enforcement. One to an Officer Jervey
17 on the night of the collision. A second statement when
18 he was interviewed by Investigator Tony Spires. Mr. Kent
19 has the notes from that interview. Those are the two
20 statements to law enforcement that we would introduce
21 testimony to, as well as the statement made to Rusty
22 Harrington at the home, possibly two other witnesses that
23 were at the home, Ms. Erica Wazney and Mr. Chapman.
24 Neither of those have given a written statement Your
25 Honor.

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1 Mr. Kent: Can I ask what would the subject of those
2 statements be?

3 Mr. Durant: With all due respect, Your Honor, I
4 don't believe the State has to tell Mr. Kent what
5 witnesses are going to testify to.

6 Mr. Kent: It would be statements of my client that I
7 need to prepare myself for just in case these are
8 statements that they intend on utilizing. I mean, what's
9 to stop me from interviewing these witnesses?

10 The Court: Do you have a written statement.

11 Mr. Kent: I don't have a written statement, Your
12 Honor.

13 The Court: What are you calling these folks to do?
14 To testify about?

15 Mr. Durant: They may testify as to statements to
16 comments made by Mr. Morris after fleeing the scene and
17 going to Mr. Harrington's house.

18 Mr. Kent: I think Kyle vs. Whitley case law, at
19 the point in time in trial when I'm asking if there's any
20 witnesses --- witness statements or otherwise they intend
21 on utilizing. Unless they're going to tell me, I mean, I
22 guess I could always interview the witnesses so I'll ask
23 the Court's permission to ...

24 The Court: He's represented to me he doesn't have
25 any written statements. You could interview those

1 witnesses.

2 Mr. Kent: Technically, I guess I could interview the
3 witness if they're under subpoena and here for today,
4 then I'd ask The Court to direct the solicitor that I
5 have opportunity to interview their witnesses. I think
6 that's allowed in the case law if they don't want to tell
7 me what they'll say then I'd just like to interview them.

8 Mr. Durant: Of course, he has a right to interview
9 them Judge and he's had that right for the last two
10 years. In fact, he told me last week that he had spoken
11 to everybody at the house.

12 Mr. Kent: This is the first I've ever heard of these
13 two witnesses and I think he's being truthful because
14 today when he gave you a new witness list with two
15 individual names and within the last three weeks ...

16 The Court: You did put some witness names on here
17 this morning.

18 Mr. Kent: Right and those two individual's names are
19 not in any portion of discovery, names aren't included
20 anywhere whatsoever and not on a witness list that I've
21 been given.

22 The Court: Well, in all fairness if you're going to
23 add three witnesses on the day of trial, you need to let
24 him know what these folks are testifying to.

25 Mr. Durant: Your Honor, we're happy to make them

1 available to Mr. Kent.

2 The Court: Okay.

3 Mr. Durant: They're not here today but we certainly
4 will do so in advance of calling these witnesses.

5 The Court: Do you have phone numbers?

6 Mr. Kent: Can I just get phone numbers?

7 Mr. Durant: Yes. I can give him phone numbers.

8 The Court: Alright, give him that.

9 Mr. Kent: And finally Your Honor, there'll be a
10 question as to the - Mr. Morris on the night in question
11 was given two separate breathalyser tests. There's some
12 question about whether or not he had a level of
13 intoxication. He did not. He was given two separate
14 breathalyser tests, he was not arrested. He actually
15 wasn't arrested until two months later. I think there
16 was some question to if he had any alcohol consumed. I
17 think the question, I think the statement was he actually
18 had one beer that night. My question or my motion would
19 be to limit the introduction of any alcohol testimony in
20 light of the fact that sobriety is not an issue in this
21 case. The question being what would the - of the state
22 utilizing the alcohol testimony since sobriety is not an
23 issue in this case. So I move to limit any introduction
24 as alcohol and if they don't want to limit it, I'd ask
25 today what would be the purpose of introducing alcohol

1 testimony in light of the fact that he was sober.

2 Mr. Durant: Your Honor, the State does not intend to
3 elicit that testimony on it's own. Any evidence or
4 questions regarding those alcohol or testing would be in
5 response to Mr. Kent's question of the officer as to the
6 field sobriety test. So basically if Mr. Kent doesn't
7 bring it up, I don't intend to bring it up.

8 Mr. Kent: That's fair. And not that we are ...

9 The Court: Okay.

10 Mr. Kent: ... and candidly not that we are
11 challenging the voluntariness based upon case law, I
12 think we need to have a Jackson v. Denno just to be an
13 abundance of caution since there is one written or two
14 written statements that they intend on, make sure I say
15 it right. One written statement and then a statement
16 with notes.

17 Mr. Durant: That's right.

18 Mr. Kent: He gave two separate statements to law
19 enforcement, just in an abundance of caution, since case
20 laws seem to indicate if there's ever an introduction of
21 the State, then we need to have a Jackson v. Denno, I
22 think we should have a brief Jackson v. Denno hearing.

23 The Court: How brief?

24 Mr. Kent: I may not ask a question.

25 The Court: What?

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1 Mr. Kent: I may not ask a question.

2 The Court: Well, I guess it's 1:30, quarter to 2, in
3 this afternoon, you want to do this this afternoon. If
4 so, let's go get something to eat and then come back.

5 Mr. Kent: Candidly, Your Honor, I think we could be
6 done with it by 2:00 and we wouldn't have to come back
7 this afternoon.

8 The Court: Okay, well ...

9 Mr. Kent: Would you agree?

10 Mr. Durant: I think so.

11 The Court: You have your people here?

12 Mr. Durant: Yes sir.

13 Mr. Kent: I think that would be easier than coming
14 back for a ten, fifteen minute hearing.

15 The Court: Okay.

16 Mr. Durant: Judge, I do have a quick motion that I
17 mentioned to you in chambers to prohibit the introduction
18 or statements regarding a civil action that's pending
19 between the family of the victim and the defendant.

20 Mr. Kent: I don't think they could have anybody to
21 ask them to be candid. And I wasn't planning on
22 introducing or doing anything at all. If someone opens
23 the door for some strange reason, then ...

24 The Court: I can't imagine how it will come in.

25 Mr. Kent: I agree, Your Honor.

1 The Court: Okay, call your witness.

2 Mr. Durant: The State calls Officer Mark Jervey.

3 Ms. Roberts: Place your left hand on the Bible and
4 raise your right hand. Do you solemnly swear or affirm
5 to tell the truth?

6 Mr. Jervey: I do.

7 Ms. Roberts: Please have a seat.

8 OFFICER MARK JERVEY - EXAMINATION BY MR. DURANT:

9 Q Officer Jervey, you work for the Department of
10 Natural Resources?

11 A Yes sir.

12 Q Were you working on the evening, or the early
13 morning hours of July the 4th, 2014?

14 A I was.

15 Q Did you have occasion to speak to Mr. Chad Morris
16 that evening or that morning?

17 A I did.

18 Q And where did you speak to him.

19 A After he arrived to the club house area. He got out
20 the boat, I introduced myself. We talked briefly
21 and after I spoke to Mr. Morris and everything, I
22 offered him a field sobriety test, we walked back
23 into the house and he was able to give us a
24 statement.

25 Q What time of day or night was that?

1 A Roughly 12:30, 1:00 in the morning.

2 Q Okay, and he actually gave you a statement inside
3 DNR's boathouse on the lake?

4 A Yes, I mean the table very similar to that. We
5 spoke openly.

6 Q Did you read him his Miranda rights prior to taking
7 his statement? You told him he had a right to
8 remain silent?

9 A That's right.

10 Q That anything he said could and would be used
11 against him in a court of law?

12 A That's right.

13 Q Did you tell him he had a right to an attorney and
14 have that attorney present there with him during
15 questioning.

16 A I did.

17 Q Did you tell him he had a right to stop questioning
18 at any point if he so desired?

19 A Yes.

20 Q Okay and did he agree to go ahead and speak to you
21 at that time?

22 A He did.

23 Q Were there other officers present?

24 A Yes sir.

25 Q How many?

1 A We probably had four or five officers in and out of
2 the house so ...

3 Q Was he in handcuffs at that time?

4 A He was not.

5 Q Was he under arrest at that point?

6 A No.

7 Q Okay.

8 A He was told he wasn't under arrest.

9 Q Alright, and how long did you speak to Mr. Morris?

10 A Roughly forty-five minutes to an hour, something
11 like that.

12 Q And did he give a signed statement to you?

13 A He did.

14 Q Did he write it out on his own?

15 A He wrote it out himself and I asked him to kind of
16 looked over it whenever he got done.

17 Q After speaking to Mr. Morris, did you allow him to
18 leave?

19 A Yes. He was free to go and I think he walked around
20 the house and everything. I think some of his other
21 folks or other passengers in the boat were probably
22 giving their statements at that time too.

23 Q But he was allowed to leave and go home that
24 evening?

25 A Yes.

1 Mr. Durant: Alright, I don't have any further
2 questions.

3 **OFFICER MARK JERVEY-CROSS-EXAMINATION BY MR. KENT:**

4 Q Officer, how are you doing?

5 A Good.

6 Q I just want to make sure. He gave one written
7 statement and then did you write a synopsis of notes
8 on a second statement?

9 A I don't remember, I think I, you know, me
10 interviewing him, as far as my statement, too.

11 Q And I just want to make sure because I'm confused
12 because I've got two separate statements. So the
13 first one, Mr. Morris gave you, his own written
14 statement?

15 A That's correct.

16 Q And I'm not trying to confuse you. I'm just trying
17 to make sure I understand. Let me approach. Maybe
18 it'll be way easier if I just show you the - Mark,
19 I've got two statements here; this first one Chad
20 Morris ...

21 A That's right.

22 Q He gave a two page written statement to you?

23 A That's right..

24 Q Okay so you - but that's all about one statement...

25 A That's correct.

1 Q Let me make sure it's clear. He gave one statement
2 in which he wrote in his own handwriting.

3 A Yes.

4 Q And then later, you gave a synopsis in your own
5 handwriting of that same statement.

6 A Correct.

7 Q He did not ...

8 A Of my activity that night of interviewing him.

9 Q But he did not give you two statements?

10 A No.

11 Q Okay. The only question I have is was there a
12 Miranda form? You guys utilize a Miranda form that
13 you have them fill out?

14 A I mean, we have a little card or whatnot.

15 Q Okay but the extent ...

16 A I don't think it's actually on our DNR statement.

17 Mr. Kent: That's all the questions I have. Thank
18 you.

19 Mr. Durant: Nothing further.

20 The Court: You can step down. Anything else from
21 the State?

22 Mr. Durant: Call Investigator Tony Spires.

23 Ms. Roberts: Place your left hand on the Bible and
24 raise your right. Do you solemnly swear or affirm to
25 tell the truth?

1 Mr. Spires: I do.

2 **INVESTIGATOR TONY SPIRES EXAM BY MR. DURANT:**

3 Q Mr. Spires, you currently work for the Department of
4 Natural Resources?

5 A Excuse me?

6 Q Do you currently work for the Department of Natural
7 Resources?

8 A Yes, I do.

9 Q You were assigned as the investigator in this case?

10 A I am.

11 Q Did you have occasion to speak to Mr. Chad Morris on
12 July the 5th of 2014?

13 A I did.

14 Q Which would've been the day after the accident.
15 Where did you speak to him?

16 A We were in the parking lot of Food Lion I think it
17 was, was where I spoke to him at.

18 Q Food Lion in Sumter?

19 A In, yes, Sumter.

20 Q And did you call him and ask him to meet you there?

21 A Yes, I called him and asked him where I could meet
22 him and he recommended that spot so that's where I
23 met him at.

24 Q Were there any other officers present with you
25 during that interview?

1 A Yes, my lieutenant was with me.

2 Q What's his name?

3 A Donny Pritchard.

4 Q Donny Pritchard? Okay. Prior to speaking to Mr.

5 Morris, did you read him what's commonly referred to
6 as his Miranda rights?

7 A I did. I actually had a Miranda rights form that he
8 initialed and signed.

9 (Court's Number One was marked)

10 Q I'm going to show you what's been marked as Court's
11 exhibit #1. Do you recognize this form?

12 A Yes, that is correct. That is our Miranda rights
13 form that Mr. Morris initialed and signed that day.
14 Mr. Durant: Let me submit this to, Your Honor, for
15 review.

16 Q Did you go through all of Mr. Morris's rights with
17 him that day?

18 A Yes I did.

19 Q Did he sign and initial that form indicating that he
20 understood his rights?

21 A Yes he did.

22 Q And did he waive those rights and agree to talk with
23 you?

24 A Yes he did.

25 Q And did you record his statement at that time?

1 A I did not.

2 Q Okay, did you take written notes of the statement?

3 A I took notes of the statement.

4 Q Alright and did Mr. Morris at any time indicate that
5 he didn't want to speak to you or that the interview
6 was over, he wanted to leave or wanted a lawyer?

7 A No, he did not.

8 Q Okay was he under arrest at that point?

9 A No, he was not.

10 Q Did you allow him to leave following the interview?

11 A Yes, I did.

12 Q In fact, when did you actually arrest him?

13 A It was approximately two months after the incident.

14 Q This interview was one day after the incident?

15 A Yes, this interview was one day after the incident.

16 Mr. Durant: I don't have any further questions.

17 **Investigator Tony Spires - Cross Examination by Mr. Kent:**

18 Q How are you doing? So I don't look stupid in front
19 of the jury, what do y'all go by? Is it
20 Investigator Spires? Is there a special title?

21 A Just call me Tony Spires.

22 Q Okay. Tony, the information, and just for my own
23 edification, had you already had the statement from
24 Mark Jervy when you interviewed Mr. Morris? Do you
25 understand what I'm saying? Let me make it simple.

- 1 A Hold let me check.
- 2 Q Thank you.
- 3 A Yes, I already had his statement.
- 4 Q Okay. And I'm just trying to make sure for my own
5 point of view. I don't get confused. So Mr. Jervey
6 interviewed Chad immediately after the incident. He
7 was allowed to go home. Were you there that night?
- 8 A I did not arrive until later after the incident took
9 place.
- 10 Q After the incident? Was Mr. Morris already gone by
11 that point?
- 12 A No, Mr. Morris was there that night.
- 13 Q He was still there, you just waited until the next
14 day ...
- 15 A That's correct.
- 16 Q ... to get the statement from him. So the next day,
17 how did you guys have his phone number and all that
18 information? I'm just curious.
- 19 A It would've been, the officers when they arrived at
20 the scene, when they get witness information or
21 operator information, they always get the name,
22 address, date of births, and telephone numbers.
- 23 Q Okay.
- 24 A So if we have to contact, we have a way.
- 25 Q So you have a contact. And you contacted Mr. Morris

1 and you were able to get in touch with him and he
2 met you and gave you a statement?

3 A That's correct.

4 Q Thank you so much.

5 Mr. Kent: That's all the questions I have.

6 Mr. Durant: No further questions Your Honor.

7 The Court: You can step down.

8 Mr. Durant: And no further witnesses.

9 The Court: Mr. Kent.

10 Mr. Kent: The case law says I have to make a motion
11 as to voluntariness as the way I read it if I don't make
12 a Jackson vs. Denno. I think it becomes error. So I
13 guess for the record, Your Honor, on behalf of Mr.
14 Morris, we challenge the voluntariness of the statement.

15 The Court: What does the State have to say?

16 Mr. Durant: Speaking of voluntary, Your Honor, both
17 of these statements were given, according to the
18 testimony of the two officers, Mr. Morris was not, these
19 statements were not given pursuant to a custodial
20 interrogation. He was free, he was not handcuffed, he
21 was allowed to leave following both of these statements,
22 allowed to go home. In fact, wasn't arrested for some
23 time thereafter. I don't think he was in custody for the
24 purpose of Miranda. Nevertheless, his Miranda rights
25 were clearly explained to him and he indicated that he

1 understood them. So the State's position is that these
2 statements were voluntarily given.

3 The Court: If find they were freely, voluntarily and
4 intelligently made. Anything else?

5 Mr. Durant: Nothing from the State, Your Honor.

6 The Court: Okay, well I'll see you guys a little bit
7 before 10 tomorrow morning. If you would, email me what
8 ever cases you want.

9 Mr. Durant: Thank you, Judge.

10 **(End of 7/11/16 Day of Trial)**

11 **(7/12 AM Day Two of Trial begins)**

12 The Court: Alright, before we bring the jury in to
13 get started on this, as far as the speed question goes, I
14 guess I'm going to need to hear from witnesses what the
15 foundation is that he or she is going to be able to say
16 this is why I think he was going x number miles an hour
17 or whatever it is you're offering.

18 Mr. Durant: Your Honor, there were several witnesses
19 that gave statements in reference to the speed. Only a
20 few of which stated gave a miles per hour. None of them
21 said fifty-four miles per hour or something like that.
22 One of them said he was going forty to fifty. One of
23 them said he's going at least fifty. One of them said I
24 know he's going more than thirty because that's how fast
25 I pull my kids on the inner tube. So they're just,

1 they're ranges. They're not exact number. We're not
2 dealing with a speed limit here so that the exact number
3 is particularly relevant. They're estimates and their
4 best guess and there is some reference as to why they
5 believe that he was going that speed or in that range of
6 speed. I anticipate one of them's going to say well I
7 know that tritoons and pontoon boats will go forty-five
8 max. I believe he was going at least that fast. And so
9 they're references based on their experiences on the
10 lake. Again, they're just ranges of speed, they're not
11 exact specific numbers.

12 The Court: Alright, what's your position on that?

13 Mr. Kent: Did you want to hear from them first or do
14 you want me to ...

15 The Court: Well, if that's alright with you, then
16 I'm going to just go on to trial. But if it's not, then
17 we'll hear from them first.

18 Mr. Kent: It's not Your Honor.

19 The Court: Okay. Bring them up.

20 Mr. Durant: Stephen Stafford.

21 Ms. Roberts: Place your left hand on the Bible,
22 raise your right hand. Do you solemnly swear or affirm
23 to tell the truth?

24 Mr. Stafford: I do.

25 Mr. Durant: Your Honor, with the Court's

1 permission, may I explain to the witness the purpose of
2 why the jury's not in here?

3 The Court: Yes.

4 Mr. Durant: Just briefly, Stephen, you notice the
5 jury's not here. This is a pretrial hearing to determine
6 the admissibility of your testimony as to the speed of
7 the boat that evening.

8 The Court: We're not getting into all the
9 background. This is whether or not you can testify about
10 how fast you think he was going.

11 **PROFFER TESTIMONY MR. STAFFORD EXAM BY MR. DURANT**

12 Q Tell the judge who's lake house y'all were staying
13 at that evening.

14 A We were staying at my family's lakehouse.

15 Q How long have y'all had that lakehouse?

16 A Well, it was my grandad's so probably about fifty
17 years.

18 Q Have you grown up on the lake?

19 A Yes sir.

20 Q Have you been around boats all of your life?

21 A Yes sir.

22 Q Alright, does your family own a boat?

23 A I do.

24 Q Alright how often do you drive a boat?

25 A A good bit. Usually about every weekend.

1 Q Do you know the difference in types of boats?

2 A Yes sir.

3 Q What kind of boat were y'all on that evening?

4 A We were on a Skeeter bass boat.

5 Q And did you later find out what kind of boat the
6 defendant was driving that evening?

7 A Yes sir.

8 Q What kind of boat was that?

9 A He was driving a bass boat too.

10 Q He was also driving a - was it a Skeeter bass boat
11 as well?

12 A I don't know the type of bass boat.

13 Q But he was driving a bass boat?

14 A Yes sir.

15 Q And you were actually on the boat that was hit that
16 evening?

17 A Yes sir.

18 Q Okay. Did you have a chance to observe the
19 defendant's boat prior to it striking yours?

20 A No sir. Oh, yes sir.

21 Q Okay. When you first saw his boat, where was it?

22 A He was coming and we --- he was probably right past
23 Scarborough's Landing when we saw him. He came from
24 Camp Bob Cooper part of the lake and came around the
25 curve in front of Scarborough's heading towards the

1 power lines.

2 Q Okay how far away was he at that point?

3 A Probably a few hundred yards.

4 Q And did you keep an eye on him and watch as he came
5 closer to your boat?

6 A Yes sir.

7 Q Okay and were you watching the entire time?

8 A Yes sir.

9 Q How long did it take him to go from a few hundred
10 yards away to reach your boat?

11 A Just a matter of seconds. Probably less than ten
12 seconds.

13 Q Based on your observations and your experience in
14 the water, are you able to give an estimate as to
15 how fast the defendant's boat was going?

16 A Yes sir, I would say he was going at least fifty
17 miles an hour; between fifty and sixty miles an
18 hour, in my experience.

19 Q When you observed his boat, did you notice anything
20 about how high it was sitting out of the water or
21 the trim of the motor or anything? Any of those
22 factors?

23 A From my experience, I could tell that he was going
24 about as fast as the boat would go to where the back
25 of the boat was riding on the pad on the bottom of

1 the boat. And he had his motor I could tell his
2 motor was trimmed up, which lifts the bow of the
3 boat up.

4 Q What's the pad of the boat?

5 A It's up under the back of the boat. The boat, once
6 you trim the motor up, the boat kind of sits on that
7 pad. Well that's basically all that's in the water,
8 that and the hood prop and the motor. And it rides
9 just on that pad. And I can tell too from the sound
10 because when he's riding that pad, you're going a
11 high speed and you hear a slapping noise, the water
12 slapping up under that pad of the boat.

13 Q Does a bass boat, does it raise and lower depending
14 on the speed of the boat?

15 A Well if you trim the motor up, I mean, it lifts the
16 bow of the boat, the front of the boat up.

17 Q And what's the significance of having a motor
18 trimmed up?

19 A To gain speed.

20 Q It makes it go faster?

21 A Yes sir.

22 Q Okay.

23 Mr. Durant: And Your Honor, that would be the
24 State's foundation for the witness's testimony that the
25 boat was going at least fifty miles per hour.

1 The Court: Do you want to cross?

2 Mr. Kent: Yes sir, very brief.

3 **PROFFER TESTIMONY MR. STAFFORD CROSS BY MR. KENT**

4 Q Mr. Stafford, how are you doing sir?

5 A Good.

6 Q I haven't had the pleasure to meet you. I don't
7 have very many questions for you okay? I've heard
8 what you just testified to; it's clear you don't
9 have any special expertise as to boats, correct?
10 You didn't go to any boating school to determine
11 speed?

12 A No sir.

13 Q And you didn't go to any --- are you a structural
14 engineer or anything of that nature ...

15 A No.

16 Q ... that helps you determine --- and I'm sorry, if
17 you'll let me finish my question because Madam Court
18 Reporter is taking down every word that we're
19 saying. You don't have any structural experience or
20 anything of that nature dealing with how fast boats
21 are going?

22 A No.

23 Q And there's no doubt about it this was about 1:00 at
24 night when this happened, 12:30, 1:00?

25 A Yes sir, about 12:30.

1 Q Okay, there's no doubt that it was dark out there
2 that night?

3 A Yes sir.

4 Q There's no doubt that it was cloudy that night?

5 A There weren't too many clouds.

6 Q Okay. So you would disagree with me and the weather
7 report if it said it was mostly cloudy that night?

8 A I mean, I just remember seeing a bunch of stars in
9 the sky.

10 Q Stephen, had you been drinking that night?

11 A Yes sir.

12 Q Okay, and I'm just going, I'm not trying to get you
13 in trouble or anything of that nature. I'm just
14 going with level of intoxication to make a
15 determination as to what was happening that night.
16 So you had been drinking that night?

17 A Yes sir.

18 Q About how many beers do you think you had?

19 A I had, over the course of the entire day, I had no
20 more than six beers.

21 Q Alright. And the basis, and again, you have no
22 personal training as to boats and their speeds or
23 anything of that nature?

24 A No sir.

25 Q There was no other boat that was going next to this

1 boat at the same time?

2 A No sir.

3 Q You weren't lateral to the boat, you were looking
4 directly back at the boat as it's coming directly
5 toward you, correct?

6 A Yes sir.

7 Q So you didn't have some visual of seeing how the
8 boat was going by lateral to the shoreline or
9 anything of that nature?

10 A No sir.

11 Q And from your testimony, there wasn't anything that
12 you gauged or clocked it with, didn't see something
13 else like he passed this pontoon boat going this
14 speed or anything of that nature?

15 A No sir.

16 Q But there's no doubt in your mind in your testimony,
17 in your opinion that he was going fast.

18 A Yes sir.

19 Q Thank you so much.

20 The Court: Mr. Durant, do you want to redirect?

21 Mr. Durant: No sir.

22 The Court: Alright.

23 Mr. Durant: I don't believe that my other two
24 witnesses this morning that were on the boat can give an
25 estimate, give a number, an estimated miles per hour. I

1 believe they just reference the, or describe the speed by
2 very fast, extremely fast, that's entirely too fast,
3 something of that nature.

4 The Court: A speed range ...

5 Mr. Durant: Nobody's going to estimate a speed range
6 that is here this morning. The other witnesses that will
7 estimate a speed range are coming this afternoon.

8 The Court: Okay.

9 Mr. Kent: Your Honor, maybe I could ask this
10 question; it might make things a little more simplified.
11 Of course, as you understood from my argument yesterday,
12 there are no speed limits on the lake. So, I guess I'd
13 ask the State the question what is the purpose or what
14 are they looking to introduce by saying that it was going
15 this specific speed? Are they trying to say that that
16 specific speed is the speed that you can't go, I don't
17 understand what's the difference, what's the relevance in
18 needing a specific speed. If the witnesses are going to
19 testify extremely fast, too fast, wide open, trimmed up;
20 what is the necessity of using a speed number if there
21 are no speed limits on the lake other than to try to
22 qualify it and pretend that there are speed limits as if
23 we're on the road? So that would be my question, what's
24 the purpose of even needing a speed limits?

25 Mr. Durant: Your Honor, there are laws on the lake

1 that prohibit vessels from driving too fast for
2 conditions. That would be negligent operation of a boat.
3 We're dealing with recklessness. But certainly, the
4 degree of speed is possible to enhance the operation from
5 negligence to recklessness. For instance, if I'm driving
6 85 miles per hour on the interstate, I may be driving
7 negligently. But if I'm driving 120, then that becomes a
8 reckless operation. So it's the degree of speed of how
9 fast he's going in light of the conditions that existed
10 that night that are relevant to the issue of
11 recklessness. If the witnesses describe the speed as
12 entirely too fast, not just relatively too fast in
13 reference to those conditions, but entirely too fast, way
14 too fast, he's going to kill somebody; that's the
15 testimony we anticipate here as to the speed and that is
16 what proves recklessness in this case Your Honor. That
17 is the State's case; that is how we get there is the
18 degree of speed at which he was operating that night.

19 Mr. Kent: And Your Honor, then that becomes even
20 more of a problem. That spits in the face of Rule 701.
21 What they're asking now is lay witnesses to give an
22 ultimate opinion and decision to which something that
23 would be required by expert testimony. As we read and
24 review rule 701, Code section C, they cannot allow
25 opinion testimony in, however when you get to subsection

1 C of the rule, it does not require special knowledge,
2 skill, experience, or training. The case the State gave
3 you that they mentioned yesterday, United States versus
4 Sowards specifically didn't allow a police officer to
5 come in who does have specialized training and expertise
6 to talk about speed limits and things of that nature
7 because they don't have that level of specialized
8 training and expertise. This would be significantly
9 different if we're on a road. If we're on a road, I
10 could completely understand. It actually spits in the
11 solicitor's argument to say if I'm going 85 miles an hour
12 or 120 miles an hour down the interstate, this would be
13 reckless. Well, there's speed limits on the interstate.
14 And that's exactly what they're trying to do; they're
15 trying to get witnesses to say hey, estimate a speed for
16 us, estimate it high enough so we can say that you
17 shouldn't be going that speed. These witnesses can
18 completely testify that, in my opinion, it appeared as
19 though he was going entirely too fast. But to sit here
20 now and say the State wants to base their entire case
21 upon witnesses guessing speed in which an expert
22 themselves could not guestimate speed. Your Honor, let's
23 make it clear: the State of South Carolina enveloped the
24 MAIT team. They actually had the MAIT team, the Highway
25 Patrol MAIT team create MAIT team reports in this case.

1 They're not using them because they're irrelevant because
2 MAIT couldn't determine speed. Because you can't
3 determine speed on the waterway. And now to say that we
4 can have lay witnesses come in and guess speed and here's
5 the crazy part: they told you, the speeds that they're
6 guessing are all over the map. It'd be one thing if
7 every witness said this vessel was going this exact
8 speed. Your Honor, the point ...

9 The Court: That's something you ultimately could
10 argue to the jury estimating speeds from 30 miles to 50
11 to 60 miles. You know the statute that he's charged
12 under 50-21-115, basically they only have to prove that
13 the person was operating the boat in a reckless disregard
14 to the safety of others. This doesn't specifically
15 reference a speed limit so I guess the jury has to
16 determine if the boat was being operated with reckless
17 disregard to safety of others. He can testify he has a
18 lot of experience on the lake in bass boats, in
19 particular, on the lake everyday. Knows about trim,
20 different aspects of doing that res gestae of the crime
21 would be reckless disregard issue, speed would play into
22 it. It's entirely possible that 50 or 60 is not too fast.
23 It's also entirely possible that it is so it's something
24 that a witness has the ability to testify about and it's
25 not just pulling it out of the air there is some

1 foundation for giving this estimate then the jury can use
2 that information to determine whether that range of speed
3 or estimated speed was or was not reckless. So as to
4 that particular witness, I would say that particular
5 witness is qualified to give his testimony in line of
6 what he just did. Alright.

7 Mr. Kent: Thank you, Your Honor, just for the
8 record, I won't have to remake my objection as to speed
9 or as any of the pretrial objections as to these
10 witnesses ...

11 The Court: You won't need it.

12 Mr. Kent: Thank you, sir.

13 The Court: Okay and then you add the autopsy
14 stipulation on the record?

15 Mr. Kent: Thank you, Your Honor. As we mentioned
16 yesterday during our pretrial motion, the first motion,
17 not even a motion but originally by way of stipulation,
18 the State of South Carolina was not going to be calling
19 the medical examiner. I stipulated that we would not
20 object to them not calling the medical examiner to
21 testify as to cause and manner of death so long as they
22 would agree to stipulate to put the autopsy report in.
23 Yesterday, they did not have the feeling that that's
24 something they would do. After discussions today, we
25 have agreed to stipulate as to manner and cause of death

1 so long as an autopsy is placed into evidence by the
2 State of South Carolina. They have agreed to place the
3 autopsy into the record. Additionally, Your Honor, my
4 understanding is that will be the only evidence that
5 would be necessary for expert testimony since the autopsy
6 will be going back to the record, even though it'll be
7 hearsay, it will be going back to the jury and I know
8 it's early, we will request an expert witness charge as
9 to the autopsy when they put it in as if the witness was
10 testifying at the same point in time. It just protects
11 us because that still would require expert testimony,
12 especially if the State is going to argue manner of death
13 was x, y, and z, it still would require expert testimony.

14 The Court: That work for you?

15 Mr. Durant: I have no objection.

16 The Court: Okay. Alright, what else?

17 Mr. Kent: Your Honor, in chambers, we had made an
18 argument pursuant to Lyle that the State of South
19 Carolina will be introducing evidence that earlier that
20 evening, and by earlier, I mean five to 10 minutes
21 earlier, they saw the boat which appeared to be a boat
22 driven by Chad Morris going again, at an excessive rate
23 of speed before the accident. I made a motion in
24 chambers to exclude that testimony as it is subjective of
25 Lyle prior bad act evidence even though it is five

1 minutes. I understand The Court's ruling that it will be
2 more res gestae and would come in. I just place that on
3 the record that that would be an objection made.

4 The Court: Do you want to say anything?

5 Mr. Durant: Your Honor, the State's position as
6 discussed in chambers is that this is not a prior bad
7 act. This is part of the res gestae of the crime. This
8 is five minutes beforehand. This is the same trip out on
9 the lake that that boat had taken. His operation of that
10 vessel a mere five minutes beforehand, we would argue was
11 not a prior bad act evidence. That is part of the
12 circumstances which led to this incident itself and we
13 would request that it be admitted, Your Honor.

14 The Court: I agree. He saw him go in one direction
15 just a few minutes of the accident happening. That
16 really probably does more to res gesta, prior bad acts.
17 So, I'll allow it in.

18 Mr. Kent: And again, Your Honor, my objection will
19 be protected when whatever witness testifies, I don't
20 have to renew that objection.

21 The Court: Alright.

22 Mr. Kent: Finally, Your Honor, in chambers, we had
23 mentioned that the State of South --- we worked this out,
24 but just for the record. The State of South Carolina had
25 presented two pictures of the victim. One was a picture

1 of the victim holding a puppy. The other was a picture
2 inside of a frame of the victim by themselves. The State
3 informed me that they were not going to introduce those
4 into evidence. They use those as, I don't want to say
5 demonstrative but basically use them in opening statement
6 to basically put a face with the decedent. We objected
7 that the only purpose of that would be to prejudice the
8 jury. The State, at that point in time, agreed that they
9 would not be using the picture with the puppy and would
10 be taking the picture of the decedent out of the frame
11 and simply using the picture of the decedent just for
12 opening statements, would not be using them throughout
13 the course of the trial just to put picture with the
14 victim.

15 The Court: One picture and take it out of the frame?

16 Mr. Kent: Yes sir.

17 The Court: Okay.

18 Mr. Kent: And just our objection for the record is
19 the whole point of that is to prejudice the jury.

20 The Court: Alright. Well, let's see. Are you going
21 to need more than five to 10 minutes on opening?

22 Mr. Durant: No sir.

23 The Court: You?

24 Mr. Kent: No sir.

25 The Court: Alright. And I'm not a fan of you

1 talking so fast but slow down.

2 Mr. Kent: Madam Court Reporter has dealt with me,
3 many occasions. I think she's stretched her fingers and
4 she's ready.

5 The Court: You're the fastest talking southerner
6 I've ever come across. Let's take five minutes and we'll
7 get ready.

8 (Court Break/Back On)

9 **(State's Exhibits One through 56 were entered into**
10 **evidence)**

11 **(State's Exhibit Number Fifty-Seven was marked for**
12 **identification only)**

13 The Court: Do we know who they picked yet? Did they
14 tell you who they picked as foreperson?

15 Bailiff: Juror #12, Ms. Johanna Wilson.

16 The Court: #12 Sarah Jordan?

17 Ms. Roberts: No sir. Johanna Wilson.

18 The Court: Okay, now the court reporter tells me
19 y'all have agreed to the admission of the first 56
20 exhibits. Is that right?

21 Mr. Kent: That should be correct.

22 The Court: 57?

23 Mr. Kent: That should be correct, Your Honor.

24 The Court: They are all in.

25 Mr. Kent: 57 is not into evidence. That would be

1 the picture.

2 The Court: The picture is in over your objection.

3 Mr. Kent: I thought it was just going to be
4 demonstrative. It's not into evidence; it's not going
5 back in the jury room, correct?

6 The Court: You're talking about the ...

7 Mr. Kent: I'm talking about the picture of ...

8 The Court: Oh, okay. Well ...

9 Mr. Kent: My understanding is that the State was
10 going to be using that just during their opening
11 statements; they were not going to be using it again.

12 The Court: Okay.

13 Mr. Durant: I'm going to use it ...

14 Mr. Kent: In opening and maybe closing.

15 The Court: Okay, well if it's just being used then,
16 it's not in evidence. 1 through 56 then are marked and
17 agreed to.

18 Mr. Kent: That is correct. Yes, Your Honor.

19 The Court: Bring the jury in.

20 (Jury enters courtroom 10:44 a.m.)

21 The Court: Okay folks. Welcome back. We had to
22 excuse one of the jurors so we seat the first alternate.
23 And I understand y'all have picked Ms. Johanna Wilson as
24 the foreperson of the jury. Are you Ms. Johanna Bethune
25 Wilson?

1 Ms. Wilson: I am.

2 The Court: Congratulations. You don't get any extra
3 pay. You make sure when the deliberations are going on,
4 everybody gets their say and you write the verdict down
5 on the back of the indictment. Okay? Alright. Now,
6 before we begin, I'm going to have the clerk administer
7 your oath to you so if you would, stand and raise your
8 right hand.

9 (CLERK SWEARS THE JURY)

10 Jury: I will.

11 Clerk: Thank you. You may be seated.

12 The Court: Okay folks, I'm going to give you a few
13 remarks about what we'll be doing over the next couple of
14 days, what the process and procedure is because I
15 understand most of you all have not set on a jury before.
16 So, it's a little bit unfamiliar to you so I'm going to
17 give you some idea of what we're going to do. As I told
18 you, this is a criminal case. And I told you a little
19 bit about it yesterday. The lawyers will be getting up
20 in a minute to start their presentation of evidence and
21 they will give you more detail about what the case is
22 about. I'm just giving thoughts and on our process and
23 procedures so that you'll kind of understand what we're
24 doing and why we're doing it. It makes sense when you've
25 been doing it for a while. I'm sure to y'all it doesn't

1 process, and I've done this now for a long time, is keep
2 an open mind until you've heard all of the evidence.
3 Don't prejudge this case. Alright? Listen to both
4 sides. Listen to all of the evidence. Once you've heard
5 all of the evidence and you've heard me tell you what the
6 law is, then and only then should you make your mind up.
7 Okay so we're going to begin now with the opening
8 statements. And again, the State has the burden of proof
9 so the solicitor will have the opportunity to make
10 opening statements. Mr. Solicitor, we're ready when
11 you're ready to begin.

12 Mr. Durant: Thank you Your Honor. May it please The
13 Court? Mr. Kent, Madam Clerk, ladies and gentlemen of
14 the jury. I ain't going tonight. I'll talk with them in
15 the morning. Those are the words of Chad Morris, seated
16 at the defense table here in the white shirt, those are
17 his words on the evening or early hours on July the 4th,
18 2014 just after he, while driving a boat on Lake Marion,
19 had struck a stationary boat killing 21 year old Hailey
20 Bordeaux in the process. He fled the scene. When a
21 friend urged him to go back and talk to law enforcement
22 about what had happened, he made that statement. "I
23 ain't going tonight. I'll talk with them in the morning.
24 I'll deal with it later."

25 My name is Chris Durant, I'm an Assistant Solicitor

1 here in Clarendon County. I've been a solicitor here for
2 about five years. I worked in the upstate for a couple
3 years before that. And my job, as you heard, as a
4 solicitor, the judge told you in his remarks yesterday is
5 to represent the interest of the State of South Carolina.
6 To represent the interest of our community. To represent
7 your interest. The Supreme Court has just said that the
8 job of a solicitor is not just to seek convictions, but
9 to ensure that justice is done. And make no mistake
10 about it: that is my goal in this case, to see that
11 justice is done. As the judge told you a few minutes
12 ago, the burden is on the State of South Carolina and
13 when we talked about that before let me say that any
14 point I tell you something regarding the law and it
15 differs from what Judge Young tells you, then by all
16 means, disregard what I say and apply the law as Judge
17 Young gives it to you. He is the final judge of the law
18 so disregard anything I say that isn't consistent with
19 what he says. But I submit to you that the State has to
20 prove their case beyond a reasonable doubt. Proof beyond
21 a reasonable doubt is proof that will leave you firmly
22 convinced in the defendant's guilt. The charges that Mr.
23 Morris is facing as you've heard is one, reckless
24 homicide by operating a boat. The first word, is the
25 word homicide. Homicide is just a legal term for the

1 killing of one human body by another. It is not
2 synonymous with murder, it doesn't mean the same thing.
3 A homicide might not be illegal at all. For instance,
4 the killing of another in self-defense, while that is
5 classified as a homicide, it wouldn't be an illegal act.
6 So homicide doesn't mean murder. They are two different
7 things the just simply the killing of one person by
8 another. So a reckless homicide while operating a boat
9 is the killing of one by another is reckless operation of
10 a boat. By operating a boat in reckless disregard in the
11 safety of others. Recklessness, as you will hear, is an
12 indifference to your actions, an indifference to the
13 consequence of your actions, an indifference to the
14 rights and safety of others. The second charge Mr.
15 Morris is facing is leaving the scene, hit and run.
16 You'll hear from the judge that the law states that it is
17 the duty of the operator of a boat that's involved in a
18 collision with another boat to stop. If it's practical
19 to do so without serious danger or risk of injury to his
20 passengers on his boat to stop and render aid or
21 assistance. And to give information, to give his name,
22 identifying information. That's his duty to do so. He
23 chose not to do that. The facts of the case that you
24 will be hearing from this witness stand, from pictures,
25 exhibits that will be introduced.

1 On the evening of July the 3rd, 2014, coming into a
2 holiday weekend, four friends went to the lake. A young
3 married couple, two high school sweethearts. They'd been
4 dating for five and a half years. They got on the lake
5 about 9pm. They cooked out, they burned the chicken,
6 they cook out again, they go out and they decide to take
7 a late evening boat ride. Nobody has got to be anywhere
8 the next day. They decide to take a late evening boat
9 ride. They putt around the lake for a few minutes. They
10 come back in front of the dock that they're using. They
11 cut the boat off; they're sitting station ary. Their
12 lights are on according to at least eight other witnesses
13 that you'll hear from. Their lights are on. They're
14 just enjoying each other's company, looking at the stars.
15 Somebody's playing with a fishing rod. Hailey makes the
16 comment "I can sit out here all night." That peace is
17 short-lived though because they hear the sound of a
18 roaring motor coming up behind them. They look and some
19 distance away, it appears to be in line to strike them is
20 another boat, sitting high in the water. You'll hear
21 from several witnesses the speed of that boat was 40 to
22 50 miles an hour; at least 50 miles an hour, entirely too
23 fast. He's going to kill somebody is what somebody that
24 saw the boat beforehand said. They're helpless. The
25 closer he gets, the more they realize and the more

1 frantic they become and they realize he's not changing
2 course. They get their cell phones out to use the light
3 as a signal. One of the passengers is waving her hand in
4 front of the light of the boat to create a strobe effect.
5 He never changes course. They are helpless in the water
6 with this boat being driven by Chad Morris entirely too
7 fast, 40 to 50 miles an hour on the lake at night, drive
8 right over the back of them, from back to front,
9 completely goes across the boat, striking and killing
10 Hailey in the process. So, what they do after that, like
11 any reasonable person, of course, Mr. Morris stopped and
12 they helped the two guys knocked off the back to the
13 boat, help get them to shore, they call 911, they talk to
14 with first responders and law enforcement. No. They
15 didn't do any of that. They left, they fled the scene.
16 They cut their lights off and under the cover of
17 darkness, beached their boat at a friend's house and then
18 when urged to back, he stated I'll deal with that later.
19 I'll talk with them in the morning. They may get up here
20 and claim that they thought their boat was taking on
21 water; that's not what the evidence will show. They may
22 claim they called 911; that's inconsistent with the
23 evidence. I don't know whether --- I don't expect any
24 witness to say that they gave information but the
25 evidence is clear that they didn't give their name or

1 information to anybody that was involved in that
2 accident. They just left. This is what the evidence
3 will show. I will just ask you now to pay close
4 attention to the evidence. Go apply the evidence to the
5 law the judge gives you later and follow your oath as
6 jurors and if you do that, I submit to you that that
7 evidence will bring you but to one conclusion and that's
8 that Chad Morris is guilty. Thank you.

9 The Court: Alright. Mr. Kent?

10 Mr. Kent: Thank you Your Honor. May it please The
11 Court? Growing up down in Charleston, South Carolina
12 where he lived with his mom and dad. And one of the
13 radio shows that they used to listen to is a fellow named
14 Paul Harvey. Paul Harvey, he would tell a fantastic
15 story. He would tell this great story and at the end of
16 the time you would always hear, now is the time for the
17 rest of the story. There always is two sides to every
18 story. The prosecutor has told y'all a fantastic story.
19 And here's the thing that's going to shock you. This
20 happened about a year ago, maybe two years ago. And I'm
21 not going to sit here and tell you this isn't the saddest
22 case I've been involved in. It's disturbing and it's sad
23 and it's tragic. I've never had the pleasure,
24 unfortunately, of meeting the victim in this situation.
25 She has remarkable family and friends who are sitting

1 here right in front of you. They are probably going to
2 be here all week. She lost her life tragically that day,
3 no doubt about it. And the person who is responsible for
4 that is in this courtroom and we're not going to hide it
5 from you. The person who is responsible for taking her
6 life is right here. And we're not going to hide from
7 that. We're not going to yell and try to scare you or
8 anything of that nature but he is responsible. He is
9 civilly responsible, he's financially responsible, he is
10 morally responsible; he is ethically responsible. One
11 thing, as I tell you the rest of the story is he is not
12 criminally responsible. Ladies and gentlemen simple as I
13 can put it, as clearly as I can state this was a tragic
14 accident. And unfortunately, when we deal with tragic
15 accidents, sometimes you don't want to acknowledge that
16 accidents happen unfortunately and sometimes they're just
17 sad. What happened when we have an accident that happens
18 in our society we don't want to acknowledge sometimes
19 that they happen. When I drive home, there's this big
20 interstate sign which announces 491 deaths so far this
21 year by tragic accidents. And they happen. What we have
22 in the State of South Carolina feeling awful as anybody
23 should. And saying because of the accident, we need
24 somebody that we need to punish for a tragic accident.
25 And that's what they're trying to do today. Rather than

1 saying we're sorry, let's work to fix this, let's show
2 blame where it shouldn't be and try to create a criminal
3 responsibility. So we talk about the rest of the story.
4 When the State of South Carolina has decided that they
5 need you to be afraid, that they need you to be scared,
6 that they need you to hate Chad Morris for a tragic
7 accident that happened on that day. They get in front of
8 you. They try to scare you, they try to fear you, they
9 try to make you think that something happened that didn't
10 happen. Well, you're going to hear the rest of the story
11 from the witnesses. And that's what's important. Chad
12 Morris was in that boat that day. I'll be very
13 interested when the State of South Carolina with all
14 there ego, everything they have provided you actually
15 tell you the whole story. They made a comment about they
16 didn't do, they didn't call 911. They talked to you
17 about all of the witnesses that were out there that day.
18 Let's see how many of the witnesses that we get to hear
19 from. Let me tell you what happened that day. Chad and
20 his friends were in their boat. It was nighttime, about
21 12:30 or 1:00 in the morning. I wasn't there; I'm not
22 going to guess the speeds. Because guess what? I'm not
23 a scientist, I'm not an expert, you try to guess the
24 speed on the lake, on the water it's not possible. We're
25 going to hear testimony that there are no speed limits on

1 the lake. Maybe they should be, but there aren't.
2 Anybody that's been on the water, that why we ask all
3 those questions, there are no speed limits. Chad was
4 going down the water and he hit something. There's
5 people in his boat. There's two people inside of his boat
6 that said we hit something, we had no clue what it was.
7 Boat was turned around, we looked and yeah, an argument
8 ensued. You'll hear testimony about it. And then when
9 the argument ensued from the people in Chad's boat and
10 the people who had just been hit. "You didn't have no
11 lights on!" "Yes we did!" "You didn't have any lights
12 on!" They were convinced there were no lights on. They
13 didn't see them at all. They didn't see this boat and
14 they hit it and they turned around and guess what, they
15 called 911. They didn't want you to know that, they try
16 to hide that information but they called 911. They
17 talked to 911, the people from inside the boat. Chad
18 Morris' boat. There was a fight, they were talking back
19 and forth, Chad was in shock. And you'll hear about
20 that. And he sat there. He didn't flee the scene as the
21 prosecutor wants to tell you because he needs to tell you
22 that. Chad waited there. Did he hop out of his boat and
23 swim over? No. There were a bunch of other boats out
24 there also. So Chad waited. He was the last boat to
25 leave. You'll hear the rest of the story. And I bring

1 that up and I tell you all of this information because
2 this isn't something that I'm trying to scare you.
3 Chad's responsible. It's something that he has to live
4 with every single day. He was completely unintentional.
5 That's not a word you're going to hear from any witness
6 whatsoever. Because you know when we talk about crime,
7 we talk about the word intent. That somebody intended to
8 do something. I've been a criminal defense lawyer, I've
9 been a prosecutor, I've been practicing law for almost
10 sixteen years. And this is one of the most difficult
11 cases I've ever dealt with because I've never sat
12 directly in front of a jury and said yeah, he did it.
13 But it was a tragic accident. The prosecutor says he was
14 reckless, he was reckless, he was reckless. He was in
15 his boat at night and hit someone. You'll hear no
16 testimony that he was swerving. You'll hear no testimony
17 of (coughing interruption) You'll hear no testimony about
18 racing another boat. You'll hear no testimony of jumping
19 another boat. You'll hear no testimony of cursing
20 everybody out. You'll hear witnesses from the State that
21 he was going fast. You will hear testimony that he was
22 driving. You'll hear witnesses from the State say he was
23 going fast. You'll hear them say he was going too fast.
24 I don't know what fast and too fast is on a boat
25 definitely if there are no speed limits. But what you

1 will hear, it was an accident. Thank you so much.

2 The Court: Alright Mr. Solicitor, call your first
3 witness.

4 Mr. Durant: The State calls Stephen Stafford.

5 Bailiff: Raise your right hand, place your left
6 hand on the Bible. Do you solemnly swear the testimony
7 you are about to give is the truth, the whole truth, and
8 nothing but the truth so help you God?

9 Mr. Stafford: Yes, ma'am.

10 **Mr. Stafford - Examination by Mr. Durant**

11 Q: Mr. Stafford, good morning. If you would tell the
12 jury your name and age, and where you live and work
13 please.

14 A: My name is Stephen Stafford and I am from Sumter,
15 South Carolina. I am 24 years old and I am employed
16 with UniFirst.

17 Q: With what?

18 A: UniFirst.

19 Q: What is that?

20 A: They deliver uniforms to different businesses.

21 Q: And I will just go ahead and ask you straight out.
22 Did you know Hailey Bordeaux?

23 A: Yes sir.

24 Q: How did you know her?

25 A: I had been dating her for about six years.

Mr. Stafford - Examination by Mr. Durant

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- 1 Q: Prior to this incident?
- 2 A: Yes sir.
- 3 Q: Let me show you what has been marked for ID, it is
- 4 State's exhibit 57. Do you recognize the person?
- 5 A: Yes sir.
- 6 Q: Is that Hailey?
- 7 A: Yes sir.
- 8 Q: How old was she in this photo?
- 9 A: In that photo probably 23...22, probably 22.
- 10 Q: Is this the Hailey Bordeaux that was killed in the
- 11 incident on July 4, 2014?
- 12 A: Yes sir.
- 13 Q: Was Hailey in school?
- 14 A: Yes sir at USC in Columbia.
- 15 Q: What year was she?
- 16 A: She was a, she was a junior.
- 17 Q: You said you all had been dating for five and half,
- 18 six years? So you all dated in high school?
- 19 A: Yes sir.
- 20 Q: Where did you all go to high school?
- 21 A: At Sumter High School.
- 22 Q: Were you with Hailey on the early morning hours of
- 23 July 4, 2014?
- 24 A: Yes sir.
- 25 Q: Where were you?

- 1 A: We were in Justin Cromer, our friend Justin Cromer's
2 bass boat on Lake Marion.
- 3 Q: Down at the lake?
- 4 A: Yes sir.
- 5 Q: Were you all staying at the lake that evening?
- 6 A: Yes sir.
- 7 Q: Who's house were you all staying in?
- 8 A: My family's lake house.
- 9 Q: That is on Lake Marion here in Clarendon County?
- 10 A: Yes sir.
- 11 Q: When did you all get to the lake?
- 12 A: Hailey and I arrived at the lake around 12:30 that
13 day.
- 14 Q: In the afternoon?
- 15 A: In the afternoon.
- 16 Q: So that would have been the day before, the 3rd?
- 17 A: Yes sir, July 3rd.
- 18 Q: Did anybody else come to the lake with you and stay
19 with you that evening?
- 20 A: Justin Cromer and Caroline Cromer arrived at about,
21 I say about 9:30 PM that night, July 3rd night.
- 22 Q: How do you know them?
- 23 A: Just been friends for a long time.
- 24 Q: They go to high school with you all as well?
- 25 A: Yes sir.

1 Q: They were going to stay at your lake house as well
2 that night?

3 A: Yes sir.

4 Q: You said they got there about 9:30?

5 A: Yes sir.

6 Q: What did you all do that evening?

7 A: As soon as they got there they unpacked their car
8 and we started cooking dinner, and we ate dinner
9 probably at, it was late probably at 10:30-10:45. We
10 played corn-hole in yard for a few minutes and then
11 at about 11:30 or so we went down the street to the
12 boat landing and put Justin's bass boat in the
13 water.

14 Q: Justin had brought the boat with him to the lake
15 that day?

16 A: Yes sir.

17 Q: Did your family have a boat?

18 A: Yes sir. I have a boat, I had a jon boat that I had
19 there with me.

20 Q: Had you been going to the lake, to your family's
21 house for some time?

22 A: Yes sir.

23 Q: How long have you had it?

24 A: It has been in my family I say for at least fifty
25 years.

1 Q: Do you have experience going out on boats in the
2 lake?

3 A: Yes sir.

4 Q: How often would you say that you did?

5 A: I do it almost every weekend in a boat.

6 Q: Are you familiar with different types of boats?

7 A: Yes sir.

8 Q: What kind of boat did Justin bring to the lake that
9 evening?

10 A: It was a Skeeter bass boat.

11 Q: Had you been on that boat before?

12 A: I had never been on that boat before.

13 Q: Have you been on boats like that before?

14 A: Yes sir.

15 Q: Have you ever driven a boat before?

16 A: Yes sir.

17 Q: How many times?

18 A: Many times.

19 Q: To many to count?

20 A: Yes sir.

21 Q: What time would you say that you all took the boat
22 out?

23 A: Probably around 11:30, 11:45 PM.

24 Q: Just the four, the four people that you mentioned,
25 including yourself; you, Hailey, Justin, and

1 Caroline?

2 A: Yes sir.

3 Q: What did you all do when you went out on the water?

4 A: Well we put the boat in because our neighbor across
5 the street, my house is on the second row of the
6 lake, and the neighbor across the street that lives
7 on the water came and told us that we can put the
8 boat in the water and park it at her dock that
9 night. So we put the boat in water and then just
10 idled around the lake to see if a couple of our
11 friend were outside their lake house before we put
12 the boat at the dock.

13 Q: Alright now it is 11:30, 12 o'clock so naturally it
14 is dark outside right?

15 A: Yes sir.

16 Q: Were there many boats out on the lake that evening?

17 A: There were several boats out, sir.

18 Q: Where did you all go when you went out on the water?

19 A: We went straight across to the slough where the boat
20 landing is, which is the Rowland Subdivision boat
21 landing. Then went straight across, kind of towards
22 Camp Bob Cooper to a buddy I know who is directly
23 across the lake from Camp Bob Cooper, and we noticed
24 that his lights were off at his house. So we turned
25 and rode up that right side of the lake towards the

1 power lines and found a buddy that lives right by
2 the power lines on that right side of the lake and
3 we noticed that his lights were off. So we cut
4 across the power lines towards White Oak slough and
5 coming back down the lake towards Scarborough's on
6 that right side.

7 Q: I am going to show you a photograph, kind of give
8 you a reference as to what you are describing. And
9 with the Court's permission I would ask you to step
10 down please. I am going to show you what has been
11 marked as, let us stand in front of the jury since
12 we have had a problem with technology this morning.
13 This has been marked as State's exhibit 50 , which I
14 believe has been entered into evidence without
15 objection. I am going to show you what has been
16 marked as State's 50. If you could point to the, on
17 this if you see if the photograph of where you all
18 came from and kind of describe your actions, where
19 you all went on the lake.

20 A: That is the boat landing right here. My lake house
21 is right in here. When we put in we came out this
22 way. We came down the lake and circled back around
23 and came up this right side. The power lines are
24 right here, we cut across coming back down to put
25 the boat in the lady's dock that lives across from

1 me, so we were coming back down this side.

2 Q: And you mentioned heading back down towards
3 Scarborough's. What is Scarborough's?

4 A: It is a restaurant.

5 Q: And you said back down this way?

6 A: Yes sir.

7 Q: What did you all do after, you said you went towards
8 Scarborough's then I think I had to get the map.
9 What happened after that?

10 A: Well, I asked everybody if they wanted to go in for
11 the night or if they wanted to sit out on the water
12 hang out and talk for a little while and they said
13 it did not matter to them. So we shut off the boat
14 and cut it off, the running lights were on and that
15 is when. We cut it off and the boat had drifted back
16 to where we were facing this way and that is when
17 the boat had come from around this way and ran into
18 us.

19 Q: You said that the boat had come back from around
20 toward Scarborough's?

21 A: Yes sir.

22 Q: And who's boat are you talking about there?

23 A: The boat that Chad Morris was driving.

24 Q: That is the boat that hit you all that evening?

25 A: Yes sir.

1 Q: Tell me when you all stopped and you stated that you
2 all were drifting. Did you have your engine or your
3 motor on or off?

4 A: Yeah we cut it off.

5 Q: Were the lights still on?

6 A: Yes sir.

7 Q: Any question in your mind that the lights were on
8 the boat?

9 A: No sir.

10 Q: Where were you sitting in the boat?

11 A: I was sitting behind the steering wheel of the boat.

12 Q: If you can kind of describe the lay out of the boat
13 for us.

14 A: Where at the consol is the steering wheel on the
15 right side of the boat. Then there is a middle seat
16 and a passenger seat on the left side of the boat,
17 and there is nothing but a deck on the front and the
18 back of the boat. There is a pedestal with a seat on
19 the front and the back. There is like a little
20 console in the middle of the boat.

21 Q: The deck up front is to stand up on and fish off of?

22 A: Yes sir.

23 Q: You were sitting behind the steering wheel in the
24 driver's seat?

25 A: Yes sir.

1 Q: Where was everyone else in the boat sitting?

2 A: Caroline was sitting in the middle on the back of
3 the boat, and Justin was standing up on the front
4 deck, and Hailey was sitting in the far left
5 passenger seat.

6 Q: What was Justin doing on the front?

7 A: He was just standing up there.

8 Q: Tell me at what point did you first see the
9 defendant's boat?

10 A: I saw him when he was pretty much right in front of
11 Scarborough's. I could hear him coming and he came
12 around from Camp Bob Cooper and turned in front of
13 Scarborough's and that is when I saw him and he was
14 kind of straight right in line with us.

15 Q: How far away was is?

16 A: Probably, I would say about three hundred yards, two
17 to three hundreds yards behind us.

18 Q: What do you mean when he was on line with you?

19 A: Just coming straight towards us.

20 Q: Coming in your direction at that time?

21 A: Yes sir.

22 Q: What happened next?

23 A: I stood up from behind the steering wheel and stood
24 on the front deck with Justin and was looking. Just
25 being on the lake you know you always have boats

1 that are coming towards each other and they will
2 veer off and we were looking and noticed that this,
3 we were like this guy does not see us. And we were
4 waving our arms screaming and Caroline was waving
5 her hand over the back light trying to make it flash
6 so that he could see. Jason was waving his phone
7 light and I was yelling waving my arms.

8 Q: And he eventually hit you?

9 A: Yes sir.

10 Q: How long did you it to take him to get to you from
11 that three hundred yards away?

12 A: It was just a matter of second, under 10 seconds.

13 Q: Can you describe how the boat that was sitting in
14 the water that evening? The boat that hit you.

15 A: Yes sir. I could tell that he was driving about full
16 speed. My experience with boats I could tell that he
17 had his motor trimmed up to where it lifts the bow
18 of his boat, the front of his boat, and it rides on
19 the back pad, which is on the bottom of the boat. It
20 makes a slapping noise, you can hear the water
21 slapping when you are going at a high speed.

22 Q: Could you hear the water slapping the bottom of his
23 boat?

24 A: Yes sir.

25 Q: What does it mean to have the motor trimmed up?

1 A: You trim your motor up to gain speed.

2 Q: And how does that effect the way the boat rides in
3 the water?

4 A: It lifts the front of the boat, the bow of the boat
5 up in the water to where it rides on that back pad,
6 it is kind of the lip on the bottom of the boat in
7 the back. So you can go at a high speed and still
8 have control of the boat.

9 Q: Any estimate as to how fast the boat may have been
10 going? The defendant's boat.

11 A: Yes sir, I would say he was going between 50 and 60
12 mph.

13 Q: And again this was at night and it was dark outside.

14 A: I could also hear how loud his motor was, how many
15 rpms he turning on his motor to determine how fast
16 he was going too. His motor was so loud I could hear
17 him from a distance away before I saw him.

18 Q: Do you have any idea how fast one of those bass
19 boats will go at full speed?

20 A: Most of them will go between 60 and 70 mph, but it
21 depends on the boat and what size motor is on the
22 back. Some go in the 60s low 60s, they can go up to
23 70 upper 70s.

24 Q: When you all were driving Justin's boat around
25 before the collision how fast were you all going?

1 A: We were just idling. Pretty much as slow as the boat
2 can go without being in neutral.

3 Q: Why just idle?

4 A: Because it was dark outside and we saw other boat
5 lights around the lake and it is just not safe
6 driving fast at night.

7 Q: Tell the jury what happened after Mr. Morris...did
8 he know that Chad Morris was driving that boat at
9 the time?

10 A: No sir.

11 Q: Do you know Chad Morris?

12 A: No sir.

13 Q: Did you know anybody that was on the boat at that
14 point?

15 A: No sir.

16 Q: Tell the jury what happened after they hit you.

17 A: After he hit us it threw Justin and I off the front
18 of the boat and first thing I noticed when I came
19 from under the water, I noticed Justin was beside
20 me, and I could hear Caroline screaming Justin's
21 name. I looked around and I did not see Hailey so I
22 started screaming, and I started screaming Hailey's
23 name and Justin and I started swimming back towards
24 the boat. I got in the boat and that is when I got
25 in the boat and I saw Hailey still sitting in her

1 seat with her head down in her arm and I saw some
2 blood coming from her head. Then I could hear people
3 from the other boat screaming at us. They turned
4 around and they were screaming at us saying our
5 lights were not on even though they were still on
6 while they were screaming at us and then we were
7 yelling for them to call 9-1-1 saying somebody is
8 really hurt please call 9-1-1. By that point I was
9 just tending to Hailey and Caroline and Justin were
10 screaming for help, screaming for them to call 9-1-
11 1. And they were just cussing at us and saying, I
12 heard them say we're not ...

13 Mr. Kent: I am going to object, Your Honor,
14 hearsay at that point and time.

15 The Court: Who was saying this?

16 A: The people in the boat that hit us.

17 The Court: Go ahead.

18 A: I heard one of them say...

19 Mr. Kent: Your Honor I am going to object. Can we
20 approach.

21 **(Counsel Approaches Without Court Reporter)**

22 The Court: Overruled.

23 Q: Stephen, again if you would tell us what the other
24 people in the boat said after the incident.

25 A: Yes sir. I remember hearing them say, F you all we

1 are not calling no one. If you all do not shut the F
2 up we are not going to call 9-1-1. After that I was
3 just tending to Hailey and Justin and Caroline were
4 continuing to yell for help.

5 Q: Now you mentioned a minute ago that you, and Justin
6 and Caroline were screaming too. What were you all
7 screaming about?

8 A: We were screaming for help...

9 Q: I am sorry, go ahead.

10 A: You mean right after the collision?

11 Q: Right after the collision what were you all
12 screaming about?

13 A: Caroline was screaming Justin's name wondering where
14 he was because we got ejected from the boat, and I
15 was screaming Hailey's name because I did not see
16 her anywhere because Justin and I were in the water.

17 Q: Did you ever scream anything to the other boat?

18 A: No sir I just started swimming back to the boat
19 trying to find Hailey.

20 Q: What happened after that?

21 A: That is when I got on the boat and I saw Hailey and
22 then the other boat had turned around; they stayed a
23 distance away from us and that's when they were
24 yelling at us. Then Justin started yelling at them
25 and I yelled I said please help call 9-1-1. Justin

1 and Caroline were saying the same thing and that is
2 when they just started cussing at us and trying to
3 tell us our boat lights were not on and saying that
4 they were not going to call 9-1-1.

5 Q: They threatened not to call 9-1-1?

6 A: Yes sir.

7 Q: Do you know whether they actually did call 9-1-1?

8 A: I do not know.

9 Q: They only reference you know of is that they
10 threatened not to?

11 A: Yes sir.

12 Q: Did their boat stay there until other authorities
13 arrived, what happened?

14 A: They did, they stayed a far distance away to where
15 we could not, we could not see the boat. It was dark
16 we could not tell exactly what kind of boat it was
17 or who was on it.

18 Q: How far away were they?

19 A: I would say at least 40 yards or so.

20 Q: How long did they stay around after?

21 A: Until some other help started approaching us.

22 Q: And then what happened?

23 A: They took off.

24 Q: Did they ever, did they give you any explanation for
25 leaving?

- 1 A: No sir.
- 2 Q: Did they give their name and information before they
- 3 left?
- 4 A: No sir.
- 5 Q: They did not tell you what their names were or where
- 6 they were going?
- 7 A: No sir.
- 8 Q: At that point did you have any idea as to the
- 9 identity of the people in boat that had just struck
- 10 you?
- 11 A: No sir.
- 12 Q: Did you have description of the boat?
- 13 A: No sir.
- 14 Q: Did they tell you where they were going?
- 15 A: No sir.
- 16 Q: I want to take you back just briefly to the actual
- 17 collision. When you stated that. Did I understand
- 18 you correctly that you all were pointing away from
- 19 Scarborough's at the collision?
- 20 A: Yes sir.
- 21 Q: And he...the boat that struck you was coming from
- 22 Scarborough's?
- 23 A: Yes sir.
- 24 Q: So did it hit you on the rear of your boat?
- 25 A: Yes sir.

1 Q: Describe for the jury just the impact and the
2 direction of travel of the defendant's boat across
3 your's.

4 A: Well he hit basically the left, the back left corner
5 of our boat and his boat hit the left side of our
6 boat, and he basically ramped over the left side of
7 our boat directly where Hailey was sitting and when
8 he hit his boat ramped over and broke our front
9 light in half and he went in the direction of the
10 docks on that left side of our boat.

11 Q: He went all the way across to the front of your
12 boat?

13 A: Sir?

14 Q: He went all the way across the front of your boat?

15 A: Yes sir.

16 Q: The light that you referenced that he broke, where
17 is that?

18 A: It is on the very front of the boat, the bow of the
19 boat.

20 Q: The very front center of the boat?

21 A: Yes sir and the back light that is on the back right
22 corner of the boat.

23 Q: Did he brake that light off at the base where it
24 connects to the floor of the boat or did he break it
25 up higher?

1 A: I am pretty sure it broke at about half.

2 Mr. Durant: That is all the questions I have.

3 **Mr. Stafford - Cross-Examination by Mr. Kent**

4 Q: Stephen, how are you doing sir?

5 A: Alright.

6 Q: I am going to be asking you some questions and I
7 need you to do me a favor. Make sure you speak loud
8 and clear enough so madam court reporter can hear
9 every word that you are saying. That lady right
10 there is taking down all the words that you are
11 saying ok.

12 A: Yes sir.

13 Q: And she can not take down head nods and shakes and
14 things of that nature. So make sure everything that
15 you answer back and forth to me will be an
16 affirmative nature so she can take it all down ok. I
17 am going to tell you right now I speak entirely to
18 fast. So if at some point and time you do not
19 understand something I say I will give you plenty of
20 opportunity to answer, and if you do not understand
21 say Shaun I do not understand, slow down, or
22 something like that and we can go from there.

23 A: Yes sir.

24 Q: And if you could just do me a favor just lean a
25 little forward into the microphone. I know you are

1 kind of soft spoken. I know this is really an
2 emotional situation, but I want to make sure I
3 understand all the things that you testify to.

4 A: Yes sir.

5 Q: Stephen I know this is emotional and I know you do
6 not want to be here and I am sorry for you and I am
7 sorry for everything that has happened, but I still
8 have some questions I need to ask ok.

9 A: Yes sir.

10 Q: This was about what two years ago?

11 A: Yes sir.

12 Q: And I could be wrong but I thought you said the
13 picture that they have shown you of Ms. Bordeaux,
14 she was 23 in that picture?

15 A: I want to say she may have been. I do not know
16 exactly when that picture was taken but she may have
17 been 22 in that picture or 21.

18 Q: And I could be wrong and just from looking at the
19 report, I thought she passed like a week after her
20 21st birthday. And I am not trying to trap you. I am
21 just trying to make sure we have a...

22 A: I am sorry she may have been 20 in that picture.

23 Q: She might have been 20 and just memories are bad
24 sometimes our memories I mean this was a while ago.
25 So would you agree with me she could not have been

1 23?

2 A: Right, right.

3 Q: That is what happens with our memories sometimes
4 this was quite some time ago. Do you remember giving
5 statements to law enforcement that night?

6 A: Yes sir.

7 Q: How many times did you talk to law enforcement?

8 A: I talked to them that night one time at
9 Scarborough's Landing.

10 Q: And when you talked to law enforcement they let you
11 give a written statement?

12 A: Yes sir.

13 Q: And they gave you opportunity to write down pretty
14 much everything that happened that night?

15 A: Yes sir.

16 Q: And then they talked to you again at another point
17 and time?

18 A: Yes sir.

19 Q: Did they talk to you again after that?

20 A: I am sure we spoke at some point but I can not
21 remember exactly when.

22 Q: And then I am sure you met with the prosecutors
23 getting ready for this case today.

24 A: I met with them one time.

25 Q: And you told them what happened that night.

1 A: Yes sir.

2 Q: Have you had opportunity to review your statements
3 that you gave to law enforcement?

4 A: Yes sir.

5 Q: I want to talk to you first about the first written
6 statement that you gave. Do you remember that one
7 Stephen?

8 A: Yes sir.

9 Q: Tell me about when you gave that written statement.
10 That was pretty close to the incident. That is when
11 everything was as fresh in your mind as possible.

12 A: Right.

13 Q: Do you remember giving that statement? The officers
14 told you just put as much information of everything
15 and detail that happened in that statement?

16 A: Yes sir.

17 Q: You would agree with me there?

18 A: Yes sir.

19 Q: Never would have added any information or anything
20 that was not true inside the statement to make the
21 case better or worse. We just put all the
22 information everything that we knew, that night
23 inside of the statement.

24 A: Yes sir.

25 Q: Then later we met with law enforcement again and

1 talked to them again and kept giving them more
2 specificity as to what happened that night. Just
3 give me one moment. And you would agree with that
4 the statement you gave that night, some two years
5 ago was as accurate as everything that happened out
6 there that night right?

7 A: Yes sir.

8 Q: I want to show you a copy of your statement. See if
9 you remember getting it and see if that is your
10 statement before I start asking you questions about
11 it.

12 A: Yes this is it.

13 Q: That is the statement you gave?

14 A: Yes sir.

15 Q: And you remember you have looked over this
16 statement. You have gone over in full detail,
17 correct?

18 A: Yes sir.

19 Q: And this is the statement that we just talked about,
20 law enforcement gave you ample opportunity. You put
21 everything inside of it, everything that happened
22 that night was included in this statement?

23 A: Yes sir.

24 Q: And you met with law enforcement the day afterwards,
25 told them in more specificity everything that

1 happened.

2 A: Yes sir.

3 Q: You have met with the prosecutor later and you told
4 them in more detail what happened, but our best
5 memory as to what happened within the night that we
6 gave the statement.

7 A: Yes sir.

8 Q: I guess the first question I have, is Stephen would
9 you agree with me that you do put in there that, the
10 other boat yelled at us and said that out lights
11 were not on? You put that in there in the statement.

12 A: Yes sir.

13 Q: No where included in that statement that you have
14 referenced that gave you ample opportunity, time to
15 talk, no one interrupting you, do you say anything
16 about F you or anything of this nature, we are not
17 calling 9-1-1. That is not anywhere in here.

18 A: Well I also wrote that statement right after finding
19 out that my girlfriend had just passed away so it
20 was not really, I was trying to write as fast as I
21 could so that I could get to the hospital.

22 Q: And I agree with you but do you remember a couple of
23 minutes ago I said you had plenty of opportunity;
24 everything was included in here; it had all the
25 information in here; he had opportunity to talk.

1 Correct? Is that correct Stephen?

2 A: Yes sir.

3 Q: And then again I asked you about giving a second
4 statement to law enforcement the very next day. Not
5 when you were going to the hospital, but after,
6 already been into the hospital and talking with law
7 enforcement the very next day, correct?

8 A: Yes sir.

9 Q: No where included in that statement is anything
10 about F you or not calling 9-1-1 or anything of that
11 nature, correct?

12 A: Yes sir.

13 Q: That is not in there at all. Is it?

14 A: No sir.

15 Q: The first time that you have ever mentioned this 9-
16 1-1, F you , we are not calling 9-1-1, or anything
17 of that take is today in front of this jury,
18 correct?

19 A: Well I have been explaining it to other people,
20 but...

21 Q: The first time you have mentioned it was today in
22 front of this jury, correct?

23 A: Yes sir.

24 Q: And you have had opportunity to mention it, put it
25 in writing... you have had opportunity to mention

1 it, put it in writing and given it to someone else
2 at another point and time, correct?

3 A: Yes sir.

4 Q: And you have not until today in front of this jury,
5 correct?

6 A: Yes sir.

7 Q: During your testimony, you had mentioned that the
8 other boat did not leave immediately, that it sat
9 there about 40 yards away from you all. Did not come
10 over, I agree with you it did not come over, but it
11 sat there about 40 yards away from you?

12 A: Yes sir.

13 Q: They were yelling back and forth to you, what you do
14 have in your statement was about lights, correct?

15 A: Yes sir.

16 Q: You talked about speeds. In the first statement that
17 you gave to law enforcement you do not mention speed
18 at all. Do you agree with me there?

19 A: Yes sir.

20 Q: And then you gave another statement to law
21 enforcement and you said, at most it was going 50
22 MPH, correct?

23 A: Yes sir.

24 Q: And today in your testimony your going it was 50 or
25 60, you go up to 60. Would you agree with me that

1. was your testimony today?

2. A: Yes sir.

3. Q: So today you have added 10 MPH to the speed limit?

4. A: I said 50 to 60, so between 50 and 60.

5. Q: Is that what you told law enforcement?

6. A: I said it was somewhere in the 50s, 50 MPH - 55.

7. Q: Is that what you told law enforcement? Did you tell
8. law enforcement that it was going 50 to 60, 50-55?

9. A: Probably say so.

10. Q: Have you had an opportunity to review the statement
11. that you gave to law enforcement that day?

12. A: I have just reviewed that, the one that you showed
13. me.

14. Q: Hold on Stephen. Do you remember giving an interview
15. on the next day that we were talking about?

16. A: Yes sir.

17. Q: Wes typed it up so you can... take an opportunity to
18. review that. See if you remember giving interview to
19. law enforcement. And if you remember it you remember
20. it, it you do not you do not.

21. A: Yes sir.

22. Q: You do remember that?

23. A: I said he was going at least 50 MPH.

24. Q: Ok so we did not say 50 to 55, correct?

25. A: Yes sir.

1 Q: We did not say 60, correct?

2 A: Yes sir.

3 Q: And the first statement you gave to law enforcement
4 we did not say at least 60 or anything of that
5 nature?

6 A: Yes sir.

7 Q: Today would be the first day that we have added 10
8 MPH to the speed limit, correct?

9 A: Yes sir.

10 Q: Stephen, and correct me if I am wrong. From the
11 testimony that you gave on the direct examination,
12 and I know this is hard and I apologize, I
13 understand what we are going through I understand
14 this is difficult. In the testimony that you gave
15 and I think the statement was, oh my God this guy
16 does not see us. Would you agree with me that was
17 the testimony that you gave?

18 A: Yes sir.

19 Q: There is no doubt in your mind he did not see you
20 all?

21 A: Yes sir.

22 Q: Lights on, not lights on all this argument. He did
23 not see you all did he? And that was your testimony.

24 A: I would imagine that he did not because he hit us.

25 Q: I mean that was your testimony, that he did not see

1 us, this guy does not see us.

2 A: Correct, I would imagine he did not.

3 Q: You do not believe he intentionally rammed you all?
4 He did not know you guys or anything of that nature,
5 correct?

6 A: Correct.

7 Q: He did not know you. He is not your enemy. He was
8 not trying to hurt you.

9 A: Yes sir.

10 Q: You did not see him jump in anybody's wake zone that
11 night did you?

12 A: No sir.

13 Q: You did not see him racing another boat that night
14 did you?

15 A: No sir.

16 Q: And he was not trying to scare you all and swerve at
17 the last moment, correct?

18 A: No sir.

19 Q: And it was dark out there that night.

20 A: Yes sir.

21 Q: I mean we have gone back and forth about the cloud
22 cover. It was cloudy that night was it not?

23 A: I do not remember seeing any clouds. I remember
24 seeing a bunch of stars in that sky, because that is
25 one of the last things Hailey said was, I could sit

1 out here all night and look at the stars.

2 Q: We talked about giving testimony Stephen, and we
3 have gone back and forth. This was an emotional
4 evening, and probably the most emotional thing that
5 has ever happened to you.

6 A: Yes sir.

7 Q: You had been drinking that night?

8 A: Yes sir.

9 Q: I think you told me you had about six beers.

10 A: Over the course of the entire day and night, yes
11 sir.

12 Q: Stephen, I am sorry for your loss I know this is
13 emotional, thank you for your testimony I appreciate
14 it.

15 A: Yes sir.

16 The Court: Redirect.

17 **Mr. Stafford - Redirect Examination by Mr. Durant**

18 Q: Stephen, my question to you. I did not ask you what
19 happened after, right after the defendant's boat
20 left. Tell the jury where you all went. What
21 happened after the defendant drove off?

22 A: We had several other boats that heard the collision
23 and they came to help. We ended up, a pontoon boat
24 pulled up and we ended up transporting Hailey from
25 our boat to the pontoon boat and the woman driving

1 the pontoon boat drove us to Scarborough's Landing
2 where we were, we later on met the ambulance.

3 Q: So the ambulance, the first responders all came to
4 Scarborough's Landing that evening?

5 A: Yes sir.

6 Q: And you sat out there. Mr. Kent asked you a bunch of
7 questions about whether your memory was best that
8 night or yelling and screaming about your first
9 statement. Where was that statement given again?

10 A: The first statement.

11 Q: The first statement. Where was it given?

12 A: At Scarborough's.

13 Q: At Scarborough's Landing?

14 A: Yes sir.

15 Q: Did you leave and go see Hailey that evening before
16 you gave that statement?

17 A: No sir.

18 Q: Who did you give it to?

19 A: I do not remember the DNR officer's name.

20 Q: But it was a DNR officer?

21 A: Yes sir.

22 Q: They came to Scarborough's to talk to you?

23 A: Yes sir.

24 Q: Did they also talk to Justin and Carolina at
25 Scarborough's?

- 1 A: Yes sir.
- 2 Q: Where did Hailey go?
- 3 A: She went to the hospital in the ambulance.
- 4 Q: The ambulance came and got here from Scarborough's
- 5 and took her to the hospital?
- 6 A: Yes sir.
- 7 Q: Of course, Hailey passed away that evening did she
- 8 not?
- 9 A: Yes sir.
- 10 Q: At what point did you find out that Hailey had
- 11 passed away?
- 12 A: My mom had told me over the phone while I was still
- 13 at Scarborough's.
- 14 Q: Your mom called you and told you while you were at
- 15 Scarborough's?
- 16 A: Yes sir. She asked if I had found out what had
- 17 happened and I said know. I said did she pass away,
- 18 my mom said yes.
- 19 Q: That is the way you found out about your high school
- 20 sweet heart, girlfriend of six years passing away?
- 21 A: Yes.
- 22 Q: Was that before or after you gave that statement to
- 23 DNR?
- 24 A: I believe it was before I gave my statement.
- 25 Q: Did you have a chance to go and see your family or

1 to see Hailey's family before you gave that
2 statement?

3 A: No sir.

4 Q: What were you thinking about when you gave it?

5 A: Hailey.

6 Q: So the statement that Mr. Kent is jumping up and
7 down about, intimidating you with the things a
8 prosecutor would do ...

9 Mr. Kent: Objections Your Honor.

10 The Court: Ask a question not make a speech.

11 Q: Is that statement that Mr. Kent is asking about the
12 statement that you gave minutes after your
13 girlfriend passed away?

14 A: Yes sir.

15 Q: Mr. Stafford I am a little confused about some of
16 the questions Mr. Kent was asking, so I am going to
17 clarify. One of the last questions he asked you was,
18 is it not true that you added 10 MPH to the speed
19 limit from your statement to law enforcement to your
20 testimony here today. Tell me again how fast did you
21 say that the boat was going today?

22 A: Today I said he was going between 50 and 60 MPH.

23 Q: So what was the minimum speed limit that you
24 estimated? The minimum speed of the defendant's boat
25 that you estimated today?

1 A: 50 MPH.

2 Q: That is the minimum he was driving?

3 A: Yes sir.

4 Q: I am going to show you the same statement, which Mr.
5 Kent showed you, this is your second one. Take a
6 look at it again and tell the jury how fast you said
7 the boat was going the day after the incident.

8 A: I said, the boat was moving fast, trimmed up going
9 at least 50 MPH.

10 Q: At least 50. So what was the minimum speed that you
11 estimated in your second statement?

12 A: 50 MPH.

13 Q: Mr. Stafford, thank you I do not have any further
14 questions.

15 The Court: Recross.

16 **Mr. Stafford - Re-Cross Examination by Mr. Kent**

17 Q: Stephen, it's almost done. I know you do not want to
18 be here. The lake, are there speed limits on the
19 lake?

20 A: No sir.

21 Q: There is not at all.

22 A: No sir.

23 Q: I am sure you believe there should be now.

24 A: Yes sir.

25 Q: Like I said I was not there so I get confused on the

1 entire situation. Can you do me a favor can you come
2 down, come down from the stand. I am not very bright
3 I want to make sure I understand. If you could sit
4 here. You were in the front of the boat, you were at
5 the steering wheel.

6 A: Which is in the middle of the boat.

7 Q: Just a little louder we do not have video.

8 A: Which is in the middle of the boat on the right
9 side. There is a console in the middle on the far
10 right side. There is a small seat in the middle, the
11 passenger seat on the far left side. The console and
12 there is a fishing deck from there to the front of
13 the boat and one right behind the seat to the back.

14 Q: And you were facing that way?

15 A: Yes sir. Not when he hit us. When he hit us I had
16 stood up and was standing on the front of the boat.

17 Q: I understand that. Stephen I am a visual person it
18 is easier for me. Scarborough's from where you are
19 sitting, for the record you are facing the jury
20 seating inside of a chair. Scarborough's would be
21 behind us?

22 A: Yes sir.

23 Q: And the boat would have come from behind you, Mr.
24 Morris's boat is that correct?

25 A: Yes.

Ms. Caroline Cromer-Examination by Mr. Durant

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1 Q: Go ahead and have a seat I wanted to make sure I
2 understand that. Make sure I understand your
3 testimony I think you said you had seen Mr. Morris's
4 boat loop around and then come back around and hit
5 you all from behind? I could be wrong, I could be
6 wrong.

7 A: I heard the sound of a boat moving very fast and
8 stood up, and when I saw him he was coming from
9 Scarborough's, so yes from Scarborough's.

10 Q: Thank you that is all the questions.

11 The Court: Alright you can step down.

12 **(Counsel Approaches Without Court Reporter)**

13 The Court: Ok folks we are going to take a five
14 minute restroom break. Go back in the jury room and do
15 not begin deliberations.

16 **(Jury break 11:59)/(Jury in 12:12)**

17 Mr. Durant: Thank you Your Honor. The State calls
18 Caroline Cromer.

19 Bailiff: Raise your right hand, place your left
20 hand on the Bible. Do you solemnly swear the testimony
21 you are about to give is the truth, the whole truth, and
22 nothing but the truth so help you God?

23 **Ms. Caroline Cromer - Examination by Mr. Durant**

24 Q: Caroline good morning, afternoon now.

25 A: Good afternoon.

1 Q: Would you tell the jury how you knew Hailey
2 Bordeaux. How did you know her?

3 A: She was a friend of mine. I actually got to know her
4 through Justin, because Justin and Stephen are good
5 friends.

6 Q: Did you go high school...where are you from first of
7 all?

8 A: Sumter.

9 Q: Did you go to high school in Sumter?

10 A: Wilson Hall.

11 Q: Where did Hailey go to high school? Did you know?

12 A: Sumter High School.

13 Q: How long have you known her on July 4, 2014?

14 A: I knew of her but when Justin and I started dating,
15 2012, that is when I got to really know Hailey, it
16 is about two years.

17 Q: So about two years. Were you and Justin married at
18 the time?

19 A: We had of the day of the accident?

20 Q: Right.

21 A: Yes, we had just gotten married, actually on June
22 1st.

23 Q: So just a few weeks earlier. Did you go to the lake
24 with Justin, and Hailey, and Stephen that evening?

25 A: Yes.

- 1 Q: Was that July the 3rd?
- 2 A: July the 3rd, yes we actually left when Justin got
- 3 off of work and I was not ready actually it took a
- 4 little longer for us to get out the house.
- 5 Q: What time did you all get down to the lake?
- 6 A: It was probably around nine.
- 7 Q: 9 PM?
- 8 A: Yes.
- 9 Q: On July the 3rd, evening of July the 3rd?
- 10 A: Right.
- 11 Q: Were you all going to spend the night at the lake?
- 12 A: Yes.
- 13 Q: Where were you staying?
- 14 A: At Stephen's lake house.
- 15 Q: Had you ever been to Stephen's house before?
- 16 A: No, that was my first time there.
- 17 Q: Did you and Justin take a boat with you to the lake?
- 18 A: Yes.
- 19 Q: Who's boat was it?
- 20 A: Justin's boat.
- 21 Q: What kind of boat?
- 22 A: It was a bass boat.
- 23 Q: Had you ever been out on the water in that boat
- 24 before?
- 25 A: Yes.

1 Q: Have you ever driven boats yourself before?

2 A: Yes.

3 Q: Do you have much experience on the lake?

4 A: Yes.

5 Q: How many times had you been to the lake before?

6 A: Many of times.

7 Q: How many times have you been out on Justin's boat
8 before?

9 A: I think he actually, recently just gotten that boat
10 he had a jon boat before that.

11 Q: And you had been out many times with him?

12 A: Yes.

13 Q: And driven the boat many times yourself?

14 A: Yes.

15 Q: And I think you said you all got to the lake about 9
16 PM. Tell the jury what you all did when you got
17 there.

18 A: We just got settled in and we cooked dinner, and we
19 played corn-hole and were just talking and hanging
20 out.

21 Q: At some point did you all decide to go out, to take
22 the boat out on the water?

23 A: Yes.

24 Q: Do you remember about what time that was?

25 A: Probably around 11:30.

- 1 Q: What was the purpose of going out on the boat?
- 2 A: Well actually we were second row back, and a lady
- 3 actually came out of her house in front of us and
- 4 she said why do you all not go ahead and put the
- 5 boat in tonight and I guess that is kind of what
- 6 triggered that.
- 7 Q: She was going to let you use her dock that weekend?
- 8 A: Yes, she was going to let us put our boat at her
- 9 dock.
- 10 Q: So at about 11:30 you all put the boat in. What did
- 11 you all do? Did you go out on the lake?
- 12 A: Yes, we rode around for about 30 minutes.
- 13 Q: Who was driving?
- 14 A: At first Justin, I guess Justin was driving.
- 15 Q: Do you remember where on the lake you all went?
- 16 A: Yes we rode by a few of our friend, one of our
- 17 friends house. I am not very good with directions on
- 18 the lake.
- 19 Q: How fast were you going?
- 20 A: How fast, we were not going that fast, not very fast
- 21 at all.
- 22 Q: Were there any boats out on the water that evening?
- 23 A: Not that I saw, but we did see a bass boat fly by us
- 24 earlier that night.
- 25 Q: Earlier that night. How long after you all went on

1 the water did you see this boat?

2 A: Probably about 15 - 20 minutes after riding just
3 around.

4 Q: Were you all still driving at the time?

5 A: Were we driving at the time? No I mean we were....

6 Q: Did eventually you all come to a stop in the boat?

7 A: Yes.

8 Q: And did you all cut the motor off?

9 A: Yes.

10 Q: Were the lights still on at that point?

11 A: Yes.

12 Q: Is there any doubt in your mind that the light were
13 on in the boat?

14 A: No, there is no doubt about this. The light was in
15 my...the side that I was on.

16 Q: About how from shore were you all when you cut the
17 motor off on the boat?

18 A: We were not very far but ...

19 Q: And if you cannot give an estimate I do not want you
20 to just guess. Tell the jury what happened after you
21 all stopped the boat and cut the motor off.

22 A: Justin was joking around and he was messing around
23 with his fishing rods and he said there is not fish
24 out tonight or something funny like that.

25 Q: Where was he seated in the boat?

1 A: Where was he, he was in the front of the boat.

2 Q: And where were you?

3 A: I was in the boat, near the back of the boat.

4 Q: How about Stephen and Hailey?

5 A: Stephen was to the left of me in the passenger seat,
6 and then, I mean Hailey was to the left of me in the
7 passenger seat and Stephen was to the right.

8 Q: So front and left of you, and front and right?

9 A: Right. Because when we were riding on the boat I was
10 sitting in the middle in between the driver's seat
11 and the passenger of the boat.

12 Q: And tell the jury what happened after you all
13 stopped and Justin made the joke about no fish
14 biting.

15 A: After that Stephen he said this boat is coming
16 straight at us and he is not slowing down, and next
17 thing I knew, I jumped up and I waved my hands
18 behind the running lights. I just kept thinking to
19 myself that there is no way that boat could possibly
20 even see us because of the way it was facing us.
21 Obviously there was a problem with the boat and I
22 just knew that ...

23 Q: Let me ask you more specifically about that
24 statement. There is no way the boat could see you
25 because you could only see the bottom of the boat,

1 is that right?

2 A: The underside of the boat.

3 Q: The underside of the boat was coming toward you. You
4 could only see the underside?

5 A: Right.

6 Q: Could you see the driver of the boat?

7 A: No.

8 Q: Tell the jury what you did after that. You mentioned
9 that you waved you hands on the light. What do you
10 mean by that?

11 A: I was, I guess I just thought that maybe if I wave
12 my hand around the light he would see something or
13 hear us hollering and you know right after that the
14 next thing I knew the boat literally, nailed us in
15 the back and hit the motor, and pretty much jumped
16 the boat on Hailey's.

17 Q: Where were you on that point?

18 A: I was just falling because I was still on that side
19 that I was on.

20 Q: The light that you were waving your hand in front
21 of. Where is that located on the boat?

22 A: That is located directly behind the driver's seat,
23 side.

24 Q: So had you moved from the center of the boat to the
25 driver's side to wave your hand in front of the

1 light?

2 A: Yes, I jumped up and started waving my hand behind
3 the running light.

4 Q: Do you know how long it was after you all first saw
5 the light to when he got to you?

6 A: Probably about 10 sec, 15.

7 Q: Did he ever change course?

8 A: No. I do not know if he was not looking or could not
9 see us.

10 Q: He hit the boat that you were on in the rear of the
11 boat?

12 A: Yes.

13 Q: Did he drive all the way across it? Did his boat go
14 all the way across yours?

15 A: Pretty much skipped us. Like jumped over.

16 Q: Tell the jury what happened after the impact.

17 A: Afterwards, I remember, I screamed I said Justin, I
18 mean very, very loud, and then I heard Justin yell
19 my name. Then I heard Stephen scream and say where
20 is Hailey and I looked down and I saw Hailey still
21 in the passenger seat and then I heard him yelling
22 at us and saying very unnecessary comments and just
23 not even worrying about the fact that I was
24 screaming saying please call 9-1-1. Just nothing
25 else matters right now just call 9-1-1. I heard

1 someone say if you all do not shut the F up, she
2 said, it was a wee little voice that said the F up
3 we are not calling 9-1-1.

4 Q: You may have said this. After the incident that you
5 yelled for Justin. Where was Justin?

6 A: Justin, I forgot that he was thrown in the water and
7 he swam back up to the boat.

8 Q: Was there anybody else swimming through the water?

9 A: Stephen was.

10 Q: And Hailey was still seated?

11 A: She was literally laying on her arm like that.

12 Q: Was she responsive? Tell the...and you mentioned
13 that there was some yelling from the other boat, is
14 that right?

15 A: Yes.

16 Q: What did you mean when you said unnecessary
17 comments?

18 A: Just yelling at us saying you did not have you
19 lights on blah, blah, blah, blah just stuff like
20 that. I guess trying to blame it on us when
21 honestly...

22 Q: Did you yell back at them?

23 A: Yes I did, I did yell back.

24 Q: What did you say?

25 A: I said shut up you need to call 9-1-1 someone is

1 seriously hurt.

2 Q: Did the people in the other boat did they stay and
3 help you all?

4 A: No. They stayed very far away to the point where I
5 could not see, I could not make them out. I could
6 not see their faces or anything. It was just like a
7 voice in the distance.

8 Q: Did they stay until. What did you all eventually do?

9 A: What did we...well thankfully three other boats came
10 to help us. It was a pontoon boat, it was a jon
11 boat, and a center console boat. Those three came to
12 help us. Then we got Hailey onto a pontoon boat and
13 took us to Scarborough's.

14 Q: What did the people in Chad Morris's boat do?

15 A: They left.

16 Q: Did they give you any explanation for leaving?

17 A: No.

18 Q: Did they tell you where they were going?

19 A: No.

20 Q: Did they even give you their name and identifying
21 information before they left?

22 A: No sir no.

23 Q: Tell me what happened after you all go to
24 Scarborough's.

25 A: We go there, everyone was trying to calm us down and

1 Hailey was taken off in the ambulance and then we
2 sat in the ambulance and you know they checked us
3 out and everything. I remembered my mom arrived and
4 that is when we found out that Hailey was gone.

5 Q: You mentioned a few minutes ago that Stephen and
6 Justin were thrown into the water during the
7 collision.

8 A: Yes.

9 Q: Were they able to get back into your boat
10 themselves, were they able to climb up themselves or
11 did they need help to get up?

12 A: Not that I remember they got back up into the boat.
13 At that point I was worried about Hailey.

14 Q: Do you remember if anybody on the boat that had hit
15 you offered any lines or floatation devices to help
16 Justin or Stephen?

17 A: No, no they were swimming...nobody helped them.

18 Q: I do not have any further questions.

19 **Ms. Caroline Cromer - Cross Examination by Mr. Kent**

20 Q: Ms. Cromer how are you?

21 A: I am fine how are you?

22 Q: Good. I have not had the pleasure of meeting you. My
23 name is Shaun Kent I am going to be asking you some
24 questions ok. Alright, and you just did something,
25 that is one of the things. Madam court reporter is

1 taking down every word that the two of us are saying
2 to each other ok, and she can not take down head
3 nods and shakes and make sure you have an answer to
4 my questions, yeses and nos and make sure we use
5 words ok?

6 A: Ok.

7 Q: I speak very fast. So if at any point and time you
8 do not understand a word I am saying or if I speak
9 to fast simply say, please slow down I do not
10 understand you.

11 A: Ok.

12 Q: Caroline first, I just want to apologize I am sorry
13 for everything that happened that night. It is an
14 awful situation, but we are going to get through
15 this together by just answering a few questions, ok?
16 You did the head nod.

17 A: Sometimes I do the head nod when I can not hear so
18 maybe..

19 Q: I do the same thing. Now Caroline I think you....and
20 you do not mind if I call you Caroline do you?

21 A: No sir.

22 Q: Caroline, one of the things that we talked about
23 when you were answering questions from Mr. Durant
24 were boats, but you are familiar with boats?

25 A: Yes.

1 Q: And you have been on the lake for quit some time?

2 A: Yes.

3 Q: The night that this happened, this was night time
4 would agree with me there?

5 A: Yes.

6 Q: And it was dark out there?

7 A: It was dark.

8 Q: It was dark. I am going to ask you a question
9 because I do not know. My understanding from your
10 testimony is that you guys were parked in the middle
11 of the lake, and I use the word parked. Like I said
12 I do not know boat, you guys were anchored or parked
13 in the middle of the lake inside your boat. Is that
14 correct?

15 A: Yes. The boat was off.

16 Q: The boat was off, but it was in the middle of the
17 lake?

18 A: I can not tell you exactly the middle but we were
19 near the middle of the lake.

20 Q: Is that dangerous or not, just parked in the middle
21 of the lake at night? Can it be dangerous?

22 A: Yes.

23 Q: Just curious, I have never done it. I am just asking
24 a question. Had you all been drinking that night?

25 A: Yes.

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1 Q: How much did you have to drink that night?

2 A: One drink.

3 Q: I am not getting angry I am just asking a question.

4 A: It is ok I am fine I am just trying to answer the
5 question too.

6 Q: You had and I am going to talk to you. You have met
7 with law enforcement on this case is that true?

8 A: Yes.

9 Q: And given several statements to law enforcement?

10 A: One statement.

11 Q: Have you also met with the solicitor on this case?

12 A: Yes.

13 Q: When you met with the solicitor and met with the law
14 enforcement did you meet by yourself or did you meet
15 with all of you all meeting together to talk about
16 what happened?

17 A: All of us together.

18 Q: All of you together met with law enforcement at the
19 same time?

20 A: Yes.

21 Q: In preparation to your case you all met and talked
22 about the case together at what happened?

23 A: Yes.

24 Q: And you talked about the testimony and what you were
25 going to testify to the jury today?

1 A: Yes.

2 Q: Ok that is fine just a question. So you all talked
3 about it with everyone meeting together what we were
4 going to testify to the jury?

5 A: Yes.

6 Q: And you have talked to the other people who were
7 inside of the boat since this case, I am sure you
8 talked to Justin, you are married to him.

9 A: Yes.

10 Q: You have talked to Stephen about what happened that
11 night.

12 A: Yes.

13 Q: So you all have talked about your story. What we
14 were going to testify to when we came in front of
15 the jury, correct?

16 A: We told our stories.

17 Q: Caroline you remember....tell me about this. I am
18 sorry I am trying to pull some stuff up, sometimes I
19 am just not that bright. Caroline I want to talk to
20 you about the statement you gave, ok?

21 A: Ok.

22 Q: Showing you on that big board. Is that the statement
23 you gave that night?

24 A: Yes.

25 Q: Do you remember giving that statement? Your Honor

1 may we approach. Caroline you remember giving a
2 statement to law enforcement that we were just
3 talking about?

4 A: Yes.

5 Q: It was a two page statement.

6 A: Yes.

7 Q: Who was present when you gave that statement if you
8 remember?

9 A: Honestly I.... we were still in shock right after
10 the statement.

11 Q: I am going to show you on my Ipad, and you saw it
12 flash up on the big board. Does that look like this
13 first page of the statement that you gave?

14 A: It does.

15 Q: Anything been added or changed or anything of that
16 nature? That you can see take your time.

17 A: This is the....

18 Q: The second page of that statement.

19 A: Yes.

20 Q: So both of those pages are the statement you gave
21 that night?

22 A: Yes.

23 Q: Ok and that was as close to the incident as
24 possible?

25 A: Sorry I did not hear you.

1 Q: That was as close to the incident as possible when
2 you gave, I know it was an emotional night, but this
3 was the night that it happened you have gave a
4 statement?

5 A: Right after it happened we gave those statements,
6 yes.

7

8 Q: I want to talk to you about so specifics inside your
9 statement, ok? You remember the head nod?

10 A: Yes.

11 Q: A few minutes ago you had testified that somebody
12 some female had made the comment, F up or something
13 of that nature I am not going to call 9-1-1. Do you
14 remember that testimony?

15 A: Yes.

16 Q: Would you agree with me that is not anywhere inside
17 of that written statement you gave that night? This
18 is the first time you have ever....

19 A: It is not in my written statement.

20 Q: That is the first time you mentioned it would be
21 today?

22 A: I am sorry can you repeat that.

23 Q: That is not in your written statement would agree?
24 Do you want to review your written statement to see
25 if you mentioned that someone had said, F you I am

1 not going to call 9-1-1?

2 A: I heard a female from a distance say, something
3 about, you need to listen first.

4 Q: Now I am going back to the testimony that you gave
5 to the solicitor that you met with, with everybody
6 all together. The testimony that you gave that
7 somebody said, F you I am not going to call 9-1-1.

8 A: I remember a female saying, F you I am not going to
9 call 9-1-1, and I said shut up somebody is hurt and
10 seriously hurt, I need you to call 9-1-1 and that
11 was the way she responded. I did not feel like that
12 was what I needed to write in my statement that
13 night. That that was a part of that night.

14 Q: Because that is not in that statement. You would
15 agree with me?

16 A: Right, but that is just not what I wrote on my
17 statement but it did happen.

18 Q: However in your statement do you remember
19 specifically saying that boat hit us, that hit us
20 told us that they called 9-1-1 and somebody was
21 going to Scarborough's. That is actually in your
22 statement.

23 A: I --- from that. After the fact that there were
24 three other boats there to aid us I heard someone, a
25 voice from a distance say, that.

1 Q: Say what Caroline?

2 A: I heard them say, go to Scarborough's.

3 Q: That they had called 9-1-1.

4 A: Yes, but that I cannot make it out to you exactly
5 who that female was.

6 Q: The people that hit us told us they called 9-1-1 to
7 come to Scarborough's and that is when we got on the
8 pontoon. That was in your statement.

9 A: On the pontoon, yes.

10 Q: That is what happened that night?

11 A: Yes.

12 Q: So the people who hit you in the boat told you that
13 they had called 9-1-1, correct?

14 A: That is who I thought, yes.

15 Q: And you would agree with me no where included in
16 your statement was the comment, F you we are not
17 calling 9-1-1. You would agree with me that is no
18 inside your statement?

19 A: I said that after the fact they were yelling at us
20 and saying unnecessary comments and --- That is when
21 I said, I said pretty much please shut up we have
22 someone seriously hurt.

23 Q: And you would agree with me from your testimony that
24 both boats were arguing back and forth with each
25 other. I think that was you direct testimony?

1 A: Well because we needed help.

2 Q: I am with --- I am just saying that both boats were
3 arguing and yelling back and forth with each other.

4 A: I would not saying arguing. We were yelling for
5 help.

6 Q: You were yelling at them and they were yelling at
7 you.

8 A: They were yelling at us saying our lights were not
9 on. We were yelling for help.

10 Q: And that was immediately after everything happened.
11 The first words out of their mouth they were yelling
12 at you all you do not have your lights on?

13 A: Yes.

14 Q: And my last question I am getting confused a little
15 bit Caroline. During your direct from the Solicitor
16 you had mentioned that the boat was very far away,
17 correct?

18 A: I could not see who they were.

19 Q: And you said you could hear them faintly but could
20 not hear them clearly, correct?

21 A: I could hear them yelling.

22 Q: Were they close enough to hear or were they far
23 enough that you could not hear them? You understand
24 I get confused because at one ...

25 A: They were far enough away that they had to yell.

1 Q: But you heard them clear enough to write down word
2 for word what they said in your statement?

3 A: I did not write down word for word what they said. I
4 just said that they had called Scarborough's and I
5 was not sure, it was a female voice that is all.

6 Q: Do you remember putting things in quotation marks,
7 they were yelling that your lights were not on and
8 they had, in quotation in your statement you had
9 said that they had called 9-1-1? Those would be
10 quotes attributed to the boat that hit you correct?

11 A: Yes.

12 Q: So they were close enough that you could hear them
13 ...

14 A: Yelling.

15 Q: Clearly telling you what happened. That they thought
16 that the lights were not on, and that they had
17 called 9-1-1.

18 A: I heard them yell and say that our lights were not
19 on and this is exactly when I found out that Hailey
20 Bordeaux was bleeding and not responsive I said, put
21 all that to the side and simply need to call 9-1-1.
22 I said --- disappeared and kept disappearing from
23 helping us.

24 Q: And Caroline make sure I am right. I will deal with
25 that later. That night, was it cloudy out there that

Ms. Caroline Cromer-Redirect Examination by Mr. Durant

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1 night?

2 A: No, we all saw stars.

3 Q: And that was your testimony that I think you had
4 said that we had stopped and we had looked up and
5 Hailey had saw something that she had seen the
6 stars.

7 A: Yes.

8 Q: So you are saying it was not cloudy at all that
9 night?

10 A: There were stars, we could see the stars?

11 Q: And everybody in the boat had been drinking. I think
12 you said you had only had one beer?

13 A: I am sorry I can not hear you.

14 Q: You had only had one beer?

15 A: I had one drink yes.

16 Q: Thank you so much.

17 The Court: Redirect.

18 **Ms. Caroline Cromer - Redirect Examination by Mr. Durant**

19 Q: Caroline I just have a couple of follow up
20 questions. Mr. Kent asked you wether or not your
21 written statement included the, the words that the
22 female in Mr. Morris's boat had yelled back you. I
23 think you testified that she was yelling F you or
24 something to that affect. Is that right?

25 A: Can you repeat that?

1 Q: What did you say that the people in Mr. Morris's
2 boat were yelling back at you? Did you testify
3 earlier that somebody yelled F you?

4 A: Yes.

5 Q: I want to show you your written statement, which Mr.
6 Kent asked you about a minute ago. The second page
7 could you read from me, beginning at line three,
8 beginning with the word they. Could you read that
9 sentence for me.

10 A: "They rudely yelled back and I said stop we have
11 someone seriously hurt."

12 Q: So they rudely yelled back. Is that the language
13 that you put in your statement that day?

14 A: Yes.

15 Q: The night of the incident you told the officer that
16 the people on Mr. Morris's boat had rudely yelled
17 back at you?

18 A: Yes.

19 Q: You did not include the vulgar language, you did not
20 write the vulgar language out but you clearly stated
21 that, they rudely yelled at you.

22 A: Yes.

23 Q: No further questions.

24 The Court: Recross.

25 Mr. Kent: Nothing further of this witness Your

1 Honor.

2 The Court: Next witness.

3 Mr. Durant: The state calls Justin Cromer.

4 Bailiff: Raise your right hand, place your left
5 hand on the Bible. Do you solemnly swear the testimony
6 you are about to give is the truth, the whole truth, and
7 nothing but the truth so help you God?

8 Mr. Cromer: Yeah.

9 **Mr. Justin Cromer - Examination by Mr. Durant**

10 Q: Mr. Cromer tell the jury where you are from.

11 A: Sumter, SC.

12 Q: Did you know Hailey Bordeaux?

13 A: Yeah.

14 Q: How did you know her?

15 A: Through Stephen Stafford.

16 Q: Through Stephen Stafford?

17 A: Yes sir.

18 Q: Did you go to high school with them ?

19 A: I did for a short period of time and I moved
20 schools, but me and Stephen were real good friends
21 and his wife end of the day so we remained close and
22 I knew her through him.

23 Q: How long Stephen been dating Hailey back in 2014?

24 A: Six years.

25 Q: Had you know her throughout that time?

1 A: Yes sir.

2 Q: Were you at the lake with Stephen and Hailey and
3 your wife Caroline on July 4, 2014?

4 A: Yes sir.

5 Q: Did you all actually go down to the lake that
6 evening before on July the 3rd?

7 A: Yes sir.

8 Q: Where were you all staying?

9 A: Stephen's family lake house.

10 Q: Had you ever been there before?

11 A: A couple of time yes sir.

12 Q: Did you and Caroline take the boat with you all to
13 the lake that evening?

14 A: Yes.

15 Q: What kind of boat was it?

16 A: It is a 18 foot Skeeter.

17 Q: Was is yours or your family's?

18 A: It was mine.

19 Q: How long did you have it?

20 A: Three months.

21 Q: Had you been out on the lake before with it?

22 A: Yes sir.

23 Q: How many times?

24 A: Six times.

25 Q: Before getting that bass boat had you ever driven

1 boats before?

2 A: Yes sir.

3 Q: How many times?

4 A: Too many times to count to be honest.

5 Q: How many times had you been down to Stephen's lake
6 house?

7 A: I would say three or four times.

8 Q: Had you been to other homes on Lake Marion before?

9 A: Yes sir plenty of times.

10 Q: What time did you all get to the lake that evening?

11 A: It was around 9 o'clock.

12 Q: What did you all do when you got there?

13 A: We started to cook dinner. Once we got done cooking
14 dinner we played corn-hole for a little bit and then
15 we decided to go out on the lake.

16 Q: What time was it that, that you all actually went
17 out on the lake?

18 A: I would say it was around 11:30.

19 Q: And who was driving the boat?

20 A: Me primarily.

21 Q: With The Court's permission I am going to ask you to
22 step down and I have got a map here. I want you to
23 show us some reference points. Can you tell on this
24 map, first of all where you all put the boat in?

25 A: Yeah this is the landing right here.

1 Q: Chris, if you would speak up so the court reporter
2 and defense attorney can hear you, and the members
3 of the jury of course.

4 A: Yeah this is the landing right here.

5 Q: So the open area here?

6 A: Yes sir.

7 Q: That is where you put the boat in that evening?

8 A: Yes sir.

9 Q: Where did you all go after you put the boat in?

10 A: Once we put it in we idled on out. Idled directly
11 across the lake to see if a friend on ours was home.

12 Q: To the other side here?

13 A: Yes sir.

14 Q: Then once realized that they were not home we idled
15 up this edge to see if another mutual friend on me
16 and Stephen's was home. He was not home as well so
17 then we cut back across to the same side we put in
18 on at the lake, closer to the power lines. Then we
19 proceeded to get on the same side that we put in on
20 and idled back down towards the house.

21 Q: You mentioned that you all were idling. What is idle
22 speed?

23 A: No wake pretty much, barely even moving if you will.

24 Q: Why were you going that slow?

25 A: Because honestly it was dark and I did not feel the

1 need to go any faster than that. Plus we were not in
2 any hurry to go anywhere so we were just kind of
3 enjoying the night.

4 Q: Is it dangerous to drive faster than that on the
5 lake at night?

6 A: Yes sir it is.

7 Q: Tell the jury where you all went after you got back
8 to this side.

9 A: After we got back to this side we idled on down to
10 the pier, I believe her name was Ms. Rivers, that
11 said we could tie my boat up to, instead of putting
12 our boat back in the next day with a bunch of people
13 being down there. So we idled up until that pier and
14 we kind of stopped and when we stopped the front of
15 the boat was facing Camp Bob Cooper or
16 Scarborough's.

17 Q: This way?

18 A: Yes, but then after we were sitting there for a
19 while the wind had shifted us. The front was facing
20 White Oak Creek or the power lines, the opposite
21 direction.

22 Q: Which would be this way?

23 A: Yes sir.

24 Q: When you stopped the boat did you cut the motor off?

25 A: Yes we did.

1 Q: Did you throw an anchor out?

2 A: No sir.

3 Q: So you were just drifting at that point? Can you
4 show the jury where about on the map you were when
5 the collision happened?

6 A: Just about right here.

7 Q: You can have a seat back up here. Did I understand
8 you correctly that after you stopped you had drifted
9 around so that the front of you boat was facing back
10 towards the top of the map?

11 A: Yes sir.

12 Q: At some point did you see a boat being driven by who
13 we later found out to be Chad Morris?

14 A: Yes sir I did.

15 Q: Where was that boat when you first saw it?

16 A: When we first saw the boat we were making the edge
17 back down to where we had come from, when we saw the
18 boat, the bass boat come from White Oak slough going
19 extremely, extremely fast and when on down past us.
20 Then when we come to a stop and we had drifted and
21 the wind had shifted our direction. That is when we
22 noticed there was a boat coming from behind us from
23 the Scarborough's area of the lake and that is ...

24 Q: That is on the bottom of the map?

25 A: Yes sir.

Mr. Justin Cromer - Examination by Mr. Durant

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1 Q: How far away was he when you first saw him?

2 A: It was a good way. I would say two or three hundred
3 yards.

4 Q: Tell me what did you observe about his boat when you
5 saw it.

6 A: When I first got a glance of the boat we kind of
7 realized that he was not slowing down or did not
8 even see us. You could definitely tell that the boat
9 was moving at a high rate of speed. You could also
10 tell that it was, the way he was running the boat
11 was, it was trimmed up the motor was trimmed up. You
12 could see what we call like a small rooster tail it
13 is the water coming of the prop whenever it is
14 trimmed up, the angle of the motor is shooting up
15 this way so the water goes this way . And the front
16 of his boat was lifted. So that kind of told me that
17 he was running that boat as pretty quick as he
18 could.

19 Q: Could you see the driver of the boat?

20 A: No, no sir.

21 Q: Could you see any of the passengers on the boat?

22 A: No sir.

23 Q: How much of the boat could you actually see?

24 A: About the first half was all we could really see
25 before the collision happened. All you could see was

1 up under the front of the boat.

2 Q: You told the jury that the motor was trimmed up. If
3 you know, tell us what effect would trimming the
4 motor up have on the boat?

5 A: So, whenever you are driving a boat of that type you
6 could trim the motor up, it is going to allow the
7 front of the boat to lift and get more air between
8 the boat and the water so not much friction between
9 water and the boat. So the higher you trim it up the
10 faster the boat can be allowed to go.

11 Q: When you saw the boat did it appear to be on line to
12 hit you all?

13 A: Yes sir.

14 Q: Did it ever change course?

15 A: No sir.

16 Q: Tell me what did you all do in your boat after you
17 saw it coming towards you?

18 A: I immediately stepped on the front, on the front
19 deck pulled out my cell phone out of my pocket. Cut
20 the led light that comes on most the Iphones cut it
21 on. Was flashing it as fast as I could. My wife was
22 on the back of the boat waving her hand behind the
23 light. Stephen was up in the driver's seat doing the
24 same thing.

25 Q: Where was Hailey?

1 A: The passenger seat.

2 Q: Did the boat ever change course?

3 A: No sir.

4 Q: Where were you standing when the boat hit you?

5 A: On the front deck. Driver's side of the front deck.

6 Q: What part of your boat did they hit?

7 A: They hit the left back side of the boat to the left
8 of the motor.

9 Q: Can you describe for the jury how the boat reacted
10 when they hit you?

11 A: Yes. So this is my boat. So this is my boat, he hit
12 my boat from the left side. Left side of the motor,
13 so it barely snatched the front to the left,
14 throwing me and Stephen out since we were standing
15 up and basically that is all I can tell after it
16 happened.

17 Q: Did the impact stop the boat that struck you or did
18 they go all the way across it?

19 A: They went all the way across my boat pretty much
20 just jumped the whole thing. They did all sorts of
21 damage.

22 Q: I may of heard this over again but I can not
23 remember. When you all stopped and cut the motor off
24 in the lake did you still have your lights on?

25 A: Of course yes sir.

1 Q: So the motor and the lights are independent. The
2 lights can be on without the motor running?

3 A: Correct.

4 Q: Is there any doubt in your mind that the lights were
5 on?

6 A: No.

7 Q: After the collision or the impact did Mr. Morris's
8 boat hit or damage any of your lights?

9 A: The front one he did yes sir the front one was if I
10 recall it was broken.

11 Q: This is the light that sits in the front, bow of the
12 boat?

13 A: Yes sir.

14 Q: When you saw the boat a couple hundred yards away,
15 two hundred I think you said two hundred to three
16 hundred yards away. How long did it take for the
17 boat to reach you all from that?

18 A: It was, it seemed like seconds. There was no time to
19 I guess... in those kind of situations you never
20 think someone is going to actually hit you. I mean
21 you think you have plenty of time to wave them off
22 or notify them that you are sitting right here.
23 Unfortunately we did not have a lot of time to do
24 anything.

25 Q: After the impact you mentioned that you and Stephen

1 were thrown into the water. What happened to the
2 cell phone that you were holding that you were
3 waving?

4 A: It stayed in my hand the whole time.

5 Q: But it went into the water with you?

6 A: Oh yeah. Yes sir.

7 Q: After you and Stephen were thrown into the water did
8 the boat that had hit you offer you all any
9 assistance to get out of the water?

10 A: No sir.

11 Q: They did not throw you line or a flotation device of
12 any kind?

13 A: No sir.

14 Q: Did you climb back into your boat?

15 A: Yes sir we did.

16 Q: Do you remember whether the people in the boat that
17 hit you did they make any statements?

18 A: There is only a couple of words exchanging from both
19 boats. I do remember hearing, I remember running to
20 the front of the boat screaming we need help, we
21 need help please call 9-1-1, and then saying some
22 other things. A different member, a male on the boat
23 saying your lights were not on and I remember
24 screaming right back they are on right now as we
25 speak. And then we started yelling back and forth

1 and I was still screaming call 9-1-1 we need help
2 someone is severely injured. There was a woman in
3 the boat that then spoke up and said if we did not
4 shut the F up then they would not call 9-1-1 for us.

5 Q: So she threatened to call, not to call 9-1-1?

6 A: Correct.

7 Q: At some point did other boats come to assist you?

8 A: Yes sir.

9 Q: What happened after that?

10 A: Basically the first to show up to help us was a
11 little jon boat. He was actually an army medic and
12 he kind of instructed us not to move Hailey, to
13 leave her where she is until we got help. Then it
14 was a center console and then it was kind of a deck
15 boat style. Three boats came to our aid.

16 Q: Where did you all go from there?

17 A: We went to Scarborough's.

18 Q: What happened to the boat that hit you?

19 A: I have no clue.

20 Q: Did they stay around and go to Scarborough's with
21 you?

22 A: No sir.

23 Q: So at some point they left?

24 A: Yes sir.

25 Q: Prior to leaving did they give you any explanation

1 for why they were leaving?

2 A: No sir they did not.

3 Q: Anybody ever make a statement about their boat
4 taking on water?

5 A: No sir.

6 Q: Did they tell you where they were going?

7 A: No sir.

8 Q: Did they even give you their names and identifying
9 information before they left?

10 A: No sir.

11 Q: Stephen you went to Scarborough's that evening with
12 Hailey and the other passengers?

13 A: Yes sir.

14 Q: When did you find out the Hailey did not survive her
15 injuries?

16 A: When ever she was just prior to making it to the
17 hospital. We were, she had already left
18 Scarborough's in the ambulance and we were all
19 sitting around waiting, calling our families up
20 notifying them. It was probably 12:30, 12:45 that we
21 found out.

22 Q: Is that the same evening that you gave statements to
23 DNR?

24 A: Yes sir.

25 Q: Did you get to go home and see your families before

1 you gave those statements?

2 A: No sir.

3 Q: How was Stephen emotionally following the
4 information that Hailey had passed?

5 A: Not good.

6 Q: I do not have any further questions Your Honor.

7 The Court: Cross.

8 Mr. Justin Cromer - Cross-Examination by Mr. Kent

9 Q: Mr. Cromer how are you doing sir?

10 A: I am doing good.

11 Q: I have not have the pleasure of meeting you my name
12 is Shaun Kent. I am going to be asking you some
13 questions ok Mr. Cromer. Madam court reporter is
14 taking down every word that you are saying and sort
15 of with every other witness I see you shaking your
16 head. She can not take down head shakes. She can
17 only take down yeses and nos and answers. So make
18 sure any question that I ask you just answer it
19 affirmatively and I will give you plenty of
20 opportunity to answer any question, ok?

21 A: Yes sir.

22 Q: I speak very fast and I apologize for that and so if
23 you can not understand something that I say, simply
24 ask me to repeat my question I will give you a
25 chance to answer that, ok?

1 A: Yes sir.

2 Q: I do not have a lot of questions for you Justin. We
3 have heard some testimony already today that you
4 have give witness statements in this case. You have
5 given one statement or two statements? Do you
6 remember?

7 A: One.

8 Q: And you remember meeting with law enforcement about
9 with DNR, Department of Natural Resources , about
10 what happened that night?

11 A: Yes sir.

12 Q: When you gave that statement you met with your wife
13 at the same time you were giving the statement is
14 that about correct?

15 A: No sir that is not correct. We filled out our
16 statements in two separate areas at Scarborough's.

17 Q: Do you remember discussing this case with you wife
18 around law enforcement, members of the prosecution,
19 or anybody of that nature, or did you always meet
20 with them separately?

21 A: Well I have discussed this case with my wife.

22 Q: Of course you have discussed it with you wife. No I
23 am sorry make sure I say it the right way. When you
24 guys were getting ready for trial do remember all
25 meeting together and discussing the case?

1 A: Correct yes sir.

2 Q: And so you all met together and talked about what
3 happened out there and went through everybody's
4 memories and made sure we were all on the same page
5 as to what happened, correct?

6 A: Correct.

7 Q: Make sure everybody was telling the same story as to
8 what happened that night?

9 A: No sir. What they were instructed to do was tell the
10 truth.

11 Q: Of course. But you all met together going over
12 everybody's stories all at the same time as to what
13 happened that night?

14 A: Correct.

15 Q: And Justin and I have told several witnesses this I
16 do not know boating. So I am going to defer to you
17 individuals who are boaters and things of that
18 nature. This is not a trick or anything of that
19 nature. I think you are the first person I have
20 heard you said the boat was anchored, we were
21 drifting. Could you explain that to the jury I did
22 not understand that? Because some people said it was
23 parked and I know parked is a bad word.

24 A: Yes sir. So basically the boat was unanchored, there
25 is no anchor line holding the boat in one position.

1 Q: So the boat was drifting. So the water could move it
2 back and forth and the boat was not turned on at
3 that time, correct?

4 A: Correct.

5 Q: And I have asked other people this question, again
6 not knowing boats. You could see that could be
7 potentially dangerous just floating in the middle of
8 the lake?

9 A: There is no law against it plus navigation lights..

10 Q: There is no law against it you are exactly right so
11 whether it is dangerous or not there is no law
12 against it I understand what you are saying there.
13 The person who ... the person who came along and I
14 think you said it was an army medic who came along
15 that helped pretty much immediately after everything
16 happened, pretty quickly. This thing happened really
17 quickly. Would you agree with me there?

18 A: Yes I do.

19 Q: Then an army medic actually showed up. Did I
20 understand that correctly?

21 A: Yes sir.

22 Q: Did you remember the army medic's name by any
23 chance?

24 A: His name was Greg Mains.

25 Q: Was he there with his wife also?

1 A: Yes sir.

2 Q: What was his wife's name do you remember?

3 A: I do not.

4 Q: But the two of them came up pretty much right after
5 the entire thing happened? That is when the army
6 medic?

7 A: Yes sir.

8 Q: I think your testimony was you did not think this
9 guy saw you. He didn't swerve or anything of this
10 nature. Whatever boat hit you all he did not see you
11 correct?

12 A: Correct.

13 Q: You are not sitting here saying he did this on
14 purpose. Was trying to intentionally gun you down or
15 anything of this nature. He just did not see you all
16 that night.

17 A: Yes.

18 Q: Is that correct?

19 A: Yes.

20 Q: Had you been drinking that night?

21 A: Yes I had.

22 Q: Do you remember about had much you had to drink?

23 A: Two beers.

24 Q: There was only three people inside your boat. There
25 would have been your wife, there would have been

1 you, and there would have been Stephen Stafford is
2 that correct?

3 A: And Hailey.

4 Q: And Hailey.

5 A: Four.

6 Q: Do you remember if it was, it was pretty dark out
7 there correct? You would agree it was dark that
8 night?

9 A: Yes it was.

10 Q: Was it cloudy? Do you remember if it was cloudy?

11 A: No it was not.

12 Q: It was not cloudy at all?

13 A: No sir.

14 Q: Not partly cloudy anything of that nature that you
15 remember?

16 A: I cannot attest to partly cloudy. I can only
17 remember that it was pretty clear, because I can one
18 hundred percent recall Hailey saying that she could
19 lay here and look at the stars all night.

20 Q: Thank you so much that is all the questions I have.

21 The Court: Very good. Ok folks we are going to
22 break for lunch now it is 1 o'clock, let us head back to
23 jury room by, we will get started back at 2:30 so if you
24 would be back by 2:15 and we will start right back. Do
25 not talk to anybody. There will be plenty of time to

Proffer Testimony Mr. Waynick-Examination by Mr. Durant 194

1 talk about it after. Alright so go to the jury room and
2 we will see you back at 2:30.

3 **(Jury lunch break 1:00)**

4 The Court: Ok, is there anything we need to go over
5 before lunch?

6 Mr. Kent: I do not think so, Your Honor.

7 **(Back on 2:30 p.m.)**

8 **Proffer Testimony Mr. Waynick - Examination by Mr. Durant**

9 Q: Mr. Waynick, were you present on Lake Marion in the
10 early morning hours on July 4, 2014?

11 A: Yes sir.

12 Q: Tell The Court where you were exactly on the lake.

13 A: I was at Greg Morrison's lake house.

14 Q: I am going to show you a map that has been marked as
15 State's exhibit 50 and if you would come down and
16 point to, if you can see that lake house on the map
17 show us where it is. How far from the water were
18 you?

19 A: Probably 50 yards or so.

20 Q: So somewhere in this area?

21 A: That's right.

22 Q: Did you have occasion to observe a stationary boat
23 that was parked out in the water that evening?

24 A: Yes sir.

25 Q: And where was it?

Proffer Testimony Mr. Waynick-Examination by Mr. Durant 195

1 A: Somewhere out in front of these piers here. Where we
2 could see them from there so about right there.

3 Q: How did you know they were sitting there?

4 A: I could see them sitting there with their lights on.

5 Q: Could you tell what kind of boat they were in?

6 A: I could not tell what kind. I could tell about the
7 length of the boat, size of it. Looked to be about
8 an eighteen foot or so boat. I was assuming it was a
9 bass boat.

10 Q: Did you have occasion to see a boat, a bass, another
11 boat that we later would find out was being driven
12 by Mr. Morris that evening?

13 A: Yes I saw a boat come from the power line.

14 Q: Where are the power lines?

15 A: The power lines are somewhere back this way.

16 Q: And it came from the power lines ...

17 A: Towards Scarborough's.

18 Q: Which is towards the bottom of the map?

19 A: Correct it passed by the mouth of this creek that we
20 are looking at, so past that way.

21 Q: How far out in the water was the boat when you saw
22 it?

23 A: I would say probably 100 yards past where this boat
24 was sitting.

25 Q: Did you later see that boat come back towards the

1 power lines?

2 A: Yeah the same boat came back by.

3 Q: How long after they had gone by?

4 A: Less than ten minutes, somewhere around ten minutes
5 I would say.

6 Q: You can have a seat back up here. Mr. Waynick do you
7 live down at the lake?

8 A: Yeah we had a house at the time, I have sold it
9 since, but we had a house for four years on Lizzy's
10 Creek.

11 Q: On Lizzy's Creek?

12 A: Yes.

13 Q: Do you own a boat?

14 A: Yes.

15 Q: What kind of boat?

16 A: Bass boat.

17 Q: How often do you use it?

18 A: About six or seven months out of the year.

19 Q: How many times a week?

20 A: During the spring two to three times a week.

21 Q: What kind of boat is it?

22 A: A Skeeter bass boat.

23 Q: Have you grown up around boats?

24 A: I have had a bass boat since I was 18.

25 Q: How old are you now?

Proffer Testimony Mr. Waynick-Examination by Mr. Durant 197

1 A: 39.

2 Q: So the last twenty one years you have been driving a
3 bass boat.

4 A: On and off yes sir.

5 Q: Have you owned a bass boat continually for the last
6 twenty one years?

7 A: I would say fifteen of those years I have owned a
8 bass boat.

9 Q: Have you operated other kinds of boats on the lake?

10 A: Yes.

11 Q: What other kind?

12 A: Pontoons, jet-skis...

13 Q: Do you or your family members own other types of
14 boats as well?

15 A: Yes.

16 Q: When the boat that you reference, the bass boat that
17 you referenced that came from the power lines headed
18 toward Scarborough's. When it came by the first
19 time, were you able to estimate how fast it was
20 going?

21 A: I would say between forty and fifty.

22 Q: Where do you come up with that number?

23 A: Just from being on it so many times. I mean the
24 sound of it, you can watch it, I have ridden bass
25 boats a lot and boats a lot, and I could just tell

1 that was how fast it was going. Somewhere within
2 there.

3 Q: You cannot be sure exactly but somewhere between 40
4 and 50 MPH?

5 A: Yes.

6 Q: How about the pontoon boats that you own. How fast
7 will they go?

8 A: We got one that will go about forty-five now but we
9 do not drive it that fast, but that is how fast it
10 will go.

11 Q: Can you tell The Court whether or not Mr. Morris's
12 boat was going as fast or as slower than the pontoon
13 would go at max speed?

14 A: I would assume it was going, it was going about the
15 same speed. That is how I came up with that number.

16 Q: Based on how fast a pontoon boat would go?

17 A: I mean a pontoon, those Tritoons trimmed out like
18 that, that is about as fast as they will go. He was
19 going about the same rate of speed.

20 Q: When the boat came by the first time were you able
21 to identify anything specific about the boat?

22 A: I could tell it was a bass boat by the sound of the
23 motor.

24 Q: And said it was about ten minutes later that it came
25 back going the other way?

Proffer Testimony of Mr. Waynick-Cross Exam by Mr. Kent 199

1 A: Correct.

2 Q: Do you know whether or not it was the same boat?

3 A: Yes it was the same boat.

4 Q: And how do you know?

5 A: Because it was identical boat that went by the first
6 time.

7 Q: How fast was the boat coming back the second time?

8 A: Same rate of speed.

9 Q: Did you actually witness the collision?

10 A: Yes.

11 Q: Tell The Court how the boat reacted when Mr.
12 Morris's boat collided with the stationary boat.

13 A: When it hit the other boat, both boats had lights on
14 so you could see the boat, that hit the stationary
15 boat you could see it go up in the air and not land
16 seemingly for 15 or 20 feet. I mean it hung in the
17 air and land. You could see that because the lights
18 and where it was in relation to the pier.

19 Q: Did it go all the way across the stationary boat?

20 A: Yes.

21 Q: Your Honor I do not have any further questions.

22 **Mr. Waynick - Cross Examination by Mr. Kent**

23 Q: Mr. Waynick how are you doing sir?

24 A: Good man.

25 Q: My name is Shaun Kent. I have not had the pleasure

1 of meeting you. I just have some questions just
2 going over some of the testimony that you just
3 offered.

4 A: Yes sir.

5 Q: And I am just going to go from the primarily what we
6 are talking about is the speed.

7 A: Right.

8 Q: From your testimony today you did a speed estimate
9 at 40 to 50 MPH somewhere in that range. Would you
10 agree with me there?

11 A: Yes sir.

12 Q: Did you use any type of stationary object or
13 anything of that nature to determine the speed or
14 did you just look at it and just assume based upon
15 the boats that you have been in that is how fast it
16 must have been going?

17 A: Yes.

18 Q: So this was just an assumption based upon your
19 history of being on boat in the past?

20 A: Just from being out on them and watching them my
21 whole life yeah I could tell with GPSs in every boat
22 have been so you can tell how fast it is going
23 within 10 MPH.

24 Q: Within 10, so you think?

25 A: Between forty and fifty.

Proffer Testimony of Mr. Waynick-Cross Exam by Mr. Kent 201

1 Q: But there was not anything stationary saying ok he
2 has passed this thing or he has passed another boat.
3 You know how the military uses things and determine
4 speed inclination, they look at certain objects or
5 anything of this nature. This was all just based on
6 you watching the boat, watching the boat and you
7 made an assumption of the speed.

8 A: Correct it was how fast it was going by that.

9 Q: How fast is was going by what?

10 A: There were docks that were stationary so yeah you
11 could see it go by here and go across that point
12 that fast. So yeah so stationary objects did come
13 into play.

14 Q: You determined your speed; now you determined your
15 speed based upon a stationary object?

16 A: No I am just saying that is how I came up with it
17 too. I mean the way the boat was moving past the
18 stationary object yeah.

19 Q: And you do not have any scientific training or
20 anything of that nature as to what speed boats go or
21 anything of that nature?

22 A: No sir.

23 Q: You have never been tested in any classes as to what
24 speed boats go or anything of that nature?

25 A: No sir.

1 Q: You have never been given ten different boats and
2 had to look at them and make an assumption of what
3 speed that they are going? No one has ever
4 challenged you as to what speed boats were going?

5 A: No sir.

6 Q: You were not actually on the lake in a boat that
7 night when this boat was going by?

8 A: No sir.

9 Q: It is your testimony that you saw the boat go by the
10 first time and it is your testimony that it went by
11 at the same rate of speed a second time, and I just
12 ask that because that is not specific on your
13 statement but I am giving you a chance to fix that.
14 The first time you had mentioned that went 40 to 50
15 MPH and then later I think you testified, I then
16 witnessed the same boat traveling back towards, and
17 then were headed towards the victims boat, which
18 were sitting still with their lights on and
19 proceeded to the stationary boat, correct? You do
20 not mention a speed the second time.

21 A: Same speed.

22 Q: Brent did you know everybody who was involved in
23 this collision?

24 A: Personally no, but I knew their families.

25 Q: You knew the families of the individuals who were

Proffer Testimony of Mr. Waynick-Cross Exam by Mr. Kent 203

1 involved?

2 A: I knew some of the families once it was over, I knew
3 who they were.

4 Q: Since then you have talked to the families and know
5 them well?

6 A: No necessarily talk to, no sir. I know the family
7 just because we live in a small town.

8 Q: Ok. Thank you so much that is all I have.

9 Mr. Durant: No further questions of this witness

10 Your Honor: Your Honor would you prefer to here arguments
11 as to Mr. Waynick's testimony or go ahead and hear from
12 Ms. Morris?

13 The Court: Go ahead and tell me what you want about
14 this before.

15 Mr. Durant: Your Honor I think it is clear from his
16 testimony that he meets the standard to qualify pursuant
17 to rule 701. The first element of that is that the
18 testimony be relationally based on the perception of the
19 witness to testify that he was in an opportunity to
20 observe the vessel being driven by Mr. Morris, twice as
21 it came by going in one direction and came back the other
22 way. That his perception or the reference to the speed is
23 based on how fast another boat that he owns will go. He
24 also testified that he has owned a boat of the same make
25 and type of boat that Mr. Morris was driving for the last

1 21 years, and uses that boat six or seven months out of
2 the year, several times a week. I do not think you will
3 find a witness with more experience on boats. That is
4 more capable of testifying on speed than Mr. Waynick is.
5 As far as whether or not it is help to determination of a
6 fact and issue, clearly it is. The speed of Mr. Morris's
7 ... as a high rate of speed and exceeded a high rate of
8 speed in reference to the conditions that existed that
9 evening, as far as whether or not it requires special
10 knowledge. As I argued this morning, Your Honor, speed is
11 one of the quintessential types of lay witness opinion
12 testimony that our courts have allowed for decades Your
13 Honor. It is essentially seminal law that lay witnesses
14 can testify to speed. I cannot imagine finding a better
15 witness with better knowledge and experiences, and
16 opportunity to observe a vehicle or vessel to testify to
17 speed than Mr. Waynick and for those reasons we would
18 submit that his testimony should be admitted, Your Honor.

19 The Court: Mr. Kent.

20 Mr. Kent: Thank you Your Honor. Your Honor I would
21 again make the arguments I made earlier. I take umbrage
22 with the fact that the State suggest that it is seminal
23 law, when the two cases that they presented to you were
24 two civil cases. One from 1931 and one from 1968, which
25 are personal injury cases, which do not really address

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1 our issue. Then the other case that they discuss was
2 State vs. Soward, which an officer who was not qualified
3 as an expert was not able to testify about speed because
4 he was not in the vehicle at the time of the collision or
5 things of that nature. Your Honor, going specifically to
6 rule 701, this specific type of testimony does require
7 special knowledge, skill, experience, or training.
8 Testifying just about speed and I am not saying he can't
9 testify about speed, this individual can say to me it
10 looked like the vehicle was going at a high rate of speed
11 or something of that nature. To give with specificity, to
12 say that to me it appeared that it was going this exact
13 speed limit goes against what lay witness testimony
14 should be. They are crossing into the range of now
15 becoming an expert testimony. I can understand how the
16 Court would allow the witnesses who are in the boat to
17 testify as to speed because they were collided with and
18 there is some testimony, some case law that talks about
19 maybe they have a better idea based upon the collision
20 because they were inside the vehicle, but to allow a
21 witness on the shore to testify that at night, without
22 using any specialization, without using any target areas
23 or anything that officers are trained to do with speed.
24 To testify to a degree of certainty that this is what I
25 believe that the speed limit was going and then to allow

1 the State to argue that this must be the speed number
2 that they were going when there are no speed limits on
3 the lake. I know they say that goes to their entire
4 theory, but having a specific number does not help their
5 theory whatsoever there is no speed limits on the lake.
6 They can say this person we believe was going to fast. I
7 just have a problem with allowing these lay witnesses to
8 testify specifically about speed without any knowledge,
9 experience, or training that would be specialized in
10 developing speed. It would be the akin of if you have an
11 individual look into the sky and say hey how fast do you
12 think that plane is going, well we have all been on
13 planes the entire time in our life but we have no clue
14 how fast they were going. We cant determine they are
15 going slow. Or an individual who has played baseball
16 their entire life and say, how fast do you believe that
17 pitcher is pitching the baseball, and that is what they
18 discussed in the Soward case. It is almost an
19 impossibility to say that a witness can just by looking
20 at something say well that is how fast I assume that
21 object was going. They are getting in what they want to
22 get in, that they believe that the witnesses said the
23 vehicles were going fast. What more would they need to
24 know. This specificity is not what rule 701 contemplates
25 would be my argument. Thank you Your Honor.

Mr. Zanne Morris -Examination by Mr. Durant

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1 The Court: Well, the only issue is not whether or
2 not the conduct is reckless and it is that the jury's
3 going to determine is not whether or not the speed is
4 over or within a certain range or mile per hour over the
5 speed limit. You discussed what is would whether you can
6 prove, whether it's opinion, reasonable negligent,
7 criminal negligence/recklessness, and it seems to me that
8 if anybody can testify without being out there shooting
9 radar gun it is going to be somebody like this witness
10 who is owned that boat, been on the lake twenty plus
11 years, owned that kind of boat twenty plus years and has
12 a lot of experience on it. He doesn't testify that he
13 believed that it was a certain mile per hour, it was a
14 range of a certain mile per hour. He is not giving an
15 expert opinion he is giving a lay opinion and I think
16 that it would aid the jury in determining whether or not
17 the defendants conduct was reckless and so I will allow
18 it.

19 Mr. Durant: I have another witness. Mr. Zanne Morris
20 please.

21 Bailiff: Place your left hand on the Bible and
22 repeat your name please.

23 Ms. Morris: Zanne Morris.

24 Bailiff: Do you swear the testimony you are about
25 to give is the truth, the whole truth, and nothing but

1 the truth so help you God?

2 Ms. Morris: Yes ma'am.

3 **Ms. Zanne Morris - Examination by Mr. Durant**

4 Q: Ms. Morris, were you at the lake on the evening of
5 July the 3rd into the early morning hours of July the
6 4th of 2014?

7 A: Yes sir.

8 Q: And where were you at the lake?

9 A: I live at the lake that subdivision area of the
10 lake.

11 Q: I am going to point on this map, this has been
12 admitted into evidence. Is this about where your
13 house is on the lake?

14 A: Yes sir.

15 Q: Is that it within the white box?

16 A: Yes sir. We have two houses that is one of them yes
17 sir.

18 Q: Is this where you were on the evening of July 3,
19 2014?

20 A: Yes sir.

21 Q: Now did you have occasion to see a stationary boat
22 parked out in the water that evening?

23 A: Yes sir.

24 Q: How did you see it?

25 A: They were just kind of floating out there and we

1 were looking at the water.

2 Q: How did you know it was there?

3 A: Because there were not any other boats out, sitting
4 stationary at that time.

5 Q: Were their lights on?

6 A: Their lights were on yes sir.

7 Q: Where were you? Were you standing in your yard or in
8 the house?

9 A: I was in the yard at the time of the accident.

10 Q: Why were you in the yard at midnight?

11 A: My child was suppose to be home at 12 and he was
12 not. When I went to look for him he was swimming in
13 the lake and so I walked down there to tell him and
14 the other children it was time to get out the lake
15 and come in.

16 Q: Were you with Mr. Brent Waynick that evening?

17 A: I was.

18 Q: Was anybody else in the yard with you all?

19 A: Jordan Waynick, his wife, and Ken and Angel.

20 Q: Do they live down at the lake as well?

21 A: They both have lake houses but they do not live at
22 home like I do.

23 Q: Now do you live there full time or just seasonally?

24 A: I live there full time.

25 Q: How long have you lived there?

1 A: 6 years full time, but we have had the lake house
2 since I was born.

3 Q: Have you driven boats before?

4 A: Yes sir.

5 Q: How often?

6 A: Probably every weekend of the summer and sometimes
7 during the week.

8 Q: How long have you been doing that?

9 A: Since I was about fifteen driving and pulling skiers
10 and tubers and stuff.

11 Q: I am not going to ask you how old you are, but has
12 it been at least fifteen years?

13 A: It has.

14 Q: What kind of boat do you own?

15 A: I own a deck boat.

16 Q: What is that?

17 A: It is kind of like a pontoon boat, it sits up out of
18 the water, but it does not have pontoons. A deck
19 boat, you can walk around on it like a pontoon but
20 it just does not have big pontoons under it.

21 Q: That is the boat that you drive every weekend?

22 A: Yes sir.

23 Q: How fast will it go?

24 A: Probably forty-five.

25 Q: Did you have occasion to see another boat driving

1 out on the water that evening?

2 A: Yes sir.

3 Q: Where did it come from?

4 A: The first time it came from the power lines, which
5 would be.

6 Q: That is up towards the top of the map?

7 A: Yes sir.

8 Q: And it came from the power lines towards in this
9 direction?

10 A: Towards Scarborough's Landing.

11 Q: Which is down towards the bottom?

12 A: Yes sir.

13 Q: Did you see that boat again that evening?

14 A: Yes sir, it came back by again.

15 Q: How long after it passed by the first time did it
16 come back?

17 A: Just a couple of minutes. It was not long.

18 Q: Do you remember an officer asking you to whether or
19 not you could give an estimate as to the speed of
20 the boat?

21 A: Yes sir.

22 Q: And what did you tell him?

23 A: They were going faster than I pull my children
24 tubing, and I pull my children between thirty and
25 thirty-five and I could tell because I pull my

1 children in that area a lot that they were going
2 faster than what I normally pull my children when I
3 pull them tubing.

4 Q: And you pull them with the deck boat?

5 A: Yes sir.

6 Q: The speed that you pull your children tubing is your
7 reference to the speed of this boat?

8 A: Yes sir.

9 Q: And you told the officer that it was going faster
10 than that?

11 A: Yes sir, definitely.

12 Q: Are you able to give an exact speed that it was
13 going?

14 A: No sir.

15 Q: Can you testify anything further than it was going
16 faster than the speed that you pull your children on
17 the inner tube?

18 A: No sir.

19 Q: When the boat that we now know or we believe was
20 being driven by Mr. Morris came from the power lines
21 to Scarborough's the first time. Was the stationary
22 boat already there?

23 A: Yes sir.

24 Q: Did it have the lights on?

25 A: Yes sir.

1 Q: Could you actually see the collision from where you
2 were on the bank?

3 A: Yes sir.

4 Q: Describe for the Court how the boats reacted or
5 responded I guess upon the collision.

6 A: The stationary boat was facing the power lines and I
7 could tell because the color is in the front and the
8 white light was in the back. That is how boat are,
9 and then when the boat that was moving came it
10 collided with the stationary boat and jumped the
11 stationary boat and landed on the other side of the
12 boat.

13 Q: Do you remember how you described that for the
14 officer?

15 A: It looked like the Dukes of Hazard.

16 Q: Your Honor I do not have any further questions.

17 A: It looked like the Dukes of Hazard.

18 Q: No further questions of this witness, Your Honor.

19 Mr. Kent: No questions.

20 The Court: Alright, your argument.

21 Mr. Durant: Your Honor similar argument that I had
22 to Mr. Waynick. She has similar experience on the water.
23 Had owned a lake house for the last twenty years. Had
24 ridden on the lake and had driven boats for a least the
25 last fifteen or twenty years. She did not even give as

1 precisely the number as Mr. Waynick and admitted that she
2 couldn't do that essentially and her reference was one
3 that is compelling to me that she pulls her children on
4 the inter-tube regularly, and all she knew was that he
5 was going faster than that. Your Honor I think her
6 testimony is actually more compelling as to speed as she
7 has at least as great of a bases or reference to the
8 speed of the boat as any other witness that has testified
9 so far.

10 The Court: Mr. Kent.

11 Mr. Kent: I would arguing the same arguments that
12 I've made.

13 The Court: Well you know for the same reasons, she
14 has had a lot of experience on the water. In particular
15 that body of water. I think her reference point of
16 pulling her kids while inner tubing and saying this is
17 the speed I'm usually going. What's your plan for this
18 afternoon?

19 Mr. Durant: Your Honor I have four witnesses here
20 and another on the way. I hope to get through five this
21 afternoon if time will allow.

22 The Court: Ok, well let us bring the jury in.

23 **(Jury In 3:00 P.M., JULY 12, 2016 PM)**

24 Ms. Roberts: Raise your left hand and place your
25 right hand on the Bible. State your name, please.

1 Mr. Waynick: Jonathan Brent Waynick.

2 Ms. Roberts: Do you swear the testimony you're able
3 to give is the truth, the whole truth and nothing but the
4 truth?

5 Mr. Waynick: Yes, ma'am.

6 Ms. Roberts: Have a seat, please.

7 **Mr. Waynick - Examination by Mr. Durant**

8 Q: Mr. Waynick, will you tell the jury where you live?

9 A Like my address? In Sumter, South Carolina.

10 Q: Sumter, okay. Do you work?

11 A Yes.

12 Q: What kind of work do you do?

13 A A contractor.

14 Q: A licensed general contractor, a builder?

15 A Yeah, I build, remodel and build like barns and work
16 shops. Stuff like that.

17 Q: Were you at the lake, Lake Marion, here in Clarendon
18 County back on the evening of July 3, 2014?

19 A Yes, sir.

20 Q: Where were you staying at the lake?

21 A On Clubhouse Road. We have a house in Lizzy's Creek
22 there.

23 Q: Your family has a house on Lizzy's Creek there?

24 A Correct.

25 Q: How long have y'all had that house?

1 A We had it for four years.

2 Q: Have you been going to the lake since before then?

3 A We've had a lake in my family since I was born,
4 since I can remember. We've had two or three lake
5 houses.

6 Q: Do you own a boat?

7 A Yes.

8 Q: What kind of boat?

9 A A Skeeter.

10 Q: What type of boat is that?

11 A A bass boat.

12 Q: A bass boat. How long have you owned a bass boat?

13 A On and off since I was 18.

14 Q: How old are you now?

15 A 39.

16 Q: So the last 21 years you've owned a bass boat ...

17 A Correct.

18 Q: ... for the most part?

19 A Correct.

20 Q: How often do you use the boat?

21 A Two to three times a week, probably half the year.

22 Q: Have you been doing that since you were 18?

23 A I'd say out of 21 years, I've used a bass boat
24 regularly probably 15 of those years.

25 Q: Does your family own any other types of boats?

1 A Yes.

2 Q: What kinds?

3 A Tritoons, jet skis.

4 Q: Tritoon is a pontoon with three pontoons underneath
5 it?

6 A Correct.

7 Q: Jet skis as well?

8 A Correct.

9 Q: I want to show you, if you would ...

10 Mr. Durant: With the court's direction, come down.

11 **(Witness steps down)**

12 Q: Show on this map, if you will, where were you on
13 this?

14 A Right here at Mr. Morris' house.

15 Q: Okay. So, you mentioned earlier that you were
16 staying on a house on Lizzy's Creek, you had come to
17 Mr. Morris' house?

18 A That's Clubhouse Road; so our house is on Clubhouse
19 Road as well.

20 Q: This is Clubhouse Road?

21 A Correct and it goes around Lizzy's Creek which is
22 where our house is.

23 Q: Why did you come to Morris' house?

24 A They are friends of ours. We just rode over there
25 to visit, plus our kids kind of hang out together.

1 Q: Were your kids playing together that evening?

2 A Earlier, yes. So we came to check.

3 Q: What time was it when you came to Morris' lake
4 house?

5 A Somewhere around midnight.

6 Q: Somewhere around midnight, so you're getting into
7 July 4th at that point?

8 A Correct.

9 Q: Were y'all staying at the lake that weekend?

10 A Yes.

11 Q: Did you have occasion to see a stationary boat
12 parked out in the water that evening?

13 A Yes.

14 Q: Where was it. If you will, use my pen to point to
15 it.

16 A I would say somewhere in this area.

17 Q: I'm going to ask you to put a sticker where you
18 think that stationary boat was parked.

19 A (Witness complies)

20 Q: How did you know he was there?

21 A I could see the lights on the boat.

22 Q: How long had it been there?

23 A Not very long, because we weren't there long, five
24 or ten minutes.

25 Q: Y'all were standing out in the yard?

1 A We were sitting on a golf cart, actually. I pulled
2 up in the yard and their lot sits up in the air so
3 you can see Wyboo Creek there. So, I was sitting in
4 the golf car facing the water. Wasn't there five
5 minutes before.

6 Q: Did you have occasion to see another boat come by
7 while you were there?

8 A Yes.

9 Q: Where did it come from?

10 A It came from towards the power lines or towards the
11 White Oak area of the lake from this way
12 (indicating).

13 Q: From the top of the map.

14 A That way (indicating) towards Scarboroughs.

15 Q: Can you estimate, for the jury, how fast that boat
16 was going when it came from the power lines towards
17 Scarborough?

18 A I would estimate 40-50 miles an hour.

19 Q: And what is the estimate based on?

20 A From being in bass boats and boats my whole life on
21 and off.

22 Q: Do you have another kind of boat that you own?

23 A No, no --- a family owned boat, yes.

24 Q: The pontoon boat?

25 A The pontoon boat.

1 Q: How fast will this Pontoon go?

2 A It will go 45.

3 Q: Was this boat going as fast as a Pontoon will go?

4 A Well, a Tritoon trimmed out will go about 45. And I
5 assume it he was going that rate of speed.

6 Q: How far out the water was the boat when it came by
7 the first time?

8 A It was probably --- the first time it was probably
9 100 feet.

10 Q: When it came by the first time headed towards
11 Scarborough's was the stationary boat already there?

12 A Yes, sir.

13 Q: Were it's lights on?

14 A Yes, sir.

15 Q: Did you have occasion to see the other boat come
16 back again?

17 A Yes, within five or --- probably about ten minutes
18 it came back.

19 Q: It came back headed, which direction?

20 A It came back headed the direction it came, so that's
21 from the top of the map.

22 Q: All right. How far is Scarborough's away from here?

23 A Just around this bin. Scarborough's is about, I
24 mean it's not far at all. Five hundred yards, a
25 thousand yards from this point.

1 Q: So approximately ten minutes later it comes back in
2 this direction.

3 A Correct.

4 Q: How fast was it going then?

5 A Same rate of speed.

6 Q: Was it the same boat that had come by earlier?

7 A Yes.

8 Q: How do you know that?

9 A Because I could see it. Both ways clearly.

10 Mr. Durant: You can have your seat back.

11 (Witness complies)

12 Q: I'll ask you again, so just the jury hears you. Is
13 the boat that came back from Scarborough's towards
14 the power lines, was it the same boat that had come
15 by earlier?

16 A Yes, sir.

17 Q: How far was it going then?

18 A Between 40 and 50.

19 Q: Did you actually see the collision?

20 A Yes, sir.

21 Q: Tell the court how the boats reacted to one another
22 when they collided or when Mr. Morris' boat hit the
23 stationary boat.

24 A When the bass boat hit the stationary boat it went
25 up into the air and it didn't land for fifteen or

1 twenty feet so it went up into the air and then
2 landed.

3 Q: Could you tell what part of the stationary boat the
4 bass boat had hit? Front or back or side?

5 A: I could not tell.

6 Q: Could you tell which way the stationary boat was
7 facing?

8 A: The stationary boat was facing towards me.

9 Q: After the collision what did you do?

10 A: After the collision I drove the golf cart straight
11 to the pier where Zanne Morris's deck boat was tied
12 up, and my wife Suzanne and another lady ran and got
13 on the deck boat to go help and see what they could.
14 And then at that time I turned around and went back
15 and called 9-1-1.

16 Q: You used the phrase "trimmed up" a minute ago. The
17 boat that a came by or came back was it trimmed up?

18 A: Yes.

19 Q: What does that mean?

20 A: When you plane off in a boat if you leave it trimmed
21 down it is going to bog and it is not going to go as
22 fast. When you trim it up it is going to let the
23 front of the boat trim up a little bit and it lets
24 them go a little faster.

25 Q: You mentioned plane, when you plane off. What are

1 you talking about there, planing off?

2 A: When a boat is sitting stationary before it takes
3 off, the nose will sit straight up so it is going to
4 have to level off like before it can get going. Once
5 it levels off generally you trim it back up a little
6 bit to level that boat off and so the speed can pick
7 up.

8 Q: Can a boat be trimmed up and still be on plane?

9 A: Yes.

10 Q: I beg The Court's indulgence. Mr. Waynick when you
11 saw the moving vessel come back the second time.
12 Could you tell about how far away it was from the
13 stationary boat, when you first saw it?

14 A: When it went by, if I can say. When it went by the
15 first time it was a could bit from the other side of
16 the boat. That is when I was like, at that rate of
17 speed something bad can happen, and then shortly
18 after, ten minutes or so when it came back they were
19 closer. Then when they were closer that is when I
20 looked at Mr. Rosefield and I said oh my goodness
21 you know this doesn't look good. You cannot tell
22 where it was lined up by depth perception at night,
23 but I knew it did not look good and the closer they
24 go that is when I could tell it was too close.

25 Q: If I understand you correctly. Did you say that you

1 made a statement to other people with you when they
2 came by the first time?

3 A: When they came by the first time I said, " that boat
4 is going entirely too fast and something bad can
5 happen if they do not slow down."

6 Q: Did you make that statement to the other folks with
7 you before the collision?

8 A: I made it to Mr. Rosefield who was sitting with me
9 in the golf cart, you know everybody on the golf
10 cart heard it, but I made the statement to Mr.
11 Rosefield.

12 Q: And then when the boat came back there was some time
13 for you to observe the boat and talk about how fast
14 it was going?

15 A: Right. We were discussing it and in the middle of
16 discussion here it came back again.

17 Q: And that is when you made the statement about it,
18 "it looks like he may be on line."

19 A: I said, " oh my goodness I hope this is not what I
20 think is about to happen."

21 Q: That is all the questions I have Mr. Waynick. Please
22 answer any the defense may have for you.

23 The Court: Cross.

24 Mr. Kent: Thank you.

25 Mr. Waynick - Cross-Examination by Mr. Kent

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1 Q: Mr. Waynick how are you doing sir?

2 A: Good.

3 Q: The first time we met was a few moments ago, and
4 again my name is Shaun Kent I am going to be asking
5 you some questions ok. Madam court reporter is
6 taking down every word, everybody has heard me say
7 it, but she is taking down every word that you are
8 saying. She cannot take down the head shakes like
9 you are doing right now. So make sure the answers
10 that we give are yeses and nos and affirmative, and
11 I will give you plenty of opportunity to speak, ok?

12 A: Ok.

13 Q: And I speak real fast so if you do not understand
14 something I am saying say Shaun slow down your
15 talking to fast and I will give you a chance to keep
16 going.

17 Q: Some of the questions they have been asking you was
18 about estimates of speed. Would you agree with me
19 there?

20 A: Yes sir.

21 Q: In dealing with the estimates of speed. You would
22 agree with me you do not have any specialized
23 training in dealing with speed estimates, correct?

24 A: Just experience.

25 Q: Just experience. And the night in question you were

1 not tracking speed with a GPS or any type of
2 specialized device or anything of that nature?

3 A: Just experience.

4 Q: And the experience that you are getting is basically
5 our assumption or our opinion of what we thought the
6 speed of the boat was going that evening?

7 A: Yes that is my opinion how fast it was going.

8 Q: Just your opinion based upon what you...

9 A: Life long experience.

10 Q: ...Life long experience of what you thought the boat
11 was going?

12 A: Correct..

13 Q: You would agree with it is pretty difficult to gauge
14 how fast a boat is going just by looking at it.

15 A: It is not difficult within 10 MPH.

16 Q: Ok so your speed that you give in your estimate is
17 within 10 MPH?

18 A: Correct.

19 Q: Answer me this and I do not know much about boats, I
20 will be very honest with you I just do not.

21 Everybody who has testified they better expert than
22 I am. We here people talk about knots and miles per
23 hours what the heck does that mean? What are the
24 differences? When you hear someone say the boat was
25 going a certain knots or miles per hour or am I off

1 base right now?

2 A: Yeah I do not know the difference between knots and
3 miles per hour. I was trained in miles per hour.
4 When I say trained, all of my boats always in miles
5 per hour.

6 Q: Is there a difference between the speed that a boat
7 goes on the water and a car goes on the road?

8 A: No. Miles per hour is miles per hour.

9 Q: That is why I said, just questions, I do not
10 understand that is why I like to ask people. And I
11 want to make sure I understand, and let us do it
12 this way to make sure I am clear. If this is the
13 stationary boat, this chair we are going to assume
14 the chair is the stationary boat, and the chair is
15 facing this way, facing towards the jury. Which way
16 would Scarborough's Landing have been?

17 A: Over there.

18 Q: Scarborough's Landing would have been facing the
19 jury?

20 A: Scarborough's Landing would have been that way, yes
21 sir.

22 Q: So the stationary boat was facing Scarborough's
23 Landing?

24 A: It was facing me. So the boat would of kind of
25 facing me.

1 Q: So the boat would have been facing this way and
2 Scarborough's Landing would have been right where
3 the jury is?

4 A: That is correct.

5 Q: Not behind us?

6 A: That is right.

7 Q: Thank you so much. That is all the questions I have.

8 Mr. Durant: The State calls Zanne Morris.

9 Ms. Roberts: Place your left hand on the Bible
10 and repeat your name please.

11 Ms. Morris: Zanne Morris.

12 Ms. Roberts: Do you swear or affirm the testimony
13 you will give will be the truth?

14 Ms. Morris: I do.

15 **Ms. Zanne Morris - Examination by Mr. Durant**

16 Q: Ms. Morris can you tell us where you live?

17 A: I live in the subdivision area of Lake Marion.

18 Q: Of Lake Marion?

19 A: Yes.

20 Q: I am going to show you...How long have you lived
21 there?

22 A: I have lived there for six or seven years
23 permanently but we had the lake house since I was
24 born.

25 Q: Since you were a child?

1 A: Since I was a child.

2 Q: I am going to show you a map that has been marked as
3 State's exhibit 50. Can you see on this map where
4 your home is?

5 A: Yes sir.

6 Q: And if with the Court's permission I'd ask you to
7 come down and point it out to us.

8 A: I own this house in the box and this house beside
9 it.

10 Q: Alright, so the house below it as well is part of
11 your property?

12 A: Yes sir.

13 Q: Let me show you State's exhibit 56. Can you point
14 out, are those the two homes that you are talking
15 about?

16 A: Yes sir they are.

17 Q: If you would stay down here just for a second. Did
18 you have occasion to see a stationary boat sitting
19 out in the water that evening?

20 A: Yes sir.

21 Q: And where was it?

22 A: It was about right here.

23 Q: And where were you standing at that point?

24 A: About right there.

25 Q: In the yard area?

1 A: Yes sir.

2 Q: And this bright looking is that sand?

3 A: Yes sir.

4 Q: Alright you can have a seat now.

5 A: Thank you.

6 Q: Ms. Morris what time of day or night was it that you
7 were standing outside in your yard?

8 A: It was a little after midnight.

9 Q: And what were you doing outside after midnight?

10 A: My children were suppose to be home by 12 and they
11 were not in the house by 12 so I went into the front
12 yard to see if I could find them. They were still
13 swimming in the lake so I walked down there to get
14 them in the lake.

15 Q: Was anybody else standing out in the yard with you?

16 A: Yes sir, Brent Waynick and Jordan Waynick pulled up
17 on the golf cart along with Ken.

18 Q: And why were they there?

19 A: Their child was with my child and they were looking
20 for her too.

21 Q: The boat that you mentioned that was sitting
22 stationary out in the water. How did you know it was
23 there?

24 A: You could see the lights on the boat.

25 Q: How long had it been there?

1 A: Not to long. There were not any other boats on the
2 water at that time.

3 Q: Did you know who was in that boat at the time?

4 A: No sir.

5 Q: Did you happen to see any other boats out on the
6 lake that evening?

7 A: Yes sir.

8 Q: And tell the jury about that.

9 A: Like I said the stationary boat was there and then
10 there were no other boats and you could hear a boat
11 coming a while before you could see it and then it
12 crossed from the power lines to heading towards
13 Scarborough's Landing.

14 Q: I'll put State's 50 back up here again. You said it
15 crossed, it came from the power lines heading
16 towards Scarborough's Marina?

17 A: Yes sir.

18 Q: Is that from the top of the map down towards the
19 bottom?

20 A: Yes sir.

21 Q: Were all of you all out in the yard when you all saw
22 that boat come by?

23 A: Yes sir.

24 Q: Was the stationary boat already there at that point?

25 A: Yes sir.

1 Q: Were it's lights on?

2 A: Yes sir.

3 Q: Which way was the stationary boat facing?

4 A: The stationary boat was facing towards the top of
5 the map.

6 Q: Towards the top of the map. So the bow of the boat
7 was going toward ,the front of it was going towards
8 the power lines?

9 A: Yes sir.

10 Q: How do you know that?

11 A: Because I could see the colored lights in front and
12 the white one in the back.

13 Q: Tell the jury if they do not know what the
14 difference is between the colored lights and white
15 light..

16 A: The white light sticks up on the back of the boat
17 and color light is red and green so you can tell
18 which was it is facing ...

19 Q: So the colored lights are always in the front and
20 the whites in the back?

21 A: Yes sir.

22 Q: Is it your testimony that the colored lights were
23 closer to the power lines and the white light was
24 closer to Scarborough's?

25 A: Yes sir.

1 Q: The boat that you saw come by the first time. How
2 far or where at in the water was it?

3 A: It was probably a good ways out.

4 Q: A good ways out towards the middle?

5 A: Yes sir.

6 Q: Did you see any other boats after that?

7 A: That same boat you heard it go by and then you heard
8 it coming back towards you.

9 Q: And it came back from Scarborough's, from the bottom
10 of the map towards the top?

11 A: Yes sir.

12 Q: And were you all still standing in the yard at that
13 point?

14 A: Yes sir.

15 Q: Did anybody make any comments as to the speed of the
16 boat when it came by?

17 A: When it came by the first time, Brent said that
18 nothing good could come out of somebody going that
19 fast at night.

20 Q: Tell me what you all saw when you heard or saw the
21 boat coming by the second time.

22 A: The kids in the stationary boat you hear them
23 starting to get a little panicky and they were
24 talking to each other. You could hear them, hear
25 their voices start to elevate because they were

1 getting nervous and then they, I could hear them
2 screaming that they do not see us. Then cell phones
3 were going in the air as if an S.O.S. or trying to
4 make sure that the other boat saw them.

5 Q: And all this activity, is that the stationary boat?

6 A: Yes sir.

7 Q: Did the scream that you mentioned a minute ago from
8 the female. Did that come from the stationary boat
9 as well?

10 A: Yes sir.

11 Q: What did the boat that was driving for lack of a
12 better word, what did that boat do?

13 A: The boat that was coming in?

14 Q: Right.

15 A: It did not act, it didn't veer it's course at all.
16 It didn't seem to see that other boat at all.

17 Q: Could you all tell from where you were that it was
18 on line with the boat?

19 A: From where we were standing we couldn't really tell
20 because it's really hard to do depth perceptions,
21 but you could tell, you could tell from the screams
22 of the kids that the boat was coming straight for
23 them.

24 Q: Could you see the other boat at that point when you
25 heard the screams, could you see the boat?

1 A: Yes sir.

2 Q: Any guess as to how far away it was?

3 A: Well from my yard I can see just from --- I saw it
4 coming from around the corner is where the land is
5 and the boat came from that corner and I could see
6 it immediately.

7 Q: Did the officer --- did you ever meet with an
8 officer to discuss, give a statement in this case?

9 A: Yes sir.

10 Q: Did he ask you to give an estimate as to the speed
11 of the boat?

12 A: Yes sir.

13 Q: Of the moving boat?

14 A: Yes sir.

15 Q: How fast did you estimate the boat to be moving?

16 A: I told him that I normally pull my children tubing
17 and skiing and I know that from the speedometer of
18 my boat I pull them between 3 to 35, and I could
19 definitely tell you that that boat was going faster
20 than I pull my kids tubing.

21 Q: But beyond that you can't give an exact speed?

22 A: No sir.

23 Q: Just faster than you pull your kids on the inner
24 tube?

25 A: Yes sir.

1 Q: And that is 30 to 35?

2 A: Yes sir.

3 Q: Did you all actually see the collision?

4 A: Yes sir.

5 Q: Tell the Court what happened when the moving boat
6 collided with the stationary boat?

7 A: The stationary boat, like I said all of the kids
8 were waving and screaming, and the moving boat hit
9 the back of the stationary boat and it jumped it
10 like the Dukes of Hazzard and it landed on the other
11 side of the boat.

12 Q: What did you all do at that point?

13 A: We got in, me and Jordan ran from where we were to
14 my boat which was on that pier, the pier that you
15 see the sandy beaches, and we got into my boat and
16 we drove out there; me, Jordan, and Angie.

17 Q: You and Jordan, Brent's wife?

18 A: Yes.

19 Q: And Angie, another female was there?

20 A: Yes sir.

21 Q: Tell the jury what you found when you got out to
22 where the boat were.

23 A: Well when we first started going out there you could
24 hear a female from the stationary boat, screaming
25 call 9-1-1. I didn't hear any male voices. And

1 Jordan was telling me to go faster, go faster, but I
2 was scared to go faster because I didn't know if the
3 kids were in the water or if it knocked them out of
4 the boat. I didn't want to run over somebody that
5 was not hurt, so we went as quickly as I could to
6 the accident. And when we got there two boys were
7 coming out of the water onto the boat, they had been
8 thrown from the boat so they were climbing back into
9 the boat. And another boat was to my left, like
10 coming back from the power lines, and then there was
11 a girl standing behind the driver's wheel, the
12 steering wheel, that's the stationary boat screaming
13 that, you know, somebody was hurt.

14 Q: Girl was standing on the stationary boat screaming
15 that somebody was hurt?

16 A: Yes sir.

17 Q: What about the boat, the moving boat that had hit
18 them. Where were they at that point?

19 A: They were approaching, they were coming back towards
20 us but they were yelling and screaming, and saying
21 that they shouldn't have been sitting stationary in
22 the middle of the lake and that they shouldn't ---
23 they were yelling out obscenities and saying that
24 they shouldn't without their lights on but their
25 lights were on.

1 Q: Did you all, were there any other --- were you all
2 the first boat to arrive?

3 A: Yes sir.

4 Q: Did other boats come to help?

5 A: Yes sir.

6 Q: Did you all actually load Hailey onto your boat and
7 take her to Scarborough's?

8 A: Yes sir.

9 Q: What did the defendant's boat, the moving boat that
10 had just hit the stationary boat. What did it do
11 after that?

12 A: At one point, one of the men on the stationary boat
13 said, "Don't let her die. I'm suppose to marry her."
14 When he said that the stationary boat drove away.

15 Q: Did anybody on the stationary boat make any
16 statements as to why they were leaving?

17 A: No sir.

18 Q: Did they give any explanation as to why they were
19 leaving?

20 A: No sir.

21 Q: Did you hear them say where they were going?

22 A: No sir.

23 Q: Did you hear them give their names or identifying
24 information to anybody there?

25 A: No sir.

1 Q: Did they give it to you or anybody else that was
2 there?

3 A: No sir.

4 Q: Ms. Morris, I may have confused you and may have
5 confused you the jury about the stationary boat and
6 the moving boat, but when I was asking you whether
7 or not --- I meant to say whether the people on the
8 moving boat told you or anybody else that they were
9 leaving or why they were leaving?

10 A: No sir. By that time another had pulled up beside me
11 on this side and that boat took off without saying
12 anything.

13 Q: Did not give a name or information or anything?

14 A: No sir.

15 Q: Did they offer to help the people that were in the
16 water, out of the water?

17 A: No sir.

18 Q: They didn't throw out a line or flotation device of
19 any kind?

20 A: No sir. The people in the stationary boat were
21 asking them to call 9-1-1 and they just had made a
22 statement that they weren't calling anyone until
23 they found out you know what was going on and if
24 somebody was really hurt.

25 Q: Somebody from the boat that had just struck the

1 stationary boat, from the moving boat made a
2 statement that we are not calling 9-1-1 until we
3 find out some information?

4 A: Yes sir.

5 Q: Finally, there has been several references to this
6 Scarborough's. What is Scarborough's?

7 A: Scarborough's is a marina where you can, it's a
8 landing where you put your boat in and out, and they
9 have live bands that perform, and there is a store,
10 a restaurant, and a bar. And it is also where you
11 can put your campers and lease spots to stay over
12 the summer.

13 Q: What side of the lake is Scarborough's on?

14 A: The same side I am on.

15 Q: The same side you are on. So if we are looking at
16 the map, on the left hand side of the lake left had
17 side of the water?

18 A: Yes sir, I could hear the band from my house.

19 Q: That night?

20 A: Yeah. that night.

21 Q: I don't have any further questions Your Honor.

22 The Court: Cross.

23 Ms. Morris - Cross-Examination by Mr. Kent

24 Q: Hey, Ms. Morris, how are you?

25 A: I am ok.

1 Q: My name is Shaun Kent. We haven't had the pleasure
2 of meeting. I do not have a lot of questions for you
3 ok. Just make sure we speak loud and clear enough so
4 everybody can hear everything we are going back and
5 forth here.

6 A: Yes sir.

7 Q: My understanding of the testimony that you gave is
8 and just reading your statement. I think you said
9 you pulled your kids on your inner tube at about 30
10 MPH?

11 A: Yes sir.

12 Q: And you said that all you can testify to is it was
13 going faster than 30 MPH?

14 A: Yes sir.

15 Q: Would that be about correct?

16 A: Yes sir.

17 Q: And one of the last things master prosecutor just
18 asked you was after the collision was the, and we
19 will say the moving vehicle, the moving boat was
20 still there and I think you said it was coming back
21 toward. Let me make sure I read that correctly. They
22 were coming back towards them, I think was your
23 quote. You're nodding your head she can't take that.

24 A: I'm sorry yes sir.

25 Q: So immediately after the collision the moving boat

1 was coming back towards the collision?

2 A: Yes sir.

3 Q: And then there was some argument over whether or not
4 they had their lights on or not?

5 A: Yes sir.

6 Q: Ok so they didn't take off immediately they were
7 coming back towards from what your testimony.

8 A: They didn't take off until somebody said that
9 somebody was hurt.

10 Q: Ok. Thank you so much.

11 The Court: Redirect?

12 Mr. Durant: No redirect, Your Honor. Call Jordan
13 Waynick. Jordan Waynick.

14 Ms. Roberts: Raise your right hand, place your left
15 hand on the Bible. Repeat your name please.

16 Ms. Waynick: Jordan Waynick.

17 Ms. Roberts: Do you swear or affirm the testimony
18 you will give will be the truth?

19 Ms. Waynick: Yes ma'am.

20 **Ms. Jordan Waynick - Examination by Mr. Durant**

21 Q: Ms. Waynick good afternoon. Would you tell the jury
22 where you live.

23 A: I live in Sumter, South Carolina.

24 Q: Are you the wife of Brent Waynick who testified
25 earlier?

1 A: Yes sir.

2 Q: You all have a house down at the lake as well?

3 A: Yes sir.

4 Q: His family does.

5 A: Well his family does, we had ---- but we just sold
6 it.

7 Q: Were you all down at the lake on the evening of July
8 the 3rd into July the 4th of 2014?

9 A: Yes sir.

10 Q: Were you at your house or someone else's?

11 A: We were staying at our house but we had ridden over
12 on our golf cart over to some friend's house.

13 Q: Is that the Morris's lake house?

14 A: Yes sir.

15 Q: And looking at this map State's exhibit 50. Is this
16 the Morris's lake house down at the bottom left
17 side, left corner of the map?

18 A: Yes.

19 Q: Were you all out in the yard at the house or inside
20 on the porch or what?

21 A: We were outside, we had actually pulled up on the
22 golf cart and were sitting on the golf cart.

23 Q: On the golf cart on the water side of the house, on
24 the water front?

25 A: Like in between her house and the water.

1 Q: Ok somewhere in here?

2 A: Yes.

3 Q: What time of day or night was it?

4 A: It was about 12:30, somewhere between 12 midnight.

5 Q: After midnight. Did you see any boats out on the
6 water from where you were?

7 A: We did. We were just kind of sitting around talking
8 and we saw a boat sitting out on the water. Well
9 first of all we saw a boat come by. Then we saw a
10 boat just sitting out on the water, as the boat came
11 back by.

12 Q: The boat that was sitting out on the water. How did
13 you know it was there?

14 A: You could see the lights, really were just floating
15 out there.

16 Q: Could you tell which way it was facing, which
17 direction it was facing?

18 A: I honestly do not remember.

19 Q: And you mentioned seeing another boat come by. From
20 which direction did that boat come?

21 A: It came from our left, like from the power lines
22 heading towards like direction of Scarborough's.

23 Q: The power lines towards the top of the map?

24 A: Right, the would be, yeah they would be at the top
25 of the map.

1 Q: And Scarborough's?

2 A: And Scarborough's would be down at the bottom.

3 Q: Ok so it came from that direction?

4 A: Yes sir.

5 Q: Could you tell what type of boat it was or anything?

6 A: You could tell, you could tell it was a bass boat.

7 You could --- my husband has a bass boat, always
8 had, from the sound of it, it sounded like a bass
9 boat.

10 Q: Did you make any observations about the manner in
11 which it was traveling?

12 A: It was going at a pretty high rate of speed.

13 Q: Going towards Scarborough's?

14 A: Going towards Scarborough's.

15 Q: And did you see a boat come back from Scarborough's
16 as well?

17 A: We did. It was probably I would guess five to ten
18 minutes later came back by. Seemed to me like it was
19 the same boat. Sounded like it was the same boat.

20 Q: A bass boat as well?

21 A: Right yes sir.

22 Q: Did you make any observations as to the manner which
23 it was traveling when it came back?

24 A: It was going pretty fast.

25 Q: Tell the jury what happened when you all saw this

1 boat coming back.

2 A: When it came by the first time, headed toward
3 Scarborough's we talked about how it was going
4 pretty fast, and that someone could get hurt. And so
5 when it came back and you could hear it coming
6 before you ever saw it. So we saw it coming back and
7 you could hear like mumbled talking, like hey, ho,
8 ho, ho, ho, and then you see shining or like cell
9 phones like flashing from the boat that was sitting
10 still, and they were just kind of like hey, ho,
11 wait, stop, stop, stop and the last screams got
12 louder and louder. And then you heard a loud crash
13 and it looked to me like the boat that was speeding
14 come back and ...

15 Mr. Kent: Objection, Your Honor. Can we approach?

16 (Counsel approaches bench without court reporter)

17 The Court: For the record, it's been established
18 there is no speed limit on the lake.

19 Q: I think you mentioned earlier that the boat was
20 going at a high rate of speed. Is that what you
21 meant?

22 A: Yes sir.

23 Q: The boat that came back, it was coming back from
24 Scarborough's at this point. You heard screams
25 coming from the boat that was sitting still?

1 A: Yes sir.

2 Q: Could you tell from that point whether or not the
3 boat that was moving was on line to strike the boat
4 sitting still?

5 A: It did look to me as if it was but it's kind of hard
6 at night ...

7 Q: You couldn't be sure.

8 A: ... to tell for sure.

9 Q: Did the moving boat actually collide with the
10 stationary boat?

11 A: They did. Yes sir.

12 Q: Did you see the collision?

13 A: I did see it and heard it. Like I said it was dark,
14 it looked to me like the boat sitting still and they
15 hit, the boat that was moving hit the boat and
16 almost jumped over it.

17 Q: Completely over it?

18 A: Like it makes me think of like Dukes of Hazard like
19 it just hit it and just jumped over the boat.

20 Q: What did you do after the boats collided?

21 A: Soon as we heard it we jumped off the golf cart and
22 ran down to the, my friend Zanne's boat, and jumped
23 on it to ride out there, to check on them.

24 Q: Who went out on the boat with you?

25 A: It was Zanne Morris, myself, and Angie Rosefield.

1 Q: Did you all go out to where the collision happened?

2 A: Yes sir.

3 Q: What did you find when you got there?

4 A: Zanne was driving, I was on the front of the boat so
5 that once we got to them I would catch our boat onto
6 their boat. And she flew as fast as she could
7 stopping a good distance away from their boat, and I
8 just kept saying Zanne go go and she said I can't I
9 don't know if anybody is in the water. And so I
10 started I looked out to the boat in front of us and
11 said is anybody in the water, is anybody in the
12 water. There was so much screaming going on back and
13 forth between the two boats that nobody was able to
14 hear me.

15 Q: Could you tell what the people on the boat were
16 saying?

17 A: Sounded like a female was from the stationary boat
18 was screaming call 9-1-1, call 9-1-1 we need help,
19 and the voice from the boat that had hit them that
20 said, if you don't shut the f up we are not calling
21 anybody.

22 Q: Were you all the first boat to arrive?

23 A: There was a jon boat that pulled up too that had a
24 couple owned it. I think we kind of got there at the
25 same time, but I am not one hundred percent sure.

1 Q: What did you all do when you got there?

2 A: When we got there that is when Zanne stopped so we
3 could check and see if there was, anybody was in the
4 water, and I really had to like scream everybody
5 shut up just so I could find out if anybody was in
6 the water. And so they said nobody is in the water
7 so we pulled up to the boat that had been hit and we
8 pulled up to the back end of their boat because I
9 was able to grab a hold of it and climb onto their
10 boat.

11 Q: What did you find when you climbed onto the
12 stationary boat?

13 A: Caroline was standing on the back of the boat and
14 Hailey was in the seat of the boat and she was just
15 kind of hunched over in the seat, she was leaning
16 forward.

17 Q: Was she responsive at all?

18 A: She never spoke to me, but I remember hearing like a
19 gurgling sound, like air coming out, but she would
20 never speak to me.

21 Q: Did you all help load Hailey onto your boat?

22 A: Yes sir.

23 Q: Where did you all take her?

24 A: We took her to Scarborough's.

25 Q: To meet first responders?

1 A: Yes sir.

2 Q: What did the boat that had hit Hailey's boat. What
3 did they do after you all got there?

4 A: They were a distance away from us and like I said
5 they (crying) and then they left.

6 Q: You said they were some distance away?

7 A: I would guess probably here to the back of the court
8 room.

9 Q: Did they come any closer than that?

10 A: No sir, they never came back towards us.

11 Q: Did you, did you hear. Were you all still there when
12 the boat that had hit Hailey's boat, were you-all
13 still there when they left?

14 A: I think that they left before we did because I don't
15 remember seeing them once we had her on our boat and
16 were leaving.

17 Q: Did you hear them give any explanation for leaving?

18 A: I never heard them give an explanation for leaving,
19 no.

20 Q: Did anybody on their boat say that they thought they
21 were taking on water or anything like that?

22 A: No sir.

23 Q: Did they tell anybody where they were going?

24 A: No sir.

25 Q: Did they even give their name or identifying

Ms. Jordan Waynick-Cross Examination by Mr. Kent

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1 information to anybody before they left?

2 A: No sir.

3 Mr. Durant: No further question.

4 **Ms. Waynick - Cross-Examination by Mr. Kent**

5 Q: Ms. Waynick how are you?

6 A: I'm good.

7 Q: I know this is a very difficult and emotional
8 situation so I will try to go as peacefully and
9 quickly as I can ok?

10 A: Thank you.

11 Q: My name is Shaun Kent. I do not think we ever had
12 the opportunity to meet each other. I'm just going
13 to ask you a few questions and make sure that you
14 answer my questions back so that madam court
15 reporter can get down every word that you're saying.

16 A: Ok.

17 Q: It is safe to show that you know everybody involved
18 in this case, the families?

19 A: I did not know the Bordeaux family or anybody on
20 that boat.

21 Q: Do you know them now to this day because I noticed
22 you had mentioned their name and things of that
23 nature?

24 A: I just know of them. I mean I met them during the
25 funeral at that time, but I have not had really any

1 connection with them since.

2 Q: So you went to the funeral? And this is emotional
3 for you this is just an emotional situation.

4 A: Yes sir.

5 Q: You had given a written statement to law
6 enforcement. Do you remember giving that?

7 A: Yes sir.

8 Q: Had you also given any other statement to law
9 enforcement or is that the only statement you gave?
10 It's fine if you did I am not trying to trick you.

11 A: I may have spoken to a police officer that night as
12 it was going on, but I don't think I ever have
13 since.

14 Q: Do you remember meeting in preparation for the case
15 today?

16 A: Do I remember what?

17 Q: Do you remember meeting and getting ready for the
18 preparation of your case today?

19 A: When we came and met last week sometime and just
20 kind of got a tour.

21 Q: You met together and talked about testimony and
22 things of that nature?

23 A: Yes sir.

24 Q: And I only bring that up. You have had an
25 opportunity to review your statement correct?

1 A: Yes sir.

2 Q: And you have reviewed it in full detail?

3 A: Yes sir.

4 Q: And I think we agree, after the incident you are
5 pretty clear there were four boats including ours,
6 the two boats involved in the accident. So
7 immediately after it was still there?

8 A: Right.

9 Q: It was still there. You had mentioned the only thing
10 that you could remember as the boats collided, today
11 you testified it was like the Dukes of Hazzard. That
12 is an interesting phrase.

13 A: Right.

14 Q: It is kind of a peculiar phrase. I haven't heard it
15 used very much before, but do you know where you got
16 that phrase from because it's not in your statement
17 anywhere?

18 A: It's not in the statement it's just, the idea of the
19 boat jumping over the other one. It just makes me
20 think of like Dukes of Hazzard the tv show how they
21 were always like jumping over stuff.

22 Q: You would agree with me that was not inside your
23 statement.

24 A: No sir.

25 Q: Thank you so much. That is all I have.

1 Mr. Durant: No redirect, Your Honor. Your Honor,
2 may we approach?

3 **(Counsel Approach Without Court Reporter)**

4 The Court: Okay. Folks, let's take about a ten
5 minute break. Please do not discuss the case. We'll be
6 back in about ten minutes.

7 **(Jury Break 3:47 p.m./Jury Back In 4:12 p.m.)**

8 Mr. Durant: The State calls Martin Ken Rosefield.

9 Ms. Roberts: Raise your right hand, place your left
10 hand on the Bible. Do you swear or affirm the testimony
11 you are about to give will be the truth?

12 Mr. Rosefield: I do.

13 **Mr. Rosefield - Examination by Mr. Durant**

14 Q: Good afternoon Mr. Rosefield. What do you go by,
15 Martin?

16 A: Ken.

17 Q: Ken. Ken where do you live?

18 A: In Sumter.

19 Q: Do you frequent the lake, Lake Marion here in Marion
20 County?

21 A: I do yes.

22 Q: Does your family own a home on Lake Marion?

23 A: I do have a home there.

24 Q: Did you happen to be on Lake Marion on the evening
25 of July 3, 2014, into the early morning hours of

1 July the 4th?

2 A: Yes.

3 Q: Were you staying at your family's lake house down
4 here?

5 A: Yes.

6 Q: Did you all go over to anyone else's house that
7 evening?

8 A: Yes we went over to the Morris's house.

9 Q: Who is we?

10 A: Brent Waynick, his wife Jordan and my wife Angie.

11 Q: Did you all drive a car over or a golf cart?

12 A: We took a golf cart.

13 Q: Over to the Morris lake house?

14 A: Yes.

15 Q: Looking at this map up on the screen, which has been
16 marked as State's exhibit 50. Is this the Morris
17 lake house down in the left hand corner?

18 A: Yes it is.

19 Q: Is that where you all were that evening?

20 A: Yes in the back yard.

21 Q: In the back yard towards the water?

22 A: Towards the water, correct.

23 Q: So in this area?

24 A: Yes.

25 Q: Did you have occasion to see a boat sitting

- 1 stationary out in the water while you were there?
- 2 A: Yes.
- 3 Q: Where was it?
- 4 A: Near that yellow...
- 5 Q: The yellow sticker?
- 6 A: Yellow sticker there, yes.
- 7 Q: How did you know the boat was there?
- 8 A: You could see the lights.
- 9 Q: Was it there when you all got to the Morris's house?
- 10 A: Yes it was.
- 11 Q: Were there many other boat out on the water that
- 12 evening?
- 13 A: Not many.
- 14 Q: Did you see any other boats come by while you were
- 15 there?
- 16 A: Yes I did.
- 17 Q: From which direction did it come?
- 18 A: Come from the power lines to our left. Heading to
- 19 our right heading towards the landing area.
- 20 Q: From the top of the map towards the bottom?
- 21 A: Correct.
- 22 Q: Could you tell what kind of boat it was?
- 23 A: It appeared to be a bass boat.
- 24 Q: Did anybody look and make any comments as to the
- 25 manner in which the driver, that boat was driving?

1 A: Yes. My buddy Brent, we were sitting on the golf
2 cart and he basically made the comment that nothing
3 good could happen with a boat going that fast at
4 night.

5 Q: Did you happen to see that boat again that evening?

6 A: It came back a few moments later. Coming from the
7 other direction heading towards the power lines.

8 Q: Could you tell whether or not it was the same boat?

9 A: Appeared to be.

10 Q: Again, what type of boat was it?

11 A: A bass boat.

12 Q: Any observations about the manner in which it was
13 driving when it came back the second time?

14 A: Same, same, same speed.

15 Q: Still going as fast as it was before?

16 A: Yes.

17 Q: Could you tell at that point whether or not there
18 was a chance it could hit the stationary boat?

19 A: A possibility.

20 Q: Did you have occasion to observe the boat, the
21 moving boat as it approached the stationary one?

22 A: We did and --- We had commented right before the
23 collision that this, something bad was going to
24 happen.

25 Q: How long was it from the time that the boat came in

1 view the second time until it struck --- Did it
2 actually end up striking the stationary boat?

3 A: It did.

4 Q: How long from the time it came into view until it
5 collided with the stationary boat?

6 A: Maybe ten seconds.

7 Q: Did you hear any noises coming from the water before
8 it hit?

9 A: I heard a few yells, yelling and screaming right
10 before the boat collision.

11 Q: Could you tell where that voice was coming from?

12 A: Near the boat that was stationary.

13 Q: Did you see anything on the, you mentioned that you
14 saw, that you knew it was there because of it's
15 light. Did you see anything, any activity on the
16 boat that was sitting still before the collision?

17 A: No.

18 Q: The boat that was moving it never changed course?

19 A: No.

20 Q: Did you actually see the collision?

21 A: Basically just heard it.

22 Q: Basically just heard it?

23 A: Yeah.

24 Q: What did you all do after the collision?

25 A: We went to call 9-1-1 and the girls went straight to

1 the boat and headed out to the collision area.

2 Q: Did you have a boat on the dock that they used to go
3 there?

4 A: They did.

5 Q: You stayed on shore with your buddy?

6 A: Yes.

7 Q: I beg the Court's indulgence. Mr. Rosefield that is
8 all the questions I have. Please answer any that Mr.
9 Kent may have of you.

10 Mr. Kent: No questions of this witness Your Honor.

11 The Court: Ok you can step down. We're going to
12 send you back to the jury room for just about two minutes
13 while we check and make sure --- again don't begin any
14 deliberations.

15 **(Jury Break)**

16 The Court: Ok, now folks, for those of you that are
17 in the audience I understand the family members and folks
18 may very well find that the testimony of the EMS who I
19 understand is going to testify will be upsetting. Totally
20 understandable, but I can't have emotional outburst in
21 front of the jurors. So with the knowledge that there is
22 going to be testimony that will very likely upset family
23 members, especially if you have not heard it before. I
24 would like to give you the opportunity to step out while
25 this next witness testifies. Again, I can not allow

1 emotional outburst hear in the course of the witness's
2 testimony. Is the witness here?

3 Mr. Durant: Yes sir.

4 The Court: Ok, bring the jury back in. What is his
5 name?

6 Mr. Durant: He is Robert Chris Graham. I think he
7 goes by Chris.

8 **(Jury enters court room)**

9 Mr. Durant: The State calls Chris Graham.

10 (Jury swears Mr. Graham in)

11 Mr. Grant: Robert Graham.

12 **Mr. Graham - Examination by Mr. Durant**

13 Q: Mr. Graham, do you go by Chris or Robert?

14 A: Chris.

15 Q: Do you work here in Clarendon County?

16 A: I do.

17 Q: Who do you work for?

18 A: Clarendon EMS.

19 Q: EMS. Are you a paramedic?

20 A: I am.

21 Q: Is everybody that works on EMS a paramedic?

22 A: No.

23 Q: What does that term mean?

24 A: Paramedic is the highest level of certification.

25 Q: You've obtained, you've had some additional training.

1 to become a paramedic.

2 A: That's correct.

3 Q: Have some certification to become a paramedic?

4 A: There is a certification also.

5 Q: I'm assuming this is all medical type training?

6 A: That is right.

7 Q: How long have you been a paramedic in Clarendon?

8 A: Six years.

9 Q: Did you have occasion to respond in the course of
10 your duties as a paramedic, did you have occasion to
11 respond to an injured person on Lake Marion back on
12 July 4, 2014?

13 A: Yes.

14 Q: Do you know about what time you got the call to go
15 there?

16 A: The exact time no, around midnight.

17 Q: So, let me mark this for identification.

18 (State's Exhibit 58 marked for I.D.)

19 Q: Let me show you what has been marked for ID, it's
20 State's exhibit 58. Do you recognize that?

21 A: Yes.

22 Q: What is it?

23 A: This is the state generated report from our systems.

24 Q: Is that a report that you have prepared?

25 A: This is information in the report I prepared.

1 Q: Does it reference what time you received a call to
2 go out to the lake?

3 A: Looks like 12:51.

4 Q: A.M.?

5 A: A.M.

6 Q: What time did you arrive?

7 A: 1:04 a.m.

8 Q: Was anybody with you?

9 A: Yes.

10 Q: Who was that?

11 A: A partner.

12 Q: A partner?

13 A: Stephanie Webster.

14 Q: Is she also a paramedic?

15 A: No, she is an EMT.

16 Q: She is an EMT. So the difference between an EMT and
17 a paramedic?

18 A: It's training.

19 Q: Which has the higher level of training?

20 A: Paramedic.

21 Q: So you were kind of a lead?

22 A: That's right.

23 Q: Would you tell the Court, the jury, what you found
24 when you arrived. Well, first of all tell me where
25 did you go on the lake?

1 A: Scarborough's Landing that's where we got called to.

2 Q: What did you find when you arrived there?

3 A: A female patient on a boat that had apparently been
4 in a boating accident.

5 Q: If you would speak up just a little bit louder so
6 the jury and everybody can hear you.

7 A: A female patient that was sitting on a pontoon boat
8 when we found her that was supposedly in a boating
9 accident.

10 Q: Was she already at Scarborough's?

11 A: The pontoon boat was yes.

12 Q: In what condition was she when you found her?

13 A: She was unresponsive, she had no pulse and was not
14 breathing.

15 Q: Were there signs of trauma?

16 A: Yes.

17 Q: What kind?

18 A: Just blood coming from the nostrils, the ears. She
19 had a laceration on her leg.

20 Q: From the head area there was signs of trauma?

21 A: Yes there were, ears, nose.

22 Q: In your report you reference the term, asystole, I
23 don't know if I am pronouncing that correctly or
24 not.

25 A: That's correct.

1 Q: What does that mean?

2 A: It's no electrical activity in the heart.

3 Q: So you all hooked some equipment...

4 A: It's commonly referred to as flat line.

5 Q: Flat line?

6 A: Yeah.

7 Q: So you hooked equipment up to her, to see if she if
8 her heart was still beating, to put it simply?

9 A: To check for electrical activity.

10 Q: Electrical activity. Were there any signs of cardiac
11 activity?

12 A: No.

13 Q: Were there any other signs of life?

14 A: No sir.

15 Q: And was that the condition that she was in when you
16 all found her at Scarborough's that morning?

17 A: Yes sir.

18 Q: What did you do after that?

19 A: We prepared to move her. It was kind of difficult
20 getting her off the boat and start CPR. Got in our
21 unit and followed protocols.

22 Q: What are protocols?

23 A: We follow ACLS protocols, which is Advanced Cardiac
24 Life Support. Which involves CPR, maintaining an
25 airway, and giving certain medications.

Mr. Chris Graham - Cross Examination by Mr. Kent

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1 Q: Did you all transport her to the hospital?

2 A: Yes.

3 Q: When you got to the hospital had her condition
4 changed at all?

5 A: No.

6 Q: She still asystole?

7 A: Correct.

8 Mr. Durant: That's all the questions I had.

9 Mr. Graham - Cross Examination by Mr. Kent:

10 Q: How are you doing sir?

11 A: Good.

12 Q: And I just, the indication was that you were called
13 by dispatch, is that correct?

14 A: Correct.

15 Q: Does it indicate that, how many calls did you
16 receive or how many 9-1-1 calls is that something
17 that you can make a determination by your report?

18 A: It does not.

19 Q: So that is something we don't know, who called, who
20 called 9-1-1 or how many 9-1-1 calls were made?

21 A: No.

22 Mr. Kent: Thank you so much. That's all the
23 questions I have.

24 The Court: Redirect?

25 Mr. Durant: No redirect Your Honor.

1 The Court: Ok you can step down.

2 Mr. Durant: And Your Honor that's all the witnesses
3 the State has for today.

4 The Court: Okay. Folks, we'll break for today and
5 I will leave you with the same instructions that I
6 left you with yesterday. Do not begin deliberation
7 discussion about the case. I'm going to caution you
8 about it. Don't try to find out anything about it
9 on the internet or online in anyway. Don't post
10 anything to social media or anything like that. If
11 anybody does approach you to talk to you about the
12 case, please report that tomorrow morning. So, just
13 go home enjoy your evening and if you would we'll
14 start back tomorrow 10:00 so try to get here just a
15 little bit before that and then we should be ready
16 to go at 10:00. Thank you. See you tomorrow.

17 **(Jury is excused for the day at 4:28 p.m.)**

18 The Court: Okay, what does tomorrow look like?

19 Mr. Durant: Let me just try to count the number of
20 witnesses I anticipate tomorrow. Yeah I think I have
21 about seven or eight more witnesses tomorrow. I think
22 that my case will take through almost all day tomorrow
23 again.

24 The Court: Okay. Alright, well Mr. Morris, you and
25 I haven't had a chance to talk yet, but the State has

1 **(Wednesday, July 13, 2016 A.M.)**

2 The Court: Alright, are we ready to go?

3 Mr. Durant: The State's ready Your Honor.

4 The Court: You ready?

5 Mr. Kent: Yes, Your Honor.

6 The Court: Okay, we got all the jurors here?

7 Bailiff: Yes, Your Honor.

8 The Court: Okay, bring them on in.

9 (Jury enters courtroom)

10 The Court: Alright, welcome back folks. We resume
11 now with the State calling their next witness.

12 Mr. Durant: Thank you Your Honor. May it please The
13 Court? The State calls Danny Floyd.

14 Ms. Roberts: Please place your left hand on the
15 Bible and raise your right hand. Do you solemnly swear
16 or affirm to tell the truth?

17 Mr. Floyd: Yes.

18 **MR. FLOYD EXAMINATION BY MR. DURANT:**

19 Q Mr. Floyd, good morning.

20 A Morning.

21 Q Mr. Floyd, if you will talk loud enough so that I
22 can hear you from where I am, I think everybody else
23 in the courtroom will be able to hear you.

24 A I'll try.

25 Q Danny, would you tell the Court where you live?

- 1 A I live in Turbeville.
- 2 Q And are you formerly the director of the 911
3 dispatch operating center here in Clarendon County?
- 4 A I am.
- 5 Q Okay. And I understand you've had some recent
6 health problems?
- 7 A Yes.
- 8 Q Alright so you're no longer working at dispatch?
- 9 A No, retired.
- 10 Q Were you the director of dispatch, when I say
11 dispatch, I mean the 911 center. Were you the
12 director of dispatch back on July the 4th of 2014?
- 13 A Yes, sir.
- 14 Q Alright. I'm going to show you what's been marked
15 for ID as State's exhibit 59. Do you recognize
16 this?
- 17 A That would've been a audio cassette I made or cd
18 that I made for the Department of Natural Resources.
- 19 Q Okay. What does the cd contain?
- 20 A It contains all the traffic, telephone transmission
21 within the time.
- 22 Q Okay, does it include the 911 call that came in
23 relative to a boating collision that occurred on
24 Lake Marion?
- 25 A I believe it does.

Mr. Dan Floyd - Examination by Mr. Durant

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1 Q Alright, is it a fair and accurate recording of
2 those calls?

3 A Yes it is.

4 Q And Danny, the jury hasn't heard this recording yet,
5 but I know you have, but does the recording have the
6 calls recorded on top of one another?

7 A Yes, they do.

8 Q Why is that?

9 A Well, it's a fair representation of everything going
10 on at that particular time, it's possibility to be
11 relevant to the call.

12 Q Are there different channels that calls come in on
13 when they call into 911 center?

14 A Yes, they are.

15 Q Does the recording include all the calls that came
16 out on those different channels?

17 A They do.

18 Q Your Honor, at this time, I would ask to admit
19 State's exhibit 59 into evidence and publish it for
20 the jury.

21 Mr. Kent: No objection.

22 The Court: Alright. State's Exhibit Number 59 is in
23 without objection.

24 **(State's Exhibit Number 59 was entered into evidence)**

25 Q Alright, Mr. Floyd, again, did you make that

1 recording?

2 A I did.

3 Q And it included all the calls that came in on the
4 different channels that evening?

5 A It did.

6 Q Let me show you.

7 Mr. Durant: let me just mark this for ID. This has
8 just been marked for purposes of identification as
9 State's exhibit 60. Do you recognize that document?

10 A Yes I do.

11 Q What is it?

12 A It's a sheet that started out with the calls that
13 into 911.

14 Q Is that a form generated by your office?

15 A That's a form generated by my office, yes.

16 Q Does it tell you what time the first call came in?

17 A Yes, it does.

18 Q What time is that at?

19 A The first call came in at 00:49:09.

20 Q Is that 12:49 AM?

21 A Yes, it is.

22 Q Does it tell you the name of the first caller?

23 A First name of the caller is Scott.

24 Q Scott? It doesn't tell you the names of the
25 subsequent calls does it?

Mr. Floyd - Cross by Mr. Kent

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1 A No, just the first caller.

2 Q Just the name of the first call. And his name was
3 Scott at 12:49 AM.

4 A That's right.

5 Q Alright.

6 Mr. Durant: Beg the court's indulgence. Mr. Floyd,
7 I don't have any further questions. Please answer any
8 that Mr. Kent may have.

9 **MR. FLOYD CROSS BY MR. KENT:**

10 Q Mr. Floyd, how are you doing, sir?

11 A Good.

12 Q I don't have very many questions. Dealing with the
13 911 calls, and it's something I get confused on
14 sometimes; all the 911 calls get rerouted to
15 Clarendon County is that correct?

16 A All 911 lines are Clarendon County 911.

17 Q Does some of them ever get to Orangeburg or any
18 other counties, surrounding areas?

19 A Some of the wireless calls do.

20 Q Some of the wireless calls, if someone calls from a
21 cell phone it may go to a different area?

22 A Maybe. It depends on the triangle, towers and
23 stuff.

24 Q Depending on where the call come from from the cell
25 towers, they could go to a different area.

1 A Correct.

2 Q They could go to Orangeburg, they could go to
3 Columbia, they could go to Clarendon County.

4 A Correct.

5 Q That triangulation.

6 A Right.

7 Q Okay and the calls we have from that triangulation,
8 you have all the ones that came through Clarendon
9 County?

10 A By 911.

11 Q So we don't know if there's other calls. You just
12 have the endon County calls that came through from
13 the cell towers that are in Clarendon County?

14 A Well I would've done, these come to our center.

15 Q Yes sir.

16 A Any other calls they go out of our county and if
17 they determine it's for Clarendon County they call.

18 ...

19 Q And you'd agree with me, that tape is hard to listen
20 to. There's a bunch of different --- there's
21 women's voices, men's voices. There's no way to
22 separate all of those out?

23 A There was a way to separate them out but to get the
24 full scope of what was transpiring at the time, they
25 requested ...

Mr. Floyd - Cross by Mr. Kent

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1 Q So they requested them like that? So we could
2 separate them out to hear each individual call, each
3 individual voice, but they requested them like that,
4 jumbled up like that?

5 A Right.

6 Q Okay. And so we heard men's voices, women's voices.
7 And you understand, it's just hard to hear. But it
8 is possible that it could've separated them out?

9 A At the time we could have.

10 Q At the time. And that's just the way, for some
11 reason, wanted it.

12 A Right.

13 Q And then finally, is there any way possible, and I
14 know he asked you a question about figuring out the
15 specific phone number for who called. I know we
16 just have the one first call and that's from
17 somebody named Scott and I think that's Scott
18 Dangerfield.

19 A Right.

20 Q There's no way to determine every other person who
21 called out? You don't have like a caller ID log or
22 something of every person that called 911 that
23 night?

24 A Generally speaking you receive the 911 call of a
25 boating accident --- the first priority is to get to

1 the scene.

2 Q Of course, of course, yes sir.

3 A So it could've been they used Scott as a basis name

4 ...

5 Q And I guess, this is my education and maybe I've

6 watched too much TV or accidentally calling 911

7 sometimes. 911 seems to be able to call a person's

8 number back immediately after you've called 911. Is

9 that accurate?

10 A If it's a number that goes through our ambulance
11 system which is a automatic number identification
12 system.

13 Q Yes sir.

14 A Should be able to, yes.

15 Q Okay. So there is a way to get the individual's who
16 call 911, to get their phone number?

17 A Get their phone number, yes.

18 Q Again, that would've been information that would've
19 had to be requested some two years ago? There's no
20 way to get it now, correct?

21 A Well, if they would have known, it would come up
22 automatically.

23 Q On the CAD sheet the solicitor was just talking
24 about, there's only one phone number that we know
25 that called 911, so there's no way we can associate

Mr. Floyd - Redirect by Mr. Durant

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1 anybody else that came into that Clarendon County
2 triangulation? There's no way other way to know who
3 called?

4 A Not to my knowledge, no.

5 Mr. Kent: Thank you so much. I appreciate it.

6 MR. FLOYD REDIRECT BY MR. DURANT:

7 Q Mr. Floyd, when Mr. Kent was asking you about the
8 system and whether or not --- and the recording
9 consisting of a block of time and you stated that
10 they requested it like that. You're talking about
11 the system is set up that way?

12 A No the system is set up to record everything coming
13 into the 911 center. If you asked me to give you
14 certain lines, telephone lines, you want to give me
15 911 lines, I can block those and get those specific
16 lines ...

17 Q And what is the reason you can't go back and do that
18 now?

19 A It's a different system.

20 Q A different system in place.

21 A Different system.

22 Mr. Durant: Alright, no further questions.

23 Mr. Kent: Nothing further, Your Honor.

24 The Court: Okay, you can step down. Next witness.

25 Mr. Durant: State calls Officer Mark Jervey.

1 The Court: What's the name?

2 Mr. Durant: Mark Jervey.

3 Clerk: Raise your right hand, place your left hand
4 on the Bible. Do you swear or affirm to tell the truth?

5 Mr. Jervey: Yes, ma'am.

6 **MR. JERVEY EXAM BY MR. DURANT:**

7 Q Officer Jervey, will you tell the jury where you
8 work?

9 A Sir?

10 Q Where do you work?

11 A I work with the Department of Natural Resources
12 actually out of Sumter and Clarendon County.

13 Q Sumter and Clarendon County?

14 A Yes.

15 Q How long have you worked for them?

16 A About nine and a half years.

17 Q Were you working for DNR back in July 4th, 2014?

18 A Yes sir.

19 Q Did you have occasion to respond to a boating
20 collision here in Clarendon County on Lake Marion?

21 A I did.

22 Q And let me just rephrase that question. The
23 collision that occurred, what part of Lake Marion
24 was it on?

25 A It was in the Wyboo area.

- 1 Q Is that in Clarendon County?
- 2 A It is.
- 3 Q Did you have an occasion to speak with a Chad Morris
- 4 that evening?
- 5 A Yes sir.
- 6 Q Where did that happen?
- 7 A It happened at our DNR clubhouse there off of Wyboo
- 8 Creek. And we spoke briefly that night.
- 9 Q Does DNR have the clubhouse on the lake?
- 10 A Yes sir.
- 11 Q What time was it that you spoke to Chad?
- 12 A Probably about 1:00 in the morning of July 4th.
- 13 Q July 4th?
- 14 A Yes sir.
- 15 Q When you spoke to him, were there other officers
- 16 present?
- 17 A Yes sir.
- 18 Q Was he under arrest at that time?
- 19 A No sir.
- 20 Q Did you read to him and advise him of what are
- 21 commonly referred to as his Miranda rights?
- 22 A Yes sir.
- 23 Q Did you tell that he had the right to remain silent?
- 24 A Yes sir.
- 25 Q Did you tell him that anything he said could and

1 would be used against him in a court of law?

2 A Yes sir.

3 Q Did you tell him that he had a right to an attorney?

4 A Yes sir.

5 Q And that if he couldn't afford an attorney that one
6 would be appointed to represent him?

7 A Yes sir.

8 Q Did you tell him that if at any point he wanted to
9 stop your questioning and to bring his attorney in
10 that he had the right to do that.

11 A Yes sir.

12 Q And did he agree to speak to you?

13 A He did.

14 Q Did he give a written statement; did he write out a
15 statement on paper for you?

16 A Yes sir, after we talked briefly out in the yard, we
17 went to the house and I asked if he could give us a
18 voluntary statement, which he did.

19 Mr. Durant: Mark this as State's --- for purposes
20 of ID, State's exhibit 61. Do you recognize this?

21 A Yes sir. It's the statement that he wrote.

22 Q That's the statement that Mr. Morris wrote that
23 evening?

24 A Yes sir.

25 Q Could you just read it to the jury?

Mr. Jervey - Examination by Mr. Durant

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1 A Okay. I, Chad Morris, was going fishing and stopped
2 by Scarborough's's to get some drinks and snacks and
3 they wasn't open and left Scarborough's's and
4 started to ease down the lake approximately 400
5 yards from Scarborough's's.

6 Q Mr. Jervey, if you would, speak up so the jury can
7 hear you.

8 A Okay. Approximately 400 yards from Scarborough's's
9 and there was a boat sitting about 100 yards from
10 the shoreline with no lights on and I hit them and I
11 wasn't running about or less than quarter throttle.
12 And I eased up to the land to check boat out in
13 Rusty Harrington's and I flagged game warden boat
14 down then I followed the game warden to his house.
15 Then the second page of this, I believe I asked him
16 a question approximately how fast he was going. And
17 he responded 15 to 20 miles an hour at the time the
18 accident occurred at approximately 1 AM.

19 Q Did he give you a name of the people that were in
20 the boat with him?

21 A That's not here on this statement.

22 Q Did he give you any indication or tell you that the
23 people that he had hit were yelling at him or
24 threatening him in any manner?

25 A I believe he did, yes.

1 Q He didn't write that down in his statement?

2 A He did not.

3 Q And how fast did he say he was going?

4 A Approximately 15 to 20 miles an hour.

5 Q Your Honor, I'd ask that State's exhibit 61 be
6 admitted into evidence.

7 The Court: Any objections.

8 Mr. Kent: Subject to the pretrial.

9 The Court: State's 61 is in.

10 Mr. Durant: Beg The Court's indulgence.

11 Q: The fellow that he referenced in the statement,
12 Rusty Harrington, do you know who that is?

13 A Yes sir, well, I know the name. I don't know him
14 personally.

15 Q Okay. Are you familiar with the overall
16 investigation by the Department of Natural Resources
17 in this case?

18 A Yes sir.

19 Q Who is Rusty Harrington and how does he fall in that
20 investigation?

21 A I believe that's where Mr. Morris took his boat that
22 evening immediately after the collision. It's my
23 understanding that he briefly went over there to
24 inspect his boat, make sure it wasn't damaged or
25 sinking or anything then returned back to the scene

Mr. Jervey - Examination by Mr. Durant

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1 of the accident. But I don't know any kind of
2 exchanges ...

3 Q Is that what he told you?

4 A Yes sir.

5 Q Okay, he told you that he went to Rusty Harrington's
6 house and then came back to the scene?

7 A Yes sir.

8 Q Alright. So he claims that after the collision, he
9 left, went to Mr. Harrington's house to inspect his
10 boat, and then went back to the collision where ---
11 the scene of the collision?

12 A That's correct.

13 Q Alright, that's what he told you that night?

14 A Yes sir.

15 Q Alright. After speaking to Mr. Morris that night,
16 did you have any further involvement in this case?

17 A I did not.

18 Mr. Durant: I don't have any further questions ...

19 A After he gave his, you know, initial statement or
20 whatnot, I just covered a brief synopsis of the
21 information that was --- and submitted it to my
22 supervisor.

23 Mr. Durant: I don't have any further questions.

24 The Court: Cross?

25 Mr. Kent: Beg the court's indulgence for one moment,

1 Your Honor.

2 **MR. JERVEY CROSS BY MR. KENT:**

3 Q Mr. Jervy, how are you doing, sir?

4 A Doing great, Mr. Kent.

5 Q We have met, I know you.

6 A Yes sir.

7 Q We know each other well. I'm just going to ask you
8 some questions. I know you haven't been in the
9 courtroom and everybody's heard me say this. Just
10 make sure, and I know you're soft-spoken, just make
11 sure we speak loud enough so everybody in the jury
12 can hear every word that you're saying.

13 A Okay.

14 Q And make sure Madam Court Reporter with that little
15 funny mask on, who is actually taking down every
16 word that you're saying so make sure you speak loud
17 and clear enough so she can hear you.

18 A Yes sir.

19 Q And I know I speak real fast. And so if you don't
20 understand something I say, just do me a favor and
21 say Shaun, repeat your question, I am not sure I
22 understood.

23 A Okay.

24 Q First, I want to talk a little bit about the
25 Department of Natural Resources. You're going to

Mr. Jervey - Cross by Mr. Kent

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1 educate the jury, you're going to educate me as
2 well.

3 A Okay.

4 Q A lot of things I don't know. How long have you
5 been with the department?

6 A Since February of 2007.

7 Q So you've been with them for ...

8 A A little over 9 years.

9 Q Training. DNR officers go through basically the
10 same training as law enforcement officers when you
11 get on the force, correct?

12 A That's right, yes sir. We go to the basic academy
13 and then we have DNR specific training.

14 Q So you go to the law enforcement academy. You go to
15 the same academy that a trooper goes through, that a
16 police officer goes through to begin the training?

17 A That's correct.

18 Q And at this academy, some of the things that they
19 talk to us about is writing reports?

20 A That's correct.

21 Q Interviewing witnesses?

22 A (Nods head affirmatively).

23 Q You did....

24 A Oh, I'm sorry, yes.

25 Q Okay. Interviewing witnesses?

1 A Right.

2 Q Collecting evidence, all the things that we do with
3 officers? Correct?

4 A Correct.

5 Q And then after going through the academy, you guys
6 have to go through more training to learn the rules
7 of the water and things of that nature?

8 A That's right.

9 Q When we take statements from witnesses, one of the
10 things --- and it's hard. I'm sure you have taken
11 many statements from witnesses. Would you agree
12 with me there?

13 A My fair share, not too often.

14 Q And one of the things we like to do when taking
15 witness statements, statements from witnesses is we
16 want to get it as close to the incident as possible?
17 Would you agree with me there?

18 A Yes sir.

19 Q And the reason we want to get it as close to the
20 incident as possible is people's memories are
21 viable.

22 A That's right.

23 Q And two and three and four years down the road,
24 people may forget things; you may forget, I may
25 forget, witnesses may forget. Would you agree with

1 me there?

2 A Yes sir.

3 Q And so that's one of the reasons we take a witness
4 statement from them.

5 A Yes sir.

6 Q We take a witness statement from them and the other
7 thing we also do is we also, as you've done, you
8 write a synopsis of the interview just to make sure
9 we didn't leave anything out. Correct?

10 A Correct.

11 Q And your synopsis of this interview, you write it as
12 quick to the incident as possible. Would you agree?

13 A That's right.

14 Q And the other reason you write it as quick to the
15 incident as possible is just so you have a memory so
16 you can remember everything that happened on that
17 night.

18 A Correct.

19 Q Because again, this case is two years old. You
20 don't have a memory that remembers everything that
21 happened two years ago do you?

22 A I do not.

23 Q Alright. Now going to this case specifically, and I
24 want to make sure from the testimony that you gave
25 to Mr. Durant, you interviewed Mr. Morris about 1:00

1 in the morning, give or take around that time?

2 A Yes sir.

3 Q So relatively close to the incident?

4 A That's right.

5 Q And when you interviewed him, I wasn't there, was I?

6 A No sir.

7 Q There were no attorneys there correct?

8 A No sir.

9 Q He came in and talked to you on his own,
10 voluntarily?

11 A That's correct.

12 Q Wasn't in handcuffs or anything of that nature, he
13 talked to you voluntarily, and the statement that we
14 just referenced --- the statement that you just
15 referenced as State's exhibit #61 is the statement
16 he voluntarily gave you?

17 A Yes sir.

18 Q It has his address on the statement?

19 A Correct.

20 Q He voluntarily gave y'all his address very close to
21 the incident?

22 A That's right.

23 Q He voluntarily gave you his phone number close to
24 the incident?

25 A Yes sir.

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1 Q So he gave you his information?

2 A Pretty much, yes sir.

3 Q Told you about the boat, told you about the vessel,
4 told you everything that happened that night?

5 A That's right.

6 Q And after doing all this and after talking to you
7 and giving you all of his information and phone
8 number, he was allowed to go eventually.

9 A That's correct.

10 Q We contacted him later and you may not have been the
11 one to contact him later but he was contacted at a
12 later point in time?

13 A I think so for a followup interview or something.

14 Q Like the next day, he was given a followup interview
15 or something?

16 A Yes sir.

17 Q You don't ...

18 A I'm not real sure.

19 Q And the prosecutor, he was asking you this question.
20 Mr. Morris did that night tell you that people were
21 yelling at him, he was getting yelled at.

22 A That's correct. It was kind of a heated moment
23 obviously.

24 Q Yes sir.

25 A But I do believe there was some words exchanged.

- 1 Q And that's what he told you that night. It was a
2 heated moment, words were exchanged?
- 3 A Yes sir.
- 4 Q Okay. And you've had opportunity to review the
5 interview that Mr. Morris gave with you?
- 6 A Uh ...
- 7 Q It's been a while?
- 8 A It's been a while.
- 9 Q I'm going to show you a copy.
10 Mr. Kent: Chris do you have a hard copy?
11 Mr. Durant: Yes.
- 12 A Oh, the one that I wrote?
- 13 Q The one that you wrote.
- 14 A Oh just a few minutes ago.
- 15 Q Okay so you have it?
- 16 A It's the first time I've seen it in about two years.
- 17 Q Okay and you have read the interview?
- 18 A Yes sir.
- 19 Q And in the interview, your interview has a little
20 more detail than the written statement of Mr.
21 Morris, correct?
- 22 A Yes sir.
- 23 Q Okay. And is it safe to say, and I want to make
24 sure I understand this correctly, when Mr. Morris
25 came and gave you the interview, he talked to you

1 first.

2 A That's correct.

3 Q Still was telling you everything.

4 A That's right.

5 Q Then he gave you a quick written statement.

6 A That's right.

7 Q And then I think you mentioned that you had asked
8 him some more questions.

9 A Yes sir.

10 Q And so he was still voluntarily talking to you and
11 then you wrote down everything that he had said.

12 A Correct.

13 Q Or that wasn't also inside of his statement.

14 A That's right.

15 Q And Mr. Jervey, just my question. Is there a reason
16 it wasn't audio recorded?

17 A I'm not provided with an audio recorder but they ...

18 Q And some of the things that you put inside of this
19 statement that he told you was he was going down the
20 lake. Correct?

21 A Yes sir.

22 Q When he was going down the lake, he was saying he
23 was going about quarter throttle.

24 A Correct.

25 Q Was his estimate, he was going about a quarter

1 throttle.

2 A Yes sir.

3 Q He gave you the names and information of the people
4 who were inside of the boat with him.

5 A I believe he did.

6 Q As a matter of fact, they were there also that night
7 giving interviews weren't they?

8 A That's right.

9 Q He told you what he was doing earlier that evening.

10 A Yes sir.

11 Q He told you he was going quarter throttle and he
12 told you he hit something. He didn't know what he
13 hit immediately, correct?

14 A I believe that's right.

15 Q I mean, he thought he had hit a log, hit something,
16 he didn't know what he had hit, correct?

17 A (Nods head affirmatively).

18 Q Then after hitting something, he told you the boat
19 turned around, he saw that it was a boat that he had
20 hit. He didn't realize it at first that he had hit
21 a boat.

22 A That's right.

23 Q He also told you that he didn't see lights on,
24 whatever it was, he didn't see any lights.

25 A Yes sir, that's what he said.

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1 Q He told you in his statement that Jessica called
2 911.

3 A I believe so.

4 Q Yeah, pretty clear, as you wrote down in your thing.

5 A Yeah.

6 Q And I can hand you one.

7 A That would be great.

8 Q Just let me know when you're ready. Okay, I'm
9 sorry. You've had time to review it? Would you
10 agree with me in the statement that you wrote based
11 upon what Chad told you at about 1:00 that morning,
12 immediately after the accident, he told you Jessica
13 called 911?

14 A Yes sir.

15 Q Okay. He also told you, written down in your
16 statement that you wrote from the information that
17 he told you at about 1:00 that morning that they
18 went to check their boat to see if there was any
19 problems with their boat.

20 A That's right.

21 Q He had mentioned that he had seen some water in the
22 boat. I saw some water in my boat so I went to the
23 bank to see if it had a hole in it.

24 A Yes.

25 Mr. Durant: Your Honor, I'm going to object

1 (Counsel approaches bench without court reporter)

2 Q My last question --- I always say that and then I
3 have like six questions to follow up.

4 A Not a problem.

5 Q When he was let to leave that evening, was he given
6 any instructions, do you remember?

7 A Not from me. I don't know what Investigator Spires
8 might've told him, you know, if he was going to call
9 him the next day or what.

10 Q Usually the same instructions we always give
11 individuals: stay close, stay in contact.

12 A Yes.

13 Q Don't contact anybody, those type of instructions.
14 Would you agree that those are the typical?

15 A Yes sir.

16 Q Don't contact anybody you're not supposed to
17 contact, don't try to get in touch with anybody,
18 we'll contact you, don't do anything crazy.

19 A That's normally standard.

20 Q Usually the standard stuff that we tell somebody in
21 these situations.

22 A Right.

23 Mr. Kent: Thank you so much. That's all the
24 questions I have.

25 The Court: Redirect?

1 Mr. Durant: Just briefly. This is just for ID.
2 Shaun?

3 Mr. Kent: Yes sir? Your Honor, we have a small
4 matter, if we can, outside the presence of the jury.

5 The Court: Ladies and Gentlemen, we need to take up
6 a matter out of your presence. Please return to the jury
7 room. Please do not discuss the case.

8 (Jury break 10:42)

9 The Court: Okay, for the record, what Mister
10 solicitor do you want to do with the document?

11 Mr. Durant: Your Honor, we're going to pass up to
12 you the field sobriety test which was given by a report
13 of the field sobriety test which was given by Officer
14 Mark Jervy to the defendant on the morning of July the
15 4th, 2014. As Your Honor is well aware that we have
16 stipulated beforehand that no evidence of field sobriety
17 test or alcohol by the defendant would be admissible in
18 this trial. However, the officer testified in the
19 pretrial hearing as to the admissibility of the
20 defendant's statement that that statement was given after
21 he had administered the field sobriety test to the
22 defendant. That was the first thing he'd done when he
23 met up with the defendant was administered the field
24 sobriety test. The field sobriety test report contains a
25 start time on the top right hand corner of 2:01 A.M.

1 presumably. The officer testified a few minutes ago that
2 he met with the defendant at 1:00 A.M. So the State
3 intends to show him that document and ask him based on
4 that document, not any questions about what the document
5 is or what it says other than whether or not his
6 testimony about meeting with the defendant at 1:00 AM is
7 true and accurate when he reviews and refreshes his
8 memory with that document, which clearly states that he
9 met with the defendant to begin with at 2:00 AM.

10 The Court: Well, it doesn't say that he began
11 meeting with him at 2:00 AM. It says he started field
12 sobriety test at 2:00 AM. He could've met with him prior
13 to that.

14 Mr. Durant: If Your Honor recalls in the pretrial
15 Jackson v Denno hearing, the officer testified that he
16 met with the defendant for his interview after the field
17 sobriety test. So clearly, at sometime after 2:00 AM is
18 when he actually met with the defendant, not 1:00 AM as
19 he testified a few minutes ago. There's no time on the
20 defendant's statement which has been admitted into
21 evidence so Your Honor whether you call it impeachment or
22 refreshing your memory, the State is trying to clear up a
23 point for the jury and believes that the jury has a right
24 to know accurately what time the officer met with the
25 defendant, which was clearly after 2:00 AM.

1 The Court: Mr. Kent?

2 Mr. Kent: Well, Your Honor, one we have a couple of
3 problems. When we came up and I apologize, no I don't
4 apologize for the objection. When we came up originally,
5 the solicitor handed me the document, which is the DUI
6 form and said that I intend on refreshing this witness's
7 memory. The witness on the stand on direct testimony,
8 during direct, testified I met with him at 1:00 AM. That
9 testimony went uncontradicted, they didn't try to clarify
10 it. And then I began to cross-examine him afterwards
11 about what he said on direct examination. So now, you
12 can't refresh his memory on something because he didn't
13 say his memory needed refreshing and actually no
14 extrinsic documentation or otherwise needs to come in to
15 say that he needs to refresh his memory. Two: I'm not
16 quite --- well that's the biggest thing. You don't have
17 to refresh his memory. Number two: he wants to impeach
18 his witness on a statement that doesn't necessarily
19 impeach the witness's testimony. I don't understand how
20 that would impeach because that doesn't say the interview
21 time is actually at 1:00. It says the start time of that
22 interview was 2:01. And three, they told us pretrial
23 that they're not getting into --- I mean, if they want to
24 change and say now we want to get into the DUI
25 information, that's fine. Well, we need to address that

1 issue but they said they weren't going to get into the
2 DUI information. Your Honor, my problem is that sheet
3 doesn't do what the State wants it to do. The problem is
4 they would go to the witness and say hey, here's a
5 document that shows a different time. Isn't that true?
6 Yes it is, I guess you're right. It's 2:01. I can't
7 talk about the document, I can't talk about the fact that
8 hey, this is actually the start time of the DUI test.
9 This isn't the start time of blank. They're trying to --
10 - and I don't want to say they made a mistake. The
11 witness has testified how it is and they don't like it.
12 You can't just, just because they don't like the way the
13 witness testified, the witness testified that he met with
14 him at 1:00 in the morning. They can have other
15 witnesses who come up later and say no, it couldn't have
16 been this time or that time, they can do all of those
17 things. But their witness, after they were done with
18 him. I still had full opportunity for cross examination
19 based upon what they brought out on direct. So it's
20 uncontradicted, uncontroverted evidence that he said I
21 met with him at 1:00. I don't even know what that
22 document would do. I'm going to show you this document
23 and say what? This says 2:01. Doesn't that mean that
24 you must've met with him at 2:01? That just opens a
25 pandora's box of additional questions from me. I don't

1 see how it can impeach. I don't see how it can refresh
2 because the witness hasn't said they needed their memory
3 refreshed. He was very specific. It was 1:00. And that
4 wasn't from cross examination; that was from direct
5 examination. Thank you.

6 Mr. Durant: Your Honor, I would just submit that
7 rule 612 does not include a requirement that the witness
8 request that he refresh or that the witness that say that
9 he doesn't remember. Such it states if the witness uses
10 a writing to refresh the memory for the purpose of
11 testifying; that includes the specific requirements for
12 using the document. But it doesn't include a requirement
13 that the witness request that his memory be refreshed or
14 state that he doesn't remember.

15 The Court: 612 says that if a witness uses writing
16 to refresh his memory for the purpose of testifying,
17 either while testifying or before testifying, The Court
18 in its discretion determines that a necessary interest of
19 justice, the adversarial party is entitled to have the writing
20 produced, inspected, cross examined, and introduced into
21 evidence those portions related to the testimony of the
22 witness. I can let you refresh his memory and say well
23 if I show you this document to refresh his memory as to
24 the time when the interview started. The question would
25 be then what portions of this document, if any, will be

1 allowed into evidence? Would it just basically be just
2 that little top part of the section over there or would
3 it be necessary to introduce it into as evidence? And I
4 guess for that matter would redirect be a portion of the
5 trial. It says no report of interest --- So you're the
6 adverse party so you would be able to require that it be
7 some portion of it be admitted into evidence, if you want
8 it admitted into evidence. It's not required to be
9 admitted into evidence. It's just could he say I'm going
10 to show you the document, I'm going to mark State's
11 exhibit 62 and ask you what the upper right hand corner -
12 -- would that refresh your memory of when you began your
13 interview with the defendant?

14 Mr. Kent: Your Honor, I'm sorry were you done, I
15 apologize sir.

16 The Court: I'm kind of speaking out loud as to what
17 would be allowed or not allowed.

18 Mr. Kent: My first question would be why does this
19 witness need their memory refreshed? That would be my
20 first question. Why does this witness need his memory
21 refreshed?

22 The Court: Because it sounds more like he didn't
23 have it right.

24 Mr. Kent: Wouldn't that be ...

25 The Court: It's been two years.

1 Mr. Kent: Wouldn't that be impeaching that witness?
2 I'm just making sure we're going at this ...

3 The Court: It would be impeachment more or less if
4 you were asking and bring it up and said look, you said
5 1:00 and it's 2:00. It's his witness. You said 1:00
6 earlier, I'm going to show you this document; would that
7 refresh your memory as to when you met with the
8 defendant? It's been two years. I don't expect him to
9 remember all this stuff.

10 Mr. Kent: Your Honor, respectfully ...

11 The Court: It's for the purpose of refreshing
12 somebody's memory.

13 Mr. Kent: Respectfully, if the witness was to say I
14 don't remember when you say what time was it, it was this
15 time. He doesn't need his memory refreshed. And number
16 two, I don't think the rule is clear. Any witness can be
17 impeached by anybody, whether he calls them or whether I
18 call them. I think it's 607? 607, credibility of any
19 witness may be impeached by anybody. Doesn't matter who
20 calls them. And so I think we're more in a are they
21 allowed to impeach their witness and then we go under
22 that analysis rather than refreshing his memory. My
23 concern is he hasn't said his memory needs to be
24 refreshed. He gave a specific --- it's almost --- we
25 talk about telling the jury what actually happened; the

1 witness on a direct exam question from the solicitor and
2 let's not forget Your Honor, during his testimony, he
3 said I've had opportunity to review my statement, I
4 reviewed it before I got on the stand. He actually said
5 that when I asked, yeah I reviewed it before I got on the
6 stand. The solicitor asked him a direct question: what
7 time did you interview him to take his witness statement?
8 It was about 1:00 in the morning. He didn't say I'm not
9 sure, he didn't say I'm confused. He said it was 1:00.
10 He testified fully and completely. Your Honor, had I not
11 asked him another question, had I not cross examined him
12 at all, we wouldn't have gone any further. It's just
13 after I cross examined based upon questions that the
14 solicitor asked, it's now is like oh God, that doesn't
15 sound good. I need to refresh this witness's memory.
16 Which is not the proper scope for redirect. And if
17 anything Your Honor, I think we first need to realize
18 they're not trying to refresh this witness's memory.
19 They're trying to impeach this witness and then we have
20 to go through impeachment analysis for the opposition. I
21 don't know if they can impeach their witness but my
22 biggest problem is like you said it's up to me to decide
23 if I want to push in or redact or go through information
24 that the solicitor's office told us that they were not
25 planning on getting into during the trial. They said

1 look, we're not going to get into this information. So
2 not I'm put in the choice whether or not I'm going to
3 violate my own confrontation rights on behalf of my
4 client to cross examine him properly on his statement.
5 Meaning, hey, let's look at this State's exhibit #61.
6 This is just the start time. Isn't it true that this is
7 only the start time of when you gave a field sobriety
8 test. A few minutes ago you testified that you met him
9 at 1:00 in the morning. You met him at 1:00 in the
10 morning to do an interview. These are actually two
11 separate interviews, aren't they? You met him at 1:00 in
12 the morning and subsequently you gave him a field
13 sobriety test. Why did you testify - I mean, it opens up
14 a pandora's box of stuff that they said they weren't
15 going to get into. I may have a different analysis Your
16 Honor had they asked these questions and tried to clarify
17 during direct, but they were perfectly fine with his
18 answers until cross examination. And they brought out
19 the information. But I don't, respectfully, Your Honor,
20 I don't see how this witness needs to have their memory
21 refreshed when they haven't testified the way they want.
22 And the way this usually goes on the stand, as we all
23 know, witness, what time did this event happen? Man I'm
24 just not sure. Witness, is there anything that I can
25 give you that can properly refresh your memory?

1 Possibly. If I let you review your statement, could it
2 help you refresh your memory as to x, y, and z? And the
3 witness is given the statement, they review the
4 statement, the statement is taken from them and then
5 they're asked did that help refresh your memory. Yes it
6 did; it was at 1:00 in the morning. That didn't happen
7 here. Witness, what time did this happen. 1:00 in the
8 morning. And they were fine.

9 Mr. Durant: Your Honor, may I proffer the testimony?

10 The Court: If you proper the officer, once you bring
11 him in and proffer his memory, I can't let you then
12 redirect on him because at that point knows what the
13 correct answer is at that point.

14 Mr. Durant: Your Honor, just for the record, the
15 document's that Mr. Kent's referencing that the officer
16 testified that he had an opportunity to review were the
17 statements of --- his statement and the defendant's
18 statement. Those are the documents that Mr. Kent was
19 showing him.

20 The Court: It's the report that he made that y'all
21 agreed was not coming into evidence.

22 Mr. Durant: That's correct. I understand.

23 The Court: Your Honor, we agree we're not letting it
24 in, but now we need it. And that to me is kind of like
25 violates - Even if I can figure out a way to say to

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1 refresh your memory or you can impeach the witness.
2 Either way it's a prior inconsistent statement. It would
3 be to a document that y'all have stipulated isn't
4 otherwise coming. So that kind of sounds like the right
5 answer to me right there to allow you to use a document
6 that everyone has agreed is not coming in. Now you want
7 to use it for a purpose. So I guess I will not allow you
8 to refresh his memory with this document.

9 Mr. Durant: Thank you, Your Honor.

10 The Court: Let's take five minutes..

11 (Court Break)/(Court in session)

12 Bailiff: All rise.

13 The Court: Be seated. Okay the witness back in.
14 Alright, we've got everybody back in. Bring the jury
15 back in.

16 (Jury enters courtroom)

17 The Court: Okay, we're going to resume with the
18 State's redirect.

19 Mr. Durant: Thank you Your Honor. May it please The
20 Court?

21 **MR. JERVEY REDIRECT BY MR. DURANT:**

22 Q Officer Jervey, you testified earlier that you live
23 in Sumter County. Is that right?

24 A That's correct.

25 Q Were you in Sumter that morning when you received

1 the call?

2 A I believe I was when I got the phone call directed
3 from Gene Morris.

4 Q So Gene called you in Sumter and told you to come to
5 Manning to the --- he told you about the collision
6 and told you to come to Manning?

7 A Yes sir.

8 Q Do you know what time the original call came in to
9 dispatch?

10 A I want to say it was around probably 11:30 or so.

11 Q Alright but you're not sure?

12 A I'm not sure.

13 Q You know that you had to drive from Sumter to
14 Clarendon County to get --- how long did it take you
15 to get from Sumter to Lakeview?

16 A Probably driving a little bit fast but maybe
17 probably 45 minutes.

18 Q Forty-five minutes. When you got to Manning or
19 Clarendon County, did you go directly to the DNR
20 boathouse or did you go to Scarborough's's first?

21 A I went directly to the clubhouse.

22 Q You went directly to the clubhouse. But at least 45
23 minutes after you got the call is what time you
24 would've arrived at the clubhouse?

25 A Yes sir.

Mr. Jervey - Redirect by Mr. Durant

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1 Q Now when you got there, was Mr. Morris already
2 there?

3 A They were pulling their boats up just about the time
4 we got there. Mr. Morris and one of our wildlife
5 boats.

6 Q Alright. Then earlier your testimony, the original
7 call came into dispatch at 12:49 AM, the first call.
8 If the first call came in at 12:49 AM, what time was
9 it that you would've got to the boathouse in
10 Clarendon?

11 A Probably been later than that I imagine, obviously.

12 Q Obviously. And you testified earlier that you met
13 with Mr. Morris at 1:00 AM. If the call came in at
14 12:49 AM and you were in Sumter at the time, then
15 obviously you didn't meet with Mr. Morris at 1:00 AM
16 did you?

17 A No sir. I guess not.

18 Q So are you sure that 1:00 AM is what time you met
19 with him?

20 A No, I'm not 100% sure but y'all asked me estimates.

21 Q Okay it would've been at least 45 minutes after ...

22 A Correct.

23 Q ... you got the call. Alright.

24 Mr. Durant: No further questions.

25 The Court: Re-cross?

1 Mr. Kent: Yes, Your Honor.

2 **MR. JERVEY RE-CROSS BY MR. KENT:**

3 Q You're almost done. I promise.

4 A I'm alright. Not a problem.

5 Q And again, I wasn't there that night and I took 1:00
6 AM from what you told to the solicitor. Whatever
7 happened within an hour, 30 minutes to an hour,
8 something of that nature, you met with Mr. Morris
9 that evening?

10 A Correct.

11 Q Okay, so it's not one of those you didn't meet with
12 him at three or four hours or a day. Immediately
13 after the incident, you met with him?

14 A That's correct.

15 Q Okay and he gave you a statement? Correct?

16 A Yes he did.

17 Q And he fulfilled all the legal requirements that he
18 needed to fulfill to give you the statement before
19 he left that evening?

20 A Correct.

21 Q And then y'all let him leave?

22 A That's right.

23 Q Y'all let him leave. He didn't take off. He
24 fulfilled his requirements, he did legally what he
25 was supposed to do, he talked to you and gave his

Mr. Tony Spires - Examination by Mr. Durant

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1 information and then he left?

2 A That's correct. They were at the house a good
3 while.

4 Q Thank you so much.

5 Mr. Kent: I appreciate it.

6 The Court: You can step down.

7 Mr. Jervey: Thank you.

8 The Court: Next witness.

9 Mr. Kent: State calls Investigator Tony Spires.

10 Clerk: Raise your right hand, place your left hand
11 on the Bible. Do you swear or affirm that the testimony
12 you give will be the truth?

13 Mr. Spire: I do.

14 **MR. SPIRES EXAM BY MR. DURANT:**

15 Q Investigator Spires, good morning. Will you tell
16 the jury where you work?

17 A I work for the South Carolina Department of Natural
18 Resources.

19 Q And what is your job or your rank with DNR?

20 A I'm classified as an investigator.

21 Q How many investigators does DNR have across the
22 state?

23 A Five.

24 Q Only five of you?

25 A Yes sir.

1 Q Where do you live?

2 A I live in York County.

3 Q In York County?

4 A Uh-huh.

5 Q Okay how are DNR investigators assigned to
6 investigate collisions and so forth and cases here
7 in the state of South Carolina?

8 A Throughout the week, we primarily work our local
9 area. If an incident happens, we respond because we
10 should be one of the closest ones. On weekends or
11 major holidays, we rotate calls; there would be two
12 of us on call in the state at the time.

13 Q So were you actually assigned to investigate a
14 collision we're here in trial for today?

15 A Yes I was.

16 Q Here in Clarendon County?

17 A Yes I was.

18 Q Had you been assigned to a case in Clarendon before?

19 A No sir, I have n.

20 Q You just happened to be on call that weekend?

21 A I was the one on call. I was the one that got the
22 assignment to come investigate this incident.

23 Q Were you at home in York County when you got the
24 call?

25 A I was.

Mr. Tony Spires - Examination by Mr. Durant

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1 Q Did you have to drive from York County to Clarendon?

2 A I did.

3 Q Did you come that morning?

4 A I came immediately after I got the call.

5 Q Do you know what time you received the call?

6 A I received the call at 01:26 in the morning.

7 Q At 1:26 in the morning and you left to come to
8 Clarendon County immediately?

9 A I did.

10 Q Do you remember receiving a call from Mark Jervey,
11 Officer Mark Jervey?

12 A I did. I received a call from Officer Mark Jervey
13 at 2:17 AM.

14 Q And did you advise Officer Jervey to get a witness
15 statement from the defendant, Mr. Morris?

16 A I did.

17 Q What time was that?

18 A That would've been at 2:17 AM call, when he called
19 me.

20 Q So at 2:17 AM, had Officer Jervey spoken to the
21 defendant yet or interviewed him yet?

22 A Not to my knowledge.

23 Q And you told him to do that?

24 A Yes I did.

25 Q What time did you actually arrive in Clarendon

1 County?

2 A I arrived at the DNR house in Clarendon County at 4
3 AM.

4 Q At that point, did you know the status of the
5 victim, Hailey Bordeaux?

6 A Yes I did.

7 Q And what was that?

8 A She was deceased.

9 Q She was already deceased when you arrived?

10 A Yes.

11 Q Tell me or tell the Court what you did when you
12 first got there.

13 A When I first arrived at the scene, I collected
14 witness statements that I had advised the officers
15 to collect from all the witnesses that they had
16 located at the time. I collected those statements
17 from those officers and I actually spoke with Mr.
18 Morris at that time. He was still at the house.

19 Q What time was that?

20 A That would've been at 0400. I collected statements
21 from the officers and spoke with them at 4:10 AM and
22 then between that time and 4:45 AM is when I
23 interviewed Mr. Morris.

24 Q Did you handle any evidence or release any evidence
25 to Mr. Morris at that time?

1 A Mr. Morris and the occupants that were in his vessel
2 with him asked if I could release the rods and reels
3 and tackle boxes out of their boat because I was
4 seizing the vessel per investigations. And I
5 released their rods and reels out of his boat that
6 they could take home with them that night.

7 Q So at 4:00 in the morning, the morning that Mr.
8 Morris had hit and killed Hailey Bordeaux, he asked
9 you if he could get his fishing rods back?

10 A That's correct.

11 Q And did you give them back to him?

12 A I did.

13 Q Did you have occasion to go and speak to Mr. Morris
14 later or the following day?

15 A I spoke to him later that day.

16 Q Later that day so that would've been July the 4th?

17 A Actually I think I met with Mr. Morris on July the
18 5th.

19 Q July the 5th?

20 A Yes, I met with Mr. Morris on July 5th.

21 Q Where did you meet with Mr. Morris on July the 5th?

22 A I met with Mr. Morris I think it was a Piggly Wiggly
23 parking lot right outside of Sumter.

24 Q You called him and asked him to meet you there?

25 A I called him to tell him that I needed to meet with

1 him. He suggested that's where we met so that's
2 where I met him.

3 Q Was anybody else with you?

4 A My lieutenant was with me.

5 Q What's his name?

6 A Donny Pritchard.

7 Q Donny Pritchard. I'm going to show you what's been
8 marked as Court's exhibit #1. Do you recognize
9 that?

10 A Yes I do. This would be law enforcement waiver of
11 rights where I went through Mr. Morris's Miranda
12 rights with him where he initialed and signed it.

13 Q Did you advise him in the Piggly Wiggly parking lot
14 that he had the right to an attorney?

15 A Yes I did.

16 Q Tell him he had a right to remain silent?

17 A I did.

18 Q Tell him he had a right to have his lawyer there
19 with him during questioning if he wanted?

20 A Yes I did.

21 Q Tell him if at any time he decided he wanted to stop
22 answering your questions that he could do so?

23 A Yes I did.

24 Q And did he agree to speak with you that day?

25 A Yes he did.

Mr. Tony Spires - Examination by Mr. Durant

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1 Q Did he sign that form indicating that he understood
2 his rights?

3 A He did.

4 Q Did he actually speak with you on July the 5th?

5 A Yes he did.

6 Q Did you record that interview with him?

7 A I did not.

8 Q Did you write a synopsis of what he told you?

9 A Yes I did.

10 Q And did he admit that he had --- was driving the
11 vessel that struck the stationary boat and killed
12 Hailey Bordeaux?

13 A Yes he did.

14 Q Did he tell you who the other occupants of his
15 vessel were?

16 A Yes he did.

17 Q What were their names?

18 A Jessica Long and Franklin Card.

19 Q But, again, was he clear to you which one was
20 driving the boat?

21 A Yes.

22 Q Who was driving?

23 A Chad Morris was driving the boat.

24 Q Any question about that at all?

25 A No sir.

1 Q And the other two occupants were Frankie Card?

2 A Yes.

3 Q And Jessica who?

4 A Jessica Long.

5 Q Did Mr. Morris tell you how fast he was driving when
6 they struck the other vessel?

7 A Mr. Morris said he was going approximately 15 to 20
8 miles an hour.

9 Q Fifteen to 20 miles an hour. Did he tell you how
10 fast his boat will go at top speed?

11 A Yes he did.

12 Q How fast is that?

13 A I believe he said 62.

14 Q Did he tell you how far off the shoreline or off the
15 bank he was when he struck the other boat?

16 A A hundred and fifty to 200 feet off the bank.

17 Q A hundred and fifty to 200 feet from the bank?

18 A That's correct.

19 Q Did he tell you whether or not he had seen a light
20 on the defendant's, on the victim's boat?

21 A He told me he did not see any lights on the boat.

22 Q After the collision, what did he tell you about the
23 light?

24 A He told me once he had hit the boat and went across
25 the boat, when he turned around to see what he had

Mr. Tony Spires - Examination by Mr. Durant

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1 hit, he saw a light flickering on and off.

2 Q So he admitted to you that immediately after the
3 collision that he saw a light flickering on and off
4 on the victim's boat?

5 A That's correct.

6 Q Did he tell you what he and his passengers did after
7 the incident?

8 A He said that he said when he left to go to the house
9 he was going to.

10 Q And whose house was that?

11 A That was a Rusty Harrington's house.

12 Q Did he talk to you about any conversation between he
13 and the occupants of the stationary boat after the
14 incident?

15 A He did not talk to me about any conversation.

16 Q Did he mention at all that anybody on the stationary
17 boat yelling at him, threatening him in any manner?

18 A He did not mention that to me.

19 Q Did he tell you that he had let them know where he
20 was going?

21 A No, he did not.

22 Q Did he tell you that he had given his information,
23 name and information to them?

24 A No, he did not.

25 Q Do you know where Mr. Morris was actually arrested -

1 where he was not arrested but where he was actually
2 located following the collision?

3 A I did not know at the time but I do know now.

4 Q Where was he located?

5 A He was located at Rusty Harrington's house.

6 Q Who located him?

7 A Officer Jordan Douglas.

8 Q Do you know how Officer Douglas located him?

9 A Through Officer Douglas's statement, he was ...
10 Mr. Kent: Objection to hearsay Your Honor.
11 Mr. Durant: That's fine, Judge.

12 Q At some point, he was located at Mr. Harrington's
13 house. Is that right?

14 A Yes, that is correct.

15 Q Did Mr. Morris make any statements as to whether or
16 not he was on plane when he struck the victim's
17 boat?

18 A He does not make a reference in my speaking with Mr.
19 Morris if he was on plane or not. He just states
20 that he was going 15 to 20 miles an hour.

21 Q Do you have a copy of your synopsis of your
22 interview?

23 A I do.

24 Q I'm looking at the last line of the big paragraph
25 there.

Mr. Tony Spires - Examination by Mr. Durant

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1 A Okay. Last line says he never got on plane.

2 Q Okay, so he told you that he never got on plane?

3 A Yes.

4 Q What does it mean to be on plane in a boat?

5 A On plane of a vessel is when a vessel is sitting
6 still in the water, it's just sitting in the water,
7 when you throttle up to put the vessel underway, the
8 bottom of the boat's going to rise as the motor is
9 getting ready to propel the boat up. Once that boat
10 levels back out, you're on plane.

11 Q And so to begin with, a boat is not on plane?

12 A No sir, it's not.

13 Q And at some point, you reach a certain speed and the
14 boat levels off. Is that right?

15 A The boat levels off and it gets on the plane.

16 Q Alright. I beg The Court's indulgence. Officer
17 Spires, have you ever taken any boating accident
18 investigation courses?

19 A Yes, I have.

20 Q You have training in boating accident and
21 investigation?

22 A Yes I do.

23 Q And what kind of training do you have?

24 A I took two courses outside of my department through
25 NSBA which is the National Safety Boating

1 Administration. I took one course in March of 2013.

2 I took the second course in November of 2014.

3 Q And how long were those courses?

4 A Week-long courses.

5 Q So 40 hour courses?

6 A One was a 36 hour course and both of them were 36
7 hours.

8 Q Both of them 36 hours. What are the courses called
9 again?

10 A First one is called Level One Comprehensive National
11 Boating Accident Investigation and Analysis. And
12 the second one is Level Two Advanced Boating
13 Accident and Investigation Course.

14 Q Who are those courses put on by?

15 A NASB, National Association of State Boating.

16 Q Is the US Coast Guard involved in those courses?

17 A No sir.

18 Q Okay. How many boating collisions have you
19 investigated in your career at DNR?

20 A Wow. Total number of collisions I'm not sure
21 because every officer assists in the investigations
22 at some time. Since I've been an investigator, I
23 have worked 38.

24 Q And during the two courses that we talked about and
25 your experience with DNR, have you been trained in

Mr. Spires - Voir Dire by Mr. Kent

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1 identifying point of impact, direction of travel,
2 and so forth in boating collisions?

3 A Yes I have.

4 Q And training occurred on those two training courses
5 that we talked about?

6 A That's correct.

7 Q And have you used that training to determine the
8 point of impact and direction of travel in prior
9 boating collisions?

10 A Yes I have.

11 Q How many times?

12 A Thirty-eight.

13 Q Thirty-eight?

14 Mr. Durant: Your Honor, we would offer Investigator
15 Spires as an expert in the field of boating accident
16 investigations.

17 The Court: Do you object? Do you want to voir dire?

18 Mr. Kent: Permission to voir dire.

19 **MR. SPIRES VOIR DIRE BY MR. KENT:**

20 Q Mr. Spires, how are you doing, sir?

21 A I'm good.

22 Q And I'm not even going to pretend to know more about
23 boats than I do so please don't take any objection
24 to the questions that I ask.

25 A Okay.

1 Q Have you ever been qualified in any court in the
2 State of South Carolina as an expert before?

3 A No I have not.

4 Q So you have never testified as an expert as to
5 boating collision or anything of that nature?

6 A No I have not.

7 Q Okay. And as a matter of fact, in this case, you
8 actually employed the South Carolina MAIT team to do
9 the investigation on this case to put together the
10 accident reconstruction, would you agree with me
11 there? The MAIT team did an investigation on this
12 case.

13 A Yes, the MAIT team also did an investigation on this
14 case.

15 Q So we contacted the MAIT team, which is the South
16 Carolina MAIT team to do an investigation to
17 determine point of angles and all the stuff that the
18 solicitor just asked you about?

19 A No sir, not to determine what angles.

20 Q Okay. There is no report or anything that you
21 filled out on this case about point of collisions or
22 anything that the solicitor has asked you about that
23 would qualify for a level of expertise. Would you
24 agree with me there? There's no specialized report
25 that you filled out?

Mr. Spires - Voir Dire by Mr. Kent

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1 A No there's not.

2 Q There's not a report or ...

3 A Just my investigation report itself.

4 Q Okay.

5 Mr. Kent: That would be all my voir dire.

6 The Court: What's he offering an opinion on?

7 Mr. Kent: I don't understand it.

8 Mr. Durant: Point of impact, direction of travel,
9 Your Honor. Not speed.

10 The Court: Does that require some opinion or just a
11 statement of what he found?

12 Mr. Durant: It's just to state what he found.

13 The Court: Should he be qualified as an expert to do
14 that?

15 Mr. Durant: Your Honor, I believe that it does.
16 He's certainly more qualified than I am. I believe it
17 requires some level of expertise ..

18 The Court: What's your position on this witness's
19 expertise?

20 Mr. Kent: Your Honor, I don't think he needs to be
21 qualified as an expert. I'll stipulate to the direction
22 of travel and those information, that's stuff we've
23 already had testified to so he can testify his
24 investigation as any investigator is qualified as an
25 expert would be a little much.

1 The Court: What are you offering an expert in? What
2 field?

3 Mr. Durant: Boating, collision investigation;
4 boating collision analysis.

5 The Court: Folks, remember on, I guess it was when I
6 first started talking to you, I told you there would be
7 witnesses who tell you what they heard, they saw, they
8 touched, they felt, they smelled. We don't normally let
9 people get up and qualify and give their opinion about
10 something. Our law says when somebody has specialized
11 training or experience in some field rises to the level
12 of expert. We'll allow them to come testify as an
13 expert. And they can give you an opinion about what that
14 evidence suggest and their basis for their opinion.
15 This witness I'm going to qualify as an expert in the
16 field of boating collision and investigation as necessary
17 to give you an opinion as well if it aids you. You're
18 not required to accept an expert's testimony simply
19 because he has been qualified as an expert and you
20 determine his level of skill you're not required to
21 accept it blindly and you decide how much weight to give
22 his testimony based on all of the evidence. You will not
23 be required to accept somebody's opinion simply because
24 they're an expert. You're to decide how much weight to
25 give this testimony. Alright. You may continue.

Mr. Spires - Examination by Mr. Durant continues

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1 Mr. Durant: Thank you Your Honor.

2 **MR. SPIRES EXAM BY MR. DURANT CONT'D:**

3 Q Investigator Spires, with The Court's permission,
4 I'm going to ask you to step down and I'm going to
5 run you through a series of photographs. Alright
6 Investigator, let's look at a series of photographs
7 and I want you to explain to the jury what we see on
8 them, why it's relevant, and so forth. Let me start
9 by showing you State's exhibit 1; tell me, what are
10 we looking at here?

11 A State's --- this photograph here, you're looking at
12 the bow area, port side of the vessel that was hit
13 by the other vessel.

14 Q Alright, I've got to stop you right there. Tell me
15 what those words mean. First, what's the bow of the
16 boat?

17 A The bow of the boat is the very front of the boat as
18 you're sitting in the operator's seat, looking out
19 the way you would be traveling. The very front of
20 the boat is the bow.

21 Q Okay and port is the left side?

22 A Port is the left side. We always refer to port and
23 starboard versus right and left because if you face
24 the boat, right and left's different than if you're
25 at the back of the boat.

1 Q I was always taught that port is --- the way to
2 remember is port is left side as it has four letters
3 just like left.

4 A That's correct.

5 Q Whose boat is this by the way?

6 A This would have been Mr. Cromer's boat, the boat
7 that got hit that evening.

8 Q The victim's boat?

9 A The victim's boat.

10 Q Let me show you State's exhibit 2. What is this?

11 A That would be the registration numbers issued by the
12 South Carolina Department of Natural Resources on a
13 boat that's registered and titled in the State of
14 South Carolina.

15 Q Is that how you identify the boat?

16 A That's how we identify the boats.

17 Q State's exhibit 3, what are we looking at?

18 A State's exhibit 3 we're still on the port side, now
19 we're just toward the stern of the vessel, which is
20 getting toward the back of the vessel. And you're
21 starting to see the damage that would've taken place
22 from the impact.

23 Q So the left side back of the vessel. And where's
24 the damage that you're talking about?

25 A The damage starts at the very stern of the vessel

Mr. Spires - Examination by Mr. Durant continues

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1 and then it proceeds forward just after the beam on
2 this vessel.

3 Q Tell the jury what, if anything, you can determine
4 based on the damage that you observe.

5 A In this photograph at this time?

6 Q Yes sir.

7 A I can just tell that the port side of the vessel has
8 been impacted. I have not - at this time, I have
9 not determined a point of impact or a direction of
10 travel at this time.

11 Q Tell me, what is this metal bar that's sticking up
12 here?

13 A This metal bar would be a railing that sits on the
14 gunnel of the boat, where if you were sitting in the
15 seats, you could actually hold on to this railing
16 for support.

17 Q State's exhibit 4. What are we looking at?

18 A State's exhibit 4, you're on the gunnel of the boat
19 and you're looking at blood spatter.

20 Q Still port side?

21 A Still port side.

22 Q State's 5?

23 A State's 5, you've got some blood spatter and you're
24 starting to see some stress striations from the
25 fiberglass being under stress. You're starting to

1 see small striations. You are seeing transfer.

2 You're seeing transfer marks on that vessel.

3 Q What are the transfer marks?

4 A The transfer marks would be the --- looks like to be
5 the whitish, grayish, this actually has a blue tint
6 to it that are left on this vessel from the striking
7 vessel.

8 Q And State's exhibit 6. What are we looking at here?

9 A What you're looking at here is you're looking at
10 some more damage on the vessel but you're actually
11 seeing the prop marks from the prop of the motor as
12 it comes across the boat.

13 Q And what's the prop of the motor?

14 A The prop is the at the very base of the foot of the
15 motor, that is what spins to make the boat go.

16 Q That's the propeller?

17 A That's the propeller.

18 Q Okay and where are the prop marks you're talking
19 about?

20 A The prop marks are these marks coming like this.

21 Q Okay so the prop or the propeller of the motor of
22 the defendant's boat would've gone along side the
23 left - is this still the port side?

24 A This is still the port side.

25 Q Okay so the prop would've been hitting the port side

Mr. Spires - Examination by Mr. Durant continues

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1 of the boat?

2 A That's correct.

3 Q State's 7?

4 A State's 7 is more damage. We're still on the port
5 side; we're just working our way back toward the
6 stern of the vessel. But you still have damage and
7 you start seeing the initial prop marks coming up
8 the gunnel of the boat.

9 Q Is this the same back left hand corner of the boat
10 we were looking at earlier?

11 A Yes it is.

12 Q State's exhibit 8?

13 A State's exhibit 8 is the same back hand corner
14 where; this is where your motor would be first
15 impacting the vessel and you start seeing - you can
16 see just a little bit of the prop marks at the very
17 end of the damage here and then you watch it walk
18 all the way back port gunnel of the boat.

19 Q Let's look at State's exhibit 9. What are we
20 looking at?

21 A State's exhibit 9, now we're at the stern of the
22 vessel, which is the very back of the vessel and
23 we're looking at the port side stern, left hand side
24 of the stern, and this is - this gives me my point
25 of impact as to where the boats would've first

1 really made contact together and it hits right here.

2 Q And how can you tell that?

3 A By the indention on the rub rail and matching it to
4 transfer marks of the other vessel.

5 Q So you believe this is the first point of impact?

6 A That's the first point of impact.

7 Q On the victim's boat?

8 A On the victim's boat.

9 Q But still can't tell what part of the defendant's
10 boat hit it but that's the first point where ...

11 A That's the first point of impact.

12 Q Where Hailey's boat was hit?

13 A That's correct.

14 Q And let me back up again. If you can tell from
15 State's exhibit 9, if Hailey was sitting on the
16 passenger side beside the driver's seat, can you
17 tell from this photo where she would've been
18 sitting?

19 A Yes, she would've been sitting in this seat. This
20 is the back of the seat she would've been sitting
21 in.

22 Q Let me show you State's exhibit 10. What is this?

23 A 10 is the motor that was on the victim's vessel.
24 That's the motor that was on the boat when I got to
25 it and it's starting to show damage on the motor

Mr. Spires - Examination by Mr. Durant continues

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1 also.

2 Q Let's zoom in a little bit on State's 11. What are
3 we looking at?

4 A You're just looking at more damage on the motor of
5 the vessel of the victim's vessel.

6 Q Can you tell what part of the defendant's boat may
7 have hit the motor?

8 A When I was originally looking at this motor, I could
9 not tell at this time. But once I looked at the
10 boat driven by Mr. Morris, then yes, I can tell you
11 what ...

12 Q How could you tell that?

13 A Because of the transfer marks. If you notice, these
14 are leaving --- his boat's leaving transfer marks on
15 this motor, this motor leaves transfer marks on his
16 vessel.

17 Q If you would, just point out the transfer marks
18 you're talking about.

19 A The transfer marks are all these striations that
20 you're seeing coming up this --- like smeared paint
21 on the motor. Those are transfer marks.

22 Q State's 12? Same thing?

23 A Yes, that is the same thing.

24 Q Let me show you State's 13. What is this?

25 A This is toward the front of the victim's vessel.

1 This is actually a trolling motor that would be up
2 toward the front and you get a little bit of
3 transfer marks on top of that trolling motor.

4 Q At this point, do you know what part of the
5 defendant's boat made transfer?

6 A I do not. Not at this time.

7 Q State's 14?

8 A This is actual the rod of the trolling motor that
9 would go from the motor down to the propeller for a
10 trolling motor and that is just more white transfer
11 paint marks.

12 Q State's 15 is just the trolling motor again?

13 A The trolling motor itself; now we're at the
14 propeller end of the trolling motor and you still
15 just see some more transfer marks.

16 Q State's 16. What is this?

17 A State's 16, this is the bow light that would've been
18 at the front of the victim's vessel at the bow. You
19 can still see the very end of the trolling motor in
20 this photograph with some transfer marks. But this
21 is the bow light that was on the victim's vessel.

22 Q The bow light is on the front center of the boat.
23 Is that ...

24 A Front center of the boat.

25 Q Is that the light that it contains the different

1 colors, the red and the green?

2 A That's correct. It contains the red and green
3 colors up front.

4 Q How far, how high above the deck of the boat is that
5 light sit?

6 A This one only sits about 10" above the deck of the
7 boat.

8 Q Now was it, you said the damage to the light, was it
9 broken off at the base of the boat or somewhere
10 else?

11 A It was not broken off at the base. The damage on it
12 was it was bent a little but it is broken at the
13 housing at the top, where the light bulb would go
14 into the red and green reflective glass.

15 Q What, if anything, can you tell the jury based on
16 the damage to the light on the front of the boat?

17 A Based on the damage of the light on the front of the
18 boat, it lets me know that our boats are still
19 separated. One's coming across the top of the other
20 one where it hits the light bar at the top and not
21 at the base of it because it would've sheared it off
22 at the base. It's only made out of aluminum.

23 Q So if Morris's boat was sitting on top of this boat,
24 had gone completely --- at that point, it had broken
25 off at the base?

- 1 A That's correct.
- 2 Q So it was in the air at some point?
- 3 A That's correct.
- 4 Q State's 17, what is this?
- 5 A State's 17 is just photographs of the bulb to show
6 that the wiring inside the bulb is still working,
7 it's still connecting.
- 8 Q That's State's 18 as well?
- 9 A Same photograph. That would be the bulb that's
10 inside the stern light up front. I mean the bow
11 lights up front.
- 12 Q Now State's 19, what are we looking at here?
- 13 A State's 19, now we're at the back, we're at the
14 stern of the vessel. Now we're on the starboard
15 side at the stern. This is the stern light that
16 would've been in the victim's boat.
- 17 Q So this is the light on the back of the boat?
- 18 A This is the light on the back of the boat. It's the
19 white light that is required to be seen by 360
20 degrees.
- 21 Q So you can see it all the way around it?
- 22 A All the way around it.
- 23 Q The housing of the actual bulb is clear, 360 degrees
24 around the light?
- 25 A 360 degrees around the light.

Mr. Spires - Examination by Mr. Durant continues

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1 Q So whether you're - you don't have to be directly
2 behind the boat; you can be beside it, in front of
3 it and still be able to see that light?

4 A That's correct.

5 Q How high above the deck of the boat does that light
6 sit?

7 A This one actually sits about 4'8" high above the
8 deck of the boat.

9 Q Now the deck of the boat, is that the floor of the
10 boat?

11 A That's the floor of the boat. That you would stand
12 on, like standing on a deck. Where this light plugs
13 in and comes up to the top of that light pole is
14 approximately 4'8".

15 Q 4'8" above ...

16 A 4'8".

17 Q And is the light on in that picture?

18 A Yes, the light is on in that picture.

19 Q Where are these photos taken?

20 A These photos were taken at the DNR house on Lake
21 Marion. We had a shed that we could stick this boat
22 in at that time. And that's where this photograph
23 was take.

24 Q Obviously these were all after the collision?

25 A Yes, this is all after.

1 Q The light on the back of the boat was still
2 functioning at that point?

3 A Was still functioning at that point.

4 Q Let me show you State's 20. What are we looking at
5 here?

6 A Now we're still at the stern of the vessel but we're
7 coming around the stern on the starboard side of the
8 vessel, which would be the right hand side.

9 Q State's 21.

10 A State's 21 is just the same registration numbers
11 that are required, South Carolina registration
12 numbers are required to be put on both sides of the
13 vessel. This is the registration numbers on the
14 starboard side of the vessel.

15 Q Any damage that you noticed on the starboard side of
16 the vessel?

17 A No sir.

18 Q Let me show you State's exhibit 22. What are we
19 looking at here?

20 A State's exhibit 22, you're looking at where a
21 operator would be sitting in this vessel. It's
22 called the helm station. You're looking at some
23 blood spatter that's in the picture and you're
24 looking at the power switch that's still in the on
25 position.

Mr. Spires - Examination by Mr. Durant continues

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1 Q Now, this power switch, what does it control?

2 A Power switches controls power coming from the
3 battery to all other switches in the boat.

4 Q So is it a master switch?

5 A It's like a master switch.

6 Q So if that's cut off, then there no power?

7 A That's correct.

8 Q And was the power switch on when you found the boat?

9 A Yes it was.

10 Q Let me show you State's 23. What are we looking at?

11 A State's 23, you're looking at other switches in the
12 boat. One would be a sounding horn that you can
13 push to make a sounding device. The middle switch
14 is navigational lights, and it's in the on position.
15 And then the switch beside it is a bilge pump, which
16 pumps water out of the bottom of the boat.

17 Q Is this the switch that would've controlled the
18 lights in the front and back of the boat?

19 A Yes it is.

20 Q Was it turned to the on position when you found the
21 boat?

22 A Yes it was.

23 Q State's 24, just quickly, what are we looking at
24 here?

25 A What you're looking at here, you're looking at the

1 passenger seat that the victim would have been
2 sitting in with the flip flops and stuff and the
3 blood that would be in the vessel from the victim.

4 Q Let me show you State's 25.

5 A State's 25 is the controlling area where an operator
6 would sit. You have the steering wheel and stuff.
7 This is a raised area above the steering wheel; that
8 would have the gauges for RPM, miles per hour, and
9 stuff like that. And then it has like a smoked
10 shield on the front of it that would come up to kind
11 of protect the eyes from debris and stuff while
12 somebody's operating the boat. This picture is
13 showing where that has been broken.

14 Q The shield - the windshield basically?

15 A The windshield has been broken.

16 Q Is this the same windshield that's depicted in
17 exhibit 27?

18 A That is the same - that's the same windshield; one
19 is just taken from the starboard side of the vessel.
20 This picture's taken from the port side of the
21 vessel.

22 Q Let me show you State's exhibit 28. What is this?

23 A That is a photograph of the rods and reels that I
24 would have released to Mr. Morris on the early
25 morning of July 4th.

Mr. Spires - Examination by Mr. Durant continues

341

1 Q State's 29, what are we getting into here?

2 A State's 29, you're getting into the operator, the
3 defendant's vessel that he was operating at the time
4 of the incident. This is where I'm starting my
5 photographs of his vessel.

6 Q What kind of boat is this?

7 A This is a Skeeter bass boat.

8 Q Now is this the boat that Mr. Morris was driving
9 when you found - when he was at the DNR headquarters
10 that evening?

11 A Yes it is.

12 Q He was still driving that boat?

13 A Yes he was.

14 Q State's 30, what are we looking at?

15 A State's 30, you're looking at the starboard side of
16 the boat operated by Mr. Morris. It gives you the
17 registration numbers for the vessel that he was
18 operating, showing that with it being registered or
19 not being registered, and then it's giving you the
20 transfer marks coming from the other vessel. That
21 would be these painted lines that you see on the
22 side of the vessel.

23 Q Can you tell the jury what part of the - of Hailey's
24 vessel these transfer marks came from?

25 A The part of the victim's boat, this would be coming

1 off of the motor. This is where Mr. Morris's
2 starboard side of his vessel caused the damage to
3 the motor as it passed by, going across the boat.
4 That's where these marks came from.

5 Q So right hand side of the defendant's boat hit the
6 motor of the victim's boat?

7 A That's correct.

8 Q State's 31.

9 Q State's 31, we're now looking at the port side of
10 the vessel being driven by the defendant. It shows
11 the registration number toward the bow of the
12 vessel. And it's just a picture of the port side.

13 Q Okay. State's 32.

14 A State's 32, we're now in the bow area of the
15 defendant. It shows a trolling motor that would be
16 up front with him and it shows his bow lights in
17 place at that time.

18 Q State's 35.

19 A State's 35, now that I have encircled the vessel,
20 I'm coming back to start taking closeup pictures of
21 the transfer. We're now back on the starboard side
22 of the defendant's vessel.

23 Q So again, the right hand side of the defendant's
24 boat?

25 A That's correct.

Mr. Spires - Examination by Mr. Durant continues

343

1 Q And do you see any damage to his boat there?

2 A Starting to see where the boat would've made
3 contact, initial contact with the motor. You have
4 damage to this rub rail and starting to see some
5 paint transfer and smear marks on the rub rail.

6 Q And in your opinion, that's caused by the motor on
7 the -

8 A That's correct.

9 Q - on Hailey's boat? State's 36. Is this just a
10 closeup of the same thing?

11 A Closeup of the same thing, little bit further back
12 to show that where we're starting to get the
13 transfer on down deeper on the side of the gunnel
14 below the rub rail.

15 Q What's the gunnel of the boat now?

16 A The gunnel of the boat is the side of the boat.

17 Q The side of the boat.

18 A The side of the boat.

19 Q State's 37?

20 A State's 37 is the closer up of the transfer marks
21 left by the victim's motor and it starts giving me a
22 direction of travel of after these boats make
23 impact. It starts showing me how these boats would
24 react after impact.

25 Q Now how can you tell that?

1 A By the curvature of the paint marks left. In this
2 picture, you can see everything's coming at a
3 downward motion, which means upon impact, the
4 defendant's vessel upon impact would've started
5 going upwards, which where the motor was setting
6 where it is, it would leave the marks coming in a
7 downward motion, as these marks are.

8 Q Alright so the fact that the marks are going down
9 tells you this boat went up?

10 A That's correct.

11 Q State's 38, what are we looking at?

12 A State's 38 is some more transfer marks from the
13 motor of the victim's vessel and it's continuing
14 down the starboard side of the operator's vessel.

15 Q Okay. Now tell me what in the world is State's 39
16 show.

17 A State's 39, this is on the very bottom of the
18 defendant's vessel. That centerline ridge that you
19 see is what is known as the keel; that's the
20 centerline of the boat.

21 Q This is the line you're talking about?

22 A That's correct. And you see just a little smudge
23 mark that when a boat sits in the water, it gets
24 film that builds up on the bottom of the vessel.
25 You can see in the picture the film that's on the

Mr. Spires - Examination by Mr. Durant continues

345

1 vessel. This is the first smudge mark that removed
2 all of that. There's really no significant damage
3 other than it is a removal of that smudge.

4 Q Do you have an opinion as to what part of Hailey's
5 boat caused that, that smudge?

6 A That smudge would start at the stern of Hailey's
7 boat.

8 Q The stern's the back?

9 A The back of her boat.

10 Q State's 40, what are we looking at?

11 A State's 40 is just a different picture that it shows
12 the black transfer still at the stern, still on the
13 keel of the defendant's vessel and it starts the
14 black mark where I told you before the first impact
15 of the victim's vessel was that indentation in that
16 rub rail. This is where that boat would've hit.

17 Q So this is the bottom side of the defendant's boat
18 and this would've been the first part of his boat to
19 strike Hailey's? Is that right?

20 A That's correct.

21 Q What part or how far down on the bottom of this boat
22 is this mark located?

23 A I'm not sure.

24 Q Show you State's 41. What are we looking at?

25 A 41 is just a same picture close to the same area

1 where these smudge marks started taking place.

2 Q State's 42?

3 A 42, we're still on the bottom of the vessel. This
4 is the part of the vessel that I believe hit the
5 smoked windshield part of the victim's boat.

6 Q Can you tell from these photographs how high the
7 defendant's boat was sitting out of the water when
8 it hit the victim's boat?

9 A I cannot give you a height reference of how high it
10 was out of the water. I will tell you it would've
11 had to be on plane for the impact points to be where
12 they were.

13 Q Why is that?

14 A Because as you get on plane and a boat comes up, it
15 raises out of the water. And you can get it going
16 top speed where nothing but the back pad of the
17 vessel is on the water and the higher up, the
18 further a boat comes across the top of the other one
19 before impact.

20 Q Again, do you remember whether or not the defendant
21 told you whether his boat was on plane when they
22 collided?

23 A He told me he had not got up to plane.

24 Q Now, you testified earlier that a boat has to reach
25 a certain speed to get on plane.

Mr. Spires - Examination by Mr. Durant continues

347

1 A Uh-huh.

2 Q Does it stay on plane the faster you go?

3 A It will stay on plane but it just kind of lifts
4 higher out of the water. You get more separation
5 between the boat and the water for speed.

6 Q You're still on plane but the faster you go, the
7 higher you sit out of the water?

8 A The higher you sit out of the water.

9 Q What if the motor is trimmed up?

10 A Motor's trimmed up, the bow will lift some which
11 will cause further separation out of the water to
12 get the water back on the very back of the boat,
13 they call it the pad. That's when you start hearing
14 a slapping effect of the water. And then the boat
15 becomes unstable. It starts, at that point, a boat
16 can start chine walking.

17 Q What's that mean?

18 A Where the sides of your boats come down and meets
19 the hole at the bottom of the vessel, that ridge
20 that's real strengthening is called the chine.
21 Chine walking is when the boat becomes unstable and
22 it starts rolling from side to side, bouncing off
23 the chines.

24 Q And that's what happens with the motor trimmed up?

25 A If you have it trimmed up when it's wide open, it's

1 possible that's when the boat is ...

2 Q That phrase has been used several times. Tell the
3 jury what it means to have a motor trimmed up.

4 A Motor trimmed up; basically if you have a boat and
5 you set a motor all the way down in the water,
6 that's how you get on plane. The bow's going to
7 come up and you level off on plane. Once you're on
8 plane and you'd like to increase speed, you start
9 trimming your motor, which is the foot sets down
10 like this at the deepest point, we start trimming
11 the propeller and the motor starts lifting up. As
12 that lifts, it causes the front bow of the boat to
13 come up to lose the friction of the water, when in
14 force, increases speed.

15 Q Alright is it possible for a boat to be trimmed up
16 and still be on plane?

17 A Yes.

18 Q Now you testified earlier that you can't tell how
19 high he was sitting on the water based on the impact
20 marks. Why is that?

21 A Based on the impact marks, there's different
22 variables when we're dealing with water craft. Was
23 the victim's boat rocking at the time of the impact?
24 Was it a upward motion? Had he hit a wake or a wave
25 right before he got there that caused him to lift?

1 Was he on a downward motion in between two waves?

2 There's a lot of variables at that time that could
3 be taking place.

4 Q So because of all those variables, you can't
5 recreate the exact set of circumstances?

6 A No, you can't.

7 Q And tell the boat how high --- based on --- get an
8 estimate of speed based on the impact?

9 A That's correct.

10 Q State's 43, what are we looking at?

11 A State's 43, we're still on the bottom of the
12 defendant's vessel; we're coming toward the back
13 stern part of the vessel and you're starting to see
14 transfer marks at the back part of his vessel.

15 Q Alright. State's 44?

16 A State's 44, this is actually coming back toward the
17 stern of the vessel. This picture is no longer on
18 the keel. It's on what we call a lifting straight.
19 And this is where we're starting to get the transfer
20 marks that would've come from the trolling motor
21 area of the front of the victim's boat.

22 Q Now, what part of the defendant's boat is this on?

23 A This is on the bottom side of the boat, toward the
24 stern of the vessel.

25 Q Which is the ...

1 A Very back of his boat.

2 Q Very back of his boat. So the very back of his
3 boat, bottom side, is what hit the trolling motor.

4 Is that what you're saying?

5 A That's correct.

6 Q State's 45, same thing?

7 A Same thing. Same transfer marks toward the back of
8 the vessel.

9 Q 46 as well?

10 A 46 as well.

11 Q Now State's 47, what are we looking at?

12 A State's 47, you're looking at the very lower unit of
13 the defendant's motor, his outboard motor. This is
14 where some people call it the torpedo; this is what
15 the is the propeller would be attached to. The
16 little fin piece that you're seeing coming down off
17 of here is --- sticks below the propeller.

18 Q Tell the jury where you believe these transfer marks
19 come from.

20 A These marks are left on the victim's vessel where
21 when we had the propeller stripes coming up her
22 vessel, we had the white bluish streak that was left
23 on the stern of the vessel. That is where this
24 would be coming from.

25 Q State's 48.

Mr. Spires - Examination by Mr. Durant continues

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1 A 48 is the same blue bluish tint that would be
2 leaving the transfer marks on the victim's vessel.

3 Q Still part of the motor ...

4 A That's still part ---- the very bottom of the motor.

5 Q And State's 49 finally.

6 A 49 would be the propeller; that's one blade of the
7 propeller that was on the defendant's vessel. And
8 that is what would have left the marks on the gunnel
9 of the port side of the vessel as the boat went
10 across.

11 Q And is this an indention on the ...

12 A It is. That's an indention on the propeller because
13 the striations and the scratches and stuff like that
14 on the propeller.

15 Q Alright. Okay, you can have a seat back up there.
16 Alright, Investigator Spires, after --you took all
17 these photographs right?

18 A I did.

19 Q And you were standing at the suspect's boat?

20 A I did.

21 Q At some point, was that returned to him?

22 A It was but it was returned a good many days after
23 the incident took place.

24 Q Referring back to the statement that Mr. Morris gave
25 you in the Piggly Wiggly parking lot, did you

1 indicate whether or not anybody in his vessel had
2 called 911 that evening?

3 A He indicated that his occupant, Jessica, called 911.

4 Q So the female on his boat is who he claims that
5 called 911?

6 A That's correct.

7 Q Now did you actually go out in a boat to see the
8 about where this incident had occurred?

9 A I did. I waited to the actual night of July 4th. I
10 run with some officers that had boats on the lake
11 and I wanted to be out after dark to see what kind
12 of background lighting might've been in effect,
13 whether we'd have a lot of lights on the shoreline
14 that would stop somebody from seeing a vessel in the
15 location where the victim's boat was sitting and
16 things like that.

17 Q What did you find when you did that?

18 A I didn't find anything according to the direction of
19 travel given to me by witness statements and stuff
20 where there would have been any shore lights to
21 prohibit a vessel from seeing.

22 Q No shore lights would interfere with the ability to
23 see a vessel at that approximate location this
24 occurred?

25 A I did not.

Mr. Spires - Examination by Mr. Durant continues

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1 Q Did you happen to take any measurements from, for
2 instance, the approximate location that this
3 incident occurred to either Scarborough's's or from
4 Mr. Harrington's house?

5 A I did. I took approximate measurements from, and I
6 stress that word approximate because I do not know
7 exactly the location of the accident so my distance
8 would be an approximate to those areas.

9 Q And where was that at? How far away from these
10 locations?

11 A From the incident site to Scarborough's's Landing is
12 approximately 895 yards.

13 Q How far from the incident location to Mr.
14 Harrington's house?

15 A 528 yards.

16 Mr. Durant: May we approach Your Honor?

17 (Counsel approaches bench without court reporter)

18 Q Investigator Spires, I'm going to show you what's
19 been marked as State's exhibit 65. Do you recognize
20 that?

21 A Yes, this would've been a report I got from the
22 coroner from the Medical University of South
23 Carolina.

24 Q Is it the autopsy report in the matter?

25 A Yes it is.

1 Q Is it. --- does that document tell you --- first of
2 all, let me introduce it into evidence. I would
3 offer State's exhibit 63 into evidence. I
4 understand it's without objection.

5 Mr. Kent: Without objection Your Honor, it's under
6 stipulation.

7 The Court: Okay. Folks, normally we would have
8 somebody come in from the coroner's office using this
9 report. The parties have stipulated to put the document
10 into evidence.

11 **(State's Exhibit Number 63 was put into evidence)**

12 The Court: I told you about expert witnesses before.
13 Normally you cannot have somebody just come in and read
14 from a document that is another experts report. I'm
15 telling you the person who prepared this is actually an
16 expert in the field of pathology from the Medical
17 University, an expert prepared this and in their opinion
18 this document they put in is what they believe is the
19 cause of death. Alright. This is not his opinion as to
20 what the cause of death is. It is the expert of Medical
21 University's opinion as to what the cause of death is.
22 Alright.

23 Q Investigator Spires, can you tell from that report
24 when the pathologist's examination of the victim was
25 done?

Mr. Spires - Examination by Mr. Durant continues

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1 A It was done on July 5th, 2014 at 9:30 AM.

2 Q Does the report tell you what the cause of her death
3 was?

4 A It says blunt head trauma.

5 Q And finally Investigator, we went through a series
6 of photographs a few minutes ago depicting the
7 damage to each of the boats involved in this
8 collision. I know you testified that you can't tell
9 based on those markings what the speed of the vessel
10 was. But based on your experience, can you --- well
11 first of all, did the defendant's boat go all the
12 way across the victim's?

13 A Yes it did.

14 Q From back to front?

15 A From back to front; stern to bow.

16 Q Based on your experience, do you know whether
17 there's a degree of speed which would be required
18 for a boat to go all the way across the other
19 vessel?

20 Mr. Kent: I'm going to object to that, Your Honor.

21 The Court: Lay a foundation.

22 Q Investigator ...

23 The Court: Yes, you've got to lay a better
24 foundation.

25 Q I'm not going to ask you about a specific number

1 Investigator, but here's the question. If --- at
2 some speed --- well, would some degree of speed be
3 required for the moving vessel to go all the way
4 across the stationary vessel?

5 Mr. Kent: I'm going to still object Your Honor.
6 Beyond the scope of this witness's expertise and what
7 they said they were offering him for. And calls for
8 speculation.

9 The Court: You need to lay a foundation as to how he
10 would be able to come up with estimated speed for the
11 vessel.

12 Q Investigator, have you ever investigated --- you
13 testified earlier that you've investigated
14 approximately 40 boating collisions in your career?

15 A That's correct.

16 Q And in some of those boating collisions, have you
17 found that the moving boat didn't go all the way
18 across the other boat?

19 A That is correct.

20 Q Sometimes it may hit and go backwards; sometimes it
21 may hit and lay on top of the other boat.

22 A That is correct.

23 Q What would cause the moving boat to hit the other
24 boat and maybe not go all the way across?

25 A Lack of speed.

Mr. Spires - Examination by Mr. Durant continues

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1 Q What would cause - is there any other, based on your
2 experience, have you ever investigated another
3 boating collision where the moving vessel perhaps
4 went backwards when it hit?

5 A Yes I have.

6 Q And what would cause that?

7 A Depends on --- it would depend on where it strikes a
8 vessel. If it strikes a vessel on a hard part,
9 there will be less damage and less intrusion on the
10 vessel being struck. So it could get and actually
11 make it almost like a glancing blow to go over.

12 Q You mentioned a minute ago in a collision that you
13 investigated where a boat stays on top of the other.
14 Does it continue to stay on the boat?

15 A Some instances it can. The one I investigated, the
16 vessel came and impacted from the stern. It
17 actually hit on the stern. It set on top of the
18 vessel that he hit and then as the movement of the
19 actual wake, one started to sink, one started to
20 roll, it slides off --- it slid back off in the
21 water.

22 Q So if a vessel hit from the stern, the front to the
23 --- if the bow of a moving vessel hit on the stern
24 side of a stationary vessel, such as the case here,
25 and that vessel did not go all the way across but

1 sat on top of it, what effect would that have on a
2 stationary vessel?

3 A You would see different transfer marks on both
4 vessels. You would see a circular motion on the
5 vessel that was being set on top of and you would
6 see circular motions on the bottom of the vessel
7 that was highest hit and set on top. The cause of
8 the boat's movement is this water is moving. You
9 would see circular striations before it slid back
10 off.

11 Q Would the weight of the moving vessel that sits on
12 top of the stationary vessel cause the stationary
13 vessel to sit lower in the water?

14 A Yes, it would cause it to depress in the water and
15 then depending upon how much weight is on one side
16 of the vessel the other, it would tilt and roll to
17 that side and the vessel would slide off or it could
18 cause it to sink.

19 Q Which would cause the vessel on top to slide off?

20 A That's correct.

21 Q In one of several different directions?

22 A That's correct.

23 Q Based on your examination of these boats, did that
24 happen?

25 A No, it did not.

Mr. Spires - Cross by Mr. Kent

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1 Q What happened upon impact?

2 A Upon impact, the defendant's boat would've started
3 going airborne, it would stay airborne all the way
4 out til it crossed over the bow of the other vessel.

5 Q So it jumped all the way across from stern to bow of
6 the victim's boat, is that right?

7 A That's correct.

8 Q And again, your testimony is that some degree of
9 speed would be necessary for that to happen.

10 A That's correct.

11 Q You can't tell me exactly what number, how many
12 miles per hour, but some degree of speed would be
13 necessary?

14 A That's correct.

15 Mr. Durant: That's all the questions I have.

16 The Court: Cross? Let's take about a five minute
17 break if you need to use the restroom and then we'll come
18 back and we'll do cross examination. Okay? Please don't
19 begin deliberations. We'll be back in about five
20 minutes.

21 (Jury break 12:16)/Court back in session)

22 The Court: Alright everybody's back. Bring the jury
23 back in.

24 (Jury enters courtroom 12:28)

25 The Court: Okay, we'll presume now with the cross

1 examination of the witness.

2 Mr. Kent: Thank you.

3 **MR. SPIRES CROSS BY MR. KENT:**

4 Q Investigator Spires, how you doing this afternoon?

5 A Doing good.

6 Q We have met before, we've met during the course of
7 this case. So I'm not going to introduce myself.
8 You're soft-spoken somewhat and I again, I know
9 you've been here through the course of the trial,
10 you understand Madam Court Reporter is taking down
11 every word that you're saying, okay? And so let's
12 just make sure, and I know you've done a great job
13 when you did it with Mr. Durant, but make sure we
14 try to speak loud and clear enough, okay?

15 A Yes sir.

16 Q And I assure you I'll give you ample opportunity to
17 answer any question I have if you'll give me ample
18 opportunity to ask any questions I have. Is that
19 fair?

20 A Yes sir.

21 Q And you can tell I speak too fast; you've heard me
22 throughout this trial. If you don't understand
23 something, just stop me and say I don't understand,
24 slow down and I promise you I'll give you plenty of
25 opportunity. Is that fair?

Mr. Spires - Cross by Mr. Kent

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1 A Yes sir.

2 Q Okay. Now I think earlier before the jury, I never
3 know the proper thing to call you, the proper
4 respect that you are due. Is it Investigator
5 Spires? What do you prefer?

6 A Investigator.

7 Q Okay, I'm going to call you Investigator Spires so I
8 can give you the proper respect that you're due for
9 the office that you have. Is that fair?

10 A Yes sir.

11 Q Investigator Spires, I think it's pretty clear
12 you've been doing this a long time.

13 A Yes sir.

14 Q Could you tell the jury exactly how long you've been
15 investigating? Just tell them how long you've been
16 in law enforcement, let's call it that way.

17 A Twenty-two years and ten months.

18 Q In that 22 years, have you been exclusively with
19 DNR?

20 A Yes I have.

21 Q Investigator, it's pretty clear I am not an expert
22 on a boat, on the lakes and rules and things of that
23 nature so I'm actually going to defer to you. If I
24 ask a question that is just dumb and doesn't make
25 since, say "Mr. Kent, that doesn't make sense." Is

1 that fair?

2 A Yes sir.

3 Q Let's first talk, you heard me talking to the
4 testimony of Investigator Jervey, who testified
5 immediately before you. Isn't that Jervey, Mark
6 Jervey?

7 A Officer Jervey.

8 Q Officer Jervey. Officer Jervey testified?

9 A That's correct.

10 Q He went through some background and things about
11 training. Would you agree mostly with the things he
12 testified about training?

13 A As far as going through the police academy and
14 things like that, yes sir.

15 Q And so you also went to the police academy, I guess
16 22 years and 10 months ago?

17 A Yes sir.

18 Q And when we go to the police academy, you would
19 agree with the things that I asked him that at the
20 police academy, they train individuals on how to
21 become good officers. Just a start; it's not
22 complete and it's not thorough but it's a start on
23 how to become a good officer.

24 A That's correct.

25 Q And I think you also testified also on becoming a

Mr. Spires - Cross by Mr. Kent

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1 Q Okay. So if somebody was going 75 miles an hour on
2 a boat taking selfies, bragging, that would be some
3 dangerous reckless thing?

4 A I would feel so. We're talking about people.

5 Q I understand. I understand completely. The night -
6 and lets talk about the next day when he gave a
7 separate statement to you on the next day. How were
8 you able to get in touch with him that day?

9 A He had left his telephone number and I called him by
10 phone.

11 Q Okay so you were able to get in touch with him on
12 the telephone?

13 A Yes I was.

14 Q And he met with you immediately?

15 A It took a few times calling.

16 Q Yes sir.

17 A Before he called him back and he agreed to meet with
18 me.

19 Q And he agreed to meet with you and sat down and
20 talked to you?

21 A That's correct.

22 Q He gave you a similar story to what he had given the
23 night before?

24 A That's correct.

25 Q And he told you that somebody in his boat called

1 911.

2 A Yes.

3 Q He told you he had caused the collision.

4 A Yes.

5 Q He gave you his proper information, his name and so
6 forth, and he gave you that stuff again.

7 A That's correct.

8 Q Told you he was involved in the collision and was
9 involved in an accident.

10 A That's correct.

11 Q And again, had no lawyer with him, talked to you
12 voluntarily, said everything that he had done.

13 A Everything voluntarily.

14 Q And then you let him go again. So he was allowed to
15 go two separate times, correct?

16 A Correct.

17 Q He wasn't arrested that night.

18 A No he was not.

19 Q And Investigator, I've listened to your testimony;
20 you are as smart as possibly gets. By that night,
21 based upon Chad's testimony and everyone else, you
22 knew basically what happened in this case.

23 A For the most part. There were still some things I
24 needed to know.

25 Q Yes sir.

Mr. Spires - Cross by Mr. Kent

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1 A And things like that.

2 Q And he still wasn't arrested. He was allowed to go
3 and allowed to go for - well, when was he arrested?

4 A I'm not sure when he was arrested.

5 Q Would you agree that it would be some two months
6 later?

7 A August. It was months later.

8 Q And he - how did we get in touch with him at that
9 point? Make a phone call and say we need you to
10 come turn yourself in?

11 A We did.

12 Q And he came and turned himself in?

13 A He turned himself in.

14 Q Turned himself in immediately?

15 A You were there.

16 Q And I was there. That's when I showed up. That's
17 when I was there.

18 A You were there.

19 Q I want to talk to you about stuff that was included
20 inside of our case file. You're familiar with the
21 weather and the weather history. Do you remember
22 taking a weather chart out there that night to see
23 what the weather would've been at about 12:53 am
24 when the accident took place?

25 A I have a state climatologist that's part of our

1 department.

2 Q Yes sir.

3 A So when we have an incident like this happen, I call
4 him and tell him where the incident is and I need a
5 weather report and that's where my weather report
6 came from.

7 Q And about 12:53, what was the condition of the
8 weather? And I have a copy if this might ...

9 A I got it right here.

10 Q Yes sir.

11 A 12:53 am, the condition - you want all conditions?

12 Q Just the condition at the very end, it has condition
13 written down there.

14 A It says mostly cloudy.

15 Q Mostly cloudy. And that was about when the incident
16 happened?

17 A Yeah, I think earlier ...reported at 12:39.

18 Q Yes sir. I heard the same thing that you heard.
19 And I'm going to ask you now a bit of an insulting
20 question and I think I already know the answer: the
21 individuals who were inside of the Bordeaux vehicle
22 ...

23 A Uh-huh.

24 Q At any point in time, did they provide information
25 to Mr. Morris?

Mr. Spires - Cross by Mr. Kent

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1 A Not that I'm aware of.

2 Q The vehicle that Mr. Morris was in, that vehicle
3 from the testimony, that vehicle was damaged. Would
4 you agree with me there?

5 A It was not structurally damaged. It had transfer
6 marks and things like that, which structurally I
7 could not find any structural damage.

8 Q But there was property damage to the vehicle?

9 A Yes.

10 Q So there was property damage to a vehicle involved
11 in an incident.

12 A That's correct.

13 Q And during the incident, unfortunately somebody had
14 died.

15 A That's correct.

16 Q Was anyone inside the vehicle of Ms. Bordeaux
17 charged with failure to render aid under the statute
18 for not giving the information to Mr. Morris?

19 A No, they were not.

20 Q Okay and under a statute, I guess technically they
21 could be. It's an absurd question, you can say it's
22 absurd. I have no problem with that.

23 A No, I don't think they do.

24 Q Okay. And you've reviewed the law.

25 A Yes.

1 Q And you've looked at the law and you know the law on
2 failure to render aid because you charged with it.

3 A That's right.

4 Q And that's one of the things the solicitor had said
5 over and over of all the witnesses, the things about
6 failure to render aid is you must provide
7 information to an individual who's involved.

8 A That's not failure to render aid. Failure to render
9 aid is when you are trying to have somebody injured
10 or anything like that to require to give information
11 that's done to the boat accident itself.

12 Q So to you, it's not a big deal not to give the
13 information?

14 A No, when you know who's involved.

15 Q And one of the things that the solicitor keeps
16 talking about is Chad Morris didn't give information
17 to the victim. And I know it's absurd because of
18 what the victims were going through but the victim's
19 could've given their information to Chad Morris.

20 Agreed?

21 A I wasn't there.

22 Q And they were not charged under that same statute.

23 A No, they were not.

24 Q Okay. And a death occurred in this situation,
25 there's no doubt about that.

Mr. Spires - Cross by Mr. Kent

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1 A Yes.

2 Q And there was damage to Mr. Morris's boat.

3 A Yes, there were transfer marks and -

4 Q Property damage.

5 A ... property damage.

6 Q During the statement that Mr. Morris gave you
7 clearly indicates that he contacted 911.

8 A He said that his - an occupant of his vessel called
9 911.

10 Q Is there anything that we did to try to prove that
11 that occurred or not? To confirm or deny?

12 A I did try to contact the phone company that she had
13 her phone with and I didn't get any information on
14 it.

15 Q She provided you a subsequent statement saying she
16 also called 911. Is that correct?

17 A Yes.

18 Q Okay so she told you that she had called 911 also?

19 A That's correct.

20 Q And we heard that 911 cd and we can all agree that
21 it's almost impossible to decipher what's on that
22 cd.

23 A I listened to it probably five times.

24 Q And we listened to it that we can both agree we
25 can't hear everything on that cd. Why is it like

1 that? You know I asked him and you were in here
2 when Mr. Floyd testified and he was pretty clear
3 that y'all asked for it that way. Why would y'all
4 ask for it that way?

5 A I asked to have a recording of the 911 calls
6 pertaining to this incident. That is the recording
7 that I was provided. At one time, I went back and
8 asked if they had separate recordings. And I don't
9 know the person I talked to but they said they could
10 not separate it out at this time.

11 Q So that's a little different from what you heard
12 today of course.

13 A Yes it was. Of course, when I inquired later on
14 getting it separated, they said they had changed
15 systems and could not separate it.

16 Q And that would've been --- as we all agree.

17 A I agree.

18 Q But somebody in Mr. Morris's boat as well as Mr.
19 Morris indicated to y'all that they had called 911.
20 You would agree with me there?

21 A Yes.

22 Q And then within an hour after the incident, Mr.
23 Morris gave y'all a statement. Let's give it even
24 longer - an hour and a half. Let's say an hour and
25 a half to two hours after the incident. We'll give

Mr. Spires - Cross by Mr. Kent

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1 a longer window... Would you agree with me there?

2 A Yes.

3 Q That night, he gave a voluntary statement?

4 A Yes.

5 Q Gave all information.

6 A That's correct.

7 Q Gave everything legally required of him that you
8 asked him to do?

9 A That's correct.

10 Q That would be correct. And we allowed him to go.

11 A Yes.

12 Q And then we contact him and he met with you again.

13 A Yes.

14 Q And he gave you all information that he possibly was
15 required, legally required to do, he gave to you
16 again.

17 A Yes.

18 Q Okay. Did you give that information to the victim
19 or to the solicitor's office, Mr. Morris's name or
20 anything of that nature?

21 A I did not give it to the victims.

22 Q Okay. And of course, the victims were pretty
23 emotional.

24 A Yes.

25 Q And you've talked to a number of people; I think we

1 can all agree with that and I think I said that to
2 you directly that they're good folks and I'm sure
3 they wanted nothing to do with Mr. Morris as a
4 result of what happened. Would you agree with me
5 there?

6 A I'm not going to speak for the family.

7 Q I understand. I want to talk to you about, again,
8 taking statements from witnesses. When we take
9 statements from witnesses, we want to make sure that
10 they are coherent and that they understand what
11 they're doing, what statements that they're giving.
12 Would you agree with me there?

13 A That's correct.

14 Q And one of the things we want to make sure of is
15 based upon their level of intoxication, you want to
16 see if they're intoxicated.

17 A Uh-huh.

18 Q And we showed you a bunch of pictures and I went
19 through them but one of the pictures we didn't show
20 you - there was some alcohol in the victim's boat.
21 Would you agree with me there?

22 A Yes, there was.

23 Q I know we didn't show that to you and it wasn't a
24 little bit of alcohol. Would you agree with me
25 there?

Mr. Spires - Cross by Mr. Kent

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1 A There was some alcohol in the victim's boat.

2 Q Is that a pretty good depiction?

3 A Yes.

4 Q Could you for the jury tell the jury ... do you have

5 a picture of that? We went through all 58 pictures

6 that we didn't see. Do we have a picture of the

7 alcohol? Chris, is there a picture in here?

8 Mr. Durant: No.

9 Mr. Kent: There's no picture in these?

10 Mr. Durant: You have all the photos.

11 A Yes, I have a picture of it.

12 Q Alright well first, to yourself, what does that

13 picture depict? What does it show?

14 A The picture just shows alcohol that was found in
15 this vessel sitting out on the deck of the vessel.

16 Shows what containers are still full, what
17 containers were half empty, and then the caps of
18 what would be empty.

19 Q And again, knowing how good of an investigator you

20 are, this is just evidence you collected. You

21 weren't trying to hide anything, this is just what

22 was on the boat; take pictures of what's on the boat

23 ..

24 A That's correct.

25 Q And of course, I'm not trying to ...anyone's level

1 of intoxication. We don't want to get into that.
2 But the question I'm asking is no field sobriety
3 test or anything of that nature was done on the
4 occupants of the Bordeaux vehicle. Would you agree
5 with me there?

6 A That's correct.

7 Q And I understand, one of the reasons we didn't do it
8 is the vehicle wasn't moving so there was no
9 operator of the boat.

10 A No operator, the motor's off, the vessel's sitting
11 still, no operator.

12 Q Well wouldn't it be interesting to know if someone's
13 intoxicated before they give a statement like we
14 just talked about, you want to know level of
15 intoxication before we take a witness statement?

16 A I think that's up to the officer that's collecting
17 the statement at that time to make that
18 determination.

19 Q Okay. And you heard the testimony, I think one
20 person that somebody stated they had six beers that
21 day, one individual said they had one drink, and
22 someone else said they had two drinks. So that
23 would've been a total of eight - well not even
24 eight, but the total of eight, best case scenario,
25 drinks that was had that day.

Mr. Spires - Cross by Mr. Kent

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1 A That's correct.

2 Q There's more than eight in that picture. Would you
3 agree with me there?

4 A I have fourteen in bottle caps in the picture.

5 Q Okay, thank you. And then, again, you are smarter
6 than me, I understand that you are the expert in
7 this field. One of my questions I have is who is
8 the MAIT team?

9 A The MAIT team?

10 Q Yeah, the MAIT team. M-A-I-T-T. The MAIT team.

11 A The MAIT team is who actually works for South
12 Carolina Highway Patrol ... I mean, that's the
13 specialized team that investigates traffic
14 collisions.

15 Q Traffic collisions.

16 A Yes.

17 Q On the road? Why was the MAIT team employed in this
18 case?

19 A The MAIT team was employed in this case on a dual
20 type situation. One is we're looking at trying to
21 get the technology they have that works on the road
22 to work on the water. Any time we have a case like
23 this they come and try to work. The first time we
24 tried to use them was on Lake Murray; they didn't
25 have a big enough capacity -

1 Q Right.

2 A To handle everything that takes place on the water.
3 They've been trying to improve it so we brought them
4 in just to just to see if we're getting anywhere.
5 See if we're getting further technology.

6 Q And they didn't take down measurements or notes or
7 anything of that nature. They did basically
8 everything based upon statements. Would you agree
9 with me there?

10 A They had some of their equipment. I can't testify
11 actually what they did with their equipment.

12 Q So the MAIT team who came in who usually does
13 highway department, accidents, and things of that
14 nature did something on this case?

15 A Yes.

16 Q But you can't testify as a case agent to the
17 officers what they did or what they found out?

18 A I know they took photographs, they did some distance
19 stuff, as far as the vessels, they used their
20 machine that does a 360 damage analysis. I know
21 they did things like that but as far as the
22 components of how they reconstruct what they're
23 doing, I do not know.

24 Q Investigator Spires, we talked about this case. You
25 do not believe that Mr. Morris did this

Mr. Spires - Cross by Mr. Kent

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1 intentionally, correct? You don't believe that he
2 saw this boat, rammed this boat and was trying to
3 kill anybody intentionally, do you?

4 A I do not believe Mr. Morris did it intentionally.
5 If I felt like that, we would be sitting in here -

6 Q For a different trial. But there is no intent -
7 you're not talking about intent that he can
8 intentionally try to hurt somebody?

9 A No, I'm not.

10 Q Okay. And there is no allegation at all, or we'd be
11 here with a different charge, that Mr. Morris was
12 under the influence that night?

13 A No sir.

14 Q There was a question about returning the boat, and
15 this might be just be a ... returning the boat to
16 Mr. Morris. It wasn't Mr. Morris's boat. Would you
17 agree with me there?

18 A That is correct.

19 Q And so the boat wasn't returned to Mr. Morris. It
20 was returned to it's lawful owner. He didn't own
21 the boat.

22 A He didn't own the boat. According to Mr. Morris, he
23 was using the boat until he made a determination he
24 was going to purchase the vessel or not. At this
25 time, he has not purchased the vessel so the boat

1 was returned to the registered owner.

2 Q And you would agree with me in the statement that
3 Mr. Morris gave to you, he also very specifically
4 talked about the fact that one of the reasons that
5 he left or whatever happened - not even go that far.
6 He specifically said his boat was taking on water
7 and he wanted to check and see if there was a hole
8 in it. Would you agree with me? That was what he
9 told you.

10 A Yes.

11 Q You heard Officer Jervey testify that pretty, and I
12 agree with him, that pretty standard one of the
13 things we do after we get done giving someone a
14 witness statement involving something this tragic as
15 we say don't contact anybody, we'll contact you if
16 we need you again. Would you agree with that?

17 A I think each officer's different.

18 Q Each officer's different but that's one of the
19 things we do. We don't want these guys going out
20 and contacting victims or anything of this nature.
21 They say we'll contact you if we need you again.
22 Don't try to influence the case.

23 A Correct.

24 Q Would you agree with me there?

25 A ...

Mr. Spires - Cross by Mr. Kent

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1 Q That's pretty standard. We do not want individuals
2 like Mr. Morris or anybody else knocking on the
3 victim's house and saying and upsetting them or
4 trying to get them to change statements or anything
5 of that nature.

6 A Correct.

7 Q Would you agree? So that's one of the things that's
8 standard and Officer Jervey testified to it. One of
9 the things that's standard and most officers do it.
10 You're giving me a statement, if I need you again,
11 I'll contact you. Do not contact anybody until I
12 contact you. And that's a fair, that's fair. Would
13 you agree with me?

14 A Correct.

15 Q Would that be something also you do in your 22 years
16 10 months of experience say don't contact anybody
17 until I contact you again?

18 A I mean, you're asking about this situation.

19 Q I'm asking generally.

20 A Generally ...

21 Q I mean, generally in your experience in 22 years 10
22 months, you've investigated 38 cases and I know
23 you've done more than 38 cases such as this.

24 A Right.

25 Q And that time is generally your practice as well as

1 most officer's practice to tell victims, defendants
2 don't contact each other. Leave it alone until we
3 contact you directly.

4 A When we're at a scene and we have control of
5 witnesses ...

6 Q Yes sir.

7 A ... that's why we try to keep them separated until
8 we get their statements. Now after we get their
9 initial statements and stuff, we advise them to be
10 careful of who they talk to....

11 Q Right.

12 A ... and things.

13 Q Of course.

14 A If, before I became an investigator, my practice
15 would be I need you to hang around if you can. If
16 not, an investigator is probably doing to be in
17 touch with you.

18 Q Do you remember, and, now we'll go more specific, do
19 you remember meeting with Mr. Morris?

20 A Yes.

21 Q And we've already heard Officer Jervey testify what
22 he told him when he gave his statement. Do you
23 remember, just knowing you the way you are, what you
24 would've talked to Mr. Morris about after he gave
25 his statement in the Food Lion parking lot? If you

Mr. Spires - Cross by Mr. Kent

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1 don't, you don't.

2 A Oh do I remember what I talked to him about?

3 Q Yes sir, afterwards. If you do, you do. If you
4 don't, you don't. I'm not trying to trick you or
5 anything. I'm just seeing if you remember.

6 A What we discussed in the Food Lion parking lot or
7 after he had given me his statement?

8 Q After he had given his statement in reference to
9 contacting anybody, talking to anybody, we'll be in
10 touch with you, expect to be arrested in a week.

11 A I just told him I appreciated him meeting me.
12 Answering my telephone call and meeting me and if I
13 needed anything else from him, I would be giving him
14 a call.

15 Q Okay. And finally there were - we've heard some
16 folks testify, there were more people out there that
17 night. There was a lady by the name of Lori Mains,
18 she was out there that evening?

19 A Yes.

20 Q There was a man by the name Gregg Mains, he was out
21 there that evening?

22 A Yes.

23 Q There was an individual by the name of Daniel
24 Brunson out there that evening?

25 A Yes.

1 Q So there were more people out there that could
2 testify as to what happened that night. Would you
3 agree with me?

4 A Yes.

5 Mr. Kent: I beg The Court's indulgence for one
6 moment. Investigator, thank you so much. That's all the
7 questions I have. Thank you for your time.

8 **MR. SPIRES REDIRECT BY MR. DURANT:**

9 Q Investigator Spires, if I can ask you about the
10 weather report that he referenced that evening. Do
11 you have a copy of that in your file?

12 A I do.

13 Q If you would, flip to it real quick.

14 A Okay.

15 Q What does the weather report say that it's for?
16 What location?

17 A Closest weather station we have to get a report from
18 is Orangeburg.

19 Q Orangeburg, South Carolina?

20 A That's correct.

21 Q And of course, where did this incident occur?

22 A This incident occurred in Wyboo Creek of Clarendon
23 County.

24 Q That's in Clarendon County, not Orangeburg County,
25 South Carolina?

Mr. Spires - Redirect by Mr. Durant

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1 A That's correct.

2 Q Mr. Kent asked you several questions about photos of
3 alcohol and why the State didn't put in a photo of
4 alcohol. Were you here when the witnesses, the
5 occupants of Hailey's boat testified?

6 A Yes, I was.

7 Q And each of them freely admitted that they had had a
8 few beers that night didn't they?

9 A Yes, throughout the course of the day, some of them
10 were ...once they got there after work.

11 Q I think Mr. Kent said a total of eight. But do you
12 recall Mr. ...admitted that he had six and Mr.
13 Cromer saying that he had two, and Ms. Bremmer
14 saying that she'd had one for a total of nine, not
15 eight?

16 A That's correct.

17 Q Alright and you found evidence that 14 had been
18 consumed. Is that right?

19 A That's correct.

20 Q Okay. Of course, there was one other occupant in
21 the victim's boat that wasn't here to tell her story
22 and to tell whether she had any drinks that night.

23 A That's correct.

24 Q Okay so those 14 were not consumed by three
25 occupants of the vessel but by four, is that right?

1 A That's correct.

2 Q Mr. Kent asked you whether or not his client had
3 told in his statement that his boat's taking on
4 water. Do you remember that?

5 A I do.

6 Q In your examination of Mr. Morris's boat, was there
7 any hole or evidence on the boat itself that it had
8 taken on water?

9 A No, it was not.

10 Q Are there any risks that it would take on water?

11 A No, it was not.

12 Q And in fact, Mr. Morris drove the boat, after the
13 collision, to the DNR boat house.

14 A Yes he did.

15 Q Mr. Kent asked you several questions about the
16 contributing factor or as he said the gravity of
17 your reckless homicide story one being two fast for
18 conditions and failure to maintain a proper lookout.
19 Are there other circumstances that you took into
20 consideration in making that charge?

21 A Yes, speed.

22 Q What else?

23 A Speed, lighting on the lake being dark.

24 Q Darkness. Nighttime.

25 A Nighttime, the conditions taking place.

Mr. Spires - Redirect by Mr. Durant

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1 Q How about a degree of speed?

2 A Yes, very much so a degree of speed.

3 Q He asked you whether or not, I think he used the
4 number 75 miles per hour was would be considered
5 reckless on the lake. And I think you said depends
6 on circumstances.

7 A Depends on the circumstances.

8 Q And answer this: is 50 miles per hour on the lake at
9 night reckless?

10 A Yes.

11 Q Finally, the defendant in his statement told you
12 that he was only going 15 to 20 miles per hour. Is
13 that right?

14 A That's correct.

15 Q Told you that he was only going a quarter throttle.
16 Is that right?

17 A That's correct.

18 Q And told you that he was not on plane. Is that
19 right?

20 A That's correct.

21 Q Are those statements consistent with your findings
22 upon examining his boat?

23 A No, it is not.

24 Mr. Durant: No further questions.

25 The Court: Re-cross?

1 **MR. SPIRES RE-CROSS BY MR. KENT:**

2 Q That Orangeburg weather report, I didn't create that
3 correct?

4 A What's that?

5 Q The Orangeburg weather report or wherever that
6 weather report, I didn't create that did I?

7 A No sir, you did not.

8 Q Okay. So whatever that is is what y'all gave me and
9 put in the case file and said that was the weather
10 report for this case?

11 A That's correct.

12 Q Okay. And as far as Mr. Morris's testimony about
13 taking on water or anything of that nature, all he
14 said in the statement - All that he said in the
15 statement was he checked to see if his boat was
16 taking on water. He never said there was a hole in
17 it or anything of that nature. He said he went to
18 check on his boat to see if it was taking on water.
19 Is that correct?

20 A Which statement are you looking at?

21 Q Your interview.

22 A The one that he gave to me?

23 Q Yes sir.

24 A Okay. This says that he saw some water in his boat,
25 he went to the bank to see if he had a hole in his

1 boat and we were not sinking.

2 Q Yeah, he didn't say there was one. He didn't say
3 anything, he said I went to check.

4 A That's correct.

5 Q Okay so that allegation there's a whole in it, he
6 went to check to see if there was a hole and any
7 water in his boat. Never said ...

8 A ... statement he gave me.

9 Q And the allegation of the State of South Carolina of
10 course, is that Mr. Morris was going too fast for
11 conditions out there that night and the conditions
12 were that it was nighttime and that speed was a
13 contributing factor. And of course, the further
14 allegation is that he was not maintaining proper
15 lookout.

16 A That's correct.

17 Mr. Kent: Thank you so much.

18 The Court: Alright, you can step down. Okay folks,
19 we'll break for lunch right now. Let's resume at 2:30 so
20 if you would, be back just a little before 2:30 and we
21 will start then. Please don't start deliberations or
22 discussion on the case. Enjoy your lunch.

23 (Lunch break was taken)

24 **(7/13 PM)**

25 The Court: We've got everybody back in. You got

1 your next witness?

2 Mr. Durant: Yes sir Your Honor.

3 The Court: Alright, bring the jury in.

4 (Jury enters courtroom 2:36 P.M.)

5 The Court: Okay, welcome back folks. We're going
6 to now resume the next witness by the State. Go ahead.

7 Mr. Durant: Thank you, Your Honor. May it please
8 The Court? State calls Rusty Harrington.

9 **MR. HARRINGTON EXAM BY MR. DURANT:**

10 Q Mr. Harrington, good afternoon. Would you tell the
11 jury where you live?

12 A Sumter.

13 Q And do you have a house on Lake Marion?

14 A Yes sir.

15 Q Here in Clarendon County?

16 A Yes sir.

17 Q Were you at your house on the evening of July the 3rd
18 of 2014 until the early morning hours of July the
19 4th, 2014?

20 A Yes sir, the whole week.

21 Q The whole week?

22 A Yes sir.

23 Q There have been some maps shown in evidence in this
24 trial. I'm going to show you State's exhibit 50 and
25 if you can't see it, I'd ask you to come down, but

1 maybe you could see from there. Do you see your
2 house on this map?

3 A Yes sir, I think so. Right where the dock part
4 stops and goes to the left.

5 Q Is it up here?

6 A Yes sir. I think that's it, yes sir.

7 Q Okay, that's your house? And is that where you were
8 on the evening of July the 3rd, 2014?

9 A Yes sir.

10 Q Did you have friends over at your house that
11 evening?

12 A Yes sir.

13 Q And how many friends?

14 A I probably had 15, 20 people staying there so.

15 Q Okay so you were kind of having a party that
16 evening?

17 A A good gathering, yes sir.

18 Q Do you know the defendant, Chad Morris?

19 A Yes sir.

20 Q How do you know him?

21 A Through my oldest daughter, when they were younger;
22 I think they went to school together and hung out a
23 little together.

24 Q Have you known him all of his life?

25 A No sir, probably since he was about 15, 14, 15 that

1 area.

2 Q Last 25 years you've known him?

3 A I guess. I don't know how old he is.

4 Q Had he ever been at your house before?

5 A Sir?

6 Q Had he ever been to your house before?

7 A I don't recall. I don't know if he had or not.

8 Q Did he happen to come to your house that evening?

9 A That evening of the accident?

10 Q Right.

11 A Yes sir.

12 Q Or that early morning.

13 A Yes sir.

14 Q He came to your house?

15 A Yes sir.

16 Q Were you expecting him to come?

17 A No sir.

18 Q You didn't know he was coming?

19 A No sir.

20 Q Had you spoken to him and invited him to come to
21 your house?

22 A No sir.

23 Q And let me ask you this, have you spoken to him
24 since then?

25 A Since the accident?

Mr. Harrington - Examination by Mr. Durant

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- 1 Q Yes.
- 2 A Yes sir. Maybe twice.
- 3 Q Maybe twice?
- 4 A Yes sir.
- 5 Q Have you spoken to him recently?
- 6 A Maybe six months ago, five months ago maybe.
- 7 Q Have you spoken to his attorney or anybody from his
- 8 office?
- 9 A Yes sir.
- 10 Q When was the last time?
- 11 A Couple weeks maybe.
- 12 Q Did you speak to his investigator?
- 13 A No sir.
- 14 Q Just his attorney directly?
- 15 A Yes sir.
- 16 Q What time was it you said Chad came to your house
- 17 that night?
- 18 A I don't know what time it was. I just know it was
- 19 after the incident occurred.
- 20 Q After midnight after the incident occurred?
- 21 A Yes sir. I don't know what time it was.
- 22 Q Okay. How did he come to your house?
- 23 A We were standing on the deck, talking and I seen him
- 24 come out the dark into the light where the flood
- 25 lights were shining.

- 1 Q Out of the dark from where?
- 2 A Off the beach area.
- 3 Q From the water, from the beach?
- 4 A Yes sir.
- 5 Q Okay so he came by boat?
- 6 A Yes sir.
- 7 Q To your house?
- 8 A Yes sir.
- 9 Q And were you standing out in the yard at the time?
- 10 A I was on the deck.
- 11 Q On the deck?
- 12 A Yes sir.
- 13 Q Did you see the boat pull up?
- 14 A No sir.
- 15 Q Did the boat have it's lights on when it came up?
- 16 A When I seen him, I didn't recognize any lights on at
- 17 that time.
- 18 Q Okay. So he came up out of the dark, never saw a
- 19 boat with lights pull up on the beach?
- 20 A No sir.
- 21 Q Did you know who it was at the time?
- 22 A When I seen him?
- 23 Q Yes sir.
- 24 A Yes sir. He come on to the deck with me.
- 25 Q Came on the deck of your house?

- 1 A Yes sir.
- 2 Q Did he make any statements to you on the deck?
- 3 A Yes sir.
- 4 Q What did he say?
- 5 A Told me that he thought he'd just run over somebody
- 6 and I asked him what did he mean and he said I
- 7 thought I run over somebody and they won't let me
- 8 help them.
- 9 Q He said they won't let him help them?
- 10 A Yes sir.
- 11 Q Alright, he tell you where he ran them over?
- 12 A I asked him where and he just kind of pointed in the
- 13 general direction of Scarborough's's.
- 14 Q And how did you respond?
- 15 A I got my son and one of his friends to take my boat
- 16 and see if they could help.
- 17 Q Did Mr. Morris ever make any statements about going
- 18 to help?
- 19 A Sir?
- 20 Q Did he ever --- did he go to help and go with the
- 21 others to help?
- 22 A No sir, not with them.
- 23 Q Did he make any other statements to you about what
- 24 had happened?
- 25 A He told me they got in an argument and that he run

1 over a boat.

2 Q That he'd run over a boat.

3 A Yes sir.

4 Q What did you tell him to do?

5 A Well when my son come back and told me what he
6 thought happened and they were at Scarborough's's, I
7 told him that I felt like he needed to go to
8 Scarborough's's and tell his story, tell what
9 happened.

10 Q And how did he respond?

11 A In the beginning, he told me that he would take care
12 of it tomorrow, in the morning.

13 Q Take care of it in the morning.

14 A As we talked, we decided it was best for him to do
15 it that night.

16 Q And did --- precisely what he told you is "I ain't
17 going tonight. I'll talk to them in the morning."
18 Is that right?

19 A I think so, yes sir.

20 Q Okay, is that what you wrote in your statement to
21 law enforcement?

22 A I think so, yes sir.

23 Q So after he told --- you urged Mr. Morris to go and
24 talk to authorities at Scarborough's's, he told you
25 he wasn't going and he'd talk to them the next

1 morning?

2 A Right, when I recommended and told him he needed to
3 go to Scarborough's's, he told me that he would talk
4 to them in the morning.

5 Q What happened after that?

6 A I don't know how long it was after that that a game
7 warden came in the slough beside my house and there
8 was a guy living there by the name of Nathan, a
9 friend of mine. He had a flashlight and he kind of
10 flicked the flashlight at the game warden and me and
11 Nathan and Chad and several others come off the deck
12 and met the game warden out on the corner. And I
13 asked him was he looking for a boat that was in an
14 accident. He said yes sir. I said this is the boat
15 and these are the people that were in the boat.

16 Q How long had it been since Chad got to your house
17 that that happened?

18 A I would say 45 minutes to an hour.

19 Q During that 45 minutes or an hour, did Mr. Morris
20 call 911?

21 A Not to my knowledge, no sir.

22 Q Did he --- he didn't call law enforcement to tell
23 anybody where he was or who he was?

24 A No sir, not to my knowledge. I don't think that was
25 on his mind. I think he was more concerned and

1 shook up from the way he was acting.

2 Q And so the game warden came up and you identified
3 Mr. Morris as the one that had been involved in the
4 wreck?

5 A Him and there was another guy and a lady.

6 Q The other guy?

7 A I think his name is Frankie Card or I don't know the
8 lady's name. The lady is his wife but I don't know
9 her name.

10 Q But they came off the boat with Chad that evening?

11 A Yes sir. Frankie and my son-in-law are cousins.

12 Q And after DNR - did they take Chad with them at that
13 time?

14 A Yes sir. They had some conversations about whether
15 the boat was safe. And I think Chad asked to borrow
16 a flashlight from the game warden to make sure it
17 weren't taking on water and the game warden told him
18 to get in the boat and follow him at that time.

19 Q Had Chad ever asked for the flashlight that you had
20 to look at the boat?

21 A No sir.

22 Q Did you have any further involvement after DNR
23 officer came and took Chad with him?

24 A The next day, game wardens --- sometime during the
25 night, my son-in-law went and got the trailer for

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1 the boat and brought it back to the house. And
2 there were two game wardens. I don't remember which
3 two it was came back to the house that night --- the
4 next day and got the trailer.

5 Q And at some point, the game warden came and talked
6 to you about what had happened.

7 A Come to my house in Sumter, yes sir. Actually two
8 different ones.

9 Q After that, did you have any further involvement?

10 A No sir. Other than just hearing rumors.

11 Q Alright, that's all the questions I have. Please
12 answer any Mr. Kent may have for you.

13 A Yes sir.

14 **MR. HARRINGTON CROSS BY MR. KENT:**

15 Q Mr. Harrington, how are you sir?

16 A Fine sir, how are you?

17 Q We have not met in person, but we've talked several
18 times on the phone on this case. My name is Shaun
19 Kent. We have talked.

20 A Yes sir.

21 Q I don't have a lot of questions for you but we need
22 to make sure and you're kind of soft-spoken, you did
23 a good job. Make sure we speak loud and clear so
24 everybody on the jury can hear everything that you
25 say.

1 A Yes sir.

2 Q And I want to go back to the testimony that you just
3 gave to the State. Questions about Mr. Morris
4 having his lights off or anything of that nature;
5 are you saying that his lights were off when he came
6 up to your beach?

7 A When he entered the beach, I don't know. When he
8 was coming into the yard walking, he actually ran to
9 the house.

10 Q Okay so he came to the house. He wasn't --- the
11 lights weren't turned off. You're not testifying
12 ...

13 A He beached the boat and then I didn't see him until
14 he come into the light.

15 Q Okay.

16 A I didn't know he was there until I seen somebody
17 running into the light from the dark.

18 Q And you had talked about Chad seemed shook up; tell
19 the jury from your point of view how Chad was acting
20 that night. Was he laughing? How was he acting
21 when you saw him?

22 A He was real nervous, shaking, seemed to have some
23 concern as to what happened and that he wasn't
24 allowed to help. He told me that he had run over
25 someone but he was just real quiet, just kind of

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1 like I don't know how to explain it. I guess in a
2 daze you know?

3 Q Just in a daze, a little bit of shock?

4 A I would think so, yes sir.

5 Q And the second he came off and came and talked to
6 you, he said hey I just hit somebody, I think I just
7 hit somebody. Did he talk about the fact of whether
8 or not he saw lights on what he hit or anything of
9 that nature? Did he tell you that spontaneously?

10 A I don't remember exactly but he did say that was the
11 first thing that when he come on the deck and he
12 told me that he thought he'd hit someone and that
13 they had got in an argument and they wouldn't let
14 him help. He come to the house and that's when I
15 sent my son and one of his friends.

16 Q And Rusty, do you remember him telling you something
17 to the fact that he hit a boat in the middle of the
18 lake that didn't have lights on? Do you remember
19 that?

20 A I remember him telling me he hit a boat that didn't
21 have lights on, yes sir.

22 Q So he told you that spontaneously while he was
23 nervous, upset, talking to you?

24 A Yes sir.

25 Q Okay. And then after that, and there's some

1 question, after that --- and this happened pretty
2 quickly. Is that safe to assume?

3 A Yes sir. I mean that was the first thing he did
4 with when he got to the house and then me and my son
5 kind of got off to the side and talked when he got
6 back and like I said it was maybe 45 minutes to an
7 hour before we saw the game warden.

8 Q And did Chad, when you saw the game warden, did he
9 take off and run and try to hide or anything like
10 that or did y'all all go together?

11 A We went out there as well.

12 Q So y'all all went over there together to flag down
13 the game warden? Chad wasn't trying to hide or
14 anything of that nature?

15 A Yes sir.

16 Q And I want to go to that statement Chad said hey I'm
17 not going to deal with this or I'll talk about this
18 in the morning or whatever he said to you. How long
19 did it take for you --- and I don't want to say
20 change his mind, how long did you take to talk to
21 him and say Chad what do you think.

22 A Well I just told him I said if it's truly an
23 accident, then you need to tell what happened.

24 Q Did he agree?

25 A Tell your side. And he agreed with me after we

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1 talked about it.

2 Q He agreed with it shortly after you said if it's an
3 accident just go tell your side of the story?

4 A Basically, yes sir.

5 Q And he agreed with you?

6 A Yes sir.

7 Q And around that time is when the game warden ...

8 A It was a few minutes later the game warden come up.

9 Q And then Chad voluntarily went and talked to the
10 game warden?

11 A When we seen the game warden, I told him come on
12 let's go talk to the game warden and then he walked
13 right with me the whole way.

14 Q He walked right with you the whole way?

15 A Yes sir.

16 Q You weren't holding his hand or tackle him or
17 anything like that?

18 A No sir.

19 Q So he went the whole way, saw the game warden ---
20 and you guys were all flagging the game warden down
21 or just one of you?

22 A It was several of us went out there, yes sir.

23 Q And tell me about this. There was a party at your
24 house that night?

25 A I don't know if you'd call it a party. I mean,

1 there was a lot of people there. But the people
2 that were there for the most part were the ones that
3 were staying there and we were just kind of all
4 hanging out. We were having a few drinks but we
5 were all hanging out on the deck.

6 Q When you saw Chad that night, did he appear
7 intoxicated or anything of that nature or just
8 shocked?

9 A No sir.

10 Q And then tell me about Chad came up out of the dark,
11 came up to you, told you what happened, is that
12 correct?

13 A Yes sir.

14 Q Then later, the game warden - you guys flagged down
15 the game warden and that's when Chad said hey before
16 we go any farther, I really need to check this boat
17 or something like that?

18 A He asked to borrow a flashlight to look at the boat
19 to make sure that it wasn't taking water on.

20 Q Okay.

21 A He opened the back deck, shined the light down in
22 there.

23 Q And then got into his boat and went with the game
24 warden?

25 A Yes sir.

1 Q And you witnessed this and you saw that for
2 yourself?

3 A All three of them actually went with the game
4 warden.

5 Q Thank you so much Rusty. That's all the questions I
6 have.

7 A Yes sir.

8 The Court: Redirect?

9 Mr. Durant: No redirect.

10 The Court: Alright ...

11 Mr. Durant: The State will call Gregory Mains.

12 Clerk: State your name.

13 Mr. Mains: James Gregory Mains.

14 Clerk: Do you swear or affirm that the testimony you
15 give will be the truth?

16 Mr. Mains: I do.

17 **MR. MAINS EXAM BY MR. DURANT:**

18 Q Mr. Mains good afternoon.

19 A Good afternoon.

20 Q Tell the jury where you live.

21 A I live [REDACTED] Nettles Road, Sumter, South Carolina.

22 Q How long have you lived there?

23 A I've lived there two years.

24 Q Do you know the defendant in this case, Chad Morris?

25 A I met him the night of the accident. We didn't know

1 each other too well.

2 Q The night of the collision on July the 4th of 2014?

3 A Correct.

4 Q How did you meet him that night?

5 A My ex-wife and I, we had put in at Taw Caw Park to
6 go fishing and a guy who was with Chad, Frankie
7 Card, he yelled out to me and we met them.

8 Q So y'all were at Taw Caw and y'all met up. Were you
9 on a boat as well?

10 A That's correct.

11 Q What kind of boat?

12 A It's a 14 foot Warrior, 20 horsepower Yamaha.

13 Q Is that a jon boat?

14 A That's correct.

15 Q Did you go --- did y'all go anywhere with Mr. Morris
16 that night?

17 A Yeah, we followed them to, it was Goat Island Bar
18 and Grill.

19 Q Okay and what time was that?

20 A Roughly seven, eight o'clock. I don't remember the
21 exact time.

22 Q And Mr. Morris was in a boat and you followed, you
23 and your wife followed him to Goat Island is that
24 right?

25 A That's correct.

- 1 Q What kind of boat was he driving?
- 2 A I don't know the exact, you know, brand but I know
- 3 it was a bass boat.
- 4 Q A bass boat?
- 5 A I don't know the size of the motor or anything like
- 6 that.
- 7 Q So you're driving a jon boat and he's driving a bass
- 8 boat and did you follow him from Taw Caw to Goat
- 9 Island?
- 10 A That's correct.
- 11 Q When you drove from Taw Caw to Goat Island, did you
- 12 drive wide open in your boat?
- 13 A Yes, sir.
- 14 Q How fast will your boat --- and I say wide open full
- 15 speed, how fast will your boat go at full speed?
- 16 A Full speed with just me, I clocked it before with my
- 17 GPS at 22. I had my wife in there and cooler so
- 18 maybe 17, 18 I'd guess.
- 19 Q Were you able to keep up with Mr. Morris's boat
- 20 going 22 miles an hour in yours?
- 21 A No, his goes a lot faster than mine.
- 22 Q Was he driving faster than you?
- 23 A He was driving faster and then stopped and we'd
- 24 catch up to him.
- 25 Q Did he ever drive fast enough to get out of sight?

1 A Not at that point. When we were on the way to Wyboo
2 where Scarborough's's is, he got out of sight there
3 but we caught back up with him.

4 Q Okay so y'all went to Goat Island for a little
5 while; you're driving 22, he's driving faster than
6 you in his boat and y'all went to Scarborough's's or
7 you went to Goat Island. I'm sorry.

8 A That's correct.

9 Q And you stayed at Goat Island for a little while?

10 A An hour and a half, two hours if I had to guess.

11 Q And did y'all leave together from Goat Island?

12 A Yes.

13 Q And where was you going from there?

14 A We were going --- the original plan my wife and I,
15 we were going fishing and where we were fishing,
16 there's a little cove next to Scarborough's's and
17 that's where we were headed. But from Goat Island,
18 we had went, we stopped at one other place when we
19 turned into Wyboo, I think Lakeview.

20 Q Lakeview?

21 A I'm not sure the exact name of it. Yeah we didn't
22 stay there maybe five or ten minutes. Then after
23 that, we planned on going fishing after that and
24 then I'm not sure if they were going to the lake
25 house or somewhere.

1 Q Were y'all going to the lake house as well?

2 A My wife made a comment about going there to use the
3 restroom and I told her we would go to
4 Scarborough's's right there because we were fishing
5 right there and that's when she decided she didn't
6 want to go there.

7 Q So did you follow Mr. Morris from Goat Island to
8 Lakeview?

9 A Yes.

10 Q How was he driving during that period of time?

11 A He'd drive off a couple of times and we'd catch back
12 up to him.

13 Q Could you describe his speed for us?

14 A I don't know exact speed he was going. I know he'd
15 drive up ahead of us for a ways, faster than we were
16 going.

17 Q Okay. How about after y'all left Lakeview and you
18 were going from Lakeview to Scarborough's's?

19 A We were going to Scarborough's's area.

20 Q Alright did you follow him from there as well?

21 A Well, I didn't really --- I planned on going fishing
22 over there but when he left from Lakeview, I didn't
23 really see him anymore after that. They took off
24 and I think the next time, yeah, I didn't really see
25 him anymore. That's when I pulled up on the

1 accident.

2 Q How about going from Goat Island to Lakeview when
3 you were following him, did he ever go fast enough
4 to get out of sight from you?

5 A Yes..

6 Q And you were going 22 miles an hour?

7 A Yes.

8 Q He drove fast enough to get out of your line of
9 sight? And then he would stop and wait on you to
10 catch up?

11 A Correct.

12 Q Did he do that more than once?

13 A A couple times.

14 Q Okay. Were you going full speed again?

15 A Yes.

16 Q But rather than drive at your speed, he drove off
17 ahead of you and stopped several times and waited
18 for you to catch up and then took off again. Is
19 that right?

20 A Yes.

21 Q After you left Lakeview and were headed toward
22 Scarborough's's, did you lose sight of him again?

23 A Yes. I don't remember seeing him again after that.
24 We may have stopped once but after that, they were
25 gone.

- 1 Q Do you know where he was going?
- 2 A I believe they were going to a lake house,
3 somebody's lake house over there.
- 4 Q But were y'all headed in the same direction?
- 5 A Yes.
- 6 Q Did you lose sight of him?
- 7 A Yes.
- 8 Q Were you going 22 miles an hour?
- 9 A Yes.
- 10 Q Did see a collision that night?
- 11 A No, I didn't see it.
- 12 Q Did you drive up to the collision later?
- 13 A Yeah, I heard yelling so I drove over towards the
14 collision. I didn't know at the time they were the
15 ones that hit them.
- 16 Q And I should have asked you this earlier but you are
17 the Army medic that there has been some testimony
18 about?
- 19 A Yes.
- 20 Q Former Army medic?
- 21 A Well I was actually, my primary was infantry, but
22 when I was deployed, I went through a lot of medical
23 training; I was our team medic over there so.
- 24 Q You were deployed overseas?
- 25 A Yes.

1 Q Where?

2 A Iraq.

3 Q How long were you in the military?

4 A A little over four years.

5 Q And was that the Army, is that the right branch?

6 A Yes.

7 Q Where were stationed?

8 A Fort Worth, Texas.

9 Q Okay.

10 A And also El Paso, Texas.

11 Q So you came up in your jon boat and you and your
12 wife at the time, what was her name?

13 A Lori.

14 Q You and Lori came up in the jon boat, came up to the
15 collision --- the site of the collision after it?

16 A Yes.

17 Q What did you find when you got there?

18 A Can you repeat that?

19 Q What did you find when you got to the collision?

20 A I heard a lot of yelling before I got there. I
21 really couldn't tell you exactly what was being
22 said, I couldn't make it out. I was more focused on
23 the boat and I think I heard somebody say something
24 she's bleeding, she's hurt. That's when I pulled up
25 and got on the boat.

1 Q You got on the boat with Hailey, with the victim?

2 A That's correct.

3 Q Did you help load her up on the other boat that had
4 come to help?

5 A Yes.

6 Q When you got to the site of the collision, did you
7 see Chad Morris?

8 A I didn't see him.

9 Q Did you hear any boat crank up and leave?

10 A When I first pulled up and I heard the yelling, I
11 heard a boat take off. But I didn't know it was
12 them at the time.

13 Q When did you find out that it was Chad?

14 A When I was at the landing after I gave my statement,
15 my ex-wife told me that she thought Chad and Frankie
16 were the ones that hit them.

17 Q But you didn't see Chad there when you got to the
18 collision?

19 A No.

20 Mr. Durant: That's all the questions I have.

21 Please answer any that Mr. Kent may have.

22 A Okay.

23 **MR. MAINS CROSS BY MR. KENT:**

24 Q Gregg, how are you doing, sir?

25 A Good.

1 Q I haven't had the pleasure of meeting you. My name
2 is Shaun Kent. I have a few questions for you. I'm
3 going to give you plenty of opportunity to answer
4 the questions okay?

5 A Okay.

6 Q If you don't understand something I say, just say
7 please Shaun I don't understand exactly what you're
8 saying. Okay?

9 A Okay.

10 Q Talking first about Chad going in front of you and
11 starting and stopping, and let me stop preface in
12 saying I don't know much about water. So if I say
13 something that's ignorant, feel free to correct me.
14 But my understanding is wherever you guys were
15 coming from originally, there was a bunch of stumps
16 in the water, a whole bunch of wood and stump and
17 logs in the water?

18 A Yeah.

19 Q And so Chad would go ahead of you and then wait for
20 y'all to catch up to make sure, and I think he was
21 asking are y'all okay and are you safe and things
22 like that?

23 A I ...

24 Mr. Durant: Judge, I'm going to object to the
25 commentary.

- 1 Mr. Kent: That's a question.
- 2 A I don't remember exactly what was said that night.
- 3 I mean, I remember he'd take off ahead of us and
- 4 stop and wait on us and go again.
- 5 Q Wait on y'all to make sure y'all were safe?
- 6 A Correct.
- 7 Q Okay. Gregg, I'm going to ask you a question and I
- 8 don't mean to be disrespectful about this. You had
- 9 had some drinks that night?
- 10 A Yeah I did.
- 11 Q And you would agree with me at some point there's
- 12 lots of things and you had testified before under
- 13 oath there's a lot of things that you don't remember
- 14 about that night?
- 15 A Yeah.
- 16 Q You were actually intoxicated to the point that at
- 17 some point you had to let your wife drive the
- 18 vehicle. Would you agree with me there?
- 19 A Yeah I asked her to drive.
- 20 Q You asked her to drive because you were a little bit
- 21 intoxicated and there's just a lot of things that
- 22 you simply just don't remember about that night.
- 23 A I don't remember the things that were said or things
- 24 like that, I remember what I told you, what I
- 25 testified.

1 Mr. Kent: Thank you so much. That's all the
2 questions I have.

3 A Okay.

4 The Court: Redirect?

5 Mr. Durant: No redirect Judge.

6 The Court: You can step down.

7 Mr. Durant: State will call Jordan Douglas.

8 Clerk: State your name, please.

9 Mr. Douglas: Jordan Douglas.

10 Clerk: Raise your right hand, place your left hand
11 on the Bible, do you swear or affirm your testimony will
12 be the truth?

13 Mr. Douglas: I do.

14 MR. DOUGLAS EXAM BY MR. DURANT:

15 Q Mr. Douglas good afternoon. Would you tell the jury
16 where you work?

17 A I work Clarendon County. I do some in Sumter
18 County, but most of my work is done right around
19 Clarendon County. We do work a little bit around
20 other areas of the state but like I said I focus
21 mostly in Clarendon County.

22 Q And obviously you work for the Department of Natural
23 Resources?

24 A I do.

25 Q How long have you worked there?

- 1 A I've been on three years and two weeks.
- 2 Q Alright so since 2013?
- 3 A That's correct.
- 4 Q Were you on call, maybe you are always on call, but
- 5 in the early morning hours of July the 4th of 2014?
- 6 A I was not on call but Officer --- well anytime we
- 7 have a bad accident, most of us try to make it to
- 8 the scene of the accident to help out.
- 9 Q Do you actually live in Clarendon County?
- 10 A I do, yes.
- 11 Q Do you remember getting a call about a boating
- 12 collision in the early morning hours of July the 4th
- 13 of 2014?
- 14 A I do.
- 15 Q What time did you get a call about it?
- 16 A It was at 1:12.
- 17 Q And do you have a copy of a report that you later
- 18 filled out with you?
- 19 A I do.
- 20 Q Does your report say what date that was?
- 21 A My report says July 5th. That was an error on my
- 22 part. I actually had another case that was made on
- 23 the 5th and when I did my report, I accidentally
- 24 switched the dates so a BUI was made on the 5th and
- 25 this was from the 4th.

1 Q So July 4th, 2014 you said it was 1:12 in the morning
2 that you got called out?

3 A That's correct.

4 Q And I guess --- were you in bed?

5 A I was.

6 Q And what did you do after you got the call?

7 A As soon as Officer Smith called me, I went ahead and
8 got up and got my clothes, got dressed in uniform
9 and I called her back to find out some more details
10 about what I need to do, where I need to go, who I
11 needed to talk to, who I needed to look for and she
12 just stated go ahead and get in your boat. My boat
13 was docked at the office and she said go ahead and
14 get in your boat and just drive out on the lake and
15 go towards the mouth of Wyboo and that she would
16 update me when she got more information.

17 Q So you went to the boat, the DNR boathouse in
18 Clarendon?

19 A That's correct.

20 Q And got the boat and left from there?

21 A That's correct.

22 Q Where was the first place you went?

23 A Well I started driving out towards --- I knew from
24 when I talked to her, she said that it happened ---
25 the accident occurred sort of by Scarborough's so I

1 knew to go ahead and head out towards Scarborough's
2 is kind of one of the last stops before you get out
3 to the end of the Wyboo Creek. So I just started
4 motoring out that way and just looking to see if I
5 can find anything that didn't look like it belonged.
6 And then when she called me again, that's when she
7 gave me some more information of what I need to look
8 for.

9 Q So you were in contact with other DNR officers to
10 see what information was out there that night?

11 A That's correct. I was --- up until that point,
12 Officer Smith was the only person that I had contact
13 with from our agency. She was the only person
14 period that I had contact with up until about ..

15 Q Is she your superior?

16 A She is not. She was with --- I believe she was with
17 our first sergeant and she was getting information
18 from him and just relaying everything to me by phone
19 so he could work on some other stuff.

20 Q You said up until that point so at some point later
21 you began to get other information from other
22 people?

23 A Once I got back to our office, that's when I started
24 talking with everybody else that was face to face.

25 Q At that point, did you know who you were looking

1 for?

2 A No sir.

3 Q Do you know --- did you know --- you didn't know the
4 defendant's suspect's name?

5 A I didn't know anybody's name. I hadn't been given
6 any names to look for. Like I said, until she
7 called me the second time, I didn't even know what I
8 was looking for. I just knew I was supposed to go
9 out on the lake and look for something that didn't
10 fit in.

11 Q What did you learn that you were looking for when
12 she called the second time?

13 A When she called the second time, that's when she
14 stated that we needed to be looking for a red
15 sparkly bass boat and she didn't know how many
16 occupants or who was in the boat. I just needed to
17 look for a red sparkly bass boat.

18 Q Do you know what time this was?

19 A I got out --- the call was at 1:12, I believe I got
20 out on the water maybe around 1:30 in the morning.
21 I didn't reach the slough in front of
22 Scarborough's's until maybe about 1:40, about 1:38,
23 1:40 in the morning.

24 Q So at 1:30 in the morning, DNR still didn't know who
25 they were looking for, just had a description of the

1 boat?

2 A That's correct. As far as I knew, we didn't know
3 who we were looking for. I just knew I was looking
4 for the bass boat.

5 Q No names of any of the suspects?

6 A No sir.

7 Q Or the location?

8 A No sir, no location.

9 Q At some point, did you come into contact with Mr.
10 Morris?

11 A Yes sir. At 1:45, that's the time that I came in
12 contact with Mr. Morris and the group of people that
13 he was with.

14 Q How did that come about?

15 A So what happened, I drove out towards
16 Scarborough's's because that's what Officer Smith
17 told me to do and when I got out that way, that's
18 when she started updating me, telling me what I need
19 to look for, the red bass boat. So I started
20 looking for that. I pulled my flashlight out and
21 was kind of scanning. She said there's a
22 possibility that they may be fleeing the scene, may
23 be running so I was kind of checking both sides. On
24 the right hand side because she said that's where
25 the accident occurred. I pulled up to the edge of

1 one of the sloughs and I heard somebody calling so
2 when I turned around, it was two young ladies, they
3 were on the end of the dock, kind of near the scene
4 of where they said the accident happened. So I
5 drove over to them and asked them what they had
6 seen, if they knew that everybody had gotten medical
7 attention. They said as far as they knew that
8 anybody who was injured had already had medical
9 attention and that the person that was involved in
10 the accident had driven around the corner to a
11 property maybe 200 yards from their property. So
12 that's when --- when I left them, I was trying to
13 rush because at this point, I still didn't know if
14 the person I was looking for was trying to get away.
15 So I backed out and started around the corner and
16 when I did that, that's when I was contacted by
17 another vessel and they stated that basically the
18 same thing. They said that they knew the boat that
19 we were looking for. They said they saw it go
20 around the corner and park on the beach so that's
21 when I drove around and found a group containing Mr.
22 Chad Morris at 1:45 in the morning.

23 Q At 1:45 AM is when you found him?

24 A That's correct.

25 Q Was it at Mr. Harrington's house?

- 1 A It was.
- 2 Q You may not be able to see from there. This map is
- 3 identified as State's exhibit 50. Mr. Harrington
- 4 just testified that this is house. Does that look
- 5 correct to you?
- 6 A Yes.
- 7 Q Is that where you found Mr. Morris that night?
- 8 A It is.
- 9 Q Can you tell me on this map where the girls were on
- 10 the dock that waved you down?
- 11 A They were the first dock going into the slew on the
- 12 right hand side.
- 13 Q Here?
- 14 A That's correct.
- 15 Q Okay so they were on this dock and they waved you
- 16 down and told you to go around the corner, that's
- 17 where Mr. Morris was?
- 18 A That's correct.
- 19 Q And you mentioned that you met a boat that also told
- 20 you to go around there?
- 21 A Yes.
- 22 Q Where was the boat?
- 23 A The boat pulled up almost all the way to the dock.
- 24 And they came ...
- 25 Q The same dock?

1 A Correct. They came from towards Scarborough's's.

2 Q So the boat had come from down here from

3 Scarborough's's?

4 A Right.

5 Q And they met you here and told you that they knew

6 where the defendant was?

7 A Right.

8 Q What did you do after that?

9 A Then so I asked those group of people I assumed that
10 not all seven or eight people in the group were on
11 the boat at the time of the accident. I still
12 didn't know how many people we were looking for or
13 who I was looking for so I just when I pulled up I
14 asked was anybody involved in the accident. I said
15 there's been an accident; I said anybody who's
16 involved in the accident please step forward and
17 everybody else please back up so that I can talk to
18 these people. And three people came forward, two
19 men and one woman. And as soon as I started talking
20 to them, I received another phone call from Officer
21 Smith and I asked her what she wanted me to do or
22 our first sergeant, Sergeant Wheeler wanted us to do
23 as I didn't have any statement books in my boat.
24 And she said that what they --- First Sergeant
25 Wheeler wanted us to do just bring the group in

1 their boat back to our office for questioning.

2 Q Alright so you took Mr. Morris back in his boat to
3 your office?

4 A He followed me back to the office.

5 Q Prior to following you back to the office --- Well,
6 let me just back up. Did anybody in the yard in
7 which you found Mr. Morris try to flag you down?

8 A Not that I could see. It was pretty dark over
9 there. I was running pretty good, my motor's pretty
10 loud. When I slowed down, that's when I heard the
11 two young ladies yelling for me, but I was already
12 past the point of Mr. Harrington's yard.

13 Q But they weren't in Mr. Harrington's yard were they?

14 A No, they were not.

15 Q Did you see anybody waving a flashlight in Mr.
16 Harrington's yard?

17 A I didn't. There was kind of a lot going on. I
18 didn't when I passed it. When I came back around
19 looking for the boat after the two young ladies and
20 the two men told me what I was looking for, I don't
21 remember for sure, but they could've been flagging
22 me down but nothing beforehand, I didn't see anybody
23 in the yard trying to wave me down.

24 Q Alright. Did Mr. Morris make any statements to you
25 before coming back with you to the boathouse?

1 A I'm not sure if it was Mr. Morris or who, but
2 somebody stated, somebody from the group of three
3 that claimed that they were in the accident said
4 that they were worried that their boat may be taking
5 on water. So they were afraid to follow me back to
6 our office that they may, their boat may sink. At
7 that point, I asked if they would like my flashlight
8 to look in their boat, make sure it's okay.
9 Everything appeared to be fine from my view, which I
10 was maybe 15 to 20 feet away, but I let him check it
11 with my flashlight and he said that he felt that it
12 was okay.

13 Q So he hadn't checked it yet?

14 A Not to my knowledge, he hadn't.

15 Q He used your flashlight to check it?

16 A That's correct.

17 Q After taking them back to the boathouse, the
18 Clarendon boathouse, did you have any further
19 involvement?

20 A No sir.

21 Mr. Durant: Beg The Court's indulgence. Mr.
22 Douglas, that's all the questions I have. Please answer
23 any Mr. Kent may have.

24 **MR. DOUGLAS CROSS BY MR. KENT:**

25 Q Officer Douglas, how are you doing sir?

Mr. Douglas - Cross by Mr. Kent

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- 1 A Good.
- 2 Q There's no need to pretend; I know you very well.
- 3 Would you agree with that?
- 4 A Yes sir.
- 5 Q And you have recently gotten married?
- 6 A Correct.
- 7 Q Congratulations.
- 8 A Thank you.
- 9 Q I don't have very many questions. I just want to
- 10 talk about a few things okay?
- 11 A Okay.
- 12 Q If at any point in time, you don't understand one of
- 13 my questions and you need me to repeat it, simply
- 14 just ask me to repeat the question okay?
- 15 A Okay.
- 16 Q The night that all of this happened, you would've
- 17 been on the force how long, approximately?
- 18 A The night that this happened, I would've been on
- 19 almost a year, 11 months.
- 20 Q The night that this happened, do you --- well let me
- 21 ask you this. You don't have any contemporaneous
- 22 handwritten notes or anything like of that nature
- 23 that you utilize way back when, do you?
- 24 A I don't have it with me.
- 25 Q Okay.

1 A Anything I had was put in my report.

2 Q Okay. And I want to talk to you about your report.

3 The report that we're talking about, you had
4 opportunity to review your report correct?

5 A Yes.

6 Q And your report, you'd agree with me is pretty
7 detailed?

8 A Somewhat.

9 Q It's specific times, 1:45 AM, I found the group at
10 1:48, I mean very specific.

11 A Right.

12 Q My only question is when was this report created?

13 A The report was --- it was --- I typed it up when
14 everything first happened and then once Officer
15 Spires asked me for the report, I went back in and I
16 had a few spelling errors and some other stuff that
17 I reviewed and I just kind of looked over it real
18 quick and then printed it off and gave it to him.

19 Q And I just ask you that, you would agree with me
20 that the report wasn't created until March 28th ...

21 A Right, that's when ...

22 Q If you'll let me finish my question. And I'm sorry.
23 I'm not trying to make you nervous. Madam Court
24 Reporter is taking down every word you're saying.
25 If we talk at the same time, she simply can't do it.

Mr. Douglas - Cross by Mr. Kent

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1 And I know you have the answer but if you'll let me
2 finish the question.

3 A Okay.

4 Q It just indicates that on March 28, 2016 is when
5 this report was officially created. Of course, I
6 didn't get the report. So I guess that would be my
7 question and now I'll give you plenty opportunity to
8 answer.

9 A Right so that's when I actually printed it off. I
10 typed everything up, but I didn't put my name or
11 anything at the bottom or the date until I printed
12 it off for Officer Spires.

13 Q And then my question is do we know when, according
14 to this document, do we know when it was created?

15 A I do not.

16 Q Okay and so according to this document, and I'll
17 give you a chance Jordan, when did you make this
18 document or do you know specifically the date that
19 you made it?

20 A I started working on the document the day after the
21 accident.

22 Q Yes sir.

23 A And I just kind of jotted down the most important
24 details that I wanted to make sure I had in there.
25 And then I kind of over the next two days, it was

1 within two or three days, I kind of got everything
2 on paper. I didn't spell check anything, I just
3 wanted to make sure I got everything from my memory
4 on to the computer.

5 Q And I understand that and the only reason I ask
6 those questions you didn't have contemporaneous
7 notes with you, you were going by your memories as
8 to what happened when you were writing your notes
9 the day and two days afterwards?

10 A I just had notes from where I got phone calls and I
11 had a couple of little notes jotted down which I
12 used in creation of the other.

13 Q And just for my gratification, what were those notes
14 that you had written down? Just so I know what ...

15 A It was just bullet points on times.

16 Q Okay. How long Officer does it take from where Mr.
17 Morris was picked up to get back to the lake house
18 or the DNR house? I don't know what it's called.

19 A It depends on how fast you're driving. If -

20 Q Let me put it this way: how long did it take y'all?

21 A It probably took us between 10 to 15 minutes.

22 Q Just making sure I'm doing the quick math here. So
23 according to this document at about 1:48 is when he
24 started to check for leaks - your taking down head
25 nods; she just can't take down shakes. Make sure we

1 say yes.

2 A I'm sorry. Yes.

3 Q Okay so about 1:48, he started to check for leaks.

4 A Correct.

5 Q About how long did that take? About a minute or
6 two?

7 A Yeah, less than a minute.

8 Q Less than a minute so we can say 1:49. And then
9 about what time, how long did it take for y'all to
10 leave and go back? Did you do it immediately or did
11 you talk anymore?

12 A If I remember correctly, I called Officer Smith one
13 more time to make sure we were good to go back and
14 then it took roughly 10 minutes from there.

15 Q So you would say you left about 1:50, 1:51?

16 A Yes, that's correct.

17 Q So about 1:51 and then it took about 10 to 15
18 minutes to get back to the ...

19 A Correct.

20 Q So you would've been back at about --- I'm so bad
21 with math because there is no 2:61. You would've
22 gotten back at about 2:04, 2:05; does that sound
23 about right?

24 A Somewhere around there. Between 2:00 in the morning
25 and 2:10.

1 Q Okay. And immediately, what happened after that or
2 do you remember from that point in time?

3 A From that point, what I did is I had them go ahead
4 and beach there, their boat, up at our clubhouse. I
5 felt that was the safest thing to do because we have
6 a floating dock but since they never had any
7 experience tying off to our floating dock, I assumed
8 that it would be safer just we had sandy beach and
9 if the boat had any leaks, that it would be better
10 if they just pulled the boat on to the sand in case
11 something did happen, in case it sprang a leak that
12 it wouldn't be, you know, it wouldn't go very far in
13 the water and we could saddle the boat.

14 Q Okay. How long did that take?

15 A That was --- as soon as we pulled up, it may have
16 taken 20 seconds.

17 Q Okay. And then what did you do after that period?

18 A After that, I went ahead and signed - went ahead and
19 jot down my notes.

20 Q Yes sir.

21 A And then I went, I waited for them to pull up and
22 that's when I went and examined the boat and that
23 was all the contact that I had with them.

24 Q Now you were asked questions on direct examination
25 about Mr. Harrington, Rusty Harrington and of course

Mr. Douglas - Cross by Mr. Kent

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1 you weren't here for his testimony but you're saying
2 you didn't see anybody waving a flashlight or doing
3 anything, you just didn't see that?

4 A I just didn't see it, no sir.

5 Q You're not saying it didn't happen, you didn't see
6 it?

7 A Right.

8 Q And I want to make sure my testimony --- your
9 testimony is correct; you had gone past where Mr.
10 Morris and them were and then had turned around and
11 come back?

12 A I had gone past but it wasn't, I'd maybe gone a
13 hundred yards past their house and that's when I
14 heard the girl screaming and I looked over to my
15 right and saw the two girls. I never saw anybody at
16 Mr. Harrington's property.

17 Q You never saw anyone at Mr. Harrington's property?

18 A I didn't.

19 Q You wouldn't have seen as Mr. Harrington testified
20 him walking toward the dock and chasing you down or
21 anything of that nature?

22 A No sir, I never saw him.

23 Q And make sure I understand your testimony right, Mr.
24 Morris voluntarily came with you correct?

25 A He did. That's correct.

1 Q And he voluntarily stepped forward and said I was
2 the one involved in the collision?

3 A Yes sir.

4 Q And he voluntarily told you I think it was a
5 question you asked who was the operator of the boat
6 and he voluntarily said I'm the operator of the
7 boat.

8 A That is correct.

9 Q And then came with you, got in his boat and he was
10 behind you when he was following you?

11 A Correct.

12 Q He wasn't in front of you.

13 A No.

14 Q So he was behind you; could've turned right,
15 could've turned left, just followed you directly
16 back?

17 A Right.

18 Q Thank you so much Mr. Douglas, Officer Douglas. I
19 apologize.

20 The Court: Redirect?

21 Mr. Durant: No redirect Judge.

22 The Court: Okay folks, why don't we take about a
23 10 minute break where we can let y'all use the restroom
24 and we'll figure out what the schedule is for the rest of
25 the day. Please do not discuss the case.

1 (Jury break 3:24)

2 The Court: Alright, we ready?

3 Mr. Durant: Yes sir, Your Honor.

4 The Court: Bring the jury in.

5 (Jury enters courtroom 3:34)

6 The Court: Okay folks, welcome back. We're going to
7 resume now with the State calls its next witness.

8 Mr. Durant: Thank you Your Honor. The State calls
9 Erica Flesch. Erica Flesch.

10 Clerk: Do you swear or affirm to tell the truth?

11 Ms. Flesch: I do.

12 **MS. FLESCH EXAM BY MR. DURANT:**

13 Q Ms. Flesch, good afternoon.

14 A Hi.

15 Q Will you tell the jury where you live?

16 A Sumter, South Carolina.

17 Q Did you happen to be on Lake Marion back on the
18 evening of July the 3rd, 2014?

19 A Yes sir.

20 Q Into the early morning hours of July the 4th, 2014?

21 A Yes sir.

22 Q Were you hanging out on a dock, on a boat? What
23 were you doing?

24 A We were out on the boat and then come back in.

25 Q Who did you go out on the boat with?

1 A I went out with Laughton and a few of our other
2 friends.

3 Q Laughton Jones?

4 A Yes.

5 Q Okay, that's your boyfriend?

6 A Yes.

7 Q Whose boat did y'all take out?

8 A Laughton's.

9 Q Laughton's?

10 A Yes.

11 Q Where did y'all leave from?

12 A His lake house.

13 Q His lake house?

14 A Yes.

15 Q I'm going to show you, there's a map up here which
16 has been marked as State's exhibit 50. Can you tell
17 from this map where Laughton's lake house is?

18 A I believe it would be in the top left slough.

19 Q Okay so up here?

20 A Yes.

21 Q Right so up here you think?

22 A Yes.

23 Q Around this area?

24 A Yes.

25 Q Okay. Is this its dock, the first dock ...

1 A Yes.

2 Q If you turn in the slew, the first dock on the
3 right, would that be it?

4 A Yes.

5 Q Is that Laughton's family lake house?

6 A He rents it.

7 Q He rents it?

8 A Yes.

9 Q Is that where y'all were staying that evening?

10 A Yes sir.

11 Q What time did y'all go out on the water on the boat?

12 A I'm not sure. I can't recall.

13 Q Do you remember seeing any other boats out on the
14 water that evening?

15 A When we were coming back is the only time I remember
16 glancing and seeing another boat.

17 Q And was it moving or sitting stationary?

18 A It was stationary. Just briefly I was riding. I
19 didn't pay much attention.

20 Q But you did see the boat out there in the water?

21 A Yes.

22 Q Tell the jury what happened after y'all got back to
23 the dock.

24 A So we got back to the dock and normally I'd get all
25 of our stuff off the boat, get Laughton's stuff and

1 so I got off the boat and Laughton was tying the
2 dock off and I was already making my way up to the
3 house. And that's when the collision happened and
4 Laughton shouts to me there's been a boat wreck,
5 like call 911, there's been a boat wreck; I'm going
6 to help. So he gets on the boat; he left. And a
7 couple minutes later, I walk over to --- I was like
8 well the neighbors probably should know that there's
9 been a wreck. So I'm walking over there and ...

10 Q Whose house --- let me back you up. First of all,
11 did you see the boat wreck?

12 A I did not see it.

13 Q Did you hear it?

14 A I barely. I didn't know it was a boat wreck until
15 Laughton screamed that there was a boat wreck.

16 Q And you said you walked over to the neighbor's
17 house. Who was the neighbor?

18 A The Harrington's house.

19 Q The Harrington's house. And where is the
20 Harrington's house in relation to Laughton's house?

21 A It's the next door neighbor to the left.

22 Q To the left. So if you're looking at the water,
23 it's to the left?

24 A It's to the left, yes.

25 Q Do they have a dock on the same slough as Laughton's

1 house?

2 A I don't believe their dock is in that slough. It
3 might be ...

4 Q Around the corner?

5 A Yes.

6 Q Does this look like the Harrington's house here?

7 A Yes.

8 Q So that's the house that you went to after you heard
9 about the wreck?

10 A Yes sir.

11 Q And tell me what you found when you got there.

12 A So I went over there and I was mainly just trying to
13 tell people that there had been a wreck and when I
14 got there I overheard people talking about it so
15 they'd already known. And then I saw two
16 individuals speaking that they had hit a boat. So I
17 knew, that's how I knew that those individuals were
18 involved in the wreck.

19 Q Did you know who they were?

20 A I did not know personally who they were, no.

21 Q Or by name?

22 A No.

23 Q Tell the jury what you did after that.

24 A After that, my purpose in going over there was just
25 to inform so after I knew that those individuals

1 were friends with all the people, I was sure that
2 they already knew. So I left, went back to the
3 house and I had no connection with Laughton because
4 I had his phone so I waited until he called me and
5 when he called me, I informed him that the
6 individuals were next door to us.

7 Q Where did Laughton call you from, do you know?

8 A Scarborough's's. He was at Scarborough's's.

9 Q So he had gone back out on the boat to help and then
10 later went to Scarborough's's?

11 A Yeah, he followed them and helped them get to
12 Scarborough's's.

13 Q And then called you from Scarborough's's?

14 A Yes sir.

15 Q And you informed him that the people that had been
16 involved in the wreck were at the Harrington's
17 house?

18 A Right.

19 Q Did you ever come in contact with law enforcement
20 that night?

21 A No, just the DNR officer when they were coming back,
22 I think it was Officer Jordan, Laughton came back he
23 was there I said this is not --- he's coming towards
24 our dock and I was like this is not where they are
25 the people who did it are over there. So I just

1 directed him.

2 Q So you waved the officer over to the Harrington's?

3 A Yes.

4 Q And after that, did you have any further involvement
5 in the case?

6 A None. That is all.

7 Q That's all the questions I have. Please answer any
8 Mr. Kent may have for you.

9 A Alright, thank you.

10 Mr. Kent: No questions for this witness.

11 The Court: Alright, you can step down.

12 Mr. Durant: The State will call Laughton Jones, Your
13 Honor.

14 Ms. Roberts: Please place your left hand on the
15 Bible and raise your right. Do you solemnly swear or
16 affirm to tell the truth?

17 Mr. Jones: I do.

18 **MR. JONES EXAM BY MR. DURANT:**

19 Q Mr. Jones, good afternoon.

20 A Good afternoon.

21 Q Tell the jury where you live.

22 A Sumter.

23 Q In Sumter, South Carolina? Does your family have a
24 house on Lake Marion?

25 A It's one I rent.

1 Q One you rent?

2 A Uh-huh.

3 Q Were you on Lake Marion on the evening of July the
4 3rd, 2014?

5 A Yes.

6 Q Into the early morning hours of July the 4th?

7 A Yes.

8 Q Can you tell on this map where your family's or the
9 house that your family rents is?

10 A Uh-huh.

11 Q Where is it?

12 A Where that top shadow is, going into that slough.

13 Q Right about here?

14 A It's the first dock.

15 Q Okay, so this dock?

16 A Right, yeah.

17 Q Is that right?

18 A If that's the first one.

19 Q Okay, the first dock in this slough?

20 A Yeah.

21 Q Were you down at the lake --- I may have just asked
22 you. Were you down at the lake that evening?

23 A Yes.

24 Q Who were you at the lake with?

25 A Erica and two other friends.

1 Q Were y'all out in the boat?

2 A We weren't out on the boat very long that night. We
3 were taking somebody back to their house on the
4 other side of the lake.

5 Q Do you remember what time y'all went out on the
6 boat?

7 A Probably would've been around 12:30.

8 Q After midnight?

9 A Yeah.

10 Q Do you remember whether there were many boats on the
11 lake that night?

12 A It was pretty calm.

13 Q Pretty calm? At some point, did --- well tell the
14 jury what happened when y'all took your friend, you
15 took them back across the lake?

16 A Yeah I took them to a house across from Camp Bob
17 Cooper, dropped them off and as we were pulling out,
18 I got about three docks down, just idling speed and
19 heard something behind me and there was a boat going
20 pretty fast and came up right behind me and then
21 jumped my wake and just kept on going, taking off.

22 Q Which direction was it going?

23 A Heading back towards the power lines, back towards
24 this area to the bottom of the map going to the top
25 heading that way.

1 Q And where were y'all in relation?

2 A It's not shown on the map right here; we were below
3 it.

4 Q Below it?

5 A Yeah.

6 Q So a boat passed y'all going this way, going toward
7 the top of the map.

8 A Correct.

9 Q And you say it jumped your wake?

10 A Uh-huh. It got within 30 feet of my motor and then
11 veered left and jumped my wake.

12 Q Did you see it before that?

13 A No.

14 Q What kind of boat was it?

15 A Kind of like a bass boat type thing, single engine,
16 you know, wasn't a big center console or pontoon or
17 anything like that. It was more of a smaller jon
18 boat bass boat type.

19 Q So y'all were headed back towards the powering at
20 that point.

21 A Uh-huh.

22 Q Had already dropped your friend off?

23 A Right.

24 Q Tell the jury what happened after that.

25 A About at that point, it didn't take us too much

1 longer to where our boat would enter the bottom of
2 this screen and I have to start left across the lake
3 because I was hugging the right side and I started
4 heading left across that top left slough and as I
5 was heading across, there was a boat in the water
6 and I was initially going to cut in front of that
7 boat and head on into my slough so they would've
8 been on my right. Saw a boat coming from the power
9 lines again, going very fast so I stopped veering to
10 head to my slough and straightened back out. So I
11 ended up going around them, the boat that was out in
12 the water sitting still into my slough.

13 Q So you saw a boat ...

14 A And after, you know after I started turning in, that
15 boat passed, that's when I made a comment that, you
16 know, if that's that same boat speeding up and down
17 the lake, they're going to kill somebody. And so as
18 we were making our left into that slough, we were
19 watching it to see where it was going and I saw it
20 kind of slow down once it got towards
21 Scarborough's's where that no wake is.

22 Q So you saw --- let's clarify. You saw a couple
23 boats. One is was it sitting stationary?

24 A Yes.

25 Q You said a boat was sitting out in the water. And

1 that's the boat you had to veer around to get into
2 your slough?

3 A I was either going to go cut in front of it or go
4 around. And I originally decided to cut in front of
5 it, but when I saw that boat coming, I pulled off a
6 little bit and then ended up going around them.

7 Q The boat that was sitting stationary did it have
8 it's lights on?

9 A Yes.

10 Q Any question in your mind the lights were on that
11 boat?

12 A No.

13 Q And so you had seen a boat headed toward the top of
14 the map, towards the power lines that had jumped
15 your wake, a bass boat.

16 A Uh-huh.

17 Q And then you saw another boat coming back from the
18 power lines towards Scarborough's's?

19 A Right down that line, pretty much.

20 Q Right down that line. Did it appear to be the same
21 boat you had seen just a few minutes ago?

22 A Same type.

23 Q Same type, a bass boat again?

24 A A bass boat that was going pretty fast.

25 Q And you saw it go back towards Scarborough's's?

1 A Uh-huh.

2 Q Did you see what that boat did afterwards?

3 A Not after that. Once they idled down and slowed
4 down, I saw the boat kind of come to a stop. That's
5 when I was easing into my slough.

6 Q What happened after that?

7 A I circled around to kind of parallel park my boat on
8 the dock, two girls got out of my boat and walked
9 upstairs and me and my other friend started tying
10 off the boat. Heard some commotion in the water,
11 out on the water, which is not unusual at night.
12 And looked up briefly and looked right back down to
13 finish tying off the boat and then I heard what was
14 the wreck. And initially we didn't know what it
15 was, but saw a boat continue to ride and slow down
16 and then when I looked back to the right, that's
17 when I saw another boat bobbing in the water like
18 that with their lights. So that's when I realized
19 it was the boat wreck, when I saw two boats.

20 Q Did you go back to the collision site?

21 A We immediately jumped in, untied the boat, jumped in
22 the boat and ran out there --- went out there.

23 Q Who went back?

24 A Me and Daniel.

25 Q You and Daniel? Y'all left the girls at the house?

1 A Right.

2 Q Tell the jury what y'all found when y'all got back
3 to the wreck site.

4 A When we got to the wreck site, on our way out there,
5 I had to make sure nobody was still in the water. So
6 we yell is everybody's okay and if there's anybody
7 in the water and I pulled up to the left side of
8 their boat and ...

9 Q Of whose boat?

10 A The boat that got hit.

11 Q Okay.

12 A And someone yelled to me yes, we have one critically
13 injured, we need help. And at that point in time,
14 Daniel, we were holding the boats, hopped over into
15 that boat to help out and then we just started
16 helping them.

17 Q Was the boat that had hit them, was it still there
18 at the time?

19 A When I pulled up, I didn't see it because I was
20 focused with the people that may be in the water
21 still, I wasn't sure. So as we were helping them, I
22 heard somebody from behind my boat yell at us and
23 when I turned around, the boat that had hit them was
24 off the back of my boat a little distance.

25 Q Did it appear to be the same boat you'd seen running

1 up and down the lake?

2 A Same type of boat, yes.

3 Q Same type of boat, a bass boat?

4 A Uh-huh.

5 Q Did y'all actually load the victim onto your boat?

6 A No.

7 Q You helped ...

8 A We loaded her onto a pontoon.

9 Q Where did y'all go from there?

10 A Everybody that was on the boat that got hit got into
11 the pontoon boat. We told them to go ahead and go.

12 I would drive my boat to Scarborough's's and Daniel
13 would drive the bass boat and follow me up there.

14 So we both drive my boat and the boat that got hit
15 to Scarborough's's.

16 Q What happened when you got to Scarborough's's?

17 A When I got to Scarborough's's, I guess there was a
18 lot of commotion going on, looking around to see who
19 it was and everything and then I ran up the road to
20 a house of somebody I know to borrow their phone and
21 call Erica back and let her know what was going on.

22 And at that point --- because I didn't have my phone
23 with me. At that point, when she answered, she said
24 that our neighbor's house, the people that hit them
25 are in the back yard of our neighbor's house.

1 Q What did you do with that information?

2 A I first went up and spoke to a police officer about
3 it. Wasn't sure if I was getting anywhere with that
4 information so I kind of scrambled around trying to
5 find somebody else and I ran into Jordan and Jordan
6 immediately followed me in my boat back to our
7 house, back to my dock. And when I got back to our
8 house, I parked my boat, he was right off my dock
9 and I told him he needs to go around to the big lake
10 side of their property to pull up to the front and
11 that's when the girls were in the yard saying
12 they're still over there.

13 Q You mentioned earlier that there wasn't many boats
14 out on the lake; did you see any other boats on the
15 lake besides your boat, the stationary boat, and the
16 one that had jumped your wake and come back down?

17 A Not that I remember.

18 Q Those were the only three boats you saw before the
19 collision?

20 A Yes.

21 Q Laughton, that's all the questions I have for you.
22 Please answer any Mr. Kent may have.

23 A Okay.

24 **MR. JONES CROSS BY MR. KENT:**

25 Q Mr. Jones, how are you doing sir?

1 A Good.

2 Q And I truly don't have very many questions. I just
3 want to make sure I understand, just clarification
4 purposes some of the things that you testified to.

5 A Yes sir.

6 Q The --- and I get confused on boats. I'm not a boat
7 person so I'm not very smart when it comes to boats.
8 You saw one boat going one direction originally. Is
9 that a yes? She can't take down head nods.

10 A Oh, I'm sorry. Yes.

11 Q Okay so you saw one boat going one direction.

12 A Yes.

13 Q What direction was that, the first boat you saw?

14 A The first boat would've been going up, starting at
15 the bottom and going to the top so it would've gone
16 that way.

17 Q Towards ...

18 A Towards the power lines.

19 Q Power lines. I keep hearing that. Alright the
20 first boat you would've saw was going towards the
21 power lines. That's the one that you said jumped
22 your wake?

23 A Correct.

24 Q Okay and then later you saw another boat, maybe the
25 same boat, you're not sure, but you saw ...

1 A Within a two minute period. We were going eight to
2 10 miles an hour and come around that corner, just
3 started heading towards the power lines, then I
4 immediately start making my way back into my slough.
5 That's when another boat ...

6 Q Another boat, going the opposite towards
7 Scarborough's's?

8 A Towards Scarborough's's.

9 Q I'm starting to figure this out. You saw another
10 boat going towards Scarborough's's?

11 A Correct.

12 Q Your boat, boat number three, and then boat number
13 four would be the stationary boat?

14 A Yes ...

15 Q I'm just making sure --- I'm not trying to trick
16 you. I'm just trying to make sure. So boat number
17 four would've been the stationary boat in the middle
18 of the lake?

19 A Correct.

20 Q Okay. And then anything else is what you heard.

21 You didn't see anything else. I think your
22 testimony was you heard the collision.

23 A Right.

24 Q That sound about right?

25 A Yes.

Mr. Jones - Re-direct by Mr. Durant

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1 Q Did you know the individuals unfortunately who were
2 on the boat?

3 A Yes.

4 Q Friends with them?

5 A I know them from Sumter, yes.

6 Q And Laughton, I was a little bit --- our memories,
7 you know how memories are and I think you made a
8 comment about the vessel that Mr. Morris was in at
9 some point you saw it out there a little distance
10 away, I think, was your testimony?

11 A Yes.

12 Q But you said you were concentrated on the people on
13 the other boat.

14 Q Right, when I pulled up on my out there, I didn't
15 want to hit anybody if they were in the water and
16 then when I pulled up beside them and we were
17 figuring everything out, that's when I heard
18 somebody behind me yelling and I turned around and
19 that was the first time I realized they were back
20 there, a little distance behind my boat.

21 A Okay, thank you so much.

22 The Court: Redirect?

23 Mr. Durant: Just one follow up.

24 MR. JONES REDIRECT BY MR. DURANT:

25 Q Laughton, do you believe that the boat that was

1 going up and down the lake was the same boat that
2 hit the victims in this case?

3 A That's my belief.

4 Q No further questions.

5 The Court: Re-cross?

6 Mr. Kent: Nothing further Your Honor.

7 The Court: You can step down. Alright, any other
8 witnesses?

9 Mr. Durant: Your Honor at this time, the State
10 rests.

11 The Court: Alright, well folks you've now heard the
12 evidence that you're going to hear from the State in this
13 case and so that's where we'll break for today. You're
14 still going to hear the defense side and you'll hear that
15 case tomorrow morning. Now that you've heard the State's
16 case, it's still improper for you to begin your
17 deliberations or discussions about the case. So it's not
18 proper for you to begin your deliberations or
19 discussions. Just go home, the same instructions I've
20 been giving you. Don't talk to anybody about the case.
21 Don't look at social media. We'll start back tomorrow
22 morning at 10:00. Thank you for your patience and we'll
23 see you tomorrow morning.

24 (Jury exits courtroom 3:58)

25 The Court: Alright. I'll entertain any motions if

1 you have any.

2 Mr. Kent: We do, Your Honor. Your Honor, I was
3 trying to get this to come up so I can show you so I'll
4 simply hand you copies. At this point in time, on behalf
5 of Mr. Morris, I'd make a directed verdict motion, taking
6 evidence in the light most favorable to the non moving
7 party who, of course, in this situation would be the
8 State of South Carolina, we would make a directed verdict
9 motion first on reckless homicide by operation of a boat
10 charge. Your Honor, I'm talking about some law and for
11 some reason I cannot get this to come up. But I would
12 just be talking about ... If you'll just give me one
13 moment briefly, Your Honor. It should be coming on the
14 screen in front of you Your Honor. Is your screen on?

15 The Court: No.

16 Mr. Kent: Is your screen still dark Your Honor?

17 The Court: Yes.

18 Mr. Kent: Still warming up?

19 The Court: It's warm.

20 Mr. Kent: That's fine. I'll just keep discussing
21 and we'll go from there. Your Honor, taking the evidence
22 in light most favorable to the non moving party, first
23 and foremost, the statute we'll be talking about is the
24 statute that the State of South Carolina has charged Mr.
25 Morris under, which is code section 50-21-115, which is

1 consumed inside of our boating statute, reckless homicide
2 by operation of a boat. When the death of a person
3 ensues within three years as a proximate result of injury
4 received by the operation of a boat in reckless disregard
5 in the safety of others, the person operating the boat is
6 guilty of reckless homicide. That would be the extent of
7 the definitions section basically inside of the reckless
8 homicide statute. So we have to find out what the
9 legislature and what the State intends when we're looking
10 at reckless homicide or what's reckless disregard of a
11 boat. So, Your Honor, what I suggest, and not even what
12 I suggest, but in that same statute if we go up to ...

13 The Court: I have it in front of me ...

14 Mr. Kent: Code section 50-21-111 which is reckless
15 operation of a boat offers us the definition, if not
16 examples, of what is reckless operation of a boat. The
17 legislature gave us examples of what is reckless
18 operation of a ...

19 The Court: There it is.

20 Mr. Kent: The legislature has given us examples of
21 what is reckless operation of a boat, as you see Judge,
22 included in the statute, which is now in front of you I
23 think.

24 The Court: Okay.

25 Mr. Kent: The first section, reckless operation

1 includes but is not limited to weaving through congested
2 vessel traffic at more than idle speed, or jumping the
3 wake of another vessel within 200 feet of that vessel, or
4 crossing the path or wake of another vessel when
5 visibility around the other vessel is obstructed, or
6 maintaining a collision course with another vessel or
7 object and swerving away in close proximity of the vessel
8 or object. The examples our legislature has given of
9 recklessness is basically knowing a risk and doing
10 something, understanding and knowing risk of doing it
11 either way, anyway. If we go up a little further Your
12 Honor ...

13 The Court: He's not charged with reckless operation,
14 he's charged with homicide.

15 Mr. Kent: I agree with you, Your Honor, but what
16 ended up happening is in the reckless homicide statute,
17 it says what is reckless operation. If somebody's acting
18 reckless operation of their boat when someone dies, then
19 that is reckless homicide. We can go back to code
20 section 115 and as you notice in the first line, when the
21 death of a person ensues within three years of the
22 approximate result of injury received by the operation of
23 a boat in reckless disregard of the safety of others, the
24 person is operating the boat is guilty of reckless
25 homicide. Which means we have to determine what is the

1 definition of reckless disregard of the safety of others.
2 That's why I suggest in the same code section, they
3 define reckless operation includes so they give examples
4 of what is reckless operation. Reckless operation
5 includes and it determines what recklessness is and what
6 the definition of reckless would be our argument ...

7 The Court: What reckless ...

8 Mr. Kent: Agreed Your Honor. Which means when we go
9 up to the additional statute above it, the very statute
10 above it is negligent operation of a water device, in
11 which they give us additional definitions of negligent
12 operation of a water craft. They've given us additional
13 definitions. Negligent operation includes, but is not
14 limited to, operating a water device at more than idle
15 speed in a no wake zone, failure to maintain a proper
16 lookout for other boats or persons, operating too fast
17 for conditions on the water, racing or pulling a skier
18 through a designated swimming area. Your Honor, our
19 legislature, and if we go --- our legislatures have given
20 us definitions of the differences between recklessness
21 and negligence. That's why we have those two statutes
22 included together. We are asked to define what is
23 recklessness and recklessness of course is knowing a risk
24 and that's why they've given us these examples. All of
25 their examples are things of jumping somebody else's wake

1 zone or going up to somebody and swerving at the last
2 possible second; they've given us those examples. In a
3 separate statute, in code section 50, they give us a
4 definition of negligence. Negligence is not knowing the
5 risk; negligence is basically doing just that, doing
6 that, being negligent. And one of the things they've
7 included in what is negligence is going too fast for
8 conditions or failure to maintain a proper lookout. It's
9 our position that our legislature has defined the
10 difference between recklessness and negligent. The only
11 thing the State has offered in this case is no
12 recklessness. And I've asked everybody, very
13 specifically, every witness was asked the same thing:
14 other than speed and potentially failure to maintain
15 lookout, have they done anything else? No. And I know
16 they're saying --- they've all said the same thing: he
17 was going too fast, you can't go too fast at night, going
18 too fast at night. Going too fast at night, at best Your
19 Honor, is negligence. If we read both of the statutes,
20 both of the examples, they told us what negligent
21 operation of a boat is. If you were going too fast at
22 night without doing anything else, it's negligence. Your
23 Honor, going with the logic with that makes sense if you
24 look at the fact there are no speed limits on the lake.
25 Which means you are not breaking any laws by going fast.

1 So they're saying if you choose to go fast, realize
2 that's negligent per se, that is negligence if you're
3 going too fast at night. That is the additional
4 condition that you're going too fast for. Additionally
5 Your Honor, I asked the investigating officer very
6 clearly what are the two major things and it was too fast
7 for conditions and failure to maintain a proper lookout.
8 Both of which is included in code section 50-20-110,
9 which Your Honor, I don't know where else, how much
10 closer it can get to the statutory section 50-110, 50-
11 111, and then 50-130. I mean 50-115. 115 they charge
12 him with reckless homicide. Reckless homicide section
13 says you cannot be in reckless operation of a boat. 50-
14 112 - I'm sorry 50-111 tells us what is reckless
15 operation of a boat. It says it is reckless to do things
16 such as jumping another person's wake. These are
17 questions I asked very directly: was he jumping another
18 individual's wake? No. Was he weaving through a
19 congested area? No. Was he doing anything that is
20 contemplated? I think those were exact questions I asked
21 Your Honor. I asked was he weaving through a congested
22 vessel traffic more than idle speed? No. Was he jumping
23 the wake of another vessel within 200 feet of that
24 vessel? No. Crossing the path of another vessel with
25 the visibility around the other object other vessel is

1 obstructed or maintaining a collision course with another
2 vessel or object and swerving away in close proximity?
3 Your Honor, our position is what they're doing in those
4 is they're saying, I don't want to call them extreme
5 athletes but it's basically an extreme athlete
6 definition, that if somebody is doing something and they
7 know and appreciate the risk at the time and are doing it
8 anyway. Somebody throws a baseball directly at your
9 head, let me throw a baseball at your head. Let me
10 swerve at the last possible minute to play chicken with a
11 buddy. A buddy of mine are driving our cars together and
12 I swerve at him at the last possible minute to play
13 chicken; when I swerve at the last possible minute, I hit
14 a pedestrian. Well that's reckless, Your Honor. If we
15 go again to the negligent section and I know we look at
16 included but not limited to, but that would be different
17 if that were the only statute that existed. Our
18 legislature gave us very specific examples in the
19 negligent statute on what is negligence and what they
20 have said is negligence is what they're accusing Mr.
21 Morris of. Going too fast for the conditions. Your
22 Honor, my argument would be what is too fast, but there
23 are no speeds at the lake but they're saying he was going
24 too fast at nighttime, shouldn't been done, it caused a
25 collision, that's negligence. For that reason Your

1 Honor, we'd move for directed verdict as to the reckless
2 homicide based upon the fact that the only evidence in
3 the record whatsoever is evidence of negligence, no
4 evidence whatsoever about recklessness exists. And I
5 know the State's position is going to be well there is
6 extreme speed. Well you can't determine extreme speed
7 when there are no speed limits. It would be one thing if
8 they say the speed limit is 35 and he was going 135.
9 Well that's not what we have here. There are no speed
10 limits. Some boats go 75 miles an hour on the lake.
11 Some boats go 50 miles an hour. Some lady testified that
12 she pulls her kids tubing at 35 miles an hour. And there
13 is no exact speed definition. That's why we were arguing
14 about the speed and the experts because there's no
15 witness who can testify as to the exact speed and even if
16 they could, going that speed isn't illegal. Thank you
17 Your Honor. Just from that position, I'll give the
18 solicitor an opportunity and then I'll make a motion as
19 to the other.

20 The Court: You want to address that?

21 Mr. Durant: Thank you Your Honor, may it please The
22 Court? Judge, as you are well aware, the standard at
23 this stage is the existence of any evidence and the
24 evidence is to be taken into light the most favorable to
25 the non moving party, which is the State of South

1 Carolina. As Your Honor pointed out and Mr. Kent
2 admitted that reckless operation examples which he gave
3 and the statute included are not exhaustive as the
4 statute clearly states but is not limited to. However, I
5 think really the response to Mr. Kent's argument is
6 probably found at argument itself is he tells Your Honor
7 that negligence is not knowing the risk whereas
8 recklessness is knowing the risk and doing it anyway.
9 The testimony in this case is not simply that the
10 defendant was speeding, it's that he was going alarmingly
11 fast. The testimony from the first witness was he was
12 going 50 to 60 miles per hour. The next witness said
13 fast. The next said extremely fast. The next said 40 to
14 50. The next said faster than my pontoon, which it goes
15 30 to 35. Two witnesses said jumped the boat like Dukes
16 of Hazzard. The next witness said pretty high rate of
17 speed. The next said pretty fast. And the final one
18 said very fast, he's going to kill someone. Actually
19 several people made the comment that they had seen him
20 driving earlier that night and had made the comment
21 before the collision that guy's going to kill somebody if
22 he keeps driving like this. So the testimony is not just
23 that he was going fast but alarmingly fast, exceedingly
24 fast. Your Honor, I use an example the other day, but
25 I'll modify it to take into account the speed limit

1 issue. I don't know if Your Honor got that storm in
2 Charleston on Sunday afternoon that I got here in the
3 northern part of Clarendon County, but I had some trees
4 knocked over in my yard and it was raining so hard that
5 you couldn't see 50 yards ahead of you. If I had been
6 driving down the interstate in that storm 70 miles an
7 hour, I would be within the speed limit. But that would
8 be too fast for conditions. If had been driving 120 in
9 that storm, that's exceedingly fast. To get from that
10 speed from the negligent speed where I appreciate - maybe
11 I don't know the risk, I'm within the speed limit, but to
12 get to the speed that I am exceedingly high rate of
13 speed, I have to have some conscious awareness of what
14 I'm doing. To drive 50 to 60 miles per hour at night on
15 the lake, you must have some conscious awareness of what
16 you're doing. You don't get that speed by accident. You
17 don't get to 50 or 60 miles an hour without first going
18 20 to 30 to 40 to 50. You don't get there by accident.
19 You have to be consciously aware of what you're doing.
20 The testimony is that he was going up and down the lake
21 at that speed. And there is testimony that he jumped a
22 wake; the last witness said he jumped a wake within 30
23 feet of my boat. The testimony is not that he's going
24 fast but it's exceedingly fast, at great speeds. You
25 don't get there by accident Judge. You have to be

1 consciously aware and that's what the recklessness
2 statute says. It's an indifference, a conscious
3 indifference to the rights and safety of others. You
4 don't get that fast without being aware of it and that's
5 the State's case Judge. And we think there are certainly
6 --- we submit there is, the record is replete with
7 evidence of recklessness in this case. Your Honor only
8 has to find something. The evidence must simply exist
9 for the State to win at the directed verdict state and
10 Your Honor, we would submit to you that there is ample
11 evidence in the record.

12 The Court: Do you want to respond?

13 Mr. Kent: Very briefly, Your Honor. And I
14 understand Mr. Durant's anger but the law is what the law
15 is. And in his example, there are speed limits on the
16 interstate. There are not speed limits on the lake. The
17 reason that I brought up that example with Investigator
18 Spires is it just so happens the other day I was on
19 FaceBook and I'm friends with our senator who helped pass
20 the law, John Land, who posted a picture with his self
21 and his granddaughter saying I'm going 75 miles an hour
22 on my boat, reliving my youth with my granddaughter and
23 takes a selfie. There's no problem with that. He's
24 going 75 miles an hour on the lake; there's no speed
25 limits on the lake and his post a picture. There are no

1 speed limits on the lake. And we can say that. We told
2 the jury there are no speed limits on the lake. So for
3 Mr. Durant to say he's going an extreme speed, well my
4 question is, what is an extreme? That's not the question.
5 That's why our statute being negligent operation of a
6 boat, it specifically says too fast for conditions. It
7 says it. If you are going too fast for conditions, at
8 best that's negligence. You're going fast. The
9 testimony has been the lake was clear, he was going fast
10 going down the lake. There is nothing in there that says
11 he knew and appreciated the risks. The difference
12 between recklessness and negligent: knowing disregard
13 versus careless disregard. Knowing disregard --- if a
14 man, in using Mr. Durant's example, we can take it
15 another way. Knowing disregard, if I'm going the speed
16 limit going down the interstate and an accident happens,
17 we say that's negligence. If a person knows the speed
18 limit and goes above the speed limit, that's still
19 negligence. If the person sees a car in front of them
20 and decides to swerve at the last possible time, that
21 means he knows there's a risk and I'm swerving at the
22 last possible second. Your Honor, respectfully, there is
23 a definition of negligence. It exists. We have code
24 sections that have said. The only testimony, and I've
25 been very clear to ask everybody, the only testimony

1 about anything concerning the accident was very simple:
2 he was going fast, he did not see us. He did not see us.
3 He was going fast. He was going fast. He was going
4 faster than I was going, which means he was going too
5 fast for the conditions. Their own investigator, he was
6 going too fast for the conditions. What were the
7 conditions? And Mr. Durant tried to get him to say some
8 other stuff, well isn't there some other stuff? Well
9 yeah, it was dark. Well isn't there some other stuff?
10 It was night. What is the other stuff? Well speed.
11 Because the entire case is speed and failure to maintain
12 a lookout, which are all codified under negligent
13 operation of a vessel, which gives us the definition of
14 negligence and at best, this is negligence as to the
15 reckless homicide.

16 The Court: Well, under your argument, I don't know
17 what would be left to violate. Reckless disregard to the
18 safety of others. The statute and legislature do not
19 define regardless disregard to safety of others. When
20 you turn that on a case by case basis. You know what
21 made me simply negligent during the day time and
22 recklessness at night. You've got a number of witnesses
23 testified that the defendant was going so fast that it
24 caught their attention to the point that one witness said
25 so fast something bad is going to happen. That's how

1 fast he was going. When you combine that that the fact
2 that it's nighttime and he clearly did not see that there
3 was another boat again that the testimony of people
4 including people that were not on that boat. All folks
5 said the stationary boat had lights on. So they didn't
6 see it. They were going too fast, they weren't
7 maintaining a proper outlook, they were going excessively
8 fast at night. I think all of those things are evidence
9 that the jury can determine violates section 115. That
10 motion is denied.

11 Mr. Kent: Thank you Your Honor. And then of course
12 with the second motion, which will not be as lengthy. For
13 directed verdict as far as 50-21-130, failure to maintain
14 --- I mean I'm sorry. Duties of a vehicle, vessel,
15 operator involved in a collision, penalties, persons
16 rendering assistance. Your Honor, first I'd offer ---
17 I'm going to give you a copy of it. Mr. Durant I don't
18 have an additional copy of it. Your Honor, I'm going to
19 give you a copy of a case that came out with the Supreme
20 Court and literally it's a case I'm sure you're familiar
21 with. I'm sure Solicitor Finney is familiar with. David
22 Paschal vs. Alan Wilson decision came today. Your Honor,
23 on page 16

24 The Court: I haven't read it but I wasn't sure if
25 their were issues ...

1 Mr. Kent: No Your Honor, there's not.

2 The Court: What page?

3 Mr. Kent: We're on page 16 of that opinion Your
4 Honor.

5 Mr. Kent: I think so Judge. I apologize. Your
6 Honor, an issue in that case was the battle between
7 Solicitor Paschal and Alan Wilson over the utilization
8 and understanding the statutes and what they take into
9 plain meaning and what they actually mean. Our Supreme
10 Court said even with Your Honor, the judges, and everyone
11 in the state looking at statutes, we need to interpret
12 them not to give them any type of absurd meaning, that we
13 need to read them with a common sense element no matter
14 what the statute is, we utilize some rationality when
15 looking at statutes. Looking at ...-

16 The Court: That's not new law.

17 Mr. Kent: Sir?

18 The Court: That's not new law.

19 Mr. Kent: I'm just giving you stuff that I read
20 Judge. It's just the most recent one. I just read it,
21 gave a copy to The Court but they were talking about
22 looking at the statutes in looking at them, you must give
23 them a rational meaning and don't use some type of
24 absurdity. Your Honor, understanding the facts in this
25 case they are awful. They just really are. It is tragic

1 what has happened in this situation. Our looking at the
2 failure to render aid statute on it's face and looking at
3 the evidence that has been presented, Mr. Morris did
4 render aid pursuant to the statute.

5 The Court: How so?

6 Mr. Kent: The statute requires a few things: he must
7 do something as reasonable as practicable as what is
8 required in the statute, give assistance as much as
9 practicable of the argument that contacting 911 is
10 reasonable in giving that assurance. Contacting 911 and
11 let them know they're in the middle of an accident is
12 practical.

13 The Court: There's no evidence that he called 911...

14 Mr. Kent: There is evidence that the individuals
15 inside his boat contacted 911 in front of him.

16 The Court: The only evidence that I heard was that
17 ... from a witness that, I can't remember who it was said
18 somebody said they called 911.

19 Mr. Kent: Your Honor, Mr. Morris ...

20 The Court: There's not evidence that he actually
21 did.

22 Mr. Kent: Mr. Morris's statement is in the record
23 two separate times, one on interview from Mr. Spires as
24 well as his statement to Mr. Jervey in which he said
25 Jessica called 911, Jessica was inside my boat. That's

1 evidence in the record that 911 was called. So there's
2 evidence in the record that they contacted 911, that 911
3 was contacted. There's evidence in the record very
4 clearly that Mr. Morris's boat was there. There is
5 evidence in the record that he stayed there long enough
6 until the other boats left. He went --- and there's a
7 question from law enforcement, what I get into the absurd
8 result is that the solicitor is arguing that he should've
9 given his information, he should've given his individual
10 information to the victims or the operator of the boat.
11 He gave all information necessary to law enforcement. He
12 did everything that he was legally responsible and
13 required to do to law enforcement. He gave this
14 information to them. The solicitor's making the argument
15 that just because he gave it to law enforcement, he did
16 not give it to the victims of the boat, which would
17 trigger an absurd result. The reason I say the word
18 absurd is if you were to bright line read the statute,
19 the operator of the other vessel is in violation of the
20 same statute. I know that sounds crazy and that's why I
21 said it's calls for absurdity, but the operator of the
22 other vessel is just as much in violation. The statute
23 is clear that if you do not give information to the other
24 boat involved in the collision and there is some form of
25 property damage or some damage to the other vessel

1 whatsoever, you must give your information to the other
2 vessel within a reasonable period of time. And if you do
3 not do that and someone has died in the incident, and it
4 doesn't say who, what boat or anything of that nature,
5 you are just as liable. Which, when I asked the
6 question, is absurd. What more is an individual should
7 be required to do? Call 911, get yelled at, told we
8 don't want your help, wait there as long as humanly
9 possible, go to law enforcement, give two separate field
10 sobriety tests, give a full statement, tell them
11 everything that happened, law enforcement lets you leave,
12 you give an additional statement the next day, gave your
13 information name, address, phone number, you've given all
14 information that is required, what more should an
15 individual be required to do? I understand that the
16 argument is well we wish he would've done x, y, and z.
17 But wishing somebody would've done something and what is
18 legally required are two separate things.

19 The Court: What's the State's reply?

20 Mr. Durant: Your Honor, I guess one thing Mr. Kent
21 and I can agree on is that his suggestion that the
22 victims were in somehow violation of this statute by not
23 giving their information to Mr. Morris when Mr. Morris
24 had fled the scene is absurd. There is ample evidence in
25 the record from the victim's, from all of the victims

1 from the three survivors that Mr. Morris did not so much
2 as give his name or information before he left the scene.
3 Furthermore, that the female on his boat threatened not
4 to call 911. The only evidence that possibly she did is
5 from Mr. Morris. His statement his statement that she
6 did call 911. The victims say she was threatening, she
7 was cussing us, threatening not to call 911 and then they
8 left before even giving their name and information. How
9 were the victims supposed to give their information to
10 the people that fled the scene? Your Honor as far as ---
11 Mr. Kent, his defense to this statute is simply that well
12 they were there for some period of time; they stayed for
13 a few minutes, that they didn't drive off immediately.
14 Their presence at the scene for a few minutes that is not
15 --- does not relieve them or satisfy their duty to render
16 aid under the statute; it certainly doesn't satisfy their
17 duty to give their information, their personal
18 identifying information to --- and the statute is to the
19 other people involved. Not to law enforcement; it's to
20 the other people involved. According to the testimony
21 Your Honor heard, law enforcement didn't even know who he
22 was an hour later. They had to find him. They didn't
23 even know who he was. So he gave law enforcement the
24 information after they found him at least an hour
25 following the collision. Testimony that he didn't so

1 much as throw out a line or a floatation device to any of
2 the people that were in the water, it's simply he left.
3 Moreover that he left upon hearing that there was a
4 person critically injured. So Your Honor, again,
5 opposition is that there is ample evidence in the record
6 that Mr. Morris is in violation of the failure to render
7 aid statute as well.

8 Mr. Kent: If I may? Going with the failure to
9 render aid, it is the duty of the operator of the vessel
10 involved in a collision, accident, or other casualty. If
11 you can do so without danger to his own vessel, crew, or
12 passenger to render assistance as it may be practical or
13 necessary. Those are the two key words: practical or
14 necessary. He was there, he contacted 911, the person
15 who was following him was a medic, there were other
16 people inside of the boat, there were people helping, he
17 was getting yelled at, told to go away, we don't want
18 your help. Effected by the collision, accident, or other
19 casualty including personal injury or property damage and
20 also to give his name, address, identification of his
21 vessel in writing and any person injured and to the owner
22 of any property damage in the collision, accident, or
23 other casualty. I know Mr. Durant doesn't like it, but
24 we're using the same absurd argument. He said that's
25 absolutely absurd to say the victims needed to give his

1 information but that's what makes this statute absurd.
2 The statute very specifically says anyone involved in an
3 accident and there's damage to the other vehicle, you
4 must give this information. It doesn't say who is
5 responsible, it doesn't say anything of that nature. If
6 you're involved in the collision, both of you must give
7 your information. So under the same respect, technically
8 under this statute, which is absurd, the victims in this
9 situation would've been required to give their necessary
10 information to Mr. Morris. Your Honor, if you'll go a
11 little bit further, and I know Mr. Durant is upset about
12 it, but realistically the statute also in subsection C
13 gives him 48 hours in which he can give this information
14 to law enforcement. He gives his statement --- in
15 subsection C, he gives all the information to law
16 enforcement within the 48 hour window and then it later
17 says give information as soon as possible to the victims
18 in the situation. That's why we ask the question of Mr.
19 Jervey as well as Mr. Spires what did you tell him to do.
20 Don't contact anybody, don't bother anybody, don't deal
21 with anybody, which they should've said. Don't contact
22 these individuals. Your Honor, in the same respect, if
23 he would've been arrested that exact same evening, what
24 would've happened at a bond hearing? At a bond hearing,
25 you can have no contact with the victims. Statutes

1 should not have absurd results and that would be absurd.
2 How in the world we give the information to law
3 enforcement, we talk to them, they let us go. They said
4 you're free to go, be in touch when we talk to you later,
5 and they don't arrest him for two months. He gave all
6 information that was necessary that could possible to law
7 enforcement and now the solicitor is saying aha, you
8 didn't give it to the victims on the statute that he
9 wouldn't realize we would know about. The reason that I
10 bring up the victim and I definitely don't think the
11 victim should've contacted him, he should've given this
12 information, should've put it in writing. But if we're
13 going to argue that we must do this in the statute, we
14 have to argue the same way. That's why I gave the
15 Supreme Court opinion that we are not to read statutes
16 with an absurd result that would allow us to go forward
17 with the jury would allow absurdity because the solicitor
18 would be able to argue to the jury yes he gave his
19 information to law enforcement, yes he was with law
20 enforcement within an hour of the collision, yes he
21 talked to them in full detail. But guess what he was
22 supposed to do? He's supposed to talk to the operator of
23 the boat, he was supposed to find them, even though the
24 testimony has been that the operator of the ...probably
25 didn't want to talk to him, he should've found them, put

1 it in writing after already talking to law enforcement.

2 Thank you Your Honor.

3 The Court: Well the evidence heard that after this
4 incident took place Mr. Morris or anybody on his boat
5 said what can we do to help, through life preserves in.
6 Did anything to help. Given them his address. If he
7 would have done something we probably wouldn't be here.
8 So the real question is what were they required to do to
9 within the statute at that time as far as rendering aid
10 or assistance without doing serious danger to his own
11 crew. And all those things that you say may be defense
12 to argue at the end of the trial, but this is directed
13 verdict. In the directed verdict stage, the standard is
14 any direct evidence or substantial circumstances and the
15 only evidence of him doing anything at all would be his
16 statement to the police officer that he said he called
17 911. There's no evidence that he did in fact make the
18 call to 911. That was the most unintelligible 911 call
19 I've ever heard and I've heard a lot of them. I gather
20 they figured that system out. But nevertheless, there's
21 no evidence that he made any calls other than him saying
22 indirectly through someone else. That's the only
23 evidence in he says he made. There is any evidence that
24 he called. What we're looking at right now is what the
25 State has to prove to move forward on this case. And

1 there is I believe direct evidence that they provided no
2 aid at all at the scene. He didn't or anyone on his boat
3 made any effort to help those folks without precipitating
4 argument, self-serving statements about whether or not
5 the lights were on; that seems to be their concern. Even
6 if their lights weren't on, that doesn't give them the
7 right to not come to the aid of somebody else. You argue
8 those things later. You don't sit there in the heat of
9 the moment when somebody is literally dying and argue
10 whether or not you had a liability. That's for another
11 day. You know, do something at that point it normally
12 not require good Samaritans to act, but the State, the
13 legislature in this case have made it an affirmative duty
14 if you are the operator of a vehicle or a vessel, you're
15 in an accident, you have to, if it doesn't cause danger
16 to your boat, render assistance to those people that are
17 hurt. And there is direct evidence that they did
18 nothing. There's substantial circumstantial evidence
19 that they did nothing to render any kind of aid
20 whatsoever. And of course it goes without saying that
21 they didn't provide their name or address to them at that
22 point. There's nothing I can do about whether or not
23 that should be a requirement of the statute, it is the
24 requirement of the statute. So at this point, I will
25 again deny that motion.

1 Mr. Kent: Thank you Your Honor.

2 The Court: Okay, now tomorrow morning, we'll crank
3 up at 10:00 and you will be ready to call any witnesses
4 that you want.

5 Mr. Kent: Yes, sir.

6 The Court: Mr. Morris; yesterday you and I talked
7 and I said that after the State presented their evidence,
8 you have to make a decision as to whether or not you want
9 to testify and call witnesses to present evidence. We're
10 now at that point in the trial, or we will be tomorrow
11 morning when you have to make that decision. The State
12 has presented all of their evidence, I have made a
13 determination that legal they have provided enough
14 evidence to get this to the jury at this point. So
15 tonight, you and Mr. Kent, need to talk about this again
16 because tomorrow morning, you have to decide whether or
17 not you want to put up a defense. A defense may or may
18 not include you testifying. But you don't have to call
19 on anybody, but you can call other witnesses. You don't
20 have to testify, but you can testify. Those are
21 constitutional rights that you have. They're yours, you
22 make the decision. When I talk to you again in the
23 morning, I'll be asking you if you've made the decision
24 and this is your decision. I encourage you again to talk
25 with Mr. Kent about this tonight. If you have friends

1 and family whose advice that you take, you can talk to
2 them about it as well. Tomorrow morning, we're going to
3 proceed with you here. If you're not here we're going to
4 proceed without you. But you'll also need to make a
5 decision as to whether or not you're going to testify or
6 call any witnesses on your behalf. Do you understand
7 that?

8 Mr. Morris: Yes sir.

9 The Court: Okay. Anything else before we break?

10 Mr. Durant: Nothing from the State Your Honor.

11 Mr. Kent: If we could have a charge conference in
12 the back, potentially?

13 The Court: We'll have a charge conference when you
14 send me what you want to send me. Send it tonight.

15 (7/14)

16 The Court: Alright, all the jurors back in.

17 Alright, welcome back folks. Sorry for the delay. Had
18 to take up a few administrative things this morning. Got
19 a little bit behind but we'll get back on track now.

20 Alternate juror will not be with us anymore. So it's
21 just you folks throughout the rest of the trial. I still
22 hope that we might get finished today .. Couple things I
23 want to go over with you is first of all, there was media
24 coverage apparently in the local newspaper this morning
25 and I understand a t.v. station out of Columbia might of

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1 had a little report about it. Did anybody happen to see
2 those? Either of those?

3 (No response from jurors)

4 The Court: Okay, I didn't instruct you yesterday I
5 don't believe to not read any thing; I didn't think there
6 was any local coverage but it turns out there was, but
7 everybody indicated they did not read or see anything.
8 You'll notice there's a TV camera over there. They'll be
9 viewing some or all of the trial. They won't be taking
10 any pictures of you. That's part of the rules, they
11 understand that no photographs are to be made of the
12 jurors. They will be allowed to photograph the trial and
13 write about it. We welcome the press. But I will need
14 to remind you that do not read anything about media
15 coverage during the trial. After the trial, you can read
16 anything that you want to but during the trial, it's
17 improper to. So, we're going to begin now with the
18 defense calling their first witness. So Mr. Kent, if you
19 are ready, you may proceed.

20 Mr. Kent: Thank you, Your Honor. At this point, we
21 would call Frankie Card to the stand.

22 The Court: What's the name of the witness?

23 Mr. Kent: Frankie Card, C-A-R-D.

24 Clerk: Mr. Card, if you'll step up here please.

25 Please raise your right hand and place your left on the

1 Bible. Do you swear or affirm the testimony you give will
2 be the truth?

3 Mr. Card: Yes ma'am.

4 Clerk: Have a seat.

5 **MR. CARD EXAM BY MR. KENT:**

6 Q Do me a favor, state your name and spell your last
7 name for Madam Court Reporter please.

8 A Franklin Wayne Card, C-A-R-D.

9 Q Mr. Card, you have not been in this courtroom for
10 this week.. Is that correct?

11 A Yes sir.

12 Q Okay, I'm going to go over a couple instructions,
13 make sure you understand what we're about to do.
14 Okay?

15 A Yes sir.

16 Q Madam Court Reporter is taking down every word that
17 you're saying. She can't take down head nods and
18 shakes and things of that nature. So make sure when
19 you answer, you give the answer that she can write
20 down, that she can understand.

21 A Yes sir.

22 Q I speak fast. Everybody knows that so if I speak to
23 fast and you don't understand something I'm saying,
24 just say slow down or have me repeat the question or
25 something of that nature. Okay?

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- 1 A Yes sir.
- 2 Q And then finally, I'll give you plenty of
3 opportunity to answer any questions as long as you
4 give me plenty of opportunity to ask any questions.
5 Is that fair?
- 6 A Yes sir.
- 7 Q Everybody in this jury needs to hear every word
8 you're saying so make sure you speak loud and clear
9 so they can all hear you okay?
- 10 A Yes sir.
- 11 Q Franklin, let's talk a little bit about yourself
12 first. Tell me who you are, where you're from, and
13 where do you live.
- 14 A I'm Frankie Card. I live in Sumter. I build
15 houses, hunt and fish, pretty much that's it.
- 16 Q How old are you Mr. Card?
- 17 A I'm 29.
- 18 Q Are you married?
- 19 A Yes sir.
- 20 Q How long you been married?
- 21 A Eight years.
- 22 Q Frankie, I'm going to get right to the intention and
23 I'm going to talk about the day in question. You
24 know what we're here for, is that correct?
- 25 A Yes sir.

- 1 Q I'm not going to interrupt you but if you could do
2 me a favor. I want you to tell the jury what you
3 were doing that day; let's go about 30 to 40 minutes
4 before the accident took place. Can you do that for
5 me?
- 6 A Yes sir.
- 7 Q Alright, tell us what you were doing and go from
8 there.
- 9 A I got off work that day, talked to Chad, we decided
10 we were going to the lake, wife was out of town.
11 Went and met Chad and picked him up and went and put
12 in at Taw Caw and then Taw Caw --- well we put in at
13 John C. Met a buddy of mine at Taw Caw. We all
14 went back to Goat Island. We mess around, it
15 starting getting dark. We originally decided we
16 were going to fish pier lights. Well, when it
17 started getting dark, we decided we would go to
18 Wyboo but there wasn't many lights on. We went to
19 Wyboo. When we come into Wyboo, we stopped by
20 Lakeview because my friend had to use the bathroom.
21 When we left, we went walking to Lakeview and it was
22 crowded so we left and was going to go to
23 Scarborough's's but they were closed. So I told
24 them, you know, I'll call Brandon; that's who I work
25 for. And they were supposed to be at the lake

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- 1 house. So we went to go to the lake house and as we
2 left from right out in front of Scarborough's's,
3 that's when we heard the crash.
- 4 Q Okay, now I'm going to go back to some of the stuff
5 that you said. You speak fast also so I'm going to
6 go back and clarify.
- 7 A Yes sir.
- 8 Q You've been using the name Chad, you met Chad.
9 Who's Chad?
- 10 A Chad Morris.
- 11 Q Chad Morris, the person here today, sitting next to
12 me in that white shirt?
- 13 A Yes sir.
- 14 Q So the two of you met that night?
- 15 A Yes sir.
- 16 Q And you guys were in a boat?
- 17 A Yes sir.
- 18 Q There's no doubt about that ...
- 19 A No sir.
- 20 Q ... that y'all were on a boat. Was anyone else
21 inside that boat with y'all?
- 22 A Yes sir, my wife, Jessica Long.
- 23 Q Okay, so three of y'all were in the boat?
- 24 A Yes sir.
- 25 Q Just go slowly for me again, I don't know the lake.

1 I don't know anything about it. You said John C and
2 all these other things. For the jury again, tell
3 them where you were going. Be as specific as you
4 possibly can. Tell them how you were driving, who
5 was driving the boat.

6 A We had, like I said, we pretty much were down there
7 just messing around to fish and when we left from
8 meeting Greg Mains and Lori Mains at Taw Caw, we
9 went to go riding. Well we hung out there a little
10 while it was getting dark, you know, and then we
11 noticed there weren't very many pier lights on so we
12 decided we'd go over to the Wyboo side. We run down
13 the big water and we had somebody with a 14 foot
14 boat with a 20 Yamaha following us.

15 Q And that would be Lori and Grey Mains you're talking
16 about?

17 A Yes sir. And I mean, we never did go fast so I
18 mean, we were in a bass boat with 150 on it. They
19 were in a boat with a 20 on it. They stayed about
20 pretty much with us the whole time.

21 Q Did it get dark out there?

22 A Yes sir.

23 Q Really dark out there?

24 A Yes sir.

25 Q At any point that night, were you driving the boat?

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- 1 A Yes sir.
- 2 Q How long did you drive?
- 3 A I drove the boat from Goat Island Resort to
- 4 Lakeview.
- 5 Q Let's get to what we're really here about. At some
- 6 point, there was a collision that night.
- 7 A Yes sir.
- 8 Q Alright, I want to go through that and I want
- 9 immediately beforehand, after then, tell me what
- 10 happened before the accident.
- 11 A Well we left from right out front of
- 12 Scarborough's's, we're going next Brandon's and just
- 13 out of nowhere, you know, we kind of went airborne
- 14 for a second. Nose dive, boat went back in the
- 15 water, water come over the front of the boat. I
- 16 looked at Chad and I said you know, what in the hell
- 17 just happened is my exact words.
- 18 Q Right.
- 19 A He said I think we hit something. I said we're in
- 20 the middle of Wyboo, you don't just hit something.
- 21 Q Right.
- 22 A What did we hit? And we were stopped, trying to
- 23 figure out, you know, what had happened. And that's
- 24 when we started hearing people screaming. So we
- 25 turned around. When we turned around and we was

1 easing back up there, that's when you could start
2 seeing a light flicker on and off. And you could
3 see people. And we got up there and there was a
4 little altercation back and forth of who was wrong,
5 who was right.

6 Q Let me stop you there. What do you mean a little
7 altercation by who was wrong and who was right?

8 A As we come pulling back up, there was a really tall
9 guy on the back of the boat and a young lady with
10 long brown hair. And they guy told Chad that it was
11 all his fault. Chad told him, he said no, you know,
12 I didn't see you. It was an accident. I didn't see
13 you. You didn't have your lights on. And then I
14 finally told him, I said look, exact words I
15 know we are in the court room.

16 Q Tell us your exact words.

17 A Shut the fuck up everybody.

18 Q Okay.

19 A How many people was in the boat? They said four. I
20 said okay, how many people are in the boat now?
21 They said four. I said good, at least everybody's
22 in the boat. I said is everyone okay? And that's
23 when they told us that there was a young lady in the
24 bottom of the boat bleeding. Well Gregg Mains was
25 there by then. He had experience through military.

- 1 I asked Gregg because the situation with the
2 altercation going on, he's a really big guy; him and
3 Chad having words will Gregg please pull over there.
4 Because didn't want it to escalate anymore than it
5 already was.
- 6 Q Okay.
- 7 A Gregg said yeah. He eased over there and that's
8 when all the boats started coming in; the pontoon,
9 the big boat come from next the land and the big
10 center console come from behind us.
- 11 Q How was Chad at this point in time? Was he
12 laughing, carrying on?
- 13 A He was kind of still in shock like daze. Not
14 exactly understanding how and what had just
15 happened.
- 16 Q And about how far away was your boat to their boat?
- 17 A Twenty foot.
- 18 Q And again, I'm dumb. I'm going to start backing up
19 and you tell me about how far your boat was away
20 from their boat.
- 21 A Yes sir.
- 22 Q Is that easy enough? I'm just going to back up and
23 you just tell me when to stop.
- 24 A Approximately about where you are now.
- 25 Q Okay. And it looks like where I am is the little

1 portion where the jury walks into the jury box,
2 would you agree with that?

3 A Yes sir.

4 Q And that's about how far you think you guys were
5 from each other when y'all were talking?

6 A Yes sir. We weren't real far apart because you
7 couldn't see a whole lot.

8 Q Yes sir.

9 A So we had to get reasonably close so we could see
10 what was going on and try to figure out what
11 happened.

12 Q And while this was going on, were there a bunch of
13 other boats there also?

14 A There were boats starting to come about. There were
15 boats coming from both directions.

16 Q From both directions?

17 A Yes sir.

18 Q There's been some questions about 911. Was 911 ever
19 called?

20 A Yes sir. My wife called 911 and Gregg Mains wife,
21 Lori Mains called 911.

22 Q How do you know that?

23 A Because I was standing shoulder to shoulder with my
24 wife when she called and she could not hear over the
25 frustration. She told them, you know, she couldn't

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1 hear them, you know, and if everybody didn't stop,
2 she was just going to hang up because you couldn't
3 tell nothing about nothing.

4 Q Okay. So 911 was called?

5 A Yes sir.

6 Q Alright and you heard her call 911?

7 A Yes sir. I'm the one that actually told them, you
8 know, everybody's like where we were where everybody
9 would know where it was, was Scarborough's's Boat
10 Landing.

11 Q And that's what you told 911?

12 A Yes sir. I told them go to Scarborough's's that's
13 the closest place I know an address or landmark to
14 say hey, go here.

15 Q What happened then? At that point in time, you guys
16 are still yelling back and forth?

17 A No, everybody kind of started parting. Everybody
18 got out of that bass boat on the pontoon. The
19 pontoon left, nose down, going next to
20 Scarborough's's. You can tell it was overweight and
21 that's when the big center console boat comes from
22 my left and the young man driving the boat got into
23 the bass boat. He cranked it up and he left. Well,
24 we're still sitting there and like what do we do?
25 We know we've got water in the boat. Rusty

1 Harrington's lake house is right here at us; let's
2 go to the lake house. That way, there's water in
3 the bottom of the boat, we don't know if we're
4 sinking or what, but let's go there. It's the
5 closest point we can get to.

6 Q So you personally saw this water in the bottom?

7 We've heard the testimony.

8 A Yes sir, and I personally got wet by the water and
9 seen the water in the bottom of the boat.

10 Q What were you thinking about the water?

11 A Either we've got a hole in the boat or something's
12 come apart.

13 Q But there's no doubt in your mind that y'all were
14 the last boat to leave?

15 A Absolutely positive, without a doubt. Because me
16 and Chad were like what do we do? Do we stay here
17 because this was the scene of the accident or what
18 do we do. And that's when we decided we had water
19 in the boat; we need to go to the nearest landmark
20 that we know that our safety is going to be in
21 danger, we're going to sink the boat.

22 Q What happened then?

23 A We went to Rusty Harrington's, come to contact Mr.
24 Rusty and my cousin Brandon and Stephanie and
25 started trying to figure out what's going on with

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- 1 the boat. Gregg Mains called me on the phone and
2 told me that they had took the lady in the boat in
3 the ambulance. And DNR was looking for us. I said
4 well tell them, you know, we're at Rusty
5 Harrington's lake house on the beach. He said okay.
- 6 Q This is the conversation you had directly?
- 7 A Yes sir. And he said okay and hung up the phone. I
8 talked to Gregg from then on a couple of times
9 through the night with him calling me.
- 10 Q And then what happened?
- 11 A DNR showed up with --- we tried to flag them down.
12 They went in the slough beside us. Then he come
13 flying back out. And we're waiting there and he
14 pulled up there and asked for people in the boat and
15 we were all standing there. He said everybody get
16 back in the boat. We all got back in the boat and
17 we went to the DNR house. And that's when, as we
18 stepped out, they asked who was drinking, who wasn't
19 drinking, who was driving. The moment that Chad
20 said he was the driver, they said we need you to
21 take a field sobriety test. They took him to the
22 shed, they took us to the back porch of the house.
23 From there on we all went inside and gave
24 statements, written statements. And then they took
25 us back out on the back porch and we pretty much

1 remained there for the remainder of the morning.

2 Q I want to go back to just one more thing. You've
3 talked about speed, you've talked about everything.
4 Do you remember, did y'all see that boat?

5 A No sir.

6 Q And I don't want to say y'all. I want to say you
7 specifically.

8 A No sir.

9 Q Did you see anything in particular?

10 A No sir, we had no idea; me, Chad, neither one of us
11 knew what we hit, where it come from, what it was
12 period. When we hit it, we instantly stopped and
13 was like what was that. And that's when we heard
14 the young lady screaming, turned around went back, I
15 say went back, we weren't, at max, a hundred yards
16 from them.

17 Q Frankie, the question everybody's going to ask you.
18 Why didn't y'all hop in the water? Why didn't y'all
19 swim over and try to help them?

20 A Because of the fact we had a very large guy in the
21 back of the boat that was already arguing the
22 situation back and forth. Anybody in that situation
23 I could not see trying to make that situation
24 escalate any more than what it was.

25 Q Were there people there helping her?

- 1 A Yes sir.
- 2 Q Did you feel comfortable that the young lady ...
- 3 A Yes sir.
- 4 Q ... was getting help that she needed?
- 5 A Yes sir.
- 6 Q You had personal knowledge that Gregg knew what he
- 7 was doing?
- 8 A Yes sir, I've known Gregg my whole life.
- 9 Q Frankie, how do you feel about this whole thing? Is
- 10 it sad?
- 11 A It's nerve-wracking. It's been hard throughout
- 12 everything. It's a hard situation to deal with from
- 13 either way.
- 14 Q Were y'all trying to escape?
- 15 A No sir.
- 16 Q Were y'all trying to run and hide?
- 17 A No sir. If we were trying to run and hide, I'd
- 18 never asked Gregg to tell DNR where we were.
- 19 Q Did y'all call 911?
- 20 A Yes sir.
- 21 Q Do you believe that you did everything you possibly
- 22 could have done?
- 23 A Yes sir. During the situation, under the situation,
- 24 never been in that situation.
- 25 Q Yes sir.

1 A Never knew --- wasn't ever trained to deal with a
2 situation in that matter. You know what I mean? I
3 mean, ...

4 Q You believe you did everything practical, did
5 everything y'all could've done?

6 A Yes sir.

7 Q And again, how was Chad acting that night? When
8 after this accident ...

9 A Dazed, confused, not real sure what had happened. I
10 mean it was just one of them things. You don't know
11 where, what, or why things happen like they did.

12 Q Were you one of the ones also encouraging Chad not
13 to go over there because of the altercation?

14 A Yes sir. I mean, like I said, the way things were,
15 for everybody's safety and everything that was going
16 on, I didn't want the situation to escalate more
17 than what it already had.

18 Q Do you think Chad could have made the situation
19 worse? Is that what you were worried about?

20 A Not necessarily just Chad himself. Because that
21 really big guy in the back of that boat, he seemed
22 mad.

23 Q And you can understand why he was upset?

24 A Yes sir.

25 Q You probably would have been upset in the same

1 situation.

2 A Yes sir. At the time, from and until, you know,
3 pretty much right before they got on the pontoon and
4 left, we still could not figure out exactly what was
5 going on. And then as the situation grew and stuff,
6 we figured out, you know, the girl was laying in the
7 bottom of the boat, bleeding. That's why I asked
8 Gregg if you don't mind, please go over there and
9 check on her.

10 Q Frankie, the State is assuming and correct me if I'm
11 wrong that at first there was a lot of anger, y'all
12 thought this was two boats colliding ...

13 A Yes sir.

14 Q Y'all didn't know anybody was hurt?

15 A Yes sir.

16 Q So that was the yelling going back and forth.

17 A Nobody knew, nobody stated, nothing.

18 Q And then later, when you did find out someone was
19 really hurt?

20 A Yes sir.

21 Q And that's when y'all called 911.

22 A Yes sir.

23 Q And you waited around for them.

24 A Yes sir, til everybody was gone.

25 Q Thank you, Frankie.

1 A Yes sir.

2 The Court: Cross?

3 MR. CARD CROSS BY MR. DURANT:

4 Q Mr. Card, good afternoon.

5 A Good afternoon.

6 Q It seems that kind of the theme of your testimony in
7 front of the testimony earlier this week or
8 suggestions from Mr. Kent have been that perhaps
9 y'all didn't help because this large guy was yelling
10 at y'all. Is that right?

11 A We did help; we called 911.

12 Q Okay, the reason you couldn't do anything else
13 because he's yelling at y'all. Is that right?

14 A Yes sir.

15 Q Okay. You're aware of the fact that both of the men
16 were not knocked off of the victim's boat?

17 A No, they weren't.

18 Q They were not knocked off of the boat?

19 A People that fall in water are wet.

20 Q Okay, so you disagree with the fact that the two
21 boyfriends, the boyfriend and the husband were
22 knocked in the water?

23 A Yes sir, I disagree with it strongly.

24 Q You contend that y'all drove all the way across the
25 victim's boat and everybody stayed on it?

1 A We didn't drive all the way across it.

2 Q You didn't drive all the way across it? Tell me
3 what happened when you hit the boat.

4 A We come to a stop, we turned around, to see what we
5 had hit to check to make sure that everybody was
6 okay.

7 Q So when you hit the boat, the collision caused y'all
8 to stop? You didn't go all the way across the boat?

9 A We crossed a corner of the boat; not all the way
10 across the boat.

11 Q Okay so now you crossed the corner of the boat. You
12 did keep moving?

13 A No, we come to an immediate stop. Once we hit
14 water, we stopped.

15 Q Okay, let's move on. This guy that didn't get
16 knocked into the water that was standing on the back
17 of the boat, do you know which one it was?

18 A I still to this day don't know who he was.

19 Q Still don't know who he was?

20 A No sir.

21 Q Would you agree that the bigger guy is the boyfriend
22 of six years of the girl that was laying there dying
23 to death?

24 A I did not ...

25 Q Dying at the time?

1 A I did not know him, I don't know him.

2 Q But you contend that the boyfriend of six years
3 whose girlfriend is literally laying there dying was
4 yelling at you.

5 A He was not yelling at me.

6 Q Okay, who was he yelling at?

7 A He was yelling at Chad Morris.

8 Q How did he know to yell at Chad?

9 A Because he directly told Chad, when Chad got up that
10 it was all his fault.

11 Q Was Chad yelling at him?

12 A Chad --- all Chad said was I did not see you, you
13 did not have your running lights on.

14 Q Who yelled first?

15 A They were yelling as we approached them.

16 Q As you approached them, after the incident?

17 A Yes sir. When we turned around from the stop, we
18 pulled back up and they were yelling. That is how
19 we knew where they were and how we seen them, how we
20 come about them.

21 Q That's how you knew where they were?

22 A Yes sir.

23 Q Do you remember giving a statement to law
24 enforcement in this case?

25 A Yes sir.

1 Q Remember meeting with DNR?

2 A Yes sir.

3 Q Let me show you what's been --- it's been marked as
4 a State's exhibit. Do you recognize this statement?

5 A Yes sir.

6 Q Is it your statement?

7 A It is my statement.

8 Q Is that your handwriting?

9 A Yes sir.

10 Q Is it signed by you?

11 A Yes sir.

12 Q Tell me where in that statement you mentioned to DNR
13 that anybody in the victim's boat was yelling at
14 you. Take a minute and read over it and stop when
15 you get there.

16 A Have you read my statement?

17 Q Yes sir.

18 A So you see does it go into great detail of what
19 happened because yes, we were in shock because of
20 the ...

21 Q Unfortunately, the rules don't allow you to ask me
22 questions sir. I ask the question, you have to
23 answer me.

24 The Court: It's cross-examination, he asks the
25 question, you answer the question. If you need to

1 explain your answer, you can explain it but you have to
2 answer his question first. Okay?

3 Q The question is did you put in your statement ...

4 A No sir.

5 Q ... that you gave to DNR, no sir. No, you did not.

6 A No sir.

7 Q Alright. And did I understand you correctly a
8 minute ago that the way that you knew where they
9 were is them yelling at you?

10 A Yes sir.

11 Q Even after --- even after the collision, there were
12 no lights?

13 A As we approached back to the boat you could see the
14 lights turn on and off.

15 Q Okay, and a matter of fact, let me show you State's
16 65, a synopsis of your second statement. And isn't
17 it true in that statement that you mentioned that
18 when y'all turned around, you saw the lights
19 flickering on and off?

20 A Yes sir.

21 Q Okay, but a few minutes ago, you told this jury that
22 the only way you knew where they were after the
23 collision was them yelling.

24 A That's how we knew what had happened when we -
25 that's why we turned around; we could hear them.

1 Q So that's - now that's how you knew what had
2 happened. A few minutes ago, it was how you knew
3 where they were.

4 A No sir. When we come to a stop, we were still
5 facing in the opposite direction. When we were
6 trying to figure out between us what had happened is
7 when we heard the young lady started screaming. We
8 turned around. As we turned around, we could see
9 lights flicker on and off repeatedly.

10 Q No question the lights was on at that time?

11 A It was on and off; it flickered in and out.

12 Q Which one? The front light or back light?

13 A The back running light.

14 Q The back light?

15 A Yes sir.

16 Q Just about a minute ago, I think --- do you work?
17 You do construction?

18 A Yes sir.

19 Q And did I understand that you work for Rusty
20 Harrington?

21 A No sir.

22 Q Did you used to work for him?

23 A No sir, I've never worked for Rusty Harrington a day
24 in my life.

25 Q Okay, who do you work for?

- 1 A I work for Brandon Barkley.
- 2 Q For Brandon Barkley?
- 3 A Yes sir.
- 4 Q Was he at the party that you went to that evening?
- 5 A Yes sir.
- 6 Q You still work for him?
- 7 A Yes sir.
- 8 Q You mentioned that you had a boat that was following
- 9 you that evening. Was it a jon boat?
- 10 A It was a 14 foot Warrior with a 20 Yamaha.
- 11 Q Whose boat was that?
- 12 A It is registered to Lori Mains.
- 13 Q Who was driving it?
- 14 A Gregg Mains.
- 15 Q Is that your friend?
- 16 A Yes sir.
- 17 Q Okay and isn't it true that you actually flagged
- 18 them down that night?
- 19 A No sir, they come up behind us and we pretty much
- 20 all pulled up at the same time.
- 21 Q But y'all went several places together that night?
- 22 A Yes sir.
- 23 Q And Gregg was driving the boat?
- 24 A Yes sir.
- 25 Q And he was following you?

1 A Yes sir.

2 Q And didn't you testify a few minutes ago that Gregg
3 stayed --- they stayed with you the whole time.

4 A Yes sir.

5 Q Alright. Well tell the jury what you meant then a
6 few minutes ago when Mr. Kent was asking you about
7 helping the victims and you said that Gregg Mains
8 was there by then.

9 A As we re-approached.

10 Q By --- but I'm confused ...

11 A When ...

12 Q Let me finish my question. If he stayed with you
13 the whole time, how did he get there by then? What
14 does by then mean? By then indicates that he got
15 there later. Isn't that right?

16 A Am I allowed to describe what I mean by that?

17 Q Please do.

18 A Okay, if you're following me down the hallway, I'm
19 going to get somewhere before you do. So if I turn
20 around and you're there, you're there, back there
21 before I get there.

22 Q So he was there immediately then?

23 A Yes sir.

24 Q Alright. Is that what you told Mr. Kent a few
25 minutes ago?

1 A Yes sir. As we re-approached, he was there.

2 Q So Gregg Mains then, he would've heard all the
3 fussing.

4 A Yes sir.

5 Q And he certainly should have seen your boat there.

6 A Yes sir.

7 Q So if Gregg Mains testified yesterday that he didn't
8 see y'all there whenever ...

9 Mr. Kent: I'm going to object to pitting the
10 witness, Your Honor.

11 Q He was with you the whole time in his boat?

12 A Yes sir. For the majority of the night, he followed
13 us, trailing close to us.

14 Q I'm going to ask you about the 911 call. Who made
15 the call?

16 A Jessica Long.

17 Q From her phone?

18 A Yes sir.

19 Q And you heard the call?

20 A Yes sir.

21 Q And where were y'all when she made the call?

22 A On the front deck of a Skeeter bass boat at the
23 collision of the wreck.

24 Q Okay, in Lake Marion here in Clarendon County?

25 A Yes sir.

1 Q Were other boats around at that point?

2 A At that point, boats were starting to come from the
3 bank either side.

4 Q Was Gregg there yet?

5 A Yes sir.

6 Q Okay, so he had made it down the hallway by that
7 time?

8 A Oh yeah.

9 Q And of course, y'all were the last boat to leave?

10 A Yes sir.

11 Q When y'all called 911, did you tell them who you
12 were?

13 A I personally was not on the phone. So I could not
14 exactly tell you if it was or was not told.

15 Q Wait a minute. I thought you told Mr. Kent a minute
16 ago that you were standing right beside her and you
17 heard everything that was said and that you were
18 actually the one giving directions as to where y'all
19 were.

20 A I told him to come to Scarborough's's and yes sir, I
21 was standing shoulder to shoulder with her when she
22 called.

23 Q But you didn't hear what anybody on the other end
24 said? Is that right?

25 A I didn't have the phone stuck to my ear.

1 Q Did y'all give law enforcement --- or did y'all give
2 dispatch your names and identifying information?

3 A I did not get on the phone so no I did not give them
4 my name.

5 Q Did you hear your wife, Jessica, give her name?

6 A I heard her --- I do not recall. At that time,
7 there was a lot going on.

8 Q Did you give them Chad's name?

9 A I'm not sure.

10 Q Did you tell them that y'all actually were the ones
11 involved in the collision?

12 A I'm not real sure. As far as it was called in as a
13 boating accident on the water.

14 Q Did you tell them where you were going?

15 A To Scarborough's's.

16 Q But you didn't actually go to Scarborough's's did
17 you?

18 A No, I did not because we're sitting in a boat that
19 was --- did not know for sure if it was sinking or
20 not. We went to the closest destination we knew to
21 go to.

22 Q So didn't tell dispatch your names, didn't tell them
23 you location, didn't tell them where you were going,
24 or at least, not that you overheard?

25 A When they arrived on the scene, Gregg Mains was

Mr. Card-Cross Examination by Mr. Durant

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1 asked to please tell them exactly where we were. We
2 were at Rusty Harrington's lake house.

3 Q Greg Mains. Well, let me ask you about that again.
4 So, Gregg, if I understood correctly, Gregg called
5 you while you were at Rusty's. Is that right?

6 A Yes sir. Standing on the sand bar at Mr. Rusty
7 Harrington's.

8 Q After y'all left and went to Rusty's, where was
9 Gregg at the time?

10 A He had got on the pontoon or a deck boat and went
11 off.

12 Q Do you know if he had made it to Scarborough's's
13 yet?

14 A Yes sir.

15 Q And he told you that DNR was looking for you?

16 A Yes sir.

17 Q And DNR was looking for Chad?

18 A Yes sir.

19 Q At any point after receiving that information, did
20 you or Jessica or Chad call dispatch or anybody
21 associated with law enforcement and say hey, here we
22 are?

23 A As soon as I hung up the phone with Gregg Mains, DNR
24 passed; we flagged them down.

25 Q You flagged them down?

1 A Me, Rusty Harrington, Chad Morris, Jessica Long,
2 Brandon Barkley, multiple people standing on that
3 side, time as I hung up the phone, DNR passed and we
4 flagged them down.

5 Q How long after the incident was this?

6 A This --- that time, I'm not exactly sure minute to
7 minute because I didn't have a stopwatch on, but it
8 was fairly recent time.

9 Q Give me a ballpark.

10 A Sir?

11 Q Give me a ballpark.

12 A I'm not exactly sure of that. I just told you I
13 didn't have a watch on. So how can I give you a
14 ballpark?

15 Q Was it within fifteen minutes?

16 Mr. Kent: Your Honor ...

17 A I didn't have my clock set.

18 The Court: What's your objection?

19 Mr. Kent: Your Honor, he's asked the question three
20 different times. The solicitor is trying to bait him
21 into giving specific time. He's told the solicitor I
22 don't know a time. And he's trying to force him to give
23 a time so he can argue that he doesn't have an exact
24 time.

25 The Court: Alright, go ahead and move on.

1 Q How long had you been at Gregg's house or at Rusty's
2 house when Gregg called?

3 A I'm not exactly sure. I didn't have a stopwatch on
4 me.

5 Q How long did y'all stay at the scene?

6 A Until the last boat left.

7 Q And how long was that?

8 A I'm not exactly sure. Didn't have no clock.

9 Q But is it your contention that as soon as Gregg
10 called, DNR was already out there?

11 A Yes sir.

12 Q And that y'all waved them down?

13 A Yes sir.

14 Q Had y'all stopped to check out Chad's boat yet?

15 A That's what we were doing. We were standing at the
16 boat when DNR went by.

17 Q In the water? The boat was beached.

18 A It was not in the water, it was beached.

19 Q Okay. But part of the boat was in the water?

20 A Yes sir. Partially we could not see what was
21 sitting on sand or under the water, we could not
22 see.

23 Q Did y'all have a flashlight?

24 A We got a flashlight from Rusty Harrington.

25 Q Okay so y'all already had Rusty Harrington's

1 flashlight, looking at the boat?

2 A Yes sir.

3 Q You didn't ask to borrow a flashlight from the DNR
4 officer?

5 A I didn't. The flashlight we had was from Rusty.
6 When Rusty walked down there, he had a flashlight.

7 Q Who was holding the flashlight?

8 A Rusty had it and Chad got it from Rusty.

9 Q Before DNR got there?

10 A I'm not exactly sure on that. I know Rusty had a
11 light that Chad got from Rusty.

12 Q Rusty had a light and Chad --- so Chad used Rusty's
13 light to check out the boat.

14 A Chad used the light that Rusty had. The light that
15 come from Rusty Harrington.

16 Q And you don't know if DNR was there yet or not?

17 A I'm not exactly sure. Like I said, it was one of
18 those things that when you in a stage when this
19 happens, it just kind of throws you, you don't
20 remember every exact detail.

21 Q Alright, again, let me ask you if you remember this
22 specific detail. Did you or Jessica or Chad call
23 911 to tell them that y'all were at Rusty
24 Harrington's house?

25 A No.

Mr. Card - Redirect by Mr. Kent

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1 Mr. Durant: No further questions.

2 The Court: Redirect?

3 **MR. CARD REDIRECT BY MR. KENT:**

4 Q I don't have a lot of questions. I just want to
5 make sure I clarify a couple of things. Whenever
6 the collision occurred, when the accident happened,
7 I'm sorry, Judge. When the accident happened, y'all
8 didn't see lights at all; you didn't see anything.
9 Is that correct?

10 A Yes sir.

11 Q You didn't see anything at all?

12 A No sir.

13 Q Until afterwards?

14 A Until afterwards, once we had turned around and was
15 coming back.

16 Q Okay, and someone in your boat called 911.

17 A Yes sir.

18 Q You had talked to somebody who was there at the
19 scene of the accident, Gregg Mains?

20 A Yes sir, to notify him where we were, to please let
21 them know where we were so that they could come to
22 us. Because as I once stated, we could not see our
23 whole boat. Some was in the water, some was sitting
24 on the sand. So, no sir, we did not know if what
25 was sitting on sand or in the water had a big gaping

1 hole in it.. We didn't know. The boat had water in
2 it so we got Gregg to please inform them that we
3 were sitting on the sandbar at Rusty Harrington's.

4 Q Did anything that happened that night, was it
5 intentional?

6 A No sir.

7 Q Was it an awful accident?

8 A Yes sir.

9 Q Do you believe Chad intended to hurt anybody that
10 night?

11 Mr. Durant: Objection, Your Honor.

12 A No sir.

13 Mr. Kent: That's all the questions I have.

14 The Court: Anything further?

15 Mr. Durant: I don't have any questions for this guy.

16 The Court: You can step down. Thank you. Next
17 witness.

18 Mr. Kent: Your Honor, we call Lori Mains to the
19 stand.

20 The Court: What's the name?

21 Mr. Kent: Lori Mains.

22 Bailiff: Raise your right hand and place your left
23 hand on the Bible. Do you swear or affirm to tell the
24 truth?

25 Ms. Mains: I do.

1 **MS. MAINS EXAM BY MR. KENT:**

2 Q Lori, how are you doing ma'am?

3 A Good.

4 Q I know you are very soft-spoken. That microphone
5 works. I'm going to need you to lean forward and
6 talk into it. Okay?

7 A Okay.

8 Q Originally, I had referred to you as Lori Mains, you
9 are not Puckett. Is that correct?

10 A Uh-huh.

11 Q Okay.

12 A Yes.

13 Q I'm going to give you some instructions. Madam
14 Court Reporter, with that funny thing on her mouth
15 is taking down every word that you're saying. Okay?
16 So make sure you speak loud and clear enough so that
17 she can hear you and make sure we don't shake our
18 heads and give head nods so that she can understand
19 everything that's going on.

20 A Okay.

21 Q Lori, I just want to talk to you a little bit, but
22 first get some background about you. Who are you
23 and where are you from?

24 A My name is Lori and I'm from Sumter.

25 Q Okay, do you work?

1 A Yes.

2 Q Where do you work Lori?

3 A I work for the City of Sumter.

4 Q How long have you worked for the City of Sumter?

5 A Going on two years.

6 Q What did you do for the City of Sumter?

7 A I work in the business license department.

8 Q Before that, you worked for Safe Federal Credit
9 Union, I think?

10 A Yes.

11 Q And how long did you work for the federal credit
12 union?

13 A About three years.

14 Q What did you do there?

15 A I was in the account control department; a nice way
16 of collections.

17 Q Now I referred to you as Mains. You were formally
18 married. Is that correct?

19 A That's right.

20 Q And who were you married to?

21 A Now?

22 Q Who were you married to then?

23 A Gregg.

24 Q Gregg Mains who has testified in this case?

25 A Yeah.

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- 1 Q Okay. And who are you married to currently?
- 2 A Talby Puckett.
- 3 Q Ms. Mains, I'm just going to ask you some questions
- 4 about everything that happened okay?
- 5 A Okay.
- 6 Q Now first of all, you are here for a subpoena from
- 7 my office. Is that correct? We subpoenaed you and
- 8 had you come in and testify?
- 9 A Yes sir.
- 10 Q And that was the only subpoena you received to come
- 11 testify in this case?
- 12 A Yes.
- 13 Q But you were a witness as to everything that
- 14 happened that evening; we've heard your name several
- 15 times. You agree with me there?
- 16 A Yes.
- 17 Q Lori, just for the jury, what I want you to do, and
- 18 you know what this incident is about. I want you to
- 19 tell the jury basically your story; where you were,
- 20 where you were coming from, what happened earlier in
- 21 that evening up until the point that you ultimately
- 22 hit something, okay? And you can start from where
- 23 you met Chad Morris.
- 24 A We got a babysitter, me and Greg, we were going to
- 25 go fishing. And we were on our way to the river in

1 Packs Landing and we got a call from Frankie wanting
2 us to come meet him at a landing near Goat Island.
3 So we turned and went back and met him there and
4 that's when I met Chad. Frankie was riding with him
5 in his boat and his wife was there, Jessie. It
6 looked like it was going to rain so we stopped by --
7 -- went to Goat Island and we stayed there maybe
8 about an hour, hour and a half. And then I was
9 ready to go. I told Gregg, I said if we're going to
10 go fishing, then we need to go. So we left there
11 and I'm not sure how we ended up going to Lakeview,
12 who decided to go that way but I'm guessing it was
13 Gregg because he wouldn't have drove that far just,
14 you know, when he knew we was going fishing so he
15 must've want to go fishing over there around that
16 area. Well, I had to use the bathroom by the time
17 we got to Lakeview. And Frankie said we'll stop
18 there and use the bathroom and then I don't know if
19 they were going to follow us or what, but we walked
20 in Lakeview, we literally walked in and Frankie was
21 coming back towards me, and said we got to go. He
22 said he had an altercation with someone in there the
23 previous weekend and he said he don't want no
24 problems so I said, well, I really needed to go to
25 the bathroom. And he said no, let's go and we'll go

1 to Scarborough's's. So when me and Gregg got back
2 in the boat, they got back in their boat. Me and
3 Gregg took off first and literally was right, not
4 far at all from them. We pulled up at
5 Scarborough's's we actually landed on the beach,
6 part of it and I looked and said Gregg it's closed.
7 And I turned around and Frankie and Chad were just
8 idling by the wake zone, right there at
9 Scarborough's's and I said y'all they're closed and
10 I said where we going to go now and they made a
11 comment there's a porta potty literally right there.
12 And I was like no, it's too dark. I can't, I ain't
13 going in there. And he said well Chris lives right
14 across, he said his cousin Brandon or somebody lives
15 over there. He said just follow us over there. And
16 I said okay. So I remember looking at Gregg and
17 said alright, we'll go over here, but we ain't
18 staying and partying now, we need to go in and
19 leave. He said okay. So they were already out of
20 the wake zone so they took off. We had to go
21 through it a little bit slower, following them. And
22 when we got out the wake zone, Brandon turned it up
23 and I remember looking out across the water and all
24 I saw was a light, a light, a light, a light; it was
25 all these people's yard lights. And I said do you

1 see Chad? I said I can't see out here I said. And
2 we were both looking good and then all of a sudden,
3 I see a boat like right there, kind of right in
4 front of us and I threw my hand out and said stop.
5 And they were completely at a dead stop. And I
6 heard them arguing, I heard all this fussing back
7 and forth. And I said what is going on. And then I
8 looked and I saw another little boat beside them. I
9 said something's happened. And we get close or
10 whatever and I realize they're arguing over --- I
11 didn't even realize who hit who at first. I didn't
12 know if they run into each other or what had
13 happened at first. But one little guy --- one of
14 them saying your light was off. The other was
15 saying it's on. And I looked at the light and it
16 was off. And he said - and I heard Frankie yell and
17 said why are you saying it's on when it's obviously
18 off on the boat. And the other guy said well it was
19 on til you hit us. And he said --- and he kind of
20 did something to the light and it came on. So just
21 kept going on for a little while and I heard one
22 girl stayed screaming the whole time. And I was
23 like who is that screaming? And I said Gregg can
24 you see what's going on? And he wasn't saying
25 anything and he was just kind of a little confused

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1 too, like me. Well, they kept on and kept on and
2 arguing over his light, you know, it's your fault,
3 you know, whatever. And finally, one of the guys
4 looked down and looked straight at me, he said
5 please help me and dial 911. And Gregg heard him
6 and said sure man, what's wrong? And he said she's
7 bleeding, she's going to bleed to death. And I
8 immediately --- I already had my phone in my hand
9 and I dialed 911 and called. And the dispatcher was
10 like where is your location. I said ma'am, I don't
11 know, I don't know really where I'm at. I said I
12 don't know any places around here and I said Gregg,
13 I said I'm going to tell them to go to
14 Scarborough's's. I said because I knew we just left
15 there, it wasn't that far and that's the only thing
16 I could think of. And I said I looked at one of the
17 guys and said can you crank your boat up and drive
18 it over there and he yelled back and said no, he
19 said it's broke. And I told the lady on dispatch, I
20 said ma'am I said we don't know what to do, how are
21 we going to get her there without moving her. And
22 she said to, you known, do what you can do. So I
23 looked at Gregg and I said get her up, put her on
24 that pontoon boat, there were three women on it and
25 I said get her on that and y'all go to

1 Scarborough's's, the ambulance is on the way to
2 Scarborough's's right now. And so they did and I --
3 - oh, at some point, when Gregg got in their boat to
4 help, her dog jumped in my lap. And I was holding
5 on to her dog and I looked over at Frankie and Chad,
6 and by this point, another boat pulls up and a
7 little guy jumps out, gets in the bass boat that had
8 been wrecked, was just floating out, nobody was in
9 it. They all had left and went to Scarborough's's.
10 And he cranked it up. It took him a minute. He got
11 it cranked and he drove it to Scarborough's's. So
12 then it was just me by myself in a boat with her dog
13 and I saw Chad and Frankie and Jessie and I said
14 what do y'all want to do? And he said Chris lives
15 right here. He says it's the closest place, we
16 don't know what's wrong with the boat, our boat's
17 sinking or what happening. He said so we're going
18 over here and I said well I'm going back because
19 I've got to take her, her dog. So I went to
20 Scarborough's's and met them there.

21 Q I'm going to go back and ask you some questions
22 about some stuff on your statement, okay? Do you
23 need some water?

24 A Yes.

25 Q Question one. Did you know Chad Morris?

1 A No.

2 Q Have you had a steady conversation with Chad Morris
3 since then?

4 A No.

5 Q So you and Chad are not friends, enemies, you don't
6 know him?

7 A No.

8 Q And you're not here to help him or anything of that
9 nature? You're not his buddy?

10 A No.

11 Q The night in question, and just asking, was there
12 ever a point in time before the incident happened,
13 was there ever a point in time which your boat was
14 following Chad's boat and he had to slow down and
15 check on you through some stumps or anything like
16 that? If so, tell the jury about that.

17 A Yes. When we were going from Goat Island to
18 Lakeview, it's a long stretch. You're supposed to
19 go through channel markers, really, because there's
20 no stumps through there so you can go wide open and
21 follow it straight down. I don't know why and I
22 don't know why they did it this way but they decided
23 to go - not drive through the channel markers, they
24 said they knew the way; they drove it all the time
25 and they were going to go through all the stumps.

1 So, and it was really dark at night, and I put my
2 life jacket on because I was scared to death. We're
3 going wide open, they're in front of us, and I'm
4 seeing stumps, literally coming right by my boat. I
5 knew we were about to wreck. And so they knew I was
6 scared, Chad and Frankie. And they kept stopping,
7 you alright and I was alright. And I said yeah, how
8 much further and they said, you know, you kept up
9 with us so just follow, follow my tracks and he knew
10 the way. So that's what we did and throughout, kept
11 stopping, back and forth. At one point, we stopped
12 and we just kind of floating there in the water and
13 he --- we had a spotlight in our boat. I said well,
14 we got a spotlight but it needs to be plugged into a
15 battery. So they were playing with it and trying to
16 get it plugged up, try to get some light out on to
17 the water and they tried it. So we couldn't use it.
18 I said alright, we kept going and it took us a good
19 at least 40 minutes from Goat Island to Lakeview.
20 And Chad probably stopped and checked on us I know
21 at least five times. I mean, a few times he would
22 ask me you sure you don't want to get in my boat but
23 I didn't want to leave Gregg by himself in our boat.
24 So I said no, let's just get there. And so we did.
25 It wasn't like we were in a race, we wasn't no hurry

1 or nothing. We were just cruising, he'd stay right
2 right in front of us.

3 Q Next question. Was Gregg intoxicated that evening?

4 A Yes.

5 Q And you shake your head like that. What do you mean
6 by that? Did you have to drive the boat at some
7 point?

8 A No, but that's one of the reasons I wanted to stay
9 in the boat because I know Gregg and he'll get to
10 the point where he starts drinking too much, he'll
11 almost about, you know, start dozing off. So I, you
12 know, had to check on him, make sure he's alright
13 because we wasn't fighting. It was a good night
14 that night so I was trying to keep it that way, keep
15 the peace between us. But, I mean, you know, I had
16 to watch him to make sure he was okay.

17 Q Did you ever talk about, talk to Gregg about his
18 memories about that evening?

19 A Yes.

20 Q Did he ever tell you he had trouble remembering a
21 lot of stuff?

22 A Yeah, he don't remember anything from Lakeview until
23 the wreck.

24 Q So he didn't remember anything and he told you that?

25 ...

1 A He said, he kept telling me that Frankie and them --
2 - he said they were in front of us. I said no they
3 weren't in front of us they were following us from
4 Lakeview to Scarborough's's. They were behind us.
5 And so I guess he was thinking they should've been
6 in front of us maybe but he said it was all a big
7 blur. And I said, no, I told him Scarborough's's
8 was closed. I said that's why we were on our way to
9 Chris. I don't know where Chris lives, you don't
10 know where Chris lives. I said we were following
11 them, you know, following them to their house. And
12 he said oh. He didn't remember any of that.

13 Q And how recently has he told you that he has trouble
14 remembering things that evening?

15 A Yesterday.

16 Q He told you yesterday that he had trouble
17 remembering?

18 A Uh-huh.

19 Q You had mentioned that you had gotten close enough
20 to the boat and you had trouble --- when you came up
21 to the accident, the scene, you had trouble seeing
22 yourself?

23 A Yeah, I mean, it was just because of where we were
24 at and all the houses around and you know, there was
25 a little glare on the water but like I said, it was

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1 so dark, I mean it was just --- it was very hard to
2 see and I mean, when I did see their light, when I
3 finally saw the boat lights, I mean, it was, we were
4 pretty close. I mean, by the time I realized there
5 was a boat right there parked in the water or just
6 sitting there idling.

7 Q Did you personally ever see anybody from Mr.
8 Morris's boat call 911?

9 A Yes.

10 Q So you actually did, you personally saw someone call
11 911 from Mr. Morris's boat?

12 A Yes.

13 Q Who?

14 A Jessie.

15 Q At some point in time, there was a question of
16 whether or not your husband received a call from
17 Frankie or anybody of that nature, were you there
18 when your husband received a phone call?

19 A Yes.

20 Q Tell the jury about that.

21 A We were just sitting at Scarborough's's, there's a

22 ...-

23 Q Let me stop you. This would've been after the
24 accident?

25 A Yeah, this was after the accident.

1 Q Okay.

2 A And we were each kind of sitting there and this
3 beach thing, kind of like this, what it looks like.
4 We were just kind of sitting on it, leaning on it
5 and just trying to recap what all just happened and
6 you know, it was horrible. And Gregg said where did
7 Frankie and Chad go? And I said they told me they
8 were going to Chris' to look at their boat. And he
9 said I'm not sure if he called them or if Frankie
10 called him. I'm not sure exactly who called who but
11 I remember him talking to him. And I remember Gregg
12 saying DNR's looking for you. And they hung up and
13 I don't know --- I don't remember exactly word for
14 word what exactly was said.

15 Q But you definitely heard a conversation between your
16 husband and ...

17 A Yeah, I know he was talking to Frankie.

18 Q ... Frankie. And you're not sure what was said on
19 the other line? They didn't say where they were or
20 anything of that nature?

21 A No, I didn't know.

22 Q Frankie Card called Gregg?

23 A Either one, I'm not sure if he called Gregg or Gregg
24 called him. I'm not exactly sure.

25 Q And I asked you earlier, before we were even here,

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1 do you ever remember your husband telling DNR where
2 they were or anything of that nature?

3 A No, but I don't remember talking to DNR, even myself
4 until everybody was got gone.

5 Q And there is no doubt in your mind today that was
6 the last boat that left the accident scene was
7 occupied by Chad Morris?

8 A Yeah, it was mine and his.

9 Q And there's no doubt in your mind?

10 A No doubt. We were the only two there.

11 Q Say that again.

12 A We were the only two boats still sitting there.
13 Everybody else was gone.

14 Q And everybody else was gone, taken off?

15 A Yes.

16 Q And when you got up to the accident scene, there
17 were a lot of boats there? Or how long did it take
18 for other boats to show up, put it that way?

19 A When I pulled up, it was --- all I remember seeing
20 was Chad's boat and the red boat, the one they hit.
21 And after hearing all the arguing, I believe while I
22 was on the phone with 911, I saw boats coming.

23 Q And that's when boats came.

24 A I know one it seems like the one the ladies were on,
25 seems like coming across from me. I specifically

1 remember that one the most. It seems like there was
2 another one that showed up too but I don't really
3 remember that one much. So it wasn't maybe but
4 about five boats there total.

5 Q And Ms. Mains you were there and I know you don't
6 know Chad Morris, but how was he acting after that?
7 How did he look? How did he act?

8 A When I was on the phone with 911 and we all realized
9 finally at that point that there was a hurt person
10 on the boat, I looked up at them and I saw Jessie on
11 the phone and then I saw Frankie and I saw Chad.
12 And both of them were just staring and Chad though
13 he just looked like a frozen statue. He wasn't
14 moving, he wasn't speaking, he was just staring.
15 And I'm not --- to me, he looked like he was in
16 shock, personally. And I mean, I don't know, I've
17 never seen nobody go in shock before, but that's
18 what he looked like to me. And he --- it wasn't
19 until they left, the last boat, he was still
20 standing in the exact same spot on that boat from
21 when I looked back at him and said what do y'all
22 want to do and he was still standing in the same
23 spot, still looked --- he looked like a white, I
24 mean, very pale, like he looked like he was going to
25 pass out. And I remember at that point, I remember

1 thinking I felt bad because I can't imagine, you
2 know, having to --- going through that or what his
3 thoughts were either.

4 Q But there's no doubt also he told someone ---
5 someone from that boat told where they were going?

6 A Yeah, Frankie.

7 Q Frankie told you where they were going?

8 A Yeah.

9 Q Specifically where they were going?

10 A Yes.

11 Q The two of us have talked about this case. I've
12 called you and talked to you about this case several
13 times. Would you agree with that?

14 A Yes.

15 Q Always over the phone?

16 A Yes.

17 Q Have I ever had you meet with anybody else or talk
18 with anybody else about this case? Any other
19 witnesses or anything of that nature?

20 A No.

21 Q Have you ever met in a group setting with any other
22 witnesses as I've talked to you about this case?

23 A No.

24 Q Have you talked to any other witnesses in this case,
25 about this case; Frankie Card, Chad Morris -

1 A Frankie.

2 Q Did y'all talk about your statements and try to get
3 them together to make them

4 A No.

5 Q When's the last time you talked to Frankie about the
6 case, about the case?

7 A It's been a few months. I mean for a while there
8 right after the incident, we were all close. We
9 lived down the street from me so we seen them all
10 the time but here recently, it's probably been a
11 good six months since I've really had a conversation
12 with Frankie, like even, but as far as the case
13 goes, I'm not even sure. I might have asked him if
14 he's heard anything about it but and he'd say no,
15 not yet.

16 Q So we never got together ...

17 A No.

18 Q And you have not been contacted by the solicitor's
19 office, the prosecution, about your testimony in the
20 case or anything that you saw that evening?

21 A This one or

22 Q This one.

23 A I was contacted about a month ago --- some sort of
24 ...

25 Q Let me stop you there. Let's not go into that. Has

Ms. Mains - Cross by Mr. Durant

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1 the prosecutor's office contacted you about this
2 case?

3 A Oh, no.

4 Q Okay.

5 Mr. Kent: That's all the questions I have. Answer
6 any questions that Mr. Durant has.

7 A Okay.

8 The Court: Cross?

9 **MS. MAINS CROSS BY MR. DURANT:**

10 Q Ms. Mains, good afternoon. Are you still Ms. Mains?

11 A No.

12 Q You and Gregg are divorced now?

13 A Yes.

14 Q What's your last name?

15 A It's Puckett.

16 Q Puckett? Okay. Are you remarried?

17 A Yes.

18 Q Do you, just for my clarity, were you closer in
19 friends with Frankie or was Gregg?

20 A We both were.

21 Q You both were?

22 A Uh-huh.

23 Q Do you still have contact with Frankie?

24 A Yeah.

25 Q And isn't it true you actually babysit for his

1 children don't you?

2 A I used to a good bit but since him and his wife
3 split, she won't --- I don't ever think he hardly
4 gets her anymore.

5 Q You don't babysit anymore?

6 A . No.

7 Q I think you mentioned that --- well, before I go
8 there, tell me about the boat ride from Goat Island
9 to Lakeview. Who was driving Chad's boat at the
10 time?

11 A Chad.

12 Q Chad was? Was Chad driving it the whole time?

13 A Yes.

14 Q So Frankie never --- you never saw Frankie drive
15 Chad's boat?

16 A I never saw, no.

17 Q And you mentioned that rather than go through the
18 channel markers, which would be the clear area with
19 no stumps, that they drove through the stumps?

20 A Yeah.

21 Q And I think you testified a minute ago that they
22 were driving wide open through the stumps?

23 A No.

24 Q Who did you mean was driving wide open? Were y'all
25 driving wide open through the stumps?

1 A Well, I meant was us. What I call wide open is
2 going like 20 miles per hour. So, well that's what
3 Gregg told me but to keep up. I mean, they went a
4 certain way and we followed.

5 Q Okay, so y'all were driving wide open to try to keep
6 up with Chad but was that fast enough to keep up
7 with him?

8 A Yeah, we --- I guess he kept turning around looking
9 at us. He never got out of sight. He stayed ahead
10 of us.

11 Q I didn't mean to interrupt you. But you said a
12 minute ago that he kept stopping and waiting for
13 y'all to catch up. Isn't that right?

14 A Well, he would stop, just stop in general just to
15 ask me a question or ask me if I was alright.

16 Q So if y'all were going 20 miles an hour through the
17 stumps, is it safe to say that Chad was going faster
18 than that?

19 A I mean, I don't know. I don't know --- it was so
20 dark, we were going - It seemed fast to me but I
21 don't know how fast.

22 Q It seemed fast to you but isn't it true if y'all
23 were going the same speed, he wouldn't have to stop
24 and wait on y'all?

25 A No, he didn't stop just to wait. He would stop to

1 ask me do we, you know, if I'm okay.

2 Q But when he stopped ...

3 A We would talk.

4 Q ... y'all would catch up with him ...

5 A We would talk together. And then I'd say no, keep
6 going. And then he'd go again and we'd get behind
7 him and then we followed them a little ways and then
8 he'd stop again and we'd stop and look. I mean, we
9 didn't stay like bumper to bumper behind them but we
10 stayed close enough where we could see them and
11 watch his boat and see if he hit any stumps because
12 that's what - I mean that's what I told Gregg to do,
13 just try to stay between them so that way we don't
14 hit a stump.

15 Q Just stay in their wake?

16 A Mmm hmm. Yes.

17 Q I think you mentioned that you didn't talk to DNR
18 until later that morning. Is that right?

19 A It was before we left.

20 Q Do you remember talking to DNR?

21 A I talked to somebody, I know I did. But after that,
22 I mean, after the whole incident, it started, I
23 don't know, everything starts being a blur there.

24 Mr. Durant: If I make mark this. State's Exhibit
25 Number 66.

1 **(State's Exhibit Number 66 was marked)**

2 Q Do you remember giving a written statement to DNR?

3 A Yes. I remember filling a paper out of the back of
4 somebody's truck.

5 Q Alright, I'm going to pass you up what's been marked
6 as State's exhibit 66. I'll give you a chance to
7 read over it.

8 A (Witness reads). Okay.

9 Q Did you mention anywhere in that statement that
10 there was an argument about the light, about the
11 boat lights when y'all pulled up?

12 A No.

13 Q Did you mention anywhere in that statement that the
14 lights on the victim's boat were off and then they
15 cut them back on?

16 A No.

17 Q Did you mention anywhere in that statement that Chad
18 told you that they were going to Chris's to look at
19 their boat?

20 A No.

21 Q Did you mention anywhere in that statement that they
22 were the last boat to leave?

23 A No.

24 Q Would you agree with me that these are pretty
25 important details?

1 A I mean, I know they are but at that time, I mean, it
2 was so late and it looks like, I don't even really
3 remember, I told him, I don't remember what I wrote
4 on the way home that night.

5 Q But you included some specific details didn't you?

6 A Well I did, I guess it's just the way I was thinking
7 at that time but ...

8 Q Isn't it true that you actually included the detail
9 about the dog jumping in your lap?

10 A Yes.

11 Q So you told DNR that the dog ...

12 A I didn't ...

13 Q ... jumped in your lap.

14 A I mean I didn't, I mean, I just wrote what I could
15 think of at the moment and, I mean, I knew somebody
16 would probably call me for more specific ones or, I
17 mean it was that whole night --- at that moment that
18 we were writing was a blur.

19 Q So you told DNR that the dog jumped in your lap but
20 you didn't think to tell them about whether or not
21 the lights were on the victim's boat, whether or not
22 there was an argument about the lights, and that the
23 defendant had told y'all where he was going and why?

24 A No.

25 Q Didn't put any of those details in it. The last

Ms. Mains - Re-Direct by Mr. Kent

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1 line of your statement, the last sentence, would you
2 read it for us?

3 A The last line?

4 Q The last sentence.

5 A I did not see the wreck; we only came up afterwards.

6 Q Okay. So at this point, y'all were not riding right
7 along with Chad's boat?

8 A No.

9 Q Is that fair to say?

10 A That's fair.

11 Q Alright.

12 Mr. Durant: No further questions.

13 The Court: Redirect?

14 Mr. Kent: Thank you.

15 **MS. MAINS REDIRECT BY MR. KENT:**

16 Q Ms. Mains, you're almost done. The solicitor was
17 asking you about the statement that you gave that
18 evening. You've been on the stand now for about 30,
19 40 minutes testifying to everything that happened
20 that night. Would you agree with me there? Just
21 now, we've been on here for 30, 40 minutes?

22 A To be honest, I have no idea what time I sat on the
23 stand.

24 Q And you would agree that the statement that you gave
25 to law enforcement was about ten lines long?

1 A Yes sir.

2 Q Since that time, you've given a 70 page under oath
3 sworn statement as to everything that's happened in
4 that case?

5 A Yes sir.

6 Q And that would be pretty much everything that you've
7 testified to today?

8 A Yes sir.

9 Q And the statement was sworn under oath as to what
10 happened that night?

11 A Yes sir.

12 Q Which is similar to the testimony that you gave to
13 the jury just now.

14 A That's right.

15 Q Thank you so much.

16 Mr. Kent: That's all the questions I have.

17 The Court: Re-cross?

18 Mr. Durant: One re-cross.

19 **MS. MAINS RE-CROSS BY MR. DURANT:**

20 Q Ms. Mains, isn't it true in that sworn statement
21 that you gave that you told or you stated that
22 Frankie and Jessica said some terrible things to the
23 victims that night?

24 A Yes.

25 Mr. Durant: No further questions.

1 The Court: Alright, you can step down. Okay folks,
2 I think what we'll do is take a lunch break right now. I
3 know we didn't get a lot done, but it is lunch time. I
4 know everybody's hungry. So why don't we reconvene back
5 here at 2:30. Don't begin any deliberations about the
6 case or discussions about the case with anyone. Don't
7 try to find out anything by media or internet. Alright,
8 see y'all back at 2:30.

9 (Jury exits courtroom 12:59)

10 (Court lunch break)

11 **(7/14 pm) (Court back on)**

12 The Court: Okay, let's bring the jury in.

13 Mr. Kent: Okay.

14 (Jury enters courtroom 2:49)

15 The Court: Alright folks, welcome back. We are
16 going to have our next witness testify via Face time ...
17 I-phone Face time. The witness is unavailable to be
18 here. By agreement by the parties, she's going to
19 testify live, but we are video conferencing. We're
20 having a little bit of technical difficulties. We
21 thought we had it but we're going to try again. Okay?
22 Now this testimony, or this sort of testimony is brought
23 to you by video conferencing, you are to treat it the
24 same as if the witness was here testifying live. You
25 don't give it any extra credit because it's in this

1 format or take away from it because it's in this format.
2 You should decide how much testimony --- weight to give
3 the witnesses testimony based on how much you think it
4 deserves with all the evidence that you've heard. Now,
5 your Ms. Long, can you hear me? This is Judge Young?

6 Ms. Long: Yes sir.

7 The Court: Alright, will you raise your right hand
8 please? Do you swear or affirm the testimony you're
9 about to give to be the truth, the whole truth, and
10 nothing but the truth, so help you God?

11 Ms. Long: Yes sir.

12 The Court: Alright, Mr. Kent's going to ask you
13 questions first.

14 **MS. LONG EXAM BY MR. KENT:**

15 Q Ms. Long, how are you doing?

16 A I'm okay.

17 Q Can you hear me fine?

18 A Yes.

19 Q Alright, I'm going to need you to speak loud and
20 clearly now. I know you can't see anybody in here
21 but there's a courtroom full of people watching
22 okay?

23 A Okay.

24 Q I need you to speak clear enough because there's a
25 court reporter who is taking down every word that

1 you're saying so make sure that you answer loud
2 enough and clear enough so the court reporter can
3 take down your words. Okay?

4 A Yes sir.

5 Q Can you state your name for the record please?

6 A Jessica Long.

7 Q And could you spell your last name please?

8 A L-O-N-G.

9 Q Ms. Long, I'm going to ask you some questions. I'm
10 going to talk to you about the incident that you
11 were involved in some two years ago. Do you know
12 what I'm talking about?

13 A Yes sir.

14 Q Okay. Now while the jury's watching you, if you
15 could tell the jury everything that happened that
16 day that you remember and just go through it in as
17 much detail or as much as you want, telling the jury
18 what happened that day, what did you do, and what
19 did you do at the end of the evening. Okay?

20 A Okay. I'm pretty sure we slept late that morning,
21 got up. I had just gotten back from ...

22 Q Speak a little louder for me. Just a little bit
23 louder for me Ms. Long.

24 A Okay. We slept late that morning. Got up, my ex
25 and I were trying to work things out, we were trying

1 to spend some time together. We rode to town, got
2 something to eat and he asked me if I wanted to go
3 fishing that night. I let him know that was fine.
4 Said he wanted to go with a buddy of his. I told
5 him that was fine. We rode by Chad's house and
6 that's when I met him and him and Frankie talked
7 about going fishing that night and told Frankie he'd
8 come by and pick up from our house later on that
9 evening, said we were going to pier lights. So you
10 know, we went back to the house, sat down, watched
11 TV, got the tackle box ready and all the rods and
12 stuff together and waited on him. When he got there
13 we loaded everything up in the boat and left. Went
14 to the landing, put the boat in the water. We
15 stopped at Goat Island for a few minutes. I think
16 we were there probably maybe 30, 45 minutes,
17 something like that and we left. When we left Goat
18 Island, we were going to stop at another place
19 across the lake; I don't remember the name of it.
20 Like I'm not real familiar with that area. But we
21 were going to stop in there and when we walked in,
22 Frankie wasn't too much for the crowd in there so we
23 left. When we left from there, we went out across
24 the lake. We were headed out toward a friend
25 Stephanie's place on the lake and riding down the

1 lake and hit a boat. We didn't realize that it was
2 boat at the time but when we turned around to see
3 what we had hit, that's when we realized it was
4 another boat.

5 Q Keep going. What happened after that?

6 A When we realized it was a boat, my husband, you
7 know, stood up and, he you know, yelled across at
8 them and was trying to get everybody to calm down,
9 asked if everybody was okay. And everybody was
10 screaming and hollering that he had run into their
11 boat and we had wrecked them and this and that. And
12 he finally told them, you know, he said just shut
13 up. How many people were in the boat with them.
14 And they said four. Well, how many people are in
15 the boat now? And they said there were four people
16 on the boat. And he said okay, at least everybody's
17 in the boat, everybody's okay? And that's when some
18 girl started screaming and said no, she's bleeding.
19 And I think she --- everybody was yelling and
20 screaming. I don't remember exactly who was saying
21 what or whatever. I picked up the phone; I called
22 911 and I couldn't tell them exactly where I was
23 because like I said I didn't know, I'm not that
24 familiar with that area of the lake. And everybody
25 around me was trying to tell me, you know, where we

1 were closest to and they were trying to pull up
2 locations on the map and everything. And they
3 pulled up our location and they told us where they
4 were going to send an ambulance to meet her. Well,
5 Gregg had already gotten in the boat with her and he
6 was, you know, he was trying, I guess, to do what he
7 could to help her. And a pontoon pulled up and they
8 picked her up and put her on the front of the
9 pontoon and that's when everybody left and was going
10 where the ambulance was. Well, our boat, we thought
11 was taking, we didn't know if the boat was taking on
12 water or water came from the crash or what, but our
13 boat had like a lot of water in the bottom of it and
14 my husband's cousin's lake house was right right
15 across the lake from where we were. So we pulled
16 over there to check and make sure that there wasn't
17 a hole in the boat. And when we pulled up, they
18 started, you know, looking at stuff around the boat.
19 Trying to check it. Getting the flashlight and
20 stuff so everybody could look at the boat. And we
21 were there a few minutes. I'm not exactly sure how
22 long and the game wardens passed by and when the
23 game warden passed by we flagged them down.

24 Q Okay.

25 A And let them know that we were the ones that were

1 involved in that incident.

2 Q Now Jessica, just a couple of follow up questions.

3 I'm sorry, go ahead. You have something else.

4 A No, from there we followed the game warden down back
5 to the game warden cabin and that's what we did. We
6 just followed them back to the cabin and everybody
7 gave their statements.

8 Q Jessica, I have a couple of follow up questions
9 okay?

10 A Yes sir.

11 Q Do you know Chad Morris?

12 A Somewhat.

13 Q Okay, do you consider the two of you friends. Do
14 you know him well?

15 A I guess, yes, he's a friend. I mean, I would
16 consider Chad a friend; just don't know him that
17 well. That day, or that night when we went fishing,
18 when we went by discussed going fishing with them,
19 that was the first time I'd ever met him. I think
20 I've seen him maybe three or four times since then,
21 I believe.

22 Q Jessica, have you ever been in my office to discuss
23 this case at all?

24 A No sir.

25 Q Have we ever actually met in person?

1 A No sir.

2 Q This actually the first time we've seen each other.
3 Would you agree with me there?

4 A Yes sir.

5 Q Okay, so you have not gotten together and discussed
6 your testimony with anybody, hadn't had you in a
7 group to discuss your testimony on how to testify?
8 Correct?

9 A No sir.

10 Q And as a matter of fact, the person that you are
11 related to in this case, or were related to was
12 Frankie Card? Is that correct?

13 A Yes sir.

14 Q And you two are currently going through a divorce?
15 Would that be correct?

16 A Yes sir.

17 Q And the two of you do not talk at all?

18 A No sir.

19 Q Okay. Has anybody contacted you or talked to you
20 about your testimony today, what to say or how to
21 say it?

22 A No sir.

23 Q Jessica, a couple of other follow up questions. Did
24 you call --- Did you call 911 that day?

25 A Yes sir.

1 Q Okay, so you called 911 immediately?

2 A Yes sir, I was the only one out there that did call
3 911.

4 Q Jessica, was your boat the last boat to leave the
5 scene?

6 A Yes sir.

7 Q So y'all sat out there for quite some time?

8 A We didn't sit there, I mean, we weren't sitting
9 there that long because we were afraid the boat was
10 taking on water.

11 Q Okay.

12 A But we sat there and made sure that they had her on
13 the boat and we were, when everyone else left to go
14 meet the ambulance, you know, we sat there a second
15 and we pulled over to the other side of the lake.

16 Q Jessica, did you see the boat before y'all collided
17 with it?

18 A No sir.

19 Q Even after you hit the boat, did you realize what
20 you had hit?

21 A No sir, we thought we had hit a floating log or
22 something else. I mean, we were in the middle, we
23 couldn't imagine what we had hit. That's why when
24 we hit, we didn't know what we hit. I mean, we had
25 to turn around to actually see what we had hit.

1 Q Do you believe Chad was going reckless that night?
2 Was he driving reckless and acting recklessly that
3 night?

4 A Not at all.

5 Q Did you feel unsafe in the vehicle that Chad was
6 driving that night?

7 A No sir.

8 Q Tell me how Chad acted immediately after the
9 collision. Was he jumping up and down, was he
10 partying and smiling?

11 A No sir, not at all.

12 Q How was he acting?

13 A He was extremely -- he was extremely just upset,
14 scared. It's kind of hard to explain. It was
15 almost like a panic I guess. He just --- it just,
16 kind of in shock, I guess is the best way to put it.

17 Q Jessica, at any point in time, did y'all try to
18 escape or run or avoid law enforcement that night?

19 A No sir. We flagged them down.

20 Q Y'all flagged law enforcement down; you were there
21 when law enforcement was being flagged down?

22 A Yes sir.

23 Q After the collision, how long after the collision
24 did it take Lori and Gregg Mains to get to the
25 scene? Were they there fairly quickly?

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1 A Yeah, they were following behind us.

2 Q So they were there pretty quickly?

3 A Yes.

4 Q Let me ask you this, did it seem as though before --
5 -- did it take a time for y'all to actually realize
6 that somebody was hurt in the boat?

7 A Yeah, it really did because like I said, my husband,
8 you know, he was trying to get everybody to calm
9 down. You know, we didn't know how many people were
10 in their boat, I mean, you know, we didn't know.
11 Like I said, we didn't know it was a boat and I
12 mean, we didn't know people were in the boat or
13 anything else. And that's why he asked how many
14 people were in the boat originally. And he said
15 well how many people are actually in the boat now?
16 And I mean, they took a few second, a couple minutes
17 to get them to actually calm down enough to
18 actually, you know, to say that she was hurt.

19 Q Do you believe that Chad did this intentionally?

20 A No.

21 Q Do you believe this was an accident?

22 A It was a horrible accident.

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

24 You need to answer any questions from Mr. Durant.

25 He's going to come to the same place I was and ask

1 you some questions, okay?

2 A Okay.

3 **MS. LONG CROSS BY MR. DURANT:**

4 Q Hey Jessica, good afternoon. Can you hear me?

5 A Yes sir.

6 Q I'm going to ask you a few questions; I'm sorry if I
7 go off the screen, I have to look at my notes. You
8 testified a minute ago that everybody was screaming
9 and hollering after the collision. Do you remember
10 that?

11 A Yes sir.

12 Q Okay. And you testified further that it took you a
13 few minutes to get them to calm down. Is that
14 right?

15 A Yes sir.

16 Q Isn't it true that you actually ...

17 A A few seconds or a minute.

18 Q A few seconds or a minute. Isn't it true that you
19 actually yelled at the victim and the passengers on
20 her boat to shut the f up or you were not going to
21 call 911?

22 A No sir, it is not.

23 Q You didn't say that?

24 A No sir.

25 Q Did you yell anything at them to get them to calm

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1 down?

2 A Yes I did.

3 Q What did you yell?

4 A At one point, I did tell them to shut up and tell us
5 what was wrong.

6 Q Okay. You didn't use any obscene language but you
7 did tell them to shut up?

8 A Yeah, I did tell them to shut up.

9 Q I think you testified a minute ago that you actually
10 called 911 yourself. Is that right?

11 A Yes sir.

12 Q And again, you told Mr. Kent that you were the only
13 one that called 911 there. Is that right?

14 A As far as I know, noone else out there was on a cell
15 phone because they were all trying to give me or
16 tell me how to tell 911 operator where we were.

17 Q So if there's a female voice on the 911 recording,
18 then it should be yours correct?

19 A Yes sir.

20 Q Let me ask you about Gregg and Lori Mains; were they
21 with y'all that evening?

22 A They were following behind us in another boat.

23 Q How far behind you?

24 A They weren't that far because like I said we were
25 together. They were following us. They were in a

1 much smaller boat with a small motor.

2 Q Were they within eyesight of you?

3 A Yes.

4 Q So they should've been able to see the collision
5 from where they were then, correct?

6 A Probably so. I mean, you can see the spotlight.
7 Lori was sitting up kind of in the front of the
8 boat...spotlight shining out in front of them. So I
9 mean, we could see her lights so I can't tell you
10 what she could see or what she couldn't see but we
11 could see the spotlight from our boat.

12 Q On the topic of lights, did you see any lights on
13 the victim's boat?

14 A No sir.

15 Q Do you remember talking to law enforcement in this
16 case?

17 A Yes sir, I do.

18 Q You actually met with them twice didn't you?

19 A Yes.

20 Q They took a statement from you the morning after the
21 collision and then the following day after you had a
22 chance to go home and sleep on it.

23 A Yeah, I believe that's correct.

24 Q Alright. Do you remember telling law enforcement
25 the following the day that after the collision, you

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1 turned around, that's when you saw the lights?

2 A I, honestly, I do not remember.

3 Q You don't remember telling law enforcement verbatim
4 "I did not see the boat lights until after we hit
5 and other people started screaming."?

6 A I don't remember. I mean, I really don't. I mean,
7 like I say ...

8 Q Ms. Long, you were remembered everything that Shaun
9 Kent asked you; now that I'm asking you a question,
10 you don't remember if -

11 Mr. Kent: Your Honor, I'm going to object. That's
12 actually not even her statement. That's ..

13 A You're asking about a accident that happened years
14 ago ...

15 Mr. Durant: Ms. Long, I'll have to stop you there.
16 There's an objection.

17 The Court: Hold on, we've got to deal with this
18 objection. What's your objection?

19 Mr. Kent: My objection is he's asking her questions
20 from a synopsis of the officer who wrote down the
21 interview, not her own actual handwritten statement and
22 then questioning her about that and then saying that
23 there's thing wrong in that statement. It's not her own
24 statement.

25 The Court: Unless you have a document to impeach her

1 testimony, you have to be stuck with the answer.

2 Q Ms. Long, unfortunately, you're not here for me to
3 show you documents, but you actually gave a written
4 statement the day before. Correct?

5 A Yes sir.

6 Q Okay. The day of the incident, you gave a written
7 statement?

8 A That morning, yes sir.

9 Q Alright. After the incident, you went back to Rusty
10 Harrington's house. Is that right?

11 A Yes.

12 Q Okay I think you said you gave another name for
13 people you were going to see at that house. Who are
14 they?

15 A Brandon and Stephanie.

16 Q Brandon and Stephanie, were they your friends?

17 A They are my friends use to be ex-husband's, Brandon
18 is his cousin.

19 Q Did you know that that's where you were going when
20 you talked to 911?

21 A No, I didn't tell 911 where I was going at all. Had
22 no intentions of going anywhere. I was trying to
23 get her help; I wasn't trying to give her directions
24 to where I was going.

25 Q So you didn't tell 911 where you were going. Did

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1 you tell 911 who you were?

2 A I don't know if they asked.

3 Q Did you tell 911 that you actually were a party to
4 the collision, that y'all were involved in it?

5 A Okay, had they asked my name, I would have given my
6 name. And you know, 911, that's the first thing
7 they ask, you know, what's the nature of your
8 emergency and then they usually ask you your name
9 and your address. I mean, I'm pretty sure if they
10 asked me my name, I gave my name.

11 Q Well, you testified a few minutes ago that I think
12 it was just a few minutes after you got to
13 Harrington's house that you flagged the game wardens
14 down. Is that right?

15 A I'm not exactly sure how many minutes but yes, I
16 mean, it was not that long.

17 Q Just a few minutes; within in 15 minutes?

18 A Like I said, I'm not exactly sure. It's probably
19 15, 20 minutes. I'm not positive.

20 Q After the incident itself. And y'all flagged them
21 down, they didn't just happen to find you?

22 A No.

23 Q Did y'all happen to call --- or do you recall
24 whether anybody else called y'all to say that the
25 game wardens were looking for y'all during that

1 period of time?

2 A I do not know.

3 Q You don't know that whether anybody called and said
4 they're looking for y'all?

5 A I don't know.

6 Q Did y'all call during that period of time and tell
7 law enforcement or the game wardens where you were?

8 A No, not that I know of.

9 Mr. Durant: I beg the Court's indulgence.

10 Q Ms. Long, after the collision, was there anybody in
11 the water?

12 A Not that I saw.

13 Q Noone was knocked off of the victim's boat into the
14 water?

15 A I do not remember. I don't remember anybody being
16 in the water because I remember my husband asking,
17 you know, how many people were in the boat before
18 and how many people were in the boat afterwards and
19 they were saying everyone was in the boat. So, no I
20 don't remember seeing anybody in the water.

21 Mr. Durant: I don't have any further questions.

22 The Court: Redirect?

23 Mr. Kent: Your Honor, I think out of abundance of
24 caution, I'd move her statement into evidence. At this
25 point in time, I think Mr. Durant was asking and it might

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1 make it easier to ask a question.

2 Mr. Durant: Your Honor, I don't think that's proper.

3 I didn't ask her anything about that statement. It was

4 the statement synopsis that Mr. Kent objected to.

5 Mr. Kent: You asked her did she give a written
6 statement.

7 Mr. Durant: If she gave one; you can ask her
8 anything about it.

9 Mr. Kent: That's fine.

10 **MS. LONG REDIRECT BY MR. KENT:**

11 Q Ms. Long, when you were asked questions --- this is
12 Shaun Kent again - you were asked questions about
13 giving a written statement to law enforcement, do
14 you remember giving a written statement.

15 A I remember giving a statement the night that it
16 happened or the morning that it happened.

17 Q And you remember in that statement putting down most
18 of the information that you just testified to?

19 A Yes sir.

20 Mr. Kent: Thank you. That's all the questions I
21 have.

22 The Court: Okay.

23 Mr. Kent: Yes sir, Your Honor. Thank you Jessica.

24 The Court: Alright, next witness.

25 Mr. Kent: Your Honor, we would call Daniel Brunson

1 to the stand.

2 Clerk: Raise your right hand, place your left hand
3 on the Bible. Do you swear or affirm that the testimony
4 you give will be the truth?

5 Mr. Brunson: I do.

6 **MR. BRUNSON EXAM BY MR. KENT:**

7 Q Would you state your name for the record and spell
8 your last name, please sir?

9 A Daniel Brunson, B-R-U-N-S-O-N.

10 Q Mr. Brunson, I'm going to be asking you some
11 questions. And I'm going to need to make sure that
12 you speak loud and clear enough so everybody in the
13 jury can hear every word that you're saying okay?
14 And Madam Court Reporter down there with the mask on
15 is taking down everything you're saying so she can't
16 take down head nods and shakes and things of that
17 nature. Okay? So I want you to speak loud and
18 clear enough. I speak fast so if you have any
19 questions over anything that I say, just simply ask
20 me to repeat my question. Fair enough? Daniel,
21 let's get this out of the way. We know each other.

22 A Uh-huh.

23 Q Would you agree?

24 A Yes sir, I'm sorry. Yes sir.

25 Q We know each other and I would consider you a friend

1 and call you a friend.

2 A Absolutely.

3 Q And I just wanted to get that out of the way.

4 Daniel, that being said, I did not subpoena you to
5 come testify, did I?

6 A No.

7 Q Who actually subpoenaed you to come testify in this
8 trial?

9 A Chris was telling me that he wanted me to.

10 Q So you were actually on the State of South
11 Carolina's witness list?

12 A Yes.

13 Q Subpoenaed to be here by the State of South
14 Carolina?

15 A No, I didn't get actually subpoenaed. Chris told me
16 I was going to be here, the last day when he come up
17 to me, he said I didn't have to come.

18 Q All I want to know, I just want to talk about what
19 happened. Okay? Your name has come up several
20 times but I would like for you to tell the jury.

21 You know what it is we're talking about, you know
22 what we're here for. Tell the jury your story, tell
23 them what happened, where you came from, and what
24 did you see.

25 A I was riding with Laughton Jones. We went and

1 dropped some friends off at a lake house right down
2 not too far from Scarborough's's, around the corner
3 going toward Lakeview Lane. And we dropped them off
4 and was coming back and was just having a good time,
5 cruising real slow. And playing music, you know;
6 girls in the backseat just back there talking to
7 each other and me and Laughton was standing in the
8 front. Well, this boat goes by us and it's going
9 pretty good and it kind of keeps going and it jumps
10 our wake behind us, went by us and jumped our wake
11 behind us and then kind of went around, kept going
12 straight. And it went off towards the power lines.
13 Then after that, about two minutes later, another
14 boat kind of comes around and kind of goes a good
15 ways in front of us, kind of turns, goes to like the
16 Scarborough's's slough and then it just sits there
17 for a minute because me and Laughton's coming on up
18 towards his lake house and I look and I say
19 Laughton, look at the boat right there. He said oh
20 yeah, yeah I see it. He said, we're not going quite
21 that far, we're turning at my lake house and we keep
22 cruising. So we turned to go back to his lake house
23 and whenever we do, as soon as we get off the boat,
24 we hand all of our girlfriends our cell phones and
25 our shirts and all that, they're standing on the end

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1 of the pier and Laughton's tying up on one end and
2 I'm tying up on the other end and I hear this boat
3 coming so I just kind of looked up and when I do, I
4 see this boat, you know, coming across the lake and
5 then I see it hit. I can hear them hit, I see the
6 boats shake and two lights on the boat. This boat
7 over here with the lights that was parked with the
8 lights on got hit. Then the other boat went across
9 and then soon as I looked at Laughton I said, you
10 know what that was. He said a boat wreck. So we
11 took off out there and everything and told the girls
12 to stay because if it was bad we didn't want them to
13 see nothing. We took off and we were the first boat
14 there and when we get there, we get there pretty
15 quick and I tell him I said back off a little bit in
16 case somebody's in the water, we don't hit nobody.
17 So we backed off and cut all the lights on on his
18 boat and was looking around at everything and when
19 we got up to them, Laughton recognized them and they
20 said hey Laughton, I'm so glad you're here, you
21 think you can help us out. And then the other boat
22 that was over there, they were kind of arguing back
23 and forth saying, you know, there's somebody that
24 has been hurt in the boat. And I said yeah
25 somebody's seriously hurt on the boat. There was a

1 girl doing that the whole time, there was a girl or
2 something, I don't know, hollering back and forth
3 kind of arguing. But then soon as I look down, I
4 seen there was a girl hurt real bad, I said there's
5 a girl seriously hurt and kind of blocked them out.
6 Soon as I blocked them out, I started, I held the
7 boat for them for a few minutes, for about a minute.
8 And quick, another boat pulled right up then another
9 boat pulled up and they helped get her and to set
10 her on the other big boat, which was built like a
11 pontoon. They set her on the front and everybody
12 got on that one and they told Laughton will you stay
13 with my boat? So I looked at Laughton and I said
14 what do you want to do, you know. He said let's
15 take it to Scarborough's's. So I jump in the boat,
16 I crank it up, well I try to crank it up; it was
17 catching the devil turning over because the motor
18 was leaning like that on the back where, you know,
19 it got hit. So I try to crank it up and I finally
20 get it to crank and then when I leaned and I looked
21 and they're still there. Their boat's still there.
22 So whenever I go to pull off, I'm trying to hold it
23 to it so I'm looking all around trying to figure out
24 what's going on and then that's when I realized
25 there was a lot of water in the boat. So I'm