

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Jasper County
Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BILLY PHILLIPS,

APPELLANT

APPELLATE CASE NO 2016-000108

RECORD ON APPEAL

LAURA R. BAER
Appellate Defender

ALAN WILSON
Attorney General

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

J. ROBERT BOLCHOZ
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

ATTORNEY FOR APPELLANT

MARGARET G. BOYKIN
Assistant Attorney General
S.C. Bar No. 101017
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-6305

ISAAC MCDUFFIE STONE, III
Solicitor, Fourteenth Circuit
P.O. Box 1880
Bluffton, SC 29910
(843) 255-5880

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRANSCRIPT OF TRIAL HELD JANUARY 11-14, 2016.....	1
PRE-TRIAL MOTIONS.....	9
<i>NEIL V. BIGGERS</i> HEARING	45
TESTIMONY	
TAYLOR COWHERD (in-camera)	
Direct Examination by Ms. Jones	31
Cross Examination by Mr. Plexico	36
COURT'S RULING	36
MOTION TO EXCLUDE DNA TEST RESULTS	45
COURT'S RULING	45
<i>JACKSON V. DENNO</i> HEARING	45
TESTIMONY	
JOHN CHARLES BURNETT (in-camera)	
Direct Examination by Ms. Jones	45
Cross Examination by Mr. Plexico	55
COURT'S RULING ON ADMISSIBILITY OF FIRST STATMENT.....	58
TESTIMONY	
CHRISTOPHER ALLEN MCINTOSH (in-camera)	
Direct Examination by Ms. Jones	60
Cross Examination by Mr. Plexico	65
DAVID WILLIAMS (in-camera)	
Direct Examination by Ms. Jones	68
Cross Examination by Mr. Plexico	73

SHAUN HARLEY (in-camera)	
Direct Examination by Ms. Jones	75
Cross Examination by Mr. Plexico	81
BILLY PHILLIPS (in-camera)	
Direct Examination by Mr. Plexico	84
Cross Examination by Ms. Jones	88
Re-Direct Examination by Mr. Plexico	90
COURT'S RULING ON ADMISSIBILITY OF SECOND STATMENT	93
OPENING STATEMENT BY MS. JONES	98
OPENING STATEMENT BY MR. PLEXICO	102
TESTIMONY	
RUSTY WELLS	
Direct Examination by Ms. Jones	107
Cross Examination by Mr. Plexico	109
SHONTAY MCKEITHAN	
Direct Examination by Ms. Jones	110
Cross Examination by Mr. Plexico	118
Redirect Examination by Ms. Jones	126
DEVONTE FREEMAN	
Direct Examination by Ms. Jones	128
Cross Examination by Mr. Plexico	140
Redirect Examination by Ms. Jones	147
KEVIN SMITH	
Direct Examination by Ms. Jones	150
Cross Examination by Mr. Plexico	158
Redirect Examination by Ms. Jones	162
JASON BLESSING	
Direct Examination by Ms. Jones	163
Cross Examination by Mr. Plexico	168
JOSEPH GINN	
Direct Examination by Ms. Jones	169
Cross Examination by Mr. Plexico	172

JESSICA HORTON

Direct Examination by Ms. Jones	173
Cross Examination by Mr. Plexico	179
Redirect Examination by Ms. Jones.....	180

DAWN CLAYCOMB

Direct Examination by Ms. Jones	182
Cross Examination by Mr. Plexico	221

DAVID WILLIAMS

Direct Examination by Ms. Jones	225
Cross Examination by Mr. Plexico	236
Redirect Examination by Ms. Jones.....	245

REGINALD GREEN

Direct Examination by Ms. Jones	246
Cross Examination by Mr. Plexico	260
Redirect Examination by Ms. Jones.....	263

DONTÉ JENKINS

Direct Examination by Ms. Jones	265
Cross Examination by Mr. Plexico	271

TAYLOR COWHERD

Direct Examination by Ms. Jones	275
Cross Examination by Mr. Plexico	282
Redirect Examination by Ms. Jones.....	284

WRENSHAD ANDERSON

Direct Examination by Ms. Jones	286
Cross Examination by Mr. Plexico	296
Redirect Examination by Ms. Jones.....	309

DAWN CHILDERS

Direct Examination by Ms. Jones	312
Cross Examination by Mr. Plexico	318

BONNIE SHIER

Direct Examination by Ms. Jones	321
Cross Examination by Mr. Plexico	325
Redirect Examination by Ms. Jones.....	325

CHRIS MCINTOSH

Direct Examination by Ms. Jones	326
Cross Examination by Mr. Plexico	350
Redirect Examination by Ms. Jones.....	362

SHAUN HARLEY

Direct Examination by Ms. Jones	366
Cross Examination by Mr. Plexico	374

JOHN BURNETT

Direct Examination by Ms. Jones	384
Cross Examination by Mr. Plexico	391

DEANDRE WOODS

Direct Examination by Ms. Jones	394
Cross Examination by Mr. Plexico	399
Redirect Examination by Ms. Jones.....	400

DANIEL LITCHFIELD

Direct Examination by Ms. Jones	401

SABRINA FELLERS

Direct Examination by Ms. Jones	406

RENEWAL OF MOTION TO EXCLUDE DNA TEST RESULTS 102

TESTIMONY

TIFFANY HEZEL

Direct Examination by Ms. Jones	416
Cross Examination by Mr. Plexico	422
Redirect Examination by Ms. Jones.....	424

VERONA HERRERA

Direct Examination by Ms. Jones	426

LILLY GALLMAN

Direct Examination by Ms. Masser	435
Cross Examination by Mr. Plexico	453
Redirect Examination by Ms. Masser.....	477

JEFF CROOKS

Direct Examination by Ms. Jones (in-camera)	479
Cross Examination by Mr. Plexico	483
Direct Examination by Ms. Jones	486
Cross Examination by Mr. Plexico	494

ILA SIMMONS

Direct Examination by Ms. Jones	498
Cross Examination by Mr. Plexico	508

MICHELLE EICHENMILLER	
Direct Examination by Ms. Jones	511
Cross Examination by Mr. Plexico	519
Redirect Examination by Ms. Jones.....	521
DR. NICHOLAS BATALIS	
Direct Examination by Ms. Jones	522
Cross Examination by Mr. Plexico	535
MOTION FOR DIRECTED VERDICT.....	537
COURT’S RULING	541
COLLOQUY REGARDING DEFENDANT’S RIGHT TO TESTIFY	542
SECOND MOTION FOR DIRECTED VERDICT.....	544
COURT’S RULING	544
CHARGE CONFERENCE.....	545
CLOSING ARGUMENT BY MS. JONES	556
CLOSING ARGUMENT BY MR. PLEXICO.....	582
CHARGE ON THE LAW	609
JURY QUESTION AND PARTIAL RECHARGE	629
VERDICT	632
SENTENCING	637
IMPOSITION OF SENTENCE.....	640
RENEWAL OF MOTIONS AND MOTION FOR NEW TRIAL	641
COURT’S RULING	644
NOTICE OF APPEAL.....	646
SENTENCING SHEETS.....	648
INDICTMENTS	650
DEFENSE MOTION TO EXCLUDE TESTIMONY RELATING TO DNA	654

CERTIFICATE OF COUNSEL 656

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATES EX. 1 (CD OF 911 CALL)

STATES EX. 54 (DVD OF BP SURVEILLANCE)

STATES EX. 58 (DVD OF PHILLIP'S 5/19/13 INTERROGATION)

COURT'S EX. 2 (UNREDACTED PHILLIP'S 5/19/13 INTERROGATION)

STATE OF SOUTH CAROLINA) IN THE 14TH JUDICIAL CIRCUIT
COUNTY OF JASPER) IN THE COURT OF GENERAL SESSIONS
) 2014-GS-27-00312,602
STATE OF SOUTH CAROLINA,)
))
))
PLAINTIFF,)
))
VERSUS)
))
BILLY PHILLIPS,)
))
DEFENDANT.) DATE: JANUARY 11-14, 2016
) PLACE: RIDGELAND, SOUTH CAROLINA

TRIAL TRANSCRIPT

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES

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

MARY C. JONES, ATTORNEY AT LAW
LENORE MASSER, ATTORNEY AT LAW
ATTORNEYS FOR THE PLAINTIFF

STEVEN PLEXICO, ESQUIRE
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: SCCID

COURT REPORTER: JO RICE
jrice@scccourts.org
OFFICIAL COURT REPORTER
SOUTH CAROLINA JUDICIAL DEPARTMENT

INDEX

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
PRE-TRIAL MOTIONS.. . . .				9-51
JACKSON/DENNO HEARING - FIRST PART				52-60
JURY VOIR DIRE AND SELECTION.				61-91
JACKSON/DENNO HEARING - SECOND PART				94-135
JUROR ISSUES				138-142
INTRODUCTORY REMARKS BY THE COURT.. . . .				145-152
OPENING STATEMENT - MS. JONES.. . . .				152-156
OPENING STATEMENT - MR. PLEXICO.. . . .				157-160
<u>RUSTY WELLS</u>				
MS. JONES	161-164			
MR. PLEXICO		164		
<u>SHONTAY MCKEITHAN</u>				
MS. JONES	164-172		181	
MR. PLEXICO		172-181		
<u>DEVONTE FREEMAN</u>				
MS. JONES	182-193		200-201	
MR. PLEXICO		194-200		
<u>SERGEANT KEVIN SMITH</u>				
MS. JONES	203-211		215	
MR. PLEXICO		211-215		
<u>JASON BLESSING</u>				
MS. JONES	215-221			
MR. PLEXICO		221		
<u>LIEUTENANT JOEY GINN</u>				
MS. JONES	222-225			
MR. PLEXICO		225		

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
<u>JESSICA HORTON</u>				
MS. JONES	226-231		233	
MR. PLEXICO		232		
<u>DAWN CLAYCOMB - SLED</u>				
MS. JONES	235-274			
MR. PLEXICO		274-278		
<u>DAVID WILLIAMS - SLED</u>				
MS. JONES	278-289		298	
MR. PLEXICO		289-297		
<u>REGINALD GREEN</u>				
MS. JONES	299-312		316-317	
MR. PLEXICO		313-316		
<u>DONTE JENKINS</u>				
MS. JONES	317-324			
MR. PLEXICO		324-327		
<u>TAYLOR LANIER COWHERD</u>				
MS. JONES	327-334		337-338	
MR. PLEXICO		335-337		
<u>WRENSHAD ANDERSON</u>				
MS. JONES	339-348		362-364	
MR. PLEXICO		349-361		
<u>DAWN CHILDERS</u>				
MS. JONES	365-370			
MR. PLEXICO		370-373		
<u>BONNIE SHIER</u>				
MS. JONES	374-378		378	
MR. PLEXICO		378		
<u>SERGEANT CHRIS MCINTOSH</u>				
MS. JONES	379-402		415-416	
MR. PLEXICO		403-415		
<u>LIEUTENANT SHAUN HARLEY - SLED</u>				
MS. JONES	417-427			
MR. PLEXICO		427-436		

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
<u>JOHN BURNETT - SLED</u>				
MS. JONES	436-444			
MR. PLEXICO		444-446		
<u>DEANDRE WOODS</u>				
MS. JONES	447-452		453-454	
MR. PLEXICO		452-453		
<u>LIEUTENANT DANIEL LITCHFIELD</u>				
MS. JONES	454-458			
NO CROSS				
<u>SABRINA FELLERS - SLED</u>				
MS. JONES	458-467			
NO CROSS				
<u>TIFFANY HEZEL - SLED</u>				
MS. JONES	469-475		476-479	
MR. PLEXICO		475-476		
<u>VERONA GIBSON HERRERA - SLED</u>				
MS. JONES	481-487			
MR. PLEXICO				
<u>LILLY GALLMAN - SLED</u>				
MS. MASSER	488-505		530-531	
MR. PLEXICO		506-529		
PROFFERED - JEFF CROOKS - SLED				532-538
JUROR ISSUE				538
<u>JEFF CROOKS - SLED</u>				
MS. JONES	541-549			
MR. PLEXICO		549-551		
<u>ISLA SIMMONS - SLED</u>				
MS. JONES	552-563			
MR. PLEXICO		563-565		
<u>MICHELLE EICHENMILLER - SLED</u>				
MS. JONES	566-574		576	
MR. PLEXICO		574-575		

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>RE-DIRECT</u>	<u>RE-CROSS</u>
<u>DR. NICHOLAS BATALIS - MUSC</u>				
MS. JONES	576-590			
MR. PLEXICO		590-591		
MOTION FOR DIRECTED VERDICT				592-597
FIFTH AMENDMENT RIGHTS				597-599
SECOND DIRECTED VERDICT MOTION				599
CHARGE CONFERENCE				599-609
CLOSING ARGUMENT - MS. JONES				611-637
CLOSING ARGUMENT - MR. PLEXICO				639-664
CHARGE ON THE LAW				664-683
QUESTION FROM THE JURY				683-687
VERDICT				687-692
SENTENCING				692-695
POST-TRIAL MOTIONS				696-700
CERTIFICATE				701

EXHIBITSSTATE'S EXHIBITS

S) 1	911 CD.	163
S) 2	8x10 PHOTOGRAPH - BODY WITH GUN.	189
S) 3	GUN (.38 REVOLVER).	571
S) 4	COLOR PHOTO OF NECK - ID ONLY	not entered
S) 4A	BLACK AND WHITE PHOTO OF NECK.	232
S) 5	8x10 PHOTOCOPY -	243
S) 6	8x10 PHOTOCOPY -	243
S) 7	8x10 PHOTOCOPY -	243
S) 8	8x10 PHOTOCOPY -	243
S) 9	8x10 PHOTOCOPY -	243
S) 10	8x10 PHOTOCOPY -	243
S) 11	8x10 PHOTOCOPY -	243
S) 12	8x10 PHOTOCOPY -	243
S) 13	8x10 PHOTOCOPY -	243
S) 14	8x10 PHOTOCOPY -	243
S) 15	8x10 PHOTOCOPY -	243
S) 16	8x10 PHOTOCOPY -	243
S) 17	8x10 PHOTOCOPY -	243
S) 18	8x10 PHOTOCOPY -	243
S) 19	8x10 PHOTOCOPY -	243
S) 20	8x10 PHOTOCOPY -	243
S) 21	8x10 PHOTOCOPY -	243
S) 22	8x10 PHOTOCOPY -	243
S) 23	8x10 PHOTOCOPY -	243
S) 24	8x10 PHOTOCOPY -	243
S) 25	8x10 PHOTOCOPY -	243
S) 26	8x10 PHOTOCOPY -	243
S) 27	8x10 PHOTOCOPY -	243
S) 28	8x10 PHOTOCOPY -	243
S) 29	8x10 PHOTOCOPY -	243
S) 30	8x10 PHOTOCOPY -	243
S) 31	8x10 PHOTOCOPY -	243
S) 32	8x10 PHOTOCOPY -	243
S) 33	8x10 PHOTOCOPY -	243
S) 34	8x10 PHOTOCOPY -	not entered
S) 35	8x10 PHOTOCOPY -	not entered
S) 36	8x10 PHOTOCOPY -	242
S) 37	CRIME SCENE SKETCH	252
S) 38	GUN HOLSTER	257
S) 38A	SCREWDRIVER, MARKER 4	257
S) 38B	TOOL MARKER 5	257
S) 38C	TOOL BITS	257

S) 38D 2 SCREWDRIVERS MARKER 7	257
S) 38E HOLSTER MARKER 7	257
S) 39 SWABS	496
S) 39A	496
S) 39B	496
S) 39C	496
S) 39D	496
S) 40 BULLET FRAGMENTS	573
S) 40A	573
S) 40B	573
S) 40C	573
S) 41 GSR KIT	559
S) 41A GSR	559
S) 41B GSR	559
S) 41C GSR	559
S) 41D GSR	559
S) 42 BILLY PHILLIP'S BUCCAL SWAB	495
S) 43 VICTIM'S BLOOD STANDARD	495
S) 44A VICTIM'S PANTS	485
S) 45A SWABS FROM GUN	496
S) 45B	not entered
S) 46 BLESSING'S BUCCAL SWAB	496
S) 47 8x10 PHOTOCOPY HERON CROSSING	not entered
S) 48 8x10 PHOTOCOPY OVERVIEW HERON CROSSING	not entered
S) 49 8x10 PHOTOCOPY BP GAS STATION	not entered
S) 50 8x10 PHOTOCOPY YELLOW HOUSE	311
S) 51 8x10 PHOTOCOPY ADAM STREET	343
S) 52 8x10 PHOTOCOPY CHICKEN WING BP GAS STATION	342
S) 53 8x10 PHOTOCOPY CHICKEN WING BP GAS STATION	not entered
S) 54 8x10 PHOTOCOPY SURVEILLANCE - BP	400
S) 55 8x10 PHOTOCOPY BILLY PHILLIPS POLICE DEPT	384
S) 56 8x10 PHOTOCOPY BILLY PHILLIPS GAS	401
S) 57 8x10 PHOTOCOPY BILLY PHILLIPS MONEY	401
S) 58 CD INTERVIEW (FORMERLY COURT'S #2)	427
S) 59 SHONTAY MCKEITHAN'S STANDARD	496
S) 60 DEVONTE FREEMAN'S STANDARD	496
S) 61 8x10 PHOTOCOPY AUTOPSY	not entered
S) 62 8x10 PHOTOCOPY	not entered
S) 63 8x10 PHOTOCOPY	not entered
S) 64 8x10 PHOTOCOPY	not entered
S) 65 8x10 PHOTOCOPY JACKET AND FRAGMENT	584
S) 66 8x10 PHOTOCOPY BULLET AND JACKET	589
S) 67A RIGHT POCKET SWABS	496
S) 68 POSTERBOARD - MAP	207
S) 69 MIRANDA FORM	441
S) 70 CHAIN OF CUSTODY - AUTOPSY	479

DEFENSE EXHIBITS

NONE

COURT EXHIBIT'S

C)1 MIRANDA RIGHTS	98
C)2 CD-(MADE STATE'S #58)	427
C)3 JUROR EXCUSE	143
C)4 REQUEST TO CHARGE	609
C)5 QUESTION FROM THE JURY	688

1 THE COURT: All right. I'm going to hold that ruling in
2 abeyance, but the ruling now is that all his criminal record
3 is indeed inadmissible until we reach that point. If he
4 testifies and if you find it necessary to introduce that
5 particular conviction to impeach him, then we will address it
6 at that time, but as it stands now, none of the Defendant's
7 criminal record is into evidence. However, the last one, we
8 will take the matter up at a later date in time. I'm going to
9 hold that ruling in abeyance until such time it is
10 appropriate to discuss.

11 MS. JONES: Thank you, Your Honor.

12 THE COURT: All right.

13 MR. PLEXICO: As a part of that motion, what I wanted
14 was, we have some transcripts and I don't know what is going
15 to be allowed to be used and what's not, but it is replete
16 with references to his probation officer, being on parole,
17 and his prior criminal history and I'd ask that none of that
18 be mentioned during the trial. It may be very hard to get the
19 evidence in that they want to get in without some of that
20 leaking through.

21 THE COURT: What is the transcript of?

22 MR. PLEXICO: We have a transcript of the first SLED
23 interview that happened the night of, or the hours after, Mr.
24 Wood's body was found.

25 THE COURT: And it's an interview of who?

1 MR. PLEXICO: Two SLED agents interviewed my client. Then
2 we have a partial transcript of a lie detector interview that
3 was a part of the ---

4 THE COURT: Which was what?

5 MR. PLEXICO: A lie detector interview, which I believe
6 they are seeking to use against my client.

7 MS. JONES: Your Honor, there are two separate interviews
8 with Mr. Phillips and I would like to go forward with a
9 Jackson v. Denno regarding the content of those interviews.
10 I've never anticipated using the actual interviews of the lie
11 detector test because the polygraph machine is right there,
12 visible. You can't, we can't get around it. There is no way
13 to redact that video to take that out of sight without
14 completely omitting the video itself. Then we come to the
15 problem in that polygraph and probation and parole is
16 mentioned numerous times throughout that interview. Redacting
17 it, it would not be easy to transition to ---

18 THE COURT: So, you are saying you agree and your
19 position is that y'all aren't going to introduce the
20 polygraph examination at all?

21 MS. JONES: Well, what we hope to -- what we plan to ---

22 THE COURT: Or not necessarily the examination, but the
23 interview which led to ---

24 MS. JONES: We plan to admit the interview, post
25 polygraph, which was conducted by an agent with SLED and Mr.

1 Phillips as it being just a normal interview, but the agent
2 that conducted the polygraph exam has been instructed not to
3 mention polygraph, not to mention lie detector, not to
4 mention probation, any of the trigger words that we all know
5 are not to be allowed to be heard in front of the jury.

6 THE COURT: All right. So, as I understand it, the first
7 interview that was prior to the polygraph exam, you agree is
8 not admissible and you are not going to offer it?

9 MS. JONES: The first interview, I do believe is
10 admissible.

11 THE COURT: Which one is that?

12 MS. JONES: The interview the night of the murder.

13 THE COURT: Okay. The first polygraph interview. Is that
14 one that you are agreeing that you are not going to tender?

15 MS. JONES: We are not moving to admit the video of the
16 polygraph examination. We are moving to admit through
17 testimony of Major Burnett, solely, testimony of what the
18 Defendant told him, not regarding, "you were deceptive during
19 this answer, you were deceptive during this answer," but the
20 post test, which is just an interview.

21 THE COURT: And you are not going to attempt to introduce
22 a transcript of that in any way?

23 MS. JONES: No, sir.

24 THE COURT: Essentially, we are going to have a Jackson v
25 Denno hearing to determine whether or not he was given his

1 Miranda, whether or not it was voluntary. We will do all that
2 and then you are going to allow him to testify with regard to
3 what the substance of his admissions were, if there are any.
4 Is that correct?

5 MS. JONES: Correct. Yes, Your Honor.

6 THE COURT: All right. What is your position with regard
7 to that, Mr. Plexico?

8 MR. PLEXICO: I think this ties into the second motion
9 that should be on your desk, the motion under the notice of
10 motion to quash. It's a motion to exclude the entire use of
11 the interview during the lie detector test. I counted them.
12 There are 69 denials during that interview of my client; "I
13 didn't do it, I didn't murder that man, I'm not guilty, I've
14 been truthful, I didn't do it," on and on and on again. We
15 need to get those 69 denials involved.

16 THE COURT: Now, wait a minute. Well, you indeed, are
17 going to -- essentially, you filed a motion to exclude
18 certain portions of this interview. Is that correct?

19 MR. PLEXICO: Well, I don't think -- I agree with the
20 State that you can't -- once you start ---

21 THE COURT: The general rule is this; you aren't going to
22 mention anything regarding probation and parole and the
23 second thing is, or the third thing is, you are not going to
24 be able to mention anything about the polygraph, but the rest
25 of it, if it was voluntary, is indeed, admissible and if I

1 understand it, you want a great portion of that introduced.

2 MR. PLEXICO: Well, I just don't want a ruling that
3 prevents me from asking about his 69 denials.

4 THE COURT: Certainly, you can do that. As a matter of
5 fact, if you want to introduce the transcript of the
6 interview, you need to present a cleaned up transcript of it.

7 MR. PLEXICO: I tried to do that but I have not been able
8 to. It's just not possible to do it coherently. I agree with
9 the State on that, but I just need the opportunity to bring
10 all that in.

11 THE COURT: I think, probably, the better way to handle
12 it, unless I hear differently from you, is to allow him to
13 testify live and then you can cross examine him with regard
14 to the various denials and count them up the best you can and
15 if he denies it, you can cross examine him with regard to the
16 substance of the interview, the transcript of the interview.

17 MR. PLEXICO: I understand. So, you've ruled on this
18 motion, then, on the notice to exclude the use of the entire
19 interview. You are denying all of that ---

20 THE COURT: Wait a minute. You are asking me to exclude
21 the entire interview, but once again, you want to introduce
22 it. Which is it?

23 MR. PLEXICO: Well, I'd rather just have it all excluded.

24 THE COURT: That isn't what you just said.

25 MR. PLEXICO: Well, I mean ---

1 THE COURT: The interview can be excluded, but she can
2 ask him what transpired. Now, you can't have it both ways. Do
3 you want it not in or do you want it in?

4 MR. PLEXICO: I want no mention at all of the entire
5 interview, period.

6 THE COURT: Okay, but that's going to exclude you from
7 talking about the denials.

8 MR. PLEXICO: Then nothing will come in about the
9 interview at all. That's correct. So, I thought you said, no,
10 you were going to allow them to discuss the substance of what
11 was said.

12 THE COURT: I only said that after you said you wanted to
13 talk about the denials. Now, which is it? Do you want it out
14 or do you want it in?

15 MR. PLEXICO: I want it out.

16 THE COURT: Okay. What is the State's position as to
17 whether or not it's going to be in at all?

18 MS. JONES: Your Honor, I believe Agent Burnett should be
19 allowed to offer live testimony regarding what Mr. Phillips
20 told him during that interview, of course, subject to your
21 rulings during the Jackson v. Denno hearing, but when you
22 take out the word polygraph and the other words, it is simply
23 an interview between a SLED agent and the Defendant. It is
24 nothing else. He was mirandized and, of course, we can get
25 into all that during the Jackson v. Denno hearing.

1 THE COURT: Well, we will address it again after the
2 Jackson v. Denno hearing. My inclination is that it is
3 admissible and you will be allowed to talk about all the
4 denials. There will be no mention of probation, parole, or
5 polygraph. All right. The next motion is a motion to quash
6 indictment.

7 MR. PLEXICO: Yes, Your Honor. I passed up the, I printed
8 the statutes, the relevant statutes with regards to this
9 §16-23-490. I think it has strict requirements on how the
10 matter is pled. It requires a count two on the indictment.
11 They have failed to follow the strict completing requirements
12 and we are moving to quash Indictment 2014-GS-27-00602. This
13 is a criminal case and, you know, I think the inference is
14 that, you know, everything is taken strictly against the
15 State and if they did not present it as required by the
16 statute, they should not be allowed to go forward.

17 THE COURT: I actually have not looked at the indictment.
18 Now might be a good time for me to do that. As a general
19 rule, it's sort of like putting the Defendant on notice. The
20 charges that are pending against the Defendant are, what, Ms.
21 Jones?

22 MS. JONES: They are murder, under Indictment 2014-GS-27-
23 312 and possession of a weapon during the commission of a
24 violent crime under Indictment 2014-GS-27-0602.

25 THE COURT: I want you to pull out the indictment and

1 read the indictment to me.

2 MS. JONES: All right. And these are copies, Your Honor.

3 Madam Clerk has the originals.

4 THE COURT: You can just read it for the record. I don't
5 need an original. Just tell me what they say.

6 MS. JONES: The murder indictment, Your Honor, reads as
7 follows: That in Jasper County on or about May 18, 2013, with
8 malice aforethought, Billy Phillips did kill and murder
9 Darius Woods by means of shooting him and that Darius Woods
10 did die in Jasper County as an approximate result thereof on
11 May 18, 2013, in violation of §16-3-10 S.C. Code of Laws
12 (1976), as amended.

13 THE COURT: Mr. Plexico, how is that defective?

14 MR. PLEXICO: Well, Your Honor, that is not defective.
15 What is defective is that in 602, section 490, requires an
16 additional count in that indictment of the murder indictment.
17 It simply is not here. There is no count two and the statute
18 requires a count two, an additional count, and it's simply
19 not there and it's required by the statute. They didn't plead
20 correctly and so I'm moving to ---

21 THE COURT: You are saying because they put it on two
22 different pieces of paper with two different indictment
23 numbers?

24 MR. PLEXICO: Yes, Your Honor. It is not listed as a
25 separate count on the murder indictment.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 THE COURT: I disagree with that. I think the law is
2 clear that -- and I'm going to ask you, Ms. Jones, to read
3 the second charge.

4 MS. JONES: That in Jasper County, South Carolina on or
5 about May 18, 2013, the Defendant, Billy Phillips, did
6 possess a weapon or visibly displayed what appeared to be a
7 weapon, during the commission or attempted commission of
8 murder, a violent crime. This is in violation of §16-23-490
9 S.C. Code of Laws (1976), as amended.

10 THE COURT: I think the general statement of the law is
11 you have to ask yourself, or it's incumbent upon me to make
12 the determination based on the indictment, has your client
13 been put on notice of what he's charged with and very clearly
14 by reading these indictments, he's been put on notice very
15 clearly for two specific offenses. How it's done, the
16 technical manner in which it's done, and quite often there
17 are typographical errors inadvertently mis-stating the date,
18 and things of that nature, and they do not fatally determine
19 -- it does not remove the efficacy of the indictment and I
20 will, indeed, rule that the indictments are good. He was put
21 on notice of both of the charges. Whether or not they were
22 put on two separate indictments or two different pieces of
23 paper, the real issue is whether or not you understand what
24 the Defendant is charged with and I rule that you do or
25 should have known. Anything else from the Defense?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 MR. PLEXICO: Yes, Your Honor, we can move on. I have a
2 motion to suppress the testimony of peer reviewers that are
3 offered in place of the actual person performing the test. I
4 learned on the morning of trial that they had a plethora of
5 experts who were not coming from SLED and they were going to
6 have their supervisors, essentially, come in and testify
7 about the test results which is clearly not permissible under
8 State v. McCray, Judge. That's a June 2015 case and under
9 Crawford under the confrontation clause and so...

10 THE COURT: I don't know that that's indeed correct or
11 not. Ms. Jones, do you intend on introducing test results
12 without the person who performed the test?

13 MS. JONES: What we intend to produce, Your Honor, is
14 with regard to the blood splatter analysis. In this
15 particular case, a man by the name of Altman Brown created
16 the original report. His supervisor or his peer reviewer, who
17 actually is his supervisor, is a man by the name of Jeff
18 Crooks. When he is reviewing Mr. Brown's report, he is
19 looking at the same evidence as Mr. Brown. He does the same
20 exact test. He performs the same analysis, he looks at the
21 same evidence; the pictures of the autopsy, witness
22 statements for this blood splatter analysis, and he comes to
23 the same conclusion..

24 THE COURT: Where is the expert that can't be here?

25 MS. JONES: He is no longer with SLED.

1 THE COURT: Is he subject to subpoena?

2 MS. JONES: No, Your Honor.

3 THE COURT: Where is he located?

4 MS. JONES: I'm not sure where he is located. He is no
5 longer in the area and he is no longer with SLED. That's all
6 I know.

7 THE COURT: Well, you can domesticate a subpoena, can't
8 you? Did you ask them where he was?

9 MS. JONES: No, Your Honor.

10 THE COURT: Let's talk more about that particular case
11 that you are referencing.

12 MR. PLEXICO: May I?

13 THE COURT: Yes.

14 MR. PLEXICO: This is State v. McCray.

15 THE COURT: I'll be glad to hear from you. Let's talk
16 about the facts of this particular case and whether or not it
17 applies to this case.

18 MR. PLEXICO: Okay. Essentially, they are trying to do
19 exactly what happened in McCray. In McCray, an analysis was
20 done. There was a peer reviewer who did not do the test,
21 could not testify that the test was done properly by all the
22 protocols, the standards that are set by any organization to
23 do it correctly. They didn't observe the test being done.
24 They essentially came in and read the report for the truth
25 that was asserted there which was testimonial in nature

1 denying him the right, McCray, the right to cross examine and
2 they held that you just can't do that and that's what they
3 want to do here. It's the same thing with Altman Brown and I
4 understood there were other experts who could be here. I know
5 there is a difference in somebody in the chain of custody who
6 took item A from bin A or bin B to bin C. I mean, they aren't
7 really involved with anything and, you know, this isn't an
8 issue of fungible versus non-fungible or, you know, something
9 that you could grade, or versus, or like drugs versus a
10 pistol, which is, you know, that it's there and nobody's
11 going to change it. In some way, you might contaminate drugs
12 or damage a sample or something like that.

13 THE COURT: It says the touchstone for determining
14 whether or not an expert is giving independent judgment or
15 merely acting as a transmitter or for testimonial hearsay is
16 whether an expert can apply his training and expertise to the
17 sources before him thereby producing an original product that
18 can be tested through cross examination. I don't know, in a
19 vacuum, what exactly you are talking about. It might be that
20 the expert was looking at pictures of blood splatter. It
21 might be that the peer reviewer is doing the exact same thing
22 and I don't know that.

23 MS. JONES: That's exactly right, Your Honor. The
24 individual's name is Jeff Crooks. He is prepared to testify
25 in advance. The State would proffer his testimony so that Mr.

1 Plexico and Your Honor can hear exactly what steps he took.
2 But from speaking with him, he did the exact same analysis,
3 took the exact same steps using the exact same evidence as
4 Mr. Brown did and, Your Honor, I actually have a case, as
5 well.

6 THE COURT: Neither one of the experts actually came to
7 the crime scene? They probably just looked at blood splatter
8 and opined their ---

9 MS. JONES: Mr. Brown actually did come to the crime
10 scene, but his analysis and his conclusions were based on
11 pictures, witness statements, and the autopsy.

12 THE COURT: All right. We will, indeed, do that. My
13 initial impression is that it is, indeed, admissible. We
14 can't say that until we hear exactly what transpired.

15 MS. JONES: And Your Honor, the State would just ask that
16 we be allowed to do that prior to Mr. Crooks' potential
17 testimony. I believe he will probably testify Thursday. His
18 testimony is very short. I don't believe it would take very
19 long to do.

20 THE COURT: Very good.

21 MS. JONES: But I would like to pass up these cases to
22 Your Honor. This is a Supreme Court case. Bullcoming versus
23 New Mexico, Your Honor, and it kind of gives credence to what
24 I'm trying to argue, Your Honor. I was unable to find a lot
25 of cases that dealt with this situation before, but this one,

1 if you look at the concurring opinion given by Justice
2 Sotomayor, she does go into that this would be different if,
3 for example, we were dealing with a substitute analysis or we
4 were dealing with a peer reviewer or supervisor. This case
5 said it was not okay, because it dealt with a DUI situation
6 and the blood alcohol datamaster results where in that, the
7 report itself is testimonial and the person who read the
8 report was unable to testify to what the report said. Here we
9 have something totally different. Jeff Crooks actually
10 performed the same analysis that Mr. Brown performed and he
11 will be here Thursday.

12 THE COURT: I will take both of these cases into
13 consideration. My initial inclination is that it is
14 admissible, but I won't know until I hear exactly what he did
15 and what he based his decision on.

16 MR. PLEXICO: I just want to add, I made a Rule 6 way
17 back two years ago that we need to have the person who did
18 the test, period, so I think I'm covered on that. If what she
19 is saying turns out, then it's not a Bullcoming situation or
20 a McCray situation. That would be different.

21 THE COURT: What you are saying is, that you sent a Rule
22 6 that you needed to have the original person that did the
23 test, but that's not really determinative whether or not you
24 tell them to do it. It's whether or not it's admissible. We
25 will decide that when he testifies.

1 MR. PLEXICO: Yes, Your Honor. They also had a one photo
2 lineup of my client that indicates he is in a visible
3 condition suggesting a certain lack of sobriety. This is
4 probably going to come out in the Jackson v. Denno hearing. I
5 move to suppress any mention of the lineup and certainly, the
6 introduction of the photograph into evidence showing my
7 client, essentially, drunk.

8 THE COURT: Well, I'll be glad to hear from the State in
9 that regard.

10 MS. JONES: Certainly, Your Honor. I can show you the
11 photograph that he is referencing. I don't believe that from
12 a photograph you can tell if someone is intoxicated or not
13 when they are sitting at a table. The identification
14 procedure on that particular photograph was done at the
15 Ridgeland Police Department. The initials on that photograph
16 are T-L. That is a girl by the name of Taylor Lanier Cowherd.
17 She was Lanier when she initialed that photograph. She knows
18 Mr. Phillips. She's known him for years. She was an
19 acquaintance of his. She was shown a six-pack photo lineup,
20 but was unable to identify him in the photo lineup because no
21 one had glasses on, is what she said. They, in turn, showed
22 her the single photograph of Mr. Phillips and she was quickly
23 able to identify him. While I do not feel that it is
24 appropriate to have a full-blown Neil versus Biggers hearing
25 regarding this, I do have case law that shows a Neil versus

1 Biggers hearing is not necessary when people know each other.
2 It's solely for stranger identifications. Ms. Cowherd is
3 present and can testify to her relationship with Mr. Billy
4 Phillips and I will leave it in Your Honor's discretion
5 whether a Biggers hearing is necessary, but I don't feel that
6 that picture shows him intoxicated. I believe that's Mr.
7 Plexico's interpretation of that particular picture.

8 THE COURT: I agree. I specifically find that there is
9 nothing in this picture that would seem to indicate that he
10 is intoxicated. I'm not sure exactly what you are talking
11 about. But at any rate, I understand that the evidence is
12 going to be such that one of the witnesses was shown a photo
13 I.D. lineup, like a laydown of various photographs.

14 MS. JONES: She was shown a six-pack photo lineup at
15 first.

16 THE COURT: Right. And she was not able to pick him out?

17 MS. JONES: Correct.

18 THE COURT: I think that that certainly is exculpatory
19 and the Defense can, indeed, get into that. You want to show
20 this for what purpose?

21 MS. JONES: I was prepared to have Ms. Lanier testify to
22 her relationship with Mr. ---

23 THE COURT: Lanier is eyewitness testimony?

24 MS. JONES: Ms. Lanier, yes. It's Cowherd now, my
25 apologies. At that time, she was Lanier. Because what I

1 gathered looking at The State versus Liverman, we don't have
2 to have a Neil v. Biggers hearing. I'm unaware of whether Mr.
3 Plexico would require it or whether he would request a Neil
4 v. Biggers hearing, because he does also state that would be
5 suggestive.

6 THE COURT: Would be what?

7 MS. JONES: Suggestive. Because it is a single person
8 photograph.

9 THE COURT: What is your position with regard to the six-
10 pack? You probably want that into evidence, don't you?

11 MR. PLEXICO: Yes, Your Honor. I don't see a problem with
12 that, but you just can't go, is it one of these or what about
13 that one. I mean, you just looked at the person in a
14 different light. They picked up one picture out of a six-pack
15 enlarged it and showed it and said, "Are you sure it wasn't
16 this guy?"

17 THE COURT: Yes, ma'am.

18 MS. JONES: Your Honor, I disagree with him. If he looks
19 at the Liverman case, it clearly says that if they know each
20 other, it doesn't matter how suggestive it is. She had
21 already identified him by name when she first was presented
22 with the six-pack lineup. She then said, he wears glasses. He
23 wears thick glasses. I don't think I will be able to
24 recognize him without his glasses. So, in turn, they show her
25 that picture.

1 In the Liverman case, it's the same retaliation shooting
2 incident. The witness in this case stated that he knew the
3 shooter, he had known him for some time and the police did a
4 show-up identification, which is even more suggestive than a
5 single photo identification and at the show-up identification
6 he identified the person as the shooter and the Court said
7 that was okay, that was fine, acceptable, because the witness
8 knows the suspect, because they had a prior relationship, and
9 they know him.

10 THE COURT: All right. I'm not going to allow this
11 photograph into evidence. You can put whatever you want to in
12 that regard. In the event she testifies, she can say, "I
13 wasn't able to pick him out," and you can ask about whether
14 or not the Defendant normally wears glasses and you can point
15 out the fact that nobody in that lineup has glasses. The jury
16 can make whatever they want to of that.

17 MR. JONES: But she is allowed --Your Honor, would she be
18 allowed to get into that she knew him and she previously
19 identified him by name before even being shown the photo
20 lineup?

21 THE COURT: Certainly. But I don't anticipate that there
22 is a need for a Biggers hearing. A Biggers hearing is to
23 protect the Defendant from unduly suggestive lineups and by
24 virtue of the fact that it was, obviously, not unduly
25 suggestive because he wasn't picked out by the eyewitness.

1 What do you think about that Mr. Plexico?

2 MR. PLEXICO: Yes, Your Honor.

3 THE COURT: Okay. I don't anticipate the need for a
4 Biggers hearing with regard to that and you can, indeed, say
5 that she knew him and she is going to be given the
6 opportunity to explain why she was unable to pick him out,
7 but if she knew him and wasn't able to pick him out of a
8 lineup, that is certainly something the jury will have to
9 resolve, but I'm not going to allow this picture in. I think
10 it's unduly suggestive and I don't think it has anything to
11 do with his being intoxicated. I understand that under
12 certain circumstances that it is not reversible error to
13 allow a show-up, but I think it's unduly prejudicial to do
14 that. I know the United States Supreme Court says that it's
15 all right to do it under certain circumstances, but I don't
16 think it's right. I don't think it's fair.

17 MS. JONES: Thank you, Your Honor.

18 MR. PLEXICO: I also don't have the six-pack lineup. If I
19 could get a copy of that.

20 MS. JONES: I believe it was destroyed after it was
21 shown. Chris McIntosh with the Ridgeland Police Department
22 was the one that presented it to Ms. Lanier and he is
23 testifying. He will actually be here this afternoon for one
24 of the Jackson v. Denno hearings.

25 THE COURT: That puts us in an odd situation, Mr.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Plexico, because normally, if the State destroys evidence
2 that's inculpatory, you would take the position that they
3 ought to not be able to get into it because of the fact that
4 they had it, it was in their custody and it might or might
5 not have been bad faith destruction of it. This is different
6 in that it is exculpatory. What is your position in that
7 regard?

8 MR. PLEXICO: I move that they just not mention that he
9 was picked out of a lineup at all, Judge.

10 THE COURT: Are you saying you want -- well, I think that
11 they -- the fact that he was not able to be picked out of a
12 lineup is exculpatory and helpful to you. Don't you want
13 that?

14 MR. PLEXICO: Yes, Judge, but I think they are going to
15 point to my client in the courtroom as the individual that
16 was there and I don't have the similarities to show from the
17 six-pack how she couldn't identify my client at that time and
18 so I'm at a disadvantage as to ---

19 THE COURT: Well, do you want -- are you moving to
20 exclude any reference to the photo lineup even though she was
21 unable to pick him out of the photo lineup?

22 MR. PLEXICO: If it's coupled with her not being able to
23 do an in-court identification of my client.

24 THE COURT: Well, any in-court identification is aside
25 from and completely different than a photo lineup. I think

1 that one of the best ways to impeach her on this is that she
2 wasn't able to pick him out of a lineup, so you need to --
3 you can't have it both ways. Which do you want?

4 MR. PLEXICO: Well, Your Honor, if she is going to be
5 able to -- if she's going to be allowed to pick him out in
6 the courtroom, Your Honor, ---

7 THE COURT: How can I prevent her from doing that?

8 MR. PLEXICO: Well, because her in-court identification
9 would be tainted by the way they handled the lineup in the
10 one-person photo earlier. If she's going to be allowed to
11 testify in the courtroom that this is who she saw, then I
12 would like to use the photo lineup.

13 THE COURT: What do you think about that? I assume your
14 position is that it was not unduly suggestive, that she knew
15 him and was familiar with his facial features and that he
16 wore glasses.

17 MS. JONES: That's exactly what she has always said, that
18 the sole reason she couldn't pick him out of the photo lineup
19 was that he didn't have his eyeglasses.

20 THE COURT: None of the people had glasses?

21 MS. JONES: None of the people had on glasses.

22 THE COURT: All right.

23 MS. JONES: I don't think she should be excluded from
24 identifying someone that she has known in her past. She
25 provided law enforcement with the name of Billy Phillips. She

1 provided them that before he was identified, before the photo
2 lineup, before everything, because she saw him and knew him.

3 THE COURT: What do you think about the fact that it's
4 clear that she didn't know him well enough to pick him out of
5 a photographic lineup without the glasses on, that it was
6 only after she was shown this that she was able to figure out
7 who he was?

8 MS. JONES: Your Honor, that is something that Mr.
9 Plexico could cross examine her on. I am not really sure why
10 he -- I think that is something that he can cross examine her
11 on, that she was not ---

12 THE COURT: What do you think about the fact that this
13 was shown to her and suggested that he was the one and does
14 that unduly taint her ability to identify him in court?

15 MS. JONES: I don't think it unduly taints her ability
16 because she knows him. She had a prior relationship with him.
17 She had known him about three years prior to -- I believe she
18 would say she knew him three years prior to the shooting. She
19 always knew him to have those glasses on. I don't think that
20 does anything to taint an in-court identification. People's
21 appearances change when they take their glasses off and she
22 only knows him like that, then she can say she can identify
23 him with his glasses on, just like that, but she can't
24 identify him when he doesn't have his glasses on. I think Mr.
25 Plexico can ask her about that.

PROFFERED EXAMINATION OF TAYLOR COWHERD

38

1 THE COURT: I'm going to allow into evidence -- I'm going
2 to allow her to give in-court identification based on -- we
3 are going to proffer that testimony beforehand about her
4 knowledge of the Defendant.

5 MS. JONES: And I believe she's here, Your Honor.

6 THE COURT: All right. Let's call her to the stand and
7 figure out what we are going to do.

8 MS. JONES: The State calls Taylor Cowherd.

9 THE COURT: Yes, ma'am, please come forward. I'm going to
10 ask that you place your left hand on the Bible and raise your
11 right hand as the clerk administers the oath.

12 (After being duly sworn by The Clerk of Court, Taylor
13 Cowherd testified as follows:)

14 THE COURT: I'm going to ask if you could, have a seat in
15 the witness chair, pull up real close to that microphone,
16 speak loudly, clearly, and slowly in order that we can hear
17 everything that you have to say and let's start with your
18 full name.

19 MS. COWHERD: My full name is Taylor Lanier Cowherd.

20 THE COURT: Very good. Yes, ma'am.

21 MS. JONES: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. JONES:

24 Q Taylor, do you remember the night of May 18, 2013?

25 A Yes, ma'am.

PROFFERED EXAMINATION OF TAYLOR COWHERD

39

- 1 Q What do you remember about that night?
- 2 A Stopping by my friend's house and getting a call that he
3 was deceased.
- 4 Q Okay. Who was your friend?
- 5 A Darius Woods.
- 6 Q And while you are at Darius' house, do you see anybody
7 else?
- 8 A Yes, ma'am.
- 9 Q Who else do you see?
- 10 A Billy Phillips.
- 11 Q Do you see anybody else there?
- 12 A No, ma'am.
- 13 Q Do you know Billy Phillips by any other name?
- 14 A We also call him, Dee.
- 15 Q Dee?
- 16 A Yes, ma'am.
- 17 Q How do you know Billy Phillips?
- 18 A Before I knew him, just by around town when he would
19 come into the Piggly Wiggly, he would come in there
20 regularly.
- 21 Q Okay. How long had you worked -- how long do you think
22 you've known him? How long had you worked in Piggly
23 Wiggly knowing Billy Phillips?
- 24 A Probably a year.
- 25 Q A year?

PROFFERED EXAMINATION OF TAYLOR COWHERD

40

1 A I think so.

2 Q A year prior to seeing him that night?

3 A Well, three years prior to that night, yes, ma'am.

4 Q Okay. So, you met him sometime around the year 2010?

5 A Yes, ma'am. I started at Piggly Wiggly when I was
6 sixteen.

7 Q Okay. And that's when you knew who he was?

8 A Yes, ma'am.

9 Q You knew him from the Piggly Wiggly or you knew him,
10 personally?

11 A I didn't. I just knew him from coming in all the time. I
12 didn't know him until I met him at Darius' house.

13 Q Okay. But was that the night the Darius was killed or
14 was that previous to that?

15 A Previous to that.

16 Q About how many times had you seen the Defendant, or
17 Billy, at Darius' house?

18 A A good bit. I'd say at least ten times there.

19 Q And that's in addition to having seen him the last three
20 years at Piggly Wiggly?

21 A Yes, ma'am.

22 Q The night of the shooting, did you talk to Dee?

23 A Yes, ma'am.

24 Q How did you know it was Dee?

25 A I just recognized him. Really, I seen his glasses and

PROFFERED EXAMINATION OF TAYLOR COWHERD

41

- 1 his bald head and I was like, okay, I know who that is.
- 2 Q Okay. Did you address him in some way or did he address
- 3 you in some manner?
- 4 A I did say, "Hey, Dee. Is Darius inside?" And he said,
- 5 "Yes. He'll be out in a minute." And so, I stood outside
- 6 and waited for Darius.
- 7 Q Okay. And so he responded when you said, "Hey, Dee"?
- 8 A Yes.
- 9 Q And Dee is what you would have normally called him?
- 10 A Yes, ma'am.
- 11 Q Okay. Do you see Dee -- have you ever seen Dee without
- 12 his glasses on?
- 13 A No, ma'am.
- 14 Q You'd only seen him with glasses on?
- 15 A Yes, ma'am.
- 16 Q Do you see Dee today?
- 17 A Uh-huh. Yes, ma'am.
- 18 Q Can you point him out, please? Let the record reflect
- 19 she is pointing towards the Defendant. What is he
- 20 wearing?
- 21 A A tan suit.
- 22 Q A tan suit. Okay. After the night of the 18th, do you
- 23 remember talking to Investigator Williams with SLED?
- 24 A Yes, ma'am.
- 25 Q Do you remember what you talked to him about?

PROFFERED EXAMINATION OF TAYLOR COWHERD

42

1 A Yes, ma'am. What happened.

2 Q And what did you tell him had happened?

3 A I told him I stopped by Darius' house and I saw Dee on
4 the porch and he said Darius would be out in a few
5 minutes and so I waited for Darius outside and then
6 Darius came back outside and he was fixing his light,
7 like, on his license plate and as he was doing that I
8 talked to him for a minute and then I said, "Okay, see
9 you later," and he said "Okay, see you later," and that
10 was it.

11 Q Okay. When you were speaking with Special Agent
12 Williams, did you bring it to his attention the name of
13 Billy Phillips, or Dee, or did he ask you about the name
14 of Dee or Billy Phillips?

15 A I said Dee, because that's the only thing I knew him by
16 until all this happened.

17 Q Okay. Without being prompted by Special Agent Williams,
18 you gave up the name of Dee?

19 A Yes, ma'am.

20 Q And you later learned his name was Billy Phillips.

21 A Yes, ma'am.

22 MS. JONES: I have no further questions.

23 THE COURT: Cross examination, Mr. Plexico.

24 MR. PLEXICO: Thank you.

25 CROSS EXAMINATION

1 BY MR. PLEXICO:

2 Q You dated Darius Woods' brother. Is that correct?

3 A Yes, sir.

4 Q Do you have his child?

5 A No, sir.

6 Q Are y'all still dating now?

7 A No, sir.

8 Q At this time, you did date his brother?

9 A Yes, sir.

10 Q And are you sure -- when do you first remember seeing my
11 client at the Piggly Wiggly?

12 A Just working there. I don't remember exactly what day or
13 date. I started working there the day of my sixteenth
14 birthday. I don't recall seeing him that day, but I
15 recall seeing him come in all the time.

16 Q All right. Court's indulgence.

17 MR. PLEXICO: I don't have anything further, Your Honor.

18 THE COURT: All right.. Under these circumstances, I'm
19 going to allow her to tender testimony regarding in-court
20 identification. I'm also going to allow you to point out to
21 the Court that there was a six-pack lineup and that she was
22 not able to pick him out of a six-pack lineup and I think you
23 initially moved to exclude this photograph, however, if you
24 want to use that, I'm going to allow you to bring that up if
25 you want to, the fact that they used this photograph to aid

1 her in identification, if you want to. I find it exculpatory.
2 You are moving to exclude it. To the extent that you could
3 argue that it was suggestive, you are free to do that, but
4 I'm going to allow her to do an in-court identification. I'm
5 going to allow there to be testimony elicited from either
6 side the fact that she did not pick him out of a photographic
7 lineup. I'm also going to allow you the opportunity to point
8 out to the jury that the State has destroyed the photo
9 lineup, that we don't have the ability to look at it here
10 today. Very good. We can move forward. You may step down.

11 MS. COWHERD: Thank you.

12 MR. PLEXICO: May I?

13 THE COURT: Yes.

14 MR. PLEXICO: I think my next motion has taken care of
15 itself. I understand you are not going to call Don Matthews?

16 MS. JONES: That's correct.

17 MR. PLEXICO: And then I have a motion related to the DNA
18 and you also have a copy of my voir dire up there. They
19 tested the decedent's clothing and the gun that was found on
20 either his chest or his stomach depending on who you talk to.

21 THE COURT: Start over. Say that again?

22 MR. PLEXICO: They tested the decedent's clothing,
23 specifically the inside of his pockets for any kind of touch
24 DNA they could find and they took swabs off the gun that was
25 found on his chest or his stomach and they ran an analysis of

1 that. They came back with -- they had twelve tests. Two of
2 the tests couldn't identify anybody. They didn't have enough
3 DNA. That left ten. Eight of those ten tests, the remaining
4 tests, my client is excluded as a contributor. On the last
5 two, while other people who were on the scene are excluded,
6 and this is wholly a circumstantial evidence case, nobody
7 says my client was there at the time the decedent was
8 actually shot. He is seen around the time, this sort of
9 thing, but there's no direct evidence. It's all going to be
10 circumstantial evidence and I believe for the State to argue
11 that since my client, that his DNA can't be excluded, that
12 this is burden shifting, and especially in a circumstantial
13 evidence case, this places an emphasis on what my client
14 needs to do to clear himself and I think that's clearly not
15 allowed, Your Honor. If you can't be included or you can't be
16 excluded, it is not relevant, it doesn't meet the test of
17 relevancy ---

18 THE COURT: This is the relevant question as I understand
19 it. Of the tests done, none of them point to the Defendant.
20 Is that correct?

21 MR. PLEXICO: Yes. Only two say he can't be excluded.

22 THE COURT: All right. This is the question I'm going to
23 ask you. Do you want the ability to say that there was none
24 of his DNA at the scene? It cuts both ways. Which do you
25 want?

1 MR. PLEXICO: Well, Your Honor, the fact that they have
2 none of my client's DNA at the scene is what I can already
3 argue without having the burden shifted to my client from
4 allowing in irrelevant evidence that proves nothing, that he
5 can't be included ---

6 THE COURT: Are you going to ask them did they do DNA
7 tests and his DNA wasn't there?

8 MR. PLEXICO: No, Your Honor. I'm not going to ask that.
9 I'm going to merely argue that because they failed to show my
10 client's DNA and I'll do that in closing.

11 THE COURT: What do you -- you know, in just about every
12 murder case that takes place, quite often there are
13 fingerprint examinations that are done that come back with no
14 matches and almost as a matter of routine they are allowed to
15 do that just to show what their investigation was.

16 MR. PLEXICO: Here, they are not doing that. They are not
17 saying we have unknown DNA. They are saying, "We have DNA
18 that we cannot exclude the Defendant from, but we can exclude
19 the person who found the body, the person who was with the
20 person who found the body. We can exclude these five or six
21 other people, but we can't exclude the Defendant, pointing
22 the finger at the Defendant, which is, they can't include him
23 in it, but the way they are putting it is quite different
24 from "we have unknown DNA". If they were just saying we have
25 unknown DNA, I'd withdraw my motion. It's the way that the

1 terminology that they are using to shift the burden to my
2 client to say he can't be excluded. These other people could.

3 THE COURT: How can they exclude other people and not
4 him?

5 MS. JONES: How it reads, Your Honor, and this is how
6 every DNA report that I've ever seen reads, is that it will
7 not say to 100% degree of certainty this is his DNA. It gives
8 you the big number, quintillion. This one says, and this one
9 is particularly related to the murder weapon, the gun: It is
10 a mixture of three individuals, Darius Woods, who was the
11 victim; Billy Phillips, the Defendant; and Jason Blessing who
12 was a law enforcement officer at the scene, that could not be
13 excluded from contributing to this mixture. That means that
14 their DNA is there and if he had spoken to Ms. Gallman, the
15 DNA analyst, she would have been able to explain that to him.
16 It goes further to say that they tested it against other
17 people as well to make sure that they were excluded from that
18 sample and it goes into ---

19 THE COURT: Well, you are saying that Billy Phillips' DNA
20 is on the weapon?

21 MS. JONES: It is. It's one of the three contributors to
22 that mixture.

23 MR. PLEXICO: Can I clear that point up?

24 THE COURT: Yes.

25 MR. PLEXICO: Because it simply doesn't say that.

1 THE COURT: Where, specifically, are you talking about?

2 MS. JONES: The first result, Your Honor, on page two of
3 six.

4 THE COURT: I don't believe it says that at all. I don't
5 believe it says this DNA is linked to the Defendant.

6 MS. JONES: It does not say -- Your Honor, I mis-spoke.
7 It does not say that it is 100% Billy Phillips' DNA in that
8 mixture of contributors, but it says that he cannot be
9 excluded as a contributor to the three. It also lists two
10 other names. Cannot be excluded means the same thing as can
11 be included. If he was excluded, then they would have listed
12 him as excluded as they did the other four names following,
13 but it cannot be excluded. I think that -- in the
14 alternative, if we did not have this report, if we did not
15 have any DNA evidence, then Mr. Plexico would be able to tell
16 you we didn't have DNA evidence. I believe this comes into
17 the weight issue for the jury regarding the probability and
18 the numbers and who was involved and excluded ---

19 THE COURT: What do you think about the fact that it
20 shifts the burden to the Defendant?

21 MS. JONES: I don't think it shifts the burden at all.
22 Mr. Plexico can certainly cross examine the DNA analyst and
23 those that collected the DNA and whatnot, the chain,
24 regarding it. The DNA itself, it stands for itself. He can
25 question Ms. Gallman regarding her testing, her probability.

1 If you look, it's one in two hundred. It's not a great
2 probability, but it is a probability and I think I should be
3 able to argue that and ask the analyst about that.

4 THE COURT: Mr. Plexico?

5 MR. PLEXICO: Okay. Let me put it another way. Our new
6 data tells us there are 5.2 million people in South Carolina.
7 I was stunned to know that our state was that large. Divide
8 the 5.2 million, one in two hundred, divide out two hundred,
9 that's 26 thousand possible suspects in South Carolina,
10 divided by forty-six counties, my client is one of five
11 hundred and sixty-five people, if you divide it by counties,
12 that's here that could be a suspect. If he's in a group of
13 five hundred and sixty-five individuals, why should the State
14 be allowed to say that this is evidence that he's the guilty
15 one of that twenty-six thousand or the five hundred and
16 sixty-five, because that's what they are doing over there.
17 Then again, if it's not good for anything, then it's not
18 relevant and it only serves to unduly injure the Defendant,
19 Judge. That's shifting the burden. He's one of twenty-six
20 thousand two hundred and five point two million, about
21 twenty-six thousand possible people that could not be
22 excluded. He's one of twenty-six thousand people that can't
23 be excluded just in this State.

24 THE COURT: Well, that sounds like a pretty good factual
25 argument from your standpoint.

1 MR. PLEXICO: Well, it's burden-shifting that I can't
2 overcome because I can't prove my client is guilty, I can't
3 prove him not guilty. It's burden shifting. I can't overcome
4 the negative implications from the State's apparatus and the
5 laboratory people coming down here and saying, "We can
6 exclude these people, but this man can't be excluded.

7 THE COURT: I assume that they could exclude the other
8 ones, but could not exclude him, but it's not -- I think it's
9 a factual issue the more I look at it. You've made a very,
10 very convincing factual argument to me, but I think it really
11 goes to the weight and admissibility and I'm going to allow
12 it in.

13 MR. PLEXICO: Okay.

14 THE COURT: But you are protected on the record.

15 MR. PLEXICO: Could I address the one in seven point
16 eight issue, because there were two tests that he could not
17 be excluded from.

18 THE COURT: All right.

19 MR. PLEXICO: That would mean that he is one in six
20 hundred and sixty-six thousand six hundred and sixty-six
21 possible people that could not be excluded. I would move,
22 since he's one of sixty hundred and sixty-six thousand in the
23 state, the evidence is rendered meaningless and it would not
24 offer the trier of fact to decide anything one way or the
25 other. I would move ---

1 THE COURT: What is the State's position with regard to
2 that statement and issue?

3 MS. JONES: What he's talking about is a DNA swab from
4 the victim's pocket of his jeans and I would argue it's the
5 same argument that we had before. It lists the same people
6 that clearly are excluded and then lists the two individuals
7 and the one unknown that cannot be excluded. Not a great
8 number for us. We are very cognizant of that, but I believe
9 that we should be allowed to get into that DNA that cannot be
10 excluded from that mixture and Mr. Plexico can certainly go
11 into his numbers and cross examine the analyst on that.

12 MR. PLEXICO: I made a mistake. It's actually one in two,
13 so that would be, he's one of two point six million people
14 that could not be excluded. I made a mistake in looking at
15 which ones could be excluded.

16 THE COURT: I think ---

17 MR. PLEXICO: It's a fifty/fifty chance is what it is.

18 MS. JONES: Your Honor, again, it's admissible evidence
19 and any argument Mr. Plexico has, he can certainly ask the
20 analyst about it and ---

21 THE COURT: I think it is indeed a factual issue and
22 certainly that's probable cause and certainly not proof
23 beyond a reasonable doubt. I think it is evidence that is
24 admissible and you can argue that before the jury.

25 MR. PLEXICO: I think that does it for my motions, Judge.

JACKSON V DENNO HEARING

52

1 THE COURT: All right. Well, let's proceed forward with
2 the Jackson v. Denno hearing.

3 JACKSON V DENNO HEARING

4 MS. JONES: Yes, sir, Your Honor. The State calls John
5 Burnett.

6 THE COURT: Yes, sir. Please come forward. Place your
7 left hand on the Bible and raise your right hand as the clerk
8 administers the oath.

9 (After being duly sworn by the Clerk of Court, John
10 Burnett testified as follows:)

11 THE COURT: Pull up real close to that microphone, speak
12 loudly, clearly, and slowly in order that we can hear
13 everything that you have to say and let's start with your
14 full name.

15 MR. BURNETT: John Charles Burnett.

16 MS. JONES: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. JONES:

19 Q Mr. Burnett, where were you employed in 2013?

20 A The State Law Enforcement Division.

21 Q And you are no longer employed by SLED?

22 A I'm retired.

23 Q You are retired. Okay. While you were working at SLED,
24 what were some of your duties?

25 A I was an agent assigned to the field to conduct criminal

- 1 investigations.
- 2 A Okay. And were you assigned to assist in the
- 3 investigation of Billy Phillips?
- 4 A I was.
- 5 Q And at some point, did you have an opportunity to
- 6 interview Mr. Phillips?
- 7 A I did.
- 8 Q And when was that?
- 9 A May 24, 2013.
- 10 Q Do you know, approximately, what time that was?
- 11 A It was in the morning, after ten.
- 12 Q Where did this interview take place?
- 13 A At the Ridgeland Police Department.
- 14 Q Did you -- did it appear that Mr. Phillips was under the
- 15 influence of any alcohol or drugs that would impair his
- 16 ability to speak with you?
- 17 A No.
- 18 Q Did he appear to have any other physical or mental
- 19 disabilities affecting his ability to speak with you?
- 20 A No, he did not.
- 21 Q You stated this took place at the police department?
- 22 A Yes, ma'am.
- 23 Q How long was this interview, in total? I know it came in
- 24 segments, but total, how long was it?
- 25 A I would say it was three hours or more.

JACKSON V DENNO HEARING

54

1 Q Okay. Was Mr. Phillips granted breaks during this
2 interview?

3 A He was. He was a smoker and asked for frequent breaks to
4 smoke cigarettes.

5 Q And did you allow him to take these smoke breaks
6 frequently?

7 A Yes.

8 Q So, he had plenty of breaks during this time?

9 A He did.

10 Q What about to go to the bathroom or to get water?

11 A Any time he wanted a break, he was immediately able to
12 take a break.

13 Q Okay. When you were speaking with him, did you promise
14 him anything, threaten him, or coerce him in any way?

15 A No, I did not.

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

18 A He was not.

19 Q Okay. Was he -- well, what were the circumstances of you
20 questioning Mr. Phillips?

21 A I was asked by another SLED agent to speak with Mr.
22 Phillips regarding a homicide investigation.

23 Q During your questioning of him, was he free to go at any
24 time?

25 A He was.

1 Q As a matter of fact, after you concluded your interview
2 with him, he did leave. Didn't he?

3 A He did.

4 Q Did he come in to speak with you voluntarily or was he
5 compelled to come in?

6 A As far as I could tell, it was voluntary.

7 Q Voluntary. When you were speaking with him was he
8 advised or was he aware of why you were speaking with
9 him, the nature of the investigation?

10 A He was. He was informed of that.

11 Q Did you advise him of his constitutional rights under
12 Miranda?

13 A I did.

14 Q And how did you do that?

15 A With a standard form that is produced by the State Law
16 Enforcement Division.

17 MS. JONES: Permission to approach, Your Honor?

18 THE COURT: Yes.

19 Q Mr. Burnett, I'm showing you what has been marked as
20 State's #1. Could you identify that, please?

21 A Yes. This is a form that I completed on the morning of
22 the 24th with Mr. Phillips.

23 Q And what does that form say?

24 A This is a Miranda rights form.

25 Q And does it go by right on that form?

JACKSON V DENNO HEARING

56

1 A It does.

2 Q Could you please read those for us, that were read to
3 Mr. Phillips?

4 A You have a right to remain silent. Anything you say can
5 be used in court as evidence against you. You are
6 entitled to talk to a lawyer now and to have him present
7 now or any time during questioning. If you cannot afford
8 an attorney, one would be appointed for you without
9 cost. If you decide to answer questions now without a
10 lawyer present, you will still have the right to stop
11 answering questions at any time until you speak with a
12 lawyer. There are two questions that follow: Do you
13 understand these rights and do you wish to talk to us at
14 this time.

15 Q And on that form, did Mr. Phillips make any markers or
16 indicate that he agreed to those rights?

17 A Yes. After reading each one of those rights, he was
18 asked to place his initials to the left of each one of
19 those and where it says, "Do you understand your
20 rights," he was asked to place his initials and write
21 his answer, which was "yes" and below "Do you wish to
22 talk to us at this time," he initialed and wrote his
23 answer, "yes".

24 Q And that was done in your presence?

25 A It was.

1 Q And the "BP" on all those are his initials, done by Mr.
2 Phillips?

3 A That's correct.

4 Q Thank you. When he -- when you are reading these rights
5 to him, did he appear to understand them?

6 A He did.

7 Q He appeared to give you rational answers when he
8 responded, "Yes, I would like to speak with you"?

9 A Yes.

10 Q Who else was present, besides yourself, in this
11 interview?

12 A No one.

13 Q And did you -- you did say you did not promise him,
14 threaten him, or coerce him?

15 A That's correct.

16 Q Thank you. Did he ask for an attorney at any time?

17 A He did not. After going through those and having them
18 initialed, I had him read where it says, Waiver of
19 Rights". We went over that and then he was asked to sign
20 it, which he did.

21 Q And to the best of your knowledge, was his statement
22 freely and voluntarily given?

23 A Yes.

24 Q And was this statement recorded in any way?

25 A It was not.

JACKSON V DENNO HEARING

58

1 Q A portion of it recorded?

2 A A portion of the interview was later recorded, but not
3 the rights of advisement, itself.

4 Q Okay. Not the Miranda, but ---

5 A That's correct.

6 Q Okay. What did Mr. Phillips say?

7 A In regards to the waiver, or...

8 Q In the actual interview of Mr. Phillips.

9 A Once the interview was started, he, because I had been
10 briefed by Agent Williams and some others with regards
11 to what his prior statement was, he made a different
12 statement than what he had before, wherein, he stated
13 that he had been present at the victim's residence on
14 the day of the shooting and that he did, in fact, have
15 information regarding the shooting. Do you want me to
16 proceed with ---

17 Q Yes.

18 A Okay. He stated that he had been sitting in this
19 gentleman's car in the front yard smoking marijuana,
20 listening to the radio and three individuals approached
21 the residence. He stated that Mr. Woods was a known drug
22 dealer and that he assumed that these individuals were
23 there to buy drugs. He stated that they approached the
24 house. Two of the people remained outside and one
25 individual when in the home, and again, presumably, to

JACKSON V DENNO HEARING

59

1 buy drugs. He told me that he later, a short time later,
2 heard gunshots, that the individual came out, that the
3 three of them approached his vehicle, that one of them
4 said something to the effect of "Dee" or something along
5 those lines and that he got out of the car because he
6 said he was afraid, and ran.

7 Q All right. Did he say anything about Mr. Woods owning a
8 gun?

9 A Not at that point. It was some discussion about him
10 having a gun prior in the home and I was familiar with
11 some statements associated with that.

12 Q Does he say anything regarding what he wore that night
13 and if he changed his clothes?

14 A He did not.

15 Q I have no -- does he mention anything about a
16 PlayStation?

17 A Yeah, we talked about the PlayStation. He said that he
18 had brought a PlayStation to Darius Woods' house prior
19 to that event and that he left it there and that they
20 had actually played with it.

21 Q That they played with the PlayStation?

22 A That's what he told me, yes.

23 Q Does he say anything about where he went after these
24 three men supposedly came to the house?

25 A He said he left running and went to his mother's house.

1 Q Did he tell you the route he took to get to his mother's
2 house?

3 A Apparently, the normal route leaving there, he described
4 that he went down the road and did a cut-through where
5 the BP Station is located.

6 Q He doesn't tell you whether he went inside?

7 A No, ma'am.

8 MS. JONES: Your Honor, I have no further ---

9 Q At that time, was your interview done with Mr. Phillips?

10 A Yes.

11 Q No further questions after that?

12 A No. At a point, Mr. Phillips decided he didn't wish to
13 speak with me anymore and he terminated the interview
14 and, of course, he was not in custody and so he left.

15 Q And after he terminated the interview, you didn't ask
16 him anymore questions. Did you?

17 A No.

18 Q I have no further questions for you. Thank you.

19 THE COURT: We are going to recess for lunch. We will be
20 back at 2:00 for the jury qualification and selection. Under
21 these circumstances, you are not allowed to talk with Defense
22 counsel or the prosecution until cross examination has taken
23 place.

24 MR. BURNETT: Yes, sir.

25 THE COURT: So, we will stand at ease until 2:00. Mr.

1 Plexico, when we conclude with the jury selection, we will
2 pick back up with the Jackson v. Denno hearing. You will be
3 afforded an opportunity to cross examine this witness. We
4 will stand at ease until 2:00.

5 (Lunch Break)

6 JANUARY 11, 2016 - AFTERNOON

7 THE COURT: Ladies and Gentlemen of the jury panel, I'm
8 Michael Nettles. I'm the resident judge with the 12th
9 Judicial Circuit which encompasses Florence and Marion
10 counties. I've received a special assignment from court
11 administration to serve as the chief administrative judge for
12 general sessions purposes for Beaufort and Jasper counties
13 for the next six months, so it's good to be down here. I must
14 have done something good in my prior life to get assigned
15 down to Beaufort and Jasper. I think that's a good place to
16 be.

17 You have been subpoenaed to participate in a one-week
18 session of general sessions court. General Sessions court is
19 criminal court where people are accused of committing a crime
20 by violating the criminal codes of the State of South
21 Carolina. Your service will conclude, definitely, by the end
22 of this week. I anticipate we will start the very first trial
23 today and I anticipate that is going to take the vast
24 majority of the week and so I can't say with absolute
25 certitude, but I think that there will only be one jury

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

CONTINUED JACKSON V DENNO HEARING

94

1 jury exits the courtroom. You are free to leave for the day and
2 follow the bailiff's instructions.

3 (Jury out at 4:25 PM)

4 CONTINUED JACKSON V DENNO HEARING

5 THE COURT: You may call the witness that was on the stand
6 for cross examination.

7 MS. JONES: Your Honor, the State would re-call former SLED
8 Agent, John Burnett.

9 THE COURT: Mr. Burnett, please come forward. We concluded
10 direct examination. Mr. Plexico, you are recognized for cross
11 examination.

12 MR. PLEXICO: Thank you.

13 CROSS EXAMINATION

14 BY MR. PLEXICO:

15 Q So, you testified earlier that you had a three-hour
16 examination with my client?

17 A Approximately. I couldn't tell you exactly what the time
18 was.

19 Q Okay. You noted in your report a discrepancy between the
20 words shot and shots. Was that before the tape recorder
21 was turned on?

22 A If I can review my notes. Are you referring to my
23 submitted report?

24 Q Yes, sir.

25 THE COURT: Mr. Plexico, the focus of this examination is

1 voluntariness, the issue about Miranda and whether they were
2 in custody. We aren't getting into the substantive nature of
3 his statements. You need to focus your inquiry on the issues
4 of Miranda and voluntariness.

5 Q You were aware of my client's drug use. Is that correct?

6 A I'm sorry. Would you repeat that?

7 Q Were you aware of my client's drug use?

8 A No, sir.

9 Q Were you aware that the decedent was an alleged drug
10 dealer?

11 A Yes.

12 Q Okay. Did you smell any marijuana on my client?

13 A No.

14 Q Did you detect any alcohol on my client?

15 A No.

16 Q Did he talk to you, at all, about anything about him
17 using drugs earlier that day before he had his interview
18 with you?

19 A No. The only reference he made to the use of drugs was
20 on the incident date.

21 Q Okay. All right.

22 MR. PLEXICO: Actually, I don't have anything else for
23 this particular witness, Judge.

24 THE COURT: Any redirect?

25 MS. JONES: No, Your Honor.

CONTINUED JACKSON V DENNO HEARING

96

1 THE COURT: You may step down.

2 MS. JONES: Your Honor, the State does have three other
3 witnesses for the separate interview. Would you like to do
4 that first or would you like to hear argument as to this
5 witness' testimony?

6 THE COURT: We will have argument with regard to this
7 statement first.

8 MS. JONES: Your Honor, you heard ---

9 THE COURT: Well, first of all, Defense, would you like
10 to introduce any evidence regarding voluntariness for the
11 Miranda issues?

12 MR. PLEXICO: Not on this issue, Your Honor.

13 THE COURT: Very good. Be glad to hear from the State.

14 MS. JONES: Thank you, Your Honor. Your Honor, this is
15 the second interview of Mr. Phillips done by SLED. He did
16 initial and sign the Miranda form indicating he understood
17 his rights, understood every single one of his rights and he
18 was still willing to speak to law enforcement after he
19 initialed those and he said yes to the two questions
20 following the list listing his rights. He did not appear to
21 be under the influence of anything that would impair his
22 ability to understand what was going on. He was made aware of
23 the investigation that was ongoing and he freely and
24 voluntarily spoke with the agent regarding that
25 investigation. His Miranda was waived, he signed the form, he

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 was never coerced or threatened. He actually was able to
2 leave after the interview. He did leave after the interview.
3 He never asked Special Agent Burnett to stop the interview
4 and when he did request an attorney, he did wish to stop the
5 questioning, it ceased. Agent Burnett did not ask him any
6 more questions and so, regarding the statements, all of them
7 were freely and voluntarily given.

8 THE COURT: Mr. Plexico, glad to hear from you.

9 MR. PLEXICO: Your Honor, I would just recite the law and
10 I really don't have anything to say with regards to this
11 particular interview.

12 THE COURT: I specifically find that he was not in
13 custody. He was allowed to leave after the interrogation.
14 Therefore, Miranda was not even triggered. However, out of an
15 abundance of caution he was given Miranda warnings. He waived
16 those. The record reflects it was a written waiver and it has
17 been made a part of the record during this case. I think the
18 statement was indeed voluntary. The length was not an issue.
19 It was only three hours and he had plenty of breaks. He made
20 mention, I understand, he requested a lawyer and they
21 discontinued the interrogation or the questioning or the
22 interview. Youth is not an issue. I can look at him, nobody
23 has said what his age is, but clearly he's not of tender
24 years and in addition to that, based on his criminal record,
25 it appears that he is a seasoned defendant who is aware of

CONTINUED JACKSON V DENNO HEARING

98

1 police strategy and tactics and certainly was not a youth who
2 was being taken advantage of. There has been no evidence
3 submitted that he is of inferior intelligence. There is
4 absolutely no testimony with regard to the fact that he was
5 under the influence of any alcohol or drugs and I
6 specifically find that he was made aware of the charges. I
7 find that this particular interview is, indeed, admissible.

8 MS. JONES: Your Honor, some housekeeping matters for
9 that. I believe I referenced the Miranda form as State's #1.
10 It's Court's Exhibit #1.

11 THE COURT: However it is denominated, it is made a part
12 of the record. Very good. You may call your next witness.

13 MS. JONES: Thank you. The State calls Chris McIntosh.

14 THE COURT: Mr. McIntosh, please come forward. I'm going
15 to ask, if you could, to place your left hand on the Bible
16 and raise your right as the Clerk administers the oath.

17 (After being duly sworn by the Clerk of Court, CHRIS
18 MCINTOSH testified as follows:)

19 THE COURT: Have a seat in the witness chair. I'll ask
20 that you pull up real close to that microphone. Speak loudly,
21 clearly and slowly in order that we can hear everything that
22 you have to say and let's start with your full name, please,
23 sir.

24 MR. MCINTOSH: Christopher Allen McIntosh.

25 THE COURT: Very good.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 MS. JONES: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. JONES:

4 Q Investigator McIntosh, where are you currently
5 employed?

6 A With the Ridgeland Police Department.

7 Q How long have you been with the Ridgeland Police
8 Department?

9 A Nine years.

10 Q Nine years. Were you involved with the investigation
11 into the murder of Darius Woods?

12 A Yes, ma'am.

13 Q And at some point during that investigation, did you
14 have an opportunity to speak with the Defendant, Billy
15 Phillips?

16 A I did.

17 Q Do you know what day that took place, that interview
18 took place?

19 A That would have been on the night of the incident.

20 Probably occurred after midnight, so I'd say on the
21 19th.

22 Q Okay. The early morning hours of ---

23 A May 19th. Yes, ma'am.

24 Q Okay. Of 2013?

25 A Yes, ma'am.

CONTINUED JACKSON V DENNO HEARING

100

1 Q Who was present during your interactions with Mr.
2 Phillips?

3 A That would have been -- you'll have to excuse me. I have
4 a lot of names. Agent Williams and Agent Harley.

5 Q Are both of those agents with SLED?

6 A Yes, ma'am.

7 Q Where did this interview take place?

8 A In my office at the Ridgeland Police Department.

9 Q When you were speaking with Mr. Phillips, did he appear
10 to be under the influence of anything to the extent it
11 would impair his ability to understand?

12 A No, ma'am.

13 Q Did he appear to have any sort of mental or physical
14 defect that would affect his ability to understand?

15 A No, ma'am.

16 Q Did this occur in an interview room at the police
17 department or your office?

18 A It occurred in my office.

19 Q Do you know, approximately, how long this interview took
20 place?

21 A I can't say, approximately, while I was in the room?

22 Q Why can't you say, approximately, while you were in the
23 room. Did you leave at some point?

24 A I left, yes, ma'am.

25 Q Okay. How long into the interview did you leave?

- 1 A Just a few minutes.
- 2 Q Okay. And why did you leave?
- 3 A I had to gather some paperwork for the search warrants
4 for the incident location.
- 5 Q Okay. But you left Mr. Phillips with two SLED agents?
- 6 A Yes, ma'am.
- 7 Q Okay. During your time with Mr. Phillips, was he ever
8 denied telephone or bathroom breaks or water breaks or
9 smoke breaks?
- 10 A No, ma'am.
- 11 Q When you were speaking with him, did you ever make any
12 threats or promises in exchange for his statement or
13 anybody in your presence make any threats or promises?
- 14 A No, ma'am.
- 15 Q Was he under arrest at the time that you spoke with him?
- 16 A No, ma'am.
- 17 Q Was he free to go at any time during this questioning?
- 18 A Yes, ma'am.
- 19 Q And did he come and speak with you and the SLED agents
20 voluntarily or was he compelled to come to the police
21 department?
- 22 A He came voluntarily.
- 23 Q Did he, was he made aware of why he was being questioned
24 by the police?
- 25 A Yes, ma'am.

CONTINUED JACKSON V DENNO HEARING

102

1 Q And after all this, did you advise him of his Miranda
2 rights?

3 A He was advised of his rights prior to questioning, yes,
4 ma'am.

5 Q Okay. How did -- did you do that?

6 A Yes, ma'am.

7 Q How did you do that?

8 A We read from a card, a PBA card that they give officers.

9 Q Do you have that card on you?

10 A Yes, ma'am.

11 Q Could you read those rights to the Court?

12 A Yes, ma'am. Read the full advisement?

13 Q Please.

14 A You'll have to excuse me. I left my glasses in the car.

15 You have the right to remain silent. Anything that you
16 say can and will be used against you in a court of law.

17 You have a right to speak with an attorney and have an
18 attorney present with you during questioning. If you
19 cannot afford to hire a lawyer, one will be provided for
20 you at no expense. Knowing and understanding these
21 rights as I have explained them to you, are you willing
22 to answer my questions without an attorney present.

23 Q And what did he acknowledge after you read him those
24 rights? What did he say?

25 A He waived his rights to an attorney.

- 1 Q And he said that he did wish to speak with you?
- 2 A Yes, ma'am.
- 3 Q Did he ever appear to not understand those rights?
- 4 A No, ma'am.
- 5 Q Did he appear to understand every single one of his
- 6 Miranda rights?
- 7 A Yes.
- 8 Q All right. Did his answers to you as you were going
- 9 through these rights, did they appear rational and
- 10 responsive as he responded to each of these rights?
- 11 A Yes, ma'am.
- 12 Q And no promises or threats were made after this or
- 13 pre-Miranda?
- 14 A No, ma'am.
- 15 Q When you specifically asked about an attorney, what did
- 16 he say?
- 17 A He made a statement about his probation officer.
- 18 Q Okay. But he never requested an attorney?
- 19 A No, ma'am.
- 20 Q Was the questioning ended because he changed his mind or
- 21 because law enforcement terminated the questioning? How
- 22 did the interview end or were you there for that portion
- 23 of it?
- 24 A I wasn't there for that portion of it. I left to get my
- 25 paperwork.

CONTINUED JACKSON V DENNO HEARING

104

1 Q Okay. To the best of your knowledge, did his statement
2 to you, the few statements that he did give you,
3 especially regarding Miranda, were they voluntarily
4 given?

5 A Yes, ma'am.

6 Q Did you interview him after Miranda or was that handed
7 over to SLED?

8 A That was handed over to agents on scene.

9 Q Okay. So, you ended your involvement to go get the
10 search warrants?

11 A Yes, ma'am.

12 MS. JONES: I have no further questions at this time.

13 THE COURT: All right. Before we cross examine, of
14 course, you mentioned and in this setting it's okay to do
15 that, but when and if you testify before the jury, there will
16 be no discussion about probation agents.

17 INVESTIGATOR MCINTOSH: Yes, sir.

18 THE COURT: Or any prior charges or anything such as
19 that. The Solicitor will discuss that with you in great
20 detail.

21 INVESTIGATOR MCINTOSH: I understand.

22 THE COURT: All right. Mr. Plexico.

23 CROSS EXAMINATION

24 BY MR. PLEXICO:

25 Q Which officer encountered my client that evening?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A When he came to the Ridgeland Police Department?
- 2 Q Yes.
- 3 A That was Officer Long.
- 4 Q Okay. How did Officer Long come into contact with my
- 5 client?
- 6 A Officer Long was at the corner of Green Street and West
- 7 Main and the Defendant came walking west, excuse me,
- 8 east, up to the officer.
- 9 Q All right. The officer actually stopped him there on the
- 10 sidewalk. Correct? I mean, he wasn't walking to see the
- 11 officer.
- 12 A No. I can't say whether or not he was walking to see the
- 13 officer, but that's where he encountered him.
- 14 Q And at that point, did Officer Long put him in his
- 15 patrol car?
- 16 A I believe so. He was walking and so he probably drove
- 17 him to the police department.
- 18 Q Okay. So, he took him into custody. Is that correct?
- 19 A No, sir. He asked if he would ride over to the police
- 20 department because some of the investigators wanted to
- 21 speak with him.
- 22 Q All right. Do you know what he said? You weren't there,
- 23 were you?
- 24 A No, sir. Just answering your question, your question
- 25 assumed that I knew what he said.

CONTINUED JACKSON V DENNO HEARING

106

- 1 Q Okay. Do you know what he said?
- 2 A Do I know what the officer said to him?
- 3 Q Yes.
- 4 A No, sir. I don't know exactly what the officer said to
- 5 him.
- 6 Q All right. So, you don't know if he was free to leave
- 7 from the point he was placed in the car and taken to the
- 8 police department. Correct?
- 9 A Do I -- I'm sorry?
- 10 Q You don't know whether you believed he, that you had
- 11 reason to believe that he was not free to leave if he
- 12 was picked up in a police car and taken to the police
- 13 station.
- 14 A I can't say what he believed.
- 15 Q All right. Did you ever tell him he could leave? You,
- 16 yourself?
- 17 A Did I say, you can leave?
- 18 Q To my client.
- 19 A No, sir.
- 20 Q I don't think I have anything further. You didn't smell
- 21 any marijuana on my client?
- 22 A No, sir. I don't believe I smelled any marijuana.
- 23 Q Smell any alcohol on my client?
- 24 A No, sir. In reference to your question regarding Officer
- 25 Long, all I have is Officer Long's narrative regarding

1 the encounter on the sidewalk.

2 Q I have that, too.

3 MR. PLEXICO: I don't have anything further.

4 THE COURT: Any redirect?

5 MS. JONES: No, Your Honor.

6 THE COURT: You may step down. You may call your next
7 witness.

8 MS. JONES: The State calls Agent David Williams.

9 (After being duly sworn by the Clerk of Court, AGENT
10 DAVID WILLIAMS testified as follows:)

11 THE COURT: Agent Williams, if you could have a seat in
12 the witness chair. I'll ask that you pull up real close to
13 that microphone. Speak loudly, clearly, and slowly, in order
14 that we can hear everything that you have to say and let's
15 start with your full name.

16 AGENT WILLIAMS: David Edgar Williams.

17 MS. JONES: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. JONES:

20 Q Agent Williams, where are you employed?

21 A At the State Law Enforcement Division, commonly referred
22 to as SLED.

23 Q How long have you been employed with SLED?

24 A It will be ten years in February.

25 Q Were you involved in the investigation of Billy Phillips

CONTINUED JACKSON V DENNO HEARING

108

1 for the murder of Darius Woods?

2 A Yes, ma'am. I did.

3 Q And did you actually, you got involved in this case the
4 night of the murder?

5 A Yes, ma'am.

6 Q Did you have an opportunity to speak with Mr. Williams?

7 I mean, Mr. Phillips. I'm sorry.

8 A Yes, ma'am. I did.

9 Q Where did this interview take place?

10 A At the Ridgeland Police Department.

11 Q And who was present?

12 A For the majority of the interview, it was Lieutenant
13 Harley and myself.

14 Q Okay. For the majority. Was someone else there for a
15 short time?

16 A Yes. Detective McIntosh was there earlier.

17 Q Who we just heard from.

18 A Yes, ma'am.

19 Q Okay. And during this interview, did it appear that Mr.
20 Phillips was under the influence of any alcohol or drugs
21 that would impair his ability to understand what was
22 going on?

23 A No, ma'am. It didn't.

24 Q Did he make any statements regarding having smoked
25 marijuana or drank alcohol in the recent hours?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A He said he had smoked marijuana earlier in the evening.
- 2 Q But based on your opinion, he seemed to understand what
- 3 was going on and that didn't impair his ability to
- 4 rationalize and understand why he was speaking with you?
- 5 A No, ma'am.
- 6 Q Or to understand what you were asking him?
- 7 A No, ma'am.
- 8 Q When you were speaking with him, how long was the
- 9 interview, approximately?
- 10 A About an hour-and-a-half.
- 11 Q And during this hour-and-a-half time period, was he ever
- 12 denied any bathroom, water, smoke, any sort of breaks?
- 13 A No, ma'am. He was not.
- 14 Q Did he, in fact, take breaks?
- 15 A I believe so.
- 16 Q Okay. When you are speaking with him, did you make any
- 17 promises or threats in return for his statement?
- 18 A No, ma'am.
- 19 Q When he was speaking with you, was he under arrest?
- 20 A No, ma'am. He was not.
- 21 Q Was he aware of why you were speaking with him? He was
- 22 advised of the investigation that was ongoing?
- 23 A Yes, ma'am.
- 24 Q During your speaking with him was he free to go at any
- 25 time?

CONTINUED JACKSON V DENNO HEARING

110

- 1 A Yes, ma'am.
- 2 Q Did he, in fact, ask you if he was under arrest?
- 3 A He did.
- 4 Q And what was your response to that?
- 5 A No, he was not.
- 6 Q So, he was free to leave at any time?
- 7 A Yes, ma'am.
- 8 Q Was he speaking with you voluntarily or was his presence
- 9 compelled?
- 10 A It was a voluntary interview.
- 11 Q Prior to your speaking with him, are you aware of
- 12 whether he was advised of his constitutional rights
- 13 pursuant to Miranda?
- 14 A Yes, ma'am. He was, by Detective McIntosh.
- 15 Q And did he waive his rights under -- do you believe he
- 16 waived his rights?
- 17 A Yes, ma'am.
- 18 Q Did he appear to understand these rights?
- 19 A Yes, ma'am.
- 20 Q And after waiving his rights, did you speak with him?
- 21 A Yes, ma'am.
- 22 Q At any point during your conversation with Mr. Phillips,
- 23 did he ask for an attorney or ask to leave and was
- 24 denied, either or one of the other?
- 25 A No, ma'am.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q How did the interrogation end? Was it at the request of
2 Mr. Phillips or by law enforcement?

3 A It was an interview. It was not an interrogation. I
4 can't recall whether we ended it or he decided to quit
5 answering questions. I don't recall at this point.

6 Q But it ended about an hour-and-a-half later?

7 A Yes, ma'am.

8 Q And did he, in fact, leave after the interview or was he
9 taken into custody?

10 A No, ma'am. He left.

11 Q Okay. The questioning, was it done simultaneously by
12 yourself and Lieutenant Harley or was it just one of
13 y'all questioning Mr. Phillips?

14 A It was a kind of back and forth between Lieutenant
15 Harley and myself.

16 Q Okay. But Lieutenant Harley was present the entire time
17 you were present?

18 A Yes, ma'am.

19 Q Okay. So, he has knowledge of the interview, what was
20 actually said and discussed?

21 A Yes, ma'am. He does.

22 Q But again, even though Mr. Phillips indicated that he
23 had smoked marijuana earlier that day, he didn't appear
24 impaired in any sort of way? He seemed to understand
25 what was going on, his surroundings, and rationally

CONTINUED JACKSON V DENNO HEARING

112

1 answered your questions?

2 A Yes, ma'am. That's correct.

3 Q Prior to working at SLED, where were you employed?

4 A I'm a retired federal agent. I worked 20 years with the
5 Drug Enforcement Administration. Prior to that I worked
6 7 years at the Charleston Police Department. Prior to
7 that I was a deputy sheriff in West Virginia for a year-
8 and-a-half.

9 Q Okay. While working in the DEA, did you come into
10 contact with people who had smoked marijuana regularly?

11 A Yes, ma'am.

12 Q And based on your speaking with Mr. Phillips that night,
13 he, even though he said that he had smoked marijuana
14 earlier in the day, he appeared to understand what was
15 happening and what you were asking him?

16 A Yes, ma'am. That's correct.

17 MS. JONES: I have no further questions.

18 THE COURT: Cross examination, Mr. Plexico?

19 MR. PLEXICO: Thank you.

20 CROSS EXAMINATION

21 BY MR. PLEXICO:

22 Q So, Officer Long -- was it Officer Long or Deputy Long
23 that brought him to the station?

24 A It was Officer Long.

25 Q Okay. So, he drug him there in his car, took him inside,

- 1 took him into Detective McIntosh's office. Is that
2 correct?
- 3 A He didn't drag him. He escorted him in.
- 4 Q He escorted him in. All right. Have you had the
5 opportunity to go over the transcript of y'all's
6 interview between Agent Harley, yourself, and my client?
- 7 A I've watched the video. I haven't done it in the past
8 week, but I have watched it in the past.
- 9 Q All right. Do you remember if you asked him his
10 educational level during the interview?
- 11 A No, sir. I did not.
- 12 Q Okay. Did you ever ask him exactly how much marijuana he
13 had had to smoke?
- 14 A I don't think so. I don't believe I asked him that exact
15 question.
- 16 Q Did you ask him how much alcohol he had had to drink
17 that night?
- 18 A No, sir.
- 19 Q Okay.
- 20 MR. PLEXICO: I don't have any further questions for him.
- 21 THE COURT: Any redirect?
- 22 MS. JONES: No, Your Honor.
- 23 THE COURT: Do you have any more witnesses?
- 24 MS. JONES: One more, Your Honor.
- 25 THE COURT: You may step down.

CONTINUED JACKSON V DENNO HEARING

114

1 MS. JONES: The State calls Lieutenant Shaun Harley.

2 (After being duly sworn by the Clerk of Court, SHAUN HARLEY
3 testified as follows:)

4 THE COURT: Have a seat in the witness chair. I'll ask
5 that you pull up real close to that microphone. Speak loudly,
6 clearly, and slowly in order that we can hear everything that
7 you have to say and let's start with your full name.

8 LIEUTENANT HARLEY: Shaun E. Harley. H-A-R-L-E-Y.

9 THE COURT: Very good.

10 DIRECT EXAMINATION

11 BY MS. JONES:

12 Q Lieutenant Harley, where are you currently employed?

13 A The South Carolina Law Enforcement Division, commonly
14 known as SLED.

15 Q And were you working at SLED back in May of 2013?

16 A Yes, ma'am.

17 Q Were you involved with the investigation of the murder
18 of Darius Woods?

19 A Yes, ma'am.

20 Q Pursuant to the investigation, did you have an
21 opportunity to speak with the Defendant, Billy Phillips?

22 A Yes, ma'am.

23 Q Do you remember when you spoke with him?

24 A May 19th, early morning, 3:00 in the morning.

25 Q Three o'clock in the morning?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 A Yes, ma'am.

2 Q Where did you speak with him?

3 A At the Ridgeland Police Department.

4 Q Okay. Who was present when you spoke with him?

5 A Agent David Williams.

6 Q Okay. Prior to speaking with him, was Mr. Phillips made
7 aware of the investigation, why you were speaking with
8 him?

9 A Yes, ma'am.

10 Q At any time when you were speaking with him, did he ever
11 not understand what you were talking to him about?

12 A He understood.

13 Q He understood?

14 A Yes, ma'am.

15 Q Did he ever make any reference to smoking marijuana or
16 drinking alcohol?

17 A Yes, ma'am.

18 Q And what did he say about smoking marijuana or drinking
19 alcohol?

20 A He said he'd been smoking some blunts, which is commonly
21 known to have marijuana in it and he had also stated
22 that he had drunk some Paul, which is Paul Masson, which
23 is a dark alcoholic beverage.

24 Q Okay. After learning of this, did y'all inquire whether
25 he understood what was happening after y'all had learned

CONTINUED JACKSON V DENNO HEARING

116

- 1 that he had smoked marijuana and drank some ---
- 2 A Yes, ma'am. I asked him that several times and he stated
- 3 that he understood and he was okay.
- 4 Q Okay. So, he repeatedly said that he understood?
- 5 A Yes, ma'am.
- 6 Q Okay. Prior to meeting with him, was he advised of his
- 7 constitutional rights under Miranda?
- 8 A Yes, ma'am.
- 9 Q But you didn't do that. Did you?
- 10 A No, ma'am. Investigator McIntosh with the Ridgeland
- 11 Police Department, he advised us that he had already
- 12 given him his Miranda rights.
- 13 Q Given them and how did the Defendant respond?
- 14 A I wasn't there when he gave him the Miranda rights.
- 15 Q But was it your understanding that he waived them and---
- 16 A Yes, ma'am.
- 17 Q --- would speak with law enforcement?
- 18 A Yes, ma'am. Yes, ma'am.
- 19 Q Okay. When you were speaking with him, did he appear to
- 20 understand all of your questions?
- 21 A Yes, ma'am.
- 22 Q Did he appear to have some sort of physical or mental
- 23 defect or intellectual defect that could impair his
- 24 ability to understand?
- 25 A No, ma'am.

- 1 Q And even though he said he smoked marijuana, he
2 repeatedly said he was okay?
- 3 A Yes, ma'am.
- 4 Q And when you were speaking with him, he appeared to
5 understand what you were asking him?
- 6 A Yes, ma'am.
- 7 Q He appeared to give you rational responses?
- 8 A Yes, ma'am.
- 9 Q How long was this interview?
- 10 A I want to say about an hour to two hours, max.
- 11 Q In that hour and forty minutes or so, was he ever denied
12 breaks; smoke break, bathroom break, water break, phone
13 break, anything?
- 14 A No, ma'am. I think I asked him if he wanted something to
15 drink or something to that effect.
- 16 Q Did he get breaks? Was he given breaks?
- 17 A I'm not sure, but if he wanted to use the restroom or
18 anything, he could have.
- 19 Q Okay. So, he was never denied access to ---
- 20 A No, ma'am.
- 21 Q Okay. When you were speaking with him, did you make any
22 promises or did anyone in your presence make any
23 promises or threats towards Mr. Phillips?
- 24 A No, ma'am.
- 25 Q And his statements were freely and voluntarily given?

CONTINUED JACKSON V DENNO HEARING

118

1 A Yes, ma'am.

2 Q What did Mr. Phillips say?

3 A When we interviewed him, first off, he talked about his
4 family. We talked about his family, at first, where he
5 lived, then we talked about the incident, when he had
6 last seen Darius, the victim. He stated that he was
7 there at the incident location at Mr. Woods' residence,
8 he was there throughout the day, smoking. We asked about
9 the last time he was there. First time, early in the
10 interview he said he got there about 9:30. That night
11 that he was out there in the yard, a couple people came
12 over, homeboys, he stated, that came over to the house
13 and went in the house. I think it was a transaction or
14 something with marijuana. He didn't see it, but he saw
15 Mr. Woods bag it. At that time, they went back outside,
16 they smoked. Mr. Woods was then working on the taillight
17 of his car, his vehicle while he sat on the passenger
18 side. Then he stated after this homeboy left, he left
19 shortly after that.

20 Q Okay. Of course, that's not everything, that's just a
21 summation.

22 A No. It was just...

23 Q Okay. Was this interview recorded?

24 A Yes, ma'am.

25 Q Was it audio and video recorded?

1 A Yes, ma'am.

2 Q Have you had an opportunity to review this disk?

3 A Yes, ma'am.

4 Q And is that your initials on it in red?

5 A Yes, ma'am.

6 Q And you initialed it to indicate that it is a fair and
7 accurate copy of the interview?

8 A Yes, ma'am.

9 Q It hasn't been altered?

10 A No, ma'am.

11 Q It's how the interview happened the night of or the
12 early morning hours of the 19th?

13 A Yes, ma'am.

14 Q Okay. And again, even though he said he was smoking
15 marijuana, he appeared to have rational responses to
16 your questions, he appeared to understand everything you
17 asked him?

18 A Yes, ma'am.

19 Q And he was there freely and voluntarily?

20 A Yes, ma'am.

21 Q And, in fact, after this interview, did he leave?

22 A Yes, ma'am. He left.

23 Q He left. Okay.

24 MS. JONES: Your Honor, I have no more questions for

25 Lieutenant Harley. Here's the video if the Court would like

CONTINUED JACKSON V DENNO HEARING

120

1 to view it.

2 THE COURT: Any cross examination?

3 MR. PLEXICO: Yes.

4 CROSS EXAMINATION

5 BY MR. PLEXICO:

6 Q I want to read some -- this is from the interview. I
7 just want to make sure all of this is accurate. I've
8 noted here where my client tells, he told you the last
9 time he was around was around 9:30 and he said he stated
10 long enough to smoke two blunts. Does that sound right
11 to you?

12 A He did say he smoked several. Yeah, two blunts.

13 Q Okay. Then, later in the interview, you said, "You still
14 high from that?", referencing smoking with Darius and he
15 said, "Uh-huh". Does that sound accurate?

16 A Yes, but he stated he wasn't that high. He understood
17 what we were telling him.

18 Q Then you asked, "You've been smoking since you left
19 there?" and didn't he say, "Yeah, yeah, why do you think
20 I was on my way to the Waffle House?" Does that sound
21 familiar?

22 A Yes, sir.

23 Q And when people get high, they usually want to go out
24 and get something to eat. Isn't that what you've
25 learned?

- 1 A Yes, sir.
- 2 Q Okay. Now, later in the interview, didn't you, yourself,
3 suggest that, "If you've been smoking since then, you
4 don't know what you probably did." That maybe "Paul had
5 you."
- 6 A Yes, sir. I think I did say that.
- 7 Q All right. So, did you, yourself, believe that he was so
8 intoxicated that he didn't really know what was going
9 on?
- 10 A I asked him that, but he said he understood. He said he
11 wasn't that drunk or high, but had staggered down the
12 road and stuff like that, as he was walking.
- 13 Q Okay. And that wouldn't appear to be somebody under the
14 influence that you were interviewing?
- 15 A He said he was okay, that he understood me.
- 16 Q Well, if you say you're drunk at the police station,
17 don't you generally get arrested for public drunkenness?
- 18 A Not according to what he said.
- 19 Q Okay. All right. So, you're saying you've not formed an
20 opinion on whether or not he was high or not?
- 21 A I asked him. He said he understood.
- 22 Q You are going on what he said.
- 23 A Yes.
- 24 Q After he said he drank Paul Masson and smoked multiple
25 marijuana cigarettes?

CONTINUED JACKSON V DENNO HEARING

122

1 A I guess people know when they're high.

2 MR. PLEXICO: I don't have anything else, Judge.

3 THE COURT: Any redirect?

4 MS. JONES: No, Your Honor.

5 THE COURT: All right. I would like to see the very first
6 portion of the interview so I can make a determination as to
7 his demeanor.

8 MS. JONES: Okay.

9 THE COURT: While they are setting that up, I assume this
10 video interview has been cleaned up so that there is no
11 reference to inadmissible content?

12 MS. JONES: It has been redacted. Any reference to
13 probation, parole, probation agent, prior history, all of
14 that has been redacted with the exception of him saying that
15 he had smoked marijuana. We did not redact that portion of
16 the interview. As Mr. Plexico mentioned earlier, he is going
17 to move to have any reference to smoking marijuana excluded.

18 MR. PLEXICO: Yes, Your Honor. Could my client have a few
19 minutes to use the restroom? He's been asking since the jury
20 selection. If we could just have two minutes.

21 THE COURT: All right.

22 (Brief Break)

23 (A portion of the video interview of Billy Phillips taken
24 at the Ridgeland Police Station is played on television in
25 open court)

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 THE COURT: You can discontinue it. I've seen enough. Any
2 evidence that you would like to offer with regard to
3 voluntariness or Miranda issues?

4 MR. PLEXICO: Yes, Your Honor. My client wishes to
5 testify with regard to this particular proceeding.

6 THE COURT: Very good. You may step down. (Speaking to
7 Lieutenant McIntosh) Mr. Phillips, come forward and place
8 your left hand on the Bible, raising your right, as the Clerk
9 administers the oath.

10 (After being duly sworn by the Clerk of Court, BILLY
11 PHILLIPS testified as follows:)

12 THE COURT: Have a seat in the witness chair. I'll ask
13 that you pull up real close to that microphone. Speak loudly,
14 clearly, and slowly, in order that we can hear everything
15 that you have to say and let's start with your full name,
16 please.

17 MR. PHILLIPS: Billy Phillips.

18 DIRECT EXAMINATION

19 BY MR. PLEXICO:

20 Q Sir, in regards to your -- were you under the influence
21 of alcohol or drugs on the day you talked to Agent
22 Harley, Agent Williams, and Investigator McIntosh about
23 that morning?

24 A Yes, sir.

25 Q All right. Had you used drugs or alcohol the prior day?

CONTINUED JACKSON V DENNO HEARING

124

1 A Yes, sir.

2 Q All right. When did you start using alcohol the prior
3 day?

4 A Do you mean prior that day?

5 Q This took place early in the morning.

6 A Yes.

7 Q A few hours before was the prior day.

8 A Probably earlier that day.

9 Q Did you go anywhere and drink?

10 A Yeah. At Heron Crossing and at Mr. Woods' house.

11 Q Okay. How much did you consume that day?

12 A A nice size amount.

13 Q Okay. What is a nice size amount?

14 A Probably like a few pints.

15 Q All right. Did you smoke anything that day?

16 A Weed.

17 Q Okay. Did you use any other drugs aside from alcohol and
18 weed?

19 A No.

20 Q How much weed did you smoke?

21 A Probably total, that day, probably seven or eight
22 blunts.

23 Q All right. What was your mental condition when you spoke
24 with Agent Harley and Agent Williams and Mr. McIntosh,
25 Investigator McIntosh?

1 A I was under influence.

2 Q All right. Why did you choose to speak with them?

3 A According to the stipulations of my probation, we have
4 to cooperate with law enforcement if we get pulled over
5 or it there is an investigation and so on and so on.

6 Q Okay. All right. Did anything else influence your
7 willingness to answer questions by Agents Harley and
8 Williams and Investigator McIntosh?

9 A Nothing other than I was under the influence.

10 Q Okay. So, you're saying being under the influence did
11 not have any impact on whether or not you spoke with
12 Agent Harley and Agent Williams?

13 A I feel it had a huge impact on it.

14 Q Okay. What was that impact? What was the difference that
15 it made?

16 A Well, if I wasn't under the influence, I would probably
17 ask them to speak to a lawyer, but being that I was
18 feeling good the way that I was feeling when I was under
19 the influence kind of took care of some of the talk to
20 them, openly, the way that I did.

21 Q Did you -- how were you transported to the Ridgeland
22 Police Station?

23 A I, um, by um, the local police.

24 Q Did you sit in the front seat or did you sit in the
25 backseat?

CONTINUED JACKSON V DENNO HEARING

126

- 1 A Backseat.
- 2 Q Okay. Can you get out of the backseat?
- 3 A No.
- 4 Q Were you in custody?
- 5 A Pretty much, yeah.
- 6 Q Pretty much? Yes or no. Were you in custody? Could you
7 get out of the backseat?
- 8 A No.
- 9 Q All right. So, what happened -- how did you get out of
10 the backseat once you arrived at the station?
- 11 A The officer had to let me out of the backseat.
- 12 Q Okay. Who did?
- 13 A The officer.
- 14 Q Okay. And what happened then? What were you told then,
15 by the officer?
- 16 A That they, um, escorted me to talk to, um, the SLED
17 investigators.
- 18 Q Okay. Did you believe you had a right to leave?
- 19 A When, when the, when the interviewing was going on, I'd
20 probably say no, because that's the way it felt.
- 21 Q You felt as if you did not have the right to leave?
- 22 A Yes.
- 23 Q You felt it.
- 24 A Yes.
- 25 Q Answer any questions about this situation that the

1 Solicitor has for you.

2 CROSS EXAMINATION

3 BY MS. JONES:

4 Q Mr. Phillips, when you were speaking with Agents
5 Williams and Harley, you had the wherewithal to ask
6 about your probation agent. Didn't you?

7 A Yes.

8 Q You knew that, if I'm talking to the police, I should
9 probably talk to my probation agent?

10 A Yes. Because that's a part of my stipulations.

11 Q Okay. So, you had the wherewithal in understanding that
12 you were involved in something that you needed to let
13 her know about?

14 A Yes.

15 Q Okay. You -- This isn't your first time being arrested.
16 Is it?

17 A No.

18 Q No. In fact, you've been arrested at least eight or nine
19 times and convicted?

20 A Yes.

21 Q And each one of those times you had interactions with
22 police?

23 A Yes.

24 Q Did you ever speak with police in any of those
25 situations?

CONTINUED JACKSON V DENNO HEARING

128

1 A Yes.

2 Q So, you knew the procedure, you knew what was happening
3 because you had been there before.

4 A Yes.

5 Q And, in fact, when you were speaking with Agents Harley
6 and Williams and it was referenced that you had smoked
7 some marijuana earlier in the day with Ace, you said,
8 I'm good.

9 A Yes, but that doesn't necessarily mean that we are good.
10 Sometimes when people get pulled over for drunk driving
11 they are like, are you drunk? And they be like, no. But
12 they be drunk.

13 Q But you weren't in trouble for drunk driving. You were
14 just ---

15 A No.

16 Q --- talking to the police.

17 A No, I was just using that as a scenario.

18 Q Okay. But you said, you told them, "I'm good".

19 A Yes.

20 Q You told them, "I'm fine".

21 A Yes.

22 Q You told them, "I understand".

23 A Yes.

24 Q You told them, Detective McIntosh, that you understood
25 all your constitutional rights that he was reading to

1 you.

2 A Yes.

3 Q You never said, "I don't understand, I'm too high to
4 understand."

5 A No. I never said that.

6 Q Okay. You never said, "Smoking marijuana makes me not
7 able to think rationally".

8 A I never said that.

9 Q Okay. You never said, "I don't want to be here, I'm not
10 talking to y'all anymore".

11 A You're correct.

12 Q So, you were there voluntarily.

13 A Yes.

14 Q And you gave those statements because you understood
15 what they were asking you. Are you shaking your head?

16 A Yes.

17 Q Okay.

18 MS. JONES: I have no further questions.

19 THE COURT: Any redirect?

20 REDIRECT EXAMINATION

21 BY MR. PLEXICO:

22 Q Were you free to leave? Were you free to leave?

23 A I didn't feel that way.

24 Q All right. Were you intoxicated and under the influence
25 of narcotics?

CONTINUED JACKSON V DENNO HEARING

130

1 A Yes.

2 Q Okay. Do you think that affected your willingness to
3 talk to the police?

4 A Yes.

5 Q But for that would you have talked to the police?

6 A No.

7 MR. PLEXICO: I don't have anything further.

8 THE COURT: Anything further -- you may step down.

9 Anything further on this issue from anybody?

10 MR. PLEXICO: No, Your Honor.

11 MS. JONES: No, Your Honor.

12 THE COURT: Be glad to hear arguments of counsel. Be glad
13 to hear from the State, first.

14 MS. JONES: Thank you, Your Honor. I think in combination
15 of all three; the law enforcement testimonies and thanks to
16 Mr. Phillips answering that he did understand everything they
17 were asking him and he did rationally respond and was able to
18 understand his rights and the questions and able to give
19 answers, I believe that he was freely and voluntarily
20 speaking with the police. They did advise him of his Miranda
21 rights. He did waive them. He indicated to me that he waived
22 them back then, he understood and told them, I'm good, I'm
23 fine, I understand. When I asked him right there, he said
24 that he did understand, that he never indicated that he did
25 not understand what he was talking about or what he was being

1 questioned. I would argue that because of that, the statement
2 was freely and voluntarily given. They did do the safeguard
3 in Miranda. It was read to him. Your Honor actually saw it on
4 camera. It was recorded and he did acknowledge he understood
5 and he did acknowledge he would like to speak with law
6 enforcement. The interview terminated after about an hour-
7 and-a-half to an hour and forty-five minutes and he was free
8 to leave. He left. He did not come back into contact until
9 about six days later with law enforcement. He specifically
10 said he was not requesting a lawyer, but he did have the
11 wherewithal to ask about his probation agent and his
12 probation officer, which I think is very important and very
13 relevant to his state of mind to his understanding of the
14 seriousness of what was going on that day and his
15 understanding that he is speaking to law enforcement about
16 something very serious, that he needed to let his probation
17 officer know of that. Because of all of that, the statement
18 was freely and voluntarily given post Miranda, which was
19 waived.

20 THE COURT: Mr. Plexico, glad to hear from you.

21 MR. PLEXICO: Thank you, Your Honor. I believe what the
22 focus should be on is, one, he was taken to the police
23 station in a locked car. They knew he had been using drugs.
24 They knew the individual that had just expired was a drug
25 dealer. They, themselves, from their own statements which

CONTINUED JACKSON V DENNO HEARING

132

1 they can't escape from, believe that he's high, believe that
2 he's under the influence, they know he's been smoking, he
3 testified that he had been smoking and the focus is not
4 whether or not we gave a high drunk his Miranda rights and he
5 could still understand English. The focus, I believe, should
6 be, was he so under the influence that he could not
7 rationally exercise his rights even though they were told to
8 him. I just don't think it's constitutional to take a
9 statement from somebody who is under the influence of that
10 much drugs and alcohol, Your Honor. I think it's unfair and I
11 move to quash it entirely.

12 THE COURT: Very good. With regard to the issue of
13 whether or not he was in custody, clearly, he was not in
14 custody because he was released and free to go after he
15 voluntarily gave an interview, however, in the event, given
16 the facts of this case, if it was inferred that he was in
17 custody, they gave Miranda warnings and he waived them.

18 I've had an opportunity to review the Defendant's
19 demeanor on the video and it appears to me as he was walking
20 in that he was not unsteady on his feet, he did not have
21 slurred speech. He appeared to listen to the questions and
22 gave very rational answers. I noticed on the video that he
23 had sort of a stammer, which caused me some pause, but as he
24 testified from the witness stand, he had that very same
25 stammer. His demeanor seemed to be exactly the same on the

1 witness stand as it did on the video. The video will speak
2 for itself and it is there for appellate review. My
3 observation is that he was not intoxicated.

4 With regard to the voluntariness, clearly, he's not of
5 tender years. Once again, he's an older gentleman. No one has
6 said exactly how old he is, but he's not of tender age. He's
7 served some time in federal prison. He's had a number of
8 criminal convictions. Throughout those criminal procedures
9 he's spoken with law enforcement. He's indicated that was
10 indeed the case. I think it's particularly important to note
11 that in order to say that the statement was involuntary
12 because he was intoxicated, he seemed to indicate that it was
13 the drugs that allowed him to speak with law enforcement,
14 that is not his testimony at all. The reason why he did it
15 was that his probation required that he do that. He did have
16 the wherewithal, the presence of mind to ask for his
17 probation agent. He had a very rational discussion with
18 regard to that.

19 With regard to the issue of intoxication and how that
20 affects voluntariness, I'm going to make a ruling on that.
21 Ultimately, it is a factual question for the jury and he will
22 be allowed to present any arguments consistent with
23 involuntariness, consistent with intoxication. He can do that
24 with or without his testimony during the trial. There's been
25 no testimony about any low intelligence. The interview was

1 only an hour-and-a-half, which I find reasonable. I
2 understand he was not denied access to food or breaks. It's
3 clear the officers have testified and I've seen on the video
4 that he was given his Miranda warnings and he waived those.
5 There were no threats given. He was free to leave because he
6 was, indeed, not arrested. In the event that he were to make
7 the determination that he was under arrest, even though he
8 left thereafter, he waived his Miranda rights. I believe that
9 based on what I've heard and based on the officer's testimony
10 and what I've seen on the video, he was given his Miranda
11 rights, he understood his Miranda rights, and he waived the
12 Miranda rights and I specifically find that the statement was
13 freely and voluntarily given. However, once again, that's a
14 question of law that's been put before me. I find that it is
15 admissible, however those issues are questions of fact that
16 can be presented to the jury and I will give you wide
17 latitude in that regard. Anything else from the State?

18 MS. JONES: Not from the State, Your Honor.

19 THE COURT: Anything from the Defense?

20 MR. PLEXICO: Not in regards to this matter, Your Honor.

21 THE COURT: All right. Any other thing that we need to
22 address before we start in the morning? I intend to start
23 with opening statements in the morning. Is there anything
24 that we need to discuss before that?

25 MR. PLEXICO: Yes, from me. But is there anything from

1 you?

2 MS. JONES: I just was unaware if you were going to
3 object to the reference to his smoking marijuana.

4 MR. PLEXICO: Yes, I do object to that. I think bringing
5 out that he was smoking marijuana, Your Honor, I believe that
6 brings, that puts his character into issue. He has not
7 testified and I believe that that is very prejudicial to my
8 client and I'd ask that be redacted from any of the materials
9 coming ---

10 THE COURT: I really don't think that has something to do
11 with prejudicial. I bet if you would take a poll of the
12 jurors, I bet 99.99% of them have smoked marijuana before.
13 It's legal in about half the states now. Isn't it?

14 MR. PLEXICO: No, sir. About three or four states.

15 THE COURT: About three or four? Well, at any rate,
16 President Clinton smoked it. I think all the candidates
17 admitted they smoked it. I don't think it's unduly
18 prejudicial. Have you smoked it?

19 MR. PLEXICO: I'll pass on that.

20 THE COURT: I just don't think it's unduly prejudicial. I
21 don't mean for you to answer my question. Anything else?

22 MS. JONES: I don't believe so, Your Honor. Not from the
23 State.

24 MR. PLEXICO: Just to make sure we sequester witnesses.

25 MS. JONES: I will instruct everybody not to mention

1 probation, parole, polygraph, prior record, any "p" words,
2 Your Honor.

3 THE COURT: All right. Let's go over that with them.
4 Before they get on the witness stand, I want somebody to tell
5 them that again.

6 MS. JONES: Absolutely. Investigator Carter will do so,
7 as well.

8 THE COURT: We will stand at ease ---

9 CLERK OF COURT: Before you do that, Judge, when you
10 released the jury, three jurors came up with concerns.

11 THE COURT: Oh, okay. What are they?

12 CLERK OF COURT: Juror number 52, Angela Epperley. Her
13 husband is seriously ill. She did not bring a doctor's
14 excuse. I instructed her to get something from the doctors
15 tomorrow, because he is under stage four with Hospice. She
16 didn't think she would be chosen and so she didn't say
17 anything.

18 Juror number 118, Barbara Layman, her company has done
19 business with Solicitor Hall's in-laws about six months ago.

20 THE COURT: We will address that issue in the morning.

21 CLERK OF COURT: And juror number 7, Tristen Blanton, is
22 a college student enrolled in college. He has classes on
23 Mondays and Wednesdays.

24 THE COURT: Well, he's going to have to miss them.

25 CLERK OF COURT: I told him as much.

1 will listen to the evidence, find out what the truth is and
2 apply it to the law. You are participating in a time tested
3 system. You've taken a very solemn oath to do that and these
4 are, this is a very, very serious case. It means a lot to a
5 lot of different people, so you need to pay attention, take
6 your job seriously, these are very serious matters and I'm
7 going to ask that you proceed forward with attentive, serious
8 and contemplative minds.

9 Ms. Jones, you are recognized.

10 CLERK OF COURT: Your Honor, we have to seat the
11 alternate and they have to be sworn.

12 THE COURT: Yes.

13 CLERK OF COURT: Alternate #1.

14 (The Clerk of Court administers the oath to the jury)

15 THE COURT: We've had a conflict develop with one of our
16 jurors and that leaves us with one spare alternate. I'm going
17 to ask everybody to be careful and get a good night's rest.
18 We are going to need each one of you to complete this trial,
19 so everybody pay close attention and we need everybody to be
20 here and be here on time. Ms. Jones, you are recognized.

21 MS. JONES: Thank you, Your Honor. May it please the
22 Court.

23 THE COURT: Yes.

24 OPENING STATEMENT - MS. JONES

25 Trust. Trust is something that you earn, that you earn

1 over time. It's never a given. It's never guaranteed. Darius
2 Woods did not trust a lot of people. He did not bestow this
3 gift of trust to many people and because of that, very few
4 people were allowed inside his home. Very few friends and
5 family had, in Darius' eyes, earned the trust to come inside
6 and sadly, it's a very trusted someone that cost him his
7 life.

8 Billy Phillips, seated at that table, the Defendant, and
9 Darius Woods, who you may hear referred to as Ace throughout
10 the duration of this trial, were friends. They were good
11 friends. They were trusted friends. The Defendant had earned
12 Darius' trust and he was one of the very few allowed to come
13 inside Darius' home.

14 Now, sadly, the Defendant took advantage of this trust.
15 You may be asking yourselves, well, why was Darius so
16 untrustworthy? Why did he act like this? Why didn't he let
17 people into his home? Darius sold marijuana for a living.
18 That's what he did, and because of this, he constantly had
19 his guard up. He never knew when he would come into contact
20 with maybe an unhappy customer or a jealous competitor. But
21 it's this trade that Darius did that made him always have
22 cash, he always had cash on hand and he always had marijuana,
23 but it's because of this trade and because of this lack of
24 trust that he didn't let people inside his home. Every
25 interaction was done outside of his home on his front porch.

1 Darius didn't trust people, but he trusted the Defendant.

2 Now, May 18, 2013, started out like any other day for
3 Darius, but not for the Defendant. He started out that day
4 mad. He was mad. He was angry. He was furious. He was mad at
5 Darius. He was mad, because Darius had his PlayStation. Now,
6 you may be thinking, a PlayStation, a game console, that is
7 silly, why would somebody get so upset over one of their
8 friends having their PlayStation. Well, to somebody like the
9 Defendant, his PlayStation was a big deal. It was a huge deal
10 and Darius wouldn't give it back. He would not give it back
11 to the Defendant.

12 That day, the Defendant had no money, he had no
13 marijuana to smoke and he didn't have his PlayStation. All
14 three things that Darius had and that sets him off. That
15 makes him angry. His anger intensifies as the day goes on and
16 as day turns to night, he gets the opportunity to show Darius
17 just how mad he is.

18 Eventually, that night Darius and the Defendant are
19 hanging out at Darius' home. They are alone and the
20 opportunity that the Defendant needed to strike has come. He
21 leaves Darius outside. Darius is working on his car and the
22 Defendant goes inside. He goes into Darius' bedroom, the very
23 bedroom where he kept his marijuana. Now, I said earlier that
24 the Defendant was allowed in Darius' home. He was allowed in
25 the kitchen, he was allowed in the living room, he was

1 allowed in common areas. Darius' bedroom was off limits.
2 Everything personal to Darius was in that bedroom, including
3 his .32 revolver, but Darius didn't feel the need to arm
4 himself that night. He was with a friend. He was with
5 somebody that he trusted. Why would he have to have his gun
6 on him? He didn't need to. He left it in his room.

7 Well, maybe it's this lack of trust or curiosity that
8 Darius just doesn't know where the Defendant has gone, but
9 Darius makes his way inside also and he finds the Defendant
10 in his bedroom where he should not be. The Defendant picks up
11 the .32 handgun, points it at Darius and as Darius backs up
12 and turns to leave, the Defendant fires the first shot. It
13 strikes Darius in his jaw. Darius is hurt, but he's not dead.
14 He turns around to run out of his own home, out of his own
15 bedroom, and the Defendant fires one last fatal shot into the
16 back of Darius' head. He had to finish what he had started
17 and he was not done yet.

18 He goes up to his friend who he had just murdered. He
19 rolls his body over and then he robs him of his cash that was
20 in his pocket. He leaves Darius' gun on his dead friend and
21 flees out the side door.

22 A short time later, Shontay McKeithan arrives at Darius'
23 home followed by Davonte Freeman. They are unable to get in
24 touch with Darius. He's not answering the door, he's not
25 answering the phone, so Davonte goes inside and he discovers

1 Darius' dead body inside the home. 911 is called and the
2 Ridgeland Police Department, as well as SLED, respond. They
3 begin speaking with people and they begin piecing together a
4 time line, a series of events from that night.

5 All of these witnesses are going to take the stand and
6 they are going to take you back to May 18, 2013 and I ask
7 that you, with an open mind, go back in time with them.

8 Now, at the beginning of my opening, my speaking to you
9 all, I spoke about trust and at this point, I want to place
10 my trust in you. I'm going to trust you to listen carefully
11 to each of those witnesses. Pay close attention to all of the
12 evidence. First, individually, and then as a whole. I'm going
13 to trust you to go back in time to May 18, 2013 and back
14 inside Darius' bedroom for the last time and I'm confident
15 that at the end of this trial after you've heard all the
16 evidence, you will not hesitate when you find Billy Phillips,
17 the Defendant, guilty of murdering his friend, Darius Woods,
18 and of possession of a weapon during the commission of a
19 violent crime and for using Darius' own revolver to do it.
20 Thank you.

21 THE COURT: Ms. Jones. Mr. Plexico, you are recognized.

22 MR. PLEXICO: If it pleases the Court. Madam Solicitor.

23 OPENING STATEMENT - MR. PLEXICO

24 I'm Steve Plexico. I've had the pleasure of practicing
25 here in Jasper County since the early 90s. I'm trying to work

1 on 30 years now that I've passed the quarter of a century
2 mark. Every time I talk to a jury, it's one more privilege
3 that I've had in my life and in my practice.

4 I don't need to ask for your trust. You have stood here,
5 you have raised your hands, you have taken an oath. Your
6 integrity is on the line. Your job as jurors is to do exactly
7 what the judge has said, you are to listen and make a
8 decision. You can't come back in here if you make the wrong
9 decision and say, "You know, now that I've slept on it and I
10 don't think it matters. I don't think the evidence matters
11 and my thoughts convinced me and I made a mistake." Your
12 mistakes aren't correctable.

13 He's the judge of the law, his Honor. Individually and
14 as a group, y'all are the judges of the facts. This is the
15 most power that you're ever going to have in your life, to
16 decide what the State has shown and has not shown and what
17 level it rises to, if any at all.

18 You will hear there are a lot of different scenarios.
19 You are not going to hear anyone, anyone, come in here and
20 say they saw my client shoot Mr. Woods.

21 What do you know about Mr. Woods? Well, let's start
22 with, you know he carried a gun. He was in the illegal
23 narcotics trade. He has enemies. He has jealous competitors.
24 He has unhappy customers. Well, he has friends that he steals
25 from. With friends like that, he must have all kinds of

1 enemies in people that he knows.

2 And so, they want to paint a picture of a man running a
3 retail business selling marijuana out of his home and only my
4 client is allowed to go in.

5 Use your common sense when you listen to these facts and
6 from the facts, see if they can prove what happened.

7 Remember, the State has that heavy burden. They have to show
8 the Defendant guilty beyond a reasonable doubt. You can have
9 that through direct evidence, "I saw the red car run the red
10 light and the police car running behind it. He is my buddy,
11 the guy driving the car, and it's in broad daylight. I see
12 that he was running from the police." That would be evidence
13 in a failure to stop for a blue light case. That would be
14 testimonial evidence. That would be direct evidence. Billy
15 finally stops the car, he gets out, he's recorded on a video
16 camera. That would be direct evidence. Okay?

17 Now, his fingerprints are on the steering wheel, his
18 work items are in the car with his fingerprints on it, DNA on
19 it. That would be indirect evidence that he was in that car
20 at that time. He could have been in the car earlier, it could
21 have been a brother, it could have been a relative or it
22 could have been someone else.

23 But if you can put together, like in that previous chase
24 case, all the evidence that you have, you can see that the
25 State proved that he was driving and did not stop as a

1 reasonable person should in a failure to stop for a blue
2 light case.

3 Here, the State has to, number one, show you competent
4 evidence about who actually did this. Not speculation, but
5 competent evidence either directly or indirectly. You have to
6 remember, you have a house, you've got a busy house, it's
7 nighttime, it's nearby, it's near the Logan Lane Apartments,
8 it's near the major road between downtown, let's say, Western
9 Auto and Hardees. There is a lot of traffic and a lot of
10 people in that area. It's right behind the busy BP Station on
11 that end of town. Of course, there are several in town, but
12 that's the one beside the old Goodwill.

13 You have a cast of characters, okay? Now, this is the
14 person they chose to deal with and this is a man, remember,
15 who has angry customers because apparently he has some issues
16 in his business dealings. He has jealous competitors. They
17 are saying he keeps a lot of cash. To run a successful retail
18 business, everybody has got to know about you, because you
19 want them to come by. If you are selling sunflower seeds, you
20 want to find the best sunflower seeds in town. Okay? So,
21 everybody is going to know he keeps drugs, he keeps money,
22 because you can't take it to the bank because the Treasury
23 Department will get you, probably. So, this is going to be a
24 man who's running a successful retail, well-known business in
25 a busy part of town.

1 Now, when you look at this, remember they have to single
2 out evidence that shows my client is the person who actually
3 did this without a single eyewitness. Now, that means you
4 have to carefully scrutinize, in this particular case, all
5 the little bits of items that they are going to bring in and
6 call evidence. You decide whether it amounts to anything or
7 not. You are going to have to look at those pieces that they
8 try to tie together to say that they have proved my client
9 guilty beyond a reasonable doubt.

10 We have nothing to prove. It's hard to prove a negative,
11 if not impossible. That's all. We don't walk around yet with
12 video cameras on our glasses or taped to our ears or whatever
13 and I hope we never have to, but, you know, it seems like
14 there is a video camera on every corner, but not yet in
15 Ridgeland. I'm sure there's a grant that's been applied for.

16 But y'all really have to look at these minute pieces of
17 evidence that the State believes amounts to something, but
18 the Defense believes that you are going to scrutinize it and
19 look hard and at the end, you are going to be able to justify
20 bringing back a verdict and not a verdict of guilty because
21 you will know that the State has not proven their case beyond
22 a reasonable doubt. Look for evidence and the lack of
23 evidence in this case. Thank you so much for your time.

24 THE COURT: Thank you, Mr. Plexico. Ms. Jones, you are
25 recognized. You may call your first witness.

DIRECT EXAMINATION OF RUSTY WELLS BY MS. JONES

161

1 MS. JONES: Thank you, Your Honor. The State calls Rusty
2 Wells.

3 THE COURT: Mr. Wells, please come forward. I'm going to
4 ask, if you could, to place your left hand on that Bible and
5 raise your right hand as the Clerk administers the oath.

6 (After being duly sworn by the Clerk of Court, RUSTY
7 WELLS, testified as follows:)

8 THE COURT: Have a seat in the witness chair. I'll ask
9 that you pull up real close to that microphone. Speak loudly,
10 clearly, and slowly, in order that we can hear everything
11 that you have to say and let's start with your full name,
12 please.

13 MR. WELLS: Russell Wayne Wells.

14 THE COURT: Very good. Ms. Jones.

15 MS. JONES: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. JONES:

18 Q Good morning.

19 A Good morning.

20 Q I see that you are in a uniform. Where do you work?

21 A Jasper County Emergency Services.

22 Q And in what capacity do you work in the emergency
23 services?

24 A Deputy Director.

25 Q And what are some of your duties as Deputy Director?

DIRECT EXAMINATION OF RUSTY WELLS BY MS. JONES

162

1 A Director of emergency communications, emergency
2 management, county fire, county EMS.

3 Q All right. Is one of your duties have to deal with 911
4 calls?

5 A Yes, ma'am.

6 Q Did you receive a request from our office to pull a 911
7 call from the case we are here on today?

8 A Yes, ma'am. We did.

9 Q And was one actually pulled for this case?

10 A Yes, ma'am.

11 MS. JONES: Permission to approach, Your Honor?

12 THE COURT: Yes.

13 Q Mr. Wells, I'm going to show you what has been marked as
14 State's Exhibit #1. Can you identify that for the Court,
15 please?

16 A That is an audio CD produced by our office.

17 Q And what does that CD contain?

18 A 911 calls.

19 Q Did you put any markings on it to indicate that that, in
20 fact, is the 911 calls?

21 A It is. I signed it.

22 Q Okay. Did you listen to it before you signed it?

23 A I did.

24 Q And when you were listening to it, did it reflect the
25 911 calls for this case?

CROSS EXAMINATION OF RUSTY WELLS BY MR. PLEXICO

163

1 A Yes.

2 Q Had it been altered in any way?

3 A No, ma'am.

4 Q And that is the actually 911 call for this case?

5 A Yes, ma'am.

6 MS. JONES: At this point, the State moves to admit
7 State's Exhibit #1 into evidence.

8 THE COURT: Any objection from the Defense?

9 MS. PLEXICO: Not on that, Your Honor.

10 THE COURT: And that is denominated State's Exhibit...

11 MS. JONES: One.

12 THE COURT: One is into evidence.

13 MS. JONES: Thank you, Your Honor.

14 (Whereupon, a CD is admitted into evidence as State's
15 Exhibit #1, without objection)

16 MS. JONES: Your Honor, I have no further questions for
17 Mr. Wells at this time.

18 THE COURT: Yes. You may step down, or do you have any
19 questions?

20 MR. PLEXICO: Yes, sir.

21 THE COURT: Cross examination.

22 MR. PLEXICO: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. PLEXICO:

25 Q Did you review that tape?

1 A Yes. I did.

2 Q And there's a lady saying she is making the call and
3 she's there with Larry. Correct?

4 A To the best of my recollection, yes.

5 Q Okay. All right.

6 MR. PLEXICO: I don't have anything further.

7 THE COURT: You may step down. You may call your next
8 witness.

9 MS. JONES: Shontay McKeithan.

10 THE COURT: Ms. McKeithan, please come forward. I'm going
11 to ask, if you could, to place your left hand on the Bible
12 and raise your right hand as the Clerk administers the oath.

13 (After being duly sworn by the Clerk of Court, SHONTAY
14 MCKEITHAN testified as follows:)

15 THE COURT: Ms. McKeithan, have a seat in the witness
16 chair. I'll ask that you pull up real close to that
17 microphone. Speak loudly, clearly, and slowly, in order that
18 we can hear everything that you have to say and let's start
19 with your full name, please, ma'am.

20 MS. MCKEITHAN: Shontay McKeithan.

21 THE COURT: Ms. Jones.

22 MS. JONES: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MS. JONES:

25 Q Ms. McKeithan, may I call you Shontay, or is there

DIRECT EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES

165

- 1 something else you prefer to go by?
- 2 A Sunshine.
- 3 Q Sunshine. Okay. Sunshine, where are you from?
- 4 A Point South.
- 5 Q And that's in the area here in Jasper County?
- 6 A Yes, ma'am.
- 7 Q Okay. Did you grow up there? Have you been there for
- 8 awhile?
- 9 A Yes, ma'am.
- 10 Q Where do you live now?
- 11 A Atlanta.
- 12 Q How long have you been in Atlanta?
- 13 A Three weeks.
- 14 Q So, back in 2013, where were you living?
- 15 A In Ridgeland.
- 16 Q Okay. Do you remember May 18th of 2013?
- 17 A Yes.
- 18 Q What do you remember about that night?
- 19 A Well, I was coming from my mom's house and I was going
- 20 over to his house ---
- 21 Q Who is -- whose house?
- 22 A Darius'.
- 23 Q Okay.
- 24 A And when I got there, he never answered the phone or
- 25 nothing and so I just sat outside for a little while.

1 Q Okay.

2 A As I was sitting outside, Davonte approached me and I
3 asked where he was going and he said he was coming to
4 Darius' house to buy weed, just like me. So, I sat
5 outside for a little while and I told him nobody was
6 answering the phone so I asked him if he knew the number
7 so that he could call and so he started calling and I
8 got out of the car and I went up to the front door and I
9 was like, I heard the phone ringing. He said, "I hear
10 the phone ringing, too, and so somebody's got to be in
11 there." And so, he went around to the back door and he
12 went inside and so he stayed in there for like five to
13 seven minutes. I watched him go into the back of the
14 house or whatever. He came back out to me with the gun
15 in his hand and I was, like, hysterical, and he was,
16 like, Sunshine, he's dead or whatever, and so I got out
17 and went to the back door. It was no need to go into the
18 house because he was laying right there at the door.

19 Q Okay. I'm going to back you up a little bit. That was a
20 lot of information real quick.

21 A Okay.

22 Q You're calling, you say you hear a phone. Is this coming
23 from, the ringing, is this coming from inside the house?

24 A Yes, ma'am.

25 Q Okay. Was it Darius' phone or a phone in the house?

DIRECT EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES 167

- 1 A His phone.
- 2 Q Okay. Are you doing anything else while you are outside
- 3 attempting to get somebody's attention that's inside?
- 4 A No, ma'am.
- 5 Q How long had you been there before Davonte walked up?
- 6 A About ten minutes.
- 7 Q Do you know about what time you got there that night?
- 8 A I want to say about 10:30. I'm not sure. I know it was
- 9 sometime, like, after ten.
- 10 Q Sometime after ten?
- 11 A Uh-huh.
- 12 Q Okay. When Davonte walks up, what is he -- before y'all
- 13 know that Darius is no longer with us, when Davonte is
- 14 walking up, what is his demeanor? What is he acting
- 15 like?
- 16 A Like Davonte. He just walked up to me. I did flag him
- 17 down and he just came up to me.
- 18 Q Okay. Did he seem normal in your opinion?
- 19 A Yes, ma'am.
- 20 Q After he goes inside and he comes back out, you
- 21 mentioned he was hysterical.
- 22 A Uh-huh.
- 23 Q Could you describe that a little bit more?
- 24 A Just screaming, like, "Sunshine he dead. You've got to
- 25 see him, like, he's dead." I'm just like, "Calm down,"

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 you know.
- 2 Q You were trying to calm him down?
- 3 A Yes.
- 4 Q When Davonte is inside the house, you hear the phone
- 5 ringing?
- 6 A Uh-huh.
- 7 Q Did you ever hear any gunshots?
- 8 A No, ma'am.
- 9 Q But you heard the cell phone ringing?
- 10 A Yes, ma'am.
- 11 Q Okay. You said Davonte came out with a gun.
- 12 A Uh-huh.
- 13 Q What happened when he came out with the gun?
- 14 A He just came to me and I asked him why he brought it out
- 15 here, take it on back inside, you know, why would he
- 16 bring it outside.
- 17 Q So, what did he do after that?
- 18 A He took it back inside. He said he put it where he got
- 19 it from.
- 20 Q Okay. And then did he eventually come back out?
- 21 A Uh-huh.
- 22 Q Did you -- what did you do after Davonte came back
- 23 outside?
- 24 A I went to the back door to see if what he say is true
- 25 and then I called 911.

DIRECT EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES

169

1 Q You called 911?

2 A Uh-huh.

3 Q Okay.

4 MS. JONES: Your Honor, at this time, the State would
5 like to publish State's Exhibit #1.

6 MR. PLEXICO: That's without objection, Your Honor.

7 THE COURT: You may do so.

8 (Audio CD is played for the jury of the 911 call.

9 Started playing, had some technical difficulty.)

10 Q Sunshine, while we are trying to get this que'd up, I
11 can ask you a couple of other questions. After you
12 called 911, what did you do?

13 A Just wait for them to come.

14 Q Waited for them. Was that the police?

15 A Yes, ma'am.

16 Q And they, ultimately, came?

17 A Yes, ma'am.

18 Q Did you speak with the police that night?

19 A Yes.

20 Q You did?

21 A Yes.

22 Q Do you remember if you gave them any sort of -- did they
23 swab your hands or ---

24 A Yes.

25 Q Do you know why that did that?

- 1 A They say it's for gunpowder residue or something.
- 2 Q Okay. For gunpowder residue?
- 3 A Uh-huh.
- 4 Q Okay. Did they do anything else while you were there?
- 5 A No, ma'am.
- 6 Q You don't remember giving a DNA sample?
- 7 A I didn't do that.
- 8 Q You didn't do that?
- 9 A Huh-uh.
- 10 Q Okay.
- 11 MS. JONES: We will listen to the 911 call.
- 12 (Audio is played of the 911 call for the jury)
- 13 Q Shontay, was that you that we just heard?
- 14 A Uh-huh.
- 15 Q Speak up. Madam court reporter has to take down
- 16 everything that you are saying. That was you we heard?
- 17 A Yes, ma'am.
- 18 Q Who were you talking to in the background?
- 19 A Davonte.
- 20 Q Davonte, and Davonte is Davonte Freeman?
- 21 A Yes, ma'am.
- 22 Q You don't actually say his name as Larry, do you?
- 23 A No.
- 24 Q Who does that?
- 25 A That's what he said. I don't know why.

DIRECT EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES

171

- 1 Q So, Davonte gave the wrong name?
- 2 A Yes.
- 3 Q Okay. And is it just you and Davonte?
- 4 A Yes, ma'am.
- 5 Q And is it Davonte that we hear in the background acting
- 6 up, screaming and whatnot?
- 7 A Yes, ma'am.
- 8 Q From the time he got there and the time he came out --
- 9 from before he went into the house until after he came
- 10 out of the house, did his demeanor change?
- 11 A No, ma'am.
- 12 Q He didn't change?
- 13 A No.
- 14 Q You said he was hysterical afterwards.
- 15 A After he came out of the house.
- 16 Q That's what I mean, from before y'all discovered Darius
- 17 was dead, when you first see Davonte ---
- 18 A Uh-huh.
- 19 Q --- until when Davonte discovers Darius' body, did he
- 20 change?
- 21 A Yes.
- 22 Q And how did he change?
- 23 A Like he was going crazy.
- 24 MS. JONES: I have no further questions for this witness
- 25 at this time.

1 THE COURT: Cross examination, Mr. Plexico?

2 MR. PLEXICO: Yes, Your Honor.

3 CROSS EXAMINATION

4 BY MR. PLEXICO:

5 Q Thank you for coming today, ma'am. You said that you did
6 take a gunshot residue test. Is that right?

7 A Yes.

8 Q All right. And were you completely truthful with the 911
9 caller when you spoke to the 911 caller?

10 A Yes, sir.

11 Q Okay. All right. All right. And you've been completely
12 truthful all through today. Correct?

13 A Yes.

14 Q All right. So, you were there, you said you were there,
15 you got there, you weren't sure, but it was after ten.
16 Is that correct? You sat in the yard awhile waiting on
17 Darius?

18 A Yes, sir.

19 Q Okay. All right. What were you doing in your car?

20 Listening to music?

21 A Just sitting there, just listening to music, calling on
22 the phone, but he never answered.

23 Q All right. Now, did you know Darius well?

24 A Yes.

25 Q All right. Did he carry a gun?

CROSS EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES 173

1 A I don't know that much.

2 Q Okay. All right. Well, he supported himself by selling
3 drugs. Right?

4 A Yes.

5 Q And he sold marijuana, he sold pills, he sold whatever
6 you needed?

7 A Yes.

8 Q All right. Do you know anything about him having -- did
9 he always have drugs when you went there or sometimes he
10 did, sometimes he didn't?

11 A Sometimes he did, sometimes he didn't.

12 Q Okay. Did he get drugs out of you?

13 A I don't know.

14 Q Okay. Did he have problems with people in Beaufort?

15 A I don't know.

16 Q Did he have girlfriends in Beaufort?

17 A I'm not sure.

18 Q Well, he had a multitude of girlfriends, didn't he?

19 A I'm not sure.

20 Q Okay. It was a well-known fact he sold drugs, right?

21 A Yes.

22 Q As a matter of fact, you are a drug user, as well. Is
23 that correct?

24 A Yes.

25 Q And you are a long-time drug user?

- 1 A No.
- 2 Q Okay. All right. Well, don't people have to know where
- 3 the drugs are being sold for somebody to have a
- 4 successful business?
- 5 A Yes.
- 6 Q That was a good point, a good spot to sell drugs. Wasn't
- 7 it? Where he lived?
- 8 A I guess.
- 9 Q Well, he lived right behind the busy BP station.
- 10 A Yes.
- 11 Q And the four lane.
- 12 A Uh-huh.
- 13 Q And then you have the Logan Lane Apartments.
- 14 A Yes.
- 15 Q And people could go smoke in the cut beside the
- 16 apartments behind KFC coming up towards Logan Lane.
- 17 Right?
- 18 A I guess.
- 19 Q And you've got the major road between Western Auto and
- 20 Hardees. Right?
- 21 A Uh-huh.
- 22 Q Correct?
- 23 A Yes.
- 24 Q All right. And you can get out of there in all kinds of
- 25 different ways.

CROSS EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES 175

1 A Yes.

2 Q You can go across the major road on down to Logan Lane
3 sort of like an extension and then go out toward that
4 part of town. You can go, you can skirt the outside of
5 town and go out, and go out, by toward Highway 17 toward
6 Savannah, I mean, Hardeeville. Correct?

7 A Yes.

8 Q All right. And a lot of little roads around there.
9 Correct?

10 A Yes, sir.

11 Q You wouldn't get noticed going there buying marijuana.
12 Right?

13 A Yes, sir.

14 Q You wouldn't get noticed if you were leaving. Right?
15 Necessarily.

16 A Yes.

17 Q Which is important to the drug business because you
18 really don't want to be seen. Right?

19 A Uh-huh. Right.

20 Q Okay. All right. And had you been inside his house
21 before?

22 A No.

23 Q Did you want to get your drugs and get out before you
24 got busted?

25 A Yes.

- 1 Q I understand. All right. Do you know anything about
2 people breaking into his house before and stealing his
3 drugs and his money?
- 4 A No, sir.
- 5 Q Okay. You don't know anything about any prior burglaries
6 that he had?
- 7 A No, sir.
- 8 Q Okay. So, you were there quite awhile before you flashed
9 your lights and flashed down Mr. Freeman. Is that
10 correct?
- 11 A Yes.
- 12 Q All right. Did you see Wrenshad Anderson that night?
- 13 A No, sir.
- 14 Q Okay. Did you handle a gun that day?
- 15 A No, sir.
- 16 Q All right. Do you know why you would be tested to have
17 gun residue on your hands?
- 18 A Maybe if Davonte hadn't gone in. He touched me, so maybe
19 it got on me. I don't know.
- 20 Q All right. So, he was in there for five to seven
21 minutes. Correct?
- 22 A Yes.
- 23 Q You didn't hear a word from him for five to seven
24 minutes. Is that correct?
- 25 A Yes.

CROSS EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES 177

1 Q Did, could you, were you paying attention to what he was
2 doing inside?

3 A Well, I could see him going to the back of the house and
4 then come back out, but I don't what he did. But I saw
5 him go to the back and come back to the front.

6 Q As a matter of fact, you couldn't see the back door.

7 Correct?

8 A No.

9 Q That's correct?

10 A That's correct.

11 Q Okay. So, you are listening to your music and you don't
12 hear any hollering and screaming or anybody going, "Oh,
13 my God, he's dead," or anything like that for five to
14 seven minutes. Correct?

15 A Yes, sir.

16 Q So, everything is quiet for five to seven minutes as far
17 as you are concerned, listening to your music. Correct?

18 A Yes.

19 Q Then, what's the first thing you see when you go in the
20 side door?

21 A Well, he came to me first.

22 Q Ma'am?

23 A Davonte came out of the house to me first.

24 Q That wasn't my question. When you go to that door and
25 you look inside, you see a dead man in there. Don't you?

- 1 A Uh-huh.
- 2 Q Okay. So, soon as he hit that door, Davonte Freeman had
- 3 to see the dead man laying there. Right?
- 4 A Yes.
- 5 Q Did you ask him -- there are sixty seconds in a minute.
- 6 Correct?
- 7 A Yes.
- 8 Q And you said he was in there five to seven minutes?
- 9 A Uh-huh.
- 10 Q And so, five times six is thirty. Five times sixty would
- 11 be three hundred. Correct?
- 12 A Uh-huh.
- 13 Q All right. Seven minutes, that would be seven times
- 14 sixty, four hundred and twenty seconds. Correct?
- 15 A Yes.
- 16 Q So, if you go one, two, three, actually, that's a long
- 17 time. Isn't it?
- 18 A It was.
- 19 Q Okay. You don't hear anything. He's not shocked at all
- 20 at what he finds. Correct?
- 21 A No, until he come out.
- 22 Q Did that strike you as odd?
- 23 A No, not really.
- 24 Q Now, did you question him about what he did inside ---
- 25 A Yes.

REDIRECT EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES 179

1 Q --- with the body for five to seven minutes?

2 A Yes.

3 Q When did you question him?

4 A When he came out, I asked him why he brought the gun out
5 with him.

6 Q Okay. And what did you tell him?

7 A Why you brung it out here. Take it back inside.

8 Q Okay. All right. And so you didn't actually ask him what
9 he was doing in there, you asked him why he had the gun.

10 A Yeah, because that's all I'm concerned about.

11 Q Okay. All right. So, you don't have any idea about what
12 he did in there for five to seven minutes.

13 A Probably looking for something. I don't know.

14 Q And if he found something, he could have went outside,
15 tossed it over the fence around back. You don't know. He
16 came back up because you couldn't see that door.

17 Correct?

18 A No, sir.

19 Q That's incorrect?

20 A That's correct. I couldn't see the door.

21 Q Okay. So, you have no idea of who was coming in or out
22 of that back door ---

23 A But I could see him coming out of the house. I seen him
24 go to the back of the house, I seen him come back out of
25 the house because of me sitting in front of the house

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

REDIRECT EXAMINATION OF SHONTAY MCKEITHAN BY MS. JONES 180

1 because the light was on in the room.

2 Q Okay. But you don't know if anybody else was in there?

3 A No.

4 Q You don't know if he let somebody out another way?

5 A No.

6 Q And there were windows all over the house?

7 A Yes.

8 Q Okay. So, you don't know if he cleaned something up for
9 someone?

10 A No, I don't know.

11 Q Okay. Is Wrenshad Anderson his brother?

12 A Yes.

13 Q Okay. All right.

14 MR. PLEXICO: Court's indulgence.

15 Q You never saw my client coming out of that house. Did
16 you?

17 A No, sir.

18 Q Okay.

19 MR. PLEXICO: I don't have anything further, Your Honor.

20 THE COURT: Any redirect?

21 MS. JONES: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. JONES:

24 Q Sunshine, you said when you were outside waiting on

25 Davonte, you heard the cell phone, the cell phone

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

181

1 ringing?

2 A Yes.

3 Q You didn't hear gunshots or anything else?

4 A No, ma'am.

5 Q But you could clearly hear the cell phone?

6 A Yes.

7 Q Okay.

8 MS. JONES: I have no further questions for Sunshine.

9 THE COURT: You may step down.

10 MR. PLEXICO: May I?

11 THE COURT: The Rules of Evidence allow for direct,
12 cross, redirect. You have an obligation to object to anything
13 new that she brings up in redirect. The rules apply for
14 everybody. You may step down. There's no such thing as re-
15 cross. You may call your next witness.

16 MS. JONES: The State calls Davonte Freeman.

17 THE COURT: Please come forward. I'm going to ask, if you
18 could, to place your left hand on the Bible and raise your
19 right hand as the Clerk administers the oath.

20 MR. FREEMAN: Yes, sir.

21 (After being duly sworn by the Clerk of Court, DAVONTE
22 FREEMAN testified as follows:)

23 THE COURT: I'm going to ask, if you could, have a seat
24 in that witness chair, pull up real close to that microphone
25 and speak loudly, clearly, and slowly, in order that we can

1 hear everything that you have to say and let's start with
2 your full name.

3 MR. FREEMAN: My name is Davonte Freeman.

4 THE COURT: Say that again?

5 MR. FREEMAN: My full name?

6 THE COURT: Yes.

7 MR. FREEMAN: Davonte Quinton Freeman.

8 THE COURT: Very good. Ms. Jones.

9 MS. JONES: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. JONES:

12 Q Davonte, you have to speak clearly today because Madam

13 Court Reporter has to take down every word you say.

14 Okay?

15 A Yes, ma'am.

16 Q Thank you. I called you Davonte. Do you go by something
17 else?

18 A Vonte, for short.

19 Q Vonte, for short?

20 A Yes, ma'am.

21 Q Have you ever gone by Larry?

22 A No.

23 Q Would you maybe have given the name of Larry to
24 somebody? Have you given a false name before?

25 A Oh, yeah, yeah. Yeah. All the time. Yeah.

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

183

1 Q Why are you giving false names?

2 A Because I don't trust nobody, to start with, I guess.

3 Q Okay. You've got to speak clearly.

4 A Okay. I don't trust many people, so, you know, when you
5 run into random people, so, that's the reason, you know,
6 why.

7 Q Okay. You don't trust random people, but what about the
8 police?

9 A Oh, well. This particular time, I thought there was a
10 warrant or something on me and so I had other things
11 going on so that's why I gave false information.

12 Q That's why you said Larry?

13 A Yeah. Yeah.

14 Q You've actually been convicted of giving false info
15 before, haven't you?

16 A Uh-huh. I sure have.

17 Q And a shoplifting?

18 A Uh-huh. Yes, ma'am.

19 Q What was the false info? Was that another false name?

20 MR. PLEXICO: Your Honor, I object. That is leading. That
21 is the details and ---

22 THE COURT: I sustain.

23 MS. JONES: I'm sorry, Your Honor. I withdraw.

24 Q But you have that prior record?

25 A Yes, ma'am.

- 1 Q And even though you've been convicted of giving false
2 info, are you going to tell the truth today?
- 3 A Yes, ma'am.
- 4 Q Davonte, where do you live or where are you from,
5 originally?
- 6 A I'm from Oak Hill, Oak Hill Road.
- 7 Q Is that here in Ridgeland?
- 8 A Yes, ma'am. Ridgeland, South Carolina.
- 9 Q Have you been in Ridgeland your whole life?
- 10 A My whole life.
- 11 Q And you still live in Ridgeland today?
- 12 A Yes, ma'am.
- 13 Q Okay. Do you remember May 18th of 2013?
- 14 A Yes, ma'am.
- 15 Q What do you remember about that night?
- 16 A That night I was home, then I was walking, just kind of
17 thirsty, so I was going to the store. I went to the Gulf
18 Station and then went to the Subway to talk to a friend
19 and I was continuing to go down the road to talk to
20 another friend, which is Darius Woods and prior to
21 getting there, I ran into my cousin.
- 22 Q What's your cousin's name?
- 23 A I call her Sunshine. I call her Sunshine, but it's
24 Shontay.
- 25 Q Okay. You run into her. Where do you run into, Sunshine?

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

185

1 A She was parked in front of Darius Wood's house.

2 Q She's parked in front of Darius' house?

3 A Yeah.

4 Q Why were you going to Darius' house?

5 A To get some weed.

6 Q Okay. You were there to buy weed.

7 A Yes, ma'am.

8 Q Okay. And you see Sunshine there. What do you do when
9 you see Sunshine there?

10 A Well, I started -- when I seen her, I was like, oh,
11 girl, what are you here for? I asked the question, what
12 are you here for and so I guessed we were there for the
13 same thing. After that, I proceeded to knock on the door
14 and he never came to the door and so we waited around
15 and so that's when Sunshine told me, Shontay, she told
16 me that the car door was open and the lights were on
17 inside Darius Wood's car parked on the side.

18 Q Was that odd to you?

19 A Very odd. I know my friend, you understand. He wasn't
20 like that.

21 Q He wouldn't have left his car doors open?

22 A No, ma'am. Not at all.

23 Q Okay. You said you went to the door. What door did you
24 go to first?

25 A I went to the front door, I went there twice.

- 1 Q Is that the door that you would typically use to go up
2 to Darius'?
- 3 A Yes, ma'am.
- 4 Q Were you ever inside Darius' home?
- 5 A Quite a few times.
- 6 Q Okay. So, y'all were friends, y'all trusted each other?
- 7 A Yes, ma'am.
- 8 Q So, Darius isn't answering the door. What do you do
9 after that?
- 10 A After he didn't answer the door, I heard his phone
11 ringing, which was his cell phone, I guess. I heard it
12 ringing through the door.
- 13 Q You heard it on the inside of the home?
- 14 A Yes. His cell phone was ringing through the door and so
15 I walked around and his car door was open and I honked
16 his horn a few times and he never came out so I said,
17 Sunshine, call his phone, and when she was calling, my
18 cell phone was off at the time, and so when she was
19 calling him, I wait for awhile and I told her something
20 didn't seem too right and so I'll check the side door
21 because I never was in his house like that to know all
22 the doors around, that one door right there, and so when
23 I checked it, I pushed it and it came open.
- 24 Q You didn't know about this side door. Was that because
25 you didn't go in that side door?

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

187

1 A Yeah, if I go in his house and be in there that long, I
2 would walk around the kitchen and I would just go in and
3 come out.

4 Q But when you would go over there, you would go in the
5 front door?

6 A I would go through the front door.

7 Q Never the side door?

8 A Never the side door.

9 Q Do you know if that side door was kept locked?

10 A I can't answer that.

11 Q Okay. So, when you go to the side door and you push it
12 open, what do you see?

13 A I see it was a table here, a counter top, a bar counter
14 top, I seen him laying down on his back and I seen his
15 jeans and his shoes and I rushed to him. I thought he
16 had an asthma attack because I know he had asthma so I
17 ran over to him. He was laying on the floor on his back
18 with his hands above his head and he was dead.

19 Q Okay. You knew at that time that he was dead?

20 A Yes, ma'am.

21 Q Was there anything else laying on him or near him?

22 A On his stomach, he had a gun that he showed me earlier.
23 I knowed it was his gun. It was sitting on his stomach
24 right above his belly button and right beside him his
25 phone was still ringing and the asthma pump was sitting

- 1 right beside him and he was laying on his back.
- 2 Q Okay. How did you know it was his gun?
- 3 A When I was there earlier that day, about 3:00 that day,
- 4 and we chitchat for awhile and talked for awhile and
- 5 then he showed it to me. It was his gun.
- 6 Q And so you recognized it from earlier that day?
- 7 A Yes, ma'am.
- 8 Q Okay.
- 9 MS. JONES: Permission to approach, Your Honor?
- 10 THE COURT: Yes, ma'am.
- 11 Q Davonte, I'm going to show you, and you just take a look
- 12 at it, what is marked as State's Exhibit #2.
- 13 A Yeah.
- 14 Q Okay. You're having trouble looking at it. What does
- 15 this picture show?
- 16 A It shows my friend laying on his back with his gun on
- 17 his stomach right there.
- 18 Q Okay. Is that how you found Darius that night?
- 19 A Yes, ma'am.
- 20 Q Has anything been changed or altered in this photograph
- 21 from what you remembered?
- 22 A Not that I remember.
- 23 Q And that's exactly how you found Darius?
- 24 A Yes, ma'am.
- 25 Q And this picture fairly and accurately depicts how you

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

189

1 found Darius that night?

2 A Yes.

3 MS. JONES: At this point, State moves State's #2 into
4 evidence.

5 MR. PLEXICO: Without objection.

6 THE COURT: Two is into evidence.

7 MS. JONES: Permission to publish, Your Honor?

8 THE COURT: Yes.

9 (Whereupon, an 8x10 photocopy is entered into evidence
10 as State's Exhibit #2, without objection, and is projected on
11 a large screen in front of the jury)

12 Q Okay, Darius, is that the picture I just showed you? I'm
13 so sorry. Davonte, is that the picture I just showed
14 you?

15 A Yes, ma'am.

16 Q And what is this?

17 A That's his revolver, his pistol.

18 Q Okay. And what stands out in this part of the picture to
19 you?

20 A His pockets are inside out, like somebody could just
21 stick their hand in there and pull them out like that.

22 Q And that's exactly how you found Darius that night?

23 A Yes, ma'am.

24 Q Okay. That gun that's on his stomach, you said you
25 recognized it from earlier?

- 1 A Yes, ma'am.
- 2 MS. JONES: Permission to approach, Your Honor?
- 3 Q Without -- are you okay?
- 4 A Yes, ma'am.
- 5 Q Okay. Davonte, what is that?
- 6 A That's the same gun that Darius showed me earlier.
- 7 Q That's the same gun that Darius showed you earlier?
- 8 A Yes.
- 9 Q Okay. How do you know?
- 10 A Because it was all black outside his hand, it's his
- 11 revolver.
- 12 Q So, you recognize this as the gun?
- 13 A Yeah.
- 14 Q And is this the gun that you picked up off of...
- 15 A I picked it up off his stomach. I panicked so hard I
- 16 started questioning him, wishing he would wake up. I
- 17 picked it up and I smelled it and I did smell it's been
- 18 fired.
- 19 Q Why did you pick it up and smell it?
- 20 A Out of curiosity.
- 21 Q Curiosity to see what?
- 22 A The only thing that was running through my mind was I
- 23 kind of went insane a little bit. My friend had been
- 24 shot and his cell phone was going off and I didn't know
- 25 what was going on and I panicked. I was scared.

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

191

1 Q You were panicking?

2 A Yeah. He had just showed me and so I was like, no, no
3 way he shot himself with his gun? I didn't know if it
4 was a planned murder like somebody standing over him and
5 pulling the gun on him.

6 Q Okay. And he was face up like this?

7 A On his back.

8 Q On his back?

9 A Yes, ma'am.

10 Q Okay. And you didn't -- aside from touching that gun,
11 did you touch anything else on him?

12 A No, ma'am.

13 Q You didn't pull that pocket out?

14 A No, ma'am. No, ma'am.

15 Q Okay.

16 A I would never do that to my friend.

17 Q Okay. What else did you do, what else did you do while
18 you were in Darius' home that night?

19 A His room light was on and so I thought it could be more
20 people, like people in his room, and so I peeped all
21 around and didn't see anybody else in there and I came
22 back out and told Shontay, like, Darius is dead. Call
23 the police.

24 Q Okay. So you said you peeped around. Did you peep around
25 all -- you said all. Did you peep around the whole

1 house?

2 A No way. I wasn't going to walk around the house. There
3 was no way. No way I was going to walk around the whole
4 house. I walked down the dark hallway and didn't see
5 nobody and didn't see the dog, didn't hear the dog
6 barking or anything. I trying to make sure nobody else
7 was in there, but I didn't.

8 Q So, did you look for somebody else in the home?

9 A Yeah, I did. Nobody was there and so I run out and told
10 Shontay Darius was dead, call 911.

11 Q How long do you think you were in that home?

12 A No longer than probably about a minute or seconds or
13 something. I don't know. I wouldn't even count to sixty.

14 Q So, you don't know?

15 A I wouldn't give you no exact time.

16 Q Okay. Did you, aside from that gun again, did you touch
17 anything else in that home?

18 A No, ma'am.

19 Q Did you hide anything?

20 A No, ma'am.

21 Q Take anything?

22 A No, ma'am.

23 Q See some marijuana and put that in your pocket?

24 A No, ma'am.

25 Q Any money?

DIRECT EXAMINATION OF DAVONTE FREEMAN BY MS. JONES

193

1 A I didn't even want marijuana at that time, you know? No
2 way.

3 Q Okay. Do you remember when the police came?

4 A Yes, ma'am.

5 Q Did you speak to the police?

6 A Yes, ma'am.

7 Q Did they ask you to do anything? Do you remember?

8 A When Sunshine was on the phone, well, Shontay, when she
9 was on the phone, I think the operator told me to go
10 back in and see what I see, but I didn't go back in
11 there.

12 Q No?

13 A No.

14 Q So, when you came out, you didn't go back in?

15 A No. No.

16 Q Do you remember the police wiped your hands or anything?

17 A Yes, they did.

18 Q Okay. Did they ask for any other sort of DNA samples or
19 anything? Do you remember?

20 A No. I remember I offered them everything off of me.

21 Q Okay. Davonte, you've lied to the police before. You
22 lied that night about your name.

23 A Yes.

24 Q Are you telling us the truth here today?

25 A I swear I'm telling the truth with my hand on the Bible.

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 194

1 All I know is the truth.

2 Q All right. So, everything that you said from when you
3 took that seat until now, you have been telling us the
4 truth?

5 A The truth.

6 Q Okay. Davonte, I don't have anymore questions for you.

7 If you could answer any that Mr. Plexico may have.

8 THE COURT: Mr. Plexico. Cross examination.

9 MR. PLEXICO: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. PLEXICO:

12 Q All right. Let's start with, where do you live. At that
13 time, where did you live?

14 A I was living on Malphrus Street, down Malphrus Street.

15 Q And if you go out and go over the viaduct to Schooner's
16 Bar at the bottom of the hill at the red light, you
17 would take a left and then the next left is Malphrus
18 Street?

19 A Yes.

20 Q And almost across from this north end BP station?

21 A Right across from the north end. Right across from it.

22 Q Okay. Who did you live there with?

23 A Myself. Me and my brother.

24 Q Who's your brother?

25 A Wrenshad Anderson.

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 195

1 Q Okay. So, y'all slept there, you'd get up, go to work
2 together ---

3 A No, we don't work together. We stayed together. That's
4 our home.

5 Q All right. Okay. Now, you were at the Subway station
6 earlier. Correct?

7 A I was at the Gulf Station first, then I stopped at the
8 Subway station to talk to a friend of mine.

9 Q Okay. So, this is the Subway across from Hardee's.
10 Right?

11 A No. Right across from the Gulf Station.

12 Q All right. Is it the Old Huddle House?

13 A The old Huddle House. Yes, sir.

14 Q All right. So, did you go along the back near the cut
15 then come up to Logan Lane to Adams Street where ---

16 A Yes. I walked up through each building, between the
17 Chinese Restaurant, go through the path behind KFC, and
18 then got on the back road.

19 Q Okay. Had you been there earlier?

20 A Been where, earlier?

21 Q Along the cut earlier, along the path near those woods.

22 A No, sir. Not at that time. Not that day, I wasn't.

23 Q All right. But it's just a hop, skip, and a jump from
24 Darius' house. Right?

25 A Yes, sir.

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 196

1 Q People hang out there, smoke pot, do whatever, drink.

2 A Yes, sir.

3 Q All right. Now, he's running a marijuana business.

4 Correct?

5 A Correct.

6 Q And he lives on the corner of Adams Street and Logan

7 Lane. Here's his house here, where the pin is. Right?

8 A Right.

9 Q Okay. So, if you are driving down Logan Lane or coming
10 up Adams Street, you could see his front door easily.

11 Right?

12 A Right..

13 Q Okay. But the side door around here is much harder to
14 see. Right?

15 A Yes.

16 Q Okay. So, if you are selling drugs out of your house, it
17 would be more logical, wouldn't it, to sell out of the
18 side door than the front door?

19 A Well, I can't answer that. People got their own way of
20 doing business.

21 Q All right. So, could you...

22 MR. PLEXICO: May I approach the witness?

23 THE COURT: You may.

24 Q Do you recognize this? (Hands document to witness.)

25 A I believe this is the first statement I wrote outside

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 197

- 1 the house.
- 2 Q Do you recognize it as the first statement you wrote?
- 3 A I do, as far as I can tell from what I'm looking at.
- 4 Q Well, what's the name at the top?
- 5 A I gave the name of Davonte Jones. That's the name I gave
- 6 them, Davonte Jones. That's mine.
- 7 Q And you affirmed on the bottom that everything that you
- 8 said was true and correct and you put your name on that?
- 9 A Right.
- 10 Q And the first thing you wrote was a falsity, being your
- 11 name. Correct?
- 12 A Right. That's the only false thing on the paper.
- 13 Q All right. So, it says here, he got shot, I ran out, and
- 14 told my cuz. Is that correct?
- 15 A No, that's not correct at all.
- 16 Q When he saw him, is that what you put down here? You saw
- 17 he was shot and you ran out and told your cuz?
- 18 A Yes. That's what it says it was. I seen him and I said
- 19 he was dead, if that's what you mean.
- 20 Q Actually, so when you saw the body, you ran out and you
- 21 told Sunshine, Ms. Shontay McKeithan. Correct?
- 22 A Yes, sir.
- 23 Q All right. So, did you look up and see anybody in the
- 24 apartment, in the house?
- 25 A Did I look up at which house?

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 198

1 Q I mean, you see Mr. Woods, what did you do then?

2 A When I first went in the house and seen him dead?

3 Q Yes.

4 A I panicked. I stood there. I mean, I stood there for
5 probably a few seconds.

6 Q All right. So, you didn't search the house?

7 A No.

8 Q You didn't look for drugs?

9 A No.

10 Q And he's a large drug dealer. Right? Wasn't he?

11 A He was my friend, so, he was just selling weed. He
12 probably had it for a few weeks. I don't know..

13 Q But he wasn't a drug dealer?

14 A He was selling drugs.

15 Q All right. Now, so you didn't search the house?

16 A No, sir.

17 Q Okay. Now, did you, when you saw him, you looked at him,
18 you didn't go immediately back outside and tell your
19 friend?

20 A Once I seen him dead, I was stuck for a minute and
21 that's when I seen the gun and I thought he'd shot
22 himself and I was questioning it. I went outside and
23 told Shontay he was dead.

24 Q Okay. But that didn't take but a couple of seconds' for
25 you to get out of there. Right?

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 199

1 A A couple of seconds. I couldn't have gotten a glass of
2 water in that.

3 Q Okay. So you were in and out of there. I want to make
4 sure that's the truth. All right. Now, so, and you
5 didn't steal anything from his apartment or from his
6 house?

7 A No.

8 Q Okay. Now, you've been convicted of assault and battery,
9 second? You are shrugging your shoulders. Is that a yes
10 or a no?

11 A Yeah, I was. Yes, sir.

12 Q All right. You were convicted of petit larceny, too,
13 weren't you?

14 A Huh?

15 MR. PLEXICO: May I approach?

16 A Yes, I was.

17 Q You were. Okay. Shoplifting? Correct?

18 A Uh-huh.

19 Q Giving false information?

20 A Yes, I was.

21 Q So, you took a gunshot residue test. Right?

22 A Yes, I did.

23 Q Okay. And you failed that test. Correct?

24 MS. JONES: Objection. I believe ---

25 THE COURT: I'll allow him to answer it, if he knows.

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 200

- 1 A I don't know. You'd have to tell me.
- 2 Q All right. So, you came up from the cut when you saw
- 3 Sunshine?
- 4 A No. It wasn't the cut, it was the back road.
- 5 Q But that's beside the cut.
- 6 A Huh?
- 7 Q That's beside the cut. The back road is beside the cut.
- 8 A Yes. Logan Street, it's a road, not a cut. A cut is like
- 9 a path.
- 10 Q In your statement you said you only picked the gun up
- 11 and put it back down. Is that correct?
- 12 A Yes, sir.
- 13 Q But that wasn't the truth. Was it?
- 14 A It is the truth.
- 15 Q Okay. Well, you picked it up, took it outside and
- 16 removed it from the crime scene. Is that not right?
- 17 A I don't remember none of that. I never remember moving
- 18 his gun and no way outside or bringing it outside. No, I
- 19 never left with it outside.
- 20 Q You wouldn't do anything to interfere with a crime
- 21 scene. Would you?
- 22 A No. No, sir.
- 23 Q So, you only live minutes from Darius' house. Correct?
- 24 A Yes, sir.
- 25 Q It's just a short walk, three to five minutes. Correct?

CROSS EXAMINATION OF DAVONTE FREEMAN BY MR. PLEXICO 201

1 A Depends on how fast you walking.

2 Q Okay. Does your brother -- you hang out with your
3 brother, Wrenshad. Right?

4 A Yes, sir.

5 Q And it is your brother who has your back when you get in
6 a jam?

7 A Would he have my back if I get into a jam?

8 Q He loves you, doesn't he?

9 A Yes. Same man, same mother. We're all together.

10 Q All right. Now, he has your back in a jam, doesn't he?
11 If you are in a tight spot?

12 A You are asking me that?

13 Q Yes.

14 A You're asking if I'm in a tight spot?

15 Q Yes, sir.

16 A No.

17 Q Not right now, your brother, in general. Do you have
18 each other's back?

19 A Yes, sir. Always. I'm my brother's keeper.

20 MR. PLEXICO: I don't have anything further.

21 THE COURT: Any redirect?

22 MS. JONES: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. JONES:

25 Q Davonte, you said multiple times that you went insane,

1 you panicked.

2 A Yes, ma'am.

3 Q And that caused you to kind of freeze?

4 A Yes, ma'am.

5 Q Do you, maybe, get a little blurry at that point?

6 A Yeah, like, I was stunned, I was shocked. It was still
7 about 3:00. I was stunned, like, everybody else was -- I
8 was shivering. I was, like, shivering. However, you want
9 to put it from the dictionary, I was, you know, it was
10 my first time ---

11 Q And that -- I'm sorry. And in that mind set, could you
12 have walked outside with the gun and not remembered it?

13 A No. I know what I had in my hand. I know what I had in
14 my hand.

15 Q But you did put that gun back down the same place you
16 found it?

17 A Yes.

18 Q What I showed you earlier, State's Exhibit #3?

19 A Yes. I laid it back on his stomach.

20 Q Davonte, I have no more questions for you. Thank you.

21 THE COURT: You may step down. Madam Forelady, ladies and
22 gentlemen of the jury, I'm going to ask that you retire to
23 the jury room to refresh yourselves. We will reconvene
24 momentarily. Madam Forelady, I will ask once again, that
25 there be no discussion amongst yourselves about the case. Do

1 not discuss the case. Everyone remain seated as the jury
2 exits the courtroom.

3 (Jury out at 11:00 AM)

4 THE COURT: We will stand at ease for about five minutes.

5 (Brief break)

6 THE COURT: Anything from the State before we bring the
7 jury out?

8 MS. JONES: No, Your Honor.

9 THE COURT: Anything from Defense?

10 MR. PLEXICO: No, Your Honor.

11 THE COURT: We're ready to proceed.

12 (Jury in at 11:11 AM)

13 THE COURT: Ms. Jones, you're recognized. You may call
14 your next witness.

15 MS. JONES: Thank you, Your Honor. The State calls Kevin
16 Smith.

17 THE COURT: All right. Mr. Smith, please come forward.
18 I'd ask if you could to place your left hand on the Bible and
19 raise your right hand as the clerk administers the oath.

20 (After being duly sworn by the Clerk of Court, KEVIN
21 SMITH testified as follows:)

22 THE COURT: Be seated in the witness chair. Pull up real
23 close to that microphone. Speak loudly, clearly, and slowly,
24 in order that we can hear everything that you have to say.
25 And let's start with your full name.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 THE WITNESS: Kevin Scott Smith.

2 THE COURT: Ms. Jones.

3 MS. JONES: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. JONES:

6 Q Where are you currently employed Sergeant Smith?

7 A The Town of Ridgeland Police Department.

8 Q Okay. And how long have you been with the police
9 department?

10 A I've been with the police department about ten years
11 now. I started off as a reserve and now I'm full time.

12 Q Okay. In those ten years, or recently, what are some of
13 your duties working with the police department?

14 A I'm currently assigned to the patrol team so I do
15 patrol, respond to calls. I may take reports, things
16 along that nature.

17 Q And did you have to have some sort of special education
18 to become a police officer?

19 A No, ma'am.

20 Q Did you have to go to the academy?

21 A I did.

22 Q Okay. And at the academy what sort of learning is
23 entailed?,

24 A They teach you the laws, basic laws of South Carolina
25 and they put you through some physical things that's

DIRECT EXAMINATION OF KEVIN SMITH BY MS. JONES

205

1 different tasks relevant to law enforcement.

2 Q Okay. So, after the academy you became a police officer?

3 A Correct.

4 Q Back in 2013, what were you doing with the police
5 department?

6 A 2013, I was a sergeant over the road patrol.

7 Q Okay. And what were some of your duties as a sergeant
8 over road patrol?

9 A Again, as a patrol officer, I would respond to calls,
10 things like that. But I was the supervisor over the
11 other patrol officers.

12 Q Okay. Were you working on May 18th of 2013?

13 A Yes, ma'am.

14 Q And did you receive a call in reference to a gunshot
15 victim or shots fired that night?

16 A Yes, ma'am.

17 Q Okay. Did you respond?

18 A Yes, ma'am.

19 Q Where did you respond?

20 A The address was East Adams Street.

21 Q And is that here in Ridgeland?

22 A It is.

23 Q Is that in Jasper County?

24 A Yes, ma'am.

25 Q Okay. I'm going to show you a map just so we can become

1 more familiar with where we're talking.

2 MR. PLEXICO: Your Honor, I don't believe that's in
3 evidence if they're publishing this.

4 THE COURT: Show it to him.

5 (Mr. Plexico looks at map)

6 MR. PLEXICO: I would object to using this unless it's
7 introduced into evidence and before published to the jury.

8 THE COURT: You've seen it. You may proceed.

9 MS. JONES: Thank you, Your Honor.

10 Q Could you show us, could you ---

11 MS. JONES: Permission for the witness to step down, Your
12 Honor?

13 THE COURT: Yes.

14 (Witness steps down from the witness stand and stands in
15 front of the jury beside the large map)

16 Q Could you show us, just so people will become
17 familiar ----

18 THE COURT: I think what he's asked you to do is to
19 introduce it into evidence before you show to the jury.

20 (Whereupon, a large map is marked as State's Exhibit
21 #68, for identification.)

22 Q State's Exhibit #68 for identification purposes only. Is
23 this a map of Ridgeland?

24 A Yes, ma'am.

25 Q How do you know it's a map of Ridgeland?

DIRECT EXAMINATION OF KEVIN SMITH BY MS. JONES

207

1 A From all the years I've worked here, familiar with the
2 area.

3 Q Okay. You've been working in Ridgeland how long?

4 A Oh, about ten years.

5 Q And you recognize this as being the Town of Ridgeland?

6 A Yes.

7 MS. JONES: At this point the State moves State's #68 ---

8 MR. PLEXICO: Without objection.

9 THE COURT: It's into evidence.

10 MS. JONES: Thank you.

11 (Whereupon, a large map of Ridgeland is entered into
12 evidence as State's Exhibit #68, without objection)

13 Q Okay. Now, can you show us on this map where we're
14 talking about? Where is Adams Street?

15 A Adams Street runs right here. (Indicating)

16 Q Okay.

17 A It's right here.

18 Q Okay. And that's on -- it seems to be on a corner?

19 A Correct.

20 Q Okay. What is this, this street that runs?

21 A This would be Logan Street.

22 MR. PLEXICO: May I, Your Honor, so I can see?

23 THE COURT: Stand wherever you'd like.

24 Q One more time, so Mr. Plexico can see.

25 A I was just explaining this right up here would be Adams

- 1 Street. The red dot indicates the incident location and
2 this road right here is Logan Street. This is Adams and
3 Logan.
- 4 Q Okay. And this is East Adams?
- 5 A Correct.
- 6 Q Where you responded that night?
- 7 A Yes, ma'am.
- 8 Q All right. Thank you. You can take a seat.
- 9 (Mr. Smith returns to the witness stand)
- 10 Q Did you respond with anybody else?
- 11 A Yes, ma'am, I did.
- 12 Q Who did you respond with?
- 13 A Deputy Blessing with the sheriff's office and also
14 Officer Metzger with my agency.
- 15 Q Okay. You mentioned the sheriff's office but you're with
16 the Police department?
- 17 A Correct.
- 18 Q And this is in the jurisdiction of the police
19 department?
- 20 A Correct.
- 21 Q Why would somebody with the sheriff's office respond
22 with you?
- 23 A Well, they have jurisdiction as well in the city limits,
24 but also just to provide backup and assistance on a
25 scene.

DIRECT EXAMINATION OF KEVIN SMITH BY MS. JONES

209

1 Q Okay. Would you have been by yourself without Deputy
2 Blessing?

3 A I don't recall exactly, but there's a chance I would
4 have been.

5 Q Okay. When you go to East Adams Street, what do you
6 observe?

7 A Are you talking about on that night?

8 Q Yes?

9 A Okay. Well, once I arrived on the scene there was a male
10 out front who was the complainant. He was pretty
11 animated. He was hyped up, just telling us what was
12 going on. He had come to the house, noticed that there
13 was a vehicle parked out front that belonged to his
14 friend and that the door was open to the vehicle. He
15 went inside to the house and found his friend lying on
16 the floor, inside, dead with a gun on his lap -- or his
17 waist.

18 Q Okay. What was this -- do you remember that person's
19 name?

20 A The name he provided then was Vonte Quinton Jones, but
21 we later identified him as Davonte Freeman.

22 Q Okay. And what was he acting like when you responded?

23 A He was very, like I said, upset, animated. Just kind of
24 all over the place, very excited.

25 Q Okay. What was his friend doing at the time? Do you

- 1 remember that person's name?
- 2 A I've got it in my report as a Shontay McKeithan.
- 3 Q And what was Ms. McKeithan doing at this time?
- 4 A To the best of my memory, I think she was mainly just
- 5 standing outside, waiting outside by a vehicle.
- 6 Q Okay. Were her and Davonte together?
- 7 A If I recall correctly, I don't think they came together
- 8 but when they got to the residence, they were friends or
- 9 cousins and they were standing -- or they were together
- 10 once they got on scene.
- 11 Q Okay. Was anybody else on scene?
- 12 A I don't believe so.
- 13 Q Okay. After speaking with these two people, what did you
- 14 do?
- 15 A Myself and Deputy Blessing entered the residence to
- 16 secure it, to see exactly what was going on inside.
- 17 Q And when you go inside, what do you see?
- 18 A Once we entered, we entered through a side door. We got
- 19 into, I guess what would be a living room area and there
- 20 on the floor was the victim. He was laying down. Like I
- 21 said, he had a gun on his waist. A couple of gunshot
- 22 wounds. We went ahead and secured the rest of the house
- 23 and then started setting up -- secured the weapon and
- 24 then started setting up the perimeter tape.
- 25 Q Okay. I'm going to show you what's been previously

DIRECT EXAMINATION OF KEVIN SMITH BY MS. JONES

211

1 admitted as State's #2. Is that how you discovered the
2 victim when you responded?

3 A Yes.

4 Q And that's exactly how you found him?

5 A Yes.

6 Q And what is that on his stomach?

7 A That would be the revolver that we recovered.

8 Q Okay. That y'all recovered?

9 A Correct.

10 Q Okay. I'm going to show you what has previously been
11 marked for identification only, State's #3.

12 MS. JONES: Permission to approach.

13 THE COURT: Yes.

14 Q And what is that?

15 A That would be the revolver from the picture that was
16 located at the crime scene.

17 Q Okay. And what happened with that revolver when y'all
18 were securing the scene?

19 A Deputy Blessing took possession of it. It was checked,
20 cleared of any, you know, more ammunition that may have
21 been in it, then he had secured it in his vehicle.

22 Q Okay. After that, did you come back into contact with
23 that?

24 A I did. Once my lieutenant was on the scene, it was
25 transferred into his vehicle and then from there, when

1 SLED got on scene to do the crime scene investigation, I
2 transferred it from my lieutenant's vehicle into the
3 possession of SLED.

4 Q What is your lieutenant's name?

5 A Lieutenant Ginn.

6 Q Okay. And then you physically handed it over to SLED?

7 A That's correct.

8 Q Okay. I have no further questions for you at this time.

9 Thank you.

10 THE COURT: Cross-examination, Mr. Plexico.

11 MR. PLEXICO: Yes, thank you.

12 CROSS-EXAMINATION

13 BY MR. PLEXICO:

14 Q Okay. Did you get a 9-1-1 call?

15 A Well, it was dispatched from dispatch.

16 Q Okay. And those were 9-1-1 communications with you
17 directly?

18 A Correct.

19 Q Okay. All right. And did they tell you that Ms.

20 McKeithan was there?

21 A I do not recall.

22 Q Did they tell you that Larry was there?

23 A I don't recall names that they gave that were there.

24 Q Okay. So, what's the first thing you asked Mr. Jones?

25 What his name was? Who are you?

CROSS EXAMINATION OF KEVIN SMITH BY MR. PLEXICO

213

1 A I'm sure I would have asked him what was going on once
2 we got on scene.

3 Q Well, did you ask him who he was ---

4 A Oh, well, yes, sir.

5 Q --- so you would know that?

6 A I'm sorry?

7 Q So, you would know that, correct?

8 A Correct, yes, sir.

9 Q All right. And it's important to know who you're talking
10 to, to make proper notes. Correct?

11 A Correct.

12 Q Okay. All right. So, one of the first things he told you
13 was a false name?

14 A Correct.

15 Q Okay. All right. Now, you've made a lot of arrests in
16 ten years and that sort of thing. Right?

17 A Yes, sir.

18 Q You've dealt with a lot of different people?

19 A Yes, sir.

20 Q You've dealt with a lot of high people, haven't you?

21 A I'm sorry?

22 Q You've dealt with a lot of high people?

23 A Yes.

24 Q And is it not common to describe them as hyped up and
25 animated when people are very high on all these

- 1 different drugs people are doing these days?
- 2 A I would say that drugs affect people differently.
- 3 Q Okay. But animated and hyped up would be a pretty good
- 4 example, a pretty good descriptive description of some
- 5 of those people, would it not?
- 6 A Of some people, yes, sir.
- 7 Q Okay. All right. Did you participate in any gunshot
- 8 residue tests?
- 9 A Myself?
- 10 Q Yes, sir. In regards to this case.
- 11 A I don't believe so, no, sir.
- 12 Q Okay. Did you participate in any DNA swabs or anything
- 13 like that?
- 14 A I did.
- 15 Q Okay. And who were those on?
- 16 A Myself.
- 17 Q Okay. All right. And that's because of the danger of
- 18 cross-contamination as far as touch DNA and this sort of
- 19 thing?
- 20 A Correct, yes, sir.
- 21 Q So, if I touch this pen and I hand it to you to write
- 22 something and you put your hand in your pocket, you
- 23 could conceivably get my DNA in your pocket. Correct?
- 24 MS. JONES: Objection.
- 25 A I'm not a DNA expert.

CROSS EXAMINATION OF KEVIN SMITH BY MR. PLEXICO

215

1 THE COURT: Overruled.

2 Q Okay. All right. Did you gather any clothing or anything
3 belonging to my client?

4 A I don't believe I did, no, sir, to the best of my
5 memory.

6 Q All right. And Mr. Jones told you he'd been inside the
7 car of Mr. Woods. Right?

8 A Correct.

9 Q Okay. All right. And he told you that he just picked up
10 the gun and set it down, Mr. Jones or Mr. Freeman?

11 A If I remember right, I believe he said he picked it up
12 -- I know he said he picked it up and he put it back
13 where he found it. I can't remember if it was
14 immediately, though. It seemed like there may have been
15 a little bit more to it.

16 Q All right. Well, when did you finally realize his real
17 name? How long did it take into the investigation?

18 A I don't recall the exact time. It was later that night.

19 Q Okay. Two hours later?

20 A It may have been. I don't recall.

21 Q Okay. But he would have deceived you for whatever period
22 of time that was. Correct?

23 A Correct.

24 Q Did you take any statements from him?

25 A Are you talking about a written statement?

1 Q Yes?

2 A I would think that an investigator would have done that.

3 I don't believe it was me.

4 Q All right.

5 MR. PLEXICO: I don't have any further questions.

6 THE COURT: Any redirect?

7 MS. JONES: I beg the Court's indulgence.

8 REDIRECT EXAMINATION

9 BY MS. JONES:

10 Q You were more interested in finding out what happened to
11 the dead person on the inside of the house than
12 Davonte's real name. Right?

13 A At the time, just trying to get everything figured out
14 and get the crime scene secured and turn it over to the
15 investigator once they get on scene.

16 Q Okay.

17 MS. JONES: I have no further questions.

18 THE COURT: You may step down. You may call your next
19 witness.

20 MS. JONES: The State calls Jason Blessing.

21 THE COURT: Yes, sir. Please come forward. I ask if you
22 could to place your left hand on the Bible and raise your
23 right hand as the clerk administers the oath.

24 (After being duly sworn by the Clerk of Court, JASON BLESSING
25 testified as follows:)

DIRECT EXAMINATION OF JASON BLESSING BY MS. JONES

217

1 THE COURT: I would ask that you have a seat in the
2 witness chair, pull up real close to that microphone and
3 speak loudly and clearly and slowly in order that we can hear
4 everything that you have to say.

5 THE WITNESS: You got it.

6 THE COURT: Start with your full name.

7 THE WITNESS: Jason Blessing.

8 DIRECT EXAMINATION

9 BY MS. JONES:

10 Q Jason, where are you currently employed?

11 A Walmart.

12 Q Okay. In what capacity do you work at Walmart?

13 A Loss prevention.

14 Q How long have you been there?

15 A Five months.

16 Q Okay. Did you used to live in Ridgeland?

17 A I did.

18 Q Okay. Where do you live now?

19 A Goose Creek, just north of Charleston.

20 Q Okay. How long have you been up in the Goose Creek area?

21 A That would be almost two years.

22 Q Back in 2013, what were you doing?

23 A I was a deputy with Jasper County.

24 Q Okay. And what were some of your duties as a deputy with
25 Jasper County?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 A I responded to calls for service, traffic enforcement,
2 testifying in court ---

3 Q How long ---

4 A --- everything that law enforcement does.

5 Q Sorry to interrupt you. How long had you been working
6 with the sheriff's office?

7 A In 2013, two years.

8 Q I'm sorry?

9 A Somewhere around there.

10 Q And some of your duties you said were traffic control
11 and what else?

12 A Responding to calls for service, just general law
13 enforcement duties, everything that a patrol officer
14 does.

15 Q Okay. And you were a patrol officer back at that time?

16 A Yes.

17 Q Did you respond to East Adams Street on the night
18 of May 18th?

19 A I did. Yes.

20 Q Okay. And this was back in 2013?

21 A Yes.

22 Q Who did you respond with?

23 A Kevin Smith with the Ridgeland Police Department.

24 Q Okay. But you were with the sheriff's office?

25 A I was.

DIRECT EXAMINATION OF JASON BLESSING BY MS. JONES

219

- 1 Q Was it common for agencies to assist each other?
- 2 A It was common for the two agencies to assist each other.
- 3 I was with him on a call right before that so we were
- 4 together when he got the call.
- 5 Q Okay. And what was the call to respond to East Adams
- 6 Street?
- 7 A It believe it was shots fired. It was shots fired and
- 8 someone had been shot, I believe is what it was.
- 9 Q Okay. And is East Adams Street in Ridgeland?
- 10 A Yes.
- 11 Q And what county is that in?
- 12 A Jasper.
- 13 Q Who's on scene when you arrive?
- 14 A There was a male and a female on scene when me and
- 15 Officer Smith arrived.
- 16 Q Okay. And what do you do when you arrive at a scene?
- 17 A We met up, me and Officer Smith met a female and male.
- 18 They gave us a brief statement about what they saw and
- 19 what happened and then myself and Officer Smith went
- 20 into the house, saw the individual, then we cleared the
- 21 house for safety.
- 22 Q Okay. When you're speaking to the two people outside,
- 23 were they two men, two women? What were they?
- 24 A One male and one female.
- 25 Q Okay. What were they acting like? What was their

1 demeanor?

2 A I would, I guess, classify it as sort of frantic, sort
3 of excited, not in a good way. Sort of a, you know --
4 just frantic is the best that I can describe it.

5 Q Okay. So, you go in the house and you discover the body
6 in the house.

7 A Yes.

8 Q What do you do then?

9 A We cleared the house for safety right after that.

10 Q Okay.

11 A And then I secured the weapon for Officer Smith so he
12 could go outside.

13 Q Okay.

14 MS. JONES: Permission to approach?

15 THE COURT: Yes.

16 Q You mentioned you secured the weapon.

17 A Yes.

18 Q I'm showing you what's been marked State's #3. What is
19 that?

20 A That's a black revolver.

21 Q Okay. Is that the revolver that you secured that night?

22 A Yes.

23 Q Okay. When you secured that weapon, what did you do with
24 it?

25 A I took the weapon off the body wearing my Playtex

DIRECT EXAMINATION OF JASON BLESSING BY MS. JONES

221

1 gloves. I put it in the trunk of my patrol car. I'm the
2 only one that had the keys for it and I locked it.

3 Q Did anybody else have access to your trunk?

4 A No.

5 Q And at any time did you remove the gun from your trunk?

6 A Only when I had to transfer it to Ridgeland Police
7 Department.

8 Q Okay. Do you remember who you gave it to at the police
9 department?

10 A Lieutenant Ginn.

11 Q Okay. And how -- did you use gloves again that time or
12 how was that transfer done?

13 A I didn't have gloves on at the time. The way I used to
14 work, I had two pairs of gloves in my pockets and I
15 wasn't going to put gloves on to transfer the gun. I
16 actually put the gloves in my hand and wrapped my hand
17 around it, but I grabbed the ones that I had been
18 wearing that were inside out.

19 Q Okay. Do you remember some time later speaking with
20 Agent Williams with SLED?

21 A Yes.

22 Q Okay. And did he do something with you that night or
23 that conversation?

24 A Not that night. A little bit later, himself and
25 Lieutenant Litchfield of the Ridgeland Police

1 Department, took a swab of my DNA and got a written
2 statement from me.

3 Q Okay. A swab. Was that done on the inside of your mouth?

4 A Yes.

5 Q Okay. So, you submitted to the DNA swab?

6 A Yes.

7 Q So, while this gun was under your control in your trunk
8 no one had access to it but you?

9 A Only myself.

10 Q You didn't alter it, manipulate it?

11 A Not in any way.

12 Q Okay. You just simply picked it up, put it in the trunk
13 and then transferred it to the police Department.

14 A Yes.

15 Q To Ginn? Okay. I have no further questions for you.

16 Thank you.

17 THE COURT: Cross-examination, Mr. Plexico.

18 CROSS-EXAMINATION

19 BY MR. PLEXICO:

20 Q What type of gun is that?

21 A A Ruger.

22 Q Okay. What caliber?

23 A A .38, I believe.

24 MR. PLEXICO: Court's indulgence. I don't have anything
25 further.

DIRECT EXAMINATION OF JOEY GINN BY MS. JONES

223

1 THE COURT: Any redirect?

2 MS. JONES: No, Your Honor.

3 THE COURT: You may step down, thank you, sir. You're
4 free to leave.

5 THE WITNESS: Thank you, Your Honor.

6 MS. JONES: The State calls Lieutenant Joey Ginn.

7 THE COURT: Lieutenant Ginn, please come forward. I'd ask
8 you, if you could, to go right before the clerk, place your
9 left hand on the Bible and raise your right hand as the clerk
10 administers the oath.

11 (After being duly sworn by the Clerk of Court, JOEY GINN
12 testified as follows:)

13 THE COURT: I'll ask you to have a seat in the witness
14 chair. Pull up real close to that microphone. Speak loudly,
15 clearly, and slowly, in order that we can hear everything
16 that you have to say and let's start with your full name
17 please, sir.

18 THE WITNESS: Joseph Ginn.

19 MS. JONES: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. JONES:

22 Q Lieutenant Ginn, where are currently employed?

23 A Ridgeland Police Department.

24 Q And how long have you been at the Ridgeland Police
25 Department?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 A Since June of 2007.

2 Q Okay. And what are some of your duties at the police
3 department?

4 A I am the supervisor over the patrol division and the
5 training officer.

6 Q Back in 2013, in what capacity did you work with the
7 police department?

8 A The same as I do now.

9 Q Okay. And in that capacity, what are some of your jobs
10 or everyday duties?

11 A Some of my everyday duties is reviewing reports, also
12 check and make sure all of our training issues are up-
13 to-date, things of that nature.

14 Q Okay. Were you working with the police department on or
15 about May 18th of 2013?

16 A Yes, I was.

17 Q And did you respond to East Adams Street?

18 A Yes.

19 Q What did you observe when you first responded?

20 A When I first arrived on scene it was, what I would say
21 for the lack of a better term, in chaos. There was a lot
22 of people outside and I initially helped secure the
23 crime scene area, keeping people back from the area.

24 Q Okay. Did you receive any evidence from Jason Blessing?

25 A I did.

DIRECT EXAMINATION OF JOEY GINN BY MS. JONES

225

- 1 Q Okay. What was that?
- 2 A It was a handgun.
- 3 Q Okay.
- 4 MS. JONES: Permission to approach?
- 5 THE COURT: Yes.
- 6 Q Lieutenant Ginn, I'm going to show you what's been
- 7 marked as State's #3. Can you identify that?
- 8 A That looks like the handgun from that night.
- 9 Q Okay. And what kind of gun is it?
- 10 A It's a revolver.
- 11 Q Okay.
- 12 A I don't remember the brand, but it's a revolver.
- 13 Q Okay. When you have this gun, what do you do with it?
- 14 A I secured it in my vehicle once I received it from
- 15 Blessing and I also ran a check on the serial number on
- 16 the handgun.
- 17 Q Okay. Where did you secure it in your vehicle?
- 18 A It was underneath the rear seat.
- 19 Q Did anybody else have access to your vehicle?
- 20 A No, ma'am.
- 21 Q Your vehicle, was it locked?
- 22 A It was locked.
- 23 Q Were you the only one that had keys that night?
- 24 A I was the only one, as always, and I still do to this
- 25 day, I always check the doors when I lock the vehicle.

- 1 Q So, you check the doors and every single one was locked?
- 2 A Every time.
- 3 Q So, no one had access to that gun?
- 4 A No, ma'am.
- 5 Q When it was under your control, did you manipulate it,
6 alter it, mess with it in any sort of way?
- 7 A No, ma'am.
- 8 Q It came to you in the same condition that it left your
9 hands?
- 10 A Yes, ma'am.
- 11 Q And when it leaves your hands, who do you give it to?
- 12 A I gave it to Sergeant Smith.
- 13 Q Okay. Is he also with the police department?
- 14 A He's with the police department, yes, ma'am.
- 15 Q I have no further questions for you. Thank you.
- 16 THE COURT: Cross-examination?

17

CROSS-EXAMINATION18 BY MR. PLEXICO:

- 19 Q All right. You ran this check and the gun came back
20 stolen out of Beaufort County. Is that correct?
- 21 A As far as I remember, yes.
- 22 Q Okay. And this is the gun that was identified as coming
23 off the body of Mr. Woods inside the home with his body.
- 24 Is that correct?
- 25 A Correct.

DIRECT EXAMINATION OF JESSICA HORTON BY MS. JONES

227

1 Q All right.

2 THE COURT: Any redirect?

3 MS. JONES: No, Your Honor.

4 THE COURT: You may step down.

5 THE WITNESS: Thank you, Judge.

6 THE COURT: You may call your next witness.

7 MS. JONES: The State would call Jessica Horton.

8 THE COURT: Ms. Horton, please come forward. I'm going to
9 ask you, if you could, to place your left hand on the Bible
10 and raise your right hand as the Clerk administer's the oath.

11 (After being duly sworn by the Clerk of Court,

12 JESSICA HORTON testified as follows:)

13 THE COURT: All right. I'd ask you to have a seat in the
14 witness chair, pull up real close to that microphone and
15 speak loudly, clearly, and slowly ---

16 THE WITNESS: Yes, sir.

17 THE COURT: --- in order that we can hear everything that
18 you have to say and let's start with your full name.

19 THE WITNESS: Jessica Lynn Horton.

20 THE COURT: Very good. Ms. Jones.

21 MS. JONES: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. JONES:

24 Q Paramedic Horton, where are you currently employed?

25 A I work for Hardeeville Fire Department and I also work

1 for Jasper County Fire Department.

2 Q And part of the fire departments, what are some of your
3 duties?

4 A With Jasper, I'm a firefighter paramedic so we respond
5 to medical emergency as well as fires, car accidents and
6 stuff like that. And with Hardeeville, I'm a fire
7 marshal.

8 Q Okay. Did you have to have some sort of special training
9 and education to become a paramedic?

10 A Yes. We take just shy of a one-year course and we take a
11 state and national certification exam.

12 Q Okay. And did you complete both of those?

13 A Yes.

14 Q I guess all three of those?

15 A Yes.

16 Q You successfully completed all three of those?

17 A Yes.

18 Q How long have you been a paramedic?

19 A Since 2005, so just over ten years.

20 Q Okay. So in 2013, you had been doing it for some time?

21 A Yes.

22 Q And you were working as a paramedic, same capacity on
23 May 18th of 2013?

24 A Yes, I was.

25 Q Were you dispatched to East Adams Street?

1 A Yes.

2 Q And is that here in Jasper County?

3 A Yes, it is.

4 Q Why were you dispatched to East Adams Street?

5 A We were initially dispatched for a possible cardiac
6 arrest as a result of a gunshot wound.

7 Q Okay. What does that mean?

8 A Basically, that they suspected they had somebody who had
9 already died as a result of being shot.

10 Q Okay. And you did, in fact, respond?

11 A Yes, we did.

12 Q And you said we, who was with you?

13 A I had an EMT partner, Kelly Lowery, and the Ridgeland
14 Fire Department, as well as law enforcement.

15 Q Okay. And when you respond, what do you do?

16 A For a call like this, we're going to respond to
17 somewhere close to the scene to wait for law enforcement
18 to secure the scene for our safety and then once they
19 clear the scene, we proceed into the residence to assess
20 the patient.

21 Q Okay. Was it eventually cleared?

22 A It was.

23 Q And you went inside?

24 A Yes.

25 Q And when you go inside, what do you observe?

1 A We observed a twenty-four-year-old male patient lying
2 face-up on the floor in the living room-type area with
3 what appeared to be severe gunshot wounds to the face
4 and head.

5 Q Okay. Were you able to determine how many gunshot
6 wounds?

7 A We witnessed two wounds. Initially, we suspected one was
8 an entrance and one was an exit, but we're not always
9 clear on that, but he did have two wounds.

10 Q Okay. Did you observe anything else in particular about
11 this victim?

12 A Just that we were able to determine that he was an
13 obvious death based on the severity of his wounds. He
14 had some brain matter that was visible behind his head
15 and there was a significant amount of blood.

16 Q Okay. Did anything with the blood stand out to you?

17 A Not at the time, but later on we did -- we were shown
18 some pictures and I did noticed that the blood pattern
19 ran sideways across his neck and that it wasn't really
20 matching up with the position in which we found him.

21 Q Okay. What did that indicate to you?

22 A That he was possibly rolled or moved.

23 Q Okay.

24 MS. JONES: Your Honor, I believe Mr. Plexico and I need
25 to approach.

DIRECT EXAMINATION OF JESSICA HORTON BY MS. JONES 231

1 (Whereupon, a bench conference was held off the record.)

2 MS. JONES: Permission to approach, Your Honor.

3 THE COURT: Yes.

4 Q Paramedic Horton, I am going to show you what has been
5 marked for identification only as State's #4A. Can you
6 please tell the Court what that is?

7 A That is blood on the neck of the patient.

8 Q And is that the patient that you worked on the night of
9 the 18th?

10 A Yes.

11 Q And is that a fair and accurate depiction of how you
12 found the patient's neck that night?

13 A Yes.

14 Q The patient, Darius Woods?

15 A Yes.

16 Q Okay. And what sticks out to you in this picture?

17 A That the blood is right -- running sideways, side-to-
18 side. Based on where his wound, the obvious wounds, I
19 would not have normally expected to see a blood trail
20 like this.

21 Q And you didn't move him?

22 A No, we did not move the body.

23 Q He was on his back when you went in there?

24 A Yes.

25 Q Okay.

1 MS. JONES: At this point, the State moves State's #4A
2 into evidence.

3 THE COURT: Any objection?

4 MR. PLEXICO: No, Your Honor.

5 THE COURT: 4A is into evidence.

6 (Whereupon, an 8x10 photocopy is entered into evidence
7 as State's Exhibit #4A, without objection)

8 MS. JONES: Permission to publish, Your Honor.

9 THE COURT: Okay.

10 Q And is this the picture that we just looked at? I know
11 it's turned. (Projected on large screen)

12 A Yes, that is.

13 Q Okay. And what, in particular, sticks out to you about
14 the blood pattern?

15 A Just that it's running sideways on his neck when his
16 wounds were closer to the top of his head. We would have
17 seen any blood pattern that was on the back of his head
18 and not necessarily on his neck and definitely not side
19 to side like that.

20 Q And you're referring to this blood pattern right here?

21 A Yes.

22 Q Okay. Which is not consistent with what naturally would
23 have happened had he ---

24 A I wouldn't have normally expected to see blood pattern
25 like that with his injuries, no, ma'am.

CROSS EXAMINATION OF JESSICA HORTON BY MR. PLEXICO

233

1 Q Okay. Thank you. I have no further questions for you at
2 this time. Thank you.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. PLEXICO:

6 Q Okay. And you would have no idea who rolled him over if
7 he was rolled over?

8 A No, sir.

9 Q Sometimes bodies, as they die, even after they expire,
10 there are nervous reactions and they convulse. Is that
11 not true?

12 A Yes, sir. Sure.

13 Q It's called death groans, I think is the is the laymen's
14 term?

15 A Yes, sir. I believe so.

16 Q Okay. All right. And some of those folks really
17 convulse. Is that true? Did y'all do any mashing on him
18 or anything like that?

19 A No, sir. We touch the body as minimally as we had to in
20 order to assess him. We did not press or anything.

21 Q Okay. All right. But the blood looks pretty wet, still.
22 Right? It's a fresh wound?

23 A The wound was fresh, yes, sir.

24 Q Okay.

25 MR. PLEXICO: I don't have anything further.

1 THE COURT: Any redirect?

2 REDIRECT EXAMINATION

3 BY MS. JONES:

4 Q Paramedic Horton, briefly. You had mentioned you saw
5 brain matter?

6 A Yes.

7 Q Would somebody with brain matter exposed be able to move
8 themselves?

9 A I would not expect them to move on their own, no, ma'am.

10 MS. JONES: I have no further questions.

11 THE COURT: You may step down.

12 THE WITNESS: Thank you.

13 THE COURT: You may call your next witness.

14 MS. JONES: Your Honor, may we approach?

15 THE COURT: Yes.

16 (Whereupon, a bench conference was held off the record.)

17 THE COURT: Madam Forelady, ladies and gentlemen of the
18 jury, we're going to break for lunch. I'm going to ask that
19 you be back at 1:00, 1:00 sharp. Do not discuss the case
20 amongst yourselves or with anyone else. Do not do any
21 independent investigation. And I think I might have failed to
22 mention to you yesterday, but I going to order and ban that
23 you not put anything with regard to your jury service or
24 anything about this case on social media. I hear tell there
25 are things called Facebook and Tweeter or Twitter or all that

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 kind of Snap Chat and all that. It has no place in this
2 courtroom. Don't put anything about that, your service on
3 such a media. And we'll see you back at 1:00, 1:00 sharp. No
4 discussion.

5 (Jury out at 11:49 AM)

6 THE COURT: Anything from the State before we recess?

7 MS. JONES: No, Your Honor.

8 THE COURT: Anything from the Defense?

9 MR. PLEXICO: No, Your Honor.

10 THE COURT: Might counsel approach the bench for just
11 moment.

12 (Whereupon, a bench conference was held off the record)

13 (Lunch Break)

14 AFTERNOON - JANUARY 12, 2016

15 THE COURT: Anything from the State before we proceed?

16 MS. JONES: No, Your Honor.

17 THE COURT: Anything from Defense?

18 MR. PLEXICO: We do need our client, Your Honor.

19 THE COURT: Well, that would be good. We need to get the
20 Defendant.

21 (Whereupon, the Defendant entered the courtroom)

22 THE COURT: We're ready for the jury.

23 (Jury in @ 12:59 PM)

24 THE COURT: Madam Forelady, ladies and gentlemen of the
25 jury, thank you for being here and being here on time. Ms.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Jones, you're recognized.

2 MS. JONES: Thank you, Your Honor. The State calls Dawn
3 Claycomb.

4 THE COURT: Yes, ma'am. Please come forward. I'm going to
5 ask if you could to stand before the clerk, put your left
6 hand on the Bible, raise your right hand as the clerk
7 administers the oath.

8 (After being duly sworn by the Clerk of Court, DAWN
9 CLAYCOMB testified as follows:)

10 THE COURT: I'm going to ask you if you could to have a
11 seat in the witness chair, pull up real close to that
12 microphone speak loudly, clearly, and slowly, in order that
13 we can hear everything that you have to say and let's start
14 with your full name, please, ma'am.

15 THE WITNESS: My full name is Dawn Marie Claycomb.

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

17 MS. JONES: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. JONES:

20 Q Agent Claycomb, where are you employed?

21 A The South Carolina Law Enforcement Division also known
22 as SLED.

23 Q And how long have you been employed by SLED?

24 A A little over three years.

25 Q And what do you do at SLED?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

237

1 A I work within the crime scene unit as a special agent.

2 Q And is that what you were doing back in May of 2013?

3 A Yes, ma'am.

4 Q What are some of your duties as a special agent in the
5 crime scene division?

6 A Basically, we respond to calls, death investigations,
7 and we photograph, document, collect and preserve
8 evidence within the scene.

9 Q Okay. Were you -- did you have to have some sort of
10 special education and experience in order to have this
11 position?

12 A Yes, ma'am. I have a bachelor's degree in forensic
13 science with a minor in chemistry and biology and then
14 it's several months, eight months to a year of in-house
15 training at SLED.

16 Q Okay. And you successfully completed that in-house
17 training?

18 A Yes, ma'am.

19 Q And then that's when you became a special agent?

20 A Yes, ma'am.

21 Q Doing crime scene investigation?

22 A Yes.

23 Q Thank you. Were you involved in the crime scene
24 investigation of a homicide at East Adams Street
25 here in Ridgeland?

- 1 A Yes, ma'am.
- 2 Q And did you respond to that crime scene?
- 3 A Yes, ma'am. I did.
- 4 Q Do you remember what date this was?
- 5 A May 19th, 2013.
- 6 Q May 19th. Do you know what time?
- 7 A Approximately 12:13 AM.
- 8 Q Okay. Okay. Were you in the area or do you have to come
- 9 from somewhere?
- 10 A No, ma'am. We're based out of Columbia, our crime scene
- 11 unit is. When any agency requests us, we get a call from
- 12 our operations desk and we're given an address and the
- 13 name of the local department and we respond to the
- 14 address that we're requested at.
- 15 Q Okay. So, you came from Columbia?
- 16 A Yes, ma'am.
- 17 Q Okay. What was your duty in regards to this particular
- 18 crime scene?
- 19 A I was lead agent within the crime scene portion of it.
- 20 Q Okay. So as lead agent, what did your duties entail?
- 21 A Basically document, collect and log-in all the evidence
- 22 once we get back to the laboratory in Columbia.
- 23 Q Okay. Did you, in fact, do that in this case?
- 24 A Yes, ma'am.
- 25 Q You said document. How would you document evidence?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

239

1 A With notes, written notes.

2 Q Okay. Did you take some photographs?

3 A Yes, ma'am. Photographs were taken at the scene.

4 Q Okay. Are these photographs taken before anything has
5 been altered, removed?

6 A Yes, ma'am. When we arrive, we take initial photos of
7 what the scene looked like when we arrived at the scene.

8 Q Okay.

9 MS. JONES: Permission to approach, Your Honor.

10 THE COURT: Yes.

11 Q Agent Claycomb, I'm going to show you some photos. Okay.

12 Let me go -- I'm going to try to do this quickly.

13 State's Exhibit #5, for identification purposes only.

14 What does that show?

15 A That is the front of the residence at .

16 Q Okay. And State's Exhibit #6?

17 A That is another photo of the front of the house and the
18 vehicle that was parked next to the house.

19 Q Okay. State's exhibit #7?

20 A That's a photo of the front of the vehicle that was
21 parked next to the residence.

22 Q State's Exhibit #8?

23 A A rear and side photo of the same vehicle.

24 Q State's Exhibit #9?

25 A That's a photo within the trunk of that vehicle.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 Q State's Exhibit #10?
- 2 A That's a photo from the front passenger side of the same
3 vehicle.
- 4 Q State's Exhibit #11?
- 5 A That's a photo of one side of the residence. And that
6 appears to be a picture of, it appears to be the living
7 room.
- 8 Q Okay. State's Exhibit #12?
- 9 A That's in the den of the residence.
- 10 Q Okay. State's Exhibit #13?
- 11 A That's another photo of the fireplace area within the
12 den.
- 13 Q State's Exhibit #14?
- 14 A A closeup photo of the fireplace within the den.
- 15 Q And State's Exhibit #15?
- 16 A It's a mid-range photo of that fireplace also in the
17 den.
- 18 Q And State's #16?
- 19 A A photo in the den of the floor just in front of the
20 fireplace.
- 21 Q State's #17 and State's #18?
- 22 A Both photos are of the floor just in front of the
23 fireplace.
- 24 Q Okay. I've got one more stack of photos. State's #19?
- 25 A That's a closeup photo of marker one with a fired

1 bullet.

2 Q Okay. And this marker, who places those markers there?

3 A We usually do.

4 Q Okay. State's #20?

5 A That is marker three, a suspected tooth within the
6 scene.

7 Q Okay. State's #21?

8 A That is another photo of the suspected tooth on the
9 floor without the marker.

10 Q State's #22?

11 A That's a photo within the den area of the residence with
12 markers four, five, six.

13 Q State's #23?

14 A That's a closeup of marker four.

15 Q Okay. What is next to marker four?

16 A A screwdriver at marker four.

17 Q State's #24?

18 A That is another hand tool at marker five.

19 Q State's #25?

20 A Marker six with a set of tool bits and a sandal.

21 Q Okay. State's #26?

22 A That is a closeup of the tool bits at marker six.

23 Q Okay. State's #27?

24 A That's a photo within a bedroom of the residence.

25 Q State's #28?

- 1 A A desk within that bedroom.
- 2 Q State's #29?
- 3 A Another photo of that desk with marker seven on it.
- 4 Q State's #30?
- 5 A That's a closeup photo of the desk with marker seven.
- 6 Q State's #31?
- 7 A That is the bedroom -- the doorway to the bedroom
- 8 leading from the den.
- 9 Q Okay. State's #32?
- 10 A Same pose, just closer. Leading into the bedroom.
- 11 Q State's #33?
- 12 A A photo of a TV in that bedroom.
- 13 Q And finally, State's #36?
- 14 A That is a picture of a table that was within the kitchen
- 15 of the residence.
- 16 Q Okay. And do all these pictures fairly and accurately
- 17 depict the crime scene how you found it that night?
- 18 A Yes, ma'am, they do.
- 19 Q Has anything been altered or changed in any way in these
- 20 pictures?
- 21 A Just besides placing markers down, no.
- 22 Q And it was SLED who placed the markers down?
- 23 A Correct.
- 24 Q So, these photographs accurately depict the crime scene
- 25 on the night and early morning hours of May 19th, 2013?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

243

1 A Yes, ma'am.

2 MS. JONES: At this point State moves State's #5 through
3 #36 into evidence with the exceptions of #33 and #34.

4 THE COURT: Any objection from the Defense?

5 MR. PLEXICO: Your Honor, I just didn't hear anything
6 about item #35.

7 MS. JONES: My apologizes. With the exception of #34 and
8 #35. We did not admit #34 and #35.

9 MR. PLEXICO: No objections.

10 THE COURT: #34 and #35 are deleted and the rest are into
11 evidence.

12 (Whereupon, 8x10 photocopies are entered into evidence
13 as State's Exhibits #5 through #33, and #36, without
14 objection.)

15 THE COURT: Let's list for the court reporter again what
16 numbers they are.

17 MS. JONES: Absolutely, Your Honor.

18 THE COURT: You don't have to call them out one by one.

19 MS. JONES: It's #5 through #33 as well as #36.

20 THE COURT: Very good. Those are into evidence.

21 MS. JONES: Permission to publish Your Honor?

22 THE COURT: Yes.

23 MS. JONES: And permission to have the witness step down
24 from the stand?

25 THE COURT: She may.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 (Witness complies and stands in front of the jury)

2 MR. PLEXICO: Your Honor, for purposes of ---

3 THE COURT: She may.

4 Q Okay. What does this picture depict? (Portrayed on large
5 screen in front of jury)

6 A This is just a photo of the front of the residence.

7 Here, you can see the front of the residence and two
8 vehicles that were outside of the residence.

9 Q Okay. And that one?

10 A This is just another angle of the front of the
11 residence. The side of the residence here and the white
12 vehicle that was parked next to the residence. Again,
13 that's the -- it's a closeup photo of the vehicle. It
14 was parked right next to the residence.

15 Q Did you learn whose car that was?

16 A It was reportedly driven by Darius Woods.

17 Q And was that car door open like that when you arrived?

18 A Yes, ma'am. When we arrived, we found the front
19 passenger door open as you see it there and the keys in
20 the keyhole in the trunk of the vehicle.

21 Q Okay. That picture, what is that?

22 A This is a photo within the trunk of the vehicle as it
23 was opened. It is the items you see that was within the
24 trunk when we opened it.

25 Q What is, what are these?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

245

1 A Those there were just bolts within the carpet within the
2 trunk.

3 Q Okay.

4 A This is a photo from the front passenger door that was
5 open, just looking into the vehicle. You can see the
6 glove box that was also -- it was already open when we
7 arrived on scene.

8 Q So, both the glove box and the door were both open when
9 you arrived?

10 A Yes, ma'am.

11 Q (Places next photograph)

12 A This is a photo here. You can see the kitchen in the
13 background. This is the living room area and the TV is
14 here.

15 Q And that's how the TV was found?

16 A Yes, ma'am.

17 Q With those RCA cables hooked up to the TV, but nothing
18 else?

19 A Yes, ma'am.

20 Q Okay. And what is this?

21 A This is within the den of the residence. Here you can
22 see the fireplace area and once we placed markers down,
23 markers four, five and six.

24 Q Do you know what four five and six are marking?

25 A Four was a screwdriver. Five was another hand tool. Six,

1 would be a set of tool bits and a black sandal that we
2 can see here.

3 Q All right.

4 A This is the fireplace area that was within that den that
5 I pointed out. This is once we scaled it up and marked
6 certain suspected blood stains that were on the ---

7 Q Why -- Sorry to interrupt you. Why is it scaled? What
8 does the yellow tape represent?

9 A Basically, we just scale it up to get an overall idea of
10 the size, the area of the bloodstains.

11 Q Okay. And those markers C, C-1, C-2, C-3 and C-4
12 indicate what?

13 A Suspected blood stains on the fireplace.

14 Q Okay.

15 A Right here's a closeup photo of one of the blood stains
16 that you see at marker C-1.

17 Q Okay.

18 A That's another closeup photo of C-3, the blood stain at
19 C-3.

20 Q All right. And what is that?

21 A That's a photo of -- here's the fireplace. You can see
22 this is prior to us scaling it and right here there's a
23 speck of blood stain within that area.

24 Q (Next photograph)

25 A This is a closeup of that area we marked D-2. It was a

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

247

- 1 suspected blood stain.
- 2 Q (next photograph)
- 3 A That's a closeup of marker D-1 on those bricks. Also
- 4 suspected blood stains.
- 5 Q (next photograph)
- 6 A This is a closeup of marker one, projectile of a bullet.
- 7 Q (next photograph)
- 8 A This is a closeup of marker three, marking the suspected
- 9 tooth.
- 10 Q (next photograph)
- 11 A Here is a closeup of that suspected tooth without the
- 12 marker.
- 13 Q (next photograph)
- 14 A This is the den area here and this is the doorway that
- 15 led to a bedroom. And here you see markers four, five
- 16 and six. This is a screwdriver, a small hand tool, a set
- 17 of tool bits and a sandal that was -- the heel of the
- 18 sandal was underneath the carpet.
- 19 Q Do you know, in relation to that photo, where Darius'
- 20 body was found?
- 21 A He was located this way. (Indicating)
- 22 Q Okay.
- 23 A So this is the bedroom. He was located this way. This
- 24 was the heel area underneath of the carpet where he was
- 25 laying.

- 1 Q In that direction?
- 2 A Yes.
- 3 Q Okay. Thank you.
- 4 A This is a closeup of marker four. You see the
- 5 screwdriver here.
- 6 Q (Next photograph)
- 7 A This is a closeup of marker five. It was the hand tool.
- 8 Q (Next photograph)
- 9 A Marker six, you see the set of tool bits here. And also
- 10 a close up photo of that sandal underneath the edge of
- 11 the carpet there.
- 12 Q And what is that doorway leading into?
- 13 A This is leading into the bedroom. This was the den area
- 14 over here. This was the bedroom.
- 15 Q Okay. (Next photograph)
- 16 A That's a closeup photo of those tool bits at marker six.
- 17 Q (Next photograph)
- 18 A This is a photo within the bedroom. So this area out
- 19 here would be the den area and right here there was a
- 20 small desk or table with items on it.
- 21 Q And that shoe in that corner, is that the same shoe
- 22 we've been seeing in previous photos?
- 23 A Yes, ma'am. That was the same sandal that you just saw
- 24 the photos of.
- 25 Q But this was the bedroom that that doorway was leading

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

249

1 into?

2 A Yes, ma'am.

3 Q (Next photograph)

4 A This is a closeup photo of that table that I pointed out
5 and several items on that table.

6 Q Okay. What do you see on that table?

7 A Here we have a small clear container containing a
8 plastic baggie with suspected seeds. You see two
9 screwdrivers here, a pair of scissors. There was a
10 purple Crown Royal bag, some lotion. A grinder here,
11 drug paraphernalia, a black-in-color gun holster was
12 laying right here on the table. This was the lid to that
13 container. This was a scale and a box of sandwich bags,
14 a plastic bottle, a cup, X-box 360 controllers, some
15 CDs.

16 Q (Next photograph)

17 A That's the same photo just once we placed marker seven
18 on the table.

19 Q (Next photograph)

20 A That's a closeup photo of the items that I just
21 mentioned, the gun holster. Right there the
22 screwdrivers, the plastic bag with the seeds in them.

23 Q (Next photograph)

24 A This is a photo, again, in the den area here. You can
25 see the edge of the fireplace there and looking into

1 that bedroom.

2 Q (next photograph)

3 A Same photo. Just a photo in the doorway of that bedroom.

4 Again, you can see, this is prior to us putting markers
5 down, the tool bits and the black sandal lying there.

6 Q (next photograph)

7 A This is a photo within that bedroom. Again, out into the
8 den area here in the doorway and a TV that was within
9 that bedroom.

10 Q What is that left up underneath the TV?

11 A This here?

12 Q Yes.

13 A A game console.

14 Q You don't know what kind it was?

15 A I don't recall which kind it was. It was a game console.

16 Q Okay. (Next photograph)

17 A This here is a photo in the kitchen. You can see the
18 kitchen table with items on the table.

19 Q Okay. Thank you.

20 (Witness returns to witness stand)

21 Q After you document the crime scene by taking all those
22 photos, what do you do next?

23 A Basically, once they're documented with photos, notes
24 and measurements, we collect that evidence.

25 Q Okay. Was some sort of crime scene sketch done in this

- 1 case?
- 2 A It was. A rough sketch was done.
- 3 Q Did you create that?
- 4 A No.
- 5 Q Okay. Were you present when it was created?
- 6 A I was.
- 7 Q Okay. Are you familiar with this crime scene sketch?
- 8 A I am.
- 9 Q I'm going to show you what has been marked State's
- 10 Exhibit #37 for identification purposes only. What is
- 11 that?
- 12 A That's an overall view of the residence and items within
- 13 the residence.
- 14 Q Okay. And how do you recognize that?
- 15 A That was basically an aerial photograph or
- 16 representation of the scene, overall.
- 17 Q Okay. Is this drawn to scale?
- 18 A No, ma'am. It's not to scale.
- 19 Q But does it accurately reflect the objects in
- 20 relationship to each other?
- 21 A Yes, ma'am.
- 22 Q And where the rooms were located?
- 23 A Yes, ma'am. In the approximate, yes.
- 24 Q Okay.
- 25 MS. JONES: At this point, State moves State's #37 into

1 evidence.

2 THE COURT: Thirty-seven?

3 MS. JONES: Yes, Your Honor.

4 MR. PLEXICO: No objection.

5 THE COURT: #37 is into evidence without objection.

6 (Whereupon, a crime scene sketch is entered into
7 evidence as State's Exhibit #37, without objection)

8 MS. JONES: Permission to publish?

9 THE COURT: Yes.

10 MS. JONES: One more time, I'd ask Ms. Claycomb to step
11 down?

12 THE COURT: Yes.

13 (Witness steps down from the witness stand)

14 Q Can you please identify everything in this crime scene
15 sketch.

16 A This here, you see the overall ---.

17 MR. PLEXICO: May I? (Moves to where he can see)

18 A This is an overall sketch of the residence. You see here
19 there's the front porch. The front door is here. The
20 side door. The vehicle was parked next to the residence.
21 And these numbers within the residence, you can see
22 marker one. It's a fired bullet. Two, is a piece of
23 green fiber. Three, is a tooth. Four, is a screwdriver.
24 Five, is a hand tool. Six, a set of tool bits. Seven,
25 was the miscellaneous drug paraphernalia on the table

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

253

1 that you saw photos of. Eight, was a piece of jewelry.

2 And here you can see, Darius Woods was located right
3 there.

4 Q Okay. And those photographs that we just looked at,
5 those are photographs that depict the inside of the
6 scene?

7 A Yes, ma'am.

8 Q Okay. I have no further questions regarding this so you
9 may return to your seat.

10 (Witness returns to witness stand)

11 Q All right. You mentioned you began collecting evidence.

12 A Yes, ma'am.

13 Q What does this entail?

14 A Basically, the evidence is picked up and packaged.

15 Q Okay. And did you, yourself, did this?

16 A Yes, ma'am.

17 Q Okay. I want to show you what has been marked as State's
18 #38. I'm also going to give you some scissors.

19 MS. JONES: Your Honor, permission to approach?

20 THE COURT: Yes.

21 Q Agent Claycomb, what is that that I just handed you?

22 A This is a box labeled as container A with lab number
23 L-136626, that contain items 5 through 10 with my
24 initials and the case number on it.

25 Q Okay. Where was this item collected?

1 A That --- .

2 THE WITNESS: Can I refer to my notes, Your Honor?

3 THE COURT: Yes, you may.

4 A Items 5 through 10 were all collected within the
5 residence. 5 was the screwdriver within the den. 6 ---

6 Q You're speaking -- so this box contains multiple items?

7 A Yes, ma'am.

8 Q Okay. At this time, I'm going to ask you to open up this
9 box.

10 A (Witness complies)

11 Q And prior to you cutting that box open, does it appear
12 to be tampered with or altered in any way?

13 A No, ma'am. I see my initials and the date that I sealed
14 it.

15 Q And what is the date that it was sealed?

16 A 6/4/2013.

17 Q And, in fact, you had to cut it open. It was sealed and
18 the seal was intact?

19 A Yes, ma'am.

20 Q Okay. You said there were various items in there. What
21 is item number #5?

22 A Item #5 is one screwdriver from marker 5.

23 Q Okay.

24 MS. JONES: At this point the State would like to ---

25 A I'm sorry. My apologizes. That's item six. This is from

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

255

1 marker five.

2 Q Okay.

3 A Let me make sure I get -- you want item #5?

4 Q Item #5?

5 A Item #5 is one screwdriver from marker four.

6 MS. JONES: Okay. At this time, State would label item #5

7 State's #38A.

8 Q Item 6, what is item #6?

9 A Item #6 is the screwdriver from marker five.

10 MS. JONES: Okay. At this time, the State would label

11 item #6 as State's 38B.

12 Q How about item #7?

13 A Item #7 is one set of tool bits.

14 Q Okay.

15 MS. JONES: At this time, the State would label item #7

16 as State's 38C.

17 Q Item #8?

18 A Item #8 is two screwdrivers from marker seven.

19 Q Okay.

20 MS. JONES: At this time the State would label that

21 State's 38D.

22 Q Item #9?

23 A Item #9 is one holster from marker seven.

24 Q Okay.

25 MS. JONES: At this time the State would label item #9 as

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 State's #38E.

2 Q At this time do all of those items appear to be sealed
3 and intact?

4 A Yes, ma'am.

5 Q And is that your -- did you place any markings on those
6 bags?

7 A Yes, ma'am, my initials and date are on the seal.

8 Q Okay. And that indicates that you collected it and you
9 sealed it?

10 A Yes, ma'am, that I would have sealed it.

11 Q And while those State's #38A, B, C, D, and E were in
12 your control and custody, did you alter them?

13 A No, ma'am.

14 Q From your custody, who did you transfer those items to?

15 A Those items were logged in as evidence and then either
16 packaged for storage or sent if there were any requests
17 for them.

18 Q Okay. And while it was under your care and control, did
19 you manipulate it or maintain the integrity of these
20 items?

21 A I did. I maintained it, yes.

22 Q Okay.

23 MS. JONES: At this point, the State moves State's #38A,
24 B, C, D, and E into evidence.

25 THE COURT: Any objection from Defense?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

257

1 MR. PLEXICO: No objection, Your Honor.

2 THE COURT: #38A, B, C, D, and E?

3 MS. JONES: Yes, Your Honor.

4 THE COURT: Are into evidence without objection from the
5 Defense.

6 (Whereupon, a screwdriver, a tool, tool bits, 2
7 screwdrivers and a holster are entered into evidence as
8 State's Exhibit #38A, #38B, #38C, #38D, #38E, without
9 objection.)

10 MS. JONES: And permission to publish to the jury, Your
11 Honor?

12 THE COURT: You may.

13 Q Let's start with #38A. If you could open that bag.

14 A (Witness complies)

15 Q And what is that?

16 A One screw driver.

17 Q And is that the screw driver we saw depicted in those
18 earlier photographs?

19 A Yes, ma'am. That was at marker four.

20 Q Thank you. #38B?

21 THE COURT: If it's easier, you can just cut the end off
22 of it if you'd like.

23 A (Opens sealed exhibit)

24 Q Is that another one of the hand tools we saw depicted in
25 those photographs?

- 1 A Yes, ma'am, at marker five.
- 2 Q Okay. Thank you. #38C?
- 3 A (Opens sealed exhibit)
- 4 Q And what is that?
- 5 A The set of tool bits.
- 6 Q Is that the same set that was found in between the
- 7 doorframe ---
- 8 A Yes, ma'am.
- 9 Q --- of the bedroom and the den?
- 10 A Yes.
- 11 Q Okay. #38D?
- 12 A (Opens sealed exhibit)
- 13 Q Two more screwdrivers?
- 14 A Yes, ma'am, from marker seven.
- 15 Q Marker seven, that was the table?
- 16 A Yes, ma'am.
- 17 Q Okay. So those were found on the table in the bedroom?
- 18 A Yes.
- 19 Q Okay. 38 -- I'm sorry. Was it #38D?
- 20 A That was #38D, yes, ma'am.
- 21 Q #38E, please.
- 22 A (Opens sealed exhibit)
- 23 Q And is that the gun holster that was found next to
- 24 marker seven, as well?
- 25 A Yes, ma'am. One holster from marker seven.

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

259

1 Q Thank you. Okay. You can go ahead and put all of that
2 back in that box. And I'm going to move it away.

3 A (Witness complies)

4 Q Thank you.

5 MS. JONES: Permission to approach, Your Honor?

6 THE COURT: Yes, ma'am.

7 Q Agent Claycomb, I'm handing you what has been marked for
8 identification only as State's #39. What is that?

9 A This is a heat-sealed pouch labeled container B,
10 containing several envelopes.

11 Q Okay. Can you -- how can you identify that? Did you
12 place any markers on that bag?

13 A My initials and date here at the top where it's sealed.

14 Q And what does that indicate, your initials and date?

15 A That's where when I packaged these envelopes within this
16 heat-sealed pouch that I sealed on that date with my
17 initials.

18 Q And heat-sealed pouch, does that mean that it -- what
19 does that mean?

20 A A heat seal is basically used to ensure it's sealed at
21 the top correctly, so that...

22 Q And did you transfer this item to anybody?

23 A This would go to -- I typically, once I package it, I
24 label it. It was sent to DNA/Blood for processing.

25 Q Okay. While this item was in your custody and control,

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 did you change it or alter it substantially?
- 2 A No. Just packaged it.
- 3 Q Did you tamper with it at all?
- 4 A No, ma'am.
- 5 Q Did you maintain the integrity of each of those items in
- 6 there?
- 7 A Yes, ma'am.
- 8 Q And you said there was blood in that item, in that bag?
- 9 Or what was in that bag?
- 10 A It was sent to DNA/Blood for processing and these are
- 11 swabs in envelopes.
- 12 Q Okay. Does that label indicate what those swabs are of?
- 13 A Yes. Typically suspected blood if it's going to
- 14 DNA/Blood.
- 15 Q Okay. Did you identify those swabs by a particular
- 16 number?
- 17 A I did. They're labeled with item numbers on the
- 18 envelopes.
- 19 Q Okay. What item numbers are in that bag?
- 20 A Items #11 through #25. And #1.3 and #4.1.
- 21 Q Okay. And those are all swabs of blood?
- 22 A Swabs of suspected blood. Yes, ma'am.
- 23 Q Do you know where those were collected from?
- 24 A Several of them were collected within the residence and
- 25 two of the others were collected from pieces of

1 evidence.

2 Q Okay. Let me get that from you. Agent Claycomb, I'm
3 going to show you what's been marked for identification
4 only as State's #40. What is that?

5 A Another heat-sealed pouch labeled as Container "E".

6 Q Who collected this item?

7 A These appear to be pieces of fragments and projectiles
8 so all of these together someone collected at autopsy
9 and one at the residence.

10 Q Okay. Would you have collected the one at the residence?

11 A Yes, ma'am.

12 Q Okay. And did you place it -- and it looks like there
13 are bags in that bag?

14 A Yes, ma'am. There are smaller plastic bags within there.

15 Q And would you have placed the one from the crime scene
16 in the smaller bag?

17 A Yes, ma'am.

18 Q And then placed it in the larger bag?

19 A Yes, ma'am.

20 Q Okay. And heat-sealed it?

21 A Yes, ma'am.

22 Q So, nobody could tamper with it?

23 A Correct.

24 Q Who did you transfer these items to?

25 A These items were packaged and then they were sent to

1 firearms. I see the FA here. That's the request that it
2 was for firearms.

3 Q And when you say it was transferred to either DNA or f
4 Firearms, is that within SLED?

5 A Yes, ma'am. It's departments within the lab for
6 processing.

7 Q One lab?

8 A Correct.

9 Q With different departments?

10 A Correct.

11 Q So, one building?

12 A Yes, ma'am.

13 Q Okay. While these items were under your custody and
14 control, did you alter them?

15 A No, ma'am.

16 Q Did you tamper with them?

17 A No, ma'am.

18 Q Did you change them in any way?

19 A No, ma'am.

20 Q Did you maintain the integrity of each of these items?

21 A Yes, ma'am.

22 Q Okay. And do you know how many items are within State's
23 #40?

24 A Below here listed item #2, #36 and #37.

25 Q Okay. And those are all bullets or fragments?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

263

1 A Yes, ma'am.

2 Q All right.

3 MS. JONES: Court's indulgence, Your Honor.

4 Q Agent Claycomb, I'm going to show you back one more,
5 item #39. There's many things in there and what are
6 those again?

7 A Swabs.

8 Q Okay. And did you in fact, you, yourself, collect those
9 swabs from the scene?

10 A Yes, ma'am.

11 Q Okay. So you collected the swabs. You put them in the
12 envelopes and then within the heat-sealed pouch.

13 A Yes.

14 THE WITNESS: Your Honor, can I refer to my notes just to
15 make sure?

16 THE COURT: You may.

17 A Yes, ma'am. It would have been items #11 through #25
18 were swabs collected within the residence and the two
19 other envelopes that contain swabs would have been
20 collected from the handgun and from the tooth.

21 Q Okay. And those swabs would have been done at SLED?

22 A Correct.

23 Q Okay. So, somebody within SLED in the appropriate
24 departments would have done those?

25 A Correct.

- 1 Q And what department would that have been?
- 2 A Most likely the -- let's see here. Latent prints
- 3 probably for the gun that was processed for latent
- 4 prints.
- 5 Q Okay. And what about the tooth?
- 6 A The tooth, I would have to see the envelope. I believe
- 7 that was probably swabbed at the same time.
- 8 Q Okay. Now, I'm going to show you what's been marked
- 9 State's #41. And can you tell the Court what that is?
- 10 A This is another heat-sealed pouch containing items 31 to
- 11 33 and item 48, gunshot residue kits.
- 12 Q Okay. Are those gunshot residue kits specific as to who
- 13 they are from, who they're collected from?
- 14 A Yes, ma'am.
- 15 Q Who were they collected from?
- 16 A One was collected from Darius Woods. One was collected
- 17 from Davonte Freeman, Shontay McKeithan, and the fourth
- 18 one was collected from Billy Phillips.
- 19 Q Okay. Did you identify, put your marker on that bag?
- 20 A Yes, ma'am. My initials and the date it was sealed here
- 21 at the top.
- 22 Q And what was the date?
- 23 A 6/4/13.
- 24 Q Okay. And you collected those and sealed them in that
- 25 bag?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

265

- 1 A I sealed these in this bag, yes, ma'am.
- 2 Q Okay. Did you tamper, alter, manipulate those gunshot
3 residue kits in any way?
- 4 A No.
- 5 Q Okay. Did you maintain the integrity of those items?
- 6 A Yes, ma'am.
- 7 Q And who were those items transferred to?
- 8 A They were transferred to the trace department for GSR
9 analysis.
- 10 Q Okay. Another person within SLED?
- 11 A Yes, ma'am.
- 12 Q I am going to show what has been previously marked
13 State's #3. Could you please identify that for the
14 Court?
- 15 A Yes, ma'am. It was a handgun collected while we were on
16 scene.
- 17 Q Okay. And did you place your initials on this?
- 18 A Yes, ma'am. My number and initials are on top of the
19 box.
- 20 Q Okay. Is there a date on this box as well?
- 21 A There is. It appeared I sealed it 5/30/2013, and I have
22 my initials.
- 23 Q Okay. And when you had custody of this item, did you
24 alter or manipulate it or change it in any way?
- 25 A No, ma'am.

- 1 Q And you maintained the integrity of this item?
- 2 A Yes, ma'am.
- 3 Q I show you what has been marked State's #42 for
- 4 identification purposes only.
- 5 A It's a heat-sealed pouch containing item #34.
- 6 Q And what is item #34?
- 7 A A known buccal swab.
- 8 Q And who is it a buccal swab from?
- 9 A Collected from Billy Phillips.
- 10 Q What is a buccal swab?
- 11 A Basically, it's a known standard. It's just a swab from
- 12 the mouth.
- 13 Q Okay. Who did you receive that buccal swab from?
- 14 A This was received from McIntosh, Chris McIntosh.
- 15 Q And who is he with?
- 16 A Ridgeland PD.
- 17 Q Okay. While you had control of this buccal swab, did you
- 18 alter it, manipulate it, change it in any way?
- 19 A No, ma'am.
- 20 Q Do you maintain the integrity of this item?
- 21 A Yes, ma'am.
- 22 Q Okay. Who did you transfer that buccal swab to?
- 23 A This would have been transferred, after I packaged, it
- 24 to DNA.
- 25 Q Okay. Again, within SLED?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

267

- 1 A Correct.
- 2 Q Briefly, back to State's #3, the handgun.
- 3 A Yes, ma'am.
- 4 Q Who did you receive that item from?
- 5 A That was received from Investigator Smith, Kevin Smith
- 6 with Ridgeland PD.
- 7 Q Okay. I'm going to show you what has been marked for
- 8 identification only as State's #43. And what is that?
- 9 A This is a heat-sealed pouch containing item #46.
- 10 Q What is ---
- 11 A It's a small blood spot that was collected at autopsy.
- 12 It's a known standard for Darius Woods.
- 13 Q Who did you receive that item from?
- 14 A That was collected at autopsy by Sabrina Matthews who is
- 15 also in our crime scene unit.
- 16 Q Okay. Did she transfer that to somebody?
- 17 A She did. She transferred it to Agent Hezel who's also in
- 18 our crime scene department.
- 19 Q Okay. And was it Agent Hezel who transferred it to you?
- 20 A Yes, ma'am.
- 21 Q Okay. And you, in turn, sealed it in that heat-sealed
- 22 pouch?
- 23 A Yes, ma'am.
- 24 Q Okay. Does that pouch appear to be tampered with in any
- 25 way?

- 1 A No, ma'am.
- 2 Q And while this was under your control, did you
- 3 manipulate, alter it, change it in any way?
- 4 A No, ma'am.
- 5 Q Did you maintain the integrity of this item?
- 6 A Yes, ma'am.
- 7 Q Okay. Who did you transfer this item to at SLED?
- 8 A It was transferred to the DNA department within SLED.
- 9 Q Okay. I'll show you what has been marked State's #44.
- 10 Could you identify this? Are those your initials on
- 11 this box?
- 12 A Yes, ma'am.
- 13 Q Does it appear to be intact and sealed?
- 14 A Yes, ma'am.
- 15 Q Okay. Doesn't appear to be tampered with in any way?
- 16 A No, just the department that it went to processing after
- 17 me, that's all.
- 18 Q And what department would that be?
- 19 THE WITNESS: Can I refer to my notes, Your Honor, to see
- 20 which department it was sent to?
- 21 MR. PLEXICO: Could she state what she's referring to in
- 22 the box? I'm not sure what State's #44 is.
- 23 THE COURT: I'm not sure she does either.
- 24 Q What items has SLED assigned to State's #44?
- 25 A This is -- for this box, this is items #39 and #40.

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

269

1 Q Okay. And what are items #39 and #40?

2 A Item #39 is one pair of Ed Hardy blue jeans. And #40 is
3 one pair of Hanes underwear and a pair of socks.

4 Q Okay. Who did you get those items from?

5 A I received those from Agent Hezel within the crime scene
6 unit.

7 Q Okay. And where did she -- do you know where she got
8 those from?

9 A She would have gotten those from Sabrina who attended
10 the autopsy.

11 MR. PLEXICO: Objection.

12 THE COURT: Your objection?

13 MR. PLEXICO: Hearsay, Your Honor. I would object to
14 hearsay.

15 THE COURT: Re-state your question.

16 MS. JONES: Okay.

17 Q You received those from Agent Hezel?

18 A Yes, ma'am.

19 Q And after you received them from Agent Hezel, what did
20 you do with them?

21 A I logged them in and packaged them.

22 Q Okay. Agent Claycomb, if you could open that box.

23 A (Witness complies)

24 Q And if you could remove item #39.

25 MS. JONES: And the State would have it marked State's

1 #44A.

2 Q And what, again, is item #39?

3 A One pair of Ed Hardy bluejeans with one black belt.

4 Q Okay. And what type of container did you place those
5 bluejeans in?

6 A A paper bag, which was then placed in the box.

7 Q Okay. And did you place any markings on that bag?

8 A I did. Case number, item number, my initials.

9 Q Okay. And does that indicate that -- does it appear that
10 that bag has been tampered with or altered in any way?

11 A They're bluejeans that was probably processed at some
12 time after I packaged it.

13 Q Did you request that it go to a separate department
14 within SLED?

15 A I believe I sent it to storage. So it may have been at a
16 later time that it was requested.

17 Q Okay. While you had control of this item, did you alter
18 it, manipulate it, tamper with it in any way?

19 A No, ma'am.

20 Q How you received it is how you placed it in that bag?

21 A Yes, ma'am.

22 Q While it was under your control and custody, did you
23 maintain the integrity of that item?

24 A Yes, ma'am.

25 Q And we can take #44A from you. And you received these

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

271

1 from Agent Hezel?

2 A Yes, ma'am.

3 Q Okay. Agent Claycomb, I'm going to hand you State's #45.

4 And what is that?

5 A A heat-sealed pouch containing swabs.

6 Q Okay. What are they swabs of?

7 A They're labeled as sub-items which means they were most
8 likely collected to a piece of evidence.

9 Q Okay. And does that bag appear to be tampered with in
10 any way?

11 A Just by whoever processed it after I packaged it.

12 Q Okay. Did you indicate on that bag where it was to be
13 sent after you collected it?

14 A Yes, ma'am. To touch DNA.

15 Q Okay. While this was under your control, did you
16 maintain the integrity of these items?

17 A Yes, ma'am.

18 Q Did you manipulate them, alter them, change them in any
19 way?

20 A No, ma'am.

21 Q At this time, Agent Claycomb, if you could open that bag
22 and retrieve item #1.1 from -- SLED's item #1.1

23 A Two swabs collected from handle of item #1, the handgun.

24 Q Okay.

25 MS. JONES: At this point State would label SLED 1.1 as

1 State's 45A.

2 Q And who collected this item? Who collected these swabs?

3 A These would have been collected during the time of
4 processing the handgun.

5 Q Okay. Who actually collected these particular swabs?

6 A Agent Hezel.

7 Q Okay. And did you receive those from Agent Hezel?

8 A No, ma'am. I was with her when she processed the
9 handgun. So my initials, along with hers, are on the
10 envelope.

11 Q Okay. So you witnessed her swab the gun?

12 A Yes, ma'am.

13 Q Okay. Which has previously been marked State's #3. After
14 she swabs this gun, you sealed the swabs?

15 A Yes, ma'am.

16 Q Okay. And does that envelope appear to be tampered with?

17 A No, ma'am. Just my initials and date that I collected
18 them.

19 Q Okay. Her initials are on there as well?

20 A Yes, ma'am.

21 Q Okay. Those particular swabs. If they were under your
22 control, did you manipulate, alter, or change them in
23 any way?

24 A No.

25 Q Did you maintain the integrity of those items?

DIRECT EXAMINATION OF DAWN CLAYCOMB BY MS. JONES

273

1 A Yes, ma'am.

2 MS. JONES: I beg the Court's indulgence.

3 Q Okay. One more item, Agent. I can take that one back
4 from you. Item #39, we went through -- State's #39, not
5 item #39, State's #39. We went through that earlier.
6 What is that again?

7 A These are swabs of suspected blood.

8 Q Okay. And if you could open that bag and remove items
9 #22, #24, and #25.

10 MS. JONES: And if we could mark them #39A, #39B, and
11 #39C.

12 (Whereupon, State's Exhibit #39A, #39B, and #39C were
13 marked for identification.

14 Q And what are those particular swabs?

15 A Item #22 is two swabs from stain C-3. Item #24 is two
16 swabs from stain D-1. #25 is two swabs from stain D-2.

17 Q And when you say C-3, D-1, and D-2, those are markers
18 that we earlier saw in the pictures?

19 A Yes, ma'am.

20 Q Those were collected from around the fireplace hearth
21 area?

22 A Yes, ma'am.

23 Q Who collected those swabs?

24 A I did.

25 Q Okay. And did you put markings on those to indicated you

- 1 collected them?
- 2 A Yes, ma'am.
- 3 Q And those don't appear to be manipulated in any way?
- 4 A Besides after processing after I packaged them.
- 5 Q Okay. Processing. Where did they go?
- 6 A They would been going to DNA/Blood.
- 7 Q Okay. But those three swabs while they were in your
- 8 control, you did not manipulate, change or alter them?
- 9 A No, ma'am.
- 10 Q You collected them, put them in the bag and sealed it?
- 11 A Yes, ma'am.
- 12 Q Until DNA could analyze them?
- 13 A Correct.
- 14 Q After collecting all that evidence, did you do anything
- 15 else in relation to this case?
- 16 A Just returned the evidence to the laboratory for
- 17 submission and to package and send it to the departments
- 18 for the requests.
- 19 Q So you brought all of those items from Ridgeland to
- 20 Columbia?
- 21 A Yes, ma'am.
- 22 Q They were secure in your vehicle while you were
- 23 transporting them?
- 24 A Yes, ma'am.
- 25 Q And no one had access to manipulate them?

CROSS EXAMINATION OF DAWN CLAYCOMB BY MR. PLEXICO

275

1 A No, ma'am.

2 Q Agent Claycomb, I don't have any more questions for you.

3 Thank you.

4 A Thank you.

5 THE COURT: Cross-examination, Mr. Plexico.

6 MR. PLEXICO: Thank you.

7 CROSS-EXAMINATION

8 BY MR. PLEXICO:

9 Q Thank you for being here today.

10 A Thank you.

11 Q Exactly how many swabs did you take from those walls?

12 A There were several swabs taken from within that
13 residence from the walls.

14 Q Okay. If I'm looking at ---

15 MR. PLEXICO: May I approach the witness so she can...

16 THE COURT: You may.

17 Q I'm looking at pages three, four and five of your
18 twenty-one page report. Do you have that with you?

19 A I do.

20 Q Could you refer to that?

21 A Yes, sir.

22 Q Okay. So items -- you have it -- I think it's items #14
23 through #25. These are all swabs taken from the walls or
24 the floor. Is that correct?

25 A Yes, sir.

- 1 Q All right. And that's from suspected blood?
- 2 A Yes, sir.
- 3 Q So that would be -- let me see here. One, two, three,
- 4 four, five, six, seven, eight, nine, ten, eleven -- is
- 5 that twelve of thirteen sets that you took?
- 6 A Yes, sir.
- 7 Q All right. So that's at least twenty-four swabs that
- 8 y'all had to test. Correct?
- 9 A Yes, sir.
- 10 Q And you sent all of those, where now?
- 11 A Those would have went to the DNA department in the
- 12 laboratory.
- 13 Q All right. Furthermore, you said I believe you have a
- 14 GSR from Billy Phillips. You do in fact have a GSR kit
- 15 from Billy Phillips in there and isn't that labeled as
- 16 #31, your item #31 on page five of twenty-one?
- 17 A Yes, sir.
- 18 Q So you have no doubt his GSR kit was sent to SLED to be
- 19 properly processed?
- 20 A Yes.
- 21 Q Were you present when it was taken?
- 22 A No, sir.
- 23 Q Okay. All right. Now, this agent, is it Herschel?
- 24 A Hezel.
- 25 Q Hezel, okay. Hezel. So he was working part of this and

CROSS EXAMINATION OF DAWN CLAYCOMB BY MR. PLEXICO 277

1 you were working another part or how does this -- how do
2 y'all ---

3 A No, sir. Tiffany Hezel, she's within the crime scene
4 department. She also does latent print processing.

5 Q Okay. All right. So you didn't swab anything from the
6 bluejeans. Is that correct?

7 A No, sir. On scene we did not collect any swabs from the
8 bluejeans.

9 Q Okay. Who did not?

10 A I did not.

11 Q Okay. All right. So you don't know where that came from?

12 A No, sir.

13 Q Okay. That is correct? You don't know where they came
14 from ---

15 A That is correct.

16 Q --- because you weren't present when those came?

17 A Correct. Correct.

18 Q You merely know how something might be labeled?

19 A Correct.

20 Q And you don't know who opened the bag in regards to
21 that? You assume it was done further down the line in
22 processing?

23 A Yes, sir. I don't know.

24 Q But you can't say where they originally came from.

25 That's just what I wanted to confirm.

- 1 A Correct.
- 2 Q Okay. Were you asked to process any other or take to
3 Columbia any other items such as any of my client's
4 clothing? Were you asked to process anything like that?
- 5 A No, sir. The only thing I took back to Columbia with me
6 would be the GSR kit and the buccal swab collected from
7 Billy Phillips.
- 8 Q Okay. When your unit is -- when SLED is called in,
9 aren't y'all essentially the chief investigating
10 officers?
- 11 A It depends. Sometimes we do take the lead as SLED being
12 the lead investigating agency and other time it remains
13 a local case and we assist.
- 14 Q Okay. Were you asked, at any time, to go do any
15 processing of Billy Phillips' home?
- 16 A No, sir. I was not.
- 17 Q Okay. And you would know because you're the agent in
18 charge of the crime scene processing?
- 19 A Correct. For that night.
- 20 Q And obviously sometimes there would be several crime
21 scenes to process?
- 22 A Sometimes there are, yes.
- 23 Q Depending on the crime. Right?
- 24 A Yes, sir.
- 25 Q Okay. All right. And you did say you were there when the

DIRECT EXAMINATION OF DAVID WILLIAMS BY MS. JONES

279

1 gun holster was swabbed?

2 A When the items were processed I was there. Yes, sir.

3 Q Okay.

4 MR. PLEXICO: I don't have anything further.

5 THE COURT: Any redirect?

6 MS. JONES: Not from the State, Judge.

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

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: You may call your next witness.

10 MS. JONES: The State calls Agent David Williams.

11 THE COURT: David Williams.

12 MS. JONES: Yes, Your Honor.

13 THE COURT: Very good. Mr. Williams, please come forward
14 and place your left hand on the Bible and raise your right
15 hand while the clerk administers the oath.

16 (After being duly sworn by the Clerk of Court, DAVID
17 WILLIAMS testified as follows:)

18 THE COURT: Come forward and have a seat in the witness
19 chair and we'll ask that you speak loudly, and clearly and
20 slowly in order that we can hear everything that you have to
21 say and let's start with your full name, please, sir.

22 SPECIAL AGENT WILLIAMS: David Edgar Williams.

23 THE COURT: Very good. Ms. Jones, you're recognized.

24 MS. JONES: Thank you. Your Honor.

25 DIRECT EXAMINATION

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 BY MS. JONES:

2 Q Agent Williams, where are you currently employed?

3 A With the South Carolina Law Enforcement Division,
4 commonly referred to as SLED.

5 Q And how long have you been employed with SLED?

6 A About ten years. Ten years in February.

7 Q What did you do prior to working at SLED?

8 A I'm a retired federal agent. I worked for the Drug
9 Enforcement Administration for twenty years. Prior to
10 that, I was a police officer in Charleston, South
11 Carolina for six-and-a-half to seven years and then I
12 was a deputy in West Virginia for a year-and-a-half.

13 Q So you came out of retirement to work at SLED?

14 A Yes, ma'am. That's correct.

15 Q What do you do at SLED?

16 A I'm a criminal investigator. My title is a senior
17 special agent. We handle various types of investigations
18 either as a lead agency or as an assisting agency to
19 other departments within the state.

20 Q Okay. Did you have to have some sort of special
21 education to get where you are with SLED, and training?

22 A You're required to have a bachelor's degree and then you
23 have to go to an academy and then you have various
24 training throughout your career.

25 Q Okay. And you completed all of that and continue to do

1 that?

2 A Yes, ma'am. That's correct.

3 Q You mentioned that SLED would assist other agencies. How
4 would that come into play?

5 A If there's a crime up in a certain county or
6 municipality, many times the chief of police or a
7 ranking member of a police department or a sheriff's
8 office will contact SLED and request their assistance.

9 Q And did SLED receive that request on May 18th of 2013?

10 A Yes, ma'am.

11 Q And who was SLED requested to assist?

12 A The Ridgeland Police Department in a homicide
13 investigation.

14 Q And did SLED respond and assist in this investigation?

15 A Yes, ma'am.

16 Q And how did you get assigned to assist in this
17 investigation? You, particularly?

18 A I was the agent on call, but I was assigned to be the
19 investigator in this case by Captain Ryan Neil.

20 Q Okay. And as the investigator in this case, did you
21 respond to the crime scene?

22 A Yes, ma'am.

23 Q Where did you respond?

24 A To East Adams Street in Ridgeland, South Carolina,
25 which is in the County of Jasper.

1 Q Could that have been East Adams Street?

2 A I'm sorry. It was .

3 Q That's all right. You've had a long day. When you
4 respond to this incident location, are you by yourself?

5 A I came along with Lieutenant Shaun Harley, and the crime
6 scene unit from Columbia responded, also.

7 Q Okay. When you respond, what do you observe?

8 A We usually come about an hour or longer after the scene
9 has already been discovered. So when we get there,
10 generally the scene has already been cordoned off with
11 yellow crime scene tape. Some of the witnesses have
12 already been questioned by the local police. We come in.
13 We talk to the investigators on the scene, get briefed
14 by them to what they know about the situation up to that
15 point and then we began to continue the investigation.

16 Q Okay. And you were briefed by local law enforcement in
17 this particular case?

18 A Yes, ma'am.

19 Q And after being briefed by the Ridgeland Police
20 department, what did you do after that?

21 A We began to interview witnesses.

22 Q What is your goal by interviewing these witnesses?

23 A When you interview witnesses, you're trying to determine
24 what they know, ultimately to find out who is
25 responsible for the crime. We find out if there's any

DIRECT EXAMINATION OF DAVID WILLIAMS BY MS. JONES

283

1 other witnesses that we're not aware so we can go
2 question them.

3 Q When you speak to these separate individuals, do you end
4 the conversation there or do you attempt to follow up
5 with what they've told you? What do you when you obtain
6 somebody's information or statement?

7 A When we get the information, if we interview somebody
8 and they tell us that they saw so-and-so at a location,
9 then we will attempt to locate that person to find out
10 what they know and then it continues on. You try to just
11 to find as many as you can, to try to determine what
12 actually happened.

13 Q And are you doing this in order to corroborate other
14 witnesses?

15 A Sometimes.

16 Q Maybe to disprove other witnesses?

17 A Sometimes.

18 Q Okay. Did you have the opportunity to speak to people to
19 interview witnesses in this incident?

20 A Yes, ma'am.

21 Q Do you remember who you interviewed, who you spoke with?

22 A The first person I interviewed that night was Shontay
23 McKeithan, Sunshine.

24 Q Okay. How about after her?

25 A After her, I believe the next person I spoke with was

- 1 Billy Phillips.
- 2 Q Okay. Did you speak to anybody in between Shontay and
- 3 Billy, the Defendant?
- 4 A It's possible. I don't remember right off the bat. I
- 5 spoke to Darius Woods' girlfriend, but I don't know if I
- 6 conducted an interview with her.
- 7 Q Okay.
- 8 A I spoke with Darius Woods' mother but I did not conduct
- 9 an interview with her.
- 10 Q Okay. In speaking with people -- well, what led you to
- 11 speak with the Defendant?
- 12 A Law enforcement learned through a witness that Mr.
- 13 Phillips ---
- 14 MR. PLEXICO: I would object to hearsay, Your Honor.
- 15 THE COURT: Sustained.
- 16 Q Ultimately, did you speak to Mr. Phillips, the Defendant
- 17 in this case?
- 18 A That's correct.
- 19 Q Where does this interview take place?
- 20 A At the Ridgeland Police Department.
- 21 Q When is this interview happening?
- 22 A About 3:00 AM.
- 23 Q The night or early morning hours ---
- 24 A Of the 19th, May the 19th.
- 25 Q Okay. Who's present for this interview?

DIRECT EXAMINATION OF DAVID WILLIAMS BY MS. JONES

285

1 A Detective -- I forgot his name -- McIntosh is the one
2 who came in and advised him of his rights. He was
3 already at -- He, being Billy Phillips, was already at
4 Ridgeland Police Department when Lieutenant Shaun Harley
5 and I arrived. When we arrived, we went into the
6 detective's office and began questioning Mr. Phillips.

7 Q Okay. Was Mr. Phillips talking to you freely and
8 voluntarily?

9 A Yes, ma'am.

10 Q Okay. Did he appear to be under the influence of
11 anything while he's speaking with you?

12 A No, ma'am.

13 Q Did he say he was under the influence of anything?

14 A He told us he'd been smoking marijuana earlier that
15 night.

16 Q And you previously said you were with the DEA for twenty
17 some-odd years?

18 A Twenty years, yes, ma'am.

19 Q Okay. Working with the DEA did you have the opportunity
20 to come into contact multiple times with people who
21 smoke marijuana?

22 A Yes, ma'am.

23 Q Okay. How does it affect people?

24 A It affects people differently depending on how much they
25 smoked.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q Is it the sort of substance that one could build up a
2 tolerance to?

3 A Yes, ma'am.

4 Q And Mr. Phillips, the Defendant, told you he had smoked
5 marijuana that night, that day and night?

6 A That's correct.

7 Q Did he appear, though, to be under the influence of
8 anything? Did he appear to not understand what you were
9 saying to him?

10 A No, ma'am. He did not.

11 Q He appeared to have a rational understanding of what was
12 happening?

13 A Yes, ma'am.

14 Q His answers appeared coherent?

15 A Yes, ma'am.

16 Q If he appeared to be incoherent, or in your opinion
17 under the influence to where he couldn't understand,
18 would you have questioned him?

19 A No, ma'am.

20 Q No. So you only spoke with him because he appeared to
21 understand what was happening?

22 A Yes, ma'am. When we asked him questions, he gave us
23 intelligent, rational answers.

24 Q And then an interview did take place with Lieutenant
25 Harley and yourself and the Defendant?

DIRECT EXAMINATION OF DAVID WILLIAMS BY MS. JONES

287

1 A Yes, ma'am.

2 Q After this, what do you do after you've spoken with the
3 Defendant?

4 A We continue our investigation.

5 Q Did you attempt to verify any of the information he
6 provided you?

7 A Yes, ma'am. We did.

8 Q And were you able to?

9 A No, ma'am.

10 Q No, you could not verify it?

11 A Some information we could verify, some we could not.

12 Q Okay. After you did that, what else did you do with this
13 investigation?

14 A We just continued to investigate, follow up leads. Just
15 continued the investigation.

16 Q Okay. And ultimately, the Defendant was arrested?

17 A Yes, ma'am. That's correct.

18 Q Okay. When did that happen?

19 A It wasn't until a year later. I don't remember the exact
20 date, but it was a year -- I think it was either in
21 April or May of 2014.

22 Q Okay. And where was the Defendant in this time frame?

23 MR. PLEXICO: Your Honor, may we approach?

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held off the record)

- 1 Q Agent Williams, is it your understanding that Mr.
2 Phillips went to Greenwood at some point after your
3 interview?
- 4 A Within a few days later he did. Yes, ma'am.
- 5 Q Okay. And then after that, did he go to California?
- 6 A Yes, ma'am.
- 7 Q And when did he go to California? Do you know how many
8 days after your interview?
- 9 A About six or seven days.
- 10 Q Okay. Did you have an opportunity to speak with a former
11 deputy by the name of Jason Blessing in this case?
- 12 A Yes, ma'am. I did.
- 13 Q Okay. How many times did you speak with him?
- 14 A I spoke with him, originally, the night of the incident
15 because he was there and he was one of the responding
16 officers and then I spoke to him several months later in
17 the investigation.
- 18 Q After you spoke with him the night of the investigation,
19 did you attempt to get a buccal swab from him?
- 20 A Not that night, no, ma'am.
- 21 Q But at some point following the murder?
- 22 A Yes, ma'am, about several months later.
- 23 Q Okay.
- 24 MS. JONES: Permission to approach, Your Honor?
- 25 THE COURT: Yes, ma'am.

DIRECT EXAMINATION OF DAVID WILLIAMS BY MS. JONES

289

1 Q I'm going to show you what has been marked State's #46.

2 And can you identify that for the Court, please?

3 A Yes, ma'am. This is a DNA swab from Jason Blessing.

4 Q Okay. Why did you -- did you, in fact, collect that swab
5 yourself?

6 A Yes, ma'am.

7 Q Why did you do that?

8 A There was an unknown DNA that had been developed, an
9 unknown DNA profile that was a mixture of three
10 different profiles on the grip of a handgun and in an
11 attempt to try to identify this third unidentified
12 profile, I requested DNA swabs from the responding
13 officers to the scene.

14 Q And one of those was Jason Blessing?

15 A Yes, ma'am.

16 Q So you, in fact, took this swab from Jason Blessing?

17 A Yes, ma'am.

18 Q Okay. After you take this, what do you do with it?

19 After you take the swab, what did you do with it?

20 A It was packaged and it was given to Investigator
21 McIntosh who transported it to the lab or either
22 somebody else in the Ridgeland Police Department.

23 Q Okay. While it was under your control and custody, did
24 you alter it or tamper with it or manipulate it in any
25 way?

1 A No, ma'am.

2 Q Did you maintain the integrity of that item?

3 A Yes, ma'am.

4 Q While it was in your control that item is just as it is
5 from when you collected it from Jason Blessing?

6 A Yes, ma'am.

7 Q Okay. And so for my purposes it went from Jason
8 Blessing, his DNA into your hands, and then into
9 Detective McIntosh's hands?

10 A Yes, ma'am.

11 Q Okay. Thank you. Agent Williams, I don't have any more
12 questions for you. If you could answer any Mr. Plexico
13 has.

14 THE COURT: Madam Forelady, ladies and gentlemen of the
15 jury, we're going to allow you to return the jury room,
16 refresh yourselves. Once again, do not discuss the case.
17 Everyone remain seated as the jury exits the courtroom.

18 (Jury out at 2:23 PM)

19 THE COURT: We'll stand at ease for five minutes.

20 (Brief Break)

21 THE COURT: We're ready for the jury.

22 (Jury in at 2:41 PM)

23 THE COURT: Mr. Plexico.

24 CROSS-EXAMINATION

25 BY MR. PLEXICO:

CROSS EXAMINATION OF DAVID WILLIAMS BY MR. PLEXICO

291

- 1 Q You did a lot of investigations on this case, Agent
2 Williams. Correct?
- 3 A That's correct.
- 4 Q Did you interview Davonte Freeman?
- 5 A No, I don't think I'm the person that interviewed him
6 directly. I think that was Agent Harley.
- 7 MR. PLEXICO: Court's indulgence.
- 8 Q But you didn't talk to him that night?
- 9 A No, sir.
- 10 Q Okay. All right. All right. So, you have no idea how my
11 client got to the police station. Correct?
- 12 A I understand that a uniformed policeman brought him
13 there.
- 14 Q Okay. All right. So, you don't know what he was told to
15 get him to come to the police station. Correct? You
16 weren't there?
- 17 A No, sir.
- 18 Q All right. Have you seen a transcript of this interview
19 you have conducted with my client?
- 20 A No, sir.
- 21 MR. PLEXICO: Could I approach?
- 22 Q I'm looking at page three. Now, one of his first answers
23 to his questions to you, he says that he was smoking
24 weed. Is that correct?
- 25 A Where, exactly on page three are you talking about?

- 1 Q Second line. Answer, yeah. Question, what were you doing
2 there? Answer, smoking weed with him.
- 3 A Yes, sir. That's correct.
- 4 Q Okay. At that point in time did you stop your interview
5 knowing that he had been out smoking pot?
- 6 A No, sir.
- 7 Q Does smoking pot make him, a regular person, lower their
8 ability to self-protect and relax them?
- 9 A It has a different influence on various people.
- 10 Q Did you make any attempt, based on your experience, to
11 determine what influence it had on him?
- 12 A Yes, sir.
- 13 Q Okay. All right. And what did that consist of, him
14 answering your questions?
- 15 A That's correct.
- 16 Q Okay. And most stoned people would answer your
17 questions, wouldn't they, because they're stoned and
18 their guard's down?
- 19 A I don't smoke marijuana. I don't know if that would be a
20 correct answer or not.
- 21 Q But you did work with people who used marijuana and
22 substances such as that for twenty years. Correct?
- 23 A Yes, sir.
- 24 Q Okay. So, based on your experience you wouldn't have an
25 opinion. Is that what you're telling us?

CROSS EXAMINATION OF DAVID WILLIAMS BY MR. PLEXICO

293

1 A I don't interview people if they are under the
2 influence, sir.

3 Q Okay. But you did interview this man after saying he had
4 been smoking weed. Correct?

5 A Yes, sir, that's correct.

6 Q As a matter of fact, Agent Harley said that Paul got
7 you. Isn't that what he said?

8 MS. JONES: Objection. It's hearsay, Your Honor.

9 MR. PLEXICO: Well, he heard it. He's right there during
10 the interview. He's part of this interview, Your Honor.

11 THE COURT: I'll allow him to answer.

12 A What was the question, sir?

13 Q Didn't Agent Harley say that Paul had you? Well, you'd
14 been smoking and that Paul had you?

15 A I believe he said something similar to that.

16 Q Okay. Well, this is on page forty-one.

17 A Yes, sir. That's correct.

18 Q Okay. So he describes -- my client describes himself as
19 a happy drunk. Is that right?

20 A Yes, sir.

21 Q And he says, I am a happy drunk but I'm not happy now.
22 Right?

23 A Yes, sir.

24 Q Okay. So, you are interviewing an individual who's high
25 from smoking pot and has been drinking Paul and he's

- 1 drunk. Is that correct.
- 2 A No, sir. He's not drunk.
- 3 Q Okay. All right. But he is under the influence of drugs
- 4 and alcohol to some degree?
- 5 A He told us that he'd been smoking marijuana and drinking
- 6 that day. I did not see him do either.
- 7 Q Okay. All right. You didn't think he was under the
- 8 influence of anything?
- 9 A He answered all of the questions coherently. He appeared
- 10 to be understanding questions. He did not appear to be
- 11 impaired in any way.
- 12 Q And you have seen the video. Correct?
- 13 A Yes, sir.
- 14 Q Okay. All right. Now, you've talked about some of the
- 15 things you said you could verify that my client said.
- 16 Correct?
- 17 A Repeat the question, please, sir?
- 18 Q You said you verified some of the things my client told
- 19 you. Correct?
- 20 A Yes, sir.
- 21 Q Okay. All right. And you did extensive investigations.
- 22 Right?
- 23 A Yes, sir.
- 24 Q Okay. You talked to Dawn Childers?
- 25 A Yes, sir.

CROSS EXAMINATION OF DAVID WILLIAMS BY MR. PLEXICO

295

1 Q Okay. And Dawn told you -- and Ms. Childers told you
2 that Mr. Woods kept his money in a money box. Is that
3 right?

4 A A lot of his money but not all of his money. That's
5 correct.

6 Q Okay. And during the move, the box came open and Taurus
7 Maymi, for instance, saw that money and said he should
8 have robbed him.

9 MS. JONES: Objection. This is hearsay, Your Honor.

10 THE COURT: Sustained.

11 Q Did you learn from your investigation that Mr. Woods
12 kept large amounts of money?

13 A Yes.

14 Q Did you learn that many people knew that he had large
15 amounts of money?

16 A Yes, sir. That's a correct answer.

17 Q Did you learn from your investigation that he had a gun?

18 A Yes, that's correct.

19 Q And did you learn that his reputation in the community
20 was that he was quick to pull that gun?

21 A Yes, sir.

22 Q Okay. All right.

23 MR. PLEXICO: Court's indulgence.

24 Q And didn't you learn also from that investigation that
25 he had many enemies?

- 1 A I think that's a relative term, many enemies.
- 2 Q Well, he had some enemies?
- 3 A Some folks didn't like him. That would be more of a
- 4 correct answer.
- 5 Q Okay. All right. Now, did you also learn he had a
- 6 problem with break-ins in his houses, in his house?
- 7 A Yes, sir.
- 8 Q Okay. All right. So, my client told you he left around
- 9 nine-thirty or so. Is that correct?
- 10 A Yes, sir.
- 11 Q All right. And was Darius supposed to have an
- 12 appointment after that?
- 13 A At ten o'clock, yes, sir.
- 14 Q Okay. Did you ever discover who that was with?
- 15 A Yes, sir.
- 16 Q He was seen leaving shortly before ten o'clock. Correct?
- 17 A I believe one witness told us that, yes, sir. Yes, sir.
- 18 Q Okay. That he was seen leaving by himself and the
- 19 witness could not say my client was leaving with him.
- 20 Correct?
- 21 A That's correct.
- 22 Q Okay. Do you know who he went to see? Did you have
- 23 anybody who verified that he came to see me at
- 24 approximately ten o'clock?
- 25 A Based on what your client said?

CROSS EXAMINATION OF DAVID WILLIAMS BY MR. PLEXICO

297

1 Q Did Mr. Woods -- did you have anybody who verified that
2 Mr. Woods came to see them around ten o'clock or shortly
3 after ten o'clock?

4 A He did not go to where we had learned that he was
5 supposed to go. He did not go there.

6 Q So, you don't know where he left and went to. Correct?

7 A No, sir.

8 Q Okay. On page nineteen my client told you that he stayed
9 long enough to smoke two blunts. Is that right? The last
10 time he was with Darius? At the bottom of page nineteen.

11 A Yes, sir. That's correct.

12 Q Okay. And he reiterated that again on page twenty-two?
13 Or were you quoting him, smoking some blunts?

14 A I was quoting him at that point.

15 Q And he talked about all these haters out here. He was
16 quoting Darius, the deceased? On page twenty-six about
17 the middle of the page?

18 A That's correct. That's what he quotes.

19 Q And the haters, not only here in Ridgeland, but wasn't
20 he referring to the ones in Beaufort? At the bottom of
21 the paragraph?

22 A Yes, sir.

23 Q Okay. Talked about having his door kicked in. The
24 competition is jealous. That's on page twenty-eight, if
25 you don't recall.

- 1 A That's correct. That's what he told us.
- 2 Q All right. Now, he later says on the same page, right
- 3 down below that, that they were taking his weed, his
- 4 money, and his clothes.
- 5 A Yes, sir. Again, that's what Mr. Phillips told us.
- 6 Q And you verified that he had had break-ins. Right?
- 7 A One previous one. Yes, sir.
- 8 Q And he had guns stolen out of Beaufort. Correct? The gun
- 9 -- there was a gun that's been identified as his that
- 10 was stolen out of Beaufort. Correct?
- 11 A The gun that we found at the scene was, indeed, stolen
- 12 out of Beaufort. That's correct.
- 13 Q Okay. All right. And he was also concerned about his
- 14 safety, my client. Right?
- 15 A (No verbal response)
- 16 Q That's why he went to Greenwood because people were
- 17 beating on his mama's door looking for him. Isn't that
- 18 right?
- 19 A That is correct.
- 20 Q As a matter of fact, they said that they couldn't get
- 21 any peace?
- 22 A I don't remember his exact words, but he said that there
- 23 were people coming, looking for him at his residence.
- 24 Q Okay.
- 25 MR. PLEXICO: Court's indulgence. I don't have anything

1 further.

2 THE COURT: Any redirect?

3 MS. JONES: Yes, Your Honor. Thank you.

4 REDIRECT EXAMINATION

5 BY MS. JONES:

6 Q When you're speaking with the Defendant in the early
7 morning hours following the murder, he mentioned he'd
8 smoked marijuana, some blunts. Would you have continued
9 speaking with him if he appeared to not understand what
10 you were saying to him?

11 A No, ma'am. I would have not interviewed him if I did not
12 believe that he could understand and comprehend what we
13 were discussing.

14 Q Would you have stopped the interview if, at any time, he
15 appeared incoherent or not rational?

16 A Yes, ma'am, I would have.

17 Q In fact, he repeatedly says, "I'm good". "I'm okay." "I
18 understand?"

19 A Yes, ma'am.

20 Q So, it was after the Defendant affirmed he was okay that
21 you continued the interview?

22 A Yes, ma'am, that's correct.

23 Q And based on his speech, his demeanor, his stagger, you
24 believed he was competent and had a rational
25 understanding of what was happening?

1 A Yes, ma'am.

2 MS. JONES: I have no further questions.

3 THE COURT: You may step down. You may call your next
4 witness.

5 MS. JONES: The State calls Reginald Green.

6 THE COURT: Mr. Green, please come forward. I'm going to
7 ask, if you could, to place your left hand on the Bible and
8 raise your right hand as the clerk administers the oath.

9 (After being duly sworn by the Clerk of Court, REGINALD
10 GREEN testified as follows:)

11 THE COURT: Have a seat in the witness chair. I'll ask
12 that you pull up closely to that microphone, speak loudly,
13 clearly, and slowly, in order that we can hear everything
14 that you have to say and let's start with your full name.

15 THE WITNESS: Reginald Green.

16 THE COURT: Very good, Mr. Green.

17 MS. JONES: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS JONES:

20 Q Mr. Green, do you go by something other than Reginald?

21 A Reggie, Reg, yeah.

22 Q Can I call you Reggie?

23 A Yeah. Sure.

24 Q Thank you. Reggie, where are you from?

25 A Originally, from the Bronx, New York.

DIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

301

1 Q Okay. How long -- do you now live in the area?

2 A Yes, I do.

3 Q And how long have you been in the area?

4 A I've been in the area pretty much all my life. My family
5 is from this area but I've been living down here for
6 about six years now.

7 Q Okay. Where do you live in the community?

8 A Pineland.

9 Q Pineland? Okay. Back in 2013, specifically May of 2013,
10 were you in the Bronx or were you here?

11 A I was here.

12 Q You were here? Okay. You were living here full-time?

13 A Yeah.

14 Q Okay. Do you remember May 18th of 2013?

15 A Was that the night we talking about? I don't remember
16 the date.

17 Q How about, do you know somebody by the name of Billy
18 Phillips?

19 A Yes. Yeah.

20 Q Do you know him by another name maybe?

21 A Dee.

22 Q Dee? Is that his nickname, what you would call him?

23 A Yeah.

24 Q Okay. Do you see Dee in the courtroom today?

25 A Yeah.

1 Q Can you point him out, please?

2 A That's him right there.

3 Q Okay. Can you describe what he's wearing?

4 A A blazer, blue shirt, glasses ---

5 Q Okay. He's seated ---

6 A --- sitting right there.

7 MS. JONES: May the record reflect that the witness did
8 identify the Defendant?

9 Q How do you know Dee?

10 A We met out here. You know, we met through a mutual
11 friend, a guy named Guy. That's how I met Dee. And, you
12 know, we've just hung out ever since.

13 Q Okay. Y'all were friends?

14 A Yeah. Absolutely, we were friends.

15 Q Do you remember the morning of May 18th, 2013? Were you
16 with Dee that morning?

17 A Yeah. Yeah. I saw Dee. Roughly -- I was on my way to a
18 job interview and I saw him.

19 Q Okay. Do you know what time this was?

20 A Not exactly, no.

21 Q Okay. Do you remember what time, maybe, your interview
22 was?

23 A No, I can't remember now. I mean, it might have been
24 around noon or so. Something around that time.

25 Q Okay. So, maybe late morning, early afternoon?

1 A Yeah.

2 Q And you saw Dee before you went to this interview?

3 A Yes.

4 Q And where was this interview? Was it local?

5 A I believe it was probably -- nine times out of ten, in
6 the Bluffton area.

7 Q When you see Dee before you go to this interview, what
8 are y'all doing?

9 A I was riding by. I saw him on the porch chillin' and I
10 just pulled up, said, "What's up. I'm on my to an
11 interview but I'll holler at y'all when I get back
12 around." So then Dee hopped in the car and ask me to
13 take him up to the BP, to the gas station. So, I drove
14 him. I said all right, cool, and I drop him off at the
15 gas station.

16 Q I'm going to back you up a little bit. You said you saw
17 him on the porch. What porch did you see him on?

18 A On Ace's porch, where Darius used to stay.

19 Q Okay. Darius also went by Ace?

20 A Yeah.

21 Q Okay. Let me show you a picture that's been previously
22 admitted as State's Exhibit #5.

23 MS. JONES: Permission to approach, Your Honor?

24 THE COURT: Yes.

25 Q Reggie, is this the porch you saw him on?

1 A Yes. Yes, it is.

2 Q Okay. Where on that porch was he?

3 A He was sitting on the porch.

4 Q Okay. So, you see him on that porch and he hops in the
5 car with you. What do y'all do when he's in the car with
6 you?

7 A We ride up to the BP. He tells me about how Darius was
8 telling him a story about his PlayStation got robbed out
9 of his house. You know, somebody burglarized his house
10 and didn't take anything but his PlayStation. But Dee's
11 PlayStation and games and what have you, he was upset
12 about that. He was telling me about that situation. He
13 told me that story and, you know, that's what he talked
14 about then.

15 Q Where did Dee get this PlayStation, do you know?

16 A I believe it was a gift from his wife. She could have
17 been his fiancée at the time when she got it for him.
18 But, you know, no, I believe it was a gift from his
19 wife.

20 Q Do you know why Darius had Dee's PlayStation?

21 A Yeah. It was the day before. Dee was up there just
22 hanging out, you know, brought the game over so they
23 could all enjoy the game, play the game together and he
24 had to leave abruptly. His brother came and told him,
25 you know, come around with me or whatever. So, he was

DIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

305

1 like rather than just, you know, spoil the party and
2 just take the game, "Man, I got to go so I'm taking my
3 game," he was like, "Man, y'all chill out. I'll just
4 come pick it up tomorrow."

5 Q So he left the PlayStation?

6 A And he left it there.

7 Q Okay. You said he was upset. How was he upset? How was
8 he acting?

9 A You know, like anybody else would be. I mean, it was a
10 video game and it was a gift from his wife. At the same
11 time he was, you know, all and all the games, the system
12 itself, the joystick and everything, you looking at
13 about six hundred dollars worth of equipment there,
14 those game systems, you know. So it was a, you know,
15 pretty hefty amount of money. You know, I mean, people
16 spend that for their flat screens, you know. Somebody
17 just come and just take your flat screen off your wall
18 and leave you, you going to be mad about that, you know.
19 So, you know, he was upset about that. He was just I
20 can't believe he try to play me like that, man. Why he
21 try to play me like that, you know. Why would he do
22 that?

23 Q And it was special?

24 A Yes.

25 Q And it was special to Dee because it came from his wife

1 or maybe fiancée at the time?

2 A I would imagine.

3 Q When y'all are on your way to the gas station, do you
4 have any money on you?

5 A No, I'm broke. Actually, I'm broke. We was both broke. I
6 barely had money to get to the interview.

7 Q You were both broke? So, Dee didn't have any money on
8 him either?

9 A No.

10 Q We know you came from Ace's house. Did y'all smoke some
11 marijuana?

12 A No. I was on my way to an interview so, no, I didn't
13 smoke marijuana. No.

14 Q Did he have any marijuana?

15 A No, he didn't have any. He was just going to the store
16 to get a cigar.

17 Q Okay. So, he didn't have money or marijuana?

18 A No.

19 Q After you drop him off, you go to your job interview?

20 A Yes.

21 Q Okay. And you drop him off at the gas station, you said?

22 A Yes.

23 Q What do you do after your job interview?

24 A I go back to the house.

25 Q To your house?

DIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

307

1 A Yeah. I went to my house. I go into my house. Like I
2 said, I was broke. You know, didn't have much to do so I
3 just tucked it in for the day, you know.

4 Q Do you hear from the Defendant again ---

5 A Yeah.

6 Q --- that night, that day or night?

7 A He called me, I don't know, roughly around ten or ten
8 thirty. He was like -- I can't remember. I didn't
9 document the time, but it was the start of the fourth
10 quarter to a playoff game. I was watching a playoff
11 game. The Broncs versus the Celtics or something like
12 that. I don't know who was playing. It was a good game,
13 playoff game. I remember sitting there in the fourth
14 quarter and Dee called me and was telling me to come
15 out, you know. So, I was kind of upset about that. I
16 watched this whole game and leaving now, you know.

17 Q Do you tell him you can't come get him?

18 A No, I don't tell him I can't come get him. No, ma'am.

19 Q Okay. You still don't have any money though, right?

20 A No.

21 Q What is ---

22 A Oh, well, I mean -- well, I told him I can -- you know,
23 I told him I didn't have gas like that, you know. I'm
24 strapped for cash. He told me not to worry about gas. So
25 just coming, though.

- 1 Q Why not worry about gas? You need gas to get there?
- 2 A Well, he told me he would give me some gas money when I
3 got there. He would get me some gas. Yeah.
- 4 Q Okay. So, he now has money to put gas in your car?
- 5 A Yeah. But, I mean, it wasn't no serious money. It was
6 like five bucks or something like that he put in there.
- 7 Q Okay. Did he have that five dollars earlier when you
8 were with him?
- 9 A No.
- 10 Q Okay. Did he have anything else on him that he didn't
11 have earlier?
- 12 A He had some bud. We had some bud.
- 13 Q What is bud?
- 14 A Some weed. Marijuana.
- 15 Q Okay. What do you do when you pick up Billy?
- 16 A Me and him crossing at his brother's house. We ride up
17 to the BP, up like the one where the Dairy Queen at.
- 18 Q The one with the Dairy Queen?
- 19 A Yeah.
- 20 Q And he pays for gas in your car?
- 21 A Yes.
- 22 Q Do y'all buy anything besides the gas?
- 23 A Yeah. We went up there and buy cigars and he bought a
24 beer. I think he might have bought a forty ounce.
- 25 Q We. Did you go inside the gas station?

DIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

309

1 A No, I didn't go inside, no. He went in by himself.

2 Q Billy went in, the Defendant went in and bought all this
3 stuff by himself?

4 A Yeah.

5 Q Okay. You mentioned earlier he was upset about the
6 PlayStation. Did he bring it back up during this
7 nighttime interaction?

8 A Yeah. He spoke -- we went back to the house and, you
9 know, we was smoking a weed. He was telling me all the
10 details, the story that Ace had told him about how, you
11 know, the game had got stolen. And he just, he was
12 upset. He was just telling me that he told him he
13 thought it was all BS, you know, and just pretty much
14 upset like just telling me the story over and over again
15 like he was trying to get me to believe this particular
16 story, that somebody broke into his house, stole just my
17 PlayStation, didn't steal anything else in the house and
18 even though Darius was known for other activities, you
19 know what I'm saying?

20 Q Was he as upset as he was earlier?

21 A I mean, I don't know how to judge it like that.

22 Q Okay. That's okay. After y'all hang out for a little bit
23 what do you do? Do you take Billy somewhere else? Take
24 the Defendant somewhere else?

25 A We sat there and we smoked for a little bit. I was like

1 I got to get out of there. I had a job interview the
2 next day and I kind of ended it, you know, and then I
3 just rode him off up the block. I dropped him off at
4 Bank of Walterboro.

5 Q Do you know where he was going when you dropped him off
6 at the Bank of Walterboro?

7 A Yeah. He was going to Guy's house. Well, not Guy's
8 house, Mr. Hill's house, but that's where Guy was
9 staying at, at the time.

10 Q And Guy's one of y'all's friends?

11 A Yeah. Guy introduced us.

12 Q Okay.

13 MS. JONES: Permission to approach the witness, Your
14 Honor?

15 THE COURT: You may.

16 Q Reggie, I'm going to show you what's been marked for the
17 State's purposes, for identification only, as State's
18 #50.

19 A Okay.

20 Q Do you know what that is?

21 A Yeah. That looks like -- kind of looks like ---

22 Q You're squinting. Do you wear glasses?

23 A I mean, is that Mr. Hill's house?

24 Q Okay. Does it look like Mr. Hill's house?

25 A Not really. I don't know maybe from that angle. But, I

DIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

311

1 mean, yeah, yeah. That's Mr. Hill's house. I mean, it
2 just look funny to me right now.

3 Q That's Mr. Hill's house?

4 A Yeah.

5 Q Where Billy was going after you dropped him off?

6 A Yeah. That's where he was going at.

7 Q Okay.

8 MS. JONES: At this time, State moves State's #50 into
9 evidence.

10 MR. PLEXICO: Without objection.

11 THE COURT: Fifty is into evidence without objection from
12 Defense.

13 (Whereupon, an 8x10 photocopy is entered into evidence
14 as State's Exhibit #50, without objection.)

15 MS. JONES: Permission to publish?

16 THE COURT: You may.

17 Q So, this is the house that Billy was going to after you
18 dropped him off?

19 A Yeah.

20 Q Do you know about what time that was?

21 A Taking everything into consideration when I left my
22 house to when I dropped him off, it would probably been
23 like an hour-and-a-half, maybe a hour and forty-five
24 minutes worth of time.

25 Q Okay.

1 A But that's including my ride over there. It took like
2 fifteen, twenty minutes.

3 Q Okay. So, are we talking before midnight? Eleven-
4 thirty, somewhere in there?

5 A Yeah. Yeah. Yeah. Before midnight.

6 Q Okay. Do you see anything going on when you drop him
7 off?

8 A Yeah. It was actually a lot of activity. Usually, I can
9 turn down the road right there and just ride off and
10 drop him off in the yard, but it was a lot of people
11 outside, you know. A lot was going on, obviously, and so
12 I said, no, I'm not going to turn down that road. I'll
13 just drop him off at the bank.

14 Q Okay. A lot of activity. What sort of activities?

15 A Well, just a lot of people outside. I didn't really know
16 what was going on. You know, I made an assumption that
17 something could have happened with Darius. You know,
18 maybe he was getting busted or something like that. But,
19 you know ---

20 Q Why would you think he was getting busted? Was there a
21 certain type of people there? Were the police there?

22 MR. PLEXICO: That's leading. I object, Your Honor.

23 THE COURT: Just ask a direct question.

24 Q Who was -- what made you think maybe Darius had been
25 busted?

DIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

313

- 1 A Well, I knew that he sell weed, you know. I mean, so,
2 you know, that goes with the territory.
- 3 Q Okay. How close is Darius' house to this yellow house?
- 4 A Directly across the street.
- 5 Q So, you can see everything that's happening at Darius'
6 house from Mr. Hill's house?
- 7 A I wouldn't say that, but he could see the house, you
8 know, because it's turned to the side. So, you know, you
9 looking at the side of the house. So, you couldn't
10 really see directly in and see what's going on in the
11 house. No, I wouldn't say that.
- 12 Q But it's across the street. You can see it?
- 13 A Yeah. You can see it, yeah.
- 14 Q Okay. Anything else stick out about the sort of people
15 you saw that night? Was it friends?
- 16 A I mean, it was just -- everybody was pretty much out.
17 The whole neighborhood was out, you know. Just a bunch
18 of people, you know. Looked like a big crowd of people
19 like something was going on. But like I said, I had
20 something to do the next day and I didn't even want to
21 be part of it to be honest. So, I just dropped him off
22 at the bank so I could keep going, kind of get out of
23 there and not being seen.
- 24 Q Okay. Reggie, I don't have any more questions for you at
25 this time. Thank you.

1 A You're welcome.

2 THE COURT: Mr. Plexico, you're recognized.

3 MR. PLEXICO: Thank you.

4 CROSS-EXAMINATION

5 BY MR. PLEXICO:

6 Q Did you have an interview with Agent Williams?

7 A Agent Williams, that man right there?

8 Q This gentleman sitting right here.

9 A Yes. Yes, sir. Yes, I did.

10 Q Okay. All right. Did you talk to him about Mr. Darius
11 Woods?

12 A Yes. Yes, I did.

13 Q Talk to him about him receiving threats from people?
14 Anyone in particular?

15 A Yeah. I did mention that at the time when, you know,
16 like I said in my preliminary interviews that's not
17 something that I thought was feasible right there. It
18 was in the heat of the moment at that time. A lot of
19 people were being blamed so, you know, things were being
20 said and that's just hearsay. I wouldn't just come in
21 and just incriminate somebody like that. I think that I
22 wouldn't do that.

23 Q You did say Woods was quick to pull a gun out when he
24 got in an argument. That would be Darius Woods, because
25 you knew that was true?

CROSS EXAMINATION OF REGINALD GREEN BY MR. PLEXICO

315

- 1 A Yes.
- 2 Q Okay. And once he had the gun, Darius Woods became more
3 gangster. Is that how you described him?
- 4 A Yeah. I mean, anybody got a gun in their hand can look
5 like that.
- 6 Q All right. And he sold marijuana and you described that
7 to SLED Agent Williams. Correct?
- 8 A Yes.
- 9 Q And you said some customers were allowed to go inside
10 the house and complete the transaction?
- 11 A Yes.
- 12 Q Okay. All right. And a lot of people hung out over at
13 the Hill house. Right?
- 14 A Yeah.
- 15 Q You hung out over there?
- 16 A Yeah, everybody hung out over there.
- 17 Q Guy hung out over there. My client hung out over there.
18 There's nothing unusual about going there. Right?
- 19 A No, not at all.
- 20 Q Okay. You aren't my client's accountant. Correct?
- 21 A (No verbal response)
- 22 Q You're not his accounting clerk. Correct?
- 23 A No, I'm not, sir.
- 24 Q You're not his banker. Correct?
- 25 A No.

- 1 Q All right. So, just because he tells you he doesn't have
2 any money doesn't mean he doesn't have any money. He
3 just might not want you to know he has any money.
4 Correct?
- 5 A True.
- 6 Q He could be saving his money to spend in an evening.
7 Right?
- 8 A True.
- 9 Q Okay. He could bum some money from somebody else or from
10 his mother if he didn't have any money. Right?
- 11 A Yeah. That's what I assumed he did.
- 12 Q So, y'all got together, smoked a small amount of
13 marijuana. Right?
- 14 A Right.
- 15 Q Got five dollars in gas. Right?
- 16 A Yeah.
- 17 Q All right. Got a couple of forty ounces?
- 18 A Yeah.
- 19 Q And a couple of cigars? And what are they? Are they a
20 dollar each or so?
- 21 A Yeah..
- 22 Q So, we're talking about less than twenty dollars. Right?
- 23 A Yeah.
- 24 Q Okay. So, you didn't see him that evening as a rich man.
25 Right?

REDIRECT EXAMINATION OF REGINALD GREEN BY MS. JONES

317

1 A Not that I know of.

2 Q Okay. All right.

3 MR. PLEXICO: I don't have anything further.

4 THE COURT: Any redirect, Ms. Jones?

5 MS. JONES: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. JONES:

8 Q Reggie, what sort of job did you do? How did you make
9 your money?

10 A I didn't make money. I was unemployed.

11 Q Did you have a job in April?

12 A A job in April? April of that year? Oh, you know, I'd
13 worked a temporary job at Sea Pines. I worked the
14 Heritage around that time over there.

15 Q Okay. What is the Heritage?

16 A It's a golf tournament.

17 Q Who did you work that job with?

18 A With Billy. Yeah.

19 Q Had you received your check for that yet?

20 A No, not that I recall. I believe we was waiting on that
21 check to come.

22 Q You were waiting on that check?

23 A Yes.

24 Q And when was the Heritage? In April?

25 A Right. And probably by that time, all around that time.

1 I don't remember exactly when they have it.

2 Q Okay. So, you were waiting on your check. So, was Billy
3 waiting on his check?

4 A Yeah. Well, I mean, he worked there regularly. I just
5 worked the Heritage. So, he might have had a check.

6 Yeah.

7 MS. JONES: I have no further questions.

8 THE COURT: All right. You may step down. You may call
9 your next witness.

10 MS. JONES: The State would call Donte Jenkins.

11 THE COURT: Mr. Jenkins, please come forward and place
12 your left hand on the Bible and raise your right hand as the
13 clerk administers the oath.

14 (After being duly sworn by the Clerk of Court, DONTÉ
15 JENKINS testified as follows:)

16 THE COURT: Go over and have a seat in the witness chair.
17 I'm going to ask you to pull up real close to that
18 microphone.

19 THE WITNESS: Yes, sir.

20 THE COURT: Speak loudly, clearly, and slowly, in order
21 that we can hear everything that you have to say and let's
22 start with your full name.

23 MR. JENKINS: My name is Donte Jenkins.

24 THE COURT: Very good.

25 MS. JONES: Thank you, Your Honor.

1

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 Q Okay. Who was at Darius' house?
- 2 A No one was there when I got there.
- 3 Q Okay. What is Darius doing when you get there?
- 4 A He was sitting to the kitchen table eating a sandwich
- 5 and some chips.
- 6 Q Okay. Are you familiar with Darius' home, how it is set
- 7 up on the inside?
- 8 A Yes, ma'am.
- 9 Q Okay. I'm going to show you a couple of pictures.
- 10 MS. JONES: Permission to approach, Your Honor?
- 11 THE COURT: Yes.
- 12 Q Donte, I'm going to show you what has been admitted as
- 13 State's Exhibit #11. Do you recognize that picture?
- 14 A Yes, ma'am.
- 15 Q And how do you recognize that picture?
- 16 A That's the TV in the living room.
- 17 Q Okay. Is that how that living room and that TV looked
- 18 when you were over there the night of the murder?
- 19 A No, ma'am.
- 20 Q What is different about that TV?
- 21 A A video game not hook up to it.
- 22 Q Okay. Do you remember what sort of video game was hooked
- 23 up to it?
- 24 A A PlayStation 3.
- 25 Q That was there when you were there that night?

DIRECT EXAMINATION OF DONTÉ JENKINS BY MS. JONES

321

- 1 A Yes, ma'am.
- 2 Q Okay. I'm going to show you this picture also. It's
- 3 State's Exhibit #33. What is that?
- 4 A This is the TV in his room.
- 5 Q And what does it appear is hooked up under that TV?
- 6 A A Xbox 360.
- 7 Q That is not a PlayStation?
- 8 A No, ma'am.
- 9 Q And that's Darius' bedroom?
- 10 A Yes, ma'am.
- 11 Q Is that how it was that night you went over there?
- 12 A Yes, ma'am.
- 13 Q Okay. Thank you. When you were there -- do you know
- 14 Billy Phillips?
- 15 A I don't know him, but I know of him.
- 16 Q Okay. When you were there, do you let him in that night?
- 17 Does he come over? Do you see him that night?
- 18 A Yes, ma'am.
- 19 Q Do you know what time that is?
- 20 A No, ma'am. I cannot recall the exact time.
- 21 Q Do you know how long you had been there before Billy
- 22 comes over, the Defendant?
- 23 A I'd say maybe twenty minutes, thirty minutes to an hour.
- 24 Q Okay. How do you know it was the Defendant that came
- 25 over?

- 1 A Because I'm the one that let him in.
- 2 Q Okay. Do you see the person you let in that night?
- 3 Well, let's think about it. You went in about dusk and
- 4 Billy comes over about thirty minutes later?
- 5 A I can't really say. It was a while. I can't say it was
- 6 thirty minutes later, a hour later. I just know he was
- 7 there.
- 8 Q Was it dark yet?
- 9 A Yes, ma'am. It was dark.
- 10 Q It was dark?
- 11 A Uh-huh.
- 12 Q Okay. Do you see the man that you let in the door that
- 13 day in the courtroom?
- 14 A Yes, ma'am.
- 15 Q Can you please point him out?
- 16 A (Witness complies)
- 17 Q Can you describe what he's wearing?
- 18 A He got on a suit, glasses, blue shirt. Look like a white
- 19 shirt up under it.
- 20 Q Okay.
- 21 MS. JONES: May the record reflect that the witness did
- 22 identify the Defendant?
- 23 Q After you let him in, do you hang out a little bit
- 24 longer at Darius'?
- 25 A Yes, ma'am. I did.

DIRECT EXAMINATION OF DONTE JENKINS BY MS. JONES

323

1 Q Okay. Do you know how much longer?

2 A I can't really say. Between thirty minutes and an hour
3 because we all was talking and stuff like that.

4 Q Okay. The TV of that picture I just showed you, this one
5 with the RCA cables ---

6 A Uh-huh.

7 Q Where is the front door in relation to that TV?

8 A The door is like when you come in, this is the kitchen.
9 You come out the door. You got like a hallway, like a
10 space and the door is on the back side right here. So,
11 if you add another space, the door will be facing that
12 way. So, when you come in, you could come in, in the
13 kitchen and this right here was in the open. So, that
14 would be like on the left-hand side as soon as you come
15 in the door.

16 Q So, is the den the first room you walk into through that
17 front door?

18 A Yes, ma'am.

19 Q Did you let the Defendant in that front door?

20 A Yes, ma'am.

21 Q So, this is the first room he came in?

22 A He came through there and came in the kitchen where we
23 was at.

24 Q So, he walked straight past this into the kitchen?

25 A Yes, ma'am.

1 Q Where the PlayStation was?

2 A Yes, ma'am.

3 Q Okay. When you left that night, is this what that room
4 looked like?

5 A No, ma'am.

6 Q What was different?

7 A The PlayStation was hook up on that TV.

8 Q Okay. When you left, where did you leave Darius?

9 A He was outside. He was putting a bulb in for his tag
10 light. So, we both was outside, me and Darius.

11 Q In his car?

12 A Yes, ma'am.

13 Q Okay. Was he in and out of his car?

14 A No. He went in there. He went and got the bulb and we
15 was standing to the back of the truck until I left.

16 Q Where did he get the bulb from?

17 A Outside of his glove box on the passenger's side.

18 Q Okay. I'm going to show you what's been marked and
19 admitted as State's #10. Can you identify that?

20 A Yes, ma'am.

21 Q And what does that picture show?

22 A This is the car. That's the passenger's side and this is
23 where he got the bulb from.

24 Q Okay. When you left was that how the car appeared?

25 A Yes, ma'am. Exactly. Uh-huh.

CROSS EXAMINATION OF DONTÉ JENKINS BY MR. PLEXICO

325

1 Q Open just like that?

2 A Yes, ma'am.

3 Q And where was Darius in relation to this picture?

4 A At the back of the truck.

5 Q Working on the tag light?

6 A Yes, ma'am.

7 Q Was anybody else at that home that night with you when
8 you left?

9 A No, ma'am. The only person that was there was Darius and
10 Billy.

11 Q Okay. And you're sure it was Billy?

12 A Yes, ma'am. Positive.

13 Q Positive? And, again, the man you identified earlier is
14 the man that you let in, that was there when you left?

15 A Yes, ma'am.

16 Q Okay. I have no more questions for you. Thank you.

17 THE COURT: Cross-examination, Mr. Plexico?

18 CROSS-EXAMINATION

19 BY MR. PLEXICO:

20 Q So, you came forward October 6th of 2015. Is that
21 correct?

22 A Yes, sir.

23 Q All right. That would be two years later? Over two years
24 later?

25 A I think it was something like that. I don't know.

- 1 Q All right. So, do you know who broke in this house and
2 stole his stuff before this night that he got killed?
- 3 A No, sir.
- 4 Q Okay. But he was having -- even his clothes were getting
5 stolen. Right?
- 6 A I don't have no knowledge of that.
- 7 Q All right. But you were allowed inside the house. Right?
- 8 A I'm not understanding what you're saying.
- 9 Q You came in the house?
- 10 A He let me in the house, Darius did.
- 11 Q Okay. All right. So, y'all were hanging out there
12 talking in the living room. Is that correct?
- 13 A No. We was in the kitchen.
- 14 Q Okay. And y'all were talking and whatnot?
- 15 A Yes, sir.
- 16 Q What's the whatnot?
- 17 A What's the whatnot?
- 18 Q Yes.
- 19 A Conversation, communication.
- 20 Q All right. Were y'all smoking any pot?
- 21 A Huh?
- 22 Q Were y'all smoking any pot?
- 23 A No, sir.
- 24 Q Did anybody come over to buy any marijuana at that time?
- 25 A No, sir.

CROSS EXAMINATION OF DONTE JENKINS BY MR. PLEXICO

327

- 1 Q Okay. And you knew him well?
- 2 A Yes, sir.
- 3 Q How did he make his living?
- 4 A You just said it.
- 5 Q I'm asking you.
- 6 A He sold drugs.
- 7 Q Okay. All right. And you left, you told them on October
- 8 6, 2015, I take it or thereabout, that you said you left
- 9 at nine fifteen. Is that right?
- 10 A I said I left between nine and nine fifteen.
- 11 Q Okay. All right. And May to May is twelve months and
- 12 then May again is another twelve months. So, this was
- 13 about thirty months later. Are you sure you remember
- 14 when you left someplace thirty months ago?
- 15 A I mean, I would have came forward way before that, but
- 16 before, the decease's Mama, before she died she had
- 17 suggested that I didn't do that. That's the reason why I
- 18 didn't came forward way before then, but I never had a
- 19 problem of coming forward way before then.
- 20 Q You said his mother asked you not to come forward?
- 21 A Yeah. At that time she was doing they own investigation.
- 22 She wanted to hold me back.
- 23 Q Well ---
- 24 A I guess just for this moment. I don't know why she
- 25 wanted me to do that, but ---

DIRECT EXAMINATION OF TAYLOR COWHERD BY MS. JONES

328

1 Q So, she had her doubts about Mr. Billy Phillips being
2 guilty?

3 MS. JONES: Objection. That calls for speculation.

4 THE COURT: Sustained.

5 MR. PLEXICO: I don't have anything else.

6 THE COURT: Redirect?

7 MS. JONES: No further questions for this witness, Your
8 Honor.

9 THE COURT: You may step down. You may call your next
10 witness. Madam Forelady, ladies and gentlemen of the jury,
11 I'm going to ask you to stand up while this witness is coming
12 in and stretch a little bit while they're coming in.

13 MS. JONES: Your Honor, I would ask that -- the State
14 calls Taylor Cowherd.

15 THE COURT: Yes, ma'am. If you could come forward. (To
16 the Jury) You can have a seat. Place your left hand on the
17 Bible and raise your right hand as the clerk administers the
18 oath.

19 (After being duly sworn by the Clerk of Court, TAYLOR COWHERD
20 testified as follows:)

21 THE COURT: I'd ask you if you could to have a seat in
22 the witness chair, pull up real close to that microphone and
23 speak loudly, clearly, and slowly, in order that we can hear
24 everything that you've got to say and let's start with your
25 full name.

DIRECT EXAMINATION OF TAYLOR COWHERD BY MS. JONES

329

1 THE WITNESS: Taylor Cowherd.

2 THE COURT: Ms. Jones.

3 MS. JONES: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. JONES:

6 Q Taylor, did you have a different last name back in 2013?

7 A Yes, ma'am.

8 Q What was it?

9 A Lanier.

10 Q Okay. Why did your name change?

11 A I got married.

12 Q Are you from here?

13 A Yes, ma'am.

14 Q You're from Ridgeland?

15 A Yes, ma'am. I've lived here my whole life.

16 Q Okay. So, you've been here forever. Did you know Darius
17 Woods?

18 A Yes, ma'am.

19 Q How did you know him?

20 A Just acquaintances.

21 Q Okay. Did you ever -- did you know any of Darius' family
22 members?

23 A Yes, ma'am.

24 Q Who would that be?

25 A Deandre Woods. His mother, Tijuana Woods.

- 1 Q Who was Deandre Woods to you?
- 2 A My boyfriend at the time.
- 3 Q Okay. But y'all are no longer together?
- 4 A No, ma'am.
- 5 Q Okay. Do you remember the night of May 18th 2013?
- 6 A Yes, ma'am.
- 7 Q What do you remember about that night?
- 8 A I remember calling Darius Woods on the way home from
- 9 work and I stopped by his house and I talked to him and
- 10 then I proceeded to go home.
- 11 Q Where were you working at that time?
- 12 A Subway in Hardeeville at the gas station.
- 13 Q Okay. Do you remember what time you called Darius?
- 14 A Around nine twenty-five.
- 15 Q And did you go to Darius' house straight after you
- 16 called him?
- 17 A Yes, ma'am.
- 18 Q So, what time would you have gotten to Darius' home?
- 19 A Nine twenty-six.
- 20 Q Okay.
- 21 A Yeah. I was driving whenever I called him.
- 22 Q Okay. Was anybody else there when you got there?
- 23 A Yes, ma'am.
- 24 Q Who was there?
- 25 A Billy Phillips.

DIRECT EXAMINATION OF TAYLOR COWHERD BY MS. JONES

331

- 1 Q Do you know him by another name?
- 2 A Dee.
- 3 Q Where was Dee when you got there?
- 4 A He was standing on the porch.
- 5 Q Okay. I'm going to show you a picture, Taylor.
- 6 MS. JONES: Permission to approach, Your Honor?
- 7 THE COURT: Yes.
- 8 Q I'm showing you what's been admitted as State's #6,
- 9 Taylor. What is this a picture of?
- 10 A Darius' house.
- 11 Q And where was Billy on that porch?
- 12 A He was standing in between these two poles right here.
- 13 Q Okay. In between these two?
- 14 A Yes, ma'am.
- 15 Q Okay. And where were you?
- 16 A I was standing back here behind the car. Right here in
- 17 this area.
- 18 Q Okay.
- 19 A Close to the trunk.
- 20 Q Okay. How did you know it was Billy?
- 21 A I just recognized his face.
- 22 Q How do you know him?
- 23 A Just from seeing him around town and then always seeing
- 24 him at Darius' house.
- 25 Q You've seen him around town. Do you remember the first

- 1 time you saw him?
- 2 A When I started work at Piggly Wiggly. That was when I
- 3 was sixteen. This is like five years ago.
- 4 Q So, five years ago. So in 2013, you had known him about
- 5 three years?
- 6 A Yes, ma'am.
- 7 Q Okay. When you get to Darius' home, do you say something
- 8 to Dee?
- 9 A Yes, ma'am. I said, "Hey, what's up Dee?" "Is Darius
- 10 inside?" and he said, "Yeah. He'll be out in a minute."
- 11 And so I just waited for him outside.
- 12 Q So, you called him by what you knew him as, Dee?
- 13 A Yes, ma'am.
- 14 Q Did he answer?
- 15 A Yes, ma'am.
- 16 Q What did he say?
- 17 A He said, Hey and he'll be back out in a minute.
- 18 Q Do you remember what Billy was wearing that night?
- 19 A It was a dark colored tee shirt, a pair of jeans and
- 20 some white tennis shoes.
- 21 Q Okay. Was he wearing anything else on his face?
- 22 A Just glasses.
- 23 Q Okay. Do you always know him as wearing glasses?
- 24 A Yes, ma'am.
- 25 Q Anytime you've ever seen him, did he have glasses on?

DIRECT EXAMINATION OF TAYLOR COWHERD BY MS. JONES

333

- 1 A Yes, ma'am.
- 2 Q Okay. You said dark tee shirt. Do you remember what
- 3 color it was?
- 4 A I couldn't really tell because the porch light was out.
- 5 I don't know if it was dark blue or it was black or what
- 6 colors.
- 7 Q But dark?
- 8 A Yes, ma'am.
- 9 Q Okay. Did you eventually see Darius that night?
- 10 A Yes, ma'am.
- 11 Q Okay. What was he doing when you saw him?
- 12 A He was fixing his light bulb on the back of the car.
- 13 Q Okay. Did you talk to him?
- 14 A Yes, ma'am.
- 15 Q What happened when y'all spoke?
- 16 A It was just a normal conversation. I asked him how he
- 17 was doing. Good. Okay, well, see you later and we'll see
- 18 you later.
- 19 Q Why were you over there that night?
- 20 A I went to go pick up ten dollars for his brother.
- 21 Q Okay. Does he give you this ten dollars?
- 22 A Yes, ma'am.
- 23 Q Okay. When you leave is there anybody else at that home?
- 24 A Just Billy.
- 25 Q Okay. Where do you leave Darius and Billy?

- 1 A Darius at the, fixing his light and Billy was still on
2 the porch in the same spot.
- 3 Q Okay. Nobody else was there?
- 4 A No, ma'am.
- 5 Q And this was -- how long do you think you were there?
- 6 A Probably five minutes, six minutes. It wasn't long.
- 7 Q Okay. So about nine-thirty you left?
- 8 A Yes, ma'am.
- 9 Q Do you remember talking to investigator McIntosh with
10 the Ridgeland Police Department?
- 11 A Yes, ma'am.
- 12 Q Did he show you something?
- 13 A Yes, ma'am.
- 14 Q What was the first thing he showed you?
- 15 A A six-person lineup paper picture.
- 16 Q Okay. What did it look like?
- 17 A It was six people on the paper in a lineup.
- 18 Q Did he ask you to do anything with this lineup?
- 19 A Pick Billy out.
- 20 Q Okay. Could you do that?
- 21 A No, ma'am.
- 22 Q Why couldn't you do that?
- 23 A Because I've never seen him without his glasses so I
24 couldn't recognize -- I didn't recognize him.
- 25 Q Did the photos in the lineup have glasses on?

DIRECT EXAMINATION OF TAYLOR COWHERD BY MS. JONES

335

- 1 A No, ma'am.
- 2 Q Did any of them have glasses on?
- 3 A No, ma'am.
- 4 Q Okay. But you know Billy?
- 5 A Yes, ma'am.
- 6 Q You called him by name that night?
- 7 A Yes, ma'am.
- 8 Q Do you see Billy in the courtroom today?
- 9 A Yes, ma'am.
- 10 Q Can you please point him out?
- 11 A (Witness complies)
- 12 Q And can you describe what he's wearing and where he's
- 13 seated?
- 14 A He's wearing glasses with a tan suit and he's at a table
- 15 with two people.
- 16 MS. JONES: May the record reflect that the witness
- 17 identified the Defendant.
- 18 Q How positive are you that it was Billy that was on the
- 19 porch that night?
- 20 A One hundred percent.
- 21 Q And, again, you left around nine-thirty?
- 22 A Yes, ma'am.
- 23 Q No one else there?
- 24 A No, ma'am.
- 25 Q I have no more questions for you, Taylor. Thank you.

1 THE COURT: Cross-examination, Mr. Plexico?

2 CROSS-EXAMINATION

3 BY MR. PLEXICO:

4 Q Do I look that much different when I take off my
5 glasses?

6 A No, sir.

7 Q Okay. All right. My client is standing in -- you're
8 saying standing on a porch. Is that right?

9 A Yes, sir.

10 Q Okay. So this person standing on the porch you can --
11 they're standing but you said the light is off?

12 A Yes, sir.

13 Q It's dark?

14 A Yes, sir. But you could still see.

15 Q Okay. But you couldn't see what color shirt he was
16 wearing?

17 A No, sir. But I could see who it was.

18 Q Okay. So, you could see a face but not a shirt from here
19 to here, but you could see a face from here?

20 A Yes, sir.

21 Q You couldn't see something three times bigger than a
22 face and determine the color of it?

23 A No, sir.

24 Q That's correct?

25 A Yes, sir.

CROSS EXAMINATION OF TAYLOR COWHERD BY MR. PLEXICO

337

1 Q Okay. All right. And did you get ten dollars worth of
2 drugs or ten dollars in cash from Mr. Darius Woods?

3 A Ten dollars in cash.

4 Q Okay. All right. And when you left you saw Darius
5 driving away. Correct?

6 A I seen him getting in the car. I'm not sure if he was
7 actually driving away or just checking to see if the
8 light was working.

9 Q Okay. You didn't give a statement that says as I drove
10 away, Darius was closing his trunk and got into his car
11 and drove away, as well. I'm not sure if Dee got in the
12 car with him or not.

13 A Yes, sir. I did.

14 Q You gave that statement?

15 A Yes, sir. I did.

16 Q And at the bottom of the statement you said that this
17 statement is true and correct?

18 A Yes, sir.

19 Q And would you have a better memory thirty months ago
20 about what happened and what you saw than you would
21 today?

22 A I expect so.

23 Q All right. Do you have any doubt now that he drove away?

24 A I don't know. What I said, when he got in the car and he
25 cranked up the car and it looked like he was driving

- 1 away. So, I just assumed he drove away as I drove away.
- 2 Q You did write, "and drive away as well"?
- 3 A Yes, sir. I did.
- 4 Q You weren't trying to mislead anybody. Correct?
- 5 A No, sir, I was not.
- 6 Q And you didn't see my client get in the car with him
- 7 either. Did you?
- 8 A I did not.
- 9 Q Okay. So, as far as you know, he left him by himself to
- 10 go somewhere and you don't know where. Correct?
- 11 A Yes.
- 12 MR. PLEXICO: I don't have anything further.
- 13 THE COURT: Any redirect?
- 14 MS. JONES: Briefly.

15 REDIRECT EXAMINATION

16 BY MS. JONES:

- 17 Q You didn't actually see the car drive away, did you?
- 18 A No, ma'am. I just seen him get in the car and it looked
- 19 like he was fixing to drive away.
- 20 Q Okay. But you never saw the car leave?
- 21 A No, ma'am. I just seen him ---
- 22 Q Do you remember when Darius walked out if he had
- 23 anything in his hands?
- 24 A No, ma'am.
- 25 Q Back to -- you said you were a hundred percent sure it

REDIRECT EXAMINATION OF TAYLOR COWHERD BY MS. JONES 339

1 was Billy Phillips on the porch. You called him by name,
2 didn't you?

3 A Yes, ma'am.

4 Q The name that you always called him by?

5 A Yes, ma'am.

6 Q And he answered?

7 A Yes, ma'am.

8 Q He actually responded?

9 A Yes, ma'am.

10 Q And, again, you're hundred percent sure it was Darius --
11 it was Billy Phillips on the porch that day?

12 A Yes, ma'am.

13 MS. JONES: I have no further questions.

14 THE COURT: You may step down. You may call your next
15 witness.

16 MS. JONES: The State would call Wrenshad Anderson.

17 THE COURT: Mr. Anderson, please come forward. I'm going
18 to ask if you could to place your left hand on the Bible and
19 raise your right hand as the clerk administers the oath. Come
20 this way.

21 (After being duly sworn by the Clerk of Court, WRENSHAD
22 ANDERSON testified as follows:)

23 THE COURT: Have a seat in the witness chair. We're going
24 to ask that you pull up to that microphone. Speak loudly,
25 clearly, and slowly, in order that we can hear everything

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 that you have to say and let's start with your full name.

2 THE WITNESS: Wrenshad Maymi Anderson.

3 THE COURT: Spell that first one for me.

4 THE WITNESS: W-R-E-N-S-H-A-D.

5 THE COURT: Very good. Ms. Jones.

6 MS. JONES: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MS. JONES:

9 Q Can you say your first name one more time?

10 A Wrenshad.

11 Q Wrenshad?

12 A Yes, ma'am.

13 Q All right. Wrenshad, where you from?

14 A I'm from Ridgeland.

15 Q You're from Ridgeland. Have you been here -- you still
16 live in Ridgeland?

17 A Yes, ma'am.

18 Q And have you been here your whole life?

19 A Yes, ma'am.

20 Q Okay. Do you remember the night of -- well, being from
21 Ridgeland, are you familiar with the area?

22 A Yes, ma'am.

23 Q Okay. Do you know a man by the name of Billy Phillips?

24 A I don't really know him by Billy Phillips. I actually
25 know him by Dee, around, you know. I don't really know

DIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES

341

1 him.

2 Q But did you later learn that Dee's real name was Billy
3 Phillips?

4 A Yes, ma'am.

5 Q Okay. Do you remember the night of May 18th, 2013?

6 A Yes, ma'am.

7 Q What do you remember about that night?

8 A Just a average night for me, really until I walked to
9 the store.

10 Q What time you think you walked to the store?

11 A It was like eight forty, eight-thirty.

12 Q Okay. And what store is this?

13 A The BP right off Adams Street.

14 Q The BP on Adams Street?

15 A Yes, ma'am.

16 MS. JONES: Permission to approach the witness?

17 THE COURT: Yes.

18 Q Wrenshad, I'm going to show you what's been marked
19 State's #52. Can you identify that?

20 A Yes, ma'am. That's the BP.

21 Q Is that the BP you went to that night?

22 A Yes, ma'am.

23 Q Okay. Do you know what street this is?

24 A Is that Adams Street?

25 Q It's Adams Street?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 A Yeah.

2 Q Okay. And does this picture fairly and accurately depict
3 the BP Gas Station at Adams Street?

4 A Yes, ma'am.

5 Q And that's where you met that night?

6 A Yes, ma'am.

7 Q Okay.

8 Q MS. JONES: At this point State moves State's #52 into
9 evidence.

10 THE COURT: Any objection from Defense?

11 MR. PLEXICO: No objections, Your Honor.

12 MS. JONES: Permission to publish?

13 THE COURT: It's into evidence.

14 (Whereupon, an 8x10 photocopy is entered into evidence
15 as State's Exhibit Number #52, without objection.)

16 Q And one more time, you said this was Adams Street going
17 right here?

18 A Yes, ma'am.

19 Q All right. After you go to the BP, what do you do?

20 A I was walking to the Port Ridge Apartments and down the
21 road I just bump into my man right there.

22 Q You bump into him. Where do you bump into him?

23 A It was right by the old folks home where they take care
24 of, like, mental people. Like somewhere up in that area,
25 close by.

DIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES 343

1 Q Okay. Wrenshad, let me show you what's been marked

2 State's #51. Do you recognize that picture?

3 A Yes, ma'am.

4 Q How do you recognize that picture?

5 A That's where I met him at. Up in the area where I met
6 him at.

7 Q Okay.

8 A Walking down the side of the road.

9 Q And does that picture depict how that road looked that
10 night?

11 A No. It was dark. I was a lot darker than that, but
12 that's how the road looked.

13 Q But that's how the road looks. And that's how it looked
14 back in 2013?

15 A Yes, ma'am.

16 MS. JONES: At this point, the State moves State's #51
17 into evidence.

18 MR. PLEXICO: No objections.

19 THE COURT: Into evidence, 51.

20 (Whereupon, an 8x10 photocopy is entered into evidence
21 as State's Exhibit #51, without objection)

22 MS. JONES: Permission to publish?

23 Q Wrenshad --

24 MS. JONES: Permission to have the witness step down,

25 Your Honor?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 THE COURT: He may.
- 2 A (Witness complies and stands in front of the jury and by
3 the large screen)
- 4 Q Okay. Wrenshad, if you could maybe stand over here so
5 the jury can hear you. Can you point what direction you
6 were going and what direction the Defendant was going?
- 7 A Actually, I was leaving from the store.
- 8 Q Okay. So, you've got to speak up a little bit.
- 9 A I'm leaving from the store, so I'm coming from this way.
- 10 Q So, you're going that way?
- 11 A Right.
- 12 Q And he's coming this way.
- 13 A Okay. He was coming in opposite to me.
- 14 Q Okay.
- 15 A And I seen him in this area right here, met up with him.
16 Walked down that way.
- 17 Q Okay. You've got to speak up because the court reporter
18 needs to ---
- 19 A Well, I seen him right up in this area, right here. This
20 is where I was walking to. This area right there that's
21 where I seen him at.
- 22 Q Okay.
- 23 A He was the only person that, like, there was two people
24 on the road, so...
- 25 Q Okay, what's he doing when you see him?

DIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES 345

1 A He just walked past and, you know, I'm a little taller
2 than him so he was looking like, you got something going
3 on, you know. I wasn't really sure, you know. So when I
4 looked at him he looked like he had something going.

5 Q Okay. Well, let's talk about that, but you can have your
6 seat Wrenshad.

7 A (Witness returns to witness stand)

8 Q You said he had something going on?

9 A Yeah. I don't even know what he had going on.

10 Q What does that mean?

11 A Like fidgeting and everything, you know.

12 Q Fidgeting with something?

13 A Yeah. I don't really know what he had. I didn't see what
14 he had. I just -- he made me feel funny, the way, how he
15 was acting. I felt funny. That's all.

16 Q Was this white van, is that the one you were talking
17 about earlier ---

18 A Yes, ma'am.

19 Q --- the special home?

20 A Yes, ma'am.

21 Q Okay. And you were about in this area?

22 A Yes, ma'am. Walking from the store.

23 Q You were walking this way and he was coming this way?

24 A He was coming this way.

25 Q What is this back here? Can you see that far away?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A Yeah. I think that's Darius' house right there.
- 2 Q With the green porch and the white steps, that's Darius'
- 3 house?
- 4 A Uh-huh. That's Darius house right there.
- 5 Q So, it's really -- that's close.
- 6 A Yeah. That's close.
- 7 Q Okay. He's fidgeting. Describe that to me again.
- 8 A I don't know if he was reaching for something or he was
- 9 trying to hide something or he was -- I don't really
- 10 know. It gave me a bad feeling so I just, you know...
- 11 Q And he was reaching or hiding in what part of his body?
- 12 A From down below, you know. I'm taller than him so he was
- 13 doing -- I wasn't really looking at him. I was looking
- 14 at his face so, you know, make sure he don't try to do
- 15 nothing stupid. You know, because it seemed kind of
- 16 funny, you know.
- 17 Q You got a funny feeling?
- 18 A Yeah. Since I got up over there I had a funny feeling.
- 19 Q Okay. Was he reaching in his pants or was he was
- 20 reaching in his shirt, or just what do you ---
- 21 MR. PLEXICO: I object, Your Honor. She's leading.
- 22 THE COURT: Sustained.
- 23 Q Where was he reaching?
- 24 A He was reaching in like in the waist like in that area,
- 25 you know. He didn't pull nothing out or nothing of that

DIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES 347

1 type, you know. I just felt funny about it, you know, we
2 was the only two on the road, so...

3 Q Okay. Did you say something, anything to him?

4 A No. I was kind of, I'm not going to say nothing to
5 somebody I already know like that. He was looking -- I'm
6 going to say he's' looking ---

7 Q Okay. So you just walked passed him and that was it?

8 A Yeah. Mind my own business.

9 Q I want to try to get a time frame of when this was,
10 okay? When -- do you know when you went to the Short
11 Stop, to the BP?

12 A That's the BP. Probably around -- I left my house like
13 eight-thirty, eight-forty, right in that there area.
14 That's where I met at my house, walking to the BP. I
15 think BP closes at ten o'clock. So, I really was trying
16 to catch BP before it closed and I had to go to my
17 cousin's house about some other things we had going on.

18 Q Did you catch the BP before it closed?

19 A Yes, ma'am. I got there before ten o'clock.

20 Q Do you know how close to ten o'clock you were?

21 A It was eight-thirty when I left the house so it was like
22 nine, you know. Nine-ish, time I got to the store, got
23 what I needed.

24 Q Okay. Do you remember speaking with an Investigator
25 Carter in this case? Do you remember giving a written

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 statement in this case?

2 A I don't know.

3 Q You don't remember.?

4 MS. JONES: Permission to approach, Your Honor?

5 THE COURT: Yes.

6 Q Wrenshad, I'm going to show you this.

7 A Oh, that was a couple months ago. Yeah, I remember that.

8 Met at the office.

9 Q Okay. What is this?

10 A That's my statement I wrote when they came to pick me
11 up, asked me about what happened. I wrote a statement.

12 Q Okay. And is that your signature?

13 A That's my signature and my handwriting.

14 Q Okay. That everything is true?

15 A Yeah.

16 Q Would this help refresh your memory in the time frame?

17 A Yeah, like eight-thirty when I got there.

18 Q What does it say about eight-thirty?

19 A It says I stayed at the party until eight-thirty. Got
20 drunk up. And it must have been around eight-thirty.

21 Q Okay. Okay. How about this page. Does that refresh your
22 memory about the timing, about when you got to the Short
23 Stop and when you saw Billy?

24 A It says I got to the Sort Stop around nine-forty, just
25 like I just told you. Nine-forty.

DIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES 349

1 Q Okay. I was confused because originally you had said
2 eight-thirty.

3 A I probably got the dates wrong. It's been a couple
4 years. So, you know, since I write that statement, you
5 know.

6 Q But it was closer to nine-forty when you got there?

7 A Obviously, yeah. I know it was late. It was dark, you
8 know. I didn't have no clock, watch on me at the time,
9 whatever. I know it was dark. Bump into the man right
10 there. I just kept walking. Giving me a funny vibe.

11 Q Okay.

12 MS. JONES: I beg the Court's indulgence.

13 Q Do you remember what Billy Phillips was wearing that
14 night? What Dee was wearing that night?

15 A I know what he was wearing?

16 Q What was he wearing?

17 A Wearing a blue shirt with a white -- blue polo shirt
18 with a white horse on it like -- and his glasses. That's
19 all I remember, his glasses shining on the light because
20 the was right above us.

21 Q Do you remember what color blue it was?

22 A Sky blue. A regular blue shirt, white horse.

23 Q Okay. Me showing you your statement helped you remember
24 that it was closer to nine-forty when you saw him?

25 A I did.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q Okay.

2 MS. JONES: I have no further questions for Mr. Anderson,
3 Your Honor.

4 THE COURT: Cross-examination, Mr. Plexico.

5 CROSS-EXAMINATION

6 BY MR. PLEXICO:

7 Q So, you got dropped off from the party at your house and
8 decided to go to the BP. Right?

9 A Yes, sir.

10 Q Okay. Now, so you got dropped about eight-thirty?

11 A Uh-huh.

12 Q So you say, I'm not sitting around here. What was it, a
13 Saturday night?

14 A It was like.-- I forgot what day it was, but, you know,
15 at the time I was going to stay at my house and my
16 lights were out at the time so I had to go somewhere to
17 charge my phone before my phone went. So, yeah. I left
18 the house, walked to my cousin house. I was really going
19 to charge my phone at the time, that's how I remember so
20 much.

21 Q Okay. So, you had no ---

22 A And I remember him -- seeing him -- I don't know him
23 like, but I remember seeing him on that road.

24 Q But you had no power at your house. Correct?

25 A Yeah.

CROSS EXAMINATION OF WRENSHAD ANDERSON BY MR. PLEXICO 351

- 1 Q Did you have any water at your house?
- 2 A Yeah. I had water.
- 3 Q You had water there? Great. Okay. All right. Now, so
- 4 there's no point staying that night in a house with no
- 5 power. Right? And no phone.
- 6 A Right.
- 7 Q You said you didn't have a phone either?
- 8 A I had a phone, but it was dying. That's why I was
- 9 walking down the road to go charge it.
- 10 Q Okay. All right. Okay.
- 11 A Yeah.
- 12 Q And you went straight to the BP. Right?
- 13 A Uh-huh.
- 14 Q And then you were going where, after that?
- 15 A To Logan and Woodridge.
- 16 Q Logan Lane?
- 17 A Yeah.
- 18 Q Logan Lane?
- 19 A That's what everybody take. That's the normal road. You
- 20 take that road every day.
- 21 Q And that's Logan Lane Apartments?
- 22 A Yeah.
- 23 Q And Woodridge is right beside it?
- 24 A Yes, sir.
- 25 Q And a lot of people live over there. Correct?

- 1 A There's a lot of houses over there.
- 2 Q Okay. All right. So, you lived over -- what was your
3 address at the time?
- 4 A Malphrus Street.
- 5 Q Okay. Malphrus Street is -- if I'm going to your
6 house and left here, I would go over the viaduct, the
7 bridge, go down the hill to the red light.
- 8 A Uh-huh.
- 9 Q Then I'd take a left and then take the first left and
10 that's Malphrus Street over there is where you're
11 staying?
- 12 A Malphrus Street is across the street from Hardee's and
13 BP, so it's down that road there.
- 14 Q The BP going toward the jail?
- 15 A Yes, sir.
- 16 Q Okay. All right. Now, so you left your house with no
17 power to walk straight to the BP station and bought your
18 stuff. Right?
- 19 A Yes, sir.
- 20 Q Okay. But then you left. What did you buy there?
- 21 A I bought a soda and cigars.
- 22 Q So, you bought cigars and a soda. All right. And that
23 didn't take very long did it?
- 24 A No.
- 25 Q Then you left and you walked down Adams Street towards

CROSS EXAMINATION OF WRENSHAD ANDERSON BY MR. PLEXICO 353

1 Darius Woods' house. Correct?

2 A Yes, sir.

3 Q All right. Now, so you left the house at eight-thirty.

4 You know that, right? You don't have a watch. Correct?

5 A Right.

6 Q So, you left from here, walking to the BP station. That

7 didn't take you an hour, did it?

8 A See, I didn't walk right then. I was staying at the

9 house just like you said. I chill at the house a little

10 bit, like thirty minutes. Ain't no sense in staying at

11 the house with no power. So, got up and walked down the

12 road towards the store.

13 Q Okay. So, when you left your house after thirty minutes,

14 that means you would have left at nine o'clock. It's not

15 a five-minute walk to the BP. So, you could not have

16 seen my client at nine forty on that road where you'd

17 have to be walking ---

18 A I talked to people on the way. I don't just walk

19 straight to the store. I make a little pit stop and talk

20 to people.

21 Q Okay. All right. Well, let's start at Malphrus Street.

22 Out here on the road. You come out on Malphrus Street.

23 You talk to anybody between the edge of Malphrus Street

24 and Schooner's?

25 A Yeah.

- 1 Q Who'd you talk to?
- 2 A Does it matter?
- 3 Q Yes. I asked you a question. I want an answer.
- 4 A Everybody. I talked to everybody. Old folks, young
- 5 folks. Does it matter?
- 6 Q Yeah. All right. So, you're on the side with the
- 7 sidewalk going from the Schooner's side of the road?
- 8 A I'm on the opposite side where the BP at.
- 9 Q Okay. All right. So, you cross the street to where the
- 10 BP was?
- 11 A Yes, sir.
- 12 Q All right. You walk by the BP, right?
- 13 A (Nods head) .
- 14 Q You walk by Nance's. Right?
- 15 A Yeah.
- 16 Q Okay. All right. And you're telling me there are people
- 17 hanging out on the sidewalk. They're stopping and
- 18 talking to you for an hour?
- 19 A Me walking down the road, you know.
- 20 Q That's what I'm asking. I don't know.
- 21 A Taking detours. I went to the park and came back and on
- 22 to the store.
- 23 Q Now, you went to the park?
- 24 A I did a lot of things that night, sir. And I remember
- 25 seeing your client on that road at the time.

CROSS EXAMINATION OF WRENSHAD ANDERSON BY MR. PLEXICO 355

1 Q Okay. All right. Now, aren't you real concerned about
2 everybody saying that your brother Donte Jenkins is the
3 one who murdered Darius Woods?

4 A No, sir.

5 Q You never told the prosecutors, investigator that?

6 A No, sir.

7 Q Okay. All right. Were people saying that your brother
8 murdered Darius Woods?

9 THE COURT: Mr. Plexico.

10 MS. JONES: Objection. That's hearsay, Your Honor.

11 THE COURT: Sustained.

12 MR. PLEXICO: To show motive and bias.

13 THE COURT: I sustain the objection.

14 Q All right. So, you lived with your brother in that house
15 with no power. That's Donte Freeman. Right?

16 A People say a lot of things. People say rumors and all of
17 that, that don't have nothing to do with that.

18 Q Was that a yes ---

19 A What does that have to do with me saying I saw him on
20 the road?

21 Q Okay. I'm asking the questions. Please be responsive.

22 You lived in that house with your brother with no power.

23 Correct? Or not on Malphrus Street?

24 A Well, we ain't had power like -- it just went off. You
25 can talk to the officer who came to the house. It just

1 went off, sir. Going through some things at the time.

2 Q Okay. All right. Now, so tell me exactly what you did to
3 take an hour-and-a-half to leave your house and go that
4 distance to where Darius' house is at the end of the
5 block, that one block, behind the other BP station.
6 Explain to the jurors how it took you all that time,
7 exactly what you did.

8 A Actually, I'm chillin at the house. Chillin, listening
9 at the music, chillin. I don't know what time it was.
10 Got up walked, talked to some people, ran into some of
11 my family members, whatever, my cousins. Stopped and
12 talked. Went to the store. Don't know nothing about
13 nothing.

14 Q So, the truth is you don't know when you were walking
15 down Adams Street when you saw my client?

16 A Because I had a -- my phone was done dead. I wasn't
17 keeping track of time, no.

18 Q So, you have no idea when you saw my client on Adams
19 Street. Isn't that the truth?

20 A Nope.

21 Q It is, isn't it?

22 A Nope.

23 Q Is that correct?

24 A I seen your client on Adams Street.

25 Q I didn't ask you if you saw him. I said you have no idea

CROSS EXAMINATION OF WRENSHAD ANDERSON BY MR. PLEXICO 357

1 when ---

2 A I know the time.

3 Q Well, if you don't have a watch how could you determine
4 a time?

5 A Because we set up the time, like a time schedule when we
6 were talking, you know.

7 Q A time schedule to go talk to my client?

8 A Well, when me and the officer was talking we went and
9 then the solicitor and them came in. We was talking. It
10 was three years ago, sir. So they came at me three years
11 about this. So time could have been off a little bit,
12 but I seen your client on that road, Adams Street.

13 Q So, you gave a statement about this matter three years
14 later. Is that what you're saying?

15 A Yes, sir.

16 Q Okay. So, you don't have a watch and you don't -- do you
17 have a job? Did you have a job back then?

18 A Why you want to know that?

19 Q Did you have a job back then?

20 A Yes, sir.

21 Q Okay. How many days a week did you work?

22 A Five.

23 Q Okay. All right. Well you didn't have a watch so you
24 don't keep track of time. Is that what you're telling
25 me?

- 1 A I spent all day on the phone, since the phone been dead
2 I didn't have no time at all.
- 3 Q Okay. All right.
- 4 A The phone dead.
- 5 Q All right. Your phone was dead. You had no watches and
6 no clocks, right?
- 7 A (No verbal response)
- 8 Q Is that correct?
- 9 A (No verbal response)
- 10 Q Is that correct, sir?
- 11 A Yes, sir.
- 12 Q All right. So you have no way to determine what time you
13 actually went to the BP. Correct?
- 14 A I know it was before ten o'clock because I know they
15 close at ten o'clock.
- 16 Q Okay.
- 17 A Way before ten o'clock. It was dark.
- 18 Q Right before ten o'clock?
- 19 A (No verbal response).
- 20 Q Okay. All right. Now, were you smoking any marijuana
21 that day?
- 22 A No, I wasn't.
- 23 Q Were you drinking anything that day?
- 24 A No, I wasn't.
- 25 Q Do you know Darius Woods?

CROSS EXAMINATION OF WRENSHAD ANDERSON BY MR. PLEXICO 359

1 A I know Darius.

2 Q Did you do any business with Darius?

3 A From time to time, but not that day. I wasn't doing
4 nothing that day. I was clean.

5 Q You smoke pot, but you weren't smoking pot that day. Is
6 that correct?

7 A Yeah.

8 Q All right. And everybody knew Darius sold a lot of
9 drugs, didn't they?

10 A I know he sold.

11 Q Well, your brother bought drugs from him too, didn't he?

12 A Yeah.

13 Q Everybody buys drugs -- you saying everybody buys drugs
14 from Darius.

15 A So, I was -- obviously everybody knows Darius and
16 everybody buys drugs from Darius.

17 Q So, he had a lot of customers buying drugs from him.
18 Correct?

19 A (No verbal response)

20 Q Correct?

21 A So, he had a lot of money, didn't he?

22 MS. JONES: Objection. That calls for speculation.

23 THE COURT: I overrule the objection.

24 Q Answer the question. He had a lot of money. Didn't he?

25 A That's his business. I don't know what he had.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q And you needed money. Didn't you?

2 A No, I didn't.

3 Q You didn't have power?

4 A I didn't need his money.

5 Q Okay. All right. So your brother's coming up from one
6 end of Darius' house and you're coming down the street
7 at the other end of Darius' house ---

8 A No, no, there was nothing like that, sir. Nothing like
9 how you trying to portray. None of that. I don't know
10 what you talking about. I didn't have nothing to do with
11 it. I just seen your client on Adams Street. And I
12 didn't need Darius' money. I don't rob. I don't do none
13 of that. I work and so I don't need that.

14 Q All right. So, you're not coming down the same side of
15 the street about the time your brother is coming up from
16 the woods and the cut at the same time and put some move
17 on Darius?

18 A No, I ain't seen my brother. We ain't supposed to meet
19 up. I'm doing my own thing.

20 Q But you live together. Right?

21 A Just because we live together don't mean we got to go
22 with each other.

23 Q. But you got each other's backs, don't you?

24 A No. That's my brother. I don't got his back, like how
25 you trying to portray.

CROSS EXAMINATION OF WRENSHAD ANDERSON BY MR. PLEXICO 361

1 Q So, as far as that day goes, without your power, without
2 your clock, with not having a watch, you're not sure
3 what time anything happened. Is that just the bottom-
4 line truth? Either yes or no?

5 A I know I did see your client.

6 Q I didn't ask you that. Why are you avoiding my question?

7 A Because I seen your client. I don't know what time it
8 was.

9 Q Okay. Now, you've answered that question let me repeat
10 my question. Without an iPhone or any kind of phone or
11 watch or any power, you had no idea what time it was
12 that day?

13 A No, sir.

14 Q Is that correct?

15 A No, sir.

16 Q Aside from day and night, did you have any idea?

17 A Yes, sir.

18 Q Did you have a clock on your wall at your house that
19 worked?

20 A The power went off.

21 Q Okay. So, you weren't running on regular time then. You
22 had no idea what time it was. Right?

23 A It was regular time to me, actually. I had just got off,
24 went to a party, got home at eight-thirty, went to the
25 store, came back.

1 Q Okay. And you really didn't hang out with anybody at the
2 park, because you said, later when you said that ---

3 A I was walking through, chilled a little bit, walk
4 thorough.

5 Q Okay. But it wasn't long?

6 A It was a second. People try to talk to me. Everybody
7 knows me. If you know me, you going to stop and talk to
8 me.

9 Q You didn't stop and talk to Billy. Did you?

10 A Hell, no, because I don't know him.

11 Q You said you saw him a hundred times before.

12 A I seen him all the time standing up by the yellow house.

13 But I don't mess with him. I don't even look at him. He
14 look like he had a problem. Look at him now. You
15 wouldn't be nervous seeing him on the road at night?

16 Q So, he looks the way now that makes you nervous when you
17 see him. Right?

18 A That guys a fool, man.

19 Q He's a crook?

20 A He's a fool.

21 Q He's a what?

22 A He's a fool. He's crazy. You wouldn't want to stop and
23 talk to him at night. Would you?

24 Q I'd be glad to.

25 MR. PLEXICO: Court's indulgence. I don't have anything

REDIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES 363

1 further, Your Honor.

2 THE COURT: Any redirect?

3 MS. JONES: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. JONES:

6 Q Wrenshad, do you remember giving a statement on

7 September the 29th of 2015?

8 A Yes, ma'am.

9 Q About two ten in the afternoon to Investigator Bill

10 Carter?

11 A Yes, ma'am.

12 MS. JONES: Permission to approach, Your Honor?

13 THE COURT: Yes.

14 Q Again, is that your statement?

15 A Yes, ma'am.

16 Q Okay. When you wrote this, this was the truth? This is

17 still the truth?

18 A Yes, ma'am.

19 Q Okay. If you start right here and read to there, does

20 that help clarify your time frame?

21 A Got home eight-thirty. Stayed there for an hour and a

22 half, walked up to the BP gas station and got a cigar

23 and soda. That's what happened.

24 Q Okay. How about this? Does that help you with a better

25 time from what you remember from the statement?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A (Witness looks at statement)
- 2 Q Okay. Was this a question presented to you?
- 3 A That was a question.
- 4 Q Is that your answer?
- 5 A Yes, ma'am.
- 6 Q Well, does that answer help you remember a better time
- 7 frame?
- 8 A It's like around that time. I didn't have no watch or
- 9 nothing around that time. It was way before the BP
- 10 closed. They close at ten o'clock.
- 11 Q Well, what does that say?
- 12 A Nine-forty.
- 13 Q Okay. So, it was around nine-forty. And does that say
- 14 that ---
- 15 A A few minutes before or after.
- 16 Q Okay. You've got to speak up Wrenshad?
- 17 A A few minutes before or after.
- 18 Q After nine-forty?
- 19 A Yes, ma'am.
- 20 Q And is this the truth?
- 21 A That's the truth.
- 22 Q Okay. This is the truth that you wrote?
- 23 A Yes, ma'am.
- 24 Q Okay. And you gave the statement September of this year?
- 25 A Yes, ma'am.

REDIRECT EXAMINATION OF WRENSHAD ANDERSON BY MS. JONES 365

1 Q Of last year. My apologizes. And that's exactly how you
2 remember that night?

3 A (Nods head)

4 Q And this is the hundred percent truth?

5 A Yes, ma'am.

6 Q And you're a hundred percent sure it was that man right
7 there, Billy Phillips, you saw ---

8 A That man right there.

9 Q --- around nine-forty?

10 A Around nine-forty.

11 Q Thank you.

12 MS. JONES: No further questions.

13 THE COURT: You may step down. You may call your next
14 witness.

15 MS. JONES: Your Honor, the State calls Dawn Childers.

16 THE COURT: Ms. Childers, please come forward and place
17 your left hand on the Bible and raise your right hand as the
18 clerk administer's the oath.

19 (After being duly sworn by the Clerk of Court, DAWN
20 CHILDERS testified as follows:)

21 THE COURT: Ms. Childers, have a seat in the witness
22 chair. We're going to ask that you pull up close to that
23 microphone. Speak loudly, clearly, and slowly, in order that
24 we can hear everything that you have to say and let's start
25 with your full name.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 MS. CHILDERS: Yes, sir. Dawn Angela Childers.

2 THE COURT: Very good. Ms. Jones.

3 MS. JONES: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. JONES:

6 Q Ms. Childers, can I call you Dawn?

7 A Yes, ma'am.

8 Q How are you this afternoon?

9 A I'm nervous.

10 Q You're nervous?

11 A Yes, ma'am.

12 Q Where are you from?

13 A Originally, I'm from, but I grew up, up north.

14 Q Okay. Do you live in the area now?

15 A Yes, ma'am. In Beaufort.

16 Q You live in Beaufort?

17 A Yes, ma'am.

18 Q Okay. Do you know or did you know Darius Woods?

19 A Yes, I did.

20 Q Did you know him by another name or did you call him

21 Darius?

22 A We called him Ace.

23 Q Okay. How did you know him?

24 A We had met through mutual friends and he and I dated for

25 approximately three months.

DIRECT EXAMINATION OF DAWN CHILDERS BY MS. JONES

367

1 Q Okay. When was this?

2 A This was -- we met in January, started dating during
3 that time. He actually lived with me until mid-April and
4 we continued to see each other even after he'd moved out
5 back into Ridgeland, until his death.

6 Q Until his death. So, were you dating him in January of
7 2013?

8 A Yes. I mean, we were talking and started dating then.

9 Q And you were still talking to him in May of 2013?

10 A That's correct.

11 Q When he was killed?

12 A Yes, ma'am.

13 Q Okay. Did you happen to see him the day that he was
14 killed?

15 A Yes, ma'am. That morning.

16 Q And what do you remember about that?

17 A He had actually been with me the night before. He had to
18 return to Ridgeland that morning. He got up, gave me a
19 kiss, told me he loved me and that he would see me later
20 because we were having a pool party.

21 Q Okay. Where was this pool party?

22 A At my residence in Beaufort.

23 Q Was he supposed to come to this pool party?

24 A Yes, ma'am.

25 Q Did he make it?

- 1 A No, ma'am.
- 2 Q What did Darius do for a living?
- 3 A His primary source of money, he would sell weed or
4 marijuana.
- 5 Q Okay. Did he sell a lot of marijuana?
- 6 A I couldn't ---
- 7 Q You don't know?
- 8 A I couldn't say.
- 9 Q Okay. But because of this -- you said that was his
10 primary source.
- 11 A Yes, ma'am.
- 12 Q That's how he made his living?
- 13 A Yes, ma'am.
- 14 Q Are you aware that -- did that make him have a lot of
15 money?
- 16 A At times. I mean, he kept money. He always had money on
17 him and I know that he would keep money, always, like a
18 rainy day or emergency fund. He would keep money away
19 for that.
- 20 Q He always had money, cash money?
- 21 A Yes, ma'am.
- 22 Q Where would he keep this money?
- 23 A On his person.
- 24 Q Okay. Do you remember where on his person?
- 25 A In his pockets. I don't recall which pocket, but I do

DIRECT EXAMINATION OF DAWN CHILDERS BY MS. JONES

369

- 1 recall he would keep it on him.
- 2 Q Okay. You went like this. His pockets of his pants?
- 3 A Yes, ma'am.
- 4 Q Do you know about how much money he would always carry
- 5 on him?
- 6 A On the average, approximately, eight hundred dollars.
- 7 Q On the average, but he had varying amounts?
- 8 A Yes, ma'am.
- 9 Q Did you ever see when he had this money?
- 10 A Yes, ma'am.
- 11 Q What sort of denominations was it?
- 12 A They were all small bills; fives, tens, ones, usually.
- 13 Nothing bigger than a twenty.
- 14 Q Okay. Were you aware that he had a gun?
- 15 A Yes, ma'am.
- 16 Q Do you remember what kind it was?
- 17 A I don't recall the brand. I know it was black and it was
- 18 a .38.
- 19 Q Okay. Did you ever see this gun?
- 20 A Yes, ma'am.
- 21 Q Okay. Approximately, how big was it?
- 22 A It looked like a small revolver. I can't give you any
- 23 exact measurements.
- 24 Q Okay. And it was a .38 you mentioned?
- 25 A Yes, ma'am.

1 Q Okay. Have you ever -- did you ever go to his home on
2 Adams Street?

3 A I had been there. I've never been inside the residence,
4 but I had been outside to speak with him.

5 Q Okay. Why didn't you ever go inside?

6 A The house belonged to a woman that I didn't particularly
7 care for and so I didn't go in her residence.

8 Q Okay. You and Darius had dated for about three months --
9 for five or six months you said?

10 A Yes.

11 Q How would you describe y'all's relationship? Close?

12 A Yes, ma'am.

13 Q Did you love him?

14 A Very much so.

15 Q Did you share secrets with him and him share stories or
16 secrets with you?

17 A Yes, ma'am.

18 Q Did he ever tell you about his house being robbed?

19 A No, ma'am.

20 Q Would he have?

21 A I believe he would have.

22 Q So, you have no knowledge that his home had been broken
23 into?

24 A No, ma'am.

25 THE COURT: You need to answer audibly.

DIRECT EXAMINATION OF DAWN CHILDERS BY MS. JONES

371

1 MS. CHILDERS: I'm sorry, sir?

2 THE COURT: You need to answer her question audibly, no
3 uh-huh or huh-uh.

4 MS. CHILDERS: Oh, I'm sorry.

5 A Could you repeat the question?

6 Q You weren't aware that his house was broken into?

7 A No, ma'am.

8 Q And you felt like that's something he would have told
9 you?

10 A Yes, ma'am.

11 Q Okay. He didn't?

12 A No, ma'am. Not at all.

13 Q Dawn, you've been convicted of breach of trust, haven't
14 you?

15 A Yes, ma'am.

16 Q But you're telling us the truth here today?

17 A Yes, ma'am.

18 Q Why are you telling us the truth here today?

19 A I'm telling the truth today because, first of all,
20 there's nothing to hide or me to gain by lying, but I
21 loved Darius and I want to see justice for him.

22 Q Okay. I have no further questions for you. Thank you.

23 A Thank you.

24 THE COURT: Cross-examination, Mr. Plexico.

25 CROSS-EXAMINATION

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 BY MR. PLEXICO:

2 Q Did you send him some text messages?

3 A Excuse me, sir?

4 Q Did you send Mr. Woods some text messages?

5 A Yes, sir.

6 Q Okay. Did sometimes they get ugly at times?

7 A Yes, sir.

8 Q Okay. So, you sent him threats by text. Is that correct?

9 A Yes, sir.

10 Q All right. Have you seen those?

11 A I'm sorry, sir.

12 Q Have you seen those?

13 A Not recently.

14 Q Okay. But you have seen them in the past. Right?

15 A Yes, sir.

16 Q Okay. All right. So he had a relationship with you.

17 Correct?

18 A Yes, sir.

19 Q All right. And he had a -- he lived with Michelle

20 Bright. Right?

21 A At times, yes, sir.

22 Q Okay. And then he saw Ashley Combs, too, who is the

23 mother of his child?

24 A Yes.

25 Q He stayed with her sometimes, too. Right?

CROSS EXAMINATION OF DAWN CHILDERS BY MR. PLEXICO

373

1 A From my understanding, yes, sir.

2 Q And you didn't mind sharing him with all those other
3 women?

4 A I was not aware of the other women at the time, sir.

5 Q Okay. All right. Now, you gave a statement to Agent
6 Williams, I believe. Is that correct? SLED Agent
7 Williams?

8 A Yes, sir.

9 MR. PLEXICO: May I approach the witness, Your Honor?

10 THE COURT: You may.

11 Q Would you review this, please?

12 A (Looks at statement) Yes, sir. I recall this statement.

13 Q May I have it, please?

14 A Yes, sir.

15 Q Okay. So, when you talked about him you said he would
16 keep about two thousand dollars in cash. Right?

17 A Yes, sir. At that time he did. Yes, sir.

18 Q Not two hundred, but two thousand?

19 A Correct.

20 Q And you also said that he would hide money all around
21 the house?

22 A Yes.

23 Q All right. He buried it the back yard?

24 A At his mother's house at one time, yes, sir.

25 Q Okay. All right. He kept a money box he had so much

1 money. Right?

2 A Yes, sir..

3 Q And that money box came open when he was leaving your
4 house and Taurus Maymi saw the money, didn't he?

5 A Yes, sir. I can't really attest to what Taurus saw.

6 Q Well, didn't you tell the agent that Taurus said he
7 should have robbed him?

8 A Yes, sir. I did. Yes, sir.

9 Q So, he saw all that money in that box when he was
10 leaving your house?

11 A Well, I saw the money quite frequently because he had
12 told me where he placed it at different given times. So
13 I'd seen the money before.

14 Q A lot of people knew he had a lot of money?

15 A Yes, sir.

16 Q Okay.

17 MR. PLEXICO: I have nothing further.

18 MS. JONES: Nothing further.

19 THE COURT: Redirect?

20 MS. JONES: No, Your Honor.

21 THE COURT: You may step down. Call your next witness.

22 MS. JONES: The State calls Bonnie Shier.

23 THE COURT: Yes, ma'am. Please come forward. I'm going to
24 ask, if you could, to place your left hand on the Bible and
25 raise your right hand as the clerk administers the oath.

DIRECT EXAMINATION OF BONNIE SHIER BY MS. JONES

375

1 (After being duly sworn by the Clerk of Court, BONNIE
2 SHIER testified as follows:)

3 THE COURT: I'm going to ask you to have a seat in the
4 witness chair, pull up close to that microphone and speak
5 loudly, clearly, and slowly, in order that we can hear
6 everything that you have to say and let's start with your
7 full name and spell the last name.

8 MS. SHIER: Bonnie Shier, S-H-I-E-R.

9 THE COURT: Ms. Jones.

10 MS. JONES: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. JONES:

13 Q Ms. Shier, where do you currently work?

14 A I worked for RAH Convenience stores at the time, at this
15 time.

16 Q Okay. In 2013?

17 A Oh, after 2013 I work for Galaxy Enterprises.

18 Q Okay. And what is that?

19 A It was a convenience store, Dairy Queen.

20 Q Okay. What is the gas station connected to the Dairy
21 Queen?

22 A A BP.

23 Q Okay. And is that here in town?

24 A Yes.

25 Q But you no longer work there?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A That's correct.
- 2 Q Okay. And I'm sorry, where do you work now?
- 3 A For another convenience store, in the offices.
- 4 Q Okay. When you worked at the BP in 2013, what were some
5 of your duties?
- 6 A I was the general manager. I did the bookkeeping. It was
7 a family business, so it belonged to my family at the
8 time. So, I just did whatever needed to be done.
- 9 Q Okay. Did you have a request from a Detective McIntosh
10 to pull some surveillance footage?
- 11 A Yes.
- 12 Q Okay. Were you able to retrieve surveillance footage?
- 13 A Yes.
- 14 Q Do you remember what date and time this footage was for?
- 15 A I do not, not at this time.
- 16 Q Could it have been May -- it was in 2013?
- 17 A Yes.
- 18 Q Can you describe your recording system?
- 19 A It was just a -- looked like a regular computer monitor.
20 And it just a regular system. I think we had gotten it
21 in, I think, 2009.
- 22 Q Okay. And does it run contemporaneously all the time?
- 23 A Yes. It records over itself approximately every two
24 weeks.
- 25 Q Okay. Records over itself. So, it does record and save

1 this footage?

2 A Yes.

3 Q Okay. How is it originally saved?

4 A It's just -- I don't really know. It was not really a
5 VCR tape but it was just continuous. You would view it
6 like on the internet, on the web-type thing.

7 Q Okay. So, electronically, it's somehow preserved?

8 A Yes.

9 Q Okay. And is this footage, is it date and time stamped?

10 A Yes.

11 Q And to your knowledge, was it working properly on May
12 18th of 2013?

13 A Yes. It was -- the times were off about five, ten
14 minutes but that was it. Everything else ---

15 Q The times?

16 A The minutes.

17 Q The minutes were off.

18 A Uh-huh.

19 Q Okay. Thank you. Did Detective McIntosh come to you
20 asking about this footage?

21 A Yes.

22 Q And did you show it to him?

23 A Yes.

24 Q How did you show it to him?

25 A We just viewed it like on a monitor, like a computer

- 1 monitor.
- 2 Q Okay. And what did he do?
- 3 A He just viewed it.
- 4 Q Was a recording made?
- 5 A Yes.
- 6 Q How was the recording made?
- 7 A We saved it either -- we would either save it on a CD or
- 8 a flash drive.
- 9 Q Okay.
- 10 MS. JONES: Permission to approach, Your Honor?
- 11 THE COURT: Yes.
- 12 Q Ms. Shier, I'm showing you what's been marked State's
- 13 Exhibit #54.
- 14 A That's my initials.
- 15 Q And what do your initials indicate?
- 16 A Bonnie Lucas Shier.
- 17 Q Okay. And what is this a disk of?
- 18 A It says BP surveillance.
- 19 Q And is it a fair and accurate depiction of your
- 20 surveillance that night?
- 21 A Yes.
- 22 Q And your initials indicate what?
- 23 A That that's the CD that we used that night, that we
- 24 burned.
- 25 Q That this is actually the CD?

CROSS EXAMINATION OF BONNIE SHIER BY MR. PLEXICO

379

1 A Uh-huh.

2 Q And it's a fair and accurate depiction of that
3 surveillance footage?

4 A Yes.

5 Q Okay. I have no further questions for you at this time,
6 Ms. Shier.

7 THE COURT: Cross-examination?

8 MR. PLEXICO: Very brief.

9 CROSS-EXAMINATION

10 BY MR. PLEXICO:

11 Q Are you sure that the date and timestamp are accurate on
12 there?

13 A Yes.

14 MR. PLEXICO: I have nothing further.

15 THE COURT: Redirect?

16 MS. JONES: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. JONES:

19 Q You said the timestamp was off five or ten minutes?

20 A Five or ten minutes.

21 Q Okay. But the date is correct on it?

22 A Yes.

23 Q Okay.

24 MS. JONES: Nothing further.

25 THE COURT: You may step down. Call your next witness,

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Ms. Jones.

2 MS. JONES: The State calls Chris McIntosh.

3 THE COURT: Mr. McIntosh, please come forward. I'd ask
4 you, if you could, to set your papers down, place your left
5 hand on the Bible, raise your right hand as the clerk
6 administers the oath.

7 (After being duly sworn by the Clerk of Court, CHRIS
8 MCINTOSH testified as follows:)

9 THE COURT: Have a seat in the witness chair and pull up
10 real close to that microphone.

11 SERGEANT MCINTOSH: Yes, sir.

12 THE COURT: Speak loudly, clearly, and slowly in order
13 that we can hear everything that you have to say.

14 SERGEANT MCINTOSH: Yes, sir.

15 THE COURT: And let's start with your full name.

16 THE WITNESS: Christopher Alan McIntosh.

17 THE COURT: Very good. Ms. Jones.

18 MS. JONES: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. JONES:

21 Q Investigator McIntosh, where are you currently employed?

22 A With the Ridgeland Police Department.

23 Q And in what capacity do you work with the Ridgeland
24 Police Department?

25 A I'm a sergeant in the investigations.

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

381

1 Q Okay. What are some of your duties as a sergeant in
2 investigations?

3 A Investigate incidents that the officers respond to and
4 we also respond to. We create cases, as well as
5 controlled drug buys, things like that. We see it
6 through, all the way to prosecution.

7 Q Okay. How long have you been employed with the police
8 department?

9 A I've been with Ridgeland for nine years.

10 Q Okay. In 2013, May of 2013, in what capacity did you
11 work with the police department?

12 A I was an investigator. I wasn't yet a sergeant. I was an
13 investigator then.

14 Q Okay. In working in that capacity, did you have an
15 opportunity to respond to East Adams Street?

16 A Yes, ma'am.

17 Q Why did you respond there?

18 A I responded to a call concerning a murder at a house on
19 the corner of South Logan and East Adams Street.

20 Q Okay. Is that here in Ridgeland?

21 A Yes, ma'am. It's in the town limits.

22 Q And what county is that in?

23 A Jasper County.

24 Q When you get there, what do you observe?

25 A When I got there the victim, Darius Woods, was lying on

1 his back in the living room. There was a handgun, which
2 had already been collected prior to my arrival. There
3 were several other units, officers as well as my
4 lieutenant, were already on scene.

5 Q Okay. When you get there, what do you start doing?

6 A I got with my lieutenant about the information that they
7 had already recovered, what they knew, what they didn't
8 know. What we need to do. Who's responding; if SLED's
9 coming down from Columbia or not. At that point, we
10 start getting paper work together for any search
11 warrants we need to get.

12 Q Okay. Did you have an opportunity to speak with the
13 Defendant, Billy Philips, that night?

14 A Yes, I did.

15 Q Okay. Where did this happen?

16 A At the Ridgeland Police -- in my office at the Ridgeland
17 Police Department.

18 Q Do you know about what time this happened?

19 A It would have been after midnight. So, it would have
20 been early morning on the 19th.

21 Q Okay. Did the Defendant come in to speak with you on his
22 own accord or was he brought there?

23 A He came of his own accord. He was given a ride by
24 Officer Long, who encountered him on at the Green and
25 Main Street intersection.

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

383

1 Q Okay. When he gets into your office, what do you do?

2 A I first mirandized him. I let him know what this was
3 concerning. I advised him of his Miranda rights, which
4 he waived and then I started talking with him.

5 Q Okay. Let me show you a picture. Do you know who that
6 is? I'm showing you what has been marked, for
7 identification purposes only, as State's #55. Can you
8 identify that picture?

9 A Yes, ma'am.

10 Q And what does that picture depict?

11 A That's the Defendant, Mr. Phillips, in my office.

12 Q How do you know that's him?

13 A That's what he was wearing that night.

14 Q Okay.

15 A And that photo is from a still shot that I made from the
16 video.

17 Q So, you created this photograph?

18 A Yes, ma'am.

19 Q Okay. And does it fairly and accurately depict what he
20 was wearing that night?

21 A Yes, ma'am.

22 Q When you came in contact with him?

23 A Yes, ma'am.

24 Q Okay. At this point -- has it been altered in any way?

25 A No, ma'am.

1 Q Okay.

2 MS. JONES: At this point, the State moves State's #55
3 into evidence.

4 THE COURT: Any objection from Defendant?

5 MR. PLEXICO: No, Your Honor.

6 THE COURT: It's into evidence.

7 (Whereupon, an 8x10 photocopy is entered into evidence
8 as State's Exhibit #55, without objection.)

9 MS. JONES: Permission to publish?

10 THE COURT: Yes. It's into evidence without objection.
11 And that's denominated as State's Exhibit?

12 MS. JONES: Fifty-five.

13 THE COURT: Fifty-five.

14 MS. JONES: Thank you, Your Honor.

15 Q Can you describe what you see in this picture?

16 A That's Mr. Phillips standing in front of a chair he was
17 seated in. That's from behind my desk, my computer
18 monitor, things of that nature.

19 Q Okay. And even though we don't see his face, this is, in
20 fact, Mr. Philips?

21 A Yes, ma'am.

22 Q Do you see Mr. Phillips in the courtroom today?

23 A Yes, ma'am.

24 Q Can you please point him out.

25 A He's sitting right by Mr. Plexico.

1 Q Okay.

2 MS. JONES: May the record reflect that the witness did
3 point to the Defendant.

4 Q What's he wearing in this picture?

5 A A camouflage jacket, a gray shirt and, I believe he's
6 wearing jeans.

7 Q Not a blue polo shirt?

8 A No, ma'am.

9 Q I want to back track a little bit. You mentioned you
10 mirandized him?

11 A Yes, ma'am.

12 Q What does that mean?

13 A You advise him of his Miranda rights, which I --
14 everybody knows them. You have the right to remain
15 silent, anything you say can and will be used against
16 you.

17 Q How did you advise him of these rights? Did you do it
18 from memory or from some sort of form?

19 A It's from a card we carry.

20 Q Do you have that card on you?

21 A Yes, ma'am.

22 Q Can you please read what that cards says to the Court.

23 A Again, I forgot my glasses. I'm sorry. You have the
24 right to remain silent. Anything you say can and will be
25 used against you in a court of law. You have the right

- 1 to speak to an attorney and have an attorney present
2 during any questioning. If you cannot afford to hire an
3 attorney one will be provided for you at government
4 expense. Knowing and understanding your rights as I have
5 explained them to you, are you willing to answer my
6 questions without an attorney present.
- 7 Q Okay. And did he answer when you asked him or when you
8 read him these rights?
- 9 A Yes, ma'am.
- 10 Q How did he answer?
- 11 A He waived his right to an attorney.
- 12 Q Okay. And did he agree to speak with you?
- 13 A Yes, ma'am.
- 14 Q Did he appear at any point to be under the influence of
15 anything?
- 16 A No, ma'am.
- 17 Q To your knowledge, was he under the influence of
18 anything?
- 19 A Not to my knowledge, no, ma'am.
- 20 Q Okay. But based on his appearance he appeared coherent?
- 21 A Yes, ma'am.
- 22 Q Did he appear to be able to provide rational answers?
- 23 A Yes, ma'am.
- 24 Q Did he appear to understand all of your questions?
- 25 A Yes.

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

387

1 Q He never appeared to have any difficulty in
2 communicating with you, did he?

3 A None at all.

4 Q Okay. Did you talk to him?

5 A Yes, ma'am. I spoke with him briefly.

6 Q Okay. You said briefly. Why was it brief?

7 A The responding SLED Agents arrived on scene while I was
8 speaking with him. The extent that I spoke with him was
9 advised him of what had occurred, what we were
10 investigating. I asked him if he goes by Dee.

11 Q And did he say he did go by Dee?

12 A Yes, ma'am.

13 Q Okay. Do you leave that interview at some point?

14 A I did.

15 Q Why do you leave?

16 A I needed to get a search warrant for the home, for the
17 SLED crime scene, for the home as well as the vehicle.

18 Q And is that commonplace with investigations?

19 A Yes, ma'am.

20 Q Okay. Did you return to the interview at any point?

21 A I returned to the interview, yes, ma'am, to collect a
22 buccal swab.

23 Q Okay. Did you collect anything else from him?

24 A I collected a GSR.

25 Q What is GSR?

1 A GSR is a -- it's a gunshot residue test.

2 Q Okay. How are those performed?

3 A It's ---

4 Q How would you collect GSR from somebody?

5 A It's a case that's issued by the state, by SLED. It

6 contains -- I don't know how you would call them, almost

7 ceramic type magnetic looking -- these are the newer

8 ones. The newer ones that I used that night, it's a

9 small disk. You -- each disk is labeled for certain

10 areas of each hand, such as; one disk will be labeled

11 for the right hand in this area between the thumb and

12 forefinger. Another disk will be labeled for the palm

13 area, back hand, and so on for each hand.

14 Q And what do you with these tests against the hands? How

15 do you test the hands? How do you physically test the

16 hands?

17 A You take the disk and you dab it, rub it all over those

18 specified area of what each disk is telling you to do.

19 At that point, they're sealed into evidence.

20 Q And you performed that on the Defendant that night?

21 A Yes, ma'am.

22 Q Did you perform that on anybody else?

23 A A GSR kit, no, ma'am.

24 Q You don't remember getting a GSR kit from Shontay

25 McKeithan or Davonte Freeman?

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

389

1 A If the Court will indulge me for a moment, I've got
2 them. A lot of them, they're in here. Yes, ma'am. I
3 collected from them when I collected the buccal swabs.
4 Well, I collected a buccal swab from Mr. Freeman at a
5 later date during the course of the investigation.

6 Q Okay. So you collect both the buccal swab as well as
7 GSR?

8 A Yes, ma'am.

9 Q Okay.

10 MS. JONES: Permission to approach, Your Honor?

11 THE COURT: Yes.

12 Q Sergeant McIntosh, I'm going to show you what has been
13 marked for identification only as State's #42. Do you
14 recognize that?

15 A Yes, ma'am.

16 Q And what is that?

17 A That's a buccal swab I collected from the Defendant.

18 Q Okay. And a buccal swab, what is a buccal swab?

19 A A buccal swab is simply, in laymen's terms, a DNA test.
20 It's a large Q-tip. It's collected between the cheek and
21 the gum.

22 Q Okay. And that's what's in this bag?

23 A Yes, ma'am.

24 Q And after you collected this from the Defendant, what
25 did you do with it?

- 1 A Well, at that point, we seal it, lock it away to
2 evidence until it can be transported to SLED.
- 3 Q Okay. Who did you turn this item over to?
- 4 A The Billy Phillips, I would have turned over to -- I
5 believe I turned that over to -- I collected a few swabs
6 on this. The SLED crime scene agent.
- 7 Q Could have been Ms. Claycomb?
- 8 A Ms. Claycomb. I'm sorry. Dawn Claycomb.
- 9 Q Okay. While this particular buccal swab was in your care
10 and control, did you alter it in any way?
- 11 A No, ma'am.
- 12 Q Did you tamper with it?
- 13 A No, ma'am.
- 14 Q Did you manipulate it?
- 15 A No, ma'am.
- 16 Q Did you maintain the integrity of this item?
- 17 A Yes, ma'am.
- 18 Q Okay. So, it went from Defendant's mouth to your hands
19 to Dawn Claycomb?
- 20 A Yes, ma'am.
- 21 Q Okay. And while it was in your custody, it was never
22 altered?
- 23 A No, ma'am.
- 24 Q I'm going to show you what has been marked State's
25 Exhibit #60.

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

391

- 1 A Yes, ma'am.
- 2 Q And what is State's Exhibit #60?
- 3 A This would have been the buccal swab collected from
- 4 Davonte Freeman.
- 5 Q Okay. Who collected this buccal swab?
- 6 A I collected that.
- 7 Q And after you collected it, what did you do with it?
- 8 A I would have sealed that and that got transported to
- 9 SLED, as well, by Lieutenant Litchfield.
- 10 Q Okay. And this particular buccal swabs instance it went
- 11 from Davonte's mouth, to your hands, to Litchfield?
- 12 A Yes, ma'am.
- 13 Q To SLED?
- 14 A Yes, ma'am.
- 15 Q Okay. While it's in your custody -- in fact, are those
- 16 your initials up at the top?
- 17 A Yes, ma'am.
- 18 Q Okay. And what do your initials indicate?
- 19 A The initials indicate I transported that to SLED.
- 20 Q Okay. And that it was placed in this tamper proof bag?
- 21 A Yes, ma'am. Once we heat-seal it, we have to sign and
- 22 date across the heat seal.
- 23 Q So, that's what those initials are?
- 24 A Yes, ma'am.
- 25 Q Okay. While this is in your custody and control, do you

- 1 manipulate it?
- 2 A No, ma'am.
- 3 Q Alter it? Change it?
- 4 A No, ma'am.
- 5 Q Do you maintain the integrity of this item?
- 6 A Yes, ma'am.
- 7 Q I am going to show you what's been marked State's #59.
- 8 And can you identify that, please?
- 9 A Yes, ma'am. This would have been the swab collected from
- 10 Shontay McKeithan.
- 11 Q Okay. And who collected that swab from Shontay?
- 12 A I collected that swab.
- 13 Q Okay. Is it the same process as the one from Billy and
- 14 Davonte?
- 15 A Yes, ma'am. Also transported the same day.
- 16 Q Okay. And are those your initials up at the top?
- 17 A Yes, ma'am.
- 18 Q And, again, is this a tamper proof bag?
- 19 A Yes, ma'am.
- 20 Q When you received this sample from Shontay, who do you
- 21 hand it off to?
- 22 A When I received the sample from her, I transported that
- 23 to SLED the following day.
- 24 Q Okay. So, when it's in your custody and control do you
- 25 alter or change it, manipulate it?

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

393

1 A No, ma'am.

2 Q You maintain the integrity of this item?

3 A Yes, ma'am.

4 Q I'm going to show you what has been marked State's #41,
5 for identification only. Can you identify what's in that
6 bag? And actually if we can find some scissors I can
7 have you open that bag. It might be easier?

8 A This is a GSR kit.

9 Q How many GSR kits appear to be in that bag?

10 A It appears to be -- it appears to be four.

11 Q Okay. You can open that bag. But first, that bag doesn't
12 appear to be tampered in any way, does it?

13 A No, ma'am.

14 Q Okay. The heat seal is still in tact?

15 A Yes, ma'am.

16 Q Okay.

17 MS. JONES: Your Honor, at this time the State will be
18 marking these 39A, B, C and D.

19 COURT REPORTER: 41.

20 MS. JONES: My apologies. 41A, B, C, and D.

21 THE COURT: Any objection to these being admitted?

22 MS. JONES: These are for identification.

23 THE COURT: Okay. Identification.

24 (Whereupon, State's Exhibit #41A, #41B, #41C, and #41D
25 were marked for identification only.)

- 1 Q Okay. Do you recognize -- you're touching three of
2 those. Do you recognize three of those?
- 3 A Yes, ma'am.
- 4 Q Okay.
- 5 MS. JONES: Let's put #41A, that's Darius Woods. Okay.
- 6 #41B Davonte Freeman, #41C is Shontay McKeithan, and #41D ---
- 7 Q And what are these?
- 8 A This is the newer kits with the disks that I was talking
9 about.
- 10 Q Okay. You mentioned you took GSR from the Defendant and
11 this newer kit was for Mr. Billy Phillips?
- 12 A Yes, ma'am.
- 13 Q Okay. So, 41D is Billy Phillips' GSR kit. You mentioned
14 that you took GSR from Billy Phillips, Shontay McKeithan
15 and Davonte Freeman?
- 16 A Yes, ma'am.
- 17 Q Okay. are those the actual kits that you collected from
18 them?
- 19 A Yes, ma'am.
- 20 Q And how do you know those are the kits?
- 21 A This is what I turned over.
- 22 Q Okay. And you remember turning over the GSR kits?
- 23 A Yes, ma'am.
- 24 Q Okay. What is the fourth one in there?
- 25 A This is the victim's, Darius Woods.

1 Q Okay. But you didn't collect that one?

2 A No, ma'am.

3 Q No. Okay. You just collected those three that are in the
4 bag?

5 A Yes, ma'am.

6 Q Okay. And when you are collecting these three GSR kits
7 and they're in your custody and control, do you maintain
8 the integrity of these items?

9 A Yes, ma'am.

10 Q Do you alter them, change them, manipulate them in any
11 way?

12 A No, ma'am.

13 Q They went from Shontay's hands to your hand?

14 A Yes, ma'am.

15 Q Davonte's hands to your hand?

16 A Yes, ma'am.

17 Q The Defendant's hands to your hand?

18 A Yes, ma'am.

19 Q Who did you transport them to or transfer them?

20 A These, I believe Lieutenant Litchfield transported
21 these. I'm sorry. This would have been turned over to
22 SLED crime scene as well, Dawn Claycomb.

23 Q And did you hand these over to Dawn Claycomb?

24 A Yes, ma'am.

25 Q Okay. And while they were in your custody and control

- 1 they -- you maintained the integrity and did not alter
2 them at all?
- 3 A No, ma'am.
- 4 Q One more quick swab. Did you receive another buccal swab
5 from anybody in this case?
- 6 A Yes, ma'am. I believe I collected one from a subject
7 named Guy Matthews.
- 8 Q Okay. I'm going to show you ---
- 9 MS. JONES: Permission to approach?
- 10 THE COURT: Yes.
- 11 Q I'm showing you what's been marked State's #46. What is
12 that?
- 13 A This is a buccal swab from Jason Blessing.
- 14 Q Okay. Did you receive that item from somebody?
- 15 A I did.
- 16 Q Who did you receive that from?
- 17 A I received it from Lieutenant Litchfield. He and Agent
18 Williams had collected these.
- 19 Q Okay. So Litchfield, Williams, then, you?
- 20 A Yes, ma'am.
- 21 Q Who did you transfer it to after you had custody of it?
- 22 A Lieutenant Litchfield.
- 23 Q Okay. And while it's in your control and care, do you
24 maintain the integrity of this item?
- 25 A Yes, ma'am.

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

397

1 Q Do you change it or alter it in any way?

2 A No, ma'am.

3 Q Did you manipulate it?

4 A No, ma'am.

5 MS. JONES: I beg the Court's indulgence.

6 Q After receiving those swabs and that GSR from Shontay,
7 Davonte and the Defendant, what did you do next in your
8 investigation?

9 A That night or the following day we executed a search
10 warrant the following day.

11 Q Did you have a chance to go to a gas station, a BP gas
12 station?

13 A Yes, ma'am.

14 Q Okay. Why did you go to this gas station?

15 A I'd received information that the Defendant had been in
16 that gas station shortly after the murder.

17 Q Okay. Where is this gas station in relation to Darius'
18 home?

19 A Well, less than a mile. Maybe two tenths of a mile, if
20 that.

21 Q Okay. Close proximity?

22 A Yes, ma'am.

23 Q Okay. When you go to this gas station, what are you
24 doing? What is your point of going to this gas station?

25 A I was looking for video evidence. They have a

1 surveillance system there.

2 Q Okay. Did you, in fact, receive some video evidence?

3 A Yes, ma'am.

4 Q And where did you -- you mentioned surveillance. Where
5 does this video evidence come from?

6 A It was the Taylor's BP Station at the time.

7 Q How were you able to get a copy of this footage?

8 A I got it from the store owner, Ms. Bonnie Shier.

9 Q Okay. And how was it reduced to a disk?

10 A I would have put it on it. The original copy would have
11 been made on that disk.

12 Q Okay. Were you present when the original copy was made?

13 A Yes, ma'am.

14 Q Okay.

15 MS. JONES: Permission to approach, Your Honor?

16 THE COURT: Yes.

17 Q I'm showing you what has been marked State's #54. Do you
18 recognize that?

19 A Yes, ma'am.

20 Q And are those your initials up there?

21 A Yes, ma'am.

22 Q Did you have a chance to review this disk?

23 A Yes, ma'am.

24 Q And what is on this disk?

25 A This is the surveillance footage that I took on my phone

1 because we needed a timestamp on it.

2 Q Okay. You took it with your phone. I'm a little
3 confused. Were you not able to just copy it straight off
4 the server?

5 A Well, we can copy it straight off the survey, but it
6 didn't have a date and a timestamp.

7 Q Okay. So, when you're recording this on your phone, are
8 you live watching? Are you watching it as you're
9 recording it?

10 A Yes, ma'am.

11 Q And that is what is depicted on this disk?

12 A Yes, ma'am.

13 Q And is that what your initials indicate?

14 A Yes, ma'am.

15 Q And does this fairly and accurately depict the
16 surveillance from the BP that night?

17 A Yes, ma'am.

18 Q And what -- do you remember what time the surveillance
19 was for?

20 A The video footage shows the Defendant entering the store
21 -- the timestamp would have said twenty-two fifty-three,
22 which was 10:53 PM. However, when compared with the real
23 time on that date it was ten minutes fast meaning that
24 he would have actually been in the store at 10:43 PM.

25 Q Okay. Ten forty-three.

1 MS. JONES: At this point State moves State's #54 into
2 evidence.

3 THE COURT: Any objection?

4 MR. PLEXICO: Not as to the DVD, no objection.

5 THE COURT: State's #54 is into evidence without
6 objection.

7 (Whereupon, a DVD of surveillance at BP Station is
8 entered into evidence as State's Exhibit #54, without
9 objection.)

10 Q Sergeant McIntosh, I'm going to show you what's been
11 marked State's #56 and State's #57. Can you identify
12 those, please?

13 A Yes, ma'am. These are still shots from the surveillance.

14 Q From this surveillance right here?

15 A Yes, ma'am.

16 Q Did you create those still shots?

17 A Yes, ma'am.

18 Q And how are you sure those are the still shots you
19 created?

20 A They still have the date and timestamp.

21 Q And what is the date and timestamp on those?

22 A The date is May 18th, 2013 at 10:55 PM, which would have
23 been 10:45 PM.

24 Q Okay. And who is depicted in those still shots?

25 A This is Mr. Phillips.

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES 401

1 Q And do those fairly and accurately depict how you saw it
2 on the surveillance that night?

3 A Yes, ma'am.

4 Q Okay.

5 MS. JONES: And at this point, State moves State's #56
6 and #57 into evidence.

7 MR. PLEXICO: Without objection.

8 (Whereupon, two 8x10 photocopies are entered into
9 evidence as State's Exhibits #56 and #57, without objection.)

10 MS. JONES: Permission to publish State's #54, #56, and
11 #57, Your Honor?

12 THE COURT: Each are into evidence without objection from
13 Defense.

14 MS. JONES: Thank you.

15 THE COURT: Might counsel approach the bench?

16 (Bench conference was held off the record)

17 (DVD of BP surveillance is played for the jury)

18 MR. PLEXICO: May I come around, Your Honor?

19 THE COURT: Yes.

20 Q Detective McIntosh, is this the surveillance footage?

21 A Yes, ma'am.

22 Q Do you recognize anybody in this shot?

23 A I recognize Mr. Phillips and the clerk.

24 MS. JONES: I'm just going to fast forward a little bit.

25 Q And who is this?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A That's Mr. Phillips.
- 2 Q What does he appear to be purchasing?
- 3 A Three twenty-two ounce beers.
- 4 Q What is he -- does he just appear to reach into his
- 5 pocket and go to the corner?
- 6 A Yes, ma'am.
- 7 Q Can you see what's in his hand?
- 8 A That's a pretty big fold of cash.
- 9 Q Is he counting it out?
- 10 A Yes, ma'am.
- 11 Q Is that still cash?
- 12 A Yes, ma'am.
- 13 Q And he just pays with some of it. Right?
- 14 A Yes, ma'am.
- 15 Q And what sort of shirt is he wearing?
- 16 A It says class of something. That's the gray shirt he was
- 17 wearing when I spoke with him later that evening.
- 18 Q Not a blue polo?
- 19 A No, ma'am.
- 20 (Whereupon, publication of State's Exhibit 54 ended)
- 21 Q And what's this a picture of?
- 22 A That's a still shot of the counter.
- 23 Q Okay. And what does he appear to be doing here?
- 24 A That's where he was counting out money.
- 25 MS. JONES: And for the record, this is State's Exhibit

DIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

403

1 #56, previously admitted.

2 Q How about this picture? What does he appear to have in
3 his hand right there?

4 A That's the wad of cash in his left hand.

5 MS. JONES: And for the record that is, previously
6 admitted, State's #57.

7 Q After retrieving the surveillance and getting the
8 various buccal swabs, did that end your part of the
9 investigation in this case?

10 A For the most part, yes, ma'am.

11 Q Okay. Aside from the other information you gave us
12 earlier ---

13 A Yes, ma'am.

14 Q --- that ended your part of the investigation?

15 Ridgeland PD wasn't actually the lead on this case. Is
16 that right?

17 A No, ma'am.

18 Q It was SLED's case?

19 A Yes, ma'am.

20 Q Okay. So, is that why your involvement was somewhat
21 limited?

22 A Yes, ma'am.

23 MS. JONES: I beg the Court's indulgence.

24 Q Detective McIntosh, I have no further questions for you
25 at this time. Thank you.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 A Yes, ma'am.

2 THE COURT: Ladies and gentlemen, I'm going to ask you
3 once again to stand up and stretch just a little bit. For
4 planning purposes we're going to finish with this particular
5 witness and then we're going to recess for the evening. We're
6 going to come back at nine-thirty in the morning and we're
7 going to go through from about nine-thirty until twelve and
8 we're going to have lunch brought in to sort of minimize the
9 amount of time we're away from the courthouse so we can do a
10 little bit more work. We're going to have to break at three
11 o'clock tomorrow. So, for planning purposes we'll be out of
12 here by, somewhere between three and three-thirty. So, y'all
13 can plan your day accordingly. Stretch a little bit and then
14 we'll have a seat and we'll continue on with this witness.
15 Very good.

16 Mr. Plexico, you're recognized.

17 MR. PLEXICO: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. PLEXICO:

20 Q Okay, sir. Thank you for being here. I know it's kind of
21 getting late. I'm going to try to speed this up a little
22 bit. And that's the best clarity that you have available
23 is what -- the clarity that's shown there on that video,
24 correct?

25 A Yes, sir.

CROSS EXAMINATION OF CHRIS MCINTOSH BY MR. PLEXICO

405

1 Q And if he had some papers in his hand or something you
2 really couldn't discern that from money because of the
3 low quality of the clarity on that video. So, you don't
4 know if he just has money in his hand, is what I'm
5 saying.

6 A Well, he pays with it.

7 Q If he had some papers in his hand, you wouldn't know
8 what he was pulling out of his pocket?

9 A Other than what he paid with.

10 Q Right. Correct?

11 A Yes, sir.

12 Q All right. Now, you did a GSR test on my client.

13 Correct?

14 A Yes, sir.

15 Q All right. That's been sent to SLED.

16 A Yes, sir.

17 Q And you did the GSR -- that's hard. That's a gunshot
18 residue test.

19 MR. PLEXICO: May I approach?

20 THE COURT: Yes.

21 Q On your return, was it noted that you did that at two-
22 thirty?

23 A Two-thirty. 2:30 AM. Yes, sir.

24 Q Okay. All right. And that's well within four hours of
25 the death of alleged decedent. Correct?

- 1 A Within four hours?
- 2 Q Yes.
- 3 A Two-thirty AM?
- 4 Q Yes.
- 5 A It's not well within. We received the call on the 18th.
- 6 We responded to the residence at ten forty-three that
- 7 night.
- 8 Q Okay. Ten-thirty to eleven-thirty, to twelve-thirty, to
- 9 one-thirty, to two-thirty is four hours, okay?
- 10 A Yes, sir.
- 11 Q All right. So, you were there within four hours. Right?
- 12 A Yes, sir.
- 13 Q Okay.
- 14 A When you said well within, I thought you meant a longer
- 15 period of time.
- 16 Q Do you have the results> Did SLED send you back the
- 17 results of that test, the GSR test?
- 18 A They did not test that.
- 19 Q Well, they didn't test my client for GSR?
- 20 A No, sir.
- 21 Q Okay. All right. Now, You sent his clothes to SLED -- I
- 22 withdraw that question. First, you went to his home and
- 23 seized items of interest to you in this investigation.
- 24 Is that correct?
- 25 A Yes, sir.

CROSS EXAMINATION OF CHRIS MCINTOSH BY MR. PLEXICO

407

1 Q Okay. All right. And those were in a dirty clothes pile.

2 Is that true?

3 A Yes, sir.

4 Q Okay. And were all those items sent to SLED?

5 A Yes, sir.

6 Q Okay. And were they tested or how were they tested?

7 A I believe I submitted those for DNA.

8 Q Okay. Were they also tested for any blood?

9 A Yes, sir. The shoes, also, were tested.

10 Q Okay. Did you get any DNA results back from that for the
11 clothes that you seized at my client's home?

12 A Yes, sir.

13 Q All right. And do you have those with you?

14 A I don't have them in front of me.

15 Q Okay. But there's nothing incriminating about the DNA on
16 those clothes. Correct?

17 A No, sir.

18 Q All right. Furthermore, there's no blood at all on my
19 clients shoes or any of those other clothing items
20 either, is there?

21 MS. JONES: Your honor, objection. I don't believe he can
22 answer that question.

23 THE COURT: I overrule. He can answer. If he knows, he
24 can answer.

25 Q You received a report from SLED?

- 1 A The report states there was not.
- 2 Q There was no blood on anything you sent in from my
- 3 client. Right?
- 4 A Yes, sir.
- 5 Q Okay. You even took scrapings off the wall of my
- 6 client's house. Correct?
- 7 A I took one swab from the wall of the suspect's house
- 8 that might be of interest.
- 9 Q And that was -- there was no blood found there either.
- 10 Right?
- 11 A Turned out not to be blood, yes, sir.
- 12 Q So, you got nothing of interest from my client's home
- 13 when you searched it. Correct?
- 14 A Other than the clothing, no, sir.
- 15 Q Okay. All right. And, of course, there's nothing
- 16 incriminating about his clothing, is there?
- 17 A No, sir.
- 18 Q There is nothing to tie -- nothing on the clothing to
- 19 tie my client to the homicide of Darius Woods. Correct?
- 20 A The clothing that we collected was what he'd been
- 21 wearing that evening.
- 22 Q Okay. All right. Did you do a lineup for Taylor Lanier?
- 23 A I'm sorry?
- 24 Q Did you do a lineup of six individuals for Taylor Lanier
- 25 to look at?

CROSS EXAMINATION OF CHRIS MCINTOSH BY MR. PLEXICO

409

- 1 A Taylor Lanier. Yes, sir, I did.
- 2 Q All right. Do you still have that lineup?
- 3 A I've still got the lineup, yes, sir.
- 4 Q Okay. All right. Have you given it to the Prosecutor?
- 5 A Yes, sir.
- 6 Q Okay. All right. You did not destroy the lineup? You're
- 7 sure the Prosecutor has that. Correct?
- 8 A The lineup was attached to the file. Yes, sir. The file
- 9 has been turned over.
- 10 Q Okay. All right. And it's true that Ms. Lanier was
- 11 unable to pick out my client from the lineup. Correct?
- 12 A Correct. She was not.
- 13 Q Okay. All right. And that was in reference to who she
- 14 saw on the porch that night with the porch light out.
- 15 Correct?
- 16 A Yes.
- 17 Q All right. Who brought the Defendant to the police
- 18 station the night he was interviewed?
- 19 A Officer Matt Long.
- 20 Q Okay. Was he taken there locked in the back of a police
- 21 car?
- 22 A I don't believe he was -- I don't know what seat he rode
- 23 in. If I'm not mistaken, Officer Long had a K-9 at that
- 24 time, so he would have ridden in the front.
- 25 Q Okay. All right. Did you see the K-9 that night?

- 1 A I didn't, but there's no back seat on a K-9 vehicle.
- 2 Q Okay. All right. You don't know anything about his
- 3 willingness to come down there and talk to y'all. You
- 4 don't know what the officer told him. Correct?
- 5 A According to the officer's statement ---
- 6 Q I'm not asking -- but you, yourself, you don't know. I
- 7 don't want to know what he said. You don't have any way
- 8 of knowing his willingness to get in that car and come
- 9 down there?
- 10 A No, sir. I wasn't there with him.
- 11 Q Okay. All right. All right. Now, when he was there, had
- 12 he not been drinking, could you not smell alcohol on my
- 13 client?
- 14 A I don't recall smelling alcohol on him.
- 15 Q Did his eyes appear red and bloodshot?
- 16 A Not that I recall.
- 17 Q Okay. How long were you there until the interview?
- 18 A How long was I into it?
- 19 Q Well, you were there to give the Miranda. Correct?
- 20 A Yes, sir.
- 21 Q All right. Did you leave quickly after that or did you
- 22 stay for a long period of time?
- 23 A I was in the building for a good while in another room,
- 24 doing -- typing up search warrants and things like that.
- 25 That takes a while.

CROSS EXAMINATION OF CHRIS MCINTOSH BY MR. PLEXICO

411

1 Q But you weren't participating and listening -- let me
2 put it this way ---

3 A No, sir. I wasn't in the room when the SLED Agents were
4 speaking with him.

5 Q So, is it fair to say you left after you gave the
6 Miranda and you left within a minute of that time? Would
7 that be fair? So, you don't know what they were saying?

8 A I wasn't in the room when they were doing -- conducting
9 the interview.

10 Q So, you left right after the Miranda?

11 A It wasn't right after. As I stated, we spoke about his
12 name. I got his name. If he goes by Dee, where Dee came
13 from.

14 MR. PLEXICO: May I approach the court reporter?

15 THE COURT: Yes, sir.

16 (Whereupon, Defendant's Exhibit #1 was marked for
17 identification.)

18 Q All right. So, over on page three they're talking about
19 smoking weed and my client was saying he was out smoking
20 weed. So, were you in there for that part?

21 A I don't recall.

22 Q Could you look at this and tell me --

23 MR. PLEXICO: May I approach, Your Honor?

24 THE COURT: Yes.

25 Q Could you look at this ---

1 A Yes, sir.

2 Q --- and tell me when you think you left during the
3 interview? Let me caution you. Your name is not on that
4 because the transcriber did not know that you were
5 present at that time.

6 A Yes, sir. I understand. (Looks at document)

7 COURT REPORTER: Can you identify that?

8 MR. PLEXICO: That is the first SLED interview on May
9 19th. Labeled as the second interview.

10 A You want me to determine a time frame here?

11 Q To the best of your memory what -- say you left half-way
12 through the second page or you left half-way through the
13 third page.

14 A Okay. I understand.

15 Q I mean, I won't hold you strictly to it, but generally.
16 I know it's been a while back.

17 A (Looks at document) About half-way through the fifth
18 page.

19 Q You think you left about half-way through the fifth
20 page?

21 A I believe so, yes, sir.

22 Q So, isn't he referring to smoking pot on the second or
23 fourth page?

24 A Yes, sir. He said he was smoking weed with Ace.

25 Q Okay. All right. So, would that indicate to you that

CROSS EXAMINATION OF CHRIS MCINTOSH BY MR. PLEXICO

413

- 1 maybe he's stoned? He's high?
- 2 A No, sir.
- 3 Q You're smoking weed, what happens to people who smoke
- 4 weed?
- 5 A It depends on your tolerance.
- 6 Q Okay. If it didn't do anything to you, why would he
- 7 mention it?
- 8 A I'm sorry?
- 9 Q Well, I didn't know that people could smoke weed and not
- 10 get high. Is that what you're saying?
- 11 A Yes, sir.
- 12 Q Okay. So, you wouldn't interview anybody under the
- 13 influence of illegal drugs, would you?
- 14 A Would I interview someone under the influence?
- 15 Q Of illegal drugs?
- 16 A It depends on the situation, yes, sir.
- 17 Q You would? Okay. Was he under the influence of illegal
- 18 drugs?
- 19 A He said he'd been smoking weed with Ace.
- 20 Q Okay. All right. And once you smoke pot, don't you lower
- 21 your guard and kind of blurt everything out?
- 22 A I can't say is that what his reaction is.
- 23 Q You wouldn't give a truth serum to a solidier or somebody
- 24 to get them to give a statement, would you?
- 25 A No, sir.

1 Q Okay. All right. You wouldn't give a truth serum to a
2 person to get a statement out of them, would you?

3 A No, sir.

4 Q Okay. You wouldn't give them cocaine or marijuana to get
5 a statement out of them, would you?

6 A No, sir.

7 Q Okay. Do you believe you should take a statement from
8 somebody who's under the influence of drugs?

9 Philosophically, is it the right thing to do?

10 A It really depends on the situation, sir.

11 Q Okay.

12 A It depends on the case, the situation.

13 Q All right. As a matter of policy do y'all just, when you
14 know people have been smoking pot, do you go ahead and
15 get a statement form them anyway at the Ridgeland Police
16 Department?

17 A I mean, it's just like a driving under the influence
18 charge. If a person's under the influence of alcohol,
19 you still investigate it at the time.

20 Q Okay. All right. But you wouldn't be taking that
21 statement to use it against them later, would you?

22 A As it says in Miranda, anything you say can and will be
23 used against you.

24 Q Even if you're too stoned to understand that?

25 A It doesn't say that, sir.

CROSS EXAMINATION OF CHRIS MCINTOSH BY MR. PLEXICO

415

- 1 Q Okay. That's not in Miranda. Isn't that correct?
- 2 A No, sir. He did not appear to be stoned to me.
- 3 MR. PLEXICO: Court's indulgence. Just a moment.
- 4 Q Okay. All right. Guy Matthews lives right across the
- 5 street from where -- well, to the side. In his house
- 6 space, there's a deep lot going this way to Logan Lane.
- 7 Correct?
- 8 A Yes, sir.
- 9 Q Across the street is the side of the house where Deandre
- 10 Woods lives. Correct? Across the street from Guy
- 11 Matthews' house?
- 12 A Right. Darius?
- 13 Q Darius?
- 14 A Yes, sir.
- 15 Q Darius Woods, I'm sorry. All right. And here's Darius'
- 16 porch here and he has an extension out this way and the
- 17 side door is on the far side. Correct? So, you couldn't
- 18 see the side door from Mr. Hill's house. Correct?
- 19 A Through the side door where the driveway is on Mr.
- 20 Woods, on Darius' house?
- 21 Q Right.
- 22 A No. You couldn't see that from Guy's house.
- 23 Q Okay. All right. Then a lot of people hang out,
- 24 including Guy, in Mr. Hill's house. Right?
- 25 A Yes, sir.

1 Q And a lot of people hang out over there. Correct?

2 A Sometime, yes, sir.

3 Q All right. Okay.

4 MR. PLEXICO: Court's indulgence.

5 Q Did you ever get a buccal swab from Wrenshad Anderson?

6 A From Wrenshad Anderson?

7 Q Yeah.

8 A Not that I recall.

9 Q Okay.

10 MR. PLEXICO: With that, I have no further questions.

11 THE COURT: Redirect?

12 MS. JONES: Yes, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. JONES:

15 Q Did you collect a blue polo shirt from the Defendant's
16 home?

17 A Let me get to the search warrants.

18 Q A dark-in-color shirt?

19 A We collected a dark blue polo shirt. Yes, ma'am.

20 Q Did you -- when you were speaking with Mr. Phillips the
21 early morning hours of the 19th ---

22 A Yes, ma'am.

23 Q --- did you -- did he appear to not understand what you
24 were saying to him?

25 A No, ma'am.

REDIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES

417

1 Q Not at all?

2 A No.

3 Q He said he had smoke marijuana, but he still appeared to
4 have a rational understanding of what was happening?

5 A Yes, ma'am.

6 Q If he appeared incoherent or not, have the ability to
7 understand you, would you have spoken to him?

8 A If he appeared to not understand me? No.

9 Q No. You would have ceased talking to him?

10 A Yes, ma'am.

11 Q And in your opinion, he was coherent and knew what was
12 going on and he voluntarily and freely waived his
13 Miranda rights?

14 A Yes, ma'am.

15 MS. JONES: I have no further questions.

16 THE COURT: You may step down.

17 Madam Forelady, ladies and gentlemen of the jury, y'all
18 have worked hard today. That concludes the work for today.
19 You need to be back at nine-thirty, nine-thirty sharp. Once
20 again, we've only got one alternate, so it's very important
21 for y'all to get a good nights rest. You know, a lot of times
22 when you're not working you have a tendency to stay up and
23 watch David Letterman. He's not on anymore is he? Whoever
24 the new people are on late night, don't stay up or lollygag
25 up too late. Y'all get a good nights sleep so y'all can pay

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 attention tomorrow. These are important matters that need to
2 proceed forth. It's a serious matter to us all. Be here at
3 nine-thirty. Do not discuss the case. No social media, no
4 investigation. We'll see you back at 9:30 in the morning.
5 Y'all look forward to that, you'll have lunch on the county
6 tomorrow at twelve o'clock. All right. Everyone remain seated
7 as the jury exits the courtroom.

8 (Jury out at 5:18 PM)

9 THE COURT: Anything from the State before we recess for
10 the evening?

11 MS. JONES: No, Your Honor.

12 THE COURT: Anything from Defense?

13 MR. PLEXICO: No, Your Honor.

14 THE COURT: I have that we went through fourteen -- well,
15 sixteen different witnesses, I believe today. Is that right?
16 Fifteen?

17 THE CLERK: Yes, sir. Sixteen.

18 THE COURT: Sixteen. All right. That is right. Sixteen
19 and we've got thirty-one listed. Do you still anticipate
20 calling all thirty-one?

21 MS. JONES: I just have twelve more witnesses.

22 THE COURT: Okay. All right.

23 MS. JONES: One of which does admit the hour-and-a-half
24 video, but a lot of the other ones are very short.

25 THE COURT: All right. Do you anticipate that we could go

REDIRECT EXAMINATION OF CHRIS MCINTOSH BY MS. JONES 419

1 from nine-thirty to twelve and then break for thirty minutes,
2 come back from twelve-thirty to three and then we can
3 conclude the State's case?

4 MS. JONES: I think so.

5 THE COURT: All right. We'll move forward in that
6 fashion.

7 All right. We'll stand at ease until nine-thirty in the
8 morning. Anything from the Defense?

9 MR. PLEXICO: None, Your Honor. Nothing from the Defense.

10 MORNING - JANUARY 13, 2016

11 THE COURT: Anything from the State before we proceed?

12 MS. JONES: No, Your Honor.

13 THE COURT: Anything from Defense?

14 MR. PLEXICO: No, Your Honor.

15 (Jury in at 9:34 AM)

16 THE COURT: Madam Forelady, ladies and gentlemen of the
17 jury, thank you for being here and being here on time. We're
18 going to proceed forward with the testimony. Ms. Jones,
19 you're recognized.

20 MS. JONES: Thank you, Your Honor. The State calls
21 Lieutenant Shaun Harley.

22 THE COURT: Mr. Harley, please come forward. I'm going to
23 ask you, if you could, to place your left hand on the Bible
24 and raise your right hand as the clerk administers the oath.

25 (After being duly sworn by the Clerk of Court, SHAUN

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 HARLEY testified as follows:)

2 THE COURT: I'll ask that you have a seat in the witness
3 chair and speak loudly, and clearly and slowly in order that
4 we can hear everything that you have to say.

5 LIEUTENANT HARLEY: Yes, sir.

6 THE COURT: And start with your full name, please, sir.

7 LIEUTENANT HARLEY: Shaun E. Harley, H-A-R-L-E-Y.

8 THE COURT: Very good. Ms. Jones.

9 MS. JONES: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. JONES:

12 Q Lieutenant Harley, where are you currently employed?

13 A South Carolina Law Enforcement Division, commonly known
14 as SLED.

15 Q And how long have you been employed with SLED?

16 A Approximately, thirteen years.

17 Q What is your rank at SLED?

18 A A lieutenant.

19 Q Okay.

20 A Supervisor over the Low-Country Region, which is -- our
21 regional office is in the Walterboro Office, which we
22 work twelve counties, including Jasper County.

23 Q Okay. So, you're a supervisor?

24 A Yes, ma'am.

25 Q What are some of your duties as a supervisor?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

DIRECT EXAMINATION OF SHAUN HARLEY BY MS. JONES

421

1 A I'm supervisor over seven, maybe, ten agents. I go over
2 their cases, review over the investigations that they
3 have. Just monitor the office and also go out and help
4 with the interviews, too.

5 Q As a supervisor -- were you working in your capacity as
6 a supervisor back on May 18th of 2013?

7 A Yes, ma'am.

8 Q And were you the supervisor for SLED on the case we're
9 here for today?

10 A Yes, ma'am.

11 Q Okay. So, as that supervisor, you were kept abreast of
12 the on-going investigation?

13 A Yes, ma'am.

14 Q Pursuant to that, how much marijuana was located at
15 Darius Woods' home?

16 A None was located.

17 Q How much cash?

18 A None.

19 Q Was the PlayStation located?

20 A No, ma'am.

21 Q You mentioned you interview people, as well?

22 A Yes, ma'am.

23 Q Okay. Did you have an opportunity to interview the
24 Defendant in this case, Billy Phillips?

25 A Yes, ma'am.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q When did that take place?

2 A May the 19th at approximately about three o'clock in the
3 morning.

4 MR. PLEXICO: I'm going to renew my prior motion in
5 regards to the entire interview, Your Honor.

6 THE COURT: Might counsel approach the bench.

7 (Bench conference off the record)

8 THE COURT: Your objection is noted for the record.

9 Q So, you did interview Mr. Phillips?

10 A Yes, ma'am. On May the 19th, at approximately about
11 three o'clock in the morning.

12 Q Three AM on the 19th?

13 A Yes, ma'am.

14 Q Okay. Who was present for this interview?

15 A Myself and Agent David Williams.

16 Q Were there any members of the Ridgeland Police
17 Department present?

18 A Yes, ma'am. They were there prior to us interviewing
19 him. I think it was Investigator McIntosh with the
20 Ridgeland Police Department.

21 Q Okay. Do you know how the Defendant arrived at this
22 interview?

23 A I think Ridgeland Police Department transported him to
24 the Ridgeland Police Department.

25 Q Was he mirandized while you were speaking with him?

DIRECT EXAMINATION OF SHAUN HARLEY BY MS. JONES

423

- 1 A Yes, ma'am.
- 2 Q Who did that, do you know?
- 3 A Investigator McIntosh. He'd probably give a written -- I
- 4 mean, Miranda rights.
- 5 Q Okay. And it was your understanding that the Defendant
- 6 waived these rights?
- 7 A Yes, ma'am.
- 8 Q And he agreed to speak?
- 9 A Yes, ma'am.
- 10 Q And did he, in fact, speak with you that night?
- 11 A Yes, ma'am.
- 12 Q How long did you speak with Mr. Phillips?
- 13 A It was approximately about an hour and forty minutes to
- 14 two hours.
- 15 Q During that time period -- so from three AM to about
- 16 four-thirty in the morning?
- 17 A Yes, ma'am.
- 18 Q Give or take a few?
- 19 A Yes, ma'am.
- 20 Q During that time frame was Mr. Phillips ever denied any
- 21 sort of bathroom breaks, smoke breaks, water breaks,
- 22 phone breaks?
- 23 A No. He was never denied.
- 24 Q Did you give him breaks?
- 25 A If he wanted breaks, yes, ma'am.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q During this interview, did you ever threaten or coerce
2 the Defendant into speaking with you?

3 A No, ma'am.

4 Q Did you ever promise him anything in exchange for his
5 speaking with you?

6 A No, ma'am.

7 Q Did he appear to understand everything you're asking
8 him?

9 A Yes, ma'am.

10 Q He appeared -- did he appear to have rational responses
11 to your questions?

12 A He understood what I was asking him.

13 Q Okay. I'm asking you this because did he tell you that
14 he had smoked marijuana that day?

15 A Yes, ma'am. He did.

16 Q And when you hear this, what are your next questions to
17 the Defendant?

18 A Ask him did he -- I asked him, you know, if he
19 understood, was he high. He said, no, maybe just a
20 little bit, but he understood everything that we were
21 asking him.

22 Q Have you come into contact in your thirteen plus years
23 at SLED with people who were under the influence of
24 maybe narcotics, drugs or alcohol?

25 A Yes, ma'am.

DIRECT EXAMINATION OF SHAUN HARLEY BY MS. JONES

425

1 Q So, you're familiar with somebody who's under the
2 influence ---

3 A Yes, ma'am.

4 Q --- of some type of substance?

5 A Yes, ma'am.

6 Q In your opinion, did you he appear to be under the
7 influence of anything that would impair his ability to
8 understand?

9 A It didn't impair his ability. He understood everything.

10 Q Okay. At any time, did he never appear to understand
11 what you're asking him?

12 A Unless he didn't understand the question, then we would
13 repeat it and then he would answer.

14 Q Then he understood it?

15 A Yes, ma'am.

16 Q It was mainly because he didn't understand the wording,
17 not necessarily what was happening?

18 A Correct.

19 Q Okay. Had he not -- in your opinion, had he not been
20 able to appreciate what was happening and understand
21 these questions, would you have continued to question
22 him?

23 A No, ma'am.

24 Q You would have stopped the interview?

25 A Yes, ma'am.

- 1 Q Okay. So, he was coherent, he knew what was going on, he
2 said, yes, he'd speak to you?
- 3 A Yes, ma'am.
- 4 Q Do you ask him multiple times if he's okay or if he
5 understands?
- 6 A I ask him several times.
- 7 Q And every time what was his answer?
- 8 A He said he was okay.
- 9 Q Okay. So, after clarifying that he is okay, he is
10 coherent, he is able to rationally understand, you do
11 question him. Correct?
- 12 A Yes, ma'am. We do.
- 13 Q Okay. Do you -- how was this -- where was this interview
14 taken?
- 15 A At the Ridgeland Police Department in, I think,
16 Investigator McIntosh's office. It was videotape and
17 audio.
- 18 Q It was video and audio recorded?
- 19 A Yes, ma'am.
- 20 Q Okay.
- 21 MS. JONES: Permission to approach, Your Honor?
- 22 THE COURT: Yes.
- 23 Q Lieutenant Harley, I am showing you what has been marked
24 as State's Exhibit #58. Can you identify that, please?
- 25 A It's a CD or recording of that interview.

DIRECT EXAMINATION OF SHAUN HARLEY BY MS. JONES

427

1 Q And is that, in fact, the interview of Billy Phillips
2 from 3:00 AM the morning of the 19th?

3 A Yes, ma'am.

4 Q And how do you know that?

5 A My initials and the date I reviewed it on January the
6 11th, 2016.

7 Q You reviewed that disk?

8 A Yes, ma'am.

9 Q And that is a true and accurate copy of the interview as
10 it was in the morning hours of the 19th?

11 A Yes, ma'am.

12 Q Okay.

13 MS. JONES: At this point the State moves State's #58
14 into evidence.

15 MR. PLEXICO: With my prior objection noted, Your Honor.

16 THE COURT: The objection is overruled. It's into
17 evidence and that's denominated as State's Exhibit?

18 MS. JONES: 58, Your Honor.

19 THE COURT: 58 is into evidence.

20 (Whereupon, a DVD is entered into evidence as State's
21 Exhibit #58, over objection)

22 MS. JONES: Your Honor, at this time the State wishes to
23 publish State's #58.

24 THE COURT: You may do so.

25 MS. JONES: Thank you.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 (Whereupon, State's Exhibit #58 was played for the jury)

2 DIRECT EXAMINATION CONTINUED

3 BY MS. JONES:

4 Q Lieutenant Harley, what time did that interview start?

5 A Approximately about three o'clock in the morning.

6 Q Three o'clock in the morning?

7 A Yes, AM.

8 Q Okay. And approximately what time did it end?

9 A Probably about 4:30 or 4:45 AM, maybe, approximately.

10 Q Okay. Was it after this interview that the GSR is
11 collected from Mr. Phillips?

12 A Yes, ma'am.

13 Q Okay. So, about four-thirty-ish AM?

14 A Yes, ma'am.

15 Q Okay. I have no further questions at this time. Thank
16 you.

17 THE COURT: Cross-examination, Mr. Plexico.

18 CROSS-EXAMINATION

19 BY MR. PLEXICO:

20 Q How are you today, sir?

21 A Pretty good. And yourself?

22 Q Just fine. So, you got up in the middle of the night and
23 came to interview Mr Phillips?

24 A No, we were requested by Ridgeland PD, Police

25 Department, in reference to the incident they were

CROSS EXAMINATION OF SHAUN HARLEY BY MR. PLEXICO

429

1 tasked with. They contacted SLED to assist them with the
2 investigation. And like I say, I was the on-call
3 supervisor for that night. So, I responded to the scene,
4 along with Agent Williams.

5 Q So, you were actually already working?

6 A Sir?

7 Q You were already working or were you home in bed?

8 A I can't remember. I was home.

9 Q All right. So, this interview stated about 2:00. Is that
10 correct?

11 A Approximately about 3:00.

12 Q Okay. All right. And ended at 4:45?

13 A Approximately around that time or 4:30. I'm not sure.

14 Q All right. Now, when people are smoking marijuana and
15 tell you they're hungry, what would that indicate to
16 you?

17 A That they're hungry.

18 Q Would it indicate that they're under the influence of
19 marijuana?

20 A It could be a sign of smoking.

21 Q Okay. Well, they call that the munchies, don't they?

22 Isn't that the common term?

23 A Yes, sir.

24 Q And you, in law enforcement, have worked drugs before.

25 Correct?

- 1 A I haven't worked narcotics, though.
- 2 Q Do you know enough about narcotics to know that
- 3 marijuana makes you hungry?
- 4 A Yes, sir.
- 5 Q Okay. And how many repeated references did he have to
- 6 being hungry throughout that interview?
- 7 A Several times. Two or three maybe.
- 8 Q Okay.
- 9 A I'm not sure exactly.
- 10 Q All right. Did you go to my client's house and do any --
- 11 execute a search warrant or go over and look for
- 12 anything that could tie him to the death of Darius
- 13 Woods?
- 14 A No, sir. I didn't go.
- 15 Q Okay. So, he said he smoked some pot by himself at one
- 16 point, didn't he? He was talking about that earlier?
- 17 A Yes, sir.
- 18 Q He smoked some with Darius on and off. Correct?
- 19 A Yes, sir.
- 20 Q He smoked with Darius' customers. Correct?
- 21 A Yes, sir.
- 22 Q So, you don't think he was very much under the influence
- 23 of marijuana when you talked with him?
- 24 A He said he was high a little bit, but he understood
- 25 everything, what we was telling him.

CROSS EXAMINATION OF SHAUN HARLEY BY MR. PLEXICO

431

1 Q Did he seem animated on the video?

2 A In reference to demonstrating things?

3 Q Well, no. Just his actions.

4 A That's just the way he talks, I guess.

5 Q You didn't know. You'd never met the man before that
6 night. Correct?

7 A No, sir.

8 Q And you repeatedly made jokes about him being drunk on
9 Paul throughout the interview, didn't you?

10 A During the first part he said he had drunk Paul Masson.

11 Q Okay. So this is late at night. Correct?

12 A Early in the morning, yes, sir.

13 Q Okay. He's been up all day and this is in the wee hours
14 of the morning?

15 A Yes, sir.

16 Q And he's been drinking that day and he's been smoking
17 pot that day?

18 A Yes, sir.

19 Q Okay. All right. And you believe that he intelligently
20 exercised his right to speak to you?

21 A Yes, sir.

22 Q And you don't think the alcohol and the marijuana had
23 anything to do with it?

24 A He stated he understood everything. He answered the
25 questions.

1 Q Well, when you smoke marijuana do you stop understanding
2 English?

3 MS. JONES: Objection. I think that calls for
4 speculation.

5 THE COURT: I'll allow him to answer.

6 Q When you smoke marijuana and you're under the influence
7 of marijuana, do you stop understanding English?

8 A It might on different people. I don't know.

9 Q Okay. All right. It doesn't stop your ability to talk,
10 does it, when you're smoking marijuana?

11 A No, sir.

12 Q Okay. All right. But it would affect your judgment,
13 wouldn't it?

14 A Possibly.

15 Q Okay. All right. And if you drink alcohol, that would
16 affect your judgment. Correct?

17 A Possibility.

18 Q Okay. All right. And that would affect whether or not
19 you would intelligently exercise your right to remain
20 silent. Correct?

21 A (No verbal response)

22 Q If you're under the influence of intoxicants?

23 A If you understand, you would understand it, but I
24 wouldn't if he understood it.

25 Q So, you thought it was perfectly okay and you didn't

CROSS EXAMINATION OF SHAUN HARLEY BY MR. PLEXICO

433

1 diminish his rights at all or his understanding of his
2 rights?

3 A He understood everything, the questions. He answered all
4 the questions.

5 Q All right. So, he starts out by talking about he's
6 smoking pot, right? So he's smoking a lot of pot with
7 this Mr. Woods. Correct?

8 A He said he'd been smoking pot.

9 Q Okay. All right. And everybody knew he was a pot dealer
10 and smoked a lot of pot?

11 A Sir?

12 Q From your investigation, didn't Mr. Woods smoke a lot of
13 pot and deal in pot?

14 A He sold marijuana, yes. But I don't know about his
15 regular use.

16 Q Okay. All right. Would it be common for people who sold
17 marijuana to smoke marijuana?

18 A Yeah, some. But you can't say that for everyone.

19 Q All right. So, you made comments like you feel real
20 good, that's some powerful stuff.

21 A Yes, sir.

22 Q Oh, okay. All right. And he didn't say I wasn't smoking
23 powerful marijuana. Right? He never said he wasn't
24 good. Right?

25 A No.

1 Q And after you said that and you made sure he was real
2 high. I mean, that's what his impression was. Wasn't
3 that the impression he gave you?

4 A He said he was good.

5 Q Oh, okay. And that means you high. I'm good, man. Isn't
6 that what it means, you high?

7 A He said he was feeling good. He was good. I don't think
8 what he was -- that he couldn't understand or anything
9 like that or falling over, going to sleep.

10 Q All right. He just wasn't stumbling drunk. Just drunk?

11 A He said he was feeling good.

12 Q Okay. All right. So, that's when y'all started, wanted
13 to get a statement out of him. Correct?

14 A At the beginning of the interview, yes.

15 Q Well, that's when you said that to him?

16 A Sir?

17 Q You said that to him shortly before y'all started to
18 want him to write a statement. Correct?

19 A I can't remember that.

20 Q Oh, okay. Well, it's on the tape.

21 A Okay.

22 Q All right. Okay. Then he makes numerous requests for I'm
23 starving. I want to go to Waffle House. I want to go get
24 something to eat. Right?

25 A Yes, sir.

CROSS EXAMINATION OF SHAUN HARLEY BY MR. PLEXICO

435

1 Q Okay. At one point, y'all even show him a photograph and
2 he acts horrified over that and wasn't that the
3 photograph of Mr. Woods?

4 A Yes, sir.

5 Q Okay. He was just horrified over that, wasn't he?

6 A Yeah.

7 Q Okay. All right. And off and on toward the end there
8 y'all were telling him what to put in the statement.
9 Right?

10 A Yes, sir. Because he had told us the whole wad, which is
11 not common when we interview get them to write
12 statements.

13 Q Okay. You don't get people to write statements?

14 A Yes, sir. We do.

15 Q Okay.

16 A What I'm saying is, a lot of people when we get them to
17 write a statement, they forget to include things that
18 they told us.

19 Q So, you told him what to put in the statement?

20 A No, sir. That's what he told us in the interview.

21 Q All right. So, it's their statement edited by you?

22 A That's what they told us in the interview.

23 Q Let me give you an example. If I'm a writer and I submit
24 something to my editor at the magazine and the editor
25 adjusts it and makes improvements, then that's what

- 1 y'all are doing. You're like an editor?
- 2 A No, sir. We told him to put in what he told us.
- 3 Q Okay. He never told you that he committed any crimes
- 4 towards Darius. Isn't that ---
- 5 A No, sir.
- 6 Q Okay. And y'all started talking to him -- I noticed on
- 7 the film that y'all had just gotten done, you and Mr.
- 8 Williams, talking with Davonte Freeman. Is that correct?
- 9 You were done with Davonte?
- 10 A I wasn't part of that interview.
- 11 Q That was only Agent Williams?
- 12 A You'll have to ask him about that. I think so, but I'm
- 13 not sure.
- 14 Q But one of the two of y'all interviewed him?
- 15 A Correct.
- 16 Q And it wasn't you?
- 17 A No.
- 18 Q It was only two of you on the scene?
- 19 A Along with the crime scene and Ridgeland Police
- 20 Department.
- 21 Q But crime scene was at the crime scene?
- 22 A Correct. They should be at the incident location.
- 23 Q But they weren't at the Ridgeland Police Department,
- 24 just you and Agent Williams?
- 25 A Yes, sir, that I can recall.

DIRECT EXAMINATION OF JOHN BURNETT BY MS. JONES

437

1 Q Okay. All right.

2 MR. PLEXICO: Court's indulgence. I don't think I have
3 anything further.

4 THE COURT: Any redirect?

5 MS. JONES: No, Your Honor.

6 THE COURT: You may step down. You may call your next
7 witness.

8 MS. JONES: The State calls former Special Agent John
9 Burnett.

10 May Lieutenant Harley be excused from his subpoena, Your
11 Honor?

12 THE COURT: Any objection from Defense?

13 MR. PLEXICO: No, Your Honor.

14 THE COURT: Mr. Burnett, please come forward. I'm going
15 to ask, if you could, to place your left hand on the Bible
16 and raise your right hand as the clerk administers the oath.
17 (After being duly sworn by the Clerk of Court, JOHN BURNETT
18 testified as follows:)

19 THE COURT: You can have a seat in the witness chair and
20 speak loudly and clearly and slowly in order that we can hear
21 everything that you have to say and we'll start with your
22 full name.

23 MR. BURNETT: John Charles Burnett.

24 THE COURT: Very good. Ms. Jones.

25 MS. JONES: Thank you, Your Honor.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

DIRECT EXAMINATION OF JOHN BURNETT BY MS. JONES

439

1 Q Okay. And did you have an opportunity to come into
2 contact with the defendant in this case, Billy Phillips?

3 A I did.

4 Q And do you remember what date that was?

5 A I believe it was May the 24th.

6 Q Okay. Where did you meet with him?

7 A At the Ridgeland Police Department.

8 Q Okay. Did you interview him at the Ridgeland Police
9 Department?

10 A I did.

11 Q Okay. Prior to your -- well, do you remember how Mr.
12 Phillips got to the Ridgeland Police Department?

13 A I mean, physically got there? On his own.

14 Q Okay. He wasn't in custody, under arrest?

15 A No, ma'am.

16 Q Okay. You said this was May the 24th?

17 A Correct.

18 Q Prior to speaking with Mr. Phillips, did you advise him
19 of anything?

20 A I advised him of his Miranda rights.

21 Q Okay.

22 MS. JONES: Permission to approach, Your Honor?

23 THE COURT: Yes.

24 Q I'm showing you what's been marked State's Exhibit #69.

25 Can you please tell the Court what that is.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 A This is a copy of the form that was initiated and
2 ultimately signed by Mr. Phillips after advising him of
3 his rights.
- 4 Q And was that done in your presence?
- 5 A It was.
- 6 Q And are you, in fact, reading him those rights?
- 7 A Correct.
- 8 Q What is that I see to the left of each of those rights?
- 9 A His initials.
- 10 Q Okay. And did he, in fact, initial each of those rights?
- 11 A He did.
- 12 Q What do the rights say?
- 13 A You have the right to remain silent. Anything you say
14 can be used in Court as evidence against you. You have
15 the right to talk to a lawyer now and have him present
16 now during the time of any questioning. If you cannot
17 afford an attorney, one will be appointed for you
18 without cost. If you decide to answer questions now
19 without a lawyer present you'll still have the right to
20 stop answering questions at any time. You also have the
21 right to stop answering questions at any time until you
22 talk with a lawyer. And then I ask, you know, if he
23 understood the rights, which he initialed and I had him
24 write his answer yes at the end of that and that he
25 wished to talk to us at this time, which he also

DIRECT EXAMINATION OF JOHN BURNETT BY MS. JONES

441

1 initialed and signed or put his answer yes at the end of
2 that statement.

3 Q Okay. So, that is a copy of the actual Miranda forms,
4 initialed and signed by the Defendant?

5 A Yes, ma'am.

6 Q Okay.

7 MS. JONES: Your Honor, at this time, State moves State's
8 #69 into evidence.

9 THE COURT: Any objection?

10 MR. PLEXICO: I have none on that, Your Honor.

11 THE COURT: State's Exhibit #69 is into evidence.

12 (Whereupon, Miranda form is entered into evidence as
13 State's Exhibit #69, without objection.

14 MS. JONES: Thank you, Your Honor.

15 Q When you're reading him these rights, I see there's a
16 line next to each one for his initials. Do you read one
17 and then he initials it?

18 A No, I go through the entire form, down to where it asks
19 him if he understands and if he's willing to talk, and
20 then have him initial each one, indicating that he is
21 aware of that and then he agrees to ---

22 Q Okay. And those are his initials. Correct?

23 A Correct.

24 Q And this is his signature down at the bottom?

25 A That's correct.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 Q Okay. When you are going over this form with him, does
2 he appear to understand what you're saying to him?
- 3 A He did.
- 4 Q He did? Does he appear to have any trouble understanding
5 any of those rights?
- 6 A No, ma'am.
- 7 Q Did he appear to have a rational understanding of why
8 you were there to speak with him?
- 9 A Yes, he did.
- 10 Q Or why he was there to speak with you?
- 11 A He did.
- 12 Q He did. And after going through all those rights, he did
13 agree to talk to you?
- 14 A He did.
- 15 Q And it was freely and voluntary?
- 16 A Yes, ma'am.
- 17 Q And he did, in fact, speak with that day, didn't he?
- 18 A He did.
- 19 Q Do you -- can you tell us what he said?
- 20 A It wasn't long into our discussion that it became
21 apparent to me that what he was telling me was somewhat
22 different than what he had told the agents that had
23 interviewed him prior to that date.
- 24 Q Okay.
- 25 A Or at least prior to my being with him. He told me that

DIRECT EXAMINATION OF JOHN BURNETT BY MS. JONES

443

1 on the, I believe it was May the 18th, the day that the
2 shooting occurred that he was at the victim's residence,
3 Mr. Woods, indicating that he was sitting in a car in
4 the front yard and while he was sitting there, three
5 subjects approached the residence, did not see him in
6 the vehicle. Well, let me back up for a minute. He said
7 that he was in the car smoking marijuana and listening
8 to the radio when these subjects approached. One of the
9 males went on the porch and entered the residence. In
10 his opinion, it was presumably to buy drugs because Mr.
11 Woods was known to sell drugs. A short time later he
12 indicated that he'd heard shots ---

13 Q Plural?

14 A Plural. Shots. And the individual that had gone in the
15 residence exited. He was then joined by the other two.
16 And at that point he indicated that they made eye
17 contact with him. He heard one of them make or say
18 something to the effect of Dee. At that point he said he
19 got scared. He was in fear of his life and got out of
20 the car and ran away.

21 Q Okay. Did he say why he is now saying this new story?

22 A He said that he wanted to tell it before, but that he
23 was afraid to say it because he thought something might
24 happen to him or his family.

25 Q Did he give you any information about what he did when

1 he ran away from Darius' home that night?

2 A Indicated that he left there and went to his mother's
3 house.

4 Q Where does he say he goes after his mom's house?

5 A From there, I believe -- after leaving his mother's
6 house, he ultimately made his way to Greenwood, South
7 Carolina. If I can refer to my notes for a minute.

8 Q Does he specifically say anything about going ---

9 MR. PLEXICO: I would object, Your Honor. That's leading.

10 MS. JONES: I'll withdraw the question while he reviews
11 his notes.

12 A He said that he left there, went down Adams Street.
13 Turned right at the short stop, left at the light and
14 went past the post office and straight down to Heron
15 Crossing to a house somewhere in that area of the BP
16 Station and then went to his mother's house.

17 Q Okay. Does he say he does anything else that night?

18 A He went to his mother's house and stayed there until the
19 following day, is my recollection.

20 Q Okay. Thank you. What does he reference about break-ins
21 of Darius' home?

22 A He stated that he had, some time prior to the incident
23 date, taken a PlayStation 3 to the residence so he and
24 Mr. Woods could play with it and then at some point, the
25 PlayStation 3, along with some clothes, possibly some

CROSS EXAMINATION OF JOHN BURNETT BY MR. PLEXICO

445

1 drugs and other items, were stolen from the residence by
2 an unknown person or persons.

3 Q Does he know when that happened?

4 A No, ma'am. Just prior to the 18th of May, maybe during
5 that week.

6 Q Okay. When he is speaking with you, what is his
7 demeanor?

8 A He was nervous and apprehensive. He repeatedly asked for
9 cigarette breaks -- his wife was there outside in the
10 car -- which he was granted. But it was quite obvious he
11 didn't want to be there. He didn't, until the end of it,
12 he didn't ask to leave, other than to take breaks, but
13 he was holding himself around the stomach and rocking
14 and repeatedly retreated from me in his chair, just kept
15 backing out. It was quite obvious he didn't want to be
16 there.

17 Q Okay. I have no further questions for you at this time.

18 Thank you.

19 THE COURT: Cross-examination, Mr. Plexico?

20 CROSS-EXAMINATION

21 BY MR. PLEXICO:

22 Q How are you today, sir?

23 A I'm fine and you?

24 Q Just fine. Hope to join you in retirement one day. Okay.

25 Did he say about sixty -- have you seen the transcript

- 1 of your interview or part of your interview?
- 2 A A written transcript?
- 3 Q Yes.
- 4 A Yes, sir.
- 5 Q All right. And didn't he have about -- and to be fair,
- 6 didn't he have at least fifty denials of any kind of
- 7 guilt when he was talking with you that day: I didn't
- 8 kill that boy, I didn't do it, you've got the wrong man,
- 9 I didn't kill that man. Didn't he say that over fifty
- 10 times?
- 11 A He repeatedly said, "I didn't shoot that boy."
- 12 Q In a variety of different ways. Correct?
- 13 A And we do make notes and I quoted him numerous times as
- 14 saying I didn't shoot that boy.
- 15 Q Well, was it like, I wasn't in there? And when you
- 16 referred to the other interview he said, I don't
- 17 remember what I said. I was high. He says the truth is,
- 18 I did not do it. Sir, I did not kill that boy. I did not
- 19 shoot that boy. Later in the interview, would you
- 20 disagree that he said I did not shoot him? I did not see
- 21 him get shot. I did not shoot him. I did not see what
- 22 happened. I didn't shoot him. I'm telling you the truth.
- 23 I did not shoot him. Sir, I did not kill that boy. I did
- 24 not kill him. I did not shoot him. And does he go -- and
- 25 isn't this replete with those statements from my client?

CROSS EXAMINATION OF JOHN BURNETT BY MR. PLEXICO

447

1 A That is correct. That is the reason that early on it
2 caught my attention that he had changed his statement
3 from what he had told the agents prior to my interview.

4 Q And they were over there speaking to a drunk, a high
5 guy, too. Right?

6 A I wouldn't ---

7 MS. JONES: Objection.

8 Q At 5:00 in the morning?

9 A I wasn't there when he was interviewed, so I couldn't
10 respond to that.

11 Q You wouldn't be out -- never mind.

12 MR. PLEXICO: I don't have anything further.

13 THE COURT: Any redirect?

14 MS. JONES: No redirect, Your Honor.

15 THE COURT: You may step down. You may call your next
16 witness.

17 MS. JONES: The State calls Deandre Woods.

18 THE COURT: Mr. Woods, please come forward. I'm going to
19 ask if you could to place your left hand on the Bible and
20 raise your right hand while the clerk administers the oath.

21 (After being duly sworn by the Clerk of Court, DEANDRE
22 WOODS testified as follows:)

23 THE COURT: Have a seat in the witness chair and I'm
24 going to ask you to pull up real close to that microphone.
25 Speak loudly, clearly and slowly in order that we can hear

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 everything that you have to say and let's start with your
2 full name.

3 MR. WOODS: Deandre Quinta Woods.

4 THE COURT: Very good. Ms. Jones.

5 MS. JONES: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MS. JONES:

8 Q Mr. Woods, I can't help but notice your last name.

9 A Yes, ma'am.

10 Q How did you know Darius?

11 A He was my brother.

12 Q He was your bother?

13 A Yes, ma'am.

14 Q Older or younger brother?

15 A He's younger than me.

16 Q Okay. What was y'all's age difference?

17 A I'm thirty-nine. He would have been going on twenty-six
18 before, so, ten years.

19 Q Okay. Did you live in Ridgeland with him?

20 A We lived together. We originally moved from New York so
21 for a period of about -- a good amount of years we did
22 live together in Ridgeland.

23 Q Okay. But in 2013, y'all didn't live together?

24 A No, ma'am.

25 Q Did you live in Ridgeland?

DIRECT EXAMINATION OF DEANDRE WOODS BY MS. JONES

449

1 A Yes, ma'am.

2 Q Okay. Are you still in the area?

3 A Yes, ma'am.

4 Q He was your little brother. How would you describe
5 y'all's relationship?

6 A Close.

7 Q Close?

8 A Yes. Yes, ma'am. Absolutely.

9 Q Did you share a lot of information with him?

10 A Certain things -- with us, we'll share certain
11 information. If it's personal, it's personal. We all had
12 our separate lives. So, if we didn't engage in any type
13 activity or situation, we wouldn't even discuss it. But
14 if it was something very serious and dangerous, yes, we
15 would discuss it.

16 Q Okay. Something serious and dangerous you would know
17 about?

18 A Yes, ma'am. Absolutely.

19 Q Like his house getting broken into the week of the
20 murder?

21 A Yes, ma'am.

22 Q Did you know that happened?

23 A He didn't physically tell me that he got burglaried. I
24 heard about that.

25 Q I want to talk about his house. Had you been over to

- 1 this house on Adams Street?
- 2 A Yes, ma'am.
- 3 Q Many times?
- 4 A Yes, ma'am. That's my brother.
- 5 Q When you went in this house, what door would you use?
- 6 A I'd use the front door.
- 7 Q How about -- was there another door to get in the house?
- 8 A Yes, ma'am. The side door.
- 9 Q Did you ever use that door?
- 10 A No, ma'am.
- 11 Q Why not?
- 12 A It was uncommon for me to go into the door. I mean, you
- 13 know, that's -- in anybody's house I go to, I'm at the
- 14 front door.
- 15 Q Okay.
- 16 A You have no business at nobody's back door unless that's
- 17 the main entrance that they use.
- 18 Q Okay. How was Darius with allowing other people in his
- 19 home, besides you?
- 20 A You had to gain -- just like any other individual, you
- 21 have to gain their trust. You know, if he trusted you,
- 22 then he was, you was welcome into his personal
- 23 boundaries. If he didn't trust you, you sat on the front
- 24 porch, just that plain and simple. I'm the same way.
- 25 Q Now, we know what Darius did for a living.

DIRECT EXAMINATION OF DEANDRE WOODS BY MS. JONES

451

1 A Yes, ma'am. He sold marijuana.

2 Q He sold marijuana?

3 A Absolutely.

4 Q People that would purchase marijuana from him, where
5 would they do that?

6 A Well, as far as my knowledge from, you know, on the
7 front porch.

8 Q Okay.

9 A Yes, ma'am.

10 Q How about inside?

11 A You had to be a real close friend for him to let you
12 inside his house. You'd have to have his trust a hundred
13 percent. It couldn't even be ninety-nine point nine. If
14 it wasn't a full hundred, I'm sorry, you cut off.

15 Q How would people let Darius know they were at his house?

16 A They would -- you'd call him.

17 Q Okay. When they got to the door, would they do anything
18 in particular?

19 A Knock on the door and the door stayed locked, you know.
20 And he was very particular. He'd look through the window
21 see who it is and then he'll proceed to open up the
22 door.

23 Q And this is always the front door?

24 A Yes, ma'am.

25 Q Do you know if that side door was kept locked like the

1 front door?

2 A Yes, ma'am. Kept locked.

3 Q Do you know the Defendant?

4 A Never seen him.

5 Q Had you heard of him before?

6 A I'd heard of him. Never seen him. Don't know him
7 personally.

8 Q Did you have an opportunity to go over to Darius' home
9 after he had been killed?

10 A Yes, ma'am.

11 Q What were you doing over there?

12 A I was cleaning up and getting his stuff out of the house
13 once SLED agents cleared the scene for me to come in and
14 take possession of his personal items.

15 Q Okay. What sort of items did you take possession of?

16 A Some twenty-four inch grooves, Xbox 360, some of his
17 clothes, his TV, the things on the night stand and
18 pretty much everything that belonged to him that SLED
19 and the agency left, I packed up and took with me,
20 including the car.

21 Q That white car?

22 A Absolutely. Yes, ma'am.

23 Q That was Darius' car?

24 A Yes, ma'am.

25 Q Okay. Did you collect electronics?

CROSS EXAMINATION OF DEANDRE WOODS BY MR. PLEXICO

453

1 A Yes, ma'am. I collected that Xbox 360, two controls and
2 one cable and a charger controller and a couple of
3 games.

4 Q What kind of ---

5 A Xbox 360 games.

6 Q They were Xbox games?

7 A Yes, ma'am.

8 Q Were there any other electronics you collected?

9 A Besides his TV, no, ma'am.

10 Q Did you see a PlayStation?

11 A No, ma'am.

12 Q Deandre, I don't have any more questions for you. Thank
13 you.

14 A Thank you.

15 THE COURT: Any cross-examination?

16 CROSS-EXAMINATION

17 BY MR. PLEXICO:

18 Q I'm sorry about your loss, sir. PlayStation is something
19 people of all ages play, kids on up. Correct?

20 A It's not kids. Grown folks play, too. It's not just
21 kids.

22 Q Grown folks play, too?

23 A Yes, sir. So, that's ---

24 Q You didn't -- I'm sorry.

25 A You continue.

1 Q Thank you. All right. You didn't participate at all or
2 approve anything about as far his drug dealing goes.

3 Correct?

4 A No, sir. I don't know about all that.

5 Q All right. So, you weren't over there and you weren't
6 participating in any those drug dealings. Correct?

7 A No, sir. I had my own life to live.

8 Q Okay. So, if you saw anything that hinted of that, you
9 would go ahead and go somewhere else, go home?

10 A Yes, sir. Like I said, I don't condone no violence,
11 period.

12 Q Okay. Or selling drugs?

13 A Or selling drugs, period. You going to go ahead and get
14 that out the way.

15 Q Thank you, sir. I'm sorry for you loss.

16 THE COURT: Any redirect?

17 A I sure appreciate it.

18 MS. JONES: Very briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. JONES:

21 Q Deandre, you said that your brother sold marijuana?

22 A Yes, ma'am.

23 Q What did he keep on him for protection for this
24 business?

25 A Well, after, you know, like I said, I don't condone

DIRECT EXAMINATION OF DANIEL LITCHFIELD BY MS. JONES

455

1 violence, but if this is what he wants to do, look,
2 there's this machine and you need to have you a gun
3 available. Yes, ma'am.

4 Q Do you remember what kind of gun it was?

5 A A black .38 revolver.

6 Q Okay.

7 MS. JONES: I have no further questions, Your Honor.

8 THE COURT: You may step down.

9 THE WITNESS: Thank you, sir.

10 THE COURT: You may call your next witness.

11 MS. JONES: The State calls Daniel Litchfield.

12 THE COURT: Mr. Litchfield, please come forward. I'll ask
13 you, if you could, to approach the clerk, place your left
14 hand on the Bible, raise your right hand as the clerk
15 administers the oath.

16 (After being duly sworn by the Clerk of Court, DANIEL
17 LITCHFIELD testified as follows:)

18 THE COURT: I'll ask you to speak loudly, clearly, and
19 slowly, in order that we can hear everything you have to say
20 and let's start with your full name, please, sir.

21 MR. LITCHFIELD: Yes, sir. Daniel Benjamin Litchfield.

22 THE COURT: Very good. Ms. Jones.

23 MS. JONES: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. JONES:

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q Where are you -- I see you have a badge on your blazer
2 there. Where do you work?

3 A I work for the Ridgeland Police Department.

4 Q Okay. And in what capacity do you work with the police
5 department?

6 A I'm a lieutenant in charge of investigations and
7 interdiction traffic.

8 Q Okay. How long have you been over at the police
9 department?

10 A Since 2005.

11 Q Okay. So, in 2013 you were with the police department?

12 A Yes, ma'am.

13 Q What capacity were you working at the police department
14 in 2012?

15 A Investigations.

16 Q Okay. Did you respond or have any involvement in the
17 investigation of the murder of Darius Woods?

18 A Yes, ma'am.

19 Q Okay. What was your involvement?

20 A I received a call from a patrol officer in reference to
21 the death and responded on scene.

22 Q Okay. At that point or at some point did another agency
23 take over the investigation?

24 A Yes, ma'am. Once I got on scene I notified SLED. They
25 sent a crime scene analyst and investigators.

DIRECT EXAMINATION OF DANIEL LITCHFIELD BY MS. JONES

457

1 Q Okay. So, you requested SLED to assist?

2 A Yes.

3 Q Is that common?

4 A Yes.

5 Q Okay. Lieutenant Litchfield, I want to show you --

6 MS. JONES: Permission to approach, Your Honor?

7 THE COURT: Yes.

8 Q I'm going to show you what's been previously marked as

9 State's Exhibit #46 for identification. Can you identify

10 that?

11 A Yes, ma'am. It's a buccal swab collected from Jason

12 Blessing.

13 Q Okay. How do you recognize that?

14 A This is a standard container that we collect swabs in.

15 It also has my initials and the date that I turned it

16 over to SLED.

17 Q And what is that date?

18 A January 21st, 2014.

19 Q And what do your initials on that outside bag indicate?

20 A It indicates that when I turned it over to SLED they

21 sealed it and I actually sign the new bag saying it was

22 sealed and not tampered with.

23 Q Okay. Do you remember who you received that sample from?

24 A Yes, ma'am.

25 Q Who was that?

- 1 A Officer Jason Blessing. He was an officer at the time at
2 the sheriff's office.
- 3 Q Okay. So, you took that swab?
- 4 A Yes, ma'am.
- 5 Q Okay. And you handed it over to SLED, you said?
- 6 A Well, I took this and two others on January 21st to
7 SLED.
- 8 Q And SLED is in Columbia?
- 9 A Yes.
- 10 Q So, you transported it from Jasper County to Columbia?
- 11 A Yes, ma'am.
- 12 Q Okay. While this is in your custody and control, do you
13 maintain the integrity of this item?
- 14 A Yes, ma'am. We have a locker at the office that we keep
15 everything in until we transport it or do what we have
16 to do with it.
- 17 Q Did you alter it or change it in any manner?
- 18 A No, ma'am.
- 19 Q While it's in this locker -- can you describe this
20 locker?
- 21 A It's a brick square room with a locked door.
- 22 Q Did anybody else have access to this?
- 23 A No, ma'am.
- 24 Q So, while this was in that locked, brick room, it was
25 secure?

DIRECT EXAMINATION OF DANIEL LITCHFIELD BY MS. JONES

459

1 A Yes, ma'am.

2 Q Did you tamper with this at any -- at all?

3 A No, ma'am.

4 Q No. And you, yourself, personally transferred this to
5 SLED?

6 A Yes, ma'am.

7 Q I have no further questions.

8 THE COURT: Cross-examination, Mr. Plexico?

9 MR. PLEXICO: Not of this witness, Your Honor.

10 THE COURT: You may step down.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: You may call your next witness.

13 MS. JONES: The State calls Sabrina Fellers.

14 THE COURT: Madam Forelady, ladies and gentlemen, let's
15 stand up and stretch just a little bit. We've got about ten
16 minutes and we're going to be eating some lunch on the
17 county.

18 Yes, ma'am. Please come forward. I'd ask, if you could,
19 to approach the clerk, place your left hand on the Bible,
20 raise your right hand as the clerk administers the oath.

21 (After being duly sworn by the Clerk of Court, SABRINA
22 FELLERS testified as follows:)

23 THE COURT: I'd ask, if you could, to have a seat in the
24 witness chair. Speak loudly, clearly, and slowly in order
25 that we can hear everything that you have to say and let's

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 start with your full name, please.

2 MS. FELLERS: Sabrina Ann Fellers.

3 THE COURT: Thank you, Ms. Fellers.

4 DIRECT EXAMINATION

5 BY MS. JONES:

6 Q Good morning.

7 A Good morning.

8 Q Where are you currently employed?

9 A I am currently employed with the South Carolina Law
10 Enforcement Division, commonly referred to as SLED.

11 Q And in what capacity do you work with SLED?

12 A I am a special agent assigned to the Special Victims'
13 Unit.

14 Q Okay. What does that mean?

15 A I am in the vulnerable adult unit and we handle
16 investigations for vulnerable adults throughout the
17 State of South Carolina.

18 Q Okay. Back in 2013, were you employed with SLED?

19 A Yes, I was.

20 Q And in what capacity were you working with SLED in 2013?

21 A I was assigned to the crime scene unit.

22 Q Okay. And what were some of your duties in crime scene
23 unit?

24 A We were assigned to requests for assistance from local,
25 state, and federal agencies throughout South Carolina.

DIRECT EXAMINATION OF SABRINA FELLERS BY MS. JONES 461

1 We processed the crime scene for evidence. We documented
2 it using photography and detailed notes, sketches. We
3 collected any evidence and preserved it and transported
4 it to the laboratory for further analysis.

5 Q Okay. Were you involved with the crime scene
6 investigation of this case into the death of Darius
7 Woods?

8 A I attended the autopsy.

9 Q Okay. When was that?

10 A That was on -- may I refer -- That was on May 21st of
11 2013.

12 Q And when you attended, had you attended autopsies in the
13 past?

14 A Yes.

15 Q When you attend an autopsy, where are you in relation to
16 the actual autopsy?

17 A In the viewing room at MUSC Hospital.

18 Q Okay. So, you're able to see what's happening?

19 A Yes.

20 Q Okay. And you had attended Darius' autopsy you said?

21 A Yes.

22 Q Okay. After the autopsy, what did you do?

23 A While I was at the autopsy I collected major latent
24 prints, which are the fingerprints of the victim and I
25 also collected a gunshot residue kit from him and I

1 collected the evidence that was collected at autopsy and
2 I transported it and signed it over to another crime
3 scene agent so that it could be entered for evidence in
4 the laboratory.

5 Q Okay.

6 MS. JONES: Permission to approach, Your Honor?

7 THE COURT: Yes.

8 Q I'm going to start with State's #44A. Can you identify
9 that for the Court, please?

10 A Yes. It is listed as evidence. It is one pair of Ed
11 Hardy blue jeans and a black belt.

12 Q Okay. And are these the jeans you collected from
13 autopsy?

14 A Yes, they are.

15 Q While these are -- you collected them from MUSC? Was
16 that MUSC?

17 A Yes, it was.

18 Q Okay. And you collected them straight from the autopsy
19 into your hands?

20 A Yes.

21 Q While these are in your custody and control, do you
22 alter them or tamper with them in any way?

23 A No.

24 Q Do you maintain the integrity of them?

25 A Yes.

DIRECT EXAMINATION OF SABRINA FELLERS BY MS. JONES

463

1 Q Did anybody else have access to them while they were in
2 your control?

3 A No.

4 Q So, they came from -- when they left autopsy, they came
5 to your hands and left your hands in the same condition?

6 A Yes, they did.

7 Q And who did you physically hand them to?

8 A I handed them over to Special Agent Tiffany Hezel.

9 Q Okay. And she is also with SLED?

10 A She is.

11 Q You mentioned some other things you collected also. I'm
12 showing you what has been marked States #41A. Can you
13 identify that, please?

14 A Yes.

15 Q And what is that?

16 A This is the gunshot residue kit that I collected at the
17 autopsy.

18 Q And how do you know that's the kit you collected?

19 A It has the victims name on it and it is listed me as the
20 collecting agent and it also has the ID number.

21 Q Okay. And did this -- you collected this the same time
22 as the pants?

23 A Yes.

24 Q And, again, when it was in your care, did you alter it,
25 change it, manipulate it in any way?

- 1 A No.
- 2 Q Did you maintain the integrity of this item?
- 3 A Yes.
- 4 Q And who did you physically hand this item off to?
- 5 A Special Agent Tiffany Hezel.
- 6 Q I'm showing you what has been marked State's Exhibit
- 7 #40. Can you identify what's in that bag?
- 8 A It has items #36 and #37, which were fired projectiles
- 9 recovered at autopsy.
- 10 Q Okay. Fired projectiles are also known as...
- 11 A Fired bullets, fragments of bullets.
- 12 Q Okay. And these are the actual ones you collected from
- 13 autopsy?
- 14 A Numbers 36 and 37 in that package are.
- 15 Q You're specifying because there's another ---
- 16 A Yes.
- 17 Q Something else in here also?
- 18 A Yes.
- 19 Q That you didn't collect?
- 20 A Yes.
- 21 Q Okay. While these two items, the two bullet fragments
- 22 that are within item #40 are in your custody, do you
- 23 maintain the integrity of these items?
- 24 A Yes.
- 25 Q Do you manipulate them in any way?

1 A No.

2 Q Do you alter them or change them?

3 A No.

4 Q They came into your hands in the same manner in which
5 they left, in the same condition?

6 A Yes, they did.

7 Q Okay. You know what, Agent Fellers, I'm actually going
8 to have you open this bag so we can go ahead and mark
9 the two that you identified.

10 A Could I have a pair of scissors?

11 Q You will need those won't you?

12 COURT REPORTER: I've got some.

13 A Thank you.

14 Q Do you need gloves or are they are packaged in separate
15 baggies?

16 A They are packaged in separate envelopes, individually.

17 Q Okay.

18 A (Witness opens State's Exhibit #40)

19 MS. JONES: And, Madam Court Reporter, if we could have

20 41A, B, and C. I'm sorry. 40A, B, and C marked for ID.

21 (Whereupon, State's Exhibit #40A, #40B, #40C were marked
22 for identification.)

23 Q And #40A, can you please identify specifically what #40A
24 is?

25 A #40A was collected from autopsy from Darius Woods and it

- 1 is listed as a bullet and jacket from the right side of
2 the head.
- 3 Q Okay. How about #40B?
- 4 A #40B was also collected at autopsy and it is from Darius
5 Woods and it is listed as a jacket and fragment from
6 mouth.
- 7 Q And those are the two that you collected at autopsy?
- 8 A Yes, they are.
- 9 Q Okay. Thank you. Then again, you didn't manipulate them
10 or change them in any manner?
- 11 A No.
- 12 Q One more. I'm showing you what has been previously
13 marked State's #43. And can you please identify that?
- 14 A Yes, I can. This is the known blood standard that was
15 collected at autopsy from the victim, Darius Woods.
- 16 Q Okay. And, again, when was that autopsy?
- 17 A May 21st.
- 18 Q And where was it located?
- 19 A Medical University of South Carolina, MUSC, in
20 Charleston.
- 21 Q Okay. And you received it straight from autopsy into
22 your hands?
- 23 A Yes, I did.
- 24 Q And from your hands, who did you transfer it to?
- 25 A Special Agent Tiffany Hezel.

DIRECT EXAMINATION OF SABRINA FELLERS BY MS. JONES

467

1 Q Along with everything else that you collected?

2 A Yes.

3 Q Okay. And when did you transfer Special Agent Hezel
4 these items?

5 A I cleared the autopsy shortly around noon and I
6 transferred them to Special Agent Hezel at 1:51 that
7 afternoon.

8 Q Have any of these items -- they all appear to be in
9 these clear bags. Can you describe those bags?

10 A Those bags, the items are then placed in those bags once
11 they're -- we're at the laboratory, but those are what
12 we call heat-sealed pouches and they can be sealed using
13 a heat system so that the chain of custody and integrity
14 of the evidence can be maintained.

15 Q Okay. They can't be tampered with?

16 A No, ma'am.

17 Q And while this last item -- what did you say it was
18 again?

19 A The last item was the blood standard.

20 Q Okay. From Darius?

21 A Yes.

22 Q Did you change it or alter it or ---

23 A No, ma'am.

24 Q It kept it's form as it came to you?

25 A Yes, it did.

1 Q You didn't manipulate it any way?

2 A No, ma'am.

3 Q I have no further questions for you. Thank you.

4 A Thank you.

5 THE COURT: Any cross-examination?

6 MR. PLEXICO: Not of this witness, Your Honor.

7 THE COURT: All right. You may step down.

8 MS. FELLERS: Thank you.

9 THE COURT: Madam Forelady, ladies and gentlemen of the
10 jury, we're going to recess for lunch. I'm going to ask that
11 you retire to the jury room and do not discuss the case in
12 any way, shape or form. Everyone remain seated as the jury
13 exits the courtroom.

14 (Jury out at 11:56 AM)

15 THE COURT: I'd like to speak with counsel.

16 (Bench conference off the record)

17 (Lunch Break)

18 AFTERNOON - JANUARY 13, 2016

19 THE COURT: Anything from the State before we proceed?

20 MS. JONES: No, Your Honor.

21 THE COURT: Anything from Defense?

22 MR. PLEXICO: Just that we have the -- I have two
23 outstanding motions on peer reviewers of the DNA samples. I
24 think you were going to have a prior hearing on DNA samples.

25 THE COURT: All right.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 MS. JONES: I thought the DNA had already been ---

2 MR. PLEXICO: Unless I'm mistaken, I'd moved to exclude
3 it because it wasn't any significance and you wanted to hear
4 from the expert, the DNA expert from SLED before you ruled,
5 made a ruling on that.

6 MS. JONES: And I believe it was waived.

7 THE COURT: I've already ruled that the DNA results will,
8 indeed, come in. If you'd like to restate your motion?

9 MR. PLEXICO: No, no. That's fine. I'll cite my motion
10 when I make my objections.

11 THE COURT: And with regard to the peer review and that
12 particular issue, it's not necessary that we take the entire
13 testimony -- I think we just need to know, hear in some
14 general detail about what she used to make her analysis.

15 MS. JONES: Absolutely. Would you like to hear from him
16 now or ---

17 THE COURT: Is he your next witness?

18 MS. JONES: He is not. We have three.

19 THE COURT: We're going to do the three witnesses and
20 then we'll address that right before.

21 MS. JONES: Okay.

22 THE COURT: Right before. All right. We're ready for the
23 jury.

24 (Jury in at 12:36 PM)

25 THE COURT: Madam Forelady and ladies and gentlemen of

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

DIRECT EXAMINATION OF TIFFANY HEZEL BY MS. JONES

470

1 the jury, you all have a smile on your face. Something about
2 pizza makes you happy, doesn't it? A health food, really.

3 Ms. Jones, you're recognized.

4 MS. JONES: Thank you, Your Honor. The State calls Agent
5 Tiffany Hezel.

6 THE COURT: Yes, ma'am. Please come forward. I'm going to
7 ask, if you could, to approach the clerk, place your left
8 hand on the Bible and raise your right hand as the Clerk
9 administers the oath.

10 (After being duly sworn by the Clerk of Court, TIFFANY
11 HEZEL testified as follows:)

12 THE COURT: Have a seat in the witness chair. I ask that
13 you pull up real close to that microphone. Speak loudly,
14 clearly, and slowly, in order that we can hear everything
15 that you have to say. Let's start with your full name, please
16 ma'am.

17 THE WITNESS: My first name is Tiffany. And the last name
18 is Hezel, H-E-Z-, as in zebra, E-L.

19 THE COURT: Yes, ma'am.

20 MS. JONES: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. JONES:

23 Q Agent Hezel, where do you work?

24 A I'm employed at the South Carolina Law Enforcement
25 Division, which is commonly referred to as SLED.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

DIRECT EXAMINATION OF TIFFANY HEZEL BY MS. JONES

471

1 Q And in what capacity do you work at SLED?

2 A I'm employed as a Special Agent in the crime scene and
3 latent print unit so I respond to crime scenes and I
4 also process evidence that is either submitted directly
5 to the laboratory or collected at the crime scene for
6 any latent print evidence and take swabs for DNA.

7 Q How long have you been with SLED?

8 A I've been with SLED for, going on five years.

9 Q Okay. So, in 2013 you were working with SLED?

10 A Yes, ma'am.

11 Q Okay. In 2013, did you have a chance to come into
12 contact with some evidence for the case we're here for
13 today, the murder of Darius Woods?

14 A Yes, ma'am. I did.

15 Q Okay. I'm going to show you three items, State's #43,
16 State's #40, and State's #44A. And one-by-one, if you
17 could identify these items. First is State's #44A.

18 A This was labeled as items #39 and 40, which per my
19 documentation, item #39 was one pair of Ed Hardy
20 bluejeans and one black belt and item #40 was one pair
21 of Hanes underwear and one pair of black socks.

22 Q Okay. And what is this particular item here? Which one
23 of those two items is that?

24 A This is the Ed Hardy bluejeans and the one black belt.

25 Q Okay. Where did you collect those bluejeans from?

1 A The bluejeans were collected at the original crime scene
2 by Special Agent Dawn Claycomb. So, the evidence was
3 maintained within her custody and processed under my
4 supervision.

5 Q Could those bluejeans come from the autopsy, possibly?

6 A Let me refer to my autopsy chain. I don't have
7 documentation to show that these came from autopsy to
8 me. So, I never was in possession of these. They were in
9 Dawn's custody the entire time.

10 Q Did you not receive items from Sabrina Fellers?

11 A The chain that I had was where I transferred evidence
12 from Sabrina unless there's another chain since the time
13 I printed out. I had major case prints and a gunshot
14 residue kit from a Mr. Woods.

15 Q Okay.

16 A It's possible there's another chain. If you have it, I
17 can look at that.

18 Q There is another chain you cannot print out.

19 MS. JONES: I beg the Court's indulgence.

20 Q Okay. It appears your name is not actually on the chain
21 that you collected these items in transit.

22 A Yes.

23 Q Do you recall doing that?

24 A Yes.

25 Q Okay. Could you explain that? What happened to that

DIRECT EXAMINATION OF TIFFANY HEZEL BY MS. JONES

473

1 process?

2 A The autopsy for Mr. Woods was conducted at the Medical
3 University of South Carolina, commonly referred to as
4 MUSC down in Charleston. We have a crime scene agent who
5 resides down there and due to the proximity of her
6 personal residence to the hospital, she was designated
7 to attend the autopsy of Mr. Woods. Again, due to where
8 her residence lies and her not being on call at that
9 time, I met her halfway between and took custody of
10 these items collected at autopsy to save her from
11 driving all the way to Columbia to return all the way to
12 Charleston. I act as a courier for in between field
13 locations. I then took the evidence and took it back to
14 the office and signed it over to the case agent Dawn
15 Claycomb, who then packaged the evidence for the
16 designated units within the laboratory.

17 Q Okay. So, anything collected at autopsy came from who to
18 you?

19 A It was transferred from Sabrina Fellers who collected it
20 at autopsy, to me for purposes of couriating it between
21 the two locations and then hand over to the case agent
22 Dawn Claycomb.

23 Q Okay. You said couriating. So, you wouldn't be
24 particularly in the chain of custody?

25 A I believe I signed the bottom of the chain of custody

1 from MUSC where it showed from Sabrina to me. I don't
2 have the completed case file printed out. I just printed
3 out my processing information, but at no time would I
4 have reopened any of the packaging.

5 Q Okay.

6 A It was just simply transferring what was already
7 packaged from autopsy and transporting it in a vehicle
8 to turn over.

9 Q So, anything that Sabrina collected from autopsy came
10 into your control?

11 A Yes.

12 Q Okay. So, any blood stain or bullet fragments, jeans?

13 A Yes. And MUSC seals and notates all evidence as part of
14 their protocol.

15 Q Okay. And you just pointed to something on that bag.

16 What did you point to?

17 A Yeah. There is a label. I don't know if you can see it
18 very well and me still be by the microphone. There's a
19 white label on this bag that contains the MUSC case
20 number, name of the individual who was examined, lists
21 any personal effects. So this is standard protocol for
22 MUSC to document all items based upon their examination
23 and their case work.

24 Q And you recognize that as an MUSC label?

25 A Yes.

DIRECT EXAMINATION OF TIFFANY HEZEL BY MS. JONES

475

1 Q Do you recognize any other MUSC labels on item --

2 State's #43?

3 A Yes. This is a blood spot that was collected. And,
4 again, this envelope was signed at the time it was given
5 to Sabrina at autopsy.

6 Q And do you know what that item is? You said blood spot?

7 A It's a blood spot. It's a known standard that was
8 collected from Mr. Woods for then to be used as a
9 standard for comparison for additional DNA analysis.

10 Q Okay. I can take that box out of your hands. And State's
11 #40B and #40A. Do you recognize the labels on those?

12 A Yes. The labels on these, again, are from the MUSC
13 container forensic autopsy number designated solely to
14 Mr. Woods' case. And this is the evidence that was
15 sealed in these envelopes by MUSC personnel prior to
16 being given to Special Agent Fellers.

17 Q And from Special Agent Fellers' hands, these items came
18 into your control and custody?

19 A Yes. And they remained sealed. And then they were signed
20 over to Special Agent Claycomb. And, again, they
21 remained sealed for her to the send off for special
22 analysis at the requested sections within the
23 laboratory.

24 Q Okay. So, State's #43, the known blood standard from the
25 victim, State's #40A and #40B, the bullet fragments

1 collected from the victim, as well as State's #44A, a
2 pair of jeans and a belt, came into your custody from
3 Sabrina Fellers, who collected them from autopsy?

4 A Correct.

5 Q Okay. And while they were in your custody, you said you
6 didn't change them or alter them in any way?

7 A No, ma'am. I never opened anything.

8 Q Okay. You didn't tamper with anything?

9 A No, ma'am.

10 Q Manipulate anything?

11 A No, ma'am.

12 Q You maintained the integrity of each of these items?

13 A Yes, ma'am. Everything stayed sealed and how I received
14 it. And it was transferred to Dawn in the same manner.

15 Q And so the seal -- anytime it came into your hands,
16 everything was sealed?

17 A It was sealed from autopsy, yes.

18 Q Right. And then when it left your hands, it left the
19 same condition as it came in your hands?

20 A Correct.

21 Q I have no further questions for you. Thank you.

22 THE COURT: Cross-examination, Mr. Plexico.

23 MS. JONES: I have just one question.

24 CROSS-EXAMINATION

25 BY MR. PLEXICO:

CROSS EXAMINATION OF TIFFANY HEZEL BY MR. PLEXICO

477

1 Q I have just one question. You're certain that you did
2 receive the jeans from Ms. Fellers?

3 A Yes, sir. I remember seeing everything that she had
4 collected from autopsy. If they were collected on that
5 date. I just don't have that chain in front of me to
6 verify a time. I have the chain that I signed over for
7 what she collected herself, not from hospital staff,
8 which would have been the major case prints and the GSR.
9 And I signed those over from her on May 21st, 2013 at
10 thirteen fifty-one hours.

11 Q So, you received packages and boxes. Correct?

12 A Yes.

13 Q And you don't know what was inside. Correct?

14 A Just based on what I would have signed for on the chain.
15 MUSC doesn't itemize inventory for the chain from them
16 to whoever is signing it over. So, it would already have
17 been checked on the front end and then that matched what
18 Dawn logged in.

19 Q All right. You don't know what you received in those
20 boxes?

21 A No, sir. I do not do a personal inventory.

22 Q All right.

23 MR. PLEXICO: I don't have anything further.

24 THE COURT: Any redirect?

25 MS. JONES: Briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MS. JONES:

3 MS. JONES: Permission to approach, Your Honor?

4 THE COURT: Yes.

5 MS. JONES: Madam Court Reporter, may I have one sticker,
6 please?

7 Q Agent Hezel, I'm showing you what has been marked
8 State's Exhibit #70. Can you please identify that?

9 A This is the itemized chain that MUSC personnel makes up
10 of everything that they're going to be turning over and
11 it was signed from staff to Sabrina and then it was
12 signed from Sabrina to myself at thirteen fifty-one on
13 May 21st, 2013. All of the items accounted for on this
14 list were then transferred to Special Agent Dawn
15 Claycomb at fourteen forty-seven on the same date. So,
16 we just utilized the same chain instead of rewriting it
17 on another piece of paper.

18 Q And is that your signature?

19 A Yes, it is.

20 Q And does this chain include the items previously shown
21 to you?

22 A Yes, it does. That includes the jeans, the blood spot
23 and bullet and jacket from right side of head.

24 Q So, that means those items were, in fact, handed over to
25 you?

1 A Yes.

2 Q And they were the items that I just showed you?

3 A They were. And then those were the same items that were
4 logged into, that Dawn logged into our computer system
5 and provided an ID number for.

6 Q Okay.

7 MS. JONES: Your Honor, at this time, the State moves
8 State's #70 into evidence.

9 THE COURT: Any objection?

10 MR. PLEXICO: Is that the piece of paper she's holding?

11 MS. JONES: Yes.

12 MR. PLEXICO: Yes, Your Honor. I don't believe she can
13 testify to what was in the boxes unless she actually saw
14 them.

15 THE COURT: Might counsel approach again?

16 (Bench conference off the record)

17 MS. JONES: Your Honor, State moves to publish State's
18 #70.

19 THE COURT: Over objection.

20 (Whereupon, a chain of custody from autopsy was entered
21 into evidence as State's Exhibit #70, over objection)

22 MS. JONES: Thank you.

23 Q So, this is actually the form you signed and noted that
24 it was, that all items were transferred to you?

25 A Correct.

1 Q And maintained in your custody and control, were not
2 tampered with while they were in your custody and
3 control?

4 A Correct.

5 Q And this is your signature, S/A T. Hezel?

6 A Yes.

7 Q Okay. Thank you. I have no further questions.

8 THE COURT: You may step down. You may call your next
9 witness.

10 MS. JONES: The State calls Verona Gibson Herrera.

11 THE COURT: Yes, ma'am, please come forward. I'm going to
12 ask you, if you could, to approach the clerk, place your left
13 hand on the Bible and raise your right hand as the clerk
14 administers the oath.

15 (After being duly sworn by the Clerk of Court, VERONA
16 GIBSON HERRERA testified as follows:)

17 THE COURT: Have a seat in the witness chair. And we'd
18 ask that you pull up close to that microphone, speak loudly,
19 clearly and slowly, in order that we can hear everything that
20 you have to say and let's start with your name, please.

21 THE WITNESS: Verona Herrera.

22 THE COURT: Very good.

23 DIRECT EXAMINATION

24 BY MS. JONES:

25 Q You introduce yourself as Herrera. Did your name change

DIRECT EXAMINATION OF VERONA GIBSON HERRERA BY MS. JONES 481

1 recently?

2 A Yes.

3 Q And what was your name before it was Herrera?

4 A Verona Gibson.

5 Q Okay. And where do you work?

6 A South Carolina Law Enforcement Division.

7 Q In what capacity do you work at the South Carolina Law
8 Enforcement Division?

9 A I am currently a forensic serologist in the evidence
10 processing and DNA casework department.

11 Q What does that mean?

12 A We get larger pieces of evidence and try to locate areas
13 that might possibly be body fluids or we collect skin
14 cells or what possibly could be skin cells from clothing
15 or other items and forward those small cuttings or swabs
16 on to the DNA department.

17 Q Okay. Cuttings or swabs, how are these done? Say, for
18 example, you had an article of clothing that you wanted
19 to swab. How would you go about doing that?

20 A It would depend on what the request was for. If the
21 request is for a body fluid, we would try to identify a
22 stain that could possibly be that and then just swab the
23 stain. If we're looking for ownership or touch DNA,
24 which would be the skin cells I was talking about, we
25 would scrape it with a sterile scraper, then swab the

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 area that we scraped with the scraper and then the paper
2 that we scraped onto.

3 Q Did you perform some of these swabs or scrapings in this
4 case, why we're here today?

5 A I did, yes, ma'am.

6 Q Okay. And which ones? What did you do?

7 A There was a pair of pants, SLED's item #39.

8 Q Okay. Wait. I want to show you something while you're
9 speaking about that. I'm going to show you what has been
10 previously marked State's #44A.

11 A Yes, ma'am. This is SLED's item #39, which was a pair of
12 pants.

13 Q Okay. And those pants, did you come into contact with
14 those pants prior to today?

15 A Yes, ma'am.

16 Q And when was that?

17 A May 31st, 19 -- I mean 2013 was the day that I processed
18 the pants.

19 Q Okay. And when you say processed, what did you do?

20 A There was a request for touch DNA on the pockets of the
21 pants. So, I scraped and swabbed the interior of each
22 pocket.

23 Q Okay. Where did -- who did you receive these pants from?

24 A Dawn Claycomb.

25 Q Okay. And when you received these pants -- I see that

DIRECT EXAMINATION OF VERONA GIBSON HERRERA BY MS. JONES 483

1 they're in a brown paper bag. When you received them,
2 did that paper bag or the container they were in appear
3 to be tampered with?

4 A No, ma'am.

5 Q Was the seal still intact?

6 A Yes, ma'am.

7 Q They didn't appear to be altered or manipulated in any
8 way?

9 A They didn't appear to be.

10 Q Okay. If that seal was actually not intact, what would
11 you have done?

12 A I would have stopped my process or not started my
13 processing, actually, and contacted my superiors and the
14 agency that submitted it.

15 Q Okay. So, potentially you wouldn't have swabbed them or
16 scraped them?

17 A Correct.

18 Q But you did, in fact, swab and scrape these particular
19 pants?

20 A Correct.

21 Q And you know those are the pants that you came into with
22 back in May of 2013?

23 A Yes, ma'am. We write the item number, our initials, our
24 specific lab number and the date on the packaging and
25 the paper that the pants are wrapped in and also on the

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

- 1 item.
- 2 Q Okay. And all of that is indicated on this particular
- 3 item?
- 4 A I didn't write on the paper because it's quite large,
- 5 but it appears still from where I processed it. So, the
- 6 paper and the packaging do have all those identifiers. I
- 7 can open it if you would like me to.
- 8 Q To see those identifiers?
- 9 A (Witness opens Exhibit #44A)
- 10 Q And while you're opening that, did you transfer this
- 11 item to anybody?
- 12 A I would have returned it to the evidence control
- 13 department. I returned it to Joyce Yarborough.
- 14 Q Okay. What is the evidence control department?
- 15 A They're the department in SLED where, when an agency
- 16 brings in evidence, they log it into our computer system
- 17 and they store evidence in a secure area until we, the
- 18 analyst, pick up the evidence and do our processing or
- 19 analysis. Then we return it to them for it to be
- 20 returned to the agency that submitted it. So, they are a
- 21 long-term storage and intake and return area.
- 22 Q Okay. So, this went back into storage after your swabs?
- 23 A Correct.
- 24 Q I see that you're working with some white paper there.
- 25 Are there any markings on the outside of that white

DIRECT EXAMINATION OF VERONA GIBSON HERRERA BY MS. JONES 485

1 paper?

2 A Yes, ma'am. That is processing paper we processed the
3 item on. When we wrap that up, we do initial, date, item
4 number and lab number of that paper as well.

5 Q And was your initials on that?

6 A They were, yes, ma'am.

7 Q Okay. And the date?

8 A Yes, ma'am.

9 Q And it didn't appear to be opened from when you sealed
10 it?

11 A Correct.

12 Q It appeared to not have been tampered with?

13 A Correct. And then my initials and item number and lab
14 number in the back of the pants.

15 Q And those are actually your initials?

16 A Yes, ma'am.

17 Q Indicating those are the pants you swabbed?

18 A Correct.

19 MS. JONES: Your Honor, at this time State moves State's
20 #44A into evidence.

21 THE COURT: Any objection?

22 MR. PLEXICO: Just my prior objection, Your Honor.

23 THE COURT: #44A is into evidence, over objection.

24 (Whereupon, pants are entered into evidence as State's
25 Exhibit #44A, over objection)

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q Thank you. So, you mentioned that you performed some
2 swabs on these pants?

3 A I collected swabs, yes.

4 Q I'm going to show you what has been previously marked
5 State's #67. And can you please identify that?

6 A These are the swabs that I collected from the pants and
7 the socks in this case. My initials and the date that I
8 sealed it are up here. On the envelopes I have
9 identified what the swab came from, where on that item.
10 And on the back, my initials and the date where I sealed
11 the envelope.

12 Q Okay. If we can actually open that up. Those are your
13 initials on the top of that bag?

14 A Yes.

15 Q And what is the date on the top of that bag where your
16 initials VH?

17 A 5/31/13.

18 Q Okay. And that bag -- what kind of bag is that?

19 A It's called a heat-sealed pouch. That's what we call it.

20 Q Does it appear to be tampered with?

21 A No, ma'am.

22 Q It appears intact?

23 A Yes, ma'am.

24 Q While those items are in your custody and control, did you
25 alter them, manipulate them, change them in any way?

DIRECT EXAMINATION OF VERONA GIBSON HERRERA BY MS. JONES 487

1 A I created them.

2 Q Aside from creating the swabs themselves?

3 A No, ma'am.

4 Q Okay. So, after you created the swabs, themselves, you
5 maintained the integrity of each of those swabs?

6 A Yes, ma'am. I sealed them in the envelopes and then
7 sealed them in the heat seal pouch.

8 Q And those are your initials to indicate so?

9 A Correct. And they're also on the coin envelopes on as
10 well.

11 Q Who did you transfer these items to?

12 A Lilly Gallman.

13 Q And when did you do that?

14 A 6/4/2013.

15 Q Okay. And who is Lilly Gallman?

16 A She's an analyst in our DNA section.

17 Q Okay. So, she is employed with SLED, as well?

18 A Correct.

19 Q Okay.

20 MS. JONES: We can actually open those and mark the
21 particular swabs.

22 Q What is, according to your report, what is item #39.5?

23 A Item #39.5 is a swab from scraping the interior of the
24 right front pocket.

25 MS. JONES: Your Honor, at this time the State would mark

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 swab #39.5 the right pocket as #67A.

2 (Whereupon, swabs are marked for identification as
3 State's Exhibit #67A)

4 Q And are there any identifying marks on this envelope to
5 indicate you sealed it, you took that swab?

6 A Yes, ma'am. There's the item number, the lab number, and
7 my initials and the date that I sealed it on the back.

8 Q Okay. And what is that date again?

9 A 5/31/2013.

10 Q And again, after you create this swab, but after you
11 maintain the integrity of this item?

12 A Until I pass it off to Lilly Gallman, yes.

13 Q Okay. I have no further questions for you. Thank you.

14 THE COURT: Cross-examination, Mr. Plexico?

15 MR. PLEXICO: No, Your Honor.

16 THE COURT: You may step down. Thank you. Ms. Jones, you
17 may call your next witness.

18 MS. JONES: The State calls Lilly Gallman.

19 THE COURT: I'm going to ask you, if you could, to
20 approach this stand here. Place your left hand on the Bible
21 and raise your right hand as I administer the oath.

22 (After being duly sworn by the Clerk of Court, LILLY
23 GALLMAN testified as follows:)

24 THE COURT: Come forward and have a seat in the witness
25 chair and I'd ask that you speak loudly and clearly and

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER

489

1 slowly in order that we can hear everything that you have to
2 say and let's start with your full name, Ms. Gallman.

3 MS. GALLMAN: My name is Lilly Smalls Gallman.

4 THE COURT: Thank you, Ms. Gallman. Yes, ma'am.

5 MS. MASSER: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MS. MASSER:

8 Q Good afternoon, ma'am. Ma'am, where are you employed?

9 A I am employed with the South Carolina Law Enforcement
10 Division as a forensic DNA analyst.

11 Q And how long have you held that position?

12 A I've been employed with SLED coming the 17th, it will be
13 twenty-six years.

14 Q And for those twenty-six -- what type of training and
15 education are required to be a DNA analyst with SLED?

16 A I have a degree in biology from the University of South
17 Carolina. Once I received my degree I continued to
18 working there in the area of molecular genetics, where I
19 did sequencing and cloning of DNA. And I began working
20 with the South Carolina Law Enforcement Division in
21 January of 1990, as I stated, as a forensic DNA analyst.
22 During that time I've attended the FBI DNA typing
23 schools. I have also been trained in the area of
24 serology, which is the identification of body fluids.
25 I've taken advanced courses in statistics and genetics.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Yearly, we take a computer education course to keep
2 up-to-date with the sciences.

3 Q And during that twenty-six years that you've worked with
4 SLED, have you had an opportunity to testify in General
5 Sessions Court such as this?

6 A Yes, I have.

7 Q Approximately how many times?

8 A Over sixty times.

9 Q And of those sixty times, were you able to render an
10 opinion as to your conclusions as to DNA on items that
11 you had tested?

12 A Yes, I was.

13 Q Okay.

14 MS. MASSER: Your Honor, at this time the State would
15 offer Ms. Gallman as a expert in DNA analysis.

16 THE COURT: Mr. Plexico, do you have an query with regard
17 to her qualifications as an expert?

18 MR. PLEXICO: No, Your Honor.

19 THE COURT: Madam Forelady, ladies and gentlemen of the
20 jury, ordinarily when witnesses testify, lay witnesses,
21 they're only allowed to testify as to things they saw, heard,
22 and felt. There's an exception to that rule when an
23 individual is qualified as an expert because of their
24 education and training in a certain field of study, and if I
25 rule that they are indeed an expert, they're not only allowed

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER 491

1 to testify as to things they saw, heard and felt, but they
2 will be able to render opinions in their field of study. Just
3 by virtue of the fact that a person is an expert doesn't mean
4 that you have to believe their testimony. It's evidence for
5 you to consider and give it the weight you think it deserves
6 and evaluate it like all other evidence. Yes, ma'am.

7 MS. MASSER: Thank you, Your Honor.

8 THE COURT: And I do indeed rule that she is an expert in
9 the area of DNA analysis at this time.

10 Q Ma'am, I'm going to hand you a series of items and ask
11 you if you have seen those items before and if you're
12 familiar with them. Starting with State's Exhibit #42.

13 MS. MASSER: May I approach the witness, Your Honor?

14 THE COURT: You may.

15 MS. MASSER: Thank you.

16 Q Ma'am, are you familiar with State's Exhibit #42?

17 A Yes, I am. When evidence is submitted to us, it comes in
18 a heat-sealed pouch and when I finish with the analysis
19 of that particular item, I heat seal the edge of the
20 evidence and I place my initials and the date that I've
21 sealed it on the side.

22 Q Ma'am, do your initials appear on State's Exhibit #42?

23 A Yes, it does.

24 Q And did you have occasion to test that item with respect
25 to this case?

1 A Yes, I did.

2 Q Okay. And, ma'am, is that, in fact -- with all the items
3 that you tested, did you, in fact, generate a report --
4 I believe it's L136626?

5 A Yes. That's the SLED case number.

6 Q And did that ---

7 MR. PLEXICO: Your Honor, I'm sorry. But I would like to
8 interject my objection on prior grounds of the DNA. .

9 THE COURT: You're protected on the record.

10 Q Ma'am, with respect to L136626, ma'am, does that
11 incorporate all of your findings from the evidence that
12 you tested as it relates to this case?

13 A Yes. This is the SLED case number that all of the
14 evidence was submitted under and it's also under the
15 case number that I generated my report.

16 Q And with respect to State's #42, ma'am, does that item
17 appear in substantially the same condition as when you
18 had concluded your testing?

19 A Yes. It's still sealed with my seal.

20 Q All right. And then moving on --

21 MS. MASSER: Your Honor, may I approach?

22 THE COURT: Yes.

23 Q Ma'am, I've handed you what's been marked as State's
24 Exhibit #43. Are you familiar with that item as well?

25 A Yes, I am.

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER

493

1 Q And does it appear -- what is it? I apologize.

2 A It was submitted as the SLED item #46 and it is the
3 blood spot from Darius Woods.

4 Q Okay. And does it appear in substantially similar
5 condition as it's sealed?

6 A Yes, it is.

7 Q All right. Ma'am, I've also handed you what has been
8 labeled as State's Exhibit #39. And ma'am, that, in
9 fact, heat-sealed pouch has been opened. Correct?

10 A That's correct.

11 Q Are you able to tell the ladies and gentlemen of the
12 jury whether you once had that item?

13 A Yes, I did.

14 Q And did you perform tests on it?

15 A One moment. I was looking for my initials on here. I do
16 not see it. Let me make sure. Yes, I did ---

17 Q Okay.

18 A --- have these items.

19 Q Okay. And what are those items that you're holding?
20 Once again, contained in State's #39? I know it's
21 confusing with all the numbers.

22 A These are swabs from different stains from the floor of
23 the den and I think all of them are. The items that I
24 tested were swabs from the floor and the wall of the
25 den.

1 Q Ma'am, I've handed you State's Exhibit #46. What is that
2 item?

3 A This is SLED item #54, which is a known standard from
4 Jason Blessing.

5 Q Ma'am, with respect to State's Exhibit #60, are you also
6 familiar with that item?

7 A Yes.

8 Q And what is it?

9 A It's a swab from Davonte Freeman.

10 Q Ma'am, I just handed you item #59. Ma'am, is that also
11 an item that you tested?

12 A Yes, this is SLED item #5.

13 Q And what is it?

14 A A swab from Shontay McKeithan. I hope I'm pronouncing
15 that right.

16 Q Okay. Ma'am, with respect to the swab contained in
17 State's Exhibit #45A, is that the swab from the gun?

18 A Yes, it's from the handle of the handgun.

19 Q Okay. And lastly then, with respect to State's #67, are
20 you familiar with that item?

21 A Yes, this is SLED item #39.5. And I did analyze this.

22 Q And where did that come from, ma'am? What's that a swab
23 of?

24 A This is a swab from the right front pocket.

25 Q Now, with respect to all of the items that I have just

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER 495

1 handed to you or that you have just now reviewed, do all
2 of them appear in substantially the same condition as
3 when they left your possession?

4 A Yes, except for the pouches that were unsealed.

5 Q And when an item comes to you, does SLED have security
6 or protocols in place to make sure items to be tested
7 have not been tampered or altered?

8 A Yes. When we first receive evidence, we check to see if
9 the pouch is sealed properly. If it's not then we do a
10 backtrack and find exactly what happened and who would
11 have been the last person the pouch would have been in
12 their custody.

13 Q And do those protocols for integrity also require you to
14 document if something comes to you and it's not sealed?

15 A Yes, it does.

16 Q Would that information also be included in your report?

17 A It would be included in our chain of custody report.

18 Q Okay. So, with respect to all the items that you've just
19 testified to, was there any indication that they weren't
20 properly handled or sealed before they arrived to you?

21 A Every item was properly sealed before I received it.

22 Q Okay. All right.

23 MS. MASSER: With that, Your Honor, the State would move
24 for the admission of, if they haven't already been admitted,
25 #42, #43, #45A, #67A, #60, #46, #59, and #39A through #C.

1 THE COURT: Mr. Plexico?

2 MR. PLEXICO: Just subject to my prior objection, Your
3 Honor.

4 THE COURT: Each are into evidence over Defense's
5 objection. Madam Court Reporter, do you have each of those
6 numbers?

7 COURT REPORTER: I do. Thank you.

8 THE COURT: Very good.

9 (Whereupon, swabs are entered into evidence as #39A
10 through #39C, #42, #43, #45A, #46, #59, #60 and #67A, over
11 objection)

12 Q Now, you indicated that you tested these items. Correct?

13 A Yes, I did.

14 Q Would you describe for the ladies and gentlemen of the
15 jury, just in basic terms with respect to DNA, what is
16 it?

17 A With respect to DNA, DNA stands for deoxyribonucleic
18 acid. It's considered to be the blueprint of the body.
19 DNA is found in every part of your body, all your body
20 fluids, on your skin. Everywhere your DNA is the same.
21 Everyone's DNA is unique except for identical twins. So
22 my DNA is different than your DNA. Since this is the
23 case, we're able to develop a DNA profile from evidence
24 and then also develop a DNA profile from a standard. It
25 could be from a person's blood or what we call a buccal

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER 497

1 swab, when they swab inside someone's, within your mouth
2 and you compare that to the evidence to see whether it
3 matches or it does not match.

4 Q Okay. Ma'am, is there a common item that we're all
5 familiar with that you could use as kind of a visual of
6 DNA?

7 A Okay. The first thing that I need to explain is that you
8 get part of your DNA from your mother and part from your
9 father and this is what makes up your DNA profile. So I
10 can develop a DNA profile for myself or for my brother
11 or whatever, but you would see that DNA profile is that
12 particular person. For example, like we start talking
13 about the Powerball now. Everybody wants to win that,
14 that big money. You've got a certain series of numbers
15 and in DNA when we develop the DNA profile, we've got a
16 series of numbers that we look to state that this
17 belongs to this particular person. If you've got a full
18 profile, like you look at sixteen different areas on the
19 chromosome, you get the big money, right? But on
20 occasion when we don't have as much DNA as we need to
21 develop a full profile, you might be missing some of the
22 numbers.

23 Q You've already indicated that you get half from your
24 mother and half from your father. Correct? What is the
25 difference or what can you tell us about, with respect

1 to the quality of DNA, blood, saliva, semen, direct body
2 fluids, versus the term that we've often heard on TV,
3 touch DNA?

4 A When we are developing a DNA profile from your body
5 fluids, your blood, you know, saliva coming from your
6 mouth or from males, from your semen, we have those
7 particular body fluids, the DNA in there is more
8 concentrated. But when you talk about touch DNA, it's
9 based on whether -- like I say, touch DNA, whether I
10 touch an item or I didn't. You can touch an item and
11 still you will not get a full DNA profile from that
12 touch. So touch DNA is basically like a luck of the
13 draw, whether you leave your cells or you didn't or you
14 left a couple of cells, but it wasn't enough information
15 to detect that you were there.

16 Q So, if someone were to come in and say, swab my mouth
17 versus me just touching my pen, where would you expect
18 to find, I guess, a better or a full DNA profile?

19 A From the swab from the mouth.

20 Q Okay. And ma'am is that why when we've referred to the
21 term during the trial, a buccal swab, is that why a
22 buccal swab is taken as opposed to just having a person
23 touch something?

24 A That's correct. A buccal swab is basically like a Q-tip
25 with the cotton on the end of the stick and it's used to

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER

499

1 swab the inside of someone's mouth.

2 Q Okay. So, with respect to when you have a known sample,
3 would you explain -- okay. When you test it, you test
4 the known sample first?

5 A No.

6 Q Okay.

7 A We do -- the evidence is done first to develop a DNA
8 profile, if possible, from the evidence and then next
9 the standards are tested.

10 Q Okay. So, you take the item that you want to know who it
11 belongs to and test it and compare it to the DNA of the
12 people that you do know what their DNA profile is. Do I
13 have that right?

14 A That's correct.

15 Q Now, with respect to your report,

16 MS. MASSER: Your Honor, may Ms. Gallman refer to her
17 report?

18 THE COURT: She may.

19 Q You indicated that you had ---

20 A Excuse me. Which one are you looking at? I've got
21 three.

22 Q I believe it's L136626, the supplemental.

23 A I mean, which date?

24 Q I apologize. April 30th of 2014. With respect to all of
25 the known samples, buccal swabs and blood that were

1 submitted to you, were you able to develop a full
2 profile for those individuals?

3 A Yes, I was.

4 Q Okay. And looking at your report, were you able to
5 develop a full profile and get all sixteen numbers for
6 the Defendant, Billy Phillips?

7 A Yes, I was.

8 Q Were you also able to develop a full profile for the
9 victim, based on his blood standard, of Darius Woods?

10 A Yes.

11 Q Okay. Same thing for Shontay McKeithan, Davonte Freeman
12 and James Orr and Jason Blessing?

13 A That's correct.

14 Q Okay. Turning your attention to the items of evidence
15 that you tested, starting with -- you have it up there.
16 It's State's Exhibit #45A, which was the swab from the
17 gun. And I believe that was item #1.1. You see that on
18 your report, ma'am?

19 A Yes.

20 Q What happens when multiple people contribute DNA to a
21 piece of evidence? What is that result called or is in
22 item #1.1?

23 A When we're referring to item #1.1, it's a swab that was
24 taken from the handgun. With this particular sample,
25 when I developed the DNA profile of the DNA obtained

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER

501

1 from it, it was a mixture of three individuals. So, it
2 was a mixture.

3 Q So, once again, are we referring to touch DNA ---

4 A Yes.

5 Q --- from the gun? So, it's basically a genetic footprint
6 or fingerprint of who had potentially touched the gun.

7 Is that what you were testing for?

8 A I was developing a DNA profile from whatever skin cells
9 were left there.

10 Q So, after you ran the test, you got multiple numbers. Is
11 that correct?

12 A Yes, because it's a mixture.

13 Q Okay. And then do you have to try and figure out which
14 numbers go with which samples?

15 A The next process, once I develop a DNA profile from the
16 evidence and then from the standard, I compare the DNA
17 profile from the standards for the individuals that I
18 had the evidence to, to tell whether this person could
19 be included or excluded from the sample.

20 Q Okay. Now,, directing your attention once again to your
21 results from item #1.1. Would you just tell the ladies
22 and gentlemen of the jury what your finding was and then
23 we'll have you explain it.

24 A I'm reading from my report and it states that the DNA
25 obtained from item #1.1 is a mixture of at least three

1 individuals. Darius Woods, Billy Phillips and Jason
2 Blessing cannot be excluded as contributors to this
3 mixture.

4 Q Okay. So, once again we're talking about the swab of the
5 handgun. You've indicated that it came from at least
6 three people. Am I understanding that correctly?

7 A That's correct.

8 Q Okay. So, three people left traces of themselves on the
9 gun?

10 A That's correct.

11 Q All right. What does it mean, using our Powerball
12 numbers example, what does it mean when somebody -- when
13 you use the phrase -- cannot be excluded?

14 A It means that I have this mixture and I compared the
15 standards to this mixture. I take this person's DNA
16 profile and I compare it to the information that was
17 taken from the evidence. I check to see if their
18 information is within this mixture and if their
19 information is within this mixture, that means that I
20 cannot exclude it, exclude them. There's not one person
21 who has more DNA than others that's there. If that's the
22 case, I would say that there was a major contributor to
23 the mixture. But based on the information I have,
24 everyone is pretty much even in the amount of DNA that
25 they left on this particular item.

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER

503

1 Q Was there a statistic also included in your report with
2 respect to what are the chances of Billy Phillips not
3 being able to be excluded on there?

4 A Once I do the comparison, which is the very first step
5 to determine whether the person can be included or
6 excluded from a mixture, we are required to generate,
7 give a statistical value to that particular mixture. We
8 are required to tell you how often you would see this
9 mixture in a population. So the next statement that's on
10 my report is that the probability of randomly selecting
11 an unrelated individual who could have contributed to
12 this mixture is approximately one in two hundred. All
13 the information is there, but based on our protocol some
14 of the areas, out of the sixteen, could not be used to
15 generate a statistic or give you a statistical value. So
16 based on the information that I could use to generate a
17 statistic, the value is one in two hundred.

18 Q Okay. So, using again, I guess an example of, say, these
19 scissors. If I had never touched the scissors and did
20 not leave any cells on it, would the language be, could
21 not be excluded, or would it be outright excluded?

22 A It would be excluded.

23 Q Okay. So, if multiple people have handled the scissors,
24 and you're able to get numbers, DNA numbers off of the
25 scissors and you find that there's at least three, that

1 just means that I have left part of my DNA on there.

2 Correct?

3 A It means that you left cells, skin cells on that item.

4 Q Okay. Ma'am, you have #67A in front of you, I believe.

5 And I believe that corresponds to your item referred to
6 on your report as item #39.5?

7 A Yes.

8 Q And, again, it's specifically for the swabs from the
9 right front pocket of the bluejeans?

10 A Yes.

11 Q And what was your -- were you also able to test that
12 item and compare it to all the known samples?

13 A Yes, I did.

14 Q And what was your finding?

15 A This particular item was a mixture also. So, based on my
16 report, the DNA that came from item #39.5 is a mixture
17 of at least three individuals. Darius Woods and Billy
18 Phillips cannot be excluded as contributors to this
19 mixture.

20 MS. MASSER: Your Honor, may I have a moment, please?

21 THE COURT: You may.

22 Q Ma'am, if I may direct your attention to #39A through C.
23 I'm sorry. It's State's Exhibits #39A through C, which
24 is your -- do you have our Exhibit #39A through C up
25 there, ma'am?

DIRECT EXAMINATION OF LILLY GALLMAN BY MS. MASSER

505

1 A Yes.

2 Q Okay. And did you test those items? And I believe this
3 may be on your report dated September 18th, 2015.

4 A Yes.

5 Q Okay. And what was your conclusion with respect to those
6 items?

7 A We're referring to SLED items #22, #24, and #25, which
8 are stains from the wall of the den and the floor of the
9 den and all of these swabs matched Darius Woods.

10 Q Okay. And I apologize. Directing your attention back to
11 #45A in your first report where you told us that the
12 possibility was one in two hundred, there were several
13 individuals that were excluded from that. Correct? I
14 mean, outright excluded?

15 A That's correct.

16 Q Okay. And who were they?

17 A Shontay McKeithan, Davonte Freeman, Kevin Smith, Rhett
18 Long, and James Orr. They are all excluded as
19 contributors to this mixture.

20 Q Okay. And then with respect to our Exhibit #67A, where
21 you told us that Darius Woods and Billy Phillips could
22 not be excluded. Do you have that in front of you?

23 A Is that #39.5?

24 Q It's your #39.5. Yes, ma'am.

25 A Yes.

1 Q Were there individuals that were excluded?

2 A Yes.

3 Q And who were they?

4 A Shontay McKeithan, Davonte Freeman, Kevin Smith, Jason
5 Bless, Rhett Long, and James Orr are excluded as
6 contributors to this mixture.

7 Q Was there, once again, with respect to #67A, and again
8 it's your number #39.5, were there a vast majority of
9 the Defendant's numbers on that item?

10 A Once I compared Billy Phillip's DNA profile to the
11 evidence, I could not exclude him as a contributor to
12 this particular item.

13 Q Otherwise, he would have been outright excluded.

14 Correct?

15 A Yes, along with the other individuals.

16 MS. MASSER: Your Honor, may I have a moment?

17 Q Ma'am, what was the probability associated with your
18 item #39.5, once again or #67A?

19 A Okay. Once again, I compared the DNA profile to all
20 those individuals to the evidence and I could not
21 exclude Darius Woods and Billy Phillips as contributors
22 to this mixture and the next step is to give a
23 statistical value to that mixture and the probability of
24 randomly selecting an unrelated individual who could
25 have contributed to this mixture is approximately one in

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

507

1 two.

2 Q Okay. Now, I direct your attention back to the one in
3 two hundred statistic from the swab of the gun. If you
4 were to take two hundred people and bring them into this
5 room, is it then fair to say that one hundred and
6 ninety-nine of them would be outright excluded?

7 A That's correct.

8 MS. MASSER: I have no further questions, Your Honor.

9 THE COURT: Cross-examination, Mr Plexico?

10 MR. PLEXICO: Yes.

11 CROSS EXAMINATION

12 BY MR. PLEXICO:

13 Q I am looking at the April 30th, 2014 lab report.

14 A Yes.

15 Q And to make it easy, I'm going to pick up exactly where
16 the Solicitor left off. Okay. On the third section,
17 referring to #39.5?

18 A Yes.

19 Q This says the probability of randomly selecting an
20 unrelated individual who could have contributed to this
21 mixture is approximately one in two. Is that correct?

22 A That's the statistic.

23 Q Okay. So, if it's one in two, it's fifty/fifty?

24 A Based on the statistics.

25 Q Right. So, what the Solicitor just said is wholly and

1 completely inaccurate. On #39.5, the odds of finding
2 someone else is not one in two hundred, where you would
3 exclude a hundred and ninety-nine. The odds are actually
4 fifty/fifty.

5 A I think she was talking about item #1.1, with the one in
6 two hundred.

7 Q Okay. All right. I just want to be clear. If it's one in
8 two hundred, how many people does that leave, say, in
9 America that it could be? There are three hundred
10 million people in America.

11 MS. MASSER: Objection. Is he going to ask the witness or
12 is he going to tell her what her answer is?

13 THE COURT: I think he can pose a hypothetical.

14 A That's approximately the population in America.

15 Q And generally, if I pull out my calculator would you
16 like to --

17 MR. PLEXICO: Unless there's an objection.

18 THE COURT: You can run the calculator and ask her if she
19 agrees or give it to her, either way you want to do it.

20 Q Would one-and-a-half million sound about right?

21 A As to what?

22 Q As to one in two hundred extrapolated to three hundred
23 million?

24 A You have the calculator. That's fine. Because my
25 information is not based on the amount of people that's

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

509

1 in the United States. It's based on databases that have
2 been generated from different populations and we use the
3 most conservative. So, if there's a Caucasian or African
4 American and it's out of databases that are used. So
5 it's not based on the way you're doing it.

6 Q Okay. Well, then would the common person know what that
7 meant? What one in two means and one in two hundred? Is
8 that for the common person or is that for the scientific
9 community or the average lay person wouldn't know?

10 A Well, the scientific community is who generated the
11 information to be used in the cases when you're talking
12 about doing a DNA profile and generating a frequency.
13 But the very first step is to see whether a person is
14 included or excluded. If they're not, they are then -- a
15 statistic is not generated at all.

16 Q Certainly. But we're talking or I'm asking about the
17 likelihood of finding another person that couldn't be
18 excluded and that would be one in two hundred in the
19 general population. Is that correct?

20 A No, it's not.

21 Q Okay. Well, what does -- explain to me where I can
22 understand what the one in two hundred means then.

23 A It means that once I have established that a person
24 cannot be excluded from a mixture, I'm supposed to,
25 based on our protocol, generate a statistical value on

1 that mixture. And then you look at the information that
2 you have there and you see what information can be used
3 to generate that statistic. That information that you
4 can use is put into different databases and the value is
5 given back as to what's the likelihood or the frequency.
6 Not likelihood, but the frequency of that event.

7 Q Okay. So, if I went out and touched a person, it'd be
8 one in two hundred that they couldn't be excluded
9 either. Correct? Just the general person if you
10 extrapolate it out?

11 A Not necessarily. It depends on the information that you
12 have in front of you. It's not always one in two
13 hundred. It could be one in a billion or one in a
14 trillion.

15 Q Because that's -- without you running a test, would not
16 the probability be one in two hundred? I'm not talking
17 about running additional tests. Would it be one two ---

18 A I don't understand your question.

19 Q Okay. All right. You did write on here the probability
20 of randomly selecting an unrelated individual who could
21 have contributed to this mixture is approximately one in
22 two hundred.

23 A That's correct.

24 Q And that is selecting an unrelated individual, Joe,
25 walking down the street, okay, who could have

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

511

1 contributed, his chances would be one in two hundred.

2 Isn't that what the English in that sentence means?

3 A It means --when I say unrelated, I'm talking about

4 whether or not it's a family member or not. So

5 unrelated, that's what that particular part of the

6 sentence means.

7 Q Okay.

8 A Okay. And then secondly, it's based on the information

9 that I can use to generate that particular frequency.

10 What I'm saying is, you don't always get the same

11 frequency. You don't always get the same number one in

12 two hundred.

13 Q Of course, because sometimes it's one in a billion. And

14 sometimes it's one in two quadrillion.

15 A It's based on the information that you have.

16 Q Correct. Correct?

17 A Yes. Yes.

18 Q So, if you had this just limited results from the rest

19 of the population, how much of the population could you

20 exclude, if any at all? One in two hundred? If you had

21 the same database, the same chromosome sets, pieces of

22 them from all peoples, three hundred million, how many

23 of those could be excluded and how many could be

24 included?

25 A I'm pretty sure it's at least ninety-nine point nine

1 percent of the population.

2 Q One in two hundred means ninety-nine point nine percent?

3 A When you look at the data, you can extrapolate that. You
4 can eliminate ninety-nine point nine, at least, percent.

5 Q Oh, based on partial DNA files? Partial DNA profiles,
6 touch DNA is what you said this was all about.

7 A Yes, it is touch.

8 Q Okay. Let's go to the last line. DNA not attributable to
9 the standards submitted for comparison in this case is
10 present in this mixture. To begin with, what do you mean
11 by DNA not attributable to the standards submitted?
12 What does that phrase mean?

13 A That means that I have a mixture of at least three
14 individuals there and the standards that were submitted
15 to me, I compared all of them, and after the comparison
16 there was DNA there that didn't belong to any of the
17 standards that I have.

18 Q So, somebody else's DNA that you don't know about ---

19 A That I do not know about, yes. Because I did not have
20 their standard to say that this person's is in that
21 mixture.

22 Q Okay. So that's -- I'm looking at item #1.1, correct,
23 from your report. And that came off a -- that came off
24 the swab from the grip of the gun. Correct? The top of
25 page two of your six.

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

513

1 A Yes.

2 Q All right. Now, the only other swab that you had from
3 the handgun was from #1.2?

4 A Yes.

5 Q And there was no DNA profile sufficient for reliable
6 interpretation. Correct?

7 A The partial developed from item #1.2 is insufficient for
8 reliable interpretation.

9 Q Okay. And the results from the other tests, #1.1 says
10 could be Darius Woods', could be Jason Blessing's, could
11 be Billy Phillip's. But that's from the small set of six
12 or seven that you tested. Correct? To get your results?
13 One moment. It could be the owner's DNA that you were
14 looking at because he couldn't be excluded?

15 A The owner is?

16 Q Darius Woods?

17 A That's right. He could not be excluded.

18 Q All right. Now, being excluded -- because you can't be
19 excluded doesn't mean you can be included, particularly,
20 does it?

21 A His DNA profile was included in the mixture. If he was
22 excluded then he would be in the list of excluded
23 individuals.

24 Q Okay. But you only had a partial DNA profile that
25 matched his entire profile. Right?

1 A What I have is a mixture of at least three individuals
2 that I compared to the standards and once I compared
3 them, I could tell whether some person could be included
4 or excluded.

5 Q Okay. And you could tell that because if it was a full
6 match, you would have all sixteen categories. Correct?

7 A I do have information at all sixteen areas from the
8 chromosomes, but there's only limited information I
9 could use to generate the statistics.

10 Q Okay. All right. So you didn't have all of my client's
11 DNA on that item #1.1 so that you could say it's him.
12 That would be one of those, it's him and exclude a
13 billion other people, statistics. Got to be him, because
14 you didn't have enough of his DNA found -- that's
15 similar to his found on that gun?

16 A (No verbal response)

17 Q If you found two out of sixteen, that would mean it was
18 similar and the two you found, he's got those two, but
19 he's also got another fourteen that may or may not match
20 that you don't know about because it wasn't on the gun?

21 A For item number #1.1, his DNA is at all sixteen areas
22 from the chromosomes, but due to the fact that there are
23 areas that I could not use to generate the frequency of
24 that and to give you a statistical value, I had to put
25 them out. I can only use -- excuse me. I don't want to

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

515

1 tell you wrong. I believe I could only use five out of
2 the sixteen. Let me make sure, now. I'm sorry. I could
3 use -- I could only use ten out of the sixteen to
4 generate that particular number for item #1.1.

5 Q Okay. I'm looking at your table here on page five of
6 six. The first column on the swab from the group it says
7 thirteen, fourteen, fifteen, and sixteen.

8 A That's correct.

9 Q Okay. So, that's from a multitude of different people.
10 Correct?

11 A Yes.

12 Q And that would include somebody ---

13 A That's what -- I have three individuals.

14 Q Okay. Well, you only tested three. You don't know how
15 many there are because you haven't tested everybody.
16 Just the ones you tested is the only ones you can render
17 an idea. Correct?

18 A No, I'm saying I have three individual's that's based on
19 the evidence, not on how many individuals I tested.

20 Q Okay. All right. Well, the evidence is only the stuff
21 that was submitted to you from seven or eight people.
22 Correct? That you consider the evidence?

23 A No. The evidence is what was taken from the gun, not
24 from the standards.

25 Q Okay. But you're comparing it to the standards?

1 A Yes, I am.

2 Q And you're using that to say that these people can be
3 excluded or not. Correct?

4 A That's correct. But the fact that I said that is three
5 individuals is based on the evidence, not on the
6 standards. Not on the fact that three individuals
7 couldn't be excluded.

8 Q All right. But other people would have the same
9 statistics as far as when you put down all these
10 different identifiers in a numeric pattern, different
11 people have different combinations. Right?

12 A That's true.

13 Q All right. If you could you find ten, I mean, if you
14 said you could identify ten, does that mean that you've
15 got eighty million Americans that would have those ten?
16 Does it mean you have four million? Does it mean you
17 have two million? How many Americans are going to have
18 those ten of sixteen? Do you know that?

19 A No, I don't know. It's not done like that.

20 Q Okay. All right. Now, so that takes care of the gun. All
21 right. You're not saying that you found my client's DNA
22 on the gun. You're simply saying that you can't exclude
23 him?

24 A Because it's a mixture of three people.

25 Q Okay. And there's a fourth person that we don't know

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

517

1 about in regards to that and that's the last line. DNA
2 not attributable to the standards submitted. So there's
3 somebody else there that we haven't tested. It's your
4 last line on 1.1.

5 A That's correct.

6 Q Okay. All right. We've already talked about #1.2 is
7 insufficient for reliable information. That ends the
8 gun. Now, let's move on to the jeans. All right the
9 jeans start with #39.1 through #39.8. Is that correct?
10 There are eight different references here. Is that
11 right?

12 A Yes.

13 Q Okay. All right. Now, I'll try to make this easy.

14 MS. MASSER: Objection, Your Honor. We've got question --
15 I would ask because of the ---

16 THE COURT: Well, state the grounds for your objections,
17 not speak an objection. What is your objection?

18 MS. MASSER: We're seeking clarification because Mr.
19 Plexico referred to a number that's actually not ---

20 THE COURT: That's not an objection.

21 MS. MASSER: But ---

22 THE COURT: Come forward, please.

23 (Bench conference off the record)

24 Q All right. And this is -- again, we're still on the
25 April 30th, 2014 report?

- 1 A Okay.
- 2 Q Correct?
- 3 A Yes, sir.
- 4 Q And you did tests on eight swabs from the pockets of the
- 5 blue jeans. Correct?
- 6 A Eight swabs on the jeans. Yes.
- 7 Q Okay. All right. And you have those listed in your
- 8 report, which you have delivered to the Solicitor. You
- 9 have delivered this report to the Solicitor. Correct?
- 10 A Yes.
- 11 Q And they're listed from #39.1 to #39.8. Correct?
- 12 A Yes.
- 13 Q All right. Now, starting with #39.1. Okay. Does it say
- 14 that this is a swab from the right front pocket of the
- 15 bluejeans?
- 16 A Yes.
- 17 Q Okay. And that excludes my client as a contributor.
- 18 Correct?
- 19 A Yes, sir.
- 20 MS. MASSER: Objection, Your Honor. Improper foundation.
- 21 THE COURT: I overrule.
- 22 Q All right. Now, however, you put that line in again. Did
- 23 you not write DNA not attributable to the standards
- 24 submitted for comparison in this case is present in this
- 25 mix?

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

519

1 A Yes, I did.

2 Q And that means there's somebody else who touched that,
3 just like in that other item and we don't know who that
4 is. Somebody has their hands in his pockets and we don't
5 know who that is. Just like our hand on the gun. We
6 don't know who it is.

7 A It's from the -- the swab is from the right front
8 pocket. I don't know if it's from the inside or the
9 outside, but there is DNA attributable to somebody,
10 someone else there.

11 Q Okay. Now, item #39.2, your swab is from the left front
12 pocket. Correct?

13 A Yes.

14 Q And my client is excluded as being the person who
15 contributed to that mixture. Is that not correct?

16 A He is excluded as a contributor to that mixture.

17 Q But you put that line in again, DNA not attributable to
18 the standards submitted for a comparison in this case is
19 present in this mixture. Is that correct?

20 A That's correct.

21 Q And that means somebody else that we don't know had his
22 hands in that other pocket or on that other pocket.
23 Correct?

24 A Yes. That could mean someone else had those pants on or
25 somebody else put his hand in his pocket, also.

- 1 Q Okay. Or in the other pocket and on the gun, so far.
- 2 Correct?
- 3 A Also, might have picked up the pants. I don't know.
- 4 Q Okay. And touched both pockets and the gun?
- 5 A Touched the pants, left DNA on the pants.
- 6 Q But the same thing happens to the gun, too. The gun
- 7 says, DNA not attributable to the standards submitted.
- 8 So, let's start with 1.1, the gun, and moving to the
- 9 pants. I've got both front pockets. And now, I want to
- 10 move to 3.3, the right rear pocket, okay?
- 11 A 39.3?
- 12 Q Yes. Okay. Now, it says that the right rear pocket,
- 13 Billy Phillips, my client is excluded as a contributor
- 14 to that pocket, whoever was touching that pocket.
- 15 Correct?
- 16 A Yes. I did not find his DNA on that pocket, on that
- 17 cutting. On that swab, I'm sorry.
- 18 Q And did you not write again, DNA not attributable to the
- 19 standards submitted for comparison in this case is
- 20 present in this mixture?
- 21 A Yes, I did.
- 22 Q Okay. So, as from the swabs from the handgun, the grip
- 23 of the handgun, the right front pocket of the bluejeans,
- 24 39.1, 39.2, the left front pocket and again here in
- 25 39.3, the right front, someone's touched that, that we

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

521

1 don't know about. So, they're going around his pants
2 looking in, perhaps. We don't know that.

3 A Right.

4 Q We know somebody's been touching that and you don't know
5 who it is because they didn't give you a standard and
6 they didn't submit you a standard, did they?

7 A No, I did not have a standard that matched the other DNA
8 that was there.

9 Q Okay. Now, 39.4 is listed as the left rear pocket of the
10 bluejeans. Is that correct?

11 A Yes.

12 Q Okay. It says that this DNA profile is insufficient for
13 reliable interpretation. So, that's kind of excluded,
14 right?

15 A It's got, the partial DNA profile developed on 39.4 is
16 insufficient for reliable interpretation. That means
17 that there was not enough information there to draw a
18 conclusion.

19 Q Okay. Now, we go back around to the right front pocket
20 of the bluejeans. Now, this is 39.5. You say it's a
21 mixture of at least three individuals. Correct?

22 A Yes.

23 Q And Darius Woods is the owner of the pants. He, himself,
24 cannot be excluded as being the contributor of that.

25 Right?

- 1 A As being a contributor.
- 2 Q Okay. Now, my client can't be excluded either.
- 3 A That's correct.
- 4 Q All right. Now, but you also have down here DNA not
5 attributable to the standards submitted for comparison
6 in this case is present in this mixture. So, there's
7 some unknown person's DNA in those pants pockets once
8 you test them a second time. Correct?
- 9 A Once I test them -- you say a second time?
- 10 Q Well, I'm looking at 39.5. It say right front pocket of
11 bluejeans. You have 39.1 as right front pocket of
12 bluejeans.
- 13 A It's separate swabs.
- 14 Q Okay. On that swab. Now, so somebody else touched it and
15 you didn't have anybody's profile to compare it to.
16 Correct?
- 17 A That's correct.
- 18 Q All right. Now, and it says the probability of randomly
19 selecting an unrelated individual who could have
20 contributed to this mixture is approximately one in two,
21 that's a fifty/fifty chance?
- 22 A The statistics say one in two.
- 23 Q Okay. All right. Now, 39.6 is a swab, another swab from
24 the left front pocket. Correct?
- 25 A Yes.

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

523

1 Q And you say that 39.6 is a mixture of at least two
2 individuals. Correct?

3 A I said that the DNA obtained from items 39.6 and 39.7
4 are mixtures of at least two individuals.

5 Q Okay. And 39.7 is a swab from the right rear pocket. A
6 second swab from the right rear pocket of the bluejeans.
7 Correct?

8 A Yes.

9 Q All right. So, we have the right rear pocket of the blue
10 jeans and we have the left front pocket of the blue
11 jeans. Correct? All right. And that's what you're
12 talking about in these two. Now, you say it's at least
13 two people that contributed to the DNA mixture you
14 found. Right?

15 A That's correct.

16 Q And you say you cannot exclude Mr. Darius Woods. It's
17 his bluejeans. Correct?

18 A Yes, sir.

19 Q And you can exclude my client and other people. Correct?

20 A Yes. I excluded the other standards that were submitted
21 to me.

22 Q Okay. But you also put that line in again, DNA not
23 attributable to the standards submitted for comparison
24 in this case is present in this mixture. Does that mean
25 that somebody else touched that and you didn't have

- 1 anybody's DNA to compare it to, this unknown person?
- 2 A That's correct. I didn't have the standard to compare it
- 3 to.
- 4 Q Okay. And we don't know who that is. Correct?
- 5 A (No verbal response).
- 6 Q All right. Now, the last one here on the pants, 39.8,
- 7 you say it's at least three people. Correct?
- 8 A That's correct.
- 9 Q And Mr. Woods cannot be excluded. Is that correct?
- 10 A That's correct.
- 11 Q And my client and others can be excluded?
- 12 A Yes.
- 13 Q All right. Now, you also have that line again, DNA not
- 14 attributable to the standard submitted for comparison in
- 15 this case is present in this mixture. Does that mean
- 16 that there's somebody else that touched that pants
- 17 pocket, too, that we don't know about, exists? Okay? Is
- 18 that what it means?
- 19 A Somebody else's DNA is present in that, in that sample,
- 20 that I didn't receive a standard to compare it to.
- 21 Q Could it be the same person over there rifling his
- 22 pockets? Do we know?
- 23 A The same person doing what?
- 24 Q Could it be the same person going through his pockets,
- 25 touching, robbing him that we don't know? The person we

1 don't know?

2 A I don't know how the DNA got there. I don't know if they
3 were rifling through the pockets or not, but there's
4 somebody's DNA that's present on the samples that I
5 didn't have a standard for.

6 Q All right. Okay. Let's talk about related individuals. I
7 have two brothers. Are our DNAs different?

8 A Your DNAs would be similar because you're getting your
9 DNA from the same mother and father if you have the same
10 mother and father.

11 Q All right. Okay. So, I come home one day and I'm at
12 Christmas Dinner, for instance, with my family and I'm
13 talking to my brothers and my -- well, my parents say
14 we're glad we adopted you. Now, those are my brothers.
15 They're my blood brothers as far as I'm concerned, as
16 far as the average person is concerned, but now, how
17 different is our DNA?

18 A Based on the information it would be very unlikely that
19 there is a close relationship between your DNA.

20 Q Okay. All right. Well, let's say that I have two
21 brothers and they're my blood brothers as far as I'm
22 concerned. My dad takes a business trip. He's in a train
23 wreck, he's in an airplane crash. Mom remarries. I think
24 we're all one new family with the same parents. Let's
25 say my two brothers are -- we'll say we're one, two, and

- 1 three. My brothers are -- I'm a day old when the
2 accident happens. One brother's ten months, another
3 brother is nineteen months. Now, we believe our father
4 is Joe and my mother's second husband, okay? All right.
5 That is our blood relative. That's our daddy. That's the
6 man who raised us. That's the person we call our father.
7 Now, how much of his DNA do my two brothers and I have?
8 A Your DNA would be different from theirs -- from his.
9 Sorry.
10 Q All right. Let's say there's an extramarital affair.
11 Now, how much difference would that make in the DNA of
12 the product of that extramarital affair?
13 A Who's having the extramarital ---
14 Q The mother.
15 A She's having the extramarital affair?
16 Q Yes.
17 A And she has a child.
18 Q And she has a child. How much difference would that make
19 in the DNA of that child and the two brothers?
20 A It would be different. As I stated, everyone's DNA is
21 different except for identical twins.
22 Q Okay.
23 A You could have similar because you are related, but you
24 won't have the same DNA.
25 Q Okay. So, if there were fraternal twins, who are not

CROSS EXAMINATION OF LILY GALLMAN BY MR. PLEXICO

527

1 identical, just fraternal twins, okay? Three kids born
2 at the same time. All right? They all look different.
3 None of the identical twin stuff. Okay? All right. If
4 you could say -- brother's A, B, and C. If you could
5 exclude brother A, could you -- would that also exclude
6 brothers B and C? If you're doing an analysis, if you
7 exclude brother A, would that automatically exclude
8 brothers B and C?

9 A When you have a situation like that, like saying you
10 have a mixture and they could possibly be two brothers
11 mixed in with that mixture, the report would probably
12 read that no conclusive statement could be made
13 regarding an inclusion or exclusion of these
14 individuals.

15 Q Okay. All right. Now, did you test the -- did you ever
16 -- this report was rendered, I see on July 30th. Is that
17 correct? I think page one -- or maybe I'm looking at
18 your original report. I'm sorry. I'll withdraw that
19 question. Just to get to my point, once you get these
20 samples in your lab and you put it in your machine and
21 you do your compilations and all of that, how long does
22 it take you to run a test?

23 A To develop a DNA profile?

24 Q Yes. I come in. I'm one of your techs. I go, we need a
25 rush on this here. Could you, you know. Here's the

1 evidence it needs to be compared to. Billy here is a
2 suspect.

3 A I wish I had a tech, but I do the work.

4 Q All right. When it comes to your office now, please. How
5 long would it take from the time it got there until you
6 could finish the test to make the phone call and go, you
7 need to let, you know, Joe go or whoever because it
8 doesn't match up?

9 A I would say I could do -- with all of the reviews that
10 have to be done, within a week if that was the only case
11 I had. But seeing as how I have close to a hundred cases
12 at any given time, but I can do it within -- with all
13 the reviews, within a week.

14 Q Okay. All right. Now, so again, if you tested a brother
15 or a sister -- let's start with the brother. If you
16 tested a brother of any of these individuals that you
17 excluded, does that necessarily mean that the brother
18 would be excluded, too?

19 A If I tested the brother, I would compare him to the
20 evidence.

21 Q Correct.

22 A And that would be the way that I would distinguish
23 whether he was excluded or not.

24 Q So, one brother might be excluded but the other brother
25 wouldn't be excluded, maybe? It depends on the

1 evidence?

2 A Like I stated, information that close, I would have to
3 deem it inconclusive.

4 Q Okay. But what I'm saying is, you have, say, you have a
5 DNA profile say from our case, Mr. Woods. Okay?

6 A Yes.

7 Q Now, and you're comparing this profile, okay, and
8 there's a piece of evidence in the case and you want to
9 see if the DNA that you have lifted from that piece of
10 evidence matches Mr. Woods or someone else. Okay? So
11 you do a test. You exclude Mr. Woods. You exclude, say,
12 a person who gave a standard.

13 A Yes.

14 Q We call that Mr. X. Then you get -- and you say well,
15 it's not Mr. X. Then you get Mr. X's brother. You get
16 his sample to come in. Isn't it true that he might not
17 be able to be excluded?

18 A That's correct. Because there would be more information
19 there for him than there would have been for, say, Mr.
20 X.

21 Q Okay. So, if you exclude one brother it doesn't mean you
22 can exclude the other brother? That's all my point I
23 was trying to get to, if I did that. Is that true?

24 A The possibility is there.

25 Q Okay. All right. And all these other items that were

1 tested, say 40.1 is a swab from something about the
2 socks and my client's excluded. Is that correct?

3 A That's correct.

4 Q And 40.2 is the same. Is that correct?

5 A Yes. He's excluded.

6 Q And my client is excluded from 41.1, which is the piece
7 of jewelry that was ---

8 A That's correct.

9 Q Okay. Now, as far as the jeans and the handgun, is there
10 -- did you do any tests on any items belonging to Billy
11 Phillips?

12 A Did I?

13 Q Did you, yourself, do any tests on any items, shirts,
14 jackets, anything belonging to Billy Phillips in this
15 matter?

16 A No, I did not. Not his personal items.

17 Q Okay.

18 MR. PLEXICO: Court's indulgence.

19 Q Were you submitted a comparison, a buccal swab to do a
20 comparison on Wrenshad Anderson's DNA?

21 A If it's not listed on any of my reports, then I did not.

22 Q But you could have had it done, put it down and rushed
23 it and had it done in a week. Correct?

24 A Yes. I don't like to do that, but I can.

25 Q Okay. I know you're hardworking. I can tell that. Thank

REDIRECT EXAMINATION OF LILY GALLMAN BY MS. MASSER

531

1 you so much for your patience with me and your time.

2 THE COURT: Redirect?

3 MS. MASSER: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. MASSER:

6 Q Ma'am, do any of the questions that Mr. Plexico just
7 asked you just change my example with the scissors, that
8 when I left the scissors up here and said if I had never
9 touched and never left any of my cells on there, I would
10 be excluded?

11 A No, it didn't change.

12 Q Okay. Does anything that Mr. Plexico just asked you
13 change the fact that you have testified that the vast
14 majority of the Defendant's numbers matched on, I
15 believe, it was the pants, 67A?

16 A It didn't change.

17 Q And finally, with respect to our Powerball example, if
18 I'm excluded, do I have any of the numbers from the
19 draw?

20 A No, you do not.

21 Q None of the numbers are on my ticket?

22 A No.

23 Q Okay. And in this case with some of the numbers being
24 there so that somebody's not excluded, does that mean I
25 have a few of the numbers just not all of them?

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 A In order for me to say that someone is not excluded, the
2 vast majority of their information has to be in that
3 sample.

4 Q So, I would have some, maybe enough to win like a
5 million, but not the big money?

6 A Yes.

7 Q Okay. Thank you.

8 MS. MASSER: No further questions.

9 THE COURT: You may step down. Thank you. Ms. Jones,
10 you're recognized. You may call your next witness.

11 MS. JONES: May we approach?

12 THE COURT: Yes.

13 (Bench conference off the record)

14 THE COURT: Madam forelady, ladies and gentlemen of the
15 jury, we have to take up a matter of law outside of your
16 presence. I'm going to ask you to retire to the jury room,
17 refresh yourselves, but do not discuss the case. Thank you
18 very much.

19 (Jury out at 2:17 PM)

20 THE COURT: Yes, ma'am.

21 MS. JONES: The State calls Jeff Crooks.

22 THE COURT: Please come forward. I ask you to approach
23 the clerk, place your left hand on the Bible and raise your
24 right hand as the clerk administers the oath.

25 (After being duly sworn by the Clerk of Court, JEFF

PROFFERED EXAMINATION OF JEFF CROOKS

533

1 CROOKS testified as follows:)

2 THE COURT: Have a seat in the witness chair and we're
3 going to ask you to pull up real close to that microphone and
4 speak loudly and clearly and slowly in order that we can hear
5 everything that you have to say and let's start with your
6 full name.

7 MR. CROOKS: My name is Jeffrey Alan Crooks.

8 THE COURT: Very good. Ms. Jones.

9 MS. JONES: Thank you, Your Honor.

10 PROFFERED DIRECT EXAMINATION

11 BY MS. JONES:

12 Q Agent Crooks, you work for SLED?

13 A Yes, ma'am.

14 Q In what department of SLED do you work in?

15 A I'm the lieutenant over the SLED latent print
16 department.

17 Q Okay. What were you doing -- in what department did you
18 work in 2013 until earlier this year?

19 A In 2013, I was the supervisor of the latent print crime
20 scene department. It was separated in 2014 into two
21 separate departments, over which I maintain the
22 supervision of the latent print department. I'm also
23 currently the technical leader for the blood stain
24 pattern discipline and crime scene reconstruction
25 discipline for the crime scene unit, as well.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 Q Okay. And is that what you were doing back on June 11th
2 of 2015?

3 A Yes, ma'am.

4 Q I mis-spoke when I said this year. My apologies. Did you
5 have an opportunity to review a report submitted by
6 forensic scientist Altman Brown?

7 A Yes, ma'am. I did.

8 Q Okay. And why did you review this report?

9 A At SLED, anytime we issue a report stating an opinion,
10 we conduct what we call a peer review. The person
11 conducting the peer review is another competent examiner
12 in that discipline and what the peer reviewer will do is
13 review all of the evidence, review the case file for
14 technical and editorial correctness and they must agree
15 with the conclusions that the original examiner came to
16 prior to approving the report for release and then if
17 there's an instance where there may be some
18 misunderstanding or disagreement as to facts in the case
19 file, then they'll have to -- the peer reviewer and the
20 original examiner will have to discuss and try to come
21 to an agreement or maybe sometimes it might just require
22 further explanation or clarification as part of that
23 peer review. So, basically, every case we work in the
24 laboratory is not examined by one examiner. It's
25 examined by two.

PROFFERED EXAMINATION OF JEFF CROOKS

535

1 Q And you would have been the second examiner on this
2 case?

3 A Yes, ma'am. I conducted the peer review on this case.

4 Q And as part of this examination did you go through the
5 same evidence that Mr. Brown did?

6 A Yes, ma'am. The photographs, the reports that were
7 submitted, the crime scene information that was
8 provided. As part of my peer review, I reviewed all of
9 those items, reviewed his notes. I had to decide if I
10 agreed with his conclusions. With this particular case,
11 I did, and the report was issued after my review.

12 Q Were his conclusions based on the same evidence that you
13 looked at?

14 A Yes, ma'am. It was.

15 Q Were his conclusions based on anything in addition to
16 looking at the same evidence you looked at?

17 A No, ma'am. Everything he reviewed that was submitted, I
18 also reviewed. I also reviewed his case file. His, what
19 we call, our examination worksheet, which is where we
20 document our observations as part of our examination and
21 I agreed with his conclusion.

22 Q So, what did you review in this case?

23 MR. CROOKS: May I refer to my notes?

24 THE COURT: Yes. Did you go to the scene?

25 MR. CROOKS: No, sir. I did not.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 THE COURT: How -- was he doing an analysis of the scene
2 or does he take pictures and go back to Columbia and look at
3 them?

4 MR. CROOKS: Well, you can -- as a blood stain examiner,
5 you can do analysis or examinations at the scene,
6 particularly, if you want to determine angle of impact and
7 area of origin. However, those things can also be done
8 through the photographs, if they're photographed correctly.
9 It is not uncommon for us to receive blood stain requests to
10 the laboratory and conduct examinations on crime scenes that
11 we've never visited. He was involved with -- he went to the
12 scene and actually looked at the same blood stains at the
13 scene that were also photographed. I looked at those stains
14 through the photographs.

15 THE COURT: Is there anything that would require you to
16 be present in order to get the opinions that you have
17 reached?

18 MR. CROOKS: No, sir. As long as the photographs are done
19 correctly.

20 THE COURT: Well, that's my question is, how do we know
21 it was done correctly?

22 MR. CROOKS: Well, for this particular case, the only
23 thing we would have needed -- when you conduct angles impact,
24 you conduct measurements of the individual stains, determine
25 length and width and through a calculation can determine

PROFFERED EXAMINATION OF JEFF CROOKS

537

1 angle of impact. It is easier to do that at a crime scene
2 because you're present with the stains. You can also do it
3 with photographs if it's photographed ninety degrees with a
4 scale. This particular case, angle of impact was not an issue
5 with this case. It was not relevant to coming to the
6 conclusion that was rendered. There were no angled impacts or
7 area of origins determined as part of his examination. It was
8 based on the location of the stains throughout in relation to
9 the victim. Therefore, there was nothing, in my opinion, that
10 he did at the scene that I also couldn't observe through the
11 photography.

12 THE COURT: Any cross-examination, Mr. Plexico?

13 MR. PLEXICO: I think I only have one question. I think
14 he's answered it.

15 CROSS-EXAMINATION

16 BY MR. PLEXICO:

17 Q But specifically, did he do any independent tests,
18 himself, while he was on the scene that he relied on
19 that you did not or could not replicate?

20 A The only thing that was done at the scene, other than
21 the photography that was relevant to the blood stain
22 analysis, would have been the swabbing of the blood,
23 which would have been done as part of the crime scene
24 investigation, because we need it to be tested to say
25 that, yes, it was, in fact blood and also to tell us

1 whose blood it was and that was done in this case. I'm
2 not personally sure who actually conducted the swabs but
3 that information was eventually made available to me. In
4 fact, in the case file and in the report there is a
5 sentence in there that states the blood is presumed to
6 be blood, until confirmed through DNA analysis, which
7 it's my understanding that was done and identified as
8 the victim's blood through DNA analysis.

9 Q I don't have any further questions for you.

10 THE COURT: I'll be glad to hear from you, Mr. Plexico.

11 MR. PLEXICO: I think he essentially testified that he
12 re-did the whole thing, which is what we were trying to
13 determine to start with.

14 THE COURT: Say that again?

15 MR. PLEXICO: I think he's essentially testified that he
16 has re-done the whole thing and relied upon the items, that
17 he did not do that are already probably in his report now.

18 THE COURT: Say that again? Say that last part again?

19 MR. PLEXICO: I believe he's testified that he
20 essentially has re-done the entire test for all practical
21 purposes and did not rely on the independent judgment that he
22 could not verify that Mr. Altman Brown, who did the original
23 report, I think it's essentially his report now, and I don't
24 believe I have an objection.

25 THE COURT: All right. Very good. All right, in view of

PROFFERED EXAMINATION OF JEFF CROOKS

539

1 that, I do find that it is indeed admissible and that these
2 are his first-hand conclusions and based on his testimony
3 there was no angle impact or anything that would require that
4 he be there at the scene. And I'm going to allow it into
5 evidence. Very good.

6 MS. JONES: Thank you, Your Honor.

7 JUROR ISSUE

8 THE COURT: If we could, first of all, let's find out
9 which juror it is. Bring her out and let me talk to her.
10 Okay, Ms. Lambert.

11 (Whereupon, Juror number 113/201, Teresa Lambert,
12 entered the courtroom.)

13 THE COURT: Ms. Lambert, how are you doing?

14 MS. LAMBERT: Fine.

15 THE COURT: Good. I understand that your daughter has had
16 some difficulty and that she's gone to the emergency room.
17 We're going to break around three o'clock. Is it something
18 that you need to tend to right at this moment or do you ---

19 MS. LAMBERT: She just had a child. She is supposed to be
20 in Charleston, in MUSC already.

21 THE COURT: Oh, okay. So, she's already at the hospital.
22 Did we receive -- how did this come forward?

23 MS. LAMBERT: My other daughter is outside, unless
24 something happened to the baby. The baby's already here, but
25 she was one pound eight ounces. She went there last night.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 baby and check on your sister and if there's something that's
2 changed, come back in and let me know. Okay?

3 MS. LAMBERT's DAUGHTER:: Yes, sir.

4 THE COURT: And interrupt me if something, if need be.
5 Thank you very much.

6 (Whereupon, Juror Teresa Lambert, returned to the jury
7 room.)

8 THE COURT: All right. We're ready for the jury.

9 (Jury in at 2:31 PM)

10 THE COURT: Mr. Crooks.

11 MR. CROOKS: Yes, sir.

12 THE COURT: Mr. Crooks has already been placed under oath
13 and I'll remind you, Mr. Crooks, that you're still under
14 oath.

15 MR. CROOKS: Yes, sir.

16 THE COURT: Very good.

17 MS. JONES: Thank you, Your Honor.

18 THE COURT: Ms. Jones.

19 DIRECT EXAMINATION

20 BY MS. JONES:

21 Q Agent Crooks, where are you currently employed?

22 A South Carolina State Law Enforcement Division, commonly
23 referred to as SLED.

24 Q And in what capacity do you work at SLED?

25 A I am the lieutenant of the latent print department in

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

DIRECT EXAMINATION OF JEFF CROOKS BY MS. JONES

543

1 the laboratory.

2 Q Okay. How long have you been at SLED?

3 A Approximately, eighteen years.

4 Q Okay. In July of 2015 -- or my apologies. In June of
5 2015, in what capacity did you work with SLED?

6 A The same capacity. I'm also -- in addition to my
7 department responsibilities, I currently serve as the
8 technical leader in blood stain pattern analysis for the
9 crime scene unit. Basically, I'm the laboratory expert
10 that oversees all blood stain cases.

11 Q Okay. Did you have to have some sort of special training
12 or education to become the expert over the blood stain
13 analysis?

14 A Yes, ma'am. I have a bachelor's of science degree in
15 business administration from the Citadel. I have twenty-
16 two years overall of law enforcement experience, twelve
17 years of which are crime scene experience. I have
18 approximately eighty hours of specific blood stain
19 pattern analysis training in addition to numerous crime
20 scene training courses in photograph, general crime
21 scene investigation. I've worked over three hundred
22 crime scenes, approximately two hundred and ninety of
23 those were death investigations, the vast majority of
24 which involved blood evidence at the scene, as well.

25 Q Have you ever testified in general sessions before?

1 A Yes, ma'am. I have testified as an expert in blood stain
2 pattern analysis.

3 Q Do you know, approximately, how many times?

4 A One time.

5 Q One time?

6 A Yes, ma'am.

7 MS. JONES: At this point, the State moves Agent Jeff
8 Crooks in as an expert in blood stain analysis.

9 THE COURT: Any query with regard to his qualifications?

10 MR. PLEXICO: None, Your Honor.

11 THE COURT: All right. He is so qualified. I've explained
12 to you how briefly what an expert witness is. He's going to
13 be allowed to render his opinion in this field of study. I
14 will charge you at the conclusion of the case in more detail
15 about how to evaluate expert testimony. Ms. Jones, you're
16 recognized.

17 MS. JONES: Thank you, Your Honor.

18 Q What is blood stain analysis?

19 A It's the analysis of the behavior or blood in flight by
20 examining stains that are created at a crime scene.

21 Sometimes it is possible to determine a sequence of
22 events or to determine what events actually occurred at
23 a crime scene when blood letting occurs.

24 Q Okay. Do you know if any blood stain analysis was
25 performed on the case we're here for today?

DIRECT EXAMINATION OF JEFF CROOKS BY MS. JONES

545

1 A Yes, ma'am. There was.

2 Q Did you, in fact, do that original report?

3 A I did not write the original report. I did what's called
4 the peer review of the examination.

5 Q Okay. What does that entail?

6 A At SLED, all the cases that we work, all examinations we
7 conduct, gets peer reviewed by a second competent
8 examiner in that same discipline. In this particular
9 case, the reporting agent conducted the initial
10 examination of the blood stain evidence and rendered an
11 opinion. After he came to his conclusion, the case file
12 was turned over to me along with all the evidence and I
13 conducted an independent examination of the same
14 evidence to determine if I agreed with his results.

15 Q And you, in fact, did do that?

16 A Yes, ma'am. I did.

17 Q Did you -- and did you, in fact, agree with his
18 conclusions?

19 A Yes, ma'am. I did. I agreed with his results and at that
20 point, the blood stain report was issued.

21 Q What sort of evidence did you look at in order to decide
22 if you were going to agree or disagree with his results?

23 A We received crime scene photographs. I think there was
24 approximately five hundred or so photographs taken of
25 the crime scene, along with crime scene notes, the

1 sketch of the scene, sketch of the residence where the
2 incident occurred, as well as the autopsy report of the
3 victim.

4 Q And is this the same evidence that was reviewed by the
5 original reviewer, as well?

6 A Yes, ma'am. It was.

7 Q Okay.

8 MS. JONES: I beg the Court's indulgence. Permission to
9 approach, Your Honor?

10 THE COURT: Yes.

11 Q Agent Crooks, I'm going to show you what has been
12 previously admitted as State's #25, State's #16, State's
13 #15, State's #14 and State's #13. Would those have been
14 some of the photographs you relied on?

15 A Yes, ma'am. These are some of the crime scene
16 photographs that we would have looked at.

17 Q Okay. And you would have used these sorts of
18 photographs, along with the other evidence you listed,
19 to come to your conclusions?

20 A Yes, ma'am. We would have looked at the blood present in
21 those photographs.

22 Q Okay. And if you need, I can show you these again, but
23 where was blood present at the scene?

24 A There was blood present at the fireplace area. It looked
25 like there was a fireplace that had been bricked in and

DIRECT EXAMINATION OF JEFF CROOKS BY MS. JONES

547

1 painted over. This was in the -- I guess what was
2 referred to as the kind of living room area, common
3 area. There was also blood located on a -- best
4 described as a door frame. I don't think there was any
5 doors there, but the frame was still there. The opening
6 into the wall, near where the victim was laying on the
7 floor, there was blood on that door jamb area as well.
8 There was also blood on the carpeted floor in that same
9 room.3

10 Q Okay. I'm going to show you these one at a time. State's
11 #25. Is this the blood on the door frame you're
12 referencing?

13 A No, ma'am. This is the doorway to the bedroom. The blood
14 on the door jamb closest to the victim was where the
15 blood was found.

16 Q Okay. There's blood on the bricked-in fireplace, the
17 door jamb, and carpet?

18 A Yes, ma'am.

19 Q What were your conclusions after looking at all of the
20 evidence?

21 A As part of the blood stain analysis request, which is
22 common practice, we ask for the requester to provide us
23 a question that they want us to attempt to answer. In
24 this particular case, they wanted to know the location
25 of the shooter at the time the victim received their

1 injuries. We could tell through examining the blood
2 where the victim was approximately standing when he was
3 initially shot and then where he was when he was shot
4 the second time and based on that, we concluded the
5 general area where the shooter probably was.

6 Q And where was that?

7 A The initial shot -- again he was shot twice. The initial
8 shooting, it would have been in the area of the bedroom
9 door in the living room area.

10 Q With the shooter being in the bedroom door or close to
11 it?

12 A Yes. That's our belief. Based on the trajectory of the
13 initial wound, he was shot basically in the mouth or the
14 bullet exited through his mouth and knocked out a tooth.
15 The tooth was located on the floor over towards the, as
16 I recall, the fireplace area. Looking at the trajectory
17 and the where the path of the bullet, as well as where
18 the blood began, the victim was standing at that doorway
19 to the bedroom. After that, he moved to the location
20 where he was ultimately found. The second shot, he was
21 shot at that location while he was on the floor.

22 Q And the second location would have been the -- what room
23 would that be?

24 A That area near that door jamb I mentioned, the living
25 room area.

CROSS EXAMINATION OF JEFF CROOKS BY MR. PLEXICO

549

1 Q The living room. So ---

2 A This is -- I'm sorry. This is based on where we observed
3 the blood.

4 Q Okay. From looking at photos and the other evidence you
5 listed earlier?

6 A Yes, ma'am. It all ties to reports as well as the
7 photographs, the particular photographs that we came to
8 our conclusion were listed in the examination report as
9 well. And it's not just the fact that we could see blood
10 present, it's also where we don't see blood.

11 Q Okay.

12 A You know, all the blood we observed, that was documented
13 was in the -- from the bedroom door through the living
14 room area to where he was found on the floor.

15 Q Okay. So, in your opinion, the first position would have
16 been in the area of the bedroom door and the second
17 position would have been over the victim in the living
18 room?

19 A Yes, ma'am. And there were several characteristics of
20 the blood that led us to believe, along with the
21 trajectory where the bullet was found, that the first
22 shot was the shot that exited his mouth and that was
23 because we observed -- in some of the blood stains on
24 the fireplace as well as some of the stains on the door
25 jamb, we saw air bubbles in the blood, which we call

1 expectorated blood. Basically, it's blood that you spit
2 out or is expelled out of the mouth. The reason these
3 bubbles are there is because air is mixing in with the
4 blood. And you get these small little air bubbles that
5 appear in the blood stain. The other thing we observed
6 is it appeared some of the blood was mixed with saliva.
7 And when that happens, you have a lighter color of the
8 blood and you also have like a stringing effect because
9 the blood mixes with the saliva and it changes its
10 behavior, almost like a stringy look to the blood. And
11 some of that was observed, particularly on the door jamb
12 near where he was observed on the floor.

13 Q Okay. I have no further questions for you. Thank you.

14 THE COURT: Any questions? Any cross-examination?

15 MR. PLEXICO: Yes, Your Honor, if it pleases. May I
16 approach the witness?

17 THE COURT: You may.

18 CROSS-EXAMINATION

19 BY MR. PLEXICO:

20 Q Could you just put an X where you think the shooter was,
21 initially?

22 A. An X?

23 Q Yes, sir.

24 A Most likely have been in this area right here.

25 Q All right. Thank you, sir. And you said this was where,

1 most probably. Based on your training, what are the
2 chances of he could have been in another area or someone
3 turned or whatever? What do you think?

4 A Well, we're confident where the victim was when he
5 sustained the first shot based on the physical evidence
6 that was present. Based on where he was, and the
7 trajectory of the bullet, it limits where the suspect
8 could be. I believe he was definitely in the bedroom.
9 The back of the bedroom versus the very front, point
10 blank, versus the very back. That's why I was referring
11 to it as an approximation. I can't put him in the exact
12 footprints in that room where he was at.

13 Q Okay. But you don't have any evidence this man pulled
14 that trigger. Correct?

15 A No, sir. I do not.

16 Q Thank you.

17 MR. PLEXICO: I don't have anything further.

18 THE COURT: Any redirect?

19 MS. JONES: No, Your Honor.

20 THE COURT: You may step down. Might counsel approach the
21 bench?

22 (Bench conference off the record)

23 THE COURT: Madam Forelady, ladies and gentlemen of the
24 jury, we're going to recess for the evening and ask that you
25 be back at nine-thirty. There might be a conflict that's

1 developed with one of our jurors, so it's going to be very
2 important for everybody and our alternate to show up in the
3 morning at nine-thirty. We're getting into the short hairs of
4 this case and we're running out of jurors. So, everybody be
5 here. Be careful. Be back here at nine-thirty, nine-thirty
6 sharp. Do not discuss the case amongst yourselves or anyone
7 else. Don't do any independent investigation. Don't look up
8 anything on the Google and no social media and we'll see you
9 back at nine-thirty in the morning. Everyone remain seated as
10 the jury exits the courtroom.

11 (Jury out at 2:47 PM)

12 THE COURT: Anything from the State before we recess for
13 the evening?

14 MS. JONES: No, Your Honor.

15 THE COURT: Anything from Defense?

16 MR. PLEXICO: No, Your Honor.

17 THE COURT: All right. We'll reconvene at nine-thirty in
18 the morning.

19 MORNING - JANUARY 14, 2016

20 THE COURT: Anything from the State before we proceed?

21 MS. JONES: Briefly, Your Honor. We do have three quick
22 witnesses this morning. One of our final witnesses is Dr.
23 Batalis, who performed the autopsy. I do have a series of
24 photos that I would like Mr. Plexico to look at beforehand. I
25 would like to know the Court's ruling, prior.

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

DIRECT EXAMINATION OF ILA SIMMONS BY MS. JONES

553

1 THE COURT: Very good. Be happy to take a look at them.

2 (Bench conference off the record)

3 THE COURT: Anything from Defense before we proceed?

4 MR. PLEXICO: No, Your Honor.

5 THE COURT: All right. We're ready for the jury.

6 (Jury in at 9:31 AM)

7 THE COURT: You know, I believe we have some Baptists on
8 the jury. Y'all all like to sit in the same spot. I might get
9 confused if they don't get back in their chair. Thank y'all
10 for being here and being here on time. It's good to see that
11 everybody's got a smile on today. You didn't win the lottery.
12 Everybody's still got a smile. That's good. Good morning to
13 you.

14 Ms. Jones, you're recognized. We have three witnesses
15 left. Three witness that aren't going to be very long in
16 duration with regards to the State's presentation of the
17 case. So, I'm just trying to give you an idea in that regard.
18 Ms. Jones.

19 MS. JONES: Thank you, Your Honor. The State calls Ila
20 Simmons.

21 THE COURT: Ms. Simmons, please come forward. I'm going
22 to ask if you could approach the clerk, place your left hand
23 on the Bible and raise your right as the clerk administers
24 the oath.

25 (After being duly sworn by the Clerk of Court, Ila

THE STATE OF SOUTH CAROLINA VERSUS BILLY PHILLIPS

1 SIMMONS testified as follows:)

2 THE COURT: I'd ask you if you could to have a seat in
3 the witness chair and pull up real close to that microphone.
4 Speak loudly, clearly and slowly in order that we can hear
5 everything that you have to say and let's start with your
6 full name.

7 MS. SIMMONS: My name is Ila Simmons.

8 THE COURT: Ms. Simmons. Ms. Jones.

9 MS. JONES: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. JONES:

12 Q Good morning, Ms. Simmons.

13 A Good morning.

14 Q Where are you working these days?

15 A I'm not working right now. I'm currently unemployed.

16 Q Where were you working back in 2013?

17 A At the South Carolina Law Enforcement Division also
18 known as SLED in the forensic services laboratory's
19 trace evidence department.

20 Q Okay. What is that? What does that mean?

21 A Trace evidence involves several areas of forensics. We
22 analyze gunshot residue, gunpowder residues. We perform
23 comparisons on glass, paint. We also analyze explosives
24 and arson samples.

25 Q How long have you been in that position at SLED?

DIRECT EXAMINATION OF ILA SIMMONS BY MS. JONES

555

1 A Fourteen years.

2 Q Fourteen years. And to attain that sort of position, did
3 you have to have specialized training or education?

4 A Yes, ma'am. I received a bachelor's of science degree in
5 chemistry. After completing that, I came to work at SLED
6 and for the first three years I worked with a court-
7 qualified, SLED-certified trace evidence examiner, who
8 taught me how to collect and analyze trace evidence. I
9 had to take written and practical examinations and pass
10 them all with one hundred percent efficiency. And I
11 attended seminars each year and continuing training.

12 Q Have you ever testified in general sessions Court
13 before?

14 A Yes, ma'am. I have.

15 Q Approximately, how many times?

16 A Over three hundred.

17 Q Okay.

18 MS. JONES: Your Honor, at this time the State moves to
19 admit the testimony of Ila Simmons as an expert in gunshot
20 residue.

21 MR. PLEXICO: I have no objection.

22 THE COURT: No query with regard to the qualifications?

23 MR. PLEXICO: None, Your Honor.

24 THE COURT: All right. She is, indeed, qualified to
25 testify as an expert in gunshot residue. We've spoken briefly

1 about how -- what an expert witness is. At the conclusion of
2 the trial, I'll charge you in greater detail with specificity
3 as to how you evaluate expert testimony. Pay very close
4 attention.

5 MS. JONES: Thank you, Your Honor.

6 Q Ms. Simmons, could you explain what, exactly, gunshot
7 residue is?

8 A Gunshot residue is a mixture of microscopic chemicals
9 that come out of a gun when it's discharged. You'll see
10 in the movies, there'll be a big puff of smoke that
11 comes out of a gun. Well, the gunshot residue is mixed
12 up in this smoke. It can get on anything in close
13 proximity to the weapon when it's discharged, including
14 the hands of the person holding the weapon or the person
15 to which the gun is being discharged at.

16 Q You mentioned the hands of the person holding the
17 weapon. If somebody is to fire a gun, where on their
18 hands, would you anticipate finding the gunshot residue?

19 A Most of the gunshot residue, if someone's handling a
20 gun, holding a gun in a standard form like this, most of
21 the gunshot residue will be found on the backs of the
22 hands. Only a very small amount will be found on the
23 palms because the palms are obscured from the cloud of
24 gunshot residue because they're holding the weapon.

25 Q And if gunshot residue is found on somebody's -- on the