

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Beaufort County

Honorable R. Scott Sprouse, Circuit Court Judge

KELVIN JACKSON,

RECEIVED

JUN 04 2018

PETITIONER
S.C. SUPREME COURT

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002115

APPENDIX

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STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO. 2011-GS-07-01329

STATE OF SOUTH CAROLINA

PLAINTIFF

BINDER ONE

VERSUS

KELVIN JACKSON

DEFENDANT

JULY 29 THROUGH AUGUST 2, 2013

TRANSCRIPT OF TRIAL

BEAUFORT, SOUTH CAROLINA

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Wanda H. Rowe, CVR-M
Official Court Reporter

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
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CASE NO. 2011-GS-07-01329

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VERSUS

ORIGINAL

VOLUMES ONE, TWO, AND THREE
JULY 29, THROUGH AUGUST 2, 2013
TRANSCRIPT OF TRIAL
BEAUFORT, SOUTH CAROLINA

KELVIN JACKSON

DEFENDANT

B E F O R E:

HON. MAITÉ MURPHY

WITH HON. CARMEN T. MULLEN, JUDGES; AND A JURY.

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1 DAY ONE, MONDAY, JULY 29, 2013,

2 BEGINNING 11:47 A.M.

3 BY THE COURT:

4 BAILIFF: All rise. Thank you.

5 THE COURT: You may be seated. Thank you. Ladies
6 and gentlemen of the jury panel, we're about to commence
7 the trial of the State of South Carolina versus Kelvin
8 Jackson. Mr. Jackson has been indicted with a true
9 bill, indicted for the charge of murder.

10 The allegations are that in Beaufort County, on or
11 about May 26, 2011, Mr. Jackson did kill and murder a
12 Masako Yamaguchi Miller, and that as a result of his
13 actions of that murder, her body was disposed of in
14 Beaufort County, in violation of the laws of the State
15 of South Carolina.

16 The defendant in this case is represented by Mr.
17 Virgin Johnson. Mr. Johnson, would you please stand and
18 introduce yourself to the jury panel.

19 MR. JOHNSON: Your Honor, may it please the Court.
20 I'm Attorney Virgin Johnson. I represent Mr. Jackson.
21 And this is my law partner, Attorney Korey Williams.
22 Your Honor, would you want Mr. Jackson to stand and be
23 introduced?

24 THE COURT: Sure. Mr. Jackson, would you please
25 stand and turn around.

1 And for the State, we have Mr. Sean Thornton.

2 MR. THORNTON: Thank you, your Honor. My name is
3 Sean Thornton. I'm deputy solicitor here in the 14th
4 Judicial Circuit. Trying this case with me will be
5 Hunter Swanson, who is also with our office as an
6 assistant solicitor.

7 THE COURT: Thank you. Is any member of the jury
8 panel related by blood or connected by marriage with the
9 defendant or the defendant's legal team or with the
10 solicitor's office and their legal team? If so, please
11 stand.

12 BAILIFF: One standing, your Honor.

13 THE COURT: Yes, sir. Your juror number?

14 JUROR 314: I am Juror 314.

15 THE COURT: 314. Who do you know in this case?

16 JUROR 314: My wife is an assistant solicitor, but
17 she's not on this case.

18 THE COURT: All right, sir. I'll go ahead and
19 excuse you. Thank you.

20 JUROR 314: Thank you.

21 THE COURT: Anybody else?

22 JUROR 97: My daughter is an assistant solicitor.

23 THE COURT: Pardon me.

24 JUROR 97: My daughter is an assistant solicitor.

25 THE COURT: Who is your daughter?

1 JUROR 97: Kelly Flynn.

2 THE COURT: And you --

3 JUROR 97: Not in this court; in Charleston.

4 THE COURT: Oh, in Charleston. Okay. You can stay
5 with us. Thank you, sir. And your juror number?

6 JUROR 97: 97.

7 THE COURT: 97. Anybody else? Are there any
8 members of the jury panel related by blood or connected
9 by marriage with the alleged victim? The alleged
10 victim's name is Masako Yamaguchi Miller. Anybody
11 connected by blood or marriage or a close, personal
12 friend of the alleged victim? If so, please stand.

13 Well, there you go. No one's standing.

14 Next, I'm going to go through the witness list of
15 potential witnesses in this case. If anyone on the jury
16 panel knows or is connected by blood or marriage to any
17 of these witnesses, if you would, please stand.

18 Chief Perry McAlhaney, with the Hampton County
19 P.D.. Major J. Bolton, Hampton P.D. Captain Jimmy
20 Murcier, Hampton P.D. Captain Anthony Russell.
21 Lieutenant Chauncey Solomon. Sergeant Michelle Roberts.
22 Captain Ryan Neill, with SLED. Agent David Williams,
23 with SLED. Agent Richard Johnson, with SLED. Agent
24 Teresa Beacham, with SLED.

25 Lieutenant Shaun Harley, with SLED. Agent Chris

1 Johnson, with SLED. Agent Karl Kenley, with SLED.
2 Agent Sabrina Zahniser. Agent Vicki Hallman, with SLED.
3 Lieutenant Ed Pumphrey, with SLED. Agent Al Jarvis,
4 with SLED. Agent Jeremy Smith, with SLED.

5 Officer C.H. Wilson, with Berkeley County or
6 Beaufort County Sheriff's Office. Investigator Andrew
7 Rice, with Beaufort County Sheriff's Office. Gail
8 Heath, a forensic scientist at SLED. Adrienne Hefney,
9 forensic scientist at SLED. Jennifer Stoner, forensic
10 scientist at SLED.

11 Ed Allen, Beaufort County Coroner. Dr. Lee Marie
12 Tormos, MUSC. Joyce Loadholt, Allendale, South
13 Carolina. Tara Roberts, from Fairfax, South Carolina.
14 Mervin Coker. Charles Drake, with Hampton, South
15 Carolina. Clarence Wrice, Hampton. Shacoby Hammond.

16 S.D. . Adam Pressie. Gregory
17 Cohen. Cassandra Jackson. Mary Parks. Dennis
18 Stephens. Tia Stephens. Beth Chafin.

19 J.S. . Hazel Easterlin. Cary Furman. Chuck
20 Fallow. Lane Gray. Stephanie Williams. Matt White.

21 Investigator Roger Heaton. Jeffrey Cooke. Tyrone
22 Smith. Mary Ann Parks. Michael Paul Thomas. Curtis
23 Seabrooks. Bobby T. Cleland. Adam Pressie. Kelvin
24 Jackson. Joseph O. Brandt. Ashley Smith. Jamie
25 Capers. Lieutenant Barry Singleton. Rick Charles.

1 Sergeant John Adams. And Special Agent Rick Charles.

2 Do members of the jury panel know any of those
3 potential witnesses? Ma'am, in the front.

4 JUROR 115: Juror 115. I'm not related to any, but
5 I may know a J.S.

6 THE COURT: I'm sorry. Who do you know?

7 JUROR 115: J.S.

8 THE COURT: J.S.

9 JUROR 115: I think that was her last name. I
10 don't know her by her last name. I'm just only
11 acquaintances with her.

12 THE COURT: And would that relationship, that
13 knowledge of her, in any way prevent you from being fair
14 and impartial in the trial of this case?

15 JUROR 115: No.

16 THE COURT: You can set that aside and listen to
17 the testimony that's presented in this case?

18 JUROR 115: Yes.

19 THE COURT: Thank you. Please stay with us.
20 Ma'am?

21 JUROR 89: Juror Number 89.

22 THE COURT: And who do you know?

23 JUROR 89: Cary Furman.

24 THE COURT: All right, ma'am. And based upon your
25 relationship with Gary Furman, can you set that aside

1 and listen to the testimony as presented in this case,
2 and be fair and impartial?

3 JUROR 89: I believe so.

4 THE COURT: All right. Thank -- you believe so or
5 you can?

6 JUROR 89: I can.

7 THE COURT: All right. Thank you.

8 JUROR 164: Ed Allen, the coroner, is present
9 family.

10 THE COURT: Okay. And based on your relationship
11 with the coroner, can you set that relationship aside,
12 if the coroner testifies, and base your decision solely
13 on the evidence that's presented?

14 JUROR 164: Yes.

15 THE COURT: And ma'am?

16 JUROR 255: 255.

17 THE COURT: Yes, ma'am.

18 JUROR 255: Also Coroner Allen. I work with his
19 wife, and I know him quite well.

20 THE COURT: Okay. And based upon that relationship
21 with knowing his wife and him, can you set that aside
22 and listen to the evidence as presented, and render a
23 verdict that's based on the evidence that's heard in
24 this courtroom?

25 JUROR 255: Yes.

1 THE COURT: All right. Thank you, ma'am.

2 Has anyone in the jury poll ever been charged or
3 has been the victim of a violent crime, or, also, within
4 their close, personal or family relationship? If so,
5 please stand.

6 BAILIFF: Your Honor.

7 THE COURT: Yes, ma'am.

8 JUROR 83: 83.

9 THE COURT: 83. Would you like to come forward to
10 discuss it?

11 JUROR 83: No. I was robbed.

12 THE COURT: You were robbed?

13 JUROR 83: Yes.

14 THE COURT: And based upon that experience, having
15 been robbed and a victim of a crime, can you set that
16 aside and --

17 JUROR 83: No.

18 THE COURT: No? Okay. Thank you, ma'am. And your
19 juror number, again, was 83?

20 JUROR 83: Yes, ma'am.

21 THE COURT: All right. You may be excused. Thank
22 you. Yes, ma'am, in the back.

23 JUROR 277: Juror Number 277. My ex-husband was
24 convicted of CDV against me twice.

25 THE COURT: And based upon that experience, would

1 you be able to set that aside, and be fair and impartial
2 and listen to the testimony in this case, and render a
3 fair verdict?

4 JUROR 277: Yes.

5 THE COURT: All right. Thank you, ma'am. Your
6 number, again?

7 JUROR 277: 277.

8 THE COURT: 277. Thank you. Sir?

9 JUROR 234: Yes, ma'am. 234. My grandmother was
10 shot about 20 years ago. I'm impartial, as far as the
11 case. I just figured I should let you know.

12 THE COURT: Thank you for letting us know. Thank
13 you.

14 JUROR 164: 164, ma'am. May I approach?

15 THE COURT: Sure. Come on up.

16 VOIR DIRE AT BENCH:

17 JUROR 164: Thank you for the opportunity in this
18 case. I'm Tia's cousin.

19 THE COURT: Was she the victim in the case?

20 JUROR 164: She was a girlfriend of him, and it
21 happened right across their house from us, so.

22 THE COURT: Okay.

23 JUROR 164: I mean, she's my -- she would stay with
24 us. So, I don't know if that applies or not.

25 THE COURT: Can you be fair and impartial, and set

1 that aside and just listen to the testimony that's
2 presented?

3 JUROR 164: Yes.

4 THE COURT: You can? Thank you for staying with
5 us.

6 THE COURT: Do you all need to approach, or are you
7 okay? Come on up.

8 JUROR 68: Yes, ma'am.

9 BAILIFF: Your Honors, Juror 68.

10 THE COURT: Yes, ma'am. What's your circumstance?

11 JUROR 68: My ex-husband's stepsister was raped.
12 And her father was actually involved in the big Dandriff
13 case. She was kidnaped, raped twice, as well, as myself
14 in college.

15 THE COURT: Okay. And based upon that, would you
16 have a difficult time listening to the testimony?

17 JUROR 68: Probably.

18 THE COURT: Probably.

19 JUDGE MULLEN: Well, you know what? I think --

20 JUROR 68: My husband works for the Sheriff's
21 Department, as well.

22 JUDGE MULLEN: Here?

23 JUROR 68: Yeah.

24 JUDGE MULLEN: Okay. Well, then, you know what? I
25 think we need to excuse her from both cases. The next

1 case we're going to pull is also a CSC case. Who is
2 your husband?

3 JUROR 68: Robert DeCarlo.

4 JUDGE MULLEN: Oh. Okay. Okay. Just go ahead and
5 excuse her. She doesn't need to be here for a criminal
6 term of court.

7 THE COURT: You may be excused. Thank you.

8 JUDGE MULLEN: Thank you.

9 BAILIFF: Your Honors, 143, Mr. Holland.

10 JUROR 143: I was the victim of two assaults,
11 actually two different times. I was stabbed on one
12 occasion, and on another occasion, I was cut. I wasn't
13 stabbed, but I was sliced in the neck area. And that
14 was about four years ago.

15 THE COURT: Okay.

16 JUROR 143: And the other was about six years ago.

17 THE COURT: You've had some bad luck.

18 JUROR 143: Yes, ma'am.

19 THE COURT: Now, would those experiences cause you
20 to not be able to listen to the evidence and render a
21 verdict, based on what you hear?

22 JUROR 143: I think so.

23 THE COURT: You'd have a difficult time doing that.

24 JUROR 143: Yes, ma'am. Yes, ma'am.

25 JUDGE MULLEN: Well, I tell you what we can do. We

1 can transfer you to a civil term of court, so maybe you
2 don't have to hear something like that. So, I'm going
3 to send you over to Ms. Cade right here.

4 JUROR 143: I was on civil in January, actually.

5 JUDGE MULLEN: Up here?

6 JUROR 143: This past January. Civil, magistrate's
7 court.

8 JUDGE MULLEN: Up here?

9 JUROR 143: Magistrate's, yes, ma'am.

10 JUDGE MULLEN: Oh, magistrate's court. Okay.

11 THE COURT: Right.

12 JUDGE MULLEN: Okay. Yes, it's not the same thing.

13 JUROR 143: Okay.

14 JUDGE MULLEN: Sorry.

15 JUROR 143: I'm sorry.

16 JUDGE MULLEN: No, but I'm going to go ahead and
17 give you over to Ms. Cade right here. And we'll go
18 ahead and transfer you to a civil term. Okay? But I
19 appreciate you being here.

20 JUROR 143: Thank you.

21 JUDGE MULLEN: We're going to transfer him to a
22 civil term of court, Diane.

23 BAILIFF: Your Honors, Juror 284, Mr. Salapare.

24 JUROR 284: Yeah. My experience with criminal --
25 criminal -- criminal prosecution stuff, my father was

1 convicted, served about three years in prison, in the
2 Philippines. But the thing is, he's not the one who
3 committed the attempted murder on this particular
4 person, but he ended up serving, since he doesn't want
5 to -- to be a witness against his friends. And I
6 believe that, you know, the justice system didn't work
7 for him. That's why it's always going to be in back of
8 my mind, because he spent three years in prison being an
9 innocent person. I cannot live with that for the rest
10 of my life.

11 THE COURT: And that experience, do you feel you
12 can't be fair and impartial?

13 JUROR 284: I can't be fair, because I believe in
14 responsibility, and I believe in, you know, the whole
15 family structure, because any murder or anything, you
16 know, bad going on in the community, you have a good
17 family structure, nobody will have that.

18 THE COURT: Okay. Well, I think we'll have to do a
19 civil term with you, as well.

20 JUDGE MULLEN: Okay.

21 THE COURT: We'll transfer you to a civil term.

22 JUROR 284: Thank you.

23 JUDGE MULLEN: Go ahead and see Ms. Cade right
24 there, as well.

25 BAILIFF: Your Honors, Juror 284. 298. I beg your

1 pardon.

2 JUROR 298: 298.

3 THE COURT: All right. Thank you.

4 JUROR 298: I just wanted to let you know that I
5 was recently an administrator that disarmed a student
6 with weapons at a local high school. And -- and I, many
7 years ago, was the victim of domestic abuse.

8 THE COURT: And would those experiences cause you
9 to not be fair and impartial, or do you think you could
10 set that aside and listen to the testimony as presented
11 in this case?

12 JUROR 298: I -- I believe I can. I can set it
13 aside.

14 THE COURT: Great. Thank you. Please stay stay
15 with us.

16 JUDGE MULLEN: She's going to stay with us.

17 BAILIFF: Your Honors, Juror 171, Ms. Kamperman.

18 THE COURT: Hello.

19 JUROR 171: I'm not sure if this applies, but I
20 asked the gentleman over there, and he said come up
21 anyway. A friend of mine was shot in the head with a
22 shotgun, but it was himself. And it's -- if either it
23 was suicide or if it was an accident. So. But I -- I
24 could be impartial.

25 THE COURT: And you can set that aside and listen

1 to the evidence as presented, and be fair and impartial?

2 JUROR 171: Um-hmm. Yes.

3 THE COURT: Great. Thank you. Stay with us.

4 JUDGE MULLEN: Thank you.

5 BAILIFF: Your Honors, Juror 204, Ms. Long.

6 JUROR 204: About four months ago, a close friend

7 of mine was murdered. I'm fine with everything, and

8 it'll probably come up later, but like, the death

9 penalty is not something that I could do.

10 THE COURT: Okay. This isn't a death penalty case.

11 JUROR 204: Okay. So, --

12 THE COURT: so, you think you can set that aside

13 and be fair and impartial to both sides?

14 JUROR 204: Yeah.

15 THE COURT: Okay. Thank you.

16 JUROR 204: Thank you.

17 THE COURT: She can stay with us.

18 BAILIFF: Your Honors, Juror Number 2, Ms. Allen.

19 JUROR 2: Last May, my mother was hit by a drunk

20 driver. So, if there's any issue of alcohol and

21 judgment, I'm completely biased.

22 JUDGE MULLEN: Not an issue in this case. No, no,

23 no.

24 MR. THORNTON: It's not an issue.

25 JUDGE MULLEN: Okay.

1 JUROR 2: Okay. Thank you.

2 THE COURT: Thank you. She's going to stay with
3 us.

4 BAILIFF: Your Honors, Juror Number 20, Ms. Bevan.

5 JUROR 20: I just wanted to mention I had a cousin
6 who was stabbed in her apartment about 25 years ago, up
7 in the Bronx, New York, and I didn't know -- I just
8 thought you should know that.

9 THE COURT: Okay. Will having that experience, can
10 you set that aside and listen to the evidence as
11 presented in this courtroom and be fair and impartial?

12 JUROR 20: Absolutely. Absolutely.

13 THE COURT: Great. Thank you so much.

14 JUROR 20: The only trouble is, I'm having trouble
15 hearing you.

16 JUDGE MULLEN: Okay. We apologize. As you know,
17 the construction.

18 THE COURT: It goes through the microphone, and
19 sounds way bigger. If there's anything you can't hear,
20 just wave, and we will stop.

21 JUROR 20: Okay. Okay.

22 BAILIFF: Your Honors, Juror 131, Mr. Harrison.

23 JUROR 131: I was just going to point out that my
24 mother was just recently killed in a violent accident.
25 And so, hit and run. Never caught whoever it was, and

1 those sorts of things, so. I didn't know how applicable
2 that would be or how emotionally that would affect me.

3 THE COURT: I'm sorry for your loss, first of all.
4 Do you think that based upon that having happened to
5 your family, I mean, you could listen to the evidence as
6 presented in this case and set aside what's happened to
7 your family, and be fair and impartial to this case?

8 JUDGE MULLEN: There's no driving allegations or
9 anything like that in this case. There's --

10 JUROR 131: Right.

11 THE COURT: Right.

12 JUROR 131: And I didn't want it to get to a point
13 where there would be sort of impartial --

14 THE COURT: Right.

15 JUROR 131: -- any kind of the thought of that.
16 You know what I mean, I guess.

17 THE COURT: Sure. And that's why we ask. We want
18 to make sure that you can be.

19 JUROR 131: Right. And I guess the easiest
20 question is, I don't know, and that's why I was debating
21 with myself coming up here, so.

22 THE COURT: If you don't know, I think maybe it's
23 best to transfer him to civil.

24 JUDGE MULLEN: Well, you know, we might be able to
25 put you on the second case. We have another case that

1 we're going to pull after that. It's a criminal sexual
2 conduct. Is that correct?

3 MR. THORNTON: It's a -- like -- I think it's
4 either CSC or an indecent exposure or something. Not a
5 murder.

6 JUDGE MULLEN: Do you think you can sit on the case
7 like that, where the allegation would be some type of
8 sexual battery? Would that be a problem? We can
9 transfer you to a civil term of court. I was just
10 trying to keep you here, if I can.

11 THE COURT: To keep you.

12 JUROR 131: Right.

13 JUDGE MULLEN: The other case is expected to last
14 through Wednesday. So, you tell me. If you don't feel
15 comfortable, we'll transfer you to a civil term of
16 court, where you won't decide anything criminal. It's
17 up to you. You tell us.

18 JUROR 131: Yeah. I mean, maybe.

19 JUDGE MULLEN: Okay. Just -- yes.

20 JUROR 131: Just, I guess, the emotional state, you
21 know, is what I think, maybe.

22 JUDGE MULLEN: And I appreciate that. How long ago
23 did your mom pass?

24 JUROR 131: It's been just a couple of months.

25 JUDGE MULLEN: Oh, I'm sorry. Okay. All right.

1 Let's go ahead and transfer him.

2 THE COURT: We'll go ahead and transfer you to a
3 civil term.

4 JUDGE MULLEN: Okay. I'll let you go talk to Ms.
5 Cade right over here, and you tell her when is best for
6 you. Okay?

7 JUROR 131: Thank you.

8 JUDGE MULLEN: Number 131 is going to be
9 transferred.

10 END INDIVIDUAL VOIR DIRE.

11 BY THE COURT:

12 THE COURT: Next question is: does anyone in the
13 jury panel work or have they ever worked in any facet of
14 law enforcement, including, but not limited to, a police
15 department, sheriff's department, campus police,
16 security guard, SLED, FBI, military police, or any
17 similar employment? If so, please stand.

18 Yes, sir. Your jury number?

19 JUROR 33: 33.

20 THE COURT: And where do you work?

21 JUROR 33: I was a security officer at Dataw
22 Island.

23 THE COURT: All right, sir. Thank you.

24 BAILIFF: One standing, your Honor.

25 THE COURT: Yes, ma'am.

1 JUROR 217: 217. I worked volunteer at my son's
2 law office.

3 THE COURT: All right. Thank you, ma'am.

4 Has any member of the jury panel heard any
5 information about this case from the television,
6 newspaper, radio, et cetera? Any local papers? Has
7 anyone heard any pretrial publicity on this case?

8 JUROR 271: Juror 271.

9 THE COURT: Juror 271? And ma'am, based upon what
10 you've heard in the media or newspaper, can you set that
11 aside and render a decision or verdict in this case,
12 solely on that evidence as presented in this courtroom?

13 JUROR 271: Yes.

14 THE COURT: You can? Thank you.

15 JUROR 101: Yes, Juror 101. And the Sunday
16 newspaper.

17 THE COURT: The Sunday newspaper is where you heard
18 it?

19 JUROR 101: Yes.

20 THE COURT: Okay. And based upon your review of
21 the Sunday newspaper, can you set that aside, as well,
22 and listen to the evidence as presented in the
23 courtroom, and render a verdict solely on the evidence
24 that you hear in court?

25 JUROR 101: Yes, ma'am.

1 THE COURT: Thank you, ma'am. Yes, ma'am, in the
2 back.

3 JUROR 255: 255.

4 THE COURT: 255. And where did you --

5 JUROR 255: It was newspaper articles.

6 THE COURT: Newspaper articles. And the same
7 question to you, ma'am. Can you set that aside and --

8 JUROR 255: Yes, ma'am.

9 THE COURT: -- render a verdict based upon the
10 evidence as presented in court?

11 JUROR 255: Yes.

12 THE COURT: Thank you, ma'am. And sir, in the
13 back.

14 JUROR 33: 33.

15 THE COURT: Yes, sir.

16 JUROR 33: I read the newspaper. But I can set it
17 aside.

18 THE COURT: You can set it aside and render a
19 decision based upon what's presented in court?

20 JUROR 33: Yes, ma'am.

21 THE COURT: Thank you, sir. Ma'am?

22 JUROR 202: Number 202.

23 THE COURT: Okay.

24 JUROR 202: I read the -- the Island Packet this
25 weekend.

1 THE COURT: All right. Based upon your reading the
2 newspaper, can you set that aside and render a verdict
3 solely on the evidence that's presented here in court?

4 JUROR 202: Absolutely. I didn't even read the
5 whole article.

6 THE COURT: Thank you, ma'am. Yes, ma'am?

7 JUROR 186: 186, and I did read it in the paper, as
8 well, and I might have a problem with that.

9 THE COURT: You might have a problem setting it
10 aside?

11 JUROR 186: Setting it aside.

12 THE COURT: Okay. What we'll do is, we'll just
13 hold you off this panel, but you may be selected for the
14 next jury.

15 MADAM CLERK: Is it 186?

16 THE COURT: 186.

17 JUROR 186: 186, right.

18 THE COURT: Is there any reason whatsoever that any
19 member of the jury panel cannot give the State or the
20 defendant a fair and impartial trial? If so, please
21 stand.

22 Does the State or the Defense have any further
23 questions?

24 MR. THORNTON: Nothing from the State, your Honor.

25 MR. JOHNSON: Your Honor, may we approach?

1 THE COURT: Sure.

2 ON-THE-RECORD BENCH CONFERENCE,

3 OUT OF PRESENCE OF JURORS.

4 PRESENT: THE COURT, JUDGE MULLEN,

5 MR. THORNTON, MS. DEYSACH, MR.

6 JOHNSON:

7 MR. JOHNSON: My concern -- I just want it on the
8 record that -- and the number I had.

9 THE COURT: Okay.

10 MR. JOHNSON: That's all I want to do.

11 JUDGE MULLEN: Was there any specific question or
12 any concern that didn't get covered? Because the
13 standard questions cover just about everything. So,
14 anything in particular?

15 MR. JOHNSON: No. Just listen to them, just
16 letting people stand. And I was very concerned about
17 that article, and I guess I wanted -- and I attached
18 that article. I guess I wanted -- that article concerns
19 me. And I just think a lot of people, I know they stood
20 like they were, but I think a lot of people read that
21 article that's just not saying anything, and I just
22 wanted to highlight that article, and make sure they
23 don't -- I want to bring it to their attention to make
24 sure they -- make sure they remember it. It concerns --
25 it concerns me that the Island Packet and the -- I think

1 it's the Beaufort Gazette, it's hard to believe just six
2 people read the paper Sunday.

3 JUDGE MULLEN: Yes.

4 THE COURT: People read it online, and they just
5 look at it online.

6 JUDGE MULLEN: Okay. Okay. All right.

7 MR. JOHNSON: That's the only --

8 JUDGE MULLEN: That's the only problem you had?

9 MR. JOHNSON: That's the only problem.

10 JUDGE MULLEN: Okay. Okay. All right. Well, we
11 can take care of that.

12 MR. JOHNSON: Okay.

13 END BENCH CONFERENCE.

14 BY THE COURT:

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, there has been some pretrial publicity in this
17 case, and we just want to make absolutely sure that if
18 you have heard anything, or if -- we've had some folks
19 stand up, that everyone understand that whatever is out
20 there is not evidence in this case and cannot be
21 considered by anyone in this case. But if there is any
22 other issues that you have or you've heard any pretrial
23 publicity that you think may affect you in any way,
24 please stand. I find no one standing. Thank you.

25 OFF-THE-RECORD DISCUSSION, JUDGE

1 MULLEN AND MADAM CLERK.

2 THE COURT: Members of the jury panel, what's
3 happening now is, the Clerk's Office now has to pull
4 your names to be selected on the first jury. So, it
5 takes a few minutes to get your names into a computer,
6 where you'll be randomly drawn. Now, if your name is
7 called, once this process starts, if you can step
8 forward and face toward the back, so these attorneys can
9 take a good look at you. And then, they will decide
10 whether or not to seat you on the jury panel, or excuse
11 you from serving on this jury.

12 Please don't take it personally. They do it for so
13 many reasons. And you may be happy about it, or you may
14 not be so happy about it, but that's actually what we're
15 waiting on right now. So, it should take a few minutes.
16 If you want to hang tight with us, we'll appreciate it.

17 JUDGE MULLEN: Ladies and gentlemen, I just wanted
18 to address you very quickly. I'm Carmen Mullen. I am
19 the resident circuit judge here in the Fourteenth
20 Judicial Circuit. I have been on the Bench now a little
21 over six years or so. And it's my pleasure this week to
22 be seated with Maité Murphy from Dorchester.

23 As she told you, when you get appointed to be a new
24 judge by the legislature here, you go and sit with a
25 group of judges for a different period of time.

1 Usually, it's about a month or so. And I have the
2 pleasure of having her sit with me here this week,
3 holding a term of court. She is going to be trying this
4 first case. I just wanted to explain that to you.

5 I will also tell you, as you know, we are
6 undergoing construction at the courthouse, and we
7 apologize for the speaker and the speakers. When we
8 pull these two juries, ladies and gentlemen, we are
9 going to be trying them in two smaller courtrooms. The
10 acoustics are better, and I'm hopeful that everyone will
11 be able to hear. But if you are chosen as a juror, in
12 either one of these trials, if, at any point, you cannot
13 hear someone, whether it's an attorney, a witness, the
14 judge, just wave us down. And I assure you, we will
15 speak up. It's vitally important that you hear
16 everything that's going on.

17 And again, and I apologize. The courthouse is
18 going to be gorgeous when it's done. We just have to
19 live through it, ladies and gentlemen. And hopefully,
20 it will be done we're anticipating November-ish right
21 now, right before the holidays. But again, bear with
22 us.

23 I will also tell you we have another visiting
24 judge, who is Diedra Jefferson. She is based out of
25 Charleston. She's one of the second judges going to

1 come out here and pull the second jury.

2 Ladies and gentlemen, I will tell you this, and I
3 tell this to jury panels every Monday. I understand
4 that sometimes it's a bit difficult and frustrating, and
5 when you come on Monday morning, you don't know what's
6 going to happen. Again, we try very hard to keep things
7 moving. Once you get chosen on a jury, you will have a
8 judge to directly deal with. I assure you, things will
9 move much more smoothly. You'll be told when and where
10 to be. And so, you don't have to worry or anticipate.

11 What I want you to know, ladies and gentlemen, is,
12 is that no one in this courtroom can do their job,
13 unless you are here and willing to serve, and we greatly
14 appreciate it. We simply cannot do the county's
15 business without having jurors here to sit and hear
16 these cases. And I can assure you, ladies and
17 gentlemen, that if you had a dispute with your neighbor,
18 because we are not only a criminal court, but also a
19 civil court, if you had a dispute with a neighbor, or
20 you had some issue that came up that was in front of the
21 Court, you would want to be able to look out at the good
22 people of Beaufort County and feel comfortable that
23 twelve people are deciding the issues in this case. As
24 we all know, certainly, twelve heads are better than
25 one. And that's, obviously, the system we have here in

1 the United States, and it clearly is the best system in
2 the world, and we're grateful that you're here.

3 Please understand, we know this is a hardship. I
4 know that there are probably many other things you all
5 would either rather be or need to be doing at home, but
6 again, we thank you for being here. We thank you for
7 your service. And are we about ready to go?

8 MADAM CLERK: Yes.

9 JUDGE MULLEN: And thank you for bearing with us.
10 I will also tell you, and I'm sure Ms. Roseneau had
11 pointed out, the bailiffs are in the courthouse. We've
12 got Al over here, as well, as Bob. And Norman's around.
13 Ladies and gentlemen, if you need anything while you are
14 here, just ask any of these bailiffs. Their entire job
15 is to take care of you and to make sure that you are
16 served and assisted during your stay here.

17 So, with that said, we're going to go ahead and
18 pull this jury. I just simply ask that when your name
19 is called, all you have to do it come up here, bring all
20 of your belongings with you, stand, and again, face the
21 panel. You don't have to do or say anything. You're
22 going to have to be invited to take a seat, or you're
23 going to be asked to return back to the panel.

24 Ladies and gentlemen, I remind you, if you are
25 returned back to the panel, we do have a second jury to

1 pull today. So, again, you won't be entirely excused.
2 With that said, let's go ahead and pull the jury.

3 JURY SELECTION:

4 MADAM CLERK: Thank you, Judge. Juror Number 283,
5 Jeffrey Sabatini.

6 MADAM CLERK: What says the State?

7 MR. THORNTON: Please present this juror.

8 MADAM CLERK: What says the Defense?

9 MR. WILLIAMS: Please seat the juror.

10 JUDGE MULLEN: Come on up, Mr. Sabatini.

11 MADAM CLERK: Juror Number 302, Sharon Son Hing.
12 What says the State?

13 MR. THORNTON: Please present this juror.

14 MADAM CLERK: What says the Defense?

15 MR. WILLIAMS: Please excuse Ms. Son Hing from the
16 trial of this case.

17 MADAM CLERK: Juror Number 255. Yvonne Park. What
18 says the State?

19 MR. THORNTON: Please present this juror.

20 MADAM CLERK: What says the Defense?

21 MR. WILLIAMS: Please seat Ms. --

22 MADAM CLERK: Juror Number 193, Sandra Lea. What
23 says the State?

24 MR. THORNTON: Please present this juror.

25 MADAM CLERK: What says the Defense?

1 MR. WILLIAMS: Please excuse this juror from the
2 trial of this case.

3 MADAM CLERK: Juror Number 151. Dorothy Hundley.
4 What says the State?

5 MR. THORNTON: Please present this juror.

6 MADAM CLERK: What says the Defense?

7 MR. WILLIAMS: Please seat Ms. Hundley.

8 MADAM CLERK: Juror Number 271, Brenda Post. What
9 says the State?

10 MR. THORNTON: Please present this juror.

11 MADAM CLERK: What says the Defense?

12 MR. WILLIAMS: Please excuse Ms. Post from the
13 trial of this case.

14 MADAM CLERK: Juror Number 109, Veronica Gardner.
15 What says the State?

16 MR. THORNTON: Please present this juror.

17 MADAM CLERK: What says the Defense?

18 MR. WILLIAMS: Please seat Ms. Gardner.

19 MADAM CLERK: Juror Number 110, Dana Gasque. What
20 says the State?

21 MR. THORNTON: Please excuse the juror from the
22 trial of this case.

23 MADAM CLERK: Juror Number 252, Edward Pappas.
24 What says the State?

25 MR. THORNTON: Please present this juror.

1 MADAM CLERK: What says the Defense?
2 MR. WILLIAMS: Please seat Mr. Pappas.
3 MADAM CLERK: Juror Number 270, Angela Porteous.
4 What says the State?
5 MR. THORNTON: Please present this juror.
6 MADAM CLERK: What says the Defense?
7 MR. WILLIAMS: Please seat the Juror.
8 MADAM CLERK: Juror Number 211, Shane Markworth.
9 What says the State?
10 MR. THORNTON: Please present this juror.
11 MADAM CLERK: What says the Defense?
12 MR. WILLIAMS: Please seat Mr. Markworth.
13 MADAM CLERK: Juror Number 2, Rachel Allen. What
14 says the State?
15 MR. THORNTON: Please present this juror.
16 MADAM CLERK: What says the Defense?
17 MR. WILLIAMS: Please excuse Ms. Allen from the
18 trial of this case.
19 MADAM CLERK: Juror Number 130, Harold Harris.
20 What says the State?
21 MR. THORNTON: Please excuse this juror.
22 MADAM CLERK: Juror Number 315, Kathy Toney. What
23 says the State?
24 MR. THORNTON: Please present this juror.
25 MADAM CLERK: What says the Defense?

1 MR. WILLIAMS: Please seat Ms. Toney.
2 MADAM CLERK: Juror Number 145, Marvalyn Holmes.
3 What says the State?
4 MR. THORNTON: Please present this juror.
5 MADAM CLERK: What says the Defense?
6 MR. WILLIAMS: Please seat Ms. Holmes.
7 MADAM CLERK: Juror Number 89, Martha Feight.
8 MR. THORNTON: What was that number?
9 MADAM CLERK: Number 89.
10 MR. THORNTON: Thank you.
11 MADAM CLERK: What says the State?
12 MR. THORNTON: Please present this juror.
13 MR. WILLIAMS: Please excuse Ms. Feight from the
14 trial of this case.
15 MADAM CLERK: Juror Number 291, Barbara Seymour.
16 What says the State?
17 MR. THORNTON: Please present this juror.
18 MADAM CLERK: What says the Defense?
19 MR. WILLIAMS: Please seat Ms. Seymour.
20 MADAM CLERK: Juror Number 297, Veronica
21 Smalheiser. What says the State?
22 MR. THORNTON: Please present this juror.
23 MADAM CLERK: What says the Defense?
24 MR. WILLIAMS: Please seat Ms. Smalheiser.
25 MADAM CLERK: Juror Number 115, Amy Gladden. What

1 says the State?

2 MR. THORNTON: Please excuse the juror from the
3 trial of this case.

4 MADAM CLERK: Juror Number 171, Kara Kamperman.
5 What says the State?

6 MR. THORNTON: Please present this juror.

7 MADAM CLERK: What says the Defense?

8 MR. WILLIAMS: Please excuse Ms. Kamperman from the
9 trial of this case.

10 MADAM CLERK: Juror Number 280, Brooke Rowe. What
11 says the State?

12 MR. THORNTON: Please present this juror.

13 MADAM CLERK: What says the Defense?

14 MR. WILLIAMS: Please excuse Ms. Rowe from the
15 trial of this case.

16 MADAM CLERK: Juror Number 296, John Simmons. What
17 says the State?

18 MR. THORNTON: Please present this juror.

19 MADAM CLERK: What says the Defense?

20 MR. WILLIAMS: Please seat Mr. Simmons.

21 MADAM CLERK: Now, we'll be selecting our first
22 alternate. Juror Number 118, Douglas Goethie. What
23 says the State?

24 MR. THORNTON: Please present this juror.

25 MADAM CLERK: What says the Defense?

1 MR. WILLIAMS: Please seat Mr. Goethie.

2 MADAM CLERK: Now, we'll be selecting our second
3 alternate, Juror 101, Margarita Fox. What says the
4 State?

5 MR. THORNTON: Please present this juror.

6 MADAM CLERK: And what says the Defense?

7 MR. WILLIAMS: Please seat Ms. Fox.

8 BY THE COURT:

9 THE COURT: Are there any matters of law regarding
10 the jury selection process from either the State or the
11 Defense?

12 MR. THORNTON: None from the State, your Honor.

13 THE COURT: From the Defense?

14 MR. JOHNSON: None from the Defense, your Honor.

15 THE COURT: Thank you, gentlemen. For the
16 remainder of the jurors that did not get selected on
17 this case, if you could come back to this courtroom at
18 2:15, we will have another jury selection process for
19 possibly one or two cases. So, if you could come back
20 at 2:15. Thank you.

21 JURORS WHO WERE NOT SELECTED

22 FOR THE IMMEDIATE CASE LEFT

23 THE COURTROOM AT 12:56 P.M.

24 BAILIFF: Jury pool's clear, your Honor.

25 JUDGE MULLEN: Thank you, Al. Welcome, ladies and

1 gentlemen. As I'm sure you understand, you are the jury
2 for the first trial that we're going to try here in this
3 case. Ladies and gentlemen, there are a number of
4 matters of law that we need to take up regarding this
5 case. And to more streamline, put it forward to you,
6 what I'm going to do is excuse you for the remainder of
7 the day, and we're going to come back tomorrow morning
8 to begin the trial of this case.

9 I want to tell you, ladies and gentlemen, from the
10 onset that I believe this case is going to go through
11 Friday. I'm going to tell you that right now, ladies
12 and gentlemen. So, please expect to be with us for the
13 week. Judge Murphy typically runs her courtroom from
14 about 9:00 or 9:30 in the morning, through, and I want
15 to say, typically, around 5:00 o'clock. But sometimes
16 it might be a little bit earlier; it might be a little
17 bit later.

18 We are going to go ahead and elect a foreperson
19 among you, ladies and gentlemen. That foreperson is
20 going to communicate with the bailiffs, and tell them if
21 anyone has any engagements that they cannot change. In
22 other words, if you need to be at home at a certain
23 time, and if you're driving either to Saint Helen or
24 Hilton Head, just let us know. I don't want anyone to
25 miss something that was pre-scheduled that you need to

1 be at, whether it's a ball game or whatever. We'll just
2 make sure you let the bailiffs know.

3 Ladies and gentlemen, before I send you home for
4 the day, I need to give you a couple of instructions,
5 and most of these apply for the entire week. First of
6 all, ladies and gentlemen, you are not to discuss this
7 case with anyone, and that includes each other. Ladies
8 and gentlemen, it's because you have not heard any
9 evidence in this case. All you've heard is allegations.
10 And again, I remind you, ladies and gentlemen, that you
11 are going to get all the evidence in this case right
12 here in this courtroom. And it would be highly
13 inappropriate for you to be influenced by any outside
14 source, which is why I tell you not to speak, not only
15 to each other about the case, but also, not to tell any
16 loved ones or family members or friends. And the reason
17 why is, inevitably, they're going to try to tell you
18 something about something, when they know nothing about
19 this case.

20 So, out of an abundance of caution, we tell you not
21 to discuss it. The only thing you are permitted to do
22 when you go home tonight is tell your family member or a
23 loved one or whomever you come in contact with that
24 you've been chosen as the juror in a criminal trial.
25 You're not to say the attorneys involved, the charges,

1 any of the potential witnesses in this case, or again,
2 the defendant. That would be inappropriate.

3 Additionally, ladies and gentlemen, I don't know
4 that there's going to be anything either on the news
5 tonight or in the paper regarding this case. But out of
6 an abundance of caution, if there is, you are not to
7 watch it or read it.

8 Additionally, ladies and gentlemen, you are to do
9 no independent research in regards to this case. Again,
10 I remind you, you will have everything you need to
11 decide this case right here in this courtroom. So, you
12 are not to do any outside research in any way, shape, or
13 form.

14 Additionally, ladies and gentlemen, if I have
15 anyone who is a social blogger or may be on Facebook,
16 you are not to post you are a juror in the trial of a
17 case. Again, that invites comment, and I wouldn't want
18 you to be influenced in any other way.

19 I also want you to know that the attorneys and the
20 parties involved in this case and the witnesses have
21 been instructed not to speak to you in coming and going
22 from the courthouse over the next few days. And again,
23 the reason why is, even an innocent conversation in the
24 parking lot of isn't it a gorgeous day out is going to
25 be misconstrued. It will be reported back, and again,

1 and I'm going to have to ask you about it. So, again,
2 ladies and gentlemen, out of an abundance of caution, if
3 they pass you, you see them outside, they don't say even
4 hello, they're not being rude or unkind in any way;
5 they're simply following my orders.

6 Ladies and gentlemen, also, I have asked, and I'm
7 sure, in your summons, you noted that you are not to
8 bring any phones or any computers into the courthouse.
9 And again, the reason why is, you can get so much
10 information off of a phone now. And again, it would be
11 inappropriate for you to do so. So, I'm going to ask,
12 ladies and gentlemen, that you make sure you leave your
13 phones either back at home or in your car. If, for some
14 reason, you do get into the courthouse tomorrow with
15 them, the bailiffs are going to have to collect them.

16 Ladies and gentlemen, if you need to use a phone
17 while you're here before the jury service, or you're
18 worried about maybe a family member contacting you
19 emergently, tell them simply to call up to the Clerk of
20 Court's office, and tell them that you are a juror.
21 Give them your name, and that you are a juror in Judge
22 Murphy's trial, and we will immediately come get you. I
23 don't want anyone to feel out of touch in any way,
24 shape, or form. You will be taken care of, I assure
25 you. All right?

1 Ladies and gentlemen, tomorrow morning, we are
2 going to start at 9:30. We're going to be here earlier
3 than that, just to make sure things are done. But I
4 want to do as best we can to make your wait time as
5 little as possible, but I'm going to tell you right now,
6 there are going to be times when we're going to have to
7 excuse you from the courtroom, and you are going to have
8 to wait back in the jury room. I want you to know that
9 the lawyers and everyone in the courthouse is working
10 hard here, certainly not wasting your time. We are just
11 trying to streamline things and get things appropriate
12 for you, so when you come in, we can take care of the
13 case. All right?

14 Lastly, ladies and gentlemen, before I excuse you
15 back to your jury room, Bob is going to show you how
16 you're going to come into the courthouse tomorrow.
17 You're not going to come in as you did before. You're
18 going to come in a separate entrance, and you're going
19 to go straight back to your jury room.

20 What I want you all to do for me before you leave
21 today, is I want you to elect a foreperson. A
22 foreperson doesn't have any more say than anyone else.
23 They're simply the person that communicates with the
24 bailiffs and Judge Murphy about scheduling. And it's
25 also the person, when the case gets sent to the jury for

1 their deliberations, they're going to get the ball
2 rolling. They're going to get everyone talking and
3 everyone included.

4 I simply ask that whoever you elect as a
5 foreperson, you give that name to the bailiff. And
6 then, additionally, the foreperson takes this very front
7 seat here during the remainder of the trial, so we can
8 communicate.

9 Additionally, I need my two alternates to stay in
10 the back row where they are. But the rest of you ladies
11 and gentlemen can move, come and go, change seats, as
12 the trial unfolds. Again, it doesn't matter.

13 I will also tell you, too, we have robes on, so I'm
14 not too cold, but I can tell you, my office was very
15 cold this morning. We do have blankets in the back for
16 you. I can tell you right now, because of the
17 construction, I cannot control whether or not it's cold
18 in here. And I can tell you, some days I come in here
19 and it feels like an oven; and other days, like today,
20 it feels awful cold. So, I suggest, ladies and
21 gentlemen, bring layers. Bring sweaters that you can
22 take off. And again, feel free to ask Bob for blankets,
23 or anything else that you need. All right?

24 Ladies and gentlemen, again, thank you for being
25 here. You are going to help us resolve this case, and

1 we appreciate that. And again, as I stated before, we
2 cannot do our business without you, so you are vitally
3 important. If you need anything while you are here
4 performing jury service, simply ask the bailiffs, and
5 they will take care of you. All right? I'm going to go
6 ahead and excuse you.

7 Ladies and gentlemen, lastly, I need to remind you,
8 I cannot start until all 14 of you are here tomorrow
9 morning. If you run into car trouble and you have
10 issue, you must call the Clerk's Office. We're going to
11 be looking for you. Okay? Thank you. We look forward
12 to seeing you all back in your jury room at 9:30 a.m.
13 tomorrow morning.

14 BAILIFF: Thank you, your Honor.

15 JUDGE MULLEN: Thank you.

16 BAILIFF: Be careful of the steps coming out,
17 please.

18 THE COURT: Are there any other matters of law we
19 need to take up now before you're excused for lunch? I
20 plan on coming back at 2:30 to do the pretrial motions,
21 if there's nothing else.

22 MR. THORNTON: Nothing else from the State, other
23 than the pretrial at 2:30, works great for the State,
24 your Honor.

25 THE COURT: The Defense?

1 MR. JOHNSON: Same for us, your Honor, nothing for
2 that.

3 JUDGE MULLEN: Do you all think we can get through
4 it this afternoon?

5 MR. JOHNSON: Oh, yes, ma'am. Yes, ma'am.

6 JUDGE MULLEN: Very good. And is -- I'm sorry. Is
7 there anything else scheduled for Judge Murphy this
8 afternoon, other than I've got a hearing right now? But
9 do you have anything else we're trying to get in front
10 of her?

11 MR. THORNTON: No, ma'am. I've asked them, because
12 of the length of the number of witnesses, I've told them
13 to keep everything else out until we got done with these
14 motions. So, we'll -- that's all we have, that I know
15 of.

16 HON. HUNTER SWANSON DEYSACH: I'm sorry.

17 MR. THORNTON: Oh, excuse me. Apparently,
18 somebody's disobeyed my instructions, which I'll handle.

19
20 MS. DEYSACH: I'm sorry, Judge. And I can always
21 reschedule this with Mr. Vaux, but Tabor Vaux and I had
22 a plea that we discussed last term, with your Honor.

23 THE COURT: I remember it.

24 MS. DEYSACH: Okay. The victim will not be here.
25 It should be pretty straightforward. It's an old jail

1 case.

2 THE COURT: Not a problem. I can take that up.

3 MR. THORNTON: That aside, your Honor, nothing
4 else.

5 MS. DEYSACH: Nothing else. Nothing besides that.
6 Sorry.

7 JUDGE MULLEN: All right. We'll be at ease until
8 2:30, then. Thank you all. Appreciate it.

9 OFF THE RECORD 1:00 P.M.

10 BACK ON THE RECORD 3:15 P.M.

11 BY THE COURT:

12 BAILIFF: All rise.

13 THE COURT: Thank you. You may have a seat. We're
14 on the matter with State versus Kelvin Jackson. It
15 looks like we have several pretrial motions. Which one
16 would we need to start with? The State?

17 MR. THORNTON: Your Honor, if it makes no
18 difference to the Court, I've talked to Mr. Johnson.
19 We'll do the ones that I know are going to require
20 testimony first, and go ahead and get those out of the
21 way. We have *Jackson v. Denno*.

22 THE COURT: Okay.

23 MR. THORNTON: And unless Mr. Johnson feels
24 otherwise, there's three or four times they've talked to
25 him, over time. I'll just put each witness up, and

1 we'll just try to cover everything at once.

2 THE COURT: Sounds good. Please call your first
3 witness.

4 FIRST PRETRIAL MOTION, JACKSON

5 VERSUS DENNO:

6 MR. THORNTON: Thank you, your Honor. The State
7 calls Major James Bolton to the stand.

8 THE COURT: Would you place your left hand on the
9 Bible, and raise your right hand for me, sir. Do you
10 solemnly swear to truthfully answer all questions asked
11 of you by this Court, so help you God?

12 MAJOR JAMES BOLTON: I do.

13 THE COURT: Please be seated. State your name, and
14 spell it for the Court, sir.

15 MAJOR BOLTON: My name is James Bolton,
16 B/o/l/t/o/n.

17 THE COURT: Your witness.

18 MR. THORNTON: May it please the Court, your Honor,
19 we'll go ahead and get started.

20 MAJOR JAMES BOLTON, DIRECT

21 EXAMINATION BY MR. THORNTON:

22 Q Mr. Bolton, who do you work for?

23 A I work for the Hampton Police Department.

24 Q In what capacity, sir?

25 A I'm the assistant chief.

1 Q Is that your rank also, major?

2 A Yes, sir.

3 Q Major Bolton, did you have an occasion to talk with
4 Mr. Kelvin Jackson, involved in the murder of Masako
5 Miller?

6 A Yes, sir, I did.

7 Q And did you talk to him on about May the 27th,
8 2011?

9 A Yes, sir.

10 Q I'm going to ask you a question. When you
11 originally talked to him, what was it in reference to?

12 A It was in reference to a financial transaction card
13 he used that belonging to Masako Miller.

14 Q I'm going to hand you what's been marked as Court's
15 Exhibit 1, for the purposes of this hearing. Do you
16 recognize that document, sir?

17 A Yes, sir. I do.

18 Q What is it?

19 A This is a *Miranda* form, that I read to Mr. Jackson
20 on the 27th at 1:25 that morning.

21 Q All right. And could indicate -- just basically
22 read what the form says; indicates the rights that you
23 read to him, please.

24 A Yes, sir. It says:

25 *Before we ask you any questions, you*

1 must understand your rights. You have
2 the right to remain silent. Anything
3 you say can and will be used against
4 you in court.

5 You have the right to talk to a
6 lawyer for advice before we ask any
7 questions, to have him or her with you
8 during questioning. If you cannot afford
9 a lawyer, one will be appointed for you
10 before any questions, if you wish.

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

16 And then, below that, it's a waiver of rights. It
17 says:

18 I have read this statement of my rights
19 and I understand what my rights are. I am
20 willing to make a statement and answer
21 questions. I do not want a lawyer at this
22 time. I understand and know what I am doing.
23 No promise or threats have been made to me.
24 No pressure or coercion of any kind has been
25 used against me. I have twelve years of

1 education.

2 Q Now, Major, is that what you read Kelvin Jackson
3 prior to you talking to him or asking him any questions
4 about this?

5 A Yes, sir, I did.

6 Q I'm sorry. About the financial transaction card
7 issue.

8 A Yes, sir.

9 Q All right. And did you, in fact, read those to
10 him?

11 A Yes, sir, I did.

12 Q Did he -- is there a place there for him to initial
13 beside each of those rights?

14 A Yes, sir. I asked him to read them and initial
15 beside each statement. And --

16 Q Did he do so?

17 A He did.

18 Q And did he seem to have any problems or issues
19 understanding English or being able to understand you or
20 understand the form?

21 A No, sir.

22 Q Did he appear to be under the influence of alcohol
23 or drugs to the extent that he didn't understand what
24 was going on?

25 A No, sir.

1 Q After you read him those rights and had him initial
2 that form, did he also sign it, sir?

3 A He did. After he read the waiver of the rights, he
4 signed right below that.

5 Q All right, sir. And did you witness that
6 signature? Was this done in your presence?

7 A Yes, sir, I did.

8 Q Now, Major, were you dressed about like you are
9 today, or would you have had a different uniform on, or
10 different clothes on, or what?

11 A No, sir. I had a uniform on.

12 Q All right. Now, did you, at any time, threaten or
13 try to coerce a statement out of Mr. Jackson?

14 A No, sir.

15 Q Did you promise him anything, any kind of leniency,
16 anything like that, on the financial transaction card
17 charge or the murder or anything else?

18 A No, sir.

19 Q Did anybody else in your presence do that?

20 A No, sir.

21 MR. THORNTON: Your Honor, I'd ask that Court's
22 Exhibit 1 be entered into evidence for the purposes of
23 this hearing.

24 THE COURT: Mr. Johnson, any objection?

25 MR. JOHNSON: No objection.

1 THE COURT: Thank you.

2 DOCUMENT TITLED *YOUR RIGHTS*,

3 REFERRED TO AS *MIRANDA FORM*

4 READ TO DEFENDANT MARKED COURT'S

5 EXHIBIT NUMBER 1.

6 Q Major, after he -- after he, being Mr. Jackson,
7 initialed in all those places, and then, signed that
8 form, did he talk to you?

9 A Yes, sir, he did.

10 Q And did you ask him about using this card? Or how
11 did that go? Tell me what he told you.

12 A I asked him about his whereabouts on the night of
13 the 25th, early morning hours of the 26th. He denied
14 being in Hampton County.

15 Q And let me stop you. What is the significance of
16 the late 25th, early 26th? Is that when Masako Miller
17 went missing?

18 A Yes, sir, it was.

19 Q And you asked him, I believe you just testified,
20 you ask him where his -- where he was during that time.
21 Is that right?

22 A Yes, sir.

23 Q And what did he tell you?

24 A He was in Fairfax with his girlfriend, Tara
25 Roberts, I believe.

1 Q All right. In Fairfax?

2 A South Carolina.

3 Q I understand. On the off chance that Judge Murphy
4 may not know, what county is that in?

5 A That's in Allendale County.

6 Q And what county were you questioning him in
7 reference to?

8 A Hampton County.

9 Q Did he admit -- did he tell you, first off, that he
10 was in Hampton County?

11 A No, sir.

12 Q And he told you he was in Fairfax, which is?

13 A Allendale County.

14 Q All right. Did you have any other information that
15 you could use to contradict that statement with?

16 A Yes, sir. I told him that we had surveillance
17 video at the Shell station of him using the financial
18 transaction card at the Shell station in Hampton.

19 Q All right. Now, so this is in the city of Hampton,
20 correct?

21 A Of Hampton, yes, sir.

22 Q And what was his response when you caught him in
23 that lie?

24 A He said he came down to Hampton to get gas to go
25 back to Columbia.

1 Q All right. And did he also -- did he also tell you
2 something about the bank card --

3 A Yes, sir, he --

4 Q -- as far as whether he had a right to use it or
5 not?

6 A Yes, sir. He said that was a card on their joint
7 account.

8 Q But at first, he told you he wasn't even in Hampton
9 County on that night.

10 A That's correct.

11 Q Now, I've already talked about the threats,
12 promises. None of that occurred, as far as -- as far as
13 you were -- as far as you witnessed. Is that correct?

14 A No, sir.

15 Q And nobody did that in your presence?

16 A No, sir.

17 Q Who else was, do you know of, that talked to him or
18 that was with you when he was being talked to?

19 A Lieutenant Chauncey Solomon of the Hampton
20 Sheriff's, and Sergeant David Rowe, of the Hampton
21 Police Department.

22 MR. THORNTON: All right, sir. Thank you. I have
23 no further questions.

24 MR. JOHNSON: Your Honor, may it please the Court.

25 THE COURT: Mr. Johnson.

1 MAJOR JAMES BOLTON

2 CROSS-EXAMINATION BY MR. JOHNSON:

3 Q Just a couple questions. Did he give any
4 statement, other than a written statement -- I mean,
5 other than an oral statement?

6 A No, sir. I asked him to write -- if he would write
7 it out for me, and he declined.

8 Q Okay. So, it's just no, he didn't give another
9 statement, other than a written statement -- other than
10 an oral statement. Is that correct?

11 A No, sir. Just the oral statement.

12 Q Okay. And other than what you put in your report,
13 did he tell you anything, other than what you put in
14 your report?

15 A No, sir. Not that I recall.

16 Q So, whatever is in your report is just what he told
17 you.

18 A Yes, sir.

19 Q Okay. And did you -- did you later get -- not
20 later. Did you get proof that he was on this joint
21 account, financial trans -- financial transaction? Is
22 he on that account?

23 A Not on the account that the card was from.

24 Q Okay. Have you checked with the bank on this
25 particular account?

1 A I checked with the bank on the particular card that
2 was used that night.

3 Q Right.

4 A And it was on a new account she had just opened,
5 and it was the only active card on that account.

6 Q Okay. And do you have possession of the card?

7 A No, sir, I don't.

8 Q Have you ever had possession of the card?

9 A No, sir.

10 Q Okay. Have you ever seen the card?

11 A No, sir.

12 Q Okay. Do you know whether or not he had permission
13 to use the card?

14 A No, sir.

15 Q Okay. And the financial transaction, is it -- it
16 is not illegal for somebody to give you permission to
17 use the card? Is that correct?

18 A Correct.

19 Q Okay. And you made no determination of whether or
20 not he had permission to use that card. Matter of fact,
21 you have nothing to say that he did not have permission
22 to use that card. Is that correct?

23 MR. THORNTON: Your Honor, I'd object. The only
24 person that could say that is the person he's accused of
25 killing.

1 MR. JOHNSON: Yeah, yeah, he got a right. Just let
2 him answer the question. I mean, who can and who can't
3 is irrelevant. I just need to know what he knows about
4 the card.

5 THE COURT: Well, that's really not for purposes of
6 admissibility of the statement. I think you could get
7 into that during the trial, but I don't see how that's
8 relevant for purposes of the *Jackson v. Denno*.

9 MR. JOHNSON: Your Honor, I was just responding to
10 the question that the Solicitor asked. I was coming
11 back, trying to clear some of that, also. But if the
12 Court tell me to move on, of course, I will.

13 THE COURT: All right. Let's move on.

14 MR. JOHNSON: All right. Thank you ma'am.

15 Your Honor, that's all we have. Thank you.

16 THE COURT: Thank you. From the State?

17 MR. THORNTON: Nothing for this witness. Thank you
18 very much.

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

20 MR. THORNTON: Lieutenant Chauncey Solomon.

21 MADAM CLERK: Would you place your left hand on the
22 Bible, and raise your right hand for me, sir. Do you
23 solemnly swear to truthfully answer all questions asked
24 of you by this Court, so help you God?

25 LIEUTENANT CHAUNCEY SOLOMON: Yes, ma'am.

1 MADAM CLERK: Please be seated. State your name
2 and spell it for the Court, please.

3 LIEUTENANT CHAUNCEY SOLOMON: Chauncey Solomon.
4 Last name spelled S/o/l/o/m/o/n.

5 LIEUTENANT CHAUNCEY SOLOMON

6 DIRECT EXAMINATION BY MR. THRONTON:

7 Q Lieutenant Solomon, who do you work for?

8 A The Hampton County Sheriff's Office.

9 Q And what do you do for the Hampton County Sheriff's
10 Office?

11 A I'm a lieutenant in investigations.

12 Q Earlier, just a moment ago, you were in the
13 courtroom; were you not?

14 A Yes, sir.

15 Q And you heard Major Bolton talking about some
16 conversations he had, an interview he conducted with the
17 defendant in this case, Kelvin Jackson. Is that
18 correct?

19 A Yes, sir, it is.

20 Q Did you also have occasion to briefly talk to
21 Kelvin Jackson?

22 A Yes, sir.

23 Q I'm going to hand you what's been marked --

24 MR. JOHNSON: No objection.

25 THE COURT: Thank you.

1 MR. THORNTON: If it's going to be without
2 objection, then, I'll just go ahead and ask that it be
3 made --

4 MR. JOHNSON: Right.

5 MR. THORNTON: -- introduced into evidence for
6 purposes of this hearing.

7 MR. JOHNSON: Without an objection.

8 THE COURT: Thank you. That's Court's 2.

9 MR. THORNTON: Court's 2.

10 DOCUMENT DESCRIBED AS MIRANDA

11 WARNING GIVEN TO DEFENDANT ON

12 MAY 27, 2011, MARKED COURT'S

13 EXHIBIT NUMBER 2.

14 LIEUTENANT CHAUNCEY SOLOMON

15 CONTINUE DIRECT EXAMINATION BY MR. THORNTON:

16 Q Just give a very brief synopsis, Lieutenant
17 Solomon, what is Court's Exhibit 2?

18 A It's a *Miranda* warning for defendant, that we gave
19 the defendant on 5/27/2011.

20 Q All right. And is it a separate, an additional
21 *Miranda* warning, than the one he was given that we
22 entered into as Court's Exhibit Number 1?

23 A Yes, it's a different one.

24 Q And were you a witness as to Court's Exhibit Number
25 2, the *Miranda* form, being read to Mr. Jackson?

1 A Yes.

2 Q Did Mr. Jackson seem to understand the rights as he
3 filled that out and initialed by each right?

4 A Yes, sir, he understood.

5 Q And is that the same rights that were just read by
6 Major Bolton? The same form?

7 A The exact same form.

8 Q And let me ask you this. When he read -- once he
9 read everything, did he agree to talk to you?

10 A Yes, he did.

11 Q Did he provide you any different information, other
12 than what Major Bolton just testified to?

13 A Basically the same.

14 Q And let me ask you this, because I did not ask this
15 of Major Bolton. At any time, did he tell you that he
16 wanted to talk to a lawyer or needed to talk to a lawyer
17 or thought he might want to talk to a lawyer? Did the
18 word lawyer ever come out of his mouth?

19 A No, sir, he didn't.

20 Q Did you threaten him at any time, or did anyone in
21 your presence threaten him?

22 A No, sir.

23 Q Did you promise him anything -- leniency -- or did
24 anybody else promise him any leniency?

25 A No, sir, we didn't.

1 Q Did he appear, at this time, to be under the influ
2 -- and when I say at *this time*, at the time you read
3 him, or had read to him, those rights, did he appear to
4 be under the influence of any alcohol or drugs to the
5 extent that he didn't know what was going on?

6 A No, sir, he didn't.

7 Q When he was talking to you, did he have the ability
8 to communicate to you and to talk to you in coherent
9 sentences?

10 A Yes, sir.

11 Q Did he seem to understand what you were doing?

12 A He seemed to understand.

13 Q And was he able to -- whether he was telling the
14 truth or not, was he able to answer questions?

15 A Yes, sir, he did.

16 MR. THORNTON: I don't have anything else. Please
17 answer any questions of Mr. Johnson.

18 MR. JOHNSON: Your Honor, just two quick questions.

19 LIEUTENANT CHAUNCEY SOLOMON

20 CROSS-EXAMINATION BY MR. JOHNSON:

21 Q He did not give you a written statement; did he?

22 A No, sir, he didn't.

23 Q And did you do a report?

24 A Did I do a report?

25 Q Yes.

- 1 A No, sir.
- 2 Q You didn't do a report?
- 3 A No, sir.
- 4 Q And would you agree with me that the fact that all
- 5 of the information in Major Bolton's report was the only
- 6 information he gave you all?
- 7 A At that particular time, basically.
- 8 Q Did he give you some -- did you talk to him at
- 9 another time and he give you more information?
- 10 A Another time?
- 11 Q Yeah. You said at that particular time.
- 12 A I spoke with him some -- some other times, yes.
- 13 Q Okay. You spoke with him some other time?
- 14 A Yes. Some time after that, along with someone
- 15 else.
- 16 Q Okay. Who did you speak with and when?
- 17 A David Williams.
- 18 Q And where was this?
- 19 A I guess, the state --
- 20 Q I mean, where did you all speak with the man?
- 21 A I think at the sheriff's office.
- 22 Q And when was this?
- 23 A A couple days or so later. Or maybe a day later,
- 24 maybe.
- 25 Q And did you all read him his rights then?

1 A Yes.

2 Q And other than what was written in the report, you
3 would have no further information than what's written in
4 the report that Major Bolton had.

5 A No, sir.

6 MR. JOHNSON: Thank you.

7 MR. THORNTON: Very brief re-direct, if I might,
8 Judge.

9 THE COURT: Sure.

10 LIEUTENANT CHAUNCEY SOLOMON

11 RE-DIRECT EXAMINATION BY MR. THORNTON:

12 Q You've been asked, and I believe Mr. Bolton was
13 asked, and that's my fault, and if I need to re-call
14 him, I can. You keep getting asked if it's not in the
15 report. Major Bolton got up and testified as to what --

16 A Exactly.

17 Q -- what the defendant told you. Now, is that --
18 so, I'm not looking at the report right this second, but
19 is what Major Bolton indicated on the stand, is that
20 accurate as to what Kelvin Jackson said?

21 A That's exactly what he said.

22 MR. THORNTON: Thank you. I don't have anything
23 further.

24 MR. JOHNSON: Your Honor, just one question.

25 THE COURT: Okay.

1 MR. JOHNSON: This is one question.

2 LIEUTENANT CHAUNCEY SOLOMON

3 RE-CROSS-EXAMINATION BY MR. JOHNSON:

4 Q Just for my understanding, did you get him to write

5 anything?

6 A No, sir.

7 Q You have no knowledge of him writing anything.

8 A No, sir.

9 MR. JOHNSON: Thank you.

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

11 MR. THORNTON: Call SLED Agent Richard Johnson to

12 the stand.

13 MADAM CLERK: Would you place your left hand on the

14 Bible, and raise your right hand for me, please. Do you

15 solemnly swear to truthfully answer all questions asked

16 of you by this Court, so help you God?

17 AGENT RICHARD JOHNSON: I do.

18 MADAM CLERK: Please be seated. State your name

19 and spell it for the Court, please.

20 AGENT RICHARD JOHNSON: Richard Johnson.

21 MR. THORNTON SHOWING DOCUMENT TO

22 MR. JOHNSON.

23 MR. JOHNSON: Without objection, your Honor.

24 THE COURT: Thank you, Mr. Johnson.

25 MR. THORNTON: Sorry for the delay, Judge.

1 SLED AGENT RICHARD JOHNSON

2 DIRECT EXAMINATION BY MR. THORNTON:

3 Q Agent Johnson, who do you work for?

4 A South Carolina Law Enforcement Division.

5 Q Is that otherwise known as SLED?

6 A Yes, sir.

7 Q I'm going to hand you what's been marked -- and
8 since I understand there's no objection, I'm going to go
9 ahead and ask these be moved into evidence for the
10 purposes of this hearing, Judge.

11 THE COURT: Thank you. And that's 3 and 4?

12 MR. THORNTON: Yes, ma'am.

13 MR. JOHNSON: Your Honor, no objection as to coming
14 in for evidence. I'd just like to reserve my rights to
15 question him about it.

16 THE COURT: Sure. Absolutely.

17 MR. THORNTON: Yes, ma'am. Court's 3, your Honor,
18 and Court's 4, it's two separate documents.

19 DOCUMENT REFERRED TO AS MIRANDA

20 RIGHTS FORM TO KELVIN JACKSON

21 MARKED COURT'S EXHIBIT NUMBER 3.

22 DOCUMENT REFERRED TO AS MIRANDA

23 RIGHTS FORM TO KELVIN JACKSON

24 MARKED COURT'S EXHIBIT NUMBER 4.

25 CONTINUE MR. THORNTON:

1 Q Agent Johnson, could you identify for me Court's 3
2 and Court's 4.

3 A Yes. These are *Miranda* rights forms that SLED
4 uses.

5 Q And are they -- *Miranda* rights forms. Let's start
6 one at a time, so the record is clear. As to Court's 3,
7 is a *Miranda* rights form as to any particular person?

8 A Yes, the *Miranda* rights form to Kenneth -- Kelvin
9 Jackson. I'm sorry.

10 Q And is that the Kelvin Jackson that is the
11 defendant and seated here in the courtroom today?

12 A That's correct.

13 Q And did you have an opportunity to talk to Mr.
14 Jackson about the disappearance and murder of Masako
15 Miller?

16 A Yes, I did.

17 Q And did you go over his rights with him?

18 A Yes, I did.

19 Q And without -- since the document's already been
20 admitted into evidence -- without reiterating it
21 verbatim, are they the same rights in general as what we
22 just heard with the Hampton County Sheriff's Office?

23 A Yes, sir.

24 Q Is there a space there to initial, for Mr. Jackson
25 to initial, next to each right?

1 A Yes, sir, a space by each line.

2 Q And did he initial?

3 A Yes, sir.

4 Q Did he sign the document, indicating he had read

5 and understood his rights?

6 A Yes, sir, he did.

7 Q And as to, again, Court's 3. Is Court's 4 the

8 exact same form?

9 A Yes, sir.

10 Q And was it done in the exact same way?

11 A No, sir. In Court's -- in Form 4, which was at a

12 different location, we briefly discussed to him that --

13 of his rights, and presented it to him. He read it off

14 to insure that he understood and knew what his rights

15 were.

16 Q All right.

17 A He read it himself.

18 Q I got you. So, you read it to him, Court's 3, you

19 read it to him.

20 A Yeah.

21 Q 4, he read it himself.

22 A Yeah.

23 Q Did he seem to indi -- did he seem to understand

24 both times, as to Court's 3 and Court's 4, what his

25 rights were?

1 A Yes, sir. In fact, in Court's 3, he asked did I
2 have to go through this again, because he had been
3 *Mirandized* numerous time before. And I explained to
4 him, yes, we still need to go through it again, because
5 such time had lapsed. So, on the fourth time, I
6 presented it to him, and explained to him the same
7 thing.

8 Q All right. Now, as to Court's 3, after he
9 initialed and signed, did he agree to talk to you?

10 A Yes, sir.

11 Q And do you remember -- did you write down a
12 memorandum of interview?

13 A As relates to Court's 3, I did a memorandum of
14 interview.

15 Q All right. Would you please, for the benefit of
16 the Court, explain to the Court what he told you.

17 A Well, we inquired about his involvement or -- and
18 how he end up being the position that he is in. He
19 commenced to tell me, shared with me, that he had last
20 seen Masako Miller, the victim in this case,
21 approximately three weeks prior to this date; that she
22 had text him during that time concerning their son being
23 in the hospital, and which he'd gone to the hospital and
24 had seen her at that time.

25 However, on a Wednesday of May 25th, at about 4:00

1 or 5:00 p.m., she text him, let him know that he would
2 be removed off of her insurance. At which time, he
3 didn't respond back to her text, according to him, but
4 he -- because he figured that following Tuesday he would
5 be in Hampton or in Fairfax anyway. So, he didn't
6 respond back to her. But nevertheless, because he loves
7 to drive, he decided to go to Hampton at that time.

8 He never confirmed that he went to her house that
9 day, but confirmed that when he went to Hampton, he did
10 use her credit card while he was in Hampton. Never
11 explained how he got the credit card, but he did use it.
12 After he got the gas from the store in Hampton, he then
13 went to Walterboro, where he got a room. I think it was
14 at the Ramada Inn, and he stayed until roughly 6:00,
15 6:10, 6:15. Then, he got up the next morning and went
16 back to Columbia, where he was scheduled to be at work
17 around 8:00 or so.

18 Q All right. Let me ask you this. Did you already
19 have some information that might contradict that he
20 hadn't seen her or been to her house in several weeks?

21 A I had bits and pieces of information, but I still
22 was sort of unclear as to exactly what I had. So, I
23 just kind of just wanted to give him an opportunity to
24 just --

25 Q Did you confront him and tell him you didn't think

1 he was telling the truth?

2 A In the second interview that I did with him, where
3 it was where he was confronted concerning it all.

4 Q All right. And what -- did his story change?

5 A Yes.

6 Q And tell me some of the things that how his story
7 changed.

8 A Well, in the first statement, in the first
9 interview, he wasn't there. And in the second
10 interview, he acknowledged that he was there.

11 Q Now, there meaning --

12 A At --

13 Q -- the victim's house?

14 A Yes, sir.

15 Q In fact, he admitted to being at the victim's house
16 on the night in question.

17 A That's correct.

18 MR. JOHNSON: Your Honor, may it please the Court?

19 THE COURT: Yes, sir.

20 MR. JOHNSON: Your Honor, I think the same should
21 apply for him. He's going into the facts of what
22 happened. When I tried to cross on the facts, I mean,
23 the Court told me to kind of move on, because that
24 wasn't for now; it was for the trial. I would suggest
25 that the question he's asking now is not proper, and

1 that would be further for the trial.

2 I think he's trying to establish that, now, whether
3 or not -- the whatever information came in, whether it
4 was free or voluntary. I don't think going this far --
5 I didn't mind going some into facts, but I don't think
6 going this far into facts is necessary at this time.

7 THE COURT: Counsel?

8 MR. THORNTON: Judge, my position would be, I don't
9 know how you can -- how you can competently rule on the
10 admissibility of a statement if you don't know what the
11 statement is. I'm just trying to get out what the
12 information he provided to law enforcement. I'm happy
13 to move quicker and be a little bit more vague. I can
14 introduce the Memorandum of Interview. We have some
15 audio recordings. I was trying to do it in a way so we
16 wouldn't have to sit here and listen to an hour or so or
17 longer's worth of audio. But at the Judge's discretion.

18 THE COURT: I'll overrule the objection.

19 MR. JOHNSON: Thank you, your Honor.

20 MR. THORNTON: Thank you, your Honor.

21 CONTINUE MR. THORNTON:

22 Q Agent Johnson, obviously, as you well know, we're
23 not in front of a jury.

24 A Um-hmm.

25 Q But in essence, did his story change?

1 A Yes, sir, it did.

2 Q All right. And you testified just a second ago
3 that in the first part he says:

4 *I hadn't seen her in three weeks.*

5 Then, you confront him with some information. Was
6 part of it that a man named -- or I'm sorry -- that
7 seeing a person that saw him in the area of the victim's
8 house known as the Bottoms, or near the victim's house?

9 A Yes, sir.

10 Q And that he did then acknowledge that, in fact, he
11 was there that day?

12 A Absolutely. Yes, sir.

13 Q And that he had talked to a Kevin White?

14 A Yes, sir.

15 Q Go ahead from there for me.

16 A Well, he -- he acknowledged that he had spoken with
17 a Kevin White in an area known as the Bottom. He told
18 Kevin White that he -- that his car broke down, but it
19 didn't actually broke down. He acknowledged that he
20 waited there for a little bit. Then, he subsequently
21 went to the victim's house.

22 Q And just so we're clear, this is on -- this is the
23 evening prior to, or the evening of her disappearance,
24 correct?

25 A Yes, sir.

1 Q Okay. Thank you. Go ahead.

2 A And he, going to her house, she let him in. She --
3 he was on the phone. She was on the phone with her
4 mother at the time. They just kind of talked a little
5 bit. He acknowledged that they had a relationship while
6 they were there. He asked for her credit card and left.
7 Went and got gas. Supposedly brought the credit card
8 back.

9 Q All right. And when you say *credit card*, do you
10 mean debit card --

11 A Debit card, yes, sir.

12 Q -- that you were referring to earlier?

13 A Um-hmm.

14 Q All right. And in fact, didn't you ask him, *Well,*
15 *if* -- did he claim he had money, other than the debit
16 card?

17 A Yes, he claimed he had money, because I asked him
18 how did you pay for the gas?

19 Q Right.

20 A Or why do you pay for the gas out of cash if you
21 had her debit card?

22 Q Right.

23 A And he explained that, well, the debit card didn't
24 work, but he already had money.

25 Q And did you ask him, then, well, if you already had

1 money, why did you ask for a debit card?

2 A Yes, sir.

3 Q And did he give her an explanation?

4 A He -- he said he just wanted to see if she would do
5 it.

6 Q So, we start off -- and of course, you are one of
7 the officers on this case; are you not?

8 A Yes, sir.

9 Q And you started off with -- you heard Major
10 Bolton's testimony; did you not?

11 A Yes, sir.

12 Q Okay. So, we have now gone from I wasn't even in
13 the county, to, well, I was in the county, but I didn't
14 stop by her house; I haven't seen her in three weeks;
15 to, well, I saw her a couple weeks ago. Now, we're
16 to --

17 MR. JOHNSON: Your Honor, I --

18 A Yes.

19 Q Okay.

20 A Yes, sir.

21 MR. JOHNSON: I object to leading.

22 THE COURT: Try not to lead your witness, please.

23 MR. THORNTON: Yes, your Honor.

24 CONTINUE MR. THORNTON:

25 Q Did he, being Kelvin Jackson, did he give you a

1 written statement at any time?

2 A Yes, sir. On the second interview, he gave me a
3 written statement that was -- I had slight of a
4 difficult to reading it. So, I also attached -- did a
5 memorandum interview to go along with that statement.

6 MR. THORNTON: Your Honor, Court's indulgence,
7 please, one moment.

8 THE COURT: Sure

9 MR. THORNTON: Thank you.

10 MR. THORNTON: Sorry for the delay, your Honor.

11 THE COURT: That's okay.

12 MR. THORNTON: I've been told by Mr. Johnson these
13 will be without objection. So, I'm going to go ahead
14 and ask that Court's 5, which is the Memorandum of
15 Interview by Mr. -- Agent Johnson; and Court's 6, which
16 is a written statement from Mr. Jackson, be admitted for
17 the purposes of this hearing.

18 THE COURT: Is that correct?

19 MR. JOHNSON: Without objection.

20 THE COURT: Thank you, Mr. Johnson.

21 DOCUMENT REFERRED TO AS MEMORANDUM

22 OF INTERVIEW DATED 6-8-11 MARKED

23 COURT'S EXHIBIT NUMBER 5.

24 DOCUMENT TITLED VOLUNTARY STATEMENT,

25 REFERRED TO AS WRITTEN STATEMENT

1 FROM MR. JACKSON, DATED 6-7-11,
2 MARKED COURT'S EXHIBIT NUMBER 6.

3 CONTINUE MR. THORNTON:

4 Q If you would look at Exhibits Court's 5 and 6.
5 Just briefly describe each one of these to make sure
6 I've correctly referenced them to the Court, Agent
7 Johnson.

8 A Yes. Court's Exhibit 6 is the written statement
9 that was written by Mr. Jackson. To the bottom of it is
10 a Q&A section where I've sort of did a follow-up
11 question and answer with it, just to clear up some
12 things.

13 Q And is that the statement that you reference
14 earlier that you said was kind of hard to read?

15 A Yes, sir.

16 Q Is that one of the reasons why you did a Memorandum
17 of Interview?

18 A Yes, sir.

19 Q Is the other reason you do a Memorandum of
20 Interview so that you get a more complete picture of
21 your discussion?

22 A Absolutely. A lot of time you don't get everything
23 that is told to you. You don't -- they don't always
24 write everything in a statement. So, we'll just do a
25 memorandum of interview to include a much clearer

1 picture of what was said and what was discussed.

2 Q And all right, sir. Thank you. And are those
3 accurate? Are all these accurate photocopies?

4 A Yes, sir.

5 Q All right. Agent Johnson. Agent Johnson, at my
6 request, did you listen to two audio recordings earlier?

7 A Yes, sir, I did.

8 Q And are those accurate audio recordings of the
9 interviews you conducted with Kelvin Jackson?

10 A Yes, sir.

11 MR. THORNTON: Your Honor, I've been informed by
12 Mr. Johnson, there will be no objection. This will be
13 Court's Exhibit Number 7. I would, however, tell the
14 Court, on the disc, there was also an interview
15 conducted with one of the other witnesses, which is T.
16 Roberts. That would not be -- there's no reason for
17 that in a Denno. But rather than waste another CD, I
18 would ask the Court just to listen to the Kelvin
19 Jackson, if it is so admitted. And there's two of them.
20 I think it's a 6-2 and a 6-7.

21 THE COURT: Okay.

22 MR. THORNTON: But I would ask this be made a part
23 of the record and introduced into evidence for purpose
24 of this hearing, unless there's objection.

25 MR. JOHNSON: No objection.

1 COMPACT DISC REFERRED TO AS
2 INTERVIEWS OF KELVIN JACKSON
3 DATED 6-2-11 AND 6-7-11, MARKED
4 COURT'S EXHIBIT NUMBER 7.

5 CONTINUE MR. THORNTON:

6 Q Agent Johnson, at any time, did you threaten, or
7 did anyone in your presence, threaten Kelvin Jackson?

8 A No, sir.

9 Q Did anyone promise him anything? Promise him any
10 leniency or anything else?

11 A No, sir.

12 Q And on -- I notice on one of them, forgive me which
13 one, if you would look and find, was there another
14 witness in one of your interviews that actually signed
15 on the *Miranda* forms?

16 A Yes. In the second interview, which was done on
17 June 7th of 2011, Lieutenant Shaun Harley was present on
18 that interview.

19 Q All right. And he's one of the supervising agents
20 of the Lowcountry Field Office?

21 A Yes, sir.

22 MR. THORNTON: Thank you very much, Agent Johnson.
23 I have no further questions for you.

24 SLED AGENT RICHARD JOHNSON

25 CROSS-EXAMINATION BY MR. JOHNSON:

1 Q Agent Johnson, let me stop. You did a tape
2 recording of this interview. Is that correct?

3 A Yes, sir.

4 Q Okay. Did you inform him while you were doing it,
5 that you were doing it that you were doing a tape
6 recording of him?

7 A I think the very first interview he was informed,
8 or either I put the recorder directly on the table in
9 his presence.

10 Q Okay. Is there any evidence anyplace that he was
11 informed, other than what you're saying, that he was
12 informed on this interview, the tape recording?

13 A Is there any other place that he was informed?

14 Q Is there any -- other than your testimony, is there
15 any other evidence that shows he was informed of this
16 tape recording?

17 A No, sir.

18 Q Okay. Did you inform him of the tape recording on
19 the 7th?

20 A I don't recall if I did or not on the 7th.

21 Q So, you recorded him without telling him he was
22 being recorded.

23 A I told him that he was -- we was inside of a jail.
24 And if I'm not mistaken, it was being recorded then.
25 I'm not certain. But I don't recall showing him that it

1 was recorded.

2 Q Did you have a recorder with you?

3 A Yes, on the second.

4 Q Did you use your recorder?

5 A Yes, sir.

6 Q Okay. Okay. How long have you been taking
7 statements?

8 A Ew. Twenty-five years.

9 Q Okay. And so, you understand the process of taking
10 statements pretty good.

11 A I would -- I would say so.

12 Q Okay. And you know what you should do and what you
13 shouldn't do during the process of taking statements.

14 A Yes, sir.

15 Q And in fact, you've been doing it for twenty-five
16 years?

17 A Um-hmm.

18 Q Okay. Now, at any point in time on June the 7th
19 did he say, look, I think I need a lawyer? Didn't he
20 say that?

21 A I don't know.

22 Q So, if we played on the tape, it would be on the
23 tape?

24 A I can't say that. If it's on the tape, then, yes,
25 he said it.

1 Q Okay.

2 A But I didn't hear it on the tape when I looked --
3 played it back.

4 Q I didn't ask you whether you heard it. I'm just
5 saying, if he said he needed the law, what was supposed
6 to be your response if he said that?

7 A He have a right to get a lawyer.

8 Q Okay. Were you supposed to cease questioning him
9 at that time?

10 A He didn't ask for a lawyer.

11 Q Were you supposed to cease questioning him at that
12 time?

13 A If he asked for a lawyer, yes, sir.

14 Q All right. And if he said I think I need a lawyer,
15 does that not indicate to you he want a lawyer?

16 A But --

17 MR. THORNTON: Objection, your Honor. That would
18 be a legal determination to be made by the Court as to
19 whether that was sufficient or not.

20 THE COURT: I think he's allowed to ask that.

21 CONTINUE MR. JOHNSON:

22 A Repeat your question.

23 Q If he said I think I need a lawyer, at that time,
24 aren't you supposed to cease questioning?

25 A There's a difference between think you need a

1 lawyer and that I request a lawyer. I asked -- if
2 anything, I told him, I said, well, you have a right to
3 a lawyer.

4 MR. JOHNSON: Your Honor, I would just -- he can
5 explain, I know. If he would just answer my question.

6 CONTINUE MR. JOHNSON:

7 Q Aren't you supposed to cease once he said I need a
8 lawyer or he indicate to you that he needs lawyer?

9 A If he said I need a lawyer or I want a lawyer, yes.

10 Q Okay. After 25 years of experience, if he
11 indicates that he want a lawyer, you think it's still
12 all right to go ahead on and keep questioning?

13 A Yes. He didn't say he needed a lawyer or he wanted
14 a lawyer present.

15 Q Okay. I heard the solicitor say something. I'm
16 going to ask you. Did you hear the word lawyer?

17 A I don't recall it, but if it's on the tape, then,
18 yes.

19 Q Okay. And if you heard the word lawyer, shouldn't
20 you have ceased questioning?

21 A If he requested a lawyer, yes.

22 Q You don't -- just for my information, you don't
23 determine *I think I need a lawyer* as indicating to you
24 he wants lawyer.

25 A No, sir, I don't. He said he think. And I'm not

1 the one to give him the legal advice on that matter.

2 Q But also, in the same situation, wasn't you telling
3 him you were there to help him and you just wanted to --
4 you were going to follow the law, and you were going to
5 do everything properly; didn't you tell him that?

6 A Absolutely.

7 Q Okay. So, didn't you also tell him you were there
8 to help him?

9 A I probably did. Whatever I can do to help him, I
10 would.

11 Q So, other words, if he said he thought he needed a
12 lawyer, you don't think he should have -- you should
13 have ceased questioning?

14 A No, I told him he have a right to have a lawyer
15 present.

16 Q But you kept questioning.

17 A Yes. He never asked for a lawyer.

18 Q In your opinion.

19 A No. In my fact, he never asked for one.

20 Q If it's on the tape, then it would be, in your
21 opinion. Is that correct?

22 A If it's on the tape, that would be in my opinion?

23 Q Yes. Yes.

24 A If it's on the tape, then, he -- he never -- he
25 never asked for a lawyer.

1 Q Okay. Let me ask you about the 7th. When did you
2 give him his *Miranda*? When did he sign that *Miranda*
3 form on the 7th; at the beginning -- or on the 6th -- at
4 the beginning of the questioning or at the end of the
5 questioning?

6 A Before the questioning.

7 Q It was signed before the questioning.

8 A Um-hmm.

9 Q So, if I --

10 COURT REPORTER: Is that yes?

11 A Yes.

12 Q So, if I suggested you on the 10th, you said, we'll
13 just wait and take care of that later on, you won't
14 remember that?

15 A What you're going to get on a tape is general
16 conversation between the defendant and myself. And as
17 we go through the conversation, then, we get down to the
18 issue that we were there. And on the tape, I told him
19 why we needed to be there and what you're going to get;
20 and say something to the effect that you understand your
21 rights; you know what we're here to do; we've got to go
22 through this again. He then received the right form,
23 where he waived the right form, and initialed on each
24 line.

25 Q Did you not tell him, we will take care of this

1 later?

2 A No, not *Miranda*.

3 Q Okay. You said you didn't do it.

4 A I don't recall that, no.

5 Q Okay. And if you did do that, would that indicate
6 to you that that was something you shouldn't have done?

7 A If --

8 Q If you did do that.

9 A If I told him we would take care of *Miranda* rights
10 later?

11 Q Right.

12 A Before questioning him?

13 Q While you were questioning him, yes.

14 A No. He would have been question -- he would have
15 been *Mirandized* before questioning.

16 Q Okay.

17 MR. JOHNSON: Your Honor, I would just ask at this
18 point in time, your Honor, if it's proper right now, I
19 think the tape itself is the most self-explanatory thing
20 we could have. I would ask that you play, and I think
21 one of them's two-and-a-half hours, and one of them is
22 longer than that. But I would ask now that the Court
23 listen to the sessions that -- that I would suggest that
24 my client didn't even know he was recording. I would
25 request that the Court listen to the sessions of what

1 was questioned by Mr. Johnson to Mr. Jackson, at this
2 time.

3 THE COURT: Do you have it cued up to a particular
4 spot? Because I'm a little technologically challenged.
5 So, you'll have to --

6 JUDGE MULLEN: So, wait a minute. One of them is
7 an hour long, and one of them's two-and-a-half hours
8 long?

9 MR. THORNTON: Yes, your Honor. And that's -- my
10 point was, in introducing it, was to give the Court the
11 ability to listen to them, and I think you should. But
12 we were going to try to move through the other pretrial
13 matters this afternoon. I thought maybe after hours or
14 in the morning the Court could listen to it, and prior
15 to any ruling, was going to be my suggestion. I was
16 just trying to save time, because we have several
17 matters to go to. But again, if the Court wants to
18 listen to them for two-and-a-half hours now, I'm happy
19 to do it.

20 JUDGE MULLEN: No.

21 THE COURT: Are they on a CD format?

22 MR. THORNTON: They're on a CD format. They're
23 already sitting up there as an exhibit, which is why I
24 introduced them in total, yes, ma'am.

25 THE COURT: I've got a long ride home, so I can

1 listen to them going home.

2 MR. JOHNSON: Your Honor, I'd also like to produce
3 to the Court -- I tried to get them transcribed, so I
4 could bring the written report to the Court. And the
5 court reporters did certification that they were -- some
6 of it was they could hear and some of it they couldn't.
7 So, rather than to charge me for a whole transcript,
8 they just said the best thing to do is not to transcribe
9 it, because some of it was just not intelligible.

10 MR. THORNTON: Your Honor, I have no objection to
11 the introduction of a document that says they couldn't
12 do something with it.

13 MR. JOHNSON: Would you just stipulate that?

14 MR. THORNTON: I'll stipulate that's what that
15 says.

16 MR. JOHNSON: Okay. Your Honor, if he stipulates
17 it, then, that's fine.

18 MR. THORNTON: Just so the record's clear, your
19 Honor, I will stipulate that he just handed me two
20 pieces of paper from a court reporter that he says he
21 talked to. I don't know what the purpose of it was or
22 what the relevance of it is. And if he needs to
23 introduce it, I don't think any of that was clear, for
24 the record. So, if we're going to do that, let's make
25 them court's exhibits. I don't mind them being

1 introduced for the judge to consider.

2 THE COURT: Just mark those court's exhibits.

3 COURT REPORTER: These will be Court's Exhibit 8
4 and Court's Exhibit 9.

5 DOCUMENT REFERRED TO AS CERTIFICATION
6 FROM COURT REPORTER, TITLED *AFFIDAVIT*
7 *OF SUESAN RICHARDSON*, MARKED COURT'S
8 EXHIBIT NUMBER 8.

9 DOCUMENT REFERRED TO AS CERTIFICATION
10 FROM COURT REPORTER, TITLED *AFFIDAVIT*
11 *OF NICOLE C. GLEATON*, MARKED COURT'S
12 EXHIBIT NUMBER 9.

13 MR. JOHNSON: Okay. Thank you.

14 Your Honor, you can read them. I just wanted for
15 the Court to see them.

16 THE COURT: Anything further from this, Mr.
17 Johnson?

18 BY MR. JOHNSON:

19 Q Mr. Johnson, at this *Jackson v. Denno* hearing, my
20 question is very limited. My questioning to you on
21 these issues are very limited.

22 Your Honor, that's all I have. That's all I have
23 right now.

24 THE COURT: That's it? Thank you. Anything
25 further?

1 MR. THORNTON: Nothing further, Judge. And I just,
2 just for the Court's information, I think Mr. Johnson
3 had some concern about Agent Johnson being available for
4 the trial. And he will be. Again, I'm just calling him
5 today for the Denno purpose. He will be here, ready to
6 testify.

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

9 MR. THORNTON: To try to save a little time, Judge,
10 I will proffer, if Mr. Johnson -- Mr. Virgin Johnson,
11 defense counsel, needs to question him, I will put him
12 on the stand. I've got Lieutenant Solomon -- Chauncey -
13 - not Chauncey Solomon -- I've got Lieutenant Shaun
14 Harley, here with SLED, who was a witness, who would
15 basically just get up and testify to the same thing that
16 Agent Johnson just did. I'll just proffer it. If Mr. -
17 - if defense counsel wants him put on the stand, I'm
18 happy to, but I don't feel the need. I'll rest on what
19 I've got right now.

20 MR. JOHNSON: Your Honor, I agree with the
21 Solicitor. I don't think it's a need. He asked just a
22 very few questions, and I don't think -- you will hear
23 the tape. You will hear him, also. I don't think we
24 need to put him up.

25 THE COURT: All right, gentlemen. Thank you.

1 MR. THORNTON: Your Honor, -- your Honor, would you
2 like -- I know you're going to reserve your ruling, or
3 at least I would assume so. I didn't mean to speak for
4 the Court. But would you like to go ahead and do brief
5 arguments on this issue, and move on to the next one, or
6 how would you like to --

7 THE COURT: Sure. Just very briefly.

8 MR. THORNTON: Yes, ma'am, very briefly.

9 ARGUMENT ON BEHALF OF THE

10 STATE, BY MR. THORNTON:

11 MR. JOHNSON: Judge, you've heard from multiple
12 officers. You've got the tapes. Frankly, the audio
13 recordings aren't the greatest in the world. I've had
14 two different -- you know, I've listened to them, and
15 I've got an intern with the office who listened to them.
16 I don't ever hear a clear and unequivocal request for a
17 lawyer. There's something that's -- it might be I do; I
18 need one; or I think I might; or -- and I don't even
19 know that he said lawyer. It is hard to hear. That's
20 why I had the agent testify, because that's the best
21 I've got.

22 I do agree with Mr. Johnson, defense counsel, that
23 you should listen to them, before you make your
24 determination, but I would point out to the Court that
25 he was *Mirandized* so many times that he even said, *Do we*

1 have to go over this again? So, he's clearly been
2 advised of all of his rights, repeatedly, by multiple
3 officers, on multiple occasions.

4 There's no issue as to competence or anything else
5 that anyone has brought up. There's no promises, no
6 threats. And I would indicate that unless the Court is
7 convinced that there is an absolute clear request for an
8 attorney, that he was, frankly, better *Mirandized* than
9 most of the defendants who give statements that I have
10 to get in. And the State would rest on that basis.

11 Thank you, your Honor.

12 THE COURT: Thank you. Mr. Johnson.

13 ARGUMENT ON BEHALF OF DEFENDANT,

14 BY MR. JOHNSON:

15 MR. JOHNSON: Your Honor, very briefly. In the
16 context of this case, he was *Mirandized* by multiple
17 officers, on multiple different times, by multiple
18 different law enforcement department. And I think it
19 was correct that every time a different set of law
20 enforcement personnel talked to him, that he should get
21 his *Miranda*.

22 Your Honor, I hand up -- I did a Defendant's Trial
23 Brief in Support of the Motion to Suppress. I think I
24 hand that up. My argument, I would just like to submit
25 that brief, for your Honor to consider.

1 Number 7, my argument for custodial interrogation
2 and the derivative evidence that followed that; my
3 understanding of the law is, is once an indication is
4 given that he needs an attorney, they are -- that he
5 wants an attorney, they're supposed to cease questioning
6 him right then.

7 You will hear the tape. On the tape, there were
8 several times that Agent Johnson over-talked him. He
9 said, *Man, I think I need an attorney.* I think he did
10 three or four times. And Agent Johnson would either
11 change the subject or over-talk him. And I think the
12 context of it, he was in jail, and he honestly believed
13 he shouldn't have been there. He had done talked to so
14 many other officers, and even his conversation with
15 Agent Johnson was, they were laughing at him because of
16 what he was saying. I just think the Court needs to
17 listen to the contents of the recording.

18 I ask the Court also to listen to the muffle-ness
19 of the recording, because, to me, the recorder wasn't --
20 I submit to the Court that he said he didn't know about
21 the recording. To me, the recording wasn't on a table,
22 so there's an issue of whether or not he had knowledge
23 of the recording. And there's an issue whether or not
24 after -- during the recording, whether or not they gave
25 him the proper *Miranda* on 7 and 2, and on 7 and 6.

1 Quite frankly, your Honor, on the first one or two,
2 there's no question about *Miranda*. On the first two,
3 there is no question about it. It's just 7-2 and 7-6
4 are the -- are the really the tapes where there's a
5 question about *Miranda*. And if the Courts listen, the
6 Court will hear the word *lawyer* at least -- at least two
7 or three times, right there.

8 And the Court will also hear Agent Johnson shifting
9 the subject, kind of talking over him, because he got
10 the -- my impression of the tape is, he got the sense of
11 what Mr. Jackson was offering. And we just ask the
12 Court to look at it, and look at my argument in this
13 brief.

14 And based upon those things, we would ask the Court
15 to, when they rule, to, you know, make the proper
16 consideration about excluding anything that was given on
17 the 6-7, '2, '11, and 7-6-11, because everything after 7-
18 2-11 was derivative of 7-2-11. So, I don't see how
19 anything that they got after that could be included.
20 It's fruit of the poisonous tree, because they didn't
21 get -- properly do the interview, without giving him --
22 with giving him his *Miranda* on 7 and 2.

23 Your Honor, I'm sorry. I kept saying 7-2. Korey
24 told me to clear up the date. It's 6-7-11 and 6-7-11.

25 THE COURT: Mr. Johnson, when you listened to the

1 recording, did you happen to write down at what point in
2 the recording that you state that he asked for an
3 attorney?

4 MR. JOHNSON: No, ma'am.

5 THE COURT: It would kind of help me a little bit
6 if you did. But if you didn't, that's fine.

7 MR. JOHNSON: No, ma'am. But I can give the Court
8 some -- some insight on that. On 7 and 2, it's within
9 the first 10 or 15 minutes, is when he asked about the
10 lawyer, the first 10 or 15 minutes, I think, and on 6
11 and 2. On 6 and 7, your Honor, you will hear someplace
12 in the first 30 minutes or so, you will hear Agent
13 Johnson, again, say,

14 *Well, you know, I can't talk to*
15 *you without 'Miranda.'*

16 And he goes back again and say,

17 *Look, I don't want to dig myself*
18 *in a hole.*

19 And he said,

20 *Well, we'll just put this off;*
21 *we can just do this later on.*

22 You'll hear that someplace after the first 30 or 35
23 minutes. It won't be the whole tape.

24 THE COURT: Okay. Thank you, sir. Anything else
25 on this issue?

1 MR. THORNTON: Not on that issue, Judge. We would
2 like to go ahead, with the Court's permission, and move
3 into another issue, dealing with prior history of the
4 defendant and the victim in the case and their
5 relationship with one another. And Hunter Swanson with
6 our office will be handling that motion, if it please
7 the Court.

8 SECOND PRETRIAL MOTION: PRIOR

9 EVIDENCE OF DISPUTES AND ALTERCATIONS:

10 THE COURT: Ms. Swanson.

11 BY MS. DEYSACH:

12 MS. DEYSACH: Thank you, Judge. Your Honor, I did
13 submit a motion and memo in support of introducing some
14 prior evidence of prior disputes and altercations. I
15 also provided that to defense counsel. It has some case
16 cites and attached case law with it. But briefly, for
17 the record, as your Honor probably well knows, it's
18 well-settled in murder cases that evidence of prior
19 disputes, ill-will, ill-feelings, hostility towards each
20 other, are admissible for the purpose of showing
21 animosity between the parties, as well as going to
22 identity and motive.

23 This case is extremely circumstantial in nature.
24 And in accordance with those cases, particularly *State*
25 *v. Williams*, which is cited in my memo and attached, and

1 that's at 321 S.C. 327. It's a South Carolina Supreme
2 Court case. That's for the record. Which was also a
3 highly circumstantial case, lot of bits and pieces to
4 put together. The Court did find that those types of
5 instances were admissible, and that the probative value
6 of them outweighed the potential for prejudice to the
7 defendant.

8 So, this is a case where identity is an issue. And
9 we do need to establish that the defendant had a motive,
10 and that he had the means and opportunity to murder the
11 victim in this case.

12 We have several witnesses, including the victim's
13 daughter, as well as a long-time friend of hers, who can
14 offer evidence of altercations that they personally
15 observed. Not only their personal observations, but
16 other friends who have known the over-ten-year history
17 that she shared with the defendant in this case. They
18 had a very tumultuous, on-and-off-again relationship,
19 that spanned over a decade.

20 We have several friends that were concerned for
21 Masako, concerned for her safety. She admitted that she
22 had -- she was scared of him, or had, you know,
23 requested to stay with them on occasion when they'd
24 gotten into fights. They had personally seen bruises
25 when she showed up at work, from fights that they had

1 had the night before.

2 Additionally, we have law enforcement that can
3 testify to various reports of violent behavior from
4 where she called law enforcement.

5 So, we kind of have three types of different
6 witnesses, you know, some that personally observed the
7 altercations and the physical abuse; witnesses that saw
8 the ramifications of the abuse and that Masako told them
9 about, which I believe, honestly, we can get in under
10 the declarant's current state of mind, emotional state
11 hearsay exception. And then, the reports of law
12 enforcement. One in particular, a Varnville Police
13 Department report where the defendant showed up at her
14 work and pointed a gun at her and threatened her.

15 So, we would be seeking to get into all of these
16 prior disputes and evidence of ill feelings and hostile
17 acts by the defendant against the victim in this case.

18 THE COURT: Mr. Johnson?

19 BY MR. JOHNSON:

20 MR. JOHNSON: Your Honor, may it please the Court.
21 Your Honor, this amaze me. Under Rule 404, Character of
22 Evidence, I think that's the heart of Rule -- our
23 evidence Rule 404, character evidence is not admissible
24 to prove conduct. I just think that, and along with
25 Lyle, I don't think they can show a scheme; I don't

1 think they can show the -- our position is, there is no
2 motive, because they can't even identify who did it.

3 Our position is, it's prejudicial to -- this case
4 is a little different from other cases, your Honor.
5 They have no idea who the person is. All the other
6 cases, they knew who the perpetrator of the crime were,
7 and it was a question of whether or not the testimony
8 should come in, but because of the abundance of the
9 testimony, they let it in. In this case, there is
10 absolutely no testimony. Everything is speculation and
11 conjecture, and it goes to the heart, against character
12 evidence.

13 Plus, even if it was relevant, then, we have to
14 deal with the 403, whether it's more probative -- more
15 prejudicial than probative. Plus, it puts me in a
16 position where I can't -- kind of like under *Crawford*,
17 the *Sixth Amendment*, because how am I going to cross-
18 examine what something -- somebody said some time in the
19 past, now that she's not here to testify? If the bad
20 acts evidence is let in, it prejudices us tremendously.
21 I mean, there is no way to cross-examine it. There is
22 no way to prove it's reliable. It's just the evidence
23 the Court doesn't let in.

24 I read that *Williams* case. I read that *Williams*
25 case a little bit, and it has to have some kind of, my

1 understanding of it, it has to have some kind of causal
2 connection. And in this case, there is no connection.
3 I mean, it would abundantly prejudice this case to let
4 any prior bad act testimony in. And what it would do
5 for the jury is, they could take the prior bad acts, and
6 then, attribute that to my client's character, and
7 convict him off of that, which would put him in a very
8 bad situation.

9 I know your Honor is well aware of Rule 404,
10 evidence, well aware of Rule 402, and well aware of Rule
11 403, and well aware of the Lyle Doctrine. There is no
12 acceptance in the Lyle Doctrine for this, and it's a
13 direct contradiction of the rule against the character
14 evidence; plus, we won't be able to cross-examine. We
15 just think that this is evidence that should not --
16 should not come in.

17 THE COURT: Do you have any case law to support
18 your argument?

19 MR. JOHNSON: Yes, your Honor. In that same brief,
20 I addressed all of the issues in that same brief.

21 THE COURT: Okay.

22 MR. JOHNSON: I addressed all of the -- and your
23 Honor, not only did I address them, I kind of guess who
24 they were going to call for bad acts, and I tried to
25 address them each one. But yeah, 90 percent of the

1 cases I saw, other than the two cases they showed me,
2 the character evidence cannot come it. It is
3 prejudicial. It's a direct confrontation to the *Sixth*
4 *Amendment*. And even if it was relevant in this case,
5 which is very circumstantial, it's more prejudicial than
6 probative to my client.

7 THE COURT: Anything further?

8 CONTINUE ARGUMENT, MS. DEYSACH:

9 MS. DEYSACH: Thank you. Just briefly, this is a
10 homicide case. I don't know if Mr. Johnson is referring
11 to cases that are not homicide cases where he's found
12 case law that goes directly against these cases that
13 I've provided the Court with, but this is not a *Lyle*
14 analysis. However, even if it is, I believe that these
15 acts should come in under *Lyle*, to establish motive,
16 intent, and the identity of the perpetrator. These are
17 all things that are at issue here, in this
18 circumstantial case. And that analysis is gone through
19 in *State v. Braxton*, which I've included in my packet,
20 as well, and that's a South Carolina Supreme Court case,
21 343 S.C. 629.

22 Judge, I believe that the Court can give an
23 instruction limiting the jury's use of the testimony
24 describing these bad acts to -- not to go to the
25 propensity of the defendant to commit a murder, but to

1 establish identity and motive, and the things that we
2 are seeking to establish through calling these
3 witnesses.

4 THE COURT: Thank you.

5 MS. DEYSACH: And lastly, yes, the victim cannot be
6 cross-examined here, because the defendant killed her.
7 I don't know how to address that, but again, that's
8 something that every homicide case deals with, and
9 that's why I think *Williams* is directly on point. Thank
10 you.

11 MR. JOHNSON: May I, your Honor?

12 THE COURT: Yes. Sure.

13 CONTINUE ARGUMENT, MR. JOHNSON:

14 MR. JOHNSON: Of course, your Honor, you can't
15 cross-examine the witness, but that's why we've got the
16 rule of evidence. The rule say a certain thing cannot
17 be done. In this particular case, your Honor, if that's
18 the case, if we allow in the bad evidence, if we allow
19 in this prior bad act evidence, jurors could easily
20 determine from that evidence, even instruction or not,
21 that because there was a prior bad act, he did this act.
22 And I think that's what the Court is trying to avoid as
23 doing in the rule, because all that evidence
24 establishes, at some time prior, there was some kind of
25 disagreement, and we don't even know the background of

1 the agreement -- and -- the disagreement.

2 Plus, in the *Williams* case, -- I glimpsed at that,
3 they gave it to me -- they said you can't even get into
4 the details of the facts. So, if they can just throw
5 that out, then, I can't get into the detail of the facts
6 without opening up another door. It's just prejudicial.

7 And I don't know if the evidence rules skipped
8 murder, but I mean, I mean, skipped -- make special
9 exceptions for murder cases, but I thought the rules
10 applied to all cases. And in this particular case, it
11 is -- it would -- the Court has the right to decide any
12 way the Court does, but in this particular case, it is
13 definitely more prejudicial than it is probative, and
14 we're just asking the Court to consider that.

15 THE COURT: Well, here's what I'll do. I'll take
16 the time to read the case law overnight, and I'll let
17 you know in the morning.

18 MR. JOHNSON: Your Honor, I gave you a stack. I
19 gave you a stack. I gave you a bundle.

20 THE COURT: You've given me lots of homework.

21 MR. JOHNSON: Yes, ma'am.

22 THIRD PRETRIAL MOTION: JAIL

23 WRITINGS SEIZED PURSUANT TO

24 A SEARCH WARRANT.

25 THE COURT: Next motion.

1 MR. THORNTON: Next one, not unless Mr. Johnson has
2 an objection, the next one we'd like to deal with is
3 some jail writings that were seized pursuant to a search
4 warrant. So, unless Mr. Johnson objects, we'd like to
5 go ahead with that.

6 MR. JOHNSON: No objection.

7 MR. THORNTON: If it please the Court, the State
8 would call SLED Agent David Williams to the stand.

9 MADAM CLERK: Would you place your left hand on the
10 Bible, raise your right hand for me, please. Do you
11 solemnly swear to truthfully answer all questions asked
12 of you by this Court, so help you God?

13 SLED AGENT DAVID WILLIAMS: I do.

14 MADAM CLERK: Please be seated. State your name
15 and spell it for the Court.

16 AGENT WILLIAMS: W/i/l/l/i/a/m/s.

17 SLED AGENT DAVID WILLIAMS

18 DIRECT EXAMINATION BY MR. THORNTON:

19 Q Agent Williams, who do you work for?

20 A SLED, the State Law Enforcement Division of South
21 Carolina.

22 Q And did you have occasion to work on the case
23 involving the disappearance and murder of Masako Miller?

24 A I did.

25 Q And did you apply for a search warrant to search

1 the cell of one Kelvin Jackson?

2 A Yes, sir, I did.

3 Q I'm going to hand you what's been marked as Court's
4 Exhibit Number 10, for identification. Is that the
5 search warrant -- or excuse me -- is that a photocopy of
6 the search warrant, that you asked for and received?

7 A Yes, sir, it is.

8 Q If you could, just kind of go into what the search
9 warrant is requesting specifically and what your
10 probable cause was.

11 A What I was looking for on this search warrant was
12 examples of handwriting of -- of the defendant, Kelvin
13 Jackson. There was a note left at the scene where the
14 disappearance of Masako Miller, explaining that -- that
15 she was gone out and would be back at a later date.
16 When her daughter observed that note, she told the
17 police officers that she did not believe that her mother
18 was the author of that note.

19 We had got some writings of Mr. Jackson's, and we
20 had taken them to the SLED lab for analysis, for
21 handwriting analysis, to determine if Mr. Jackson was,
22 indeed, the author of that note.

23 Q And was there some -- was there at least some
24 conclusion reached by the handwriting expert?

25 A Yes, sir. She was able to tell that some of it was

1 -- was probably written by the defendant, but she
2 requested additional handwriting samples of Mr. Jackson.

3 Q And is that why you went to the jail, to seize
4 other -- any and all other writings by Mr. Jackson, to
5 send to SLED to have further analysis done?

6 A Yes, sir, that's correct.

7 Q Now, did you list that reason or that probable
8 cause, did you list that in the search warrant?

9 A Yes, sir, I did.

10 Q And is that the search warrant that is Court's
11 Exhibit Number 10?

12 A Yes, sir, it is.

13 Q And do you recall what magistrate you went to?

14 A I went to the Chief Magistrate of Beaufort County
15 at that time, Judge Darlene Smith.

16 Q Let me ask you something. Was there anything
17 unusual about what Judge Smith asked you to do?

18 A Yes, sir, it was.

19 Q And what was that?

20 A Judge Smith instructed me not to look at any of the
21 writings, just to determine that they were his
22 handwritings. She gave me a manila envelope that you
23 could not see through. She instructed me to identify
24 those writings as being his writings, but not to read
25 them; to insert them into the envelope; to seal them;

1 bring them to her; she would open them, look at them,
2 and make a determination if they were attorney/client
3 privilege or not, before I was allowed to get them.

4 Q In other words, just to be on the safe side, before
5 you looked at them, you had to give them to the Judge,
6 and let her make the call.

7 A Yes, sir, that's -- that's true.

8 Q All right. And did you follow her instructions?

9 A Yes, sir.

10 Q Now, what happened when you went into the cell to
11 seize the writings?

12 A I went in, found some writings underneath his
13 mattress. I collected them, without reading them;
14 inserted them into the envelope; sealed them; and then,
15 took them back to the Judge.

16 Q And did the Judge provide you with these writings?

17 A Yes, sir, she did.

18 Q All right. And I'm going to hand you -- is that
19 what is Court's 11, for identification?

20 A Yes, sir, they are.

21 Q And do those appear to be an accurate photocopy of
22 the writings as you pulled them out from under Mr.
23 Jackson's mattress?

24 A Yes, sir, they are.

25 Q Now, let me go ahead and ask you. Is Court's 11

1 multiple pages?

2 A Yes, sir.

3 Q All right.

4 MR. THORNTON: Your Honor, I'll stop now for just a
5 second. For the purposes of this hearing, I don't
6 believe there's an objection, at least for this hearing.
7 I'd ask that they be introduced as evidence for the
8 Court to consider.

9 MR. JOHNSON: For this hearing, no objection.

10 THE COURT: Any objection?

11 MR. JOHNSON: For this hearing, no objection.

12 DOCUMENT REFERRED TO AS SEARCH

13 WARRANT MARKED COURT'S EXHIBIT

14 NUMBER 10.

15 DOCUMENTS REFERRED TO AS WRITINGS

16 PULLED OUT FROM UNDER MR. JACKSON'S

17 MATTRESS MARKED COURT'S EXHIBIT

18 NUMBER 11.

19 BY MR. THORNTON:

20 Q And on one of those pages, Agent Williams, of
21 Court's 11, there is a reference that says:

22 *Please give this to my lawyer.*

23 Or something to that effect. Is that correct?

24 A Yes, sir. I don't think it says *my lawyer*. Please
25 *give this to a lawyer.*

1 Q Or the lawyer? Something like that?

2 A The lawyer or something, yes, sir.

3 Q It appears in one place on one page. Is that
4 correct?

5 A That's correct.

6 Q All right.

7 MR. THORNTON: And your Honor, I'll, obviously,
8 have an argument about that in a minute, but I just want
9 it clear for the record that that only occurs on one
10 page.

11 BY MR. THORNTON:

12 A That's correct.

13 Q And in another page, which I will go ahead and tell
14 the Court, I would not seek to introduce these writings,
15 or use these writings. He mentions a lie test, which
16 likely referring to a polygraph or a lie detector test,
17 correct?

18 A Yes, sir.

19 MR. THORNTON: I will stipulate to the Court, and
20 to save Mr. Johnson some time, under no circumstances
21 would I attempt to put that in, and that is not -- I've
22 left it included with the Court's exhibit, but I would
23 clearly not attempt to introduce that to the jury. And
24 but that, I believe, also occurs only on one page. It
25 might be on two. For the Court's information, I will

1 pull both of those out, but I wanted you to have the
2 complete file, your Honor.

3 THE COURT: Okay. Thank you.

4 BY MR. THORNTON:

5 Q Agent Williams, after you retrieved these
6 documents, you said you gave them to the Judge, inside
7 the envelope. She then made a determination it was okay
8 for you to see them, and gave them to you. Is that
9 correct?

10 A Yes, sir, that's correct.

11 Q And are those all the pages in Court's 11?

12 A Yes, sir.

13 Q Other than the probable cause that you already have
14 clearly listed for the Court to consider in your
15 affidavit, we're not alleging any supplementary oral
16 supplements to the magistrate or anything else; are we?

17 A No, sir.

18 Q So, what you see is what you get. It's in the
19 affidavit, that which is -- and would you please check
20 Court's 10 and make sure that it is complete.

21 A Yes, sir, it is complete.

22 MR. THORNTON: All right. Thank you very much.
23 Please answer any questions -- I don't have anything
24 further. Please answer any questions Mr. Johnson has.

25 SLED AGENT DAVID WILLIAMS

1 CROSS-EXAMINATION BY MR. JOHNSON:

2 Q When he says *no supplementary, no supplement*
3 *testimony*, what he meant is the only information used
4 for probable cause was the information in this
5 particular affidavit. Is that correct?

6 A Yes, sir, that's correct.

7 Q And you said the only information was you -- was
8 the one in this particular affidavit.

9 A Yes, sir.

10 Q Okay. Okay. And your probable cause is based
11 upon, I think, the handwriting expert's, Agent Heath's,
12 request. Is that correct?

13 A Yes, sir.

14 Q Okay. All right. And I think in the affidavit it
15 says -- and I'm just reading the affidavit. It says:

16 *SLED Agent Gail Heath, a SLED*
17 *handwriting expert, with over 30 years*
18 *experience, with the handwriting samples*
19 *of Jackson that had been provided her,*
20 *determined that Jackson wrote a portion*
21 *of the letter.*

22 She has never determined that he wrote a portion of
23 the letter. Is that correct?

24 A No, sir, that's not correct.

25 Q Okay. Okay. I read the -- did you take note of

1 the report, of the finding that she handed you back, or
2 handed about her findings about the handwriting?

3 A Yes, sir, I did.

4 Q Okay. And I think there are several -- I think
5 there are several possible findings that you could find.
6 Is that correct?

7 A Yes, sir, that's correct.

8 Q *Definition of terminology.* I think it starts at
9 *Identification, Strong Probability, Probability,*
10 *Indication.* And I think the one that you had, she found
11 that there was only an indication. Is that correct?

12 A I would have to see the document before I would
13 make that determination.

14 MR. JOHNSON: Your Honor, may I approach?

15 THE COURT: Yes, sir.

16 MR. JOHNSON: I want you to look at those
17 classifications.

18 BY MR. JOHNSON:

19 A Yes, sir. From this, this is not her entire
20 report.

21 Q I understand that. I'm just looking at the
22 indications on the back. Those would be her findings of
23 what she would find about the handwriting. Is that
24 correct?

25 A Yes, sir, that's correct.

1 Q Okay. May I have that back, then?

2 A Sure.

3 Q Okay. All right. And if I'm correct, with Mr.
4 Jackson, before you got this -- these handwritings from
5 the jail, all she said was it was an indication. Is
6 that correct?

7 A I would have to see the report, sir. All you
8 showed me was what the -- what the possibilities are.
9 Her report would contain the portion that would -- what
10 would give her -- her expert opinion on. I'd have to
11 see the whole report before I could answer that
12 question. I'm not the person that did the analysis.

13 MR. JOHNSON: Your Honor, beg the Court's
14 indulgence.

15 BY MR. JOHNSON:

16 Q Is that the complete report?

17 MR. JOHNSON HANDED DOCUMENT TO WITNESS.

18 A This is the June 7th report, yes, sir.

19 Q And that --

20 A This would be the June 16th report.

21 Q And those were the only two reports that were taken
22 before you went and got the samples. Is that correct?

23 A Well, 16th would have been after I received it. No
24 -- yeah, these were before, yes.

25 Q And those were the only two? Is that correct?

1 A Yes, sir.

2 Q Okay. And those are the reports you were talking
3 about. Is that correct?

4 A Yes, sir.

5 Q Okay. And those are the full reports. Is that
6 correct?

7 A Yes, sir.

8 Q Okay. Now, at the back of the report, now, when we
9 go back to what I asked you, when you go back to the
10 determination, if you'd read the report. And if you
11 read the report, didn't she say on the June 7th results
12 of examination --

13 A I'm sorry. What did you say?

14 Q On the June 7th report on Page 23.

15 A Yes, sir.

16 Q Did she not give results of examination?

17 A Yes, sir.

18 Q And what did she say about Kelvin Jackson?

19 A *Based on the additional evidence, no*
20 *further conclusion as to Kelvin Jackson*
21 *could be rendered, other than that*
22 *which was reported on Laboratory*
23 *Report dated June the 7th.*

24 Q Okay. All right. Now, and this is the June 7th
25 report?

1 A No, sir, that was on June 11th.

2 On June the 7th, based on the
3 limited evidence examined, --

4 Q Right.

5 A -- there are indications that Masako
6 Miller did not write the questioned entries
7 appearing on Item 3.1, and the ' J.S. ,
8 Uncle pick us up' entry appearing on
9 Item 3.2.

10 Masako Miller has been eliminated
11 as the writer of the 'My name is to say no'
12 entries on item 3.2.

13 Based on the evidence examined, there
14 are -- there are indications as the writer
15 of -- indications that Kelvin Jackson wrote
16 the questioned entries appearing on Item 3.1.

17 Q Okay. All right. Now, would you -- and now, would
18 you turn to the Definition of Terminology, and tell me
19 what indications mean?

20 A A body of writing has a few features
21 which are of significance for handwriting
22 comparison purposes, but those features
23 are in agreement with another body
24 of writing.

25 Q Okay. So, so, she did not say this was his

1 handwriting.

2 A She said she needed more information.

3 Q Was this determined as his handwriting?

4 A She said there are indication that it's his
5 handwriting.

6 Q But in the -- in your affidavit, if I read the
7 affidavit correctly, you got the affidavit based on the
8 fact you said it was his handwriting. That's what you
9 told the magistrate. Is that correct?

10 A Yes, but she said, in Item 3.1 that:

11 *There are indications that Kelvin*
12 *Jackson wrote the questioned entries*
13 *appearing on Item 3.1.*

14 Q Okay. But if there are indication, it tells you
15 what the indication means, and an indication clearly
16 tells us, the indication clearly tells us it could be or
17 could not be. It's not kept -- but it did not say this
18 is Kelvin Jackson's handwriting. That's what I want to
19 make sure of.

20 A It just says that there are indications that Kelvin
21 Jackson wrote the questioned entries.

22 Q I understand that. But look at the -- look at the
23 affidavit you signed. What did the affidavit say?

24 A *That she determined that Jackson wrote portions of*
25 *the --*

1 Q And she did not determine that; did she?

2 A By my reading, she did.

3 Q You say by your opinion?

4 A Yes, sir.

5 Q Okay. Okay. By your opinion. But there is
6 nothing from her saying she determined that, then. Is
7 that correct?

8 A Just what was written in the results of the
9 examination 3.1.

10 Q So basically, the information in the affidavit you
11 gave for probable cause is incorrect information. Is
12 that correct?

13 A I don't think so, no, sir.

14 Q Okay. Did it match and agree with what the
15 handwriting experts say? It didn't match; did it?

16 A If you go strictly by the definition of
17 terminology. I'm going by what she wrote in the body of
18 the results of the examination.

19 Q Would you please give me a yes or no, and then,
20 explain. Could you please give me a yes or a no.

21 A I can't give you a yes or no.

22 Q You can't?

23 A No, sir.

24 Q So, you've got a question of whether or not what
25 you say is different from what she meant.

1 A Yes, sir.

2 MR. THORNTON: Objection, Judge. I don't even
3 understand that question.

4 MR. JOHNSON: Well, he said, yes, sir, he did it,
5 whether we understand.

6 THE COURT: Hold on, gentlemen. One at a time.

7 MR. THORNTON: If I could finish. The State will
8 stipulate that the report, that I'm happy to have Mr.
9 Johnson enter, says there are indications that Kelvin
10 Jackson wrote portions of the note. The terminology
11 that the agent used, is that he -- that the expert said
12 he wrote portions of the note. I'm comfortable with
13 that.

14 I think the agent's testimony, after he's been
15 asked about five times, is that's what he understood,
16 when he read that Kelvin -- there are indications Kelvin
17 Jackson wrote the note, and that's what his position was
18 in front of the magistrate. I will stipulate that the
19 word *indications* is used in the expert's report, and the
20 word *concluded* or something, and which is already in
21 evidence, is in front of the Court. It would be up to
22 the Court to determine whether this is just semantics,
23 or whether it actually has meat to it. But to keep
24 asking the same question over and over again is,
25 frankly, wasting time.

1 And when I get to argument in a minute, we'll talk
2 about whether you even need a search warrant, which I
3 would like to address, since this is in a jail cell.
4 And I've got case law, which I'll be handing up.

5 THE COURT: Okay, Mr. Johnson. Let's move on.

6 MR. JOHNSON: Okay, your Honor, I think it's pretty
7 clear. My point I'm trying to make, the only thing I'll
8 say to is I'll have arguments, also, as to what the law
9 says in South Carolina. But just to clear the point.
10 Just so I'm clear, your Honor, because when Solicitor
11 Thornton got up, it kind of hazed in my mind.

12 BY MR. JOHNSON:

13 Q Are you telling me that what you said in the
14 affidavit, in your mind, is a little different from what
15 was said by the handwriting expert?

16 A No, sir, it's not. It's not different in my mind.

17 Q What are you saying it is?

18 A I'm saying it's the same thing.

19 Q Okay. You're saying indication and saying it was
20 the handwriting is the same thing?

21 A Based on what's in the -- in the body of her
22 report, yes, sir.

23 MR. JOHNSON: Okay. That's all I have.

24 THE COURT: All right. Thank you, sir. Anything
25 further?

1 MR. THORNTON: I don't have anything else, other
2 than argument, when the Court's ready.

3 THE COURT: I'm ready.

4 MR. THORNTON: Would you like Mr. Williams to step
5 down first, your Honor?

6 THE COURT: Yes. You may step down. Thank you.

7 ARGUMENT ON THIRD PRETRIAL MOTION

8 BY MR. THORNTON:

9 MR. THORNTON: Your Honor, may I approach?

10 THE COURT: Yes, sir.

11 MR. THORNTON: This is a motion, with some brief
12 accompanying case law. There's another case I'd like
13 add to it, if need be, and I'm happy to. The Court is
14 probably already well aware of what my last argument as
15 to the statement -- or the writing that's in the
16 statement about the please give this to -- I think
17 please give this to the lawyer.

18 But in general, Judge, I don't -- it's the State's
19 position under both *Hudson v. Palmer*, which is found in
20 its -- therefore, your Honor, I've also given a copy to
21 Mr. Johnson, 468 U.S. 517. And *State v. Gaskins*, which
22 is a South Carolina Supreme Court case. I think just
23 about everybody is familiar with Mr. Gaskins' cases,
24 which apply to *Hudson*, which is 284 South Carolina 105.

25 Basically, it has been held hundreds and hundreds

1 of times that inmates do not have a reasonable
2 expectation of privacy in jail cells. I applaud Agent
3 Williams for going and getting a search warrant, but in
4 the State's view, you don't need it. They're subject to
5 random searches, random shakedowns, looking for any kind
6 of contraband or anything else.

7 But in this case, Agent Williams went above and
8 beyond. And not only did he go in there, he didn't even
9 go in there on a fishing expedition. He told the
10 magistrate exactly what he wanted and why, which were
11 writings.

12 But with all due respect to Mr. Johnson's argument
13 as to whether clearly -- or whether *indications of* is
14 the same as *did write it*, we didn't even need search
15 warrant. He's got no expectation of privacy in his jail
16 cell. That's been held over and over and over again.
17 Again, the two preeminent cases I would say would be
18 *Hudson v. Palmer* and *State v. Gaskins* that I've handed
19 up to the Court.

20 As to the issue, your Honor, with please give *this*
21 to the lawyer, again, that appears on one of -- one
22 write -- it's two or three separate writings. Some of
23 them have more than one page. It's also been held
24 repeatedly -- and I've got a case, which is *Marshall v.*
25 *Marshall*, which is 282 South Carolina 534 -- if I could

1 -- forgive me, your Honor. May I approach again?

2 THE COURT: Yes, please.

3 MR. THORNTON: I apologize. I should have given
4 you this on the front end.

5 THE COURT: Thank you.

6 MR. THORNTON: *Marshall v. Marshall*, Judge, it's a
7 divorce case. And basically, it stands for the premise
8 -- and in this case, I'm going to go ahead and tell the
9 Court, they did not allow the writing in; they said it
10 was attorney/client privilege. But in that case, it was
11 a letter written directly to the lawyer. And I think it
12 was the wife. Forgive me if I get this backwards. But
13 one of the spouses inadvertently left it in the spouse's
14 truck. They looked at it, and, you know, they said --
15 the Court went on to talk about who the privilege
16 belonged to and when it became applicable.

17 In this case, you have, by his own definition of
18 *please give this to the lawyer*, he is, by definition,
19 giving it to a third party. He would lose his
20 privilege, attorney/client privilege, anyway, because
21 anytime you publish, which is what *Marshall* stands for,
22 anytime you publish to a third person, you would lose
23 that right.

24 My argument, your Honor, would be that (a) it
25 doesn't apply; (b) if there is an attorney/client

1 privilege, it would only be that one page, where it was
2 listed. But I certainly don't think it does apply,
3 listed in one blurb. And it's not even at the heading;
4 it's down at the bottom.

5 But clearly, he has no reasonable expectation of
6 privacy. I don't think we even needed a search warrant.
7 So, to be honest, I think the entire argument about the
8 probable cause, which the State does believe it's
9 satisfied it. Thank you, your Honor.

10 THE COURT: Thank you. Mr. Johnson?

11 ARGUMENT ON THIRD PRETRIAL

12 MOTION, BY MR. JOHNSON:

13 MR. JOHNSON: Yeah. I'm trying to be -- I'm going
14 to try to be short. And certainly, that is the case
15 law. But South Carolina goes a step further. South
16 Carolina Court 17-13-140:

17 *Issuance, Execution, and Return of*
18 *Search Warrants for property connected*
19 *with the commission of a crime, inventory*
20 *of property seized.*

21 The statute clearly spells out what should be done,
22 and I don't think any of those laws over-rid -- overrode
23 the statute. And your Honor, you can read the statute,
24 but any magistrate or coroner or judge having powers of
25 magistrate or any judge of any court of the state having

1 jurisdiction over the area where the property sought is
2 located may issue a search warrant for and seize stolen
3 or embedded property -- embezzled property, property,
4 the possession of which is unlawful; property which is
5 being used, or has been used in the criminal offense,
6 possessed with an intent to be used as a means of
7 committing a criminal offense or conceal to prevent a
8 crime. The only one that applies is Number 4, property
9 constituting evidence of a crime, or intended to show
10 that a particular person committed a crime.

11 But it goes on to say, at the bottom:

12 *This section is not intended to*
13 *and does not either modify or limit*
14 *any statute or any law regulating*
15 *search, seizures, and the issuing*
16 *of a search warrant.*

17 I think the statute is precedent now. And in the
18 statute, it says they have to have probable cause.
19 Matter of fact, it's three steps. Your Honor, if you
20 would read *State versus Baccus*, and I think I hand that
21 up. *State versus Arnold* and *State versus Jenkins*. I
22 think all of those should be in my packet. All of those
23 speak to this subject about getting writings, I think,
24 from a jail. That argument is in my -- that argument is
25 in one of my briefs. I just ask the Court to consider

1 that.

2 The other thing, your Honor, is, which concerns me
3 a lot more, is, in all respect -- I know, Judge, with
4 all respect to the Judge, no disrespect meant, but I
5 don't think, on a murder case, that independent of the
6 defendant's counsel and independent some hearing, there
7 can be an independent arbitrary determination that
8 something not lawyer/client privilege, particularly when
9 one of the pieces of paper -- I mean, he didn't write it
10 looking for somebody to come and get it. I mean, he
11 wouldn't write in every letter *this is for my lawyer*.
12 And the funny thing about this, your Honor, what tickled
13 me was when officer Johnson -- I mean Agent Johnson met
14 with him, Agent Johnson said, look, write your facts
15 down, because you'll need your facts later. He got the
16 idea from Agent Johnson, to write down the facts, so his
17 lawyer could have all the facts.

18 So, what has happened now, is information that is
19 lawyer/client privilege has been given and used without
20 a hearing, so. And then, a lawyer, the case that
21 Assistance Solicitor Thornton has, which ruled in our
22 favor, I don't think the lawyer's a third party. I
23 think a lawyer's an extension of his client. And if
24 he's saving evidence or something to give to his lawyer,
25 I think it's more of a concern and more of a problem.

1 So, and if that is true, and if the search warrant is
2 found to be improper, then, everything that comes out of
3 the result of the search warrant, and in this particular
4 case, I think everything that comes out as a result of
5 the search warrant should be suppressed as fruit of the
6 poisonous -- fruit of the poisonous tree, because there
7 wasn't probable cause on the warrant.

8 And your Honor, I'm going to -- there's about two
9 more issues, and I can't put my hand on where I wrote
10 them down. But there's two more legs to this that I
11 don't know what I did with it, so, I can't properly
12 argue it, but I will bring it back for the Court
13 tomorrow. But it should be in the brief that I handed
14 up to the Court.

15 It is our belief that the fact that there wasn't
16 probable cause for the search warrant; the fact that it
17 wasn't probable cause, because what the agent from SLED
18 says is not the basis of a search warrant, and all of
19 the case law is going to say that if there's no outside
20 oral testimony to support it, if what is written in the
21 four corners of the search warrant does not substantiate
22 probable cause, then, it's not probable cause, and the
23 search warrant is defective. In this case, and we think
24 the search warrant is defective, and --

25 THE COURT: Let me ask you this, though. Let's

1 move on to his expectation of privacy.

2 MR. JOHNSON: Yes, ma'am.

3 THE COURT: What's your position on that?

4 MR. JOHNSON: Your Honor, my position is, under the
5 statute -- how should I say this? Even if there's no
6 expectation of privacy, there is an expectation of
7 whatever he has that is lawyer/client privilege would
8 not be turned over to the other side without benefit of
9 a hearing. So, I mean, we're kind of in a catch 22. I
10 mean, if you've got information for your lawyer, can
11 anybody do a search warrant, just go in and get it? So,
12 from now on, I guess the standard would be, any person
13 that's charged, any information they got for their
14 lawyer, how do they keep it? Because if any information
15 -- if the law enforcement can get a search warrant
16 without probable cause, go into the jail and get it and
17 use it -- and particularly like my client, who couldn't
18 get bond, because it was real high, until a judge fairly
19 set the bond sometime later on my third or fourth
20 chance, it just doesn't -- it's not reasonable. The
21 system doesn't work.

22 THE COURT: Well, let me ask you this. So
23 basically, what you're arguing is the fact that if your
24 client wrote down some information, and gave it to his
25 brother, let's say.

1 MR. JOHNSON: Yes, sir.

2 THE COURT: I have no idea the particular facts.
3 And basically, didn't tell his brother not to read it;
4 didn't say it's attorney/client privilege; just wrote
5 down information and gave it to his brother and said
6 give that to a lawyer; you're not seeing where he's
7 waived any kind of attorney/client privilege by exposing
8 it to somebody else?

9 MR. JOHNSON: Your Honor, if I use your scenario, I
10 would have to agree with you. I think the distinction
11 is, he didn't give it to anybody else. He had it in his
12 possession, and -- and I don't know if he was writing it
13 down to give to somebody to give me, or was he writing
14 it down to give me so he would have it, for it to come
15 to the lawyer. We don't know his mind set.

16 What we do know is, it was information for his
17 lawyer that was gotten, that it was lawyer/client
18 privilege information that was gotten. And it's
19 definitely gotten, because in one of the letters, give
20 to my lawyer, that -- he didn't have to write that in
21 every letter. Once it was determined that it was for
22 his lawyer, what's to say all of it wasn't for his
23 lawyer?

24 THE COURT: All right, Mr. Johnson. I'll take a
25 look at the documents and rule in the morning. Anything

1 else?

2 MR. JOHNSON: I guess, your Honor, we can go to
3 another one of these.

4 MR. THORNTON: Your Honor, that's all the State
5 has. I knew those were the issues that had been brought
6 up to me that Mr. Johnson and I had talked about, so
7 I'll turn it over to Mr. Johnson, whatever else he has.
8 I'm not aware of anything.

9 THE COURT: Mr. Johnson?

10 FOURTH PRETRIAL MOTION: *RULE 5, BRADY:*

11 BY MR. JOHNSON:

12 MR. JOHNSON: Your Honor, I'll go through the easy
13 ones first. The first one I asked about the *Rule 5,*
14 *Brady.* And I can tell you, Solicitor Thornton, to my
15 knowledge, has given me everything he's supposed to give
16 me. But I think it's out of an abundance of precaution
17 we are supposed to -- I'm supposed to renew this, and I
18 am renewing it at this time, the *Rule 5, Brady* Motion.
19 But he and I have been talking back and forth about this
20 case. So, unless there's something that came up lately,
21 I don't think --

22 BY MR. THORNTON:

23 MR. THORNTON: Your Honor, the State's -- the
24 State's response -- and I appreciate Mr. Johnson's
25 sharing that with the Court. But we have -- he and I

1 have been talking about this for months and months and
2 months now. To my knowledge, he literally has a copy of
3 -- other than my personal notes -- I believe he has a
4 copy of everything possibly that I found. Sometimes I'd
5 give it to him two or three times, just to be sure. And
6 I will state for the Court that if anything comes up, I
7 will immediately notify both Mr. Johnson and the Court.
8 But to my knowledge, everything that we have has been
9 turned over.

10 THE COURT: All right. Thank you.

11 FIFTH AND SIXTH PRETRIAL MOTIONS:

12 SEQUESTERING WITNESSES.

13 BY MR. JOHNSON:

14 MR. JOHNSON: Your Honor, the second one is
15 sequestering the witness. I learned a dear lesson. I'd
16 just gotten out of law school and tried a case, and
17 Judge Howard taught me one of the best lessons I've
18 learned, and I write this down on every -- on every one
19 of my motions in limine. I ask to sequester all of the
20 witnesses. And number three is the Part 2 of
21 sequestering the witnesses. I asked Judge Howard to
22 sequester the witnesses, and he did. But I didn't ask
23 him to tell the witnesses not to talk about the case,
24 and they did.

25 THE COURT: And I understand, and we can do that.

1 MR. JOHNSON: And when we got -- when we got back
2 in the courtroom, I was jumping up and down about it
3 wasn't right, wasn't fair. He said, *Well, Virgin, you*
4 *didn't ask the Court for the Court to ask the witnesses*
5 *to not to talk about the case.*

6 So, out of an abundance of precaution, I'm asking
7 that all of the witnesses be sequestered. Solicitor
8 Thornton will -- I know he needs one law enforcement
9 person to sit with him. No objection to that. But
10 because of the circumstance of this case, I think it is
11 in due fairness that all of the witnesses should be
12 sequestered, and that none of them talk to each other
13 about this case; and that even further, that the
14 Solicitor himself, other than the officer that's sitting
15 at the table, once somebody starts testifying, go back
16 and start talk about any testimony that has been heard
17 in the courtroom. And not that he would do it. I'm
18 just putting it on the record.

19 THE COURT: Mr. Thornton, any objection to the
20 sequestration of the witness?

21 BY MR. THORNTON:

22 MR. THORNTON: I have one caveat, and I'll just ask
23 permission of the Court, because it is a little bit
24 unusual, and Mr. Johnson. Obviously, I have

25 S.D. , who's the victim's daughter and, I

1 think, is covered by the *Victims' Bill of Rights*, ask
2 that she be allowed to stay. I don't believe her
3 grandmother would be a witness, so I ask that she be
4 allowed to stay, as victims of the crime.

5 David Williams is the case officer with SLED, I ask
6 that he be allowed to stay. That, I feel pretty
7 comfortable asking for that I think it is covered.

8 Here's the one caveat. Roger Heaton, who is an
9 investigator with my office that Mr. Johnson knows very
10 well, a former SLED agent, he is -- has become a
11 witness, because I've asked him to go drive and do a
12 couple of other things. He's a witness on some
13 information in this case. And he also, though, helps me
14 get witnesses in and out. And so, I would ask that he
15 be the one exception to that rule. In addition to David
16 Williams, I would just ask for Investigator Heaton to be
17 able to remain, because he's able to, you know, go
18 between witnesses for me, and get them, and bring them
19 in court. Obviously, I will instruct everybody,
20 including Investigator Heaton, with our office, that
21 regardless of whether they stay in the room or not, they
22 can't discuss testimony amongst the witnesses.

23 THE COURT: Right.

24 MR. THORNTON: So, whatever somebody testifies to
25 in here, you know, including myself, I wouldn't do, and

1 I would so instruct them. And I agree with Mr. Johnson,
2 although I just consider assumed that if the Court
3 sequesters the witnesses, I tell them that means they
4 don't talk to one another. So, with that exception of
5 Investigator Heaton that I would ask the Court and Mr.
6 Johnson to allow me, along with the victim in the case,
7 Ms. Miller, that's all I have, Judge.

8 THE COURT: Any objections to that?

9 MR. JOHNSON: Your Honor, quite frankly,
10 Investigator Heaton is a friend of mine, but quite
11 frankly, he is one of the main people I wanted to keep
12 out, to be right honest with you. To be right honest
13 with the Court. But I do understand the Solicitor's
14 reason.

15 Your Honor, this case is so circumstantial that I
16 am, out of the abundance of caution, I just think every
17 precaution should be taken. And your Honor, you know,
18 your Honor, you rule on it. I don't -- I don't think I
19 want Investigator Heaton in the courtroom. I'll
20 understand the Court's ruling, and I fairly -- I
21 certainly understand the Court's ruling whatever you do,
22 but I cannot agree to do that.

23 THE COURT: Well, certainly, under the *Victims'*
24 *Rights Act*, the two other witnesses clearly fall under
25 that exception, --

1 MR. JOHNSON: Right. Right.

2 THE COURT: -- as well as your lead investigator on
3 the case. My concern, obviously, with Heaton is, your
4 request is to somewhat facilitate the moving along of
5 the trial and getting witnesses in and out?

6 MR. THORNTON: Yes, ma'am, that is. Because I can
7 tell him that, you know, he -- they're going to be in a
8 room out here, and it just much easier for him going in
9 and out. He is also the person that has contacted all
10 these witnesses. I mean, he knows everything about the
11 case that I know. There's nothing that they, you know -
12 - the only issue could possibly be for -- it's not like
13 -- the reason I'm asking this, in addition to getting
14 witnesses in and out of the courtroom, he's the one that
15 calls the witnesses to tell them you need to show up at
16 this time. He's the one that gets them here for me, so
17 that we're not delaying the Court.

18 The other thing is, Judge, the whole purpose of
19 sequestering witnesses is so that one doesn't know what
20 the other one is saying. He already knows what they've
21 all said in every -- in every statement they've given,
22 you know, and everything else. So, there's really
23 nothing to be gained by him being in the courtroom as
24 far as information. He already knows it all anyway.
25 He's got access to my entire file. He's the one that

1 put it together for me. So, it just -- I understand why
2 we do sequestration, but with him, he's the one -- I
3 just told him, make sure everybody's here at 8:30 in the
4 morning. So, if he's sequestered, he can't do that.

5 THE COURT: Well, here's what I think is fair,
6 concerning Mr. Johnson's objection, is that he be
7 sequestered, and maybe have your victim advocate contact
8 your -- contact the witnesses and make sure that they'll
9 be here on time.

10 MR. THORNTON: Understood, your Honor.

11 THE COURT: All right. Anything further, Mr.
12 Johnson?

13 SEVENTH PRETRIAL MOTION,

14 REQUEST TO SEQUESTER JURORS:

15 BY MR. JOHNSON:

16 MR. JOHNSON: Yeah. Quite frankly, your Honor,
17 after we drew the jury this morning, my next motion, I
18 was going to move to sequester the jury panel. Your
19 Honor, the last thing I want to do is aggravate the
20 jury.

21 THE COURT: I would think that would aggravate the
22 jury.

23 MR. JOHNSON: But due to the -- due to the --
24 Solicitor Thornton will agree with me, this is a very
25 rare case in the facts. And I just don't want a big

1 paper headline like I saw Sunday: *Mother -- Ex-*
2 *boyfriend Drowns Children's Mother.* That's -- that's --
3 your Honor, that's going to be a lot for me to overcome.
4 And if the jury continue to hear things like that, it
5 just concerns me.

6 Now, it may not happen over here. I don't know.
7 But I'm just concerned, and out of caution, I think I
8 need to ask the Court -- and I understand whatever the
9 Courts rule -- but I need to ask the Court to sequester
10 the jury, because, I mean, I think that I'm climbing up
11 the hill now, based upon what was in the paper, and it
12 amazes me how people -- Beaufort is probably one of the
13 more educated counties we have. It just blows my mind
14 to think nobody reads the paper. And the concern I got
15 is there could be more bias.

16 And then, after watching some of these cases on
17 T.V. lately, that sometimes they're even their inherent
18 biases that we can't address. So, I would just ask that
19 the jury panel be sequestered, so there's no possibility
20 of getting any outside information.

21 THE COURT: Mr. Johnson, -- I'm sorry. Did you
22 need to be heard on that?

23 MR. THORNTON: Only if I'm not going to win, Judge.

24 THE COURT: Mr. Johnson, I certainly understand
25 your concern with that, especially when there's quite a

1 bit of publicity. However, they have been instructed
2 not to listen to the news and not to listen to the
3 newspaper. And prior to the start of the case, we'll
4 put them under oath and ask them if they have, in fact,
5 followed those instructions. And they will be reminded
6 repeatedly throughout this trial not to research, not to
7 look at the news and whatnot. So, we will try as best
8 we can to impound that upon them.

9 MR. JOHNSON: Thank you, your Honor. And believe
10 it or not, Number 5, I'm going to withdraw.

11 THE COURT: Okay.

12 MR. JOHNSON: I withdraw Number 5, the change of
13 venue. And if Solicitor Thornton will agree, your
14 Honor, I hand you up -- I handed you up a brief. He has
15 it. Everything I gave you, I gave him. All of my
16 motions are lined out and my arguments are lined out in
17 the brief. Unless he has some argument to the contrary,
18 your Honor. If you would just read those, and that's my
19 argument. I can just repeat them, if you want to hear
20 me repeat them.

21 THE COURT: That's okay, unless you want to put it
22 on the record. But if you have filed them, they're part
23 of the record, and I will certainly have an opportunity
24 to read them, so I guess that's it.

25 MR. JOHNSON: Your Honor, once you read them, you

1 will allow -- in case you rule against me, you will hear
2 just maybe a tad of maybe trying to highlight a few
3 points, once you've read the brief, to keep us from
4 going through all of that today?

5 THE COURT: Yes, sir. Mr. Thornton, regarding your
6 -- or actually, it's Ms. Swanson, right? It was your
7 motion to bring in the evidence of other instances of
8 conduct of the defendant to prove motive?

9 MS. DEYSACH: Yes, ma'am.

10 THE COURT: Looking at the procedural aspects of
11 what you're trying to do, first, I think you're going to
12 have to have your witnesses ready to proffer --

13 MS. DEYSACH: Yes, ma'am.

14 THE COURT: -- proposed testimony, so that (a) we
15 can see if it fits under the exception; and if it does
16 fit under the exception, whether or not the probative
17 value outweighs the prejudicial effect. So, make sure
18 that they are ready to testify. And you probably will
19 not be able to mention any of that during your opening
20 statement at all, because we don't know if it's coming
21 in or not.

22 MS. DEYSACH: Judge, just -- I did want to mention
23 that they had a tumultuous ten-year relationship. I
24 mean, that's not mentioning any specific instances. So,
25 out of an abundance of caution, I just wanted to let the

1 Court know that, that I was going to characterize it as
2 that, but I will not go into any specific instances or
3 disputes or things that he told them.

4 All of those witnesses are going to be here at
5 8:30, so we can move through that.

6 THE COURT: Okay. Let's just make sure they're
7 ready.

8 MS. DEYSACH: Yes, ma'am.

9 THE COURT: Thank you.

10 MS. DEYSACH: Thank you.

11 MR. JOHNSON: Your Honor, my understanding is --
12 and your Honor going to read those case law tonight. My
13 understanding from *State v Williams* is that all they can
14 -- if the Court so rules that the Court allows that
15 conduct in, all they can do is mention the tumultuous
16 relationship. There is no time that they can talk about
17 the facts and the events behind it. So, even in their
18 opening -- I mean, this case is murder for me, because I
19 don't know -- right now I'm starting to figure out what
20 I'm saying for my opening. Even in their opening, I
21 just ask the Court to consider, I don't think they can
22 say anything about this prior character in the opening.

23 THE COURT: I don't think they're addressing his
24 character. They're just saying it was a tumultuous
25 relationship. It could be bad on her part; it could be

1 bad on his part. So, I think as long as it's limited to
2 that, it's argument and it's not evidence, and I will
3 instruct the jury the argument is not evidence.

4 MR. JOHNSON: Yes, ma'am. Thank you.

5 THE COURT: Anything further?

6 EIGHTH PRETRIAL MOTION, MOTIONS

7 TO SUPPRESS.

8 BY MR. THORNTON:

9 MR. THORNTON: Yes, ma'am. And I'm sorry. I've
10 just -- I got this packet from Mr. Johnson this morning,
11 and there are numerous motions inside one of these
12 motions. I just -- since Mr. Johnson has given this to
13 the Court, if the Court will give me five minutes, I
14 think I can hit these one at a time, would be my
15 request.

16 This is entitled -- it's one of defendant's motion
17 to suppress, and it has seven things listed on the front
18 of it. Number one is inadmissible hearsay, not subject
19 to any exception. The next one is it violates the *U.S.*
20 *Constitution Sixth Amendment Confrontation Clause*. And
21 the next one talks about Rule 402.

22 It doesn't list what evidence we're suppressing
23 until the body of the motion, and I didn't notice that
24 until Mr. Johnson just pointed it out. So, if it's all
25 right with the Court, I'll just read them very briefly

1 and quickly.

2 THE COURT: Sure.

3 MR. THORNTON: Your Honor, the first one says the
4 *Final Autopsy Report*. He is arguing that the autopsy
5 report not be admitted. I don't plan on admitting the
6 autopsy report. I generally have the pathologist
7 testify as to what their conclusions are. And manner of
8 death, I think one of the issues is, there's a lot of
9 things that are listed as undetermined on the
10 pathologist's report. However, the manner is deemed
11 homicide. If he questions the expert's ability to give
12 that determination, then he's free to do that at cross-
13 examination, would be my point. That's Numbers 1 and 2.

14 *Credit Card Fraud*. He's asking that we not be
15 allowed to offer any evidence of credit card fraud. The
16 State argues that's problematic. That is all occurring
17 at the same time; it's the same victim. Granted, that
18 happens in Hampton, but as the Court knows, this is an
19 offense where I believe, frankly, she was killed in
20 Hampton, put in his trunk, and then, transported to
21 Beaufort, where the body is found, which makes venue
22 proper here in Beaufort County. The credit card is an
23 integral part of that. One, it's how they knew that he
24 was a potential suspect, other than the tumultuous
25 relationship.

1 He's on videotape. We know that she talked to his
2 own mother by his own statements. She talks to her
3 mother some time around 1:00 to 1:30 a.m. We know that.
4 We have other witnesses that were there during the time.
5 At 5:00 or -- I'm sorry -- between 5:30 and 6:00, when

6 J.S. comes over, which she does every
7 morning, Masako -- Masako -- I keep saying Masako. It's
8 pronounced Masako, according to the family. Masako's not
9 there. So, you've got a window from 1:30-ish to
10 5:30-ish where she vanishes, and is then found murdered.

11 He puts himself there with her before 2:26 to 2:28
12 in the morning, when he's caught on videotape using her
13 debit card. And then, says, oh, and then, I went back
14 and gave it to her. So, he puts himself there, using
15 this debit card, and our allegation is, improperly. And
16 he's caught on videotape. His first statement to law
17 enforcement is, I don't know what you're talking about;
18 I wasn't even in this county, until they confront him
19 with a videotape evidence of him attempting to use her
20 card. It is an absolutely integral part. It's how he
21 became a suspect. It involves the same victim. Just
22 because it occurs in a different county, it's all one
23 chain of circumstances and one chain of events. I would
24 ask the Court to not restrict me from talking about or
25 mentioning it. It's how he was developed as a suspect.

1 And if I could, I'll just finish the rest of them.
2 And then, obviously, Mr. Johnson has given you a brief
3 to support it. But *Decedent's Past Statements in*
4 *General*, obviously, that would be a hearsay issue and a
5 confrontation issue that the Court would have to decide,
6 which is why we're proffering testimony. So, I would
7 ask the Court to hold off on any ruling on that until we
8 proffer the testimony.

9 *Minor Daughter's Hearsay as to Decedent's*
10 *Statements.* Same thing. Again, our argument would be,
11 she can certainly testify, if the Court allows it, under
12 their analysis. She can certainly testify as to what
13 she observed. That's not hearsay. Nor anything that
14 the defendant said would be hearsay.

15 The minor daughter's other testimony, which just
16 gets into what she did or did not see.

17 *Custodial Interrogation and Derivative Evidence.*
18 We've beaten that horse to death. The State will
19 stipulate he was in custody and he was in jail when they
20 interviewed him. That's why the tape recording is not
21 that great. So, we will stipulate he's in custody. I
22 think -- I don't -- the State's position is that there's
23 no fruit of the poisonous tree, and none of that should
24 be suppressed.

25 I apologize. That's everything, I think, that was

1 in that motion. And I don't have anything to give to
2 the Court, but I think that's everything that we need.

3 THE COURT: All right. What we'll do is, we'll go
4 ahead and recess, and have the attorneys present and
5 ready to go at 9:00 o'clock, so we can issue the rulings
6 on these motions.

7 MR. JOHNSON: Yes, ma'am.

8 MR. THORNTON: Yes, ma'am. Thank you. And your
9 Honor, just so we all are on the same page, the
10 proffering folks, we're going to have them here at 8:30.
11 I'd just like to have everybody here earlier.

12 THE COURT: That's good.

13 MR. THORNTON: Are we just going to proffer them as
14 they come up?

15 THE COURT: Right.

16 MR. THORNTON: Okay. So, as we call them, we'll do
17 a proffer, and --

18 THE COURT: Right.

19 MR. THORNTON: I just wanted to make sure.

20 MS. DEYSACH: And your Honor, just so you are
21 aware, those witnesses are going to be the first
22 witnesses that we're planning on calling. So, I guess
23 we'll do opening, and then pause and proffer. And I
24 just wanted you to be aware.

25 THE COURT: Okay. And I appreciate that.

1 MS. DEYSACH: Okay. Thank you.

2 JUDGE MULLEN: And also, just, Ms. Swanson, just so
3 we're all very clear about it, I don't want you to give
4 Judge Murphy a laundry list of what exception it falls
5 under, under 404(b). You need to do as to each
6 statement whether or not it's intent, motive. You need
7 to give the specifics. Of course, it might be more than
8 one, but you need to say specifically what it is for the
9 record. Okay?

10 MS. DEYSACH: Yes, ma'am.

11 JUDGE MULLEN: Okay.

12 MR. THORNTON: Thank you, your Honor.

13 MR. JOHNSON: Thank you, your Honor.

14 THE COURT: Thank you.

15 END DAY ONE, MONDAY, JULY 29, 2013

16 5:06 P.M.

17 BEGIN DAY TWO, TUESDAY, JULY 30,

18 2013, 9:27 A.M.

19 RULING ON PRETRIAL MOTIONS

20 BY THE COURT:

21 BAILIFF: All rise. Court is now in session.

22 THE COURT: Thank you. You may be seated. Good
23 morning, everyone. Madam Court Reporter, are you ready?

24 COURT REPORTER: Yes. Yes, your Honor.

25 THE COURT: It appears we had several pretrial

1 motions that we need to go over. And the first motion
2 was on the *Jackson v. Denno*. I've had an opportunity to
3 review the tape, which was Court's Exhibit 7, I believe,
4 and there was a -- it's very difficult to hear. And
5 basically on there, I never heard the defendant
6 specifically state that he wants to talk to an attorney.

7 Mr. Johnson, if there's anywhere on the tape that
8 you can find that you can illustrate to me where I'm
9 wrong, then, I will allow you the opportunity to do
10 that. So otherwise, I think the statement comes in.

11 There was mention to a polygraph in here. So, I
12 think it needs to be edited, obviously, before we
13 introduce that to the jury.

14 MR. THORNTON: Your Honor, my intent -- if I can
15 solve the polygraph issue. My intent is, I'm not going
16 to play the audio. I don't think it's great audio
17 anyway. There's a lot of it that's very muffled. I'm
18 just going to, basically, do what I did yesterday in the
19 *Denno* hearing, which is put Agent Johnson up on the
20 stand as to testify to what the defendant told him.

21 THE COURT: Okay.

22 MR. THORNTON: Because I think it becomes really
23 choppy, because polygraph, as you indicated, is
24 mentioned several times, and I just think, out of an
25 abundance of caution -- I've done it before, where I've

1 edited it. I just don't think I can edit that real
2 smoothly, and then the jury thinks we're hiding stuff
3 from them. So, I'm just going to have Agent Johnson get
4 on the stand and testify.

5 THE COURT: Great.

6 MR. JOHNSON: Your Honor, I'd just like the Court
7 just to help me to make sure I preserve the record, if
8 the Court just help me do that. And I just want to
9 understand, you didn't hear him -- you didn't hear him
10 say anything about lawyer? You didn't hear -- what I
11 thought I heard him say was, *I think I need a lawyer.*
12 You didn't hear the mention of lawyer at all?

13 THE COURT: I did hear the mention of lawyer.
14 However, I think you're correct in your assertion as to
15 how it was worded, and I think that wording does not
16 prevent it -- basically, it's not asserting or him
17 saying I want a lawyer now and they need to stop
18 talking.

19 MR. JOHNSON: Okay. Okay. Thank you.

20 MR. THORNTON: Your Honor, and with all due respect
21 to the Court, I do not want to beat a dead horse, but
22 just so we're covered for the record purposes, may I be
23 heard on that?

24 THE COURT: Sure.

25 MR. THORNTON: I agree with the Court, for the most

1 part. What I heard -- and I play -- I had to play it a
2 half a dozen times, was -- *I think I might need to talk*
3 *to a lawyer*, is what I heard.

4 MR. JOHNSON: Right.

5 MR. THORNTON: And I have a case, if the Court
6 would allow me, and I realize we're pressed for time,
7 I'd like to pass up. It is a South Carolina Case. It
8 is *State versus Kennedy*, 333 South Carolina 426. And it
9 cites a case of a U.S. Supreme Court case, which is
10 *Davis versus United States*, at 512 U.S. 452. I did some
11 research on this. May I pass this up, your Honor?

12 THE COURT: Yes, please. Thank you.

13 MR. THORNTON: I did some research on this. I'm
14 handing up, for record purposes, a copy of *Kennedy*,
15 since it cites *Davis*. The *Kennedy* court says this. If
16 you use the words, *I think I want a lawyer*, in
17 conjunction with -- in that case, there was an
18 assistant solicitor and a cop talking to the defendant,
19 and they both felt like it was an indication of the
20 rights. And the Court actually used that as a totality-
21 of-the-circumstances test, the statement, *I think I need*
22 *a lawyer*, combined with -- well, all of you in the room
23 clearly thought. Because the assistant solicitor then
24 says, *Well, then, I can't talk to you anymore, if you*
25 *want a lawyer*.

1 However, in *Davis*, the words, *I might need a lawyer*
2 are not. And this one falls with both of them. In
3 addition, in *Kennedy*, even though the Court, the Supreme
4 Court, disagreed with the Court of Appeals and said,
5 Look, we think that he did invoke his rights, based on
6 the totality of the circumstances. However he continued
7 to talk the entire time.

8 In the case we have, Judge, first of all, I'd say
9 this is closer to *Davis*, because in my opinion, he used
10 the word *might*, after I listened to it over and over
11 again. He used both *think* and *might*. Secondly, he
12 continues to talk the entire time. In other words, the
13 defendant never pauses. He doesn't say, I think I need
14 to talk to a lawyer; I don't want to talk to you, and
15 stops. He basically continues, and Agent Johnson was
16 not even questioning him about the event. They were
17 just talking.

18 The defendant continues to initiate conversation.
19 He continues to talk. And Agent Johnson's last words to
20 him were,

21 *Well, wait a minute; give me a shot*
22 *to talk to you. If you want, let me read*
23 *you your rights.*

24 He read him his rights. And the last thing he says
25 is, *I will -- he says:*

1 Okay. Well, you signed this rights
2 form, so I'm going to go ahead and talk
3 to you.

4 So, I think, clearly, one, I think Davis controls,
5 because he uses the word *might*. Two, I think even if
6 Davis doesn't control, under Kennedy, the totality of
7 the circumstances, the agent testified he didn't feel he
8 was invoking his rights, based on the context of the
9 conversation.

10 Finally, I think it would come in, based on the
11 fact that the defendant continues to initiate
12 conversation. So, and I just wanted the record clear.
13 I apologize. I wasn't trying to talk the Court out of
14 ruling for me.

15 THE COURT: No. Actually, you're quite right in
16 your recitation of how the recording was, and I concur
17 with your assertion as to how it falls within the
18 totality of the circumstances, that he did keep talking.
19 He had to be *Mirandized* four times at some point, and he
20 did what, you know, sign that he wished to waive that
21 right and talk to the agent.

22 MR. THORNTON: Thank you, your Honor.

23 THE COURT: Thank you. Anything else on that
24 matter?

25 MR. JOHNSON: No, your Honor. I'd just like for

1 the Court to let me -- of course, the Court know at the
2 appropriate time. This does not protect the record for
3 me once the trial start. If the Court will let me know
4 the appropriate time to make my objection, I'll do it
5 then. I don't want to -- however you've got the Court
6 going along is fine. I just want to make sure the
7 record is protected, and I know this itself doesn't
8 protect the record.

9 THE COURT: Sure. Just during the trial, when you
10 feel it's appropriate, make your objection.

11 THE COURT: All right. The next matter, I believe,
12 was the -- the evidence recovered from the defendant's
13 jail cell. I think, clearly, that, as well, comes in.
14 I don't believe the defendant has an expectation of
15 privacy for those matters contained in his cell. The
16 fact that the officer obtained a search warrant, I think
17 was above and beyond what he was required to do, and I
18 think, even though the wording of the search warrant, I
19 think where the expert said there was an indication that
20 it was written by the defendant, I think that's really
21 just a semantic thing, that there was -- there was some
22 evidence, I think, would have given probable cause for
23 the search warrant; that there was some evidence
24 connecting the handwriting to the defendant. So, I
25 think that actually is above and beyond, and he did not

1 have an expectation of privacy.

2 MR. JOHNSON: And your Honor, at the proper time,
3 your Honor, back in the statute, which I think provides
4 more protection in *South Carolina 17-13-140*.

5 THE COURT: Yes, sir. Your objection is noted.

6 MR. JOHNSON: Thank you, ma'am. Thank you, ma'am.

7 THE COURT: All right, sir. I understand, also,
8 that one of the witnesses that was originally requested
9 to be excluded from the courtroom will now be in the
10 courtroom, --

11 MR. JOHNSON: Yes, ma'am.

12 THE COURT: -- but he's been removed from the
13 witness list. Is that correct?

14 MR. THORNTON: Yes, ma'am.

15 MR. JOHNSON: Yes, ma'am.

16 MR. THORNTON: My investigator, Roger Heaton -- Mr.
17 Heaton is here. He's present in the courtroom. I
18 notified Counsel of that, also, Allison, when she came
19 in, just so everybody would know. I didn't want the
20 Court to look up and have a red flag. The two or three
21 things he was going to testify to, I have had some folks
22 go out and re-do, so they could testify to them. And it
23 serves two purposes: one, I need Roger helping me to
24 get people organized; and two, that shaves one more
25 person off an-already-too-long witness list. So, I

1 think we're down to 31 now I plan on calling.

2 THE COURT: Okay. Thank you, sir.

3 MR. THORNTON: Yes, ma'am.

4 THE COURT: All right. And I believe the last
5 issues were we needed to proffer the testimony. Are you
6 ready to proceed on that?

7 MS. DEYSACH: Yes, ma'am. And just for the Court
8 to be aware, I had mentioned pretrial that I was just
9 going to try and call Chief Tyrone Smith from Varnville
10 P.D. to testify about point and presenting incident. I
11 decided not to try to go into that. So, that's another
12 witness that we are going to call. I don't intend on
13 eliciting any statements that the victim made to law
14 enforcement about any of these prior incidents, just so
15 that the Court is aware.

16 We can start with Joyce Loadholt.

17 THE COURT: Okay.

18 MS. DEYSACH: And her testimony. And Judge, what I
19 can do, if it suits the Court, is just go straight into
20 the testimony that would be at issue, potentially.

21 THE COURT: Okay.

22 MS. DEYSACH: Instead of going through all of the
23 questions I intend to ask her, and then -- your Honor,
24 the State calls Joyce Loadholt to the stand.

25 BAILIFF: Just go right over there, ma'am, so you

1 can be sworn.

2 MADAM CLERK: Would you place your left hand on the
3 Bible. Raise your right hand for me, please, ma'am. Do
4 you solemnly swear to truthfully answer all the
5 questions asked of you by this Court, so help you God?

6 MS. JOYCE LOADHOLT: Yes, I do.

7 MADAM CLERK: Please be seated. State your name,
8 and spell it for the Court, please.

9 MS. LOADHOLT: Joyce Loadholt. J/o/y/c/e
10 L/o/a/d/h/o/l/t.

11 PROFFER, JOYCE LOADHOLT

12 DIRECT EXAMINATION BY MS. DEYSACH:

13 Q Good morning, Joyce.

14 A Good morning.

15 Q We're just going to talk a little bit about how you
16 know Masako, and her relationship with Kelvin Jackson.
17 Okay?

18 A Okay.

19 Q How long have you known Masako Miller?

20 A I went at Scott -- I went to work at Scottsman
21 August 17, 2006, and I met her there, because she was
22 like a T-4, so she could train the new employees that
23 comes in.

24 Q Okay. And do you know Kelvin Jackson?

25 A Yes.

1 Q Who is Kelvin Jackson? How did you know him?

2 A I know Kelvin through Masako. When I went there,
3 she was already there. So, in our training and talking,
4 she talked about Kelvin and her kids, and their
5 relationship.

6 Q Okay. And what was the relationship that Kelvin
7 and Masako shared?

8 A At that time, she was just coming back from having
9 a baby, not too long, and she was saying that someone
10 else had a baby for him, too.

11 Q Okay. So, did Masako and Kelvin have a baby
12 together?

13 A Yes.

14 Q Okay. So, they were involved in a relationship?

15 A Yes.

16 Q And were you familiar with that relationship?

17 A No more than what she was telling me at work, with
18 the problems with him and the other girl; them being
19 pregnant at the same time; and his relationship between
20 her and the other girl at the same time.

21 Q Was she off and on with Kelvin Jackson?

22 A Yes.

23 Q Okay. And did they ever live together?

24 A Yes.

25 Q Did they ever live apart?

1 A Yes.

2 Q Had she kicked him out at one point?

3 A Several times.

4 Q Do you remember Masako coming to work with any
5 injuries?

6 A Yes.

7 Q Can you tell the Court about those injuries.

8 A One night she called me, and she said, *Ms. Joyce,*
9 *she said, K.J. is here. And Kelvin, she calls him K.J.*
10 *So, she say, K.J. is here, and she said, I'm asking him*
11 *about -- she was asking him about something about the*
12 *other baby. And she said, He keeps lying. I'm not*
13 *going through this. So, she said, He gotta go.*

14 So then, in the background, Kelvin was cursing and
15 at her and telling her about hang the phone up. So, I
16 said, *Masako, I said, call the police, I said. I said,*
17 *when you all mad like this, things can easily happen. I*
18 *said, so call the police, I said, just to get him to*
19 *leave for a night, until you all calm down.*

20 So, she kept talking to me, and I think he got
21 aggravated. So, he took the phone, and throwed it. And
22 I kept calling her and couldn't get no answer. So, when
23 I got to work the next day, I asked her, I said, *What's*
24 *wrong with you? She say, Oh, nothing, Ms. Joyce. Oh,*
25 *nothing. I say, Masako, I say, it's a bruise on your*

1 face. So, she say, *Makeup didn't get it?* I said, *no.*
2 I said, *You need to go put -- to the bathroom and put a*
3 *little bit more.*

4 And she went to the bathroom, and she put a little
5 bit more on it, and it covered that up. I said, *And*
6 *tomorrow, you need to wear a longer shirt, because her*
7 *arm was bruised. And I said, Girl, I said, don't keep*
8 *going through this.*

9 Q Okay. Can you describe the bruise that you saw on
10 her arm. Was it like a hand print, or was it just a
11 circular bruise? Do you remember what it was?

12 A I don't remember what it looked like.

13 Q Okay. But she had a bruise on face and on her arm.

14 A Yes.

15 Q The morning after you had spoken to her on the
16 phone and she and Kelvin had gotten into it.

17 A Yes.

18 Q Okay. Did Masako call you when she was at the
19 hospital with her son, Markell.

20 A Yes.

21 Q Tell me about that conversation that you had with
22 Masako.

23 A Masako call me and she say, *Ms. Joyce, K.J. is down*
24 *here acting crazy as hell. I said, Well, what is he*
25 *doing? She say, He asking me about what man I got. And*

1 I said, *What's -- what he got to do that?* I said, *You*
2 *all not even together, so why is that his concern?*

3 So, she said, *I don't know, Ms. Joyce, she said,*
4 *but he is crazy as hell. She said, Just listen.*

5 And he was telling her, *You on the phone talking to*
6 *your f-in' nigger, and you disrespecting me. And I*
7 *said, Oh, my goodness, Masako. I said, Call security.*
8 *Have him put out the hospital. I said, He's supposed to*
9 *be coming check on Markell, so call security. Have him*
10 *put out the hospital.*

11 Q Okay. And so, you heard this through the phone
12 when you were on the phone with Masako.

13 A Yes.

14 Q You heard Kelvin Jackson in the background.

15 A Yes.

16 Q Do you remember an incident where Masako's car got
17 messed up?

18 A Yes.

19 Q Okay. Do you know what happened to her car?

20 A She came to work saying she had to catch a ride,
21 because somebody put sugar in the oil, and she was going
22 to take it to Mr. Gray to have him see what was wrong
23 with it. And my husband is a mechanic. So, my husband
24 told her to make sure Mr. Gray know what he's doing,
25 because the engine could get crystallized, and if he say

1 he flushed it, that don't mean that all the sugar is out
2 of it.

3 So, Masako told my husband, Masako say, *Okay, Mr.*
4 *Sonny, I'm going to listen to you.* She said, *You're*
5 *saying it's not going to be anymore good?* He said, *Nine*
6 *times out of ten, it's not going to be anymore good.*

7 So, I was keeping her children while she was on her
8 second job, and the car just shut down. And Mr. Gray
9 said that it was sugar in it. Mr. -- yeah, that -- that
10 does her car work.

11 MS. DEYSACH: Beg the Court's indulgence.

12 BY MS. DEYSACH:

13 Q One last question, Joyce. Was Masako at times
14 afraid of Kelvin Jackson?

15 A At times, yes.

16 MS. DEYSACH: Thank you, your Honor. No more
17 questions.

18 THE COURT: Mr. Johnson?

19 MR. THORNTON: Thank you, your Honor.

20 JOYCE LOADHOLT

21 CROSS-EXAMINATION BY MR. JOHNSON:

22 Q Okay. Let's start at the last one, the one about
23 the sugar in the tank. You don't know today who put the
24 sugar in the tank. Is that correct?

25 A No.

1 Q And matter of fact, Kelvin was never charged or
2 accused anything about putting the sugar in the tank. Is
3 that correct?

4 A I don't know about that.

5 Q Okay. Had something happened; I think Masako shared
6 everything else with you; wouldn't she have shared that
7 with you?

8 A That he put sugar in the tank?

9 Q If he did it.

10 A She said he did it, but I guess she didn't see him
11 do it, so, but she said he did it.

12 Q Okay. So, what you're telling the Court is, they
13 assume he was the one that put the sugar in the tank.

14 A I don't know whether they assumed it, but she said
15 he did it.

16 Q Okay. You assume that he was the one -- she assumed
17 that he was the one put the sugar in the tank. She
18 didn't see it, correct?

19 A She didn't see it, but she said --

20 Q Okay. She didn't see that, correct?

21 A Yes.

22 Q Okay. All right. And neither did you see him do
23 that.

24 A No.

25 Q And anybody could have done that. Isn't that

1 correct?

2 A I don't know if anybody could have done it, but
3 why --

4 Q Someone other than Kelvin could have done it. Is
5 that correct?

6 A I don't know who could have done it.

7 Q Okay. All you know is, she just told you he did it.

8 A Yes.

9 Q Okay. Masako didn't call security at the hospital;
10 did she?

11 A No.

12 Q And Kelvin's sister was in that room at the same
13 time; wasn't she?

14 A He was taking K.J., and he was going to leave, and
15 was going to take K.J. --

16 MR. JOHNSON: Your Honor, would she please answer my
17 question.

18 A Okay.

19 MR. JOHNSON: I understand she can explain.

20 THE COURT: Yes, ma'am. If you would answer the
21 question first, and then you're allowed to explain.

22 A Okay.

23 THE COURT: Say yes or no, and then give an
24 explanation.

25 A Okay. Say it again, please, sir.

1 BY MR. JOHNSON:

2 Q Kelvin's sister was in the room. Is that correct?

3 A I don't know whether she was in there or not.

4 Q Do you know whether anybody else was in the room
5 besides Kelvin and Masako?

6 A I heard Kelvin. I didn't hear his sister or anyone
7 else.

8 Q To your knowledge, did she call security?

9 A No.

10 Q She didn't leave the hospital with any kind of
11 bruises or anything; did she?

12 A No.

13 Q And you're not alleging that he did any violence to
14 her at the hospital; are you?

15 A I didn't say that he did any violence there.

16 Q I was just asking you are you alleging that.

17 A No.

18 Q Okay. Okay. And at what time did this occur? When
19 did this occur? How long ago?

20 A What occurred?

21 Q The hospital incident.

22 A When -- I don't know what date it is, but it was
23 when Markell was in the hospital in Waltherboro.

24 Q Was it longer than a month?

25 A Yes.

1 Q Two months?

2 A Yes.

3 Q Three motions?

4 A Yes.

5 Q Four months?

6 A It was before she got killed.

7 Q Okay. I'm talking about --

8 MS. DEYSACH: Your Honor, if I could just ask Mr.
9 Johnson to clarify his question. I think the witness
10 thinks he means from now.

11 A Yeah.

12 BY MR. JOHNSON:

13 Q Okay. From the hospital, the date when Masako --
14 when Markell was in the hospital, from the date Markell
15 was in the hospital, did you see any marks?

16 A No.

17 Q Okay. And you heard them arguing. You wasn't aware
18 of any violence. Is that correct?

19 A No.

20 Q And you said you didn't remember who was there.

21 A She told me Kelvin was there. She told me. Because
22 Sandra had went home.

23 Q I think the first thing you talked about, too, you
24 said there was a time when Mr. Jackson threw the phone.
25 Is that correct?

1 A Threw her cell phone.

2 Q Threw her cell phone. Okay. You said you saw some
3 injuries. Is that correct?

4 A Yes.

5 Q Okay. Were you at the house? You were not at the
6 house, because you were on your phone on the other end.
7 Is that correct?

8 A Yes.

9 Q Okay. So, you don't know how those injuries got
10 there. Is that correct?

11 A She told me they was fighting.

12 Q Okay. Do you know who initiated the fight?

13 A No, I don't.

14 Q Okay. So, all you know is what she told you.

15 A Yes.

16 Q And it was a -- and the argument, I think you said,
17 was about another woman and another baby. Is that
18 correct?

19 A That was all the time, yes.

20 Q Okay. And it was another woman and another baby.
21 This woman and this baby were constantly in their life.
22 Is that correct?

23 A Yes.

24 Q Do you know any facts, other than what she told you?

25 A No.

1 Q So, everything you present in the Court is only what
2 she told you.

3 A And what I saw.

4 Q Okay. What did you see?

5 A I seen the bruises on her.

6 Q Okay. But you just said you didn't know where the
7 bruises came from.

8 A No, but I seen the bruises on her.

9 Q Okay. I understood -- I want to make sure I do this
10 right. You saw the bruises on her. That's correct?

11 A Yes.

12 Q Do you know how the bruises got on, of your own
13 knowledge?

14 A They were fighting. I assumed she -- he put them on
15 her.

16 Q Did you see them fight?

17 A No.

18 Q Do you know if they fought or not, of your own
19 knowledge?

20 A I believe they fought.

21 Q I asked you do you know of your own knowledge.

22 A I don't know, because I wasn't there, but I believe
23 they fought.

24 Q Okay. So, all you know is what was told to you.

25 A Yes.

1 Q And she was your friend.

2 A Yes.

3 Q And that was the only side you got.

4 A Yes.

5 Q And you never got Kelvin's side.

6 A I don't talk to him like that.

7 Q You never got Kelvin's side.

8 A I don't talk to him like that.

9 Q I understand that.

10 THE COURT: Ma'am. Ma'am.

11 Q Did you get Kelvin's side?

12 THE COURT: Ma'am, you can answer the question, then
13 you can explain.

14 BY MR. JOHNSON:

15 Q And I'm finally understanding what the Assistant
16 Solicitor corrected, because, now, I need to ask the
17 question right myself. I didn't ask it right. Before
18 the date of Masako's death, how far was it, prior to her
19 death, that the incident with the phone occur?

20 A Months.

21 Q How many months?

22 A Maybe about two or three. I'm not --

23 Q Prior to her death, how many months did the hospital
24 incident occur?

25 A I'm not sure, but it wasn't that long.

1 Q And how many months prior was the sugar incident in
2 the tank?

3 A She had a rental car, so it was prior to that.

4 Q Okay.

5 A I -- I'm not -- I don't know.

6 Q You don't know how long.

7 A Huh-uh.

8 COURT REPORTER: Is that no?

9 A No.

10 Q You said you didn't know, right?

11 A I didn't know.

12 Q And I'm through, Judge. I just want to make sure on
13 Ms. Loadholt, I just want to make sure I fully
14 understand. Other than actually seeing those bruises,
15 all of the information you've given is what was told to
16 you, correct?

17 A Yes.

18 Q Okay. And neither do you know how the bruises got
19 there. Is that correct?

20 A No.

21 Q Thank you, ma'am. Excuse me. Okay. Ms. Loadholt,
22 did you do a written statement for the Solicitor?

23 A Yeah.

24 Q For some -- for anybody?

25 A Yeah.

1. MR. JOHNSON: Okay. May I approach, your Honor?

2 THE COURT: Yes, sir.

3 BY MR. JOHNSON:

4 Q This came out of our notebooks, and I got to put it
5 back. But I just want you to look at that and verify is
6 your statement that you signed. Did you sign?

7 MR. JOHNSON HANDS DOCUMENT TO

8 WITNESS.

9 A I don't have my glasses, but this is my writing.

10 Q That's your writing. Okay. Thank you. You
11 wouldn't disagree with me that this is your statement?

12 A Yes.

13 Q Okay. And everything you wrote in that statement is
14 -- matter of fact, this statement was written before
15 today. Is that correct? You wrote this statement before
16 today of this week. Is that correct?

17 A Yes.

18 Q Okay. And everything you wrote in this statement
19 was true. Is that correct?

20 A To my knowledge.

21 Q Okay. And are you conveying today the same things
22 you conveyed in the statement when you wrote it?

23 A Yes.

24 Q Okay.

25 Q I hand you Page 3 of your voluntary statement, and

1 I'd ask you to read the highlighted part of your
2 handwriting, please.

3 A I need to get my glasses.

4 MR. JOHNSON: Ma'am, may she get her glasses, your
5 Honor?

6 THE COURT: Certainly.

7 MS. DEYSACH: Are they back in the jury assembly
8 room?

9 A Lorraine got them.

10 MS. DEYSACH: Oh, okay. Lorraine, can you get her
11 glasses? Thank you.

12 LORRAINE MOSS, VICTIMS' ADVOCATE,

13 LEFT THE COURTROOM AND RETURNED

14 WITH A PURSE.

15 VICTIMS' ADVOCATE MOSS: Is that your purse?

16 A Yes.

17 BY MR. JOHNSON:

18 Q Would you read that for the Court, please.

19 A *I asked her do she know who put it in -- it*
20 *in. And she said, 'No. It seems like*
21 *someone removed the key.' And I told her*
22 *Kelvin probably had a key made or something.*

23 *Then, she told me that she was -- she*
24 *told me that she was one day -- one day -- and*
25 *her keys was missing, and all of them was*

1 gone. And she said she think the kids took
2 them off the table.

3 Q Okay. I just asked you to read the first part. But
4 now, did she tell you, or did you tell her, you thought
5 he did it? In your statement.

6 A In the statement, I asked her did she know who she
7 -- who did it. And she said, No. *It seems like someone*
8 took the keys.

9 Q And then, what did you tell -- and what did you say?

10 A I told her probably Kelvin had a key made.

11 Q So, you suggested to her that Kelvin did it.

12 A No.

13 Q Okay. Did you not tell her you thought Kelvin had a
14 key made? She didn't know who did it. You said you
15 thought he did it. Is that correct?

16 A Yes, but you don't know what led up prior to that.
17 She -- her keys was missing.

18 MR. JOHNSON: Your Honor, that's all I have for this
19 witness.

20 THE COURT: Thank you, Mr. Johnson.

21 MS. DEYSACH: Just briefly, your Honor, just to
22 clarify a few things.

23 JOYCE LOADHOLT

24 RE-DIRECT EXAMINATION BY MS. DEYSACH:

25 Q Joyce, you gave that written statement to SLED when

1 they were investigating the death of Masako Miller,
2 right?

3 A Yes.

4 Q Okay. Mr. Johnson said that the only things that
5 you knew were what she told you, but you knew what you
6 heard. And on two occasions, didn't you testify that you
7 heard Kelvin Jackson, while you were on the phone with
8 Masako, cussing and arguing with her?

9 A Yes.

10 Q And you saw the bruises when Masako came to work
11 after one of those arguments.

12 MR. JOHNSON: Your Honor, --

13 A Yes.

14 MR. JOHNSON: I would just ask the Solicitor, I know
15 sometimes she get into -- I'd ask her, please, not to
16 lead the witness.

17 MS. DEYSACH: Your Honor.

18 THE COURT: Sustained.

19 MS. DEYSACH: Thank you.

20 BY MS. DEYSACH:

21 Q If I told you -- the incident at the hospital, did
22 that occur just a few weeks before she went missing or a
23 few months before, to the best of your knowledge?

24 A I'm not sure. I got to hear the dates.

25 MS. DEYSACH: Okay. Thank you, Joyce. Your Honor,

1 may she step down?

2 THE COURT: Yes. Ma'am, you may step down.

3 MS. DEYSACH: Thank you.

4 MR. JOHNSON: Your Honor, may I get that Page 3
5 from --

6 JOYCE LOADHOLT HANDED A DOCUMENT

7 TO MR. JOHNSON.

8 MS. DEYSACH: Should we call our next witness?

9 THE COURT: Yes, please.

10 MS. DEYSACH: Shacoby Hammond.

11 BAILIFF: Go right up there to be sworn, please.

12 MADAM CLERK: Would you place your left hand on the
13 Bible and raise your right hand for me, please. Do you
14 solemnly swear to truthfully answer all questions asked
15 of you by this Court, so help you God?

16 MS. SHACOBY HAMMOND: Yes, I do.

17 MADAM CLERK: Please be seated. State your name and
18 spell it for the Court, please.

19 A Shacoby Hammond. H/a/m/m/o/n/d.

20 PROFFER, SHACOBY HAMMOND

21 DIRECT EXAMINATION BY MS. DEYSACH:

22 Q Good morning, Shacoby.

23 A Good morning.

24 Q Tell us a little bit how you knew Masako Miller and
25 what your relationship with her Masako was like.

1 A We were friends, and I met Masako in '98, I think of
2 August. August of '98, when she first had her daughter,
3 S.D. . And we were friends off and on. And then,
4 eventually, I moved right by her, when we were staying in
5 apartments in Fairfax.

6 Q Okay. So, you've known her for quite a while.

7 A Yeah.

8 Q And do you know Kelvin Jackson?

9 A Yes.

10 Q And what is her relationship -- or what was her
11 relationship with Kelvin Jackson?

12 A At first, they were like boyfriend and girlfriend,
13 staying together. And they moved from Fairfax until they
14 moved to Hampton. And then, they were staying together.
15 And then, they kind of were back and forth.

16 Q Okay. So, sometimes they would be together and
17 sometimes not?

18 A Yes.

19 Q When you saw them together, how did they act?

20 A Well, in the beginning, they were happy together,
21 but then, they just started falling apart.

22 Q And what do you mean by that?

23 A Uh --

24 Q Did they fight?

25 A Yeah. Fight, argue, stuff like that.

1 Q Did they ever fight in your presence?

2 A Yes.

3 Q And describe any of the fights that you remember
4 them getting into that you personally observed.

5 A Okay. This one particular time, it was far in
6 November, Thanksgiving. She came over to my house. I
7 think he left that Wednesday, and he came back that
8 Saturday. She was at my house, and he wanted her to
9 leave and go with him. Her and her kids were there. And
10 he was like all over her, and they were tussling in my
11 living room, and I asked him to leave, and he wouldn't
12 leave.

13 And my phone was on the table, and it rang. And we
14 had two phones just alike, and he picked it up, and I
15 told him to put my phone down, because it was mine. He
16 thought it was hers. He put the phone down, and he
17 still, you know, tussling, pulling on her, wanting her to
18 leave. And I told him I was going to call the police,
19 and I did. And the police came, but she told them she
20 was all right, so they left. And he continued just
21 pulling on her, you know, grabbing her, trying to pick
22 her up. Bending her wrists back, and I think that's the
23 particular time when she sprained her wrist.

24 Q So, is that an injury that you remember her having?

25 A Yes.

1 Q Is that the only injury that you remember her
2 having?

3 A No. I remember her having bruises on her arms and
4 necks -- neck.

5 Q What kind of bruises?

6 A Like hand prints.

7 Q Was Masako scared of Kelvin Jackson?

8 A Yes.

9 MR. JOHNSON: Objection, your Honor. Speculation.

10 THE COURT: Sustained.

11 MS. DEYSACH: Your Honor, I do have a case that I
12 can hand up to the Court, regarding testimony about the
13 victim's state of mind. I don't know if you want to take
14 it up later, or.

15 THE COURT: Do you have a copy of it?

16 MS. DEYSACH: Yes, ma'am.

17 THE COURT: You can proceed with your question while
18 I look at it.

19 MS. DEYSACH: Thank you, your Honor. May I
20 approach?

21 THE COURT: Yes.

22 MS. DEYSACH: This is a case in which court, South
23 Carolina Supreme Court, allowed testimony by a witness
24 that the victim was afraid of the defendant, who is her
25 son. I'll continue with my questioning. Thank you.

1 BY MS. DEYSACH:

2 Q Did Masako support Kelvin Jackson financially?

3 A I feel like she did.

4 Q Okay. Do you know if he ever used her debit card?

5 A I know they had a joint account together at one
6 time, but, um --

7 Q Okay.

8 A I think he was like spending -- well, some money was
9 missing, so she closed the account. Or her wallet got
10 stolen. Wallet and keys, and she closed that account,
11 and she opened her a second account.

12 Q Do you know about an incident where sugar was poured
13 into the oil of her car?

14 A Yes. I think she went to Six Flags, and I think the
15 next day she was coming to work, and she started having
16 car trouble. And she took it to a shop, and when we got
17 off, I took her back to that shop, to check on her truck.
18 And he told her that sugar was put in her tank, but not
19 from the gas tank. It was put in from up under the hood.

20 Q Do you know who might have had access to her car?

21 A I'm thinking Kelvin did, because --

22 MR. JOHNSON: Your Honor, I'm going to object. She
23 asked her did she know. She said she think. I think she
24 should answer if she knows who got it or who doesn't. I
25 don't think she should speculate to who might have had

1 the car.

2 THE COURT: Can you repeat the question.

3 BY MS. DEYSACH:

4 Q Do you know who might have had access to her car?

5 A Kelvin.

6 Q Did he ever drive her car, to your knowledge?

7 A Yes.

8 MS. DEYSACH: All right. Thanks, Shacoby. Please
9 answer any questions Mr. Johnson might have for you.

10 Okay?

11 A Okay.

12 PROFFER, SHACOBY HAMMOND

13 CROSS-EXAMINATION BY MR. JOHNSON:

14 Q Ms. Hammond, I think you testified a few minutes ago
15 about an incident at your house where Mr. Jackson and Ms.
16 Miller were supposed to be tussling.

17 A Um-hmm.

18 Q Who all was -- who all was present during that time?

19 A It was me, my mom, my son, their kids. Well, the
20 kids they had together, and my boyfriend at the time.

21 Q And is your boyfriend Mr. James Harris?

22 A Jonathan. Well, ex-boyfriend, Jonathan Harris.

23 Q And Mr. Harris was there, also.

24 A Yes.

25 Q Okay. And now, you talked about the tussling. Who

1 started the tussling?

2 A Kelvin did.

3 Q Didn't Ms. Miller start tussling when she hit Kelvin
4 in the head?

5 A No. I don't even recall her hitting him in the
6 head.

7 Q Okay. Would you, if I would suggest to you that Mr.
8 Jonathan Harris said she started it, would you disagree
9 with me?

10 A Yes, I would.

11 Q Okay. Would you disagree with him?

12 A Yes, I would.

13 Q You said you saw them tussle more than one time.
14 Did Ms. Miller, at any time, stop the tussling?

15 A No.

16 Q It was Kelvin all the time.

17 A Yes, it was. I never saw her just come at him. It
18 was him.

19 Q Did you ever see her start an argument with him?

20 A At times, yes. If he -- if I was over to their
21 house, and he came in late or came in and he -- or just
22 came in the house and something was wrong, yes, she would
23 argue with him.

24 Q Okay. So, the back and forth wasn't just Kelvin.
25 It was Kelvin and Ms. Miller. Is that correct?

1 A Yes.

2 Q So, both of them would go back and forth at one
3 another.

4 A Yeah, arguing.

5 Q Okay.

6 A But not as far as physical.

7 Q Okay. And you said that you called the police, and
8 that -- was this the Fairfax Police?

9 A No, this was Hampton County Sheriff Department.

10 Q And an officer came.

11 A An officer came.

12 Q Okay. Who was the officer that came?

13 A I don't remember. That was a while ago.

14 Q Okay.

15 A I don't remember. He didn't --

16 Q And when the officer asked what happened, what did
17 she say?

18 A She told him she was fine.

19 Q Okay. Basically, she told the officer that nothing
20 was wrong, there wasn't no occurrence.

21 A Yeah.

22 Q Okay. There was another time you said you saw
23 bruises on her arm and in her neck. You didn't see Mr.
24 Jackson put those bruises on her; did you?

25 A No.

- 1 Q So, you don't know where the bruises came from.
- 2 A Well, I asked her and she told me.
- 3 Q So, you know just what she told you.
- 4 A Yes.
- 5 Q Okay. You were a very close friend of hers.
- 6 A Yes.
- 7 Q Okay. And you were close enough to know, in the
8 event, if she had other friends. Is that correct?
- 9 A Yes.
- 10 Q Did she have other friends?
- 11 A Yeah, she had another friend.
- 12 Q Did she have another friend or other friends?
- 13 A Another friend.
- 14 Q And who was that?
- 15 A Well, at that time, it was Clarence. No, not at
16 that time. When -- at the end of their relationship, it
17 was Clarence. And --
- 18 Q Okay. What about during their relationship?
- 19 A During their relationship, I knew it was someone,
20 but she didn't tell me who.
- 21 Q So, there were some things she didn't tell you.
- 22 A Yes.
- 23 Q So, there were some things that she kept from you.
- 24 A Yes.
- 25 Q And so, that means everything she told you, she just

1 told you her side of it. Is that correct?

2 A Yeah -- well, yeah.

3 Q Okay. And so, so, you didn't -- for what you didn't
4 see, you've only conveyed to the Court what she told you.

5 A Yes.

6 Q And I think you had mentioned, when the Solicitor
7 asked you about the account, you said they had a joint
8 account. Is that correct?

9 A Yes.

10 Q And she used to let him use her card. Is that
11 correct?

12 A Yes.

13 Q And he's used the card many times. Is that correct?

14 A Yes.

15 Q And with the wallet being missing, she thought it
16 was the kids. Is that correct?

17 A No.

18 Q Okay. Who did she think -- who did she think take
19 her wallet?

20 A She said she didn't know who, but someone stole her
21 wallet and her keys.

22 Q So, she didn't know and she didn't tell you.
23 There's no -- there's no evidence today that Kelvin did
24 that. Is that correct?

25 A Yeah, that's right.

1 Q Okay. And I think you said Kelvin had access to the
2 car. Access doesn't necessarily mean he put sugar in the
3 tank; does it?

4 A No, it doesn't.

5 Q And you don't know who put sugar in the tank; do
6 you?

7 A No, cause I wasn't there.

8 Q And she didn't know who put sugar in the tank; did
9 she?

10 A No.

11 Q Okay.

12 Q So, so, you're not here today with the inference
13 that Kelvin did anything as it relates to this sugar in
14 the tank. Is that correct?

15 A I'm just here to be a witness and answer the
16 question that I'm asked.

17 Q You're sitting here today, and you're giving
18 testimony that is adverse to Kelvin on this thing with
19 the car. You have no reason to, or no knowledge, to
20 believe he did that; do you?

21 A I believe he did.

22 Q That's just your personal opinion.

23 A Yes.

24 Q But you have nothing other than how you feel.

25 A No.

1 Q And she was one of your best friends.

2 A Yes.

3 Q If not your best friend.

4 A Well, we were off and on. It was a type of
5 relationship where, when Kelvin would leave, Masako would
6 be happy, come around, talk to people. But you could
7 kind of tell when he's coming back in the picture,
8 because she shuts herself out from everyone.

9 Q So, you blame Kelvin for this; don't you?

10 A I mean, --

11 Q It's Kelvin's fault; isn't it?

12 A I don't know whose fault it is.

13 Q Okay.

14 A I don't know.

15 Q But it seemed like -- do you know anything good
16 about Kelvin?

17 A Yeah.

18 Q What?

19 A They were happy at first, in the beginning.

20 Q But so, any problems that went on in the
21 relationship, you're here telling the Court today that
22 every problem that went on in the relationship, he
23 caused?

24 A No, I didn't say that.

25 Q Okay. So, he did cause some problems.

1 A I'm not saying she caused problems. I don't know
2 what went on.

3 MR. JOHNSON: Begging the Court's indulgence, your
4 Honor.

5 BY MR. JOHNSON:

6 Q Would it be a fair statement to say that Ms. Miller
7 only told you what she wanted you to know?

8 A Yeah.

9 MR. JOHNSON: Your Honor, that's all I have.

10 THE COURT: Thank you. Anything further?

11 MS. DEYSACH: No, ma'am.

12 THE COURT: You may step down, Ms. Hammond. Thank
13 you.

14 A Thank you.

15 MS. DEYSACH: Clarence Wrice will be the State's
16 next witness.

17 BAILIFF: Go right up there to be sworn, please.

18 MADAM CLERK: Would you place your left hand on the
19 Bible, and raise your right hand for me, please. Do you
20 solemnly swear to truthfully answer all questions asked
21 of you by this Court, so help you God?

22 MR. CLARENCE WRICE: Yes, ma'am.

23 MADAM CLERK: Please be seated. State your name and
24 spell it for the Court, please.

25 COURT REPORTER: Would you spell your last name,

1 please.

2 MR. CLARENCE WRICE: Clarence Wrice.

3 COURT REPORTER: Thank you.

4 PROFFER, CLARENCE WRICE

5 DIRECT EXAMINATION BY MS. DEYSACH:

6 Q Good morning, Clarence.

7 A Good morning.

8 Q Tell the Court a little bit about your relationship
9 with Masako Miller. How did you know her and when did it
10 start?

11 A Originally, I know her because we were co-workers.
12 And -- and around 2010, me and her like formed a
13 relationship.

14 Q So, you guys were dating?

15 A Yes, ma'am. On and off since 2010.

16 Q Did Kelvin Jackson ever contact you?

17 A No, not -- not like personally. No, ma'am.

18 Q Okay.

19 A I have -- I think I called her phone before, and he
20 answered.

21 Q He answered?

22 A Yeah. He didn't -- he didn't say much. He just --

23 COURT REPORTER: I'm sorry. You'll have to --

24 A Oh, I'm sorry. I'm sorry.

25 Q Yeah, just speak louder.

1 COURT REPORTER: *He didn't say very much?*

2 A No, he didn't say very much. He just -- I called
3 and asked for her, and he's like, *She's asleep*, and hung
4 up.

5 Q Okay. Did you hear Masako in the background at all?

6 A Yes. I have before.

7 Q Okay. So, you've actually heard him on her phone a
8 couple of times?

9 A Yeah.

10 Q All right. Tell us about when you heard Masako in
11 the background.

12 A I think one time I called her she was home. And he
13 -- I don't know, he must have like grabbed the phone or
14 whatever. And she was like, *Give me back my phone*. And
15 the last time was like I called her -- this is when her
16 son was in the hospital -- and she answered the phone. I
17 think she stepped out of the room, she said, to answer
18 the call. And he must have followed her out the room or
19 whatever. And she was like -- he was like, *Well, are you*
20 *just going to answer the phone in front of me?* You know,
21 saying stuff like that. And she was like, *Get out of my*
22 *way, Kelvin*. And she was like, *I'm going to call you*
23 *back*.

24 And then, later on, she called me back, and she told
25 me he was making a scene at the hospital or whatever.

1 Q Okay. Do you remember what you heard him tell her
2 on the other side of the line?

3 A Yeah. It was brief. All -- all he said was, Are
4 you just going to answer the phone on front of me. You
5 know what I'm saying? Like, you just going to talk to
6 your friend while I'm here or whatever.

7 Q Did it have anything to do with respect?

8 MR. JOHNSON: Your Honor, objection.

9 THE COURT: Sustained. Please try not to lead your
10 witness.

11 BY MS. DEYSACH:

12 Q About how long before she went missing did the phone
13 call at the hospital take place?

14 A Had to be -- let me think. She went missing the
15 last week of May, and I think -- he was in the hospital
16 maybe like a week and a half before. Like a week before
17 something like that.

18 Q Did Masako ever tell you that she was scared of
19 Kelvin?

20 A Yeah. Yeah. She said he was crazy like numerous
21 times.

22 MS. DEYSACH: Thank you, Clarence. That's all I
23 have for you.

24 A Um-hmm.

25 PROFFER, CLARENCE WRICE

CROSS-EXAMINATION BY MR. JOHNSON:

Q Mr. Wrice.

A Sir.

Q I want to make sure I got the time frames correct. I think Ms. Miller went missing in May of 2011. Is that correct?

A That's correct.

Q Okay. You said you were talking to Ms. Miller in 2010?

A I said I started.

Q Okay. What time in 2010?

A Originally, I say around -- when I originally started like going out with her, probably around April or May 2010.

Q So, you're talking about almost a year prior?

A Yeah.

Q Okay. Well, during that year, wasn't Mr. Jackson living with Ms. Miller?

A Yeah, he was -- he -- he was like back and forth at the house, yeah.

Q So, you were calling their house, asking to speak to her while he was living with her?

A I was calling her cell phone.

Q Okay. You were calling her cell phone, at their house, asking to speak with her, while he was living with

1 her.

2 A Yeah, I was calling her cell phone. Yes.

3 Q Okay. Well, let me ask you this.

4 A Um-hmm.

5 Q If you were living with somebody and I called your
6 cell phone, would you kind of snatched the phone and be
7 upset?

8 A Well, here's the thing. She said like she didn't
9 want him at the house or whatever.

10 Q Okay.

11 A And most of the times, he wasn't even there. He was
12 at his friend's house or whatever.

13 Q Okay. But you know he was living with her, and you
14 know they were seeing with one another.

15 A No. I -- no. From --

16 Q You didn't know that?

17 A From her understanding, she was like -- she was like
18 -- she wasn't dealing with him like that. She was just
19 like he comes back and forth at the house or whatever.

20 Q But you knew he was staying there back and forth.

21 A At first, no, I didn't.

22 Q Okay. When did you find out?

23 A A little later on. She told me like he wouldn't
24 leave or whatever. And you know, that's mainly why me
25 and her was kind of on and off or whatever.

1 Q Okay. So, you all were on and off, too.

2 A Yes. Because of -- because of, you know, she was
3 afraid that he would do something or whatever to her.

4 Q Okay. So, other words, you all had disagreement
5 about him?

6 A No, we didn't have an agreement about him.

7 Q I said disagreement, not agreement.

8 A Oh. No, we didn't have a disagreement.

9 Q Okay. Then, why were you all on and off?

10 A Because I -- she was afraid for her safety. She
11 figured he'd find out and do something.

12 Q Okay. What would your on-and-off-ness have to do
13 with him? I mean, of her being afraid, what does that
14 have to do with your on-and-off-ness with her?

15 A Well, basically, she was like -- she used to tell
16 me --

17 Q I'm going to ask you -- I want you to ask me -- I
18 want you to tell me about you. I'm not asking about her.
19 Because I'm trying to understand, if you know she was
20 staying there with him, what would the on-and-off-ness
21 with her have to do with him?

22 A Oh, well, she -- she was like -- she was like, well,
23 maybe we shouldn't hang out so much, because I don't want
24 him to like do something to me or whatever, or do
25 something to you, or her car, you know.

1 Q So, she was hiding -- she was hiding your all's
2 relationship from him.

3 A I don't know. Probably. I mean.

4 Q That's a yes -- she was hiding your all's
5 relationship from him. Is that correct?

6 A I don't know. I mean.

7 Q Okay. She didn't want you to go tell him. Is that
8 correct?

9 A Well, I don't -- I don't talk to him like that.

10 Q I know, but she wouldn't have want you to tell him.
11 Is that correct?

12 A I wouldn't tell him anyway.

13 Q Okay. But she would just not have want you to go
14 tell him. Just answer my question, yes or no. Would she
15 have want you to go tell him?

16 A Probably, no.

17 MS. DEYSACH: Your Honor, I object. That calls for
18 speculation.

19 THE COURT: Sustained.

20 BY MR. JOHNSON:

21 Q Would you have gotten upset if somebody called the
22 person you were staying with and snatched the phone?

23 MS. DEYSACH: Asked and answered.

24 THE COURT: You can proceed, Mr. Johnson.

25 MR. JOHNSON: Can he answer the question, your

1 Honor, because he hadn't answered it.

2 THE COURT: Yes.

3 BY MR. JOHNSON:

4 A Can you repeat, please.

5 Q Would you have gotten upset if somebody had called
6 somebody you was staying with the phone?

7 A Would I have gotten upset?

8 Q Yeah.

9 A I probably --

10 Q You'd probably done about the same thing. Is that
11 correct?

12 A Maybe. I probably would.

13 Q And you called her over a period of time and he was
14 there, because you said he answered the phone a couple of
15 times. Is that correct?

16 A Twice.

17 Q Okay. And he -- couple. Twice. He answered the
18 phone two times. And you never had a disagreement with
19 him. He never talked rough to you; did he?

20 A No.

21 Q Okay.

22 A No.

23 Q And other than her asking for the phone, he didn't
24 do anything else while you were on the phone. Is that
25 correct?

1 A You could hear them in the background arguing.

2 Q But other than arguing about another man calling
3 her, he didn't -- there was no bruises; he didn't hit
4 her; you didn't hear her being beat or anything like
5 that?

6 A No, I didn't hear it.

7 Q Okay. And at the hospital -- he was at the hospital
8 with her and their son; and he walked out there; and she
9 walked out the room to call you. And is it abnormal for
10 him to walk out and say, *Why you calling somebody while*
11 *I'm here?*

12 A Well, -- well, at that time, they -- they weren't
13 together.

14 Q Okay.

15 A At that time, she said she didn't see him for like
16 almost three weeks.

17 Q And you base that on just what she told you. Is
18 that correct?

19 A No, I base that on, because, at that time, he wasn't
20 even living there.

21 Q Okay. You were going back and forth to the house.

22 A Yes. I -- I've been to the house, yes, sir.

23 Q Were you going back and forth on a regular basis to
24 the house?

25 A Yes.

1 Q So, you went to the house a lot.

2 A Not a lot lot, but I been.

3 Q Okay. Tell me how much.

4 A I can't give you an accurate account, but I've been
5 there.

6 Q Consistently. Would that be fair?

7 A Consistently? I've been there a couple times, yeah.
8 I've been there a few times.

9 Q I don't mean to ask you the same thing over. I'm
10 just trying to get an understanding. You said a couple.
11 Were you there more than five times?

12 A Yes.

13 Q More than six?

14 A Yes.

15 Q More than ten?

16 A Yes.

17 Q More than 20?

18 A Yes.

19 Q Okay. During the period of May 2011, did you think
20 you were her only boyfriend?

21 A During the period of May 2011? Yes.

22 MS. DEYSACH: Your Honor, at this point, I'm going
23 to object, because it seems like we're covering a lot of
24 ground that is not a part of the proffer, and not
25 necessary for your Honor to make a ruling.

1 THE COURT: I agree. I think this goes more to the
2 actual testimony, unless we're going to get into the
3 proffer for the limited purpose that we discussed in the
4 motion. Do you have anything else on that, Mr. Johnson?
5 Or if it's leading to something like that, just let me
6 know, and I'm happy to let you continue. Otherwise, I
7 think we're going outside the scope.

8 MR. JOHNSON: Your Honor, what I'm trying to get at
9 is, I spent a long time last night, didn't sleep, trying
10 to read the *State versus Williams* and all that. One of
11 those things about this ill will is, you have to
12 establish this relationship and this time frame. And I'm
13 just trying to find out, if they're going to testify to
14 ill will, I'm just trying to find out over what period of
15 time it happened and what kind of relationship was going
16 on. But I hear what the Court's saying, and I think I
17 have asked enough questions, so I'll sit down.

18 THE COURT: Thank you, Mr. Johnson. Anything
19 further?

20 MS. DEYSACH: No, ma'am.

21 THE COURT: You may step down, sir.

22 A Thank you.

23 THE COURT: What we'll do, we'll take about a five-
24 minute recess to allow everybody to use the restroom real
25 quick. And then, we'll come back in, and I'll issue my

1 ruling, and we'll bring the jury in.

2 MS. DEYSACH: Your Honor, just -- there are four --
3 no, three more witnesses --

4 THE COURT: Oh, I'm sorry.

5 MS. DEYSACH: I'm sorry. That would testify to
6 potentially ill feelings, hostile acts. Two are lay-
7 witnesses. One is law enforcement. I don't know how you
8 wanted to handle that.

9 THE COURT: Well, we need to get going. Maybe what
10 we can do -- in what order are they?

11 MS. DEYSACH: They're all in a row.

12 THE COURT: All in a row. What we can do is -- did
13 you all have any argument based on the testimony, before
14 we take a quick break?

15 MS. DEYSACH: I can go ahead and state my position,
16 if your Honor would like.

17 THE COURT: Okay.

18 ARGUMENT ON PROFFERS, ON BEHALF

19 OF THE STATE, BY MS. DEYSACH:

20 MS. DEYSACH: Your Honor, as we spoke about
21 yesterday, the State does not believe that this is a Lyle
22 analysis, but believes that this is all relevant evidence
23 that is admissible to show that animosity existed between
24 Masako Miller and Kelvin Jackson. And just as Mr.
25 Johnson questioned, I think, Shacoby Hammond, on the

1 stand about some of these arguments, some of these,
2 verbally, maybe Masako did pick at Kelvin. But the State
3 needs it to prove not only identity and motive, you know,
4 in this -- not only motive, but identity in this very
5 circumstantial case.

6 The thing is, is that when she got him out of her
7 life, when he can't control her, he resorts to violence.
8 That's what this case is about. It's about control and
9 him resorting to violence, because he has no control over
10 her. I think all the testimony that you heard is very
11 clear, she's a battered woman. He's always snatching her
12 phone, destroying her phone, destroying her property,
13 very jealous, always questioning her.

14 The testimony that Joyce Loadholt testified to, the
15 bruises that she observed, shows animosity between the
16 parties. She told Joyce that it was from a fight by
17 Kelvin, some of which she heard on the phone, which would
18 come in under hearsay exceptions 803(1) and 803(3),
19 present sense impression; he was crazy as hell; and
20 Masako's then-existing mental and emotional condition.

21 Even if we had to go under 404(b), motive and
22 identity are an issue. He had flown into a jealous rage.
23 Identity, because he's the only one that would do so.
24 He's the only one that Masako had problems with. Motive
25 and identity are really hard to separate in this case,

1 because that's the thing, I mean, he's the one with the
2 motive.

3 Shacoby Hammond testified about an incident at her
4 house that she observed when he was all over her. Saw
5 hand marks and bruises on her. Testified that she was
6 scared of him at times. I handed up a case, *State v*
7 *Weston*, regarding testimony about the victim's present
8 state of mind, which falls under the hearsay exception
9 803(3).

10 Altercations and injuries that Shacoby can testify
11 to go to animosity between the parties, motive, and
12 identity.

13 Clarence Wrice. The victim was afraid of the
14 defendant. She didn't want Clarence Wrice coming around
15 too much, because she was afraid of what Kelvin Jackson
16 might do to him or her. The night that Masako went
17 missing, Kelvin Jackson was spotted by a witness on foot,
18 in her neighborhood.

19 MR. JOHNSON: Your Honor, I'm going to object. They
20 had -- none of that come in.

21 MS. DEYSACH: This goes to motive. This goes to
22 State's position on that.

23 MR. JOHNSON: Your Honor, can I get the Court to
24 help me? I mean, none of that came by in the testimony.

25 THE COURT: It's argued.

1 MS. DEYSACH: That's right.

2 THE COURT: You'll have an opportunity to rebut.

3 MR. JOHNSON: All right. Yes, ma'am.

4 MS. DEYSACH: It will be presented by the State.

5 But a witness saw Mr. Jackson skulking about her
6 neighborhood on foot, when Clarence Wrice, her boyfriend,
7 was visiting her. They had an hour-long talk on the
8 porch. We intend to elicit that testimony from Mr.
9 Wrice, as well as the witness that sees Mr. Jackson.

10 But in addition to that, Mr. Jackson, by his own
11 admission, admits that he was in that neighborhood at
12 that time. What we think happened is, he saw Mr. Wrice
13 and Masako together talking, flew into a jealous rage,
14 and this is -- and the result is Masako Miller floating
15 in the Broad River four days later. So, it does go to
16 motive and identity.

17 I believe I put on the record my reasons for that
18 the State believes this testimony is admissible. The
19 other three witnesses we would seek to call are

20 S.D. , her daughter; Pat White, another friend
21 of hers. If I may, I can just summarize what we intend
22 to elicit from these witnesses.

23 From S.D. , she can testify that the defendant was
24 kicked out of the house; that K.J., Kelvin Jackson,
25 argued with her mother after being evicted. That would

1 go to show motive and identity. That there were several
2 broken phones. They got into a number of altercations
3 that she witnessed.

4 She witnessed him to be abusive to her mother, and
5 even pushed her when she was trying to defend her mother.
6 He was jealous of other men. All of those things go to
7 show animus existed between the parties at the time of
8 the murder.

9 I know timing is an issue for Mr. Johnson. Clarence
10 Wrice did testify that he and the victim had been
11 together for about year. So, really, most of these
12 occurrences had taken place at the end of Masako and
13 Kelvin's relationship, as Shacoby Hammond testified. And
14 I'm sorry I'm going back to this, but everything was fine
15 in the beginning. Things -- things were happy in the
16 beginning.

17 Pat White, the next witness after the victim's
18 daughter, actually warned Masako to be very careful when
19 she began going out in public with Clarence Wrice. She
20 knew that Masako had bought cell phones for the kids, so
21 that she would not have to talk to the defendant herself
22 when he wanted to talk to the boys. She also saw a
23 threatening text, or a text that she took as threatening,
24 to the effect of he better not catch the new boyfriend at
25 the house. We would be seeking to admit that as an

1 admission by a party opponent. It goes to motive, as
2 well as identity.

3 Lastly, Jimmy Murcier was a trusted Hampton Police
4 Department officer that Masako kind of turned to when she
5 felt like she needed help. I'm not seeking to get any
6 particular statements that Masako made to him in. All I
7 want him to testify about is that he received multiple
8 calls regarding problems between the victim and the
9 defendant. And Mr. Johnson can cross-examine him all he
10 wants on that. You know, I'm not saying it was always,
11 you know. Perhaps Masako picked at him first. But the
12 fact remains that he received several calls regarding
13 problems between them. He was the perpetrator; she was
14 scared of him. She actually had some sort of system that
15 Hampton Police Department helped install with a laser
16 beam or something like that to tell when somebody was in
17 her house, because she was scared that Kelvin Jackson was
18 going in her house. Those calls would just show that
19 animus existed and prove the identity of the perpetrator.

20 Varnville P.D., I'm not seeking to call regarding
21 that 2007 report.

22 And lastly, I just want to make one point, because I
23 know yesterday Mr. Johnson brought up Crawford. And I do
24 just want to put on the record that Crawford only applies
25 to testimonial hearsay. What the State is seeking to get

1 into is non-testimonial hearsay. They were not
2 statements made to police in order to implicate the
3 defendant in a later crime. She didn't know he was going
4 to kill her. These are, you know, most of the -- all the
5 people I'm eliciting statements from are about things
6 that she said are lay witnesses. They were not
7 interrogating her. These were statements that she made
8 to good friends of hers. And I'll close on that. Thank
9 you.

10 THE COURT: Mr. Johnson.

11 ARGUMENT ON PROFFERS ON BEHALF

12 OF DEFENDANT, BY MR. JOHNSON:

13 MR. JOHNSON: Thank you, your Honor. I just looked
14 at the -- last night I was reading the information the
15 State gave me, and the only thing in murder cases or
16 homicide cases, the test was laid out in *State versus*
17 *Braxton*. And *State versus Braxton* started with the Lyle
18 test. And then, after going to the Lyle test, it went to
19 403, to the do the prejudicial versus probative. And
20 then, there was some discussion about ill will and acts
21 like that, that only went to motive, only could come in
22 to do motive and identity.

23 Your Honor, the problem with this case is, what's
24 distinguished it from every one of the other cases in my
25 understanding is, in all of those cases, they knew who

1 the perpetrator was or had some other substantial
2 testimony to point to that person. In this case, your
3 Honor, and what the Court has not heard yet, there is
4 absolutely no factual testimony to point that Mr. Jackson
5 committed this murder, which is different from those
6 other cases.

7 The State first has to prove that there was a
8 homicide before they could prove identity and motive.
9 And I think we're putting the cart in front of the horse
10 a little bit. Right now, your Honor, quite frankly, I
11 don't -- in my opinion, the State has to prove a
12 homicide. And then, if you prove it, then you can try to
13 identify the motive and the identity, if you can get by
14 403.

15 There is no testimony where the State can present
16 where somebody can identify him as the person that
17 committed this crime. Everything is conjecture,
18 speculation. And that's what we're dealing with. And
19 why it makes it so much prejudicial and what separates it
20 from the other cases is, the proposed perpetrators were
21 identified. In this case, they're trying to establish
22 the identity. They're not only trying to establish the
23 identity of the perpetrator, they're trying to establish
24 if there was even a homicide, which is prejudicial to my
25 client.

1 You can't take -- and my position is, they shouldn't
2 be allowed to take him -- take prior bad acts, establish
3 he did it, so they can use establishing he did it to
4 establish a homicide.

5 And so, your Honor, I think under -- and I wrote
6 them down, so under 404 is definitely character evidence.
7 Under 403, it's more prejudicial than probative. I don't
8 think they established that it goes to motive and/or
9 identity, because all they did is talk about what they
10 did. Nobody -- not one person on that stand established
11 that either one of those acts showed a nexus to this
12 case. Therefore, the prior bad act is going to be -- and
13 then, how do you cross -- if they are allowed to put that
14 in, and then the only way for me to cross-examine them on
15 it is to open it up. So, I'm put in the position where
16 either I've got to sit there and accept it; or, then
17 cross-examine them on it, and open up further situations,
18 if the Court so allows me to go that far in the cross-
19 examination.

20 I mean, we're kind of in a box, your Honor. The
21 whole reason for 404 is if that this kind of evidence
22 does not get in, because it box us in. The whole reason
23 for *Crawford*, I think *Crawford* does with testimony and
24 non-testimony, because most of the stuff we got is people
25 testifying about what she told them as a whole. There

1 were a couple incidents where they can talk, but most of
2 it is what she told them.

3 So, this case is based upon her one-sided
4 information given to them, which is going to be used
5 against Kelvin. And we just think it's overly-
6 prejudicial, it's overly-biased. It's going to put us in
7 a position where we cannot defend this case, and 404,
8 403, and I don't think it goes to motive, and Crawford.
9 Those are my objections to any of this bad-act testimony
10 coming in.

11 THE COURT: Thank you. What we'll do now is, we'll
12 go ahead and take that five-minute break, and then we'll
13 come back.

14 MR. THORNTON: Thank you, your Honor.

15 MS. DEYSACH: Thank you, your Honor.

16 OFF THE RECORD 10:44 A.M.

17 BACK ON THE RECORD 10:55 A.M.

18 RULING ON ARGUMENT ON PROFFERS

19 BY THE COURT:

20 BAILIFF: All rise.

21 THE COURT: Thank you. You may be seated. Okay.
22 I've had opportunity to consider the testimony and the
23 arguments of Counsel on these matters. And I think as
24 far as the testimony is concerned, we're looking at the
25 totality of what is anticipated to be testified to. I

1 think, clearly, the evidence of animosity between the
2 parties does go to show motive and identity. However, I
3 caution you to be very careful. And when they testify,
4 basically, if they're able to recognize the defendant's
5 voice, -- I think Ms. Loadholt heard the conversation,
6 heard the argument. She must be able to identify that it
7 was the defendant's voice before she can testify
8 regarding the argument.

9 Secondly, I don't think she's allowed to testify
10 regarding her opinion as to where the bruises came from.
11 She can certainly testify that the argument was the night
12 before; the following day she had bruises. So, I think
13 you make sure that's limited to that testimony.

14 Further, on Ms. Hammond, I think, clearly, her
15 testimony is admissible as far as what she witnessed. I
16 think that's clearly admissible. As far as whether or
17 not the victim was afraid of the defendant, I think if it
18 comes in under the presence sense impression. However,
19 what is not admissible is that she said the defendant was
20 crazy. I think that's -- because it's a declarant of
21 another person's state of mind. So, I think that doesn't
22 fall within the exception. So, that testimony must not
23 come in.

24 And also, the wallet and the keys being stolen by
25 him, I don't think that's relevant. That's not coming

1 in. I don't think the sugar in the car, I don't think
2 that's relevant, and that's not coming in. I think that
3 goes more to character. Nobody can prove it was him.
4 Everybody's just making conjectures just because he has
5 access to the car. Nobody's proven by clear and
6 convincing evidence that that was an action that was done
7 by the defendant.

8 And as far as all these, the ones that are
9 admissible, I certainly think that the probative value
10 outweighs any prejudicial effect under 404(b). And on
11 the last one, I think, with the sugar, I think the
12 prejudice outweighs the probative value of that. So,
13 that's the ruling on those issues. Is there anything
14 else that I left out?

15 MR. JOHNSON: Your Honor, I know that this is a
16 little unusual, and I have not talked to the Solicitor
17 about this.

18 MR. JOHNSON TALKING WITH MR. THORNTON.

19 MR. JOHNSON: Your Honor, may we approach?

20 THE COURT: Sure.

21 OFF-THE-RECORD BENCH CONFERENCE,

22 OUT OF PRESENCE OF JURORS.

23 PRESENT: THE COURT, JUDGE MULLEN,

24 MR. THORNTON, MS. DEYSACH, MR.

25 JOHNSON, MR. WILLIAMS.

1 END BENCH CONFERENCE.

2 THE COURT: We'll be at ease for about ten minutes.

3 MR. THORNTON: Thank you, your Honor.

4 OFF THE RECORD 11:00 A.M.

5 BACK ON THE RECORD 11:21 A.M.

6 BY THE COURT:

7 BAILIFF: All rise.

8 THE COURT: Thank you. You may be seated. Are we
9 ready to bring the jury in?

10 MS. DEYSACH: Yes, your Honor.

11 MR. JOHNSON: Yes, your Honor.

12 THE COURT: Will you bring in --

13 BAILIFF: Yes, ma'am.

14 JUDGE MULLEN: Lasandra, are you going to swear them
15 in for us?

16 MADAM CLERK: Yes, ma'am.

17 JUDGE MULLEN: Thank you.

18 BAILIFF: Your Honors, the jury is entering.

19 THE COURT: Thank you.

20 JURORS ENTER COURTROOM 11:23 A.M.

21 THE COURT: Ma'am, please step forward.

22 BAILIFF: Your Honors, the jury is seated.

23 THE COURT: Thank you. Good morning, ladies and
24 gentlemen of the jury. We are so sorry to have you
25 locked up back there and waiting, but I promise you ever

1 since that you have been released yesterday afternoon, we
2 have been working hard to try to make this trial more
3 efficiently run for you, so that you don't have to keep
4 getting up and down. Of course, that happens, but we
5 have been working hard to get this case ready for you.

6 And of course, we want to thank you for taking the
7 important responsibility of jury service and for your
8 contribution to our justice system. Today, we're going
9 to begin the trial of the State of South Carolina versus
10 Kelvin Jackson. Before we do that, though, I'm going to
11 have you sworn in to be the jury.

12 SWEARING OF JURORS, MADAM CLERK:

13 MADAM CLERK: Yes, ma'am. Ladies and gentlemen of
14 the jury, would you please stand and raise your right
15 hand for me, please. Do you solemnly swear or affirm
16 that you shall well and truly try and true deliberance
17 make between the State of South Carolina and the accused
18 at the bar, and a true verdict give, according to the
19 evidence, so help you God? Please answer by saying, I
20 do.

21 RESPONSES BY JURORS.

22 MADAM CLERK: You may be seated. Thank you.

23 OPENING CHARGE, BY THE COURT:

24 THE COURT: Once again, this is the trial of the
25 State versus Kelvin Jackson. Mr. Jackson has been

1 indicted for the crime of murder. And what I will now
2 say to you is basically just intended to introduce you to
3 what's going to happen in the case, just some
4 introductory remarks. I will instruct you on the law of
5 the case later, before you retire to consider your
6 verdict. This is merely an explanation of the procedure
7 that we will follow during the trial.

8 I have previously read from the indictment. And
9 basically, the indictment is simply the charge by which
10 the case is brought into this court. It's not, in any
11 sense, evidence of any allegations that it contains. The
12 defendant has pled not guilty to this indictment, and the
13 State, therefore, has the burden of proving each and
14 every element of the indictment beyond a reasonable
15 doubt. It will be your duty, ladies and gentlemen, to
16 decide whether the State has met that burden.

17 Your purpose as jurors is to find and determine the
18 facts. You are the sole judge of the facts. If, at any
19 time, I make any comment regarding the facts, you must
20 disregard it. You are to determine the facts from the
21 testimony that you hear and other evidence introduced in
22 court. It is up to you to determine the inferences from
23 which you feel may be properly drawn from the evidence.
24 It is especially important that you perform your duty of
25 determining the facts diligently and conscientiously.

1 Because, ordinarily, there's no way to correct erroneous
2 information of the facts by the jury.

3 On the other hand, and with equal emphasis, the same
4 law that makes you the judges of the facts makes me and
5 Judge Mullen the judges of the law. The law as given by
6 the Court is the only law that you may consider. You
7 must accept and follow it, even though you may disagree
8 with it. I cannot tell you what the facts are, and you
9 cannot disagree with me about what the law is or what
10 should be. Your job is to take the law as I give it to
11 you, and apply it to the facts as you find them, from the
12 testimony from the witnesses and any other evidence
13 that's introduced. After that, you will render your
14 verdict, true and just verdict, under the solemn oath
15 that you just took.

16 Until I advise you to begin your deliberations, you
17 must not discuss this case with anybody. You must not
18 discuss this case amongst yourselves. And as we
19 discussed yesterday, you must not text or do any kind of
20 investigation on your own, or Google, or look at the
21 news, or Tweet, or any of those things, because that
22 would be improper.

23 Also, as you can see, there are several cameras in
24 the courtroom. Do not let that affect you in any way,
25 shape, or form. They here -- they can be in the

1 courtroom. However, they have been instructed they are
2 not allowed to take pictures of you or identify you in
3 any way. So, put that out of your mind, as it will not
4 have anything to do with you.

5 After the case is submitted to you, you must discuss
6 it only in the jury room, with your fellow jurors.

7 Attorneys and parties in the case have been advised not
8 to talk to you at all. I think we discussed this a
9 little bit yesterday. If you see someone in the hallway,
10 don't think that they're being rude. The parties are
11 just not allowed to discuss the case with you, because it
12 could be misconstrued.

13 So, it's important that you keep an open mind and
14 not decide any issue in the case until all the evidence
15 has been presented and the parties have made their
16 closing arguments and I instruct you on the law. It is
17 your solemn responsibility to determine the guilt or
18 innocence of the defendant, and your verdict must be
19 based solely on the evidence, as it is presented to you
20 in this trial, and on the law, as I instruct it to you at
21 the close of the trial.

22 In just one moment, the Solicitor will make what is
23 called an opening statement, in which the Solicitor will
24 explain to you the issues in this case, or at least what
25 the Solicitor thinks the issues are in this case. And

1 the attorney for the defendant may also make an opening
2 statement, although he is not required to do so.

3 What the attorneys tell you during the opening
4 statements is not evidence in this case. It is only
5 their contention as to what the issues are. The evidence
6 in this case will be presented to you by the testimony of
7 the sworn witnesses from the witness stand and/or any
8 exhibits that may be introduced during the trial.

9 From time to time during the trial, you may hear one
10 of the lawyers say something that they have a question of
11 law or an objection and whatnot, and that's something
12 that I have to rule on as a matter of law. It may become
13 necessary, from time to time, when that comes up, to
14 excuse you from the courtroom, for a brief period of
15 time, but we'll try to make as efficient use of your time
16 as possible.

17 In determining the true facts in this case, you must
18 decide whether or not the testimony of the witnesses is
19 believable. It will be my responsibility to rule as a
20 matter of law, as to whether certain testimony is
21 admissible or not. But once testimony is admitted,
22 whether or not you believe it is solely up to you.

23 In deciding whether to believe a witness, you have
24 the right to consider the interest of any witness, the
25 bias of any witness, the prejudice of any witness, the

1 opportunity for any witness to have seen the matters and
2 the things about which the witness may testify, and how
3 the witness acts on the witness stand. You have the
4 right to consider anything that is in the record that
5 will help you evaluate the testimony of the witnesses.
6 That means it is your duty to pay close attention to the
7 witnesses, to observe the witnesses, to listen to the
8 witnesses, and pay close attention to the attorneys and
9 the Court. Don't let your thoughts wander, but give
10 strict attention to the testimony of this case, as it is
11 an important matter.

12 At the end of all the testimony and the closing
13 arguments, I will charge you on the law, and then you'll
14 be in a position to determine what the true facts of this
15 case are.

16 It is your added duty, Mr. Foreman, that you are the
17 jury spokesperson to the Court. And it will, also, at
18 the end of the trial, be your duty to write the verdict
19 on the indictment.

20 Any objections or additions from the State on the
21 opening charge?

22 MS. DEYSACH: No, your Honor.

23 THE COURT: From the defendant?

24 MR. JOHNSON: None, your Honor.

25 THE COURT: Thank you. You may call your case.

1 MS. DEYSACH: Thank you, your Honor. May it please
2 the Court?

3 THE COURT: Yes, ma'am.

4 OPENING STATEMENT ON BEHALF OF

5 THE STATE, MS. DEYSACH:

6 MS. DEYSACH: In the spring of 2011, Kelvin Jackson
7 had lost control. He could no longer control the
8 estranged girlfriend and mother of two of his children,
9 Masako Yamaguchi Miller. She had finally said she's
10 done. Done with the on and off again, ten-year,
11 tumultuous relationship that they shared. She had moved
12 on. She had kicked him out of this house. She had
13 separated their finances. And she even had a new man in
14 her life.

15 In the wee hours of May 26, 2011, Kelvin Jackson
16 decided that he had been disrespected by Masako for the
17 last time. The last thing that he could control was
18 whether she lived or she died. Sadly, he chose to make
19 sure that nobody else could have her. Sounds like the
20 oldest story in the book. I know. But it rings true
21 here, and Kelvin Jackson is on trial for murder, for
22 murdering his estranged girlfriend and mother of two of
23 his kids.

24 Masako was 34 years old. She was the mother of
25 three, and she was a hard worker. Devoted mom, took good

1 care of her kids, very dependable employee. It was odd,
2 then, when she didn't show up for work on Thursday, May
3 26, and her co-workers were concerned. Her co-worker and
4 friend, Joyce Loadholt, who you're going to hear from,
5 was concerned enough to actually leave work early that
6 day and go report her missing to the Hampton Police
7 Department.

8 Local law enforcement then did a welfare check. And
9 what they found at Masako's house was her car in the
10 driveway, her work bag ready to go to work, and her shoes
11 by the door, but no sign of Masako.

12 When Joyce later talked to S.D. , Masako's 14-year-
13 old daughter, she also learned about something else that
14 was left at the house, a note, a note unlike any that her
15 mother had ever written. Didn't look like her mother's
16 handwriting, but guess whose writing it did look like?
17 Kelvin Jackson's.

18 The day before Masako disappeared was pretty
19 ordinary. It was a Wednesday. She had been to work that
20 morning. She came home that afternoon, early afternoon.
21 Took a walk with her kids. Went to go see a friend,
22 Stephanie Williams, who you're going to hear from on the
23 witness stand. She went to Bilo, got some groceries,
24 cooked dinner that night. And then, her new boyfriend,
25 Clarence Wrice, who you're also going to hear from, came

1 by and visited with her. They spent about an hour
2 talking that evening on Masako's front porch. Her air
3 conditioning was broken. It was really hot in the house,
4 so they spoke outside.

5 You're also going to hear about a witness that we
6 have that spotted Kelvin Jackson skulking around Masako's
7 neighborhood on foot, about the same time that Masako and
8 Clarence are talking on her front porch. Later on that
9 evening, an HVAC repairman stops by to take a look at her
10 unit.

11 And then, into the early morning hours of May 26,
12 things get a little fuzzy. That's when Kelvin Jackson,
13 by his own admission, puts himself with Masako. He says
14 he went to visit her in the early morning hours of May
15 26. The next thing we know is that he is using Masako
16 Miller's debit card, or attempting to use her debit card,
17 at the Shell station in Hampton, at 2:26 a.m. No sign of
18 Masako.

19 A few hours later, he's at Walterboro, checking in
20 at the Palm Inn and Suites under a fake name, and paying
21 cash for the room. No sign of Masako.

22 Four days later, Masako's floating in the Broad
23 River, and a fisherman comes upon her body that had been
24 cut up by oyster shells.

25 Now, you're going to hear that Kelvin Jackson has a

1 story to tell investigators. In fact, he tells many
2 stories to investigators. You're going to lose track of
3 all the lies he tells when he is questioned about his
4 whereabouts on May 25 and May 26.

5 As Judge Murphy told you, you guys are the judge of
6 the facts in this case. As jurors, it is your distinct
7 honor to determine the truth. And that's all we ask you
8 to do, is determine the truth from the evidence put up by
9 the State on the witness stand. Use your common sense to
10 judge the credibility of these witnesses.

11 Now, we do bear the burden of proof here, and we
12 must prove to you beyond a reasonable doubt that Kelvin
13 Jackson committed this murder. That does not mean beyond
14 any doubt. It means beyond a doubt that would cause a
15 reasonable person to hesitate to act.

16 To be frank with you, this is a circumstantial case.
17 There is not what you would call a smoking gun here. But
18 at the end of the case and at the end of all of the
19 evidence, I think that you will find the pieces of the
20 puzzle fit together quite nicely. I know it's a lot of
21 testimony, it's a lot of witnesses, and you got to pay
22 attention, and you have to do some difficult work to put
23 it together. That's what we're going to ask you to do at
24 the end of this case, and come to the only logical and
25 reasonable conclusion when you put that puzzle together,

1 and find Kelvin Jackson guilty of the murder of Masako
2 Yamaguchi Miller.

3 THE COURT: Mr. Johnson.

4 MR. JOHNSON: May it please the Court, your Honor?

5 THE COURT: Yes, sir.

6 OPENING STATEMENT ON BEHALF OF:

7 DEFENSE, MR. JOHNSON:

8 MR. JOHNSON: Both of you all at the Solicitor's
9 table, Madam Forelady, ladies and gentlemen of the jury,
10 my name is Virgin Johnson. I'm from Orangeburg, South
11 Carolina by way of Estill. My partner, Korey Williams,
12 is sitting right there. And Kelvin Jackson, the accused,
13 is sitting by the Korey.

14 In law school, they teach us to come up with a
15 theme. This is a very unique case. I don't have a theme
16 for you. The only thing I can tell you today is, this is
17 a case about who did it. And you all are going to get
18 some facts. Like the Solicitor said, this is a
19 circumstantial case. You all going to get some facts
20 that's going to show both ways. And at the end of the
21 day, we're going to look for you all to sift through the
22 facts and come with a verdict that speaks the truth.

23 The Solicitor has the burden of proof. That's a big
24 deal in our system. The burden of proof mean they've got
25 to prove it, because there are times when you cannot

1 prove yourself innocent. So, our system says they have
2 the burden of proving that a murder was committed by
3 Kelvin. And the second part of that standard is, it must
4 be proved beyond a reasonable doubt. In other words, a
5 doubt that would cause one to hesitate to act.

6 And to start off, as the Solicitor said, yes, Kelvin
7 lied. The question you're going to have to determine is
8 why he lied, and that's why you're here, to determine the
9 facts, to listen to the case. Nobody to reward and
10 nobody to punish. Just to be fair. And that's Mr.
11 Jackson's request today from each and every one of you,
12 to be fair. No sympathy, but to be fair to the State and
13 to be fair to the Defense.

14 We're supposed to lay out a little bit of what we
15 think the evidence will show. The evidence will show
16 Kelvin came there. The evidence will show Kelvin saw
17 Masako. The evidence will show that he used her card.
18 The evidence will not show that Kelvin killed her.

19 You all already attentive. Please be this attentive
20 to every witness in this trial, because everything in
21 this trial is very important. It's not that the others
22 are not, but this one is especially important, because
23 this is a circumstantial case. We need you to do your
24 all's work, to thrash it out, and to be fair. Please,
25 please be fair. Thank you.

1 THE COURT: You may call your first witness.

2 MS. DEYSACH: Thank you, your Honor. State calls
3 Joyce Loadholt.

4 BAILIFF: Step forward. Go over there to be sworn,
5 please, ma'am.

6 MADAM CLERK: Put your hand on the Bible. Do you
7 solemnly swear to truthfully answer all questions asked
8 of you by this Court, so help you God?

9 MS. JOYCE LOADHOLT: Yes, ma'am.

10 MADAM CLERK: Please be seated. State your name,
11 and spell it for the Court.

12 MS. LOADHOLT: Joyce Loadholt. J/o/y/c/e
13 L/o/a/d/h/o/l/t.

14 JOYCE LOADHOLT

15 DIRECT EXAMINATION BY MS. DEYSACH:

16 Q Good morning, Joyce.

17 A Good morning.

18 Q I want you to start by telling the jury a little bit
19 about yourself. How old are you?

20 A Fifty-one.

21 Q And where do you live?

22 A Allendale.

23 Q And where do you work?

24 A Scottsman.

25 Q And what's Scottsman?

1 A A ice system. We make ice machines.

2 Q Okay. How long have you worked there, Joyce?

3 A Going on seven years.

4 Q And do you know Masako Miller?

5 A Yes.

6 Q How do you know Masako Miller?

7 A When I came to Scottsman in 2006, Masako was a T-4.

8 That mean she trains the new employees that comes in.

9 Q Did she train you?

10 A Yes.

11 Q Were you friends with Masako Miller outside of work?

12 A Yes.

13 Q Do you know who Kelvin Jackson is?

14 A Yes.

15 Q And how do you know who Kelvin Jackson is?

16 A Through Masako.

17 Q And what was he to Masako?

18 A Her boyfriend.

19 Q Okay. Did they have any kids together?

20 A Yes.

21 Q How long were they together? Do you know?

22 A No.

23 Q Was she with him the whole time you knew her?

24 A No.

25 Q Okay. Did they break up and get back together, or

1 what was the situation?

2 A Yes. Off-and-on relationship.

3 Q Did they live together?

4 A Yes.

5 Q Did they always live together?

6 A Not all the time, no.

7 Q Do you remember if she eventually kicked him out of
8 her house?

9 A Yes.

10 Q Do you remember about when that was?

11 A Around January.

12 Q Okay. Of 2011?

13 A Yes.

14 Q So, like a few months before she died?

15 A Yes.

16 Q Do you know if she and Kelvin Jackson fought?

17 MR. JOHNSON: Your Honor.

18 MR. WILLIAMS: Your Honor, object to the leading
19 witness.

20 BY MS. DEYSACH:

21 Q Do you remember Masako coming to work with any
22 injuries?

23 A Yes.

24 Q Describe those injuries that you remember her coming
25 to work with.

1 A She had one on her face and one on her arm.

2 MR. WILLIAMS: Your Honor, for the record, I object
3 to the introduction of testimony of prior bad acts at
4 this time.

5 THE COURT: Your objection is overruled.

6 BY MS. DEYSACH:

7 Q Okay. So, you remember two bruises?

8 A Yes.

9 Q One on her face and one on her arm.

10 A Yes.

11 Q Did you speak to Masako the night before she came
12 into work with those bruises?

13 A Yes.

14 Q You were on the phone with her.

15 A Yes.

16 Q Who did you hear on the phone?

17 A Masako called me.

18 MR. WILLIAMS: Object.

19 THE COURT: The ruling -- I understand your
20 objection. Pursuant to my previous ruling.

21 MR. WILLIAMS: Your Honor, just for the record, it
22 is leading, your Honor. And the -- as far as -- there's
23 been no foundation been established that she can testify
24 to who the identity of the person on the other end of the
25 phone conversation was.

1 THE COURT: I think we're maybe jumping the gun here
2 a little bit. I think she's trying to establish that
3 foundation, and at the proper time, you can object.

4 BY MS. DEYSACH:

5 Q You were on the phone with Masako Miller the night
6 before she came to work with the bruises.

7 A Yes.

8 Q Okay. And I'm sorry. I know that's kind of
9 leading. I'm just re-establishing what she just
10 testified to. What were you and Masako talking about?

11 A She had called me, and she said she -- her and
12 Kelvin was arguing. And she basically called me to just
13 talk to me. And they were arguing so much, we couldn't
14 really get into a -- into a conversation.

15 Q So, they were arguing while you were on the phone
16 with Masako.

17 A Um-hmm.

18 COURT REPORTER: Is that yes?

19 A Yes.

20 Q I'm sorry. Make sure you say yes or no.

21 A Okay.

22 Q Did you recognize anybody else's voice, when you
23 were on the phone with Masako.

24 A No.

25 Q Did you hear anyone, other than Masako, speaking?

1 A Yes.

2 Q And who did you hear?

3 A Kelvin arguing.

4 Q Okay. And you recognized his voice?

5 A Yes.

6 Q Okay. And could you hear what he was saying?

7 A He was cursing her. Calling her -- he was cursing
8 her, calling her all kind of names. And she was saying
9 he had to go, that night. And she said, *Ms. Joyce*, she
10 said -- she said, *I done told K.J. to leave now*. And he
11 was telling her he wasn't going. And then, her phone
12 went dead.

13 Q Is K.J. what she would call him?

14 A Um-hmm.

15 COURT REPORTER: Is that yes?

16 A Yes.

17 Q Was Masako scared of Kelvin Jackson?

18 A Yes.

19 MR. WILLIAMS: Objection. Speculative.

20 THE COURT: Overruled.

21 BY MS. DEYSACH:

22 Q There is another time -- well, let me ask you this.
23 Did you speak to Masako while she was at the hospital
24 with her son?

25 A Yes.

1 Q Did you call her or did she call you?

2 A She called me.

3 Q And why did she call you?

4 A She always called me.

5 Q Okay. What did she say?

6 A She say, *Ms. Joyce*, she say, *K.J. just came at the*
7 *hospital to see Markell. She said, But K.J. is in here*
8 *raising plenty hell. I said, Go have security put him*
9 *out.*

10 Q Okay. And did you recognize -- did you hear anyone
11 else's voice on the phone when you were speaking to
12 Masako that time?

13 A Kelvin. She was at the room of Markell, because she
14 was in the hallway, and Kelvin was in the room. And he
15 said -- well, he was arguing with her, saying that she
16 was disrespecting him, because she was talking to her
17 f'ing nigger.

18 Q Okay. Beg the Court's indulgence. Joyce, do you
19 recognize Kelvin Jackson in the courtroom today?

20 A Yes.

21 Q Can you identify him, please.

22 A Kelvin's over there.

23 Q Okay. Let the record reflect that she's pointing
24 over to defense counsel's table. Is he in between the
25 two lawyers?

1 A Yes.

2 Q All right, Joyce. Let's talk for a little bit about
3 the day before Masako went missing. When did you last
4 see Masako?

5 A We were walking -- we were walking out of the plant
6 at 3:30. We always walk out together.

7 Q Do you remember what day that was?

8 A Wednesday.

9 Q Okay. Do you remember the actual date?

10 A No.

11 Q That's okay. If I said May 25, would you be
12 inclined to agree with me on that?

13 A Yes.

14 Q Okay. Were you and Masako planning on doing
15 anything the next day?

16 A Yes.

17 Q And what was that?

18 A She had some repairs done to her air conditioner,
19 but the air conditioner didn't work. So, we were going
20 to go to the magistrate office to sign a warrant on the
21 guy that did the air conditioning work.

22 Q Okay. And you all had planned to do that on what
23 day?

24 A Thursday, after work.

25 Q What happened on Thursday when you got to work?

1 A When I got to work, one of our other co-workers came
2 and asked me, *Joyce, where's your buddy?* I say, *She's in*
3 *the work area.* He said, *No, our supervisor just came and*
4 *say she didn't come in.* So, I said, *What?*

5 And she always bring our lunch, because she makes
6 different dishes. And I say, *No. Let me go check with*
7 *David.* So, I left my work area, and went to the
8 supervisor. And I asked him, I said, *David, I said,*
9 *Masako didn't call in?* He said, *Joyce, she didn't call*
10 *in and she's not here.* I said, *That's not Masako.* I
11 said, *I just talked to her last night.* I said that she
12 said that she had our lunch packed, and that she would
13 see me the next day. I said, *Something is not right.* I
14 said, *Let me use your phone, David.* So, I got his phone
15 and I started calling her.

16 Q Did she answer?

17 A No.

18 Q What did you do after you couldn't get her to pick
19 up the phone?

20 A I went back to my work area, and it just wasn't --
21 it just wasn't right. So, I went back to David's office
22 and I asked David could I call her again. And I called
23 her again. And I said, *Masako, you better come to work*
24 *or call somebody and let somebody know that you're on*
25 *your way,* I said, *because no call, no show, that's*

1 automatic termination. And she had just got a new
2 vehicle, and I know she had said in our conversation the
3 day before, *Miss Joyce, I can't miss no work days.* And
4 so, therefore, I was continuing to call her. When I went
5 back to work, I just couldn't work, because I hadn't
6 heard from her. So, I asked David could I leave early to
7 go check and see what was going on.

8 Q So, you wanted to leave work early.

9 A Yes.

10 Q And what did you do once you left work early?

11 A I left work. And it was a guy, another co-worker,
12 he was getting off at 11:00, but he didn't have a ride.
13 So, I gave him a ride and put him out. Then, I went
14 straight to Hampton.

15 Q Hampton?

16 A South Carolina.

17 Q Okay. And where did you go in Hampton?

18 A To Masako house.

19 Q Okay. And what did you find at Masako's house?

20 A When I pulled up in the yard, her car was there.
21 The new vehicle she had just got was there. So, I got my
22 cell phone and I called her before I got to the door.
23 And when I called her, I still didn't get no answer. So,
24 I went knocking on the door. And I said, *Masako if you*
25 *in there, please come to the door.* So, I still didn't

1 get no answer. So, I called her back on my cell phone
2 again. And I say -- I said, *Masako*, you got me scared.
3 I say, *You're not calling me. You're not telling me*
4 *nothing. You're not saying anything. You're not calling*
5 *work. I said, Let me go to school and check with the*
6 *kids.*

7 So, I left and went to the school, to K school, and
8 asked could I speak with him, because she gave me -- I
9 had permission to go check on her children.

10 Q Okay. And who is K?

11 A Kelvin, Junior.

12 Q Okay. And that's a son of hers?

13 A Yes.

14 Q Once you went to his school, what happened?

15 A I went to the classroom, and I said, *K.K.*, I say --
16 he came out. He said, *Hey, Miss Joyce.* I say, *Hey.*
17 *Where's your mama?* He say, *She went to work.* I said,
18 *Oh, she -- yeah, she went to work.* So, he said, *I get my*
19 *prize? Cause I often keeps them, and I told them some*
20 *time when I'm going to come to the school and check on*
21 *them; if they're good, I'm going to get them something.*

22 Q After you went to see *K.J.*, --

23 A *K.K.*

24 Q -- what was your next move? What did you do after
25 that?

1 A My next move was I went back to the car and I got my
2 phone. I called Masako phone again. I say, *Masako*, you
3 going to think I'm really overboard now. I just talked
4 to K.K., and K.K. said you at work. I know you're not at
5 work, so I'm going to the police.

6 Q Okay. And what police department did you go to?

7 A Hampton.

8 Q What did you do, once you were at the police
9 department?

10 A I went to the police department, and it was a
11 officer that Masako always tell me that comes over a lot
12 of time her and Kelvin is fighting. And so, she said
13 that he comes over and try to talk to them before he try
14 to make anybody leave. So, she say, *If you ever have to*
15 go, *Ms. Joyce*, she say, ask for Captain. And she said,
16 *He'll come over to my house.* I told her, *Okay.*

17 When I went in the police department, Captain was
18 not working that day. And so, I told the lady at the
19 desk, I said, *I want to speak with Captain.* And she
20 said, *He's not here.* So, I said, *Okay.* So, I left, and
21 went and got back in my car, but I could not leave the
22 police department. It was just like -- it was just like
23 something was telling me that something wasn't right.
24 So, I cranked up my car and was trying to leave, but I
25 pulled back in front of the police department, because I

1 was parked on the side. And I went back in, and I told
2 the lady that I was wanting to know about one of my co-
3 workers, because she didn't come to work and she didn't
4 call in. And the lady said, *What is her name?*

5 Q Okay. And then, as a result of your request, did
6 the police then did do a welfare check?

7 A Yes. They told me that it's called a welfare check,
8 so it's not -- they told me wait a minute and they would
9 send a officer with me over there.

10 Q Okay. And did you go with the police?

11 A Yes.

12 Q And what did you all find when you got to the house?

13 A It was two police officers that came and went with
14 me over there. And we knocked on the door, and I told
15 them I had to knock. And then, me and the two officers,
16 after they checked the front door, the front door was
17 locked, we walked around the back. We went in through
18 the back. When we went in through the back, her shoes
19 was in the washroom. Her work bag that she brings to
20 work every day was on the table. So, I said, I told them
21 that I went to the school, but I said, *There go her work*
22 *shoes and there go her work bag.* And I said, *And she's*
23 *not at work.* And so, we went down into the bedroom.

24 Q Did you see anything unusual in the bedroom?

25 A No.

1 Q Later, did you speak with S.D. , Masako's daughter?

2 A Yes.

3 Q Did you see a note that had been left?

4 A S.D. showed me the note when I came back.

5 Q Would you recognize Masako's handwriting?

6 A Yes.

7 Q You had seen things that she had written before?

8 A Um-hmm, at work.

9 Q Okay. And did it look like her writing to you?

10 A No.

11 Q Did you later go to Masako's house the night that
12 she went missing?

13 A Yes.

14 Q Who all was there when you got there?

15 A When I left, that day after me and the polices left
16 that day, and they closed the house back up; and they
17 said wait for the kids to come home to see if she's going
18 to come back. Then, I went -- came -- went back to
19 Allendale, and Kobe told -- called me on the phone and
20 said, *Joyce, you've got to get down here now. Masako is*
21 *still not here.*

22 Q Who's Kobe?

23 A She's another one of our co-workers.

24 Q Okay. What's her full name?

25 A Shacoby Hammond.

1 Q Okay. Did you see Kelvin at Masako's house the
2 night she went missing?

3 A Kelvin came later.

4 Q Okay. Do you remember about what time it was?

5 A It was dark by that time, because he was on the
6 phone with Cassandra. And by the time he got there, it
7 was dark.

8 Q Okay. Can you describe his demeanor, that you
9 observed, when he was at the house that night.

10 A When Kelvin came to the house that night, I was out
11 in the yard, but I had al -- already was having some
12 conver -- talking to him and Cassandra. Because when I
13 got there that day, it was day, and Cassandra was on the
14 phone with him, and Cassandra was asking me that Kelvin
15 wanted to know what time did I get off work to report her
16 missing. So, I told Cassandra, and Cassandra told
17 Kelvin.

18 MR. WILLIAMS: Objection, your Honor. Hearsay.

19 THE COURT: You can't say what somebody else told
20 you.

21 A Okay.

22 MS. DEYSACH: Beg the Court's indulgence.

23 BY MS. DEYSACH:

24 Q Joyce, were you there when Kelvin arrived at her
25 house later that night?

1 A Yes.

2 Q How was he acting?

3 A Normal.

4 Q Normal?

5 A Um-hmm.

6 COURT REPORTER: Yes?

7 A Yes.

8 MS. DEYSACH: Please answer any questions that the
9 Defense may have for you, Joyce.

10 A Okay.

11 MR. WILLIAMS: Thank you. May it please the Court,
12 your Honor.

13 THE COURT: Yes, sir.

14 JOYCE LOADHOLT

15 CROSS-EXAMINATION BY MR. WILLIAMS:

16 Q Ms. Loadholt, you stated you had known Ms. Miller
17 about four years prior to 2011?

18 A Yes.

19 Q And you guys were pretty good friends, you stated.

20 A Yes.

21 Q How often did you talk to her? Did you talk to her
22 daily?

23 A Every day.

24 Q You discussed personal issues with her. Is that
25 correct?

1 A Yes.

2 Q You discussed your personal issues with her?

3 A Yes.

4 Q She discussed hers with you?

5 A Yes.

6 Q And I think you testified that you all discussed
7 issues about Kelvin. Is that correct?

8 A Yes.

9 Q You discussed issues about their relationship. Is
10 that correct?

11 A Yes.

12 Q And in 2007, was that -- was it 2007, when you
13 talked about the incident about the bruised arm?

14 A No, the bruising was that year she died.

15 Q Do you know what month that was?

16 A No. No.

17 Q Her and Kelvin were still together at this time?

18 A Off and on.

19 Q Masako told you why her and Kelvin were having
20 problems?

21 A It was another girl and another baby.

22 Q And that was the cause of their problems?

23 A I can't say all of them.

24 Q Did you ever -- did you tell Masako that she should
25 leave Kelvin?

1 A Yes.

2 Q You were her counselor, her relationship counselor?

3 A No.

4 Q You never witnessed any abuse by Kelvin towards
5 Masako; did you?

6 A No.

7 Q And I think you also testified that you overheard a
8 phone conversation. Is that correct?

9 A Yes.

10 Q How often did you talk to Kelvin?

11 A Me and Kelvin wasn't friends.

12 Q Did you talk to him daily?

13 A No.

14 Q Did you talk to him once a month?

15 A I talked with him once or twice.

16 Q Regularly?

17 A Not regularly.

18 Q Is it fair to say that you didn't know who was on
19 the other end of that phone that day? You didn't know if
20 it was Kelvin or another man. Is that correct?

21 A I know who she said it was.

22 Q Your testimony was that you recognized Kelvin's
23 voice. Is that correct? Is that correct?

24 A Yes.

25 Q Now, you're saying that she only told you that's who

1 it was. Is that correct?

2 A She told me that her and Kelvin was arguing. His
3 voice is different from when I talked with him when I
4 went there.

5 Q Is it that she told you that was him, or you knew it
6 was him, or you recognized his voice? Which one?

7 A She told me that it was Kelvin..

8 Q Okay. Thank you, Ms. Loadholt. Now, you talked,
9 also, about the day of May 24th. Is that correct? When
10 you got off work. Is that correct?

11 A Yes.

12 Q You and Masako had made plans to go somewhere the
13 next day. Is that correct?

14 A Yes.

15 Q Did you talk to her later that day?

16 A Yes.

17 Q About what time did you talk to her?

18 A I talked to her when she was walking in the park. I
19 talked to her when she was going to the grocery store. I
20 talked to her when she was back at home, cooking, and
21 children was getting a bath. And I talked to her again
22 when she told me she would see me the next day.

23 Q Just one question on the walking. When she was
24 walking in the park, only the boys were with her. Is
25 that correct?

1 A Yes.

2 Q Her daughter wasn't there.

3 A No.

4 Q Now, you testified that on the next morning, you
5 arrived at work your normal time. Is that correct?

6 A Yes.

7 Q And co-workers told you that Masako wasn't there.
8 Is that correct?

9 A Yes.

10 Q And about 11:00 o'clock, I think you said you got --
11 you said you asked your supervisor could you get off work
12 early. Is that right?

13 A Yes.

14 Q And you took it upon yourself, and you drove down to
15 Hampton.

16 A Yes.

17 Q You went to the house. Is that correct?

18 A Yes.

19 Q Nothing seemed out of order; did it?

20 A No.

21 Q You even went to the school. Is that correct?

22 A Yes.

23 Q What school did you go to? You went to K.J's --
24 K.K.'s school, as you call him.

25 A K.K.'s school. Yes.

1 Q And you talked to K.K.?

2 A Yes.

3 Q Didn't talk to S.D. ?

4 A No.

5 Q K.K. was the responsible one. Is that right?

6 A He was her child. He knew whether she went to work.

7 Q Your first instinct was to go find K.K., to find out
8 what -- where his mother was. Is that correct?

9 A K.K. was on my way back to Allendale. I was going
10 to go back to Allendale.

11 Q And you went to look for the son. You went to the
12 son's school.

13 A Yes.

14 Q After leaving the son's school, you went to the
15 police department. Is that correct?

16 A Yes.

17 Q And then, you went to the Hampton Police Department.

18 A Yes.

19 Q And you spoke to an officer, a female, you said at
20 the desk.

21 A Yes.

22 Q Then, you left. Or attempted to leave.

23 A Yes.

24 Q Started to drive off, went back in. Is that
25 correct?

1 A Yes.

2 Q Asked for some assistance.

3 A Yes.

4 Q Because you were -- you were concerned; weren't you?

5 A Yes, I was.

6 Q And the officers, they gave you -- the officers say,
7 *Wait a minute and we'll get you somebody to go with you*
8 *and check it out.* Is that right?

9 A Yes.

10 Q And they gave you two people to go with you.

11 A Yes.

12 Q And you all went back to Ms. Miller's residence. Is
13 that correct?

14 A Yes.

15 Q And this time, you went inside.

16 A Yes.

17 Q She was ready and packed for work as you -- is that
18 right?

19 A Her bag.

20 Q Lunch bag that she always has, it was on the table.

21 A And her shoes was there.

22 Q Work shoes.

23 A Um-hmm.

24 Q And you know that lunch bag, because she always
25 brings stuff for you guys at lunch. Is that right?

1 A Yes.

2 Q So, it's fair to say that she was ready and packed
3 for work.

4 A I don't know if our lunch was in there.

5 Q Okay. You looked through the house. Is that
6 correct?

7 A Yes.

8 Q You even went in the bedroom. Is that correct?

9 A Yes.

10 Q And you said everything seemed normal. Is that
11 correct?

12 A Yes.

13 Q You didn't find anything out of place.

14 A Not to my knowledge.

15 Q House wasn't torn up.

16 A No.

17 Q Nothing in disarray.

18 A No.

19 Q Not even in the bedroom.

20 A No.

21 Q And you've been to the house before, right?

22 A Yes.

23 Q On multiple occasions.

24 A Yes.

25 Q And if something was out of place, you would have

1 recognized it, right? As close as you guys were.

2 COURT REPORTER: Is that yes?

3 A Yes.

4 Q And you may have said this, and maybe I missed it.

5 Did you know what officers went with you? You don't
6 know?

7 A Officer Blue, and another one.

8 Q You said Officer Blue. Is that Major Bolton?

9 A Yes.

10 Q And you and the two officers, you left the house,
11 right?

12 A After they searched, yes.

13 Q They searched the house?

14 A We went through the back door. It was open.

15 Q Do you know -- did you make a report, any other
16 written report, at that time?

17 A On her?

18 Q Yes.

19 A No.

20 Q Begging the Court's indulgence for a moment, your
21 Honor. Ms. Loadholt, can I back up for just one second?
22 When you initially went to the Hampton Police Department,
23 you asked for a specific officer.

24 A Yes.

25 Q And you called him, if my notes are right, Captain?

1 A Yes.

2 Q Do you know what his name was?

3 A I didn't know his name. That's what name she gave
4 me.

5 Q And Masako and he had a relationship?

6 A No. He's -- he's the officer always come out there,
7 cause they had a lot of domestic violence going on
8 between her and Kelvin, so he come on a lot of her calls.

9 Q Did they have a relationship that you were aware of?

10 A No.

11 Q To your knowledge, had Masako or Kelvin ever been
12 arrested for a domestic violence with each other?

13 A Not to my knowledge, no.

14 Q To your knowledge, no officer ever came in and took
15 either one of them to jail for fighting with each other.

16 A No, not that I know of.

17 Q And you and her are real close, right?

18 A She ain't told me she never been to jail.

19 Q Had Kelvin gone to jail, she would have told you
20 that, too; wouldn't she?

21 A When he did go to jail, she did tell me.

22 Q And you talked about that. Okay. That was for
23 child support; wasn't it, for the other woman?

24 A It was for child support and for forgery check.

25 Q One moment, your Honor.

1 Ms. Loadholt, is it fair to say, of your own
2 knowledge, you have no idea what happened to Masako
3 Miller from 3:30, after you left her at approximately
4 3:30 on May the 24th? Or after you last spoke with her.
5 I'm sorry. Because you did say you spoke with her later
6 in the evening, but you didn't know what time. Is that
7 right?

8 A It was after 10:00.

9 Q Okay. And of your knowledge, you have no idea what
10 happened to her after that?

11 A No.

12 MR. WILLIAMS: Thank you. No further questions,
13 your Honor.

14 THE COURT: Any re-direct?

15 MS. DEYSACH: No re-direct, your Honor. Thank you.

16 THE COURT: Ma'am, you may step down.

17 MS. DEYSACH: Your Honor, may Ms. Loadholt be
18 excused?

19 THE COURT: Sure. Any objections?

20 MR. JOHNSON: Your Honor, no objection for Ms.
21 Loadholt being excused.

22 THE COURT: You're excused, Ms. Loadholt.

23 MS. DEYSACH: State calls Shacoby Hammond.

24 BAILIFF: Please go over there to be sworn, Ms.
25 Hammond.

1 MADAM CLERK: Would you place your left hand on the
2 *Bible* and raise your right hand for me, please. Do you
3 solemnly swear to truthfully answer all questions asked
4 of you by this Court, so help you God?

5 MS. SHACOBY HAMMOND: Yes, I do.

6 THE COURT: Please be seated. State your name and
7 spell if for the court.

8 A Shacoby Hammond. H/a/m/m/o/n/d.

9 SHACOBY HAMMOND

10 DIRECT EXAMINATION BY MS. DEYSACH:

11 Q Good morning, Shacoby.

12 A Good morning.

13 Q Can you just tell the jury a little bit about
14 yourself. How old are you?

15 A Thirty-four.

16 Q Do you have any children?

17 A Two kids.

18 Q And how old are they?

19 A Fifteen and four.

20 Q Where do you live?

21 A Varnville, South Carolina.

22 Q And where do you work?

23 A Scottsman United System.

24 Q Where is Scottsman located?

25 A In Fairfax, South Carolina.

1 Q How do you know Masako Miller?

2 A Well, my son's father, his mom and Masako's oldest
3 daughter, grandmom, they're best friends. And when
4 Masako had S.D. , I think they didn't have a carrier, a
5 baby carrier, to bring her home in. So, they came and
6 asked for my son's carrier, and that's how we met each
7 other.

8 Q Okay. So, you guys had kids about the same age.

9 A Yes.

10 Q And would you socialize outside of work?

11 A Yes.

12 Q She worked at Scottsman, too, right?

13 A Yes.

14 Q About how long have you known Masako?

15 A Oh, almost 15 years. Well, it would have been 15
16 years.

17 Q Would you say you guys were close?

18 A Yeah. We grew -- we grew closer, but sometimes we
19 went without talking for -- at one time it was almost a
20 year.

21 Q Did you know Kelvin Jackson?

22 A Yes.

23 Q How do you know Kelvin Jackson?

24 A Through Masako, when they first started talking.

25 Q Do you know how long they were involved with each

1 other?

2 A I want to say probably ten years or so.

3 Q Did you ever see them together?

4 A Yes.

5 Q On about how many occasions? Often or not often?

6 A Often. I moved right next door to them. So, they
7 were -- while he was staying with his mom, and then they
8 started living together in Fairfax, in an apartment.

9 Q How did they act with each other?

10 A Well, at first they were happy. You know, they used
11 to go places, go on vacations, do things together.

12 Q Did you ever see any fights that they had?

13 A I saw just one fight at my house.

14 Q Okay. Can you describe that.

15 A It was the Wednesday before Thanksgiving. He left
16 home. And that Saturday, she was at my house. He hadn't
17 come back home yet, so she stayed at my house. And he
18 came over to my house where she was, wanting her to come
19 home. And she said, no, she wasn't going with him. And
20 they started tussling in my living room. And my phone
21 rang. Masako and I had the same grey Razor phone, and he
22 assumed it was hers, and he picked it up, and he was
23 about to go through it, and I said, *Put my phone down.*
24 *That's my phone.* And he just kept -- he was standing up
25 over her -- over her, you know, like trying to get her up

1 out the chair, bending an arm back, and just pulling on
2 her. Just pulling on her. You know how you can just
3 take a person and just shake them, just trying to get her
4 up and make her leave. So, I called the police.

5 And the police came, and she went to my back door,
6 and she talked to the police, and she told them she was
7 all right. And he stayed there, and I asked him to leave
8 my house, but he wouldn't leave without her leaving with
9 him.

10 Q Did you ever see any injuries on Masako?

11 A Yes. She had like hand marks on her arm or either
12 on her neck. Just bruises.

13 Q Was your relationship with Masako different when she
14 was with Kelvin than when she wasn't with Kelvin?

15 A Yes.

16 Q Can you describe that.

17 A Well, when she wasn't with him, she would come by
18 the house, and we would go places, do things together.
19 But when he was back in the picture, she wouldn't call,
20 wouldn't text, and wouldn't come around.

21 Q Beg the Court's indulgence. Was she afraid of
22 Kelvin Jackson?

23 A Oh, yes.

24 MR. JOHNSON: Objection. Your Honor, speculation.

25 THE COURT: Overruled.

1 BY MS. DEYSACH:

2 Q I'm sorry. Your answer was?

3 A Yes.

4 Q And you testified that you knew Masako for about 15
5 years. Was she a good mom?

6 A A great mom.

7 Q Would she ever have left her children alone in the
8 house at night?

9 A I never knew her leaving them.

10 MR. JOHNSON: Your Honor, again, she cannot say
11 what's going on in Ms. Miller's mind. Objection.
12 Speculation again.

13 THE COURT: If think if you'd re-phrase the question
14 as to whether or not she has independent knowledge.

15 BY MS. DEYSACH:

16 Q Did you ever know of an instance, or do you know of
17 an instance, where she left her children at home alone in
18 the middle of the night?

19 A No. No.

20 MS. DEYSACH: Thank you. Please answer any
21 questions that the Defense may have for you.

22 SHACOBY HAMMOND

23 CROSS-EXAMINATION BY MR. JOHNSON:

24 Q I want to -- I want to -- I want to establish some
25 things. Tell the jury how good a friends you and Masako

1 -- I want to make sure I establish how good a friends you
2 are.

3 A Well, we were friends that told each other things.
4 When I had problems, I'd call and talk to her about
5 problems. When she had problems, she'd call and talk to
6 me about problems. Friends that went places together and
7 did things together.

8 Q But there was some problem that she would not talk
9 with you about. Is that correct?

10 A Yes.

11 Q Okay. And probably some problems you didn't talk to
12 her about. Is that correct?

13 A Yes.

14 Q Okay. So, what I'm trying to get at is, you didn't
15 necessarily know all of her problems; she didn't
16 necessarily know all of yours. Is that correct?

17 A No. Yes, that's true.

18 Q There were things you kept from each other.

19 A Yes.

20 Q Okay. Okay. I think you said at the beginning --
21 at the beginning, they were very happy.

22 A Yeah.

23 Q And I think you said they were off and on. And you
24 correct me. What you were saying is, they'd break up and
25 then get back together? So, they loved each other,

1 basically?

2 A Yes, sir.

3 Q And they had a break-up, get-back-together
4 relationship.

5 A Yes.

6 Q But now, she would do anything for him, basically;
7 wouldn't she?

8 A Yes.

9 Q And he would do anything for her.

10 A Yes.

11 Q Okay. Okay. And it is not normal to tussle or
12 fight, but couples do have disagreement in their
13 relationship. And as a whole, you knew them for how many
14 years?

15 A Well, I knew her for -- it would have been 15 years
16 this year, so, 15.

17 Q Okay. And out of 15 years, you saw them only have
18 one tussle.

19 A Yeah.

20 Q Okay. Okay. And I heard you mention something
21 about you saw some -- some mark. You don't know where
22 they came from, but some mark?

23 A No.

24 Q You didn't know where they came from either.

25 A No.

1 Q Okay. So basically, you say, out of their
2 relationship, you might have seen them argue, out of 15
3 years, one fight?

4 A Well, saw.

5 Q One tussle.

6 A Yeah.

7 Q Yeah, one. Yeah.

8 COURT REPORTER: Let her answer, please.

9 Q I'm sorry. Make sure I let you answer now, like she
10 said. So, you said one time out of 15 years.

11 A Yes, I saw them argue.

12 Q All right. And I think I asked you about the debit
13 card at another time.

14 A Um-hmm.

15 Q You did testify that he used her debit card
16 frequently; didn't you?

17 A Yes, the joint account?

18 Q And the account, you say you -- it was that a joint
19 account; wasn't it?

20 A Um-hmm.

21 COURT REPORTER: Is that yes?

22 A Yes.

23 Q Okay. And it wasn't unusual for him to use her
24 card.

25 A No.

1 Q When there were not -- Kelvin was a pretty good
2 father to his kids, too; wasn't he?

3 A Yes.

4 MR. JOHNSON: Your Honor, that's all I have. Thank
5 you.

6 THE COURT: Any re-direct?

7 MS. DEYSACH: No, ma'am.

8 THE COURT: Thank you. You may step down. Yes,
9 ma'am. Thank you.

10 MS. DEYSACH: May Ms. Hammond be excused, your
11 Honor?

12 THE COURT: Yes. Any objections?

13 MR. JOHNSON: Please. No objection.

14 MS. DEYSACH: State calls Clarence Wrice.

15 BAILIFF: This way, please. Go over there and be
16 sworn.

17 MADAM CLERK: Place your left hand on the *Bible* and
18 raise your right hand for me, please. Do you solemnly
19 swear to truthfully answer all questions asked of you by
20 this Court, so help you God?

21 MR. CLARENCE WRICE: Yes, ma'am.

22 MADAM CLERK: Please be seated. State your name and
23 spell it for the Court.

24 MR. CLARENCE WRICE: Clarence Wrice. W/r/i/c/e.

25 CLARENCE WRICE

1 DIRECT EXAMINATION BY MS. DEYSACH:

2 Q Good morning, Mr. Wrice.

3 A Good morning.

4 Q Tell the jury how old you are.

5 A I'm 33.

6 Q Where are you from?

7 A I'm from Hampton.

8 Q Hampton?

9 A Um-hmm.

10 Q And where do you live currently?

11 A In Bluffton.

12 Q How did you meet Masako Miller?

13 A We worked together.

14 Q Where did you guys work together?

15 A At Scottsman.

16 Q How long did you know Masako Miller?

17 A Well, since I started working there.

18 Q Yes. And when did you start working at Scottsman?

19 A It was in 2005.

20 Q Did you guys begin a relationship?

21 A Yes.

22 Q And about when did you begin that relationship?

23 A 2010.

24 Q Do you know Kelvin Jackson?

25 A Yes, I know him.

1 Q And how do you know Kelvin Jackson?

2 A Well, I mean, we're from a small town. So, you
3 know, I pretty much know everybody there. And I don't --
4 I don't like know him personally, personally, but I know
5 of him.

6 Q And did you know that Masako was involved with
7 Kelvin Jackson?

8 A Yes.

9 Q Did you speak to Masako when she was at the hospital
10 for her son?

11 A Yes, I did.

12 Q And what did you speak to her about?

13 A Well, one day I was there. I was there one day.
14 And then, the next day, I called her. And she stepped
15 out of the room. Of course, I could -- because --

16 Q Can you speak up a little for us, please.

17 A I said, the next day I called her, and when she
18 answered her phone, she was -- he was there, and he was
19 like --

20 Q Who is he?

21 A Mr. Jackson.

22 Q Okay.

23 A And he was saying something like:

24 Are you just going to answer your
25 phone in front of me? You just going

1 to disrespect me like that?

2 So, she was like, Get out of my way, Kelvin. And
3 she was like, I'm going to call you back.

4 Q Did you stop by her house the night before she went
5 missing?

6 A Yes, I did.

7 Q And what did you guys do that night?

8 A We talked out on the porch for about an hour, an
9 hour and a half.

10 Q Do you remember about what time it was when you
11 stopped by?

12 A It was probably around 9:00, maybe 9:15.

13 Q And you said you were there for about an hour, hour
14 and a half?

15 A Um-hmm.

16 COURT REPORTER: Is that yes?

17 A Yes.

18 Q Was Masako scared of Kelvin?

19 A Yes.

20 MR. WILLIAMS: Objection, your Honor.

21 THE COURT: Overruled.

22 Q The night that -- after you left -- let me ask you
23 this. What was she wearing when you saw her that
24 Wednesday evening?

25 A That evening, she had just -- she had not too long

1 come back from walking. So, she had on like, you know,
2 clothes she -- she might normally walk in, like some
3 shorts, sneakers, or whatever.

4 Q Did you talk to her at all or make any contact with
5 her after you left her house that night?

6 A No. Well, she text me. She text me.

7 Q Okay. Did you text her or did she text you?

8 Q I text her, and she text back.

9 Q Okay. So, she responded to you.

10 A Um-hmm.

11 Q Do you know about what time that was that she
12 responded to you?

13 A That was around maybe like 10:00, 10:15.

14 Q What did you guys text about?

15 A Her air condition had went out in the home. And
16 after I left, I talked to her for about an hour on the
17 porch, because it was hot in the house. And she told me
18 that someone was coming over to fix it. So, I just text
19 her. I was like, I hope the house get cooler. And she
20 was like, Thanks, hon. And that was it.

21 Q Was that the last time that you talked to her?

22 A Yes, it was.

23 Q What did you do, once you heard that Masako was
24 missing?

25 A Well, I was at work. I was at work, and --

1 Q And were you at -- where were you -- were you
2 working at Scottsman during this time?

3 A Well, yes. Yes, ma'am.

4 Q Okay.

5 A And it -- it was that morning, and she didn't show
6 up for work. So, I assumed something was wrong anyway,
7 because I just talked to her the night before, and -- and
8 she didn't show up for work like a few hours later, so.
9 And I had to be at work at 5:00. She had to be at work
10 at 7:00. So.

11 Q Did you stop by her house after you got off work?

12 A I did.

13 Q Do you remember who all was there?

14 A No one was there right then. S.D. and her brothers
15 were like at a neighbor's house or whatever. So, I was
16 like peeking through the window. And he came over, the
17 neighbor, he came over and asked me, what was I looking
18 for, Masako. And I was like, yeah, I was. And he was
19 like, well, well, her daughter and her brothers in his
20 house. And I went over there where he was, where they
21 were. And like, they -- they say they didn't see their
22 mother or anything. So, I told S.D. to call Cassandra.

23 Q And who is Cassandra?

24 A Mr. Jackson's sister.

25 Q Sister?

1 A Yes.

2 Q And did you speak to Cassandra at Masako's house
3 that evening?

4 A No, I didn't.

5 Q Did you overhear a telephone conversation that she
6 had?

7 A With Mr. Jackson?

8 Q Any telephone conversation.

9 A Oh, yes. Yes, I did.

10 Q Okay. And what was that conversation?

11 MR. JOHNSON: Objection, your Honor.

12 MR. WILLIAMS: Hearsay.

13 THE COURT: Can you approach?

14 MS. DEYSACH: Yes.

15 OFF-THE-RECORD BENCH CONFERENCE,

16 OUT OF PRESENCE OF JURORS.

17 PRESENT: THE COURT, JUDGE MULLEN,

18 MS. DEYSACH, MR. WILLIAMS.

19 END BENCH CONFERENCE.

20 BY MS. DEYSACH:

21 MS. DEYSACH: Let me re-phrase the question. Did
22 you hear Cassandra on the phone with her brother asking
23 where he was?

24 A Yes, I did.

25 Q And did you hear Kelvin Jackson respond to the

1 question?

2 A Yes, I did.

3 Q And what did he say?

4 A He said he was at a car wash.

5 Q That he was getting his car washed.

6 A Yes.

7 Q And this was the night that Masako was missing?

8 A This -- yes. This was the evening after I came from
9 work.

10 Q Were you still at the house when Kelvin arrived?

11 A Yes.

12 Q What was he acting like?

13 A Well, for the mother of his children being missing,
14 nonchalant. He --

15 MR. WILLIAMS: Speculative, your Honor. Objection.

16 THE COURT: He's testifying to what he observed.

17 You may proceed.

18 BY MS. DEYSACH:

19 A Yes. He seemed nonchalant, and had a playful
20 demeanor for himself.

21 MS. DEYSACH: Thank you. Please answer any
22 questions the Defense might have for you.

23 CLARENCE WRICE

24 CROSS-EXAMINATION BY MR. WILLIAMS:

25 Q Mr. Wrice.

1 A Um-hmm.

2 Q Let me back up just to your last statement. You had
3 said that Mr. Jackson had a playful demeanor.

4 A Yes.

5 Q Did he walk up and speak to everyone? Is that
6 correct?

7 A He was walk up -- he walked up. He was speaking to
8 people like you know, he was laughing and, you know.

9 Q Did he speak?

10 A Did he speak?

11 Q Yes.

12 A Yes, he spoke.

13 Q And he shook hands with people. Is that what you
14 summarize?

15 A Well, yeah, yeah. Yeah.

16 Q And it's not unusual for someone to come into a
17 conversation and shake hands, hello.

18 A Laughing.

19 Q It's a greeting.

20 A He was laughing, you know.

21 Q Is it unusual for someone to shake hands when they
22 appear?

23 A Given the circumstances, yes, it was.

24 Q Did Cassandra tell him why he needed to come to
25 Hampton, or just that he just needed to come to Hampton?

1 A She did.

2 Q That he needed to come to Hampton?

3 A No, she told him -- she called him more than once
4 that evening. And in one conversation, she told him that
5 Masako was missing; that he need to get down there.

6 Q And you were residing in Hampton at the time. Is
7 that correct?

8 A Yes, I was.

9 Q And where did you live at the time? You lived at
10 Wade-Hampton Road. Is that correct?

11 A Yes, that's correct.

12 Q About maybe a mile and half, two miles around the
13 corner. Is that correct?

14 A That's correct.

15 Q And you also testified that on the night of the
16 24th, I believe it was, you were at her residence.

17 A Yes, I was.

18 Q You got there about 9:15.

19 A Yes.

20 Q You stayed there for about an hour and a half. Or
21 hour, hour and a half is what you said.

22 A Maybe. Maybe around that time, yeah.

23 Q Some time after that, you text.

24 A Um-hmm.

25 COURT REPORTER: Is that yes?

1 A Yes, sir.

2 Q And you are right around the corner from her.

3 A Yeah.

4 Q You and Ms. Miller, at this time, had been dating
5 for about a year. Is that correct?

6 A Yes.

7 Q You were her boyfriend at the time. Is that
8 correct?

9 A Yes.

10 Q Prior to May 24th, you talked about you had called
11 Masako, and Kelvin was there. Is that correct?

12 A Yes.

13 Q And just to make sure I've got it clear, one time at
14 the hospital --

15 A It had been -- it had been -- right.

16 Q One time at the hospital, you assumed he was at the
17 hospital. Is that right?

18 A Well, she said his name.

19 Q Their child was sick.

20 A Yes.

21 Q She called him to come.

22 A Yes.

23 Q On another occasion you testified that you called
24 her, and they were together somewhere. Is that correct?

25 A She -- I called her cell phone, and I think she

1 might have been home then, and he answered.

2 Q They were together.

3 A Yeah.

4 Q She didn't tell you there was any problem on that
5 occasion; did she?

6 A Did she tell me there were any problems?

7 Q On that occasion.

8 A No.

9 Q And you were her boyfriend at this time; weren't
10 you?

11 A Then?

12 Q Yes.

13 A When I called her that -- that evening?

14 Q Yes.

15 A It was in 2011. It was like two thousand maybe ten
16 sometime.

17 Q But you all had been dating since 2010. Is that
18 correct?

19 A Yeah. Yeah. On and off. Yes. Yeah.

20 Q And I'm sorry. Now you live where? You live here
21 in Bluffton in Beaufort County?

22 A Yeah.

23 Q You regularly came to Ms. Miller's house. Is that
24 correct?

25 A Mmm, not regularly, but yes, I've been there.

1 Q You've been there more than five times.

2 A I have.

3 Q You've been there more than 20 times.

4 A I don't know about more than 20. I've probably been
5 there exactly 20 times, maybe, approximately, around
6 that. But I didn't go there a lot, like.

7 Q You've been there -- but you've been there before.

8 A Yeah.

9 Q You were there on the night she went missing.

10 A Yes.

11 Q She came over to your house, around the corner, on
12 Wade-Hampton Road.

13 A Yes.

14 Q She would come to your house at night?

15 A Yes.

16 Q After the children were asleep?

17 A No.

18 Q And I think you stated that her air conditioning was
19 out on that -- on May 24th. Is that correct?

20 A That's correct.

21 Q And it needed to be repaired. Is that right?

22 A That's correct.

23 Q Was she upset with the air conditioner repairman?

24 A I don't know exactly who the repairman was.

25 Q The guy who installed it, was she upset with him?

1 A I don't know who -- who, exactly, he was.

2 Q Was she upset by the air being out?

3 A She was upset by it being out.

4 Q And after you left Ms. Miller's house and went back
5 around the corner to your house, --

6 A Um-hmm.

7 Q -- you contacted her again, later in the evening.

8 A Yes.

9 Q And she responded to you.

10 A She did.

11 Q And it's your testimony that after that, you have no
12 idea what happened.

13 A No. I -- I -- I never saw her again.

14 Q And you made no attempt to contact your girlfriend
15 the next day.

16 A The next day? Yes, I did.

17 Q After work?

18 A No. That morning, when she didn't come to work, as
19 I said before, I had to be to work at 5:00. She had to
20 be to work at 7:00. It wasn't like her like to not show
21 up for work. And every -- everyone who works with us are
22 like pretty much close-knit. So, when she didn't call or
23 she didn't show up, I -- I attempted to contact her
24 numerous times.

25 Q Just one moment, your Honor. Mr. Wrice, --

1 A Um-hmm.

2 Q -- you were dating Ms. Miller at the same time her
3 and Kelvin were together. Is that correct?

4 A I don't know if they were together, but he would --
5 he was residing at her house on and off.

6 Q And you and Kelvin never had a problem? He never --
7 you all hadn't never had any bad blood between the two of
8 you.

9 A No.

10 Q And you knew he was still living with her.

11 A Well, the thing is like he'd never be there.

12 Q You knew he was still living there.

13 A No.

14 Q They were still together.

15 A No, I didn't know they were together, because she
16 told me they weren't together. Well, she said she
17 wouldn't -- he wouldn't leave the house.

18 Q Just a minute ago you said he was. Now you said he
19 wasn't.

20 A What I'm saying is, --

21 Q You were dating Masako when her and Kelvin were
22 together. Is that -- was that your testimony?

23 MS. DEYSACH: Your Honor, if he can finish his
24 response.

25 THE COURT: Mr. Williams, let him answer the

1 question.

2 MR. WILLIAMS: Yes, your Honor.

3 THE COURT: And you can follow up with a different
4 question.

5 BY MR. WILLIAMS:

6 A What I'm saying is, she never said they were
7 together. She said he resided -- he stayed at the house
8 because he wouldn't leave, is what she told me.

9 MR. WILLIAMS: Thank you. No further questions.

10 THE COURT: Any re-direct?

11 MS. DEYSACH: Just briefly.

12 CLARENCE WRICE

13 RE-DIRECT EXAMINATION BY MS. DEYSACH:

14 Q Why was your relationship with Masako off and on?

15 A Mainly because she was -- she was more or less
16 scared of him. Or like, for example, at the complex I
17 lived in, she didn't want to park in the parking lot,
18 because she was afraid that if he seen her vehicle, he
19 would try to damage her car or do something to her. So,
20 she didn't want to like park in the -- the parking lot
21 like where I lived.

22 MS. DEYSACH: Thank you.

23 A Um-hmm.

24 THE COURT: Anything else, Mr. Williams?

25 MR. WILLIAMS: Nothing further, your Honor.

1 THE COURT: You may step down, Mr. Wrice. Thank
2 you.

3 MS. DEYSACH: May I approach, your Honor?

4 OFF-THE-RECORD BENCH CONFERENCE,

5 OUT OF PRESENCE OF JURORS.

6 PRESENT: THE COURT, JUDGE MULLEN,

7 MS. DEYSACH, MR. THORNTON, MR.

8 JOHNSON, MR. WILLIAMS.

9 END BENCH CONFERENCE.

10 THE COURT: Ladies and gentlemen of the jury, at
11 this time, what we'll do is take our lunch break. I'm
12 sure you're ready for a little break. It is 12:49. An
13 hour should be sufficient. There should be plenty of
14 restaurants around here. And if not, I'm certain that
15 these wonderful bailiffs can lead you in the right
16 direction. But please be back in your jury room at ten
17 till two.

18 One more thing. And remember, please do not discuss
19 this case amongst yourselves or with anyone else.

20 BAILIFF: Thank you, your Honor. Be careful of the
21 step, please.

22 JURORS LEAVE COURTROOM 12:50 P.M.

23 BAILIFF: The jury is clear, your Honor.

24 THE COURT: Would the attorneys like to be here
25 about 15 minutes beforehand in case we need to take up

1 any matters before we bring the jury back in?

2 MR. THORNTON: Yes, your Honor.

3 MR. JOHNSON: Yes, ma'am.

4 MS. DEYSACH: Yes, ma'am.

5 THE COURT: Thank you.

6 OFF THE RECORD 12:50 P.M.

7 BACK ON THE RECORD 2:00 P.M.

8 BY THE COURT:

9 BAILIFF: All rise, please.

10 THE COURT: Thank you. You may have a seat. Are
11 there any matters that we need to take up before we bring
12 out the jury?

13 MR. THORNTON: None from the State, your Honor.
14 We're trying to -- we've pre-marked a few things that we
15 did this morning.

16 THE COURT: Okay.

17 MR. THORNTON: I'm sorry that we haven't pre-marked
18 a lot of other things, but I will go through them as
19 quickly as I can.

20 THE COURT: Sure.

21 MR. THORNTON: Once we get started. So, we have
22 done the first couple, but we'll just have to kind of go
23 through as we go, but I'll do it as quickly as possible.
24 And I will always shut up and not talk while the court
25 reporter is marking.

1 MR. JOHNSON TALKING TO MR. THORNTON.

2 MR. THORNTON: Your Honor, Mr. Johnson has brought
3 up a good point. There is, I think, only one picture he
4 has an objection to, and I understand why he's objecting
5 to it, but it's the -- it's the photograph of the
6 victim's body. May we approach?

7 THE COURT: Yes.

8 JUDGE MULLEN: Is there enough room? Come on. Come
9 on up. Lasandra, is there enough room for them to start
10 walking through here?

11 MADAM CLERK: Yes, ma'am.

12 JUDGE MULLEN: Just so -- it's a better shot of
13 getting it on the record for a bench conference.

14 COURT REPORTER: You want this on the record? Just
15 one second, please.

16 ON-THE-RECORD BENCH CONFERENCE, OUT

17 OF PRESENCE OF JURORS. PRESENT:

18 THE COURT, JUDGE MULLEN, MR. THORNTON,

19 MR. JOHNSON:

20 MR. THORNTON: Your Honor, this is one photograph
21 that the State would seek to introduce, that has the
22 victim's body in it. There would be a possibility
23 there's another shot that I might use. That wouldn't be
24 today. We can take that up at another time. I'm trying
25 to actually find a less gruesome photo of it, of the

1 victim's tattoo. That was one of the ways that she was
2 identified, because the decomp is just so bad. This is
3 the furthest shot I have of the body.

4 As your Honor knows, it's been held repeatedly, even
5 autopsy photos have been allowed in if it assists the
6 trier of fact. It's descriptive of what the person is
7 testifying to. I think, clearly, it should come in. You
8 know, I understand any photograph of a decedent can be
9 prejudicial, but clearly, the probative value outweighs
10 any prejudicial effect.

11 There are pictures, I think, Mr. Johnson, despite
12 his objection, would have to agree that is the furthest
13 of this picture I have as far as distance from the body.
14 The arm, in this case, was mangled by crabs, most likely,
15 and fish. The hair has slipped off, which is seen in the
16 foreground, but that covers everything as the body was
17 discovered and pulled onto the beach. So, it is very
18 descriptive and probative of what the other folks can
19 testify to. Including Mr. -- I think it's Cary Furman
20 and the responding officer. And that's the best I can
21 do, Judge. And if you want me to put in the disc, I can
22 show you. There's about a dozen that are far more
23 descriptive and gruesome than that, but that's as good as
24 I can do.

25 THE COURT: Okay. Mr. Johnson.

1 MR. JOHNSON: Your Honor, and based upon what he
2 told me, I'm agreeing with him. I'm not going to -- I'm
3 not going to object to that one coming in.

4 THE COURT: Okay.

5 MR. JOHNSON: He said he wasn't going to use any
6 other. I think he did get the one that was the least
7 objectionable.

8 THE COURT: Okay.

9 MR. JOHNSON: So, I'm going to agree to that one.
10 Just that one.

11 THE COURT: Okay. I appreciate that. Go ahead and
12 mark it, then.

13 MR. THORNTON: Yes, ma'am. I will -- if the Court
14 will allow me, I've got about eight or ten things. I can
15 go ahead and mark one right after the other.

16 THE COURT: Okay.

17 DISCUSSION BETWEEN MR. THORNTON

18 AND COURT REPORTER.

19 MR. THORNTON: Off the record, your Honor, I've been
20 informed by the court reporter it's okay for me to mark
21 them at my table, and that will save her time. And then,
22 we won't have to stand here. So, I'll just go mark them
23 while Hunter's doing her witnesses.

24 THE COURT: Perfect.

25 END BENCH CONFERENCE.

1 OFF-THE-RECORD DISCUSSION.

2 THE COURT: Mr. Thornton, do you still need to leave
3 at 4:00 o'clock today?

4 MR. THORNTON: I do, your Honor. And I do
5 apologize, but I've got to get there.

6 THE COURT: That's fine. I just wanted to make
7 sure.

8 MR. THORNTON: And it doesn't have to be exactly at
9 4:00. If we could just stop at around 4:00 o'clock mark.
10 So, if it's a little ahead of that or a little behind
11 that, that's fine. I just some time between 4:00 and
12 4:30 I need to head to Walterboro.

13 THE COURT: Okay.

14 MR. JOHNSON: May we approach, your Honor?

15 ON-THE-RECORD BENCH CONFERENCE,

16 OUT OF PRESENCE OF JURORS.

17 PRESENT: THE COURT, JUDGE MULLEN,

18 MR. THORNTON, MR. JOHNSON:

19 MR. JOHNSON: Your Honor, it's my understanding they
20 might call the young child. I am not being --
21 disrespecting the Court. And I'm not trying to cause a
22 problem, but my concern it's possible -- not possible.
23 It's a -- I may have to object. I am not disrespecting
24 the Court. I'm not trying to cause a problem. But in
25 her particular case, I mean, she has some problems with

1 my client, and I want to protect the record. She's now
2 15. She was 13 then.

3 THE COURT: Well, we'll just have to take that up as
4 it comes.

5 MR. JOHNSON: Yes, ma'am. But I wanted the Court to
6 know I'm not trying to -- if you tell me to do something,
7 I'm going to do it. I just want you to know, if I think
8 it's something for the record, I'm not being
9 disrespectful.

10 THE COURT: Oh, I know. You have to do your job.

11 MR. JOHNSON: Okay. Thank you.

12 END BENCH CONFERENCE.

13 THE COURT: Mr. Thornton, you want to start at 9:00
14 o'clock tomorrow?

15 MR. THORNTON: I'm sorry, Judge. I didn't mean to
16 walk away while you were talking to me.

17 THE COURT: Since we have so many witnesses, I'd
18 like to get started early.

19 MR. THORNTON: Yes, ma'am.

20 THE COURT: And maybe we can get started right at
21 9:00 o'clock.

22 MR. THORNTON: Yes, ma'am. That'd be great.

23 MR. JOHNSON: Yes, ma'am.

24 MR. THORNTON: My last item of business today, just
25 so the Court knows, is, as soon as I know how many we've

1 gotten through, I've got them all lined up, and I'm going
2 to break them into groups and get probably the first
3 dozen or so here at 8:00 o'clock in the morning, 8:30.
4 No later than 8:30. And then, I'll have the next set
5 like at 11:00 or 12:00, so that we can continue to roll
6 through. I still think we -- we may not now have a small
7 break on Thursday, with my last witness coming in at
8 1:00, but I still have no reason to think we will not
9 finish testimony, from my perspective, by early Thursday
10 afternoon. I still think we're on time, and we may end
11 up just without that break I wasn't worried about having
12 it anyway.

13 THE COURT: Okay. Thank you. Let's bring the jury
14 out.

15 JURORS ENTER COURTROOM 2:04 P.M.

16 BAILIFF: Your Honors, the jury is entering.

17 JURORS ENTER COURTROOM 2:04 P.M.

18 BAILIFF: Jury is seated, your Honors.

19 THE COURT: Thank you. Ladies and gentlemen, I hope
20 you had a nice lunch and are ready to resume this trial.
21 You may call your next witness.

22 MS. DEYSACH: Thank you, your Honor. The State
23 calls S.D.

24 MADAM CLERK: Would you place you left hand on the
25 Bible, and raise your right hand for me, please. Do you

1 solemnly swear -- do you solemnly swear to truthfully
2 answer all questions asked of you by this Court, so help
3 you God?

4 MS. S.D. : I do.

5 MADAM CLERK: Please be seated. State your name and
6 spell it for the Court, please.

7 A My last name?

8 .
9 S.D.

10 DIRECT EXAMINATION BY MS. DEYSACH:

11 Q S.D. , how old are you?

12 A Fourteen years old.

13 Q And where do you live?

14 A Fairfax, South Carolina now.

15 Q Okay. Who do you live with now?

16 A My grandma.

17 Q And who did you used to live with?

18 A My mom.

19 Q And where was that?

20 A In Hampton, South Carolina, Middle Street.

21 Q I'm going to hand you what's been marked as State's
22 Exhibit 4.

23 MR. JOHNSON: Without objection, your Honor.

24 THE COURT: Thank you. Without objection.

25 BY MS. DEYSACH:

1 Q And I'm going to ask you to describe what's in this
2 picture.

3 A This is my house on Middle Street. Our lawn's
4 in the back. It's in Hampton.

5 Q Okay. Is that a fair and accurate depiction of the
6 house that you lived in?

7 A Yes.

8 Q Okay. The State would move to enter Exhibit Number
9 4 into evidence.

10 MR. JOHNSON: Without objection.

11 PHOTOGRAPH DESCRIBED AS HOUSE

12 AT MIDDLE STREET MARKED

13 STATE'S EXHIBIT NUMBER 4,

14 ADMITTED AS EVIDENCE.

15 BY MS. DEYSACH:

16 Q S.D. , who else lived at that residence with you
17 all?

18 A My two brothers. And off and on, Kelvin Jackson.

19 Q And how old are your two brothers?

20 A Ten and seven.

21 Q Is that how old they were back in 2011, or that's
22 how old they are now?

23 A That's how old they are now.

24 Q Okay. How long have you known Kelvin Jackson?

25 A I can say probably six years that I know him.

1 Q And what do you call him?

2 A K.J.

3 Q Can you identify him?

4 A Yes.

5 Q Okay. Let the record reflect that she is pointing
6 to the gentleman sitting between the two defense
7 attorneys. Do you remember when Kelvin Jackson lived at
8 Middle Street?

9 A Yes, ma'am.

10 Q When was that?

11 A I can't tell you the exact date.

12 Q That's okay.

13 A But it was around -- oh, man. It was in 2000.
14 Somewhere in 2000s area. Don't know the exact year.

15 Q Okay. When was the last time that he lived with you
16 all?

17 A Early February, I can say.

18 Q In 2011?

19 A 2011.

20 Q And at some point, did he move out, or did he get
21 kicked out?

22 A He got kicked out.

23 Q Okay. Can you tell the jury about that, please.

24 A My mom was tired of his abusive acts and his -- the
25 way he acted toward us in front of my brothers, also.

1 And I guess she just got tired of it. And she had a new
2 friend, and he wasn't abusive. So, she just kicked him
3 out, finally.

4 Q Okay. And did she give him any notice? Did she
5 pack up his stuff?

6 A I believe she packed up his stuff, and -- and he
7 came to pick it up, and then, he was gone.

8 Q Do you remember about when this was in 2011?

9 A It was about early February when she gave him the
10 stuff to leave.

11 Q Okay. So, it was before this spring?

12 A Yes, ma'am.

13 Q Do you know if he was angry about being kicked out?

14 MR. JOHNSON: Your Honor, speculation of what was
15 going on. I object. Speculation to what was going on in
16 his mind.

17 MS. DEYSACH: Okay. Your Honor, I'll re-phrase.

18 THE COURT: Re-phrase.

19 BY MS. DEYSACH:

20 Q Did you see any arguments after he got kicked out?

21 A That one dispute when she first told him that he was
22 going to get kicked out, and that's all I seen.

23 Q Okay. Can you describe that.

24 A No, ma'am. They were just arguing about why he was
25 getting kicked out, and she already told him. That was

1 basically it.

2 Q Was that the first time you had ever seen them
3 argue?

4 A No, ma'am.

5 Q Did they argue often?

6 A Yes. Yes. Occasionally, yes.

7 Q Had Kelvin ever been abusive to your mom?

8 A Yes.

9 Q Did you personally observe that?

10 A Yes.

11 Q Can you talk about what you observed?

12 A One time he took her into the bathroom by the
13 laundry room, and he locked the room. And she was
14 screaming, and that's when I -- I have got -- I had went
15 to the kitchen and I got the knife, and I tried to bang
16 on the door, but it wouldn't come unlocked. And he just
17 -- I know he did something to her, but I don't know
18 exactly what. And on another occasion, he -- he hit her,
19 her chest, with a wooden block that -- it was a thick,
20 wooden block. And he argued with her and fought on many
21 occasions.

22 Q Was your mother a big woman?

23 A No, ma'am. She was small.

24 Q Okay. Can you describe her build.

25 A Small waist, small hips. She's short. Probably 5-

1 1, at the most.

2 Q And how big is Kelvin Jackson in relation to your
3 mom?

4 A Big difference. He's 6-2, probably 300 pounds.

5 Q Was your mom scared of Kelvin?

6 A Yes.

7 Q Was Kelvin ever violent with you?

8 A On one occasion, he pushed me down, cause I tried to
9 defend my mom. And I -- I think I jumped on his back or
10 something. Well, I tried to, and he pushed me down.

11 Q Did your mom ever hide things from Kelvin?

12 A Numerous times. I had to hide her cell phone,
13 gifts, anything that he really didn't like from someone
14 else. He was real jealous. And I had to hide her
15 wallet, her phone. It was numerous stuff I had to hide.

16 Q After your mom kicked K.J. out, did she hear from
17 him again?

18 A When my brother was in the hospital, she heard from
19 him. I didn't go with them. I didn't see him in like
20 two months, and that's when he talked that she said that
21 K -- my little brother was in the hospital, and that's
22 when they had seen each other.

23 Q Okay. Did you see any texts from Kelvin Jackson to
24 your mom?

25 A None that I know of.

1 Q Okay. Let's talk a little bit about the day before
2 your mom went missing. Wednesday, May 25, 2011, the day
3 before she went missing, can you describe what happened
4 that day and what you all did that day.

5 A Me and my friend, J.S. ; and my two brothers, we
6 woke up that Thursday morning. It was like 8:00 o'clock,
7 and we was wondering --

8 Q Oh, I'm sorry. Wednesday, the day before.

9 A Oh, I see.

10 Q Yeah. If we can go through Wednesday, the day
11 before, and then we'll get to Thursday.

12 A Okay. She went -- she came home from work, and she
13 went to the park. She had picked up my brothers. I was
14 with her, too, but I was at my aunt -- my cousin house.
15 And she lives in front of the park. So, her and my
16 brothers was at the park, and I was at my cousin house.
17 And afterwards, they got done walking, and she came to
18 get me from my cousin house. That's when she -- we -- we
19 went to go get the \$300.00 that she had owed my mom.

20 Q And who is she that you're referring to?

21 A Stephanie Williams.

22 Q Did you know why she owed your mom \$300.00?

23 A I -- I -- she told me that it was for her niece hair
24 style. Something with the wedding. It was something
25 with the wedding.

1 Q Okay. So, you guys went over to Stephanie's house.

2 A Um-hmm.

3 Q And then, what did you all do after Stephanie's
4 house?

5 A We went to the grocery store, Bilo's, and we got
6 groceries. She paid with her debit card. We went back
7 home, and she cooked. And later on -- that's when
8 Clarence came by. And we was watching T.V. And then she
9 came back in, and we just went to sleep.

10 Q Okay. Were you guys having a problem with the A.C.
11 that time?

12 A Yes. It was -- yeah, we had a problem with it.

13 Q Do you know if a repairman came by some time that
14 night?

15 A I was asleep. No.

16 Q Did you all have fans going in the living room?

17 A Yes.

18 Q Where did you guys sleep that night?

19 A In the living room. Me and my brothers. Me and my
20 two brothers.

21 Q And tell us what happened the next morning, S.D. .

22 A J.S. , she comes to my house like -- she came over
23 that morning around 5:00 to -- 5:00 o'clock, she came
24 around like around 5:00 o'clock.

25 Q Okay. And who is J.S. , just so everyone's clear?

1 A She's my friend that she comes over every morning
2 and afternoon.

3 Q Okay. She's a friend. And do you guys go to school
4 together?

5 A We go to school together. We're in the same grade
6 and everything.

7 Q Okay. And why does she come over so early?

8 A Because her mom has to leave early for work. So,
9 she just drops her off to my house.

10 Q Okay. So, that morning, J.S. came over, and you
11 guys were sleeping?

12 A Um-hmm.

13 Q Okay. And then, what happened?

14 A She -- we -- well, we woke up, and it was like 8:00
15 o'clock in the morning, and we was like we're going to be
16 late for school. And that's when we was looking. My mom
17 wasn't home, so I called her. We like just kept calling
18 her constantly. And that's when we seen a note. And we
19 went in the bedroom. And I was like, J.S. , all the
20 perfume is knocked down and the pillows was on the floor.
21 And I was like, Why is all the perfume knocked down like
22 in like one direction? And she was like -- we didn't
23 think of it right then, but later on, it was like she was
24 struggling, because all the stuff was knocked down on
25 that one side.

1 Q S.D. , what time does your mom normally wake you up?

2 A Around like 5:30, or closer to 6:00.

3 Q Okay. What time does she normally leave for work?

4 A 6:30.

5 Q And does she wake you up every morning?

6 A Yes, ma'am.

7 Q When you woke up, and you went to go look for your
8 mom in the bedroom, what did the bed look like?

9 A It was not made, and she makes her bed every
10 morning. It was not made. Pillows was on the floor.
11 Numerous pillows. It was in a stack. Perfume was
12 knocked over all in one direction. That was basically
13 it.

14 MR. JOHNSON: Oh, without objection.

15 Q S.D. , I'm going to show you a picture that's been
16 marked as State's Exhibit 1. Can you please describe
17 what's in that picture.

18 A It's my mom's room. Her clothes. And that's it.

19 Q Are the pillows that you saw on the floor in that
20 picture?

21 A Yes.

22 Q Is that a fair and accurate depiction of the way you
23 saw the pillows that morning when you went to her
24 bedroom?

25 A Yes.

1 MS. DEYSACH: State moves Exhibit Number 1 into
2 evidence.

3 MR. JOHNSON: Without objection.

4 THE COURT: Thank you.

5 PHOTOGRAPH IDENTIFIED AS VICTIM'S

6 BEDROOM MARKED STATE'S EXHIBIT

7 NUMBER 1 ADMITTED AS EVIDENCE.

8 BY MS. DEYSACH:

9 Q S.D. , you mention that after you looked in your
10 mom's bedroom, you saw a note. Now, I'm going to hand
11 you what's been marked as State's Exhibit 2.

12 Sorry, Mr. Johnson. I showed you these earlier, but
13 I'm going to -- okay.

14 Now, this may not look exactly like you remember it,
15 because it has been tested and dusted for prints and
16 things of that nature.

17 A Um-hmm.

18 Q But can you please describe what you're seeing here.

19 A It's a note. Say:

20 *I'll be right back. Get ready*
21 *for school. Went with someone. Love*
22 *you all guys.*

23 I think. And when I seen it, it doesn't look like
24 my mom handwriting, so.

25 Q Is that the note that you saw that morning?

1 A Yes.

2 Q Where was it left?

3 A On the kitchen counter.

4 Q And beside all those other marks on it, is it a fair
5 and accurate depiction? Does it look essentially the
6 same as it did that morning?

7 A Yes.

8 MS. DEYSACH: The State offers Exhibit Number 2 into
9 evidence.

10 MR. JOHNSON: Without objection.

11 MS. DEYSACH: Thank you.

12 ITEM IDENTIFIED AS NOTE LEFT
13 ON KITCHEN COUNTER MARKED STATE'S
14 EXHIBIT NUMBER 2 ADMITTED AS
15 EVIDENCE.

16 BY MS. DEYSACH:

17 Q And S.D. , I'm going to hand you what's been marked
18 as Number 3, State's Exhibit Number 3. Can you just
19 describe what that is.

20 A It's just the same note that was on the counter, the
21 kitchen counter, --

22 Q Okay.

23 A -- that was left there.

24 Q Okay. And is that more the way it looked without
25 the marks on it that morning?

1 A Yes.

2 MS. DEYSACH: Okay. Thank you. The State offers
3 Exhibit Number 3 into evidence.

4 MR. JOHNSON: And without objection on that one,
5 also.

6 THE COURT: Thank you.

7 MS. DEYSACH: Thank you.

8 ITEM IDENTIFIED AS SAME NOTE

9 LEFT ON KITCHEN COUNTER MARKED

10 STATE'S EXHIBIT NUMBER 3.

11 BY MS. DEYSACH:

12 Q So, S.D., you said that did not look like your
13 mom's handwriting.

14 A No.

15 Q Did she often leave you notes?

16 A Yes. She oft -- she occasionally did leave us
17 notes.

18 Q Was there anything unusual about this note?

19 A It wasn't in her handwriting. And the sincere part,
20 she wouldn't say that. I never seen her put that on a
21 note, so.

22 Q Did the handwriting look familiar to you at all?

23 A Yes.

24 Q Whose handwriting did it look like?

25 A Kelvin Jackson.

1 Q And were you familiar with his handwriting?

2 A Yes.

3 Q Why were you familiar with his handwriting?

4 A Because occasionally -- not occasionally, but
5 sometimes, I'll ask him to sign my papers from school,
6 and he'll sign it.

7 Q Did you see anything -- or did you find anything
8 missing from the house when you woke up that morning
9 besides your mom?

10 A No.

11 Q Did you find her purse?

12 A Yes. Her work purse and her regular Coach purse.

13 Q Okay. So, you did see her purse. Did you see her
14 wallet?

15 A I think it was in her purse, but I don't -- I don't
16 recall.

17 Q Did you see any cash?

18 A No.

19 Q Was your mom a good mom?

20 A Yes.

21 Q Was she protective of you guys?

22 A Yes, but she wasn't overprotective, but she was
23 protective.

24 Q Had your mom ever left you all in the house alone in
25 the middle of the night?

1 A No, not without telling me. And if it was, it would
2 had to been a big emergency, but she would've woke me up
3 to tell me.

4 Q Beg the Court's indulgence. The \$300.00 that your
5 mom got from Ms. Williams, was that in cash, or was it a
6 check?

7 A It was in cash.

8 Q And then, when your mom paid for groceries later, do
9 you know what kind of card she used, or was it just a
10 card?

11 A It was a debit card.

12 MS. DEYSACH: Okay. All right. Please answer any
13 questions that the Defense may have for you. Okay?

14 A Okay.

15 **END VOLUME ONE.**

16 **SEE VOLUME TWO.**

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO. 2011-GS-07-01329

STATE OF SOUTH CAROLINA

PLAINTIFF

BINDER TWO

VERSUS

KELVIN JACKSON

DEFENDANT

JULY 29 THROUGH AUGUST 2, 2013

TRANSCRIPT OF TRIAL

BEAUFORT, SOUTH CAROLINA

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Official Court Reporter

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BEGIN VOLUME TWO:

S.D.

CROSS-EXAMINATION BY MR. JOHNSON:

Q Hello, S.D. .

A Hello.

Q Okay. This is your first time talking to me. So, if I'm rushing you or you think I'm pushing you too hard, you let me know. Okay?

A Okay.

Q All right. All right. And I'm going to try to ask you the questions where we both can try to understand. All right?

A Yes.

Q I heard you testify about that -- first of all, how long has Kelvin been in your life?

A I say about six years.

Q Okay. Was it ever since you were about three or something like that?

A I don't know. I don't remember.

Q You don't remember?

A Huh-uh.

Q Okay. Would you disagree with me if I say to you that he helped raise you? Matter of fact, would you agree with me if I say that he helped raised you from when you were just very small?

1 A I don't know. I don't remember, but he was on and
2 off, so.

3 Q Okay. Okay. Okay. And you lived with him over a
4 period of time, because I think you said you got him to
5 sign some of your papers. Is that correct?

6 A Yes.

7 Q Okay. And I think that's how you said you thought
8 you realized his handwriting, because he signed your
9 papers more than one time. Is that correct?

10 A Yes.

11 Q And I think he lived with you all over a period of
12 time. Is that correct?

13 A Yes.

14 Q Okay. And, and just to be sure, I think the last
15 time he lived with you all, and you -- I'm not telling
16 you today. I want you to tell me. All right? But I'm
17 telling you the best I know. The last time he lived with
18 you all, wasn't that about two or three months, maybe in
19 March or April or something like that, rather than
20 February?

21 A No, not from my recall.

22 Q Not from your recall? Okay. Okay. Let me ask you
23 something. Do you remember talking to some of the
24 investigators from any law enforcement agencies?

25 A Yes.

1 Q Okay. And I think you talked to a female agent at
2 the very beginning. And then, I think you talked to this
3 young, handsome man right back over here for a while ago,
4 correct?

5 A Yes.

6 Q Okay. And I think you talked to him in detail. Is
7 that correct?

8 A Yes.

9 Q Matter of fact, he sat down and didn't -- I think he
10 kind of recorded what you all were saying. Is that
11 correct?

12 A Yes.

13 Q Okay. Okay. And he asked you a lot of questions.

14 A Yes.

15 Q And you gave him some answers then; didn't you?

16 A Yes.

17 Q Okay. And the answers you gave him, you tried to
18 give him the best and most truthful answer you could give
19 at that time?

20 A Yes.

21 Q Okay. S.D. , I know this is difficult for you,
22 dear, and I just want to clear this up. You and your
23 brother, you all -- you and your brothers and, I think, a
24 young lady by the name of J.S. , I think you came in
25 and you all ate, and I think you went to sleep about

1 10:00. Is that right? Somewhere around there? 10:00
2 o'clock?

3 A That's right.

4 Q That's right.

5 A Yes.

6 Q And I think all of your testimony is from 10:00
7 o'clock that night until time for you to wake up to go to
8 school, which was about 8:00 o'clock, that you don't know
9 what happened in between that time?

10 A Yes.

11 Q That's your testimony; isn't it?

12 A Yes.

13 Q Okay. And I think you said you were in the house,
14 and you didn't see anybody, or you didn't hear any noise
15 in the house. Is that correct?

16 A Yes.

17 Q Okay. And I think when you got up that morning,
18 isn't the usual process as what you do is your mother
19 would get up and open the door so J.S. could come in
20 about 5:00 or 6:00 o'clock?

21 A Yes.

22 Q Is that about right?

23 A Yes.

24 Q Okay. And she would -- J.S. would usually come
25 in the front door. Is that about right?

1 A Yes.

2 Q Okay. And if I'm wrong, you correct me. And the
3 process was that, that the doors would be locked; and
4 then somebody would have to get up and open the front
5 door. Is that correct?

6 A Yes.

7 Q So, didn't somebody open the front door for J.S.
8 that morning, or did some -- let me ask you. I'm asking
9 you. Did somebody open the front door for J.S. that
10 morning?

11 A I don't know. I was asleep.

12 Q You were asleep.

13 A Yes.

14 Q But she was in the house like she always was in the
15 house. When you woke up, she was in the house, correct?

16 A Yes.

17 Q And she was on the chair, with you all sleeping. Is
18 that correct?

19 A Yes.

20 Q And that means somebody had to let her in. Is that
21 correct?

22 A Yes.

23 Q Okay. And generally, she was let in about 5:00
24 o'clock. Is that correct?

25 A Yes, sir, whenever she came in.

1 Q Okay. But I mean, she generally came in about 5:00
2 o'clock. That's all I'm asking.

3 A Yes.

4 Q Okay. Okay. I'm not pushing you too hard?

5 A No.

6 Q Okay. Thank you. The one thing I want you to
7 explain to me, J.S. [sic], is you said -- and you take
8 your time -- you said that he would get very jealous when
9 other men would give gifts. Do you remember saying that?

10 A Yes.

11 Q Okay. Wasn't he living with you all at that time?

12 A It was a period of time. He get jealous quick, so.

13 Q Okay. Okay. So, what? Did he get jealous while he
14 was living with you all, or did he get jealous while he
15 was away from you all?

16 A He got jealous while he was staying with us.

17 Q Okay. And he was jealous because other men were
18 giving her gifts.

19 A Yes. And other little stuff, too.

20 Q Okay. Okay. And so, he was really jealous of her
21 with somebody else?

22 A Yes.

23 Q Okay. Do you remember who the first person was that
24 you talked with when you got home from school?

25 A My neighbor. She came over, and she was like, Your

1 mom went missing. And she told me to come to her house.

2 Q Okay. Okay. Okay. Could you tell me the first
3 time you talked with your Aunt Cassandra. Could you tell
4 me the first time you talked with your Aunt Cassandra on
5 the 25th.

6 A Twenty -- when she came -- 25th. When she came
7 over.

8 Q Okay.

9 A The --

10 Q Okay. Take your time. Take your time. I'm sorry.

11 A The -- the family came over to the house.

12 Q Okay.

13 A After everything, her and the police opened the door
14 and everything.

15 Q Could you tell me about what time that was.

16 A I don't remember.

17 Q You don't know. Okay. Okay. Okay. And did she
18 spend the night with you all and keep you the next night?
19 I mean your Aunt Cassandra.

20 A Yes.

21 Q Okay. And did Ms. Loadholt get to the house -- got
22 to the house that day before you got out of school?

23 A Yes.

24 Q Okay. Okay. And I think she brought the law
25 enforcement with her.

1 A Yes.

2 Q And I think they walked through the house.

3 A Yes.

4 Q Okay. Okay. Okay. And I think -- do you know that
5 they said the back door was unlocked?

6 A Yes.

7 Q Okay. And do you remember saying that all the back
8 doors are always locked; that the only door that J.S.
9 come in was the front door?

10 A Yes.

11 Q Okay.

12 MR. JOHNSON: Could I have a minute, please, to look
13 at some -- your Honor, Court beg my indulgence.

14 THE COURT: Certainly.

15 BY MR. JOHNSON:

16 Q S.D., the question I want to ask you now -- I don't
17 know how to ask you, but to ask you, but I mean all
18 respect. Okay? Okay. At this point in time, was your
19 mother seeing somebody else?

20 A Clarence.

21 Q Okay. Clarence. And could you tell me; do you know
22 where Clarence lived?

23 A Hampton.

24 Q I mean --

25 A From my own knowledge -- not from my own knowledge,

1 but from what I heard.

2 Q Okay. So, you wouldn't know if he lived close to
3 you or further away?

4 A Yes.

5 Q Okay. Okay. And I think it was your testimony,
6 when you left home that morning, the back door was
7 locked. Is that correct?

8 A When I left, yes.

9 Q Okay. And I think when you left, your testimony,
10 when you left home that morning, her work bag -- you
11 know, my wife probably could tell me, but I can't think.
12 What was the name of the pocket book you said just now?

13 A Coach.

14 Q The Coach. And when you left home, you said the
15 work bag, the Coach pocketbook, and her little wallet was
16 in the house. Is that correct?

17 A Yes.

18 Q Okay. And I think you said the money was out of the
19 wallet. But did you check the wallet for anything else?

20 A No, sir.

21 Q Okay. Okay. To your knowledge, do you know if her
22 debit card was still in the wallet? Because she used it
23 that night, I think you said, in your statement. Didn't
24 you think the card was still in the wallet?

25 A I don't know. I didn't search for anything else.

1 Q Okay. I just want to know if you saw it.

2 A No, not from my recall. I didn't really try to look
3 for it, either.

4 Q You didn't try to look for it? Okay. Okay. S.D. ,
5 so, was I nearly as bad as you thought I'd be?

6 A I don't think so.

7 MR. JOHNSON: Thank you so much.

8 THE COURT: Any re-direct?

9 MS. DEYSACH: Just briefly.

10 S.D.

11 RE-DIRECT EXAMINATION BY MS. DEYSACH:

12 Q S.D. just a couple more questions for you. When
13 Kelvin lived with you all, was J.S. coming over every
14 morning at that point?

15 A Yes.

16 Q So, Kelvin was familiar with J.S. routine?

17 A Yes.

18 Q And she got there around the same time every
19 morning?

20 A Yes.

21 Q Okay. And about what time was that?

22 A Between 5:00 and like 5:45.

23 MS. DEYSACH: Thank you, S.D. .

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

25 MS. DEYSACH: State calls J.S. .

1 BAILIFF: Come this way, please, ma'am. Go up there
2 and be sworn.

3 MADAM CLERK: Would you place your left hand on the
4 Bible, and raise your right hand for me. Do you solemnly
5 swear to truthfully answer all questions asked of you by
6 this Court, so help you God?

7 MS. J.S. : Yes, ma'am.

8 MADAM CLERK: Please be seated. State your name,
9 and spell it for the Court, please.

10 J.S.

11 DIRECT EXAMINATION BY MS. DEYSACH:

12 Q How are you, J.S. ?

13 A I'm okay.

14 Q Tell us how old you are, J.S. .

15 THE COURT: You may have to speak up a little bit,

16 J.S. .

17 A Fifteen.

18 Q Fifteen?

19 A Um-hmm.

20 Q And where do you live?

21 A In Varnville, South Carolina.

22 Q Varnville? I'm sorry. Yeah, speak up a little bit
23 more.

24 A Varnville.

25 Q This court reporter is going to take everything down

1 you say. Okay?

2 A Okay. Varnville, South Carolina.

3 Q What school do you go to?

4 A Wade-Hampton High School.

5 Q Do you go to school with S.D. ?

6 A No, not this year. She goes to Allendale.

7 Q Okay. Back in 2011, did you guys go to the same
8 school?

9 A Yes, ma'am.

10 Q How do you know Masako Miller?

11 A I met her through S.D. .

12 Q How long have you known Ms. Miller?

13 A Since I was in the fifth grade.

14 Q Were you close to their family?

15 A Yes, ma'am.

16 Q Have you been spending time with them since the
17 fifth grade?

18 A Yes, ma'am.

19 Q How long have you been getting dropped off early for
20 school?

21 A Since the week of sixth grade.

22 Q And what time do you normally get dropped off?

23 A Around -- between 5:00 and 6:00 in the morning.

24 Q Do you know Kelvin Jackson?

25 A Yes, ma'am.

- 1 Q How do you know him?
- 2 A Through S.D. and Miss Masako.
- 3 Q Was he living at the house at any point in time when
- 4 you were getting dropped off?
- 5 A Yes, ma'am.
- 6 Q So, is that where you used to see him?
- 7 A Yes, ma'am.
- 8 Q Was Masako always there in the morning when you got
- 9 dropped off?
- 10 A Yes, ma'am. She used to leave the door open for me,
- 11 so I could just go on in, so I won't wake the kids up.
- 12 Q Okay. So, just tell us about your morning routine
- 13 when you got there.
- 14 A I usually have my lunch in. The first thing I'd do
- 15 is go to the refrigerator and put it in the refrigerator.
- 16 The door would be unlocked. I'd just go on and put it in
- 17 the refrigerator. Then, I'd go back and lay down on the
- 18 couch. And then, she'd get us up in the morning.
- 19 Q Who would get you up?
- 20 A Miss Masako.
- 21 Q And did you lock the door behind you after you came
- 22 in?
- 23 A Yes, ma'am.
- 24 Q Do you remember when you got dropped off on
- 25 Thursday, May 26, in 2011?

1 A Yes, ma'am.

2 Q Did you see Miss Masako that morning?

3 A No, ma'am.

4 Q And what happened later that morning?

5 A Well, we all overslept. And S.D. woke me and her
6 two little brothers up. And me and S.D. noticed --
7 well, I noticed the note. And S.D. -- me and S.D. went
8 to go read it. And I mean, we didn't really thought
9 about it that much about the handwriting. We just
10 thought, you know, it was hers. But I called my uncle,
11 because -- well, I called my aunt first, and she told me
12 to call my uncle so he could take us to school, because
13 we were already late. So, he had dropped us off. And
14 then, later on that day, we came home, and that's what we
15 noticed.

16 Q Okay. I'm going to hand you what's been entered as
17 State's Exhibit Number 2, and ask you if this was the
18 note that you remember seeing.

19 A Yes, ma'am.

20 Q Okay. And I'm also going to hand you what's been
21 marked as State's Exhibit 3. That one might be a little
22 bit easier to read. But were you familiar with Masako's
23 handwriting?

24 A Yes, ma'am.

25 Q Did she often leave notes for the kids?

1 A Not all the time. Just like when she's not there
2 when we get there, she'll leave a note telling the kids
3 like what chores to do and when she'd be back.

4 Q Did that look like her handwriting to you?

5 A No, ma'am. This is nowhere close to what she
6 usually leaves.

7 Q Okay. And did the handwriting look familiar to you
8 at all?

9 A I mean, no, not really, but I could tell that it
10 wasn't hers, because all of her notes was neat.

11 MS. DEYSACH: Okay. Beg the Court's indulgence.
12 Thank you, J.S. . Please answer any questions that the
13 Defense may have for you.

14 J.S.

15 CROSS-EXAMINATION BY MR. JOHNSON:

16 Q Hey, J.S. . How are you doing?

17 A Okay.

18 Q You're pretty tall. Do you play forward? Do you
19 play for Wade-Hampton in basketball?

20 A Yes, sir.

21 Q You know Estill beat you all; don't you? Okay.

22 J.S. , I want to ask you just a few -- I just want to
23 ask you a few questions, and I think you answered some of
24 them. I just want to clear them up. If I ask them too
25 fast or if I'm pressing you, let me know. All right?

1 Okay. Number one, do you know -- you said the door
2 was unlocked when you got to the house. Is that correct?

3 A Yes, sir.

4 Q Okay. That's the normal routine. Is that correct?

5 A Yes, sir.

6 Q Okay. And you don't know who unlocked the door
7 before you get there. You just know it's unlocked when
8 you get there. Is that correct?

9 A Yes, sir.

10 Q Okay. And when you came to the house, you don't
11 know who was in the house with you all, because you
12 didn't see anybody. Is that correct?

13 A Yes. Yes, sir.

14 Q I mean, I said nobody. Nobody but S.D. and her two
15 brothers. That's all you saw. Is that right?

16 A Yes, sir.

17 Q Okay. And you fell on the chair with them, and went
18 to sleep, like you usually do. Is that right?

19 A Yes, sir.

20 Q So, from the time you got there, till the time you
21 went to school, you had no idea what happened. Is that
22 correct?

23 A No, sir.

24 Q And even before you got there, when was the last
25 time you saw them before you went that morning? The day

1 before?

2 A Yes, sir. The last time I saw her.

3 Q Okay. Okay. Well, even in that time, you don't
4 know what happened over there, because you wasn't over
5 there. Is that correct?

6 A Yes, sir.

7 Q Okay. And you usually only come in the front door.
8 Is that correct?

9 A Yes, sir.

10 MR. JOHNSON: Guess what, J.S.? That is -- that
11 is it. We'll beat you all during the season.

12 MS. DEYSACH: No re-direct.

13 THE COURT: Thank you. You may step down, J.S.

14 MS. DEYSACH: Thank you. And may J.S.
15 be excused, your Honor?

16 THE COURT: Yes, ma'am. Any objection?

17 MR. JOHNSON: No objection.

18 MS. DEYSACH: Thank you. State calls Pat White.

19 BAILIFF: Hello, ma'am. Please go up there to be
20 sworn.

21 MADAM CLERK: Would you place your left hand on the
22 Bible and raise your right hand for me, please, ma'am.
23 Do you solemnly swear to truthfully answer all questions
24 asked of you by this Court, so help you God?

25 MS. PAT WHITE: I do.

1 MADAM CLERK: Please be seated. State your name and
2 spell it for the Court, ma'am.

3 MS. PAT WHITE: Pat White. W/h/i/t/e.

4 PAT WHITE

5 DIRECT EXAMINATION BY MS. DEYSACH:

6 Q Hey, Pat. How are you?

7 A Fine.

8 Q Pat, can you please tell us how old you are and
9 where you live.

10 A I'm 52 years old, and I live in Hampton. Well,
11 Varnville now.

12 Q Okay. And where do you work?

13 A At Super Walmart.

14 Q Super Walmart where?

15 A In Bluffton.

16 Q Okay. And whose mom are you?

17 A J.S.

18 Q Okay. And how do you know Masako Miller?

19 A Through the kids, by my daughter go to school. Met,
20 you know, met in school. So, it grow as a long-time
21 friendship. She would watch my kids and I would watch
22 her kids. And if I'm not home at time to pick up from
23 practice or whatever, I can always depend on her to, you
24 know, to pick up J.S. . Vice versa. If she need me to
25 do anything, to pick up her kids from practice, you know,

1 I was there for her. So, we was there for each other
2 kids.

3 Q So, she was a good mom?

4 A Very.

5 Q And you trusted her with your children?

6 A Oh, yes.

7 Q Okay. Did you ever know her to leave her children
8 alone in the middle of the night to go off with someone?

9 A No.

10 Q What time do you go to work every morning?

11 A I have to be there at 7:00. I will leave home about
12 quarter till 6:00, cause I would drop J.S. off at her
13 house every -- this was a pattern about for the last four
14 or five years -- drop her off at her house to catch the
15 bus with her children.

16 Q Okay. Do you know Kelvin Jackson?

17 A Not that well. Just through her. I really got to
18 met him when it was occasion where my air had went out,
19 and she came over, and cause J.S. stayed over there at
20 her house all the time, and you know. So, I was -- I
21 told her, I said:

22 Well, you could just take J.S. ,
23 you know, because I'm -- I'm used to
24 the heat, long as my child is okay, you
25 know, I'm fine.

1 And she would not leave. She said:

2 No, Pat, you're going with me,
3 both of you.

4 So, I stay with her about a week, until my air got
5 fixed. And that's when I met him, because he was there
6 at the time. And that really -- when I -- I've heard of
7 him, and she talked about him, but far as meeting him
8 and, you know, that -- that -- that was the time when I
9 really met him. So, I didn't know him that -- that, you
10 know.

11 Q Did she ever show you any text messages from him?

12 A Just one, once when -- it was something like, if --
13 she had met a friend and he said something like:

14 If you -- I don't want him at my
15 house around my kids.

16 Something to that effect. I can't remember exact,
17 because it's been a while back. This was a while back.
18 She had showed me where he had text and was telling her
19 that she had met somebody, don't bring him around his
20 kids or at the house.

21 Q Okay. Did you know that she had a new boyfriend?

22 A Yes.

23 Q Beg the Court's indulgence. Did Masako talk with
24 you about her relationship with Kelvin Jackson?

25 A She have legally -- like one morning -- this was a

1 while back, too. I guess they --

2 MR. JOHNSON: Your Honor, --

3 Q And you don't have to go into the details or
4 anything of what she said, but did she talk to you a lot
5 about the relationship?

6 A Yes. We went to breakfast one morning, and she just
7 -- she was disturbed, you know.

8 Q Okay. Was she scared of Kelvin Jackson?

9 A I'd say she was sort of timid of, you know, of him,
10 yeah.

11 MS. DEYSACH: Okay. Thank you. Please answer any
12 questions that the Defense may have for you.

13 PAT WHITE

14 CROSS-EXAMINATION BY MR. JOHNSON:

15 Q Ms. White, how are you doing?

16 A Fine.

17 Q Hadn't seen you in a long time.

18 A Same here.

19 Q Just two quick questions, Ms. White. The most
20 important thing, is it unusual, or is it a unusual
21 situation, for one man to say he don't want another man
22 around his kids; or if a woman say I don't want another
23 woman around my kids?

24 A No, it's not unusual.

25 Q That's kind of what people do, then; don't they?

1 A Yeah.

2 Q Okay. And the other thing. You know nothing about
3 Ms. Miller being missing; do you?

4 A No.

5 MR. JOHNSON: Thank you, ma'am.

6 MS. DEYSACH: No re-direct.

7 THE COURT: All right. You may step down, Ms.
8 White.

9 MS. DEYSACH: Thank you.

10 MS. DEYSACH: May Ms. White be excused, your Honor?

11 THE COURT: Any objection?

12 MR. JOHNSON: Your Honor, I want to keep Ms. White,
13 because we went to school together, but no, I won't.

14 THE COURT: She may be excused. Thank you, Ms.
15 White.

16 MS. DEYSACH: Thank you, your Honor. State calls
17 Captain Jimmy Murcier.

18 BAILIFF: Yes, sir. Go right up there and be sworn.

19 MADAM CLERK: Place your left hand on the *Bible* and
20 raise your right hand for me, please. Do you solemnly
21 swear to truthfully answer all questions asked of you by
22 this Court, so help you God?

23 CAPTAIN JIMMY MURCIER: I do.

24 MADAM CLERK: Please be seated. State your name and
25 spell it for the Court, please.

1 CAPTAIN JIMMY MURCIER: Jimmy Murcier.

2 CAPTAIN JIMMY MURCIER

3 DIRECT EXAMINATION BY MS. DEYSACH:

4 Q Mr. Murcier, where did you work back in 2011?

5 A Hampton Police Department.

6 Q And what was your rank?

7 A Captain.

8 Q How long did you work at Hampton P.D.?

9 A About seven years.

10 Q Were you familiar with Masako Miller?

11 A Yes, ma'am.

12 Q And how were you familiar with her?

13 A I did several incident reports regarding her.

14 Q What types of calls did you get from Ms. Miller,
15 without going into what she said? What types of calls
16 were they?

17 A Couple times somebody broke in her house. Vandalism
18 of vehicle. Maybe a domestic or two. Something like
19 that.

20 Q Okay. So, you did get some domestic calls?

21 A Yes.

22 Q Do you know who the fights were between?

23 A No.

24 Q Do you know if Kelvin Jackson was who she called
25 about?

1 A I could say that, but I -- I never talked to Mr.
2 Jackson.

3 Q Do you know if she was frightened of Mr. Jackson?

4 A At times, I would say.

5 Q Was she always concerned that he was going into her
6 house?

7 A Only when they -- they -- when they'd break up. It
8 was a break-up/make-up couple, you know.

9 Q Did you have a request from Ms. Miller to put a
10 system in her house to detect if someone was there?

11 A Yes. It's called a Vardar System.

12 Q Okay. Can you please describe that.

13 A A Vardar system is kind of like a silent, motion-
14 detector-type thing. I mean, you put it in a certain
15 position in your house, and anybody close to that passed,
16 it sends out a silent frequency over the radio. And
17 everybody that -- in the county will hear that frequency,
18 and we will automatically know where we put that Vardar
19 system at, and we would know to go to that location.

20 Q Okay. So, it was a frequency that went out to all
21 law enforcement?

22 A Yes, over the radio.

23 Q And when did she request that that be put in her
24 house?

25 A I couldn't tell you what date, but I know we put it

1 in there.

2 Q Beg the Court's indulgence. Mr. Murcier, did you
3 have anything other than a professional relationship with
4 Ms. Miller?

5 A No. She would call me a lot of times. Just like
6 any other place, a lot of people in the community want to
7 talk to certain law enforcement officers. A lot of the
8 elderly people, a lot of the young people. And for some
9 reason, someone had referred her to me, told her I was
10 real fair and I would, you know, treat her right.

11 Q Okay. So, she trusted you.

12 A I would say so.

13 Q But you guys didn't have anything more than a
14 friendship.

15 A No, no, no. I've been married 27 years.

16 MS. DEYSACH: That's all. Thank you. Please answer
17 any questions that the Defense may have for you.

18 CAPTAIN JIMMY MURCIER

19 CROSS-EXAMINATION BY MR. JOHNSON:

20 Q Captain Murcier.

21 A Yes, sir.

22 Q Are you now working for the Hampton Police
23 Department?

24 A No, I'm retired, sir.

25 Q You're retired now. And over what period of time --

1 can you give me a close estimation over what period of
2 time it was that you got these calls at that residence?

3 A I couldn't, sir.

4 Q Couldn't? Okay. And if I would suggest to you --
5 if I would hand you some reports that were done, would
6 you be able to verify whether they were your incident
7 reports or not?

8 A I probably could.

9 MR. JOHNSON: May I please approach, your Honor?

10 THE COURT: Sure.

11 BY MR. JOHNSON:

12 Q I just want you to look at them and tell me, are
13 they?

14 A Only two of them are mine, but my name's on all of
15 them, because I entered all of the incident reports into
16 the system.

17 OFF-THE-RECORD DISCUSSION

18 BETWEEN MR. JOHNSON AND MR.

19 THORNTON.

20 BY MR. JOHNSON:

21 Q Okay. Well, here's what I'm going to -- here's what
22 I'm going to ask you. As to the reports you did, did you
23 recognize how long ago? They weren't recent reports;
24 were they?

25 A No, sir, I wouldn't think so.

1 Q Okay. All right. Not only were they not recent
2 reports, I think the report wasn't concerning Mr.
3 Jackson. Wasn't it concerning a Ms. Tara Roberts?

4 A Yes, sir. Like I say, I never met Mr. Jackson but
5 maybe once.

6 Q Okay. But the call was about a Ms. Tara Roberts.

7 MS. DEYSACH: Your Honor, I would object at this
8 point. If Mr. Johnson wants to introduce the incident
9 reports, we have no objection. The documents speak for
10 themselves, rather than just being questioned on bits and
11 pieces of them.

12 THE COURT: Do you need the document to refresh your
13 recollection?

14 A Yes. Yes, ma'am.

15 MR. JOHNSON: Your Honor, if the State wants to put
16 them in evidence, of course, they got that right. But I
17 mean, if I'm using a document that they provide for me to
18 -- that he has recognized and identified to ask him
19 questions about it, I think I got a right to do that
20 without submitting them into evidence.

21 MR. THORNTON: Your Honor, may we approach?

22 ON-THE-RECORD BENCH CONFERENCE, OUT

23 OF HEARING OF JURORS. PRESENT:

24 THE COURT, JUDGE MULLEN, MR.

25 THORNTON, MS. DEYSACH, MR.

1 JOHNSON, MR. WILLIAMS:

2 THE COURT: Yes, sir.

3 MR. THORNTON: Your Honor, the State's position is,
4 just because we provide something in discovery does not
5 make it admissible, and it is improper to read from a
6 document that you are not admitting into evidence. You
7 can't simply get around admitting documents by reading
8 from the document and asking the witness questions.

9 THE COURT: Mr. Johnson, my concern is, is that
10 you're asking the witness questions from the document,
11 and he needs to refresh his recollection. So, if you're
12 going to ask him questions from the document, you need to
13 provide him a copy so he can refresh his recollection.

14 MR. JOHNSON: Your Honor, I don't -- don't like to
15 put these documents into evidence. I'm not going to do
16 that.

17 THE COURT: That's not what you asked. If you're
18 going to ask him questions about the documents, you need
19 to provide it to him, so he can refresh his recollection.

20 MR. JOHNSON: That's right. Yes, ma'am. And I
21 guess I'm asking of the Court, is the Court telling me I
22 have to put this into evidence?

23 THE COURT: No, sir. No, sir.

24 MR. JOHNSON: Okay. Yes. Yes, ma'am.

25 JUDGE MULLEN: If you're asking a question about the

1 document, give the document to him, so he knows what
2 you're talking about. You don't have to put it into
3 evidence; just give it to him.

4 MR. JOHNSON: Okay. Thank you, ma'am.

5 MR. JOHNSON: Thank you, your Honor.

6 END BENCH CONFERENCE.

7 BY MR. JOHNSON:

8 Q Mr. Murcier, you told me you only did two of them?

9 A Two of them, yes, sir.

10 Q And the State suggested that I only use those two.
11 I'm handing you those two.

12 A Okay.

13 Q Because you didn't do the other incident reports.

14 A No, sir.

15 Q All I need you tell me is -- all I need you to tell
16 me is, what were the dates on -- how long ago were they?

17 A One is February of 2011, and the other is April 26,
18 2011.

19 Q Okay. Okay. And who was the -- who was identified
20 as the defendant, for a better choice of word, in those
21 two?

22 A Both of unknown.

23 Q Both of them unknown?

24 A Yes.

25 MR. JOHNSON: Okay. Thank you, sir. Your Honor,

1 can I beg the Court's indulgence? Your Honor, that's all
2 the questions we have for this witness. Thank you.

3 THE COURT: Thank you. Anything further?

4 MS. DEYSACH: No re-direct.

5 THE COURT: All right. You may step down, Mr.
6 Murcier.

7 MR. WILLIAMS: Did she say re-direct?

8 THE COURT: Oh, I'm so sorry.

9 MS. DEYSACH: No, no. No re-direct.

10 THE COURT: No.

11 MS. DEYSACH: May Mr. Murcier be excused?

12 MR. JOHNSON: Yes, ma'am. Yes, ma'am.

13 THE COURT: Any objection?

14 MR. JOHNSON: No objection.

15 Barb had ended this tract here, but 7-30-13-m16 says
16 Major Blue Bolton is next.

17 MR. JOHNSON:

18 MADAM CLERK: Would you place your left hand on the
19 Bible, and raise your right hand for me, sir. Do you
20 solemnly swear to truthfully answer all questions asked
21 of you by this Court, so help you God?

22 MAJOR JAMES BLUE BOLTON: I do.

23 MADAM CLERK: Please be seated. State your name and
24 spell it for the court.

25 MAJOR BOLTON: James Bolton, B/o/l/t/o/n.

1 MAJOR JAMES BLUE BOLTON

2 DIRECT EXAMINATION BY MR. THORNTON:

3 Q Mr. Bolton, is your current rank major?

4 A Yes, sir, it is.

5 Q And I realize, I've known you for years, and this is
6 always a dumb question, but who do you work for, sir?

7 A I work for the Hampton Police Department

8 Q And as the major, are you the Number 2 man in the
9 Hampton Police Department?

10 A Yes, sir, I am.

11 Q And Mr. Bolton -- or Major Bolton, did you work for
12 the Hampton Police Department in May of 2011, sir?

13 A Yes, sir.

14 Q And were you in the same job you are now as a major?

15 A Yes, sir, I was.

16 Q Did you have occasion to talk to one Kelvin Jackson?

17 A Yes, sir, I did.

18 Q And do you see Kelvin Jackson in this courtroom, the
19 one that you talked to?

20 A Yes, sir.

21 Q Where is he?

22 A Sitting in the yellow shirt, over here at this
23 table.

24 Q And you're indicating the defendant seated right
25 there?

1 A Yes, sir.

2 Q Major, what were you talking to him about?

3 A About a financial transaction card that he used at
4 the Shell station in Hampton.

5 MR. JOHNSON: Your Honor, for the record, I have to
6 note my -- may I make a record?

7 THE COURT: Yes, sir. We'll take a quick five-
8 minute break. If you don't mind, go to your jury room,
9 and we'll be right back. Remember not to discuss the
10 case.

11 JURORS LEAVE COURTROOM 3:02 P.M.

12 ON-THE-RECORD BENCH CONFERENCE, OUT

13 OF PRESENCE OF JURORS. PRESENT:

14 THE COURT, JUDGE MULLEN, MR.

15 THORNTON, MS. DEYSACH, MR.

16 JOHNSON, MR. WILLIAMS:

17 BAILIFF: The jury is clear, your Honor.

18 THE COURT: Thank you. Mr. Johnson.

19 MR. JOHNSON: Your Honor, may it please the Court.
20 And I thank the Court for allowing me to make the record.

21 THE COURT: Yes, sir.

22 MR. JOHNSON: Your Honor, the record I want to make
23 is one of my previous motions, and I won't argue it.

24 It's in that brief and your Honor have seen it.

25 THE COURT: Yes, sir.

1 MR. JOHNSON: I just, right now, renew that motion.
2 I think the Rules say I got to go a little bit further.
3 I renew that motion and state that I -- it is the Defense
4 position that the -- any mention of an uncharged, non-
5 conviction of another pending charge is prejudice. It
6 goes to character evidence on the 404. It's more
7 probative -- I mean, more prejudicial than probative
8 under 403, and it is a prior bad act. And I just wanted
9 to make the -- I meant, I want to make the record,
10 because and it would definitely prejudicial -- prejudice
11 this case to come in, because that's an uncharged offense
12 that he's not been convicted of that's pending now.
13 That's just the record, your Honor.

14 MR. THORNTON: Your Honor, I don't want to beat to
15 death a horse.

16 THE COURT: Right.

17 MR. THORNTON: I already made all my arguments about
18 how integral this was. And just to correct for record
19 purposes, I believe it was charged. I think that's what
20 he was originally locked up for in Hampton County, and
21 the Major's here and can testify to that. But I
22 understand Mr. Johnson's argument is he wasn't convicted
23 of it, but I believe it was charged. And my position
24 basically is, it is so integral to, you know, partly his
25 motive, partly his identity; it's so integral to the

1 crime of murder, which, of course, is here in Beaufort
2 County, that it literally could not be separate. It's
3 how he was developed as a suspect. And it's some of the
4 best evidence we have that he is implicated in the
5 murder. It's all out of the same series of events, the
6 same facts, the same witnesses, the same pretty much
7 everything. There's nothing different about this
8 financial transaction card fraud issue as far as proof.

9 And the only reason we're even going into it is
10 because that's what they were questioning him about --
11 questioning him about, and that's what started the, you
12 know, veritable cavalcade of lies he told every time they
13 talked to him, which is -- the first one is, you know,
14 the State's position is the first one is, of course, the
15 best one, which is I got no idea what you're talking
16 about; I wasn't even in that county; right up until they
17 showed him the videotape or told him about the videotape
18 of him at the gas station using her debit card. So, my
19 position would be it's integral. It cannot be separated.

20 THE COURT: And I agree. My ruling from before
21 still stands, but I certainly appreciate the fact that
22 you have to make a record, Mr. Johnson.

23 MR. THORNTON: Thank you, your Honor.

24 THE COURT: Thank you. Will you bring the jury
25 back.

1 BAILIFF: Yes, ma'am.

2 MR. THORNTON: Although it's a little late, your
3 Honor, for future purposes, if we're in front of you, and
4 I know every judge is different; some like you to stand
5 for the jury to come in and out; some don't. I think
6 we're already -- that ship has sailed for the purposes of
7 this case. But just in general terms, how do you prefer
8 we do that for the future?

9 THE COURT: I think it certainly shows the jury a
10 sign of respect, so I'd do that.

11 MR. THORNTON: Yes, your Honor.

12 THE COURT: I'd do that.

13 MR. THORNTON: I will so instruct all of the
14 assistants via email, and we will try to make sure we
15 remember that.

16 MR. JOHNSON: Your Honor, I had already known how
17 you felt about that, so I was standing.

18 END BENCH CONFERENCE.

19 BAILIFF: Your Honors, the jury is entering.

20 JURORS ENTER COURTROOM 3:08 P.M.

21 MR. THORNTON: May it please the Court.

22 THE COURT: Yes, sir.

23 MAJOR JAMES *BLUE* BOLTON

24 CONTINUE DIRECT EXAMINATION BY MR. THORNTON:

25 Q Major Bolton, I'd asked you a question before we

1 took a short break. Let me ask you again. What were you
2 talking to Kelvin Jackson about?

3 A About a financial transaction card, a debit card
4 that he used at the Shell Station in Hampton.

5 Q All right. Now, when you first talked to -- excuse
6 me -- did you do an interview on him?

7 A Yes, sir, I did.

8 Q All right. I'm going to hand you -- I'm going to
9 hand you what's been marked for identification as State's
10 Exhibit Number 5, and ask you if you can identify that
11 document for me.

12 A Yes, sir. This is a *Miranda* rights form that we use
13 at the Hampton Police Department.

14 Q All right. And is that a particular *Miranda* rights
15 form? In other words, is it for somebody in particular?

16 A Yes, sir. This is the one I read to Mr. Jackson on
17 that night, the 27th.

18 Q All right. And what's the purpose of reading the
19 *Miranda* rights form?

20 A Anytime we have a suspect in custody for anything,
21 we have to *Mirandize* them before we can question them.

22 Q And did you *Mirandize* Mr. Jackson?

23 A Yes, sir, I did.

24 Q And just briefly go over the rights that you
25 indicated Mr. Jackson had.

1 A Well, it says:

2 *Before we ask you any questions, you*
3 *must understand your rights. You have*
4 *the right to remain silent. You can*
5 *-- anything you say can and will be*
6 *used against you in court.*

7 And:

8 *You have the right to talk to*
9 *a lawyer for advice before we ask*
10 *any questions and have him or her*
11 *with you during questioning. If*
12 *you cannot afford a lawyer, one*
13 *will be appointed for you before*
14 *any questioning if you wish.*

15 *And if you decide to answer*
16 *questions now without a lawyer*
17 *present, you will still have the*
18 *right to stop answering at any*
19 *time.*

20 Q All right. And are there spaces next to that for
21 people to -- for the person you're talking to, in this
22 case, Kelvin Jackson, to initial?

23 A Yes, sir. Each one of these sentences has a -- they
24 initial right beside each one, after they read it.

25 Q Did he initial those?

1 A He did.

2 Q And did he appear -- and when I say he, obviously,
3 I'm referring to the defendant, Kelvin Jackson. Did the
4 defendant acknowledge his rights and decide to talk to
5 you?

6 A Yes, sir, he did, because at the bottom of the page
7 is a waiver of the rights. You want me to read that?

8 Q Yes, sir.

9 A It says:

10 *I have read this statement of my*
11 *rights and understand what my rights*
12 *are. I am willing to make a statement*
13 *and answer questions. I do not want*
14 *a lawyer at this time.*

15 *I understand and know what I'm*
16 *doing. No promise or threats have*
17 *been made to me. No pressure or*
18 *coercion of any kind has been used*
19 *against me, and I have twelve years of*
20 *education.*

21 He read this, initialed each sentence, and then
22 signed the bottom under the waiver.

23 Q And did you talk to him?

24 A Yes, I did.

25 Q All right. First, let me ask you this. Is that

1 State's Exhibit Number 5 for identification, is that an
2 accurate -- I realize it's a photo copy. Is it an
3 accurate photocopy of the rights form you used?

4 A Yes, sir, it is.

5 Q And what's the date on that?

6 A May the 27th, 2011.

7 Q So, this would have been right after the
8 disappearance of Masako Miller. Is that correct?

9 A Yes, sir.

10 Q And is that -- I'm sorry. You said that was an
11 accurate copy?

12 A Yes, sir.

13 MR. THORNTON: Your Honor, I'd ask that State's
14 Exhibit Number 5 be moved into evidence.

15 MR. JOHNSON: Your Honor, without objection, to make
16 it clear.

17 THE COURT: Thank you.

18 DOCUMENT REFERRED TO AS *MIRANDA*

19 RIGHTS FORM, DATED MAY 27, 2011

20 MARKED STATE'S EXHIBIT 5, ADMITTED

21 AS EVIDENCE.

22 BY MR. THORNTON:

23 Q Major, did you talk to him?

24 A Yes, sir, I did.

25 Q All right. And what did he tell you when you first

1 talked to him?

2 A I asked him about where he was on the night of the
3 25th, early morning hours of the 26th. He said he was in
4 Fairfax at his girlfriend's house in Allendale County.

5 Q All right. I'm glad you said that. Let me stop you
6 for a minute. Now, you're in the city of Hampton. For
7 members of the jury that may not be familiar with that
8 area, what county is the city of Hampton in?

9 A It's in Hampton County.

10 Q And where was the -- where was Masako Miller's card
11 used?

12 A At the Shell station on Elm Street in the town of
13 Hampton in Hampton County.

14 Q All right. So, when you first ask Kelvin Jackson
15 where he was, he told you that he was where?

16 A In Fairfax, which is in Allendale County.

17 Q All right. Did he say -- did he deny being in --
18 even being in Hampton County that night?

19 A Yes, sir, he did.

20 Q Did you have any evidence to the contrary?

21 A Yes, sir. We had a surveillance video at the Shell
22 station in Hampton where he was there getting gas, and he
23 attempted to use the debit card.

24 Q All right. Again, you've already testified to this.
25 I just want to go back over this again. So, you go to

1 talk to him about this financial transaction card fraud.
2 Is that correct?

3 A Yes, sir.

4 Q All right. And he first tells you I wasn't even in
5 the county; I was in another county.

6 A Yes, sir.

7 Q But you have him on videotape at the Shell station
8 using her card.

9 A Yes, sir.

10 Q So, we know he's told two lies at that point. Is
11 that right?

12 A Yes, sir.

13 MR. THORNTON: Your Honor, objection. If he's going
14 to ask the question, that's fine, but he's not going to
15 tell him what he told. I understand what he --

16 THE COURT: Try to re-do it.

17 MR. THORNTON: Absolutely.

18 BY MR. THORNTON:

19 Q How many lies had he told you at that point?

20 A Two.

21 Q Excellent. So, I'm happy to keep rephrasing that,
22 Major. Just let me know. Now, once you confronted him
23 with these lies he's telling, did he change his story?

24 A Yes, sir, he did. He said that he had come to
25 Hampton to get gas to go back to Columbia.

1 Q And I'm sorry. You may have testified to this. Did
2 he indicate who he was supposedly staying with in Fairfax
3 in Allendale when he first lied to you?

4 A He said it was his girlfriend, Tara Roberts.

5 Q And do you know Kelvin Jackson?

6 A Yes, sir, I do.

7 Q All right. And do you know who Tara Roberts is?

8 A He said it was his girlfriend.

9 Q All right.

10 A I did not --

11 Q Do you have any personal knowledge of her one way or
12 the other?

13 A No, sir. No, sir.

14 Q All right. Your Honor, Court's indulgence, please,
15 one moment.

16 How did you, Major, how did you come to start a
17 check for Ms. Miller's debit card in the first place? In
18 other words, how did you know what you were looking for?

19 A When she was reported missing, we started talking to
20 all the neighbors in the whole neighborhood and around.
21 And we wanted to check -- we called Beth Chafin with the
22 bank. We wanted to check and see if her debit card had
23 been used anywhere, trying to locate Ms. Miller.

24 Q Now, would this be standard procedure that you would
25 do if there's a missing person case is you run a check on

1 their cards?

2 A Yes, sir.

3 Q Is that what you would normally do?

4 A Yes, sir.

5 MR. THORNTON: I don't have any further questions.

6 Please answer any questions that Defense has for you.

7 Thank you.

8 MAJOR JAMES BLUE BOLTON

9 CROSS-EXAMINATION BY MR. JOHNSON:

10 Q Major, just a couple -- just a couple or two
11 questions. What date did you take the warrant out on
12 him?

13 A I don't remember the exact date.

14 Q Was it after the 26th and 27th?

15 A I believe so.

16 Q Okay. Okay. During your investigation on the card
17 you were using, did you trace that card back to an
18 account?

19 A Yes, sir, we did.

20 Q Okay. And who owned the account?

21 A Masako Miller.

22 Q Okay. Wasn't that kind of -- did it not have -- did
23 it not have Masako Miller and Kelvin Jackson?

24 A No, sir.

25 Q Do you have the number of that account with you?

1 A No, sir, I don't.

2 Q Okay. Did you give the number of that account to
3 the solicitor's office?

4 A No, sir, I didn't.

5 Q Okay. Okay. How did you identify the account?

6 A An employee of Palmetto State Bank, Beth Chafin, had
7 told us that that account had -- Masako had opened that
8 account.

9 Q Okay. So, maybe they will bring her to talk about
10 the account. All right. All right.

11 MR. THORNTON: Your Honor, for the Court's
12 information and Mr. Johnson, Beth Chafin is not only on
13 our witness list, she, I believe, is my -- I believe
14 she's my next witness.

15 MR. JOHNSON: Okay.

16 MR. THORNTON: That may clear that up.

17 MR. JOHNSON: Okay.

18 BY MR. JOHNSON:

19 Q First of all, let's establish, he did tell you an
20 untruth. Did he tell you why he told you that?

21 A No, sir.

22 MR. JOHNSON: Your Honor, that's all I have.

23 THE COURT: Any re-direct?

24 MR. THORNTON: None, your Honor. Ask Major Bolton
25 be excused.

1 THE COURT: May he be excused, Mr. --

2 MR. JOHNSON: Oh. No objection.

3 THE COURT: Thank you, Major.

4 MR. THORNTON: Beth Chafin.

5 BAILIFF: Please step here to be sworn, ma'am.

6 MADAM CLERK: Would you place your left hand on the
7 Bible, and raise your right hand for me, sir. Do you
8 solemnly swear to truthfully answer all questions asked
9 of you by this Court, so help you God?

10 MS. BETH CHAFIN: I do.

11 MADAM CLERK: Please be seated. State your name and
12 spell if for the court.

13 COURT REPORTER: Spell your last name, please.

14 MS. CHAFIN: I'm sorry?

15 COURT REPORTER: Spell your last name, please.

16 MS. CHAFIN: C/h/a/f/i/n.

17 MR. THORNTON: May it please the Court.

18 BETH CHAFIN

19 DIRECT EXAMINATION BY MR. THORNTON:

20 Q Good afternoon, Ms. Chafin.

21 A Good afternoon.

22 Q Let's go ahead and get this out of the way. Are you
23 slightly nervous today?

24 A Just a little bit.

25 Q All right. Is this the first time you've ever

1 testified?

2 A Yes, it is.

3 Q I want you to take a deep breath. If you need to
4 stop for a minute, that's fine.

5 A Okay. Thank you.

6 Q Ms. Chafin, who do you work for?

7 A Palmetto State Bank in Hampton, South Carolina.

8 Q And what do you do for Palmetto State Bank?

9 A I'm assistant vice president.

10 Q As part of your job, do you assist in maintaining
11 the business record of your department?

12 A Yes, I do.

13 Q I'm sorry. Not your department. Of the bank?

14 A Yes, I do.

15 Q Okay. Were you contacted in May of 2011 by the City
16 of Hampton Police Department about one Masako Miller?

17 A I was.

18 Q And do you know Masako Miller?

19 A Not personally. Just knew her through the bank.

20 Q All right. That's what I mean. Did you know who
21 she was to see her?

22 A Yes.

23 Q So, you were familiar with the name when Hampton
24 contact you. Is that correct?

25 A Yes, sir.

1 Q This may be kind of an odd question, so if I need to
2 re-phrase it, please tell me. On or about May of 2011,
3 during that month, how many accounts, either open or
4 closed, did Masako have?

5 A Three.

6 Q All right. Let's go through them one at a time.

7 A Okay.

8 Q Was there an account that was originally single, and
9 later changed to a joint account?

10 A Yes, there was.

11 Q All right. Let's start with that one. Could you go
12 over what the checking account number on the one that
13 became a joint account was first.

14 A Okay. 69411290.

15 Q All right. What type of account was that?

16 A It was a checking account.

17 Q All right. Now, did that start out originally as a
18 single account just in the name of Masako Miller?

19 A Yes, it did.

20 Q Did it, at some point, become a joint account?

21 A It did.

22 Q And who was the person who was added to that
23 account?

24 A Kelvin Jackson.

25 Q I'm going to hand you what's been marked as State's

1 Exhibit Number 6 for identification. I'm going to ask if
2 you can identification that document for me.

3 A That is a request change form that the bank uses to
4 make any changes to an account.

5 Q All right. And does that reflect that account
6 number and it was Masako Miller on the account and Kelvin
7 Jackson being added to it? Is that what that reflects?

8 A Yes, it does.

9 Q Is that an accurate record that you keep in the
10 normal, ordinary course of business at Palmetto State
11 Bank?

12 A Yes, it is.

13 Q And is that an accurate copy of that record?

14 A Yes, it is.

15 MR. THORNTON: Your Honor, I'd ask State's Exhibit
16 Number 6 be moved into evidence.

17 MR. JOHNSON: Your Honor, no objection.

18 THE COURT: Thank you.

19 DOCUMENT IDENTIFIED AS BANK

20 ACCOUNT NUMBER 69411290 MARKED

21 STATE'S EXHIBIT NUMBER 6,

22 ADMITTED AS EVIDENCE.

23 BY MR. THORNTON:

24 Q And forgive me, I did not ask this sooner. When was
25 Kelvin Jackson added to this account?

1 A March 12, 2010.

2 Q Okay. So, as of March 2010, the checking account
3 that ends with 69411290 was a joint account with Masako
4 Miller and Kelvin Jackson.

5 A Correct.

6 Q All right. At some time, was that ever changed?

7 A Yes, it was.

8 Q And when I say *that*, that account.

9 A It was.

10 Q Now, let me ask you a question. And members of the
11 jury might be shocked to hear this. What is the bank
12 practice on taking a joint account and just reverting
13 back to a single account? Can you do that?

14 A We do not remove names from the account unless the
15 person asks to be removed from them.

16 Q And what person? The person being removed?

17 A Correct.

18 Q All right. Did Masako Miller, at some point,
19 attempt to come and have Kelvin Jackson removed from that
20 account?

21 A She came in to close the account on May 24, 2011.

22 Q Did she just close it to not do anymore business
23 with you all, or what is the purpose of closing it?

24 A She closed the account and opened a individual
25 account just in her name.

1 Q So, she closed the joint account and moved the money
2 to a single account.

3 A Correct.

4 Q Is that how you, without having the person being
5 removed, how you would get rid of a joint account?

6 A Correct.

7 Q And is that the only way to do it with Palmetto
8 State Bank?

9 A It is.

10 Q And what was the -- was there a new checking number,
11 checking account number, given?

12 A Yes, there was.

13 Q All right. Now, what was the new account number?

14 A 83000880.

15 Q All right. I'm going to show you what's been
16 marked, in a moment, as Plaintiff's or -- excuse me -- as
17 State's Exhibit Number 7, only for identification at this
18 point. Do you recognize that document?

19 A Yes, I do.

20 Q Now, is that -- what is that document?

21 A That is a change request form to close the account
22 and move the funds to a new account.

23 Q All right. Now, does State 7 that I just handed you
24 for identification, is that a business record kept in the
25 normal and ordinary course of your business?

1 A Yes, it is.

2 Q And is it an accurate copy of that record?

3 A Yes, it is.

4 MR. THORNTON: Now, first of all, I'd like to go
5 ahead and move that into evidence, your Honor, State's 7.

6 MR. JOHNSON: Without objection.

7 THE COURT: Thank you.

8 DOCUMENT IDENTIFIED AS CHANGE

9 REQUEST FORM FROM PALMETTO

10 STATE BANK MARKED STATE'S

11 EXHIBIT NUMBER 7, ADMITTED AS

12 EVIDENCE.

13 BY MR. THORNTON:

14 Q What does that -- does that reference everything we
15 were just talking about? In other words, does that
16 reference the old account number, it being closed per her
17 request; and then the new account number, also, in the
18 upper right-hand corner?

19 A Yes, it does.

20 Q All right. So, now we've established two separate
21 accounts.

22 A Correct.

23 Q When was that account -- when was the old checking
24 account, the joint one with Kelvin Jackson, what was the
25 date that this was closed and the money transferred into

1 the new account?

2 A May 24, 2011.

3 Q May 24, 2011, the day before she went missing.

4 A Correct.

5 Q Ms. Chafin, did she have a third account?

6 A She did.

7 Q And when I say *she*, obviously, I mean Masako Miller.

8 Was there a third account?

9 A Yes, there was.

10 Q Now, the third account, was it a joint account or
11 was it a single account?

12 A It was an individual account.

13 Q Had it ever been a joint account?

14 A No, it had not.

15 Q Whose name was that account in?

16 A Just in her name.

17 Q At the time of her murder in May, late May of 2011,
18 when I'm talking about late hours of May the 25th, early
19 morning hours of May the 26th, 2011, how many debit cards
20 would she have had? And if that's a strange question,
21 what I mean is, you've got one account that's closed.
22 Would any debit card on that work?

23 A No, it would not.

24 Q All right. You have a new account that had just
25 been opened, you testified, May 24th. Had she been given

1 a new debit card for that, or is that something that
2 comes in the mail, or how does that work?

3 A It is -- it is sent through the mail.

4 Q So, was that activated yet?

5 A No, it was not.

6 Q So, how many debit cards would she have had that
7 would be active at that point?

8 A One.

9 Q And whose name's on that account?

10 A Masako Miller.

11 Q Kelvin Jackson ever been on that account?

12 A No, sir.

13 Q What's the account number on that account?

14 A 0084299251.

15 MR. THORNTON: Your Honor, may I approach?

16 THE COURT: Yes.

17 MR. THORNTON: Your Honor, Court's indulgence. I'm
18 sorry. One moment.

19 BY MR. THORNTON:

20 Q Ms. Chafin, I know you were dreading the taking one
21 piece of your paper from you, but I'm sorry, yours is the
22 one that's the most legible. I'm going to mark this as
23 State's Exhibit Number 8 for identification, but I
24 promise, I'm going to hand it right back to you before I
25 start asking you about it.

1 Now, can you identify the document that I've handed
2 back to you that is listed. It's a two-page document.
3 It's State's Exhibit Number 8.

4 A Yes, sir.

5 Q And what is that document?

6 A That is a system detail from Five Star EFT, who is
7 our card provider for the transaction done on 5-26, at
8 2:26:09 a.m.

9 Q All right. Now, there's some documentation on
10 there. There's some writing, because -- what time zone
11 is the original time listed as?

12 A Pacific time.

13 Q So, when it's recalculated, you actually -- did you
14 go in and recalculate what the time was?

15 A Yes, I did.

16 Q And what time was the -- and I'm sorry. I may have
17 not asked this. Sometimes I get ahead of myself. What
18 debit card does that reference being used?

19 A It references her card on the account, individual
20 account.

21 Q The single account that never had Kelvin Jackson on
22 it.

23 A Correct.

24 Q All right. And when does it say it was used at the
25 Shell station?

- 1 A 2:26 a.m, on 5-26-11.
- 2 Q And that's 2:26 our time, after you've converted it,
3 correct?
- 4 A Yes, sir, Eastern Standard Time.
- 5 Q All right. So, it's 2 -- basically a little before
6 2:30 in the morning, on what morning?
- 7 A 5-26.
- 8 Q 6-26. 2011. Is that right?
- 9 A 2011.
- 10 Q And is there anything about the second page about
11 that detail? Does it give any other information about
12 PIN numbers or anything like that?
- 13 A Yes, sir. The card was swiped and no PIN was used.
- 14 Q So, either the person who was using it didn't have
15 the PIN or didn't try to use it, one or the other.
- 16 A Correct.
- 17 Q And so, it was not charged. Is that correct?
- 18 A It was denied for non-sufficient funds.
- 19 Q And would you go over the account number for me,
20 please, one more time.
- 21 A Sure. 0084299251.
- 22 Q And that was the individual single account. Is that
23 correct?
- 24 A Correct.
- 25 Q As of the date of her murder, how many active debit

1 cards did she have with -- and when I say *she*, Masako
2 Miller -- how many active debit cards did she have from
3 Palmetto State Bank?

4 A One.

5 Q Is that the one that was used?

6 A Yes, it is.

7 Q And did Kelvin Jackson have any right per the bank
8 to use that card or that account?

9 A No, sir.

10 Q Court's indulgence, your Honor, please. Your Honor,
11 I don't have any other questions for Ms. Chafin. Ms.
12 Chafin, thank -- oh, just in case I did not do this,
13 Judge, I would ask State's Exhibit Number 8, I don't
14 believe I did move it into evidence for identification.

15 Ma'am, is that an accurate record that is kept in
16 the normal and ordinary course of your business?

17 A Yes, it is.

18 Q And have you reviewed it at my request?

19 A Yes, I have.

20 Q And is it accurate?

21 A Yes, it is.

22 MR. THORNTON: All right. Your Honor, I'd ask
23 State's Exhibit Number 8 be moved into evidence.

24 MR. THORNTON: Without objection.

25 THE COURT: Thank you.

1 DOCUMENT IDENTIFIED AS A
2 SYSTEM DETAIL FOR PALMETTO
3 STATE BANK RE ACCOUNT NUMBERED
4 0084299251 MARKED STATE'S EXHIBIT
5 NUMBER 8, ADMITTED AS EVIDENCE.

6 MR. THORNTON: And with that, Judge, I do apologize.
7 I have no further questions for Ms. Chafin, other than to
8 apologize, you're going to have to leave Number 8 with
9 us, but I'll make sure you get a copy.

10 A No problem.

11 THE COURT: Mr. Johnson.

12 BETH CHAFIN

13 CROSS-EXAMINATION BY MR. JOHNSON:

14 Q Ms. Chafin, how you doing?

15 A Good. Thank you.

16 Q We talked one time on the phone.

17 A Yes, sir.

18 Q Okay. Believe it or not, my questions are very
19 short. I think you told the Solicitor just now, per the
20 bank, nobody could use this card. But if I have a debit
21 card, can I give my debit card to somebody else to use?

22 A You could.

23 Q Okay. And as long as they got my permission to use
24 it, it's fine. Is that correct?

25 A That is correct.

1 Q Okay. And do you have a way -- I guess you don't
2 have a way to tell who used the card. But if I were to
3 tell you that he used her card before, would you find
4 that unreasonable?

5 A No, sir.

6 Q Okay. Because people use people's debit cards,
7 particularly people who live together. Is that correct?

8 A Sometimes I would think so.

9 Q Okay. And that's not illegal in any way; is it?

10 A No, sir.

11 Q Okay.

12 A If they give permission, it is not.

13 Q All right. And it was denied because there was no
14 money in the account?

15 A Correct.

16 MR. JOHNSON: Yes, ma'am. All right. Thank you,
17 ma'am.

18 MR. THORNTON: I have no further questions. Thank
19 you very much, ma'am. I asked that she be excused and
20 allowed to go back to work. She's been waiting for me
21 all day.

22 THE COURT: You're excused. Thank you.

23 A Thank you.

24 MR. THORNTON: Sergeant Michelle Roberts.

25 BAILIFF: Ma'am, if you will, please go up there to

1 be sworn.

2 MADAM CLERK: Place your left hand on the *Bible*,
3 please, and raise your right hand. Do you solemnly swear
4 or affirm that the testimony you give shall be the truth,
5 so help you God?

6 SERGEANT ALEXANDRIA MICHELLE ROBERTS: I do.

7 MADAM CLERK: Thank you. If you'll have a seat,
8 please. And if you'll state and spell your name for the
9 record, please.

10 SERGEANT ROBERTS: Alexandria Michelle Roberts,
11 A/l/e/x/a/n/d/r/i/a, M/i/c/h/e/l/l/e, R/o/b/e/r/t/s.

12 SERGEANT ALEXANDRIA MICHELLE ROBERTS

13 DIRECT EXAMINATION BY MR. THORNTON:

14 Q Now, of course, when I announced your name, I
15 referred to you as Sergeant Roberts. Sergeant, I know
16 you have several different jobs, but what is your job
17 where you're referred to as a sergeant?

18 A I work at Hampton County Detention Center.

19 Q And is that the only job that you currently have?

20 A As of right now, I do.

21 Q All right. Back in May of 2011, did you have a
22 different job?

23 A I used to work part time at the Shell station.

24 Q All right. And at the Shell station. Is this the
25 Shell station in the city of Hampton?

1 A Yes, sir.

2 Q I'm going to hand you, ma'am, what's been marked as
3 9, 10, 11, and 12 for identification. State's 9, 10, 11,
4 and 12. I'm going to ask, then, just first, can you
5 identify those four photos?

6 A Yes, sir.

7 Q All right. Now, are those photographs time coded,
8 date stamped at the bottom left?

9 A Yes, sir.

10 Q And approximately what time do they show? Time and
11 date.

12 A May 26, 2011, around 2:00 a.m.

13 Q Okay. And do they reference starting about 2:25,
14 and then going up to like 2:26 or 2:27, somewhere in that
15 area?

16 A From 2:23 to 2:25.

17 Q Okay. So, shortly before 2:30 in the morning.

18 A Yes, sir.

19 Q Now, can you tell me where those pictures are from?
20 In other words, what store is that that you see in those
21 four photographs?

22 A This is the Shell station in Hampton County.

23 Q And on May the 26, 2011, at little bit before 2:30,
24 who is the cashier that is -- that has her back to me in
25 those pictures?

1 A Yes, that would be me, Alexandria Roberts, yes, sir.

2 Q All right. That would be you. So, that was you
3 working that night or early morning hours. Is that
4 correct?

5 A Yes, sir.

6 Q Do you know who Kelvin Jackson is? In other words,
7 I'm not saying do you know him well, but do you know him
8 to see him?

9 A Yes, sir.

10 Q And can you identify him in the courtroom today?

11 A Yes, sir.

12 Q Where is he?

13 A He on my left, sitting next to Mr. Korey Williams.

14 Q All right. So, you know his attorney, also?

15 A Yes, sir.

16 Q All right. So, you've referred to the defendant in
17 this case, Kelvin Jackson. Is Kelvin Jackson in those
18 photographs?

19 A Yes, sir.

20 Q And describe for me that evening, the best you
21 remember based on the photographs. I mean, is he pulled
22 -- does he pull up? Does he pull up in a car? What does
23 he do?

24 A He pulls up to, I believe, it's pump number 3.

25 Q All right.

1 A And he get out to attempt to pump gas, but the
2 credit card kept declining.

3 Q Okay. So, he attempted to use the card at the
4 pumps. Is that right?

5 A Yes, sir.

6 Q And it declined.

7 A Yes, sir.

8 Q Did he come in after that?

9 A After several times that it didn't take, yes, sir.

10 Q Yes, ma'am. And what did he do? Did he still get
11 gas? Did he pay for it in cash? What did he do?

12 A He did get gas. He paid for it with cash.

13 Q All right. And I'm going to ask you, you've
14 reviewed now State's Exhibit's 9, 10, 11, and 12. Are
15 all of those accurate still shots taken from your all's
16 video, store video system?

17 A Yes, sir.

18 Q And is he -- could you tell me about --

19 MR. THORNTON: Actually, let me make sure we're
20 clear for record purposes. Your Honor, I'd ask that
21 State's 9, 10, 11, and 12 be moved into evidence.

22 MR. JOHNSON: No objection.

23 THE COURT: Thank you.

24 PHOTOGRAPHS IDENTIFIED AS HAVING
25 BEEN TAKEN AT THE SHELL STATION

1 IN HAMPTON, SOUTH CAROLINA MARKED
2 STATE'S EXHIBIT NUMBERS 9, 10, 11,
3 AND 12, ADMITTED AS EVIDENCE.

4 BY MR. THORNTON:

5 Q Now, Exhibit 9, let's just talk one at a time.
6 State's Exhibit 9, is that -- what is that a picture of?

7 A In the picture, it looks like a blue car.

8 Q All right. But is that a picture of Mr. Jackson
9 pulling up to the pumps?

10 A Yes, sir.

11 Q All right. I'm going to show you State's Exhibit
12 10. Is that a picture of Mr. Jackson walking away from
13 his car?

14 A Yes, sir.

15 Q State's Exhibit Number 11, is that a picture of Mr.
16 Jackson standing with you inside? Is that when he was
17 paying for gas?

18 A Yes, sir.

19 Q Now, State's Exhibit Number 12, can you describe
20 what he's doing in that picture?

21 A Wiping his face with his shirt.

22 Q Did you, at my request, did you come in and review
23 the surveillance video that those still shots were taken
24 from?

25 A Yes, sir.

1 Q And what does it appear that he's doing?

2 A He's wiping his face.

3 Q All right. And did he appear to be sweaty?

4 A I would assume so, but I'm not sure.

5 Q That's fine. And you said he did come in and he
6 paid cash for his gas. Is that correct?

7 A Yes, sir.

8 Q All right. Your Honor, Court's indulgence, please,
9 one moment. Ma'am, thank you very much, Sergeant. I
10 appreciate it. Please answer any questions Defense has.

11 SERGEANT ALEXANDRIA MICHELLE ROBERTS

12 CROSS-EXAMINATION BY MR. JOHNSON:

13 Q Couple quick questions. It was May; it's correct?

14 A I'm not sure the exact date.

15 Q Okay. But I take it, it was May 25th or 26th.

16 Would you believe me if I say that?

17 A Yes, sir.

18 Q Okay. And it was kind of warm during that time.

19 A Yes, sir.

20 Q So, was it unusual for somebody coming in wiping
21 their face with their shirt?

22 A No, sir.

23 Q Okay. So, I mean, you didn't take that as unusual.

24 A No, sir.

25 Q Did you chance to observe him while he was in there?

1 A Somewhat.

2 Q Okay. Did you see any mark, blood scratches,
3 anything on him?

4 A No, sir.

5 Q Okay. Was he just like a normal customer?

6 A Yes, sir.

7 Q Okay. And the card didn't work, and then he came in
8 to pay for it?

9 A Yes sir.

10 Q I mean, was he nervous, jumpy, anything like that?
11 Or he just walked in and pay for it?

12 A He didn't seem nervous, but he did just walked in,
13 and then came and pay for the gas.

14 Q Right. Right. Didn't he buy something? Did he buy
15 something?

16 A I believe it was like a 99-cent cake.

17 Q Right. Right. Right. And then, he just got in the
18 car and left. Matter of fact, before he left, he kind of
19 stayed to the car a minute, dragging, and then he left.

20 A Yes, sir.

21 Q And if you watched the films, some other people --
22 matter of fact, he sat there for a minute, because some
23 other people kind of pulled up and were at the door, and
24 then he took a minute, and then he left. Was that
25 correct?

1 A From what I reviewed in the film, yes, sir.

2 Q Okay. And he didn't seem in any hurry or any
3 problems like that?

4 A Not to my knowledge.

5 MR. JOHNSON: Thank you, ma'am.

6 MR. THORNTON: Nothing further, Judge. Ask that she
7 be excused.

8 THE COURT: Any objection?

9 MR. JOHNSON: No objection.

10 THE COURT: You may be excused, ma'am. Thank you.

11 MR. THORNTON: Dennis Stephens.

12 BAILIFF: Mr. Stephens, will you go up there to be
13 sworn, please, sir.

14 MADAM CLERK: If you'll place your left hand on the
15 Bible, please, and raise your right hand. Do you
16 solemnly swear or affirm that the testimony you give
17 shall be the truth, so help you God?

18 MR. DENNIS STEPHENS: Yes, ma'am.

19 MADAM CLERK: Thank you. If you'll have a seat,
20 please. And if you'll state and spell your name for the
21 record, please.

22 MR. DENNIS STEPHENS: Dennis Stephens. D/e/n/n/i/s.
23 Stephens, S/t/e/p/h/e/n/s.

24 DENNIS STEPHENS

25 DIRECT EXAMINATION BY MR. THORNTON:

- 1 Q Mr. Stephens, how are you today?
- 2 A Good.
- 3 Q All right. Are you a little bit nervous?
- 4 A I ain't never been in nothing like this before.
- 5 Q All right. Mr. Stephens, I'm going to ask you a few
- 6 questions. You and I have talked before; have we not?
- 7 A Yes, sir.
- 8 Q All right. I'm going to ask you pretty much the
- 9 same questions I've already asked you.
- 10 A All right.
- 11 Q Mr. Stephens, where do you live, sir?
- 12 A Yemassee.
- 13 Q All right. Where, in Yemassee?
- 14 A A mile on the other side of the Interstate, on 21,
- 15 headed towards Snyders.
- 16 Q So, do you live off of 21?
- 17 A Yes, sir.
- 18 Q Are you pretty close to the Interstate?
- 19 A Yes, sir. I'm one mile from the Interstate.
- 20 Q One mile from the Interstate. And is there an exit
- 21 there?
- 22 A Yes, sir, Exit 42.
- 23 Q Okay. So, you can get on and off the Interstate
- 24 within a mile of your house.
- 25 A Yes, sir.

1 Q Mr. Stephens, do you work, sir?

2 A No, sir. I'm disabled.

3 Q All right. Do you do some part-time work at your
4 church?

5 A Yes, sir. I'm the -- I take care of the church, you
6 know, clean up around the church.

7 Q Mr. Stephens, and again, I know this sounds silly,
8 because I've already asked you all these questions
9 before, but we have to do it in front of the jury and
10 with the court reporter here, so. Do you get any regular
11 exercise?

12 A I walk in the mornings.

13 Q All right. And where do you walk?

14 A From my house to the Interstate.

15 Q And so, you do a two-mile round trip?

16 A Yes, sir. A mile there and a mile back.

17 Q Before I forget, Mr. Stephens, are you married?

18 A Yes, sir.

19 Q All right. And what is your wife's name?

20 A Tia Stephens.

21 Q All right. And so, you get up and you walk. Do you
22 generally walk by yourself?

23 A Yes, sir.

24 Q And about what time do you generally go for your
25 walks?

1 A I leave home like about 6:30. Daylight. Little
2 after daylight.

3 Q And were you walking like this in May, about May
4 26th of 2011?

5 A Yes, sir.

6 Q And on May 26, 2011, did you get up and go for a
7 walk?

8 A Yes, sir.

9 Q And I realize it's been a couple years, but did you
10 go at about that time, 6:30, somewhere early in the
11 morning?

12 A Yes, sir, between 6:30, 7:00.

13 Q All right. And did you come across anything unusual
14 when you were walking that day?

15 A Yes, sir.

16 Q And what was it?

17 A A cell phone.

18 Q What did you do with it, if anything?

19 A Well, I went to -- when I was walking to the
20 Interstate, I found it. And I went to the Interstate,
21 turned around, and came back. And when I got back, took
22 the phone in the house with me. And I said I had -- I
23 got some old Blackberry's that I previously used, and I
24 said, *I'm going to put a battery in it, and see if it*
25 *works.* So, I put a battery in it. The battery was dead.

1 So, I put it on charge. And then, when it charged up, I
2 called it from my phone. And it rang. And it kept on
3 ringing.

4 Q All right. And did you see text messages or
5 anything like that on it?

6 A Yes, sir.

7 Q All right. If you don't remember the exact text
8 message, that's fine, but what were the text messages
9 about?

10 A It was like they was worried about whoever phone it
11 was.

12 Q And did you show that to your wife?

13 A Yes, sir.

14 Q And was she pleased that you had picked up this
15 phone?

16 A No, she wasn't.

17 Q All right. Did she have some concern, because of
18 the fact that all these messages are coming through?

19 A Yes, sir. She said, *This phone -- there's something*
20 *to this phone, because it's constantly ringing.*

21 Q So, what did you do? Did she tell you to do
22 anything with the phone?

23 A Yes, sir. She said, *You need to get rid of this*
24 *phone.*

25 Q Do you generally do what your wife tells you to do?

1 A I better.

2 Q You're a smart man. Did you get rid of the phone?

3 A Yes, sir.

4 Q Now, in hindsight, you know, would it have been
5 better for you to call law enforcement and have them come
6 and get it?

7 A Yes, sir, it would've.

8 Q But you didn't do that, did you, Mr. Stephens?

9 A No, sir.

10 Q Tell me what you did with the phone.

11 A I took the phone, and it's a little -- it's a little
12 pond area between my house and the Interstate. So, I
13 flipped it in that.

14 Q Mr. Stephens, if I broke out the phone, would you be
15 able to tell me whether that that was the phone or not,
16 or that type?

17 A Yes, sir.

18 Q All right. Okay. While they're working on that,
19 Mr. Stephens, tell me, describe for me what this -- you
20 said it's a pond. So, is this -- it's like standing
21 water?

22 A It's -- yeah, little standing water. It's -- it's
23 water that runs under the highway.

24 Q All right. At some point, Mr. Stephens -- they're
25 going to be getting the phone out for me in a minute. At

1 some point, Mr. Stephens, did law enforcement, SLED, or
2 somebody contact you?

3 A Yes, sir. It was a SLED agent contacted me.

4 Q Do you remember which agent it was?

5 A No, sir.

6 Q Well, did he ask you about the phone?

7 A Yes, sir, he did.

8 Q And did you tell him what you had done with the
9 phone?

10 A Yes, sir.

11 Q And what did you do, once you told him? Did you go
12 out with him anywhere or do anything?

13 A Yes, sir, I did. Had wanted to meet with me to show
14 me -- show them where I'd pitched the phone at.

15 Q And did you show them?

16 A Yes, sir.

17 Q And were you out there when -- did they have divers
18 or anything with them?

19 A I wasn't there when they were looking for it.

20 Q Okay. But did you tell them where it was?

21 A Yes, sir.

22 Q And where you'd thrown it?

23 A Yes, sir.

24 Q All right. And if you'll hold on. Court's
25 indulgence. I'm sorry, it's going to take us just a

1 minute. Hang on for me, Mr. Stephens, one minute. Your
2 Honor, Court's indulgence for just a second. Whenever
3 they have a phone that's recovered in water, they keep it
4 in water. So, it's going to be in a liquid. And I need
5 something to pop the can. I did not realize that. If
6 the Court would give me just a minute.

7 THE COURT: No problem.

8 MR. THORNTON: Norman. I got them. I got gloves.

9 BAILIFF: Good.

10 MR. THORNTON: And again, Judge, I apologize, but I
11 didn't know any way to do this, cause I've got to open
12 it, so.

13 BY MR. THORNTON:

14 Q I'm not going to make you grab this, Mr. Stephens.
15 Obviously, it's been in water. It's stored in water.
16 Would this appear to be the phone, what's been marked for
17 identification as State's Exhibit 14?

18 A Yes, sir.

19 Q All right. And is that the phone that you found
20 that day?

21 A Yes, sir.

22 MR. THORNTON: All right. Your Honor, at this time,
23 I understand that there's not going to be an objection.
24 I'd ask that this be admitted into evidence.

25 MR. JOHNSON: No objection, your Honor.

1 THE COURT: Thank you.

2 ITEM IDENTIFIED AS CELL PHONE

3 MARKED STATE'S EXHIBIT NUMBER

4 14, ADMITTED AS EVIDENCE.

5 BY MR. THORNTON:

6 Q All right. Mr. Stephens, other than finding that
7 phone, do you have any knowledge about this case?

8 A No, sir.

9 Q Do you know Ms. Masako Miller?

10 A No.

11 Q Did you know anybody named Kelvin Jackson?

12 A No, sir.

13 Q Other than finding this phone and then pitching it,
14 and then telling law enforcement where it is, have you
15 got anything at all to do with this case?

16 A No, sir.

17 MR. THORNTON: Thank you very much. Mr. Stephens,
18 please answer any questions Mr. Johnson, Defense counsel,
19 may have.

20 A All right, sir.

21 DENNIS STEPHENS

22 CROSS-EXAMINATION BY MR. JOHNSON:

23 Q That saved me a couple questions right there.
24 Number one, tell me again the hours you were walking. I
25 just want to get the time now.

1 A It was between 6:30 and 7:00 o'clock.

2 Q Okay. And while you were walking, did you see any
3 cars or anybody or anything?

4 A No, sir.

5 Q All right. And did they take any kind of DNA
6 testing from you? And that's the law enforcement.

7 A DNA from me?

8 Q Yes, sir.

9 A No, sir.

10 Q Okay. Did they take any kind of fingerprint test
11 from you?

12 A No, sir.

13 Q Did they take any kind of handwriting samples from
14 you?

15 A No, sir.

16 Q Okay. And you said you don't know nothing about
17 this. Is that correct?

18 A No, sir.

19 MR. JOHNSON: Thank you, sir.

20 THE COURT: Anything further?

21 MR. THORNTON: Just one re-direct.

22 DENNIS STEPHENS

23 RE-DIRECT EXAMINATION BY MR. THORNTON:

24 Q Since we were talking about DNA and fingerprints and
25 such things, Mr. Stephens, I'm not sure where we were

1 going with that, but where were you on the night of --
2 the night before you found this phone?

3 A Home.

4 Q Was there anybody with you?

5 A My wife.

6 Q And is she with you pretty much every night?

7 A Yeah.

8 Q Is that why you listen to her?

9 A Yeah, I got to keep peace somehow.

10 MR. THORNTON: Excellent. Thank you, sir. I have
11 nothing further, Judge.

12 MR. JOHNSON: Nothing, your Honor.

13 THE COURT: All right. You may step down.

14 MR. THORNTON: Ask that Mr. Stephens be excused,
15 Judge, but since his wife is my next witness, he probably
16 won't go very far.

17 THE COURT: Would you two approach for a second.

18 MR. THORNTON: Yes, ma'am.

19 OFF-THE-RECORD BENCH CONFERENCE,

20 OUT OF HEARING OF JURORS. PRESENT:

21 THE COURT, JUDGE MULLEN, MR.

22 THORNTON, MR. JOHNSON.

23 END BENCH CONFERENCE.

24 BAILIFF: If you will, ma'am, please go up there and
25 be sworn, right there.

1 MADAM CLERK: If you'll place your left hand on the
2 Bible, please, and raise your right hand. Do you
3 solemnly swear or affirm the testimony you give shall be
4 the truth, so help you God?

5 MS. TIA STEPHENS: Yes, I do.

6 MADAM CLERK: Thank you. Have a seat, please. If
7 you'll state and spell your name for the record, please.

8 A Tia Stephens. T/i/a. Stephens, S/t/e/p/h/e/n/s.

9 TIA STEPHENS

10 DIRECT EXAMINATION BY MR. THORNTON:

11 Q Ms. Stephens, are you married?

12 A Yes.

13 Q Was that your husband that just testified a few
14 minutes ago? Obviously, you weren't in the room. Did he
15 leave just a minute ago?

16 A Yes.

17 Q And where do you live, ma'am?

18 A Yemassee, South Carolina.

19 Q And whereabouts in Yemassee? Are you off of a
20 particular highway?

21 A I'm approximately one mile from I-95.

22 Q And on or about May 26, 2011, were you living in
23 that house at that time?

24 A Yes.

25 Q And when you -- does your husband, does he have a

1 regular routine for exercise or anything?

2 A Yes. He goes walking in the mornings.

3 Q Did he go for a walk, as far as you know, on May the
4 26th of 2011?

5 A Yes.

6 Q Does he generally go early in the morning?

7 A Yes.

8 Q And did he -- was there anything unusual about the
9 way he -- or when he came back on the 26th?

10 A No.

11 Q Did he have anything with him that he didn't have
12 when he left the house?

13 A He just said that he found a cell phone on his walk
14 to 95 Bridge.

15 Q And at some point, did he show you the phone with
16 the messages and it ringing and that kind of stuff?

17 A Yes.

18 Q All right. Were you happy that he had gotten that
19 phone?

20 A No, I was not.

21 Q And did you tell him to do something with that
22 phone?

23 A Yes, I did.

24 Q And what did you tell him?

25 A I told him to get it out of this house, get rid of

1 it.

2 Q Does he generally listen to you?

3 A Yeah, pretty much.

4 Q That's what he said. Ms. Stephens, did he then go
5 take the phone out and get rid of it?

6 A Yes.

7 Q At some point after that, were you all contacted by
8 law enforcement about the phone?

9 A Yes.

10 Q Do you know where your husband was on the night
11 before this?

12 A At home.

13 Q And was he with you?

14 A Yes.

15 Q And was he with you all night?

16 A Yes, correct.

17 Q And just to save any questions later, did the police
18 come and take your DNA?

19 A No.

20 Q Take your fingerprints?

21 A No.

22 Q Take you to the police station and interview you
23 with a bright, white light or anything like that?

24 A No.

25 Q Okay. But you can verify where your husband was the

1 night before, all night? Is that right?

2 A Yes, correct.

3 MR. THORNTON: Outstanding. Thank you, ma'am. I
4 don't have any further questions. Please answer anything
5 Mr. Johnson might have for you.

6 MR. JOHNSON: You'll be very happy. I don't have
7 any questions for you.

8 A Okay. Thank you.

9 MR. THORNTON: Your Honor, at this time, the next
10 series of witnesses will probably be a little bit longer,
11 or at least could be. I would request the Court to go
12 ahead and break at this time.

13 THE COURT: All right.

14 MR. THORNTON: And ask that she be excused.

15 THE COURT: Thank you.

16 MR. JOHNSON: Without objection.

17 THE COURT: Ladies and gentlemen of the jury, at
18 this time, we are going to break for recess until the
19 morning. I will remind you again to please not discuss
20 this case with anyone. Do not allow anyone to discuss
21 the case with you.

22 Also, as you noticed, there was press here this
23 morning. So, it's very likely that there will be some
24 sort of comment, maybe on the news or in the newspaper.
25 You are not, not, not allowed to watch the news where

1 there may be any kind of coverage of this case or read
2 any newspapers or have anyone contact you regarding any
3 comments of anything that they have seen in the newspaper
4 and the news.

5 Now, in the morning, I will swear you all under oath
6 to answer whether or not anyone has contacted you, or
7 whether or not you have seen any of the news coverage in
8 this case. So, please, I can't impress upon you strongly
9 enough how important for us that you to follow those
10 rules. Because you are the trier's of the facts of the
11 case. You can't really listen to any outside sources or
12 reports. You will make the determination of this case
13 based upon the evidence that you hear in this courtroom.

14 We will begin the trial again at 9:00 a.m. If you
15 could be back in your jury room then, I certainly would
16 appreciate it. You all have a good night.

17 RESPONSES FROM JURORS.

18 JURORS LEAVE COURTROOM 3:57 P.M.

19 BAILIFF: The jury is clear, your Honor.

20 THE COURT: Anything from the State or the Defense?

21 MR. THORNTON: Nothing from the State. My thanks,
22 Judge, for ending a little bit early so I can get off.
23 I'm going to try to get all the witnesses organized and
24 get everything square for in the morning, so we can move
25 right through it.

1 THE COURT: Great. We'll see everybody in the
2 morning.

3 MR. THORNTON: Thank you, Judge.

4 END DAY TWO, TUESDAY, JULY 30,

5 2013, 3:58 P.M.

6 BEGIN DAY THREE, WEDNESDAY,

7 JULY 31, 2013, 9:39 A.M.

8 BY THE COURT:

9 BAILIFF: All rise. Court is now in session.

10 THE COURT: Good morning, everybody. Thank you.
11 You may have a seat.

12 MR. THORNTON: Good morning, Judge.

13 THE COURT: Are there any other matters, before we
14 bring the jury out?

15 MR. THORNTON: None from the State, Judge.

16 MR. JOHNSON: None from the Defense, your Honor.

17 THE COURT: All right. Let's have our jury.

18 BAILIFF: Your Honor, the jury is entering.

19 JURY ENTERS COURTROOM 9:51 A.M.

20 BAILIFF: The jury is seated, your Honor.

21 THE COURT: Thank you. Good morning, ladies and
22 gentlemen of the jury. I hope you had a nice evening
23 last night, and as we discussed right prior to letting
24 you go today, I'm going to ask you each to raise your
25 right hand. Do you swear or affirm that the answer

1 you're about to give is the whole truth and nothing but
2 the truth, so help you God?

3 RESPONSES BY JURORS.

4 THE COURT: And the question, of course, will be:
5 did anyone attempt to contact you in any way, or did
6 anyone -- you can put your hands down -- or did anyone
7 watch any news media or seek out any news media, and if
8 so, please say yes.

9 I find that no one has violated the instructions of
10 the Court. And you may proceed. Thank you. You may
11 call your next witness.

12 MR. THORNTON: Thank you, your Honor. Al Jarvis.

13 BAILIFF: If you would, please, stand right up there
14 to be sworn.

15 MADAM CLERK: Place your left hand on the *Bible*, and
16 raise your right hand, please. Do you solemnly swear to
17 truthfully answer all questions asked of you by this
18 Court, so help you God?

19 MR. ALFRED JARVIS: Yes, ma'am.

20 MADAM CLERK: Please be seated. State your name and
21 spell it for the Court, sir.

22 MR. JARVIS: My name's Alfred Jarvis. A/lf/r/e/d,
23 J/a/r/v/i/s.

24 ALFRED JARVIS

25 DIRECT EXAMINATION BY MR. THORNTON:

1 Q Mr. Jarvis, who do you work for?

2 A I work for SLED.

3 Q And is that also known as South Carolina Law
4 Enforcement Division?

5 A Yes, sir.

6 Q And what do you do for SLED?

7 A I'm assigned to the Bomb Squad, and SWAT Team, and
8 the Counter-Terrorism Dive Unit.

9 Q The Counter-Terrorism Dive Unit. So, what, exactly,
10 what does that entail, being on a dive unit?

11 A Quite a few things. We do anything from render safe
12 improvised explosive devices underwater, to possibly
13 being called to search for evidence or bodies when DNR is
14 unavailable. Anything related to public safety diving.

15 Q All right. And are you then -- do you have some
16 type of dive certification?

17 A Yes. I'm currently a dive master and a public
18 safety -- rated public safety diver.

19 Q And what does that require?

20 A Quite a bit of extensive training on evidence
21 recovery, search patterns, all kinds of things related to
22 the public safety diving. Anything from how we search
23 underwater, how we're supposed to collect evidence
24 underwater.

25 Q So, a variety of different things.

1 A A variety of different things, right.

2 Q Agent Jarvis, how long have you been with SLED?

3 A For 13 years, 12 years. Twelve years.

4 Q And have you been a diver for the majority or all
5 of that time?

6 A Since 2008.

7 Q And in May of 2011, did you come down to the
8 Lowcountry and work a case involving victim Masako
9 Miller?

10 A Yes.

11 Q And was that -- were you asked at some point to
12 retrieve a -- or go look for a phone?

13 A Yes.

14 Q I'm going to show you what's been marked for
15 identification as State's Exhibit 18. You can go ahead
16 and take it. Agent, can you identify what that
17 photograph is of for me, please.

18 A Yes. That -- that's -- that's in a swampy area,
19 right off of Highway 21. That's an impoundment where we
20 were asked to dive to look for a cell phone.

21 Q Is that a fair and accurate depiction of the scene,
22 as it appeared that day?

23 A Absolutely.

24 Q Is that actually you in a wetsuit, toward the bottom
25 of the picture?

1 A Yes, sir.

2 MR. THORNTON: Your Honor, I'd ask at this time that
3 State's Exhibit Number 18 be entered into evidence.

4 MR. JOHNSON: Without objection.

5 THE COURT: Thank you.

6 PHOTOGRAPH MARKED STATE'S EXHIBIT

7 NUMBER 18 ADMITTED AS EVIDENCE.

8 MR. THORNTON: Your Honor, Court's indulgence one
9 moment. I think we're okay. No, I spoke too soon.

10 BAILIFF: I can get it. Not a problem.

11 MR. THORNTON: I apologize, Judge. I thought it
12 would be easier to get it open the second time.

13 BY MR. THORNTON:

14 Q Agent, I'm going to show you what's already been
15 entered into evidence as State's Exhibit 14, and ask you
16 if you can identify if this was the phone that was
17 recovered that day.

18 A Yes, sir.

19 Q And could you describe the process you use to
20 recover it. In other words, what you did that day.

21 A We lowered our gear down. It was a very difficult
22 dive scene to get into. Once I -- once I got all geared
23 up and entered the water, I was on a -- I was tended on a
24 line for Lieutenant Ed Pumphrey with SLED. He's our dive
25 team supervisor.

1 We proceeded then to search that area with what's
2 called a pendulum search, where Lieutenant Pumphrey holds
3 the line, and I basically start at the beginning of the
4 impoundment and search back and forth on a pendulum,
5 while he controls how far out I'm going in the water.
6 And we ran the search pattern to -- to look for the
7 phone.

8 Q And that is the phone that you recovered that day?

9 A Yes, sir.

10 Q And did you have any other connection to this case,
11 Agent Jarvis, other than that you were responsible for
12 going out and locating the phone?

13 A No, sir.

14 MR. THORTON: Thank you, sir. I have no further
15 questions. Please answer any questions the Defense may
16 have.

17 MR. JOHNSON: No questions.

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

19 MR. THORNTON: State calls Cary Furman.

20 BAILIFF: If you would, go right up there to be
21 sworn.

22 MADAM CLERK: Place your left hand on the *Bible*, and
23 raise your right hand for me, please, sir. Do you
24 solemnly swear to truthfully answer all questions asked
25 of you by this court, so help you God?

1 MR. CARY FURMAN: Yes, I do.

2 MADAM CLERK: Please be seated. State your name and
3 spell it for the Court, please.

4 CARY FURMAN

5 DIRECT EXAMINATION BY MR. THORNTON:

6 Q Good morning, Mr. Furman. Would you please state
7 your name, and spell it for the record.

8 A It's Cary Furman. F/u/r/m/a/n.

9 Q All right. Mr. Furman, where do you live, sir?

10 A Beaufort.

11 Q And how long have you been in Beaufort?

12 A Forty-seven years.

13 Q Are you something that you would describe as an avid
14 fisherman?

15 A Yes, I am.

16 Q Okay. Do you fish quite a bit in the Beaufort area?

17 A Yes, sir, I do.

18 Q Would that include locations in the Broad River?

19 A Yes, sir.

20 Q Were you out fishing on the Broad River on or about
21 May 30 of 2011?

22 A Yes, I was.

23 Q And let me ask you about that area. Are you pretty
24 familiar with that stretch of the Broad River?

25 A Yes, sir.

1 Q What would be the closest, the area you would -- you
2 could put in a car at or get a car close to the river?

3 A That would be the Broad River Bridge.

4 Q The Broad River Bridge. Is that like the 170
5 Bridge, across the Broad River?

6 A Yes, sir. There's a landing right there.

7 Q And there's actually -- would it be fair to say that
8 there is just one place -- or there's actually places on
9 both sides of the bridge that you could drive a car down
10 to?

11 A Yes, sir, there's on both sides.

12 Q All right. But there is an actual -- is there an
13 actual landing on one side?

14 A Yes, sir.

15 Q And that's the closest to that stretch of the Broad
16 River?

17 A Yes, sir.

18 Q And when I say *that stretch*, I know you know what
19 I'm talking about, but would you just tell the jury in
20 just a second.

21 A The closest stretch, yes, sir.

22 Q So, you were fishing on that stretch of the Broad
23 River near the 170 Bridge on or about May 30?

24 A Yes, sir.

25 Q 2011. How long have you been fishing in that area,

1 sir?

2 A Thirty-six, 35 years.

3 Q Did you notice anything unusual, or did anything
4 unusual happen to you while you were fishing that day,
5 sir?

6 A Yes, sir.

7 Q All right. Could you describe for me, just tell me,
8 from the time you put in, in the water, just throughout
9 the morning.

10 A Okay. I actually put in at the Broad River Bridge,
11 was running east down the Broad River, and a location
12 where I normally fish. I looked up on the bank, and I
13 could see something that was bright red. I wasn't sure
14 exactly what it was. So, as I pulled the boat up to the
15 shore to take a closer look, that's when I realized that
16 there was a body.

17 Q All right. Now, let me ask you, sir, where -- is
18 there a creek or anything that runs into the Broad River
19 in this area? Just to kind of give any -- members of the
20 jury might do more fishing around here than I do. Where
21 would this location be?

22 A It's actually the mouth of the Archer's Creek, in
23 between Archer's Creek and Ribbon Creek.

24 Q And you were -- were you in a boat, sir?

25 A Yes, I was.

1 Q So, you're in a boat, and you go down -- as you get
2 to Archer's Creek, you said you noticed something bright
3 red. You go over. You notice it's -- that there's a
4 body floating.

5 A Um-hmm.

6 Q Was the body face up or face down?

7 A It was face down.

8 Q What did you do at that point, sir?

9 A I did not have a cell phone with me at the time.
10 So, I immediately went to the boat that was approximately
11 three to four hundred yards down from me, and asked them
12 to dial 911.

13 Q And to your knowledge, was 911 dialed?

14 A Yes, it was.

15 Q And did law enforcement show up after that?

16 A Yes, they did.

17 Q Were there various agencies represented?

18 A Yes, sir, there was.

19 Q Was one of them a member of the Beaufort County
20 Sheriff's Office?

21 A Yes, sir.

22 Q And did you stay there until they got there?

23 A Yes, sir.

24 Q At some point, was the body pulled up onto the shore
25 while you were there, or did that occur after?

1 A The body was actually on the bank when I found it.

2 Q Okay. And what type of terrain is this? Is it
3 sandy banks, oyster beds, what?

4 A This is a dead shell bank.

5 Q Okay. And I'm going to hand you, sir, what's been
6 marked for identification as State's 13, 15, 16, and 17.

7 And ask you if you can identify those photographs.

8 First, just as a group, look through them, if you would,
9 and tell me if you can identify them.

10 A Yes, sir. Yes, sir. All of them.

11 Q Now, if you would just start -- and if you don't
12 mind, Mr. Furman, if you'd just reference them by the
13 number that I've got in the top right corner.

14 A Okay.

15 Q So, just start with 13, and just describe what that
16 is a picture of.

17 A Number 13 is actually the Archer's Creek.

18 Q Don't turn it to the jury just yet.

19 A Oh, okay. I'm sorry.

20 Q Yes, thank you. That's okay. We'll get to that
21 part in a minute.

22 A This is actually the shell right where I found her.

23 Q And what is? Which number?

24 A Oh, I'm sorry. Number 15.

25 Q Yes, sir.

1 A Number 16, also.

2 Q All right. So, those are all -- would those all
3 be --

4 A It's all --

5 Q I'm sorry. Go ahead.

6 A It's all one shell rake.

7 Q Would those be, all those photographs, 13, 15, and
8 16 that you've looked at so far, are all those the area
9 in which you would have found the body that you found?

10 A That's correct. Yes, sir.

11 Q And what about the last picture?

12 A And yes, sir. That was where I located her body.

13 Q And is that a photograph of the body that you found?

14 A Yes, sir, it is.

15 Q And is that the -- I realize it's far away. Is that
16 generally the condition that you found the body in?

17 A That was the condition that I found her in.

18 Q Are those accurate photographs as far as the
19 location and the appearance of everything as you would
20 have seen it on or about May the 30th of 2011?

21 A Exactly.

22 MR. THORNTON: Your Honor, I'd ask that State's I
23 believe it's 13, 15, 16, and 17 all be moved into
24 evidence.

25 THE COURT: Any objection?

1 MR. JOHNSON: Your Honor, he showed them to me. May
2 I please examine them one more time?

3 THE COURT: Certainly.

4 MR. JOHNSON: No objections.

5 THE COURT: Thank you.

6 MR. THORNTON: Your Honor, at this time, I'd ask to
7 published to the jury.

8 EXHIBIT PUBLISHED TO JURORS.

9 PHOTOGRAPHS MARKED STATE'S EXHIBITS

10 13, 15, 16, AND 17 ADMITTED AS

11 EVIDENCE.

12 BY MR. THORNTON:

13 Q If you could, Mr. Archer -- I'm sorry -- Mr.
14 Furman, this is?

15 A Archer's Creek.

16 Q All right. And that is State's 13 is a photograph
17 of Archer's Creek. Is that correct?

18 A That is correct.

19 Q Now, sir, you indicated earlier as to 15 and 16 that
20 those were photographs of the bank where the body was
21 located.

22 A Yes, sir.

23 Q Is that correct?

24 A That is correct.

25 Q And the final picture I had you identify, sir, as to

1 State's Exhibit 17, which is now admitted into evidence,
2 you indicated that that was the body as you found it.

3 A Yes, sir.

4 EXHIBIT PUBLISHED TO JURORS.

5 Q Mr. Furman, there appears to be some damage to the
6 body. Was that something that you noted when you found
7 it? In other words, decomposition, things like that?

8 A That's correct. Yes, sir.

9 MR. THORNTON: Thank you, Mr. Furman. I have no
10 further questions. Please answer any questions that
11 Defense has for you.

12 CARY FURMAN

13 CROSS-EXAMINATION BY MR. JOHNSON:

14 Q Mr. Furman, I just think I got one or two questions.
15 The only thing you know about this case is that you were
16 out fishing and you found this body. Is that correct?

17 A That's correct.

18 Q And you have no idea, tragically, how this body got
19 there; do you?

20 A No, sir, I do not.

21 Q And your only purpose here is to tell the jury this
22 is how you found the scene and the situation.

23 A This is correct.

24 Q And that's all you know about it.

25 A This is all I know.

1 MR. JOHNSON: Okay. Okay. You have -- thank you.
2 That's all.

3 MR. THORNTON: No further questions, your Honor.
4 I'd ask Mr. Furman be excused.

5 THE COURT: You may be excused, Mr. Furman. Thank
6 you.

7 MR. JOHNSON: Oh, no objection, Mr. Furman. Sorry.

8 MR. THORNTON: Officer Wilson with the Beaufort
9 County Sheriff's Office.

10 BAILIFF: Officer Wilson, come right this way,
11 please. Go right over there to be sworn.

12 MADAM CLERK: Would you place your left hand on the
13 Bible and raise your right hand for me, sir.

14 OFFICER CHARLES H. WILSON: Yes, ma'am.

15 MADAM CLERK: Do you solemnly swear to truthfully
16 answer all the questions asked of you by this Court, so
17 help you God?

18 OFFICER WILSON: Yes, ma'am.

19 MADAM CLERK: Please be seated. State your name and
20 spell it for the Court.

21 OFFICER CHARLES H. WILSON

22 DIRECT EXAMINATION BY MR. THORNTON:

23 Q Officer Wilson -- and if you did this already and I
24 missed it, I'm sorry -- would you please state your name
25 for the record, and spell your last name.

1 A Charles H. Wilson. W/i/l/s/o/n.

2 Q Thank you very much. Obviously, you're in uniform.
3 Who do you work for?

4 A Beaufort County Sheriff's Office.

5 Q And what do you do for the Beaufort County Sheriff's
6 Office?

7 A I work for the special enforcement unit.

8 Q All right. And in May of 2011, about May 30th of
9 2011, did you work for Beaufort County Sheriff's Office
10 at that time?

11 A Yes, sir.

12 Q Did you respond out to any scenes that morning?

13 A Yes, sir.

14 Q And could you describe for us what scene you went
15 out to.

16 A Responded to a scene of a person being found in the
17 Broad River.

18 Q All right. And do you remember, can you tell us
19 about approximately where that was?

20 A I believe it was near Archer's Creek. About 8:40 in
21 the morning, is when we got the call.

22 Q And this is going to sound like a silly question,
23 but where is Archer's Creek and where in the Broad River
24 was this body found?

25 A Archer's Creek, I believe, runs from the Broad

1 River, over kind of near the Broad River Bridge, towards
2 Parris Island. And it was on the -- the bridge side, not
3 the Parris Island side.

4 Q More specifically, what county is it located in?

5 A It's in Beaufort County.

6 Q And that was the silly part of that question, but of
7 course, it's something that I have to ask. So, this
8 occurred in Beaufort County. Is that correct?

9 A Correct.

10 Q I'm going to hand you what's already been entered
11 into evidence as State's Exhibits 13, 15, 16, and 17; and
12 just ask you, is that the scene, more or less, aa you
13 found it when you arrived?

14 A Yes, sir, it is.

15 Q Officer Wilson, what did you do when you got there?
16 Is this -- and let me back up a second. Is this area
17 something you can just drive up to, or did you have to
18 access it by boat?

19 A No, sir, it has to be accessed by boat.

20 Q And so, how did you get there?

21 A Marine Rescue transported myself, and it was my
22 supervisor, to the scene.

23 Q So, were you -- I realize there were other folks
24 there. Mr. Furman, I believe, was he there already? The
25 person who found the body?

1 A He was in his boat nearby in the water, but there
2 wasn't anyone else on the land until we got there.

3 Q All right. And then, you were the first on the
4 scene?

5 A Correct.

6 Q And do you attempt to -- did you attempt to,
7 obviously, locate the body? What else did you do while
8 you were there?

9 A Basically, just looked around to make sure there was
10 no other -- nothing obvious laying around that was
11 important to the case. And then, investigators were
12 notified, and we secured the area to make sure nothing
13 was touched or tampered with until the investigators
14 arrived.

15 Q And at some point, was the body removed from the
16 bank and transported to the pathologist?

17 A I believe, sir, after the coroner arrived.

18 Q All right. And what do you remember -- what coroner
19 came?

20 A Ed Allen.

21 Q Did you get a close-up look at the body?

22 A Yes, sir.

23 Q Without going into great detail, can you describe
24 more or less, the condition.

25 A It's fairly -- not too good. Missing a lot of flesh

1 and muscle from the left arm. Laying face-down, also,
2 with the -- hair had come off and was about five feet
3 away, fairly decomposed.

4 Q So, again, I know you're not a doctor, but a fair
5 amount of decomposition; would that be fair?

6 A Yes, sir.

7 Q Now, if you'll look at picture, I believe it's 17,
8 the last picture I handed you. Does that accurately
9 reflect where the hair -- I believe the correct term is
10 sloughed off -- and the hair is nearby the body?

11 A Yes, sir.

12 Q And there's a very dark mass that's lying right next
13 to or attached to the body. Is that the arm that you
14 were discussing that had a lot of tissue loss and tissue
15 damage?

16 A Yes, it is.

17 Q And is that how the body appeared as you approached
18 the scene and secured it?

19 A Yes, sir.

20 Q Now, other than being first on the scene, securing
21 it, and you, obviously, saw Ed Allen, the coroner, there,
22 did you have anything else to do with the investigation
23 of this case?

24 A After the -- the victim was placed in the bag, I
25 assisted the other people just to carry it to the -- the

1 boat, but --

2 Q Yes, sir?

3 A -- all the investigation was handled by the
4 investigators.

5 Q All right. And was also -- if you don't know this,
6 that's fine. But was it also eventually turned over to
7 the South Carolina Law Enforcement Division?

8 A I believe so.

9 Q I don't have anything further for you, Officer
10 Wilson. Thank you very much, sir.

11 A Thank you.

12 MR. THORNTON: Please answer any questions that Mr.
13 Johnson might have for you.

14 OFFICER CHARLES H. WILSON

15 CROSS-EXAMINATION BY MR. JOHNSON:

16 Q Officer Wilson, just a couple quick questions. The
17 first contact you had with this was when you were called
18 and sent to the scene. Is that correct?

19 A Yes, sir.

20 Q And you know nothing else about this case, other
21 than what you found at the scene. That's correct?

22 A No, sir.

23 Q Okay. And you don't even know how the body got to
24 that spot; do you?

25 A No, sir.

1 Q Okay. And here's the thing that you said that was
2 interesting. You said it had to be accessed by boat
3 only.

4 A Correct.

5 Q There was no way for a car to get down in there?

6 A No, sir.

7 Q Okay. And a matter of fact, I think the body had to
8 be removed by boat, also?

9 A It was.

10 Q Okay. And there was no way for a car to get there.

11 A No, sir.

12 MR. JOHNSON: Thank you, sir.

13 MR. THORNTON: Just a couple of quick questions
14 under re-direct.

15 OFFICER CHARLES H. WILSON

16 RE-DIRECT EXAMINATION BY MR. THORNTON:

17 Q Are you fairly familiar with that area?

18 A Somewhat.

19 Q All right. Is there a boat landing and multiple
20 places to put in to drive a car right up to the Broad
21 River where the Broad River crosses at 170?

22 A There's just one boat landing.

23 Q There's a boat landing?

24 A Yes, sir.

25 MR. THORNTON: Thank you. I have nothing further.

1 THE COURT: May he be excused?

2 MR. THORNTON: I'd ask he be excused and allowed to
3 go back to work, Judge.

4 MR. JOHNSON: Without objection.

5 THE COURT: Thank you, Officer Wilson. You may be
6 excused.

7 OFFICER WILSON: Yes, ma'am.

8 MR. THORNTON: Ed Allen.

9 BAILIFF: If you would come this way. Please go
10 right up here to be sworn.

11 MADAM CLERK: Would you place your left hand on the
12 Bible and raise your right hand for me, please. Do you
13 solemnly swear to truthfully answer all questions asked
14 of you by this Court, so help you God?

15 CORONER EDWARD ALLEN: I do.

16 MADAM CLERK: Please be seated. State your name and
17 spell it for the Court.

18 CORONER ALLEN: Edward Allen, Coroner of Beaufort
19 County.

20 CORONER EDWARD ALLEN

21 DIRECT EXAMINATION BY MR. THORNTON:

22 Q Well, Mr. Allen, you took care of the first two
23 questions I asked you. I guess that's because you do
24 this fairly frequently. How are you doing this morning?

25 A Just fine, sir.

1 Q Coroner, did you work with the coroner's office on
2 or about May the 30th of 2011?

3 A Yes, sir.

4 Q And in what capacity?

5 A All right. As coroner, I was the duty officer that
6 day. Received a call from Beaufort County Dispatch to
7 respond to the Broad River, initially, for a recovered
8 body. Responded to the boat landing at Broad River.
9 Later directed to Parris Island and the bridge going from
10 the causeway over to Horse Island on Parris Island.

11 At that point, entered the boat from Water Rescue,
12 and responded out to the area of Archer's Creek and Broad
13 River. As we exited the boat -- the boat, we were
14 directed to proceed through the marsh. At which point, I
15 guess possibly a quarter of a mile in, we came in contact
16 with the decedent. Partially-clothed body. Some degree
17 of decomposition. She was in the oyster rake, up from
18 the -- up from the river, Broad River side, only
19 accessible by the -- walking from Archer's Creek into the
20 -- to the site. At that point, tide was going out.

21 Q I see.

22 A And that was after we had to --

23 Q So, it's a tidal area in that area?

24 A Affirmative.

25 Q All right, sir. Coroner, based on the decomp of the

1 body, and based on where it was located, did it appear it
2 had been floated in the water for -- it had been floating
3 in the water at least for some time?

4 A Yes, sir.

5 MR. JOHNSON: Objection, your Honor. It would be
6 speculation to compare where the body was, how it got
7 there. He can testify to what he found, but I don't
8 think he can testify to what was happening going --
9 before he got there.

10 THE COURT: I'll sustain the objection. Maybe re-
11 phrase the -- lay a foundation.

12 MR. THORNTON: I'll be happy to lay a foundation,
13 your Honor.

14 BY MR. THORNTON:

15 Q Coroner, how long have you been the coroner?

16 A Been the coroner now of Beaufort County for five
17 years. I was a deputy coroner for 27 years, when Mr.
18 Copeland was Coroner.

19 Q So, you have over 30 years of experience as coroner?

20 A Yes, sir.

21 Q I'm --

22 A Thirty.

23 Q I'm sorry. Go ahead, sir.

24 A Well, 30 plus.

25 Q Thirty-two?

1 A Yes.

2 Q How about we'll stick with over 30? My math's
3 probably not too good this morning. Over 30 suit you?

4 A Yes, sir.

5 Q All right. Coroner, let me ask, in your over 30
6 years of experience, how many bodies do you think you've
7 examined in various states of decomposition?

8 A Well, I can expand on that. I'm always a licensed
9 funeral director and embalmer. So, over 40-plus years as
10 a embalmer, and also as the director for Beaufort County
11 EMS for 33 years. During that time, I -- I wouldn't
12 speculate, but numerous.

13 Q Would it be fair to say more than hundreds?

14 A Combined?

15 Q Yes, sir.

16 A Probably so. Yes, sir.

17 Q Have you seen many bodies that have been both in and
18 out of the water when they were found?

19 A Yes, sir.

20 Q And you said it would be combined. If you combined
21 all your years, I guess it'd be 70, 80, 100 years
22 altogether?

23 A Unfortunately.

24 Q Yes, sir. I understand. And all that time, you
25 indicated just a moment ago, hundreds of bodies. Is that

1 fair to say?

2 A Yes, sir.

3 Q Some in the water, some out of the water?

4 A Correct.

5 MR. THORNTON: Your Honor, I'd ask that the Coroner
6 be declared an expert witness in looking at, viewing, and
7 determining whether or not a body's been in the water and
8 various states of decomposition.

9 THE COURT: Any objection or voir dire?

10 MR. JOHNSON: Your Honor, I would, yeah, I'd like to
11 do some voir dire. I'd like to do a motion, please. If
12 I could just ask the Court a question, please.

13 THE COURT: If you want to do your voir dire first,
14 and then we'll do your motion.

15 MR. JOHNSON: Okay.

16 CORONER EDWARD ALLEN

17 VOIR DIRE BY MR. JOHNSON:

18 Q First off, Mr. Allen, again, I want you to
19 understand, I'm not questioning your ability as a
20 coroner. I understand you're very experienced. And the
21 only thing I'm saying, you cannot, as a coroner, you
22 cannot testify about how -- can you testify as to how a
23 body got to a place?

24 A Oh, I can't testify how a body got to a place. I
25 can testify as -- as whether or not the condition of the

1 body, I can look at it and tell whether it's a wet
2 floater or a dry floater.

3 Q Right. I'm not questioning your ability about the
4 condition. I just want to make sure I understand. I
5 thought you were testifying as to the way you thought the
6 body got to the location. You can't testify any about
7 how the body got to the location; can you?

8 A No, sir.

9 Q You have no knowledge, you're not an expert in that;
10 are you?

11 A In terms of point of entry and point where it's
12 terminated?

13 Q Right.

14 A Only looking at the condition of the body can tell
15 whether or not it had been exposed to the elements,
16 whether dry and wet.

17 Q Right. And I just want you to understand, Mr.
18 Allen, I know you. Just want to be sure you are not
19 testifying to how it got there. You're just saying --
20 what you're testifying is only what you found once you
21 got there and what is the results of what you found. Is
22 that --

23 A Correct.

24 MR. THORNTON: Okay. Thank you. And I'm sorry.
25 Thank you.

1 A Yes, sir.

2 THE COURT: Anything further, Mr. Johnson?

3 MR. JOHNSON: No, ma'am. I don't need a motion,
4 your Honor. I'm sorry.

5 MR. THORNTON: Your Honor, I apologize. My question
6 was, I believe you just testified he can testify to
7 whether it was a floater or not. And my question was,
8 had she been floating in the water.

9 THE COURT: I'll go ahead and qualify him as an
10 expert.

11 MR. THORNTON: Thank you, Judge.

12 THE COURT: And we'll move on.

13 CORONER EDWARD ALLEN, CONTINUE

14 DIRECT EXAMINATION, BY MR. THORNTON:

15 Q In your expert opinion, Coroner, had, based on the
16 decomposition, location of the body, had she been
17 floating in the Broad River?

18 A She had been floating in water, yes, sir.

19 Q All right, sir. And what water was she right next
20 to?

21 A She was right next to the Broad River.

22 Q Outstanding. Thank you, sir. One moment please,
23 your Honor.

24 Coroner Allen, please forgive me if this is
25 something you don't know, but one of the things you do as

1 coroner is, obviously, respond out to scenes. That's
2 what you've testified today. Do you also have anything
3 to do with issuing death certificates?

4 A Yes, sir.

5 Q Did you issue a death certificate in this case?

6 A Yes, sir.

7 Q And who was the person who you identified as the
8 body found on the banks of the Broad River at Archer's
9 Creek, May 30th, 2011?

10 A Mrs. Miller.

11 Q All right. Is that Masako Miller?

12 A Yes, sir.

13 Q The victim in this case.

14 A Yes, sir.

15 Q Was the body easily recognizable, or how was the
16 identification made?

17 A Positive identification was made from dental records
18 that were produced, and analysis was made by the medical
19 university staff.

20 Q All right. And that is the Medical University of
21 South Carolina?

22 A Yes, sir.

23 Q Is that who does the -- is that where the
24 pathologists are that do the full -- excuse me -- the
25 full exam on dead bodies?

1 A Yes, sir.

2 Q And they determined this was Masako Miller?

3 A Yes, sir.

4 MR. THORNTON: Thank you, sir. I have nothing
5 further. Please answer any questions Mr. Johnson has.

6 CORONER EDWARD ALLEN

7 CROSS-EXAMINATION BY MR. JOHNSON:

8 Q Mr. Allen, let me know -- let me let you know, I
9 know little about fishing and about the water. So, my
10 questions may be lame, but I don't know, so my asking to
11 help get an understanding. The fact that -- you can't
12 determine -- you can make a decision that a body may have
13 floated or may not, but you can't definitively say the
14 body was a floater; can you?

15 A Well, we need definition of the float, cause we --
16 in the trade, we refer to two types. If it's -- if it's
17 dry, if it's on land, then, we consider it as being dry.
18 If it's found in the water, then, we consider it as being
19 a -- a wet floater.

20 Q Okay.

21 A This young lady in question that was, in my
22 opinion, --

23 Q Okay.

24 A -- from what I observed at the scene, she was -- at
25 some point, she had been a wet floater. And at the time

1 that we recovered the body, she was now a dry floater.

2 Q Okay. And I think you answered my question. You
3 don't know that definitively, but just from your
4 surrounding, that's what you thought happened.

5 A Yes, sir. Looking at the present condition of the
6 body.

7 Q Right. Right. And then, I know nothing about
8 Beaufort. How many bodies of water that is located or --
9 I thought it was just the ocean. But I mean, how many
10 bodies of water that's located around that spot?

11 A Around the spot where she was found?

12 Q Right.

13 A She was found at the -- I guess what we're referring
14 to point of reference on land that she would have been
15 found at the intersection of Archer's Creek, which runs
16 from Battery Creek, west of Parris Island, into the Broad
17 River, and at the intersection of Archer's Creek and the
18 Broad River.

19 Q Okay. So, when you say *intersection*, that means
20 flowing from more than one direction?

21 A Yes, sir.

22 Q So, you don't know where the body was or how it got
23 there or anything like that. All you know is it was
24 there. You don't know how it got there.

25 A All I can attest to, sir, is where I recovered the

1 body.

2 Q Okay. And the body could have come from any
3 direction, if it wasn't placed there.

4 A That would need to be something that would need to
5 be answered by somebody in marine science. I would --
6 would estimate that her -- the position of the body, and
7 knowing the Beaufort County area, that the largest body
8 of water that was adjacent to where the body was -- were
9 found was that of Broad River.

10 Q Okay.

11 A The Archer's Creek would run north and south. And
12 she was found in the southeast portion there, where
13 Archer's Creek and the Broad River intersect.

14 Q Okay. You are clearly not -- you are clearly
15 testifying that you do not know how the body arrived at
16 that location.

17 A Correct.

18 MR. JOHNSON: Okay. Thank you.

19 THE COURT: Anything further?

20 MR. THORNTON: Just one thing.

21 CORONER EDWARD ALLEN

22 RE-DIRECT EXAMINATION BY MR. THORNTON:

23 Q But in your expert opinion, at one time, she was
24 floating in the river.

25 A Correct. Yes, sir.

1 MR. THORNTON: Thank you. Nothing further. I'd ask
2 he be excused.

3 THE COURT: Any objection, Mr. Johnson?

4 MR. JOHNSON: Oh, no, ma'am, your Honor. No, ma'am.

5 THE COURT: You may be excused, Mr. Allen. Thank
6 you.

7 MR. THORNTON: Your Honor, Court's indulgence,
8 please, one moment. Sabrina Zahniser, please.

9 BAILIFF: If you would, please step up there to be
10 sworn.

11 SLED AGENT SABRINA ANN ZAHNISER FELLERS: Okay.

12 MADAM CLERK: Would you place your left hand on the
13 Bible and raise your right hand for me. Do you solemnly
14 swear to truthfully answer all questions asked of you by
15 this court, so help you God?

16 AGENT FELLERS: Yes, ma'am.

17 MADAM CLERK: Please be seated. State your name and
18 spell it for the Court.

19 AGENT FELLERS: Sabrina Ann Fellers. Previously, it
20 was Sabrina Ann Zahniser. That is spelled S/a/b/r/i/n/a,
21 A/n/n/, Z/a/h/n/i/s/e/r. And F/e/l/l/e/r/s.

22 SLED AGENT SABRINA ANN ZAHNISER FELLERS,

23 DIRECT EXAMINATION BY MR. THORNTON:

24 Q I just was notified after I called you by your
25 previous name that you had changed your name now. So,

1 congratulations on your marriage, and I'm sorry I didn't
2 realize that before I called you.

3 A Thank you.

4 Q Who do you work for?

5 A I work for the South Carolina Law Enforcement
6 Division that's commonly referred to as SLED.

7 Q And what do you do for SLED?

8 A I'm assigned to their Crime Scene and Latent Print
9 Department.

10 Q And what types of things do you do in the Crime
11 Scene and Latent Print Department?

12 A As a crime scene agent, we respond to requests for
13 assistance from local, state, or federal agencies. Once
14 we respond to the scene, we document the scene, using
15 digital photography, notes, sketches. We search the
16 scene for any evidence, process the scene for evidence,
17 collect and package the evidence, and submit it to the
18 laboratory. We also do detailed reports and testify in
19 court as needed.

20 Q Did you respond -- did you work for SLED in this
21 capacity on or about May of 2011?

22 A Yes.

23 Q And did you respond out to the Beaufort County area,
24 actually, several scenes in different counties, I believe
25 Hampton County and maybe Colleton County?

1 A Yes.

2 Q In May?

3 A Yes.

4 Q And was the on the case of the State versus Kelvin
5 Jackson?

6 A Yes.

7 Q Did you respond out to any particular scene in
8 Colleton County?

9 A Yes.

10 Q Where was that?

11 A It was at the Palms Hotel on -- I have the address
12 on my notes, but it was at the Palms Hotel.

13 Q All right. And is that in the city of?

14 A Walterboro.

15 Q Now, let me ask you that. While you were there, did
16 you collect certain samples?

17 A We did.

18 Q And when you say we, who was with you?

19 A My partner, Karl Kenley, was on scene with me.

20 Q All right. Court's indulgence, your Honor, one
21 moment.

22 I'm going to hand you what's been marked as State's
23 24, for identification, and ask you if you can identify
24 this particular item. And if you need your notes or
25 anything else, please let me know if we have to pull

1 anything for you. Is there a SLED item number on that?

2 A There is.

3 Q And what item number is that?

4 A Item Number 1.

5 Q And is there a way, do you have a way -- is that how
6 you keep track of things in cases?

7 A Yes.

8 Q And is there a case number, also, on that bag?

9 A Yes, there is.

10 Q And what type of bag is that, that I've handed you?

11 A This is what we call a heat-sealed pouch. It is
12 sealed using heat. And then, we initial over the seal.

13 Q And could you -- was that item -- first of all,
14 could you look that up and tell me what item number that
15 is and where it was taken from?

16 A Yes.

17 Q All right. Would you please do that.

18 A Yes. We got a -- it says on it that is a swab with
19 a slight reaction from LCV. We processed the sink in the
20 motel room with LCV, leucocrystal violet. It is a
21 presumptive test for the presence of blood that might not
22 be visible to the naked eye. And we swabbed the area
23 that reacted and turned slightly blue.

24 Q So, is that the swab that you pulled from the
25 bathroom sink at the Palms Hotel?

1 A I can double check.

2 Q Please do.

3 A Yes, it is.

4 Q And describe for me the process that you go through
5 when you submit evidence. And I mean as to that piece
6 and every piece of evidence.

7 A When we submit evidence, we collect it on-scene. A
8 swab like this, we would allow to air dry before we seal
9 it up. We would seal the tape. We put our date -- our
10 initials and the date on the tape. And then, on the
11 packaging for the evidence, we put the item number, a
12 description of the evidence, and we put the lab number,
13 and we submit it to the laboratory. We generally package
14 it again in something bigger, like a heat-seal pouch.
15 And when we submit it to the laboratory, we fill out
16 paperwork with information from the scene, like the
17 address where it was collected at, names of the people
18 involved, and the description of the evidence. And then,
19 it's submit and scanned into our system.

20 Q And can you tell me what a certified chain of
21 custody is?

22 A A chain of custody, that's just when somebody looks
23 at it and they say, yes. What the chain of custody says
24 is what that actual agent did.

25 Q And does SLED have a printout that they provide that

1 shows every single person who came in any contact with an
2 item?

3 A Yes.

4 Q And was that done in this case?

5 A Yes.

6 Q And is it done in every case at SLED?

7 A To my knowledge, yes.

8 Q Let me ask you this question. As to you say that
9 SLED Item 1, which is a swab, was that either collected
10 by you, or directly in your presence?

11 A It was collected in my presence.

12 Q Was it properly air-dried, sealed, and then sealed
13 again in a bigger envelope?

14 A Yes.

15 Q Was it then submitted to SLED for processing? And
16 if you need to, please feel free to refer back to
17 whatever you have.

18 A To the best of my knowledge, it was, but let me
19 check and make sure that that's the request that was put
20 on it. Yes.

21 Q All right. So, you yourself, do not do any
22 processing. Is that correct?

23 A Not for DNA.

24 Q Okay. But that was -- your testimony is that SLED
25 Item Number 1 is a swab from the sink at the Palms Hotel

1 in Walterboro; and it was collected properly, sealed
2 properly; and then taken to SLED and submitted for
3 evidence. Is that correct?

4 A Yes.

5 Q All right. And does it appear -- do you see
6 anybody's initials on it that would appear at the time it
7 was collected?

8 A K.L.K., who was my partner. Karl Kenley.

9 Q And was that done in your presence?

10 A I do not recall directly, but most likely, yes.

11 Q Now, was it collected in your presence?

12 A Yes.

13 Q Are you sure about that?

14 A Yes.

15 Q All right. And it was sealed in your presence.

16 A Yes. We seal them on-scene. It has the 27th date
17 on it.

18 Q Other than being opened for processing, does it
19 appear it's been altered or changed in any way as far as
20 the envelope itself?

21 A No, it does not.

22 Q Is there another set of initials on there?

23 A Yes, there are.

24 Q And what -- can you read those initials?

25 A A.R.H., 5-31 of '11.

1 Q Would that likely be the analyst? Is that the
2 procedure, generally, with SLED, that the analyst who
3 opens it also initials it?

4 A Yes.

5 Q Other than that, has it been altered or changed in
6 any way?

7 A No.

8 MR. THORNTON: Your Honor, I ask that SLED Item
9 Number 1 be admitted as State's Exhibit 24.

10 THE COURT: Any objection?

11 MR. JOHNSON: Your Honor, without objection.

12 THE COURT: Thank you.

13 ITEM IDENTIFIED AS SLED ITEM

14 NUMBER 1, BLOOD SWAB FROM PALMS

15 MOTEL, MARKED STATE'S EXHIBIT

16 NUMBER 24, ADMITTED AS EVIDENCE.

17 Q Agent, did you attend an autopsy in this case?

18 A Yes, I did.

19 Q And was there evidence that was collected and
20 submitted to you from the autopsy?

21 A Yes, there was.

22 Q And I'm going to -- and again, Judge, I apologize.
23 I'm going to need a moment.

24 I'll get back to the autopsy in just a second. I
25 want you to look, if you don't mind, I'm going to hand

1 you what's been marked for identification as State's
2 Exhibit 25, and ask you if you can identify what that is.
3 I believe that's SLED Item Number 8.

4 MR. THORNTON: And Judge, for the record, I
5 apologize. I have been doing this a long time, and I
6 have still have not figured out a good way to have the
7 SLED item number and the original agency number match my
8 exhibit numbers, but I will try to keep the record clean.

9 THE COURT: Thank you.

10 BY MR. THORNTON:

11 A This is Item Number 8, and it is listed as a suspect
12 kit collected from Kelvin Jackson.

13 Q All right. And Basically, just in general terms,
14 what is a suspect kit and what types of things would it
15 contain? What types of things does that suspect kit
16 contain?

17 A I did not personally collect this from Kelvin
18 Jackson, --

19 Q Right.

20 A -- but generally, it would have a DNA standard in
21 it.

22 Q And is that -- does it appear -- is that your
23 signature on the outside where it was sealed and
24 submitted to SLED?

25 A Yes, it is.

1 Q All right. And whose blood standard does it
2 indicate that it is?

3 A Kelvin Jackson.

4 Q All right. When it was given to you, would you have
5 noted had it been not properly sealed in whatever way it
6 should have been?

7 A Yes.

8 Q And did you note any errors or discrepancies in it
9 being sealed?

10 A No.

11 Q Now, did you then seal all those items in a larger
12 sealed bag?

13 A Yes.

14 Q Did you then submit them to the South Carolina Law
15 Enforcement Division? And if you need to check, please
16 go ahead.

17 A Yes, I did.

18 Q And is that for processing?

19 A Yes.

20 Q All right. Court's indulgence, please, one moment,
21 your Honor.

22 Now, other than the testing that would go on, is
23 that the same bag that you would have submitted it in?

24 A Yes.

25 Q And how do you know that?

1 A It has my initials and the date that I sealed it.
2 It also has the lab number and the item number on it.
3 And it has my name, the agency, and the date on the front
4 of the envelope.

5 Q And other than, obviously, it's been opened for
6 testing, does it appear to have been altered or changed
7 in any way?

8 A No.

9 Q Were there any notations in your review where
10 anything was not sealed properly, either by yourself
11 notating it, or anybody else on the chain of custody
12 form?

13 A Not that I'm aware of.

14 MR. THORNTON: Your Honor, at this time, I'd ask
15 that State's Exhibit 25 be entered into evidence.

16 THE COURT: Any objection?

17 MR. JOHNSON: Your Honor, no objection.

18 THE COURT: Thank you.

19 ITEM IDENTIFIED AS SLED ITEM
20 NUMBER 8, SUSPECT KIT FROM
21 KELVIN JACKSON, MARKED STATE'S
22 EXHIBIT NUMBER 25, ADMITTED AS
23 EVIDENCE.

24 MR. THORNTON: Your Honor, I'm sorry. I'm going to
25 need the patience of the Court for a minute. I need to

1 locate a piece of evidence. It should be right here. It
2 shouldn't take me just a second.

3 THE COURT: Mr. Foreman, does anybody on the jury
4 need a quick break, or is everybody okay?

5 MR. FOREMAN: They're fine. Thank you.

6 THE COURT: Thank you.

7 MR. THORNTON: Your Honor, I apologize. It may take
8 just a couple of minutes. I thought it was up here. We
9 have it -- we have everything locked up in the room
10 downstairs. If you all will give me a couple of minutes,
11 I'll get it up here.

12 THE COURT: Why don't we go ahead and just take a
13 quick restroom break? We'll come back in five minutes.

14 MR. THORNTON: Thank you, Judge.

15 THE COURT: Thank you.

16 JURORS LEAVE COURTROOM 10:44 A.M.

17 BAILIFF: Jury is clear. The door is closed, your
18 Honor.

19 OFF THE RECORD 10:44 A.M.

20 BACK ON THE RECORD 11:01 A.M.

21 BY THE COURT:

22 BAILIFF: All rise. Court's back in session.

23 THE COURT: Thank you. You may be seated. Are you
24 ready to proceed, please?

25 MR. THORNTON: State's ready, Judge. I'm sorry. We

1 did find it. It was downstairs.

2 THE COURT: Not a problem. Please bring the jury
3 in.

4 BAILIFF: Yes, your Honor.

5 Your Honor, the jury is entering.

6 JURORS ENTER COURTROOM 11:02 A.M.

7 BAILIFF: All right, your Honor. The jury is
8 seated.

9 THE COURT: Thank you. You may proceed.

10 MR. THORNTON: Thank you, Judge.

11 SLED AGENT SABRINA ANN ZAHNISER FELLERS,

12 CONTINUE DIRECT EXAMINATION BY MR. THORNTON:

13 Q Now, let's go back to -- before I had to go looking
14 for the bag that I was missing, let's go back to the
15 questions we were on earlier. Did you attend an autopsy
16 in this case?

17 A Yes, I did.

18 Q And we've already had testimony -- obviously, you
19 weren't in the room -- that the decedent was Masako
20 Miller. And is that the autopsy you attended?

21 A Yes, it was.

22 Q I'm going to hand you what's been marked for
23 identification as Plaintiff's -- excuse me -- as State's
24 26, which is, I believe, labeled as Container C, with
25 several envelopes in it. Is that correct?

1 A Yes, it is.

2 Q All right. Can you tell me, are those the items
3 that were collected at the autopsy of Masako Miller?

4 A They appear to be, yes, sir.

5 Q And is one of those envelopes -- I think it actually
6 is a small, brown envelope on the back side. Is that
7 labeled as *blood spot*?

8 A Yes, it is.

9 Q And those are like blood standards. Is that
10 correct?

11 A Yes.

12 Q And who is the -- is there a doctor listed on that?

13 A It has Dr. Schondel/Tormos/EMC/RE.

14 Q And are you familiar at all with the pathologist at
15 MUSC?

16 A Yes.

17 Q Would those be pathologists from MUSC?

18 A Yes. EMC might be their tech.

19 Q I understand. But is Dr. Tormos one of the
20 pathologists?

21 A Yes.

22 Q And was she the one who, along with Dr. Schondle,
23 did the autopsy in this case?

24 A Yes.

25 Q Now, when you received those items, were they

1 properly done and sealed and collected?

2 A Yes.

3 Q And were they given to you, and did you then seal
4 them inside a larger bag?

5 A Yes.

6 Q And did you then transfer those to SLED for
7 analysis?

8 A Yes.

9 Q All right. Other than that they are opened, I
10 understand, for analysis at SLED, does there appear to be
11 -- do they appear to have been altered or changed in any
12 way?

13 A Not that I can tell.

14 Q And if there had there been any issue with these
15 items, they would have been so notated in SLED reports.
16 Is that correct?

17 A Yes.

18 Q And was there any notations about any issues?

19 A Not on my report.

20 Q Thank you very much.

21 MR. THORNTON: I'd ask, Judge, that SLED -- excuse
22 me -- that State's 26 be entered into evidence.

23 THE COURT: Any objection?

24 MR. JOHNSON: Your Honor, without objection.

25 THE COURT: Thank you.

1 ITEM IDENTIFIED AS SLED ITEM
2 CONTAINER C, BLOOD SPOT, MARKED
3 STATE'S EXHIBIT NUMBER 26, ADMITTED
4 AS EVIDENCE.

5 MR. THORNTON: Your Honor, at this time, I have no
6 further questions. I'd ask you to answer any questions
7 Defense has. However Judge, because of the amount of
8 evidence involved -- or potential evidence involved in
9 this case, I'm going to ask that she be subject to re-
10 call. I've got one or two other SLED folks, and I just
11 ask that she be placed back into sequestration once Mr.
12 Johnson's finished, so that if I need to re-call her for
13 any changed issues, I can.

14 THE COURT: Certainly. Thank you.

15 MR. THORNTON: Thank you.

16 SLED AGENT SABRINA ANN ZAHNISER FELLERS,

17 CROSS-EXAMINATION BY MR. JOHNSON:

18 Q Just two questions. All you know about this case is
19 the collection and the sealing. Is that correct?

20 A Yes.

21 Q And you don't know anything about the facts of what
22 happened or anything?

23 A No.

24 MR. JOHNSON: Thank you, ma'am.

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

1 MR. THORNTON: Vicki Hallman, please.

2 BAILIFF: This way, ma'am. If you would go right up
3 there to be sworn.

4 MADAM CLERK: Would you place your left hand on the
5 Bible, please, ma'am, and raise your right hand for me.
6 Do you solemnly swear to truthfully answer all questions
7 asked of you by this Court, so help you God?

8 AGENT VICKI HALLMAN: I do.

9 MADAM CLERK: Please be seated. State your name and
10 spell if for the court.

11 AGENT HALLMAN: Vicki, V/i/c/k/i. Hallman,
12 H/a/l/l/m/a/n.

13 SLED AGENT VICKI HALLMAN

14 DIRECT EXAMINATION BY MR. THORNTON:

15 Q Ms. Hallman, I know this is always a dumb question,
16 because I've known you for what, a decade now? Where do
17 you work?

18 A I work for the South Carolina Law Enforcement
19 Division, which is also known as SLED.

20 Q Agent Hallman, how long have you worked for SLED?

21 A I've been at SLED for a little over nine years.

22 Q And in that time, what is it that you do for SLED?

23 A I'm a senior agent, assigned to the Latent Prints
24 Crime Scene Unit.

25 Q And what is it that the Crime Scene Unit, what is it

1 that Crime Scene Unit folks do?

2 A We are at the -- we are set up to assist local and
3 state, other state agencies and federal agencies in the
4 investigation of crimes throughout the state. They can
5 call us in, specifically for crime scenes, to help with
6 the processing of crime scenes.

7 We also process evidence for latent fingerprints.
8 We do latent fingerprint comparisons. We do footwear and
9 tire tread comparisons, and blood stain pattern analysis,
10 and reconstruction.

11 Q On or about May of 2011, did you have occasion to
12 come out to a scene, and actually, to start with, in
13 Hampton County?

14 A Yes, sir, I did.

15 Q And did you go to a particular address?

16 A We first went to the Hampton County -- I believe the
17 police department, and also the sheriff's department to
18 process a vehicle. And then, we went to the victim's
19 residence. And I'll have to -- can I refer to my notes
20 for the address?

21 Q Yes, ma'am. Please.

22 A And we also responded to Middle Street in
23 Hampton.

24 Q And at the victim's house, did you set up the crime
25 scene and attempt to retrieve some evidence?

1 A Yes, we did.

2 Q All right. I'm going to hand you what's been
3 marked -- what's been marked for identification as
4 State's Exhibit 27, and ask you if you can identify,
5 based on the item numbers, what that is.

6 A Yes, sir.

7 Q What is it?

8 A It is a pillowcase that was taken from the victim's
9 bedroom.

10 Q And I see that that references someone other than
11 you on the outside envelope. Is that correct?

12 A Yes, sir.

13 Q On the outside bag. I'm sorry.

14 A Yes, sir, it is.

15 Q And who is that?

16 A It is actually logged in and sealed by Karl Kenley,
17 who is one of my co-workers in the Crime Scene Unit at
18 that time.

19 Q And were you all working together on that day?

20 A Yes, we were.

21 Q State's 27, was that actually collected in your
22 presence?

23 A Yes, sir, it was.

24 Q Was it properly sealed in your presence?

25 A Yes, sir.

1 Q Now, were you also with Agent Kenley when all of
2 this was submitted in to SLED's headquarters in Columbia?

3 A Yes, I was.

4 Q And do you -- you had showed me something earlier
5 today. How is this tracked as far as who turns what in
6 when you go to SLED? Is there a number that you punch
7 in, or how does that work?

8 A We actually have a log-in department, and they
9 receive evidence from SLED. They also receive evidence
10 from other agencies throughout the state. Those ladies,
11 because they're all females who work there, actually key
12 all the information into the computer system. And the
13 computer actually assigns a lab number, which on this
14 packet is L11-057 -- or excuse me -- 05975. And it also
15 tells us that it's Item Number 29. This is automatically
16 assigned by the computer. And it also has what looks
17 like a bar code underneath it, so each employee at SLED,
18 we have our own individual bar codes, which are very
19 similar to these. So, if I take custody of this item,
20 I'm going to use the computer system, and I'm going to
21 scan this item into my custody, if I have a reason to
22 have it.

23 Q Okay. Now, can you explain for the jury briefly
24 what a certified chain of custody from SLED is?

25 A A certified chain of custody, when a case is getting

1 ready to come to court, we're notified by our admin in
2 the building that they need a certified chain of custody.
3 It's basically just a printout of -- like in this case,
4 this would be Item 29, so it would actually list
5 absolutely every item in the case, starting at Number 1
6 through -- we've had cases that have had over 200 items.

7 The packet actually tells -- you can go through.
8 It's a printed-out copy or an electronic copy. And we go
9 through and actually verify that, yes, I did have this
10 item of evidence at this time, and then I transferred it
11 to that location.

12 So, what we do as employees of SLED is, we go in on
13 those chains of custody, and we verified that we did have
14 custody of that item, and we verified that it went to
15 where we know that we sent it to, in order to basically
16 say that the -- the chain of custody on the item of
17 evidence was maintained.

18 Q And when a chain of custody like that is maintained
19 by SLED protocol, does that mean that each and every time
20 it's touched, there's a record of it?

21 A That's correct.

22 Q If there is a problem, if something -- let's say
23 that you brought a blood standard up that wasn't properly
24 sealed. Would that be accepted without some type of
25 notation or explanation?

1 A No, it would not.

2 Q And if there was any time in the entire chain that
3 something was touched or mishandled, where it was opened
4 and not sealed properly, would that be noted, or would it
5 just be examined anyway?

6 A It would be noted. And there's a narrative section
7 in the chain of custody. If it's a submitting agency,
8 they usually won't take it back. They won't take it or
9 accept it, unless it's actually sealed at the top with
10 the initials, because we always put our initials and the
11 date at the top.

12 Now, in some cases, like we have administrative
13 staff who will actually go down and pick this up and
14 bring it and put it in a storage area for an examiner.
15 They don't necessarily even open the container, but
16 because they've had custody of the container itself,
17 they're also included in the chain of custody. They
18 don't necessarily -- everybody doesn't necessarily touch
19 the actual piece of evidence, but because they've had
20 custody of the item itself in a container, they have to
21 use their scan code and basically say that they had
22 custody of the container.

23 Q Is that procedure set up so that SLED insures that,
24 internally, every protocol is properly followed?

25 A Absolutely. Yes, sir.

1 Q All right. Now, as to the items submitted in this
2 case, that State's 27 that you're talking about, and
3 every other item per the certified chain of custody that
4 you're aware of, does it show proper chain of custody?

5 A Yes, sir.

6 Q All right. And has it been so certified by SLED?

7 A I'm assuming so. Yes, sir.

8 Q All right. I can probably fix that for you. I'm
9 going to hand you some notes that may be able to help you
10 answer that question. Based on the document that I just
11 gave you, does it indicate that there was any problem
12 with the chain of custody on any of the items?

13 A No, sir, it does not.

14 Q And is what I've handed you basically the certified
15 chain of custody for this case?

16 A Yes, it is.

17 Q In addition to seizing the pillowcase, did you
18 discuss or talk about -- or I'm sorry -- you did discuss
19 or talk about processing a car?

20 A Yes, sir.

21 Q All right. Do you know what car you processed?

22 A I actually assisted with two separate vehicles. On
23 the first day that we were down there, which is going to
24 be -- let me make sure I get my dates right -- 6 -- or
25 June the 2nd, we actually went back through the Ford

1 Taurus, which belonged to the suspect.

2 Q All right. And when you processed that, when you
3 processed the defendant -- and when you say *suspect*, do
4 you know who that is?

5 A At the time, I believe we were informed that his
6 name is -- I believe it's Kelvin Jackson.

7 Q Yes, ma'am. Now, do you know Mr. Jackson?

8 A No, sir.

9 Q When you processed Mr. Jackson's Taurus, and I know
10 that there was -- was there more than one time it was
11 processed?

12 A Yes, sir.

13 Q All right. So, if I -- I may hand you something.
14 If you don't remember it, just tell me. But I'm going to
15 hand you two items.

16 MR. THORNTON: Your Honor, while I'm numbering
17 these, I believe we've laid a sufficient foundation. I'd
18 ask that State's 27 be moved into evidence at this time.

19 THE COURT: Any objection?

20 MR. JOHNSON: No objection on 27.

21 THE COURT: Thank you.

22 ITEM IDENTIFIED AS PILLOWCASE TAKEN
23 FROM VICTIM'S BEDROOM, SLED ITEM
24 NUMBER 29, SLED LAB NUMBER L11-05975,
25 MARKED STATE'S EXHIBIT NUMBER 27,

1 ADMITTED AS EVIDENCE.

2 BY MR. THORNTON:

3 Q I'm going to hand you two items, 28 and 29, and ask
4 you if you can identify either one of those, and where
5 they came from.

6 A I don't specifically recall seeing Item 29, which is
7 a driver's license.

8 Q All right.

9 A Item 28 is some DSS paperwork with Mr. Jackson's
10 name on it.

11 Q And was that found in his trunk?

12 A Yes, it was.

13 Q Is that a fair and accurate depiction of the
14 paperwork as you found it in the car?

15 A Yes, it is.

16 MR. THORNTON: Your Honor, I'd ask that State's --
17 is that twenty --

18 A 28.

19 MR. THORNTON: I'd ask State's 28 be entered into
20 evidence.

21 THE COURT: Any objection?

22 MR. JOHNSON: Your Honor, without objection.

23 ITEM IDENTIFIED AS SLED ITEM 28,

24 DRIVER'S LICENSE, MARKED STATE'S

25 EXHIBIT NUMBER 28, ADMITTED AS

1 EVIDENCE.

2 DISCUSSION BETWEEN MR. THORNTON

3 AND MR. JOHNSON.

4 MR. THORNTON: Your Honor, Mr. Johnson indicates
5 that he has no objection to -- I'll go ahead and move 29
6 in, which is the defendant's driver's license, also found
7 in his truck, obviously.

8 THE COURT: Thank you.

9 MR. JOHNSON: Yeah.

10 THE COURT: Thank you, Mr. Johnson.

11 ITEM IDENTIFIED AS SLED ITEM 29,

12 DSS PAPERWORK, MARKED STATE'S EXHIBIT

13 NUMBER 29, ADMITTED AS EVIDENCE.

14 BY MR. THORNTON:

15 Q If you would look at State's 28 for me. You said
16 it's DSS paperwork. It's actually -- that picture's good
17 enough you can actually read that. Can you?

18 A I can see that it says -- I can see part of what the
19 title is, but not the whole title.

20 Q I understand. And what is that, based on your
21 review of it?

22 A It's a notice of a lien.

23 Q Meaning child support lien?

24 A Yes.

25 Q All right. Is there a separate page right next to

1 it that indicates who the applicant is for the lien? I
2 think it says *Applicant's Name*, and you can see a first
3 name.

4 A The first name is Masako.

5 Q Okay. And that was found in his truck. Is that
6 correct?

7 A Yes.

8 Q All right. Along with his driver's license.

9 A Yes.

10 Q Could you, for the purposes of the record, publish
11 what his driver's license number is.

12 A His South Carolina driver's license number is

13

14 Q Thank you very much. Court's indulgence, your
15 Honor. One moment.

16 Just a quick question. Obviously, Agent Hallman,
17 this is an extraordinarily thick document, the chain of
18 custody document that I showed you earlier. So, it has
19 every time anybody touched any item. Is that correct?

20 A That's correct.

21 Q All right. You indicated earlier you'd been with
22 SLED about nine years. Is that right?

23 A Yes, sir.

24 Q Oftentimes -- you talked about a case just a minute
25 ago where there were multiple items submitted. Does that

1 necessarily mean that every item is going to have
2 evidentiary value?

3 A No, sir, it does not.

4 Q Is it unusual to collect a lot of things, and only
5 end up using one or -- or have one or two have any
6 evidentiary value?

7 A That's not unusual, no.

8 MR. THORNTON: Your Honor, same thing I would ask of
9 Agent Hallman, at least probably till lunchtime. I don't
10 think I have any other questions, but on the off chance
11 there's something else, I'd ask she be subject to re-
12 call, and wait with me. As much as she's probably going
13 to want to get back to Columbia, I need her to wait with
14 me till lunch. But please answer any questions Mr.
15 Johnson might have for you.

16 SLED AGENT VICKI HALLMAN

17 CROSS-EXAMINATION BY MR. JOHNSON:

18 Q You just did your standard collection and sealing.
19 Is that correct?

20 A Yes, sir.

21 Q Okay. And 29 and 28 is, turned out, is just his
22 driver's licenses. The driver's license, to your
23 knowledge, has no connection to this case; does it?

24 A Not to my knowledge, no, sir.

25 Q A better way to ask the question is: all you know

1 about it is you did the collection and the sealing. That
2 might be a better way to ask the question. Is that
3 correct?

4 A That's correct.

5 MR. JOHNSON: Thank you, ma'am.

6 THE COURT: Anything further?

7 MR. THORNTON: Nothing. Just ask that she be re-
8 sequestered and subject to re-call.

9 THE COURT: Please remain with us.

10 A Okay.

11 THE COURT: Thank you.

12 MR. THORNTON: Richard Johnson.

13 BAILIFF: Mr. Johnson, please go up there to be
14 sworn.

15 MADAM CLERK: Place your left hand on the *Bible* and
16 raise your right hand for me, please, sir. Do you
17 solemnly swear to truthfully answer all questions asked
18 of you by this Court, so help you God?

19 SLED AGENT RICHARD JOHNSON: I do.

20 MADAM CLERK: Please be seated. State your name and
21 spell it for the Court, please.

22 SLED AGENT RICHARD L. JOHNSON

23 DIRECT EXAMINATION BY MR. THORNTON:

24 Q Agent Johnson, if you would, state your name for the
25 -- and spell your last name for the record.

1 A Richard L. Johnson. J/o/h/n/s/o/n.

2 Q Agent Johnson, who do you work for, sir?

3 A South Carolina Law Enforcement Division, also known

4 as SLED.

5 Q And what do you do for SLED?

6 A I'm a special agent.

7 Q And what types of duties do you have?

8 A Conducting criminal investigation.

9 Q And did you have that same job on or about May 2011?

10 A Yes, I did.

11 Q Did you do any work or were you involved in any way

12 in the Masako Miller disappearance and murder?

13 A Yes, I was.

14 Q Did you have occasion to interview the defendant in

15 this case, Kelvin Jackson?

16 A Yes, sir. On two occasions.

17 Q All right. And were those -- do you know the dates

18 of the two occasions?

19 A The first interview was on June 2nd of 2011, and the

20 second interview was on June 7th of 2011.

21 Q Agent Johnson, before you talked to him, did you

22 Mirandize the defendant in this case, Mr. Jackson?

23 A Yes, I did.

24 MR. JOHNSON: Your Honor, at this point in time,

25 your

1 Honor --

2 THE COURT: Mr. Johnson?

3 MR. JOHNSON: At this point in time, I'd like to
4 renew my motion.

5 THE COURT: Your objection is noted. Thank you, Mr.
6 Johnson.

7 MR. JOHNSON: Thank you.

8 BY MR. THORNTON:

9 Q Agent Johnson, I'm going to hand you what's been
10 marked for identification as State's 30 and State's 31.
11 Would you please, starting with State's 30, tell me, can
12 you identify that document?

13 A Yes, I can.

14 Q What is it, sir?

15 A It's the *Miranda* rights that was given to the
16 defendant on the first interview, which was June 2 indict
17 of 2011.

18 Q And is that a standard *Miranda* rights form?

19 A Yes, sir.

20 Q And first of all, do you -- sounds like a silly
21 question, I know. Do you see Mr. Jackson in the
22 courtroom today, the person that you talked to and
23 interviewed?

24 A Yes, sir, I do.

25 Q Where is he?

1 A Sitting over here at the table.

2 Q Is he sitting here next to -- in between his
3 attorneys?

4 A Yes, sir.

5 Q Agent Johnson, what are the rights, as you read to
6 Kelvin Jackson on that date, on 6-2, which would be June
7 2, 2011?

8 A You have the right to remain silent.
9 Anything you say can be used in court as
10 evidence against you. You're entitled
11 to talk to a lawyer now and have him
12 present now or at any time during
13 questioning. If you cannot afford an
14 attorney, one will be appointed for you
15 without cost.

16 If you decide to answer questions
17 now, without a lawyer present, you would
18 still have the right to stop answering
19 at any time. You also have the right to
20 stop answering anytime until you talk
21 to a lawyer.

22 Do you understand these rights? Do
23 you wish to talk to us at this time?

24 Q And did he sign, indicating he understood his
25 rights, and agree to talk to you?

1 A Yes. He placed initial by each line, and then
2 signed under the Waiver of Rights section.

3 Q And did he, in fact, talk to you at that time, on
4 June 2nd?

5 A Yes, sir.

6 Q All right. Now, is State's Exhibit 30, I believe,
7 is what you're looking at now. Is that correct?

8 A Yes, sir.

9 Q Is that an accurate -- I realize it's a photocopy.
10 But is that an accurate copy of the *Miranda* rights form
11 that you read to him on that day?

12 A Yes, sir.

13 Q Did you sign it, also, sir?

14 A Yes, sir.

15 Q Has it been altered or changed in any way, other
16 than the three-hole punch that I put in it, to put in my
17 notebook?

18 A No, sir.

19 MR. THORNTON: Your Honor, I'd ask State's Exhibit
20 30 be moved into evidence.

21 THE COURT: Any objection, Mr. Johnson?

22 MR. JOHNSON: Your Honor, my regular objection.

23 THE COURT: Thank you.

24 DOCUMENT IDENTIFIED AS *MIRANDA*

25 RIGHTS FORM MARKED STATE'S EXHIBIT

1 NUMBER 30, ADMITTED AS EVIDENCE.

2 BY MR. THORNTON:

3 Q And let's go ahead and cover the other one. It's
4 State's Exhibit 31. Is that also a rights form?

5 A Yes, it is.

6 Q Is it, in fact, an identical rights form?

7 A Yes, it is.

8 Q Now, did you separately give Mr. Jackson his rights
9 on June 7th when you talked to him?

10 A Yes, sir.

11 Q And did he sign, indicating he understood his rights
12 on that day?

13 A Yes, sir.

14 Q And did he agree to talk to you?

15 A Yes, sir.

16 Q Now, is State's Exhibit, I believe that's 31, is
17 that an accurate copy of, other than the hole punches, et
18 cetera, --

19 A Yes, it is.

20 Q -- of the interview, under that *Miranda Rights*
21 Interview Form?

22 A Yes, it is.

23 Q And has it been altered or changed in any way?

24 A No, sir.

25 MR. THORNTON: All right. Your Honor, I'd ask that

1 31 be moved into evidence.

2 MR. JOHNSON: Your Honor, if the Court would just
3 note my other objection.

4 THE COURT: Yes, sir. My ruling still stands.

5 MR. THORNTON: Thank you, your Honor.

6 DOCUMENT IDENTIFIED AS MIRANDA

7 RIGHTS FORM MARKED STATE'S EXHIBIT

8 NUMBER 31, ADMITTED AS EVIDENCE.

9 BY MR. THORNTON:

10 Q Now, Agent Johnson, let's get into the meat of this.
11 You talked to Kelvin Jackson on two separate occasions
12 that you just testified to. Is that correct, sir?

13 A That's correct.

14 Q All right. On the first occasion when you talked to
15 him -- and if you need to refer back to -- did you do
16 like kind of take a memorandum of interview on this?

17 A Yes, sir, I did. What we refer to as a memorandum
18 of interview.

19 Q All right. If you need to refer back to that,
20 please do. Did he tell you when you first talked to him
21 when the last time he saw Masako was?

22 A Yes, sir, he did.

23 Q And what's the first thing he did?

24 A That he last saw her about three weeks ago, which
25 was prior to the -- three weeks prior to the June 2nd

1 interview, in the first interview.

2 Q That would have been three weeks prior to June 2nd.

3 So, some time in early May?

4 A Yes, sir.

5 Q All right. Now, Masako Miller vanished and was
6 found murdered in late May. Is that correct?

7 A I believe it was -- yes, May.

8 Q May 20 -- over the late evening 25th, early morning
9 hours, actually, on May 26th.

10 A That's correct.

11 Q Is that correct?

12 A Yes, sir.

13 Q So, when you interviewed him on June 2nd, he said he
14 hadn't seen her in about three weeks.

15 A Yes.

16 Q All right. Now, first of all, let me ask you this.
17 As you talked to him, did his story change, or did he
18 tell you the same story?

19 A It changed.

20 Q All right. Is there any way -- you've been -- how
21 long have you been an officer of any kind? SLED, local?

22 A Roughly 25 -- a little over 25 years.

23 Q You've interviewed a lot of folks?

24 A Yes, sir.

25 Q What was his -- you said his story changed. How did

1 it change?

2 A Well, from the initial interview to the second
3 interview, each time he was confronted with information
4 that he knew that we could, without a doubt, verified,
5 then he went from what he initially told me, to something
6 else to try and -- or to confirm that, yes, we are right;
7 this is where I was; but this was something that's --
8 something else that took place.

9 Q All right. So, and give me an example. The first
10 thing he tells you is he hadn't seen her in three weeks.

11 A Yeah. So, and that's the first interview; I haven't
12 saw her in -- in approximately three weeks.

13 During the second interview, once he was confronted
14 that he was spotted in the area of her home, he then
15 admitted that, well, he saw her that night, which would
16 have been the morning hours of May 26, the same time she
17 went missing. That he saw her; he park his car in a area
18 known as the Bottom. And he spoke with someone else.

19 Q All right. Did he actually write a statement?

20 A Not in the first --

21 Q Okay. Tell me --

22 A -- interview, but in the second interview, he
23 provided a voluntary written statement.

24 Q All right. Well, let me ask you this. Let's go
25 back to what he told you on the first statement. He says

1 in the first interview he saw her, according to your
2 testimony, about three weeks ago.

3 A That's correct.

4 Q And did he say why he or how -- what was the
5 occasion that he saw her?

6 A Well, he saw her approximately three weeks prior to
7 the interview, because his son -- I think it was his son
8 -- was ill, and he had gone to the hospital in Hampton to
9 see his son, and he saw her at that time.

10 Q And did he refer to another text he got from her on
11 Wednesday, May 25, which would be the day before or the
12 day of her disappearance?

13 A Yes. On that Wednesday, May 25th, he received a
14 text from her, letting him know that she was removing him
15 off of her insurance.

16 Q All right. Now, did he tell you what he did with --
17 did he make any reference to his girlfriend, Tara
18 Roberts?

19 A In the first interview, he said he -- when she
20 received the text about the insurance, he didn't
21 responded to her, because he knew he was going to be back
22 in Hampton the following Tuesday, because that's when he
23 was off from work. He was coming from Columbia. After
24 he got off from work, he drives to Hampton.

25 Now, in the second interview, he said his -- his

1 reason for driving to Hampton was to go see his
2 girlfriend, Tara Roberts.

3 Q Does Tara Roberts live in Hampton?

4 A Fairfax. I'm sorry. He drove to Fairfax to see the
5 girlfriend.

6 Q Got you.

7 A Not to Hampton. Tara Roberts.

8 Q All right. You said he had indicated that he wrote
9 a statement. Was this after -- was this during -- I
10 believe you testified -- which interview was this? The
11 first or the second?

12 A The second interview, the June 7th interview.

13 Q I'm going to hand you what's been marked as State's
14 Exhibit Number 32. I'm sorry. Could I have that back,
15 Agent? I'm sorry. Could I have that back, Agent?

16 MR. THORNTON SHOWING DOCUMENT TO

17 MR. JOHNSON.

18 Q I'm going to hand you what's been marked for
19 identification as State's 32, and ask you if you can
20 identify that.

21 A Yes. This the handwriting -- handwritten statement
22 that he prepared. And to the bottom of it, what is
23 called a question-and-answer section of it where, once I
24 read his initial statement here, I just did some follow-
25 up question-and-answer session with him.

1 Q All right. So, everything we've talked about so far
2 has been in reference to more or less, what his first
3 statement was.

4 A That's correct.

5 Q Did you do a memorandum of interview as to the
6 second statement, too, that you can refer to?

7 A Yes, I did.

8 Q All right. Go through what he talked to you about
9 on the second day.

10 A Well, --

11 Q Or the second time, on June 7th. And if you could,
12 just kind of go through some of the differences with the
13 jury as to what his story was the first time and the
14 second time.

15 A Okay. Well, just to back up a little bit. On the
16 first interview, again, he mentioned he last saw her
17 approximately three weeks before this June 2nd interview.
18 Well, in the second interview, he acknowledged that he
19 last saw her on May 25/26, the morning that she went
20 missing. And that came out after I confronted him with
21 information that he was seen in the area of Hampton known
22 as the Bottom area, which he acknowledged. He saw
23 someone; he parked his car down there; and then he walked
24 to her house. That's one of the first inconsistency.

25 And in the first interview, he said he, after

1 receiving the text about the insurance, after he got off,
2 he drove to Fairfax, or drove to Hampton, simply because
3 he loves the ride. So, he decided to drive from Columbia
4 to Hampton; get in Hampton; decide to get gas; then go to
5 Walterboro; and then, the next morning, go back to
6 Columbia.

7 Well, in the second interview, he said when he got
8 off from work, went to the strip club. Then went to --
9 his reasons for going to that area to Fairfax was to go
10 see the girlfriend, Tara Robertson [sic]; but he didn't
11 stop at the girlfriend Tara Roberts' house in Fairfax.
12 He decided to go to Hampton; get gas; go to Walterboro.
13 Then, the next morning, goes back to Columbia.

14 When further questioning him --

15 Q All right. So, that's now the second story he's
16 told you.

17 A Yes, sir.

18 Q Did he tell you a different one, a third story?

19 A Yes, sir, he did.

20 Q All right. Go ahead.

21 A So, after -- after confronting him about seeing
22 another individual in the area of Hampton, then he
23 acknowledged:

24 Well, when I came from Columbia, went
25 through Fairfax, went to Hampton, parked

1 my car in an area known as the Bottom, met
2 a guy named --

3 I think it was Kevin White. I think it's Kevin
4 White.

5 Talked with him a little bit. Told
6 him my car was broke down. He said, But
7 it really wasn't broke down.

8 Parked his car in the area. Then, he walks to the
9 victim's home at that time.

10 Q And at that time would be late-night 25th, early --
11 actually, early morning 26th. Is that correct?

12 A That's correct.

13 Q Which is significant because why? When did Masako
14 go missing and was later found murdered?

15 A During the early morning of the 26th, May 26.

16 Q Now, are you familiar -- and if you're not, Agent
17 Johnson, that's okay. But are you familiar with the --
18 with the still shots that were taken or retrieved from
19 the video from the Shell station in Hampton?

20 A No, sir.

21 Q All right. Are you familiar with him using the
22 victim's debit card?

23 A Yes, sir, I am.

24 Q And do you recall -- it's already in evidence. But
25 do you recall when that was, as far as what time of the

1 morning it was? If you don't, that's fine.

2 A Not the time of the morning.

3 Q All right. Does he, in his third statement, mention
4 getting the debit card from her?

5 A Yes. In the first statement, when he came to
6 Hampton, he said he used her card, which was another
7 inconsistency. He said he used his card. When asked how
8 did he get the card, he always had a card, because she --
9 they -- she had multiple cards, and he had one.

10 So, in the second statement, again, once confronting
11 him about the new information of someone seeing him, and
12 he admits that he went to the house. And after they just
13 talked a little bit, messed around, he asked her for the
14 card. So then, he gets the card from her; goes to the
15 Shell station in Hampton; tried to use the card to get
16 gas. Didn't work. Comes back to her house and gives her
17 the card back.

18 Q All right. And again, I'm not trying to lead you to
19 a certain answer. I'm just asking you based on what you
20 just testified to.

21 A Um-hmm.

22 Q So, his story to you is now, after the whatever, the
23 third or fourth different story he's told you, he now
24 admits that he is with her both before, right before he
25 goes to the Shell station, and we've already got evidence

1 of when that was. It's in evidence at 2:26 in the
2 morning.

3 A Um-hmm. Um-hmm.

4 Q On the morning she vanishes, he admits to being
5 there right before that to get the card, uses the card,
6 and then says he then went back. So, he puts himself
7 with her both before and after 2:26 a.m. on the morning
8 she vanishes.

9 A Yes, sir.

10 Q All right. What does he say happens after he shows
11 back up at the house after the debit card?

12 A He told her that the card didn't work. You gave me
13 a card that didn't work. I don't recall whether she
14 responded to him or not, but nevertheless, gave her the
15 card back. They talked for I think it was about five or
16 ten minutes. And then, he left. Goes to Walterboro.

17 Q And does he -- let me ask you one quick question.
18 Are you somewhat familiar with the area distance-wise
19 between Hampton and Walterboro?

20 A Yes.

21 Q Approximately how long do you think it would take to
22 get, driving, you know, speed limit, or as close as
23 everybody on the planet drives to the speed limit, how
24 long do you think that would be?

25 A Fifteen minutes. Fifteen, 20 minutes, I would

1 guess.

2 Q All right. I'm going to suggest to you that that's
3 probably at police officer's speed. At normal person
4 speed, would it be fair to say that less than half an
5 hour?

6 A Yes. Yeah.

7 Q Between Hampton and Walterboro. And I'm not just
8 saying that because your captain's in the room with me,
9 Agent Johnson.

10 All right. Now, did he say anything to you about a
11 phone call that Masako made, other than, I mean, while he
12 was there? Did he talk about a phone call she made to
13 anybody?

14 A When he walked to her house, knocked on the door,
15 she was on the phone with her mother. I think it was in
16 Japan or China. I'm not certain which one.

17 Q All right. And he mentions that to you.

18 A Yes, sir.

19 MR. THORNTON: And your Honor, I'm not sure if I've
20 moved this in or not, so I'd like to go ahead. And the
21 written statement that I gave you, which is State's 32.

22 A Um-hmm.

23 Q Is that a fair and accurate copy of the written
24 statement that Kelvin Jackson made?

25 A Yes, sir.

1 Q And has it been altered or changed in any way?

2 A No, sir.

3 Q Are there actually follow-up questions that you
4 asked him to answer after his statement?

5 A Yes, sir.

6 Q All right.

7 MR. THORNTON: Your Honor, I'd ask that State's
8 Exhibit Number 32 be moved into evidence.

9 MR. JOHNSON: Your Honor, without objection.

10 THE COURT: Thank you.

11 DOCUMENT IDENTIFIED AS

12 DEFENDANT'S WRITTEN STATEMENT

13 MARKED STATE'S EXHIBIT NUMBER 32,

14 ADMITTED AS EVIDENCE.

15 BY MR. THORNTON:

16 Q Agent Johnson, I know it may be somewhat difficult
17 to read, but if you would please do your best. Your
18 Honor, I'd ask that it published to the jury, and go
19 ahead and read that to the jury. And if you would rather
20 me give it a shot, I can do it.

21 A I can try it.

22 Q All right.

23 A We'll see where we go from there.

24 Q Please do your best.

25 A Yeah.

1 Q And take your time. It's fine to be slow. I'd
2 rather it be accurate. The jury will have it in the
3 deliberation room.

4 A After I left the club, I drove to Fairfax.
5 I was going to stop by Tara's house, but
6 I went to Hampton, parked my car in the
7 Bottom, talked to Kevin White for awhile.

8 Q All right. And let me stop you for just a second.
9 The Bottom, is that the area that he talked to you
10 verbally about, the Bottoms, which is near where the
11 victim is?

12 A Yes, sir.

13 Q And is that -- and you said he did identify the
14 person that he talked to down there as?

15 A Kevin White.

16 Q All right. I'm sorry to interrupt you. Please go
17 ahead.

18 A All right. Let's see where I'm at again.

19 I talked to Kevin White for awhile.
20 Went to the house. She opened the door.
21 Went in. She was talking to her mother
22 on the phone for five to ten minutes.

23 I got in the shower. I heard her
24 tell S.D. , was someone at the door?

25 S.D. no, and went back to sleep.

1 She came in the room. We messed
2 around for awhile. When I finish, we
3 talked. I asked for -- I ask her for
4 a few dollars, and she gave me the card.

5 I left. Went to the store. Got
6 the gas and some smokes. Went back to
7 the house. Gave her the card. We talked
8 for about five minutes. Then left and
9 went to Walterboro. Got a room. Paid
10 cash.

11 Checked out about 6:15. I went --
12 went to work. Got off about 4:30 or 5:00.

13 Saw where my sister called and say no
14 one heard -- no one know where Masako was.
15 I got to Hampton about 10:00 or 11:00.
16 Went to the house and got -- got the news
17 she was gone.

18 Went to Tara grandmother's house. We
19 talked for awhile. My sister called me and
20 said the police wanted to talk to me, and
21 I was -- was led up -- somewhere.

22 Q Okay. Is that the end of the statement?

23 A Yes, sir.

24 Q All right, sir. Did you ask him some questions
25 after that, and did he answer?

1 A Yes, sir, I did.

2 Q Go ahead and run through those for me, if you don't
3 mind.

4 A The first question I asked:

5 When you say 'she,' who are you referring
6 to?

7 And he wrote:

8 Masako.

9 Q Okay.

10 A The second question:

11 When you said 'the house,' who or
12 what house you referring?

13 He said:

14 Me and Masako house.

15 Did you use Masako credit card in
16 Hampton?

17 Yes, I did, but it would not go through.

18 Did you use Masako card in Waltherboro?

19 No.

20 Did you harm Masako?

21 No.

22 Did you tell anyone about being at
23 Masako's house?

24 No.

25 Q All right. And let me ask you, is that the end of

1 the statement?

2 A That's the end.

3 Q All right. Agent, let me ask you a second. Going
4 back to the second, the June 27th interview, did he
5 actually tell you where in Walterboro he had got a room?
6 Did he actually -- and again, if you need to check your
7 notes, feel free. But did he actually name a hotel?

8 A Yes. I'm certain it's him, but I think it was the
9 Ramada Inn.

10 Q All right. And that's the hotel he said he stayed
11 at.

12 A Yes.

13 Q All right. And do you know whether -- do you know
14 whether that was accurate or not? And if you don't know,
15 that's fine.

16 A I don't.

17 Q Were there multiple people involved in this
18 investigation?

19 A Yeah. Yeah.

20 Q All right, sir. In discussing -- other than
21 interviewing him, is that the primary responsibility you
22 had in this case as far as the investigation was your
23 interviews with Kelvin Jackson?

24 A And I interviewed a couple other people on Agent
25 David Williams' behalf.

1 Q But was this the majority of what you did with it,
2 was the interviews?

3 A Yes, sir.

4 MR. THORNTON: All right. Thank you, sir, very
5 much. I don't have anything further. Agent Johnson,
6 please answer any questions that Mr. Johnson has.

7 SLED AGENT RICHARD L. JOHNSON

8 CROSS-EXAMINATION BY MR. JOHNSON:

9 Q Agent Johnson, how are you doing?

10 A Fine, sir. How are you?

11 Q And just for the record, we're not kin. Is that
12 correct?

13 A That's correct. That we know of.

14 Q All right. That we know of. But we are good
15 friends.

16 A Yes, sir.

17 Q Okay. All right. Agent Johnson, let me ask you
18 this. The first time you talked to Mr. Jackson, he was
19 in the Hampton jail. Is that correct?

20 A That's correct.

21 Q And he was charged with fraudulent transaction. Is
22 that correct?

23 A I think that was the charge. I wasn't certain of
24 it.

25 Q That's right.

1 A But he was charged with something.

2 Q That's right. And he was charged with the
3 fraudulent transaction, and you went in, and you talked
4 with him. Is that correct?

5 A That's correct.

6 Q Okay. And on the first transaction, exactly what
7 you said happened. He told you he wasn't there. Is that
8 correct?

9 A That's correct.

10 Q That's correct. All right. After you went the
11 second time, you had done a bunch of investigation. Is
12 that correct?

13 A Well, I did some, but not a bunch. I just resort
14 back to Agent William --

15 Q Right.

16 A -- for additional information.

17 Q But you got additional information.

18 A Yeah.

19 Q And I think you and Agent Hallman went the second
20 time. Is that correct?

21 A The second time, yes.

22 Q And the second time. Right. And the second time,
23 you really, really confronted him about the facts. Is
24 that correct?

25 A That's correct.

1 Q That's correct. And after confronting him about the
2 facts, he said, Look, I just -- I'm going -- I'm just
3 going to tell you the truth. I'm going to tell you
4 what's going to happen. I'm going to tell you what
5 happened. Is that correct?

6 A Yes, I heard that.

7 Q Okay. And matter of fact, in the second time you
8 talked with him, you went so far as to say, I believe you
9 gave me ninety-nine-and-a-half percent are true. I just
10 want to make sure I got the whole hundred percent. Is
11 that correct?

12 A That's correct.

13 Q And the second time, you even told him, you say, You
14 know, I believe you this time. Isn't that correct?

15 A Yeah. I believe you gave me 99 percent.

16 Q But even after that, you were questioning him some
17 more. And the second time, he repeated the same thing
18 over and over again. Is that correct?

19 A Yes.

20 Q Okay. He never -- all before he lied, but on the
21 second, the one he wrote the statement, --

22 A Um-hmm.

23 Q -- he never budged from the fact that he didn't kill
24 her. Is that correct?

25 A Yes, not from the fact he didn't kill her.

1 Q That's right. That's right. He talked about -- he
2 told you about the card. He told you he was there. He
3 told you they messed around. He told you he was the
4 house. But he never changed from the fact he didn't kill
5 her.

6 A That's correct.

7 Q Okay. Now, and in your investigation, were you
8 aware or did -- were you aware what time Ms. Masako had
9 the phone call with her mother?

10 A I'm not certain. I came in on the investigation, I
11 think, a few days later, so.

12 Q But for him to hear the phone call, he would have
13 had to been there during that time. Is that correct?

14 A That's correct.

15 Q Okay. And whatever time that was determined that
16 would have been, that would say he'd have been there
17 during that time. Is that correct?

18 A Yes.

19 COURT REPORTER: Is yes your answer, please?

20 A Yes, sir. I'm sorry. Yes, ma'am. I'm sorry.

21 Q And the insurance that you were talking about,
22 didn't he get a letter to the highway department where
23 she took the insurance off his car?

24 A I don't know.

25 Q Okay. But you don't know if the insurance was car

1 insurance or what. It wasn't life insurance.

2 A No, sir. I think -- I think he said it was his car
3 insurance.

4 Q That's right. It was car insurance, right?

5 A Yes, sir.

6 Q And he was driving the car. So, either he was
7 driving without insurance, or he had to have insurance on
8 the car already. Is that correct?

9 A I would assume so.

10 Q Okay. And if I would submit to you that he had
11 already had insurance on the car, would you disagree with
12 me?

13 A No. If you're -- long as you've got documentation,
14 sure.

15 Q All right. So, so, so, there wouldn't be no reason
16 to be mad because the car insurance was changed, because
17 he had car insurance on the car. Is that correct?

18 MR. THORNTON: Objection, your Honor. That calls
19 for speculation. He doesn't know what the defendant was
20 mad about.

21 THE COURT: Sustained.

22 MR. JOHNSON: I didn't know the defendant was mad.
23 I was told that he was, in all of State's cross-examine,
24 they're saying he was upset. I was just kind of
25 following up with that. But let me re-ask -- let me ask

1 the question this way.

2 THE COURT: Just re-phrase your question.

3 BY MR. JOHNSON:

4 Q You have, to your knowledge, you have no information
5 that he was upset with Masako; do you?

6 A No, sir, I don't.

7 Q Okay. Thank you. Okay, now, and let me ask you
8 this. In your investigation, did you find out where Mr.
9 Jackson lived?

10 A In Columbia, or -- because he had an address in
11 Columbia when I interview him.

12 Q Okay. Did you, in your investigation, did you
13 determine where he worked?

14 A Someplace in Columbia.

15 Q Okay. So, he worked in Columbia, and he lived up
16 there when he was working in Columbia with a friend. Is
17 that correct?

18 A That's correct.

19 Q Okay. And did you do further investigation with
20 some other people and determine where he lived when he
21 was in this area?

22 A He, according to his girlfriend, Tara Robertson
23 [sic], he stayed with her.

24 Q He stayed with her. That's correct.

25 A Yeah.

1 Q So, I mean, he -- and coming from Columbia to go to
2 Hampton, I mean, you could go through Fairfax and come to
3 Hampton. Is that correct?

4 A That's correct.

5 Q Matter of fact, that's about the only way. Is that
6 correct?

7 A Not the only way, but it's a -- it's a short route.

8 Q Okay. Okay. I mean it's a standard route people
9 would use.

10 A Yes.

11 Q Okay. So, there's no reason to disbelieve that he
12 went through Fairfax and went by Tara Roberts' and didn't
13 stop.

14 MR. THORNTON: Objection, your Honor. Calls for
15 speculation. There's no reason to disbelieve something
16 somebody says.

17 THE COURT: Can you just re-phrase the question,
18 please.

19 BY MR. JOHNSON:

20 Q Do you have any reason -- did he say he went by Tara
21 Roberts'?

22 A He said he passed the house, but he didn't stop.

23 Q Okay. Do you have any reason to disbelieve what he
24 says?

25 MR. THORNTON: Same objection, Judge.

1 THE COURT: Sustained.

2 MR. JOHNSON: Okay.

3 BY MR. JOHNSON:

4 Q He told you he passed by Tara Roberts'. What did he
5 tell you he do next? What next did he tell you he did?

6 A In the first statement, he went past -- through
7 Fairfax by Tara Robertson --

8 Q No. I want to know about the one he told you, the
9 final one, the one where he admitted he was with Masako.
10 What did he say he did?

11 A He went the first -- the first time, on the second
12 statement, --

13 Q Right.

14 A -- he went through Fairfax.

15 Q Um-hmm.

16 A Didn't stop because he need to get gas.

17 Q Um-hmm.

18 A Like he in the second statement he said he wish he
19 had of stopped, but he didn't.

20 Q I guess he at this time.

21 A Went -- went -- went to Hampton to get gas. From
22 Hampton, he went to Walterboro.

23 Q And in the second statement, didn't he tell you why
24 he parked in the Bottom?

25 A He mentioned that he didn't want no one to see his

1 car at Masako house, because he figured his girlfriend,
2 Tara Robertson [sic] might, I guess, know someone, and
3 they might see his car, and he didn't want to get in
4 trouble with her.

5 Q Well, from my younger days, we'd call that creeping;
6 wouldn't we?

7 A Yes, sir.

8 Q Okay. So, what he was really doing is -- what he's
9 told you he was doing is, he parked his car so that
10 nobody would see him, and he walked to this girl, so the
11 other girlfriend wouldn't find out. Isn't that correct?

12 A That's what he said.

13 Q Isn't that what he told you?

14 A That's what he said.

15 Q Okay. And he told you he went to the house, and
16 knocked on the door.

17 A Yes.

18 Q Okay. And she let him in.

19 A Yes.

20 Q Okay. Now, in the house, there were children, along
21 with Ms. Masako. Is that correct?

22 A Yes.

23 Q Okay. What I'm trying to establish, there were
24 other people in the house.

25 A Yes.

1 Q Nobody saw Kelvin; did they?

2 A I don't know. I don't know.

3 Q From the testimony in your statement, did he say
4 anybody -- did he, from what your information showed, did
5 anybody see him at the house?

6 A I don't -- only thing he said in reference to
7 everyone is that the daughter, S.D. -- the kids was
8 there, but I didn't ask him if any of them saw him or
9 not.

10 Q I guess what I'm getting at, if there was some
11 rumble, some noise, or some trouble, somebody else was in
12 the house besides her.

13 A Yes, but he also saw S.D. was a heavy sleeper.

14 Q Okay. But she heard -- but he heard somebody open
15 the door.

16 A Yes.

17 Q Do you remember you testified to that?

18 A Yes.

19 Q So, if something was going on, somebody was in the
20 house besides just he and Ms. Miller.

21 A Say that again.

22 Q Were other people in the house besides he and Ms.
23 Miller?

24 A Yes.

25 Q Okay. And if a disturbance was going on, somebody

1 that's in the house would have or could've heard the
2 stuff?

3 MR. THORNTON: Objection. Speculation.

4 MR. JOHNSON: Your Honor, they --

5 THE COURT: I think you can answer if there's noise,
6 that it's plausible or not, if somebody could hear it.

7 MR. THORNTON: My objection was to the wording of
8 *should* somebody have woken up. And certainly I think
9 possible is an appropriate question.

10 MR. JOHNSON: Okay.

11 BY MR. JOHNSON:

12 Q Is it possible that if noise was made in the house,
13 somebody in the house could have heard it?

14 A It's possible.

15 Q It's not a large house; is it?

16 A I don't think it's that large.

17 Q Okay. Okay. And the first time -- and let's agree
18 with this. He lied. The first time, he told you a lie.
19 He wouldn't do a statement; would he? You asked him for
20 a written statement. He wouldn't do it; would he?

21 A No, he didn't. He wouldn't do a statement the first
22 time.

23 Q He wouldn't do it. But the second time, after you
24 presented with the information, he wrote you a statement?

25 A Yes.

1 Q And he told you what happened.

2 A Yes.

3 Q Okay. And if the -- and from your investigation,
4 nobody has determined what time Ms. Masako went missing;
5 have they?

6 A I can't answer that. I don't know what --

7 Q I said from yours.

8 A Oh, not from my sta -- my interviews, no.

9 Q Yeah. Okay. Okay. Just from yours. And from any
10 information you have collected from the other officers
11 that you have talked with, have anybody given you a
12 definitive time when she went missing?

13 A I didn't ask.

14 Q Okay. Did you ask about whether or not they had a
15 joint debit, a joint account that they could use the
16 debit card by?

17 A Did I ask him or?

18 Q Did you ask him?

19 A In the second interview, when I questioned him about
20 the card, he said he had joint account, but her name was
21 on all the -- the accounts. Or all the cards.

22 Q Right. Right.

23 A Not his name.

24 Q Right. Right. But he said she gave him the card;
25 didn't she?

1 A Yes.

2 Q Didn't he told you she gave him the card?

3 A And he gave it back to her.

4 Q But he said she gave him the card to use; he used
5 it; and then he gave it back to her.

6 A Yes.

7 Q Okay. Well, in your -- in your interview, did you
8 ask him how did he get from his house to the gas station?

9 A No, I didn't.

10 Q In your interview, did you ask him when he left the
11 gas station, which direction he took after he left the
12 gas station?

13 A No, sir, I didn't.

14 Q Do you have any idea which direction he took?

15 A I don't.

16 Q Okay. Do you have any idea what time it was when he
17 said he left her house?

18 A No, sir. That was one of the issues he -- he did
19 his best to stay away from time as much as he could.

20 Q Okay. And that's your opinion, correct?

21 A No. When -- I'm certain you listen to the report is
22 he -- anytime I asked about times, he couldn't give me a
23 clear answer as to any times, so.

24 Q But there were some definitive factors that would
25 define time. Is that correct? Like number one, her

1 mother talked with her at a certain time.

2 A Yes.

3 Q Number two, he bought -- you could determine what
4 time he got the gas from the station.

5 A That can be determined. I didn't. Yes, it can be.

6 Q Yeah, I mean, but it can be determined.

7 A Yes, sir.

8 Q So, there are some definitive time factors that can
9 be established. Is that correct?

10 A Um-hmm. That's correct.

11 Q You just don't know.

12 A I just didn't know and didn't ask him the specific
13 of some of the stuff.

14 Q Okay. Okay. I just want to understand it, and
15 maybe you were clear. I just -- I wasn't clear. You
16 wasn't implying that he told you one hotel, and he went
17 to another. You weren't implying that. Is that correct?

18 A No, sir.

19 Q Okay. So, you wasn't questioning -- the hotel he
20 told you he went to, you believe he went to that one.

21 A Yes, pretty much I did. Yeah.

22 Q Okay. Okay. Okay. Okay. And I've asked this, but
23 I just want to be perfectly clear. You, in your
24 investigation, have not determined at what time Ms.
25 Miller left the house.

1 A No, sir, and I didn't try.

2 Q You have not determined how she left the house.

3 A No.

4 Q You have not determined who she left the house with.

5 A No.

6 MR. JOHNSON: Thank you, sir.

7 THE COURT: Any re-direct?

8 MR. THORNTON: Oh, yes, ma'am.

9 SLED AGENT RICHARD L. JOHNSON

10 RE-DIRECT EXAMINATION BY MR. THORNTON:

11 Q Agent Johnson, I'm confused about a couple of
12 things. Were you the case agent?

13 A No, sir.

14 Q Did you do every piece of investigation on this?

15 A No, sir.

16 Q All right. So, for example, if he told you he went
17 to the Ramada Inn, but there's evidence that he went to
18 the Palms Inn, collected by somebody else, would you have
19 that information?

20 A No, sir.

21 Q Also, Mr. Johnson asked you a few minutes ago about
22 did he tell you what route he took from home to the gas
23 station. When you talked to him -- and I'm sorry. Let
24 me be specific. After, I don't know, the fourth or fifth
25 or sixth lie, however how many it was he told, when he

1 got to the end and he talked to you, where did he tell
2 you he was right before he was at the gas station, where
3 he got the debit card from?

4 A Her house.

5 Q Okay.

6 A From her.

7 Q Masako.

8 A Yes.

9 Q So, when Mr. Johnson asked you did he tell you what
10 route he took from his house to the gas station, in his
11 last statement that he gave to you that he wrote down, he
12 wasn't at his house; was he?

13 A No, he wasn't. He was at her house.

14 Q All right. And he told -- and correct me if I'm
15 wrong. He told you he went from Masako's house with the
16 debit card to where?

17 A The Shell gas station in Hampton.

18 Q All right. And then he got gas, and went from the
19 Shell gas. Because then, Mr. Johnson asked you where did
20 he go, what direction did he go after he left the gas
21 station? Well, according to what he told you in one of
22 his many statements, he said he went from the Shell gas
23 station to where?

24 A To Masako's house, in the second statement.

25 Q Right. And he -- I'm sorry. And I should be more

1 specific in the second statement. And he gave her back
2 what?

3 A The -- the gas card.

4 Q And then he said he talked to her for how long?

5 A Roughly five minutes or so.

6 Q Okay. So, if there is evidence from a debit card
7 being swipe, and from a camera at the Shell station,
8 showing him there at 2:26, using the -- attempted to use
9 the debit card, his claim is he drives back to her house,
10 talks to her for five minutes, and then drives to
11 Walterboro. Is that right?

12 A That's correct.

13 Q I'm sorry. In the second statement.

14 A In the second statement, yes.

15 Q All right. So, there is a way to determine when he
16 was there.

17 A Yes.

18 Q Now, is that during the window of time when Masako
19 would have gone missing?

20 MR. JOHNSON: I would object, your Honor. He
21 wouldn't know. He said he didn't have that in his
22 investigation.

23 THE COURT: Just answer. If it's in his knowledge.

24 BY MR. THORNTON:

25 Q Is it in your knowledge or not?

1 A Yes.

2 Q All right. And --

3 MR. JOHNSON: Your Honor? Yes? What was your
4 answer?

5 A Yes.

6 MR. JOHNSON: Yes what?

7 BY MR. THORNTON:

8 A It would have been, in the wintertime, based on when
9 the kids got up to go to school, and didn't find her in
10 the house.

11 Q Yes. That's what I was asking.

12 A Yeah.

13 Q And can other agents narrow it further? Other
14 people in the investigation.

15 A Yes, sir.

16 MR. THORNTON: Court's indulgence, one moment. No
17 further questions. Thank you very much, Agent Johnson.

18 MR. JOHNSON: Your Honor, just a couple questions on
19 re-direct.

20 THE COURT: Re-cross.

21 MR. JOHNSON: Re-cross. Thank you.

22 SLED AGENT RICHARD L. JOHNSON

23 RE-CROSS-EXAMINATION BY MR. JOHNSON:

24 Q Let's clear this up. When he told you he took the
25 card and went to the gas station, common sense would tell

1 us you can't put gas in a car you don't have. Is that
2 correct?

3 A When he took -- when he got in the car --

4 Q If he parked in the Bottom, and he admitted he
5 parked in the Bottom, and he got the gas card from her,
6 he could not put gas in the car without going back to the
7 Bottom and getting the car. Is that correct?

8 A When he got the gas card from her, she asked him,
9 where's the car? He said he parked it somewhere else.
10 So, when he got the gas card, he then walks to the other
11 car -- to his car, to go put gas in it.

12 Q Okay. Agent Johnson, how can you say she asked --
13 he didn't tell you that. How did you get -- she asked
14 him -- were you there before she left?

15 A According to him.

16 Q No. When he -- if you read his statement, what --
17 didn't his statement said he got the card, and then he
18 went and got gas. Is that correct?

19 A In the second statement,

20 Q Okay.

21 A -- on the recording, --

22 Q Okay.

23 A -- he said --

24 Q Okay.

25 A yeah.

1 Q What we got here is, this is the statement. Now,
2 what are we talking?

3 A Okay, we talking about the whole interview.

4 Q Okay. Okay. What did he say in the statement?

5 A Okay. Now, it's not in the statement that when he
6 -- he told her -- let me look again.

7 Q Yeah. Yeah. Do that. Look.

8 A He parked the car and walked. He said he got the
9 gas card, then he went to get gas in the car.

10 Q Oh. Okay.

11 A Yeah.

12 Q Okay. But to put gas in the car, you've got to
13 first get the car; don't you?

14 A Yes.

15 Q Okay. So, that means you've got to walk to get the
16 car.

17 A That's correct.

18 Q So, he's not lying because he said he left the house
19 with the car, because he got to first get the car.

20 A Yes. It was parked in the Bottom.

21 Q Okay. Okay. Okay.

22 MR. THORNTON: Your Honor, for the record purposes,
23 I may have been confusing. What I said -- what my
24 questioning of the agent was, that my thought was Mr.
25 Johnson said when he left his house. He wasn't at his