

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Brooks P. Goldsmith, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

SAMUEL T. COLLINS,

APPELLANT

APPELLATE CASE NO 2017-002221

RECORD ON APPEAL

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**STATE'S EXHIBIT NO. 46 (PINECREST SURVEILLANCE VIDEO CD)
COURT'S EXHIBIT NO. 1 (COLLINS INTERVIEW)**

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) 2015-GS-07-1994
 COUNTY OF BEAUFORT) 2015-GS-07-1995
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STATE OF SOUTH CAROLINA,
 PLAINTIFF,

vs.

SAMUEL THOMPSON COLLINS,
 DEFENDANT.

) TRANSCRIPT OF RECORD
)
)
)
)

October 16, 17 and 18, 2017
 Beaufort, South Carolina

B E F O R E:

THE HONORABLE BROOKS P. GOLDSMITH, JUDGE; and a Jury

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

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 Circuit Court Reporter

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P R O C E E D I N G S

Monday, October 16, 2017

(WHEREUPON, proceedings commenced at 11:51 a.m.)

(Jury panel present.)

THE COURT: I believe that we are about ready to begin the selection of a jury after we do a few things to advise the attorneys what's going on.

Do we have a case prepared to go to trial, Solicitor?

MS. SMITH: Yes, sir. We do. The State would call The State vs. Samuel Collins, Indictment 2015-GS-07-1994 for murder, and Indictment Number 2015-GS-07-1995, possession of a weapon during the commission of a violent crime.

THE COURT: And is the defense ready to begin the selection process?

MR. FARLEY: We are, Judge.

JURY QUALIFICATION

THE COURT: Ladies and gentlemen, as you heard, we're about to begin the selection of a jury in the case of The State of South Carolina vs. Samuel Thompson Collins who is charged by way of an indictment with murder and possession of a weapon during that event, both occurring on the same date. The indictments allege in part that the defendant, Samuel Thompson Collins, did unlawfully kill Jonathan

1 Cherol by shooting him with a shotgun.

2 In just a few moments, I am going to ask you some
3 questions before we begin the selection process, but
4 before I do that, I'm going to ask the attorneys involved
5 in the case if they will stand and identify themselves to
6 you and identify potential witnesses, and then I'll begin
7 asking you some questions, much of which would be
8 concerning your relationship with the attorneys and with
9 the witnesses and with the defendant himself.

10 I'll begin with the State. Solicitor?

11 MS. SMITH: My name is Kimberly Smith, I work for the
12 14th Judicial Circuit Solicitor's Office. Seated with me
13 is Hunter Swanson who is also assistant solicitor with the
14 14th Judicial Circuit Solicitor's Office as well as Dylan
15 Hightower, our investigator.

16 These are the State's proposed witnesses: Allison
17 Moreira with Beaufort County 9-1-1; John Ireland, Burton
18 Fire District; Jeffrey Dickson, Bluffton Police
19 Department; David Murphy with Beaufort County Sheriff's
20 Office; Baker Odom with Bluffton Police Department; Joseph
21 Babkiewicz with Bluffton Police Department; Kelly McCauley
22 with Bluffton Police Department; Michelle Mayers with
23 Bluffton Police Department; Jamie Johnson with the South
24 Carolina Law Enforcement Division; Tracy Thrower, also
25 with the South Carolina Law Enforcement Division; Jennifer

1 he'd be fair and impartial. He's with emergency
2 preparedness. It has nothing to do with this.

3 THE COURT: Based on what I've heard so far, I think
4 it would be insufficient grounds to kick him off the jury.
5 I think what the defense is trying to say is that, well,
6 if we do inquire further in the morning and decide to
7 evict him, I get the impression that the defense wants
8 another juror sitting out there in the wings.

9 MR. FARLEY: That is my argument, but I'll defer to
10 the wisdom of the Court.

11 THE COURT: All right. At this stage, I'm going to
12 deny the motion. We're not going to pick another
13 alternate juror. We can bring him in the morning and make
14 further inquiry. Since I'm getting this secondhand, you
15 know, we could get him to actually say what it is he said.

16 MR. FARLEY: Thank you, Judge.

17 THE COURT: Okay. What are we doing? Who has a
18 matter we need to consider?

19 MS. SMITH: Judge, I believe -- I don't know what
20 order Mr. Farley wants to go in, but I believe he's got a
21 motion to suppress the DNA.

22 THE COURT: All right. Since I don't know anything
23 about it, let's go ahead and do something.

24 MR. FARLEY: If I may have just a second, Judge.

25 Judge, my first motion is in regards to the manner in

1 which DNA was taken from the defendant. I'll try to
2 summarize to get you on point, up to speed.

3 Initially, Mr. Collins -- so there was a murder.
4 Mr. Collins was -- became a suspect or a person of
5 interest. Police brought him -- had him come down to the
6 police department. They began interviewing him. They
7 gave him his Miranda warnings, and, at some point after
8 his Miranda warnings, they asked for a DNA sample, buccal
9 swab to be performed directly in the police department.

10 At first it appears that he denied that. There was
11 talk -- the defendant has a prior conviction that required
12 him to submit his DNA to SLED. So the defendant
13 essentially said, "You already got it. You don't need it
14 from me."

15 They later asked the defendant for permission to
16 search his house and permission to search his vehicle,
17 which he denied. At some point later down the road, he
18 did provide a buccal swab, and that buccal swab was where
19 the State got the DNA they used to test in this case.
20 They did not go to SLED's database or the national
21 database. They went straight here.

22 It's our contention, one, that that DNA was obtained
23 under a duress, and then it's also our second motion that
24 the DNA was improperly obtained logistically in the way it
25 was taken from the defendant.

1 THE COURT: All right.

2 MS. SMITH: Judge, I've got my officers here I can
3 put up, but to clarify before we go any further, the
4 defendant was not given Miranda at the time. He was not
5 given Miranda. So anyway, he was there voluntarily. And
6 like I say, I can put my officers up to testify. We've
7 got the video. We don't have it hooked up to this because
8 we didn't know we were going to be in this courtroom, but
9 I've got it cued up to play, the pertinent part, if you
10 want to see it. But I can go ahead and put my officers
11 up.

12 THE COURT: Okay.

13 MS. SMITH: Judge, the State would call Captain
14 Babkiewicz.

15 WHEREUPON,

16 JOSEPH BABKIEWICZ

17 After having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SMITH:

20 Q Captain Babkiewicz, where do you work?

21 A The Bluffton Police Department.

22 Q And were you involved in the investigation in the
23 murder of Jon Cherol?

24 A Yes, ma'am. I was.

25 Q Okay. Did you interview the defendant, Samuel

1. Collins, On October 30, 2015?

2. A Yes, ma'am.

3. Q Who else was present with you when you interviewed
4. him?

5. A Myself and Detective Odom.

6. Q Okay. Where did you interview him?

7. A We interviewed him in the soft interview room located
8. at the Bluffton Police Department.

9. Q Okay. How did Mr. Collins get to the Bluffton Police
10. Department for this interview?

11. A We went over to his house and asked if he'd be
12. willing to come in to speak with us about the incident.
13. He was willing to come in. I believe our officers gave
14. him a ride to the police department, which is how he got
15. there.

16. Q Okay. And when you got to the police department, was
17. he under arrest at any point before that?

18. A No, ma'am.

19. Q Okay. When you took him into the soft interview
20. room, did you give him any Miranda warnings or anything
21. like that?

22. A No, ma'am. The only thing I told him was that he was
23. free to leave at any point in time.

24. Q Okay. And at this point, he was just in for
25. questioning; is that correct?

1 A Yes, ma'am.

2 Q Okay. And do you recall asking him for his DNA?

3 A I don't know if it was myself or Detective Odom, but
4 yes, one of us did.

5 Q Okay. And do you remember his response?

6 A He said -- he originally said he doesn't know why he
7 [sic] needs our DNA because the State already had it, but
8 then he later said he'd do whatever it takes to cooperate
9 and he was willing to give us his DNA.

10 Q Did you ask for consent to search his house and his
11 vehicle?

12 A Yes, we did.

13 Q Okay. And what did he say to that?

14 A He said no.

15 Q And was this all in a five-minute period?

16 A Approximately, yes.

17 Q Okay. Who ended up taking his DNA?

18 A Detective Odom did.

19 MS. SMITH: Judge, I have no further questions for
20 this witness.

21 THE COURT: Cross-examination?

22 MR. FARLEY: Thank you, Judge, if it pleases the
23 Court.

24 ///

25 ///

CROSS EXAMINATION

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BY MR. FARLEY:

Q I just want to clarify, you picked up the defendant and had a patrol vehicle bring him over there?

A I'm not sure who brought him over there, but we did go over to his house. Yes, sir.

Q Do you know if he rode in the passenger's seat or was he in the cage?

A Again, I don't remember what vehicle he was in.

MR. FARLEY: Just a second, Judge.

BY MR. FARLEY:

Q So the Miranda was not given either in writing or verbally?

A That's correct.

Q When you asked him about the sample, isn't it true that it was under the guise of eliminating him as a suspect?

A Sure. That's one thing we tell everybody is to eliminate them as a suspect. It's just as important doing that as identifying a suspect.

Q So how would you characterize the defendant at that point in time? Was he a person of interest? Was he a suspect?

A I think he was a person of interest as well as -- yes.

1 Q At that point, did you have probable cause to arrest
2 him?

3 A No, sir.

4 Q When you initially asked for the DNA sample, there
5 was a point where you asked for the DNA and then you had a
6 discussion about how he did not need -- you did not need a
7 sample of it because it was in CODIS, is that correct, in
8 the SLED database?

9 A That's what he told us. I was unaware of that.

10 Q So your facility, your agency has no access to SLED's
11 things, SLED's ---

12 A Essentially, what we would do is we would send
13 something to the lab and they would compare it to the --
14 the access through SLED.

15 Q So would you agree with me that the statement made by
16 the defendant you already have, it is essentially a denial
17 of him saying, no, I don't want to give DNA?

18 A I don't see it as that way at all. No, sir.

19 Q Well, then why didn't you get the DNA right then and
20 there?

21 A I think we did get the DNA a couple minutes later
22 throughout the conversation.

23 Q Directly after you asked him about that, you also
24 asked if you could search his house; isn't that correct?

25 A Yes, sir.

1 Q And did he deny you the right to search his house?

2 A Yes, he did.

3 Q Also in that same series of conversations, you asked
4 him to search his car; isn't that right?

5 A Yes, sir.

6 Q And what happened there? What did he tell you?

7 A He denied us access to his vehicle.

8 Q After that, in the video it's really hard to tell,
9 it's hard to see and hear the interactions. You were
10 there, you know. You would know. Did he make -- did
11 y'all make another request for the DNA or did he say,
12 "Hey, I changed my mind. I want to give you the DNA"?

13 A I don't know exactly what was said. I do know for a
14 fact that he said he'll do whatever it takes to cooperate
15 with us.

16 Q And there were two officers in the room. Who was the
17 other officer?

18 A It was Detective Baker Odom.

19 Q And which of the detectives left the room to go and
20 get the swab?

21 A It was Detective Odom. I stand corrected. It was me
22 who left to go pick up the item, and then I gave it to
23 Detective Odom.

24 Q And the other detective performed the test?

25 A Yes, sir. He did.

1 Q If you don't know the answer to this, you do not have
2 to answer it. Do you know if he is trained to administer
3 DNA tests?

4 A I don't know the answer to that.

5 Q Are you trained to administer DNA tests?

6 A As far as collecting DNA?

7 Q Yes.

8 A Yes. We're both trained to do that. Yes, sir.

9 Q Where did you get trained?

10 A I believe the Beaufort County Sheriff's Department,
11 they had their representative from their lab come down and
12 give us a class on how to properly collect DNA.

13 Q How long would you say that class was?

14 A It was a few hours. It wasn't a very long class.

15 Q Once you take the DNA swab, you continue to question
16 him; isn't that right?

17 A For a short time. Yes, sir.

18 Q And then at some point near the end of the
19 conversation, he says, "I want to speak to a lawyer";
20 isn't that correct?

21 A Yes, sir.

22 Q And you do what every good cop does. You said,
23 "Thank you. If you have anything else to tell us, come
24 and see us," right?

25 A Yes, sir.

1 Q So you ended questioning?

2 A Yes, sir.

3 MR. FARLEY: Judge, I don't have any other questions.

4 THE COURT: Thank you. You can step down.

5 MS. SMITH: Judge, I've got some redirect for him.

6 THE COURT: Oh, I'm sorry. You cannot step down.

7 REDIRECT EXAMINATION

8 BY MS. SMITH:

9 Q Captain Babkiewicz, did you record this interview?

10 A Yes, ma'am. We did.

11 MS. SMITH: And, Judge, at this time, I can bring the
12 interview ---

13 MR. FARLEY: I have no objection.

14 MS. SMITH: --- up so you can see it on my computer.
15 I've got it cued to 10:30:50, which is the portion that's
16 relevant to this conversation about the DNA.

17 MR. FARLEY: Just prior to this portion, Judge, the
18 officer walks out to get the test. So where we're going
19 to start is when -- right?

20 MS. SMITH: Actually, no. He goes out after this.

21 MS. SWANSON: During.

22 MS. SMITH: Yeah.

23 MR. FARLEY: During. Sorry.

24 MS. SMITH: Turn the volume up.

25 (Whereupon, a video was played before the Court.)

1 BY MS. SMITH:

2 Q Captain Babkiewicz, you testified that you went and
3 got the swab. Did you actually go to get a swab, forgot
4 it, and then Detective Odom went and got the swab?

5 A Yes, ma'am.

6 Q Okay. And was Mr. Collins free to leave after his
7 interview was concluded?

8 A Yes, he was.

9 Q Did you arrest him that day?

10 A No, ma'am.

11 MS. SMITH: I have no further questions for this
12 witness, Judge.

13 MR. FARLEY: I do just briefly.

14 RE CROSS EXAMINATION

15 BY MR. FARLEY:

16 Q How did he get home?

17 A I believe our officers gave him a ride back home.

18 Q So he had no other way to get home, to your
19 knowledge, other than a police officer driving him home?

20 A I have no knowledge. I just offered him a ride home,
21 and we got him a ride home.

22 Q And as far as your interview, you didn't have
23 probable cause that a crime was afoot. You didn't have
24 probable cause that he committed a crime.

25 A At that point in time, no.

1 MR. FARLEY: At that point, you did not. So
2 you . . .

3 No further questions.

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

5 MS. SMITH: Judge, we call Baker Odom, Bluffton
6 Police Department.

7 WHEREUPON,

8 BAKER ODOM

9 After having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SMITH:

12 Q Where do you work?

13 A Bluffton Police Department.

14 Q Okay. And were you the case officer on the murder of
15 Jon Cherol?

16 A Yes, I was.

17 Q Okay. Were you the lead investigator?

18 A Yes, ma'am.

19 Q Were you present during the interview that we just
20 watched with Captain Babkiewicz on October 30, 2015?

21 A Yes, ma'am.

22 Q Okay. And did you, in fact, go and get the buccal
23 swab that was ultimately used to get the DNA from
24 Mr. Collins?

25 A Yes, ma'am.

1 Q Okay. Let me ask you this. When you were -- when
2 Captain Babkiewicz was interviewing Mr. Collins and asking
3 him about giving his DNA, did he voluntarily consent to
4 give it?

5 A Yes, ma'am.

6 Q Okay. Did he consent to a search of his vehicle or
7 his house?

8 A No.

9 Q Okay. But did he shake his head and said "okay" as
10 far as the DNA?

11 A Yes, ma'am.

12 Q And based on that, did you go get the buccal swab?

13 A Yes, ma'am.

14 Q Okay. When you came back, how did you obtain his
15 DNA?

16 A The DNA swabs come in a sealed envelope type paper
17 bag. I ripped open one end of it. I allowed Mr. Collins
18 to remove one of the DNA swabs. It comes in packs of two.
19 He then swabbed his own mouth. I then held out the box
20 that the DNA swab would go into, and he placed it in the
21 box himself.

22 Q Okay. What did you do with the box after that?

23 A The box was then, after the interview was concluded
24 -- well, the box was closed during the interview and then
25 sealed following the interview and placed into evidence.

1 Q Okay. Were you wearing gloves that day?

2 A I wasn't.

3 Q Do you know why you weren't?

4 A No good reason.

5 Q Okay. Did you ever touch the actual swab ---

6 A No, ma'am.

7 Q --- while Mr. -- before or after Mr. Collins
8 collected or swabbed his cheek?

9 A No, ma'am.

10 Q After that interview, which concluded several minutes
11 later, was he arrested ---

12 A Yes.

13 Q --- for anything that day?

14 A That day, no. No, no, no.

15 Q Okay. Was he free to leave that day?

16 A He was free to leave.

17 Q And to your knowledge, he was there voluntarily ---

18 A Yes.

19 Q --- to give a statement; is that correct?

20 A Yes, ma'am. Absolutely.

21 MS. SMITH: Please answer . . .

22 CROSS EXAMINATION

23 BY MR. FARLEY:

24 Q You were in here for the other officer's testimony so
25 I only want to hit a few points. He was brought by law

1 enforcement to the police department?

2 A That's correct.

3 Q Do you have any knowledge of how he was transported:
4 in the cage, in the front or anything like that?

5 A I'm not sure how he was brought.

6 Q So you come in, you begin to interview him, and you
7 do not give him Miranda, correct?

8 A Correct.

9 Q And at some point, you began asking him about a DNA
10 swab; is that correct?

11 A That's correct.

12 Q And did you tell him that the only reason you needed
13 the DNA swab was to eliminate him as a suspect?

14 A I don't know that we indicated that was the only
15 reason. That was a reason.

16 Q And did you indicate that to him, that it was a
17 reason?

18 A Yes.

19 Q What kind of training have you had on administering a
20 buccal swab?

21 A The same training as Captain Babkiewicz.

22 Q So what did that entail for you specifically?

23 A Same class, a couple hours at most, just generally
24 detailing how to get either from a buccal swab or other
25 areas.

1 Q Okay. And as part of that training, could you just
2 walk us through what the proper technique and protocols
3 are for obtaining DNA?

4 A Well, one of the primary things would be to put on
5 gloves before you do it. However, then also to -- if the
6 buccal swab, generally what I've done is allow the suspect
7 or whoever in that case to swab their own cheek and then
8 place it in the box themselves just to minimize any
9 contact with it.

10 Q And like the solicitor asked, you don't know why you
11 didn't have gloves on?

12 A Correct.

13 Q And you turned the buccal swab -- you sealed it in
14 the room?

15 A I closed the box in the room.

16 Q And you submitted it to evidence directly?

17 A Correct.

18 Q Now, how big would you say the room is where you were
19 meeting him?

20 A If I had to guess, I would say it was somewhere
21 around 7 or 8 feet by 7 or 8 feet.

22 Q So 7 by 7?

23 A Something like that.

24 Q And what kind of furniture is in there?

25 A There's a table and three or four chairs.

1 Q How big would you estimate the table to be, diameter?

2 It's a round table, right?

3 A Probably about half the size of one of those tables.

4 It's a round table, though.

5 Q So would you say approximately 4 feet squared?

6 A It's about half the size of one of those tables.

7 Q And you said a couple chairs. I know from the video
8 that you were sitting in a chair, that the officer was
9 sitting in a chair, and the defendant was sitting in a
10 chair. How big would you say the chairs were? Were they
11 similar to these right here in size?

12 A I mean, sure. Standard sized chairs.

13 Q So we've got a 7 by 7 room, we've got a -- we're
14 guessing, you know, but not perfect, we've got a 4 by 4
15 table, we've got these three chairs. You'd agree with me
16 that's not a lot of room.

17 A I guess it's relative. It wouldn't be a lot of room
18 if I was sleeping in there, but for an interview, it seems
19 pretty good.

20 Q Were you all armed when you were in there?

21 A I don't recall. Usually we disarm myself before
22 going into an interview in the soft interview room, but
23 I'm not positive.

24 Q Okay. So officer, officer, y'all are big guys, the
25 defendant. It's a pretty tight spot then with all three

1 of you in there, all that furniture, wouldn't you agree?

2 A Again, I feel like it's ample room for an interview.

3 Q At any point, did he ask to go to the bathroom?

4 A I don't recall.

5 Q At any point, did he ask for water?

6 A We offered him refreshments when we first got in
7 there, and I believe he declined.

8 Q Were there any exigent circumstances that would have
9 required you to get that DNA sample that day right then
10 and there?

11 A No.

12 Q So we don't have a search incident to arrest?

13 A No. It was incident to consent.

14 MR. FARLEY: Thank you.

15 Judge, I don't have any further questions.

16 MS. SMITH: Nothing further for this officer.

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

18 MS. SMITH: Judge, that's all the testimony we would
19 present at this time.

20 THE COURT: Okay.

21 MS. SMITH: You know, based on what you heard, the
22 DNA buccal swab came back with the defendant's DNA. Had
23 it been compromised, Mr. Odom's DNA could have been on
24 there.

25 Also, it's our position that he did consent. The

1 portion that you watched was approximately seven minutes.
2 It wasn't any real length of time. They asked him, "Would
3 you give us your DNA?"

4 He said, "SLED already has it."

5 They say -- again, they said, "We don't know anything
6 about that."

7 He said, "SLED has my DNA. I paid for it. I was a
8 convicted felon."

9 And they said, "Well, we don't have access to that."

10 He shakes his head, says, "Okay," comes back in there
11 -- or Detective Odom comes back in there. He does not
12 shove the swab in his mouth. He voluntarily takes it out
13 of the package, swabs his cheeks and puts it back in
14 there. So it is our position that he did consent to it.
15 Additionally, he was not under arrest at the time as was
16 evident from that, and he was free to leave after.

17 Detective Odom, like I say, he didn't follow exact
18 protocol with the gloves, but he did testify that he, a
19 lot of times, has the defendant take the swab and swab
20 their mouths to minimize any contact. And clearly, the
21 DNA came back to Mr. Collins.

22 Thank you.

23 THE COURT: All right. Thank you.

24 Mr. Farley?

25 MR. FARLEY: Judge, with regards to the procedure

1 that the DNA was taken, I think everyone would agree we've
2 done enough DNA cases in our lives that that is improper
3 technique for taking the DNA, and the State's position
4 that, well, it came back to Mr. Collins and there was none
5 of Mr. Odom's DNA on it isn't really the point. The point
6 is, were the protocols properly followed. And there's
7 clear evidence that the protocols were not followed.

8 There is a risk by not following certain protocols
9 that certain things could have happened. You know, we
10 just don't know. But had they followed the proper
11 protocols, I don't think I would be here arguing this, but
12 there is a genuine issue that when police take a sample,
13 they've got to do it right. They've got to follow all the
14 necessary steps. And that didn't happen in this case.
15 So, Judge, in this matter, we would ask that the DNA taken
16 from the buccal swab be eliminated.

17 THE COURT: I understand the motion and the grounds
18 for the motion, but I'm going to deny the motion. The
19 Court agrees with the position set forth by the State.

20 What's next?

21 MR. FARLEY: Now kind of in tandem with this is the
22 motion to whether or not the buccal swab, taking of the
23 DNA itself was voluntary. You know, case law is clear
24 that you don't have to be read your Miranda rights before
25 giving a DNA sample, so I'm not going to go down that

1 rabbit hole, but I do believe that -- I do believe that he
2 was intimidated and coerced into giving it.

3 He was clearly in custody. He was driven there by
4 police officers. We don't know where he was driven, but
5 if I was riding in the back of a cage of a police car, you
6 know, I would feel that I'm not free to go. And if my
7 only ride back home was in a police car, then you're
8 beholden to the police to take you home. So he was -- he
9 was in custody. And I think we all agree that Miranda
10 should have been given.

11 Intimidation, I'm not saying that the officers held a
12 gun to his head or, you know, threatened to break his
13 legs, but a 7 by 7 room full of furniture, two officers on
14 one side, you on the other side, you know, that would be
15 intimidating. I get pulled over by police officers that I
16 know -- pulled over for speeding by police officers I
17 know, and my hands shake, you know. I know I'm probably
18 not going to get the ticket, but I couldn't imagine being
19 a person of interest basically locked in a room with two
20 police officers. I think that they intimidated him, and I
21 believe that's a factor.

22 I do not believe -- to back up, I do not believe the
23 consent to take the buccal swab, I believe at first he
24 denied it, and I think under duress he caved to them. And
25 that's indicated by the fact that he said, "Well, you

1 know, you can get it anyway. All you've got to do is go
2 to SLED."

3 So, Judge, I believe that it's clear that he was not
4 advised of any rights. As I have already told the Court,
5 Miranda or some other right doesn't have to be given, but
6 I think if we take it in the totality of the circumstances
7 to decide whether or not that buccal swab was given freely
8 and knowingly, I think that that's something that should
9 be taken into account.

10 The intimidation, I believe that he was intimidated
11 or nervous or what. I believe the -- I won't say threats
12 or promises, but I believe the illusion or the talking
13 about, hey, we just want to help you out, we just want to
14 eliminate you as a suspect was another factor. So, you
15 know, normally under Miranda, that's, you know, cops lie
16 to suspects all the time, but we're kind of in kind of a
17 middle limbo type thing with these buccal swab.

18 So, Judge, the buccal swabs, in our opinion, he was
19 under custody, he was compelled by intimidation. And I
20 use that word in this context, not as, you know, it could
21 be construed. There were promises, and this DNA should be
22 excluded from the case.

23 THE COURT: All right. Thank you.

24 Ms. Smith?

25 MS. SMITH: Judge, I believe this is what you just

1 ruled on. It's the same motion. I touched on whether he
2 was giving it freely and voluntarily. I can go into that.
3 I know we're going to need to address it with his
4 statement. But his demeanor in the video, I mean, shows
5 that he wasn't intimidated or scared or anything like
6 that, you know. He admitted he was a convicted felon and
7 he knows how it goes, so I think his demeanor, above
8 anything else, shows that he was never, you know,
9 intimidated or scared to be there.

10 As far as how he got there, I think it was a matter
11 of convenience that law enforcement gave him a ride. I
12 don't know what his vehicle situation was at the time, but
13 they went to his house. He agreed to come and talk to
14 them, and whether they gave him a ride, you know, put him
15 in the car, I don't think they were trying to intimidate
16 him or scare him. If there was a cage in the car, I think
17 it's probably because it's the only car there.

18 But like I say, I think we've already argued this in
19 the motion, and what you've ruled on, that's our position.

20 Thank you.

21 THE COURT: Yeah. I mean, I agree. I think the
22 video actually shows -- gives an outsider the impression
23 that he -- actually, the defendant seems to be fairly
24 calm, seems to be fairly comfortable in the setting. And
25 the Court agrees with the position of the State on this

1 matter and denies the motion.

2 MR. FARLEY: Thank you, Judge.

3 MS. SMITH: Judge, we'll go ahead -- since we've been
4 talking about this interview, we'll go ahead and address
5 the defendant's statement that he gave to Detective Odom
6 and Captain Babkiewicz on October 30, 2015. And the State
7 will call Captain Babkiewicz to the stand.

8 THE COURT: You are still under oath.

9 DIRECT EXAMINATION

10 BY MS. SMITH:

11 Q Captain Babkiewicz, did you interview the defendant,
12 Samuel Collins, on October 30, 2012 [sic]?

13 A Yes, ma'am. I did.

14 Q Okay. And where did that interview take place?

15 A At the Bluffton Police Department.

16 Q Okay. And where specifically in the Bluffton Police
17 Department?

18 A It's in our soft interview room.

19 Q Okay. What's a soft interview room?

20 A The soft interview room is where you bring people who
21 are not in custody. It's actually in the -- as soon as
22 you open the PD, it's the very next door. Go inside. We
23 bring people in there, victims and people of interest in
24 there to speak to them.

25 Q Okay. And you've heard some discussion about the

1 size of this room?

2 A Yes, ma'am.

3 Q How big is this room? Is it tiny? Is it
4 uncomfortable?

5 A I believe it's proper for interviewing. We've used
6 it since we've had that facility and never had a problem
7 with space.

8 Q So it's the same room that you use all the time?

9 A Yes, ma'am.

10 Q Okay. And who else was present during that
11 interview?

12 A Detective Baker Odom.

13 Q Okay. How did the defendant actually get to that
14 interview room? How did you come about talking to him
15 that day?

16 A We went over to his house and asked if he'd be
17 willing to come to the police department to speak with us
18 further about this incident, in this case, the murder of
19 Jon Cherol, and he agreed to come and speak with us.

20 Q Okay. Was he, to your knowledge, under the influence
21 of any alcohol or drugs that would have impaired his
22 ability to understand what was going on that day?

23 A He did not appear to be, no.

24 Q Okay. Did he have any physical or mental disability
25 to the extent that that would impair his ability to

1 understand your questions and the conversation you were
2 having?

3 A No, ma'am.

4 Q Okay. About how long did this interview take place?

5 A I think the interview was roughly about an hour.

6 Q Okay. Was he ever denied access to the telephone?
7 bathroom? food? drink? smoke?

8 A No, ma'am. As a matter of fact, at the very
9 beginning when we brought him in, we asked him if he
10 needed anything to drink, use the bathroom or anything
11 like that, and he said "no."

12 Q Did he ever tell you about any discomfort or needing
13 to get up or take a break?

14 A No, he didn't.

15 Q Did you make -- threaten him in any way to make a
16 statement?

17 A No, ma'am.

18 Q Did you promise him anything to make a statement?

19 A No, I did not.

20 Q Okay. Was he under arrest at the time that the
21 statement was given?

22 A No, he was not.

23 Q What was the reason surrounding the interviewing and
24 obtaining the statement?

25 A We learned information that Jon Cherol may have set

1 up a robbery over at Mr. Collins's house, which for us was
2 potential motive for murder.

3 Q Was he free to go at any time during this
4 questioning?

5 A Yes, he was.

6 Q Under the circumstances -- well, let me ask you this.
7 How was Mr. Collins's demeanor?

8 A Mr. Collins, he seemed rather relaxed when he came
9 in. However, when we were speaking with him, he did
10 change his story several times about several different
11 things during the course of the interview. But he said he
12 was willing to cooperate, so we took him for his word.

13 Q Okay. And was he responding to your questions?

14 A Yes, he was.

15 Q Okay. And did he appear as a reasonable person under
16 those same circumstances? Did he, at any point, ever --
17 did you ever threaten him with arrest during this
18 conversation?

19 A No, ma'am.

20 Q Okay. And after he finished his statement -- and it
21 was recorded, video and audio; is that correct?

22 A Yes, it is.

23 Q Okay. And after he finished his statement, did you
24 arrest him?

25 A No, ma'am.

1 Q Okay. Did you tell him that he was a suspect in this
2 case?

3 A I told him that he was free to go and that I would
4 accommodate him getting a ride back to his house.

5 Q Okay. And, to the best of your knowledge, did y'all
6 get him back to his house?

7 A Yes, we did.

8 Q Do you know why you transported him?

9 A I -- I don't know why.

10 Q Okay. Let me ask you about the substance of his
11 statement. Captain Babkiewicz, did he know Jon Cherol?

12 A Yes, he did.

13 Q Okay. What kind of relationship did they have?

14 A They had a friendship, kind of a mutual friendship.
15 It was learned that Mr. Cherol was getting pills from
16 Mr. Collins.

17 Q Did Mr. Collins tell you that?

18 A Yes, he did.

19 Q Okay. Did he sell him any drugs?

20 A He did not ---

21 Q Did Mr. Collins ever sell Mr. Cherol any drugs?

22 A He did not sell him any drugs because Mr. Collins
23 said -- excuse me -- Mr. Collins said that he never -- Jon
24 never paid for them.

25 Q Did the victim owe Mr. Collins money?

1 A Yes, he did.

2 Q Had the defendant loaned the victim any money?

3 A I don't recall if he let him loan any money or not.

4 I know it was mostly pills.

5 Q Okay. The defendant told you that he never -- that
6 the victim never paid for any pills; is that correct?

7 A That's correct.

8 Q Okay. Did he tell you about an incident that
9 occurred at his house prior to this murder?

10 A Yes, he did.

11 Q Okay. What did he tell you about it?

12 A He told us that some individuals had come up to his
13 -- this is the part where he got inconsistent with his
14 story. Originally, he said it never happened, then when
15 we questioned him a little bit more about people coming to
16 his deck, he said that it did happen. We asked him if
17 there was any shots fired during this point in time, and
18 he said he had to do what he had to do, but he never
19 physically said that he shot any rounds. There was
20 potentially individuals -- unknown individuals that came
21 up onto his porch to try to rob him or get into his house,
22 and some way or somehow he managed to fend them off and
23 send them on their way.

24 Q What was Jon Cherol's involvement in this home
25 invasion, or what -- this incident the defendant

1 described?

2 A I had asked Mr. Collins if he thought that Jon Cherol
3 was involved with setting him up for this, I guess,
4 attempted armed robbery. And he had said that it was
5 weird because he was with Mr. Cherol that day, and he said
6 Mr. Cherol was acting nervous about 30 minutes to an hour
7 prior to this incident happening and that Mr. Cherol left
8 right before these people hit his house. So he did
9 suspect him of being involved in some shape or form.

10 MS. SMITH: Judge, that's all I have for this
11 witness.

12 CROSS EXAMINATION

13 BY MR. FARLEY:

14 Q So going back to him being in custody, and I know I'm
15 hitting this again, but he was brought there by the
16 police. First of all, police went to his house and said,
17 "Hey, can you come in and talk to us?"

18 A Myself and Detective Odom in plain clothes went over
19 to his house to talk to him, yes.

20 Q And did you ask to come in? Or how did that
21 interaction go?

22 A I believe we began speaking with him there, and then
23 at that point, we asked if he'd be willing to come in to
24 speak with us at the police department.

25 Q So did you call patrol and have somebody swing by to

1 pick him up? Y'all leave and have patrol come and ---

2 A Again, I can't recall who -- who brought him.

3 Q That's fine. It's two years.

4 And you agree with me he was not read Miranda at any
5 point?

6 A That's correct.

7 Q You spoke a little bit about my client having pills.
8 Do you know what kind of pills we're talking about?

9 A I don't know if he mentioned any type of pills or
10 not.

11 Q Did you locate any pills in the victim's house when
12 you investigated there?

13 A Yes, we did.

14 Q What kinds of pills?

15 A I'd have to look back at the evidence form.

16 Q Were they opiates, pills of addiction, or were they
17 Tylenol? Or do you recall?

18 A They weren't Tylenol. I forgot what they were, but I
19 can look that up. I didn't seize these pills.

20 I think they were Xanax, but I don't have the -- if I
21 can get a copy of the evidence form, I'd be able to tell
22 you.

23 Q I'm not going to hold you to it.

24 A Okay. Thank you.

25 Q But there is the indication that the victim --

1 through this conversation, the victim was heavily using
2 prescription medication?

3 A Yes, sir.

4 Q Did you find anything else out throughout the course
5 of your investigation that would confirm or deny that?

6 A No, sir. Other than speaking with witnesses and
7 testimony.

8 Q Multiple witnesses confirmed that ---

9 A Yes, sir.

10 Q --- drugs were being used?

11 Did -- throughout the course of your investigation,
12 specifically this interview, did you learn how Sam would
13 have come to possess prescription medication?

14 A I believe Sam said he bought his medication from
15 another individual by the name of Isaiah Walker.

16 Q Were you aware that the defendant had been shot in
17 the leg?

18 A Yes.

19 Q And had extensive medical issues from that?

20 A Yes, sir.

21 Q And did you confirm or not confirm that he was
22 prescribed prescription drugs?

23 A I believe he told us he was prescribed something. I
24 don't remember what it was.

25 Q Part of your conversation with the defendant, you

1 spoke about a watch; is that correct?

2 A Yes, sir.

3 Q And that watch belonged to the victim; is that
4 correct?

5 A Yes, it was.

6 Q And how did the defendant come to possess that watch?

7 A I believe Jon gave him that watch prior to him
8 getting some pills from him, and I believe Sam Collins had
9 said that he felt that that was in exchange for some of
10 the pills he was giving him.

11 Q Would you disagree with me if I said that he gave --
12 if Sam told you that the victim gave him the watch without
13 anything, but Sam believed that he was trying to prime him
14 to get something in the future?

15 A Yes.

16 Q That's what the actual conversation was?

17 A Yes.

18 Q Two years. I understand.

19 During the course of Sam's interview, did you develop
20 additional suspects from that conversation?

21 A Yes, we did.

22 Q Can you just tell me who those are? Do you remember?

23 A Isaiah Walker.

24 Q That's the only one? How about a guy named Toc?

25 A Toc as well. I thought -- I'd have to check. I

1 thought Isaiah Walker was Toc.

2 Q Street names.

3 And wasn't there a Ziploc or Zip? Something? You
4 don't recall that?

5 A No.

6 Q So you developed at least one other initial suspect?

7 A Yes, sir.

8 Q You followed up on that?

9 A Yes, sir.

10 Q And what did you determine?

11 A We learned that he was actually in New York at the
12 time.

13 Q Did you ever speak to him?

14 A We did not speak with him.

15 Q And finally, during the course of your interview, did
16 the defendant, at any point, admit any involvement in this
17 case?

18 A No, he didn't.

19 MR. FARLEY: I don't have anything further.

20 MS. SMITH: Nothing further.

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

22 MR. FARLEY: Thank you, Judge. I still believe that
23 he was in custody. I think any reasonable person would
24 have believed that they were not free to leave. It's
25 clear from the testimony of the officers that he was not

1 under Miranda, and I believe that any incriminating
2 statements that he made during the course of that
3 interview should be suppressed. They should not come in.
4 That videotape and the officers speaking about this
5 confession should be excluded from the evidence in this
6 case.

7 MS. SMITH: Judge, I believe that under Jackson v.
8 Denno we've met all the requirements of voluntariness.
9 The defendant was clearly free to leave, his statement was
10 made without coercion or threats and was, in fact,
11 voluntary. He was not under arrest and Miranda was not
12 necessary. I believe it was freely and voluntarily given,
13 and I think we've met our burden under Jackson v. Denno.

14 Thank you.

15 THE COURT: I find that the defendant voluntarily
16 came to the police department, that he was told he was
17 free to go at any time. The interview was a relatively
18 short period of time, one hour. He was offered drink,
19 food, restroom breaks, said that he was willing to
20 cooperate, and, of course, after the statements were made,
21 law enforcement then gave him a ride home. And once
22 again, the video shows he seemed comfortable while he was
23 with law enforcement. For those reasons, the Court denies
24 the motion.

25 MR. FARLEY: Thank you, Judge. I understand your

1 ruling. I believe because that is coming in, the
2 solicitor and I have a stipulation as to what -- there's a
3 bunch of other stuff in that video that is irrelevant or
4 prejudicial or whatever, so I believe that we have come to
5 a stipulation of what of his statement should be presented
6 to the jury. And I believe, in essence, that's what was
7 presented to you just here in this hearing except for the
8 part about you have my DNA because I've been convicted
9 before, and if you have anything to say or throw in there,
10 let me know. There is talk about his wife recovering from
11 cervical cancer. That is completely irrelevant in this
12 case.

13 MS. SMITH: Judge, the testimony that I elicited from
14 Captain Babkiewicz is what I intend to do tomorrow. The
15 only thing is if defense counsel opens the door. I don't
16 plan on mentioning his convictions or his being a
17 convicted felon because that wouldn't be appropriate.

18 THE COURT: All right. Now, are you going to --
19 you're going to introduce the video? That's what I didn't
20 understand.

21 MS. SMITH: No, sir. I'm not.

22 THE COURT: Not at all. Okay.

23 MS. SMITH: No, sir. It will all be through the
24 testimony of Captain Babkiewicz. The only reason we
25 brought the video in today was just to show for the issue

1 of the DNA. And, of course, I would not go into any --
2 the only testimony I elicited in this hearing, not in the
3 previous hearing, regarding the suppression of the DNA.

4 THE COURT: I've lost track. Any other motions?

5 MR. FARLEY: There was a third-party-guilt motion. I
6 don't know if the solicitor wants to pursue that.

7 MS. SMITH: Judge, all we want to do is the State, I
8 don't know what the defense, what their defense is going
9 to be or what evidence they're going to -- or what they're
10 going to argue, but out of abundance of caution, we were
11 moving to exclude any evidence of third-party guilt. You
12 heard about -- well, one, Colette Collins is an
13 accomplice, so clearly that's not -- doesn't fall into
14 that, but this individual Toc, or Isaiah Walker, that he
15 questioned Captain Babkiewicz about who was a suspect that
16 they did verify was in New York during the murder, we
17 would just move under the current case law that evidence
18 be -- that evidence of third-party guilt be excluded.
19 That is the only mention, and I think they -- it has to
20 exculpate the defendant, and I don't believe that's the
21 case. Like I say, the only statement that we heard was
22 that they developed him as a potential suspect and then
23 verified he wasn't even in Bluffton at the time of the
24 crime.

25 Thank you.

1 MR. FARLEY: Judge, that -- we do not intend to go
2 anywhere down that path. We do intend -- his wife was the
3 codefendant. Obviously, we intend to bring out stuff
4 similar to third-party guilt, I call it second-party guilt
5 or the other-party guilt, but we're not going to go down
6 that path. I don't think it will be a problem. We may
7 mention the other suspects just as we did today, did you
8 develop these other suspects, did they turn out, something
9 like that, but we're not going to introduce evidence of,
10 you know, they were in the neighborhood at the time, you
11 know, your traditional third-party-guilt case. If the
12 solicitor is willing to go for that, then I think we're
13 good with that motion.

14 MS. SMITH: Judge, that's all I have on that.

15 THE COURT: Any other motions?

16 MS. SMITH: Judge, we have a motion -- or the defense
17 has a motion to suppress text messages. We'll take it up
18 tomorrow with one of the witnesses, the lay witnesses that
19 will be here right before his testimony.

20 THE COURT: All right. What time can we start?
21 9:15?

22 MR. FARLEY: Can we do 9:30? I've got to take my
23 kids to school. As I've told the solicitor, they don't
24 like you to drop them off at the school door without the
25 schoolhouse being ---

1 THE COURT: Schoolhouse being open.

2 MR. FARLEY: Yeah. So -- and I live on Johns Island.

3 THE COURT: I've heard of that rule.

4 All right. How long do y'all think it will take? We
5 told the jury 9:30, too.

6 MS. SMITH: Judge, I wouldn't need any more than
7 15 minutes.

8 MR. FARLEY: What?

9 MS. SMITH: Your motion to suppress. It's the
10 defense's motion.

11 MR. FARLEY: Yeah. No. I'm just -- what are we
12 talking about?

13 MS. SMITH: The defendant's motion to suppress text
14 messages.

15 MR. FARLEY: Yeah. 15 minutes. No more.

16 MS. SMITH: Yes, sir.

17 THE COURT: Is that going to be testimony we're going
18 to hear first up?

19 MS. SMITH: No, sir. We can take it up in the
20 afternoon prior to ---

21 THE COURT: Might take it up during the lunch break
22 or something.

23 MS. SMITH: Yes, sir.

24 MR. FARLEY: That would be perfect.

25 MS. SMITH: Just prior to his testimony.

1 know what she's looking for.

2 (WHEREUPON, the jury entered the courtroom at 9:52 a.m.)

3 THE COURT: Good morning, ladies and gentlemen. They
4 were all standing for you, not for me.

5 The first thing we're going to do this morning,
6 ladies and gentlemen, is I'm going to ask the clerk if she
7 will administer to you your oath as jurors.

8 THE CLERK: Please stand and raise your right hand.

9 (WHEREUPON, the jury was sworn at 9:53 a.m.)

10 INTRODUCTORY REMARKS BY THE COURT

11 THE COURT: Just a few words before we begin, ladies
12 and gentlemen. As you know, the defendant in this case is
13 charged by way of an indictment with the crime of murder
14 and use of a firearm or deadly weapon during the
15 commission of a violent crime. The defendant has pled not
16 guilty to these indictments. That puts the burden upon
17 the State to prove each of the elements of the indictment
18 to your satisfaction beyond a reasonable doubt. And it
19 will be your job, ladies and gentlemen, to determine when
20 the case is all over with whether the State has met its
21 burden.

22 I also tell you that the indictment is not evidence
23 of anything. It is merely the vehicle that brings a case
24 into the Court. It contains allegations.

25 Your purpose as jurors, ladies and gentlemen, is to

1 determine the facts. You are the sole judges of the facts
2 of this case, and if, at any time, I do anything to cause
3 you to believe that I have an opinion about the facts of
4 the case, you must disregard that. The law does not
5 permit me to discuss the facts of the case in your
6 presence. My job is to preside over the trial of the
7 case, rule on the admissibility of evidence, and to tell
8 you about the law that applies in the case. And you're
9 obligated under your oath to accept the law as I tell you
10 it is.

11 Until the case is completely over, as I told you
12 yesterday, you can't discuss this case with anybody, you
13 can't let anyone discuss the case with you, you can't do
14 any research on this case or cases similar to this even
15 among yourselves in the jury room. You can't discuss the
16 case until the case is completely over, and that means
17 after the attorneys have made to you their opening
18 statements where they tell you what they think the
19 evidence may show or not show, after the witnesses and
20 evidence is presented to you, after the attorneys make
21 their closing arguments to you where they try to convince
22 you to see the case the way they see it, and then I tell
23 you about the law that applies in this case. Then and
24 only then, after all that's done, can you discuss the case
25 among yourselves. In the jury room, you can talk about

1 the weather, you can talk about sports, you can talk about
2 whatever you want to, but not the case or the testimony or
3 the evidence that's being presented over the next day or
4 so.

5 Having said all that, ladies and gentlemen, we'll now
6 have opening statements beginning with the State.

7 Solicitor?

8 OPENING STATEMENTS

9 MS. SMITH: May it please the Court.

10 Ladies and gentlemen, this was not an accident, this
11 was not a mistake, it was not a random act of violence.
12 It was not someone being caught up in the moment. This
13 was a cold, calculated, premeditated plan, a plan that
14 this man, Samuel Collins, set into action. And he did
15 everything he could to make sure that he hit his mark, and
16 his plan was a success. He left no detail to chance.

17 Samuel Collins made a plan, and that plan included
18 using his wife, Colette Collins, and he sent her over to
19 the victim Jon Cherol's house. He lives in Pinecrest
20 subdivision in Bluffton. He sent his wife over there
21 after she got off work under the auspices of a friendly
22 visit with Jon, one friend simply checking on another
23 friend. She stayed there and talked to Jon as a friend
24 would do for about one hour in the front yard of his
25 residence. You will see some video today that will show

1 you just that.

2 After about an hour, give or take a few minutes, she
3 returned home, and she confirmed to her husband, Samuel
4 Collins, that the victim, Jon Cherol, was at his home, and
5 he was at his home and was going to stay there. In fact,
6 you'll see he was in his robe. He was home for the night.
7 And it was time to do what they planned, and that was to
8 go kill Jon.

9 So Colette got back in her car, the same car that
10 you'll see on the video that went to visit Jon earlier.
11 Samuel was riding in the passenger's seat with her. And
12 she went to the Pinecrest neighborhood and dropped Samuel
13 off in the wooded area right outside of Jon's house and
14 she pulled away.

15 Samuel Collins walked through the wooded area with a
16 shotgun that he had borrowed from a friend, Cody Brown,
17 who you will hear from today. Also under false pretense
18 did he obtain that gun from his friend.

19 He walked up, walked through the woods and saw
20 Jonathan Cherol sitting on his patio with his friend, Joe
21 Rueby. And he aimed at Jon's head and shot him and killed
22 him in cold blood. Joe Rueby is here today, and he will
23 testify to the horror that he witnessed as he sat there
24 across from his friend when Samuel Collins shot and killed
25 him.

1 After he shot Jon, he walked back through the wooded
2 area. You'll see a picture of the path that he took to
3 Masters Way, which is right outside the subdivision. And
4 Colette, his wife, comes up in the car that you'll see on
5 the video and picks him up. The plan was a success and
6 they ride away. He killed Jon in cold blood.

7 But the plan was not without flaws, and he made a
8 couple of mistakes. And let me tell you what he did or
9 what he didn't, what he wasn't counting on. He wasn't
10 counting on all the video cameras that were placed
11 throughout the Pinecrest subdivision.

12 MR. FARLEY: Judge, objection. She's commenting on
13 things that are not in evidence at this point.

14 THE COURT: Overruled. Go ahead.

15 MS. SMITH: He wasn't counting on the fact that there
16 would be witnesses that would testify that he borrowed a
17 gun. He wasn't counting on his DNA being found on items
18 of evidence.

19 Ladies and gentlemen, as the prosecutor in this case,
20 I have the burden of proof, and the judge will tell you
21 what that means, but I have to prove the defendant
22 committed a crime of murder beyond a reasonable doubt.
23 And he will tell you that reasonable doubt is the kind of
24 doubt that causes a reasonable person to hesitate to act.
25 Reasonable doubt, I will tell you, is not beyond every

1 doubt. It's not beyond a shadow of a doubt, but a
2 reasonable doubt. In essence, I have to leave you firmly
3 convinced of the guilt of the defendant, that he committed
4 this crime.

5 I will tell you that the story I tell you sounds like
6 a simple story, clear-cut, and I believe the evidence will
7 show that, but I will not lie to you or misrepresent to
8 you. There is a lot of evidence in this case. Law
9 enforcement did a lot of work. They collected a lot of
10 items, they interviewed a lot of people, and they did a
11 very thorough investigation. But I believe that once you
12 hear the testimony from the witnesses that were there as
13 well as the law enforcement that investigated and
14 interviewed everyone as well as the scientist that we will
15 bring that did the testing in this case, that you will be
16 firmly convinced from the evidence that we present that
17 Mr. Collins is guilty of the murder of Jon Cherol, and I
18 will ask that you find him guilty.

19 Thank you, ladies and gentlemen. I appreciate your
20 time.

21 THE COURT: Thank you.

22 Mr. Farley?

23 MR. FARLEY: Thank you, Judge. If it pleases the
24 Court.

25 First of all, let me thank you for being here today.

1 I know you have a million other things you'd rather be
2 doing, but I guarantee your service is very important and
3 I really truly do thank you.

4 The State just outlined their version of the facts.
5 Their job is to convict the defendant, so they're going to
6 paint their picture to their advantage. And I think you
7 know what my job is, and my job is to point out
8 inconsistency in the State's evidence.

9 The State just told you that there is video. That
10 video, as you will see, clearly does not show the
11 defendant there.

12 The State said that there were witnesses to the
13 crime. There were witnesses, but no single person saw the
14 defendant there or actually saw his codefendant, his wife
15 there because she is actually charged with this murder as
16 well.

17 The judge told you the indictment is only a notice
18 document. It's a document that says this case moves
19 forward from the arrest to the courtroom, and that's what
20 brings you, the State and Sam here today.

21 Sam is also here in court because he pled not guilty.
22 He's told you through pleading not guilty that he did not
23 commit that crime, and our law requires you to consider or
24 believe or know firmly that he is not guilty here today.
25 So before you, he is an innocent man, and I believe at the

1 conclusion of the case, you will still know and believe
2 that he is an innocent man.

3 A jury's role -- and I get this a lot when I talk to
4 jurors, but a jury's role is not do justice for the
5 victim. I am a human being. I feel sorry and upset that
6 a crime like this was committed. We all do. We're all
7 humans. But that is not your role. Your role is to do
8 justice for Sam. Doing that requires you to abide by your
9 oath, your oath to uphold the law. You are the judges of
10 fact. You are the sole judges of fact. You judge the
11 facts as the State presents them, you judge the facts as
12 the defense presents them, and you come up with a verdict.

13 "Verdict" comes from the Latin which means to speak
14 the truth. I am sure today or through the course of this
15 trial you will speak the truth and you will find the
16 defendant not guilty.

17 As citizens, we have certain rights. And I hear all
18 the time, how do you do this? How do you represent these
19 criminals? First of all, everyone accused is not a
20 criminal. He's innocent until proven guilty. But second
21 of all, my job is to enforce the laws. The State enforces
22 the statutes as they're on the books. My job is to
23 enforce our civil rights. A lot of people have fought and
24 died so that we could have those rights. Today, your rule
25 is to help preserve those rights.

1 I have the utmost respect for police officers. They
2 go to work. They have an extremely hard job. They wake
3 up every single morning not knowing what they're going to
4 walk into that day. My dad was a police officer in
5 Vietnam, my aunt and uncle were Chatham County sheriff's
6 deputies, and my sister right now is in the Department of
7 Homeland Security as a border patrol agent, so believe me,
8 I know the sacrifices and hard work that these folks do.

9 When I first took a job with the Public Defender's
10 Office years ago, I'm now in private practice, I knew that
11 my parents or my dad especially was going to say, "What
12 are you thinking? Why are you working for them?" But
13 when I talked to him about it, he actually said something
14 strange. He said, "Your job is not to be against the
15 police. Your job is to keep the police honest."

16 Part of what we do here in this courtroom is to keep
17 law enforcement honest, make them follow the rules, make
18 them abide by our civil rights. And that was really
19 touching and compelling, and it gave me great hope about
20 our system that someone who is a law enforcement agent can
21 say that.

22 The solicitor talked a little bit about the burden of
23 proof. The judge will give you the legal definition of
24 the burden of proof, but basically, the way that it works
25 is he's innocent until the State proves he's guilty. But

1 they just don't have to prove him guilty 50 percent,
2 51 percent. They have to prove him guilty beyond all
3 reasonable doubt. This isn't just an abstract concept in
4 our legal system. This is big time serious. This is the
5 fundamental part of the criminal justice system, beyond a
6 reasonable doubt. So when the State presents evidence,
7 you have to doubt it. You have to question it. You have
8 to decide if that evidence goes to show that the defendant
9 is guilty, and guilty beyond all reasonable doubt.

10 I submit to you that the State is not going to be
11 able to prove this case because there is a lot of
12 reasonable doubt. The evidence in this case is all
13 circumstantial. There is no direct evidence. And because
14 of this, because of your oath and duty to uphold the laws
15 of this state, I am confident that you will find the
16 defendant not guilty.

17 Thank you.

18 THE COURT: All right. Mr. Farley, thank you, sir.

19 MR. FARLEY: Thank you, Judge.

20 THE COURT: You may call your first witness.

21 MS. SMITH: The State calls Allison Moreira.

22 WHEREUPON,

23 ALLISON MOREIRA

24 After having been duly sworn, testified as follows:

25 ///

DIRECT EXAMINATION

1

2

BY MS. SMITH:

3

Q Good morning, Ms. Moreira.

4

A Good morning.

5

Q Where do you work?

6

A At the Beaufort County Sheriff's Office.

7

Q And what do you do there?

8

A I'm the 9-1-1 records custodian of all the 9-1-1
9 tapes that come in.

10

Q Okay. And were you the records custodian on October
11 of 2015?

12

A I was not.

13

Q Okay. When did you start working there?

14

A I've been with the Sheriff's Office for three years.

15

I just got transferred over to the records custodian March
16 of this year.

17

MS. SMITH: May I approach the witness?

18

THE COURT: You may.

19

BY MS. SMITH:

20

Q Ms. Moreira, I'm going to hand you what's been marked
21 as State's Exhibit Number 1. Can you tell us what that is?

22

A This is a 9-1-1 tape recording.

23

Q Okay. And have you previously reviewed that ---

24

A Yes, ma'am.

25

Q --- to make sure it's an accurate record from 9-1-1?

1 A Yes, ma'am.

2 Q And is that the 9-1-1 recording from
3 October 28, 2015, at Pinecrest?

4 A Yes, ma'am. It is.

5 Q Has that CD been kept in the normal course of
6 business?

7 A Yes, ma'am.

8 MS. SMITH: Judge, at this time, I would like to
9 publish -- I'd like to enter State's Exhibit Number 1 into
10 evidence and publish to the jury.

11 MR. FARLEY: No objection, Judge.

12 THE COURT: Motion's granted.

13 (WHEREUPON, State's Exhibit 1 was admitted into evidence
14 and played in open court.)

15 MS. SMITH: Judge, I have nothing further for this
16 witness.

17 MR. FARLEY: No questions, Judge.

18 THE COURT: Thank you, ma'am. You may step down.
19 May the witness be excused? Any objection?

20 MS. SMITH: Yes, sir.

21 MR. FARLEY: Yes, sir.

22 THE COURT: Ma'am, you may be excused from your
23 subpoena.

24 THE WITNESS: Thank you.

25 THE COURT: And you may call your next witness.

1 MS. SMITH: The State calls Jeffrey Dickson.

2 WHEREUPON,

3 JEFFREY DICKSON

4 After having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. SMITH:

7 Q Good morning, Officer Dickson.

8 A Good morning.

9 Q Where do you work?

10 A Currently with the Bluffton Police Department.

11 Q Okay. How long have you worked there?

12 A For the last 12 years now.

13 Q How long have you been in law enforcement?

14 A It's a little over 21 years.

15 Q Did you respond to a call at [REDACTED] Pinecrest Way on
16 October 28, 2015?

17 A Yes, I did, ma'am.

18 Q Okay. And what was the reason for your responding?

19 A It came out as a gunshot victim on our onboard
20 computers at that location.

21 Q Okay. Where were you located at the time?

22 A Myself and another officer, Officer Wetzel, were
23 actually sitting on the Buckwalter side of the Low Country
24 Church which is just down the road catty corner.

25 Q Okay. After the call came out, how long did it take

1 you to get there?

2 A Roughly maybe two minutes, if that.

3 Q And when you arrived on the scene, what did you
4 observe?

5 A When we arrived at the house, we observed that there
6 was nobody outside the house at the time. The front door
7 was locked. We went up to the front door, started banging
8 on the front door because we'd seen two occupants inside
9 the house. The occupants actually answered the front door
10 after we yelled "police."

11 We took the two occupants outside the house. We did
12 a pat-down search, pat-down frisk to make sure they
13 weren't -- didn't have any weapons on them. Once we got
14 them outside the house, myself and Officer Wetzel actually
15 went in the house, cleared the house to make sure nobody
16 was around.

17 Q And who were the occupants inside the house?

18 A The occupants were identified as a Roberts Vaux and I
19 have it here somewhere.

20 Q Was Joseph Rueby the other occupant?

21 A Yes, ma'am.

22 Q What did you do after you patted them down and
23 checked out the inside of the house?

24 A They -- they let us -- they actually told us that
25 their friend was on the back porch, rear porch. We went

1 outside the rear door to the residence, sliding glass
2 doors, and we did find the victim on the -- on the one
3 bench.

4 Q I'm going to show you what we've marked -- previously
5 marked as State's Exhibit Number 1 [sic].

6 MR. FARLEY: May I see it?

7 BY MS. SMITH:

8 Q Show you what's previously marked as State's Exhibit
9 Number 1 [sic] and State's Exhibit Number 2. Take a look
10 at those.

11 A (Reviews exhibits) Yes, ma'am. This first picture is
12 actually a picture of the front of the residence right
13 along Pinecrest Way.

14 Q Is that a fair and accurate depiction of the house
15 that you responded to in State's Exhibit Number 1 [sic]?

16 A Yes, ma'am.

17 Q And is that a fair and accurate depiction of the back
18 of the house or the patio of ■ Pinecrest Way?

19 A Yes, ma'am. It is.

20 MS. SMITH: Okay. Judge, at this time, I would ask
21 these be moved into evidence.

22 MR. FARLEY: No objection.

23 THE COURT: Motion's granted.

24 (WHEREUPON, State's Exhibit Numbers 2 and 3 were admitted
25 into evidence.)

1 MS. SMITH: Publish to the jury?

2 THE COURT: You may.

3 BY MS. SMITH:

4 Q And if you'll look at the screen, Officer, and you
5 can explain.

6 Excuse me. It's Exhibit Number 2 and 3. Pardon me.

7 Officer, taking a look at Exhibit Number 2, is that
8 the front of ■ Pinecrest Way?

9 A Yes, ma'am. It is.

10 Q Okay. And then looking at Number 3, is that the
11 patio of Pinecrest Way?

12 A Yes, ma'am.

13 Q And is that where you observed the victim on that
14 couch that's in that picture?

15 A Yes.

16 Q Okay. I'm going to show you -- let me ask you this.
17 After you saw the victim, what did you do next in the
18 backyard? What did you observe?

19 A We went looking around the backyard to make sure that
20 there was nobody else because you have the golf course
21 driving range directly behind that residence.

22 Q Okay.

23 A We made sure there was nobody else around the area.
24 We started securing the area with the crime scene tape.

25 In looking around through the backyard, we noticed

1 two shotgun shell casings, and I took a piece of paper
2 from my notebook I had, and we put a piece of paper over
3 each shotgun shell.

4 Q And, Officer, I'm going to show you State's Exhibit
5 Number 4 and let you look at that. Is that a fair and
6 accurate depiction of the rest of the backyard and patio
7 with the crime scene tape that you just described?

8 A Yes, ma'am.

9 MS. SMITH: And may I enter that into evidence,
10 Judge?

11 MR. FARLEY: No objection.

12 THE COURT: Motion's granted.

13 (WHEREUPON, State's Exhibit Number 4 was admitted into
14 evidence.)

15 MS. SMITH: May I publish?

16 THE COURT: You may publish.

17 BY MS. SMITH:

18 Q And that's the remainder of the crime scene tape and
19 the other -- another angle of the patio; is that correct?

20 A Correct.

21 Q I'm going to hand you what's previously been marked
22 as Exhibit Numbers 7, 8 and 9 and ask you to take a look
23 at those.

24 A (Reviews exhibits) Yes, ma'am.

25 Q Are those fair and accurate depictions of the shells

1 that you just described sitting in the backyard?

2 A Yes, ma'am. They are.

3 Q Okay. And you say that you placed paper over those
4 shells?

5 A Yes, ma'am. I believe you had it in the previous
6 shot that was up.

7 Q And I know that there are markers in those pictures.
8 You did not place those. Those were placed after ---

9 A That's correct.

10 Q --- you got South Carolina Law Enforcement Division;
11 is that correct?

12 A Yes, ma'am.

13 MS. SMITH: May we enter 7, 8 and 9 into evidence?

14 MR. FARLEY: No objection.

15 THE COURT: Motion granted. You may publish.

16 (WHEREUPON, State's Exhibit Numbers 7, 8 and 9 were
17 admitted into evidence.)

18 BY MS. SMITH:

19 Q All right. Officer Dickson, where the markers say
20 Number 1 and 2, what's located beside those?

21 A I'm pretty sure that the first shell casing we'd seen
22 I believe was Number 2.

23 Q And what's located next to Number 1?

24 A The shotgun shell casing. Yes. 1 and 2.

25 One of the shell casings appeared to be intact. The

1 other one appeared to be spent, in other words, fired.

2 Q Okay. All right. Going to Number 8, is that just a
3 close-up of one of the shells?

4 A Yes, ma'am.

5 Q And Number 9 is the other shell?

6 A Yes, ma'am.

7 Q Officer, what else did you observe in the backyard
8 while you were investigating this area? Did you observe
9 anything next door, to the house next door to
10 ■ Pinecrest?

11 A In the house next door behind where the victim was
12 sitting on the rear porch, I noticed a lot of -- there was
13 a tight grouping of quite a few holes in the house next
14 door that we also advised the detectives when they came
15 out to process the scene.

16 Q And when you say "tight holes," they were like bullet
17 holes or shots?

18 A Tight holes which appeared to be from a shotgun
19 blast.

20 Q Okay. Officer, I'm going to show you what's been
21 marked as State's Number 5 and State's Number 6. Take a
22 look at those. Are those fair and accurate depictions of
23 the house located next door to Pinecrest ---

24 A Yes, it is, ma'am.

25 Q --- and the holes that you were just talking about?

1 A Yes, they are.

2 MS. SMITH: Okay. Judge, at this time, I would enter
3 those into evidence.

4 MR. FARLEY: No objection.

5 THE COURT: Motion granted.

6 (WHEREUPON, State's Exhibit Numbers 5 and 6 were admitted
7 into evidence.)

8 MS. SMITH: May we publish?

9 THE COURT: You may publish.

10 BY MS. SMITH:

11 Q Officer Dickson, is that the house located next to
12 the incident location?

13 A Yes.

14 Q Okay. And you stated from where the victim was
15 located on that couch that we see in the edge, that
16 residence was right behind him?

17 A Yes, it is.

18 Q So his back or head would have been back to that
19 residence right there?

20 A Yes.

21 Q And the next picture that you looked at, are those
22 the holes that you're referring to?

23 A Yes, ma'am. They are.

24 Q Okay. Did you do anything with this evidence or did
25 you just notify someone else to take a look?

1 A We advised the detectives what we had located also.
2 And, again, nobody was around the back, but we let them
3 know about the holes we had found.

4 Q Okay. Did you do anything else at the residence?

5 A Nothing else. I just stayed in the back and made
6 sure the entire back of the residence along with the
7 neighbor's house was secure.

8 Q And how long did you stay there?

9 A I stayed there until pretty much long after SLED got
10 there and was doing their processing also. Pretty much
11 until the end.

12 Q And I don't know if I asked you this earlier.

13 ■ Pinecrest Way, is that in Beaufort County?

14 A Yes, it is, ma'am.

15 Q Located in the town of Bluffton?

16 A Yes, ma'am.

17 MS. SMITH: Thank you.

18 I have nothing further for this witness.

19 MR. FARLEY: No questions, Judge.

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

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: You may call your next witness.

23 MS. SMITH: Judge, at this time, we call John
24 Ireland..

25 ///

1 WHEREUPON,

2 JOHN IRELAND

3 After having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SMITH:

6 Q Good morning, Mr. Ireland. Where do you work?

7 A I currently work Burton Fire District.

8 Q How long have you been with Burton Fire?

9 A As a paid employee, since 2006.

10 Q In October of 2015, where were you also working?

11 A Beaufort County EMS.

12 Q And did you respond to ■ Pinecrest Way in Bluffton,
13 South Carolina?

14 A Yes, I did.

15 Q Okay. On October 28, 2015?

16 A Uh-huh. Yes.

17 Q And were you the lead paramedic?

18 A Yes.

19 Q Who else was with you that night?

20 A My partner who was an EMT, London Ocon [phonetic].

21 Q And what were you called to ■ Pinecrest for?

22 A We were originally dispatched for a suicide.

23 Q Okay. Did you have any reason to know why dispatch
24 told you that?

25 A Yeah. We had no reason to suspect anything

1 differently.

2 Q When you responded to ■ Pinecrest, tell us what you
3 observed.

4 A Well, we pulled up. Law enforcement was already on
5 scene. I do recall having a radio report saying that the
6 scene was secure and safe for us to enter. So we pulled
7 on up, started getting our equipment out, and we were
8 directed to the back of the house.

9 Q And what happened when you got to the back of the
10 house?

11 A We found our patient sitting upright on the couch,
12 legs crossed, hands kind of folded in the lap with a
13 nonsurvivable gunshot wound.

14 Q Okay. Did you administer any lifesaving measures
15 that night?

16 A No.

17 Q Okay. Was the victim dead when you arrived?

18 A Yes. It was very plain to see that the wounds
19 received were incompatible with life.

20 MS. SMITH: That's all I have for this witness.

21 MR. FARLEY: Thank you, Judge.

22 CROSS EXAMINATION

23 BY MR. FARLEY:

24 Q Thank you for being here.

25 Did you happen to observe anything in the victim's

1 hands?

2 A I do not recall.

3 MR. FARLEY: Thank you, Judge. I don't have anything
4 else.

5 THE COURT: You may step down.

6 You may call your next witness.

7 MS. SMITH: Judge, the State calls Roberts Vaux.

8 WHEREUPON,

9 ROBERTS VAUX

10 After having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SMITH:

13 Q Good morning, Mr. Vaux.

14 A Good morning.

15 Q Where do you live?

16 A ■ Pinecrest Way, Bluffton, South Carolina.

17 Q And how long have you been in Bluffton?

18 A In Bluffton, 1976.

19 Q I'm going to show you what's been marked previously
20 as State's Number 2 and State's Number 3 and admitted into
21 evidence.

22 MR. FARLEY: May I look at those?

23 BY MS. SMITH:

24 Q \ And I will just ask you if that's a fair and accurate
25 depiction of the front of your house at ■ Pinecrest Way

1 and the back patio.

2 A Yes, ma'am.

3 Q Okay. Mr. Vaux, did you know Jon Cherol?

4 A Yes, ma'am.

5 Q Okay. How long did you know him?

6 A Probably a year and a half, two years.

7 Q How did you meet Mr. Cherol?

8 A Mr. Cherol and a partner leased some space from my
9 law partner and I at a restaurant known as Pepper's Porch.

10 Q And in October of 2015, was Mr. Cherol living with
11 you at ■ Pinecrest Way?

12 A Mr. Cherol and his business partner had a falling
13 out, so I went into business with Mr. Cherol, thereafter
14 conveyed my half interest to my daughter, one of my
15 daughters. Mr. Cherol was driving back and forth from
16 Beaufort every day which seemed to me to be a waste of
17 time, so he first moved into a guest cottage that my wife
18 and I had on the property, and thereafter he moved in and
19 stayed with me for a short period of time before he was
20 moving in with a friend of his named Joe Rueby.

21 Q Let's talk about October 27, 2015. Do you remember
22 that day?

23 A Yes, ma'am.

24 Q Okay. Tell me, around what time did you get home
25 that day?

1 A Best I recall, somewhere around between 5:00 and 6:00
2 in the evening.

3 Q Okay. And was Jon there?

4 A Jon was there.

5 Q Okay. Did you have any interaction with him when you
6 got home?

7 A Nothing more than normal. Cooked supper. I don't
8 remember what -- don't remember what we had for dinner.
9 Watched some television. I went to bed.

10 Q Around what time do you think you went to bed? Or
11 what time do you normally go to bed?

12 A Normally, I get into bed about 9:00, I read for a
13 while and go to sleep. I'm usually asleep by 10:00
14 because I get up about 6:00.

15 Q Did you get up that night?

16 A Yes, ma'am.

17 Q Okay. Around what time did you get up?

18 A As an older man, I get up and go to the bathroom
19 somewhere around two, two and a half hours after I go to
20 sleep. I got up and I looked at the clock, and in looking
21 at my statement -- I don't remember it now, but in looking
22 at the statement I wrote that night, said I got up at
23 12:22, which is about two hours, two hours and a half
24 after I went to sleep.

25 Q Okay. And when you got up, did you hear anything?

1 Did you hear any voices?

2 A Yes, ma'am. My bedroom was on the golf course side,
3 on the back side of the house. If you look at State's
4 Exhibit 3, those windows are my bedroom windows. And you
5 can see, both of them were up that night. It was a cool
6 night.

7 So I went to bed, I woke up, I heard voices. I
8 opened my bedroom door into the living room, went out onto
9 the porch, and Jon was sitting on a sofa. I haven't seen
10 this picture before, but you can see Jon on the sofa next
11 to the landscaping. Joe was sitting on the sofa that
12 would have been to his left looking that way, and Jon was
13 looking this way.

14 Q And, Mr. Vaux, I'm going to show you what's
15 previously been marked as State's 13, 14 and 15.

16 A (Reviews exhibits).

17 Q And are those fair and accurate depictions of the
18 areas that you were just describing?

19 A Yes, ma'am. 15 ---

20 Q Hold on just a second before you start.

21 A Okay.

22 MS. SMITH: Judge, at this time, the State would move
23 13, 14 and 15 into evidence.

24 MR. FARLEY: No objection.

25 THE COURT: That motion's granted. You may publish.

1 (WHEREUPON, State's Exhibit Numbers 13, 14 and 15 were
2 admitted into evidence.)

3 BY MS. SMITH:

4 Q Okay. And if we'll start with Number 13, Mr. Vaux,
5 on the back, the photos you've got.

6 A Okay. 13 is standing sort of in the dining area or
7 the kitchen area facing and looking out to the patio. On
8 the right-hand side you can see the bedroom door into the
9 master bedroom, and then you see two windows. And there's
10 a -- not the sofa that you see, but outside on the patio
11 there was another sofa, and that was the sofa that Joe
12 Rueby was sitting in at the time that I walked out there.

13 Q Okay. Number 14?

14 A Number 14 is standing to the left of the prior
15 photograph. It clearly shows the master bedroom door, it
16 shows the door out to the patio, it shows the counter in
17 the kitchen.

18 Q Okay. And Number 15?

19 A Shows the master bedroom.

20 Q That's where you were sleeping with the windows open;
21 is that correct?

22 A Yes, ma'am. As a matter of fact, you can see the two
23 windows are raised.

24 Q Right. When you walked outside, what did you do?
25 Did you talk to Joe and Jon?

1 A I spoke to Joe and Jon. They were talking about Joe
2 moving into the Farm, which is a residential area, and Jon
3 moving in with him.

4 Q When was he going to move in with Mr. Rueby?

5 A Shortly. A matter of weeks.

6 Q Do you recall any other conversation that they were
7 having out there?

8 A No, ma'am. I wasn't there that long.

9 Q Okay. How long were you out there?

10 A Maybe five minutes, max.

11 Q Do you -- and I know it's been two years. Do you
12 recall them talking about a woman that came by earlier in
13 the night?

14 A They did. Somebody mentioned that a woman came to
15 the door that night before Joe got there.

16 MR. FARLEY: Objection. Judge, we're getting into
17 hearsay.

18 THE COURT: Sustained.

19 BY MS. SMITH:

20 Q What did you do next, Mr. Vaux?

21 A After I spoke with the two of them?

22 Q Correct.

23 A I went back to bed.

24 Q Okay. Did you go back to sleep?

25 A Went back to sleep.

1 Q Okay. And when is the next time you woke up?

2 A I heard two large reports -- gunshot reports, and I
3 woke up. And refreshing my memory, it was somewhere
4 around 12:40 or so, 12:45. I ran to the door to see what
5 was going on -- to my bedroom door, and at that time, Joe
6 Rueby opened the door from the patio into the house. As a
7 result of what he told me, I called 9-1-1.

8 Q Did you see anything?

9 A No, ma'am.

10 Q But you heard two shots?

11 A I heard two shots. I've -- I've been born and raised
12 in Beaufort County. I've hunted birds and deer all of my
13 life. I know a shotgun when I hear one. I heard two
14 shotgun reports that night.

15 Q Okay. Where were you until the police arrived on the
16 scene?

17 A In the bathroom master bedroom closet.

18 Q Were you scared?

19 A Yes, ma'am.

20 Q What happened when law enforcement got there?

21 A Well, I heard a hammering, banging on the door, so I
22 went and opened the door and let them in. They separated
23 Joe and I. They put bags on my hands and taped them.

24 They kept us separated.

25 After calling 9-1-1, I called my son who came over.

1 At some point, they took me down to the police
2 station. They ran a gunshot residue on my hands.

3 Q Was that Officer Murphy who ran the gunshot ---

4 A I don't remember the officer, who it was.

5 They took -- after I called 9-1-1, I put on a pair of
6 shorts and -- I sleep in boxer shorts and a T-shirt, and I
7 put on some shorts and a pair of shoes and my glasses
8 because I wear contacts. They took all of my clothes, so
9 my son had to go get me a pair of shoes and some clothes,
10 and they let me keep my glasses.

11 Q Let me ask you this, Mr. Vaux. Did you agree to give
12 them your clothes?

13 A Oh, yes, ma'am.

14 Q And did you consent to giving them your DNA?

15 A Yes, ma'am. Oh, I forgot. They took a DNA swab and
16 they took the gunshot residue. I was happy to cooperate
17 and give them both.

18 Q Did you give them a written statement?

19 A Yes, ma'am.

20 Q What about audio and video recorded statement?

21 A They questioned me. Whether it was audio or
22 videotaped, I don't know.

23 Q Did you fully cooperate with law enforcement?

24 A Absolutely.

25 Q And did you know the defendant, Samuel Collins?

1 A No, ma'am. To my knowledge, I've never seen him
2 before.

3 Q Did you know his wife, Colette Collins?

4 A No, ma'am.

5 Q Okay. I'm going to show you, just for clarification,
6 what's been marked as State's Exhibit Number 11. Is that
7 a fair and accurate depiction of the back of your house?

8 A Yes, ma'am.

9 MS. SMITH: Okay. And at this point, Judge, I'd like
10 to move that into evidence, State's Number 11.

11 MR. FARLEY: No objection.

12 THE COURT: Motion's granted. You may publish.

13 (WHEREUPON, State's Exhibit Number 11 was admitted into
14 evidence.)

15 BY MS. SMITH:

16 Q And in looking at that photo, that clearly was not
17 taken the night of the crime.

18 A No, ma'am.

19 Q In that picture, I believe there is just one
20 difference, if we can zoom on the back porch.

21 A That picture was taken sometime after a good bit of
22 time after the -- after Jon's murder. You can see the
23 porch is screened in. I had it screened in afterwards.
24 And you can also see, if you zoom back out again, there
25 was a little vegetable garden put -- that dark brown spot

1 that runs parallel to the golf path there, that's a
2 vegetable garden that I put in after Jon was killed.

3 Q Okay. And you'll see where we've got marked as
4 Masters Way. Is that the road that runs parallel ---

5 A Yes, ma'am. That's a road that runs between
6 McCracken Circle and Bluffton Parkway.

7 Q And looking out from the back patio, is that the golf
8 course?

9 A That's the practice range. ---

10 Q Driving range?

11 A --- that you see on the left-hand side. The driving
12 range. Yes, ma'am.

13 MS. SMITH: Okay. I have nothing further for this
14 witness.

15 MR. FARLEY: Thank you, Judge.

16 CROSS EXAMINATION

17 BY MR. FARLEY:

18 Q You're an attorney; isn't that right?

19 A Yes, sir.

20 Q And you worked for the Solicitor's Office for over
21 five years back in the 80s, I think?

22 A I worked in the Solicitor's Office back in the 80s.
23 I don't recall that it was five years, but it was back in
24 Buster Murdaugh's tenure.

25 Q And the fact that you worked for the Solicitor's

1 Office wouldn't affect your ability to tell the truth here
2 today?

3 A Not in any way. After I left the Solicitor's Office,
4 I've defended numerous people charged with murder in the
5 last -- I'm 72 now, and my last murder trial was in this
6 courtroom when I defended a fellow sitting at the same
7 table you're sitting at now. It was a little less than
8 two years.

9 Q And I just have one more question. During the night
10 of the incident, you did not see anyone coming, any
11 suspect ---

12 A No, sir.

13 Q Anyone? The only people you saw was Rueby and the
14 victim; is that correct?

15 A And the victim and the police officers.

16 MR. FARLEY: All right. Thank you.

17 MS. SMITH: Judge, may this witness be excused?

18 THE COURT: Yes. Certainly. You may step down.

19 THE WITNESS: Thank you.

20 THE COURT: Call your next witness.

21 MS. SMITH: The State would call Joseph Rueby.

22 THE BAILIFF: Mr. Rueby, come forward please, sir.

23 WHEREUPON,

24 JOSEPH RUEBY

25 After having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SMITH:

Q Good morning, Mr. Rueby. How old are you?

A 30.

Q Okay. And where do you live?

A In Bluffton.

Q Okay. And what do you do for a living?

A I'm a line cook.

Q Okay. Where?

A Right now at Calhoun's.

Q Have you ever been in the military?

A Yes.

Q When was that?

A 2005 to 2009.

Q And what branch were you in?

A Navy.

Q Did you know Jon Cherol?

A Yes.

Q How long did you know him?

A Maybe a couple years.

Q How did you meet him?

A Through work.

Q Where were you working when you met him?

A At an event rental company.

Q Where were you working on October 27, 2015?

1 A At R Bar & Grill.

2 Q Okay. And what time did you get off that night?

3 A Around 11:30.

4 Q And where did you go after work?

5 A Over to Jon's house.

6 Q And do you know approximately what time you got
7 there?

8 A Around 12:00.

9 Q Okay. Who was present at -- you said Jon's house.
10 Is that ■ Pinecrest Way?

11 A Yes.

12 Q Okay. And who was there at the residence?

13 A Jon and Roberts.

14 Q Okay. Where was Roberts?

15 A He was in his room.

16 Q What were you there for?

17 A To hang out.

18 Q With who?

19 A Jon.

20 Q Jon? Okay.

21 And were you talking with Jon?

22 A Yes.

23 Q What were y'all talking about?

24 A He was talking about comics, and then we were talking
25 about a house I was trying to buy.

1 Q Did you ever go outside?

2 A After about 20 or 30 minutes, we went out to the back
3 patio.

4 Q Okay. And I'm going to show you a picture of State's
5 Exhibit Number 3, which has already been moved into
6 evidence. Is that the back area ---

7 A Yes.

8 Q --- where you were located with Mr. Cherol?

9 A Yes.

10 Q And where were you seated on the back patio?

11 A I was more to the left inside the patio.

12 Q Okay. Was that chair right next to the door going
13 out to the patio?

14 A It was on the same wall.

15 Q When y'all were sitting outside on the patio, what
16 were you talking about?

17 A The house I was trying to buy.

18 Q Okay. Was he going to move in with you?

19 A We were talking about it.

20 Q Do you recall anything about someone stopping by
21 earlier?

22 A When I got there, he said there is someone that came
23 by that he didn't know.

24 Q Was it a man or a woman?

25 A He said it was a woman.

1 Q And did he say when?

2 A About half an hour before I got there.

3 Q Okay. Did Roberts Vaux come out while you were
4 there?

5 A Yes.

6 Q Okay. How long did he stay out there with y'all?

7 A Not too long. Five or ten minutes or so.

8 Q Okay. Y'all were sitting there talking. What's the
9 next thing that happened?

10 A We heard a noise and looked around, and then Jon was
11 shot.

12 Q Was it just the two of y'all out there when he was
13 shot?

14 A Yes.

15 Q You said you heard a noise. What kind of noise?

16 A Sounded like a gun racking.

17 Q Were you looking at Jon when he was shot?

18 A Yes.

19 Q How many shots did you hear?

20 A I thought it was two.

21 Q Was there a pause in between the shots?

22 A Quick pauses. Pretty quick.

23 Q Did it sound like a shotgun?

24 A That's what I thought it was or sounded like.

25 Q It didn't sound like an automatic gun?

1 A I don't think so.

2 Q Was it dark out there that night?

3 A There was a patio light out to the left, and out to
4 the right was dark.

5 Q Okay. And where did the shots -- where did you hear
6 the shots coming from?

7 A It sounded like it was off to the right.

8 Q Okay. Where it was dark?

9 A Yes.

10 Q So it wasn't lit up outside when y'all were sitting
11 out there?

12 A No.

13 Q Okay. What did you do after Jon was shot?

14 A I went inside to find Roberts and tell him and call
15 9-1-1.

16 Q Where was Roberts when you went into the house?

17 A In his room.

18 Q Okay. What did you do?

19 A I was on the phone with 9-1-1. And Roberts said to
20 stay inside, so I went up to the front of the house.

21 Q I'm going to show you what's been marked as State's
22 Exhibit Number 1 that's already been entered into
23 evidence. I mean not Number 1. Excuse me. Number 11. Do
24 you recognize the back of the house?

25 A Yes.

1 Q Okay. And I know there's a screened porch in there
2 now.

3 You said the shots came from which side? If you were
4 looking out facing the driving range, which way did you
5 think they were coming from?

6 A To the right kind of like where the bushes are.
7 Towards that side.

8 Q Okay. Mr. Rueby, were you aware that Jon used drugs?

9 A Yes.

10 Q Do you know who he bought them from?

11 A No.

12 Q Okay. After Jon was shot, did you cooperate with law
13 enforcement?

14 A Yes.

15 Q And do you recall what happened after law enforcement
16 got there that night?

17 A Yes.

18 Q Okay. Did they bag your hands?

19 A Yes.

20 Q Okay. Did they interview you?

21 A Yes.

22 Q Okay. Do you recall being taken to the Bluffton
23 Police Department to be interviewed?

24 A Yes.

25 Q Okay. And do you recall Detective Odom performing a

1 gunshot residue kit on you, on your hands?

2 A I think so.

3 Q Did you give a written statement?

4 A Yes. At that house.

5 Q Okay. And did you actually give an audio and video
6 recorded statement?

7 A I think it was at the police station.

8 Q Okay. And did you give a second interview a couple
9 days later on the 30th of October?

10 A Yes.

11 Q And at that point, did you give your DNA to law
12 enforcement? Did they take a buccal swab inside of your
13 mouth?

14 A I think so. I don't remember when.

15 Q Did you voluntarily cooperate with the police
16 throughout this investigation?

17 A Yes.

18 MS. SMITH: Judge, that's all I have for this
19 witness.

20 THE COURT: Cross-examination?

21 MR. FARLEY: Yes, sir.

22 CROSS EXAMINATION

23 BY MR. FARLEY:

24 Q Have you ever seen the defendant before?

25 A No.

1 Q Did you see anyone that night?

2 A No.

3 Q All right. This is State's 11. Would you describe
4 that back porch kind of as an L-shaped back porch or a
5 90-degree angle?

6 A Yes.

7 Q And were you sitting against the -- let's say that
8 this is the porch. Were you sitting against this wall,
9 this wall, or the what's now screened in wall (indicating
10 throughout)?

11 A I guess it would be the wall against the house.

12 Q So against the house where you would have a view out
13 to the golf course?

14 A The wall this way, yes.

15 Q So you would have a clear view out to the golf
16 course?

17 A Yes.

18 Q And I understand it was dark, but you did not see
19 anyone?

20 A No.

21 Q You didn't hear anything except for what you believe
22 is the racking of a shotgun?

23 A Correct.

24 Q And you heard two shots in relatively quick
25 succession, right?

1 A Yes.

2 Q The victim used drugs. You said you knew that. Do
3 you know what kind of drugs he used?

4 A I know he had some prescriptions.

5 Q Was he prescribed those prescription drugs?

6 A As far as I knew.

7 MR. FARLEY: Okay. Nothing further, Judge.

8 MS. SMITH: Nothing further for this witness.

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

10 MS. SMITH: May he be excused?

11 THE COURT: Any objection to the witness being
12 excused?

13 MR. FARLEY: No objection.

14 THE COURT: Yes. You may be excused from your
15 subpoena.

16 Call the next witness.

17 MS. SMITH: Judge, may we approach?

18 THE COURT: All right.

19 If you'd like, ladies and gentlemen, you may stand
20 and stretch. That's what I'm doing.

21 (WHEREUPON, a bench conference was held off the record.)

22 THE COURT: Let's take a short recess, ladies and
23 gentlemen. Ask you to step in the jury room and remind
24 you it's too early to begin discussing the case. We'll be
25 back with you shortly.

1 (WHEREUPON, the jury exits the courtroom at 10:58 a.m.)

2 THE COURT: All right. We'll be in recess for five
3 minutes.

4 (WHEREUPON, a recess is taken at 10:58 a.m.)

5 THE COURT: Is the State ready for the jury?

6 MS. SMITH: Yes, sir.

7 THE COURT: You've got your witness?

8 MS. SMITH: Yes, sir.

9 THE COURT: Is the defense ready?

10 MR. FARLEY: Yes, Your Honor.

11 THE COURT: Bring the jury in.

12 (WHEREUPON, the jury entered the courtroom at 11:11 a.m.)

13 THE COURT: Welcome back, ladies and gentlemen. I
14 believe we are ready to resume the presentation of
15 evidence by the State.

16 Solicitor?

17 MS. SMITH: The State calls Baker Odom.

18 WHEREUPON,

19 BAKER ODOM

20 After having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SMITH:

23 Q Good morning.

24 A Good morning.

25 Q Officer Odom, where do you work?

1 A Bluffton Police Department.

2 Q Okay. And what do you do there?

3 A I'm currently on patrol. I'm a patrol officer.

4 Q How long have you worked for Bluffton Police
5 Department?

6 A About five and a half years.

7 Q Okay. And on October 2015, what was your role at
8 Bluffton Police Department?

9 A At that time, I was a detective with the Criminal
10 Investigation Division.

11 Q Okay. And specifically, what was your role in this
12 case?

13 A I was lead investigator for this case.

14 Q Okay. What does lead investigator mean?

15 A Just the primary person who is kind of in charge of
16 overseeing the entire case, gathering everything together
17 and making sense of it with the help of the rest of the
18 team.

19 Q Did you respond to ■ Pinecrest Way on
20 October 28, 2015?

21 A I did.

22 Q Okay. And what was the call? What called you out
23 there?

24 A I was -- I was on call that night and received a call
25 from I believe my supervisor at the time letting me know

1 that there was a report of -- or that we had a gunshot
2 victim at that residence, and that was essentially all the
3 information that I was given at that particular time.

4 Q And around what time did you arrive there?

5 A Around 12:30 a.m.

6 Q And when you got to the residence, who was there and
7 what was going on?

8 A When I got to the residence, I immediately observed
9 many other police officers already there. The scene was
10 taped off with crime scene tape. I observed Mr. Vaux and
11 Mr. Rueby out in front of the residence, both of whom had
12 their hands bagged by another officer that had already
13 arrived on scene earlier.

14 Q Let me stop you real quick. What does it mean when
15 their hands are bagged?

16 A Especially in cases where there is the potential for
17 evidence on someone's hands, in this case, you know,
18 gunshot residue, hands are often bagged in order to
19 preserve that evidence until it can be collected.

20 Q Okay. And is it literally somebody puts a bag around
21 their hands and tapes it?

22 A Yeah. In this case, I believe it was actually
23 evidence bags that were used, but they were paper bags.
24 And then some tape is placed around the wrist to make sure
25 the bags stay in place and that nothing falls out.

1 Q And what did you do next?

2 A I then walked -- I'm not sure if I walked through the
3 residence or around the residence, but I walked to the
4 rear of the residence where the victim was and observed
5 the victim sitting on the couch that was indicated
6 earlier.

7 Q Did you see anything else in the backyard?

8 A I also, near the southwest corner of the house,
9 observed the two shotgun shells. Both at the time were
10 marked with paper that had been placed there by the
11 officer that arrived on scene earlier.

12 Q I'm going to show you what's already been marked and
13 admitted into evidence, State's Exhibit Number 8, Number 7
14 and Number 9, starting with Number 8.

15 A (Reviews exhibits).

16 Q Is that one of the shells you were just talking
17 about?

18 A Yes, it is.

19 Q Okay. And then Number 9?

20 A That's the other shell.

21 Q Okay. And then Number 7. And is that the location
22 where they were off to the right of the patio?

23 A Yes, it is.

24 Q Did you conduct a gunshot residue kit on Joseph
25 Rueby?

1 A I did.

2 Q Okay. And you told us that his hands were bagged.

3 Tell us how you performed that test.

4 A After observing the scene, I went back to the front
5 and made contact with Mr. Rueby. I escorted him back to
6 my vehicle where I had a gunshot residue kit, which is
7 essentially a self-contained kit that is sealed until it's
8 used.

9 I unsealed the kit. There's instructions inside of
10 it that explain exactly how to perform the gunshot residue
11 kit, which I always use no matter how many times I had
12 done it before. I performed the kit on Mr. Rueby after,
13 obviously, taking his hands out of the bags, and then
14 resealed the kit just as instructed, again, on the
15 instructions included.

16 Q And what did you do with it after you sealed the kit?

17 A I took it back to the Bluffton Police Department and
18 submitted it into evidence.

19 Q Did you interview Mr. Rueby that morning?

20 A I did.

21 Q And where did you interview him?

22 A I briefly spoke to him on scene, and then asked if he
23 would be willing to come back to the police department and
24 have an interview with us in a more formal setting, audio
25 and video recorded, and he agreed.

1 Q Did he cooperate with you?

2 A Fully.

3 Q When you were on the scene, you said other officers
4 were there. Were you there prior to the SLED crime scene
5 agent getting there?

6 A Yes, I was.

7 Q Okay. And who was that?

8 A Jamie -- Agent Jamie Johnson, I believe.

9 Q Okay. And why would she come to the scene?

10 A Oftentimes for a crime that is maybe larger in scope
11 or scale than what we generally see, we'll call in SLED
12 just as an assist to -- they have expertise that we might
13 not necessarily have, and they help in the collection of
14 evidence or whatever else we need.

15 Q Okay. And for the jury, what does SLED stand for?

16 A The South Carolina Law Enforcement Division.

17 Q Okay. And did she collect any items of evidence?

18 A She did.

19 Q Okay. And did she turn those items over to you?

20 A Yes, she did.

21 (WHEREUPON, State's Exhibit Numbers 47, 48 and 49 were
22 marked for identification.)

23 BY MS. SMITH:

24 Q I'm going to show you what's been marked for
25 identification purposes only State's Number 47, 48 and 49.

1 A (Reviews exhibits).

2 Q Do you recognize those items?

3 A I do.

4 Q Are those the items that Agent Johnson collected and
5 turned over to you?

6 A Yes, they are.

7 Q Okay. What is the first item?

8 A Exhibit 47 is labeled as DNA swabs, which are the
9 swabs that the agent took from the shotgun shells
10 themselves.

11 Q Okay. What's the next?

12 A Number 48 is a shotgun shell.

13 Q Okay. And the next one?

14 A And Number 49 is also a shotgun shell.

15 Q Okay. And when Agent Johnson turned these items over
16 to you, what did you do with him?

17 A I then took them back to the Bluffton Police,
18 Department and submitted them into evidence.

19 Q Detective Odom, were these items sealed when she
20 turned them over to you?

21 A Yes.

22 Q And did you do anything with them before taking them
23 back to the evidence department?

24 A No.

25 Q Officer, did you attend the autopsy of Jon Cherol on

1 October 29th?

2 A Yes, I did.

3 Q Okay. What did you do there?

4 A I observed the autopsy and then collected any
5 evidence that the individuals there collected from the
6 victim's body.

7 Q Do you recall what you collected?

8 A There were several items, but in particular, multiple
9 shotgun shells or shotgun bullet fragments from inside the
10 victim's body.

11 (WHEREUPON, State's Exhibit Number 50 was marked for
12 identification.)

13 BY MS. SMITH:

14 Q And I'm going to show you what the State has marked
15 as State's Exhibit Number 50 for identification only. Are
16 these the items that you collected from the autopsy?

17 A Yes, they are.

18 Q And what did you do with those items after you
19 collected them at the autopsy?

20 A Brought them back to Bluffton to the police
21 department and submitted them into evidence.

22 Q And were they sealed when you brought them back?

23 A Yes, they were.

24 Q Throughout the course of this investigation, did you
25 interview Colette Collins?

1 A Yes.

2 Q And was that interview conducted on October 29th with
3 Captain Babkiewicz?

4 A Yes, it was.

5 Q Was she arrested in conjunction with this case?

6 A Yes, she was.

7 Q What was she arrested for?

8 A Murder.

9 Q Did you interview Sam Collins?

10 A I did.

11 Q Did you interview him on October 30, 2015?

12 A Yes, I did.

13 Q Can you tell me how that interview came about?

14 A Myself and Captain Babkiewicz went to Mr. Collins's
15 residence and briefly spoke with him there and asked if
16 he'd be willing to come back with us to the police
17 department. He agreed. We went back to the police
18 department so we could audio/video record the interview,
19 and that's how that came about.

20 Q How did he get into the police department?

21 A Someone from the police department gave him a ride.
22 I cannot remember exactly how he got there, but someone
23 from the police department.

24 Q Okay. But he came voluntarily; is that correct?

25 A Absolutely.

1 Q Okay. He was not under arrest at the time?

2 A No. He was not.

3 Q Did you collect his DNA sample?

4 A I was the one who -- he collected it himself.

5 Q Okay. Well, let me ask you this to back up a little
6 bit. Did Mr. Collins voluntarily give you a DNA sample?

7 A Yes. Yes, he did.

8 Q Okay. And how do you get a DNA sample from someone?

9 A My standard practice is to have the person collect it
10 themselves to minimize the chance of exposure. So I
11 brought in a -- it's a sealed bag that has two DNA swabs
12 in it. They're basically Q-tips. I ripped it open and
13 then had him pull one of the DNA swabs out. He then
14 swabbed his own mouth. I then had a box that the DNA swab
15 goes into. I had that box open, held it out to him. He
16 placed the DNA swab back into the box, and I closed the
17 box.

18 Q And is that called a buccal swab?

19 A Yes, it is.

20 Q And when you say -- he just swabs the inside of his
21 cheeks?

22 A Yeah. Just right inside his cheek.

23 Q Okay. I'm going to show you what's been marked as
24 State's Exhibit Number 51.

25 ///

1 (WHEREUPON, State's Exhibit Number 51 was marked for
2 identification.)

3 BY MS. SMITH:

4 Q Do you recognize this?

5 A Yes.

6 Q And tell us what it is.

7 A This is the DNA sample provided by Samuel Collins.

8 Q Okay. And what did you do after you sealed up the
9 kit?

10 A I took it back into our evidence room and submitted
11 it into evidence.

12 Q Were you wearing gloves when you obtained this buccal
13 swab from Mr. Collins?

14 A No, I wasn't.

15 Q Okay. Is there any particular reason why?

16 A No. No, there's not. No good reason.

17 Q Did you ever touch the actual swab? You said it's
18 like a Q-tip-like thing.

19 A Uh-huh.

20 Q Did you ever touch it?

21 A No. I never touched.

22 Q Okay. And I believe you testified, but just to
23 clarify, Mr. Collins gave this swab to you freely and
24 voluntarily?

25 A Oh, absolutely.

1 Q Okay. Was he arrested after that?

2 A No, he was not.

3 Q Did he go home that day?

4 A He did.

5 Q All right. As a result of these interviews that you
6 conducted, did you obtain a search warrant for Colette and
7 Samuel Collins's residence at 15 Buck Point Road?

8 A We did.

9 Q Okay. And what did you find there?

10 A On that particular day for that search warrant, we
11 found a -- numerous cell phones and a gun and some
12 ammunition.

13 Q And I'm going to show you what's previously been
14 marked as State's Number 37, 38, 39, 40 and 41. Take a
15 look at those. Are those fair and accurate depictions of
16 the items you found at 15 Buck Point Road?

17 A (Reviews exhibits) Yes, they are.

18 MS. SMITH: Judge, at this time, I would ask to enter
19 these into evidence.

20 MR. FARLEY: No objection.

21 THE COURT: Motion's granted.

22 (WHEREUPON, State's Exhibit Numbers 37, 38, 39, 40 and 41
23 were admitted into evidence.)

24 MS. SMITH: May I publish to the jury?

25 THE COURT: You may publish.

1 MS. SMITH: Thanks.

2 BY MS. SMITH:

3 Q Are these the various phones that you collected?

4 A Yes.

5 Q Okay. And these were all located within the
6 residence?

7 A Yes, ma'am.

8 Q Okay. Did you obtain a search warrant on
9 November 12th for the residence of a William Cody Brown?

10 A Yes, I did.

11 Q Okay. And where was his residence located?

12 A His residence was located at 230 Hitching Post
13 Crescent, which is in the Farm subdivision.

14 Q Okay. And do you recall what was collected from that
15 house? Not that -- I don't know that you specifically
16 didn't collect it, but what did you find at the residence
17 of Mr. Brown?

18 A Sure. Among other things, there was a camouflage
19 shotgun, camouflage clothing, a black hat, a cell phone
20 and a shotgun shell.

21 Q Did you interview Mr. Brown with Captain Babkiewicz?

22 A Yes, I did.

23 Q Did he voluntarily speak to police?

24 A Yes, he did.

25 Q And during that interview, did you collect a DNA

1 sample from Mr. Brown?

2 A Yes, we did.

3 Q Okay.

4 (WHEREUPON, State's Exhibit Number 52 was marked for
5 identification.)

6 BY MS. SMITH:

7 Q I'm going to show you what's been marked as State's
8 Number 52.

9 A Okay. (Reviews exhibit).

10 Q Tell us what that is.

11 A This is the DNA swab collected from Mr. Brown.

12 Q Okay. And how did you obtain that DNA?

13 A By consent from Mr. Brown.

14 Q Okay. And did you perform the same test you just
15 described to us?

16 A Yes.

17 Q Okay. With the buccal swab?

18 A Correct.

19 Q Did you ever touch that swab?

20 A No, I did not.

21 Q Do you recall on November 13th turning over these
22 items that were collected pursuant to these search
23 warrants to the Beaufort County Sheriff's Office for DNA
24 analysis?

25 A Yes.

1 Q Okay. And who did you turn them over to?

2 A I believe it was Mr. Garinger.

3 Q Is he with the Beaufort County Sheriff's Office?

4 A The lab over there. Yes, ma'am.

5 Q Were all the items sealed when you turned them over
6 to Beaufort County Sheriff's Office?

7 A Yes, ma'am.

8 MS. SMITH: I have nothing further for this witness.

9 THE COURT: Cross-examination?

10 MR. FARLEY: Thank you, Judge. If it pleases the
11 Court.

12 CROSS EXAMINATION

13 BY MR. FARLEY:

14 Q Hello, Detective Odom.

15 A How are you doing?

16 Q So let's start with the scene of the crime. Were you
17 able to observe the back porch where the scene actually
18 happened, where the crime happened?

19 A Yes, sir.

20 Q Did you observe a marijuana pipe on the table, on the
21 coffee table?

22 A Yes, I did.

23 Q What was the victim holding when you saw him?

24 A He had a cell phone still in his hands.

25 Q Were you able to read what was written on that cell

1 phone?

2 A I'm not sure if I was able to read it right then or
3 after it was removed from his hands, but yes, I was able
4 to eventually read what was on there.

5 Q And can you tell me what was written on the cell
6 phone, the last two texts?

7 A It appeared that he was actually in the middle of
8 texting, and he had received from a particular number a
9 text that said, and I'm quoting, "Shoot his ass. I don't
10 give a fuck anymore."

11 Q And you said that he was in the process of -- whoever
12 had the phone was in the process of writing a response?

13 A Yes.

14 Q And what was the response?

15 A Now, that text I just read came into the phone and it
16 appeared another text was being written by the victim,
17 correct.

18 Q So tell us the one that's in the process of being
19 written but not yet sent.

20 A Sure. It just read, "Why? What happened?" And
21 then, "OIU," which I assume was a misspelling of
22 something.

23 Q Let's turn to the DNA sample that you took from
24 Mr. Rueby. He voluntarily give you that ---

25 A Yes, he did.

1 Q --- with no hesitation?

2 How about the one from Mr. Vaux? Did he give that to
3 you, no hesitation?

4 A I'm not positive I was directly involved in the DNA
5 sample from Mr. Vaux, but he also cooperated the entire
6 time.

7 Q And Cody Brown, did he give you a DNA sample
8 voluntarily?

9 A Yes. Mr. Brown also cooperated the entire time.

10 Q And Samuel Collins, did he give you a DNA sample
11 voluntarily?

12 A Yes, he did.

13 Q How long would you estimate the interview with the
14 defendant lasted?

15 A Somewhere between 45 minutes to an hour.

16 Q At any point during that interview, did he say that
17 he was involved in this crime whatsoever?

18 A No, he didn't.

19 Q In fact, he denied it multiple times during the
20 interview; isn't that correct?

21 A That's correct. He did.

22 Q Do you recall if you were wearing gloves when the DNA
23 samples were taken from Rueby, Vaux or Brown?

24 A I'd have to go back and review the video. I'm not
25 positive.

1 Q I'm going to turn to the search warrant of Cody
2 Brown's house and vehicle. When you went into that house
3 -- I mean, where did you find the shotgun?

4 A The shotgun was located inside of the gun cabinet at
5 his residence.

6 Q And you also obtained some camouflage clothing?

7 A That's correct. We did.

8 Q What all did you get along with the camouflage
9 clothing? I think you got some stuff out of the back of
10 the truck?

11 A I'm not sure where each item was taken from. The --
12 like I said, the items that I know that we got were the
13 camouflage shotgun, camouflage clothing, black hat, a cell
14 phone and the shotgun shell.

15 MR. FARLEY: If I may have a moment.

16 THE COURT: All right.

17 BY MR. FARLEY:

18 Q When you performed the search warrant on Sam's house,
19 you said you seized several phones; is that correct?

20 A That's correct.

21 Q And through the course of your investigation, you
22 tried to identify whose phones, what those were, what
23 phones they were; isn't that correct?

24 A That's correct.

25 Q And during the course of your investigation,

1 especially pertaining to the defendant's house, how many
2 phones did you find total?

3 A Specifically in the defendant's house?

4 Q Yes.

5 A I believe during that search warrant there were five
6 cell phones found in the defendant's house.

7 Q So there were five separate cell phones found in the
8 defendant's house?

9 A I believe so.

10 Q Do you recall identifying Sam Collins as owning three
11 separate phones, three phone numbers connected directly to
12 Samuel Collins?

13 A I remember he had several phone numbers connected to
14 him. I was not the detective who actually identified
15 those, so I wouldn't speak to the exact number.

16 Q And his codefendant, Colette, she had a phone?

17 A She did.

18 Q So we're dealing with five, six phones if you count
19 Colette's; is that ---

20 A I believe Colette's phone was included in the five
21 there, but ---

22 Q I know. It's a mess. But there were definitely more
23 than just two phones?

24 A Yes, there were.

25 Q Around five -- there were five phones, you believe?

1 A Yes.

2 Q And each had a separate number?

3 A Yes. As far as I know.

4 MR. FARLEY: Thank you. Just one more moment, Judge.

5 BY MR. FARLEY:

6 Q And finally, during your course of your
7 investigation, did you have an opportunity to observe the
8 defendant? I know that's a silly question.

9 A Yes. I did observe the defendant during the
10 investigation.

11 Q Could you describe the defendant, give us a
12 description of the defendant?

13 A He's a pretty tall individual. He's certainly taller
14 than me. At the time, he was much thinner than he is now.
15 He walks with a limp. And at the time, I believe he also
16 had a beard.

17 Q So tall, skinny, beard, and then he walks with a
18 limp?

19 A Correct.

20 Q A noticeable limp?

21 A Correct.

22 MR. FARLEY: Thank you. I have no further questions.

23 THE COURT: Redirect?

24 MS. SMITH: Judge, that's all I have for this
25 witness.

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

2 You may call your next witness.

3 MS. SMITH: I call Jamie Johnson.

4 WHEREUPON,

5 JAMIE JOHNSON

6 After having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. SMITH:

9 Q Good morning, Ms. Johnson.

10 A Good morning.

11 Q Where do you work?

12 A I currently work for the Lexington County Sheriff's
13 Department.

14 Q Okay. And what do you do there?

15 A I'm a deputy and a crime scene investigator.

16 Q How long have you been with the Lexington County
17 Sheriff's Department?

18 A This is my fourth week.

19 Q Okay. Where were you prior to that?

20 A The State Law Enforcement Division or SLED.

21 Q How long were you there?

22 A Approximately five years.

23 Q Okay. And what did you do there?

24 A I was a special agent in the Crime Scene Unit at
25 SLED.

1 Q What's your educational background?

2 A I have a bachelor's degree in forensic science from
3 Baylor University in Texas and a master's degree in
4 forensic science from Marshall University in West
5 Virginia.

6 Q Were you called to ■ Pinecrest Way in Bluffton on
7 October 28, 2015?

8 A Yes, I was.

9 Q Okay. And who called you?

10 A Our process of getting notified is usually through
11 our operations desk which we refer to as OD, and that's
12 essentially our dispatch.

13 Q When you say "our," you mean SLED?

14 A Yes. SLED dispatch.

15 Q And who called you?

16 A For this case, it was specifically Bluffton Police
17 Department that was requesting our assistance with a
18 homicide that they were investigating.

19 Q And approximately when did you arrive on the scene?

20 A Myself and Agent Brittany Burke, who I was working
21 with at that time, we arrived on scene at 4:18 a.m.

22 Q And who did you meet with when you got there?

23 A The first person that we met with was Lieutenant
24 Babkiewicz who was with Bluffton Police Department.

25 Q Okay. What did you do once you got there?

1 A When we arrived on scene, we did what we normally do
2 on scene which is make contact with either the lead
3 detective or investigator or lead SLED agent and just kind
4 of get a rundown of what's happened and the information
5 that they have, and then after that, we do what we call an
6 initial walk-through of the crime scene.

7 Q Okay. And tell us about your initial walk-through of
8 the scene.

9 A Normally what we're looking for is just the events
10 that have transpired, just kind of seeing what the layout
11 of the scene looks like, trying to get an idea of the type
12 of equipment that we may need, the types of evidence that
13 we're going to be looking for. So in this case, we did an
14 initial walk-through of the backyard area of the residence
15 and the area that the victim was located.

16 Q And what did you observe?

17 A We notice at the time that the victim happened to
18 still be sitting in a -- I guess it was a porch, porch
19 area, porch chair, and was still sitting upright at that
20 time and was deceased.

21 Q And I'm going to show you what's been marked and
22 entered into evidence at State's Number 3. Is that the
23 area that you were referring to?

24 A Yes, ma'am.

25 Q And is that actually the victim still sitting there?

1 A That is.

2 Q And that's the way the scene looked when you arrived?

3 A Correct.

4 Q Okay. What else did you do in the backyard? What
5 else did you observe besides the victim?

6 A Bluffton Police Department had already placed two
7 pieces of paper down to mark items of evidence. So
8 normally what we do is photograph the scene as is first,
9 and then in this situation, we put down yellow placards or
10 markers to mark the areas that had been previously marked
11 with the pieces of paper.

12 Q Did you observe anything with the residence next door
13 to ■ Pinecrest?

14 A Yes, I did.

15 Q Okay. Tell me what you saw.

16 A In the residence next to this was, which is actually
17 you can see -- this is going to be the residence that's in
18 the background of this photograph on the left-hand side.

19 Q And, Ms. Johnson, if I may approach and show you
20 what's been marked and admitted into evidence at State's
21 Number 5, is that the residence you're referring to?

22 A Yes.

23 Q Okay. And tell me -- sorry. I interrupted you.

24 A You're fine.

25 That's the residence next door to the victim's

1 residence, and what we noticed was in the approximate area
2 of where that bush kind of brushes up against the siding,
3 there were defects within the siding consistent with
4 shotgun pellet defects.

5 Q And I'm going to hand you what's been marked as
6 State's Exhibit Number 6 and previously admitted into
7 evidence. Are those the defects that you're talking
8 about?

9 A Yes.

10 Q And what is that consistent with?

11 A That would be -- from a crime scene standpoint, we
12 would say that's consistent with a fired shotgun round.

13 Q Okay. Did you do anything with the pellets that were
14 left in the residence?

15 A We did not. We scaled the defects and we took
16 photographs of them, but between myself and Agent Burke as
17 well as Lieutenant Babkiewicz, a joint decision was
18 decided to leave the pellets within the residence.

19 Q Why?

20 A From what I was told while on scene, that residence
21 was vacant, and Bluffton PD was not sure how to obtain
22 keys to make entry into the residence. So at that time,
23 they were left in the siding.

24 Q Is there anything that could have been done with
25 those pellets? Is there anything the firearms division of

1 SLED could have done with them?

2 A To my knowledge, no.

3 Q What else did you do, Agent Johnson?

4 A In addition to re-marking the two items of evidence
5 that had previously been marked, myself and Agent Burke
6 marked a third item of evidence, which was a footwear
7 impression that was marked as Marker 3.

8 Q I'm going to hand you what's previously been marked
9 as State's Exhibit Number 10 and ask you to take a look at
10 this and identify and see if that's a fair and accurate
11 depiction of the print that you were just describing.

12 A Yes, it is.

13 MS. SMITH: Judge, at this time, I would enter that
14 into evidence.

15 MR. FARLEY: No objection.

16 THE COURT: Motion's granted. You may publish.

17 (WHEREUPON, State's Exhibit Number 10 was admitted into
18 evidence.)

19 BY MS. SMITH:

20 Q All right. And tell us -- and this is a tire
21 impression, Agent Johnson?

22 A This is a footwear impression.

23 Q Footwear impression. Excuse me.

24 And that was located where?

25 A This was in close proximity to Markers 1 and 2 and

1 would be in the soil near a window at the rear of the
2 residence.

3 Q Okay. What else did you do, Agent Johnson?

4 A Myself and Agent Burke took what we consider per our
5 policy to be postmortem major case prints, which are
6 fingerprints and palm prints of the victim prior to him
7 being transported from the scene by the corner.

8 Q And what did you do with those prints?

9 A Those were transported back to the SLED forensics
10 services laboratory and logged in as an item of evidence.

11 Q And were they sealed when you turned them in?

12 A Yes.

13 Q Did you do anything else in the rear of the
14 residence?

15 A No, ma'am.

16 Q Okay. Did you observe any tire impressions?

17 A Yes, we did.

18 Q Okay. And I'm going to show you what's been marked
19 as State's Number 12 and Number 16. First, I'm going to
20 show you State's Number 12. Is that a fair and accurate
21 depiction of the tire tracks?

22 A Yes, it is.

23 Q Or impressions?

24 A Yes.

25 Q Where was that located?

1 A This was just off of, I believe, Masters Way, which
2 ran perpendicular to Pinecrest Way, which is where the
3 residence was located.

4 MS. SMITH: And, Judge -- I believe I asked you if
5 that's a fair and accurate depiction. Can we move that
6 into evidence at this time?

7 MR. FARLEY: No objection.

8 THE COURT: Motion's granted. You may publish.

9 (WHEREUPON, State's Exhibit Number 12 was admitted into
10 evidence.)

11 THE WITNESS: So the road on the left-hand side is
12 going to be Masters Way. We see in the foreground
13 extending into the background of the picture two parallel
14 lines which are going to be consistent with tire
15 impressions, and this road runs -- in this area both run
16 perpendicular to Pinecrest Way.

17 BY MS. SMITH:

18 Q Were you able to do anything with these tire
19 impressions?

20 A For this they were strictly photographed. Normally
21 with impression evidence such as footwear and tires, we're
22 looking for some type of three-dimensional or
23 two-dimensional detail in a soil or a dirt or something
24 like that. With these tire impressions, they were just in
25 the grass. And we could tell that the grass was laid down

1 consistent with tire impressions, but there was no detail
2 for us to photograph.

3 Q In looking at that photo, was it raining that night?
4 Is that what those drops are?

5 A That is rain.

6 Q Okay. Next to where these tire impressions were
7 located, was there a path in the woods?

8 A There was. It wasn't what I would call as clean-cut,
9 but we did walk the area from these tire impressions
10 through a wooded area to the rear of the residence.

11 Q And I'm going to hand you what's been marked as
12 State's Exhibit Number 16. Is this a fair and accurate
13 depiction of that area that you just described?

14 A Yes, it is.

15 MS. SMITH: Judge, at this time, I would move 16 into
16 evidence.

17 MR. FARLEY: No objection.

18 THE COURT: Motion's granted, and you may publish.

19 (WHEREUPON, State's Exhibit Number 16 was admitted into
20 evidence.)

21 BY MS. SMITH:

22 Q Okay. And can you describe where that car is, is
23 that Masters Way?

24 A Yes, it is.

25 Q Okay. And does that path go -- if you go straight

1 down that path towards that car, is that where the tire
2 impressions were located?

3 A Yes, ma'am.

4 Q And if you follow that path away from the car
5 towards, I guess, the golf course, would that take you to
6 the backyard of [REDACTED] Pinecrest Way?

7 A It does.

8 Q All right. We discussed that you collected some
9 items of evidence ---

10 A Correct.

11 Q --- that evening. I'm going to show you what's
12 previously been marked for identification as State's
13 Number 47, 48 and 49 and ask if you recognize those items.

14 A (Reviews exhibits) 48 and 49 and 47 is DNA swabs,
15 which would be swabs that I took from Items 48 and 49. 48
16 and 49 I recognize because my writing and my initials are
17 on them.

18 Q What are 48 and 49?

19 A 48 is one -- as it's listed, it's one unfired shot
20 shell from Marker 1, which is going to be per the firearms
21 examination actually a misfired shot shell.

22 Q What's the other one, 49?

23 A 49 is one fired shot shell from Marker 2.

24 Q And are these two items the ones that are depicted in
25 State's Number 7?

1 A Yes, they are.

2 Q And once you collected these items, what did you do
3 with them?

4 A After collection, they were swabbed for touch DNA by
5 myself, and then both the shot shells and the touch DNA
6 swabs were transferred to Bluffton Police Department via
7 chain of custody form.

8 Q Okay. And when you say you swabbed those items for
9 DNA, how do you do that?

10 A With touch DNA, there's two swabs in a swab package
11 that we get. We wet one swab with deionized water, and
12 holding both swabs together, one wet and one dry, swab
13 over the entire exterior surface of each shot shell.

14 Q Where did you place these items in when you turned
15 them over to Bluffton?

16 A They were placed separately in small manila coin
17 envelopes.

18 Q Okay. 47, 48 and 49?

19 A I can't tell by looking at the outside packaging of
20 47, but 47 would have been placed also in a small manila
21 coin envelope.

22 Q Okay. Would it have been sealed?

23 A Yes, ma'am.

24 Q And what about 48 and 49? Would they have been
25 sealed as well?

1 A Sealed as well, correct.

2 MS. SMITH: Judge, at this time, I would move State's
3 Number 48 and 49 into evidence.

4 MR. FARLEY: No objection.

5 THE COURT: Motion's granted.

6 (WHEREUPON, State's Exhibit Numbers 48-and 49 were
7 admitted into evidence.)

8 BY MS. SMITH:

9 Q Who did you turn these items over to for Bluffton?

10 A These items were turned over to Detective Baker Odom.

11 Q Was he on the scene when you were there?

12 A He was.

13 MS. SMITH: Okay. That's all the questions I have
14 for you. Thank you.

15 THE COURT: Cross-examination?

16 MR. FARLEY: Yes, sir.

17 CROSS EXAMINATION

18 BY MR. FARLEY:

19 Q Bear with me. I'm going to try to use the
20 old-fashioned technology.

21 A I've got some photos up here.

22 Q Thank you.

23 That's Item 3; isn't that correct? Is that Item 3?

24 A Yes, it is.

25 Q As a crime scene analyst, you've taken footwear

1 impressions before; is that correct?

2 A That's correct.

3 Q What is your protocol for taking a footwear
4 impression? How do you actually go about it?

5 A Do you mean with photographs or actually ---

6 Q With the actual -- well, isn't it true that you take
7 an actual physical sample of the footprint?

8 A Sometimes, but not in -- not in every case.

9 Q Okay. It is possible though; is that correct?

10 A That's correct.

11 Q And SLED has its own footwear analysis lab, doesn't
12 it?

13 A We have designated footwear and tire tread examiners
14 within the crime scene unit.

15 Q And was any of this turned over to that department or
16 those investigators?

17 A The photographs that we took were what we called
18 examination-quality photographs, and they were taken in
19 the event that we had a known shoe to compare it to.

20 Q Okay. But you did nothing else besides take
21 photographs of these -- of the shoe print -- well,
22 presumed shoe print?

23 A Just photographs.

24 Q I'm going to point you to State's 16 just for
25 clarification there. Can you see this car right there

1 (indicating)?

2 A I can.

3 Q Does that have anything to do whatsoever with this
4 case?

5 A To my knowledge, no.

6 Q When you investigate a crime, you make a report;
7 isn't that correct?

8 A Correct.

9 Q And isn't it important to -- well, why do you make a
10 report?

11 A Reports are done from our Crime Scene Unit to
12 describe what we've seen on scene and to also, for our
13 purposes, attach different documents to the official
14 report that goes out per our policy.

15 Q This crime happened two years ago, didn't it?

16 A It did.

17 Q It's hard to remember exact details from a crime that
18 happened two years ago, isn't it?

19 A That's correct.

20 Q Is that one of the reasons -- another one of the
21 reasons why you write a report?

22 A It is.

23 Q And when you write a report, isn't it important to
24 take down every single detail as properly as you possibly
25 can?

1 A We make the best effort to put down as many details
2 and correct details as possible.

3 Q Have you seen your report lately? Did you review it
4 before you came here?

5 A I did.

6 Q And on your report, you listed the address of the
7 location as ■ Pinecrest Way. In fact, there's been
8 testimony in court today that the address was ■ Pinecrest
9 Way. And you made that mistake multiple times. Can you
10 explain that mistake?

11 A That was an oversight on my part when typing my final
12 crime scene notes for the report due to myself looking at
13 the address in our iLAB program, which is our login
14 program. It had initially been logged in incorrectly, and
15 I made an oversight and failed to correct that.

16 Q Are you aware of any other mistakes that you may have
17 made while investigating this?

18 A No.

19 Q You said that you took DNA swabs from those shells?

20 A That's correct.

21 Q Shotgun shells; is that correct?

22 A Yes.

23 Q Did you ever hear back on what the results of those
24 swabs were?

25 A I did not. Those were turned over to Detective Odom

1 for their analysis.

2 Q Did you fingerprint those swabs -- I mean fingerprint
3 those shells?

4 A I did not, and to my knowledge -- well, I know SLED
5 crime scene did not.

6 Q You initially -- I'm going to show you State's 8 -- I
7 mean State's 8, and it has a big Number 1, so just to
8 confuse us just a little bit more. You labeled that as a
9 fired shotgun shell; is that correct?

10 A Marker -- Marker 1, I believe I labeled that as an
11 unfired.

12 Q And then Marker 2 is a fired shell; is that correct?

13 A That's correct.

14 Q And how many total shells did you recover?

15 A We recovered two.

16 Q During the course of your investigation, you also
17 went inside of the house; is that correct?

18 A Yes, we did.

19 Q Did you observe any drugs in the house?

20 A We did.

21 Q Do you recall what kind of drugs?

22 A In my notes I have listed Xanax and then some other
23 prescription bottles within the residence.

24 Q Would you say that these prescription bottles were
25 throughout the entire house?

1 A I don't know if I would say throughout the entire
2 house, but there were multiple bottles located within the
3 residence.

4 Q Did you find some Trazadine [phonetic]? tizanidine.

5 A Tizanidine?

6 Q Tizanidine?

7 A Yes.

8 Q And Stireptilene [phonetic]?

9 A Yes.

10 Q My wife's better at prescriptions.

11 If you will please bear with me.

12 Do you have those shotgun shells?

13 A I do.

14 MR. FARLEY: May I approach the witness?

15 THE COURT: You may.

16 BY MR. FARLEY:

17 Q On Item 48 ---

18 MR. FARLEY: May I approach the witness again?

19 THE COURT: You may.

20 BY MR. FARLEY:

21 Q We're going to have to cooperate to figure out what's
22 going on. Item 48, it's from Marker 1; is that correct?

23 A Marker 1.

24 Q And where on this item do you put the item number?

25 Because you assign it an item number; is that correct?

1 A Our iLAB login system assigns it an item number,
2 which is different from the marker number.

3 Q Correct. So marker is out, now this is the item.
4 How do you -- where would you indicate the item number on
5 that piece of evidence?

6 A So initially it says "one unfired shot shell from
7 Marker 1." That would be the yellow placard from the
8 crime scene pictures. And then on here would be a lab
9 number and item number and my initials corresponding to
10 the item number that's given by the login system.

11 Q And what item number given by the login system is
12 that?

13 A This would be Item 5.

14 Q Item 5. May I have that?

15 So this is Marker 1, Placard 1?

16 A Placard 1, yeah.

17 Q Placard 1.

18 This is the unfired shotgun shell.

19 A Uh-huh.

20 Q This is the actual unfired shotgun shell, correct?

21 A That's correct.

22 Q And this is SLED Item Number 5?

23 A SLED Item Number 5.

24 Q All right. We'll see if I got this now. So I'm
25 going to try. This is Placard 2.

1 A Correct.

2 Q This is an unfired shotgun shell.

3 A That's a fired.

4 Q I mean fired shotgun shell.

5 A Yep.

6 Q And right here, fired shotgun shell from Marker 2,
7 correct?

8 A Correct.

9 Q Then we turn it to the -- I think it's right here.
10 Where is the SLED item number?

11 A The approximate middle of the envelope, it has an
12 L-15 number, which is the SLED lab number that corresponds
13 to this case, and underneath that on the left-hand side it
14 says I-6, which represents Item 6 or SLED Item 6.

15 Q So from Placard 2 to SLED, this is now known to SLED
16 as Item 6.

17 A Yes.

18 Q An unfired shotgun shell -- I mean a fired shotgun
19 shell from the scene.

20 A Correct.

21 Q You testified it was raining; isn't that correct?

22 A That's correct.

23 Q You testified that you took photographs for a
24 footwear impression; is that correct?

25 A Yes.

1 Q You said that that foot impression was never analyzed
2 by SLED in Columbia; is that correct?

3 A Correct. Because we didn't have a known impression
4 for that comparison to take place.

5 Q The car in that photo that we saw, that has no
6 relationship to the scene of the crime -- to the crime
7 itself?

8 A No.

9 Q You took DNA swabs from the shells?

10 A That's correct.

11 Q You didn't take fingerprints from the shotgun shells?

12 A I did not, no.

13 MR. FARLEY: I don't have any further cross, Judge.

14 THE COURT: Any redirect?

15 MS. SMITH: Nothing further for this witness. May
16 she be excused?

17 THE COURT: Thank you, ma'am. You may step down, and
18 you may be excused from your subpoena.

19 THE WITNESS: Thank you.

20 THE COURT: Call your next witness.

21 MS. SMITH: Judge, may we approach?

22 THE COURT: Okay.

23 (WHEREUPON, a bench conference was held off the record.)

24 THE COURT: Ladies and gentlemen, I'm going to be
25 required to hear some matters outside of your presence,

1 and so it may be a good time to go ahead and just take a
2 lunch break till 1:30. So ladies and gentlemen, see you
3 back at 1:30.

4 To remind you, it's too early to begin discussing the
5 case, and don't let anybody talk to you about the case.
6 See you back at 1:30.

7 (WHEREUPON, the jury exits the courtroom at 12:11 p.m.)

8 THE COURT: All right. We have a motion to suppress.
9 Is that what we have?

10 MR. FARLEY: Yes, Your Honor. If you would just bear
11 with me a second, please.

12 Judge, I'm going to briefly review what the State
13 plans to introduce, if that pleases the Court.

14 (Pause in proceedings.)

15 MR. FARLEY: Judge, I'm prepared if you are.

16 THE COURT: All right.

17 MR. FARLEY: Judge, the State wishes to introduce two
18 text messages. If the Court will, I can read them. They
19 are very brief.

20 The first one is (as read): I hope you don't wake up
21 from this text. Put gun back in the truck. Was going to
22 wrap it in that camo. Gloves in there too. Had a late
23 night ride. Just been us. No -- no JT crew in the
24 morning. Just let me. See you soon. Thanks.

25 And then there's another text message that says (as

1 read): You haven't seen me. I haven't said you --
2 haven't seen you.

3 The State has to prove that the message came from the
4 device in question. They've also got ---

5 THE COURT: Help me understand something. The text
6 messages were on somebody's phone?

7 MR. FARLEY: Oh, yes, sir. Sorry. I left out that
8 blank. The text messages were from -- allegedly from the
9 phone of the defendant, and they were sent to the phone of
10 Cody Brown. The defendant is obviously the defendant.
11 Mr. Brown is the gentleman they executed the search
12 warrant on and found the shotgun at his house.

13 THE COURT: Okay.

14 MR. FARLEY: So the State needs to authenticate that
15 the message came from the device in question. The State
16 has to overcome the hearsay. Obviously, it's hearsay in
17 there. You can't cross-examine a cell phone or a text
18 message.

19 And even if the phone, they can authenticate that
20 that phone is what sent it, that phone, the other phone is
21 what received it, it's impossible for them to authenticate
22 that the person who owned that phone actually sent the
23 text message. So if the State cannot prove that the
24 message came from that actual device, if they can't
25 authenticate that the printout is an accurate

1 representation of the text messages, but most importantly
2 if they can't -- if they don't have any evidence,
3 circumstantial or what else, that the person that owned
4 the phone and they say is sending the message, if they
5 cannot prove that that is the person, then this evidence
6 should stay out as hearsay.

7 THE COURT: All right. And what says the State?

8 MS. SMITH: Judge, with regard to authenticating the
9 message, we have Cody Brown here to testify. He will
10 testify that that was his number that received the phone
11 [sic] and identify the phone that is in evidence. He will
12 also testify that that number was the number that he had
13 used to communicate with the defendant when the defendant
14 contacted him several weeks before asking to borrow the
15 gun. He will then testify that after he received the
16 message at 2 a.m. the morning of the 28th, he went out to
17 his truck and there was the gun. He will also -- he can
18 testify and authenticate the message.

19 As far as who sent the message and whether -- even if
20 it was the defendant's phone, whether he, in fact, sent
21 the text message, I believe that goes to the weight of the
22 evidence, not the admissibility. So I don't believe that
23 that is an issue.

24 The officer will testify that he developed -- looked
25 at several phone records and interviewed Mr. Brown who

1 then told him about the text message, and Mr. Brown will
2 actually testify to the text message. He can read these
3 and say this is an accurate depiction of the message he
4 received. The first message is the message he received on
5 October 28th around 2 a.m. that morning, which is the one
6 telling him the gun's in the back of his truck, which, in
7 fact, was, and how -- the content with it. And then the
8 next message is October 30th around 9 a.m. where he tells
9 him, "You haven't seen me. I haven't seen you." And
10 those are -- he can identify his telephone number is on
11 both of them.

12 You know, Mr. Farley said you can't authenticate the
13 message. The phone numbers are on there: the defendant's
14 number, (912) 659-4048, and then Mr. Brown's number,
15 (843) 368-7957.

16 THE COURT: All right. Anything in reply?

17 MR. FARLEY: Judge, I'm looking forward to the
18 witnesses, but I didn't hear a witness that can
19 authenticate where those messages came -- where those
20 messages printed out on that sheet of paper came from, how
21 they were obtained, any kind of chain. I'm assuming that
22 they may be able to do that later on.

23 THE COURT: I thought they came from the phone.

24 MR. FARLEY: What you see there, Judge, are
25 printouts, I believe, from a cell phone carrier. So, you

1 know, obviously, this is probably a record kept in the
2 normal course of business, but we still need to figure out
3 where it's going to come from before it can get in. We
4 need some kind of chain of telling us where those came
5 from, how that piece of paper, that printout ---

6 THE COURT: Oh, I see what you mean. I see. You're
7 talking about -- okay.

8 Solicitor?

9 MS. SMITH: Judge, the officer will testify he got a
10 search warrant for the text messages. You know, Mr. Brown
11 can say that's an accurate depiction of -- understand he's
12 objecting to the actual document.

13 THE COURT: To the document.

14 MS. SMITH: But Mr. Brown can testify to the content.

15 THE COURT: And I therefore deny your motion.

16 MR. FARLEY: Thanks, Judge.

17 THE COURT: Anything else we need to take care of?

18 MS. SMITH: Judge, are you allowing us to bring the
19 text messages in with the document?

20 THE COURT: With Brown.

21 MS. SMITH: Okay. With the document to refresh his
22 memory?

23 THE COURT: I think he can -- if he can remember what
24 was on his phone, he can testify to that.

25 MS. SMITH: Okay.

1 THE COURT: But I'm not sure about the document
2 itself since we don't have any -- I haven't heard anything
3 -- anybody here to authenticate it, have we?

4 MS. SMITH: No. We have the officer here to say that
5 he got the search warrant for the records and Mr. Brown to
6 testify that he did, in fact, receive that message and it
7 was on his phone as the person who -- I mean, he got the
8 text message.

9 MR. FARLEY: Judge, there's clearly a break in the
10 chain, you know. How did they obtain these records? By a
11 search warrant. Where did the -- do we have someone from
12 Verizon to say this is how we keep our records in the
13 regular course of business? I have no question about the
14 honesty of the solicitor's department, but there is just
15 too much middle ground in there, spoliation of evidence,
16 you know, that can go on. And someone's got to say that
17 this is the record we have, you know. I totally agree
18 with the Court and I think it would be fine for the
19 witness, Mr. Brown, to testify from his, you know, memory
20 as to what the text messages said. But I think entering
21 that document in as a piece of evidence without being able
22 to authenticate and establish a chain, I don't think
23 that's fair game.

24 THE COURT: All right. Go ahead.

25 MS. SMITH: Judge, there does not need to be a chain

1 of custody. It's a nonfungible piece of evidence.

2 THE COURT: Doesn't need to be a chain. That's
3 right.

4 MS. SMITH: And I didn't mention earlier, it's a
5 statement by party opponent, but Mr. Brown will say that
6 it's a fair and accurate depiction of the text message he
7 received.

8 THE COURT: All right. I'm going to agree with
9 defense on this one on the issue of the documents
10 themselves subject to the solicitor changing my mind after
11 lunch by citing a case that says you're wrong and that I'm
12 wrong.

13 All right. What else?

14 MS. SMITH: Judge, we don't have anything
15 before . . .

16 THE COURT: What's the afternoon look like?

17 MS. SMITH: Judge, we've got five witnesses this
18 afternoon, and then in the morning we have the remainder
19 of the expert witnesses from SLED, gunshot residue DNA and
20 -- well, gunshot residue today, firearms DNA and our
21 pathologist.

22 THE COURT: All right. We'll recess till 1:30.

23 (WHEREUPON, a recess is taken at 12:23 p.m.)

24 (WHEREUPON, State's Exhibit Numbers 53 through 60 were
25 marked for identification.)

1 (WHEREUPON, the jury entered the courtroom at 1:30 p.m.)

2 THE COURT: Good afternoon and welcome back, ladies
3 and gentlemen. I believe we're ready to resume
4 presentation of evidence by the State.

5 Solicitor?

6 MS. SMITH: The State would call David Murphy.

7 WHEREUPON,

8 DAVID MURPHY

9 After having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SMITH:

12 Q Officer Murphy, where do you work?

13 A Beaufort County Sheriff's Office.

14 Q And where were you working on October of 2015?

15 A The Bluffton Police Department.

16 Q Okay. And what were you doing there?

17 A I was assigned to the Criminal Investigations
18 Division as a detective.

19 Q Okay. How long have you been in law enforcement?

20 A Almost ten years.

21 Q Did you respond to ■ Pinecrest Way on
22 October 28, 2015?

23 A Yes, I did.

24 Q Okay. And why were you called in?

25 A I was called out in reference to a shooting by my at

1 the time supervisor, Lieutenant Babkiewicz, now Captain
2 Babkiewicz of the Bluffton Police Department.

3 Q Okay. And what did you do when you arrived at the
4 scene?

5 A Upon arrival, I met with Captain Babkiewicz who was
6 already on scene. I was advised of the situation or what
7 the incident was. Once I was made aware of the incident,
8 I actually conducted a walk-through of the scene, which is
9 a standard practice I do when photographing or arrival on
10 a scene or investigation.

11 Q Okay. Did you meet with Roberts Vaux, who was at the
12 scene?

13 A Yes, I did.

14 Q And when you came into contact with him, were his
15 hands bagged?

16 A Yes, they were.

17 Q Did you perform a gunshot residue kit on Mr. Vaux?

18 A Yes, I did. That was done at the scene using a
19 SLED-provided GSR kit.

20 Q Okay. And just explain to the jury how you perform
21 that test.

22 A Making contact with Mr. Vaux, again, his hands were
23 wrapped. They were in a plastic bag which was taped and
24 sealed for -- to preserve any gunshot residue that might
25 have been on his hands. I removed those bags after

1 getting the kit out of my patrol car or my unmarked unit
2 at the time. After removing the kit from my car and
3 removing his hands from the bag, I followed the included
4 instructions that are provided in the GSR kit.

5 Q What did you do with the GSR kit once you performed
6 it?

7 A Once I completed the GSR kit, it was packaged and
8 sealed according to those instructions, which then those
9 -- that GSR kit was submitted into evidence at the
10 Bluffton Police Department.

11 Q Did you interview Mr. Vaux that night?

12 A Yes, I did.

13 Q Okay. And where was that interview conducted?

14 A It was conducted at the Bluffton Police Department in
15 our soft interview room.

16 Q And what's a soft interview room?

17 A It's a less formal interview room. It's located at
18 the front of the police department just off the office
19 area. It's easy access for anybody to go in and out of
20 once we're in there.

21 Q While you were interviewing Mr. Vaux, did you take --
22 obtain his DNA?

23 A Yes. I believe I did.

24 Q And how did you do that?

25 A I would have used a swab which comes in a pack of

1 two, sealed. I would have then taken that out, either
2 presented it to Mr. Vaux or collected it myself which then
3 would have gone into an evidence box. It's very -- about
4 yay long, very small. Put it in there and then sealed
5 that box and then submitted it into evidence.

6 Q Okay. And I'm going to hand you what's been marked
7 as State's Exhibit Number 54. Do you recognize that?

8 A Yes, I do.

9 Q Okay. And what is that?

10 A This is a bag labeled two buccal swabs of known
11 Roberts Vaux.

12 Q Once you obtained that sample, what did you do with
13 it?

14 A It would have been submitted into Bluffton Police
15 Department evidence.

16 Q And was it sealed when you submitted it?

17 A Yes.

18 Q Did Mr. Vaux give that to you voluntarily?

19 A Yes, he did.

20 Q Did he cooperate with you during the interview?

21 A Absolutely.

22 Q Did you obtain the search warrant for his home?

23 A Yes, I did.

24 Q Okay. In your investigation, did you have a chance
25 to review any surveillance video from the Pinecrest

1 subdivision?

2 A I did review some of that video.

3 Q Okay. And from your review, did you look at any
4 additional information or obtain cell phone records based
5 on what you saw in the video?

6 A Yes, I did.

7 Q Okay. And did you obtain a search warrant for cell
8 phone records for Colette Collins?

9 A Yes, I did.

10 Q Okay. And what about did you obtain a cell phone --
11 cell phone records for a (912) 659-4048 number?

12 A Yes, I did.

13 Q Okay. And who did you believe that number to belong
14 to?

15 A Through the course of the investigation and multiple
16 search warrants, it was -- I believe that 912 number was
17 actually Samuel Collins, the defendant's number.

18 Q Okay. Did you ultimately -- you got a search warrant
19 for the 912 number?

20 A Yes, I did.

21 Q Okay. Did you get a search warrant Mr. Cody Brown's
22 phone number?

23 A Yes, ma'am.

24 Q Okay. And that number was (843) 368-7957?

25 A Yes, ma'am.

1 Q Okay. And did you review those records?

2 A Yes, I did.

3 Q And based on your review of those records, of
4 Mr. Brown's cell phone records, was a search warrant
5 obtained for Mr. Brown's residence?

6 A Yes, it was.

7 Q Okay. Was Mr. Brown called in and interviewed
8 subsequently?

9 A Yes, he was.

10 Q Okay. Did you also assist with the search warrant of
11 the defendant's home?

12 A Yes, I did.

13 Q At 15 Buck Point Road?

14 A Yes, ma'am.

15 Q And I believe you heard testimony there were a number
16 of phones collected.

17 A That is correct.

18 Q I believe a Verizon LG -- black LG HTC phone, gray
19 iPhone and a Verizon LG phone?

20 A That sounds correct. Yes, ma'am.

21 Q Okay. And did you obtain search warrants for all of
22 those?

23 A Yes, ma'am. I do believe so.

24 Q Okay. Now going back to the search warrant that was
25 performed on Mr. Brown's house, did you collect certain

1 items and submit them into evidence?

2 A Yes, ma'am. I did.

3 Q Okay. And what -- I'm going to show you what's
4 marked as State's Exhibit Number 55 and ask if you can
5 identify that.

6 A This would be a shotgun shell.

7 Q Okay. And where was that located in the residence?

8 A If my memory serves me correctly, that shotgun shell
9 was possibly collected from the garage of Mr. Brown's
10 home.

11 Q Okay. And what did you do once you collected that
12 piece of evidence?

13 A It would have been sealed and then transported to the
14 Bluffton Police Department and secured in evidence.

15 Q And that is a shotgun shell in that bag?

16 A Yes, ma'am.

17 Q Okay. And I believe the contents of it are out in
18 the bag.

19 A Correct.

20 Q Was that shotgun whole when you retrieved it?

21 A Based on the way the shotgun shell looks, yes, it
22 would have been a whole shell, an intact shell.

23 MS. SMITH: At this time, I would move Number 55 into
24 evidence.

25 MR. FARLEY: No objection.

1 THE COURT: Motion's granted.

2 (WHEREUPON, State's Exhibit Number 55 was admitted into
3 evidence.)

4 BY MS. SMITH:

5 Q All right. I'm going to show you what's been marked
6 as State's Number 56 and ask you to identify that.

7 A This is also a shotgun shell, which appears to be a
8 super X shotgun shell double-aught buck.

9 Q Okay. And is that a spent or a fired shotgun shell?

10 A This appears to be a spent or fired shotgun shell.
11 Yes, ma'am.

12 Q And where was that found at the residence?

13 A According to my notes on the bag, it says just a
14 spent shotgun shell on the coat closet in the garage, or a
15 coat chest in the garage.

16 Q At 15 Buck Point Road? Excuse me. Not 15 Buck
17 Point. 230 Hitching Point -- Hitching Post Road.

18 A Yes, ma'am. Which was Mr. Brown's home.

19 Q Okay. And what did you do once you retrieved that or
20 collected that?

21 A Would have sealed the bag and then submitted it into
22 evidence at Bluffton Police Department as well.

23 MS. SMITH: And at this time, I would move 56 into
24 evidence.

25 MR. FARLEY: No objection.

1 THE COURT: Motion's granted.

2 (WHEREUPON, State's Exhibit Number 56 was admitted into
3 evidence.)

4 BY MS. SMITH:

5 Q I'm going to show you next what's been marked as
6 Number 57, State's Number 57. And what is that?

7 A This appears to be an iPhone 6 for Phone Number
8 (843) 368-7957, and the notes on the bag say it's in a
9 black speckled case and has a password on it, which I
10 won't say out loud.

11 Q And is that what you collected from Mr. Brown's
12 residence?

13 A Since it's open, may I look at it?

14 Q Sure. Please do.

15 A (Reviews exhibit) Yes.

16 Q And did you subsequently verify that was Mr. Brown's
17 phone?

18 A Yes, I did.

19 MS. SMITH: Okay. At this time, we move 57 into
20 evidence.

21 MR. FARLEY: No objection.

22 THE COURT: Motion's granted.

23 (WHEREUPON, State's Exhibit Number 57 was admitted into
24 evidence.)

25 ///

1 BY MS. SMITH:

2 Q I'm going to show you what's been marked as State's
3 Number 58. Can you identify that?

4 A Yes, ma'am. This is a black hat. It's noted as a
5 Master's hat with a yellow USA logo, which was also found
6 in the garage of Mr. Brown's home.

7 Q All right. I'm going to show you what's been marked
8 as State's Number 59 and ask that you identify that.

9 A This is marked as a pair of camo pants and a Ghillie
10 style shirt which was found in a storage cutout of
11 Mr. Brown's home which was located in the garage as well.

12 Q And what did you do with those items?

13 A All of the items that I collected from Mr. Brown's
14 home would have been sealed in a bag, which you see there,
15 and then transported to the Bluffton Police Department and
16 secured in evidence.

17 Q And what was the significance of those clothes? Why
18 did you collect them?

19 A Information that I obtained on the search warrant and
20 information during the review of cell phone records
21 indicated that those particular items were of interest or
22 of evidentiary value.

23 Q All right. I'm going to show you what's been marked
24 as State's Number 6. Not 6. 60. Excuse me.

25 A I can stand up.

1 Q And, if you can, identify that.

2 A This is marked as one camouflage 12-gauge shotgun
3 with a serial number of Papa 345696 with a ESA red dot
4 scope.

5 Q Okay. And where did you find that?

6 A This would have been located in the gun closet or,
7 excuse me, gun cabinet, which was located in the living
8 room of Mr. Brown's home.

9 Q Okay. And what did you do with that gun once you
10 collected it?

11 A Once I collected the weapon, I actually placed it in
12 this box right here, sealed it, and then transported it to
13 Bluffton Police Department for evidence, which was secured
14 in our evidence.

15 MS. SMITH: Okay. At this time, I would move
16 Number 60 into evidence.

17 MR. FARLEY: No objection.

18 THE COURT: Granted.

19 (WHEREUPON, State's Exhibit Number 60 was admitted into
20 evidence.)

21 MS. SMITH: And can I publish to the jury?

22 THE COURT: Has it been secured?

23 MS. SMITH: Yes, sir.

24 THE WITNESS: Yes, Your Honor. I can answer that
25 because I would have secured it myself.

1 THE COURT: Explain to the jury how it's been
2 secured, if you would, please.

3 THE WITNESS: Yes. Absolutely.

4 MS. SMITH: May the witness step down?

5 THE COURT: He may.

6 THE WITNESS: If you look, I'll make sure to keep
7 this muzzle up, you will see that there is a breach on the
8 bottom and an opening here. This is where your shells
9 would eject. There is a safety strap of zip ties through
10 the breach and the ejection port making it useless.

11 THE COURT: All right. Thank you.

12 BY MS. SMITH:

13 Q During the course of your investigation, did you
14 obtain -- or meet with Joe Rueby?

15 A Yes, I did.

16 Q Okay. And did you obtain his DNA?

17 A I don't recall, but it's possible. Yes, ma'am.

18 Q Okay. Let me show you what's been marked as State's
19 Exhibit Number 53 and ask if you can identify that.

20 A This is marked as two buccal swabs from Joe Rueby
21 with my name on it.

22 Q Okay. So would you have been the one to obtain the
23 buccal swab?

24 A Yes, ma'am. If my name is on it and I submitted it,
25 I would have been the one that collected that sample.

1 Q And was that voluntary?

2 A Yes, ma'am. It was.

3 MS. SMITH: That's all I have for this witness.

4 Thank you.

5 THE COURT: Cross-examination?

6 MR. FARLEY: Thank you, Judge.

7 CROSS EXAMINATION

8 BY MR. FARLEY:

9 Q Did you happen to obtain video of the Parker's gas
10 station on Jennifer Court?

11 A I don't recall if that was me that obtained that.

12 Q When you performed the search warrant on Mr. Brown's
13 house, you found the shells that we just talked about.
14 Did you fingerprint them?

15 A No, I did not.

16 Q Did you submit them into evidence to be
17 fingerprinted?

18 A Those would have actually gone to SLED for any of
19 that.

20 Q But you're not aware of SLED getting that -- getting
21 it to fingerprint?

22 A Not at this time. No, ma'am -- no, sir. Excuse me.

23 Q You said that there were five phones collected from
24 the defendant's house during the execution of the search
25 warrant?

1 A I believe that's correct.

2 Q And you only identified one as being related to the
3 defendant?

4 A No, sir.

5 Q You found more than one?

6 A All those phones were found within the defendant's
7 home.

8 Q So along with the gun and the shells, you also
9 collected a hat, camouflage pants and a shirt?

10 A That's correct.

11 Q Those were submitted into evidence?

12 A Yes, sir.

13 Q Were they tested for -- were any tests performed on
14 them?

15 A I believe they were actually sent off to SLED or
16 Beaufort County for DNA testing.

17 Q So just to go back to the DNA, Mr. Brown gave a
18 voluntary sample; is that correct?

19 A Yes. I believe so, yes. That's correct.

20 Q Mr. Vaux gave a voluntary sample; isn't that correct?

21 A Yes.

22 Q Mr. Rueby gave a voluntary sample?

23 A That's correct.

24 Q And the defendant gave a voluntary sample?

25 A Based off of Detective Odom's, yes, testimony.

1 MR. FARLEY: May I have a moment, Judge, to speak to
2 my client?

3 THE COURT: Yes, sir.

4 MR. FARLEY: I don't have any further questions.

5 THE COURT: Any redirect?

6 MS. SMITH: Nothing for this witness.

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

8 THE WITNESS: Thank you.

9 THE COURT: Call your next witness.

10 MS. SMITH: The State would call Cody Brown.

11 WHEREUPON,

12 CODY BROWN

13 After having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. SMITH:

16 Q Good afternoon, Mr. Brown.

17 A Good afternoon.

18 Q Where do you live?

19 A I live in 829 Baker's Court in Bluffton, South
20 Carolina.

21 Q Okay. And how long have you known the defendant,
22 Samuel Collins?

23 A I'd say 2010, maybe 2011, sometime about that year.

24 Q And try to speak up a little bit so the jury can hear
25 you.

1 How did you know him?

2 A Through construction. We met on a construction job.

3 Q What do you do for a living?

4 A Mostly build houses, but all kinds of construction.
5 Wood rot repair, everything.

6 Q How long have you lived in Bluffton?

7 A Off and on for the past -- since 1991, I believe.
8 I've been Hilton Head, Bluffton, back and forth.

9 Q Okay. When did you move back to Bluffton from Hilton
10 Head?

11 A Dates, it must have been 2013, maybe.

12 Q When did you start communicating with Mr. Collins?
13 After you moved back?

14 A Yes.

15 Q Okay. And did you know his wife, Colette Collins?

16 A Yes.

17 Q Did you -- let me ask you this. Can you identify
18 Mr. Collins here in the courtroom today?

19 A Yes, ma'am.

20 Q Can you tell the jury where he's sitting?

21 A He's sitting right over here (indicating).

22 MS. SMITH: Let the record reflect the witness has
23 identified the defendant, Samuel Collins.

24 THE COURT: So noted.

25 ///

1 BY MS. SMITH:

2 Q Did he ask you to come over in 2015?

3 A Yes.

4 Q Okay. And did you go over to his house prior to
5 October 27, 2015?

6 A Not that I know of, no. No, ma'am.

7 Q Okay. Did you talk to him prior to that and he asked
8 to borrow anything from you?

9 A On the phone possibly, yeah.

10 Q Okay.

11 A I mean, he's never asked to borrow anything on the
12 phone, though.

13 Q Okay. Did he, in fact, borrow something from you?

14 A Yes, ma'am.

15 Q Did he borrow a gun from you?

16 A Yes, ma'am.

17 Q Okay. Approximately when was that? I know it's been
18 two years ago, but ---

19 A Like September of 2015, I guess.

20 Q Okay. And what did he ask to borrow from you?

21 A A shotgun.

22 Q Okay. And did you let him borrow a shotgun?

23 A Not at that time. But yes, he did borrow a shotgun.

24 Q Did you ultimately -- so you ultimately gave him a
25 shotgun?

1 A Yes.

2 Q And I am going to show you what has been marked and
3 admitted into evidence as State's Number 60 and ask if you
4 recognize this gun.

5 A (Reviews exhibit) Yes.

6 Q Okay. What kind of gun is that?

7 A A 12-gauge Mossberg shotgun.

8 Q Okay. And does that gun belong to you?

9 A Yes.

10 Q Okay. And is that the gun that you let Samuel
11 Collins borrow?

12 A Yes, ma'am.

13 Q Okay. Why did he want to borrow the gun? Did he
14 tell you?

15 MR. FARLEY: Objection. Speculation.

16 THE COURT: Overruled. Go ahead.

17 THE WITNESS: For -- for self-defense is what he
18 asked to borrow it for.

19 BY MS. SMITH:

20 Q Okay. Did he tell you specifically why?

21 A He just said that some people owed him money and he
22 had threatened them for the money, and they retaliated
23 back at him and were threatening him.

24 Q Okay. When did he return that gun to you?

25 A It was in the middle of the night. I'm not sure

1 exact date, but it's just the middle of the night I
2 received a text message and that he had put the gun in the
3 back of my truck.

4 Q Okay. Do you recall if that was the morning of this
5 incident we're here about today, October 28, 2015?

6 A Yes. I think. I'm going to say yes. I recall that,
7 yes.

8 Q Okay. And you said you got a text message in the
9 middle of the night. Around what time?

10 A I don't know exactly. I would say 1:00 or 2:00 in
11 the morning or something like that.

12 Q And what did the text message say?

13 MR. FARLEY: Objection hearsay.

14 MS. SMITH: Judge, it's a statement by a party
15 opponent.

16 THE COURT: Well, you have to lay a better foundation
17 to be able to get there.

18 MS. SMITH: Okay. Sure.

19 THE COURT: So I sustain the objection subject to.

20 BY MS. SMITH:

21 Q Mr. Brown, you said you talked with Mr. Collins a
22 number of times and you talked to him on the telephone.

23 A Uh-huh.

24 Q Did you know his phone number in your phone when you
25 received this text message?

1 A I'm going to say yes. I probably knew his number,
2 yes.

3 Q So when you got the text message, you knew who it was
4 coming from?

5 A Yes.

6 Q Okay. And who did you believe that text message was
7 from?

8 A It was from Sam.

9 Q Okay. And do you recall it being a 912 number?

10 A That's very familiar, yeah. Usually 912 number.

11 Q Okay. And what was your number at the time?

12 A It was (843) 368, I believe, 7957.

13 Q Okay. And that's the number that you received a text
14 message on; is that correct?

15 A Yes, ma'am.

16 Q Okay. And I'm going to show you what we previously
17 marked as State's Number 57 and ask you to look inside
18 that and see if you can identify what's inside that bag.

19 A (Reviews exhibit) It's my old cell phone.

20 Q And was that collected from your home?

21 A Yes, ma'am.

22 Q Okay. And did the police collect that from your
23 home?

24 A Yes, ma'am.

25 Q And did you voluntarily talk to the police about the

1 contents of that text message?

2 A I assume so. Yes, ma'am.

3 Q But you did speak to -- the police asked about it?

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

5 Q Okay. And did the police search your house and
6 retrieve that phone from you?

7 A Yes, ma'am.

8 Q And did they conduct an interview of you after they
9 searched your home?

10 A Yes, ma'am.

11 Q Okay. And were you present or you were aware that
12 they collected the items that you had told them about that
13 were in the garage?

14 A Yes, ma'am.

15 Q A gun, some shells and clothes and a hat?

16 A Yes, ma'am.

17 Q Okay. Mr. Brown, what did that text message say that
18 you received?

19 MR. FARLEY: Objection, Your Honor. Hearsay.

20 THE COURT: Overrule.

21 MR. FARLEY: Judge, I have a matter of law.

22 THE COURT: All right. Let me see you at a sidebar.

23 (WHEREUPON, a bench conference was held off the record.)

24 THE COURT: All Right. Ladies and gentlemen, I'm
25 going to need you to step in the jury room for just a few

1 minutes. Hope to be back with you shortly.

2 (WHEREUPON, the jury exits the courtroom at 1:59 p.m.)

3 THE COURT: Mr. Farley, I'll be glad to hear your
4 motion -- or your objection. I'm sorry.

5 MR. FARLEY: Thank you, Judge. Clearly, a text
6 message is hearsay. I don't think that there is any
7 doubt. And the State has argued that the exception is a
8 statement against self-interest, statement by party
9 opponent.

10 First of all, they need to show that the message came
11 from the device in question. Just because the number is
12 on there, a number associated with Sam Collins is on
13 there, they haven't shown that that message actually came
14 from that phone. They have no one to say that this phone,
15 they have not introduced any evidence to say this phone
16 sent that message.

17 So the crux of the matter is, is that if they're
18 going to argue that the exception is statement by a party
19 opponent, they have to show that the party opponent has
20 made that statement. And just because that phone -- just
21 because that phone has a number associated with
22 Mr. Collins doesn't, A, mean that Mr. Collins sent it, and
23 they still have not shown that Mr. Collins's phone sent
24 it. They only can say that Mr. Brown's phone received it.
25 So clearly, it's hearsay. That's without a doubt the

1 exception I don't think applies because they've not laid
2 the proper foundation and set that up. For that reason,
3 we would object to the testimony.

4 THE COURT: All right. Solicitor?

5 MS. SMITH: Judge, this is the same motion that we
6 argued prior to the lunch break and that you ruled on. I
7 argue the same exact reasons, and I believe you ruled that
8 I can get into this testimony.

9 It is a statement by a party opponent, and we talked
10 about the person, you know, that owned the phone, whether
11 they sent the text message. And, again, like I argued
12 before, we're talking about weight. It goes to the weight
13 of the evidence, not the admissibility of it. And like I
14 said, we've argued and you've ruled on this prior to the
15 lunch break.

16 And I believe I have laid the proper foundation.
17 Mr. Brown said he's known Mr. Collins since 2011. He's
18 communicated with him. He's talked to him by telephone.
19 He knows that number to be Sam's, recalls it being a 912
20 number, which it is. And when he got the text message, he
21 had no -- I mean, he assumed it to be Sam.

22 Now, whether, you know, Mr. Farley, regardless of the
23 foundation, he can argue that someone got Mr. Collins's
24 phone and sent the text message. But, again, that goes to
25 the weight, not the admissibility of it.

1 THE COURT: The Court agrees with the argument in the
2 position taken by the State in this case, and therefore
3 denies the motion, overrules the objection.

4 Anything else? Are y'all ready for the jury.

5 MS. SMITH: Yes, sir.

6 MR. FARLEY: Yes, sir.

7 (WHEREUPON, the jury entered the courtroom at 2:07 p.m.)

8 THE COURT: Welcome back, ladies and gentlemen.

9 You may resume examination of the witness.

10 MS. SMITH: Thank you, Judge.

11 BY MS. SMITH:

12 Q I believe when we stopped I was asking you did you
13 receive a text message from Mr. Collins?

14 A Yes, ma'am.

15 Q Okay. And you said it was about 1:00 or 2:00 in the
16 morning on the morning of October 28th?

17 A Best I can remember, yeah.

18 Q Okay. What did that text message say?

19 A It said that I returned your shotgun, something about
20 I think I put it in the back of your truck and just riding
21 around tonight or something.

22 Q Okay. And when did you actually see that message?

23 A I seen it that night, but I didn't really do
24 anything. I just looked at it, you know, in my sleep and
25 just kind of like put it back down in my nightstand.

1 Q Okay. Was the gun in the back of your truck?

2 A Uh-huh.

3 Q Say "yes" or "no" for the court reporter.

4 A Yes, ma'am.

5 Q Okay. And did you go look in your truck the next
6 morning?

7 A Yeah. First thing in the morning I went straight out
8 there.

9 Q Okay. And was the gun wrapped in anything?

10 A Slightly. It was just laying back there with a piece
11 of clothing over it kind of. Not really wrapped, but yes,
12 there was a piece of clothing over it.

13 Q Okay. Was it a camouflage jacket and pants?

14 A Yeah. Uh-huh. Like a camouflage jacket, I think.

15 Q Okay. And was there any other clothes back there?
16 Was there a hat back there with it as well?

17 A I don't remember that.

18 Q Okay. What did you do with the gun after you found
19 it?

20 A I took it straight to my garage.

21 Q Okay. And was it loaded?

22 A Yes.

23 Q Okay. And was the safety on or off?

24 A Off.

25 Q And when you took it to your garage, what did you do?

1 A I ejected the shells in it. Because I seen the
2 safety was off and just started ejecting the shells.

3 Q Okay. And was there a fired shotgun shell in it?

4 A There was, yeah. The first one, yeah, was spent.

5 Q Okay.

6 A And the other two were ---

7 Q Okay. And what did you do with the gun?

8 A I took the gun straight to my gun cabinet.

9 Q Why did you do that?

10 A It's just where I keep it. That's the only reason.

11 Q Do you have children around the house?

12 A Yes.

13 Q Okay. I'm assuming you don't leave loaded guns
14 around.

15 A Yes, ma'am. No, ma'am.

16 Q Okay. All right. Did you tell law enforcement how
17 you found the gun and what it was wrapped in and where you
18 put it?

19 A Yes, ma'am.

20 Q Okay. And the articles of clothing that were with
21 it, did you place those in the garage?

22 A Yes.

23 Q With the gun?

24 A Uh-huh.

25 Q Okay. What about the spent shotgun shells?

1 A They -- they stayed in the garage. When I unloaded
2 them, I just dropped them in like a cup or something in my
3 garage and took the gun to the inside the house in the gun
4 cabinet.

5 Q And did you tell law enforcement where all that was
6 located?

7 A I believe so, yes.

8 Q Okay. And did they collect it from your garage?

9 A Yes, ma'am.

10 Q Okay. Do you recall receiving another text message
11 on October 30, 2015, two days later from Mr. Collins?

12 A Yes, ma'am.

13 Q Okay. And what did that text message say?

14 A I think it said, "You haven't seen me." And I
15 replied, "Okay." That was it.

16 Q Okay. And did you talk to the police about these
17 text messages?

18 A I believe so, yes.

19 Q Okay. And did the police, I guess, did they talk to
20 you about your phone records?

21 A Yes, ma'am.

22 Q Okay. When you gave him the gun, did you give him
23 any ammunition with it?

24 A I did. I gave him some birdshot, some duck load and
25 birdshot.

1 Q And what kind of ammunition was in the gun or what
2 kind of shell was in the gun when he brought it back to
3 you?

4 A It was buckshot.

5 Q Did you give him any buckshot?

6 A No, ma'am.

7 Q And is birdshot a little less powerful than buckshot?

8 A Yes, ma'am.

9 MS. SMITH: That's all I have for Mr. Brown. Thank
10 you.

11 THE COURT: Cross-examination?

12 MR. FARLEY: Yes, sir.

13 CROSS EXAMINATION

14 BY MR. FARLEY:

15 Q So let's go to when the defendant borrowed the gun
16 from you. You said around September; is that correct?

17 A I would think September is about the time he asked to
18 borrow the gun, yes, sir.

19 Q Early September? late September?

20 A Not -- not real sure. No, sir.

21 Q I know it's a long time.

22 The phone, do you recall exactly which phone number
23 called you?

24 A No, sir. Not exactly, no.

25 Q Have, in the past, you texted with Sam on more than

1 one phone number?

2 A Yes, sir. I'm sure.

3 Q So you have -- Sam has texted you from multiple ---

4 A Yes, sir.

5 Q --- more than one phone?

6 And when you received that text message, it wasn't
7 like a phone call where you could hear who was on the
8 other line, was it?

9 A No.

10 Q It was a text message from a number that you have in
11 the past associated with Sam; is that correct?

12 A Yes, sir.

13 Q So you have no way of saying whether or not that
14 message was written or came from Sam, if it came from
15 Colette Collins or if it came from somebody else?

16 A That's right.

17 Q When you went out to retrieve the gun the next
18 morning, you said it was covered or wrapped in some
19 clothing.

20 A Uh-huh.

21 Q Is that your clothing?

22 A No, sir.

23 Q It's not your clothing. Have you ever seen it
24 before?

25 A No, sir.

1 Q When you carried the gun and the clothing out, how
2 would you say you carried it? One under one arm and the
3 gun under the other or something else?

4 A I would say it seemed like I picked the gun up out of
5 the truck with the clothing around it and probably took
6 the clothing off of it and then went in the garage with it
7 like that.

8 MR. FARLEY: Thank you, Judge. I don't have anything
9 else.

10 THE COURT: Any redirect?

11 MS. SMITH: Nothing further from this witness.

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

13 MS. SMITH: May he be excused, Judge?

14 THE COURT: No objection?

15 Yes. You may be excused from your subpoena.

16 You may call your next witness.

17 MS. SMITH: The State calls Dan Glaser.

18 WHEREUPON,

19 BRIAN DANIEL GLASER

20 After having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SMITH:

23 Q Mr. Glaser, state your name for the record.

24 A It's Brian Daniel Glaser.

25 Q Okay. Mr. Glaser, where do you work?

1 A Technology Solutions of Charleston.

2 Q Okay. And were you working there in October or
3 November of 2015?

4 A Yes, I was.

5 Q Okay. And do you recall downloading some video
6 footage from the Pinecrest subdivision?

7 A Yes, I do.

8 Q Okay. And I believe, were you contacted by Coastal
9 Security to do so?

10 A Yes.

11 Q Okay. Why would they have called you?

12 A They were probably notified because they have a
13 security patrol in the area and they know that we handle
14 the cameras, or did.

15 (WHEREUPON, State's Exhibit Number 61 was marked for
16 identification.)

17 BY MS. SMITH:

18 Q Okay. And I'm going to show you what's marked as
19 State's Exhibit Number 61 and ask if you can identify that
20 item or if you recognize that.

21 A Yes.

22 Q Okay. And is that the surveillance video from all
23 the cameras in Pinecrest subdivision that you downloaded?

24 A Yes, it is. It's an external hard drive that I would
25 have loaded the video on.

1 Q Okay. And when you downloaded this video
2 surveillance, what did you do with it? Who did you turn
3 it over to?

4 A I turned it over to an officer at Bluffton Police
5 Department or a detective. It was one of the two.

6 Q Okay. But you turned it over to the Bluffton Police
7 Department?

8 A Yes.

9 Q Okay. And I'm going to show you what we've marked as
10 State's Exhibit Number 46, which I believe you reviewed
11 earlier today.

12 A Yes.

13 Q If you'll identify that.

14 A That is correct.

15 Q Okay. And is that a fair and accurate depiction of
16 the video that you downloaded or portions of the video
17 that you downloaded?

18 A Yes, it is.

19 MS. SMITH: Okay. At this time, we move State's
20 Number 46 into evidence.

21 MR. FARLEY: No objection.

22 THE COURT: Motion's granted, and you may publish.

23 (WHEREUPON, State's Exhibit Number 46 was admitted into
24 evidence.)

25 MS. SMITH: Judge, we're going to publish it with the

1 next witness.

2 That's all I have for this witness. Thank you.

3 MR. FARLEY: No questions, Judge.

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

5 THE WITNESS: Thank you.

6 THE COURT: And you may be excused from your
7 subpoena.

8 THE WITNESS: Thank you.

9 THE COURT: You may call your next witness.ⁿ

10 MS. SMITH: Judge, can I recall Mr. Glaser?

11 THE COURT: If he hasn't gotten out of here.

12 MS. SMITH: He's right there at the door. Thank you.
13 Just briefly.

14 THE COURT: You're still under oath.

15 BY MS. SMITH:

16 Q Just a couple other questions. Sorry.

17 A Certainly.

18 Q When you reviewed the video this morning when you
19 arrived here today, there were some time discrepancies
20 through some of the -- or between some of the cameras.

21 A Sure.

22 Q Can you explain why that would be?

23 A Yes. The time discrepancies is not between the
24 cameras. It's between the servers. So if there's a brief
25 interlude of a power outage or the network -- you know,

1 everybody's Internet goes down for a few minutes, you know
2 -- it may take a minute, you know, sometimes up to
3 24 hours for the time to sync back up.

4 Q Okay.

5 A So, I mean, it will be consistent across the board,
6 though. Like if you were to match up any video from that
7 day with both servers, you would see, you know, if it's a
8 few minutes off, it's going to be a few minutes off
9 consistently, you know what I mean?

10 Q Right. Okay. So if you viewed hours of footage, you
11 would see ---

12 A Right.

13 Q --- where it would sync up even though the times
14 would be ---

15 A Right..

16 Q --- be consistently off by ---

17 A And I wouldn't doubt if you were to review that, it
18 would be consistent with that.

19 MS. SMITH: Nothing further for this witness.

20 MR. FARLEY: Thank you, Judge.

21 CROSS EXAMINATION

22 BY MR. FARLEY:

23 Q Do you have any indication that there was a power
24 outage that day?

25 A No, sir. That's just an example of why that might

1 happen.

2 Q So you don't know for sure that that's why the times
3 would be off?

4 A No, sir.

5 Q But you are sure that the times were off?

6 A According to the video I saw, yeah.

7 MR. FARLEY: Okay. Thank you. Nothing further.

8 MS. SMITH: Nothing further. This witness may be
9 excused.

10 THE COURT: This time we mean it.

11 THE WITNESS: Okay.

12 THE COURT: You may call your next witness.

13 MS. SMITH: The State calls Captain Babkiewicz.

14 WHEREUPON,

15 JOSEPH BABKIEWICZ

16 After having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SMITH:

19 Q Captain Babkiewicz, where do you work?

20 A I work with the Bluffton Police Department.

21 Q How long have you been in law enforcement?

22 A Approximately 16 years.

23 Q Okay. And how long have you been with Bluffton?

24 A For the past ten years.

25 Q Okay. And what is your -- what was your position in

1 October of 2015?

2 A At that time, I was a supervisor of the Criminal
3 Investigations Division.

4 Q Okay. And what's your title now?

5 A I'm currently the emergency management coordinator
6 for the town of Bluffton as well as for the police
7 department as well.

8 Q Captain, do you recall the incident on
9 October 28, 2015?

10 A Yes, ma'am. I do.

11 Q Okay. Who contacted you?

12 A It was Sergeant Matt Ferrelli, who was the supervisor
13 of the patrol shift that night.

14 Q Okay. And did you respond to ■ Pinecrest Way?

15 A Yes, ma'am. We got contacted in reference to a
16 gunshot victim who suffered a gunshot wound to the head.
17 I immediately called my entire team in because of the
18 severity of the case, which included Detective Odom,
19 Detective Murphy and Detective Michelle Mayers, and we met
20 over at the scene.

21 Q Okay. And what did you do when you got to the scene?

22 A Once I got to the scene, I set up what we call an
23 incident command post. Essentially, what an incident
24 command post is, we set up an area outside of the crime
25 scene to keep track of who goes in, who goes out, and we

1 assign responsibilities to each personnel that comes into
2 the scene. So in this case, I assigned some of our
3 officers, some of my detectives to certain tasks to handle
4 while they're at the scene.

5 Q As far as processing -- what we talked about
6 processing the scene, did you call the South Carolina Law
7 Enforcement Division, or SLED?

8 A Yes, ma'am. And, again, in a situation like this, it
9 was a major scene, so we want to hire -- or we want to
10 have people come in who are professionals who are trained
11 much better than our guys for that particular task. In
12 this scenario, we chose to have the South Carolina Law
13 Enforcement Division, their crime scene people come in and
14 process the crime scene for us.

15 Q And your officers were also doing things as far as
16 processing the scene as well?

17 A Yes. They were -- they were assisting South Carolina
18 Law Enforcement Division.

19 Q What else did you do on the scene that night?

20 A I had a detective go around and conduct a
21 neighborhood canvas. During that neighborhood canvas, we
22 noticed that there were several security cameras within
23 the area of where the incident had occurred.

24 Q Okay. And did you collect the videos from those
25 cameras?

1 A I did not collect. I believe Detective Michelle
2 Mayers collected that video.

3 Q Okay. But did you review those videos?

4 A Yes, ma'am. I did.

5 MS. SMITH: Okay. Judge, if I can have Captain
6 Babkiewicz step down.

7 THE COURT: Certainly.

8 BY MS. SMITH:

9 Q All right. Captain Babkiewicz, you said that you had
10 an officer go around and canvas the neighborhood. Is that
11 the neighborhood Pinecrest subdivision right there
12 (indicating)?

13 A Yes, ma'am. All within here (indicating) is the
14 Pinecrest subdivision.

15 Q Okay. And you stated that she found -- or that y'all
16 found several video cameras. Can you explain where
17 they're positioned and show the jury on that map?

18 A Yes. To begin with, Pinecrest subdivision has three
19 entrances and exits. The first entrance and exit is over
20 here on Bluffton Parkway onto Pinecrest Drive. Up here
21 you have two cameras, one facing out and one facing in.
22 And that's for vehicles coming both in and out.

23 Down here is H.E. McCracken Circle, and that's also
24 our second entrance. We also have two cameras located
25 there for same reason: vehicles coming in, vehicles

1 coming out.

2 Following the third entrance over here on Masters Way
3 at Pinecrest Way, this is where the incident occurred,
4 where the murder occurred, and these are where the two
5 cameras were located. Again, vehicles coming in, coming
6 out.

7 There is also a pool, which is located over here in
8 this area. You'll see these two blue marks. Those are
9 also two security cameras that point towards that road,
10 Pinecrest Way right here (indicating throughout).

11 Q And so for purposes of the jury in this, which
12 cameras are located where? Can you name what the cameras
13 are, the dots?

14 A Yes. Over here you have Pinecrest Way exit, which is
15 the yellow, and in the tan, you have a Pinecrest Way
16 entrance. This blue is the Pool Gate 2 camera. This dark
17 blue is a Pool Gate 1 area. The orange is a Pinecrest
18 club exit. The -- I guess you could say the off-white is
19 Pinecrest club entrance. Down here you have the red,
20 which is McCracken Circle, as well as the Pinecrest
21 Drive/McCracken which is the pink (indicating
22 throughout).

23 Q Thank you, Captain.

24 Captain Babkiewicz, I'm going to show you Items 29,
25 28, 27, 26, 25, 24, 23, 22, 21 and 20, 19 and 18 that have

1 been previously marked and just ask for you to review
2 those.

3 MR. FARLEY: May I see those?

4 BY MS. SMITH:

5 Q Captain Babkiewicz, I'm handing you State's
6 Exhibits 18 through 29 and just ask for you to take a look
7 at those.

8 A (Reviews exhibits) Yes, ma'am.

9 Q And are those a fair and accurate depiction of the
10 still shots from the video?

11 A Yes, ma'am. They are.

12 MS. SMITH: Okay. At this time, I would move
13 State's 18 through 29 into evidence.

14 MR. FARLEY: No objection.

15 THE COURT: Motion is granted.

16 (WHEREUPON, State's Exhibit Numbers 18 through 29 were
17 admitted into evidence.)

18 MS. SMITH: May I publish to the jury?

19 THE COURT: You may.

20 BY MS. SMITH:

21 Q What do these pictures show from the video, if you
22 can explain?

23 A On this particular video, this is this vehicle coming
24 in. This is the same vehicle that eventually pulls into
25 our victim's house over at ■ Pinecrest Way.

1 And this picture, this is what helped us identify the
2 vehicle. There is a distinguishing figure that we noticed
3 in this picture. If you look in the front right -- or, I
4 guess you could say, the front passenger hubcap, that
5 actually has seven lines in the spoke which was different
6 than all the other tires. We thought that that was
7 significant, that it was a distinguishing mark that would
8 help us identify the vehicle. As you can see on the back
9 wheel, there's only six.

10 And at that point in time, that vehicle was pulling
11 into ■ Pinecrest Way.

12 Q Okay.

13 A That's the vehicle pulling out, leaving the residence
14 of ■ Pinecrest Way and beginning to leave.

15 Q Okay.

16 A That's the same vehicle coming back in at 12:42 at
17 night -- or in the morning.

18 And driving by ■ Pinecrest Way, again, at 12:43.

19 At this point in time, the vehicle comes up to the
20 stop sign and comes to a stop. It then turns left onto
21 Masters Way.

22 Q Okay. And at that stop sign, that's Masters Way in
23 front?

24 A Yes. That's Masters Way. That road goes down to
25 H.E. McCracken Circle.

1 That's H.E. McCracken Circle. That's a vehicle
2 driving down. A short time later, the vehicle will turn
3 around and come back and enter into McCracken Circle
4 entrance into Pinecrest.

5 That's the vehicle coming back and entering in.

6 Q And just to stop you real quick, you heard testimony
7 from Mr. Glaser about time discrepancies. Is this the
8 camera with the time discrepancy?

9 A Yes, ma'am. As you can see, the time there is 12:34,
10 but we know that to be inaccurate.

11 Q Is this the only camera, the McCracken area camera
12 that has the discrepancy?

13 A Yes. I believe that's the only one.

14 That's a vehicle coming back into -- from H.E.
15 McCracken going back into the Pinecrest subdivision.

16 And that's, again, going back towards Pinecrest Way
17 towards the victim's house at 12:52.

18 That's right near the victim's house coming down
19 Pinecrest Way.

20 That's -- at this point in time, the vehicle comes up
21 to the stop sign, and it stops for a noticeably long
22 amount of time more than normal. As a matter of fact, the
23 vehicle stops there for 23 seconds, and there's no traffic
24 coming down during this time coming down Masters Way. It
25 then makes a left onto Masters Way and it goes out of the

1 picture, but you can see its brake lights coming on.

2 Q Captain Babkiewicz, during your investigation, were
3 you able to get information that lead you to see Colette
4 Collins's car -- Colette Collins's car?

5 A Yes, ma'am.

6 Q Okay. And did you take photographs of that vehicle?

7 A Yes, ma'am.

8 Q Okay. And did you verify that that vehicle belonged
9 to her?

10 A Yes, it did. The license plate was KSW 931. It was
11 a 2007 Toyota Camry.

12 Q I'm going to hand you what's been marked as State's
13 Exhibits 32 through 36 and ask if you can -- if that's a
14 fair and accurate depiction of the car belonging to
15 Colette Collins.

16 A (Reviews exhibits) Yes, ma'am. It is.

17 MS. SMITH: Okay. Judge, at this time, I would move
18 those into evidence.

19 MR. FARLEY: No objection.

20 THE COURT: Motion's granted.

21 (WHEREUPON, State's Exhibit Numbers 32 through 36 were
22 admitted into evidence.)

23 MS. SMITH: May I publish?

24 THE COURT: You may publish.

25 THE WITNESS: So that's the license plate which comes

1 back to Colette Collins. Again, it's a 2007 Toyota Camry.

2 BY MS. SMITH:

3 Q Okay.

4 A That's the rear passenger side tire. As you can see,
5 it has two, four, six, I guess, openings in the wheel
6 well.

7 That's the entire side of the car.

8 Q Okay. And is that a close-up of the back rear
9 passenger tire?

10 A Yes, ma'am. It is.

11 Q Okay. And that has how many?

12 A It has six openings in the wheel well.

13 Q Okay.

14 A And that's the front. As you can see, there is seven
15 openings in the wheel well, similar to the one we saw on
16 video.

17 Q Captain Babkiewicz, at this time, I'm going to show
18 you a copy of the video that you reviewed. I know you
19 reviewed all of the surveillance video, but I believe you
20 reviewed this disc earlier today that's already been
21 admitted as State's Number 46.

22 A Yes, ma'am.

23 Q Is this a fair and accurate depiction of the video
24 surveillance that you reviewed?

25 A Yes, ma'am.

1 MS. SMITH: Okay. Judge, I would ask to publish it
2 through this witness now.

3 THE COURT: All right.

4 (WHEREUPON, State's Exhibit 46, a video, was played in
5 open court.)

6 THE WITNESS: So this was early on the night. This
7 was the vehicle coming in off of Bluffton Parkway into the
8 Pinecrest subdivision. That was at 10:52 at night.

9 This was video from the pool. You can see the
10 vehicle coming down the road and then going out of sight
11 of the pool security cameras.

12 BY MS. SMITH:

13 Q And this is the vehicle for the pictures -- the still
14 pictures that we just looked at, correct?

15 A Yes, ma'am.

16 Q Those photos were taken from this:

17 A This is the second pool camera, and you see the
18 vehicle slowing down and eventually pulling into the
19 victim's house at ■ Pinecrest Way.

20 Here you'll see the vehicle coming down the roadway,
21 and as it comes down this way, it eventually makes a
22 left-hand turn into the driveway.

23 What you're about to see is the victim, Jon Cherol,
24 he's going to come outside with his dog. And the person
25 driving the vehicle, Colette Collins, will also be

1 outside, and they're talking. At one point, the dog runs
2 across the street and they go get the dog. That should be
3 coming up shortly. There goes the dog.

4 So that is Colette Collins kneeling down at the dog,
5 and the other individual you saw with the white robe come
6 out, that's Jon Cherol.

7 This is Colette backing out about an hour later at
8 11:43 p.m. and going back the way she came down Pinecrest
9 Way.

10 This video will be her exiting onto Bluffton Parkway.
11 And that's her exiting.

12 So this is at 12:42. The same vehicle comes back in
13 off of Bluffton Parkway and makes a right-hand turn onto
14 Pinecrest Way.

15 You can see the vehicle apply its brakes and slowing
16 down going through that particular portion of the
17 neighborhood, which is also in the same area as our
18 victim's house.

19 This time the vehicle drives by and does make a
20 left-hand turn into the victim's house.

21 And this is the stop sign over on Masters -- Masters
22 Way, and it's going to make a left-hand turn. And when it
23 goes out of sight, you'll see brake lights come on . . .
24 right there.

25 That's over on McCracken Circle. That goes over by

1 the schools. That vehicle goes down that way. We're not
2 sure where the vehicle goes.

3 And you'll see the same vehicle coming back and
4 pulling into Pinecrest.

5 The vehicle exits at 12:51.

6 At 12:52 it comes back, and that's from Bluffton
7 Parkway. And it makes a right-hand turn onto Pinecrest
8 Way, the same street that the victim lives on.

9 As the vehicle drives by, you'll see how it's driving
10 much slower than the other times it drove by.

11 And this was at 12:53 a.m.

12 This is the exit once again onto Masters Way. We
13 thought this was weird that the vehicle came up to this
14 stop sign and stopped for approximately 23 seconds before
15 making a turn. There's no traffic coming either way, so
16 we thought it was kind of weird that it was just sitting
17 there for 23 seconds.

18 And once again, as the vehicle goes out of the
19 picture, you'll see its brake lights come back on . . .
20 right there.

21 Q Are those the brake lights?

22 A Yes, ma'am.

23 Q Captain Babkiewicz, I'm going to show you what we
24 marked as State's Exhibit Number 23.

25 A Yes, ma'am.

1 Q That's the stop sign -- is that the stop sign facing
2 Masters Way that we were just talking about where the
3 vehicle was stopped for so long?

4 A Yes, it is.

5 Q Okay. And I believe in that shot, she took a left
6 and then you saw brake lights; is that correct?

7 A Yes, ma'am.

8 Q The first -- the second time she came through
9 Pinecrest but not that last shot we just saw where it was
10 the brake lights were on for about 16 or 17 seconds, but
11 the first time she came to the stop sign and stopped
12 there, we saw brake lights; is that correct?

13 A Yes, ma'am.

14 Q Okay. And I'm going to show you what's marked as
15 State's Exhibit Number 17. Is that a fair and accurate
16 depiction of Masters Way when you take a left from that
17 stop sign?

18 A Yes, ma'am. It is.

19 THE COURT: Judge, at this time, I would move that
20 into evidence.

21 MR. FARLEY: No objection.

22 THE COURT: Motion's granted.

23 (WHEREUPON, State's Exhibit Number 17 was admitted into
24 evidence.)

25 MS. SMITH: May I publish to the jury?

1 THE COURT: You may publish.

2 BY MS. SMITH:

3 Q I know this is in the daylight, but would that be
4 where -- that picture is taken on Masters Way. The
5 victim's residence is where in relation to that pool sign?

6 A The victim's residence is three houses down on the
7 left-hand side. Yes. Right there.

8 Q Okay. And where that picture is taken, is that
9 approximately or about the area where we saw the brake
10 lights?

11 A Yes, ma'am. It is.

12 Q Okay. And I would ask this. We saw brake lights one
13 time. What about the second time? Approximately the same
14 area?

15 A Yes.

16 Q On Masters Way?

17 A Yes. On Masters Way.

18 Q All right. Captain Babkiewicz, did you interview
19 Samuel Collins on October 30, 2015?

20 A Yes, ma'am. Myself and Detective Odom did.

21 Q Okay. How did that interview -- how did you all
22 proceed with that interview? Did he voluntarily come in
23 and talk to you?

24 A Yes. We went over to his residence around 9:00 in
25 the morning. We met with him over there and we asked him

1 if he'd be willing to come in and speak with us about the
2 incident. We provided him with a ride to the police
3 department, and we interviewed him in what we call the
4 soft interview room.

5 Q And I believe someone has already mentioned the soft
6 interview room. What's the significance of that?

7 A / Yes. The significance of the soft -- we have two
8 interview rooms in our police department. We call it the
9 soft interview room because that's where anybody who is
10 free to come and go, we'll have them come in and do the
11 interview there. It's in -- basically right outside our
12 main lobby.

13 We have what we call the hard interview room, which
14 is located in our jail or our detention area. We call
15 that the hard interview room. It's the same room, same
16 setup. The only difference is that people cannot escape.
17 If they're doing the interview and they want to run out,
18 they can't escape. They're in our custody. So that's the
19 difference.

20 Q And the size of the room, I mean, is it a fairly
21 standard interview room?

22 A Yes. I don't know the exact size, but we've been
23 using it for years.

24 Q Okay. When Mr. Collins came in for his interview,
25 was he under arrest at the time?

1 A No, ma'am. As a matter of fact, when Mr. Collins
2 first came in and we sat him down, the first thing I told
3 him was that he was free to leave at any time.

4 Q Did you threaten him or intimidate him in any way
5 while he was there?

6 A Not in any way, no.

7 Q And how long -- approximately how long was the
8 interview?

9 A I would say approximately an hour.

10 Q Okay. And did Mr. Collins, during the interview and
11 based on your interview with him, did he know Jon Cherol,
12 the victim in this case?

13 A Yes, he did.

14 Q What kind of relationship did they have?

15 A He described it as somewhat of a friendship, but
16 also, I guess you can say, as a business relationship to
17 where Jonathan -- Jon Cherol was acquiring pills from
18 Mr. Collins.

19 Q Did he sell Mr. Cherol pills?

20 A He informed me that Mr. Cherol never paid him. He
21 did give him a watch before he started giving him pills
22 and he may have saw that as some type of payment, but Sam
23 did not see it that way, and Sam did say that he owed him
24 money for his pills.

25 Q When you say he gave him a watch, Jon Cherol gave

1 Samuel a watch?

2 A Yes, he did.

3 Q So he gave him pills.

4 A Yes.

5 Q Okay. Did he loan him any money?

6 A Not that I'm aware of.

7 Q Okay. But he told you the victim owed him money.

8 A For the pills, yes.

9 Q Did he ever pay for the pills?

10 A Not that I'm aware of.

11 Q Okay. Did Mr. Collins tell you about an incident
12 that occurred at his house prior to this incident?

13 A Yes, he did.

14 Q Okay. And what happened? What did he tell you?

15 A He informed us that he -- there was a moment in time
16 where he had individuals come to his house about -- and he
17 was kind of hesitant to tell us this story. We eventually
18 got a lot of information out of him regarding what had
19 happened. But essentially what happened was two
20 individuals came to his house to attempt to rob him, and
21 for some reason the robbery didn't go well. He said that
22 he did what he had to do to get the people away, and the
23 people ended up running away or running off.

24 Q Okay. Approximately how long before this murder did
25 that incident occur? How long did he tell you?

1 A I think he said a month. I can't remember.

2 Q Okay. Were there any inconsistencies with his story
3 while he was telling you about this event?

4 A There were inconsistencies. He was hesitant on
5 telling us everything that occurred such as shots being
6 fired into the house or that this even happened. He
7 kind of -- eventually kind of gave us pieces and pieces to
8 it.

9 Q What was Jon Cherol's involvement in this home
10 invasion that he told you about?

11 A Well, Sam informed me when I was speaking with him,
12 he said that he felt that Jon did -- or he felt that Jon
13 had some type of involvement in setting him up for his
14 place to be robbed. He said he thought it was weird that
15 Jon was over at his house 30 minutes to an hour prior to
16 this robbery happening, and he said he was suspicious of
17 Jon because Jon was acting nervous and that as soon as Jon
18 left is when these guys came to his house.

19 Q During your investigation, did you have an occasion
20 to go into Mr. Collins's home?

21 A Yes, ma'am. I did.

22 Q Okay. And you obtained a search warrant to go into
23 his home; is that correct?

24 A Yes, ma'am.

25 Q Okay. While you were in his house, did you find

1 anything that would corroborate his story of a home
2 invasion?

3 A Yes. When we went to his house, we did see bullet
4 holes in several areas of the house. We saw what appeared
5 to be birdshot holes into the walls, which also coincides
6 with the story.

7 Q During your interview of Mr. Collins, was his DNA
8 obtained?

9 A Yes, it was.

10 Q Okay. And who obtained that?

11 A Detective Odom did.

12 Q Okay. And did Mr. Collins consent to giving his DNA
13 to you all?

14 A Yes, he did.

15 Q During your investigation, your department obtained a
16 search warrant for Cody Brown's home; is that correct?

17 A Yes, ma'am.

18 Q Okay. And after that, you conducted an interview of
19 Mr. Brown; is that correct?

20 A Yes, I did.

21 Q Okay. And you heard Mr. Brown testify today. Based
22 on that, is that the reason -- or tell us what Mr. Brown
23 told you in his interview as far as where the gun was
24 located.

25 MR. FARLEY: Objection. Hearsay.

1 THE COURT: Sustained.

2 BY MS. SMITH:

3 Q Captain Babkiewicz, you were here for Mr. Brown's
4 testimony. Is that consistent with what he told you in
5 the interview room that day?

6 A Yes, ma'am. It was.

7 Q Okay. And is the information that he gave as far as
8 where the gun and where the items were located, is that
9 consistent with what he told you that day?

10 A Yes, ma'am. It was.

11 Q Okay. Did you ever promise anything to Mr. Brown in
12 exchange for his testimony?

13 A No, I did not.

14 Q Okay. Was he ever coerced or anything, or was all
15 the information he gave you voluntary?

16 A It was all voluntary.

17 MS. SMITH: Okay. That's all I have for this
18 witness.

19 THE COURT: Cross-examination?

20 MR. FARLEY: Thank you, Judge.

21 CROSS EXAMINATION

22 BY MR. FARLEY:

23 Q Do you have the pictures still?

24 A There's some over here.

25 MR. FARLEY: May I approach the witness?

1 BY MR. FARLEY:

2 Q All right. There's a lot of pictures and there's two
3 videos, so I'm just going to try to get a scenario of
4 what's going on.

5 Part of the video shows Colette Collins coming into
6 the neighborhood; is that correct?

7 A At which time?

8 Q Let's start from the beginning and then work our way
9 through.

10 A Okay. Yes, sir.

11 Q So she initially comes into the neighborhood.

12 A Yes, sir.

13 Q What happens next? What do you see next on the
14 video?

15 A When she comes into the neighborhood, that's when we
16 see her drive up to ■ Pinecrest Way, make a left-hand
17 turn into the driveway. And that's when she goes out of
18 view of the camera.

19 Q So let me stop you there. We have all these pictures
20 so I'm going to try to make it clear. So initially she
21 comes in and then essentially goes directly to the
22 victim's house.

23 A Yes, sir.

24 Q All right. Then she talks to the victim for a while,
25 and then you see the car exit; is that correct?

1 A Yes. She's there for approximately one hour and then
2 she exits out.

3 Q Okay. Is that the last time you see her? When is
4 the next time that you see her?

5 A She comes back in -- I forgot the exact time. It was
6 around 12:46, I believe it was.

7 Q She comes back in. What does she do? What's the
8 next thing you see on the camera?

9 A She drives by ■ Pinecrest Way and goes to the stop
10 sign.

11 Q What happens next?

12 A She takes a left-hand turn down Masters Way, at which
13 point, you see the first set of brake lights come on.

14 Q Okay. And what does she do next?

15 A She drives down, goes down McCracken, McCracken
16 Circle. A short time later she circles around, comes back
17 in and comes in the back entrance to Pinecrest.

18 Q And then?

19 A She goes out Pinecrest Way onto Bluffton Parkway,
20 circles around and comes back in a minute later.

21 Q Okay. So I'm going to try to summarize what you've
22 just said. Bear with me. Correct me if I'm wrong.

23 So initially she comes in the neighborhood, stops at
24 the victim's house. We know it's her because we see her
25 on the video, correct?

1 A Yes, sir.

2 Q Then she leaves, correct?

3 A Yes.

4 Q And then she's gone for a period of time, correct?

5 A Yes.

6 Q She comes back in, drives by the house, goes back
7 out, comes back in, goes back out?

8 A Yes. She -- she goes out, she comes back in, and
9 then she drives by the house for the third time. That's
10 when you see her stop at the intersection for 23 seconds.

11 Q You were able to identify her car because of the
12 spokes on the -- I guess the hubcaps or rims or whatever
13 they are; is that correct?

14 A Yes, sir.

15 Q And that was pretty clear. You were able to see
16 that.

17 In any of these photographs or in the video that
18 you've just seen, were you able to see a passenger with
19 her?

20 A No. We weren't able to see a passenger.

21 Q So it was only Colette and the vehicle every time
22 that it was photographed or filmed.

23 A I'm not going to say that either. I'm just saying we
24 couldn't see inside the car to make that determination.

25 Q The alleged incident at Sam's house, the whatever,

1 the burglary or whatever it was, how long before this
2 crime did that happen?

3 A I believe I said a month in my earlier testimony, but
4 I'm not sure.

5 Q So approximately a month?

6 A Yes, sir.

7 MR. FARLEY: The Court's indulgence.

8 THE COURT: All right, sir.

9 MR. FARLEY: No further questions.

10 THE COURT: Redirect?

11 MS. SMITH: That's all I have for this witness.

12 Thank you.

13 THE COURT: Thank you. So you may step down.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: Take a break? Or are you ready?

16 MS. SMITH: Judge, we have one witness left for
17 today.

18 THE COURT: How long will that be?

19 MS. SMITH: Not long at all. Probably 15, 10
20 minutes, maybe. 15 tops.

21 THE COURT: Do you want to keep going?

22 MS. SMITH: The State calls Jennifer Nates.

23 (WHEREUPON, State's Exhibit Number 62 was marked for
24 identification.)

25 ///

1 WHEREUPON,

2 JENNIFER NATES

3 After first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SMITH:

6 Q Good afternoon, Ms. Nates. Tell us where you work.

7 A I work for the South Carolina Law Enforcement
8 Division in the Trace Evidence section.

9 Q Can you tell us a little bit about your education and
10 employment background?

11 A I received a bachelor of science degree in chemistry
12 from a state school in Pennsylvania in 1997. It was
13 California University of Pennsylvania.

14 After I received my degree, I interned at SLED in the
15 drug -- in the trace section. Once the internship was
16 complete, I was hired in the drug analysis section where I
17 completed their training program and analyzed drug cases
18 for approximately a year. Once that year was up, I
19 transferred into Trace Evidence and began a three-year
20 training program under the senior analyst and the
21 lieutenant of that department. This included numerous
22 just shadowing them, taking numerous tests, competency
23 tests, proficiency tests, and taking outside courses and
24 classes in the instrumentation used and in the types of
25 analysis that were performed.

1 Q Can you describe your job as a forensic scientist in
2 the trace department at SLED?

3 A The trace section at SLED is somewhat unique. We
4 analyze evidence from several different categories of
5 testing. We analyze gunshot residue, fire debris, which
6 is evidence from a fire scene, we analyze paint, fibers,
7 glass, explosives, tape and bank dye. We also analyze,
8 sometimes we have poison cases and just miscellaneous
9 unknown identifications.

10 The job basically is analyzing evidence, generating
11 reports and testifying in court. It also includes having
12 to do research and validations on instrumentation and
13 doing presentations for different agencies on the types of
14 analyses we are capable of performing.

15 Q How many times have you testified in court?

16 A 112.

17 Q How many times have you been declared as an expert?

18 A Every time.

19 MS. SMITH: Judge, at this time, we would offer
20 Ms. Nates as an expert in trace evidence analysis.

21 MR. FARLEY: May I have just a moment, Judge?

22 THE COURT: All right.

23 MR. FARLEY: Judge, I have some voir dire.

24 THE COURT: I'm sorry?

25 MR. FARLEY: I have some voir dire for this witness.

1 THE COURT: All right.

2 VOIR DIRE

3 BY MR. FARLEY:

4 Q What did you analyze regarding this case?

5 A In this case, I received two gunshot residue kits:
6 one from Joseph Rueby and one from Roberts Vaux.

7 MR. FARLEY: Judge, if the solicitor could just
8 clarify what we're qualifying this expert witness as.

9 THE COURT: I believe she asked for the witness to be
10 qualified as a trace evidence analysis expert.

11 MR. FARLEY: No objection to her being qualified.

12 THE COURT: Let me just briefly tell the jury what
13 we've done. Ladies and gentlemen, we've qualified this
14 witness as an expert witness. Normally witnesses are not
15 permitted to give their opinion in court. They're
16 restricted to testimony about things that they've observed
17 or smelled, seen, heard, experienced with their senses.
18 An exception is made for an expert witness who, based on
19 education or experience, will be permitted to give an
20 opinion within the area of their expertise, and you take
21 this testimony as you would the testimony of any other
22 witness.

23 DIRECT EXAMINATION (Continued)

24 BY MS. SMITH:

25 Q Did you conduct an analysis of some gunshot residue

1 kits in this case?

2 A I did.

3 Q And can you explain what gunshot residue kits are and
4 what they test for?

5 A Gunshot residue is a collection kit that we provide
6 to the law enforcement agencies throughout the State
7 that's purpose is to collect gunshot residue. The gunshot
8 residue is any of the residue that is produced when a
9 firearm is discharged. Specifically for our laboratory,
10 we analyze for what is called PGSR, or primer gunshot
11 residue. We are looking specifically for the components
12 in that residue that were formed from the primer
13 composition in the cartridge.

14 So the GSR kits, actually, we'll collect this
15 evidence off of a person's hands allowing us to analyze
16 for the presence of gunshot residue.

17 Q And did you analyze two kits in this case?

18 A I did.

19 Q Okay. I'm going to hand you what's been marked as
20 State's Exhibit Number 62. Can you identify that for us?

21 A This is the box that contains the GSR kits. When
22 evidence is submitted into the laboratory, it's assigned
23 what we call a laboratory number. It's a unique number so
24 that all evidence from that case that may come from the
25 coroner or another agency is assigned the same laboratory

1 tracking number. In this case, it was L1514383, and this
2 was considered Container A because it contained two items
3 of evidence which are the GSR kits. And on it I have the
4 date and my initials when I opened the evidence.

5 Q And which GSR kits does that box contain?

6 A This box contains the GSR kits from Joseph Rueby and
7 from Roberts Vaux.

8 Q Okay. And did you analyze those two kits?

9 A I did.

10 Q And what were your findings?

11 A On the GSR kit that was submitted from Joseph Rueby,
12 I did not find any primer gunshot residue.

13 Would you like me to read the ---

14 Q Sure.

15 A We have a listing for negative results that can list
16 why a person's hands might be negative, so I'm going to
17 read that to you now. So no primer gunshot residue is
18 found. The absence of primer residue on the hands is
19 consistent with an individual not having discharged a
20 firearm. A negative result could also occur from
21 circumstances such as four to six hours passing between
22 firing and sampling, washing the hands, wiping the hands,
23 wearing gloves, sweating profusely, environmental factors
24 including wind and rain, bloody hands, excessive debris on
25 the sample, normal physical activity between firing and

1 sampling, or the firearm not producing primer residue on
2 the hands when discharged.

3 Q And what were the results for the other GSR kit?

4 A The GSR kit from Roberts Vaux, it was also no primer
5 gunshot residue found with the same paragraph explaining
6 why it could be negative.

7 Q Did you analyze any other kits in this case?

8 A I did not.

9 Q Okay. Do you know if a GSR kit was performed on the
10 defendant?

11 A I do not.

12 Q Okay. And explain to us one of the sentences that
13 you read about the four to six hours requirement. Can you
14 explain that to the jury?

15 A There is a time requirement on gunshot residue
16 remaining on a person's hands. On a deceased individual,
17 there is no time frame because once a person is deceased,
18 they can't wash their hands. They can't remove the
19 residue. They're not sweating.

20 So on a live individual, there is no expectation to
21 find gunshot residue on that person's hands four to six
22 hours after the shooting. If anything, it's if a hand --
23 if a kit is collected four to six hours after a shooting,
24 we do not analyze it because if we find any gunshot
25 residue, we can't link it to that specific incident.

1 MS. SMITH: That's all I have for this witness.

2 Thank you.

3 CROSS EXAMINATION

4 BY MR. FARLEY:

5 Q You read to the jury a disclaimer that had to be
6 written by a lawyer of some sort. But it listed multiple
7 reasons why there would not be -- what could mess up a
8 gunshot residue kit, why there would not be gunshot
9 residue on a hand. Could you read that a little bit more
10 slowly to the jury again?

11 A The absence of primer residue on the hands is
12 consistent with an individual not having discharged a
13 firearm. A negative result could also occur from
14 circumstances such as four to six hours passing between
15 firing and sampling, washing the hands, wiping the hands,
16 wearing gloves, sweating profusely, environmental factors
17 including wind and rain, bloody hands, excessive debris on
18 the sample, normal physical activity between firing and
19 sampling, or the firearm not producing primer residue on
20 the hands when discharged.

21 MR. FARLEY: Thank you.

22 Judge, I have no further questions.

23 MS. SMITH: Nothing further for this witness.

24 THE COURT: Thank you, ma'am. You may step down.

25 MS. SMITH: Judge, that's all we have for today. We

Wednesday, October 18, 2017

(WHEREUPON, State's Exhibit Number 63 was marked for identification.)

(WHEREUPON, proceedings commenced at 9:43 a.m.)

THE COURT: The jury has sent out a note indicating that they have selected Juror Number 345, Charles Spurlock, to serve as foreperson for the jury.

And the bailiff indicates all jurors are present.
Ready for the jury?

MS. SMITH: Yes, sir.

MR. FARLEY: Yes, sir.

THE COURT: All right. Let's bring the jury.

(WHEREUPON, the jury entered the courtroom at 9:45 a.m.)

THE COURT: Welcome, and good morning, ladies and gentlemen. I believe that we are ready to resume the presentation of evidence by the State.

Solicitor?

MS. SMITH: Thank you, Judge. The State calls Andrew Garinger.

WHEREUPON,

ANDREW GARINGER

After having been duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MS. SMITH:

Q Mr. Garinger, where do you work?

A I work for the Beaufort County Sheriff's Office forensic services laboratory.

Q Okay. And how long have you been at the Sheriff's Office?

A It will be coming up on three years in January.

Q Okay. And what are your duties there? Explain to us what you do.

A So I receive evidence, analyze it, issue reports on my analysis, and then occasionally I have to testify in court about that.

Q Can you tell us about your educational background, special training that you've had?

A Well I've got a bachelor of arts in accounting, which isn't very relevant here, a bachelor of science in biochemistry and molecular biology, a master of science in forensic science. I was trained by the Illinois State Police for a year and a half, and then I received additional training when I came to work for the Beaufort County Sheriff's Office.

Q Have you ever testified in court before?

A Yes, I have.

Q How many times?

1 A I have testified in 15 cases, three of them in
2 Beaufort County.

3 Q Okay. Where else have you testified?

4 A Cook County, Illinois.

5 Q Have you been qualified as an expert before?

6 A Yes.

7 Q Okay. How many times?

8 A All 15.

9 MS. SMITH: Okay. Judge, at this time, we would like
10 to offer Andrew Garinger as an expert in forensic DNA
11 analysis.

12 THE COURT: Forensic DNA analysis.

13 MR. FARLEY: I do have some voir dire, Judge.

14 THE COURT: All right, sir.

15 VOIR DIRE

16 BY MR. FARLEY:

17 Q In your training and experience, have you been
18 taught, educated, dealt with the transfer of DNA from a
19 person to an item?

20 A We've talked about it, yes.

21 Q Have you been trained or taught about the transfer of
22 DNA from an inanimate object to another object?

23 A Sure. That's been discussed as well.

24 MR. FARLEY: Thank you.

25 Judge, I have no further questions.

1 THE COURT: All right. No objection then to the ---

2 MR. FARLEY: That's correct.

3 THE COURT: That motion will be granted, and the
4 witness will be so qualified.

5 MS. SMITH: Thank you, Judge.

6 DIRECT EXAMINATION (Continued)

7 BY MS. SMITH:

8 Q Mr. Garinger, let's start with what is DNA as basic
9 as possible as you can explain for us.

10 A So it's a molecule that forms basically the blueprint
11 for life. It's inherited from your mother and your
12 father, and it tells your -- gives yourselves instructions
13 on how to operate and how to do their jobs.

14 Q Okay. What are you looking for when you test DNA?
15 What -- can you explain to us what is a DNA profile?

16 A So the DNA molecule is 5 billion base pairs long.
17 We're not looking at that whole 5 billion base pairs.
18 That's a lot of information. We are looking at very
19 specifically selected locations on the genome that are
20 designed to give us information about a person in order to
21 uniquely identify them but not give us information about
22 any of their physical characteristics or anything that
23 would be readily visible to the human eye.

24 So you're getting one copy of your DNA from your
25 mother and one copy from your father, and so at each of

1 those locations that we're looking at, you're getting a
2 chunk of DNA that we are looking for. And those chunks of
3 DNA, when combined together, make a DNA profile that we
4 can use to compare between samples from a crime scene or
5 other evidence and known samples that come directly from
6 people that are potentially involved in the case.

7 Q Tell us a little bit about your standards and
8 practices in the Beaufort County Sheriff's Office DNA lab.
9 What are your control messages and how do you prevent
10 contamination in the lab?

11 A There's a lot of them. We wear protective gear at
12 all times. We wear a surgical mask to keep from breathing
13 on the evidence. We wear gloves anytime we're handling
14 evidence. We wear a lab coat.

15 Before we begin examining any evidence, we clean the
16 area thoroughly, lay out paper in order to examine a piece
17 of evidence, which we change out after each piece. We
18 don't open multiple pieces of evidence at the same time.
19 We will open it, do what we need to do with it, seal it
20 back up, clean the area and then move onto the next item.

21 We will analyze our unknown evidence first, get
22 through that, and then at a later date or time, we will
23 analyze the knowns that are coming from people potentially
24 involved in the case.

25 We bleach our gloves in between handling anything

1 outside of the evidence and the evidence itself. We
2 sterilize all of our instruments, all of our tweezers and
3 scissors and all of the robots that we use during our
4 analysis. We use quite a few controls throughout the
5 process.

6 Every batch of samples that we analyze has what we
7 call reagent blank that follows the evidence through the
8 entire process to demonstrate that the chemicals and the
9 processes that we used were clean.

10 I'm sure there are more that I'm not thinking of.

11 Q Did you have an occasion to test possible DNA in this
12 case against Samuel Collins?

13 A I did.

14 Q Okay. Did you follow all of those measures when you
15 were doing your testing?

16 A Yes, I did.

17 Q Okay. You tested a number of items that were
18 submitted into evidence.

19 A Yes, I did.

20 Q I'm going to show you first what's marked as State's
21 Number 51. Can you identify that?

22 A Yeah. This was what was given to me as a DNA
23 standard from Samuel Collins.

24 Q Okay. And did you obtain a DNA profile from that
25 swab?

1 A Yes, I did.

2 MS. SMITH: Judge, at this time, we'd move to enter
3 Number 51 into evidence.

4 MR. FARLEY: No objection.

5 THE COURT: Motion's granted.

6 (WHEREUPON, State's Exhibit Number 51 was admitted into
7 evidence.)

8 BY MS. SMITH:

9 Q I'm showing you what's been marked as Number 52, and
10 if you'll ID that.

11 A (Reviews exhibit) Uh-huh.

12 Q And what is exactly Number 52?

13 A A standard that was given to me as a -- as coming
14 from William Cody Brown.

15 Q And did you develop a DNA profile for that one?

16 A Yes, I did.

17 MS. SMITH: At this time, we move 52 into evidence.

18 THE COURT: Any objection?

19 MR. FARLEY: No, Your Honor.

20 THE COURT: Motion's granted.

21 (WHEREUPON, State's Exhibit Number 52 was admitted into
22 evidence.)

23 BY MS. SMITH:

24 Q Now I'm handing you what's been marked as State's
25 Exhibit Number 53. Can you identify and tell the jury

1 what that is?

2 A This is a standard that was given to me as coming
3 from Joseph Rueby, I believe that's pronounced.

4 Q And were you able to develop the DNA profile for
5 comparison with that exhibit?

6 A Yes, I was.

7 MS. SMITH: Judge, we move 53 into evidence.

8 MR. FARLEY: No objection.

9 THE COURT: Motion's granted.

10 (WHEREUPON, State's Exhibit Number 53 was admitted into
11 evidence.)

12 BY MS. SMITH:

13 Q I'm going to hand you what's been marked as State's
14 Exhibit Number 54. Can you tell us what that is?

15 A That's a standard that was given to me as coming from
16 a Roberts Vaux or Veau.

17 Q And did you develop a DNA profile for that?

18 A Yes, I did.

19 MS. SMITH: Judge, I would move 54 into evidence at
20 this time.

21 THE COURT: Motion's granted without objection.

22 (WHEREUPON, State's Exhibit Number 54 was admitted into
23 evidence.)

24 BY MS. SMITH:

25 Q And when you received these items, were they sealed?

1 A Yes.

2 Q Okay. And did you receive them from the Bluffton
3 Police Department?

4 A Yes.

5 Q Okay. I'm also going to show you, for identification
6 purposes, what will be 64 and 65.

7 (WHEREUPON, State's Exhibit Numbers 64 and 65 were marked
8 for identification.)

9 BY MS. SMITH:

10 Q Can you identify each of those?

11 A Okay. The one marked 64 is a standard said to have
12 come from a Clay McCarter.

13 Q Okay. And is that a buccal swab ---

14 A Yes.

15 Q -- a DNA buccal swab that you examined?

16 A Yes, ma'am.

17 Q Were you able to develop a DNA profile for that?

18 A Yes, I was.

19 Q Okay. And what about State's 65?

20 A This one was a soda can that was submitted as a
21 reference standard for a Colette Collins.

22 Q Okay. And were you able to obtain a DNA profile for
23 that?

24 A Yes, I was.

25 Q Okay. All right. Mr. Garinger, let's talk about the

1 items that you tested starting with -- and we'll refer to
2 your item number and then I'll respond with the exhibit
3 number.

4 A Is it all right if I also refer to my report?

5 Q Absolutely. Yes, sir.

6 Mr. Garinger, did you test shotgun shells for DNA in
7 this case?

8 A Yes, I did.

9 Q Okay. And I believe that is Items 1 and 2 in your
10 report; is that correct?

11 A That is correct. There was also Item 25.

12 Q Correct.

13 Let's start with Item Number 1. Tell us what you
14 tested.

15 A That was a fired shotgun shell.

16 Q Okay. And you tested that for DNA; is that correct?

17 A Correct. I swabbed it.

18 Q Okay. And what were your findings?

19 A The amount of DNA that I got from that particular
20 item was not enough for us to do anything with.

21 Q Okay. Is that unusual when dealing with touch DNA?

22 A No. Not at all.

23 Q Okay. Can you tell us why?

24 A Well, it depends on the item. With touch DNA, we're
25 dealing with skin cells that are shed from when someone

1 touches something usually contained in sweat or some other
2 bodily fluid, but with touch DNA, you're just dealing with
3 skin cells that are naturally shed from your body.

4 Depending on the surface, depending on the circumstances
5 and the environment that the item was in, either there can
6 be not very many cells there to begin with or what cells
7 are there get destroyed or fall off or anything of that
8 nature. So we really don't know what we're getting with
9 touch DNA until we're able to swab it, extract the DNA and
10 look to see how much is there.

11 Q What about Item Number 2?

12 A Item Number 2 was an unfired shotgun shell.

13 Q And did you swab that item for DNA?

14 A Yes.

15 Q Okay. And what were your findings for that?

16 A The same result. We were unable to get enough DNA
17 for us to continue our processes.

18 Q Okay. And I'm going to show you what's been marked
19 as Item Number 47. And I believe that's Items Number 3
20 and 4 on your report?

21 A Yes.

22 Q Okay. Can you explain what those are?

23 A So these were swabs that were collected from an
24 unfired and a fired shotgun shell collected by SLED agents
25 at the scene, I believe.

1 Q Okay. And did you test those swabs?

2 A I did.

3 Q Okay. And what were your findings on that?

4 A I wasn't able to recover any DNA from those swabs.

5 MS. SMITH: Judge, at this time, we'd move 47 into
6 evidence.

7 MR. FARLEY: No objection.

8 THE COURT: Motion's granted.

9 (WHEREUPON, State's Exhibit Number 47 was admitted into
10 evidence.)

11 BY MS. SMITH:

12 Q All right. I'm going to take you to Item 25.1 in
13 your report. And what was that that you tested?

14 A That was another fired shotgun shell.

15 Q Okay. And what did you find there?

16 A Again, not enough DNA for us to do anything with.

17 Q Okay. And was that anything unusual?

18 A No.

19 Q All right. You took swabs from the gun that was used
20 in this case; is that correct?

21 A Yes.

22 Q Okay. And I'm going to show you what's been marked
23 and admitted into evidence as Item Number 60, and it's
24 locked in here. Is this the item that you swabbed and
25 tested?

1 A I have to look at all the surface stickers and
2 everything. Hold on just a second. Correct. And so
3 that's -- oh, that's actually -- and yeah. That's what I
4 was looking for.

5 Q Can you tell what you -- the swabs that you collected
6 from that item of evidence?

7 A So I believe I collected four swabs from this item.
8 I collected a swab from the magazine cap, so the sort of
9 rough knob that's on the front underneath the barrel, I
10 collected a swab from the trigger and the grip area of the
11 shotgun, and a swab from the stock butt area of the
12 shotgun, and then a swab from the forestock where you hold
13 your other hand.

14 Q Can you demonstrate -- can you take the gun out of
15 there and demonstrate to the jury those areas for us?

16 A Sure. So the magazine cap would be here, the trigger
17 and grip area would be here, the butt stock would be this
18 area, and then the forestock would be here (indicating
19 throughout). Good?

20 Q Yes, sir.

21 Mr. Garinger, you explained to the jury the swabs
22 that you took. I'm going to hand you what's been marked
23 as State's Exhibit 63.

24 A (Reviews exhibit) Okay.

25 Q And can you identify what is contained in State's

1 Exhibit 63?

2 A So when we extract DNA from a swab or an item,
3 especially with touch DNA, we frequently have to use
4 everything that we get. Sometimes we don't. And what we
5 have left that we didn't need for our testing, we preserve
6 it in the original tubes and package it back up and return
7 it to the agency that submitted it to us.

8 So in this packaging, there is the remaining DNA from
9 the swabs from the trigger and grip area, the swabs from
10 the stock butt area, the swabs from the forestock, and
11 then an additional exhibit that we haven't talked about
12 yet.

13 MS. SMITH: Judge, at this time, I would move
14 State's 63 into evidence.

15 MR. FARLEY: No objection.

16 THE COURT: Motion's granted.

17 (WHEREUPON, State's Exhibit Number 63 was admitted into
18 evidence.)

19 BY MS. SMITH:

20 Q All right. Let's talk about what the results of your
21 testing on these items were starting with 26.1.

22 A Okay. So 26.1 was the swab from the magazine cap. I
23 was able to obtain a single source male DNA profile from
24 that magazine cap, and then when I compared it against the
25 standards that I had available to me ---

1 Q And when you say the standards you had available,
2 those are the DNA profiles that we talked about
3 earlier ---

4 A Correct.

5 Q --- from the different individuals? Okay.

6 A Yes. Let's see. They were all excluded except for a
7 match to Samuel Collins. And the probability of selecting
8 a random unrelated person with the same DNA profile as the
9 DNA profile from the swab of the magazine cap is
10 approximately 1 in 2.46 sextillion.

11 Q Tell us a little bit about that profile that you
12 obtained from that area of the gun.

13 A 26.1. You'll have to forgive me. It will take me a
14 little while to find it in here. There's a lot of data.

15 Q And specifically, what kind of match was it?

16 A There it is. 26.1, this was what we would call a
17 complete profile. So we've got -- of the locations on the
18 DNA molecule where we're looking for identity information,
19 we've got identity information from every single one of
20 them, and every single one of them was a match to those
21 same locations in the standard from Samuel Collins.

22 Q Okay. Was there any ambiguity as to the match?

23 A No.

24 Q Okay. Was this the clearest result that you got?

25 A As far as I can recall, yes.

1 Q All right. Let's go to Item 26.2.

2 A 26.2 was the swab from the trigger and the grip area.

3 Q And what were your findings on that?

4 A So in that case, the DNA profile that I obtained was
5 a mixture of at least two people. And let's see. Look at
6 the -- 26.2 -- so in that case, it was a
7 difficult-to-interpret mixture. When you have, for
8 example, DNA from two or more people in approximately the
9 same amount, you get peaks that are approximately the same
10 height, and they become more difficult to attribute to
11 either one person or the other. In this case, it was a
12 fairly close mixture so I wasn't able to get -- to
13 interpret out of an equivalent single source profile for
14 comparison.

15 Let's see. 26.2. So there was a partial major
16 contributor, meaning I was able to -- at some of the
17 locations that I looked at, I was able to say that there
18 is a contributor who had more DNA present than the other,
19 and I was able to say these pieces belonged to a single
20 person.

21 So that one, 26.2, was also a match to Samuel
22 Collins, but because the profile I was able to interpret
23 out was fairly limited, the statistic that I was able to
24 provide is necessarily lower. The probability of
25 selecting a random unrelated person with the same DNA

1 profile as the major contributor to this mixture is
2 approximately 1 in 86.

3 Q Let's go to 26.3.

4 A Okay. So 26.3 was, again, a mixture of at least two
5 individuals. In this case, I was able to interpret out a
6 fairly complete major contributor. The difference in the
7 amount of DNA contributed between the major contributor
8 and any other contributors was significant. So you can
9 see the difference when you look at it. You can see that
10 these peaks are taller and these peaks are very small.

11 So I was able to interpret out a complete major
12 profile at all locations, and that major contributor
13 matched the profile of Samuel Collins. And the
14 probability of selecting a random unrelated person with
15 that same DNA profile is approximately 1 in
16 2.46 sextillion.

17 Q And who was the minor contributor in both of these?

18 A I was not able to make -- let me double check that.

19 Q Were you able to make a match or was anyone included?

20 A Minor contributors in mixtures can be very difficult.
21 In this case for -- we're talking about 26.2, correct?

22 Q Yes, sir.

23 A In 26.2 I was not able to draw any conclusions about
24 the minor contributor. I'm sorry. 26.2, the standard
25 from William Cody Brown was included in the mixture. My

1 mistake.

2 Q And what about 26.3?

3 A 26.3 was the swab of the stock, again, a mixture of
4 at least two contributors.

5 Q And you testified Mr. Collins was the major
6 contributor on that. What about the minor contributor for
7 26.3?

8 A Oh, the minor contributor for 26.3, I wasn't able to
9 draw any conclusions about the minor contributor of 26.3.

10 Q What about Item 26.4?

11 A 26.4 was the swab of the forestock.

12 Q What were the results of your testing?

13 A I was able to get a major and minor contributor. And
14 look at that again. So we have a major contributor,
15 again, in this case it was at most of the locations but
16 not all of them where I was able to determine a major
17 contributor, but the major contributor for 26.4 was a
18 match to William Cody Brown.

19 Q All right. And did you include anyone as a minor
20 contributor on 26.4?

21 A Samuel Collins was included as a minor contributor,
22 but because I was comparing to the mixture as a whole, I
23 was only able to provide a statistic of using the combined
24 probability of inclusion. So this is a different type of
25 statistic. Instead of comparing to a -- between a

1 standard and a single profile, we're making a comparison
2 to the mixture as a whole if a person could or could not
3 be present in that difficult-to-interpret mixture. The
4 statistic I was able to provide for the combined
5 probability of inclusion, which is the expected frequency
6 of individuals who could contribute to the mixture for
7 item 26.4, is approximately 1 in 2.5.

8 Q Did you send Items 26.2, 26.3 and 26.4, all of which
9 you said were mixtures, did you send them on for further
10 testing in your lab?

11 A Yes. So at the time, combined probability of
12 inclusion was the only method that we had on the books for
13 making comparisons to mixtures as a whole, so we couldn't
14 do as much with those minor contributors or those
15 difficult-to-interpret mixtures. We had on the horizon a
16 computer program that is specifically designed to help us
17 interpret really difficult mixtures, which I'm not trained
18 on, but that came online, I believe, in January of the
19 next year. And so I set aside those mixtures for one of
20 our other analysts to analyze using that method.

21 Q Thank you. I'm going to show you what's been marked
22 as State's Number 58 and ask if you can identify that for
23 us.

24 A So this was a black adjustable hat.

25 Q Okay. And did you test that item?

1 A Yes, I did. I swabbed the -- sort of the inside brim
2 of the hat.

3 MS. SMITH: Judge, at this time, we would move 58
4 into evidence.

5 MR. FARLEY: No objection.

6 THE COURT: Motion's granted.

7 (WHEREUPON, State's Exhibit Number 58 was admitted into
8 evidence.)

9 BY MS. SMITH:

10 Q And what were your findings on that test?

11 A So, again, I got a mixture of at least two
12 individuals. I was able to deduce a major contributor,
13 and in this case the minor contributor was so minor that
14 it wasn't even suitable for comparison.

15 Q Who was the major contributor?

16 A So in this case, I got a result at every location,
17 and the major contributor was a match to Samuel Collins.
18 And, again, the probability of selecting a random
19 unrelated person with the same DNA profile would be 1 in
20 2.4 sextillion.

21 Q To give us an idea, how much is a sextillion? How
22 many zeros is that?

23 A That's a big number. Let's see. That would be 2,400
24 followed by 18 zeros.

25 Q Thank you. I'm going to show you what's been marked

1 as State's Number 59.

2 A (Reviews exhibit) Okay.

3 Q And what is that item?

4 A So these were unusual. They were a jacket and pants
5 that I believe the brand was Bug Tamer. It was, I think,
6 a mesh camouflage material, and they were kind of bundled
7 together in this -- this package.

8 Q Okay. And did you test both of those items?

9 A I did. Let's see. The pants ---

10 Q Let's start with the pants. Yes, sir.

11 A The pants, I swabbed the waistband of the pants with
12 the idea that that's the most likely to come in contact
13 with the skin of whoever was wearing it, and in that case,
14 I was unable to get enough DNA for amplification.

15 Q All right. What about the jacket?

16 A So the jacket, I swabbed it in two areas. I swabbed
17 the neck seam and then also the cuffs because those are
18 areas that I found to be useful.

19 The neck seam, I obtained a mixture of at least two
20 individuals, again, with a male major contributor. And do
21 you want to continue on with that?

22 Q Yes, sir.

23 A All right. The -- let's see. The major contributor
24 was a match to Samuel Collins.

25 Because it was an incomplete profile, I didn't get

1 usable results at every single location that I looked.
2 The statistic is lower. The probability of selecting a
3 random unrelated person with the same DNA profile as this
4 major contributor would be 1 in 26 trillion.

5 Q What about the other area, the cuffs of the jacket
6 that you tested?

7 A The cuffs of the jacket, I obtained a mixture of at
8 least three individuals, so I could look at that and see
9 that there were peaks there, that had to come from at least
10 three different people.

11 Q Okay. Were you able to find if Mr. Collins was
12 included as one of the at least three individuals?

13 A So in this case, I had to go back because I was not
14 able to -- the more contributors you include in a mixture,
15 the more difficult it is to interpret, the more difficult
16 it is to assign an allele to one or another contributor.
17 So three-person mixtures and four-person mixtures are
18 much, much more difficult, and that's what we tend to use,
19 TrueAllele, for now.

20 In this case, I had to make, again, the comparison to
21 the mixture as a whole. And the combined probability of
22 inclusion or the expected frequency of individuals who
23 could contribute to the mixture from the cuffs of the
24 jacket is approximately 1 in 230,000.

25 Q And is this an item that you also sent for further

1 testing in your lab?

2 A Correct.

3 Q Did you produce electronic files for all of this
4 testing?

5 A Yes.

6 MS. SMITH: I have nothing further for this witness.
7 Thank you.

8 THE COURT: Cross-examination?

9 MR. FARLEY: Thank you, Judge. If it pleases the
10 Court.

11 CROSS EXAMINATION

12 BY MR. FARLEY:

13 Q Let's just start with the numbers. There's a lot of
14 numbers. We've gotten numbers from the SLED people on
15 pieces of evidence, we've gotten numbers from the Bluffton
16 Police Department on evidence. Do you, when it comes into
17 your lab, assign it a new number?

18 A Correct.

19 Q All right. So you don't know where that stuff was
20 collected, you don't know who collected it, I guess,
21 unless you look what's written on the thing. You don't
22 know anything about it except for I get this piece of
23 evidence, I do my job and say what I find, and that's it.

24 A Correct.

25 Q So I'm going to try to go through it. I'm going to

1 try to parse out all of these numbers. We have exhibit
2 numbers as well, so please bear with me, and please
3 correct me if I make any mistakes, okay?

4 A Of course.

5 Q All right. Let's go through the shotgun shells. You
6 had a total of how many shotgun shells to analyze?

7 A I had the three shotgun shells and then also the
8 swabs that were collected by SLED.

9 Q Your -- and once again, you have no idea how these
10 were collected, where they were collected. You just get
11 these to analyze, correct?

12 A Yeah. I see the forensic examination request that
13 comes in from the agency. Sometimes they'll tell me where
14 or how it was collected, sometimes they don't.
15 Ultimately, it doesn't really make that much of a
16 difference to my analysis, though.

17 Q All right. So do you have a copy of your report?

18 A I do, yes.

19 Q All right. I'm going to go through Page 1 where it
20 shows Item 1 is a fired shotgun shell; is that correct?

21 A Yes.

22 Q And you said when you testified that you found DNA on
23 it, correct?

24 A Yes.

25 Q But the DNA that you found was insufficient for

1 amplification and examination; is that, correct?

2 A Correct. There's a level below which we know we
3 aren't going to get useful results, so we don't use our
4 time and resources on it to get nothing useful.

5 Q So on Item 1, a fired shotgun shell, DNA not useful?

6 A Correct.

7 Q No conclusion can be drawn.

8 A Correct.

9 Q All right. Let's move on to your Item Number 2,
10 which is still on Page 1, which is an unfired shotgun
11 shell; is that correct?

12 A Correct.

13 Q Once again, you were able to recover DNA from this
14 shell, correct?

15 A Correct.

16 Q And, once again, wasn't it insufficient for
17 amplification?

18 A Correct.

19 Q And for that reason, you couldn't make any
20 conclusions on that?

21 A Correct.

22 Q So DNA found, not enough or not proper, able to be
23 amplified, so therefore, no DNA profile was matched ---

24 A Correct.

25 Q --- was created.

1 Next you have swabs from Number 3. Item Number 3 you
2 label as swabs from the fired shotgun shell collected by
3 SLED. And on that item, on those swabs -- that you didn't
4 take, correct?

5 A Correct.

6 Q You just got those swabs in, right?

7 A Yes.

8 Q And there was no DNA on those swabs whatsoever.

9 A Correct.

10 Q And then let's stick with the shells. Your item
11 number -- well, actually, let's go back to Number 4.
12 Another one from SLED, correct?

13 A Correct.

14 Q Just a swab.

15 A Two swabs, yes.

16 Q Two swabs and no DNA?

17 A Correct.

18 Q All right. Then down to Item 25, which you've
19 labeled as a fired shotgun shell, once again, that was one
20 that was insufficient for amplification, correct?

21 A Correct.

22 Q And you developed no DNA profile from that.

23 A Correct.

24 Q So we've got a total of three individual shells and
25 two individual -- this is going to be confusing. So three

1 shells, correct?

2 A Correct.

3 Q And in each packet that you got from -- that SLED
4 turned in or was collected by SLED, there were two swabs
5 in each one of those.

6 A Correct.

7 Q All right. So three were tested by you. You swabbed
8 them. You did all of that, correct?

9 A Yes.

10 Q No DNA profile was able to be made?

11 A Correct.

12 Q And on the two from SLED that they collected from
13 those same three shells, there was not enough DNA on those
14 swabs to be able to make a DNA profile on that.

15 A I don't know if they were from the same shells, but I
16 wasn't able to get anything off the swabs they collected.

17 Q So everything you've labeled in regards to the
18 shells, there is no DNA. You can't testify in front of
19 this court that you were able to develop a DNA profile on
20 those.

21 A Correct.

22 Q So let's go, let's start turning to the items that
23 you were able to develop DNA profiles from. And once
24 again, we have a whole another system with decibel points.

25 In the first part of your report, you labeled the

1 individual items that this is the item that I did. For
2 example, this is the jacket and pants. So that has an
3 individual item number; is that correct?

4 A Yes.

5 Q And then on the second part of your report, there is
6 26.1, 26.2, 26.3. What is that? What are those?

7 A So the points represent subitems. If I have, for
8 instance, the shotgun, if there were multiple locations
9 that I collected swabs from, I would call that a point
10 something. So the first swab I collected was 26.1, the
11 second swab I collected was 26.2 and so on.

12 Q So it looks like on Item 26 -- so Item 26 is the
13 shotgun; is that correct?

14 A That's correct.

15 Q And 26.1 you -- let's start with 26. On 26 you
16 tested for blood.

17 A Yes. The magazine cap that I swabbed, when I swabbed
18 it, the swab came off with sort of a reddish-brown
19 staining, and I wanted to be sure what -- I wanted to know
20 whether that was from blood or not. In this case, it
21 turned out to be not from blood. It was most likely rust
22 or dirt or some other material.

23 Q And you hadn't previously testified to that. This is
24 the first time today that you've testified to that.

25 A Correct.

1 Q So on 26.1, the magazine cap, you were not able to
2 make any matches?

3 A No. I would not say that. That one was -- had a
4 male -- complete male DNA profile that I was able to
5 obtain.

6 Q And who was that?

7 A And that matched to Samuel Collins.

8 Q So we've got Sam's DNA on 26.1.

9 26.2, the trigger grip area, I've got 26.2, 26. -- I
10 see two entries for 26.2; is that correct?

11 A Correct.

12 Q So does that mean that you used more than one swab on
13 that area? Or what exactly does that mean?

14 A You're referring to the table?

15 Q Yes. The table.

16 A Okay. So if you look at the end of that line, there
17 is 26.2, trigger grip area major contributor, and 26.2
18 trigger group area minor contributor.

19 Q And on that one, that was Sam was the major
20 contributor?

21 A 26.2, the major contributor was a match to Samuel
22 Collins, and the minor contributor included William Cody
23 Brown.

24 Q So it included him, but -- so you found two: one,
25 the bigger one is Sam's and then the smaller one is

1 Mr. Brown's.

2 A Well, the -- the William Cody Brown comparison was a
3 comparison to the mixture as a whole whereas the major
4 contributor I was able to do a single source profile to
5 standard comparison. Slightly different.

6 Q So for sure Sam, possibly less. Not as confirmed a
7 finding on Mr. Brown. But then also you put at least two
8 individuals. Does that mean that there could have been
9 more individuals that contributed some partial alleles
10 or ---

11 A That's always a possibility, and we always leave that
12 open because we don't have any way to conclusively
13 determine how many individuals are present in a mixture
14 without some sort of prior assumption of who might be
15 there.

16 Q Which you don't make any assumptions. You just look
17 at the data that you were given.

18 A Correct. We interpret it and then we make our
19 comparisons. But what we do is we look at the number of
20 alleles that are present at each location, and we make a
21 call as to the minimum possible number of contributors,
22 and we say at least that many. There could be more.

23 Q But there's no way for you to scientifically
24 determine that.

25 A Not with the techniques that I had here. No.

1 Q So let's move on to 26.3. In that one you have Sam
2 listed as a match. What's the difference between a match
3 and included?

4 A So that's that same situation. When we can make a
5 comparison between a single source profile that we have
6 interpreted out and at every location that we have for
7 that unknown profile that matches to the standard, we
8 would call that a match. When we're making comparisons to
9 a mixture as a whole, we don't say "match." We say either
10 "included" or "excluded."

11 Q So there is a difference?

12 A Yes.

13 Q Let's move on to Item 26.4. What was 26.4?

14 A That was the swab from the forestock.

15 Q And on that one, I believe, and please correct me if
16 I'm wrong, on that one, I believe you testified that Cody
17 Brown was the major contributor in this mixture?

18 A That is correct.

19 Q And that you concluded that Samuel Collins was a
20 minor -- could have been included as a minor.

21 A Correct.

22 Q Sorry. I get the matched and included ---

23 A Understandable.

24 Q All right. So let's go to the hat. The hat is
25 another one of those items that you were able to obtain

1 DNA from it, correct?

2 A Correct.

3 Q And there were at least two people's DNA on it,
4 correct?

5 A Correct.

6 Q And I believe that you said you were unable to -- I
7 believe you were able to say that there were two
8 individuals that this came from.

9 A At least.

10 Q And you were able to identify Mr. Collins as a match;
11 is that correct?

12 A I was able to identify a profile that was the major
13 contributor to that mixture, and that matched Samuel
14 Collins's profile.

15 Q So that was a match. Not included. That was a
16 match.

17 A Correct.

18 Q So that's a strong piece of evidence that
19 Mr. Collins's DNA was on that hat.

20 A Correct.

21 Q And then there's another contributor, another person
22 in that pool that you -- another person's DNA, at least
23 one other person's DNA.

24 A Correct.

25 Q And you were unable to make any conclusions about

1 that other person's DNA.

2 A Correct. They were -- their contribution was so
3 minor that it just -- that that contributor was not
4 suitable for comparison against anything. I could see
5 that it was there, but I couldn't compare it in any
6 meaningful way.

7 Q All right. And I believe on the pants, what did you
8 -- on the pants, I believe you didn't find any DNA.

9 A Insufficient for amplification.

10 Q When you swab the pants, where do you swab them?
11 Just like around the waist or ---

12 A The inside of the waistband, yes.

13 Q But you didn't do -- just -- so this just came from
14 the inside of the waistband?

15 A Correct.

16 Q Not the legs. Not anything like that.

17 A Correct.

18 Q So you were able to find DNA, but because of
19 whatever, you were unable to develop a profile.

20 A Correct.

21 Q So that means Sam could have been wearing them,
22 right?

23 A Could have.

24 Q That means any of the other people that you had
25 standards from could have been wearing them.

1 A Could have.

2 Q That means I could have been wearing them.

3 A That's also possible.

4 Q They're a little big for me at an extra-large, but it
5 is what it is.

6 Let's move onto the shirt. Describe that shirt for
7 me again.

8 A I classified it as a jacket. I don't recall it
9 specifically at this point, but it was a mesh outer
10 material in a camouflage pattern.

11 Q And where did you swab that?

12 A There I swabbed in sort of the neck/cuff area, and
13 then I believe it had elastic cuffs and so I swabbed in
14 the inner part of the cuff area on both sleeves.

15 Q And on the neck area, what determinations did you
16 make?

17 A So I, again, had a mixture of at least two
18 individuals, and I was able to deduce a major contributor.

19 Q And who was that?

20 A That major contributor was Samuel Collins.

21 Q All right. And the cuffs, you were able to analyze
22 that. What -- did you make any determinations?

23 A There I obtained a mixture of at least three
24 individuals, and all I was able to do was to make a
25 comparison as to the mixture as a whole. I wasn't able to

1 deduce any individual contributors.

2 Q So unlike the pants where you weren't able to find
3 anything, you were able to develop the primary person as
4 Samuel Collins.

5 A There was a match, yes.

6 Q All right. And these other people, we don't know who
7 they are. They didn't -- they didn't match any of the
8 standards that you were given.

9 A Correct. They didn't match any of the standards that
10 I had in this case.

11 Q So there's two other people's DNA that are -- at
12 least two other people's DNA on those pants -- I mean on
13 that shirt.

14 A Yes. On the cuff swab that I obtained.

15 Q All right. So let's try to recap. Through your DNA
16 process, you cannot link Sam Collins to any of the shotgun
17 shells.

18 A I can't link anybody to them.

19 Q Nobody can be linked to those shotgun shells.

20 A Correct.

21 Q On the gun, you can link both Sam and Cody Brown to
22 that gun; is that correct?

23 A I developed profiles that matched their profiles from
24 it, yes.

25 Q So okay. And in some of the places, you also found

1 -- on the gun, you also found that in some of them there
2 were minor contributors which you could make no findings
3 about, correct?

4 A Correct.

5 Q And in some of the places, you found that there were
6 mixtures of at least two people; is that correct?

7 A That's correct.

8 Q So we know for a fact Sam's DNA was on that from what
9 you tested?

10 A I wouldn't go that far. There's a reason we phrase
11 our conclusions in the way we do.

12 Q It would be 1 in infinity of a possibility of a
13 match. Is that ---

14 A No. I definitely would not say that. The profile
15 that I developed matched the profile from his standard,
16 and the likelihood of that happening, of a profile
17 matching that profile occurring randomly in the
18 population, is very, very high.

19 Q And that same logic -- under that same logic, the
20 same response would be to Cody Brown on those?

21 A Well, yes. One of the profiles did match to William
22 Cody Brown under the same logic. Most of the times where
23 I was able to include William Cody Brown, it was more as a
24 minor contributor and a very different type of statistic
25 in that I was comparing to the mixture as a whole.

1 Q And then just to recap, there were other -- there
2 were possibly other people that touched that gun.

3 A That's possible, yes.

4 Q And then the clothing, the pants, Sam or anybody else
5 could have contributed DNA to those pants.

6 A Yeah. I couldn't draw any conclusions based on the
7 analysis that I did.

8 Q And on the shirt, the analysis you did tied the DNA
9 standard from Sam to that shirt.

10 A To the profile I was able to generate, yes.

11 Q So no DNA on the shells, DNA of Sam on the gun, and
12 DNA of Sam on the shirt.

13 A If that's how you want to simplify it.

14 Q I need it as simple as possible.

15 A Understandable.

16 Q Okay. Thank you.

17 Now, the solicitor didn't talk about one other item
18 that you examined. Item Number 24, can you describe that?

19 A Item Number 24 was a pair of black panties.

20 Q Size extra-large/8?

21 A That was what was on the label, yes.

22 Q And then so I look over here, and every single person
23 in this case that you were given a standard for, it came
24 back negative. Their DNA was not found on those panties.

25 A Correct.

1 Q So Samuel Collins, Colette Collins, Jonathan Cherol,
2 Roberts Vaux, Joseph Rueby, Mr. Brown, none of their DNA
3 were on those panties.

4 A Correct.

5 Q All right. Let's switch gears just a little bit.
6 The DNA that you used to perform these tests, it wasn't
7 like blood DNA, it wasn't DNA obtained from sweat, was it?

8 A Well, I know it wasn't blood. I didn't see any
9 indications of blood or -- or get any positive tests for
10 blood. There weren't any red-brown stains that I was able
11 to find that would give me reason to believe any blood was
12 present.

13 As for sweat, we don't have any tests for sweat, so I
14 would have no idea whether any sweat was present or not.

15 Q So on the jacket, would that be likely -- touch DNA
16 is I touch something, my skin cells fall or are removed
17 and it's left on this object, correct?

18 A Correct.

19 Q Were the swabs that you took from the shirt, was that
20 touch DNA evidence?

21 A That would be one category of touch DNA. We kind of
22 -- it depends on who you talk to and how they categorize
23 it. I would call that kind of wearer's DNA, but it's the
24 same class of evidence. It's shed skin cells and/or sweat
25 being in contact with the skin.

1 Q Now, you've already said that when I touch something,
2 anyone touches something, there's a possibility that DNA
3 will be transferred.

4 A Yes.

5 Q If I was to, say, take a jacket that had this sweat
6 or whatever on it and touch another object with it, would
7 DNA transfer in that sense?

8 A Possibly, yes. Anywhere where you have DNA that
9 touches another surface, there is a possibility of the
10 transfer of DNA.

11 Q So just as you take a swab and swab the DNA off of an
12 object, it could be the reversal. Something from that
13 swab could go onto the object you're swabbing.

14 A If that swab had DNA on it previously, yes.

15 Q So if that jacket had DNA on it and it was to come
16 into contact with another item, it would possibly transmit
17 DNA.

18 A Possibly, yes.

19 Q And the reason that you keep your lab in pristine
20 condition, you keep it clean, you wear gloves, you take
21 all those precautions, you clean your instruments, all of
22 the things that go into it, and that is to prevent exactly
23 what I -- just happened: some DNA from one item getting
24 into the DNA from another item or getting on another item?

25 A Yes.

1 Q So I know that's confusing. You're probably better
2 at it than me, so I'm just going to try to recap and get
3 this thing wrapped up.

4 No DNA on those shotgun shells.

5 A Not enough DNA.

6 Q DNA on the gun?

7 A Correct.

8 Q DNA on the gun that corresponds to -- and we're
9 talking about the whole gun, all the swabs that you've
10 done corresponds to Sam Collins.

11 A I had a match between, yes, DNA from the gun and the
12 standard from Sam Collins.

13 Q And there is also DNA that you determined to be
14 related to Cody Brown; is that correct?

15 A Yeah. There was a match from a profile from the gun
16 that also matched the standard from William Cody Brown.

17 Q And there was also in that mix of things that you
18 said the possibility that another person, that at -- you
19 mentioned at least two, there's a possibility that two or
20 more could have contributed to that mixture; is that
21 correct?

22 A Correct.

23 Q And with the panties, you excluded Colette Collins as
24 her DNA being on those panties?

25 A I excluded everybody, yes. Everybody that I had

1 standards from, correct.

2 Q And then finally, in your experience and training as
3 a DNA analyst, DNA can be transmitted from one object to
4 another.

5 A Correct.

6 MR. FARLEY: Thank you.

7 Judge, I don't have any further questions.

8 MS. SMITH: Judge, that's all I have for this
9 witness.

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

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Call your next witness.

13 MS. SMITH: The State calls John Donahue.

14 WHEREUPON,

15 JOHN DONAHUE

16 After having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. SMITH:

19 Q Mr. Donahue, where do you work?

20 A I work for the Beaufort County Sheriff's Office
21 forensics services laboratory.

22 Q Okay. And are you the head of that lab?

23 A I'm not the head of the laboratory. I'm the DNA
24 technical leader.

25 Q Tell me a little bit about your -- how long have you

1 been with the Beaufort County Sheriff's Office?

2 A January makes ten years.

3 Q Okay. And can you tell us about your educational and
4 employment background?

5 A I have a bachelor's degree from the University of
6 Tennessee with a masters -- or a major in zoology. I have
7 a master's degree from Indiana University with a major in
8 microbiology.

9 I've been employed in this field since October of
10 1997, so 20 years. I started with the Texas Department of
11 Public Safety crime laboratory in Garland, Texas right
12 outside Dallas. From there I went -- there I was a
13 serology DNA analyst involved in testing DNA evidence,
14 occasional processing of crime scenes, reporting of
15 evidence, testifying in court.

16 From there in 2002 I moved to Charlotte, North
17 Carolina to the Charlotte-Mecklenburg Police Department
18 where I was the DNA technical leader there for six years
19 until coming here in January of 2008. And for an
20 additional year while I was there, I was also the head of
21 the microanalysis section which was DNA testing and trace
22 evidence analysis.

23 MS. SMITH: Judge, at this time, I would like to
24 offer Mr. Donahue as an expert in forensic DNA analysis.

25 MR. FARLEY: No objection.

1 THE COURT: Motion's granted. The witness is so
2 qualified.

3 BY MS. SMITH:

4 Q Mr. Donahue, have you had some training in a program
5 called TrueAllele?

6 A I have, yes.

7 Q Okay. Can you explain a little bit about what that
8 program is?

9 A TrueAllele is a computer program that we implemented
10 here at the laboratory to be able to utilize all of the
11 information and DNA mixtures and to come up with a more
12 informative result. The prior method of testing DNA
13 mixtures required us to utilize things called thresholds,
14 and the threshold is basically the setting on a software
15 package where you ignore some of the data that's present
16 there. So if you want to look at analogy, it would be
17 like taking, let's say, five people, one of them is 6'5",
18 one of them is 6'2", one of them is 6', one's 5'9" and
19 one's 5'6", and you put a setting and say we're going to
20 put a setting at 5'10" and we're going to pretend that
21 anything under 5'10" is not there. The reason that those
22 thresholds were implemented in the previous type of
23 statistical analysis was to try to avoid overstating
24 statistics. The problem with that is that you lose a lot
25 of information because the instrument that we use can tell

1 you not only the DNA type, but how much is there.

2 So when you get a mixture, you're looking at two
3 different types of information: the specific DNA type and
4 the amount that's there. So in a mixture, you can use
5 both of those pieces to try to sort out who might be in
6 there and who might not. And when you set a threshold,
7 not only are you throwing out information that might get a
8 better match statistic, you're also potentially throwing
9 out information that could be exclusionary, right, which
10 you also want to incorporate.

11 So we implemented this computer program to try to
12 better sort out these DNA mixtures because, unfortunately,
13 a lot of what we test these days is DNA from two people or
14 more.

15 Q Did you analyze items in this case that Mr. Garinger
16 did not get good matches or scores on?

17 A So when Andrew tested these, it was 2015. We had not
18 yet completed our validation process for the TrueAllele
19 software.

20 A validation is a procedure we have to go through.
21 It's sort of like test driving a car, but instead of
22 taking it out around the block, maybe the dealer lets you
23 take it overnight. The validation process would be like
24 taking it out for six months and driving it in rain, snow,
25 you know, breaking hard, accelerating fast, putting it

1 really at paces to make sure that it can do everything
2 that you need it to do. That process was ongoing when
3 Andrew prepared his report, and we did not implement this
4 software until January of 2016.

5 What Andrew had done is he had saved some of these
6 mixture profiles that he could not get a clear result on,
7 and I processed them in the computer program.

8 Q With regard to the gun, State's Exhibit Number 60, I
9 believe he submitted three items to you to analyze; is
10 that correct?

11 A He submitted the electronic data, so I didn't
12 actually get the items. I got the data that he had
13 originally obtained.

14 Q And that's because TrueAllele is a computer-based
15 system. Is that the reason he would submit it to you
16 electronically?

17 A Yes. I -- well, he didn't submit it to me. I
18 retrieved it from our backup system.

19 Q Okay. Do you have a copy of your report?

20 A I do.

21 Q Okay. If you'll refer to that, and let's talk about
22 the first item that you ran through TrueAllele, Item 26.2.

23 A Yes. Item -- or Andrew's Item Number 26.2 was a DNA
24 mixture from the trigger and the grip area of the shotgun.

25 Q Okay. And what were your findings with regard to

1 that?

2 A Well, so when I ran that, as I mentioned, the
3 computer program looks at all of the DNA data that's
4 there. And in the running through that, the computer was
5 able to assess a match to William Cody Brown. It was
6 approximately 138,000 times more likely than a
7 coincidental match to an unrelated individual. So in
8 looking at that, the inferred types from that mixture, it
9 could look at the inferred types, it sorts out the data,
10 and then after it's all done, it looks at the knowns and
11 compares and says that a match to Brown was 138,000 times
12 more likely than some other unrelated person.

13 Q Okay. And after assuming that Mr. Brown was a
14 contributor, what did you find?

15 A So when you're looking at mixtures, one of the things
16 that you can do is plug a person in as a known
17 contributor. Ideally what you want to do is reduce as
18 much uncertainty in these mixtures as possible, because
19 when you reduce uncertainty, you get more conclusive match
20 scores.

21 So after assigning Brown as a known contributor here,
22 a match -- the computer was able to assess that a match to
23 Samuel Collins was approximately 5.35 quadrillion times
24 more likely than a match to an unrelated individual, a
25 coincidental match.

1 Q And what about all the other individuals that were
2 examined in this case?

3 A According to Andrew's report dated November 12, 2015,
4 all of those other people were previously excluded.

5 Q What about Item 26.3 or Andrew's Item 26.3 that he
6 submitted?

7 A That would be a DNA mixture from the stock and butt
8 area of the shotgun.

9 Q Okay. And can you tell us about your results of that
10 test?

11 A Sure. Andrew had previously reported in that same
12 report the match to Samuel Collins, so after analysis with
13 the computer software, was able to determine that a
14 comparison to Brown was statistically inconclusive. What
15 that means is I talked about the validation process. One
16 of the great things about this software is that there's an
17 area, and it's we identified an area in our validation
18 procedure that could potentially show either a false match
19 or a false exclusion, right, a range of statistics where
20 we can't necessarily tell whether that person might be
21 there or might not be. And the score here in comparison
22 to Brown was in that range, so I can't offer you any
23 information as to whether he was on the stock and butt
24 area of the shotgun that Andrew recovered or whether he
25 was not on it.

1 Q Item 26.4.

2 A That was Andrew's DNA mixture from the forestock of
3 the shotgun.

4 Q Okay. And in that one, he found that Samuel Collins
5 was included as a minor contributor and Mr. Brown was
6 included as a major contributor. What did your testing
7 find?

8 A In this case, it found that a match to Brown was 1.25
9 quadrillion times more likely than a coincidental match to
10 an unrelated individual. And so taking that information,
11 I reran the computer and told the computer to assume that
12 Brown is in here and see what else you might find out.

13 And in this case, after assuming Brown, determined that a
14 match to Samuel Collins was 88.9 billion times more likely
15 than a coincidental match to an unrelated individual.

16 Q And I believe Mr. Garinger submitted or the item that
17 he also needed testing was a mixture from the cuffs of the
18 jacket. And that's included as item 29.2.

19 A Yes, ma'am.

20 Q Okay. And in his report, he found that the DNA
21 profile obtained from the cuffs was consistent with a
22 mixture of at least three individuals. What did your
23 testing find -- further testing find?

24 A So running it through the program again as well as
25 with everything else, that for the cuffs of the jacket,

1 that a match to Samuel Collins was 725 trillion times more
2 likely in a match to -- than a coincidental match, I
3 should say, to an unrelated -- an unrelated person. And
4 as he reported out in his same report dated
5 November 12, 2015, everyone else that he tested was
6 excluded.

7 Q Just for kind of clarification purposes and for us to
8 understand and the jury to understand, is the higher the
9 number that you find the stronger the match?

10 A In this case, yes. So if you had a match score of a
11 thousand, let's say it was a thousand times more likely
12 versus a match score of 1 million than -- you know, a
13 match score of a million times more likely is far more
14 relevant than a match score of a thousand. In fact, we
15 don't even report match scores in the thousands range. We
16 require a match to be at least 10,000 before we will even
17 report it.

18 Q So a number of 725 trillion times more is a much
19 higher match.

20 A Yes.

21 MS. SMITH: That's all I have for this witness.

22 THE COURT: Cross-examination?

23 CROSS EXAMINATION

24 BY MR. FARLEY:

25 Q All right. So it basically said that you use this

1 new high-tech software to analyze the same samples that
2 Mr. Garinger analyzed; is that correct?

3 A Yes, sir.

4 Q And through that system, you confirmed Mr. Garinger's
5 findings; is that correct?

6 A Yes.

7 Q And not only did you confirm his findings, you were
8 able to find a greater probability -- you were able to
9 confirm his findings even more that the individuals that
10 you could exclude and include or whatever, they were even
11 more likely to have contributed those samples?

12 A Yes.

13 MR. FARLEY: Okay. No further questions.

14 MS. SMITH: Judge, that's all I have for this
15 witness.

16 THE COURT: Thank you, sir. You may step down.
17 Call your next witness.

18 MS. SMITH: Judge, could we take just a quick break?

19 THE COURT: Ladies and gentlemen, before we do this,
20 I forgot to do something. I forgot to confirm that the
21 jury had made a very wise decision in selecting the
22 foreperson. And I assume that's you.

23 JURY FOREPERSON: Yes, sir.

24 THE COURT: Thank you for agreeing to serve,
25 Mr. Spurlock.

25 Q And what division do you work in?

1 A I work in the firearm and tool mark department in the
2 forensic services building.

3 Q Okay. And tell us a little bit about your
4 educational and employment background.

5 A I graduated from Winthrop University with a bachelor
6 of science degree in biology. I've also completed the
7 South Carolina Criminal Justice Academy. I've also
8 completed the firearm and tool mark examiner course of
9 instruction which is taught by SLED. That course of
10 instruction lasts approximately three years. During that
11 course of instruction, we are required to perform
12 extensive reading and studying. We perform extensive
13 microscopic comparisons. We have to assist examiners in
14 preparing of their cases. It's a mentorship-style program
15 that is taught by court-qualified firearm examiners. They
16 send us to various schools, conferences and seminars in
17 the field of firearms and firearm identification.

18 Upon completing the course of instruction, passing
19 moot courts, I was allowed to work cases on my own. As
20 continuing education, I've completed the Federal Bureau of
21 Investigation course on scientific defensible on
22 specialized techniques in firearm identification. I've
23 completed the course taught by Murdoch and Moran on
24 scientifically defensible criteria for the identification
25 of tool marks. I've completed the course taught by the

1 Bureau of Alcohol, Tobacco and Firearms on serial number
2 restoration. I've completed numerous armor courses where
3 factory representatives from the manufacturer teach you
4 how to assemble and disassemble their firearms, how to
5 look for problems, what the common problems are and how to
6 fix those problems, among numerous other schools and
7 seminars I've been to.

8 Q How long have you been at the South Carolina Law
9 Enforcement Division?

10 A Coming up on 19 years.

11 Q Have you ever testified in court?

12 A Yes, ma'am.

13 Q How many times?

14 A I believe I've got around 57 testimonies now.

15 Q Have you been qualified as an expert?

16 A Yes, ma'am.

17 Q Approximately how many times?

18 A All of them.

19 MS. SMITH: Judge, at this time, I'd offer Lieutenant
20 Thrower as an expert in firearms and tool marks.

21 MR. FARLEY: No objection, Judge.

22 THE COURT: Motion granted. Witness is so qualified.

23 BY MS. SMITH:

24 Q Lieutenant Thrower, were you asked to analyze several
25 items in this case against Samuel Collins?

1 A Yes, ma'am. I was.

2 Q And were you asked to analyze what's been entered
3 into evidence as State's Exhibit Number 60, which was a
4 Mossberg 12-gauge shotgun?

5 A (Reviews exhibit) First of all, ladies and gentlemen
6 of the jury, as you can see, I just verified both by site
7 and by feel this firearm is unloaded. It is safe for me
8 to handle.

9 Yes. I have -- I did examine this firearm as it
10 bears my laboratory number, my case -- or item number and
11 my initials, which I scribed on it with an electric
12 pencil.

13 Q Can you explain a little bit about how that gun works
14 to the jury?

15 A Essentially, the way this firearm works is to load
16 it ---

17 MS. SMITH: Judge, may the witness step down from the
18 stand ---

19 THE COURT: Certainly.

20 MS. SMITH: --- so that the jury can see?

21 THE WITNESS: Essentially, how this firearm operates
22 is you first have to load, which you can either place a
23 shot shell in this opening or you can load it down here.
24 And there's a tube underneath the barrel that's called a
25 magazine, so you can load multiple shot shells into this

1 tube. You then move the forearm forward which will load
2 the shot shell into the barrel. It goes in the battery.
3 The firing mechanism side is then cocked. You essentially
4 then pull the trigger which would fire the gun.

5 When you fire the gun, pellets go down the barrel
6 towards the target. This forearm, the action then
7 unlocks. You simply pull that -- the handle back. The
8 fired shot shell is pulled out of the chamber by the
9 extractor, which is a little hook on this side. It then
10 strikes the ejector which is a post on the opposite side.
11 As it does that, it causes the shot shell to pivot and it
12 throws the fired shot shell out of this hole onto the
13 ground or whatever is nearby.

14 As the forearm continues to come rearward, the shell
15 stock, which is in the base of the magazine, is released
16 and one fired or one unfired shot shell is then under
17 spring tension pushed back into this area. As you pull
18 this back, it also recocks the firing mechanism, the
19 hammer or the firing pin which is back in here.

20 As you start to push the forearm back forward, what
21 happens is this little lever right here, if it's up, it
22 pushes the shot shell up towards the barrel in line with
23 the barrel, and as the bolt goes forward, it pushes that
24 shot shell into this chamber area of the gun. Everything
25 is locked up. The trigger is reset. With an additional

1 pull of the trigger, it will fire again. Then you simply
2 repeat the process by pulling the forearm back and pushing
3 it forward, pull the trigger.

4 You can continue this and fire over and over as long
5 as there are additional unfired shot shells in the
6 magazine (demonstrating throughout).

7 Q Lieutenant Thrower, when the shell ejects, which way
8 does it -- what is the path or which way does it go?

9 A It comes out the right. As you can see, this
10 [indicating] opening is on the right side of the receiver,
11 so it will come out of the right side.

12 Q Okay. And will it go to the right? It will go to
13 the right when it comes out, up and to the right?

14 A As long as it's being held vertically like this, it
15 will come out to the right. If you turn it sideways,
16 well, then it gets thrown down. And if you turn it this
17 way, then it will be thrown up. But it basically comes
18 out of this side of the gun. It just depends on the
19 orientation of how the gun's being held at the time
20 (demonstrating throughout).

21 Q Thank you. You may return to the stand.

22 Can you explain for the jury how you tested this
23 item? I believe you did some tests. How did you provide
24 some test-fired specimens? Can you explain your testing
25 process to the jury?

1 A Yes. Well, the first thing I do when I get a case is
2 I print off our intake sheets where the evidence is
3 submitted so I have a list of what the submitting agency
4 claims they're submitting to us for analysis. I then
5 retrieve the evidence, open it and look at it, and I
6 compare the description of the evidence to what I actually
7 have and confirm that I'm looking at the correct evidence.

8 The next thing I do is I will look all over the
9 evidence. I will look for any sort of trace material that
10 may be there, anything that should not be there like
11 blood, hair, fibers. If I see that sort of thing, then I
12 would collect it or I would have another department come
13 and collect it.

14 Passing all that, I photograph the evidence
15 packaging, photograph the evidence, documenting how it was
16 received and its various characteristics. I have
17 departmental worksheets that I fill out. Basically,
18 they're sort of a checklist to remind me of all the things
19 that we need to make sure we're looking for during
20 examination.

21 Once all that is complete, I would then take the
22 firearm and test fire it. Shotguns, we typically shoot
23 into or -- we're typically not trying to recover the
24 projectiles. For this case, all I was interested in
25 collecting were the fired shot shells. So I took them to

1 our range, I fired them into the backstop and collected
2 the shotgun shells as they were ejected from the gun.
3 That way I could also test the safeties and make -- test
4 the function of the gun to make sure it is functioning
5 properly.

6 That is the basic -- a description of the testing of
7 the firearm.

8 Q Was this gun in good working order when you test
9 fired it?

10 A Yes, it was. It was in -- everything was
11 operational.

12 Q Okay. What about the site on the gun? Was that ---

13 A Yes. The site on the firearm, I don't know if you
14 can see it, but this lens is cracked. So the site -- the
15 illuminated site that's on the gun is not in good
16 condition.

17 Q But other than that, the firearm was in good working
18 order?

19 A The site doesn't prevent the gun from firing.

20 Q And how many shells will that gun hold?

21 A It will hold five shot shells in the magazine, and
22 then you can do what they call "topping it off," and you
23 can place one more in the barrel. So it can hold a total
24 of six.

25 Q Lieutenant Thrower, I'm going to show you what's been

1 marked as State's Number 48 and ask you to identify that.

2 A State's Exhibit 48 is SLED Item Number 5. It is a
3 misfired Winchester 12-gauge -- no. Misfired 12-gauge
4 three-inch shot shell that is labeled as containing
5 double-aught buck, 15 pellets.

6 Q Lieutenant Thrower, did you receive that from the
7 Bluffton Police Department for analysis?

8 A I received it from our evidence control.

9 Q Okay. But it was submitted to SLED from Bluffton
10 Police Department?

11 A From review of the chain of custody, that's what I
12 understand. Yes, ma'am.

13 Q And when you received that, was it sealed?

14 A Yes, ma'am. All seals were intact.

15 Q Can you tell us what your findings were when you
16 tested that item?

17 A I found that there was a light firing pin impression
18 on the primer consistent with it having been struck by the
19 firing pin of a firearm. But in comparing this fired shot
20 shell with the -- or this misfired shot shell with the
21 firearm, there were not sufficient characteristics for
22 identification. I can't tell if it was fired by this
23 shotgun or some other shotgun.

24 Q And when you received that shell, was it originally
25 mislabeled as unfired?

1 A Yes, ma'am.

2 Q But you, in fact, determined it was actually a
3 misfired shell.

4 A Yes, ma'am. I noted there was a firing pin
5 impression on -- on the ignition component or the primer.

6 Q And based on the testimony you just gave, this shell
7 could have been fired by that gun or another gun.

8 A Correct.

9 Q You just can't tell.

10 A Correct.

11 Q Okay. Can you explain to us what happens when a
12 shell is misfired?

13 A Something happened that prevented the shot shell from
14 going off when it was struck by a firing pin. And there
15 could be any number of reasons starting with the shot
16 shell itself. How was it stored? Did it come into
17 contact with moisture? Could the gunpowder or the primer
18 -- or the primer have been degraded by moisture? Could it
19 have come into contact with any sort of oils or solvents,
20 gun oils that could have contaminated the powder, degraded
21 it so that it would not function properly?

22 With the shotgun itself, is there a mechanical
23 problem with the shotgun or just sometimes like a weak
24 firing pin spring or weak hammer spring? Sometimes they
25 just don't strike as hard. Sometimes you may have a light

1 firing pin strike one time and a normal firing pin strike
2 the next time. The firing pin or hammer, was it well
3 lubricated or was it dry? You know, if it's dry, metal
4 parts don't like to move as fast past each other.

5 Is there a potential for old oil or grease where it's
6 become congealed and thick or sticky where it could hinder
7 the motion of a hammer or a firing pin?

8 There's any number or combination of reasons why
9 sometimes the gun just doesn't fire even though it may be
10 in working order.

11 Q And this shell, and you listed in your report that
12 Item 5 was taken from the crime scene; is that correct?

13 A That's how it was listed on the evidence submission
14 documents. Yes, ma'am.

15 Q Let me ask you a question. When this shell was
16 misfired, would it have made a noise?

17 A Generally, you may hear a click where you hear the
18 hammer or the firing pin actually striking the shot shell,
19 but it would not be anything significant.

20 Q Okay. And I'm assuming that's because the shell
21 doesn't open up and the pellets don't come out; is that
22 correct?

23 A Correct. There's no -- there's no explosion or
24 burning of the gunpowder, so all you hear is simply the
25 striking motion of a hammer or firing pin with the shot

1 shell.

2 Q All right. I'm going to hand you what's been marked
3 and admitted into evidence as State's Exhibit Number 49
4 and ask if you can identify that item and if you tested
5 it.

6 A Yeah. State's Exhibit 49 is SLED Item Number 6.
7 This is a fired Winchester three-inch shot shell labeled
8 as previously containing double-aught buck with
9 15 pellets.

10 Q And where was that collected from? Does it say in
11 your report?

12 A Per submission documents, they claim it was from
13 crime scene.

14 Q Okay. And what were your findings with regard to
15 that?

16 A When I compared State's Exhibit 49 to the test-fired
17 shot shells from the shotgun, I was able to determine that
18 State's Exhibit 49 was fired by the shotgun.

19 Q And you stated that it's double-aught buckshot. How
20 many pellets are in there?

21 A Typically 15. In fact, this -- this shell was
22 labeled that it would have contained 15 pellets.

23 Q I'm handing you next what's been marked as State's
24 Exhibit Number 56. And, if you can, identify that.

25 A (Reviews exhibit) State's Exhibit 56 is SLED Item

1 Number 9. It is also one Winchester three-inch 12-gauge
2 shot shell labeled as previously containing double-aught
3 buck with 15 pellets.

4 Q And is this shell the same brand as Items 5 and 6
5 that you tested?

6 A Yes, ma'am. It is the same brand, same gauge, same
7 length, and it is labeled as having the same load of
8 pellets.

9 Q And do you see where that was found?

10 A Per -- well, according to the packaging, it says "on
11 coat chest."

12 Q And what were your findings with regard to Item
13 Number 9?

14 A Also, Item Number 9, when compared with test-fired
15 shot shells from the shotgun, that Item Number 9 was also
16 fired by the shotgun.

17 Q Lieutenant Thrower, I'm going to hand you what's been
18 marked as State's Exhibit Number 55 and ask for you to
19 identify that.

20 A State's Exhibit 55 is SLED Item Number 10. This was
21 one unfired shot shell. It was a Winchester brand labeled
22 two and three-quarter inch length, 12 gauge, labeled as
23 containing an ounce and a quarter of Number 4 pellets.
24 However, during examination, it was noted that there were
25 no pellets in the shot shell. The primer was unfired. It

1 was still new. The wad was in there and the gunpowder was
2 in there. All the other components were present, but
3 there were no pellets in the shot shell.

4 Q What did you do with that item?

5 A I just simply -- I disassembled it just to view the
6 components that were present and to figure out if there
7 was anything missing. Microscopic verification, there
8 were little to no marks present, so it would have been
9 inconclusive with all the other items.

10 Q Do you know why the pellets were missing?

11 A I have no idea. No, ma'am.

12 MS. SMITH: Judge, I have nothing further for this
13 witness. Thank you.

14 THE COURT: Cross-examination?

15 MR. FARLEY: Yes, sir. Thank you.

16 CROSS EXAMINATION

17 BY MR. FARLEY:

18 Q Good to see you again.

19 A Good to see you, sir.

20 Q All right. So several times, pretty much every time
21 you answered the solicitor's question about where was this
22 found or whatnot, you don't know where it was found, do
23 you?

24 A No, sir. I have no idea.

25 Q You weren't there, you've never been to the crime

1 scene; is that correct?

2 A That's correct. I was never there.

3 Q So when you are saying this is from this, this is
4 from this, what you're doing is you're reading off of the
5 submittal form, correct?

6 A That is correct.

7 Q And what you're reading is what the agency that asked
8 SLED to investigate or to analyze wrote on it?

9 A Yes, sir. I simply include that information in my
10 report if it's available to me so that when the submitting
11 agency gets the report back, it helps them understand
12 which item I'm talking about. They can compare that to
13 their -- the description.

14 Q All right. So can you tell me, do you have all of
15 the items that you analyzed up there? I mean, you've got
16 the gun as well, but all of the shells that you analyzed?

17 A Yes, sir. I believe so.

18 Q All right. Can you show me which of those -- well,
19 yeah. Which of those corresponded to ---

20 A I'm missing one.

21 Q We'll just talk about those right there.

22 A Okay.

23 Q Of those you analyzed, which of those corresponded to
24 that rifle? Which one were you able to match up to that
25 -- sorry -- shotgun?

1 A SLED Item 6, which is State's Exhibit 49.

2 Q And in the evidence submittal, that says "from crime
3 scene"?

4 A 49 is indicated as from crime scene. And State's
5 Exhibit 56, which is SLED Item Number 9, which on their
6 packaging is listed as, in part, on coat chest, were
7 identified as being fired by the State's shotgun.

8 Q And the other two, what are the other two again?

9 A State's Exhibit 48, which is SLED Item Number 5,
10 which was the misfired shot shell, that was listed as from
11 crime scene.

12 Q And could that one be linked to the gun?

13 A It could not.

14 And State's Exhibit 55, which is SLED Item 10, which
15 was the unfired shot shell that was missing the pellets.

16 Q And where does it say the unfired shot shell was
17 located?

18 A Per the packaging, it says 230 -- I can't really read
19 the writing. It looks like Hitch Post.

20 Q If I told you Hitching Post, does that sound right?

21 A That sounds like what I see. Yes, sir.

22 Q Okay. Thank you.

23 And you have no explanation of why a shotgun shell
24 would not have the pellets in it; is that correct?

25 A There's various reasons. It could have been loaded

1 improperly from the factory. It could potentially be a
2 reload that somebody just never put the pellets in.

3 Q Let me stop you right there. What's a reload?

4 A A reload would be where you take -- many times you
5 shoot ammunition one time, you would simply then take the
6 fired shot shell body, you would remove the primer, you'd
7 place a new primer or ignition component back in it, you'd
8 put new gunpowder in it, a new wad, add your pellets,
9 crimp it closed, and then you could shoot it again.

10 So it could be a potential reload that the pellets
11 were just never added. It could be that the crimp where
12 the mouth folds over to hold the pellets in just came
13 loose and all pellets fell out. I mean, there's any
14 number of reasons why it could be missing the pellets.

15 Q And the one what you all have as Number 5, the
16 unfired versus misfired, are those just technical
17 differences in the terms or does that have a substantial
18 difference in the meaning?

19 A Many times it's simply who is collecting the evidence
20 and what their knowledge is. They could easily see the
21 fact that this is -- it's heavy, it still has all the
22 pellets and the wad and internal components in it, and
23 they didn't recognize the small firing pin indentation in
24 the primer as being a possible misfire. So it could be a
25 difference in terminology or simple knowledge by the

1 person handling the evidence.

2 Q And can you tell on that who collected that evidence
3 from the crime scene, or even which agency?

4 A It has initials on it that I can't read.

5 Q If you can't ---

6 A Investigating agency, it says Bluffton Police
7 Department.

8 Q Let's kind of switch over to the shotgun shells in
9 general. We've heard testimony of two different types of
10 shells. There's buckshot and we've heard about birdshot.

11 A Yes, sir.

12 Q What's the difference between those two?

13 A Birdshot are typically small pellets. They're
14 designed primarily for shooting small game, anything from
15 rats or snakes all the way up to doves, geese, you know,
16 some of your larger birds. When you get into buckshot
17 pellets, they become even larger, and they're really
18 designed for taking down larger game such as deer.

19 Q So there is a definite difference between the two.

20 A Yes, sir. Just size and weight of the pellet.

21 Q And let's talk about how you put that buckshot or
22 birdshot into a shotgun. I don't want you to use any of
23 the ones that have not been fired. I don't want anything
24 in the gun. But could you just show the jury what you do
25 to load it, where you put the ammunition and what you do

1 to close it to make it ready to fire?

2 A Once again, you would pull the -- you can start
3 either by placing shot shells in this port loading this
4 tube magazine, or you can drop one in this port and then
5 simply push the forearm forward which will push the bolt
6 forward loading the shot shell into the barrel. If you
7 place them just in the tube underneath, you would pull the
8 forearm rearward, which releases one shot shell into this
9 area. And as you push it back forward, the lifter lifts
10 the shot shell up, places it in line with the barrel, and
11 as you continue to push it forward, the bolt of the
12 firearm pushes that shot shell into the barrel and locks
13 it in place, in battery (demonstrating throughout).

14 Q So if I was to fill it with the full five, they would
15 go into the place where the pump is?

16 A You can place -- you can place five in this hole
17 right there. This is -- this tube will hold five unfired
18 shot shells. And as you can see, I'm pushing on the
19 follower now. It's spring-loaded. So when you get ready
20 to load the next round, as you pull it back and the shell
21 stop releases, that spring pushes the first shot shell
22 into this area. The lifter then raises it up so they can
23 be placed into the barrel (indicating throughout).

24 Q And then you said you could put one extra one in.
25 I'm assuming that's through the top port?

1 A Yes. You can place one through this (indicating)
2 port, and then as you push the forearm forward, it will
3 load that one into the barrel.

4 Q And you said the site wasn't functioning or the glass
5 was broken?

6 A Correct. It's cracked.

7 Q And that makes it ---

8 A Hard to see through.

9 Q --- hard to see through. Okay.

10 Now, when I'm loading these shells -- and I kind of
11 saw it but I just want to point it out. When I'm loading
12 these shells, obviously, I have to touch the shells,
13 correct?

14 A Yes, sir.

15 Q Presumably, I can't make it magically ---

16 A It's kind of hard to get them without touching them
17 unless you have gloves on.

18 Q And so I'm touching the -- may I see one of those?

19 MR. FARLEY: May I approach the witness?

20 THE COURT: You may.

21 BY MR. FARLEY:

22 Q So you're going to touch this plastic part,
23 presumably, to get it in?

24 A Normally. Yes, sir.

25 Q And then as you push it up into the chamber that

1 holds the -- I know that's kind of -- the place where the
2 shells ---

3 A Magazine.

4 Q The magazine. When you place it in the magazine,
5 you're probably going to touch this piece of brass right
6 here.

7 A Very likely. Yes, sir.

8 Q So you would touch it, and then you would have -- if
9 we were loading the gun completely, you'd touch this one,
10 push it in, push it in just as we described.

11 And the -- so there's multiple places on here where a
12 reasonable person would touch to have to load it, correct?

13 A Yes, sir.

14 Q And so let's just once again recap. You've obviously
15 got to touch shells to put them in the gun.

16 A I would think so. Yes, sir.

17 Q And then the way you described to the jury is how one
18 would load that gun.

19 A Yes, sir. I gave two options for loading.

20 Q And when you get these items, you don't actually go
21 to the scene to collect them.

22 A No, sir.

23 Q They come from the agency; isn't that right?

24 A Yes, sir.

25 Q They come to your SLED evidence room.

1 A Yes, sir.

2 Q They clock it in, give it numbers -- more numbers.

3 A Yes, sir.

4 Q And then once you get -- once that item comes up to
5 be examined in your rotation, you perform the test that
6 you've done here.

7 A Yes, sir.

8 Q And you rebox it up, and then the agency is
9 responsible for coming and getting them.

10 A Yes, sir.

11 Q So never were at the scene.

12 A No, sir.

13 Q Never saw anybody fire the gun.

14 A No, sir.

15 MR. FARLEY: No further questions.

16 MS. SMITH: That's all I have for this witness,
17 Judge.

18 THE COURT: Thank you, sir. You may step down, and
19 you may be excused from your subpoena.

20 THE WITNESS: Thank you, sir.

21 MS. SMITH: Judge, may we approach?

22 (WHEREUPON, a bench conference was held off the record.)

23 THE COURT: Ladies and gentlemen, due to things
24 beyond our control, I'll tell you about it in a minute,
25 we're going to be required to take an extended lunch

1 break. The next witness -- is it the coroner?

2 MS. SWANSON: Dr. Batalis, pathologist.

3 THE COURT: Pathologist. I'm sorry. Is actually
4 testifying in a similar trial in Florence, South Carolina.
5 He was supposed to be here this morning, but his trial,
6 they couldn't get to him yesterday so they had to use him
7 this morning. He is now on his way, but he just got on
8 the road, apparently. 1:45.

9 Ladies and gentlemen, I remind you, don't let anybody
10 talk to you about the case, you don't talk to anybody
11 about the case.

12 (WHEREUPON, the jury exits the courtroom at 11:56 a.m.)

13 THE COURT: Anything we can do during the break?
14 Otherwise, we'll be in recess till 1:45.

15 MR. FARLEY: Just maybe the verdict form. Do you all
16 have one that you use or does the Court?

17 THE COURT: I was just going to get the clerk to find
18 our indictments in this case, and on the indictment form,
19 it has a place for guilty or not guilty on the back of it.
20 I was just going to give that, since it won't -- unless
21 there's a lesser included charge and I'm not aware of that
22 yet.

23 MS. SMITH: No, sir.

24 MR. FARLEY: That's fine. Just making sure. Some
25 courts do it differently.

1 THE COURT: Anything else?

2 MS. SMITH: Judge, the only thing is maybe the jury
3 charges.

4 THE COURT: What do y'all want me to do? What do you
5 want me to charge that we haven't talked about?

6 MR. FARLEY: For the record, I reviewed what you --
7 the charges that you had showed us yesterday. There is
8 one. I just need to review the circumstantial evidence
9 one, which ---

10 THE COURT: What about it?

11 MR. FARLEY: I just need to review that one. That
12 was the only one that I didn't get a good look at.

13 And I believe the State has a ---

14 MS. SMITH: Judge, the only thing is that we
15 requested the hand of one, hand of all charge.

16 THE COURT: If I recall yesterday, defense objected
17 to the hand of one, hand of all.

18 MR. FARLEY: That's correct, Judge. There's been no
19 evidence to support that.

20 THE COURT: Explain to me, Solicitor, how that would
21 apply in this case.

22 MS. SMITH: Judge, our position is the defendant was
23 the shooter, the codefendant was involved before, during
24 and after. Two people were charged with the murder even
25 though there's only evidence of one actual shooter. I

1 think the testimony indicates that both the defendant and
2 his wife, Colette Collins, who was charged with murder,
3 were both involved in this. The jury could believe that
4 -- based on the testimony as well, that the defendant
5 aided his wife before, during and after since his DNA is
6 on the gun and the video shows her in the car. So I think
7 that's kind of the basis where we can argue for the hand
8 of one is the hand of all.

9 THE COURT: I don't believe I ever had one exactly
10 like that.

11 MR. FARLEY: I mean, do I need to argue that? I
12 think it's plain as day that there's not the hand of one,
13 the hand of all here. If the Court wants to hear
14 arguments, I will be glad to do it, but there's just no
15 facts in evidence that would support that.

16 MS. SMITH: Judge, and we disagree. Even if the jury
17 doesn't think the defendant's the shooter, they -- it
18 doesn't mean they couldn't determine that he is
19 responsible under the hand of one is the hand of all and
20 that his DNA is on the gun, he returned the gun, he
21 borrowed the gun beforehand from his friend, and there's
22 testimony to that.

23 THE COURT: What is the evidence that his -- I'm
24 going to say his wife committed the crime?

25 MS. SMITH: She is -- first of all, she goes by the

1 victim's house beforehand, make sure he's home, picks up
2 the defendant, takes him back over there. She's driving
3 the car. There's a woman driving the car. You can make
4 that out in the video. Takes him back to the victim's
5 house, drops the defendant off, comes back, picks him up,
6 and then that's her involvement. So before, during and
7 after the crime.

8 THE COURT: There is no evidence that she is the one
9 who perpetrated the crime, is there? Am I missing it?

10 MS. SMITH: Well, Judge, I would agree with that.
11 That's not what we put into evidence. But we don't know
12 what the defendant is going to argue. If he argues that
13 she's the shooter, I mean, not perpetrated the crime, I
14 mean, she's definitely -- she was charged with murder,
15 there was testimony as to that, and she is as culpable as
16 he is. But if he argues that she was the shooter, that
17 doesn't eliminate his involvement as well before, during
18 and after the crime.

19 Now, if that's not the position he's going to take,
20 we'll withdraw that request to charge.

21 THE COURT: Well, why don't we wait and see what he
22 does.

23 MR. FARLEY: Well, you know, Judge, they've got to
24 put facts into evidence to support the charge. I mean, if
25 I was to ask for, you know, involuntary manslaughter, I'm

1 pretty sure I wouldn't get it, right, because there's no
2 evidence to support that. But I'll be glad -- you know,
3 I'm not quite sure what the State is asking me not to
4 argue. What are you -- what is our trade-off here?

5 MS. SMITH: It's not a trade-off. I'm definitely not
6 saying that.

7 THE COURT: I don't think the State is asking you not
8 to do something. I think the State is saying that if you
9 do something ---

10 MS. SMITH: Should, right.

11 THE COURT: --- you try to point the finger at your
12 client's codefendant, which as I understand is his wife,
13 then they want to be able to have the right to argue and
14 get a charge on the hand of one.

15 We'll revisit it after we hear closing arguments.
16 How is that?

17 MR. FARLEY: Sounds good, Judge.

18 MS. SMITH: Thank you, Judge.

19 THE COURT: And I'll think about it some more.
20 What else do we need to do?

21 MS. SMITH: Nothing from the State.

22 THE COURT: 1:45.

23 MR. FARLEY: Yes, sir. Thank you, Judge.

24 THE COURT: All right in recess to 1:45.

25 (WHEREUPON, a recess is taken at 12:02 p.m.)

1 (WHEREUPON, proceedings reconvened at 2:13 p.m.)

2 THE COURT: Are you all ready for the jury?

3 MS. SMITH: Yes, sir.

4 MR. FARLEY: Yes, sir.

5 (WHEREUPON, the jury entered the courtroom at 2:15 p.m.)

6 THE COURT: Welcome back, ladies and gentlemen. I
7 believe the State's -- we have the witness here.

8 MS. SMITH: Yes, sir.

9 THE COURT: The last witness is present. You may
10 call your witness.

11 MS. SMITH: Thank you. The State calls Dr. Nick
12 Batalis.

13 WHEREUPON,

14 NICHOLAS BATALIS

15 After first having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SMITH:

18 Q Good afternoon, Dr. Batalis.

19 A Good afternoon.

20 Q Where are you employed?

21 A I'm employed at the Medical University of South
22 Carolina in Charleston.

23 Q What do you do there?

24 A I'm employed there as a forensic pathologist and an
25 associate professor in the Department of Laboratory

1 Medicine.

2 Q Okay. What do you do as a forensic pathologist?

3 A So stepping back a bit, pathology is a specialty of
4 medicine that deals with the study and diagnosis of
5 disease, so a general pathologist would be the one that
6 would look at a tumor or a biopsy taken by a surgeon. We
7 would then tell them what it is. We also run
8 laboratories, so if you have blood drawn, a pathologist
9 runs the laboratory.

10 Forensic pathology is a subspecialty, so a specialty
11 field of that that deals with the medical aspects --
12 medical/legal aspects of medicine predominantly performing
13 autopsies to determine a cause and manner of death.

14 Q Tell us about your educational and employment
15 background.

16 A I graduated from Butler University with a degree in
17 biology. After completing college, I then went on to
18 Indiana School of Medicine. After obtaining my medical
19 degree in Indiana, I came down to MUSC in Charleston for a
20 four-year residency in general pathology. After
21 completing that residency, passed a national test to
22 become board-certified in general pathology and then went
23 on to take a one-year fellowship or subspecialty training
24 in forensic pathology at the Dallas County Medical
25 Examiner's Office in Dallas, Texas. Again, after that

1 year, I took another test to become nationally certified,
2 and then following that, I've been in my practice at MUSC
3 for about nine and a half years.

4 Q How many times have you testified in court?

5 A In South Carolina, I would guess 50 to 60; twice in
6 North Carolina; and once in Texas.

7 Q How many times have you been qualified as an expert?

8 A In each of those cases.

9 MS. SMITH: Judge, at this time, I would like to
10 offer Dr. Batalis as an expert in the field of forensic
11 pathology.

12 MR. FARLEY: No objection, Your Honor.

13 THE COURT: Motion is granted and the witness is so
14 qualified.

15 BY MS. SMITH:

16 Q Dr. Batalis, did you conduct the autopsy of Jon
17 Cherol?

18 A Yes, I did. On October 29th of 2015.

19 Q And can you tell us what your examination of the
20 victim revealed?

21 A So the major finding in the case were several wounds
22 on the head that were consistent with a shotgun wound of
23 the head that led to his death.

24 Q And I'm going to show you what's previously been
25 marked as State's Exhibit 43 and ask if you can identify

1 this.

2 A (Reviews exhibit) Yes, I can.

3 Q Is that an accurate depiction of an X-ray that was
4 taken?

5 A Yes. This was an X-ray that we took at the time of
6 autopsy.

7 MS. SMITH: Judge, at this time, I would move State's
8 43 into evidence.

9 MR. FARLEY: No objection.

10 THE COURT: Motion's granted. It's admitted.

11 (WHEREUPON, State's Exhibit Number 43 was admitted into
12 evidence.)

13 MS. SMITH: Permission to publish to the jury, Judge.

14 THE COURT: You may.

15 BY MS. SMITH:

16 Q Dr. Batalis, can you tell us what we're looking at
17 and what we see in that picture there?

18 A Yes. So before we begin the autopsy, we took X-rays
19 of the head because of the defects that we could see in
20 the skin. So this X-ray is essentially looking down on
21 the decedent, so what's on the left side of the screen
22 would actually be the right side of his head. That little
23 L marker off to the side is denoting the left side of the
24 field there.

25 I think what you can appreciate is on the right side

1 of the head, there are numerous -- they call it radio
2 opaque or basically really bright white objects that are
3 throughout the right side of the head. Those are
4 consistent with metal projectiles, in this case a type of
5 shotgun -- shotgun shot. Additionally, there's -- if you
6 kind of follow -- at the top of the screen, there's kind
7 of a faint, white rim which represents his skull, and then
8 you see it kind of works from right to left. And then
9 there's an absence where there's that metallic field, so
10 that shows that there was a -- numerous skull fractures
11 where the shot fractured the skull and continued through
12 the -- continued to move on.

13 Q Can you say which or how many of these -- how many
14 fragments do you see in there? Or can you tell?

15 A There's numerous fragments. So what happens on
16 X-rays is the larger fragments are the actual shots, so I
17 believe there are six or seven of the larger shot there.
18 Then there's lots of little -- yeah. That would be an
19 example of what I'm talking about. Then kind of
20 surrounding that, there's other ones that light up.

21 One thing with X-rays is it makes everything look
22 bigger than they are, so really, the only thing that we
23 could recover of any value were those bigger shots that
24 are being circled now, whereas the smaller fragments
25 include pieces of bone and then small little slivers that

1 came off the shot from being damaged from traveling
2 through the tissues.

3 Q And you said there were 11 defects to the right side
4 of the head. Can you say how many of those 11 holes were
5 actually entrance wounds?

6 A It's tough to tell in this case because of the angles
7 that they were traveling at. And with the shotgun shots,
8 it's basically a little kind of metal ball compared to a
9 bullet which is more like a football. So a bullet tends
10 to really leave more distinct entrance and exit marks.

11 But of the 11 wounds, again, roughly six or so that
12 were more kind of on the front or right side of the face
13 would have been more consistent with entrance wounds where
14 several, five others were a little more irregular moving
15 towards the back of the right side of the scalp, were more
16 consistent with the exit wounds.

17 Q And can you tell, I mean, how the victim was shot,
18 like where? Was he shot in the face or to the side?

19 A Yes. So the span of the entrance wounds on the face
20 was really basically from the kind of, midline on the nose
21 off to the right side, so predominantly all off to the
22 right side of the face with the, again, more exit type
23 wounds appearing towards the back of the scalp and the
24 right side. So the predominant pathway seems to really be
25 from front to back and, again, really the spread, just

1 kind of from really the nose towards the right side. So
2 really pretty much front to back, as far as I could tell.

3 Q And, Dr. Batalis, how did the projections kill Jon
4 Cherol?

5 A So as the shots moved through, again, it appears that
6 some of them exited as they went through. Some were
7 maintained in the brain. But essentially, your brain is
8 divided into two parts. You have your cerebrum where you
9 do a lot of your thinking, and then the bottom part is the
10 cerebellum and your brain stem which tells your body when
11 to breathe, kind of controls your balance and those type
12 of things. But essentially, the whole right side of the
13 top of the brain, the cerebrum, was just shredded and
14 macerated from all these metal projectiles traveling
15 through it.

16 Q Dr. Batalis, was there anything else in the victim's
17 system as far as I believe you ran the toxicology or have
18 a toxicology report? Do you recall what was in his system
19 at the time?

20 A Yes. So on all our autopsies, we send samples of
21 fluids typically, and I believe in this case it was
22 peripheral blood to a nationally certified toxicology lab.
23 The test we send for checked for three to 400 different
24 drugs. Some are just medications, some are drugs of
25 abuse.

1 In his case, it was positive for three compounds.
2 One was alprazolam, which is Xanax; one, which is
3 oxycodone, which it's an opiate narcotic; and oxymorphone.
4 Oxymorphone is another opiate narcotic that can be a
5 breakdown product of oxycodone or you can actually take it
6 by itself.

7 The way the concentrations were, the oxycodone was
8 much higher than the oxymorphone, so it appears that it
9 was probably just the alprazolam and the oxycodone with
10 the oxymorphone just there as a breakdown product of the
11 oxycodone.

12 Q Dr. Batalis, what did you determine to be the cause
13 of death of Jonathan Cherol?

14 A The cause of death was the shotgun wound to the head.

15 Q Okay. And what about the manner of death?

16 A The manner of death, as it was -- the death was due
17 to another individual, was deemed homicide.

18 MS. SMITH: Thank you. That's all I have for this
19 witness, Judge.

20 THE COURT: Cross-examination?

21 MR. FARLEY: No questions, Judge.

22 THE COURT: Thank you, Doctor. You may step down.

23 THE WITNESS: Thank you, Your Honor.

24 MS. SMITH: Judge, and with that, the State rests.

25 THE COURT: Ladies and gentlemen, as you heard, the

1 State has rested which means the State's presented to you
2 all of its evidence. I hate to do this, but I need to ask
3 you to step into the jury room for a few minutes while I
4 discuss some legal matters with the attorneys outside of
5 your presence. Hope to be back with you shortly.

6 (WHEREUPON, the jury exits the courtroom at 2:25 p.m.)

7 THE COURT: Would this be a good time for me to talk
8 to your client about his right to testify?

9 MR. FARLEY: Yes, Your Honor. And I have spoken to
10 him. I do have a motion, if you want to go through that
11 first.

12 THE COURT: You're right. Go ahead.

13 MR. FARLEY: Judge, obviously, my motion is for a
14 directed verdict. When you take all the evidence in the
15 totality in the light most favorable to the State, I don't
16 believe that they have proven every single element of the
17 crime charged. I think that the evidence that they've put
18 in just raises a mere suspicion that he may have committed
19 the crime. There is no direct evidence in this case
20 linking the defendant to the crime, so we move to
21 circumstantial evidence.

22 The circumstantial evidence is scant. There is -- I
23 would hardly call it firm circumstantial evidence. It's
24 certainly not substantial. There is DNA. His DNA is
25 there. There's many alternatives. There is the DNA and

1 the text message. The text messages cannot be verified
2 that they actually came from him. The text messages could
3 have come from anybody, from one of four to five phones
4 that he used. So the text messages should not, in the
5 first place, come in, but they should -- they are not
6 significant, substantial enough circumstantial evidence to
7 justify this going to the jury.

8 The fingerprint -- I mean the DNA evidence, there's
9 no actual physical link to the defendant being there. The
10 DNA evidence is from an obscure object far away from the
11 scene and it's easily, as the State, I think, would say,
12 could easily have been transmitted via the clothing that
13 it was wrapped in.

14 For those reasons in the light most favorable to the
15 State, the State has presented no direct evidence with
16 regards to this defendant, and any circumstantial evidence
17 doesn't rise to the level of substantial as the law
18 requires.

19 THE COURT: All right. Thank you.

20 Solicitor?

21 MS. SMITH: Judge, I do believe that we have
22 presented enough evidence. I believe there's evidence
23 that this was a premeditated plan from the video and the
24 testimony of Colette Collins taking her husband -- going
25 by Jon Cherol's and then taking her husband over there to

1 shoot the victim. I believe that malice is not only
2 inferred from the use of a deadly weapon, but also that
3 there was testimony about ill will between the victim and
4 the defendant as well as that testimony that would lead to
5 motive.

6 In addition, DNA was found. It was actually found on
7 the gun which was tested, and the shells that were found
8 on the scene where the murder occurred were found to have
9 come from that gun with the defendant's DNA on that. That
10 alone with all the other testimony would arise to the
11 level of submitting the case to the jury.

12 Thank you.

13 THE COURT: All right. Thank you.

14 After considering the matter, I find that the Court
15 agrees with the position, the statements taken by the
16 solicitor and compelled to deny the defendant's motion for
17 a directed verdict.

18 MR. FARLEY: Thank you, Judge. I understand.

19 The defendant has been advised of his right regarding
20 testifying and not testifying. And if the Court would
21 confirm that, we would certainly appreciate it.

22 THE COURT: All right. Let me speak to Mr. Collins a
23 few minutes.

24 Mr. Collins, at this time, I'm going to explain to
25 you certain of your rights. If you don't understand

1 the protections given to you by the Fifth Amendment. If
2 you decide not to testify, I will instruct the jurors that
3 they cannot give that fact, the fact that you did not
4 testify, any consideration whatsoever because there is to
5 be absolutely no prejudice to you because you did not
6 testify.

7 It is left entirely up to you whether or not you
8 testify. You may talk with your attorney, family, friends
9 or anyone else, but the final decision is left entirely up
10 to you.

11 Do you thus far understand what I've said?

12 DEFENDANT COLLINS: Yes, sir.

13 THE COURT: Do you have any questions at all?

14 DEFENDANT COLLINS: No, sir.

15 THE COURT: Have you discussed with your attorney
16 your right to testify or not testify?

17 DEFENDANT COLLINS: Yes, sir.

18 THE COURT: Have you made a decision about what you
19 wish to do?

20 DEFENDANT COLLINS: Yes, sir. I've decided to not
21 testify.

22 THE COURT: To not testify. Okay. Thank you.

23 Now, is the defense going to rest or is the defense
24 going to put up witnesses?

25 MR. FARLEY: The defense is going to rest, Judge.

1 THE COURT: Are you all ready to argue?

2 MS. SMITH: Yes, sir.

3 MR. FARLEY: Ready to go.

4 THE COURT: Anybody need to take a break or are we
5 good? I'm good.

6 MR. FARLEY: You think the jury's had enough time?
7 Because we're going to go right into charge after.

8 THE COURT: Well, we may have a short break and talk
9 about that issue that we had about charges.

10 MR. FARLEY: Okay. Then I think we're good.

11 MS. SMITH: Yes, sir.

12 THE COURT: Let's bring the jury back.

13 (WHEREUPON, the jury entered the courtroom at 2:33 p.m.)

14 THE COURT: Welcome back, ladies and gentlemen.

15 As I mentioned before we took the break, the State
16 has presented all of its evidence to you. The defendant
17 now has the opportunity to present evidence should the
18 defendant decide to do so, although, the defendant is not
19 required to introduce any evidence.

20 MR. FARLEY: Your Honor, the defense rests.

21 THE COURT: Ladies and gentlemen, both sides have now
22 presented to you all of the evidence, all of the facts,
23 all of the information that you are going to receive to
24 assist you in making a decision in this case. The things
25 that remain to be done are the attorneys will make their

1 closing arguments to you and then I will tell you about
2 the law that applies in the case, then you'll retire to
3 the jury room and begin your deliberations.

4 And I believe that we are ready to have the closing
5 arguments; is that correct?

6 MR. FARLEY: Yes, Your Honor.

7 THE COURT: Are you going to open and close?

8 MR. FARLEY: May we approach, Judge?

9 (WHEREUPON, a bench conference was held off the record.)

10 CLOSING ARGUMENTS

11 MS. SMITH: May it please the Court, Judge.

12 THE COURT: Certainly.

13 MS. SMITH: Can everybody see that okay?

14 Ladies and gentlemen, you watched a video yesterday
15 afternoon that illustrated the timeline of events from
16 October 27, 2015, to October 28, 2015. And in that video,
17 you saw a Toyota Corolla that was identified as Colette
18 Collins's vehicle making several trips through the
19 neighborhood. I know you watched the video, but I kind of
20 want to run through it today with this map which shows the
21 cameras. If you'll remember, Captain Babkiewicz talked
22 about the different cameras and the entrances in Pinecrest
23 subdivision, and I just kind of want to run through that
24 night for you.

25 If you will recall, about 10:51 on the night of

1 October 27th, Colette Collins made the first trip in the
2 Pinecrest subdivision to visit Jon Cherol. She came in
3 right here on this entrance, came down Pinecrest Way and
4 ended up at the victim's home right here, ■ Pinecrest
5 Way. We saw the victim out front, and we saw her as well.
6 She stayed until approximately 11:42. We see her back out
7 of the driveway, come back around and go out the same way
8 she came in. Excuse me. I said 11:42. She left about
9 11:44 exactly.

10 She comes back. You see the car come back through.
11 This time she's bringing defendant Samuel Collins. Comes
12 in the same way, goes around, passes the victim's house
13 and comes to the stop sign. If you'll recall, this is
14 Masters Way.

15 She takes a left and stops right here in a wooded
16 path. And if you'll look on the screen, you can see where
17 that path is on Masters Way.

18 We see brake lights. Brake lights go off, and she
19 goes down Masters Way, comes around, passes through the
20 camera at H.E. McCracken. She turns around somewhere
21 around here, goes out of vision of the camera, comes back
22 up, comes around Pinecrest Drive and goes back out
23 Bluffton Parkway to the left and circles around somewhere
24 here.

25 We see that car come back into view at 12:52, coming

1 in right here, the entrance, slowly coming down Pinecrest,
2 passing the victim's house, gets here and waits
3 approximately 23 seconds before taking a left. You see
4 her come back to the same path, the path that you see
5 there, and she waits for approximately 16 to 17 seconds
6 while she picks up Samuel Collins after he shot Jon
7 Cherol.

8 This path is important, and to look on that screen
9 you can illustrate. She lets the defendant off there and
10 he walks in to shoot Jon Cherol. It's about three houses
11 down. You can see the patio. Anyway, she picks up Samuel
12 Collins, comes down. And we can only assume that they
13 take a right and goes toward Buckwalter Parkway because
14 they never come back through this camera.

15 Excuse my drawing, but I wanted to illustrate the
16 different trips made that night, and we'll give you a
17 better idea of what you're seeing on the video on this
18 map.

19 Ladies and gentlemen, you heard forensic evidence
20 today. You were shown the murder weapon, the shotgun, in
21 this case, and you heard testimony that the defendant's
22 DNA was found in all four places on that gun: the trigger
23 and the grip, the magazine, the stock and the butt and the
24 forestock.

25 You also heard that the firearms were tested and that

1 there was a shell found on the scene, fired shot, fired
2 shell, and a misfired shell. The fired shell came from
3 that gun. The other shell that was fired from that gun
4 was found in the garage of Cody Brown. It was not found
5 in the garage specifically, but inside the gun in the
6 garage. It was not ejected prior to Samuel Collins
7 dropping the gun back off in Cody Brown's truck about an
8 hour after the murder, left it loaded. Cody testified the
9 safety was off, the shell was in it and had not been
10 ejected. But he ejected it because he had small children
11 in the house to unload the gun. There was the spent
12 shell.

13 In addition to hearing a lot about how much DNA and
14 how much of Samuel Collins's DNA was in on the scene as
15 far as in the clothing wrapped around the gun as well as
16 the hat that was left, defense counsel, talked about the
17 absence of DNA, the absence of touch DNA on the shotgun
18 shells. Ladies and gentlemen, the forensic scientist that
19 testified today did not say there was no DNA on those two
20 shotgun shells, but said the DNA that was on there could
21 not be amplified for examination. There was DNA on there.
22 They just couldn't tell whose it was. It could have been
23 Samuel Collins's DNA.

24 Mr. Farley also talked about putting the shell in the
25 gun, you'd have to leave DNA. Again, scientists said

1 there was. Couldn't test it. But putting -- just because
2 you touch, and I believe the scientist testified that you
3 put the shell in, you shed some skin cells. That's what
4 DNA is. There are a number of reasons that those skin
5 cells weren't present on those shells. The most obvious
6 one is that when it hit the firing pin, came off. When it
7 hit the ground, came off.

8 In addition to the forensic evidence, you heard
9 testimony that corroborates this evidence. The first bit
10 of testimony that corroborates the evidence is Cody
11 Brown's testimony. Mr. Brown testified that he's known
12 Samuel Collins since approximately 2011, been friends with
13 him on and off over the years, they both lived in Beaufort
14 County during that time. He had talked to Mr. Collins a
15 number of occasions, had actually been to his home before,
16 and approximately one month, give or take, he said
17 September 2015, he went and talked with Mr. Collins either
18 via telephone or in person. He clearly had Mr. Collins's
19 number in his phone because he had talked with him on the
20 phone. He testified to that. He doesn't recall whether
21 he talked to him in person or on the phone about borrowing
22 the gun, but Mr. Collins came to him and said, "I need to
23 borrow a gun. I need it for production. Some people are
24 messing with me."

25 And Cody said, "Okay. I'll let you borrow this

1 12-gauge shotgun," and gave it to him in September,
2 sometime in September of 2015, clearly prior to this
3 incident.

4 Mr. Brown didn't hear anything about the gun until
5 he received a text message at about 2 a.m. on
6 October 28, 2015. And he said, "I returned your gun.
7 It's in the back of your truck." The next morning
8 Mr. Brown goes out to the truck, clearly he was asleep
9 during that time, and finds the gun loosely wrapped,
10 camouflage jacket and pants, and there's a hat that was
11 also found out there. Took the gun inside, unloaded it
12 because it was loaded, the safety was off, like I said,
13 and leaves everything in the garage.

14 The next time he hears from Mr. Collins is two days
15 later. "You haven't seen me," is the text that he
16 receives. The next thing he knows, he's talking to the
17 police and telling them all of that. And they collect all
18 of this evidence from his garage that Samuel Collins
19 brought back to his house after he murdered Jon Cherol.

20 The video testimony shows that Colette Collins was
21 constantly on the move from October 27th, the night of
22 October 27th going into the night of October 28th. As I
23 illustrated with those trips, the first time she goes into
24 the neighborhood is to verify that John is home, make sure
25 he's home that night because they've got a plan, like I

1 told you, to go kill Jon Cherol.

2 She comes back, and as you see, she takes -- she
3 comes through the neighborhood and she takes her husband
4 to this (indicating) path. And this is where she comes on
5 Masters Way, and then you can see the path at Exhibit 16.
6 And she stops there to drop him off so he can walk in only
7 three houses in. He can walk up into the dark area that
8 Joe Rueby talked about. He said it was very dark off to
9 the right. They had a patio light on, but you couldn't
10 see. So he could walk up in the dark and shoot Jon
11 Cherol.

12 While he's walking up and getting set up to shoot
13 that gun, she's circling the neighborhood, and she comes
14 back by Pinecrest. And she stops at that sign at Masters
15 Way and waits, like I said, for approximately 23 seconds.
16 We see those brake lights. Take's a right, and then we
17 can see -- although we can't see the car, we see lights
18 come back on and they stay on for 16 to 17 seconds.
19 Clearly, long enough for Mr. Collins to leave the area off
20 to the right of that patio, come back up through that
21 wooded path and get in the car, and she drives him away
22 because he's just shot Jon Cherol in the head and killed
23 him.

24 And I said the video constantly shows her on the move
25 because you saw all the stills and you saw the video

1 itself, and you have all that to take into your evidence
2 room. But this video right here, it's just a very short
3 clip. It's taken at McCracken Circle. And this shows her
4 after the drop-off and before the pickup come back, come
5 through McCracken and then come back into the
6 neighborhood. And I ask that you look because you can
7 tell that it is a woman driving the vehicle.

8 The cameras will flip back, and that's the time
9 discrepancy that Mr. Glaser talked about when she comes
10 back into the neighborhood right here (indicating).

11 Ladies and gentlemen, you also heard testimony that
12 would lead to motive. You heard testimony about the
13 defendant supplying the victim with drugs, the victim owed
14 the defendant money for drugs, and the defendant
15 potentially suspected the victim of being part of a home
16 invasion at his home about a month or so prior, all of
17 which supplies this defendant, Samuel Collins, with a
18 motive to kill Jon Cherol, all of which corroborates the
19 forensic evidence that we presented today.

20 Ladies and gentlemen, I want to address something
21 that I think is extremely important, especially in this
22 case. This is a case about circumstantial evidence, and
23 the defendant's attorney told you in his opening statement
24 yesterday that this case is all circumstantial evidence,
25 no direct evidence. Ladies and gentlemen, the judge will

1 charge you on the law in a little while, and he will
2 charge you about two types of evidence: circumstantial
3 and direct evidence. And he will tell you that you must
4 give both of them the same weight and the same value.
5 Circumstantial and direct, you consider them, give them
6 the same weight. So if this circumstantial evidence that
7 we've presented to you over the course of the last two
8 days leaves you firmly convinced of the defendant's guilt,
9 you must find him guilty of murder.

10 The next thing the defendant's attorney said in his
11 opening was the State must prove the case beyond all
12 reasonable doubt. Ladies and gentlemen, that's not
13 correct. And the judge is going to charge you on the law,
14 and he will tell you that the State has the burden of
15 proof and we must prove our case beyond a reasonable
16 doubt. This means that we have proven our case not beyond
17 every doubt, not beyond a shadow of a doubt, but a
18 reasonable doubt. And the reason, ladies and gentlemen,
19 that we use this reasonable doubt standard is because in
20 life, it is almost impossible to prove things beyond a
21 doubt 100 percent. And, in fact, reasonable doubt is
22 proof that I said before leaves you firmly convinced of
23 the defendant's guilt.

24 This is a bigger issue. This is a community issue.
25 And I submit to you this is not The State vs. Jon Cherol.

1 This is not Jonathan Cherol vs. Samuel Collins. This is
2 The State vs. Samuel Collins.

3 We've heard about drugs and drug deaths and that the
4 defendant thought the victim had robbed him. But none of
5 that gives the defendant the right to go over to the
6 victim's home and brutally execute him and spray the
7 neighbor's house with bullets. You see the pellets that
8 went in that house. Thank God no one was home next door.
9 There was no one in there. Because those bullets could
10 have gone straight through the wall and hit the person
11 whose bedroom was sleeping right there.

12 This is a neighborhood in a community in Bluffton,
13 and they don't deserve this. Nobody deserves this. None
14 of us that live in our homes and neighborhoods deserve
15 this kind of senseless violence.

16 Joe Rueby calls 9-1-1, and he tells them, "My
17 friend's been shot." And they clearly don't understand
18 it. And finally he said, "My friend was shot in the head.
19 They blew his head off. He's dead." Joe Rueby sitting
20 there talking to his friend about what they're going to do
21 in life moving forward, he's just bought a house, the
22 victim is going to move in with him, and talking about
23 their future, and all of a sudden, someone shoots him and
24 kills him right in front of him. He doesn't deserve that
25 kind of senseless violence. Can you imagine what he

1 thinks about, what he's thought about every day since
2 then? And all because Samuel Collins came up through that
3 path we were talking about, this picture you can see how
4 dark it is off to the right where the path is, came up and
5 hid in the darkness and shot someone while they were
6 talking to their friend.

7 Ladies and gentlemen, this is the last thing I'm
8 going to say. The defendant's attorney said that your
9 role is to not do justice for Jon Cherol, and that your
10 role is to do justice for Samuel Collins. Your role is to
11 do justice, period, and I ask that you do just that and
12 find Samuel Collins guilty of the murder of Jon Cherol.

13 Thank you so much for your time and attention.

14 THE COURT: Thank you, Ms. Smith.

15 Mr. Farley?

16 MR. FARLEY: Thank you, Judge. If it pleases the
17 Court.

18 Shockingly I agree with a great deal of what the
19 solicitor had to say. Obviously, there was a murder that
20 night. Obviously, Colette Collins was there. You've seen
21 her go in and out and in and out. The solicitor's proved
22 her case that Colette Collins murdered Mr. Cherol. Proved
23 it. She has no direct evidence that my client was even
24 there, and the circumstantial evidence that she has is so
25 spread out so far apart, it does not link him to the

1 crime. There is no evidence whatsoever that he was there.
2 You're going to have those still shots, you're going to
3 have the camera angles, you'll be able to see that no one
4 is in that car.

5 What we know for a fact, what their witnesses
6 testified to is that Colette Collins was there for almost
7 an hour. We see her on camera. You're going to see her
8 on camera come out, come out and grab Mr. Cherol's dog.
9 She was there. That is indisputable. The State will not
10 dispute that one bit. We see her go to the house, come
11 in, come out, drive around, come in, come out, drive
12 around I don't remember exactly how many times. You can
13 do the count when you watch the video. But in none of
14 those pictures do we see the defendant, or anybody else,
15 for that matter, in there. Where was the defendant? Was
16 he hiding in the trunk? You know, where is he? Where was
17 he when he went over to the victim's house? Where was he?

18 The State is right. The burden of proof is on the
19 State. They have the burden of proving the defendant
20 guilty beyond a reasonable doubt. The judge -- she said
21 some things that I may or may not have mischaracterized.
22 You don't listen to me. You don't listen to the State.
23 You listen to the judge.

24 When we're done with this, the judge is going to read
25 you a charge. He's going to tell you what the law is,

1 what the burden of proof is, what evidence you should and
2 should not consider. Listen to him. He is going to tell
3 you what the law is, not me and not her. We will try to
4 characterize it and put it in context, but he has the
5 final word.

6 So at some point after, we know Colette Collins was
7 at the victim's house, and throughout this entire driving
8 around, we -- the State's idea is that, at some point, she
9 dropped off Mr. Collins, he walked the one, two, three,
10 four houses down in approximately 26 seconds, something
11 like that.

12 You heard testimony from the officer that the
13 defendant walks with a pronounced limp. So he carried
14 that heavy shotgun. If you want to when you get back in
15 there, I want you to feel that shotgun. He carried that.
16 He hobbled with that shotgun down the three or four
17 houses, apparently took time to aim and shoot, and then
18 hobble back to the car while Colette was there waiting?
19 You know, something's just not adding up there in the
20 actual physical ability for him to get down there. And if
21 he's not there, certainly, he didn't get down there.

22 Let's talk about the gun. There is testimony that
23 Cody Brown gave the defendant a gun. It's not like the
24 defendant called up Cody and said, "Hey, you know, it's
25 the 27th, 28th, I need to borrow your gun." This was a

1 month before. This was a month before. And I just
2 imagine, you know, a reasonable person can imagine how one
3 gives a gun to another person, right? Here's the gun.
4 I'm going to hand it to you.

5 Mr. Brown's DNA is on the gun, the defendant's DNA is
6 on the gun, and then a couple other possible people's DNA
7 is on the gun. So that's one way that the DNA got on the
8 gun, the 30 days or some-odd days before that the DNA got
9 on the gun. We're not -- I'm not going to try to pull the
10 wool over your eyes and say that the DNA was not on the
11 gun. Clearly, two expert witnesses said it was. So the
12 DNA was on the gun. No doubt. But because the DNA was on
13 the gun, that doesn't mean that Sam was the person that
14 shot him by any means. The DNA was on the gun, but no one
15 can put Sam at the scene of the crime. No one can put Sam
16 holding that gun. So just because someone's DNA is on it
17 doesn't mean that they're the shooter by any means.

18 The shotgun shells, let's talk about the shotgun
19 shells. So the State's idea is that whoever shot the gun
20 walked down the path, took aim with the gun, at some point
21 racked it. I think the expert from SLED racked the gun
22 for the jury. And what that does is it just discharges a
23 shell. They find at the -- and what's undisputed is
24 there's two shots. Everyone that was there said there
25 were two shots. We've got a racked gun, they heard the

1 gun rack, they heard a -- and two shots fired. They
2 didn't hear a second rack.

3 There's a shell that is misfired on the ground, there
4 is a shell -- empty shell casing on the ground, and then
5 when they go to Cody's house to recover the gun, there's a
6 spent shell casing in there. So there are those three
7 shell casings. And then there's one more that they took
8 and they analyzed, and they analyzed all four of those for
9 DNA. They found traces of DNA.

10 The solicitor tells you that the reason that they
11 can't find the DNA on there is because when it fired, it
12 got hot. Well, if you'll remember, the expert said there
13 were five, up to six possible -- that gun could hold five,
14 up to six guns -- I mean five, up to six shells. What
15 about those other shells that weren't fired? Did they
16 test those for DNA?

17 Fingerprints, they didn't even test a single one of
18 them for fingerprints. Do fingerprints burn off when you
19 fire a weapon? I don't know. There's been no testimony
20 to that. And in our roles, or y'all's roles as the finder
21 of fact, you're not supposed to speculate. You only take
22 what is in evidence to make your -- to make an opinion and
23 to come up with your verdict.

24 Cody said that he loaded the gun with birdshot, and
25 an expert told you that birdshot is different than

1 buckshot. When Cody got the gun back, there was buckshot
2 in it. So whoever -- so at some point, someone changed it
3 out. Whoever did that had to touch those shells. They
4 had to touch them intricately. No DNA, no fingerprints.

5 When Cody receives a text message, you know, the
6 night of the incident or the morning after, this was late
7 at night, the morning after, and the crux of that text
8 message is that I put it in the back of your car, I put
9 the gun in the back of your car. When he went out the
10 next morning, he found that gun wrapped in clothes. It's
11 been characterized as wrapped or with clothes over it. I
12 don't know. Both the State and I, I think, confused about
13 that. But what we do know, what Cody did say while he was
14 up there is that he carried them both back into the house,
15 ejected that spent cartridge, put it down in his garage,
16 and put the gun away in the gun cabinet.

17 You heard evidence that Sam's DNA was on that
18 clothing. You heard evidence that DNA is transferred from
19 clothing to inanimate objects such as the gun. So not
20 only would Sam's DNA logically be on the gun from the time
21 that the gun was given to him 30 days before the incident,
22 but logically, his DNA would be on the gun because it was
23 carried wrapped in that jacket. Clear explanation. We
24 embrace the DNA because it goes to show what actually
25 happened that night. It goes to show that Colette

1 murdered this innocent man.

2 The text messages, Cody said that the text messages
3 came from a phone that he knows or he believes that Sam
4 has used in the past. There was testimony that when they
5 went to the defendant's house, they found five cell
6 phones, one of those was Colette's, the officer believed,
7 but there's four other cell phones, four cell phones to
8 choose from. You only heard the records on one of those.
9 Did they run the records on the other ones? Did they run
10 the time that those phones were used? Did we hear any
11 evidence about the time that message was turned on, turned
12 off, the phone's on, phones off?

13 Lots of phones. Defendant's used lots of numbers to
14 contact the same person. No indication that Colette did
15 or didn't have access to that phone. It is definitely
16 reasonable that Colette could have taken that phone or one
17 of the other phones and made that text to Cody.

18 Another issue with the phones is phone companies are
19 there to make money, all right? And so phone companies
20 track where that cell phone is at any given point in time
21 so they can charge you, sell you, you know, the Internet,
22 whatever. Cell companies know exactly where your phone is
23 at any exact time. They have these towers. You'll see
24 them all over the place. They're kind of triangular.
25 They're on top of buildings and everything. They have

1 towers that can track where that phone is at any given
2 point in time.

3 You've been presented no evidence of tracking. All
4 they had to do was call the phone company and ask for the
5 data. I'm sure they have people at SLED that their
6 full-time job is to do that. No evidence whatsoever. If
7 we had that evidence, we would know where that phone that
8 sent that text message to Cody was located at the time it
9 was sent. We would know that. The police would have been
10 able to backtrack or check that place out to see if there
11 were cameras or what. There's been no evidence presented
12 of that. Why not? That is a piece of evidence that
13 really, really is important.

14 Let's go back to the DNA in the trunk -- or in the
15 truck. What did Sam do after he went and hobbled down,
16 murdered the guy? Strip off his clothes, throw them in
17 the back of a truck?

18 There's a lot of evidence in this case. It all
19 points to Colette Collins murdering the victim.

20 The solicitor went into the difference between direct
21 evidence and circumstantial evidence. The judge is going
22 to tell you what that is and how to interpret that. But
23 direct evidence is evidence that you can see, you can
24 sense, easily verifiable. That's direct evidence, me
25 breaking that pencil in front of you. You saw it. You

1 heard it. Direct evidence. The direct evidence in this
2 case is Colette's there and Colette's car is there.
3 That's the only direct evidence in this case.

4 Indirect evidence, that's strong evidence that I
5 broke that pencil. You can't see it directly. You can
6 hear it. There's a little piece of evidence. You saw it
7 go back there, you heard it break, but it's not direct
8 evidence. That's strong circumstantial evidence.

9 All right. And this third pencil over here laying
10 beside the gun, where did that come from? Did I break
11 that earlier? Did I instruct someone else to break it?
12 Did I see it sitting over there and have this epiphany,
13 oh, this is a great idea, this is the easiest way to
14 describe direct and circumstantial evidence? That's still
15 circumstantial evidence. That's weak circumstantial
16 evidence.

17 Circumstantial evidence, you have to -- it's like
18 stacking blocks. You have to start with a foundation and
19 build on it, link each of these pieces of circumstantial
20 evidence together until you can come up with evidence that
21 you can truly be firmly convinced of.

22 All the evidence, all evidence, circumstantial,
23 direct evidence, is evidence. You've got to choose how
24 much weight to give that evidence, all right? Some
25 evidence is better than others. And you agree, looking at

1 all this stuff, looking through this stuff, some evidence
2 is better than other. You've got to give that a little
3 bit higher weight. And then some of this evidence is
4 either irrelevant or much weaker. You've got to give that
5 less weight.

6 Once you look at the evidence, once you have time to
7 discuss the evidence, what you will see, the only
8 conclusion you can come to is that Colette Collins
9 murdered this man. There is no evidence, direct, that
10 links Sam to this crime, and the circumstantial evidence
11 is weak. It can all be explained away.

12 Your duty is to speak the truth. The State has the
13 burden of proving the defendant guilty. We didn't put any
14 evidence in. Sam didn't do -- we didn't do anything
15 because they haven't proven their case. In this country,
16 you don't prove yourself innocent. They have to prove you
17 guilty. They've got to prove you guilty beyond all
18 reasonable doubt. Reasonable doubt is sometimes defined
19 as the kind of doubt that would cause a prudent man to
20 hesitate. That's one definition.

21 Think. If you have any pause in deciding that he's
22 guilty, that's reasonable doubt. Any pause.

23 I thank you for being here. I know there's a million
24 other places that you want to be, but your job is
25 important. When you go back there, discuss the case, look

1 at the evidence, open your minds to any possible option.
2 But when you come back, you will return a verdict of not
3 guilty.

4 Thank you.

5 THE COURT: Thank you, Mr. Farley. I need to ask you
6 to do something for me, though.

7 MR. FARLEY: Yes, sir.

8 THE COURT: Could you do me a favor and remove that?

9 MR. FARLEY: Absolutely.

10 THE COURT: Thanks.

11 Ladies and gentlemen, I need to ask you to step in
12 the jury room for, I think, about three minutes, but I'm
13 going to call it five minutes. I need to discuss a couple
14 of matters with the attorneys, and I'll be right back with
15 you.

16 (WHEREUPON, the jury exits the courtroom at 3:14 p.m.)

17 THE COURT: Let me ask, Counsel, I handed out to each
18 side a typed statement concerning murder. I wanted to
19 find out if anybody had any objections or wish to comment
20 on that. Solicitor?

21 MS. SMITH: Nothing from the State on that.

22 MR. FARLEY: It looks good to me, Judge.

23 THE COURT: And I believe I did tell Ms. Smith that
24 if an argument was made by defense counsel, I'd listen to
25 her hand of one.

1 MS. SMITH: Judge, the defendant, defense attorney
2 clearly argued that the State proved that Colette Collins
3 murdered Jon Cherol, so Colette murdered this innocent man
4 and said there's a lot of evidence in this case that all
5 points to Colette. I think that only further reinforces
6 our argument earlier on why hand of one should be charged.

7 THE COURT: Do you still object?

8 MR. FARLEY: Judge, the entire case of the State is
9 that he is the shooter. Even if Colette comes up for
10 trial, what's the case going to be? He's the shooter.
11 The hand of one, hand of all charge goes with Colette. It
12 has nothing to do with the defendant.

13 THE COURT: I agree with you, and I'm going to
14 deny ---

15 MR. FARLEY: Thank you, Judge.

16 THE COURT: --- the State's motion.

17 MR. FARLEY: And if the Court will hear me, I have a
18 directed verdict motion.

19 THE COURT: Sure.

20 MR. FARLEY: Judge, essentially, my arguments are the
21 same for the directed verdict motion, and I'll just state
22 it for the record that I think that when you view in the
23 light most favorable to the State, there's been no direct
24 evidence or any substantial circumstantial evidence given
25 on each of the elements of the crime. And this -- the

1 evidence presented merely raises the suspicion that the
2 defendant is guilty. For that reason, we would ask the
3 Court to direct a verdict in favor of the defendant.

4 THE COURT: I understand the motion and the grounds
5 for the motion. As far as I can see, that's exactly
6 change, and therefore, for the same reasons previously
7 stated, deny the motion.

8 Any other specific request for charge?

9 MS. SMITH: Judge, if I may, I know you've ruled on
10 it but I wanted to respond to what Mr. Farley said on the
11 hand of one. You know, it's not what the State's theory
12 of the case is. It's what the jury can believe, and based
13 on what he said, and that's why we ask for the hand of one
14 charge. Thank you.

15 THE COURT: Anything else?

16 MS. SMITH: Nothing from the State.

17 THE COURT: Bring the jury back.

18 (WHEREUPON, the jury entered the courtroom at 3:18 p.m.)

19 CHARGE ON THE LAW

20 THE COURT: Welcome back, ladies and gentlemen.

21 I remind you the fact that this defendant was
22 arrested, charged and indicted is not evidence in this
23 case and cannot be considered by you as evidence, nor does
24 this fact create any presumption or inference of guilt.
25 The indictments are simply the formal written instruments

1 that contain the charges against the defendant. It's the
2 formal document which brings this case into the Court.
3 And the defendant has pled not guilty to these
4 indictments. That plea puts the burden upon the State to
5 prove the defendant guilty.

6 I tell you that a person charged with a criminal
7 offense in South Carolina is never required to prove
8 himself innocent. I further charge you that it is an
9 important rule of law that the defendant in a criminal
10 trial, no matter what the seriousness of the charge may
11 be, will always be presumed to be innocent of the crime
12 for which the indictment was issued unless guilt has been
13 proven by evidence that satisfies you of that guilt beyond
14 a reasonable doubt. And the presumption of innocence does
15 not end when you begin your deliberations, but it
16 accompanies the defendant throughout the trial until you
17 reach a verdict of guilt based on evidence that satisfies
18 you of that guilt beyond a reasonable doubt.

19 The presumption of innocence is like a robe of
20 righteousness placed about the shoulders of a defendant
21 which remains with the defendant until it has been
22 stripped from the defendant by evidence that satisfies you
23 of the defendant's guilt beyond a reasonable doubt.

24 The presumption of innocence is not mere legal
25 theory. It is not just a legal phrase. It is a

1 substantial right to which every defendant is entitled
2 unless you the jury are satisfied from the evidence of the
3 defendant's guilt beyond a reasonable doubt. A reasonable
4 doubt is a kind of doubt that would cause a reasonable
5 person to hesitate to act.

6 Some of you may have served as jurors in civil cases
7 where you were told that it's only necessary to prove that
8 a fact is more likely true than not true such as by the
9 greater weight or the preponderance of the evidence, but
10 in criminal cases, the State's proof must be more powerful
11 than that. It must be beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced of the defendant's guilt. There are
14 very few things in this world that we know of with
15 absolute certainty. In a criminal case, the law does not
16 require proof that overcomes every possible doubt. If,
17 based on your consideration of the evidence, you are
18 firmly convinced of the guilt of the defendant, you must
19 find the defendant guilty. On the other hand, if you
20 think there is a real possibility that the defendant is
21 not guilty, you must give the defendant the benefit of the
22 doubt and find the defendant not guilty.

23 During this trial, as I mentioned to you earlier, you
24 and I have had different obligations and responsibilities.
25 I've been required to preside over the trial of this case

1 and rule on the admissibility of evidence. I also have
2 the duty to tell you about the law that applies in this
3 case.

4 You are the sole judges of the facts, but as the
5 presiding judge, I am the sole judge of the law of the
6 case, and it's your duty, ladies and gentlemen, to accept
7 the law as I state it to you. If you already have any
8 idea what the law is or what the law should be and it does
9 not agree with what I tell you, you must abandon that
10 idea, because under your oath, you are required to accept
11 the law exactly as I tell you.

12 The third or fourth time, I'm telling you once more,
13 though, that you are the sole and exclusive judges of the
14 facts of the case, and that a trial judge such as myself
15 cannot comment on or make any statement to a trial jury
16 about the facts of the case. You're not to infer from
17 anything that I have said during the progress of this
18 trial or otherwise that I have an opinion about the facts
19 of this case.

20 Ladies and gentlemen, necessarily, you must determine
21 the credibility of the witnesses who have testified, and
22 this simply means the believability. It becomes your duty
23 as jurors to analyze and evaluate the evidence and
24 determine which evidence convinces you of its truth.

25 To determine the believability of witnesses who have

1 testified, you may believe one witness over several or
2 several over one. You may believe part of a testimony of
3 a witness and reject the remaining part of a testimony of
4 that very same witness. You may believe the testimony of
5 a witness in its entirety or reject the testimony of any
6 witness in its entirety, and, of course, you may consider
7 whether the witness has exhibited to you any bias,
8 interest or prejudice or other motive in the case.

9 There are two types of evidence which are generally
10 presented during a trial: direct evidence and
11 circumstantial evidence. Direct evidence directly proves
12 the existence of a fact and does not require deduction.
13 Circumstantial evidence is proof of a chain of facts and
14 circumstances indicating the existence of a fact.

15 Crimes may be proven by circumstantial evidence. The
16 law makes no distinction between the weight or the value
17 to be given to either direct or circumstantial evidence.
18 However, to the extent that the State relies on
19 circumstantial evidence, all of the circumstances must be
20 consistent with each other, and when taken together, point
21 conclusively to the guilt of the accused beyond a
22 reasonable doubt. If these circumstances merely portray
23 the defendant's behavior as suspicious, the proof would
24 have failed.

25 The State has the burden of proving the defendant

1 guilty beyond a reasonable doubt. This burden rests with
2 the State regardless of whether the State relies on direct
3 evidence, circumstantial evidence or some combination of
4 the two.

5 As I told you, the rules of evidence normally do not
6 permit witnesses to testify to opinions or conclusions,
7 but an exception to this rule exists for witnesses who we
8 call expert witnesses. A witness who, by their education
9 or experience, has become an expert in some art, science
10 or profession, they may state their opinion as to relevant
11 and material matters in the area in which the witness
12 claims to be an expert, and they may also give you the
13 reasons for their opinion. You consider the expert
14 opinion received as evidence in this case, and like other
15 evidence, you give it the weight you think it deserves.
16 If you decide that the opinion of an expert witness is not
17 based on sufficient education and experience, or if you
18 conclude that the reasons given in support of the opinion
19 are not sound, if the opinion is outweighed by other
20 evidence, you may disregard the opinion entirely.

21 An expert witness's testimony is to be given no
22 greater weight than other witnesses simply because the
23 witness is an expert. Further, you're not required to
24 accept the expert's opinion even though it may not be
25 contradicted.

1 I instruct you and emphasize to you that the fact
2 that the defendant did not testify is not a factor to be
3 considered by you in any way either in your deliberation
4 and in your consideration on the question of the guilt or
5 innocence of the defendant. It must not be considered by
6 you in any manner whatsoever. A defendant has the
7 constitutional right to remain silent, and the assertion
8 of this right must not be considered by you in your
9 deliberations. And I repeat, under your oath, you are to
10 draw no conclusion whatsoever from the fact that the
11 defendant in this case did not testify. The fact that the
12 defendant did not testify should not even be discussed in
13 the jury room. The burden of proof, as I have stated to
14 you, is upon the State. The defendant is not required to
15 prove himself innocent. The burden of proof remains on
16 the State to prove guilt beyond a reasonable doubt.

17 To prove murder, the State must prove beyond a
18 reasonable doubt that the defendant killed another person
19 with malice aforethought. I tell you that malice is
20 hatred, or ill will, or hostility towards another person.
21 It is the intentional doing of a wrongful act without just
22 cause or excuse and with an intent to inflict an injury or
23 under circumstances that the law will infer an evil
24 intent. Malice aforethought does not require that malice
25 exist with any particular time before the act is

1 committed, but malice must exist in the mind of the
2 defendant just before and at the time the act is
3 committed, therefore, there must be a combination of the
4 previous evil intent and the act.

5 Malice aforethought may be expressed or inferred.
6 And these terms do not mean different kinds of malice, but
7 merely the manner in which malice may be shown to exist,
8 that is, either by direct evidence or by inference from
9 the facts and circumstances which are proven.

10 Express malice is shown when a person speaks words
11 which express hatred or ill will for another or the person
12 prepared to do something beforehand which was later
13 accomplished.

14 Malice may be inferred from conduct showing a total
15 disregard for human life. Inferred malice may also arise
16 when the deed is done with a deadly weapon.

17 The law says that if one intentionally kills another
18 with a deadly weapon, the implication of malice may arise.
19 If facts are proved beyond a reasonable doubt sufficient
20 to raise an inference of malice to your satisfaction, this
21 inference could simply be an evidentiary fact to be taken
22 into consideration by you along with other evidence in
23 this case, and you give it the weight that you believe it
24 should receive.

25 The defendant is also charged with possession of a

1 weapon during the commission of a violent crime. The
2 State must prove beyond a reasonable doubt that the
3 defendant was in possession of a firearm during the
4 commission of the crime -- of a violent crime.

5 In order to find the defendant guilty of possession
6 of a weapon during the commission of a violent crime, you
7 must first find the defendant guilty of committing the
8 violent crime. And I tell you that under the law of this
9 state, murder is considered a violent crime.

10 In just a few moments, ladies and gentlemen, you'll
11 retire to the jury room and will begin your deliberations.
12 As to each of the charges, the verdict will either be
13 guilty or not guilty. For there to be any verdict, it
14 must be unanimous meaning all of you must agree.

15 As I said a moment ago as it relates to the
16 indictment for possession of a weapon during the
17 commission of a violent crime, the defendant may not be
18 found guilty of that unless the defendant has also been
19 found guilty of the violent crime, in this case, the
20 indictment for murder.

21 Once the jury reaches a unanimous verdict, I'm going
22 to ask our foreperson if he would, on behalf of the jury,
23 write on the back of the indictment below the word "true
24 bill" that's in blue on both of these the verdict, guilty
25 or not guilty, and sign and date the indictment. Sign

1 your name as foreperson.

2 At this time, ladies and gentlemen, I'm going to ask
3 you to step in the jury room, but don't begin
4 deliberations until I send to the jury room these
5 indictments as well as all of these exhibits. When that
6 occurs, I'm going to ask our alternate juror if she'll
7 step back into the courtroom and then you begin your
8 deliberations. Once you've reached a verdict, please
9 knock on the door, let the bailiff know, and then we'll
10 receive you back into the courtroom.

11 If you would, please, ladies and gentlemen.

12 (WHEREUPON, the jury exits the courtroom at 3:32 p.m.)

13 THE COURT: Any exceptions to the charge?

14 MS. SMITH: No, sir.

15 MR. FARLEY: No, Your Honor.

16 THE COURT: Why don't y'all check, make sure we've
17 got everything ready to go.

18 (WHEREUPON, exhibits were sent back to the jury at
19 3:38 p.m., and the jury begins deliberations. The
20 alternate juror enters the courtroom and was released by
21 the Court.)

22 (WHEREUPON, proceedings reconvened at 4:37 p.m.)

23 THE COURT: Is the State ready for the jury?

24 MS. SMITH: Yes.

25 THE COURT: Defense ready for the jury?

1 MR. FARLEY: Yes.

2 THE COURT: Bring the jury.

3 (WHEREUPON, the jury entered the courtroom at 4:39 p.m.)

4 THE COURT: Welcome back, ladies and gentlemen.

5 Mr. Spurlock, as foreperson of the jury, let me ask
6 you this. Has the jury reached a verdict in the case?

7 JURY FOREPERSON: Yes, sir.

8 THE COURT: As to each indictment?

9 JURY FOREPERSON: Yes, sir.

10 THE COURT: Is it a unanimous verdict?

11 JURY FOREPERSON: Yes, sir.

12 THE COURT: Did you write the verdict on the back of
13 each indictment?

14 JURY FOREPERSON: Yes, sir.

15 THE COURT: Would you please pass it forward.

16 Would you please publish the verdict.

17 VERDICT

18 THE CLERK: The State of South Carolina, County of
19 Beaufort, Docket Number 2015-GS-07-1994, The State vs.
20 Samuel Thompson Collins, indictment for murder, the
21 verdict, guilty. Signed by the foreperson of the jury.

22 Docket Number 2015-GS-07-01995, indictment for
23 possession of a weapon during a violent crime, the
24 verdict, guilty. Signed by the foreperson, dated
25 October 18, 2017.

1 Would you like me to poll the jury?

2 THE COURT: I think so.

3 THE CLERK: Juror Number 235, when I call your name,
4 please stand.

5 Is this your verdict?

6 JUROR NUMBER 235: Yes, ma'am.

7 THE CLERK: Is this still your verdict?

8 JUROR NUMBER 235: Yes, ma'am.

9 THE CLERK: Juror 68, is this your verdict?

10 JUROR NUMBER 68: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR NUMBER 68: Yes.

13 THE CLERK: Juror Number 32, is this your verdict?

14 JUROR NUMBER 32: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR NUMBER 32: Yes, ma'am.

17 THE CLERK: Juror Number 297, is this your verdict?

18 JUROR NUMBER 297: Yes, ma'am.

19 THE CLERK: Is this still your verdict?

20 JUROR NUMBER 297: Yes, ma'am.

21 THE CLERK: Juror Number 242, is this your verdict?

22 JUROR NUMBER 242: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR NUMBER 242: Yes.

25 THE CLERK: Juror Number 129, is this your verdict?

1 JUROR NUMBER 129: Yes.
2 THE CLERK: Is this still your verdict?
3 JUROR NUMBER 129: Yes.
4 THE CLERK: Juror Number 345, is this your verdict?
5 JUROR NUMBER 345: Yes, ma'am.
6 THE CLERK: Is this still your verdict?
7 JUROR NUMBER 345: Yes, ma'am.
8 THE CLERK: Juror Number 318, is this your verdict?
9 JUROR NUMBER 318: Yes.
10 THE CLERK: Is this still your verdict?
11 JUROR NUMBER 318: Yes.
12 THE CLERK: Juror Number 94, is this your verdict?
13 JUROR NUMBER 94: Yes, ma'am.
14 THE CLERK: Is this still your verdict?
15 JUROR NUMBER 94: Yes, ma'am.
16 THE CLERK: Juror Number 137, is this your verdict?
17 JUROR NUMBER 137: Yes.
18 THE CLERK: Is this still your verdict?
19 JUROR NUMBER 137: Yes.
20 THE CLERK: Juror Number 326, is this your verdict?
21 JUROR NUMBER 326: Yes.
22 THE CLERK: Is this still your verdict?
23 JUROR NUMBER 326: Yes.
24 THE CLERK: Juror Number 364, is this your verdict?
25 JUROR NUMBER 364: Yes, ma'am.

1 THE CLERK: Is this still your verdict?

2 JUROR NUMBER 364: Yes, ma'am.

3 THE CLERK: Thank you.

4 THE COURT: Thank you, Madam Clerk.

5 Anything before the jury is discharged, from the
6 State?

7 MS. SMITH: Nothing from the State.

8 THE COURT: From the defendant?

9 MR. FARLEY: No, Your Honor.

10 THE COURT: Ladies and gentlemen, I want to thank you
11 for your service and say a few things to you before we let
12 you go. Of course, this concludes your jury duty for the
13 week.

14 I previously told you you couldn't talk about the
15 case to anybody. You're now free to talk about the case
16 to anybody you want to, including what happened in the
17 jury room if that's what you want to do. You have the
18 same right not to talk about the case. It's totally up to
19 you. You don't have to talk to anybody about the case if
20 you don't want to. I don't have any reason to think
21 anybody's going to come bother you or ask you about your
22 verdict. I just want to let you know, as I do with every
23 jury, you have the right to talk about it or not talk
24 about it.

25 One more thing. I say nobody's in a position to

1 argue about your verdict because only the 12 of you sat
2 there, saw the witnesses testify, saw the other evidence
3 introduced during the trial, listened to the attorneys,
4 listened to me tell you about the law and then sat around
5 the table and discussed it with your fellow jurors.

6 I'm getting ready to let you go. Is there anything
7 we can do for you? Anything you need? Anybody have any
8 problems?

9 Ladies and gentlemen, thank you for your service.
10 You're excused.

11 (WHEREUPON, the jury exits the courtroom at 4:43 p.m.)

12 THE COURT: Anything else from the defense?

13 MR. FARLEY: Judge, I would just renew all of my
14 motions that I made during the trial.

15 THE COURT: And I understand the motions and the
16 grounds for the motions and would continue to deny those
17 motions.

18 MR. FARLEY: Thank you, Judge.

19 THE COURT: Sentencing?

20 MS. SMITH: Yes, sir. We've got to get sentencing
21 sheets. We're doing those right now. We don't have them
22 filled out or anything, so it will just be a few minutes.

23 THE COURT: Okay. Is the defense ready to proceed
24 with sentencing?

25 MR. FARLEY: Yes, Your Honor.

1 THE COURT: What does the State have to say about
2 sentencing in this case?

3 MS. SMITH: Judge, we would ask for life. I've got
4 the defendant's rap sheet here.

5 THE COURT: Sure.

6 MS. SMITH: He has got minor drug charges. In 1999
7 he's got a possession of cocaine; DUI in 2003; in 2008,
8 he's got a trafficking in methamphetamine; 2009, a failure
9 to stop for a blue light. He's got some pending charges
10 here in Beaufort, but that's it.

11 THE COURT: Did anybody from the deceased's family
12 wish to speak or say anything?

13 MS. SMITH: Judge, they may. I haven't had a chance
14 to speak with them yet.

15 Judge, they don't.

16 I will tell you, I have met with the family on a
17 number of occasions in my office before I got this case.
18 This has been a very devastating event. In the courtroom
19 is the defendant's -- or the victim's mother and father, a
20 sister and a brother as well as a close family friend, and
21 they've been here all week. I don't believe that they can
22 speak because every time I've met with them, the parents
23 have been -- they can hardly talk about it without getting
24 upset.

25 It was an egregious, heinous crime, and I think that

1 this is fitting for life in prison.

2 Thank you.

3 THE COURT: Thank you, ma'am.

4 Mr. Farley?

5 MR. FARLEY: Thank you, Judge. The defendant would
6 be standing but he's currently being shackled.

7 Judge, you've heard the evidence in this case.

8 You've heard that it was mostly a circumstantial case.

9 You heard my argument that the codefendant was guilty of
10 this crime. That is still what we maintain to this day.

11 The defendant still maintains his innocence.

12 Judge, this was a tragic crime. No one deserves to
13 die like that while sitting out on their back porch. We
14 totally agree with that. And I personally, I can't say
15 that I apologize to the family, but I feel for you. I
16 don't believe that anybody, any parent, any child should
17 have to go through that. But, Judge, my client pled not
18 guilty, he still maintains his innocence, and the jury has
19 come up with the verdict.

20 The defendant is 39 years old, I believe. He's just
21 a year older than me. He was initially offered a 35-year
22 plea deal in exchange for him testifying against the
23 codefendant, and there was also the added caveat that the
24 State would bring him back for resentencing if he
25 testified truthfully in accordance with his proffered

1 testimony. That was the deal. Obviously, it's gone now.

2 But I believe part of what came into that thought
3 process is for a 40-year-old person to go into prison and
4 get 35 years, that's a life sentence. And to lose a trial
5 and get a life sentence, that's also a life sentence, so I
6 can understand his thought processes there.

7 And despite that, I know you've got to give him 30
8 years, I respect that, and I know that a victim is no
9 longer here, and I respect that. And given that the
10 defendant is not here pleading guilty saying he did it but
11 once again proclaiming his innocence, I think the just and
12 fair thing to do would be to give him a sentence short of
13 life so at least there's that possibility of hope, that
14 possibility of salvation, all the things that comes along
15 with this.

16 And I am terribly sorry for this family. I have
17 children. I couldn't imagine it. But I don't believe,
18 given the facts as presented to the Court, that a life
19 sentence is appropriate, and we would ask for something
20 short of life.

21 THE COURT: Thank you, Mr. Farley.

22 And did your client wish to speak?

23 MR. FARLEY: He did not, Judge.

24 THE COURT: Does not.

25 MR. FARLEY: I would say that he's supported by his

1 family. They've been here the entire time. And I'm not
2 sure -- his family has been here. He does have the
3 support of his family, and in speaking to his mother, she
4 reaches out to this family, too. Any mother understands
5 what they must be going through, and she is so sorry for
6 them. I've had hours of phone call conversations with
7 her, so I do know that she feels for the family.

8 THE COURT: Do you have the sentencing sheets?

9 MS. SMITH: Finishing them right now, Judge.

10 MS. SWANSON: Finishing them up right now.

11 (Pause in proceedings.)

12 MR. FARLEY: Judge, may I approach?

13 THE COURT: Thank you.

14 (Pause in proceedings.)

15 SENTENCING

16 THE COURT: Is there any issue about the time served?

17 MR. FARLEY: Yes, Your Honor. I can -- if you'll
18 just give him credit for time served, I'll coordinate that
19 with the Department of Corrections.

20 THE COURT: All right. Mr. Collins, in the
21 indictment for possession of a weapon during the
22 commission of a violent crime, I sentence you to five
23 years. It will be concurrent. You'll get credit for time
24 served.

25 The charge of murder, I sentence you to the

1 Department of Corrections for a period of 50 years,
2 concurrent with credit for time served.

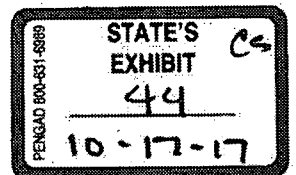
3 Anything else before we adjourn court?

4 MS. SMITH: Nothing from the State.

5 THE COURT: Court's adjourned.

6 (WHEREUPON, proceedings concluded at 4:53 p.m.)

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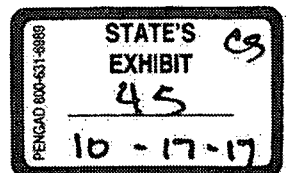
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Source Protocol:   MO
Input Port:        0
Operation Type:    unknown_method
Orig. MSC PC:      204.223.057
Call Back number:  9126594048
Originating DN:    9126594048
Originating MSID:  9126594986
Originating COS:   226
Originating Num. Plan: 2
Originating Num. Type: 2
Billing Id:        0
Delivery Init. Method: Default
Priority:           0
Subscriber Rating: 0
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wrap it n that came gloves in there too had a late night ride just between us no ]
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Operation Type:    new_msg_arrival
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Call Back number:  9126594048
Originating DN:    9126594048
Originating MSID:  9126594986
Originating COS:   226
Originating Num. Plan: 2
Originating Num. Type: 2
Billing Id:        0
Delivery Init. Method: Default
Priority:           0
Subscriber Rating: 0
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Message Text:
[ 02 t crew in morn n just me c u soon thank u ]
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Final Disposition  10/30/2015 9:14:38 Message Final Status     Delivered
Message Source     MC_AlphaRg Input Label              AUX2
Source Protocol    MO Output Protocol        SIP
Input Port         0 Output Port              0
Operation Type     new_msq_arrival HLR Address              full_digits
Orig. MSC PC       204,223,057 Message Dest. Address
sip.hjbbhpsdscf3020.vzims.com:5090,lskpmc-SBG
Call Back number   9126594048 Message MSID             8433687957
Originating DN     9126594048 Terminating DN         8433687957
Originating MSID   9126594986 Terminating MSID
Originating COS     226 Terminating COS        50
Originating Num. Plan 2 Terminating Num. Plan 2
Originating Num. Type 2 Terminating Num. Type 2
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Delivery Init. Method Default Broadcast message false
Priority           0 Data Header Indicator   false
Subscriber Rating  0 Message Rating          0
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Length of text message 34 Data Coding           0
Message Text
[ U havent seen me I havent seen u ]
=====

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340

WITNESSES

Odom / Bluffton PD

DOCKET NO. 2015GS0701994

The State of South Carolina

County of Beaufort

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

April Term 2016

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2015A0720200361

THE STATE

vs.

Samuel Thompson Collins

Indictment For

Murder

SC Code: 16-3-10

CDR Code: 0116

Defendant

Foreperson of Grand Jury

Date: APR 14 2016

VERDICT

Witness:

True Bill

Guilty

Foreperson of Petit Jury

Date: 10-18-2017

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

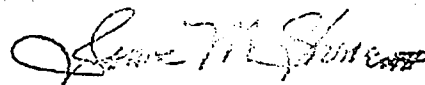
2015GS0701994

At a Court of General Sessions, convened on April 14, 2016, the Grand Jurors of Beaufort County present upon their oath:

Murder

That in Beaufort County, South Carolina, on or about October 28, 2015, the Defendant, Samuel Thompson Collins, did, with malice aforethought, kill Jonathan Cherol and Jonathan Cherol did die as a proximate result of Samuel Thompson Collins's actions, to wit: shooting him with a shotgun, all in violation of Section 16-3-10, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

342

WITNESSES

Odom / Bluffton PD

ARREST WARRANT NUMBER

2015A0720200362

10/17
Foreperson of Grand Jury

Date: APR 1 2016

VERDICT

True Bill

Guilty

Charles E. Spence 10-18-2017

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2015GS0701995

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Samuel Thompson Collins

Indictment For

Possession of Weapon During
Violent Crime

SC Code: 16-23-490

CDR Code: 0549

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

2015GS0701995

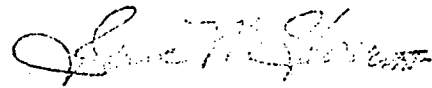
343

At a Court of General Sessions, convened on April 14, 2016, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about October 28, 2015, the Defendant, Samuel Thompson Collins, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: a shotgun and Samuel Thompson Collins was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: murder, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

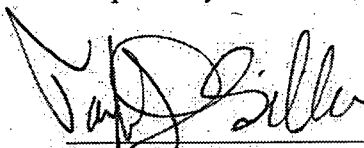


Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Taylor D. Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

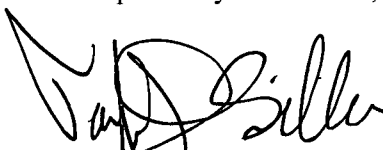
ATTORNEY FOR APPELLANT

This 7th day of December, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Taylor D. Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of December, 2018.

RECEIVED
DEC 07 2018
SC Court of Appeals