

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MIMI JOE MARSHALL,

APPELLANT.

APPELLATE CASE NO. 2017-002329

RECORD ON APPEAL

STEPHEN F. KRZYSTON
Assistant Public Defender

Richland County Public Defender
1701 Main Street
Columbia, SC 29201
(803) 765-2592

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense

PO Box 11589
Columbia, SC 29211
(803) 734-1343

Attorney for Appellant

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy
Attorney General

CAROLINE SCRANTOM
Assistant Attorney General

Office of the Attorney
General
PO Box 11549
Columbia, SC 29211
(803) 734-6305

Attorney for Respondent

Volume I of II (1-500)

INDEX

INDEX	i
PRETRIAL TRANSCRIPT DATED OCTOBER 23, 2017	1
DEFENSE MOTION TO RENEW PRETRIAL DISCOVERY DEMANDS BY MS. GOODE	85
DEFENSE MOTION IN LIMINE REGARDING OFFICER TESTIMONY BY MS. GOODE	86
DEFENSE MOTION IN LIMINE REGARDING GRUESOME PHOTOS BY MR. KRZYSTON	87
DEFENSE MOTION TO EXCLUDE MATERIAL UNDER SCRE 404(B) BY MS. GOODE	89
RULING BY THE COURT ON DEFENSE MOTION TO EXCLUDE MATERIAL UNDER SCRE 404(B) BY MS. GOODE	92
DEFENSE MOTION IN LIMINE REGARDING 911 CALLS BY MR. HAWKS	93
RULING BY THE COURT ON DEFENSE MOTION IN LIMINE REGARDNIG 911 CALLS BY MR. HAWKS	95
PRETRIAL CHARGE	98
OPENING STATEMENT BY MS. MOSER	108
OPENING STATEMENT BY MR. KRZYSTON	117
TESTIMONY	
LESLIE BROWN	
Direct examination by Ms. Sampson	120
Cross examination by Ms. Goode	134
JACKIE RICHBURG	
Direct examination by Ms. Sampson	126
ROBERT MARSHALL, JR.	
Direct examination by Mr. McGlothlin	139
Cross examination by Ms. Goode	146
WOODIE BOYKIN	
Direct examination by Mr. McGlothlin	148
PRESTON WIDER	
Direct examination by Ms. Sampson	158
Cross examination by Ms. Goode	164

GEORGE NORTON

Direct examination by Ms. Moser	139
Cross examination by Ms. Goode	165

ROBERT FURGAL

Direct examination by Mr. McGlothin	178
Cross examination by Mr. Krzyston	183

TIMOTHY LEE (IN CAMERA)

Direct examination by Mr. McGlothin	188
Cross examination by Mr. Krzyston	190

TIMOTHY LEE

Direct examination by Mr. McGlothin	199
Voir Dire by Mr. Krzyston	201
Direct examination by Mr. McGlothin	205
Cross examination by Mr. Krzyston	243
Redirect examination by Mr. McGlothin	268
Recross examination by Mr. Krzyston	271

DAVID COLLINS (IN CAMERA)

Direct examination by Ms. Sampson	281
Cross examination by M. Hawks	316
Redirect examination by Ms. Sampson	327
Recross examination by Mr. Hawks	329
Redirect examination by Ms. Sampson	330

YOLANDA JACKSON

Direct examination by Ms. Moser	331

LINDSAY EDWARDS

Direct examination by Ms. Moser	337
Cross examination by Ms. Goode	346

ANDREW CALDWELL

Direct examination by Ms. Moser	349
Cross examination by Ms. Goode	368

JENNIFER MARTIN

Direct examination by Ms. Sampson	381
Cross examination by Ms. Goode	391
Redirect examination by Ms. Sampson	394
Recross examination by Ms. Goode	396

TAMIEKA MARSHAL

Direct examination by Ms. Sampson	396
Cross examination by Ms. Goode	407

AMANDA MARSHALL

Direct examination by Ms. Sampson	408

STAN RICHARDS (IN CAMERA)

Direct examination by Mr. McGlothin	428
Cross examination by Mr. Krzyston	438

AMY DURSO

Direct examination by Ms. Moser	445
Cross examination by Mr. Hawks	462
Redirect examination by Ms. Moser	464

LEONARD BRADLEY

Direct examination by Mr. McGlothin	464
Cross examination by Mr. Hawks	467

JENNIFER NATES

Direct examination by Ms. Moser	469

STAN RICHARDS

Direct examination by Ms. Sampson	480
Cross examination by Mr. Krzyston	517
Redirect examination by Ms. Sampson	531
Recross examination by Mr. Krzyston	533

JOE CLARKE

Direct examination by Ms. Sampson	535
Cross examination by Ms. Goode	564
Redirect examination by Ms. Sampson	584
Recross examination by Ms. Goode	605

STATE RESTS	606

DEFENSE RENEWAL OF ALL PRIOR MOTIONS BY MR. KRZYSTON	607
DEFENSE MOTION FOR A DIRECTED VERDICT BY MR. KRZYSTON	607
RULING BY THE COURT ON DEFENSE MOTION FOR A DIRECTED VERDICT BY MR. KRZYSTON	608
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	608
TESTIMONY	
CHRISTOPHER ROBINSON	
Direct examination by Mr. Hawks	615
Cross examination by Ms. Sampson	627
Redirect examination by Mr. Hawks	642
Recross examination by Mr. Hawks	643
FRANKLIN RAINSFORD	
Direct examination by Mr. Krzyston	647
Cross examination by Ms. Moser	648
DEFENSE RESTS	649
DEFENSE RENEWAL OF ALL PRIOR MOTIONS BY MS. GOODE	650
RULING BY THE COURT ON DEFENSE RENEWAL OF ALL PRIOR MOTIONS BY MS. GOODE	650
CHARGE CONFERENCE	650
CLOSING ARGUMENT BY MS. SAMPSON	667
CLOSING ARGUMENT BY MS. GOODE	689
REBUTTAL TO DEFENSE CLOSING ARGUMENT BY MS. SAMPSON	701
CHARGE ON THE LAW	712
DEFENSE RENEWAL OF ALL PRIOR MOTIONS BY MR. HAWKS	727
VERDICT	728
POLLING OF THE JURY	729
DEFENSE RENEWAL OF ALL PRIOR MOTIONS BY MS. GOODE	732
DEFENSE MOTION FOR A NEW TRIAL BY MS. GOODE	732
RULING BY THE COURT ON DEFENSE RENEWAL OF ALL PRIOR MOTIONS BY MS. GOODE	733

RULING BY THE COURT ON DEFENSE MOTION FOR A NEW TRIAL BY MS. GOODE	733
SENTENCING FOR MR. MARSHALL	740
STATE'S EXHIBIT #3 (WRITTEN STATEMENT OF DEFENDANT)	744
DEFENDANT'S EXHIBIT #12 (RCSD BLOOD PATTERN PROTOCOLS).....	746
INDICTMENT AND SENTENCING SHEET	753
CERTIFICATE OF COUNSEL	756

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #15-39 (PHOTOGRAPHS), STATE'S EXHIBIT 84
(PHOTOGRAPH), STATE'S EXHIBIT #85 (PHOTOGRAPH), AND STATE'S EXHIBIT
#95 (PHOTOGRAPH)**

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Mimi Joe Marshall,) 2015-GS-40-6133;6134
7 Defendant.) October 23, 2017
8) Columbia, South Carolina
9

10 B E F O R E:
11 HONORABLE ROBERT E. HOOD, JUDGE; and a jury
12

13
14 A P P E A R A N C E S:
15 APRIL WOODARD SAMPSON, ESQUIRE
16 SANDRA VRIESINGA MOSER, ESQUIRE
17 SAMUEL COTTON MCGLOTHIN, ESQUIRE
Attorneys for the State
18 ALICIA DYAR GOODE, ESQUIRE
19 STEPHEN FRANCIS KRZYSTON, ESQUIRE
LUCAS DANIEL HAWKS, ESQUIRE
20 Attorneys for the Defendant
21

22
23 Linda D. Moffitt
24 Circuit Court Reporter
25

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INDEX

Jury qualification -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 (Proceedings October 23, 2017)

2 MS. SAMPSON: Your Honor, if I may approach I'll give
3 you your witness list.

4 THE COURT: Okay. We are on the record in
5 2015-GS-40-6133 and 6134. This is the state of south
6 Carolina vs. Mimi Joe Marshall.

7 The state is present and represented by April Sampson,
8 Sam McGlothlin and Sandra Moser. The defendant is present
9 and represented by Alicia Goode, Stephen Krzyston and Lucas
10 Hawks.

11 All right. And the defendant, for the record, is
12 dressed out and here present.

13 All right. So what do we need to take up before jury
14 selection from the state?

15 MS. SAMPSON: Your Honor, I believe we've handed the
16 defense a copy of any potential voir dire. I believe
17 there's a copy that we also handed to Your Honor.

18 THE COURT: I have it.

19 MS. SAMPSON: Other than covering what the voir dire
20 questions, if there's anything the defense does want asked,
21 there's nothing from the state in terms of picking the
22 jury.

23 THE COURT: Okay. Ms. Goode.

24 MR. KRZYSTON: Judge, I'm addressing the requested
25 voir dire, and I think that the state's voir dire is pretty

1 conclusive.

2 The only thing that we would ask the Court consider
3 adding is that -- some kind of inquiry on whether the
4 jurors are potentially squeamish about, of course, some
5 photos as this case does involve what I think the state and
6 we will agree are relatively gruesome photos.

7 THE COURT: Okay. I'm going to asking it then.

8 MR. KRZYSTON: Thank you, Judge.

9 THE COURT: Okay. All right. And is he going forward
10 on both charges?

11 MR. HAWKS: Well, Your Honor, we'd like to plead
12 guilty to the gun charge and that get out of the way.

13 THE COURT: Okay.

14 MR. HAWKS: That way it doesn't have to be brought up.

15 THE COURT: All right. What's the state's position on
16 that?

17 MS. SAMPSON: Our position, he can plead if he wants
18 to, but our position would still be that the nature -- that
19 he cannot have a weapon. It could still come up in the
20 trial. It goes to recklessness and malice in terms of
21 having a gun in the first place since he's a felon and not
22 allowed to have a gun.

23 It was never our intentions to go into the type of
24 charge he had, as we don't feel that that's appropriate.
25 But the fact that he's not to have a weapon because he's a

1 felon --

2 THE COURT: Okay. What kind of record does he have?

3 MS. SAMPSON: He has an assault and battery with
4 intent to kill from 1996.

5 THE COURT: Okay. Does that change your position on
6 that, Mr. Hawks?

7 MR. HAWKS: Well, Your Honor, I just want to make sure
8 if it comes to the point where we're trying to get an
9 accident charge or involuntary manslaughter, I don't want
10 them to be able to say that he is acting unlawfully for the
11 purposes of those charges because he is a felon in
12 possession.

13 THE COURT: Okay.

14 MR. HAWKS: I had a case on that.

15 THE COURT: Okay.

16 MR. HAWKS: It's State vs. Burris. It's a South
17 Carolina case.

18 THE COURT: That's the 21 or 18 year old case,
19 whatever?

20 MR. HAWKS: Yes, Your Honor. In that case he has a
21 couple of different gun charges, and that case deals only
22 with accident. But it goes on to explain that the same
23 logic would be used for man -- for involuntary
24 manslaughter.

25 So we would argue that because Burris says that you're

1 going to get those charges, that if we're agreeing that he
2 has a conviction and we're stipulating, you know, that he
3 is guilty of that, pleading guilty, then it would be
4 clearly more prejudiced at that point to talk about his
5 record than probative.

6 THE COURT: Okay. So is there -- does he want to
7 plead to it or not? That's my question.

8 MR. HAWKS: Yes.

9 THE COURT: He does. All right. Come on over here.

10 MS. SAMPSON: I don't have the paperwork. This is
11 the -- this is the first I've heard for sure that he wanted
12 to plead, so I don't have the paperwork ready.

13 I don't have a problem with not bringing up the charge
14 in front of the jury and pleading him, or we can go get the
15 paperwork, however Your Honor wants to do it. I just don't
16 have it. This is the first I've heard for sure he's
17 pleading to it.

18 MR. HAWKS: We could do it now or whenever you'd like,
19 Your Honor. It's only one charge. It shouldn't take too
20 long.

21 THE COURT: Okay. Now, I don't know you,
22 Mr. Marshall. But are you telling me as a man of your word
23 that after I pick this jury your intention is to plead
24 guilty to the firearm charge?

25 THE DEFENDANT: Pardon me, Your Honor?

1 THE COURT: That's okay.
2 Do you understand what they're -- do you understand
3 what we're talking about?
4 THE DEFENDANT: Not exactly.
5 THE COURT: Okay. What they're telling me is you want
6 to plead guilty to the gun charge.
7 THE DEFENDANT: Yes, sir.
8 THE COURT: Is that right?
9 THE DEFENDANT: Yes, sir.
10 THE COURT: And so I want to pick this jury, and I'm
11 not going to tell them anything about the gun charge.
12 THE DEFENDANT: Yes, sir.
13 THE COURT: And you're telling me face to face, man to
14 man, that once I send them out of here and they get the
15 paperwork you're going to plead to that.
16 THE DEFENDANT: Yes, sir.
17 THE COURT: Is that right?
18 MR. KRZYSTON: Yes, sir. That's right.
19 THE COURT: Do y'all all agree with that?
20 MR. HAWKS: Yes, sir.
21 THE COURT: Okay. That's fine. Let's do that.
22 Okay. All right. So this is the incident on or about
23 August the 15th of 2015. And I thought I wrote it down.
24 Oh, off Leesburg Road at a mobile home park, is that right?
25 Just to try to give the jury a little bit of information

1 about what the case is about.

2 MS. SAMPSON: Yes, sir.

3 THE COURT: Is that right?

4 MS. SAMPSON: Yes, Your Honor.

5 THE COURT: And it happened in the morning or the
6 evening or --

7 MS. SAMPSON: It happened -- it started in the -- at
8 the nighttime hours and went through the -- from the
9 14th of August through the 15th of August.

10 THE COURT: That's okay. That's fine. And what's the
11 name of the mobile home park -- Bel-Aire Mobile Home Park,
12 Hopkins?

13 MS. GOODE: Yes, Your Honor.

14 THE COURT: All of that sound right?

15 MS. GOODE: Yes, sir.

16 MR. HAWKS: Yes, Your Honor.

17 THE COURT: Okay. All right. Let's go ahead and
18 bring up the panel.

19 I don't know who you are, but you've got to move. You
20 can sit there once the trial starts, but the jurors are
21 going to sit right there. You just need to sit --

22 MS. GOODE: He's a 403, Your Honor.

23 THE COURT: That's fine. Yeah. No problem with me at
24 all.

25 All right. While we're waiting on them to come up

1 the -- basically, questions one through six on the state's
2 requested voir dire, I'm going to incorporate that into one
3 big question and then just pull them up individually
4 instead of going through it like that. I think it's just
5 easier to just ask one broad question and then let them all
6 come up. And of course I'll let y'all hear what they have
7 to say. So they all can come up.

8 (The following takes place in the presence of the jury
9 venire.)

10 THE COURT: We will take the roll real quick. If I
11 call your name, just say here or present. So I'll make
12 sure I have all 45.

13 All right. If I say your name wrong, I'm sorry.

14 (Whereupon, names of all 45 jurors was called and all
15 answered as being present.)

16 THE COURT: Anybody whose name I didn't call?

17 (No response.)

18 THE COURT: All right. I used to not do that before
19 we started this, and then something would be messed up and
20 then we'd have to start all over again. So that's why I do
21 that.

22 All right. Good morning. My name is Robert Hood.
23 I'm one of your resident circuit court judges. I believe
24 you were qualified by Judge Benjamin this morning. Is that
25 right?

1 Okay. All right. So what we're going to do this
2 morning is we are going to select a jury in a criminal
3 trial.

4 So there are two types of trials that we hold in this
5 courthouse. One are civil or one is civil -- excuse me --
6 and one is criminal. The other is criminal. You are here
7 today for a criminal trial.

8 In just a few moments I'm going to begin asking you
9 questions about this case to see if you know anything about
10 the case or if you know any of the lawyers that are
11 involved or any of the witnesses involved or if you've
12 heard anything about the case or seen anything about the
13 case.

14 Okay. Now, I'm going to tell you this. And when I
15 say this, I mean this very sincerely. It is absolutely
16 essential that you provide us with truthful answers to the
17 questions that I'm going to ask you today.

18 Okay. If you watch T.V. or you watch the news or read
19 books or watch movies and you see how it takes them, you
20 know, sometimes two and three days to pick a jury, we're
21 going to pick a jury in about an hour. Okay. And the
22 reason that we're able to do that is because we believe
23 that you're going to tell us the truth.

24 And just imagine if you were on either side of this
25 case, even if you were just casually connected to it, you

1 would want to go into this week believing that the jurors
2 are going to tell the judge the truth, right? That's
3 just -- that's just part of this working correctly, is that
4 when I ask you these questions I'm going to ask you in just
5 a moment that you're going to tell us the truth.

6 So when I ask these questions I want you to err on the
7 side of giving me too much information as opposed to too
8 little information.

9 Okay. The best example that I have of that is this.
10 I was in a case just like this and had all of these lawyers
11 out here. And on the front row there was a lawyer, and
12 there's thousands of lawyers in Richland County. I mean
13 thousands of them. And I didn't know the lawyer. I'd
14 never seen him in my whole life. I mean, I didn't know him
15 from anybody else. But he had told us that he was a
16 lawyer.

17 And in just a moment I'm going to ask you if you know
18 any of the lawyers in this case. And that lawyer didn't
19 stand up, and that really wasn't surprising to me. I mean,
20 there's thousands of lawyers in Richland County.

21 And so the lawyers that were involved in the case,
22 they all came up to me, and they said you see the lawyer on
23 the front row. And I was like yeah. And they said, well,
24 we all went to law school with him.

25 Okay. Now, I tell you that to tell you this. And

1 people -- when people say the word do you know somebody,
2 everybody interprets that differently. Okay. Right.

3 Now, in this jury panel I know three people. Okay. I
4 know Mr. Leventis and I know Mr. Bales and I know
5 Mr. Granger. And I know them all differently.

6 Okay. Does that make sense? I haven't seen Mr. Bales
7 in years. I've seen Mr. Leventis, you know, walking down
8 the street or say hey. I used to buy clothes from Mr.
9 Granger. I mean, I know them all differently, but I know
10 them.

11 Okay. So when I ask you the question do you know
12 somebody, that doesn't mean that you've had dinner with
13 them or, you know, you had an after-work drink with them or
14 you worked with them for ten years.

15 If you know who that person is in the names I'm about
16 to read off, I want you to stand up and tell us. There's
17 nothing wrong with that. But we're just trying to gather
18 as much information as possible.

19 Okay. All right. So the first thing that we're going
20 to do is swear you in. So if you will, please stand up.

21 (Whereupon, the jury venire was duly sworn.)

22 THE COURT: Thank you very much.

23 Is the state ready to proceed?

24 MS. SAMPSON: Yes, Your Honor.

25 THE COURT: All right. Ms. Sampson, you may call your

1 case.

2 MS. SAMPSON: Thank you.

3 The state calls the State of South Carolina vs. Mimi
4 Joe Marshall.

5 THE COURT: All right. Ladies and gentlemen, the
6 state has called its case.

7 The charge before you today is Docket
8 No. 2015-GS-40-6133. This is an indictment that I hold in
9 my hand that has been returned a true bill by the Richland
10 County Grand Jury.

11 This indictment is not proof of anything; it is not
12 evidence of anything. It is simply the document that
13 allows this Court to hear this case.

14 This indictment is against Mimi Joe Marshall, and it
15 is an indictment for murder.

16 The indictment alleges that Mimi Joe Marshall did in
17 Richland County on or about August the 15th of 2015 kill
18 the victim, Doris Marshall, with malice aforethought,
19 either expressed or implied, by means of a gunshot wound
20 and the victim did die as a proximate result thereof.

21 Now, again, this indictment is not proof of anything;
22 it is not evidence of anything. It is simply the charging
23 document.

24 To this indictment the defendant has pled not guilty.
25 That plea puts the burden of proof upon the state to prove

1 Mr. Marshall's guilt to a jury beyond a reasonable doubt.

2 Okay. So the first thing that we're going to do in
3 this case is I'm going to let the lawyers introduce
4 themselves and tell you where they work. And we will start
5 with the state. All right.

6 MS. SAMPSON: I am April Sampson. I'm an assistant
7 solicitor here in the Fifth Circuit.

8 MR. MCGLOTHIN: I'm Sam McGlothlin. I'm an assistant
9 solicitor here in the Fifth Circuit.

10 MS. MOSER: My name is Sandra Moser, and I'm also an
11 assistant solicitor in the Fifth Judicial Circuit.

12 THE COURT: Okay. So the question is is anyone
13 related by blood or marriage, close personal friends with,
14 have any connection to -- business, personal, social or
15 otherwise -- either Ms. Sampson, Mr. McGlothlin or Ms.
16 Moser.

17 As to all of them have you ever been represented by
18 them or on the other side of a case from them, or do you
19 have any connection in any way, shape or form to anyone at
20 the Fifth Circuit Solicitor's Office, which encompasses
21 Richland and Kershaw counties? If so, please stand.

22 All right. Mr. Granger.

23 All right. Mr. Granger is Juror No. 112. Who do you
24 know, Mr. Granger?

25 JUROR NO. 112: J.J. Shellenberg.

1 THE COURT: Okay. All right. And would this affect
2 your ability to be fair and impartial?

3 JUROR NO. 112: I would say so.

4 THE COURT: Okay. Thank you very much.

5 All right. Anybody else?

6 (No response.)

7 THE COURT: Okay. Thank you very much.

8 All right. Ms. Goode, would you and all of your group
9 please stand up and introduce yourselves?

10 MS. GOODE: My name is Alicia Goode, and work with the
11 Richland County Public Defender's Office.

12 MR. KRZYSTON: My name is Stephen Kryston, and I've
13 worked with the Richland County Public Defender's Office
14 for about five years.

15 MR. HAWKS: My name is Lucas Hawks. I've been doing
16 the same thing for about five years.

17 THE COURT: All right. And this is Mr. Marshall.

18 Mr. Marshall, would you please wave at them and make
19 sure they know who you are?

20 THE DEFENDANT: I am Mimi Marshall.

21 THE COURT: All right. Thank you very much.

22 All right. So the question is is anyone related by
23 blood or marriage, close personal friends with, have any
24 connection to -- business, personal, social or otherwise --
25 Ms. Goode, Mr. Krzyston, Mr. Hawks or Mr. Marshall.

1 As to the lawyers, have you ever been represented by
2 them or on the other side of the case from them? If so,
3 please stand.

4 Okay. What's your name, sir?

5 JUROR NO. 127: Priyantha Herath.

6 THE COURT: Tell me your last name.

7 JUROR NO. 127: Herath, 137 [sic].

8 THE COURT: Just one second. Okay. 127.

9 JUROR NO. 127: Yes, sir.

10 THE COURT: Is that right?

11 JUROR NO. 127: Yes, sir.

12 THE COURT: Okay. Who do you know, Mr. Herath?

13 JUROR NO. 127: None of these folks personally, but I
14 used to date the -- an attorney for the public defender's
15 office.

16 THE COURT: Okay.

17 JUROR NO. 127: And I -- I had heard a lot of stories
18 about that office --

19 THE COURT: Okay.

20 JUROR NO. 127: -- in general. Many of them are very
21 negative, so.

22 THE COURT: Okay. Would this affect your ability to
23 be fair and impartial?

24 JUROR NO. 127: Probably.

25 THE COURT: All right. Thank you very much. Have a

1 seat.

2 All right. Anybody else?

3 (No response.)

4 THE COURT: All right. The next -- hold on. Let me
5 flip back.

6 Okay. The next thing I'm going to do is read you a
7 list of potential witnesses in the case. Now, just because
8 they are called, I list them out to you as a witness now,
9 does not mean that they will be called. It simply means
10 that they could be called. So if you hear a name that you
11 know, just stand up right where you are.

12 Okay. Robert Marshall, Sr.; Robert Marshall, Jr.;
13 Amanda Marshall; Tamieka Marshall; Lindsay "Pee Wee"
14 Edwards; Yolanda Jackson; Leslie Brown; Michelle Hopkins;
15 Preston Wider; Deputy Terry McIntosh with the sheriff's
16 department; Deputy Philip Carlson with the sheriff's
17 department; Corporal Robert Furgal with the sheriff's
18 department; Corporal George Norton with the sheriff's
19 department; Investigator Joe Clarke with the sheriff's
20 department.

21 Thank you, Investigator Clarke.

22 Investigator Andrew Caldwell with the sheriff's
23 department; Investigator Timothy Lee with the sheriff's
24 department; Investigator Franklin Rainsford with the
25 sheriff's department; Sergeant Stan Richards with the

1 sheriff's department; David Collins with the sheriff's
2 department; Jennifer Martin with the sheriff's department;
3 Jennifer Nates with SLED; Deputy Leonard Bradley with
4 the -- what is RCCO?

5 MS. SAMPSON: Coroner's office.

6 THE COURT: With the coroner's office; Dr. Amy Durso;
7 Woodie Boykin with E.M.S.; Jackie Richburg with 9-1-1;
8 Christopher Robinson; Christopher Watkins; Eric Devin.

9 Anybody related by blood or marriage, close personal
10 friends with, have any connection to -- business, personal,
11 social or otherwise -- any of these potential witnesses?
12 If so, please stand.

13 All right. Tell me your name, sir.

14 JUROR NO. 54: Christopher Carlock.

15 THE COURT: Your last name is what?

16 JUROR NO. 54: Carlock.

17 THE COURT: Carlock. Okay. And who do you know?

18 JUROR NO. 54: Woodie Boykin.

19 THE COURT: Okay. Do you work with him?

20 JUROR NO. 54: Yes.

21 THE COURT: Would this affect your ability to be fair
22 and impartial?

23 JUROR NO. 54: Probably.

24 THE COURT: Sir?

25 JUROR NO. 54: Yes, sir.

1 THE COURT: Okay. Anybody else?

2 (No response.)

3 THE COURT: Okay. All right. So one of the things
4 that you will learn that if you make it on this jury is
5 that I am not allowed to tell you what the facts are in the
6 case. Okay. So if you make it on the jury, I will tell
7 you basically you control the facts and I control the law.
8 I can't tell you what the facts are; you can't tell me what
9 the law is. Okay. But I have to give you a little of
10 information about this case to see if you know anything
11 about it.

12 Okay. Again, I'll define for you what evidence is
13 later. These are allegations at this point.

14 I just need to know if anybody in the room knows
15 anything about the case. Have you heard anything about the
16 case, seen anything about the case, anything like that?

17 So this incident allegedly occurred on or about August
18 the 15th of 2015. The victim's name or the alleged
19 victim's name in the case is Doris Marshall. The incident
20 location, again, allegedly is 3976 Leesburg Road, No. 5,
21 which is also part of the Bel-Aire Mobile Home Park in
22 Hopkins.

23 Anybody -- yes, ma'am.

24 MS. GOODE: Your Honor, may I approach?

25 THE COURT: Sure.

1 (Bench conference held off the record.)

2 THE COURT: All right. Ladies and gentlemen, all of
3 you are going to be sent back downstairs to the jury
4 selection room, all except for Mr. Herath. Thank you very
5 much. Everyone else go back downstairs.

6 (The following takes place outside the presence of the
7 jury venire with the exception of Juror No. 127.)

8 THE COURT: Okay. Go get the paperwork so we can do
9 that other issue while they're pulling the panel.

10 All right. Why did you feel the need to give a
11 comment that the information you heard about the public
12 defender's office was negative?

13 JUROR NO. 127: Judge, you asked me to be open and I
14 wanted to mention that this --

15 THE COURT: I mean, all you had to say was I dated
16 somebody in the public defender's office.

17 JUROR NO. 127: Well, I didn't -- like I say --

18 THE COURT: You just tainted an entire jury pool
19 telling them that these three lawyers sitting down here in
20 the office they work for, you know a lot of negative
21 information about it.

22 JUROR NO. 127: Well, that was not my intention.

23 THE COURT: Well, what did -- what did you think it
24 was? How did you think everybody in the room was going to
25 take that?

1 JUROR NO. 127: I didn't think of anybody else. I
2 just answered your questions, sir.

3 THE COURT: Okay. Well, the answer to the question
4 was I formerly dated someone who worked in the public
5 defender's office.

6 JUROR NO. 127: So, yes.

7 THE COURT: Not your commentary about the information
8 that you learned about them.

9 JUROR NO. 127: I didn't know what exactly to tell --
10 tell or explained to me or us to be open. So I -- I gave
11 you what I thought would be an answer.

12 THE COURT: Well, you just tainted an entire jury
13 panel. I'm going to have to do everything over again
14 because of your comments. So next time just answer the
15 question directly.

16 I never asked you in my questioning in reference to
17 the public defender's office, I didn't ask do you have any
18 connection to anyone in the public defender's office like I
19 did with the solicitor's office. I asked do you have a
20 connection to these three lawyers. So you didn't even
21 answer the question that I asked.

22 Go back downstairs.

23 (Whereupon, Juror No. 127 was excused from the
24 courtroom.)

25 (Bench conference held off the record with the deputy

1 clerk of court.)

2 THE COURT: What do you want to do, Ms. Goode?

3 MS. GOODE: We don't have a choice.

4 MR. HAWKS: Can we ask him if he talked to any of the
5 people downstairs?

6 THE DEPUTY CLERK: We don't have any people
7 downstairs.

8 THE COURT: There's only 23 people downstairs. I
9 mean, your client's been waiting for his trial for three
10 years.

11 MS. GOODE: Yes. And we're ready -- we're ready to
12 go. I can --

13 THE COURT: It was y'all's motion to get rid of them.

14 MS. GOODE: I think we -- you know, we didn't have any
15 option but to -- to make that motion and ask for that
16 request, or make that request.

17 And we would -- we would ask if there's not enough
18 jurors, then we call the case next week. I believe Your
19 Honor will be here next week. That's all I can ask. I
20 mean, we're -- we're ready to go, and the state is. I
21 know, I mean --

22 MS. SAMPSON: We subpoenaed for this week and not next
23 week.

24 MS. GOODE: I know.

25 THE COURT: All right. Mr. Marshall, do you

1 understand what they're asking me to do?

2 THE DEFENDANT: No, sir, I don't.

3 THE COURT: Okay. What they're asking me to do is to
4 continue your case until next week.

5 THE DEFENDANT: Yes, sir. Whatever they -- whatever
6 my lawyers says, sir, is fine with me.

7 MS. SAMPSON: Your Honor, for the record, I cannot --
8 we scheduled this in August, and there's lots of witnesses.

9 I cannot stand here in good faith and say
10 everybody's -- I didn't subpoena them for next week. I
11 subpoenaed them for this week. So I will do my best to try
12 to do it, but I don't want to be held to that if I have 14
13 witnesses who can't be here next week because they were
14 scheduled to be here this week.

15 THE COURT: I mean, most of them are cops.

16 MS. SAMPSON: Right. I mean --

17 THE COURT: There are only about eight or nine lay
18 witnesses.

19 MS. SAMPSON: I -- we brought one in from out of --
20 two of them are from out of town, just for this week.

21 I mean, the other thing is just to mix the 20 in and
22 we don't -- we did a panel of 45. We don't need 45. But
23 we can mix the 20 in and pull him out.

24 MS. GOODE: I have never had to -- to deal with this
25 one and not having --

1 THE COURT: We've got to have about 40. So you've got
2 23 that don't know anything.

3 MS. GOODE: Your Honor, I just -- you know, at this
4 point, you know, we've sent back down the jurors that were
5 in here. I don't know what's been said.

6 And Mr. Juror 127, I don't know what he said to the
7 jury panel before the jury pool or the panel was sent up.

8 I just -- I feel like at this point I have no choice
9 but to ask for an entire new jury pool another week.

10 THE COURT: Okay. Granted.

11 MS. GOODE: Do you want to do the plea now or do you
12 want to wait until --

13 THE COURT: We can do the plea now.

14 MS. SAMPSON: Just for the record, we can get together
15 and decide. I mean, I just cannot stand here and say we'll
16 do it next week. I don't know.

17 MR. KRZYSTON: We are next week --

18 THE COURT: Did you get the paperwork?

19 MS. SAMPSON: Yes.

20 MR. HAWKS: Judge, just to be clear, we would need to
21 defer sentencing.

22 MS. SAMPSON: They don't want him to go to D.O.C.

23 MR. HAWKS: Yeah. We don't want to have to bring
24 him -- we don't want to have to be transporting him.

25 THE COURT: Well, I can't guarantee you that I'm the

1 one that's trying the case.

2 MS. SAMPSON: We can defer sentencing for Your Honor
3 if that's what you guys want to whenever he's back in
4 rotation. I mean, I don't care. He's not going anywhere.

5 MR. HAWKS: That's fine, Your Honor.

6 THE COURT: Okay.

7 MS. GOODE: Your Honor, we'll just -- we'll take it up
8 with the docket.

9 MR. KRZYSTON: We'll get with you about scheduling it
10 next week, Your Honor.

11 MS. SAMPSON: Thank you very much.

12 THE COURT: You're second on the docket.

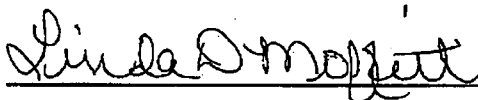
13 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 23rd day of October 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 20, 2017



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	GENERAL SESSIONS COURT
COUNTY OF RICHLAND	)	2015-GS-40-06133
	)	2015-GS-40-06134
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
MIMI JOE MARSHALL,	)	
DEFENDANT.	)	

October 30 - November 2, 2017
Columbia, South Carolina

B E F O R E:

THE HONORABLE ROBERT E. HOOD, JUDGE.

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

APRIL SAMPSON, ESQ.
SANDRA MOSER, ESQ.
SAMUEL MCGLOTHIN, ESQ.
Attorneys for the Plaintiff

ALICIA GOODE, ESQ.
STEPHEN KRZYSTON, ESQ.
LUCAS HAWKS, ESQ.
Attorneys for the Defendant

KAREN AMBROZIAK
Circuit Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

	<u>Page No.</u>
Opening Statement by Ms. Moser.....	82
Opening Statement Mr. Krzyston.....	91
 (PW) <u>LESLIE BROWN:</u>	
Direct Examination by Ms. Sampson.....	94
Cross-Examination by Ms. Goode.....	108
 (PW) <u>JACKIE RICHBURG:</u>	
Direct Examination by Ms. Sampson.....	110
 (PW) <u>ROBERT MARSHALL, JR.:</u>	
Direct Examination by Mr. McGlothin.....	113
Cross-Examination by Ms. Goode.....	120
 (PW) <u>WOODIE BOYKIN:</u>	
Direct Examination by Mr. McGlothin.....	122
 <u>October 31, 2017</u>	
 (PW) <u>PRESTON WIDER:</u>	
Direct Examination by Ms. Sampson.....	132
Cross-Examination by Ms. Goode.....	138
 (PW) <u>GEORGE NORTON:</u>	
Direct Examination by Ms. Moser.....	139
Cross-Examination by Ms. Goode.....	150
 (PW) <u>ROBERT FURGAL:</u>	
Direct Examination by Mr. McGlothin.....	152
Cross-Examination by Mr. Goode.....	157
 (PW) <u>TIMOTHY LEE (IC):</u>	
Direct Examination by Mr. McGlothin.....	162
Cross-Examination by Mr. Krzyston.....	164
 (PW) <u>TIMOTHY LEE:</u>	
Direct Examination by Mr. McGlothin.....	173
Voir Dire by Mr. Krzyston.....	175
Continued Direct Examination by Mr. McGlothin..	179
Cross-Examination by Mr. Krzyston.....	217
Redirect Examination by Mr. McGlothin.....	242
Recross-Examination by Mr. Krzyston.....	245

<u>(PW) DAVID COLLINS (IC):</u>	
Cross-Examination by Mr. Hawks.....	247
Direct Examination by Ms. Sampson.....	250
<u>(PW) DAVID COLLINS:</u>	
Direct Examination by Ms. Sampson.....	255
Cross-Examination by Mr. Hawks.....	290
Redirect Examination by Ms. Sampson.....	301
Recross-Examination by Mr. Hawks.....	303
Further Redirect Examination by Ms. Sampson.....	304
<u>(PW) YOLANDA JACKSON:</u>	
Direct Examination by Ms. Moser.....	305
<u>(PW) LINDSAY EDWARDS:</u>	
Direct Examination by Ms. Moser.....	311
Cross-Examination by Ms. Goode.....	320
<u>(PW) ANDREW CALDWELL:</u>	
Direct Examination by Ms. Moser.....	323
Cross-Examination by Ms. Goode.....	342
<u>(PW) JENNIFER MARTIN:</u>	
Direct Examination by Ms. Sampson.....	355
Cross-Examination by Ms. Goode.....	365
Redirect Examination by Ms. Sampson.....	368
Recross-Examination by Ms. Goode.....	370
<u>(PW) TAMIEKA MARSHALL:</u>	
Direct Examination by Ms. Sampson.....	370
Cross-Examination by Ms. Goode.....	381
<u>(PW) AMANDA MARSHALL:</u>	
Direct Examination by Ms. Sampson.....	382

November 1, 2017

<u>(PW) STAN RICHARDS (IC):</u>	
Direct Examination by Mr. McGlothlin.....	402
Cross-Examination by Mr. Krzyston.....	412
<u>(PW) AMY DURSO, M.D.:</u>	
Direct Examination by Ms. Moser.....	419
Cross-Examination by Mr. Hawks.....	436
Redirect Examination by Mr. Moser.....	438
<u>(PW) LEONARD BRADLEY:</u>	
Direct Examination by Mr. McGlothlin.....	438
Cross-Examination by Mr. Hawks.....	441

(PW) JENNIFER NATES:

Direct Examination by Ms. Moser..... 443

(PW) STAN RICHARDS:

Direct Examination by Ms. Sampson..... 454

Cross-Examination by Mr. Krzyston..... 491

Redirect Examination by Ms. Sampson..... 505

Recross-Examination by Ms. Krzyston..... 507

(PW) JOE CLARKE:

Direct Examination by Ms. Sampson..... 509

Continued Direct Examination by Ms. Sampson..... 538

Cross-Examination by Ms. Goode..... 558

Redirect Examination by Ms. Sampson..... 576

Recross-Examination by Ms. Goode..... 579

(DW) CHRIS ROBINSON:

Direct Examination by Mr. Hawks..... 589

Cross-Examination by Ms. Sampson..... 601

Redirect Examination by Mr. Hawks..... 616

Recross-Examination by Ms. Sampson..... 617

Thursday, November 2, 2017

(DW) FRANKLIN RAINSFORD:

Direct Examination by Mr. Krzyston..... 621

Cross-Examination by Ms. Moser..... 622

Closing Argument by Ms. Sampson..... 641

Closing Argument by Ms. Goode..... 663

Closing Argument by Ms. Sampson..... 675

Charge by the Court..... 686

Sentence of the Court..... 714

Certificate of the Reporter..... 715

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
1	Advice of Rights 8/15	8	521
2	Advice of Rights 8/18	8	338
3	Written Statement	8	521
4	911 Call @ 9:07 a.m.	8	107
5	8/15 CAD report 9:07 a.m.	8	112
6	Photograph	8	97
7	Photograph	8	97
8	Photograph	8	97
9	Photograph	8	97
10	Photograph	8	97
11	911 Call @ 1:17 p.m.	8	112
12	Photograph	8	181
13	Photograph	8	181
14	Photograph	8	181
15	Photograph	8	182
16	Photograph	8	182
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18	Photograph	8	182
19	Photograph	8	182
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34	Photograph	8	182
35	Photograph	8	182
36	Photograph	8	182
37	Photograph	8	182
38	Photograph	8	182
39	Photograph	8	182
40	Time Log Printout	8	135
41	Photograph	8	379
42	Photograph	8	429
43	Photograph	8	429
44	Photograph	8	429

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
45	Pellets from Victim	8	275
46	4 swabs (Marker 1, 3, 4, 5)	8	217
47	Bags to Cover Hands	8	216
48	Evidence Slip (Glasses)	8	214
49	Work Name Tag	8	215
50	Swabs (withdrawn)	8	
51	Swabs (withdrawn)	8	
52	Photograph	8	466
53	Photograph	8	466
54	Photograph	8	466
55	Photograph	8	466
56	Photograph	8	466
57	Photograph (withdrawn)	8	
58	Photograph (withdrawn)	8	
59	Photograph (withdrawn)	8	
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61	Photograph (withdrawn)	8	
62	Photograph (withdrawn)	8	
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64	Photograph (withdrawn)	8	
65	Photograph (withdrawn)	8	
66	Photograph (withdrawn)	8	
67	Photograph (withdrawn)	8	
68	Photograph (withdrawn)	8	
69	Photograph	8	556
70	Photograph (withdrawn)	8	
71	Gun	8	262
72	Swab from Barrel	8	270
73	Shells/pellets	8	265
74	Photograph	8	466
75	Photograph	8	466
76	Photograph	8	466
77	Photograph	8	466
78	Photograph	8	466
79	Photograph	8	466
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88	Photograph	8	466
89	Photograph	8	466
90	Photograph	8	466

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
91	Photograph	8	466
92	Photograph	8	466
93	Photograph	8	466
94	Photograph	8	391
95	Photograph	8	391
96	Photograph	8	341
97	Photograph	8	341
98	Victim's Clothing	8	549
99	Wallet	8	551
100	Buccal Swab (withdrawn)	8	
101	O'Reilly's Receipt	8	552
102	Photograph	8	557
103	CAD Report 1:17 p.m.	8	112
104	Defendant's Clothing	129	547
105	Photograph (withdrawn)	129	
106	Photograph	400	466
107	GSR	448	449
108	GSR	448	449
(Defendant's Exhibit)			
1	Photograph	490	300
2	Photograph	490	494
3	Photograph	490	494
4	Photograph	490	494
5	Photograph	490	494
6	Photograph	490	494
7	Photograph	490	494
8	Photograph	490	494
9	Photograph	490	494
10	Photograph	490	494
11	Photograph	490	494
12	Protocols		492
13	Photograph	559	559

All Exhibits were retained by the Clerk of Court for Richland County.

P R O C E E D I N G S

(WHEREUPON, State's Exhibit Nos. 1 through 103 were marked for identification only.)

MIMI JOE MARSHALL, after being duly sworn, testified as follows:

THE COURT: Okay. Mr. Marshall, are you under the influence of any alcohol or drugs?

THE DEFENDANT: No, sir.

THE COURT: Ever been treated for any serious mental health issues?

THE DEFENDANT: No, sir.

THE COURT: And they tell me that you want to plead guilty to possession of a firearm by a person convicted of a violent felony; is that correct?

THE DEFENDANT: That's correct.

THE COURT: And are you on probation or parole right now?

THE DEFENDANT: No, sir.

THE COURT: When you plead guilty, Mr. Marshall, you give up certain important rights. The first is your right to remain silent. Do you understand that right?

THE DEFENDANT: Yes, sir.

THE COURT: And do you want to give up that right?

THE DEFENDANT: Yes, sir.

THE COURT: The second is your right to a jury trial.

1 Do you understand what that is?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. And do you want a jury trial or do
4 you want to plead guilty to the firearm charge?

5 THE DEFENDANT: I want to plead guilty to the
6 firearm.

7 THE COURT: Okay. Now, the third is your
8 Constitutional Right to confront the witnesses the State
9 would call against you, to call witnesses on your own
10 behalf, to present any defense you may have. If you plead
11 guilty on the firearm charge, none of that is going to
12 happen. Do you understand that?

13 THE DEFENDANT: I understand.

14 THE COURT: Okay. Your indictment on the firearm
15 charge says on or about August 15th of 2015, you possessed
16 a firearm in this county and you have a previous
17 conviction of assault and battery with intent to kill.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is that correct?

20 THE DEFENDANT: That's correct.

21 THE COURT: Has anybody promised you anything to get
22 you to plead?

23 THE DEFENDANT: No.

24 THE COURT: Forced you or threatened you to get you
25 to plead?

1 THE DEFENDANT: No, sir.

2 THE COURT: Are you pleading guilty freely and
3 voluntarily?

4 THE DEFENDANT: Freely and voluntarily.

5 THE COURT: Are you satisfied with your lawyers?

6 THE DEFENDANT: I am satisfied.

7 THE COURT: All right. Pleading guilty because you
8 are guilty of the firearm charge?

9 THE DEFENDANT: Right.

10 THE COURT: Is that right?

11 THE DEFENDANT: That's right.

12 THE COURT: All right. Your time to appeal the
13 firearm charge will run from the date of sentencing. I'm
14 not going to sentence you today, okay. But your time for
15 appeal will run from the date of when you're sentenced on
16 the firearm charge. Do you understand that?

17 THE DEFENDANT: I understand.

18 THE COURT: Okay. So give me the facts for the
19 firearm.

20 MS. SAMPSON: Very briefly, Your Honor, he's accused
21 of shooting his wife on or about August 15th of 2015. He
22 had a shotgun at that time. Later on that day around
23 1:00 o'clock, he is found still in possession of that gun.
24 It is the car that he has been in the possession of from
25 the time of the shooting until the time he was arrested.

1 THE COURT: All right. And then he's got a prior
2 conviction for ABIK?

3 MS. SAMPSON: Yes, it's from 1994.

4 THE COURT: I'm not saying that you shot Ms.
5 Marshall, but what I'm saying is on that day in August of
6 2015, did you possess a firearm?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you agree with that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. And do you agree that you have a
11 prior conviction from a number of years ago for assault
12 and battery with intent to kill?

13 THE DEFENDANT: I do.

14 THE COURT: Okay. All right. Fair enough.

15 I'll take his plea. I'm going to defer sentencing,
16 that just knocks that out of the way.

17 Have a seat right over here. You'll have an
18 opportunity, if necessary, later to present any mitigation
19 on the firearm charge, okay, Mr. Marshall?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay.

22 Anything to take up before we bring up the panel from
23 the State?

24 MS. SAMPSON: Not from the State, Your Honor.

25 THE COURT: From the Defense?

1 MS. GOODE: Nothing, Your Honor.

2 THE COURT: Okay. All right. Let's bring them up.

3 THE CLERK: Yes, sir.

4 MS. GOODE: Oh, Your Honor.

5 THE COURT: Yes, ma'am.

6 MS. GOODE: Just quickly, we'll just say that we're
7 defense attorneys to avoid any potential issues and I
8 think Ms. Sampson had an issue.

9 MS. SAMPSON: Apparently, this might have been in the
10 news last week that we were starting this trial today. So
11 just -- we had in our initial voir dire to only -- it was
12 mentioned when it happened back in 2015 and there has been
13 no media coverage since, but I've been told there was
14 something on the news last week about going to trial.

15 THE COURT: Okay. We'll ask those questions.

16 MS. SAMPSON: Thank you.

17 (Whereupon, the jury panel entered the courtroom.)

18 THE COURT: All right. Good morning, ladies and
19 gentlemen. Welcome back. First thing I'm going to do is
20 make sure the right 40 people are in this room. I've done
21 this long enough to know that sometimes the right people
22 don't make it up here and then everybody gets confused.
23 So I'm going to take the roll real quick. When I call
24 your name, just say here or present.

25 (Roll call was taken.)

1 THE COURT: Ladies and gentlemen, as I told you this
2 morning in jury qualifications, what we're going to do now
3 is select a jury for an actual trial. This is a criminal
4 trial. So in just a moment, we're going to put you under
5 oath and ask you some questions about this case, see if
6 you know anything about it or if you know anyone involved
7 in it. It's absolutely essential and important that you
8 provide us with truthful answers to the questions that I'm
9 going to ask you today. So we will begin now. This is a
10 criminal case.

11 Is the State ready to proceed?

12 MS. SAMPSON: Yes, Your Honor.

13 THE COURT: All right. You may call your case.

14 MS. SAMPSON: The State calls the State of South
15 Carolina versus Mimi Joe Marshall, indictment number
16 2015-GS-40-06133, indictment for murder.

17 THE COURT: All right. Ladies and gentlemen, the
18 State has called its case. This is the State of South
19 Carolina v. Mimi Joe Marshall. Mr. Marshall has been
20 indicted for the charge of murder.

21 The indictment, which I hold in my hand, alleges that
22 Mr. Marshall did in Richland County on or about August the
23 15th of 2015, kill the victim, Doris Marshall, with malice
24 aforethought either expressed or implied by means of a
25 gunshot wound and the victim did die as a proximate result

1 thereof.

2 Now, the fact that Mr. Marshall was indicted and I
3 hold in my hand an indictment is not proof of anything.
4 It is not evidence of anything. This is simply the
5 document that gives this Court the authority to hear this
6 case.

7 To this charge, Mr. Marshall has pled not guilty. He
8 is presumed to be innocent. That plea of not guilty puts
9 the burden of proof upon the State to prove his guilt to a
10 jury beyond a reasonable doubt.

11 All right. Now, the first thing we're going to do is
12 I'm going to let the lawyers introduce themselves to you
13 and see if you have any relationship with them.

14 So we'll start with the State.

15 MS. SAMPSON: Good morning. My name is April
16 Sampson. I work at the Fifth Circuit Solicitor's Office
17 as an assistant solicitor.

18 MR. MCGLOTHIN: My name is Sam McGlothin. I'm an
19 assistant solicitor in the Fifth Circuit Solicitor's
20 Office.

21 MS. MOSER: My name is Sandra Moser and I also work
22 in the Fifth Circuit Solicitor's Office.

23 THE COURT: Thank you very much.

24 So the question is, ladies and gentlemen, is anyone
25 related by blood or marriage, close personal friends with,

1 have any connection to, business, personal, social or
2 otherwise with any of the assistant solicitors that just
3 stood or anyone that works for the Fifth Circuit
4 Solicitor's Office? That office includes Richland and
5 Kershaw Counties. If so, please stand.

6 Okay. Just stand up where you are, don't be shy.
7 You're Mr. Tompkins; is that right?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: All right. Who do you know, Mr.
10 Tompkins?

11 PROSPECTIVE JUROR: I went to college with Sam. I
12 was his fraternity brother.

13 THE COURT: Would this affect your ability to be fair
14 and impartial?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: Are you willing to base your decision off
17 the evidence and the law?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: And will you do so?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Okay. Thank you very much.

22 Tell me your name, sir.

23 PROSPECTIVE JUROR: It's Malcolm Johnson.

24 THE COURT: Mr. Johnson, okay. Mr. Johnson is Juror
25 No. 123.

1 Who do you know, Mr. Johnson?

2 PROSPECTIVE JUROR: I know the Defendant.

3 THE COURT: All right. Would this affect your
4 ability to be fair and impartial?

5 PROSPECTIVE JUROR: No, it wouldn't.

6 THE COURT: Are you willing to base your decision off
7 the evidence and the law?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And will you do so?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Thank you very much.

12 Anyone else have any connection to the solicitor's
13 office?

14 All right. I'll let Mr. -- Ms. Goode, if y'all would
15 introduce yourselves and introduce your client to the jury
16 panel.

17 MS. GOODE: I'm Alicia Goode, defense counsel for
18 Mimi Joe Marshall.

19 MR. KRZYSTON: My name is Stephen Krzyston, also,
20 defense counsel for Mimi Joe.

21 THE DEFENDANT: I'm Mimi Joe Marshall.

22 MR. HAWKS: My name is Lucas Hawks, I'm also defense
23 counsel.

24 THE COURT: All right. Is anybody related by blood
25 or marriage, close personal friends with, have any

1 connection to, business, personal, social or otherwise
2 with any of these three lawyers or to Mr. Marshall? As to
3 the lawyers, have you ever been represented by them or on
4 the other side of the case from them? If so, please
5 stand.

6 Mr. Johnson, you don't need to stand up again.

7 Anybody else?

8 Okay, Mr. Tompkins. Who do you know, Mr. Tompkins?

9 PROSPECTIVE JUROR: I'm friends with Steve.

10 THE COURT: Okay. And would this affect your ability
11 to be fair and impartial?

12 PROSPECTIVE JUROR: No, sir.

13 THE COURT: Are you willing to base your decision off
14 the evidence and the law.

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: And will you do so?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Okay.

19 Anybody else?

20 (There was no response.)

21 THE COURT: Okay. The next thing I'm going to do is
22 read you a list of potential witnesses. Now, just because
23 all these names are called does not mean that they will
24 all be called as witnesses. It simply means they could be
25 called. So if you hear a name and you know this person or

1 have some connection to this person, business, social,
2 personal or otherwise, or you think you know this person,
3 just stand up and we'll gather that information from you.

4 Robert Marshall, Sr., Robert Marshall, Jr., Amanda
5 Marshall, Tamieka Marshall, Lindsay "Pee Wee" Edwards,
6 Yolonda Jackson, Leslie Brown, Michelle Hopkins, Preston
7 Wider, Deputy Terry McIntosh, Deputy Phillip Carlson,
8 Corporal Robert Furgal, Corporal George Norton,
9 Investigator Joe Clark with the sheriff's department,
10 Investigator Drew Caldwell with the sheriff's department,
11 Investigator Timothy Lee, Investigator Franklin Rainsford,
12 Sergeant Stan Richards, David Collins, Jennifer Martin,
13 Jennifer Nates with SLED, Deputy Leonard Bradley with the
14 coroner's office, Dr. Amy Durso, Woodie Boykin with EMS
15 and Jackie Richburg with Richland County 9-1-1 and -- hold
16 on just one second. Christopher Robinson, Christopher
17 Watkins, Eric Devan, Lindsay Edwards.

18 So as to the potential witnesses in the case, is
19 anyone related by blood or marriage, close personal
20 friends with, have any connection to business, personal,
21 social or otherwise with any of the potential witnesses?
22 Just stand right where you are.

23 Okay. Tell me your name, sir.

24 PROSPECTIVE JUROR: Brad Cooper.

25 THE COURT: All right. Let us find you, just a

1 second, okay, Mr. Cooper. Okay. And who do you know --
2 Mr. Cooper, Juror No. 48, who do you know, Mr. Cooper?

3 PROSPECTIVE JUROR: Woodie at EMS.

4 THE COURT: At EMS, okay. Would this affect your
5 ability to be fair and impartial?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Are you willing to base your decision off
8 the evidence and the law?

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: And will you do so?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Thank you.

13 Anyone else on any of the potential witnesses?

14 (There was no response.)

15 THE COURT: Okay. Ladies and gentlemen, now, one of
16 the things -- if you actually make it on this jury, one of
17 the things that I'll explain to you is this, the jury's in
18 charge of the facts. The judge is in charge of the law.
19 So you can't tell me what the law is, likewise, I can't
20 tell you what the facts are unless the lawyers agree or
21 stipulate. But I have to tell you a little bit about what
22 the allegations are in this case to see if you know
23 anything about it, if you've heard anything about it, if
24 you've read anything about it or seen anything about it.
25 I'm trying to figure out, so I have to give you a little

1 bit about what the allegations are in the case so that you
2 know what case we are talking about.

3 So this is an incident that allegedly occurred on or
4 about August the 15th of 2015. The victim's name in this
5 case is Doris Marshall and the incident location is 3976
6 Leesburg Road, unit number five. And that's the Bel-Aire

7 --

8 Am I saying that right?

9 MS. SAMPSON: Yes, sir.

10 THE COURT: Mobile Home Park?

11 MS. GOODE: Yes, sir.

12 THE COURT: Okay. That's the Bel-Aire Mobile Home
13 Park. Again, everything I just told you is an allegation.
14 That is not proof. It is not evidence. I'm just trying
15 to give you some information, which are the allegations in
16 this case.

17 So the question is has anybody seen anything about
18 this case, read anything about this case, do you know
19 anything about this case, have you heard anybody talk
20 about the case? Does anybody have any connection or
21 information about the case in any way, shape, or form?

22 All right. Mr. Johnson, you don't know anything
23 about the case?

24 PROSPECTIVE JUROR: I actually had forgot about it
25 until I just saw it today.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR: I heard, you know, what happened.
3 I don't know exactly.

4 THE COURT: Okay. Do you have any firsthand
5 knowledge about the case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: And the information that you have heard
8 about the case, are you willing to base -- to set that
9 aside and base your decision off the evidence and the law?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And will you do so?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Okay.

14 Anybody else?

15 I promise you what both sides want is 12 people that
16 come in here with no one to reward, no one to punish, to
17 sit fairly, to sit impartially, to listen to the evidence,
18 determine what the facts are and apply those facts to the
19 law. Is there anyone that believes they cannot do that?

20 (There was no response.)

21 THE COURT: Has anyone formed or expressed any
22 opinion about any issue or matter in this case? If so,
23 please stand.

24 (There was no response.)

25 THE COURT: All right. There has been some news

1 media about the case. There is no news media in the
2 courtroom at this point in time. No news media have made
3 any special request to be here for this case, but there
4 has been news media about the case in the past. Has
5 anybody read anything about the case or seen anything or
6 heard anything in any way, shape, or form? If so, please
7 stand.

8 (There was no response.)

9 THE COURT: Is there any member of the jury panel who
10 is aware of any bias or prejudice that you may have
11 towards the State or the Defendant in this case? If so,
12 please stand.

13 (There was no response.)

14 THE COURT: All right. Is there any member of the
15 jury panel who is a member of or a contributor to any
16 group which has as its primary concern the promotion of
17 law enforcement or victim's rights or defendant's rights?
18 These groups would include but are not limited to MADD,
19 SADD or CAVE or the Innocence Project, things of that
20 nature.

21 All right. Yes, sir, tell me your name.

22 PROSPECTIVE JUROR: Corey Manning, Juror No. 58.

23 THE COURT: Okay. Let us find you just a second.

24 PROSPECTIVE JUROR: 158.

25 THE COURT: All right. What are you a member of or

1 contributor to, Mr. Manning?

2 PROSPECTIVE JUROR: Well, I contribute indirectly to
3 the fact that my firm does Innocence Project work.

4 THE COURT: All right. Would this affect your
5 ability to be fair and impartial?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Are you willing to base your decision off
8 the evidence and the law?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: And will you do so?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you very much.

13 Okay. I'm going to go through some additional
14 questions with you now and -- let's see. All right. Has
15 anyone on the jury panel or a member of their immediate
16 family ever lived or does currently live at the Bel-Aire
17 Mobile Home Park?

18 (There was no response.)

19 THE COURT: All right. Is there any member of the
20 jury panel or a member of your immediate family that
21 belongs or contributes to any group that supports gun
22 control or gun rights?

23 (There was no response.)

24 THE COURT: All right. So the next question is does
25 anybody -- what I want to know is you or a member of your

1 immediate family have a connection to law enforcement. So
2 if your brother is a law enforcement officer in Texas, I
3 want you to stand up. If your wife's aunt is a deputy
4 sheriff in Clarendon County, I want you to stand up.

5 Anybody have -- you or a member of your immediate
6 family have any connection to law enforcement? If so,
7 please stand.

8 Okay. Tell me your --

9 We'll take one -- go ahead and stand up if you need
10 to stand up so I know how many we're dealing with.

11 Yes, sir, tell me your name.

12 PROSPECTIVE JUROR: Robert Wagner, 280.

13 THE COURT: Okay, let us find you just a second,
14 okay? No. 280, and what's your connection?

15 PROSPECTIVE JUROR: My father was a lieutenant
16 sheriff down in Beaufort County back in the 80's, 90's.
17 He's now in the Alabama prison system where he -- that's
18 where he retired to, but he still works there.

19 THE COURT: Would this affect your ability to be fair
20 and impartial?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Are you willing to base your decision off
23 the evidence and the law?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Thank you.

1 Yes, ma'am, tell me your name.

2 PROSPECTIVE JUROR: Shirley Ford, No. 69.

3 THE COURT: Okay. What's your connection, Ms. Ford?

4 PROSPECTIVE JUROR: My brother-in-law is the chief of
5 police for Hendersonville, North Carolina.

6 THE COURT: Would this affect your ability to be fair
7 and impartial?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Are you willing to base your decision off
10 the evidence and the law?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: All right.

13 Tell me your name, sir.

14 PROSPECTIVE JUROR: Sherman Taylor, 262.

15 THE COURT: All right. Mr. Taylor, tell me your
16 connection.

17 PROSPECTIVE JUROR: My cousin is currently with the
18 Columbia Department.

19 THE COURT: Would this affect your ability to be fair
20 and impartial?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: Are you willing to base your decision off
23 the evidence and the law?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Will you do so?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: All right. Is there any member of the
3 jury panel who is a current or former employee of Johnson
4 Food Services on Fort Jackson?

5 (There was no response.)

6 THE COURT: Okay. And the last question I'm going to
7 ask is what I would call -- it's going to be a question
8 that has a bunch of different parts in it. And I ask this
9 question broadly because I want to generate as many
10 responses as possible. So I'm going to ask one big
11 question and then I will take each of you that needs to
12 respond individually up here instead of answering in front
13 of the entire group. Okay. This isn't for anybody to
14 suffer any embarrassment or anything else, but we're
15 trying to gather information from you in as limited -- as
16 much information and in as limited amount of time as
17 possible, okay?

18 So here's the question, what I want to know is have
19 you or a member of your immediate family -- excuse me, do
20 you or a member of your immediate family have any
21 connection to a crime of violence, okay? What I like to
22 say -- and what I mean by that is on either side, okay?

23 So if your home has been burglarized, I want you to
24 come tell me. If your cousin is in prison for burglary, I
25 want you to come tell me. If your mother was sexually

1 assaulted as a small child, I would expect you to come
2 tell me that. If your wife was in a prior relationship
3 where she was the victim of domestic violence, I would
4 want you to come tell me that.

5 So what I want to know is you or a member of your
6 immediate family have any connection -- and when I say
7 connection, I mean, both sides to any type of violent
8 crime? And whether it -- you need to err on the side of
9 telling me this information as opposed to not telling me
10 this information, okay.

11 So what who all does that apply to? Just go ahead
12 and stand up right where you are.

13 All right. So what we're going to do is if y'all
14 will form a line right there at Deputy Brown. And then
15 we're going to take that information from you up front in
16 a private setting. Everyone else just stay seated and
17 please remain quiet, so that I can get this information
18 from them.

19 All right. The lawyers can come on up.

20 THE CLERK: No. 1, William Adams..

21 THE COURT: Okay. Come on right over here. Okay.
22 Is this you or a family member?

23 PROSPECTIVE JUROR: It's me.

24 THE COURT: Okay. What kind of case?

25 PROSPECTIVE JUROR: My house was burglarized in

1 Nashville in 1999.

2 THE COURT: Okay. And would this affect your ability
3 to be fair and impartial?

4 PROSPECTIVE JUROR: No, sir.

5 THE COURT: Are you willing to base your decision off
6 the evidence and the law?

7 PROSPECTIVE JUROR: Yes, sir.

8 THE COURT: Thank you very much.

9 THE CLERK: No. 53, John Crites.

10 THE COURT: Hello.

11 PROSPECTIVE JUROR: Hey.

12 THE COURT: Is this you or a family member?

13 PROSPECTIVE JUROR: Me.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR: I don't know if it counts or not.

16 THE COURT: Okay. Well, just tell me.

17 PROSPECTIVE JUROR: My car has been broken into
18 several times.

19 THE COURT: Okay. That's fair enough. Will this
20 affect your ability to be fair and impartial?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Are you willing to base your decision off
23 the evidence and the law?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: All right. Thank you.

1 THE CLERK: No. 69, Shirley Ford.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: My mother was murdered in 1968.

4 THE COURT: Okay. Would this affect your ability to
5 be fair and impartial?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Are you willing to base your decision off
8 the evidence and the law?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: And will you do so?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you.

13 THE CLERK: No. 202, Sally Pierce.

14 THE COURT: Hey.

15 PROSPECTIVE JUROR: My house was broken into last
16 year.

17 THE COURT: Okay. Would this affect your ability to
18 be fair and impartial?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Are you willing to base your decision off
21 the evidence and the law?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: And will you do so?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Thank you.

1 THE CLERK: No. 36, Terrance Carmichael.

2 THE COURT: Hey.

3 PROSPECTIVE JUROR: Hey. How are you doing?

4 THE COURT: Go ahead.

5 PROSPECTIVE JUROR: My home has been burglarized. My
6 mom and father have both been to prison.

7 THE COURT: And would this affect your ability to be
8 fair and impartial?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: Are you willing to base your decision off
11 the evidence and the law?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: And will you do so?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you.

16 THE CLERK: No. 23, Latasha Boyles.

17 THE COURT: All right. Okay.

18 PROSPECTIVE JUROR: My mother was murdered.

19 THE COURT: All right. Would this affect your
20 ability to be fair and impartial?

21 PROSPECTIVE JUROR: No, sir.

22 THE COURT: All right. Are you willing to base your
23 decision off the evidence and the law?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: And will you do so?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Thank you, ma'am.

3 THE CLERK: 263, Taiwan Taylor.

4 THE COURT: How are you doing?

5 PROSPECTIVE JUROR: Good. I recently had a cousin
6 killed and burned in a house on Leesburg.

7 THE COURT: Okay. Would that affect your ability to
8 be fair and impartial?

9 PROSPECTIVE JUROR: No, sir.

10 THE COURT: Are you willing to base your decision off
11 the evidence and the law?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: And will you do so?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you.

16 THE CLERK: No. 275, Tiffany Tucker.

17 THE COURT: Hey.

18 PROSPECTIVE JUROR: Hey. My stepson is currently
19 serving time in prison for a robbery that ended up being a
20 murder.

21 THE COURT: Okay. And would this affect your ability
22 to be fair and impartial?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Would this -- are you willing to base
25 your decision off the evidence and the law?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: And will you do so?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Thank you.

5 THE CLERK: No. 141, Jaleel Leggett.

6 THE COURT: Hey.

7 PROSPECTIVE JUROR: How are you doing? My uncle was
8 convicted of murder.

9 THE COURT: And would this affect your ability to be
10 fair and impartial?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Are you willing to base your decision off
13 the evidence and the law?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: And will you do so?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: Thank you.

18 THE CLERK: No. 32, Amy Britten.

19 THE COURT: Hello.

20 PROSPECTIVE JUROR: Hi, how are you?

21 THE COURT: Good.

22 PROSPECTIVE JUROR: I was robbed with a knife to my
23 neck..

24 THE COURT: How long ago was that?

25 PROSPECTIVE JUROR: It's been a few years, 10 years.

1 THE COURT: Would that affect your ability to be fair
2 and impartial?

3 PROSPECTIVE JUROR: Honestly, I don't know. I've
4 never had to do this, so I couldn't tell you.

5 THE COURT: Would that affect your ability --

6 PROSPECTIVE JUROR: I don't think so.

7 THE COURT: -- to sit fairly and impartially --

8 PROSPECTIVE JUROR: I don't think so.

9 THE COURT: -- and listen to the facts --

10 PROSPECTIVE JUROR: No.

11 THE COURT: -- and the law and apply the facts to the
12 law?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Thank you very much.

15 THE CLERK: No. 48, Bradford Cooper.

16 THE COURT: Hey.

17 PROSPECTIVE JUROR: Hey, sir. My victim wife was a
18 victim of domestic violence and the perpetrator came to my
19 house and threatened to kill me --

20 THE COURT: How long ago was that?

21 PROSPECTIVE JUROR: -- and burglarized the house.
22 Two years ago.

23 THE COURT: Okay. And would that affect your ability
24 to be fair and impartial?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: All right. Are you willing to base your
2 decision off the evidence and the law?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: And will you do so?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Thank you.

7 THE CLERK: No. 155, Deborah Mack.

8 PROSPECTIVE JUROR: By violent crime, do you mean was
9 there a death involved?

10 THE COURT: I don't interpret that, I'll let you guys
11 interpret that because I want as many people to respond as
12 possible.

13 PROSPECTIVE JUROR: I was assaulted in '92 on the
14 Harbison Trails.

15 THE COURT: And would that affect your ability to be
16 fair and impartial?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Are you willing to base your decision off
19 the evidence and the law?

20 PROSPECTIVE JUROR: Yeah.

21 THE COURT: And will you do so?

22 PROSPECTIVE JUROR: Yeah.

23 THE COURT: Thank you.

24 THE CLERK: No. 178, Dave Moore.

25 THE COURT: All right. How are you doing?

1 PROSPECTIVE JUROR: Fine. How are you?

2 THE COURT: Good.

3 PROSPECTIVE JUROR: Three relatives currently serving
4 life sentences for murder.

5 THE COURT: Would this affect your ability to be fair
6 and impartial?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Are you willing to base your decision off
9 the evidence and the law?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: And will you do so?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Thank you.

14 THE CLERK: No. 203, Raven Plummer.

15 PROSPECTIVE JUROR: I was molested and my house got
16 burglarized about five years ago.

17 THE COURT: Would this affect your ability to be fair
18 and impartial?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Are you willing to base your decision off
21 the evidence and the law?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: And will you do so?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Thank you.

1 THE CLERK: No. 294, Christopher Williams.

2 THE COURT: Hold on, let me find you. Oh, there you
3 are. Okay.

4 PROSPECTIVE JUROR: Last year, I'm not sure what
5 happened, but somebody broke my mom's window.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR: We had a police report filed and
8 everything, but that's about it.

9 THE COURT: Would that affect your ability to be fair
10 and impartial?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Are you willing to base your decision off
13 the evidence and the law?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: And will you do so?

16 PROSPECTIVE JUROR: Yes.

17 THE CLERK: No. 22, Deborah Boyles.

18 THE COURT: Hey.

19 PROSPECTIVE JUROR: I had a cousin go to prison for
20 murder.

21 THE COURT: Do what?

22 PROSPECTIVE JUROR: I had a cousin go to prison for
23 murder.

24 THE COURT: Okay. You had a cousin go to prison for
25 murder?

1 PROSPECTIVE JUROR: Yeah.

2 THE COURT: And would that affect your ability to be
3 fair and impartial?

4 PROSPECTIVE JUROR: Huh-uh.

5 THE COURT: And are you willing to base your decision
6 off the evidence and the law?

7 PROSPECTIVE JUROR: Yeah, I will.

8 THE COURT: And will you do that?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: All right. Thank you.

11 All right. Anybody else?

12 MS. SAMPSON: While we're standing here, that
13 particular one, her grandson is my witness's Tamieka
14 Marshall's -- her son is my victim's daughter's boyfriend.
15 They have a child in common and she didn't say anything.
16 She didn't stand up. She didn't say anything. I'm
17 telling you now, I have no idea.

18 THE COURT: What's her name?

19 MS. SAMPSON: It was the last one that just left.

20 THE COURT: All right. Ms. Boyles, come back up real
21 quick. Come back up real quick.

22 What is your son's name?

23 PROSPECTIVE JUROR: Derrick Boyles.

24 THE COURT: Derrick Boyles. You just have one son?

25 PROSPECTIVE JUROR: Roderick.

1 THE COURT: You got Roderick Boyles, too?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: And who do you think they're in a
4 relationship with?

5 MS. SAMPSON: Does Derrick or Roderick have a child
6 with Tamieka Marshall?

7 PROSPECTIVE JUROR: Derrick do.

8 THE COURT: Derrick does?

9 PROSPECTIVE JUROR: Uh-huh.

10 THE COURT: And what is Tamieka Marshall in this
11 case?

12 MS. SAMPSON: That's my victim's daughter.

13 THE COURT: Okay. I'm going to excuse you.

14 PROSPECTIVE JUROR: Okay.

15 THE COURT: All right. I'm going to excuse you from
16 the service of this case. Just have a seat. You don't
17 need to discuss anything with anybody, okay?

18 PROSPECTIVE JUROR: Just leave?

19 THE COURT: No, just have a seat.

20 MS. SAMPSON: That's it.

21 THE COURT: All right. Anybody else?

22 Any further voir dire from the State?

23 MS. SAMPSON: No, sir.

24 THE COURT: All right. From the Defense?

25 MS. GOODE: None, Your Honor.

1 THE COURT: Okay. All right. Y'all want a few
2 minutes or are you good?

3 MS. SAMPSON: We're good, Your Honor.

4 THE COURT: You good?

5 MS. GOODE: Yes, Your Honor.

6 THE COURT: Okay. So this is what we're going to do.
7 So at this point in time, we're going to call out your
8 names. Now, you are -- so out of the 100 or so of you
9 that were here this morning, that group was narrowed down
10 to 40, okay. Then the 40 of you were put in a completely
11 and totally random order that a computer system generates
12 at Court Administration. We used to have this big wheel
13 and we had a blind person that drew the numbers out. It
14 was kind of crazy. Now, it's all computer generated. So
15 you've all been put one through 40. I have no control
16 over that and the attorneys have no control over that.

17 So what's going to happen is your name is going to be
18 called. When your name is called, I want you to gather
19 all of your belongings and come stand right here at this
20 microphone right there, right there. I want you to face
21 out, okay. And then they'll ask the State do you want to
22 seat this juror or excuse this juror. And then they'll
23 ask the Defense do you want to seat this juror or excuse
24 this juror. And if either side says excuse, then you just
25 go have a seat in the back of the room. If both sides say

1 seat or swear, you come right over here to Mr. Dye and
2 he'll show you where to sit. So just bring all of your
3 belongings with you.

4 The State gets to get rid of so many people for free.
5 We call them peremptory challenges. And the Defense gets
6 to get rid of so many people for free. So don't lose any
7 sleep or don't get your feelings hurt if one or both sides
8 excuses you, okay, it's nothing personal.

9 All right. Are you -- hold on, let's double check.
10 33 on the left is out.

11 THE CLERK: Yes, Your Honor.

12 THE COURT: All right. Strikes are five and ten,
13 right?

14 MS. SAMPSON: Yes, Your Honor.

15 THE COURT: All right. We'll do two alternates,
16 strikes will be one and two on each and they'll start
17 over.

18 Everybody good?

19 MS. GOODE: Yes, sir.

20 THE COURT: All right. Let's do it.

21 THE CLERK: No. 172, David Mielech.

22 (Juror No. 172, a white male, came forward.)

23 THE CLERK: What says the State?

24 MS. SAMPSON: Please seat the juror.

25 THE CLERK: What says the Defense?

1 MS. GOODE: Please seat the juror.
2 THE CLERK: Have a seat in the jury box.
3 No. 53, John Crites.
4 (Juror No. 52, a white male, came forward.)
5 THE CLERK: What says the State?
6 MS. SAMPSON: Please seat the juror.
7 THE CLERK: What says the Defense?
8 MS. GOODE: Please excuse this juror.
9 THE CLERK: Please have a seat in the back of the
10 courtroom.
11 No. 272, William Tompkins.
12 (Juror No. 272, a white male, came forward.)
13 THE CLERK: What says the State?
14 MS. SAMPSON: Please seat the juror.
15 THE CLERK: What says the Defense?
16 MS. SAMPSON: Please seat this juror.
17 THE CLERK: Please have a seat in the jury box.
18 No. 108, Jennifer Hill.
19 (Juror No. 108, a white female, came forward.)
20 THE CLERK: What says the State?
21 MS. SAMPSON: Please seat the juror.
22 THE CLERK: What says the Defense?
23 MS. GOODE: Please seat this juror.
24 THE CLERK: Please have a seat in the jury box.
25 No. 294, Christopher Williams.

1 (Juror No. 294, a black male, came forward.)

2 THE CLERK: What says the State?

3 MS. SAMPSON: Please excuse the juror.

4 THE CLERK: Please have a seat in the back of the
5 courtroom.

6 No. 280, Robert Wagner.

7 (Juror No. 280, a white male, came forward.)

8 THE CLERK: What says the State?

9 MS. SAMPSON: Please seat the juror.

10 THE CLERK: What says the Defense?

11 MS. GOODE: Please seat this juror.

12 THE CLERK: Please have a seat in the jury box.

13 No. 306, Imani Hanley.

14 (Juror No. 306, a black female, came forward.)

15 THE COURT: What says the State?

16 MS. SAMPSON: Please seat this juror.

17 THE CLERK: What says the Defense?

18 MS. GOODE: Please excuse this juror.

19 THE CLERK: Please have a seat in the back of the
20 courtroom.

21 No. 1, William Adams.

22 (Juror No. 1, a white male, came forward.)

23 THE CLERK: What says the State?

24 MS. SAMPSON: Please seat the juror.

25 THE CLERK: What says the Defense?

1 MS. GOODE: Please seat this juror.
2 THE CLERK: Please have a seat in the jury box.
3 No. 249, Gregory Staberg.
4 THE BAILIFF: Watch your step.
5 (Juror No. 249, a white male, came forward.)
6 THE CLERK: What says the State?
7 MS. SAMPSON: Please seat the juror.
8 THE CLERK: What says the Defense?
9 MS. GOODE: Please excuse this juror.
10 THE CLERK: Please have a seat in the back of the
11 courtroom.
12 No. 123, Malcolm Johnson.
13 (Juror No. 123, a black male, came forward.)
14 THE CLERK: What says the State?
15 MS. SAMPSON: Please excuse the juror.
16 THE CLERK: Please have a seat in the back of the
17 courtroom.
18 No. 38, Thomas Carricato.
19 (Juror No. 38, a white male, came forward.)
20 THE CLERK: What says the State?
21 MS. SAMPSON: Please seat the juror.
22 THE CLERK: What says the Defense?
23 MS. GOODE: Please excuse this juror.
24 THE CLERK: Please have a seat in the back of the
25 courtroom.

1 No. 295, Jane Williams.

2 (Juror No. 295, a white female, came forward.)

3 THE CLERK: What says the State?

4 MS. SAMPSON: Please seat the juror.

5 THE CLERK: What says the Defense?

6 MS. GOODE: Please seat this juror.

7 THE CLERK: Please have a seat in the jury box.

8 No. 73, Jasmine Frazier.

9 (Juror No. 73, a black female, came forward.)

10 THE CLERK: What says the State?

11 MS. SAMPSON: Please seat the juror.

12 THE CLERK: What says the Defense?

13 MS. GOODE: Please seat this juror.

14 THE CLERK: Please have a seat in the jury box.

15 No. 187, Thomas Myers.

16 (Juror No. 187, a black male, came forward.)

17 THE CLERK: What says the State?

18 MS. SAMPSON: Please seat the juror.

19 THE CLERK: What says the Defense?

20 MS. GOODE: Please seat this juror.

21 THE CLERK: Please have a seat in the jury box.

22 No. 256, Stephanie Studnicka.

23 (Juror No. 256, a white female, came forward.)

24 THE CLERK: What says the State?

25 MS. SAMPSON: Please excuse the juror.

1 THE CLERK: Please have a seat in the back of the
2 courtroom.

3 No. 275, Tiffany Tucker.

4 (Juror No. 275, a black female, came forward.)

5 THE CLERK: What says the State?

6 MS. SAMPSON: Please seat the juror.

7 THE CLERK: What says the Defense?

8 MS. GOODE: Please seat this juror.

9 THE CLERK: Please have a seat in the jury box.

10 No. 160, Encarnita Marcella.

11 (Juror No. 160, an Asian female, came forward.)

12 THE CLERK: What says the State?

13 MS. SAMPSON: Please excuse the juror.

14 THE CLERK: Please have a seat in the back of the
15 courtroom.

16 Strike count is four for the State and four for the
17 Defense.

18 No. 32, Amy Britten.

19 (Juror No. 32, a white female, came forward.)

20 THE CLERK: What says the State?

21 MS. SAMPSON: Please present this juror.

22 THE CLERK: What says the Defense?

23 MS. GOODE: Please excuse this juror.

24 THE CLERK: Please have a seat in the back of the
25 courtroom.

1 No. 179, Gary Moore.

2 (Juror No. 179, a white male, came forward.)

3 THE CLERK: What says the State?

4 MS. SAMPSON: Please seat the juror.

5 THE CLERK: What says the Defense?

6 MS. GOODE: Please seat this juror.

7 THE CLERK: Please have a seat in the jury box.

8 No. 210, Willie Reese.

9 (Juror No. 210, a black male, came forward.)

10 THE CLERK: What says the State?

11 MS. SAMPSON: Please excuse the juror.

12 THE CLERK: Please have a seat in the back of the
13 courtroom.

14 No. 243, Tekasha Smith.

15 (Juror No. 243, a black female, came forward.)

16 THE CLERK: Does the State challenge for cause?

17 MS. SAMPSON: No, ma'am.

18 THE CLERK: What says the Defense?

19 MS. GOODE: Please excuse this juror.

20 THE CLERK: Please have a seat in the back of the
21 courtroom.

22 No. 102, Darius Harvey.

23 (Juror No. 102, a black male, came forward.)

24 THE CLERK: Does the State challenge for cause?

25 MS. SAMPSON: No, ma'am.

1 THE CLERK: What says the Defense?

2 MS. GOODE: Please seat this juror.

3 THE CLERK: Please have a seat in the jury box.

4 No. 180, Tyeisha Moore.

5 (Juror No. 180, a black female, came forward.)

6 THE CLERK: Does the State challenge for cause?

7 MS. SAMPSON: No, ma'am.

8 THE CLERK: What says the Defense?

9 MS. GOODE: Please seat this juror.

10 THE CLERK: Please have a seat in the jury box.

11 THE COURT: All right. Two alternates, strikes are

12 one and two on each.

13 THE CLERK: No. 44, Binh Chung.

14 (Juror No. 44, an Asian male, came forward.)

15 THE CLERK: What says the State?

16 MS. SAMPSON: Please excuse this juror.

17 THE CLERK: Please have a seat in the back of the

18 courtroom.

19 No. 155, Deborah Mack.

20 (Juror No. 155, a white female, came forward.)

21 THE COURT: Does the State challenge for cause?

22 MS. SAMPSON: No, ma'am.

23 THE CLERK: What says the Defense?

24 MS. GOODE: Please excuse this juror.

25 THE CLERK: Please have a seat in the back of the

1 courtroom.

2 No. 141, Jaleel Leggett.

3 (Juror No. 141, a black male, came forward.)

4 THE CLERK: Does the State challenge for cause?

5 MS. SAMPSON: No, ma'am.

6 THE CLERK: What says the Defense?

7 MS. GOODE: Please seat this juror.

8 THE CLERK: Please have a seat in the jury box.

9 THE COURT: Strikes start over.

10 THE CLERK: No. 36, Terrance Carmichael.

11 (Juror No. 36, a black female, came forward.)

12 THE CLERK: What says the State?

13 MS. SAMPSON: Please seat this juror.

14 THE CLERK: What says the Defense?

15 MS. GOODE: Please seat the juror.

16 THE CLERK: Please have a seat in the jury box.

17 THE COURT: Okay. Any exception to the jury

18 selection process from the State?

19 MS. SAMPSON: No, sir.

20 THE COURT: From the Defense?

21 MS. GOODE: No, Your Honor.

22 THE COURT: Okay. Ladies and gentlemen, if you're in

23 the audience, you will not be selected on this case. I

24 want to say thank you very much for your service this

25 week. I will not see any of you the rest of the week.

1 There are jury selections going on for two other civil
2 cases, so I will send you back down to the jury assembly
3 room. And thank you very much and have a nice day. Back
4 downstairs, please.

5 (WHEREUPON, the jury left the courtroom at 12:03
6 p.m.)

7 THE COURT: Y'all approach real quick.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: Okay, ladies and gentlemen, here's what
10 we're going to do. Give me about three minutes of your
11 undivided attention, then I'm going to let you go to
12 lunch. You're going to come back at 2:45. 2:45 is the
13 start time for court this afternoon.

14 All right. Now, a couple things. My two alternates,
15 you two gentlemen are always required to sit on the back
16 row. Okay. So you all always need to be back there.

17 Where is Mr. Wagner? You're going to be the foreman
18 of this jury. I want you to sit, not right now, but when
19 we come back in where Mr. Mielech is sitting right there.
20 You don't get paid any extra and your vote doesn't count
21 any more. Somebody has got to be in charge of
22 communicating with me. Okay.

23 Anyone else can sit wherever else they want to. Are
24 you with me?

25 Okay. Now, I need to give you one brief bit of

1 cautionary advice while you're about to leave the
2 courtroom for lunch. I know that right this minute, you
3 don't know anything about this case because you told me
4 you don't know anything about it. So I know it would be
5 difficult for you to talk about the case, but what you do
6 know, you do know what the issues are and you know what
7 the charge is, so it's improper for you to discuss any
8 aspect about -- excuse me, it's improper for you to
9 discuss any aspect of this case amongst yourselves, not
10 only between now and this afternoon, but at any time
11 during this trial.

12 I will give you a lot more specific information about
13 that this afternoon before we start the trial, but I need
14 to bind you over between now and then so that you're not
15 going to slip up and start talking about this case or
16 things that you think might be involved in this case
17 between now and then.

18 You can't talk to anybody about this case, and you
19 can't let anybody talk to you about the case. If somebody
20 tries to talk with you about the case, just tell them that
21 you're a juror in the case, I told you not to discuss the
22 case and that should end the matter right there. If it
23 does not and for some reason that person continues to try
24 to talk to you, then just find out who they are, separate
25 yourselves from that person and let me know when you come

1 back into court and I'll take care of that matter myself.

2 Now, during the course of this trial, you cannot
3 expose yourself to any information about this case from
4 any source whatsoever. That means TV, newspaper,
5 internet, radio or any other matter that information might
6 come to you about this case.

7 Everything we've been going through this morning
8 since we started this process for this trial has been to
9 ensure that you would be able to make your decision based
10 upon what you hear in this courtroom and nothing else.
11 And we want to make sure that the integrity of this
12 process remains intact throughout this trial. And if you
13 follow those instructions, it will.

14 So in a nutshell, it's this. You can't talk about
15 this case with anyone, including each other. You can talk
16 about Clemson's back in the national championship hunt.
17 You can talk about what your kids are going to be tomorrow
18 night for Halloween. You can talk about how I shouldn't
19 have left the game early because the Gamecocks almost blew
20 it. Whatever you want to, but you cannot talk about this
21 case. Got it? Okay.

22 The reason is because you're supposed to keep an open
23 mind about this case. You're going to learn about this
24 case from the witnesses that testify in the case and
25 you're not allowed to talk about it until the very end and

1 I'll give you a very specific sign of when you can do
2 that. Until then, you can't even talk about I like that
3 attorney's tie or I don't like that attorney's tie.
4 Nothing about the case in any way, shape, or form.

5 Second thing is this, when you come and go from the
6 building, if you see the attorneys or if you see the
7 witnesses or you see someone that you see sitting in the
8 courtroom, they're all going to ignore you, okay. I
9 promise you a casual good afternoon or good morning seen
10 by the other side is always misconstrued, okay. So if you
11 see them coming or going, they're going to completely and
12 totally ignore you.

13 Third thing is, you can't go do any research on this
14 case. You can't go look up anything. You can't go Google
15 someone involved in the case or the case itself. Now, I
16 live in the year 2017 and I realize that upon leaving this
17 courtroom today, within 10 minutes, almost every single
18 one of you is going to turn on your phone, check your
19 e-mail, check Facebook, check Instagram, check Twitter,
20 check your text messages or call somebody, okay. I live
21 in the same world that you do and I understand that. But
22 you cannot use any electronic device or any other type of
23 communication abilities to get or send information about
24 this case. You can tell people you're on a jury. You can
25 tell them it's a criminal jury, but you can't tell them

1 anything else.

2 The why for that is because what if you said
3 something to your boss or to your employee and they said,
4 Oh, I know all about this case. My cousin's related to so
5 and so and they start telling you about the case. Well,
6 then you would have an improper outside influence. And
7 that's why you can't go do any research or you can't go
8 look up anything about the case.

9 Now, the three people who will be responsible for you
10 this week, two of them are in here right now. Right down
11 front is Ms. Sutton.

12 Wave your hand, Ms. Sutton.

13 And in the back is Mr. Dye. They will be your
14 bailiffs this week. I don't know where Mr. Tolbert is,
15 but I'll be sure to figure out where he is. They'll be
16 your bailiffs. They'll be in charge of bringing you in,
17 taking you out, showing you around, making sure you know
18 where to go.

19 Right down front is Ms. Falcone. She's with the
20 clerk's office. She will be swearing in witnesses,
21 handling the exhibits.

22 This is Bailey Davis, she's my law clerk. She's
23 graduated from law school, taken the Bar exam. She found
24 out Friday that she passed, so.

25 And then this is Yonnie. Yonnie is my extern. So

1 Yonnie is in law school and he comes up here for about
2 eight hours a week. So you'll see these two in and out
3 all the time. They're doing stuff for me.

4 And then right here is Ms. Karen, Karen Ambroziak.
5 She's the court reporter. I like to say she's the most
6 important person in the room. She's taking down every
7 single word we say in here. So if you hear me tell the
8 attorneys to slow down or to stop talking over each other,
9 or sometimes I say time out or I'll say everybody be
10 quiet, it's the nature of trials that those things happen.
11 I'm not fussing at anybody or I'm not mad, I just have to
12 get things under control. She can only take down one
13 voice at a time. We want the record of what occurs in
14 here to be accurate, so if you hear me tell people to
15 hush, that's what I'm telling them to hush for so that we
16 can make sure the record is accurate.

17 So enjoy your lunch. Do not discuss the case in any
18 way, shape, or form. Keep an open mind. We'll see you
19 back here ready to go at 2:45.

20 Now, listen, I try to run things as efficiently as
21 humanly possible. If we are not starting on time, it is
22 because something came up that I had to deal with that --
23 that I had to deal with before you came back in. But if
24 you're one of these people that are habitually late to
25 things, this is your week to change. So if you need to

1 tell yourself 15 minutes earlier. I promise you, I'm
2 going to be as efficient as I can be with your time this
3 week. Part of that efficiency is all of you showing up on
4 time so that we can get going. I don't like to delay
5 things and I don't like to start late. When I say 9:30 in
6 the morning, I'll be sitting here by 9:00 ready to go. So
7 whatever you guys need to do to make sure you're on time,
8 I would sincerely appreciate that.

9 Okay. 2:45. 2:45, see you then. Don't talk about
10 the case.

11 You can take them out, Mr. Dye.

12 THE BAILIFF: Follow me, please.

13 (WHEREUPON, the jury left the courtroom at 12:12
14 p.m.)

15 THE COURT: All right. 2:00 o'clock. 2:00 o'clock.
16 2:00 o'clock.

17 MS. SAMPSON: Thank you, Your Honor.

18 MR. KRZYSTON: Thanks, Judge.

19 (WHEREUPON, a lunch break was taken.)

20 THE COURT: All right. What do we need to take up
21 pretrial?

22 MS. SAMPSON: It's my understanding, Your Honor, when
23 we broke, I thought that we would -- the Defendant gave
24 two statements, one written, one verbal to Investigator
25 Caldwell and Investigator Clark. We were prepared to do a

1 Jackson vs. Denno hearing about those statements, however,
2 I was informed over the break that the Defense is
3 stipulating to the voluntariness of the statements.

4 THE COURT: Okay.

5 MS. GOODE: That's correct, Your Honor.

6 THE COURT: All right. So there's no issues with
7 their admissibility or the fact that they were freely and
8 voluntarily and intelligently given?

9 MS. GOODE: Right.

10 THE COURT: Was he advised of his rights?

11 MS. SAMPSON: Yes, sir. We have two written advice
12 of rights. One done and he was -- the statement was taken
13 at headquarters. There was an advice of rights done then.
14 They also spoke with him at the detention center and a
15 written advice of rights was done then, as well.

16 THE COURT: Has there been any issues with
17 competency, Ms. Goode, in your representation?

18 MS. GOODE: No, Your Honor.

19 THE COURT: He can read, write, and understand the
20 English language and all that good stuff?

21 MS. GOODE: He can read and write well enough, yeah.

22 THE COURT: Have you had any problems communicating
23 with him?

24 MS. GOODE: No, sir.

25 THE COURT: Okay. All right. So what else do we

1 need to take up?

2 MS. SAMPSON: I'll just do ours and you can do yours.

3 MS. GOODE: Okay.

4 MS. SAMPSON: My understanding is that the Defense is
5 willing to stipulate to chain. We were going to do it in
6 writing. We can do it however Your Honor prefers. But
7 there was a stipulation as to chain of custody on the
8 evidence that has been collected. It's my understanding
9 that the Defense will stipulate to the chain of custody.
10 They're not waiving their right to object to its
11 admissibility, but just that chain does not have to be
12 proven before we try to introduce it.

13 THE COURT: And what items are those?

14 MS. SAMPSON: All of the evidence. They've seen all
15 of it. We're about to go get it. They've seen it all,
16 the evidence that was collected by the sheriff's
17 department. There's no chain -- there's no issue as to
18 the chain of custody on those items.

19 THE COURT: Okay. What are fungible items?

20 MS. SAMPSON: The only fungible items would have been
21 there were swabs taken within the house of the victim.

22 THE COURT: Okay.

23 MS. SAMPSON: Buccal swab of the victim. There was a
24 swab taken from the car and there were swabs taken of the
25 gun.

1 Am I forgetting anything else?

2 MS. GOODE: And the gun and the clothing?

3 MS. SAMPSON: He said the fungible items.

4 THE COURT: Fungible items.

5 MS. SAMPSON: There's clothing, there's a gun.

6 There's 9-1-1 calls.

7 THE COURT: Okay. All right. So you're good with
8 the chain on all that?

9 MS. GOODE: Yes, Your Honor.

10 THE COURT: Okay. Good. What else?

11 MS. SAMPSON: We needed to settle the record. I have
12 told the Defense that we have ran all of the rap sheets of
13 all of the witnesses. The only witness potentially that
14 has a record other than the Defendant himself is there's a
15 witness, Yolonda Jackson. However, there are several
16 Yolonda Jacksons, so until she is here for us to ask and
17 confirm that that is the correct Yolonda Jackson, she's
18 the only one. She has a fraudulent check charge that
19 theoretically could come in, but I don't know if it's the
20 right Yolonda Jackson.

21 THE COURT: Let's go ahead and give it to them so
22 they can look at it and see it. And when she gets here,
23 see if we can get a social or, you know, something like
24 that.

25 MS. SAMPSON: And let me update. I did not have a

1 chance to talk to Ms. Moser over the break. She actually
2 called Ms. Jackson and confirmed that it is her.

3 THE COURT: Okay.

4 MS. SAMPSON: It's a 2001 fraudulent check charge.

5 THE COURT: Okay.

6 MS. SAMPSON: The rest of them don't have -- none of
7 the rest of them have records.

8 THE COURT: Okay. What else?

9 MS. SAMPSON: Just for the record, we renew our
10 reciprocal Rule 5. I believe the Defense has given us
11 what they're required to give us. They've given us the
12 CVs of their experts. I don't know of anything else that
13 they need to give us that I'm aware of.

14 THE COURT: All right.

15 MS. GOODE: And we don't have anything at this time,
16 Your Honor.

17 THE COURT: All right. Great.

18 Okay. Next?

19 MS. GOODE: Our pretrial motions, we obviously would
20 just renew our Rule 5 and request for information falling
21 under Riddle. We've met several times, talked several
22 times. Any issues that came up, we went ahead and
23 addressed them with the State.

24 The only issue we still kind of have at this point --
25 and I think that more is on our side of the table. They

1 told us, I guess, what their witness is telling them, but
2 as far as the one swab is concerned from Investigator
3 Rainsford, we were seeking some additional information on
4 that.

5 The State tells us, you know, that whenever speaking
6 to Investigator Rainsford, what information he provided
7 them is what information that we have in the discovery.
8 So I just ask if anything has changed or if they've
9 learned anything or learn anything, they will please just
10 turn that over to us as soon as possible.

11 THE COURT: All right. Is that good, Ms. Sampson?

12 MS. SAMPSON: Yes, sir, Your Honor. We've talked
13 about that and he says he swabbed the entire gun. They
14 were asking for the specific part of the gun he swabbed.
15 That's all I can tell you is he said he swabbed the whole
16 gun.

17 THE COURT: Okay. Next?

18 MS. GOODE: Number two on our list, I guess, is moot
19 at this point.

20 Number three, motion to limit testimony of law
21 enforcement. This is just specifically as far as -- in a
22 lot of the investigators' reports, they're investigating a
23 murder. They've gotten the Defendant's confession. You
24 know, I just want to request that the testimony be limited
25 to Defendant's statement or a homicide investigation,

1 something of that nature. Instead of kind of drawing
2 those conclusions for the jury, let them decide if they,
3 in fact, think it's a murder, if they, in fact, think it's
4 a confession.

5 THE COURT: Ms. Sampson?

6 MS. GOODE: Or fleeing, things of that nature.

7 MS. SAMPSON: I'm trying -- are you saying that --
8 I'm not sure what you're asking them not to say.

9 MS. GOODE: Things like murder or confession, legal
10 terms. This is a death investigation or this was -- we
11 interviewed the suspect. You know, instead of reaching
12 those conclusions for the jury by labeling it a murder
13 investigation, labeling it a confession, those types of
14 things.

15 MS. SAMPSON: I can try to limit them as best I can,
16 Your Honor. The two people who talked to him are here in
17 the room.

18 THE COURT: Okay. We'll just have to take those up
19 as they come.

20 MS. SAMPSON: That's all I can think of, Your Honor.

21 THE COURT: Next?

22 MR. KRZYSTON: Judge, we also have a request to limit
23 some of the graphic images we believe the State will be
24 offering.

25 THE COURT: Okay.

1 MR. KRZYSTON: These are pretty clearly -- and I do
2 have the photographs from State v. Collins and photographs
3 from State v. Torres should Your Honor care to view those
4 in kind of comparison with what we're going to be seeing
5 here. There are photos of the deceased in situ, for lack
6 of a better term, as she was found that we do believe are
7 relevant. We're not going to object to those at this
8 point.

9 The extent of what we are objecting to are actual
10 autopsy photos and photos taken of the decedent at the
11 scene that essentially show the inside of her skull.
12 They're very graphic. And, again, looking at Collins and
13 looking at Torres and looking at the photos that were
14 admitted in those cases, these are very much on par with
15 those. The Appellate and Supreme Court had issues with
16 those cases, indicated that these cases are on the outward
17 boundaries of what is admissible. So I suppose maybe
18 after Dr. Durso's pretrial testimony, we might be able to
19 take that up more clearly, but we will be requesting that.

20 THE COURT: Okay. I mean, I can't make a ruling
21 until I see what the photos are.

22 MR. KRZYSTON: Yes, sir.

23 MS. SAMPSON: The State's position is we weren't
24 going to -- we were going to do it outside the presence of
25 the jury, to put those photographs in before the witness

1 testified --

2 THE COURT: Okay.

3 MS. SAMPSON: -- not now, so you would have them in
4 the context of the case.

5 THE COURT: That's fine with me, but no one is going
6 to be showing them in opening statements and all; is that
7 right?

8 MS. SAMPSON: No, sir.

9 MR. KRZYSTON: No, sir.

10 THE COURT: Okay. That's fine.

11 MR. KRZYSTON: I just wanted to warn you.

12 THE COURT: Great. What else?

13 MS. GOODE: We've taken care of number five. Number
14 six, motion precluding testimony falling under 404(b).
15 Again, in trying to be as efficient as possible, spoke to
16 the State I believe not this week or last week, but the
17 week before about potential 404(b) evidence. There were
18 some allegations of domestic violence. Obviously, his
19 previous conviction for assault and battery with intent to
20 kill.

21 We would be asking that that evidence not be
22 presented to the jury in the context of this case. And I
23 think that -- at least, what Ms. Sampson told us a couple
24 weeks ago is that they wouldn't be planning to go into
25 that information. I just wanted to flesh that out

1 pretrial.

2 THE COURT: Okay.

3 MS. SAMPSON: Further, Your Honor, I don't think
4 anything about the domestic violence is admissible unless
5 the door is somehow opened, so we did not plan on getting
6 into any of that. I've instructed my witnesses as to
7 that.

8 As to his prior record, he is a felon, so he is not
9 allowed to have a gun. It's the State's position that
10 discussing his lawfulness -- or unlawfulness would go
11 towards recklessness in having the gun. Not the type of
12 felony he had, but this one -- not even that it's a
13 violent felony, but that he is a felon and, therefore, not
14 allowed to possess a gun or have a gun in his home. That
15 was part of our argument. I don't know that that falls
16 under 404(b). I have no intent on saying what his prior
17 record is, but he does have a felony conviction.

18 THE COURT: So how do you envision that testimony
19 coming out?

20 MS. SAMPSON: We have the investigator -- he said it
21 himself in his statement. In the statement that we've all
22 discussed, he says himself he's not supposed to have a
23 gun, that he has a felony conviction.

24 THE COURT: So what's your position on that, Ms.
25 Goode?

1 MS. GOODE: Well, that, I think would fall under my
2 404(b) argument that -- you know, I've tried to play it
3 out how they would get that testimony out, what witness
4 they would call. You know, he talks about it in his
5 statement. The other witnesses talk about things in their
6 statements that wouldn't be allowed to testify to. I
7 would say that that should be something that the
8 investigator should not be allowed to testify to. It's
9 something that's done. It's over with. If Mr. Marshall
10 is to testify, it can be used as impeachment, but I think
11 it doesn't -- it's not proof of any material element in
12 this case that that evidence needs to come in to show. I
13 don't think that's any -- it's not relevant --

14 THE COURT: What does he say in his statement?

15 MS. GOODE: They ask him if he is allowed to possess
16 a firearm and he tells them no.

17 THE COURT: Does he say why?

18 MS. SAMPSON: They do bring up that he has a felony
19 conviction. They don't say what kind. I think he might
20 volunteer that.

21 (Pause.)

22 MS. SAMPSON: It says, You are aware you are not
23 supposed to have a firearm?

24 He says, Absolutely.

25 Joe, are you a convicted felon?

1 Yes.

2 THE COURT: Okay. All right. I'll let that in. I
3 think that is probative in the case. I think it goes --
4 I'm not saying that -- I don't know enough about the case
5 to understand whether or not, you know, this is an
6 accident case or self-defense case or involuntary case or
7 anything else, so -- you know, there's two different ways
8 to look at these firearms. One is, you know, can a person
9 who is not allowed to possess a firearm lawfully possess a
10 firearm for the purposes of some of the Burris and Goodsen
11 and McCaskill line of cases. But at this point in time, I
12 think that's -- you know, that's him admitting to
13 possessing the firearm and so I think at this point that
14 any prejudicial effect would -- the probative value of
15 that would outweigh any prejudicial effect. I mean, he
16 freely admitted to the police that he knew he shouldn't
17 have had a firearm, so I'm going to allow that to come in.

18 MS. GOODE: Just to clarify, Your Honor, the
19 statement is, You're a convicted felon? Yes. But they
20 don't -- there's no inquiry as to what the felony is.

21 THE COURT: Yeah, we're not going any further than
22 that.

23 MS. SAMPSON: That was the State's position, that we
24 couldn't get into any of the --

25 THE COURT: We're not going to get into what it was

1 or when it was or anything else.

2 What else?

3 MS. GOODE: We took care of number seven, the
4 stipulation. Number eight, Your Honor, we just wanted to
5 make the Court aware that we may be requesting a jury view
6 of the incident location.

7 THE COURT: Okay. Well, let's get into it and let me
8 see what it looks like and what issues raise their head.
9 I don't really know where this is, off Leesburg Road.
10 We'll look at all that and consider that.

11 All right. Anything else from the State?

12 MS. SAMPSON: Beg the Court's indulgence.

13 (Pause.)

14 MS. SAMPSON: No, sir.

15 THE COURT: From the Defense?

16 (Pause.)

17 THE COURT: You're fine. We're in no rush. You're
18 fine. We've been through all the ones on the list. I'm
19 not saying you're bound by that, I'm just saying we did
20 cover all those.

21 MR. HAWKS: Judge, the 9-1-1 call, she says some
22 stuff in there that's --

23 THE COURT: Who is she?

24 MS. SAMPSON: There's two calls.

25 MS. GOODE: I think it's the first one.

1 THE COURT: I know we started this case last week,
2 but, I mean, I really know like -- I mean, his name is
3 Mimi Joe Marshall and her name is Doris Marshall, the
4 location. I just don't know much more than that. I do
5 that intentionally so I don't come in with any
6 preconceived ideas. So just put it in context for me, Mr.
7 Hawks.

8 MR. HAWKS: I apologize.

9 THE COURT: That's okay.

10 MR. HAWKS: Multiple people call 9-1-1. These are
11 people that discover, so there's some graphic things in
12 there. There's a point where she actually on one of the
13 calls retches.

14 THE COURT: Who is she?

15 MR. HAWKS: The woman who calls 9-1-1 --

16 MS. GOODE: Leslie Brown.

17 THE COURT: Okay.

18 MR. HAWKS: Almost like she's going to throw up.

19 THE COURT: Okay.

20 MR. HAWKS: You know, we'd just like to limit that.
21 I don't even know if they're going to play it.

22 THE COURT: Okay. What 9-1-1 tapes do y'all intend
23 on introducing?

24 MS. SAMPSON: There are two 9-1-1 calls. There's one
25 they've already told you about, Leslie Brown. She was

1 actually going to testify this afternoon. And yes, we did
2 plan on playing the call with her. The second call is
3 with Yolonda Jackson. She calls 9-1-1 about where the
4 Defendant is several hours after the incident.

5 THE COURT: Okay.

6 MS. SAMPSON: That's how he gets arrested.

7 THE COURT: So you're okay with number two? It's
8 number one?

9 MS. GOODE: I don't think there are any issues with
10 number two. It's number one where you can hear her
11 retching and it's --

12 THE COURT: Is she in the presence of the victim?

13 MS. SAMPSON: She goes in the house and finds --

14 THE COURT: She finds her, okay.

15 MS. SAMPSON: She comes out of the house to make the
16 call, but she does see her.

17 THE COURT: I mean, that's what happened. That's her
18 present sense impression. I find it will be admissible.
19 She's going to be able to testify to it anyway. Her
20 testimony -- especially if it corroborates her testimony,
21 I find it's admissible under 401 and 403.

22 Anything else?

23 MS. GOODE: Nothing from the Defense.

24 THE COURT: From the State?

25 MS. SAMPSON: We have one other issue, Your Honor,

1 but we will probably have to take it up tomorrow. We
2 have -- he was supposed to have been here today. Lindsey
3 Edwards is on both party's witness list.

4 THE COURT: Is that Pee Wee?

5 MS. SAMPSON: Yes, sir.

6 THE COURT: Okay.

7 MS. SAMPSON: He is in the Department of Corrections.
8 They were supposed to transport him today. They did not,
9 so he will be here in the morning. He was represented at
10 the time by Adam Ruffin when he went to the Department of
11 Corrections. So when we met with him, Mr. Ruffin was
12 there from their office last week. At that time, he said
13 something about maybe pleading the Fifth when he got here.
14 We wanted to just bring that to Your Honor's attention --

15 THE COURT: Okay.

16 MS. SAMPSON: -- then tomorrow -- we tried to address
17 it today pretrial, but we can't.

18 THE COURT: Do we have an order for him to be
19 transported?

20 MS. SAMPSON: Yes. The date's got mixed up, they put
21 tomorrow's date, October 31st.

22 THE COURT: We'll deal with him outside the presence
23 of the jury.

24 MS. SAMPSON: We just wanted to let you know. That
25 was our only other pretrial and we can't do it today.

1 THE COURT: That's fine.

2 Is that right?

3 MS. GOODE: Yes, sir.

4 THE COURT: When they get here -- when they all get
5 here, just let us know and we'll go ahead and start. The
6 bailiffs usually tell them to be back 15 minutes earlier
7 than I do, so they could all very well be here and ready
8 to go.

9 Okay. All right. Take a short little recess.

10 (WHEREUPON, a short break was taken.)

11 THE COURT: All right. You can go ahead and bring
12 them in.

13 If you're in this courtroom, you need to make sure
14 your phone is either off or on silent. If your phone goes
15 off during court, I'm going to take it from you. So make
16 sure it's off, please. Thank you.

17 (WHEREUPON, the jury entered the courtroom at 2:46
18 p.m.)

19 THE BAILIFF: The jury is seated, Judge.

20 THE COURT: All right. Welcome back, ladies and
21 gentlemen. Thank you very much for being on time. The
22 first thing that we're going to do this afternoon is swear
23 you in. Now, you were previously sworn in this morning to
24 tell the truth. This oath that you are about to take is
25 different. This is an oath that encompasses your

1 responsibility to try this case and to be present in this
2 case fairly and impartially without any bias or prejudice
3 towards either side. This is your oath to yourselves, to
4 each other, to the parties, to the lawyers, and to me that
5 you will be fair and impartial.

6 And so, will you please rise and give your attention
7 to the clerk as she swears you in.

8 THE CLERK: Please raise your right hand. After this
9 oath, please acknowledge by answering, "I do".

10 You shall well and truly try and true deliverance
11 make between the State of South Carolina, and the
12 Defendant at bar, whom you shall have in charge, and a
13 true verdict give, according to the law and the evidence,
14 so help you God.

15 (All responded affirmatively.)

16 THE CLERK: Thank you. You may be seated.

17 THE COURT: Thank you very much. Before we begin the
18 actual trial of the case, I thought it might be helpful to
19 explain to you how the trial will work. First, the State
20 or the solicitor's office will be allowed to make an
21 opening statement. Now, opening statements are not
22 evidence. They are simply outlines to help you understand
23 what that party expects the evidence will show.

24 The Defendant may, if he chooses, present an opening
25 statement, but he does not have to for reasons that I will

1 explain to you in just a moment.

2 Following the opening statements, you will hear
3 testimony and evidence in the case. This will consist of
4 testimony from the State's witnesses as well as any
5 physical exhibits which will be introduced into evidence.

6 Following the completion of the testimony, the
7 attorneys will again have an opportunity to come before
8 you and make what is called a closing argument or closing
9 statement to you. This is an opportunity for the
10 attorneys to summarize the case from their respective
11 points of view. Again, the opening statements and the
12 closing arguments are not evidence.

13 So as I go through this opening charge with you, I
14 want you to listen to how I define the term what is
15 evidence and what is not evidence, okay. Evidence is a
16 defined term here in the courtroom.

17 Once the closing statements are through, I will then
18 tell you and instruct you on what the law is in South
19 Carolina as it pertains to the issues that have arisen
20 during this case. Once I have done that at the very end
21 of the case, you will then be permitted to begin your
22 deliberations in order to reach a verdict.

23 You are now the jury in this case, and I need to tell
24 you -- take a few moments, excuse me, to tell you
25 something about your duty and to give you some

1 instructions. At the end of the trial, I will give you
2 more detailed instructions.

3 In a nutshell, your responsibility is this. It is
4 your duty to decide from the evidence what the facts are.
5 You and you alone are the judges of the facts. You will
6 hear the evidence, decide what the facts are and then
7 apply those facts to the law that I will give you at the
8 conclusion of the case. That is how you will reach your
9 verdict. In doing so, you must follow the law that I give
10 you whether you agree with it or not.

11 The evidence -- so what is evidence? The evidence
12 will consist of the testimony of the witnesses and any
13 documents or anything else received into evidence as an
14 exhibit, and any facts on which the lawyers agree or
15 anything that I tell you you must accept. Do not take
16 anything that I say or do during the trial as indicating
17 what I think of the evidence or what I think your verdict
18 should be.

19 In essence, there's a line in the courtroom. And on
20 that side of the line where you sit are the facts, and on
21 this side of the line are the law. I can't tell you what
22 the facts are unless the parties all agree. So the
23 parties may say we stipulate the sky was red or we
24 stipulate the sky was blue, then I can tell you to accept
25 that. Otherwise, I can't tell you what the facts are,

1 likewise, you can't tell me what the law is, okay.

2 Now, that is a criminal case and it's brought by the
3 State of South Carolina. The State has charged the
4 defendant with murder. The charge against the Defendant
5 is contained in this indictment, which I read to you this
6 morning. Now, this indictment is not evidence of
7 anything. It is not proof of anything. It's simply the
8 description of the charge made against the Defendant. To
9 this charge, the Defendant has pled not guilty and he is
10 presumed to be innocent unless and until proven guilty
11 beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that leaves
13 you firmly convinced of the Defendant's guilt. A
14 Defendant has the right not to testify and never has to
15 prove innocence or present any evidence at all. The
16 burden of proof is always upon the State of South
17 Carolina.

18 Now, some things that you are going to hear during
19 this trial are not evidence, and you must not consider
20 them as evidence. Number one, the statements and the
21 arguments of the attorneys are not evidence. Number two,
22 the questions and the objections of the attorneys are not
23 evidence. Number three, anything that I tell you to
24 disregard.

25 So it happens in almost every single trial, somebody

1 says something, and I have to tell the jury disregard that
2 statement. When I do that, you must treat it as if that
3 statement was never made or you never saw that exhibit or
4 something of that nature.

5 Now, there are two types of evidence which you can
6 hear in a case. One is direct circumstantial -- one is
7 direct evidence, excuse me, and the second is
8 circumstantial evidence.

9 Direct evidence is testimony by a witness about what
10 that person saw, heard or did or touched or smelled,
11 something of that nature. Firsthand account.
12 Circumstantial evidence is indirect evidence. That is
13 proof of one or more facts which you can find another
14 fact. You are to consider both direct and circumstantial
15 evidence. The law permits you to give equal weight to
16 both, but it is for you to decide how much weight to give
17 any evidence at all.

18 Now, throughout this trial, there are Rules of
19 Evidence that control basically everything that happens in
20 this courtroom, down to which side speaks first and which
21 side speaks second. So when a lawyer asks a question or
22 offers an exhibit into evidence and a lawyer on the other
23 side thinks it's not permitted by the rules, the lawyer on
24 the other side may object. So they'll stand up and say
25 objection, relevance, objection, hearsay, objection,

1 whatever, okay.

2 So what happens is this. If I overrule the
3 objection, then the question can be answered or the
4 exhibit can be received. Whenever I sustain -- excuse me,
5 if I sustain the objection, then the question cannot be
6 answered or the exhibit cannot be received. Whenever I
7 sustain an objection to a question or deny a motion to
8 admit an exhibit into evidence, you must ignore the
9 question or the existence of the exhibit and you're not
10 allowed to guess or speculate as to what the answer would
11 have been or what the exhibit would have shown.

12 Now, it will be necessary -- it is necessary in every
13 single trial for me to request that you leave the
14 courtroom to discuss legal issues with the lawyers. This
15 happens in every single case. When this occurs, you
16 should not speculate about what we are discussing or why
17 you were asked to leave the room. This is a procedure
18 used by all courts when certain legal issues arise.

19 There will also be times when I will tell the
20 attorneys to approach the bench, okay. I'm doing that to
21 decide a legal issue without having to keep you from going
22 back and forth and back and forth. I will do that as
23 often as necessary to try to keep things moving in an
24 orderly fashion. When this happens, don't think anybody
25 is trying to hide anything from you or keep anything from

1 you. This is a procedure used by all lawyers in all
2 courts to decide legal issues.

3 Now, to decide this case, one of the things you're
4 going to have to decide is which witnesses to believe and
5 which witnesses not to believe.

6 Here are the rules. You can believe everything a
7 witness says. You can believe none of what a witness
8 says, or you can believe part of what a witness says.

9 Some things that you can use, but you're not limited
10 to in determining the credibility of the witnesses are
11 what was the witness's ability to see, hear or know what
12 they testified to. How good was the witness's memory?
13 What was the witness's demeanor or manner while they were
14 testifying. Do they have an interest in the outcome of
15 the case? Do they have any motive or bias or prejudice?
16 Was the witness contradicted by something they said or
17 wrote before the trial or by other evidence? How
18 reasonable was the witness's testimony when considered in
19 light of the other evidence which you believe?

20 The bottom line is, we judge people's credibility
21 every single day. You really don't even realize you're
22 doing it. My favorite example is the one that happens
23 every single morning, and it's did you brush your teeth,
24 right? If you have children, before they go to the bus or
25 before they hop in the car, you say, did you brush your

1 teeth. And at that very moment, at 7:00 o'clock in the
2 morning, you make a judgment call as to whether that child
3 is telling you the truth, right? You make a credibility
4 decision based upon your history with the child or the way
5 their breathe smells or the food you see in their teeth or
6 if their teeth are a certain color because they had a
7 certain cereal. Right? Okay. You judge people's
8 credibility all day long and you do that using your common
9 sense. And when you came back in this afternoon, you
10 didn't leave your common sense at the metal detector,
11 okay, so just use it with you. That's why you were
12 selected because they believe in you as jurors.

13 Now, a couple things about your conduct. Until I
14 advise you at the very end, you are not allowed to discuss
15 this case with anyone, including each other, friends,
16 family members and anyone involved in the case. This
17 includes discussions face-to-face, by Facebook, Twitter,
18 LinkedIn, some type of app that I don't even know exist,
19 by telephone, e-mail, text message, blog or any other kind
20 of communication. You may not use a computer or a cell
21 phone or other electronic device at any time while in the
22 courtroom or during deliberations.

23 These devices will be returned to you at lunch or
24 overnight, but you may not at any time use any type of
25 device to get or send information about this case. You

1 can't go Google something. If you hear a word today that
2 you don't know what it means, you can't punch it in your
3 phone or say define this word for me. You have to base
4 your decision on what happens in this courtroom.

5 Do not watch, listen to or follow any news about the
6 case. Again, no news media has asked permission to be in
7 the courtroom, so I know of no news media about the case.
8 But if for some reason you're watching the news tonight
9 and this case comes on, you need to turn it off. Do not
10 do any type of research on this case.

11 Once it is submitted to you, you can only discuss it
12 with each other. The parties and the attorneys in this
13 case have been told they are not allowed to talk to you at
14 all. So if they see you in the hall and they don't say
15 hello, they're not being unfriendly, they're just
16 following my instructions. It's very important that you
17 keep an open mind and not decide any issue in this case
18 until all of the evidence has been presented, the parties
19 have made their closing arguments and I've told you what
20 the law is in this case.

21 It is your responsibility to determine the guilt or
22 the innocence of the Defendant and your verdict must be
23 based solely upon the evidence as it's presented to you in
24 this trial and on the law that I give you at the
25 conclusion.

1 All right, Mr. Foreman, it will be your added duty to
2 preside in the jury room. You are known as the presiding
3 juror and you will be the jury spokesperson here in court.
4 It will also be your duty to write the verdict, but I'll
5 explain that to you at the end.

6 I do not allow note taking, so if anybody is thinking
7 about why do I not have a pad to take notes, the reason is
8 this, when you start taking notes, you stop listening.
9 The testimony continues on, okay. The other thing is that
10 your notes are not the official record of what occurs in
11 the courtroom. Madam Court Reporter's transcription is
12 the official record of what happens. So your notes would
13 have no validity or carry any weight in the jury room
14 because they would not be the official record, so I do not
15 allow note taking.

16 All right. Thank you very much for your service.
17 Now, listen, this case is very important to both sides.
18 This is their only day in court to resolve this matter.
19 So I need everyone to give this your undivided attention.
20 If you are having difficulty staying awake or you're
21 thinking about nodding off, it's after lunch and it's warm
22 in here on a cool day outside, stand up or move to the
23 back wall up there next to Mr. Dye so being on your feet,
24 you can stay awake. I need everybody to stay with us and
25 give us your undivided attention. Thank you very much.

1 Ms. Moser.

2 MS. MOSER: May it please the Court?

3 THE COURT: Yes, ma'am.

4 MS. MOSER: Thank you, Your Honor.

5 Opening Statement by Ms. Moser

6 MS. MOSER: Good afternoon. Ladies and gentlemen,
7 this is a case about murder, but it's about more than
8 that. This is a case about violence between a husband and
9 a wife. This is about power and control. This is about a
10 selfish/callous act.

11 On Friday, August 14th of 2015, Doris Marshall went
12 to work like she did every other day. Little did she
13 know, it would be her last day at work and her last day on
14 earth, all at the hands of her husband in her own home.

15 Doris was 58 years old. She worked at the dining
16 hall in Fort Jackson and she had to work a little late
17 that day. Now, this was not out of the ordinary for her.
18 She worked evening hours. And her husband, the Defendant,
19 who did not work, was waiting for her at home and started
20 to get a little impatient.

21 She left work a little before 10:30 that evening.
22 She got in her car. She drove home. She walked through
23 front door, sat down on the couch, but before she even had
24 a chance to take off her work shoes or her ID badge, the
25 Defendant came at her with a loaded double-barrel shotgun.

1 And in her living room, probably smaller than the space
2 you all are sitting in right now, he pulled the trigger,
3 shooting her in the head, killing her instantly and
4 leaving a gory, gruesome scene of blood and brain matter
5 for their daughter to find nine hours later.

6 Nine hours later because the Defendant, who claimed
7 this was an accident, did not call police that night. In
8 fact, he didn't call police at all. He didn't tell anyone
9 until the following morning and left the family to deal
10 with the aftermath.

11 After the shooting, the Defendant was seen outside
12 the trailer breaking into Doris' car window. He then at
13 some point realized that he had been locked outside of the
14 trailer, so he was seen by a neighbor trying to crawl in
15 through a back window. The neighbor offered to help and
16 the neighbor went in, crawled in through the back window,
17 and he smelled blood. But before he could go any further,
18 the Defendant knocked on the back door and got him to come
19 out. The Defendant then promised him some cigarettes for
20 the trouble and left and never came back.

21 Hours passed. The Defendant wasn't seen again until
22 the following morning around 6:00 a.m. when he went to his
23 brother's house, where he told his brother and his nephew
24 that Doris was dead, leaving them to call police.

25 Before police arrived, word got out. Family went to

1 the scene. The Defendant's daughter-in-law and a neighbor
2 kicked open the door and found Doris there dead.

3 The Defendant didn't go to the scene. The Defendant
4 didn't call their daughter. The Defendant didn't wait
5 with the family while police showed up. Instead, the
6 Defendant went driving. He decided to return an item at
7 an auto shop for some cash. He then went to a bar. He
8 went to Tony's Lounge and remained there with the gun and
9 with Doris' wallet for police to find him 12 hours after
10 he shot his wife in the face.

11 Ladies and gentlemen, my name is Sandra Moser, and
12 along with my co-counsel, April Sampson and Sam McGlothlin,
13 we represent the State of South Carolina for the Fifth
14 Judicial Circuit. Our job is to prosecute crimes and to
15 seek justice for those crimes. And the reason that we're
16 all here today is because the Defendant, Mr. Mimi Joe
17 Marshall, is charged with murder.

18 Now, the Judge, Judge Hood, is going to instruct you
19 on the law, but I'm going to tell you a little bit about
20 the charge itself. Murder, and the definition here, is
21 the killing of any human being with malice aforethought
22 either expressed or implied.

23 One of the key words is malice. Malice is ill will.
24 Malice is hatred. And in South Carolina, there is no
25 requirement for premeditation. The Defendant did not need

1 to be lying in wait planning this murder. Motive is also
2 not required. We don't need to prove why he did this,
3 just that he did, and we need to prove that there was
4 malice in that instant when the trigger was pulled.

5 Your job today is to listen to the facts, as the
6 judge stated. Now, I know when you came in here this
7 morning, you probably didn't expect to be hearing about a
8 gruesome murder case, and no one handed you an instruction
9 manual or a guide book on how to be a juror, but that's
10 because each and every one of you already knows what it
11 takes. What I mean by that is in your daily lives,
12 whether you're a nurse, whether you're a teacher, whether
13 you're a cashier, you deal with people on a daily basis.
14 You judge people based on their credibility, which is
15 believability. And that's what we're asking for you to do
16 this week.

17 We're asking you to listen to the testimony that you
18 hear from this witness stand. Listen to what witnesses
19 have to say. You can believe some of what they say, all
20 of what they say, or none of what they say, but remember
21 to use your common sense. Think about why are they taking
22 time out of their days to come in here to talk to you
23 about this case? Is there bias? Is there a reason
24 they're coming in here? Use your common sense. And this
25 case is all about common sense.

1 Now, you're going to hear testimony in two different
2 forms. You're going to hear direct evidence and you're
3 going to hear circumstantial evidence. And the Judge has
4 already instructed you on those.

5 Essentially, direct evidence is any eyewitness
6 testimony. Anyone who saw something or heard something,
7 they're able to give direct evidence in the case. And
8 circumstantial evidence is any other evidence that leads
9 you to a conclusion.

10 So the way I like to explain this is, say, you're
11 getting ready for bed and you look out the window. It's
12 perfectly clear out. There's not a cloud in the sky. You
13 look down at the grass. It's clear. You wake up the next
14 morning and you look out and there's puddles in the grass,
15 everything is wet. Well, you can assume, even though you
16 didn't actually see the rain falling, you can gather or
17 conclude that it probably rained. And that's
18 circumstantial evidence. And that can be weighed equally
19 with direct evidence.

20 Now, you're going to hear a lot of different
21 witnesses. We're going to call many, many different
22 witnesses this week to take the stand to talk about this
23 case. You're going to hear from law enforcement. They're
24 going to tell you about what they saw when they came to
25 the scene. And in this case, it's interesting because

1 there's actually -- there's two scenes. There's the scene
2 where this occurred, the trailer park, and then where the
3 Defendant was found at the bar is actually the second
4 scene in this case. You're also going to hear from crime
5 scene investigators. You're going to hear from people
6 that study DNA and gunshot residue for a living.

7 You're going to hear from people like David Collins,
8 who has studied guns and has studied firearms for decades.
9 And he's going to tell you about the gun that was used in
10 this case, that it was 12-gauge double-barrel shotgun.
11 And he's going to talk to you about the fact that there
12 were two triggers, one for each barrel. He's also going
13 to talk to you about gun safety and how you don't put your
14 finger on the trigger unless you intend to use that gun.

15 You're going to hear from investigators that actually
16 went to the scene, which in this case is crucial. You're
17 going to hear from crime scene investigators who looked at
18 the blood spatter that was found. And based on that
19 evidence, they're going to tell you where they believe the
20 victim was, where Doris was when this incident occurred.
21 They're going to tell you that she was seated, that she
22 was on a couch. And that's important because the
23 Defendant claimed that she was standing up and that he was
24 actually the one who lowered her body onto the couch after
25 this happened.

1 You're also going to hear that the Defendant said he
2 was by the front door and that she was the one who
3 actually grabbed the gun from him. You're going to hear
4 physical -- you're going to hear about physical evidence
5 that refutes both of those statements.

6 You're going to hear from Dr. Durso, who is the
7 forensic pathologist in this case. And she was
8 essentially the one who had to deal with the autopsy, so
9 she was the doctor who handled the autopsy. And she'll
10 talk to you about the injury to Doris' face, what it told
11 her, what she learned from the injury itself. And she's
12 actually going to be able to tell you a little bit about
13 how far away the gun was from Doris when it went off.

14 You're going to hear from Investigator Rainsford.
15 Now, Investigator Rainsford was at the bar and he was the
16 one who collected gun, took some swabs off the gun. And
17 he's going to talk to you about the gun itself and the
18 facts that the Defendant said it was the son's gun, but,
19 in fact, we'll learn that the son never actually owned the
20 shotgun.

21 You'll also hear that the Defendant was not supposed
22 to have a gun to begin with because he is a felon, so he
23 was not supposed to carry a weapon.

24 MR. KRZYSTON: Objection, Judge, prior objection.

25 THE COURT: Overruled, go ahead.

1 MS. MOSER: Finally, you'll hear from the lead
2 investigator, Investigator Clark, who's going to talk to
3 you about this case from beginning to end. He's going to
4 talk to about the investigation, how much time went into
5 this. And he's also going to talk to you about the
6 statement that the Defendant made to law enforcement.

7 Now, this is something that I want you to pay special
8 attention to, and when you hear the Defendant's version of
9 the story, ask yourselves, does this make sense? Does it
10 make sense that this was an accident, that it happened in
11 the way that he described? Listen carefully to what he
12 has to say about it. And does it make sense that he took
13 the actions he took after this accident occurred? Does
14 any of this make sense?

15 Now, you're never going to hear from Doris. You're
16 never going to hear from her about what happened that
17 night. You're never going to hear from her about her
18 relationship with her husband, but you are going to hear
19 from her family members. You're going to hear from their
20 daughter, Tamieka Marshall. You're going to hear from
21 their daughter-in-law, Amanda Marshall. And they're going
22 to tell you a little bit about their relationship and the
23 fact that while they were married for a long time, there
24 were --

25 MR. KRZYSTON: Objection, Judge. It's 404.

1 MS. MOSER: Your Honor, I think this is part of the
2 basis.

3 THE COURT: All right. Sustained, move on.

4 MS. MOSER: They were separated for a long period of
5 time after that. And this incident happened just shortly
6 after they got back together. It was just a couple of
7 years.

8 Now, the facts in this case are fairly
9 straightforward, but that doesn't mean that this case is
10 going to be easy or that it's not important. This case is
11 important to us. This case is important to Doris' family.
12 This case is important to the Defense, of course, and this
13 is important to the State of South Carolina.

14 And as the State, we carry the burden of proving this
15 case beyond a reasonable doubt. What that means is we
16 need to prove this case not beyond in and all doubt, but a
17 reasonable amount of doubt. And that's proof that leaves
18 you firmly convinced of the Defendant's guilt. That is a
19 burden that we welcome in this case because this was not
20 an accident. There was a cold, depraved act of domestic
21 violence.

22 Now, as you look at the Defendant, you might think
23 well, he doesn't look like someone who might kill his
24 wife, but by the time you have heard all of the evidence
25 in this case, you will know beyond a reasonable doubt that

1 he shot and killed Doris and left everyone else to deal
2 with the aftermath.

3 So at the end of this trial, we will come back before
4 you and we will ask you to hold the Defendant responsible
5 for his actions, to find him guilty of murder. We can't
6 bring Doris back, but we can bring her and the family
7 justice. Thank you.

8 THE COURT: Thank you Ms. Moser.

9 Mr. Krzyston.

10 MR. KRZYSTON: May it please the Court, Your Honor?

11 THE COURT: Yes, sir.

12 MR. KRZYSTON: Thank you.

13 Opening Statement by Mr. Krzyston

14 MR. KRZYSTON: Two things from that statement that I
15 want you guys to remember and focus on when it comes to
16 deliberation, a reasonable amount of doubt and the fact
17 that they claim to welcome that burden that is upon them.

18 Accuracy and correctness, two things that as a
19 criminal juror, you must always be concerned with. You've
20 just taken an oath and now it is your duty as jurors in
21 this courtroom to determine which information is accurate
22 so that you make the correct decision in this case.

23 Good afternoon, ladies and gentlemen. My name Steve
24 Krzyston. Along with Alicia Goode and Lucas Hawks, we
25 represent and are defending Mimi Joe Marshall. He's a man

1 who was born and raised here in Columbia, a man who's
2 lived his life in Columbia, and a man who for 37 years was
3 married to Doris Marshall.

4 Now, before us lies a task that is almost certainly
5 best described as a duty. And your duty is going to
6 require a lot of you in this case. You are going to see
7 things that you wish you had not. And I and the other
8 attorneys are going to ask questions of these things,
9 graphic images.

10 Please remember as we do that, and as we draw your
11 attention to those things, we're not doing that out of
12 spite or sport. We're doing that because we believe there
13 is information there that affects the accuracy of what the
14 State is claiming, that Mimi murdered Doris.

15 Now, please, remember, a woman is dead. A man is on
16 trial. We owe it to both of them to get this correct. As
17 you listen to the testimony and as you receive all the
18 evidence, remember, it is accuracy itself that determines
19 correctness. Without information that is accurate, it is
20 impossible to make a correct decision.

21 When the State presents you with information,
22 remember to ask yourself, is this information free from
23 error or do I question it? Look to the evidence that the
24 prosecutors and the police will present to you. When they
25 are testifying, listen to how they documented that

1 evidence, how they took pictures of it, how they collected
2 that evidence, how they stored that evidence, how they
3 retained that evidence. Look to whether they just
4 discarded or released the evidence.

5 When the prosecutors present statements from
6 witnesses, listen to see if those witnesses' statements
7 are consistent with what the witness tells you on the
8 stand. And if there's disagreement there, look to see
9 whether they have anything to corroborate that statement.

10 Most importantly in this case, look to how the police
11 managed and investigated the case as a whole because it's
12 all these little things as a whole that are going to be
13 your most accurate barometers for determining correctness.

14 The State must prove in this matter that Mimi Joe
15 killed Doris with malice aforethought, either expressed or
16 implied. They said it. They must prove it beyond a
17 reasonable amount of doubt. In order for them to prove
18 their case, it's not good enough that they could prove or
19 that they're going to try to prove that Mimi shot Doris.
20 They have to prove the additional step that Mimi shot
21 Doris with malice aforethought.

22 Now, the Judge, after all this is over, is going to
23 instruct you guys on the law. And he's going to tell you
24 and explain to you what the criminal charges are that you
25 can consider, what those charges mean, and what the words

1 in those charges mean. For now, know that the dictionary
2 defines malice as the intention of doing ill will and that
3 the dictionary defines aforethought as thought of
4 previously, or premeditated.

5 Ladies and gentlemen, that's what this case is about.
6 The State has to prove that Mimi did this with malice
7 aforethought. The State cannot prove that with the
8 evidence that they have, which is why in a few short days,
9 after you guys listen to all the things and hear all the
10 things that we have to say, we're going to get back up
11 here and ask you to return a verdict of not guilty on
12 murder.

13 Thank you.

14 THE COURT: All right. Thank you very much,
15 Mr. Krzyston.

16 All right. You may call your first witness.

17 MS. SAMPSON: The State calls Leslie Brown.

18 LESLIE BROWN, after being duly
19 sworn, testified as follows:

20 THE CLERK: Thank you. Please have a seat in the
21 witness stand and state your name for the record.

22 THE COURT: Would you say your name for me, ma'am?

23 THE WITNESS: Leslie Brown.

24 THE COURT: Now, you see how you stayed right next to
25 that microphone --

1 THE WITNESS: Sir?

2 THE COURT: Stay right close to that microphone so
3 everybody can hear you, okay?

4 THE WITNESS: Yes, sir.

5 DIRECT EXAMINATION

6 BY MS. SAMPSON:

7 Q Did you state your name for the record?

8 A Yes, ma'am.

9 Q Would you spell your first name?

10 A L-E-S-L-I-E.

11 Q Ms. Brown, how old are you?

12 A Thirty-nine.

13 Q Where do you currently reside?

14 A Augusta, Georgia.

15 Q Do you work?

16 A Yes, ma'am.

17 Q Where do you work?

18 A In healthcare.

19 Q In healthcare?

20 A Yes, ma'am.

21 Q I'm just going to move you along a little bit. Back
22 in August of 2015, where did you live?

23 A 3976 Leesburg Road.

24 Q Okay.

25 A Hopkins.

1 Q Do you remember the name of the mobile home park that
2 you lived in?

3 A No, ma'am, not off the top of my head.

4 Q Do you remember who your neighbors were?

5 A Yes.

6 Q Who lived across from you?

7 A Mr. Joe.

8 Q Mr. Joe. Is that what you called him? Do you see
9 Mr. Joe in the courtroom?

10 A I do.

11 Q Where is he?

12 A Right there.

13 Q Can you tell us what he has on?

14 A He has on a white shirt and a blue tie.

15 MS. SAMPSON: Let the record reflect that
16 she's identified the Defendant as Mr. Joe, as she called
17 him.

18 THE COURT: Yes, ma'am.

19 MS. SAMPSON: Thank you, Your Honor.

20 BY MS. SAMPSON:

21 Q And did Mr. Joe live there alone?

22 A No, ma'am.

23 Q Who did he live there with?

24 A With his wife.

25 Q Did you see them every day or how often did you see

1 them?

2 A I didn't see her as much as I saw him.

3 Q How often do you think you saw them, once a week --

4 A Maybe twice a week, two or three times a week.

5 Q And where would you see them?

6 A Outside their home.

7 Q I'm going to show you what's been marked as State's
8 Exhibits 6 through 10.

9 MS. SAMPSON: I've already shown these to the
10 Defense, Your Honor.

11 Q I'll ask you to look at those for me. You don't have
12 to tell me what they are yet. Do you recognize all these
13 photos?

14 A Yes, ma'am.

15 Q And do all these photos fairly and accurately depict
16 what they represent back in August of 2015?

17 A Yes, ma'am.

18 MS. SAMPSON: Your Honor, at this time, we'd ask to
19 introduce State's Exhibits Nos. 6 through 10 into
20 evidence.

21 MS. GOODE: No objection.

22 THE COURT: So State's 6, 7, 8, 9, 10 admitted
23 without objection.

24 MS. SAMPSON: Thank you, Your Honor.

25 (WHEREUPON, State's Exhibit Nos. 6 through 10 were

1 admitted into evidence.)

2 THE COURT: Are you good?

3 THE COURT REPORTER: I got it.

4 BY MS. SAMPSON:

5 Q Now, I'm going to show you -- can you see this or do
6 you need to step down?

7 A A little bit.

8 Q Better now?

9 A Yes, ma'am.

10 Q Now, can you tell the jury what this is?

11 A That's the trailer Mr. Joe and Ms. Doris used to live
12 in.

13 Q For the record, that is State's Exhibit No. 8?

14 A Yes.

15 Q And that's where they lived?

16 A Yes, ma'am.

17 Q Where is your house in relation to this photograph?

18 A Directly across.

19 Q To the right?

20 A Yes.

21 Q I'm showing you State's Exhibit No. 7. Is that --
22 what is that?

23 A That's Mr. Joe's trailer.

24 Q So is yours to the --

25 A Right.

- 1 Q To the left?
- 2 A To the left.
- 3 Q To the left of this picture. All right. And State's
- 4 Exhibit No. 9, what is that?
- 5 A Mr. Doris' car.
- 6 Q And what kind of car does she drive?
- 7 A Chrysler Pacifica.
- 8 Q Did you see it every day or how often did you --
- 9 A Yes, every day.
- 10 Q And that's -- I'm sorry. I might have hit the board.
- 11 Now, what is this, State's Exhibit No. 6?
- 12 A The trailer park we lived in.
- 13 Q Excuse me, that's State's Exhibit No. 10. Is this
- 14 the entrance or what is that?
- 15 A The entrance.
- 16 Q Can you see your trailer or Mr. Marshall's trailer in
- 17 this picture?
- 18 A No, ma'am.
- 19 Q Okay. What is State's Exhibit No. -- that's No. 7?
- 20 A Mr. Joe's and Ms. Doris' trailer.
- 21 Q And did you ever see Mr. Joe in reference to this
- 22 trailer? What did you see him doing when you saw him?
- 23 A He would be out sitting in a chair outside in the
- 24 shade.
- 25 Q Those two chairs right there?

1 A Yes, ma'am.

2 Q And what would he be doing when he sat there?

3 A Just minding his business.

4 Q Did you ever see him smoking?

5 A No, ma'am.

6 Q What about walking around, did you ever see him do

7 that?

8 A Maybe in the yard, maybe.

9 Q So you just mainly would see him out in the front of

10 the yard?

11 A Right.

12 Q I want to move on to talk a little bit about what

13 we're here about today. So back in August of 2015, you

14 lived across from him, correct?

15 A Correct.

16 Q And I want to talk to you about August 14th. What

17 were you doing on August 14th?

18 A On August 14th, I went to work and came home.

19 Q About what time did you get home?

20 A I usually got home at 5:00.

21 Q 5:00 p.m.?

22 A Uh-huh, 5:00 p.m.

23 Q Thank you. Did you see Mr. Marshall when you first

24 got home?

25 A I don't recall.

1 Q When was the first time you remember seeing him?

2 A I don't remember actually. I saw him earlier that

3 day, I'm sorry.

4 Q That's okay. What was he doing when you saw him?

5 A He was on the way going to the store.

6 Q Going to the store. And is the store within walking

7 distance?

8 A It is.

9 Q Did he speak at that point?

10 A He did.

11 Q What did he say to you at that point?

12 A He asked me did I want to get a beer, did I want a

13 beer from the store.

14 Q Was that unusual?

15 A Yes.

16 Q Why?

17 A Because we don't -- the neighborhood, everybody just

18 stay -- kept to themselves.

19 Q Had he ever asked you that before?

20 A No, ma'am.

21 Q Did you see him return from the store?

22 A Yes, ma'am.

23 Q What did he do when he returned from the store?

24 A He just told me he was about to go drink his beer and

25 go in the house.

1 Q Did you see him sit outside or did he go inside?

2 A He sat outside for a few minutes and then he
3 eventually went inside.

4 Q And was Ms. Marshall home at that time?

5 A No, ma'am.

6 Q So did you see him again?

7 A No, ma'am.

8 Q Okay. So did you go to bed that night? What
9 happened that night?

10 A Later on that night when I was in the bed, I kept
11 hearing this banging sound. I didn't know where it was
12 coming from, so I stuck my head out the door, the front
13 door and --

14 Q I'm going to stop you. From your front door, can you
15 see their trailer?

16 A Correct, yes, ma'am.

17 Q So when -- you said you stuck your head out, what did
18 you see then?

19 A I saw Mr. Joe banging on the window of Ms. Doris'
20 car.

21 Q Was the car running?

22 A I couldn't tell. I don't recall. I know the
23 headlights was on.

24 Q The headlights of the car were on?

25 A Yes, ma'am.

1 Q All right. And could you see what he was doing?

2 A Just banging on the window.

3 Q And what did you do at that point?

4 A Closed the door and went back to bed.

5 Q Did it appear that he saw you?

6 A Yes.

7 Q How do you know he saw you?

8 A Because I looked at him. We looked at each other.

9 Q Did he acknowledge you? Did he say anything?

10 A No, ma'am.

11 Q Did he give you any kind of look?

12 A No, ma'am.

13 Q He just looked at you and you went back in the house?

14 A Yes, it was a weird look.

15 Q A weird look, what do you mean by a weird look?

16 MS. GOODE: Objection, Your Honor, speculation.

17 THE COURT: You can't speculate.

18 BY MS. SAMPSON:

19 Q How did it appear to you? How did you take it?

20 A I took it as --

21 MS. GOODE: Same objection, Your Honor.

22 THE COURT: Overruled. Do not speculate. You can

23 testify as to what you believe you saw.

24 THE WITNESS: I just looked out the door. He looked

25 at -- we, basically, locked eyes and I went back in the

1 house.

2 BY MS. SAMPSON:

3 Q And you can answer the question, how did it appear to
4 you? How did you take it?

5 A I took it as odd.

6 Q And you went back in your house?

7 A Yes, ma'am.

8 Q What happened after that?

9 A I went to bed.

10 Q Okay. Did anything wake you up?

11 A No, ma'am.

12 Q What happened when you did get back up?

13 A When I got up the next morning, I went back outside
14 to smoke a cigarette and I saw an officer's car parked in
15 Ms. Doris' yard.

16 Q You saw an officer's car?

17 A A patrol car sitting in Ms. Doris' yard. And one of
18 her relatives -- the patrol car left and --

19 Q What happened after the patrol car left?

20 A Someone came. I didn't know who their relatives
21 were, but someone came and they asked me did I see them
22 this morning.

23 Q Asked you did you see them, meaning the Marshalls?

24 A Right, the Marshalls that morning. I said, No,
25 ma'am. Then she walked around the trailer and when she

1 walked around the trailer, she came back from all the way
2 around and --.

3 Q I'm going to stop you for a second.

4 A Yeah.

5 Q When you say she, who are you talking, a relative?

6 A A relative, yes, ma'am.

7 Q So she -- what is she doing?

8 A She walked around the trailer and when she came from
9 behind the trailer, that's when she came out yelling.

10 MS. GOODE: Objection, Your Honor.

11 THE COURT: What's the objection?

12 MS. GOODE: Hearsay.

13 THE COURT: Overruled.

14 Go ahead.

15 BY MS. SAMPSON:

16 Q You can say what she was yelling. What was she
17 yelling?

18 A She's dead.

19 Q That's what she yelled to you?

20 A Uh-huh.

21 Q And what did you do?

22 A She asked me could -- I have boys, so she asked me
23 could one of my boys kick the door down.

24 Q And how old were your boys at the time?

25 A Fourteen and seven.

1 Q Okay. And she asked you could they help?

2 A Right.

3 Q And what did you do based on that?

4 A I told her no, I would do it.

5 Q So what did you do?

6 A We walked over -- well, my son walked over and tried

7 to kick the door in, but I told him, No, you go back.

8 I'll do it. And --

9 Q Did you do that?

10 A Yes.

11 Q And what did you see when you kicked in the door?

12 A When I walked -- when I kicked in the door, that's

13 when I seen Ms. Doris on the chair.

14 Q And was she -- where was she located in the house,

15 was it to the right --

16 A To the right on the sofa chair, two-seat sofa chair.

17 Q So a sofa?

18 A Uh-huh.

19 Q Did you touch her?

20 A No, ma'am.

21 Q What did you do?

22 A I just looked at her.

23 Q And then what did you do?

24 A I called 9-1-1.

25 Q From your phone? Did you back to your house or what

1 did you do?

2 A I don't remember.

3 Q Did you stay in the room or did you go outside?

4 A I walked outside the trailer.

5 Q And you stated that you called 9-1-1?

6 A I did.

7 Q Earlier today, did you listen to that call?

8 A Yes, ma'am.

9 Q Did the call that we played you accurately depict
10 what you said to 9-1-1 on that date?

11 A Yes, ma'am.

12 MS. SAMPSON: At this time, we'd ask to enter State's
13 Exhibit No. 4 into evidence?

14 MS. GOODE: Renew our prior objection.

15 THE COURT: All right. Overruled.

16 You may play it.

17 (WHEREUPON, State's Exhibit No. 4 was admitted
18 into evidence.)

19 (WHEREUPON, the 9-1-1 call was played for the
20 jury.)

21 BY MS. SAMPSON:

22 Q That's it for you, correct? At some point, did
23 somebody else get on the phone?

24 A (Witness nods head.)

25 Q I'm sorry, you have to say yes or no.

1 A Yes.

2 Q Who got back on the phone?

3 A One of her relatives, one of Ms. Doris' relatives.

4 Q And I think I asked you this, I just want to make
5 sure. When you saw Ms. Marshall in the room, did you
6 touch her at all?

7 A No, ma'am.

8 Q Did you move anything?

9 A No, ma'am.

10 MS. SAMPSON: Beg the Court's indulgence.

11 (Pause.)

12 MS. SAMPSON: No more questions. Please answer
13 whatever else they have for you, okay?

14 MS. GOODE: May it please the Court, Your Honor?

15 THE COURT: Yes, ma'am.

16 CROSS-EXAMINATION

17 BY MS. GOODE:

18 Q Good afternoon.

19 A Good afternoon.

20 Q I just have a few questions for you.

21 A Yes, ma'am.

22 Q So you were living in Bel-Aire Mobile Home Park at
23 the time in August of 2015?

24 A Yes, ma'am.

25 Q And what number was your trailer?

1 A I can't remember. Six, 12, I'm not sure.
2 Q Six or 12 or 612?
3 A Six or 12.
4 Q Okay. And you're aware of Pee Wee, right, from the
5 neighborhood?
6 A Yes, ma'am.
7 Q And he was burglarizing houses in the neighborhood?
8 A No, ma'am.
9 Q Not that you know of?
10 A No, ma'am.
11 MS. GOODE: Okay.
12 (Pause.)
13 MS. GOODE: No further questions.
14 THE COURT: Redirect?
15 MS. SAMPSON: No, sir.
16 THE COURT: All right. Thank you, ma'am. You may
17 step down.
18 (Witness steps down.)
19 THE COURT: I'm going to assume these witnesses are
20 excused unless someone tells me to hold them to their
21 subpoena, okay?
22 MS. SAMPSON: Yes, sir, we would ask.
23 THE COURT: Okay. Call your next witness.
24 MS. SAMPSON: Thank you, Your Honor. The State calls
25 Jackie Richburg.

1 JACKIE RICHBURG, after being duly
2 sworn, testified as follows:

3 THE CLERK: Please have a seat in the witness stand
4 and state your name for the record.

5 THE WITNESS: Jacqueline Richburg.

6 MS. SAMPSON: Thank you, Your Honor. May it please
7 the Court?

8 THE COURT: Yes, ma'am.

9 DIRECT EXAMINATION

10 BY MS. SAMPSON:

11 Q Ms. Richburg, where do you work?

12 A 911 communications center.

13 Q How long have you worked there?

14 A Thirty-five years.

15 Q And what is your job there?

16 A Deputy director.

17 Q And as the deputy director, do you have access to the
18 calls that are made to 9-1-1?

19 A Yes.

20 Q And how are they kept?

21 A They're kept as part of our normal daily operations
22 and they are secured on a database.

23 Q Okay. And attached to those calls, is there
24 sometimes an incident detail report?

25 A Yes.

1 Q And how are those kept?

2 A Same fashion. Whenever we receive a call, whether
3 it's 9-1-1 or an admin line, the information is stored in
4 the system, in our CAD system.

5 Q You said CAD system?

6 A Yes.

7 Q So a CAD report and an incident detail report, are
8 those the same thing?

9 A Yes, it is.

10 Q I'm going to show you what's been marked as State's
11 Exhibit No. 11, 5 and 103 and ask you do you recognize
12 those things?

13 A Yes.

14 Q Okay. I'm going to start with the two reports. What
15 is No. 5?

16 A It's a detailed CAD incident report for August 15th
17 at 9:07 in the morning.

18 Q And what is State's Exhibit No. 103?

19 A It's a CAD incident report for August 15th at 1:30 --
20 1:17 in the afternoon.

21 Q State's Exhibit No. -- I believe it's No. 4, is that
22 the -- earlier today, you listened to a call?

23 A Yes.

24 Q Did that call accurately reflect what you knew to be
25 a call made on August 15th?

1 A Yes, yes.

2 Q And do those two reports, State's 5 and State's 103,
3 accurately reflect what was made as a business record for
4 both those calls?

5 A Yes.

6 MS. SAMPSON: At this time, Your Honor, we'd ask to
7 move State's Exhibit 5, 103 and 11 into evidence?

8 THE COURT: I thought you just said 4?

9 MS. SAMPSON: I'm sorry, 4 is already in.

10 THE COURT: Four is already in. What's 11?

11 MS. SAMPSON: State's 11 is the other call, the
12 second call.

13 THE COURT: Any objection to 5, 103 and 11?

14 MS. GOODE: No, Your Honor.

15 THE COURT: Okay. Admitted without objection.

16 (WHEREUPON, State's Exhibit Nos. 5, 11 and 103
17 were admitted into evidence.)

18 BY MS. SAMPSON:

19 Q And I think you said this, but one call was made at
20 what time, the first call?

21 A At 9:07 in the morning.

22 Q Okay. And the second call was made at what time?

23 A At 1:17 in the afternoon.

24 Q And does it tell you on that who made that second
25 call?

1 A Yes.

2 Q What was the name on that second call?

3 A Yolonda Jackson.

4 MS. SAMPSON: Beg the Court's indulgence.

5 (Pause.)

6 MS. SAMPSON: No further questions, Your Honor.

7 THE COURT: Cross?

8 MS. GOODE: No questions, Your Honor.

9 THE COURT: Thank you, ma'am. You may step down.

10 You may call your next witness.

11 MR. MCGLOTHIN: The State calls Robert Marshall, Jr.

12 MS. SAMPSON: Sorry, Your Honor, they have him.

13 They're bringing him.

14 ROBERT MARSHALL, JR., after being
15 duly sworn, testified as follows:

16 THE CLERK: Please have a seat in the witness stand,
17 and state your name for the record.

18 THE WITNESS: Okay. My name is Robert Rhett
19 Marshall.

20 DIRECT EXAMINATION

21 BY MR. MCGLOTHIN:

22 Q Mr. Marshall, how old are you?

23 A I'm 22 years old.

24 Q Do you currently work?

25 A Yes, sir.

- 1 Q And where do you work?
- 2 A Twisted Spurs in the Vista.
- 3 Q How long have you been working there?
- 4 A About eight months now.
- 5 Q Where do you live currently?
- 6 A 3800 Plowden Road.
- 7 Q Do you live there by yourself?
- 8 A No, with my parents.
- 9 Q Okay. How long have you been living at that address?
- 10 A About 14, maybe 15 years, maybe.
- 11 Q Okay.
- 12 A Like in that complex, yeah.
- 13 Q But not at that specific location?
- 14 A Yeah.
- 15 Q Okay. Are you related to Doris Marshall?
- 16 A Doris, yeah, that's my auntie.
- 17 Q How close -- are you -- so you're also related to the
- 18 Defendant?
- 19 A Yeah.
- 20 Q Okay. And how close would you say your relationship
- 21 was with them?
- 22 A Well, I mean, it was -- like, we family, so, you
- 23 know, I was very close to them.
- 24 Q You were?
- 25 A Just, I haven't talk to my people in a long time.

- 1 Q How often would you say you saw them?
- 2 A It's been some years.
- 3 Q Okay. So it wasn't on like a monthly basis?
- 4 A No.
- 5 Q It had been a little while?
- 6 A Yeah.
- 7 Q Okay. Taking you back to August 15th of 2015.
- 8 A Okay.
- 9 Q Did you see your uncle that day?
- 10 A Yes, sir, I was there that night, yes, sir.
- 11 Q Where did you see them?
- 12 A He came to my house.
- 13 Q Okay.
- 14 A Like, yeah.
- 15 Q When -- about what time, do you remember?
- 16 A It could have been like 6:00, maybe.
- 17 Q But in the morning? Early in the morning?
- 18 A Early in the morning, yeah.
- 19 Q Were you awake at the time?
- 20 A No.
- 21 Q So you woke up when he arrived?
- 22 A Yeah, I, basically, woke up. I heard somebody
- 23 knocking on the door and I didn't know who it was, so when
- 24 I went downstairs, it was my uncle. Then I go back
- 25 upstairs and lay down. Then my dad called me back down.

1 That's when we heard what happened.

2 Q Okay. So your dad was also there at the time?

3 A Yeah.

4 Q Okay. What did you hear happened?

5 A Like, he told me -- he was like he knows he messed
6 up. He was like my Auntie Doris -- like, I guess they was
7 arguing a little bit and she ended up trying to grab the
8 gun from him and it went off.

9 Q How did your uncle seem? Was he --

10 A It seemed like he was heartbroken, like he felt bad.

11 Q How could you tell?

12 A Looking in his eyes, you could actually see him.

13 Q Was he crying, was he angry?

14 A I mean, he just knew he messed up. Like, I didn't
15 see him cry or nothing, but I actually like seen that he
16 was looking down or whatever.

17 Q Okay. And what was he wearing that night -- or that
18 morning, excuse me?

19 A Yeah, he was wearing like a white t-shirt and blue
20 jeans.

21 Q How did he get to your apartment then?

22 A He drove in like a gray van four-door.

23 Q Had you ever seen that before?

24 A I think that was his car. I think I seen that
25 before.

1 Q And on the aside, does your father drive?

2 A No.

3 Q Okay. He doesn't. So taking you back to what your
4 uncle told you that night?

5 A Uh-huh.

6 Q Did he say why it happened? I think you said there
7 was an argument?

8 A Yeah, that's all I remember, he was like they was
9 arguing or whatever, or something. That's really all I
10 could remember.

11 Q Did he say why he had the gun out?

12 A No, sir.

13 Q He didn't say anything about it?

14 A I don't remember.

15 Q Did he say when this happened?

16 A Just that night. He was like -- when he came to my
17 house or whatever, he was like he just knows he messed up.
18 Like, that's all I kind of remember. He didn't tell me
19 like literally why. He just knew he messed up, like.

20 Q How did you react to hearing that news?

21 A Like that was just a shock, that was the worst news I
22 ever heard in my life to be honest with you.

23 Q Did your uncle have the gun with him?

24 A Yes, sir.

25 Q He did? Did he show it to you?

- 1 A Yeah.
- 2 Q All right. What kind of gun was it?
- 3 A A double-barrel shotgun.
- 4 Q Are you familiar with guns at all?
- 5 A Not really.
- 6 Q But it was just a double-barrel shotgun?
- 7 A Yeah.
- 8 Q What did you do after he told you this story?
- 9 A Like, when he told us and, like, when he left or
- 10 whatever, like, we called the police.
- 11 Q You called the police?
- 12 A Me and my pop, my parents, yeah.
- 13 Q Did your uncle stay there with you?
- 14 A He didn't -- no, he didn't stay long, but he did told
- 15 us like, you know, to call the police, let them know what
- 16 he did and stuff like that, so, yeah.
- 17 Q Did you call anyone?
- 18 A Yeah, when he left, we called the police.
- 19 Q Did you call them after?
- 20 A Oh, yeah, yeah. We was trying to, like, get in touch
- 21 with a lot of people. I didn't have my cousin's numbers
- 22 and stuff like that, so I called my sister. My mom was
- 23 calling people trying to get around, stuff like that, so
- 24 we was calling around.
- 25 Q And why were you calling around, just to spread the

1 news?

2 A To let them know, like, you know, what happened.

3 Q But you --

4 A And can we -- like, try to get in touch with my
5 cousin, Tamieka, and try to get in touch with everybody to
6 let them know what exactly he told us.

7 Q But you say you -- I think you corrected yourself
8 before you got into that. Did you call 9-1-1 while he was
9 there or after he left?

10 A Yeah, it was after he left, yes, sir. Sorry about
11 that.

12 Q Is your uncle in the courtroom today?

13 A Yes, he is.

14 Q Could you describe what he's wearing and where he's
15 sitting?

16 A Yes, sir, right there. He's wearing a white shirt
17 and a blue tie.

18 MR. MCGLOTHIN: Please let the record reflect he's
19 identified the Defendant.

20 THE COURT: Yes, sir.

21 MR. MCGLOTHIN: Please answer any questions the
22 Defense may have for you.

23 THE WITNESS: Yes, sir.

24 MS. GOODE: May it please the Court, Your Honor?

25 THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. GOODE:

Q Good afternoon, Mr. Marshall.

A How you doing, ma'am?

Q So Mimi Joe and your father are brothers?

A Yes, ma'am.

Q He's your paternal uncle, right?

A Yes, ma'am.

Q And you're 22 years old?

A Correct.

Q And Mimi Joe and Doris, they were married for pretty much your whole life?

A Pretty much, yeah.

Q And you said it was in the early morning hours on --

A Yes, ma'am.

Q -- that --

A I really can't remember the time. I just know it was still dark and early.

Q It woke you up?

A Yeah.

Q And you open the door and it's your uncle?

A Yeah, it was my uncle.

Q And he tells you?

A He was like go get my dad or whatever. So when I got my dad, that's when I went back upstairs, laid back down

1 and then my dad called me back down.

2 Q You could tell something was wrong with him?

3 A Yeah, I knew it was something.

4 Q You said he was heartbroken?

5 A Yeah, he just seemed sad, like, I never seen him that
6 way before.

7 Q And you said he was wearing a white t-shirt?

8 A Yes, ma'am.

9 Q Not a tank top?

10 A No.

11 Q And he had on blue --

12 A Blue jeans, yes, ma'am.

13 Q Blue jeans. And he told y'all he didn't mean to do
14 it?

15 A Yes.

16 Q And that he was going to kill himself?

17 A Yes.

18 Q And you both urged him not to do that?

19 A Yes.

20 Q He had the gun with him?

21 A He did.

22 Q And he told y'all to call the police?

23 A Uh-huh.

24 Q Tell them what he did?

25 A Yeah.

1 Q And that's what y'all did?

2 A Yes, ma'am.

3 Q And he left?

4 A Yes.

5 Q With the gun?

6 A Yes.

7 MS. GOODE: Beg the Court's indulgence.

8 (Pause.)

9 MS. GOODE: No further questions.

10 THE COURT: All right. Redirect?

11 MR. MCGLOTHIN: Nothing further.

12 THE COURT: All right. All right. Thank you very
13 much. You can step down.

14 THE WITNESS: Thank you,

15 (Witness steps down.)

16 THE COURT: All right. Call your next witness.

17 MR. MCGLOTHIN: State calls Woodie Boykin.

18 WOODIE BOYKIN, after being duly
19 sworn, testified as follows:

20 THE CLERK: Thank you. Please have a seat in the
21 witness stand and state your full name for the record.

22 THE WITNESS: Edward Woodward Boykin, Jr.

23 DIRECT EXAMINATION

24 BY MR. MCGLOTHIN:

25 Q Mr. Boykin, where do you work?

1 A Richland County Emergency Services.

2 Q And what do you do there?

3 A A shift manager currently.

4 Q How long have you been working there?

5 A I've been working there since 2006.

6 Q Okay. What do your duties include as a shift

7 manager?

8 A Currently, as a shift manager, just daily operations,

9 manage approximately 30 to 40 people. We run numerous

10 ambulances and just day-to-day operations. At the time of

11 the call, I was still a street medic, senior paramedic at

12 the time of this incident.

13 Q And what would be the duties of a street medic, as

14 you call it --

15 A Respond to 9-1-1 calls.

16 Q Okay. And you kind of alluded to this. On

17 August 15th, 2015, you were working that day?

18 A Yes.

19 Q And you were called out to Leesburg, right?

20 A Yes.

21 Q What was the call for?

22 A I'd have to see the run report. I don't remember

23 exactly what it was summonsed as.

24 Q If I showed you the report, it would refresh your

25 recollection?

1 A Yes, yes. The call was dispatched emergent for a
2 GSW, gunshot wound.

3 Q And so you went out to the scene?

4 A Correct.

5 Q Were you the first ones there?

6 A No, upon arrival, CFD, Columbia Fire Department, and
7 RCSD, Richland County Sheriff's Department, was on scene.

8 Q What did you see when you arrived other than those
9 other people?

10 A I'll have to read you the report here to tell you
11 what exactly I saw.

12 Q Take your time.

13 A Deputy escorted EMS to the location of the patient.
14 EMS was able to visualize the patient from the front door
15 of the home without entering. Noted brain matter on the
16 floor. The patient was sitting on a couch to the right of
17 the front door, leaning to her right with her head down.
18 Noted injury to the head inconsistent with life, skull
19 fragment on the back of the couch, noted brain matter.
20 Blood splatter around the patient. The patient had no
21 respiratory effort, no signs of life, noted coagulation of
22 blood on and around the patient, lividity and notified
23 dispatch of D.O.A.

24 Q Do you remember what the room looked like other than
25 the way you described it there with the sofa?

1 A I do not.

2 Q You don't remember, okay. Do you remember where

3 she -- I think you said she was sitting, leaned over?

4 A Yes, patient was sitting on the couch on the right of

5 the front door.

6 Q Okay.

7 A She was leaning to her right with her head down.

8 Q And what was the injury, where was it on the body?

9 A Noted injury to the head, inconsistent with life,

10 skull fragment on the back of the couch, noted brain

11 matter, blood splatter around the patient. I could not

12 determine exactly where the injury was.

13 Q Okay.

14 A Other than to the head, of course.

15 Q Did you do anything else -- did you actually

16 administer any care or anything that day?

17 A No.

18 Q Was she alive when you got there?

19 A No, it was obvious signs of death as noted in the

20 report.

21 Q Did you call anyone? I know --

22 A Our normal procedure is when we have a -- we notify

23 dispatch of a D.O.A. and -- that's dead upon arrival, so

24 the call would just goes out to dispatch, and then

25 dispatch notifies the coroner.

1 MR. MCGLOTHIN: Nothing further. Please answer any
2 questions the Defense may have.

3 MS. GOODE: We have no questions, Your Honor.

4 THE COURT: All right. Have a nice day.

5 MS. GOODE: Thank you.

6 THE COURT: Call your next witness.

7 MS. SAMPSON: May we approach, Your Honor?

8 THE COURT: Stand up, stretch. Don't talk about the
9 case. Stand up, stretch your legs.

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but outside the hearing of the jury.)

12 THE COURT: All right. Have a seat, ladies and
13 gentlemen. So we thought -- so when you do a trial, you
14 never know how long things are going to take. As much as I
15 ask the lawyers to guess, sometimes it's hard to schedule
16 things and there's a million different moving parts that's
17 going on. So that's all the testimony that we're going to
18 take today, so we're going to go ahead and stop right there.

19 Generally speaking, we will stop around 5:00 or
20 5:30 each day. What I mean by that is if we get to
21 5:00 o'clock and the next witness is short, we will push
22 through and finish them. If we get to 5:00 o'clock and the
23 next witness is long, we'll stop for the day and be done at
24 that point in time. We're going to go ahead and stop for
25 today.

1 Now, we have started the trial. I want you to remember
2 that this morning, you made a promise. You made a promise
3 to me. You made promise to each other, to yourselves. You
4 made a promise to the parties. You made a promise to the
5 lawyers that you will base your decision on what happens
6 here in the courtroom, that you're going to follow my
7 instructions. You're not going to watch any news media
8 about this case. You're not going to do any research on
9 this case. You're not going to discuss this case with
10 anyone in any way, shape, or form. You can, certainly, tell
11 people you're on a jury, but you should not tell them what
12 case you're on or anything about the case. When you come
13 back tomorrow morning, I want you just like you are right
14 now.

15 Now, we are going to start at 9:30 in the morning, 9:30
16 tomorrow morning. That means y'all need to be here by 9:15.
17 We'll be ready to go at 9:30. We'll jump right into this
18 first witness and we will probably have witness testimony
19 that carries us all the way through the end of the day
20 tomorrow. So you need to plan on being here tomorrow. If
21 you're cold or you're hot or -- the temperature will be
22 about the same. The temperature in this building is
23 actually controlled in Atlanta, as crazy as that may sound,
24 so it's very difficult for me to change the temperature. So
25 if you want to bring a jacket or whatever to make you as

1 comfortable as possible, please do that.

2 Please get a good night's sleep. You are not to
3 discuss the case with anyone in any way, shape, or form.
4 You are to keep an open mind. And we'll start tomorrow
5 morning at 9:30. Just follow Mr. Dye right out that door.
6 Thank you very much.

7 Everyone else remain seated.

8 (WHEREUPON, the jury left the courtroom at 4:04
9 p.m.)

10 THE COURT: All right. Anything from the State
11 before we break?

12 MS. SAMPSON: No, sir, Your Honor, other than to
13 apologize.

14 THE COURT: That's okay.
15 From the Defense?

16 MS. GOODE: Nothing, Your Honor.

17 THE COURT: All right. Do you have clothes for him
18 for tomorrow?

19 MS. GOODE: Yes.

20 THE COURT: Okay. Good.

21 See y'all tomorrow morning at 9:30. Thank you very
22 much.

23 (WHEREUPON, the proceedings were adjourned to be
24 reconvened on Tuesday, October 31, 2017.

25 TUESDAY, OCTOBER 31, 2017

1 (WHEREUPON, State's Exhibit Nos. 104 and 105 were
2 marked for identification only.)

3 THE COURT: All right. Anything from the State we
4 need to take up before we get started?

5 MS. SAMPSON: No, Your Honor.

6 THE COURT: Okay. What about from the Defense?

7 MS. GOODE: Just quickly, Your Honor. We realized
8 this morning we don't have Lindsay Edwards' rap sheet. We
9 got that from the State just now.

10 THE COURT: Okay.

11 MS. GOODE: And then a few witnesses that will be
12 testifying today, I'm guessing, for the State, Michelle
13 Hopkins, Yolonda Jackson and Tamieka Marshall, I, again,
14 just wanted to clarify with the State what they would be
15 testifying to.

16 THE COURT: Okay.

17 MS. GOODE: And to again ask that no 404(b)
18 information would be coming out regarding domestic
19 violence issues.

20 Specifically, I believe Yolonda Jackson, she's one of
21 the ladies that called 9-1-1 --

22 THE COURT: Right.

23 MS. GOODE: -- later in the day. And some
24 information we received from the State a couple weeks ago
25 says that Mimi Joe is mean and he was not nice to the

1 victim and things like that. I would ask that that
2 testimony not be allowed, again, under 404(b).

3 THE COURT: All right. What's the State's intention
4 with that?

5 MS. SAMPSON: Ms. Jackson is the 9-1-1 caller. We
6 would be calling her for that reason. She does know the
7 Defendant. How she knows him can come in, but we've
8 instructed them all not to go into any kind of abusive
9 situation or anything like that between the Defendant and
10 the victim.

11 THE COURT: Are they in here right now?

12 MS. SAMPSON: Ms. Jackson's not here. Tamioka
13 Marshall is here, but Ms. Jackson's not here yet.

14 THE COURT: Do I need to tell her that or do y'all
15 think y'all -- whoever has her as a witness has
16 sufficiently explained that to her?

17 MS. SAMPSON: We told her. We were, out of an
18 abundance of caution, telling them everything she said,
19 but we had no intentions of asking her.

20 THE COURT: Sure.

21 MS. GOODE: And I'm not bringing that up, as well.

22 THE COURT: That's what you should do. I don't have
23 a problem with that, I just -- you all know these people,
24 I don't. I'm not saying anything about them, because I
25 don't know them to say anything about them. But we all

1 know there's some people that sometimes it's better coming
2 from me than coming from the lawyer or they're difficult
3 or, you know, whatever it maybe. If we need that
4 situation, just say hey, Judge, can we take a time out and
5 I'll send the jury out and then I can say it to the
6 person.

7 MS. SAMPSON: If we get to that issue -- we plan to
8 lead her just a little just to be on the safe side.

9 THE COURT: Okay. But she's mainly calling for the
10 9-1-1?

11 MS. SAMPSON: Yes.

12 THE COURT: All right.

13 MS. GOODE: I'm fine if that's what her testimony is.

14 THE COURT: Great.

15 Anything else?

16 MS. SAMPSON: I think Ms. Moser already told you
17 about Mr. Edwards.

18 THE COURT: Right. We'll deal about him.

19 MS. SAMPSON: And we did give her the rap.

20 THE COURT: That's okay.

21 You've got the rap now?

22 MS. GOODE: Yes, sir.

23 THE COURT: We'll deal with him a little bit closer
24 to the lunch hour.

25 Okay. Let's bring them in.

1 (WHEREUPON, the jury entered the courtroom at 9:34
2 a.m.)

3 THE BAILIFF: The jury is seated, Your Honor.

4 THE COURT: All right. All right. Good morning.
5 Welcome back. Thanks for being on time. We'll continue
6 now.

7 The State may call their next witness.

8 MS. SAMPSON: At this time, the State would call
9 Preston Wider.

10 PRESTON WIDER, after being duly
11 sworn, testified as follows:

12 THE CLERK: Thank you. Please have a seat in the
13 witness stand. State your name for the record.

14 THE WITNESS: My name Preston Wider, the third.

15 THE COURT: Would you spell your last name for us?

16 THE WITNESS: W-I-D-E-R.

17 THE COURT: All right. Stay close to that microphone
18 so everybody can hear you, okay, Mr. Wider?

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you, Mr. Wider.

21 THE WITNESS: Good morning.

22 DIRECT EXAMINATION

23 BY MS. SAMPSON:

24 Q Good morning, Mr. Wider.

25 A Good morning.

- 1 Q Where do you work?
- 2 A At Johnson Food Service at Fort Jackson.
- 3 Q And what do you do there?
- 4 A I'm the project manager.
- 5 Q And what does the project manager do?
- 6 A We have nine dining facilities and I oversee the
- 7 operations of all nine of them. And we have about 700
- 8 employees out there.
- 9 Q And did Doris Marshall work for you?
- 10 A Yes, she did.
- 11 Q What was her job at Fort Jackson?
- 12 A She was a dining facility attendant. That means she
- 13 cleaned up. During the mealtimes, they served. When the
- 14 meal's over, they clean up and get ready for the next
- 15 meal.
- 16 Q And who were you all serving?
- 17 A The soldiers at Fort Jackson.
- 18 Q And how do you know when she was there? What did she
- 19 have to do?
- 20 A When the employees come in, they sign in on a time
- 21 control log and they sign out when they go on break. They
- 22 sign back in, then they sign out at the end of the shift.
- 23 Q And do they -- to get on base, do they have to wear
- 24 any kind of ID?
- 25 A Yes, all of the employees have an ID badge, such as

1 the one I have, but also now, they have to have a DBS card
2 that's issued by the military.

3 Q And in 2015, she just had to have the badge sort of
4 like what you had on?

5 A Right.

6 MS. SAMPSON: May I approach the witness, Your Honor?

7 THE COURT: Yes, ma'am.

8 BY MS. SAMPSON:

9 Q I want to show you what's been marked as State's
10 Exhibit No. 40 and ask you do you recognize that?

11 A This is a printout of the time control that we do in
12 our office.

13 Q And whose printout is that, which employee?

14 A This is Ms. Marshall's.

15 Q And does that copy fairly and accurately depict her
16 hours that were worked the week to her death?

17 A Yes.

18 Q And is that kept in the normal course of your
19 business?

20 A Well, the time control log that they sign in the
21 building, they turn them into the main office every day.
22 And we have a payroll clerk that keys it all into the
23 system there at the office. This is the printout we get.

24 Q And it makes it look like that?

25 A Yes.

1 Q Is that a fair and accurate depiction of the hours
2 that she worked?

3 A Yes.

4 MS. SAMPSON: At this time, we'd ask to introduce
5 State's Exhibit No. 40 into evidence?

6 MS. GOODE: No objection.

7 THE COURT: All right. Admitted without objection.

8 MS. SAMPSON: And we have it on a book so we can show
9 the jury.

10 (WHEREUPON, State's Exhibit No. 40 was admitted
11 into evidence.)

12 THE COURT: All right. Ladies and gentlemen, one
13 thing while they're setting that up. So all attorneys,
14 regardless of if it's a civil case or a criminal case, all
15 attorneys like to show things to the jury differently,
16 okay. So some attorneys will use this big screen. Some
17 attorneys will use big pieces of poster board. Some
18 attorneys will just use the actual document themselves.

19 When you begin deliberating in this case, you'll have
20 all the evidence that's admitted as exhibits back with
21 you, and you'll have the time to sit down and go through
22 it and look at it in more detail. So don't think just
23 because you see something for five seconds that you're not
24 going to get to see it later. If it's admitted as an
25 exhibit, it will be back in the jury room with you

1 regardless of how the attorneys show it to you out here.
 2 And I'm pretty lenient with the attorneys. Some like to
 3 pass it around, some like to blow it up. Whatever works
 4 for them, I let them try their case. But you'll have it
 5 back with you in the jury room when you begin
 6 deliberating.

7 Go ahead, Ms. Sampson.

8 MS. SAMPSON: Thank you, Your Honor.

9 BY MS. SAMPSON:

10 Q So Mr. Wider, you have the actual copies, so I'll let
 11 you stay right there. But this starts on August 1st, is
 12 that correct, down at the bottom?

13 A Correct.

14 Q And it shows -- explain to me what is this first
 15 column? What that is, where it says employee, is that her
 16 ID number?

17 A Yes.

18 Q And then what's the next thing?

19 A The names.

20 Q All right. And then what is J06?

21 A That's the job code for dining facility attendant.

22 Q And then building 54 or is that S?

23 A 5455.

24 Q What is that?

25 A All the buildings are numbered and that's the number

- 1 of the building she works in.
- 2 Q So she worked in the same building every day?
- 3 A Yes.
- 4 Q And then where it says one and two, what does that
- 5 mean?
- 6 A That's where they sign in and out, how many times
- 7 they sign in and how many times they sign out.
- 8 Q Okay. And did they get breaks where she worked?
- 9 A Yes.
- 10 Q So I'm going to put you to August 14th. What time
- 11 did she go in on August 14th?
- 12 A Two o'clock.
- 13 Q And then what time did she leave?
- 14 A At the end of the day, it was 10:15.
- 15 Q As you look on here, did she always get out at 10:15
- 16 or did her hours fluctuate?
- 17 A The getting off time would fluctuate, depending on
- 18 what the military was doing or how many employees showed
- 19 up that day or how many we had to feed that day because it
- 20 would vary sometimes.
- 21 Q Okay. So sometimes she would get off -- and these
- 22 are in military hours, so where it says 2215, that's
- 23 10:15?
- 24 A 10:15, yes.
- 25 Q And say, on August 13th, she got out at 2135?

1 A Right.

2 Q So the difference in time is because it took longer
3 to clean up or less time, is that what you're saying?

4 A Right.

5 MS. SAMPSON: I have no further questions for this
6 witness, Your Honor.

7 THE COURT: All right. Cross-examination.

8 MS. GOODE: Thank you, Your Honor. May it please the
9 Court?

10 THE COURT: Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MS. GOODE:

13 Q Hi, Mr. Wider, how are you?

14 A Great.

15 Q So I just want to go down a little bit further
16 because Ms. Sampson didn't do that. So there are several
17 times throughout the week where she's clocking in and
18 clocking out?

19 A Right.

20 Q So we've got 8/13, we also have 8/12 where she
21 clocked out at 2140; is that right?

22 A Right.

23 Q So it's 9:40. And then on 8/11, she clocks out at
24 2240?

25 A Right.

1 Q So that would be 10:40 p.m.?

2 A Correct.

3 Q And like you said, you know, it may vary depending on
4 how much work needs to be done and things of that nature?

5 A Correct.

6 MS. GOODE: Beg the Court's indulgence.

7 (Pause.)

8 MS. GOODE: Nothing further.

9 THE COURT: Okay. Redirect?

10 MS. SAMPSON: No, sir.

11 THE COURT: All right. Have a nice day, sir. Thank
12 you.

13 THE WITNESS: Thank you.

14 THE COURT: You may call your next witness.

15 MS. MOSER: The State calls Corporal George Norton to
16 the stand.

17 GEORGE NORTON, after being duly
18 sworn, testified as follows:

19 THE CLERK: Please have a seat in the witness stand
20 and state your full name for the record.

21 THE BAILIFF: State your name for the record.

22 THE WITNESS: George Norton, N-O-R-T-O-N.

23 DIRECT EXAMINATION

24 BY MS. MOSER:

25 Q Corporal Norton, where do you currently work?

1 A South Carolina Criminal Justice Academy.

2 Q Okay. And how long have you worked there?

3 A Fourteen months now.

4 Q Okay. And what do you do there?

5 A I teach basic law enforcement cadets subjects, such
6 as strategies of arrest, crimes in progress and active
7 shooter.

8 Q Do you currently carry a gun?

9 A Yes, ma'am, I do.

10 Q Can you tell us a little bit about gun safety?

11 A Sure. One thing I've learned is you never point your
12 gun at anything that you're not willing to kill or shoot.
13 We always keep a weapon pointed in a safe direction, never
14 pointing at anyone and we always are aware of the party --

15 MS. GOODE: Objection, Your Honor. I believe he's
16 giving an opinion.

17 THE COURT: Okay. This is not opinion testimony at
18 this point. Overruled. Go ahead.

19 MS. MOSER: Thank you.

20 THE WITNESS: And we always be aware of our target,
21 what's behind it.

22 BY MS. MOSER:

23 Q Thank you.

24 A Yes, ma'am.

25 Q I'm going to take you back to 2015. Where did you

1 work in August of 2015?

2 A Richland County Sheriff's Department.

3 Q And what was your job title at that point?

4 A I was a corporal shift supervisor.

5 Q Okay. Can you tell us a little bit about that role?

6 A Sure, yes, ma'am. As the shift supervisor, we manage
7 the shift with numerous amounts of deputies, also, who is
8 responsible for disseminating information so we can put it
9 out to the deputies on the shift.

10 We're also assigned parole responsibilities for up to
11 six deputies at a time. And as a supervisor, we were also
12 responsible for being on the scene of all major incidents,
13 such as murder, natural death, things of that sort.

14 Q So back on August 15th of that year, 2015, did you
15 receive a call?

16 A Yes, ma'am, we did.

17 Q Okay. What was that in regards to?

18 A A welfare check. This was at 3976 Leesburg Road in
19 Hopkins. It was a welfare check on Ms. Doris Marshall.

20 Q Do you have your report with you?

21 A Yes, ma'am.

22 Q Okay. And you can reference that.

23 A Sure.

24 Q Was this in Richland County?

25 A Yes, ma'am, this was in Richland County.

1 Q And I believe you said it was in reference to a
2 Ms. Doris Marshall?

3 A Yes, ma'am.

4 Q Can you tell us a little bit more about the call?

5 A Yes, ma'am. We received a call from the brother of
6 Mr. Marshall. I think it was Robert Marshall.

7 Q Okay.

8 A Who stated that his brother, Mimi Marshall, was at
9 his house earlier that morning and stated that he had shot
10 his wife.

11 Q Okay.

12 A And he wanted us to go by the home and check to see
13 if she was there.

14 Q Okay.

15 A So as we arrived, we checked the exterior of the
16 home. Nothing was out of the ordinary, so we just left
17 the residence.

18 Q Okay. Can you describe the residence?

19 A Yes, ma'am. It's a mobile home park. Most of the
20 trailers are in close proximity of each other. I think
21 there's a dirt road that runs right in the middle of it.

22 Q So you actually responded to that scene?

23 A Yes, ma'am, I did.

24 Q Was there anyone else with you at that time?

25 A Master Deputy Furgal was there first.

1 Q And, roughly, how long were you there?

2 A Probably spent about maybe 10 to 15 minutes there.

3 Deputy Furgal was already there, so there was no need for

4 me to stick around.

5 Q And was there anyone else there at that time?

6 A No, ma'am.

7 Q Okay. Do you remember roughly what time that was?

8 A The first call was, roughly, 6:30 and the second call

9 was about 7:30ish.

10 Q Okay. So did you return to the scene?

11 A Yes, ma'am, I did.

12 Q Okay. What happened the second time?

13 A The second time I returned to the scene -- we

14 received a phone call from dispatch saying that the

15 daughter-in-law was there at the scene.

16 Q Okay.

17 A And apparently made -- gained entry to the house

18 through the back door. Once we were there, I made contact

19 with the daughter-in-law named -- another Ms. Marshall,

20 Amanda Marshall, that's what it is.

21 Q Did you learn how she gained entry to the house?

22 A If I can recall correctly, either she solicited help

23 from a neighbor to go in through the back door, and I

24 think the front door may have been damaged, as well.

25 Q Okay. Backing up a little bit, the first time you

1 responded to the scene, I know you didn't go into the
2 residence at that point. Why not?

3 A At that time, Deputy Furgal and myself was there
4 together. I was taking care of this scene and he had
5 another scene, another shooting call. He had to go to
6 that shooting call, so that left us down to two officers
7 on the scene.

8 We was more doing a crowd control more than anything.
9 The family members started to show up, so we did cordon
10 the house off, but we also had to keep our eyes on the
11 crime scene, the preservation of the crime scene.

12 So we had one deputy, Deputy McIntosh, who was
13 handling the crime scene log, and I had positioned myself
14 to where I could see part of the front door and part of
15 the back door so that no one else could go inside.

16 Q Can you tell us a little bit about the crime scene
17 log and how that's used?

18 A Yes, ma'am. The crime scene log is used -- any major
19 incident, anyone who enters or exits the crime scene,
20 their name has to be placed on the crime scene log and the
21 time that they came in and the time that they left out of
22 the crime scene.

23 Q And, again, going back to the first time you arrived
24 on the scene, you didn't go into the trailer at that
25 point?

1 A No, ma'am.

2 Q Is there a reason at that point that you didn't go
3 in?

4 A I met Ms. Amanda Marshall outside and she explained
5 to me what she discovered inside. I didn't feel like
6 there was a reason for me to go in at the time.

7 Q But, I guess, the first call, before you met with
8 Ms. Marshall?

9 A The first call?

10 Q Uh-huh.

11 A Yes, because there was nothing disturbed on the
12 outside of the home, so we had no reason to go inside of
13 the house.

14 Q Okay. Would you be able to go inside the house
15 without a search warrant?

16 A No.

17 Q Okay.

18 A That violates the Fourth Amendment right.

19 Q So the second time you arrive on the scene,
20 Ms. Marshall is there and she has gained entry --

21 MS. GOODE: Objection, Your Honor, she's leading.

22 THE COURT: Sustained.

23 BY MS. MOSER:

24 Q The second time you arrived at the scene, what did
25 you do?

1 A The second time, I made contact with Ms. Amanda
2 Marshall.

3 Q Okay.

4 A And she explained to me what she found inside of the
5 house.

6 Q Okay.

7 A She said that she found --

8 MS. GOODE: Objection, Your Honor, hearsay.

9 THE COURT: Overruled. It's not offered for the
10 truth of the matter asserted.

11 Go ahead.

12 MS. MOSER: Thank you.

13 THE WITNESS: So she explained to me that she
14 discovered her mother inside of the home.

15 BY MS. MOSER:

16 Q How did she discover her?

17 A She said that she was laying on the -- I have it
18 right here. Her mother was in a sitting position with her
19 upper torso slumped slightly to the right on the couch.

20 Q Was she alive?

21 A According to Ms. Marshall, she was not.

22 Q Did you ever see Ms. Doris Marshall?

23 A No, ma'am, I did not.

24 Q Was there anyone else at the scene at that point?

25 A I can't recall. After a while, I did call the

1 investigators and I called the crime scene and we called
2 EMS, as well. That's the only people I know that was on
3 scene.

4 Q Okay. Is that standard protocol?

5 A Yes, ma'am, it is.

6 Q And did those individuals arrive?

7 A Yes, ma'am, they did.

8 Q Do you remember, roughly, what time they arrived?

9 A Between 9:30 and 10:00 o'clock, maybe.

10 Q All right. What did you do while you were waiting
11 for them to arrive?

12 A I started to write the initial report for this case.
13 As the information came, I began to place that information
14 into an incident report.

15 Q Okay. And when these other law enforcement officers
16 arrived, who did you meet with, if anyone?

17 A I did meet with the investigator.

18 Q Did you meet with EMS?

19 A Yes, ma'am. I met with EMS, as well.

20 Q And was anyone else called out to the scene after EMS
21 arrived?

22 A Yes, EMS -- our standard protocol from what I'm used
23 to is EMS calls the coroner if they have no signs of life
24 on the victim.

25 Q Okay. And did you do anything else after that?

1 A No, ma'am.

2 Q Okay. Did you receive any other calls about the
3 Defendant?

4 A Yes, ma'am. We received a BOLO, which is a be on the
5 lookout for, and we had a description of Mr. Marshall and
6 the type of vehicle he was driving, a 2004 Pacifica.

7 Q Okay.

8 A At that time, we did not know what his location was,
9 so we continued our patrol efforts. And later on, we did
10 discover that he was at another location.

11 Q Okay. Where was he?

12 A He was located at Tony's Lounge.

13 Q What is Tony's Lounge?

14 A It's a bar and grill, yes, ma'am.

15 Q And approximately how far is that from the incident
16 location?

17 A It's between 10 and 12 miles, about.

18 Q Okay.

19 A Yeah, between 10 and 12 miles.

20 Q What did you do when you got to Tony's Lounge?

21 A Well, backing up a little bit, we received a call
22 that he was spotted at Tony's Lounge, so that's what
23 brought us to Tony's Lounge. The first responding deputy
24 was Deputy McIntosh, and he did pull up inside of the
25 parking lot. And as I approached, as I was pulling in the

1 parking lot, I saw Mr. Marshall coming out of Tony's
2 Lounge, out of the front door and he started to walk
3 briskly towards the other side of the parking lot, which
4 was on the side of the building.

5 At that time, Deputy McIntosh came around the
6 opposite side, I came around the front side and that's
7 where we apprehended him.

8 Q And I believe you said you were relying on a
9 description?

10 A Yes, ma'am.

11 Q How did that description get to you?

12 MS. GOODE: Objection, Your Honor, calls for hearsay.

13 THE COURT: Overruled.

14 THE WITNESS: We got the description through
15 dispatch.

16 BY MS. MOSER:

17 Q Okay. And you detained him?

18 A Yes, ma'am.

19 Q Okay. And what happened after that?

20 A After that, I placed him in the car. I had Deputy
21 McIntosh to wait on -- his vehicle was on the scene, as
22 well. And we did see the vehicle and we saw a shotgun in
23 the backseat. So at that time, I transported Mr. Marshall
24 to Richland County headquarters.

25 Q Do you see the Defendant here in the courtroom today?

1 A Yes, ma'am, I do.

2 Q Okay. Can you describe him for us?

3 A Sure. He has on a black striped tie, white shirt,

4 black male, bald head.

5 MS. MOSER: Your Honor, let the record reflect the

6 witness has identified the Defendant.

7 THE COURT: Yes, ma'am.

8 MS. MOSER: Beg the Court's indulgence.

9 (Pause.)

10 MS. MOSER: No further questions, Your Honor.

11 THE COURT: Cross-examination.

12 MS. GOODE: Thank you, Your Honor. May it please the

13 Court?

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION

16 BY MS. GOODE:

17 Q Good morning.

18 A Good morning.

19 Q I just have a few questions for you.

20 A Yes, ma'am.

21 Q So the call that -- the first call you received was

22 actually from Mr. Marshall's brother?

23 A Yes, ma'am.

24 Q That was Robert Marshall?

25 A Yes, ma'am.

1 Q And the information you received was that
2 Mr. Marshall had shot his wife?

3 A Yes, ma'am.

4 Q And you said that call came in about 6:30 in the
5 morning?

6 A Approximately 6:30, yes, ma'am.

7 Q And you don't get up with Mr. Marshall until -- or
8 Mr. Mimi Joe Marshall until you're at Tony's Lounge?

9 A Yes, ma'am.

10 Q And you indicated in your report that he raised his
11 hands, surrendered to deputies, and that would have been
12 in your supplemental report?

13 A Yes, ma'am, that's true.

14 Q And at that time, he's placed under arrest?

15 A Yes, ma'am.

16 Q And the car is there at Tony's Lounge?

17 A Yes, ma'am.

18 Q And that's the Chrysler Pacifica?

19 A Yes, ma'am.

20 Q And in that car is a shotgun?

21 A Correct.

22 Q That's right? And there's several other items in the
23 car?

24 A I don't remember the other items.

25 Q And the car is, you said, towed to Richland County

1 headquarters for processing?

2 A Yes, ma'am.

3 Q So it would have been on the sheriff's department,
4 the CSI department to process that car?

5 A Yes, ma'am.

6 Q That wouldn't have been your job?

7 A Not my job, no, ma'am.

8 MS. GOODE: Beg the Court's indulgence.

9 (Pause.)

10 MS. GOODE: No further questions.

11 THE COURT: All right. Redirect?

12 MS. MOSER: Nothing further.

13 THE COURT: Have a nice day.

14 THE WITNESS: Thank you.

15 THE COURT: Call your next witness.

16 MR. MCGLOTHIN: The State calls Robert Furgal.

17 ROBERT FURGAL, after being duly
18 sworn, testified as follows:

19 THE CLERK: Thank you. Please have a seat in the
20 witness stand. State your full name for the record and
21 please spell your last name.

22 THE WITNESS: Robert Furgal, F-U-R-G-A-L.

23 DIRECT EXAMINATION

24 BY MR. MCGLOTHIN:

25 Q Deputy Furgal, where do you work?

1 A I work for the Richland County Sheriff's Department.

2 Q How long have you been employed there?

3 A It will be six years in February.

4 Q And what position do you currently -- I think I
5 called you deputy. Is that your correct rank?

6 A That's fine. We go by deputy. Currently, I'm a
7 corporal.

8 Q I apologize. In looking back at August 2015, what
9 position did you hold then?

10 A In August 2015, I was a master deputy in Corporal
11 George Norton's squad, the one that just testified up
12 here.

13 Q And what sort of duties did a Master Deputy hold?

14 A Master Deputy holds, basically, the assistance shift
15 leader. If the corporal is out or occupied on a critical
16 incident, I'll assume the duties or the supervisor role
17 for the other calls coming in play. I'll also assist with
18 the management of the shift, distributing duties, making
19 sure everyone is on task, checking paperwork and the
20 basic -- you're basically the second hand to the corporal.

21 Q Do you still have the duties of a normal road
22 officer, as well?

23 A Absolutely. You're still on normal patrol duties,
24 answering calls for service, looking for crimes in
25 progress, making citizen contacts, all the normal duties

1 of a deputy.

2 Q Do you carry a firearm?

3 A I do.

4 Q Do you have it on you every day?

5 A I do.

6 Q Could you tell the jury a bit about gun safety?

7 A Sure. We're trained at the Academy in gun safety, as
8 far as how to properly handle a firearm, how to store a
9 firearm, how to break a firearm down, clear your weapon.
10 The weapon remains in the holster unless needed to be
11 drawn for a police action. We're trained at the Academy
12 that you place your weapon on the target that you're going
13 to use it on and only if you do believe you're going to
14 fire upon that target, also, keeping in mind the backdrop
15 behind the target that you're going to use it on for
16 possible damage behind the targets.

17 Q Now, again, taking you back to August of 2015,
18 specifically the 15th. Were you working that day?

19 A Yes, sir, I was.

20 Q And did you get called out to the Leesburg Road
21 address that Corporal Norton just spoke about?

22 A Yes, sir. I believe it was between 6:00 and 6:30 in
23 the morning, we were called to that address for a welfare
24 check at first.

25 Q Could you briefly describe what a welfare check is?

1 A Sure. A welfare check is typically a call by a
2 citizen concerned for the welfare of another. It could be
3 a family member, it could be a neighbor, it could be
4 anything. They're concerned they haven't seen them in a
5 while or have some illnesses or something's not right with
6 their daily routine where they normally would see them.
7 We are asked to go out and check on their well-being.

8 So I responded out there. It is a mobile home park.
9 There's multiple mobile home parks in the area. They're
10 in close proximity. It's thin walls. You can hear
11 someone else talking often. That's why we're called there
12 often for welfare checks, screaming, fighting.

13 I arrived at the address and the lot number that was
14 issued. I don't recall it off the top of my head. I'm
15 sure it's in the report. The initial attempt to make
16 contact, all the points of entry were locked. We checked
17 the front door and the back door. I did a walk around the
18 structure looking for anything like a window broken or
19 something that looked out of ordinary. Nothing appeared
20 to be out of the ordinary. I had no reason to go any
21 further to make entry at that time. Usually, we'll only
22 make entry if there's exigent circumstances. Other than
23 that, we would be violating the victim or subject's Fourth
24 Amendment rights by entering the house.

25 Q Are welfare checks fairly normal in your --

1 A I'd say I can get between none and seven a day, so a
2 fairly normal operation.

3 Q And how often do you need to make entry on a house
4 during one of those?

5 A My career, I've probably done maybe four or five
6 times.

7 Q How long were you at the scene that day?

8 A I remained there quite a little bit the first time I
9 responded. We were told that a key holder was possibly en
10 route to assist us with making entry to make contact with
11 somebody in the house. We were unsure if anyone was in
12 the house or not, the way the call came in. I'd say -- I
13 don't know the time, I don't want to lie to you, but I do
14 recall making contact with dispatch asking for an
15 estimated time of arrival for the key holder. They were
16 still, at least, 30 minutes out. So at that time, we made
17 a decision to clear the scene to answer calls for service
18 that were coming in.

19 Q Okay. Were you there multiple times that day?

20 A I was only there once. When I cleared that scene, we
21 had a critical incident come out, there was shooting at
22 another location that I had to attend to that I stayed on
23 until about 2:00 or 3:00 o'clock in the afternoon.

24 Q So that was your involvement?

25 A That was my involvement in the welfare check, yes,

1 sir.

2 Q All right. Is this -- the mobile home park, is this
3 located in Richland County?

4 A It is.

5 MR. MCGLOTHIN: Okay. Nothing further. Please
6 answer any questions the Defense may have.

7 THE WITNESS: Sure.

8 THE COURT: Cross-examination.

9 MS. GOODE: Thank you, Your Honor. May it please the
10 Court?

11 THE COURT: Yes, ma'am.

12 CROSS-EXAMINATION

13 BY MS. GOODE:

14 Q Good morning.

15 A Good morning.

16 Q So you indicated that you received a call around
17 6:30 in the morning?

18 A It was sometime around there. I don't remember the
19 exact time, around there.

20 Q Okay. Would blood on the window outside, would that
21 have given you exigent circumstances to go inside?

22 A Possibly. If I would have noticed it, I may have
23 done some different things, but during my walk around, I
24 didn't observe blood.

25 Q Okay.

1 A I was mainly looking -- I didn't go up close to the
2 windows. I was mainly looking for a broken window at that
3 time, so I didn't get real close to see it.

4 Q But you were looking at the outside windows around
5 the trailer?

6 A I did look around the outside of the structure,
7 looking for signs of damages, yes, ma'am.

8 MS. GOODE: Okay. Thank you.

9 THE COURT: Redirect?

10 MR. MCGLOTHIN: Nothing further.

11 THE COURT: Have a nice day.

12 Call your next witness.

13 MS. SAMPSON: Beg the Court's indulgence.

14 (Pause.)

15 MR. KRZYSTON: We have a matter of law.

16 THE COURT: All right. Ladies and gentlemen, go back
17 to your jury room. Do not discuss the case. Keep an open
18 mind. We'll be back with you in a few moments.

19 Everyone else remain seated.

20 (WHEREUPON, the jury left the courtroom at 10:06
21 a.m.)

22 MS. GOODE: Judge, can I say something real fast?
23 There's a juror that -- I think he's sitting on the third
24 row, bald guy. He's kind of nodding off.

25 THE COURT: Okay.

1 Go tell that guy to drink a Coke or something. Go
2 tell him to drink some coffee or a Coke or something. I
3 don't want him sleeping.

4 MS. GOODE: He's wearing like a black fleece jacket,
5 bald head.

6 (The bailiff left the courtroom.)

7 MR. KRZYSTON: Judge, it's my understanding that the
8 State -- and this is something new we're hearing this
9 morning, intends to offer CSI Investigator Lee as an
10 expert. I'm not sure what exactly the opinion he's going
11 to testify is -- or to, but before we even get to that
12 issue and the real issue, we have not done qualification
13 hearings as is kind of their responsibility to meet some
14 of the factors in Rule 702, in State V. Jones. And I
15 believe we're required to undergo hearings to determine
16 the reliability of any expert opinions and how they were
17 derived by State V. White.

18 MS. SAMPSON: Your Honor, we were going to have
19 Investigator Lee qualified as an expert in crime scene
20 processing. Under Johns, we don't have to have a hearing
21 on scientific evidence. We can do a voir dire if they
22 would like as to his qualifications before we put him up
23 before the jury, but all he's doing is crime scene
24 processing.

25 The only reason we're qualifying him as an expert is

1 in their opening, they talked about accuracy and
2 correctness. It's our understanding they're going to
3 challenge everything, the way that we did or didn't do
4 things. He can testify as to why they did or didn't do
5 certain crime scene processing in his expertise.

6 THE COURT: Why does he need to give an opinion about
7 that?

8 MS. SAMPSON: I'm not sure where they're going with
9 him. I mean, they said some things about what we did or
10 didn't do. And there is some testing that they didn't do
11 and he can explain why they didn't do that. I think the
12 only way he can do that is to, perhaps, give his opinion
13 as to why that wasn't necessary.

14 MR. KRZYSTON: Judge, just to address their point,
15 whether the evidence is scientific or not, they're
16 required to fulfill the reliability requirements proffered
17 by Jones.

18 THE COURT: Well, bring him up here.

19 MS. SAMPSON: We can do that.

20 MR. KRZYSTON: And, again, we haven't been furnished
21 any information on any opinion. He has given no report.
22 We have no idea what his conclusions are. So, in addition
23 to saying in a minute that we don't believe he's done
24 anything that would qualify him as an expert, we're going
25 to also assert this is a Riddle violation.

1 THE COURT: Well, you've known about this witness,
2 haven't you?

3 MR. KRZYSTON: Certainly, Judge.

4 THE COURT: And you've known that he processed
5 something, don't you?

6 MR. KRZYSTON: Yes, sir.

7 THE COURT: So that's not a surprise to you, right?

8 MR. KRZYSTON: No, sir.

9 THE COURT: Okay. So y'all have known about this now
10 for how many years that he exists as a witness?

11 MR. KRZYSTON: Probably in the neighborhood of two,
12 but --

13 THE COURT: Okay.

14 MR. KRZYSTON: -- it's been the State's
15 representation up until this point that there has been no
16 opinion for him to offer.

17 THE COURT: Well, you opened the door in your opening
18 statement by going into challenging every single thing the
19 police do and every single thing they do right and every
20 single thing they do wrong, and their accuracy and this
21 entire case is about accuracy, and what they messed up or
22 what they've done wrong. I mean, y'all have known about
23 this witness for probably more than two years. I've never
24 tried a murder case in this county, I don't think, where
25 they didn't qualify the crime scene expert -- the crime

1 scene person as an expert. So I don't know why this is
2 any surprise.

3 But come on up.

4 MR. MCGLOTHIN: Investigator Lee.

5 TIMOTHY LEE, after being duly
6 sworn, testified as follows:

7 THE CLERK: Please have a seat in the witness stand
8 and state your name for the record.

9 THE WITNESS: Timothy Lee, L-E-E.

10 THE COURT: All right. We just going over
11 qualifications.

12 DIRECT EXAMINATION

13 BY MR. MCGLOTHIN:

14 Q Investigator Lee, could you briefly describe your
15 educational background?

16 A I carry a two-year college degree. I've been with
17 the sheriff's department for over 22 years and with the
18 crime scene unit for 10. During those 10 years at the
19 crime scene unit, I've attended over 500 hours worth of
20 courses. Courses range from basic photography,
21 fingerprinting, crime scene processing, blood pattern
22 analysis, reconstruction, DNA analysis. We do a wide
23 array.

24 I also have completed a two -- it's a 10-phase,
25 in-house training course that's mandatory with the crime

1 scene. It takes up to two years, 18 months, 24 months.
 2 And that covers different disciplines that we attend, as
 3 well, crime scene processing, photography, reconstruction,
 4 blood pattern. We go through all these phases and we have
 5 to pass these phases in order to be qualified to go out on
 6 our own. That's just part of our basics.

7 And then we go for advanced courses, such as what
 8 I've described as attending. Those are put on by
 9 different private individuals that have specific skills.
 10 Such as blood pattern analysis, might be done by one
 11 person, photography might be done by another.

12 Q Do you receive any ongoing training other than what
 13 you've just described?

14 A We do have ongoing in-house recertification. That's
 15 usually going to be for blood pattern analysis,
 16 fingerprinting. We can do fingerprinting, as well, but
 17 mine is usually blood pattern analysis.

18 Q And how often do you generally do that?

19 A That's once a year.

20 Q Do you hold any certifications that pertain to crime
 21 scene processing?

22 A I'm a certified crime scene investigator through IAI,
 23 which is International Association of Identification. And
 24 they kind of set down guidelines in certain disciplines
 25 that we can test in. So I have tested as a crime scene

1 investigator and I'm certified as that. Last Monday, I
2 did take the CCSA, which is the Certified Crime Scene
3 Analyst, and I'm waiting on the results back through IAI.

4 Q Have you ever been qualified as an expert before?

5 A I have.

6 Q And what were you qualified in?

7 A Crime scene processing.

8 Q Do you know how many times?

9 A Eight times I've testified.

10 THE COURT: All right. Voir dire?

11 MR. KRZYSTON: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. KRZYSTON:

14 Q You mentioned that you were certified through the
15 International Association of Identification, correct?

16 A That's correct.

17 Q What are the educational requirements for being
18 certified? How many hours of training?

19 A To be a CCSA, I believe it's 85 hours of course
20 study. And the courses could be anything from blood
21 pattern to photography to reconstruction.

22 Q Do you keep a statement of qualifications with the
23 Richland County Sheriff's Department?

24 A We do have a statement of qualifications.

25 Q Did you disclose that to the prosecutor?

1 A They have my copy, yes.

2 Q Okay. Do you have a copy of it with you?

3 A I do.

4 Q Could I see it?

5 A Sure.

6 Q Can I keep it?

7 A You can make a copy of it.

8 Q Okay. We can --

9 Where's our clerk?

10 MS. SAMPSON: We can have a copy made for you.

11 MR. KRZYSTON: Okay. That would be nice. Thank you.

12 BY MR. KRZYSTON:

13 Q So 85 hours and -- well, could I see yours for just

14 the purposes of this hearing?

15 A Sure.

16 Q Thank you.

17 A I don't have the specifics on the CCSI requirements,

18 but you could pull it off the IAI website.

19 Q Okay. But you think it's 85 hours?

20 A It's usually around 85 hours in course study and

21 there's other requirements in there. You have to be in

22 good ethic standing. They set down the requirements.

23 Q And is this a private organization or is this --

24 like, can anybody join or just members of law enforcement?

25 A I believe it's just members of law enforcement for

1 the International Association. We have an SCIA, which is
2 a local.

3 Q Okay.

4 A Usually, most states have their own chapter in a
5 sense and they set down basically the requirements for the
6 disciplines.

7 Q And under this -- or under your CV, which I'll get
8 back to in a minute, it looks like you've done the
9 training on crime scene photography in 2016; is that
10 correct?

11 A Uh-huh.

12 Q And then --

13 THE COURT: Is that a yes?

14 THE WITNESS: Yes, sir.

15 THE COURT: Thank you.

16 BY MR. KRZYSTON:

17 Q And a shooting analysis and reconstruction training,
18 correct?

19 A Yes, sir.

20 Q And advanced blood stain pattern analysis, correct?

21 A Yes, sir.

22 Q And certified crime scene investigator, that's what
23 we just talked about. The classes for the certification,
24 I assume?

25 A Yes, sir.

1 Q Another advanced blood pattern analysis in 2008?

2 A Yes, sir.

3 Q Another -- well, a basic blood pattern analysis in
4 '08?

5 A Yes, sir.

6 Q A crime scene processing class in '08?

7 A Yes, sir.

8 Q A basic fundamental in crime scene investigation in
9 '07?

10 A Yes, sir.

11 Q So you know very well the ins and outs of how to
12 process a crime scene correctly, correct?

13 A I have a good idea, yes.

14 Q And you've practiced that art, have you not?

15 A Yes, there's a lot of scenes that we incorporate some
16 of this and all of it on.

17 Q Okay.

18 A It just depends on the scene.

19 Q And in this case, what opinion are you going to offer
20 to the jury?

21 A I can give my opinion on my processing of the scene,
22 On what we do as a crime scene investigator, the
23 importance of a crime scene investigator to collect and
24 preserves evidence to be able to present to a jury. The
25 blood patterns that I saw there, I can give my opinion on

1 some of that.

2 Q Okay. Have you recorded that opinion in any type of
3 report?

4 A We did not do a blood pattern analysis of the scene,
5 no.

6 Q Okay.

7 A If that's what you're asking.

8 Q Well, not just a blood pattern analysis, but did you
9 record your opinion as to how good your job was because,
10 basically, that's what you're going to be doing, right, is
11 giving an opinion on how well you did processing the
12 scene?

13 A I'm going to give my opinion on what I did at the
14 scene.

15 Q Right, and how that's important?

16 A I guess I'm not understanding your question. My job
17 is to present and collect evidence, and that's important
18 to the scene.

19 Q But you're relaying to the jury that you simply
20 collected evidence is not an opinion. What are you --
21 what are you offering an opinion on? Do you have anything
22 to offer an opinion on?

23 A I can offer my opinion on the blood analysis.

24 Q So you are going to testify to blood analysis?

25 A If I need to, yeah. I can give my opinion on what

1 needed to be done at the scene, what we did, what we
2 looked at based on the blood at the scene.

3 Q And are you going to offer your opinion on your
4 interpretation of what the blood spatter shows?

5 A I could.

6 Q Are you going to?

7 A If I'm asked a question of it, I could.

8 Q Did you process -- are you the analyst who is leading
9 the analysis of the blood spatter?

10 A My lieutenant, sergeant at the time, Stan Richards,
11 is the one that came out to the scene and he looked at the
12 scene with me.

13 Q Okay. So he's the one who looked at all of the
14 information about blood spatter?

15 A He's the one that has the most knowledge of it, yes.

16 Q Okay.

17 MR. KRZYSTON: Court's indulgence, Your Honor.

18 (Pause.)

19 MR. KRZYSTON: And, Your Honor, I think --

20 BY MR. KRZYSTON:

21 Q Did you do any tests in this matter in doing the
22 blood spatter?

23 A No, we did not.

24 Q Did you photograph the blood with a scale?

25 A No, we did not.

1 Q Did you utilize the roadmapping procedures that are
2 highlighted in your protocols?

3 A No, we did not.

4 Q All right.

5 MR. KRZYSTON: Judge, I think I have no further
6 questions at this point. And I'm trying to figure out
7 what exactly -- what opinion he's going to offer. I'm not
8 sure if he is the primary blood analyst. And this is
9 something we've tried to discuss out with them for the
10 last two or three weeks.

11 It was my understanding that Stan Smith was going to
12 come in here -- excuse me, Stan Richards was going to come
13 in here and give an opinion on what the blood spatter told
14 us. Since we don't have a report, I mean, we don't know
15 if he's going to come in here and give an opinion as to
16 directionality of blood or saturation of blood. We're
17 just not sure. Beyond that, he's done no testing
18 whatsoever. He has not processed the scene consistent
19 with the methodology that he was taught in the numerous
20 classes, so I don't think they can satisfy the reliability
21 requirements that they are required to under Jones.

22 MS. SAMPSON: Your Honor, we simply just now asked
23 him his qualifications because that was the part we were
24 getting to with his qualifications to do what Mr. Krzyston
25 just asked him about. If we wanted to go into what

1 exactly he's going to testify to, we could have done that.
2 We were just doing the qualifications.

3 He's a crime scene processor. We weren't getting him
4 qualified as an expert in blood spatter pattern -- in
5 blood stain pattern. And that is what we're going to do
6 with Stan Richards. We had no intentions of having him
7 qualified for that. He's the crime scene processor. He
8 determines what they take photographs of, what is
9 important to test. Why they don't test this, why they
10 don't test that. That's what we're doing that for. I
11 don't understand why that wouldn't be clear, but that's --
12 we didn't ask him any of those questions. He brought up
13 the blood stain. We didn't have any questions for him
14 about blood.

15 MR. KRZYSTON: So she's not going to ask anything
16 about his interpretation of the spatter, only his
17 processing of the scene?

18 MS. SAMPSON: He's the crime scene processor. That's
19 what we're asking his opinion on.

20 MR. KRZYSTON: There's no opinion.

21 THE COURT: Obviously, the collection of evidence is
22 outside the expertise of a person's -- an average
23 citizen's normal knowledge and comprehension of what needs
24 to be collected and what does not need to be collected,
25 what needs to be photographed and what does not need to be

1 photographed, and what needs to be looked for.
2 fingerprints, what does not need to be looked -- I mean,
3 all of that is outside of the expertise of an average
4 citizen that goes beyond someone's knowledge and expertise
5 and what they know. That's why he's allowed to give his
6 opinion on that because the man has been in over 500 hours
7 of classes on exactly how to do that. I mean, I don't
8 know -- I'm baffled at what the issue is at this point.
9 I'm literally sitting here completely and totally shocked
10 at what we're even talking about.

11 MR. KRZYSTON: Well, if he is going to only testify
12 to the things that you just said, I think we don't have an
13 issue. I think we have an issue if he intends to testify
14 beyond the scope of that. And, perhaps, I was not clear
15 in focusing my argument so that I got that point across.

16 THE COURT: Okay. He's an expert.

17 You're an expert all day long in how to process a
18 crime scene.

19 Bring the jury back in.

20 MS. SAMPSON: Before they come in, do you have --
21 Your Honor, if I may, we gave them photographs. I don't
22 think they were objecting to any photographs, but we need
23 to do that outside of their presence.

24 MR. KRZYSTON: I don't believe we are.

25 MS. SAMPSON: I knew there had been photographs,

1 Judge.

2 THE COURT: What?

3 MR. KRZYSTON: No objection.

4 (WHEREUPON, the jury entered the courtroom at
5 10:23 a.m.)

6 THE COURT: All right. Welcome back, ladies and
7 gentlemen.

8 State your full name for the record, sir.

9 THE WITNESS: Timothy Lee, L-E-E.

10 THE COURT: All right. Mr. McGlothlin, your witness.

11 TIMOTHY LEE, after being duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MCGLOTHLIN:

15 Q Investigator Lee, if you could please give us a brief
16 description of your educational background.

17 A I have a two-year college degree. I've been with the
18 sheriff's department for over 22 years. 10 years of that,
19 I've been with the crime scene.

20 Q Do you hold any special certifications that help you
21 in your employment?

22 A I have a certification as a crime scene investigator,
23 certified crime scene investigator. I've attended over
24 500 hours worth of courses in different disciplines within
25 the crime scene area, such as blood pattern analysis,

1 photography, fingerprinting, crime scene reconstruction,
2 classes like that. I've also handled -- it's almost two
3 years that it takes in order to do an internally training
4 program that we have. And it covers most of those
5 disciplines, as well. It's a 10-phase and it takes 18
6 months to two years to have that done before you
7 officially are cut loose to do crime scene on your own.

8 Q Did you receive any special training other than for
9 those specific certifications for your position as a --

10 A Any time courses come available, our captain tries to
11 get us in the courses, but we also do recertification in
12 blood pattern. That's once a year that we just do an
13 internal recertification, refresher course.

14 Q And what do those -- briefly, what do those different
15 courses entail?

16 A Courses that we go and attend?

17 Q Correct.

18 A It could be anything from blood pattern analysis to a
19 photography course that gives us a better understanding of
20 our equipment. Every year equipment changes. It's
21 getting better, it's getting more complicated per se. You
22 learn how to use correct settings for different things.
23 It could be just general testimony on presenting stuff to
24 a jury or just a -- writing a paper, something like that.
25 It depends who the instructor is who comes in.

1 Recently, we just had a SCIA, which is South Carolina
2 International Association, and different instructors came
3 in and just gave their presentation on what they did.

4 Q Have you ever been qualified as an expert before?

5 A I have.

6 Q And what have you been qualified as an expert in?

7 A I've been qualified in crime scene investigation.

8 Q How many times have you been qualified?

9 A Eight times since 2010.

10 MR. MCGLOTHIN: Your Honor, at this time, we would
11 ask that Investigator Lee be qualified as an expert in
12 crime scene processing.

13 THE COURT: Voir dire?

14 MR. KRZYSTON: Yes, sir.

15 VOIR DIRE

16 BY MR. KRZYSTON:

17 Q You mentioned that you're certified under the
18 International Association for Identification, correct?

19 A Yes, sir.

20 Q And just briefly explain to the jury what that means.

21 A IAI sets down testing for us to be able to have
22 advanced education and we could test in different
23 disciplines. There used to be reconstruction. I think
24 that now is incorporated underneath another discipline.
25 There's photography. There's three different levels in

1 the crime scene aspect of it.

2 There's the CCSI, which is what I have, which is a
3 certified crime scene investigator. And it means you've
4 met course requirements for so many hours worth of
5 courses. Ethics, you know, you're in good standing in
6 ethics. You've got so many years experience in doing it.
7 You can't just become a crime scene investigator and
8 immediately take one of these. You have to have some time
9 within the field and so forth. There's the next level up
10 that you can go. There's three different levels that you
11 can go on.

12 Q So how high up are you?

13 A Right now, I'm at the first level.

14 Q I mean, that's not inconsequential, correct?

15 A What do you mean?

16 Q I mean, that's something that's hard to get to.
17 You've done a lot of training, correct?

18 A It takes training, it's takes experience, it takes
19 time, yeah.

20 Q About how many hours of training do you have?

21 A To have to get that?

22 Q Well, no, how many do you have personally?

23 A Over 500 hours of courses that I've gone to.

24 Q And you've worked for the lab at the sheriff's
25 department for how long?

- 1 A For 10 years.
- 2 Q Over the course of the last 10 years, do you know how
- 3 many times you've gone to trainings about crime scene
- 4 processing, give or take?
- 5 A How many courses I've gone to?
- 6 Q Uh-huh.
- 7 A Without my SOQ in front of me, I can't give you
- 8 specifics.
- 9 Q Yeah, it doesn't have to be super specific, but just
- 10 generally, how many courses did the sheriff's office send
- 11 you to?
- 12 A In crime scene processing or just any discipline
- 13 within the crime scene?
- 14 Q Just crime scene processing.
- 15 A A specific crime scene processing course was in 2008,
- 16 but you have to understand the other disciplines
- 17 incorporate part of that as well.
- 18 Q Okay. So there are some other trainings that also
- 19 teach you kind of the fundamentals, the basic stuff you
- 20 need to know to correctly process a crime scene?
- 21 A It's depends on the crime.
- 22 Q Right.
- 23 A You know, crimes such as homicide, abuse, things like
- 24 that may require further processing compared to an auto
- 25 break-in.

1 Q And this is detail oriented processing, correct?

2 A Yes.

3 Q And again, you are well versed in processing a crime
4 scene in a detailed and oriented manner?

5 A I have processed many crime scenes, yes, sir.

6 MR. KRZYSTON: Thank you, Judge.

7 THE COURT: Any objection?

8 MR. KRZYSTON: No, sir.

9 THE COURT: All right. Ladies and gentlemen,
10 normally, a person is not allowed to give their opinion.
11 Normally, when a person testifies, they have to testify as
12 to what they saw, they heard, they did, they touched, they
13 smelled, something of that nature.

14 There is an exception under the rules when someone is
15 qualified because of education or experience. That person
16 is permitted to give their opinion in certain areas if I
17 qualify them in that way.

18 This witness will be qualified as an expert in the
19 area of crime scene processing. He will be allowed to
20 give his opinion testimony in that area. Now, that does
21 not mean that you have to accept his opinion, but it is
22 evidence for you to use in any way you see fit and give it
23 the weight and credibility that you believe is appropriate
24 as you are required to do with each and every witness that
25 appears before you.

1 MR. MCGLOTHIN: Thank you.

2 CONTINUED DIRECT EXAMINATION

3 BY MR. MCGLOTHIN:

4 Q Investigator Lee, I'm going to draw your attention
5 back to August of 2015. How are you involved in the
6 investigation before us today?

7 A In Richland County on August 15th of 2015, I was
8 contacted by the desk sergeant in reference to a death,
9 and I was requested to respond to 3976 Leesburg Road, Lot
10 No. 5.

11 Q And what did you do when you arrived?

12 A When I arrived on scene, anytime we respond to a
13 scene, a crime scene, major crime scene, we have to make
14 sure that the scene is secure. You want to preserve your
15 evidence. And the road units are trained to be able to
16 set up crime scene tape if they need to put up barriers.
17 They start a crime scene log. Any entry in, such as an
18 EMS team in to check the vitals of a victim, any life
19 saving techniques and so forth, they document -- they need
20 to document who entered in and who entered out. That's
21 initially what I do is I check and I get information of
22 what's going on.

23 Just because we got a phone call saying respond to
24 this location, it doesn't give you all the details of
25 what's going on. So you start to gather your information.

1 You start to analyze what's going on before you start
2 documenting.

3 Q And what did you see when you arrived?

4 A When I arrived, I saw crime scene tape had been
5 placed and there was a deputy that was maintaining the
6 crime scene log.

7 Q Is this what you would call a secure scene?

8 A It would be a secure scene, yes.

9 Q So what did you do next after you arrived?

10 A I gathered information of what we possibly had. I
11 was informed there was a female victim that was in the
12 living room area that had sustained a possible gunshot
13 wound to the head and she was considered deceased. I
14 started to do my overall photographs.

15 When you start your photographs, you want to do
16 overalls so you can see the scene as it is. You want to
17 be able to see the mobile home -- in this situation, it
18 was lot No. 5, so I want to document that there's a marker
19 on the front. This is the location that was specific to
20 the crime. And I go around the area and I photograph
21 around the actual exterior of the property.

22 Q I'm showing you what's been marked as State's 14, 13,
23 12.

24 MR. KRZYSTON: Without objection, Your Honor.

25 THE COURT: All right. State's 12, 13 and 14

1 admitted without objection.

2 (WHEREUPON, State's Exhibit Nos. 12, 13 and 14
3 were admitted into evidence.)

4 BY MR. MCGLOTHIN:

5 Q Do you recognize those photos?

6 A These photos are going to be the front area of the
7 mobile -- of the trailer. It has number five on it, which
8 is Lot No. 5 that I was dispatched to.

9 Q And are those what you call overalls?

10 A No, these are going to be midrange.

11 Q Okay.

12 A And -- midrange to close-up on one, but that would be
13 a midrange.

14 Q Okay. So after you took photos outside, what did you
15 do next? I'll take this one.

16 A Well, at this time, we were waiting on a search
17 warrant for the property. Anytime you have a major crime,
18 you want to basically follow your protocols, and our
19 protocol is to obtain a search warrant. So we got with
20 investigations and investigations was seeking it. I took
21 overall photographs of through the door and to the kitchen
22 and the living room area and around the exterior of the
23 property.

24 Q And following taking photos -- or excuse me, once you
25 received a search warrant, what did you do?

1 A We execute a search warrant on the property, which
2 means we have a judge's permission to enter in and start
3 processing.

4 I entered into -- it's a standard single-wide mobile
5 home, so it's narrow. Entered in through the door, which
6 would be if you're facing the trailer on the left side
7 that enters into the living room. I observed on the couch
8 to my right a female victim that was on the couch. She
9 had sustained a large trauma to the side of her head. I
10 began photographing inside of the property.

11 Q I'm going to show you what's been marked as State's
12 15 through 39.

13 MR. KRZYSTON: Without objection.

14 THE COURT: So 15 through 39?

15 MR. MCGLOTHIN: Yes, Your Honor.

16 THE COURT: Without objection.

17 Hold on, let her mark it down real quick.

18 (WHEREUPON, State's Exhibit Nos. 15 through 39
19 were admitted into evidence.)

20 THE COURT: When I tell them to hold on, ladies and
21 gentlemen, it's so the court reporter can mark down what's
22 in evidence and what's not in evidence. She had to stop
23 writing that down so I could tell you that, but that's
24 what we're doing, so we're going to let her finish making
25 sure she has it marked down correctly.

1 THE COURT REPORTER: I got it.

2 THE COURT: Okay. Thank you.

3 BY MR. MCGLOTHIN:

4 Q Investigator Lee, are those the photos -- or do they
5 show what was inside the scene when you arrived?

6 A Yes. These are overall photographs and some close-up
7 shots of different evidence through the living room area
8 of the home and down towards the back bedroom of the home,
9 as well.

10 MR. MCGLOTHIN: Beg the Court's indulgence for just
11 moment.

12 (Pause.)

13 BY MR. MCGLOTHIN:

14 Q Can you see the screen from where you're sitting,
15 Investigator Lee?

16 A Yes.

17 Q If you need to move to see it, please feel free, or
18 if you need to point to something, we can do that.

19 A All right.

20 Q So we're going to briefly go through the pictures we
21 just showed you. What does this photo show?

22 A This is an exterior shot of the trailer with number
23 five, which is Lot No. 5.

24 Q And why is that important?

25 A Because that's the incident location where I was

1 dispatched to where the victim was inside.

2 Q And what is this photo?

3 A This is the front windows of the trailer. And I'm
4 trying to see a little bit better. If you can look at
5 this photo, you can see stains.

6 Q You can step down if you need to. Just be careful
7 not to touch the board.

8 A Sure.

9 (Witness steps down.)

10 A If you look at this photograph, you'll see stains
11 here and these things caught my eye. This is indicative
12 of blood stains, red-brown stains and that's what caught
13 my eye, that something had happened here.

14 Now, you have to be able to look at it and say could
15 it be a soda can blown up or something. But we were
16 dealing with a blood-letting scene where she had suffered
17 a traumatic injury. It's easy to say this is probably
18 what it is.

19 THE COURT: Investigator Lee, can you step to the
20 other side of the machine and that way your voice is going
21 towards the court reporter, so she can get everything you
22 say and make sure everybody can hear you? You're
23 soft-spoken. I want to make sure you keep your voice up
24 for me, okay?

25 THE WITNESS: Yes, sir. I'm sorry. I can't hear

1 very well, so I'm probably speaking low, I apologize.

2 THE COURT: Thank you.

3 BY MR. MCGLOTHIN:

4 Q Do you know where on the house this window is
5 located?

6 A It's the front of the trailer, so it would be --
7 there should be a number five over here from the other
8 photograph that you showed. So this would be across the
9 front of the mobile home.

10 Q And this is the number five you're talking about?

11 A Yes.

12 Q So where would that previous picture be in comparison
13 to this one?

14 A It should be this -- one of those -- it's probably
15 that window -- if I remember right, it's one of these two
16 windows in the front right here.

17 Q Thank you. And what is this photo?

18 A It's the other window beside there. You can see red
19 stains down through here -- oops, sorry. I did touch it
20 -- just like the other one that we saw that we believed
21 was blood on the window.

22 Q And why -- again, important for the same reason as
23 the past one?

24 A Yes, there was a blood letting on the inside, so we
25 figured that this is probably going to be some stains that

1 came down through the blinds.

2 Q And as part of your duty to document, this is
3 important to you?

4 A Do overall documentation. If you need to, you can do
5 close-up shots. At this time, we didn't feel it was
6 necessary. It just showed that something had occurred
7 here is what we were showing.

8 Q And what is this photo?

9 A This photo is the couch area. The victim had been
10 sitting here. This is where she was found. This is
11 gelatized blood, basically, is what it is. When it flows
12 into a spot and it can't get away, you start to get
13 saturation. You have various scenes. This was a very
14 dynamic scene. Anytime you have a weapon, such as a
15 shotgun that's used or you have high speed equipment, you
16 can have a lot of blood and it becomes very dynamic. It
17 goes everywhere. This is what had pooled down, and this
18 is what I was showing. Across here to here, there are
19 small pellets that I ended up finding in between this area
20 as well.

21 Q And what is this small square object?

22 A Markers we use through scenes. We can mark different
23 things of interest just to show. We can use it as a
24 reference point for when we back up and we take
25 photographs, you'll be able to have a better understanding

1 of where it was. You can also use scales. Scales will
 2 give you an idea of the size. This is just a marker
 3 showing what we've got and there's a small scale on the
 4 bottom of it. So I wanted to show this is where the
 5 victim was at. This is the couch. And there are other
 6 photos that show that, as well.

7 Q When you arrived that day, is that what you saw when
 8 you first arrived?

9 A No.

10 Q What is different about this picture as compared to
 11 when you first arrived?

12 A This picture is after the body had been removed.

13 Q Where in comparison to this was the victim?

14 A The victim was seated over here.

15 Q Okay. Towards the right side of the picture?

16 A So if this is the couch, you know, she was seated
 17 right here, basically, where you see the markers at. You
 18 know, it's going to be this area of where the body was.

19 Q And what is this picture?

20 A Marker No. 2 is on the couch, as well. It would be
 21 to the left of Marker No. 1. These are metal pellets that
 22 are consistent with a shotgun, shotgun pellets that were
 23 discovered on the couch.

24 Q And why is that important?

25 A Because that's what we believed, that she had been

1 injured by a shotgun blast. It was very dynamic. It was
2 a very large amount of blood. And we had a shotgun shell
3 that was sitting -- unfired shotgun shell that was on the
4 coffee table that was in front of her, as well.

5 Q And what does this photo show?

6 A This is just another angle of one and two and the
7 pellets, you can see a little bit better that were laying
8 here and, also, the blood pooling that had accumulated
9 there in the crease of the couch.

10 Q And what does this photo show?

11 A No. 3 is going to be the blinds, and this is behind
12 the red chair. The photograph that they had showed with
13 the number five on the outside, this is the window area
14 that was initially shown.

15 Q Why is this photo important to you?

16 A Because it shows that a blood letting had occurred
17 and some of it got caught here on the blinds. And what I
18 saw on the outside was consistent with what I was
19 believing.

20 Q And where is this photo in comparison with the photo
21 we just saw with the sofa?

22 A It would be to the left of the sofa.

23 Q If you're facing the sofa?

24 A If you're facing the sofa, it would be to the left.
25 The sofa runs along the longer wall, where this is the

1 shorter at the end of the trailer.

2 Q And what does this photo show?

3 A No. 4, if I remember from my notes correctly, No. 4
4 is going to be behind the couch, so it would be the blinds
5 that were back behind there on the inside of the home.

6 Q And why is Marker No. 4 important? Why did you
7 decide to use that marker there?

8 A I wanted to show that the scene had a lot of stains.
9 And documentation just showing how the area was needs to
10 be done. So you take your photographs, you show the
11 specific areas. And you'll see that there's some areas
12 that don't have or have very few stains on them. And
13 these areas are pretty heavily stained, right behind the
14 body, to the left of the body, above the body. So you're
15 just seeing it's a dynamic scene. There's a lot of stuff
16 that goes everywhere.

17 Q And what does this photo show?

18 A Five is the ceiling, which if I remember right, if
19 you're facing the couch, it would be up here. The ceiling
20 kind of crowns a little bit, and I wanted to show that the
21 ceiling had also gotten stains on it, as well.

22 Q And when you say up here, you're not merely meaning
23 above you, right? You're indicating to your left, as you
24 held it here.

25 A Well, all across the ceiling, there was stains. But

1 yes, basically, if you're facing where the body was at to
2 the left is a majority of the stains.

3 Q Is that why this is important?

4 A To show overall, yes.

5 Q And is this --

6 MR. KRZYSTON: Objection, leading.

7 THE COURT: Sustained.

8 BY MR. MCGLOTHIN:

9 Q What does this show?

10 A This is the ceiling in the home. The ceiling in most
11 mobile homes are not very tall. So you see a lot of
12 stains and so forth here. This is going to be kind of how
13 it arches up in the center and you'll see staining over
14 this way, as well.

15 Q And what is that?

16 A That's another view how it runs long ways like this.
17 This is just another view of the ceiling.

18 Q And where is this in relation to the previous
19 pictures we've seen with the couch and the windows, just
20 to orient you?

21 A This should -- I'm trying to see. This should be
22 towards the end. Hold on a second. I need to look at it
23 differently.

24 Q Let me ask you this. What is this?

25 A This should be the side door. If you're facing the

1 trailer, it would be the left door right there, the entry
2 door into the living room.

3 Q And where was the sofa in relation to that door?

4 A It should be right here if that's the door, I'm
5 thinking.

6 Q And what is this photo?

7 A This is the rug that -- the chair's at the end of the
8 trailer. The couch is here, the chair is at the end here.
9 This is a rug that they had underneath the coffee table.
10 This is the coffee table moved out of the way that was on
11 top of the rug. Marker No. 6 shows additional metal
12 pellets, shotgun pellets that were on the floor.

13 Q And what is this right here?

14 A That's the couch that the victim was sitting on.

15 Q And why was this photo important?

16 A Anytime you move something, you want to show what's
17 underneath. There was a coffee table that was there that
18 was in front of her. When we moved it out of the way, we
19 looked for additional stains, additional evidence. The
20 evidence that we found was additional pellets that were on
21 the floor.

22 Q And what is this?

23 A Marker No. 6, that's pellets right here that were
24 collected. And that's on the rug that's on the floor.

25 Q Are those important for the same reason?

1 A They are.

2 Q And what does this show?

3 A This is another overall shot of the couch where we
4 had shown before. The victim was over here. Additional
5 pellets were found over here. Any time there's a pool of
6 bloods, it starts to congeal, almost like gelatin. We
7 have to check that for any evidence. There could have
8 been more pellets in there. There could have been
9 personal items. There could have been something. And
10 what we ended up finding was the wadding from the shotgun,
11 which is a plastic piece that comes out when the shotgun
12 is fired.

13 That gives us an indication of where possibly the
14 shot could have occurred. If the wadding is a long ways
15 away, it could have been a long shot. If it's up close
16 and it's within the proximity, that means it could be a
17 closer shot.

18 Q So what does the location of the wadding tell you
19 here?

20 A That the shot occurred within the parameter of where
21 the body was at.

22 Q And what does this show?

23 A That is the wadding that I ended up getting out of
24 the blood. It's a plastic wadding.

25 Q Can you briefly explain what the wadding -- the

1 purpose of the wadding is?

2 MR. KRZYSTON: Objection, scope.

3 THE COURT: I'm sorry, I didn't hear the question.

4 What was the question?

5 MR. MCGLOTHIN: The question was the purpose of the
6 wadding from the shell.

7 THE COURT: Okay. Overruled.

8 BY MR. MCGLOTHIN:

9 Q Could you briefly explain the purpose of the shotgun
10 -- or the wadding in the shotgun shell?

11 A From what I understand, on the wadding of a shotgun,
12 basically, it's going to hold the shot and that comes out.
13 The shot is going to come out with it.

14 Q And what does this show?

15 A There were a pair of glasses that were found -- the
16 couch would be this way. There was an entertainment
17 center that was here. There was a broken pair of glasses
18 that were on the floor near the rug.

19 Q And why is this an important picture?

20 A We believed the victim possibly wore glasses.

21 Q Where is this in comparison to the couch?

22 A It would be directly across from it.

23 Q Do you know about how far?

24 A Seven feet maybe, six or seven feet, not very far.

25 It's a very narrow room. Measurements were not taken of

1 it to be exact.

2 Q Okay. And what is this?

3 A This is glasses that were found on the floor with the
4 damaged lens.

5 Q And what is that a photo of?

6 A This is going to be a photograph -- if you were to
7 walk in the door into the living room, this would be a
8 shot to the right where the victim was on the couch.

9 Q And who is that on the couch?

10 A That is the victim, Doris.

11 Q Why is this photo important to you?

12 A It shows -- it shows the limited amount of blood
13 staining over here. And when you look over here, you see
14 more staining that's heavier, so that gives us an
15 indication that a blood letting occurred within --

16 MR. KRZYSTON: Objection. I've got a matter of law.

17 THE COURT: All right. Ladies and gentlemen, step
18 back to your jury room. Do not discuss the case. Keep an
19 open mind. We'll be back with you in a few minutes.

20 (WHEREUPON, the jury left the courtroom at 10:50
21 a.m.)

22 THE COURT: All right.

23 MR. KRZYSTON: May it please the Court, Judge. At
24 this point, we are significantly beyond the scope of his
25 expertise as he was qualified under the 702 and Jones

1 hearing. He's now opining to where a blood letting event
2 occurred, which is much further beyond why certain
3 evidentiary items are appropriate for documentation and
4 retention as evidence.

5 MR. MCGLOTHIN: Your Honor, it's my opinion and -- my
6 understanding that where the victim was located within a
7 room is important to the investigation and why certain
8 things were collected. I believe Investigator Lee was
9 merely talking about how he knew where she was and we were
10 going to go into if there was any evidence that she had
11 been moved.

12 MR. KRZYSTON: And again, that is squarely within the
13 realm of analysis of blood spatter, which they have not
14 qualified him as an expert. We have not looked at his
15 methodology to determine reliableness under Jones and 702.

16 THE COURT: So -- I mean, we went through this
17 before. I mean, no one said that he's going to be giving
18 an opinion about where she was or what the blood spatter
19 was or where it pooled or where it didn't pool and now
20 you're in the middle of asking him all these questions.

21 MR. MCGLOTHIN: Well, Your Honor, what we were trying
22 to ask is merely why he took the photos he took, and that
23 goes to his opinion. I don't think this goes to why --
24 excuse me, for -- beg the Court's indulgence for just a
25 moment.

1 (Pause.)

2 MR. MCGLOTHIN: We're not talking about the blood
3 spatter and why it went where it went. We're talking
4 about merely why he took the pictures he took and why
5 those were important to him.

6 THE COURT: All right. You explain this to me in
7 your own words, please.

8 THE WITNESS: Anytime you have a blood letting, under
9 our policies and our training -- he wants to touch on
10 roadmapping. Roadmapping is just a guideline. You don't
11 have to follow roadmapping on every scene. And on a
12 dynamic scene like this, there are stains that are not
13 good for doing stuff like that. Roadmapping allows you to
14 see different aspects. If there's movement to a scene
15 could be one of them. If a person had different injuries,
16 you know, say she was shot, she was stabbed, there's going
17 to be different forms of blood that you'll see. What I
18 was showing with this photograph was the dynamic explosion
19 of the blood from the body to the left and how the edge of
20 the couch doesn't have that much on it. There might be a
21 little bit.

22 So that gives us, as a crime scene investigator, that
23 this is where the majority of the -- how do I want to put
24 it, the blast occurred, and that gives me an idea to look
25 for evidence within this area. So we know that there's

1 shot pellets. I've already seen a few pellets there on
2 the couch. I can look for a few more things like that.
3 When you have projectiles -- with shotguns, there's
4 multiple pellets compared to just one projectile with an
5 individual bullet. That gives me an indication of I need
6 to look further in this area to see if I can find this
7 stuff.

8 THE COURT: Okay. So how do you form -- and this is
9 not a trick question, but how do you form the basis for
10 what you just said based upon your training? How does
11 your training and your course work help you process
12 through what you just told me?

13 THE WITNESS: How does -- how does my training do
14 that?

15 THE COURT: Yeah, yeah.

16 THE WITNESS: We've had blood stain analysis, we've
17 had reconstruction courses and they help us to analyze the
18 area to look for evidence. So my training that I've
19 received through the years, through my experience on crime
20 scenes, whether it's a suicide scene, an accidental scene
21 or, you know, a robbery where we have shootings impacts
22 projectiles, things like that give us an area to start out
23 looking for other evidence. So based on my experience,
24 based on my training, that gives me a location to begin.

25 THE COURT: Okay.

1 THE WITNESS: Am I explaining that correctly, sir?

2 MR. KRZYSTON: Judge, I think if he wants to -- I
3 think he can say what he needs to say -- and I'm not even
4 talking about roadmapping right now, because to the extent
5 they did or didn't do that is clearly weight and not
6 admissibility. But with regard to this situation,
7 they're -- he was just about to say that she was sitting
8 on the couch when a blood letting event happened. And
9 they have to do certain tests to be able to dispositively
10 say that.

11 THE COURT: Says who?

12 MR. KRZYSTON: That's how blood spatter is analyzed.

13 THE COURT: That's a nonanswer. Says who?

14 MR. KRZYSTON: Pardon?

15 THE COURT: Says who?

16 MR. KRZYSTON: The Richland County Sheriff's
17 Department protocols. Tom Bevel from Bevel Gardener
18 Associates. All the learned treatises, all the textbooks
19 that talk about blood spatter say that in order to
20 determine the location and the origin or the area of
21 origin or conversions, they have to calculate angles.
22 They have to run trigonometric equations. They have to
23 document the scene in a way that would allow them to be
24 able to replicate this opinion in court. And what he's
25 saying is that because she was shot in this area, I want

1 to look in this area for additional evidence.

2 I think if you want to boil it down and use that
3 generic language, I think we're okay with that, but to say
4 she suffered a blood letting event on the couch and I knew
5 because of the spatter on the chair and because of the
6 spatter on the windows is kind of a -- they haven't
7 established that they reliably have done the methodology
8 and science, quote, unquote, behind those assumptions.

9 THE COURT: You can respond to that.

10 THE WITNESS: No, you don't have to do it every
11 single time. Anytime you roadmap, it can give you an
12 idea, but if you're not able to roadmap --

13 THE COURT: Talk to me.

14 THE WITNESS: If you're not able to roadmap, then you
15 have to go off of your observations. And that's what we
16 did here. We had stains that were not well formed. And
17 Lieutenant Richards can touch on this a lot more, if
18 that's what they're wanting. They're wanting him to do
19 that, that's fine, I can just do my documentation. I can
20 present that aspect of it. But no, he's actually wrong on
21 that. It doesn't require it every single time. There are
22 guidelines and our policies and procedures show that there
23 are guidelines, as well.

24 THE COURT: So it's your opinion that she was shot
25 while she was sitting down?

1 THE WITNESS: My opinion is she was shot there, yes.

2 THE COURT: And what leads you to that opinion?

3 THE WITNESS: The way that the stains are radiating
4 out from that location, where the shot wadding was
5 located, where the skull and the brains are located, and
6 just based on the spatter area, she couldn't have been
7 standing. She couldn't have been walking around. The
8 void behind the body when we moved the body out, if she
9 was standing, there would surely be blood back there as
10 well and there wasn't. There was a voided area.

11 THE COURT: So put that explanation and tell me how
12 your training in these -- whatever scientific stuff he
13 just mentioned, how that all ties together, walk me
14 through it.

15 THE WITNESS: We've gone through testing. We've had
16 actual instructive come in, and they show us if you have a
17 puddle of blood right here and you have a post here and a
18 post here and you hit the blood with a hammer and the
19 blood sprays out like this and then you remove those
20 posts, you're going to have a void. So these are things
21 that we look for.

22 Along with the coroner, we can tell if the body has
23 been moved around when we start to move the body because
24 we can't move the body without the coroner's assistance.
25 So when we did move the body and placed her on the floor,

1 there was that voided area.

2 THE COURT: On the sofa?

3 THE WITNESS: On the sofa, yes, on the back of the
4 sofa.

5 THE COURT: So what you're saying is when the
6 sheriff's department and the coroner moved the body, on
7 the back of the sofa -- is it a colored sofa?

8 THE WITNESS: Multi-pattern, but it has cream-colored
9 pillows.

10 THE COURT: And there's a void there of blood from
11 where her body was?

12 THE WITNESS: Right.

13 THE COURT: And was she essentially shot in the head?

14 THE WITNESS: She was shot right here in the head.

15 THE COURT: Right here in the head. So that she has
16 no pellets in her? What's the lowest point there's a
17 pellet entry wound on her?

18 THE WITNESS: I don't know on that. That would be a
19 pathologist question.

20 THE COURT: Okay.

21 THE WITNESS: But the wound was contained here.

22 THE COURT: So the wound was contained near her face
23 or head?

24 THE WITNESS: Right.

25 THE COURT: So you're saying when y'all pulled the

1 body off -- which is what you're required to do with the
2 coroner's assistance?

3 THE WITNESS: Right.

4 THE COURT: Basically, the back of the sofa is clear
5 from any blood spatter?

6 THE WITNESS: Right.

7 THE COURT: And that leads you to the conclusion
8 based upon your training and experience and your classes
9 that she was sitting there --

10 THE WITNESS: Her body shielded that area --

11 THE COURT: Right.

12 THE WITNESS: -- and that's where you have a void.
13 If something shields that area, you're going to -- you
14 can't have blood on it.

15 THE COURT: So what was behind where her head was has
16 blood on it?

17 THE WITNESS: Exactly.

18 MR. MCGLOTHIN: Your Honor, I can show you the
19 pictures.

20 THE COURT: I can live without it.

21 I'm going to allow him to testify to this. I think
22 this is completely and totally within his expertise. He's
23 certified. He's been through the classes. He's going to
24 be allowed to give opinion testimony. This goes to its
25 admissibility. It's clearly admissible. The Defense will

1 be allowed to cross-examine as to the weight issues.

2 We're going to take a 10-minute break. We'll start
3 back at 11:10.

4 MR. KRZYSTON: Judge --

5 THE COURT: You are not allowed to discuss your
6 testimony with anyone, but you are allowed to use the
7 restroom and whatnot.

8 MR. KRZYSTON: Judge?

9 THE COURT: Mr. Krzyston?

10 MR. KRZYSTON: Just for the record, we would like to
11 note that your ruling is over our continued objection
12 under 702, White, Council and Jones ground.

13 THE COURT: I mean, I've read all those cases. I
14 don't understand your basis for quoting all those cases to
15 me.

16 MR. KRZYSTON: Okay.

17 THE COURT: I've read 702 multiple times. I mean,
18 this is clearly scientific technical evidence outside the
19 purview of common knowledge. I mean, you can keep saying
20 702 if you want to, but I don't understand how this is not
21 technical knowledge. You, yourself, just admitted to me
22 that this is scientific technical evidence that people
23 have written learned treatises on.

24 MR. KRZYSTON: Your Honor, our problem is the
25 methodology.

1 THE COURT: And that's a weight issue.

2 MR. KRZYSTON: Thank you, Judge.

3 THE COURT: Okay.

4 Ten minutes.

5 (WHEREUPON, a short break was taken.)

6 THE COURT: All right. Bring them in.

7 MR. KRZYSTON: Judge, we would also just note that
8 again, we are renewing our Riddle motion. This is going
9 on despite our Riddle objection. This is impeachment
10 evidence that he's getting ready to offer. We could have
11 impeached him with his opinion had the State represented
12 that he was actually going to do this and not represented
13 in this hearing, as well as prior to trial a contrary
14 fact.

15 THE COURT: All right. Overruled.

16 Let's go.

17 The Defense has known about this witness for more
18 than two years. They have full availability to pick up
19 the phone and call 576-3000 and talk to whoever they want
20 to.

21 Let's go.

22 (WHEREUPON, the jury entered the courtroom at
23 11:12 a.m.)

24 THE BAILIFF: The jury is seated, Your Honor.

25 THE COURT: All right. Welcome back.

1 Mr. McGlothlin, you may continue.

2 MR. MCGLOTHIN: May it please the Court.

3 CONTINUED DIRECT EXAMINATION

4 BY MR. MCGLOTHIN:

5 Q Investigator Lee, we're going to backtrack just a
6 little. Could you please describe what this picture is?

7 A It's a photograph from the doorway to the right where
8 the victim was on the couch.

9 Q And why is that photo important?

10 A The photo -- my view of the scene from this location,
11 it shows that there are limited stains, limited red-brown
12 stains on this side of the couch compared to that side of
13 the couch.

14 Q What does that tell you?

15 A That gives me an indication of where an injury may
16 have occurred. The more blood on that side, none on this
17 side or limited on this side --

18 MR. KRZYSTON: Objection, prior stated.

19 THE COURT: Overruled.

20 THE WITNESS: It shows me where an area where the
21 injury let the most blood out. There was a blood letting
22 right there. There was an injury right there. There was
23 blood. That is where I think that I need to concentrate
24 my searching for to look for any additional evidence.

25 BY MR. MCGLOTHIN:

1 Q And could you come down from the stand, please, and
2 just kind of outline? I think you said there and over
3 here a lot. Could you kind of use the photograph to show
4 what you're talking about.

5 A Sure.

6 (Witness steps down.)

7 A Right here on the previous photos that you saw when
8 the victim was moved out of there, you have Marker One,
9 Marker Two. There was pellets here. There could be more
10 pellets here, so I want to concentrate a lot on this area.
11 Right here, there's limited stains. There's a few -- I'm
12 sorry, I did it again. There's a few right here that you
13 see on the edge of the couch, but not as many as over
14 here. So I would look harder over here to find any
15 evidence. Anytime a projectile goes, it has mass, of
16 course, it's going to go in a direction that the injury
17 that I think that occurred over this way.

18 Q And is this consistent with what you've seen in your
19 training?

20 A On scenes that I've processed and training that we've
21 gone to, this is things that we look for. It's things we
22 are trained to look for. When you have a lot of movement
23 through a scene, you want to basically concentrate on
24 certain areas that you think could retain the most
25 beneficial evidence to present.

1 Q What is this photo?

2 A This is behind the couch. That is a concentrating of
3 stains believed to be blood from the victim.

4 Q And why is that concentration important?

5 A It gives me an idea of an area to look for evidence.
6 If I need to look at specific stains, this is a good place
7 to look for. Unfortunately, the stains are very large and
8 they're not well formed, so this area wasn't done in any
9 further detail, in any close-up shots and so forth. But
10 the victim is here, there's a lot of blood here. She was
11 injured in this area.

12 Q What leads you to say that -- I think you covered
13 that in the last question, but what specifically leads you
14 to say that she was injured in that area?

15 A Experience and training that we've gone to, that
16 we've done testing during our training courses, we look
17 for certain things. We look for the concentration --

18 MR. KRZYSTON: Objection, prior stated.

19 THE COURT: Overruled.

20 THE WITNESS: We look for blood flow. We look for
21 pooling. We look at the spatter on a dynamic scene,
22 dynamic, meaning a large blast. There's a lot of stuff
23 everywhere, so it's hard to really get a specific stain
24 down, but you can look at an overall and get an overall
25 observation that this is -- is an area you want to look

1 at. I'll just put it that way.

2 Q What is a void?

3 A A void is an area that is missing something, just as
4 it's called. And in a situation where you are looking at
5 blood and there's nothing in a certain area, you want to
6 ask why.

7 MR. KRZYSTON: Objection, entire line, prior stated.

8 THE COURT: Overruled.

9 THE WITNESS: And the reason is that shows you
10 something is missing from there. If you have dust on a
11 stand and there's nothing there, but you see an outline,
12 in a burglary scene, something was probably moved from
13 there. It's no different when you have blood, as well.
14 It just shows that something is missing.

15 Q Is there a void in this photograph?

16 A Not in this photograph, no.

17 Q Is there one in the previous photograph?

18 A No.

19 Q And what is this a photo of?

20 A These are the steel pellets that were found between
21 One and Two on the couch and No. 6 marker on the rug.

22 Q Why are those important?

23 A That is -- that's usually what a shotgun is going to
24 contain. It's going to contain a steel small shot like
25 that.

1 Q Is that a normal process to collect pellets in your
2 duties?

3 A Yes, you collect what you can collect. Not every
4 scene is perfect. Television has dramatized stuff a lot,
5 and it's not always that way. Sometimes there is limited
6 evidence, limited collection. It just depends on the
7 scene. When it comes down to shotgun blasts like this,
8 the pellets can be very small compared to say a 45-caliber
9 where the bullet is a little bit larger and you might be
10 able to track it easier. So if you can collect as many as
11 you can, it helps the firearm divisions determine the
12 things that they need to do.

13 Q And what would you do with those once they were
14 collected into a bag like that?

15 A They would be documented. They would be placed into
16 the evidence room through our evidence slips. We fill out
17 an evidence slip stating what it is. It's a chain of
18 custody showing who collected it and where it went and
19 what time it was.

20 Q And what is this a photo of?

21 A This is the back wall behind the couch. There's
22 going to be -- I'm sorry, I did it again. There's going
23 to be stains across here that I was documenting. And
24 there's Marker No. 3 that was earlier stated and earlier
25 shown.

1 Q And why did you take that photo?

2 A It's an overall shot documenting the scene.

3 Q When you compare this photo to the previous photo of
4 the couch here and the window there, does that tell you
5 anything?

6 A It can tell you that things slowed down. When you
7 fire a bullet, it slows down over time.

8 MR. KRZYSTON: Objection to scope.

9 THE COURT: Overruled.

10 THE WITNESS: Blood is the same way. Blood can slow
11 down. It's affected by gravity.

12 MR. KRZYSTON: Objection, prior stated.

13 THE COURT: Overruled.

14 THE WITNESS: And this just shows that there's less
15 here than there is next to the body. That's what I was
16 just showing.

17 BY MR. MCGLOTHIN:

18 Q And what is this a photograph of?

19 A This is the rear bedroom. The living room was up
20 here. At the other end of the trailer is the bedroom.

21 Q And where is that in location to the living room? I
22 think you briefly described it, but could you give a brief
23 description of it?

24 A Opposite end of the trailer.

25 Q How would you get from one to the other? Was it an

1 open area?

2 A No, there's a hallway that goes -- you go through the
3 living room and the kitchen area down a narrow hallway to
4 a back bedroom.

5 Q And what is that a photo of?

6 A This is the -- if you're facing the mobile home, this
7 would be the far back right wall of the bedroom.

8 Q And why is that picture important?

9 A I was given information that the window unit had been
10 pushed in by a neighbor at the request to access a door,
11 and that was just showing that that could be true because
12 the window unit was pushed in.

13 Q What is that a picture of?

14 A That's a little more clearer shot of a window unit
15 that's not in the window. It's an AC unit.

16 Q Is that the same window as before?

17 A Yeah, it's just at a different angle.

18 Q What about that one?

19 A Same, it's just pulling back -- I pulled back the
20 curtain in order to show that the window shows it had
21 something that was in it that's not in it right now.

22 Q And what is that a photo of?

23 A This is the hallway. This is the rear door and this
24 is the hallway leading to that bedroom, that rear bedroom.

25 Q So what we're seeing in the center of this is the

1 doorway into the bedroom?

2 A Yeah, right here is the door that leads to the back
3 bedroom.

4 Q And what is the door on the right?

5 A This is going to be like the rear exit door of the
6 mobile home.

7 Q What is that one?

8 A That's another shot of the hallway leading back to
9 the bedroom.

10 Q And I believe you briefly touched on this. Why did
11 you take these photos?

12 A We like to document the entire scene, and it helps to
13 say if something is true or something is not true. And we
14 were told that a neighbor had climbed through a window in
15 order to open the door, and this is just showing this is
16 an area he would have come through and opened that door.

17 Q What is that?

18 A That's a picture of -- I think this is going to be a
19 spare -- this is going to be the bedroom there, I believe.
20 This is going to be the exit door on that side of the
21 house.

22 Q So where is this in comparison to the previous photo?
23 I can show you that one.

24 A It would be right here. It would be this right here.

25 Q And you can take your seat again.

1 A All right.

2 (Witness returns to witness stand.)

3 Q So when you're on scene, you take photos. What else
4 do you do while you're there?

5 A You photograph, you collect any evidence that you can
6 see. You search for additional evidence. You may have a
7 request from an investigator to look for something or to
8 collect something specific, such as a cell phone or a
9 laptop or something, depending on the crime. You may or
10 may not dust for prints. You may or may not do any
11 further analysis on any blood.

12 Q What would -- when you say may or may not, what would
13 lead you to do or not do those things?

14 A Each scene is different. You have to go to a scene
15 and work it individually. Depending on what you're
16 seeing, the information that may be coming in through
17 unanimous witnesses, through unanimous information,
18 through investigations could change the direction of what
19 you do. This scene, we were given certain information
20 that we started to work with. And it depends on what you
21 need to do in order to document aspects. It could be you
22 just need to photograph everything and maybe collect some
23 items. You could do a lot more analysis of a certain area
24 if you need to.

25 Without getting too detailed into that, it just

1 really depends on what the scene is. You cannot say that
2 you have to specifically work every scene exactly the same
3 because it doesn't work that way.

4 Q Investigator Lee, I'm showing you what's been marked
5 as State's 48. Do you recognize that?

6 A This is the evidence slip I completed for the broken
7 glasses.

8 Q And where were those?

9 A They were on the floor in the living room.

10 MR. MCGLOTHIN: At this point, we'd like to move the
11 Exhibit 48 into evidence.

12 THE COURT: Objection?

13 MR. KRZYSTON: I'm sorry. No objection.

14 THE COURT: All right. State's 48 admitted without
15 objection.

16 (WHEREUPON, State's Exhibit No. 48 was admitted
17 into evidence.)

18 BY MR. MCGLOTHIN:

19 Q At this time, I'm showing you what's been marked as
20 State's 49. Do you recognize that?

21 A It says that it's a work name tag.

22 Q How do you know that's what that is?

23 A It's written on it.

24 Q And is -- why is that written on there?

25 A It was collected by Investigator Satterfield, most

1 likely during autopsy.

2 Q And how do you know that?

3 A I've looked at the photos when she attended autopsy,
4 and I know that she had a name tag, the victim had a name
5 tag, I believe it was attached to her collar when she was
6 removed from the scene.

7 MR. MCGLOTHIN: At this point, we'd like to enter
8 State's 49.

9 MR. KRZYSTON: Without objection.

10 THE COURT: Forty-nine without.

11 (WHEREUPON, State's Exhibit No. 49 was admitted
12 into evidence.)

13 BY MR. MCGLOTHIN:

14 Q Now, I'm showing you what's been marked as State's
15 47. Do you recognize that?

16 A This is an evidence label that says bags used to
17 cover hands taken off at autopsy. And that was collected
18 by Investigator Satterfield.

19 Q How do you know that?

20 A It says it.

21 Q Is that the normal procedure to write that on there?

22 A You need to document -- clearly document what your
23 evidence is, yes.

24 Q Do you know what those were used for?

25 A The bags were placed on the hands by me at the

1 initial scene. Anytime you bag -- put paper bags over
2 hands, it's to protect the hands from contamination, but
3 also, it protects the possible trace evidence that could
4 be on the hands.

5 Q What sort of trace evidence may be on the hands?

6 A Most of the time in a shooting scene, you're going to
7 take gunshot residue tests, GSR tests, from the hands of
8 victim. It's just to eliminate if there's any GSR that's
9 on the hands. There could be if it's in proximity of
10 being shot. You could get pieces of that on there.

11 MR. MCGLOTHIN: At this point, we'd enter State's 47.

12 MR. KRZYSTON: Without objection.

13 THE COURT: Without objection.

14 (WHEREUPON, State's Exhibit No. 47 was admitted
15 into evidence.)

16 BY MR. MCGLOTHIN:

17 Q Now, finally, I'm showing you State's Exhibit 46. Do
18 you recognize that?

19 A Yes. It's my evidence label of four different swabs.
20 Swabs collected from Marker One, Three, Four and Five of
21 red-brown stains.

22 Q And why did you collect those?

23 A Certain areas are swabbed that we believe are blood
24 or could be blood. And it's a lot of the times in case
25 other evidence is lost. In this aspect, we believed it

1 was the victim's blood. But if something gets misplaced,
2 such as a buccal swab or something through autopsy, we
3 have another to fall back on. So it's to document where
4 certain stains were at and to have a collection.

5 MR. MCGLOTHIN: At this point, we'd enter State's 46.

6 MR. KRZYSTON: I'm sorry, no objection.

7 THE COURT: State's 46, without objection.

8 (WHEREUPON, State's Exhibit No. 46 was admitted
9 into evidence.)

10 MR. MCGLOTHIN: Nothing further from the State.
11 Please answer any questions the Defense may have for you.

12 THE WITNESS: Sure.

13 THE COURT: Cross-examination?

14 MR. KRZYSTON: Thank you, Judge.

15 CROSS-EXAMINATION

16 BY MR. KRZYSTON:

17 Q Okay. So you mentioned earlier you have an extensive
18 amount of training in all this, right?

19 A I've gone to many courses and I've also gone to many
20 scenes.

21 Q Ballpark, how many scenes?

22 A How many cases have I worked?

23 Q Yes, sir.

24 A In the past 10 years, probably 1600 cases.

25 Q Okay. And do all those have blood spatter or just

1 some?

2 A No.

3 Q Okay. Now, you go to training about how many times a
4 year on various aspects of crime scene processing?

5 A It varies. It depends on the budget and what's
6 available. Maybe one, maybe two, maybe none.

7 Q Maybe three?

8 A It could be on a good year, yeah.

9 Q Okay. And these are not just day-long trainings? I
10 mean, in most cases, these are a couple of days and you're
11 hearing from experts in the field, correct?

12 A Instructors put on courses that could be anywhere
13 from one-day course to 40-hour course.

14 Q Okay. Obviously, that's a whole week-long course.
15 And these instructors, they're not just anybody, right?

16 A No.

17 Q These are guys that are at the absolute top of the
18 profession?

19 A Yes.

20 Q And what they do in those courses is make
21 recommendations to all the local law enforcement agencies,
22 right?

23 A They express their training, their knowledge and they
24 provide those skills to us to use.

25 Q And, I mean, again, these are -- this is an

1 impressive set of skills to learn, correct? I mean, not
2 everybody does this?

3 A There's a lot to it, yes.

4 Q And part of the reason that your department invest, I
5 think is a good word, in this type of training is so that
6 when a crime happens, you can come to court and back up
7 what you're saying, right?

8 A We can be accurate in documenting the scene, yes.

9 Q Because it's important not just to document the
10 scene, but to also be able to repeat your conclusions or
11 your -- what are basically theories, correct?

12 A If need be.

13 Q And you would agree with me that in a death
14 investigation, more documentation is generally better than
15 less documentation?

16 A It depends.

17 Q Well, what is a scenario where no documentation of
18 your investigation would be good?

19 A Well, not every scene is going to be picture perfect.
20 Not every scene is going to give you what television can
21 give you. Not every scene can contain every type of
22 processing aspect. Some scenes are less. Some are more.

23 Q So if, for instance, there wasn't what appeared to be
24 blood evidence or biological material, there would be no
25 use for DNA evidence?

1 A Say that again, I'm sorry.

2 Q I said if you -- better question. If you responded
3 to the scene of a strangling and there did not appear to
4 be any biological material, DNA evidence would be useless?

5 A No.

6 Q No? Okay.

7 A It doesn't have to be blood in order to be DNA.

8 Q I'm sorry --

9 A There's other aspects of DNA collection.

10 Q Within the scope of blood spatter analysis?

11 A Well, blood would be a perfect source, yes.

12 Q Right. And when you're looking at blood, you
13 actually test it to make -- or what you think is blood,
14 you actually test it to make sure it's blood, right?

15 A Not always, no.

16 Q But, generally, if there's a piece of evidence that
17 you think is important, again, and you think it might be
18 blood, generally, you want to know that it's blood?

19 A Well, it would be nice to, but sometimes you aren't
20 to.

21 Q Right.

22 A Maybe the sample is not enough that you want to
23 jeopardize testing in the field. So you would collect it
24 and, as a crime scene investigator where I do collection
25 the majority of the time, I would send that off for the

1 DNA lab to analyze.

2 Q And before you collect it, you want to be able to
3 capture it or document it so that later on, you can show
4 the jury what you saw before you disturb the actual
5 evidence, correct?

6 A Of course.

7 Q And in photographing and documenting a crime scene,
8 one of the most important things to do is to kind of
9 capture photographs of the scene, how it was before you
10 guys arrived, right? I mean, you want to photograph the
11 scene in as close to the natural state of the scene as you
12 can get?

13 A Sure, you want to document the scene and show how it
14 was when you arrived at the scene, not before I got there.

15 Q And some important things generally would be, I
16 guess, wide-angle photography, so that you can stand in
17 the four corners of the room and look at everything that
18 was in the room, right? So you can see the whole room
19 where the crime occurred?

20 A In a perfect world, yes.

21 Q Yes. And you can do that with a 28-millimeter camera
22 lens, correct?

23 A You could, yes.

24 Q Did you do that in this case?

25 A We don't use wide-angle lenses. We use 50-millimeter

1 lens.

2 Q So the answer is no?

3 A We did not use those kind of lenses. We did not use
4 the wide ones like that.

5 Q And another thing, you know, blood spatter is what
6 they call a subjective science, correct? I mean, it
7 requires you to interpret some things, right?

8 A There are interpretations to it, yes.

9 Q And part of what informs your interpretation is where
10 the blood is actually located within the scene, correct?

11 A Correct.

12 Q And those things are important to your
13 interpretations because you, again, need to come in here
14 and be able to explain to the jury how you're reaching
15 your conclusions, correct?

16 A Yes.

17 Q And you would agree with me that the size of the
18 blood droplets matter when you're looking at analyzing a
19 blood scene, correct?

20 A Absolutely, yes.

21 Q And you would agree with me that the location of a
22 particular size blood droplet, they're actual physical
23 location in the crime scene, that's an important piece to
24 know, correct?

25 A It depends on the crime.

1 Q A shooting?

2 A Yes.

3 Q Okay. And you would agree that in order to determine

4 physical location of these things and then be able to

5 relay that physical location to the jury, you would have

6 to take measurements, correct?

7 A If you need to do it. It's not required every single

8 time to take measurements. Sometimes you're not able to.

9 Q Is there --

10 A Stains may not be a quality to give you what you

11 need.

12 Q And in this scenario, you didn't measure the room of

13 the actual crime scene, did you?

14 A No, I did not.

15 Q And you didn't measure the height of the roof at the

16 crime scene, did you?

17 A No.

18 Q You can't even tell me if the roof is the same level

19 throughout the entire unit, can you?

20 A Yes, I can tell you it's not the same level.

21 Q But you don't know what the varying degree of heights

22 in the actual trailer are?

23 A No.

24 Q You don't know what the actual dimensions of the

25 trailer are?

1 A Not specific measurements, no.

2 Q Okay. Now, you testified earlier that you aren't --
3 you've had a lot of training, but there are other people
4 in your department with more training, right?

5 A Yes.

6 Q And those people, Stan Richards, in particular,
7 responded to this scene, correct?

8 A He did, yes.

9 Q And that's a man who has worked for Army CID and
10 Richland County Sheriff's Department for almost as long as
11 I've probably been alive, right?

12 A Probably. I don't know his qualifications.

13 Q And Mr. Richards, again, he responded to this scene?

14 A He was an on-call supervisor, so yes, he would come
15 to the scene.

16 Q So he would be kind of informing you guys of what you
17 might want to do so that he can kind of go in there and
18 give an opinion, right?

19 A He would come in and analyze the scene with us, yes.
20 You always want to have a second set of eyes --

21 Q You don't want to miss anything?

22 A -- that's why we have an on-call supervisor who comes
23 out to death scenes.

24 Q Again, it's important to document. You don't want to
25 miss anything that you might be able to give these guys so

1 that they can get an accurate and correct accounting of
2 what evidence is in the case?

3 A Correct.

4 Q And in this case, what kind of camera did you bring
5 out to the crime scene?

6 A My camera was a Nikon D40.

7 Q Now, is that standardized equipment for the Richland
8 County Sheriff's Department?

9 A At that time, it was, yes.

10 Q And --

11 A Well, there's D40's and there's D60's. They're just
12 different models. One has a few more options and a few
13 more mega pixels.

14 Q Okay. Explain what mega pixels are.

15 A Mega pixels are the quality of the lens. So if
16 you're able to -- the quality of your photo, if you're
17 able to take one at 20 mega pixels, the quality is going
18 to be better than something taken at 10. Most cell phone
19 pictures that you take are around a 10 or a 12 mega pixel,
20 which is the amount of pixels that can be captured.

21 Q Again, the model camera you used in this case is a
22 D40 Nikon?

23 A It was, yes.

24 Q But at that time, there were also D60's?

25 A Which are equivalent to each other, yes.

1 A 2015, yes.

2 Q So it wasn't the Dark Ages?

3 A No.

4 Q So, I mean, we have relatively contemporaneous or
5 modern equipment, correct?

6 A Yes, if we had an unlimited budget, we would buy
7 anything we wanted.

8 Q How much did that camera cost?

9 A The D40?

10 Q Uh-huh. A couple hundred bucks?

11 A No, probably when it was new, you're probably looking
12 at five or \$700 for that.

13 Q An expensive piece of equipment?

14 A A newer one, now, you're looking at \$2,000.

15 Q You know what dead pixels are, don't you?

16 A Not necessarily, no.

17 Q Well, you know if you use a camera over and over and
18 over again, there's certain spots in the camera because of
19 its exposure -- the filter's exposure to light where it
20 wears, correct?

21 A It's possible.

22 Q Okay. So you agree that if a camera is used over and
23 over and over again and the settings aren't checked, tuned
24 up kind of, if you will, you could have issues with your
25 images?

- 1 A It's possible, I guess, yes.
- 2 Q It's possible? Would you say it might have happened
- 3 in this case?
- 4 A Not on my photographs. All my photographs look well.
- 5 Q It's your testimony today that there are no issues
- 6 with the shutter speed?
- 7 A There could be. I don't see any with the photographs
- 8 that I looked at. You need to show me what --
- 9 Q Okay. I'm just asking you the photographs you took
- 10 in general. You reviewed them for your testimony today,
- 11 right?
- 12 A I looked at my photographs.
- 13 Q And you looked at them when you took them originally?
- 14 A Yes.
- 15 Q Because that's part of your quality control
- 16 procedures, right?
- 17 A Yes.
- 18 Q And it's your testimony today that there were no
- 19 issues that you saw with the shutter speed?
- 20 A With the shutter speed? There were several that were
- 21 maybe considered dark or underexposed.
- 22 Q What about overexposed?
- 23 A There might be one or two in there that could be a
- 24 little bit brighter than normal.
- 25 Q And when I say overexposed, what we're talking about

1 is looking at areas that are very light in color, that
2 have too much light in the image, correct?

3 A Too much light would be overexposed, yes.

4 Q And the effect of too much light in the picture is
5 that it can bleed things out of picture, correct?

6 A It could.

7 Q Like little microscopic almost blood stains, right?

8 A You would have to be up close to see those.

9 Q Okay. So you agree --

10 A Not in the overall lens.

11 Q With regard to these pictures, it would be very
12 probative if this jury were able to see zoomed-in images
13 of your photographs?

14 A If they could see zoomed-in?

15 Q Uh-huh.

16 A It would probably help them to see stuff, yes.

17 Q Okay. And it's your testimony today that there was a
18 void on the couch where Ms. Marshall was sitting, correct?

19 A Yes.

20 Q You're 110 percent sure of that today, are you?

21 A Yes.

22 Q No issues with saying that?

23 A No.

24 Q Your camera wasn't the subject of overexposure or
25 underexposure such that would affect the jury's ability to

1 see those things?

2 A No.

3 Q Okay. I want to talk to you a little bit of the
4 process of documenting evidence. Now, there in these
5 trainings are kind of -- I'm not going to say -- there are
6 best practices, if you will, right?

7 A There are guidelines, yes.

8 Q And guidelines, the point of those things is to kind
9 of show you how best to handle something, how best to do
10 something, right?

11 A Yes.

12 Q And part of the 500 hours of training that you went
13 to on crime scene processing taught you how to process a
14 crime scene, right?

15 A Aspects of processing, documentation, yes.

16 Q And I'd love to talk about documentation because as
17 part of your job as a crime scene analyst that is
18 concerned with blood spatter, you just testified that it
19 is very important to get an idea of where a spatter dot's
20 physical location is, right?

21 A Depending on the scene.

22 Q Right.

23 A Yes.

24 Q And that the physical -- the actual dot, the size of
25 that is important, too, right?

1 A Depending on the scene, yes.

2 Q And when you look at something like that, it's
3 important for you to be able to see something of scale in
4 the photograph, is it not?

5 A If you need to document with scale, yes.

6 Q Okay. And the reason that's important is so that
7 people can come back to court later and take a look at
8 that dot and say look, there's an image that's exactly --
9 I know the measurements of that image, right?

10 A Say it again, I'm sorry.

11 Q All right. So part of --

12 A You walked away from me.

13 Q I'm sorry. Part of the reason that it's important to
14 photograph a droplet with scale is because when you come
15 to court later and show the jury that droplet, you more
16 times than not want to be able to say look, we know how
17 big this scale is. That's how I know that drop was that
18 size, right?

19 A Anytime you use a scale, it gives you an idea of the
20 size of the evidence, yes.

21 Q And you would agree with me that you're aware of a
22 process in forensic processing called roadmapping?

23 A Yes.

24 Q And this process was developed by Toby Wolson, what
25 City of Miami Police Department?

- 1 A You may be correct on that. I don't have specifics.
- 2 Q And he developed this processing theory, if you will,
- 3 in 1995 down in Miami, correct?
- 4 A I don't know. He may be.
- 5 Q Okay. Part of what they want you to do when you
- 6 process a crime scene is take those overall images, right,
- 7 so we can see the entire crime scene before it was
- 8 disturbed?
- 9 A Yes.
- 10 Q So that's one type of image, correct? What type of
- 11 image is that called?
- 12 A Overall shots.
- 13 Q That's an overall shot?
- 14 A Uh-huh.
- 15 Q Now, when we're talking about photographs, you can
- 16 classify the photographs in different shots, if you will.
- 17 There's an overall shot, right?
- 18 A Yes.
- 19 Q Then what's another shot?
- 20 A Midrange.
- 21 Q A midrange shot. And the midrange shot, the purpose
- 22 of that is to establish what we are looking at, kind of
- 23 like the evidence in its initial -- in its original spot,
- 24 right?
- 25 A If it's a closer of a specific area.

1 Q All right. So we've seen --

2 A Okay.

3 Q So we've seen the entire room?

4 A Uh-huh.

5 Q And in the entire room photographs, we see something
6 that looks like it might be of interest. So what we want
7 to do is move closer and take an established shot?

8 A A midrange shot.

9 Q Midrange shot, I'm sorry. Are there other types of
10 shots that you can take on the camera?

11 A There's close-up shots.

12 Q The close-up shot, that would depict the actual piece
13 of evidence labeled with scale under the roadmapping
14 theory, correct?

15 A Well, eventually, you'll mark it and you'll use a
16 scale if you need to.

17 Q Okay. So you actually take a wide photograph that we
18 just talked about, you identify a spot that you think is
19 of interest. You go in, take the midrange shot. You see
20 from the midrange shot, your position as you're shooting
21 the midrange shot that there's a pattern of blood on the
22 wall that you think holds evidentiary value, right?

23 A Depends on the scene.

24 Q Okay. That's when you move closer and you take a
25 close-up shot, right?

1 A If you need to, yes. It depends on the scene.

2 Q Then you come back out and you take another midrange
3 shot after you apply a scale to that area under the
4 roadmapping theory, right?

5 A Uh-huh.

6 Q And what I mean by scale is a piece of tape or a
7 ruler that shows inch by inch by inch how tall the area
8 is, right?

9 A Correct.

10 Q And another scale, another ruler, inch by inch by
11 inch, sometimes centimeters, but we'll get to that, across
12 the bottom so you know the line access, how long that is,
13 right?

14 A Okay.

15 Q Now, after you do and apply those scales, you take
16 another midrange shot, don't you?

17 A Yes.

18 Q Under the roadmapping theory?

19 A Yes.

20 Q Okay. Then you go back up for the close-up and you
21 put a marker -- excuse me, still in the midrange shot, we
22 denote an area -- and I think y'all may have done some of
23 that, right, the one, two, three, four, five?

24 A Not on this scene, no.

25 Q Okay. So you didn't mark any areas where patterns of

1 interest were?

2 A No.

3 Q Okay. But if you're doing it with these guidelines
4 in mind, you mark the areas so you don't get confused when
5 you're the close-up shot area, area A, area B, area C,
6 right?

7 A Yes.

8 Q Okay.

9 A And this scene, we did not roadmap.

10 Q Okay.

11 A Roadmapping is a guideline. It's not a requirement.

12 Q And then as you get closer and you take that close-up
13 shot, and you take the close-up shot, right? That's the
14 specific droplets and the specific little pattern that
15 you're looking at for evidentiary value, right?

16 A It's an area you mark, yes.

17 Q Okay. You've got little numbers there that point to
18 the droplets that you're looking at, right?

19 A If you -- on roadmapping, yes.

20 Q Okay. And again, you didn't do any of that in this,
21 right?

22 A No.

23 Q Okay. Now, let's talk about determining an area of
24 convergence. Do you understand what that language is?

25 A Yes.

1 Q Okay. Now, determining an area of convergence means
2 you're determining an area from about the size of a
3 volleyball to the size of a beach ball, right, from where
4 the blood came from?

5 A You can, yes.

6 Q And you would agree with me there are only a couple
7 of methods to being able to do that, right, stringing
8 being one of them?

9 A Yes.

10 Q Okay. What is stringing?

11 A Stringing is based on the size of the drop and the
12 directionality of the drop, you would be able to develop
13 an area, a point of origin of where this began and
14 radiating out from.

15 Q So --

16 A Such as if you had a head laying on the floor and it
17 was struck with a hammer and you may have an area that
18 comes out from there.

19 Q And, basically, what you do is you locate a droplet
20 that you think you can tie back to an area of convergence,
21 right? You measure that droplet, the size?

22 A On roadmapping, yes, but we didn't do any of that on
23 this scene --

24 Q Okay.

25 A -- because it wasn't required.

1 Q Okay. And then to do the stringing method, you
2 actually have to kind of get down on hands and knees and
3 get a protractor and determine the angle at which the
4 blood droplet hit, right?

5 A Yes.

6 Q Okay. And then what you do is you put a pushpin in
7 the floor at the leading edge of the blood spot, right,
8 and you string a string at the angle you just found,
9 right?

10 A The developed angle, yes.

11 Q And you leave that, and then you go find another
12 blood stain and you do the same thing with the protractor,
13 with the measurements, with the roadmapping, right? And
14 you draw another string. And you do this what, six,
15 seven, eight, 15 times?

16 A A lot, you could, yes.

17 Q Right. So that you get an idea of where all these
18 droplets are coming there, right?

19 A Correct.

20 Q And a lot of the times, the strings aren't going to
21 intersect at like a one-centimeter point. They're not all
22 going to come to the same little teeny spot, are they?

23 A That's correct, yes.

24 Q And that's because there's a lot of -- you know,
25 there's problems measuring this stuff on the floor. I

1 mean, it's hard. It's a biological hazard on the scene,
2 right? You guys don't want to get up close. There's
3 contamination risks. Let's be serious.

4 A On any scene, there can be.

5 Q Right. So you get an area of convergence, right,
6 like a generalized area, not a spot, but a generalized
7 area?

8 A Right.

9 Q And you didn't do any of that stringing in here?

10 A No, we did not.

11 Q Okay.

12 A Like I said before, based on our guidelines and our
13 policies, it's not required on every scene.

14 Q Okay.

15 A Lieutenant Richards came out, we analyzed the scene.
16 We did not see stains that were of quality or of formation
17 to be able to go off of to give us what we needed.

18 Q And that's your testimony here today beyond any
19 doubt, that you didn't see any stains in this scene where
20 you could have done stringing?

21 A There may have been one --

22 Q May have been one?

23 A -- or two that were small that were on the table.
24 These --

25 Q And --

1 THE COURT: Whoa, whoa, whoa, whoa, stop. Stop
2 cutting him off.

3 MR. KRZYSTON: I'm sorry.

4 THE COURT: Answer your question.

5 THE WITNESS: The stains on this scene are very large
6 stains and they're going to be all over. A shotgun blast,
7 it goes all over the place. So to find very small stains,
8 there are maybe one or two that you can find, but you're
9 not going to go with an area of convergent on one or two.
10 We don't need to determine an area right there. We see
11 the injury, so we're looking at the overall from the
12 injury to help determine did it come from this area. It
13 probably did. What more do we need to determine?

14 There wasn't movement through the patterns. There
15 wasn't dragging from one side of the house or something to
16 follow like that that we needed to follow along to
17 reconstruct. Roadmapping is the way it sounds. It's a
18 map to guide you through certain aspects of the blood
19 pattern.

20 Q And in this dynamic scene where all this blood
21 letting occurred, only one or two stains, that's your
22 testimony today?

23 A There are probably a lot -- well, there are a lot of
24 stains on the scene.

25 Q Uh-huh.

1 A But stains of quality that are small enough to be
2 well formed, there may only be a few of them.

3 Q And that's your testimony today?

4 A That's what I'm giving, yes.

5 Q One hundred percent sure of it?

6 A Yes, sir.

7 MR. KRZYSTON: Court's indulgence.

8 (Pause.)

9 BY MR. KRZYSTON:

10 Q DNA swabs, y'all took a bunch of swabs at the scene,
11 right?

12 A Four swabs, yes.

13 Q That's how many you took?

14 A Yes, sir.

15 Q You submitted those to evidence?

16 A I did.

17 Q Do you test those at all?

18 A I don't test that stuff.

19 Q So that's another department?

20 A Yes, sir.

21 MR. KRZYSTON: Court's indulgence, Your Honor.

22 (Pause.)

23 BY MR. KRZYSTON:

24 Q Did you measure the couch in this room?

25 A I did not, no, sir.

1 Q Okay. And in terms of the other evidence in this
2 case, you didn't examine the autopsy report, you didn't
3 look at that, right?

4 A I did not attend autopsy.

5 Q Okay. You did not look at the firearm that was used
6 in this case, did you?

7 A No, sir.

8 Q You did not look at or consider the type of ammo that
9 was used in this case, correct?

10 A No, sir.

11 Q And there was a t-shirt that the -- Mr. Marshall was
12 supposed to be wearing when all this happened, a full
13 white t-shirt?

14 A I never saw the Defendant.

15 Q Okay. So you never examined a full white t-shirt?

16 A No, sir.

17 Q Okay. You didn't -- the only evidence that you
18 reviewed in coming to your conclusions are contained in
19 these photographs?

20 A In the scene, yes.

21 Q Okay. Two blood stains, right?

22 A There could be more than a couple, but mostly small
23 ones. I think Lieutenant Richards and I saw a couple that
24 were on the stand that was in front of the victim.

25 MR. KRZYSTON: Okay. Thank you. No further

1 questions.

2 THE COURT: Redirect?

3 MR. MCGLOTHIN: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. MCGLOTHIN:

6 Q Investigator Lee, is it your job to examine those
7 clothes of a suspect that was found off the scene?

8 A If we're asked to document clothing, we could
9 photograph clothing, shoes, hands at the request of
10 investigations, yes.

11 Q Were you asked to do that in this case?

12 A I was not, no.

13 Q The pictures we showed today, were those all the
14 photos that you took that day?

15 A No, there were more.

16 Q Could you estimate how many you took that day?

17 A I could tell you from my notes. I believe it's 152.

18 Q And the photos that we showed you today, were there
19 anything wrong with those photos?

20 A No.

21 Q Do they show what you saw that day?

22 A They show what I observed when I got on scene, yes.

23 Q Do they accurately depict what you saw?

24 A Yes.

25 Q As you saw it that day?

1 A Yes.

2 Q Why -- you covered measurements and everything with
3 the Defense. Why didn't you take measurements of the
4 house?

5 A Take measurements of the house?

6 Q The dimensions of the room?

7 A I didn't see it necessary to measure the entire room.
8 I could document -- the room was small. It was fairly
9 contained. I could document and show the items in there
10 with the photographs and describe where they're at. A lot
11 of times, if you have an outdoor scene, then it becomes
12 important for measurements because you have a larger area.

13 Q And what about roadmapping? Why did you not use
14 roadmapping?

15 A Roadmapping is a guideline. It helps on certain
16 scenes. This scene, Lieutenant and I determined that it
17 would not help us on what we were looking at. The stains
18 were not of quality to be able to roadmap off of it. It
19 takes a lot of measurements. And when you have large
20 chunks of different things that are larger stains, it's
21 difficult to get accurate measurements off of that.

22 Q And why not using the stringing in this case?

23 A It's based on we need to have small defined stains to
24 give us a good location and direction of things, and we
25 did not have that. And he can touch on a lot more of what

1 he saw when he testifies, but we both looked through the
2 scene and it was just a lot of stuff everywhere on this
3 one side.

4 Q When you say he, who are you referring to?

5 A My lieutenant, Lieutenant Richards, the supervisor on
6 call.

7 Q Were you able to tell where Doris was when she was
8 shot by looking at the scene?

9 A My opinion and my --

10 MR. KRZYSTON: Objection, prior stated.

11 THE COURT: Overruled. Go ahead, you can answer the
12 question.

13 THE WITNESS: My opinion and my experience, based on
14 what I see, she was on the couch.

15 BY MR. MCGLOTHIN:

16 Q What specifically told you that?

17 MR. KRZYSTON: Same objection.

18 THE COURT: All right. Overruled. Go ahead.

19 THE WITNESS: When we moved her, the void that was
20 behind her, that shows that she was in this area when she
21 was injured.

22 BY MR. MCGLOTHIN:

23 Q Where -- you said it was behind her. Could you
24 describe where that was in a bit more in depth?

25 A If you were to sit on the couch, behind the back

1 , area, there's going to be an area of less blood stains or
2 no blood stains causing the void. In this area, we showed
3 a void.

4 Q Was there anything else that you saw that led to that
5 -- that helped you make that opinion?

6 A The brain, the side of her foot right there nearby.
7 There was a chunk of skull and scalp that was up on top of
8 the couch.

9 Q And what about the blood in the room?

10 A In the room, the majority of the blood was contained
11 from the wound area to the -- if she was sitting there, to
12 the right, if you were looking at her to the left of the
13 room.

14 MR. KRZYSTON: Again, prior objection.

15 THE COURT: Overruled.

16 BY MR. MCGLOTHIN:

17 Q What did that tell you specifically?

18 A That the injury occurred in this area that projected
19 the blood off to the side.

20 MR. MCGLOTHIN: Nothing further.

21 THE COURT: Recross?

22 MR. KRZYSTON: Shortly.

23 RECROSS-EXAMINATION

24 BY MR. KRZYSTON:

25 Q When you talk about a void, what you're talking about

1 is if I was sitting on this chair and somebody walked up
2 to me, shot me in the head point blank dead, right, it
3 would be pretty hard to get blood spatter where my back is
4 sitting, right?

5 A To put it in terms for them to understand, if I
6 walked up with a bucket of paint and through it on you,
7 and then you stood up, there would be no paint behind you
8 where you were sitting.

9 Q And it's your testimony today that that phenomenon,
10 if you will, existed in the scene at this trailer?

11 A What do you mean phenomenon?

12 Q The void?

13 A The void, yes.

14 Q Okay. And I did not touch on this, but stringing is
15 not the only way to do an area of convergence, correct?
16 You can do the measurements and the angles and pretty much
17 all the same stuff and then put it into a computer
18 assisted drawing-type situation where it would do the
19 stringing for you, right?

20 A A CAD system?

21 Q Yes, sir.

22 A I believe you could probably do that. I'm sure
23 programs exist for that.

24 Q Okay.

25 MR. KRZYSTON: No further.

1 THE COURT: All right. You can step down.

2 THE WITNESS: Thank you.

3 THE COURT: How long is your next witness?

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but outside the hearing of the
6 jury.)

7 THE COURT: All right. Go ahead and call your next
8 witness.

9 MS. SAMPSON: We call David Collins.

10 MR. HAWKS: Judge, if we could have a 702 hearing if
11 he's going to be qualified, as well, before?

12 THE COURT: All right. Ladies and gentlemen, step
13 back to your jury room. Keep an open mind. We'll be with
14 you in just a moment.

15 (WHEREUPON, the jury left the courtroom at 12:01
16 p.m.)

17 DAVID COLLINS, after being duly
18 sworn, testified as follows:

19 THE COURT: Okay. Have a seat.

20 Go ahead.

21 No, I want to hear what the Defense has to say. I
22 mean, I don't know -- I'm completely perplexed as to why
23 this is all coming up in the middle of trial, so let's go.

24 DIRECT EXAMINATION

25 BY MR. HAWKS:

1 Q Do you have a copy of your CV?

2 A Not with me, sir, no.

3 Q How many times have you examined a firearm?

4 A This firearm?

5 Q Any firearm.

6 A Thousands of times.

7 Q Okay. Tell me about a few of the things that you
8 examine in general.

9 A I examine the physical appearance of the firearm as I
10 receive it. Then I begin documenting it further, going
11 into the functioning of the firearm, the functioning of
12 the safety devices on the firearm, test firing the firearm
13 and obtaining test standards from the firearm that I can
14 use for comparison purposes.

15 MR. HAWKS: Beg the Court's indulgence. Judge, I'm
16 sorry, I know I got started, but I believe this is the
17 State's burden to establish that he has met the
18 requirements to be qualified, so I think it would be more
19 appropriate if she would direct --

20 THE COURT: Why didn't y'all bring any of this up
21 pretrial is what I want to know? Y'all know these people
22 are on the witness list. You know who they are. They've
23 testified up at this courthouse more times than I've held
24 trials up here. I mean, I don't understand why we're
25 doing this in the middle of the trial when I've got a jury.

1 sitting here.

2 MR. HAWKS: We actually asked the State to conduct
3 these pretrial and it was their preference not to have
4 their witnesses come up here.

5 THE COURT: Why do they get to make that decision?
6 Why didn't you ask me?

7 MR. HAWKS: Perhaps, we should have, Judge. And we
8 apologize --

9 THE COURT: Perhaps, you should have. I run this
10 trial, not the solicitor's office.

11 MR. HAWKS: Yes, sir.

12 THE COURT: I told you all I wanted to decide
13 pretrial issues. I know exactly what this
14 cross-examination is going to be. I've heard it a hundred
15 times. Why are we doing this in the middle of trial while
16 I've got 14 people sitting here and, you know, stopping
17 everything we're doing so y'all can create some issue
18 about whether or not firearms examiners are qualified to
19 testify, as to whether or not they're experts. I mean,
20 this all should have been done pretrial. That is a
21 complete and total inefficient use of time. We could have
22 done this Monday afternoon when we were sitting around.

23 Don't shake your head. They're telling me y'all told
24 them you didn't want to bring them up here.

25 MS. SAMPSON: I actually said we could do Collins,

1 the only one we couldn't do was Durso because she was
2 doing autopsies.

3 THE COURT: Well, I don't care if Durso's doing
4 autopsies. I'm sick and tired of doctors in this county
5 thinking they control things. They don't control things.
6 You tell Amy Durso if she wants to keep examining bodies,
7 she's going to be up here when a judge tells her she's
8 going to be up. I don't care if she likes it or not. She
9 can find somebody else to cut open that body.

10 Go State.

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Investigator Collins, can you tell me your education?

14 A I receive a Bachelor's Degree from the Citadel in
15 1984. After that, I entered in -- in 1990, I started an
16 on-the-job training program in firearms and tool marks
17 examination at the State Law Enforcement Division,
18 commonly referred to as SLED.

19 Q And how long have you been -- when did you start
20 that?

21 A I started that training program in 1990. It took --
22 it lasted approximately three years where I was trained
23 in-house at SLED. I attended their training program and
24 once certified by SLED as a firearms examiner, I was
25 released to perform casework on my own.

1 Subsequent to that training, I received continuing
2 education and training in my field through our
3 professional association and through specialized schools,
4 ranging from firearms repair, shooting scene
5 reconstruction and similar courses. And I continue to
6 maintain that certification and training today.

7 Q And how do you maintain that certification?

8 A Well, I was certified by SLED. I'm not nationally
9 certified.

10 Q What's the difference between national certification
11 and SLED certification?

12 A At SLED, we determined early on that achieving
13 national certification did not have any significant value
14 here locally and the maintenance of that was something
15 more than what they wanted to pursue. And that's a policy
16 that we continue at the Richland County Sheriff's
17 Department. It's simply an extension of your existing
18 certification through your home agency. And the training
19 that we received at SLED and subsequent to that at
20 Richland County Sheriff's Department is sufficient for our
21 purposes.

22 Q And how do you maintain that certification?

23 A I take a proficiency test annually that's provided by
24 an external vendor in firearms and tool marks examination,
25 and also, I'll take one or the other self-disciplines,

1 whether it's distance determination or tool mark
2 examination or serial number restoration.

3 We are always peer reviewing one another's work to
4 make sure that we're maintaining proper standards per our
5 external accreditation through ASCLD Lab International and
6 through internal audits.

7 Q How many hours of training have you had to get
8 ongoing -- how many hours of training have you had this
9 year?

10 A This year, I've taken the proficiency testing
11 in-house. I have not attended any outside schools,
12 however, pertaining to firearms and tool mark examination.

13 Q And over the course of your years of doing this, how
14 many hours of training have you had?

15 A Thousands.

16 Q Have you ever lost your particular certification?

17 A Negative. Never.

18 Q Have you been qualified as an expert?

19 A Yes, I've been qualified as an expert in firearms and
20 tool marks examination in the circuit courts of South
21 Carolina in excess of 200 times. I've also been qualified
22 as an expert in the federal court system and the military
23 court system and in the state court systems of Georgia and
24 North Carolina.

25 Q Do you perform training yourself?

1 A I have performed training of firearms examiners that
2 have started the training program in-house, yes.

3 Q And are you -- I believe you've told me this before,
4 do you do anything with gun safety or training in that
5 particular area?

6 A Outside of my function as a firearms and tool marks
7 examiner, I am a certified firearms instructor. And I am
8 certified by SLED as a concealed weapons permit instructor
9 and I'm also certified by the National Rifle Association
10 as a law enforcement, shotgun, patrol rifle instructor.

11 Q How long have you been certified in those areas?

12 A It started back in 2012.

13 Q So four, five years?

14 A Five years, yes.

15 MS. SAMPSON: Please answer any questions the Defense
16 may have.

17 MR. HAWKS: I don't have any questions, Your Honor.
18 I do have an argument.

19 Judge, what we're saying here is that he has not
20 established the factors that Jones requires. I didn't
21 hear anything about publications or peer review, the
22 technique that he's applied, how he has applied that
23 technique in prior cases that are similar to this one, the
24 quality control procedures that were employed to make sure
25 these tests were done properly and the consistency of this

1 method with the current recognized scientific procedures.

2 THE COURT: All right. Explain all that.

3 THE WITNESS: Your Honor, it was a lot to bite off in
4 one chew. As far as peer review articles, I have not
5 published anything, nor am I required to publish anything
6 to maintain my expertise, any kind of peer review
7 articles. I have access to peer review articles, which I
8 use to perform the basis of our procedures that we use at
9 the sheriff's department. All of our procedures that we
10 use are accepted in the industry as the commonly accepted
11 standards.

12 And as far as our quality control process, I'll be
13 happy to explain that. Each of our reports, all of our
14 work is reviewed by another qualified examiner before it
15 goes out the door. We have a technical review which
16 happens in the case of any issued report. We have --
17 following that, there is an administrative review of the
18 document, as well. So everything is done in-house as far
19 as quality control.

20 We are very consistent in the way that we perform our
21 quality control methods to meet the standards of our
22 accrediting body, which is ASCLD Lab International, the
23 American Society of Crime Lab Directors. And those
24 standards are also held up against the ISO 17025 standard.

25 MR. HAWKS: I made my arguments, Your Honor. You can

1 decide.

2 THE COURT: Okay. He's qualified as an expert.

3 Bring the jury back in.

4 (WHEREUPON, the jury entered the courtroom at
5 12:10 p.m.)

6 THE COURT: Welcome back, ladies and gentlemen.

7 You may continue, Ms. Sampson.

8 MS. SAMPSON: Thank you, Your Honor.

9 THE COURT: State your full name for the record,
10 please, sir.

11 THE WITNESS: David Jeffery Collins.

12 THE COURT: Do you understand you're under oath,
13 Mr. Collins?

14 THE WITNESS: I do, Your Honor.

15 THE COURT: Thank you very much.

16 DAVID COLLINS, after being duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SAMPSON:

20 Q Investigator Collins, can you tell us about your
21 educational background?

22 A I received a Bachelor's Degree from the Citadel in
23 1984. Following a brief employment outside of law
24 enforcement in state government, I was employed by State
25 Law Enforcement Division where I began training in

1 firearms and tool mark examination.

2 Q And for the jury, what is firearms and tool mark
3 examination?

4 A Firearms and tool mark examination is the study of
5 firearms and tool marks in relationship to criminal
6 activity. We would examine firearms to determine their
7 function. We would examine fired components, such as
8 bullet, pellets, wads and other projectiles to determine
9 their source of origin, whether they were fired by a
10 specific firearm, if we can possibly do so, and exactly
11 what caliber and type they are. We do the same thing with
12 fired cartridge cases, fired shot shells. Any type of
13 specialized firearm-related examination, we would perform.

14 Tool marks goes a little bit beyond the aspect of
15 firearms, where we would also examine marks left by tools,
16 such as wire cutters and knives, suspect material to
17 determine if those marks were made by those specific
18 tools.

19 Q Now, you talked about your training. You're
20 certified in?

21 A I became certified by SLED in 1993 after completing
22 their in-house training program. There are schools that
23 you can go to in the United States that train you from
24 beginning to end on how to be a firearms and tool mark
25 examiner. The training process is much like an

1 apprenticeship. You study under the tutelage of other
2 qualified examiners and once you have completed the
3 exhaustive training program, which involves actually
4 preparing and examining much evidence before you actually
5 do it under -- for your side of the report.

6 Upon completion of that, that agency can certify you
7 as a firearms and tool mark examiner. That certification
8 would follow you to any other agency that you go to. All
9 the other agencies would either review your training
10 documents to make sure that you meet their standards or
11 give you an internal competency test.

12 Q And do you have to continue being trained to keep
13 your certification?

14 A We have to continue being trained and/or pass
15 proficiency tests that are provided to us by an outside
16 vendor, successfully pass those.

17 Q Have you done that?

18 A Yes.

19 Q Every year?

20 A Yes.

21 Q How often is the testing done?

22 A I take a test in firearms examination involving the
23 examination of fired components, which is bullets and
24 cartridge cases, every year. In addition to that, I'll
25 take another test in one of the subspecialties, whether

1 it's determining muzzle target distance determination,
2 serial number restoration or tool mark comparisons.

3 Q And you've passed that test every year?

4 A Yes.

5 Q Are you a member of any organizations?

6 A I'm a member of the Association of Firearms and Tool
7 Marks Examiners, or AFTE, which is our professional
8 association.

9 Q And do you do any other training -- do you train any
10 others on ballistics or on firearms?

11 A I have trained and assisted to train other firearm
12 examiners on multiple occasions.

13 Q Do you do any training outside of the office?

14 A I am certified by SLED as a concealed weapons permit
15 instructor and by the National Rifle Association as a
16 handgun, shotgun and patrol rifle instructor for law
17 enforcement.

18 Q How do you get that certification?

19 A I took that on myself taking classes through the NRA,
20 initially to meet their standards, and then I submitted my
21 documentation to SLED, as well as a lesson plan to meet
22 their standards for a concealed weapons permit instructor.

23 Q And how long have you been doing that?

24 A I've been doing concealed weapons permit instruction
25 since 2012.

1 Q And have you ever been qualified as an expert?

2 A Yes.

3 Q How many times?

4 A I've been qualified as an expert in excess of 200
5 times in South Carolina in State courts and General
6 Sessions courts. I've also been qualified in the State
7 courts of Georgia and North Carolina. I've been qualified
8 as an expert in the federal court system and the military
9 court system.

10 Q In what field were you qualified as an expert?

11 A In firearms examination.

12 MS. SAMPSON: At this time, we'd ask that
13 Investigator Collins be qualified as an expert in the
14 field of firearms examination?

15 THE COURT: Voir dire.

16 MR. HAWKS: I don't have any questions, Your Honor.
17 I just renew my prior objection.

18 THE COURT: All right. Ladies and gentlemen, this
19 witness will be qualified as an expert in the area of
20 firearms and tool mark examination. Normally, a witness
21 cannot give their opinion. Normally, they have to testify
22 as to what they saw, heard or did. There is an exception
23 under the rules when someone is qualified because of
24 education or experience. This witness will be permitted
25 to give his opinion in the area of firearm and tool mark

1 examinations. That does not mean that you have to accept
2 his opinion, but it is evidence for you to use in any way
3 that you see fit and give it the weight and credibility
4 that you believe is appropriate as you're required to do
5 with each and every witness that appears before you.

6 MS. SAMPSON: Thank you, Your Honor.

7 BY MS. SAMPSON:

8 Q Now, investigator Collins, what do you normally do?
9 What does your job entail at the Richland County Sheriff's
10 Department?

11 A It's the forensic examination of firearms evidence in
12 most cases.

13 Q How do you get involved in a case?

14 A Initially, we receive a request in most cases to
15 examine evidence pursuant to -- as part of a case or part
16 of an investigation. Sometimes, we generate our own
17 requests in-house by -- or screening firearms as they come
18 into the evidence room to determine if they may
19 automatically require some sort of testing to be entered
20 into a national database. Typically, we like to receive a
21 request from the investigator to examine a specific item
22 or items of evidence.

23 Q So how did you become involved in this case?

24 A We received a request on May 5th of this year from
25 Investigator Joe Clarke to examine the shotgun and the

1 projectile submitted in this case.

2 Q And what kind of gun was used in this case?

3 A The gun specifically is a Sadler or Stevens model
4 311A double barrel shotgun. It's 12-gauge and more.

5 Q I'm going to slow you down. Treat me like I'm a
6 five-year-old. What is a double-barrel?

7 A A double-barrel shotgun has two barrels, each of
8 which can contain one shotgun shell and has a maximum
9 capacity of two shots before it needs to be reloaded.

10 Q And in this particular gun, does it have one trigger
11 or two?

12 A There are two triggers. Each trigger activates a
13 separate barrel.

14 MR. HAWKS: Your Honor, I would just ask that the
15 detective clear the firearm to make sure it's safe.

16 MS. SAMPSON: I'll have him come down.

17 THE COURT: Investigator Collins, can you clear that
18 firearm and make sure it's safe?

19 MS. SAMPSON: For the record, Your Honor, this is
20 State's Exhibit No. 71.

21 THE WITNESS: By pressing this lever to the side, I
22 can unlock the breach, which then allows me to visually
23 inspect both chambers. Both chambers are clear.

24 THE COURT: Can you just leave it in the breach open
25 position?

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Thank you.

3 MS. SAMPSON: At this time, we'd ask to introduce
4 State's Exhibit No. 71 into evidence.

5 MR. KRZYSTON: No objection.

6 THE COURT: All right. Without objection.

7 (WHEREUPON, State's Exhibit No. 71 was admitted
8 into evidence.)

9 BY MS. SAMPSON:

10 Q So you said this was a double-barrel. And I think
11 you were -- explain how -- you opened it, what does that
12 mean?

13 A When you're opening a firearm, you are mechanically
14 unlocking the breach mechanism so that you can swing the
15 barrels up, which allows you to either load or unload the
16 firearm.

17 Q So if it's not loaded, can you shoot it? I know
18 that's a crazy question.

19 A No, it has to have ammunition in it to be fired.

20 Q Does this particular gun have a safety mechanism?

21 A It does. There is a safety mechanism located here on
22 what is known as the tang. It's a lever that slides back
23 and forth. And it is designed with a firearm when it's
24 closed, you slide it forward into the safe position --
25 excuse me, forward to be fired.

1 Q All right. You can keep it back open. Thank you.
2 And this gun is taped, does that affect its ability to
3 work?

4 A No, the stock on this firearm is broken and someone
5 has used electrical tape to perform a repair.

6 Q When you say stock, what is the stock?

7 A The butt stock is this portion here extending from
8 the reaction on the mechanical part of the firearm to the
9 rear. It is also here that is underneath the barrel.

10 Q And can you fire that gun if the safety is on?

11 A This particular gun, when I tested it at the
12 laboratory, the firearm would not fire when the safety was
13 activated.

14 Q You may sit down.

15 (Witness returns to witness stand.)

16 Q Now, you mentioned that you tested it. What do you
17 do to test the gun?

18 A In this particular case, I did not use fully loaded
19 ammunition due to the mechanical condition of the firearm
20 as far as the butt stock being broken. I did not want to
21 risk further damage to the butt stock. Mechanically, the
22 gun was okay. I just did not want to damage the evidence.
23 So what I did was I cut open two shotgun shells for each
24 barrel and fired just the primed cartridge to make sure
25 that the gun was mechanically sound. Those did fire

1 appropriately.

2 Q I'm going to slow you down. You said a cartridge.

3 What is a cartridge?

4 A In this case, it would be a shot shell. It's one
5 unit of ammunition that contains powder and a bird shot or
6 a slug, depending on what type of shotgun ammunition
7 you're using, there's a primer on the base that starts the
8 ignition process.

9 When we test fire these, we either fire full house or
10 full loads in the gun or we will, if there's no probative
11 need to do so at that time in the case, we will just fire
12 just the primed portion of the shell, which we can do
13 inside the laboratory without risk of safety.

14 Q I'm going to show you what's been marked as State's
15 Exhibit No. 73 and ask if you recognize it.

16 A Do you need me to open the package?

17 Q Yes, sir.

18 A First, I do recognize the container. The seal bears
19 my initials and date.

20 Q And what's in there -- before you open it, what does
21 it say there?

22 A It is indicated as containing -- in Richland County
23 Sheriff's Department items seven, eight, nine and ten,
24 which are in order, an unfired 12-gauge shotgun shell, any
25 shotgun shell wadding from Marker No. 7, shotgun shell

1 pellets, couch, Markers one and two, and shotgun shell
2 pellets, floor, Marker No. 6.

3 Q And before you open the bag, is that in the same
4 condition as you last saw it?

5 A Yes.

6 MS. SAMPSON: At this time, we'd ask to introduce
7 State's Exhibit 73 into evidence?

8 MR. HAWKS: Without objection.

9 THE COURT: Without objection.

10 (WHEREUPON, State's Exhibit No. 73 was admitted
11 into evidence.)

12 BY MS. SAMPSON:

13 Q You can go ahead and open it.

14 A (The witness complies.) These first two items I've
15 extracted are items -- from my report, nine and ten, which
16 are two containers, each contain birdshot pellets.

17 Q What's the difference between birdshot and buckshot?

18 A Buckshot is a larger pellet that is designed for the
19 harvesting, typically, of larger game animals, such as
20 deer or wild hogs. Birdshot pellets most often
21 encountered is ammunition intended for shooting at birds
22 or small game hunting or sporting applications, such as
23 skeet or sport clay shooting.

24 Q And we have birdshot in this particular case or
25 buckshot?

1 A This particular case had a type of birdshot in it.

2 Q And I believe you said there's one of those --
3 there's a bullet or a casing?

4 A I have not quite gotten to that one yet.

5 Q Okay.

6 A This is item number seven from our report. And this
7 is actually the components of an unfired shot shell.
8 During my examination, I disassembled this shell to
9 examine its internal components to compare them with
10 others, fired components that were received.

11 Q Before you put it back in there, is that what a
12 normal shotgun shell looks like before you fire it?

13 A It would look approximately like that before you
14 fired it.

15 Q And where do the pellets go in a shot?

16 A The pellets are loaded here inside the shot shell.
17 You can see where I cut it open to get the pellets out.
18 There would be powder in the bottom portion of the shell,
19 then there's a wadding or wad component that separates the
20 powder from the pellets. The pellets are then inserted,
21 in this case, inside the wad, which is inside the shot
22 shell.

23 The wad serves a few purposes. It serves to protect
24 the barrel from contact with the shot. It cushions the
25 shot in such a way to prevent defamation of the shot. In

1 the case of steel shot projectiles, it protects the barrel
2 from being damaged by the shot. It also serves as a seal
3 behind the pellets to keep the expanding gases from the
4 burning powder contained and -- like you don't want to
5 have a loose piston in a car engine, you want a good
6 gasket behind your pellet so that you get all the
7 advantage of the burning powder. So in much the way, as a
8 child, if you shot spit balls through a straw, you wanted
9 tight fitted spit ball through the straw.

10 Q So in this particular case, when you first get the
11 gun, what was first thing that you did?

12 A The first thing I did when I got the gun was I
13 examined the firearm visually to determine the make,
14 model, what the serial number was if there's one present.

15 Q I'm going to stop you for a second. Was there a
16 serial number on this gun?

17 A There was no serial number on this firearm, which is
18 not unusual for older firearms manufactured before 1968.
19 1968, the federal laws changed mandating that the serial
20 number be placed on all firearms. Before that, long guns,
21 specifically like shotguns and rifles, may come from the
22 factory with no serial number.

23 Q It wasn't like it was taken off, it just didn't have
24 a serial number?

25 A It just never had one, no.

1 Q So would this give you any indication of the age of
2 the gun?

3 A It was manufactured before 1968. I did not pursue
4 further research in determining exactly how old the gun
5 was.

6 Q And then you said you looked at the gun. What are
7 you looking for?

8 A When I look at a firearm initially, I'm trying to
9 determine what exactly the type of firearm I'm looking
10 for. I'm also examining the firearm for the presence of
11 possible trace material, biological material, dirt,
12 anything that might be on the outside of the gun or inside
13 of the gun that might be of evidentiary value.

14 Q And we're going to start with the end of the gun.
15 Did you find any dirt or anything at the end of the
16 barrel?

17 A Inside the muzzle of the firearm, I did not find
18 anything of note. I mean, it's just a typical shotgun
19 barrel with whatever fouling might be present.

20 Q What is fouling?

21 A Fouling is an accumulation of gunshot residue and
22 other material that result from firing the gun. When you
23 fire a gun, the pellets exit the barrel and the burning
24 powder behind it will follow and then you'll have residue
25 left from the burning powder. You'll have also sometimes

1 in some cases the transfer of actually plastic from the
2 wad to the barrel of the firearm. That's harder to see.

3 Q In this case, did you find any rusting or anything?

4 A One of the barrels appeared to have some rusting or
5 corrosion ahead of the chamber, which is not unusual for a
6 gun that's been in storage for a period of time.

7 Q And did you -- now, moving down, did you find any
8 biological material or dirt anywhere else on the gun?

9 A I found material on the outside of the barrel back
10 from the muzzle that appeared to be biological material.
11 It did not appear to be blood. I photographically
12 documented that evidence, that material and then I took a
13 swab of that material for possible analysis by our DNA
14 section.

15 Q Is that part of your training to look for blood or
16 matter on a gun?

17 A Absolutely.

18 Q And what did this -- how did this appear to you?
19 What did it look like?

20 A In layman's terms, the best way to describe it, is it
21 looked kind of like wax. Like a white or a clear -- like
22 a pale-looking wax material. It did not appear like
23 blood, but some tissue can have this appearance after it's
24 been dried in my experience.

25 Q And where exactly did you find or where did you see

1 this material that you just described?

2 A It was on the outside of the barrel, and I'm not sure
3 if I took a measurement of how far back from the muzzle it
4 was, but it is photographically documented.

5 Q It wasn't on the end of the barrel?

6 A No, it was back from the muzzle some.

7 Q I'm going to show you what's been marked as State's
8 Exhibit 72 and ask you if you recognize that?

9 A Yes, this is the swab that I took from the barrel.

10 Q So it's in fairly the same condition as when you --

11 A I have not opened it and I would -- I would like to
12 avoid opening it to avoid any contamination.

13 MS. SAMPSON: At this time, we'd like to introduce
14 State's Exhibit No. 72 into evidence.

15 MR. HAWKS: No objection.

16 THE COURT: All right. Without objection.

17 (WHEREUPON, State's Exhibit No. 72 was admitted
18 into evidence.)

19 BY MS. SAMPSON:

20 Q And when you take that swab, what do you do with it?

21 A I submit it into evidence where it will wait to
22 possibly be analyzed in the DNA section. I cannot myself
23 ask the DNA section to analyze it. That would have to
24 come from some other party.

25 Q And I think you talked about this, but you said

1 wadding is in one of those. What is wadding again?

2 A Wadding is the component in the shot shell that -- in
3 this particular case, it encompasses the pellets. The
4 pellets that I have are steel shot, which are a very hard
5 shot material. So in this particular case, the wadding
6 serves the purpose of protecting the barrel from being
7 scratched or damaged by the steel shot. Also, it protects
8 the shot from being crushed. It gives it cushioning. It
9 also acts as a seal to keep the hot gases from the
10 ignition process of the powder behind them to give it more
11 efficiency.

12 Q What, if any, testing did you do with the wadding?

13 A The wadding was analyzed by taking measurements and
14 weights of the actual wadding itself. The wadding that I
15 received was -- as I received it, it had biological
16 material on it, which I cleaned off so that I could
17 examine it more thoroughly.

18 We -- or I measured the diameter of the wad to
19 determine what gauge of shotgun shell it came from. We
20 took a microscopic analysis of it to determine if there
21 were any marks on the wadding suitable for comparison of a
22 specific shotgun. In this case, there were none, which is
23 not unusual.

24 Q Why is it not unusual?

25 A As wads pass through the barrel of the shotgun, there

1 are very few of the manufacturing defects present in the
2 barrel of a shotgun like we find on a rifle barrel, such
3 as pistols and rifles. Very few defects that will mark or
4 damage a shotgun in the way that can allow them to -- or a
5 shotgun wad to allow them to be identified back to a
6 specific shotgun. There are exceptions.

7 When the shotguns are sawed off, the barrels are
8 sawed off, sometimes the end of the barrel is not cleaned
9 up by whoever does that process, and it can very well mark
10 a wad. In some cases, where the sight stem or bead
11 protrudes in the barrel, that can also leave a marking
12 that we can identify back to a specific shotgun.

13 In this particular case, no markings were noted on
14 the wad that would be suitable for microscopic comparison
15 back to a particular firearm.

16 Q And I interrupted you. You talked about the wadding
17 and the pellets. Were you able to do anything with the
18 wadding and the pellets that you had in this case?

19 A I was able to determine that the wadding in this
20 particular shotgun shell was consistent with the
21 wadding -- the wadding -- the fired wadding was consistent
22 with the wadding found in one of the unfired shotgun
23 shells. It's the same type and, apparently, same brand of
24 wad, same gauge of wad.

25 The other -- I received a total of three unfired shot

1 shells in this case. Two of them were identical to
2 Winchester Super X number 4 steel shot birdshot shells,
3 and there was one three-inch Magnum double buckshot shell,
4 which could be fired, but was not the appropriate size
5 ammunition for the gun.

6 Q I want to stop you for a second to make sure I
7 understand. Two of them were the exact same thing, is
8 that what you just said?

9 A Yes, two of them were the same gauge, brand and
10 pellet type.

11 Q Okay. And one was not?

12 A The third one was not.

13 Q Were the two that were the same, could they have been
14 fired from that gun?

15 A Yes.

16 Q What about that third one?

17 A All three of them were capable of being fired in that
18 gun. The third one, being a three-inch Magnum, while it
19 could have been fired in that gun, it may have caused
20 difficulty following the firing process and being
21 extracted from the gun. In layman's terms, it probably
22 would have gotten stuck in the chamber.

23 Q So it's bigger than the other two?

24 A It's longer, yes.

25 Q How about the pellets that were found recovered from

1 the scene, did they match the wadding? Were you able to
2 make any tests based on that?

3 A The pellets that were found -- I received three sets
4 of pellets, all of them were consistent with number four
5 steel birdshot pellets, which is a type of ammunition
6 commonly used in water fowl hunting. And those pellets
7 are the same size of shot as is marked on the two
8 Winchester shotgun shells and also does match by my direct
9 comparison those that were found in the shell that I
10 disassembled.

11 Q How do you make a direct comparison? How do you --

12 A Well, it's diameter and weight, that's all you're
13 looking at.

14 Q So you're just measuring -- weighing them and
15 measuring the size?

16 A I am taking a diameter measurement of the actual
17 pellets and looking at that versus a chart that we have
18 from a professional association. They list what the
19 diameter should be for a particular size of shot
20 determining if it's consistent. We look at that. We take
21 several of them and weigh them, get an average weight so
22 we can determine what the average weight of them is.

23 And then additionally with these, we do what we call
24 magnetic tests, where I actually take a magnet and simply
25 determine are they attracted to a magnet. In this case

1 they were, which identifies that they're steel shot. The
2 other options would be nonmagnetic in nature, whether it's
3 lead, Bismuth or tungsten-polymer lead.

4 Q I'm going to show you what's marked as State's No.
5 45. Can you tell the jury what this is? Just what it is.

6 A This is labeled as containing pellets taken from the
7 victim. And do you want me to open it?

8 Q Is it marked -- is it sealed and marked as it should
9 be?

10 A It's sealed and marked, bears my initials and the
11 date where I sealed and marked it.

12 MS. SAMPSON: At this time, we'd ask to introduce
13 State's Exhibit 43 -- 45, I'm sorry.

14 MR. KRZYSTON: No objection.

15 THE COURT: State's 45 without objection.

16 (WHEREUPON, State's Exhibit No. 45 was admitted
17 into evidence.)

18 BY MS. SAMPSON:

19 Q Have you looked at these before?

20 A Yes.

21 Q And these are the pellets you were discussing?

22 A This is one of three sets of pellets that I was
23 discussing.

24 Q You can open it. Actually, you don't need to open
25 it. You've look at those already?

1 A Yes, I have.

2 Q And those were the ones you were just discussing and
3 matching the wadding that was found, as well?

4 A All three of the sets of pellets that I examined were
5 number four steel birdshot and would be the same as what
6 was found in the one shell that I disassembled.

7 Q Okay. Now, I want to talk to you a little bit about
8 the gun itself. Can a shotgun go off by itself?

9 A Mechanically -- if it's mechanically sound, there
10 should be no reason why a shotgun would discharge without
11 some intervention.

12 Q Was this gun mechanically sound?

13 A In my testing, except for the broken butt stock, yes.

14 Q Would that broken butt stock make it just off by
15 itself?

16 A Not based on my examination.

17 Q And you already stated this had two triggers?

18 A There are two triggers. One activates the firing of
19 each barrel.

20 Q Did both of those triggers work?

21 A Yes, they did.

22 Q How were you able to test that?

23 A By placing the prime head of shotgun shells in the
24 chambers and pointing it in a safe direction and pressing
25 a trigger with the safety off, I was able to determine

1 that each barrel would fire.

2 Q Does something have to be in the trigger in order for
3 the trigger to make the gun work?

4 A Something has to press on the trigger with the
5 appropriate amount of pressure in order to cause the
6 firearm to discharge and the safety has to be off.

7 Q Is there a way to test whether a trigger is -- we've
8 heard of the term hair trigger. Is there a way to test
9 the amount of pressure it takes to pull a trigger?

10 A The term hair trigger is an arbitrary term that
11 really doesn't have a scientific standard assigned to it.
12 There is a way to test the trigger press on a firearm
13 by -- what we do in the laboratory when it's appropriate
14 is we'll hang weights on the trigger until -- keep adding
15 weights until it actually causes the mechanism to trip
16 indicating that it's fired.

17 We do that in cases where we have a specific request
18 to do so or if there is an indication during our testing
19 that the trigger press weight is out of what we would just
20 expect to see.

21 Q And did you do that testing in this case?

22 A I did not because during my testing, I did not notice
23 anything unusual about the trigger press weight.

24 MS. SAMPSON: Beg the Court's indulgence.

25 (Pause.)

1 BY MS. SAMPSON:

2 Q Is there any way for you to tell which trigger was
3 loaded in this particular case and shot?

4 A As I never received a fired shot shell in this case
5 to compare with the gun, the only thing I had to go on was
6 the condition of the inside of the bore. And one bore
7 appeared to have less, what I would call -- it's
8 considered like long-term corrosion evidence in it
9 indicating it may have been blown out by having been more
10 recently fired. If I can refer to my notes.

11 Q Yes.

12 A During my examination, I noted that the left barrel
13 had some fouling only noted in it and the right barrel was
14 more heavily fouled and rusted mostly in the chamber end,
15 which would indicate to me it's most consistent with the
16 left barrel having been fired, which would be affected by
17 pressing the rear trigger of the shotgun.

18 Q So this back trigger would do the left and the front
19 trigger would do the right?

20 A Yes.

21 Q Is there a way to determine how far away the gun is
22 from the target that it hit?

23 A In some cases, yes.

24 Q Did you do that in this case?

25 A I was requested to assess the evidence and the

1 firearm for the purpose of performing that examination.
2 And based on the nature of the injury to the victim in
3 this case and the severity of it, I did not feel that
4 there was sufficient information present for me to be able
5 to perform that testing with any degree of scientific
6 reliability.

7 Q What would you need in order to do that?

8 A A distinct and intact representation of the wound
9 where it's not damaged to the point -- I need to be able
10 to determine the diameter of the wound more precisely and
11 the area around it. I need to be able to have a
12 sufficient quantity of the exact same ammunition to test
13 fire at various distances to see at what distance I could
14 get a pattern of that size from a shotgun.

15 Typically, in the laboratory, when it comes to
16 shotgun patterns, what we call physical patterns that are
17 caused by pellet impacts, we do those examinations on
18 inanimate objects or clothing with regularity. However,
19 when you start dealing with that type of injury in the
20 flesh, we generally defer to the forensic pathologist to
21 render that kind of information.

22 Q In this case, did you -- we do have a forensic
23 pathologist in this case, correct?

24 A Yes, we do.

25 Q And you had access to her reports?

1 A I did. I did review the pathology report, yes.

2 Q Why couldn't you use those to determine distance?

3 A She had a verbiage in her report that caused me
4 concern when it came to trying to duplicate the size of
5 this injury when she said she had a reapproximation of the
6 injury. The word approximate is not something I want to
7 see when I'm trying to perform this type of analysis. I
8 want to have hard evidence. So based on that and based on
9 the analysis and the review of the pictures taken at the
10 autopsy, I just did not feel that I had sufficient
11 information to do that analysis.

12 Q But if -- you would have done it, could you have done
13 it?

14 A If it was possible for me to do it, I would have done
15 it and either issued a report myself as to the possible
16 distance bracket -- we generally give a bracketed distance
17 because of possible shot-to-shot variation that you may
18 encounter. I would have either done that or I would have
19 shot patterns and provided them to the pathologist.

20 Q And you did do a report in this case, it just didn't
21 include distance?

22 A It did not.

23 MS. SAMPSON: Beg the Court's indulgence.

24 (Pause.)

25 MS. SAMPSON: I have no further questions, Your

1 Honor.

2 THE COURT: All right. Ladies and gentlemen, we're
3 going to take our lunch break. It's about 12:40. We've
4 been going now for more than three hours. On this lunch
5 break, you are not allowed to discuss the case with anyone
6 in any way, shape, or form. You are to keep an open mind
7 about the case. We will start back at 2:15, at 2:15.

8 Investigator Collins, you are not allowed to discuss
9 your testimony with anyone. You are allowed to eat lunch
10 and do the normal things that people do at lunch, but you
11 are not allowed to discuss your testimony with anyone in
12 any way, shape, or form. When we come back at 2:15,
13 you'll be seated right there and we'll pick right up with
14 cross-examination. Okay.

15 Everybody please be back on time so we can be ready
16 to go at 2:15. 2:15. Thank you very much.

17 Everyone else remain seated.

18 (WHEREUPON, the jury leaves the courtroom at
19 12:41 p.m.)

20 THE COURT: Is that guy downstairs?

21 MS. SAMPSON: Yes.

22 THE COURT: What do we need to do with him?

23 MS. MOSER: Your Honor, we may need to proffer his
24 testimony.

25 THE COURT: Okay.

1 MS. MOSER: We don't know what he's going to say.
2 He's going to try to plead the Fifth. He's told us he's
3 going to, Your Honor. Just to be clear, we need to put
4 him on the stand and have him actually do it.

5 THE COURT: Okay. Who's his lawyer?

6 MS. MOSER: It was Adam Ruffin. He's not currently
7 representing him, but he's been contacted every time we've
8 spoken with Mr. Edward.

9 THE COURT: Can you ask Mr. Ruffin to be here at
10 2:00?

11 So Mr. -- what's his name?

12 MS. SAMPSON: Lindsay Edwards.

13 THE COURT: All right. Have Mr. Edwards up here at
14 2:00. He's an SCDC guy. We'll deal with him and jump
15 back into the investigator. Okay. All right. 2:00
16 o'clock. 2:00 o'clock. 2:00 o'clock.

17 (WHEREUPON, a lunch break was taken.)

18 THE COURT: All right. What's your name?

19 THE WITNESS: Lindsay Edwards.

20 THE COURT: And where are you currently incarcerated?

21 THE WITNESS: Turbeville Correctional Institution.

22 THE COURT: And what are --

23 Mr. Ruffin, did you represent him?

24 MR. RUFFIN: Yes, sir.

25 THE COURT: Did he plea or go to trial?

1 MR. RUFFIN: He pled guilty to two counts of burglary
2 second degree, I think, and he's doing a YOA.

3 THE COURT: All right. So are y'all calling him as a
4 witness?

5 MS. MOSER: Yes, Your Honor.

6 THE COURT: Okay. All right. Do you want to
7 testify?

8 THE WITNESS: No, sir.

9 THE COURT: All right. Come on up here and have a
10 seat on the stand.

11 What are you going to ask him about?

12 MS. MOSER: Your Honor, Mr. Edwards made a statement
13 to law enforcement about an incident that happened on
14 August 14th into the early morning hours of August 15th,
15 2015. He actually went into the trailer after the victim
16 was shot in order to let the Defendant in because he had
17 locked himself out. So we would be going into that.

18 THE COURT: All right. Let me see the statement.

19 MS. MOSER: Yes, Your Honor.

20 THE COURT: Y'all have seen this, I assume?

21 MS. GOODE: Yes, Your Honor.

22 THE COURT: All right. Just stay right there, okay.

23 (Pause.)

24 THE COURT: Okay. And why don't you want to testify,
25 Mr. Edwards?

1 THE WITNESS: I don't want to incriminate myself. I
2 just don't want nothing to do with the case. That's it.

3 THE COURT: Those are two different things, okay.
4 Incriminating yourself would mean implicating yourself in
5 a crime. Nothing to do with just means you don't want
6 anything to do with it. Those are two different things.
7 I understand you don't want anything to do with it, but
8 what about your statement implicates you in a crime?

9 THE WITNESS: I just say I don't want anything to do
10 with it.

11 THE COURT: Okay.

12 THE WITNESS: I'll rephrase it.

13 THE COURT: All right. Does the State have any
14 intention of charging him with anything based upon his
15 statement?

16 MS. MOSER: No, Your Honor.

17 THE COURT: It's been over three years since he gave
18 this statement. I mean, it's clearly not a burglary.
19 He's assisting the -- in the statement Mr. Edwards --

20 Is this your statement?

21 THE WITNESS: Yes, sir.

22 THE COURT: Do you want to see it?

23 THE WITNESS: No, sir.

24 THE COURT: You remember giving -- do you remember
25 talking to the police?

1 THE WITNESS: Yes, sir.

2 THE COURT: And do you know who you talked to,
3 Mr. Clarke?

4 THE WITNESS: Yes, sir.

5 THE COURT: Is that Mr. Clarke right there, the bald
6 guy?

7 THE WITNESS: Yes, sir.

8 THE COURT: So a few days after this incident, you
9 sat down with him and gave a statement?

10 THE WITNESS: Yes, sir.

11 THE COURT: Do you know how they got to you?

12 THE WITNESS: Yes, sir.

13 THE COURT: How?

14 THE WITNESS: I went into the trailer.

15 THE COURT: No, I mean, how they knew to talk to you?

16 THE WITNESS: Because I was identified as the one
17 that went in through the window.

18 THE COURT: Okay. So somebody identified you?

19 THE WITNESS: Yes, sir.

20 THE COURT: Okay. But when you went into the window
21 that night, you did so because Mr. Marshall told you to or
22 you were trying to help him?

23 THE WITNESS: I was trying to help.

24 THE COURT: Okay. But you didn't go in there to
25 commit any crime?

1 THE WITNESS: No, sir.

2 THE COURT: You didn't go in there to break into the
3 place or steal something or anything like that, right?

4 THE WITNESS: No, sir.

5 THE COURT: Did you know Mr. Marshall lived there?

6 THE WITNESS: Yes, sir.

7 THE COURT: So you thought you were helping somebody
8 get in a trailer they owned or they lived in, right?

9 THE WITNESS: Yes, sir.

10 THE COURT: I mean, you and him weren't conspiring to
11 break into a trailer that he lived at, right?

12 THE WITNESS: No.

13 THE COURT: Okay. And you say in this statement that
14 you did not see Ms. Marshall; is that right?

15 THE WITNESS: Correct.

16 THE COURT: And you let Mr. Marshall in, and then he
17 brings you out some cigarettes, and that's it?

18 THE WITNESS: That was it.

19 THE COURT: Okay. And then you're done, right?

20 THE WITNESS: Yes, sir.

21 THE COURT: And I assume that this case has nothing
22 to do with the case that he pled to, Mr. Ruffin?

23 MR. RUFFIN: I'm sorry, say that again, Judge.

24 THE COURT: I assume this case has nothing to do with
25 the case that he pled to?

1 MR. RUFFIN: As far as I know.

2 MS. MOSER: Your Honor, I actually had that case.

3 And no, they have nothing to do with each other.

4 THE COURT: Completely and totally unrelated?

5 MS. MOSER: They're not related at all.

6 THE COURT: What other criminal convictions does he
7 have?

8 MS. MOSER: This is it.

9 THE COURT: That's it?

10 MS. MOSER: Yes, sir.

11 THE COURT: Okay.

12 All right. Does Investigator Clarke from the
13 sheriff's department have any intentions of charging him
14 with any crimes based upon his statement?

15 INVESTIGATOR CLARKE: No, Your Honor.

16 THE COURT: Did y'all think that he was participating
17 in a burglary or anything like that?

18 INVESTIGATOR CLARKE: No, sir, we got information
19 that Pee Wee had been identified as someone who had
20 possibly gone into the trailer to assist, just as has been
21 stated, the Defendant get into the trailer. We were kind
22 of scuttlebutt, so at that point, we felt out of an
23 abundance of caution, let's go talk to Pee Wee. So we
24 went over and made contact with him and took his
25 statement.

1/ THE COURT: Was Pee Wee ever a target in the
2 investigation?

3 INVESTIGATOR CLARKE: No.

4 THE COURT: Do you have any indication that he
5 participated in the murder?

6 INVESTIGATOR CLARKE: No, sir.

7 THE COURT: Do you have any indication that he was
8 doing anything other than trying to help Mr. Marshall get
9 back in the trailer?

10 INVESTIGATOR CLARKE: I think that was established at
11 the beginning. We thought that was the case and we just
12 later went and confirmed that he was basically helping a
13 neighbor get in the apartment. He was unaware of what had
14 allegedly taken place.

15 THE COURT: Okay. Anything else you want to tell me?

16 THE WITNESS: No, sir.

17 THE COURT: All right. I'm going to let them
18 question you during this trial, okay. I mean, if there's
19 nothing that you can give that would be incriminating that
20 anybody could prosecute you on. None of these statements,
21 you know, say that you -- they don't even say that you
22 knew a crime occurred. Okay.

23 Now, let me explain to you the difference. If you
24 had seen the body or something like that, then you could
25 potentially be charged with something called misprison of

1 a felony, meaning you knew about it and you didn't report
2 it. But according to your statement to law enforcement,
3 you didn't even see her or know what had happened, so
4 there would have been nothing that you would have even had
5 knowledge to report, and that's why nothing in your
6 statement is incriminating. Does that make sense?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. Do you understand all that?

9 THE WITNESS: Yes, sir.

10 THE COURT: All right. These guys are going to put
11 you back in a holding cell. Then when it's time for you
12 to testify, we'll bring you back out.

13 THE WITNESS: Yes, sir.

14 THE COURT: All right. Thank you very much.

15 MS. MOSER: Thank you, Your Honor.

16 MR. HAWKS: Judge, I sent an e-mail about some
17 problems we were having with the pictures. That's since
18 been resolved.

19 THE COURT: Okay.

20 MR. HAWKS: If you didn't already read it.

21 THE COURT: Okay. I didn't read it. I'm sorry. I
22 haven't turned on my computer yet.

23 All right. Let's bring them in.

24 (WHEREUPON, the jury entered the courtroom at 2:14
25 p.m.)

1 THE BAILIFF: The jury is seated, Your Honor.

2 THE COURT: All right. Welcome back, ladies and
3 gentlemen. Thank you very much for being on time. We're
4 on the cross-examination of Investigator Collins.

5 MR. HAWKS: May it please the Court, Your Honor?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. HAWKS:

9 Q Mr. Collins, how are you doing?

10 A Doing well, sir, thank you.

11 Q I'd like to start if we could with you holding the
12 firearm so that the jury can see, kind of like you were
13 doing earlier. Just for now, just keep the muzzle pointed
14 to that wall?

15 THE COURT: Not at Ms. Ambroziak.

16 THE COURT REPORTER: Thank you. Thank you.

17 MR. HAWKS: Not at anyone, hopefully.

18 BY MR. HAWKS:

19 Q And can we get a little closer to the jury so
20 everyone can see? Okay. So as you testified, this is a
21 double-barrel side-by-side shotgun.

22 A That's correct.

23 Q And a shotgun has different levels of choke at the
24 end of the barrel?

25 A That's correct.

1 Q Can you explain that to the jury?

2 A A choke is a construction of the bore diameter. It's
3 intended to affect how wide or how broad the pattern of
4 shot disperses once it leaves the shotgun. It can be as
5 open as having no choke at all in the gun or what we call
6 having a full or even extra full choke. Full choke
7 constricts the bore and gives you a tighter pattern and
8 distance than an open choke does.

9 Q And the length of the barrel, can that also affect
10 the shot pattern and the constriction?

11 A Less so than a choke.

12 Q And then you testified on direct about the tape and
13 about the condition of the stock. The stock is actually
14 broken at the point where you can actually see into the
15 action; is that right?

16 A Here it is, yes. You can actually see into the
17 mechanism to see the spring and the safety mechanism.

18 Q And inside there, that is where the firing process is
19 started?

20 A It starts down in here and is completed over here.
21 It's not directly exposed, except for the safety
22 mechanism.

23 Q All right. And that safety mechanism, you can
24 actually see -- I'm not sure if the jury can, but you can
25 actually see where it goes down in there?

1 A Yes. It connects right here.

2 Q All right. How does the safety work on this?

3 A The safety works by impeding the action of the
4 triggers directly so that if you were to -- I'd have to
5 close the action of the shotgun to demonstrate. If you
6 have the shotgun in the safe position and press on the
7 triggers, nothing happens. If you take it off of safety
8 and press the triggers -- and I don't want to damage the
9 gun by dry firing it, it will release. So by simply
10 sliding this mechanism forward or back, you impede the
11 action of the triggers.

12 Q And when you close that barrel, is the safety
13 engaged?

14 A As far as an automatic safety, it does slide back
15 into the safe position when you open the action. It's an
16 automatic process.

17 Q So if someone was going to load the weapon, the
18 safety would be engaged?

19 A It is designed so that when you open the action, the
20 safety is off, it automatically puts it on safe. So at
21 some point in time during the process, the safety is going
22 to be applied. But when you close the gun, it stays in
23 the safe position.

24 Q Okay. Could we -- again, without muzzling anybody,
25 could we turn to the other side here? I just want to make

1 sure they can see.

2 A This tape is not in the condition it was when I
3 received the gun. It has been slightly unwrapped.

4 Q Was this part taped as well here?

5 A I would have to refer to my photographs.

6 Q But the action, again, is exposed also on this side?

7 A Yes. There's a break right here.

8 Q Okay.

9 A In the wood of the stock.

10 Q And you said on direct that the left trigger fires
11 the -- excuse me, the front trigger fires the left barrel;
12 is that right?

13 A I'd have to go back and refer to my notes on that. I
14 believe it was the front trigger fires the right barrel.

15 Q You can put the gun down now for now. We'll talk a
16 little bit more about the tests you did?

17 A I don't want to point it at me or anybody else.

18 Q Thank you. All right. So we were talking about the
19 chokes, you did not -- did you measure the chokes in this
20 case?

21 A I did not in this case, no.

22 Q All right. Is it possible that one barrel has a
23 different choke than the other barrel?

24 A Typically, a side-by-side or over-under shotgun, one
25 barrel will have a different constriction than the other.

- 1 Q All right. Are you a hunter?
- 2 A Yes, I am.
- 3 Q Do you hunt birds, turkeys or ducks?
- 4 A Yes.
- 5 Q Before the season, do you test the spread on the
- 6 weapon that you're choosing to take into the field?
- 7 A If I'm using a type of shot that I'm not familiar
- 8 with, yes, I will sometimes fire the gun at a given
- 9 distance to determine how much it distributes the pattern,
- 10 yes.
- 11 Q And that's because you want to know exactly what the
- 12 pattern is going to be or, at least, as close as you can
- 13 get?
- 14 A At the distances I'm going to be shooting the gun.
- 15 Q So this test, I know you didn't do it, but it's not
- 16 something that an average person would be not able to do?
- 17 I mean, your average hunter is going to be able to do
- 18 this?
- 19 A As far as actually firing the gun for a pattern, some
- 20 hunters will, some hunters won't.
- 21 Q And you did not test the trigger pull?
- 22 A I did not.
- 23 Q But again, this is something that a layperson could
- 24 do pretty easily with a piece of equipment?
- 25 A If they have access to either a spring scale, which

1 would be more common for a layperson to have, or, a set of
2 certain kind of weights, yes, they could do it themselves.

3 Q And what kind of scale does your office have?

4 A We use the certified weight set as opposed to the
5 spring scale.

6 Q But you did not test the trigger pull in this case?

7 A No, we did not.

8 Q All right. Did you measure the length of the gun?

9 A The overall length of the firearm, no, I did not.

10 Q All right. And you didn't measure the barrel length?

11 A No, I did not.

12 Q All right. And you did not -- we may have already
13 covered this, but you did not do the spread test that we
14 were just talking about?

15 A I made the measurements -- I did not fire the gun for
16 patterns and I did not measure the constriction of the
17 chokes of the barrel.

18 Q All right. So you did not measure the load that may
19 have been fired in this case or any other types of loads?

20 A I did not have access to a sufficient quantity of
21 like ammunition for me to be able to test that in a way
22 that I thought would be appropriate.

23 Q Okay. Could you have used just store-bought
24 ammunition to test?

25 A You would get a general idea of the pattern and

1 performance of the firearm, but you would not get to my
2 satisfaction a true account of how this particular
3 ammunition would have performed. I had two submitted shot
4 shells that appeared to be consistent with the evidence
5 recovered at the scene at an autopsy. However, I like to
6 have more than that so -- because you have shot-to-shot
7 variation, even at a given distance of how much a gun is
8 going to -- how tightly or how broad.

9 So without having the same ammunition -- it used to
10 be a policy that we had to have several rounds of
11 ammunition recovered at the scene that we felt were going
12 to be consistent with what he had in that box coupled with
13 the test. Part of the reason for that is even in the same
14 product line, the manufacturer may change some factor,
15 such as, for instance, the powder used in that shot shell
16 during even one production, if they run out, they'll
17 switch to an alternate product for that load. That will
18 affect their results.

19 Q Okay. So all of the components that go into a round
20 of ammunition, whether it's shotgun, rifle, pistol, every
21 single component, the primer, the case, the quality of the
22 case, the powder that's used, the burn rate of the powder,
23 all of that stuff goes into what's going to happen to that
24 projectile?

25 A That's correct.

1 Q And all of those things could have impacted the shot
2 that was fired from the shotgun in this case?

3 A To greater or lesser degrees, depending upon the
4 component, yes.

5 Q And you said that you were directed to do these tests
6 May 5th of this year?

7 A Yes, that's when I received the request.

8 Q And is that how it normally works with a case, you
9 don't go ahead and test, you just wait for direction?

10 A Often, incidents will occur without our knowledge in
11 the firearms laboratory. And we will often have to wait
12 for a request to come from an investigator.

13 Q Okay. So in this case, did someone from the
14 solicitor's office direct you to do this testing?

15 A It was asked by -- I cannot -- actually, I do not
16 recall exactly whether it was Investigator Clarke or the
17 solicitor's office that asked us to look at distance. It
18 may have been at the request of the solicitor's office.

19 Q Okay. And was it your decision or the solicitor's
20 office's decision or one of your superior's decision not
21 to test the things that we've talked about here, trigger
22 pull, the spread?

23 A The trigger pull was my decision early on in the
24 examination process when I initially examined the shot
25 because I determined there was nothing -- I did not detect

1 anything mechanically wrong with the trigger pressure, the
2 trigger pull. It did not appear to be excessively light
3 nor excessively heavy compared to other shotguns of the
4 same make and model I've examined from the past. As far
5 as the distance testing, that was my decision to not
6 follow through on that based upon the factors I described.

7 Q And you talked about how you cut the shell -- and I
8 don't believe you actually fired a round, you only fired
9 the primer?

10 A Yes, I fired the primer case.

11 Q So there's no explosion going on outside of what's
12 happening in the primer?

13 A That's correct.

14 Q No shots going down the barrel, no primer is being
15 burned?

16 A Part of the reason for that in this case is
17 logistical. We had no fired shot shells to compare back
18 to the shotgun to determine if they had been fired by this
19 gun, so there was no need for a comparison analysis.
20 Based on that, the only further need to test fire the gun
21 is determine functionality, which can be done perfectly
22 well with the prime case. Otherwise, we have to try to go
23 to another facility and there was no -- if we had to do it
24 later, we could have.

25 Q And you put somewhere in your report that the

1 firearms was partially disassembled when you received it,
2 can you explain in what condition the firearm arrived?

3 And I have the page if you --

4 A If you have the page, that would help.

5 MR. HAWKS: May I approach the witness?

6 THE COURT: Yes, sir.

7 THE WITNESS: Often, in the case of -- I do not have
8 it photographed in the condition that I received it, but
9 it's not uncommon in the case of shotguns of this nature
10 to have the barrel removed. Often, it's a matter -- it's
11 simply a matter of springing the forearm off and the
12 barrel comes right off. That helps it in packaging.

13 Q So it's possible it just came to you already broken
14 down?

15 A Yes, field stripped, basically.

16 Q I'd like to show you a picture. I believe this is
17 one you took. Do you recognize that?

18 A This is most of a picture I took of biological
19 material, what I suspected to be biological material on
20 the barrel of the shotgun.

21 Q Is that what it looked like at the time?

22 A Yes.

23 Q Do you remember taking that picture?

24 A I did take that picture and I annotated it with the
25 red arrows.

1 Q And the writing, that's your writing on the back?

2 A Yes.

3 Q And what you're trying to show in this picture is
4 that there is possible biological --

5 MS. SAMPSON: Your Honor, he hasn't introduced it.

6 THE COURT: If we're not going to introduce it, we
7 don't need to show it to anybody.

8 MR. HAWKS: We'd like to introduce it, Your Honor.

9 THE COURT: Okay. That's Exhibit No. 1.

10 Any objection?

11 MS. SAMPSON: No objection.

12 THE COURT: All right. Defendant's Exhibit No. 1.
13 Let Karen mark it, please.

14 (WHEREUPON, Defendant's Exhibit No. 1 was
15 admitted into evidence.)

16 MR. HAWKS: Thank you, Your Honor.

17 THE COURT: Thank you. There you go.

18 BY MR. HAWKS:

19 Q So what you're trying to depict here is some possible
20 biological matter at this point on the barrel?

21 A Yes. The left-hand arrow -- the picture that I have
22 in my file is slightly broader, a little bit more to it.
23 That's a little bit cropped, but it does show three
24 different areas of possible biological material.

25 Q Okay. So the sight bead would be on the right side?

1 A It's on the right side of the photograph.

2 Q And the muzzle would be right there, too?

3 A Just past it, yes.

4 Q And how many inches back would you say that
5 biological matter is?

6 A I would estimate it and based on my scale that I have
7 in the photograph that the material starts approximately
8 four inches from the muzzle and extends back probably
9 another two -- two or a little over two inches.

10 MR. HAWKS: Permission to publish to the jury, Your
11 Honor.

12 THE COURT: Yes, sir. I didn't know you were going
13 to introduce it earlier.

14 MR. HAWKS: That's fine.

15 BY MR. HAWKS:

16 Q And you didn't notice any biological material further
17 up toward the muzzle?

18 A I did not notice any, no. I did examine it fairly
19 closely.

20 MR. HAWKS: Beg the Court's indulgence.

21 (Pause.)

22 MR. HAWKS: That's all I have, Your Honor.

23 THE COURT: Redirect?

24 MS. SAMPSON: Just briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MS. SAMPSON:

2 Q Just to be clear, when you receive a request to test,
3 who decides what to test, you or the person requesting it?

4 A The person requesting it can request a test. We have
5 the option to refuse to do a test if it falls outside the
6 realm of what we feel would be professionally presumptive.

7 Q In this case, you got a request to determine
8 distance?

9 A We never received a written request to do distance.

10 Q What written request did you receive?

11 A We received a written request from Investigator
12 Clarke to examine -- just do a firearms exam, which covers
13 all of our basic services for the -- all the unfired shot
14 shells, the wadding, the pellets and the shotgun.

15 Q And the distance testing, you can't do that in this
16 case why?

17 A Because the -- I just did not have enough information
18 based on the autopsy report and the photographs on the
19 wounds of the victim to, in my opinion, generate
20 scientifically reliable report.

21 Q I believe you said that already, but testing the
22 trigger, I think you said, wasn't necessary or you didn't
23 do it. Why didn't you do that?

24 A It's our policy that we don't do a trigger pull test
25 on a firearm unless we determine that there is a problem

1 with that trigger during normal test firing procedures or
2 unless it's specifically requested.

3 Q In this case, there was nothing wrong with the
4 trigger as far as you could tell?

5 A I detected nothing wrong with the trigger.

6 MS. SAMPSON: No further questions, Your Honor.

7 MR. HAWKS: Very briefly, Your Honor.

8 THE COURT: Okay.

9 RECROSS-EXAMINATION

10 BY MR. HAWKS:

11 Q You mentioned earlier that the weapon could only be
12 fired by the pull of the trigger?

13 A Something pressing on the trigger.

14 Q Okay. Are modern shotguns considered drop safe?

15 A Generally, yes. But as far as drop safe, I would
16 prefer not to drop any firearm, especially with the safety
17 off.

18 Q So a shotgun of this age, it's possible if it were
19 dropped, it could fire?

20 A Without a mechanical inspection of the firearm and
21 actually doing drop testing on the firearm, which in this
22 case, probably would have resulted in the destruction of
23 the butt stock. I hesitate to say how possible it is with
24 a specific firearm without doing more testing.

25 Q I understand, but older firearms, generally speaking,

1 do not have the modern technology that -- I mean, modern
2 pistol almost uniformly drop safe. So a gun this old,
3 it's possible that it's not drop safe?

4 A It's more likely to find a safety issue on an older
5 firearm than it is on a new one.

6 THE COURT: Do you want to follow up on that?

7 MS. SAMPSON: If I can, because that was sort of new.

8 FURTHER REDIRECT EXAMINATION

9 BY MS. SAMPSON:

10 Q What is drop -- he brought up drop safe?

11 A Some firearms have been known to discharge if they're
12 dropped simply onto a hard surface. There is an industry
13 practice where firearms are tested for that now by various
14 agencies before they are -- or sometimes, the manufacture
15 itself. A drop test involves dropping a firearm,
16 typically, in different aspects, on its butt, on its side,
17 muzzle first onto a hard surface from a given distance to
18 see if it will discharge. That test has been done for
19 years. The problem with that test from the standpoint of
20 a laboratory test is that you may very well damage the
21 firearm and induce a problem into the firearm by doing the
22 testing. So we try not to do that test unless we're
23 specifically requested as it may actually damage the
24 firearm.

25 Q And were you given any evidence or indication that

1 this gun was dropped?

2 A Never.

3 MS. SAMPSON: No further questions, Your Honor.

4 MR. HAWKS: I have nothing else.

5 THE COURT: Have a nice day.

6 You may call your next witness.

7 MS. MOSER: The State calls Yolanda Jackson.

8 YOLANDA JACKSON, after being duly
9 sworn, testified as follows:

10 THE CLERK: Have a seat in the witness stand. State
11 your full name for the record and, please, spell your
12 first name.

13 THE WITNESS: You said spell?

14 THE CLERK: Yes.

15 THE WITNESS: First name is Y-O-L-A-N-D-A.

16 DIRECT EXAMINATION

17 BY MS. MOSER:

18 Q Hi, Ms. Jackson. How are you doing today?

19 A I'm good.

20 Q Good. Ms. Jackson, where do you live?

21 A In Hopkins.

22 Q Okay. Where do you currently work?

23 A At Horrall Hill Elementary.

24 Q And what do you do there?

25 A Food service operator.

- 1 Q How long have you been a food service operator?
- 2 A Two years.
- 3 Q Two years. Do you work with the kids?
- 4 A Yes.
- 5 Q Okay. All right. Ms. Jackson, I'm going to draw
- 6 your attention back to August 15th of 2015. Do you
- 7 remember that day?
- 8 A Yes, ma'am.
- 9 Q How do you remember that day?
- 10 A I remember -- what do I remember about it?
- 11 Q What do you remember about it?
- 12 A I remember getting a phone call about Doris being
- 13 killed.
- 14 Q Okay. If you can speak up just a little bit. So you
- 15 got a phone call, is that what you said?
- 16 A Yes, ma'am.
- 17 Q Who did you get that phone call from?
- 18 A My boyfriend.
- 19 Q Your boyfriend, okay. And again, what was it about?
- 20 A About Doris being killed.
- 21 Q Okay. Did you know Doris?
- 22 A Yes, ma'am.
- 23 Q How did you know her?
- 24 A From being married to Mimi Joe.
- 25 Q Being married to Mimi Joe?

1 A Yes.

2 Q All right. Did you know either of them from before?

3 A Yes, me and him -- me and Mimi Joe grew up in the

4 same neighborhood and one of his brothers was married to

5 my aunt.

6 Q Okay. Now, what did you do when you got that call?

7 A Just couldn't believe it. I called 9-1-1. After

8 that, I seen him.

9 Q You actually saw him?

10 A Uh-huh.

11 Q Okay. And what did you tell 9-1-1?

12 A That he was across the street from me at my aunt's

13 house.

14 Q Okay.

15 A And what -- I seen part of his tag number and I told

16 them what part of the tag number I seen and what kind of

17 vehicle he was driving.

18 Q What kind of vehicle was he driving?

19 A It was gray Chevy -- Chevrolet -- Chrysler Pacifica.

20 Q Okay. And then what happened after you made that?

21 A I made the call. I left the house to go to my

22 sister's house, which is in Gaston.

23 Q Okay.

24 A And I came back through by Tony's Lounge and I seen

25 the car. And I went to G-Mart convenience store.

- 1 Q I'm going to stop you right there.
- 2 A Okay.
- 3 Q All right. So you went to Tony's Lounge or drove by?
- 4 A I went past there.
- 5 Q What did you see at Tony's Lounge?
- 6 A I seen the car that he was driving.
- 7 Q What kind of car?
- 8 A It was a Chrysler Pacifica.
- 9 Q Okay. And what did you do then?
- 10 A I went to G-Mart convenience store and I called 9-1-1
- 11 and told them that I had seen the car.
- 12 Q Okay. And what was your next step?
- 13 A I went back to make sure. And I got out of the car
- 14 and I seen part of the tag number that I had remembered
- 15 seeing and the window being busted out of the car on the
- 16 driver's side. And I was talking to the Tony, the owner
- 17 of Tony's lounge. And I went to go inside the business,
- 18 and I heard him talking, so I left and went back to G-Mart
- 19 and called 9-1-1 again. I told them that he was there.
- 20 Q Okay. And what is Tony's Lounge?
- 21 A I guess it's a club.
- 22 Q Okay. You said you heard him talking. Who are you
- 23 referring to?
- 24 A Mimi Joe.
- 25 Q Okay. Is Mimi Joe in the courtroom today?

1 A Yes, ma'am.

2 Q Okay. What is he wearing?

3 A White dress shirt, striped tie.

4 MS. MOSER: Your Honor, let the record reflect the
5 witness has identified the Defendant.

6 THE COURT: Yes, ma'am.

7 BY MS. MOSER:

8 Q And going back to the car, was there anything unusual
9 about the car?

10 A Other than the window being busted out on the
11 driver's side, the side window.

12 Q Can you describe that a little bit?

13 A It was one of the smaller windows to the back by the
14 passenger's side.

15 Q Okay. And it was on which side?

16 A On the driver's side, but like the back door, back
17 there on the small one.

18 Q Now, did you ever go into Tony's lounge?

19 A No, ma'am.

20 Q Okay. But you spoke with Tony?

21 A Tony.

22 Q Okay. Did you ever speak with the Defendant that
23 day?

24 A No.

25 Q Okay. And how did you know he was there?

1 A I rode past and seen the car. I went to G-Mart,
2 called, and I went back there.

3 Q Okay. Did you hear him, see him?

4 A I heard -- yes, when I went to go inside, I heard him
5 talking.

6 Q And you could recognize his voice?

7 A Uh-huh.

8 MS. MOSER: Your Honor, at this time, I'd ask
9 permission to publish State's Exhibit No. 11, which has
10 already been entered into evidence.

11 THE COURT: All right.

12 (WHEREUPON, State's Exhibit No. 11 was played for the
13 jury.)

14 MS. MOSER: Nothing further for this witness.

15 THE COURT: All right. Cross?

16 MS. GOODE: No questions, Your Honor.

17 THE COURT: Have a nice day, ma'am. Thank you very
18 much.

19 Call your next witness.

20 MS. MOSER: The State calls Lindsay Edwards.

21 THE COURT: I promise you somebody is coming. It
22 will be just a second.

23 Come on over, Mr. Edwards.

24 LINDSAY EDWARDS, after being duly
25 sworn, testified as follows:

1 THE CLERK: Thank you. Please have a seat in the
2 witness stand and state your full name for the record.

3 THE WITNESS: Lindsay Edwards.

4 DIRECT EXAMINATION

5 BY MS. MOSER:

6 Q Hi, Lindsay.

7 A How are you doing?

8 Q Good, how are you?

9 A I'm fine.

10 Q Have we met before?

11 A Yes, ma'am.

12 Q And do you want to be here today?

13 A No, ma'am.

14 Q Do you want to testify today?

15 A No, ma'am.

16 Q Okay. Lindsay, where did you live back in August
17 of 2015?

18 A Bel-Aire Mobile Homes.

19 Q Where is that?

20 A On Leesburg Road.

21 Q Leesburg Road, okay. Do you go by any other name,
22 Lindsay?

23 A Pee Wee.

24 Q Pee Wee?

25 A Yes, ma'am.

1 Q Okay. So people in the neighborhood might know you
2 as Pee Wee?

3 A (Nods in the affirmative.)

4 Q Okay. Did you know your neighbors there pretty well?

5 A Sort of.

6 Q Okay. Did you know the Marshalls?

7 A No, ma'am, just passing by. I didn't know them, have
8 them over.

9 Q So you knew who they were, just not well?

10 A Yes, ma'am.

11 Q Did you know a Mr. Mimi Joe Marshall?

12 A Yes, ma'am.

13 Q What would you call him?

14 A Just old man.

15 Q Old man?

16 A Yes, ma'am.

17 Q Okay. I'm going to take you back to August, like I
18 said, of 2015, the night of the 14th. Do you remember
19 that night?

20 A Yes, ma'am.

21 Q Okay. What do you remember about that night?

22 A I just remember seeing a flash and being put through
23 the window, unlock the door, that's it.

24 Q Okay. Where were you when you saw a flash?

25 A I was in the kitchen washing dishes.

- 1 Q Okay. Was that in your trailer?
- 2 A Yes, ma'am.
- 3 Q Where was that trailer in relation to Mimi Joe's
- 4 trailer?
- 5 A Slant, slant-wise.
- 6 Q Okay. So kind of across the street?
- 7 A Yes, ma'am.
- 8 Q Was it fairly close?
- 9 A Yes, ma'am.
- 10 Q Can you tell us roughly how many feet away?
- 11 A Probably a couple yards, like a couple yards.
- 12 Q Like a few yards away?
- 13 A Yes, ma'am.
- 14 Q So close by?
- 15 A Yes, ma'am.
- 16 Q All right. So you saw a flash. Did you hear
- 17 anything?
- 18 A No, ma'am. I just seen a flash.
- 19 Q Okay. What happened after that?
- 20 A I walked to the store.
- 21 Q Okay.
- 22 A Realized Mr. Mimi needed help.
- 23 Q It looked like Mimi Joe needed help?
- 24 A Yes, ma'am.
- 25 Q How did you think that -- why did you think he needed

1 help?

2 A From his actions.

3 Q Okay.

4 A He was trying to get into the trailer.

5 Q How was he trying to get into the trailer?

6 A He was trying to pull the AC in and out.

7 Q Okay. Can you describe how he was doing that?

8 A I got handcuffs on.

9 Q So he was trying to pull the AC unit out of window,

10 is that what you said?

11 A Yes, ma'am.

12 Q Was he using anything to do that?

13 A Just his hands.

14 Q Okay. How was he positioned?

15 A Can you be more specific?

16 Q Was he standing on anything?

17 A A ladder.

18 Q On a stepladder? Okay. All right. Did you talk to

19 him?

20 A I just asked him did he need any help.

21 Q Okay. What did he say?

22 A He said, Yeah, you can help me, unlock the side door

23 for him.

24 Q So what did you do?

25 A I climbed through the window and opened door for him.

1 Q Okay. When you went into the trailer, which room
2 were you in?

3 A The main bedroom.

4 Q The bedroom?

5 A Uh-huh.

6 Q Was this in the back of the trailer?

7 A Uh-huh.

8 Q Okay. And when you were in the bedroom, did you
9 notice anything about it?

10 A I didn't hear his wife.

11 Q You didn't hear his wife?

12 A Yes, ma'am.

13 Q And what did you do? Did you stay in the back
14 bedroom or where did you go?

15 A I started walking to the side door, but I just -- I
16 just walked to the side door, opened the door for him,
17 that's it.

18 Q Did you hear anything?

19 A No, ma'am.

20 Q Did you notice anything, did you smell anything?

21 A A little foul odor, that's it.

22 Q A what?

23 A A foul odor, that's it.

24 Q Foul odor. What did it smell like?

25 A It just reeked.

1 Q Just reeked?

2 A Yes, ma'am.

3 Q Could you tell what it was?

4 A I had suspicions, but it just smell like a foul odor.

5 That's it.

6 Q What was your suspicion about the smell?

7 A Something wasn't right about the scene.

8 Q Okay. Something wasn't right, but you couldn't say

9 what it was exactly?

10 A It was just a foul odor.

11 Q Okay. Do you remember meeting with law enforcement?

12 A Yes, ma'am.

13 Q Okay. Did you give a statement to law enforcement?

14 A Yes, ma'am.

15 Q Okay. Do you have a copy of that statement?

16 A No, ma'am.

17 Q Would looking at that statement help refresh your

18 recollection?

19 A No, I don't want to look at.

20 Q Well, what if I showed you --

21 MS. MOSER: May I approach the witness, Your Honor?

22 THE COURT: Yes, ma'am.

23 BY MS. MOSER:

24 Q First of all, do you recognize this?

25 A Yes, ma'am.

- 1 Q Can you tell us what this is?
- 2 A That's a statement.
- 3 Q That's a statement?
- 4 A Uh-huh.
- 5 Q Is this a statement that you gave?
- 6 A Yes, ma'am.
- 7 Q Okay. How do you know you gave it?
- 8 A That's my signature there.
- 9 Q Are there some signatures on the bottom there?
- 10 A On the top.
- 11 Q Uh-huh. Is that your signature?
- 12 A Yes, ma'am.
- 13 Q Okay. I'm going to let you look through this. It
- 14 talks what about you smelled, okay. Do you see that?
- 15 A Yes, ma'am.
- 16 Q Does that help refresh your recollection about what
- 17 you smelled?
- 18 A I smelled a foul odor.
- 19 Q You smelled a foul odor?
- 20 A Yes, ma'am.
- 21 Q In your statement, what did you refer to it as?
- 22 A Blood.
- 23 Q Okay. You smelled blood. What did you do when you
- 24 smelled blood?
- 25 A Tried to leave the scene.

1 Q Tried to leave the scene. How long were you in
2 there?

3 A Like 10 minutes.

4 Q Ten minutes. Is it possible it could have been less
5 than 10 minutes?

6 A About 10 minutes.

7 Q So you left. And how did you leave the trailer?

8 A Walking.

9 Q You walked out?

10 A Yes, ma'am.

11 Q And after you left the trailer, what happened next?

12 A He told me to wait on his front porch till he come
13 back, but he never came back.

14 Q He told you to wait?

15 A Yes, ma'am.

16 Q Okay. What were you going to wait for?

17 A He said he had a couple packs of cigarette for me
18 when he came back from the corner store.

19 Q Okay. So he promised you some cigarettes?

20 A Yes, ma'am.

21 Q How long did you wait for him?

22 A Probably like 30 minutes.

23 Q Thirty minutes?

24 A Yes, ma'am.

25 Q And then what did you do?

1 A I went home.

2 Q Okay. All right. Pee Wee, where are you living

3 right now?

4 A Leesburg, Trotter Road.

5 Q Where are you staying right now?

6 A In Columbia.

7 Q Okay.

8 A Yes, ma'am.

9 Q Are you locked up right now?

10 A Yes, ma'am.

11 Q And why are you locked up right now?

12 A Burglary charge.

13 Q Burglary charge, okay. This incident that we just

14 talked about in 2015, did that happen before you got

15 locked up?

16 A Yes, ma'am.

17 Q It did, okay. Did you see the Defendant that night

18 near a car?

19 A His SUV.

20 Q Okay.

21 A Yes, ma'am.

22 Q Did you notice anything about that?

23 A He was trying to break the back window.

24 Q He was trying to break the back window?

25 A Yes, ma'am.

1 Q Was the car on?

2 A Yes, ma'am.

3 Q How could you tell the car was on?

4 A Because the lights was on. The car was pumped.

5 Q Okay. The lights were on and what was the second

6 part?

7 A The car was running. It was running.

8 Q Okay. And he was trying to break in the back window.

9 Okay.

10 MS. MOSER: Beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 (Pause.)

13 MS. MOSER: No further questions, Your Honor.

14 THE COURT: All right. Cross?

15 MS. GOODE: Thank you, Your Honor. May it please the

16 Court?

17 THE COURT: Yes, ma'am.

18 CROSS-EXAMINATION ,

19 BY MS. GOODE:

20 Q Hi, Mr. Edwards.

21 A Hello.

22 Q I won't take up too much of your time, okay. I did

23 want to ask you because she brought it up, you're in the

24 Department of Corrections currently?

25 A (Nods in the affirmative.)

1 Q Is that right?

2 A Uh-huh.

3 Q And that's because you've been convicted of two
4 burglary charges; is that correct?

5 A Uh-huh.

6 Q And those were burglaries that occurred in the
7 Bel-Aire Mobile Home Park?

8 MS. MOSER: Objection, Your Honor.

9 THE COURT: Sustained.

10 BY MS. GOODE:

11 Q And on one of those burglary charges, you were
12 actually charged originally with a burglary in the first
13 degree; is that right?

14 A Uh-huh.

15 MS. MOSER: Objection, Your Honor.

16 THE COURT: Sustained.

17 You need to answer the questions yes or no. Don't
18 say uh-huh or huh-uh, okay?

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you.

21 BY MS. GOODE:

22 Q So you were interviewed by Investigator Clarke; is
23 that right?

24 A Yes, ma'am.

25 Q And that was a few days later?

1 A Yes, ma'am.

2 Q And he wrote down the statement for you; is that

3 right?

4 A Yes, ma'am.

5 Q And y'all went through it?

6 A Yes, ma'am.

7 Q And then you signed it?

8 A Yes, ma'am.

9 Q And you said you were in the house about 10 minutes;

10 is that right?

11 A Yes, ma'am.

12 Q Do you remember telling Investigator Clarke you were

13 in there for about a minute and a half?

14 A No, about 10 minutes, about 10 minutes.

15 Q And that you didn't go past the hallway; is that

16 right?

17 A Yes, ma'am. I walk past the side door, then I walked

18 back to it.

19 MS. GOODE: Beg the Court's indulgence.

20 (Pause.)

21 MS. GOODE: No further questions.

22 THE COURT: All right. Redirect?

23 MS. MOSER: Nothing, Your Honor.

24 THE COURT: All right. Thank you very much. Have a

25 nice day.

1 All right. Call your next witness.

2 MS. MOSER: The State called Investigator Caldwell.

3 ANDREW CALDWELL, after being duly
4 sworn, testified as follows:

5 THE CLERK: Have a seat in the witness stand and
6 state your full name for the record.

7 THE WITNESS: Andrew Caldwell.

8 THE COURT: Yes, ma'am.

9 MS. MOSER: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. MOSER:

12 Q Investigator Caldwell, where do you currently work?

13 A I work for the Richland County Sheriff's Department.

14 Q Okay. In what capacity?

15 A I'm a sergeant in investigations and I'm currently
16 assigned to the financial crimes unit.

17 Q Okay. And what are some of your typical job duties?

18 A I supervise four investigators and we primarily work
19 any type of forgery, fraud, exploitation of a vulnerable
20 adult, scams, flim-flams, that type of crime.

21 Q How long have you been with the Richland County
22 Sheriff's Department?

23 A A little over 28 years.

24 Q Twenty-eight years?

25 A Yes, ma'am.

1 Q Did you become involved in a homicide investigation
2 back in August of 2015?

3 A I did.

4 Q And how did you become involved in that?

5 A As part of my regular duties, each individual CID
6 sergeant takes an on-call rotation. And during that week
7 of being on call, we're responsible for any other major
8 crimes that may occur during that seven-day rotation. I
9 was the CID supervisor on call that week.

10 Q Okay. Do you remember how you were notified or who
11 called you?

12 A I believe I was telephone by Investigator Gil
13 Gallegos, who was one of the other investigators working
14 the on-call rotation with us.

15 Q And when, roughly, were you notified about this?

16 A Approximately 9:30 in the morning on the morning of
17 the 15th.

18 Q Of August?

19 A Yes, ma'am, I'm sorry, 2015.

20 Q Okay. And do you know when this incident was first
21 reported?

22 A It's my understanding that calls were originally made
23 to the sheriff's department sometime around the 6:00 a.m.,
24 6:30 a.m. range of that same morning.

25 Q And do you know who reported it?

1 A It's my understanding that some family members of the
2 victim, Ms. Marshall.

3 Q Okay. Do you know who in particular?

4 A One of the main individuals I later spoke to was the
5 Defendant's brother, Mr. Marshall, Sr.

6 Q Okay. So after getting this call, did you respond to
7 the scene?

8 A I did.

9 Q Okay. Roughly, what time did that happen?

10 A I approximately arrived about 10:50 that morning and
11 made contact with the uniform officers who were already on
12 the scene.

13 Q Okay.

14 A That was Captain Raglan and Corporal Norton.

15 Q Okay. And where was the scene in this case?

16 A It was the Bel-Aire Mobile Home Park located at 3976
17 Leesburg Road. That's about the closest major
18 intersection I could think of, where it would be Leesburg
19 and Lower Richland kind of intersect. It's just little
20 past that.

21 Q Is that in Richland County?

22 A It is.

23 Q Can you describe the park a little bit?

24 A It's a smaller trailer park. It's not one of the
25 larger ones. I'm not sure how many trailers, maybe in the

1 15 range, gravel road, from what I remember, standard
2 trailer park, mobile home park.

3 Q Were the trailers fairly close together?

4 A Yes, ma'am.

5 Q Once you arrived at the scene, what did you meet
6 with?

7 A Originally, it was Captain Raglan and Corporal
8 Norton, also, was in contact with Investigator Gallegos.

9 Q All right. And did you notify anybody else once you
10 got there?

11 A I notified or requested that Sergeant Joe Clarke also
12 be notified. He was the primary homicide investigator,
13 also on call that week.

14 Q So would that have been standard protocol?

15 A Yes.

16 Q Okay. All right. Do you recall if there was anyone
17 else at the scene other than law enforcement when you
18 arrived?

19 A There were quite a few family members, eight to 10
20 people that were identified to me as family members of the
21 victim, Ms. Marshall.

22 Q And I know you've already described the scene, but,
23 in particular, what had law enforcement done?

24 A Upon my arrival, I noticed that the trailer,
25 Ms. Marshall's trailer had been roped off with crime scene

1 tape, around, encompassing what I would characterize as
2 the front yard, front porch area of the trailer, extending
3 around to the front and then the trailer itself. It's the
4 standard crime scene tape you see on TV.

5 Q And do you know if a crime scene log had been
6 prepared?

7 A I'm sure it had been at that point.

8 Q Okay. Did the scene seem secure to you at that
9 point?

10 A It was.

11 Q What about the Defendant's whereabouts? At that
12 point, did you know where the Defendant was?

13 A No, ma'am, I did not.

14 Q Okay. Did you gather any information about that at
15 some point?

16 A I did.

17 Q And were you able to get a description of the
18 Defendant?

19 A We were.

20 Q And what did you do once you got that description?

21 A Along with the Defendant's physical description, age
22 range, that type of thing, we were also told by the family
23 members that Ms. Marshall's car was missing. It was not
24 there at the scene and it should have been. And we were
25 able to gain a description of that vehicle, along with the

1 tag number. That was also put out, as well, a BOLO to the
2 parole units working that area.

3 Q All right. And did you ever actually go into the
4 trailer?

5 A I don't believe I actually stepped foot inside the
6 trailer. I recall just going up to the doorway.
7 Technically, still within the crime scene, but I didn't
8 enter the trailer.

9 Q Were you able to see anything inside the trailer?

10 A I observed Ms. Marshall seated on the couch and the
11 blood spatter up on the windows of what would be the
12 living room. I could still see some of the blood spatters
13 from standing outside on the windows.

14 Q And this is backing up a little bit. Did you learn
15 how they made entry into the trailer?

16 A Yes, ma'am, I did.

17 Q How was that?

18 A It was through a -- well, it's almost two different
19 ways. Originally, Ms. Marshall was discovered by her
20 family members when a front air conditioner vent was
21 pushed out of way. They could see into the living room
22 and see her. After that observation was made, some
23 neighbors and some family members forced their way through
24 the front door, but it was too late.

25 Q You mentioned the car earlier?

1 A Yes, ma'am.

2 Q Did you gather any more information about that
3 vehicle?

4 A The tag number, the color, year, all of the DMV-type
5 status information off of that vehicle. I believe it was
6 registered to Ms. Marshall, as well.

7 Q Registered to Ms. Doris Marshall?

8 A I believe so, yes, ma'am.

9 Q All right. And what did you with that information?

10 A Provided that to uniform patrol division, requested a
11 BOLO be put out for all the units in the area to be on the
12 look out for that car and Mr. Marshall.

13 Q Is that standard?

14 A Yes, ma'am.

15 Q All right. Did you do anything else at the scene?

16 A I spoke to one of the victim's family members, who
17 had relayed to me some information that they had --

18 MS. GOODE: Your Honor, objection.

19 THE COURT: Sustained.

20 THE WITNESS: That -- I'm sorry.

21 THE COURT: Sustained. You can't answer that.

22 MS. MOSER: Your Honor, if I may. I'm not quite
23 clear on what the objection will be about, but I think
24 what we're getting into here is not for the truth of the
25 matter asserted, it's just to explain what he did next.

1 THE COURT: All right. Then just ask him based upon
2 that information you received, what did you do next.

3 BY MS. MOSER:

4 Q So what did you do next after that information was
5 gathered?

6 A I contacted the Defendant's brother, Mr. Robert
7 Marshall.

8 Q Okay. Did you learn anything from Mr. Marshall?

9 A I was told that Mr. Marshall had information
10 concerning some activities of his brother, the Defendant.
11 And he was relating that the Defendant appeared at his
12 house early that morning and had a conversation with him
13 about the incident that night, early that morning.

14 Q And did Mr. Robert Marshall give a statement --

15 A He did.

16 Q -- to you all? Where was that statement taken?

17 A At our headquarters at 5623 Two Notch Road in
18 Columbia.

19 Q Okay. Was there anyone else present for that
20 conversation?

21 A No, ma'am.

22 Q Okay. After you had that conversation with him, what
23 steps did you take next?

24 A Through that interview, I learned that Mr. Marshall
25 -- in addition to Mr. Marshall having this conversation,

1 Mr. Robert Marshall having this conversation with his
2 brother, the Defendant, that Robert Marshall's son, adult
3 son, Robert Marshall, Jr., was also present. And I had to
4 pick Mr. Marshall up from a job site. He did not have
5 transportation.

6 When I learned that, upon completing his statement,
7 in addition to taking him back to the job site, his son
8 was working with him. I made contact with his son and
9 explained the same thing, that I would like to take his
10 statement as to what he heard and witnessed and he agreed.
11 And I transported him back to headquarters as well and
12 took his written statement.

13 Q Okay. So they both gave statements to law
14 enforcement?

15 A Yes, ma'am.

16 Q By this point, did you have any additional
17 information about the Defendant's whereabouts?

18 A Shortly after the conclusion of Robert Marshall,
19 Jr.'s statement, I believe it was Sergeant Clarke informed
20 me or I became informed that our uniform patrol units had
21 located the Defendant, Mimi Joe Marshall at Tony's Lounge.

22 Q What is Tony's Lounge?

23 A Just a little nightclub out in the Eastover-Gaston
24 area.

25 Q Is that also within Richland County?

1 A Yes, ma'am.

2 Q And did you see him? Did you go out to that scene?

3 A No, ma'am.

4 Q Okay. Did you happen to see him after he was

5 located?

6 A We requested that he -- I, myself, or Sergeant Clarke

7 requested that that parole unit immediately transport him

8 to headquarters.

9 Q So, at that point, you saw him?

10 A Yes.

11 Q What was he wearing?

12 A Wearing a white, like a sleeveless t-shirt, tan or

13 khaki-colored shirts, tennis shoes.

14 Q Is there anything unusual about his clothing?

15 A I noticed what I -- at the time, I believed to be

16 blood spatter on the pants, socks and shoes. It was

17 reddish, garnet-looking brown stains.

18 Q Okay. And what was done with that clothing?

19 A I collected it, bagged it and it was turned over to a

20 forensic investigator.

21 Q Was there any other additional physical evidence

22 collected from the Defendant?

23 A Well, we also performed -- and this is fairly

24 standard in a presumed shooting case, GSR was taken from

25 the Defendant, as well. I made that request. I

1 personally did not do that test. A forensic investigator
2 performed that at our office.

3 Q And was -- did the Defendant give a statement after
4 this was done?

5 A He did.

6 Q And who was present for the statement?

7 A Myself and Joe, Sergeant Joe Clarke.

8 Q Was the Defendant advised of his Miranda rights?

9 A He was, in writing.

10 Q In writing?

11 A Yes, ma'am.

12 Q And did he, in fact, provide a statement about what
13 happened?

14 A He did.

15 Q Okay. Were you present for the entire statement?

16 A Most of it. I stepped out of the room for both the
17 clothing and the GSR request. Our forensic lab was right
18 down the hall from the office that we were utilizing. I
19 don't recall if I just called the lab or if I physically
20 walked down there and requested that they come to the
21 office. But other than those two events, I was present
22 for the entire time.

23 Q Okay. So you were present for the end of the
24 statement?

25 A I was.

1 Q Was he given the opportunity to look over the
2 statement?

3 A Yes, ma'am. I believe it was read to him, as well,
4 by Sergeant Clarke.

5 Q Did he want to make any changes to it at that point?

6 A No, ma'am.

7 Q Did you witness him sign it?

8 A I did.

9 Q Okay. All right. Did you have contact with any
10 other witnesses after that statement was given?

11 A Again, it would have been -- I'm sorry, if I could
12 refer to my notes. I don't remember if it was
13 Ms. Marshall's daughter or daughter-in-law. I was
14 contacted by the victim's daughter, Tamioka Marshall,
15 concerning some information that they had received
16 throughout the neighborhood about an individual named Pee
17 Wee, that they only knew as Pee Wee, that may have had
18 some involvement or witnessed something pertaining to the
19 case.

20 Q Okay. So what did you do with that information?

21 A Well, I had the street name of Pee Wee, a possible
22 location or address, because I believe it was his mother,
23 also, lived out there. I ran that through several
24 databases we have at the sheriff's department and based on
25 an age range and physical description, I believe I had

1 located the individual that was commonly referred to as
2 Pee Wee.

3 Q Okay. Now, did you meet with Pee Wee or did someone
4 else in law enforcement?

5 A Later on, Sergeant Joe Clarke did.

6 Q And after that meeting, what did you do?

7 A Based on that information, as well as getting him
8 identified, and I made contact with Amanda Marshall to
9 confirm that the person I thought was Pee Wee was, in
10 fact, who was being referred to, I made contact with the
11 Defendant, Mimi Marshall, down at the Alvin S. Glenn
12 Detention Center.

13 Q Okay. When was that?

14 A I believe that was on the 18th. Bear with me,
15 please. Yes, August 18th, at approximately 1:45 in the
16 afternoon.

17 Q Okay. And did -- was he advised of his Miranda
18 Rights?

19 A I readvised him of his rights again and in writing
20 and obtained a written waiver of those rights.

21 Q Okay.

22 MS. MOSER: May I approach the witness?

23 THE COURT: Yes, ma'am.

24 BY MS. MOSER:

25 Q I'm going to show you what's been marked as State's

1 Exhibit No. 2. Do you recognize this?

2 A I do. This would have been the advice of rights that
3 I administered at the jail on the 18th.

4 Q Okay. And can you tell us a little bit about these
5 rights, I guess, how you go through them?

6 A This is a standard Miranda advice of rights form by
7 the sheriff's department. At the top, it will indicate
8 the person that we are advising and who is doing the
9 advising. So in this case, it has Mimi Marshall and my
10 name. It has the date and the time, which was
11 8/18/2015 at 1:42 p.m. Has the location, which in this
12 case was Alvin S. Glenn Detention Center. And then the
13 following section after that is the actual Miranda rights
14 or warnings. Do you want me to read them?

15 Q Yes. Please.

16 A As I read them, it's typically -- as much as I can
17 make it happen, I, typically, do a little hash or check
18 mark just as I read that particular right indicating that
19 I've gone over every one and nothing has been skipped.
20 And it starts off with, Before we ask you any questions,
21 you must understand your rights. You have the right to
22 remain silent. Anything you say can be used against you
23 in court. You have the right to talk to a lawyer for
24 advice before we ask you any questions and to have a
25 lawyer present with you during any questioning. If you

1 cannot afford a lawyer, one will be appointed for you
2 before any questioning, if you wish. If you decide to
3 answer any questions now without a lawyer present, you
4 still have the right to stop answering at any time. You
5 also have the right to stop answering at any time until
6 you talk to a lawyer.

7 Immediately following that is a section for both, who
8 in my -- in this case, that was me administering the
9 rights, we sign, and the Defendant or the person being
10 advised of the rights, they sign signifying that they had
11 those rights advised to them.

12 Then the last part is what is called the waiver of
13 rights. I check that off, too. That's where the
14 individual is acknowledging they've waived those rights
15 and do not wish to invoke any of those rights and willing
16 to talk to us or answer questions or give us a statement,
17 whatever they wish to do. And that read: I have read the
18 statement of my rights. I understand what my rights are.
19 I am willing to talk and answer questions. I understand
20 and know what I am doing. No promises have been made to
21 me. No pressure or coercion of any kind has been used
22 against me. And again, it's signed both by the Defendant,
23 or the person receiving these rights, and the officer
24 that's administering them.

25 Q Okay. And did the Defendant seem to understand what

1 his rights were and what you were explaining to him?

2 A Yes, ma'am.

3 Q Okay. Did he seem to be under the influence?

4 A No, ma'am.

5 Q All right.

6 MS. MOSER: Your Honor, at this time, the State would
7 seek to enter State's Exhibit No. 2 into evidence.

8 MS. GOODE: No objection.

9 THE COURT: State's 2 without objection.

10 (WHEREUPON, State's Exhibit No. 2 was admitted
11 into evidence.)

12 BY MS. MOSER:

13 Q Was there anyone else present while you were meeting
14 with the Defendant?

15 A No, not on this particular meeting. We were meeting
16 in, I guess, what I'd call a little activity room or
17 conference room.

18 The way the jail is designed, it's a large dorm-type
19 facility within the individual cells and within that dorm.
20 And then as you come into the dorm, with the exception of
21 maybe the maximum security side, there's generally a small
22 little meeting room. And that was where we had that
23 conversation and I advised those rights.

24 Q Okay. And, generally, what was substance of that
25 conversation?

1 A I, first of all, showed him the photo of the
2 individual that we had been told was Pee Wee and asked him
3 if that was, in fact, Pee Wee. He acknowledged that it
4 was, that was Pee Wee that lived in the neighborhood. And
5 I asked him about the information about Pee Wee going back
6 into the trailer to unlock the door and was that the case,
7 and he acknowledged it was. I asked him, Why did you not
8 put that in your statement or tell us that earlier? I
9 believe his response was something to the effect of, I
10 didn't think about it.

11 Q Okay.

12 A I forgot about it.

13 Q And, again, did you ever meet with Pee Wee?

14 A No, that was Sergeant Clarke.

15 Q Okay. All right. I'm going to take you back to
16 meeting with Robert Marshall?

17 A Yes.

18 Q Was there an additional meeting with him after you
19 first spoke with him?

20 A Yes, ma'am. After the first meeting at headquarters,
21 myself and Captain McDonald met with him. And if you'll
22 bear with me, I'll get you the specific dates. That was
23 on the 17th of August, at approximately 1:13 p.m. We met
24 with Mr. Robert Marshall Sr., the Defendant's brother,
25 concerning a voice mail that was left on his cell phone by

1 Mimi Marshall, the Defendant.

2 Q Okay.

3 MS. MOSER: May I approach, Your Honor?

4 THE COURT: Yes, ma'am.

5 BY MS. MOSER:

6 Q I'm going to show you what's been marked as State's
7 Exhibit 97 and 96. Do you recognize these pictures?

8 A I do.

9 Q Okay. Can you tell us what each of them are?

10 A This is a picture of Robert Marshall, Sr.'s phone as
11 it sits on -- the picture, you can barely tell, a legal
12 pad that's on the armrest of my car. We went to Mr.
13 Marshall's job site to try to not create any difficulty on
14 him. In fact, as I remember, I believe this particular
15 meeting was at the old SCE&G building right down the
16 street here on Main. I was pulled off to the side. We
17 met in my car and he provided us the phone and the
18 photographs were taken. This is just kind of the phone
19 screen itself --

20 Q Before you publish them, do these fairly and
21 accurately depict the phone as you remember it from that
22 day?

23 A Yes, ma'am.

24 Q Okay.

25 MS. MOSER: Your Honor, at this time, we'd seek to

1 introduce State's Exhibit 96 and 97 into evidence.

2 MS. GOODE: No objection.

3 THE COURT: Ninety-six and 97 without objection.

4 (WHEREUPON, State's Exhibit Nos. 96 and 97 were
5 admitted into evidence.)

6 BY MS. MOSER:

7 Q Okay. Now, we can show the jury. So can you explain
8 what this first picture is here?

9 A The first picture is just a photo of the cell phone
10 as it's laying on a tablet. As you can see, it's not
11 turned on. It's just a regular Samsung cell phone.

12 Q And again, whose phone was that?

13 A Robert Marshall, Sr., the Defendant's brother.

14 Q Okay. And then this second picture, what does that
15 depict?

16 A That was a photograph of what I refer to as the call
17 log on the cell phone for the calls receiving -- almost
18 every cell phone has the date and time of when a
19 particular message or call was received by that particular
20 phone.

21 Q And what does that show there, that there were calls
22 received?

23 A Yes. On August 15th, one is listed as 6:17 a.m.,
24 Saturday, August 15th, and the next one sequentially in
25 line is 6:34 a.m., Saturday, August 15th.

1 Q Okay. And did you have an opportunity to listen to
2 the voice mail that was left on that phone?

3 A I did.

4 Q And, generally, what information did it contain?

5 A Generally, it was the Defendant, Mimi Marshall
6 calling his brother, Robert Marshall, Sr., advising him
7 that he had messed up and killed his wife, that he was --
8 I remember talking about taking one last ride through
9 Eastover, I believe.

10 Q Did you do anything else with that information?

11 A I -- we recorded it. We were trying not to deprive
12 Mr. Marshall of his phone, so we just recorded that, those
13 voice mails. And then as best I could -- and I'm not a
14 stenographer, I tried to produce a hard copy of those
15 recordings for the Defense and prosecution to use.

16 MS. MOSER: Okay. Beg the Court's indulgence.

17 (Pause.)

18 MS. MOSER: No further questions, Your Honor.

19 THE COURT: All right. Cross?

20 MS. GOODE: Thank you, Your Honor. May it please the
21 Court?

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MS. GOODE:

25 Q Hi.

1 A Hi.

2 Q Okay. So you were actually with Investigator Clarke
3 at the time that Mr. Marshall, Mr. Mimi Joe Marshall was
4 brought to headquarters?

5 A Well, I was with Mr. Marshall, Jr. I believe
6 Sergeant Clarke, if not at headquarters was en route to
7 headquarters.

8 Q Okay. And the plan was for the two of you to
9 interview Mr. Marshall once he arrived?

10 A Yes, once we learned that he had been taken into
11 custody.

12 Q It was the two of you and Mr. Marshall?

13 A The Defendant, Mimi Joe Marshall, yes.

14 Q I'm sorry. There are a lot of Marshalls.

15 A There's lots of Marshalls, I apologize.

16 Q And I'll try to keep it compartmentalized there for
17 you. And you had been to the scene earlier that day.
18 This was all happening in the same day?

19 A Yes, ma'am.

20 Q And you said you were on the scene, but you never
21 actually went inside the trailer?

22 A No, ma'am.

23 Q Okay.

24 A Not that I can recall. It was -- there were lots of
25 materials. I wouldn't really gain much by walking through

1 at that point.

2 Q And you're one of -- I want to make sure I have it
3 right. On your report, you have it as Sergeant Caldwell.
4 Are you still sergeant?

5 A Yes, ma'am.

6 Q Great. I just wanted to make sure. You were --
7 along with Investigator Clarke, you were both assigned to
8 this case?

9 A Well, the way we do it is we have what we call a
10 primary homicide investigator, which is Sergeant Joe
11 Clarke. That individual is -- someone has to be tasked
12 with basically being the receiver of all information and
13 paperwork regarding to a case. It doesn't mean that that
14 individual is the only one that works the case or has
15 absolute control over how the case goes. It's just he's
16 the lead guy. And in this particular case, it was Joe
17 Clarke was the on call deputy.

18 Q And the reason behind assigning other investigators,
19 there's lots of moving parts?

20 A Correct.

21 Q In an investigation?

22 A Absolutely.

23 Q And it can't all fall on one person?

24 A No, ma'am.

25 Q There's several witnesses that need to be

1 interviewed, right?

2 A Correct.

3 Q Statements that needs to be taken?

4 A Yes, ma'am.

5 Q Pointing people in the right direction as far as what

6 you would kind of want more information on?

7 A Well, as the information comes in, you know, that

8 even may require additional help, as well.

9 Q Right. Because there's CSI investigators?

10 A Yes, ma'am.

11 Q There's other type of forensic testing that happens

12 in an investigation, right?

13 A Correct.

14 Q And then, like we said, lots of potential witnesses

15 that may have information that might be helpful for y'all?

16 A In some cases.

17 Q All right. And so the -- kind of splitting up those

18 duties, but then giving all that information back to

19 Investigator Clarke?

20 A Yes, ma'am.

21 Q As the primary investigator in the case?

22 A Yes, ma'am.

23 Q Okay. And the call that was received as it relates

24 to this case actually came from Mr. Robert Marshall; is

25 that correct?

1 A That is my understanding. And to make sure I'm
2 clear, you're talking about the original call?

3 Q The original call.

4 A That's my understanding, yes.

5 Q And you said it was from a family member of the
6 victim and it was around 6:00 to 6:30 in the morning is
7 when you got that call? That's what you testified to --

8 A I think he also called family members. They may have
9 called, as well.

10 Q Okay.

11 A Once this information began to get out, lots of
12 individuals or people began to hear about it.

13 Q And you actually -- as you said earlier, you had the
14 chance to speak with Mr. Robert Marshall?

15 A Yes.

16 Q Actually, both of the Marshalls?

17 A Yes, senior and junior.

18 Q Senior and junior. And you took written statements
19 from the both of them?

20 A Yes, ma'am.

21 Q And Mr. Robert Marshall, even a couple days later,
22 Robert, Sr., he gave you his phone?

23 A Yes, ma'am.

24 Q And you made a recording of the voice mail on his
25 phone?

- 1 A I did.
- 2 Q And that was a voice mail from Mimi Joe?
- 3 A Correct.
- 4 Q And you made a transcript of that?
- 5 A I tried to, yes, ma'am.
- 6 Q Right, the best you could.
- 7 A Yes.
- 8 Q You testified on direct that, generally, it was Mimi
- 9 Joe telling Robert that he had killed his wife, right?
- 10 A Correct.
- 11 Q That he had messed up, right?
- 12 A Yes, ma'am.
- 13 Q And he is actually at Robert, Sr.'s house whenever
- 14 he's leaving this voice mail?
- 15 A No. As a result of the statement, I believe if I
- 16 recall the timeline, is the Defendant made these calls and
- 17 when he did not get a call back or Robert did not answer
- 18 the phone, he went to the house. And Robert was awakened
- 19 by him knocking on the door, and then they had the
- 20 conversation one on one, but kind of was the same gist of
- 21 the recording.
- 22 Q Do you have a copy of the transcript that you
- 23 prepared?
- 24 A No, ma'am, not on the stand, no, ma'am.
- 25 Q Okay. If I provided it to you, would that help?

1 A Sure.

2 Q I think it's just this one page?

3 A I'm sure it is, yes. Yes.

4 Q And he indicates he's right outside of Robert's door?

5 A Yes, it does.

6 MS. GOODE: Beg the Court's indulgence.

7 (Pause.)

8 BY MS. GOODE:

9 Q And he's telling Robert he doesn't know what to do,

10 right?

11 A Bear with me. He's at the door, might as well tell

12 you the truth. Yes, I'm sorry, I got to that part, don't

13 know what to do.

14 Q My wife came home and she grabbed the shotgun,

15 grabbed it, pulled it to her and the gun went off?

16 A That's correct.

17 Q And I probably should go ahead and kill myself right

18 now, you know, is that what it says?

19 A Yes, that's further down, yes, ma'am.

20 Q And he just goes on, I'm gone, man. I'm gone, for

21 real. God knows, man, it hurts. I don't know what to do.

22 I don't know what to do?

23 A Yes, that's the --

24 Q And there's some parts in there that you've got

25 listed as inaudible that you can't understand?

1 A There's mumbling that I just could not -- after
2 listening to it over and over and over again, I could not
3 make out what he was saying.

4 Q And this voice mail was left, according to Robert
5 Marshall, Sr.'s phone that you took a picture of around
6 6:17 a.m.?

7 A Yes.

8 Q And when you -- you got to speak with Mr. Mimi Joe
9 Marshall twice, right?

10 A Correct.

11 Q Once was day of the 15th, that Saturday?

12 A That would have been the day he was originally taken
13 into custody, yes, ma'am.

14 Q And --

15 A I think on the 18th.

16 Q -- he willingly spoke with the two of you then at
17 that point?

18 A The conversation at the jail was just with myself.

19 Q Right. But on the 15th?

20 A Yes.

21 Q He spoke with you and Sergeant Clarke?

22 A Yes, ma'am.

23 Q And then again, on the 18th, three days later?

24 A Uh-huh.

25 Q After he was in jail, right?

1 A Correct.

2 Q And charged with murder?

3 A Yes, ma'am.

4 Q He still sits down and provides you more information?

5 A Correct.

6 MS. GOODE: I have no further questions.

7 THE COURT: Redirect?

8 MS. MOSER: No redirect, Your Honor.

9 THE COURT: All right. Thank you, Sergeant Caldwell.

10 Have a nice day.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: All right. You may call your next
13 witness.

14 MS. SAMPSON: Beg the Court's indulgence.

15 (WHEREUPON, there was a bench conference.)

16 THE COURT: All right. Let's take our afternoon
17 break, ladies and gentlemen. Do not discuss the case.
18 Keep an open mind. It's 3:28, we'll start back at 3:45.
19 3:45.

20 Everyone else remain seated.

21 (WHEREUPON, the jury left the courtroom at 3:28
22 p.m.)

23 THE COURT: All right. 15-minute break. 15-minute
24 break.

25 MS. SAMPSON: Your Honor, we just had one small

1 thing. Our next witness is a DNA person. I know what
2 you -- we've got two options. I can put her up before we
3 finish the break to do the qualification part or I could
4 do her in the morning and do all of our experts in the
5 morning. It's up to you, Your Honor. We have Durso,
6 Richards.

7 THE COURT: What's the DNA person going to say?

8 MS. SAMPSON: There's DNA tests. They swabbed the
9 gun and the victim's DNA is on the gun.

10 THE COURT: Okay. Do y'all need some kind of hearing
11 on that other than the normal?

12 MR. KRZYSTON: Well, not besides the normal
13 gatekeeping function that are performed in White, Council,
14 Jones.

15 THE COURT: You need a hearing on that outside the
16 presence of the jury?

17 MR. KRZYSTON: Yes, sir.

18 THE COURT: Seriously?

19 MR. KRZYSTON: The proponent of the evidence needs a
20 hearing on that evidence for it to be admissible.

21 THE COURT: And what case do you think says this?

22 MR. KRZYSTON: State v. White, Your Honor.

23 THE COURT: All right. Well, I'd love for you to
24 give me a copy of it on this 15-minute break.

25 MR. KRZYSTON: I can write it down if you would like.

1 THE COURT: Give it to the clerk.

2 MR. KRZYSTON: Yes, sir.

3 (WHEREUPON, a short break was taken.)

4 THE COURT: So you think based upon this dog tracking
5 case that you're entitled to an out-of-court,
6 outside-of-the-presence hearing on every single expert
7 witness?

8 MR. KRZYSTON: Yes, sir, because I think the Supreme
9 Court has opined that it's the trial court's job or role
10 as the gatekeeper to ensure that the underlying evidence,
11 which the prosecution offers is reliable, is what it says
12 it is and can be relied upon by the jury.

13 THE COURT: So what evidence do you have to offer
14 that the DNA test done in this case is not reliable?

15 MR. KRZYSTON: Judge, and I think -- I mean, again,
16 they have to establish that it is, I don't have to
17 establish that it's not. And I think that when they offer
18 it, they have to establish it is what it is. It conforms
19 with the normal methodology and practices that these
20 examiners typically use.

21 To be clear, my argument against it will be limited
22 to the extent that they don't establish one of the Jones
23 factors. I don't really anticipate -- I've dealt with
24 Mr. Amick and Mr. Barron before in previous trials, I
25 don't anticipate needing to do any cross really in the

1 hearing. But as the proponent of evidence and as the
2 gatekeeper, I think we have a responsibility to determine,
3 again, that the underlying evidence is reliable, that it
4 conforms with the methodology, that the methodology
5 employed has been peer reviewed and published by the
6 scientific community at large and that, again, it is what
7 it says it is.

8 THE COURT: What are the other experts that the State
9 has?

10 MS. SAMPSON: Your Honor, we have Jennifer Martin
11 here for DNA.

12 THE COURT: What did she do?

13 MS. SAMPSON: She tested the swabs of the gun for
14 DNA.

15 THE COURT: Okay.

16 MS. SAMPSON: And tested the swabs in the house to
17 determine they were blood.

18 THE COURT: Okay.

19 MS. SAMPSON: We have Dr. Durso, the forensic
20 pathologist.

21 THE COURT: Right.

22 MS. SAMPSON: We have Stan Richards, who will do
23 blood stain pattern --

24 THE COURT: Okay.

25 MS. SAMPSON: -- analysis.

1 THE COURT: What's Gray Amick here for?

2 MS. SAMPSON: They're here in support of Jennifer.

3 THE COURT: Okay.

4 MS. SAMPSON: They're not on our witness list.

5 They're not being called.

6 THE COURT: I think -- I mean, I understand that the
7 Court has a gatekeeping role in the admissibility of
8 scientific and nonscientific evidence under Rule 702. I
9 mean, clearly, the Court has always had that role. This
10 White case was a dog tracking case. I mean, dog tracking
11 is a lot different than one of the most reliable sciences
12 in the world, which is DNA. It's just night and day. The
13 difference between a dog and whether or not a dog is
14 qualified and what training they've had and whether or not
15 that's scientific evidence or not scientific evidence, all
16 that's completely and totally different.

17 I mean, under the Defense's theory, every single case
18 that we tried that had more than three expert witnesses
19 would take weeks because we would be sitting around having
20 all these hearings outside the presence of the jury on
21 science. And I'm not -- in, you know, like DNA that most
22 everybody agrees on both sides of the fence is reliable.

23 So I'm not doing all that.

24 Call your next -- bring in the jury, call your next
25 witness.

1 MR. KRZYSTON: Judge, just for the record, we do not
2 agree with that supposition and are relying on the holding
3 in State v. White on Page 89 at the cite.

4 THE COURT: Great. If the Supreme Court wants to say
5 I'm wrong, go for it.

6 (WHEREUPON, the jury entered the courtroom at 3:52
7 p.m.)

8 THE COURT: Welcome back, ladies and gentlemen. At
9 this time, you may call your next witness.

10 MS. SAMPSON: Your Honor, at this time, the State
11 calls Jennifer Martin.

12 JENNIFER MARTIN, after being duly
13 sworn, testified as follows:

14 THE CLERK: Thank you. Please have a seat in the
15 witness stand. State your full name for the record.

16 THE WITNESS: Jennifer Martin.

17 MR. KRZYSTON: Judge, just prior stated objection.

18 THE COURT: Go.

19 MS. SAMPSON: Thank you.

20 DIRECT EXAMINATION

21 BY MS. SAMPSON:

22 Q Please tell the jury where you work.

23 A I work at the Richland County Sheriff's Department.

24 Q What do you do there?

25 A I'm a DNA analyst in the forensic laboratory.

1 Q How long have you worked there?

2 A I've been there a little over two years.

3 Q And in order to work there, what did you have to do?

4 A I have my Bachelor's Degree in chemistry from the

5 University of South Carolina. When I began at the

6 Richland County Sheriff's Department, I started in-depth

7 training in the areas of forensic serology and DNA. And I

8 have been trained by three court-certified analysts and

9 have been deemed competent according to FBI and DAE

10 guidelines.

11 Q How do you become qualified? What do you have to do?

12 A I have to go through a very in-depth training

13 procedure with the other analysts at the department.

14 Q Over the course of how long?

15 A It took me approximately a year.

16 Q So you completed that?

17 A Yes, ma'am.

18 Q And what is your -- what do you do at the sheriff's

19 department, like, what's the process that you do?

20 A My duty is to develop DNA profiles from any

21 biological material left behind at a crime scene.

22 Q And what is DNA?

23 A DNA is the genetic material that makes up who we are.

24 Everyone gets half from mom and half from dad. And DNA is

25 unique to every person with the exception of identical

1 twins.

2 Q And I want to ask you, you do testing, you said?

3 A Yes, ma'am.

4 Q And the test you use, is this a standard test used
5 nationally or does it vary at all from the national
6 standards?

7 A Most labs do STR DNA testing.

8 Q And that's what the lab uses at the Richland County
9 Sheriff's Department?

10 A Yes, ma'am.

11 Q And to the best of your knowledge, it's the same kind
12 of testing that's done in any other facility in the United
13 States?

14 A Yes, ma'am.

15 Q And is the testing peer reviewed?

16 A The testing or the report?

17 Q The testing, in general, has it been peer reviewed
18 and done for years and years and years?

19 A Yes, ma'am.

20 Q And have you been qualified as an expert before?

21 A No, ma'am.

22 MS. SAMPSON: At this time, Your Honor, we would ask
23 that Ms. Martin be qualified as an expert in the field of
24 DNA?

25 THE COURT: Voir dire?

1 MS. GOODE: No voir dire, Your Honor. We just renew
2 our previous objection.

3 THE COURT: You object to her qualifications?

4 MS. GOODE: No, Your Honor.

5 THE COURT: Okay. Ladies and gentlemen, this witness
6 will be an expert in the area of DNA testing. She will be
7 allowed to give opinion testimony in that area. That does
8 not mean that you have to accept her opinion, but it is
9 evidence for you to use in any way that you see fit and
10 give it the weight and credibility that you believe is
11 appropriate as you are required to do with each and every
12 witness that appears before you.

13 MS. SAMPSON: Thank you, Your Honor.

14 BY MS. SAMPSON:

15 Q So, you told us what DNA is. And you may have said
16 this, can two people have the same DNA?

17 A Only identical twins can have the exact same DNA
18 profiles.

19 Q And why is that?

20 A That's because each individual's DNA is unique to
21 that person. That's why we all look different.

22 Q So what do you receive in the lab that you test?

23 A You'd have to be more specific.

24 Q Or what can you receive, I guess?

25 A Evidence from crime scenes.

1 Q Such as, do you receive -- do you receive swabs?

2 A We do, yes.

3 Q What's normally on those swabs or what are you
4 looking at?

5 A Well, swabs can have a number of things. Crime
6 scene, a lot of things will be fingerprinted first, so
7 some of our swabs will come with a black powder-like stain
8 on them. Some will have nothing on them. Some may have
9 reddish-brown stains.

10 Q And what is a swab? I think everybody knows, but can
11 you tell what the swab is?

12 A Yes, basically, a swab appears just like a Q-tip
13 would. It just has the cotton on one end instead of two.

14 Q And how do you -- when you get a swab, what do you do
15 with it?

16 A We will write a description of the swab on our
17 evidence worksheet and we will then process that swab,
18 meaning we'll take a pair of sterile scissors and we'll
19 cut typically about 90 percent of that swab and stick it
20 in a tube.

21 Q And what do you do with that tube?

22 A That tube is labeled for that case and it goes into a
23 rack and it's pushed through for further DNA analysis.

24 Q And how does it analyze the DNA? What do you do, put
25 it in a machine? Explain to the jury how that works.

1 A Sure. After processing, we take those -- we take the
2 tubes that I was talking about. We'll stick them in an
3 instrument and we'll extract the DNA from those tubes,
4 which, basically, means we put the DNA into a purified
5 form. We then take that purified DNA and we quant it,
6 which means we just look to see how much DNA is in that
7 tube. That DNA is then put into a machine which amplifies
8 it, which, basically, means it makes millions and millions
9 of copies. Those copies are then put onto another
10 instrument, which will separate them out. After
11 separation, we use a software which allows us to interpret
12 the DNA.

13 Q And how long does this testing take from the
14 beginning of cutting that swab to getting a final result?

15 A It depends. We, typically, try to fill up a run. We
16 try not to do just a handful of samples at one time. We
17 try to max out our runs. That's more efficient in a lab.
18 So, it depends on how long the processing takes because we
19 don't always just get swabs. We may get other items which
20 take a little bit longer. So, it could take usually about
21 a week, but it could take up the two or three, depending.

22 Q So unlike on TV, it's not done in 15 minutes?

23 A No, ma'am, not at all.

24 Q Now, I want to get to what you're here for today.
25 Did you do any testing in this case?

1 A Yes, ma'am.

2 Q What were you provided to test?

3 A I have a list of items that were received that
4 consisted of items three, four, five, six, 11, 12, 13, 23
5 and 40. Those were swabbed from the stain labeled marker
6 one, swabbed from the stain labeled marker three, swabbed
7 from the stain labeled marker four, and swabbed from the
8 stain labeled marker five. Eleven was a swab from a
9 double-barrel shotgun, Stevens model, and 12 swabs from
10 unfired shotgun shells. Thirteen was swab from a stain on
11 the front seat. Twenty-three was a buccal swab from the
12 victim, Doris Marshall, and item 40 was a swab from barrel
13 the, item 21.

14 Q So I'm going to go over some of those. Can you test
15 for blood separately from DNA?

16 A Yes, that is known as serology.

17 Q And what is a serology test? How do you do that?

18 A It depends on which one. In the lab, we can test for
19 blood or semen. So for the blood test, we do what's
20 called a phenolphthalein test. It's searching for a
21 specific protein found in blood. We did use
22 phenolphthalein to test for blood in this case.

23 Q And which do you test first, the phenolphthalein or
24 the DNA?

25 A The phenolphthalein will come first.

- 1 Q So did anything that you tested in this case come
- 2 back as blood?
- 3 A Yes.
- 4 Q What came back as blood?
- 5 A There was blood indicated on items three, four, five,
- 6 six and 13.
- 7 Q And once you test for blood, are there further DNA
- 8 tests which can be done at that point?
- 9 A Yes, ma'am.
- 10 Q Was any DNA testing done at that point on any of
- 11 those swabs?
- 12 A On those items, 13.
- 13 Q Okay. And what did you find with that test?
- 14 A You mean, what were my results from item 13?
- 15 Q Yes. I'm sorry, I said it incorrectly.
- 16 A Oh, you're fine. So reading directly from my report,
- 17 the DNA result from item 13 is of an unknown male.
- 18 Q Now, how do you know it's a male?
- 19 A I know it's a male by looking at the DNA profile and
- 20 based on my training and experience in the lab.
- 21 Q Well, what's the difference between a male and a
- 22 female's results, are they pretty clear?
- 23 A Okay. So, females will have an X chromosomes, males
- 24 will have an X and a Y chromosome.
- 25 Q So when you looked at this, you could tell

1 immediately it was a male?

2 A Yes, ma'am.

3 Q Now, I want to go to the other things you tested.
4 I'll start with number 11. That's the swab from the
5 double-barrel shotgun?

6 A Swab from double-barrel shotgun, yes, ma'am.

7 Q Was any blood indicated in that swab?

8 A No blood was indicated on item 11.

9 Q And what did it come back as once it was tested?

10 A The result?

11 Q Yes. I'm sorry, I need to say that better. What
12 were the results of that test?

13 A Reading from my report, the DNA result from item 11
14 matches Doris Marshall.

15 Q And how strong of a match was it? Can you give the
16 jury the numbers?

17 A Sure. So, again, reading from my report, based on
18 the most recent population data available and the general
19 results obtained, Doris Marshall is greater than 374
20 octillion times more likely to be the source of this DNA
21 than a random unrelated individual.

22 Q So in your opinion, it's her DNA?

23 A Yes, ma'am.

24 Q Are there even 374 octillion people on this earth?

25 A No, ma'am.

1 Q All right. Let's go to the next thing you tested,
2 item 40, which is also what?

3 A Item 40 was swab from a barrel labeled item 21.

4 Q Okay.

5 A There was no blood indicated on item 40.

6 Q And what was the results of that DNA test?

7 A The DNA result from item 40 matched Doris Marshall.

8 Q And again, what were the numbers on that?

9 A On this, Doris Marshall is greater than 396 nine
10 million times more likely to be the source of this DNA.

11 Q So again, in your expert opinion, that's her DNA?

12 A Yes.

13 Q And can you tell us what kind of DNA it is?

14 A When you say kind, you mean the material it came
15 from?

16 Q You spoke earlier that you can say blood or semen.
17 Can you tell us what this is other than biological
18 material?

19 A I cannot. We only test for blood or semen in the
20 lab.

21 Q So you can say it's not blood and it's not semen?

22 A Yes, ma'am.

23 Q But you can't tell us what exactly it is?

24 A Correct.

25 MS. SAMPSON: Beg the Court's indulgence.

1 (Pause.)

2 BY MS. SAMPSON:

3 Q I just want to make sure my last question was clear
4 about when I said you couldn't tell us what it was, I mean
5 on 11 and 40, neither of those you couldn't tell what they
6 were other than it's Doris Marshall's DNA?

7 A Right. I can say definitively that no blood was
8 indicated on items 11 or 40.

9 MS. SAMPSON: No further questions, Your Honor.

10 THE COURT: Cross-examination?

11 MS. GOODE: Thank you, Your Honor. May it please the
12 Court?

13 CROSS-EXAMINATION

14 BY MS. GOODE:

15 Q Good afternoon.

16 A Hi.

17 Q Is this your first time testifying in a criminal
18 trial?

19 A Yes, ma'am.

20 Q Okay. So I just -- I'll be brief. You received this
21 request to test the DNA on October 16th, 2017; is that
22 right?

23 A We received --

24 Q And that may be when you initiated your analysis?

25 A Right. We initiated it on October 16th.

1 Q And that's 15 days ago, right? Today is
2 October 31st?

3 A Yes, ma'am, sorry.

4 Q And you were complete with that analysis on
5 October 18th?

6 A Yes, ma'am.

7 Q Thirteen days ago?

8 A Yes, ma'am.

9 Q And you don't make the decision on what's in evidence
10 and what gets tested? It has to be requested of someone?

11 A Yes, ma'am. We work based off of a request.

12 Q Okay. And you were requested to process or analyze
13 certain items?

14 A Right.

15 Q And in this case, specifically, it was, I think,
16 about nine swabs. That's what you were testing? It was
17 just swabs that you tested?

18 A Yes, ma'am, only swabs.

19 Q And you don't -- when you receive the swabs, the
20 label is already on there from whoever collected that item
21 of what it is, right?

22 A Yes, ma'am.

23 Q So the description, if it says swab from
24 double-barrel shotgun, you wouldn't have written that on
25 there?

- 1 A Correct.
- 2 Q That would have come from whoever collected that
- 3 swab?
- 4 A Correct.
- 5 Q So you have no idea where on the gun that swab came
- 6 from?
- 7 A I do not, no, ma'am.
- 8 Q Just that it came from the double-barrel shotgun?
- 9 A Yes, ma'am.
- 10 Q Okay. And your report indicates item 11, the swab
- 11 from the shotgun, there's no blood indicated. That was
- 12 your first test?
- 13 A Correct.
- 14 Q And that the DNA matched Doris Marshall?
- 15 A For item 11, yes.
- 16 Q For item 11. And as far as any other testing goes,
- 17 you're not able to tell if that's touch DNA?
- 18 A I cannot tell you if it's touch DNA. I can tell you
- 19 based on the quantity, I do not think in my expert opinion
- 20 that it's touch DNA.
- 21 Q We, again, don't know where on the gun this is taken
- 22 from?
- 23 A No, ma'am.
- 24 Q But we know it's not blood?
- 25 A Right.

1 Q And same thing with item 40, where it is a little
2 more specific, it tells us it's a swab from the barrel,
3 right?

4 A Correct.

5 Q And again, no blood is indicated on that?

6 A Right, no blood is indicated.

7 Q No blood indicated. But the result from that is a
8 match to Doris Marshall?

9 A For item 40, yes, ma'am.

10 Q And normally, you said testing can take up to -- it
11 can take one week, but all the way up the two or three
12 weeks, depending on the load?

13 A Yes, ma'am, it really depends on a lot of things.

14 Q In this case, you were able to get it back in two
15 days?

16 A Yes, ma'am.

17 MS. GOODE: Nothing further.

18 THE COURT: Redirect?

19 MS. SAMPSON: Just briefly.

20 REDIRECT EXAMINATION

21 BY MS. SAMPSON:

22 Q She asked you about touch DNA. Can you explain to
23 the jury what touch DNA is?

24 A I can, yes, ma'am. So, touch DNA is, basically,
25 exactly how it sounds. If you were to walk up and rub

1 your hand across this and we were to swab this for DNA,
2 that would be considered touch DNA. So, typically, it
3 comes from cells that are shed whenever you touch
4 something.

5 Q Why in your expert opinion is this not touch DNA?

6 A That's based on the quant, which is the number that
7 we got when we stick it on the instrument to determine how
8 much DNA is in the tube. Those numbers for items 11 and
9 40 were fairly high.

10 Q And you wouldn't expect that with touch DNA; is that
11 correct?

12 A No, ma'am.

13 Q All right. And she asked you about the timing of
14 when this was done. Let's look at the evidence just to be
15 clear. These are the swabs that you had, correct, State's
16 Exhibit No. 46? Okay. So State's Exhibit No. 46, that
17 contains the swabs you tested?

18 A Yes, ma'am.

19 Q And I just took one out. It says RB stain marker
20 five. Is this how it looks when you receive it?

21 A Yes, ma'am.

22 Q Is it sealed when you received it?

23 A This is sealed, yes, ma'am.

24 Q So if you tested it right after, the results would be
25 the same if you tested it in 2015 or 2017, correct?

1 A Yes, ma'am.

2 MS. SAMPSON: Nothing further, Your Honor.

3 MS. GOODE: Real briefly.

4 RECROSS-EXAMINATION

5 BY MS. GOODE:

6 Q We were talking about touch DNA. I could touch a
7 surface and I could or could not leave some sort of DNA
8 behind?

9 A That's correct.

10 MS. GOODE: That's it. Thank you.

11 THE COURT: Have a nice day. Call your next witness.

12 MS. SAMPSON: The State calls Tamieka Marshall.

13 TAMIEKA MARSHALL, after being
14 duly sworn, testified as follows:

15 THE WITNESS: Tamieka Marshall.

16 DIRECT EXAMINATION

17 BY MS. SAMPSON:

18 Q Tamieka, can you smell your first name?

19 A T-A-M-I-E-K-A.

20 Q Tamieka, how old are you?

21 A Twenty-nine.

22 Q And where do you live? You don't have to give me
23 your exact address, but you live here in Columbia?

24 A Yes.

25 Q And how are you related to the Defendant?

1 A He's my father.

2 Q And how are you related to the victim?

3 A That's my mother.

4 Q And can you tell me a little bit -- how long did you

5 live with your mother and your father together?

6 A Together, until I was 15, maybe.

7 Q Okay. So, around the age that you were 15, at that

8 point, they separated?

9 A Yes.

10 Q And where did you live then? Where did you go live

11 then?

12 A With my brother and sister-in-law in Georgia, me and

13 my mother.

14 Q So your father was not living with you all then?

15 A No.

16 Q Do you know when your father and your mother got back

17 together?

18 A In 2011.

19 Q And at that point, your brother passed; is that

20 correct?

21 A Yes.

22 Q And then they got back together?

23 A Yes.

24 Q From 2011 until 2015, how often did you see your

25 mother?

1 A You mean how many times a week?

2 Q Like, was it once a week, every two days, do you

3 remember?

4 A Maybe -- I can't say every week, I'd say --

5 Q Let me ask you this, did you see her pretty

6 regularly?

7 A It varied, I would say.

8 Q Did you go a year without seeing her?

9 A No.

10 Q Okay. A month?

11 A No.

12 Q How about your father?

13 A Well, when I did go there, he would be in the bed

14 sometimes. I would see him maybe sometimes.

15 Q Sometimes. But would it be fair to say you saw him

16 as often as you saw your mother?

17 A I might see her a few times more, maybe.

18 Q You didn't live with him back in 2015, did you?

19 A No.

20 Q Okay. So I'm going to kind of bring you to what

21 we're all here about today. So August 2014 -- excuse me,

22 August 14th of 2015, were you working at that time?

23 A Yes.

24 Q Where did you work then?

25 A I work at D & D Billiards.

1 Q And did you see your mother on the 14th?

2 A No, I didn't see her on the 14th. I just texted her.

3 Q What did you text her about?

4 A Well, she texted me asking me for a picture of my...

5 (Crying.)

6 (Pause.)

7 Q Take your time. Do you want some water?

8 A (Indicating in the negative.) Thank you.

9 Q You're welcome.

10 A She said -- she asked me for a picture of my

11 daughter.

12 Q And --

13 A I had just had her four weeks ago.

14 Q So you had a newborn at the time?

15 A (Nods in the affirmative.)

16 Q And did you talk to her -- other than that text, you

17 didn't talk to her that day?

18 A No, I didn't talk to her by phone that day. I

19 just -- she had came to my house that Sunday before.

20 Q So that was the last time you saw her was the Sunday

21 before?

22 A Uh-huh.

23 Q I need you to say yes or no.

24 A Oh, yes.

25 Q So on the 14th, you didn't see her. When did you

1 hear anything about your mother or your father in relation
2 to this case?

3 A About 7:00 that morning, Saturday morning.

4 Q On the 15th?

5 A Yes.

6 Q And who did you talk to that morning, do you
7 remember?

8 A Well, I had missed calls and stuff, but I didn't look
9 at them. And my cousin, Michelle, came to my house and
10 she told me that my father had shot my mom.

11 Q So based on her telling you that, what did you do?

12 A I got my stuff together and -- I was getting my kids
13 together so I could go back to her house.

14 Q And you said kids, do you have more than one?

15 A Yes, I have two children.

16 Q But were they both little?

17 A Yes.

18 Q So you said -- I interrupted you. You were getting
19 yourself together so you could go?

20 A Yes.

21 Q So then what happened?

22 A And my -- Monica came to my house and I left -- I
23 ended up leaving my kids with her. And I got in the car
24 with Michelle and Mesha and they took me to her house.

25 Q And where did your mother live at the time?

1 A 3976 Leesburg Road.

2 Q Had you been there before?

3 A Yes.

4 Q So you knew how to get there?

5 A Yes, they just didn't want me to drive.

6 Q You didn't want to drive?

7 A They didn't want me to drive.

8 Q When you got there, who else was there? Do you

9 remember?

10 A Amanda.

11 Q And let me stop you, who's Amanda?

12 A My sister-in-law.

13 Q So was she married to your brother?

14 A Yes.

15 Q So she was there. Anyone else?

16 A And a few neighbors.

17 Q Did you know your mom's neighbors?

18 A I've seen them, but I didn't like, you know, know

19 them personally.

20 Q Okay. So they're all -- are they standing outside or

21 where are they when you get there?

22 A They were standing outside.

23 Q So what happens when you get there?

24 A When I got there, Amanda was standing by the door

25 outside of the trailer. And I walked -- I walked in the

1 house and I saw her -- I saw my mom sitting on the couch
2 leaning to her right side.

3 Q Did you touch her?

4 A No. I walked back out.

5 Q Why didn't you touch her? Did you try to help her at
6 all?

7 A No, because there was blood everywhere.

8 Q And you didn't touch any of that, did you?

9 A No..

10 Q So you go back outside?

11 A Yes.

12 Q And who did you talk to when you -- did you talk to
13 anybody when you went outside?

14 A Maybe Michelle and Mesha.

15 Q Okay. Did you call 9-1-1?

16 A No, because it was already an officer there.

17 Q By the time you came back outside?

18 A He was actually there already, I believe, if I'm not
19 mistaken. It was one already there.

20 Q And what did you do at that point?

21 A I received phone calls.

22 Q Did you ever receive a phone call from your father?

23 A No.. I tried to call his phone, but he wouldn't
24 answer it.

25 Q So you called his phone?

1 A Yeah.

2 Q He never answered his phone?

3 A No.

4 Q So then what did you do?

5 A Well, I was just, you know, standing outside and I
6 was receiving phone calls from multiple people telling me,
7 you know, they see him. Every time someone would see him,
8 you know, they would call me.

9 Q Were y'all trying to find him?

10 A Yeah, it was people -- I didn't go personally, but it
11 was other people in the neighborhood, Franklin Park, that
12 were -- ended up calling me and telling me where he was
13 because, I guess, he was just, you know, driving around
14 and going -- someone told me that he went to someone's
15 house to buy drugs.

16 MS. GOODE: Objection, Your Honor.

17 THE COURT: Sustained.

18 Disregard that statement completely and totally,
19 ladies and gentlemen.

20 Do not say what someone else said, Ms. Marshall. Do
21 you understand?

22 THE WITNESS: Yes.

23 THE COURT: Thank you, ma'am.

24 BY MS. SAMPSON:

25 Q Did you ever talk to the investigators?

1 A Yes.

2 Q Was it that day or the next day, do you remember?

3 A That day.

4 Q Where did you talk to them at?

5 A Outside in his truck.

6 Q The investigator's truck?

7 A Yes.

8 Q Okay. Did you give a written statement to them at

9 that time?

10 A Yes, I did.

11 Q And did you ever give them any information about

12 Mr. Edwards or Pee Wee?

13 A Yes. After -- well, not that day, but after that

14 day, I called the investigator and told him.

15 Q About Pee Wee?

16 A About Pee Wee.

17 Q Okay. Tamieka, I want to ask you was there ever a

18 time that you received your mother's car?

19 A Yes.

20 Q Tell me about that.

21 A I received -- I went to the place where it was kept

22 and an officer walked me to the car and -- an officer

23 walked me to the car and the tire was flat, so I asked him

24 to help me pump up the tires. And I looked inside of the

25 car while he was pumping it up, pumping up the tire and

1 there was a --

2 Q I'm going to stop you. I'm going to ask you what was

3 in the car?

4 A Okay.

5 Q Was there a bag in the car?

6 A Yes.

7 Q Was there items of your mother's in the car?

8 A Yes.

9 Q I'm going to show you what's been marked as State's

10 Exhibit No. 41, and ask if you recognize that?

11 A Yes.

12 Q And does that accurately reflect what you saw in the

13 car when you received it from the sheriff's department?

14 A Yes.

15 MS. SAMPSON: At this time, we'd ask to introduce

16 State's Exhibit No. 41 into evidence.

17 MS. GOODE: No objection.

18 THE COURT: Without objection.

19 (WHEREUPON, State's Exhibit No. 41 was admitted

20 into evidence.)

21 BY MS. SAMPSON:

22 Q I'm going to ask you, in this picture, what is that

23 yellow piece of paper?

24 A That is a receipt from O'Reilly's.

25 Q And was that in the car when you got it, when you

1 receive it from the sheriff's department?

2 A Yes, it was a return receipt.

3 Q You didn't put that receipt in the car, did you?

4 A No.

5 Q Was the window broken when you received the car?

6 A Yes.

7 Q And was there any glass in the car?

8 A Yes, there was a lot of glass and a brick.

9 MS. SAMPSON: Beg the Court's indulgence.

10 BY MS. SAMPSON:

11 Q Okay. Got a couple more questions. I'm sorry. Did

12 your mother smoke?

13 A No.

14 Q How about your father?

15 A Yes.

16 Q Do you know if he smoked in the house?

17 A No.

18 Q Why not?

19 A He always smoked outside. Every time I went there, I

20 always saw him smoking out.

21 Q You've heard us talking about the shotgun. Did your

22 brother ever own a shotgun?

23 A No.

24 Q How do you know he never owned a shotgun?

25 A Because I've never seen him with one, and I was there

1 a lot during the time he was living there.

2 Q And to the best of your knowledge, was your father
3 supposed to have a gun?

4 A No.,

5 MS. GOODE: Objection, Your Honor, previously stated.

6 THE COURT: Overruled.

7 MS. SAMPSON: Thank you. Please answer any questions
8 they have for you. Okay.

9 MS. GOODE: Thank you, Your Honor. May it please the
10 Court?

11 THE COURT: Yes, ma'am.

12 CROSS-EXAMINATION

13 BY MS. GOODE:

14 Q Just quickly, Ms. Marshall. You received your -- the
15 Pacifica, that's the car we're talking about, right?

16 A Yes.

17 Q And that was released to you?

18 A Yes.

19 Q Do you remember the officer who released that car to
20 you?

21 A I don't know his name.

22 Q You picked it up at the Richland County Sheriff's
23 Department?

24 A Yes. Well, it was a -- well, it was off of Farrow
25 Road.

1 Q Okay. And there was a t-shirt in the car?

2 A Yes, it was in a bag.

3 Q And you were told you could throw that t-shirt away?

4 A Yes.

5 Q Okay.

6 MS. GOODE: Nothing further.

7 THE COURT: Okay. Thank you, ma'am. You may step

8 down.

9 Call your next witness?

10 MS. SAMPSON: Your, may we approach?

11 THE COURT: Yes.

12 (WHEREUPON, a bench conference was held.)

13 MS. SAMPSON: State calls Amanda marshal.

14 AMANDA MARSHALL, after being duly

15 sworn, testified as follows:

16 THE CLERK: Thank you. Please have a seat in the

17 witness stand. State your full name for the record.

18 DIRECT EXAMINATION

19 BY MS. SAMPSON:

20 Q State your name for the record.

21 A Amanda Marshall.

22 Q And Amanda, how old are you?

23 A Thirty-eight.

24 Q I'm going to need you --

25 A Thirty-eight.

1 Q Thank you. And do you live in Columbia?

2 A I did.

3 Q And how do you know Doris Marshall?

4 A My mother-in-law.

5 Q And how do you know the Defendant?

6 A My father-in-law.

7 Q Can you tell me what he has on?

8 A White collared-shirt with striped tie.

9 MS. SAMPSON: Let the record reflect she has
10 identified the Defendant.

11 THE COURT: Yes, ma'am.

12 MS. SAMPSON: Thank you, Your Honor.

13 BY MS. SAMPSON:

14 Q Ms. Marshall, how long have you known the Defendant
15 and Doris Marshall?

16 A Early 2000, like 2000 -- maybe 2002, 2001.

17 Q Would it be fair to say you met them when you met
18 your husband?

19 A I knew my husband a while before. I met my husband
20 in like middle school.

21 Q Okay. So somewhere in the 2000s, you met the
22 Marshalls?

23 A Uh-huh.

24 Q I need you to say yes or no.

25 A Yes, I'm sorry.

1 Q Was there a time that Doris Marshall came and lived
2 with you?

3 A Yes.

4 Q And did Mr. Marshall live with you, too, or just
5 Doris?

6 A Just Doris and Tamieka Marshall.

7 Q Do you remember about how long that was?

8 A How long was it?

9 Q How many years?

10 A Maybe about five years, I'm not sure.

11 Q And then you guys moved back to Columbia at some
12 point?

13 A We did.

14 Q And did Doris live with you guys or the Defendant
15 when y'all moved back to Columbia?

16 A With me and my husband.

17 Q And when did your husband pass?

18 A 2011.

19 Q And did your husband ever own a shotgun?

20 A No.

21 Q Did he ever own any guns?

22 A No.

23 Q So, in August of 2015, did you live in Columbia at
24 that time? I'm sorry, when this happened, did you --

25 A Yes.

- 1 Q You didn't live with the victim, though?
- 2 A No.
- 3 Q Did you ever go over to her house?
- 4 A Yes.
- 5 Q Did you ever see her with the Defendant?
- 6 A Yes.
- 7 Q How often did you see Doris?
- 8 A Often. Maybe -- if not every week, every other week
- 9 maybe, but it just depends.
- 10 Q Never went more than a month without seeing her,
- 11 would that be fair to say?
- 12 A Yes.
- 13 Q Did you guys talk on the phone?
- 14 A Yes.
- 15 Q Did you speak with her on August 14th?
- 16 A No.
- 17 Q Tell me how you came to find out what had happened?
- 18 A Tamieka Marshall called that morning.
- 19 Q Tamieka called you?
- 20 A Yes.
- 21 Q And who lived closer to Doris, you or Tamieka,
- 22 physically?
- 23 A It might have been about the same distance.
- 24 Q So when you heard what had happened, what did you do?
- 25 A I told her I would go check, check on my,

1 mother-in-law.

2 Q And so what did you do?

3 A I left my daughter with my niece.

4 Q And how old was your daughter?

5 A About eight -- no, it was right before her eighth
6 birthday.

7 Q So you left her with someone else and you went to the
8 house?

9 A Yes.

10 Q I need you to say yes.

11 A Yes.

12 Q And where did you go?

13 A I went to my mother-in-law's house on Leesburg Road,
14 Bel-Aire, straight there.

15 Q Straight there, okay. Were you calling anybody while
16 you were driving there?

17 A I can't remember.

18 Q Okay. When you got there, what happened?

19 A I checked the front door and it was locked. I
20 checked the back door and it was locked. I tried pushing
21 both doors in, but I couldn't get them opened.

22 Q I'm going to stop you for a second. When you say you
23 checked the doors, like how did you check the doors?

24 A I opened the front door, opened the screen door,
25 twisted the lock, tried to push door open. It was locked,

1 I couldn't get in.

2 Q What about the back door?

3 A Same, it was locked. I couldn't get in. I twisted
4 the knob, tried to push the door open, couldn't get in.

5 Q Do you remember about what time this was?

6 A The later part of maybe 7:00 o'clock hour. I can't
7 remember.

8 Q Was it morning or afternoon?

9 A Morning.

10 Q And so could you -- it was light? Could you see
11 outside?

12 A Yes, it was light outside.

13 Q So you checked the doors. They don't open. What did
14 you do?

15 A After I checked the back door, when I couldn't open
16 that, I went to the bedroom window. There was an AC in
17 that window. I can't remember if I pushed it down or
18 tried to move the vent to the side, but I was able to see
19 in the master bedroom and it was clear. Nobody was in
20 there. I called my mother-in-law's name. Nobody
21 answered.

22 Q So then what did you do?

23 A I went around -- well, it was the same side of the
24 home. I went toward the front of the home to the living
25 room window, and it was another AC unit in the living room

1 window. And I can't remember if I pushed it down or not,
2 but I was able to view her and I saw her sitting -- the
3 window was across from the -- right across from the couch.
4 I could see the couch, and I could see her sitting there.
5 I could see her leaning.

6 Q And you said you could see her leaning. Was she on
7 the couch -- or where was she?

8 A She was sitting down, almost like in the middle of
9 the couch, I believe, and she was leaning.

10 Q So what did you do?

11 A I can't remember if I went around to the front to try
12 the door again, but I do -- I had to get the neighbor's
13 son to help me open the front door.

14 Q You had to get help to open the door?

15 A Yes.

16 Q How did you guys get in?

17 A The neighbor's son got the door open.

18 Q You guy broke the door open?

19 A Yeah, we broke the door open.

20 Q You didn't have a key?

21 A No, so we broke the door open.

22 Q Did you go in once the door was broken open?

23 A I did.

24 Q What did you see?

25 A I saw my mother-in-law on the couch.

1 (Crying.)

2 Q Take your time.

3 A I saw my mother-in-law on the couch.

4 Q Did you touch her?

5 A No.

6 Q Did you go anywhere near her body?

7 A I think I went -- I didn't go close enough to -- I
8 didn't go to touch her because I knew it wasn't no reason
9 for me to touch her, but I did go close.

10 Q Why do you say there was no reason to touch her?

11 A Because it was clear that she was dead.

12 Q And I hate to ask you this, but how was it clear that
13 she was dead?

14 A Because she had a hole in her head.

15 Q What did you do based on that?

16 A The first thing I did was call Michelle -- oh, no, I
17 called Tamieka because I knew Michelle was bringing her to
18 the house. And I told her it wasn't a good idea for her
19 to see her mama like how she was.

20 Q And did you get on the phone with 9-1-1? Do you
21 remember?

22 A I believe it was a neighbor -- the neighbor lady, she
23 called, and then I got on the phone.

24 (WHEREUPON, the 9-1-1 call was played for the
25 jury.)

1 MS. GOODE: We had already heard that part.

2 THE COURT: Yeah, we don't need --

3 MS. SAMPSON: I just got to get to the part.

4 THE COURT: Just skip the part -- we already heard
5 the part where Ms. Brown -- that Ms. Brown, right?

6 MS. SAMPSON: Correct.

7 THE COURT: Okay. So just take it to the part where
8 Ms. Marshall comes.

9 MS. SAMPSON: I can fast forward it.

10 THE COURT: Okay.

11 (WHEREUPON, the 9-1-1 call was continued to be
12 played.)

13 BY MS. SAMPSON:

14 Q Is that you?

15 A Yes.

16 (WHEREUPON, the 9-1-1 call was continued to be
17 played.)

18 BY MS. SAMPSON:

19 Q Sorry about the problem with technology. So that's
20 you, the second person on the call?

21 A Yes.

22 Q Did you give a statement to Richland County?

23 A I did.

24 Q Did you go to headquarters or did you do it right
25 then?

1 A Right then.

2 Q And was it in writing?

3 A I believe so. Yes, it was.

4 Q And did you know what kind of car Doris drove?

5 A Yes.

6 Q What kind?

7 A A silver Chrysler Pacifica.

8 MS. SAMPSON: Beg the Court's indulgence.

9 (Pause.)

10 BY MS. SAMPSON:

11 Q I show you what's been marked as State's 94 and 95.

12 Do you recognize these?

13 A Yes.

14 Q Do they fairly and accurately depict the home as you
15 saw it that day?

16 A Yes.

17 MS. SAMPSON: At this time, Your Honor, I'd ask to
18 introduce State's Exhibit No. 95 and 94 into evidence?

19 MS. GOODE: No objection.

20 THE COURT: Without objection.

21 (WHEREUPON, State's Exhibit Nos. 94 and 95 were
22 admitted into evidence.)

23 BY MS. SAMPSON:

24 Q So, is this the trailer?

25 A Yes, that's the backside.

1 Q Is this the air conditioning unit you talked about
2 earlier?

3 A Yes.

4 Q And what did you do to that?

5 A I can't remember if I pushed it to the -- well, I
6 guess, I pushed it in so I could see her.

7 Q So you could see through there?

8 A Yes.

9 Q And when you saw through there, you could see into
10 the living room?

11 A Directly into the living room.

12 Q And then State's Exhibit No. 95, what is that?

13 A The living room, the doorway.

14 Q What is this in the picture?

15 A The AC unit, the window. The living room window that
16 I could see her through.

17 Q And what is -- is that part of the door frame?

18 A Part of the door that was broken when we went in.

19 Q Is that how it looked when you went in the house, as
20 best you remember?

21 A It looks a little clean, but, you know, from --

22 Q From the doorway?

23 A Yeah.

24 Q Would you -- you can't see the inside in this photo?

25 A No, not where she is, but that's the arm of the white

1 couch where she was on.

2 Q Thank you.

3 MS. SAMPSON: Beg the Court's indulgence.

4 (Pause.)

5 MS. SAMPSON: No further questions at this time.

6 THE COURT: Cross?

7 MS. GOODE: No questions, Your Honor.

8 THE COURT: Okay. All right. Thank you, ma'am. You
9 may step down.

10 Ladies and gentlemen, we're going to stop there for
11 the end of the day. The next witness is lengthy, so
12 instead of -- I know it's Halloween. I do live in that
13 world, so I know traffic is always crazy and everybody
14 wants to get home and do all those good things.

15 We're about to break for the end of the day. I want
16 to remind you that yesterday you made a promise to me, you
17 made a promise to the lawyers, you made a promise to the
18 parties, you made a promise to each other that you're
19 going to base your decision off the evidence and the law
20 and what happens in this courtroom. You're not to be
21 influenced by any outside influences. You're not to do
22 any research on this case. You're not to look up anything
23 on this case. You're not to discuss this case with anyone
24 in any way, shape, or form.

25 You've all done a good job today. You've all paid

1 attention today. We've made it through a lot of witnesses
2 today. So I appreciate your attentiveness today to all
3 the testimony that has been presented. So I want you to
4 go home, enjoy your Halloween, don't eat too much candy,
5 okay. We're going to see you back here tomorrow morning
6 --

7 Do we need to start a little bit later tomorrow? Is
8 Durso tomorrow?

9 MS. SAMPSON: Yes, sir.

10 THE COURT: Okay. So we've got to deal with --

11 MS. SAMPSON: And probably Richards.

12 THE COURT: -- some issues before she testifies,
13 right?

14 MS. SAMPSON: Correct.

15 THE COURT: So we're going to start at 10:00 o'clock
16 tomorrow. We're going to be here working. As I told you
17 before, there are legal issues that come up that I have to
18 take up outside of your presence. So instead of getting
19 y'all here tomorrow morning and making you sit there while
20 I'm dealing with that, we're going to go ahead and start
21 at normal time tomorrow on some legal issues that I have
22 to decide, and then we'll bring you in at 10:00. So you
23 can sleep in a little bit tomorrow. Please be here at
24 10:00. Please do your best to be here on time so we're
25 ready to jump into it and start going. Thank you very

1 much for your service today and this week. You are
2 excused for the evening. We'll see you tomorrow morning
3 at 10:00 o'clock. 10:00 o'clock.

4 Everyone else in the room remain seated.

5 (WHEREUPON, the jury left the courtroom at 4:45
6 p.m.)

7 THE COURT: All right. Anything before we break?

8 MS. GOODE: Just briefly, Your Honor.

9 THE COURT: Okay.

10 MS. GOODE: Based on Ms. Tamieka Marshall's testimony
11 regarding Mr. Mimi Joe and the drugs, I would ask for a
12 mistrial. It was Your Honor's ruling way ahead of
13 yesterday and then again this morning that no mention of
14 any prior bad acts. We specifically brought up one
15 witness that we've been provided Riddle information where
16 there was allegations of drug use. And that is now out
17 and the jury has heard it, so I would ask for a mistrial
18 based on that.

19 THE COURT: State?

20 MS. SAMPSON: Your Honor, I believe what the witness
21 said was someone told her he was doing drugs. That was
22 the first time she ever told me that or I would have told
23 her not to say that. I had no idea that she had any of
24 that in her head. There was a crack pipe found in the
25 car, which is why I started leading her about what was in

1 the car to make sure that didn't happen, but I had no idea
2 she had been told or I would have told her not to say
3 that. I don't think this is something that rises to the
4 level of a mistrial. If they want a curative instruction,
5 I think that would be a better resolution.

6 THE COURT: All right. Your motion for a mistrial is
7 denied. It does not rise to the level of manifest
8 necessity. I do not find any ill intent on either the
9 State or the State's witness in that regard.

10 The witness was extremely emotional and, obviously,
11 as expected in the case to be. I immediately -- the
12 objection was made contemporaneously. I immediately
13 sustained the objection without any argument from the
14 State in any way, shape, or form and told the jury that
15 they are to disregard that testimony. If you want a
16 curative instruction, I'll give one, but that's up to you.

17 MS. GOODE: No, no, sir, Your Honor.

18 THE COURT: Okay.

19 MS. GOODE: And just second, we've got a scheduling
20 issue. I believe we --

21 THE COURT: Who's left? Let's talk. We have Durso.

22 MS. SAMPSON: Durso.

23 THE COURT: Richards.

24 MS. SAMPSON: Richards. Jennifer Nates. I forgot
25 when you asked about -- she's GSR. There was a GSR done

1 on the victim.

2 THE COURT: Okay.

3 MS. SAMPSON: But I think that that's one of the ones
4 we might actually agree on.

5 THE COURT: Was there GSR found on the victim?

6 MS. SAMPSON: Yes. And, actually, I'll let Sandra do
7 that, but there's some on the Defendant as well, but
8 there's a problem because it was outside the time.

9 THE COURT: Yeah, there's a three-to-four hour time
10 break. But there was GSR found on the victim's hands?

11 MS. SAMPSON: Yes. So we have her. Leonard Bradley
12 from the coroner's office just to confirm that they showed
13 up. They're not giving any expert opinion, just talk what
14 about they saw. Investigator Rainsford, who collected the
15 gun and swabbed the gun. We may or may not call Michelle
16 Hopkins. We're trying to cut down. She is the one that
17 we relayed the information, but we've, at this point,
18 heard that, so I'm not sure we're going to call her.

19 THE COURT: Okay.

20 MS. SAMPSON: And then Investigator Clarke.

21 THE COURT: Okay. What's your timing issue?

22 MS. GOODE: We have an expert that we -- he is
23 unavailable Thursday and Friday, so I told him to be here
24 tomorrow afternoon.

25 THE COURT: Okay.

1 MS. GOODE: I would hope that we could get to him
2 tomorrow afternoon. We've been moving pretty quickly. If
3 we need to call him out of order --

4 THE COURT: If we need to call him out of order, we
5 can.

6 MS. SAMPSON: I don't have any position on calling
7 him before the State rests its case.

8 THE COURT: Yeah, I don't think they're going to
9 object to that. If y'all need somebody -- we'll know by
10 after lunch tomorrow whether or not we're going to be able
11 to get to him in the normal course of business or not, and
12 if we're not, then we can certainly take him out of order.
13 There's no problem with that.

14 MS. GOODE: I'll tell him to be here by lunchtime
15 tomorrow.

16 THE COURT: Yeah, that's fine.

17 MS. GOODE: Thank you very much.

18 THE COURT: Hold on. Help me with these photos with
19 Durso. Are there photos that we agree on?

20 MS. SAMPSON: I don't know that we've even shown --
21 I'm sorry. There's three photos. I'm sure they're going
22 to object to all three.

23 MR. KRZYSTON: Judge, I mean, they're -- I'll just go
24 ahead and pass them up. It's not that I'm not saying
25 they're not probative. Again, I think they certainly are.

1 It's just an argument that we can display or convey to the
2 jury the same information through different means.

3 THE COURT: Okay. All right. So have Durso here
4 tomorrow morning at 9:30. I'm going to need her to
5 explain to me why she needs these photos and then I'll
6 make a decision. Are they in color?

7 MS. SAMPSON: Yes.

8 MR. KRZYSTON: Yes, sir.

9 THE COURT: Are they available in black and white?

10 MS. SAMPSON: Oh, I'm sure I can make them in black
11 and white.

12 THE COURT: See if you can make them in black and
13 white. I'll look at that, too. I'm not saying that makes
14 them admissible. I'm just saying let's just see what it
15 looks like and then I'll hear what Durso has to say about
16 why she thinks they're so relevant to her testimony.

17 Are those the only three that you intend to use?

18 MS. SAMPSON: I will show them and I will have Stan
19 Richards here. He has the scene photos.

20 THE COURT: Before y'all leave, y'all look at the
21 photos. Make sure you show them which ones you want to
22 introduce and then -- are they marked already?

23 THE COURT REPORTER: Yes.

24 THE COURT: So if they're marked, y'all just make a
25 list of which ones you object to so we can deal with them

1 in the morning.

2 MS. SAMPSON: Okay. I'll have everybody here for
3 that.

4 THE COURT: Okay.

5 MR. KRZYSTON: I do have the photos from State v.
6 Collins and State v. Torres.

7 THE COURT: That's the dog case?

8 MR. KRZYSTON: It's a death penalty case in
9 Spartanburg.

10 THE COURT: I think I'm okay without those right now.
11 The last time I dealt with Durso, I was able to convince
12 her she didn't need those photos.

13 MR. KRZYSTON: When they filleted the back of a small
14 four-year-old child, and I didn't let that in. I'll hear
15 what she has to say and if we get to that point and I'm
16 not convinced one way or the other and you can to show me
17 the photos, I can consider them.

18 MR. KRZYSTON: Based on her explanations, we may also
19 be able to tailor our argument.

20 MR. KRZYSTON: That's fine.

21 THE COURT: All right. 9:30. 9:30. 9:30.

22 WEDNESDAY, NOVEMBER 1, 2017

23 (WHEREUPON, State's Exhibit No. 106 was marked for
24 identification.)

25 THE COURT: What do we need to take up?

1 MS. SAMPSON: Your Honor, my understanding is that
2 the Defense -- we showed them all the pictures we plan on
3 introducing with our experts and they had no dispute or no
4 issue with those photographs coming in.

5 THE COURT: Okay. All right. Good. What else do we
6 need to take up?

7 MS. SAMPSON: My understanding yesterday was that we
8 did not have to do in-camera proof about the experts.
9 They're here, if you would like us to do that. Other than
10 that, the State is ready to proceed:

11 THE COURT: Okay. Who's left as far as experts?

12 MS. SAMPSON: Dr. Durso, Stan Richards, Jennifer
13 Nates from SLED. GSR for Jennifer Nates, Stan Richards
14 for blood stain pattern, and Dr. Durso for pathology.

15 THE COURT: Okay. Let's do Stan Richards and we can
16 hear about his blood stain pattern conclusions. I'll let
17 the Defense cross-examine him on how he came to those
18 conclusions and the science or whatever it is behind all
19 that stuff.

20 Come on up, Mr. Richards.

21 STAN RICHARDS, after being duly
22 sworn, testified as follows:

23 THE CLERK: Please have a seat in the witness stand
24 and state your name for the record.

25 THE WITNESS: Stan Richards.

DIRECT EXAMINATION (IC)

BY MS. SAMPSON:

Q Good morning.

A Good morning.

Q All right. I'm just going to get to the meat of it.
Where do you work?

A Richland County Sheriff's Department forensic
division, crime scene latent prints unit.

Q How long have you worked there?

A Since the end of 2000, about 16 years.

Q And what kind of training do you have?

A Okay. Well, my educational background comes from the
military. I went to school in the military and I finished
with St. Leo University with criminal justice so I could
go to the officer candidate school, so I went there. And
then after that, I was able to work with a criminal
investigative division of the U.S. Army. I also worked
with the inspector general's office with the U.S. Army,
both in the criminal aspects. After that, and while I was
still in the military, also, I attended and completed the
U.S. Army command general staff in quantitative analysis.

When I came work at the Richland County Sheriff's
Department, I began my career there as a patrolman. I
worked my way up as a training officer and then as a
supervisor on the road. I came to work with the CSI in

1 late 2000. From there, it was a multitude of training
2 events. A few of those would be, of course, blood
3 patterns starting in 2001, latent print processing, palm
4 print processing, advance photography, latent
5 verifications, forensic anthropology, forensic
6 reconstruction, crime scene reconstruction, advanced blood
7 stain patterns. All throughout up until this, it's just a
8 multitude of different things, but the general essence was
9 in blood stain pattern or crime scene reconstruction.

10 I am a certified crime scene investigator, a
11 certified footwear examiner and a certified blood stain
12 pattern examiner with the International Association for
13 Identification.

14 Q And what exactly is blood stain pattern -- how do you
15 get a blood stain pattern certification?

16 A How do you get the certification? It's a lot of
17 training. You have to have a certain number of hours in
18 the training itself. You have to have completed several
19 hours of not only blood stain, but the criminal
20 investigation behind it or the reconstruction behind the
21 fact itself. Also, you have to read a lot of books. You
22 have take a major test, which lasted about five hours.
23 Then every five years, I have to recertify in that
24 discipline itself. Plus, every year, we do an external
25 testing in three disciplines at our office. That includes

1 blood stain pattern, footwear and latent comparison.

2 Q And you are still certified, so you've done this
3 every five years?

4 A I have.

5 Q Can you explain to us what is blood stain pattern?
6 What is that? What is that science?

7 A It's taking the size of a blood stain, how it is put
8 into flight, how it lands, the patterns that generate
9 behind it. A blood stain methodology is, number one, you
10 go into a scene and you make yourself familiar with the
11 entire scene. Number two, then, you take a look at -- how
12 do I put this?

13 After you become familiar with the scene itself, then
14 you take a look at the discrete patterns that you might
15 see anywhere in the scene. After you have identified
16 those discrete patterns, then you go to the taxonomy that
17 we have in the blood stain pattern itself. That taxonomy
18 gives you the description and how you would describe and
19 identify these different type patterns.

20 After that, you may, if it's necessary, go into
21 looking at motion, directionality, then you may go into
22 looking for -- looking at the convergence or the areas of
23 origins. After that, you relate what you found to one
24 pattern -- from one pattern to another pattern and how
25 that sequence might evolve. Then you can look at how

1 those patterns then relate to any evidence that might be
2 on the scene. There's about seven steps in the
3 methodology.

4 The main thing in the methodology itself is the
5 taxonomy because it gives you an objective look at the
6 patterns that's already been described for you so you know
7 what you're looking for and, of course, your experience.
8 And that's is the -- using a scientific measurement for
9 the methodology of blood stain pattern.

10 Q And is this something that has been peer reviewed,
11 this science that you're talking about?

12 A Absolutely.

13 Q And the techniques that you use, are those the ones
14 that you used nationally, it's standard?

15 A Yes, it's used by everyone. It may be named a little
16 different. The taxonomy that you use may have a different
17 name to it, but the methodology itself is what's used.

18 Q And that's the same no matter what where you go?

19 A Yes, ma'am.

20 Q I want to get to this particular case. You were
21 called out on August 15th of 2015?

22 A Yes.

23 Q And what were you called out to do?

24 A I was the supervisor on call at that time.

25 Investigator Lee had arrived at the incident location and

1 he said he had found a victim of what appeared to be some
2 type of gunshot wound and blood stain inside the mobile
3 home. He requested I come out to assist.

4 Q So what did you?

5 A Went and assisted.

6 Q What is the first thing you did when you got there?

7 A I talked to Investigator Lee. I talked to other
8 investigators that were on the scene. I tried to gather
9 as much information as I possibly could before we went
10 inside.

11 Q And why do you do that?

12 A Because the information is important to give you some
13 kind of idea of what to look for, what you might see when
14 you get in there so you won't be surprised and have to
15 step back out. So you get all the information you
16 possibly can before you go in and start putting together
17 your own opinions what about actually happened inside.

18 Q So you did that, you got that information?

19 A Yes.

20 Q What information were you provided?

21 A Basically, the same thing Investigator Lee had told
22 me. He said -- the information that he had was that there
23 was some kind of dispute that happened inside. The victim
24 was shot with a shotgun and that she was sitting, halfway
25 sitting and lying on the sofa just inside the door, and

1 that there was spatter stains throughout from where she
2 was sitting to the end of the mobile home on the ceiling
3 and, particularly, along the back of the sofa on the
4 windows.

5 Q So based on that, what did you then do when you got
6 inside?

7 A The first thing we did was take photographs as we
8 were entering.

9 Q All right. And do you that as you go in or do you --
10 how do you do that?

11 A First thing you do is take overall photographs.
12 Investigator Lee would have done that. That's when he
13 starts -- as he enters the residence, he photographs 360
14 degrees. Then he starts mid-level photographs, taking
15 photographs of blood stains, the victim itself, anything
16 that might be pertinent to our investigation at that time.
17 Then if it's necessary, then we'll take close-up
18 photographs of anything that I deem necessary to have
19 done.

20 Q Okay. And in this particular case, what was the
21 first thing you noticed of importance? Would it be better
22 to go through the pictures? How would you prefer to do
23 that?

24 A First thing that I noticed was the massive amount of
25 blood that was along the backside of the sofa and on the

1 ceiling.

2 Q And why was that important?

3 A Because you usually don't see that type of blood
4 stains, that kind of radiating pattern up to the ceiling
5 and all around. Then, of course, I was told that it was
6 probably a shotgun that had been fired. I did see it --
7 continuing on in, I saw the victim's face and half of her
8 face was missing. So then I wasn't surprised as much
9 about that.

10 Q What is a radiating pattern?

11 A Radiating pattern is when the blood -- when you have
12 a dynamic type of blood stain pattern or blood that comes
13 out of an impact, which is very, very forceful-type
14 impact. And believe me, it was. Then it comes out in a
15 radiating fashion because it has so much force behind it.
16 And it can go almost anywhere. You have some that goes
17 360 degrees, but the force of where the outlet is on the
18 blood source itself, that's where the main volume of the
19 blood will go. That's the direction.

20 Q And what did you -- maybe you said this, what did you
21 find in this case -- water?

22 A Yes.

23 Q Before this case, we reviewed the pictures, correct?

24 A Yes.

25 Q Would it help to review the pictures to discuss the

1 droplets and blood spatter that you're talking about?

2 A I can if you want.

3 Q Well, there were some questions -- let's just go
4 through, how do you know -- what is a major blood letting
5 event? When you say that, what do you mean?

6 A Well, major blood letting event is when there is a
7 lot of blood. I mean, it's common sense, really.

8 Q Did you see any kind of patterns or droplets in this
9 case?

10 A Yeah, there was one major pattern. That's when we
11 talking about when we're photographing the roadmapping
12 aspects of that. What that is, is when you go into a
13 scene and you identify different patterns, let's say on
14 the wall, then you designate that wall as to being A or
15 one, on the wall. Designate the separate patterns you
16 might see as one, two, three, four. Then as you go down,
17 you have a secondary spatter on each of those patterns.
18 You might designate that 1A, 2A, on down just like that
19 and you photograph as you go.

20 This particular scene, there was only one pattern and
21 it was a radiating impact pattern of spatter that
22 generated from the victim outward. That's why there was
23 no what you might call a roadmapping done.

24 Q I want you to take a look at State's Exhibit 74. I
25 got them out of order. 74 through 92 -- no, excuse me,

1 93, and tell me if you see -- if any of those show what
2 you're talking about.

3 A It shows all the blood that's around, --

4 Q Let me stop you one second.

5 MS. SAMPSON: Would you rather us show you with the
6 picture or use the smart board?

7 THE COURT: Picture is fine.

8 BY MS. SAMPSON:

9 Q Hold it up to the Judge, because he's the one you
10 need to show. It's State's Exhibit --

11 A This is Exhibit 74. This one shows the victim lying
12 on the sofa. This is the blood stains that have really
13 generated from her wound to the right side of the head
14 onto the sofa itself. But in the back of the sofa, if you
15 can see those small stains, that's spatter. Spatter is
16 unusual in this one because it was a shotgun wound.

17 Usually, we talk about impact spatter relating to a
18 projectile from a pistol or something like that. You
19 still have the same style of radiating impact spatter, but
20 this was very, very dynamic. It just blew out that side
21 of the face and with it came blood and matter and portions
22 of the brain, I assume. Of course, I'm not an expert in
23 that area, but it carried this blood and matter all the
24 way down to the end of the sofa to the end of the mobile
25 home, up on the ceiling, also, and on the windows behind

1 the sofa. That's where the major portion of the blood
2 stains were.

3 Q Any others?

4 A Well, this one, No. 76.

5 Q Can you show --

6 A Pretty much, it shows the same thing, but a little
7 closer view, as you can see, of the spatter.

8 Q Okay. Any others?

9 A All these are showing different points of view --
10 This is No. 78, of the victim on the sofa and the spatter
11 that's surrounding it.

12 Q Okay. I think that will do for now.

13 A Okay.

14 Q What I want to know, Investigator Richards, you
15 talked about -- I think you already talked about the void.
16 What did that mean to you as far as where she was when the
17 event occurred?

18 A A void area in blood stain pattern is, of course,
19 where something isn't. If you have a blood stain event
20 and you have spatter that generates or radiates out, and
21 then you have a place where among that there is nothing,
22 that should have been something there then that caught
23 that blood stain of allowing it to go on the sofa where
24 the void was.

25 The victim was in that position when we were -- found

1 her when we went into the scene itself. When she was
2 removed, that void was shown.

3 Q And so what -- does that mean that that's where she
4 was when this occurred?

5 A That's where she was when that particular blood stain
6 pattern event happened, yes.

7 Q That's your expert opinion based on your knowledge?

8 A Yes.

9 MR. MCGLOTHIN: I have no more questions on this
10 issue, Your Honor.

11 THE COURT: Cross?

12 CROSS-EXAMINATION

13 BY MR. KRZYSTON:

14 Q Lieutenant, you just testified you've been to about
15 how many hours of training?

16 A Total?

17 Q Yes.

18 A I couldn't begin to tell you.

19 Q Total hours ballpark on blood spatter and crime
20 reconstruction?

21 A (Witness laughs.)

22 Q Probably a lot?

23 A Yes, sir, a huge amount.

24 Q I mean, this is stuff that you would have learned
25 back at CID and -- I mean, this is knowledge that you've

1 accumulated over the course of your career?

2 A It is.

3 Q And by virtue of that knowledge, you're pretty high
4 up in the laboratory, at least, for blood spatter analysis
5 and that sort of thing?

6 A Yes.

7 Q And by virtue of your seniority in that laboratory,
8 you have had occasion and you are currently the author of
9 the blood spatter protocol for Richland County's lab,
10 correct?

11 A That's correct.

12 Q And in the protocols, you are aware that there are
13 certain procedures that the department and you,
14 essentially, have issued as guidelines, correct?

15 A Guidelines, yes.

16 Q Among those guidelines, are that you -- there's a
17 process called roadmapping?

18 A Yes, sir.

19 Q And you testified that wasn't done here today?

20 A Is that what I testified to? I said -- okay. I told
21 you what roadmapping was.

22 Q Correct.

23 A I testified as to what it was.

24 Q Correct.

25 A What I said was we only had one pattern. It was a

1 radiating impact spatter pattern. I guess I should have
2 taken a big board and draw a one and slap it on the side
3 of the mobile home, and we had roadmapping.

4 Q Okay.

5 A What I told Investigator Lee to do was to put markers
6 down on individual large areas of blood that we saw down
7 through the sofa and at the end so we'd be able to tell
8 where those were in an overall view.

9 Q But you would agree with me that the detailed
10 procedure that Wolson described as roadmapping was not
11 followed in this case?

12 A It was not necessary.

13 MR. KRZYSTON: Okay. Thank you. Nothing further.

14 THE COURT: Okay. You can step down. Thank you very
15 much, Mr. Richards.

16 Anything else before we bring in the jury?

17 MR. KRZYSTON: Yes, Judge. I would just move that
18 his testimony be excluded on two grounds. One, under
19 State v. I believe it's Jeffery Jones, death penalty case.
20 There, the State offered testimony from a shoe insole
21 impression analyst. He was working with SLED. At the
22 time, there were no quality protocols in place at SLED for
23 the type of testing that the agency did. The Supreme
24 Court found it was error because he did not comply or
25 follow any quality protocols.

1 In this case, Lieutenant Richards has just indicated
2 through his testimony here this morning that he did not
3 follow the protocols that Richland County puts forth.

4 THE COURT: That's not what he said.

5 MR. KRZYSTON: He said they did not do roadmapping,
6 that he didn't need to do it in his opinion.

7 THE COURT: Right. He didn't say that he didn't
8 follow the guidelines.

9 MR. KRZYSTON: Judge, we would just assert that that
10 does not conform with the typical methodology employed by
11 the field.

12 THE COURT: On what theory? Says who?

13 MR. KRZYSTON: Again, all the crime scene associates
14 and people who have analyzed that type --

15 THE COURT: So the answer to that question is no one.

16 MR. KRZYSTON: Tom Bevel, Bevel, Gardner.

17 THE COURT: Did you question Mr. Richards about that?

18 MR. KRZYSTON: No, sir. I did question him about his
19 training. He's been to Bevel, Gardener and Associates for
20 training and he did write the protocol.

21 THE COURT: Right. So where is the testimony or
22 where is the evidence that they did something incorrectly,
23 or even better, where is the testimony or where is the
24 evidence that the methodology that they used was improper?

25 MR. KRZYSTON: I didn't say it was improper. It just

1 wasn't complied with.

2 THE COURT: It wasn't what?

3 MR. KRZYSTON: Complied with. The typical
4 methodology employed by those in the field, i.e.
5 roadmapping, was not utilized.

6 THE COURT: Where is the evidence that says they have
7 to do roadmapping to give a blood stain pattern analysis
8 opinion.

9 MR. KRZYSTON: The fact that Richland County sends
10 these guys to over 800 hours of training, highly
11 specialized training that cost money, cost time, cost
12 travel. These --

13 THE COURT: Okay. I need you to stick to what's in
14 evidence, not what your speculation is.

15 MR. KRZYSTON: The fact that they are sending these
16 guys to training to learn high quality, highly technical
17 issues and then the roadmapping has not been used. It's
18 just not the methodology that's utilized throughout the
19 field.

20 THE COURT: And where is the evidence of that?

21 MR. KRZYSTON: Well, I believe we've offered it,
22 Judge.

23 THE COURT: Well, you haven't in any way, shape, or
24 form. This is the farthestest stretch of the legal
25 argument I've ever heard in my entire life.

1 Mr. Richards is more than qualified as an expert in
2 blood stain pattern analysis. He has been to class upon
3 class upon class on this issue. He is certified. There
4 are no issues with his qualifications. There are no
5 issues with the science in this case. Whether or not they
6 did roadmapping or not is an issue that goes to weight and
7 not admissibility. This evidence is clearly admissible.
8 He is clearly qualified. He will clearly assist a trier
9 of fact. He clearly employed the methodology that he's
10 been trained in for the majority of his adult life. And
11 just because they decided not to do roadmapping doesn't
12 mean the entire thing is flawed from an admissibility
13 standpoint, period. I mean, it's just not an issue.

14 All that testimony is completely and totally
15 admissible. The Defense's objection is overruled.

16 Anything else before we bring in the jury?

17 MR. KRZYSTON: We would also object on cumulative
18 grounds.

19 THE COURT: Why is it cumulative?

20 MR. KRZYSTON: Inspector Lee, or, I guess,
21 Investigator Lee testified to, essentially, the thing and
22 it's just simply a bolstering of Investigator Lee.

23 THE COURT: Okay. Well, if the opening statement
24 wasn't made by the Defense that was made about how law
25 enforcement didn't take their time to do what they needed

1 to do in this case and do it accurate and correctly, that
2 may be an argument, but at this point, it's not. Because
3 the Defense has stood up in opening statement and said you
4 need to check their accuracy. You need to check what they
5 do. You know, they should have done this and this is this
6 highly technical stuff, and it wasn't done and it wasn't
7 done correctly. So at this point, it's admissible. All
8 right.

9 MS. SAMPSON: Before we bring them in, Your Honor, I
10 just want to make sure, do we have to do Dr. Durso or
11 Jennifer Nates outside the presence of jury? I don't know
12 if you wanted to do that now.

13 THE COURT: No, we don't need to do her. She's
14 gunshot residue, right?

15 MS. SAMPSON: Correct.

16 THE COURT: I mean, the fact the victim had gunshot
17 residue on her hands would be beneficial to the Defense.
18 That's why you're not hearing them argue about that.

19 All right. Let's go.

20 (WHEREUPON, the jury entered the courtroom at
21 10:03 a.m.)

22 THE COURT: All right. Welcome back, ladies and
23 gentlemen. Thank you very much for being on time. I hope
24 you had a nice evening. We will continue now with the
25 State's case.

1 You may call your next witness.

2 MS. MOSER: The State calls Dr. Durso.

3 THE COURT: All right. Please come forward,
4 Dr. Durso, and be sworn.

5 MR. HAWKS: Judge, may we approach before we start
6 this witness?

7 THE COURT: Yes, sure. Go ahead and swear her.

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but outside the hearing of the jury.)

10 AMY DURSO, M.D., after being duly
11 sworn, testified as follows:

12 THE CLERK: Thank you. Please have a seat in the
13 witness stand. State your full name for the record and
14 please spell your last name.

15 THE WITNESS: I'm Dr. Amy Durso, D-U-R-S-O.

16 MR. HAWKS: Judge, I would just like to note my prior
17 objection before we begin.

18 THE COURT: Noted.

19 Go ahead.

20 DIRECT EXAMINATION

21 BY MS. MOSER:

22 Q Good morning, Dr. Durso.

23 A Good morning.

24 Q Dr. Durso, where do you work?

25 A I am employed as a forensic pathologist at

1 Professional Pathology Services.

2 Q What do you do exactly?

3 A So, I'm a forensic pathologist. So, basically, I'm a
4 doctor, medical doctor that specializes in the examination
5 of bodies after death.

6 Q Okay. What current title do you hold?

7 A I am deputy chief medical examiner in Richland County
8 and, federally, just forensic pathologist.

9 Q And what are your typical duties and responsibilities
10 as such?

11 A The majority of my responsibilities are performing
12 postmortem or after the death examinations on bodies
13 usually as requested by the Richland County Coroner's
14 Office.

15 Q And will you tell us a little bit about your
16 educational background?

17 A Sure. So I went to college at Emory University,
18 where I got a Bachelor's Degree in psychology. I then got
19 my four-year medical degree, my MD from the University of
20 North Carolina in Chapel Hill. And then after that, I
21 went and did an anatomic and clinical pathologist
22 residency at Wake Forest University, which was four years
23 of training, and then I spent on additional year doing a
24 forensic pathology fellowship, also, at Wake Forest.

25 Q Okay. Can you tell us a little bit about the

1 training that you did after med school?

2 A That was the residency and fellowship at Wake Forest.

3 Q And what did that involve?

4 A So, anatomic and clinical pathology is basically
5 everything from looking at any kind of specimen removed
6 from the body, a gallbladder, a breast, anything, learning
7 how to diagnose under the microscope by using our eyes.
8 Doing numerous autopsies under training and, also, doing
9 stuff as blood banking, chemistry, kind of all the behind
10 the scenes stuff in the laboratories, as well. And then
11 my fellowship year was mainly just doing all autopsies,
12 forensic things.

13 Q Okay. And what about your professional background?

14 A What exactly?

15 Q Where all have you worked?

16 A I've been at Professional Pathology Services doing
17 this job for over seven years now.

18 Q Can you tell us roughly how many autopsies you've
19 performed?

20 A It's over 2,000.

21 Q Okay. And are you licensed?

22 A Yes. So, I have State medical licenses in both North
23 Carolina and South Carolina that are renewed every two
24 years. I have to do a certain amount of continuing
25 medical education in order to be able to renew my medical

1 license. And I'm also boarded by American Board of
2 Pathology in anatomic pathology, clinical pathology and
3 forensic pathology. So each of those were day-long
4 examinations using a microscope and numerous questions.
5 And that, I also have to every two years go through a
6 renewal process.

7 Q Okay. I think you've already touched on this, but do
8 you have to take any ongoing classes or do any ongoing
9 training?

10 A Yes. So, every two years I have a certain
11 requirement both for the American Board of Pathology and
12 the State medical licenses. I have credits I have to earn
13 and those are all current and up to date.

14 Q Okay. And are you currently affiliated with any
15 universities?

16 A Yeah, I'm a clinical assistant professor of pathology
17 at the University of South Carolina School of Medicine.

18 Q Have you been involved in any research?

19 A A little bit of research. I did present at
20 several -- at least, two national conferences, so there's
21 a national association of medical examiners and I
22 presented a poster one year and a platform presentation
23 another year there.

24 Q Has any of that been published?

25 A No.

1 Q What about peer reviewed, is your work peer reviewed?

2 A My autopsies themselves?

3 Q Yes.

4 A We have a quality assurance program within our
5 practice between the forensic pathologists there.

6 Q And do you follow the national standards and protocol
7 for that?

8 A Yes.

9 Q Do you have any other professional memberships?

10 A I'm a member of the National Association of Medical
11 Examiners, the College of American Pathologists and is
12 ASCPU, the Association of Clinical Pathologists.

13 Q And have you testified before?

14 A Numerous times.

15 Q Can you tell us roughly how many?

16 A I would say 20 to 25 times as an expert in forensic
17 pathology.

18 Q So you're typically qualified as an expert?

19 A I've always been qualified as an expert, yes.

20 MS. MOSER: Your Honor, at this time, we'd ask that
21 this witness be qualified as an expert in forensic
22 pathologist.

23 THE COURT: Voir dire?

24 MR. HAWKS: Your Honor, I don't have any questions.
25 I just note my prior objections.

1 THE COURT: Do you object to her qualifications as an
2 expert in the area of forensic pathology?

3 MR. HAWKS: No, Your Honor.

4 THE COURT: Okay. Ladies and gentlemen, normally, a
5 person is not allowed to give their opinion. Normally,
6 when a person testifies, as I told you before, they have
7 to testify to what they saw, they heard, they did, they
8 touched, something of that nature. There's an exception
9 under our rules when someone is qualified because of
10 education our experience, that person is permitted to give
11 their opinion in certain areas if the Court qualifies them
12 that way.

13 Dr. Durso will be qualified as an expert in the area
14 of forensic pathology. She will be allowed to give her
15 opinion in that area. That does not mean that you must
16 accept her opinion, but it is evidence for you to use in
17 any way that you see fit and give it the weight and the
18 credibility that you believe is appropriate as you are
19 required to do with each and every witness that appears
20 before you.

21 MS. MOSER: Thank you, Your Honor.

22 BY MS. MOSER:

23 Q Dr. Durso, I'm going to turn your attention back to
24 2015?

25 A Yes.

1 Q Did you perform an autopsy back in August of that
2 year?

3 A I did. On August 16th, 2015, at 7:00 o'clock in the
4 morning, I performed an autopsy on Doris Marshall, date of
5 birth of June 20th, 1957. She was 58 years old at that
6 time.

7 Q And where did that autopsy take place?

8 A It takes place in the basement morgue of Palmetto
9 Health Richland Hospital.

10 Q And who would have requested it?

11 A The Richland County Coroner's Office responds to the
12 scene, investigates the death and if they deem that an
13 autopsy is necessary, they'll request it through me.

14 Q Who was present at the autopsy?

15 A I don't have that log sheet in front of me, but it
16 would have been me, an autopsy assistant, and a
17 representative from the Richland County Sheriff's
18 Department.

19 Q Okay. Is there typically someone there taking
20 pictures?

21 A Yes, both the law enforcement agency that responds,
22 in this case, the sheriff's department, as well as the
23 coroner's office both take pictures at the time of autopsy
24 from the outside of the body bag and any other -- the
25 outside of the body, any other photos that were requested

1 during the autopsy and afterwards.

2 Q And what's the purpose of that?

3 A Just to document everything.

4 Q Can you walk us through a typical autopsy?

5 A Sure. So we start out the autopsy, you know, we pull
6 out the body, make sure we have the correct body. It's
7 always marked on the body bag. So once we've correctly
8 identified the decedent, we look at the outside of the
9 body, the weight of the body. We measure the length, look
10 at hair color, eye color, identifying marks, tattoos,
11 scars, any kind of external injury, the entire outside of
12 the body. We roll the body to look at the back.

13 After that, we start by making some large incisions.
14 We make a Y-shaped incisions that go from both shoulders
15 down to the mid-sternum and downwards. From there, we're
16 able to fluff the skin back, remove the front of the rib
17 cage. At that point, we can see all the major organs of
18 the body in place. At that point, we can document any
19 abnormal collections of fluids, blood, anything like that.
20 We then move the organs one by one. We weigh them, I
21 dissect them and I document anything that's abnormal. And
22 that's the entire torso part of the autopsy.

23 After that we make an incision in the back of the
24 scalp and we're able to reflect the scalp up, remove the
25 top of the skull. And at that point, we can see the brain

1 and we're able to remove the brain and we do the same
2 thing as the other organs. We weigh it and I dissect it
3 and I make any notes in my report about any abnormalities
4 I find.

5 Q Okay. And what were your findings in this case?

6 A In the findings of Doris Marshall, she had a large
7 shotgun wound that entered the right front of her face,
8 kind of centered around the area of the right eye, which
9 is pretty obliterated, and then part of it exited the top
10 of her skull. And that was the major finding.

11 Q What was the cause of death?

12 A A shotgun wound to the head.

13 Q Were there any other unusual findings?

14 A The only other finding, she did have some coronary
15 artery disease, which is not unexpected in a woman of her
16 age, 58, some blockages in some of her major coronary
17 arteries. But the shotgun wound to the head was clearly
18 the cause of death. She would have died from that
19 regardless of any kind of underlying heart disease.
20 That's a fatal injury she had to her head. And she also
21 inhaled some blood as she was dying at the end.

22 Q What was the size of the injury to the skull?

23 A Let's see. When I first looked at her, it was kind
24 of a large gaping wound, almost consistent with large
25 caliber shotgun wound. It was about five-and-a-half by

1 five inches. And then I kind of tried to put the edges
2 back together and I got it down to about 2.8 by 3 inches.

3 Q Is that standard protocol that you try to put it back
4 together?

5 A Yeah, you try to put it back together. There are
6 some splits in the skin sometimes, so in order to get a
7 more accurate representation, I take the skin flaps and
8 the portions of the broken skull and try to piece them
9 back together to get a more accurate measurement.

10 Q Were there any projectiles recovered?

11 A There were. There were several small pellets
12 recovered, small gray-colored pellets. It's kind of
13 typical, what's called birdshot from a shotgun.

14 Q And what about the trajectory of the shot?

15 A Right. So it was from front to back, so, clearly,
16 the entrance is to the front of her face. It's going
17 front to back, upwards. Some of it did exit the kind of
18 back right top of the skull and very slightly left right.

19 MS. MOSER: May I approach the witness?

20 THE COURT: Yes, ma'am.

21 MS. MOSER: Thank you, Your Honor.

22 BY MS. MOSER:

23 Q Dr. Durso, I'm going to show you what's been marked
24 as State's Exhibit 42, 43 and 44. Do you recognize these
25 pictures?

1 A I do. These are photographs taken at the time of
2 autopsy on Doris Marshall.

3 Q Do they fairly and accurately depict Ms. Marshall as
4 she was that day?

5 A It does, yes.

6 Q Okay.

7 MS. MOSER: Your Honor, at this time, the State would
8 seek to introduce State's Exhibit 42, 43 and 44 into
9 evidence.

10 MR. HAWKS: Without objection.

11 THE COURT: Without objection.

12 (WHEREUPON, State's Exhibit Nos. 42, 43 and 44
13 were admitted into evidence.)

14 BY MS. MOSER:

15 Q And Dr. Durso. I'm going to start with State's
16 Exhibit No. 42.

17 MS. MOSER: Your Honor, may we publish these to the
18 jury?

19 THE COURT: Yes, ma'am.

20 BY MS. MOSER:

21 Q I'm going to start with this picture. Can you tell
22 what this describes?

23 A May I show it?

24 Q You can show it to the jury. And we'll actually blow
25 it up so you can see it better?

1 A This is the left side of her face, so the actual
2 larger defect is over here. You'll see it on the next two
3 pictures. But the main thing I wanted to show with this
4 photograph is -- I don't know if you -- when they blow it
5 up, you can see it better. These tiny little red marks
6 here on her face. This's what we call stippling. There's
7 two things you look for with gunshot wounds, and that's
8 soot and stippling, to try to estimate how far away the
9 gun was at the time they were shot.

10 Q I'm going to stop you right there. If you would,
11 just step down.

12 A Sure.

13 Q I think it will be a little easier if you use this.
14 I'll take that copy. Okay. Actually, come on that side
15 so you can face the court reporter.

16 A Okay. So, you can see these little red marks here --
17 Oh, I'm sorry.

18 Q It's okay.

19 A These little red marks on her face is what's called
20 stippling. The stippling is when the actual gunpowder
21 from the gun, it comes and actually causes tiny little
22 abrasions on the face, the actual gunpowder that comes
23 out. So that means the weapon had to be -- in the case of
24 a shotgun, within around 30 inches of the victim at the
25 time, that end of the barrel to her, no more than

1 30 inches in order for these marks to be made.

2 Q And without touching the screen, can you tell exactly
3 which ones are stippling versus --

4 A Right, so she had some marks on her face. These
5 darker spots are just part of her skin. These little
6 darker red marks, you can see there's a tiny bit of
7 hemorrhage there, all through here. It's even on her nose
8 here. That's all stippling.

9 Q And is there anything else about this picture that
10 tells us about, I guess, the incident itself?

11 A No.

12 Q Is there any soot?

13 A No, there's no soot.

14 Q Okay.

15 A But that's more relevant on the next pictures where
16 you actually see the entrance wound.

17 Q I guess you already saw it. I'll click the next
18 picture. Can you tell us what this depicts?

19 A This is the right side of her face. You see her
20 mouth is here. The top of her head is here. This is the
21 large gaping wound I noticed on external examination. And
22 that's fairly typical of a shotgun wound. It's going to
23 cause a large hole because all of the pellets up to about
24 three feet away are going to be traveling together in one
25 big pack, so they're going to make one large hole.

1 As you get further away, the pellets start to
2 separate. So around six feet, you start getting, you
3 know, some scalloping and start getting a few pellets
4 around the outside. And by 10 feet away, you wouldn't
5 have one big hole, you'd just have individual pellets
6 entering the body at that point. So this tells me that,
7 you know, it's within three feet because there's one large
8 hole.

9 And again, you can see the stippling here, as well
10 and, again, you look for soot. When you fire a gun, if
11 it's within -- for a shotgun, within about a foot, you
12 would expect to see soot either around the wound or within
13 the wound, so the actual black soot coming out of the end
14 of the gun. And I did not see that in this case, so that
15 would make this somewhere between 12 and 30 inches. I
16 can't give an exact measurement, but this is an estimation
17 based on the fact that there's stippling, there's one
18 large defect and there's no soot.

19 Q Okay. And just for the record, we're looking at
20 State's 43. And you mentioned earlier scalloping, what
21 exactly is scalloping?

22 A It's hard to see when someone is shot through a bony
23 surface because you do see the power behind the shotgun,
24 this large thing of pellets going into her head. There's
25 not a lot of give in the skull itself, so instead, her

1 skull is severely fractured from this wound. If you
2 have -- it's more typical of shots to the chest and
3 everything, but as the pellets start to spread, before you
4 get individual pellets, you would actually just get
5 scallop margins where they're just barely starting to
6 separate. So I did not notice that in this case.

7 Q So that did not apply in this case?

8 A No.

9 Q Okay. Now, we're going to turn to State's 44. What
10 does this show?

11 A This is a better overview of how the spread of the
12 stippling is. So, you can see this was a large defect.
13 This was a skin split that I tried to close when I gave
14 you that smaller measurement. You can see her underlying
15 skull. This is where her brain -- the portion of her
16 brain was obliterated actually down the side and the other
17 half of her brain actually fell out through this defect
18 and was received separately in the body bag due to the
19 force of the blast. So this is showing, again, this one
20 central defect. Her right eye is obliterated and there's
21 stippling -- oh, I'm sorry.

22 Q That's okay.

23 A That goes from around here, just kind of to give you
24 a kind of overall of the pattern of stippling around the
25 entrance.

1 Q And is that your hand right there?

2 A That is my hand, yes.

3 Q So someone else was documenting this for you?

4 A Yeah. I'm not allowed to touch the cameras because
5 my hands get bloody, so someone else takes the
6 photographs, yes.

7 Q And this is actually pulling a part of the skin back?

8 A Yeah, I was kind of trying to actually pull it
9 together because the split goes over the top of her head.
10 And there's the exit wound actually, part of it back here
11 you can actually see. So it's going -- like I said, it's
12 going front to back, you know, left to right and upwards
13 you can see.

14 Q So the split actually continues on?

15 A For a ways, yes. I was trying to hold it where they
16 could get a good picture of the stippling without my hand
17 being in the way.

18 Q Again, can you point out the stippling all around
19 here?

20 A The stippling from here -- oh, I'm sorry. I touched
21 it.

22 Q That's okay.

23 A From here, down off her lips, you can see pieces down
24 here onto her cheek. Most of it's, you know, more
25 centered towards the wound and the little pieces that

1 flair out from the gun.

2 Q I guess, is there anything else remarkable about this
3 picture?

4 A No.

5 Q Okay. You can be seated.

6 (Witness returns to the witness stand.)

7 BY MS. MOSER:

8 Q Okay. Dr. Durso, you talked about this a little bit
9 already, but as far as the distance of the weapon from the
10 victim's face, from Doris' face, can you give us a rough
11 estimate in your expert opinion as to what that distance
12 would have been?

13 A Right. On what I was trained in as far as the
14 ballistics of shotguns and how it causes those patterns of
15 injuries on people is approximately 12 to 30 inches,
16 mainly, based on the fact that there's no soot present
17 within the wounds, so it had to be at least about
18 12 inches away for a shotgun. And it really couldn't be
19 more than around 30 inches because there is still
20 stippling there. So it had to be close enough for the
21 gunpowder to reach her body and have enough velocity to
22 actually cause those tiny little abrasions on her face as
23 you saw.

24 Q And Dr. Durso, you noted that there was no gunpowder
25 or soot on her face. Did you notice that anywhere else on

1 her body, any gunpowder?

2 A No, there was nothing anywhere else on her body.

3 There were three little bruises on her left leg that were
4 not really specific for anything. Other than that, there
5 was no soot anywhere else, no injuries on her arms, hands,
6 anywhere else on her body.

7 Q Okay. So no -- did you notice any burns on her arms
8 or her hands?

9 A No.

10 Q Okay. All right. Beg the Court's indulgence.

11 (Pause.)

12 And going back to -- I know you take measurements at
13 the beginning of the autopsy. Do you recall how tall
14 Doris was?

15 A Yes, she was 5 feet two inches tall.

16 Q Okay.

17 MS. MOSER: No further questions. Please answer any
18 questions the Defense has.

19 THE COURT: Cross-examination?

20 MR. HAWKS: May it please the Court, Your Honor?

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. HAWKS:

24 Q Dr. Durso, you did not examine the firearm in this
25 case, correct?

1 A I did not.

2 Q You didn't examine -- other than the actual shot you
3 found, you did not examine the ammunition used?

4 A I did not.

5 Q And do you have any training in firearms other than
6 that that applies to your pathology work?

7 A Other than how it affects the body and the different
8 kinds of firearms and they're effect on the injuries to
9 the body, no, I don't actually examine the gun itself.

10 Q And in your direct, you said the wound goes upwards?

11 A Yes.

12 Q And --

13 A Slightly.

14 Q I'm sorry. And you also said -- I believe in your
15 report, you used centimeters to describe the entrance
16 wounds?

17 A I did. I converted to it inches just because people
18 tend not to like my centimeters.

19 Q I understand. And that centimeter measurement was
20 seven by eight?

21 A Yes.

22 MR. HAWKS: Beg the Court's indulgence.

23 (Pause.)

24 MR. HAWKS: No further questions, Your Honor.

25 THE COURT: Redirect?

1 MS. MOSER: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. MOSER:

4 Q Dr. Durso, do you ever examine a firearm used in a
5 case?

6 A No.

7 Q You don't have any training on that?

8 A No.

9 MS. MOSER: Nothing further, Your Honor.

10 THE COURT: Mr. Hawks, anything else?

11 MR. HAWKS: I don't have anything.

12 THE COURT: Thank you, ma'am. Have a nice day.

13 Call your next witness.

14 MR. MCGLOTHIN: The State calls Leonard Bradley.

15 THE CLERK: Please have a seat in the witness stand
16 and state your full name for the record.

17 THE WITNESS: Leonard Bradley.

18 DIRECT EXAMINATION

19 BY MR. MCGLOTHIN:

20 Q Good morning, Mr. Bradley.

21 A Good morning.

22 Q Where do you currently work?

23 A The Richland County Coroner's Office.

24 Q And what position do you hold there?

25 A Deputy chief coroner.

1 Q How long have you worked there?

2 A Eleven years.

3 Q Eleven years. Could you briefly describe what a
4 coroner is and does?

5 A Deputy coroner is someone that has experience in
6 either investigations or medical background that goes out
7 and investigates death scenes.

8 Q Okay. What typical duties do you have once you
9 arrive at a death scene?

10 A The normal procedures are -- depending on what type
11 of case it is. Well, in all cases, you're going to
12 generate a case number first, first and foremost, before
13 you go out because photographs are going to be taken.
14 You're going to put the incident location, where you would
15 be.

16 And once you arrive on the scene, you're going to get
17 with EMS personnel, law enforcement and whoever is there,
18 to include family members or individuals, and then you're
19 going to start photographing the area leading up to where
20 the deceased individual is.

21 Q Let me stop you there. And you kind of touched on
22 this. What is the purpose of the case number and their
23 relationship to the photographs?

24 A The case number is what is assigned to that
25 particular individual for future references. Say like you

1 had a case from yesterday, 3176. If anyone calls about
2 someone, you can look in the database and see you had a
3 death yesterday, give them that name and it has a case
4 number.

5 Q Is it fair to say it's just for tracking purposes, to
6 keep everything straight?

7 A Yes.

8 Q So going back to the normal course of your duties,
9 you start to take pictures leading up to the scene?

10 A You take pictures leading up to the scene -- and I
11 forgot to say, prior to leaving to go to the scene, you're
12 going to call a body removal. We have a contract with a
13 company that comes out to remove the actual body and
14 transport it to the morgue. So you're going to give them
15 a call first so they can meet you at the scene. Once
16 you're finished photographing the scene, gathering
17 information, examining the body, then the body will be
18 transported to the morgue.

19 Q And who calls to schedule an autopsy?

20 A The deputy coroner that's handling the case.

21 Q When is that?

22 A After calling to get the supervisor's approval.

23 Q So taking you back to August 15th of 2015, was there
24 a case number generated for this case?

25 A It was a case number generated by the deputy coroner

1 that responded. He proceeded to the scene. Evidently,
2 called body removal prior to going out to the scene. Met
3 with Richland County Coroner's Office, the investigators
4 and the scene was processed along with -- in conjunction
5 with the Richland County Sheriff's Department.

6 Q So the body was examined?

7 A The body was examined by the deputy coroner.

8 Q And photos were taken of the scene?

9 A And photos were taken of the scene.

10 Q And photos were taken of the body?

11 A Correct.

12 Q Was there an autopsy scheduled?

13 A There was an autopsy scheduled the following day.

14 MR. MCGLOTHIN: Nothing further. Please answer any
15 questions the Defense may have?

16 THE COURT: Cross?

17 MR. HAWKS: May it please the Court, Your Honor?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. HAWKS:

21 Q Did you write a report in this case?

22 A No, sir, this is not my report.

23 Q You did not. Would you have had something to do with
24 the information that's on the report?

25 A No, sir.

1 Q Do you recall there being blood beneath the body?

2 A Okay, I'm supervisor. I went there because the

3 location was small. I merely stood in the door at some

4 point in time. I never actually went in the inside.

5 Q Do you remember the temperature outside that day?

6 A I think it was in the 70s.

7 Q Seventies?

8 A Seventies.

9 Q Outside?

10 A Outside. It was in June.

11 Q Okay. What about the temperature inside?

12 A I do not.

13 MR. HAWKS: Beg the Court's indulgence. I have no

14 further questions.

15 THE COURT: Have a nice day. Thank you.

16 Call your next witness.

17 MS. MOSER: The State calls Jennifer Nates.

18 MR. KRZYSTON: Prior objection, Judge.

19 JENNIFER NATES, after being duly

20 sworn, testified as follows:

21 THE CLERK: Please have a seat in the witness stand,

22 state your full name for the record and please spell your

23 last name.

24 THE WITNESS: Jennifer Nates, N-A-T-E-S.

25 DIRECT EXAMINATION

1 BY MS. MOSER:

2 Q How are you?

3 A I'm good. How are you?

4 Q Good. Where do you work?

5 A I work for the South Carolina Law Enforcement
6 Division in the forensic services area in the trace
7 evidence section.

8 Q Okay. And how long have you worked there?

9 A Approximately 20 years.

10 Q Okay. And what's your educational background?

11 A I have a Bachelor of Science Degree in chemistry from
12 a small state school in Pennsylvania. It was California
13 University of Pennsylvania. Once I obtained this degree,
14 I performed an internship in the trace evidence section
15 for the summer and was hired into the drug analysis
16 department. I completed the drug training program and
17 began to work drug and poison cases.

18 After working there for approximately one year, an
19 opening came up in trace evidence. I applied and
20 transferred into that section. At that point, I began, it
21 was a three-to-four-year training program under the senior
22 analyst and the lieutenant of that department. This
23 included competency tests, proficiency tests, external
24 training at different areas, some were from colleges on
25 the instrumentation that we used for the analysis of trace

1 evidence. Others were at conferences where papers and
2 classes were provided by experts in the field.

3 Q Are you certified?

4 A We are not certified. We take competency tests and
5 we perform proficiency tests yearly, but we don't have a
6 certification certificate from SLED. We have the
7 competency documentation.

8 Q Do you do any training to keep up with that
9 competency?

10 A We do proficiency tests. Our accrediting body
11 requires that we take part in proficiency testing over the
12 five-year cycle for our accreditation. That means I have
13 to take an external proficiency test every year and within
14 the five-year frame, I have to cover each area of testing
15 which I perform testing.

16 Q In your practice, do you keep up with the national
17 standards and protocol?

18 A We do.

19 Q Is your work peer reviewed?

20 A Our work is technically reviewed, which is a peer
21 review. All work that we do on a case is sent to another
22 analyst for them to perform a technical review to make
23 certain that they concur with our results and that we
24 followed the appropriate protocol for that case.

25 Q Do you have any professional affiliations or

1 memberships?

2 A I'm a member of the Southern Association of Forensic
3 Scientists and the American Society of Trace Evidence
4 Examiners.

5 Q Have you testified before?

6 A I have.

7 Q How many times have you testified?

8 A 114.

9 Q Okay. Have you been qualified as an expert before?

10 A I have.

11 Q Do you remember roughly how many times?

12 A Every time.

13 MS. MOSER: Your Honor, at this time, we'd ask this
14 witness be qualified as an expert in trace evidence?

15 THE COURT: Voir dire?

16 MR. KRZYSTON: Subject to prior objection, no
17 objection to qualifications.

18 THE COURT: Ladies and gentlemen, this witness will
19 be qualified as an expert in the area of trace evidence.
20 She will be allowed to give opinion testimony in that
21 area. That does not mean you must accept her opinion, but
22 it is evidence for you to use in any way you see fit and
23 give it the weight and credibility that you believe is
24 appropriate as you are required to do with each and every
25 witness that appears before you.

1 BY MS. MOSER:

2 Q Ms. Nates, how did you get involved in the case
3 you're here on today?

4 A I received -- I believe in this case, I received an
5 e-mail from April Sampson inquiring as to the status of
6 the gunshot residue analysis.

7 Q And what did you do at that point?

8 A At that point, I attempted to locate the evidence.

9 Q Okay.

10 A But it had not been submitted at that time, so I
11 contacted her to let her know the evidence would need to
12 be submitted for us to do an analysis.

13 Q What exactly are we talking about here as far as the
14 evidence goes?

15 A In this case, it was two gunshot residue collection
16 kits.

17 Q Can you tell us a little bit about gunshot residue?

18 A Gunshot residue is one of the categories of testing
19 in which we perform analysis. Gunshot residue is a term
20 that is used to describe all of the debris or gas
21 particles that are formed when a firearm is discharged.
22 Our lab specifically analyzes what we call primer gunshot
23 residue, or PGSR. Gunshot residue includes gunpowder
24 particles, any debris that may be in the gun, the primer
25 residue, organic gunshot residue. We are specifically

1 looking for components of the primer composition in our
2 analysis, which includes barium, antimony and lead.

3 Q So those are the three elements that you're looking
4 for in your analysis?

5 A We are specifically looking for those three elements,
6 yes.

7 Q Does that ever vary?

8 A It can vary if you have an alternate type of
9 ammunition, which we normally do not see. It's usually
10 military grade or lead free, but even lead free ammunition
11 can have some lead in it. I have not had a case in which
12 it was an alternate ammunition used.

13 Q Do you need all three particles to be present for it
14 to be considered gunshot residue?

15 A We do.

16 Q When a gun is fired, typically, how far does that
17 gunshot residue carry?

18 A It depends on the type of firearm and the
19 circumstances of the shooting, whether it's inside or
20 outside, if there are environmental factors, if it's a low
21 loaded cartridge. All these factors can attribute it,
22 but, usually, you see gunshot residue if a weapon is
23 fired. The gunshot residue is going to expel from the
24 muzzle of the gun, which is pointed in the direction of
25 the victim that. That can go, usually, up to, sometimes,

1 40 feet in that direction. It can go up to three feet to
2 the sides. If you're standing next to someone who fires a
3 weapon, you could potentially have gunshot residue on your
4 hands from being in the vicinity.

5 Q So someone who's fired -- someone who is hit with a
6 bullet or there's a gun fired in their vicinity would
7 expect to have gunshot residue on them?

8 A Yes.

9 MS. MOSER: May I approach, Your Honor?

10 THE COURT: Yes, ma'am.

11 BY MS. MOSER:

12 Q I'm going to show you what's been marked -- oh, it
13 hasn't been marked.

14 (WHEREUPON, State's Exhibit Nos. 107 and 108
15 were marked for identification.)

16 BY MS. MOSER:

17 Q I'm going to show you what has been marked as State's
18 Exhibit 107 and 108. Do you recognize these two?

19 A These are the envelopes that contain the GSR
20 evidence. When evidence is submitted to us at SLED, it's
21 given what we call a lab number, which is right here. So
22 this lab number corresponds to my case file. It also has
23 my initials on the back when I actually opened the
24 evidence to inventory it. And then my initials when I
25 signed it, too.

1 Q Is that standard protocol?

2 A It is.

3 Q Okay. And do these appear as you saw them last,
4 fairly and accurately depict what you saw last?

5 A Yes, they do.

6 MS. MOSER: Your Honor, at this time, the State would
7 seek to enter State's Exhibit 107 and 108 into evidence?

8 MR. KRZYSTON: Without.

9 THE COURT: 107 and 108 without objection.

10 (WHEREUPON, State's Exhibit Nos. 107 and 108 were
11 admitted into evidence.)

12 BY MS. MOSER:

13 Q Can you tell us what each one of these is?

14 A This contains item number 6. Like I said earlier,
15 it's the laboratory number that each case is assigned and
16 it's unique to that case, so any evidence that comes in on
17 that case will be assigned that lab number with a
18 sequential item number. This was item number six, which
19 was a GSR kit from Doris Marshall. This envelope contains
20 item number seven, which was a GSR kit from Mimi Joe
21 Marshall.

22 Q Let's start with number 6. You said that was from
23 Doris Marshall?

24 A Yes, ma'am.

25 Q And can you tell us a little bit about the collection

1 process that would have occurred?

2 A The collection of the kit or --

3 Q Uh-huh.

4 A The collection -- the kit is collected by the officer
5 on the scene or at autopsy. Usually, I don't have
6 knowledge of that other than who fills out the information
7 sheet.

8 Q Okay. And what do you do when you receive the item?

9 A When I receive the item, I just document to make
10 certain the evidence is properly sealed. I then open the
11 evidence, confirm that -- like on this one, it has a label
12 and it has a name on it. I confirm that that matches what
13 the log in submission sheet had for a name and it matches
14 what is actually on the GSR kit to make sure there wasn't
15 a mix up with the kit.

16 Once I confirm that, we initial each particle lift.
17 Each kit at this point contains four particle lifts for
18 collection. One for the right palm of the hand, one for
19 the right back of the hand, one for the left palm of the
20 hand and one for the left back of the hand. So each of
21 these particle lift containers, we initial lab number and
22 date.

23 MS. MOSER: May I approach the witness?

24 THE COURT: Yes, ma'am.

25 BY MS. MOSER:

1 Q If we can go ahead and open up number six. There's
2 some scissors. Okay. And let's go ahead and open this
3 up.

4 A This is the envelope the GSR kit comes in.

5 Q Can you explain what each of these are?

6 A These are what we call particle lifts. And as you
7 see, this one is labeled left palm, and then it has the
8 lab number, the item and the initials on it.

9 Q Okay.

10 A And then we have the right back, the left back and
11 the right palm. And that corresponds to the area of the
12 hand from which it was collected.

13 Q And these all would have come from Doris Marshall?

14 A Yes.

15 Q And what were your findings in this case?

16 A From the GSR kit from Doris Marshall, I found one
17 particle with characteristic of gunshot primer residue,
18 which means on the four lifts, I found one particle that
19 contains the three elements that are required to call a
20 particle gunshot residue.

21 Q Is that to be expected in this case?

22 A Usually, with victims, we do find gunshot residue
23 because they were in front of the muzzle of the weapon
24 when they were shot. Most of the gunshot residue is
25 expelled from the muzzle, so we do expect to find it on

1 shooting victims, suicide victims and victims of assaults.

2 Q Does this information, does it tell you anything
3 about the distance the gun was from the victim?

4 A Usually, we can't use gunshot residue to do a
5 distance, just we know that it can be in some testing
6 deposited up to 40 feet or beyond. It does not really
7 give any information on distance.

8 Q And what about item number seven? Who did that
9 involve?

10 A Item number 78 was a GSR kit from Mimi Joe Marshall.

11 Q What were your findings in that case?

12 A Can I put this away first?

13 Q Yes.

14 A The kit from Mimi Joe Marshall, my results were that
15 I could not draw any conclusion. This kit was collected
16 beyond the six-hour timeframe in which probative evidence
17 would be found, so we could not make any conclusions on
18 that evidence. We cannot link it to that incident because
19 of the timeframe. With a living suspect, you do not
20 expect to find gunshot on their hands more than four to
21 six hours after the shooting incident. In this case, it
22 was collected beyond the six-hour timeframe, so I cannot
23 make any conclusion that could link it to that scene.

24 Q Was it ever tested?

25 A It was tested. In this case, when I received the

1 e-mail for the two kits to be tested, all of my
2 documentation was set up for two kits and an oversight on
3 my part was it was collected beyond the six hours, but I
4 did put it on the instrument and I did analyze it.

5 Normally, the results from these kits would say that
6 no analysis was performed. The kit was collected beyond
7 the six-hour timeframe in which probative evidence would
8 be found. In this case, I had to use the result of no
9 conclusions can be drawn due to the fact that I analyzed
10 it. And we cannot use an analysis if we do any type of
11 analysis.

12 Q Was there, in fact, GSR found?

13 A There was one particle. The kit was stopped in the
14 middle of the analysis and was not completed, but there
15 was one particle detected on the hands.

16 Q Again, on whose hands?

17 A On Mimi Joe Marshall's.

18 MS. MOSER: Beg the Court's indulgence.

19 (Pause.)

20 MS. MOSER: No further questions, Your Honor.

21 THE COURT: Cross?

22 MR. KRZYSTON: We have nothing, Judge.

23 THE COURT: All right. Thank you very much. Have a
24 nice day.

25 THE WITNESS: Thank you.

1 THE COURT: Call your next witness.

2 MS. SAMPSON: State calls Stan Richards.

3 STAN RICHARDS, after being duly
4 sworn, testified as follows:

5 THE CLERK: Thank you. Please have a seat in the
6 witness stand and state your full name for the record.

7 THE WITNESS: Stan Richards.

8 DIRECT EXAMINATION

9 BY MS. SAMPSON:

10 Q Good morning, Investigator Richards.

11 A Good morning.

12 Q Can you please tell us where you work?

13 A I work with the forensics division, crime scene
14 latent unit with the Richland County Sheriff's Department.

15 Q And what do you do there?

16 A I am currently the lieutenant over operations of the
17 crime scene latent print unit.

18 Q And what do you do?

19 A I, basically, make sure that all calls are answered.
20 I review reports and I, also, go out on calls myself when
21 requested.

22 Q And can you tell us about your educational
23 background?

24 A Yes, I did most of my education while I was in the
25 military. I went to several different colleges throughout

1 because we moved around so much, but I finished up at
2 St. Leo University prior going to OCS, so I went to
3 Officer Candidate School. After that, while I was in the
4 military as an officer, I had the privilege of serving
5 with IG, which is the inspector general's office. There,
6 we investigated fraud and abuse for this U.S. Army. I
7 also was employed by the criminal investigative division
8 of the U.S. Army, where we, of course, investigated crimes
9 all the way up to deaths. While I was still in the
10 military, I went to and completed the U.S. Army and
11 Commander General Staff College and I studied quantitative
12 analysis there.

13 I retired from the military in '94, came to work with
14 the Richland County Sheriff's Department. While -- at the
15 Richland County Sheriff's Department, I have been a patrol
16 deputy. I was a trainer at that point and a supervisor on
17 the road. In late 2000, I went to work with the crime
18 scene unit where I am now, and I've been there for almost
19 16 years.

20 Q Is there any training you get in order to work at the
21 crime -- in the capacity that you work now?

22 A Well, we start with the crime scene unit -- it's been
23 that way since I've been there. We have an internal
24 training program that was built by us for us in order to
25 train new employees. It was pretty much in place when I

1 got there and I helped develop it a little more after I
2 arrived.

3 It takes the basic person about, I'd say, 12 to 18
4 months to complete. It's pretty extensive. And we do not
5 allow an individual go out and process crime scenes on
6 their own until they have, at least, passed a portion of
7 that and we know what they're doing on basic things.

8 Not only that, we are sent to basic schools and
9 specific schools. And out of that, over the course of 16
10 years I've been to many, many of those schools. And I'll
11 give you a few, but I won't bore you with everything. I
12 started in 2001, of course, with the basic blood stain
13 pattern analysis course. I've been to latent print
14 processing courses, advanced latent print, palm print
15 courses. I've been to shoe and tire track impressions,
16 shoe wear impression comparisons. I've been to forensic
17 shooting construction and reconstruction. I've also been
18 to DNA overviews, DNA procedures, complex latent print
19 examinations, advanced blood stain analysis, crime scene
20 reconstruction, shooting incident reconstructions, officer
21 involved shootings and shooting incident reconstructions,
22 again, advanced courses.

23 I'm affiliated with the International Association of
24 Blood Stain Pattern Analysis and, also, with the
25 International Crime Scene Investigation Association,

1 Association for Crime Scene Reconstruction, also, with the
2 International Association for Identification and the South
3 Carolina Division of the International Association.

4 I am certified as a blood stain pattern examiner, as
5 a footwear pattern examiner, and I'm also certified as a
6 crime scene investigator through the International
7 Association for Identification.

8 Q And I'm going to interrupt you for just a second.
9 I'm going to focus on the blood stain pattern. You said
10 you're certified in blood stain pattern examination?

11 A Yes.

12 Q How do you become certified in that?

13 A It takes quite a few years to get a certification in
14 any discipline that we do. You have to do a heavy amount
15 of studying, special courses that you have to go to. You
16 have to complete so many hours of those courses. You have
17 to complete so many hours of blood stain pattern work at
18 your home field. I have to take a rigorous test, which
19 last anywhere from four to five hours, in order to do
20 that. And that test is graded by the International
21 Association for Identification of Blood Stain Pattern
22 committee. And then after that, every five years, I have
23 to recertify with the same type of testing.

24 Q And have you been recertified every five years?

25 A Yes, I have.

1 Q Have you ever been qualified as an expert?

2 A Yes.

3 Q How many times?

4 A For blood stain pattern, you're asking?

5 Q In general.

6 A For crime scene investigation only, 37 times, blood

7 stain pattern analysis nine times, shooting reconstruction

8 five times. In the crime scene investigation, usually

9 more than not, there's blood stain involved in that.

10 Q So you've testified in court before?

11 A Yes.

12 Q All of those times were in court?

13 A Yes.

14 MS. SAMPSON: At this time, Your Honor, I'd ask that

15 Investigator Richards be qualified as an expert in the

16 field of blood stain pattern examination?

17 THE COURT: Voir dire?

18 MR. KRZYSTON: Judge, we don't have an objection to

19 qualification, but would object to the witness on the

20 prior record.

21 THE COURT: All right. Ladies and gentlemen, this

22 witness will be qualified as an expert in the area of

23 blood stain pattern analysis. He will be allowed to give

24 his opinion in that area. That does not mean you have to

25 accept his opinion, but it is evidence for you to use in

1 any way that you see fit, give it the weight and
2 credibility you believe is appropriate as you are required
3 to do with each and every witness that appears before you.

4 BY MS. SAMPSON:

5 Q So Investigator Richards, what specifically is a
6 blood stain pattern?

7 A A blood stain pattern is when there is a blood
8 letting event of any kind where blood comes from a victim.
9 That event has been analyzed by an examiner due to the --
10 by looking at the size of the stains, the number of stains
11 that are there, the patterns that are there by a taxonomy
12 that we used, and I'll get into that a little bit later,
13 hopefully. Those type of things are analyzed to tell us,
14 basically, if we can determine the sequence of events in a
15 blood stain letting event and what might have happened in
16 a reconstruction effort.

17 Q What is a blood letting event?

18 A That's when -- anything is a blood letting event
19 where there is blood that has been spilled by a victim.

20 Q So it could be a shooting or it could be a stabbing,
21 anywhere you bleed?

22 A Anywhere there's blood, yes.

23 Q So what are you looking at when you go to a scene to
24 look at this blood stain pattern? What is the first thing
25 that you do?

1 A There is a methodology in blood stain pattern
2 analysis. It's, basically, depending on what book you
3 read, six or seven steps. Number one, you get familiar
4 with the scene. By doing that, I talk to the investigator
5 who calls me out to the scene. And on this case, it was
6 an investigator calling me --

7 MR. KRZYSTON: Judge, could we approach?

8 THE COURT: Sure.

9 (There was a bench conference held in the presence of
10 the jury, but outside the hearing of the jury.)

11 BY MS. SAMPSON:

12 Q You may continue.

13 A In this case, I was called by one of my
14 investigators, Investigator Lee. He asked me to come out
15 to this particular address. He said he felt he had a
16 shooting and there was blood. When there's blood, I
17 usually go out. And that was my main objective when I
18 went out to this one.

19 Q That's step one?

20 A That's step one. But once I get out there -- the
21 step one is familiarizing yourself with the scene. That's
22 totally. That means talking with him, of course, what he
23 has seen before I got there, what he knows, any
24 investigator that might be on the scene.

25 It also means, then, while we're going in, we're

1 taking photographs. Investigator Lee, mainly, was taking
2 photographs. And everything is photographed as we go in
3 starting with 360 degrees all the way around. This
4 happened to be right inside a mobile home inside the door
5 where there was the living room area. And that was our
6 main point of focus at this time. But I am familiarizing
7 myself as we go along with everything that he's
8 photographing and what I'm seeing at the time.

9 Q So then you said -- that was all step one?

10 A Yeah, that's pretty much step one if we're going to
11 go through the methodology.

12 Q What's step two?

13 A Step two is looking for and identifying major stain
14 patterns at that time. Now, in this particular instance,
15 as I'm looking around trying to find, what I see is a
16 victim -- the victim that was lying -- or sitting at that
17 points slumped over on the sofa nearest the door, the
18 front door that we went into.

19 As I went around, I saw blood, of course, on the
20 sofa, blood on the back of the sofa, on the window shades
21 behind the sofa, all this going down the front of the
22 mobile home, but at the sofa where the victim was lying.

23 It continued -- the blood that I saw, the stains
24 continued around the end of the sofa on the shades that
25 were at the end of the mobile home and then on the ceiling

1 itself. I saw some matter, whether it was brain matter or
2 skull matter, I do not know, but there was a little as I
3 stepped inside right at the doorway on the floor. No
4 major blood in that area. The major blood was to begin
5 with the victim on the sofa and continued down the side.

6 Now, identifying the major blood stain patterns at
7 that time, what I saw at that time was the spatter that
8 had come out of the wound. We had been told, of course,
9 there was a shotgun wound and it was to the face.

10 Naturally after the photographs was taken, I went
11 around to the front of the sofa to take a look at the
12 victim to see if I could see. I saw that the right side
13 of her face virtually had been blown off. So I knew there
14 was a very significant impact and a dynamic impact to the
15 face and the blood had went from that point outward.

16 So looking at what I saw at that time was stains, as
17 I told you on the sofa, the window shades, around on the
18 ceiling, on the bottom of the sofa. Those were the major
19 stains, but they were individual stains of an overall
20 pattern called impact spatter. That's what you get when
21 you have a very significant impact with high velocity and
22 when the blood is put in flight like that, then you'll the
23 smaller stains. It was one pattern, but it was several
24 stains.

25 Q Is that what you're looking for or looking at when

1 you go into a scene, to see if you have those stain?

2 A When I'm looking at the blood stain aspect of it,
3 yes, I'm looking for the patterns to begin with. Because
4 those patterns are what you need in order to identify what
5 had happened there.

6 So the third step then is the taxonomy. That is the
7 objective portion of the methodology for blood stain
8 pattern. What that does for us, it identifies and gives
9 you a description of each individual type stain that we
10 use.

11 Blood is a reproducible phenomenon. You will read
12 that in most any book. That means its viscosity and the
13 surface tension of a stain of blood or a drop of blood
14 versus when it's put in flight and going through the air
15 versus the air resistance and gravity. And at some point,
16 the gravity and air resistance is going to take place and
17 that blood will drop. But what that does is it gives us
18 an idea of what that blood will do each and every time.

19 So if we have a certain type of a pattern somewhere
20 under the right circumstances or the same type of
21 circumstances, you will have that same pattern again at
22 another place. Patterns are reproducible, so we learn
23 what those patterns are, what they look like. And that's
24 with this third step of identifying the discreet patterns
25 and then identifying them.

1 We have to do that in order to see if then those
2 patterns mean anything us, one pattern to the next. You
3 will see an indication of the sequence of events that
4 might have happened in that scene and what -- and the
5 pattern -- we look at the patterns against any other
6 evidence that might be in the room. That's basically the
7 methodology in a nutshell.

8 Q In this case, was there a particular pattern?

9 A There was a pattern.

10 Q What was that?

11 A The pattern was an impact spatter. Impact spatter is
12 made up of a lot of small stains. That's what this one
13 was, one big huge, because it was a shotgun blast, but it
14 radiated outward, especially on the ceiling. So that
15 tells me that a lot of that focus and force was projected
16 upward naturally. I mean, that's logical, but it was
17 radiated out on the ceiling itself all the way down to the
18 end of the mobile home.

19 Most of those, and a lot of those stains, then,
20 before they reach that level begin to fall and curve back
21 down. And that becomes important with one of the other
22 steps that we have in methodology.

23 MS. SAMPSON: May I approach the witness, Your Honor?

24 THE COURT: Yes.

25 BY MS. SAMPSON:

1 Q I'm going to show you some photographs and see if you
2 can identify them. I'm going to have you look at State's
3 Exhibit 74 through 93 and tell me if you recognize those.

4 A (The witness complies.) All right.

5 Q And what are those?

6 A Those are the pictures that dominated the photographs
7 of the living room, going into the living room from the
8 outside and from the door, taking a right turn down to the
9 living room and showing the sofa that's at the front of
10 the mobile home, the end of the mobile home with all the
11 windows and shades around it, the ceilings that I just
12 spoke about, the blood stains that are there and the
13 pattern, impact pattern.

14 Q And State's, this is 106?

15 A 106 is the victim as she was laying, getting ready to
16 transport. We had bagged her hands, the clothing that she
17 was wearing at that time, and there is a cell phone in her
18 pocket.

19 Q And State's Exhibit 52 through 56?

20 A This is the vehicle that I entered -- or opened the
21 door and entered into, so it could be processed. I did
22 not process it, but I was the one that allowed it to be
23 put into our forensic garage and secured there.

24 Q And all the pictures, do those fairly and accurately
25 depict what you saw that day on August 15th?

1 A Yes.

2 MS. SAMPSON: At this time, Your Honor, I'd ask that
3 these photographs, it's 74 through 93, 52 through 56, and
4 106. I'd ask those be introduced into evidence at this
5 time.

6 MR. KRZYSTON: Without objection.

7 THE COURT: Seventy-four through 93, 52 through 56,
8 and 106 admitted without objection.

9 (WHEREUPON, State's Exhibit Nos. 74 through 93, 52
10 through 56, and 106 were admitted into evidence.)

11 BY MS. SAMPSON:

12 Q All right. I'm going to ask you to step down and go
13 through these. If you'll come over here.

14 A (The witness complies.)

15 Q Can you explain to the jury what you see in State's
16 Exhibit --

17 A What you see on the right-hand side is the door.
18 That's the front door, the door we entered. As you can
19 see at the bottom, I was looking for any and everything,
20 especially blood. That's what I'm there for, that's what
21 I'm looking for as I entered the front door. I did see
22 some small, looked like, it could have been transferred.
23 Transferred means it could have been maybe blood from
24 someone's hands and transferred --

25 Q Ander can you speak louder?

1 A That blood transfers to something else. That's what
2 that looks like on the arm of the sofa there.

3 Q I'm going to point, is this the red spot you're
4 talking about?

5 A Yes. These spots at the very, very top right here
6 might have been some very small stains, pattern stains,
7 but other than that, I didn't see -- now, I did see -- you
8 can't see it in this picture here, but you will see some
9 matter that was on the floor, also. You see the victim,
10 that's the way she was seated when we walked in and the
11 way we found -- the way we found her. I noticed the
12 stains and the matter that was on her right leg, notice it
13 there on the top of her right leg. You can see very
14 clearly right here this is -- you see those stains to the
15 inside of the right leg.

16 Q Why is that important to you?

17 A That's important because that's directionality. And
18 I -- you notice this on looking at the photographs
19 themselves.

20 Now, directionality means when a stain hits a target,
21 whatever that target may be, whether it's a wall,
22 somebody, their clothing or whatever, it hits -- if it
23 hits directly, it's going to be round. If it doesn't hit
24 directly, that means it hits at an angle, then you're
25 going to have an elliptical-type effect or tear drop

1 effect that's going to be really thin on the one side.
 2 But that's the directionality that stain is going. So
 3 looking at this, the stain is coming down in this
 4 direction. I'm sorry.

5 Q That's all right. It's very sensitive.

6 A As you look at it, it's going down in this direction.
 7 That means it's going downward, not at someone who was
 8 standing. It's going downward, someone who was sitting.
 9 That's an area right between the leg there and down below
 10 the inner seam where if you were standing, you wouldn't
 11 get that anyway. You generally get that if you're in a
 12 sitting position and it would drip downwards.

13 Q That was State's Exhibit 74. So 75, what does that
 14 show you?

15 A This is on the left-hand side of the door. I think
 16 -- and Investigator Lee took that because it looked like
 17 it might have been some stains. I can't quantify that,
 18 but if it is, it's probably stains. Those types of blood
 19 stains, like I said, once you have something that dynamic,
 20 particularly, if it's going slightly upwards, because you
 21 have all the stains on the ceiling, those stains can also
 22 go in those directions to and they're called outliers.
 23 That's probably what that is on that.

24 Q Now, this --

25 A Because that's to the left of the front door.

1 Q If anything had happened, if a blood letting had
2 happened in front of the front door, would you expect
3 there to be drops on the ceiling like we see in the other
4 photographs?

5 A I saw no indication of any major blood letting going
6 through the door in that area.

7 Q State's Exhibit No. 76, what is that?

8 A Okay. That is a close view of the top of the sofa.
9 And you enter to the right where the victim was lying in
10 the position that you were showed previously. But here,
11 also, you're seeing all the blood spatter that's on the
12 pillows. And this is a portion of the scalp that the
13 doctor talked about would come out the back of her head.

14 Q That's where you guys found out?

15 A That's where it was found. Notice it's in the back
16 of the victim behind her and coming out the back of her
17 head.

18 Q All right. And these spots on the blinds and on
19 the --

20 A Yeah, I was going to get into that. I'll go ahead
21 and talk about it now. These -- when a stain -- I think
22 I've already mentioned this. When a blood stain is put in
23 flight and it begins to go through the air, because
24 there's some velocity behind it, it oscillates. No matter
25 how big or how small, it oscillates as it goes through the

1 air. As the oscillation begins to damper because of the
2 surface tension, because of the resistance, air resistance
3 and other things, then it will drop, okay.

4 When it starts dropping, that means the
5 directionality that hits that is pointing downward of that
6 stain that I've told you the elliptical effect. When you
7 start seeing that and everything starts dropping downwards
8 like that, that means it has already stopped oscillating,
9 that means the flight is over with. It's coming at a
10 downward arc. You see it coming on a downward arc on all
11 the shades, all the way around, all the way on top of the
12 sofa, down to the end of the mobile home on the pillows
13 itself.

14 That comes into play when you want to start talking
15 about things like area of origin and trying to do the
16 stringing and those type of things. You have to have the
17 right type of stains to do that. I'll get into that
18 later. I want you to notice that this is what you're
19 seeing at this point.

20 Q The next picture is State's Exhibit 77?

21 A This is the lower portion of victim. Her feet on the
22 floor. This is what I was talking about, you are seeing
23 some matter type on the floor. This is as you came into
24 the mobile home from the front door. You didn't see -- I
25 noticed no blood, but there was some matter at that point.

1 Q If --

2 A Again --

3 Q I'm sorry?

4 A I'd like to point out again, it shows very, very
5 clearly the matter and the blood that's on top of the
6 right leg coming down in the center.

7 Q If a blood letting had occurred here, would you
8 expect there to be blood droplets here like you see over
9 there by the couch?

10 A Yes, there can always be some type of droplets,
11 particularly, when you have a blood letting event of this
12 dynamic. Those, like I'm talking about, the outliers can
13 go in other places. You might see one, two, three or four
14 or something like that, but something major like this, if
15 the event happened in that area, of course, you would see
16 a lot.

17 Q And there's none here?

18 A No.

19 Q State's Exhibit 78?

20 A Same photograph. It just shows you an angle from the
21 end of the sofa down towards the end of the mobile home.
22 The mobile home wasn't very big. It's small and narrow.
23 So it's not like it's massive and these stains had a long
24 way to go. They didn't. You can see at the end of the
25 mobile home, you still have up high the stains on the

1 curtains. You have some stains, you can barely see it, on
2 the blinds itself. They began and it stops. Maybe we'll
3 a better picture. I want to show you the angle.

4 Q And --

5 A That's pretty much the same as you've seen before.

6 Q That's State's 79. And this is -- is this one -- you
7 talked about a void, is this a void?

8 A No.

9 Q Explain the difference.

10 A This is where there's nothing going on. That's what
11 you're seeing on this side here. You've got some maybe
12 transferred. You've got some material there on the floor
13 and some matter. Everything else is going on -- is on
14 this side, okay.

15 Q State's Exhibit No. 80?

16 A That is a better view of the end of the mobile home.
17 Now, you can see better. If you're looking from -- as you
18 come into the mobile home, you're looking down the sofa.
19 You see the victim there. You see all the blood on the
20 back. You see the blood on the pillows. The blood is on
21 the blinds all the way down, all the way across and it
22 stops about right here.

23 Q Why is that significant where it stops?

24 A Well, most of the blood and the impact is going to be
25 back in that general area of when the blood stopped. Out

1 here, what that means is there's nothing else going on.
 2 But what's happening is you're not even seeing any large
 3 stains that traveled further than a small stain. Large
 4 stains have got more surface tension in them, more
 5 viscosity inside them. They travel further than a very
 6 small stain. That's why you're seeing these larger stains
 7 right here and larger stains on the ceiling. Very, very
 8 small stains don't travel. And what's left, they'll start
 9 dropping sooner.

10 And you're going to see about the edge of this coffee
 11 table two or three very, very small stains. There're
 12 impact stains. I think they're mostly straight down, but
 13 they are there, but you don't see anything else. You see
 14 nothing on the red chair. There might be a few stains
 15 down on the floor, but, basically, it's cut off at this
 16 point.

17 So what you're seeing as you come into the door, you
 18 turn and look at the sofa. You're looking down at the
 19 back of the sofa over toward the red chair and you're
 20 seeing a V-shaped cone of the pathway of the spatter stain
 21 there.

22 Q You're talking about a cone, what is that?

23 A Cone, being the way it looks. It starts at the
 24 window. Because there's nothing else there but the
 25 window, it's going to hit the window. It comes across the

1 ceiling, on the sofa itself and stops about the coffee
2 table and that chair.

3 Q State's Exhibit No. 81?

4 A Same thing. It's showing different views of the same
5 thing. Basically, these pillows are important.

6 Q Why are the pillows important?

7 A It shows the stains that I cannot use, basically.

8 Q Why can you not use them?

9 A Okay. When you have -- I'd like draw this on the
10 board up there, but if you have some --

11 Q We can let you draw after we get done.

12 A Okay. When you have stains that are hitting
13 cloth-like material and stuff -- and I'll try to explain
14 in a few minutes how we do what you call a stringing
15 effect to show an area of void. That means you can do
16 some stringing from a stain back to where the stains
17 began. That will put you in area of void where the blood
18 source was or where the victim was. I'm going to talk a
19 little bit about that.

20 This is important for you to note that they are on
21 the cloth. They are on the pillows. A lot of them you
22 can see are in a downward motion. All of these are in a
23 downward motion. Those type of things can't be used.

24 Q So they can't be used to do the roadmapping we've
25 talked -- the stringing that you're talking about?