

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Richland County  
Robert E. Hood, Circuit Court Judge

ORIGINAL  
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SC Court of Appeals  
RESPONDENT,

THE STATE,

V.

MIMI JOE MARSHALL,

APPELLANT.

APPELLATE CASE NO. 2017-002329

RECORD ON APPEAL

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**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       A     Right.

2       Q     State's Exhibit 82, what does that show?

3       A     This is nothing scientific, but what jumped out at me

4       when we first went in was -- I guess this was her lunchbox

5       sitting by her feet where you would probably put it down,

6       but I think this is probably her ring.

7       Q     And what about these stains that are on the rug and

8       the table?

9       A     Yeah, this was the ending I was talking about. The

10      ending of the cone is as far to the left as this spatter

11      went. Now, these are very, very small and they cut off

12      about right here at this point and there's nothing. So

13      you would expect they're either dropping out of an air

14      bubble and going down straight to the ground and they're

15      stopping right there or something there that's stopping

16      them.

17      Q     Okay. State's Exhibit 83?

18      A     This is a good one. This shows you those stains on

19      the blinds themselves, all the way down to the pillow, all

20      the way up here. If you'll notice -- now, this is the

21      corner of the mobile home. There's a better photo of

22      this, but there's stains going this way. There's stains

23      going --

24      Q     That picture that you said was better, State's 84, is

25      that what you're talking about?

1 A No.

2 Q We'll go back to 83 and we'll talk about it.

3 A What I found was there were stains on the ceiling  
4 going towards the corner. They were going back towards  
5 the left side of the mobile home. They were going this  
6 way. They were radiating. That's why I'm saying this was  
7 blood stain pattern impact spatter pattern. This whole  
8 thing was a pattern. All these are individual stains, but  
9 this was radiating like an impact pattern would, but it  
10 was up here mainly and down here.

11 These were dropping out of -- as we're going along  
12 and as we're coming along, everything was in a downward  
13 angle. And I'll talk about in a moment why I can't use  
14 those. And then everything up here was the radiating  
15 pattern.

16 Q State's Exhibit 84, that's showing more of what you  
17 were just talking about?

18 A It does. And the victim is not there. I hope we  
19 have a better photograph of that. But it just shows --  
20 this is what I asked Investigator Lee to make sure that he  
21 just put a marker down on the areas that would show us all  
22 the way from the back to the front, and he did. He put  
23 the markers on the window blinds. He put the markers here  
24 and he had the markers down to where some pellets were.  
25 That's all I asked him to do.

1 Q Okay. State's 85, is this what you were talking  
2 about the continuing pattern on the other edge?

3 A Yes, yes. You get back here. It stops right there.  
4 This is the last one that you see up at the top and this  
5 is the one that still are coming down and falling and it  
6 stops right there, but down here, you see nothing. We  
7 found nothing on this chair. It stops back at the coffee  
8 table in front of the sofa.

9 Q All right. And State's Exhibit No. 86?

10 A The best thing I can show you on this one is you see  
11 these stains on the ceiling, that's going about that  
12 general area and it may be a little off. And you can't  
13 see it very well because of this photograph and how it's  
14 taken, but this is the general area, even up at the  
15 ceilings where it stops. Now, this radiating pattern goes  
16 all the way around --

17 Q I'm going to bring you to the next one because that's  
18 what you were just talking about, 87?

19 A Yes, goes all the way around in this direction and  
20 some of these are going here. I'm just pointing out that  
21 this is a radiating pattern. I can't emphasize that  
22 enough because we're not talking about a lot of different  
23 stain patterns or blood patterns, we're talking about one  
24 massive one and then a couple small ones after the initial  
25 investigation here.

1 Q And State's Exhibit 88?

2 A These are the small ones I was talking about. After  
3 this, I saw nothing else that was down low about this area  
4 at the end of the coffee table. I did see above that red  
5 chair, if you'll remember, up above and on the curtain,  
6 but this was about the end of where the small stains were.

7 Q Okay. And the next set are -- were you ever given  
8 the clothing of the Defendant to look at?

9 A No.

10 Q You never saw the clothing?

11 A Oh, yes, I did see it. I'm sorry. I'm sorry.

12 Q Was there anything on the clothing that indicated  
13 anything to you?

14 A On the Defendant, yes.

15 Q Okay. We're going to go through that on State's  
16 Exhibit --

17 A You're talking about the white shirt?

18 Q Yes, 89.

19 A This is where the pants were photographed back in our  
20 lab. And the arrows indicate where some blood stains were  
21 found on these pants.

22 I pointed out some very, very small ones that could  
23 have been some spatter stains. This is not -- everything  
24 that you see here is something that's some type of spatter  
25 that has come up and hit the front of these pants with the

1       exception of what's on the -- looks like the pants pocket  
2       on this side. I don't know if it's on the other side.  
3       You can't see it.

4       Q       These are a little bit strange in order, but this is  
5       the one she's been removed. Is that the way she looked  
6       when she was removed?

7       A       Yes, it is.

8       Q       That's State's Exhibit No. 90. State's Exhibit 91,  
9       that is the Defendant's shoe?

10      A       Yea.

11      Q       Where does it show you?

12      A       This is where it was mark and photographed. I saw  
13      that it was done by one of my investigators, just the  
14      red -- could possibly be blood on these shoes or a  
15      photograph marker from it.

16      Q       And the stains -- I'm sorry, State's Exhibit  
17      No. 90 -- we're going back and forth. We didn't put these  
18      in order. 92, why is that important to you?

19      A       This could be important because I wanted to point  
20      this out. You can see this is as we found the victim  
21      lying on the sofa itself. All of this very, very red, of  
22      course, is all blood and the amount of blood that it is.  
23      It remained red and it hasn't -- especially this up in  
24      here that comes out of her face like that, but I wanted to  
25      point this out right here. This could be a pattern, too,

1       it came from somewhere. Some blood out of somewhere went  
2       against this and it looks like it might have been also her  
3       head and somehow if that -- if that's so, that would have  
4       been her head and at a short period of time because this  
5       didn't get really red, so there wasn't a great amount of  
6       blood put on that spot, but then the head would have been  
7       moved back up there. That's a possibility. But there is  
8       a stain there that's unexplainable.

9       Q     And her arms, the way and the manner, that's the way  
10      the looked, you guys didn't clean them up or anything?

11     A     No.

12     Q     Okay. And State's Exhibit No. 93?

13     A     That's the way it looked when she was left. Now,  
14      we're beginning to look at this. This is the area where  
15      the victim was seated and she was leaned over. This was  
16      where her head was, her arms in this respect, and all the  
17      blood that came out.

18           Now, as you can see, you have to look good because  
19      this pattern will show you off. Some of it's red like  
20      this, that's not blood, that's the pattern itself.

21     Q     That's the pattern of the couch?

22     A     Yes, pattern of the couch.. There is no blood stain  
23      with the exception of this right here. You see how this  
24      has seeped in or soaked into the fabric of the couch,  
25      soaked it itself. That comes from over here as it made

1 its way across and you have this, but down in here,  
2 there's nothing.

3 Q Why is that important?

4 A That's important because there was a major blood  
5 letting event in this area, none there. That means  
6 something covered up that space while this was going on.  
7 That's where the victim was sitting.

8 Q So in your expert opinion, she was sitting when the  
9 blood letting event --

10 A When this blood letting event happened, yes. Also,  
11 down at the bottom of the pillow, you can also see this.  
12 You see up at the top, there is some spatter actually  
13 going on around here, not so much, but I think she  
14 probably went up somewhat and not back on this because you  
15 see it on the back of the sofa, also.

16 Q And State's Exhibit No. -- I forgot what number I'm  
17 on, 94?

18 A Yeah, that's the victim right before she was taken  
19 out and put in the body bag.

20 MS. SAMPSON: I said the wrong number, Karen, that's  
21 State's Exhibit 106.

22 THE WITNESS: Her hands were bagged. We do that to  
23 every victim that goes to the morgue. And she had a cell  
24 phone in her pocket.

25 Q And that's how you guys found her?

1 A Yes -- well, that's when she was moved by us.

2 Q I mean, nobody put that cell phone in her pocket?

3 A No.

4 Q You can sit back up there.

5 A (The witness complies.)

6 Q Now, while we were -- do you need some more water?

7 A No, I'm good.

8 Q During our showing the pictures, you said that  
9 something would be easier to draw?

10 A Yeah, I want to -- if I may.

11 Q You can step back down.

12 A (The witness complies.) Okay. During a blood  
13 pattern analysis --

14 Q You got to keep your voice up so Karen can --

15 A During a blood pattern analysis, I went through the  
16 first three stages pretty quickly, that's getting familiar  
17 with the scene itself, trying to identify any blood  
18 pattern that might be there, and then identify the  
19 patterns itself and then try to -- after identification,  
20 then you can take the taxonomy and try to determine what  
21 they were based on the taxonomy.

22 Now, taxonomy, again, is giving us the description of  
23 each of those types of patterns that we know of. And the  
24 blood makes those patterns under the same circumstances  
25 every time. They're reproducible. That's why we can have

1        what we call a taxonomy.

2                Now, after these three steps, you get to two other  
3        steps. And it's in the methodology, but depending on the  
4        circumstances, you can skip them, all right. You don't  
5        have to use them based on what you have and what you can  
6        do.

7                Number one, you have the fourth step, which is going  
8        to be motion or directionality. We've got some  
9        directionality. We talked about and we can talk more  
10       about it if we need to, about where those basic stains of  
11       this impact pattern went, so that's talking about  
12       directionality.

13               The next one is, as I alluded to a little bit ago, if  
14       you're able to tell -- because if you have spatter stains  
15       and they're well formed enough, then you can take a string  
16       actually and go from that stain back to the location of  
17       where the blood source or the victim was and tell kind of  
18       where somebody is, okay.

19               Now, I kept on showing you when we went through the  
20       photographs how those stains get done like, right. So I  
21       want to show you. If you have under ideal circumstances a  
22       stain -- and I said they were elliptical. And pardon my  
23       drawing. This is the oversight, of course, if they hit a  
24       wall at straight on 90 degrees, it's going to be a circle.  
25       It's just going to be a circle. If they hit the target at

1 an angle, you're going to have this elliptical effect like  
2 this. But you can use every one, but when it comes to  
3 talking about stringing, this is the way you do it.

4 You have to have a person look at the individual  
5 stain, measure from the largest part of the width, find  
6 it, measure across. Now, you got the width. Then you  
7 have to have a person take and try to analyze, look at  
8 this and where it's rounded on the bottom and try to come  
9 up with exactly the same place on the top so it will be  
10 even. Now, you measure from that point down to here.  
11 That's the length. Now, you divide the width by the  
12 length and use a geometric equation and come up with  
13 degrees. The degree that you'll come up with, if all  
14 things are ideal, will be the degree that this hit that  
15 target, okay.

16 Now, we put a string at the bottom of this and attach  
17 it to it, pull that string out in the direction that we  
18 believe the stain came from, put a protractor down, put  
19 zero protractor on that spot. And if you've got a  
20 16-degree that you came up with in your calculation, you  
21 raise that or lower that string to 16 degrees, string it  
22 way out wherever you have to, tie it down. Now, you got  
23 one string, okay.

24 Now, that we've done that, I want you to understand  
25 that's stringing. That's why it's going out. Nobody uses

1       it much anymore, okay. And that's because when you come  
2       to this, just because it's going through the air and you  
3       don't know when it's beginning to start to fall before it  
4       hits that target. So now you're talking about, at least,  
5       a three degree plus or minor error rate just because it's  
6       in flight. So you're starting out with that.

7               Now, you're using a person, hopefully, somebody  
8       qualified that's been in the business for 16 years like  
9       myself, to do these measurements, do these calculations.  
10       The measurements are important, but they all give you a  
11       three -- another three, plus or minus, degrees error rate  
12       for that.

13              Now, when you look at something that hit this wall  
14       straight on and it's perfectly round, that's a nice one.  
15       You could go all the way up to eight or nine degree error  
16       rate on that because it's very, very hard to measure  
17       something that's round like that. It's going to be a  
18       little off somewhere, okay. So that's the error rates on  
19       that.

20              Now, there's more. When you've got these stains that  
21       are hitting cloth, especially cloth on a sofa or pillow  
22       and things of that nature, they wick into it, they  
23       saturate into it, you can't get a good one. And you're  
24       trying to put the string on it, you can't get the string  
25       to stick. You're messing around with it and the stain is

1 no good.

2 When those bigger stains, or shorter stains, small  
3 stains, too, start falling out and they start going like  
4 this as they've run out of juice, okay, and the air  
5 resistance starts pushing and grabbing and starting to  
6 pull it and they fall out, now they come down and they're  
7 hitting like this. You can't use those because you can't  
8 justify the velocity of them. They're no good.

9 Last thing and I'll shut up. You got a bullet, went  
10 through a victim, went all the way here. This is what I'm  
11 talking about all the way around when I'm talking about  
12 radiating, radiating blood stains. They follow that  
13 bullet -- and I'm talking about a bullet. They follow it  
14 like that and they radiate all the way around. Those are  
15 the kind of stains we need to use when we're doing  
16 stringing. I don't like to use them there anyway, but you  
17 can. This is your best bet. Something that's small, the  
18 pattern is small. You know it hit it really hard. Those  
19 stains aren't falling. You can use that. But you have to  
20 draw a line right there. You can only use these. These  
21 may have already been falling, too, because now, these are  
22 the ones that are doing this. Even the ones going out  
23 this way and out this way are suspect. So see, it's very  
24 difficult. That's why this is going away. And that's  
25 why, basically, because of the stains that were found out

1       there that day are like all of these that I've showed you,  
2       I wouldn't touch it. We didn't do it.

3       Q     So the stains that you had were not good enough for  
4       stringing?

5       A     That's the bottom line, yes.

6       Q     You would have done it could you have done it?

7       A     Yes.

8       Q     But in this case, you couldn't?

9       A     I do it when I have the correct type of stain pattern  
10      where I can go to court and say yeah, I have confidence in  
11      what I did.

12      Q     But in this case, you didn't?

13      A     Absolutely not.

14      Q     And you talked about with that one, that's a bullet.  
15      We had a shotgun. Does that make a difference?

16      A     Yes, it makes a difference.

17      Q     Why?

18      A     Well, a bullet -- if you had a single bullet and you  
19      had a target area where the bullet hit after it went  
20      through or you had a target area where the impact spatter  
21      hits, when you have, just like I said, good spatter to  
22      use. This shotgun is like so dynamic, it goes in  
23      different directions in this cone effect that I showed,  
24      and up on the top. And also along with the blood is the  
25      matter that's in with the blood, so there's no way you can

1 use that.

2 Q And so after having viewed everything and using your  
3 expertise, it is your expert opinion that she was sitting  
4 when the blood letting event happened?

5 A Now, after we get finished with that portion, what  
6 you have to go back -- you have more stringing to do.

7 Q Okay.

8 A And we talked some about the directionality, so I did  
9 use that, not so much motion, but directionality. Now,  
10 you have to look at what you do have based on the context  
11 of the scene that you have.

12 This is what I observed. You had number one, the  
13 blood that was on the victim's right leg, it was on top of  
14 the leg. It didn't go down the leg. It was laying on top  
15 of the leg. Particularly, that blood that soaked and  
16 flowed down the inner portion of the right leg. That's  
17 from a sitting position. You stand up and you get that  
18 same blood put on your leg, it's going to flow down the  
19 front of your leg, not to the side. It's an indication  
20 that the victim was sitting during a blood letting event  
21 there.

22 Secondly, you have the void. After we removed the  
23 body, we started looking at that area where she was  
24 sitting. When there was a blood letting event in that  
25 area, and there was, she was sitting in that spot when

1       that blood letting event happened.

2               Number three, on the right side of the sofa where you  
3       come in the front door, there is some matter on the floor.  
4       There is two or three or four, a few droplets, stains that  
5       you see. And I call those outliers because they're not  
6       connected with a pattern of any kind, but there is no  
7       major blood letting in that area from the inside of the  
8       door around to the straight back of the mobile home, down  
9       the backside of the mobile home. It's all contained right  
10      to the right on that sofa area.

11             Then, lastly, you have the victim's scalp portion on  
12      the back of the sofa. And she had to be in that  
13      general -- she had to be in that position to get it there.  
14      Put her in any other position in the room all the way  
15      around, either somebody shooting her in the right side of  
16      the face or her head being where the scalp can get on the  
17      back of the sofa doesn't fit.

18      Q       You didn't find evidence anywhere else in the house  
19      that would fit with a blood letting event happening in any  
20      other part of the house?

21             MR. KRZYSTON: Objection, leading.

22             THE COURT: Sustained. Rephrase your question.

23             BY MS. SAMPSON:

24      Q       Where, if any, did you find evidence that there was a  
25      blood letting event anywhere in that house other than that

1 area?

2 A To that nature, nowhere.

3 MS. SAMPSON: No further questions.

4 THE COURT: All right. Let's take a break, ladies  
5 and gentlemen, we've been about an hour and 40 minutes or  
6 so. You are not allowed to discuss this case in any way,  
7 shape or form. You are to still keep an open mind about  
8 the case.

9 Investigator Richards, you are to be right there when  
10 we come back in 15 minutes. You're not allowed to discuss  
11 your testimony with anyone in any way, shape, or form.  
12 You are allowed to use the facilities, get a drink of  
13 water, whatever you need to, just be right there.

14 It's 11:40. Let's start back at 11:55. Thank you  
15 very much. You may retire to your jury room.

16 Everyone else remain seated.

17 (WHEREUPON, the jury left the courtroom at 11:39  
18 a.m.)

19 THE COURT: All right. 11:55.

20 (WHEREUPON, a short break was taken.)

21 (WHEREUPON, Defendant's Exhibit Nos. 2 through 11  
22 were marked for identification only.)

23 THE COURT: All right. Ready?

24 MR. HAWKS: Yes.

25 THE COURT: Bring them on in.

1 (WHEREUPON, the jury entered the courtroom at  
2 12:00 p.m.)

3 THE BAILIFF: The jury is seated, Your Honor.

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

5 Cross-examination?

6 MR. KRZYSTON: May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. KRZYSTON:

10 Q Lieutenant, I'm not going to keep you because I know  
11 you got things to do, too long, so, how are you today?

12 A I'm good, sir.

13 Q Good. Okay. Now, as we talked about a little bit  
14 earlier, you're kind of like the lead guy for blood  
15 spatter for Richland County, correct?

16 A My sergeant is well qualified, also.

17 Q But you are the one who wrote something that we refer  
18 to as protocols for blood spatter analysis, correct?

19 A Yes.

20 Q And the protocols are -- let me pass this up to you,  
21 first. Would you thumb through that, please?

22 A Sir, I know what's in it.

23 Q And that is the protocols that were in effect in this  
24 case when you were called out?

25 A Yes.

1 MR. KRZYSTON: Judge, we'd offer this as, I guess,  
2 Defendant's 12.

3 THE COURT: Defendant's 2?

4 MR. KRZYSTON: We've got some photographs that we've  
5 previously marked.

6 THE COURT: Any objection?

7 MS. SAMPSON: No, sir.

8 THE COURT: All right. Defendant's 12 admitted  
9 without objection.

10 (WHEREUPON, Defendant's Exhibit No. 12 were  
11 admitted into evidence.)

12 BY MR. KRZYSTON:

13 Q And in those protocols, there's, basically, a list  
14 of, I guess, you would say best practices or guidelines,  
15 right?

16 A Guidelines, yes, sir.

17 Q And in general -- I mean, when the thing starts out,  
18 it says: Blood pattern evidence is a valuable  
19 investigative tool to assist in determining events that  
20 occurred during a violent crime or where a blood letting  
21 occurred. Right?

22 A Correct.

23 Q And it goes on to talk about what your role as a  
24 crime scene, I'm going to say, processor is, right?

25 A Okay.

1 Q Number one is assess the scene, number two is observe  
2 the scene, number three is document the scene?  
3 A Uh-huh.  
4 Q Number four is searching the scene?  
5 A Yes.  
6 Q Number five is collecting the, I guess, essential  
7 evidence at the scene?  
8 A Yes.  
9 Q Number six is processing and analyzing scene?  
10 A Right.  
11 Q And pro --  
12 A And that's -- I'm sorry.  
13 Q And processing and analyzing the scene, one of those  
14 processes that you could do would be roadmapping when you  
15 process the scene?  
16 A Roadmapping is more or less a documentation.  
17 Q Okay. But you would agree with me that in  
18 documenting it, you are, in fact, processing the scene,  
19 going through the procedures that you need to do?  
20 A You can use that, yes, sir, you certainly can.  
21 Q Okay.  
22 A But it's not a blood stain pattern methodology.  
23 Q And another part of documenting the scene is taking  
24 pictures, correct?  
25 A Same thing.

1 Q Would you mind to look at these items for me, please?

2 MR. KRZYSTON: And for the record, Your Honor, those  
3 are listed as State's 2 through 11. I've previously  
4 showed those to the -- excuse me, Defendant's 2 through  
5 11.

6 THE COURT: Okay.

7 MR. KRZYSTON: I previously showed those to the  
8 prosecution.

9 MS. SAMPSON: That's correct. And if he wants to  
10 introduce them, there is no objection. I believe some of  
11 them may be a repeat, but I'm not sure.

12 THE WITNESS: Okay, sir.

13 BY MR. KRZYSTON:

14 Q Fair and accurate representation of pictures you  
15 viewed and took in this case?

16 A Yes, sir.

17 MR. KRZYSTON: Your Honor, we'd offer 2 through 11  
18 for evidence?

19 THE COURT: All right. Without objection.

20 (WHEREUPON, Defendant's Exhibit Nos. 2 through 11  
21 were admitted into evidence.)

22 BY MR. KRZYSTON:

23 Q Okay. I want to talk a little bit about how the  
24 laboratory in Richland County is actually set up. You  
25 know, you're a forensic examiner, correct?

1 A I'm a crime scene investigator, sir.

2 Q And as part of your job you do forensic investigation  
3 into criminal -- potential criminal offenses or  
4 situations?

5 A I do crime scene investigations, yes, sir.

6 Q So yes, okay. And there -- you kind of specialize in  
7 that. You don't go out and talk to fact witnesses or  
8 people who actually necessarily witnessed the event,  
9 correct?

10 A No, no, not in general, no. I rely on what I'm -- if  
11 I'm gathering information from the investigator that works  
12 for me that's already there or the investigators from CID  
13 that may be on scene that can give me some information  
14 that might be relevant on what I'm going to see when I go  
15 inside. That's what I rely on.

16 Q Okay. So you rely on some other investigators to  
17 give you kind of just additional information to form your  
18 opinion?

19 A That's at the point of processing the scene, not  
20 later on. We're talking about at that point.

21 Q Right. Right. Right. And in this case, did you  
22 look at the gun in question?

23 A No, sir, the gun was not there.

24 Q You mentioned that you accepted a Chrysler Pacifica  
25 into the Richland County forensic garage?

1 A I did.

2 Q And you made sure that it was secure?

3 A I did.

4 Q Noting that there were several items of evidentiary  
5 value inside?

6 A I did not.

7 Q You did not know that?

8 A No.

9 Q So you were unsure if there was any evidence inside?

10 A Not inside. I saw the vehicle from the outside and I  
11 secured it in the forensic garage. I did not do the  
12 processing.

13 Q Did you fill a sheet out and alert evidence that this  
14 thing -- I mean, how do you tell the rest of your  
15 department hey, we have this thing secured in the garage?

16 A They know because that's what we do every time. We  
17 secure -- the investigator handling the case, give you an  
18 example, may come upon a vehicle that they want to have  
19 processed. It needs to be brought to the garage for  
20 processing inside of a closed area instead of a compound.

21 Okay. At that time, they will have the vehicle  
22 brought to my garage. Most of the time, if it's a --  
23 depending on the type of crime we're talking about, it's  
24 escorted and then it's received by one of my people. At  
25 this time, it was me, signed over to the garage. And then

1 I will assign one of my guys to process this. Or whoever  
2 happens to be the supervisor on call at the time, I will  
3 tell him to have one of his people process the car. He  
4 will assign it over to himself and process the vehicle.

5 Q Okay. And in this case, you did all that?

6 A Yes.

7 Q You assigned somebody to process it or you just --

8 A There was somebody assigned to process this, yes.

9 Q And did you release the car at any point?

10 A I didn't.

11 Q Okay. Did you -- so none of the evidence that was in  
12 the car you ever looked at?

13 A No.

14 Q Okay. Now, I want to move on a little bit, when you  
15 go out to a crime scene, you take a lot of stuff with you,  
16 correct?

17 A Yes.

18 Q And these protocols that I'm talking about, they kind  
19 of have in there a list of material that you might need  
20 throughout the different, I guess, experiments or tests  
21 that you could do, right?

22 A We take equipment with us that we feel like we need  
23 most often.

24 Q Okay. And that's paper and pencil, cameras?

25 A Yes.

1 Q Could be rulers, those little sticky scales?

2 A Yes, sir.

3 Q Gloves, Tyvek suits, the booties to keep your feet

4 clean?

5 A Yes, sir.

6 Q All that stuff?

7 A All that stuff.

8 Q Basically, you've got like a mobile supply in the

9 back of your vehicle that you go to the crime scene in,

10 right?

11 A We try.

12 Q That's so you can be prepared to do whatever it is

13 that you want to do?

14 A Yes, sir.

15 Q Now, I want to talk about these protocols and how

16 they exist. The lab itself is an accredited lab, correct?

17 A Correct.

18 Q So that means that somebody above Richland County

19 makes some kind of standard that you guys have to comply

20 with, right?

21 A Yes, sir.

22 Q In this case, that's an organization called ASCLD,

23 right?

24 A Correct.

25 Q And ASCLD has a standard, in this case, it's ISO

1 17025, correct?

2 A Yes, sir.

3 Q And as part of the standard of ISO 17025, you have to  
4 issue these written protocols, right?

5 A That's correct.

6 Q And these protocols are again designed to give the  
7 practitioners, you and your folks up at the lab, guidance  
8 on how to do things?

9 A Guidelines, yes, sir.

10 Q Now, in this case, do you have any -- what camera  
11 were you using on August 14th? Do you remember?

12 A I don't know. I think I used my Nikon 65.

13 Q Nikon 65?

14 A Yeah.

15 Q And you check all the settings and stuff on that  
16 before you go out to the scene, right?

17 A Yes, sir.

18 Q Probably do a little test shoot in the office, make  
19 sure the shutter speed's not off or nothing's wrong with  
20 it?

21 A Usually not. I usually test it when I get out of the  
22 vehicle.

23 Q But you did that in this case?

24 A Sure.

25 Q And there were no issues you found?

1 A I got to make sure the batteries are working, too.

2 Q Always a good point with these things these days.

3 The pictures that you took, were there any issues in terms  
4 of overexposure or underexposure with the images?

5 A We have some, yes, sir.

6 Q And you would agree with me that when we're talking  
7 about spatter in this case or in any case, little tiny  
8 dots, basically, the directionality of the blood stain is  
9 of key importance, right?

10 A Yes, sir.

11 Q And a lot of times these stains are, in fact, very,  
12 very small stains?

13 A They are.

14 Q And they would potentially be something that would be  
15 subject to bleeding out if there was an overexposed image?

16 A I don't understand what you mean.

17 Q If you had a blood stain on a stark white shirt --

18 A Oh, I understand what you're saying.

19 Q You see what I'm saying? And you're in a room with a  
20 lot of light?

21 A Sure.

22 Q You take a picture, the white appears more stark,  
23 more bright than it normally would, right?

24 A It could, right.

25 Q It could overpower the smaller teeny, tiny little

1 stains that you would expect to see that would inform your  
2 opinion?

3 A It could.'

4 Q Okay. But none of that's present in this case?

5 A I looked myself at the stains there.

6 Q Okay.

7 A I was present on the scene.

8 Q So you saw them with your own eyes?

9 A I did.

10 Q And in doing that, you determined that there was a  
11 void where Ms. Marshall was sitting?

12 A When she left --

13 Q Yes.

14 A -- there was a void there, yes, sir.

15 Q And again, just to be 100 percent clear of the void  
16 --

17 A Oh, no, no, you're talking about when I looked at the  
18 photographs --

19 Q Yes, sir.

20 A -- in order to do that?

21 Q Yes, sir.

22 A That's when I was looking at the photographs, you are  
23 correct.

24 Q Okay. And just making sure we know what a void is,  
25 Investigator, I think it was Lee said that if I sat in

1 this chair and he threw a can of paint on me, as much as  
2 he might like to do that, there would be a -- basically,  
3 an area where there would be no paint where my back is?

4 A That's my understanding.

5 Q I mean, a very simplified version of that?

6 A Yes.

7 Q So when you say that there was a void in the area, I  
8 mean, what you're essentially saying is that some -- there  
9 was a physical body present through which liquid could not  
10 transfer?

11 A On portions of it, yes, sir.

12 Q And you say that theory or phenomenon exist in this  
13 case?

14 A Yes.

15 Q And you're 100 percent sure of that?

16 A I am.

17 Q Okay. Now, you also testified a little bit to some  
18 of this stuff up here, this information about stringing?

19 A Yes.

20 Q And you noted that --

21 MR. KRZYSTON: Permission to approach the drawing,  
22 Your Honor?

23 BY MR. KRZYSTON:

24 Q And you noted that up here on some of this stuff that  
25 it's pretty -- again, this is not to scale, this drawing?

- 1 A No, sir.
- 2 Q Obviously not. It's a pretty big blood drop. But
- 3 again, blood drops are small, correct?
- 4 A Yes.
- 5 Q And it's a difficult time to measure them, correct?
- 6 A Yes.
- 7 Q And basically, because of that difficulty in
- 8 measuring round and not square objects, you have a margin
- 9 of error, correct?
- 10 A Correct.
- 11 Q And that margin of error could be anywhere from three
- 12 to, what was the upward limit you said there?
- 13 A Well, depending on what you're looking at. There's
- 14 some areas if you're trying to do what you feel like is a
- 15 complete circle, it could go as high as seven or eight
- 16 degrees.
- 17 Q Okay. And that's the amount -- when I say error
- 18 rate, okay, what I mean is, you could be wrong?
- 19 A You have to be -- you would be within that margin of
- 20 error, that many degrees.
- 21 Q And that's why when you do stringing or you run it
- 22 through one of the computer's drawing program, you can
- 23 only really in the best case scenario narrow it down to a
- 24 volleyball size area?
- 25 A You're talking about an area of origin?

1 Q Area of convergence or area of origin?

2 A Yeah, you can get closer than that, depending on what  
3 the pattern is that you have and how good the stains are.  
4 I said when I up here, the best scenario would be a small  
5 type impact spatter pattern. That's when you can --  
6 depending on the person that's taking the measurements  
7 also, that's why you're still going to have a plus or  
8 minus three degrees.

9 Q Okay.

10 A You can get within a fairly good range.

11 Q And again, you could be mistaken? You could be?

12 A You could be.

13 Q And there's an error rate associated with the actual  
14 scientific-ish test of doing the stringing?

15 A Yes.

16 Q Okay. What do you think the error rate is when you  
17 come in and look at a stain and determine an area of  
18 convergence?

19 A What do I think?

20 Q Yeah, what's your error rate?

21 A For me, myself, looking at it?

22 Q Yeah, just looking at it?

23 A After 16 years, I wouldn't put it any less than  
24 three percent.

25 Q Okay.

1 MR. KRZYSTON: Court's indulgence.

2 (Pause.)

3 MR. KRZYSTON: No further, Judge.

4 THE COURT: Redirect?

5 MS. SAMPSON: Just briefly, Your Honor.

6 REDIRECT EXAMINATION.

7 BY MS. SAMPSON:

8 Q The Defense showed you some photographs, Defense 2  
9 through 11?

10 A Yes, ma'am.

11 Q I showed you photographs, State's Exhibit's 74  
12 through a whole lot of them -- or 74 through 93, right?

13 A Yes, you did.

14 Q On these photographs, some of the lighting is  
15 different, correct?

16 A Yes. It's different based on where you are and a lot  
17 of different aspects, yes.

18 Q And just between those pictures and my pictures,  
19 they're different. Could it be the way they were printed?

20 A It could be anything, ma'am.

21 Q Doesn't affect your evaluation -- or does it affect  
22 your evaluation of where she was sitting when this  
23 happened?

24 A No, ma'am.

25 Q And he talked to you about -- do you still have the

1 protocols?

2 A Yes.

3 Q He asked you should -- he went through the six steps  
4 or whatever. Can you read to the jury what it says right  
5 under that where he stopped reading?

6 A Oh, yes. The listed procedures are a guide for  
7 examining blood stain pattern evidence. The variables  
8 surrounding each crime scene may necessitate altering the  
9 procedure.

10 Q So what does that mean?

11 A It means it's a guide. You try to go by it the best  
12 you can, but it may not always work for the scene that  
13 you're on.

14 Q And is it okay to go in different order or do you  
15 have to go one through six, in that order?

16 A No, this is also a guide to crime scene  
17 investigation, and not just blood stain pattern, also.  
18 This is an investigative guide that come out.

19 Q In your expert opinion, was stringing necessary in  
20 this case?

21 A No.

22 Q Would it have helped at all in this case?

23 A Could it have? In the way -- I couldn't string it.  
24 I couldn't tell you because I couldn't do it.

25 Q You couldn't do it?

1 A No.

2 MS. SAMPSON: Nothing further, Your Honor.

3 RE CROSS-EXAMINATION

4 BY MR. KRZYSTON:

5 Q It's your testimony that you didn't have the stains  
6 required to do stringing?

7 A The stains were not good enough to do stringing,  
8 that's what I'm saying, yes, sir. Yes, sir.

9 MR. KRZYSTON: Okay. Nothing further.

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

11 All right, ladies and gentlemen, hold on one second.

12 Go ahead and step down, Investigator Richards.

13 Y'all come up to talk about scheduling.

14 (There was a bench conference.)

15 THE COURT: All right. We're going to go ahead and  
16 break for lunch. It is 12:20. You've done a good job of  
17 staying with us this morning and paying attention. I  
18 appreciate that and I know the parties and the lawyers do,  
19 too. I'm going to dismiss you now for lunch.

20 It's 12:20. We're going to start back at 2:00  
21 o'clock. You are not allowed to discuss the case in any  
22 way, shape, or form. You are to keep an open mind about  
23 the case and we will start back at 2:00 o'clock.

24 2:00 o'clock. Thank you very much.

25 (WHEREUPON, the jury left the courtroom at 12:19

1 p.m.)

2 THE COURT: All right. Anything before we break?

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

4 THE COURT: From the Defense?

5 MS. GOODE: No, Your Honor.

6 THE COURT: Okay. 2:00 o'clock.

7 MS. SAMPSON: Thank you.

8 (WHEREUPON, a lunch break was taken.)

9 THE COURT: Anything from the State?

10 MS. SAMPSON: Not at this time, Your Honor.

11 THE COURT: Ms. Goode.

12 MS. GOODE: No, Your Honor.

13 THE COURT: All right. Bring them in.

14 (WHEREUPON, the jury entered the courtroom at 2:05

15 p.m.)

16 THE BAILIFF: The jury is seated, Your Honor.

17 THE COURT: Thank you very much.

18 Welcome back, ladies and gentlemen.

19 You may call your next witness.

20 MS. SAMPSON: The State calls Investigator Joe

21 Clarke.

22 THE COURT: All right. Please come forward and be  
23 sworn.

24 JOE CLARKE, after being duly  
25 sworn, testified as follows:

1 THE CLERK: Thank you. Please have a seat in the  
2 witness stand. State your full name for the record and  
3 spell your last name.

4 THE WITNESS: Joseph Clarke, C-L-A-R-K, with an E on  
5 the end.

6 DIRECT EXAMINATION

7 BY MS. SAMPSON:

8 Q Good afternoon.

9 A Good afternoon.

10 Q What is your official title?

11 A Official title is a sergeant.

12 Q I always call you investigator, but I forget you're  
13 actually a sergeant?

14 A Just don't call me late for lunch, I'm good.

15 Q Where do you work?

16 A Richland County Sheriff's Department.

17 Q And what do you do there?

18 A Currently, I'm in charge of the assaults unit.

19 Q What does that entail?

20 A I manage seven investigators and two civilian  
21 employees and we deal with all things involving assaults.  
22 It's aggravating and then simple assault and then also  
23 domestic violence cases.

24 Q And can you take us through your history as being  
25 employed as a law enforcement officer?

1 A Certainly. I got out of the Army and then went to  
2 college. And after getting a degree in criminal justice,  
3 I was hired by the University of South Carolina Police  
4 Department. They actually have a police department. And  
5 I worked there for about three years, leaving there in '03  
6 to come to the sheriff's department where I've been ever  
7 since. Upon going to the sheriff's department -- at USC  
8 PD, I was a patrol officer doing standard parole  
9 operations in a car, doing things you've seen, writing  
10 tickets, that kind of thing.

11 When I came to the sheriff's department, same thing,  
12 I was a patrol officer for about three years before  
13 becoming a supervisor on the road. And then after that  
14 point, I left parole operations and tested to become an  
15 investigator and became an investigator in about '06.

16 At that point, I went into -- I've done pretty much  
17 everything you can do, to include a stint in narcotics  
18 undercover. The only thing I really haven't ever done is  
19 white collar crime. I've mostly been in the assault,  
20 special victims unit and domestic violence realm.

21 Q Do you receive training in order to be an  
22 investigator?

23 A You do. Unlike other disciplines in law enforcement,  
24 an investigator, detective is one of those things where  
25 there is a basic qualifications test, but then most of the

1 work is -- most of the qualifications come -- or  
2 credentialing comes as a result of on-the-job training and  
3 then classes and things that go along.

4 Q Do you take classes often or yearly?

5 A We do. There's the standard 40 hours recert. All  
6 law enforcement officers have to do that in the State of  
7 South Carolina. Then there is -- in any given year, it  
8 would be unheard of for me to not to have been in three or  
9 four seminars. Some are a week, two weeks, three days,  
10 that type of thing.

11 Q I want to take you back to August of 2015, what were  
12 you employed as at that time?

13 A At that point, I was attached to the special victim's  
14 unit as an investigator. I was also a named primary  
15 homicide investigator.

16 The way we do it, the division of labor at the  
17 sheriff's department as that goes is there's six to ten  
18 investigators that are titled primary homicide  
19 investigators, meaning that if you are assigned to a  
20 homicide that your duties normally cease -- your normal  
21 duties cease and you just concentrate on that homicide,  
22 walking it all the way through, possibly -- you know,  
23 obviously, to adjudication here in court, but that's the  
24 plan.

25 So on that particular day, I was the named primary

1 homicide investigator for that particular week. You saw  
2 Sergeant Caldwell before. He would have been the shift  
3 supervisor. I'm not going to bore you with the minutia.  
4 Starting on a Thursday night at midnight to the next  
5 Thursday night, there's six or seven investigators in  
6 Richland County that are going to handle all the felony  
7 level and sometimes misdemeanor level cases that arise,  
8 particularly in those late hours. It's not common to get  
9 called out at 3:00 in the morning, 5:00 in the morning,  
10 6:00 in the morning, whatnot to catch those things.

11 If there is a homicide during that week, your primary  
12 homicide investigator is going to be tasked with taking  
13 that investigation.

14 Q In this case, were you assigned as the primary  
15 investigator?

16 A I was.

17 Q So tell me how you got involved in the case, start  
18 from the beginning.

19 A I was called at home first by the desk sergeant to  
20 tell me there was a homicide and that we had a deceased  
21 female in Richland County, and that it was possibly a  
22 crime of violence and, therefore, I was asked to respond.

23 I made contact with the shift supervisor at that  
24 time, who was Sergeant Caldwell, who told me a little bit  
25 more what about he knew. And then my job was to get to

1 the scene and start coordinating some of the things that  
2 were going on.

3 I traveled to Leesburg Road to the Bel-Aire Mobile  
4 Home Park, and there, I made contact with people that were  
5 already on the scene. At that point, we had police tape  
6 up. We had several uniform officers there, and then I  
7 believe CSI was arriving at the same time.

8 At that point, we were in a holding pattern because I  
9 had learned that some family members had made entry into  
10 the home for reasons that had been explained. They were  
11 unsure about their loved one in there or whatnot. From  
12 that point on, I thought let's do this as an  
13 investigation, which it had just become, and let's get a  
14 search warrant.

15 At that point, I gave information to Drew Caldwell,  
16 Sergeant Caldwell, who was typing a search warrant. We  
17 were going to locate a judge on Sunday morning and get  
18 them to sign it.

19 Q I'm going to stop you for a second. How do you get a  
20 search warrant?

21 A Well, in this case, we have information, credible  
22 information that there is a body inside, someone is  
23 deceased and that there's been a crime. At that point,  
24 we've now elevated to probable cause to get a search  
25 warrant.

1 Just from the exterior of the home, now we have  
2 daylight to work with, I could see what appeared to be  
3 reddish stains on the windows and whatnot, so it seemed  
4 that something dynamic had taken place inside the trailer.

5 So, at that point, we want to secure a search warrant  
6 by giving information to someone who's typing it. It's  
7 typed up in a form and then it is hand carried to a judge,  
8 magistrate or higher, in the county and the judge agrees  
9 with our probable cause to sign off on that said search  
10 warrant. We do that by giving a description of the  
11 premise. We give probable cause for why we think we  
12 should go inside, the collection of evidence in this case,  
13 the location of a body, and do those types of things.  
14 That's just a process we go through to put this in a  
15 framed-up search warrant so we can proceed as we move  
16 through the home.

17 Q So were you able to obtain a search warrant for the  
18 home in this case?

19 A We were.

20 Q So once that was obtained, what did you do?

21 A Once a search warrant is obtained, then I'm going to  
22 step back a little bit and let the CSI do their thing.

23 Q Why is that?

24 A Well, I think at this point -- I've learned over time  
25 you do a number of these, and I really can't count anymore

1       how many of these I've done, you want there to be as much  
2       preservation of evidence as possible. You don't want to  
3       miss anything if it's possible. We're not dealing with a  
4       vacuum here. We're dealing in a dynamic situation. We're  
5       dealing with a mobile home park. We're dealing homes that  
6       are in close proximity to each other. It's a Sunday  
7       morning. The weather was fairly pleasant. There's people  
8       about. So my job was to hold back and let CSI work their  
9       way in. I always equate to it ripples in the pond. The  
10      rock hits the pond, the ripples come out, our job is to  
11      then work those ripples back and kind of get back to where  
12      the rock hit pond.

13      Q     So you let them go in first, is that fair to say?

14      A     That is.

15      Q     What did you do while they were doing that?

16      A     Well, in the process of getting the search warrant, I  
17      had time to speak to several folks. I spoke Amanda and  
18      Tamieka individually. I had my county truck there. It  
19      was warm, it was getting warm, so we sat in the cab of the  
20      truck. I sat with both women individually and learned  
21      what their relationships were. Tamieka, of course, being  
22      the daughter of the decedent and Amanda, being the  
23      daughter-in-law.

24             I wanted to gather some information one, about their  
25      mother, Doris, who I did not know, and also, perhaps, who

1 our suspect was. In that same process, I'm learning  
2 things from people in the mobile home park and both  
3 Tamieka and Amanda, whom are speaking to folks on their  
4 phones and whatnot. So we're collecting a lot of  
5 information.

6 I'm simultaneously talking to Drew Caldwell, who's  
7 back at headquarters finishing up the search warrant and  
8 I'm talking to road units that are present and I'm talking  
9 to CSI, who's present. So I'm, basically, kind of  
10 directing where everything is going on.

11 But in that process of talking to Amanda and Tamieka,  
12 I was able to learn about their mother and kind of her  
13 standard -- how she lived her life. I learned she worked  
14 regularly.

15 MS. GOODE: Objection, Your Honor.

16 THE COURT: Sustained.

17 BY MS. SAMPSON:

18 Q You don't need to tell me what you learned about  
19 Ms. Marshall. Were you able to ascertain what time she  
20 got home that night?

21 A I was.

22 Q What time did you believe it was?

23 A Somewhere after 9:00 o'clock, possible 9:30ish.

24 Q Were you able to gather any information that lead you  
25 to believe that the Defendant was a suspect at that time?

1 A Yes.

2 Q What was that information?

3 A Well, again, that's where we were getting lots of  
4 bits of information. One, apparently, he had already  
5 visited his brother, Robert, and Robert had already  
6 expressed to law enforcement that --

7 MS. GOODE: Objection, Your Honor.

8 THE COURT: Sustained.

9 BY MS. SAMPSON:

10 Q Let me ask you this. Who called in the welfare  
11 check?

12 A Robert.

13 Q Robert Marshall?

14 A Marshall.

15 Q And that welfare check was for what?

16 A He had reason to believe that his sister-in-law was  
17 dead.

18 MS. GOODE: Objection, Your Honor.

19 THE COURT: Sustained.

20 BY MS. SAMPSON:

21 Q Based on what he stated, they did a welfare check?

22 A That is correct.

23 Q And based on that information, was that what led you  
24 to believe the Defendant was a suspect?

25 A Yes.

1 Q Okay.

2 A Amongst other things.

3 Q What other things led you to believe that?

4 A Well, the fact that he had told his brother he had  
5 shot his wife.

6 Q Okay. So that's -- what he had stated was part of  
7 what led you to believe he was a suspect, he, the  
8 Defendant?

9 A Correct.

10 Q Did you have any idea -- what information did you  
11 have about any vehicles he might have been in?

12 A Well, the vehicle was missing, not there. And as I  
13 understand it, that was primary transportation for Doris,  
14 it was her vehicle. That was confirmed by family members  
15 that were there and said the vehicle was gone. And Joe  
16 Marshall was gone as well, Mimi Joe.

17 Q So the Defendant was not there?

18 A Not present.

19 Q And where was the car?

20 A It wasn't there.

21 Q What, if anything, did that mean to you?

22 A It meant that the potential suspect was either still  
23 operating that vehicle in the area or had fled. That  
24 subject was maybe in the vehicle down the road. We had a  
25 number of -- a couple of scenarios are going through my

1 head. We had heard --

2 MS. GOODE: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MS. SAMPSON:

5 Q But at this point, you believed he was to be a  
6 suspect?

7 A Absolutely.

8 Q Okay. Based on that, what did you do?

9 A Well, at that point, we got a good description of  
10 Mimi Joe Marshall, the vehicle, the idea that he was  
11 potentially still armed. We put a BOLO out at that point,  
12 and that's a precautionary matter for law enforcement that  
13 may encounter him in the next near future, but also to  
14 have a BOLO put out for other agencies in the area to be  
15 looking for the subject and possibly the vehicle he was  
16 operating.

17 Q How long did you stay on the scene?

18 A I was on the scene until Doris was removed from the  
19 scene.

20 Q What did you do at that point?

21 A At that point, I had already learned that Mimi Joe  
22 had been apprehended at Tony's Lounge.

23 Q And you weren't part of that apprehension or were  
24 you?

25 A Well, I mean, I'm coordinating it. I'm hearing it.

1 When the report came over from road units that they were  
2 out with him, I quickly went direct with that deputy and  
3 said, Hold what you got. Don't move the car, don't do  
4 anything. I was told that the weapon, the shotgun was in  
5 the vehicle still. They could see it. I said, Fine.  
6 We'll tow it in place. Don't touch the vehicle. So they  
7 took him into custody. I said, Transport him to  
8 headquarters.

9 Q Was he transported?

10 A He was.

11 Q Okay.

12 A And then I went to headquarters, assuming the vehicle  
13 was being towed as per my wishes back to headquarters to  
14 put in the garage.

15 Q Was the vehicle towed?

16 A As I understand it, it was.

17 Q So what was the next step you did?

18 A At that point, I got to headquarters, conversed  
19 quickly with Sergeant Caldwell, read a written statement  
20 from both Robert Marshall, Sr., that would be his brother,  
21 and his nephew, Robert Marshall, to kind of get an idea of  
22 what Mimi had told them and what they had seen or  
23 observed. At that point, I went and sat down and  
24 interviewed Mimi Joe Marshall.

25 Q And before you talk to him, is there anything that

1       you do?

2       A     Yes, I advise him of his right to counsel, his  
3       Miranda warning.

4           MS. SAMPSON: May we approach, Your Honor?

5           THE COURT: Sure.

6           (There was a bench conference.)

7           MS. SAMPSON: May I approach the witness, Your Honor?

8       BY MS. SAMPSON:

9       Q     I'm going to show you what's been marked as State's  
10       Exhibits 1 and 3 and ask if you recognize those?

11       A     I do.

12       Q     And what is State's Exhibit No. 1?

13       A     The first one is going to be the Richland County  
14       interrogation advice of rights form.

15       Q     And what's State's Exhibit No. 3?

16       A     A typed statement from Mimi Joe Marshall.

17       Q     And do those fairly and accurately depict them the  
18       way they were back when you did in August of 2015?

19       A     They do.

20           MS. SAMPSON: At this time, Your Honor, we'd ask to  
21       admit State's Exhibit Nos. 1 and 3 into evidence as noted?

22           MS. GOODE: No objection, Your Honor.

23           THE COURT: Without objection.

24           (WHEREUPON, State's Exhibit Nos. 1 and 3 were  
25       admitted into evidence.)

1 BY MS. SAMPSON:

2 Q All right. I'm going to start with State's Exhibit

3 No. 1. Can you explain to the jury what that is?

4 A Yes. This is a -- you may have seen this earlier in  
5 the trial. This is going to be a standard sheriff's

6 department interrogation advice of rights, Miranda.

7 You've seen that on television. It's something we read  
8 off the cards. We also sometimes memorize them, probably  
9 not a good idea. What we like to do is read it.

10 What we do is we advise the person that we want to  
11 speak to of their rights. We go through it  
12 systematically, checking it off. Once we do that, we ask  
13 if they would like to waive their rights, meaning would  
14 they like to speak to us without counsel present. If they  
15 agree to do that, sign it off as well and we proceed with  
16 an interview.

17 Q Did you that with Mr. Marshall?

18 A I did.

19 Q How did you do that with him?

20 A First, I identify I'm speaking to Mimi Joe Marshall,  
21 make sure I spell his name correctly, make sure I put the  
22 address, date and time, and where we were. In this case,  
23 we were at 5623 Two Notch Road, which is Richland County  
24 headquarters. They're located off of Two Notch. I put  
25 the date and the time at the beginning. As I go through,

1       you may be able to see it, I do check marks as I read it.

2               Would you like me to read it?

3       Q       Yes.

4       A       Before we ask you any questions, you must understand  
5       your rights. You have the right to --

6       Q       I'm going to interrupt you for just a second.

7       A       Certainly.

8       Q       Do you read each and every one of them and then check  
9       it off or how do you actually do it?

10      A       I read them off one at a time and check them off.

11      Q       So go ahead.

12      A       Before we ask you any questions, you must understand  
13      your right. You have the right to remain silent.

14      Anything you say can be used against you in court. You  
15      have the right to talk to a lawyer for advice before we  
16      ask you any questions and have a lawyer with you during  
17      any questioning. If you cannot afford a lawyer, one will  
18      be appointed for you before any questioning if you wish.  
19      If you decide to answer questions now without a lawyer  
20      present, you still have the right to stop answering at any  
21      time. You also have the right to stop answering at any  
22      time until you talk to a law enforcement.

23              Then I'll say, Do you understand that? And they will  
24      most always say they understood. And when they say they  
25      understood, I'll say, Fine, sign. In this particular

1 case, I witnessed it and in this case, I had Sergeant  
2 Caldwell present, so I had him sign it, as well.

3 Then we proceed to the next part, that's the waiver  
4 of rights. That goes as follows: I have read this  
5 statement of my rights and understand what my rights are.  
6 I am willing to talk and answer questions. I understand  
7 and know what I am doing. No promises have been made to  
8 me and no pressure or coercion of any kind has been used  
9 against me. Sometimes I have to define coercion to folks,  
10 and I do that by saying there's no reward and there's no  
11 punishment for not talking to me. You're doing this of  
12 your own free will and accord. There's not going to be  
13 any pressure on you. And folks understand that we're not  
14 coercing them to do that.

15 If they agree to that and want to speak to us, then  
16 we again sign. In this case, I was able to have it  
17 witnessed and I had Mr. Marshall sign and then we proceed.

18 Q Did you ask him any additional questions?

19 A Yeah, it's something I've done and I can't take  
20 ownership of it. I learned it from a more experienced  
21 person years ago. One of the things I like to do is ask  
22 somebody can they read and write. There's no shame in  
23 that. If they can't, I need to know that. And so, he  
24 said he could. And I asked, What's the highest level of  
25 education you've achieved? In varying degrees when I deal

1 with people, what I deal with. In this case, he said he  
2 had finished the sixth grade and that he understands what  
3 I said. So I make sure we go through this systematically  
4 so he understands what we're talking about.

5 Q Okay. And while you're doing this, did he ask any  
6 questions to clarify anything?

7 A No.

8 Q Did he ask to speak to a lawyer first?

9 A No.

10 Q Once you talked to him -- once you get him to sign  
11 that, what was next step that you did?

12 A At that point, I started a conversation with Mimi Joe  
13 Marshall. And, you know, at this point, I've already  
14 gotten some information. I've already -- like I said,  
15 I've reviewed the statement he gave his brother and that  
16 he gave his nephew. I've been to the scene. I've taken a  
17 good look at the scene, so I know what was there and what  
18 wasn't there.

19 So I start eliminating the obvious. You know, this  
20 up here was not a suicide. If it was, someone had removed  
21 the weapon. This was not a gun cleaning accident. There  
22 was no materials laying around like somebody was cleaning  
23 a gun. It certainly didn't look self-inflicted. So  
24 whatever happened here, someone had done it and taken the  
25 weapon with them.

1           At that point, I also knew that he had already told  
2 both his nephew and his brother that he had shot Doris.  
3 And in the statements they provided --

4       Q    I don't want you to go into what they talked to you  
5 about?

6       A    Fair enough.

7       Q    But based on that information, why is that  
8 information important to you before you speak -- to have  
9 that information before you speak to the Defendant?

10      A    Well, I know I have a line of questioning that I  
11 would like to get to. In this case, you know, I think the  
12 suspect information was pretty well established. We knew  
13 who we were looking for. We maybe need to know why, you  
14 know, and maybe know some more things.

15      Q    As you're sitting there with him, I believe you  
16 already said this, but Caldwell was also there with you?

17      A    Yes. In a situation like this, we like to have a  
18 witness in the room with us. And so at that point,  
19 Sergeant Drew Caldwell was in the room with me as I began  
20 to question Mimi Joe.

21      Q    Anyone else in there?

22      A    No.

23      Q    So while you're questioning him, what is his demeanor  
24 like?

25      A    Solemn, you know, but he would talk to us. He seemed

1       sober and alert, but was very forthcoming when I asked him  
2       questions. There was no -- I didn't see any hesitation  
3       from him.

4       Q     And I interrupted you, but you start a conversation  
5       with him. Is it immediately question and answer? How did  
6       you do that?

7       A     No, you learn in this -- you do this job long enough,  
8       you learn that sometimes you do need to talk to somebody,  
9       kind of norm them in a way. I'm not a psychiatrist or a  
10      psychologist, but you want to know -- kind of let's hear  
11      how they talk. What's the cadence of their speak. Do  
12      they understand the way I'm talking? You know, am I  
13      talking too fast? Am I using words they don't understand,  
14      you know. You want to just kind of norm them a little  
15      bit, find out a little bit about them. I usually go about  
16      it, you know, where are you from, how long you lived here,  
17      you know, and use some sort of -- you know, what do you do  
18      for a living, that kind of thing. You kind of learn a  
19      little something about them.

20     Q     Did you do that with Mr. Marshall?

21     A     Yes.

22     Q     And this norming, as you called it, or conversation,  
23     do you put that in a written statement?

24     A     No.

25     Q     So did he give you any indication as to why this

1 happened?

2 A Yes.

3 Q What did he tell you?

4 MS. GOODE: Objection, Your Honor.

5 THE COURT: What's the objection?

6 MS. GOODE: I'm not sure if we -- can we approach?

7 THE COURT: Sure.

8 (WHEREUPON, a bench conference was held.)

9 THE COURT: All right. Ladies and gentlemen, step  
10 back to your jury room. Do not discuss the case. Keep an  
11 open mind. We'll be right back with you.

12 (WHEREUPON, the jury left the courtroom at 2:31  
13 p.m.)

14 THE COURT: All right. Ask him the last question you  
15 just asked him.

16 BY MS. SAMPSON:

17 Q I believe my question was why -- did he indicate to  
18 you -- or what did he tell you as to why this happened?

19 A He started off saying that the gun had gone off  
20 accidentally as he got it out of a closet. I explained to  
21 him there's no closet in the living room, try again. He  
22 said, I shot her at the front door. I knew he had not  
23 shot her at the front door. The blood evidence was  
24 overwhelming, what I saw at the scene, that didn't happen.  
25 She had been shot sitting in a sofa with her lunch bag

1       beside her feet.

2       Q       So then what did you do?

3       A       At that point, I said, Were you arguing with her,  
4       Joe? And he said, Well, we were talking at each other. I  
5       said, Okay, is that an argument? Because at that point, I  
6       had heard that he mentioned -- with the jury not present,  
7       I can explain. He told his brother that he had a burning  
8       in his private parts and that he suspected Doris had given  
9       him a sexually transmitted disease.

10      Q       Did you ask him about that?

11      A       I did.

12      Q       What did he say?

13      A       He denied that at this point.

14      Q       And that's in his written statement?

15      A       That is in his written statement. He also stated  
16      that there was a problem with the front tire of the car  
17      that he had recently had repaired for her and that he was  
18      concerned for her safety and that she was not calling him  
19      back in time. And I said, Explain that. He said he knew  
20      what time she left the food service and stated that he  
21      could not get her on the phone. I said, Did that anger  
22      you? Did that make you upset? He said, Well, we were  
23      talking at each other about that. I said, Was it about  
24      that? And that's why I gathered, perhaps, there had been  
25      an argument.

1           At that point, I had already learned from his nephew  
2           who said they had been arguing because Mimi Joe told his  
3           nephew that, as he told his brother that he had shot his  
4           wife, that they had been arguing. So I assumed there may  
5           have been some sort of quarrel in the house.

6           I said explain to me how a weapon accidentally goes  
7           off, but yet, it's pointed at her face? And he says, She  
8           did that (indicating). I said, So that means you had it  
9           in her face? He said, Well -- I said, Well, if she did to  
10          do that, that means the barrel of the gun was in her face.

11         Q     Did he answer that?

12         A     Yeah, he said it went off at that point that she  
13               grabbed the gun. I said, Explain to me how she grabbed  
14               the gun. And then he swatted, he swatted away. So I  
15               said, The gun was in her face? He said, Well, she grabbed  
16               the gun.

17         Q     And that's in his written statement?

18         A     Yes. So at that point, I knew there had been either  
19               some sort of argument or quarrel in the house. Obviously,  
20               I had spoken to both Amanda and Tamieka, who stated that  
21               there had been some domestic violence in the past.

22         Q     And we're not going to talk about that.

23         A     That's fine. I wanted to flesh out the reason why I  
24               go down that line of questioning.

25         Q     Well, let me ask you this, getting back to what's in,

1 his actual statement, did you ask him about having the gun  
2 in his hand the whole time?

3 A Yes.

4 Q What did he tell you about that?

5 A He did.

6 Q What did he say? Let's have the specifics so we can  
7 get this out of the way?

8 A All right. You want to go through it?

9 Q Go on Page two, the third question -- fourth  
10 question.

11 A Tell me what happened in the front room with your  
12 wife?

13 Q You can start there, that's fine.

14 A Question: Tell me what happened in the front room  
15 with your wife before the gun went off?

16 Answer: I told her when she came in the house that I  
17 had just called her job. She was a little late and I was  
18 worried about her. I just had the car's front end  
19 alignment fixed with a new tire for her safety. She comes  
20 in with an attitude. I told her I was worried about her.  
21 She says, quote, you got no reason to worry about me,  
22 unquote. She said it with an attitude. We were just  
23 talking at each other.

24 Q Next question?

25 A Next question. Question: Did you have the gun in

1 your hand the whole time?

2 Answer: My gun was lying against the wall the whole  
3 time. When I decided to check out around my trailer with  
4 my shotgun, Doris was coming in the front door. We are  
5 right there at the same time. She comes in the door and  
6 that is when I told her I was worrying about her. That is  
7 when the gun went off. She had just touched the gun when  
8 it went off. She took the gun and threw it up.

9 So I asked him, What's threw it up mean? And he said  
10 the gun -- obviously, the barrel was in her face and she  
11 did this. I believe he's got the sequence out of order  
12 because he's already had the conversation with her prior  
13 and then, suddenly, he needed to do some sort of security  
14 check around the trailer.

15 Q I want you to go back to the first question, the very  
16 first question on that page.

17 A First question?

18 Q Uh-huh.

19 A Question: Joe, we found your wife deceased in your  
20 home this morning. Can you tell me what happened?

21 Answer: When she came home from work last night, I  
22 had my gun in the front room. I did this because the  
23 trailer park is an unstable place. She came at me. She  
24 grabbed the gun. It went up and it went off. I grabbed  
25 her. I had her head in my hands. I let her down in the

1 chair. I knew she was dead. I should have handled it  
2 differently -- in a different way, the way I did not  
3 handle it. I should have killed myself.

4 Q All right. So, all that's in this written -- and you  
5 were doing it differently telling me what he said, but you  
6 did put that in writing?

7 A Correct.

8 Q Now, I'll go back to that. The next question down  
9 was, So you were standing up facing the front when the  
10 shooting happened? Can you start there?

11 A Question: So you were standing up facing the front  
12 door when the shooting happened?

13 Answer: Yes, sir.

14 Question: What time was this?

15 He said, I would say about 10:00 to possibly  
16 11:00 p.m.

17 Q And then you talked to him about where you went after  
18 the shooting?

19 A Correct.

20 MS. SAMPSON: I don't think that -- is that an issue?

21 MS. GOODE: No.

22 MS. SAMPSON: Okay. I'm just trying to get through  
23 the stuff that was an issue really quick. We are not  
24 going to mention -- and I'm saying this so the jury is not  
25 here so I can tell him. Where it says Joe, have you ever

1       been locked up for CDV in the past? We're going to redact  
2       that, so do not say that.

3       A     I'll even scratch it off.

4       Q     I will do that. Don't touch that. We will do it.  
5       You ask him what about kind of gun it is. You then ask  
6       him about talking to his brother?

7       A     I did.

8       Q     Can you read that, please?

9       A     Question: Did you tell your brother that the gun  
10      accidentally went off when you took it from a closet or  
11      that she was cheating on you and may have given you a  
12      venereal disease.

13            He said, No, I did not.

14            But previously, he had in a statement to --

15      Q     That's what the brother say, I understand that. And  
16      then go to the next set of questions.

17      A     Question: Are you sorry you shot your wife?

18            Answer: I will tell you how sorry I am. I was going  
19      to kill myself today. I was going to put that shotgun  
20      under my throat and pull the trigger.

21            Continue?

22      Q     Uh-huh.

23      A     Question: Joe, are you a convicted felon?

24            Answer: Yes.

25            Question: Is that for shooting in the past?

1 Q And we need -- I'm going to say we need to redact  
2 that, so do not say that again.

3 A Okay.

4 Q Next one?

5 A Question: So you were aware you were not supposed to  
6 have a firearm?

7 Absolutely.

8 Question: How did you get the shotgun?

9 He said, It belonged to my son who is dead.

10 MS. SAMPSON: That's all in the statement that I've  
11 already got in, except we'll redact those two parts out.

12 MS. GOODE: The issue I have, Your Honor, is with the  
13 question regarding the venereal disease, that's  
14 information he got from Robert, Sr. That testimony has  
15 not been offered to the jury at all. I think that this is  
16 essentially hearsay in the question that Investigator  
17 Clarke got from Robert, Sr. And he's asking him, you  
18 know, did you tell your brother this? And that  
19 information has to come from somewhere, but we don't  
20 have -- I just -- this question -- or that she was  
21 cheating on you and had given you a venereal disease,  
22 that's information he got from Robert, Sr., and there  
23 hadn't been any testimony.

24 THE COURT: Okay. Here's the rules. Are you ready?

25 THE WITNESS: Yes, sir.

1 THE COURT: Okay. You can't talk about the domestic  
2 violence or any history of domestic violence. Do you  
3 understand that.

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Read me the questions about the  
6 convicted felon again at the end or just let me see it,  
7 one of the two.

8 MS. SAMPSON: I can give you mine. It's not written  
9 on. It's the last page.

10 THE COURT: Okay. So you see where it says, Joe, are  
11 you a convicted felon? Yes. Is that for shooting in the  
12 past? Yes. Those two questions are out.

13 THE WITNESS: Yes, sir.

14 THE COURT: The question: So you were aware you were  
15 not supposed to have a firearm? Absolutely, that question  
16 is fine, and then the last question is fine. All right.  
17 The information about from Robert Marshall, Sr., that's  
18 admissible.

19 MS. SAMPSON: Okay. Do you want me mark -- it's in  
20 the written statement, so do you mean me to redact that,  
21 too?

22 THE COURT: What?

23 MS. SAMPSON: That question is in the statement  
24 that's already been introduced.

25 THE COURT: I know, I just said it's admissible.

1 MS. SAMPSON: Oh, I'm sorry. I misunderstood. I  
2 thought you said you didn't want it in.

3 MS. GOODE: As far as the last page goes, Are you a  
4 convicted felon, that's redacted.

5 MS. SAMPSON: (Nods in the affirmative.)

6 MS. GOODE: And the very next question for the  
7 shooting.

8 THE COURT: Okay. Are you good?

9 THE WITNESS: I think so.

10 MS. SAMPSON: I'm marking it out so we don't say it.

11 THE WITNESS: No mention of CDV in any way, shape, or  
12 form.

13 MS. SAMPSON: I just marked it out. I'll show you.

14 THE WITNESS: And no mention -- okay.

15 MS. GOODE: For efficiency, I'll come up here.

16 MS. SAMPSON: The convicted felon is out.

17 MS. GOODE: And the next question.

18 THE WITNESS: No, venereal disease is in.

19 MS. SAMPSON: So is the shooting in your past, that's  
20 out?

21 THE COURT: Yes.

22 MS. SAMPSON: And the question about him being a  
23 convicted felon is out?

24 THE COURT: (Nods in the affirmative.)

25 MS. GOODE: But next one about not being able to

1 carry a firearm is in.

2 THE COURT: The one that says are you aware you can't  
3 own a gun, that's fine.

4 MS. SAMPSON: Okay. So I have redacted -- it's on  
5 the last page, question number two and the answer and  
6 question number three and the answer. And then I redacted  
7 the CDV question. And we'll do it better. I just didn't  
8 want him to accidentally say it so I darkened it out so  
9 nobody can read it.

10 THE COURT: Okay. Bring them back in, Mr. Dye.

11 (WHEREUPON, the jury enters the courtroom at 2:42  
12 p.m.)

13 THE BAILIFF: The jury is seated, Your Honor.

14 THE COURT: All right. Okay.

15 MS. SAMPSON: Thank you.

16 CONTINUED DIRECT EXAMINATION

17 BY MS. SAMPSON:

18 Q All right. So -- I have no idea where we stopped.

19 All right. So he was -- you were talking to him about  
20 what had happened and you were explaining to us what he  
21 said happened -- why this happened. I think that's it.  
22 Is that correct?

23 A Well, to kind of bring it back again to where we  
24 were, there's information we now know that's irrefutable.

25 Q And I don't want you to talk about what anybody told

1       you.

2       A     Okay.

3       Q     I just want you to go to what he told you.

4       A     Right. At that point, we start questioning him  
5 specifically about the event that we want to talk to him  
6 about, obviously, the killing of Doris. And so, at that  
7 point, we start asking a series of questions.

8       Q     And just so the jury understands the process, do you  
9 ask them the questions and then immediately do the written  
10 statement?

11      A     It's -- we don't -- in Richland County, we don't  
12 record -- video or audio our interviews. I'm going to be  
13 one of the first investigators to go on record to say I  
14 wish we did because it eliminates this process right here.  
15 I think it's perfect for transparency, but it's also  
16 perfect -- it helps all parties involved in working that  
17 process through, so it's kind of a hodgepodge.

18           A question will be asked, which may then begin  
19 another question. We'll say okay, let's go that route and  
20 see where that goes. But many times, there are some basic  
21 things -- in this case that I needed or felt were  
22 important and that was, did you, in fact, Mimi Joe  
23 Marshall shoot your wife with the shotgun. I wanted that  
24 answer. Where is the shotgun? I had that answer already  
25 because the shotgun was in the car that we found as he was

1 coming out of Tony's Lounge. So some of this stuff had  
2 already been done. Some of these questions had already  
3 kind of answered themselves. So then we really get to I  
4 kind of wanted to go the route -- it's important at this  
5 point that this woman has been killed. Why?

6 Q Okay. So I want to stop you. So, initially you  
7 asked him why or what happened this morning and what did  
8 he tell you? And you can refer to his written statement.

9 A I think that should probably be the way to do it.

10 Q Page 2.

11 A Yes, ma'am. In my statement, I said, here's my  
12 question, Joe, we found your wife deceased in your home  
13 this morning, can you tell me what happened?

14 His answer was, When she came home from work last  
15 night, I had my gun in the front room. I did this because  
16 the trailer park is an unstable place. She came at me.  
17 She grabbed the gun. It went up and it went off. I  
18 grabbed her. I had her head in my hands and I let her  
19 down on the chair. I knew she was dead then. I should  
20 have handled it a different way, the way I did not handle  
21 it, I should have killed myself.

22 Q Were you able to -- was the -- what was next thing  
23 you did?

24 A Well, at that point, I go, Okay, well, let's talk  
25 about that. Let's unpack that a little bit. Where is the

1 gun? First, he told me it was in a closet. I had been to  
2 the home. I had been there when we took Doris out of the  
3 home. I said, There's no closet in that living room, Joe.  
4 What closet are you referring to?

5 He said, No, I shot her at the front door. I knew  
6 that was also not true simply because the evidence did not  
7 support that in any way. She clearly had been sitting on  
8 a sofa with her lunch bag beside her foot and had been  
9 shot in the face at close range with a shotgun. That's  
10 where she was killed instantly.

11 Q So then on the statement, what's the next thing you  
12 have written down?

13 A I said, question: What do you mean you should have  
14 handled it a different way?

15 Answer: I should have called y'all first.

16 Q Then what's the next thing you asked him?

17 A On the statement?

18 Q Yes, sir.

19 A Question: Tell me what happened in the front room  
20 with your wife before the gun went off?

21 Answer: I told her when she came in the house that I  
22 had just called her job. She was a little late and I was  
23 worried about her. I had just had the car's front end  
24 alignment fixed with a new tire for her safety. She comes  
25 in with an attitude. I told her I was worried about her.

1 She says, quote, you've got no reason to worry about me,  
2 unquote. She said it with an attitude. We were just  
3 talking at each other.

4 Q And what, if anything, did he indicate to you as to  
5 whether he was angry or not with her?

6 A I said, Well, were you guys arguing? You know,  
7 what's going on here. He said, Well, we were talking to  
8 each other. Well, people express things different ways  
9 and you learn syntax and how people like to talk. You  
10 know, over the years, you learn different things. I said,  
11 Explain that to me, talking at each other.

12 He says, You know -- and he didn't say we were  
13 arguing or we were quarreling. He just made it clear that  
14 they were having a conversation.

15 Q Okay.

16 A Okay.

17 Q And the next thing you asked him about where and  
18 having the gun. What was his answer or what did he tell  
19 you about that?

20 A Question: Did you have the gun in your hand the  
21 whole time?

22 His answer was, My gun was laying against the wall  
23 the whole time. When I decided to check out around my  
24 trailer with my shotgun, Doris was coming in the front  
25 door. We are right there at the same time. She comes in

1 the door, that is when I told her I was worried about her.  
2 That is when the gun went off. She had touched the gun  
3 when it went off. She took the gun and threw it up.

4 So I asked him, What does throw it up mean?

5 And he states, did this.

6 Q Just waves his hand in front of his face?

7 A Swiped his hand. So I said, So the barrel was  
8 obviously was in her face?

9 He pushed the gun away. And that's when he said it  
10 went off.

11 Q You said you asked him about the gun being pointed in  
12 her face. Did he ever answer that yes or no?

13 A No, he would say she grabbed the gun.

14 I would say, What do you mean she grabbed the gun?

15 She threw it up.

16 What does throw it up mean?

17 He would do this.

18 So I would say, The barrel was in her face, the  
19 barrel was pointed at her? And nothing.

20 Q So never got a definitive answer?

21 A Never got yes, I pointed the gun at her face.

22 Q And you then asked him to explain her location on the  
23 couch?

24 A Yes. I asked the question, question: Joe, we found  
25 her sitting on the couch. Can you explain her location?

1           Answer: She was standing on the side of the couch  
2 when the gun went off. I held her by the face and laid  
3 her on the couch.

4           Obviously, there was no evidence to support that in  
5 any way, shape, or form.

6       Q     Did he give you an indication as to what time he  
7 thought this happened?

8       A     Sometime between 10:00 and 11:00.

9       Q     Where did he tell you he went after the shooting?

10      A     He said he left. And in the statement, I asked him,  
11 Where did you go after the shooting?

12           He said -- his answer was, I left there and went to  
13 Hopkins School. There is a long dirt road there. I  
14 thought about it. I stayed there a long time. I had the  
15 gun in my hand. I was going to do myself in. I stayed in  
16 the car and fell asleep. I woke up that morning. I drove  
17 to my brother's house and told him what had happened. I  
18 left there and went to Junior Reese's house. I parked my  
19 car in the yard. I dozed off. A guy named Benjamin  
20 Harris came by on a bicycle and he woke me up. I backed  
21 out and left. I came down 48 and was going to go to the  
22 detention center and turn myself in. I then turned around  
23 and went back towards Hopkins. I then went to Tony's  
24 place where they got me.

25      Q     And Tony's place would be?

1 A Tony's Lounge in Congaree.

2 Q Did he admit that he -- what, if anything, did he say  
3 about having the gun when it went off?

4 A I asked him, When the gun went off and shot your  
5 wife, you were holding the gun, correct?

6 Answer: I was.

7 Q You asked him about did both barrels go off. What  
8 was his answer to that?

9 A I said, What kind of gun is it?

10 He said, A double-barrel shotgun. It's a 12 gauge.

11 I said, When the gun went off, did both barrels go  
12 off?

13 He said, No.

14 Q What was the next thing you asked him?

15 A Question --

16 MS. GOODE: Just renew our previous objection, Judge.

17 THE COURT: Overruled.

18 THE WITNESS: Did you tell your brother that the gun  
19 accidentally went off when you took it from a closet or  
20 that she was cheating on you and may have given you a  
21 venereal disease?

22 Answer: No, I did not.

23 BY MS. SAMPSON:

24 Q Then I'm going to ask you about was he aware that he  
25 was not supposed to have a firearm?

1 A Yes.

2 Q And he indicated that to you?

3 A He did.

4 Q And did he tell you who the gun belonged to?

5 A He stated it belonged to his deceased son.

6 Q So after you did this interview, did he -- after you  
7 did the interview, what happened?

8 A Well, after the interview, at that point, we knew we  
9 were talking to the right person. We were talking to the  
10 person that was responsible for the death of Doris  
11 Marshall. At that point, we had started charging  
12 documents in this case, one for the weapon and one for the  
13 murder of Doris Marshall. At that point, we had no  
14 further questions to ask him necessarily. He was  
15 transported to Alvin S. Glenn Detention Center without  
16 really any further issues.

17 Q What, if anything, did you do with the Defendant's  
18 clothing?

19 A We took his clothing. We took his clothing and we  
20 dressed him out in some clothing that we keep at  
21 headquarters, flip-flops and pants and shirts and things.

22 Q I'm going to show you what's been marked as State's  
23 Exhibit 104. What is that?

24 A This would be a box of clothing that we took off of  
25 Mimi Joe Marshall on that day.

1 Q Is it sealed in the manner that it was sealed when  
2 you collected it?

3 A It is.

4 MS. SAMPSON: At this time, Your Honor, we'd ask to  
5 introduce State's Exhibit No. 104 into evidence?

6 MS. GOODE: No objection.

7 THE COURT: Admitted without objection.

8 (WHEREUPON, State's Exhibit No. 104 was admitted  
9 into evidence.)

10 BY MS. SAMPSON:

11 Q All right. Each item is individually wrapped. Why  
12 is that?

13 A Separated just so there's no cross-contamination, but  
14 it's also separate.

15 Q All right. And have these been in here since 2015?

16 A I would assume so. I had no reason to -- I have not  
17 taken them out.

18 Q What would this be?

19 A It's a pair of khaki shorts he had on.

20 Q These were the shorts that the Defendant had on when  
21 you arrested him?

22 A That is correct.

23 Q And this?

24 A Socks.

25 Q And were these on the Defendant when you arrested

1 him?

2 A We did -- they were.

3 Q This one, as well?

4 A As well.

5 Q Was the Defendant wearing a belt?

6 A I don't remember, but that was most likely on him.

7 Q Okay. He did have on shoes?

8 A He did. That would be them.

9 Q This one?

10 A Yes.

11 Q And there are stickers on some of these?

12 A Right.

13 Q Where are those stickers coming from?

14 A That's where we located reddish stains which were  
15 consistent -- I think I may have even questioned him on  
16 that, is that blood from your wife.

17 Q And this is the shirt he had on when he got arrested?

18 A Yes, a tank top.

19 Q And this was in August, correct?

20 A It was.

21 Q Did you all also at some point collect victim's  
22 completing?

23 A Yes, that would have been collected -- that would  
24 have stayed on her as they took Doris from the home. But  
25 to answer your question, yes, we would have collected it.

1 Q I'm going to show you what's been marked as State's  
2 Exhibit 98 and ask you if you recognize this?

3 A I do. This would be an evidence tag. It looks like  
4 it was collected by Melissa Satterfield, who is in the  
5 lab. And it has a list of items that were apparently on  
6 Doris at the time.

7 Q And you've seen these items before, correct?

8 A I have.

9 Q Can you stand up before I show them?

10 A Sure.

11 Q Does it seem to be what was collected in this case?

12 A Yes.

13 MS. SAMPSON: At this time, we'd ask to introduce  
14 State's Exhibit No. 98 into evidence?

15 MS. GOODE: No objection.

16 THE COURT: Ninety-eight without objection.

17 (WHEREUPON, State's Exhibit No. 98 was admitted  
18 into evidence.)

19 BY MS. SAMPSON:

20 Q So these would be the shoes?

21 A Correct. It still has the nonslip covers that she  
22 wore in the food service.

23 Q So the cover, is this what you're talking about.

24 A Correct.

25 Q And that's a what?

1 A It's a nonslip device that sometimes folks in food  
2 service and folks that work in kitchens will put on.

3 Q And this one is actually coming off?

4 A Correct.

5 Q Was this on the Defendant? Is this her bra?

6 A Correct.

7 Q Excuse me, on the victim?

8 A Yes.

9 Q These would be her pants?

10 A Those would be the pants that Doris had on at the  
11 time.

12 Q Still in the same condition as when y'all collected  
13 them?

14 A Yes.

15 Q This is her shirt?

16 A That is her shirt.

17 Q And this is how it was when y'all collected it? It's  
18 cut up now.

19 A Correct. That would have been done per autopsy.

20 Q And was her ID tag collected, as well?

21 A It was.

22 Q And where was that on her body at the time?

23 A That was still on her clothing, actually, there on  
24 her shirt.

25 Q Was her cell phone collected?

1 A It was.

2 Q Where was that?

3 A It was in her pocket.

4 Q I'm showing you what's been marked as State's Exhibit  
5 No. 99. Can you tell me what that is?

6 A One brown lady's wallet.

7 Q And that was located where?

8 A That was taken -- I believe that came from autopsy.

9 Q Do you know for sure?

10 A I'm not 100 percent certain on that.

11 MS. SAMPSON: At this time, we'd ask to introduce  
12 State's Exhibit No. 99 into evidence?

13 MS. GOODE: No objection.

14 THE COURT: Without objection.

15 (WHEREUPON, State's Exhibit No. 99 was admitted  
16 into evidence.)

17 BY MS. SAMPSON:

18 Q And this was her wallet?

19 A Correct.

20 Q I show you what's been marked as State's Exhibit  
21 No. 101, ask you if you recognize that?

22 A That is a receipt from O'Reilly Auto Parts.

23 Q And we've shown a picture of this already that's in  
24 evidence. Do you have any idea where this was located?

25 A I believe this was found in the vehicle.

1 Q And does that accurately reflect it the way it was  
2 received by evidence?

3 A Yes.

4 MS. SAMPSON: At this time, we'd ask to introduce  
5 State's Exhibit No. 101 into evidence?

6 MS. GOODE: Your Honor, I would object on  
7 authentication grounds.

8 MS. SAMPSON: Authentication as to what?

9 MS. GOODE: The actual item.

10 MS. SAMPSON: It is what it -- I'm not sure I  
11 understand the question.

12 (Pause.)

13 THE COURT: Overruled.

14 MS. SAMPSON: Thank you, Your Honor.

15 BY MS. SAMPSON:

16 Q And this --

17 MS. SAMPSON: So 101 is introduced, I'm sorry, Your  
18 Honor?

19 THE COURT: Yes.

20 (WHEREUPON, State's Exhibit No. 101 was admitted  
21 into evidence.)

22 BY MS. SAMPSON:

23 Q And this was found from O'Reilly Auto Parts?

24 A Correct. That's a receipt from O'Reilly Auto Parts.

25 Q And what's the date?

1 A I'm not familiar with their receipts. Hang on a  
2 second. August 15th, 2015.

3 Q What time? Is there a time in the middle of it?

4 A There is. Time of order 10:07 in the morning.

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

6 THE COURT: Yes, ma'am.

7 (Pause.)

8 BY MS. SAMPSON:

9 Q So after you got the statement from Mr. Marshall, he  
10 was arrested at that point, taken to detention. I think  
11 you already said that, correct?

12 A I did.

13 Q What was next thing that you did?

14 A At that point, we start tying up some loose ends,  
15 things we can do that particular day, so we worked on  
16 different parts of the investigation, things that may  
17 still need to be done, things to follow up on, that kind  
18 of thing.

19 Q What did you have to get in order to look inside the  
20 vehicle?

21 A We had to get a search warrant for that vehicle.

22 Q Do you use the same process to do that as you did to  
23 get the search warrant for the home?

24 A Correct. We would fill out an affidavit, take that  
25 affidavit to a judge, explain where we were in this

1 investigation and we felt it could be some evidence. We  
2 want to make sure we process that vehicle. To do that, we  
3 made sure we got a search warrant.

4 Q And I think you testified already, but the gun was  
5 found inside the vehicle?

6 A Yes, the gun was in the vehicle.

7 Q What, if any, ammunition was found in the vehicle?

8 A There were some loose rounds in the vehicle. I think  
9 it was three to be exact. One may have been fired. I'm  
10 not 100 percent certain on that.

11 Q But ammunition was found in the car?

12 A Yes.

13 Q Now, at some point, you were provided information  
14 about Pee Wee and you all were able to flush that out,  
15 correct?

16 A Correct.

17 Q We've already heard from him --

18 A Correct.

19 Q -- so we're not going to go into that. But part of  
20 your investigation was to determine any information about  
21 that?

22 A Yes. That would be a loose end.

23 Q That you were talking about?

24 A Yes.

25 Q All right.

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

2 (Pause.)

3 BY MR. SAMPSON:

4 Q Do you have any idea what time the Defendant was  
5 apprehended at Tony's Lounge?

6 A It is on the arrest report, which I don't have in  
7 front of me to be exact, but it would have probably been  
8 around -- I don't want to venture a guess, somewhere in  
9 the early afternoon.

10 Q If I showed it to you, would it help refresh your  
11 memory?

12 A Yes, yes, to have the exact time.

13 Q Let me ask you this. Do you have your report with  
14 you?

15 A I do.

16 Q Look at your report and see if that helps refresh  
17 your memory as to the time?

18 A The actual incident report?

19 Q Your report that you make, your investigative report?

20 A That would be 1:00 o'clock in the afternoon.

21 Q So he was arrested about 1:00 in the afternoon?

22 A That is correct.

23 Q All right. Were you ever able to see the gun, either  
24 in pictures or in any manner before it was placed into  
25 evidence?

1 A Yes, I saw how it was in the vehicle.

2 Q I'm going to show you what's been marked as State's  
3 Exhibits 102 and 69. Start with 69, do you recognize  
4 that?

5 A I do.

6 Q And what is that a picture of?

7 A That would be a photograph of the actual weapon  
8 involved.

9 Q Does that fairly and accurately depict the way the  
10 gun was when you all received it back in August 2015?

11 A It appears so.

12 MS. SAMPSON: I would ask to introduce State's  
13 Exhibit No. 69 into evidence?

14 MS. GOODE: Without objection.

15 THE COURT: Sixty-nine without objection.

16 (WHEREUPON, State's Exhibit No. 69 was admitted  
17 into evidence.)

18 BY MS. SAMPSON:

19 Q And I'm going to have you look at State's Exhibit  
20 102. Do you recognize that?

21 A I do. That's going to be an aerial shot of Leesburg  
22 Road and Bel-Aire Mobile Home Park.

23 Q Is the victim's home in that shot?

24 A It's obscured by a tree, but there's a little marker  
25 there.

1 Q Don't show it to the jury yet.

2 A I'm sorry.

3 Q Is the area in the photograph?

4 A Yes.

5 Q How about the market -- or the AM/PM store?

6 A Right next door.

7 Q Does that fairly and accurately depict the way that  
8 area looked?

9 A It does.

10 MS. SAMPSON: At this time, we'd ask to admit State's  
11 Exhibit 102 into evidence?

12 MS. GOODE: No objection.

13 THE COURT: Without objection.

14 (WHEREUPON, State's Exhibit No. 102 was admitted  
15 into evidence.)

16 BY MS. SAMPSON:

17 Q Now, you can show it to the jury.

18 A Oh, okay. So there's a tree obscuring the actual  
19 trailer. It's an aerial shot. And this is the AM/PM  
20 Quick stop.

21 Q And that's what we heard about where Pee Wee went?

22 A Correct.

23 Q And State's Exhibit No. 69?

24 A Correct.

25 Q That's the gun as it appeared back then?

1 A That would be the actual shotgun.

2 Q And the tape is kind of coming off now, but that's  
3 the way it was when you received it?

4 A Yes.

5 MS. SAMPSON: That's it. Please answer any questions  
6 the Defense may have.

7 THE WITNESS: Certainly.

8 THE COURT: All right.

9 MS. GOODE: Thank you, Your Honor. May it please the  
10 Court?

11 CROSS-EXAMINATION

12 BY MS. GOODE:

13 Q All right. So you were assigned as the lead  
14 investigator on the case or the primary investigator?

15 A Correct.

16 Q And that would have happened that morning shortly  
17 after the call came in?

18 A Correct.

19 Q And the call came in around 9:00 o'clock in the  
20 morning?

21 A Sounds about right.

22 Q And so that was about the time you would have been  
23 assigned?

24 A Correct. I was asked to come to the scene.

25 Q Okay. And you did go to the scene?

1 A I did.

2 Q And I want to show you what's -- give me just one  
3 second.

4 (WHEREUPON, Defendant's Exhibit No. 13 was marked  
5 for identification.)

6 BY MS.. GOODE:

7 Q I want to show you what's been marked as Defense's  
8 13?

9 A Okay.

10 Q Do you recognize that?

11 A I do.

12 Q Is that a fair and accurate representation of the  
13 scene that day when you were there?

14 A It is.

15 MS. GOODE: I would ask that Defense Exhibit 13 be  
16 admitted?

17 MS. SAMPSON: Without objection.

18 THE COURT: Defendant's 13 admitted without  
19 objection.

20 (WHEREUPON, Defendant's Exhibit No. 13 was  
21 admitted into evidence.)

22 BY MS. GOODE:

23 Q As your -- one of the things you want to do as an  
24 investigator is -- because there's a lot going on, you  
25 want to take notes about what's going on?

1       A     Physically take notes?

2       Q     Well, you want to keep a record of what's going on?

3       A     You could.

4       Q     Because in a death investigation, there is -- there's

5       going to be a lot of people that you're kind of directing?

6       A     Yes.

7       Q     You've got other investigators assisting you?

8       A     I do.

9       Q     And we've heard from, at least, one of those people,

10      that was Investigator Caldwell?

11      A     Correct.

12      Q     Sergeant Caldwell. And you also have several members

13      of the crime scene?

14      A     Yes.

15      Q     And they -- within the crime scene unit, there could

16      be -- I think in this case, maybe four investigators?

17      A     I remember L.T., I remember Stan Richards being

18      there. I remember Melissa Perry being there. I remember

19      Tim Lee being there. I just remember those people

20      specifically.

21      Q     So there's several people doing several different

22      jobs?

23      A     Yes, they move almost an autonomous unit once they're

24      in there.

25      Q     And there were several road deputies that were

1 involved in this case, as well?

2 A Yes.

3 Q And you're kind of the point man?

4 A I become more the collection agent.

5 Q Right, everything comes back to you?

6 A Yes.

7 Q So they are informing you of what they've done?

8 A Yeah, that's fair.

9 Q And what they've found or collected?

10 A Hopefully.

11 Q Hopefully, yeah. And there were several items  
12 collected in this case?

13 A Yes.

14 Q We've seen several items?

15 A Yes, ma'am.

16 Q And quite a few of them are in evidence?

17 A Correct.

18 Q We have the gun, right?

19 A Yes.

20 Q And some shells?

21 A Yes.

22 Q Even the pellets?

23 A Yes.

24 Q And there's several swabs that were taken?

25 A Yes.

1 Q And that would have been done through CSI, through  
2 the crime scene unit?

3 A Yes.

4 Q I mean, we've even got the time sheet in evidence.  
5 We heard Mr. Wider testify, I believe it was yesterday?

6 A I believe so.

7 Q And that was Ms. Marshall's boss?

8 A Correct.

9 Q And he tells us that on the night of the 14th when  
10 she went home, she clocked out at 2215?

11 A I'd have to see it to know that.

12 Q And another item that was collected was Ms. Doris'  
13 cell phone?

14 A Correct.

15 Q It was on her person before she was taken by the body  
16 removal service?

17 A It was on her person. I don't know exactly the  
18 sequence from that point forward.

19 Q Okay. So you're not sure who took it or --

20 A No, I don't know physically who would have taken it  
21 off her body.

22 Q So that would have been done back in August of 2015?

23 A That sequence of the cell phone and the clothing  
24 being removed from Ms. Marshall would have happened then,  
25 yes.

1 Q Okay. And like a lot of stuff in this case, it was  
2 analyzed? It was processed?

3 A Yes.

4 Q And it was analyzed just a couple weeks ago?

5 A I'm not certain about that.

6 Q As the lead investigator, you're not certain about  
7 that?

8 A When you say a couple weeks ago, I don't know the  
9 exact date.

10 Q Okay. And you heard the DNA person yesterday tell us  
11 that she received a request a couple weeks ago to test the  
12 DNA in this case?

13 A In the DNA, yes.

14 Q And the GSR expert testified today, again, just a  
15 couple weeks ago?

16 A Right.

17 Q I believe -- I don't know if it was a couple of weeks  
18 ago, but it was not back in August of 2015 that she  
19 received a request?

20 A No, I don't think that was her testimony.

21 Q It would have been later sometime this year that she  
22 received that request?

23 A I assume so.

24 Q And you didn't make these requests back in August  
25 of 2015?

1 A Which request specifically?

2 Q Any --

3 A And I would probably need to look to know exactly  
4 when those requests were made.

5 Q Any requests to process any of the evidence, the cell  
6 phone, the DNA, the GSR, anything of that nature, there  
7 were no requests made by you back in August of 2015?

8 A I would doubt that, but I don't -- there were things  
9 that would have been done already without my knowledge. I  
10 wouldn't have to say, you know, do this, do that, do that.  
11 There are some things that there is a request asked for,  
12 but I don't know right off the top of my head when exactly  
13 those requests were made.

14 Q Would you follow up on something like that with maybe  
15 other investigators that would make those requests?

16 A What I would do is if the request was made, I would  
17 usually give myself a task somewhere in the database which  
18 would alert me. Because we're working multiple case  
19 loads. This isn't the only case I ever worked on. I can  
20 assure you at that time I was on nights. My guess is I  
21 was managing SVU. I was managing probably eight to 12  
22 active cases in a month easily. So what you do is you  
23 give yourself some reminders so that when that comes back  
24 up, I could possibly follow up on it.

25 Q Right. Like you said, more than one case at a time?

1 A Sure.

2 Q You've got to be able -- that's why in your cases,  
3 you like to make these notes, these reports that you do,  
4 your investigative followup, right?

5 A Right, in somewhat of a sequence, right.

6 Q That way, you remember -- because you remember  
7 generally, but you want to remember what you did?

8 A You have a general idea. You remember some of the  
9 big stuff, but you don't remember some of the minutia. I  
10 mean, you have to lay it out there slowly and just make  
11 sure you hit those things. There's the biggies that go  
12 off. You know, there's a weapon involved. There's a cell  
13 phone involved. There's a fingerprint possibly. I'm just  
14 thinking in general, not just for this case, but in  
15 general, there's those things that go out, blood evidence,  
16 autopsy reports, did we search the vehicle, did we find  
17 anything, did we search the home, did we find anything,  
18 those kind of things.

19 Q Okay. And you generally try to do that in each of  
20 your cases so whenever you come to court, you're able to  
21 recall the information for the jury accurately?

22 A Right. You try to put that in some sort of a  
23 timeline so you can recall that. Keeping in mind that  
24 we're not working in a vacuum here and there are a lot of  
25 moving parts and what you may find important or not

1 important someone else would find important. So you want  
2 to have some peer review by different folks so you can  
3 recover these things.

4 Q You're erring on the side of putting too much in  
5 there?

6 A Well --

7 Q In detail?

8 A -- I try to be as detailed as you can.

9 Q Right. So I want to go through Mimi Joe's statement  
10 when y'all had the chance to sit down and speak with him  
11 about what happened?

12 A Okay.

13 Q And you indicate -- and it's -- on Page 1 of his  
14 statement indicates, basically, that you had to read the  
15 rights to him. Says, Do you understand your rights that I  
16 read to you and you're willing to speak with us?

17 A Yes, that's what I asked him.

18 Q And you asked him, Can you read and write? And he  
19 says, To a point. And that's Page 1?

20 A I don't remember. He says, To a point, yes. Can you  
21 read and write? To a point. Yes.

22 Q And that's when you asked him how far he went in  
23 school and he indicates to the sixth grade?

24 A Correct.

25 Q And you're about 12 years old in the sixth grade?

1 A I don't know. I don't have kids.

2 Q And you typed this statement out. He's not typing  
3 it, right?

4 A Correct. I'm sitting at a computer in an office.  
5 There is a monitor there. Many times, it's turned towards  
6 the person I'm speaking with and I am typing it as we  
7 speak. We do that for a number of reasons. The easiest  
8 one is just so we can edit, you know, is that exactly what  
9 you mean. And if someone says no, that's not what I  
10 meant, I can say, okay, tell me what you mean. Are these  
11 the words. I'm fond of putting in slang, I'm fond of  
12 putting quotations in. I want it to be exactly the same.  
13 I will read it back to someone as they said to it me so  
14 that when they sign this, there's no question, this is  
15 their words, this is how they said it. So in this case, I  
16 am typing this statement as I'm asking, in this case, Mimi  
17 Joe these questions and writing and recording his answer  
18 as I type them.

19 Q And writing and recording, as you said, is not -- the  
20 recording is not done by video or audio recording?

21 A Unfortunately not.

22 Q That's a policy of the sheriff's department?

23 A As I understand it.

24 Q Okay. Because there would be a lot that could be  
25 shown to the jury if there was a recorded or, at least,

1 audio?

2 A I would welcome it.

3 Q Right. So he agrees to speak with you?

4 A He does.

5 Q As you said, he was cooperative, he was forthcoming?

6 A Yes.

7 Q And he told you that he had not been arguing with her  
8 before? On Page 2 of his statement, you ask him  
9 specifically, Had you and her been arguing -- had you and  
10 her been arguing with her before? I imagine that just  
11 means have you been arguing with her before and his answer  
12 is no?

13 A Bear with me. I want to see -- on Page 2?

14 Q On Page 2.

15 A Oh, okay, I'm sorry, at the bottom, okay. Question:  
16 Had you and her been arguing with her before? I could  
17 have done better on my syntax.

18 Q And the answer?

19 A His answer was no.

20 Q His answer was no. And when you asked him when the  
21 shooting -- what time this was, he tells you, I would say  
22 after 10:00 o'clock to possibly 11:00?

23 A Correct.

24 Q He's able to narrow down a timeframe?

25 A That's what he was asked before then.

1 Q I'm sorry?

2 A He asked -- I asked that question before then.

3 Q Right. And that's -- you're asking him in reference  
4 to when this shooting happened?

5 A Correct. And just so we put it in context, the first  
6 question is, So you were standing up facing the front door  
7 when the shooting happened? He said, Yes, sir. My  
8 followup question was, What time was this? And he said, I  
9 would say after 10:00 to possibly 11:00 p.m. And then I  
10 asked him, Had you and her been arguing before?

11 Q And he answered?

12 A He answered no.

13 Q And if we could go to Page 3 of the statement, he  
14 tells you it was an accident?

15 A Where is that?

16 Q Why did you shoot your wife? It was an accident.

17 A Correct.

18 Q And he tells you they had been married 37 years?

19 A He did. It also wasn't lost on me that he had a good  
20 12 hours to 15 hours to figure out what he wanted to tell  
21 me.

22 Q Okay. And he tells you what kind of gun it is, it's  
23 a double-barrel shotgun, 12-gauge?

24 A Correct.

25 Q And I'm not sure if we said this on direct or not,

1 but he tells -- or you ask him, Are you sorry you shot  
2 your wife? That's on the last page. I will tell you how  
3 sorry I am, I was going to kill myself today. I was going  
4 to put that shotgun under my throat and pull the trigger?

5 A Correct.

6 Q And that's under his answer. You typed that out?

7 A Correct.

8 Q And you read this statement back to him?

9 A I did.

10 Q Like you said on direct, this isn't the entirety of  
11 the statement?

12 A No, there's way more questions -- well, there's way  
13 more conversation. And then you just kind of have to  
14 narrow it down. For a number of reasons, you have to  
15 narrow it down. Hence, why I really like video and audio  
16 recording. You narrow it down to the pertinent parts to,  
17 basically, let's move this along.

18 Q And it's to build a kind of rapport?

19 A Sure.

20 Q Get him comfortable answering questions so that you  
21 guys can get to the meat of it?

22 A Correct.

23 Q And again, he was, you said, forthcoming and  
24 cooperative?

25 A Right. There was no real pull on Mimi Joe on this.

1 At this point, I think it was a foregone conclusion we had  
2 the right person we were talking to. There were other  
3 things in motion. Things, I guess, we can't mention, but,  
4 you know, it's just not that sterile. You know, there are  
5 things going on.

6 And at that point, we realized we were talking to the  
7 right person. He knew we were talking to the right  
8 person. And I think at that point, certainly, someone he  
9 had known for a long time was dead at his own hand, so...

10 Q And after you finished with him, Investigator  
11 Caldwell spoke with him again?

12 A Correct.

13 Q You asked him to go speak with Mimi Joe at the  
14 detention center about three days later, right?

15 A I'm not sure I directed him to do that. I think that  
16 was just --

17 Q Okay. And that was to gather information from Mimi  
18 Joe about Pee Wee?

19 A Correct, about Pee Wee.

20 Q And again, he was advised of his rights, but decided  
21 to speak with you guys?

22 A As his testimony showed, I assume that went without  
23 any problems.

24 Q Okay. Now, I want to talk about the car. It was  
25 received by Richland County?

1 A Correct.

2 Q By the crime scene unit?

3 A Uh-huh.

4 Q And the car was released to Tamieka Marshall?

5 A As I understand, yes.

6 Q And that is -- we've heard from Ms. Marshall, that's  
7 Doris and Mimi Joe's daughter?

8 A Correct.

9 Q And you would have given permission to release the  
10 car?

11 A No. At that point, once the search warrant had been  
12 completed and I was aware that it was completed, it's --  
13 these things don't go did Investigator Clarke say we could  
14 do this? Did he say we couldn't do this? I have orders.  
15 No one is sitting there -- you know, I'm not sitting in an  
16 ivory tower waiting to give orders and commands. So what  
17 happened is that vehicle would be released by our vehicle  
18 manager and, most likely, when it was cleared by CSI after  
19 they had done their search warrant.

20 Q So as the lead investigator on the case, no one  
21 checked with you about potentially, you know, this  
22 evidence in the case, the car that he was driving?

23 A Well, what I've done is I have made sure a search  
24 warrant was secured.

25 Q Right.

1 A Given it to CSI to do said search warrant. Many  
2 times, they will let us know they are done with it and  
3 it's, you know, at that point. And then somewhere in that  
4 process, either a family member contacts us, us, in  
5 general, not necessarily me, whatnot, but we knew a search  
6 had been completed of the car.

7 Q And there were some items that were turned in after  
8 the car was released?

9 A Yes, I learned about that later.

10 Q Not a t-shirt, though?

11 A I don't remember, specifically.

12 Q Because the t-shirt had been thrown away?

13 A I remember hearing about that, right.

14 Q And it's roughly about August 18th. That's the last  
15 time, at least, in your notes I have, anyway, that  
16 anything is really done on the case from your end?

17 A Directed personally by me, yes.

18 Q And so that would have been three days after this?

19 A Correct.

20 Q Until --

21 A Well --

22 Q -- we began the processing of certain items and then  
23 you're being contacted about making those requests to have  
24 those items processed?

25 A Yeah, but let me answer your first question just a

1 little bit. You can characterize it that way, but I think  
2 that would be unfair. There's things that -- you could  
3 sit -- in every phone call you make with someone, you  
4 could write down the date, time and nature of that phone  
5 call. I probably make 15 to 20 phone calls a day on  
6 different cases. I would never get anything done if I  
7 wrote everything down.

8 So there are things that are happening after the fact  
9 that are not necessarily being written down. Just because  
10 it didn't get recorded, I spoke to Joe Bob at such and  
11 such a time on such and such a date doesn't mean it didn't  
12 happen. It just meant there wasn't a notable event to  
13 write down.

14 So I think it would be unfair or a  
15 mischaracterization of the process to say everything  
16 stopped on the 18th and I didn't do anything else on this  
17 case, you know, even from that point on, but I don't  
18 remember exactly what I would have done. I would be real  
19 surprised if there wasn't some followups or meetings with  
20 people at headquarters and things like that to talk about  
21 this case for several weeks after the fact.

22 Q If that would have been important enough, that would  
23 have been in your report?

24 A I would have been -- in my opinion -- I mean, I have  
25 to make a call on that. I think we all do in life. We

1 all have to make a call on that, is this something that  
2 needs to be notated.

3 Q Like evidence coming in months after the fact?

4 A If evidence came in months after the fact, that would  
5 be something that would need to be notated. It would  
6 stand to reason it would be something you would want to  
7 notate.

8 Q And that wasn't notated in your file?

9 A Which thing?

10 Q The items brought. I think it's the wallet and the  
11 receipt from Ms. Tamioka Marshall?

12 A No, it wasn't. I own that. That was on me. That  
13 didn't happen.

14 Q As part of your role, I guess, as lead investigator,  
15 you pull some things like driving records or things like  
16 that?

17 A If you need to.

18 Q And you pulled one for Mr. Marshall in this case?

19 A I'll take your word for it. I probably did, yeah.

20 Q I just want to show you this, if you can tell me,  
21 does it indicate on there how tall Mr. Marshall is?

22 A It indicates Mr. Marshall, according to the  
23 Department of Motor Vehicles, is five-seven and 156 on the  
24 date that he got this license.

25 Q Okay.

1 MS. GOODE: Beg the Court's indulgence.

2 THE COURT: Yes, ma'am.

3 (Pause.)

4 MS. GOODE: I don't have any more questions for you.

5 Thank you.

6 THE COURT: All right. Redirect?

7 MS. SAMPSON: Just briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. SAMPSON:

10 Q Investigator Clarke, I want to start with the  
11 statement. Do you still have a copy of it?

12 A I do. Stand by.

13 Q Okay.

14 A I do.

15 Q All right. She asked you about that he stated that  
16 they didn't have an argument, correct? That's what she  
17 just asked you on cross?

18 A Yes.

19 Q Can you show or tell the jury about when he talked  
20 about them talking at each other? Top of Page 2.

21 A Sure. Page 2, that first question?

22 Q First or second, whichever one you want to use.

23 A Okay. Joe, we found your wife deceased in your home  
24 this morning, can you tell me what happened?

25 His answer was, When she came home from work last

1 night, I had my gun in the front room. I did this because  
2 the trailer park is an unstable place. She came at me.  
3 She grabbed the gun. It went up and it went off. I  
4 grabbed her. I had her head in my hands and I let her  
5 down on the chair. I knew she was dead. I should have  
6 handled it a different way, the way I did not handle it.  
7 I should have killed myself.

8 Q I want you to go down not to the next question, but  
9 the following question. Is there any information in there  
10 about whether they argued or not?

11 A Question: Tell me what happened in the front room  
12 with your wife when the gun went off?

13 Answer: I told her when she came in the house that I  
14 had just called her job. She was a little late and I was  
15 worried about her. I had just had the car's front end  
16 alignment fixed with a new tire for her safety. She comes  
17 in with an attitude. I told her I was worried about her.  
18 She says, quote, you've got no reason to worry about me,  
19 unquote. She said it with an attitude. We were just  
20 talking at each other.

21 Q And -- well, I think when I was talking to you, I  
22 asked you about did you try to get any kind of definition  
23 for manner of talking at each other?

24 A Right, just -- obviously, he mentioned she has an  
25 attitude. He's speaking to her. He says she had an

1 attitude. He said it twice. And so he says we were  
2 talking at each other.

3 Like I said, vernacular is different sometimes with  
4 folks. I don't know what that means. You know, I'm  
5 talking with you, I'm talking at you. What does that  
6 mean? So, I wanted to see if that was confrontational. I  
7 wanted to see if this was an argument. I want to see if  
8 this was a heated exchange. But in that answer, he  
9 mentioned the fact that she had an attitude twice.

10 Q And would it be fair to say that there were different  
11 parts of his statement where it had changed?

12 A Yes.

13 Q Now, I want to ask you, she talked about were you  
14 finished doing anything on the 18th. Is it normal for you  
15 to get things weeks, months after this happened and not  
16 put it in the report, such as the autopsy report?

17 A Certainly.

18 Q And do you get it immediately, the autopsy report?

19 A No, I've got three cases right now that I'm waiting  
20 on the autopsy reports that happened in July -- two in  
21 July and one in May.

22 Q She also asked you about having things processed or  
23 tested. Is it out of the ordinary for it to happen in one  
24 month and ask months later or a year later for something  
25 to be processed?

1 A No.

2 Q Does that change the outcome of the evidence?

3 A Not in any way. The evidence is preserved. The  
4 evidence is in the room, in the evidence room. It is now  
5 -- through discussions with different parties, this item  
6 may now be pertinent. We want to make sure this item got  
7 done, et cetera, that kind of thing. The evidence is  
8 there. It's preserved. It's ready to go and it can be  
9 done at any time. Whether we did it on the 18th or the  
10 15th of August of 2015 or whether we did it two weeks ago  
11 has absolutely no bearing on what occurred that day.

12 MS. SAMPSON: No further questions.

13 MS. GOODE: Briefly, Your Honor.

14 RECROSS-EXAMINATION

15 BY MS. GOODE:

16 Q Just to clarify, what he says to you on Page 2, I  
17 should have handled it in a different way. Can you read  
18 that very next line? We're talking about the very top of  
19 the statement, the very next question you asked him.

20 A I asked him, What do you mean you should have handled  
21 it in a different way? He answered, I should have called  
22 y'all first.

23 Q So you clarified that with him, what he meant by  
24 handled it in a different way?

25 A Yes.

1 Q When you asked him, What do you mean you should have  
2 handled it in a different way?

3 A Right. And the clarification was what happened in  
4 the house, not what he should have done with himself or  
5 perhaps...

6 Q He says, The way I did not handle it. I should have  
7 killed myself. Then you say, What do you mean you should  
8 have handled it in a different way. I should have called  
9 y'all first?

10 A Correct.

11 Q That's what he says?

12 A That's what he says.

13 MS. GOODE: No further questions.

14 THE COURT: You can step down.

15 You may call your next witness.

16 MS. SAMPSON: At this time, the State rests, Your  
17 Honor.

18 THE COURT: Ladies and gentlemen, the State has  
19 rested its case in chief. At this point, we have a legal  
20 issue that we have to take up outside of your presence.  
21 You are still not allowed to talk about the case. You are  
22 still to keep an open mind about the case. We'll be back  
23 with you in just a few moments.

24 Everyone else will remain seated, please.

25 (WHEREUPON, the jury left the courtroom at 3:32

1 p.m.)

2 THE COURT: Okay. Any motions?

3 MR. KRZYSTON: Judge, we do have one motion -- well,  
4 we have a couple motions, excuse me. We would renew all  
5 pretrial objections, as well as all objections made during  
6 the life of the trial as well as our mistrial motion. We  
7 would also move for a directed verdict on the basis that  
8 the State has not offered substantial evidence to prove  
9 the element of malice aforethought.

10 THE COURT: All right. Your response?

11 MS. SAMPSON: Your Honor, the law requires not that  
12 there be substantial evidence, but any evidence. It's the  
13 State's position that we have offered plenty of evidence  
14 both in terms of both malice that this was murder, in  
15 terms of the gun being used, him leaving her there 12  
16 hours, not calling law enforcement, fleeing the scene.  
17 All of those things would go towards him acting  
18 unlawfully, having the gun. All of those things, we would  
19 argue go towards murder and as far as malice aforethought,  
20 as well. It's not a substantial, it's a scintilla of  
21 evidence and I believe we're way past that at this time.

22 MR. KRZYSTON: Your Honor, specifically, I would take  
23 exception to the State citing that they proved malice with  
24 the use of a deadly weapon. In a prior conviction, State  
25 v. Belcher specifically finds that to be unacceptable.

1 MS. SAMPSON: For the record, that's presumptive  
2 malice. I wasn't saying that. I was saying that was just  
3 one of the things in terms of everything, not just the use  
4 of the gun.

5 THE COURT: All right. Under Rule 19 of the South  
6 Carolina Rules of Civil Procedure, our courts have set out  
7 the rules for directed verdict motions. At this point,  
8 the standard before me is considering the existence of the  
9 evidence and not the weight of the evidence. The State  
10 has presented sufficient evidence to prove the elements of  
11 the charge of murder to the jury. In that case, there is  
12 sufficient evidence based upon the 20 witnesses that the  
13 State has called in this case and the testimony that they  
14 have given in relation to the incident. And there's  
15 sufficient evidence for the case to go forward to the jury  
16 considering the existence of the evidence and not the  
17 weight of the evidence.

18 Anything else?

19 MR. KRZYSTON: Not from Defense, Judge.

20 THE COURT: Okay. All right.

21 Mr. Marshall, stand up. All right. Raise your right  
22 hand.

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

25 THE COURT: Okay. You can put your hand down.

1           Now, at this time, I need to explain some of your  
2 rights to you. If you don't understand anything I say,  
3 just let me know. If you want me to explain anything in  
4 more detail, just let me know that, too, okay?

5           THE DEFENDANT: Yes, sir.

6           THE COURT: So if you don't understand something, you  
7 can say hey, Judge, that didn't make sense, or explain  
8 that again, or I want to talk to my lawyers. You're not  
9 going to bother me or upset me or frustrate me. I want to  
10 make sure you understand what's going on, okay?

11          THE DEFENDANT: Okay.

12          THE COURT: We have now reached the stage of the  
13 trial where you may present a defense. You have the right  
14 to claim the protections that are given to you by the  
15 Fifth Amendment to the Constitution of the United States  
16 of America. This amendment states in part that no person  
17 shall be compelled in any criminal case to be a witness  
18 against himself. This means that you cannot be required  
19 to testify in this case. You have the right to testify on  
20 your own behalf. However, no one can make you testify.  
21 This is a personal right and no one can waive or give up  
22 this right but you and you alone.

23          If you decide to testify, you will be subject to the  
24 same rules that govern other witnesses and you may be  
25 examined and cross-examined on any relevant issue in the

1 case. In addition, if you have any convictions that  
2 involve dishonesty or false statements or for crimes  
3 punishable by imprisonment for more than one year and I  
4 determine that the probative value of admitting that  
5 evidence outweighs its prejudicial effect to you, the  
6 solicitor may be able to introduce your record to attack  
7 your credibility.

8 If you decide to testify, this decision on your part  
9 must be made freely. It must be made voluntarily and it  
10 must be made intelligently with the knowledge of the  
11 protections that are given to you by the Fifth Amendment  
12 and the consequences of your decision to testify.

13 If you decide not to testify, I will tell the jury  
14 and I will instruct them that they cannot give the fact  
15 that you did not testify any consideration whatsoever and  
16 that there is to be absolutely no prejudice to you because  
17 you did not testify.

18 It is left entirely up to you whether or not you  
19 testify. You may talk with your attorneys or your family  
20 or anyone else, but the final decision is left entirely up  
21 to you.

22 Do you understand everything that I've explained to  
23 you so far?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And prior to today, have you and your

1 attorneys talked about this issue?

2 THE DEFENDANT: Yes.

3 THE COURT: I mean, it's not the first time you've  
4 heard what I --

5 THE DEFENDANT: No, we've been talking.

6 THE COURT: You don't need to tell me those  
7 discussions, but that's something y'all have been talking  
8 about?

9 THE DEFENDANT: That's right.

10 THE COURT: Is that fair?

11 THE DEFENDANT: That's right.

12 THE COURT: Do you have any questions for me about  
13 what I just explained to you?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. Now, do you need any more time to  
16 meet with your lawyers about this issue?

17 MS. GOODE: We just need a few minutes to talk about  
18 it.

19 THE COURT: All right. Let's take a break.

20 Then when we come back in, I'll need you to answer  
21 the question as to whether or not you want to testify,  
22 okay, Mr. Marshall.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Thank you very much.

25 All right. Let's take a 10-minutes break and we'll

1 jump back in.

2 (WHEREUPON, a short break was taken.)

3 THE COURT: All right. Mr. Marshall, did you make a  
4 decision about whether or not you want to testify?

5 THE DEFENDANT: Yes, sir, I sure did. I'd rather  
6 not.

7 THE COURT: Okay. That's fine. Thank you very much.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Do y'all have witnesses you  
10 want to call?

11 MR. KRZYSTON: We do, Your Honor.

12 THE COURT: All right. Bring them in.

13 MS. SAMPSON: Your Honor, before we bring them in.

14 THE COURT: Okay.

15 MS. SAMPSON: It's my understanding that their first  
16 witness is Christopher Robinson.

17 Is that correct, Chris Robinson?

18 MR. HAWKS: That's correct.

19 MS. SAMPSON: Over the break, they explained to me  
20 that they were going to have him qualified as an expert in  
21 firearms, ballistics, blood stain pattern and shooting  
22 reconstruction.

23 MR. HAWKS: Yes, crime scene and shooting  
24 reconstruction, blood spatter analysis and firearms.

25 MS. SAMPSON: My only concern -- and I asked just to

1 make sure I wasn't not understanding, is that we've never  
2 actually had anyone qualified as a shooting  
3 reconstructionist. I do think that would qualify under  
4 the Jones standard to do it outside the presence of the  
5 jury just on that issue, because we've never had that  
6 happen before. Not on the blood stain pattern, not on the  
7 firearm, but solely on the shooting reconstruction.

8 THE COURT: All right. Bring him up here.

9 MR. HAWKS: Your Honor, we can just take that out and  
10 we'll just do crime scene reconstruction.

11 THE COURT: Okay.

12 MS. SAMPSON: Okay.

13 THE COURT: All right. Before we bring the jury back  
14 in, I want to make sure the record is clear on this. So  
15 that the record is clear, I find that every expert called  
16 by the State clearly falls under Rule 702 and its progeny.  
17 Number one, the subject matter testified to by all of  
18 State's experts were beyond any jury's ordinary knowledge.  
19 Number two, the experts had all testified, acquired the  
20 requisite knowledge and skill to qualify as an expert in  
21 the area of their subject matter and the substance of the  
22 testimony was reliable and, in some cases, completely  
23 unchallenged by the Defense.

24 As to the scientific evidence that was introduced, I  
25 find that it was peer reviewed. There was an appropriate

1 application of the method to the type of the evidence in  
2 the case and that the quality control used ensured  
3 reliability and the methods were consistent with  
4 recognized scientific laws and procedures. The State  
5 clearly established and met their burden of showing that  
6 the witnesses possessed the necessary learning, skill  
7 and/or practical experience to enable the witnesses to  
8 give his or her opinion in his or her specific area of  
9 expertise. The Court has clearly performed its  
10 gatekeeping function as it relates to 702 evidence.

11 All right. Bring them in.

12 (WHEREUPON, the jury entered the courtroom at 3:54  
13 p.m.)

14 THE BAILIFF: The jury is seated, Your Honor.

15 THE COURT: All right. Welcome back, ladies and  
16 gentlemen. When we last broke, the State rested its case  
17 in chief. The Defense now has the opportunity to call  
18 witnesses if they want to. You will remember at the very  
19 beginning of the trial, I explained to you that the burden  
20 of proof lies with the State. It's their burden to prove  
21 the guilt of the Defendant to you beyond a reasonable  
22 doubt. The Defense has no burden. They do not have to  
23 put on any evidence or call any witnesses, but they can if  
24 they wish to.

25 All right. At this time, does the Defense wish to

1 call any witnesses.

2 MR. HAWKS: We do, Your Honor.

3 THE COURT: You may call your first witness.

4 MR. HAWKS: May it please the Court. The Defense  
5 calls Christopher Robinson.

6 THE COURT: All right.

7 CHRISTOPHER ROBINSON, after being  
8 duly sworn, testified as follows:

9 THE CLERK: Please have a seat in the witness stand.  
10 State your name for the record.

11 THE WITNESS: All right.

12 THE BAILIFF: Watch your step.

13 THE WITNESS: My name is Christopher Nelson Robinson.

14 DIRECT EXAMINATION

15 BY MR. HAWKS:

16 Q Good afternoon, Chris. How you doing today?

17 A Great.

18 Q I want to start with you telling the jury what you do  
19 for a living?

20 A I'm a private forensic consultant.

21 Q So you own your own company?

22 A I do, Chris Robinson Forensics.

23 Q And what kind of education do you have?

24 A I received my Bachelor of Science Degree in chemistry  
25 from Berry College in Rome, Georgia, in July of 1998.

1 Q And what kind of position have you held?

2 A I began my career in the forensic field at the  
3 Georgia Bureau of Investigation in July of 1998. I worked  
4 there for 10 years as a firearms examiner. I then left  
5 and became the crime lab director for the City of Atlanta  
6 Police Department, where I held that position for  
7 two-and-a-half years. Now, I've owned my own company for  
8 the past over seven years.

9 During my career, I've logged over 15,000 hours on  
10 the comparison microphone and performed over 100,000  
11 forensic examinations. I've had eight armorers courses,  
12 I've been to eight manufacturing plants, and I've  
13 currently worked over 8,000 actual cases.

14 Q Do you have any certifications?

15 A I'm certified in the disciplines of crime scene  
16 reconstruction, gunshot residue analysis, blood spatter  
17 analysis, firearms identification.

18 Q And you've worked in how many shooting cases?

19 A I've worked over 8,000 cases, some of those blood  
20 spatter, gunshot residue, firearms, but in total over  
21 8,000.

22 MR. HAWKS: At this time, Your Honor, the Defense  
23 would ask that Mr. Robinson be certified as an expert in  
24 crime scene reconstruction, blood spatter and firearms  
25 analysis?

1 THE COURT: And firearms what?

2 MR. HAWKS: Analysis.

3 THE COURT: Voir dire?

4 MS. SAMPSON: Not at this time, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, this  
6 witness will be qualified as an expert in the area of  
7 crime scene reconstruction, blood spatter analysis and  
8 firearms analysis. He will be permitted to give opinion  
9 testimony in that area. That doesn't mean you have to  
10 accept his opinion, but it is evidence for you to use in  
11 any way that you see fit and give it the weight and  
12 credibility that you are required to do with each and  
13 every witness that appears before you.

14 MR. HAWKS: Thank you, Your Honor.

15 BY MR. HAWKS:

16 Q So what did you review in this case, Mr. Robinson?

17 A I was asked to review the police reports, crime lab  
18 reports, autopsy reports, all the photographic evidence,  
19 basically, everything that was contained within discovery.

20 Q Did that include Mr. Collins' testing of the gun?

21 A Yes, sir.

22 Q And his report?

23 A Yes, sir.

24 Q And did that include the autopsy report?

25 A It did.

1 Q And the autopsy photos?

2 A Yes, sir.

3 Q And did you also review Mr. Marshall's statement?

4 A I did.

5 Q Let's start off talking about the firearm. Did you  
6 have a chance to look at the firearm yourself?

7 A I did.

8 Q And what kind of testing did you do?

9 A I did a function check of the weapon to ensure that  
10 it was functioning properly, testing the trigger pulls,  
11 measuring the length, the weight, barrel length,  
12 observation of the weapon itself.

13 Q And what did your trigger pull test result in?

14 A The trigger pull for the front trigger resulted in an  
15 average trigger pull of seven pounds. The trigger pull  
16 for the rear trigger measured six and three-quarter pounds  
17 on average.

18 Q And what was the length you measured?

19 A The length of the overall weapon is 44-and-a-half  
20 inches.

21 Q And would you mind stepping down and doing a  
22 demonstration for jury?

23 THE BAILIFF: Watch your step, sir.

24 MR. HAWKS: If you wouldn't mind, make sure not to  
25 point the muzzle at anybody.

1 THE WITNESS: Do you want to move out of there?

2 THE COURT: All right. Mr. Robinson, I need you to  
3 keep your voice up, okay, so the people on the last row of  
4 the jury can hear you and the court reporter can hear you  
5 so we get what you say down accurately.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Thank you very much.

8 BY MR. HAWKS:

9 Q Could you just describe to the jury your impressions  
10 of the firearm?

11 A I think the impressions are pretty much  
12 self-explanatory. The weapon is an older weapon. This  
13 weapon was probably produced in 1949. It's a pre-1968  
14 just because there's no serial number on the weapon. The  
15 first thing would be you can tell it has a Winchester  
16 bullet plate. This is a Stevens 12-gauge, so it has an  
17 incorrect bullet plate on the weapon. You can tell the  
18 receiver is cracked in multiple places on the weapon  
19 itself. You see that it's cracked and then electrical  
20 tape is holding the stock together at some point.

21 When you -- do you see right there what happened?  
22 When I open up this weapon, that cocks the triggers  
23 inside. This is supposed to automatically engage and it  
24 did not; so therefore, it's already unsafe to begin with.

25 The second thing would be when I do engage this

1 safety all the way, do you see what happened just then?  
2 It's not acting as it's supposed to. So when I move the  
3 safety just partially, the weapon will fire, even with the  
4 safety partially engaged. See, if it's all the way to the  
5 rear, then it will finally engage, but if I move it just  
6 off a little bit. So again, this gun is unsafe in my  
7 opinion.

8 Q Thank you. Now, let's go back to the autopsy  
9 information that you reviewed. You read Dr. Durso's  
10 report?

11 A Yes, sir.

12 Q And you looked at the pictures that were provided to  
13 you?

14 A Yes, sir.

15 Q And what did that information tell you?

16 A In my opinion, the shot occurred from a distance of  
17 approximately three to four inches or less. The reason I  
18 say this is because of the expulsion of the brain that you  
19 see in the pictures. That's gas pressure. A shotgun has  
20 a chamber pressure around 12 to 13,000 pounds per square  
21 inch. The shot itself would not cause the brain to leave  
22 the skull. It's the gas pressure that is being driven  
23 into the skull and then it causes the brain -- it forces  
24 the brain out. In the pictures of the scene, you can see  
25 the two parts of the brain in the pictures.

1 Q All right. Does it --

2 A Furthermore, the shot is, according the doctor, front  
3 to back, upwards and left to right. So the shot is,  
4 basically, going upwards.

5 Q If you wouldn't mind stepping down again. I'd like  
6 to, perhaps, do a little demonstration. Could you give us  
7 your opinion of how you think this could have happened?

8 A Based on the blood spatter at the scene, at the crime  
9 scene, and the statement by Mr. Marshall, he says as he's  
10 leaving the scene, she places her hand on the weapon or  
11 she pushes the weapon in some way, shape or form. If my  
12 finger is on the trigger --

13 Will you come over here and be my -- I'll let you  
14 hold the gun so it would be better this way.

15 If he's walking out the door and I'm coming in, if I  
16 were to do anything like this, move the trigger, if I grab  
17 the gun now, we start to divide the way the trigger pulls.  
18 If I pull it, your instinct is to pull back. The  
19 statement is she put her hands on the gun. Was it like  
20 this? Was it like this? But as long as the gun is this  
21 close, based on the blood spatter that you see on the  
22 ceiling, behind the couch, high up on the curtains, it's  
23 not straight across the couch. She's not down on the  
24 couch. Based on the dispersion pattern that you see on  
25 the ceiling, it's an upward shot through the head.

1           Now, if she's seated on the couch -- I'm six feet  
2 tall, she's five-two. So how would the gun get under her  
3 head if she's on the couch. That's not possible. Because  
4 he didn't place the gun on the floor and reach down and  
5 pull trigger, because it's an upward shot. However,  
6 again, if you come back over, he has the gun, I come in  
7 the door. He's holding the gun to go out. And as long as  
8 it's in line with the head, if I move the gun and it goes  
9 off, it would be an upwards shot causing the dispersion  
10 pattern that you see on the ceiling of the blood, brains  
11 and tissue.

12       Q     All right. Let's talk about some of those pictures  
13 now. What does this picture tell you?

14           THE COURT: Whoa, whoa, whoa. Are we looking at  
15 something that's in evidence?

16           MR. HAWKS: Yes, Your Honor.

17           THE COURT: All right. What number is it?

18           MR. HAWKS: That is the last one that we put in. 13,  
19 I believe.

20           THE COURT: Okay. I need to know what number it is.

21           THE WITNESS: This again shows you the parts of the  
22 brain, indicating that the gun had to be very close to the  
23 skull at the time of the shooting. You can see that the  
24 tissue has come down on her pants. She has been shot  
25 standing over here and it drives her onto the couch. You

1 see the spatter pattern. Spatter's all over the ceiling,  
2 on the window behind her. But this is an indication of  
3 the tissue and the brain that you've seen.

4 MR. HAWKS: The next three pictures, Your Honor, from  
5 Defense 2 through 11?

6 THE COURT: Thank you.

7 BY MR. HAWKS:

8 Q And this picture?

9 A Again, this just shows more of the blood spatter.  
10 She falls down after she's shot. You can see the blood  
11 spatter. This has an indication of an upward angle.  
12 These tails are pointing down, so there has to be some  
13 kind of upright trajectory where they came down to -- she  
14 couldn't have been on the couch because the tails are not  
15 pointing in that direction like they're going away from  
16 the weapon. They're coming down, so they have to have  
17 some kind of gravitational arc to them, which means that  
18 the victim had to be upright when the shooting occurred.

19 Q And do you see anything in this area of the picture?

20 A Yes, sir. You see the blood spatter that you see in  
21 this area. You see right here, this is an elongated tail.  
22 These are coming downward, again, showing that she was  
23 upright when she was shot based on those tails.

24 Q So would you call that area a void?

25 A No, I would not call it a void because you see the

1 spatter. If there was a void, there wouldn't be any  
2 spatter there at all. This is a window shade behind her  
3 where it gets shot. Again, the main thing you're looking  
4 at here for me, I know the spatter is a great deal of  
5 pressure exerted onto her head. Based on the shotgun  
6 wound at close range, it just causes a very wide  
7 dispersion. You see even up here on the curtain, it goes  
8 extremely high. This is the dispersion pattern you see on  
9 the ceiling. It starts on this side where the couch is  
10 and it goes all the way across the room.

11 Again, there has to be -- the shot has to be pointing  
12 upwards. If I'm shooting anywhere close just to middle  
13 range across the couch, it would not be an upward  
14 dispersion. It would have to go against physics because  
15 blood is thick, tissue is thick and it's dense. You see  
16 this huge dispersion of pattern. Again, you see nice  
17 tails pointing away, so indicating that the shot had to be  
18 upward.

19 Q Thank you. All right. Just a couple more things  
20 here, Mr. Robinson. What is your opinion of how far away  
21 the shot hit?

22 A I'm telling you it's no more than, I'll say three to  
23 4 inches, possibly even closer than that. You're talking  
24 about gas pressure is what causes that massive trauma. It  
25 basically folded back this flap and folded it straight up.

1 That's bone. That's gas pressure. Once you get to  
2 12 inches, two feet, that gas has time to dissipate.  
3 Therefore, you would not see that kind of extensive damage  
4 once you get past that far. It's gas pressure and that is  
5 the most dangerous.

6 Q And what is your opinion about where she was when she  
7 was shot?

8 A She's at the end of the couch. Again, like we  
9 indicated, he's going out the door. Reportedly, she's  
10 standing at the end of the couch when the shot occurs,  
11 driving her over onto the couch.

12 MR. HAWKS: Beg the Court's indulgence.

13 BY MR. HAWKS:

14 Q Could you describe what you would have done had you  
15 come to this scene and done the blood stain analysis --  
16 blood spatter, excuse me?

17 A What I don't see here, I don't see too many rulers  
18 and what we call strings. I don't believe they did any  
19 stringing. What you do is you take the length of the  
20 blood stain divided by the width and you take the arc  
21 tangent of that. That gives you that angle if the blood  
22 struck that surface. And you can pull a string from that  
23 particular blood spatter to the tail that you see pointing  
24 away and we can pull the strings back to the point of  
25 convergence, which would be the origin of where the blood

1       came from, so that would have given us a true indication.  
2       We could have pulled one from behind her, one from the  
3       couch, a couple from the ceiling and they would have all  
4       come to a point of convergence. But that wasn't done in  
5       this case.

6       Q     In your opinion, is there blood spatter in these  
7       pictures? I know you didn't go to the scene, but is there  
8       blood spatter in the pictures that that could have been  
9       done on?

10      A     Absolutely. I just showed you the tails of the  
11      blood. That's what you're looking for. The tail gives  
12      you directionality. The tails point away from the  
13      direction of the blood flow, so therefore, those tails are  
14      pointing away from where you see the blood letting event.

15      Q     Is it possible to string on something like a couch or  
16      other soft?

17      A     It is. You can still do the length and the width.  
18      You just have to be careful because of the cloth surface.  
19      It absorbs the blood and kind of spreads it out a little  
20      bit. But overall, the length and the width will give you  
21      an idea of -- again, when you're trying to pull multiple  
22      surfaces, you just want to pull back to the point of  
23      convergence.

24             MR. HAWKS: I don't have anything else, Your Honor.

25             THE COURT: Cross-examination?

1 MS. SAMPSON: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. SAMPSON:

4 Q Good afternoon, Mr. Robinson.

5 A Good afternoon.

6 Q We've never met before, correct?

7 A I don't believe so.

8 Q Now, you say that all of this was in your opinion?

9 A Yes, ma'am.

10 Q All right. You're hired by the Defense, correct?

11 A I am.

12 Q How much are they paying you here?

13 A I think I'm going to get paid about 5,000 overall.

14 Q Overall. And when did you first look at the gun?

15 A I looked at it on the 24th of October.

16 Q So last Monday?

17 A Yes, ma'am.

18 Q How long were you here looking at the gun?

19 A About an hour.

20 Q About an hour. And they gave you, you said, some  
21 reports to look at?

22 A Yes, ma'am.

23 Q When were you first contacted about this case?

24 A I would say six or seven months ago.

25 Q Six or seven months ago. How many hours have you put

1 in preparing for this trial?

2 A I would say around 12 to 15 hours.

3 Q Twelve to 15 hours. And then an hour -- does that  
4 include the hour you were here last week?

5 A Yes, ma'am.

6 Q So \$5,000 for 12 to 15 hours and the time that you're  
7 in this room right now?

8 A Yes, ma'am.

9 Q And in your opinion, this happened three to  
10 four inches away?

11 A Yes, ma'am.

12 Q So let's talk about your opinion and how qualified  
13 you are to make it. You stated that you are certified.  
14 Who certified you?

15 A The Henry Lee Institute in Connecticut.

16 Q And how did you get that certification?

17 A I went there and took six courses over the course of  
18 several months, beginner, intermediate and advance crime  
19 scene reconstruction, shooting reconstruction and blood  
20 spatter analysis.

21 Q You just said that was over the course of several  
22 months?

23 A Yes, ma'am.

24 Q So you went there when, what year?

25 A I can't recall. I don't have my CV in front of me.

1 I believe it was 2007, '08, maybe '05, '06, somewhere in  
2 there.

3 Q Would it be fair to say under your CV, it says you  
4 were certified in June of 2005?

5 A Sure.

6 Q You said you got that certification over several  
7 months?

8 A Yes, ma'am.

9 Q Okay. So when did you first get there?

10 A I went up there and took it in March. And I went  
11 back -- you see January, February. I took it in March, I  
12 took it in May, I took it in June.

13 Q So three months?

14 A Yes, ma'am.

15 Q So you got those certifications in three months?

16 A Yes, ma'am.

17 Q Not --

18 A Forty hours a week for six weeks, yes, ma'am.

19 Q That's it?

20 A Yes, ma'am.

21 Q And since -- when was the last time you got any  
22 training?

23 A I would say probably six or seven years ago.

24 Q So according to your CV, your last training was a  
25 shot show in 2010?

- 1 A Yes, ma'am.
- 2 Q And that's just a show?
- 3 A It's a show from all the ammunition manufacturers and
- 4 weapons, yes, ma'am.
- 5 Q So you have no ongoing training on a yearly basis?
- 6 A No, ma'am, I don't have any time for that.
- 7 Q You don't have any time for that. Well, let's talk
- 8 about what you do have time for. You are self-employed?
- 9 A I am.
- 10 Q And you stated at some point, you were employed by
- 11 the Georgia Bureau of Investigations?
- 12 A Yes, ma'am.
- 13 Q You were terminated from that job, correct?
- 14 A Negative. I left the GBI to become the director of
- 15 the crime lab for the City of Atlanta Police Department.
- 16 Q And you were terminated from that job?
- 17 A I was let go from that job.
- 18 Q And you were terminated when?
- 19 A In September of 2010.
- 20 Q And that was after working there for two years?
- 21 A Two-and-a-half, yes, ma'am.
- 22 Q And then you opened your own practice?
- 23 A Yes, ma'am.
- 24 Q How many times have you been qualified as an expert?
- 25 A Six hundred thirty-four today.

1 Q Today is 634?

2 A Yes, ma'am.

3 Q Do you remember testifying back in 2015 in this  
4 courtroom, this courthouse?

5 A Maybe.

6 Q In the case of Michael Juan Smith?

7 A I don't know that.

8 Q Luck Campbell questioned you. You don't remember  
9 that?

10 A Do you know who the attorney was for the defense?

11 Q Aimee Zmroczek.

12 A Yes.

13 Q Do you remember now?

14 A I do.

15 Q Do you remember in that time you said you had  
16 testified 598 times?

17 A Yes, ma'am.

18 Q So today, you said how many?

19 A Six thirty-four.

20 Q So you've testified since that time in the last two  
21 years 36 times?

22 A In two years, yes, ma'am, that's very easy.

23 Q And prior to that, how many times did you qualify in  
24 blood spatter pattern?

25 A I've testified 80 times on average, I believe to

1 date, on blood spatter.

2 Q On just blood spatter?

3 A Yes, ma'am.

4 Q How about on firearms expertise?

5 A Overall, it's going to be -- firearms are covered up  
6 in the blood spatter, so I would say a vast majority, but  
7 634 is for GSR, weapons and blood.

8 Q Okay.

9 A And 520 were for the State.

10 Q Five hundred and twenty --

11 A Before I left the State.

12 Q And you left the State back in 2000 what?

13 A Well, when I left in 2010, it was APD.

14 Q 2010?

15 A Yes, ma'am.

16 Q So most of those were when you were still getting  
17 training?

18 A Sure.

19 Q And most of those were before you went into private  
20 practice?

21 A Sure.

22 Q And most of those were when you were still in a lab  
23 that had to be certified?

24 A Yes.

25 Q Currently, you're not in a lab that has to be

1 certified, correct?

2 A That's correct.

3 Q And your certification doesn't require continual  
4 training?

5 A No, ma'am. I take the CLE test that's -- the  
6 collaborative testing services give testing every year to  
7 these different scientists for their fields. Because I'm  
8 an individual, I have the people who take these tests get  
9 me copies of the test and then I can take the test. And I  
10 don't have to pay for the test because I am an individual.

11 Q Okay. So it's to avoid paying for the tests that you  
12 don't get it?

13 A That's correct.

14 Q Okay. And we've already covered you were terminated  
15 from the Atlanta Police Department?

16 A Yes, ma'am, for administrative -- for buying software  
17 that let two things talk to each other. Yes, ma'am, I was  
18 let go because they said I didn't have authorization to  
19 purchase the software, but I had the signature of my  
20 major, who signed off on the purchase. When the bill came  
21 in for \$34,000, the City of Atlanta was broke, so somebody  
22 had to get let go and it was me.

23 Q And you got let go for that, but that's not what you  
24 sued them for. You sued them for wrongful termination?

25 A Wrongful termination.

1 Q And you said you were terminated because of your  
2 race?

3 A My race and because the two months before I was  
4 terminated, I had an outstanding on my job performance and  
5 two months later, I was let go.

6 Q And again, your suit was for wrongful termination due  
7 to race, not for any of that you just said?

8 A Correct.

9 Q And that suit has subsequently been dismissed?

10 A It was. Suing the city, you know, it's hard to win  
11 that.

12 Q Now, that we've gone over that, are you certified by  
13 the Association of Firearms and Tool Marks Examination?

14 A I am not.

15 Q But the report that you looked at by Investigator  
16 Collins, he is?

17 A Okay.

18 Q And are you certified by the International  
19 Association for Identification?

20 A No, ma'am.

21 Q Unlike Stan Richards, whose report you looked at?

22 A Okay.

23 Q And you're telling us about trigger pull. You only  
24 looked at the gun the one day, back last Monday?

25 A Correct.

1 Q You didn't fire it?

2 A No.

3 Q You didn't look at any of the ammo that was used in  
4 it?

5 A No.

6 Q You didn't look at any of the pellets that were taken  
7 out of it?

8 A No.

9 Q And when you talk about what Dr. Durso did, let's  
10 move on to that. You talked about how you can say that  
11 it's three to four inches away?

12 A Correct.

13 Q You looked at the photographs?

14 A I did.

15 Q Any soot on her face?

16 A The soot doesn't matter. The barrel was 20 inches  
17 long. You're not going to expect to see soot, especially  
18 when you have three to four inches. It's going to burn up  
19 most of the vaporous lead before it even enters her. This  
20 is a shotgun, not a handgun.

21 Q Correct. So my question is no, you didn't see any  
22 soot?

23 A I did not.

24 Q And you said you can say it's three to four inches  
25 based on the approximated wounds. You didn't see the

1 body?

2 A Or less, yes, ma'am.

3 Q You didn't see the body?

4 A I did not.

5 Q You didn't see the wound?

6 A I looked at the autopsy report and the photographs.

7 Q Did you notice in the autopsy report, she said she  
8 had to reapproximate the wounds?

9 A I saw that.

10 Q So she had to make it back up?

11 A She did.

12 Q And that --

13 A That's because of the gas pressure because it  
14 destroyed her head. That's gas pressure, not the pellets,  
15 not the wad. That's the gas. So three to four inches is  
16 as far away as it could be, no further.

17 Q In your opinion?

18 A I'm sure.

19 Q And again, you're basing that on her reapproximation  
20 of the wound, which is based on what she did, not what you  
21 did?

22 A I'm just looking at the overall pictures. I'm  
23 telling you that's what the range is based on the massive  
24 destruction of the cranial ball.

25 Q And you put that in a report?

1 A I did not.

2 Q You did not? Because it's important to make a report  
3 that we all can rely upon?

4 A I was not asked to do a report.

5 Q You were not asked, but you would agree with me that  
6 reports are important?

7 A Sure.

8 Q That we rely upon those?

9 A Sure.

10 Q In fact, you relied upon a bunch of reports?

11 A I did.

12 Q And today, you said Dr. Durso said that the shot was  
13 front to back and upward?

14 A Correct.

15 Q Her report actually says slightly upward, does it  
16 not?

17 A Front to back, upwards, and left to right. That's  
18 what it says on Page 2 of 5. The trajectory to the body  
19 appears to be front to back, upwards, and left to right.

20 Q So you're telling me there's no definition of  
21 upwards?

22 A Upwards. You can tell that it folds the flap of her  
23 skull straight back, so it's going upwards.

24 Q You can tell that from the picture, but you didn't  
25 see the live scene, correct?

1 A Correct.

2 Q Again, she had to reapproximate that? That says that  
3 in her report.

4 A That's due to the damage caused by the gas pressure.

5 Q Again, so the answer to my question is yes, she had  
6 to reapproximate it?

7 A Okay.

8 Q And she noted that she didn't see any satellite or  
9 any patterns from the pellets, which I think you already  
10 admitted?

11 A Correct.

12 Q And when she says upwards, there's no part of this  
13 that says it's directly upwards, slightly upwards, just a  
14 little upwards, it just says upwards?

15 A Correct.

16 Q You would agree with me that could be straight up, it  
17 could be a little up?

18 A No, ma'am, not on the photograph. It is upwards.  
19 You can tell where it folds her skull back. It's going  
20 upward. It goes into her skull and then it forces her  
21 brain out of her skull.

22 Q Again, I'm asking about the report. Is all that that  
23 you just said in this report?

24 A No, ma'am.

25 Q So the report just says upwards. You're taking what

1 she says as upwards and making the rest of it -- you said  
2 it's not in the report?

3 A You look at the photographs as well as the report,  
4 ma'am.

5 Q So, again, the answer to my question is no, it's not  
6 in the report?

7 A It says upwards.

8 Q Okay. And you're not a medical doctor?

9 A I'm not, but I am certified in gunshot wounds through  
10 the GBI. I had to review 1,000 autopsies while I was with  
11 the GBI.

12 Q When did you get that certification?

13 A While at the Georgia Bureau of Investigation by  
14 reviewing autopsies.

15 Q The year?

16 A I started in '98, so from 2000 until 2008 when I  
17 left.

18 Q And you no longer get training on that certification,  
19 correct?

20 A No, ma'am.

21 Q So the last time you got any training would have been  
22 in 2008?

23 A It wouldn't change my training and my opinion if I  
24 took training. I know what it looks like to see a contact  
25 or near contact gunshot wound.

1 Q So you're saying ongoing training isn't helpful?

2 A I didn't say that. I said it's not necessary to take  
3 ongoing training.

4 Q It's not necessary to take ongoing training. All  
5 right. Well, then -- but you're not a forensic  
6 pathologist either?

7 A I'm not.

8 Q That is her field of expertise, Dr. Durso?

9 A It would be.

10 Q And you talked about the gun and the safety. You  
11 have no idea whether the safety was on or off prior to  
12 that gun being held by Mimi Joe Marshall, do you?

13 A I do not.

14 Q And you talked about a lot of what you based your  
15 opinion on was his statement, correct?

16 A No, ma'am. My opinion of the weapon is me looking at  
17 the weapon.

18 Q Oh, I'm sorry. My question was probably not clear.  
19 Not of the weapon, but how this happened?

20 A Correct.

21 Q Was based on his statement?

22 A And the forensics that you see, the blood that you  
23 see.

24 Q But you gave an entire demonstration about how the  
25 gun was pushed or held and all that. That's solely based

1 on his statement, correct?

2 A Correct.

3 Q So if he didn't tell the truth, that could change how  
4 the gun got to her head, correct, because you only used  
5 what he said?

6 A Correct.

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

8 (Pause.)

9 BY MS. SAMPSON:

10 Q Let me ask you, you talked a little bit about this  
11 trigger pull. That was actually the average trigger pull  
12 you would expect to find on a shotgun, right?

13 A It is.

14 Q There's nothing wrong with the trigger pull?

15 A There is not.

16 Q And you went over these photographs and the downward  
17 trajectory and all that. Do you write any protocols for  
18 any certified laboratories?

19 A No, ma'am, not anymore. When I was at the Atlanta  
20 Police Department, I did.

21 Q Back then at the Atlanta Police Department where you  
22 got terminated?

23 A Yes, ma'am.

24 MS. SAMPSON: No further questions.

25 THE COURT: Mr. Hawks.

1 MR. HAWKS: May it please the Court?

2 REDIRECT EXAMINATION

3 BY MR. HAWKS:

4 Q Did you follow your protocols when you were doing  
5 this kind of stuff?

6 A I did.

7 Q Were you paid at the GBI?

8 A I was. I think we're all paid, aren't we? I don't  
9 think anybody works for free.

10 Q Were you paid to testify for the State?

11 A I was, but it was -- yeah, I was.

12 Q How many times did you testify for the State?

13 A Five hundred twenty.

14 Q She talked to you about firing the gun. They didn't  
15 fire the gun in their testing either, did they?

16 A They did not.

17 Q And all the men she told you about, Collins, they're  
18 all here, aren't they? You see them here?

19 A They are.

20 MR. HAWKS: Beg the Court's indulgence.

21 (Pause.)

22 MR. HAWKS: Nothing further, Your Honor.

23 MS. SAMPSON: Briefly, Your Honor.

24 RECROSS-EXAMINATION

25 BY MS. SAMPSON:

1 Q You just said that they didn't fire the gun. You  
2 have the report, right?

3 A I do.

4 Q He fired primer from the gun. Did you not see that  
5 in the report?

6 A I do, I see that right here.

7 Q So he did fire the gun?

8 A He did.

9 MS. SAMPSON: Nothing further.

10 THE COURT: Have a nice day.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Call your next witness.

13 (There was a bench conference in the presence of the  
14 jury, but outside the hearing of the jury.)

15 THE COURT: All right. Ladies and gentlemen, we're  
16 going to stop there for the day. The next couple of  
17 witnesses would push us into kind of a weird timeframe and  
18 I don't like the attorneys to feel constrained about a  
19 timeframe. So what we're going to do is stop right there  
20 for the day.

21 Now, as we take this break overnight, you are  
22 reminded that you are under an oath. You are under an  
23 oath that you made to me, to the lawyers in this case, to  
24 each other, and to yourself not to discuss this case with  
25 anyone in any way, shape, or form, and you are not to do

1 any research on this case in any way, shape, or form.

2 We're going to start tomorrow morning at 9:30. I  
3 apologize, we'll start tomorrow morning at 9:45. I have a  
4 matter completely unrelated to this case I promised some  
5 of the lawyers I would do right at 9:30. I told them to  
6 be here and ready to go. So we're going to knock that out  
7 real quick at 9:30, and then we'll jump right into you  
8 guys at 9:45. So please be here at 9:45. Do not discuss  
9 the case. Keep an open mind. Enjoy your evening. Thank  
10 you very much.

11 (WHEREUPON, the jury left the courtroom at 4:30  
12 p.m.)

13 THE COURT: So you have two more?

14 MS. GOODE: I believe that's it, Your Honor.

15 THE COURT: How long do you think that --

16 MS. SAMPSON: We may be able to stipulate to one of  
17 them.

18 THE COURT: All right. How long you think that will  
19 take? Just ballpark? You know I'm not going to hold you  
20 to it, I'm just trying to get an idea.

21 MS. GOODE: Between the two of them, I can't imagine  
22 it would be more than an hour, hour-and-a-half.

23 THE COURT: And then are y'all going to call reply  
24 witnesses?

25 MS. SAMPSON: I'm going to figure that out, but I can

1 e-mail you in the next half hour.

2 THE COURT: Okay. That's fine. Y'all figure out if  
3 you need to call some reply witnesses so you can have them  
4 ready to go so we don't have to go find them tomorrow.

5 Anything else?

6 MS. SAMPSON: Not from the State.

7 THE COURT: From the Defense?

8 MS. GOODE: No, Your Honor. Thank you.

9 THE COURT: All right. See you all in the morning.

10 (WHEREUPON, the proceedings were adjourned for  
11 the day to be reconvened on Thursday, November 2, 2017.)

12 THURSDAY, NOVEMBER 2, 2017

13 THE COURT: Are you ready to go?

14 MS. GOODE: We're still waiting on Mr. Rainsford.

15 THE COURT: Where is he?

16 MR. MCGLOTHIN: I spoke to his supervisor. He said  
17 he's in en route, Your Honor.

18 THE COURT: Is he their witness?

19 MS. GOODE: He would be our only witness, Your Honor.

20 THE COURT: All right. Is the State calling any  
21 reply witness?

22 MS. SAMPSON: Barring something crazy from Rainsford,  
23 no.

24 MR. HAWKS: Judge, while we're waiting --

25 THE COURT: Hold on one minute.

1 MR. HAWKS: Sure.

2 (Pause.)

3 THE COURT: What did you want to say, Mr. Hawks?

4 MR. HAWKS: Just curious how you want to do the  
5 charging conference. Would you like a written request for  
6 charge or just do it on the record and hash it out?

7 THE COURT: However, you want to do -- we'll do it on  
8 the record. If you've got something you want me to read,  
9 the sooner you get it to me, the better it is.

10 (WHEREUPON, a short break was taken.)

11 (WHEREUPON, the jury entered the courtroom at  
12 10:08 a.m.)

13 THE BAILIFF: The jurors are seated, Judge.

14 THE COURT: All right. Welcome back. Thank you very  
15 much for being on time. We have your lunch in the process  
16 of being ordered. Thank you for bearing with us this  
17 morning on getting started a little bit late.

18 You may call your next witness.

19 MR. KRZYSTON: Thank you, Your Honor. May it please  
20 the Court?

21 THE COURT: Yes, sir.

22 MR. KRZYSTON: The Defense calls Franklin Rainsford.

23 THE COURT: All right. Mr. Rainsford, please come  
24 forward and be sworn.

25 FRANKLIN RAINSFORD, after being

1       duly sworn, testified as follows:

2               THE COURT:   Okay.   Have a seat.   If you would, please  
3       spell your last name for us.

4               THE WITNESS:   Franklin Rainsford, R-A-I-N-S-F-O-R-D.

5                               DIRECT EXAMINATION

6       BY MR. KRZYSTON:

7       Q       And Mr. Rainsford, where are you employed currently?

8       A       Richland County Sheriff's Department.

9       Q       How many times have you testified for the Defense?

10      A       This would be my first.

11      Q       What is your scope of employment with the sheriff's  
12      department?

13      A       I'm the crime scene investigator with the forensic  
14      science unit.

15      Q       And on August 14th, 2015, did you have occasion to  
16      respond to the scene here that we've been talking about?

17      A       To the scene, no.

18      Q       No.   Did you process evidence related to the  
19      investigation?

20      A       I did.

21      Q       Okay.   In processing that evidence, did you conduct a  
22      swab of the gun labeled as item 72?

23      A       I did.

24      Q       And what locations on the weapon did you swab with  
25      the swab?

1 A After processing for fingerprints, I swabbed the  
2 shotgun kind of as a single unit, the trigger guard, the  
3 trigger stock and the barrel as a single unit.

4 MR. KRZYSTON: Okay. Thank you. No further.

5 THE COURT: Cross?

6 MS. MOSER: Just briefly, Your Honor.

7 THE COURT: Yes, ma'am.

8 CROSS-EXAMINATION

9 BY MS. MOSER:

10 Q Hi, Investigator Rainsford.

11 A Good morning.

12 Q How are you?

13 A Good.

14 Q As a crime scene investigator, your job is to  
15 document evidence, correct?

16 A Correct.

17 Q Okay. And another part of your job is to collect  
18 evidence, correct?

19 A Yes, ma'am.

20 Q And in this case, you collected a gun?

21 A Yes, ma'am.

22 Q And that was the Defendant's gun?

23 A Correct, the shotgun.

24 Q Okay. And you swabbed that gun?

25 A Correct, after processing for fingerprints, I swabbed

1 it for DNA.

2 Q What was the first part of that?

3 A Processing for fingerprints.

4 Q Okay. So you first processed for fingerprints and  
5 then after that, you swabbed the gun?

6 A Correct.

7 Q Okay. Is that standard procedure?

8 A Yes, ma'am, it's standard procedure.

9 Q Okay. So you were following protocol?

10 A Yes, ma'am.

11 Q Okay. And was that at the direction of a supervisor?

12 A Generally, when I receive a firearm of any type, I  
13 will process it for fingerprints and then swab as standard  
14 procedure.

15 Q Okay. So it's typical?

16 A Yes, ma'am.

17 MS. MOSER: Thank you. No further questions.

18 THE COURT: Redirect?

19 MR. KRZYSTON: Nothing further, Judge.

20 THE COURT: Have a nice day. Thank you very much.

21 All right. You may call your next witness.

22 MS. GOODE: The Defense rest, Your Honor.

23 THE COURT: All right, ladies and gentlemen, the

24 Defense has rested its case. I have some matters of law

25 that I have to take up outside of your presence. You are

1 still not allowed to talk about the case. We'll be back  
2 with you in just a few moments. Do not discuss the case  
3 and keep an open mind. Thank you very much.

4 (WHEREUPON, the jury left the courtroom at 10:12  
5 a.m.)

6 THE COURT: All right. Motions?

7 MS. GOODE: Your Honor, again, we would just renew  
8 our motion for a directed verdict and all pretrial and --  
9 pretrial objections to motions and anything raised  
10 throughout the trial.

11 THE COURT: All right. My ruling upon them is the  
12 same as it would be based upon the reasons that I've  
13 previously given.

14 All right. Does the State care to call any rely  
15 witnesses?

16 MS. SAMPSON: No, sir.

17 THE COURT: All right. Let's talking about charges.  
18 Go for it.

19 MR. HAWKS: Judge, I have some law clerks working on  
20 a document that has the ones that we want. If we could  
21 take a few minutes, I can see if that's ready.

22 THE COURT: I just need to know what it is you want  
23 first.

24 MR. HAWKS: We want accident, involuntarily and  
25 spoliation.

1 THE COURT: What's the spoliation based on?

2 MR. HAWKS: The spoliation is about the shirt that  
3 was found in the van.

4 THE COURT: All I've heard is there's a white shirt  
5 in the van that she was told she could throw away.

6 MR. HAWKS: It is the shirt that he was wearing when  
7 the shooting occurred.

8 THE COURT: And where is the evidence of that in the  
9 record?

10 MS. GOODE: Robert, Jr. testified that he was wearing  
11 a white t-shirt. I believe there was another witness that  
12 testified he wore a white t-shirt. Ms. Tamieka Marshall  
13 testified that she had the white t-shirt and when asked --  
14 she, I guess, asked law enforcement what she could do with  
15 it, they told her she could throw it away.

16 THE COURT: Where is the evidence that that white  
17 t-shirt is the white t-shirt he had on?

18 MS. GOODE: I think that's part of our issue, Your  
19 Honor. It's a white t-shirt that potentially had evidence  
20 on that and it could have helped in the case.

21 THE COURT: Okay. There's no evidence of spoliation  
22 in the record. I'm not going to charge spoliation.

23 Okay. Now, let's talk about involuntary. I think  
24 your biggest issue with involuntary is State vs. Reese.  
25 What State vs. Reese says is that you do not get an

1 involuntary charge when you are pointing or presenting a  
2 firearm at another person. It's directly on point.  
3 Justice Kittredge, Supreme Court 2006.

4 In that case, the guy said he was threatening suicide  
5 and they -- and the trial court did not charge  
6 involuntary. The Court of Appeals said you should have  
7 charged involuntary, and the Supreme Court came back and  
8 said because the defendant was pointing or presenting a  
9 firearm, which is a felony, that precludes an involuntary  
10 manslaughter charge.

11 MR. HAWKS: Your Honor, he's not charged with  
12 pointing and presenting.

13 THE COURT: He doesn't have to be charged with it.  
14 He wasn't charged with it in State vs. Reese either. He  
15 was charged with murder.

16 MR. HAWKS: The only evidence that I can think of in  
17 the record would be when Clarke was talking about the  
18 exchange with the Defendant about what he meant by she  
19 pushed it up. Other than that, I don't know of any  
20 evidence that would suggest he pointed and presented it at  
21 her.

22 THE COURT: His own statement admits that he pointed  
23 the gun at her. His statement to Robert Marshall, Jr.  
24 says that he pointed the gun at her. His statement to  
25 Clarke says that he pointed the gun at her.

1 MR. HAWKS: I don't recall any of that, Your Honor.

2 The other problem is --

3 THE COURT: You don't recall any of that?

4 MR. HAWKS: Only Clarke's part.

5 THE COURT: Okay. When he says to Robert Marshall,  
6 Jr. or Robert Marshall, Sr., I killed my wife, it was an  
7 accident, how do you think that occurred without the gun  
8 being pointed at her?

9 MR. HAWKS: But that doesn't mean he purposely  
10 intentionally pointed it at her. It could have happened  
11 as he said, as she grabbed it and pulled it up.

12 THE COURT: Okay. You're not getting an involuntary  
13 charge. State vs. Reese is directly on point. There is  
14 direct evidence in the case that he pointed the firearm at  
15 the victim in this case, which would constitute pointing  
16 and presenting.

17 Now, so, in your accident charge, I've been  
18 struggling with this accident charge all week because I  
19 despise the case that says you can arm yourself even  
20 though it's a crime for you to possess a firearm for the  
21 purposes of self-defense. That legal fiction that has  
22 been created is beyond my own personal comprehension.  
23 But, however, that's the law. But under this, the  
24 accident charge says, The defendant has raised the defense  
25 of accident. An act may be excused on the ground of

1 accident if it is shown that the act was unintentional,  
2 that the defendant was acting lawfully, and that  
3 reasonable care was used by the defendant in the handling  
4 of the weapon.

5 The burden is on the State to prove beyond a  
6 reasonable doubt that the act was not an accident, but was  
7 caused by the negligence or the carelessness on the part  
8 of the Defendant in the handling of a dangerous  
9 instrumentality or by unlawful activity by the Defendant.  
10 And then it says that you are to charge the unlawful  
11 activity committed by the Defendant.

12 So you want me to charge that?

13 MR. HAWKS: But doesn't State v. Burris say that it,  
14 in essence, is lawful.

15 THE COURT: No, State -- the defense has had a  
16 misperception of these cases from the beginning. That  
17 entire line of cases is someone who armed themselves in  
18 self-defense, and therefore, their arming themselves was  
19 not unlawful because they were arming themselves in  
20 self-defense.

21 There is no evidence in this record in any way,  
22 shape, or form that Mr. Marshall armed himself in  
23 self-defense.

24 MR. HAWKS: I would argue that there is because of  
25 his own statement. He says that he picked up the shotgun

1 to go outside and check what was going on with the shed  
2 outside his trailer. The other problem is Burris  
3 specifically says that when there is evidence that could  
4 mitigate murder, i.e., that it could have been an  
5 accident, then you get involuntary.

6 THE COURT: I mean, how do you get around the case  
7 that says you can't be committing a felony and get an  
8 involuntary?

9 MR. HAWKS: Well, they're directly contradicting each  
10 other.

11 THE COURT: All right. I'm going to charge accident  
12 and I'm going to charge that the unlawful activity that he  
13 was committing was pointing and presenting a firearm.

14 MR. HAWKS: Well, we would object to that based on  
15 Burris and there's no evidence outside of Clarke that he  
16 pointed and presented a weapon.

17 MS. SAMPSON: Your Honor, if I may, it would be the  
18 State's position that he was also acting unlawfully by  
19 having the gun in the first place.

20 THE COURT: Okay. I believe you. I understand --  
21 and I'll tell you, I read every single one of these cases  
22 at least 10 times this week. I believe that he's acting  
23 unlawfully the moment he picks up a gun and, therefore, he  
24 would never be entitled to self-defense, he would never be  
25 entitled to accident, he would never be entitled to

1 involuntary manslaughter under any stretch of the  
2 imagination because he is a convicted felon and he is  
3 prohibited from possessing a firearm under federal law and  
4 under state law, period. End of story. Not up for  
5 discussion.

6 That's not what the case law says. Every single one  
7 of those cases down to the footnotes in them talk about  
8 the fact that there are times when people can arm  
9 themselves in self-defense and that does not trigger this  
10 unlawful activity category. And that's why I'm not going  
11 to charge -- I think it would be a problem if I charged  
12 the jury that the mere fact that he had a gun was unlawful  
13 activity enough.

14 The difference is -- in those cases, they're just  
15 clear. They just say that. I don't know how else to get  
16 around it. I don't know how else to process through it  
17 other than our Supreme Court has determined that there are  
18 circumstances where you can lawfully arm yourself in  
19 self-defense. And all those cases say the person lawfully  
20 armed themselves -- and I'm talking about Goodson,  
21 McCaskill, Burris. Let's see, Goodson, McCaskill, Burris,  
22 those are the main ones, okay.

23 The conclusion that Burris ends up reaching is that  
24 you can lawfully arm yourself in self-defense at the time  
25 the fatal shooting occurred, okay, but they have to meet

1 the elements of self-defense along with the other  
2 elements. And this case, all the elements of self-defense  
3 are not met.

4 But there's even a footnote in one of these things  
5 that basically says -- there's a footnote in one of these  
6 things where they come back and they say, We reject the  
7 State's claim that because Goodson unlawfully possessed a  
8 firearm, the defense of accident is precluded. Rather,  
9 the burden rests upon the State to prove beyond a  
10 reasonable doubt that the unlawful act in which the  
11 accused was engaged in was at least the proximate cause of  
12 a homicide.

13 In Goodson -- I mean, they -- it's just been  
14 rejected. I don't know what -- that's the status of the  
15 law and that's what we have to go with, so I cannot charge  
16 them that. Just the fact that he was not allowed under  
17 our statutes to possess a firearm isn't enough, but I do,  
18 believe there's evidence in the record that he was  
19 pointing and/or presenting the firearm at the victim in  
20 this case, which would be unlawful activity.

21 The way the accident charge is going to read is this:  
22 The Defendant has raised a defense of accident. An act  
23 may be excused on the ground of accident if it is shown  
24 that the act was, number one, unintentional, that the  
25 Defendant was acting lawfully and that reasonable care was

1       used by the Defendant in the handling of the weapon.

2           The burden is on the State to prove beyond a  
3       reasonable doubt that act was not an accident, but was  
4       caused -- that the act was not an accident, but was caused  
5       by the negligence or the carelessness on the part of the  
6       Defendant in the handling of a dangerous instrumentality  
7       or by unlawful activity by the Defendant. In South  
8       Carolina, pointing and/or presenting a firearm at another  
9       person loaded or unloaded is considered to be unlawful  
10      activity.

11           All right. Anything else on the charges? I'm not  
12      charging implied malice by the use of a deadly weapon. I  
13      believe there's mitigation under --

14           What's that case, Belcher?

15           MR. HAWKS: Belcher, Your Honor.

16           MS. SAMPSON: Yes, sir.

17           THE COURT: I believe the mitigation of accident is  
18      present and I will not be charging that implied malice --  
19      that the jury can imply malice from the use of a deadly  
20      weapon.

21           MR. HAWKS: Your Honor, respectfully, if I could just  
22      for the record also add that we are objecting based on the  
23      common law that that is a comment on the facts.

24           THE COURT: How am I commenting on the facts?

25           MR. HAWKS: Because you're saying that he's acting

1 unlawfully by pointing and presenting.

2 THE COURT: No, I'm saying unlawful activity is doing  
3 this. I'm not saying he did this. I'm saying an unlawful  
4 activity is pointing and/or presenting a loaded or  
5 unloaded firearm. I'm not saying that he did it. I'm  
6 saying that the State -- this is going to be upon the  
7 State to convince them that he was committing unlawful  
8 activity.

9 What else?

10 MS. SAMPSON: Just for the record, Your Honor, we  
11 were prepared on this particular issue and just so I could  
12 make a good record, I would hand to the Court State v.  
13 Smith. And this is on both involuntary and accident, and  
14 that is 2011 case from our Supreme Court.

15 In this case, they said because the defendant was not  
16 arming himself in self-defense and he was not allowed to  
17 have a gun, they didn't have to give a charge of  
18 involuntary or the charge of accident because the question  
19 was whether he armed himself in self-defense. Since there  
20 was no evidence that he armed himself in self-defense, he  
21 could not have the accident charge. That would be the  
22 State's position. It wasn't just that he couldn't have a  
23 gun, it was several factors. But in this particular case,  
24 they said no, you didn't have to have accident and you  
25 didn't have to have involuntary. Just for the record.

1 THE COURT: Hold on, let me read this real quick.

2 (Pause.)

3 THE COURT: All right. Anything else, Mr. Hawks?

4 MR. HAWKS: Just again, Your Honor, our contention  
5 would be -- and I think I said this wrong earlier.

6 THE COURT: Okay.

7 MR. HAWKS: What I meant to say was that he armed  
8 himself -- there's testimony that he armed himself to go  
9 check around the trailer or around outside the trailer,  
10 and that's what he was on the way to do and the accident  
11 interrupted that.

12 THE COURT: But there's no evidence that he was in  
13 imminent fear of anything?

14 MR. HAWKS: No.

15 THE COURT: Right.

16 MR. HAWKS: But he went to go --

17 THE COURT: Which he's not allowed to do because he's  
18 a convicted felon.

19 All right. I am going to charge the accident charge.  
20 I think this situation is a little unique from the Smith  
21 case. The Smith case is, basically, a drug deal gone bad  
22 where someone goes to collect a debt. I think,  
23 basically -- I guess, the other reason I'm charging  
24 accident is I think based upon between the testimony of  
25 Durso and the blood spatter people and the firearms

1 experts on both sides of the case, the prosecution and the  
2 Defense, it's not -- I think there's sufficient evidence  
3 in the record that it could have been an accident. I'm  
4 not saying it is.

5 Remember, the standard that's before me at this point  
6 is does any evidence exist to give the charge. But I  
7 think there's sufficient -- they've created enough of a  
8 record and enough of the evidence considering the  
9 existence of the evidence and not the weight of the  
10 evidence that accident should be charged.

11 And I need probably about 10 minutes to put this  
12 thing in its final form and get it printed and make sure I  
13 have the wording just the way I want it.

14 MS. SAMPSON: I didn't ask my charges.

15 THE COURT: Okay.

16 MS. SAMPSON: I'm sorry. The only thing that -- we  
17 did not want the presumption of malice charge, so I wasn't  
18 asking for that, but I did have and would submit -- I  
19 think this is what you charge any way for malice, but I  
20 just wanted to make sure. Specifically, it has definition  
21 of expressed malice and implied malice, so I just wanted  
22 to make sure.

23 THE COURT: Hold on one second. Let me just do it  
24 while I'm out here.

25 MS. SAMPSON: Okay.

1 THE COURT: So we don't have to go back and forth.

2 (Pause.)

3 THE COURT: All right. Here's what my malice charge  
4 says: Malice is hatred, ill will or hostility towards  
5 another person. It is the intentional doing of a wrongful  
6 act without just cause or excuse and with an intent to  
7 inflict an injury or under circumstances that the law will  
8 infer an evil intent. Malice aforethought does not  
9 require that malice exist for any particular time before  
10 the act is committed, but malice must exist in the mind of  
11 the defendant just before and at the time the act is  
12 committed. Therefore, there must be a combination of  
13 previous evil intent and the act. Malice aforethought may  
14 be expressed or inferred.

15 These terms expressed and inferred do not mean  
16 different kinds of malice, but, merely, the manner in  
17 which the malice may be shown to exist. That is either by  
18 direct evidence or by inference from the facts and  
19 circumstances which are proved.

20 Expressed malice is shown when a person speaks words  
21 with expressed hatred or ill will for another or when the  
22 person prepared for -- let's see. That doesn't come out.

23 So expressed malice is shown and then take that out.

24 Malice may be inferred from conduct showing a total  
25 disregard for human life. Period.

1           So is there anything from that Wild's charge that you  
2           want added?

3           MS. SAMPSON: I think the only thing you didn't say,  
4           Your Honor, was for implied or inferred malice, the second  
5           part of a reasonably prudent man would have known that  
6           according to common experience there was a plain and  
7           strong likelihood that death would follow the contemplated  
8           act. That's directly from Wilds and the definition of  
9           implied malice.

10          THE COURT: Okay. Let me go look at that.  
11          Anything else?

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

13          MR. HAWKS: No, Your Honor.

14          (Pause.)

15          THE COURT: Give me about 10 minutes and we'll be  
16          ready to go.

17          MS. SAMPSON: Can I ask a question, Your Honor?

18          THE COURT: Yes, ma'am.

19          MS. SAMPSON: If you're not willing to add that  
20          language about reasonably prudent, could you let me know  
21          so I can --

22          THE COURT: Yeah, I will. I just need to read that  
23          case.

24          (WHEREUPON, a short break was taken.)

25          THE COURT: I am going to charge that line from

1 Wilds.

2 MS. SAMPSON: I didn't hear you.

3 THE COURT: I am going to charge that line from  
4 Wilds.

5 MS. SAMPSON: Thank you.

6 THE COURT: Anything else before we start?

7 MS. GOODE: Your Honor, I would make a request  
8 regarding closing, just that the State would close in  
9 full, then I would be allowed to close and then they would  
10 come back with any rebuttal based on State v. Beatty.

11 MS. SAMPSON: Yes. I assumed that's what we were  
12 doing.

13 MS. GOODE: Yes, I was just making sure.

14 THE COURT: Technically, under Beatty, she's got to  
15 stand up and ask for it.

16 MS. SAMPSON: That's correct, I'm sorry.

17 THE COURT: Okay. Bring them in.

18 THE BAILIFF: Yes, sir.

19 THE COURT: All right. If you're in here now, you're  
20 staying in here till my jury charge starts. If you don't  
21 want to be present for my jury charge, I'll take a break  
22 after their closing arguments and let you slide out. But  
23 if you're in here now, make sure your phone is off and you  
24 plan on staying in here.

25 These attorneys have worked very hard this week.

1 They've all been completely and totally and fully prepared  
2 and have done a lot of work on this case for a long time.  
3 I'm not going to have people coming in and out like it's  
4 some kind of -- something for entertainment purposes. So  
5 if you're here, stay in here. I want this jury to have  
6 these attorneys -- I want the jury to give them their  
7 undivided attention.

8 (WHEREUPON, the jury entered the courtroom at  
9 10:57 a.m.)

10 THE BAILIFF: The jurors are seated, Judge.

11 THE COURT: Thank you very much.

12 All right, ladies and gentlemen, as I told you in the  
13 beginning, we'll reach a point in the trial known as  
14 closing arguments or closing summations. We're at that  
15 point in the trial at this point in time.

16 Now, I do want to say one thing to you. You all have  
17 done a very good job this week of paying attention and  
18 staying with us, paying attention to the witnesses, paying  
19 attention to the attorneys, paying attention to me, and we  
20 all sincerely thank you for that. This is the attorney's  
21 final opportunity to come before you and summarize the  
22 case from their representative points of view. I ask that  
23 you give them your undivided attention.

24 Now, as with everything else that happens in here,  
25 there's a rule and there's an order in how things go. So

1 the State will give their closing argument first, the  
2 Defense will give their closing argument second, then the  
3 State will be allowed to reply to what the Defense says,  
4 okay. At that point in time, depending on how long that  
5 takes, we may or may not take a break, okay.

6 Now, I don't ever hold attorneys to time limits.  
7 Sometimes I wish I did, okay, but I don't do that, so, you  
8 know, this is their case and I want them to be able to try  
9 their case. I want you to give them your full attention.

10 What happens once they're done is I tell you what the  
11 law is. That is often not the most exciting part of  
12 trial. Needless to say, it's very boring and hearing my  
13 voice that much isn't fun for anybody. If we've gone for  
14 a lengthy time, I may stop, take a break or I may just say  
15 let's stand up and stretch right where we are and then  
16 give you the charge. But that's kind of the general  
17 timeframe for where we're going to be for the next little  
18 bit or so. So please give the attorneys your undivided  
19 attention.

20 Who's closing?

21 MS. SAMPSON: I am, Your Honor.

22 THE COURT: Ms. Sampson, the floor is yours.

23 MS. SAMPSON: Thank you, Your Honor. May it please  
24 the Court?

25 THE COURT: Yes, ma'am.

CLOSING STATEMENT BY MS. SAMPSON

MS. SAMPSON: Selfish, callous, unapologetic, just plain wrong. These words describe the actions taken by the Defendant on August 14th and August 15th of 2015 when he picked up this shotgun right here, when he loaded it, shut it, disengaged the safety, put his finger on the trigger, waited for his wife to come through the front door, sit down, pulled this trigger and shot her eye out, leaving her brains on the floor. That old gun, a gun he's not even supposed to have, a gun that's so old, it doesn't even have a serial number, a gun that had to be taped together in order to work. That is the definition of reckless disregard for human life.

On August 14th, Doris Marshall got out of her bed and began her day, like most of us, just getting ready to go about her day, not knowing it would be the last time she ever saw her bedroom.

She received a text from her daughter with her newborn four-week-old grandbaby's picture. She then got ready for work, put on her ID badge, headed to Fort Jackson, where she worked as a dining facility attendant. She put on her work uniform, her white shirt, her navy pants, her black shoes with the covers on the bottom. She went to serve our Armed Forces.

Preston Wider came to you and talked to you about her

1 duties, that she cleaned the facility, she provided them  
2 food. He talked about how her hours fluctuated. We  
3 provided you with the timesheet that showed you that she  
4 clocked in at 2:00 o'clock, clocked out for a break, went  
5 back in and worked. He talked to you about how her hours  
6 fluctuated because she couldn't leave, didn't leave until  
7 every man and woman was served. That was her job. She  
8 did that every day. She worked, worked hard for her  
9 money, like most of us do.

10 And what was Mimi Joe Marshall doing while she did  
11 that? Sitting in the house smoking some cigarettes,  
12 sitting around outside drinking some beer. Wasn't going  
13 to work. You heard from Leslie Brown, who told you she  
14 saw him outside, how he even asked her did she want a beer  
15 while he went to the store down the street and got it. He  
16 wasn't working. He wasn't serving our Armed Forces.  
17 Doris Marshall was at the time, she told you.

18 Doris Marshall checked out of work at 10:22 for the  
19 last time. She got in her Chrysler Pacifica and drives  
20 home. This is the Chrysler Pacifica. We have plenty of  
21 pictures of it. This is her car. She pays for it. She  
22 got in it and drove home.

23 She arrives at the Bel-Aire Mobile Home Park. It's  
24 off of Leesburg Road in Richland County. As she pulls in  
25 the entrance, as you see here on this dirt road -- you can

1 even see the very distance of the AM/PM store that we've  
2 all been talking about. As she pulls in the entrance, she  
3 has no idea that the Defendant has loaded this gun, closed  
4 it, released the safety and is sitting home waiting for  
5 her to come so he can blow her away and end her life.

6 She pulls up to her trailer, lot No. 5, and enters  
7 the home. As most of us do, she sat down to relax. It's  
8 been a hard day. She had her lunch bag by her feet.  
9 Before she has time to take off her badge, similar to the  
10 ones you're wearing, she sat down, badge still attached,  
11 phone still in her pocket, glasses still on her face,  
12 shoes still on her feet tied. Didn't even have time to  
13 untie her shoes.

14 At that point, what does the Defendant do? Takes  
15 that gun, pulls the correct trigger and blows her away.  
16 The blast is so powerful, knocks her glasses off her face.  
17 And not just off her face, knocks them across the room by  
18 the entertainment center. The blast is so powerful, so  
19 bad that it blows her brain in two, leaving one piece on  
20 the floor directly by her lunch bag, blowing her skull  
21 into pieces, leaving the other half of her brain on the  
22 couch. That's how powerful that shotgun blast was. As  
23 Dr. Durso told you, she had just enough time,  
24 Ms. Marshall, to take one breath full of blood, full of  
25 blood before she died.

1 Does the Defendant call for help? Does he say oh, my  
2 God, I didn't mean for this to happen. Oh, my God, what  
3 do I do? No. Not at all. He goes outside, starts  
4 banging on the car, turns the lights off. Leslie Brown  
5 came in here and she told you about that, how the noise  
6 woke her up. She told you that she went outside and she  
7 looked. And when she saw him, they even locked eyes. Did  
8 he say to her help, what have I done? Come help me? No.  
9 He gives her a look so powerful, she runs back in her  
10 house. He doesn't mention that he's done anything to his  
11 wife.

12 Lindsay Edwards, Pee Wee, you saw him, he came in and  
13 he talked to you about the banging on the window. He  
14 talked about how first, he saw a flash. How he could see  
15 while he was washing his dishes a flash across the mobile  
16 home. He told you about when he does go outside, he hears  
17 the same banging that Leslie Brown told you about. He  
18 tells you that he sees him right out the window and that  
19 he hears the glass go into the car, window broke. He  
20 continues down the road, tells you he goes to the AM/PM  
21 Mart.

22 Now, as you can see from this photo, they live here.  
23 Remember, Investigator Clarke told you that the trailer  
24 was kind of hidden. He only had to walk here. Very close  
25 in walking distance. He walked back. And by the time he

1 walked back, Mr. Marshall has realized he has locked his  
2 keys in the house. Does he say to Pee Wee help me, I did  
3 something terrible. I accidentally shot my wife, please  
4 help me, tell me what to do? No. He asks for his help to  
5 get into his house. He doesn't say, by the way, my wife's  
6 in there dead, what do I do? He says, Can you help me get  
7 in? So Pee Wee does, climbs in the window. He pushes the  
8 AC out of way and he goes through.

9 What did he tell you upon coming in? It's quiet and  
10 he didn't hear Doris. He told you how it smelled foul.  
11 And remember, he told Investigator Clark that it smelled  
12 like blood. He told you how he started to go down the  
13 hall to see what was going on and he starts hearing  
14 banging on that back door. He hears Mr. Marshall, the  
15 Defendant, banging on this back door so he could let him  
16 in. So he doesn't go in through the living room, he stops  
17 and he let the Defendant in.

18 Does the Defendant at this point say, let me show you  
19 what I did. Oh, my God, help me, please. I don't know  
20 what to do. No. He says, Get out. I'll bring you some  
21 cigarettes for your trouble. I'll be back. So Pee Wee  
22 goes to his trailer and he waits and he waits and he  
23 waits. The Defendant never goes back, never.

24 He then proceeds to go in the house, takes what he  
25 needs from the house, the gun, Doris' wallet, whatever

1        else he wanted, gets in Doris' car and drives away from  
2        the scene, telling no one what he'd done, locking all the  
3        doors back so no one can even get in trying to cover his  
4        tracks.

5                Does he now call 9-1-1? Does he now call his family,  
6        what do I do? Does he do anything, anything to show he's  
7        remorseful, to show this is an accident, to show that he  
8        didn't mean to do it? No. He drives around Columbia. He  
9        tells Investigator Clarke, this was so bad, I took a nap.  
10       Not only one nap, two. He can lay his head down and rest  
11       after he put her to rest. That is the definition of  
12       murder.

13               At this point, he just drives around doing whatever  
14       he wants for six hours, enjoying his freedom. Eventually,  
15       when he comes up with this accident story, calls his  
16       brother.

17               You heard from the nephew, Robert Marshall, Jr., how  
18       Mr. Marshall shows up at the door unexpectedly. You heard  
19       how he called his brother first and left a message. He  
20       tells him, I missed up, killed my wife. That she came  
21       home, I had the gun out. She grabbed it and it just went  
22       off.

23               Well, ladies and gentlemen, for the gun to be out and  
24       kill her, it had to be loaded. For the gun to go off, the  
25       safety had to be disengaged. For it to hit her in the

1 face, it had to be pointed at her. He didn't bother  
2 telling him any of that stuff.

3 Now, they have to figure out what do we do? At this  
4 point, everybody starts doing the right thing and Mimi Joe  
5 Marshall continues to do the wrong thing. Robert  
6 Marshall, Sr. and Jr., they start calling everybody.  
7 Robert Marshall calls 9-1-1, Sr., says, Can y'all go check  
8 on my sister-in-law? My brother just came by saying  
9 something happened.

10 And law enforcement does exactly what they're  
11 supposed to. They go to the house, but they can't just  
12 break into somebody's house. I mean, what would that be  
13 like if every time somebody says something happened, they  
14 just broke on in to see what's happened. They can't do  
15 that. So they look to see are there any signs to support  
16 what they just got called. The doors are locked, nothing  
17 is disturbed. It's 6:30 or so in the morning. It's not  
18 like it's broad daylight. They don't see anybody hurt.  
19 They don't hear anything. They even ask can somebody let  
20 us in, we'll go in. Somebody come, the Defendant, the  
21 caller, somebody, but nobody shows up.

22 You heard from Corporal Norton and from Deputy  
23 Furgal, who told you they waited 30, 45 minutes. They did  
24 what they could, but they can't just break in. You heard  
25 from Leslie Brown, who said they were there, but they had

1 to go.

2 At this point, everyone is now looking for Mimi Joe  
3 Marshall. His daughter, his daughter-in-law, his brother,  
4 his nephew, they're calling him. They're doing whatever  
5 they can, but they can't get in touch with him. It would  
6 have taken one action on his part, answering his cell  
7 phone to have kept Tamieka Marshall and Amanda Marshall  
8 from having to live with the sight that all of us have had  
9 to share, but they've got to live with it because they saw  
10 it in person.

11 Does he do anything to help at this point? No. He  
12 even flees the scene from his brother and his nephew. He  
13 didn't even stay there to face what he's done, runs off to  
14 enjoy his freedom.

15 So we're left now with Amanda and Tamieka. Tamieka  
16 has a daughter -- it's two children. She can't just get  
17 up. She has to get that situated. Amanda is able to make  
18 it there first. So what does she do? When she gets  
19 there, she starts looking around. She starts trying to  
20 figure out what happened. She talks to Tamieka, I'll do  
21 it. You don't come. Tamieka starts, again, calling her  
22 dad. All he had to do was answer the phone, but he  
23 doesn't.

24 Amanda goes there to the trailer. Now, it is  
25 daytime. She can't open any doors. This is the back door

1 in this picture. She already told you the front door was  
2 locked, too. So she does what she can, she takes the  
3 stepladder, pushes the AC unit to the side so she can see  
4 in. And she sees what had to be the worst thing for a  
5 daughter-in-law to see, her mother-in-law laid to the  
6 side, brains and blood everywhere.

7 At this point, she is freaking out. She starts  
8 banging on people's doors, help me, help me. She gets to  
9 Leslie Brown. You heard from Leslie Brown. They do the  
10 right thing. They call the police, after they break down  
11 the door and enter to confirm what they saw. You can even  
12 see the piece of wood that they broke. They go in just  
13 far enough to see what happened.

14 And I'm going to go a little bit out of order because  
15 I want you to see as you look at this picture. Does it  
16 look like there was any sign of a struggle over anything?  
17 I think that house may be cleaner than my own. There's no  
18 sign of a struggle. Nobody moved anything. They didn't,  
19 and they testified about that. When they go in, see this,  
20 they then do the right thing. They then call 9-1-1.

21 And, of course, because I don't know what I'm  
22 doing -- all right. We'll play the call later, but they  
23 call 9-1-1. And you heard the call earlier when we did it  
24 with her and she talked about how she was a CNA, certified  
25 nursing assistant. And on the phone, she is retching

1 because it's so bad. A stranger to her, she saw and she  
2 can't even go near the body enough to check it to see if  
3 it's alive. And she has training. But he was able to not  
4 only do that, but leave. Didn't seem to bother him so  
5 much that he took a nap. So again, everybody is doing  
6 what they're supposed to do right when they see this,  
7 except for Mimi Joe Marshall.

8 And where is he at the exact same time that everybody  
9 is doing this? As the 9-1-1 calls are being made, as  
10 people are trying to figure out what's going on, as police  
11 investigators, CSI, EMS, everyone is coming on the scene,  
12 what is Mimi Joe Marshall doing? He's at O'Reilly's Auto  
13 Parts turning in parts to get a cash refund because that's  
14 what you do after you shoot your wife that you've lived  
15 and loved for 37 years. No. What you should have done  
16 was called 9-1-1 if there was an accident. What you  
17 should have done is answered the phone when your family is  
18 looking for you. What you should have done is faced what  
19 you did. Instead, he tries to cover it up.

20 Investigator Clarke told you that in order to do  
21 things the right way, they waited for a search warrant,  
22 and then they entered. You heard from the CSI team about  
23 what they saw. You heard from Investigator Lee and you  
24 heard from Lieutenant Stan Richards, who gave us that  
25 great hour-long demonstration about everything in the

1 world having to do with his field of expertise.

2 He talked to you about how many photographs it took,  
3 153 photographs. 153. Did we show you every single one  
4 of them? Do you want to see every single one of them?  
5 I'm pretty sure none of us want to see every single one of  
6 them. We showed you the ones you needed to see. I bring  
7 that up because I'm sure the Defense is going to get up  
8 here and talk about what we didn't do, what investigators  
9 didn't do. I want to ask you to focus on what did get  
10 done. 153 pictures, and you got a bunch of them, that  
11 show exactly what they did.

12 Investigator Lee and Lieutenant Richards talked to  
13 you about how dynamic the scene was, how there was a blood  
14 letting of horrific proportions. It was so clear where  
15 everything happened, they didn't need to do anything. Not  
16 that they didn't try, not that it was necessary, it was  
17 just that clear. They told you about all the stains. And  
18 he went through all the pictures. And I'm not going to  
19 stand here and go through all that again because you heard  
20 it from him. And boy, can he do it way better than I ever  
21 could.

22 He told you in detail about that. He demonstrated to  
23 you about how he knew what happened and when it happened.  
24 He talked to you about that radiating pattern and how  
25 everything was to this way and not this way. There was

1 reasons for all of that.

2 He talked to you about how there's blood on the  
3 ceiling. There's blood on the blinds. There's blood on  
4 these blinds. There's blood on the couch. There's blood  
5 on the floor. There's blood on the table. But there's no  
6 blood by the door. There's no blood on the end of the  
7 couch.

8 He talked to you about if she would have been shot by  
9 the door, there would be blood there. Think about that.  
10 How did the blood all end up on the couch and all above  
11 where the couch is if she's shot over here? It just  
12 doesn't make common sense, and he explained all that to  
13 you. He talked about the cone and directionality. And I  
14 just want you guys to remember all that he explained to  
15 you as you go back and look at this evidence.

16 Investigator Lee told you about he processes a crime  
17 scene and how he looked for whatever they said. Because  
18 they don't even know what happened, so they can't form an  
19 opinion about how it happened because they don't know. So  
20 what do they do, they look for anything. And despite the  
21 fact of how much blood they saw in that living room, they  
22 still went all over the rest of the house looking just to  
23 make sure, to be safe. And they didn't find anything  
24 anywhere else.

25 And as they're doing this -- this took several hours.

1       You heard from EMS how they came. They clearly couldn't  
2       help her, so they called the coroner. You heard from the  
3       coroner, who said well, we came and we looked and she was  
4       dead, so we called for services to help us get her out of  
5       there and how everybody took pictures, did what they were  
6       supposed to do for several hours.

7               I want you to think back. What is Mimi Joe Marshall  
8       doing? The man who promised to love, honor and cherish  
9       this woman that he left dead on the couch? He is now at  
10      Tony's Lounge hanging out at the bar. And we only know  
11      this because of Yolonda Jackson.

12             Thankfully, Yolonda Jackson, like everybody else in  
13      this case, except for Mimi Marshall, was doing the right  
14      thing. When she sees his car, she goes to see is he in  
15      there and she listens. Oh, he's in there. He's in there  
16      talking to Tony, she told y'all that. We played the call  
17      for you then. And again, I'm not going to do it now. She  
18      played the call telling you about that. She told them  
19      everything she knew.

20             So they come, they show up, they arrest him. They do  
21      their job. And, lo and behold, in that car is the gun.  
22      Lo and behold, in that car are bullet casings, the  
23      receipt, the wallet. You have all those pictures. Look  
24      at all that. It supports everything the police have been  
25      saying.

1       At this point, the Defendant has had over 12 hours to  
2       come up with this story. And come up with one, he does.  
3       He talks to Investigator Clarke. And you'll have the  
4       entire statement, but here's one page of it. He tells  
5       Investigator Clarke a great story. He starts with, Well,  
6       I had the gun in the closet. Remember, Investigator  
7       Clarke told you -- he said he challenged that. He said,  
8       There's no closet in your small, little living room. He's  
9       like, Oh, yeah, there's no closet. You're right. Then it  
10      got changed to, Well, the gun was in the front room.

11       Okay. Then he says, Well, first, she came in and I  
12      shot her. She grabbed the gun and it went off. But he  
13      was like, Well, she's on the couch. Said, okay, well, we  
14      had a conversation first about the car and then the gun  
15      went off. Okay, but her stuff is on the floor. How did  
16      any of that work? Oh, yeah, well, see, I shot her and  
17      then I carried her onto the couch and put her down.

18       Well, that doesn't match any of the evidence because  
19      her scalp is on the back of the couch. And that didn't  
20      just magically jump over there. Her brain is on the floor  
21      next to the bag. That didn't just magically jump over  
22      there when you laid her so nicely on the couch. That just  
23      doesn't work with the evidence, ladies and gentlemen. It  
24      just doesn't. It's just a nice story he created to cover  
25      up what he did.

1           You heard from David Collins, the ballistics expert.  
2           He told you, as well as George Norton and Deputy Furgal  
3           about gun safety. First, you don't take out a loaded  
4           weapon unless you plan on using it. Second, you don't  
5           have your finger on the trigger unless you plan on  
6           shooting the target. He did both those things, both.

7           In fact, when David Collins came up here before you  
8           guys, do you remember he went through all kind of stuff  
9           before he'd even pick the gun up. He opened it. He  
10          looked in it. He made sure nothing was wrong with it.  
11          And he made absolutely sure he never pointed it at  
12          anybody, even though we all knew it was empty.

13          He didn't even bother with basic gun safety. Mimi  
14          Joe Marshall not only loaded the gun, he not only  
15          disengaged the safety, he not only pulled that trigger, he  
16          first pointed it at her. That is the definition of  
17          murder.

18          Now, murder is defined as the killing of another with  
19          malice aforethought, either expressed or implied. Now, we  
20          lawyers like our big old words, sometimes in Latin or  
21          something. So malice aforethought, not something you  
22          normally use in regular language, right? I'm going to  
23          talk a little bit about that.

24          Malice is the doing of a wrongful act intentionally  
25          and without just cause or excuse. In this case, pointing

1 and presenting a gun at his wife, pulling the trigger,  
2 wrongful act without just cause or excuse.

3 Expressed malice is when there is a deliberate  
4 intention to unlawfully take the life of another, such as  
5 when you take a loaded shotgun, point it and pull the  
6 trigger.

7 Implied malice is when circumstances demonstrate a  
8 wanton or reckless disregard for human life. You saw the  
9 condition of that gun. You'll be able to see it back  
10 there. Talk about disregard, walking around with a loaded  
11 shotgun with your finger on the trigger, the only trigger  
12 that will shoot the one bullet. Because there's two  
13 triggers, remember, so he had to have it on the right  
14 trigger. Reckless disregard for human life.

15 Although malice must be aforethought, there is no  
16 requirement that it exists for a specific amount of time  
17 or an appreciable amount of time. In other words, you see  
18 on TV sometimes you have these premeditations. They think  
19 about it for a long time. You know, they plot. You don't  
20 need that. It needs to be one second.

21 It could have happened when he loaded that gun and  
22 closed it. When he's sitting around holding it. Or he  
23 sees her sit down, come in -- come in, sit down and he  
24 pulls that trigger. In that one instant, malice  
25 aforethought. That's all you need.

1           Now, ladies and gentlemen, at the beginning of this  
2 case, my co-counsel, Sandra Moser, told you that we must  
3 prove this beyond a reasonable doubt. She told you how we  
4 welcomed that burden. And let's be clear, we do. The  
5 Defense does not have to prove one single thing to you,  
6 make that perfectly clear. We do and we have.

7           We have proven to you beyond a reasonable doubt what  
8 happened. The Defendant told his brother that he did it,  
9 so there's no question who did it. He told his brother.  
10 He told his nephew. He told Investigator Clarke. Of  
11 course, it was hours after it happened, but he told him.  
12 There's no question of who.

13          We've proved to you beyond a reasonable doubt the  
14 next portion, which is what happened. Now, I've gone over  
15 that ad nauseam at this point, all right, but when he  
16 went, loaded that gun, shot his wife, there was no  
17 accident.

18          Dr. Durso told you it had to be 12 inches to  
19 38 inches due to the stippling. So he's close enough that  
20 he sees what he's doing, it just was upward. Now, their  
21 expert tried to tell you how it must have been all the way  
22 upward or this way. But she actually testified. He  
23 wasn't here when she testified, you guys were. And you  
24 heard her say it was slightly up. Because she couldn't  
25 tell you exactly what happened because he blew her face

1 off, but their expert didn't bother to tell you that. She  
2 explained to you what happened. Stan Richards explained  
3 to you what happened. It's beyond a reasonable doubt what  
4 happened in this case.

5 Where it happened, never a question it happened on .  
6 Leesburg Road here in Richland County. But the bigger  
7 where I want to talk about probably goes also into how it  
8 happened, which is on the couch. You will have all the  
9 pictures. You heard me talk about this -- and I promise  
10 you I'm almost done. On the couch is a space with no  
11 blood. All the blood is over here to the left, to my  
12 right. All of the blood is on the ceiling. There's  
13 absolutely nothing by the door. In order for the  
14 Defendant's version of story to be true, there has to be  
15 blood in front of that door. And you have a picture, I  
16 even showed it to you, it is bare. The ceiling is bare.  
17 There's nothing. His story doesn't add up. She was  
18 sitting on the couch minding her own business in her own  
19 home, where she should feel safe and secure, and he blew  
20 her away. That's where it happened and how it happened.

21 As you're looking at the evidence, it's your job to  
22 decide what's reasonable and what's not, what makes sense  
23 and what doesn't. At the beginning of this case, Judge  
24 Hood instructed you not to leave your common sense at the  
25 door, and I implore you to please use your common sense.

1 Does it make any sense, any sense, that a woman  
2 seeing this gun would grab it and pull it to her eye?  
3 That is the only way his story works, the only way. Does  
4 that make any logical sense that after coming home from a  
5 hard day of work, when faced with a gun, you pull it to  
6 your eye and that you leave it three to four inches away  
7 that their expert tried to tell you?

8 When I finish talking, the Defense is going to get up  
9 here and try to convince you that everything I just said  
10 was wrong, and that's their job. They're going to tell  
11 you that we didn't meet our burden, that we didn't prove  
12 this beyond a reasonable doubt.

13 Now, during their opening, they talked about accuracy  
14 and correctness. Accuracy and correctness. They, too,  
15 told you to look at what was done and wasn't done. But  
16 let's talk about some inaccuracies and incorrectness in  
17 what was done and wasn't done by the Defendant.

18 In their opening, they talked to you about being  
19 married for 37 years, but that's not accurate and correct  
20 because for part of that, they were separated. Yeah, they  
21 were technically married, but we had to put Tamieka up  
22 here to tell you that they didn't live together. They  
23 weren't together for years.

24 Now, they'll try to tell you more tests should have  
25 been done, more people should have been talked to, I don't

1 know, more pictures should have been taken. We have  
2 plenty of evidence here. There's nothing else that needs  
3 to be done.

4 Would any of the stuff that they want done change the  
5 outcome? That's what I want you to think about when you  
6 listen. It wouldn't have. They said well, you should  
7 have tested it earlier. They logged this stuff in. It's  
8 sealed. I had to unseal it in front of you. Was waiting  
9 going to change anything? No, the evidence is what it is.  
10 Call a thing a thing. That's her DNA in there. That's  
11 her blood on her clothing. That's the gun that was used.  
12 None of that changed simply because it got tested a few  
13 months later than right when it happened.

14 They talked to you about you should do it  
15 immediately. Well, let's remember, when did their expert  
16 look at the evidence, the one getting paid \$5,000? Let me  
17 see, he said he looked at it on Monday, last Monday, and  
18 the only thing he looked at was the gun. He didn't look  
19 at the bullets. He didn't look at the pellets. He didn't  
20 look at the wadding. He couldn't be bothered to write a  
21 report. He came to y'all and just talked. Didn't bother  
22 to look at anything other than pictures and the  
23 Defendant's statement. Apparently, it only matters when  
24 things get done if it's our witnesses and not theirs.

25 Now, talking about the Defendant's actions and

1        inactions, he had a gun when he shouldn't, and it's that  
2        old gun. He loaded that gun that's over 50 years old.  
3        Talking about reckless disregard. He disengaged the  
4        safety. He pointed a loaded weapon at his wife. There is  
5        no way she would have been shot if that hadn't happened,  
6        ever. He pulled the trigger and shot her in the face.  
7        I'm sure that's going to be what they argue, that that was  
8        somehow an accident. She accidentally managed to get a  
9        kill shot to the face.

10        He didn't call police ever, never, not one call. He  
11        didn't call, say he was sorry, ever. The only reason he  
12        ever said he was sorry was after he got caught. And I ask  
13        you, was he sorry he got caught or sorry that it happened?

14        He fled the scene in her car with her wallet, never  
15        to return. He fled. If you're innocent and you did this  
16        on accident, say. Tell somebody. Do something right. I  
17        don't know, but you don't leave the scene. Took naps.  
18        I'm traumatized after seeing these pictures. Leslie Brown  
19        couldn't speak after seeing the live body. He managed to  
20        take a nap.

21        He only told his brother and nephew about killing his  
22        wife when he had to. He showed up and told them, but then  
23        it was an accident. When he thought of a story, that's  
24        when he told them. He didn't answer his daughter's calls.  
25        And that might be what bothers me the most, because as a

1 parent, you would think that his first reaction would be  
2 to protect his child, to keep her from harm, so that when  
3 she called and you know she would go see her mother's dead  
4 body, you would stop her. He didn't even bother to do  
5 that.

6 He returned car parts for cash. You just killed your  
7 wife by accident, but you return car parts for cash  
8 because that was so important, but you couldn't be  
9 bothered to make sure your daughter didn't see any of  
10 this. He sat at a bar while his family cleaned up his  
11 mess. He couldn't even be bothered to clean up what he  
12 did, couldn't be bothered.

13 Ladies and gentlemen, that is the definition of  
14 reckless disregard for human life. That is the definition  
15 of murder.

16 I know when you walked in here on Monday, you did not  
17 think you would be sitting in this jury box listening to a  
18 murder trial, but I bet you, you also didn't have in your  
19 head that a murderer would look like that man over there.  
20 But now you know murderers come in all shapes and sizes.  
21 They come as a 5'7", 58-year-old man, who took a gun and  
22 shot his wife in the face one time.

23 At this point, you do know that Mimi Joe Marshall  
24 committed the biggest crime of domestic violence you could  
25 ever do, shot his wife in the face. He left her broken

1 skull and brains on the floor. For that, and for that  
2 alone, I ask that you find him guilty of murder. Not just  
3 because it's a heinous act, not just because Doris  
4 Marshall is dead, not just because Stan Richards told you  
5 how he did it, not just because of the 20 witness who came  
6 in here and told you what happened, not just because of  
7 the 100 and some pieces of evidence we gave you, not  
8 because his story just doesn't make sense, I ask you to  
9 find him guilty, quite frankly, because he is. He killed  
10 his wife for no reason, no reason. He pointed a loaded  
11 gun at his wife for no reason, pulled that trigger for no  
12 reason, and she is dead for no reason.

13 I ask that you hold him accountable and that you find  
14 him guilty. Thank you.

15 THE COURT: Thank you very much, Ms. Sampson.

16 Ready?

17 MS. GOODE: May it please the Court, Your Honor?

18 THE COURT: Yes, ma'am.

19 CLOSING STATEMENT BY MS. GOODE

20 BY MS. GOODE: Ladies and gentlemen, this is it.  
21 This is the time of the case where you've heard it all.  
22 You've heard the testimony. You've heard what the State  
23 has offered as proof to you of what happened. What they  
24 have proven to you is that this is, in fact, an accident,  
25 a terrible, tragic, unintentional killing. That's the

1 evidence that they put up.

2 Now, what's happened here is the case is, basically,  
3 now broken down into two big pieces, right. We have the  
4 night of the shooting and then we have the next day. We  
5 have what Mimi Joe did and what Mimi Joe didn't do. So I  
6 want to talk about the night of the shooting. I want to  
7 break it down.

8 The State wants you to believe that because Doris got  
9 home a little late from work, 10:15 on Friday night, that  
10 Mimi Joe maliciously guns her down as she walks in the  
11 door. But how does that make any sense? Three nights  
12 before, she didn't get home until almost 11:00 p.m. He's  
13 supposed to be angry and upset because she's late from  
14 work. Well, no.

15 You remember he told Sergeant Clarke when he met with  
16 him, Look, I was worried about her. I wasn't angry with  
17 her. It's not that she's so late getting home from work.  
18 She's late, I'm worried about her. We just had work done  
19 on her car, had a front end alignment done. I'm worried  
20 about her. Because he's sitting inside smoking cigarettes  
21 in August, he's a bum, he's not doing anything, he's a bad  
22 guy, that equals malice?

23 Unfortunately, the truth is Doris was shot. She was  
24 shot shortly after she got home. She clocked out at  
25 10:15. Mimi Joe tells Sergeant Clarke, look, this

1       happened between 10:00 o'clock and 11:00 o'clock, I'm  
2       pretty sure. That fits. That's a piece of the puzzle  
3       that fits.

4             It all happened so fast. She gets in the house.  
5       She's in her work clothes. She's still got her name tag  
6       on. Her nonslip shoes. Her work clothes. Her lunchbox  
7       is at her feet. It all happens so fast. And they do,  
8       they pretty much meet right as she's coming in the door.

9             You guys, you didn't get to go to the trailer, but  
10       this is a tiny, tiny place. The room is definitely no  
11       bigger than this jury box. We don't have any  
12       measurements. The crime scene investigators didn't take  
13       any measurements for you. It's a tiny, tiny room. And  
14       the couch, you see in the pictures, takes up pretty much  
15       that whole wall by the window and where that door is.

16            Doris comes in and she's right there, so is Mimi Joe.  
17       And he's -- like he told Sergeant Clarke, he's up. He's  
18       about. He's got the gun. He's checking out around the  
19       trailer. They live out in Hopkins. He wants to make sure  
20       that everything is safe. He's got the gun, an old rickety  
21       gun. I don't even want to touch it it's so unsafe. I  
22       think we've had plenty of testimony about the gun and how  
23       unsafe it is. He's checking out around the trailer,  
24       unstable where it is. Doris is coming in the door, and he  
25       tells Sergeant Clarke this is what happened.

1           Sergeant Clarke told you about his statement, and he  
2           told you about how Mimi Joe sat down and talked. And I  
3           think he called it norming, where they sit down and have a  
4           conversation before they go put everything in writing, you  
5           know, kind of get comfortable having a conversation with  
6           each other. That's what he did in this case. That's what  
7           he does with other people, I'm sure.

8           He'll have him explain some things a little more,  
9           some things not so much. But in this case, what they want  
10          you to take as literal is exactly what Sergeant Clarke  
11          typed in that statement without any explanation. Because  
12          as Sergeant Clarke said, it would be nice if we had a  
13          video of the interview or, at least, an audio recording  
14          because we would know exactly what was said, exactly what  
15          Mimi Joe was trying to explain to them. But they want to  
16          hold him right to the part of the door, right there in  
17          front of the door. They want to act like it happened  
18          right there. Mimi Joe tells them it happened right at the  
19          side of the couch. When you walk in the door, the couch  
20          is right here. Where was Doris found? Laying on the  
21          couch right there.

22          And he tells Sergeant Clarke I've got the gun in my  
23          hand. I'm the one holding the gun the entire time. He  
24          doesn't tell him his finger's on the trigger. He doesn't  
25          tell him he has it pointed at her. But he says I was

1        talking with my wife, told her I was worried about her.  
2        I've got this gun. I've got it, and she grabs it, and he  
3        moves it, starts moving it. At that point, who knows  
4        where the gun is, right, who knows how far away it is.  
5        But she's grabbed it, she's got it in her hand and she's  
6        moving it and he's holding onto it, too. And the next  
7        thing he knows, his wife is shot in the face in the most  
8        tragic graphic way you can imagine, right under her eye  
9        and straight through her head.

10        His wife of 37 years gone in an instant, the mother  
11        of his children and his happily ever after. And what he  
12        sees in that instant changes him, scars him in a way that  
13        no one can understand, and he leaves. He runs out into  
14        the night this August night. He's not thinking. He's not  
15        making any sense. He doesn't know what to do. He's  
16        thinking how did this happen? It all happened so fast.

17        So to tell the story of the night of, the State  
18        brought in several experts, right. So they started with  
19        the crime scene. They had Investigator Lee, who was one  
20        of the experts or one of the investigators that actually  
21        went to the trailer. And he took pictures, that's  
22        basically what he did. And then he came in here and gave  
23        you an opinion about what he thought, okay.

24        He describes it as a dynamic scene, the shotgun wound  
25        to the head. That's -- there's probably a lot of words to

1 describe that. It was messy, it was tragic. And he told  
2 you in his opinion, based on what he saw that day, it was  
3 a close shot, not 12 inches, not all the way up to 30, but  
4 a close shot.

5 He doesn't take any measurements of anything, the  
6 room, the couch, even the blood stains. That's been a big  
7 topic of discussion throughout the week, right, the blood  
8 stains. You know, it's a science. Blood pattern  
9 analysis, blood stain pattern analysis, it's science,  
10 right. So in order to be scientific about it, you have to  
11 take scientific measurements. That wasn't done. It could  
12 have been done, but it's not done. Plenty of stains to  
13 work with. You'd probably have a clearer picture of what  
14 did happen. But he basically takes pictures and that is  
15 his involvement.

16 You heard Sergeant Richards -- Lieutenant Richards,  
17 and he wants to say she's sitting down during a blood  
18 letting event. Not necessarily that she's sitting down  
19 while she's shot, right, she's sitting down during a blood  
20 letting event, all right. And that was when the blood  
21 came out of her head. And you heard Chris Robinson, our  
22 expert, say yeah, that's -- you know, the gases -- and  
23 that's what -- the gases from the shotgun went in her  
24 face. That is what caused that damage. That is what  
25 caused that major damage to her head and the scene as we

1 see it and why her brain is where it is and why there's  
2 spatter where it is.

3 Now, Richards doesn't follow his own protocol, the  
4 ones he wrote for his department. He doesn't look at the  
5 gun, and he doesn't look at the autopsy report. Again,  
6 two State's experts giving an opinion on something where  
7 they're not taking in all of the information in the case.  
8 Because there's more to it than just going to the crime  
9 scene. We're talking looking at Doris herself because she  
10 can tell a lot about what happened.

11 That's what Dr. Durso did, right. She's the medical  
12 examiner. And her testimony was an upward trajectory:  
13 Upward, right. And she testified that Doris was 5'2", not  
14 a very tall lady. So Chris Robinson, he sat in the chair  
15 with the gun that's 44 and a half inches long and tried to  
16 show you how that just doesn't work. He's six feet tall,  
17 so he had more height on him, more of an area to where he  
18 could get that gun in that angle to create that trajectory  
19 and that kind of wound pattern.

20 And you heard from David Collins. He was probably  
21 the only expert up here that couldn't give an opinion.  
22 Because he said, I didn't have sufficient information. I  
23 didn't have all of the rest of the stuff. I can't tell  
24 you -- I can't give you an opinion on distance. And he  
25 knows his stuff about guns.

1           You heard him, he's been qualified 200 times as an  
2 expert in court. And he tells you this gun is busted.  
3 It's got electrical tape on it. Parts of the gun are  
4 exposed. There's rust. It's in bad shape. Sixty years  
5 old. Doesn't have a serial number. He tells you about  
6 gun safety, about how the butt stock is different, right.  
7 It's been altered. It's not a safe gun. And that likely,  
8 a gun this old is not going to be drop safe. He didn't  
9 drop it. He didn't test it that way because, you know, it  
10 is so old and in such bad shape, he didn't want to damage  
11 the gun any further.

12           Again, he did not have sufficient information, like  
13 the autopsy report, like the crime scene pictures. He  
14 basically looked at the gun. That was one piece of the  
15 puzzle, right, that was his piece of the puzzle, look at  
16 the gun, process the gun. And he took pictures of the  
17 gun, right, and he swabbed an area that he thought was  
18 important because it looked like there was some stuff on  
19 it. Again, about four inches from the end of the barrel  
20 of that gun, just enough of an area for someone's hand to  
21 have grabbed it leaving behind potential matter on this  
22 area of the gun, but nothing right here.

23           And you heard from the DNA expert. It was her first  
24 criminal trial, but she did test the DNA in this case.  
25 She had several swabs that she tested, swabs from the

1 scene, swabs from the gun, swabs from the car. I'm going  
2 to talk about the swabs from the gun, okay, because it's  
3 interesting.

4 You heard from Investigator Rainsford this morning.  
5 He works for the Richland County Sheriff's Department. We  
6 had to call him for you because he swabbed the shotgun,  
7 right. He swabbed it. He said, I swabbed the trigger,  
8 the trigger guard, the barrel. He swabbed the entire gun,  
9 okay. And remember, Jennifer Martin testified that the  
10 only DNA belonged to Doris Marshall on this gun. Swabbed  
11 the trigger, the trigger pull, the trigger guards, the  
12 barrel, everything comes back to Doris.

13 It wasn't a mixture, right. Where is the evidence  
14 his finger is even on the trigger, the DNA? They didn't  
15 lift any fingerprints, weren't able to. And even the swab  
16 that David Collins took of this area, he actually  
17 documented where he took the swab from, Doris Marshall.

18 Then we had a GSR expert come in. Nothing earth  
19 shattering there. She explained how GSR works. We would  
20 expect that there would be GSR from both people involved.  
21 This wasn't a whodunit, okay. I mean, Joe told them I did  
22 it. I shot my wife. Between all of these scientific  
23 experts that the State produced for you, there's no  
24 cohesive theory among them. There's no solid answer.  
25 You're left with reasonable doubt, but no doubt when it

1 comes to whether this was an accident.

2 So when the State can't make all of their pieces kind  
3 of fit together, they move on to well, let's focus on what  
4 Mimi Joe did or didn't do the next day, right? And I  
5 promise you, because he told Sergeant Clarke, Mimi Joe  
6 wishes he had done things differently. He wishes he had  
7 called them. I can't promise that would have changed  
8 anything. We may still be here. If it were only that  
9 simple, if he had just called the police. But he went to  
10 his brother's house. He called his brother. He said,  
11 Hey, brother. You didn't get to hear the voicemail, but  
12 you, at least, got to talk to Investigator Caldwell about  
13 it. And he said, you know, I shot her, told the same  
14 story to Robert that he told to Sergeant Clarke.

15 The only consistent thing in this case is what Mimi  
16 Joe said happened. The State's experts aren't consistent.  
17 Their witnesses aren't consistent. Mimi Joe has been  
18 consistent. He tells his brother this. He tells Sergeant  
19 Clarke that.

20 Having seen what he saw, he is in such pain and grief  
21 that he plans to kill himself, go be with his wife. Yeah,  
22 the man was acting crazy. The testimony from Pee Wee was,  
23 the car was on when I saw him that night. The lights were  
24 on. The door was open, but he's busting out a window.  
25 That doesn't make any sense.

1           He goes and returns -- they make a big deal about  
2   this. He goes to the auto shop, O'Reilly's Auto Parts and  
3   returns this Campbell alignment kit, right, for cash, and  
4   then he goes to Tony's Lounge. He sits and he waits until  
5   the police find him, and they do. He immediately gives  
6   himself up. He knows they're coming. He's got the gun  
7   with him.

8           This was an accident. It was unintentional, and it  
9   was tragic. And yeah, it's incredibly tragic that Tamieka  
10   and Amanda had to find Doris that way. I know Mimi Joe  
11   wishes he would have handled that a lot differently. The  
12   pictures were terrible. The scene was terrible. So the  
13   State wants you to judge him based on what he didn't do  
14   after the fact, not what was in his head at the time,  
15   right, malice aforethought, meaning before. So that's  
16   before the shooting. Malice aforethought can't be what  
17   comes after. What did you do afterwards? In a perfect  
18   world, yeah, everybody would react in a certain way, but  
19   everybody is different. We can't explain why people  
20   grieve the way they do. Why people react to certain  
21   situations the way they do. But the law says  
22   aforethought, right, before. What happens afterwards is  
23   based on what he's seen at that point.

24           I want to go back through a little bit about what the  
25   State has said. They have no blood on the end of the

1 couch. You guys will have all of the pictures back there.  
2 We put some pictures in, too, to try to highlight some  
3 things for you guys. Again, I focused on no blood on the  
4 end of the couch. There's blood spatter and blood on the  
5 end of the couch. Look at it. Chris Robinson told you.  
6 He looked at the State's own pictures and said yep, that's  
7 what that is. Once it got bigger in here, he said I want  
8 to show you the directionality, the tails, and where she's  
9 sitting, actually behind her. Compare the pictures,  
10 there's blood there.

11 So for anybody to get up and testify unequivocally  
12 that there was no blood there, you'll have the pictures.  
13 You'll be able to see them. You'll have them back with  
14 you in your room.

15 Ladies and gentlemen, you've heard a lot of evidence  
16 over the past four days at this point. I'm sure I've left  
17 something out. It's a lot to cover in a short amount of  
18 time, but the main point here is that Mimi Joe Marshall  
19 did not intentionally kill his wife.

20 He told his brother, his nephew and Sergeant Clarke,  
21 I killed my wife. He never denied killing his wife. What  
22 he told each and every one of them was I did not mean to  
23 do this. I'm so sorry. I'll tell you how sorry I am, I'm  
24 going to kill myself.

25 We'd ask that when you retire to your jury room,

1 after you've reviewed all the evidence and you've gotten  
2 the law in the case that you find Mimi Joe Marshall not  
3 guilty of murder because he did not intentionally kill his  
4 wife.

5 THE COURT: Thank you very much, Ms. Goode.

6 MS. GOODE: Thank you, Your Honor.

7 THE COURT: All right. Would the State like to  
8 reply?

9 MS. SAMPSON: Yes, Your Honor.

10 THE COURT: You may.

11 CLOSING STATEMENT BY MS. SAMPSON

12 MS. SAMPSON: I promise you I will not be nearly as  
13 long as I just was. I'll keep this brief and get straight  
14 to it. The Defense just told you that this was all an  
15 accident, but they didn't bother to tell you the law of  
16 accident. The Judge is going to instruct you about that,  
17 but I thought we'd talk about it since well, they simply  
18 didn't bother.

19 For a homicide to be excusable on the grounds of  
20 accident, it must be shown that one, the killing was  
21 unintentional; two, the Defendant was acting lawfully; and  
22 three, due cause or care was exercised in the handling of  
23 the weapon. And he's going to tell you, we have to prove  
24 beyond a reasonable doubt that it wasn't an accident.

25 So let's go through that, the killing was

1       unintentional. He was pointing a loaded gun at her when  
2       she came home from work. He had his finger on the  
3       trigger. Now, she talked about how they swabbed it and  
4       they didn't find his DNA, they only found Doris'.

5       Remember what Investigator Collins told you, that what he  
6       saw was sticky. It wasn't just the cells as Jennifer  
7       Martin told you sometimes you find. She also told you  
8       that you can touch something and not leave any DNA.

9               Are they really standing here trying to tell you that  
10       the gun was never in his hands because there was no DNA on  
11       it? His fingerprints weren't on it either, so I guess he  
12       never touched the gun. But even he said he touched the  
13       gun. It was intentional. There is no question about  
14       that, he meant to kill her. He pulled the trigger. That  
15       is intentional.

16              The Defendant was acting lawfully. The Judge is  
17       going to instruct you that it is unlawful to point or  
18       present a gun, unlawful to point or present a gun. He did  
19       both. He took that gun and showed it to her in a  
20       threatening manner. He took that gun, and even if you  
21       believe her version, she had to grab it or do something  
22       with it with it pointed at her. The Defendant was not  
23       acting lawfully.

24              Due cause or care was exercised in the handling of  
25       the weapon. We've all talked about how old that weapon

1 is, how rusty. There was no due care. How could there be  
2 due care with this thing? How could there be due care  
3 when you loaded it? How could there be due care when you  
4 took the safety off? You knew your wife was coming home.  
5 Was she not going to come that night? So if you want to  
6 believe their story, he had to be walking around with that  
7 dangerous gun loaded and she just happened to walk in  
8 while he's holding it. That's not due care. That is the  
9 opposite of due care.

10 We only had to do away with one of these for an  
11 accident not to work. We did away with all of them, all  
12 of them. Accident? It's not an accident. There is no  
13 legal or lawful reason for this to have happened, so  
14 accident is out of the question.

15 She told you we proved accident. Were we in a  
16 different courtroom for the last four days? Everything we  
17 proved went against accident. We did talk what about he  
18 did and didn't do. And I guess we're supposed to open up  
19 his head and know exactly why he did this. That's not  
20 what the law says. I can't do that. I don't have to tell  
21 you what he was thinking in terms of why am I killing my  
22 wife. If we could know why people do stuff like that,  
23 then it wouldn't happen. Murder doesn't make any sense.  
24 It's senseless. And he was senseless and he continued to  
25 act senseless the rest of the day and into the next day.

1 That's murder. I can't make it make sense.

2 When we're going through this case, part of our job  
3 is to prove what we have to do and we did that with our  
4 experts. Part of their job, if they want to, is to put up  
5 a case, which they chose to. And since they chose to do  
6 that, you get to judge that case. And as sometimes  
7 happens in the law, we end up having what's called a  
8 battle of experts. We end up arguing over which expert is  
9 better.

10 So in our battle of the experts, we have Christopher  
11 Robinson, their expert. Fired from the Atlanta PD after  
12 only working there for two years, last training was in  
13 2007. Let me just ask you, is it normal that you would go  
14 to an expert who hadn't been trained on anything in 10  
15 years? 10 years? I'm certainly not going to a doctor who  
16 hadn't had any training in 10 years, but that's the person  
17 they brought to you. Got certifications in March, May and  
18 June 2005, and none since. In 12 years, has never gotten  
19 another certification. Did not look at any of the actual  
20 evidence except for the gun, which he looked at last week.  
21 That's it. Relied on the lies told to him by the  
22 Defendant. The Defendant lied about whose gun that was.  
23 He lied that it was his dead son's. So, apparently, it's  
24 his dead son's fault that his wife is now dead, too?

25 He was paid \$5,000 for 12 to 15 hours of work. I'm

1       terrible at math, so it took a minute to figure out the  
2       math. I couldn't do it while he was up here. But that's  
3       about 250 to \$300 an hour. And they want to say well,  
4       back when you worked for the State and Georgia and  
5       Atlanta, you got paid there, right? I'm a State employee.  
6       I don't think anybody who's testified, all our hours  
7       worked together is 250 to \$300 an hour just to do our  
8       jobs.

9               So we gave you Stan Richards, has attended training  
10       every year since 2001, certified by the International  
11       Association for Identification as a blood stain pattern  
12       examiner in 2011 and recertified just two years ago.  
13       Certified by the same association as a crime scene  
14       investigator in 2006, in 2010 and in 2015. Explained in  
15       detail the science of blood stain pattern examination. He  
16       is so good at his job, he wrote the protocol for their lab  
17       to stay accredited. And they put the protocol in. Now,  
18       they want to tell you he didn't follow protocol. He did  
19       follow protocol. He doesn't do every single piece of  
20       that. It's not TV. There's not one person in the whole  
21       lab doing everything. We brought you all those different  
22       people. They also said well, you didn't put up Rainsford,  
23       so we had to. We put up Jennifer Martin to tell you about  
24       the swabs and the testing. We put in the gun. Did we  
25       skip a person? Yes. Did he tell you anything new? No.

1           Review the actual crime without relying on anyone's  
2 statements. Now, that's very important. You don't want  
3 to be -- have a thought in your head as to what happened.  
4 You want to look at the evidence and then determine what  
5 happened, and that's what he did, instead of what their  
6 expert did, which is let's just look at some pictures,  
7 let's just look at some reports and then I'm going to  
8 decide what to do and I'm going to take into account what  
9 the Defendant said. Remember I asked him, How did you  
10 decide this was going on? He said, Well, because that's  
11 what the Defendant said. The person you're paid by. The  
12 person who told you to be here. The person who gave you  
13 \$5,000, I guess you would rely on what he said.

14           Now, we've already talked about the qualifications of  
15 their expert. Let's talk about David Collins, has had  
16 training every year since becoming a firearms examiner.  
17 He is certified by SLED and Richland County since 1983.  
18 That's what, 34 years? But I guess their examiner is  
19 better. Examined the guns, the pellets, the wadding, the  
20 shells, everything.

21           And she talked about well, he couldn't do the  
22 distance, because he's a professional. He told you why.  
23 It wasn't that he didn't want to. He would have loved to.  
24 He didn't have any ammunition. It had nothing to do with  
25 Durso's reports. He told you he used her report, but

1 because she had to reapproximate the wound and that he  
2 couldn't be sure that was exactly how it was, he would not  
3 rely on that. That would not be professional. But  
4 apparently it's good enough for their guy. Maybe because  
5 he hadn't been trained since 2007.

6 Test fired the gun, our guy did. Had to remind him  
7 because he said oh, they didn't test fire the gun. It's  
8 in their report, yeah, they did. They made sure it  
9 worked. He told you how the front trigger controlled one,  
10 the second trigger controlled the other barrel. He did  
11 his job.

12 While I'm thinking about it, they wanted to compare  
13 Stan Richards and Chris Robinson and that Robinson  
14 demonstrated to you with his six-foot-one self, how could  
15 a six-foot-one person have the same as a five-foot-two  
16 person? It just doesn't work. You will have the pictures  
17 and you will be able to see what they were saying when  
18 there's no blood.

19 You saw the copious amounts of bloods that are on  
20 this part of the couch because it goes out this way.  
21 There's not enough on this. He told you there's little  
22 parts, but that's not the same thing. She talked about a  
23 blood letting event, that that means when the blood came  
24 out. That is not what Stan Richards told you. What he  
25 told you is a blood letting event is when you are either

1 shot, stabbed, whatever caused you to bleed. In this  
2 case, it was when she got shot, the blood let onto the  
3 couch. He didn't rely on anybody statement's either,  
4 David Collins, he did his own investigation.

5 The last expert, Dr. Durso. She received her medical  
6 license from North Carolina in 2005 and still Board  
7 certified. 2010, in South Carolina, still Board  
8 certified. Became certified by the American Board of  
9 Pathology in 2009 and 2010. Currently, teaches at the  
10 School of Medicine. She examined the actual wound. She  
11 saw what it looked like.

12 She told you it didn't have the scalloping and why  
13 that was important. She told you what she saw and how she  
14 had to try to put it back together. But because she had  
15 to try to put it back together, she was not going to give  
16 you a distance. It wouldn't be professional. What she  
17 told you was it had to be 12 to 30 inches away from the  
18 end of the barrel because of the stippling. That is  
19 scientific. The stippling doesn't occur unless you're  
20 within 12 inches to 30 inches. She explained all that.  
21 They're expert didn't deny that. He couldn't. He's not a  
22 doctor. She also told you she found no burns on her hand,  
23 no soot, no powder, no nothing. They want you to believe  
24 that this five-foot-two woman -- first of all, her DNA is  
25 all on this gun, as they said, but it's not on the

1 trigger. I can't shoot myself and I'm five-ten. How is  
2 it at five-two, she's going to hold the trigger and shoot  
3 herself?

4 Secondly, they told you about how her DNA was on the  
5 gun. It wasn't touch DNA. It was her actual DNA. They  
6 also told you that Dr. Durso said upwards and they keep  
7 doing this. Did you ever, when Dr. Durso testified, see  
8 her do that, it was upwards or did she say slightly  
9 upwards? Let's look at when upwards stops. If I hold my  
10 hand, is this, is this, is this, is this? It's still  
11 upwards.

12 If you take this gun and you just slightly tilt it,  
13 it's still going to shoot up. You tilt it just a little  
14 more. It's still going to shoot up. And it could still  
15 manage to shoot somebody's eye out and knock her brains  
16 onto the back of this couch. It wasn't the top of her  
17 scalp. Dr. Durso told you it was the back and it was on  
18 the couch. Back on the couch. If she's sitting and it's  
19 just slightly up, that's going to work if it's just  
20 slightly tilted. That's all that has to happen.  
21 Dr. Durso told you that. She is the expert on that.

22 So they wanted to talk to you about this story he  
23 concocted and the accuracy of somehow I did it, but I  
24 don't know how I would have done that. She said that this  
25 is a science. It is a science. That's why they came in

1 here and they told you the specifics of this science with  
2 all of their knowledge. Stan Richards, David Collins,  
3 Dr. Durso, their doctor, their expert had done that.

4 Pulled the gun to her face. Who would do that? I  
5 don't have to tell you why he was pointing the gun at her  
6 face. I have no idea. You don't have to, though, because  
7 if you point a gun at somebody's face and pull the  
8 trigger, that's malice. I don't have to prove to you why.

9 No blood on the door. That is important. He  
10 continuously -- she said he's consistent. He's  
11 consistently wrong, but yeah, he's consistent. Continues  
12 to say that at first she comes in the door, she comes in  
13 the door and it happens right then. Well, then how the  
14 heck did her lunch bag get way over there? It's not even  
15 near the door. Does she just throw it as she's getting  
16 shot while she's moving the gun around? Didn't happen.  
17 Her brain is on the floor. I can't get past this. It's  
18 right by the lunch bag. Did that get thrown over there,  
19 too? That doesn't match anything of what they just told  
20 you. And it sure doesn't match an accident.

21 The scalp on the couch. We talked about that.  
22 Again, did we throw that over there? There's blood on the  
23 ceiling, on the couch, everywhere except by the door. He  
24 never once said she came in, sat her lunch bag down. Look  
25 at his statement. You'll have it. It's not in there.

1           He never once said, oh, yeah, I put her scalp up on  
2           the back of the couch. Didn't say that. Because it  
3           didn't happen. She was sitting. She got shot. It all  
4           flew out because he did it. Her glasses get across the  
5           room. She didn't bother to mention that. Because if he's  
6           standing in front of her with a table between the two of  
7           them and in front of the couch, like they now want you to  
8           believe, then how do the glasses fly past him and the  
9           table to get by the TV? It's not possible.

10           I just want you to remember what you heard and saw  
11           from the witnesses and whether it makes sense. The  
12           Defendant -- I don't want you to just judge what he did  
13           after, but it's important because if he had just done the  
14           right thing after, it wouldn't look like murder. It would  
15           look like an accident, but he didn't do those things. And  
16           he didn't do those things prior to it happening because he  
17           wouldn't have had that loaded gun if he was doing the  
18           right thing. He wouldn't have pointed that gun at her if  
19           he was doing the right thing. He wouldn't have pulled  
20           that trigger if he was doing the right thing. And that is  
21           why I want you to find him guilty of murder, because he  
22           did it with malice aforethought.

23           Thank you..

24           THE COURT: All right. Let's stand up, stretch right  
25           where you are.

1 (Pause.)

2 CHARGE ON THE LAW

3 THE COURT: All right. The indictment has charged  
4 the Defendant with murder. I remind you that the fact  
5 that the Defendant was arrested and charged and indicted  
6 in this case is not evidence in this case and it cannot be  
7 considered by you as evidence of guilt, nor does it create  
8 any presumption or inference of guilt. The indictment, as  
9 I told you on the very first day, is simply the formal  
10 written instrument that contains the charge made against  
11 the Defendant. It is the formal document by which the  
12 case is brought into this Court.

13 Now, you and I have had certain duties to perform  
14 during this trial. It has been my responsibility to  
15 preside over the trial and I have also had the duty to  
16 rule on the admissibility of evidence. You are to  
17 consider only the competent evidence before you. There  
18 was testimony that I ordered stricken from the record in  
19 this case and you must disregard that testimony. You are  
20 to consider only the testimony which has been presented  
21 from the witness stand, the exhibits which have been made  
22 a part of the record in the case.

23 I have the additional duty to charge the law  
24 applicable to this case. As the presiding judge, I am the  
25 sole judge of the law, and it is your duty to accept and

1       apply the law as I now give it to you. If you have an  
2       idea as to what you think the law is or what you think the  
3       law ought to be and it does not agree with what I now tell  
4       you the law is, you must abandon your own idea because you  
5       are sworn to accept the law and apply it exactly as I give  
6       it to you.

7               In every case tried in this court before a jury, the  
8       jury becomes the sole and exclusive judge of the facts. I  
9       cannot state, comment on or make any statement to you  
10      about the facts in a case. You are the sole judge of the  
11      facts. You are not to infer from anything that I have  
12      said during this trial in ruling upon the admissibility of  
13      evidence or otherwise or anything that I say to you now  
14      during the course of this instruction that I have any  
15      opinion about the facts in this case. The law does not  
16      allow me to have an opinion about the facts. This is a  
17      matter solely for you to determine. It is your duty to  
18      determine the effect, the value and the weight of the  
19      evidence presented during this trial.

20             Now, to this charge, the Defendant has pled not  
21      guilty. That plea puts the burden of proof on the State  
22      to prove the Defendant guilty. A person charged with  
23      committing a criminal offense in South Carolina is never  
24      required to prove himself innocent. I charge you that it  
25      is an important rule of law that the defendant in a

1 criminal trial, no matter what the seriousness of the  
2 charge may be, will always be presumed to be innocent for  
3 the crime which the indictment was issued unless guilt has  
4 been proven by evidence that satisfies you of that guilt  
5 beyond a reasonable doubt.

6 This presumption of innocence does not end when you  
7 begin your deliberations, but it accompanies the Defendant  
8 throughout the trial until you reach a verdict of guilt  
9 based upon evidence that satisfies you of that guilt  
10 beyond a reasonable doubt.

11 The presumption of innocence is like a robe of  
12 righteousness placed about the shoulders of the Defendant,  
13 which remains with the Defendant until it has been  
14 stripped from the Defendant by evidence which satisfies  
15 you of the Defendant's guilt beyond a reasonable doubt.

16 The presumption of innocence is not a mere legal  
17 theory. It's just not something we say or just some legal  
18 phrase. It is a substantial right to which every  
19 defendant is entitled unless you, the jury, are satisfied  
20 from the evidence of the Defendant's guilt beyond a  
21 reasonable doubt.

22 So what is beyond a reasonable doubt? The State has  
23 the burden of proving the Defendant guilty beyond a  
24 reasonable doubt. Some of you may have served as jurors  
25 in civil cases where you were told that it is only

1 necessary to prove that a fact is more likely true than  
2 not true, such as by the greater weight or the  
3 preponderance of the evidence. In a criminal case, the  
4 State's proof must be more powerful than that. It must be  
5 beyond a reasonable doubt.

6 Proof beyond a reasonable doubt is proof that leaves  
7 you firmly convinced of the Defendant's guilt. There are  
8 very few things in this world that we know with absolute  
9 certainty. In criminal cases, the law does not require  
10 proof that overcomes every possible doubt. If based upon  
11 your consideration of the evidence, you are firmly  
12 convinced that the Defendant is guilty of the crime  
13 charged, you must find the Defendant guilty.

14 If on the other hand, you think there is a real  
15 possibility that the Defendant is not guilty, you must  
16 give the Defendant the benefit of the doubt and find him  
17 not guilty.

18 Some things that you have heard during this trial are  
19 not evidence and you must not consider them as evidence in  
20 deciding the facts of this case.

21 Number one, the statements and the arguments of the  
22 attorneys are not evidence. Number two, the questions and  
23 the objections of the attorneys are not evidence. Number  
24 three, anything that I told you to disregard.

25 Now, there are two types of evidence which are

1 generally presented during a trial. One is known as  
2 direct evidence, the other is known as circumstantial  
3 evidence. So what is direct evidence? Direct evidence  
4 directly proves the existence of a fact and does not  
5 require any deduction. Circumstantial evidence is proof  
6 of a chain of facts and circumstances that indicate the  
7 existence of a fact.

8 Crimes may be proven by circumstantial evidence. The  
9 law makes no distinction between the weight or the value  
10 to be given to either direct or circumstantial evidence.  
11 However, to the extent that the State relies on  
12 circumstantial evidence, all of the circumstances must be  
13 consistent with each other and when taken together, point  
14 conclusively to the guilt of the accused beyond a  
15 reasonable doubt. If the circumstances merely portray the  
16 Defendant's behavior as suspicious, the proof has failed.

17 The State has the burden of proving the Defendant  
18 guilty beyond a reasonable doubt. This burden rests with  
19 the State regardless of whether they rely on direct  
20 evidence, circumstantial evidence or some combination of  
21 the two.

22 As I told you in the beginning, you must determine  
23 the credibility of the witnesses who have testified in  
24 this case. Credibility just means believability. It is  
25 your duty to analyze and to evaluate the evidence and

1 determine which evidence convinces you of its truth.

2 In determining the believability of the witnesses who  
3 have testified in this case, you may believe one witness  
4 over several or several over one. You may believe a part  
5 of the testimony of a witness and reject the remaining  
6 part of the testimony of that same witness. You may  
7 believe the testimony of a witness entirely or reject it  
8 entirely. You may consider whether the witness has  
9 exhibited to you any interest, any bias, any prejudice or  
10 motive in the case. You may also consider the appearance  
11 and the demeanor of the witness while on the witness  
12 stand.

13 Now, ordinarily, the Rules of Evidence do not permit  
14 witnesses to give their opinions or their conclusions. An  
15 exception to this rule exists for expert witnesses. This  
16 is a witness, who by some education and experience, has  
17 become an expert in an art or a science or a profession or  
18 a calling. That person is allowed to give their opinion  
19 as to relevant and material matters in which the witness  
20 claims to be an expert and may also give the reasons for  
21 their opinion.

22 You should consider any expert opinion received in  
23 evidence in this case and, like any other evidence, give  
24 it the weight that you believe it deserves. If you decide  
25 that the opinion of an expert is not based upon sufficient

1 education and experience or if conclude that the reasons  
2 given in support of the opinion are not sound or that the  
3 opinion is outweighed by other evidence, you may disregard  
4 an expert's opinion entirely. An expert witness's  
5 testimony is to be given no greater weight than that of  
6 other witnesses simply because they're an expert. You are  
7 not required to accept an expert's opinion even if it is  
8 not contradicted.

9 Now, I instruct you and emphasize to you that the  
10 fact that the Defendant did not testify in this case is  
11 not a factor to be considered by you in any way whatsoever  
12 in your deliberations and in your consideration on the  
13 question of the guilt or innocence of the Defendant. It  
14 must not be considered by you in any manner whatsoever. A  
15 Defendant has a Constitutional right to remain silent.  
16 And the assertion of this right must not be considered by  
17 you in your deliberations.

18 I repeat, under the oath that you took at the  
19 beginning of this case, you are to draw no conclusion  
20 whatsoever from the fact that the Defendant did not  
21 testify. The fact that the Defendant did not testify  
22 should not even be discussed in the jury room. The burden  
23 of proof, as I told you, is on the State. The Defendant  
24 is not required to prove his innocence. The burden of  
25 proof remains on the State to prove guilt beyond a

1 reasonable doubt.

2 Now, there is a statement that is alleged to have  
3 been made by the Defendant that has been admitted into  
4 evidence in this case. While the Court has determined  
5 that the statement is admissible, I instruct you that you  
6 make the ultimate decision of whether or not the Defendant  
7 made the statement. If the Defendant did make the  
8 statement, you must determine whether the statement was  
9 made by the Defendant voluntarily and of his own free  
10 will. This means that the statement was not caused by  
11 pressure, force, fear, threats, coercion or intimidation  
12 or by hope or a promise of leniency or a reward of any  
13 kind.

14 In determining whether the statement was voluntary,  
15 you should consider both the characteristics of the  
16 Defendant and the details of the questioning. Some of the  
17 factors that you must consider are the age of the  
18 Defendant, the Defendant's education or lack of education,  
19 the Defendant's mental ability or capacity, the  
20 Defendant's IQ or intelligence, the Defendant's background  
21 and environment, the place and the length of the  
22 detention, the nature of the questioning and the advice or  
23 lack thereof to the Defendant of his Constitutional  
24 rights, including but not limited to the right to remain  
25 silent, that any statement can be used against him in

1 court, the right to have a lawyer present, and that if he  
2 cannot afford a lawyer, a lawyer will be appointed to  
3 represent him without any cost and that he could stop  
4 making a statement at any time.

5 You must carefully consider all the surrounding  
6 circumstances before you give any weight to an alleged  
7 statement. The State has the burden of proving beyond a  
8 reasonable doubt that the alleged statement was voluntary.  
9 If you determine it was, you may give it any further  
10 consideration that you deem proper. You must decide what  
11 weight, if any, should be given to the alleged statement.  
12 If you determine the alleged statement was not the free  
13 and voluntary statement of the Defendant, do not consider  
14 it at all.

15 All right. The next thing I'm going to talk to you  
16 about is called intent. So in order to establish criminal  
17 liability, the State must prove criminal intent. For  
18 example, the mental state required to be proven by the  
19 State might be purpose, intent, knowledge, recklessness or  
20 criminal negligence.

21 Criminal intent must be proven beyond a reasonable  
22 doubt by the State. Criminal intent is always a matter  
23 that must be determined by the jury from circumstances  
24 surrounding the situation. There is no way to prove  
25 intent to a mathematical certainty. There is no way that

1        medical science can dissect a person's brain and determine  
2        what that person had in mind, so the law says that  
3        criminal intent may be inferred from the circumstances  
4        shown to have existed.

5                This is how you make a determination of whether or  
6        not the element that requires intent was present. It is  
7        not necessary to establish intent by direct and positive  
8        evidence, but intent may be established by inference in  
9        the same way as any other fact by taking into  
10       consideration the acts of the parties and all the facts  
11       and circumstances of the case.

12               Criminal intent is a mental state. It is a conscious  
13       wrongdoing. It is up to you to determine what the  
14       Defendant intended to do based upon the circumstances  
15       shown to have existed.

16               Criminal intent can arise from an action or a failure  
17       to act. It may arise from negligence, recklessness or an  
18       indifference to duty or to consequences that is considered  
19       by the law to be the equivalent of criminal intent.

20               All right. The charge in this case is murder. The  
21       Defendant is charged with murder. The State must prove  
22       beyond a reasonable doubt that the Defendant killed  
23       another person with malice aforethought.

24               So what is malice? Malice is hatred, ill will or  
25       hostility towards another person. It is the intentional

1 doing of a wrongful act without just cause or excuse and  
2 with an intent to inflict an injury or under circumstances  
3 that the law will infer an evil intent.

4 Malice aforethought does not require that the malice  
5 exist for any particular time before the act is committed,  
6 but malice must exist in the mind of the Defendant just  
7 before and at the time the act is committed. There must  
8 be a combination of the previous evil intent and the act.

9 Malice aforethought may be expressed or it may be  
10 inferred. These terms expressed and inferred do not mean  
11 different kinds of malice, but merely the manner in which  
12 the malice may be shown to exist. That is either by  
13 direct evidence or by inference from the facts and  
14 circumstances which are proved.

15 Malice may be inferred from conduct that shows a  
16 total disregard for human life, or it may be inferred if a  
17 reasonably prudent man would have known that according to  
18 common experience there was a plain and strong likelihood  
19 that death would follow the contemplated act.

20 Now, the Defendant has raised the defense of  
21 accident. So an act may be excused on the ground of  
22 accident if it is shown that the act was unintentional,  
23 that the Defendant was acting lawfully, and that  
24 reasonable care was used by the Defendant in the handling  
25 of the weapon. The burden is on the State to prove beyond

1 a reasonable doubt that the act was not an accident, but  
2 was caused by the negligence or carelessness on the part  
3 of the Defendant in the handling of a dangerous  
4 instrumentality or by unlawful activity by the Defendant.

5 In South Carolina, pointing and presenting a firearm,  
6 either loaded or unloaded at another person is considered  
7 unlawful activity.

8 All right. I'm almost done. So let me talk to you  
9 about deliberations. What deliberation means is this:  
10 Deliberation is a careful consideration weighing up with a  
11 decision. The genius of this system is that it allows 12  
12 men and women from 12 totally different backgrounds, life  
13 experiences and perspectives to consider the evidence, to  
14 talk about it and to reach a verdict.

15 We call them deliberations for a reason. You are to  
16 consider the evidence carefully and deliberately and  
17 discuss it in a calm, thorough and courteous manner.  
18 Remember, you are not a partisan. You are not an advocate  
19 for either side. You don't favor one side or the other.  
20 You are a judge. You are a judge of the facts. Listen to  
21 the views of your fellow jurors. Consider other people's  
22 points and points of view and talk through and discuss the  
23 evidence. And remember, if you are doing something  
24 deliberately, you are not in a big hurry and you should  
25 not be in a hurry here. This case is very important to

1 both sides. This is their only day in court to resolve  
2 this matter. When you retire to your jury room, you  
3 should discuss the case with each other to reach an  
4 agreement if you can do so.

5 Your verdict must be unanimous. Each of you must  
6 decide the case for yourself, but only after you have  
7 impartially considered the evidence, discussed it fully  
8 with each other and listened to each other's views. Do  
9 not be afraid to change your opinion if the discussion  
10 persuades you that you should, but do not come to a  
11 decision simply because everyone else thinks it's right.

12 It's important that you attempt to reach a unanimous  
13 verdict, but, of course, only if you can do so after  
14 having made your own decision. Do not change an honest  
15 belief about the weight and the effect of the evidence  
16 simply to reach a verdict. In other words, don't change  
17 your opinion simply, solely for the sake of reaching a  
18 unanimous verdict.

19 All right. Now, I'm going to give you what we call a  
20 verdict form. So this form -- I'm going to show it to you  
21 in just a second. It just has the case caption at the top  
22 and then it simply says we, the jury, by unanimous consent  
23 find the Defendant as to the charge of murder either  
24 guilty or not guilty. Okay. Now, there's no significance  
25 in which one is first and which one is second. I have to

1 put guilty first -- I have to put one first and one  
2 second, so I switch it up.

3 Very simple, you check the box and you sign it. You  
4 got that?

5 THE FOREMAN: Yes.

6 THE COURT: Okay. Now, here are your rules. Number  
7 one, all 12 of you have to be in the room to deliberate.  
8 So if somebody goes to the restroom, if somebody needs to  
9 go smoke, somebody needs to call home and say we're going  
10 to be a little bit late tonight, you have to stop  
11 deliberating. Okay. When your lunch comes, you can  
12 deliberate while you eat or you can stop deliberating and  
13 eat. That's up for y'all to decide.

14 So I'm about to send you back to your jury room.  
15 You're still not allowed to talk about the case. I need  
16 to check with the lawyers and make sure I told you what I  
17 was supposed to tell you. Okay. So the sign that you may  
18 begin deliberating is when this evidence comes in the  
19 room, okay. So when one of the bailiffs sends in the  
20 evidence, that's your sign that you may begin  
21 deliberating. Until then, don't talk about the case. At  
22 that time, the alternates will come out, the evidence will  
23 come in. When the evidence comes in, you may begin, all  
24 right.

25 Now, don't tell me the count, okay. They don't teach

1       you this at judge's school, but I learned the hard way. I  
2       started getting all these notes from juries in the  
3       beginning saying their count is this. Your count is your  
4       count. We don't ever need to know your count. Make  
5       sense?

6               And let's see. Okay. There are some 9-1-1 calls  
7       that are in evidence. If you want to listen to those, we  
8       can provide you a clean computer to play those on. Just  
9       send out a note that says, you know, we'd like to hear the  
10      9-1-1 calls. I think that's the only thing that --

11             MS. SAMPSON: Yes, sir.

12             THE COURT: Isn't that right, Ms. Goode?

13             MS. GOODE: Yes, Your Honor.

14             THE COURT: That's the only thing you won't have with  
15      you. So if you want to hear those, just let us know.  
16      We'll give you a clean computer that has those on there  
17      and my law clerk will show you how to come in and hit  
18      play.

19             Okay. So you're still now allowed to talk about the  
20      case. Retire to the jury room. When the evidence comes  
21      in, you can start. I told them to have lunch here  
22      around --

23             Is lunch here? It may be here already. I told them  
24      12:30.

25             THE BAILIFF: It's here.

1 THE COURT: Okay. We'll go ahead and get your lunch  
2 into you. You can go ahead and get started eating. Thank  
3 you very much.

4 (WHEREUPON, the jury left the courtroom at 12:45  
5 p.m.)

6 THE COURT: All right. Any exception to the charge  
7 other than those previously stated?

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

9 MR. HAWKS: Judge, I would just renew my objection to  
10 the pointing and presenting being unlawful. This violates  
11 established common law in South Carolina because it takes  
12 away the jury's job of finding that fact. And we would  
13 also renew all our pretrial objections, in-trial  
14 objections, mistrial motions, directed verdict, all that  
15 stuff.

16 THE COURT: Okay. All right. Make sure Bailey has  
17 your phone numbers, make sure the right evidence goes back  
18 and thank you very much.

19 (WHEREUPON, the jury began deliberations at 12:53  
20 p.m.)

21 (WHEREUPON, Court was in recess awaiting a  
22 verdict.)

23 THE COURT: All right. Now, it's my understanding we  
24 have a verdict. I understand that this is a very  
25 emotional case, and I appreciate that.

1           People can be sad. They can be upset. People cry.  
2           People have all different kinds of different emotions in  
3           these types of situations. What I cannot put up with is  
4           any outbursts, okay. So no screaming or yelling or  
5           anything like that. If you don't think you can handle  
6           yourself that way, just walk out now. No one will think  
7           bad of you and somebody can come tell you what happens.

8           I understand people being emotional and upset and  
9           those different things, but we can't have any loud  
10          outbursts or screaming or those kinds of things.

11          Okay. Let's bring them in.

12                 (WHEREUPON, the jury returned to open court with a  
13          verdict at 2:05 p.m.)

14          THE BAILIFF: The jury is seated, Your Honor.

15          THE COURT: Mr. Foreman, it's my understanding you  
16          have a verdict; is that correct?

17          THE FOREMAN: Yes, sir.

18          THE COURT: All right. Hand it to Mr. Tolbert,  
19          please.

20          THE COURT: All right. The clerk may publish.

21          THE CLERK: Yes, Your Honor.

22                         VERDICT

23          THE CLERK: Indictment number 2015-GS-40-06133, the  
24          State of South Carolina versus Mimi Joe Marshall, we, the  
25          jury, by unanimous consent find the Defendant, Mimi Joe

1 Marshall, as to the charge of murder on indictment  
2 2015-GS-40-06133 guilty, signed number 280, Robert Wagner,  
3 foreperson, November the 2nd, 2017.

4 Mr. Foreman, is this your verdict and the verdict of  
5 the entire jury?

6 THE FOREMAN: Yes, ma'am.

7 THE CLERK: Thank you.

8 THE COURT: Do either side request polling?

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

10 MS. GOODE: Yes, Your Honor.

11 THE COURT: Okay. Ladies and gentlemen, we're going  
12 to ask you two questions. We're going to call out -- one  
13 question that has two parts. We're going to call out each  
14 of your numbers. And then the question will be: Is this  
15 your verdict and is this still your verdict? And if  
16 you'll just answer out loud when your number is called.

17 THE CLERK: No. 280, was this your verdict?

18 JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR: Yes.

21 THE CLERK: No. 172, was this your verdict?

22 JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes.

25 THE CLERK: No. 272, was this your verdict?

1 JUROR: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR: Yes.

4 THE CLERK: No. 108, was this your verdict?

5 JUROR: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR: Yes.

8 THE CLERK: No. 1, was this your verdict?

9 JUROR: Yes.

10 THE CLERK: Is it still your verdict?

11 JUROR: Yes.

12 THE CLERK: No. 295, was this your verdict?

13 JUROR: Yes.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes.

16 THE CLERK: No. 73, was this your verdict?

17 JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 JUROR: Yes.

20 THE CLERK: No. 187, was this your verdict?

21 JUROR: Yes.

22 THE CLERK: Is it still your verdict?

23 JUROR: Yes.

24 THE CLERK: No. 275, was this your verdict?

25 JUROR: Yes.

1 THE CLERK: Is it still your verdict?

2 JUROR: Yes.

3 THE CLERK: No. 179, was this your verdict?

4 JUROR: Yes.

5 THE CLERK: Is it still your verdict?

6 JUROR: Yes.

7 THE CLERK: No. 102, was this your verdict?

8 JUROR: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR: Yes.

11 THE CLERK: No. 180, was this your verdict?

12 JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 JUROR: Yes.

15 THE CLERK: The jury has been polled, Your Honor.

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

17 All right, ladies and gentlemen, I want to say thank  
18 you very much for your service this week. You all have  
19 been a great jury. You've paid attention. You've been on  
20 time. You stayed with us. You stayed awake. And I want  
21 to say on behalf of all the judges in the building thank  
22 you very much for your service this week. I know there  
23 are a million other places you would have rather been this  
24 week. You can see now after sitting through a trial that  
25 trials are not like TV or movies or books. This is real

1 life and real circumstances. I just want to say thank you  
2 very much for your service and your attentive service this  
3 week.

4 Now, you have a jury exemption for the rest of this  
5 year and for 2018 and 2019, so if you get called for jury  
6 duty, just make sure you tell them that you served this  
7 week. You are now free to discuss the case with anyone  
8 that you see fit. If you don't want to talk about it, you  
9 don't have to, but if you choose to talk about it with  
10 someone, you have the free ability to do that.

11 You can retire to your jury room. The bailiffs will  
12 collect your badges and then you will be done. You do not  
13 need to call back in or come in tomorrow. Thank you very  
14 much.

15 Everyone else remain seated.

16 (WHEREUPON, the jury left the courtroom at 2:08  
17 p.m.)

18 THE COURT: All right. I'll be back in about five  
19 minutes for post-trial motions and sentencing.

20 (WHEREUPON, a short break was taken.)

21 THE COURT: All right. Post-trial motions?

22 MS. GOODE: Your Honor, we would renew all previous  
23 motions, objections made throughout the course of the  
24 trial, pretrial. We would also at this time request --  
25 make a motion for a new trial based upon the brevity of

1 the deliberations.

2 THE COURT: Okay. Those motions are denied. My  
3 rulings on them would be the same as before. This jury  
4 paid attention this entire week. They were very involved  
5 in what was going on. They stayed with it. And I know  
6 the case had a lot of what we call expert witnesses or  
7 science in it, but it really, you know, as to the level of  
8 complication in the case, it just wasn't that complicated  
9 to a point where it would take hours upon hours to  
10 deliberate.

11 All right. Does the victim's family want to be heard  
12 from?

13 MS. SAMPSON: Yes, sir.

14 THE COURT: All right. Who wants to speak?

15 MS. SAMPSON: Do you want her to stand up and or come  
16 up?

17 THE COURT: She can stay right there.

18 Are you Tamieka or Amanda?

19 TAMIEKA MARSHALL: Tamieka.

20 THE COURT: All right. Thank you for being here,  
21 Tamieka. I know you've been here all week and I heard you  
22 testify in the case. I'm more than happy to hear from you  
23 now if you'd like to say anything. You don't have to, but  
24 you're you're welcome to.

25 TAMIEKA MARSHALL: I just wanted you to know that I

1 didn't, you know, bring up things, but I witnessed  
2 domestic violence in my household all my life until the  
3 time that we left in 2010.

4 THE COURT: And that's when y'all went to Georgia?

5 TAMIEKA MARSHALL: Yes.

6 THE COURT: To live with your brother?

7 TAMIEKA MARSHALL: Yes. Because I called him to come  
8 get me because I heard him abuse my mother every day. So  
9 I just wanted you to know that this domestic violence had  
10 been going on forever, up until she passed away. I didn't  
11 know that -- you know, I didn't know because I didn't live  
12 there that it was going on, but I just wanted you to know  
13 that.

14 THE COURT: I can imagine that in -- you know, all  
15 the lawyers come in here and we do this every day, so I  
16 look at people all the time and I say you can't testify to  
17 this or you can't to that. That's not the witness's  
18 fault. Does that make sense? There's rules that are in  
19 place, so I know -- you know, I can understand how people  
20 would feel like I didn't really get to tell my whole story  
21 because I didn't get to tell the jury about the things  
22 that happened in the past. There's rules in place that  
23 cover that. And I appreciate you, you know, staying with  
24 the information that the State -- you had provided with  
25 them and not going into that history in front of the jury.

1 That was very important that that not come in. And under  
2 the rules, it would have not been permissible.

3 I do appreciate you telling me that and I appreciate  
4 your participation in the trial. I can't imagine -- I  
5 can't even begin to put myself in the situation you're in  
6 in this case with the parties involved. But thank you  
7 very much for being here and thank you for your comments.

8 Anybody else?

9 THE DEFENDANT: Can I say something?

10 THE COURT: I'm going to let you in just a minute,  
11 yeah.

12 THE DEFENDANT: Okay.

13 MS. SAMPSON: You have to state your name for the  
14 record.

15 THE SISTER: My name is Valerie Garvinger.

16 THE COURT: Yes, ma'am.

17 THE SISTER: Doris was my sister, but she was more of  
18 a surrogate mother because our parents died when we were  
19 young. I was three when my mother died. I was seven when  
20 my father died. And Doris was the hands-on for us. As we  
21 traversed between houses and other people's lives, she was  
22 the one who made sure we didn't do anything wrong. And as  
23 Tamieka and her brother grew up, she always called us each  
24 other's names because when you raise two sets of kids, you  
25 mix their names up.

1           When she met this man, I don't feel like he was the  
2 right person, but that was her life. She loved him. And  
3 I watched him just do crazy, from beating her because  
4 someone rode down the street and threw up their hand as  
5 they drove down, paying somebody to come pick me up from  
6 work because he took the money I paid him for gas and went  
7 and bought liquor and didn't come pick me up and I'm stuck  
8 in Columbia catching rides in the middle of the night  
9 because he felt like it wasn't important. And she took  
10 her nephew with her with a cousin who came by to come get  
11 me so I'm not stuck. So anything that he could control  
12 and belittle her with, he did.

13           The only peace in her life was in her children, her  
14 grandchildren, and when she was away from him. And out of  
15 love for her family, she always wanted her family together  
16 because our life was so scattered at a young age. So she  
17 took him back because he had nowhere to go, and she didn't  
18 want to see the father of her children in the street with  
19 nowhere to go.

20           He tormented her and tortured her, but she loved him  
21 still. Even when they were separated, she got lonely.  
22 She went and got him, brought him to Georgia with her to  
23 live. Came back to Columbia to live because she loved  
24 him. You can't help who you love, but I wish her choice  
25 had been different. I wish he had valued her, the kind of

1 person she was because she would give him her life above  
2 everybody. Her life, she gave to him, and he took her  
3 life and did not value her. And I'm glad he will not be  
4 able to hurt anyone else because my nieces don't need to  
5 look back and wonder if he's coming.

6 That's all I want. I don't wish him no death  
7 penalty, no nothing. I don't want them to have to look  
8 over their shoulder and wonder if he's coming because I  
9 seen the meanness in him and that is my biggest concern.

10 Thank you for hearing me.

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

12 Anybody else?

13 Tell me your name, ma'am.

14 MS. TYSON: My name is Elizabeth Tyson. Doris  
15 Marshall was my best friend for over 30 years. I told  
16 Doris I couldn't live in the conditions she lived in. If  
17 we was in the house talking and Mimi came in, she would go  
18 (indicating). There were certain things she couldn't say.  
19 There were certain things she couldn't do. I remember one  
20 time we went to the fair, me and Doris -- that was before  
21 Tamieka was born -- her brother and her son and his  
22 mother. When we got back home, he raised all kind of hell  
23 saying that we went to the fair to meet men with his  
24 mother.

25 That girl lived under tension every day of her life

1       when she was with him. And she had a heart of gold. He  
2       had an angel in his hands and didn't know it. Because  
3       when I had my kids, I didn't trust my kids with anybody,  
4       but I trusted my kids with Doris. And then when my son  
5       had his daughter, she treated Nijah just like Nijah was  
6       her granddaughter. We always tease her grandchildren now,  
7       y'all are the second go around because Nijah was the  
8       first. She loved Nijah with all her heart and soul. And  
9       it's really not fair for Doris not to be in these girls'  
10      life and watch them grow up for no reason, for simply  
11      complete control. You go into your own house and you  
12      didn't feel comfortable, that you was scared to talk to  
13      someone or say something because he walked in.

14      This girl got up and cooked his meals, carried his  
15      meals to him in bed, and she was the one working. He  
16      didn't even work. She did not deserve to die the way she  
17      did. It was a totally unnecessary death.

18      Thank you.

19      THE COURT: Thank you, ma'am.

20      All right. Anything from the Defense?

21      Mr. Marshall, you said you wanted to say something  
22      earlier. If you'd like to, you're more than welcome to.  
23      I wasn't trying to cut you off. I usually let all them  
24      talk at one time, then I let you talk. So if you'd like  
25      to say something, you're more than welcome to. I'm happy

1 to hear from you or from your attorneys or from anyone on  
2 your behalf.

3 THE DEFENDANT: The only thing I say about this, Your  
4 Honor, I'm the only one that was in the house. I know  
5 what happened. But I'm going to leave it in the hands of  
6 the Lord. I know I'm not a guilty man. I did not kill my  
7 wife, but all these people back here, they just got this  
8 thing against me. That's all they've been. So it's okay,  
9 but, you know, my Jesus will take care of it.

10 THE COURT: Thank you very much, Mr. Marshall.

11 Ms. Goode, Mr. Krzyston, Mr. Hawks, anybody wish to  
12 say anything on Mr. Marshall's behalf?

13 Or anybody else on Mr. Marshall's behalf?

14 MS. GOODE: Your Honor, he's been continuously  
15 incarcerated since August 15th, 2015. Obviously, it's  
16 tough for him to talk about it. As you heard, he  
17 maintains his innocence. We understand the verdict and  
18 we're just asking, Your Honor, to sentence him to the  
19 minimum.

20 THE COURT: Do we have a sentencing sheet?

21 MS. SAMPSON: They have a sentencing sheet, Your  
22 Honor.

23 THE COURT: And his criminal history is what?

24 MS. SAMPSON: He has a 1996 assault and battery with  
25 intent to kill. In that case, there was also a shotgun

1 involved. He was accused of killing and shooting a man in  
2 the back. He was convicted, received 10 years, suspended  
3 upon the service of four and followed by probation.

4 It's the State's position that he should get more  
5 than the minimum of 30 years. The facts and as you've  
6 heard from the victim's family, it would be the State's  
7 position it should be more than the 30-year sentence.

8 SENTENCE

9 THE COURT: All right, Mr. Marshall, the sentence of  
10 the Court on indictment 2015-GS-40-6133 is that you be  
11 committed to the State Department of Corrections for life  
12 without the possibility of parole. Good luck to you.

13 MS. GOODE: Thank you, Your Honor.

14 THE COURT: And on the firearms charge, the sentence  
15 is five years. They are to run concurrent. Thank you.  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 CERTIFICATE OF REPORTER

1  
2  
3 STATE OF SOUTH CAROLINA )

4 COUNTY OF AIKEN )  
5

6 I, PENNY M. JOHNSON, Official Court Reporter for the  
7 Second Judicial Circuit of the State of South Carolina, do  
8 hereby certify that the foregoing is a true, accurate, and  
9 complete Transcript of Record of the proceedings had and the  
10 evidence introduced in the trial of the captioned case,  
11 relative to appeal, in Court of General Sessions for  
12 Richland County, South Carolina, on the days of October 30  
13 through November 2, 2017.

14 I do further certify that I am neither of kin, counsel,  
15 nor interest to any party hereto.  
16

17 January 7, 2018  
18

19  
20 Penny M. Johnson

21 Penny M. Johnson Court Reporter

22 My Commission Expires: 06/16/2018  
23  
24  
25

## Statement of

Mimi Joe Marshall  
3976 Leesburg Rd, Lot 5  
Hopkins, SC 29061

## Made at

Columbia, South Carolina, this 15th day of August 2015, at 1420 hours, in the presence of Inv. Joe Clarke and Sgt. Andrew Caldwell of the Richland County Sheriff's Department.

I, Mimi Joe Marshall, understand that I have the right to remain silent. Anything I say can be used against me in court. I have the right to talk to a lawyer for advice before you ask me any questions, and to have a lawyer with me during any questioning. If I cannot afford a lawyer, one will be appointed for me before any questioning, if I wish. If I decide to answer questions now, without a lawyer present, I still have the right to stop answering at any time. I also have the right to stop answering at any time until I talk to a lawyer.  
Do make the following statement:

Q: Inv. Joe Clarke

A: Mimi Joe Marshall

Q: What is your DOB?

A: 11/30/57

Q: How old are you?

A: 58

Q: Can you read and write?

A: Too a point

Q: How far did you go in school?

A: 6<sup>th</sup> Grade

Q: Do you understand your rights that I read to you and are willing to speak with me?

A: Yes sir.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: Mimi Joe Marshall

Witness: Andrew Caldwell

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 15th day of August 2015.

Sworn to and subscribed before me

This \_\_\_ day of \_\_\_, 2015

Signed Mimi Joe Marshall

Notary Public for South Carolina

My commission expires \_\_\_\_\_.

Q: Joe we found your wife deceased in your home this morning; can you tell me what happened?

A: When she came home from work last night. I had my gun in the front room. I did this cause the trailer park is an unstable place. She came at me; she grabbed the gun, it went up and it went off. I grabbed her. I had her head in in my hands and I let her down on the chair. I knew she was dead then. I should have handled it a different way. The way I did not handle it, I should have killed myself.

Q: What do you mean you should have handled it a different way?

A: I should have called yall first.

Q: Tell me what happened in the front room with your wife, before the gun went off?

A: I told her when she came in the house that I had just called her job. She was a little late and I was worried about her. I had just had the car's front in alignment fixed with a new tire for her safety. She comes in with an attitude. I told her I was worried about her. She says "you got no reason to worry about me". She said it with an attitude. We were just talking at each other.

Q: Did you have the gun in your hand the whole time?

A: My gun was laying against the wall the whole time. When I decided to check out around my trailer with my shotgun Doris was coming in the front door. We are right there at the same time. She comes in the door that is when I told her I was worrying about her. That is when the gun went off. She had touched the gun when it went off. She took the gun and threw it up.

Q: Joe we found her sitting on the couch can you explain her location?

A: She was standing on the side of the couch when the gun went off. I held her by the face and layed her on the couch.

Q: So you were standing up facing the front door when the shooting happened?

A: Yes sir

Q: What time was this?

A: I would say after 10 to possibly 11 PM.

Q: Had you and her been arguing with her before?

A: No

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: \_\_\_\_\_

Signed: Minifet Marshall

Witness: Andrew Caldwell

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 15th day of August 2015.

Sworn to and subscribed before me

This \_\_\_ day of \_\_\_\_\_, 2015

Signed Minifet Marshall

Notary Public for South Carolina

My commission expires \_\_\_\_\_

Q: Where did you go after the shooting?

A: I left there and went by Hopkins school; there is a long dirt road there. I thought about it. I stayed there a long time. I had the gun in my hand I was gonna do myself in. I stayed in the car and fell asleep. I woke up that morning. I drove to my brother's house. I told him what had happened. I left there and went to Junior Reese house. I parked my car in the yard. I dozed off and a guy named Benjamin Harris came by on a bicycle and he woke me up. I backed out and left. I came down 48 and was gonna go to the detention center and turn myself in. I then turned around and went back towards Hopkins. I then went to "Tony's place". Where they got me.

Q: When the gun went off and shot your wife you were holding the gun correct?

A: I was

Q: Why did you shoot your wife?

A: It was an accident. I would never hurt my wife.

Q: How long have you been married to your wife?

A: 37 years

[REDACTED]

Q: Did your wife ever use or hold the gun?

A: No

Q: What kind of gun is it?

A: double barreled shot gun it is a 12 gauge.

Q: When the gun went off did both barrels go off?

A: No

Q: Did you tell your brother that the gun accidentally went off when you took it from the closet. Or that she was cheating on you and may have given you a venereal disease?

A: No I did not.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: \_\_\_\_\_

Signed: William Marshall

Witness: Andrew Caldwell

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 15th day of August 2015.

Sworn to and subscribed before me

This \_\_\_\_ day of \_\_\_\_\_, 2015

Signed William Marshall

Notary Public for South Carolina

My commission expires \_\_\_\_\_.

Q: Are you sorry you shot your wife?

A: I will tell how sorry I am I was gonna kill myself today. I was gonna put that shotgun under my throat and pull the trigger.

[REDACTED]

[REDACTED]

Q: So you were aware you were not supposed to have a firearm?

A: absolutely

Q: How did you get this shotgun?

A: It belonged to my son who is dead.

Statement ends..... @ 15:16 on 08/15/15

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: \_\_\_\_\_

Signed: Mary Jo Marshall

Witness: \_\_\_\_\_

This is to certify that I have read or have read to me the foregoing statement consisting of 4 pages and a true copy has been given to me this 15th day of August 2015.

Sworn to and subscribed before me

This \_\_\_\_ day of \_\_\_\_\_, 2015

Signed: Mary Jo Marshall

Notary Public for South Carolina

My commission expires \_\_\_\_\_



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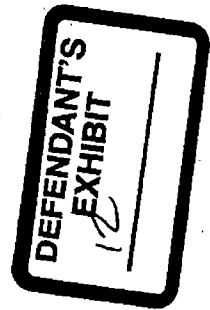
Section: 3.14  
Title: Bloodstain Pattern Analysis  
Version: 4

Date of Issue: 12/12/2014

Originator: Cavanagh/Richards

Bloodstain pattern evidence is a valuable investigative tool to assist in determining events that occurred during a violent crime where bloodletting has occurred. Bloodstain pattern analysts define conclusions specific to the event that occurred during the bloodletting by using information derived from size, distribution, shape, volume, pattern characteristics, number of bloodstains, and their relationship to each other and the surrounding scene. The basic procedures that have been established for processing bloodstain evidence are listed as follows:

1. Assessing
2. Observing
3. Documenting
4. Searching
5. Collecting
6. Processing/analyzing



The listed procedures are a guide for examining bloodstain pattern evidence. The variables surrounding each crime scene may necessitate altering the procedures.

Whenever a bloodstain pattern analysis of a crime scene is to be conducted, it is critical that the scene be preserved in its original condition. The movement of a single bloodstain may significantly affect the ability of the analyst to accurately interpret a pattern and the relationship of the pattern to the scene.

### **HANDLING AND SAFETY PRECAUTIONS**

During the examination of a crime scene where bloodletting has occurred, the analyst has to be aware of the possible infections from bloodborne pathogens. Each analyst must possess the required bio-hazardous exposure control equipment (PPE) within their crime scene vehicle in order to safely protect him or herself from contamination. This equipment should include the following, but not limited to: rubber gloves, eye protection, shoe covers, and Tyvek suits. Each analyst must adhere to the safety guidelines as described in the Richland County Bloodborne Pathogen Exposure Control Plan (located in the Chemical Hygiene Plan). All accidents and/or potential infections or exposures must be reported immediately to the Technical Leader and/or Chemical Hygiene Officer.

### **DOCUMENTATION**

#### **Notes**

Notes should be considered supplemental information to the crime scene sketches and photographic documentation. Notes provide information to the analyst that cannot be



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depicted in crime scene photographs or sketches and should be prepared during observation, collection, and documentation phases of processing. Notes should normally consist of information such as the victim name, suspect name (if available), incident date, location of the scene, type of crime, weather conditions, and any additional information that the crime scene analyst views as probative in aiding with the bloodstain pattern analysis. Additionally, notes should reflect any analyst observations, work performed, as well as any discussions with other personnel aiding with the investigation such as the coroner (or representative) and/or other investigators/deputies. The identification of a stain as potential blood should be worded as such (ex. Reddish/brown stain, possible blood, believed to be blood).

### Photographic Record

Photographic documentation is vital with any bloodstain pattern analysis. Photographs provide the analyst with a visual representation of the crime scene depicting the bloodstain patterns that are present.

The photographic record should begin with the general overall photographs of the scene and the surrounding areas. The general photographs should be taken as soon as possible after the analyst's arrival on the scene in order to accurately depict the scene in its original condition. Additional photographs will be necessary to document bloodstain patterns as well as any other physical evidence present at the scene.

The photographic documentation should proceed from the general overall photographs to photographing the specific areas of bloodstain patterns. These areas should be sectioned off and marked with the necessary scale tapes. General overall photographs should be taken in order to document the overall area to be specifically examined. Upon completing the overall photographs of the bloodstain pattern area, more specific areas of bloodstains marked with scaled tape should then be photographed. A mid-range photograph depicting a specific area should be taken of all locations where bloodstains are present. Close-up photographs with a scale (accuracy checked) should then be taken of bloodstains required for the analyst's examination. The process is consistent with the concept of roadmapping.

Photographs, if possible, should be taken at a 90-degree angle to the bloodstains. This may not always be possible especially while taking the general overall photographs. When taking the mid-range photographs as well as the close-up photographs of bloodstains, it becomes more important to position the camera lens at 90 degrees in order to accurately depict the size and position of the stains.



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### **EQUIPMENT/APPARATUS**

- Digital and/or 35MM camera
- Rulers, scale tape, markers
- Additional light source as needed

### **Roadmapping**

Roadmapping is one effective method of completing photographic documentation of bloodstains. It takes the viewer from an overall view, to the patterns, and then to the individual stains.

- Each major stain group is identified with a label (i.e. "A").
- Individual stains or smaller patterns of interest within the larger pattern are given an additional identifier with the major stain group (i.e. "A1").
- Adjacent to the pattern(s), a large reference scale is introduced to the surface encompassing all the stain groups (along the side of a wall and above the stains)
- Once markers are in place, overall photographs of the entire surface should be taken including scales.
- Photograph the individual patterns.
- Photograph the individual stains within the patterns with scale (accuracy checked).

### **Sketches and Diagrams**

Crime scene sketches demonstrate the appearance of the entire scene as a single picture rather than a series of photographs. Crime scene sketches should be drawn using acceptable sketching procedures. It is not required that crime scene sketches and diagrams be drawn to scale. If not drawn to scale, it should be noted on the sketch as NOT TO SCALE. Sketches and diagrams should include additional information such as the analyst's initials, date of preparation, and the case number. Any additional information noted on the sketch will be at the analyst's discretion. In some cases, it may be necessary for the analyst to draw more than one sketch to properly document and record the information. Some scenes may require a two-dimensional as well as a three-dimensional sketch in order to further document the scene. The sketches and the diagrams, when combined with the photographs, will greatly assist the analyst with clarifying and demonstrating the results of the bloodstain pattern analysis.



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### **EQUIPMENT/APPARATUS**

- Clipboard
- Pencil, eraser or pen
- Ruler
- Paper (graph paper optional)
- Templates (analyst's discretion)
- Protractor (optional)

### **Serological/DNA Collection**

A RCSD DNA analyst will perform the serological/DNA testing of blood collected from the crime scene. This testing is often necessary to complete the bloodstain pattern analysis. It is important to be able to show that the stains used for analysis were in fact human blood. In cases where there are multiple victims bleeding or cases where both the victim and the subject are bleeding, the DNA analysis may be necessary to establish the identity of certain bloodstains.

The process of collecting bloodstains should be done only after all sketching and photographing has been completed. Each blood sample should be properly marked with the specific location where it was collected. Using a sterile cotton swab, apply distilled water (when needed) to dampen the swab, and then rub the swab over the stain until it is absorbed by the swab. Place the swab in a swab carton. Mark the carton with the location the swab was collected from, initials, date/time, and the case number.

The use of a presumptive test on suspected blood may be performed at the scene in order to aid the bloodstain analyst, however, it should be remembered this test is only presumptive and is not specific for human blood. Any questions or uncertainty about the collection of bloodstains may require consultation with a DNA analyst prior to any standards being taken.

### **EQUIPMENT/APPARATUS REQUIRED**

- Swabs
- Distilled water
- Swab cartons
- Presumptive test



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### **BLOODSTAIN PATTERN ANALYSIS**

The bloodstain patterns associated with the incident can reveal a tremendous amount of information about the events associated with the incident. Some of the questions that may be answered with bloodstain pattern analysis are:

1. Distance between the objects when blood was deposited and the source from which it originated.
2. Various points of origin of bloodletting.
3. Movement and directionality of objects and/or persons while they were shedding blood.
4. The number of blows, etc.
5. Position of the victim and/or objects following bloodshed.
6. Movement of the suspect after bloodshed.

The above can be addressed by careful observation and measurements of the amount bloodstains, the location, size, and shape, as well as the surface characteristics of the material upon which the stains are deposited.

In addition, the analyst should be familiar with certain principles of blood, the surface it contacts, as well as the proven mathematical calculations associated with the general area of origin. Having a good working knowledge of the type of patterns the analyst is likely to encounter at a scene will aid in the documentation and examinations leading to conclusions.

#### **Pattern Terminology**

Pattern terminology is an ever evolving process. For this reason, the analyst should refer to the most current version of SWGSTAIN terminology.

### **PROCEDURE**

#### **DETERMINATION OF AREA OF CONVERGENCE**

The area of convergence is an area to which a bloodstain pattern can be projected. This area is determined by tracing the long axis of well-defined bloodstains within the pattern back to a common point or source. The area of convergence on a surface is a two-dimensional representation. The locations may be marked with a pen prior to stringing. The string is attached to the edge of the bloodstain in line with its long axis. It is attached to the surface in a straight line in the reverse direction of travel that was determined for



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that bloodstain. This is done for several bloodstains in the pattern. The area where the strings intersect is the area of convergence.

### CALCULATIONS OF AREA OF ORIGIN

#### Stringing Method:

To determine the area of origin of a bloodstain pattern, strings are attached to the edge of the bloodstain. The string is then brought off the surface at the calculated angle of impact using a protractor. The loose end of the string is then attached to an object away from the stain. Once all of the strings have been positioned, a photograph should be taken depicting the area of origin.

#### Steps for determining the angle of impact:

1. Determine the width of the bloodstain.
2. Determine the length of the bloodstain.
3. Use these measurements for calculation of the angle:  
 $\text{Angle of Impact} = \arcsin W/L$

Example: A bloodstain is measured to have a width of 5mm and a length of 10mm.  
 $5\text{mm}/10\text{mm} (W/L) = 0.5$ , the arc sin of 0.5 = 30 degrees

#### Trigonometric Method:

The Tangent Method may also be used to determine the area of origin.

$Z = \tan \text{ of the angle of impact} \times d$

Example: Angle of impact = 30°  
 Tangent of 30 = 0.5773  
 Distance of stain from area of convergence (d) = 15 units  
 $Z = 0.5773 \times 15$   
 $Z = 8.66 \text{ units (Area of Origin from surface)}$



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**EQUIPMENT/APPARATUS**

- Calculator (arc sin)
- Lenscope
- Markers
- Protractor
- Ruler/Scale (accuracy checked)
- String (various colors)
- Tape/Push Pins/String Clips

**REPORTS**

In most instances, conclusions reached concerning bloodstain patterns can be reported in the analyst's analysis report. However, there are certain instances when a separate report will be needed in addition to the analysis report to explain the conclusions reached. When an additional report is written, the Bloodstain Pattern Analysis Report should be used.

## STATE OF SOUTH CAROLINA

COUNTY OF  
STATERichlandVS.  
Mimi Joe Marshall

AKA:

Race:

B

Sex:

M

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

Murder

In violation of §

16-03-0010

of the S.C. Code of Laws, bearing CDR Code #

0116☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1<sup>st</sup> or Lewd Act)

The charge is:

☐ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentation to Grand Jury.

(defendant's initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Paul Simpson 159169  
Solicitor SC Bar #Mimi Joe Marshall  
Defendant100007  
Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of LIFE W/O PAROLE under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

\*Fine:

|                                        |         |       |
|----------------------------------------|---------|-------|
| §14-1-206 (Assessments 107.5%)         | \$      | _____ |
| §14-1-211 (A)(1)(Conv. Surcharge)      | \$100   | \$    |
| §14-1-211 (A)(2)(DUI Surcharge)        | \$100   | \$    |
| §56-5-2995 (DUI Assessment)            | \$12    | \$    |
| §56-1-286 (DUI Breath Test)            | \$25    | \$    |
| §47.12 (Public Def/Prob)               | \$500   | \$    |
| §14-1-212 (Law Enforce. Funding)       | \$25    | \$    |
| §14-1-213 (Drug Court Surcharge)       | \$100   | \$    |
| §50-21-114 (BUI Breath Test Fee)       | \$50    | \$    |
| §56-5-2942(J) (Vehicle Assessment)     | \$40/ea | \$    |
| §90.7(SCCJA Surcharge)                 | \$5     | \$    |
| 3% to County (if paid in installments) | \$      | \$    |
| TOTAL                                  | \$      | _____ |

Clerk of Court/Deputy Clerk  
Court Reporter:Lanette W. McBride/PC  
Ambuziak

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

15

-GS-

406133

AW#:

2015A4010202593

Date of Offense:

8-15-15

S.C. Code §:

16-03-0010

CDR Code #:

0116

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS(CSC w/minor 1<sup>st</sup> or Lewd Act)

(defendant's initials)

(Recommendation by the State.)

Attorney for Defendant

SC Bar #

☐ County Detention Center,

under the Youthful Offender Act not to exceed \_\_\_\_\_ years

days/months/years and or payment

probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

Ordered

PTUP

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_

\$ \_\_\_\_\_ Paid to Public Defender Fund

Other: \_\_\_\_\_

☐ Appointed PD or appointed other counsel,  
\$47.12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge

Judge Code:

Sentence Date

Ketford  
2164  
Nov 2, 2017

**WITNESSES**

(S) Andrew Caldwell  
- Richland County Sheriff

**ARREST WARRANT NUMBER**

2015A4010202593

**ACTION OF GRAND JURY**

**TRUE BILL**

*Deann Gardner*  
Foreperson of Grand Jury  
Date: DEC 15 2015

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2015GS4006133**

**The State of South Carolina**

County of

Richland

**COURT OF GENERAL SESSIONS**

**DECEMBER TERM 2015**

91

**THE STATE  
vs.**

**Mimi Joe Marshall**

**Indictment for  
MURDER / MURDER**

SC Code: 16-03-0010  
CDR Code: 0116

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

Defendant

I  
hereby appear in my own proper person and plead  
guilty to the within indictment or to

Defendant

Witness:

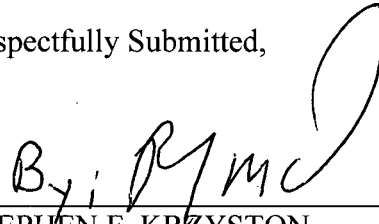
C.C.C. PLS. AND G.S.

754

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



STEPHEN F. KRZYSTON  
Assistant Public Defender

ROBERT M. DUDEK  
Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
P.O. Box 11589  
Columbia, SC 29211  
(803) 734-1343

ATTORNEYS FOR APPELLANT

This 15th day of January, 2019.

**RECEIVED**  
JAN 15 2019  
SC Court of Appeals